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# MULTIDISCIPLINARY LEGAL RESEARCH:

## A COLLABORATIVE ANALYSIS & SYNTHESIS


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*Dr. Sukhvinder S Dari*

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# 27. MEDICAL MORALITY THROUGH LEGAL SCAN – AN OVERVIEW OF THE ASSISTED REPRODUCTIVE TECHNOLOGY (REGULATION) BILL, 2016

*Dr. M. Madhuri Irene & Moparty Hamsika**

*When money is exchanged for pregnancy, some believe, surrogacy comes close to organ-selling, or even baby-selling.*

*Thomas Frank*

## INTRODUCTION:

The advancements in medical science and technology have proved to be a boon newline to mankind. At the same time they have raised numerous challenges before the legal newline systems of the world. One such advancement is that of assisted human reproductive newline technologies and particularly surrogacy, which have given a new meaning to the newline concept of procreation.

These technologies have made it possible for individuals to newline beget a genetically related child with the help of a third party and without sexual newline intercourse. Among all the assisted human reproductive technologies, the practice of newline surrogacy, in which women agree to have their bodies used to undergo a pregnancy new line and give birth to a baby for another, has raised various legal and human right newline controversies and diverse legal responses all over the world. India has particularly newline become a top destination for individuals who wish to beget a child through surrogacy newline and hence it is imperative for the Indian government to address the challenges posed newline by surrogacy.

## CHILDLESSNESS – HOPELESSNESS:

Every human being has an innate desire to have a natural offspring. The reasons are many, to love and to be loved, for performing the religious rituals at funeral pyre, for carrying the tradition of family, to preserve a particular community and so on.

The significance and need of a child is also emphasized in almost all the religions of the world. Begetting and giving birth to a child is essential not only for fulfilling the personal aspirations of the

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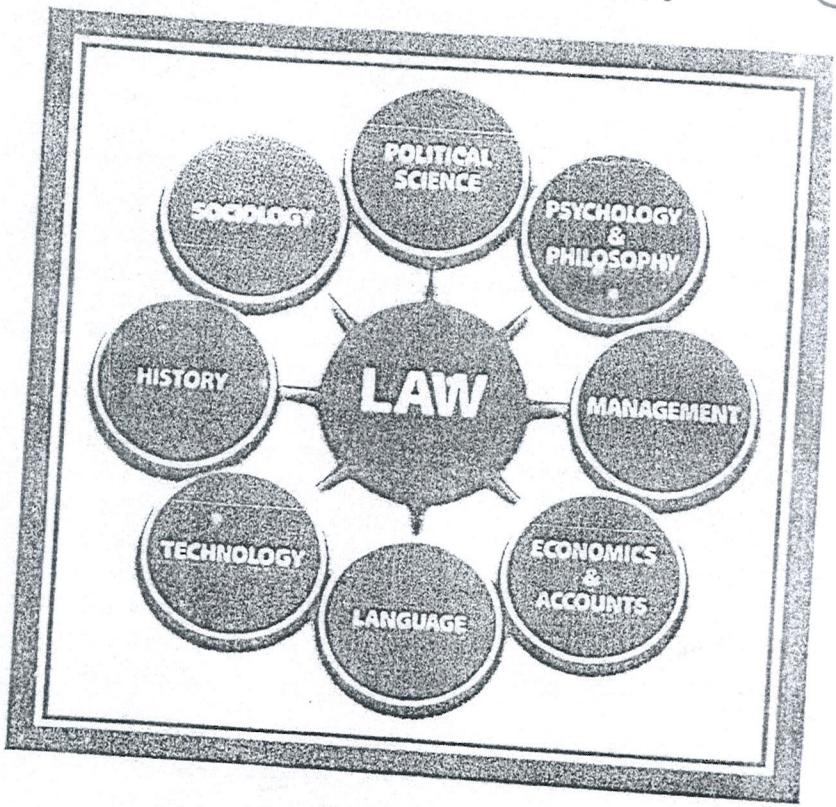
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Dr. S.V. Damodar Reddy

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# INTERDISCIPLINARY INTEGRATION FOR LEGAL ENRICHMENT

(2)




Editors
Dr. Sukhvinder Singh Dari
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# 36. SEMICONDUCTOR INTEGRATED CIRCUITS LAYOUT DESIGNS LAW AND PRACTICE – AN INDIAN PERSPECTIVE

*Dr .S.V.Damodar Reddy**

## ABSTRACT

*Knowledge, technology and globalization are the order of the time persons and companies possessing these rotate the globe. India is one among the front runner in the software exporting countries and at the same time it is gaining ground in the hardware field. With the making of "Make in India" and "Digital India" polices by the government it is gaining momentum in the development of semiconductor integrated circuits layout designs or chip making sector as well. India in order to comply Trade Related Aspects of Intellectual Property Rights (TRIPS) Agreement a sui generis[1] system was made which boosted the Indian industry as well as paved the way for the entry of multinational and global companies into India in the semiconductor sector.*

*Overview of the Paper*

*This paper discusses about the importance of the sui generis system to protect the semiconductor chips and the evolution of the sui generis[2] system with the coming of TRIPS Agreement. Here the provisions relating to the protection of the Semiconductor Integrated Circuits Layout-Designs in the TRIPS agreement and the Semiconductor Integrated Circuits Layout Designs Act, 2000 and in the Rules, 2001 in India is discussed in detail.*

*Conclusion*

*With this sui generis regime the semiconductor chip industry received a boosting domestically as well as sent a signal to the world at large to attract the multi-national companies in the manufacturing of semiconductor chips in India.*

KEYWORDS: TRIPS, *sui generis*, Semiconductor Chip.

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1. Latin phrase which means of " its own kind"
2. Ibid



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## INTRODUCTION

Knowledge, technology and globalization are the order of the time persons and companies possessing these rotate the globe. India is one among the front runner in the software exporting countries and at the same time it is gaining ground in the hardware field. With the making of "Make in India" and "Digital India" polices by the government it is gaining momentum in the development of semiconductor integrated circuits layout designs or chip making sector as well. With this the new form of intellectual property was given recognition by passing the Semiconductor Integrated Circuits Layout-Design Act, 2000 in India in order to comply Trade Related Aspects of Intellectual Property Rights (TRIPS) Agreement to which India is a signatory country. This *sui generis*[3] system has boosted the Indian industry as well as paved the way for the entry of multinational and global companies into India in the semiconductor sector.

Every electronic gadget consists of integrated circuits. With the coming of nanotechnology and very large scale integration (VLSI), and ultra large scale integration (ULSI), the size and thickness of the circuits is drastically becoming small and small. This is all to keep pace with times to tackle the competition with latest advanced technologies in order to reduce the power intake and increase the processing speed new layout designs are introduced by the companies out of their constant research and development (R&D).

Until the last decade the semiconductors were imported from foreign countries into India for meeting the industry requirements. With the introduction of "Make in India" and Digital India policies by the Government of India the making of semiconductors domestically is increasing with the coming of multinational companies and establishing their manufacturing bases in India with the boosting of exclusive economic zones like Fab Cities and giving many incentives.[4]

## NEED FOR *SUI GENERIS* SYSTEM

Over a period of time semiconductor chip piracy became rampant and the companies investments in the research and development and the time spent are put in vain because as by nature it is very easy to copy the layout design of an integrated circuit as there is no protection for the original creations. This had more impact on the developed countries like the United States of America until the passing of Semiconductor Chip Protection Act, 1984, in the United Kingdom until the Design Right (Semiconductor Topographies) Regulations, 1989 and

3. Latin phrase which means of " its own kind"
4. http://www.makeinindia.com/ and http://www.digitalindia.gov.in

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## CONTEMPORARY PERSPECTIVES

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# Critical Failure Factors (CFFs) of IT Projects

**Dr. G.P.Sudhakar**
Faculty Member, The ICFAI University Group, Hyderabad, India

## Abstract

*There is much hype about the organizational IT project failure rate in both industry and research community. 66 factors of IT project failure are identified based on literature review of conceptual and empirical studies. The IT project failures factors are categorized into 6 categories such as environmental factors, organizational factors, team factors, project factors, technology factors and project management factors. Based on the occurrence of each project failure factor in the collected literature, top-10 Critical Failure Factors (CFFs) of IT projects are identified. The top ten critical failure factors of IT projects include poor project planning, inappropriate estimations, unclear project objectives & goals, lack of senior management involvement, support and commitment, lack of risk management, unrealistic schedules and deadlines, scope creep, project management methodology, ineffective communication, and vague requirements and scope.*

*"Information Technology is not a magic formula that is going to solve all our problems. But it is a powerful force that can and must be harnessed to our global mission of peace and development"*

– Kofi Annan (2003), Former Secretary General, United Nations

## 1. Introduction

Very little research has been done on finding the detailed factors leading to project failures (Verner et al., 2008). IT projects add value and quality to day to day life (Qassim, 2008). IT enhances productivity and efficiency of individuals as well as teams and organizations (Taumour, 2005). According to Verner et. al. (2008), software project management is a combination of technical project management and a set of business decisions impacting the product. IT Project managers and stakeholders have to face many challenges and pressures from different functions of business such as marketing, finance, HR, operations, accounting, and users which impact the schedules, costs and quality of IT project. According to Kessler (2001), technical projects are considered for business reasons even though the technology is more sophisticated or complex. According to him, errors introduced in the project at early stage such as requirements are difficult to remove and make the project expensive to progress. The project left to itself encounter the chaos (Kessler, 2001). Project failure rate is high in applied disciplines (Emam and Koru, 2008).

Current day organizations are forced with delivering more projects and programs with shrinking budgets; that scenario, the most inevitable is project failure (Oracle, 2011). According to Rajkumar and Alagarsamy (2013) have defined *project failure* as "Project failure is when you do not get what you expect at the end of your project". According to Gilge (2013) of KPMG, if we observe the failed projects, the failures attributed are avoidable and can be predictable. Hence, project team or stakeholders have to keep a watch on those attributes. According to Emam and Koru (2008), IT project failures rates reported by different researchers and practitioners range from 9% to 40%.

Critical IT systems are either technical or socio-technical systems used by business organizations (Ogheneovo, 2014). Williams et. al. (2015) said that project failure is a sensitive issue which can impact poorly on the organization and can impact the reputation of the team who developed the software. According to Quick (2004), even if the resources are available also, IT projects keep failing, organizations are unable to identify that the people are the main reason for project failure. According to Moran et. al. (2007), even after 40 years of start of software projects also, software projects still fail.



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# Feminine Jurisprudence

Edited by

**Dr. M. Madhuri Irene**
Associate Professor,
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ALT Publications, Hyderabad

**Feminine Jurisprudence**

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## Contents

1. *Gender Justice and Feminist Jurisprudence* 1
Dr. C.P. Gupta

2. *LGBTQ Rights - Issues and Challenges* 10
Nimisha & Apurv Srivastava

3. *Paradox of Gender Justice in the realms of provisions relating to Adultery* 25
Priyal Jain and P. K. K. Vasishta

4. *Gender Equality through Law and Gender Neutrality of Law: Indian Approach* 41
Abhijit Rohi

5. *Legal Dimensions of Women's Right to Health?* 53
Dr. K. Sita Manikyam

6. *Positive Social Milieu – Not Ostensible Laws for Women Protection* 67
Dr. Srujana. D

7. *Marital Rape: An Undisputed Fact in Indian Society* 79
Sistla Naveen

8. *Liberty and Safety of Women in India against Atrocities* 85
Abhilasha Sharma, Arunaditya Singh Parihar

9. *Automation – A Boon or Bane for Women?* 97
Jayashree Sharma

10. *Equal by Law, Unequal by Minds: Sex Based Harassment and the Irony of India* 113
Sanjana Bhattacharya

11. *LGBTQI Rights – In India and Abroad* 124
D.V.N. Murty

12. *An Analysis of Legislative Development of Transgender Rights in India* 132
Deepika. S and Oormeela. R

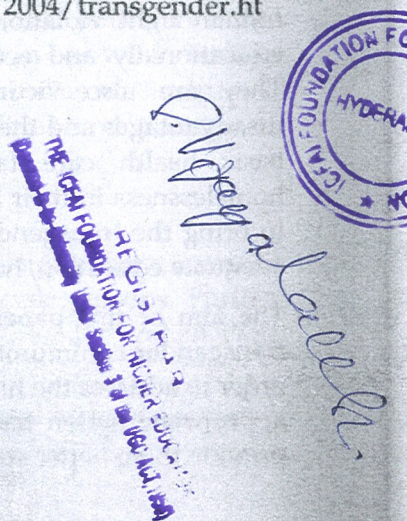
13. *Sentimental Seduction and Religious Ravage – Feministic Plight in Robo Age* 147
Dr. Madhuri Irene. M



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## References


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# Sentimental Seduction and Religious Ravage– Feministic Plight in Robo Age

*Dr. Madhuri Irene. M*[173]

*Woman is perceived to be a warped worry, not only by the modern scientific age, but the same is entwined in glorifying divine biblical creativity. Probably God's pick of man's rib to create woman became celestially masculine, to portray unjustly the life-giving feminism. Man, the giant compatriot presented woman as a waggish wadding. Even philosopher like Jean Paul Sartre portrayed the multiple characteristic skills of feminism in devious description through his intellectual gymnastics saying that though feminine ugliness is offensive to him, he profited from their associational sensibility which is superior to man. Resultantly, gender is sandwiched between 'existentialism' and 'excoriation'.*

*'Gender injustice' continues to be immortal reality for the eulogistic concept of 'piety' is always projected as prized or privileged 'tag' of feminine world. This is a 'fairy' interpretation but not a fair exposition. But the alleged immunities for women protection, not for empowerment, supposedly laid by the legislations lead to either misconceived legality of mismatched generality. The incessant brutality of rape, molestation, acid attacks and violence perpetrated against women, speak of the preventive and remedial silence of the social and state sensibilities. Weird proposals like persuading 'rape victims' for matrimonial ratification by the devil-rapists, and solacing the aggrieved wounded women through 'compensation therapy' add fuel to the fire and insult to the battered lives.*

*What is needed is not the peripheral insulation of problems of women, and sensitising techniques to lull the pain of crying creatures; but annihilation of psyche, social, political, economic, legal and cultural behaviourism and attitudinal aversions towards genuine and true women empowerment, but not a seeming show-case of publicity proliferation.*

## Introduction

*"The bonsai tree in the attractive pot could have grown eighty feet tall on the side of a mountain till split by lightning. But a gardener carefully pruned it. It is nine inches high. Every day as he whittles back the branches the*

[173] Dr. Madhuri Irene. M, *Assistant Professor, ICFAI Law School, IFHE, Hyderabad.*

(5)

# Privatization and Globalization

## Changing Legal Paradigm

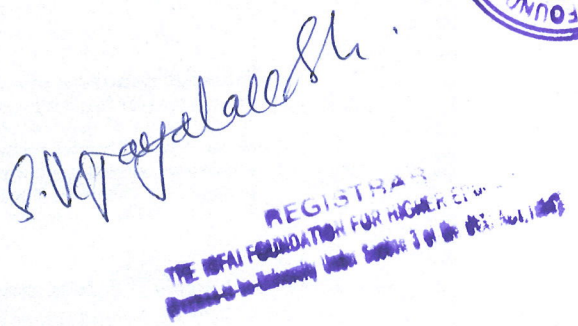



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Chapter 25

# International Commercial Arbitration
## A Tool to Regulate Global Trade and Commerce

M. Madhuri Irene

*"Individuals would deal cooperatively with those known to be trustworthy while refusing to interact with those known to be untrustworthy. These solidarity rules evolved spontaneously as individuals' utilized ostracism instead of violence."*

Bruce L Benson

### Introduction

Every duty-oriented action tends to serve the cause of justice. Law may be administered only by defined and designated authorities, but Justice may be served not only by the courts, but all–courts by expedient and effective orders in time, legislators by their true allegiance to the spirit of their constitutional oath, executive through their dispassionate and diligent implementation of rule of law, service organisations by supporting the efforts of the legislators and executive, and Alternative Dispute Resolution (by supplementing the cause of judicial disposition. Here is a wise caution – if the legal mechanism and operators of law are drafted from 'specially trained species' with legal acumen, the quality of justice might be impaired and ineffective, and if the expertise operators of legal system happened to be 'light hearted', the justice may be exposed to mockery. A system that is supposed to take care of these two extreme situations, in modern times, is known as "ADR", i.e. a system placed in between extreme 'rigidity' and extreme 'flexibility'.

Business is fragile for buyer and audacious for seller. Despite the agreed atrociousness of the commerce world, the business dealings are moving swiftly and with buoyancy even in the modern global economy. It is natural that business implies controversies and disputes. Dispute



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INDEX


| Sl. No | Topic | Page No. |
|---|---|---|
| 1 | A Critical Analysis on the New Age Crimes against Women - C.Raja Monsingh | 1 |
| 2 | A Critical Study on Present Day Violations of Rights of Women in India - Sree Krishna Bharadwaj H | 8 |
| 3 | A Trajectory of Atrocities against Tribal Women in India - Veada Noopura | 18 |
| 4 | An Analysis of Custodial Crimes against Women and Role of Indian Judiciary in Eradication of Custodial Crimes - Sahana Gopal | 27 |
| 5 | An Analysis of Medical Termination of Pregnancy Act, 1971 with Special Reference to cases of Rape - Sandhesh Shetty | 41 |
| 6 | An Analysis of the Prevention of Sexual Harassment Act, 2013 - Vinithra Srinivasan | 48 |
| 7 | An Analysis on New Ages Crimes against Women in Digital Era - A.R.Tilton Alphonse Star | 62 |
| 8 | Crimes through Social Media against Women - Saranyasri.G | 71 |
| 9 | Cyber Crime: Women in War with UnsecuredDigital India - Mansi Singh & Monisha Salome | 81 |
| 10 | Cyber Crimes against Women: Challenges and the Way Forward - Ms. Anita A. Patil | 88 |
| 11 | Cyber Crimes against Women in India – A New Age Threat - Shalini.R | 97 |
| 12 | Cyber Crimes against Women-An Analysis - P. Naveen Prabhu | 107 |
| 13 | Cyber Crimes: New Tool to Victimize Women - Stuti Joshi & Simran Singh | 113 |
| 14 | Cyber Pornography in India- The Implications for Legislative and Policy Reform - Dr. Sanjeeve Gowda.G.S | 122 |
| 15 | Cyber Victimization of Women in the Digital Era: The Indian Perspective - Saurav Mishra & Karan Gandhi | 133 |
| 16 | Impact of the Protection of Women from Domestic Violence Act, 2005 - Gokul | 142 |
| 17 | Impact of Unregulated Tourism on Rights and Dignity of Women in India-An Overview - Dr. N. Sathish Gowda & Roopa S | 148 |
| 18 | Interrogating Violence, Uncovering Silences: A Short Shrift on Domestic Violence Act in India - Madhuri Irene | 159 |
| 19 | New Age Crimes against Women - Akshita Shukla | 169 |
| 20 | New Age Crimes against Women in India - Sree Lekha.V | 176 |
| 21 | New Age Crimes against Women: The Honor Killing Hazard - Deepanchal Nanda & Debajyoti Saha | 187 |
| 22 | Outraging the Modesty on A Finger Tip: Women Safety at Cyber Space - Neethu S & Shazila Shajahan | 197 |
| 23 | New Age Crimes against Women - Priyanka Jain & Lekha Chandrasekhar | 204 |
| 24 | Protection Of Women Against Domestic Violence Act, 2005: A Critical Evaluation - Tejashree R & Lija Merin John | 213 |
| 25 | Role of Judiciary with Regard to the Protection of Women from Domestic Violence Act, 2005 - U. Kathiravan | 223 |
| 26 | Social Taboos on Women and Abortion in India - DineshU.S | 231 |
| 27 | The Status of Women Police Constables in India with Special Reference to Karnataka State - Ashoka Naika B.G | 242 |
| 28 | The Unheard Menace of India-Female Infanticide, A Crime Against The Society - Dr. Jyothi Vishwanath & Jyothi K | 249 |
| 29 | Women as the Continued Victim of Inefficient Legal System - Komal Dwivedi | 258 |
| 30 | A Critical study on the Status of Women in A Live-in Relationship - Sana Quasar M. Darga | 265 |
| 31 | A Study on Live in Relationship - V. Keerthe Vasan | 273 |
| 32 | An Analysis on the Status of Woman in Live in Relationship in India - B.Vignesh & T.Vijaya Priyanka | 280 |
| 33 | Battles to Fight: Women and Live-in Relationships - Ammu Nair & Saniya Mariam Thomas | 288 |
| 34 | Changing Dynamics of Live In Relationships in India - Priti | 298 |
| 35 | De Jure- Status of Women in Live in Relationship - Amlanika Bora | 306 |
| 36 | Dignity of Women in Live-in Realtionship: A Liberal View - Shilpashree L | 314 |
| 37 | Legal Issues in Live in Relationship with Special Reference to Status of Women - Anbarasi G & A. Arvind Vignesh | 321 |
| 38 | Legal Regime of Women in Live-in-relationship - A critical Analysis - Dr. R Valrmathi & Dr. Ramesh | 329 |
| 39 | Legal Status, Rights of Women in Live-in Relationship in India- Legal Judicial Developments - Sonali Kusum | 335 |


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# 'Interrogating Violence, Uncovering Silences: A Short Shrift on Domestic Violence Act in India'

Madhuri Irene/Assistant Professor/ICFAI Law School/IFHE, Hyderabad

**Abstract**

The modern macho of advanced scientific world is reminiscent of the Greek wisdom through Aristotelian assertion 'Man is a social animal'. Truly, learned men of the day revel in 'virtual' world rather than being in virtuous life. Probably knowledge (perverted) may breed evil in human thoughts and actions. Present day man defies even Aristotle proposition for he is found to be more an animal than being a social being. From biblical beam to the present boutique era, woman is subjected to the thrust of the individual and societal capricious attitude. The opulence of legislative measures seeking to alleviate the suffering women is gradually proving to be nothing but legal obesity. Constitutional and statutory safeguards, balancing the need of the union of man and woman for vindicating the 'family unit', invited additional strength in the form The Protection of Women from Domestic Violence Act, 2005. Law's cruelty hardly tames the human bestiality, and hence the compatriot feminism is required to control the man's aggressiveness through soft legal peddling in view of the need to preserve and protect much-valued 'family unit'.

This new legislation on domestic violence also engendered staggering statistics of complaints by women against men and other family members creating calamitous consequences. Instead of strengthening the bonds of wife and husband, The Protection of Women from Domestic Violence Act, 2005 sadly prodded separation of couple and disruption of serene family environment. Adding fuel to the fire, judicial interpretations in some quarters imported the element of 'equality' in application of Domestic Violence Act, 2005, not only for women but also for men.

**KEYWORDS:** Women, Domestic violence, NCRB, Marital relationship, remedies, Legal protection.

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## I. Introduction

The House is made of brick and stone but the home is made of love alone. It is the wife who makes the home. A home without a wife is like wilderness. A wife is considered as friend, counselor and champion The Indian woman in the role of a wife has the utmost significance

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# Gender Exfoliation: Legal Dynamics

- Gender Exfoliation - Societal Myths
- Gender Exfoliation - Legal Regime
- Women Health - Medico Legal Complexities
- Women Protection and Social Behavioral Aberrations
- Women Entrepreneurship and Empowerment - Modern Technology
- Gender Exfoliation - Emerging Legal Facets

7

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# Contents

## GENDER EXFOLIATION – LEGAL DYNAMICS

### Gender Exfoliation - Societal Myths


1. Discrimination: How Long and How Far? 1
   – *Ms. Kirthi Datar*

2. Gender Discrimination – Indian Scenario 13
   – *Dr. K. I. Sivananda Kumar*

3. Women Entrepreneurs – Challenges 21
   – *Ms. Navita Agarwal*

4. Sex Discrimination in India: Concept, Causes and Solutions 29
   – *Anubha Srivastava*

5. Sentimental Seduction and Religious Ravage - Feministic Plight in Robo Age 45
   – *Dr. M. Madhuri Irene*

6. Victimization and Vulnerability of Gays in India 61
   – *Dr. K.S. Rekh Raj Jain*

7. Sex Discrimination 71
   – *Ch. Sri Vidya*

8. Paradox of Gender Justice in the realms of Provisions relating to Adultery 79
   – *Ms. Priyal Jain & Mr. Vasishta P.K.K.*



REGISTRAR
THE ICFAI FOUNDATION FOR HIGHER EDUCATION

**Gender Exfoliation - Legal Regime .....95**

9. Constitutional Policy and Development towards Gender Justice 97
*– Dr. Saroj Bohra*

10. Gender Equality through Law and Gender Neutrality of Law: Indian Approach 107
*– Mr. Abhijit Rohi*

11. Women Victims and Compensation- Novel Contemplations 119
*– Mr. Abhimanyu Singh*

12. A Contemporary Analysis of Property Rights of Hindu Women a Quest for Realistic Equality 127
*– Mrs. M. Annapurna Devi*

13. Gender Justice- Its Judicial and Legislative Measures in India 143
*– Mrs. P. Aravinda*

14. Role of Constitution and IT for Women Empowerment 155
*– Mrs. Geeta Priyadarshini*

15. Women Empowerment and the Law 169
*– Mr. Adigopula Murali Mohan*

16. Role of Indian Judiciary in Protecting the Rights of Women 183
*– Mr. Vinay Datta G*
*Mr. Mahesh Raj J. H & Mr. Arvind Kumar*

REGISTRAR
THE INDIAN FOUNDATION FOR HIGHER EDUCATION

**Women Health - Medico Legal Complexities.....195**

17. Socio Legal Diagnosis of Women's Right to Health – A Constitutional Obligation of the State **197**

*– Dr. K. Sita Manikyam*

18. Right to Abortion: Time to Revisit the Medical Termination of Pregnancy- MTP Act, 1971 **209**

*– Ms. Anita Yadav & Mr. Amit Yadav*

19. Female Foeticide – A Bitter Truth of Indian Society **221**

*– Ms. Priyanka Sawant & Mr. Mohit Deoda*

20. Female Genital Mutilation: A Matter of Human Rights **237**

*– Ms. K.S.V. Sunayna & Ms. Siri Sakhamuru*

**Women Protection and Social Behavioral Aberrations.....253**

21. Positive Social Milieu – Not Ostensible laws for Women Protection **255**

*– Dr. Srujana. D*

22. Towards Protecting Women: A Focus **267**

*– Dr. V. G. Ranganath*

23. Crimes Against Women - It's Impact on Women Empowerment **279**

*– Ms. Asha Pande*

24. Marital Rape: An Undisputed Fact in Indian Society **289**

*– Mr. Sistla Naveen*

REGISTRAR
THE ICFAI FOUNDATION FOR HIGHER EDUCATION
HYDERABAD

25. Cyber Crimes against Women-Socio-Legal Perspective 295

*– Ms. Mahak Mitta, Ms. Thejashree. J & Ms. Radhuka Kandaswamy*

26. Liberty and Safety of Women in India against Atrocities 307

*– Ms. Abhilasha Sharma, Mr. Arunaditya Singh Parihar & Mr. Kunal Singh Rathore*

27. Role of Women in Socio Economic Growth 319

*– Ms. M. Abhirami Sundari*

28. A Critical Evaluation on the Atrocities Against Women 331

*– Ms. Vaishnove Misra*

**Women Entrepreneurship and Empowerment – Modern Technology** .....349

29. Women Leadership in the corporate world 351

*– Dr. Shampa Devi & Ms. Mitra Neesha*

30. Women Empowerment - Obstacles and Probabilities 361

*– Ms. A. Manikyamaba*

31. Automation a Boon or a Bane for Women? 369

*– Ms. Jayashree Shrama*

32. Role of Women Entrepreneurship in India 383

*– Mr. Keshav Gaur & Mr. Nitin Tripathi*

33. Women Entrepreneurship In India and Challenges ahead 401

*– Ms. Monisha Gade*


REGISTRAR
THE ICFAI FOUNDATION FOR HIGHER EDUCATION
Deemed to be University under Section 3 of the UGC Act, 1956
ICFAI FOUNDATION FOR HIGHER EDUCATION HYDERABAD

34. Constitutional and Legislative Measures for Women Empowerment 415

– *Ms. Vaishali & Ms. Shefali Soni*

35. Role of Information Technology in Women Empowerment 433

– *Ms. Ruchika Sharma & Mr. Abhishek Kumar*

36. Women Entrepreneurship – A Bed of Thorns 449

– *Ms. Aditi Kumari & Ms. Eeshaee Bhattacharya*

37. Enhancing Women Empowerment through Information Technology Problems and Prospective under Indian Scenario 459

– *Mrs. Asamathunnisia & Mr. G. Rahul Dev M*

**Gender Exfoliation – Emerging Legal Facets .....471**

38. Gender Justice and Feminist Jurisprudence 473

– *Dr. C.P. Gupta*

39. Equal by law unequal by minds: Sex based harassment and the Irony of India 481

– *Ms. Sanjana Bhattacharya*

40. LGBTQI Rights in India and Abroad 491

– *Mr. D.V.N Murthy*

41. Government Information: Law Enforcement Data Mining and Predictive Analysis Techniques 499

– *Mr. Ajeet K. Jain, Dr. Mohandas J. Menon*




REGISTRAR
THE ICFAI FOUNDATION FOR HIGHER EDUCATION

| | | |
|---|---|---|
| 42. | Women Entrepreneurship- Are Beneficial Schemes an opportunity or challenge<br>*– Ms. Amrithavarshini Samavedi* | 507 |
| 43. | An analysis of Legislative Development of Transgender rights in India<br>*– Ms. Deepika S & Ms. Oormeela R* | 521 |
| 44. | Honor Killing: A stigma of Gendered Violence<br>*– Ms. Ashya Shukla & Ms. Apurv Gupta* | 535 |
| 45. | Rapes and Sexual Abuses in Prisons in India with a focus on rights of LGBTQ inmates<br>*– Mr. Raghav Mediretta & Ms. Shreya Tiwari* | 549 |
| 46. | LGBTQ Rights Issues and Challenges<br>*– Ms. Nimisha & Ms. Apurv Shrivasthava* | 565 |


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# *Chapter* - 6

## Victimization and Vulnerability of Gays in India

*Dr. K.S. Rekh Raj Jain**

### INTRODUCTION

Sexuality is an integral part of every individual. Sexuality includes our sexual orientation. Sexual orientation means who you are sexually attracted to and want to have sexual relationships. Sexual orientations include gay, lesbian, straight, bisexual and a sexual which indicates a diversity of sexuality and gender identity based cultures. The rationality is the sexual identity. Sexual identity is an important concept for lesbian, gay bisexual and transgender individuals. The gay community is a small subculture within the LGBTQ.

Sexual orientation is different from gender and gender identity. Gender identity is a person's internal feelings of being a woman, man, both, or neither. The one who is heterosexual is commonly referred to as straight which means "exclusively attracted to the opposite sex." And the person who are sexually attracted to person of the same sex often call themselves as 'homosexual' or 'gay'.

Sexual orientation for people of the same gender, presents challenges because it is complex concept that is rooted in social and political contexts. Gay community faces many challenges in a society due inimical behavior of their sexual orientation.

It is globally acknowledged that gays face some of the highest rates of stigmatization, discrimination and marginalization. The gays are endured horrific physical, psychological, and/or sexual abuse: Such an incident will have a serious impact on health, existence, development and dignity of the gays. On account of vulnerability the gays suffer victimization. Gays are victimized at higher rates than any other minority group because they have several areas of vulnerability. Across the globe gay lives in the fear of racism, sexism, and criminalization.

*Assistant Professor, ICFAI Law School, Hyderabad, Reach the Author at nabariya_jain@yahoo.co.in. mobile: 09704093588

# Gender Justice – Social Contour

Edited by

**Dr. M. Madhuri Irene**

Associate Professor,

ICFAI Law School, IFHE, Hyderabad

ALT Publications, Hyderabad

**Gender Justice – Social Contour**

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## Contents


1. Discrimination: How Long and How Far? 1
   *Kirthi Datar*
2. Sex Discrimination in India: Concept, Causes and Solutions 14
   *Anubha Srivastava*
3. Gender Discrimination: Legal and Judicial Contours 32
   *Dr. K. Sivananda Kumar*
4. Sex Selective Abortion and Female Foeticide 41
   *Sri Vidya Chinagodaba*
5. Gender Justice – Analysis of Women Power in India 48
   *Smt P. Aravinda*
6. Comment on Contemporary Issue of Rape Victim Compensation – The Malaise of Rape and the Quest for Justice 60
   *Mr. Abhimanyu Singh*
7. A Contemporary Analysis of Property Rights of the Hindu Woman: A Quest for Realistic Equality 68
   *Mrs. M. Annapurna Devi*
8. Role of Indian Judiciary in Protecting the Rights of Women 86
   *Vinay Datta. G & Mahesh Raj J.K.*
9. Right to Abortion: Time to Revisit the Medical Termination of Pregnancy (MTP) Act, 1971 98
   *Anita Yadav & Mr. Amit Yadav*
10. Female Foeticide – A Bitter Truth of Indian Society 110
    *Priyanka Sawant & Mohit Deoda*
11. Female Gentile Mutilation: A Matter of Human Rights 126
    *K.S.V. Sunayana & Siri Sakhamuru*
12. A Critical Evaluation on the Atrocities against Women 143
    *Vaishnove Misra*
13. Honour Killing: A Stigma of Gendered Violence 164
    *Ashya Shukla & Apoorv Gupta*
14. Rapes and Sexual Abuses in Prisons in India with A Special Focus on Rights of LGBTQ Inmates 180
    *Mr. Raghav Mendiratta & Ms. Shreya Tewari*



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# A Contemporary Analysis of Property Rights of the Hindu Woman: A Quest for Realistic Equality

*Mrs. M. Annapurna Devi*[119]

*"The fight is not for woman's status but for human worth. The claim is not to end inequality of women but to restore universal justice. The bid is not for loaves and fishes for the forsaken gender but for cosmic harmony which never comes till woman comes*[120]*.*

*- Justice Krishna Iyer*

*The concept of rule of law imparts equality to every human being. As the law of nature philosophers like Locke, stressed upon the importance of life and property and started developing theories on their protection. In the contemporary world the concept of equality brought a view of equality among equals which still subjected to prejudice to certain sections of society. Despite being treated as a respectable gender, women are still depraving certain rights to claim equal proportion in property as par as with men. In reality, property rights a woman though granted on the basis of imparting gender justice but the excising of such rights are not in absolute sense and subject to various limitations. It can say that a right to property of Hindu woman is subject to the mercy and discretion of other gender. Several personal legislations have updated her equal claim but in reality the situation derives in another sense. The present paper focuses on the aspect of evolution of right to property and how can a woman can is equal with men in exercising her right to property. The paper also throws light on the position of woman in succession of property under Hindu personal laws. It will go further in detail about the concept of coparcener's right, the residuary rights of woman and the transition of her right from limited to absolute estate. The paper in its evaluating part would focusing on certain issues and finally come up with certain recommendations.*

## Introduction

[119] *Mrs. M. Annapurna Devi, Assistant Professor, ICFAI Law School, IFHE, Hyderabad*

[120] Iyer, V.R.Krishna, Law and Life, Vikas Publishing House, New Delhi, 1979, p. 31.



The concept of *rule of law* imparts equality to every human being. As the law of nature stressed upon the importance of life and property, one has started focusing on its protection. In the contemporary world, the concept of equality brought a view of equality among equals which still subjected to prejudice to certain sections of society. According to the natural law philosopher, Locke, the right to property is treated as an individual inalienable right and exists prior to the evolution of right to life. It is independent of any Social Contract and the function of social contract is to preserve and protect this right. Basically the property rights cannot be deprived by the act of State of Nature except by the majority vote in the social contract theory.[121] Hence there is no discrimination between men and women in exercising their property rights. The Property rights of women,[122] include a bundle of interests such as the legal rights to acquire, own, sell and transfer, collect and keep rents, keep one's wages, make contracts and bring lawsuits etc. When any one of these interest has been subjected to deprivation, then it can say that her right is not an absolute but only a qualified right.[123]

However, it is observed that the framing of property laws were exclusively for the use of man and woman was treated as subservient and dependent on male's support till recent time.[124] In the ancient Indian realm of patriarchal domination, women were treated as

[121] Friedman, Legal Theory, 5th edn

[122] "A woman Right to property", Tarahaat, available at http://www.tarahaat.com/Law_Wrtp_Woman.aspx Visited on 7th December 2015. It says A Woman Right to Property includes the following: (a) every woman has the right to acquire and hold property in her own name. (b) A woman can do anything she wants with her property. (c) A woman has the right to receive and keep her earnings and spend it in any way she wants. (d) Women, like men, have the right to buy or sell property. (e) Women also have a share in the properties of their parents or other relatives. (f) Their share depends on the laws according to their religion.

[123] A short History on Property Rights of Woman, available at http://womenshistory.about.com/od/marriedwomensproperty/a/property_rights.htm visited on December, 7th 2015.

[124] Law Commission of India 174th Report on "Property Rights of Women: Proposed Reforms under the Hindu Law". 1999.

# Women Empowerment – A Novel Road Map

Edited by

**Dr. M. Madhuri Irene**

Associate Professor,

ICFAI Law School, IFHE, Hyderabad

ALT Publications, Hyderabad

**Women Empowerment – A Novel Road Map**

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## Preface

'Empowerment of Women' may be an 'energizing empathy' or 'attractive fad' till the distinction of man and woman is absolved from human memory. Even many epically acclaimed women characters of our ancestral civilizations – Greek, Roman and Asian - were subjected to masculine obligation and dominated service. However and verily, the struggle of modern human development is inseparably paired with the feminist revolution throughout the globe for enforceable equality by driving out the deadly discrimination towards the beautiful and dutiful women. New millennium pacified and projected the women liberation to dispel the masculine myth with regard to the ability of intellect, thought and action of women world. Women's economic empowerment indicates not only the rightful ability of women to own and operate her economic interests, resources, assets and income, but also stands to testify her capability to manage risks in raising her economic and social status. Women's empowerment is an essential tool in achieving gender equality and to project sustainable development of the country. Human race recognized that sustainable development is impossible without gender equality and women's empowerment.

Sustainable development encompass environmental protection, social and economic development. Full participation of both men and women is crucial for development.

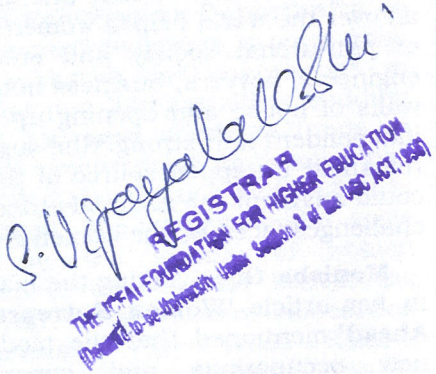
In the context of women development, empowerment must include more choices for women to make on their own. Without gender equality and empowerment, the country could not be just, and social change wouldn't occur. Therefore, scholars agree that women's empowerment plays a huge role in development and is one of the significant contributions of development. Without the equal inclusion of women in development, women would not be able to benefit or contribute to the development of the country.

This book 'Women Empowerment – A Novel Road Map' is an exercise in recording various jurisprudential aspects associated with the women empowerment and the challenges to achieve the empowerment in strict sense. This book contains articles written by academicians, professionals and researchers describing the prevailing legal regime relating to the women empowerment.

**M. Abhirami Sundari, in her article-Role of Women in Socio Economic Growth** – gives a picturesque view of the diverse roles of a woman, as a girl, woman, wife and mother and sister to complete the

design the policies to provide some special welfare measures for women employees like crèches, comfortable shift duties and secure transportation during odd hours etc.

The present book with articles of diverse nature and gravity, we wish, will be useful for researchers, academia and the practitioners during their professional career.







## Contents


1. Role of Women in Socio Economic Growth 1
   *M. Abhirami Sundari*

2. *Constitutional and Legislative Measures for Women Empowerment* 12
   Vaishali and Shefali Soni

3. *Role of Women Entrepreneurship in India: Challenges and Prospects* 29
   Keshav Gaur and Nitin Tripathi

4. *Woman Leadership in the Corporate World* 47
   Dr. Shampa Dev & Mitraneshaa B S

5. *Role of Constitution and it for Women Empowerment* 57
   M. Geethapriyadarsani

6. *Empowerment of Women and the Law* 70
   Adigoppula Murali Mohan

7. *Role of Information Technology in Women Empowerment* 83
   Ruchika Sharma and Abhishek Kumar

8. *Enhancing Women Empowerment through Information Technology Problems and Prospective under Indian Scenario* 98
   Mrs. Asmathunnisa. G & Rahul Dev. M

9. *"Women Entrepreneurship" – Are Beneficial Schemes an Opportunity or Challenge?* 110
   Amrithavarshini Samavedi

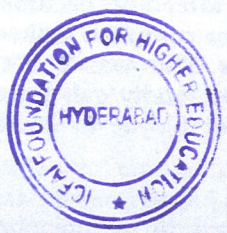
10. *Women Empowerment – Obstacles and Probabilities* 123
    A. Manikyamba

11. *Crime against Woman – Its Impact on Woman Empowerment* 129

These are a few women among the many who have been doing a great job leading the corporate world in India. Given an opportunity, many could actually prove the same.

## CONCLUSION

Companies Act, 2013 has done its part, by putting provisions but now it's up to these companies to use these provisions in a constructive way. One of such constructive way was keenness of India Inc to build a pipeline of women executive directors from within the rank and file through rigorous mentoring programmes. The programme initiated by Arun Duggal, the chairman of Shriram Capital is expected to create 100 board-ready women by this year. Among other mentoring initiatives, the Women in Leadership (WILL) Forum has been running a programme called 'Women on Boards Mentoring Series'. Corporate sectors like TCS, Aditya Birla Group, Vodafone and Capgemini are members of the WILL Forum and have been putting high-potential women executives through such mentoring programmes to build their aspiration levels for board positions[26]. Let's hope in recent future these initiatives and the Act, gives a whole new point where we have equal rights for women to vote on our boards.




[26] *India Inc still favours women of family, friends or prefer well-known names – The Economic Times – June 16, 2014, http://articles.economictimes.indiatimes.com/*

# Role of Constitution and it for Women Empowerment

**M. Geethapriyadarsani**[27]

*"Women is the companion of man gifted with equal mental capacities. She has the right to participate in the minutest details of activities of men and she has the same right to freedom and liberty as he ..... by sheer force of vicious custom, even the most ignorant and worthless men have been enjoying a superiority over women which they do not deserve and ought not to have"*

*– Mahatma Gandhi*

*Women empowerment means empowering the women to take their own decisions for their development. The very need for women empowerment arose due to domination and discrimination done by men over women. Women empowerment is necessary for the bright future of family as well as the country.*

*India is the largest democratic country in the world. The Indian women face many problems at home and in society since their childhood. The men think that the girls need only basic levels of education and awareness so that they teach their children after their marriage. The talent of the Indian women did not come into light as they are suppressed in the name of customs. The present study explores the factors which inhibit the growth and the development of women in India. It urges the strong need of the constitutional amendments which facilitate the growth of the women in the areas of education, science and technology.*

*Technology plays an important role for the development of women in all fields and to overcome discrimination and to achieve equality. Women can work in every sector successfully and they should be encouraged in Information Technology sector also.*

# Women Empowerment – A Novel Road Map

Monisha

10

S. Vijayalakshmi

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Edited by

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**Women Empowerment - A Novel Road Map**

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# Contents


1. Role of Women in Socio Economic Growth . 1
   *M. Abhirami Sundari*
2. *Constitutional and Legislative Measures for Women Empowerment* 12
   Vaishali and Shefali Soni
3. *Role of Women Entrepreneurship in India: Challenges and Prospects* 29
   Keshav Gaur and Nitin Tripathi
4. *Woman Leadership in the Corporate World* 47
   Dr. Shampa Dev & Mitraneshaa B S
5. *Role of Constitution and it for Women Empowerment* 57
   M. Geethapriyadarsani
6. *Empowerment of Women and the Law* 70
   Adigoppula Murali Mohan
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   Ruchika Sharma and Abhishek Kumar
8. *Enhancing Women Empowerment through Information Technology Problems and Prospective under Indian Scenario* 98
   Mrs. Asmathunnisa. G & Rahul Dev. M
9. *"Women Entrepreneurship" – Are Beneficial Schemes an Opportunity or Challenge?* 110
   Amrithavarshini Samavedi
10. *Women Empowerment – Obstacles and Probabilities* 123
    A. Manikyamba
11. *Crime against Woman – Its Impact on Woman Empowerment* 129



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Asha Pande

12. *Women Entrepreneurs – Challenges?* 139
Navita Agarwal

13. *Women Entrepreneurship in India & Challenges Ahead* 146
Monisha Gade

14. *Women Entrepreneurship – A Bed of Thorns* 160
Aditi Kumari & Eshanee Bhattacharya

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# Women Entrepreneurship in India & Challenges Ahead

**Monisha Gade**[100]

*ntrepreneurship can be defined a process of designing, launching and arrying on a new business. It is an art which requires eminent skills and alent. Entrepreneurs start up their business models on a small scale try to ender services or sell products to the world at large. India is country with uge human resources. The Indian community is woven with various values nd ideals. Indian society being a male dominated society, has been eglecting the potential skills and talent hidden in women. Women are ubjected to various restrictions in shape of customs and culture. In the ecent times the Indian society is going through a phase of transformation here the ethics and values are changing. Women of India are coming out f the bonds of customs and adventuring the world. Today women are aking their representation in every field. We find the presence of women every sector from Space to cottage industries. It is almost an accepted ct that women become good entrepreneurs. Government and various non-overnmental organizations are making efforts to support woman ntrepreneurs. We can find Indian women occupying prominent positions nd achieving higher echelons in their respective fields. Women mpowerment has thus become a catch word today. Emergence of formation technology has opened up the doors to the world at large elping women to come out of their cocoons and spread their wings proving emselves to the world. However it is to be noted that entrepreneurship is ot an easy task and there are various hurdles and obstacles which are to be ced by women.*

*the present paper, the author would like to analyze the position of omen entrepreneurs in India and the challenges to be faced by them.*

Monisha Gade, Faculty Associate, ICFAI Law School, IFHE, Hyderabad



*"Women are the Untapped Reservoirs of Talent in World"*

*- Hilary Clinton*

Entrepreneurship can be defined a process of designing, launching and carrying on a new business. It is an art which requires eminent skills and talent. Entrepreneurs start up their business models on a small scale try to render services or sell products to the world at large. India is country with huge human resources. The Indian community is woven with various values and ideals. Indian society being a male dominated society, has been neglecting the potential skills and talent hidden in women. Women are subjected to various restrictions in shape of customs and culture. In the recent times the Indian society is going through a phase of transformation where the ethics and values are changing. Women of India are coming out of the bonds of customs and adventuring the world. Today women are making their representation in every field. We find the presence of women in every sector from Space to cottage industries. It is almost an accepted fact that women become good entrepreneurs. Government and various non-governmental organizations are making efforts to support woman entrepreneurs. We can find Indian women occupying prominent positions and achieving higher echelons in their respective fields. Women empowerment has thus become a catch word today. Emergence of Information technology has opened up the doors to the world at large helping women to come out of their cocoons and spread their wings proving themselves to the world. However it is to be noted that entrepreneurship is not a easy task and it is often presumed that entrepreneurship is job which can be done only by males. But in the recent times, we have come across various instances where women are playing a key role in building a developing a business models. It is to be understood that women entrepreneurship is nothing but empowering women and enabling them to prove their talent in any emerging field. India as a democratic society, though having a population with different types of ethnic mix has been making place for representation of women. We find women participating in politics, business, education, research, small and cottage industries etc.

Indian Government is also taking steps to empower and enhance the skills of women especially entrepreneurial skills by drafting various schemes and programmes. However it is to be understood that women entrepreneurship is not a new concept in India.

# Feminine Jurisprudence

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## Contents


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   Dr. C.P. Gupta

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   Nimisha & Apurv Srivastava

3. *Paradox of Gender Justice in the realms of provisions relating to Adultery* 25
   Priyal Jain and P. K. K. Vasishta

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   Abhijit Rohi

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   Dr. K. Sita Manikyam

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   Dr. Srujana. D

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   Sistla Naveen

8. *Liberty and Safety of Women in India against Atrocities* 85
   Abhilasha Sharma, Arunaditya Singh Parihar

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   Jayashree Sharma



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10. *Equal by Law, Unequal by Minds: Sex Based Harassment and the Irony of India* 113

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11. *LGBTQI Rights – In India and Abroad* 124

D.V.N. Murty

12. *An Analysis of Legislative Development of Transgender Rights in India* 132

Deepika. S and Oormeela. R

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# LGBTQI Rights – In India and Abroad

*D. V. Narsimha Murty*[138]

Sexuality and sexual orientation is a matter of choice of an individual. In any society whether Indian or western, the same sex attraction or orientation is considered as unnatural because from ages the gender distinction between two persons, their actions, choices and preferences have been set as a standard and any deviation from such standard would bring the wrath of society, family and friends branding such deviation as some psychic disorder and in some countries it is considered as against the god. Indian Psychiatric Society (IPS)[139] refutes the claims of the homosexuality being based on Psychic disorders. UN also recognizes the human rights of the LGBTQI and vows to stand by their side but without any constructive recognition of right. Supreme Court of India has also considered the question of rights of the homosexuals but did not grant them the same sex rights. LGBTQI's like any other person also have all the rights that are granted under different constitutions of different countries but on the contrary they are not so recognized and are subject to discrimination, torture, vigilante executions etc. In India the LGBTQI's experience legal and social difficulties without acceptance of their rights towards their same sex partners as natural like any other male-female companionship. In this backdrop this paper will focus on different issues which the LGBTQI's face in India and abroad and the challenges that lay before the community itself and the Legislature and Judiciary.

## Introduction

LGBT, famous and commonly known four letter initials stand for Lesbian, Gay, Bisexual, and Transgender. The same sex relations existed as long as humanity itself. Throughout the history of the world it can be found that there were persons of repute, like the Alexander the Great, Leonardo da Vinci, Michelangelo, Oscar Wilde,

[138] *D. V. Narsimha Murty, Faculty Associate, ICFAI Law School, Hyderabad*

[139] www.firstpost.com/India/homosexual-not-mental-illness-disease-indian-Psyhciatric-Society



Alan Turing- A British Mathematician and Scientist, Queen Hatshepsut of Egypt, Sally Ride- America's first female Astronaut etc., were homosexuals[140].

In India throughout the Hindu Vedic Texts there are many descriptions of saints, demigods and even the supreme gods who have transcended the gender norms and manifested multiple combinations of sex and gender. Kamasutra the text on love also finds mention about the same sex relations and feelings. Homosexual depictions could also be found on the Khajuraho structures[141], but even then the same sex relations have been looked by the Indian society and the societies world over as something unnatural and against the public morality and criminal in nature. This is so because each society has set some standards for the actions and activities for male and female communities and any deviation from such standard will be considered as unnatural. Such persons are christened with different names like Psycho's, hinjra's etc.

Homosexuality is as much natural like heterosexuality, homosexuals are normal beings feeling trapped in the body of a male or a female as the case may be. There is nothing Psychological about it and such claims of Psychic disorder has been dispelled by the Indian Psychiatric Society saying such homosexuality is not a mental disorder.[142]

## LGBT and Psychology

Since the time of the birth the gender of the baby is determined basing on the physical features and that determination gets carried throughout the life of that person. It is a standard norm which a society sets i.e. there are only two kinds of people, man and a woman and there should not be any attraction to the same gender, but contrarily if there is any change in the pattern, then that would be

[140] 20 LGBT People who changed the world, Thom Senzee. www.advocate.com/world/2016/7/08/20lgbt-people-who-changed-the-world

[141] *Gay and Lesbian Vaishnava Association*, www.galva108.org

[142] *www.firstpost.com/India/homosexuality-not-a-menatal-illness/diseases-indian-pyschiartric-society*

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13

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## Contents


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   Nimisha & Apurv Srivastava
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   Priyal Jain and P. K. K. Vasishta
4. *Gender Equality through Law and Gender Neutrality of Law: Indian Approach* 41
   Abhijit Rohi
5. *Legal Dimensions of Women's Right to Health?* 53
   Dr. K. Sita Manikyam
6. *Positive Social Milieu – Not Ostensible Laws for Women Protection* 67
   Dr. Srujana. D
7. *Marital Rape: An Undisputed Fact in Indian Society* 79
   Sistla Naveen
8. *Liberty and Safety of Women in India against Atrocities* 85
   Abhilasha Sharma, Arunaditya Singh Parihar
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Deepika. S and Oormeela. R

13. *Sentimental Seduction and Religious Ravage – Feministic Plight in Robo Age* 147
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## Contents


1. Discrimination: How Long and How Far?
   *Kirthi Datar*
2. Sex Discrimination in India: Concept, Causes and Solutions
   *Anubha Srivastava*
3. Gender Discrimination: Legal and Judicial Contours
   *Dr. K. Sivananda Kumar* 3
4. Sex Selective Abortion and Female Foeticide
   *Sri Vidya Chinagodaba* 4
5. Gender Justice - Analysis of Women Power in India
   *Smt P. Aravinda* 4
6. Comment on Contemporary Issue of Rape Victim Compensation - The Malaise of Rape and the Quest for Justice
   *Mr. Abhimanyu Singh* 6
7. A Contemporary Analysis of Property Rights of the Hindu Woman: A Quest for Realistic Equality
   *Mrs. M. Annapurna Devi* 68
8. Role of Indian Judiciary in Protecting the Rights of Women
   *Vinay Datta. G & Mahesh Raj J.K.* 86
9. Right to Abortion: Time to Revisit the Medical Termination of Pregnancy (MTP) Act, 1971
   *Anita Yadav & Mr. Amit Yadav* 98
10. Female Foeticide - A Bitter Truth of Indian Society
    *Priyanka Sawant & Mohit Deoda* 110
11. Female Gentile Mutilation: A Matter of Human Rights
    *K.S.V. Sunayana & Siri Sakhamuru* 126
12. A Critical Evaluation on the Atrocities against Women
    *Vaishnove Misra* 143
13. Honour Killing: A Stigma of Gendered Violence
    *Ashya Shukla & Apoorv Gupta* 164
14. Rapes and Sexual Abuses in Prisons in India with A Special Focus on Rights of LGBTQ Inmates
    *Mr. Raghav Mendiratta & Ms. Shreya Tewari* 180


S. Vijayalakshmi

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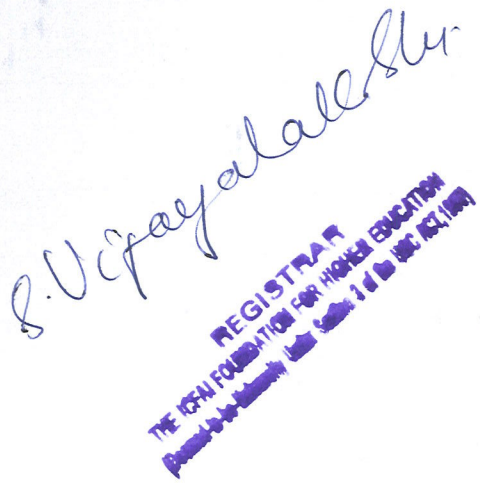
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## Contents


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   Adigoppula Murali Mohan
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   Ruchika Sharma and Abhishek Kumar
8. *Enhancing Women Empowerment through Information Technology Problems and Prospective under Indian Scenario* — 98
   Mrs. Asmathunnisa. G & Rahul Dev. M
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   Amrithavarshini Samavedi
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    A. Manikyamba
11. *Crime against Woman – Its Impact on Woman Empowerment* — 129

Asha Pande

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Navita Agarwal

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Monisha Gade

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15

# Constitutional Law And Uniform Civil Code In India

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Chapter-21

# Sensitive Women hood in Insensitive Social Prudence

*Dr. M. Madhuri Irene

## INTRODUCTION

Whenever the bell of 'Uniform Civil Code' rings, one may feel and visualise 'Comedy of Errors' of Shakespeare, and as a member of masses, the author believes that Uniform Civil Code imprints a feeling of exclusiveness, or apathy for open mind for some. Reasons may be many, convincing or not convincing. But it is an un-provable fact.

Article 44 of the Constitution of India declares that "The State shall endeavour to secure for the citizens a Uniform Civil Code throughout the territory of India."

A uniform civil code administers the same set of secular civil laws to govern all people irrespective of their religion, caste and tribe. This supersedes the right of citizens to be governed under different personal laws based on their religion or caste or tribe. Such codes are in place in most modern nations.

Though Dr. B.R. Ambedkar was an extensive supporter of the Uniform Civil Code, he couldn't get it through more than a status of Directive Principle due to opposition from the members. This directive principle is aimed to achieve, gradually, rather than at once, more far-reaching equality for all citizens. The state has been entrusted with this voluminous task. However, no significant steps have been taken by any government till now.

UCC will not prove good for India because India has a more diverse culture with people of so many religions living and professing their religion and so India should not blindly copy the west positivism centred legal trajectory[1]. Secondly, the continuing personal law system can handle the

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# Insurance Business: Socio Legal Obligations

Dr S. Kannaiyan.

17

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HYDERABAD

Edited by

**Prof. A.V. Narsimha Rao**
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## Contents


1. A Critical Study of Social Security Insurance for Unorganized Sector in India — 1
   *Chetan Dixit*
2. Role Played by Social Security Insurance in Development of India — 12
   *Neeta Ahir*
3. Life Insurance: A Step Towards Family Security — 28
   *N. Bhagya Lakshmi*
4. Social Protection and Microinsurance: South Asian Perspective — 39
   *S. Kannan*
5. Can Directors Insure Against Criminal Workplace Health and Safety Penalties? — 60
   *Neil Foster*
6. 'Directors' and 'Officers' Liability Insurance: Corporate Governance Measure — 90
   *M. Srinivas*
7. A Detailed Study on Workmen Compensation Insurance in India: A Multi-Disciplinary Approach — 96
   *Kshithija Prakashan and Akshay Lodhi*
8. Grievance Redressal Mechanism Pertaining to Insured in India: A Snapshot — 107
   *L. Padmavathi*



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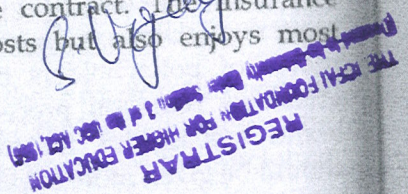
We still have many differences that can be mitigated by stimulating the growth of the insurances and their role in the economic progress, increasing professionalism, ethics and discipline of all those working in this industry and by increasing customers' requirements and their level of understanding insurance.

The real test of claim settlement procedure is speed. In most of the cases, it is observed that the sum assured is finally paid, but only after causing acrimony. Only a hassle-free process can make the market believe in life insurance as an essential financial instrument. So, even if it is decided to repudiate the claim, the action must be completed promptly and courteously.

## Conclusion

Service goes beyond the delivery of policy document or processing customer requests; it involves the delivery of value and feeling of trust. The life insurer comes in contact with the customer at several points in time. Adequate, timely and good quality service is critical at each point. At the point of making a sale, it is imperative for the customer. The life insurer needs to ensure that the guidelines and exclusions are adequately understood by the customer. Following on-boarding, life insurers should take due cares to ensure that the customer has received his policy pack with photocopies of the policy as a part of the "welcome kit". At the time of premium payments, the life insurer should allow numerous payment options and employ adequate resources to facilitate the smooth functioning of these options. In the case of service requests from customers, they should be the insurer should set turnaround times and ensure adherence to avoid delays. Claims settlement, traditionally, is regarded as one of the most painful areas of an insurance contract. The insurance company that handles its only saves costs but also enjoys most popularity in the industry.




# Social Protection and Micro-insurance: South Asian Perspective

*S. Kannan*[35]

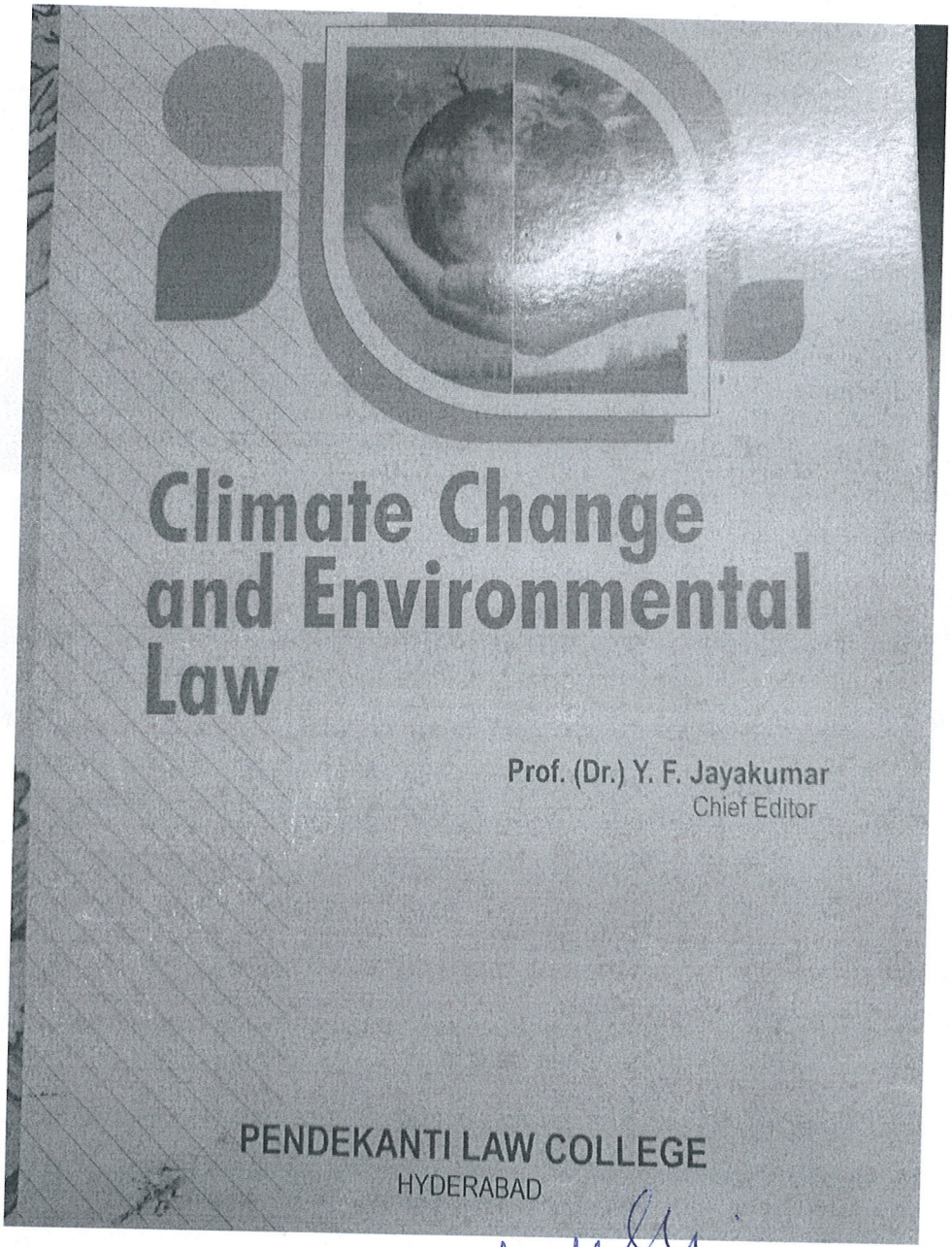
*Abstract: South Asian Countries (henceforth referred as SAC) which includes Afghanistan, Bangladesh, Bhutan, India, Maldives, Nepal, Pakistan and Sri Lanka improving its human development indicators in the recent times. The economic conditions like reduction in poverty through increase in the income level is significant among the SAC. Notwithstanding, the population in these nations' particularly low income households find it difficult to overcome the natural disaster risks and shocks due to low-penetration of insurance. In order to provide social protection to the low-income household to overcome from any type of natural disaster, microinsurance scheme as were introduced in these region to overcome from any type of risk arise out of natural disaster. But how far this disaster microinsurance facility reached or benefited the population among SAC is researchable. Against this background, the present study focused on the access to disaster microinsurance among the SAC from comparative perspective. The practices, regulations, problems and challenges faced by the nations were important parameters taken into consideration for the analysis. The information will be gathered through published reports from Insurance board of SAC, Micro-insurance network and other published reports of various agencies. The study will provide measures to improve the better access to disaster microinsurance schemes and strategies to overcome the challenges within the SAC context.*

## Introduction

South Asian countries accommodates nearly 25% of the world's population and more than one-third of the world's poor. The majority of population depend upon informal economy and they are self-employed. Thus they are not much covered by any public social protection schemes that provide unemployment benefits, health care, maternity benefits, retirement pension, overcoming natural disasters and protection for disabled and children. Being excluded from social

[35] Dr. S. Kannan, Assistant Professor, ICFAI Law School, IFHE, Hyderabad

(18)



# Climate Change and Environmental Law

Prof. (Dr.) Y. F. Jayakumar
Chief Editor

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12. Environmental Impact Assessment: Indian Legislative and Judicial Approach
— *Dr. Rama Devi Gudemela & A.R. Rajeswari* ..... 131

13. Equilibrium of Ecosystem and Technology – Myth or Reality?
— *Dr. L. Padmavathi* ..... 139

14. Need for Legislation on Climate Change Caused by Human Interference: Indian Perspective
— *Dr.V.B. Malleswari* ..... 152

15. Legal Response to Invasive Alien Species Management in the Scenario of Climate Change
— *Gyanashree Dutta &Dr. R.S. Syamkumar* ..... 163

16. Environmental Dispute Resolution (EDR) and Significance of Alternative Dispute Resolution (ADR)
— *Dr. S.B. Md. Irfan Ali Abbas* ..... 183

17. Environment and Human Rights – A New Approach to Sustainable Development
— *P. Aravinda* ..... 201

18. Profits versus Planet – Overview of Corporate Social Responsibility and Sustainable Development
— *V. Shobha Rani* ..... 213

19. Emerging Trends in Green Crimes – A Study
— *M. Sreevani* ..... 221

20. Sustainable Development – A Principle of Ecocentrism
— *A. V. Syam Prasad* ..... 239

21. Polluter Pays Principle – Dimensions
— *M .V. Subhashiny* ..... 255

22. The Journey From Rio to Paris and Beyond – Are We on the Right Path?
— *A. Vani* ..... 267

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# 12. ENVIRONMENTAL IMPACT ASSESSMENT: INDIAN LEGISLATIVE AND JUDICIAL APPROACH

— *Dr. Rama Devi Gudemela & A.R. Rajeswari**

## Introduction

It is said that mankind needs a healthy environment to strive but, at the same time needs economic development to thrive. The whole debate about a man's progress is often encountered by various problems associated with sustainable development, which includes right to a healthy environment. But if we seethe relationship of man with nature, by referring to some of our ancient sources like the four Vedas, we would observe how much importance was given to the aspect of protection of the environment they were living in. *Rig Veda* highlighted how nature had the potential of controlling the climate, increasing fertility and providing better living conditions for people. *Atharva Veda* believed that gods live in trees and therefore, trees are to be worshipped. *Yajur Veda* emphasized on respect towards nature and its beings. Even the then Charter of Economics, i.e., the *Arthashastra*, laid down punishments incase of damage to trees/ forests or harm inflicted on animals. Many ancient texts and customary practices followed in India would certainly show how the sanctity attached to trees and water called for their protection and preservation.[1]

Despite having a rich tradition of respecting nature, of which mankind is a part, modern and independent India woke up only after the unforgettable and tragic event of Bhopal Gas Tragedy, to raise its environment protection commitment standards to make them in line with the recommendation of United Nations Environment Program. This was when the Environment (Protection) Act was enacted in 1986. No matter how many different principles have evolved over a period, for imposing liability on the polluters, it is very difficult to reverse the damage already done to the environment. No matter how much investment is diverted to reverse the effect of the pollution, it would already have done a lot of damage to nature and mankind.

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*. Assistant Professors, ICFAI Law School, Hyderabad.

1. Chipko Movement is an evidence of the continuity of that practice among many tribes and groups of people.

S. Vijayalakshmi

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# Cross Border Insolvency: Indian Legal Regime

Edited by

**Dr. Veena**

Associate Professor,

ICFAI Law School, IFHE, Hyderabad

ALT Publications, Hyderabad

**Cross Border Insolvency: Indian Legal Regime**

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## Preface

Cross border insolvency is the process of insolvency of the companies which operates from more than one country. In other words, it is procedure of dealing with stressed assets of a company located in different countries and regulated by different laws. It deals with the insolvency of companies and not with the individual insolvencies. Important jurisprudential issues concerning to cross border insolvency jurisprudence includes choice of law, jurisdictions and enforcement machinery and processes. Domestic insolvency laws do not generally recognize the foreign laws and enforcement mechanism. As such there is a need for universally accepted insolvency model to deal with the assets in question are distributed among different countries. The well-defined global unified model of insolvency law is required to facilitate the faster mode of resolving commercial business in the current globalised market place. The international conventions having the best practices are the sources for universal insolvency legal regime today.

The UNCITRAL Model Law is adopted in the year 1997 to deal with the cross-border insolvency issues and challenges. This model law is adopted in countries like United States, Japan, United Kingdom, Australia, Canada and South Africa. The Model Law clearly differentiates the cross-border insolvency with that of foreign proceedings relating to the corporate dispute resolutions. Legislative reciprocity is another important element of the Model Law. It indicates about the reciprocal recognition and enforcement of judgments of domestic and foreign courts and the same is envisaged under a law governing the domestic courts. The law may permit or promote the cross-border insolvency agreement between the courts or the representatives of the business houses. Four important principles evolved from the Model Law are the accessibility of assets, laws and insolvency courts, creditors, debtors and other interest parties, recognition of the foreign proceedings, awards and remedies, cooperation among the authorities and representatives of domestic and foreign countries and coordination in enforcement. These four core principles pay rich dividends in resolving the cross-border insolvency complexities.

states that, India is required to adopt the UNCITRAL Model Law and the same has been recommended by various agencies and committees.

## Contents


1. Interface of International Insolvency and Insolvency and Bankruptcy Code 2016: A Way Ahead — 1
   *Shalini and Vidhi Singh*
2. Cross-Border Insolvency under the Insolvency and Bankruptcy Code: An Analysis — 16
   *Anubha Srivastava*
3. The Analysis of the Adoption of the Model Bill on Cross Border Insolvency — 35
   *Eshaan Khera and Girish Murugesh*
4. Adapting UNCITRAL Model Law on Cross-Border Insolvency, 1997 in India: Problems and Need for a Global Reform — 48
   *Kashyab Venkatesh. S*
5. The Paradigm of Cross-Border Insolvency in India – A Critical Analysis — 61
   *Dr. K. Sivananda Kumar*
6. Cross Border Insolvency: A Question of COMI — 82
   *Mallika Jain*
7. Ideal Legal Frame Work for Cross Border Insolvency: A Tool to Increase Foreign Investments — 98
   *Vojjala Sahiti*
8. Issues on Cross Border Insolvency that Fetter the Global Economy — 104
   *Prof. Dr. T. Vidya Kumari*
9. Demystifying the Percussion of Commencement of Insolvency on Operation and Performance of Contracts – A Hermeneutical Study of the United States, the United Kingdom and India — 123
   *Varendyam Jahnawi Tiwari & Atyotma Gupta*

10. Cross Border Insolvency Regulations in India: Need of the Hour 154
*Suvarshitha Dharoor, Ekta Tiwari*

11. Insolvency and Bankruptcy Resolving Process among South Asian Countries: A Comparative Study 164
*Dr. S. Kannan*

12. Cross Border Insolvency: A Problem Left Unattended or a Complication Not Understood? 181
*S. Mahemaa*

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# Interface of International Insolvency and Insolvency and Bankruptcy Code 2016: A Way Ahead

*Shalini and Vidhi Singh*[1]

***Abstract*** *– Indian Economy is one of the fastest growing economy of the world. Trade and commerce is aesthetically taking international complexion. Business of foreign banks, financial institution, corporate, and other creditors is no more a drudge of any particular jurisdiction. The globalization has glaring impact on the restructuring of finically distressed companies. The cross-border investment is significantly cajoled by the insolvency laws of the nations. The advent of Insolvency and Bankruptcy Code (IBC) 2016 in India was landmark, however, it did not emerge as healing therapy for every insolvency and bankruptcy lurgy. The Code was enacted in short span and many problems were left unaddressed. Sections 234 and 235 of the Code authorizes the government for making reciprocal arrangement with other nations. Many concern were raised with regards to this provisions and luminaries end up in saying that until the government enter into bilateral agreement, these provisions are dormant. Considerable amount of time is required for a bilateral agreement as it involves resilient negotiation among nations. The authors highlight that the Court fails to propose a proper mechanism for bilateral arrangement, wherein assets and creditors are in multiple nations which has conflicting provisions in the agreement. Additionally, resolution of insolvency is left at peril in absence of a reciprocal treaty. Consequently, globally expected jurisprudence could not be applied and resolution was agreement specific. Further, the authors handpick insufficiency of Code of Civil Procedure in dealing with specific issues. UNCITRAL Model Law explicitly provide that a general legislation or modus operandi based on principle of comity is not in par with provisions in model law for unraveling insolvency issues.*

*Moreover, IBC resembles a half-baked cake in dearth of International Insolvency Guidelines. The Ministry of Corporate Affairs issued a public notice dated June 20, 2018 which intends to impose UNCITRAL Model Law on Cross-Border Insolvency 1997 (Model Law) by introducing it in IBC. The model law is globally accepted and the framework is universally recognized. The fledgling law initially attempts to propose provisions to deal*

[1]Shalini and Vidhi Singh, Symbiosis Law School, Hyderabad

# Insolvency and Bankruptcy Resolving Process among South Asian Countries: A Comparative Study

*Dr. S. Kannan*[329]

*Abstract* – *Insolvency/Bankruptcy (henceforth referred as ISBA) is the situation where the individual or a company unable to pay back for its creditors. Both the concepts deals with crisis situation, however Insolvency deals with financial position and Bankruptcy deals with legal position. Notwithstanding, ISBA reflects the debt records and affects the ease of doing business (laws, regulations and institutional arrangements for doing business) of any nations. As per the data released by the World Bank on ease of doing business in 2019, South Asian countries take 2.6 years to resolve the ISBA process. The country-wise analysis shows that Maldives (1.5 years) and Sri Lanka (1.7 years) have better ISBA resolving process when compare with other nations in the South Asia. Further, debt recovery is poor among the nations like India, Afghanistan and Bangladesh. In this context, the present study analyses the ISBA resolving process from comparative perspective. The regulations, agencies and resolving process followed among the South Asian countries are taken into consideration for the analysis. The information gathered from the published reports of Doing Business reports of World Bank and ISBA regulatory boards of all the nations. The study found that there is no uniform practice in resolving ISBA among the nations, however the issues like, bad-debt recovery and training to the judges and insolvency professionals are common among the nations. The study concluded by providing measures to improve the two issues faced by the ISBA regime among SA nations.*

## Introduction

South Asia (SA) region is widely diversified in terms of racial, linguistic, religious and economic development. This diversification have its impact on the legal systems and also reflect the customs of its various communities. More or less the region was ruled by British and their influence was high in framing the laws to regulate the various aspects of the society. After independence, these nations followed the same laws with some modifications and also framed

[329] Dr. S. Kannan, Assistant Professor, ICFAI Law School, IFHE, Hyderabad.

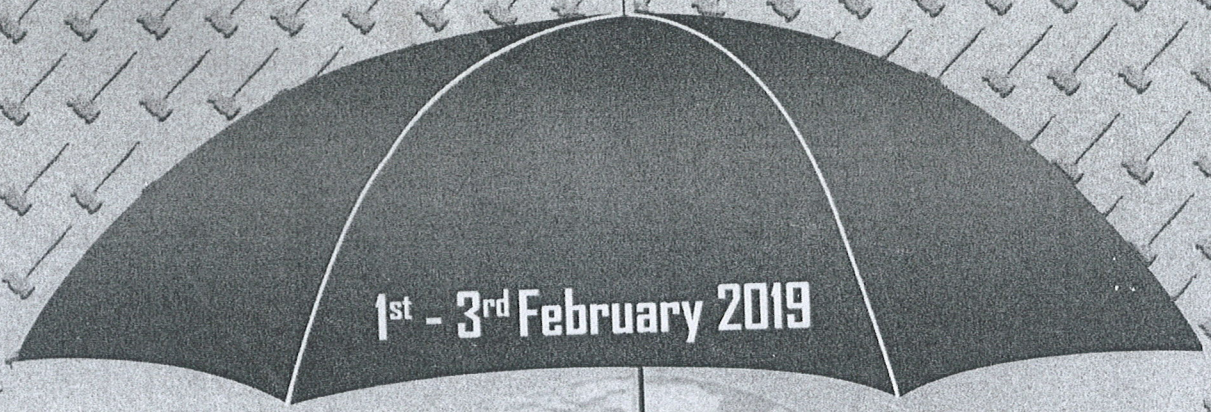


new legislations. However, number of significant ordinances were issued in the past two decades to introduce new laws or amend the existing as part of legal, judicial and financial sector reforms to cope up with process of Globalization and Liberalization. India, Sri Lanka, Pakistan, Bangladesh and Afghanistan continue to take measures to strengthen their financial and legal systems as part of their overall economic stabilization programmes. These countries have enacted copious legislation concerning the financial sector since 1990 to improve the economic conditions of the nations. The globalization and liberalization policies of SA nations enables multinational companies to open their business in the region. Nevertheless, the companies are more concerned with the complex nature of procedures and regulations existing among the nations to conduct the business. The most important part is resolving insolvency and bankruptcy. Insolvency/Bankruptcy (henceforth referred as ISBA) is the situation where the individual or a company unable to pay back for its creditors. Both the concepts deals with crisis situation, however Insolvency deals with financial position and Bankruptcy deals with legal position. Efficient regulation of insolvency is associated with increased access to credit for individuals/firms and on better terms (Cirmizi, et al. 2010). Creditors are more willing to lend because they are more likely to recover their loans. Additionally, nations that reform their insolvency law to provide a mechanism for business rescue may reduce the failure rate among firms, help maintain a higher overall level of entrepreneurship in the economy and preserve jobs (Klapper and Inessa, 2011). By facilitating the efficient business exit and liquidation of nonviable companies, an insolvency framework supports the efficient reallocation of resources across the economy (Klapper, 2011). Notwithstanding, ISBA reflects the debt records and affects the ease of doing business (laws, regulations and institutional arrangements for doing business) of any nations. In this context, the present study focused on the comparison of the process of Insolvency/Bankruptcy among South Asian Countries by taking into the account of legal framework for insolvency, liquidation, rehabilitation, creditors committee, role of judiciary and Insolvency professionals. The purpose of the analysis is to identify the best practices on various parameters among the SA nations to suggest the

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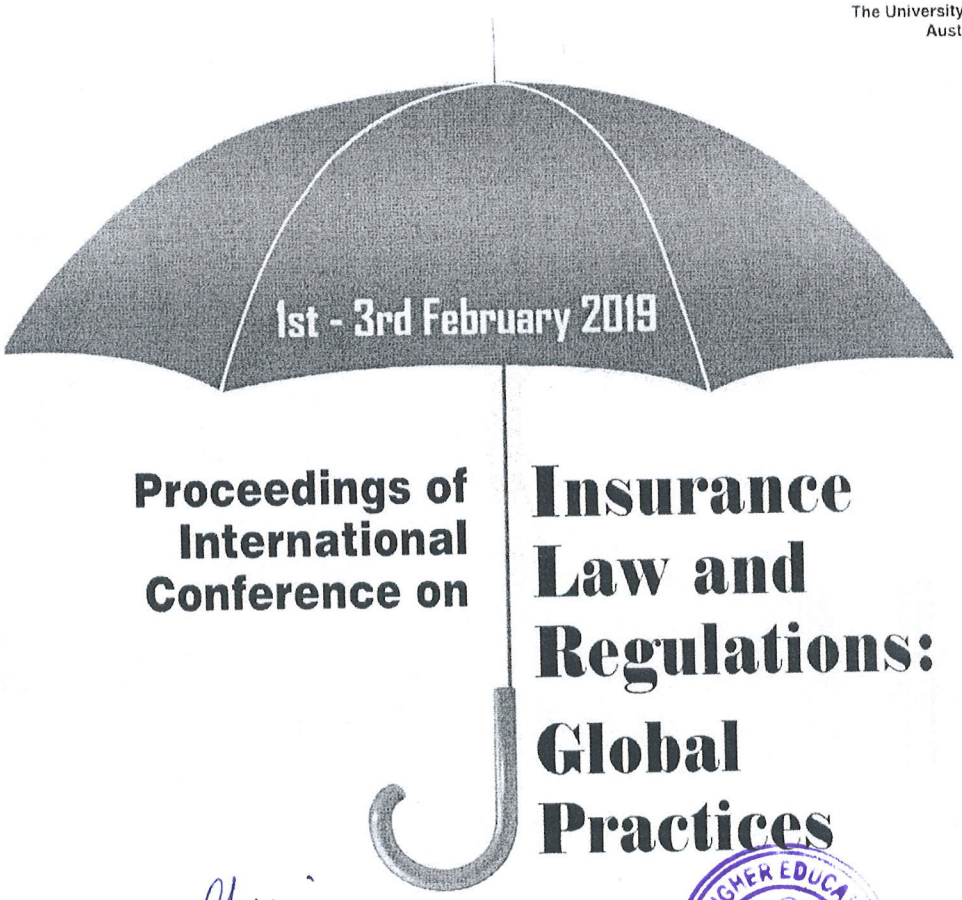
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# Contents


- ❖ Preface v
- ❖ Acknowledgement vi
- ❖ Messages vii

**INSURANCE LAW: POST-IRDA DYNAMICS**

1. **A Critical Role Played by the in Technology for the Development of Insurance Industry in India Post IRDA: A Study** 3
   *Priyank Jagawanshi and Mayank Jagawanshi*
2. **Insurance Law and Regulation with Special Reference to Insurance Laws (Amendment) Act, 2015** 11
   *D.V. Sri Lakshmi*
3. **Examining the Investment Pattern of the Insurance Sector in Case of India and its Regulation by the Insurance Regulatory Authority of India (IRDA)** 15
   *Aprajita Bhardwaj and Sona Chaube*
4. **Insurance Business—Post IRDA Regulations on Solvency Margin** 24
   *Suvarshitha Dharoor and Ekta Tiwari*
5. **Corporate Governance and Insurance Business: A Critical Study** 28
   *Monisha Gade and D.V.N. Murty*
6. **Significance of Corporate Governance in Insurance Industry: An Essential of Post-Liberalization** 37
   *Pooja Gandhi and Shabaan Ahmad*

**INSURANCE BUSINESS: SOCIO-LEGAL OBLIGATIONS**

7. **Social Protection and Microinsurance: South Asian Perspective** 47
   *S. Kannan*
8. **Role Played by Social Security Insurance in Development of India** 58
   *Neeta Ahir*
9. **Corporate Social Responsibility of Insurance Companies: A Comparative Analysis between India and Australia** 67
   *K.A. Dhanya*
10. **Life Insurance: A Step Towards Family Security** 76
    *N. Bhagya Lakshmi*
11. **Micro Insurance: A Tool for Social Protection** 82
    *M. Geethapriyadarsani*
12. **A Critical Study of Social Security Insurance for Unorganized Sector in India** 90
    *Chetan Dixit*


ICFAI FOUNDATION FOR HIGHER EDUCATION

## INSURANCE BUSINESS: CHANGING DYNAMICS

13. **Can Directors Insure Against Criminal Workplace Health and Safety Penalties?** 99
*Neil Foster*

14. **'Directors' and 'Officers' Liability Insurance: Corporate Governance Measure** 116
*M. Srinivas*

15. **Plug the Risk in Cyberspace: Extension of Insurance Shield to Cyber Attacks** 119
*C.P. Nandini*

16. **Role of Compliance Officer with Reference to Insurer's Corporate Governance, 2018** 130
*Nir Bahadur Pakhren*

17. **A Detailed Study on Workmen Compensation Insurance in India: A Multi-Disciplinary Approach** 136
*Kshithija Prakashan and Akshay Lodhi*

18. **Space for Space Insurance in Contemporary Era** 142
*D. Kiruthika and A.M. Vinesha*

19. **Protection of Patent Insurance: A Critical Analysis** 150
*K.V. Ravi Kumar*

## INSURANCE CLAIMS AND DISPUTE RESOLUTION

20. **Acts of Intervention: How Contracts of Liability Insurance are Regulated to Protect Third Party Claimants in Australian Law** 159
*John Woodward*

21. **A Critical Analysis of Misleading Advertisements in Insurance Sector in India** 172
*Anita A. Patil*

22. **Grievance Redressal Mechanism Pertaining to Insured in India: A Snapshot** 182
*L. Padmavathi*

23. **Nationalisation of Insurance Business and Policy Trading Can Insurance Policies be Traded?** 191
*Yashika Kuntela*

24. **Claims Management** 198
*P. Shruthi*

25. **Interpretation of Arbitration Clause in Insurance Contracts in India: An Analysis with Reference to Oriental Insurance Company Limited V. Narbheram Power and Steel Pvt. Ltd., 2018** 203
*Sanu Rani Paul*

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HYDERABAD
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THE ICFAI FOUNDATION FOR HIGHER EDUCATION

26. **Changing Dimensions of Insurable Interest under Contract of Insurance-Judicial Delineation** 206
*M.P. Chandrika*

## HEALTH INSURANCE: COMPETITIVE ADVANTAGES

27. **A Critical Study of the Regulations of Health Insurance in India, with Special Reference to Individual Insurance** 215
*Sanjay S. Bang*

28. **Eulogising Assurance and Eroding Insurance—Elderly Insurance in a Quagmire of Illusions** 224
*M. Madhuri Irene*

29. **Health Insurance and the Ethical Issue of Equity** 236
*R. Sangavi*

30. **Health Insurance in India: An Overview with Issues and Challenges** 244
*S. Nida*

31. **Indian Health Insurance: A Shield in a War or a Bane?** 254
*Tanya Kanwar and Muskan Tulsian*

*AUTHOR INDEX* 261

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# Protection of Patent Insurance: A Critical Analysis

**Dr. K.V. Ravi Kumar**
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**Abstract**—*Patent is a strong and exclusive right to prevent any unauthorised person from making, selling, offering for sale, or importing the patented product or process provided that, the invention satisfies criteria of novelty, inventive step, or industrial applicability. The concept of Intellectual Property and Insurance is a relatively new concept, which functions in the similar manner, as in any other insurance policy. Patent insurance is an insurance policy provided by insurance companies to protect or insure a patent. The main coverage provided under the ambit of intellectual property, is in relation only to the costs of legal proceeding and charges. Soon after, a patent is granted to an inventor, it becomes obvious for the patent holder to insure the patent, so as to mitigate costs, that may be incurred for pursuing infringement of the invention. The inventors have always been worried about the protection of their work, and the patent law regime has been exponentially, consolidating the rights of inventors over the patented technology. Inventors seek their protection by asking either by asking adequate compensation, in case of infringement, or reduce the risk to pay damages, if inventor has infringed other patented technology. Thus, a strategy of risk management has been adopted by the inventor. There is no doubt that a factor of risk is present in Intellectual Property and there is a possibility to end the whole dispute before the Court with huge costs. Therefore, in order to mitigate the risk involved in the Intellectual property especially in the patent, inventors have taken the recourse of insurance law, which addresses the concept of risk.*

*Currently, patent infringement litigation is becoming a frequent phenomenon, because it involves high cost and expenses, which give a reason for a patent holder to worry about reducing the risk of incurring loss, during the course of litigation. During such scenario, patent insurance has come as a rescue for patent holders. It is to be noted that patent insurance policies have been in the market in the European countries such as France, United States, Germany, Spain, China etc., for a long time, but it is quite unknown in India. The insurance industry in India, has never placed much value on ingenuity or invention. In India, The Patents Act, 1970, does not mention or reference about patenting the insurance products. However, with the advent of growth of technology, and increasing threat to infringement of patent, the companies in foreign jurisdiction United Kingdom and Europe, are becoming keen to subscribe specialised insurance policy. There is a need to protect the patented products with the tactics of risk management, and therefore, in this paper I made an attempt to highlight various kinds of patent insurance policies existed in global market.*

**Keywords:** *Intellectual Property Insurance, Patent Infringement Litigation, Risk Assessment, Patent Insurance*

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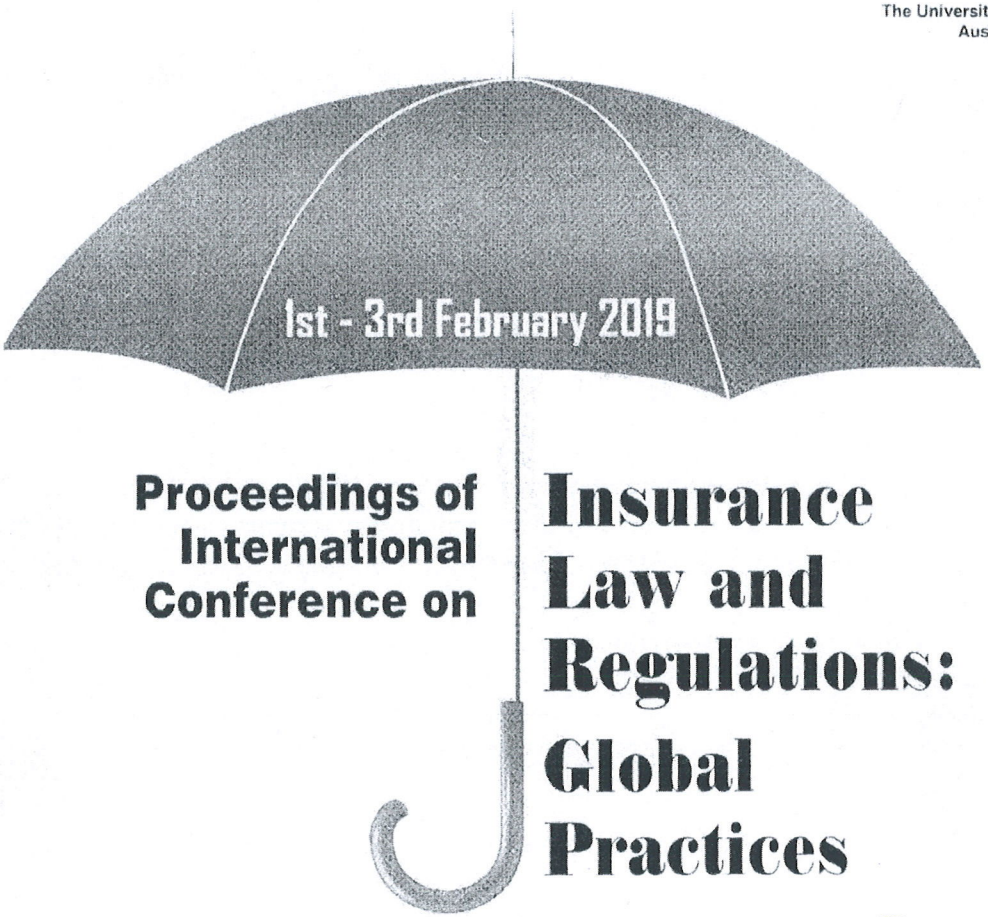
## INTRODUCTION

The patent system adds the fuel of interest to the fire of genius. Abraham Lincoln Generally, inventions in all fields of technology, whether products or processes are patentable, provided they meet the novelty, inventiveness and industrial applicability. In India, patents are one of the fastest growing and one of the most exploited intangible assets throughout the world. Even then, the number of patent applications filed, is way behind than the other developed countries. The major reason behind it was found to be patent infringement and lack of patent knowledge. It is to be noted that currently, the products offered by insurance companies in India, can be broadly categorised into Life Insurance, General Insurance and Health Insurance. Insurance industry in India has long been serving millions of people. At present, they have the onus of protecting their Intellectual property, as it will encourage them to produce more advanced products. Despite the long duration of the existence of the insurance industry, as hundred

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# Contents


- Preface v
- Acknowledgement vi
- Messages vii

## INSURANCE LAW: POST-IRDA DYNAMICS

1. **A Critical Role Played by the in Technology for the Development of Insurance Industry in India Post IRDA: A Study**
   *Priyank Jagawanshi and Mayank Jagawanshi* 3
2. **Insurance Law and Regulation with Special Reference to Insurance Laws (Amendment) Act, 2015**
   *D.V. Sri Lakshmi* 11
3. **Examining the Investment Pattern of the Insurance Sector in Case of India and its Regulation by the Insurance Regulatory Authority of India (IRDA)**
   *Aprajita Bhardwaj and Sona Chaube* 15
4. **Insurance Business—Post IRDA Regulations on Solvency Margin**
   *Suvarshitha Dharoor and Ekta Tiwari* 24
5. **Corporate Governance and Insurance Business: A Critical Study**
   *Monisha Gade and D.V.N. Murty* 28
6. **Significance of Corporate Governance in Insurance Industry: An Essential of Post-Liberalization**
   *Pooja Gandhi and Shabaan Ahmad* 37

## INSURANCE BUSINESS: SOCIO-LEGAL OBLIGATIONS

7. **Social Protection and Microinsurance: South Asian Perspective**
   *S. Kannan* 47
8. **Role Played by Social Security Insurance in Development of India**
   *Neeta Ahir* 58
9. **Corporate Social Responsibility of Insurance Companies: A Comparative Analysis between India and Australia**
   *K.A. Dhanya* 67
10. **Life Insurance: A Step Towards Family Security**
    *N. Bhagya Lakshmi* 76
11. **Micro Insurance: A Tool for Social Protection**
    *M. Geethapriyadarsani* 82
12. **A Critical Study of Social Security Insurance for Unorganized Sector in India**
    *Chetan Dixit* 90



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## INSURANCE BUSINESS: CHANGING DYNAMICS

13. **Can Directors Insure Against Criminal Workplace Health and Safety Penalties?**
*Neil Foster* 99

14. **'Directors' and 'Officers' Liability Insurance: Corporate Governance Measure**
*M. Srinivas* 116

15. **Plug the Risk in Cyberspace: Extension of Insurance Shield to Cyber Attacks**
*C.P. Nandini* 119

16. **Role of Compliance Officer with Reference to Insurer's Corporate Governance, 2018**
*Nir Bahadur Pakhren* 130

17. **A Detailed Study on Workmen Compensation Insurance in India: A Multi-Disciplinary Approach**
*Kshithija Prakashan and Akshay Lodhi* 136

18. **Space for Space Insurance in Contemporary Era**
*D. Kiruthika and A.M. Vinesha* 142

19. **Protection of Patent Insurance: A Critical Analysis**
*K.V. Ravi Kumar* 150

## INSURANCE CLAIMS AND DISPUTE RESOLUTION

20. **Acts of Intervention: How Contracts of Liability Insurance are Regulated to Protect Third Party Claimants in Australian Law**
*John Woodward* 159

21. **A Critical Analysis of Misleading Advertisements in Insurance Sector in India**
*Anita A. Patil* 172

22. **Grievance Redressal Mechanism Pertaining to Insured in India: A Snapshot**
*L. Padmavathi* 182

23. **Nationalisation of Insurance Business and Policy Trading Can Insurance Policies be Traded?**
*Yashika Kuntela* 191

24. **Claims Management**
*P. Shruthi* 198

25. **Interpretation of Arbitration Clause in Insurance Contracts in India: An Analysis with Reference to Oriental Insurance Company Limited V. Narbheram Power and Steel Pvt. Ltd., 2018**
*Sanu Rani Paul* 203

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26. **Changing Dimensions of Insurable Interest under Contract of Insurance-Judicial Delineation** 206
*M.P. Chandrika*

## HEALTH INSURANCE: COMPETITIVE ADVANTAGES

27. **A Critical Study of the Regulations of Health Insurance in India, with Special Reference to Individual Insurance** 215
*Sanjay S. Bang*

28. **Eulogising Assurance and Eroding Insurance—Elderly Insurance in a Quagmire of Illusions** 224
*M. Madhuri Irene*

29. **Health Insurance and the Ethical Issue of Equity** 236
*R. Sangavi*

30. **Health Insurance in India: An Overview with Issues and Challenges** 244
*S. Nida*

31. **Indian Health Insurance: A Shield in a War or a Bane?** 254
*Tanya Kanwar and Muskan Tulsian*

AUTHOR INDEX 261

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# Eulogising Assurance and Eroding Insurance—Elderly Insurance in a Quagmire of Illusions

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Health is not Heydon's horticulture of gracious legal interpretation, but inherent and inextricable imprimatur of natural, inalienable human right to life, to recognize that life of not mere animal existence, but of vivacity with dignity and honour. The legal obligation of the State to protect life of its citizens is swiftly transferred, at least partly, to private insurance domain with the lubrication of L.P.G. (Liberalization, Privatization and Globalization) ideologue.

Though insurance is said to be an act of solicitation, as social responsibility of the insurance agencies, in due course of time 'solicitation' slipped in the reverse direction. The modern fairy vision of health insurance constructs its relations with all hale and healthy and young, but does not comprehend the aged generation properly, perhaps with a view that the terminal lives are senile and unworthy. Profusion of legal mandates, international and national, could not secure health aroma for the aged humanity, and insurance sector is oblivious to its social responsibility and corporate social responsibility. Recent efforts of insurance companies to embrace financially-abled senior citizens with gritty guillotine of conditions presage only illusions, and the hopes of the elderly in general are mired in disappointments.

Societies are ageing because of declining fertility, declining mortality rates and changing patterns of migration. Insurance moved from a social function to lucrative commercial activity with greater liberty to build up industrial heights. Children may leave, friends may discard, societal institutions may ignore, language may leave and even State may be reticent, but Law shall not leave the gerontological perspective of humanity in taking care of the health of aged during their last stage of life, lest the old should be locked as E.T. in a ruddy cupboard for a while. This paper intends to project the rights of the aged for health insurance and the moral and legal duty of the state and society to bid humanitarian adieu to our senior citizen.

## FROM AGEING TO AGE-QUAKE

The new millennium fluttering with grey population is predicted to create ripples of 'age quake'[1]and the 21st. century will stand as a testimony not only for 'population explosion' but also for 'old age explosion'. Paul Wallace (1999) theatrically depicts that the 'age quake' may not descend unexpectedly like an earth quake, but we may have to encounter with a world converging on the aged people.

Old age is onerous not only for individuals but also for society–socially, economically andpolitically–impacting on management of resources, energy, power, administration and governance. Ageing once prevalent in low fertility western societies gradually spread into African, Asian and Latin American countries. China and India, the global leaders of population, will exemplify both population explosion and old age explosion. According to United Nations' statistics, while the children population in 1995 accounted for 31.3% of global population, elderly stood at 9.5% of global population; and by 2050, the children and the old people are estimated to touch 20.5% and 20.7% of world population. Predictions for 2100 indicate that elderly population will shoot up to 27.7% while children may touch 18.3%. If forecasts are near to reality, by the year 2150, aged population will touch an all time high of 30.5%, more than the children.[2]

[1]Paul Wallace, Age Quake: Riding the Demographic Rollercoaster Shaking Business, Finance and Our World, Nicholas Brealey Publishing, London (1999)

[2]United Nations, World Population Projections to 2150, New York, (1998) www.worldcat.org/title/world-population-projections-to-2150/oclc/40395333

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41. CA Role as Insolvency and Bankruptcy Professional

*Akshit Maheshwary* 402

42. Role of Insolvency Professionals under Insolvency and Bankruptcy Code – Privilege or a Curse?!

*T. Sri Priya* 409

## Liquidation of Going Concern Companies: Future Perspectives

43. The Insolvency and Bankruptcy Code, 2016

*D.V. Sri Lakshmi* 415

44. Guarantors Position during Corporate Insolvency: A Critical Study with reference to Indian Insolvency and Bankruptcy Code, 2016

*Dr. Fincy Pallissery* 419

45. The Rights of Operational Creditor under IBC – A Critical Analysis

*Neetha Kurian* 426

46. Insolvency Law Touting 'Debt Laundering'!

*Dr. Madhuri Irene. M* 435

47. Justice whether delayed in Corporate Insolvency, Bankruptcy and Liquidation

*M. Sheila Rani* 448

48. The Art and Science of Valuation of Distressed Companies

*Aditi Kumari and Rashmi Tiwari* 453

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# Insolvency Law Touting 'Debt Laundering'!

**Dr. Madhuri Irene. M**

Associate Professor, ICFAI Law School, IFHE, Hyderabad,

Email: madhuriirene@ifheindia.org, Mobile: 9247133349

*Abstract – Law often swings between an ass and intellect, former for commoner and latter for privileged brains, for theft of bread-loaf is incarcerated and drift of diamonds is swallowed by tides of times. Hart's 'minimum content of morality' is hard-hearted for galloping business tycoons and cavernous corporate. Commercial morality is compassionate to the financial failures – for any count – misery, misfortune or mismanagement, and derives legal empathy driven by political expediency. Flexibility of insolvency has become a designed facet of liberalized global economic policy and major part of national and international trade harks upon intangible assets rather than tangible assets. From peanuts to ponzi and zombie, every product tastes at some point or other insolvency and braves bankruptcy, for rejuvenation and restructure.*

*India represent a weak insolvency regime and distressed state of credit markets, and not surprisingly, ranks 136 out of 189 nations of World Bank Index in the ease of resolving insolvencies. The multiple avenues for dealing with insolvency imbroglio relatable to the trade combinations have now been unified into a time-bound insolvency resolution process in the new Insolvency and Bankruptcy Code of 2016, promising a thrust of creditors driven insolvency resolution.*

*The Insolvency and Bankruptcy Code, 2016 is a tender child of 2 yrs and its structural and functional measures are slender for comprehensive certification of its achievements, since it has still to revel in the lap of black chain economy. Whether the new institutional framework, consisting of a regulator, insolvency professionals, information utilities and adjudicatory mechanisms etc. would revitalize the ailing corporate bond markets, and task of valuation of assets in liquidation involving C.As and ACS etc. would yield better results is under examination and experience. Of course, bidders may not be swayed by official valuation and squeaky balance sheets. However, one need not cut the nose to spite the face. This article attempts to study the vital merits of new insolvency law and its soft spots for empowerment in relation to the socio-economic fabric of our Constitution.*

*"Some debts are fun when you are acquiring them, but none are fun when you set about retiring them."* – Ogden Nash

## Insolvency in Economic Ethics

Insolvency, once upon a time, was empathised as a mark of misfortune or consequences of sudden turn of events in the life of an individual, seldom in the case of composite combinations of trade and industry. Sinful disastrous thoughts or mensrea were aliens in the commercial corridors of bye-gone years. Integrity and honesty were not lost in insolvents. This was a blink of philosophy of insolvency prior to 20th century in Indian terrain. That apart, Indians are proud of Thiruvalluvar THIRUKKURAL to advert to business ethics, commercial morality and social

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# Insurance Business and Changing Dynamics

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Edited by

**Prof. A.V. Narsimha Rao**

Director,

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**Insurance Business and Changing Dynamics**

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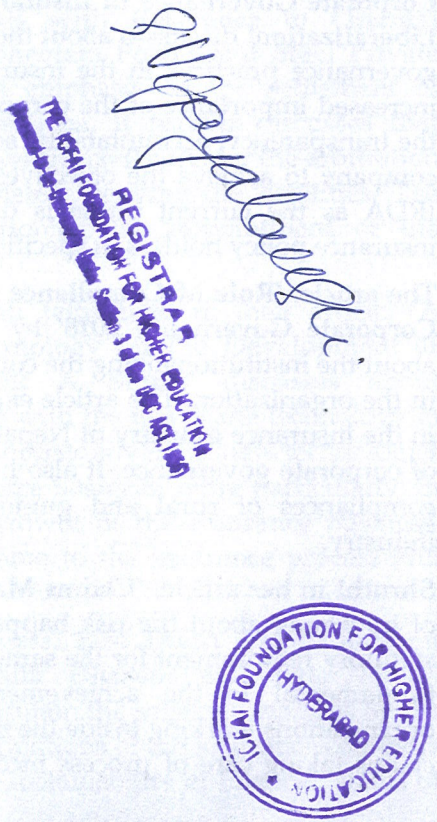
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expenses and decrease misrepresentation while keeping clients fulfilled.

The technological advancements have bought novel risks other than the traditional risks. One of the important and challenging is the risk associated with terrorism, more particularly the 'cyber terrorism'. CP Nandini in her article, **'Plug the Risk in the Cyber Space: Extension of Insurance Shield to Cyber Attacks'** discusses. In order to avoid such risks the large and small businesses have relied upon the Insurance Companies to transfer risk as part of their strategic management plan.




## Contents


1. Insurance Law and Regulation with Special Reference to Insurance Laws (Amendment) Act, 2015 — 1

   D.V. Sri Lakshmi

2. Examining the Investment Pattern of the Insurance Sector in Case of India and its Regulation by the Insurance Regulatory Authority of India (IRDA) — 10

   *Aprajita Bhardwaj and Sona Chaube*

3. Changing Dimensions of Insurable Interest under Contract of Insurance Judicial Delineation — 26

   *M.P. Chandrika*

4. A Critical Analysis of Misleading Advertisements in Insurance Sector in India — 40

   *Anita A. Patil*

5. Nationalisation of Insurance Business and Policy Trading Can Insurance Policies be Traded? — 58

   *Yashika Kuntela*

6. Interpretation of Arbitration Clause in Insurance Contracts in India: An Analysis with Reference to Oriental Insurance Company Limited V. Narbheram Power and Steel Pvt. Ltd., 2018 — 71

   *Sanu Rani Paul*

7. A Critical Role Played by the in Technology for the Development of Insurance Industry in India Post IRDA: A Study — 77

   *Priyank Jagawanshi and Mayank Jagawanshi*

managers of insurers to rectify problems and take precautionary measures. However, insurance is a risky business and there can be no absolute guarantee. Ordinarily, an insurance company with the requisite solvency margin is not likely to fail.

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# Corporate Governance and Insurance Business: A Critical Study

*Monisha Gade and D. V. Narsimha Murty*[197]

***Abstract*** *Human being engages himself or herself in various economic activities to fulfill his needs on this planet. This economic activity may be in the form of business, profession or any other trade. Everyone wants to avoid risk in any activity. Avoidance of risk is not possible but it can be mitigated to some extent by taking some preventive measures. The preventive measures vary from one economic activity to another. One common preventive measure taken up by any person is insurance. Insurance can be defined as a practice wherein a person or a corporate entity undertakes to make good the loss or risk. It is nothing but a method of transferring for shifting the risk from one person to another for a consideration. Insurance business aims to undertake risks of the society. Hence corporate is the best form to carry on insurance to run any business, administration and governance. Governance comprises of processes which are induced to set the rules and regulations in any institution or organization for effective management. Corporate Governance is an efficient key to create a competitive business. The principles of corporate governance are to be imbibed into insurance business to maintain the reliability and confidence among the stakeholders and other interested parties concerned with insurance business. In the recent past, major insurance companies like LIC and ICICI Life Insurance have faced certain issues regarding maintenance of good corporate governance practices such as composition of board or investment patterns etc.*

## Introduction:

Human being engages himself or herself in various economic activities to fulfill his needs on this planet. This economic activity may be in the form of business, profession or any other trade. Everyone wants to avoid risk in any activity. Avoidance of risk is not possible but it can be mitigated to some extent by taking some preventive measures. The preventive measures vary from one

[197] Monisha Gade & D V Narsimha Murty, Faculty Associates, ICFAI Law School, IFHE, Hyderabad

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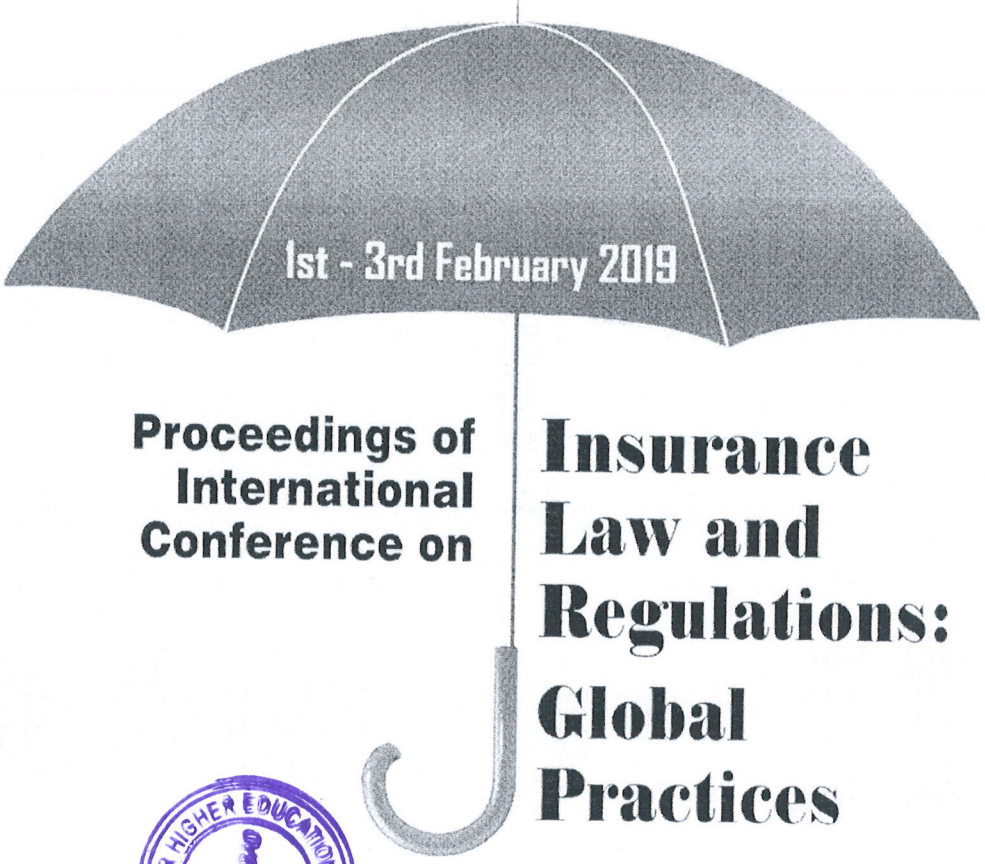
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# Proceedings of International Conference on Insurance Law and Regulations: Global Practices

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Editor
Ms. Priti

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# Contents


- Preface v
- Acknowledgement vi
- Messages vii

## INSURANCE LAW: POST-IRDA DYNAMICS

1. **A Critical Role Played by the in Technology for the Development of Insurance Industry in India Post IRDA: A Study** 3
   *Priyank Jagawanshi and Mayank Jagawanshi*
2. **Insurance Law and Regulation with Special Reference to Insurance Laws (Amendment) Act, 2015** 11
   *D.V. Sri Lakshmi*
3. **Examining the Investment Pattern of the Insurance Sector in Case of India and its Regulation by the Insurance Regulatory Authority of India (IRDA)** 15
   *Aprajita Bhardwaj and Sona Chaube*
4. **Insurance Business—Post IRDA Regulations on Solvency Margin** 24
   *Suvarshitha Dharoor and Ekta Tiwari*
5. **Corporate Governance and Insurance Business: A Critical Study** 28
   *Monisha Gade and D.V.N. Murty*
6. **Significance of Corporate Governance in Insurance Industry: An Essential of Post-Liberalization** 37
   *Pooja Gandhi and Shabaan Ahmad*

## INSURANCE BUSINESS: SOCIO-LEGAL OBLIGATIONS

7. **Social Protection and Microinsurance: South Asian Perspective** 47
   *S. Kannan*
8. **Role Played by Social Security Insurance in Development of India** 6
   *Neeta Ahir*
9. **Corporate Social Responsibility of Insurance Companies: A Comparative Analysis between India and Australia** 67
   *K.A. Dhanya*
10. **Life Insurance: A Step Towards Family Security** 76
    *N. Bhagya Lakshmi*
11. **Micro Insurance: A Tool for Social Protection** 82
    *M. Geethapriyadarsani*
12. **A Critical Study of Social Security Insurance for Unorganised Sector in India** 90
    *Chetan Dixit*



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## INSURANCE BUSINESS: CHANGING DYNAMICS

13. **Can Directors Insure Against Criminal Workplace Health and Safety Penalties?**
*Neil Foster* 99

14. **'Directors' and 'Officers' Liability Insurance: Corporate Governance Measure**
*M. Srinivas* 116

15. **Plug the Risk in Cyberspace: Extension of Insurance Shield to Cyber Attacks**
*C.P. Nandini* 119

16. **Role of Compliance Officer with Reference to Insurer's Corporate Governance, 2018**
*Nir Bahadur Pakhren* 130

17. **A Detailed Study on Workmen Compensation Insurance in India: A Multi-Disciplinary Approach**
*Kshithija Prakashan and Akshay Lodhi* 136

18. **Space for Space Insurance in Contemporary Era**
*D. Kiruthika and A.M. Vinesha* 142

19. **Protection of Patent Insurance: A Critical Analysis**
*K.V. Ravi Kumar* 150

## INSURANCE CLAIMS AND DISPUTE RESOLUTION

20. **Acts of Intervention: How Contracts of Liability Insurance are Regulated to Protect Third Party Claimants in Australian Law**
*John Woodward* 159

21. **A Critical Analysis of Misleading Advertisements in Insurance Sector in India**
*Anita A. Patil* 172

22. **Grievance Redressal Mechanism Pertaining to Insured in India: A Snapshot**
*L. Padmavathi* 182

23. **Nationalisation of Insurance Business and Policy Trading Can Insurance Policies be Traded?**
*Yashika Kuntela* 191

24. **Claims Management**
*P. Shruthi* 198

25. **Interpretation of Arbitration Clause in Insurance Contracts in India: An Analysis with Reference to Oriental Insurance Company Limited V. Narbheram Power and Steel Pvt. Ltd., 2018**
*Sanu Rani Paul* 203

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THE ICFAI FOUNDATION FOR HIGHER EDUCATION
(Deemed-to-be-University Under Section 3 of the UGC ACT, 1956)

26. **Changing Dimensions of Insurable Interest under Contract of Insurance-Judicial Delineation** 206
*M.P. Chandrika*

## HEALTH INSURANCE: COMPETITIVE ADVANTAGES

27. **A Critical Study of the Regulations of Health Insurance in India, with Special Reference to Individual Insurance** 215
*Sanjay S. Bang*

28. **Eulogising Assurance and Eroding Insurance—Elderly Insurance in a Quagmire of Illusions** 224
*M. Madhuri Irene*

29. **Health Insurance and the Ethical Issue of Equity** 236
*R. Sangavi*

30. **Health Insurance in India: An Overview with Issues and Challenges** 244
*S. Nida*

31. **Indian Health Insurance: A Shield in a War or a Bane?** 254
*Tanya Kanwar and Muskan Tulsian*

AUTHOR INDEX 261

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# Micro Insurance: A Tool for Social Protection

**M. Geethapriyadarsani**
Faculty Associate, ICFAI Law School IFHE, Hyderabad

**Abstract**—*Micro insurance is the protection of low income people, against specific perils in exchange for regular premium payment proportionate to the likelihood and cost of the risks involved. International Association of Insurance Supervisors (IAIS) defines "Micro Insurance is insurance that is accessed by low-income population, provided by a variety of different entities, but run in accordance with generally accepted insurance practices.*

*The living conditions of the rural Indians have been very unstable as they are being engaged in seasonal occupations such as agriculture, animal husbandry etc., which do not yield any high or regular income. These factors lead to poverty in India.*

*Universally man should be given social protection and social security as they play an important role in sustainable economic development. Social protection has been recognized internationally as a human right in Article 22 of the Universal Declaration of Human Rights-1948 and in Article 9 of the International Covenant on Economic, Social and Cultural Rights-1976.*

*Micro Insurance as a socio–economic tool not only uplifts the economic conditions of the individual but also brings a great change in the economic conditions of the society. If the micro insurances policies are implemented properly then it reduces poverty, increases agricultural productivity, reduces child labour, reduces maternal and infant deaths, increases savings, and promotes gender equity.*

*The objective of this paper is to examine whether these micro insurances policies are reaching to the rural people, whether these micro insurances policies have brought any changes in the living conditions of rural people and women, and the role of micro insurance players in bringing sustainable economic development.*

**Keywords:** *Micro Insurance, Risk, Social Protection, Sustainable Economic Development, IRDA*

## INTRODUCTION

Micro insurance is for the people, whose income is very low, who are illiterate and mostly depending on daily labour. These people face many problems or risks and they do not have any knowledge about the financial institutions. These poor people are not able to overcome the problems or situations such as illness, old age, death, unemployment, drought or any disasters created by nature, as their income is not sufficient. Due to this, they are suffering not only financial loss but also mental agony.

The living conditions of the rural people, whose primary occupation is agriculture, are worse as their income depends on climatic conditions. Due to this, they face many risks such as life cycle risks, health risks, economic risks, natural risks so on and so forth. The conditions of the rural and poor urban women are also worse as they are dependent on men and due to any sudden death or ill health to the male member they are unable to manage the situation. To come out of these risks they are taking credits from money lenders at high interest, selling their small piece of land and also they are bringing their children out of schools and sending them to work almost bonded labour. So, because of this their living conditions are not being improved and on the other hand becoming too worse.

Protecting the poor from these situations is very much essential, to eradicate poverty which is the main objective of social protection. Most of the Indians are still living in below poverty line and they are not able to take the conventional insurance as the premiums are very high. To attain sustainable development, poverty should be eradicated. To eradicate poverty, the poor should be brought under financial inclusion, so that they will have access to financial services providing micro insurance facility which is a necessary step in this direction.

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## Insolvency Law: Conceptual Contours


1. **Preparatory Measures for NPA Rehabilitation as Prevention of Economic Retraction**
   *Arthur David Morris and Sahib Siddhu* 3
2. **A Critical Analysis of the Jurisprudential Axiom Substantiating the Insolvency and Bankruptcy Laws of India**
   *Janhavi KM & Kapil Krishnan* 9
3. **Insolvency and Bankruptcy Code, 2016: Evolution, Procedure & Critical Analysis**
   *Sanika Kurundwadkar* 20
4. **Insolvency and Bankruptcy Code, 2016: Need & Challenges**
   *Ms. Arpita Agarwal & Dr. Ity Patni* 34
5. **Economic Impact of Insolvency – An International Perspective**
   *Dr. Kama Raju Chitrapu* 37
6. **Insolvency and Bankruptcy: Reshaping the Businesses in the Light of Social Justice and Economic Justice**
   *Dr. Mona Mahecha & Mr. Ravi Upadhyay* 45
7. **Judicial Opinion on Insolvency and Bankruptcy Code**
   *Dr. V. G. Ranganath* 59
8. **Phoenixing the Indian Insolvency Regime**
   *Girjesh Patidar* 67


## Insolvency and Bankruptcy Law: Emerging Jurisprudence


9. **Insolvency and Bankruptcy with Special Reference to Companies**
   *Ameerunnisa* 79
10. **Challenges and Opportunities of the Insolvency and Bankruptcy Code 2016**
    *Mrs. Farzana* 83
11. **Insolvency and Bankruptcy Laws – An Evolving Jurisprudence in India**
    *Meher Davis* 92
12. **SEBI Steps towards Insolvency Resolution Process**
    *Sahanaa Sudhakar & M.S. Pravin Balagi* 101
13. **Insolvency and Bankruptcy Code: A Snapshot**
    *G. Maitry* 110



REGISTRAR
THE ICFAI FOUNDATION FOR HIGHER EDUCATION
(Deemed-to-be-University Under Section 3 of the UGC ACT, 1956)

14. Emerging Jurisprudence in Corporate Insolvency: Duty of the Directors in the Twilight Zone 124
*Harsh*

15. An Overview of Insolvency and Bankruptcy Code – Procedure and Practice 132
*Dinesh Babu Eedi*

16. Stressed Assets of Road and Highways Sector of India and It's Resolution through Insolvency and Bankruptcy (IBC) Code – 2016 or Otherwise 146
*Rajesh Sharma*

## Cross Border Insolvencies: A Road Map

17. Insolvency and Bankruptcy Resolving Process among South Asian Countries: A Comparative Study 153
*Dr. S. Kannan*

18. Cross Border Insolvency: A Question of COMI 165
*Mallika Jain*

19. Ideal Legal Frame Work for Cross Border Insolvency: A Tool to Increase Foreign Investments 176
*Vojjala Sahiti*

20. Interface of International Insolvency and Insolvency and Bankruptcy Code 2016: A Way Ahead 180
*Shalini and Vidhi Singh*

21. Issues on Cross Border Insolvency that Fetter the Global Economy 190
*Prof. Dr.T.Vidya Kumari*

22. Cross-Border Insolvency under the Insolvency and Bankruptcy Code: An Analysis 203
*Anubha Srivastava*

23. Cross Border Insolvency: A Problem Left Unattended or a Complication Not Understood? 216
*S. Mahemaa*

24. The Analysis of the Adoption of the Model Bill on Cross Border Insolvency 225
*Eshaan Khera & Girish Murugesh*

25. Adapting UNCITRAL Model Law on Cross-Border Insolvency, 1997 in India: Problems and Need for a Global Reform 234
*Kashyab Venkatesh S*

26. The Paradigm of Cross-Border Insolvency in India – A Critical Analysis 243
*Dr. K. Sivananda Kumar*

27. Cross Border Insolvency Regulations in India: Need of the Hour 257
*Suvarshitha Dharoor*

REGISTRAR
THE ICFAI FOUNDATION FOR HIGHER EDUCATION
(Deemed-to-be-University Under Section 3 of the UGC ACT, 1956)

28. IBC and Global Scenario – A Study
*Dolly Gautam* 264

## Insolvency Resolution and Regulatory Mechanism

29. Demystifying the Percussion of Commencement of Insolvency on Operation and Performance of Contracts – A Hermeneutical Study of the United States, the United Kingdom and India
*Varendyam Jahnawi Tiwari1 & Atyotma Gupta* 267

30. Revolutionary Inroads into the Insolvency and Bankruptcy Law in India
*Dr. Dayananda Murthy C P* 288

31. Economic and Social Perspectives of Corporate Insolvency Law in Uganda: The Recent Collapse of Crane Bank (Uganda) and the Response to the 2007-2008 Global Economic Crisis
*Hamiisi Junior Nsubuga* 302

32. Resolving Insolvency: A Challenge in Doing Business Reformed by IBC
*Dewansh Vashishth* 311

33. The Test of Essar Steel: Section 12A, Insolvency and Bankruptcy Code, 2016
*Sara Jain* 320

34. Insolvency and Bankruptcy from an International Perspective
*Harish V K, Vipanchika Sudheesh* 328

35. Insolvency and Bankruptcy Law and Regulatory Mechanism
*Mahesh Betasur* 329

36. Priority Rules, Justice and Discrimination of Operational Creditors under the Insolvency and Bankruptcy Code, 2016
*Rajesh Kumar Acha* 336

37. Insolvency and Bankruptcy: Failed Hearings and Delay
*Gugloth Sai Kiran* 347

38. A Critical Analysis of the role of an Insolvency Professional in the Corporate Insolvency Resolution Process
*Meenakshi Singh & Jerush Priyatham Arava* 355

39. Insolvency Professionals – An Analysis of their Role under Insolvency and Bankruptcy Code, 2016
*Uma Pusapati (PhD Scholar)* 369

40. Comparative Analysis of Pre-Pack Insolvency: Boon or Bane for Stakeholders?
*Valluri Parthasarathi and Kanakamedala Sri Venkata Sai Ram* 382

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41. CA Role as Insolvency and Bankruptcy Professional 402
*Akshit Maheshwary*

42. Role of Insolvency Professionals under Insolvency and Bankruptcy Code – Privilege or a Curse?! 409
*T. Sri Priya*

## Liquidation of Going Concern Companies: Future Perspectives

43. The Insolvency and Bankruptcy Code, 2016 415
*D.V. Sri Lakshmi*

44. Guarantors Position during Corporate Insolvency: A Critical Study with reference to Indian Insolvency and Bankruptcy Code, 2016 419
*Dr. Fincy Pallissery*

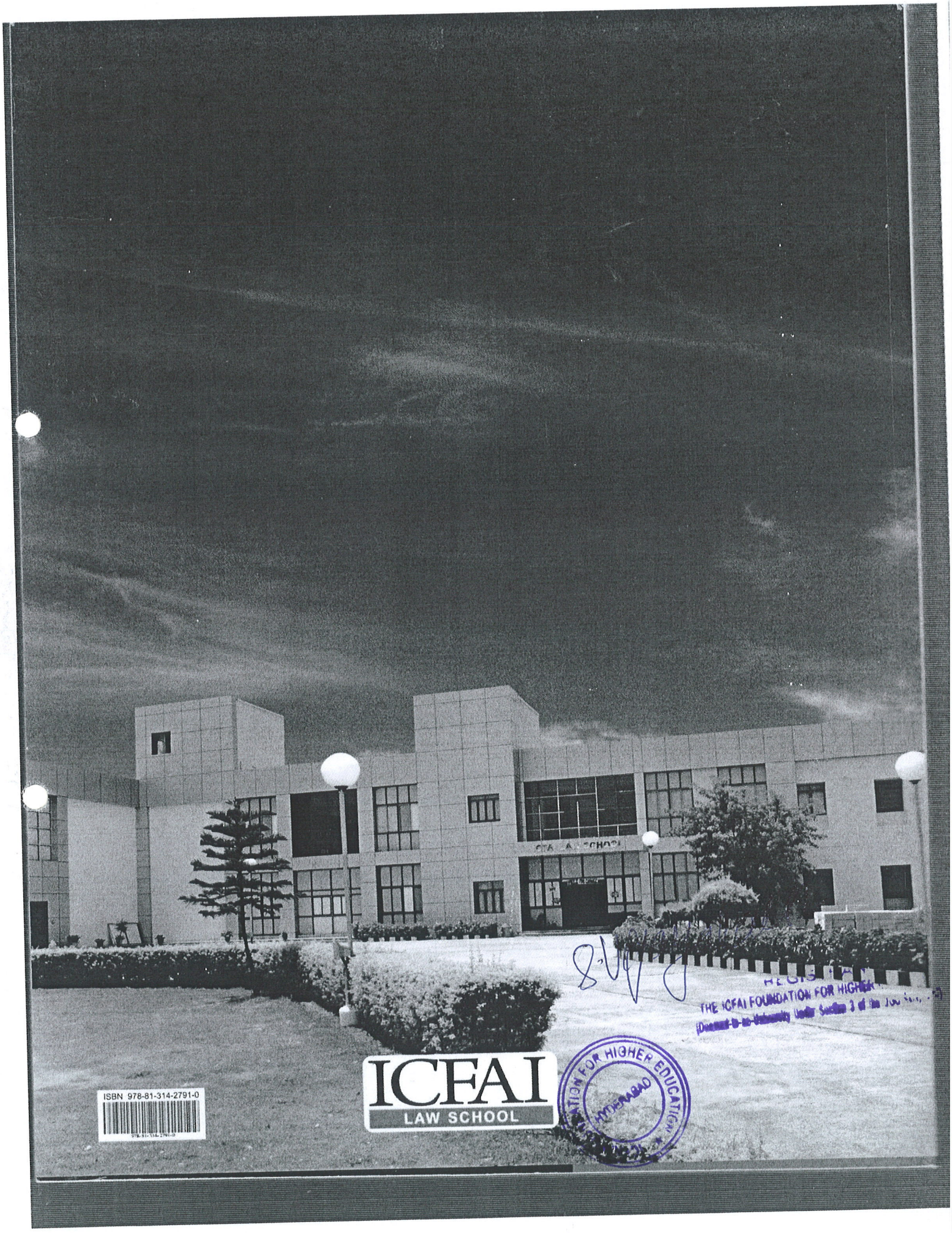
45. The Rights of Operational Creditor under IBC – A Critical Analysis 426
*Neetha Kurian*

46. Insolvency Law Touting 'Debt Laundering'! 435
*Dr. Madhuri Irene. M*

47. Justice whether delayed in Corporate Insolvency, Bankruptcy and Liquidation 448
*M. Sheila Rani*

48. The Art and Science of Valuation of Distressed Companies 453
*Aditi Kumari and Rashmi Tiwari*

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   *Janhavi KM & Kapil Krishnan* 9

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   *Sanika Kurundwadkar* 20

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   *Dr. Kama Raju Chitrapu* 37

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   *Dr. V. G. Ranganath* 59

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   *Girjesh Patidar* 67


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   *Ameerunnisa* 79

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    *Mrs. Farzana* 88

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    *Meher Davis* 92

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*Rajesh Sharma* 146

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*Dr. S. Kannan* 153

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*Mallika Jain* 165

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*Vojjala Sahiti* 176

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*Shalini and Vidhi Singh* 180

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*T. Sri Priya* 409

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*Dr. Fincy Pallissery* 419

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*Neetha Kurian* 426

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# Challenges and Opportunities of the Insolvency and Bankruptcy Code 2016

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## Introduction

**Insolvency and Bankruptcy Code, 2016** provides legal framework for insolvency resolution of corporate persons, partnership firms and individuals in a time bound manner for maximization of value of assets of these persons and balance the interests of all the stakeholders. Before this Code, there was no single law dealing with insolvency and bankruptcy in India. Liquidation of Companies is handled by the High Courts. Individual cases are dealt with under the Presidency Towns Insolvency Act, 1909 and Provincial Insolvency Act, 1920.

The other laws which deal with issues include Sick Industrial Companies (Special Provisions) Act (SICA), 1985; Recovery of Debt Due to Banks and Financial Institution Acts, 1993, the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest (SARFAESI) Act, 2002 and Companies Act, 2013. The Code consolidates these insolvency laws to bring them under one umbrella.

The research shows that India has about 11% of bad debt records out of the total lending and it is increasing day by day. Mr. Vijay Mallya is one such example. The time taken to resolve a case of insolvency is very high as compared to many other countries of the world. Due to this issue, India was ranked as 130$^{th}$position in ease of doing business in the world for 2017 by January 2019 there had been a drastic change in ranking which took India to the level of 45$^{th}$ rank. More than 50% of bad debts are that of Corporates who have taken such loans from nationalized banks.

The recovery from such defaulters is generally next to impossible because of a number of reasons like overlapping jurisdictions etc. Hence, these cases continue for years and years but the recovery remains zero. Previously there were about twelve laws which dealt with insolvency. Basis on those twelve laws, it took more than four years to wind up a corporation in our country.

Due to lack of required institutional and legal setup, the defaulters started considering India as a safe haven for such activities which clearly depicted incompetence on the part of our country when compared to global standards. Although India had numerous acts in place to punish the defaulters. It also aims to safely depart the investors from such companies without making them lose their investments. This new Code has also vested the operational creditors like suppliers and workmen with the power to initiate insolvency proceeding against a company if the default takes place.

Another great feature about the code is that it considers no difference between the rights of domestic and international creditors or among the varied classes of economic organizations. The Code has a hit the nail on the head by balancing the interest of the involved shareholders including modification in the order of priority of payment of Government dues.

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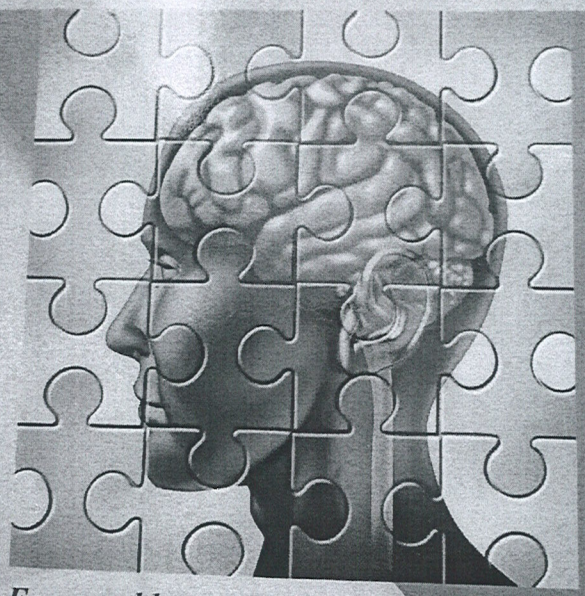
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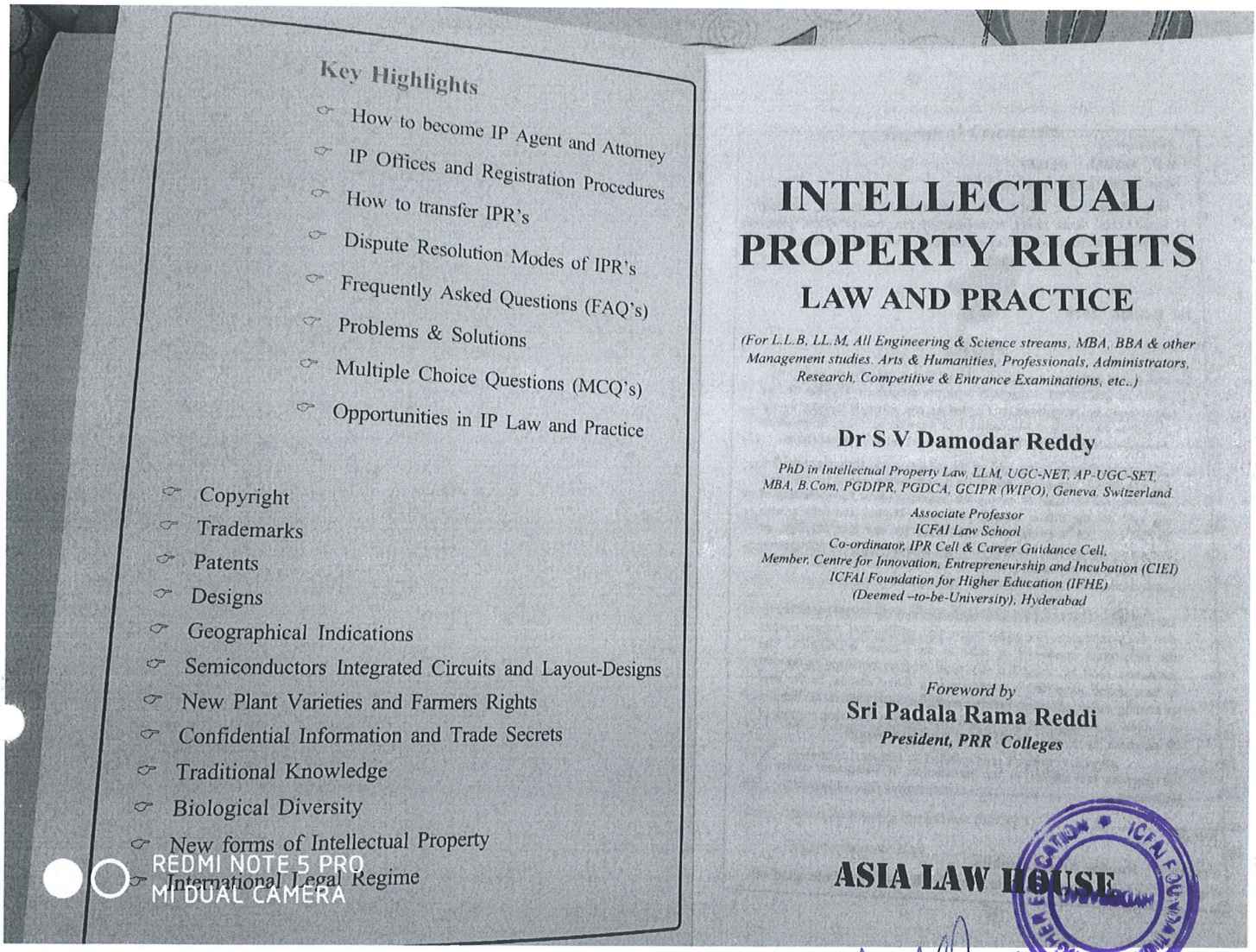
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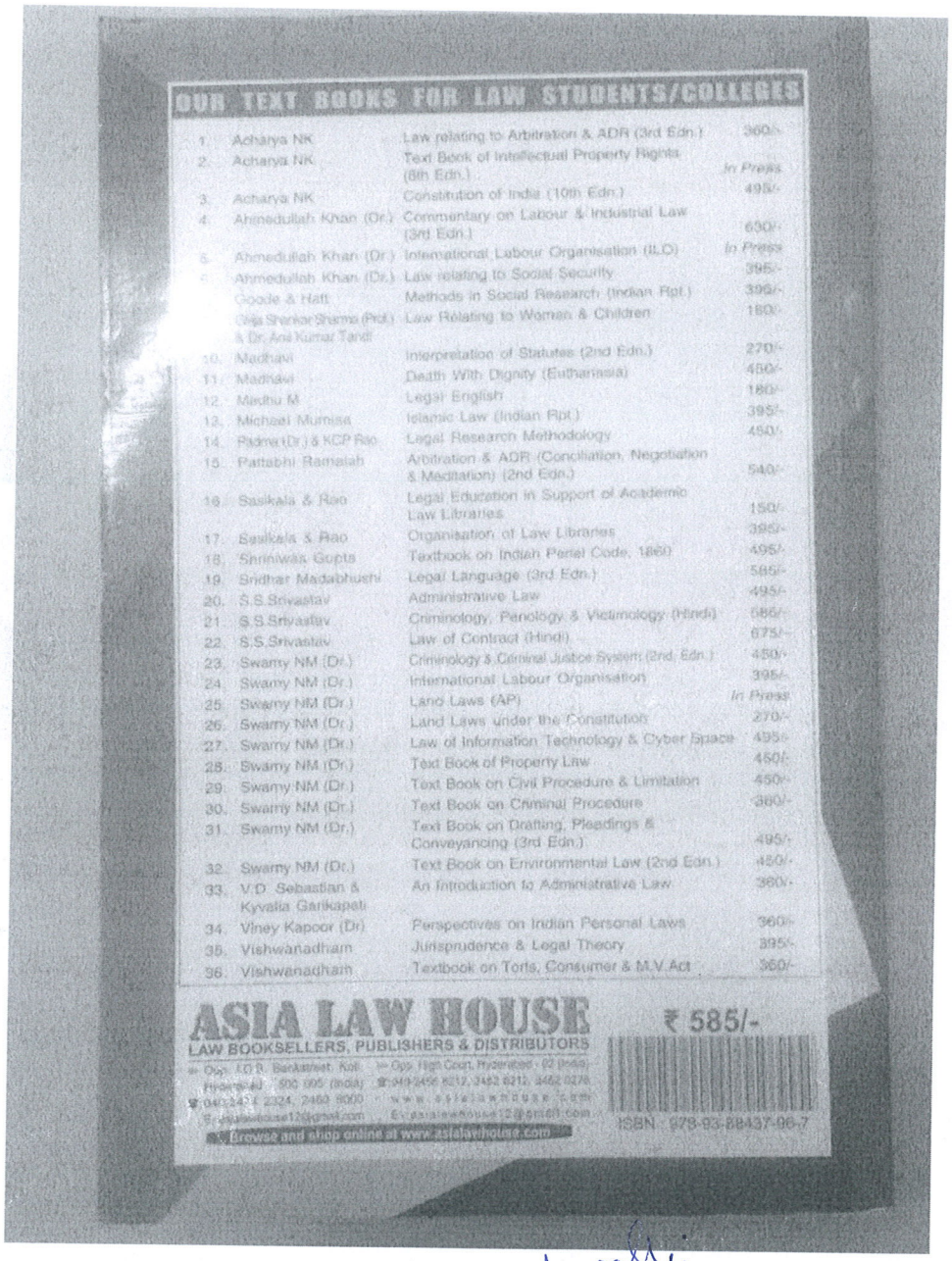

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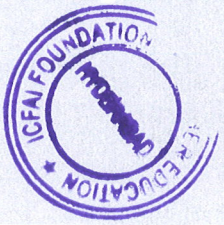
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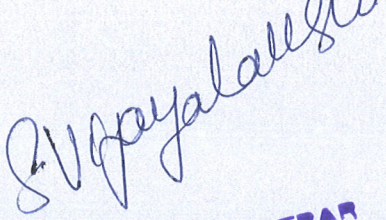
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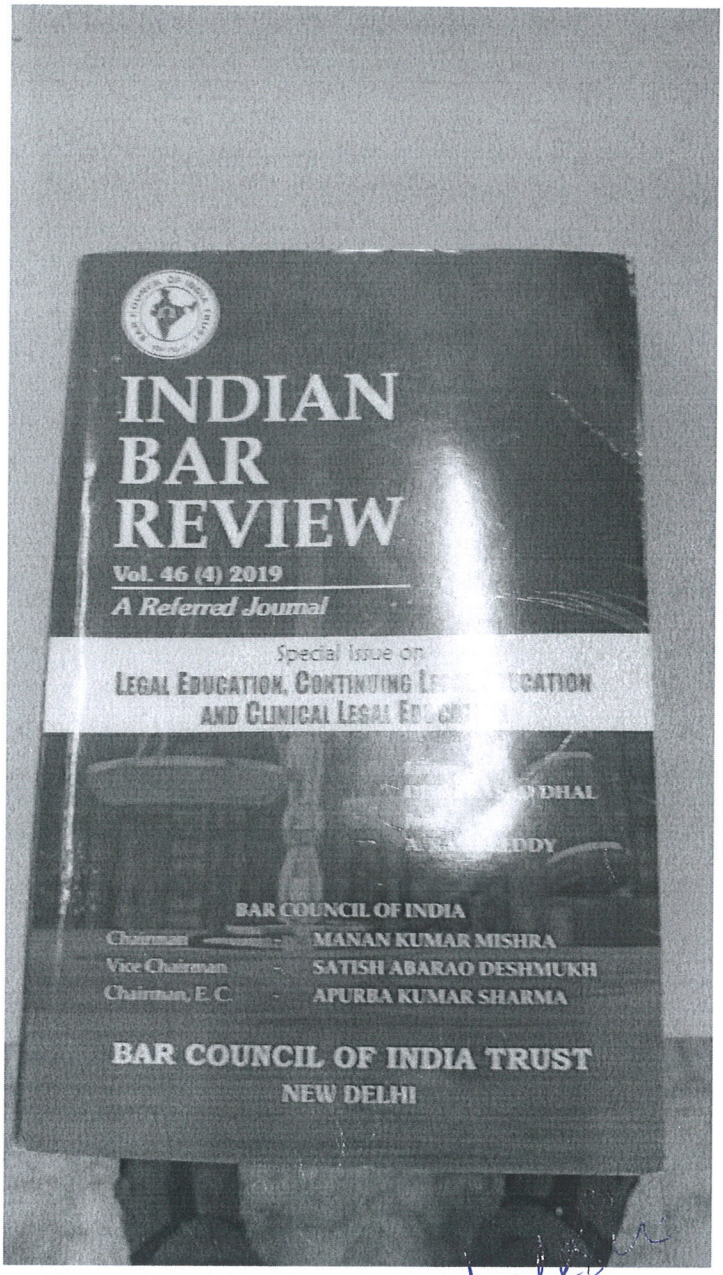



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— *Prakash Sharma*

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— *Dr. Rekha Pahuja*

45. CONTINUING LEGAL EDUCATION IN INDIA — 419—426
— *Nayanjyoti Das*

46. CLINICAL LEGAL EDUCATION IN INDIA: SOME REFLECTIONS — 427—438
— *Dr. Susmitha P. Mallaya*

47. LEGAL EDUCATION IN INDIA — 439—445
— *S. Lakshmi Sai Rama Krishna*

48. PRACTICAL IMPEDIMENTS DURING COURT VISITS — 447—453
— *Dr. K.S. Rekh Raj Jain*

49. UNDERSTANDING UGC PLAGIARISM 2018 DOCTRINE ALONG WITH COPYRIGHT IN EVOLVING MODERN LEGAL EDUCATION — 455—458
— *Dr. Bibhabasu Misra*

50. CONTINUING LEGAL EDUCATION – A *SINE QUA NON* — 459—469
— *Arun Kumar Singh and Ameesha Singh*

51. IMPLEMENTATION OF RULE OF LAW AND JUDICIAL PRONOUNCEMENTS DEPEND ON THE QUALITY OF LEGAL EDUCATION/CONTINUING LEGAL EDUCATION IN SOCIETY — 471—47
— *Alok Kumar Yadav and Jivesh Jha*

52. CLINICAL LEGAL EDUCATION IN INDIA: A WAY FORWARD — 481—48
— *Dr. Mujibur Rehman and Irshad Ahmad*

53. CLINICAL LEGAL EDUCATION: STUDY OF LAW SCHOOL BASED LEGAL AID CLINICS — 491—49
— *Dr. Shaiwal Satyarthi, Prashita Mishra and Vaibhav Shahi*

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— *Ritu Dhingra*



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## INTRODUCTION

LEGAL profession is one of fastest emerging profession not only in a but also across the world. The attributed reason is globalization, liberalization and unprecedented opportunities. The legal professionals passing out from the universities and law schools must be equipped with enhanced potential with practical exposure to bridge the gap between theory and practice. Clinical education is the most effective and efficient way to develop professional competence among the students pursuing a law career.

Proponents of clinical education have urged the development and expansion of clinical programmes to train students in the skills necessary to apply legal doctrine in practice.[1] Presently clinical legal education has become an important component of most law schools and universities' curricula across the globe. India's legal education establishment has mandated a set of clinical legal education provisions for all law schools and universities.

Clinical legal education refers to progressive educational ideology and pedagogy which is been implemented through law schools and universities programs. Clinical legal education can also be stated as multi-disciplinary multipurpose learning environment where the students identify, research and apply knowledge in a setting which replicates at least in part when

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1. Stefan H. Krieger, The Effect of Clinical Education on Law Student Reasoning: An Empirical Study, 35 Wm. Mitchell L. Rev. 359 (2008), p. 360.

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8. Criminalising Instant Triple Talaq: An Approach Muslim Women's Rights 89-105
*Aishwarya Deb*

9. Marital Rape law in India: A Travesty of Justice 106-117
*Sai Muralidhar K.*

10. Domestic Violence-Critical Study of Legislative Intent 118-136
*Kavitha Balakrishnan*

11. Women From Sentiment to Sensation – A Critique on Application of Domestic Violence Act 137-156
*Madhuri Irene M. and Apoorv Gupta*

12. "Honour Killing" in India: An Assault Against Women 157-176
*Komal Dahiya*

13. Human Rights of Women and Honour Killings in India 177-195
*Nidhi Gupta*

14. Empowerment of Women with Disabilities in India: Issues and Challenges 196-211
*Tanwi Shams*

15. Indian Laws for the Protection of Woman's Right Against Sexual Abuse 212-228
*Reenu Rana*

16. Crèche Facility Under Maternity Benefit (Amendment) Act, 2017 in India 229-240
*Misha Bahmani*

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# Women from Sentiment to Sensation – A Critique on Application of Domestic Violence Act

Dr. Madhuri Irene. M and Apoorv Gupta


## Abstract

From biblical beam to the present boutique era, woman is subjected to the thrust of the individual and societal capricious attitude. The opulence of legislative measures seeking to alleviate the suffering women is gradually proving to be nothing but legal obesity. Constitutional and statutory safeguards, balancing the need of the union of man and woman for vindicating the 'family unit', invited additional strength in the form of Domestic Violence Act, 2005. Law's cruelty hardly tames the human bestiality, and hence the compatriot feminism is required to control the man's aggressiveness through soft legal peddling in view of the need to preserve and protect much-valued 'family unit'. Law relating to Domestic Violence is a soothing reflection of the balancing wheel of man and woman relation in the family and society.

This legislation on domestic violence also engendered staggering statistics of complaints by women against men and other family members creating calamitous consequences. Instead of strengthening the bonds of wife and husband, the D.V. Act sadly prodded separation of couple and disruption of serene family environment. Adding fuel to the fire, judicial interpretations in some quarters imported the element of 'equality' in application of Domestic Violence Act, 2005, not only for women but also for men. Thus the Domestic Violence Act of 2005, once perceived to be woman paradise became the joint residence of cantankerous couple. End results impact on family status, children destitution, property possession, economic upheavals etc., and family spirit is being jettisoned by individual ego.

The article focuses mainly on practical application of PWDV Act, 2005.


**Keywords:** Domestic Violence, Cruelty, Economic abuse, Verbal abuse.

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# Cross Border Insolvency: Indian Legal Regime

Edited by

**Dr. Veena**

Associate Professor,

ICFAI Law School, IFHE, Hyderabad

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**Cross Border Insolvency: Indian Legal Regime**

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## Preface

Cross border insolvency is the process of insolvency of the companies which operates from more than one country. In other words, it is procedure of dealing with stressed assets of a company located in different countries and regulated by different laws. It deals with the insolvency of companies and not with the individual insolvencies. Important jurisprudential issues concerning to cross border insolvency jurisprudence includes choice of law, jurisdictions and enforcement machinery and processes. Domestic insolvency laws do not generally recognize the foreign laws and enforcement mechanism. As such there is a need for universally accepted insolvency model to deal with the assets in question are distributed among different countries. The well-defined global unified model of insolvency law is required to facilitate the faster mode of resolving commercial business in the current globalised market place. The international conventions having the best practices are the sources for universal insolvency legal regime today.

The UNCITRAL Model Law is adopted in the year 1997 to deal with the cross-border insolvency issues and challenges. This model law is adopted in countries like United States, Japan, United Kingdom, Australia, Canada and South Africa. The Model Law clearly differentiates the cross-border insolvency with that of foreign proceedings relating to the corporate dispute resolutions. Legislative reciprocity is another important element of the Model Law. It indicates about the reciprocal recognition and enforcement of judgments of domestic and foreign courts and the same is envisaged under a law governing the domestic courts. The law may permit or promote the cross-border insolvency agreement between the courts or the representatives of the business houses. Four important principles evolved from the Model Law are the accessibility of assets, law and insolvency courts, creditors, debtors and other interest parties, recognition of the foreign proceedings, awards and remedies, cooperation among the authorities and representatives of domestic and foreign countries and coordination in enforcement. These four core principles pay rich dividends in resolving the cross-border insolvency complexities.

states that, India is required to adopt the UNCITRAL Model Law and the same has been recommended by various agencies and committees.

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## Contents

1. Interface of International Insolvency and Insolvency and Bankruptcy Code 2016: A Way Ahead — 1
*Shalini and Vidhi Singh*

2. Cross-Border Insolvency under the Insolvency and Bankruptcy Code: An Analysis — 16
*Anubha Srivastava*

3. The Analysis of the Adoption of the Model Bill on Cross Border Insolvency — 35
*Eshaan Khera and Girish Murugesh*

4. Adapting UNCITRAL Model Law on Cross-Border Insolvency, 1997 in India: Problems and Need for a Global Reform — 48
*Kashyab Venkatesh. S*

5. The Paradigm of Cross-Border Insolvency in India – A Critical Analysis — 61
*Dr. K. Sivananda Kumar*

6. Cross Border Insolvency: A Question of COMI — 82
*Mallika Jain*

7. Ideal Legal Frame Work for Cross Border Insolvency: A Tool to Increase Foreign Investments — 98
*Vojjala Sahiti*

8. Issues on Cross Border Insolvency that Fetter the Global Economy — 104
*Prof. Dr. T. Vidya Kumari*

9. Demystifying the Percussion of Commencement of Insolvency on Operation and Performance of Contracts – A Hermeneutical Study of the United States, the United Kingdom and India — 123
*Varendyam Jahnavi Tiwari & Atyotma Gupta*

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33

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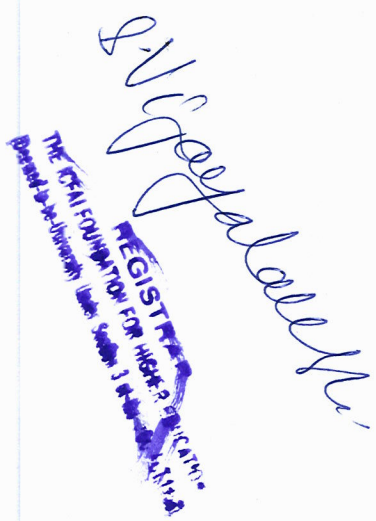
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## Contents


1. A Critical Study of Social Security Insurance for Unorganized Sector in India — 1
   *Chetan Dixit*
2. Role Played by Social Security Insurance in Development of India — 12
   *Neeta Ahir*
3. Life Insurance: A Step Towards Family Security — 28
   *N. Bhagya Lakshmi*
4. Social Protection and Microinsurance: South Asian Perspective — 39
   *S. Kannan*
5. Can Directors Insure Against Criminal Workplace Health and Safety Penalties? — 60
   *Neil Foster*
6. 'Directors' and 'Officers' Liability Insurance: Corporate Governance Measure — 90
   *M. Srinivas*
7. A Detailed Study on Workmen Compensation Insurance in India: A Multi-Disciplinary Approach — 96
   *Kshithija Prakashan and Akshay Lodhi*
8. Grievance Redressal Mechanism Pertaining to Insured in India: A Snapshot — 107
   *L. Padmavathi*



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# Insurance Business and Changing Dynamics

34


Edited by

**Prof. A.V. Narsimha Rao**

Director,

ICFAI Law School, IFHE, Hyderabad



ALT Publications, Hyderabad

**Insurance Business and Changing Dynamics**

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expenses and decrease misrepresentation while keeping clients fulfilled.

The technological advancements have bought novel risks other than the traditional risks. One of the important and challenging is the risk associated with terrorism, more particularly the 'cyber terrorism'. **CP Nandini** in her article, **'Plug the Risk in the Cyber Space: Extension of Insurance Shield to Cyber Attacks'** discusses. In order to avoid such risks the large and small businesses have relied upon the Insurance Companies to transfer risk as part of their strategic management plan.

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## Contents

1. Insurance Law and Regulation with Special Reference to Insurance Laws (Amendment) Act, 2015 — 1
D.V. Sri Lakshmi

2. Examining the Investment Pattern of the Insurance Sector in Case of India and its Regulation by the Insurance Regulatory Authority of India (IRDA) — 10
*Aprajita Bhardwaj and Sona Chaube*

3. Changing Dimensions of Insurable Interest under Contract of Insurance Judicial Delineation — 26
*M.P. Chandrika*

4. A Critical Analysis of Misleading Advertisements in Insurance Sector in India — 40
*Anita A. Patil*

5. Nationalisation of Insurance Business and Policy Trading Can Insurance Policies be Traded? — 58
*Yashika Kuntela*

6. Interpretation of Arbitration Clause in Insurance Contracts in India: An Analysis with Reference to Oriental Insurance Company Limited V. Narbheram Power and Steel Pvt. Ltd., 2018 — 71
*Sanu Rani Paul*

7. A Critical Role Played by the in Technology for the Development of Insurance Industry in India Post IRDA: A Study — 77
*Priyank Jagawanshi and Mayank Jagawanshi*

# The Insolvency and Bankruptcy Code, 2016: Jurisprudential Insights

35

Edited by

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Associate Professor,

ICFAI Law School, IFHE, Hyderabad

ALT Publications, Hyderabad

**The Insolvency and Bankruptcy Code, 2016: Jurisprudential Insights**

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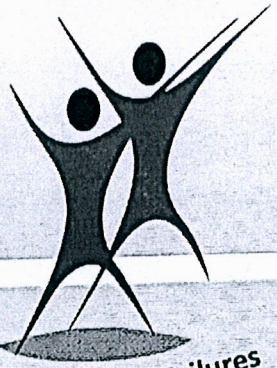
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# Privatization and Globalization

## Changing Legal Paradigm

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ADR–Success and Failures

WTO–Reforms and Challenges

Regulatory Governance and Economic Liberalization

Corporate Governance and Transnational Corporations

Fair Competition and Consumer Welfare

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Chapter


24 **WTO—Challenges, Approaches and Future Trend**
– M.P. CHANDRIKA ..... Page

Introduction ..... 358
Principles of WTO ..... 358
Non-discrimination ..... 359
National Treatment ..... 360
Transparency/Market Access ..... 361
Rule Based Trading System/Fair Competition ..... 362
Ethos of the WTO ..... 362
India's Approach to WTO ..... 363
Is WTO a Friend or Foe to India? ..... 365
Conclusion ..... 367
Suggestions ..... 370
..... 371

25 **International Commercial Arbitration—A Tool to Regulate Global Trade and Commerce**
– M. MADHURI IRENE .....

Introduction ..... 372
Legal Regime as a Controlled Mechanism ..... 372
Commercial Arbitration—A Legal Penumbra ..... 373
Formal and Informal Justice Systems ..... 375
Pros and Cons of International Commercial Arbitration ..... 376
Indian Legislation Relating to International Commercial Arbitration ..... 377
Supportive National Arbitration Legislation ..... 379
Indian Law on Arbitration—Foreign Awards and Enforcement ..... 381
Impact on National and International Trade ..... 382
Suggestions ..... 385
Conclusion ..... 387
..... 388

26 **Third Parties Rights in the WTO Dispute Settlement Mechanism**
– BIPIN KUMAR ..... 389

Introduction ..... 389
The Existing Rights to Third Parties ..... 390
Third Parties in Consultations ..... 390
Third Parties before the Panel ..... 391
Third Parties before the Appellate Body ..... 393
Third Party Rights—As of Now ..... 394
Enhanced Third Party Rights ..... 395
Proposals for Enhancement of Third Party Rights by WTO Members ..... 398
The Draft Text ..... 402
Implications of the Reforms ..... 405
India and the WTO Dispute Settlement Mechanism ..... 407
Conclusion and Suggestions ..... 408


Scanned with CamScanner

Chapter

27 **Regulating in the Shadow of International Trade Law** ..... 411
– SAM F. HALABI ..... 411
Introduction ..... 413
The Government of India's Ministry of Health and Family Welfare and the United States' Department of Health and Human Services ..... 413
Ministry of Health and Family Welfare ..... 414
Department of Health and Human Services ..... 416
Regulating in the Shadow of International Trade Law ..... 416
Public Health Mandates versus International Trade Obligations ..... 418
Approaches to Promulgating Regulations under International Trade Law ..... 419
Coordination ..... 420
Internal Agency Bureaucracy ..... 422
Conclusion ..... 423

28 **The Function of India's Patent Institution to Promote Pharmaceutical Industry** ..... 423
– MA BIYU ..... 425
Introduction—Why Chinese Buy Medicines from India? ..... 425
Comparison of Patent Systems between China and India ..... 426
Comparison of Drug Patent Right Obtainments ..... 428
Comparison of Pharmaceutical Patenting Standards ..... 429
Comparison between Limitations to Pharmaceutical Patent Rights ..... 430
Comparison between Stipulation Contents of Compulsory License ..... 432
Comparison between Practices and Theories of Compulsory Licensing ..... 432
Comparison between Patent Infringement Regulations ..... 433
Comparison between Infringement Compensations ..... 435
Comparison between Exemption Conditions ..... 438
Analysis of Impact on Pharmaceutical Industries by the Patent Systems in China and India ..... 440
Development Prospect of Patent System in India ..... 442
Conclusions ..... 442

29 **'Make in India' Policy in the Era of Global Trade Regime—A Critical Analysis** ..... 442
– ANNAPURNA DEVI MUNAGANTI ..... 444
Introduction ..... 445
A Critical Analysis of 'Make in India' Policy Implementation—Regulatory Framework ..... 447
The Foreign Trade Policies in India—Its Legal Validity ..... 447
Make in India—Opportunities and Challenges in the Era of Global Trade Regime ..... 450
Opportunities .....

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Chapter 29

# 'Make in India' Policy in the Era of Global Trade Regime—A Critical Analysis

ANNAPURNA DEVI MUNAGANTI

## Introduction

The theory of *Comparative Advantage*[1] plays the most prominent role in the development of new global trade phenomenon. It made a vital contribution to economic thought that stimulated the global free trade era.[2] The early logic of free trade could be advantageous for the countries based on the concept of the *Absolute Advantage*, which is practically of one-sided advantage to a country in supplying of goods and services. It may have negative impact on the other country which is in a disadvantageous position. But, in certain situations, one country may make a specialised good with lower wages; other country may also make a different good with some more specialisation with low cost expenditure. Where both countries may have beneficial edge in the global trade, is enlightened in *Comparative Advantage* Theory.

In relation to the conceptual context of comparative advantage theory, the Indian position in global manufacturing GDP (Gross Domestic Product) and exports over the last twenty years was agreeable and one of the most important trade factors in India is incurring of low cost expenditure in the field of manufacturing sector. The Government of India also set for highest target of GDP growth in manufacturing sector

REGISTRAR

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2 M.N. Rothboard, *Ricardian Law Comparative Advantage*, available at <https://mises.org/library/ricardian-law-comparative-advantage>, last visited on 20 May 2016.



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# Teaching Learning Strategies in Higher Education

Dr Uma Devi

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*(Ed.)*

**Dr. Kandi Kamala**

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should encourage them. Unmotivated students are likely to disturb the class as they don't pay attention. When you notice undesirable behavior in a student, nip it in the bud, or the other students may think that it's OK for them to talk while you are teaching. Communicate clearly with the student using simple language. Be firm and direct. Be fair, positive and consistent.

## Conclusion

Sometimes one has to accept that, despite all of their efforts, there will be some students who are not going to understand what is being taught in the class and also there will be some students in each class who are not interested in learning at all. One needs to let go of these factors and accept their limitations as a teacher in a higher education setup, where each student has a different purpose of joining the institution. Inspire of all the information, the role of teacher cannot be diminishes as the teacher guides the student .

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## Chapter - 5

# Challenges of Teaching in College Education

*S. Uma Devi, Jyotsna Nisha,*

**Abstract**

*Education is the most potent tool for putting the society on the path of development. Teaching is considered as the most noble and respected professions. Teachers instill values in the minds of the students and ultimately become the custodians of character build and consequently nation building. Teaching is a multifaceted task. It involves preparation, delivery of the subject matter, class management, making the students inquisitive about the subject and collaborating with the students. Teaching and interacting college students are different from teaching school students. With changing times, the teaching job has become very challenging. New challenges have emerged like plethora of information available on the internet, influx of technology and changing values of the society. The traditional concept of students' obedience has become rare.*

*With the mushroom growth of private educational institutions, the teacher has to face additional challenges. This paper attempts to focus on the professional challenges faced by college teachers and tries to give suggestions to overcome them.*

*Key words: Teaching, higher education, students, challenges, college*

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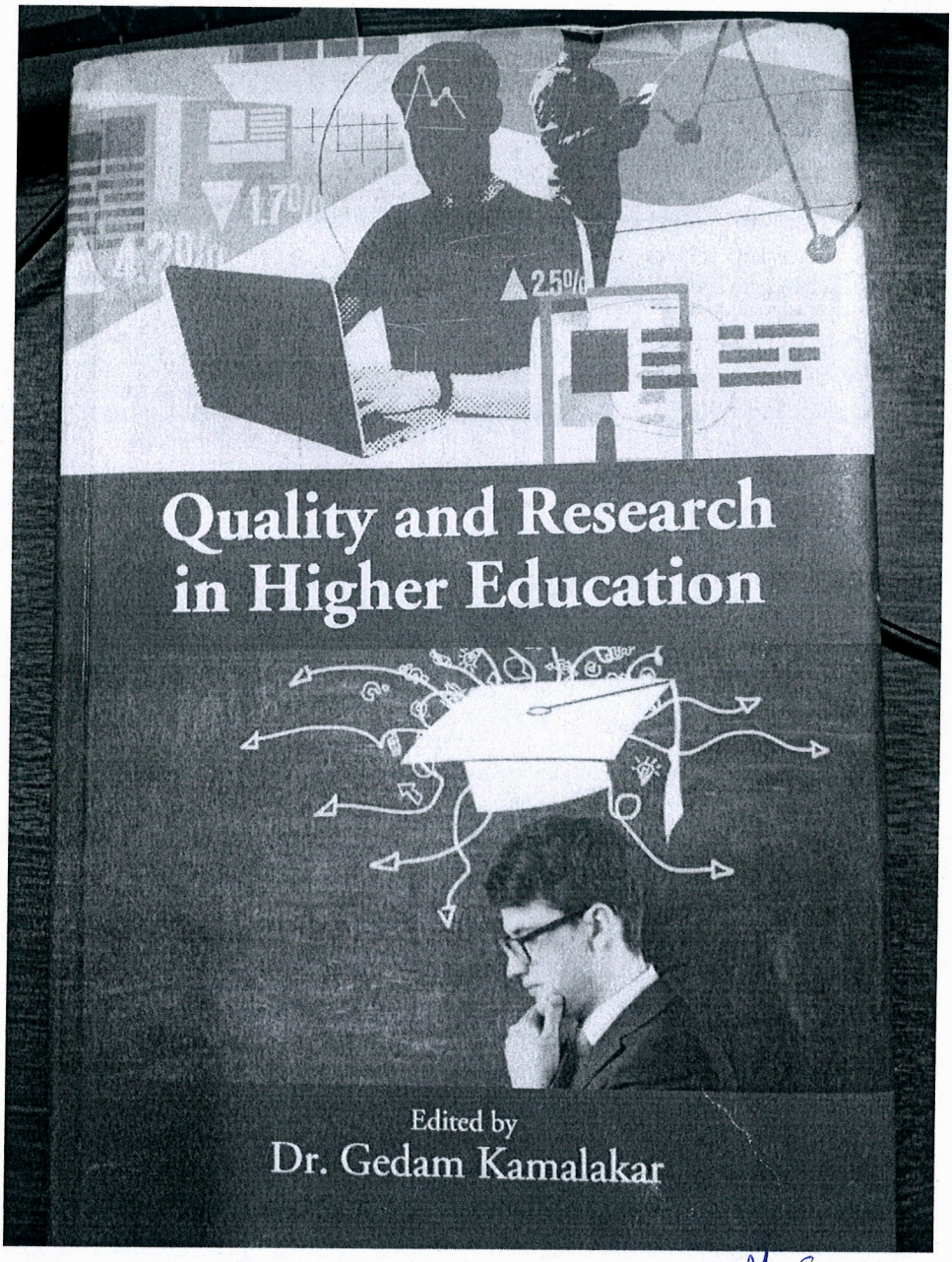
## Research Objectives

1. To find out the challenges faced by college teachers
2. To determine the efforts to be made by the teachers to overcome these challenges and contribute to effective teaching.
3. To see if the management can help the teachers overcome these issues.

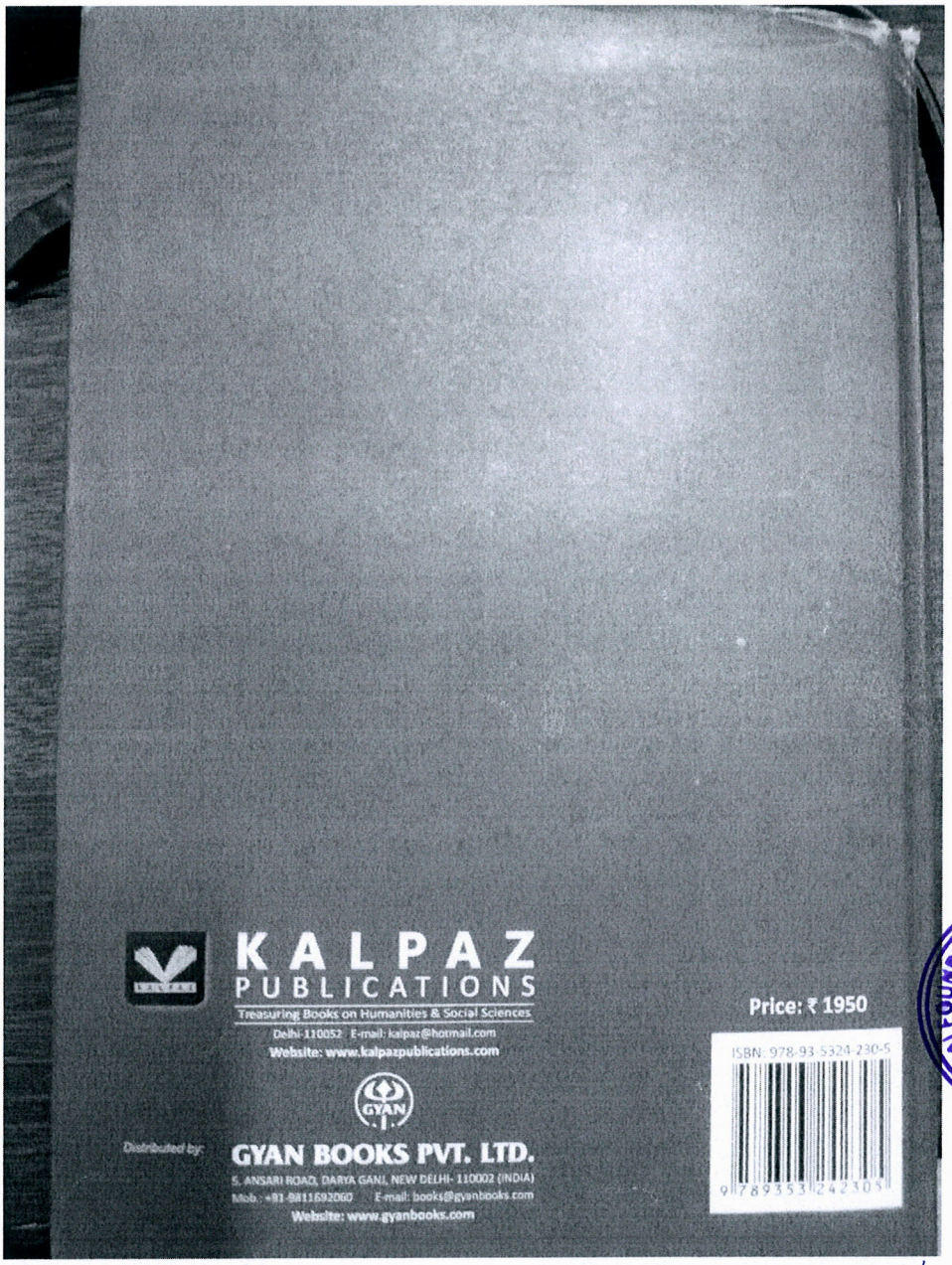
Methodology: Based on formal interviews and personal interactions with the teachers and also secondary sources.

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(Deemed-to-be-University Under Section 3 of the UGC ACT,1956)

30. Reforms of Higher Education ..... 249
*Baby Kumari*

31. Reforms in Higher Education in India: Prospects and Challenges ..... 257
*Dr. S. Chandra Shekar*

32. A Qualitative Study to Improve the Quality of Higher Education by Promoting Research and Innovation ..... 263
*Naghma Shahida, Asma*

33. Information and Communication Technologies (ICTS): Means to Quality Higher Education in Kashmir ..... 273
*Feroz Akram, Rayees Ahmad*

34. Quality, Content and Context in Higher Education ..... 281
*Joginapallyramesh*

35. Issues and Challenges – Higher Education in India ..... 289
*Ravi Kaka*

36. Improving Quality and Research in Higher Education-A Case Study Analysis ..... 297
*Dr.P.Srinivasa sastry, Ananth Narayan Tripurari*

37. Student Based Financial Support System in Higher Education: Challenges in Implementation of Centrally Sponsored Schemes ..... 305
*Dr. Vetukuri P. S. Raju*

38. Rusa in Higher Education in West Bengal- A Study ..... 323
*Arnab Chowdhury, Jayanta Mete Professor*

39. Financing Higher Education ..... 341
*S. C. Bhandari, CEO*

40. Professional Ethics: Predicament in Higher Education ..... 349
*Dr. P. Venu Gopal*

41. Contemporary Issues in Higher Education- Liberalization Privatization, Globalisation ..... 357
*Priyanka Mokale*

42. Education System: Role of Stakeholders, Impact on Nations Growth– A Case Study on South Korean Higher Education System ..... 361
*K. Prabhu Sahai, L. N. Gupta*

43. Mentoring system in Higher Education: A Case Study of ICFAI Law School, Hyderabad ..... 371
*S. Kannan*

44. Finances in Higher Education in India- An Introspection ..... 385
*Bibhudendu Das*

ICFAI FOUNDATION FOR HIGHER EDUCATION HYDERABAD

S. Vijayalakshmi
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## Chapter-43

# Mentoring system in Higher Education: A Case Study of ICFAI Law School, Hyderabad

*S. Kannan*


### Abstract

*Education system in contemporary society possess many challenges in enhancing the skills of the students in both curricular, co-curricular and extra-curricular activities. In order to make the student more viable and productive in their respective field, mentoring system was introduced in higher educational institutions around the world and also in India. Further, many scholars have also agreed that mentoring system positively impact their abilities to succeed in college (Hurtado & Carter, 1997; Amaury Nora and Gloria Crisp, 2008). The studies on mentoring system remained more focused on medical, engineering and management stream students when compare to the other streams. Against this background, present study focus on effectiveness of mentoring system in legal education. The study was conducted in ICFAI Law School, ICFAI Foundation for Higher Education (Deemed University), Hyderabad, Telangana. The study used both primary and secondary information's to understand the effectiveness of mentoring system. The attendance details of the students were collected for the previous academic session at the beginning of the session and also at the end of the session. Finding suggest that mentoring programs aimed at providing experiences designed to assist students in adjusting to college life and becoming fully engaged in classroom and out-of-class activities. Unstructured interviews among the mentor's reveals that most of the time mentees were reluctant to meet them and the mentees opined that mentor system helps us in understanding the system, follow-up and circulation of the information regarding co-curricular and extra-curricular activities were helpful for them. At the end, the study suggest that for effective mentoring system, the regular interaction between devoted mentors and mentees will solve the purpose.*


**Keywords:** *Mentor, Mentee, attendance, Law, interaction, skills*

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# Contents

## Business Economics: Changing Dynamics


1. Contractual Certainty in International Trade: Global Economic Exchanges 3

   *Anubha Srivastava*

2. Collective Investment Schemes Regulatory Mechanism and BUDS 14

   *Anil Singh*

3. India's Performance at EODB Ranking by World Bank 20

   *Dr. M. Ravindranath & D.V.N. Murty*

4. The Impact of E-Commerce on International Trade 36

   *Dr. K.V. Ravi Kumar*

5. Whether the Economic Growth of India is Trade Openness led? An Assessment 47

   *Dr. Iti Vyas*

6. Globalisation and it's Effects on World Businesses 71

   *Keerthana Challuri*

7. Analyzing the Impact of Global Trade Conflicts on Countries 83

   *N. Ashwini*

8. Legal Compliance of Loan Waivers Schemes in India in the Context of the WTC Norms on Agriculture 9(

   *Mrs. Annapurna Devi Munaganti & Dr Sanu Rani Paul*

9. BIMSTEC, Economic Cooperation, Cultural Issues and Citizenship Amendmen Act 9

   *Dr. Venkata Narasimha Chary Mushinada*



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## Foreign Investments: Trends and Issues


10. Equity Crowdfunding in India: A Critical Analysis 1(

    *Abhishek Mishra*

11. Sustainable Economic Development and Foreign Investment 1

    *B. Vijayalakshmi*

12. FTAs, BITs and Their Impact

    *A. Venkateswara Rao*

# India's Performance at EODB Ranking by World Bank

Dr. M. Ravindranath* & D.V.N. Murty**

*Abstract*

*A major source of non-debt financial resource for the economic development of developing and /or under developed countries is foreign direct investment (FDI). Foreign companies invest to take advantage of relatively lower wages, lesser cost of production, special investment privileges such as tax exemptions, etc.*

*Economic freedom to do business goes hand in hand with economic development and a thriving private sector, and these in turn underpin poverty elimination and the pursuit of shared prosperity. For a country where foreign investments are being made, it also means achieving technical know-how and generating employment.*

*Rigid regulations and stringent rules in the form of laws, delays due to cumbersome red-tape, bureaucracy, etc. may drive businesses away out of the country in search of a more supportive business environment. Foreign investors may shun economies where rules act as an hindrance to economic activity from flourishing.*

*In the last five years, India has taken unprecedented steps to improve environment for doing business. Department for Promotion of Industry and Internal Trade (DPIIT) under Ministry of Commerce & Industry has been spearheading the reform implementation process by sensitizing and encouraging various stakeholders to achieve well-defined targets.*

*India jumped 14 positions to secure 63rd rank in the World Bank's Ease of Doing Business Ranking. This is a substantial improvement from its 142nd rank out of 189 nations in 2014.*

*It is also worthwhile to note that India completes a hat-trick by being one of the top 10 improvers across 190 countries.*

*The study looks at the 10 parameters for EODB ranking by World Bank for India's raking.*

*Key Words: FDI, Ease of Doing Business EODB, parameters, red tape, bureaucracy, rigid rules and stringent regulations, business environment.*

## Introduction:

A major source of non-debt financial resource for the economic development of developing and /or under developed countries is Foreign direct investment (FDI). Foreign companies invest to take advantage of relatively lower wages, lesser cost of production, special investment privileges such as tax exemptions, etc. States must work to improve the nation's 'Doing Business' rank.

Economic freedom to do business goes hand in hand with economic development and a thriving private sector, and these in turn underpin poverty elimination and the pursuit of shared prosperity. For a country where foreign investments are being made, it also means achieving technical know-how and generating employment.

* Assistant Professor, ICFAI Law School, Hyderabad
** Faculty Associate, ICFAI Law School, Hyderabad

# Foreign Investments: Trends and Issues

Edited by

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ALT Publications, Hyderabad

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# Contents


1. Globalisation and It's Effects on World Businesses 1
*Keerthana Challuri*

2. The Impact of E-Commerce on International Trade 17
*Dr. K.V. Ravi Kumar*

3. Sustainable Economic Development and Foreign Investment 32
*B. Vijayalakshmi*

4. Opportunities and Prospects for FDI in Indian Industries 43
*Dr. Komati Durga Prasad & Dr. A. Arun Kumar*

5. New Opportunities and Challenges in International Investments: A Way Forward 54
*R. Uma Rani*

6. Sustainable Economic Development and Foreign Investments 62
*ShrutiPandey, Abhinav*

7. Public Private Partnership – A Way Towards Sustainable Development In Indian Textile Industry 74
*Ms. Rukmini Desai & Dr. Rama Devi Gudemela*

8. Impact of Foreign Investments – A Step towards Sustainable Economic Development 87
*K. Kumara Swamy*

9. Equity Crowdfunding in India: A Critical Analysis 102
*Abhishek Mishra*

10. Crucial Role of Foreign Investments in Sustainable Economic Development 121
*Khan Nazia Mohammed Nawab*

11. Green Foreign Investments: Role and Impact on National Developmental Goals 141
*Raja Rajeswari Ayyagari*



REGISTRAR
THE ICFAI FOUNDATION FOR HIGHER EDUCATION
ICFAI FOUNDATION FOR HIGHER EDUCATION

12. Most Favoured Nation Treatment and International Investment: Trends and Challenges 151
*MonishaGade*

13. BIT's: A Global Boomerang – Analysis of India's Model BIT 164
*Satyabrata Mishra*

14. TRIPS and Economic Progress of Nations 172
*A. Vani*

REGISTRAR
THE ICFAI FOUNDATION FOR HIGHER EDUCATION
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successively supports any economic process, though this could hurt several tiny businesses making an attempt to contend domestically. Some of the risks of globalisation include :Interdependence: globalisation results in the mutuality between nations, that may cause regional or international instabilities if native economic fluctuations find yourself impacting an outsized variety of states looking forward to them. National Sovereignty: Some see the increase of nation-states, transnational or international corporations, and different international organizations as a threat to sovereignty. Ultimately, this might cause some leaders to become nationalistic or afraid. Equity Distribution: the advantages of globalisation is below the belt inclined towards wealthy nations or people, making bigger inequalities and resulting in potential conflicts each across the nation and internationally as a result. Writing within the quarterly Milken Institute Review in late 2017, DaniRodrik, author of "Straight speak on Trade: ideas for a Sane World Economy," argued that a restructuring and balancing of globalisation is critical to revive add on voice to labor and employees and its desires for job and financial gain stability whereas focusing attention globally on wherever the most important economic gains is created.

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# The Impact of E-Commerce on International Trade

*Dr. K.V. Ravi Kumar*[*]

*Today, in every aspect of our day to day life, internet has become undivided part of our life. The internet is dramatically expanding opportunities for business-to-business and business-to-consumer e-commerce transactions across borders. According to the forecast from Internet Retailer, a Digital Commerce 360 brand, consumers worldwide will spend nearly $3.46 trillion online in 2019, up from $2.93 trillion in 2018. The expected 17.9% year-over-year growth in global web-sales, would be a slowdown from the 20.7% jump last year. However, global web-sales are still growing faster than the more saturated United States, e-commerce market, which Internet Retailer projects will increase 14.0% in 2019.*

*In recent years, e-commerce is an international trade tool innovation, which has increasingly shown important role in global production. Companies involved in the international market, marketing and e-commerce companies have developed ways for global business. E-commerce is set-off in international trade in the field of a new revolution. Its use, to expand the space, shorten the distance and time of intentional trade, simplify the procedures and processes of international trade, intelligent, paperless and simplified to achieve a epoch-making profound changes. Electronic commerce is expected to directly and indirectly create and destroy jobs. New jobs will be generated in the information and communication technologies sector, while the indirect creation of jobs will occur via increased demand and productivity. At the same time, some reallocation and destruction of jobs are expected as a consequence of changes in the way of doing business. Currently, the application of e-commerce in foreign trade is mainly varied in Electronic Data Interchange mode, Internet and Intranet mode. The problems hinder the application of e-commerce on international trade is security issues, the legal regime and cultural conflicts etc., Therefore, an attempt has been made in this paper to highlight the cross border recognition of certificates and electronic signatures in international trade.*

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# Regional Trade Blocs: Emerging Trends


Edited by

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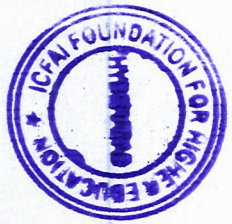
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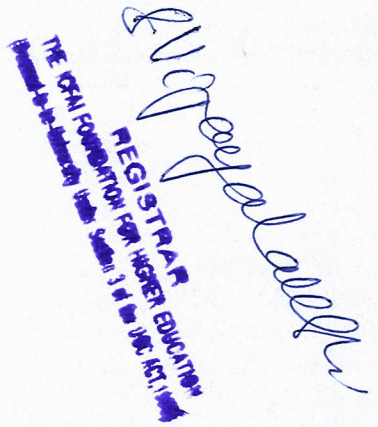
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# Contents


1. Regional Blocs: A Trading Modus Operandi — 1
   *Nidhi Ranka, Kanika Agarwal*

2. Trade Policies – Role of Brics among Contemporary Economies — 15
   *A V Syam Prasad*

3. FTAs, BITs and Their Impact — 33
   *A. Venkateswara Rao*

4. RCEP - A Double Edged Sword: Its Impact on Indian Economy — 46
   *G Vaishnav Kumar*

5. Effect of RCEP on Indian Dairy Industry — 55
   *K. Sravan Kumar*

6. Arthashastra's Contribution on a Nexus between Domestic and Foreign Trade — 61
   *Mirza Sibtine Raza*

7. Impact of Islamic Law on International Trade — 74
   *Sadiya Fatima & Zubair Ali*

8. Contractual Certainty in International Trade: Global Economic Exchanges — 87
   *Anubha Srivastava*

9. Whether the Economic Growth of India is Trade Openness led? An Assessment — 101
   *Dr. Iti Vyas*

10. Regional Trade Blocs: The Modern Trade Revolution — 128
    *Gangu Mounika and Pulipati Vandana*

11. BIMSTEC, Economic Cooperation, Cultural Issues and Citizenship Amendment Act — 147
    *Dr. Venkata Narasimha Chary Mushinada*

reciprocity and a mutual interest in continuing business relationships. In other words, they rely on a combination of close-knit, long term, traditional, communal, inter-industry arbitration, as well as reputation, blacklisting and exclusion, on the other. Both 'traditional trust' and 'rational expectations' come in play to distinction between 'external and 'internal' guarantees of a social order.

## RECOMMENDATIONS

**Drafting Contracts to Avoid Disputes Commercial disputes can be lengthy and costly:**

- It is impossible to foresee all the issues that could turn into a dispute but taking proactive measures to prepare should not be overlooked in the stages of negotiations. It is important to determine how potential conflicts will be resolved. Having a clear and definitive dispute resolution plan can reduce the time and cost involved in international litigation.
- **Dispute Resolution While litigation has been the traditional way of dealing with disputes:** There are strong reasons to consider alternative dispute resolution (ADR), such as reduced costs and decreasing the time to reach a resolution. As a best practice, parties frequently enter arbitration agreements to predetermine the details of how to resolve potential future disputes. Much attention is being turned to solving international trade disputes using ADR methods. Alternative Dispute Resolution Methods Alternative dispute resolution offers a means of settling disputes without resorting to commercial litigation, aiming to resolve disputes in a way that is less expensive, faster and more predictable than adversarial litigation processes.

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# Whether the Economic Growth of India is Trade Openness led? An Assessment

*Dr. Iti Vyas*[111]

*The prime objective of the paper is hovering around the question whether economic growth of India is trade openness led? If yes, whether the trade openness led growth is a short term or a long term phenomenon. To examine this, the paper considered the annual time series data on the GDP per capita income as a proxy for economic growth, and the different measures of trade openness such as the sum of exports and imports as a percent of GDP, export and import of goods and services as a percent of GDP, and percent of World exports and imports. The other control variables such as capital investment, labour force participation rate and the economic globalization index is also considered. The model is based on the extended version of the Cobb Douglas production function. The short run and long run dynamics of the relationship between trade openness and economic growth is examined by employing Toda Yamamoto's Granger's non causality test, Johansen's Maximum Likelihood procedure of cointegration test and Fully Modified Ordinary Least Square model. The major findings of the study revealed that the GDP per capita income is positively statistically explained by the trade openness, exports of goods and services as per cent of GDP, imports of goods and services as a percent of GDP, percent of total World exports, capital investment, and labour force participation rate. There exists a long run equilibrium relationship between the economic growth and trade openness indicators considered in the study. The short run bidirectional causality found between the pairs of GDP per capita income and percent of World exports; trade openness and percent of World exports; exports of goods and services as a percent of GDP and the percent of World exports; capital investment and labour force participation rate. However, the unidirectional causality is reported among the pairs of total labour force participation and total trade openness; labour force participation and export of goods and services as a percent of GDP; labour force participation and total import of goods and services as a percent of GDP; Import of goods*

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# Foreign Investments: Trends and Issues

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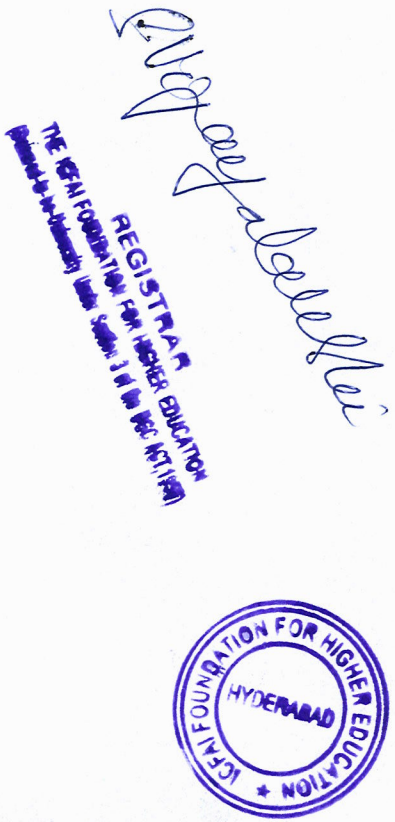
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## Contents


1. Globalisation and It's Effects on World Businesses 1
*Keerthana Challuri*

2. The Impact of E-Commerce on International Trade 17
*Dr. K.V. Ravi Kumar*

3. Sustainable Economic Development and Foreign Investment 32
*B. Vijayalakshmi*

4. Opportunities and Prospects for FDI in Indian Industries 43
*Dr. Komati Durga Prasad & Dr. A. Arun Kumar*

5. New Opportunities and Challenges in International Investments: A Way Forward 54
*R. Uma Rani*

6. Sustainable Economic Development and Foreign Investments 62
*ShrutiPandey, Abhinav*

7. Public Private Partnership – A Way Towards Sustainable Development In Indian Textile Industry 74
*Ms. Rukmini Desai & Dr. Rama Devi Gudemela*

8. Impact of Foreign Investments – A Step towards Sustainable Economic Development 87
*K. Kumara Swamy*

9. Equity Crowdfunding in India: A Critical Analysis 102
*Abhishek Mishra*

10. Crucial Role of Foreign Investments in Sustainable Economic Development 121
*Khan Nazia Mohammed Nawab*

11. Green Foreign Investments: Role and Impact on National Developmental Goals 141
*Raja Rajeswari Ayyagari*

12. Most Favoured Nation Treatment and International Investment: Trends and Challenges 151
*MonishaGade*

13. BIT's: A Global Boomerang – Analysis of India's Model BIT 164
*Satyabrata Mishra*

14. TRIPS and Economic Progress of Nations 172
*A. Vani*

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Corporations must hold social responsibility rather solely confining themselves to commercial targets.CSR which is the new mandatory development under Companies Act, 2013 must be complied with its complete core spirits instead of discharging it as a mechanical or technical requirement. *Social responsibility must be inherently felt by all the business enterprises so that the country's progress be healthy wealthy and mighty.*

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# Opportunities and Prospects for FDI in Indian Industries

*Dr. Komati Durga Prasad* [*] *& Dr. A. Arun Kumar* [**]

*Economy policy reforms have played vital role in the performance of the Indian economy since 1991. Among other things, the reforms have involved opening up the economy, making it more competitive, getting the Government out of the regulations, empowering the States to take more responsibility for economic management, and thereby creating a kind of competition among them for Foreign Investment. Foreign Direct Investment (FDI) in India has grown substantially in the last decade following the liberalization of Indian economy in 1991. FDI gives opportunities to Indian industry for technological up-gradation, gaining access to global managerial skills and practices, optimizing utilization of human, and natural resources and competing internationally with higher efficiency. Most importantly, FDI is central for India's integration into global production chains, as it brings several advantages like new capital, technology, managerial expertise, and access to foreign markets, involving production by multinational Corporations spread across location all over the world. India has one of the most liberal economy policy frameworks for FDI and foreign technology transfer. FDI up to 100 percent is permitted under the automatic route in most of the sectors.*

## INTRODUCTION

Retailing isone amongthe most importantsectors of Indian economy. The unorganized retail sector in India occupies 97% of the retail businessand therefore therest 3% is contributed by the organized sector.The unorganized retail sector contributes about 14% to the GDP and absorbs 6% of our labour force. On 20th September, 2012 the Governmentof India has approved 51% FDI in Multiband retail and 100% (revised) in Single Brand retail sector through Government Route with some riders. FDIwithin theretail sector in India willcauseeconomic processand creationof latestjobsalongsiderural infrastructure development. Butthe

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# Contents

1. Globalisation and It's Effects on World Businesses 1
*Keerthana Challuri*

2. The Impact of E-Commerce on International Trade 17
*Dr. K.V. Ravi Kumar*

3. Sustainable Economic Development and Foreign Investment 32
*B. Vijayalakshmi*

4. Opportunities and Prospects for FDI in Indian Industries 43
*Dr. Komati Durga Prasad & Dr. A. Arun Kumar*

5. New Opportunities and Challenges in International Investments: A Way Forward 54
*R. Uma Rani*

6. Sustainable Economic Development and Foreign Investments 62
*ShrutiPandey, Abhinav*

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*Abhishek Mishra*

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*Khan Nazia Mohammed Nawab*

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*Raja Rajeswari Ayyagari*

12. Most Favoured Nation Treatment and International Investment: Trends and Challenges 151
*MonishaGade*

13. BIT's: A Global Boomerang – Analysis of India's Model BIT 164
*Satyabrata Mishra*

14. TRIPS and Economic Progress of Nations 172
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benefits of open markets, thus contributing to trust in open markets and addressing current investment scepticism.

To date, less than eleven years remain to achieve the ambitious goals of the 2030 Agenda. While there has been considerable progress on the path towards achieving more sustainability, the process is far from being completed, especially in developing countries. Achieving the SDGs will only be possible if governments acknowledge the importance of business for sustainable Economic development and take the necessary steps to reinvigorate cross-border investment flows.

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# Green Foreign Investments: Role and Impact on National Developmental Goals

***Raja RajeswariAyyagari****

*Green Foreign Investments are such investments that are directed towards the achievement of a Green Economy. A Green Economy is where a country has less carbon emissions, having efficient resource utilization and having a socially inclusive growth objective. Though there is no uniform definition of what is a Green Foreign Direct Investment (FDI), international organisations like United Nations Conference on Trade and Development(UNCTAD) and Organisation for Economic Cooperation and Development (OECD) have termed, in their own way, what kind of investments may be considered as Green Investments. While the reason for their importance is universally recognized and accepted by all nations, the role of host and home countries in promoting the concept in different ways has been a subject matter of study of late.*

*At this juncture it is important to identify what exactly are the driving forces for an investor to make investments in a foreign country and what motivates an investor to contribute to Green Economy Agenda of the host State. For this, any host country has to formulate a National Policy of Green Growth and define its objectives in line with their national priorities. For example India has projected climate change and poverty-alleviation as a socio-environment criteria of inclusive growth Agenda of Green Economy. Moreover, here even the role of home country incentives and policies play a role in attracting FDI. To what extent such national policies attract FDIs and how investment exporting states influence Investment decisions in foreign Green Markets is to be analysed on the basis of available literature and the sources of statistical data pertaining to destination choice of Investments, as against regular business-as-usual trajectory. The objective of this paper would be to focus on how far the FDIs have been channelized into green financial market. For this the new different sources of investments in*

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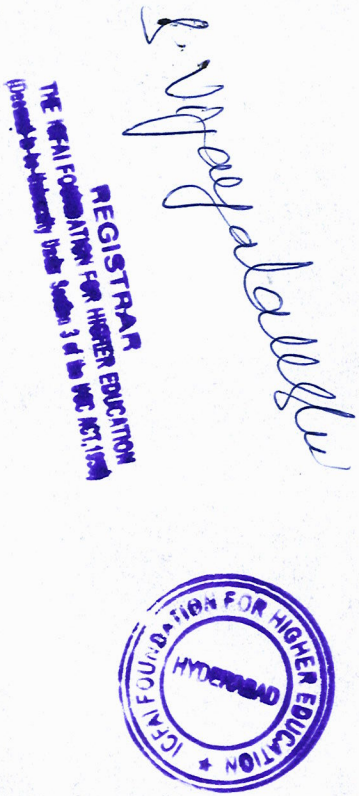
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*K. Kumara Swamy*

9. Equity Crowdfunding in India: A Critical Analysis 102
*Abhishek Mishra*

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*Khan Nazia Mohammed Nawab*

11. Green Foreign Investments: Role and Impact on National Developmental Goals 141
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*MonishaGade*

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*Satyabrata Mishra*

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# Contents

1. Globalisation and It's Effects on World Businesses 1
*Keerthana Challuri*

2. The Impact of E-Commerce on International Trade 17
*Dr. K.V. Ravi Kumar*

3. Sustainable Economic Development and Foreign Investment 32
*B. Vijayalakshmi*

4. Opportunities and Prospects for FDI in Indian Industries 43
*Dr. Komati Durga Prasad & Dr. A. Arun Kumar*

5. New Opportunities and Challenges in International Investments: A Way Forward 54
*R. Uma Rani*

6. Sustainable Economic Development and Foreign Investments 62
*ShrutiPandey, Abhinav*

7. Public Private Partnership – A Way Towards Sustainable Development In Indian Textile Industry 74
*Ms. Rukmini Desai & Dr. Rama Devi Gudemela*

8. Impact of Foreign Investments – A Step towards Sustainable Economic Development 87
*K. Kumara Swamy*

9. Equity Crowdfunding in India: A Critical Analysis 102
*Abhishek Mishra*

10. Crucial Role of Foreign Investments in Sustainable Economic Development 121
*Khan Nazia Mohammed Nawab*

11. Green Foreign Investments: Role and Impact on National Developmental Goals 141
*Raja Rajeswari Ayyagari*

12. Most Favoured Nation Treatment and International Investment: Trends and Challenges 151
*MonishaGade*

13. BIT's: A Global Boomerang – Analysis of India's Model BIT 164
*Satyabrata Mishra*

14. TRIPS and Economic Progress of Nations 172
*A. Vani*

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# BIT's: A Global Boomerang – Analysis of India's Model BIT

**Satyabrata Mishra***

*BIT's are treaties between two countries aimed at protecting investments made by investors of both countries. These treaties impose conditions and restrict the states from interfering with the rights of the investors. The investors have right to fair and equitable treatment, freedom from expropriation, full protection and security and transfer of funds are to be allowed subject to the terms of the agreement. The individual investors can bring claims against the host states in case the regulatory measures taken by the state are inconsistent with the terms of BIT's. If the foreign investor becomes successful in such claims, the host state would be liable to pay monetary damages to the investor. There is retrogression against this diversion of the tax payer's money to the foreign investor because of the potential breaches of BIT's by the states. Major grounds for claims by the investors are because of the imprecise language of the BIT's and impartiality and independence of the ISDS mechanism. This paper will analyse the grounds for claims by the investor and some of the key provisions relating to jurisdictional and dispute resolution provisions of India's Model BIT. The paper will also focus on the extent of reconciliation of the public policy concerns and investor protection. The Model BIT will have an impact on the re-negotiation of existing BIT's and negotiation of future BIT's.*

## INTRODUCTION

Bilateral investment treaties (BIT's) are the instruments by which two countries come to the point of conclusion to protect the investments which will be made in their respective territories. These are required in order to secure the foreign investments made by the foreign investors. Two countries are involved in BIT's one is the state of which the investor is a national and another is the host state where the investment is made. In order to protect this investment made in the host state, BIT is signed between these two states. Thus,

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BIT's involve conflicting interests between the regulatory power of a host state with that of the rights of the foreign investor.

In order to take the benefit of the BIT to enforce the right, first the investor needs to prove that an investment has been made in the host country. There is no specific definition of an investment and it has not been defined anywhere. In one of the cases, the criteria were laid down in order to decide what would constitute as an investment. These are: (i) commitment of capital and other resources (ii) duration (iii) profit generation (iv) risk (v) development of the host state.[145] If these criteria's are established by the investor along with the grounds that some of the regulatory measures that are taken by the host state are discriminatory in nature and have caused a negative impact on the rights of the investor, the same can be challenged by the investor.

The second important point for the investor is the forum for challenging the alleged action by the state. As the foreign investor is a national from a different country, the disputes are resolved through arbitration and not by the national courts, to reduce the scope of unfair award. The difference between any commercial dispute and investment dispute lies in two facts: (i) it is not between two private individuals (ii) it involves a state party and hence public policy concerns are added to such disputes. The language used in the BIT's also plays a crucial role as that would decide the scope of interpretation by the arbitral tribunal. There is a recent trend of deviating from the usual method of investor state dispute settlement mechanism (ISDS) and shifting towards International Court System (ICS), so that the scope of exercise of jurisdiction by the tribunal gets reduced. India has also formulated a Model BIT in 2016, based on which the future BIT's will be based and past BIT's are renegotiated. The idea behind adopting such a Model BIT was to improve upon the confidence of the investors in order to attract more foreign direct investments. The Model BIT also aims to balance the conflicting interests of the states and foreign investors.

## MAIN FEATURES OF INDIA'S MODEL BIT

The department of Economic Affairs within the Ministry of Finance will negotiate both the BIT's and Investment Chapters. Earlier the investment chapters were negotiated by the Ministry of Commerce, which gave a lot of scope for ambiguities.

[145] *SaliniConstrutorriSpA and ItalstradeSpA v Kingdom of Morocco*, ICSID Case No ARB/00/4, Decision onJurisdiction (23 July 2001) para 52.

NUMBER - 2 Pg 1

46

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# GENESIS TO TERMINUS OF ARTICLE 370:

# SOCIO-LEGAL PERSPECTIVES

S.V. Gayalalli

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Pg-2


26. DENIAL OF LIBERTY: HABEAS CORPUS AND ABROGATION OF ARTICLE 370 *Hartej Singh Kochher and Neelesh Shukla* ..... 316

27. ARTICLE 370 & 35A- ITS IMPACT ON UNITY & INTEGRITY OF INDIA *Nitin Kumar and Chandan Kumar* ..... 329

28. RIGHTS OF CITIZENS: IMPACT OF CIVIL AND POLITICAL RIGHTS OF KASHMIR CITIZENS *Akansha Singh and Nikhil Mogha* ..... 338

29. DECONSTRUCTING THE STATUS OF JAMMU AND KASHMIR - FROM ACCESSION TO INTEGRATION? *Mr. Rhitam Chatterjee* ..... 349

30. AN ACE IN THE MIRROR OF CONSTITUTION—ABROGATION OF ARTICLE 370 *Dr. K B Asthana and Ms. Snehal Asthana* ..... 368

31. PROS AND CONS OF ARTICLE 370 FOR THE PEOPLE OF J AND K- ARTICLE 370: INDIA'S NEMESIS OR A BENEFACTION FOR THE KASHMIRIS? *Gaurav Thapliyal And Reeya Mishra* ..... 379

32. THE SUPPRESSED VOICES OF JAMMU AND KASHMIR *Sunaina Jain and Vidushi Arya* ..... 387

33. GENESIS TO TERMINUS OF ARTICLE 370: SOCIO LEGAL PERSPECTIVES. *Uday Sharma and Saurabh Tyagi* ..... 394

34. REVOCATION OF ARTICLE 370 - A STRUCTURAL ANALYSIS *Vaibhav Gupta and Sunanda Mohan* ..... 404

35. DETENTION OF KASHMIRI POLITICIANS- LAWLESSNESS OR LAW ENFORCEMENT? *Ms. Upasana Singh* ..... 413

36. DEFENSIVE OFFENSE AND ABROGATION OF ARTICLE 370: EXAMINING PAKISTAN'S RESPONSE AND ITS DIPLOMATIC ISOLATION *Dr. Nishtha Kaushiki* ..... 427




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# DENIAL OF LIBERTY: HABEAS CORPUS AND ABROGATION OF ARTICLE 370

*Hartej Singh Kochher* [1] & *Neelesh Shukla* [2]

## WHAT IS HABEAS CORPUS?

Habeas Corpus in Latin means 'you have the body'.[3] Legally, it is the name to the procedure by which the court enquires into the legality of any citizen's detention.[4] A writ that can be used to determine if imprisonment or detention of a citizen is lawful or not.[5]In the Anglo-American political and legal history, the name carries a special weight and is universally celebrated and known to be "the Great Writ of Liberty".[6] It has also been described as the first security of civil liberty "Habeas corpus, or the Great Writ, is the legal procedure that keeps the government from holding you indefinitely without showing cause".[7]The sole purpose of this writ is to release one from unlawful detention or imprisonment.[8]

Habeas Corpus first originated in 1215, through the 29th chapter of magna carta9 which was signed by king john and stated that no man would be arrested or detained except by the lawful judgment of his peers and the law of the land.10this part of magna carta reads

> *"No freeman shall be seized, or imprisoned, or dispossessed, or outlawed, or in any way destroyed; nor will we condemn him, nor will we commit him to prison, excepting by the legal judgment of his peers, or by the laws of the land".*[11]

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[2] Assistant Professor, ICFAI LAW SCHOOL, HYDERABAD
[3] Henry Campbell Black, *Black's Law Dictionary* (The Publisher's Editorial Staff St. Paul, Minn. West Publishing Co., revised 4th edn. 1968).
[4] Eric M. Freedman, *Habeas Corpus: Rethinking the Great Writ of Liberty* 64 (New York University Press, 2001)
[5] Jonathan Kim, *"Habeas Corpus"* Legal Information Institute (2017), *available at* https://www.law.cornell.edu/wex/habeas_corpus (accessed on 13th December 2018).
[6] *Supra* Note 2 at 186.
[7] Brandon L.Garrett, "Habeas corpus and due process"98 *Cornell L. Rev.* 47 (2012).
[8] *Luciano v. Murphy*, 160 Misc. 573, 290 N.Y.S. 1011
[9] Richard Moules, "Judicial review of prerogative orders in council" Vol. 68, No. 1*The Cambridge Law Journal*16 (2009).
[10] *Supra* Note 3.



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# International Trade and Dispute Resolution Mechanism

Edited by

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ALT Publications, Hyderabad

**International Trade and Dispute Resolution Mechanism**

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# Contents


1. Analyzing the Impact of Global Trade Conflicts on Countries — 1
   *N. Ashwini*
2. Arbitration and Dispute Settlement System in International Trade — 8
   *D. LalithaKumari*
3. Impact of 'Public Policy' on Enforcement of Foreign Arbitral Awards in India — 21
   *P. Pratik Reddy & Anudeep Mantripragada*
4. GATT – Alternative Justice in resolution of International Trade and Investments Disputes — 32
   *Md. Adil*
5. Nations at Loggerheads: Dispute Settlement in International Trade — 48
   *R Annie Sravya and T.S.V.S. Nivedita*
6. International Trade and International Arbitration - A Bondage for Global Development — 63
   *Smt P. Aravinda*
7. Arbitration and Dispute Settlement in International Trade — 83
   *D. Santoshi Kumari*
8. Singapore Convention on Mediation – A Step Towards Facilitating International Trade — 100
   *Dr. S. B. Md. Irfan Ali Abbas*
9. An Analysis of Dispute Resolution in 'Peru – Additional Duty on Imports of Certain Agricultural Products' — 124
   *Neelesh Shukla and Hartej Singh Kochher*
10. Arbitration as a Tool of Dispute Resolution Mechanism International Trade — 148
    *Sonali Badi*

11. Efficiency of Arbitration as Dispute Resolution in International Trade 159
*Mrs. V. B. Malleswari & Mr. V. Venu Madhav*

12. Judicial Application of TRIPS with Respect to GM Technology 175
*Dr. V. Gopi Ranganath*

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# An Analysis of Dispute Resolution in 'Peru – Additional Duty on Imports of Certain Agricultural Products'

*NeeleshShukla and Hartej Singh Kochher**

(WT/DS457/AB/R) World Trade OrganizationAppellate Body

## INTRODUCTION

Peru appealed certain issues of law and legal interpretations developed in the Panel Report, *Peru – Additional Duty on Imports of Certain Agricultural Products*[263] (Panel Report). The Panel was established to consider a complaint by Guatemala[264] with respect to a measure taken by Peru affecting imports of certain agricultural products.

In its request for the establishment of a panel, Guatemala identified the measure at issue in the dispute as the additional duties imposed by Peru on imports of a number of agricultural products (certain types of milk, maize, rice, and sugar).As described by Guatemala, these duties were determined using a mechanism known as the "Price Range System" (PRS) (*Sistema de Franja de Precios*), which operated on the basis of: (i) a floor price and a ceiling price, respectively reflecting averages of international prices over a recent past period of 60 months for each of the specified products; and (ii) a cost, insurance, and freight (c.i.f.) reference price, reflecting the average international price over a recent past period of two weeks for each of the specified products. An additional duty is applied if the reference price of the specified product is lower than the floor price. If the reference price is above the floor price but below the ceiling price, no additional duty is applied. If the reference price exceeds the ceiling price, the applicable tariff is reduced.[265]

Moreover, Guatemala claimed that the duties at issue are duties or charges inconsistent with the second sentence of Article II:1(b) of the General Agreement on Tariffs and Trade 1994 (GATT 1994).

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[263] WT/DS457/R, 27 November 2014.

[264] Request for the Establishment of a Panel by Guatemala, WT/DS457/2, 13 June 2013.

[265] Panel Report, paras. 2.2 and 7.99.



Guatemala also claimed that Peru had acted inconsistently with Articles X:1 and X:3(a) of the GATT 1994 respectively by: (i) failing to publish certain essential elements of the measure at issue; and (ii) administering the PRS in a manner that is not reasonable. In addition, Guatemala raised alternative claims under Articles 1, 2, 3, 5, 6, and 7 of the Agreement on Implementation of Article VII of the General Agreement on Tariffs and Trade 1994 (Customs Valuation Agreement), in the event that the Panel were to consider the duties resulting from the PRS to be ordinary customs duties. Finally, Guatemala requested the Panel to suggest, under the second sentence of Article 19.1 of the Understanding on Rules and Procedures Governing the Settlement of Disputes (DSU), that Peru completely dismantle the measure at issue and eliminate the duties resulting from the PRS and the PRS itself.[266]

In response, Peru requested the Panel to find that Guatemala had not initiated these dispute settlement proceedings in good faith, contrary to Guatemala's obligations under Articles 3.7 and 3.10 of the DSU, because Guatemala had allegedly accepted the maintenance of the PRS in a free trade agreement (FTA) signed between Peru and Guatemala on 6 December 2011.[267] Peru also asserted that the duties resulting from the PRS are: (i) ordinary customs duties within the meaning of the first sentence of Article II: 1(b) of the GATT 1994; and (ii) outside the scope of Article 4.2 of the Agreement on Agriculture and the second sentence of Article II:1(b) of the GATT 1994. Peru contended that it had complied with the obligations under Articles X:1 and X:3(a) of the GATT 1994, and that Guatemala's claims under the Customs Valuation Agreement must be rejected because that Agreement does not apply to specific duties. Finally, in the event that the Panel were to find that the measure at issue is not WTO-consistent, Peru contended that this would generate an inconsistency between the covered agreements of the World Trade Organization (WTO) and the FTA between Peru and Guatemala, and that, in such a case, the terms of the FTA should prevail.

The oral hearing in this appeal was held on 26-27 May 2015. The participants and four of the third participants (Argentina, Brazil, Colombia, and India) made oral statements. The participants and the

[266] Panel Report, paras. 3.1-3.3.

[267] Free Trade Agreement between the Republic of Peru and the Republic of Guatemala (*Tratado de librecomercio entre la RepúblicadelPerú y la República de Guatemala*), 6 December 2011.



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# Regional Trade Blocs: Emerging Trends

Edited by

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# Contents


| | | |
|---|---|---|
| 1. | Regional Blocs: A Trading Modus Operandi<br>*Nidhi Ranka, Kanika Agarwal* | 1 |
| 2. | Trade Policies – Role of Brics among Contemporary Economies<br>*A V Syam Prasad* | 15 |
| 3. | FTAs, BITs and Their Impact<br>*A. Venkateswara Rao* | 33 |
| 4. | RCEP - A Double Edged Sword: Its Impact on Indian Economy<br>*G Vaishnav Kumar* | 46 |
| 5. | Effect of RCEP on Indian Dairy Industry<br>*K. Sravan Kumar* | 55 |
| 6. | Arthashastra's Contribution on a Nexus between Domestic and Foreign Trade<br>*Mirza Sibtine Raza* | 61 |
| 7. | Impact of Islamic Law on International Trade<br>*Sadiya Fatima & Zubair Ali* | 74 |
| 8. | Contractual Certainty in International Trade: Global Economic Exchanges<br>*Anubha Srivastava* | 87 |
| 9. | Whether the Economic Growth of India is Trade Openness led? An Assessment<br>*Dr. Iti Vyas* | 101 |
| 10. | Regional Trade Blocs: The Modern Trade Revolution<br>*Gangu Mounika and Pulipati Vandana* | 128 |
| 11. | BIMSTEC, Economic Cooperation, Cultural Issues and Citizenship Amendment Act<br>*Dr. Venkata Narasimha Chary Mushinada* | 147 |



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# olitical and Economic Implications of Sino-US Trade War

*Dr S Uma Devi*[*]

*trade war is an economic conflict that takes place because of extreme otectionism followed by a state or states against other states due to veral reasons. The main reason is to reduce trade deficit that arises out of ore imports than exports in relation to a state or more states. The warring ates raise tariffs or create other trade barriers against each other. In a ade war, a nation imposes tariffs on foreign imports and the exporting untries retaliate with similar forms of trade protectionism. A country nbarks on protectionist actions in order to reduce trade deficit, to protect mestic industries and to prevent lasing out jobs opportunities to foreign untries. Protectionism is also intended to balance trade deficits.*

*e present trade war is happening between two largest economies in the orld, United Stated and China. Though initiated by USA, both the states arted increasing tariffs on each other's goods. To reduce high trade deficit, esident of United States of America, Donald Trump increased tariffs on nported Chinese products. And china retaliated in the same manner. In the nited States trade war raised the prices of many commodities that are ade of Chinese imports as US imposed high tariffs on them. This is othering the US citizens as things have become costly and it affected their urchasing power. This also led to layoffs of several hundreds of employees large retail outlets and factories as they are selling fewer goods. China o faced similar situation though with less intensity. There are no real inners in trade war. Countries facing new tariffs experience declining GDP rowth rate, rise in prices, high inflation and various other issues. It also ffects other countries which import goods from these countries. World ade suffers in a more protectionist environment.*

*trade war may result in temporary reduction in a nation's trade defic ut in the long run it hampers the economic growth of the warring natio*

ssistant Prof, ICFAI Law School, Hyderabad.



*Both the countries must negotiate to resolve the conflicting issues or it may inflict serious damage on these countries.*

## INTRODUCTION

A trade war is an economic conflict in which the involved states try to damage each other's trade opportunities. Trade war occurs as a result of extreme protectionism in which states either raise tariffs or create other trade barriers against each other. In a trade war, a country imposes tariffs on foreign imports to make them more expensive than domestic products. This will destroy the market for foreign goods in a country and encourage the purchase of domestic goods. These are attempts made by the states to protect the domestic industries. The competitor state retaliates in a similar manner. This paper attempts a study of political and economic implications of Sino-US trade war. It explains how the USA initiated trade war to continue its hegemony as a super power. It seeks to find reasons for trade war, and its impact on United States, China and India. It also attempts to explores how India can take advantage of trade war to improve its economy.

Trade wars also take place if a country perceives that a competitor nation has unfair trading practices. The most common weapon in a trade war is tariffs. A country will generally resort to protectionism with the intent of protecting domestic industries and reducing trade deficit. Increase in demand for domestic products will automatically increase the production in a country and this will provide more employment for its citizens. Protectionism is also a tool used to balance trade deficits. A trade deficit occurs when the value of exports is less than that of its imports.

Trade war results in increase in prices of goods which were cheaper earlier and leads to inflation. Though trade war seems to solve the problem of deficit for a while, in the long run it discourages trade and slows down economic growth. If continued for a long time, it may affect political and diplomatic relations, between the nations. It also affects the whole world because of global economic integration,

Every country wants more exports and less imports so that it will have a trade surplus. Domestic industries can put pressure on government to make imported goods less attractive to consumers. A trade war that begins in one product can spread to others. Likewise,

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**Regional Trade Blocs: Emerging Trends**

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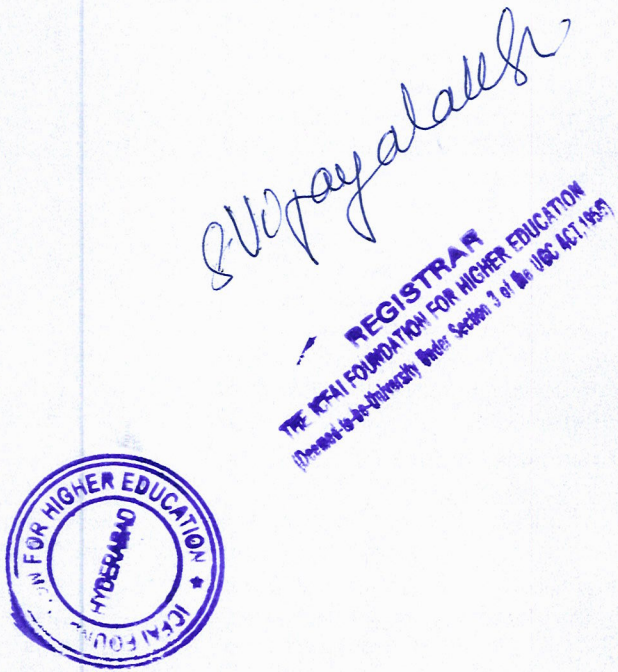
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# Contents


1. Regional Blocs: A Trading Modus Operandi 1
*Nidhi Ranka, Kanika Agarwal*

2. Trade Policies – Role of Brics among Contemporary Economies 15
*A V Syam Prasad*

3. FTAs, BITs and Their Impact 33
*A. Venkateswara Rao*

4. RCEP - A Double Edged Sword: Its Impact on Indian Economy 46
*G Vaishnav Kumar*

5. Effect of RCEP on Indian Dairy Industry 55
*K. Sravan Kumar*

6. Arthashastra's Contribution on a Nexus between Domestic and Foreign Trade 61
*Mirza Sibtine Raza*

7. Impact of Islamic Law on International Trade 74
*Sadiya Fatima & Zubair Ali*

8. Contractual Certainty in International Trade: Global Economic Exchanges 87
*Anubha Srivastava*

9. Whether the Economic Growth of India is Trade Openness led? An Assessment 101
*Dr. Iti Vyas*

10. Regional Trade Blocs: The Modern Trade Revolution 128
*Gangu Mounika and Pulipati Vandana*

11. BIMSTEC, Economic Cooperation, Cultural Issues and Citizenship Amendment Act 147
*Dr. Venkata Narasimha Chary Mushinada*

| | | |
|---|---|---|
| Japan – South Korea Trade dispute | 2019 | The cause of the conflict was officially cited by the Japanese government as the South Korean government allegedly not complying with export control security regulations and ignoring the Japanese government's request to have a bilateral trade dialogue for three years, but it was also characterized by a dispute over legacy of Japanese colonialism of the Korean Peninsula from 1910 to 1945, particularly the issue of forced labour; and comfort women compensation. The trade dispute has caused a significant deterioration in Japan–South Korea relations to the lowest point since the two countries normalized their diplomatic relations in 1965[150]. |

## CONCLUSION

Trade war is a perfect storm that effects the global economy by curbing the financial benefits i.e., investments. The most obvious and immediate consequence of high tariffs is non-performance by buyers who find that the sudden imposition of high tariffs makes a commodity from one origin significantly more expensive than the same commodity sourced elsewhere, The current challenges to the world economy are worrying and it is unclear whether satisfactory solutions can be found in the near future. The International Monetary Fund (IMF) and the OECD, therefore, rightly call for policy actions to reduce trade tensions. In order to boost public support for free trade, it is particularly important to counter the short-sighted notion that trade disputes produce both winners and losers and acknowledge the role that national governments have played, with their fiscal policies that did not spread the benefits of globalization fairly and failed to soften the disruption to older industries[151]. The truth is that, in the long-term, trade tensions will only produce losers as the implied dangers could demolish the progress of recent decades, though the pros of trade war like protecting the domestic companies and the employment under it, the cons like hurting the diplomatic relations and the economic growth cannot be avoided.

[150] South Korea- Japan Trade War Tensions, August 29th 2019, South China Morning Post.

[151] https://www.barrons.com/articles/the-brewing-u-s-china-trade-war-explained-in-charts-1523052689

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# Impact of US-China Trade War Overall Implications on International Trade and With Particular Reference on Indian Economy

***Dr. Polishetty Kesari****

*The aim of this paper is to examine the effects of the US–China trade war on both countries and some emerging economies specifically with reference to India. It investigated the economic impact of us- china trade war and its implications in general on the entire world and with particular reference on Indian economy. It is a review analysis focusing on the trade gap between US and china and found that the trade war led to a reduction in US trade deficit and an increase in domestic production of those sectors affected by higher import tariffs and Chinese producers and consumers would bear the lion's share of the burden of the trade war. It is a narrative based analysis to identify what are the implications on Indian export sector based on earlier studies, and found that greater need to strengthen potential export sector so as to gain large export market from USA and China.*

## INTRODUCTION

Exchange of goods and services betweentwo or more regions within an economy is termed as internal trade. International trade is the exchange of capital, goods, and services across international borders or territories. Nations trade mainly because international trade allows economies to sell more of what they can produce relatively at a cheaper rate in exchange for what they may either not produce or even if they produce relatively at a higher cost of production due to the availability of domestic resources which is basis for trade.

Theoretically, a number of theories are put forward by economists to make trade beneficial which is also recognized at the global level. In this direction International organizations took a lead role to benefit at some point of time or the other. Over the years a number of changes have evolved for making free trade without complicated

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# Regional Trade Blocs: Emerging Trends

Edited by

**Raja Rajeswari Ayyagari**

Assistant Professor,

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ALT Publications, Hyderabad

## Regional Trade Blocs: Emerging Trends

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# Contents


| | | |
|---|---|---|
| 1. | Regional Blocs: A Trading Modus Operandi<br>*Nidhi Ranka, Kanika Agarwal* | 1 |
| 2. | Trade Policies – Role of Brics among Contemporary Economies<br>*A V Syam Prasad* | 15 |
| 3. | FTAs, BITs and Their Impact<br>*A. Venkateswara Rao* | 33 |
| 4. | RCEP - A Double Edged Sword: Its Impact on Indian Economy<br>*G Vaishnav Kumar* | 46 |
| 5. | Effect of RCEP on Indian Dairy Industry<br>*K. Sravan Kumar* | 55 |
| 6. | Arthashastra's Contribution on a Nexus between Domestic and Foreign Trade<br>*Mirza Sibtine Raza* | 61 |
| 7. | Impact of Islamic Law on International Trade<br>*Sadiya Fatima & Zubair Ali* | 74 |
| 8. | Contractual Certainty in International Trade: Global Economic Exchanges<br>*Anubha Srivastava* | 87 |
| 9. | Whether the Economic Growth of India is Trade Openness led? An Assessment<br>*Dr. Iti Vyas* | 101 |
| 10. | Regional Trade Blocs: The Modern Trade Revolution<br>*Gangu Mounika and Pulipati Vandana* | 128 |
| 11. | BIMSTEC, Economic Cooperation, Cultural Issues and Citizenship Amendment Act<br>*Dr. Venkata Narasimha Chary Mushinada* | 147 |



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**3. Refusal of Auto Trigger Mechanism**: India during its talks with the members of RCEP insisted on Auto Trigger Mechanism which would automatically levy the tariffs on imports if they cross the certain limits, to be imposed but the member nations of RCEP refused to the proposal of India. In the absence of auto trigger mechanism there would be no control over the imports.

**4. Protection of Domestic Industry**: India expressed its apprehensions regarding the repercussions of eliminating tariffs on products such as steel, dairy, etc. Dairy industry would have to face a very cutthroat competition with New Zealand and Australia which are one of the leading dairy producers in the world. RCEP mandates that the current level of tariffs should be reduced to zero in the next few years. This would spell doom to domestic Indian producers.

**5. Circumvention of Rules of Origin:** India was having genuine apprehensions regarding the circumvention of rules of origin by the member countries whose imports are levied tariffs in India. India was apprehensive that the countries whose imports are heavily levied in India may try to import those goods through other countries and passing them off as the product of forwarding country.

## CONCLUSION

The RCEP at the outset, provided a good start for the East Asian countries to come together and form into an emerging economic group in the world. However, the member countries of RCEP since its conception in the year 2011 are still not coming to finalize the terms in the near future to openly enter into an agreement. Many of the nations feel that the India's exit from RCEP had made it less lucrative and attractive. The developed nations such as Japan also expressed its second opinion and is now trying to avoid entering into RCEP in the absence of India. The main contention behind India is to protect its domestic economy which is currently witnessing a slump and slowdown. In this context, the main aim of the government is to protect the domestic economy, producers and the farmers. Had India entered into RCEP then these people would be put into a very vulnerable and risky position and their situation would be to either compete or get consumed in the globalization. Signing on RCEP would have even meant closure of government's 'Make in India' Policy. The act of not signing the RCEP might have provided temporary relief to India but in the long run India cannot ignore the fact that the true potential of the Indian economy could only be realized at global level and this can happen only if India becomes part of something big and concrete such as RCEP.



# Effect of RCEP on Indian Dairy Industry

*K. Sravan Kumar*[*]

*India has been the leading producer and consumer of dairy products worldwide. Dairy activities are integral part of the rural Indian economy from ancient times and it is an important source of employment and income to rural population in India. India also has the largest bovine population in the world. The milk production per animal is significantly low as compared to the other major dairy producing nations. All of the dairy products in India is consumed domestically, with the majority of it being sold as fluid milk.*

*The Regional Comprehensive Economic Partnership (RCEP) is a proposed free trade agreement in the Indo-Pacific region between the ten member states of the Association of Southeast Asian Nations(ASEAN) i.e Brunei, Cambodia, Indonesia, Laos, Malaysia, Myanmar, the Philippines, Singapore, Thailand, and Vietnam and their five FTA partners (Australia, China, Japan, New Zealand, and South Korea) with a target to increase the trade and to remove the trade barriers between the members nations. The RCEP negotiations were started during the 21st ASEAN Summit in Cambodia in November 2012. On November 4, 2019, during the Bangkok summit Prime Minister of India declared that it is not possible to join the RCEP agreement in it's present form. Indian government has been willing to be the part of RCEP but in the Bangkok summit, it changed it's stance and opted out of it.*

*India opted out of RCEP due to pressure from Indian Industry, especially the dairy industry. More than half of the Indian dairy industry is unorganized, involving small farmers having few cattle. By being part of RCEP, foreign dairy companies with huge capital enter into India and might threaten the lively hood of Indian farmers. At present India levies nearly 20% tariff on dairy products, by entering into RCEP India needs to lift the tariffs and it would result in dumping of dairy products into India from countries like Australia and New-Zealand. Importing dairy products freely would mean taking away the only commodity that gives liquidity to farmers on daily basis.*

[*] Assistant Prof, ICFAI Law School, Hyderabad.

# Foreign Investments: Trends and Issues

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# Contents


1. Globalisation and It's Effects on World Businesses 1
*Keerthana Challuri*

2. The Impact of E-Commerce on International Trade 17
*Dr. K.V. Ravi Kumar*

3. Sustainable Economic Development and Foreign Investment 32
*B. Vijayalakshmi*

4. Opportunities and Prospects for FDI in Indian Industries 43
*Dr. Komati Durga Prasad & Dr. A. Arun Kumar*

5. New Opportunities and Challenges in International Investments: A Way Forward 54
*R. Uma Rani*

6. Sustainable Economic Development and Foreign Investments 62
*ShrutiPandey, Abhinav*

7. Public Private Partnership – A Way Towards Sustainable Development In Indian Textile Industry 74
*Ms. Rukmini Desai & Dr. Rama Devi Gudemela*

8. Impact of Foreign Investments – A Step towards Sustainable Economic Development 87
*K. Kumara Swamy*

9. Equity Crowdfunding in India: A Critical Analysis 102
*Abhishek Mishra*

10. Crucial Role of Foreign Investments in Sustainable Economic Development 121
*Khan Nazia Mohammed Nawab*

11. Green Foreign Investments: Role and Impact on National Developmental Goals 141
*Raja Rajeswari Ayyagari*

12. Most Favoured Nation Treatment and International Investment: Trends and Challenges 151
*MonishaGade*

13. BIT's: A Global Boomerang – Analysis of India's Model BIT 164
*Satyabrata Mishra*

14. TRIPS and Economic Progress of Nations 172
*A. Vani*

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# Public Private Partnership – A Way Towards Sustainable Development In Indian Textile Industry

*Ms. Rukmini Desai &Dr. Rama Devi Gudemela*[*]

## INTRODUCTION

Indian Textile industry is the second largest employer after agriculture in India and a vital component of the nation's economy. This industry contributes approx. 5% to India's Gross Domestic Product.[65] In the middle of the last decade, industry growth was becoming sluggish and employment was declining due to Multi Fibre Arrangements (MFA) of 1974.[66] The textiles sector has witnessed a spurt in investment during the last five years. The industry (including dyed and printed) attracted Foreign Direct Investment (FDI) worth US$ 1.85 billion during April 2000 to March 2016. For export promotion in textile industry, Indian government has come up with number of policies. It has also allowed 100% FDI in the Indian textiles sector. One such scheme initiated for promotion of exports is Scheme of Integrated Textile Parks (SITP). This scheme is designed to strengthen infrastructural facilities in potential textiles growth areas and also providing a sustainable growth in improving the foreign investments towards textile industry. The success of this scheme is because of its inherent public private partnerships (PPP) model. The ITPs established under this scheme has invited FDIs from other countries thereby bringing a rise in the handloom textile exports. The paper primarily projects on the definition of public private partnerships, thereby discussing the sustainable development in PPP and also the legal regime MFA. The paper elaborately discusses the implementation of SITP with the help of 2 Case studies in the State of Andhra Pradesh and Telangana State.

### *Public Private Partnerships (Hence Forth Addressed as PPP)*

It is a form of association or co-operation between the public and private sectors for the purpose of reaching a common goal. This cooperation is a contractual means to deliver public assets and

[*] Faculty Associate and Assistant Professor @ ICFAI Law School, Hyderabad.

[65] Textile Industry and Market Growth in India, *available at* https://www.ibef.org/archives/detail/b3ZlcnZpZXcmMzcxMTAmMTEy

[66] Indian Brand Equity Foundation, Report on *Textiles and Apparels Market & Opportunities*, (March 2018)

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public services. PPP Contracts include developing and managing new infrastructure, contracts to undertake significant upgrades to existing infrastructure and the contracts which are undertaken to manage existing infrastructure or only provides or operates public services are known as Service PPPs.

The partnership is used to finance and operate projects that are considered important or desirable to the general public. Private agencies are incorporated because it has become increasingly apparent to both governments and donors that private enterprises are more cost-efficient and effective at delivering valuable products and services. In a PPP, the 'private' partner could be a private company, a consortium, or a nongovernmental organization (NGO). This collaboration between a government agency and a private-sector company that can be used to finance, build, and operate projects, such as public transportation networks, parks, and convention centers. Financing a project through a public-private partnership can allow a project to be completed sooner or make it a possibility in the first place. Public-private partnerships typically have contract periods of 25 to 30 years or longer. Financing comes partly from the private sector but requires payments from the public sector and/or users over the project's lifetime. The private partner participates in designing, completing, implementing, and funding the project, while the public partner focuses on defining and monitoring compliance with the objectives. Risks are distributed between the public and private partners according to the ability of each to assess, control, and cope with them[67]. Genuine risk allocation is primary feature of PPP contracts. Shared risk allocation is a principal feature of a PPP project. The private sector must genuinely assume some risk. Value should be for both sides, which means government should also genuinely accept some risk and not transfer the entire risk to the private sector and vice versa.

Although initially restricted to public infrastructure in the form of roads, railways, prisons, government buildings, power generation, or water and waste treatment facilities, PPP has increasingly moved into the provision of so-called "social infrastructure" such as schools, hospitals, textile Industry and health services.

[67] https://www.investopedia.com › ... › Government Spending & Debt

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# E-Commerce and Competition Law

52

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## Contents


1. Competition Law and E-Commerce-An Interface 1
   *Parth Chopra*
2. Role of Competition Law and Policy in E-Commerce 15
   *Eesha Das & Vaishnavi Peddibhotla*
3. Regulating Competition in the Digital Market: Application of Competition Law to Dominant Digital Platforms 36
   *Siddharth Balani*
4. Predatory vs Deep Discount Pricing – An Analysis of E-Commerce Retailers in India 52
   *Dr. Vinay Sharma*
5. Competition Law and Technology 60
   *K. Kumara Swamy*
6. Competition in the E-Commerce Sector: Review of Prevailing Issues 72
   *Riddhika Dumane*
7. Abuse of Dominance in the E-Commerce Sector in India 84
   *Prof. Richa Kashyap & Prof. Vivek Saurav*

# Predatory vs Deep Discount Pricing – An Analysis of E-Commerce Retailers in India

Dr. Vinay Sharma[68]

*e E-Commerce industry has seen unprecedented growth in the past years l India is not an exception to it. Market distribution systems have dergone change owing to the advent of E-Commerce retail market as it ngs buyers and sellers together to the medium of the internet. Companies Amazon, Flip kart, Ola, Uber, Big basket are based on internet backed rketing concepts to provide goods at a low price when compared to the ditional store.*

*Commerce retailers/platforms across sectors have abused their dominant ition in categories such as electronic, electrical appliances and smart nes by allegedly selling products at price points that are so low that the er players in the market would not be able to afford it.*

*ia is a market which is driven by consumer trust and brand loyalty which ls them to be reluctant to switch brands or try new products.In an eavour to attract customers to the e-market place companies use rketing platforms by offering deep discounts to capture market share.The p discounts that are offered across sectors is the key factor influencing petition on non-price aspects such as quality and innovation and is ting the consumer interest in the long run. In India the Competition Act 2, has been enacted to promote economic freedom in a free market icture and to ensure that predatory pricing does not create monopolistic wiour in them.*

*E-Commerce retail market which has propelled the rising penetration of ual shopping has been inciting anti- competition issues which may be nomic or otherwise like predatory pricing, deep discounts to incite tomers and to grab market share.*

*research paper seeks to elaborate the various practices in the E- mmerce retail sector in wake of the new watchdog report submitted in uary 2020. The paper seeks to analyse the functioning of E-Commerce*

. Vinay Sharma, Assistant Professor, ICFAI Law School, IFHE, Hyderabad



*and its implication on markets and competition in wake of deep discount pricing, predatory pricing and role of the Competition Commission in regulating the E-Commerce sector in India by referring to relevant case laws.*

*Keywords – E-Commerce, Competition Act 2002, Predatory pricing, Deep discount pricing.*

## Introduction

The growth in the Indian E-commerce Industry has been unprecedented in the last five years due to the mushrooming of Internet and changing consumer behaviour. The distribution systems in the market have changed on the advert of E-commerce retail markets which has brought in large number of buyers and sellers through this medium.

A large number of E-commerce companies that are based on Internet marketing based concepts which provide goods at low price as compared to traditional stores. Intense competition among the E-commerce players for a market share has led to the best marketing tool, to achieve this purpose which is Discount Pricing or Predatory Pricing. These discounts have made the traditional stores redundant in this market as they are unable to offer such prices for a longer period of time. This factor shows that the balance is tilting towards the E-commerce sector which naturally is a source of tension between the two competing networks, leading to legal complexities which are to be addressed through the antitrust regimes.

India's E-commerce market has the potential to grow more than four folds to Rs. 10,48,350 crore (US $ 150 billion) by 2022 supported by rising incomes and surge in internet users. Online shoppers in India are expected to reach 120 million in 2018 and eventually 220 million by 2025. Online leaders now deliver to 15,000-20,000 pin codes out of nearly 1,00,000 pin codes in the country.

The Competition Act, 2002 has been enacted to prohibit the use of a dominant position and to promote and sustain

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# Anti-Competitive Agreements: Competitive Law Dynamics

53

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## Contents


1. Competition Law in India: A Developing Economy 1
   *Sai Mounika Karney*
2. An Analysis on Section 03 of Competition Act: Anti-Competitive Agreements 12
   *Kuntamukkala Sai Sree Sanjay*
3. The Working of Cartels and its After Effects 24
   *Mounika Gangu & Govinda Raj Parlerla*
4. The Evaluation of Vertical Anti-Competitive Agreements: Blends and Contrasts between the Anti-Trust and the Economic Approaches 36
   *Geethika Satti*
5. Anti-Competitive Agreements: Effective Enforcement 58
   *Srinath Sambangi & Phebe Beri*
6. Examine the Enforcement and Challenges of Anti-Competitive Agreement 74
   *Asif Iqbal*
7. Anti-Competitive Agreements: Challenges and Enforcement 87
   *P J Pavitrai & Rayappa S Ganigerii*
8. Approach of Competition Regulator in India towards Resale Price Maintenance 120
   *Saima Hassan*
9. Price Parity Clauses in the Digital Era: A Comparative Analysis 132
   *Maquelin A Pereira*
10. Does the Mischief of Artificial Intelligent Algorithms Results to Anticompetitive Agreements 146
    *Maturu Sai Venkatesh*
11. Tie in Agreements V/S Bundling under Competition Law 162
    *Laharika Kale & Alladi Rithvika*
12. Trade Associations: Platform for Industry Interactions or Collusion? 175
    *Richa Prateek Jain*



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arrangements lead to consumer harm and produce similar anti-competitive effects such as foreclosure, creating barriers to entry, and the like.

In light of above observations, it is amply clear that the language incorporated under section 3(4)(a) of the Act and the interpretation given to the same in the ***Sonam Sharma*** case have created a lacuna in the law dealing with tying and bundling arrangements. Thus, cases of bundling will have to be necessarily brought under section 4(2)(d) which punishes the practice of tying and bundling by a dominant entity. As a result, innumerable cases of bundling (likewise the ***BMW case***) will go unpunished due to the likelihood that the alleged entity might not have a position of dominance in the relevant market which very well frustrates the purpose of the legislation.

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# Trade Associations: Platform for Industry Interactions or Collusion?

Richa Prateek Jain[225]

*Trade associations are associations established by competing firms or entities operating in the same market with an aim to promote, represent and to provide the members services pertinent for the furtherance of their commercial and professional goals. They also provide a platform to the market players for discussions and exchange of views and information on issues pertaining to the common interest of the entire sector or industry. Despite of many pro-competitive actions that the trade associations do, they often come under the radar of the Competition Commission of India (Commission/CCI) for violating the provisions of Competition Act, 2002. The issue of flux is that on one hand such associations of traders and professionals are not illegal per se. But on the other hand, their associations sometimes transgress their objectives and lead to anti-competitive behaviour which has an appreciable adverse effect on the market. In this paper the author intends to analyze the position of trade associations with respect to competition law. By analyzing various orders passed by the Commission, the author intends to decipher what exactly such platform signify, are they a hotspot for collusion or merely place for industry interaction.*

*Key words: Cartels, Trade Associations, Professional Associations, Competition.*

## Introduction

In India, the Competition Act, 2002 (the Act) promulgates competition law in the country. The main aim of enforcement of competition law in the country has been to prevent practices having adverse effect on the competition, to promote and sustain the competition in the markets, to protect the interest

[225] Ms Richa Prateek Jain, LLM, Assistant Professor, ICFAI Law School, Hyderabad

company caused by environmental compliances. Rather, we can see nations emphasising that socio-environment development of all is a necessary factor that needs to be included in the business processes.

But what drives/motivates an investor into Green Economies are still the returns on investments and assurances and guarantees needs to be continued to be provided to them, despite the green businesses motivation or the fanciful terminologies used for raising capital/funds. For this, India seems to be a suitable platform today. It is not only about the huge demand for private investments but also the nature of sectors that are open to investments. Most of the projects are into key inelastic areas. They are longer duration business models intended for use for a longer duration. These being key areas like metros or even solar energy, there is hardly any likelihood of these not providing good returns.

Also, India must enter into MOUs with more countries bilaterally to engage capital exporting countries also in the green growth agenda as home countries involvement in encouraging green FDIs is also crucial.

More than everything else, Green Foreign Investments seem to be a perfect model of balance between the Investors' Legitimate Rights of expectations and State's right to legislate. The host country is able to adhere to the international commitments on sustainability as well its own domestic structure of being a Welfare State without being in conflict with International Investment Rules and principles. What more is needed if businesses themselves become part of this transition into a Green Economy!

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# Most Favoured Nation Treatment and International Investment: Trends and Challenges

**Monisha Gade***

*In the current age of Liberalisation, Privatisation and Globalisation, the world countries are competing with each other in terms of trade. International trade has become a tool to build and develop relationships with each other. It is also the need of the hour for many developing countries to maintain good economic and trade relations with other countries so that they will not fall into the vicious circle of economic crisis. At the same time, competition existing in the international trade is paving way towards trade wars. These trade wars are being experienced by both developing and under developed countries.*

*In order to avoid these negative impacts of trade wars between developed and developing countries, there is an urgent need for dialogue and discussion. International investment is the backbone of international trade. The trade cycles may come to an abrupt halt. Certain principles of international investment have been framed by OECD which help in maintain balance in investment regime across the world. One such principle which helps in enhancing international investment regime is 'most favoured nation treatment'.*

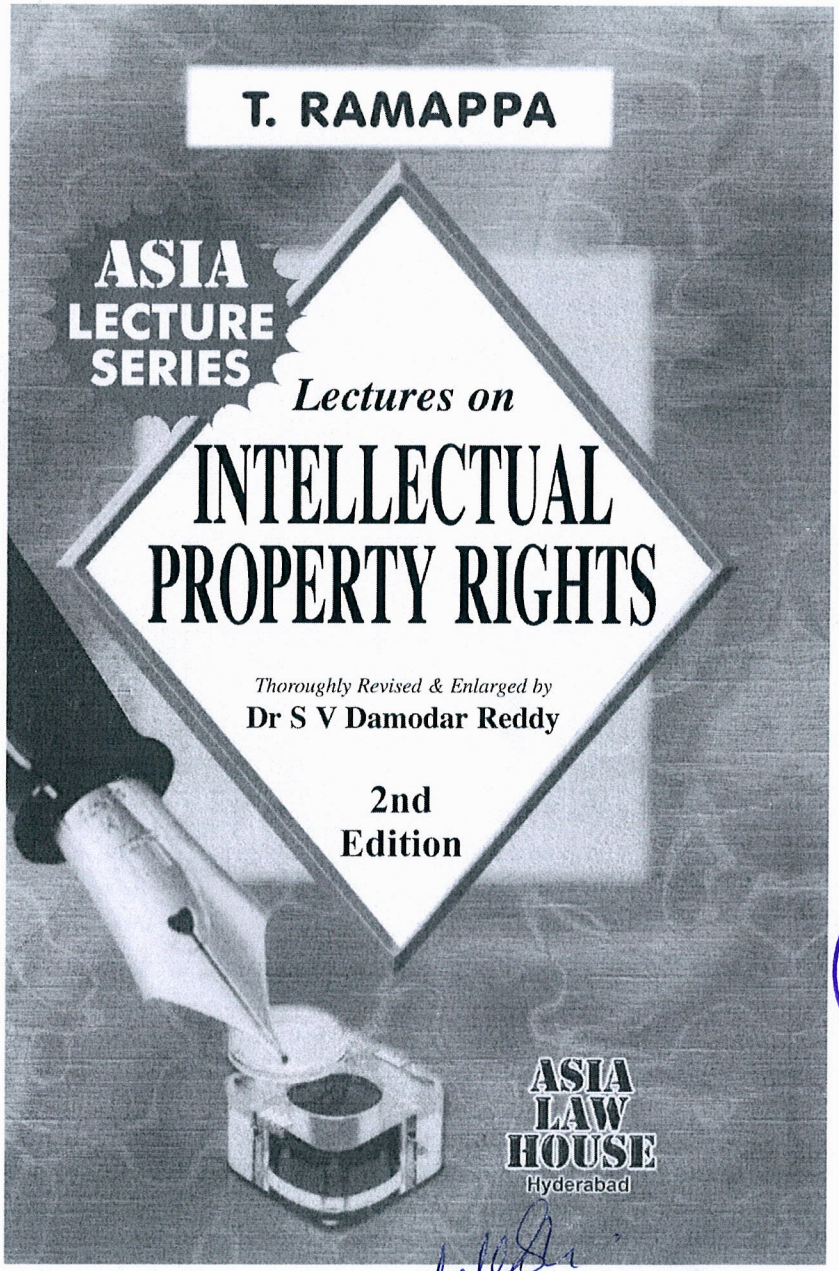
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## INTRODUCTION

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(54)




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# Anti-Competitive Agreements: Competitive Law Dynamics

557

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## Contents


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   *Sai Mounika Karney*
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   *Kuntamukkala Sai Sree Sanjay*
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   *Saima Hassan*
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   *Maquelin A Pereira*
10. Does the Mischief of Artificial Intelligent Algorithms Results to Anticompetitive Agreements 146
    *Maturu Sai Venkatesh*
11. Tie in Agreements V/S Bundling under Competition Law 162
    *Laharika Kale & Alladi Rithvika*
12. Trade Associations: Platform for Industry Interactions or Collusion? 175
    *Richa Prateek Jain*



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56

# Competition Law: Sectoral Contours

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# E-Commerce and Competition Law

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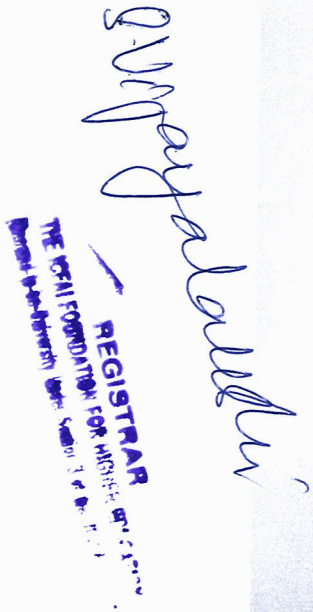
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## Contents


1. Competition Law and E-Commerce-An Interface 1
   *Parth Chopra*
2. Role of Competition Law and Policy in E-Commerce 15
   *Eesha Das & Vaishnavi Peddibhotla*
3. Regulating Competition in the Digital Market: Application of Competition Law to Dominant Digital Platforms 36
   *Siddharth Balani*
4. Predatory vs Deep Discount Pricing – An Analysis of E-Commerce Retailers in India 52
   *Dr. Vinay Sharma*
5. Competition Law and Technology 60
   *K. Kumara Swamy*
6. Competition in the E-Commerce Sector: Review of Prevailing Issues 72
   *Riddhika Dumane*
7. Abuse of Dominance in the E-Commerce Sector in India 84
   *Prof. Richa Kashyap & Prof. Vivek Saurav*

# Foreign Investments: Trends and Issues

Edited by

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58

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## Contents


| | | |
|---|---|---|
| 1. | Globalisation and It's Effects on World Businesses<br>*Keerthana Challuri* | 1 |
| 2. | The Impact of E-Commerce on International Trade<br>*Dr. K.V. Ravi Kumar* | 17 |
| 3. | Sustainable Economic Development and Foreign Investment<br>*B. Vijayalakshmi* | 32 |
| 4. | Opportunities and Prospects for FDI in Indian Industries<br>*Dr. Komati Durga Prasad & Dr. A. Arun Kumar* | 43 |
| 5. | New Opportunities and Challenges in International Investments: A Way Forward<br>*R. Uma Rani* | 54 |
| 6. | Sustainable Economic Development and Foreign Investments<br>*ShrutiPandey, Abhinav* | 62 |
| 7. | Public Private Partnership – A Way Towards Sustainable Development In Indian Textile Industry<br>*Ms. Rukmini Desai & Dr. Rama Devi Gudemela* | 74 |
| 8. | Impact of Foreign Investments – A Step towards Sustainable Economic Development<br>*K. Kumara Swamy* | 87 |
| 9. | Equity Crowdfunding in India: A Critical Analysis<br>*Abhishek Mishra* | 102 |
| 10. | Crucial Role of Foreign Investments in Sustainable Economic Development<br>*Khan Nazia Mohammed Nawab* | 121 |
| 11. | Green Foreign Investments: Role and Impact on National Developmental Goals<br>*Raja Rajeswari Ayyagari* | 141 |




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12. Most Favoured Nation Treatment and International Investment: Trends and Challenges 151
*MonishaGade*

13. BIT's: A Global Boomerang – Analysis of India's Model BIT 164
*Satyabrata Mishra*

14. TRIPS and Economic Progress of Nations 172
*A. Vani*

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# International Trade and Dispute Resolution Mechanism

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59

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## Contents


1. Analyzing the Impact of Global Trade Conflicts on Countries — 1
   *N. Ashwini*
2. Arbitration and Dispute Settlement System in International Trade — 8
   *D. LalithaKumari*
3. Impact of 'Public Policy' on Enforcement of Foreign Arbitral Awards in India — 21
   *P. Pratik Reddy & Anudeep Mantripragada*
4. GATT – Alternative Justice in resolution of International Trade and Investments Disputes — 32
   *Md. Adil*
5. Nations at Loggerheads: Dispute Settlement in International Trade — 48
   *R Annie Sravya and T.S.V.S. Nivedita*
6. International Trade and International Arbitration - A Bondage for Global Development — 63
   *Smt P. Aravinda*
7. Arbitration and Dispute Settlement in International Trade — 83
   *D. Santoshi Kumari*
8. Singapore Convention on Mediation – A Step Towards Facilitating International Trade — 100
   *Dr. S. B. Md. Irfan Ali Abbas*
9. An Analysis of Dispute Resolution in 'Peru – Additional Duty on Imports of Certain Agricultural Products' — 124
   *Neelesh Shukla and Hartej Singh Kochher*
10. Arbitration as a Tool of Dispute Resolution Mechanism International Trade — 148
    *Sonali Badi*




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11. Efficiency of Arbitration as Dispute Resolution in International Trade 155
*Mrs. V. B. Malleswari & Mr. V. Venu Madhav*

12. Judicial Application of TRIPS with Respect to GM Technology 175
*Dr. V. Gopi Ranganath*



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# Regional Trade Blocs: Emerging Trends

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## Contents

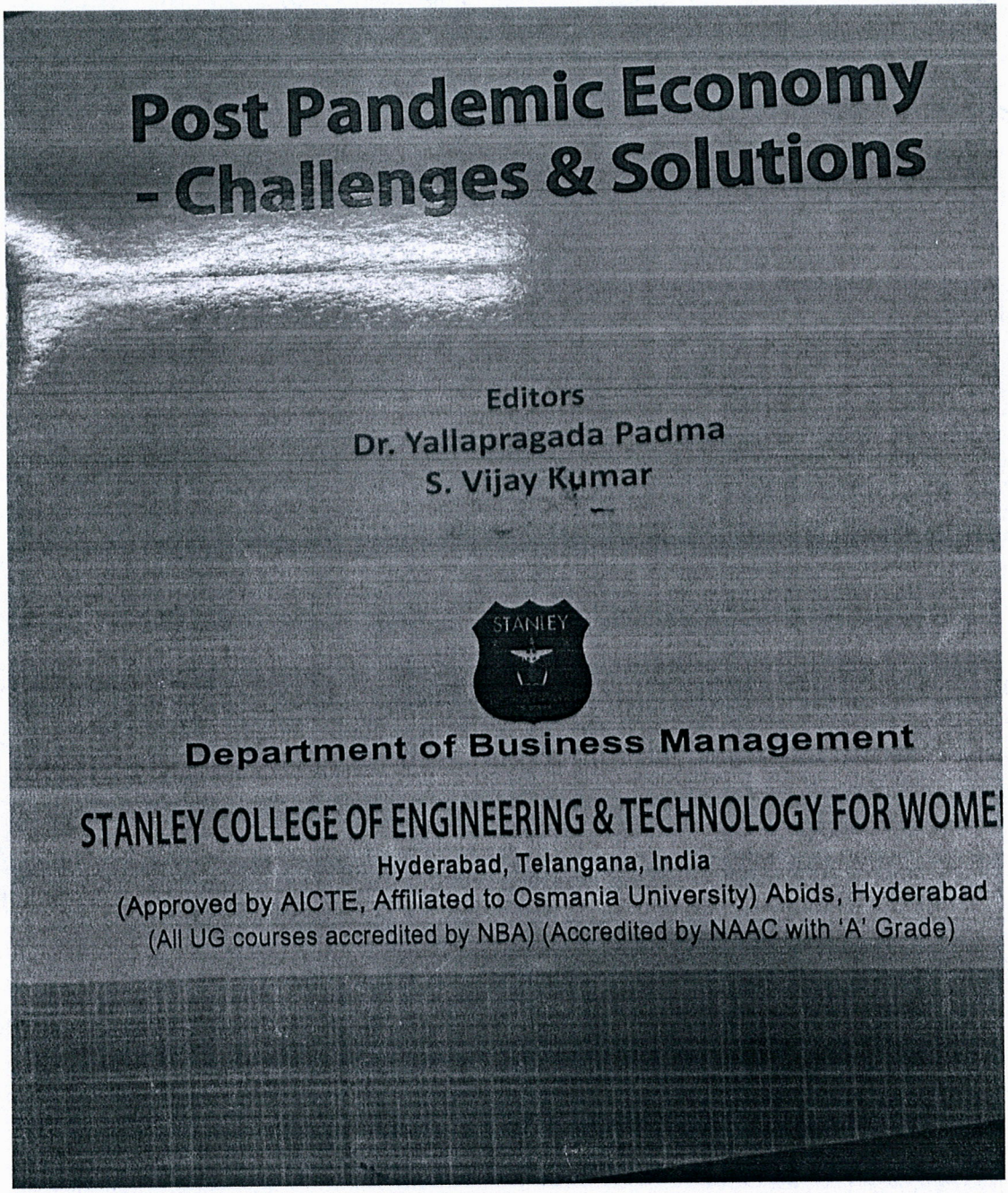

| | | |
|---|---|---|
| 1. | Regional Blocs: A Trading Modus Operandi<br>*Nidhi Ranka, Kanika Agarwal* | 1 |
| 2. | Trade Policies – Role of Brics among Contemporary Economies<br>*A V Syam Prasad* | 15 |
| 3. | FTAs, BITs and Their Impact<br>*A. Venkateswara Rao* | 33 |
| 4. | RCEP - A Double Edged Sword: Its Impact on Indian Economy<br>*G Vaishnav Kumar* | 46 |
| 5. | Effect of RCEP on Indian Dairy Industry<br>*K. Sravan Kumar* | 55 |
| 6. | Arthashastra's Contribution on a Nexus between Domestic and Foreign Trade<br>*Mirza Sibtine Raza* | 61 |
| 7. | Impact of Islamic Law on International Trade<br>*Sadiya Fatima & Zubair Ali* | 74 |
| 8. | Contractual Certainty in International Trade: Global Economic Exchanges<br>*Anubha Srivastava* | 87 |
| 9. | Whether the Economic Growth of India is Trade Openness led? An Assessment<br>*Dr. Iti Vyas* | 101 |
| 10. | Regional Trade Blocs: The Modern Trade Revolution<br>*Gangu Mounika and Pulipati Vandana* | 128 |
| 11. | BIMSTEC, Economic Cooperation, Cultural Issues and Citizenship Amendment Act<br>*Dr. Venkata Narasimha Chary Mushinada* | 147 |



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THE ICFAI FOUNDATION FOR HIGHER EDUCATION HYDERABAD

(61)




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# Contents


| Sl.No. | Title of the Paper | Page No. |
|---|---|---|
| 1. | Entrepreneurship for Economic Development in India<br>*- Dr. Goparaju Purna Sudhakar* | 1 |
| 2. | Possibilities of a New Society after the Covid19 Crisis<br>*- Dr. Zaheda Begum Shaik* | 10 |
| 3. | Student Engagement and Learning Outcomes: A Comparative Reflection on the Post Covid-19 Scenario<br>*- Rona Elizabeth Kurian, Madhurima Basu* | 16 |
| 4. | Impact of Covid-19 on Education in India: Challenges and Opportunities<br>*- Dr.Y.Sucharita* | 26 |
| 5. | Impact of Covid-19 on Indian Movie Theatre Industry<br>*- Madhurima Basu, Rona Elizabeth Kurian* | 32 |
| 6. | Impact of Covid - 19 on the Airline Industry<br>*-Dr. Yallapragada Padma* | 41 |
| 7. | Impact of Changing Role of Home on Consumer Behaviour<br>*- Kavya Yandamuri* | 46 |
| 8. | New Imperatives in Post Covid-19 Scenario<br>*- Mr. S. Vijay Kumar* | 53 |
| 9. | Impact of Covid-19 on Education Sector in India<br>*- Tiljy Thomas* | 57 |
| 10. | Impact of Covid-19 on Islamic Banking in Middle East<br>*- Mohammed Ali Mahdi Malek* | 64 |
| 11. | SARS-Cov-2 Effect on MSME Sector<br>*- Mrs.K.Indraja* | 73 |
| 12. | Paradigm Shift of Academic Education towards Online Platform - An Academicians' Perspective<br>*- Prof. Vivek Saurav, Prof. Richa Kashyap* | 83 |
| 13. | Impact of Covid-19 on Consumer Behaviour : A Indian Economy Perspective<br>*- BVDS Sai Pavan Kumar, Dr. Komal Nagrani, Dr. P. Prasada Rao* | 89 |




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# Entrepreneurship for Economic Development in India

Dr. Goparaju Purna Sudhakar
PhD, PMP, The ICFAI University, Hyderabad, India

*Abstract*

*This article describes concepts, learning perspectives, and views on entrepreneurship and its contribution to Indian economy despite the pandemic. Entrepreneurship is required for economic development, job creation, wealth building, resource sharing, fulfilling social responsibility, personal satisfaction and for achievement feeling. There are different sectors in which new startups are coming in India. The variety, verticals, portfolio of services, variety of products and industries are growing with innovation. This article based on secondary research describes entrepreneurship, different sectors, lean startup methodology, Identifying Products and Services, Market Research, Startup development, Funding, Technology Transfer, Factors Impacting Technology Transfer, MSMEs, Green Technologies, 21st Century Employee and Success Factors of Startups.*

***Keywords:*** *Entrepreneurship, Entrepreneur, Startup, Technology Transfer, MSME, Success Factors, Market Research, Products and Services*

## Introduction

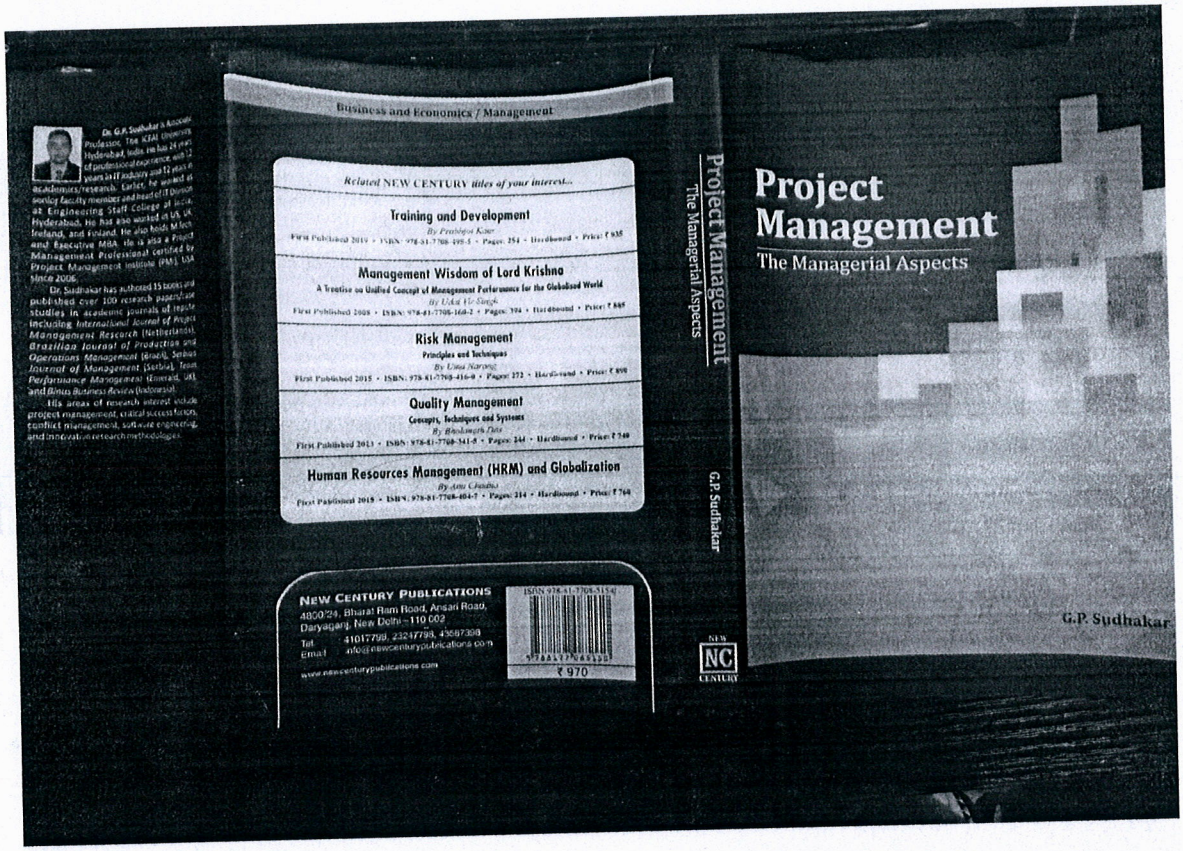
Entrepreneurship helps economies. Only governments across the world can't provide the entire employment; hence entrepreneurship fills this gap and helps in employment generation, and overall economy.Entrepreneurship in India contributes to the movement of self-reliance, that is, Aatmanirbhar Bharat.For economic development,any country requires job creators, wealth creators and intellectual asset creators and knowledge creators in different sectors. This requires observing the trends and economic growth sectors in several countries. As the time moves on some sectors and disruptive technologies create new industries and avenues such as mobile industry and payments industry. Some industries become redundant or outdated. Some industries grow horizontally and the intersection of industries become blur with the advent of technologies and automation. Following sections in the article discuss Entrepreneurship, Lean Startup Methodology, Identifying Products and Markets, Product Development, Services, market research, Startup Development, Funding, Technology Transfer, Factors Impacting Technology Transfer, MSMEs (Micro, Small and Medium Enterprises), Green Technologies, Human in Entrepreneur, Industry and Labour Relations, 21st Century Employee, Incubation Center, and Success Factors of Startups.

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# Contents

*About the Book* ..... *v*
*About the Author* ..... *vi*
*Preface* ..... *xvi-xvii*

## Part I: Strategy and Project Management

**1. Introduction to Managerial Aspects of Project Management** **1-11**
1.1 What is a Project?
1.2 What is Project Management?
1.3 Project Management in India
1.4 Project Governance and Strategy
1.5 Project Management Research Areas
1.6 Project Management Frameworks and Models
1.7 Human Aspects of Project Management
1.8 Project Teams
1.9 Project Control

**2. Basics of Project Strategy** **12-21**
2.1 Individual Project Status Check
2.2 Risk Management
2.3 Needed Skills for Program Management
2.4 Prioritize the Projects
2.5 Maintaining a Resource Pool
2.6 Evaluation of the EPM Tools
2.7 Identification of Stakeholders
2.8 Project Planning
2.9 Communicating the Project Plan
2.10 Project Execution
2.11 Evaluating Team Member Performance
2.12 Training and Development
2.13 Releasing the Deliverables

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# 1

# Introduction to Managerial Aspects of Project Management

## 1.1 What is a Project?

According to PMI-PMBOK (Project Management Body of Knowledge), "A project is a temporary endeavour undertaken to create a unique product, service or result".

A project has certain characteristics. Every project has a specified goal or objective. A project has a beginning and an end date. A project outcome has either positive or negative impacts for its stakeholders. Project stakeholders influence the project either positively or negatively. Every project has limited time and budget allocation. There is no project with unlimited time and finances. Every project comes with opportunity and also with risks. It is the project manager who has to exploit the opportunity and mitigate the project risks. Project success may lead to commercial success/benefits or financial benefits for an organization undertaking it.

Project is executed by a designated team. Different team members in the project team play different roles contributing to the project success/project performance. Project manager has to apply his skills, knowledge and experience in leading the project for success. Every project has got certain complexities. Project outcome is a product, service or result.

Following are the examples of recently undertaken, ongoing or completed projects:

1. Gaganyan of Indian Space Research Organization (ISRO).
2. Statue of Unity.
3. Metro Rail Project, Hyderabad.
4. Konkan Railways Project.
5. International Airport Project, Bangalore.
6. Delhi Metro Rail Project.

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63

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**Human Rights and Access to Justice**

**Editor:**

**Astha Srivastava**

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## Contents


1. **'Gender' – A Blunder in Human Development!!** 3
   *Dr. M. Madhuri Irene*
2. **'Gender' in 21ST Century** 17
   *Veddika P Dutta*
3. **Right to Abortion in India - A Matter of Reproductive Justice** 29
   *Neha Singh*
4. **Protection Of Children's Rights in Transnational Surrogacy Arrangements** 45
   *Astha Srivastava*
5. **Theorizing Women's Reproductive Rights &Reproductive Justice in India – An Intersectional Feminist Approach** 54
   *Adya Aditi Samal*
6. **Human Rights Protection of Women at Workplace with Special Reference to Mental Healthcare Act, 2017: An Empirical Study** 73
   *Kulsum Haider & Neelam Faizan*
7. **Economic Justice for Women at Work: A Critical Analysis** 91
   *Dr. Mona Mahecha & Nishtha Acharya*
8. **Role of Indian Judiciary in Safeguarding the Human Rights of Women** 99
   *V.B.Malleswari and V.Venu Madhav*
9. **Social Protection of Women in India: A Study with Special Reference to Human Rights** 113
   *Meenu Bala*
10. **Role of Judiciary in Realizing Human Rights of Homosexuals by Applying International Human Rights Law** 120
    *Nivedita Ghosh*
11. **The Bride's Quest for Justice: A Critical Study of Violence against Women in NRI Marriages** 131
    *Simarpreet Kaur Billing*
12. **A Study on Human Trafficking against Women and Girl Child in the State of Sikkim: A Human Rights Perspective** 147
    *Dr. Pramita Gurung*
13. **Privacy of Women in Digital Arena-An Analysis** 158
    *Nrutya Vinesh*
14. **Access to Justice Vis a vis Forest Rights in India** 159
    *Krushna Badade*
15. **Human Rights and Access to Justice** 167
    *Penchula Prabhaker Rao*
16. **A Comparative Study on Access to Justice among South Asian Nations** 171
    *S. Kannan*



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REGISTRAR
THE ICFAI FOUNDATION FOR HIGHER EDUCATION
(Deemed-to-be-University Under Section 3 of the UGC ACT, 1956)

17. **Centuries of Atrocities and Road to Justice for Trans Community** 187
*Manali Chaurasia & Sahil Singh*

18. **Human Rights Violations and Corporate Social Responsibility in India: A Study** 203
*Vijay Pratap Singh*

19. **Indulging the Philosophy of Remission Enshrined under Religious Opus into the Criminal Justice System - An Attempt to Social Reformation** 215
*Sneha Maji*

20. **Misuse of Police Power and Violation of Human Rights (A Study on Criminal Justice System)** 226
*P Samay Kumar &Gautam Kumar*

21. **Role of Police in the Criminal Justice System: Human Rights Issue** 246
*Sehar Jamil, Taliaa Mahvish, Sehar Jamil & Taliaa Mahvish*

22. **How Police Atrocities Have Led to The Violation Of Human Rights in Recent Times Across The Country** 259
*Simran Nangia & Anoonya Das*

23. **Life Imprisonment without Remission: A Cruel Calculus to Human Rights in India** 277
*Apoorv Gupta & Pooja Gandhi*

24. **Victimology under the Criminal Justice System: Expanding the Scope of Criminology** 288
*Prithivi Raj*

25. **Poverty - A Facet of Victimology** 308
*Diya Mehta, Chaitri Kashyap*

26. **Religious Rights and Reasonable Restrictions: A Critical Study** 328
*Nandini Tripathi*

27. **Social Protection of Children in India with reference to Human Rights** 347
*Navpreet Kaur*

28. **Role of Judiciary and Human Rights Commission in Protecting and Promoting Children's Rights in India: The Emerging Trends Issues and Challenges** 354
*Sapresh Devidas*

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# 'Gender' – A Blunder In Human Development!!

Dr. Madhuri Irene*

**Abstract**

*Feminine fecundity is central to the perpetuation of universal life, creation and development of life being a process of nature conctated with female species, which is pragmatically vindicated in non-speaking mammals. Surprisingly, humans endowed with words or speech made miracles with language distorting the divine connotation of body and soul in relation to human community. "GENDER" through its grammatical interpretation tends to classify human race basing on the features of the body rather than the mental prowess and soul power. Right from epical eminence of Feminine Warriors Adi Parasakti to mundane models like Jhansi Lakshmi Bai, Indira Gandhi, Durgabai Deshmukh, Nobel Laureates Mrs. Donna Strickland, Maria Goeppert, and V.R. Lalithambika at ISRO and Suniti Molum at NASA defied the misguided parochial projection of women as secondary units. The word gender is understood to be relatable to Women forgetting the fact that female respond to crises by submission, appeasement and flight, whereas male respond in crisis through fight, flight or freeze. Women have to navigate not only through cultures but also through masculine attitudes, tempos, ambience and environment to ensure balanced responsibility during times of volatility and crises.*

*Just research of advanced scientific world is obligated to structure the 'gender' not from individual perspective but institutional perception to undo the errors in understanding the concept in relation to times. For this, the research may seek for the assistance of both doctrinal and non-doctrinal domains to evaluate the issue and search for statistical strength of gender equanimity of various societies. A ray of hope to clear off the misapprehensions in understanding and application of the new propositions may pave way for buttressing a society with gender equality and human development.*

*KEY WORDS: Gender, Feminine Warriors, Human development, cultures, gender equanimity.*

***"Calling Things by Name is the Job of the Prose."***

***- Ralph Fox***

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**Editor:**

**Astha Srivastava**

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## Contents


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   *Dr. M. Madhuri Irene* 3
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   *Veddika P Dutta* 17
3. **Right to Abortion in India - A Matter of Reproductive Justice**
   *Neha Singh* 29
4. **Protection Of Children's Rights in Transnational Surrogacy Arrangements**
   *Astha Srivastava* 45
5. **Theorizing Women's Reproductive Rights &Reproductive Justice in India – An Intersectional Feminist Approach**
   *Adya Aditi Samal* 54
6. **Human Rights Protection of Women at Workplace with Special Reference to Mental Healthcare Act, 2017: An Empirical Study**
   *Kulsum Haider & Neelam Faizan* 73
7. **Economic Justice for Women at Work: A Critical Analysis**
   *Dr. Mona Mahecha & Nishtha Acharya* 91
8. **Role of Indian Judiciary in Safeguarding the Human Rights of Women**
   *V.B.Malleswari and V.Venu Madhav* 99
9. **Social Protection of Women in India: A Study with Special Reference to Human Rights**
   *Meenu Bala* 113
10. **Role of Judiciary in Realizing Human Rights of Homosexuals by Applying International Human Rights Law**
    *Nivedita Ghosh* 120
11. **The Bride's Quest for Justice: A Critical Study of Violence against Women in NRI Marriages**
    *Simarpreet Kaur Billing* 131
12. **A Study on Human Trafficking against Women and Girl Child in the State of Sikkim: A Human Rights Perspective**
    *Dr. Pramita Gurung* 147
13. **Privacy of Women in Digital Arena-An Analysis**
    *Nrutya Vinesh* 158
14. **Access to Justice Vis a vis Forest Rights in India**
    *Krushna Badade* 159
15. **Human Rights and Access to Justice**
    *Penchala Prabhaker Rao* 167
16. **A Comparative Study on Access to Justice among South Asian Nations**
    *S. Kannan* 171



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*Manali Chaurasia & Sahil Singh* 187

18. **Human Rights Violations and Corporate Social Responsibility in India: A Study**
*Vijay Pratap Singh* 203

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*Sneha Maji* 215

20. **Misuse of Police Power and Violation of Human Rights (A Study on Criminal Justice System)**
*P Samay Kumar &Gautam Kumar* 226

21. **Role of Police in the Criminal Justice System: Human Rights Issue**
*Sehar Jamil, Taliaa Mahvish, Sehar Jamil & Taliaa Mahvish* 246

22. **How Police Atrocities Have Led to The Violation Of Human Rights in Recent Times Across The Country**
*Simran Nangia & Anoonya Das* 259

23. **Life Imprisonment without Remission: A Cruel Calculus to Human Rights in India**
*Apoorv Gupta & Pooja Gandhi* 277

24. **Victimology under the Criminal Justice System: Expanding the Scope of Criminology**
*Prithivi Raj* 288

25. **Poverty - A Facet of Victimology**
*Diya Mehta, Chaitri Kashyap* 308

26. **Religious Rights and Reasonable Restrictions: A Critical Study**
*Nandini Tripathi* 328

27. **Social Protection of Children in India with reference to Human Rights**
*Navpreet Kaur* 347

28. **Role of Judiciary and Human Rights Commission in Protecting and Promoting Children's Rights in India: The Emerging Trends Issues and Challenges**
*Sapresh Devidas* 354

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# Protection of Children's Rights in Transnational Surrogacy Arrangements

Astha Srivastava[96]

## Introduction

As surrogacy gains a foothold as a viable means of having children, complex issues arise from surrogacy arrangements the world over. Countries are involved in resolving unprecedented legal issues arising from surrogacy agreements. When trying to solve these issues, the rights of the child born out of the surrogacy arrangements tend to be overlooked. Laws try to protect the rights of the parties involved – such as, who are the legal parents of the child if both sides of the agreement wish to keep the child. It is seldom that these laws address the scenario in which neither side wants to keep the child. In these situations, the prime focus should be the rights of the child, not the rights of the people involved in the arrangement. The law should be up to date and ready to protect the well-being of the child as the first priority. More specifically, rights such as the citizenship of the child, the right to financial support, the right to inherit, and the right to identity should be protected. The regulation of transnational surrogacy can learn from the regulation of inter country adoptions.

## Regulation of Intercountry Adoptions

Intercountry adoption has been one of the preferred ways to create a family for people grappling with infertility or for those who did not or could not reproduce biologically due to various other reasons. People perceived it as a method to adopt a healthy child. This trend of intercountry adoption of children began in the 1950s. It continued to expand, particularly as access to contraception improved, abortion became legal, and societal approach became favourable to children born out of the institution of marriage. This phenomenon was further spurred by a decrease in the number of adoptable healthy infants in developed countries. Moreover, as countries of origin (of adoptive children) began to develop, the preferred destinations for adoptive parents changed, along with the number of children available for adoption[97]. Also, adoption shifted from a method to provide parents to a child, which is a human right to a method to provide a child to parents, which is not a human right. Adoption agencies and intermediaries began to see intercountry

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[97] Selman, P. F. (2015). Global trends in intercountry adoption, 2003-2012.

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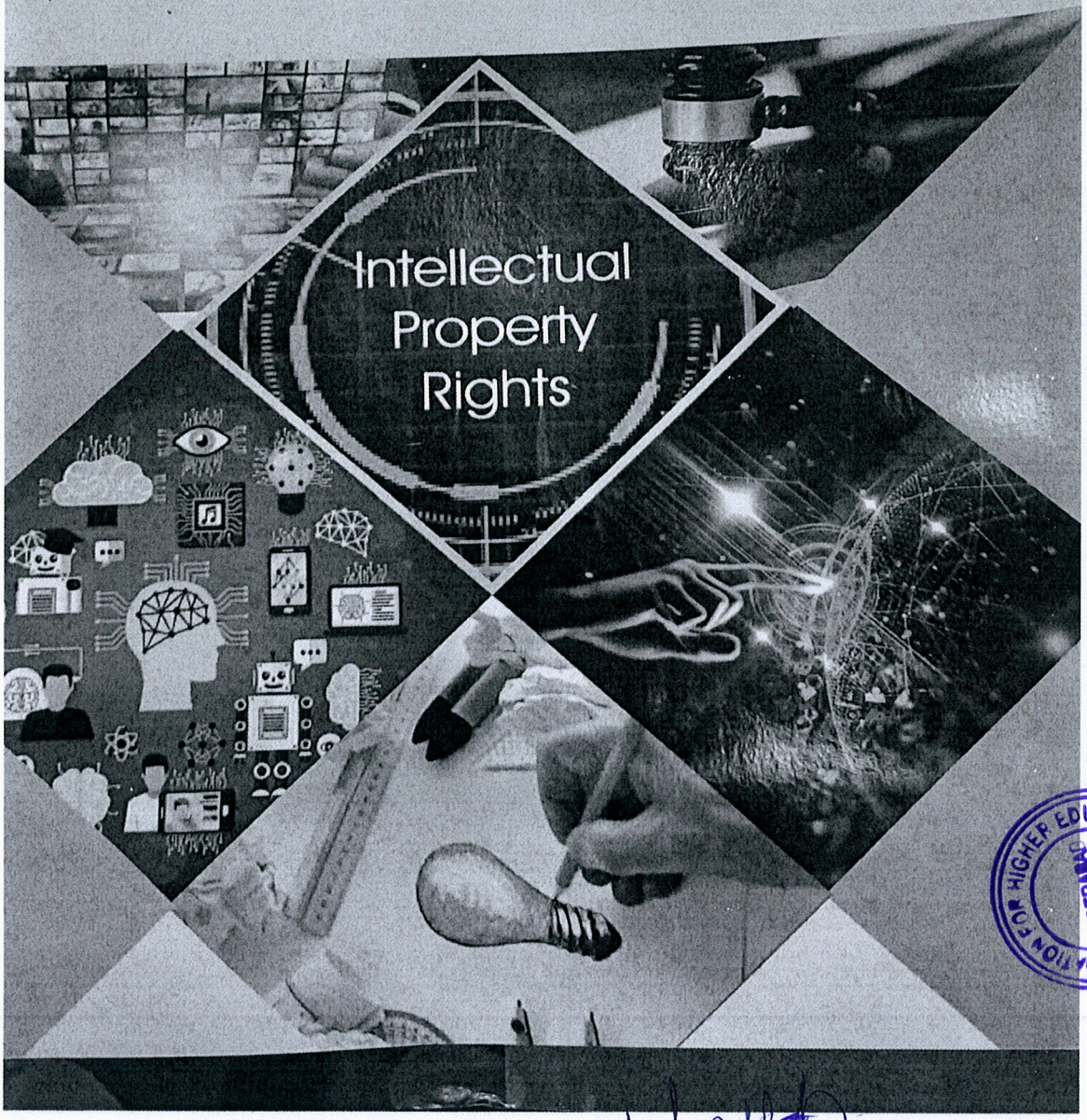
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90

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# Preface

Human Rights are those inalienable rights that make human life worth living. They are essential to preserve the dignity and worth of human beings. Women throughout the world have been facing discrimination and abuse, their rights remain unprotected even today. Women's rights of health, education, political participation, and economic well-being are human rights and the Beijing Declaration affirmed that the protection of these fundamental rights is the basic responsibility of State parties. Gender equality and freedom from discrimination have been recognized by almost all Human Rights Covenants. This unequivocal recognition of Women's Rights sits in stark contrast with their widespread violations throughout the world. The intersectionality of gender with caste and disability makes the realization of rights even more difficult for women of marginalized communities and those with disabilities.

Children's Rights have been defined under the Convention on Rights of the Child. The interpretation of these rights has been varied in different contexts and jurisdictions. The lack of control and vulnerability of children makes a study of these rights compelling and necessary. It is also important to understand the working of the framework created for the protection of these rights in different jurisdictions.

The term access to justice is variously construed, from merely the aggrieved individual's formal right to defend to an equal right of having recourse to an affordable, quick, satisfactory settlement of disputes from a credible forum. Today, access to justice can well be categorized between formal and informal modes. Formal mode includes ordinary adjudication of dispute based on substantive and procedural laws. Informal access to justice on the other hand includes modes like ADR, lokadalats, nyaya panchayats etc. which are not bound to follow code of civil procedure or code of criminal procedure and are only guided by principles of natural justice.

Therefore, the main aim of organizing this International Conference on 'Human Rights and Access to Justice' was to bring forth novel issues and challenges that restrict access to justice and infringe the human rights of women and children.

During the conference the following themes related to human rights were under discussion

1. **Women's Rights as Human Rights :** Understanding 'gender' , The status of reproductive justice, Protection of Women in the domestic arena, Roadblocks in women's right to health

2. **Criminal Justice System and Human Rights:** Human Rights Compliance and accountability for police actions, Prison Reforms and Human Rights, Victimology

3. **Access to Justice and Human Rights:** A conceptual understanding of Access to Justice, New Dynamics in Access to Justice and Human Rights, Strengthening Access to Justice, Transitional Justice

4. **Child Rights and the Law:** Tackling Child Poverty, Hunger, Nutrition and Education, Protection of Children from Violence and Sexual Abuse, The

working of POSCO in India, COVID 19 and its impact on Children, Social protection and Community based action for Children.

The proceedings for the day were divided into four parts –

- Technical Session on Access to Justice and Human Rights
- Technical Session on Women's Rights as Human Rights,
- Technical Session on Criminal Justice System and Human Rights,
- Technical Session on Child Rights and the Law

These proceedings will enable the readers to understand the key concepts and the emerging issues in the area of Human Rights. All the contributions have been edited and reviewed and we hope that this compilation will contribute extensively to the existing literature on Human Rights.

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# Message from the Vice Chancellor



**Dr. J. Mahender Reddy**

I am happy to know that ICFAI Law School is organizing an International Conference on 'Human Rights and Access to Justice', to be held on 26th – 27th March, 2021.

The Conference has four sessions with eminent speakers from academics and industry. Conferences such as these help in bringing together the academic knowledge of the universities and the actual issues faced at the ground level. This will help policymakers understand and frame relevant legislations. The issues discussed during the conference on human rights shall open the doors for further research in the area. Such a conference will also provide an exposure to the students, some of whom will soon be working in national or even in inter-governmental organizations.

I am happy that ICFAI Law School is hosting this Conference and hope that the event will generate beneficial ideas and would help exchange of knowledge across academia and the industry. I congratulate the Director, Prof. A.V. Narsimha Rao, Prof. Astha Srivastava and Prof. Richa Jain, the organizing committee, faculty, supporting staff and students and wish the conference to be a grand success.

Dr. J. Mahender Reddy
*Vice Chancellor*
*ICFAI Foundation for Higher Education*
*M.A.(DSE), Ph.D (University of Alberta)*
*Former Chair in Indian Ocean Studies, University of Mauritius*
*Member, Governing Council, Association of Indian Universities (AIU)*

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# Message from the Director



**Dr. A.V. Narsimha Rao**

The importance of Human Rights cannot be overstated. In the last year, the country and the world at large has witnessed the humanitarian crisis led by the COVID 19 pandemic. The pandemic has created unprecedented human rights challenges throughout the world. The medical emergency gave rise to full blown human rights violations. From large scale labour migrations to increased domestic abuse against women and children to lost employment opportunities, the world has seen it all. In this background it is apt to talk about Human rights and associated issues. The discourse must be taken forward.

This conference is not just a co-curricular exercise, but, is an initiative taken by the ICFAI Law School, Hyderabad, to give platform to such discussions and to bring forth relevant suggestions which can to further contribute to the academic discourse and literature on this subject.

The Conference has received a great response from the contributors and participants. The conference has four technical sessions in addition to the inaugural session and valedictory session.

We express our sincere thanks to all the contributors and participants and also congratulate all the faculty, administrative staff and students for their involvement and support.

*Dr. A.V. Narsimha Rao*
*Director, ICFAI Law School*
*ICFAI Foundation for Higher Education*

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# Message from the Coordinator



**Ms. Astha Srivastava**

I am honored to be the Coordinator for the International Conference on 'Human Rights and Access to Justice', under the able guidance of Sri. Dr. A. V. Narsimha Rao, Conference Chairperson and Director, ICFAI Law School, IFHE, Hyderabad. This conference is organized on a very contemporary and significant theme on 26th – 27th March, 2021.

Human Rights must be at the forefront of academic discourse in any society that seeks development. Legal intervention for enforcement of these rights is also of utmost importance. Human Rights of women and children are areas that need extensive research and academic thought. The International Conference on Human Rights and Access to justice is aimed to take this agenda forward.

We have tried to select the sub-themes of the conference in a way that important aspects of human rights are covered. We have also tried to bring forth certain challenges that are predominant in this field of study.

I am hopeful that this conference will discuss and enlighten about all the contemporary issues regarding human rights and carve out suggestions to incorporate for the nation's development.

*Ms. Astha Srivastava*
*Assistant Professor*
*Coordinator International Conference*
*ICFAI Law School*
*ICFAI Foundation for Higher Education, Hyderabad*

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## Acknowledgement

We are grateful to everyone who has contributed and helped in different capacities to organize the International Conference on 'Human Rights and Access to Justice', to be held on 26th – 27th March, 2021 and has ensured the timely publication of the proceedings.

At the very outset we would like to thank the University Authorities for their overall support at every step in this endeavor. Specifically, we would like to thank Ms. Shobha Rani Yasaswy, Chairperson ICFAI Society for her guidance. Further we would like to thank Prof J Mahender Reddy, Vice Chancellor, IFHE for his continuous encouragement. We would like to thank our director, Prof A V Narsimha Rao, for his constant motivation and support in making this conference and the proceedings herewith a success.

We would like to thank Hon'be Mrs. Justice Gyan Sudha Misra (Former Judge of the Supreme Court of India, for being the chief guest and the keynote speaker of the Inaugural Session. We would also like to thank Hon'ble Mr. Justice B. Prakash Rao, Hon'ble Mr. Justice B Sheshasayana Reddy and Hon'ble Mr. Justice Seetharama Murthy for being the keynote speakers of the sessions on Women's Rights as Human Rights, Criminal Justice System and Human Rights and Access to Justice respectively.

We would further like to extend our gratitude to the authors and the participants for their rich academic contribution to the conference. We thank the Coordinator for the event, Mrs. Astha Srivastava and the members of organizing committee, for their able organization of the conference. We would like to thank Mr. Murali Mohan, the systems administrator and Mr V. Sasidhar, the administrative officer for their exceptional support throughout the conference. At the end, we would like to thank the faculty, administrative staff, research students and the students of ICFAI Law School, IFHE, Hyderabad for their overall support.

Ms. Richa Jain
*Assistant Professor,*
*Co-Coordinator,*
*International Conference on Human Rights and Access to Justice*
*ICFAI Law School,*
*ICFAI Foundation for Higher Education, Hyderabad*

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## Contents


1. **'Gender' – A Blunder in Human Development!!**
   *Dr. M. Madhuri Irene* 3
2. **'Gender' in 21ST Century**
   *Veddika P Dutta* 17
3. **Right to Abortion in India - A Matter of Reproductive Justice**
   *Neha Singh* 29
4. **Protection Of Children's Rights in Transnational Surrogacy Arrangements**
   *Astha Srivastava* 45
5. **Theorizing Women's Reproductive Rights &Reproductive Justice in India – An Intersectional Feminist Approach**
   *Adya Aditi Samal* 54
6. **Human Rights Protection of Women at Workplace with Special Reference to Mental Healthcare Act, 2017: An Empirical Study**
   *Kulsum Haider & Neelam Faizan* 73
7. **Economic Justice for Women at Work: A Critical Analysis**
   *Dr. Mona Mahecha & Nishtha Acharya* 91
8. **Role of Indian Judiciary in Safeguarding the Human Rights of Women**
   *V.B.Malleswari and V.Venu Madhav* 99
9. **Social Protection of Women in India: A Study with Special Reference to Human Rights**
   *Meenu Bala* 113
10. **Role of Judiciary in Realizing Human Rights of Homosexuals by Applying International Human Rights Law**
    *Nivedita Ghosh* 120
11. **The Bride's Quest for Justice: A Critical Study of Violence against Women in NRI Marriages**
    *Simarpreet Kaur Billing* 131
12. **A Study on Human Trafficking against Women and Girl Child in the State of Sikkim: A Human Rights Perspective**
    *Dr. Pramita Gurung* 147
13. **Privacy of Women in Digital Arena-An Analysis**
    *Nrutya Vinesh* 158
14. **Access to Justice Vis a vis Forest Rights in India**
    *Krushna Badade* 159
15. **Human Rights and Access to Justice**
    *Penchala Prabhaker Rao* 169
16. **A Comparative Study on Access to Justice among South Asian Nations**
    *S. Kannan* 171



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REGISTRAR
THE ICFAI FOUNDATION FOR HIGHER EDUCATION
(Deemed-to-be-University Under Section 3 of the UGC Act, 1956)

## Contents


1. **'Gender' – A Blunder in Human Development!!**
   *Dr. M. Madhuri Irene* 3
2. **'Gender' in 21ST Century**
   *Veddika P Dutta* 17
3. **Right to Abortion in India - A Matter of Reproductive Justice**
   *Neha Singh* 29
4. **Protection Of Children's Rights in Transnational Surrogacy Arrangements**
   *Astha Srivastava* 45
5. **Theorizing Women's Reproductive Rights &Reproductive Justice in India – An Intersectional Feminist Approach**
   *Adya Aditi Samal* 54
6. **Human Rights Protection of Women at Workplace with Special Reference to Mental Healthcare Act, 2017: An Empirical Study**
   *Kulsum Haider & Neelam Faizan* 73
7. **Economic Justice for Women at Work: A Critical Analysis**
   *Dr. Mona Mahecha & Nishtha Acharya* 91
8. **Role of Indian Judiciary in Safeguarding the Human Rights of Women**
   *V.B.Malleswari and V.Venu Madhav* 99
9. **Social Protection of Women in India: A Study with Special Reference to Human Rights**
   *Meenu Bala* 113
10. **Role of Judiciary in Realizing Human Rights of Homosexuals by Applying International Human Rights Law**
    *Nivedita Ghosh* 120
11. **The Bride's Quest for Justice: A Critical Study of Violence against Women in NRI Marriages**
    *Simarpreet Kaur Billing* 131
12. **A Study on Human Trafficking against Women and Girl Child in the State of Sikkim: A Human Rights Perspective**
    *Dr. Pramita Gurung* 147
13. **Privacy of Women in Digital Arena-An Analysis**
    *Nrutya Vinesh* 158
14. **Access to Justice Vis a vis Forest Rights in India**
    *Krushna Badade* 159
15. **Human Rights and Access to Justice**
    *Penchula Prabhaker Rao* 167
16. **A Comparative Study on Access to Justice among South Asian Nations**
    *S. Kannan* 171



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REGISTRAR
THE ICFAI FOUNDATION FOR HIGHER EDUCATION
(Deemed-to-be-University Under Section 3 of the UGC ACT, 1956)

17. **Centuries of Atrocities and Road to Justice for Trans Community**
*Manali Chaurasia & Sahil Singh* 187

18. **Human Rights Violations and Corporate Social Responsibility in India: A Study**
*Vijay Pratap Singh* 203

19. **Indulging the Philosophy of Remission Enshrined under Religious Opus into the Criminal Justice System - An Attempt to Social Reformation**
*Sneha Maji* 215

20. **Misuse of Police Power and Violation of Human Rights (A Study on Criminal Justice System)**
*P Samay Kumar &Gautam Kumar* 226

21. **Role of Police in the Criminal Justice System: Human Rights Issue**
*Sehar Jamil, Taliaa Mahvish, Sehar Jamil & Taliaa Mahvish* 246

22. **How Police Atrocities Have Led to The Violation Of Human Rights in Recent Times Across The Country**
*Simran Nangia & Anoonya Das* 259

23. **Life Imprisonment without Remission: A Cruel Calculus to Human Rights in India**
*Apoorv Gupta & Pooja Gandhi* 277

24. **Victimology under the Criminal Justice System: Expanding the Scope of Criminology**
*Prithivi Raj* 288

25. **Poverty - A Facet of Victimology**
*Diya Mehta, Chaitri Kashyap* 308

26. **Religious Rights and Reasonable Restrictions: A Critical Study**
*Nandini Tripathi* 328

27. **Social Protection of Children in India with reference to Human Rights**
*Navpreet Kaur* 347

28. **Role of Judiciary and Human Rights Commission in Protecting and Promoting Children's Rights in India: The Emerging Trends Issues and Challenges**
*Sapresh Devidas* 354

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# A Comparative study on Access to Justice among South Asian Nations

S.Kannan[394]

In the contemporary society, the justice system is playing prominent role in regulation and protection of all the aspects of the socio-economic and political life. Nevertheless, how far people are approaching the justice system is researchable. When we look into the World Justice Project survey for the year 2020, it reports that at large scale the legal needs of the population were unmet due to the complex nature of the system itself, financial incapability, poor fund of knowledge in accessing justice system and local travel distance to reach the courts. Further the survey report reveals that it was very worst among the minorities and marginalised groups, where they are less likely to approach justice system for their legal needs. As a result, the nations are in great deal in providing legal aid services to the people in order to access the justice system. With this background, the present paper analyses where the nations are lacking in facilitating the people to access the justice system in general and particular among the marginalised communities. Further the study confined to the South Asian Nations, particularly it analyses only three nations viz., India, Sri Lanka and Nepal on the basis of the performance in access to justice. The study collects information from various survey reports of the World Justice Forum, the access to justice reports of the respective nations to identify the best practices, programmes and drawbacks. Further, the study also provides solutions to improve the access to justice machinery in general and particular to India.

Key words: Justice, affordable, marginalised, South Asia, practices, Legal aid

## *Introduction*

In the contemporary society, the justice system is playing prominent role in regulation and protection of all the aspects of the socio-economic and political life. Nevertheless, how far people are approaching the justice system is researchable. It is not the issue of the particular nation/community/group, but it is an international issue. When we look into the World Justice Project survey for the year 2020, it reports that at large scale the legal needs of the population were unmet due to the complex nature of the system itself, financial incapability, poor fund of knowledge in accessing justice system and local travel distance to reach the courts. Further the survey report reveals that it was very worst among the minorities and marginalised groups, where they are less likely to approach justice system for their legal needs. As a result, the nations are in great deal in providing access to justice to the people in order to access the justice system. However, the concept of Access to Justice is

[394] Assistant Professor, ICFAI Law School, IFHE, Hyderabad.

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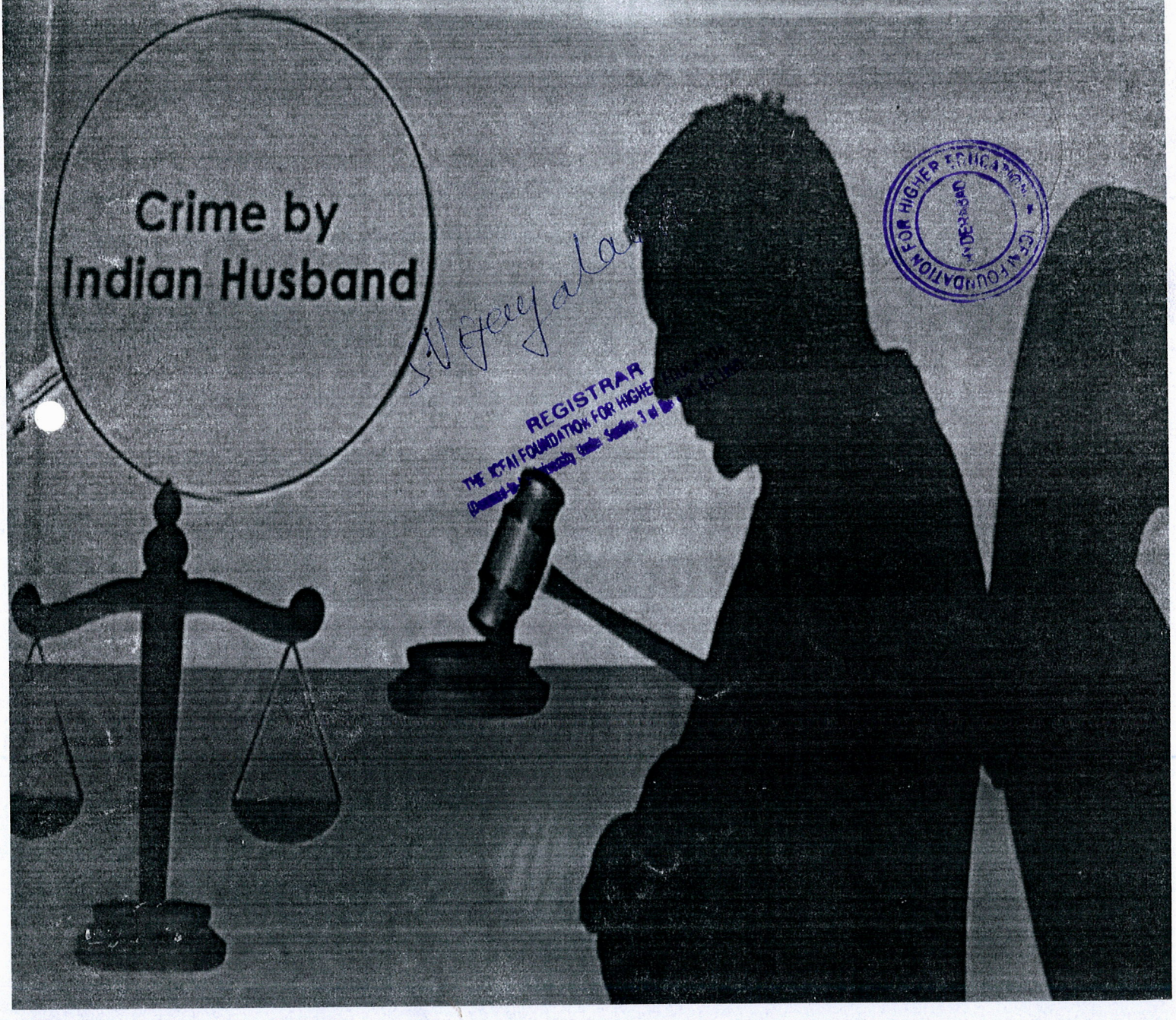
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# An Anthology on Triple Talaq in India

*Vijay Pratap Singh*
*Uday Pratap Singh*

**Foreward by: Moshin Raza**

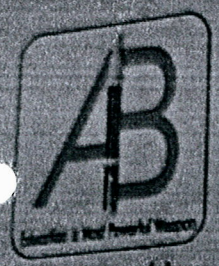
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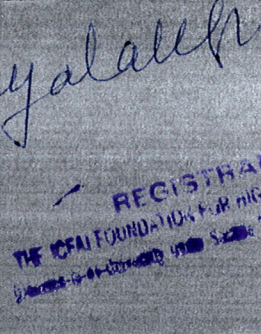
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# *An Anthology on Triple Talaq in India*

By : Mr. Vijay Pratap Singh
Dr. Uday Pratap Singh

# CONTENTS

*Acknowledgment*

1. **The Journey of Judicial Law Making from Anisa Khatoon to Shayara Bano** 1
   Prof. Furqan Ahmad
2. **The Evolution and End of Triple Talaq in India** 16
   Dr. Raju Majhi
3. **Double Disability on Triple Fall – A Quixotic Quirk in Personal Law** 48
   Dr. M. Madhuri Irene
4. **The Practice of Triple Talaq: Whether Safeguarded by the Constitution** 68
   Dr. Mamta Rana
5. **Triple Talaq and Muslim Women – Issues and Perspective in India** 79
   Dr. Vaishali Gupta
6. **Talaq Talaq Talaq, No Talaq** 126
   Dr. Richa Saxena
7. **Triple Talaq – Counter Perspective Personal Law** 134
   Mr. Vijay Pratap Singh
8. **Triple Talaq in India : A Constitutional Perspective** 143
   Rabindra Kr. Pathak
9. **Judicial Search on Instant Triple Talaq in India** 150
   Dr. Ajai Singh
10. **Triple Talaq — The Journey from Shah Bano to Shayara Bano** 161
    Dr. Sadhna Gupta

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# 3. Double Disability on Triple Fall – A Quixotic Quirk in Personal Law

Dr. M. Madhuri Irene*

## Introduction

Among all the religious of antiquity divorce was regarded as a matrimonial right in one or other form. Islam is the only religion in the world which has expressly recognized the termination of marriage by way of divorce.

Divorce among ancient Arabs was easy and frequent occurrence. Prophet Md. showed his dislike to it. "It was regard as the most hateful before almighty god of all permitted things.

The Prophet of Islam never thought that he was bringing a new religion, but that he was merely trying to reintroduce the old faith of the One God to the Arabs. It was basically a social reform movement brought about to teach the savage pagan Arabs the laws of humanity and to create a society where weak and vulnerable is treated with respect. The Prophet of Islam was indeed a social reformer, thinking

* Associate Professor, ICFAI Law School, ICFAI Foundation of Higher Education, Donthanapalli, Hyderabad.

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68

# Proceedings of the International Conference on

# "Human Rights and Access to Justice"

## 26th and 27th March, 2021

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**Human Rights and Access to Justice**

**Editor:**

**Astha Srivastava**

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17. **Centuries of Atrocities and Road to Justice for Trans Community**
*Manali Chaurasia & Sahil Singh* 187

18. **Human Rights Violations and Corporate Social Responsibility in India: A Study**
*Vijay Pratap Singh* 203

19. **Indulging the Philosophy of Remission Enshrined under Religious Opus into the Criminal Justice System - An Attempt to Social Reformation**
*Sneha Maji* 215

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*P Samay Kumar &Gautam Kumar* 226

21. **Role of Police in the Criminal Justice System: Human Rights Issue**
*Sehar Jamil, Taliaa Mahvish, Sehar Jamil & Taliaa Mahvish* 246

22. **How Police Atrocities Have Led to The Violation Of Human Rights in Recent Times Across The Country**
*Simran Nangia & Anoonya Das* 259

23. **Life Imprisonment without Remission: A Cruel Calculus to Human Rights in India**
*Apoorv Gupta & Pooja Gandhi* 277

24. **Victimology under the Criminal Justice System: Expanding the Scope of Criminology**
*Prithivi Raj* 288

25. **Poverty - A Facet of Victimology**
*Diya Mehta, Chaitri Kashyap* 308

26. **Religious Rights and Reasonable Restrictions: A Critical Study**
*Nandini Tripathi* 328

27. **Social Protection of Children in India with reference to Human Rights**
*Navpreet Kaur* 347

28. **Role of Judiciary and Human Rights Commission in Protecting and Promoting Children's Rights in India: The Emerging Trends Issues and Challenges**
*Sapresh Devidas* 354

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72

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Table of Contents
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## Table of Contents


Introduction, *Irene Calboli and Maria Lilla Montagnani*

**Part I: Intersections Between Intellectual Property Law and Other Areas of Law**

1. Intellectual Property and International Law: A Research Framework, *Hanying Grosse Ruse-Khan*
2. A Conflicts of Law Approach to Intellectual Property Research, *Graeme W. Austin*
3. Comparative Legal Analysis and Intellectual Property Law: A Guide for Research, *Irene Calboli*
4. Contract Law and Intellectual Property Transactions: Research Perspectives, *Jacques de Werra*
5. Intellectual Property Law and Extra-Contractual Liability, *Giancarlo Frosio*
6. Property Law and the Intellectual Property Agenda, *Michael Grynberg*
7. The Relationship Between Intellectual Property and Administrative Law, *Laurent Manderieux*
8. The Intersection Between Intellectual Property and Antitrust Law, *Maddalena Maggiolino and Luca Zoboli*
9. Intellectual Property Law and (Data) Privacy, *Megan Richardson*
10. The Interface Between Intellectual Property and Information Technology Law, *Maria Lilla Montagnani*
11. A Research Framework for Intellectual Property and Environmental Law, *Joshua D. Sarnoff*
12. Intellectual Property, Human Rights and Methodological Reflections, *Peter K. Yu*
13. The Relevance of Criminal Law in Intellectual Property Law Research, *Ajay K. Sharma and Dipa Dube*
14. Intersections Between Intellectual Property and Dispute Resolution, *Athul Mansoor*

**Part II: Intersections Between Intellectual Property Law and the Humanities**

15. Intellectual Property Law and Geography, *Maide ta Trimole*
16. A Post-colonial Framework for Researching Intellectual Property History, *Michael Blakeney*
17. Intellectual Property and the Question of the Archive, *Jose Bellido*
18. Interpreting Historical Philosophical Sources of Intellectual Property, *Maochao Bocchi*
19. Philosophical Approaches to Intellectual Property Law Scholarship, *Jeremy N. Sheff*
20. Intellectual Property and Archaeology: Research Concerns and Considerations, *George Nicholas and Catherine Bell*
21. Intellectual Property and Cultural Heritage: Towards Interdisciplinarity, *Emma MacMillan*
22. Directions in Intellectual Property Law Research: A Linguistic Contribution, *Abhi Datar and Jennifer Davis*
23. Law and Literature in Intellectual Property Methodologies, *Zahr K. Said*
24. Intellectual Property and Semiotics: The Signs of the Times, *David Tan*
25. A Primer on Intellectual Property and Popular Culture Research, *Aparna Banerjee*

**Part III: Intersections Between Intellectual Property Law and (Social) Science**

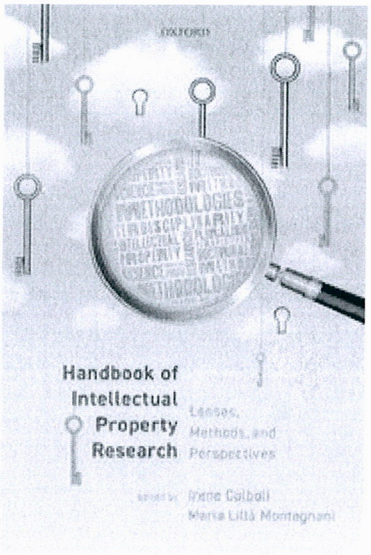
26. Consequentialist Thinking and Economic Analysis in Intellectual Property, *Shubha Ghosh*
27. Innovation Economics: Approach to Intellectual Property Law Scholarship, *Bruno van Pottelsberghe de la Potterie*
28. Multidisciplinary Legal Research: Science and Technology and Intellectual Property, *Gwenaelle Van Overwalle and Lena Kestemont*
29. Intellectual Property, Information Science and Quantitative Legal Analysis, *Daniel Seng*
30. A Content Analytic Approach to Intellectual Property Research, *Sharon Bar-Ziv*
31. Computational Legal Methods: Text and Data Mining in Intellectual Property Research, *Thomas Margoni*
32. A Network Analysis Approach to Intellectual Property Research, *Rob Bekkers and Arianna Martinelli*
33. Survival Analysis in Intellectual Property Research, *Alan C. Marco and Saurabh Vishnubhakat*
34. Intellectual Property Law and Sociological Studies, *William T. Gallagher and Debora J. Halbert*
35. The Psychology of Intellectual Property, *Gregory N. Mandel*
36. Intellectual Property and Behavioral Studies: Methodological Perspectives, *Eliande Perez and Eco Holtzman*
37. Intellectual Property and Ethnography: A Qualitative Research Approach, *Jessica Silbey*
38. Methods for Intellectual Property Valuation, *Dilip Sharma and Abhijeet Kumar*

**Part IV: Intersections Between Intellectual Property Law and Pluralism**

39. The Interface Between Intellectual Property and Sustainable Development, *Ahmed Abdel-Latif and Pedro Roffe*
40. A 'Human Development' Approach to Intellectual Property Law, *J. Janewa Osei-Tutu*
41. Intellectual Property Rights and Well-Being: A Methodological Approach, *Eva Taylor and Estelle Derclaye*
42. Researching Social Justice Aspects of Intellectual Property, *Lionel Bently and Steven Lalor*
43. A Prolegomenon to Future Research on Intellectual Property and the Old Arts, *Peter Jaszi*
44. Intellectual Property and Openness: A Research Perspective and Agenda, *Caroline B. Ncube*
45. Intellectual Property and 'Open' Innovation: A Synthesis of Concepts, *Jeremy de Beer*
46. Intellectual Property Research and Critical Studies, *Margaret Chon*
47. Feminist Methodologies and Intellectual Property, *Ana Ramos*
48. Critical Race Theory as Intellectual Property Methodology, *Angela Vats and Daniel Keller*
49. A Research Framework on Intellectual Property and Morality, *Christine Haight Farley*
50. Exploring Intellectual Property Through the Lens of Religious Thought, *Margo Bagley*
51. Research Perspectives on Intellectual Property Law and Spirituality, *Alexandra Roberts and Aya Pafar*
52. Divergent Methodological Approaches to Intellectual Property Law in Mixed Jurisdictions, *Ida Madieha Abdul Ghani Azmi*



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# 38

# Methods for Intellectual Property Valuation

*Dilip Sharma and Abhijeet Kumar*

## I. Introduction

With the rapid shift in the last couple of decades from an industry-based tangible market to an information-based intangible market, companies have realized the importance and necessity of amending their strategy of asset management, with a specific focus on intellectual properties. The widely reported data from the United States (US) in 2016, suggested that intellectual property (IP) intensive industries were responsible for around 38.2 per cent of the national GDP of the year 2014, which was an increase from 34.8 per cent in 2010;[1] data published in 2019 by the United Kingdom (UK) suggests that in the last decade, the annual growth for all non-financial assets[2] have been at a rate of 4.8 per cent, and amongst that the growth rate of intellectual property (IP) products has been at 4.4 per cent;[3] and the report of European Union (EU) published in 2019 suggests that 45 per cent of the GDP of the EU is attributable to IPR-intensive industries, which have also provided for 38.9 per cent of employment, either directly or indirectly.[4] The data coming from all other regions of the globe also suggests similar findings, wherein it is reported that the reliance of business on the intangible IP is increasing with the changing dynamics of the economy.

The beginning of this shift is attributable to the expanding scope of the term 'asset' with the passage of time, which changed from primarily tangible to primarily intangible in the course of the last thirty to forty years.[5] The benefits

[1] Joint Report by ESA and USPTO, *Intellectual Property and the US Economy: Industries in Focus*, Commerce Department (26 September 2016).

[2] Non-financial assets include dwellings, building and structures, machinery equipment and weapon systems, cultivated biological resources, IP products, inventories, land and contracts, leases and licenses. *See generally UK National Balance Sheet Estimates*, Office for National Statistics (2019), https://www.ons.gov.uk/economy/nationalaccounts/uksectoraccounts/bulletins/nationalbalancesheet/2019 (last visited 22 April 2020).

[3] *Id.*

[4] *IPR-Intensive Industries and Economic Performance in the European Union*, European Union Intellectual Property Office (September 2019), https://www.[illegible]/IPR_intensive_Report_2019.pdf (last visited 22 April 2020).

[5] *See generally* John P. Ogier, *Intellectual Property, Finance and Economic Development*, WIPO Magazine (February 2016), https://www.wipo.int/wipo_magazine/en/2016/01/article_0002.html (last visited 22 April 2020). 'Up to the 1980s, tangible assets accounted for 80 per cent of company value; the rest was made up by intangibles, including IP. Thirty years later, the reverse is true with 80 per cent of company value made up of intangibles.'

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Dilip Sharma and Abhijeet Kumar, *Methods for Intellectual Property Valuation* In: *Handbook on Intellectual Property Research*. Edited by: Irene Calboli, Maria Lilla Montagnani, Oxford University Press. © Dilip Sharma and Abhijeet Kumar 2021. DOI: 10.1093/oso/9780198826743.003.0039

## About the Book

The subjects of Law and Economics converge when the broad principles laid down by jurisprudential theorists are applied to the day to day decisions taken by the common man. Any significant new development in any one of these subjects impacts the daily life of citizens and consumers.

New Corporate and Government policies are drafted and new institutions are set up to handle contemporary disputes. Law and Economics, therefore, is an area which is very dynamic in nature, and to keep up with the new tides, a person must be up to date about any new changes in the subject and the potential impact it can have on one's life.

At present, the world is facing pandemic and it has already affected the economy of our country due to the different phases of lockdown in the entire country. Since every coin has two sides, to fight with the problem of Covid crisis, the lockdown is necessary and so does the protection of our economy. Whenever there is a need for protection, the laws always come forward. In the present scenario, it is the duty of the policymakers to frame some policies to protect the economy of the country and to save the entire country from huge economic loss. The present book is a compilation of articles that explore the interplay between law and economics in view of the recent developments that have influenced the lives of people around the globe. There is a need to critically analyse these developments. The present book aims at achieving the same.

## About the Editor

Dr. Shweta Mohan is an Assistant Professor (Economics) in National University of Study and Research in Law, Ranchi since 2010. She has served as Acting Vice Chancellor of National University of Study and Research in Law, Ranchi from September, 2013 to February, 2014. She did her MA in Economics from Darbhangha House, Patna University. She has extensively researched on Law and Economics. She has completed her Doctoral Research from Chanakya National Law University, Patna. She has taught various courses at UG and PG level such as Microeconomics, Macroeconomics, Indian Economics, International Trade Economics, Public Policy, Research Methodology and Social and Legal Theories. She has authored a book titled *Legal Regulation of Agricultural Procurement and Processing in India (Satyam International)*. She has published papers and book chapters on varied aspects of law and economics. She has also completed project on Land Governance Assessment Framework (LGAF) sponsored by World Bank. She has various academic publications in national as well as international journals. She has contributed as an Executive Editor of *NUSRL Journal of Law and Policy.*

Shweta Mohan

Recent Trends in Law and Economics

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Shweta Mohan

# CONTENTS

*Foreword* ..... v

*Acknowledgement* ..... viii

*Preface* ..... ix

*List of Abbreviations* ..... xi

## ECONOMIC SLOWDOWN

1. **The crisis in the banking sector: countering the NPA quagmire**

   *Devvrat Singh* ..... 1

2. **Devastation of falling economy as a consequence of covid – 19 and its Revival**

   *Manu Kumar and Nandini Jaswal* ..... 19

3. **Economy and GST**

   *Mudit Saxena & Akanksha Jain* ..... 41

4. **A Study on the Automobile Sector Slowdown in India in FY 2019-2020**

   *Naman Mital Shah* ..... 57

5. **India's economy and the non-performing assets conundrum: a perusal of the aviation and hospitality sector**

   *Pranay Bhattacharya and Nikita Mohapatra* ..... 81

## IMPACT ON THE ECONOMY AFTER LOCKDOWN

6. **The Impact of COVID-19 on the Economy, Contractual relations and Competition in India**

   *Kanika Jain & Rishabh Gupta* .....

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6. **The Impact of COVID-19 on the Economy, Contractual relations and Competition in India**

*Kanika Jain & Rishabh Gupta* ..... 99

16/329



7. **Identifying economic and policy downsides of india's protectionist foreign investment policy**

*Mudit Nigam & Saumya Agarwal* ..... 121

8. **Women Employment in the 'Make in India' Program to Rebuild the Economy after the COVID-19 PandemIC**

*Sarang Sanil & Varshini Kartikesh* ..... 141

9. **Economic Slowdown And Covid-19 Pandemic: How To Tackle Tough Time Ahead?**

*Shivang Tandon* ..... 165

10. **Diametric analysis on economic factor of covidien circle**

*Shloka Verma & Harsh dave* ..... 191

## DEVELOPMENT REVISITED

11. **Taxation and its Implications on Start-ups in India- A Critical Legal Analysis**

*Pavitra R.* ..... 201

12. **Special Economic Zones And Law In India**

*Pratik raj* ..... 219

## TOWARDS A NEW WORLD

13. **Economic Analysis of Possible Legal Regulation of Virtual Currencies**

*Astha Srivastava* ..... 237

14. **Is Legal Imposition a Hurdle to Technological Advancement? : Study of Technological Progression through Legal and Economical Laws**

*Ishita Shailesh & Shunham Gupta* ..... 255

15. **Artificial Intelligence in Law and Economics**

*Shloka Dikshit* ..... 277

16. **Blockchain Technology and Competition law**

*Vishal Singh Pathania* ..... 293

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13.

# Economic Analysis of Possible Legal Regulation of Virtual Currencies

*Astha Srivastava**

## I. Introduction

Cryptocurrencies are novel digital assets that have shot into prominence in the recent past. They provide a system for a peer-to-peer transfer of value. Along with the euphoria surrounding this path-breaking technological achievement, there is also a sense of urgency to set up a legal superstructure that can effectively regulate the smooth functioning of the cryptocurrency ecosystem. This urgency stems from the fact that cryptocurrencies have been used for various illegal activities like money laundering and fraudulent investment schemes.

India is at a critical stage on its journey with cryptocurrency. It had made its first regulatory move by ring-fencing of regulated entities, thereby effectively isolating the formal financial and monetary system from the cryptocurrency market (RBI 2018). However, this circular of the Reserve Bank of India has recently been struck down as disproportionate by the Supreme Court of India. It may also be noted that the Central Government has proposed a draft bill banning all cryptocurrencies and related transactions.

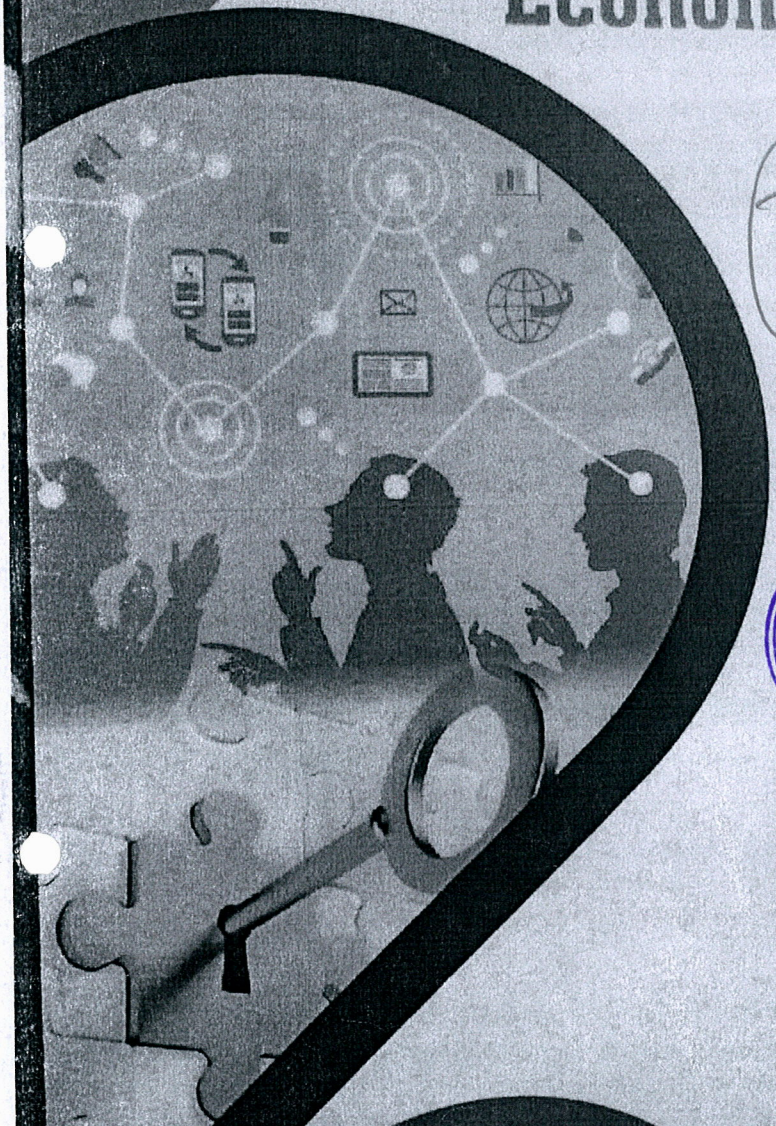
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| | | |
|---|---|---|
| 40 | Stakeholder Evaluation<br>**R. Baskaran & Dr. S. Pardhasaradhi** | 48 |
| 41. | Talent Management: A Case Study of TCS<br>**Vaishali Singh** | 50 |
| 42. | Health Care Management<br>**Ayesha Neha** | 51 |
| | **OPERATIONS & IT** | |
| 43. | Heart Disease Prediction using Machine Learning<br>**G. Bhagath & P. Shiva Sagar** | 53 |
| 44. | Impact of Artificial Intelligence on Employee Training: A Narrative Literature Review<br>**C Rami Reddy** | 54 |
| 45. | Digital Learning – The Metamorphosis in Education<br>**Dr. K. Hariharan & Dr. Ashish Kumar Biswas** | 55 |
| 46. | Impact of KCR Kit on Maternal System in Government Hospitals in Telangana<br>**M Shiva Kumar** | 56 |
| 47. | E-Waste Management by Recycling<br>**N. Malini & T. Nitisha** | 57 |
| 48. | A Study on Strategies for Marketing of Nagarjuna Fertilizers to The Rural Customer in Telangana<br>**Dr. T. Sudhakar Reddy** | 58 |
| 49. | E-Waste Management<br>**Swathi Tanwar & H. Srivani Reddy** | 59 |
| 50. | Calculate the Optimal Strategies, through an Application of Linear Programming in Game Theory<br>**M. Varalakshmi** | 61 |
| 51. | Using Technology Acceptance Model (TAM) for Analyzing the Impact to Time Saving Factor on Users of Fastag<br>**Dr. Venkateshwarlu. V** | 62 |
| 52. | Detecting Objects Based on Sensor Detection<br>**Devender Tuppada** | 63 |


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# DIGITAL LEARNING – THE METAMORPHOSIS IN EDUCATION

**Dr. K. Hariharan**

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**Abstract**

New opportunities and challenges are the by-products of innovations. Every business sphere goes through a transformation at its own pace. Education, one of the differentiators of the human race, has been through evolutions. With technology playing a crucial role in our day to day lives, it is natural to collaborate with education to take a new avatar.

In a multi-tasking and race against the clock environment, Digital Education is time to ramp up the tech infrastructure to meet higher education requirements. Of course, throws challenges to the education administrators and the teachers to manage this change – adapting to the new platform, need for new infostructure (digital infrastructure), intellectual capital, managing the students' growing impatience, books to case studies approach, and in a nutshell, transforming the student into a personality.

Digital Learning is also an equitant task for the students to cope with undivided attention, communication, and raising the learning bar.

This chapter will dive deep into the digital learning experience, up-skilling of teachers, and the new avenues to make the students future-ready.

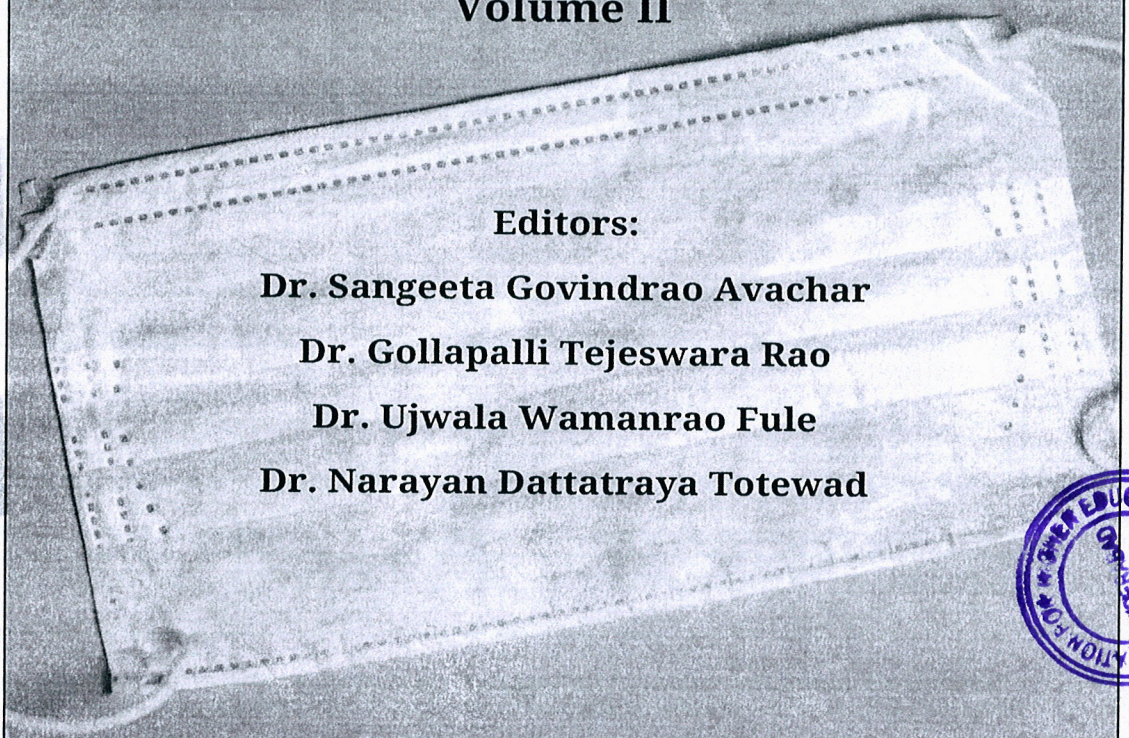
***Keywords:*** *Digital Education, Intellectual Capital, Virtual Learning, Online platform*

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**Dr. Gollapalli Tejeswara Rao**

**Dr. Ujwala Wamanrao Fule**

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# Index


| SR. NO. | CHAPTER AND AUTHOR(S) | PAGE NO. |
|---|---|---|
| 1 | **IDENTIFICATION OF FACE MASK USING DEEP LEARNING BASED CONVOLUTIONAL NEURAL NETWORK MODEL**<br>B. GOPINATH, T. B. NITHISSH,<br>T. PARTHIBAN AND P. S. PRAVEEN KUMAR | 1 – 8 |
| 2 | **REVISITING HEALTH CARE SYSTEM IN THE COUNTRY AND MEANS TO IMPROVE IT: INDIAN HEALTHCARE SYSTEM IN THE DARKNESS OF COVID-19 PANDEMIC**<br>ROHIT BATRA, PANKAJ SHARMA AND VINAY JAIN | 9 – 22 |
| 3 | **ORGANIZATIONAL PERFORMANCE AND GLOBAL PANDEMIC: REWRITING THE FUTURE HR PRACTICES**<br>BHUPINDER PREET BEDI AND SUNAYNA KHURANA | 23 – 27 |
| 4 | **THE EFFECT OF COVID-19 PANDEMIC ON SOCIETY**<br>AUGUSTIN TERANG AND APRILLY TIMUNGPI | 28 – 36 |
| 5 | **COVID- 19 AND CHANGING DYNAMICS OF INDIAN LIVELIHOOD**<br>NEHA SHARMA | 37 – 46 |
| 6 | **A REVIEW ON: INDIAN SOCIETY AND COVID-19**<br>PRAJAKTA JEJURKAR, S. D. MANKAR<br>AND HARSHADA JADHAV | 47 – 52 |
| 7 | **CORONA VIRUS: A DETAIL STUDY ON COVID -19**<br>SARIKA DEVI, ARPIT RAJ AND PRAVEEN KUMAR | 53 – 70 |



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# TRANSCENDING DEPRESSION AND ANXIETY SPIRITUALLY: SELF-EFFACING AND PRAGMATIC PROCESS DURING THE COVID-19 PANDEMIC

**S. Kannan**

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**Abstract:**

Most of the people in this post-modern societywere overtired, anxiety ridden and constantly depressed in general and during this COVID-19 Pandemic. These mental disorders hunting the human society for the longer period of time, in spite of many helpful treatments and solutions to the problem, still the people find it difficult to overcome the problem and further it is added fuel due to COVID-19 pandemic. It'spersistence at the longer run leads to some other consequences like it may affect his family, performance in education or workplace, etc., In this context, the present paper looks into the nature of the depression and anxiety faced by the individuals in the contemporary world and the treatment/solutions available to the effective means of reducing the depression and anxiety. The treatment/solutions are available in the form of diagnosis /treatment (Material solutions) as well as yoga/meditation (Spiritual solutions). The treatment process from both the perspective (Material as well as Spiritual) gives certain relief to the depressed, however unable to overcome the problem permanently. The chapter discuss the available solutions in details from both the perspective, but the special emphasis given to the spiritual practices especially Bhakti-yoga process by considering it as simple, easiest process, low cost, time and better results.

**Keywords:** Depression, Anxiety, COVID-19, Diagnosis, Treatment, Bhakti-yoga.

## Introduction:

In the Mental Health Atlas 2017, published by the World Health Organisation (WHO) estimated that 792 million[1]people suffer from one or the other form of mental disorder and its associated disease burden. Further, WHO reported that mental disorders such as depression, anxiety and substance use disorders, impose an enormous global disease burden that leads to premature mortality and affects functioning and quality of life.In continuation with this, COVID-

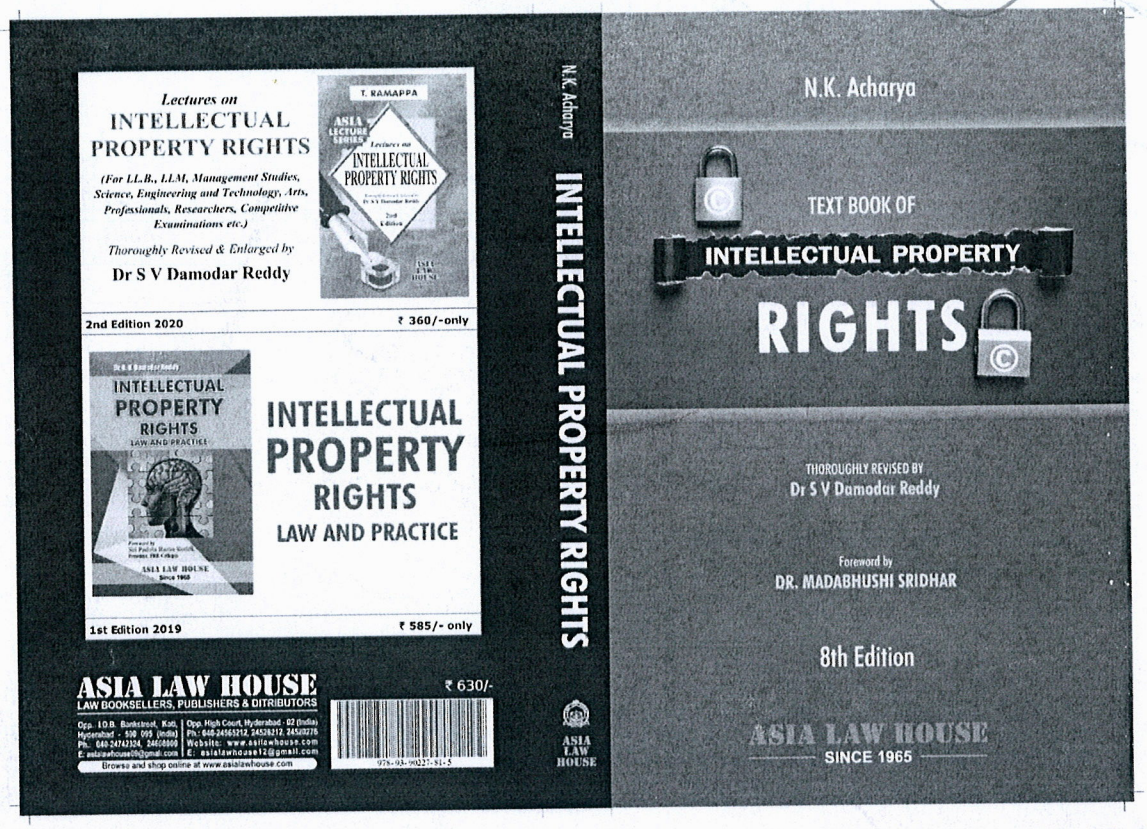
[1]Mental Health Atlas 2017, published by World Health Organisation in 2018 accessed from https://apps.who.int/iris/bitstream/handle/10665/272735/9789241514019-eng.pdf?ua=1



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**Dr. Goparaju Purna Sudhakar**, Ph.D, PMP has 25 years of experience with 12 years in IT industry and 13 years in academia/research. He is currently working as Faculty Member at The ICFAI University, Hyderabad, India. He worked in USA, UK, Ireland, Finland and India. He has M.Tech. Executive MBA, PMP. He received Ph.D in Business Administration from Aligarh Muslim University, India. He authored or edited 20 books and published over 100 papers/articles/ case studies. He is on editorial board of a Brazilian and a Romanian Journal. He received "Bharat Ke Anmol Ratna" Award from TAF Foundation and won gold medal in Manager's Olympiad conducted by UNICOM in Bangalore. He received Best Teacher (Management) award from MTC Global. He was consultant to companies such as IBM, Siemens, Interwoven, Wipro, Citicorp, Nokia, Salomon Smith Barney, SIAC, DSET Corporation, and IONA Technologies. He can be reached at purna24@hotmail.com

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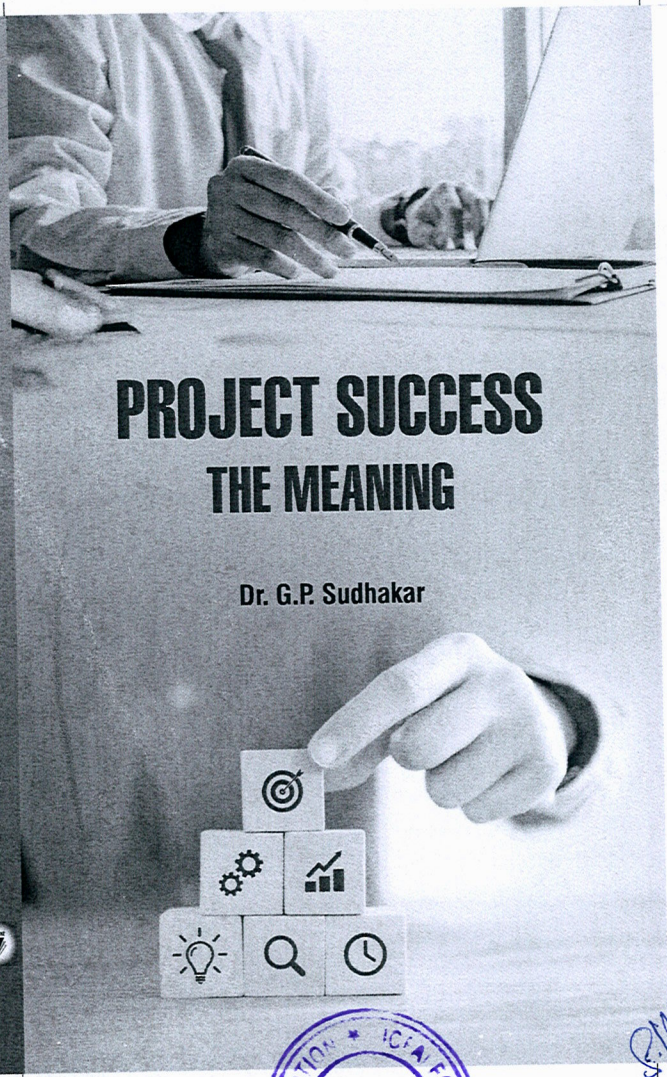
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Dr. G.P. Sudhakar

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This book based on secondary research/literature review provides different perspectives on meaning of Project Success. The book focuses on Project Success Factors, Project Success Criteria, Project Success Measures, and Project Success Outcome Analysis. The highlights of this book include:

- Project Success Framework comprising different dimensions of Project Success and Components of Project Success
- Presents 13 different categories of factors effecting project success
- Presents Different Conceptual models useful for future empirical studies such as Critical Success Criteria Model of Projects, Critical Success Factors Model of Projects, and Critical Success Measures Model of Projects.
- Identifies 139 Project Success Factors, 40 Different Project Success Criteria, and 71 Different Project Success Measures coming from 13 different categories of factors.
- Finds Top-10 Critical Success Criteria, Top-10 Critical Success Factors and Top-10 Critical Success Measures of Projects based on certain research methodology.
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# CONTENTS


| S.No. | Title | Pg.No. |
|---|---|---|
| 1. | Effectiveness of SMS Advertising in Bangladesh Focusing Hierarchy of Effects Model | 19 |
| 2. | Some Important Formulas of Educational Management | 53 |
| 3. | A Study on Customer Awareness With Respect to Generic Medicine in Hyderabad | 58 |
| 4. | What you look for in a Smart Phone | 75 |
| 5. | Digital Revolution in the Maritime Industry: Harnessing the Incongruous views of Technology | 90 |
| 6. | Investment Awareness Programmes through Social Media | 109 |
| 7. | Tax Implications Due to Covid-19 through the Lens of Fintech Startups' | 116 |
| 8. | Human Resources Information System on Banking Employees Performance: A Mathematical Approach | 132 |
| 9. | Influence of Happiness at Workplace on Employee Creative Performance Behaviour | 148 |
| 10. | A Study on Suitability of Universal Service Obligation Wi-Fi hotspots Scheme for reducing digital divide | 161 |
| 11. | Digital Transformation | 188 |
| 12. | A comparative stock price prediction based on ANN and ANFIS | 196 |
| 13. | Transformative Leadership and Organizational Change Management in Unpredictable Situations with Particular Reference to Covid-19 pandemic | 231 |
| 14. | Managing Customer Experience: A Game Changer in the Digital World | 246 |
| 15. | An Empirical Study on the Influence of Workplace Spirituality on Intention to quit of Information Technology Professionals In India | 257 |

# HUMAN RESOURCES INFORMATION SYSTEM ON BANKING EMPLOYEES PERFORMANCE: A MATHEMATICAL APPROACH

-Dr. Yaduvamsi Sai Krishna. C[a]

*ABSTRACT*

*HRIS at different levels have been an area of interest for researchers for several decades because of the expansion of the industries and innovative practices which enable an organization to retain and utilize the Human resource effectively. As the 21st century has seen a tremendous growth in the service sector especially the banking industry where the service providers were growing it is crucial for the organizations to retain and care for their employees and to improve their competitive advantages. Hence this study was undertaken in Andhra Pradesh major to identify the impact of HRIS factors (Employee Participation, Training & Development and Performance Appraisal) on employee performance. Samples were collected using questionnaire from 224 bank employees in order to test the hypothesis. Multiple Linear Regression analysis was done using SPSS to find out the impact of independent variables on employee performance. It was found that there was a significant relationship between HRIS factors and employee performance.*

*Key words: HRIS, Employee, Performance, Mathematical Approach, Linear Regression.*

## Introduction

Information Technology has upset the method of leading business everywhere on the world. It is applied in essentially every area of the world economy. It is utilized in medical care, horticulture, fabricating, administration

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# Proceedings of the Two Day International Conference on

# " New Age Businesses and Transformative Leadership: A Solution to Combat"

6th and 7th August, 2021

ICFAI Foundation for Higher Education
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Hyderabad

# New Age Businesses and Transformative Leadership: A Solution to Combat

Editors:

**Dr. A. Arun Kumar**
Assistant Professor, ICFAI Law School

**Mr. Rakesh Suryadevara**
Assistant Professor, ICFAI Law School

**Dr. Iti Vyas**
Assistant Professor, ICFAI Law School

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| 4. | What you look for in a Smart Phone | 75 |
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| 10. | A Study on Suitability of Universal Service Obligation Wi-Fi hotspots Scheme for reducing digital divide | 161 |
| 11. | Digital Transformation | 188 |
| 12. | A comparative stock price prediction based on ANN and ANFIS | 196 |
| 13. | Transformative Leadership and Organizational Change Management in Unpredictable Situations with Particular Reference to Covid-19 pandemic | 231 |
| 14. | Managing Customer Experience: A Game Changer in the Digital World | 246 |
| 15. | An Empirical Study on the Influence of Workplace Spirituality on Intention to quit of Information Technology Professionals In India | 257 |

# INVESTMENT AWARENESS PROGRAMMES THROUGH SOCIALMEDIA

-Dr. A. Arun kumar[31]
- Mr.Rakesh Suryadevera[32]

*ABSTRACT*

*Social media has become a part and parcel of human life. Every morning starts with good morning messages in mobile social media and the day ends with good night messages. Social media also allows the spread of awareness programmes like Go green campaign, Save animals, etc. With the growing awareness and usage of social media like Facebook, Whatsapp, etc., investment companies have started exploring a new and novel avenue for creating awareness about investment plans in social media. Investment programmes contribute to the significant growth of the Indian economy. They have created a positive impact on the market. To contribute to the growth of Indian economy, investment in proper assets is very much needed. Many people are not fully aware of the pros and cons of different investment programmes. This lands them up in investing at the wrong place and running in to losses. This also greatly affects the economy of India in a global perspective. To avoid such mishaps, the use of social media can create more awareness about investment plans. The current paper explains the importance of social media in creating awareness among people about various investment programmes. Though social media usage has been adopted, it is not being fully exploited for the benefit of the investment companies.*

**Keywords:** *Awareness, Social media, Investment, Analysis, Economy.*

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| 7. | Tax Implications Due to Covid-19 through the Lens of Fintech Startups' | 116 |
| 8. | Human Resources Information System on Banking Employees Performance: A Mathematical Approach | 132 |
| 9. | Influence of Happiness at Workplace on Employee Creative Performance Behaviour | 148 |
| 10. | A Study on Suitability of Universal Service Obligation Wi-Fi hotspots Scheme for reducing digital divide | 161 |
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| 12. | A comparative stock price prediction based on ANN and ANFIS | 196 |
| 13. | Transformative Leadership and Organizational Change Management in Unpredictable Situations with Particular Reference to Covid-19 pandemic | 231 |
| 14. | Managing Customer Experience: A Game Changer in the Digital World | 246 |
| 15. | An Empirical Study on the Influence of Workplace Spirituality on Intention to quit of Information Technology Professionals In India | 257 |

# WHAT YOU LOOK FOR IN ASMART PHONE

-Y. Adi[5]
-Dr. A. Arun K[6]

## ABSTRACT

*This paper investigates influencing factors and motives of [illegible] consumer's desires to purchase a smart phone. The increas[ing] trend in use of smart phone among the Indian people and [the] increase in their obsession about the smart phone in recent [time] amplified our interest to research on smart phones. For [this] common people from India were requested to participate in [the] study through online. A self administered questionnaire compris[ed] of 20 questions with five point Likert scale yielded data from [200] smart phone users from India as well as few from USA. [Multi] criteria decision making using TOPSIS method was applied. [The] major findings of the study revealed that all mobile phone users [do] have intention to buy apple phone in near future. This research [will] be helpful for the Indian and foreign smart phone companies [to] build their marketing strategies to influence the buying behavior [of] of mobile phone users to expand their reach in the worlds biggest smart phone market. These strategies include promotional campaigns, tie-ups with network carrier and improving the features of the smart phones in a customized way.*

**Keywords:** *Buying Preferences, Smart Phone, MCDM, TOPSIS.*

**JEL Classification:** *A1, B4, C8, O1, Z0*

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81

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**Intellectual Property Rights: Breaking Conventionalities and Future Prospects**

**Editor:**

10365

**Dr. S.V. Damodar Reddy**
**Prof. Mr. Dilip Sharma**

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# Contents


1. **Copyright Law and Issues of Digitization Process: Impact on Individual Rights**
   *Prithivi Raj* 1
2. **Online Digital Piracy in the Indian Film Industry: An Empirical Study under Indian Copyright and Technology Laws**
   *Gunjan Chawla Arora* 14
3. **Copyright Law in the Digital Environment**
   *Prachi Mishra & Akhilesh Dureja* 37
4. **Moral Rights and Copyright Liability in the Era of Artificial Intelligence**
   *Dr. Tanvi Sehgal* 52
5. **Copyright Piracy in India with Special Reference to Online Piracy of Music, Sound Recording and Films**
   *Gururaj D. Devarhubli* 68
6. **Intellectual Property Rights in Digital Era: Domain Name and Trademark Issues**
   *Shriya Varma* 95
7. **Adjudication of Trade Mark Disputes in India: Issues and Challenges**
   *Dr. V. Gopi Ranganath* 116
8. **Patent Linkage System: Enforcement of Patent through Drugs and Cosmetics Act**
   *Dr. Lucky George* 118
9. **Digital Health and Access to Healthcare: Identifying New Horizons under the Intellectual Property Law Regime**
   *Rituparna De & Parimita Dash* 155
10. **Locating Trade Secrets under Indian Laws undermines the Copyright Regime in India, and Ignores Principles of Confidentiality: Two arguments in favour of Sui Generis Protection of Trade Secret's**
    *Tania Sebastian* 167
11. **Pre-Institution Mediation is a Solution to talk terms of Intellectual Property Disputes.**
    *Benerji Meghavaram* 134
12. **Copyright in the Light of Artificial Intelligence**
    *Maturu Sai Venkatesh* 193
13. **The Challenges of Artificial Intelligence in the Field of Intellectual Property Rights**
    *Ayesha Agarwal* 215

# Protection of Traditional Knowledge in the hands of Geographical Indications: A possible Interplay or Mismatch?

*Ms. Adithi Nidhi*[619] *& Ayushi Goyal*[620]

*"It's time to listen to the stories of the Indigenous: we are blessed as a country to look to the wisdom of a really old country"*
*– Gord Downie*

*Abstract*

*Geographical Indications act as indicators that not only help producers and manufacturers differentiate their goods from others in the market but also significantly impact consumer behavior. It helps in enhancing the repute of the product in terms of procuring goodwill in the minds of the public. Although Geographical Indication is often co-related to Trademark protection, its interface with 'Traditional Knowledge' and 'Indigenous Heritage' is barely pondered upon. The protection of 'Natural Goods' under Geographical Indication is where Traditional Knowledge shows up. However, it is pertinent to note if there could be a possible interaction between both these forms of right since both of them are 'collective' in nature. The existing IPR regime has led to the theft of 'Traditional Knowledge' like in the case of 'Pashmina' and 'Basmati', which the article deals with in detail along with analyzing the intersecting point of Geographical Indications and Traditional Knowledge. The article inspects the WIPO's framework for the protection of Traditional Knowledge and if it possibly fits in the ambit of WTO's special provisions on the protection of handicrafts. The article also seeks to examine and argue widely if Geographical Indications can be a possible mechanism to protect Traditional Knowledge in so far as justifying its use for commercial purposes.*

***Keywords:*** *Natural Goods, Collective Rights, Pashmina, Sui Generis system, Indigenous Heritage*

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82

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Environment Law and Management: Public Health

Editor:

Aditi Nidhi

D V. Narsimha Murty

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# Contents


1. **Covid-19: A Pandemic to the Environment** 1
   *Anitha Thamizharasan*
2. **A Case for Improving the Biomedical Waste Treatment Infrastructure in Rural Hospitals** 16
   *Anupama Vernekar*
3. **Climate Change: Challenges to Sustainable Development in India** 24
   *Archana Kumari*
4. **The Saga of Health Standards amidst Covid-19 Pandemic** 31
   *Dr. Bimaldeep Singh & Amarjot Singh*
5. **Rights of the Dead during Covid-19, Effect on the Environment and Human Health** 35
   *Disha Pande*
6. **Man – A Threat to Biodiversity** 41
   *M. Geetha Priya Darsani*
7. **History of Indian Environmental Laws** 53
   *Hemandh Viswanath*
8. **India's Efforts on "Climate Change Mitigation" and "Sustainable Development"** 63
   *Er. K.B R. Joshi*
9. **Human Rights in Environmental Law** 81
   *Karan Kumar Choudhary*
10. **Electronic Waste an Emerging Threat to Mankind: International and National Legal Perspective** 90
    *Kavya Chandel*
11. **Climate Change – A Challenge to Sustainable Development** 104
    *Meghna Biswas*
12. **The Use of GIS and Remote Sensing Technology for Environmental Monitoring** 114
    *Gangu Mounika*
13. **Significance of Biomedical Waste Management in Public Health** 12(
    *Radhika Dwivedi & Dr. Lakshmi Raghupathy*
14. **Environment and Human Health: An Interrelationship in the 21st Century** 13.
    *Vandana Kumari*

15. Natural Hydrologic Cycle and Laws Governing Pollution and Distribution
*K. Venugopal* 143

16. Green Urbanisation is a New Norm for the Protection of Environment – A Developmental Approach
*Dr K. Sivananda Kumar* 151

17. Sustainable Development Goals and Business and Human Rights: Connecting the Dots
*Astha Srivastava* 158

18. Sustainability in E-Commerce: The Consumer's Perspective
*Parth Sharma* 167

19. An Overview of Indian Laws for Sustainable Solid Waste Management
*J. Krishna Charan & J. Lakshmi Charan* 174

20. The World Conferences on Climate Change, Sustainable development and Human Health: A Critical Analysis with Human Rights Perspective
*Gouranga Debnath* 186

21. Environmental Impact Assessment and Ex-post Facto Environmental Clearance: Whether Legalising the Illegal Sustainable under Environmental Jurisprudence?
*Hiranmayee Mishra* 197

# Sustainable Development Goals and Business and Human Rights: Connecting the Dots

Astha Srivastava*

*Abstract*

*Protection of Human rights is indispensable if the Sustainable Development Goals (SDGs) must be achieved. It is not possible to tread a sustainable development path in which human rights are not respected and protected. United Nations 2030 Agenda for Sustainable Development underscores that the purpose of the Sustainable Development Goals is to "realize the human rights of all". It is evident from the wordings of the goals that protection of human rights and sustainable development are two sides of the same coin.*

*The Working Group on Business and Human Rights has pointed out that human rights must be rooted in policies and practice as nations start translating the far-reaching SDGs into reality.*

*Cooperation between the private sector and governments has been envisaged in the 2030 Agenda for Sustainable Development, as part of efforts to overcome global development challenges. Still, if these efforts by businesses and private enterprises are pegged solely on accountability and respect for human rights, there is a risk that sustainable development will be undermined.*

*It needs to be examined precisely how the Business and Human Rights (BHR) discourse is determining the implementation of the SDGs. It also needs to be examined whether concerns regarding an abyss between sustainable development discourse and the BHR rights discourse are true. Have these discourses become completely disparate and what may be the impact of such a situation desires attention.*

*Keywords: Business and Human Rights, Sustainable development goals, responsibility,*

## Introduction

The UN Agenda 2030 has set a mechanism to measure development goals. It envisages business enterprises in the private sector as a key partner in achieving the Sustainable Development Goals (SDGs). Human rights are crucial in realising the SDGs in their entirety. In other words, a development plan with no consideration to human rights cannot under any circumstances be sustainable and would reduce the notion of sustainable development hollow and pointless. Including human rights considerations in business practices must therefore be the way forward for business enterprises to display their commitment as responsible partners in the achievement of the SDGs.

The beginning of the 21st century saw the debate on business and human rights (BHR) develop and completely change our notions about corporate responsibility and the extent of responsibility that corporations carry for their impact on human rights.

* Assistant Professor, ICFAI Law School, ICFAI Foundation for Higher Education, Hyderabad.

83

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*Anitha Thamizharasan* 1
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*Archana Kumari* 24
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*Dr. Bimaldeep Singh & Amarjot Singh* 31
5. Rights of the Dead during Covid-19, Effect on the Environment and Human Health
*Disha Pande* 35
6. Man – A Threat to Biodiversity
*M. Geetha Priya Darsani* 41
7. History of Indian Environmental Laws
*Hemandh Viswanath* 53
8. India's Efforts on "Climate Change Mitigation" and "Sustainable Development"
*Er. K.B R. Joshi* 63
9 Human Rights in Environmental Law
*Karan Kumar Choudhary* 81
10. Electronic Waste an Emerging Threat to Mankind: International and National Legal Perspective
*Kavya Chandel* 90
11. Climate Change – A Challenge to Sustainable Development
*Meghna Biswas* 104
12. The Use of GIS and Remote Sensing Technology for Environmental Monitoring
*Gangu Mounika* 11
13. Significance of Biomedical Waste Management in Public Health
*Radhika Dwivedi & Dr. Lakshmi Raghupathy* 12
14. Environment and Human Health: An Interrelationship in the 21st Century
*Vandana Kumari* 13

15. Natural Hydrologic Cycle and Laws Governing Pollution and Distribution
*K. Venugopal* 143
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*Astha Srivastava* 158
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*Parth Sharma* 167
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*J. Krishna Charan & J. Lakshmi Charan* 174
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*Gouranga Debnath* 186
21. Environmental Impact Assessment and Ex-post Facto Environmental Clearance: Whether Legalising the Illegal Sustainable under Environmental Jurisprudence?
*Hiranmayee Mishra* 197

29. A Critical Study of E-banking Fraud Calls, Its Impact on the Customers and the Indian Regulations 226
*Dr Sanjay Bang*

30. Impact of Cryptocurrency in India 227
*Mariya Joseph*

31. Legal Audit in Indian Banking 229
*Dr. A. Sreelatha*

32. Inclusive Banking towards New Capitalism – A Shortschrift in Relation to MSME 230
*Dr. Madhuri Irene*

33. Dispute Resolution in Mergers and Acquisitions of Banks in India 231
*Rupal Agrawal*

34. Role of Corporate Social Responsibility in Indian Banking Sector 232
*Dr. Arlin Rooshma & Dr. A. Sreelatha*

# Socio-legal and Financial Inclusion through Telangana Grameen Bank: An Empirical Analysis

Y Gangi Reddy & S.Kannan*

*Abstract*

*In the past, opening a bank account, participating in the decision making in the family and enjoying the rights was a dream for the women, now it become reality due to socio-legal and economic changes happening in the Indian Society. Even though the Global Gender Gap index, 2020 (the survey reports 112th rank for India out of 153 nations) portrays the lower position of women in India on certain parameters, nevertheless, the excluded segment of the population started showing progress on many aspects of socio-economic life. For example, substantial improvement took place among rural women due to the linkage of welfare programmes through bank account, significant proportion of rural women empowered socially by breaking the barriers under which they are confined to home, legally by fighting for their rights and financially by increasing their access to the institutionalised financial services, but how far they are realised or benefitted is researchable. With this background, the present paper attempted an empirical exercise in analysing the socio-legal and financial inclusion among rural women through Telangana Grameen Bank situated in Mokila village, Sankarpally Mandal in Rangareddy District, Telangana. The study analyses the rural women's access to institutionalised financial services, awareness level of their rights related to banking and the ways they are overcoming the social barriers to improve their socio-economic condition. Due to time constraints and COVID-19 situation, the primary information was collected by using semi structured interview schedule from 10 women bank account holders from different segments in the study area by using a purposive sampling method. The collected information is analysed and interpreted by using percentage analysis. At the end, the study suggests few remedial measures to bring socio-legal and financial inclusion among the rural women in the Indian society.*

*Key words: Banking, Welfare, Education, Inclusion, Women.*

## Introduction

Inclusion become common buzz word in the contemporary society especially on the social and economic platform in India. Many scholars undertaken research and out of it, many policies, programmes and schemes were introduced to bring inclusiveness among marginalized and deprived sections of the population in this regard. However the area of legal inclusion in India is under the preview of access to justice, not much explored by the academicians in India. Law by its very nature is an instrument of social order, and as such it is well positioned to respond to the societal yearning for development by mainstreaming opportunity, inclusion, and equity. Effective, strong, and functional legal and judicial institutions are essential quest to accelerate development around the country. The strategy need to be employed is to adhere to the rule of law while balancing rights to equality, freedom, and liberty. In

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Center for Excellence in Intellectual Property Rights

# IP Rights: Issues and Implications

Edited by

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**Mr. Dilip Sharma**

Assistant Professor, ICFAI Law School

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# Contents


| | | |
|---|---|---|
| 1 | From the Script's to Screen's Role of Intellectual Property Rights<br>*M Ashish Reddy & B Hemanth Reddy* | 1 |
| 2 | Analysis of Unfair Trade Practices and Challenges in India with Special Reference to Intellectual Property Right<br>*Dr. Pramita Gurung* | 26 |
| 3 | Intellectual Property Protection in E-Commerce: India<br>*R Aswathy & N Triveni* | 40 |
| 4 | Standard Essential Patents: Shift of Perspective From Patent Hold-Up to Patent Hold-Out<br>*C Srinidhi* | 60 |
| 5 | Analysis of Enforcement of Copyright Law on Instagram<br>*Ms. Pooja Jain & Ms. Richa Jain* | 76 |
| 6 | Critical Overview of Pharmaceutical Patenting in India<br>*Pariyal Gupta, K. Soumya Rupa & Ms. Anwesha Panigrahi* | 92 |
| 7 | Role of Competition Law in Intellectual Property Regime<br>*R Annie Sravya & Dr S V Damodar Reddy* | 115 |
| 8 | Intellectual Property Rights Concerns in Cyberspace<br>*Shriya Varma & Dr Vinay Sharma* | 127 |

98-A

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| | | |
|---|---|---|
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| 7 | Role of Competition Law in Intellectual Property Regime<br>*R Annie Sravya & Dr S V Damodar Reddy* | 115 |
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# FROM THE SCRIPT'S TO SCREEN'S ROLE OF INTELLECTUAL PROPERTY RIGHTS

*-M Ashish Reddy*[*]
*-B Hemanth Reddy*[*]

1

***Abstract***

26 *The Indian film industry is the greatest on the planet with in excess of 2000 motion pictures are created every year, with the expansion interest for the web arrangement and shows particularly in the OTT stages numerous films creators are moving towards web* 40 *shows instead of a Conventional film. Numerous motion pictures are been tested on the ground of Infringement of Intellectual property rights as there are comparative contents or comparable characters or verses and so forth, everything even the title is* 60 *replicated, for each story or a film which has a decent reaction from crowds in any piece of the world, There would be a comparative film or a tune made in the Indian film Industry, Now* 76 *because of the ascent in OTT stages increasingly more web shows and short movies are expanding, As they are not like films and need less time and cash to create, these web shows and short movies are bound to Infringe the Intellectual Property Rights.* 92 *Since, there is absence of successful execution numerous to proprietor copyrights are encroached. This paper examines the Copycat culture in film industry and how to destroy this copycat culture with the viable usage of IPR and discusses the laws* 115 *administer the motion pictures, what the licensed innovation rights accessible for film producers. This paper will examine about the encroachments of IPR in the motion pictures or web shows and brings up the distinction in right and liabilities of film makers in the* 127 *two motion pictures and web shows. As the advanced substance is truly expanding it is currently difficult to monitor of the transferred content and as the usage of laws are troublesome in the internet, the encroachment of IPR rights are truly expanding. This paper*

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88-B

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| | | |
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| 3 | Intellectual Property Protection in E-Commerce: India<br>*R Aswathy & N Triveni* | 40 |
| 4 | Standard Essential Patents: Shift of Perspective From Patent Hold-Up to Patent Hold-Out<br>*C Srinidhi* | 60 |
| 5 | Analysis of Enforcement of Copyright Law on Instagram<br>*Ms. Pooja Jain & Ms. Richa Jain* | 76 |
| 6 | Critical Overview of Pharmaceutical Patenting in India<br>*Pariyal Gupta, K. Soumya Rupa & Ms. Anuesha Panigrahi* | 92 |
| 7 | Role of Competition Law in Intellectual Property Regime<br>*R Annie Sravya & Dr S V Damodar Reddy* | 115 |
| 8 | Intellectual Property Rights Concerns in Cyberspace<br>*Shriya Varma & Dr Vinay Sharma* | 127 |

# INTELLECTUAL PROPERTY PROTECTION IN E-COMMERCE: INDIA

-R Aswathy[1]
-N Triveni[2]

***Abstract***

*The digital age has led the way in 'Electronic Commerce' or to put it in simple terms: 'e-commerce' as a viable and effective mode of trade. The emergence of e-commerce has revolutionized the retail industry, with competition fuelled by lower prices of goods sold online, lower costs of operating e-marketplaces and deep discounts offered by the platforms and/or associate sellers. E-commerce has seen tremendous growth and has become the backbone of contemporary economic development, whether it is a developing or developed country.*

*Along with the e-commerce, IP has also gained importance in e-commerce same as that of offline commercial market. IP and e-commerce are related and complimentary. E-commerce includes selling goods and services based on IP and its licensing, rather than other business structures. IP is necessary to protect e-commerce business by providing technological security systems and IP laws. By efficiently managing intellectual property assets including patents, copyrights and trademarks, the companies, creators and inventors generate returns on their investment in innovation and creativity.*

*Recently, Indian e-commerce platforms affected IP owners and also consumers. The instances such as selling of counterfeiting products, trademark infringement by unscrupulous sellers constitute a challenge for IP enforcement. IP is used globally in e-commerce but they are subject to laws of the country in which e-commerce operates. The courts around the globe are confronted*

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88C

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| | | |
|---|---|---|
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| 8 | Intellectual Property Rights Concerns in Cyberspace<br>*Shriya Varma & Dr Vinay Sharma* | 127 |

# ANALYSIS OF ENFORCEMENT OF COPYRIGHT LAW ON INSTAGRAM

*Ms. Pooja Jain & Ms. Richa Jain*[1]

**Abstract**

*The past decade witnessed effective growth of Social Networking Sites paving the way of chaos in the world of copyright law. The majority of the population today uses Instagram where one can find a variety of creative content. The users of this app are exposed to infringement threats, which discourage them to share their work. Instagram believes in sharing of contents while copyright law restricts such acts for the protection of the author's work; this creates further chaos. The users are also bound to Browse-Wrap contracts, which makes them further vulnerable to third-party action for copyright infringement.*

*This paper highlights such disparity in law and technology while focusing on copyright law and Instagram. It explores the biased terms of Instagram towards its users. It contextualizes copyright law related to photographs, provides a deeper understanding of the 'terms of use' of Instagram and highlights how this makes the users/authors vulnerable. It concludes by establishing the need for Instagram to review its terms and conditions and take steps to protect its users.*

**Keywords:** *Copyright, Instagram, Photograph, Intellectual Property*

## Introduction

Intellectual property rights (IPR) are the rights provided to people to protect the intellectual effort or creativity that comes from the intellect of the human mind.[2] World

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[2] *Dr. S. V. Damodar Reddy, Intellectual Property Rights Law and Practice, (1st Ed. 2019).*

86_D

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| 7 | Role of Competition Law in Intellectual Property Regime<br>*R Annie Sravya & Dr S V Damodar Reddy* | 115 |
| 8 | Intellectual Property Rights Concerns in Cyberspace<br>*Shriya Varma & Dr Vinay Sharma* | 127 |

# CRITICAL OVERVIEW OF PHARMACEUTICAL PATENTING IN INDIA

*Pariyal Gupta[1], K. SoumyaRupa,[2] & Anwesha Panigrahi[3]*

**Abstract**

*A patent is an exclusive right granted for an invention, a product, or a process that provides a new way of doing something, or offers a new technical solution to a problem.[4] Liberalization of the Indian economy and the signing of the TRIPS Agreement in 1995 led to a paradigm shift in the Indian patent legislation. As per the TRIPS Agreement, India was required to amend its patent laws to include provisions concerning pharmaceuticals, agro-chemicals, and process inventions. The Patent Act of 1970 regulates the application, grant, and revocation of patents. The Act also mentions the types of inventions that are eligible for patent protection. The Act incorporates an agreement in Section 3(d) that attempts to restrict the award of auxiliary drug licenses, i.e, licenses on new forms of existing molecules. It is also argued that Section 3(d) was seldom utilized in the years promptly following its authorization, raising worries that Section 3(d) was being under-utilized by the Indian Patent Office. The Indian pharmaceutical industry is thriving and has witnessed steady rising over the last few decades. Patents are perhaps the most crucial intellectual property available to pharmaceutical and medical device companies as the active pharmaceutical ingredient of a drug or a medical device is generally eligible for patent protection and therefore it becomes necessary to understand the patent framework in India. This research paper aims to comprehend the impact of TRIPS Agreement on pharmaceutical patenting in India,*

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[4] *Patents, www.wipo.int, https://www.wipo.int/patents/en/#:~:text=A%20patent%20is%20an%20exclusive.*

86-E

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# ROLE OF COMPETITION LAW IN INTELLECTUAL PROPERTY REGIME

-R Annie Sravya[1]

-Dr S V Damodar Reddy[2]

*Abstract*

*Intellectual Property Rights are the legal rights granted to the owner/ inventor for creation of products/services that assist the public in general. There are various Intellectual Property Rights that are recognized under the Indian Law such as Copy rights, Patents, Trademarks, Designs, Geographical Indication, Semi-Conductor and Integrated Circuits. The main objective behind enacting Intellectual property Rights legislations is to grant monopoly rights to the inventors. Under these legislations, a third party cannot make use of such rights without prior permission of the owner. Competition Law on other hand has been introduced in the Indian economy in the year 2002, to regulate the competition in the market. The main objective of the Competition Law is to prevent anti-competitive agreements, to prevent abuse of dominant position by the firms in the industry they are operating in and to regulate mergers and combinations in the economy. One of primary and implied objective of the Competition law is to prevent practices that hinder the competition in the market.*

*This paper focuses on how introduction of Competition Law affected the IPR regime in India. Aman Khan V. Director General[3] is of one of the famous cases of IPR in relation to Competition Law. This paper high lights the facts and the judgment of the case and also referred to various other cases, that helps the reader to easily understand how the Competition Law and IPR operates as two sides of the same coin. But, the drawbacks of the same cannot be*

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# Contents


1. Environmental Law, Policy & Economy

   *Amlan Panda & Sakshi Rout* 1

2. Vellore Citizens Welfare Forum V Union of India & Ors- A Comment

   *Arushi Verma* 19

3. Stubble Burning in India: A Challenge to the Anthropocene

   *Atmika Patnaik* 30

4. Dam Safety, Environmental Degradation and Rehabilitation: Insights into Sardar Sarovar Dam

   *Isha Choudhury* 41

5. Covid-19 and its Effect on Environment and Climate in India

   *Nandini Tripathy* 65

6. Evaluating Subhas Bhattacharjee V. The State Of Tripura- Is The State Permitted To Engage In Animal Sacrifice?

   *Shubhangi Khandelwal & Shubham Gupta* 82

7. Eco-Feminism, A Tool for Environmental Conservation

   *Vatsa Akanksha* 93

8. Environmental Democracy and Activism: Analyzing the Freedom of Speech and Expression and the Right to a Wholesome Environment

   *Vinisha Jain & Yash Dadhich* 102

# Social Vices, Law and Criminal Justice

Edited by

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Assistant Professors,

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ALT Publications, Hyderabad

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## Contents


1. "Agile But Not Fragile – Gender is Slender" - A Varied Vision of Third Sex — 1

*Dr. Madhuri Irene*

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*Dr. Md Akbar Khan*

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*Anwesha Panigrahi & Akankhya Panigrahi*

4. "Riding your way to safety: Analysing safety of women in Ola & Uber" — 52

*Ms. S. Prathyusha*

5. "Marital Rape in India: Rationality of the Exemption Clause in the Indian Penal Code 1860" — 61

*Manini Sidhu*

6. Trafficking of Children for Sexual Exploitation: An Analysis — 79

*Priyanka & Shubham Thakur*

7. Health Determinants in Prisons for Wellbeing — 97

*Dr. K.S. Rekh Raj Jain*

8. Understanding Fair Investigation: The Backbone of Criminal Justice System — 108

*Gyandeep Chaudhary*

91

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*Gyandeep Chaudhary*

# "Agile But Not Fragile – Gender is Slender" - A Varied Vision of Third Sex

*Dr. Madhuri Irene*[1]

*"A Girl is always compared to an Angel; A Boy is always compared to a bold character; Then Why not a Transgender is called as a Angelic Bold Person."*

*Thasleem Rayeesha.*

## Introduction:

Humanity is obsessed by body not heart – an obfuscation of nature and obduracy to appreciate the change in nature. Binary existence of human race contented with male and female probably must have been exhausted of the spirit of creation and found solace with the third partner association resulting in evolution of third gender or transgender. Little and fickle-minded people know this third evolution eminence near busy cross-roads, railway stations and bus-stands and public parks and markets haplessly stretching their hands for alms with dejected looks and shamed body curves. No they are not the exemplary marks of third gender excellence. Right from the age of 7 years to 70 years in many forms of our neighbors, friends, coworkers and business partners are found transgender persons with exquisite artistic skills, eminence of academic proficiency and exuberance of talented traits of life singing, dancing and blessing on festive and important occasions.

In fact, transgender reflects a broad spectrum of liberal physiques and liberated psyches that have been waging wars since centuries for their right to equality, status and dignity in life.

Yesterday it was perversion, today it is a version and tomorrow it will be an assertion and audacity. Nothing is abnormal, nothing is absurd, and nothing is absolute – nothing is weird, crazy, queer or

[1] Dr. Madhuri Irene, Associate Professor, ICFAI Law School, ICFAI Foundation for Higher Education

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## Contents


| | | |
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| 1. | "Agile But Not Fragile – Gender is Slender" - A Varied Vision of Third Sex<br>*Dr. Madhuri Irene* | 1 |
| 2. | Inherent Human Fallibility and The Irreversible Capital Punishment<br>*Dr. Md Akbar Khan* | 27 |
| 3. | Criminality of the State: Towards Recognising and Analysing Representation of State Crimes in India<br>*Anwesha Panigrahi & Akankhya Panigrahi* | 39 |
| 4. | "Riding your way to safety: Analysing safety of women in Ola & Uber"<br>*Ms. S. Prathyusha* | 52 |
| 5. | "Marital Rape in India: Rationality of the Exemption Clause in the Indian Penal Code 1860"<br>*Manini Sidhu* | 61 |
| 6. | Trafficking of Children for Sexual Exploitation: An Analysis<br>*Priyanka & Shubham Thakur* | 79 |
| 7. | Health Determinants in Prisons for Wellbeing<br>*Dr. K.S. Rekh Raj Jain* | 97 |
| 8. | Understanding Fair Investigation: The Backbone of Criminal Justice System<br>*Gyandeep Chaudhary* | 108 |

# Inherent Human Fallibility and the Irreversible Capital Punishment

*Dr. Md Akbar Khan*[*]

## Introduction

*"The old order changeth, yielding place to new, And God fulfils himself in many ways, lest one good custom should corrupt the world."(Alfred Lord Tennyson)*

In January 2013, the Trial Court of Honourable Justice 'Pawan Jain' acquitted 'Mohammad Hussain', a Pakistan National of all charges, after eight years of being on death row.[62]This case of 'Mohammad Hussain' or the Delhi Bus Blast Case of 1997 correctly depicts the reality of our Criminal Justice System. For a long time after the blast, the police made no headway towards solving the case and remained absolutely clueless. Suddenly, two months after the blast, the police received some 'secret information,' on the basis of which 'Mohammad Hussain' was eventually arrested. He was charged with criminal conspiracy, murder and under the Explosive Substances Act.[63]

'Mohammad Hussain' had allegedly confessed to his guilt and the Trial Court awarded the death penalty in 2004. While confirming the death sentence in 2006 the Delhi High Court held that:

> *"People like the appellant herein are definitely a menace to the society and do not deserve to exist on this earth. There is no mitigating circumstance in favour of the appellant for leaving him alive"*[64]

It is ironic that, seven years later it was held in the Sessions Court retrial ordered by the Supreme Court that:

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[*] Assistant Professor (Law) ICFAI Law School, IFHE, Hyderabad.
[62] *The State v. Mohd. Hussain & others* AIR 2012 SC 79.
[63] *The State v Mohd. Hussain* 140 2007 DLT 428.
[64] Ibid

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*Manini Sidhu*

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8. Understanding Fair Investigation: The Backbone of Criminal Justice System — 108

*Gyandeep Chaudhary*

# Criminality of the State: Towards Recognising and Analysing Representation of State Crimes in India

*Anwesha Panigrahi*[97] *& Akankhya Panigrahi*[98]

*"The harms of the powerful far outweighed the harms of the powerless"*[99]

## Introduction

Even though state crimes have been occurring since the emergence of the modern state, at the least, they have been less acknowledged. It is most often not uncontestedly recognised as 'crime' though it should be[100]. State crime has at most been accepted as non-criminal deviance, but there is reluctance to acknowledge it as crime. Not only do popular narratives fail to acknowledge the horrific impact of state crimes, it has been studied less in academic disciplines including criminology for a long time[101]. Criminal law has also centralised the individual as the perpetrator of most crimes. The state remains outside of the imagination of crime, rather exclusively as a protector from crime in many minds.

What is found most difficult to accept is, in fact, the truth that the state and state institutions are predominant in the commission of severe crimes[102]. While the essence of a democratic state is that the state and its institutions should be liable to follow the same laws as other citizens, the notion of criminality of the state has been unacceptable by many, and faced a lot of resistance[103]. State crime has

[97] Anwesha Panigrahi, Assistant Professor, ICFAI Law School, ICFAI Foundation for Higher Education

[98] Akankhya Panigrahi, MPhil Research Scholar, Department of Sociology, University of Hyderabad

[99] Green, P. & Ward, T. (2017). Understanding State Crime, in the *Oxford Handbook Of Criminology, 6th edition* Ed. by Liebling et al. p. 438-454

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[102] Ibid.

[103] Rothe, D. L. and Friedrichs, D. O. (2006). The State of the Criminology of Crimes of the State, *Social Justice, 33 (1)* (103), *Immigration Rights and National Insecurity,* 147-161.

94

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## Contents


| | | |
|---|---|---|
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| 8. | Understanding Fair Investigation: The Backbone of Criminal Justice System<br>*Gyandeep Chaudhary* | 108 |

# Riding Your Way to Safety: Analysing Safety of Women in Ola & Uber

*Ms. S. Prathyusha*[152]

## Introduction

Uber and Ola have become a common name in every household. The time when riding in a car used to be a luxury is long gone and now it is just a click on the Smartphone away. The advancement in technology and public friendly ways has definitely not been all in the betterment of humanity. These methods come with their own vices. We may like or hate them, but the fact is that they have come to stay. The ease of the cab ride also brings with it associated problems like rouge drivers and surge pricing. The biggest problem which now lies infront of us is the safety of women. Vetting of drivers, panic buttons on phones, customer feedback – they've tried it all. On March 2018, a 22-year-old Uber driver is arrested in Haryana for allegedly abducting and sexually harassing a woman after she boarded his cab.[153] An average of 30,000 women book app based cab services in India which leads to sharing of their personal details such as name, phone number, mail ID and location amongst the driver and various thirds parties.

On September 1st, 2015 it was reported by a user from Chennai named Swapnil Midha that Ola company had leaked personal details such as mobile numbers, locations of users via SMS and she even put forth that she had received more than 300 texts every time someone booked an Ola. Those texts contained the Name, address and mobile number of the person booking the Ola.[154]

[152] Ms. S. Prathyusha, Assistant Professor, ICFAI Law School, ICFAI Foundation for Higher Education

[153] https://qz.com/india/1298182/why-ola-and-ubers-measures-for-womens-safety-is-just-not-working/

[154] https://indianexpress.com/article/technology/social/ola-blames-manual-error-for-leaked-personal-user-data/

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| 7. | Health Determinants in Prisons for Wellbeing<br>*Dr. K.S. Rekh Raj Jain* | 97 |
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# Marital Rape in India: Rationality of the Exemption Clause in the Indian Penal Code 1860

*Manini Sidhu*[166]

The law of rape divides the world of women into spheres of consent according to how much say we are legally presumed to have over sexual access to us by various categories of men. Little girls may not consent; but wives must. Laws are made by humans and hence they are supposed to be influenced by collective preconceived notions of a society in a particular period of time. One of such notions is that as soon as a woman gets wedded to a man, she can't be raped by the same man in such a marital status i.e. it can't be called a rape. The age, as specified under section 375[167] of the Indian Penal Code, 1860 for giving a valid consent by a female is 18 years. Any unmarried female till the age of 18 and an unmarried, below the age of 15 is considered incapable of giving a valid consent according to the legal aspects of rape. But if a woman who is married and is more than 15 years of age then she cannot even think of withdrawing her consent to sexual conducts my husband, this is because she is presumed to have given her consent to the sexual conduct by husband. This means that the wedlock deprives woman from legal right of not consenting to the physical connections made by her husband. She is supposed to say yes to every sexual desire of her husband. Such a presumption of the law of rape the distinction to be true on the basis of probability has been given birth by the stubborn, common stereo-typed notions about female sexuality and rape which is supported by that system of patriarchal Indian society which is being controlled and governed by men.

To speak broadly, rape is a sexual intercourse by a man with a woman without her consent i.e. non-consensual. Vagina, anal or oral penetration by a body part or any object both shall be included in the definition of rape.

[166] Assistant Professor, ICFAI Law School, ICFAI Foundation for Higher Education
[167] Section 375, Indian Penal Code 1860 defines Rape.

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## Contents


1. "Agile But Not Fragile – Gender is Slender" - A Varied Vision of Third Sex — 1
*Dr. Madhuri Irene*

2. Inherent Human Fallibility and The Irreversible Capital Punishment — 27
*Dr. Md Akbar Khan*

3. Criminality of the State: Towards Recognising and Analysing Representation of State Crimes in India — 39
*Anwesha Panigrahi & Akankhya Panigrahi*

4. "Riding your way to safety: Analysing safety of women in Ola & Uber" — 52
*Ms. S. Prathyusha*

5. "Marital Rape in India: Rationality of the Exemption Clause in the Indian Penal Code 1860" — 61
*Manini Sidhu*

6. Trafficking of Children for Sexual Exploitation: An Analysis — 79
*Priyanka & Shubham Thakur*

7. Health Determinants in Prisons for Wellbeing — 97
*Dr. K.S. Rekh Raj Jain*

8. Understanding Fair Investigation: The Backbone of Criminal Justice System — 108
*Gyandeep Chaudhary*

# Trafficking of Children for Sexual exploitation: An Analysis

*Priyanka*[185] *&Shubham Thakur*[186]

## Introduction

"Child Trafficking" is defined by UNICEF[187] as "any person under the age of 18 who is recruited, transported, transferred, harboured, or received for the purpose of exploitation, whether within or outside a country." There have been numerous examples of children simply disappearing overnight, with one occurring every eight minutes[188].

India is also a source, destination, and transit country for several types of human trafficking, including commercial sexual exploitation. Considerable-scale trafficking occurs within the country, but a large number of people are also trafficked from Nepal and Bangladesh. However, youngsters make about 40% of prostitutes, and there is a growing demand for young females in the sector.

NGOs estimate that 12,000 to 50,000 women and underage children are smuggled into the country each year for the sex trade from neighboring states. From Bangladesh and Nepal, a large number of minor girls are trafficked. An estimated 1,000 to 1,500 Indian children are illegally smuggled out of the country each year to Saudi Arabia for the Hajj.

The most people are trafficked in Andhra Pradesh, Karnataka, West Bengal, and Tamil Nadu. In the intra-state/district area, minor girl trafficking is prevalent in Rajasthan, Assam, Meghalaya, Bihar, Uttar Pradesh, Andhra Pradesh, Karnataka, Tamil Nadu, and Maharashtra. The key states targeted are Delhi and Goa. Trafficking from the north-eastern states is common, yet it is frequently overlooked. According to fresh data released by the National Crime Records Bureau,

[185] Assistant Professor, ICFAI Law School, ICFAI Foundation for Higher Education
[186] Assistant Professor, Reva University, Bangalore
[187] United Nations Children's Fund, is a United Nations agency responsible for providing humanitarian and developmental aid to children worldwide.
[188] https://www.justice.gov/criminal-ceos/child-sex-trafficking

# Social Vices, Law and Criminal Justice

Edited by

**Dr. K S Rekh Raj Jain & Ms. Anwesha Panigrahi**

Assistant Professors,

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Social Vices, Law and Criminal Justice

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## Contents


| | | |
|---|---|---|
| 1. | "Agile But Not Fragile – Gender is Slender" - A Varied Vision of Third Sex<br>*Dr. Madhuri Irene* | 1 |
| 2. | Inherent Human Fallibility and The Irreversible Capital Punishment<br>*Dr. Md Akbar Khan* | 27 |
| 3. | Criminality of the State: Towards Recognising and Analysing Representation of State Crimes in India<br>*Anwesha Panigrahi & Akankhya Panigrahi* | 39 |
| 4. | "Riding your way to safety: Analysing safety of women in Ola & Uber"<br>*Ms. S. Prathyusha* | 52 |
| 5. | "Marital Rape in India: Rationality of the Exemption Clause in the Indian Penal Code 1860"<br>*Manini Sidhu* | 61 |
| 6. | Trafficking of Children for Sexual Exploitation: An Analysis<br>*Priyanka & Shubham Thakur* | 79 |
| 7. | Health Determinants in Prisons for Wellbeing<br>*Dr. K.S. Rekh Raj Jain* | 97 |
| 8. | Understanding Fair Investigation: The Backbone of Criminal Justice System<br>*Gyandeep Chaudhary* | 108 |

# Health Determinants in Prisons for Wellbeing

*Dr. K.S. Rekh Raj Jain*[231]

*Abstract:*

*Crime is a universal phenomenon which is retorted by punishmen tand sentenced to confinement to suffice the ends of justice. The prisoners term commences the day they enter the prison. Most of the inmates enter the prisons with chronic health problems and due to incarceration and the environment this population tends to suffer in greater numbers from infectious disease, mental health problems, and substance use and addiction.*

*As most of the prisons are medically ill-equipped and inadequate medical services elevate the concerns of prison health. Health of the prisoner is paramount as they would return to the community. Hence the entire prison environment and the stakeholders of the prison must promote healthcare and wellbeing.*

## Introduction

Crime is inevitable and a society without crime is impossible. Crime costs and effects not only effected individuals but also the society at large. The State is committed not only to grapple with crimes and criminals but ensuring that the criminals are brought to justice. The modern criminal justice opines punishment as a primary response to criminality. The penal practice of punishing the offender is incarceration. So, incarceration of criminals is a fundamental and apparently indispensable devise used to respond to crime in modern societies as the State being the prime victim of criminal acts and casting victims and prisoners in passive roles.[232]

Determination of culpability ultimately leads to sentencing. The prison term commences once the admission is complete. The tail-end of the criminal justice is prison. Prisons are deemed to be places of detention which depicts life behind the surrounded walls, adhering

[231]Assistant Professor, ICFAI Law School, Hyderabad IFHE University Hyderabad, India.

[232] Restorative Justice in Prisons: Methods, Approaches and Effectiveness, https://rm.coe int/16806f9905, Retrieved on 3rd September 2018.

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| | | |
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| 4. | "Riding your way to safety: Analysing safety of women in Ola & Uber"<br>*Ms. S. Prathyusha* | 52 |
| 5. | "Marital Rape in India: Rationality of the Exemption Clause in the Indian Penal Code 1860"<br>*Manini Sidhu* | 61 |
| 6. | Trafficking of Children for Sexual Exploitation: An Analysis<br>*Priyanka & Shubham Thakur* | 79 |
| 7. | Health Determinants in Prisons for Wellbeing<br>*Dr. K.S. Rekh Raj Jain* | 97 |
| 8. | Understanding Fair Investigation: The Backbone of Criminal Justice System<br>*Gyandeep Chaudhary* | 108 |

# Understanding Fair Investigation: The Backbone of Criminal Justice System

*Gyandeep Chaudhary*[*]

## Introduction

*Criminal Investigation* is an applied science which involves the process of discovering, preparing, identifying, presenting, proving or disproving facts and searching evidences to determine what happened and who is responsible for it and to further establish the innocence or the guilt of the accused. It is a multi-facet problem solving challenge. The criminal investigation plays a very important and pivotal role in the administration of criminal justice in any country. It has been defined under the clause (h) of the Section 2 of the Criminal Procedure Code, 1963 as"(h) —investigation includes all the proceedings under this Code for the collection of evidence conducted by a police officer or by any person (other than a Magistrate) who is authorized by a Magistrate in this behalf;"

It is not an exhaustive definition and the Supreme Court of India in *Nirmal Singh Kahlon* v. *State of Punjab* has held that, "The definition and scope of the expression investigation and officer In-Charge of a Police Station must receive a liberal interpretation."[260] Also as per the definition in Section 2(h), even a private citizen can carry on investigation if authorized by the magistrate.

Investigation under the Code thus constitutes, as interpreted by the apex court in Rishbud's case[261], of the following processes:

- Proceeding to the spot,
- To investigate and ascertain the facts and circumstances of the case,

[*]Gyandeep Chaudhary, Assistant Professor, Faculty of Law, IFHE Hyderabad and Ph.D. Scholar, Indian Law Institute, New Delhi.

[260] Nirmal Singh Kahlon v. State of Punjab, 2009 1 SCC 441.

[261] H. N. Rishbud and Inder Singh v. The State Of Delhi, 1955 AIR 196.

# Air and Space Law: Contemporary Legal Issues and Challenges

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# Contents


1. Criminal Liability with the Unmanned Aircraft Systems under Aviation Law 1
   *Dr. Mohammad Owais Farooqui*
2. A Study on Existing Structure and Future Prospects in Space Law 15
   *Prof. Dr. Tenneti Vijaya Chandra & Dr. Sreelatha Valla*
3. Demilitarization of Space: A New Leap towards Sustainable Development 26
   *Adv. Govinda Raj Parlerla*
4. Commercial Dual Use Satellite Assets: Addressing Liability for Damages Caused in an International Armed Conflict
   *Ashok G.V.* 43
5. An Annotation on IP Protection Laws Concerning Aircrafts 60
   *Adv. Shreya Nigam*
6. A Study on Space Medicine and Law 81
   *Dr. Poorvi Kantroo*
7. Emperical Study on Product Liability in Aviation 96
   *Dr. Sreelatha Valla*
8. Law Relating to Remote Sensing: An Analysis
   *Bangaru Laxmi Jasti* 114
9. Comparative Study in Aviation between China and India
   *Mr. Sofiul Ahmed* 126

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   *Adv. Govinda Raj Parlerla*
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   *Ashok G.V.* 43
5. An Annotation on IP Protection Laws Concerning Aircrafts 60
   *Adv. Shreya Nigam*
6. A Study on Space Medicine and Law 81
   *Dr. Poorvi Kantroo*
7. Emperical Study on Product Liability in Aviation 96
   *Dr. Sreelatha Valla*
8. Law Relating to Remote Sensing: An Analysis
   *Bangaru Laxmi Jasti* 114
9. Comparative Study in Aviation between China and India
   *Mr. Sofiul Ahmed* 126

# A Study on Existing Structure and Future Prospects in Space Law

*Prof. Dr. Tenneti Vijaya Chandra & Dr. Sreelatha Valla*

*Abstract*

*India is one of the fastest growing economies of the world and at a growth rate of 7.5% it has fared better than many other developing countries. As we march ahead in all spheres of human endeavor, we are also making immense forays in the field of space exploration and its research. With recent accomplishments in this highly specialized area, we are now claiming our place amongst the elite nations who are the recognized world leaders in space technology. Our country has tried to bring in all possible legislations, rules and regulations, and guidelines to stimulate growth. Even as we make in-roads in the area of space agencies instituted by the Central Government, appropriate space legislation is a sphere that has largely been neglected or overlooked for a long time by the law makers. In an increasingly competitive global business environment, every nation would want to set its own priorities even in the use of the stratosphere and beyond. Again, cooperation among nations in the use of space, sharing of information and space technology would become a need rather than a contentious issue. To make this happen, it is imperative that suitable legislation and a unified governance system recognized by all the nations of the world is put in place. However as a first step, we must be able to safeguard our own interests and enable the space sector business environment to accommodate and facilitate both public and private sector participation and investment.*

***Keywords:*** *Economies, India. legislation. Space Governance*

## Introduction

As spaceflights funded by the private organizations in different countries are becoming a reality, it is high time that we take precautions to ensure that a system of governance is in place to resolve any possible issues or calamities that might occur in outer space.(Gohil and Sharma)The Indian

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   *Bangaru Laxmi Jasti* 114
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   *Mr. Sofiul Ahmed* 126

# A Study on Space Medicine and Law

*Dr. Poorvi Kantroo*[*]

*Abstract*

*Space medicine is fundamental to the human exploration of space. It supports survival, function and performance in this challenging and potentially lethal environment. It is international, intercultural and interdisciplinary, operating at the boundaries of exploration, science, technology and medicine. Space medicine is also the latest UK specialty to be recognized by the Royal College of Physicians in the UK and the General Medical Council. This review introduces the field of space medicine and describes the different types of spaceflights, environmental challenges, associated medical and physiological effects, and operational medical considerations. Space medicine doctors have a responsibility to space workers and spaceflight participants. These 'flight surgeons' are key in developing mitigation strategies to ensure the safety, health and performance of space travelers in what is an extreme and hazardous environment. This includes all phases from selection, training and spaceflight itself to post-flight rehabilitation and long-term health. The recent recognition of the specialty provides a pathway to train in this fascinating field of medicine and is a key enabler for the UK Government's commercial spaceflight ambition. The main objective of the paper is to deal with the Space Medicine and Law. This paper depends on both primary and secondary data. The primary data for the present study is collected using random sampling method. The secondary data is collected from books, journals, articles and e-sources.*

***Keywords:*** *space, medicine, fundamental, human, survival*

## Introduction

Space Medicine is a branch of medicine born in the 1950s to support human space exploration. At first it dealt with the

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   *Adv. Shreya Nigam*
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   *Dr. Poorvi Kantroo*
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   *Dr. Sreelatha Valla*
8. Law Relating to Remote Sensing: An Analysis
   *Bangaru Laxmi Jasti* *114*
9. Comparative Study in Aviation between China and India
   *Mr. Sofiul Ahmed* *126*

# Emperical Study on Product Liability in Aviation

*Dr. Sreelatha Valla**

*Abstract*

*The quality of product used in the aviation carriers partial or full liability for traveller demise or damage amid the transportation via air, it is an ongoing and noteworthy territory of debate in India particularly post Mangalore air crash. The carriage via air act 1972 managing bearer's capacity in India joins Warsaw convention, Hague convention and Montreal protocol, three global instruments endorsed by India. The contrasts in plan of obligation received in these instruments have presented huge inquiries as far as locale and calculation of pay. Furthermore, the utilization of universal transporters obligation routine to household bearers with changes has set off the inquiries regarding legitimacy of segregation. in light of these elements, it is appropriate to address the issues concerning risk for traveller passing or damage amid the air transportation from a scholarly viewpoint as well as from handy purpose of perspectives.To study about the product liability in aviation. Survey takes among the general public and using spss software to analysis the survey reports of the product liability in aviation.*

***Keywords**: Air, carrier, convention law, liability*

## Introduction

The Indian common aeronautics industry is a promising area attributable to expanded interest from the upper-white collar class, higher dispensable livelihoods, positive socioeconomics and quick financial development,. It has the possibility of turning into the third-biggest flying business sector by 2020 and achieving its apex by 2030. The business is following a dynamic direction, making ready for another flood of development and extension with a generous spotlight on ease bearers, current airplane terminals, remote direct venture (FDI) in local aircrafts, data innovation improvements and

* Dr. Sreelatha Valla, Assistant Professor, ICFAI Law School

# Air and Space Law: Contemporary Legal Issues and Challenges

Edited by

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Assistant Professor,
ICFAI Law School, IFHE, Hyderabad

**ALT Publications, Hyderabad**

**Air and Space Law: Contemporary Legal Issues and Challenges**

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# Contents


1. Criminal Liability with the Unmanned Aircraft Systems under Aviation Law 1
   *Dr. Mohammad Owais Farooqui*
2. A Study on Existing Structure and Future Prospects in Space Law 15
   *Prof. Dr. Tenneti Vijaya Chandra & Dr. Sreelatha Valla*
3. Demilitarization of Space: A New Leap towards Sustainable Development 26
   *Adv. Govinda Raj Parlerla*
4. Commercial Dual Use Satellite Assets: Addressing Liability for Damages Caused in an International Armed Conflict
   *Ashok G.V.* 43
5. An Annotation on IP Protection Laws Concerning Aircrafts 60
   *Adv. Shreya Nigam*
6. A Study on Space Medicine and Law 81
   *Dr. Poorvi Kantroo*
7. Emperical Study on Product Liability in Aviation 96
   *Dr. Sreelatha Valla*
8. Law Relating to Remote Sensing: An Analysis
   *Bangaru Laxmi Jasti* 114
9. Comparative Study in Aviation between China and India
   *Mr. Sofiul Ahmed* 126

# Comparative Study in Aviation between China and India

Mr.Sofiul Ahmed*

*Abstract:*

*Since forever, innumerable records have exhibited man's interest with flight. While the genuine starting point of this journey to fly has for some time been lost, the purpose for it is very self-evident. As people, we are designed with the longing to see the world, to visit the incredible scenes that we still can't seem to lay eyes upon. Being able to fly enables us to achieve these spots, and contact them quick. While the principal untethered, human flight happened in the late 1700s, thoughts and structures for man-conveying flight contraptions can be followed to as far back as 428 BC. How about we investigate the past accomplishments that have prompted the propelled aeronautics innovations of today. Accounts of individuals endeavoring to fly can be found all through different antiquated societies. In Greek folklore there is the legend of Daedalus and Icarus, the dad and child who made wings by consolidating plumes and wax. The story may have finished in disaster, however it demonstrated that men have for a long while been itching to fly. Comparative stories can be found in India, China and Europe. In 852 AD, Armen Firman of Spain secured his body with plumes and made wing-like articles of clothing that he joined to his arms. He at that point continued to hop from a pinnacle. Despite the fact that his endeavor was unsuccessful, the articles of clothing hindered his plunge, enabling him to get by with just minor wounds.*

*Key words: Antiquated, Flight, Pinnacle wing, wounds*

## Introduction

Kites, which had been designed in China at some point in the fifth century, are known as the principal airplane made by man. Man-lifting kites where were likewise used in China and

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104

# Women's Rights as Human Rights

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# Preface

Women's rights should not be seen as additional benefits and safeguards afforded to women because of their gender. Instead these are a restatement of their already existing human rights, a reiteration, necessitated out the more prevalent abuse of these rights of women because of their gender roles and position in today's society. Thus, it is the basics, right to health, right to education the right to political participation and the right to economic well-being and freedom from violence that form the subject matter of Women's rights.

This book 'Women's Rights as Human Rights' makes an attempt to bring this reading of women's rights to the fore. It has been organised into different chapters,each chapter discussing the status of Women's Rights in different arenas.

Chapter 1 introduces the central theme of the book and makes an argument for looking at women's rights from the perspective of human rights. Chapter 5 discusses changing gender roles in the society and its impact on women's rights.

Violence at workplace is major concern that often hinders women's active participation in workforce. Chapters 2,3 and 4 touch upon various aspects of protection of women's human rights at workplace and the importance of economic justice for women.

Domestic violence against women (VAW) also causes a serious affront to a woman's agency, especially in India. This is indeed

a serious violation of their human rights and hasdevastating consequences. Womenexperience violence in different forms, settings, levels of frequency and severity, at the hands of intimate partners, family members or others.Violence against women and girls has intensified since the outbreak of COVID-19 spurred by the widespread stay-at-home orders tc curb the spread of COVID-19 that potentially locked women down with their abusers anda reduced availabilityof support services for survivors. This has led to several calls to end violence against women, including by United Nations' Secretary-General António Guterres, who coined the term the "shadow pandemic". Chapter 6 discusses this aspect of domestic violence in the specific context of NRI marriages, while chapters 7 and 8 look at reproductive justice.

Lastly, Chapters 4 and 9 look at the role of judiciary and judicial process in safeguarding women's rights.

The editor believes that this book willenable the readers to understand the key issues related to women's rights in the present world.

## Index


| | | |
|---|---|---|
| 1 | A Brief Introduction to Women's Rights as Human Rights | 1 |
| 2 | Human Rights Protection of Women at Workplace with Special Reference to Mental Healthcare Act, 2017: An Empirical Study<br>*Kulsum Haider & Neelam Faizan* | 38 |
| 3 | Economic Justice for Women at Work: ACritical Analysis<br>*Dr. Mona Mahecha & Ms. Nishtha Acharya* | 63 |
| 4 | Role of Indian Judiciary in Safeguarding the Human Rights of Women<br>*Mrs. V.B.Malleswari and Mr. V.Venu Madhav* | 74 |
| 5 | Gender in the 21stCentury: An Era of Changing Norms and Opinions<br>*Veddika P Dutta* | 93 |
| 6 | The bride's quest for justice: A Critical Study of Violence Against Women in NRI marriages<br>*Simarpreet Kaur Billing* | 112 |
| 7 | Theorizing women's Reproductive Rights and Reproductive Justice in India: An Intersectional Approach<br>*Adya Aditi Samal* | 133 |
| 8 | Right to Abortion in India: A matter of Reproductive Justice<br>*Neha Singh* | 157 |
| 9 | Role of Judiciary in realizing Human Rights of Homosexuals by applying international Human Rights Law<br>*Nivedita Ghosh* | 178 |

10 **Appendix** 193

- Convention on the Nationality of Married Women 195
- Convention on the Elimination of All Forms of Discrimination against Women 200
- Protocol to the African charter on human and people's rights on the rights of women in Africa 221
- Council of Europe Convention on preventing and combating violence against women and domestic violence 256
- Protection of Women from Domestic Violence Act 2005 298
- The Maternity Benefit Act, 1961 322
- The Medical Termination of Pregnancy Act, 1971 342

## A Brief Introduction to Women's Rights as Human Rights

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, inequalities, and practices that negatively affect women's rights. Under international human rights law, women may also be entitled to specific additional rights such as those concerning reproductive healthcare.

As a particularly vulnerable group, women have special status and protection within the United Nations and regional human rights systems. International human rights treaties prohibit discrimination on the basis of gender and also require States to ensure the protection and realization of women's rights in all areas – from property ownership and freedom from violence, to equal access to education and participation in government.

### Legal Protections

The following international human rights instruments specifically address women's rights:

- African Charter on Democracy, Elections and Governance (8(2), 29, and 43)
- African Charter on Human and Peoples' Rights(art. 18(3)); along with the Protocol to the African Charter on the Rights of Women in Africa ("Maputo Protocol")
- African Charter on the Rights and Welfare of the Child (art. 14(c))
- American Convention on Human Rights(arts. 1(1), 6(1), 27(1))
- American Declaration of the Rights and Duties of Man(arts. 2 and 7)
- Arab Charter on Human Rights(arts. 3, 4, 10, 33, 34, 41, 42, 43)

# Cyber Crimes and Cyber Security

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# Contents


| | | |
|---|---|---|
| 1 | The Emergence of Environmental Law: Birth of the Right to Environment in India<br>*Mr. Gyandeep Chaudhary* | 1 |
| 2 | Habitat Alteration - A Danger to Sustainable Development<br>*M. Geetha Priyadarshini* | 20 |
| 3 | The Impending Jeopardy in the Skies: Call for Stringent Environmental Regulations in Aviation Sector<br>*Dr. Poorvi Kantroo* | 35 |
| 4 | Role of Religion in Protecting Environment: An Analysis<br>*Ms. S. Prathyusha* | 57 |
| 5 | Role of Judiciary in Protection of Biodiversity: An Analysis<br>*Priyanka & Shubham Thakur* | 69 |
| 6 | Biomedical Waste Management in India- An Analysis<br>*Dr. M. Ravindranath & Mr. D.V.N. Murty* | 84 |
| 7 | Indian Judiciary — The Protector of Environmental Conundrums<br>*Ms. Aditi Nidhi* | 94 |

# Role of Judiciary in Protection of Biodiversity: An Analysis

*Priyanka*[1] *& Shubham Thakur*[2]

***Abstract***

*The Constitution of India makes the judiciary independent and it is vested with powers to check on the other organs of government as whether they are working under constitutional limits or not. Supreme Court is at the top of the legal hierarchy and has power to issue writs which is its original jurisdiction for the infringement of the Fundamental rights guaranteed by the constitution. It has Appellate Jurisdiction in particular civil and criminal cases and it acts as watchdog against the violation of the fundamental rights which has been guaranteed under the constitution. The laws which are contrary to the provisions of Constitution can be strike down by the Supreme Court or the High Court.*

*The writ of mandamus is issued when any government decision is challenged before the higher judiciary so that to ensure that the states comply with their obligations. It has the power to review any law made by the legislature, and judicial review of the execution order, legislation and judicial and quasi-judicial orders are recognized as part of the basic structure of the constitution. The Apex Court is the final arbitrator and the interpreter of the Constitution and this power cannot be taken away by an amendment of the Constitution. The law declared by the Supreme Court is binding on all authorities and courts.*

*Supreme Court gives the importance to the international conventions and the norms for construction of domestic laws, and also when there is no inconsistency between them and there is void in domestic law. In environmental cases the Supreme Court have based its decisions mainly on the international recognized principles like the sustainable development, polluters pay principle, precautionary principle and the restitution of the environment.*

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Centre of Excellence for Environment and Forest Laws

# Law, Religion and Justice

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| | | |
|---|---|---|
| 1 | The Emergence of Environmental Law: Birth of the Right to Environment in India<br>*Mr. Gyandeep Chaudhary* | 1 |
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| 4 | Role of Religion in Protecting Environment: An Analysis<br>*Ms. S. Prathyusha* | 57 |
| 5 | Role of Judiciary in Protection of Biodiversity: An Analysis<br>*Priyanka & Shubham Thakur* | 69 |
| 6 | Biomedical Waste Management in India- An Analysis<br>*Dr. M. Ravindranath & Mr. D.V.N. Murty* | 84 |
| 7 | Indian Judiciary — The Protector of Environmental Conundrums<br>*Ms. Aditi Nidhi* | 94 |

# Biomedical Waste Management in India- An Analysis

*Dr. M. Ravindranath*[1] *& -Mr. D.V.N. Murty*[2]

***Abstract***

*Biomedical waste management is one of the core processes every hospital must follow to ensure a safe and clean environment for the patients, hospital staff and attendants of patients and thus avoid any type of cross contamination or a relapse of the disease. As this requires human handling and following the protocol perfectly some incidents of oversights are bound to occur. Statistics suggest that every year about 0.33 million tonnes of hospital waste is generated throughout India, which requires carefully organized logistics to eliminate the possibility of cross-contamination not only to patients but the hospital staff as well, who are at a higher risk of being infected. These bio medical wastes in the form of hazardous waste also has the adverse impacts on the environment as pollute it has for the potential to land, water and air but for the proper disposal. These biomedical wastes also cause myriad other health hazards due to improper bio-medical waste disposal. This article explores the standard protocol that is required to be followed by hospitals in India, to what extent they are implemented, and how the process can be improved upon and what impact the bio-medical waste can have on the environment.*

***Keywords**: Bio-medical waste, cross contamination, waste disposal, health hazard and standard protocol.*

## Introduction

### Biomedical waste and its management in India

The official Indian guidelines for biomedical waste management defines biomedical waste as "any waste, which is generated during the diagnosis, treatment or

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| 5 | Role of Judiciary in Protection of Biodiversity: An Analysis<br>*Priyanka & Shubham Thakur* | 69 |
| 6 | Biomedical Waste Management in India- An Analysis<br>*Dr. M. Ravindranath & Mr. D.V.N. Murty* | 84 |
| 7 | Indian Judiciary — The Protector of Environmental Conundrums<br>*Ms. Aditi Nidhi* | 94 |

# Indian Judiciary—The Protector of Environmental Conundrums

*Ms. Aditi Nidhi*[1]

***Abstract***

*One of the fountain sources of environmental law jurisprudence in India has been article 21 of the constitution and its creative interpretation by the Supreme Court in a number of cases that gave a new dimension and meaning to the understanding of the article. The ever-expanding expanse of article 21 has been a boon to the cause of protecting the environment so that the lives of the people and their other cherished rights are protected. Judiciary has used the expanse of article 21 rights as a protective umbrella against the efforts that tend to threaten the environment and its existence. There is a score of cases that show the emergence and evolution the new environmental law jurisprudence, and one of the noticeable points has been the use and adoption of new doctrinal and innovative tools by the judiciary to further the cause of environmental protection. In fact, the history of environmental law in India has been a story of judicial innovation and judicial creativity. Over a period, a doctrinal web has been created by the judiciary to safeguard some of the basic rights of the people, and to uphold the cause of environmental justice. Judiciary has taken refuge to fundamental duties as provided under the constitution to remind people of heir pious obligation of protecting the nature.*

*Thus, the paper will seek to understand the theoretical basis of claiming environmental protection using fundamental rights and also to understand the various facets of environmental rights (DPSP'S) which is claimed to be fundamental rights today through judicial interpretation or through evolving environmental jurisprudence and it also give reader a better understanding of what the exercise of rights entails. To support the legal text and theory, the researcher will enlighten the reader with prominent*

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Center for Excellence in Intellectual Property Rights

# Patents: Issues and Implications

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## Contents


| | | |
|---|---|---|
| 1 | Biotechnology Patents and the Issue of Non Obviousness/Inventive Step<br>*P. Druthi Reddy & Tulsi Raj Gokul* | 1 |
| 2 | Compulsory Licensing in India<br>*Aksharaa Saxena & Manini Sidhu* | 19 |
| 3 | Compulsory License as a Remedy to Anti-Competitive Practices: EU and India Perspective<br>*Gyandeep Chaudhary* | 32 |
| 4 | Fair, Reasonable and Non-Discriminatory Licensing<br>*Priyanka & Mr. Shubhamkumar Thakur* | 55 |
| 5 | Inventive Step and Biotechnology Industry: Addressing the Non-Obvious<br>*Diya Mehta & Dr. S V Damodar Reddy* | 76 |
| 6 | Patenting of Medicines: A Hindrance to Right to Health<br>*Upparapalli Shruthi & Manini Sidhu* | 96 |
| 7 | Patent Law: Hindrance in Eradicating COVID-19 or an Excuse?<br>*Dr. Ashu Dhiman & Mr. Param Bhamra* | 112 |
| 8 | Pharmaceutical IP and Competition Law: Untying the Gordian Knot<br>*Richa P. Jain & Riddhika Dumane* | 124 |

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# Patents: Issues and Implications

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## Contents


| | | |
|---|---|---|
| 1 | Biotechnology Patents and the Issue of Non Obviousness/Inventive Step<br>*P. Druthi Reddy & Tulsi Raj Gokul* | 1 |
| 2 | Compulsory Licensing in India<br>*Aksharaa Saxena & Manini Sidhu* | 19 |
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| 4 | Fair, Reasonable and Non-Discriminatory Licensing<br>*Priyanka & Mr. Shubhamkumar Thakur* | 55 |
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| 6 | Patenting of Medicines: A Hindrance to Right to Health<br>*Upparapalli Shruthi & Manini Sidhu* | 96 |
| 7 | Patent Law: Hindrance in Eradicating COVID-19 or an Excuse?<br>*Dr. Ashu Dhiman & Mr. Param Bhamra* | 112 |
| 8 | Pharmaceutical IP and Competition Law: Untying the Gordian Knot<br>*Richa P. Jain & Riddhika Dumane* | 124 |

# Compulsory License as a Remedy to Anti-Competitive Practices: EU and India Perspective

Gyandeep Chaudhary*

*Abstract*

*When it comes to supporting innovation, efficiency, consumer welfare, and economic progress, competition policy and intellectual property law overlap; nonetheless, there is an unavoidable gulf in the realm of monopoly rights. IP laws are based on the idea that rewarding human intellect, invention, and entrepreneurship by allowing the innovator the right to exclusive use and exploitation bodes well for economic and technological advancement. Furthermore, information, which is the essence of future study, is made available to the public, allowing for enhanced dynamic efficiency.*

*However, there are many instances where IPRs are used in a way that reduces the scope of competition. To provide an example, exclusivity allows the right holder to manipulate prices in such a way that it not only recoups R&D expenditures but also reaps unparalleled profits. Furthermore, on markets that are secondary to and dependent on an IPR protected industrial standard or de facto monopoly, IP owners frequently engage in exclusionary behaviour toward innovators and potential rivals. Refusal to trade or refuse to license has been a common kind of anti-competitive behaviour. This type of behaviour stifles competition and restricts the free exercise of exclusive rights guaranteed under IP laws.*

*Compulsory licensing is one such constraint, which may be considered as a powerful weapon for moderating the rigours of misuse of*

*Gyandeep Chaudhary, Assistant Professor, Faculty of Law, IFHE Hyderabad and Ph. D. Scholar, Indian Law Institute, New Delhi.

Center for Excellence in Intellectual Property Rights

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| | | |
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# Fair, Reasonable and Non-Discriminatory Licensing

*Priyanka*[1]

*Mr Shubhamkumar Thakur*[2]

*Abstract*

*There is an ongoing debate about the Intellectual Property Rights (IPR) policies of major Standard Setting Organizations (SSOs) and how the licensing disputes related to the valuation of patents that are potentially essential to the standards, commonly referred to as standards-essential patents (SEPs), should be resolved. The licensing commitments, often based on Fair, Reasonable and Non-Discriminatory (FRAND) terms, have been the focal point of various discussions about their purpose, interpretation, and whether or not they need further clarification.*

*At this time of intense global debate, IPR policies related to the newly formed Indian telecommunications standards SSO, the Telecommunications Standards Development Society (TSDSI) were formed recently, the jurisprudence on the FRAND licensing practices and related legal disputes is under formation in both the Indian courts and India's competition watchdog, the Competition Commission of India (CCI), and more recently, the Department of Industrial Planning and Promotion (DIPP) and the Telecom Regulatory Authority of India (TRAI) addressed FRAND licensing in their policy documents.*

*The research further connects the legal and economic issues underlying the global dialogue on SSO IPR policies and licensing of SEPs with the FRAND-related disputes in the Indian jurisprudence currently in formation. Against the backdrop of these legal disputes and policy discussions regarding licensing, India's "Make in India" vision is poised to incentivize local indigenous telecommunications*

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| 7 | Patent Law: Hindrance in Eradicating COVID-19 or an Excuse?<br>*Dr. Ashu Dhiman & Mr. Param Bhamra* | 112 |
| 8 | Pharmaceutical IP and Competition Law: Untying the Gordian Knot<br>*Richa P. Jain & Riddhika Dumane* | 124 |

# Inventive Step and Biotechnology Industry: Addressing the Non-Obvious

*Diya Mehta*[1] *& Dr S V Damodar Reddy*

*Abstract*

*Biotechnology is the field of creating or altering commodities fo commercial or technical objectives utilizing biological systems, liv organisms, or their compounds. It is a branch of research that has th potential to address many of the world's food, energy, healthcare and pollution problems. For biotechnology, the requirement that a asserted invention include an inventive step in order to be granted patent offers unique challenges. It is extremely impossible t anticipate what an investigator or a court would find innovative leaving biotechnologists in the shadows. Despite the difficulty forecasting how the inventive step would be used, the condition co serve as a guard, restricting the number of biotechnolog breakthroughs that get patents to those whose contributio surpasses the social costs of monopolization. The purpose of th paper is to evaluate the impact of patents on biotechnolog invention, as well as the use and efficiency of the present pate system in fostering biotechnological inventions, as well as relate problems and challenges posed by the requirements under the lega system.*

## INTRODUCTION

Intellectual capital has become increasingly significant sin the dawn of the knowledge and information technology era. A a result, intellectual property (IP) and the rights associate with it have become valuable commodities that ar safeguarded. A patent, a type of intellectual property, is a

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| 2 | Compulsory Licensing in India<br>*Aksharaa Saxena & Manini Sidhu* | 19 |
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| 4 | Fair, Reasonable and Non-Discriminatory Licensing<br>*Priyanka & Mr. Shubhamkumar Thakur* | 55 |
| 5 | Inventive Step and Biotechnology Industry: Addressing the Non-Obvious<br>*Diya Mehta & Dr. S V Damodar Reddy* | 76 |
| 6 | Patenting of Medicines: A Hindrance to Right to Health<br>*Upparapalli Shruthi & Manini Sidhu* | 96 |
| 7 | Patent Law: Hindrance in Eradicating COVID-19 or an Excuse?<br>*Dr. Ashu Dhiman & Mr. Param Bhamra* | 112 |
| 8 | Pharmaceutical IP and Competition Law: Untying the Gordian Knot<br>*Richa P. Jain & Riddhika Dumane* | 124 |

# Patenting of Medicines: A Hindrance to Right to Health

**Upparapalli Shruthi[1] & Manini Sidhu[2]**

*Abstract*

*The pharmaceutical industry over the years invented and developed many drugs, vaccines, and other useful products required for the treatment of various ailments. To recognize the hard work that they put into the research and development, development process, marketing, and production of the final product, Intellectual Property rights, in form of Patents are granted to the inventor. Various essential inventions have been made to treat various ailments relating to genetic disorders, physical, hormonal, fungal, viral, bacterial diseases, and not limited but to the extent of mental disorders. Granting of a patent confers a right on the inventor, as the sole authorized owner to use such invention and upon his approval use by others. This right is protected by the TRIPS Agreement and the national laws of the country.*

*However, in situations like the recent pandemic, or an invention of a drug capable of helping hundreds of people around the globe, there arises an issue regarding the waiver of Patents, which impugns the right of the inventor. To protect this right, along with providing the right of 'Right to Health' to citizens around the world, a provision has been added in the TRIPS Agreement known as 'Compulsory Licensing', which makes the invention available to the applicant along with providing the appropriate royalty to the inventor. The Right to Health has been established as a basic human right by the United Nations in its Universal Declaration of Human Rights and also is considered under the umbrella of the general fundamental right - 'Right to Life'.*

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# Contents


| | | |
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# Pharmaceutical IP and Competition Law: Untying the Gordian Knot

***Richa P. Jain[1] & Riddhika Dumane[2]***

*Abstract*

*Competition Law and Intellectual Property Law, have historically been developed separately. Where competition law aims at consumer welfare, protection of freedom of trade carried on by other participants and prevents practices having an adverse effect on competition, intellectual property law on the other hand aims at conferring exclusivity on a proprietor. Thus, the juxtaposition of availing remedies under competition law and intellectual property law can be termed as a "Gordian Knot" problem.*

*The debate over this 'Gordian Knot' has been much discussed in the past. This review paper is an attempt to analyze the deliberations, by specifically narrowing it to the pharmaceutical sector. The pharmaceutical sector is entangled with a myriad of anti-competitive practices, most of which are owing to the abuse of patent monopolies. The paper aims at analyzing whether the competition regime will be an effective analgesic to address the abuse of patent monopolies and in the process attempting to untie the 'Gordian Knot'.*

## Introduction

The juxtaposition of the remedy under competition law and intellectual property law can be termed as a "*Gordian Knot*" problem. Historically both the laws have developed separately, but the global economy demands a study into this subject. While the study would cover various aspects, and sectors, the focus of this paper has been restricted to the study of

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119-A

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# Compulsory Licensing in India

*Aksharaa Saxena*[1] *& Manini Sidhu*[2]

*Abstract*

*This article deals with compulsory licensing scenarios in India, provides a background of relevant provisions in the Patents Act and examines how these provisions are Trade-Related aspects of Intellectual Property Rights compliant. This article further discusses the procedure followed by India in granting a compulsory license, provides an overview of compulsory license applications filed in India to date and judicial precedence regarding the same. This article also highlights how compulsory licensing is a great safeguard that balances the interests of the innovators and the public at large. During the present COVID-19 pandemic the assurance of licensed innovation privileges would need to be offset with the public government assistance.*

*One such instrument for adjusting the freedoms of the protected innovation holder and the overall population is obligatory authorizing. Necessary authorizing permits creation of reasonable medications and expands accessibility and supply. The current paper tries to talk about the expansive standards administering obligatory authorizing, the legal view that has been taken on something similar, and regardless of whether the equivalent can be turn in the current pandemic circumstance where many resides are being lost each moment, basic costly medications like Remdesivir, Tocilizumab and so on, which are costly and hard to come by, can be authorized to build creation and further develop moderateness.*

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# Contents


| | | |
|---|---|---|
| 1 | Doctrine of Expressive Use vis-à-vis Trademark Protection<br>*Taruna Jakhar* | 1 |
| 2 | Originalism and Trademarks Jurispurudence<br>*Arindam Baruah & Garima Chawla* | 14 |
| 3 | Trademarks and the Challenges of the Digital Environment: An Analysis of Comparative and Critical Advertising by Social Media Influencers<br>*Ms. Kanika Dhingra and Mr. Siddharth Balani* | 43 |
| 4 | Protecting Trade Dress under Trademark Law as a Valuable IP Asset: An Analysis of the Legal Framework and the Issues<br>*Mr. Siddharth Balani* | 62 |
| 5 | Trademarking the Start-ups<br>*Madhur Samriti Sharma & Sai Ram Kaushik Dhulipala* | 83 |
| √6 | Protection of Well-Known Trade Marks<br>*Manini Sidhu* | 89 |

Center for Excellence in Intellectual Property Rights

# Trade Marks: Issues and Implications

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**Trade Marks: Issues and Implications**

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# Protection of Well-Known Trade Marks

MANINI SIDHU*

*Abstract*

*Well known trade marks are those which are more popular and more known in the public than other trade marks. Their 'well known' aspect is determined by the goodwill that trade mark has in the relevant market, and the reputation it holds in the minds of current consumers, or prospective consumers. It is imperative to protect well known trade marks as brands spend a lot of time and money in creating their goodwill, and that requires good legal protection. If not, their brand will be easily be available for infringements. How these well known trade marks are accorded protection in our law, that is, the Trade Marks Act, 1999, will be discussed in this chapter.*

## INTRODUCTION

Trademarks, like every other IP, commands a need for stringent protection measures because of the value they possess. Amongst all of the intellectual properties of a major corporation it is safe to say that the brand/trademark of that company occupies a special place. Brand recognition is considered to be a major building block in any prosperous business and probably its most valuable asset. Gone are the days when a brand's major function was just to verify that the particular product has originated from a particular area. Today the brands are considered to be attractive because of the reputation they possess. So, in the day and age of fierce competition protection of well-known brands/ marks has become very important task which is certainly not easy. In today's era of e-commerce, where a brand is available in multiple countries, to keep a watch over a particular trademark so that it is not misappropriated in any way is a

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122

# Gender Vulnerabilities and Women's Rights

Edited by

**Richa Jain**

Assistant Professor, ICFAI Law School, Hyderabad

**ALT Publications, Hyderabad**

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## Contents


| | | |
|---|---|---|
| 1 | 'Gender' – A Blunder In Human Development!!<br>*Dr. Madhuri Irene* | 1 |
| 2 | Right to Abortion in India - A Matter of Reproductive Justice<br>*Neha Singh* | 21 |
| 3 | Human Rights Protection of Women at Workplace with Special Reference to Mental Healthcare Act, 2017: An Empirical Study<br>*Kulsum Haider & Neelam Faizan* | 42 |
| 4 | Justice for Women At Work: A Critical Analysis<br>*Dr. Mona Mahecha & Ms. Nishtha Acharya* | 67 |
| 5 | Role of Indian Judiciary in Safeguarding the Human Rights of Women<br>*Mrs. V. B. Malleswari & Mr. V. Venu Madhav* | 78 |
| 6 | The Bride's Quest for Justice: A Critical Study of Violence Against Women in NRI Marriages<br>*Simarpreet Kaur Billing* | 98 |
| 7 | A Study On Human Trafficking Against Women and Girl Child in the State of Sikkim: A Human Rights Perspective<br>*Dr. Pramita Gurung* | 120 |
| 8 | Gender Vulnerabilities: Challenges For Women In Accessing Quality Healthcare In India – A Statistical Analysis<br>*Ms. Richa Jain* | 133 |

123

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## Contents


| | | |
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| 5 | Role of Indian Judiciary in Safeguarding the Human Rights of Women<br>*Mrs. V. B. Malleswari & Mr. V. Venu Madhav* | 78 |
| 6 | The Bride's Quest for Justice: A Critical Study of Violence Against Women in NRI Marriages<br>*Simarpreet Kaur Billing* | 98 |
| 7 | A Study On Human Trafficking Against Women and Girl Child in the State of Sikkim: A Human Rights Perspective<br>*Dr. Pramita Gurung* | 120 |
| 8 | Gender Vulnerabilities: Challenges For Women In Accessing Quality Healthcare In India – A Statistical Analysis<br>*Ms. Richa Jain* | 133 |

# 'Gender' – A Blunder in Human Development!!

**Dr. Madhuri Irene***

*Abstract*

*Feminine fecundity is central to the perpetuation of universal life, creation and development of life being a process of nature coactated with female species, which is pragmatically vindicated in non-speaking mammals. Surprisingly, humans endowed with words or speech made miracles with language distorting the divine connotation of body and soul in relation to human community. "GENDER" through its grammatical interpretation tends to classify human race basing on the features of the body rather than the mental prowess and soul power. Right from epical eminence of Feminine Warriors Adi Parasakti to mundane models like Jhansi Lakshmi Bai, Indira Gandhi, Durgabai Deshmukh, Nobel Laureates Mrs. Donna Strickland, Maria Goeppert, and V.R. Lalithambika at ISRO and Swati Mohan at NASA defied the misguided parochial projection of women as secondary units. The word gender is understood to be relatable to Women forgetting the fact that female respond to crises by submission, appeasement and flight, whereas male respond in crisis through fight, flight or freeze. Women have to navigate not only through cultures but also through masculine attitudes, tempos, ambience and environment to ensure balanced responsibility during times of volatility and crises.*

*Just research of advanced scientific world is obligated to structure the 'gender' not from individual perspective but institutional perception to undo the errors in understanding the concept in relation to times. For this, the research may seek for the assistance of both doctrinal and non-doctrinal domains to evaluate the issue and search for statistical strength of gender equanimity of various societies. A ray of hope to clear off the misapprehensions in understanding and*

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# Gender Vulnerabilities and Women's Rights

Edited by

**Richa Jain**

Assistant Professor, ICFAI Law School, Hyderabad

ALT Publications, Hyderabad

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| 6 | The Bride's Quest for Justice: A Critical Study of Violence Against Women in NRI Marriages<br>*Simarpreet Kaur Billing* | 98 |
| 7 | A Study On Human Trafficking Against Women and Girl Child in the State of Sikkim: A Human Rights Perspective<br>*Dr. Pramita Gurung* | 120 |
| 8 | Gender Vulnerabilities: Challenges For Women In Accessing Quality Healthcare In India – A Statistical Analysis<br>*Ms. Richa Jain* | 133 |

# Gender Vulnerabilities: Challenges for Women in Accessing Quality Healthcare in India – A Statistical Analysis

*Ms. Richa Jain*[1]

*Abstract*

*As per Global Gender Gap Report, 2021, India has ranked 140 amongst 156 countries in terms of gender inequality across the world. Women in India tend to live in the shadow of male members of the society and are often looked upon as economic burden. Their qualitative inferior statutes in the society dovetailed with various cultural, social and religious taboos tend to have an overall negative impact on their health.*

*The Constitution of India enshrines right to health to all its citizens, in order to execute this, the Government of India has formulated and implemented many policies to ease access to healthcare by women in India. However, the grim reality is that there are major implementation and enforcement loopholes in these policies due to which they are unable to trickle down to the needy women, in dire need of quality healthcare.*

*This research work is a sincere effort of the author to analyse the roadblocks that hinder the effective implementation of these policies. The author through statistical data has tried to highlight the reasons behind the glaring inequality faced by India women. Author has tried to give key recommendations that can contribute in effective implementation of these policies and for overhauling the healthcare system in India for the benefit of women.*

*Key words: Gender vulnerabilities, female health, access to health, healthcare in India.*

[1]*Assistant Professor, ICFAI Law School, Hyderabad, India*

125

Center for Excellence in Criminal Law

# Criminal Justice System: Strengths and Fallouts

Edited by

**Dr. T Himavathi**

Assistant Professor, ICFAI Law School, IFHE Hyderabad

**Dr. Sumanta Meher**

Assistant Professor, ICFAI Law School, IFHE Hyderabad

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# Contents


| | | |
|---|---|---|
| 1 | A Critical Analysis of the Malignant Misuse of Section 498-A of the Indian Penal Code, 1860<br>*Ms. Ayushi Goyal & Ms. Aditi Nidhi* | 1 |
| 2 | Application of Res Judicata and Issue Estoppels in Criminal Proceedings<br>*Dr. Manu Datta* | 17 |
| 3 | Provisions Regarding Bail, Probation and Parole in India: An Analysis of Role of Indian Courts<br>*Priyanka Gangwar & Shubham Thakur* | 29 |
| 4 | The Role and Function of Public Prosecution in Criminal Justice: An Indian Scenario<br>*Gyandeep Chaudhary* | 46 |
| 5 | Evolving Capacities of Children: An Analysis in Reference to the Juveniles in Conflict With Law in India<br>*D.V.N. Murty* | 64 |
| 6 | Cyber Crimes during Covid-19 Pandemic<br>*Parimi Lakshmi* | 73 |
| 7 | Section 197, Code of Criminal Procedure - A Fresh Perspective<br>*Aditya Kishore* | 85 |

126

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| 6 | Cyber Crimes during Covid-19 Pandemic<br>*Parimi Lakshmi* | 73 |
| 7 | Section 197, Code of Criminal Procedure - A Fresh Perspective<br>*Aditya Kishore* | 85 |

# A Critical Analysis of the Malignant Misuse of Section 498-A of the Indian Penal Code, 1860

***Ms. Ayushi Goyal*[*] & Ms. Aditi Nidhi*[♣]**

*Abstract*

*"Access to justice should not be misused as a license to file misconceived and frivolous petitions."*[1]

*The Legislature brings forth laws with the purpose of social engineering. Laws need to be dynamic with respect to the changes in the needs and interests of the people. Failure to carry out favorable amendments to the existing laws is what has led to the grave misuse of Section 498-A of the Indian Penal Code, 1860. A well-intentioned provision as introduced by the Criminal Law (Second Amendment) Act, 1983, was designed to empower the women against matrimonial cruelty and avoid dowry deaths. Unfortunately, application of the same provision has many a times led to infringement of the fundamental rights of the men, under Part III of the Constitution of India, due to its misuse. A detailed critical analysis of the cognizable nature of the provision, causes, consequential effects and suggestive measures with respect to preventing such abuse of Section 498-A has been elucidated upon. As much as Section 498-A is significant in its objective and applicability, plausible measures to prevent its misapplication is equally essential.*

**Keywords:** *Matrimonial cruelty, social engineering, dowry death, fundamental rights, cognizable.*

[*] *Ms. Ayushi Goyal, 5th year, BBA LLB (Hons.), School of Law, Christ (Deemed to be University), Bangalore.*

[♣] *Ms. Aditi Nidhi, Assistant Professor, ICFAI Law School, ICFAI Foundation for Higher Education, Hyderabad & Research Scholar at Gujarat National Law University, Gandhinagar.*

[1] *Manish Goel v. Rohini Goel, 2010 (2) SCR 414.*

127

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| | | |
|---|---|---|
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| 2 | Application of Res Judicata and Issue Estoppels in Criminal Proceedings<br>*Dr. Manu Datta* | 17 |
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# Application of Res Judicata and Issue Estoppels in Criminal Proceedings[1]

*Dr. Manu Datta*[2]

*Abstract*

*The twin doctrines of Res Judicata is based on public policy which requires that there should be an end to litigation. The general principle of res judicata has been applied by Courts even where the rule has not been codified. Cause of action estoppel, which is one aspect of the rule of res judicata has been codified both in substantive and procedural law. The other aspect, known as issue estoppel owes its origin and development to Judicial pronouncements. In present paper author seeks to delve into historical origin and development of these doctrines, specifically in criminal law. The author, further presents a case for codification of the doctrine of issue estoppel.*

**Key Words:** *Res Judicata , Issue estoppel, Article 20, Cause of action estoppel.*

## Introduction

The doctrine of *res judicata* has two aspects these are, cause of action estoppel' and 'issue estoppel'[3]. The former prevents re-litigation on same cause of action while latter prevents raising same issue which has been previously determined by competent court. The principle of *res judicata* in the former sense is also embodied in Constitution of India, 1950 as a fundamental right under Article 20(2)[4] in the form of protection against double jeopardy. In criminal law, 'cause of action' estoppel in is embodied in Section 300 of Code of

[1] *Some parts of this paper have been taken from Ph.D Thesis of the Author*
[2] *Assistant Professor ICFAI Law School, ICFAI Foundation Higher Education Hyderabad.*
[3] *Hope Plantations Ltd v. Taluk Land Board Peermade, (1999)5 SCC 590*
[4] *Art 20(2) "No person shall be prosecuted and punished for the same offence more than once."*

128

Center for Excellence in Criminal Law

# Criminal Justice System: Strengths and Fallouts


Edited by

**Dr. T Himavathi**

Assistant Professor, ICFAI Law School, IFHE Hyderabad

**Dr. Sumanta Meher**

Assistant Professor, ICFAI Law School, IFHE Hyderabad



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# Contents


| | | |
|---|---|---|
| 1 | A Critical Analysis of the Malignant Misuse of Section 498-A of the Indian Penal Code, 1860<br>*Ms. Ayushi Goyal & Ms. Aditi Nidhi* | 1 |
| 2 | Application of Res Judicata and Issue Estoppels in Criminal Proceedings<br>*Dr. Manu Datta* | 17 |
| 3 | Provisions Regarding Bail, Probation and Parole in India: An Analysis of Role of Indian Courts<br>*Priyanka Gangwar & Shubham Thakur* | 29 |
| 4 | The Role and Function of Public Prosecution in Criminal Justice: An Indian Scenario<br>*Gyandeep Chaudhary* | 46 |
| 5 | Evolving Capacities of Children: An Analysis in Reference to the Juveniles in Conflict With Law in India<br>*D.V.N. Murty* | 64 |
| 6 | Cyber Crimes during Covid-19 Pandemic<br>*Parimi Lakshmi* | 73 |
| 7 | Section 197, Code of Criminal Procedure - A Fresh Perspective<br>*Aditya Kishore* | 85 |

# Provisions Regarding Bail, Probation and Parole in India: An Analysis of Role of Indian Courts

*Priyanka Gangwar*[1] *& Shubham Thakur*[2]

## INTRODUCTION

Parole is the discharge of the prisoner and could be a transient release. It has positive situations earlier than the entirety of the most sentence period. This time period is related on the time of middle Ages with the discharge of prisoners who had given their word.

Probation approach a time period earlier than someone is simply despatched to a jail or a prison. Instead of announcing the sentence and ship to prison the judges offers an possibility for defendants to expose that they need to assimilate themselves whilst defendants acquire probation. Bail is described as cash or a few shape of assets that's deposited in a courtroom docket. It is a safety used for the discharge of a suspect who has been arrested from custody and there could be a circumstance that the suspect will go back for his or her trial and within side the courtroom docket appearances.

Bail, Probation and Parole are vital principles for Criminal justice shipping system, as someone is despatched to prison for committing offences, there's a want to preserve a take a look at whether the individual is reformatting or not. These 3 provisions assist the convict to come to be a higher individual in lifestyles as they attention greater on reformation than restitution. In this challenge the writer seeks to speak about the principles associated with bail, parole and probation, and function of judiciary in granting or refusing the same.

[1] *Assistant Professor, ICFAI Law School, ICFAI Foundation for Higher Education, Hyderabad.*
[2] *Assistant Professor, Legal Studies, Reva University.*

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| 4 | The Role and Function of Public Prosecution in Criminal Justice: An Indian Scenario<br>*Gyandeep Chaudhary* | 46 |
| 5 | Evolving Capacities of Children: An Analysis in Reference to the Juveniles in Conflict With Law in India<br>*D.V.N. Murty* | 64 |
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# The Role and Function of Public Prosecution in Criminal Justice: An Indian Scenario

***Gyandeep Chaudhary***[1]

*Abstract*

*The very aim of this paper is to analyse the role of a public prosecutor in the Indian legal system and how they are entrusted with the most significant duty of bring tire facts before the humble court. Further, the researcher will also provide for the analyses of various landmark case laws through which the Indian judiciary have passed judgments against unfair and dishonest public prosecutors. Last but not the least, the researcher will provide for various recommendations through which the Indian legal system it respect to monitoring of public prosecutor can be made stricter as well as fair.*

***Keywords:*** *Prosecutor, Court, Criminal Justice System, Criminal Law, Trial*

## Introduction

The primary responsibility of a public prosecutor is to prosecute the cases in the court of law. Section 2 (u) of the Code of Criminal Procedure describes, who is a public prosecutor—

"(u)"Public Prosecutor" means any person appointed under section 24 and includes any person acting under the directions of a Public Prosecutor".

Therefore, the role of a public prosecutor is extremely significant in a criminal trial. To further understand the said role, below is an analysis of the entire process that is followed for criminal trial in India.

[1]*Gyandeep Chaudhary, Assistant Professor, Faculty of Law, ICFAI Foundation for Higher Education Hyderabad and Ph.D. Scholar, Indian Law Institute, New Delhi.*

130

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| 4 | The Role and Function of Public Prosecution in Criminal Justice: An Indian Scenario<br>*Gyandeep Chaudhary* | 46 |
| 5 | Evolving Capacities of Children: An Analysis in Reference to the Juveniles in Conflict With Law in India<br>*D.V.N. Murty* | 64 |
| 6 | Cyber Crimes during Covid-19 Pandemic<br>*Parimi Lakshmi* | 73 |
| 7 | Section 197, Code of Criminal Procedure - A Fresh Perspective<br>*Aditya Kishore* | 85 |

# Evolving Capacities of Children: An Analysis in Reference to the Juveniles in Conflict With Law in India

**D.V.N.Murty**[1]

*Abstract*

*Child is unique in himself or herself. A child happens to be what an adult is in front of him or her. In our daily life we hear about different crimes from petty to heinous being committed by children who are either economically affluent, or poor or orphans. They are the takers of different fate but what is common among them all is that they are children still in the stage of development. When a child develops right from infancy to the teenage he or she has got some capacities in all these stages. These capacities may be to take a decision or to form an opinion or any talent which may be much beyond their age which they want to express but the adults around them unmindfully snub them for what they are saying or doing. This leads to suppression of their feelings affecting their psychologies which later on either construct them or destruct them. This psychological depression sometimes leads some children to commit crimes through which they satisfy their frustration which emerges out of the former. Children are taken for granted as not having any capacity to think, act or take any decision, but children at every stage have got some capacities which must be respected. This paper will deal with the definitional aspect of evolving capacities, reasons for the juvenile delinquency in evolving children, different reasons for such delinquency and the responsibility of the parents or guardians in making better the future citizens.*

*Key words: Juvenile, evolving capacity, child psychology, societal influence, parents role*

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Center for Excellence in Intellectual Property Rights

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# Contents


| | | |
|---|---|---|
| 1 | Rental Rights under Copyright Law - International and National Perspectives<br>*Dr. Tanvi Sehgal* | 1 |
| 2 | Software Programs: Protection in India<br>*Dr. Veena* | 19 |
| 3 | Evolution of Publicity Right and Protection of Celebrity Rights<br>*Manpreet Choudhary & Dr S V Damodar Reddy* | 44 |
| 4 | Traditional Cultural Expression of Indigenous People of India<br>*Ayan Roy Chowdhury* | 57 |
| 5 | Statutory Licensing for Broadcasting of Literary, Musical Works and Sound Recordings<br>*Manini Sidhu* | 100 |
| 6 | Case Comment on "Krishika Lulla and Ors. v. Shyam Vithalrao Devkatta and Anr"<br>*Priyanka & Shubham Kumar Thakur* | 117 |

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| 3 | Evolution of Publicity Right and Protection of Celebrity Rights<br>*Manpreet Choudhary & Dr S V Damodar Reddy* | 44 |
| 4 | Traditional Cultural Expression of Indigenous People of India<br>*Ayan Roy Chowdhury* | 57 |
| 5 | Statutory Licensing for Broadcasting of Literary, Musical Works and Sound Recordings<br>*Manini Sidhu* | 100 |
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# Software Programs: Protection in India

*Dr. Veena*[1]

*Abstract*

*The advent of information and communication technology has triggered the software industry in India. The computer programs can be termed as software and is protected under copyright law as one of the intellectual property rights. It is considered as a creation of mind that involves time, labor and skill. India is a signatory to many treaties and conventions including the TRIPS agreement. The TRIPS Agreement states member states should protect source code or object code as literary works under the Berne Convention. It also extends patent protection to any process in the field of technology that is capable of industrial application. This leads to a confusion whether software can be brought within the meaning of 'processes in the field of technology'. There is an increasing demand for protecting the software under the class of patents in India. But this argument has not attained any momentum as the government and patent offices are not acting proactively. In this chapter an attempt was made to study the software protection under Copyright Act 1957, Patent Act1970 and Information Technology Act 2000 in India. It further analysis the software patents granted in India interpreting the guidelines issued by Patent office with respect Computer Implemented Inventions and case laws.*

## Intellectual Property Regime in India

Concept of intellectual property is not novel in India. From the ancient period, the education and knowledge is considered as 'wealth' of the society. The knowledge is considered as a divine gift and property of the society. Later, with the changes that

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|---|---|---|
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| 3 | Evolution of Publicity Right and Protection of Celebrity Rights<br>*Manpreet Choudhary & Dr S V Damodar Reddy* | 44 |
| 4 | Traditional Cultural Expression of Indigenous People of India<br>*Ayan Roy Chowdhury* | 57 |
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# Evolution of Publicity Right and Protection of Celebrity Rights

**Manpreet Choudhary[1] & Dr S V Damodar Reddy[2]**

*Abstract*

*The right to publicity is a right to protect abuse of one's image from unconsented publicity. It is also known as publicity rights. It is a right that is included as a fundamental right under the right to privacy Article 21 of the Constitution of India and as intellectual property right under the Trademarks Act and Copyright Act. The right to publicity was recognized as a fundamental right after the landmark judgment of the KS Putt Swamy vs Union of India. Although personality right is available for all but is widely used by celebrities to protect their image from unconsented publicity therefore publicity rights are also known as Celebrity Rights. Publicity Rights are a theoretical property with natural financial worth possessed by a celebrity or an individual having reputation and notoriety. Thusly, an individual might permit another in utilizing his/her name or other character indicia for business gains through a permit or an allowed licensed agreement. The Right to Publicity can be defined as the right to control the commercial use of human identity*

*Publicity Rights are unique rights and will just acquire consideration before long because an extraordinary number of celebrities have now become mindful of the idea. This article will try to connect the Right of Publicity with the Right to Privacy and its stand in Intellectual Property Rights. Along with this, the article will discuss what is posthumous enforceability of these publicity rights and how far it is developed in India*

[1] *Student, B.B.A.LL.B., ICFAI Law School, IFHE, Hyderabad.*
[2] *Dr S V Damodar Reddy, Associate Professor, ICFAI Law School, IFHE, Hyderabad. Email: svdamodarreddy@ifheindia.org*

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| 4 | Traditional Cultural Expression of Indigenous People of India<br>*Ayan Roy Chowdhury* | 57 |
| 5 | Statutory Licensing for Broadcasting of Literary, Musical Works and Sound Recordings<br>*Manini Sidhu* | 100 |
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# Statutory Licensing for Broadcasting of Literary, Musical Works and Sound Recordings

*Manini Sidhu*[1]

*Abstract*

*The chapter comprises of details on Statutory Licensing for Broadcasting of Literary, Musical works and Sound Recordings, as provided under Section 31 D of the Copyright Act, 1957, as added by the 2012 Amendment. The chapter aims to lay down provisions and rules regarding grant of Statutory Licenses for the broadcast of three kinds of works in particular, and factors like how royalties will be determined, what are the conditions of the grant and so on. Further, it talks about the shortcomings of the Section 31 D, and in what aspects it lacks certainty. It discusses how the problems can be dealt with to create a comprehensive and complete provision.*

## Introduction

A new section has been incorporated into Chapter VI of the "The Copyright (Amendment) Act, 2012" namely Section 31 D[2]. It authorises "broadcasting organizations" to make a "communication to the public[3]" by a performance or broadcast of literary, musical work and sound recordings. The important aspect about this section is that it is different from Compulsory Licensing as the provision makes use of the term Statutory licensing which in short means that royalty terms are no more in the hands of the copyright owners and

[1] *Assistant Professor of Law, ICFAI Law School, IFHE, Hyderabad.*
[2] *Section 31 D of Indian Copyright Act, 1957*
[3] *Section 2(ff)- communication to the public - Indian Copyright Act, 1957*

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# Contents


| | | |
|---|---|---|
| 1 | Rental Rights under Copyright Law - International and National Perspectives<br>*Dr. Tanvi Sehgal* | 1 |
| 2 | Software Programs: Protection in India<br>*Dr. Veena* | 19 |
| 3 | Evolution of Publicity Right and Protection of Celebrity Rights<br>*Manpreet Choudhary & Dr S V Damodar Reddy* | 44 |
| 4 | Traditional Cultural Expression of Indigenous People of India<br>*Ayan Roy Chowdhury* | 57 |
| 5 | Statutory Licensing for Broadcasting of Literary, Musical Works and Sound Recordings<br>*Manini Sidhu* | 100 |
| 6 | Case Comment on "Krishika Lulla and Ors. v. Shyam Vithalrao Devkatta and Anr"<br>*Priyanka & Shubham Kumar Thakur* | 117 |

# Case Comment on "Krishika Lulla and Ors. v. Shyam Vithalrao Devkatta and Anr"[1]

*Priyanka[2] & Shubham Kumar Thakur[3]*

## Introduction to Case

The Supreme Court rendered a landmark judgment holding that no copyright subsists in respect to title of a literary work. The judgment was given by a bench comprising Justices M.B. Lokur and SA Bobde. They heard an appeal of *Krishika Lulla and others* against the decision of the Bombay High Court, which had refused to quash a complaint filed under Section 63 of the Copyright Act, read with Sections 406 and 420 of the Indian Penal Code, 1860.

The Supreme Court in the matter of *Krishika Lulla & others* v. *Shyam Vithalrao Devkatta* held that no copyright subsists in the title of a literary work and no such relief is available except in an action for passing off or in respect of a registered trademark comprising such titles. However, such protection can be claimed in exceptional circumstance, where the title is of inventive nature.

Before discussing the case, let us first understand the concept of Copyright in India. Copyright is a statutory right which is recognized and protected by copyright under The Copyright Act of 1957. It is a form of intellectual property which gives protection to the unique expression of one's. It is a negative right as it enables the owner to prevent others from copying and using his ideas without his consent. At the same time, it gives the author an exclusive right for the commercial exploitation of his work.

The (Indian) Copyright Act, 1957 protects following works-

- Artistic work including a painting, a sculpture, a drawing (including a diagram, map, chart or plan), an engraving, a

[1] *(2016) 2 SCC 521.*
[2] *Assistant professor, ICFAI Foundation for Higher Education*
[3] *Assistant professor, REVA University, Bangalore.*

# New Age Business Practices

**Centre for Management Studies**

Edited by

**Dr. A. Arun Kumar**

Assistant Professor, Centre for Management Studies

ICFAI Law School, IFHE, Hyderabad

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# Contents


1. A Paper on Human Resource Accounting: Methods and Practices — 1
   *Dr. Jignesh P. Vaghela*
2. An Empirical Study: Factors Affecting Mobile Banking Services — 10
   *O. Lakshmi Narayana*
3. A Study on the Role of Chit Funds as Versatile Financial Companies In The State Of Andhra Pradesh — 29
   *Dr. V. N. Santhisree*
4. Measurement of Employee Productivity Using Cluster Analysis of Behavioural Integrity — 42
   *Dr. C. Yaduvamsi Saikrishna*
5. A Study on Job Satisfaction With Refrence to Cocola — 52
   *Dr. Bharath Kumar Porika*
6. Role Of Start-Up in Varanasi with Special Reference to "Golden Garbage" — 61
   *Mandakini Gupta and Shalini Singh*
7. Non Performing Assets An empirical Study in ICICI Bank — 71
   *Dr. D. Srinivas*
8. Atmanirbhar Bharat Abhiyan: Desi Apnao Desh Bachao — 104
   *Syed Muneeb Vasti*
9. A Study on Advertising Impact on Customer With Reference To Hero Motors Corp Limited — 115
   *Dr. M. Madhu Mohan*
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   *Dr. V. N. Santhisree*
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   *Dr. C. Yadhvamsi Saikrishna*
5. A Study on Job Satisfaction With Refrence to Cocola — 52
   *Dr. Bharath Kumar Porika*
6. Role Of Start-Up in Varanasi with Special Reference to "Golden Garbage" — 61
   *Mandakini Gupta and Shalini Singh*
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   *Syed Munceb Vasti*
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   *Dr. M. Madhu Mohan*
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    *Dr. K. Durga Prasad Dr. B. Rajani*

# Measurement of Employee Productivity using Cluster Analysis of Behavioural Integrity

*Dr. C. Yaduvamsi Saikrishna*[1]

***Abstract***

*In the area of Human Resource Development there are two known methods: (1)In the first method organizations identify people who can do the job and then find out how their knowledge and skills are different from people who have just been recruited. (2) In the second method there is a need to identify people who can do the job well and perform better.*

*Neither of the above two methods solve the problems of getting good people into jobs so that they do well in terms of Integrity. It is therefore important to investigate the relationship of the productivity of the employee measures using a test of General Intelligence of the employee and the Behavioral Integrity of employee.*

*In the present work we study the Comparative Performance of Individual employee scores of their: (i) General Intelligence (GI) and (ii) Behavioral Integrity (BI) by using the Synthetic Data of ten Grade-A employees working in a university.*

*In the proposed work Cluster Analysis is performed with two objectives to investigate: (1) The Interconnectedness and Closeness amongst the employee clusters. (2) The Cophenetic Correlation coefficient used to determine whether General Intelligence(GI) of the employee is related to the Behavioural Integrity(BI).*

***Keywords:*** *Behavioral Integrity (BI), General Intelligence (GI), Cluster Analysis.*

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# Contents


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   *Dr. C. Yaduvamsi Saikrishna*
5. A Study on Job Satisfaction With Refrence to Cocola — 52
   *Dr. Bharath Kumar Porika*
6. Role Of Start-Up in Varanasi with Special Reference to "Golden Garbage" — 61
   *Mandakini Gupta and Shalini Singh*
7. Non Performing Assets An empirical Study in ICICI Bank — 71
   *Dr. D. Srinivas*
8. Atmanirbhar Bharat Abhiyan: Desi Apnao Desh Bachao — 104
   *Syed Muneeb Vasti*
9. A Study on Advertising Impact on Customer With Reference To Hero Motors Corp Limited — 115
   *Dr. M. Madhu Mohan*
10. Investment Opportunities in Information Technology — 134
    *Dr. K. Durga Prasad Dr. B. Rajani*

# Investment Opportunities in Information Technology

*Dr. K. Durga Prasad*[1] *& Dr. B. Rajani*[2]

***ABSTRACT***

*The huge investments in IT infrastructure in various business sectors are indicative for a positive shift in the attitude & belief towards the potential benefits of IT based application and services. This paper work has selected a blend of descriptive, exploratory and investigatory approaches to identify the nature and trend of investments in IT infrastructure across the business sectors. A lot of studies and research were conducted from different perspectives to explore the dependencies of organisational performance over investments in IT infrastructure. The findings however are mixed and in some cases inconclusive also. This comprehensive suggested model could also be used to analyze the impacts of the IT based application and services in Indian business system from different perspectives.*

***Keywords:***

## *INTRODUCTION*

Information technology has provided tools for effectively managing the information requirements of the organization and it is being widely deployed throughout industry, education, government, and other institutions. The huge investments in IT infrastructure in various business sectors are indicative for a positive shift in the attitude & belief towards the potential benefits of IT based application and services. These shifts are based on perceived usefulness of the IT based applications and services for improving the efficiency and effectiveness of the business processes; however while

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## Contents


1. Commercialization and Digital Governance of Digital Health Data Vis-À-Vis the Right to Privacy — 1

   *Prof. (Dr.) Anil G. Variath, Adithya Variath, Deep Dighe*

2. Data Security and Privacy in the Field of Health Care Management — 16

   *Munawar Sayyad & Dr.Talat Mohammadi*

3. Critical Analysis of the Personal Data Protection Bill 2019 — 26

   *Anirudh Jena & Dhairya Arora*

4. Cyber Security — 44

   *Zeenath & Pragya*

5. Cybersquatting: The Rising Threat in Domain Space — 50

   *Diya Mehta*

6. Security in Crypto Currency — 67

   *J. Shravya & K. Srihitha*

7. Is Blockchain the Future of Trust? — 73

   *Vaishnavi Tejaaswini Garigati*

8. Justice Delivery in the Digital Age — 77

   *M.Harshitha Venya*

9. Future of Data Protection in India — 92

   *Vishesh Goel & Vrinda Baheti*

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# Climate Change, SDGs & Legal Perspectives

Edited by

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# Contents


| | | |
|---|---|---|
| 1. | Safeguarding Biodiversity: International Agreement & Indian Approach<br>*Priyanka & Shubham Thakur* | 1 |
| 2. | Environmental Tort from Indian Perspective<br>*Mr. Gyandeep Chaudhary* | 16 |
| 3. | Climate Change Induced Migration and Challenge of Effective Adaptive Strategy in India: A Study<br>*Dr. Manu Datta* | 28 |
| 4. | An Overview on the effect of Climate Change on Food Security: A Human Rights Perspective<br>*Dr. Sthiti Dasgupta* | 37 |
| 5. | Sustainable Development Goals and Business and Human Rights: Connecting the Dots<br>*Ms. Astha Srivastava* | 49 |
| 6. | Food Wastage in India: Enviro-Legal Analysis<br>*Mrs. Monisha Gade* | 62 |
| 7. | Space Debris- A Global Concern<br>*Mrs. M. Geetha Priyadarsani* | 81 |
| 8. | A Shift in the energy mix is the only remedy to climate change: An Assessment<br>*Mr. Sofiul Ahmed* | 93 |

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# Safeguarding Biodiversity: International Agreement & Indian Approach

-Priyanka[1] & Shubham Thakur[2]

*Abstract*

*Biodiversity is an attribute of an area and specifically refers to the variety within and among living organisms, assemblages of living organisms, biotic communities and biotic processes, whether naturally occurring or modified by humans. Biodiversity can be measured in terms of genetic diversity and the identity and number of different types of species, assemblages of species, biotic communities, and biotic processes, and the amount (e.g., abundance, biomass, and cover rate) and structure of each. It can be observed and measured at any spatial scale ranging from microsites and habitat patches to the entire bio- sphere. The biodiversity has its own significance and plays various role in human's life, first being the ecological role i.e., the microorganisms decompose the organic materials and break the nutrient in a recycle process which keeps the soil fertile and controls the pests and which helps in regulation of climate. These recycle process is vital for human existence. Secondly the economic role of biodiversity is as important for the growth of human civilization as it provides the resources which are utilized for the development by humans. The agrobiodiversity (crop diversity) is the first resource needed for the day-to-day life apart from it the biodiversity is also source of manufacturing of food, cosmetics, and pharmaceutical products. In modern agriculture the biodiversity is used as a source material for bio pesticides, bio fertilizers etc.*

*The crops, forestry, fish are additional to the agriculture, the Mangroves and coral reefs are the integral part of biodiversity acting as resource in the coastal zones. The nature has gifted the*

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| 8. | A Shift in the energy mix is the only remedy to climate change: An Assessment<br>*Mr. Sofiul Ahmed* | 93 |

# Environmental Tort from Indian Perspective

-Mr. Gyandeep Chaudhary[1]

*Abstract*

*Disasters, political imperatives, international obligations, and economic imperatives all contributed to the development of environmental regulations in India. For example, the Indian government did not recognise the need for extensive environmental legislation until after the Bhopal Gas Disaster in 1984. In 1986, it created the Environment (Protection) Act and a slew of other laws with the purpose of building a legislative, regulatory, and administrative framework in the country to assign blame for violations and ensure that similar industrial disasters don't happen again. The failure to clean up the dangerous waste on Union Carbide's property, on the other hand, demonstrates a huge gap between the law(s) and how they are really carried out on the ground.*

*This study focuses on certain case studies involving some major mining sites across India, and how those mining has caused environmental disaster and therefore it put forward the state of affairs in Indian legal scenario where environment laws play catches up with environment concerns and comes into play to pass subsequent legislations after an environment disaster occurs and the victims approach courts. Therefore, with help of these case studies, need for separate Environments courts in India is discussed whether they are the need of hour or not.*

**Keywords:** *Environment, legislations, disaster, economic, mining etc.*

[1]Gyandeep Chaudhary, Assistant Professor, ICFAI Law School, IFHE Hyderabad and Ph.D. Scholar, Indian Law Institute, New Delhi

Centre for Excellence in Environmental Law
& Forest Laws

# Climate Change, SDGs & Legal Perspectives

Edited by

**Ms. Aditi Nidhi & Mr. D.V.N. Murty**
Assistant Professors,
ICFAI Law School, IFHE, Hyderabad

ALT Publications, Hyderabad

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# Contents


| | | |
|---|---|---|
| 1. | Safeguarding Biodiversity: International Agreement & Indian Approach<br>*Priyanka & Shubham Thakur* | 1 |
| 2. | Environmental Tort from Indian Perspective<br>*Mr. Gyandeep Chaudhary* | 16 |
| 3. | Climate Change Induced Migration and Challenge of Effective Adaptive Strategy in India: A Study<br>*Dr. Manu Datta* | 28 |
| 4. | An Overview on the effect of Climate Change on Food Security: A Human Rights Perspective<br>*Dr. Sthiti Dasgupta* | 37 |
| 5. | Sustainable Development Goals and Business and Human Rights: Connecting the Dots<br>*Ms. Astha Srivastava* | 49 |
| 6. | Food Wastage in India: Enviro-Legal Analysis<br>*Mrs. Monisha Gade* | 62 |
| 7. | Space Debris- A Global Concern<br>*Mrs. M. Geetha Priyadarsani* | 81 |
| 8. | A Shift in the energy mix is the only remedy to climate change: An Assessment<br>*Mr. Sofiul Ahmed* | 93 |

# Climate Change Induced Migration and Challenge of Effective Adaptive Strategy in India: A Study

-Dr. Manu Datta[1]

**Abstract**

*To protect the planet earth from the effects of climate change is one of the biggest challenges before humanity in present times. The effects of climate change are being felt by entire humanity. The people living in environmentally fragile areas are the worst sufferers. The distress migration, of which climate change is among the main causes, poses a great challenge before policy makers. Climate change is human rights issue. It is not only a political economic issue. Human rights are ethical claims which require just treatment of human beings. Human rights lay down positive and negative obligations upon the States. Enforcement of fundamental rights depends upon efficient and good governance. In crisis situations, caused by climate the worst sufferers are people belonging to deprived sections of society. Present paper is intended to draw attention to distress migration caused by climate change. The paper also seeks to analyse positive measures of state in furtherance of adaptive strategy and suggests some further desired actions.*

**Keywords:** *Climate change, Human rights, Society, Challenge, Fundamental rights*

## Introduction

There are several "push" and "pull" factors responsible for migration of people from their native place to any destination away from home. The destination may be within same State or outside the State. Such migration may be temporary or permanent. Push factors are conditions which make it very hard for people to survive at their native place. These include natural calamity, lack of employment

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| 5. | Sustainable Development Goals and Business and Human Rights: Connecting the Dots<br>*Ms. Astha Srivastava* | 49 |
| 6. | Food Wastage in India: Enviro-Legal Analysis<br>*Mrs. Monisha Gade* | 62 |
| 7. | Space Debris- A Global Concern<br>*Mrs. M. Geetha Priyadarsani* | 81 |
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# An Overview on the effect of Climate Change on Food Security: A Human Rights Perspective

-Dr. Sthiti Dasgupta[1]

**Abstract**

*Food security is an important component of the 'zero hunger' (no. 2) goal of United Nations Sustainable Development Goals (SDGs). But this very goal and objective of the nations around the world gets agitated by the most difficult and complex problem of the present times, i.e., climate change. On the other hand, food security at its core is a critical constituent of the basic human right to food. And since climate change effects avenues of food security like production, access, utilization and stability. Thus, it becomes a matter of concern for environmentalists too. So, this cross section which exists between these two and its relation with intrinsic right of mankind will be analytically presented in this article.*

**Keywords**: *climate change, food security, human right, sustainable development goals, sustainability*

## Introduction

Food security and environmental sustainability are both important policy goals in present world, but the pertinent aspect of this issue is that they don't have to be mutually exclusive. The promotion of a 'productivist' approach to food production has frequently been defended because we need to feed the world's needy, yet environmentalists have argued that productivism damages nature. New technology, including genetically modified (GMO) crops, is being introduced throughout time, but the debate remains as to whether this can ensure food security and minimize the consequences of climate change. On the other hand of this equation between food security and climate change, it has to be understood that human beings are destroying nature

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| | | |
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| 6. | Food Wastage in India: Enviro-Legal Analysis<br>*Mrs. Monisha Gade* | 62 |
| 7. | Space Debris- A Global Concern<br>*Mrs. M. Geetha Priyadarsani* | 81 |
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# Sustainable Development Goals and Business and Human Rights: Connecting the Dots

-*Mrs. Astha Srivastava*[1]

***Abstract***

*Protection of Human rights is indispensable if the Sustainable Development Goals (SDGs) must be achieved. It is not possible to tread a sustainable development path in which human rights are not respected and protected. United Nations 2030 Agenda for Sustainable Development underscores that the purpose of the Sustainable Development Goals is to "realize the human rights of all". It is evident from the wordings of the goals that protection of human rights and sustainable development are two sides of the same coin. The Working Group on Business and Human Rights has pointed out that human rights must be rooted in policies and practice as nations start translating the far-reaching SDGs into reality. Cooperation between the private sector and governments has been envisaged in the 2030 Agenda for Sustainable Development, as part of efforts to overcome global development challenges. Still, if these efforts by businesses and private enterprises are pegged solely on accountability and respect for human rights, there is a risk that sustainable development will be undermined.*

*It needs to be examined precisely how the Business and Human Rights (BHR) discourse is determining the implementation of the SDGs. It also needs to be examined whether concerns regarding an abyss between sustainable development discourse and the BHR rights discourse are true. Have these discourses become completely disparate and what may be the impact of such a situation desires attention.*

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# Contents


| | | |
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| 3. | Climate Change Induced Migration and Challenge of Effective Adaptive Strategy in India: A Study<br>*Dr. Manu Datta* | 28 |
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| 6. | Food Wastage in India: Enviro-Legal Analysis<br>*Mrs. Monisha Gade* | 62 |
| 7. | Space Debris- A Global Concern<br>*Mrs. M. Geetha Priyadarsani* | 81 |
| 8. | A Shift in the energy mix is the only remedy to climate change: An Assessment<br>*Mr. Sofiul Ahmed* | 93 |

# Food Wastage in India: Enviro-Legal Analysis

-Mrs. Monisha Gade[1]

***Abstract***

*A healthy life is a wealthy life. One can lead a healthy life when one gets adequate nutritious food. The quality and quantity of food plays a vital role in determining the physical and mental health of a person. The food resources available on this planet Earth are to be used in a judicious manner so that everyone can have their rightful share in it.*

*Hunger, starvation and poverty are interlinked with each other. Lack of food resources has become a most debatable topic in the world forums. The question for debate is bit twisted. It is not the lack of food resources but lack of access to food resources. The food supply chains are being hampered in such a manned that the food resources do not reach the destinations where it is actually required. This leads to the core problem called as 'Food Wastage'.*

*Today we see a lot of food being wasted at different levels. The food wasted by one country can help a million people survive. The food waste is creating various complex problems which make our globe vulnerable. Food waste is global issue. The author has chosen India as a particular field of study. The author will be analysing the impact of food waste on environment and economy as well.*

***Keywords:*** *FCI, Food waste, Food Security, etc.*

## Introduction

Human being has to fulfil certain basic needs to survive on this earth. These basic needs are food, clothing and shelter. Out of these three basic needs, food is the most important basic need. We obtain food from the nature. Human being is

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| 6. | Food Wastage in India: Enviro-Legal Analysis<br>*Mrs. Monisha Gade* | 62 |
| 7. | Space Debris- A Global Concern<br>*Mrs. M. Geetha Priyadarsani* | 81 |
| 8. | A Shift in the energy mix is the only remedy to climate change: An Assessment<br>*Mr. Sofiul Ahmed* | 93 |

# Space Debris- A Global Concern

-Mrs. M. Geethapriyadarsani[1]

***Abstract***

*The Universe is facing the problem of debris and space debris is one among them. Space is very important to mankind because in the present technological world we are depending mainly on space for medical research, weather prediction, telecommunication services, personal navigation, etc. If space debris increases, there is a threat to the services for which we rely on space and we cannot even do a single transaction in this technological world without space. The main reason for space debris is natural meteoroids and artificial orbital debris. Artificial or human-made orbital debris is more serious in nature than debris formed through natural meteoroids. Man for his selfish needs is polluting not only the earth but also space. No other living being on the earth except man is responsible for this pollution. So, it is the responsibility of man to stop pollution and see that the benefits of space are also available to the future generations. The developed nations should share their scientific space knowledge to the developing and underdeveloped countries so that it decreases the launching of satellites in to space and thus decreases the space junk or space debris. The developed nations should come together to clear the space debris. So, all the nations should work together for the sake of sustainability of the space environment.*

***Keywords-*** *space, space debris, sustainable space environment, outer-space, human-made orbital debris*

## Introduction

Humans who are the only creatures in the universe who are capable of thinking, analyzing from the beginning of their evolution strived to delve into knowing the facts of the universe, earth and other scientific issues. Form the

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| 6. | Food Wastage in India: Enviro-Legal Analysis<br>*Mrs. Monisha Gade* | 62 |
| 7. | Space Debris- A Global Concern<br>*Mrs. M. Geetha Priyadarsani* | 81 |
| 8. | A Shift in the energy mix is the only remedy to climate change: An Assessment<br>*Mr. Sofiul Ahmed* | 93 |

# A Shift in the Energy Mix is the Only Remedy to Climate Change: An Assessment

-Mr. Sofiul Ahmed[1]

***Abstract***

*The Current energy mix of India is fed 80% by three main fuels: coal, oil, solid biomass. Coal has underpinned the expansion of electricity generation and industry and remains the largest single fuel in the energy mix. Oil consumption and imports have grown rapidly on account of rising vehicle ownership and road transport use. Biomass, primarily fuelwood, makes up a declining share of the energy mix but is still widely used as cooking fuel. India is the third-largest carbon emitter in the world and it is very time to make a shift in the energy mix in order to mitigate climate change. India's climate change targets are laudable and put the ball firmly in the court of the already rich world to now show that they mean business. This is because India has not been a historical contributor to greenhouse gas emissions — from 1870 to 2019, its emissions have added up to a minuscule 4 percent of the global total. So, from every angle, we did not have to take these global targets to reduce our carbon emissions. This is why it is not just a challenge to achieve for India but also a challenge for the world to follow suit.*

***Keywords:*** *Climate Change, Carbon Emissions, Coal, Energy, Biomass etc.*

[1]*Sofiul Ahmed, Assistant Professor, ICFAI Law School, ICFAI Foundation Higher Education, Hyderabad*

Center for Excellence in Criminal Law

# Victims and Criminal Law: Perspectives on Victim Justice

Edited by

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**Victims and Criminal Law: Perspectives on Victim Justice**

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## Contents


1 Rape Victim's Struggle for Justice and Socio- Legal Response in India 1

*Dr. Manu Datta*

2 Workplace Victimization: How Safe are Women under the Posh Act 2013 Regime? 1

*Manini Sidhu*

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*Anwesha Panigrahi and Konina Mandal*

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*Gyandeep Chaudhary*

5 Silent Victims of Religious Crime

M. Geethapriyadarsani

6 There are Some Things Money Can't Buy, for Everything Else, There Are In-Laws: Dowry A Rampant Menace

*Venkatesham Gorige*

7 The Invisible Bruises of Victims of Domestic Violence and Changing Legal Courses

*Ms. S Prathyusha*

8 Nirbhaya Aftermath – A Study of the Criminal Law Amendment Acts

**T. Padma**

9 "Injustice Anywhere Is A Threat to Justice Everywhere": A Comment On Muthuramalingam & Ors V. State Rep. By Of Police, 19th July 2016 [2016 Crlj 4165]

***Bijayini Namrata Patel***

150

Center for Excellence in Criminal Law

# Victims and Criminal Law: Perspectives on Victim Justice

Edited by

**Ms. Anwesha Panigrahi**

Assistant Professor,
ICFAI Law School, IFHE, Hyderabad

ALT Publications, Hyderabad

## Victims and Criminal Law: Perspectives on Victim Justice

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***Bijayini Namrata Patel***

# Rape Victim's Struggle for Justice and Socio- Legal Response in India

*Dr. Manu Datta*[*]

## Introduction

Rape is the most morally and physically reprehensible crime in society, as it is an assault on the body, mind and privacy of the victim. A rapist degrades and defiles the soul of a helpless female. Rape leaves a permanent scar on the life of the victim. Rape offends both, esteem and dignity, of a woman.[1] Rape is violation of human rights of woman as well as her right to life provided in Article 21 of the Constitution of India. To many feminists and psychiatrists, rape is less a sexual offence than an act of aggression aimed at degrading and humiliating women.[2] The Law Commission of India observed that Rape is "ultimate violation of self".[3] It is a humiliating event in a woman's life which leads to fear for existence and a sense of powerlessness. The victim needs empathy and safety and a sense of re-assurance.[4]

Exploitation of women is a reality of our society and gender justice is a myth. Women suffer from many forms of violence. Discrimination against women starts in the womb of mother itself in the form of female focticide.[5] Discrimination against women starts in the womb of mother itself in the form of female foeticide.[6] Rape victims suffer from hostile attitude of society in the form of victim blaming. Sometimes, Rape victims

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* Assistant Professor, ICFAI Law School, ICFAI Foundation for Higher Education, Hyderabad.

[1] Deepak Gulati v. State of Haryana, (2013) CR.L. J 2990 at Para. 17.

[2] Bodhisattwa Gautam vs Miss Subhra Chakraborty, AIR 1996 SC 922.

[3] Law Commission of India in its 84th report on "Rape and allied offences: Some questions on substantive law, procedure and evidence (April,1980).

[4] Ibid.

[5] Report of Justice Usha Mehra Commission of Inquiry appointed under Commission of Inquiry Act, 1952 by Ministry of Home Affairs (February 22, 2013); available at https://mha.gov.in/sites/default/files/UshaMehraReport_170913.pdf

[6] Id. at Page 62.

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***Bijayini Namrata Patel***

# Workplace Victimization: How Safe are Women under the Posh Act 2013 Regime?

***Manini Sidhu****

## Introduction

*"Feminism isn't about making women strong. Women are already strong. It's about changing the way the world perceives that strength."*

*G. D. Anderson*[1]

Human being is a social animal. They need a society to survive and this society is predominantly formed by men and women. Equal participation of both the genders is must for the positive and balanced growth of the society. Sometimes, non-compliance or mere decorative compliance and violation mostly, of this simple formula creates insensitivity towards one gender. This may appear subtle on the face of it but in reality, it pierces the heart and spine of the body of the human rights of the victim. Thus, the concept of **'Gender Sensitisation'** must be understood.[2]

The concept of Gender Sensitisation is the method of understanding and respecting the sensitivities of the other gender which would include both strength and weakness. The Apex Court, while disposing of a Public Interest Litigation, made it clear that the *special laws in favour of women are essential and those laws cannot be made as 'gender neutral laws'* in Rishi Malhotra v. Union of India[3].

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* Assistant Professor, ICFAI Law School, ICFAI Foundation for Higher Education, Hyderabad.

[1] G.D is an Australian activist and writer, who has been quoted in Vogue UK, Harper's Bazaar, Huffington Post, etc. Available at: https://www.thecovaproject.com/gdanderson (accessed on 23rd May 2021).

[2] Deepa Rafeeque, "Prevention of Sexual Harassment of Women at Workplace: Law and Practice – A Guide to the Sexual Harassment of Women at Workplace (Prohibition, Prevention and Redressal) Act, 2013"; Notion Press, 2018.

[3] Rishi Malhotra v. Union of India (2017) 16 SCC 767: (2018) 2 SCC (Cri) 296.

152

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***Bijayini Namrata Patel***

# When Protectors become Predators - On Custodial Violence and Police Brutality in India

*Anwesha Panigrahi[*] and Konina Mandal[*]*

## Introduction

George Floyd's death in the United States[1] not so long-ago triggered debates not only on racism but also drew our attention to the often ignored but pressing issue of police brutality. Much like the protests that broke out in America, the recent inhuman brutalization of J Beniks and his father Jayaraj P[2] has set-off similar protests in India. India's very own 'George Floyd moment' has yet again exposed abhorrent human rights violations in custody and its broken criminal justice system. While it would be wrong to equate the two incidents, they are similar in respect of persistent systemic and disproportionate indignities perpetrated by the police on powerless individuals.

As the most prominent wing of the criminal justice system and first point of contact, the police play a pivotal role as protectors. However, in India their conduct in recent times[3] has increasingly begun resembling those of predators. Statistics indicate a concerning growth in the number of

[*] Assistant Professor, ICFAI Law School, ICFAI Foundation for Higher Education, Hyderabad.

[*] Assistant Lecturer, Jindal Global Law School, Sonepat.

1 Evan Hill, Ainara Tiefenthäler, Christiaan Triebert, Drew Jordan, Haley Willis and Robin Stein. How George Floyd Was Killed in Police Custody. THE NEW YORK TIMES (May 31, 2020)https://www.nytimes.com/2020/05/31/us/george-floyd-investigation.html (accessed on 23rd May 2021).

2 The Times of India. Custodial deaths spark national ire, no FIR yet, THE TIMES OF INDIA (27 Jun 2020) http://timesofindia.indiatimes.com/articleshow/76653118.cms?utm_source=contentofinterest&utm_medium=text&utm_campaign=cppst (accessed on 23rd May 2021).

3 Special Correspondent. Five custodial deaths in India daily, says report. THE HINDU, (27 Jun 2020) https://www.thehindu.com/news/national/five-custodial-deaths-in-india-daily-says-report/article31928611.ece?__cf_chl_captcha_tk__=352cMKen53rORc9cnKvdFoS3zcGLmxsgH_KTsHbMugk-1639482760-0-gaNycGzNGqU (accessed on 23rd May 2021).

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***Bijayini Namrata Patel***

# Fair Trial and Compensatory Justice for Victims of Crime as a Facet of Article 21 of the Constitution

*Gyandeep Chaudhary**

## Introduction

Fair Trial is a broad concept. Generally, it is a process through which the guilt or innocence of the accused is decided. It is the universal principle that a person accused of a crime should not be punished unless he has been given a fair trial and the guilt has been proved. The notion of fair trial incorporated fairness and reasonableness in the administration of the criminal justice. [1] Fairness is a relative concept and therefore fairness in criminal trial could be measured only in relation to the gravity of the accusation, the time and resources which the society can reasonably afford to spend.[2]

Fair trial is not a favour afforded to the supplicant at law, but a bundle of legally enforceable rights guaranteed by the state to its citizens, for whom the state itself exists. The principle of a fair trial is put in concrete terms of certain rights such as the right to remain silent, the prohibition of double jeopardy, the right to legal counsel, the right to be notified of charges, and so on.

The application of fair trial norms to every single instance and at every stage of the criminal law is recognized both internationally and nationally in India, as a fundamental right. It cast a legal duty on the state and the judge to ensure that they are respected realized and never violated. The Supreme Court in many cases highlighted the importance of fair trial. In *Zahira Habibullah Sheikh* v. *State of Gujarat*[3] the Supreme Court highlighted the importance of fair trial:

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[1] International Covenant on Civil and Political Rights (ICCPR) 1966, art. 6,9.

[2] R.V.KELKAR, CRIMINAL PROCEDURE, 335 (Eastern Book Company, 5th edn., 2011).

[3] 2004 4 SCC 158.

154

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***Bijayini Namrata Patel***

# Silent Victims of Religious Crime

*M. Geethapriyadarsani**

## Introduction

Women the vulnerable section in the society are victims of many crimes, terrorism and also religious customs. Especially the women of developing countries and underdeveloped countries are facing many problems due to lack of education, economic freedom and male domination. One of the heinous crimes against women even in the 21st century is Female genital mutilation. Female genital mutilation (herein after referred as FGM), also known as female genital cutting and female circumcision, is the ritual cutting or removal of some or all of the external female genitalia for non-medical reasons. It is a custom practiced by many religious sects all over the globe.

The Sustainable Development Goals also emphasize on eradication of this worst crime through its target 5.1-End all forms of discrimination against all women and girls everywhere, 5.2-Eliminate all forms of violence against all women and girls in the public and private spheres, including trafficking and sexual and other types of exploitation and 5.3-Eliminate all harmful practices, such as child, early and forced marriage and female genital mutilation. It is mostly done to young girls mostly between infancy and adolescence. To the utmost surprise, this worst culture is being developed by the parents and community. Parents consider that, there should be "sexual purity" for girls and to preserve their virginity, FGM is performed, and this is an honor to the family.

Is this sexual purity necessary only for women? FGM is an insult and assault to womanhood by parents itself. The worst thing is that the female relatives of the bride and groom watch the opening of the vagina to check that the girl is a virgin or not[1]. FGM degrades the physical and emotional health of the

* Faculty Associate, ICFAI Law School, ICFAI Foundation for Higher Education, Hyderabad.

[1] https://en.wikipedia.org/wiki/Female_genital_mutilation

155

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# The Invisible Bruises of Victims of Domestic Violence and Changing Legal Courses

***Ms. S Prathyusha****

The Parliament of India enacted the Protection of Women from Domestic Violence Act 2005 on September 13, 2005. It came into effect in the territories of India on October 26, 2006. The Act was spearheaded by the Ministry of Women and Child Development and was the first time that "domestic violence" was defined in the history of independent India. The definition provided by this Act is broad and includes physical violence and forms of violence such as sexual, emotional, and verbal abuse. It focuses more on protection orders rather than criminal prosecution, which makes it a civil law. The law was generally welcomed by the public as it came at a time of need for the country.

When defining certain essential terms, the Domestic Violence Act of 2005 is different from the Indian Penal Code as it provides broader definitions concerning domestic violence to the people it protects and its general coverage.[1]

## Aggrieved Person

Section 2 of the Act provides the definitions required to interpret the legislation correctly. One of the first essential definitions to be mentioned is "aggrieved person", which is defined under section 2(a) as "*any woman who is, or has been, in a domestic relationship with the respondent and who alleges to have been subjected to any act of domestic violence by the respondent.*" This definition extends to women who reside in the same house with someone they are in a domestic relationship with. This was an inclusionary move as domestic violence was often attributed only to married women residing with their husbands. This would thus include not just

* Assistant Professor, ICFAI Law School , ICFAI Foundation for Higher Education, Hyderabad.

[1] Datta, Damayanti (4 December 2006). "The new laws of marriage". India Today. Retrieved 29 March 2013.

# The Adjudicatory Implications in Criminal Cases

Edited by

**Dr. K. S. Rekh Raj Jain**

Assistant Professor,
ICFAI Law School, IFHE, Hyderabad

ALT Publications, Hyderabad

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# Contents


| | | |
|---|---|---|
| 1 | Implications of Neurocriminology in Adjudicating Criminal Culpability<br>*Dr. K. S. Rekh Raj Jain* | 1 |
| 2 | Corporate Crimes in India: A Legal Analysis<br>*Dr. Sumanta Meher* | 9 |
| 3 | A Flaw in the Language of Sedition-Section-124 A of the Indian Penal Code, 1860<br>*Dr. Ravi Bundela* | 32 |
| 4 | Trials by Media and Analysis of Privacy Rights in India<br>*Dr. Katiyani Juneja Sharma* | 43 |
| 5 | Digital Forensics and the Admissibility of Electronic Evidence<br>*Astha Srivastava* | 64 |
| 6 | Withdrawal of an Attempt: The Value of Marginal Reformation<br>*Anwesha Panigrahi* | 78 |
| 7 | Changing Facets of Terrorism-Implications on Aviation Safety and Security<br>*Dr. Poorvi Kantroo* | 84 |

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| | | |
|---|---|---|
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# Implications of Neurocriminology in Adjudicating Criminal Culpability

*Dr. K. S. Rekh Raj Jain*[*]

## Introduction

Criminology is the scientific study of crime and behaviour. Though certain theories have been propounded to explain the criminal behaviour yet there is no certainty how to systematically respond to the crime problem and overcome the crimes and criminals. Criminal lability arises when an individual commits an act which is criminal in nature and the penal law concern is to prove the culpability of the criminal. Since, 17th century criminal law emphasized on mental state of mind which is referred as mens rea. The existence of mens rea is decided by the judiciary by adducing of evidence.

Over the years intricacies concerning the usage of mens rea have arisen in courts in several cases. To resolve such issues the court started depending on the scientific inventions. The progression of sciences led to the evolution of multi-disciplinary as well as interdisciplinary fields and one among them is neuroscience. Neuroscience represents tantalizing evidence directly concerned with the physical state of brain and its quantifiable functions.[1] The neurobiological basis for criminal behaviour derivation paved the way to the genesis of neurocriminology.

## Neurocriminology

The term 'neurocriminology' was first coined by Canadian criminologist James Hilborn adopted and defined by University of Pennsylvania Professor of Criminology, Psychiatry and Psychology Adrian Raine as "the application of the principles and techniques of neuroscience to understand the origins of antisocial behaviour to improve our ability to prevent the

[*] Assistant Professor, ICFAI Law School, ICFAI Foundation for Higher Education, Hyderabad

[1] Eryn Brown, 2019, The brain, the criminal and the courts, Retrieved on July 2021, www.knowablemagazine.org/article/mind/2019/neuroscinece-criminal-justice.

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# Corporate Crimes in India: A Legal Analysis

*Dr. Sumanta Meher**

## Introduction

The corporate crimes are a significant global phenomenon which is proliferating day by day. The greedy nature of human beings and desire of acquiring wealth make them inhuman where they can exceed any limit and damage the economy of a country. Although the establishment of any corporation, institution, organisation or business is a blessing for the general public where they can get the job or employment; however, if the intention behind such association is unscrupulous then not only the servant of such association but other general public also get affected with that.[1] In the recent past, corporate crimes like fraud, misrepresentations, cheating to the shareholders, etc. are rampant in India. Some of the instances are the Punjab National Bank fraud case of 2012 where the Nirav Modi and Mehul Choksi who made the fraudulent transactions of Rs. 11400 crores. And also, the Crime Committed by the Sahara Group which valued to Rs 17,656 crore from about 30 million customers/investors. Moreover, the Satyam Scam where thousands of crores are involved.

Furthermore, the mysterious disappearance of corporations has created havoc in the recent past. In the Bombay Stock Exchange more than 5600 companies are listed but out of that more than 2500 companies were vanished.[2] In the KPMG Survey on Fraud in India report of 2012 has been mentioned that these companies have raised crores of rupees from their

* Dr. Sumanta Meher, Assistant Professor of law at ICFAI Law School, ICFAI Foundation for Higher Education;.PhD form IIT Kharagpur, UGC-NET, LLM form Sambalpur University.

[1] Fischel, Daniel R., and Alan O. Sykes. "*Corporate crime*", 25(2), Journal of Legal Studies, 319-349 (1996).

[2] Chaturvedi, Vijit, and D. S. Yadav. "*Understanding and unlocking mean and ways of managing corporate fraud-An effective step for unearthing corporate evil.*" *2*(2), Asian Journal of Research in Business Economics and Management, 209-223 (2012).

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| 3 | A Flaw in the Language of Sedition-Section-124 A of the Indian Penal Code, 1860<br>*Dr. Ravi Bundela* | 32 |
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| 5 | Digital Forensics and the Admissibility of Electronic Evidence<br>*Astha Srivastava* | 64 |
| 6 | Withdrawal of an Attempt: The Value of Marginal Reformation<br>*Anwesha Panigrahi* | 78 |
| 7 | Changing Facets of Terrorism-Implications on Aviation Safety and Security<br>*Dr. Poorvi Kantroo* | 84 |

# A Flaw in the Language of Sedition-Section-124 A of the Indian Penal Code, 1860

*Dr. Ravi Bundela**

## Introduction

To Protect the Pressure valve of Democracy from Bursting, Dissent comes as its safety Valve.

*"Men are Mortal so are ideas, an idea needs propagation as much as a plant needs watering. Otherwise, both will wither and die".*

*Dr. B.R. Ambedkar*

*Propagation is Pivotal for Freedom of Speech & Expression*

*The Constitution as an Idea for India requires propagation else it will wither & die. Therefore, there has to be a propagation of freedoms which are given under Article-19 to protect it from withering and dying. Fair criticism must be appreciated and must become a norm so to send the ripples of Democracy as far as it could reach. Moreover, in light of the advent of Social Media freedom of speech & expression must be more and more cemented by accepting the fact that there exists strong right to freedom of speech and expression in the Indian Constitution. May it be the democracy of any nation the strong base of it in all probabilities shall be "Freedom of Speech & Expression" which goes beyond having election in the State.*

## Provision of Free Speech under Article-19 of the Indian Constitution

The Independence of the India is largely based upon the exercise and non-exercise of the Freedom of Speech & Expression. Therefore, this right to freedom of speech and expression is explicitly mentioned in the Indian Constitution. However, it is not an absolute right because of the restrictions placed upon it. The draft Constitution had Sedition as a restriction on the right to freedom of speech and expression. It

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# Trials by Media and Analysis of Privacy Rights in India

*Dr. Katiyani Juneja Sharma*[*]

## Introduction

"I would rather have a completely free press with all the dangers involved in the wrong use of the freedom than a suppressed or regulated press" - Pandit Jawaharlal Nehru

The media is presupposed to be accountable for all the information which it provides for its readers without any cautious bias or favoritism. The media must consider this independence to be its most prized and a moral asset. By sustaining its independence through a professional behavior and a subscribed code of conduct by all journalists, the media can be a powerful user of the RTI Act, 2005 and a robust agent for the emancipation of people through the modern era of the Information Technology. For the rule of law and a methodical society, a free and responsible press and an independent judiciary are both vital.[1] Thus this research paper tried to focus upon interface between media and judiciary, and its effect upon the same. It should play a fair and unbiased role aiming at public interest.

Freedom of press is inviolable, however not unfettered. In the era of globalization, the role which the media plays have become more and more significant. Circulating information, molding public opinion, pressurizing the administration for desirable legal changes are some areas where press should act effectively.[2] The media organizations in the country are owned and controlled by big corporate bodies, trusts, societies, and individuals etc., this ultimately leads to a commercially driven media, who is a royal sponsor than being responsible to public interest. Though, they have a higher responsibility to the

[*] Assistant Professor, ICFAI Law School, ICFAI Foundation for Higher Education, Hyderabad.

[1] *Rajendra Sail v. M.P. High Court Bar Association and other*, AIR 2005 SC 2473.

[2] S. Sivakumar, *Press Law and Journalists: Watchdog to Guide dog* 4 (Universal Law Publishing, New Delhi, 1st edn. 2015).

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# Digital Forensics and the Admissibility of Electronic Evidence

*Astha Srivastava**

## Introduction

Forensics are scientific examinations and techniques used in relation with the detection of crime. If these examinations or techniques are related to or adduced from a computer system or are used in connection with the detection of digital crimes, then they can be referred as *digital forensics*. Alternatively, cyber forensics is the science of obtaining, preserving and cameras, smart phones, and other memory storage devices. Digital forensics consists of three steps, acquisition, analysis and presentation.[1] The term digital forensics was originally used as a synonym for computer forensics but has expanded to cover investigation of all devices capable of storing digital data.

Digital forensics can be categorized into network, device, and disk forensics. The digital world is characterized by huge flow of information across the world in the matter of a few clicks. Understandably, the danger of losing digital data and/or its misuse is imminent. At the same time the control of these information flows is also distributed making it hard for the investigation agencies to get full support from various unknown governments, authorities, and agencies. The field of network forensics aims to track industrial espionage, defamation cases, software piracy, data theft and the like. Device forensics, on the other hand, deals with new age digital devices used for generating and temporarily storing data such as digital cameras, smart phones, and scanners. Disk forensics is the third branch of digital forensics which is used to extract data, whether erased, appended, or presently stored, on any storage medium such as Hard Discs, CDs, USB Devices etc. to gather information from it.

* Assistant Professor, ICFAI Law School, ICFAI Foundation for Higher Education Hyderabad.

[1] Altheide C. and Carvey H., Digital Forensics with Open-Source Tools, 2011.

162

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# Withdrawal of an Attempt: The Value of Marginal Reformation

*Anwesha Panigrahi*[*]

## Introduction

When an indictable crime which is contemplated in the mind of the offender is carried out by some action on part of the said offender, it amounts to attempt. A successful attempt results in commission of the indictable offence. An attempt which remains unsuccessful becomes categorised as an inchoate offence. This inchoateness of attempt doesn't exempt it from criminal culpability or even penalty. Attempt is punishable, although most often less than a successful commission. A conduct, to qualify as an attempt has to help in the commission of the indictable offence to a sufficiently proximate degree. Anything below is merely preparation.[1] This proximity is subjective upon circumstances in each particular case. Nevertheless, the attempt should be enough to take the commission of the offence out of the control of the offender and dependent on natural causes and consequences. This is the stand as regards attempt as an offence under Indian criminal law taken from that of common law of England. Attempting to take back an attempt already made is a situation that has not been contemplated by our forefathers while drafting criminal and penal legislations of delivering judgments in this regard.

Although thought of, such situations come under the purview of provisions already existing i.e., of either attempt or commission and are not categorised separately. As a result, there is no special kind of criminality or criminal liability attached to a circumstance where a person has attempted the commission of an offence but then with the mens rea of withdrawing his earlier attempt, attempted to control the

* Assistant Professor, ICFAI Law School, ICFAI Foundation for Higher Education, Hyderabad.

1 Turner J. W. Cecil, Kenny's Outlines of Criminal Law, 18th ed., Cambridge University Press, 2013.

# The Adjudicatory Implications in Criminal Cases

Edited by

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Assistant Professor,
ICFAI Law School, IFHE, Hyderabad

ALT Publications, Hyderabad

## The Adjudicatory Implications in Criminal Cases

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# Contents


| | | |
|---|---|---|
| 1 | Implications of Neurocriminology in Adjudicating Criminal Culpability<br>*Dr. K. S. Rekh Raj Jain* | 1 |
| 2 | Corporate Crimes in India: A Legal Analysis<br>*Dr. Sumanta Meher* | 9 |
| 3 | A Flaw in the Language of Sedition-Section-124 A of the Indian Penal Code, 1860<br>*Dr. Ravi Bundela* | 32 |
| 4 | Trials by Media and Analysis of Privacy Rights in India<br>*Dr. Katiyani Juneja Sharma* | 43 |
| 5 | Digital Forensics and the Admissibility of Electronic Evidence<br>*Astha Srivastava* | 64 |
| 6 | Withdrawal of an Attempt: The Value of Marginal Reformation<br>*Anwesha Panigrahi* | 78 |
| 7 | Changing Facets of Terrorism-Implications on Aviation Safety and Security<br>*Dr. Poorvi Kantroo* | 84 |

# Changing Facets of Terrorism-Implications on Aviation Safety and Security

*Dr. Poorvi Kantroo**

## Introduction

The Proliferation of biological weapons has been a matter of great international concern. At the end of twenty first century, biological weapons have emerges as one of the most demanding security challenges confronting policy makers. Biological weapons may prove to be preferred weapons of mass destruction among the international community whether state or non-state actors.

The challenge of biological weapons is so demanding because it brings forth proliferation dynamics of complex nature ,cutting edge science, high stakes economic considerations and intricate global policies to name a few. While the consequences of its usage is of serious nature, one has to take cognizance of experience of public health professionals to meet the challenges and mitigate the severity of its effects.

While Terrorists attacks on all modes of transportation in general, air transportation industry in particular poses a priority for counterterrorism initiatives, owing its economic importance Aftermath of September, 11, 2001, intensified public perception of risks and widened concepts of threat to air transportation industry in specific.

The Safety and Security in Aviation raise a test to the global aviation industry owing to its commercial nature. Aviation Safety refers to setting international standards and procedures for operation, maintenance and manufacturing of aircraft to address human errors, mechanical malfunction and unpredictable weather conditions. On other hand Aviation Security takes care of human and material resources in order to enhance safety aspects of passengers, staff, aircraft and

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# Contemporary Business Practices

Centre for Management Studies

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## Contents


| | | |
|---|---|---|
| 1. | The Identification of Potentiality for Development of Performance<br>*Prof. Dr. Venugopal, J, Dr. Bhavannarayana, K., Jeydeva Reddy,S., Dr. Sailaja, V.* | 1 |
| 2. | Welfare of Women Employees At Work Place<br>*Dr. B. Madhusudhan Reddy* | 8 |
| 3. | Retailing in Tea Business: A Introspection of Mahabubnagar Town Scenario<br>*Dr. S. N. Arjun Kumar* | 16 |
| 4. | A Study on Employees Welfare<br>*K. Pushpa Latha* | 27 |
| 5. | Financial Inclusion: Issues And Challenges<br>*Mohammed Mustafa, Dr. V. Mallikarjuna, Dr. T. Narayana Reddy* | 41 |
| 6. | A Study on Marketing of Pulses: Production of Pulses and Its Impact on Exports and Imports<br>*O. Lakshmi Narayana* | 50 |
| 7. | The thought of Vedanta - An Overview<br>*Sreesailam Veeramalla* | 70 |
| 8. | Employee satisfaction and organization policies at APMDC Limited<br>*K. Bhaskar* | 78 |
| 9. | Risk-Management in an Organization<br>*P. Kannaiah, Dr. Venugopal. J., Dr. Sailaja, V Jeydeva Reddy, S* | 89 |
| 10. | Tourists' Motivational Factors to Visit Destinations<br>*Dr. S. B. Anil Kumar, dr. Y. Hanuman Prasad* | 103 |
| 11 | An Opinion Survey on Airline Customer<br>*Prof. Dr. Venugopal, J., Dr. Sailaja, V., Mr. Jeydeva Reddy, S., Dr. Bhavannarayana, K.* | 112 |

# Contemporary Issues and Challenges in Law - Part I

Edited by

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# Contents


| | | |
|---|---|---|
| 1 | What are Corporations for?<br>*Mr. Debadatta Bose* | 1 |
| 2 | Plea Bargaining: An Aid to Criminal Justice System<br>*Dr.Samia Khan* | 8 |
| 3 | Federalism: The Need to Re-Analyse the Powers of Governors: Key to Improving Centre-State Relations<br>*Anshul Duggal* | 26 |
| 4 | Role of Clinical Trials and Medicines in The Wake Of Covid19: An International Perspective<br>*Tanya Goyal* | 33 |
| 5 | Air Accidents and Tortious Liability– Judicial Pronouncements in Private International Law<br>*Ayushi Dubey* | 51 |
| 6 | Legal Framework on Health Insurance in India: With Changes Owing toCovid-19<br>*Aniketh Reddy Devidy* | 70 |
| 7 | Revisiting the Law on Sexual Intercourse on Pretext Of Marriage.<br>*Ms. Afrin Khan* | 90 |
| 8 | Financing of Intellectual Property Rights<br>*S Prathyusha and Ms. Richa Prateek Jain* | 110 |

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# Contents


| | | |
|---|---|---|
| 1 | What are Corporations for?<br>*Mr. Debadatta Bose* | 1 |
| 2 | Plea Bargaining: An Aid to Criminal Justice System<br>*Dr.Samia Khan* | 8 |
| 3 | Federalism: The Need to Re-Analyse the Powers of Governors: Key to Improving Centre-State Relations<br>*Anshul Duggal* | 26 |
| 4 | Role of Clinical Trials and Medicines in The Wake Of Covid19: An International Perspective<br>*Tanya Goyal* | 33 |
| 5 | Air Accidents and Tortious Liability– Judicial Pronouncements in Private International Law<br>*Ayushi Dubey* | 51 |
| 6 | Legal Framework on Health Insurance in India: With Changes Owing toCovid-19<br>*Aniketh Reddy Devidy* | 70 |
| 7 | Revisiting the Law on Sexual Intercourse on Pretext Of Marriage.<br>*Ms. Afrin Khan* | 90 |
| 8 | Financing of Intellectual Property Rights<br>*S Prathyusha and Ms. Richa Prateek Jain* | 110 |

# Financing of Intellectual Property Rights

S Prathyusha[♠] and Ms. Richa Prateek Jain[♣]

*Abstract*

*Collateral security for a bank loan has created a fuss in Indian banking sector. Past few years have been the toughest and most controversial once. No wonder the day is not far when the need for loans would be more and options for collateral security would be less. In a country like India where creativity is given the utmost importance at homes, is being totally ignored in national levels. Intellectual Property Rights have made an extremely important position nationally and internationally. There are many countries which already have this practice for using collateral security as a collateral security. In India, the idea was put proposed five years back, but it never got a legal status. Converting a creative idea into financial assets is the need of the hour. When an intangible asset is included in company's portfolio and satisfies the definition of "property" than it can also be a security. Securitizing intangible assets such as royalties, trademarks or patents need a good IP Valuation. Many companies who are Intellectual Property centric are running out of cash flow and alike constrains and it is very difficult for them to opt for traditional financing options. If these companies use their Intellectual Properties as a collateral security the scope for their development might increase. The article will focus on why is it better to use Intellectual Properties as collateral Security to finance a business? What is the importance of a proper Intellectual Property Valuation for obtaining finance and its global importance? What are the possible hurdles while Intellectual Property is used as a security and what is the best possible IP Valuation for India?*

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# Contents


| | | |
|---|---|---|
| 1 | The Curious Case of Contempts in India<br>*Altamish Siddiki and Syed Hassana Quadri* | 1 |
| 2 | Access to Theatres: Fair Competition<br>*Dr. R. Bharat Kumar* | 12 |
| 3 | Female Genital Mutilation in India: An Analysis of Law and Practice<br>*Afrin Khan and Dr. Daisy Alexander* | 22 |
| 4 | Construction and Interpretation of Wills - A Review of Law and Decided Cases under the Conflict Rules<br>*Ms. K.S. Manaswi* | 41 |
| 5 | Dispute Resolution - Arbitration Infrastructure and Construction Projects<br>*Ayushi Dubey* | 58 |
| 6 | The Limited Recognition of Dual Citizenship<br>*Ms. S Prathyusha and Ms Richa Jain* | 92 |
| 7 | Transposition of Related Party Transactions in the Bygone Decade<br>*Mehnaz Sahid Choudhury* | 101 |
| 8 | Goods and Services Tax Network<br>*Mr. Chitrapu Anand Hitesh* | 108 |

# The Limited Recognition of Dual Citizenship

***Ms. S Prathyusha[*] and Ms Richa Jain[♦]***

*Abstract*

*"In the earliest times", says Savigny "to which authentic history extends, the law will be found to have already attained a fixed character, peculiar to the people like their language, manner and constitution. Nay, these phenomena have no separate existence, they are but the faculties and tendencies of an individual people, inseparably united in nature and only wearing the semblance of distinct attributes to our view. That which binds them into one whole is the common convention of the people. the kindred consciousness of an inward necessity excluding all nations of an accidental and arbitrary origin...law grows with the growth, and strengthens with the strength of the people and finally dies away as a nation loses its nationality...the sum therefore of this theory is that all law is originally formed in the manner in which in ordinary, but not quite correct, language customary law is said to have been formed, i.e. that it is first developed by custom and popular faith, next by jurisprudence, everywhere therefore by internal silently operating powers, not by the arbitrary will of a law-giver."*

## Introduction

From this point of view, Citizenship has always been perceived from an inclusion or exclusion aspect in the association between citizens and foreigners. Traditionally it is in respect to prerogative to privileges and rights. It plays a vital historical role in private affairs and matters, and especially, in the matters involving to the civil status of the people. This ascends out the idea that a municipal court, in the field of jurisdiction, is best suited to rule on such concepts and notions for reasons of cultural or spiritual affinity. Further, a municipal court is

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168

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# Contents


| | | |
|---|---|---|
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| 3 | Female Genital Mutilation in India: An Analysis of Law and Practice<br>*Afrin Khan and Dr. Daisy Alexander* | 22 |
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| 5 | Dispute Resolution - Arbitration Infrastructure and Construction Projects<br>*Ayushi Dubey* | 58 |
| 6 | The Limited Recognition of Dual Citizenship<br>*Ms. S Prathyusha and Ms Richa Jain* | 92 |
| 7 | Transposition of Related Party Transactions in the Bygone Decade<br>*Mehnaz Sahid Choudhury* | 101 |
| 8 | Goods and Services Tax Network<br>*Mr. Chitrapu Anand Hitesh* | 108 |

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# Contents


| | | |
|---|---|---|
| 1 | Consumer Sovereignty and Law<br>*Prof Sridevi D Shet* | 8 |
| 2 | Directors and Officers Insurance Liability: Some Concerns<br>*Sridevi D Shet* | 9 |
| 3 | Institutionalization of Arbitration<br>*Dr Veena* | 10 |
| 4 | New Age Business and Legal Environment<br>*Prof Rakesh Suryadevara* | 11 |
| 5 | Protection to the Farmers and Insurance<br>*Dr Madhuri Irene* | 12 |
| 6 | Tort Insurance and Product Liability<br>*Prof Anwesha Panigrahi* | 13 |
| 7 | "A Conceptual Understanding of Regional Trade Agreements: A Critical Study with Reference to India's Deviation from Multilateral Trade<br>*Mrs Annapurna Devi Munaganti,* | 15 |
| 8 | Direct Taxes Code Bill 2013– A Critical Analysis<br>*S.Ravi* | 16 |
| 9 | Right to Consumer Education: A Case Study with Reference to Hyderabad<br>*Dr. Irfan Rasool,* | 18 |
| 10 | The Consumer Protection Bill 2015: An Analysis<br>*Dr.S.V. Damodar Reddy* | 20 |
| 11 | The Goods and Services Tax Bill, 2014 – A Critical Analysis<br>*S.Ravi* | 21 |
| 12 | Money Laundering: Issues and Challenges<br>*Dr.P.L.Jayanthi Reddy* | 22 |
| 13 | Real Estate Act in India<br>*Monisha Gade* | 23 |
| 14 | A Categorical Study on Resolving Commercial Disputes: India's strategies Towards Ease of Doing Business.<br>*Ms Annapurna* | 24 |
| 15 | Empowering Women through Microfinance<br>*Geetha Priyadarshini* | 25 |
| 16 | Barter to Cryptocurrency : Evolution of Money<br>*Sreedevi Shet* | 26 |
| 17 | International Trade: Facts and Myths<br>*Rakesh Suryadevara* | 27 |
| 18 | Corporate Social Responsibility<br>*Dr.M.Ravindranath* | 28 |
| 19 | Real Estate Market An Overview in the UAE- An Empirical Study on Dubai Real Estate<br>*Dr.Durga Prasad* | 29 |

| | | |
|---|---|---|
| 20 | Inconvenience in Flag of Convenience<br>*Dr. Rama Devi* | 30 |
| 21 | The FRDI Bill –Resolution of Banks, Fears, Hopes and Trust<br>*A.Raja Rajeshwari* | 31 |
| 22 | Cost Reduction Approaches to Profit Improvement<br>*Prof. Rajasekhar Reddy* | 32 |
| 23 | The 'Control' Quandary- What Constitutes 'Control' Under the Competition Act 2002 in a Combination Transaction and How to Structure Combinations to Avoid CCI Scrutiny.<br>*Hartej Singh Kochher* | 33 |
| 24 | Exemption of Agriculture Income in India Under the Income Tax Act 1961: A Critical Study<br>*Prof Rupak Das* | 34 |
| 25 | A socio- legal study of the untapped prospects of Hydropower in India<br>*Prof Sofiul Ahmed* | 35 |
| 26. | Corporate Governance And Corporate Social Responsibility : Multidimensional Constructs<br>*Dr.Indira Priyadarshini,* | 36 |
| 27. | Insolvency and Bankruptcy Code, 2016 – Significant Amendments<br>*Dr. M. Srinivas* | 37 |
| 28. | Implementation of Leniency Programme – A Discretionary Power of Competition Commission of India<br>*Dr. Gunda Vedasri,* | 38 |
| 29. | New Era of Healthcare Consumerism: Trouncing Hallucination and High Jinks<br>*Prof. Ravulapati Madhavi* | 39 |
| 30. | The Dynamics of Corporate Criminal Liability in India<br>*M Srinivas* | 40 |
| 31. | E-Consumer Protection: Problems and Perspectives<br>*Mahantesh B Madiwalar & Prof. B S Reddy* | 41 |
| 32. | Implementation of Corporate Social Responsibility: A Judicial Approach Under Companies Act, 2013<br>*Meera Kumari Singh & Tabrez Ahmad* | 42 |
| 33. | Corporate Social Responsibility: Responsibility or Obligation?<br>*K Sita Manikyam* | 43 |
| 34. | Avoidance of Contract for Fundamental Breach Under the United Nations Convention on Contracts for the International Sale of Goods, 1980<br>*Mohammed Zaheeruddin* | 44 |
| 35. | Acts of Intervention: How Contracts of Liability Insurance Are Regulated to Protect Third Party Claimants in Australian Law<br>*John Woodward* | 45 |

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# Consumer Sovereignty and Law

Prof Sridevi D Shet*

**Abstract:** *Consumer Sovereignty is a well-accepted and established principle in the market place. It is well guarded by various specific legislations like the Consumer Protection Act 1986, the Competition Act 2002 in addition to the protection available under various legal instruments and Regulations made by the IRDA, SEBI and RBI. They also bestowed rights to the consumers and obligations on the part of the executive and quasi-judicial institutions. The consumers are equipped with a right to seek the involvement of various agencies for getting timely redressal of grievances they experience during the course of their enjoyment of services and or products they receive for consideration.*

*The machinery available for protecting the rights of the consumers is available in wide range. The procedures are well established with a prefixed time lines. The policy statements assure the quick, cost-effective and timely resolving of the grievances. The Government and Non-governmental groups are active in achieving the objectives for which they are formulated. The academia, electronic and print media are proactive and aggressive in spreading the awareness of consumerism. But, it is difficult to confirm that the objectives of the consumer sovereignty are achieved and the commitments made by the various legal instruments are adhered to or not, after knowing the time taken to resolve the consumer grievance and the number of cases pending at consumer fora and Commissions.*

*Just delayed is the just denied. If the consumer grievance is not addressed within a given space based upon the life of the product or services, the consumer purchases or hires of product or services, it is difficult to claim the success and assure the effective consumerism. There is a every need to adopt new strategy or the policy in addition to use the services of quasi-judicial fora, such as Consumer Commissions and fixing a cap to appeals at certain levels to avoid prolonging of the issues from one to other machinery. Use of Mediation and Conciliation methods at the first stage of the consumer grievance is more desired as the parties may end up their issues being satisfied during the mediation and conciliation processes with the involvement of the identified mediators and conciliators. To this effect, the Consumer Protection Act 1986 need to be amended.*

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# Contents


| | | |
|---|---|---|
| 1 | Consumer Sovereignty and Law<br>*Prof Sridevi D Shet* | 8 |
| 2 | Directors and Officers Insurance Liability: Some Concerns<br>*Sridevi D Shet* | 9 |
| 3 | Institutionalization of Arbitration<br>*Dr Veena* | 10 |
| 4 | New Age Business and Legal Environment<br>*Prof Rakesh Suryadevara* | 11 |
| 5 | Protection to the Farmers and Insurance<br>*Dr Madhuri Irene* | 12 |
| 6 | Tort Insurance and Product Liability<br>*Prof Anwesha Panigrahi* | 13 |
| 7 | "A Conceptual Understanding of Regional Trade Agreements: A Critical Study with Reference to India's Deviation from Multilateral Trade<br>*Mrs Annapurna Devi Munaganti,* | 15 |
| 8 | Direct Taxes Code Bill 2013– A Critical Analysis<br>*S.Ravi* | 16 |
| 9 | Right to Consumer Education: A Case Study with Reference to Hyderabad<br>*Dr. Irfan Rasool,* | 18 |
| 10 | The Consumer Protection Bill 2015: An Analysis<br>*Dr.S.V. Damodar Reddy* | 20 |
| 11 | The Goods and Services Tax Bill, 2014 – A Critical Analysis<br>*S.Ravi* | 21 |
| 12 | Money Laundering: Issues and Challenges<br>*Dr.P.L.Jayanthi Reddy* | 22 |
| 13 | Real Estate Act in India<br>*Monisha Gade* | 23 |
| 14 | A Categorical Study on Resolving Commercial Disputes: India's strategies Towards Ease of Doing Business.<br>*Ms Annapurna* | 24 |
| 15 | Empowering Women through Microfinance<br>*Geetha Priyadarshini* | 25 |
| 16 | Barter to Cryptocurrency : Evolution of Money<br>*Sreedevi Shet* | 26 |
| 17 | International Trade: Facts and Myths<br>*Rakesh Suryadevara* | 27 |
| 18 | Corporate Social Responsibility<br>*Dr.M.Ravindranath* | 28 |
| 19 | Real Estate Market An Overview in the UAE- An Empirical Study on Dubai Real Estate<br>*Dr.Durga Prasad* | 29 |

| | | |
|---|---|---|
| 20 | Inconvenience in Flag of Convenience<br>*Dr. Rama Devi* | 30 |
| 21 | The FRDI Bill –Resolution of Banks, Fears, Hopes and Trust<br>*A.Raja Rajeshwari* | 31 |
| 22 | Cost Reduction Approaches to Profit Improvement<br>*Prof. Rajasekhar Reddy* | 32 |
| 23 | The 'Control' Quandary- What Constitutes 'Control' Under the Competition Act 2002 in a Combination Transaction and How to Structure Combinations to Avoid CCI Scrutiny.<br>*Hartej Singh Kochher* | 33 |
| 24 | Exemption of Agriculture Income in India Under the Income Tax Act 1961: A Critical Study<br>*Prof Rupak Das* | 34 |
| 25 | A socio- legal study of the untapped prospects of Hydropower in India<br>*Prof Sofiul Ahmed* | 35 |
| 26. | Corporate Governance And Corporate Social Responsibility : Multidimensional Constructs<br>*Dr.Indira Priyadarshini,* | 36 |
| 27. | Insolvency and Bankruptcy Code, 2016 – Significant Amendments<br>*Dr. M. Srinivas* | 37 |
| 28. | Implementation of Leniency Programme – A Discretionary Power of Competition Commission of India<br>*Dr. Gunda Vedasri,* | 38 |
| 29. | New Era of Healthcare Consumerism: Trouncing Hallucination and High Jinks<br>*Prof. Ravulapati Madhavi* | 39 |
| 30. | The Dynamics of Corporate Criminal Liability in India<br>*M Srinivas* | 40 |
| 31. | E-Consumer Protection: Problems and Perspectives<br>*Mahantesh B Madiwalar & Prof. B S Reddy* | 41 |
| 32. | Implementation of Corporate Social Responsibility: A Judicial Approach Under Companies Act, 2013<br>*Meera Kumari Singh & Tabrez Ahmad* | 42 |
| 33. | Corporate Social Responsibility: Responsibility or Obligation?<br>*K Sita Manikyam* | 43 |
| 34. | Avoidance of Contract for Fundamental Breach Under the United Nations Convention on Contracts for the International Sale of Goods, 1980<br>*Mohammed Zaheeruddin* | 44 |
| 35. | Acts of Intervention: How Contracts of Liability Insurance Are Regulated to Protect Third Party Claimants in Australian Law<br>*John Woodward* | 45 |

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# Directors and Officers Insurance Liability: Some Concerns

Sridevi D Shet*

***Abstract*** *: The changed socio-economic scenario of the society, expansion of product range of insurance business, professionalized interpretation of terms used in the policies have brought challenging jobs into the insurance business market. The corporate operations and governance, in the present society where the awareness of rights and claims are at its peak, are resulting in potential claims against them. The directors and officers of the companies are vulnerable to different allegations and claims. Law of natural justice and statutory requirements mandates the companies to protect the directors and officers from the claims against them and to survive further in the competitive world.*

*Insurance companies are at the door step of the corporates to protect them from the vicarious liability with a facility of drafting policies as per the needs. The policies are not only tailor made in design but also in calculation of premium. The policies contain various conditions and clauses excluding and including some of the events and conditions. In addition, the D & O policies contain some other clauses specifically drafted for an individual policy. They are of greater importance. The pitfalls and hot-spots of the policies will be assessed with the help of interpretation of such clauses. Based upon the relation, the insurance company has with that of the corporate body or the CEO, they may tend to include or exclude the clauses and certain phrases like 'loss', 'cost and expenses', 'period of policy', 'wrongful act', 'claims made' and 'occurrence'. The interpretation of these clauses and phrases will be influencing the decision of the claim.*

*The increased role of corporates in the business of all types, particularly in the technology and e business, the liability of the directors and officers of the organizations and corporates is increasing in multifold, not only during their association with the corporates but also after the retirement. The event insured may happen at any time during the currency of the policy but it may be identified after some years. Some times, the event might happen at different time and claim may be filed during the currency of the policy. It will be difficult assess the real liability of the company or the directors during the above cases. There is a need to formulate specificstandards to issue the policies and also make the payment of claims. If neglected, there may be abuse of the D & O insurance policies because of collusion of the policy holders with that of the claimants. Instead of designing the policies on case to case basis, or on the basis of the relation the insurer has with that of the client, bench marking of exclusion and inclusion clauses, use of standard phrases and their limited interpretation can be made to avoid fraudulent use of the policies. Attention should be paid to review the existing methodology of issue of D&O insurance policies.*

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# Contents


| | | |
|---|---|---|
| 1 | Consumer Sovereignty and Law<br>*Prof Sridevi D Shet* | 8 |
| 2 | Directors and Officers Insurance Liability: Some Concerns<br>*Sridevi D Shet* | 9 |
| 3 | Institutionalization of Arbitration<br>*Dr Veena* | 10 |
| 4 | New Age Business and Legal Environment<br>*Prof Rakesh Suryadevara* | 11 |
| 5 | Protection to the Farmers and Insurance<br>*Dr Madhuri Irene* | 12 |
| 6 | Tort Insurance and Product Liability<br>*Prof Anwesha Panigrahi* | 13 |
| 7 | "A Conceptual Understanding of Regional Trade Agreements: A Critical Study with Reference to India's Deviation from Multilateral Trade<br>*Mrs Annapurna Devi Munaganti,* | 15 |
| 8 | Direct Taxes Code Bill 2013 – A Critical Analysis<br>*S.Ravi* | 16 |
| 9 | Right to Consumer Education: A Case Study with Reference to Hyderabad<br>*Dr. Irfan Rasool,* | 18 |
| 10 | The Consumer Protection Bill 2015: An Analysis<br>*Dr.S.V. Damodar Reddy* | 20 |
| 11 | The Goods and Services Tax Bill, 2014 – A Critical Analysis<br>*S.Ravi* | 21 |
| 12 | Money Laundering: Issues and Challenges<br>*Dr.P.L.Jayanthi Reddy* | 22 |
| 13 | Real Estate Act in India<br>*Monisha Gade* | 23 |
| 14 | A Categorical Study on Resolving Commercial Disputes: India's strategies Towards Ease of Doing Business.<br>*Ms Annapurna* | 24 |
| 15 | Empowering Women through Microfinance<br>*Geetha Priyadarshini* | 25 |
| 16 | Barter to Cryptocurrency : Evolution of Money<br>*Sreedevi Shet* | 26 |
| 17 | International Trade: Facts and Myths<br>*Rakesh Suryadevara* | 27 |
| 18 | Corporate Social Responsibility<br>*Dr.M.Ravindranath* | 28 |
| 19 | Real Estate Market An Overview in the UAE- An Empirical Study on Dubai Real Estate<br>*Dr.Durga Prasad* | 29 |

| | | |
|---|---|---|
| 20 | Inconvenience in Flag of Convenience<br>*Dr. Rama Devi* | 30 |
| 21 | The FRDI Bill –Resolution of Banks, Fears, Hopes and Trust<br>*A.Raja Rajeshwari* | 31 |
| 22 | Cost Reduction Approaches to Profit Improvement<br>*Prof. Rajasekhar Reddy* | 32 |
| 23 | The 'Control' Quandary- What Constitutes 'Control' Under the Competition Act 2002 in a Combination Transaction and How to Structure Combinations to Avoid CCI Scrutiny.<br>*Hartej Singh Kochher* | 33 |
| 24 | Exemption of Agriculture Income in India Under the Income Tax Act 1961: A Critical Study<br>*Prof Rupak Das* | 34 |
| 25 | A socio- legal study of the untapped prospects of Hydropower in India<br>*Prof Sofiul Ahmed* | 35 |
| 26. | Corporate Governance And Corporate Social Responsibility : Multidimensional Constructs<br>*Dr.Indira Priyadarshini,* | 36 |
| 27. | Insolvency and Bankruptcy Code, 2016 – Significant Amendments<br>*Dr. M. Srinivas* | 37 |
| 28. | Implementation of Leniency Programme – A Discretionary Power of Competition Commission of India<br>*Dr. Gunda Vedasri,* | 38 |
| 29. | New Era of Healthcare Consumerism: Trouncing Hallucination and High Jinks<br>*Prof. Ravulapati Madhavi* | 39 |
| 30. | The Dynamics of Corporate Criminal Liability in India<br>*M Srinivas* | 40 |
| 31. | E-Consumer Protection: Problems and Perspectives<br>*Mahantesh B Madiwalar & Prof. B S Reddy* | 41 |
| 32. | Implementation of Corporate Social Responsibility: A Judicial Approach Under Companies Act, 2013<br>*Meera Kumari Singh & Tabrez Ahmad* | 42 |
| 33. | Corporate Social Responsibility: Responsibility or Obligation?<br>*K Sita Manikyam* | 43 |
| 34. | Avoidance of Contract for Fundamental Breach Under the United Nations Convention on Contracts for the International Sale of Goods, 1980<br>*Mohammed Zaheeruddin* | 44 |
| 35. | Acts of Intervention: How Contracts of Liability Insurance Are Regulated to Protect Third Party Claimants in Australian Law<br>*John Woodward* | 45 |

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# Institutionalization of Arbitration

Dr Veena*

***Abstract :*** *The philosophy of Alternative Dispute Resolutions (ADR) is well accepted by the Indian society and supported by the legal fraternity. After understanding the need for ADR methods, the age old, Indian Arbitration Act 1899, The Arbitration Act 1940 were replaced with a new legislation, the Arbitration and Conciliation Act 1996. The Arbitration and Conciliation Act 1996 is enacted on lines of UNCITRAL Model Law with widened scope to meet the needs of the domestic arbitration in addition to the international commercial arbitration. The establishment of International Centre for Alternative Dispute Resolution (ICADR) having headquarters in Delhi and its regional offices in Bangalore and Hyderabad is one more important step in this directs and played pivotal role in arbitration. But, according to the Justice Sri Krishna Committee Report, the performance of the ICADR is not upto expectation, with settlement of 55 cases including five international commercial arbitrations during the last 20 plus years which is negligible in comparison to investments. Most of the arbitrations were carried during these two decades can be classified as ad-hoc arbitration whereas the global trends are the institutional arbitration. The need for faster mode of the dispute settlement is the need of the as the India is ranked 163 in the dispute settlements which is one of the most important parameter in doing of ease business index of the world bank.*

*The Central Government, based upon recommendations of the Justice Sri Krishna Committee, enacted the New Delhi International Arbitration Centre Act 2019 and came in to effect from March 2, 2019. One of the most important objectives of the said Act is to establish an institution of excellence which can operate as a flagship institution to promote the institutional arbitration. When the arbitration process is institutionalized, the parties and other stakeholders will get confidence and the outcome will be fair, transparent and acceptable to the stakeholders. The empanelment of arbitrators, roaster management, operational process, infrastructures and other related matters are made on predefined norms and will be the guiding stars for the people in litigation. The creation of Arbitration Chambers and Arbitration Academy are the two offshoots of the Act which, we hope, helps in creating the excellence in the arbitration process.*

*There is a criticism against the enactment of the New Delhi International Arbitration Centre (NDIAC) Act 2019 and it is alleged that the Act is made with ill and ulterior motives. The important question is about the independence of the NDIAC as the Act empowers the Central Government to make rules, appoints the members of the governing members and has a right to acquire the undertakings. The evaluation of the NDIAC cannot be made on the objectives it had, but can happen only on its performance. We have to wait and see the performance of NDIAC role in the institutionalization of the arbitration in the present environment where the Mumbai International Arbitration centre, Delhi International Arbitration Centre and Indian Council of Arbitration are operating since few years.*

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|---|---|---|
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| 2 | Directors and Officers Insurance Liability: Some Concerns<br>*Sridevi D Shet* | 9 |
| 3 | Institutionalization of Arbitration<br>*Dr Veena* | 10 |
| 4 | New Age Business and Legal Environment<br>*Prof Rakesh Suryadevara* | 11 |
| 5 | Protection to the Farmers and Insurance<br>*Dr Madhuri Irene* | 12 |
| 6 | Tort Insurance and Product Liability<br>*Prof Anwesha Panigrahi* | 13 |
| 7 | "A Conceptual Understanding of Regional Trade Agreements: A Critical Study with Reference to India's Deviation from Multilateral Trade<br>*Mrs Annapurna Devi Munaganti,* | 15 |
| 8 | Direct Taxes Code Bill 2013 – A Critical Analysis<br>*S.Ravi* | 16 |
| 9 | Right to Consumer Education: A Case Study with Reference to Hyderabad<br>*Dr. Irfan Rasool,* | 18 |
| 10 | The Consumer Protection Bill 2015: An Analysis<br>*Dr.S.V. Damodar Reddy* | 20 |
| 11 | The Goods and Services Tax Bill, 2014 – A Critical Analysis<br>*S.Ravi* | 21 |
| 12 | Money Laundering: Issues and Challenges<br>*Dr.P.L.Jayanthi Reddy* | 22 |
| 13 | Real Estate Act in India<br>*Monisha Gade* | 23 |
| 14 | A Categorical Study on Resolving Commercial Disputes: India's strategies Towards Ease of Doing Business.<br>*Ms Annapurna* | 24 |
| 15 | Empowering Women through Microfinance<br>*Geetha Priyadarshini* | 25 |
| 16 | Barter to Cryptocurrency : Evolution of Money<br>*Sreedevi Shet* | 26 |
| 17 | International Trade: Facts and Myths<br>*Rakesh Suryadevara* | 27 |
| 18 | Corporate Social Responsibility<br>*Dr.M.Ravindranath* | 28 |
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| | | |
|---|---|---|
| 20 | Inconvenience in Flag of Convenience<br>*Dr. Rama Devi* | 30 |
| 21 | The FRDI Bill –Resolution of Banks, Fears, Hopes and Trust<br>*A.Raja Rajeshwari* | 31 |
| 22 | Cost Reduction Approaches to Profit Improvement<br>*Prof. Rajasekhar Reddy* | 32 |
| 23 | The 'Control' Quandary- What Constitutes 'Control' Under the Competition Act 2002 in a Combination Transaction and How to Structure Combinations to Avoid CCI Scrutiny.<br>*Hartej Singh Kochher* | 33 |
| 24 | Exemption of Agriculture Income in India Under the Income Tax Act 1961: A Critical Study<br>*Prof Rupak Das* | 34 |
| 25 | A socio- legal study of the untapped prospects of Hydropower in India<br>*Prof Sofiul Ahmed* | 35 |
| 26. | Corporate Governance And Corporate Social Responsibility : Multidimensional Constructs<br>*Dr.Indira Priyadarshini,* | 36 |
| 27. | Insolvency and Bankruptcy Code, 2016 – Significant Amendments<br>*Dr. M. Srinivas* | 37 |
| 28. | Implementation of Leniency Programme – A Discretionary Power of Competition Commission of India<br>*Dr. Gunda Vedasri,* | 38 |
| 29. | New Era of Healthcare Consumerism: Trouncing Hallucination and High Jinks<br>*Prof. Ravulapati Madhavi* | 39 |
| 30. | The Dynamics of Corporate Criminal Liability in India<br>*M Srinivas* | 40 |
| 31. | E-Consumer Protection: Problems and Perspectives<br>*Mahantesh B Madiwalar & Prof. B S Reddy* | 41 |
| 32. | Implementation of Corporate Social Responsibility: A Judicial Approach Under Companies Act, 2013<br>*Meera Kumari Singh & Tabrez Ahmad* | 42 |
| 33. | Corporate Social Responsibility: Responsibility or Obligation?<br>*K Sita Manikyam* | 43 |
| 34. | Avoidance of Contract for Fundamental Breach Under the United Nations Convention on Contracts for the International Sale of Goods, 1980<br>*Mohammed Zaheeruddin* | 44 |
| 35. | Acts of Intervention: How Contracts of Liability Insurance Are Regulated to Protect Third Party Claimants in Australian Law<br>*John Woodward* | 45 |

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# New Age Business and Legal Environment

Prof Rakesh Suryadevara*

***Abstract :*** *The liberalization and globalization of economy has created conducive environment for starting of businesses on new note and platforms. The revolution of information technology resulted in digital storm enabling many physical businesses transforming into new model of e commerce business premise. The Covid-19 Pandemic further triggered the opening of electronic platforms for businesses in every walk of life. The vistas of new age business are opened up. The physical businesses are being replaced by the businesses from virtual places focusing on designing of new products and services, to be supplied hassle free and with well defined logistics within time frame work.*

*Today the cinema halls are replaced with OTT and Netflix, Prime –video, Disney Hot star are for example, the home tuitions are replaced with the BYJU, Simple Learning, Vedanta etc, the hospitality sector is replaced with the Zomotto, Swiggy, travel by the Meru, Dotcabs and Sky Cabs, Grocery shops are substituted with Amazon, Flipcart and Bigbaskets etc. The Class-room education is being replaced with Zoom, Webex, Google Classes, Microsoft Teams etc. Thus, in every field business and life are indeed captured by the digital businesses, helping the smooth functioning of the society during the critical period avoiding and evading the health challenges. The advent and intrusion of the artificial intelligence and block chain technologies have further immobilized human physical movements by offering secured and safe transactions including the financial transactions.*

*The increased businesses of new age have equally brought challenges to the stakeholders such as the fake identities, identity thefts, frauds and deceptions, cyber attacks, hacking of data and bank accounts, swindling of monies, infringement of intellectual property rights of real owners, quality depletion of products and services, indifference to the services of post-sale of products, spamming and many of deceit nature. The most challenging job for the investigators, prosecutors and adjudicators understand the transaction, identifying the persons involved, collection of evidences permitted under law, conducting the investigation and presenting the case before the adjudicator beyond any doubt. Most of the times, counterfeit products, people without skills and technical knowledge, overwhelmed greediness are found at the end of chain of events and incidents resulting the financial losses. The fixing liability, enforcement of contractual obligations, payment of compensations and damages are the challenges before the legal fraternity to frame and prove the cases and decide. These are some of issues and challenges of sample case. Much more technical and procedural issues crops up during the trial and adjudicating process. Thus, the new age business is required to be combated with the help of the equally growing legal techniques and sciences to harmonizing the law with that of new age business and relative advocacy points are discussed equally.*

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| 5 | Protection to the Farmers and Insurance<br>*Dr Madhuri Irene* | 12 |
| 6 | Tort Insurance and Product Liability<br>*Prof Anwesha Panigrahi* | 13 |
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| 16 | Barter to Cryptocurrency : Evolution of Money<br>*Sreedevi Shet* | 26 |
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| | | |
|---|---|---|
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| 31. | E-Consumer Protection: Problems and Perspectives<br>*Mahantesh B Madiwalar & Prof. B S Reddy* | 41 |
| 32. | Implementation of Corporate Social Responsibility: A Judicial Approach Under Companies Act, 2013<br>*Meera Kumari Singh & Tabrez Ahmad* | 42 |
| 33. | Corporate Social Responsibility: Responsibility or Obligation?<br>*K Sita Manikyam* | 43 |
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# Protection to the Farmers and Insurance

Dr Madhuri Irene*

***Abstract*** *: The farmer is the centre point of all kinds of businesses like the fertilizers, pesticides, food products, dairy products, textiles, medicines and pharmaceuticals, research and development, medical services and even in the areas of collection of taxes. They need much more attention as the performance depends upon the nature in general and monsoons in specific. In order to protect the interests of the rural folk including the agriculture labor, the IRDA has formulated the Regulations and imposed a duty upon every insurance company to undertake the rural business and ensure to insure certain minimum number of lives at reasonable and affordable rates.*

*The IRDA has to formulate a policy and regulations bringing the vendors of the fertilizers, pesticides, seeds and even the power departments under the provisions of the Public Liability Insurance Act, 1991. It can be used to fix the accountability upon a person who is responsible for the failure of a crop, who supplies the poor quality of seeds, rendering of low quality of power supply and pesticides. The concepts of 'absolute liability' and 'no faulty liability' can be imposed upon the vendors. Vendors may be asked to purchase compulsory insurance policy to the extent of their business and supply of the seed and other agriculture inputs to the farmers. By fixing minimum compensation for failure of seeds and pesticides and maximum compensation for the suicidal deaths of the farmers occurred because of any of the above reasons will not only help the farmers but also help in regulation of counterfeit products. Sever punishments may also be imposed to deter the people playing with the lives of the innocent farmers. In addition the IRDA may direct the insurance companies to formulate a special insurance policy to cover the health of the farmer including the suicidal death and health of his family members. A comprehensive policy covering the farmer, farm animals, equipment and the crop at reasonable and affordable rates may be designed by the insurance companies. It can be regulated by a task force appointed by the IRDA containing the members from revenue, agriculture departments and insurance companies. The comprehensive regulation will boost the confidence of the farmers and a new dawn may come in the lives of the farmers.*

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# Contents


| | | |
|---|---|---|
| 1 | Consumer Sovereignty and Law<br>*Prof Sridevi D Shet* | 8 |
| 2 | Directors and Officers Insurance Liability: Some Concerns<br>*Sridevi D Shet* | 9 |
| 3 | Institutionalization of Arbitration<br>*Dr Veena* | 10 |
| 4 | New Age Business and Legal Environment<br>*Prof Rakesh Suryadevara* | 11 |
| 5 | Protection to the Farmers and Insurance<br>*Dr Madhuri Irene* | 12 |
| 6 | Tort Insurance and Product Liability<br>*Prof Anwesha Panigrahi* | 13 |
| 7 | "A Conceptual Understanding of Regional Trade Agreements: A Critical Study with Reference to India's Deviation from Multilateral Trade<br>*Mrs Annapurna Devi Munaganti,* | 15 |
| 8 | Direct Taxes Code Bill 2013– A Critical Analysis<br>*S.Ravi* | 16 |
| 9 | Right to Consumer Education: A Case Study with Reference to Hyderabad<br>*Dr. Irfan Rasool,* | 18 |
| 10 | The Consumer Protection Bill 2015: An Analysis<br>*Dr.S.V. Damodar Reddy* | 20 |
| 11 | The Goods and Services Tax Bill, 2014 – A Critical Analysis<br>*S.Ravi* | 21 |
| 12 | Money Laundering: Issues and Challenges<br>*Dr.P.L.Jayanthi Reddy* | 22 |
| 13 | Real Estate Act in India<br>*Monisha Gade* | 23 |
| 14 | A Categorical Study on Resolving Commercial Disputes: India's strategies Towards Ease of Doing Business.<br>*Ms Annapurna* | 24 |
| 15 | Empowering Women through Microfinance<br>*Geetha Priyadarshini* | 25 |
| 16 | Barter to Cryptocurrency : Evolution of Money<br>*Sreedevi Shet* | 26 |
| 17 | International Trade: Facts and Myths<br>*Rakesh Suryadevara* | 27 |
| 18 | Corporate Social Responsibility<br>*Dr.M.Ravindranath* | 28 |
| 19 | Real Estate Market An Overview in the UAE- An Empirical Study on Dubai Real Estate<br>*Dr.Durga Prasad* | 29 |

| | | |
|---|---|---|
| 20 | Inconvenience in Flag of Convenience<br>*Dr. Rama Devi* | 30 |
| 21 | The FRDI Bill –Resolution of Banks, Fears, Hopes and Trust<br>*A.Raja Rajeshwari* | 31 |
| 22 | Cost Reduction Approaches to Profit Improvement<br>*Prof. Rajasekhar Reddy* | 32 |
| 23 | The 'Control' Quandary- What Constitutes 'Control' Under the Competition Act 2002 in a Combination Transaction and How to Structure Combinations to Avoid CCI Scrutiny.<br>*Hartej Singh Kochher* | 33 |
| 24 | Exemption of Agriculture Income in India Under the Income Tax Act 1961: A Critical Study<br>*Prof Rupak Das* | 34 |
| 25 | A socio- legal study of the untapped prospects of Hydropower in India<br>*Prof Sofiul Ahmed* | 35 |
| 26. | Corporate Governance And Corporate Social Responsibility : Multidimensional Constructs<br>*Dr.Indira Priyadarshini,* | 36 |
| 27. | Insolvency and Bankruptcy Code, 2016 – Significant Amendments<br>*Dr. M. Srinivas* | 37 |
| 28. | Implementation of Leniency Programme – A Discretionary Power of Competition Commission of India<br>*Dr. Gunda Vedasri,* | 38 |
| 29. | New Era of Healthcare Consumerism: Trouncing Hallucination and High Jinks<br>*Prof. Ravulapati Madhavi* | 39 |
| 30. | The Dynamics of Corporate Criminal Liability in India<br>*M Srinivas* | 40 |
| 31. | E-Consumer Protection: Problems and Perspectives<br>*Mahantesh B Madiwalar & Prof. B S Reddy* | 41 |
| 32. | Implementation of Corporate Social Responsibility: A Judicial Approach Under Companies Act, 2013<br>*Meera Kumari Singh & Tabrez Ahmad* | 42 |
| 33. | Corporate Social Responsibility: Responsibility or Obligation?<br>*K Sita Manikyam* | 43 |
| 34. | Avoidance of Contract for Fundamental Breach Under the United Nations Convention on Contracts for the International Sale of Goods, 1980<br>*Mohammed Zaheeruddin* | 44 |
| 35. | Acts of Intervention: How Contracts of Liability Insurance Are Regulated to Protect Third Party Claimants in Australian Law<br>*John Woodward* | 45 |

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# Tort Insurance and Product Liability

Prof Anwesha Panigrahi*

*Abstract:* *Liberalization of economy and opening of insurance market to the private players have engorged the scope of insurance products and risks covered by the insurance companies. The competitive spirit prevailing among the insurers is furthering designing of new products in general and life insurance segments to cover various risks associated with the day to day living of the people. The life insurers have designed new products to cover the life coupled with the investment options. The general insurers have initiated innovative insurance policies to cover the risk of loss of physical assets and the liabilities arising out of the product. It is a welcome trend.*

*The concept of product liability acts contra to the doctrine of 'privity of contract'. In number of occasions the courts have allowed the payment of compensation to consumer of an asset because of defects in its manufacturing. The payment towards the loss of utility of the asset and suffering is of tort nature and depends upon the terms of the sale of the asset. In a contract of sale the manufacturer is a third party to the contract and he is not liable for any action from the consumer as per the doctrine of privity of contract. But the courts have fixed them in a frame work of 'strict liability.' It imposes a responsibility upon the manufacturer to pay the losses suffered by the consumer arising out of the use of product for its inherent defects or otherwise. Thus, the application of 'strict liability' principle creates liability on the manufacturers for the products they produce. And the concept of 'tort' is transformed into the product liability. Insurance the liability of manufacturer amounts to 'tort insurance' and every manufacturer of the product or the service requires to have the insurance cover. It appears to be a social insurance as it saves both the parties, the manufacturer and the consumer of the product. The 'tort insurance' takes shape of 'product liability insurance'.*

*The Public Liability Insurance Act 1991, Motor Vehicle Act 1988 and other Statutes imposes a mandatory duty on organizations and owners of vehicles to purchase insurance cover to third party claims on happening of certain risks insured. The cover becomes handy in settling the claims without any financial collapse. In a similar way, the tort insurance or the product liability insurance cover should be made mandatory on the part of manufacturers or providers of the services against the unexpected claims arising out of use of their products and services. Every manufacturer or the organization delivering the services should purchase the insurance policies to cover their liability payments. The cost of insurance policies should be treated as one of the overhead and should be included as part of the cost of the product. The product-literature and terms of the guarantee should state the fact of insurance cover available to the consumer along with the conditions and terms of claims. The consumer should be in a position to lodge his claim directly to the insurance company. The time for litigations may be curtailed. Thus, insurance cover should run along with the utility of the product or the services as seen the operation of motor vehicle insurances. The probable threat of unexpected claims can be avoided by limiting the liabilities of the manufacturer, or the seller of the product. There is a need to define the product liability insurances to include the tort liabilities subject to certain ceiling of claims.*

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# Contents


| | | |
|---|---|---|
| 1 | Consumer Sovereignty and Law<br>*Prof Sridevi D Shet* | 8 |
| 2 | Directors and Officers Insurance Liability: Some Concerns<br>*Sridevi D Shet* | 9 |
| 3 | Institutionalization of Arbitration<br>*Dr Veena* | 10 |
| 4 | New Age Business and Legal Environment<br>*Prof Rakesh Suryadevara* | 11 |
| 5 | Protection to the Farmers and Insurance<br>*Dr Madhuri Irene* | 12 |
| 6 | Tort Insurance and Product Liability<br>*Prof Anwesha Panigrahi* | 13 |
| 7 | "A Conceptual Understanding of Regional Trade Agreements: A Critical Study with Reference to India's Deviation from Multilateral Trade<br>*Mrs Annapurna Devi Munaganti,* | 15 |
| 8 | Direct Taxes Code Bill 2013– A Critical Analysis<br>*S.Ravi* | 16 |
| 9 | Right to Consumer Education: A Case Study with Reference to Hyderabad<br>*Dr. Irfan Rasool,* | 18 |
| 10 | The Consumer Protection Bill 2015: An Analysis<br>*Dr.S.V. Damodar Reddy* | 20 |
| 11 | The Goods and Services Tax Bill, 2014 – A Critical Analysis<br>*S.Ravi* | 21 |
| 12 | Money Laundering: Issues and Challenges<br>*Dr.P.L.Jayanthi Reddy* | 22 |
| 13 | Real Estate Act in India<br>*Monisha Gade* | 23 |
| 14 | A Categorical Study on Resolving Commercial Disputes: India's strategies Towards Ease of Doing Business.<br>*Ms Annapurna* | 24 |
| 15 | Empowering Women through Microfinance<br>*Geetha Priyadarshini* | 25 |
| 16 | Barter to Cryptocurrency : Evolution of Money<br>*Sreedevi Shet* | 26 |
| 17 | International Trade: Facts and Myths<br>*Rakesh Suryadevara* | 27 |
| 18 | Corporate Social Responsibility<br>*Dr.M.Ravindranath* | 28 |
| 19 | Real Estate Market An Overview in the UAE- An Empirical Study on Dubai Real Estate<br>*Dr.Durga Prasad* | 29 |

| | | |
|---|---|---|
| 20 | Inconvenience in Flag of Convenience<br>*Dr. Rama Devi* | 30 |
| 21 | The FRDI Bill –Resolution of Banks, Fears, Hopes and Trust<br>*A.Raja Rajeshwari* | 31 |
| 22 | Cost Reduction Approaches to Profit Improvement<br>*Prof. Rajasekhar Reddy* | 32 |
| 23 | The 'Control' Quandary- What Constitutes 'Control' Under the Competition Act 2002 in a Combination Transaction and How to Structure Combinations to Avoid CCI Scrutiny.<br>*Hartej Singh Kochher* | 33 |
| 24 | Exemption of Agriculture Income in India Under the Income Tax Act 1961: A Critical Study<br>*Prof Rupak Das* | 34 |
| 25 | A socio- legal study of the untapped prospects of Hydropower in India<br>*Prof Sofiul Ahmed* | 35 |
| 26. | Corporate Governance And Corporate Social Responsibility : Multidimensional Constructs<br>*Dr.Indira Priyadarshini,* | 36 |
| 27. | Insolvency and Bankruptcy Code, 2016 – Significant Amendments<br>*Dr. M. Srinivas* | 37 |
| 28. | Implementation of Leniency Programme – A Discretionary Power of Competition Commission of India<br>*Dr. Gunda Vedasri,* | 38 |
| 29. | New Era of Healthcare Consumerism: Trouncing Hallucination and High Jinks<br>*Prof. Ravulapati Madhavi* | 39 |
| 30. | The Dynamics of Corporate Criminal Liability in India<br>*M Srinivas* | 40 |
| 31. | E-Consumer Protection: Problems and Perspectives<br>*Mahantesh B Madiwalar & Prof. B S Reddy* | 41 |
| 32. | Implementation of Corporate Social Responsibility: A Judicial Approach Under Companies Act, 2013<br>*Meera Kumari Singh & Tabrez Ahmad* | 42 |
| 33. | Corporate Social Responsibility: Responsibility or Obligation?<br>*K Sita Manikyam* | 43 |
| 34. | Avoidance of Contract for Fundamental Breach Under the United Nations Convention on Contracts for the International Sale of Goods, 1980<br>*Mohammed Zaheeruddin* | 44 |
| 35. | Acts of Intervention: How Contracts of Liability Insurance Are Regulated to Protect Third Party Claimants in Australian Law<br>*John Woodward* | 45 |

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# A Conceptual Understanding of Regional Trade Agreements: A Critical Study with Reference to India's Deviation from Multilateral Trade

Mrs Annapurna Devi Munaganti*

*Abstract: Faculty spoke about the inception of the Comparative advantage theory by David Ricardo, that lead to emergence of international trade and its requirement for regulatory framework in the international trade. International trade had existed long time back in pre and post GATT scenario. She said that it secured a dynamic presence in the WTO regime in general and besides creating or constructing regional blocks among the nations in specific. Further she said that a debate also went on a time regarding regionalism and multilateralism and their prominence over each other. The concept of Regionalism lies in creation of RTA'S, PTA's, CU's, CECA, CEPA, Common Markets etc,. Among these, Regional trade agreements (RTAs) have peculiar character and become dominant feature of contemporary global trade. The increase in the number of RTAs strengthened since the early 90s. The development of these regional trade agreements took place against the background of a multilateral trading system based on fundamental principles such as the most-favoured-nation principle. The relationship between regionalism and multilateralism could be symbolized by the rules applicable between the Members of the WTO continues to be a critical question for the development of both international trade and the multilateral trading system. She discussed about meaning of Regional Trade Agreements (RTAs), the agreements whereby members accord preferential treatment to one another in respect to trade barriers. The most common trade agreements are of the preferential and free trade types are concluded in order to reduce (or eliminate) tariffs, quotas and other trade restrictions on items traded between the signatories. RTAs and PTAs are subject to different legal requirements, and different procedures are attached to them. Faculty focuses on the conceptual understanding of RTA and WTO rule to enlighten the target group on various WTO Rules. Also focuses on different kinds of Regional Economic Integrations and their impact on global Trade. Faculty discussed on the Indian Regional trade pacts with other groups and the way of deviation from multilateral pacts. Further she also analyses the present situation of the decade where India exactly stands in its way ahead of global trade relations.*

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# Contents


| | | |
|---|---|---|
| 1 | Consumer Sovereignty and Law<br>*Prof Sridevi D Shet* | 8 |
| 2 | Directors and Officers Insurance Liability: Some Concerns<br>*Sridevi D Shet* | 9 |
| 3 | Institutionalization of Arbitration<br>*Dr Veena* | 10 |
| 4 | New Age Business and Legal Environment<br>*Prof Rakesh Suryadevara* | 11 |
| 5 | Protection to the Farmers and Insurance<br>*Dr Madhuri Irene* | 12 |
| 6 | Tort Insurance and Product Liability<br>*Prof Anwesha Panigrahi* | 13 |
| 7 | "A Conceptual Understanding of Regional Trade Agreements: A Critical Study with Reference to India's Deviation from Multilateral Trade<br>*Mrs Annapurna Devi Munaganti,* | 15 |
| 8 | Direct Taxes Code Bill 2013– A Critical Analysis<br>*S.Ravi* | 16 |
| 9 | Right to Consumer Education: A Case Study with Reference to Hyderabad<br>*Dr. Irfan Rasool,* | 18 |
| 10 | The Consumer Protection Bill 2015: An Analysis<br>*Dr.S.V. Damodar Reddy* | 20 |
| 11 | The Goods and Services Tax Bill, 2014 – A Critical Analysis<br>*S.Ravi* | 21 |
| 12 | Money Laundering: Issues and Challenges<br>*Dr.P.L.Jayanthi Reddy* | 22 |
| 13 | Real Estate Act in India<br>*Monisha Gade* | 23 |
| 14 | A Categorical Study on Resolving Commercial Disputes: India's strategies Towards Ease of Doing Business.<br>*Ms Annapurna* | 24 |
| 15 | Empowering Women through Microfinance<br>*Geetha Priyadarshini* | 25 |
| 16 | Barter to Cryptocurrency : Evolution of Money<br>*Sreedevi Shet* | 26 |
| 17 | International Trade: Facts and Myths<br>*Rakesh Suryadevara* | 27 |
| 18 | Corporate Social Responsibility<br>*Dr.M.Ravindranath* | 28 |
| 19 | Real Estate Market An Overview in the UAE- An Empirical Study on Dubai Real Estate<br>*Dr.Durga Prasad* | 29 |

| | | |
|---|---|---|
| 20 | Inconvenience in Flag of Convenience<br>*Dr. Rama Devi* | 30 |
| 21 | The FRDI Bill –Resolution of Banks, Fears, Hopes and Trust<br>*A.Raja Rajeshwari* | 31 |
| 22 | Cost Reduction Approaches to Profit Improvement<br>*Prof. Rajasekhar Reddy* | 32 |
| 23 | The 'Control' Quandary- What Constitutes 'Control' Under the Competition Act 2002 in a Combination Transaction and How to Structure Combinations to Avoid CCI Scrutiny.<br>*Hartej Singh Kochher* | 33 |
| 24 | Exemption of Agriculture Income in India Under the Income Tax Act 1961: A Critical Study<br>*Prof Rupak Das* | 34 |
| 25 | A socio- legal study of the untapped prospects of Hydropower in India<br>*Prof Sofiul Ahmed* | 35 |
| 26. | Corporate Governance And Corporate Social Responsibility : Multidimensional Constructs<br>*Dr.Indira Priyadarshini,* | 36 |
| 27. | Insolvency and Bankruptcy Code, 2016 – Significant Amendments<br>*Dr. M. Srinivas* | 37 |
| 28. | Implementation of Leniency Programme – A Discretionary Power of Competition Commission of India<br>*Dr. Gunda Vedasri,* | 38 |
| 29. | New Era of Healthcare Consumerism: Trouncing Hallucination and High Jinks<br>*Prof. Ravulapati Madhavi* | 39 |
| 30. | The Dynamics of Corporate Criminal Liability in India<br>*M Srinivas* | 40 |
| 31. | E-Consumer Protection: Problems and Perspectives<br>*Mahantesh B Madiwalar & Prof. B S Reddy* | 41 |
| 32. | Implementation of Corporate Social Responsibility: A Judicial Approach Under Companies Act, 2013<br>*Meera Kumari Singh & Tabrez Ahmad* | 42 |
| 33. | Corporate Social Responsibility: Responsibility or Obligation?<br>*K Sita Manikyam* | 43 |
| 34. | Avoidance of Contract for Fundamental Breach Under the United Nations Convention on Contracts for the International Sale of Goods, 1980<br>*Mohammed Zaheeruddin* | 44 |
| 35. | Acts of Intervention: How Contracts of Liability Insurance Are Regulated to Protect Third Party Claimants in Australian Law<br>*John Woodward* | 45 |

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# Direct Taxes Code Bill 2013– A Critical Analysis

S.Ravi*

***Abstract:*** *The Government of India has shown its sincerest efforts to establish that it is pro-business and has made several amendments to the Income-tax Act, 1961 (the Act) which are very beneficial to investors into India. It has also balanced by introducing several schemes for the poor especially, the continuation of MNREGA as just confirmed by Prime Minister Modi in Parliament yesterday. The Government has been lucky in various aspects one of which is the tumbling oil prices in the last few months and it seems to be even lucky that the oil prices are not likely to go up in the near future. Ten and billions of dollars have been saved by the Government only due to this. This has helped in not only achieving an ambitious fiscal deficit but has also encouraged the Government to further aspire to reduce the fiscal deficit to as low as 3% in the next few years. Even the opposition parties will have to accept now that this is achievable target. The inflation too has come down and the sprouts of industrial growth and foreign investments into India have started to show signs. No one seems to be pessimistic about the Indian economy and with catching phrase like 'Make in India' by the Government has only drawn more attention by the global investors. The new Government is still young which is just nine months old but the efforts shown by it with regard to development is well heard in all corners or at least well debated. The Government is very keen in bringing back the black money into the country which will help it to further narrow down the fiscal deficit rift and may give space to it to not to be in a hurry on disinvestments of profitable public sector undertakings. Stringent provisions are being made in the Act and even new laws are to be enacted to handle black money issue. While the message to the global investors is loud and clear to invest in India but not at the cost of tax evasion. On direct tax front, various positive changes have been made such as; GAAR has been deferred by another two years admitting that it is not the best time to introduce it when the tax department (revenue) is yet to be fully equipped. To attract fund managers to operate from India it is being clarified that they will not be treated as business connection (BC) or permanent establishment (PE) and that the offshore fund which is managed from India will also not be treated as an Indian fund though controlled from India to avoid Indian taxes. Rollback to 10% withholding tax (WHT) for royalty and fees for technical services (FTS) payments abroad to attract transfer of technology into India and to encourage small entrepreneurs. As a major breakthrough, the word 'substantially' in Explanation 5 to section 9(1)(i) has been defined in an acceptable manner including a de minimis exemption to small investors directly/ indirectly in Indian assets. Steps to make Rules to provide Foreign Tax Credit (FTC) benefits which is almost a dead letter law under the Act especially in a situation when Indian companies have global operations having significant foreign source income/ loss and payment of taxes and excess credits lying with them is a welcome move. Clarity on the interest payments made by Indian PE to its Head Office or other PEs outside country that taxes have to be withheld to enjoy tax deduction in India on the PE's income. Reduction on corporate income tax to 25% from 30% with certainty of its operation (i.e. from FY 2016-17 to FY 2019-20) is a push for operations from India by global investors.The above seems to be very welcome moves by the Government to show that it is no more a Shylock when it comes to tax collection and is even capable of forgoing its invaluable direct tax collections. Indeed, the Fin Min admitted that due to these appeasing changes the Government's coffer will lose around INR 80 billion in the next financial year, which, though will be balanced through indirect tax collections.*

*But the Government has not yet bitten the bullet with regard to the retrospective tax to section 9(1)(i). Though the retrospectively amended section has not yet earned even a dime for the Government, the Government is neither able to spit it nor swallow it. It wants to both have the cake and also eat it. The Fin Min conveniently pushed the ball to CBDT's court saying that it will look into it. An early settlement on the principal tax alone on the half a dozen indirect transfers and making the law prospective will look more*

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# Contents


| | | |
|---|---|---|
| 1 | Consumer Sovereignty and Law<br>*Prof Sridevi D Shet* | 8 |
| 2 | Directors and Officers Insurance Liability: Some Concerns<br>*Sridevi D Shet* | 9 |
| 3 | Institutionalization of Arbitration<br>*Dr Veena* | 10 |
| 4 | New Age Business and Legal Environment<br>*Prof Rakesh Suryadevara* | 11 |
| 5 | Protection to the Farmers and Insurance<br>*Dr Madhuri Irene* | 12 |
| 6 | Tort Insurance and Product Liability<br>*Prof Anwesha Panigrahi* | 13 |
| 7 | "A Conceptual Understanding of Regional Trade Agreements: A Critical Study with Reference to India's Deviation from Multilateral Trade<br>*Mrs Annapurna Devi Munaganti,* | 15 |
| 8 | Direct Taxes Code Bill 2013– A Critical Analysis<br>*S.Ravi* | 16 |
| 9 | Right to Consumer Education: A Case Study with Reference to Hyderabad<br>*Dr. Irfan Rasool,* | 18 |
| 10 | The Consumer Protection Bill 2015: An Analysis<br>*Dr.S.V. Damodar Reddy* | 20 |
| 11 | The Goods and Services Tax Bill, 2014 – A Critical Analysis<br>*S.Ravi* | 21 |
| 12 | Money Laundering: Issues and Challenges<br>*Dr.P.L.Jayanthi Reddy* | 22 |
| 13 | Real Estate Act in India<br>*Monisha Gade* | 23 |
| 14 | A Categorical Study on Resolving Commercial Disputes: India's strategies Towards Ease of Doing Business.<br>*Ms Annapurna* | 24 |
| 15 | Empowering Women through Microfinance<br>*Geetha Priyadarshini* | 25 |
| 16 | Barter to Cryptocurrency : Evolution of Money<br>*Sreedevi Shet* | 26 |
| 17 | International Trade: Facts and Myths<br>*Rakesh Suryadevara* | 27 |
| 18 | Corporate Social Responsibility<br>*Dr.M.Ravindranath* | 28 |
| 19 | Real Estate Market An Overview in the UAE- An Empirical Study on Dubai Real Estate<br>*Dr.Durga Prasad* | 29 |

| | | |
|---|---|---|
| 20 | Inconvenience in Flag of Convenience<br>*Dr. Rama Devi* | 30 |
| 21 | The FRDI Bill –Resolution of Banks, Fears, Hopes and Trust<br>*A.Raja Rajeshwari* | 31 |
| 22 | Cost Reduction Approaches to Profit Improvement<br>*Prof. Rajasekhar Reddy* | 32 |
| 23 | The 'Control' Quandary- What Constitutes 'Control' Under the Competition Act 2002 in a Combination Transaction and How to Structure Combinations to Avoid CCI Scrutiny.<br>*Hartej Singh Kochher* | 33 |
| 24 | Exemption of Agriculture Income in India Under the Income Tax Act 1961: A Critical Study<br>*Prof Rupak Das* | 34 |
| 25 | A socio- legal study of the untapped prospects of Hydropower in India<br>*Prof Sofiul Ahmed* | 35 |
| 26. | Corporate Governance And Corporate Social Responsibility : Multidimensional Constructs<br>*Dr.Indira Priyadarshini,* | 36 |
| 27. | Insolvency and Bankruptcy Code, 2016 – Significant Amendments<br>*Dr. M. Srinivas* | 37 |
| 28. | Implementation of Leniency Programme – A Discretionary Power of Competition Commission of India<br>*Dr. Gunda Vedasri,* | 38 |
| 29. | New Era of Healthcare Consumerism: Trouncing Hallucination and High Jinks<br>*Prof. Ravulapati Madhavi* | 39 |
| 30. | The Dynamics of Corporate Criminal Liability in India<br>*M Srinivas* | 40 |
| 31. | E-Consumer Protection: Problems and Perspectives<br>*Mahantesh B Madiwalar & Prof. B S Reddy* | 41 |
| 32. | Implementation of Corporate Social Responsibility: A Judicial Approach Under Companies Act, 2013<br>*Meera Kumari Singh & Tabrez Ahmad* | 42 |
| 33. | Corporate Social Responsibility: Responsibility or Obligation?<br>*K Sita Manikyam* | 43 |
| 34. | Avoidance of Contract for Fundamental Breach Under the United Nations Convention on Contracts for the International Sale of Goods, 1980<br>*Mohammed Zaheeruddin* | 44 |
| 35. | Acts of Intervention: How Contracts of Liability Insurance Are Regulated to Protect Third Party Claimants in Australian Law<br>*John Woodward* | 45 |

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# Right to Consumer Education: A Case Study with Reference to Hyderabad

Dr. Irfan Rasol*

*Abstract:* *This paper discuss about consumerism as protection of interests of consumers and how consumer education affects consumer behavior. The aim of consumer education has been mainly to teach and educate people to act as informed, rational, prudent consumers. Education is the most powerful tool for the progress of the country and is a social and political necessity. Education helps an individual – as a consumer – in making rational choices and protects him from trade and business-related exploitation. Faculty spoke about basic knowledge level and that consumers' knowledge level involves equipping them with the skills and abilities to utilize information. In other words, consumers are trained to the services delivery and goods purchase process through their learning, which can be direct (individual experience in relation to perceived information and processing of a behavioural reaction) or indirect (imitation of others' behaviour). (k2). He spoke about consumer advocacy and that it includes individual consumer assertiveness, collective action such as consumer representation in government and business policy boards, involvement in legislative and regulatory processes, and the organization of consumers to represent change. He spoke about informed choice and protection from exploitation arising from fraudulent practices and exploitative market operations. Further he spoke about unequal power relationship in many market situations and the unjust way some providers of product and services behave. Faculty spoke about the analysis of data collected. He says that the correlation matrix of various variables reveals that education and consumer awareness are significantly correlated which substantiates the fact that informed consumer leads to consumer protection. The product awareness matrix when correlated with socio-economic characteristics, reveals that education or information about the product or services through media print and electronic both are major factors that contribute and affects consumer purchase decision. Promotional offers also show a relative correlation with consumer purchase behavior, however is less when compared to other factors like 'brand factor' which are preferred by a consumer because of quality, durability , reliability and standards maintained by the brand. The correlation between the right of the consumer to complain consumer active participation and consumerism are also significantly correlated which reveals the fact about consumer awareness. However the correlation between the right to consumer complain, active participation and the right to approach consumer forums shows contradiction after analyzing the data collected. Faculty interprets the data by saying that consumers are aware of their rights but they do not consider as when they are required. The faculty suggests that consumer awareness should be provided at different levels school, college public and private authorities need to create awareness programs, women, children and youth to be educated with the help of State government, in collaboration with NGO's and Universities. He further suggests consumer cells to be established at the University levels and shall provide consumer advocacy to consumers right from assisting to write a complaint to final redressal of the complaint. It is suggested that State to bring about Consumer Education Policy which directs various institutions to initiate consumer education programs.*

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# Contents


| | | |
|---|---|---|
| 1 | Consumer Sovereignty and Law<br>*Prof Sridevi D Shet* | 8 |
| 2 | Directors and Officers Insurance Liability: Some Concerns<br>*Sridevi D Shet* | 9 |
| 3 | Institutionalization of Arbitration<br>*Dr Veena* | 10 |
| 4 | New Age Business and Legal Environment<br>*Prof Rakesh Suryadevara* | 11 |
| 5 | Protection to the Farmers and Insurance<br>*Dr Madhuri Irene* | 12 |
| 6 | Tort Insurance and Product Liability<br>*Prof Anwesha Panigrahi* | 13 |
| 7 | "A Conceptual Understanding of Regional Trade Agreements: A Critical Study with Reference to India's Deviation from Multilateral Trade<br>*Mrs Annapurna Devi Munaganti.* | 15 |
| 8 | Direct Taxes Code Bill 2013– A Critical Analysis<br>*S.Ravi* | 16 |
| 9 | Right to Consumer Education: A Case Study with Reference to Hyderabad<br>*Dr. Irfan Rasool,* | 18 |
| 10 | The Consumer Protection Bill 2015: An Analysis<br>*Dr.S.V. Damodar Reddy* | 20 |
| 11 | The Goods and Services Tax Bill, 2014 – A Critical Analysis<br>*S.Ravi* | 21 |
| 12 | Money Laundering: Issues and Challenges<br>*Dr.P.L.Jayanthi Reddy* | 22 |
| 13 | Real Estate Act in India<br>*Monisha Gade* | 23 |
| 14 | A Categorical Study on Resolving Commercial Disputes: India's strategies Towards Ease of Doing Business.<br>*Ms Annapurna* | 24 |
| 15 | Empowering Women through Microfinance<br>*Geetha Priyadarshini* | 25 |
| 16 | Barter to Cryptocurrency : Evolution of Money<br>*Sreedevi Shet* | 26 |
| 17 | International Trade: Facts and Myths<br>*Rakesh Suryadevara* | 27 |
| 18 | Corporate Social Responsibility<br>*Dr.M.Ravindranath* | 28 |
| 19 | Real Estate Market An Overview in the UAE- An Empirical Study on Dubai Real Estate<br>*Dr.Durga Prasad* | 29 |

| | | |
|---|---|---|
| 20 | Inconvenience in Flag of Convenience<br>*Dr. Rama Devi* | 30 |
| 21 | The FRDI Bill –Resolution of Banks, Fears, Hopes and Trust<br>*A.Raja Rajeshwari* | 31 |
| 22 | Cost Reduction Approaches to Profit Improvement<br>*Prof. Rajasekhar Reddy* | 32 |
| 23 | The 'Control' Quandary- What Constitutes 'Control' Under the Competition Act 2002 in a Combination Transaction and How to Structure Combinations to Avoid CCI Scrutiny.<br>*Hartej Singh Kochher* | 33 |
| 24 | Exemption of Agriculture Income in India Under the Income Tax Act 1961: A Critical Study<br>*Prof Rupak Das* | 34 |
| 25 | A socio- legal study of the untapped prospects of Hydropower in India<br>*Prof Sofiul Ahmed* | 35 |
| 26. | Corporate Governance And Corporate Social Responsibility : Multidimensional Constructs<br>*Dr.Indira Priyadarshini,* | 36 |
| 27. | Insolvency and Bankruptcy Code, 2016 – Significant Amendments<br>*Dr. M. Srinivas* | 37 |
| 28. | Implementation of Leniency Programme – A Discretionary Power of Competition Commission of India<br>*Dr. Gunda Vedasri,* | 38 |
| 29. | New Era of Healthcare Consumerism: Trouncing Hallucination and High Jinks<br>*Prof. Ravulapati Madhavi* | 39 |
| 30. | The Dynamics of Corporate Criminal Liability in India<br>*M Srinivas* | 40 |
| 31. | E-Consumer Protection: Problems and Perspectives<br>*Mahantesh B Madiwalar & Prof. B S Reddy* | 41 |
| 32. | Implementation of Corporate Social Responsibility: A Judicial Approach Under Companies Act, 2013<br>*Meera Kumari Singh & Tabrez Ahmad* | 42 |
| 33. | Corporate Social Responsibility: Responsibility or Obligation?<br>*K Sita Manikyam* | 43 |
| 34. | Avoidance of Contract for Fundamental Breach Under the United Nations Convention on Contracts for the International Sale of Goods, 1980<br>*Mohammed Zaheeruddin* | 44 |
| 35. | Acts of Intervention: How Contracts of Liability Insurance Are Regulated to Protect Third Party Claimants in Australian Law<br>*John Woodward* | 45 |

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# The Consumer Protection Bill 2015: An Analysis

Dr.S.V. Damodar Reddy*

***Abstract:*** *The Consumer Protection Bill, 2015 is the topic chosen for the presentation at the faculty seminar. The seminar presentation relates to very brief review of the Consumer Protection Act, 1986. The focus of the presentation is on the clauses of the Consumer Protection Bill, 2015 which includes the introduction of the comprehensive Consumer Protection Bill, 2015 in order to cope up and keep pace with the changing times, about the new chapters likely to be brought which are provided in the bill viz. Consumer Protection Authorities, Change in the nomenclature of the consumer redressal agencies, mediation and product liability. The seminar also focuses on the measures taken up to ensure quick, cheap and less cumbersome justice to the consumers at large in India.*

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# Contents


| | | |
|---|---|---|
| 1 | Consumer Sovereignty and Law<br>*Prof Sridevi D Shet* | 8 |
| 2 | Directors and Officers Insurance Liability: Some Concerns<br>*Sridevi D Shet* | 9 |
| 3 | Institutionalization of Arbitration<br>*Dr Veena* | 10 |
| 4 | New Age Business and Legal Environment<br>*Prof Rakesh Suryadevara* | 11 |
| 5 | Protection to the Farmers and Insurance<br>*Dr Madhuri Irene* | 12 |
| 6 | Tort Insurance and Product Liability<br>*Prof Anwesha Panigrahi* | 13 |
| 7 | "A Conceptual Understanding of Regional Trade Agreements: A Critical Study with Reference to India's Deviation from Multilateral Trade<br>*Mrs Annapurna Devi Munaganti,* | 15 |
| 8 | Direct Taxes Code Bill 2013– A Critical Analysis<br>*S.Ravi* | 16 |
| 9 | Right to Consumer Education: A Case Study with Reference to Hyderabad<br>*Dr. Irfan Rasool,* | 18 |
| 10 | The Consumer Protection Bill 2015: An Analysis<br>*Dr.S.V. Damodar Reddy* | 20 |
| 11 | The Goods and Services Tax Bill, 2014 – A Critical Analysis<br>*S.Ravi* | 21 |
| 12 | Money Laundering: Issues and Challenges<br>*Dr.P.L.Jayanthi Reddy* | 22 |
| 13 | Real Estate Act in India<br>*Monisha Gade* | 23 |
| 14 | A Categorical Study on Resolving Commercial Disputes: India's strategies Towards Ease of Doing Business.<br>*Ms Annapurna* | 24 |
| 15 | Empowering Women through Microfinance<br>*Geetha Priyadarshini* | 25 |
| 16 | Barter to Cryptocurrency : Evolution of Money<br>*Sreedevi Shet* | 26 |
| 17 | International Trade: Facts and Myths<br>*Rakesh Suryadevara* | 27 |
| 18 | Corporate Social Responsibility<br>*Dr.M.Ravindranath* | 28 |
| 19 | Real Estate Market An Overview in the UAE- An Empirical Study on Dubai Real Estate<br>*Dr.Durga Prasad* | 29 |

| | | |
|---|---|---|
| 20 | Inconvenience in Flag of Convenience<br>*Dr. Rama Devi* | 30 |
| 21 | The FRDI Bill –Resolution of Banks, Fears, Hopes and Trust<br>*A.Raja Rajeshwari* | 31 |
| 22 | Cost Reduction Approaches to Profit Improvement<br>*Prof. Rajasekhar Reddy* | 32 |
| 23 | The 'Control' Quandary- What Constitutes 'Control' Under the Competition Act 2002 in a Combination Transaction and How to Structure Combinations to Avoid CCI Scrutiny.<br>*Hartej Singh Kochher* | 33 |
| 24 | Exemption of Agriculture Income in India Under the Income Tax Act 1961: A Critical Study<br>*Prof Rupak Das* | 34 |
| 25 | A socio- legal study of the untapped prospects of Hydropower in India<br>*Prof Sofiul Ahmed* | 35 |
| 26. | Corporate Governance And Corporate Social Responsibility : Multidimensional Constructs<br>*Dr.Indira Priyadarshini,* | 36 |
| 27. | Insolvency and Bankruptcy Code, 2016 – Significant Amendments<br>*Dr. M. Srinivas* | 37 |
| 28. | Implementation of Leniency Programme – A Discretionary Power of Competition Commission of India<br>*Dr. Gunda Vedasri,* | 38 |
| 29. | New Era of Healthcare Consumerism: Trouncing Hallucination and High Jinks<br>*Prof. Ravulapati Madhavi* | 39 |
| 30. | The Dynamics of Corporate Criminal Liability in India<br>*M Srinivas* | 40 |
| 31. | E-Consumer Protection: Problems and Perspectives<br>*Mahantesh B Madiwalar & Prof. B S Reddy* | 41 |
| 32. | Implementation of Corporate Social Responsibility: A Judicial Approach Under Companies Act, 2013<br>*Meera Kumari Singh & Tabrez Ahmad* | 42 |
| 33. | Corporate Social Responsibility: Responsibility or Obligation?<br>*K Sita Manikyam* | 43 |
| 34. | Avoidance of Contract for Fundamental Breach Under the United Nations Convention on Contracts for the International Sale of Goods, 1980<br>*Mohammed Zaheeruddin* | 44 |
| 35. | Acts of Intervention: How Contracts of Liability Insurance Are Regulated to Protect Third Party Claimants in Australian Law<br>*John Woodward* | 45 |

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# The Goods and Services Tax Bill, 2014 – A Critical Analysis

S.Ravi*

***Abstract:*** *The Goods and Services Tax (GST), Bill, 2014, is regarded as a major taxation reform till date implemented in India since independence in 1947. GST was planned to be implemented in April 2010, but was postponed due to political issues and conflicting interest of stakeholders. The primary objective behind development of GST is to subsume all sorts of indirect taxes in India like Central Excise Tax, VAT/Sales Tax, Service tax, etc. and implement one taxation system in India. The GST based taxation system brings more transparency in taxation system and increases GDP rate from 1% to 2% and reduces tax theft and corruption in country. The paper highlights the background of the taxation system, the GST concept along with significant working, comparison of Indian GST taxation system rates with other world economies, and also presents in-depth coverage regarding advantages to various sectors of the Indian economy after devising GST and outlined some challenges of GST implementation.*

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# Contents


| | | |
|---|---|---|
| 1 | Consumer Sovereignty and Law<br>*Prof Sridevi D Shet* | 8 |
| 2 | Directors and Officers Insurance Liability: Some Concerns<br>*Sridevi D Shet* | 9 |
| 3 | Institutionalization of Arbitration<br>*Dr Veena* | 10 |
| 4 | New Age Business and Legal Environment<br>*Prof Rakesh Suryadevara* | 11 |
| 5 | Protection to the Farmers and Insurance<br>*Dr Madhuri Irene* | 12 |
| 6 | Tort Insurance and Product Liability<br>*Prof Anwesha Panigrahi* | 13 |
| 7 | "A Conceptual Understanding of Regional Trade Agreements: A Critical Study with Reference to India's Deviation from Multilateral Trade<br>*Mrs Annapurna Devi Munaganti,* | 15 |
| 8 | Direct Taxes Code Bill 2013 – A Critical Analysis<br>*S.Ravi* | 16 |
| 9 | Right to Consumer Education: A Case Study with Reference to Hyderabad<br>*Dr. Irfan Rasool,* | 18 |
| 10 | The Consumer Protection Bill 2015: An Analysis<br>*Dr.S.V. Damodar Reddy* | 20 |
| 11 | The Goods and Services Tax Bill, 2014 – A Critical Analysis<br>*S.Ravi* | 21 |
| 12 | Money Laundering: Issues and Challenges<br>*Dr.P.L.Jayanthi Reddy* | 22 |
| 13 | Real Estate Act in India<br>*Monisha Gade* | 23 |
| 14 | A Categorical Study on Resolving Commercial Disputes: India's strategies Towards Ease of Doing Business.<br>*Ms Annapurna* | 24 |
| 15 | Empowering Women through Microfinance<br>*Geetha Priyadarshini* | 25 |
| 16 | Barter to Cryptocurrency : Evolution of Money<br>*Sreedevi Shet* | 26 |
| 17 | International Trade: Facts and Myths<br>*Rakesh Suryadevara* | 27 |
| 18 | Corporate Social Responsibility<br>*Dr.M.Ravindranath* | 28 |
| 19 | Real Estate Market An Overview in the UAE- An Empirical Study on Dubai Real Estate<br>*Dr.Durga Prasad* | 29 |

| | | |
|---|---|---|
| 20 | Inconvenience in Flag of Convenience<br>*Dr. Rama Devi* | 30 |
| 21 | The FRDI Bill –Resolution of Banks, Fears, Hopes and Trust<br>*A.Raja Rajeshwari* | 31 |
| 22 | Cost Reduction Approaches to Profit Improvement<br>*Prof. Rajasekhar Reddy* | 32 |
| 23 | The 'Control' Quandary- What Constitutes 'Control' Under the Competition Act 2002 in a Combination Transaction and How to Structure Combinations to Avoid CCI Scrutiny.<br>*Hartej Singh Kochher* | 33 |
| 24 | Exemption of Agriculture Income in India Under the Income Tax Act 1961: A Critical Study<br>*Prof Rupak Das* | 34 |
| 25 | A socio- legal study of the untapped prospects of Hydropower in India<br>*Prof Sofiul Ahmed* | 35 |
| 26. | Corporate Governance And Corporate Social Responsibility : Multidimensional Constructs<br>*Dr.Indira Priyadarshini,* | 36 |
| 27. | Insolvency and Bankruptcy Code, 2016 – Significant Amendments<br>*Dr. M. Srinivas* | 37 |
| 28. | Implementation of Leniency Programme – A Discretionary Power of Competition Commission of India<br>*Dr. Gunda Vedasri,* | 38 |
| 29. | New Era of Healthcare Consumerism: Trouncing Hallucination and High Jinks<br>*Prof. Ravulapati Madhavi* | 39 |
| 30. | The Dynamics of Corporate Criminal Liability in India<br>*M Srinivas* | 40 |
| 31. | E-Consumer Protection: Problems and Perspectives<br>*Mahantesh B Madiwalar & Prof. B S Reddy* | 41 |
| 32. | Implementation of Corporate Social Responsibility: A Judicial Approach Under Companies Act, 2013<br>*Meera Kumari Singh & Tabrez Ahmad* | 42 |
| 33. | Corporate Social Responsibility: Responsibility or Obligation?<br>*K Sita Manikyam* | 43 |
| 34. | Avoidance of Contract for Fundamental Breach Under the United Nations Convention on Contracts for the International Sale of Goods, 1980<br>*Mohammed Zaheeruddin* | 44 |
| 35. | Acts of Intervention: How Contracts of Liability Insurance Are Regulated to Protect Third Party Claimants in Australian Law<br>*John Woodward* | 45 |

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# Money Laundering: Issues and Challenges

**Dr.P.L.Jayanthi Reddy***

***Abstract:*** *The concept of Money Laundering that it is a process by which illegal proceeds of crime are converted into legitimate funds and assets. This is done in three stages by firstly introducing proceeds of crime into financial system by placement process and second by layering process and third by integration process. She explained that globally illegal money obtained through crimes like drug trafficking, smuggling, terrorism, bribery, corruption, gambling, cheating, kidnapping, extortion, robbery, counterfeiting and forgery are hidden in safe heavens and slowly made legitimate by placing into financial system. The result is huge impact on the economy of our country as well as GDP of our country as the resource is not effectively used. Criminals throughout the world do laundering to hide illegally accumulated wealth to avoid its seizure by authorities and to avoid prosecution under Anti-Money Laundering Laws. To tackle this problem organizations like FATF provided several recommendations and sought member countries to follow recommendations to protect the integrity of financial system. so that money is not laundered through financial system. Other agencies like FIU's are helping member countries in providing information regarding suspicious transactions and helping authorities under the PMLA 2002 to implement the law effectively. She concludes by saying that even now the problem is not solved and there is need to address the problem more stringently by strictly punishing the launderers of money by way of bringing amendments into the law.*

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| | | |
|---|---|---|
| 1 | Consumer Sovereignty and Law<br>*Prof Sridevi D Shet* | 8 |
| 2 | Directors and Officers Insurance Liability: Some Concerns<br>*Sridevi D Shet* | 9 |
| 3 | Institutionalization of Arbitration<br>*Dr Veena* | 10 |
| 4 | New Age Business and Legal Environment<br>*Prof Rakesh Suryadevara* | 11 |
| 5 | Protection to the Farmers and Insurance<br>*Dr Madhuri Irene* | 12 |
| 6 | Tort Insurance and Product Liability<br>*Prof Anwesha Panigrahi* | 13 |
| 7 | "A Conceptual Understanding of Regional Trade Agreements: A Critical Study with Reference to India's Deviation from Multilateral Trade<br>*Mrs Annapurna Devi Munaganti,* | 15 |
| 8 | Direct Taxes Code Bill 2013– A Critical Analysis<br>*S.Ravi* | 16 |
| 9 | Right to Consumer Education: A Case Study with Reference to Hyderabad<br>*Dr. Irfan Rasool,* | 18 |
| 10 | The Consumer Protection Bill 2015: An Analysis<br>*Dr.S.V. Damodar Reddy* | 20 |
| 11 | The Goods and Services Tax Bill, 2014 – A Critical Analysis<br>*S.Ravi* | 21 |
| 12 | Money Laundering: Issues and Challenges<br>*Dr.P.L.Jayanthi Reddy* | 22 |
| 13 | Real Estate Act in India<br>*Monisha Gade* | 23 |
| 14 | A Categorical Study on Resolving Commercial Disputes: India's strategies Towards Ease of Doing Business.<br>*Ms Annapurna* | 24 |
| 15 | Empowering Women through Microfinance<br>*Geetha Priyadarshini* | 25 |
| 16 | Barter to Cryptocurrency : Evolution of Money<br>*Sreedevi Shet* | 26 |
| 17 | International Trade: Facts and Myths<br>*Rakesh Suryadevara* | 27 |
| 18 | Corporate Social Responsibility<br>*Dr.M.Ravindranath* | 28 |
| 19 | Real Estate Market An Overview in the UAE- An Empirical Study on Dubai Real Estate<br>*Dr.Durga Prasad* | 29 |

| | | |
|---|---|---|
| 20 | Inconvenience in Flag of Convenience<br>*Dr. Rama Devi* | 30 |
| 21 | The FRDI Bill –Resolution of Banks, Fears, Hopes and Trust<br>*A.Raja Rajeshwari* | 31 |
| 22 | Cost Reduction Approaches to Profit Improvement<br>*Prof. Rajasekhar Reddy* | 32 |
| 23 | The 'Control' Quandary- What Constitutes 'Control' Under the Competition Act 2002 in a Combination Transaction and How to Structure Combinations to Avoid CCI Scrutiny.<br>*Hartej Singh Kochher* | 33 |
| 24 | Exemption of Agriculture Income in India Under the Income Tax Act 1961: A Critical Study<br>*Prof Rupak Das* | 34 |
| 25 | A socio- legal study of the untapped prospects of Hydropower in India<br>*Prof Sofiul Ahmed* | 35 |
| 26. | Corporate Governance And Corporate Social Responsibility : Multidimensional Constructs<br>*Dr.Indira Priyadarshini,* | 36 |
| 27. | Insolvency and Bankruptcy Code, 2016 – Significant Amendments<br>*Dr. M. Srinivas* | 37 |
| 28. | Implementation of Leniency Programme – A Discretionary Power of Competition Commission of India<br>*Dr. Gunda Vedasri,* | 38 |
| 29. | New Era of Healthcare Consumerism: Trouncing Hallucination and High Jinks<br>*Prof. Ravulapati Madhavi* | 39 |
| 30. | The Dynamics of Corporate Criminal Liability in India<br>*M Srinivas* | 40 |
| 31. | E-Consumer Protection: Problems and Perspectives<br>*Mahantesh B Madiwalar & Prof. B S Reddy* | 41 |
| 32. | Implementation of Corporate Social Responsibility: A Judicial Approach Under Companies Act, 2013<br>*Meera Kumari Singh & Tabrez Ahmad* | 42 |
| 33. | Corporate Social Responsibility: Responsibility or Obligation?<br>*K Sita Manikyam* | 43 |
| 34. | Avoidance of Contract for Fundamental Breach Under the United Nations Convention on Contracts for the International Sale of Goods, 1980<br>*Mohammed Zaheeruddin* | 44 |
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# Real Estate Act in India

Monisha Gade*

***Abstract:*** *Human being is a social animal. He/She cannot survive on this Mother Earth without availing the benefits of society. There are three basic social needs of a human being namely food, clothing and shelter. Shelter means having a place to reside. Having an own house is not only a dream of a common man but also assumed as an icon of social status. Further in the olden days man used to make his own house. Later government being maternalistic in nature, it is duty of State to provide for the basic needs. In this competitive age, it is becoming impossible for him/her to make a house on his own. For this obvious reason, man started taking help of a set of people who call themselves as real estate businessmen. In this scenario we come across various instances where innocent homebuyers become scapegoats of real estate businessmen. Various scams have happened in this sector. The remedy available to innocent homebuyers is vague and justice is not done in a proper manner. The Parliament of India in response to these realistic problems enacted the Real Estate (Regulatory and Development) Act 2016. This paper analyses the provisions of the Real Estate (Regulatory and Development) Act 2016 and its impact on the real estate sector.*

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| | | |
|---|---|---|
| 1 | Consumer Sovereignty and Law<br>*Prof Sridevi D Shet* | 8 |
| 2 | Directors and Officers Insurance Liability: Some Concerns<br>*Sridevi D Shet* | 9 |
| 3 | Institutionalization of Arbitration<br>*Dr Veena* | 10 |
| 4 | New Age Business and Legal Environment<br>*Prof Rakesh Suryadevara* | 11 |
| 5 | Protection to the Farmers and Insurance<br>*Dr Madhuri Irene* | 12 |
| 6 | Tort Insurance and Product Liability<br>*Prof Anwesha Panigrahi* | 13 |
| 7 | "A Conceptual Understanding of Regional Trade Agreements: A Critical Study with Reference to India's Deviation from Multilateral Trade<br>*Mrs Annapurna Devi Munaganti,* | 15 |
| 8 | Direct Taxes Code Bill 2013– A Critical Analysis<br>*S.Ravi* | 16 |
| 9 | Right to Consumer Education: A Case Study with Reference to Hyderabad<br>*Dr. Irfan Rasool,* | 18 |
| 10 | The Consumer Protection Bill 2015: An Analysis<br>*Dr.S.V. Damodar Reddy* | 20 |
| 11 | The Goods and Services Tax Bill, 2014 – A Critical Analysis<br>*S.Ravi* | 21 |
| 12 | Money Laundering: Issues and Challenges<br>*Dr.P.L.Jayanthi Reddy* | 22 |
| 13 | Real Estate Act in India<br>*Monisha Gade* | 23 |
| 14 | A Categorical Study on Resolving Commercial Disputes: India's strategies Towards Ease of Doing Business.<br>*Ms Annapurna* | 24 |
| 15 | Empowering Women through Microfinance<br>*Geetha Priyadarshini* | 25 |
| 16 | Barter to Cryptocurrency : Evolution of Money<br>*Sreedevi Shet* | 26 |
| 17 | International Trade: Facts and Myths<br>*Rakesh Suryadevara* | 27 |
| 18 | Corporate Social Responsibility<br>*Dr.M.Ravindranath* | 28 |
| 19 | Real Estate Market An Overview in the UAE- An Empirical Study on Dubai Real Estate<br>*Dr.Durga Prasad* | 29 |

| | | |
|---|---|---|
| 20 | Inconvenience in Flag of Convenience<br>*Dr. Rama Devi* | 30 |
| 21 | The FRDI Bill –Resolution of Banks, Fears, Hopes and Trust<br>*A.Raja Rajeshwari* | 31 |
| 22 | Cost Reduction Approaches to Profit Improvement<br>*Prof. Rajasekhar Reddy* | 32 |
| 23 | The 'Control' Quandary- What Constitutes 'Control' Under the Competition Act 2002 in a Combination Transaction and How to Structure Combinations to Avoid CCI Scrutiny.<br>*Hartej Singh Kochher* | 33 |
| 24 | Exemption of Agriculture Income in India Under the Income Tax Act 1961: A Critical Study<br>*Prof Rupak Das* | 34 |
| 25 | A socio- legal study of the untapped prospects of Hydropower in India<br>*Prof Sofiul Ahmed* | 35 |
| 26. | Corporate Governance And Corporate Social Responsibility : Multidimensional Constructs<br>*Dr.Indira Priyadarshini,* | 36 |
| 27. | Insolvency and Bankruptcy Code, 2016 – Significant Amendments<br>*Dr. M. Srinivas* | 37 |
| 28. | Implementation of Leniency Programme – A Discretionary Power of Competition Commission of India<br>*Dr. Gunda Vedasri,* | 38 |
| 29. | New Era of Healthcare Consumerism: Trouncing Hallucination and High Jinks<br>*Prof. Ravulapati Madhavi* | 39 |
| 30. | The Dynamics of Corporate Criminal Liability in India<br>*M Srinivas* | 40 |
| 31. | E-Consumer Protection: Problems and Perspectives<br>*Mahantesh B Madiwalar & Prof. B S Reddy* | 41 |
| 32. | Implementation of Corporate Social Responsibility: A Judicial Approach Under Companies Act, 2013<br>*Meera Kumari Singh & Tabrez Ahmad* | 42 |
| 33. | Corporate Social Responsibility: Responsibility or Obligation?<br>*K Sita Manikyam* | 43 |
| 34. | Avoidance of Contract for Fundamental Breach Under the United Nations Convention on Contracts for the International Sale of Goods, 1980<br>*Mohammed Zaheeruddin* | 44 |
| 35. | Acts of Intervention: How Contracts of Liability Insurance Are Regulated to Protect Third Party Claimants in Australian Law<br>*John Woodward* | 45 |

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# A Categorical Study on Resolving Commercial Disputes: India's strategies Towards Ease of Doing Business

Ms Annapurna*

***Abstract:*** *The challenges faced by the Indian economy in moving ahead to ease of doing business and how effective the new adjudicating mechanism will fulfil the object. She limits her study to the extent of the Commercial disputes that would arise in ease of doing business. It covers both the procedures of dispute resolution by court and arbitral tribunals. To understand Indian trade policies in compliance with the global standards. Research objectives are 1. To analyse Indian strategies for securing better rakings in Ease of Doing Business.2. To incorporate advantages of better rakings countries in Indian dispute resolution particularly in the segment of "enforcing contracts".3.To insist the government for the creation of more "commercial courts".4. To evaluate certain provision of rules of procedure in India that causes delay in resolving a commercial dispute. 5.To focus on the expertise training of judges dealing with commercial cases. She explained the meaning of commercial and the definition of commercial disputes by referring to the procedure under the Commercial Disputes Act 2015 and the Commercial Arbitration under the Commercial Arbitration and Conciliation Act Amendment Act 2015. This paper discusses Indian strategies towards ease of doing business and concluded by some suggestions.*

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# Contents


| | | |
|---|---|---|
| 1 | Consumer Sovereignty and Law<br>*Prof Sridevi D Shet* | 8 |
| 2 | Directors and Officers Insurance Liability: Some Concerns<br>*Sridevi D Shet* | 9 |
| 3 | Institutionalization of Arbitration<br>*Dr Veena* | 10 |
| 4 | New Age Business and Legal Environment<br>*Prof Rakesh Suryadevara* | 11 |
| 5 | Protection to the Farmers and Insurance<br>*Dr Madhuri Irene* | 12 |
| 6 | Tort Insurance and Product Liability<br>*Prof Anwesha Panigrahi* | 13 |
| 7 | "A Conceptual Understanding of Regional Trade Agreements: A Critical Study with Reference to India's Deviation from Multilateral Trade<br>*Mrs Annapurna Devi Munaganti,* | 15 |
| 8 | Direct Taxes Code Bill 2013– A Critical Analysis<br>*S.Ravi* | 16 |
| 9 | Right to Consumer Education: A Case Study with Reference to Hyderabad<br>*Dr. Irfan Rasool,* | 18 |
| 10 | The Consumer Protection Bill 2015: An Analysis<br>*Dr.S.V. Damodar Reddy* | 20 |
| 11 | The Goods and Services Tax Bill, 2014 – A Critical Analysis<br>*S.Ravi* | 21 |
| 12 | Money Laundering: Issues and Challenges<br>*Dr.P.L.Jayanthi Reddy* | 22 |
| 13 | Real Estate Act in India<br>*Monisha Gade* | 23 |
| 14 | A Categorical Study on Resolving Commercial Disputes: India's strategies Towards Ease of Doing Business.<br>*Ms Annapurna* | 24 |
| 15 | Empowering Women through Microfinance<br>*Geetha Priyadarshini* | 25 |
| 16 | Barter to Cryptocurrency : Evolution of Money<br>*Sreedevi Shet* | 26 |
| 17 | International Trade: Facts and Myths<br>*Rakesh Suryadevara* | 27 |
| 18 | Corporate Social Responsibility<br>*Dr.M.Ravindranath* | 28 |
| 19 | Real Estate Market An Overview in the UAE- An Empirical Study on Dubai Real Estate<br>*Dr.Durga Prasad* | 29 |

| | | |
|---|---|---|
| 20 | Inconvenience in Flag of Convenience<br>*Dr. Rama Devi* | 30 |
| 21 | The FRDI Bill –Resolution of Banks, Fears, Hopes and Trust<br>*A.Raja Rajeshwari* | 31 |
| 22 | Cost Reduction Approaches to Profit Improvement<br>*Prof. Rajasekhar Reddy* | 32 |
| 23 | The 'Control' Quandary- What Constitutes 'Control' Under the Competition Act 2002 in a Combination Transaction and How to Structure Combinations to Avoid CCI Scrutiny.<br>*Hartej Singh Kochher* | 33 |
| 24 | Exemption of Agriculture Income in India Under the Income Tax Act 1961: A Critical Study<br>*Prof Rupak Das* | 34 |
| 25 | A socio- legal study of the untapped prospects of Hydropower in India<br>*Prof Sofiul Ahmed* | 35 |
| 26. | Corporate Governance And Corporate Social Responsibility : Multidimensional Constructs<br>*Dr.Indira Priyadarshini,* | 36 |
| 27. | Insolvency and Bankruptcy Code, 2016 – Significant Amendments<br>*Dr. M. Srinivas* | 37 |
| 28. | Implementation of Leniency Programme – A Discretionary Power of Competition Commission of India<br>*Dr. Gunda Vedasri,* | 38 |
| 29. | New Era of Healthcare Consumerism: Trouncing Hallucination and High Jinks<br>*Prof. Ravulapati Madhavi* | 39 |
| 30. | The Dynamics of Corporate Criminal Liability in India<br>*M Srinivas* | 40 |
| 31. | E-Consumer Protection: Problems and Perspectives<br>*Mahantesh B Madiwalar & Prof. B S Reddy* | 41 |
| 32. | Implementation of Corporate Social Responsibility: A Judicial Approach Under Companies Act, 2013<br>*Meera Kumari Singh & Tabrez Ahmad* | 42 |
| 33. | Corporate Social Responsibility: Responsibility or Obligation?<br>*K Sita Manikyam* | 43 |
| 34. | Avoidance of Contract for Fundamental Breach Under the United Nations Convention on Contracts for the International Sale of Goods, 1980<br>*Mohammed Zaheeruddin* | 44 |
| 35. | Acts of Intervention: How Contracts of Liability Insurance Are Regulated to Protect Third Party Claimants in Australian Law<br>*John Woodward* | 45 |

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# Empowering Women through Microfinance

Geetha Priyadarshini*

**Abstract:** *Microfinance applies /stands for a Small loan. Poor entrepreneurs and low-income families who do not have collateral and do not have access to traditional bank loans are eligible for micro-finance. It is a type of joint lending liability that necessitates borrowing funds from a group of other borrowers. The primary benefits of a microfinance business are offered by low-income and underserved communities in society. Microfinance institutions protect the form of interest-free loans and low-interest rates. Further disussed that Microfinance aimed to implement all the primary benefits of developing small businesses; in accumulation, to help active enterprises diversifytheir activities. Micro Finance is the modern tool to reduce poverty, empowering women and for rural development. Women are the most underprivileged and discriminated group of the society as they do not have economic freedom. Further the emergence of micro finance has changed the economic situation of women. Women in the rural as well as urban are able to take these small loans and are able to start their own business and able to look after their families. Micro finance services are helping women gain financial independence and empowering the to make good decisions. Empowering women means putting money in their hands and empowering them to earn money and contribute financially to their family and community. Many women are benefitted by this and it is essential to empower even more and more women who are not aware about micro finance by educating them and creating awareness in them.*

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# Contents


| | | |
|---|---|---|
| 1 | Consumer Sovereignty and Law<br>*Prof Sridevi D Shet* | 8 |
| 2 | Directors and Officers Insurance Liability: Some Concerns<br>*Sridevi D Shet* | 9 |
| 3 | Institutionalization of Arbitration<br>*Dr Veena* | 10 |
| 4 | New Age Business and Legal Environment<br>*Prof Rakesh Suryadevara* | 11 |
| 5 | Protection to the Farmers and Insurance<br>*Dr Madhuri Irene* | 12 |
| 6 | Tort Insurance and Product Liability<br>*Prof Anwesha Panigrahi* | 13 |
| 7 | "A Conceptual Understanding of Regional Trade Agreements: A Critical Study with Reference to India's Deviation from Multilateral Trade<br>*Mrs Annapurna Devi Munaganti,* | 15 |
| 8 | Direct Taxes Code Bill 2013– A Critical Analysis<br>*S.Ravi* | 16 |
| 9 | Right to Consumer Education: A Case Study with Reference to Hyderabad<br>*Dr. Irfan Rasool,* | 18 |
| 10 | The Consumer Protection Bill 2015: An Analysis<br>*Dr.S.V. Damodar Reddy* | 20 |
| 11 | The Goods and Services Tax Bill, 2014 – A Critical Analysis<br>*S.Ravi* | 21 |
| 12 | Money Laundering: Issues and Challenges<br>*Dr.P.L.Jayanthi Reddy* | 22 |
| 13 | Real Estate Act in India<br>*Monisha Gade* | 23 |
| 14 | A Categorical Study on Resolving Commercial Disputes: India's strategies Towards Ease of Doing Business.<br>*Ms Annapurna* | 24 |
| 15 | Empowering Women through Microfinance<br>*Geetha Priyadarshini* | 25 |
| 16 | Barter to Cryptocurrency : Evolution of Money<br>*Sreedevi Shet* | 26 |
| 17 | International Trade: Facts and Myths<br>*Rakesh Suryadevara* | 27 |
| 18 | Corporate Social Responsibility<br>*Dr.M.Ravindranath* | 28 |
| 19 | Real Estate Market An Overview in the UAE- An Empirical Study on Dubai Real Estate<br>*Dr.Durga Prasad* | 29 |

| | | |
|---|---|---|
| 20 | Inconvenience in Flag of Convenience<br>*Dr. Rama Devi* | 30 |
| 21 | The FRDI Bill –Resolution of Banks, Fears, Hopes and Trust<br>*A.Raja Rajeshwari* | 31 |
| 22 | Cost Reduction Approaches to Profit Improvement<br>*Prof. Rajasekhar Reddy* | 32 |
| 23 | The 'Control' Quandary- What Constitutes 'Control' Under the Competition Act 2002 in a Combination Transaction and How to Structure Combinations to Avoid CCI Scrutiny.<br>*Hartej Singh Kochher* | 33 |
| 24 | Exemption of Agriculture Income in India Under the Income Tax Act 1961: A Critical Study<br>*Prof Rupak Das* | 34 |
| 25 | A socio- legal study of the untapped prospects of Hydropower in India<br>*Prof Sofiul Ahmed* | 35 |
| 26. | Corporate Governance And Corporate Social Responsibility : Multidimensional Constructs<br>*Dr.Indira Priyadarshini,* | 36 |
| 27. | Insolvency and Bankruptcy Code, 2016 – Significant Amendments<br>*Dr. M. Srinivas* | 37 |
| 28. | Implementation of Leniency Programme – A Discretionary Power of Competition Commission of India<br>*Dr. Gunda Vedasri,* | 38 |
| 29. | New Era of Healthcare Consumerism: Trouncing Hallucination and High Jinks<br>*Prof. Ravulapati Madhavi* | 39 |
| 30. | The Dynamics of Corporate Criminal Liability in India<br>*M Srinivas* | 40 |
| 31. | E-Consumer Protection: Problems and Perspectives<br>*Mahantesh B Madiwalar & Prof. B S Reddy* | 41 |
| 32. | Implementation of Corporate Social Responsibility: A Judicial Approach Under Companies Act, 2013<br>*Meera Kumari Singh & Tabrez Ahmad* | 42 |
| 33. | Corporate Social Responsibility: Responsibility or Obligation?<br>*K Sita Manikyam* | 43 |
| 34. | Avoidance of Contract for Fundamental Breach Under the United Nations Convention on Contracts for the International Sale of Goods, 1980<br>*Mohammed Zaheeruddin* | 44 |
| 35. | Acts of Intervention: How Contracts of Liability Insurance Are Regulated to Protect Third Party Claimants in Australian Law<br>*John Woodward* | 45 |

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# Barter to Cryptocurrency: Evolution of Money

Sreedevi Shet*

***Abstract:*** *This paper traces evolution of money from barter system to crypto currency. Further traces the history of crypto currency from 1983 where American developed a cryptographic system called digi cash, that used cryptography to make economic transactions confidential. However first time the idea or term "cryptocurrency" was coined in 1998. In 2008, economic disaster(world economic recession) where sovereign currency was losing value led to the creation of cryptocurrency. A white paper on 'bitcoin'was published by a pseudo anonymous person named Satoshi Nakamoto. The paper described a method in which virtual currency can be obtained by a process called mining. The mining process need not require permission of any centralized authority and thereby financial transaction can happen peer to peer without any transaction cost. Hence the new trustless technology was born. The first bitcoin was mined in 2009 making the white paper successful. She further explained the technology behind cryptocurrency namely blockchain technology started gaining popularity and that at present we have more than 2000 cryptocurrency available in the market and thus begins crypto world. The legal sanctity to cryptocurrency is not available. The Reserve Bank of India is yet to legalize as it has sent circular to ban banks and financial institutions from providing services to any individual or business entities dealing with or settling cryptocurrencies, including Bitcoin.*

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# Contents


| | | |
|---|---|---|
| 1 | Consumer Sovereignty and Law<br>*Prof Sridevi D Shet* | 8 |
| 2 | Directors and Officers Insurance Liability: Some Concerns<br>*Sridevi D Shet* | 9 |
| 3 | Institutionalization of Arbitration<br>*Dr Veena* | 10 |
| 4 | New Age Business and Legal Environment<br>*Prof Rakesh Suryadevara* | 11 |
| 5 | Protection to the Farmers and Insurance<br>*Dr Madhuri Irene* | 12 |
| 6 | Tort Insurance and Product Liability<br>*Prof Anwesha Panigrahi* | 13 |
| 7 | "A Conceptual Understanding of Regional Trade Agreements: A Critical Study with Reference to India's Deviation from Multilateral Trade<br>*Mrs Annapurna Devi Munaganti,* | 15 |
| 8 | Direct Taxes Code Bill 2013– A Critical Analysis<br>*S.Ravi* | 16 |
| 9 | Right to Consumer Education: A Case Study with Reference to Hyderabad<br>*Dr. Irfan Rasool,* | 18 |
| 10 | The Consumer Protection Bill 2015: An Analysis<br>*Dr.S.V. Damodar Reddy* | 20 |
| 11 | The Goods and Services Tax Bill, 2014 – A Critical Analysis<br>*S.Ravi* | 21 |
| 12 | Money Laundering: Issues and Challenges<br>*Dr.P.L.Jayanthi Reddy* | 22 |
| 13 | Real Estate Act in India<br>*Monisha Gade* | 23 |
| 14 | A Categorical Study on Resolving Commercial Disputes: India's strategies Towards Ease of Doing Business.<br>*Ms Annapurna* | 24 |
| 15 | Empowering Women through Microfinance<br>*Geetha Priyadarshini* | 25 |
| 16 | Barter to Cryptocurrency : Evolution of Money<br>*Sreedevi Shet* | 26 |
| 17 | International Trade: Facts and Myths<br>*Rakesh Suryadevara* | 27 |
| 18 | Corporate Social Responsibility<br>*Dr.M.Ravindranath* | 28 |
| 19 | Real Estate Market An Overview in the UAE- An Empirical Study on Dubai Real Estate<br>*Dr.Durga Prasad* | 29 |

| | | |
|---|---|---|
| 20 | Inconvenience in Flag of Convenience<br>*Dr. Rama Devi* | 30 |
| 21 | The FRDI Bill –Resolution of Banks, Fears, Hopes and Trust<br>*A.Raja Rajeshwari* | 31 |
| 22 | Cost Reduction Approaches to Profit Improvement<br>*Prof. Rajasekhar Reddy* | 32 |
| 23 | The 'Control' Quandary- What Constitutes 'Control' Under the Competition Act 2002 in a Combination Transaction and How to Structure Combinations to Avoid CCI Scrutiny.<br>*Hartej Singh Kochher* | 33 |
| 24 | Exemption of Agriculture Income in India Under the Income Tax Act 1961: A Critical Study<br>*Prof Rupak Das* | 34 |
| 25 | A socio- legal study of the untapped prospects of Hydropower in India<br>*Prof Sofiul Ahmed* | 35 |
| 26. | Corporate Governance And Corporate Social Responsibility : Multidimensional Constructs<br>*Dr.Indira Priyadarshini,* | 36 |
| 27. | Insolvency and Bankruptcy Code, 2016 – Significant Amendments<br>*Dr. M. Srinivas* | 37 |
| 28. | Implementation of Leniency Programme – A Discretionary Power of Competition Commission of India<br>*Dr. Gunda Vedasri,* | 38 |
| 29. | New Era of Healthcare Consumerism: Trouncing Hallucination and High Jinks<br>*Prof. Ravulapati Madhavi* | 39 |
| 30. | The Dynamics of Corporate Criminal Liability in India<br>*M Srinivas* | 40 |
| 31. | E-Consumer Protection: Problems and Perspectives<br>*Mahantesh B Madiwalar & Prof. B S Reddy* | 41 |
| 32. | Implementation of Corporate Social Responsibility: A Judicial Approach Under Companies Act, 2013<br>*Meera Kumari Singh & Tabrez Ahmad* | 42 |
| 33. | Corporate Social Responsibility: Responsibility or Obligation?<br>*K Sita Manikyam* | 43 |
| 34. | Avoidance of Contract for Fundamental Breach Under the United Nations Convention on Contracts for the International Sale of Goods, 1980<br>*Mohammed Zaheeruddin* | 44 |
| 35. | Acts of Intervention: How Contracts of Liability Insurance Are Regulated to Protect Third Party Claimants in Australian Law<br>*John Woodward* | 45 |

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# International Trade: Facts and Myths

Rakesh Suryadevara*

***Abstract:*** *At present; world is one small place where there is no dearth of options, alternatives .Business boundaries between different countries are just mirages. In this session he mentioned about throwback of events which led to the origin of International Trade, it`s progress and phases. He said that it will help everyone to understand few modern business terminologies like Glocal, reverse globalization... And let's dive into the transformation of globalization from the past, present and what can be expected in the future. He further said that above information will let us know better about the influence of various perspectives regarding the resultants of international trade. Throughout the session he tried to analyze few myths that were created as a result of the above mentioned influence of perceptions. I also tried to analyze and perform a fact check for some of these. To name a few:he tried to analyze and discuss the origin of international trade, where most of us do believe that international trades have all started because of unemployment, job, money etc. But after this session he said it will help us all to bring this myth into reality check and understand the actual reason of its origin.*

*Similarly, let's try to understand the limitations of Glocal strategy and its influence on Goods & Services industries respectively. Further I conclude by interpreting and anticipating the growth and influence of Asian countries in International Business markets. i.e. Asian countries which were so far relying on western countries technologies and churning out products in bulk have slowly become self reliant and will in future be able to supply high end technology to western countries. This session will be an introduction to International trade and analysis of various myths and facts involved and ends with the future scenario of the same.*

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# Contents


| | | |
|---|---|---|
| 1 | Consumer Sovereignty and Law<br>*Prof Sridevi D Shet* | 8 |
| 2 | Directors and Officers Insurance Liability: Some Concerns<br>*Sridevi D Shet* | 9 |
| 3 | Institutionalization of Arbitration<br>*Dr Veena* | 10 |
| 4 | New Age Business and Legal Environment<br>*Prof Rakesh Suryadevara* | 11 |
| 5 | Protection to the Farmers and Insurance<br>*Dr Madhuri Irene* | 12 |
| 6 | Tort Insurance and Product Liability<br>*Prof Anwesha Panigrahi* | 13 |
| 7 | "A Conceptual Understanding of Regional Trade Agreements: A Critical Study with Reference to India's Deviation from Multilateral Trade<br>*Mrs Annapurna Devi Munaganti,* | 15 |
| 8 | Direct Taxes Code Bill 2013– A Critical Analysis<br>*S.Ravi* | 16 |
| 9 | Right to Consumer Education: A Case Study with Reference to Hyderabad<br>*Dr. Irfan Rasool,* | 18 |
| 10 | The Consumer Protection Bill 2015: An Analysis<br>*Dr.S.V. Damodar Reddy* | 20 |
| 11 | The Goods and Services Tax Bill, 2014 – A Critical Analysis<br>*S.Ravi* | 21 |
| 12 | Money Laundering: Issues and Challenges<br>*Dr.P.L.Jayanthi Reddy* | 22 |
| 13 | Real Estate Act in India<br>*Monisha Gade* | 23 |
| 14 | A Categorical Study on Resolving Commercial Disputes: India's strategies Towards Ease of Doing Business.<br>*Ms Annapurna* | 24 |
| 15 | Empowering Women through Microfinance<br>*Geetha Priyadarshini* | 25 |
| 16 | Barter to Cryptocurrency : Evolution of Money<br>*Sreedevi Shet* | 26 |
| 17 | International Trade: Facts and Myths<br>*Rakesh Suryadevara* | 27 |
| 18 | Corporate Social Responsibility<br>*Dr.M.Ravindranath* | 28 |
| 19 | Real Estate Market An Overview in the UAE- An Empirical Study on Dubai Real Estate<br>*Dr.Durga Prasad* | 29 |

| | | |
|---|---|---|
| 20 | Inconvenience in Flag of Convenience<br>*Dr. Rama Devi* | 30 |
| 21 | The FRDI Bill –Resolution of Banks, Fears, Hopes and Trust<br>*A.Raja Rajeshwari* | 31 |
| 22 | Cost Reduction Approaches to Profit Improvement<br>*Prof. Rajasekhar Reddy* | 32 |
| 23 | The 'Control' Quandary- What Constitutes 'Control' Under the Competition Act 2002 in a Combination Transaction and How to Structure Combinations to Avoid CCI Scrutiny.<br>*Hartej Singh Kochher* | 33 |
| 24 | Exemption of Agriculture Income in India Under the Income Tax Act 1961: A Critical Study<br>*Prof Rupak Das* | 34 |
| 25 | A socio- legal study of the untapped prospects of Hydropower in India<br>*Prof Sofiul Ahmed* | 35 |
| 26. | Corporate Governance And Corporate Social Responsibility : Multidimensional Constructs<br>*Dr.Indira Priyadarshini,* | 36 |
| 27. | Insolvency and Bankruptcy Code, 2016 – Significant Amendments<br>*Dr. M. Srinivas* | 37 |
| 28. | Implementation of Leniency Programme – A Discretionary Power of Competition Commission of India<br>*Dr. Gunda Vedasri,* | 38 |
| 29. | New Era of Healthcare Consumerism: Trouncing Hallucination and High Jinks<br>*Prof. Ravulapati Madhavi* | 39 |
| 30. | The Dynamics of Corporate Criminal Liability in India<br>*M Srinivas* | 40 |
| 31. | E-Consumer Protection: Problems and Perspectives<br>*Mahantesh B Madiwalar & Prof. B S Reddy* | 41 |
| 32. | Implementation of Corporate Social Responsibility: A Judicial Approach Under Companies Act, 2013<br>*Meera Kumari Singh & Tabrez Ahmad* | 42 |
| 33. | Corporate Social Responsibility: Responsibility or Obligation?<br>*K Sita Manikyam* | 43 |
| 34. | Avoidance of Contract for Fundamental Breach Under the United Nations Convention on Contracts for the International Sale of Goods, 1980<br>*Mohammed Zaheeruddin* | 44 |
| 35. | Acts of Intervention: How Contracts of Liability Insurance Are Regulated to Protect Third Party Claimants in Australian Law<br>*John Woodward* | 45 |

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# Corporate Social Responsibility

Dr.M.Ravindranath[+]

***Abstract:*** *Corporate Social Responsibility (CSR) assumes significance as it permits companies to engage in projects or programs related to activities related to social welfare and improvement enlisted under the terms of Companies Act, 2013. There is an element of flexibility in company activities by allowing them to select their preferred CSR engagements that are in agreement with the overall CSR policy of the company. Faculty explained definition of CSR. Further CSR in India as it is the first country in the world to make CSR mandatory following an amendment to the companies Act 2013, in April 2014. The various activities performed by a company to accomplish its CSR obligations like Eradicating extreme hunger and poverty, Promotion of education. Promoting gender equality and empowering women, Reducing child mortality, Improving maternal health. Examples of Corporate Social Responsibility in Action like Reducing carbon footprints, Improving labor policies Participating in fair trade, Charitable giving, Volunteering in the community, Corporate policies that benefit the environment. This paper further discussed the top companies which have incorporated CSR initiatives in their policies successfully and i conclude by highlighting some of the leading International brands in CSR.*

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| | | |
|---|---|---|
| 1 | Consumer Sovereignty and Law<br>*Prof Sridevi D Shet* | 8 |
| 2 | Directors and Officers Insurance Liability: Some Concerns<br>*Sridevi D Shet* | 9 |
| 3 | Institutionalization of Arbitration<br>*Dr Veena* | 10 |
| 4 | New Age Business and Legal Environment<br>*Prof Rakesh Suryadevara* | 11 |
| 5 | Protection to the Farmers and Insurance<br>*Dr Madhuri Irene* | 12 |
| 6 | Tort Insurance and Product Liability<br>*Prof Anwesha Panigrahi* | 13 |
| 7 | "A Conceptual Understanding of Regional Trade Agreements: A Critical Study with Reference to India's Deviation from Multilateral Trade<br>*Mrs Annapurna Devi Munaganti,* | 15 |
| 8 | Direct Taxes Code Bill 2013-- A Critical Analysis<br>*S.Ravi* | 16 |
| 9 | Right to Consumer Education: A Case Study with Reference to Hyderabad<br>*Dr. Irfan Rasool,* | 18 |
| 10 | The Consumer Protection Bill 2015: An Analysis<br>*Dr.S.V. Damodar Reddy* | 20 |
| 11 | The Goods and Services Tax Bill, 2014 -- A Critical Analysis<br>*S.Ravi* | 21 |
| 12 | Money Laundering: Issues and Challenges<br>*Dr.P.L.Jayanthi Reddy* | 22 |
| 13 | Real Estate Act in India<br>*Monisha Gade* | 23 |
| 14 | A Categorical Study on Resolving Commercial Disputes: India's strategies Towards Ease of Doing Business.<br>*Ms Annapurna* | 24 |
| 15 | Empowering Women through Microfinance<br>*Geetha Priyadarshini* | 25 |
| 16 | Barter to Cryptocurrency : Evolution of Money<br>*Sreedevi Shet* | 26 |
| 17 | International Trade: Facts and Myths<br>*Rakesh Suryadevara* | 27 |
| 18 | Corporate Social Responsibility<br>*Dr.M.Ravindranath* | 28 |
| 19 | Real Estate Market An Overview in the UAE- An Empirical Study on Dubai Real Estate<br>*Dr.Durga Prasad* | 29 |

| | | |
|---|---|---|
| 20 | Inconvenience in Flag of Convenience<br>*Dr. Rama Devi* | 30 |
| 21 | The FRDI Bill –Resolution of Banks, Fears, Hopes and Trust<br>*A.Raja Rajeshwari* | 31 |
| 22 | Cost Reduction Approaches to Profit Improvement<br>*Prof. Rajasekhar Reddy* | 32 |
| 23 | The 'Control' Quandary- What Constitutes 'Control' Under the Competition Act 2002 in a Combination Transaction and How to Structure Combinations to Avoid CCI Scrutiny.<br>*Hartej Singh Kochher* | 33 |
| 24 | Exemption of Agriculture Income in India Under the Income Tax Act 1961: A Critical Study<br>*Prof Rupak Das* | 34 |
| 25 | A socio- legal study of the untapped prospects of Hydropower in India<br>*Prof Sofiul Ahmed* | 35 |
| 26. | Corporate Governance And Corporate Social Responsibility : Multidimensional Constructs<br>*Dr.Indira Priyadarshini,* | 36 |
| 27. | Insolvency and Bankruptcy Code, 2016 – Significant Amendments<br>*Dr. M. Srinivas* | 37 |
| 28. | Implementation of Leniency Programme – A Discretionary Power of Competition Commission of India<br>*Dr. Gunda Vedasri,* | 38 |
| 29. | New Era of Healthcare Consumerism: Trouncing Hallucination and High Jinks<br>*Prof. Ravulapati Madhavi* | 39 |
| 30. | The Dynamics of Corporate Criminal Liability in India<br>*M Srinivas* | 40 |
| 31. | E-Consumer Protection: Problems and Perspectives<br>*Mahantesh B Madiwalar & Prof. B S Reddy* | 41 |
| 32. | Implementation of Corporate Social Responsibility: A Judicial Approach Under Companies Act, 2013<br>*Meera Kumari Singh & Tabrez Ahmad* | 42 |
| 33. | Corporate Social Responsibility: Responsibility or Obligation?<br>*K Sita Manikyam* | 43 |
| 34. | Avoidance of Contract for Fundamental Breach Under the United Nations Convention on Contracts for the International Sale of Goods, 1980<br>*Mohammed Zaheeruddin* | 44 |
| 35. | Acts of Intervention: How Contracts of Liability Insurance Are Regulated to Protect Third Party Claimants in Australian Law<br>*John Woodward* | 45 |

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# Real Estate Market An Overview in the UAE- An Empirical Study on Dubai Real Estate

Dr. Durga Prasad*

***Abstract:*** *The real estate market can be defined as the interaction of individuals who exchange real property rights for other assets, such as money. The study of a real estate market should include all factors of supply and demand that affect the price and quantity traded of the property. The present paper discusses the challenges and opportunities in Real Estate and Construction industry in the UAE with reference to DUBAI emirates.. The aim of this research paper provide a deeper insight on the innovative practices and the future demands in the real estate and construction industry and assist the policy makers to frame strategies to tackle the future challenges. Present research aims at achieving multiple objectives. However these have been categorized into two groups for the sake of ease in moving ahead in a systematic manner. Data collected with the help of a research instruments was analyzed using the following statistical tools:(a) Ratios and percentages(b) Correlation analysis(c) Chi-square test.Gulf – Co-operation (GCC) countries depend on oil as a major source of its economic development, financing the various economic activities in the industrial, commercial and real estate sectors. However, special attention was paid to the real estate sector due to its close link to growth and economic development as well as population growth.*

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# Contents


| | | |
|---|---|---|
| 1 | Consumer Sovereignty and Law<br>*Prof Sridevi D Shet* | 8 |
| 2 | Directors and Officers Insurance Liability: Some Concerns<br>*Sridevi D Shet* | 9 |
| 3 | Institutionalization of Arbitration<br>*Dr Veena* | 10 |
| 4 | New Age Business and Legal Environment<br>*Prof Rakesh Suryadevara* | 11 |
| 5 | Protection to the Farmers and Insurance<br>*Dr Madhuri Irene* | 12 |
| 6 | Tort Insurance and Product Liability<br>*Prof Anwesha Panigrahi* | 13 |
| 7 | "A Conceptual Understanding of Regional Trade Agreements: A Critical Study with Reference to India's Deviation from Multilateral Trade<br>*Mrs Annapurna Devi Munaganti,* | 15 |
| 8 | Direct Taxes Code Bill 2013– A Critical Analysis<br>*S.Ravi* | 16 |
| 9 | Right to Consumer Education: A Case Study with Reference to Hyderabad<br>*Dr. Irfan Rasool,* | 18 |
| 10 | The Consumer Protection Bill 2015: An Analysis<br>*Dr.S.V. Damodar Reddy* | 20 |
| 11 | The Goods and Services Tax Bill, 2014 – A Critical Analysis<br>*S.Ravi* | 21 |
| 12 | Money Laundering: Issues and Challenges<br>*Dr.P.L.Jayanthi Reddy* | 22 |
| 13 | Real Estate Act in India<br>*Monisha Gade* | 23 |
| 14 | A Categorical Study on Resolving Commercial Disputes: India's strategies Towards Ease of Doing Business.<br>*Ms Annapurna* | 24 |
| 15 | Empowering Women through Microfinance<br>*Geetha Priyadarshini* | 25 |
| 16 | Barter to Cryptocurrency : Evolution of Money<br>*Sreedevi Shet* | 26 |
| 17 | International Trade: Facts and Myths<br>*Rakesh Suryadevara* | 27 |
| 18 | Corporate Social Responsibility<br>*Dr.M.Ravindranath* | 28 |
| 19 | Real Estate Market An Overview in the UAE- An Empirical Study on Dubai Real Estate<br>*Dr.Durga Prasad* | 29 |

| | | |
|---|---|---|
| 20 | Inconvenience in Flag of Convenience<br>*Dr. Rama Devi* | 30 |
| 21 | The FRDI Bill –Resolution of Banks, Fears, Hopes and Trust<br>*A.Raja Rajeshwari* | 31 |
| 22 | Cost Reduction Approaches to Profit Improvement<br>*Prof. Rajasekhar Reddy* | 32 |
| 23 | The 'Control' Quandary- What Constitutes 'Control' Under the Competition Act 2002 in a Combination Transaction and How to Structure Combinations to Avoid CCI Scrutiny.<br>*Hartej Singh Kochher* | 33 |
| 24 | Exemption of Agriculture Income in India Under the Income Tax Act 1961: A Critical Study<br>*Prof Rupak Das* | 34 |
| 25 | A socio- legal study of the untapped prospects of Hydropower in India<br>*Prof Sofiul Ahmed* | 35 |
| 26. | Corporate Governance And Corporate Social Responsibility : Multidimensional Constructs<br>*Dr.Indira Priyadarshini,* | 36 |
| 27. | Insolvency and Bankruptcy Code, 2016 – Significant Amendments<br>*Dr. M. Srinivas* | 37 |
| 28. | Implementation of Leniency Programme – A Discretionary Power of Competition Commission of India<br>*Dr. Gunda Vedasri,* | 38 |
| 29. | New Era of Healthcare Consumerism: Trouncing Hallucination and High Jinks<br>*Prof. Ravulapati Madhavi* | 39 |
| 30. | The Dynamics of Corporate Criminal Liability in India<br>*M Srinivas* | 40 |
| 31. | E-Consumer Protection: Problems and Perspectives<br>*Mahantesh B Madiwalar & Prof. B S Reddy* | 41 |
| 32. | Implementation of Corporate Social Responsibility: A Judicial Approach Under Companies Act, 2013<br>*Meera Kumari Singh & Tabrez Ahmad* | 42 |
| 33. | Corporate Social Responsibility: Responsibility or Obligation?<br>*K Sita Manikyam* | 43 |
| 34. | Avoidance of Contract for Fundamental Breach Under the United Nations Convention on Contracts for the International Sale of Goods, 1980<br>*Mohammed Zaheeruddin* | 44 |
| 35. | Acts of Intervention: How Contracts of Liability Insurance Are Regulated to Protect Third Party Claimants in Australian Law<br>*John Woodward* | 45 |

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# Inconvenience in Flag of Convenience

Dr. Rama Devi*

***Abstract:*** *International Maritime industry constitutes 90% of the International Trade. It is the primary responsibility of the States issuing Flags to the ships (Registration of the ships) to ensure maritime and environment safety on the international waters. To ensure maritime safety, many international treaties have been adopted and concluded by IMO and UNO. One such multilateral treaty which governs the rights and duties of States on the waters is UNCLOS. But the Flag of Convenience (FOC), a business practice followed by Shipping corporations where the ship owners register in their ships in a nation that they do not belong to, is subjected to severe criticism. States which issue FOC do not adhere to international standards set for regulating maritime safety. The law under UNCLOS and few other conventions relating to maritime safety are insufficient due to non-solidification of Genuine Link concept and having no proper law in the direction of FOC. A Genuine link should be established between the Ship and the Flag State it belongs to. It is also contended by the nations that most of the ships sailing with these FOC flags commit international crimes on the Sea and also cause loss to the marine environment. This loss is in turn born by the port States and not the Corporations to which the ship belongs to because of the anonymity status of the owners of the ships. The Flag States issuing FOC has very lenient laws where the anonymity of the actual ship owner is maintained. Recent incident of Beirut which resulted in explosion of ammonium nitrate also exposed the inconvenience faced by Port States with respect to some ships sailing with FOC. Why FOC is preferred by Shipping Corporations? How it is misused? The international legislations in the direction of FOC will be discussed in the presentation along with conclusions and suggestions on how this problem can be addressed.*

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# Contents


| | | |
|---|---|---|
| 1 | Consumer Sovereignty and Law<br>*Prof Sridevi D Shet* | 8 |
| 2 | Directors and Officers Insurance Liability: Some Concerns<br>*Sridevi D Shet* | 9 |
| 3 | Institutionalization of Arbitration<br>*Dr Veena* | 10 |
| 4 | New Age Business and Legal Environment<br>*Prof Rakesh Suryadevara* | 11 |
| 5 | Protection to the Farmers and Insurance<br>*Dr Madhuri Irene* | 12 |
| 6 | Tort Insurance and Product Liability<br>*Prof Anwesha Panigrahi* | 13 |
| 7 | "A Conceptual Understanding of Regional Trade Agreements: A Critical Study with Reference to India's Deviation from Multilateral Trade<br>*Mrs Annapurna Devi Munaganti,* | 15 |
| 8 | Direct Taxes Code Bill 2013– A Critical Analysis<br>*S.Ravi* | 16 |
| 9 | Right to Consumer Education: A Case Study with Reference to Hyderabad<br>*Dr. Irfan Rasool,* | 18 |
| 10 | The Consumer Protection Bill 2015: An Analysis<br>*Dr.S.V. Damodar Reddy* | 20 |
| 11 | The Goods and Services Tax Bill, 2014 – A Critical Analysis<br>*S.Ravi* | 21 |
| 12 | Money Laundering: Issues and Challenges<br>*Dr.P.L.Jayanthi Reddy* | 22 |
| 13 | Real Estate Act in India<br>*Monisha Gade* | 23 |
| 14 | A Categorical Study on Resolving Commercial Disputes: India's strategies Towards Ease of Doing Business.<br>*Ms Annapurna* | 24 |
| 15 | Empowering Women through Microfinance<br>*Geetha Priyadarshini* | 25 |
| 16 | Barter to Cryptocurrency : Evolution of Money<br>*Sreedevi Shet* | 26 |
| 17 | International Trade: Facts and Myths<br>*Rakesh Suryadevara* | 27 |
| 18 | Corporate Social Responsibility<br>*Dr.M.Ravindranath* | 28 |
| 19 | Real Estate Market An Overview in the UAE- An Empirical Study on Dubai Real Estate<br>*Dr.Durga Prasad* | 29 |

| | | |
|---|---|---|
| 20 | Inconvenience in Flag of Convenience<br>*Dr. Rama Devi* | 30 |
| 21 | The FRDI Bill –Resolution of Banks, Fears, Hopes and Trust<br>*A.Raja Rajeshwari* | 31 |
| 22 | Cost Reduction Approaches to Profit Improvement<br>*Prof. Rajasekhar Reddy* | 32 |
| 23 | The 'Control' Quandary- What Constitutes 'Control' Under the Competition Act 2002 in a Combination Transaction and How to Structure Combinations to Avoid CCI Scrutiny.<br>*Hartej Singh Kochher* | 33 |
| 24 | Exemption of Agriculture Income in India Under the Income Tax Act 1961: A Critical Study<br>*Prof Rupak Das* | 34 |
| 25 | A socio- legal study of the untapped prospects of Hydropower in India<br>*Prof Sofiul Ahmed* | 35 |
| 26. | Corporate Governance And Corporate Social Responsibility : Multidimensional Constructs<br>*Dr.Indira Priyadarshini,* | 36 |
| 27. | Insolvency and Bankruptcy Code, 2016 – Significant Amendments<br>*Dr. M. Srinivas* | 37 |
| 28. | Implementation of Leniency Programme – A Discretionary Power of Competition Commission of India<br>*Dr. Gunda Vedasri,* | 38 |
| 29. | New Era of Healthcare Consumerism: Trouncing Hallucination and High Jinks<br>*Prof. Ravulapati Madhavi* | 39 |
| 30. | The Dynamics of Corporate Criminal Liability in India<br>*M Srinivas* | 40 |
| 31. | E-Consumer Protection: Problems and Perspectives<br>*Mahantesh B Madiwalar & Prof. B S Reddy* | 41 |
| 32. | Implementation of Corporate Social Responsibility: A Judicial Approach Under Companies Act, 2013<br>*Meera Kumari Singh & Tabrez Ahmad* | 42 |
| 33. | Corporate Social Responsibility: Responsibility or Obligation?<br>*K Sita Manikyam* | 43 |
| 34. | Avoidance of Contract for Fundamental Breach Under the United Nations Convention on Contracts for the International Sale of Goods, 1980<br>*Mohammed Zaheeruddin* | 44 |
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# The FRDI Bill –Resolution of Banks, Fears, Hopes and Trust

A. Raja Rajeshwari*

***Abstract:*** *Banks are the ones that provide the market the much needed financial assistance and help in transparent transactions through its medium. But what if the bank itself fails to meet its own financial needs and balances is the question that has worried its investors, creditors and the regulators. As amongst these worries, what has stirred the confidence of the depositors recently is the introduction of the FRDI Bill in the Parliament in 2017. Even though the Bill was withdrawn, the possibility of its re-introduction is not ruled out. The presenter provided a complete picture of these fears and hopes of depositors in the light of the relationship of a banker and customer and in turn its importance to the economic stability. The presenter also looked into the different ways how failing banks were protected through measures like bail-in or mergers or even the new bail-out technique that has already been implemented in few countries. However, the presenter differentiated the circumstances when bail-out was used or not used in the other jurisdictions to that of the Indian scenario. In the opinion of the presenter, bail-out is not suitable for the Indian banking sector. However, the different parameters of identifying a crisis in a bank as suggested in the bill can be an important tool to identify and rectify the ill-health of the various banks in India and thereby prevent a situation requiring bail-out of a bank.*

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# Contents


| | | |
|---|---|---|
| 1 | Consumer Sovereignty and Law<br>*Prof Sridevi D Shet* | 8 |
| 2 | Directors and Officers Insurance Liability: Some Concerns<br>*Sridevi D Shet* | 9 |
| 3 | Institutionalization of Arbitration<br>*Dr Veena* | 10 |
| 4 | New Age Business and Legal Environment<br>*Prof Rakesh Suryadevara* | 11 |
| 5 | Protection to the Farmers and Insurance<br>*Dr Madhuri Irene* | 12 |
| 6 | Tort Insurance and Product Liability<br>*Prof Anwesha Panigrahi* | 13 |
| 7 | "A Conceptual Understanding of Regional Trade Agreements: A Critical Study with Reference to India's Deviation from Multilateral Trade<br>*Mrs Annapurna Devi Munaganti,* | 15 |
| 8 | Direct Taxes Code Bill 2013– A Critical Analysis<br>*S.Ravi* | 16 |
| 9 | Right to Consumer Education: A Case Study with Reference to Hyderabad<br>*Dr. Irfan Rasool,* | 18 |
| 10 | The Consumer Protection Bill 2015: An Analysis<br>*Dr.S.V. Damodar Reddy* | 20 |
| 11 | The Goods and Services Tax Bill, 2014 – A Critical Analysis<br>*S.Ravi* | 21 |
| 12 | Money Laundering: Issues and Challenges<br>*Dr.P.L.Jayanthi Reddy* | 22 |
| 13 | Real Estate Act in India<br>*Monisha Gade* | 23 |
| 14 | A Categorical Study on Resolving Commercial Disputes: India's strategies Towards Ease of Doing Business.<br>*Ms Annapurna* | 24 |
| 15 | Empowering Women through Microfinance<br>*Geetha Priyadarshini* | 25 |
| 16 | Barter to Cryptocurrency : Evolution of Money<br>*Sreedevi Shet* | 26 |
| 17 | International Trade: Facts and Myths<br>*Rakesh Suryadevara* | 27 |
| 18 | Corporate Social Responsibility<br>*Dr.M.Ravindranath* | 28 |
| 19 | Real Estate Market An Overview in the UAE- An Empirical Study on Dubai Real Estate<br>*Dr.Durga Prasad* | 29 |

| | | |
|---|---|---|
| 20 | Inconvenience in Flag of Convenience<br>*Dr. Rama Devi* | 30 |
| 21 | The FRDI Bill –Resolution of Banks, Fears, Hopes and Trust<br>*A.Raja Rajeshwari* | 31 |
| 22 | Cost Reduction Approaches to Profit Improvement<br>*Prof. Rajasekhar Reddy* | 32 |
| 23 | The 'Control' Quandary- What Constitutes 'Control' Under the Competition Act 2002 in a Combination Transaction and How to Structure Combinations to Avoid CCI Scrutiny.<br>*Hartej Singh Kochher* | 33 |
| 24 | Exemption of Agriculture Income in India Under the Income Tax Act 1961: A Critical Study<br>*Prof Rupak Das* | 34 |
| 25 | A socio- legal study of the untapped prospects of Hydropower in India<br>*Prof Sofiul Ahmed* | 35 |
| 26. | Corporate Governance And Corporate Social Responsibility : Multidimensional Constructs<br>*Dr.Indira Priyadarshini,* | 36 |
| 27. | Insolvency and Bankruptcy Code, 2016 – Significant Amendments<br>*Dr. M. Srinivas* | 37 |
| 28. | Implementation of Leniency Programme – A Discretionary Power of Competition Commission of India<br>*Dr. Gunda Vedasri,* | 38 |
| 29. | New Era of Healthcare Consumerism: Trouncing Hallucination and High Jinks<br>*Prof. Ravulapati Madhavi* | 39 |
| 30. | The Dynamics of Corporate Criminal Liability in India<br>*M Srinivas* | 40 |
| 31. | E-Consumer Protection: Problems and Perspectives<br>*Mahantesh B Madiwalar & Prof. B S Reddy* | 41 |
| 32. | Implementation of Corporate Social Responsibility: A Judicial Approach Under Companies Act, 2013<br>*Meera Kumari Singh & Tabrez Ahmad* | 42 |
| 33. | Corporate Social Responsibility: Responsibility or Obligation?<br>*K Sita Manikyam* | 43 |
| 34. | Avoidance of Contract for Fundamental Breach Under the United Nations Convention on Contracts for the International Sale of Goods, 1980<br>*Mohammed Zaheeruddin* | 44 |
| 35. | Acts of Intervention: How Contracts of Liability Insurance Are Regulated to Protect Third Party Claimants in Australian Law<br>*John Woodward* | 45 |

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# Cost Reduction Approaches to Profit Improvement

Prof. Rajasekhar Reddy*

***Abstract:*** *The focus of this seminar is on profit improvement either through Cost reduction or Growth in sales. Of Course, both are required for an organization. Yet this seminar tries to highlight that cost reduction is a much better approach to begin with, CEOs in many organizations make a fundamental mistake of thinking that to remain competitive their companies must purchase new plants and equipment. For an average company these are invariably two least effective areas to real savings. Why then, cost reduction is ignored by top management. The basic reason being they do not know where and how to begin the cost reduction process. Further like sales improvement, cost reduction is not as flashy or dramatic. a 30 % increase in company sales would make front pages of business news paper, but comparable cost reduction surely would not receive the same favourable treatment. This seminar's purpose is to impress upon the audience, and to give a glimpse, on the importance of cost reduction and various ways in which cost reductions can be brought about without much cost. Organizations with an attitude of being always cost conscious as a top priority, have survived the many turbulent times of business cycles, like that of covid 19.*

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# Contents


| | | |
|---|---|---|
| 1 | Consumer Sovereignty and Law<br>*Prof Sridevi D Shet* | 8 |
| 2 | Directors and Officers Insurance Liability: Some Concerns<br>*Sridevi D Shet* | 9 |
| 3 | Institutionalization of Arbitration<br>*Dr Veena* | 10 |
| 4 | New Age Business and Legal Environment<br>*Prof Rakesh Suryadevara* | 11 |
| 5 | Protection to the Farmers and Insurance<br>*Dr Madhuri Irene* | 12 |
| 6 | Tort Insurance and Product Liability<br>*Prof Anwesha Panigrahi* | 13 |
| 7 | "A Conceptual Understanding of Regional Trade Agreements: A Critical Study with Reference to India's Deviation from Multilateral Trade<br>*Mrs Annapurna Devi Munaganti,* | 15 |
| 8 | Direct Taxes Code Bill 2013– A Critical Analysis<br>*S.Ravi* | 16 |
| 9 | Right to Consumer Education: A Case Study with Reference to Hyderabad<br>*Dr. Irfan Rasool,* | 18 |
| 10 | The Consumer Protection Bill 2015: An Analysis<br>*Dr.S.V. Damodar Reddy* | 20 |
| 11 | The Goods and Services Tax Bill, 2014 – A Critical Analysis<br>*S.Ravi* | 21 |
| 12 | Money Laundering: Issues and Challenges<br>*Dr.P.L.Jayanthi Reddy* | 22 |
| 13 | Real Estate Act in India<br>*Monisha Gade* | 23 |
| 14 | A Categorical Study on Resolving Commercial Disputes: India's strategies Towards Ease of Doing Business.<br>*Ms Annapurna* | 24 |
| 15 | Empowering Women through Microfinance<br>*Geetha Priyadarshini* | 25 |
| 16 | Barter to Cryptocurrency : Evolution of Money<br>*Sreedevi Shet* | 26 |
| 17 | International Trade: Facts and Myths<br>*Rakesh Suryadevara* | 27 |
| 18 | Corporate Social Responsibility<br>*Dr.M.Ravindranath* | 28 |
| 19 | Real Estate Market An Overview in the UAE- An Empirical Study on Dubai Real Estate<br>*Dr.Durga Prasad* | 29 |

| | | |
|---|---|---|
| 20 | Inconvenience in Flag of Convenience<br>*Dr. Rama Devi* | 30 |
| 21 | The FRDI Bill –Resolution of Banks, Fears, Hopes and Trust<br>*A.Raja Rajeshwari* | 31 |
| 22 | Cost Reduction Approaches to Profit Improvement<br>*Prof. Rajasekhar Reddy* | 32 |
| 23 | The 'Control' Quandary- What Constitutes 'Control' Under the Competition Act 2002 in a Combination Transaction and How to Structure Combinations to Avoid CCI Scrutiny.<br>*Hartej Singh Kochher* | 33 |
| 24 | Exemption of Agriculture Income in India Under the Income Tax Act 1961: A Critical Study<br>*Prof Rupak Das* | 34 |
| 25 | A socio- legal study of the untapped prospects of Hydropower in India<br>*Prof Sofiul Ahmed* | 35 |
| 26. | Corporate Governance And Corporate Social Responsibility : Multidimensional Constructs<br>*Dr.Indira Priyadarshini,* | 36 |
| 27. | Insolvency and Bankruptcy Code, 2016 – Significant Amendments<br>*Dr. M. Srinivas* | 37 |
| 28. | Implementation of Leniency Programme – A Discretionary Power of Competition Commission of India<br>*Dr. Gunda Vedasri,* | 38 |
| 29. | New Era of Healthcare Consumerism: Trouncing Hallucination and High Jinks<br>*Prof. Ravulapati Madhavi* | 39 |
| 30. | The Dynamics of Corporate Criminal Liability in India<br>*M Srinivas* | 40 |
| 31. | E-Consumer Protection: Problems and Perspectives<br>*Mahantesh B Madiwalar & Prof. B S Reddy* | 41 |
| 32. | Implementation of Corporate Social Responsibility: A Judicial Approach Under Companies Act, 2013<br>*Meera Kumari Singh & Tabrez Ahmad* | 42 |
| 33. | Corporate Social Responsibility: Responsibility or Obligation?<br>*K Sita Manikyam* | 43 |
| 34. | Avoidance of Contract for Fundamental Breach Under the United Nations Convention on Contracts for the International Sale of Goods, 1980<br>*Mohammed Zaheeruddin* | 44 |
| 35. | Acts of Intervention: How Contracts of Liability Insurance Are Regulated to Protect Third Party Claimants in Australian Law<br>*John Woodward* | 45 |

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# The 'Control' Quandary- What Constitutes 'Control' Under the Competition Act 2002 in a Combination Transaction and How to Structure Combinations to Avoid CCI Scrutiny.

Hartej Singh Kochher*

***Abstract:*** *The differing interpretations by the CCI and the resultant recommendations by the Report of The Competition Law Review Committee which led to the Draft Competition Law (Amendment) Bill, 2020 have brought back the focus on the issue of 'control'. There exists a paucity of academic research in this evolving domain, especially with an industry specific focus the author intends to take through looking at means to 'structure' deals to avoid scrutiny of the CCI. Research Problems deals whether it possible to frame a nuanced definition of control for competition assessment in combinations which does not involve subjective determinations? How to structure combinations to avoid CCI scrutiny in light of broad-based powers flowing from the definition of 'control'? How to prevent financial investments from being classified as 'control' under the Competition Act? Can the definition of 'control' under the Competition Act be brought in line with other statutes? Which is better and more suitable - a decisive influence standard or a material influence standard? Considering SEBI tried and ultimately abandoned something similar under the Discussion Paper on the Brightline Test, is it possible/feasible to have a 'guideline' on what constitutes material influence, as suggested by the CLRC? What are the international best practices on the 'control' issue as regards combinations? These questions with help of literature are discussed in the working paper.*

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# Contents


| | | |
|---|---|---|
| 1 | Consumer Sovereignty and Law<br>*Prof Sridevi D Shet* | 8 |
| 2 | Directors and Officers Insurance Liability: Some Concerns<br>*Sridevi D Shet* | 9 |
| 3 | Institutionalization of Arbitration<br>*Dr Veena* | 10 |
| 4 | New Age Business and Legal Environment<br>*Prof Rakesh Suryadevara* | 11 |
| 5 | Protection to the Farmers and Insurance<br>*Dr Madhuri Irene* | 12 |
| 6 | Tort Insurance and Product Liability<br>*Prof Anwesha Panigrahi* | 13 |
| 7 | "A Conceptual Understanding of Regional Trade Agreements: A Critical Study with Reference to India's Deviation from Multilateral Trade<br>*Mrs Annapurna Devi Munaganti,* | 15 |
| 8 | Direct Taxes Code Bill 2013– A Critical Analysis<br>*S.Ravi* | 16 |
| 9 | Right to Consumer Education: A Case Study with Reference to Hyderabad<br>*Dr. Irfan Rasool,* | 18 |
| 10 | The Consumer Protection Bill 2015: An Analysis<br>*Dr.S.V. Damodar Reddy* | 20 |
| 11 | The Goods and Services Tax Bill, 2014 – A Critical Analysis<br>*S.Ravi* | 21 |
| 12 | Money Laundering: Issues and Challenges<br>*Dr.P.L.Jayanthi Reddy* | 22 |
| 13 | Real Estate Act in India<br>*Monisha Gade* | 23 |
| 14 | A Categorical Study on Resolving Commercial Disputes: India's strategies Towards Ease of Doing Business.<br>*Ms Annapurna* | 24 |
| 15 | Empowering Women through Microfinance<br>*Geetha Priyadarshini* | 25 |
| 16 | Barter to Cryptocurrency : Evolution of Money<br>*Sreedevi Shet* | 26 |
| 17 | International Trade: Facts and Myths<br>*Rakesh Suryadevara* | 27 |
| 18 | Corporate Social Responsibility<br>*Dr.M.Ravindranath* | 28 |
| 19 | Real Estate Market An Overview in the UAE- An Empirical Study on Dubai Real Estate<br>*Dr.Durga Prasad* | 29 |

20 Inconvenience in Flag of Convenience 30
*Dr. Rama Devi*

21 The FRDI Bill –Resolution of Banks, Fears, Hopes and Trust 31
*A.Raja Rajeshwari*

22 Cost Reduction Approaches to Profit Improvement 32
*Prof. Rajasekhar Reddy*

23 The 'Control' Quandary- What Constitutes 'Control' Under the Competition Act 2002 in a Combination Transaction and How to Structure Combinations to Avoid CCI Scrutiny. 33
*Hartej Singh Kochher*

24 Exemption of Agriculture Income in India Under the Income Tax Act 1961: A Critical Study 34
*Prof Rupak Das*

25 A socio- legal study of the untapped prospects of Hydropower in India 35
*Prof Sofiul Ahmed*

26. Corporate Governance And Corporate Social Responsibility : Multidimensional Constructs 36
*Dr.Indira Priyadarshini,*

27. Insolvency and Bankruptcy Code, 2016 – Significant Amendments 37
*Dr. M. Srinivas*

28. Implementation of Leniency Programme – A Discretionary Power of Competition Commission of India 38
*Dr. Gunda Vedasri,*

29. New Era of Healthcare Consumerism: Trouncing Hallucination and High Jinks 39
*Prof. Ravulapati Madhavi*

30. The Dynamics of Corporate Criminal Liability in India 40
*M Srinivas*

31. E-Consumer Protection: Problems and Perspectives 41
*Mahantesh B Madiwalar & Prof. B S Reddy*

32. Implementation of Corporate Social Responsibility: A Judicial Approach Under Companies Act, 2013 42
*Meera Kumari Singh & Tabrez Ahmad*

33. Corporate Social Responsibility: Responsibility or Obligation? 43
*K Sita Manikyam*

34. Avoidance of Contract for Fundamental Breach Under the United Nations Convention on Contracts for the International Sale of Goods, 1980 44
*Mohammed Zaheeruddin*

35. Acts of Intervention: How Contracts of Liability Insurance Are Regulated to Protect Third Party Claimants in Australian Law 45
*John Woodward*

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# Exemption of Agriculture Income in India under the Income Tax Act 1961: A Critical Study

Prof Rupak Das*

***Abstract***: *India has always contemplated a rural-based Agrarian economy with as many as 55% of its total population being associated with Agricultural activities. To ensure certain amount of financial relief to the farmers and to encourage the Agricultural occupation, the Income Tax Act, 1961 provides a complete tax exemption [under S. 10(1)] to Agricultural Income [as defined under S. 2(1A)]. However, this provision, at the current point of time is appearing as a shield to justify the intentions of Tax Avoidance and Evasion. The issue has become a major threat to Indian Economy and has also been identified by establishments like CAG and Niti Ayog. The seminar aims at addressing this particular issue while revolving around the answers to these following questions: Why was this provision introduced? What are the lacunas in the existing provision? Is the provision upholding the constitutionalism of Indian Constitution? Is it any how connected to the newly amended firm laws? What is the recourse to this problem.*

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# Contents


| | | |
|---|---|---|
| 1 | Consumer Sovereignty and Law<br>*Prof Sridevi D Shet* | 8 |
| 2 | Directors and Officers Insurance Liability: Some Concerns<br>*Sridevi D Shet* | 9 |
| 3 | Institutionalization of Arbitration<br>*Dr Veena* | 10 |
| 4 | New Age Business and Legal Environment<br>*Prof Rakesh Suryadevara* | 11 |
| 5 | Protection to the Farmers and Insurance<br>*Dr Madhuri Irene* | 12 |
| 6 | Tort Insurance and Product Liability<br>*Prof Anwesha Panigrahi* | 13 |
| 7 | "A Conceptual Understanding of Regional Trade Agreements: A Critical Study with Reference to India's Deviation from Multilateral Trade<br>*Mrs Annapurna Devi Munaganti,* | 15 |
| 8 | Direct Taxes Code Bill 2013 – A Critical Analysis<br>*S.Ravi* | 16 |
| 9 | Right to Consumer Education: A Case Study with Reference to Hyderabad<br>*Dr. Irfan Rasool,* | 18 |
| 10 | The Consumer Protection Bill 2015: An Analysis<br>*Dr.S.V. Damodar Reddy* | 20 |
| 11 | The Goods and Services Tax Bill, 2014 – A Critical Analysis<br>*S.Ravi* | 21 |
| 12 | Money Laundering: Issues and Challenges<br>*Dr.P.L.Jayanthi Reddy* | 22 |
| 13 | Real Estate Act in India<br>*Monisha Gade* | 23 |
| 14 | A Categorical Study on Resolving Commercial Disputes: India's strategies Towards Ease of Doing Business.<br>*Ms Annapurna* | 24 |
| 15 | Empowering Women through Microfinance<br>*Geetha Priyadarshini* | 25 |
| 16 | Barter to Cryptocurrency : Evolution of Money<br>*Sreedevi Shet* | 26 |
| 17 | International Trade: Facts and Myths<br>*Rakesh Suryadevara* | 27 |
| 18 | Corporate Social Responsibility<br>*Dr.M.Ravindranath* | 28 |
| 19 | Real Estate Market An Overview in the UAE- An Empirical Study on Dubai Real Estate<br>*Dr.Durga Prasad* | 29 |

| | | |
|---|---|---|
| 20 | Inconvenience in Flag of Convenience<br>*Dr. Rama Devi* | 30 |
| 21 | The FRDI Bill –Resolution of Banks, Fears, Hopes and Trust<br>*A.Raja Rajeshwari* | 31 |
| 22 | Cost Reduction Approaches to Profit Improvement<br>*Prof. Rajasekhar Reddy* | 32 |
| 23 | The 'Control' Quandary- What Constitutes 'Control' Under the Competition Act 2002 in a Combination Transaction and How to Structure Combinations to Avoid CCI Scrutiny.<br>*Hartej Singh Kochher* | 33 |
| 24 | Exemption of Agriculture Income in India Under the Income Tax Act 1961: A Critical Study<br>*Prof Rupak Das* | 34 |
| 25 | A socio- legal study of the untapped prospects of Hydropower in India<br>*Prof Sofiul Ahmed* | 35 |
| 26. | Corporate Governance And Corporate Social Responsibility : Multidimensional Constructs<br>*Dr.Indira Priyadarshini,* | 36 |
| 27. | Insolvency and Bankruptcy Code, 2016 – Significant Amendments<br>*Dr. M. Srinivas* | 37 |
| 28. | Implementation of Leniency Programme – A Discretionary Power of Competition Commission of India<br>*Dr. Gunda Vedasri,* | 38 |
| 29. | New Era of Healthcare Consumerism: Trouncing Hallucination and High Jinks<br>*Prof. Ravulapati Madhavi* | 39 |
| 30. | The Dynamics of Corporate Criminal Liability in India<br>*M Srinivas* | 40 |
| 31. | E-Consumer Protection: Problems and Perspectives<br>*Mahantesh B Madiwalar & Prof. B S Reddy* | 41 |
| 32. | Implementation of Corporate Social Responsibility: A Judicial Approach Under Companies Act, 2013<br>*Meera Kumari Singh & Tabrez Ahmad* | 42 |
| 33. | Corporate Social Responsibility: Responsibility or Obligation?<br>*K Sita Manikyam* | 43 |
| 34. | Avoidance of Contract for Fundamental Breach Under the United Nations Convention on Contracts for the International Sale of Goods, 1980<br>*Mohammed Zaheeruddin* | 44 |
| 35. | Acts of Intervention: How Contracts of Liability Insurance Are Regulated to Protect Third Party Claimants in Australian Law<br>*John Woodward* | 45 |

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IJARST

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# A Socio- Legal Study of the Untapped Prospects of Hydropower in India

Prof Sofiul Ahmed*

***Abstract:*** *Hydropower is one of the most potential resources of renewable energy in India. There is a huge untapped reserve of hydropower in India. Currently India is holding the fifth position in the arena of hydropower industry across the globe. However better position in the hydropower zone can be availed if the key issues and challenges hindering the growth of the sector is analyzed and mitigated as per the best practices across the globe. Currently India is having a potential of 150 GW of which it could only tap 50 GW so far. The issues and challenges are not only related to the technological or engineering aspect but there are lots of lapses on the legal aspect too. A hydropower plant involves legal implementation of various areas like the Land Laws, Water Laws, Electricity Laws and the Environmental Laws and there is a need of proper balance between all of them to achieve the goal of sustainable development. In India Dam proponents have considered hydropower purportedly a win-win situation: it provides clean energy for the country's rapidly growing economy and accelerates development in the economically weaker North and North-Eastern Himalayan States. On the other hand, there are lots of protests against the construction of new dams showcasing the social and environmental impact. This Seminar will try to analyze the legal barriers that hinders the growth of the Hydropower sector and will also throw some light upon the socio-environmental impact of Dams. The weak implementation of laws and regulations has a major impact upon the environment and local communities. The country still awaits a Dam Safety Law to win the trust of the people and pave the way for the growth of hydropower sector in India.*

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# Contents


| | | |
|---|---|---|
| 1 | Consumer Sovereignty and Law<br>*Prof Sridevi D Shet* | 8 |
| 2 | Directors and Officers Insurance Liability: Some Concerns<br>*Sridevi D Shet* | 9 |
| 3 | Institutionalization of Arbitration<br>*Dr Veena* | 10 |
| 4 | New Age Business and Legal Environment<br>*Prof Rakesh Suryadevara* | 11 |
| 5 | Protection to the Farmers and Insurance<br>*Dr Madhuri Irene* | 12 |
| 6 | Tort Insurance and Product Liability<br>*Prof Anwesha Panigrahi* | 13 |
| 7 | "A Conceptual Understanding of Regional Trade Agreements: A Critical Study with Reference to India's Deviation from Multilateral Trade<br>*Mrs Annapurna Devi Munaganti,* | 15 |
| 8 | Direct Taxes Code Bill 2013– A Critical Analysis<br>*S.Ravi* | 16 |
| 9 | Right to Consumer Education: A Case Study with Reference to Hyderabad<br>*Dr. Irfan Rasool,* | 18 |
| 10 | The Consumer Protection Bill 2015: An Analysis<br>*Dr.S.V. Damodar Reddy* | 20 |
| 11 | The Goods and Services Tax Bill, 2014 – A Critical Analysis<br>*S.Ravi* | 21 |
| 12 | Money Laundering: Issues and Challenges<br>*Dr.P.L.Jayanthi Reddy* | 22 |
| 13 | Real Estate Act in India<br>*Monisha Gade* | 23 |
| 14 | A Categorical Study on Resolving Commercial Disputes: India's strategies Towards Ease of Doing Business.<br>*Ms Annapurna* | 24 |
| 15 | Empowering Women through Microfinance<br>*Geetha Priyadarshini* | 25 |
| 16 | Barter to Cryptocurrency : Evolution of Money<br>*Sreedevi Shet* | 26 |
| 17 | International Trade: Facts and Myths<br>*Rakesh Suryadevara* | 27 |
| 18 | Corporate Social Responsibility<br>*Dr.M.Ravindranath* | 28 |
| 19 | Real Estate Market An Overview in the UAE- An Empirical Study on Dubai Real Estate<br>*Dr.Durga Prasad* | 29 |

| | | |
|---|---|---|
| 20 | Inconvenience in Flag of Convenience<br>*Dr. Rama Devi* | 30 |
| 21 | The FRDI Bill –Resolution of Banks, Fears, Hopes and Trust<br>*A.Raja Rajeshwari* | 31 |
| 22 | Cost Reduction Approaches to Profit Improvement<br>*Prof. Rajasekhar Reddy* | 32 |
| 23 | The 'Control' Quandary- What Constitutes 'Control' Under the Competition Act 2002 in a Combination Transaction and How to Structure Combinations to Avoid CCI Scrutiny.<br>*Hartej Singh Kochher* | 33 |
| 24 | Exemption of Agriculture Income in India Under the Income Tax Act 1961: A Critical Study<br>*Prof Rupak Das* | 34 |
| 25 | A socio- legal study of the untapped prospects of Hydropower in India<br>*Prof Sofiul Ahmed* | 35 |
| 26. | Corporate Governance And Corporate Social Responsibility : Multidimensional Constructs<br>*Dr.Indira Priyadarshini,* | 36 |
| 27. | Insolvency and Bankruptcy Code, 2016 – Significant Amendments<br>*Dr. M. Srinivas* | 37 |
| 28. | Implementation of Leniency Programme - A Discretionary Power of Competition Commission of India<br>*Dr. Gunda Vedasri,* | 38 |
| 29. | New Era of Healthcare Consumerism: Trouncing Hallucination and High Jinks<br>*Prof. Ravulapati Madhavi* | 39 |
| 30. | The Dynamics of Corporate Criminal Liability in India<br>*M Srinivas* | 40 |
| 31. | E-Consumer Protection: Problems and Perspectives<br>*Mahantesh B Madiwalar & Prof. B S Reddy* | 41 |
| 32. | Implementation of Corporate Social Responsibility: A Judicial Approach Under Companies Act, 2013<br>*Meera Kumari Singh & Tabrez Ahmad* | 42 |
| 33. | Corporate Social Responsibility: Responsibility or Obligation?<br>*K Sita Manikyam* | 43 |
| 34. | Avoidance of Contract for Fundamental Breach Under the United Nations Convention on Contracts for the International Sale of Goods, 1980<br>*Mohammed Zaheeruddin* | 44 |
| 35. | Acts of Intervention: How Contracts of Liability Insurance Are Regulated to Protect Third Party Claimants in Australian Law<br>*John Woodward* | 45 |

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# Corporate Governance and Corporate Social Responsibility: Multidimensional Constructs

Dr. Indira Priyadarshini*

***Abstract :*** *Firms use two mechanisms to regulate their operations: corporate governance and corporate social responsibility (CSR). Corporate governance, in financial economics, is specifically defined as a mechanism that protects and maximizes shareholder value. Many textbooks used in business schools identify maximizing shareholder value as the 'ultimate goal' of profit-making companies. The business practices across the world are converging on a shareholder-centric ideology. However, other stakeholders of a firm are not willing to passively accept the decisions made by the firm, especially when their interests conflict with the interests of the shareholders. CSR facilitates the integration of business operations and values whereby the interests of all stakeholders, including customers, suppliers, employees, communities, governments, civil society and the environment, are reflected in the company's policies and actions. Over the last several decades, CSR activities have become an increasingly important investment for firms. This growing significance has raised a fundamental ques- tion in financial economics*

*Corporate governance and CSR both play an important role in shaping the objective function and the constraints faced by companies. As both areas grow rapidly, the overlap between them becomes more extensive and prominent. The research that links corporate governance to CSR has been drawing increasingly more attention.*

* Assistant Professor , Padmavathi Mahila Viswavidhyalayam, Tirupathi

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# Contents


| | | |
|---|---|---|
| 1 | Consumer Sovereignty and Law<br>*Prof Sridevi D Shet* | 8 |
| 2 | Directors and Officers Insurance Liability: Some Concerns<br>*Sridevi D Shet* | 9 |
| 3 | Institutionalization of Arbitration<br>*Dr Veena* | 10 |
| 4 | New Age Business and Legal Environment<br>*Prof Rakesh Suryadevara* | 11 |
| 5 | Protection to the Farmers and Insurance<br>*Dr Madhuri Irene* | 12 |
| 6 | Tort Insurance and Product Liability<br>*Prof Anwesha Panigrahi* | 13 |
| 7 | "A Conceptual Understanding of Regional Trade Agreements: A Critical Study with Reference to India's Deviation from Multilateral Trade<br>*Mrs Annapurna Devi Munaganti,* | 15 |
| 8 | Direct Taxes Code Bill 2013– A Critical Analysis<br>*S.Ravi* | 16 |
| 9 | Right to Consumer Education: A Case Study with Reference to Hyderabad<br>*Dr. Irfan Rasool,* | 18 |
| 10 | The Consumer Protection Bill 2015: An Analysis<br>*Dr.S.V. Damodar Reddy* | 20 |
| 11 | The Goods and Services Tax Bill, 2014 – A Critical Analysis<br>*S.Ravi* | 21 |
| 12 | Money Laundering: Issues and Challenges<br>*Dr.P.L.Jayanthi Reddy* | 22 |
| 13 | Real Estate Act in India<br>*Monisha Gade* | 23 |
| 14 | A Categorical Study on Resolving Commercial Disputes: India's strategies Towards Ease of Doing Business.<br>*Ms Annapurna* | 24 |
| 15 | Empowering Women through Microfinance<br>*Geetha Priyadarshini* | 25 |
| 16 | Barter to Cryptocurrency : Evolution of Money<br>*Sreedevi Shet* | 26 |
| 17 | International Trade: Facts and Myths<br>*Rakesh Suryadevara* | 27 |
| 18 | Corporate Social Responsibility<br>*Dr.M.Ravindranath* | 28 |
| 19 | Real Estate Market An Overview in the UAE- An Empirical Study on Dubai Real Estate<br>*Dr Durga Prasad* | 29 |

| | | |
|---|---|---|
| 20 | Inconvenience in Flag of Convenience<br>*Dr. Rama Devi* | 30 |
| 21 | The FRDI Bill –Resolution of Banks, Fears, Hopes and Trust<br>*A.Raja Rajeshwari* | 31 |
| 22 | Cost Reduction Approaches to Profit Improvement<br>*Prof. Rajasekhar Reddy* | 32 |
| 23 | The 'Control' Quandary- What Constitutes 'Control' Under the Competition Act 2002 in a Combination Transaction and How to Structure Combinations to Avoid CCI Scrutiny.<br>*Hartej Singh Kochher* | 33 |
| 24 | Exemption of Agriculture Income in India Under the Income Tax Act 1961: A Critical Study<br>*Prof Rupak Das* | 34 |
| 25 | A socio- legal study of the untapped prospects of Hydropower in India<br>*Prof Sofiul Ahmed* | 35 |
| 26. | Corporate Governance And Corporate Social Responsibility : Multidimensional Constructs<br>*Dr.Indira Priyadarshini,* | 36 |
| 27. | Insolvency and Bankruptcy Code, 2016 – Significant Amendments<br>*Dr. M. Srinivas* | 37 |
| 28. | Implementation of Leniency Programme – A Discretionary Power of Competition Commission of India<br>*Dr. Gunda Vedasri,* | 38 |
| 29. | New Era of Healthcare Consumerism: Trouncing Hallucination and High Jinks<br>*Prof. Ravulapati Madhavi* | 39 |
| 30. | The Dynamics of Corporate Criminal Liability in India<br>*M Srinivas* | 40 |
| 31. | E-Consumer Protection: Problems and Perspectives<br>*Mahantesh B Madiwalar & Prof. B S Reddy* | 41 |
| 32. | Implementation of Corporate Social Responsibility: A Judicial Approach Under Companies Act, 2013<br>*Meera Kumari Singh & Tabrez Ahmad* | 42 |
| 33. | Corporate Social Responsibility: Responsibility or Obligation?<br>*K Sita Manikyam* | 43 |
| 34. | Avoidance of Contract for Fundamental Breach Under the United Nations Convention on Contracts for the International Sale of Goods, 1980<br>*Mohammed Zaheeruddin* | 44 |
| 35. | Acts of Intervention: How Contracts of Liability Insurance Are Regulated to Protect Third Party Claimants in Australian Law<br>*John Woodward* | 45 |

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# Insolvency and Bankruptcy Code, 2016 – Significant Amendments

Dr. M. Srinivas, M.A., LL.M., Ph.D*

***Abstract*** *: Before the enactment of the Insolvency and Bankruptcy Code, there was no single law in the country to deal with insolvency and bankruptcy. The legal and institutional framework did not aid lenders in effective and timely recovery or restructuring of defaulted assets and causes undue strain on the Indian credit system. The objective of the Insolvency and Bankruptcy Code is to consolidate and amend the laws relating to reorganization and insolvency resolution of corporate persons, partnership firms and individuals in a time bound manner. Insolvency means when an individual, company, or other organization cannot meet its financial obligations for paying debts as they become due. Bankruptcy is a determination of insolvency made by a court intended to resolve the insolvency. Insolvency describes a situation where the debtor is unable to meet his/her obligations. Bankruptcy is a legal scheme in which an insolvent debtor seeks relief.*

*With the passage of time various changes have been made to the Code which were affected by the way of various amendments to the Code till date and the amendments were mostly a result of decisions of the Hon'ble Supreme Court of India. Synergy Dooray case (2017), Swiss Ribbons Pvt. Ltd. & others Vs Union of India (2019) and Chitra Sharma vs. Union of India (2018) are some important cases having impact on IBC. The first ever amendment to the IBC was brought in the year 2017 and Section 29A was Inserted. Under this section, certain persons were declared to be not eligible for becoming a resolution applicant. Due to COVID-19, Section 10A was inserted into the Code. By the insertion of this section the initiation of the corporate insolvency resolution process was suspended under sections 7, 9 and 10 for a period of at least 6 months, which may extend to 1 year but not more than that.*

*The paper aims at discussing the various important amendments made to the IBC, particularly due to the judgments of Supreme Court of India, setting out the march of law.*

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# Contents


| | | |
|---|---|---|
| 1 | Consumer Sovereignty and Law<br>*Prof Sridevi D Shet* | 8 |
| 2 | Directors and Officers Insurance Liability: Some Concerns<br>*Sridevi D Shet* | 9 |
| 3 | Institutionalization of Arbitration<br>*Dr Veena* | 10 |
| 4 | New Age Business and Legal Environment<br>*Prof Rakesh Suryadevara* | 11 |
| 5 | Protection to the Farmers and Insurance<br>*Dr Madhuri Irene* | 12 |
| 6 | Tort Insurance and Product Liability<br>*Prof Anwesha Panigrahi* | 13 |
| 7 | "A Conceptual Understanding of Regional Trade Agreements: A Critical Study with Reference to India's Deviation from Multilateral Trade<br>*Mrs Annapurna Devi Munaganti,* | 15 |
| 8 | Direct Taxes Code Bill 2013– A Critical Analysis<br>*S.Ravi* | 16 |
| 9 | Right to Consumer Education: A Case Study with Reference to Hyderabad<br>*Dr. Irfan Rasool,* | 18 |
| 10 | The Consumer Protection Bill 2015: An Analysis<br>*Dr.S.V. Damodar Reddy* | 20 |
| 11 | The Goods and Services Tax Bill, 2014 – A Critical Analysis<br>*S.Ravi* | 21 |
| 12 | Money Laundering: Issues and Challenges<br>*Dr.P.L.Jayanthi Reddy* | 22 |
| 13 | Real Estate Act in India<br>*Monisha Gade* | 23 |
| 14 | A Categorical Study on Resolving Commercial Disputes: India's strategies Towards Ease of Doing Business.<br>*Ms Annapurna* | 24 |
| 15 | Empowering Women through Microfinance<br>*Geetha Priyadarshini* | 25 |
| 16 | Barter to Cryptocurrency : Evolution of Money<br>*Sreedevi Shet* | 26 |
| 17 | International Trade: Facts and Myths<br>*Rakesh Suryadevara* | 27 |
| 18 | Corporate Social Responsibility<br>*Dr.M.Ravindranath* | 28 |
| 19 | Real Estate Market An Overview in the UAE- An Empirical Study on Dubai Real Estate<br>*Dr.Durga Prasad* | 29 |

| | | |
|---|---|---|
| 20 | Inconvenience in Flag of Convenience<br>*Dr. Rama Devi* | 30 |
| 21 | The FRDI Bill –Resolution of Banks, Fears, Hopes and Trust<br>*A.Raja Rajeshwari* | 31 |
| 22 | Cost Reduction Approaches to Profit Improvement<br>*Prof. Rajasekhar Reddy* | 32 |
| 23 | The 'Control' Quandary- What Constitutes 'Control' Under the Competition Act 2002 in a Combination Transaction and How to Structure Combinations to Avoid CCI Scrutiny.<br>*Hartej Singh Kochher* | 33 |
| 24 | Exemption of Agriculture Income in India Under the Income Tax Act 1961: A Critical Study<br>*Prof Rupak Das* | 34 |
| 25 | A socio- legal study of the untapped prospects of Hydropower in India<br>*Prof Sofiul Ahmed* | 35 |
| 26. | Corporate Governance And Corporate Social Responsibility : Multidimensional Constructs<br>*Dr.Indira Priyadarshini,* | 36 |
| 27. | Insolvency and Bankruptcy Code, 2016 – Significant Amendments<br>*Dr. M. Srinivas* | 37 |
| 28. | Implementation of Leniency Programme – A Discretionary Power of Competition Commission of India<br>*Dr. Gunda Vedasri,* | 38 |
| 29. | New Era of Healthcare Consumerism: Trouncing Hallucination and High Jinks<br>*Prof. Ravulapati Madhavi* | 39 |
| 30. | The Dynamics of Corporate Criminal Liability in India<br>*M Srinivas* | 40 |
| 31. | E-Consumer Protection: Problems and Perspectives<br>*Mahantesh B Madiwalar & Prof. B S Reddy* | 41 |
| 32. | Implementation of Corporate Social Responsibility: A Judicial Approach Under Companies Act, 2013<br>*Meera Kumari Singh & Tabrez Ahmad* | 42 |
| 33. | Corporate Social Responsibility: Responsibility or Obligation?<br>*K Sita Manikyam* | 43 |
| 34. | Avoidance of Contract for Fundamental Breach Under the United Nations Convention on Contracts for the International Sale of Goods, 1980<br>*Mohammed Zaheeruddin* | 44 |
| 35. | Acts of Intervention: How Contracts of Liability Insurance Are Regulated to Protect Third Party Claimants in Australian Law<br>*John Woodward* | 45 |

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# Implementation of Leniency Programme – A Discretionary Power of Competition Commission of India

Dr. Gunda Vedasri*

***Abstract*** *: In the past five years, companies have increasingly invoked and benefitted from the leniency provisions prescribed under the Competition Act, 2002. Leniency programme is a whistle-blower protection of the Competition Commission of India available to those enterprises or individuals that disclose their role in a cartel and cooperate with subsequent investigations with CCI. They are rewarded by a reduction or complete pardon from penalty. Such reduction in penalty is contingent upon the leniency applicant making true and full disclosure of the existence and role, modus operandi, objective etc., of the cartel arrangement. The Commission also gives vital importance to the concept of 'significant added value' that is provided by each applicant while deciding the quantum of reduction. While, the CCI has been implementing the leniency provisions quite frequently, their approach however, make it difficult to draw a pattern. Since the eventual concession in penalty is subject to CCI's discretion, the right timing of disclosure and an overall strategy is the key to avail the benefit of leniency.*

*This Article evaluates the exercise of discretionary powers by Competition Commission of India while exercising the leniency provisions on whistle blowers of cartel.*

*KEYWORDS: Leniency – cartel – whistle blower – significant added value - discretionary power.*

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# Contents


| | | |
|---|---|---|
| 1 | Consumer Sovereignty and Law<br>*Prof Sridevi D Shet* | 8 |
| 2 | Directors and Officers Insurance Liability: Some Concerns<br>*Sridevi D Shet* | 9 |
| 3 | Institutionalization of Arbitration<br>*Dr Veena* | 10 |
| 4 | New Age Business and Legal Environment<br>*Prof Rakesh Suryadevara* | 11 |
| 5 | Protection to the Farmers and Insurance<br>*Dr Madhuri Irene* | 12 |
| 6 | Tort Insurance and Product Liability<br>*Prof Anwesha Panigrahi* | 13 |
| 7 | "A Conceptual Understanding of Regional Trade Agreements: A Critical Study with Reference to India's Deviation from Multilateral Trade<br>*Mrs Annapurna Devi Munaganti,* | 15 |
| 8 | Direct Taxes Code Bill 2013– A Critical Analysis<br>*S.Ravi* | 16 |
| 9 | Right to Consumer Education: A Case Study with Reference to Hyderabad<br>*Dr. Irfan Rasool,* | 18 |
| 10 | The Consumer Protection Bill 2015: An Analysis<br>*Dr.S.V. Damodar Reddy* | 20 |
| 11 | The Goods and Services Tax Bill, 2014 – A Critical Analysis<br>*S.Ravi* | 21 |
| 12 | Money Laundering: Issues and Challenges<br>*Dr.P.L.Jayanthi Reddy* | 22 |
| 13 | Real Estate Act in India<br>*Monisha Gade* | 23 |
| 14 | A Categorical Study on Resolving Commercial Disputes: India's strategies Towards Ease of Doing Business.<br>*Ms Annapurna* | 24 |
| 15 | Empowering Women through Microfinance<br>*Geetha Priyadarshini* | 25 |
| 16 | Barter to Cryptocurrency : Evolution of Money<br>*Sreedevi Shet* | 26 |
| 17 | International Trade: Facts and Myths<br>*Rakesh Suryadevara* | 27 |
| 18 | Corporate Social Responsibility<br>*Dr.M.Ravindranath* | 28 |
| 19 | Real Estate Market An Overview in the UAE- An Empirical Study on Dubai Real Estate<br>*Dr.Durga Prasad* | 29 |

| | | |
|---|---|---|
| 20 | Inconvenience in Flag of Convenience<br>*Dr. Rama Devi* | 30 |
| 21 | The FRDI Bill –Resolution of Banks, Fears, Hopes and Trust<br>*A.Raja Rajeshwari* | 31 |
| 22 | Cost Reduction Approaches to Profit Improvement<br>*Prof. Rajasekhar Reddy* | 32 |
| 23 | The 'Control' Quandary- What Constitutes 'Control' Under the Competition Act 2002 in a Combination Transaction and How to Structure Combinations to Avoid CCI Scrutiny.<br>*Hartej Singh Kochher* | 33 |
| 24 | Exemption of Agriculture Income in India Under the Income Tax Act 1961: A Critical Study<br>*Prof Rupak Das* | 34 |
| 25 | A socio- legal study of the untapped prospects of Hydropower in India<br>*Prof Sofiul Ahmed* | 35 |
| 26. | Corporate Governance And Corporate Social Responsibility : Multidimensional Constructs<br>*Dr.Indira Priyadarshini,* | 36 |
| 27. | Insolvency and Bankruptcy Code, 2016 – Significant Amendments<br>*Dr. M. Srinivas* | 37 |
| 28. | Implementation of Leniency Programme – A Discretionary Power of Competition Commission of India<br>*Dr. Gunda Vedasri,* | 38 |
| 29. | New Era of Healthcare Consumerism: Trouncing Hallucination and High Jinks<br>*Prof. Ravulapati Madhavi* | 39 |
| 30. | The Dynamics of Corporate Criminal Liability in India<br>*M Srinivas* | 40 |
| 31. | E-Consumer Protection: Problems and Perspectives<br>*Mahantesh B Madiwalar & Prof. B S Reddy* | 41 |
| 32. | Implementation of Corporate Social Responsibility: A Judicial Approach Under Companies Act, 2013<br>*Meera Kumari Singh & Tabrez Ahmad* | 42 |
| 33. | Corporate Social Responsibility: Responsibility or Obligation?<br>*K Sita Manikyam* | 43 |
| 34. | Avoidance of Contract for Fundamental Breach Under the United Nations Convention on Contracts for the International Sale of Goods, 1980<br>*Mohammed Zaheeruddin* | 44 |
| 35. | Acts of Intervention: How Contracts of Liability Insurance Are Regulated to Protect Third Party Claimants in Australian Law<br>*John Woodward* | 45 |

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# New Era of Healthcare Consumerism: Trouncing Hallucination and High Jinks

Prof. Ravulapati Madhavi*

***Abstract:*** *Consumerism camouflaged in welfares, beeping autonomy of individual choice and financial interests and integrity, embraced health sector with astounding assurance of 'health for all'. Consumerism in no time swiftly drifted from 'vendor-centric' to 'vendee-centric' for opulent and high income brackets. Health became a 'product' and patient transformed into a 'consumer' mauling the mutual loyalty and trust between the 'health provider' and 'health seeker', and eventually engendered Health Consumerism since medical service got converted into industrial imperialism. Oceanic literature on right to health stuffed with legal, moral and social obesity could see only slack and sick human race, far from the enforcing executive regimes and 'health care' became 'health scare' in terms of price and performance.*

*Right to health cannot be construed to be a package of services, and according to WHO "the right to the highest attainable standard of health" requires a set of social criteria that is conducive to the health of all people, including the availability of health services, safe working conditions, adequate housing and nutritious foods. Healthcare consumerism is about transforming health benefit plans by putting economic purchasing power and decision making into the hands of participants. Consumerism in the healthcare industry is an inescapable growing trend. Health care is not the same as the purchase of TV set. This article casts a cursory glance at the emerging era of health consumerism and the situation obtaining in India.*

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# Contents


| | | |
|---|---|---|
| 1 | Consumer Sovereignty and Law<br>*Prof Sridevi D Shet* | 8 |
| 2 | Directors and Officers Insurance Liability: Some Concerns<br>*Sridevi D Shet* | 9 |
| 3 | Institutionalization of Arbitration<br>*Dr Veena* | 10 |
| 4 | New Age Business and Legal Environment<br>*Prof Rakesh Suryadevara* | 11 |
| 5 | Protection to the Farmers and Insurance<br>*Dr Madhuri Irene* | 12 |
| 6 | Tort Insurance and Product Liability<br>*Prof Anwesha Panigrahi* | 13 |
| 7 | "A Conceptual Understanding of Regional Trade Agreements: A Critical Study with Reference to India's Deviation from Multilateral Trade<br>*Mrs Annapurna Devi Munaganti,* | 15 |
| 8 | Direct Taxes Code Bill 2013– A Critical Analysis<br>*S.Ravi* | 16 |
| 9 | Right to Consumer Education: A Case Study with Reference to Hyderabad<br>*Dr. Irfan Rasool,* | 18 |
| 10 | The Consumer Protection Bill 2015: An Analysis<br>*Dr.S.V. Damodar Reddy* | 20 |
| 11 | The Goods and Services Tax Bill, 2014 – A Critical Analysis<br>*S.Ravi* | 21 |
| 12 | Money Laundering: Issues and Challenges<br>*Dr.P.L.Jayanthi Reddy* | 22 |
| 13 | Real Estate Act in India<br>*Monisha Gade* | 23 |
| 14 | A Categorical Study on Resolving Commercial Disputes: India's strategies Towards Ease of Doing Business.<br>*Ms Annapurna* | 24 |
| 15 | Empowering Women through Microfinance<br>*Geetha Priyadarshini* | 25 |
| 16 | Barter to Cryptocurrency : Evolution of Money<br>*Sreedevi Shet* | 26 |
| 17 | International Trade: Facts and Myths<br>*Rakesh Suryadevara* | 27 |
| 18 | Corporate Social Responsibility<br>*Dr.M.Ravindranath* | 28 |
| 19 | Real Estate Market An Overview in the UAE- An Empirical Study on Dubai Real Estate<br>*Dr.Durga Prasad* | 29 |

| | | |
|---|---|---|
| 20 | Inconvenience in Flag of Convenience<br>*Dr. Rama Devi* | 30 |
| 21 | The FRDI Bill –Resolution of Banks, Fears, Hopes and Trust<br>*A.Raja Rajeshwari* | 31 |
| 22 | Cost Reduction Approaches to Profit Improvement<br>*Prof. Rajasekhar Reddy* | 32 |
| 23 | The 'Control' Quandary- What Constitutes 'Control' Under the Competition Act 2002 in a Combination Transaction and How to Structure Combinations to Avoid CCI Scrutiny.<br>*Hartej Singh Kochher* | 33 |
| 24 | Exemption of Agriculture Income in India Under the Income Tax Act 1961: A Critical Study<br>*Prof Rupak Das* | 34 |
| 25 | A socio- legal study of the untapped prospects of Hydropower in India<br>*Prof Sofiul Ahmed* | 35 |
| 26. | Corporate Governance And Corporate Social Responsibility : Multidimensional Constructs<br>*Dr.Indira Priyadarshini,* | 36 |
| 27. | Insolvency and Bankruptcy Code, 2016 – Significant Amendments<br>*Dr. M. Srinivas* | 37 |
| 28. | Implementation of Leniency Programme – A Discretionary Power of Competition Commission of India<br>*Dr. Gunda Vedasri,* | 38 |
| 29. | New Era of Healthcare Consumerism: Trouncing Hallucination and High Jinks<br>*Prof. Ravulapati Madhavi* | 39 |
| 30. | The Dynamics of Corporate Criminal Liability in India<br>*M Srinivas* | 40 |
| 31. | E-Consumer Protection: Problems and Perspectives<br>*Mahantesh B Madiwalar & Prof. B S Reddy* | 41 |
| 32. | Implementation of Corporate Social Responsibility: A Judicial Approach Under Companies Act, 2013<br>*Meera Kumari Singh & Tabrez Ahmad* | 42 |
| 33. | Corporate Social Responsibility: Responsibility or Obligation?<br>*K Sita Manikyam* | 43 |
| 34. | Avoidance of Contract for Fundamental Breach Under the United Nations Convention on Contracts for the International Sale of Goods, 1980<br>*Mohammed Zaheeruddin* | 44 |
| 35. | Acts of Intervention: How Contracts of Liability Insurance Are Regulated to Protect Third Party Claimants in Australian Law<br>*John Woodward* | 45 |

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# The Dynamics of Corporate Criminal Liability in India

M Srinivas*

***Abstract:*** *For a long time, criminal liability of corporations remained a niche and an unaddressed issue. But times have changed and a corporate entity now cannot escape criminal liability for the reason that it has "no soul to damn and no body to kick". To get over the problem of imputing intention to the company, Identification Approach method was evolved in UK which considers the intention and act of the senior management of the company as that of the company itself. In contrast, in the United States, the approach has always been to employ the device of vicarious liability. All that is required in the US is that an employee should have committed the offense in the course of employment. However, the law in India has not properly addressed the problem of corporate criminal liability relating to mens rea offenses. Higher judiciary has expressed different opinions in different judgments for the questions like whether a corporation can commit an offense that requires mens rea, and what punishment is to be imposed on the corporation when imprisonment is mandatory? Though the area of law on corporate criminal liability is continuously evolving in India, what is required is the certainty. This paper makes an attempt to analyze the legal systems that deal with the corporate criminal liability in countries like UK and US, with special reference to India.*

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# Contents


| | | |
|---|---|---|
| 1 | Consumer Sovereignty and Law<br>*Prof Sridevi D Shet* | 8 |
| 2 | Directors and Officers Insurance Liability: Some Concerns<br>*Sridevi D Shet* | 9 |
| 3 | Institutionalization of Arbitration<br>*Dr Veena* | 10 |
| 4 | New Age Business and Legal Environment<br>*Prof Rakesh Suryadevara* | 11 |
| 5 | Protection to the Farmers and Insurance<br>*Dr Madhuri Irene* | 12 |
| 6 | Tort Insurance and Product Liability<br>*Prof Anwesha Panigrahi* | 13 |
| 7 | "A Conceptual Understanding of Regional Trade Agreements: A Critical Study with Reference to India's Deviation from Multilateral Trade<br>*Mrs Annapurna Devi Munaganti,* | 15 |
| 8 | Direct Taxes Code Bill 2013– A Critical Analysis<br>*S.Ravi* | 16 |
| 9 | Right to Consumer Education: A Case Study with Reference to Hyderabad<br>*Dr. Irfan Rasool,* | 18 |
| 10 | The Consumer Protection Bill 2015: An Analysis<br>*Dr.S.V. Damodar Reddy* | 20 |
| 11 | The Goods and Services Tax Bill, 2014 – A Critical Analysis<br>*S.Ravi* | 21 |
| 12 | Money Laundering: Issues and Challenges<br>*Dr.P.L.Jayanthi Reddy* | 22 |
| 13 | Real Estate Act in India<br>*Monisha Gade* | 23 |
| 14 | A Categorical Study on Resolving Commercial Disputes: India's strategies Towards Ease of Doing Business.<br>*Ms Annapurna* | 24 |
| 15 | Empowering Women through Microfinance<br>*Geetha Priyadarshini* | 25 |
| 16 | Barter to Cryptocurrency : Evolution of Money<br>*Sreedevi Shet* | 26 |
| 17 | International Trade: Facts and Myths<br>*Rakesh Suryadevara* | 27 |
| 18 | Corporate Social Responsibility<br>*Dr.M.Ravindranath* | 28 |
| 19 | Real Estate Market An Overview in the UAE- An Empirical Study on Dubai Real Estate<br>*Dr.Durga Prasad* | 29 |

| | | |
|---|---|---|
| 20 | Inconvenience in Flag of Convenience<br>*Dr. Rama Devi* | 30 |
| 21 | The FRDI Bill –Resolution of Banks, Fears, Hopes and Trust<br>*A.Raja Rajeshwari* | 31 |
| 22 | Cost Reduction Approaches to Profit Improvement<br>*Prof. Rajasekhar Reddy* | 32 |
| 23 | The 'Control' Quandary- What Constitutes 'Control' Under the Competition Act 2002 in a Combination Transaction and How to Structure Combinations to Avoid CCI Scrutiny.<br>*Hartej Singh Kochher* | 33 |
| 24 | Exemption of Agriculture Income in India Under the Income Tax Act 1961: A Critical Study<br>*Prof Rupak Das* | 34 |
| 25 | A socio- legal study of the untapped prospects of Hydropower in India<br>*Prof Sofiul Ahmed* | 35 |
| 26. | Corporate Governance And Corporate Social Responsibility : Multidimensional Constructs<br>*Dr.Indira Priyadarshini,* | 36 |
| 27. | Insolvency and Bankruptcy Code, 2016 – Significant Amendments<br>*Dr. M. Srinivas* | 37 |
| 28. | Implementation of Leniency Programme – A Discretionary Power of Competition Commission of India<br>*Dr. Gunda Vedasri,* | 38 |
| 29. | New Era of Healthcare Consumerism: Trouncing Hallucination and High Jinks<br>*Prof. Ravulapati Madhavi* | 39 |
| 30. | The Dynamics of Corporate Criminal Liability in India<br>*M Srinivas* | 40 |
| 31. | E-Consumer Protection: Problems and Perspectives<br>*Mahantesh B Madiwalar & Prof. B S Reddy* | 41 |
| 32. | Implementation of Corporate Social Responsibility: A Judicial Approach Under Companies Act, 2013<br>*Meera Kumari Singh & Tabrez Ahmad* | 42 |
| 33. | Corporate Social Responsibility: Responsibility or Obligation?<br>*K Sita Manikyam* | 43 |
| 34. | Avoidance of Contract for Fundamental Breach Under the United Nations Convention on Contracts for the International Sale of Goods, 1980<br>*Mohammed Zaheeruddin* | 44 |
| 35. | Acts of Intervention: How Contracts of Liability Insurance Are Regulated to Protect Third Party Claimants in Australian Law<br>*John Woodward* | 45 |

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# E-Consumer Protection: Problems and Perspectives

**Mahantesh B Madiwalar***

**Prof. B S Reddy***

***Abstract***: *In today's complex world and market place, we, as consumers, often run into problems. And the questions are: What do you about them? What are your legal rights as a consumer? Who do you turn to for help? Where do you find the needed information? How do you protect against fraud? Most of the consumers enjoy the benefit of the free flow of personal data. And also most of them do not realize the underlying mechanisms that allow it to take place. Time-conscious consumers have come to rely on customized products and services that require high-tech data collection, including obtaining quick access to credit, purchasing or selling stocks quickly, and checking bank and credit account balances easily. The convenience they rely on is largely due to the ease with which businesses can obtain, share, and transfer information. Information movement is easier because of computerized interactions among businesses. The computerized business builds large and sophisticated databases. Such database can easily help them to effectively target and expand the market for the products and services they provide. Also this information can easily be sold to and shared with others. Consumers' personal data and financial data like social security and credit card numbers, bank and card balance, and buying habits as well as records of their online browsing activity are being used in ways as that consumers cannot expect and also consumers do not know to whom their information is transferred and for what purpose.1 The development of information technology adds a new dimension to the distribution of personal information. The tremendous growth of information technology has created both positive and negative consequences. This paper examines those consequences.*

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# Contents


| | | |
|---|---|---|
| 1 | Consumer Sovereignty and Law<br>*Prof Sridevi D Shet* | 8 |
| 2 | Directors and Officers Insurance Liability: Some Concerns<br>*Sridevi D Shet* | 9 |
| 3 | Institutionalization of Arbitration<br>*Dr Veena* | 10 |
| 4 | New Age Business and Legal Environment<br>*Prof Rakesh Suryadevara* | 11 |
| 5 | Protection to the Farmers and Insurance<br>*Dr Madhuri Irene* | 12 |
| 6 | Tort Insurance and Product Liability<br>*Prof Anwesha Panigrahi* | 13 |
| 7 | "A Conceptual Understanding of Regional Trade Agreements: A Critical Study with Reference to India's Deviation from Multilateral Trade<br>*Mrs Annapurna Devi Munaganti,* | 15 |
| 8 | Direct Taxes Code Bill 2013 – A Critical Analysis<br>*S.Ravi* | 16 |
| 9 | Right to Consumer Education: A Case Study with Reference to Hyderabad<br>*Dr. Irfan Rasool,* | 18 |
| 10 | The Consumer Protection Bill 2015: An Analysis<br>*Dr.S.V. Damodar Reddy* | 20 |
| 11 | The Goods and Services Tax Bill, 2014 – A Critical Analysis<br>*S.Ravi* | 21 |
| 12 | Money Laundering: Issues and Challenges<br>*Dr.P.L.Jayanthi Reddy* | 22 |
| 13 | Real Estate Act in India<br>*Monisha Gade* | 23 |
| 14 | A Categorical Study on Resolving Commercial Disputes: India's strategies Towards Ease of Doing Business.<br>*Ms Annapurna* | 24 |
| 15 | Empowering Women through Microfinance<br>*Geetha Priyadarshini* | 25 |
| 16 | Barter to Cryptocurrency : Evolution of Money<br>*Sreedevi Shet* | 26 |
| 17 | International Trade: Facts and Myths<br>*Rakesh Suryadevara* | 27 |
| 18 | Corporate Social Responsibility<br>*Dr.M.Ravindranath* | 28 |
| 19 | Real Estate Market An Overview in the UAE- An Empirical Study on Dubai Real Estate<br>*Dr.Durga Prasad* | 29 |

| | | |
|---|---|---|
| 20 | Inconvenience in Flag of Convenience<br>*Dr. Rama Devi* | 30 |
| 21 | The FRDI Bill –Resolution of Banks, Fears, Hopes and Trust<br>*A.Raja Rajeshwari* | 31 |
| 22 | Cost Reduction Approaches to Profit Improvement<br>*Prof. Rajasekhar Reddy* | 32 |
| 23 | The 'Control' Quandary- What Constitutes 'Control' Under the Competition Act 2002 in a Combination Transaction and How to Structure Combinations to Avoid CCI Scrutiny.<br>*Hartej Singh Kochher* | 33 |
| 24 | Exemption of Agriculture Income in India Under the Income Tax Act 1961: A Critical Study<br>*Prof Rupak Das* | 34 |
| 25 | A socio- legal study of the untapped prospects of Hydropower in India<br>*Prof Sofiul Ahmed* | 35 |
| 26. | Corporate Governance And Corporate Social Responsibility : Multidimensional Constructs<br>*Dr.Indira Priyadarshini,* | 36 |
| 27. | Insolvency and Bankruptcy Code, 2016 – Significant Amendments<br>*Dr. M. Srinivas* | 37 |
| 28. | Implementation of Leniency Programme – A Discretionary Power of Competition Commission of India<br>*Dr. Gunda Vedasri,* | 38 |
| 29. | New Era of Healthcare Consumerism: Trouncing Hallucination and High Jinks<br>*Prof. Ravulapati Madhavi* | 39 |
| 30. | The Dynamics of Corporate Criminal Liability in India<br>*M Srinivas* | 40 |
| 31. | E-Consumer Protection: Problems and Perspectives<br>*Mahantesh B Madiwalar & Prof. B S Reddy* | 41 |
| 32. | Implementation of Corporate Social Responsibility: A Judicial Approach Under Companies Act, 2013<br>*Meera Kumari Singh & Tabrez Ahmad* | 42 |
| 33. | Corporate Social Responsibility: Responsibility or Obligation?<br>*K Sita Manikyam* | 43 |
| 34. | Avoidance of Contract for Fundamental Breach Under the United Nations Convention on Contracts for the International Sale of Goods, 1980<br>*Mohammed Zaheeruddin* | 44 |
| 35. | Acts of Intervention: How Contracts of Liability Insurance Are Regulated to Protect Third Party Claimants in Australian Law<br>*John Woodward* | 45 |

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# Institutionalization of Arbitration

Dr Veena*

***Abstract :*** *The philosophy of Alternative Dispute Resolutions (ADR) is well accepted by the Indian society and supported by the legal fraternity. After understanding the need for ADR methods, the age old, Indian Arbitration Act 1899, The Arbitration Act 1940 were replaced with a new legislation, the Arbitration and Conciliation Act 1996. The Arbitration and Conciliation Act 1996 is enacted on lines of UNCITRAL Model Law with widened scope to meet the needs of the domestic arbitration in addition to the international commercial arbitration. The establishment of International Centre for Alternative Dispute Resolution (ICADR) having headquarters in Delhi and its regional offices in Bangalore and Hyderabad is one more important step in this directs and played pivotal role in arbitration. But, according to the Justice Sri Krishna Committee Report, the performance of the ICADR is not upto expectation, with settlement of 55 cases including five international commercial arbitrations during the last 20 plus years which is negligible in comparison to investments. Most of the arbitrations were carried during these two decades can be classified as ad-hoc arbitration whereas the global trends are the institutional arbitration. The need for faster mode of the dispute settlement is the need of the as the India is ranked 163 in the dispute settlements which is one of the most important parameter in doing of ease business index of the world bank.*

*The Central Government, based upon recommendations of the Justice Sri Krishna Committee, enacted the New Delhi International Arbitration Centre Act 2019 and came in to effect from March 2, 2019. One of the most important objectives of the said Act is to establish an institution of excellence which can operate as a flagship institution to promote the institutional arbitration. When the arbitration process is institutionalized, the parties and other stakeholders will get confidence and the outcome will be fair, transparent and acceptable to the stakeholders. The empanelment of arbitrators, roaster management, operational process, infrastructures and other related matters are made on predefined norms and will be the guiding stars for the people in litigation. The creation of Arbitration Chambers and Arbitration Academy are the two offshoots of the Act which, we hope, helps in creating the excellence in the arbitration process.*

*There is a criticism against the enactment of the New Delhi International Arbitration Centre (NDIAC) Act 2019 and it is alleged that the Act is made with ill and ulterior motives. The important question is about the independence of the NDIAC as the Act empowers the Central Government to make rules, appoints the members of the governing members and has a right to acquire the undertakings. The evaluation of the NDIAC cannot be made on the objectives it had, but can happen only on its performance. We have to wait and see the performance of NDIAC role in the institutionalization of the arbitration in the present environment where the Mumbai International Arbitration centre, Delhi International Arbitration Centre and Indian Council of Arbitration are operating since few years.*

* Associate Professor, The ICFAI Law School, IFHE, Hyderabad

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# Implementation of Corporate Social Responsibility: A Judicial Approach Under Companies Act, 2013

Meera Kumari Singh*

Tabrez Ahmad*

***Abstract:*** *This article discusses the implementation of Corporate Social Responsibilities and policies in India as a judicial approach under Companies Act, 2013 & Schedule VII of the Rules framed under the Companies Act, 2013. It expresses the need of specific provisions under S.135 of the Companies Act 2013 in order to guard the objectives of CSR under S.135. It analyses that how it is inspiring the companies to comply with this law. Through this article it will be clear that CSR ought to bring maintainable changes and it ought to be viewed as a strong blend of good administration and additionally generosity. In this article the main analysis is based on what lawful provisions as expressed under S.135 of the Companies Act 2013, that how this law is implemented by keeping in mind the end goal to protect the welfare of the general public identified with social, financial and environment for maintainable advancement. Furthermore to comprehend the assurance of the privileges of the stakeholders, identified with triple bottom line. The law had constantly assumed a key part since ages yet under various statutes identified with established cures, ecological provisions, Labour Law, and so on, but finally after formulation of S.135 under Companies Act 2013, it is clearly defined. The real focus is to demonstrate the presence of CSR standards and its assurance after the execution of the statute as well as before the year 2013.There will be an investigations of prior case laws to find out the loopholes between the current provisions and also other legal provisions, which are cited with a specific end goal to secure social, planet and economic benefit for sustainable development.*

* Research Scholar, College of Legal Studies, University of Petroleum and Energy Studies (UPES), Dehradun, Uttarakhand, India

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# Contents


| | | |
|---|---|---|
| 1 | Consumer Sovereignty and Law<br>*Prof Sridevi D Shet* | 8 |
| 2 | Directors and Officers Insurance Liability: Some Concerns<br>*Sridevi D Shet* | 9 |
| 3 | Institutionalization of Arbitration<br>*Dr Veena* | 10 |
| 4 | New Age Business and Legal Environment<br>*Prof Rakesh Suryadevara* | 11 |
| 5 | Protection to the Farmers and Insurance<br>*Dr Madhuri Irene* | 12 |
| 6 | Tort Insurance and Product Liability<br>*Prof Anwesha Panigrahi* | 13 |
| 7 | "A Conceptual Understanding of Regional Trade Agreements: A Critical Study with Reference to India's Deviation from Multilateral Trade<br>*Mrs Annapurna Devi Munaganti,* | 15 |
| 8 | Direct Taxes Code Bill 2013 – A Critical Analysis<br>*S.Ravi* | 16 |
| 9 | Right to Consumer Education: A Case Study with Reference to Hyderabad<br>*Dr. Irfan Rasool,* | 18 |
| 10 | The Consumer Protection Bill 2015: An Analysis<br>*Dr.S.V. Damodar Reddy* | 20 |
| 11 | The Goods and Services Tax Bill, 2014 – A Critical Analysis<br>*S.Ravi* | 21 |
| 12 | Money Laundering: Issues and Challenges<br>*Dr.P.L.Jayanthi Reddy* | 22 |
| 13 | Real Estate Act in India<br>*Monisha Gade* | 23 |
| 14 | A Categorical Study on Resolving Commercial Disputes: India's strategies Towards Ease of Doing Business.<br>*Ms Annapurna* | 24 |
| 15 | Empowering Women through Microfinance<br>*Geetha Priyadarshini* | 25 |
| 16 | Barter to Cryptocurrency : Evolution of Money<br>*Sreedevi Shet* | 26 |
| 17 | International Trade: Facts and Myths<br>*Rakesh Suryadevara* | 27 |
| 18 | Corporate Social Responsibility<br>*Dr.M.Ravindranath* | 28 |
| 19 | Real Estate Market An Overview in the UAE- An Empirical Study on Dubai Real Estate<br>*Dr.Durga Prasad* | 29 |

| | | |
|---|---|---|
| 20 | Inconvenience in Flag of Convenience<br>*Dr. Rama Devi* | 30 |
| 21 | The FRDI Bill –Resolution of Banks, Fears, Hopes and Trust<br>*A.Raja Rajeshwari* | 31 |
| 22 | Cost Reduction Approaches to Profit Improvement<br>*Prof. Rajasekhar Reddy* | 32 |
| 23 | The 'Control' Quandary- What Constitutes 'Control' Under the Competition Act 2002 in a Combination Transaction and How to Structure Combinations to Avoid CCI Scrutiny.<br>*Hartej Singh Kochher* | 33 |
| 24 | Exemption of Agriculture Income in India Under the Income Tax Act 1961: A Critical Study<br>*Prof Rupak Das* | 34 |
| 25 | A socio- legal study of the untapped prospects of Hydropower in India<br>*Prof Sofiul Ahmed* | 35 |
| 26. | Corporate Governance And Corporate Social Responsibility : Multidimensional Constructs<br>*Dr.Indira Priyadarshini,* | 36 |
| 27. | Insolvency and Bankruptcy Code, 2016 – Significant Amendments<br>*Dr. M. Srinivas* | 37 |
| 28. | Implementation of Leniency Programme – A Discretionary Power of Competition Commission of India<br>*Dr. Gunda Vedasri,* | 38 |
| 29. | New Era of Healthcare Consumerism: Trouncing Hallucination and High Jinks<br>*Prof. Ravulapati Madhavi* | 39 |
| 30. | The Dynamics of Corporate Criminal Liability in India<br>*M Srinivas* | 40 |
| 31. | E-Consumer Protection: Problems and Perspectives<br>*Mahantesh B Madiwalar & Prof. B S Reddy* | 41 |
| 32. | Implementation of Corporate Social Responsibility: A Judicial Approach Under Companies Act, 2013<br>*Meera Kumari Singh & Tabrez Ahmad* | 42 |
| 33. | Corporate Social Responsibility: Responsibility or Obligation?<br>*K Sita Manikyam* | 43 |
| 34. | Avoidance of Contract for Fundamental Breach Under the United Nations Convention on Contracts for the International Sale of Goods, 1980<br>*Mohammed Zaheeruddin* | 44 |
| 35. | Acts of Intervention: How Contracts of Liability Insurance Are Regulated to Protect Third Party Claimants in Australian Law<br>*John Woodward* | 45 |

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# Consumer Sovereignty and Law

**Prof Sridevi D Shet***

***Abstract:*** *Consumer Sovereignty is a well-accepted and established principle in the market place. It is well guarded by various specific legislations like the Consumer Protection Act 1986, the Competition Act 2002 in addition to the protection available under various legal instruments and Regulations made by the IRDA, SEBI and RBI. They also bestowed rights to the consumers and obligations on the part of the executive and quasi-judicial institutions. The consumers are equipped with a right to seek the involvement of various agencies for getting timely redressal of grievances they experience during the course of their enjoyment of services and or products they receive for consideration.*

*The machinery available for protecting the rights of the consumers is available in wide range. The procedures are well established with a prefixed time lines. The policy statements assure the quick, cost-effective and timely resolving of the grievances. The Government and Non-governmental groups are active in achieving the objectives for which they are formulated. The academia, electronic and print media are proactive and aggressive in spreading the awareness of consumerism. But, it is difficult to confirm that the objectives of the consumer sovereignty are achieved and the commitments made by the various legal instruments are adhered to or not, after knowing the time taken to resolve the consumer grievance and the number of cases pending at consumer fora and Commissions.*

*Just delayed is the just denied. If the consumer grievance is not addressed within a given space based upon the life of the product or services, the consumer purchases or hires of product or services, it is difficult to claim the success and assure the effective consumerism. There is a every need to adopt new strategy or the policy in addition to use the services of quasi-judicial fora, such as Consumer Commissions and fixing a cap to appeals at certain levels to avoid prolonging of the issues from one to other machinery. Use of Mediation and Conciliation methods at the first stage of the consumer grievance is more desired as the parties may end up their issues being satisfied during the mediation and conciliation processes with the involvement of the identified mediators and conciliators. To this effect, the Consumer Protection Act 1986 need to be amended.*

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# Corporate Social Responsibility: Responsibility or Obligation?

K Sita Manikyam*

***Abstract:*** *In recent years, Corporate Social Responsibility (CSR) has gained growing recognition as a new and emerging form of governance in business. It is already established in the global context with international reference standards set by the United Nations, Organization for Economic Cooperation and Development (OECD) guidelines and International Labor Organization (ILO) conventions. In India, considering the significance of CSR, Section 135 of the Companies Act, 2013 was specifically enacted to deal with CSR. But CSR in Companies Act, 2013 is not clear on the following aspects: firstly, it deals with the establishment of the Corporate Social Responsibility Committee and its responsibilities and functions, whereas it does not adequately define the parameters for working of this committee for proper regulation of the CSR. Secondly, it does not clarify as regards the accountability of the money deposited by the companies. Thirdly, the mandatory obligation has been covered under the policy of 'comply or explain,' which may prove to be one of the ways of avoiding CSR by business entities. The objective of this paper is to discuss the above-mentioned aspects.*

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# Contents


| | | |
|---|---|---|
| 1 | Consumer Sovereignty and Law<br>*Prof Sridevi D Shet* | 8 |
| 2 | Directors and Officers Insurance Liability: Some Concerns<br>*Sridevi D Shet* | 9 |
| 3 | Institutionalization of Arbitration<br>*Dr Veena* | 10 |
| 4 | New Age Business and Legal Environment<br>*Prof Rakesh Suryadevara* | 11 |
| 5 | Protection to the Farmers and Insurance<br>*Dr Madhuri Irene* | 12 |
| 6 | Tort Insurance and Product Liability<br>*Prof Anwesha Panigrahi* | 13 |
| 7 | "A Conceptual Understanding of Regional Trade Agreements: A Critical Study with Reference to India's Deviation from Multilateral Trade<br>*Mrs Annapurna Devi Munaganti,* | 15 |
| 8 | Direct Taxes Code Bill 2013– A Critical Analysis<br>*S.Ravi* | 16 |
| 9 | Right to Consumer Education: A Case Study with Reference to Hyderabad<br>*Dr. Irfan Rasool,* | 18 |
| 10 | The Consumer Protection Bill 2015: An Analysis<br>*Dr.S.V. Damodar Reddy* | 20 |
| 11 | The Goods and Services Tax Bill, 2014 – A Critical Analysis<br>*S.Ravi* | 21 |
| 12 | Money Laundering: Issues and Challenges<br>*Dr.P.L.Jayanthi Reddy* | 22 |
| 13 | Real Estate Act in India<br>*Monisha Gade* | 23 |
| 14 | A Categorical Study on Resolving Commercial Disputes: India's strategies Towards Ease of Doing Business.<br>*Ms Annapurna* | 24 |
| 15 | Empowering Women through Microfinance<br>*Geetha Priyadarshini* | 25 |
| 16 | Barter to Cryptocurrency : Evolution of Money<br>*Sreedevi Shet* | 26 |
| 17 | International Trade: Facts and Myths<br>*Rakesh Suryadevara* | 27 |
| 18 | Corporate Social Responsibility<br>*Dr.M.Ravindranath* | 28 |
| 19 | Real Estate Market An Overview in the UAE- An Empirical Study on Dubai Real Estate<br>*Dr Durga Prasad* | 29 |

| | | |
|---|---|---|
| 20 | Inconvenience in Flag of Convenience<br>*Dr. Rama Devi* | 30 |
| 21 | The FRDI Bill –Resolution of Banks, Fears, Hopes and Trust<br>*A.Raja Rajeshwari* | 31 |
| 22 | Cost Reduction Approaches to Profit Improvement<br>*Prof. Rajasekhar Reddy* | 32 |
| 23 | The 'Control' Quandary- What Constitutes 'Control' Under the Competition Act 2002 in a Combination Transaction and How to Structure Combinations to Avoid CCI Scrutiny.<br>*Hartej Singh Kochher* | 33 |
| 24 | Exemption of Agriculture Income in India Under the Income Tax Act 1961: A Critical Study<br>*Prof Rupak Das* | 34 |
| 25 | A socio- legal study of the untapped prospects of Hydropower in India<br>*Prof Sofiul Ahmed* | 35 |
| 26. | Corporate Governance And Corporate Social Responsibility : Multidimensional Constructs<br>*Dr.Indira Priyadarshini,* | 36 |
| 27. | Insolvency and Bankruptcy Code, 2016 – Significant Amendments<br>*Dr. M. Srinivas* | 37 |
| 28. | Implementation of Leniency Programme – A Discretionary Power of Competition Commission of India<br>*Dr. Gunda Vedasri,* | 38 |
| 29. | New Era of Healthcare Consumerism: Trouncing Hallucination and High Jinks<br>*Prof. Ravulapati Madhavi* | 39 |
| 30. | The Dynamics of Corporate Criminal Liability in India<br>*M Srinivas* | 40 |
| 31. | E-Consumer Protection: Problems and Perspectives<br>*Mahantesh B Madiwalar & Prof. B S Reddy* | 41 |
| 32. | Implementation of Corporate Social Responsibility: A Judicial Approach Under Companies Act, 2013<br>*Meera Kumari Singh & Tabrez Ahmad* | 42 |
| 33. | Corporate Social Responsibility: Responsibility or Obligation?<br>*K Sita Manikyam* | 43 |
| 34. | Avoidance of Contract for Fundamental Breach Under the United Nations Convention on Contracts for the International Sale of Goods, 1980<br>*Mohammed Zaheeruddin* | 44 |
| 35. | Acts of Intervention: How Contracts of Liability Insurance Are Regulated to Protect Third Party Claimants in Australian Law<br>*John Woodward* | 45 |

International Journal For Advanced Research In Science & Technology

IJARST

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# Avoidance of Contract for Fundamental Breach Under the United Nations Convention on Contracts for the International Sale of Goods, 1980

Mohammed Zaheeruddin*

***Abstract:*** *The United Nations Convention on Contracts for the International Sale of Goods, 1980 (UN CISG) inter alia defines obligations of the buyer and seller in contracts for the international sale of goods. The CISG provides various remedies to the aggrieved parties, including the option of avoidance of contract. A party may avoid a contract if the other party has committed a breach of contract or any obligations under the Convention. However, there are pre-conditions for avoiding the contract, such as the breach must be fundamental, foreseeable to the breaching party and the damaged party must suffer a detriment such that it is substantially deprived of what it could have expected under the contract. The analysis of CISG provisions and review of decided case laws indicate that the breach is fundamental or not has to be determined based on the facts and circumstances of each case. The objective of this paper is to analyze the statutory provisions applicable for avoidance of contract and to identify the circumstances in which a party may avoid a contract under CISG.*

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# Contents


| | | |
|---|---|---|
| 1 | Consumer Sovereignty and Law<br>*Prof Sridevi D Shet* | 8 |
| 2 | Directors and Officers Insurance Liability: Some Concerns<br>*Sridevi D Shet* | 9 |
| 3 | Institutionalization of Arbitration<br>*Dr Veena* | 10 |
| 4 | New Age Business and Legal Environment<br>*Prof Rakesh Suryadevara* | 11 |
| 5 | Protection to the Farmers and Insurance<br>*Dr Madhuri Irene* | 12 |
| 6 | Tort Insurance and Product Liability<br>*Prof Anwesha Panigrahi* | 13 |
| 7 | "A Conceptual Understanding of Regional Trade Agreements: A Critical Study with Reference to India's Deviation from Multilateral Trade<br>*Mrs Annapurna Devi Munaganti,* | 15 |
| 8 | Direct Taxes Code Bill 2013– A Critical Analysis<br>*S.Ravi* | 16 |
| 9 | Right to Consumer Education: A Case Study with Reference to Hyderabad<br>*Dr. Irfan Rasool,* | 18 |
| 10 | The Consumer Protection Bill 2015: An Analysis<br>*Dr.S.V. Damodar Reddy* | 20 |
| 11 | The Goods and Services Tax Bill, 2014 – A Critical Analysis<br>*S.Ravi* | 21 |
| 12 | Money Laundering: Issues and Challenges<br>*Dr.P.L.Jayanthi Reddy* | 22 |
| 13 | Real Estate Act in India<br>*Monisha Gade* | 23 |
| 14 | A Categorical Study on Resolving Commercial Disputes: India's strategies Towards Ease of Doing Business.<br>*Ms Annapurna* | 24 |
| 15 | Empowering Women through Microfinance<br>*Geetha Priyadarshini* | 25 |
| 16 | Barter to Cryptocurrency : Evolution of Money<br>*Sreedevi Shet* | 26 |
| 17 | International Trade: Facts and Myths<br>*Rakesh Suryadevara* | 27 |
| 18 | Corporate Social Responsibility<br>*Dr.M.Ravindranath* | 28 |
| 19 | Real Estate Market An Overview in the UAE- An Empirical Study on Dubai Real Estate<br>*Dr.Durga Prasad* | 29 |

| | | |
|---|---|---|
| 20 | Inconvenience in Flag of Convenience<br>*Dr. Rama Devi* | 30 |
| 21 | The FRDI Bill –Resolution of Banks, Fears, Hopes and Trust<br>*A.Raja Rajeshwari* | 31 |
| 22 | Cost Reduction Approaches to Profit Improvement<br>*Prof. Rajasekhar Reddy* | 32 |
| 23 | The 'Control' Quandary- What Constitutes 'Control' Under the Competition Act 2002 in a Combination Transaction and How to Structure Combinations to Avoid CCI Scrutiny.<br>*Hartej Singh Kochher* | 33 |
| 24 | Exemption of Agriculture Income in India Under the Income Tax Act 1961: A Critical Study<br>*Prof Rupak Das* | 34 |
| 25 | A socio- legal study of the untapped prospects of Hydropower in India<br>*Prof Sofiul Ahmed* | 35 |
| 26. | Corporate Governance And Corporate Social Responsibility : Multidimensional Constructs<br>*Dr.Indira Priyadarshini,* | 36 |
| 27. | Insolvency and Bankruptcy Code, 2016 – Significant Amendments<br>*Dr. M. Srinivas* | 37 |
| 28. | Implementation of Leniency Programme – A Discretionary Power of Competition Commission of India<br>*Dr. Gunda Vedasri,* | 38 |
| 29. | New Era of Healthcare Consumerism: Trouncing Hallucination and High Jinks<br>*Prof. Ravulapati Madhavi* | 39 |
| 30. | The Dynamics of Corporate Criminal Liability in India<br>*M Srinivas* | 40 |
| 31. | E-Consumer Protection: Problems and Perspectives<br>*Mahantesh B Madiwalar & Prof. B S Reddy* | 41 |
| 32. | Implementation of Corporate Social Responsibility: A Judicial Approach Under Companies Act, 2013<br>*Meera Kumari Singh & Tabrez Ahmad* | 42 |
| 33. | Corporate Social Responsibility: Responsibility or Obligation?<br>*K Sita Manikyam* | 43 |
| 34. | Avoidance of Contract for Fundamental Breach Under the United Nations Convention on Contracts for the International Sale of Goods, 1980<br>*Mohammed Zaheeruddin* | 44 |
| 35. | Acts of Intervention: How Contracts of Liability Insurance Are Regulated to Protect Third Party Claimants in Australian Law<br>*John Woodward* | 45 |

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# Acts of Intervention: How Contracts of Liability Insurance are regulated to protect Third Party Claimants in Australian Law

John Woodward*

*Abstract:* *Uninhibited freedom to contract without undue statutory interference is a hallmark of western jurisprudential tradition. Policies of consumer protectionism and public interest sometimes operate to impose statutory intervention where unrestrained contractual freedom would produce injustice or is against the public interest in preventing fraudulent conduct or unfair practices. This paper examines some of the statutory interventions which have been enacted in Australian law to prohibit insurers from excluding benefits to third party claimants where the insured party has come under insolvent administration, has otherwise ceased to exist or has no interest in seeking indemnity under its contract of liability insurance. It argues that, whilst the general policy is clear, the intention of the legislation has become obscured by excessive deference to procedural imperatives that have subverted the initial policy objectives and the substantive law of subrogation. The effect of current statutory law in Australia raises questions in relation to rights of subrogation in cases where insurers have been joined as unwilling parties to liability claims against their insured. This paper concludes that legislators should consider reform of the present legislation to improve certainty for liability insurance underwriters and for their insured.*

* Solicitor of the Supreme Court of NSW and High Court of Australia.

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## Contents


| | | |
|---|---|---|
| 1 | Artificial Intelligence and Law<br>*Dr P L Jayanthi Reddy* | *7* |
| 2 | 'e' Learning During Covid-19<br>*Prof Rakesh Suryadevara* | *9* |
| 3 | Personal Data Protection and Linkage<br>*Dr PL Jayanthi Reddy* | *10* |
| 4 | Electronic Contract VIS A VIS Cloud Computing<br>*Mrs. Farzana* | *11* |
| 5 | The Curious Case of Collusion by Algorithms<br>*Richa Prateek Jain* | *12* |
| 6 | Cyber Crimes and Digital Signatures<br>*Dr. Akbar Khan* | *13* |
| 7 | Right to Privacy and Techno-Legal Issues<br>*K Sita Manikyam* | *14* |
| 8 | Invisible Kineticism in Visible Technology: A Brief Sketch on the Nexus Between Nanotechnology and Information Technology<br>*Srinivas Borra* | *15* |
| 9 | Detecting and Preventing Click Fraud: The Economic and Legal Aspects<br>*C P Nandini* | *16* |
| 10 | Sexual Violence Depicted Against Women in Video Games: The Effect of Virtual World on the Real World<br>*Ahmar* | *17* |
| 11 | 'Global Glow of Nano Universe- an Emerging Technology'<br>*Dr. Geetanjali Chandra* | *18* |
| 12 | 'E-Pharmacy – A new projectile of pharmaceutical industry'<br>*Dr. Hamsika Moparty* | *19* |
| 13 | "Intellectual Waste – An Incendiary Against Innocent" (An Insight on E-Waste Management)<br>*Dr. Abhijeet Rohi* | *20* |
| 14 | "Be it real or virtual – Dispute settlement is common"<br>*Dr. Sunitha Adhay Jain* | *21* |
| 15 | 'CYBER WORLD WAR - Emergency for addition of International Cyber Laws in International Humanitarian Law'<br>*MS. Mangala Gajanan Hiwarale* | *22* |

International Journal For Advanced Research In Science & Technology

IJARST

ISSN: 2457-0362

# Artificial Intelligence and Law

Dr P L Jayanthi Reddy[1]

*Abstract*

*The artificial intelligence is extending its horizons and playing significant role in every walk of life. It is being used in the manufacturing, marketing, managerial, administrative and governance functions and more particularly where the precision is required. Various tasks are performed with the help of artificial intelligence software either in toto or partially. We are witnessing that online and 'e'commerce activities are entirely depending upon the artificial intelligence which is replacing the good number of human labour.*

*The artificial intelligence is nothing, but, the blend of science and engineering through which the machines, embedded with specially created algorithm codes, are designed and produced to do specific tasks as planned in advance. It is working of machines, with the help of intelligence artificially inducting into them in place human intelligence. The computers and other electronic gadgets facilitate the working of the machines and functions with the help of instructions received from internally instilled programs. Some of the machines may be totally autonomous and few of them work with the assistance of human beings.*

*The artificial intelligence has intruded into the legal field also. It is being used in legal analytics more specifically in conducting the legal research, creation of e documents, due diligence work, compliance management, court analysis, judge analysis, case analysis and so on. Use of AI for the aforesaid functions minimizes good amount work for the lawyers and legal professionals as it provides the predictive analysis, which may help in providing the required advices to the clients. The databases of cases decided by different courts across the world are already made available and accessed with the search engines empowered by the AI. Use of the AI helps the legal professionals in translation of documents, formatting, preparing the briefs of the cases, collecting the supporting case laws and also understanding the pattern of judge-wise and court decisions. It makes the profession comfortable and helps to predict the outcome. Thus, the high volume of the information available may be analysed fast and accurate, resulting in optimum utilization of the resources.*

*Use of the AI legal field has many challenges and constraints. Each case is unique and different from other, and cannot be verified with the existing decided cases as it is attached with many legal and human elements. The concept of liability and fixing of liability cannot be understood with the available big data. Many a times, the case has to be decided on various factors including real-time human sufferings. Frequently changing legal provisions, principles, legislations, regulations will be other constraints. Sometimes, the ethical issues, insufficient and controversial data also impact the final outcome of the cases resulting from AI.*

*Beijing Academy of AI in China has come with some AI principles, US has enacted the Algorithm Accountability Act 2019 and EU has notified the General Data Protection Rules (GDPR) in order to regulate the AI software. India, after good amount exercise, introduced the Data Protection Bill 2019 on December 11, 2019 in the Parliament and waiting for its clearance and consent from the President.*

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## Contents


| | | |
|---|---|---|
| 1 | Artificial Intelligence and Law<br>*Dr P L Jayanthi Reddy* | *7* |
| 2 | 'e' Learning During Covid-19<br>*Prof Rakesh Suryadevara* | *9* |
| 3 | Personal Data Protection and Linkage<br>*Dr PL Jayanthi Reddy* | *10* |
| 4 | Electronic Contract VIS A VIS Cloud Computing<br>*Mrs. Farzana* | *11* |
| 5 | The Curious Case of Collusion by Algorithms<br>*Richa Prateek Jain* | *12* |
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| 7 | Right to Privacy and Techno-Legal Issues<br>*K Sita Manikyam* | *14* |
| 8 | Invisible Kineticism in Visible Technology: A Brief Sketch on the Nexus Between Nanotechnology and Information Technology<br>*Srinivas Borra* | *15* |
| 9 | Detecting and Preventing Click Fraud: The Economic and Legal Aspects<br>*C P Nandini* | *16* |
| 10 | Sexual Violence Depicted Against Women in Video Games: The Effect of Virtual World on the Real World<br>*Ahmar* | *17* |
| 11 | 'Global Glow of Nano Universe- an Emerging Technology'<br>*Dr. Geetanjali Chandra* | *18* |
| 12 | 'E-Pharmacy – A new projectile of pharmaceutical industry'<br>*Dr. Hamsika Moparty* | *19* |
| 13 | "Intellectual Waste – An Incendiary Against Innocent" (An Insight on E-Waste Management)<br>*Dr. Abhijeet Rohi* | *20* |
| 14 | "Be it real or virtual – Dispute settlement is common"<br>*Dr. Sunitha Adhay Jain* | *21* |
| 15 | 'CYBER WORLD WAR - Emergency for addition of International Cyber Laws in International Humanitarian Law'<br>*MS. Mangala Gajanan Hiwarale* | *22* |

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# 'e' Learning During Covid-19

Prof Rakesh Suryadevara[2]

*Abstract*

*The Corona virus (Covid-19) originated from a city of China has engulfed the entire world and shackled all the activities irrespective of caste, creed, colour, race and nationality and reminded that in front of the pandemic, everyone is equal. The technologies developed, the intelligentsia augmented and cumulated researches are proved to be null before the unseen nano-protein microbe threatening the existing life evolved for centuries and centuries. An unknown and unidentified microscopic molecule has endangered the systems urbanized for years. The delivery of class room teaching is not an exception to the challenge thrown by the Covid-19.*

*The shutdown of the activities dud to the declared health emergency to mitigate the epidemic disaster also locked down the educational institutions – schools, colleges, universities and other institutions engaged in the dissemination of knowledge from the middle of March 2020 till today and may be extended to unknown period. The class work, course work, examinations, evaluations and many related activities have stood at insignificant level. The Regulatory bodies like University Grants Commission, the All India Council for Technical Education, the Bar Council of India and others under the behest of Ministry of Human Resources Department, Government of India are encouraging the education institutions to opt for electronic platform to impart the educational programs to their students. Remote teaching using the electronic mode has gained momentum and institutions are registering partial success in this direction. The President of US also directed the Universities in US to conduct the online classes to the students admitted into various programs of their universities from different countries without entering into the country.*

*But, there are many public interest litigations filed against the conducting of 'e' classes, 'e' learning processes and evolution of students electronically with a plea that the students are not having the required infrastructure like the bandwidth/network and electronic gadgets to write the examinations and requesting the apex court to declare the results and promote the students based upon the marks of previous examinations taking cue from the promoting the students of high school education. There is a need to differentiate the conditions of student of high school education and with that of the graduating students of universities, more particularly the professional courses like law, engineering, architecture and medicine. The model of promoting the students based upon previous marks does not work because of the standards required for students of professional education. The students and other people concerned, instead of praying for exemption from the writing of the examinations, should try converting the challenge as an opportunity and try to move towards the e learning as the 'e' learning is going to be the style of the future education by augmenting required infrastructure. The software companies are coming with many alternative formats and platforms for efficient and effective conducting of the online classes and protected evaluations and examinations. The 'e' learning model not only provides unlimited admissions into colleges and universities but also minimise the investments on required physical infrastructure.*

[2] Asst Professor, The ICFAI Law School, IFHE, Hyderabad

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## Contents


| | | |
|---|---|---|
| 1 | Artificial Intelligence and Law<br>*Dr P L Jayanthi Reddy* | *7* |
| 2 | 'e' Learning During Covid-19<br>*Prof Rakesh Suryadevara* | *9* |
| 3 | Personal Data Protection and Linkage<br>*Dr PL Jayanthi Reddy* | *10* |
| 4 | Electronic Contract VIS A VIS Cloud Computing<br>*Mrs. Farzana* | *11* |
| 5 | The Curious Case of Collusion by Algorithms<br>*Richa Prateek Jain* | *12* |
| 6 | Cyber Crimes and Digital Signatures<br>*Dr. Akbar Khan* | *13* |
| 7 | Right to Privacy and Techno-Legal Issues<br>*K Sita Manikyam* | *14* |
| 8 | Invisible Kineticism in Visible Technology: A Brief Sketch on the Nexus Between Nanotechnology and Information Technology<br>*Srinivas Borra* | *15* |
| 9 | Detecting and Preventing Click Fraud: The Economic and Legal Aspects<br>*C P Nandini* | *16* |
| 10 | Sexual Violence Depicted Against Women in Video Games: The Effect of Virtual World on the Real World<br>*Ahmar* | *17* |
| 11 | 'Global Glow of Nano Universe- an Emerging Technology'<br>*Dr. Geetanjali Chandra* | *18* |
| 12 | 'E-Pharmacy – A new projectile of pharmaceutical industry'<br>*Dr. Hamsika Moparty* | *19* |
| 13 | "Intellectual Waste – An Incendiary Against Innocent" (An Insight on E-Waste Management)<br>*Dr. Abhijeet Rohi* | *20* |
| 14 | "Be it real or virtual – Dispute settlement is common"<br>*Dr. Sunitha Adhay Jain* | *21* |
| 15 | 'CYBER WORLD WAR - Emergency for addition of International Cyber Laws in International Humanitarian Law'<br>*MS. Mangala Gajanan Hiwarale* | *22* |

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# Personal Data Protection and Linkage

Dr PL Jayanthi Reddy[3]

*Abstract*

*In the name of regulating the black money, money laundering and other financial irregularities, it is proposed to link the bank accounts, mobile connections and other activities with the Aadhar and PAN card numbers. The linkage will help in accessing the personal data of individual and identify the transactions. There is a wide range of opposition from intellectual forums with an argument that it breaches the privacy of an individual. A nine-judge Constitutional bench of the Supreme Court of India has categorically and unanimously declared that right to privacy is the fundamental right guaranteed under Article 21 of the Constitution of India. Many intellects have questioned the directions of linking of Aadhar (UID ) with bank accounts, mobile operations in courts of law across the country and argued it is violation of fundamental right without any wanted outcome. Some of the courts responded positively. The long debates and arguments in the Supreme Court and in High Courts of other states have resulted in not making mandatory of Aadhar linkage. The recent direction giving the voluntary disclosure or linkage of the Aadhar by a person while filing the documents such as income tax returns, bank accounts and mobile phone connections have given a breath of sigh. However, it was permitted for using the Aadhar UID for availing the benefits of the welfare schemes announced by the government. It is a measure of check of misuse of the government schemes and subsidies. But, misuse of the information is a more grave problem than the above. The recent case of a British company which accessed more than two lakh users of facebook pages shows the issues inherited with the information leakage. There are many other social networks like whatsup, tweeter etc which may also add fuel to the problem.*

*The Aadhar linkage is associated with variety of issues and risk factors resulting in the violation of privacy rights which is required to be examined seriously. In the name of curbing one problem, it will help to create much more problems than anticipated making the information vulnerable to misuse and manipulations. Not only it leads to the breach of fundamental rights, but also, poses various frauds and socio-economic risks to a citizen and the country. Disclosure of the Aadhar linkage by a citizen should be voluntarily and knowingly the risks attached to it.*

[3] Asst Professor, The ICFAI Law School, IFHE, Hyderabad

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## Contents


| | | |
|---|---|---|
| 1 | Artificial Intelligence and Law<br>*Dr P L Jayanthi Reddy* | *7* |
| 2 | 'e' Learning During Covid-19<br>*Prof Rakesh Suryadevara* | *9* |
| 3 | Personal Data Protection and Linkage<br>*Dr PL Jayanthi Reddy* | *10* |
| 4 | Electronic Contract VIS A VIS Cloud Computing<br>*Mrs. Farzana* | *11* |
| 5 | The Curious Case of Collusion by Algorithms<br>*Richa Prateek Jain* | *12* |
| 6 | Cyber Crimes and Digital Signatures<br>*Dr. Akbar Khan* | *13* |
| 7 | Right to Privacy and Techno-Legal Issues<br>*K Sita Manikyam* | *14* |
| 8 | Invisible Kineticism in Visible Technology: A Brief Sketch on the Nexus Between Nanotechnology and Information Technology<br>*Srinivas Borra* | *15* |
| 9 | Detecting and Preventing Click Fraud: The Economic and Legal Aspects<br>*C P Nandini* | *16* |
| 10 | Sexual Violence Depicted Against Women in Video Games: The Effect of Virtual World on the Real World<br>*Ahmar* | *17* |
| 11 | 'Global Glow of Nano Universe- an Emerging Technology'<br>*Dr. Geetanjali Chandra* | *18* |
| 12 | 'E-Pharmacy – A new projectile of pharmaceutical industry'<br>*Dr. Hamsika Moparty* | *19* |
| 13 | "Intellectual Waste – An Incendiary Against Innocent" (An Insight on E-Waste Management)<br>*Dr. Abhijeet Rohi* | *20* |
| 14 | "Be it real or virtual – Dispute settlement is common"<br>*Dr. Sunitha Adhay Jain* | *21* |
| 15 | 'CYBER WORLD WAR - Emergency for addition of International Cyber Laws in International Humanitarian Law'<br>*MS. Mangala Gajanan Hiwarale* | *22* |

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# Electronic Contract VIS A VIS Cloud Computing

Mrs. Farzana[4]

*Abstract:*

*This Paper discusses about cloud technology that allows hosting of applications and documents into a cloud consisting of thousands of computers and servers which are linked together and accessible through internet. Further everything done on a computer through cloud technology is web based and desktop based documents and applications are moving into cloud. Traditional desktop based documents are accessible to computers within their network and not oustside their network whereas in cloud computing this barrier is removed. In this software programs are are not run by personal computer instead they are stored and run by the cloud servers. Cloud computing encompasses multiple computers, multiple servers, multiple networks. Cloud is nothing but a collection of computers and servers which are accessible through internet. A web based application or service offered via the internet is cloud computing. Faculty tries to examine electronic contracts from the perspective of cloud computing. Further the meaning of electronic contracts and its validity as per the Information Technology Act 2000 and the relevant provisions are explained. Further the paper discusses about the importance of the compliance of pre-requisites under the Indian Contract Act and that the courts have given due regard to electronic contracts under the provisions of Indian Evidence Act. The modes of communication of e-contracts are explained and also mentions about the instruments to which IT Act does not apply. Further the evidentiary value of electronic records are discussed with the help of case laws. Further explains about click wrap and shrink wrap agreements and digital signatures. Also the paper discusses about stamp duty requirements in physical contracts which is not relevant in electronic contracts, but some states in India like Maharashtra, UP and Gujarat amended their respective stamp duty legislation to specifically include electronic record .within the definition of instrument. The result is if stamp duty requirements not complied it will attract penalty ten times without impacting the validity of contracts. This paper tres to examine the provisions of electronic contracts validity by referring to various other laws associated with the concept since recent times and more of electronic contracts that are entered using the technology.*

[4] Assistant Professor, Icfai Law School, Hyderabad

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## Contents


| | | |
|---|---|---|
| 1 | Artificial Intelligence and Law<br>*Dr P L Jayanthi Reddy* | 7 |
| 2 | 'e' Learning During Covid-19<br>*Prof Rakesh Suryadevara* | 9 |
| 3 | Personal Data Protection and Linkage<br>*Dr PL Jayanthi Reddy* | 10 |
| 4 | Electronic Contract VIS A VIS Cloud Computing<br>*Mrs. Farzana* | 11 |
| 5 | The Curious Case of Collusion by Algorithms<br>*Richa Prateek Jain* | 12 |
| 6 | Cyber Crimes and Digital Signatures<br>*Dr. Akbar Khan* | 13 |
| 7 | Right to Privacy and Techno-Legal Issues<br>*K Sita Manikyam* | 14 |
| 8 | Invisible Kineticism in Visible Technology: A Brief Sketch on the Nexus Between Nanotechnology and Information Technology<br>*Srinivas Borra* | 15 |
| 9 | Detecting and Preventing Click Fraud: The Economic and Legal Aspects<br>*C P Nandini* | 16 |
| 10 | Sexual Violence Depicted Against Women in Video Games: The Effect of Virtual World on the Real World<br>*Ahmar* | 17 |
| 11 | 'Global Glow of Nano Universe- an Emerging Technology'<br>*Dr. Geetanjali Chandra* | 18 |
| 12 | 'E-Pharmacy – A new projectile of pharmaceutical industry'<br>*Dr. Hamsika Moparty* | 19 |
| 13 | "Intellectual Waste – An Incendiary Against Innocent" (An Insight on E-Waste Management)<br>*Dr. Abhijeet Rohi* | 20 |
| 14 | "Be it real or virtual – Dispute settlement is common"<br>*Dr. Sunitha Adhay Jain* | 21 |
| 15 | 'CYBER WORLD WAR - Emergency for addition of International Cyber Laws in International Humanitarian Law'<br>*MS. Mangala Gajanan Hiwarale* | 22 |

IJARST

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# The Curious Case of Collusion by Algorithms

Richa Prateek Jain[5]

*Abstract:*

*The Curious Case of Collusion by Algorithms-"The widespread use and growth of artificial intelligence and algorithms as a phenomenon in businesses and economic activities, both online and offline cannot be denied. Though at one hand, it has been associated with increasing efficacy of services, improving business pricing models and enhancing consumer choices by arraying tailor made services and goods; on the other hand, it has also raised concerns over possible anti-competitive behaviour such as collusion/cartelization. The author through her research intends to evaluate whether algorithms have made it easier for the competitors to collude and whether the current Indian competition regime is equipped to deal with these challenges."*

[5] Assistant Professor, ICFAI Law School Hyderabad

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## Contents


| | | |
|---|---|---|
| 1 | Artificial Intelligence and Law<br>*Dr P L Jayanthi Reddy* | 7 |
| 2 | 'e' Learning During Covid-19<br>*Prof Rakesh Suryadevara* | 9 |
| 3 | Personal Data Protection and Linkage<br>*Dr PL Jayanthi Reddy* | 10 |
| 4 | Electronic Contract VIS A VIS Cloud Computing<br>*Mrs. Farzana* | 11 |
| 5 | The Curious Case of Collusion by Algorithms<br>*Richa Prateek Jain* | 12 |
| 6 | Cyber Crimes and Digital Signatures<br>*Dr. Akbar Khan* | 13 |
| 7 | Right to Privacy and Techno-Legal Issues<br>*K Sita Manikyam* | 14 |
| 8 | Invisible Kineticism in Visible Technology: A Brief Sketch on the Nexus Between Nanotechnology and Information Technology<br>*Srinivas Borra* | 15 |
| 9 | Detecting and Preventing Click Fraud: The Economic and Legal Aspects<br>*C P Nandini* | 16 |
| 10 | Sexual Violence Depicted Against Women in Video Games: The Effect of Virtual World on the Real World<br>*Ahmar* | 17 |
| 11 | 'Global Glow of Nano Universe- an Emerging Technology'<br>*Dr. Geetanjali Chandra* | 18 |
| 12 | 'E-Pharmacy – A new projectile of pharmaceutical industry'<br>*Dr. Hansika Moparty* | 19 |
| 13 | "Intellectual Waste – An Incendiary Against Innocent" (An Insight on E-Waste Management)<br>*Dr. Abhijeet Rohi* | 20 |
| 14 | "Be it real or virtual – Dispute settlement is common"<br>*Dr. Sunitha Adhay Jain* | 21 |
| 15 | 'CYBER WORLD WAR - Emergency for addition of International Cyber Laws in International Humanitarian Law'<br>*MS. Mangala Gajanan Hiwarale* | 22 |

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# Cyber Crimes and Digital Signatures

Dr. Akbar Khan[6]

*Abstract:*

*The emergence of new types of crime as well as the commission of traditional crimes by means of new technologies and committed on cyber space, a virtual reality that we call "Cybercrime". The growing danger from cyber crimes where in a Computer is a tool as well as a target. The crimes are committed against computers or against information on computers. They are beginning to command attention across the globe. The Information Technology Act (Amended 2008) includes most of the offences under the category of bailable offences, except cyber terrorism for which life imprisonment is the punishment. The presentation highlights its strengths and weaknesses besides delineating the vulnerability of its provisions. The lack of legal protection means that businesses and governments must rely solely on technical measures to protect themselves from those who would steal, deny access to, or destroy valuable information. Moreover, the consequences of criminal behavior can be more far-reaching than before because they are not restricted by geographical limitations or national boundaries. The rule of law must also be enforced. The government should draw on best practices from other countries and work closely with industry to enact enforceable legal protections against these new crimes. The recent spread of detrimental computer viruses and Malwares all over the world has provided proof of this reality. Other than computer viruses, worms and Trojan horse, cybercrime also consists of specific crimes dealing with computers and networks such as hacking, Identity theft, Phishing, Vishing, Distributed Denial of Service Attack, cyber stalking, cybersquatting, Data Diddling, child pornography, hate crimes, telemarketing/Internet fraud, so on and so forth. The Introduction and working of digital signature and the related public key infrastructure helps in data integrity, authenticity and non-repudiation. It helps in maintaining secrecy and authenticity and the regulation required to be controlled by the controller of certifying authorities.*

[6] Associate Professor , ICFAI Law School,, Hyderabad

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## Contents


| | | |
|---|---|---|
| 1 | Artificial Intelligence and Law<br>*Dr P L Jayanthi Reddy* | 7 |
| 2 | 'e' Learning During Covid-19<br>*Prof Rakesh Suryadevara* | 9 |
| 3 | Personal Data Protection and Linkage<br>*Dr PL Jayanthi Reddy* | 10 |
| 4 | Electronic Contract VIS A VIS Cloud Computing<br>*Mrs. Farzana* | 11 |
| 5 | The Curious Case of Collusion by Algorithms<br>*Richa Prateek Jain* | 12 |
| 6 | Cyber Crimes and Digital Signatures<br>*Dr. Akbar Khan* | 13 |
| 7 | Right to Privacy and Techno-Legal Issues<br>*K Sita Manikyam* | 14 |
| 8 | Invisible Kineticism in Visible Technology: A Brief Sketch on the Nexus Between Nanotechnology and Information Technology<br>*Srinivas Borra* | 15 |
| 9 | Detecting and Preventing Click Fraud: The Economic and Legal Aspects<br>*C P Nandini* | 16 |
| 10 | Sexual Violence Depicted Against Women in Video Games: The Effect of Virtual World on the Real World<br>*Ahmar* | 17 |
| 11 | 'Global Glow of Nano Universe- an Emerging Technology'<br>*Dr. Geetanjali Chandra* | 18 |
| 12 | 'E-Pharmacy – A new projectile of pharmaceutical industry'<br>*Dr. Hamsika Moparty* | 19 |
| 13 | "Intellectual Waste – An Incendiary Against Innocent" (An Insight on E-Waste Management)<br>*Dr. Abhijeet Rohi* | 20 |
| 14 | "Be it real or virtual – Dispute settlement is common"<br>*Dr. Sunitha Adhay Jain* | 21 |
| 15 | 'CYBER WORLD WAR - Emergency for addition of International Cyber Laws in International Humanitarian Law'<br>*MS. Mangala Gajanan Hiwarale* | 22 |

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# Right to Privacy and Techno-Legal Issues

K Sita Manikyam[7]

*Abstract:*

*It is no secret that technology is becoming more integrated in our work lives, and since we are getting more comfortable with it, we are allowing technology to become more involved with our personal lives too. Human beings value their privacy and the protection of their personal sphere of life. They value some control over who knows what about them. They certainly do not want their personal information to be accessible to just anyone at any time. It is a fact that the scientific advancements and technological progressiveness have touched the pinnacle of the age. The explosion of information in the technological era is an outcome of technology and networked cyberspace spread across the four corners of the globe.*

*Globalization of communication in this era brings many advantages to the mankind. At the same time, it also brings certain unforeseen and unpredictable maladies. Privacy in technological era is one such issue that bothers all the nations, netizens and the citizens alike. Hence, the present paper focuses on the legality of technological issues, while dealing with various statutory provisions with regard to privacy law.*

[7] Assistant Professor, Dr. B R Ambedkar Law College, Andhra University, Visakhapatnam, Andhra Pradesh, India.

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## Contents


| | | |
|---|---|---|
| 1 | Artificial Intelligence and Law<br>*Dr P L Jayanthi Reddy* | 7 |
| 2 | 'e' Learning During Covid-19<br>*Prof Rakesh Suryadevara* | 9 |
| 3 | Personal Data Protection and Linkage<br>*Dr PL Jayanthi Reddy* | 10 |
| 4 | Electronic Contract VIS A VIS Cloud Computing<br>*Mrs. Farzana* | 11 |
| 5 | The Curious Case of Collusion by Algorithms<br>*Richa Prateek Jain* | 12 |
| 6 | Cyber Crimes and Digital Signatures<br>*Dr. Akbar Khan* | 13 |
| 7 | Right to Privacy and Techno-Legal Issues<br>*K Sita Manikyam* | 14 |
| 8 | Invisible Kineticism in Visible Technology: A Brief Sketch on the Nexus Between Nanotechnology and Information Technology<br>*Srinivas Borra* | 15 |
| 9 | Detecting and Preventing Click Fraud: The Economic and Legal Aspects<br>*C P Nandini* | 16 |
| 10 | Sexual Violence Depicted Against Women in Video Games: The Effect of Virtual World on the Real World<br>*Ahmar* | 17 |
| 11 | 'Global Glow of Nano Universe- an Emerging Technology'<br>*Dr. Geetanjali Chandra* | 18 |
| 12 | 'E-Pharmacy – A new projectile of pharmaceutical industry'<br>*Dr. Hamsika Moparty* | 19 |
| 13 | "Intellectual Waste – An Incendiary Against Innocent" (An Insight on E-Waste Management)<br>*Dr. Abhijeet Rohi* | 20 |
| 14 | "Be it real or virtual – Dispute settlement is common"<br>*Dr. Sunitha Adhay Jain* | 21 |
| 15 | 'CYBER WORLD WAR - Emergency for addition of International Cyber Laws in International Humanitarian Law'<br>*MS. Mangala Gajanan Hiwarale* | 22 |

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# Invisible Kineticism in Visible Technology: A Brief Sketch on the Nexus Between Nanotechnology and Information Technology

Srinivas Borra[8]

*Abstract:*

*The modern progressive world has been vibrant in transforming the ages of civilization, moving from agricultural revolution, industrial revolution, information technology revolution to nanotechnology revolution. 'Nano', the invisible potential of micro-miniature world, is found amazing in its evolution, dwarfing even the gigantic industrial and scientific revolution. Recent scientific expeditions – like control of kinetic and thermodynamic process in the self-assembly of the luminophor, a novel photo luminescent ink for rewritable media for creating long-lasting images and the Dance room Spectroscopy, fusing science, music and 3D imaging, and micro spectrophotometer system to monitor the full range spectra of a microscopic sample area over time and plot the results – testify to the efficacy of nanotechnology applications in diverse fields of human activity. Despite its invisible kinetism in many fields of technologies, there is no articulated nanotechnology law to control and regulate the consequences of nanotechnology operation. Companies that do not anticipate and embrace this change may find themselves sinking slowly in its wake.*

*The 21st century is riding on the accelerated exponential growth of nanotechnology, witnessing a paradigm shift. Nanotechnology is destined to redefine, reshape and eventually transform economies and societies on a global scale. This paper is an endeavor to sketch briefly the inevitability of nano applications in the future*

[8] Research Scholar, Department of Law, Andhra University, Visakhapatnam, Andhra Pradesh

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## Contents


| | | |
|---|---|---|
| 1 | Artificial Intelligence and Law<br>*Dr P L Jayanthi Reddy* | 7 |
| 2 | 'e' Learning During Covid-19<br>*Prof Rakesh Suryadevara* | 9 |
| 3 | Personal Data Protection and Linkage<br>*Dr PL Jayanthi Reddy* | 10 |
| 4 | Electronic Contract VIS A VIS Cloud Computing<br>*Mrs. Farzana* | 11 |
| 5 | The Curious Case of Collusion by Algorithms<br>*Richa Prateek Jain* | 12 |
| 6 | Cyber Crimes and Digital Signatures<br>*Dr. Akbar Khan* | 13 |
| 7 | Right to Privacy and Techno-Legal Issues<br>*K Sita Manikyam* | 14 |
| 8 | Invisible Kineticism in Visible Technology: A Brief Sketch on the Nexus Between Nanotechnology and Information Technology<br>*Srinivas Borra* | 15 |
| 9 | Detecting and Preventing Click Fraud: The Economic and Legal Aspects<br>*C P Nandini* | 16 |
| 10 | Sexual Violence Depicted Against Women in Video Games: The Effect of Virtual World on the Real World<br>*Ahmar* | 17 |
| 11 | 'Global Glow of Nano Universe- an Emerging Technology'<br>*Dr. Geetanjali Chandra* | 18 |
| 12 | 'E-Pharmacy – A new projectile of pharmaceutical industry'<br>*Dr. Hamsika Moparty* | 19 |
| 13 | "Intellectual Waste – An Incendiary Against Innocent" (An Insight on E-Waste Management)<br>*Dr. Abhijeet Rohi* | 20 |
| 14 | "Be it real or virtual – Dispute settlement is common"<br>*Dr. Sunitha Adhay Jain* | 21 |
| 15 | 'CYBER WORLD WAR - Emergency for addition of International Cyber Laws in International Humanitarian Law'<br>*MS. Mangala Gajanan Hiwarale* | 22 |

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# Detecting and Preventing Click Fraud: The Economic and Legal Aspects

C P Nandini[9]

*Abstract:*

*The recent development and growth of technology has forced the augmentation of e-commerce. This growth has encouraged the online businesses enormously, and one such business is online advertisements. The online businesses have built up various advertising models to increase their revenues. One such preferred model is the Pay-Per-Click model, considered to be one of the most efficient and effective models. The success of this model has also made it susceptible to click frauds, one of the underestimated frauds in the e-commerce-related frauds. The click spammers are active in committing such frauds either for commission, or it is used as a tool by the businesses to throw away the competitors from the business by artificially increasing the prices for advertising. The click fraud losses are estimated to be hundreds of billions of dollars, affecting the advertising industry in a huge way. Approximately, click frauds account for 10-40% of losses in the annual revenue loss to the industry. This paper examines the economic and legal aspects of the click fraud with special reference to the lacuna in law making to deal with the problem. It also highlights the challenges in regulating such frauds and the lack of seriousness on the part of the industry as well as the law makers.*

[9] Associate Professor, DSNLU, Visakhapatnam, Andhra Pradesh, India.

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## Contents


| | | |
|---|---|---|
| 1 | Artificial Intelligence and Law<br>*Dr P L Jayanthi Reddy* | 7 |
| 2 | 'e' Learning During Covid-19<br>*Prof Rakesh Suryadevara* | 9 |
| 3 | Personal Data Protection and Linkage<br>*Dr PL Jayanthi Reddy* | 10 |
| 4 | Electronic Contract VIS A VIS Cloud Computing<br>*Mrs. Farzana* | 11 |
| 5 | The Curious Case of Collusion by Algorithms<br>*Richa Prateek Jain* | 12 |
| 6 | Cyber Crimes and Digital Signatures<br>*Dr. Akbar Khan* | 13 |
| 7 | Right to Privacy and Techno-Legal Issues<br>*K Sita Manikyam* | 14 |
| 8 | Invisible Kineticism in Visible Technology: A Brief Sketch on the Nexus Between Nanotechnology and Information Technology<br>*Srinivas Borra* | 15 |
| 9 | Detecting and Preventing Click Fraud: The Economic and Legal Aspects<br>*C P Nandini* | 16 |
| 10 | Sexual Violence Depicted Against Women in Video Games: The Effect of Virtual World on the Real World<br>*Ahmar* | 17 |
| 11 | 'Global Glow of Nano Universe- an Emerging Technology'<br>*Dr. Geetanjali Chandra* | 18 |
| 12 | 'E-Pharmacy – A new projectile of pharmaceutical industry'<br>*Dr. Hamsika Moparty* | 19 |
| 13 | "Intellectual Waste – An Incendiary Against Innocent" (An Insight on E-Waste Management)<br>*Dr. Abhijeet Rohi* | 20 |
| 14 | "Be it real or virtual – Dispute settlement is common"<br>*Dr. Sunitha Adhay Jain* | 21 |
| 15 | 'CYBER WORLD WAR - Emergency for addition of International Cyber Laws in International Humanitarian Law'<br>*MS. Mangala Gajanan Hiwarale* | 22 |

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# Sexual Violence Depicted Against Women in Video Games: The Effect of Virtual World on the Real World

Ahmar[10]

*Abstract:*

*Video games have replaced many traditional childhood pastimes as the leisure activity of choice. A stroll through the halls of a college dormitory demonstrates the strong presence of these games among the youth. Children are spending more time and money on electronic entertainment than ever before. In fact, video game use has steadily increased over the years. Video games are popular social artefacts with the potential to shape the behavior, attitudes and identities of players. Violent video games produce aggressive behavior and emotions. Video graphics are becoming increasingly realistic portrayals of holistic worlds. California state passed a ban on the sale of violent games and sought "to plow new legal ground by equating violent video games with pornography." However, the Supreme Court of US by a 7-2 majority declared the law unconstitutional but hinted that the court might have ruled differently if there had been legislation banning video games containing sexual violence. The European Women's Lobby have rightly stated that the games containing sexual violence promote a hostile attitude towards women and girls and promote harmful and discriminatory gender stereotypes. This paper investigates how gender-based violence depicted in the video games influences youngsters. The paper has also made an analysis of the content, development, dynamics and possible effect on young minds based on the video graphic content. The results show that video games, which contain explicit incitement to violence, are widely available on internet for free. As Amnesty International claims, we are in breach of the convention on the elimination of all forms of discrimination against women. Hence, states need to take steps to remove such discrimination in all its manifestations.*

[10] Assistant Professor, Symbiosis Law School, Hyderabad, India.

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## Contents


| | | |
|---|---|---|
| 1 | Artificial Intelligence and Law<br>*Dr P L Jayanthi Reddy* | *7* |
| 2 | 'e' Learning During Covid-19<br>*Prof Rakesh Suryadevara* | *9* |
| 3 | Personal Data Protection and Linkage<br>*Dr PL Jayanthi Reddy* | *10* |
| 4 | Electronic Contract VIS A VIS Cloud Computing<br>*Mrs. Farzana* | *11* |
| 5 | The Curious Case of Collusion by Algorithms<br>*Richa Prateek Jain* | *12* |
| 6 | Cyber Crimes and Digital Signatures<br>*Dr. Akbar Khan* | *13* |
| 7 | Right to Privacy and Techno-Legal Issues<br>*K Sita Manikyam* | *14* |
| 8 | Invisible Kineticism in Visible Technology: A Brief Sketch on the Nexus Between Nanotechnology and Information Technology<br>*Srinivas Borra* | *15* |
| 9 | Detecting and Preventing Click Fraud: The Economic and Legal Aspects<br>*C P Nandini* | *16* |
| 10 | Sexual Violence Depicted Against Women in Video Games: The Effect of Virtual World on the Real World<br>*Ahmar* | *17* |
| 11 | 'Global Glow of Nano Universe- an Emerging Technology'<br>*Dr. Geetanjali Chandra* | *18* |
| 12 | 'E-Pharmacy – A new projectile of pharmaceutical industry'<br>*Dr. Hamsika Moparty* | *19* |
| 13 | "Intellectual Waste – An Incendiary Against Innocent" (An Insight on E-Waste Management)<br>*Dr. Abhijeet Rohi* | *20* |
| 14 | "Be it real or virtual – Dispute settlement is common"<br>*Dr. Sunitha Adhay Jain* | *21* |
| 15 | 'CYBER WORLD WAR - Emergency for addition of International Cyber Laws in International Humanitarian Law'<br>*MS. Mangala Gajanan Hiwarale* | *22* |

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# 'Global Glow of Nano Universe- an Emerging Technology'

Dr. Geetanjali Chandra[11]

*Abstract:*

*Humanity, having crossed primitive stone age, agrarian age, industrial age and Information age, has been galloping into 'Nano age'. Over the past few years, this little word 'Nano' with big potential has been rapidly insinuating itself into the world's consciousness, and conjured up speculation about a seismic shift in almost every aspect of science and engineering.*

*The newly emerging science of nanotechnology, the first new field in the present century has a peculiar trait that this field is ambitious, at the outset, to patent the basic ideas in many of the most important fields of inventions over the past century like computer hardware, software, the internet and even biotechnology.*

*The opulence of Nanotechnology as a science is marked with the great inflow of abundant inputs from many disciplines like physics, chemistry, electronics, biology and engineering etc. It is construed to be a science with great magnitude and potential to create new materials with specific properties and devices with wide ranging applications in medicine, electronics and energy production. But it appears that nanotechnology is at a speculative early stage; only a few nanotech inventions have so far actually made it into commercial products. There are about more than 2000 consumer products in the market which are developed containing Nano-particles and using nanotechnology. But the expectations surrounding the field are immense, ranging from a utopia of free energy and abundant materials to astounding alarm of probable industrial and environmental hazards.*

*This Article comprehends the significance of the application of Patent rights in nanotechnology products and devices, and how private domain taking away the nanotech-regime from public regime, how distinct the nanotech patents are from other patents, and patentability exemptions and exclusions, examines critically whether the supposed Nano-world is becoming the paradise of privileged rich or penurious common people.*

*KEY WORDS: Nanotechnology, Patent rights, engineering, National Institute of Standards and Technology*

[11] Associate Professor, Amity Law School, Amity University, Dubai, UAE. Reach the Author at chandra.geetanjali@gmail.com

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# 'E-Pharmacy – A New Projectile of Pharmaceutical Industry'

Dr. Hamsika Moparty[12]

*Abstract:*

*Medicines in the service of the medical treatment to patients are the adhesive substance that binds firmly the humane affection between the doctors and the patients apart from the society and medical profession. Medicines are the life giving and life protecting substances forming part of medical service and medical profession.*

*The global revolution of Information Technology is studded with many stars, one prominent and promisingly progressive refulgence being E-Pharmacy. The hegemony of pharmaceutical industry in health care received substantial philip through on-line trading of medicines and drugs. Internationally reputed drug manufacturers like Pfizer, Hoffmann-La Roche, Johnson & Johnson forecast huge growth of bio-pharma market in the next few years, by presumably 2025.*

*GlaxoSmithKline and Novartis Ag too optimistically expect that the global drug delivery technology could reach from 508630 of 2019 to USD 589190 million by 2025. The global Pharma & Cosmetics market is valued at 1509500 million US$ in 2017 and will reach 1952700 million US$ by the end of 2025, growing at a CAGR of 3.3% during 2018-2025.*

*The growth of the e-pharmacy market is attributed to a rise in the number of internet consumers, increased access to web-based and online services, and rising implementation of e-prescriptions in hospitals and other healthcare services*

[12] MBBS, Medical Researcher, Reach the author at hamsika1995@gmail.com

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## Contents


| | | |
|---|---|---|
| 1 | Artificial Intelligence and Law<br>*Dr P L Jayanthi Reddy* | 7 |
| 2 | 'e' Learning During Covid-19<br>*Prof Rakesh Suryadevara* | 9 |
| 3 | Personal Data Protection and Linkage<br>*Dr PL Jayanthi Reddy* | 10 |
| 4 | Electronic Contract VIS A VIS Cloud Computing<br>*Mrs. Farzana* | 11 |
| 5 | The Curious Case of Collusion by Algorithms<br>*Richa Prateek Jain* | 12 |
| 6 | Cyber Crimes and Digital Signatures<br>*Dr. Akbar Khan* | 13 |
| 7 | Right to Privacy and Techno-Legal Issues<br>*K Sita Manikyam* | 14 |
| 8 | Invisible Kineticism in Visible Technology: A Brief Sketch on the Nexus Between Nanotechnology and Information Technology<br>*Srinivas Borra* | 15 |
| 9 | Detecting and Preventing Click Fraud: The Economic and Legal Aspects<br>*C P Nandini* | 16 |
| 10 | Sexual Violence Depicted Against Women in Video Games: The Effect of Virtual World on the Real World<br>*Ahmar* | 17 |
| 11 | 'Global Glow of Nano Universe- an Emerging Technology'<br>*Dr. Geetanjali Chandra* | 18 |
| 12 | 'E-Pharmacy – A new projectile of pharmaceutical industry'<br>*Dr. Hamsika Moparty* | 19 |
| 13 | "Intellectual Waste – An Incendiary Against Innocent" (An Insight on E-Waste Management)<br>*Dr. Abhijeet Rohi* | 20 |
| 14 | "Be it real or virtual – Dispute settlement is common"<br>*Dr. Sunitha Adhay Jain* | 21 |
| 15 | 'CYBER WORLD WAR - Emergency for addition of International Cyber Laws in International Humanitarian Law'<br>*MS. Mangala Gajanan Hiwarale* | 22 |

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## Contents


| | | |
|---|---|---|
| 1 | Artificial Intelligence and Law<br>*Dr P L Jayanthi Reddy* | 7 |
| 2 | 'e' Learning During Covid-19<br>*Prof Rakesh Suryadevara* | 9 |
| 3 | Personal Data Protection and Linkage<br>*Dr PL Jayanthi Reddy* | 10 |
| 4 | Electronic Contract VIS A VIS Cloud Computing<br>*Mrs. Farzana* | 11 |
| 5 | The Curious Case of Collusion by Algorithms<br>*Richa Prateek Jain* | 12 |
| 6 | Cyber Crimes and Digital Signatures<br>*Dr. Akbar Khan* | 13 |
| 7 | Right to Privacy and Techno-Legal Issues<br>*K Sita Manikyam* | 14 |
| 8 | Invisible Kineticism in Visible Technology: A Brief Sketch on the Nexus Between Nanotechnology and Information Technology<br>*Srinivas Borra* | 15 |
| 9 | Detecting and Preventing Click Fraud: The Economic and Legal Aspects<br>*C P Nandini* | 16 |
| 10 | Sexual Violence Depicted Against Women in Video Games: The Effect of Virtual World on the Real World<br>*Ahmar* | 17 |
| 11 | 'Global Glow of Nano Universe- an Emerging Technology'<br>*Dr. Geetanjali Chandra* | 18 |
| 12 | 'E-Pharmacy – A new projectile of pharmaceutical industry'<br>*Dr. Hamsika Moparty* | 19 |
| 13 | "Intellectual Waste – An Incendiary Against Innocent" (An Insight on E-Waste Management)<br>*Dr. Abhijeet Rohi* | 20 |
| 14 | "Be it real or virtual – Dispute settlement is common"<br>*Dr. Sunitha Adhay Jain* | 21 |
| 15 | 'CYBER WORLD WAR - Emergency for addition of International Cyber Laws in International Humanitarian Law'<br>*MS. Mangala Gajanan Hiwarale* | 22 |

International Journal For Advanced Research In Science & Technology

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# "Intellectual Waste – An Incendiary Against Innocent"

## (An Insight on E-Waste Management)

Dr. Abhijeet Rohi[13]

*"Nature shrinks as capital grows. The growth of the market cannot solve the very crisis it creates."*

*— Vandana Shiva*

*Abstract:*

*Viewed through God's lens, there is no distinction between man and beast. But when we glance through man's lens, they are different. If a man thinks of other's hunger and pain, he is humane and so human, and when he does not think of others, he is beast. Of course, man is also an animal. When a person is totally divested of the humanity and human values, law is expected to reinforce the jurisprudence of 'Environmental protection.' Environment is always an envious ornament.*

*The world is advancing in technology and globe is reaping the fruits of advancement in technology Due to the fact that the life span of computers has dropped in developed countries from six years in 1997 to just two years in 2005, the amount of generated e-waste per year grows rapidly, the amount of generated e-waste per year grows rapidly. but the same time mankind is facing problems of managing leftovers in the form of e-waste.*

*"Electronic waste" may be defined as discarded Electronic waste (Ex. Computers, office electronic equipment, entertainment device electronics, mobile phones, television sets and refrigerators). This definition includes use electronic which are destined for reuse, resale, salvage, recycling, or disposal. Others define the re-usable (working and repairable electronics) and secondary scrap (copper, steel, plastic, etc.) to be "commodities", and further the term "waste" for residue or material which is dumped by the buyer rather than recycled, including residue from reuse and recycling operations.*

[13] Assistant Professor, Maharashtra National Law University, Mumbai

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## Contents


| | | |
|---|---|---|
| 1 | Artificial Intelligence and Law<br>*Dr P L Jayanthi Reddy* | 7 |
| 2 | 'e' Learning During Covid-19<br>*Prof Rakesh Suryadevara* | 9 |
| 3 | Personal Data Protection and Linkage<br>*Dr PL Jayanthi Reddy* | 10 |
| 4 | Electronic Contract VIS A VIS Cloud Computing<br>*Mrs. Farzana* | 11 |
| 5 | The Curious Case of Collusion by Algorithms<br>*Richa Prateek Jain* | 12 |
| 6 | Cyber Crimes and Digital Signatures<br>*Dr. Akbar Khan* | 13 |
| 7 | Right to Privacy and Techno-Legal Issues<br>*K Sita Manikyam* | 14 |
| 8 | Invisible Kineticism in Visible Technology: A Brief Sketch on the Nexus Between Nanotechnology and Information Technology<br>*Srinivas Borra* | 15 |
| 9 | Detecting and Preventing Click Fraud: The Economic and Legal Aspects<br>*C P Nandini* | 16 |
| 10 | Sexual Violence Depicted Against Women in Video Games: The Effect of Virtual World on the Real World<br>*Ahmar* | 17 |
| 11 | 'Global Glow of Nano Universe- an Emerging Technology'<br>*Dr. Geetanjali Chandra* | 18 |
| 12 | 'E-Pharmacy – A new projectile of pharmaceutical industry'<br>*Dr. Hansika Moparty* | 19 |
| 13 | "Intellectual Waste – An Incendiary Against Innocent" (An Insight on E-Waste Management)<br>*Dr. Abhijeet Rohi* | 20 |
| 14 | "Be it real or virtual – Dispute settlement is common"<br>*Dr. Sunitha Adhay Jain* | 21 |
| 15 | 'CYBER WORLD WAR - Emergency for addition of International Cyber Laws in International Humanitarian Law'<br>*MS. Mangala Gajanan Hiwarale* | 22 |

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# "Be it real or virtual – Dispute settlement is common"

Dr. Sunitha Adhay Jain[14]

*Abstract:*

*Today the global peace is mostly dependent on virtual world and relationships on line. A virtual world is an online community that takes the form of a computer-based simulated environment through which users can interact with one another and use and create objects. The term has become largely synonymous with interactive 3D virtual environments, where the users take the form of avatars visible to others.*

*The concept of virtual worlds significantly predates computers. The Roman naturalist, Pliny the Elder, expressed an interest in perceptual illusion. In the twentieth century, the cinematographer Morton Heilig explored the creation of the Sensorama, a theatre experience designed to stimulate the senses of the audience – vision, sound, balance, smell, even touch (via wind)—and so draw them more effectively into the productions*

*Among the earliest virtual worlds implemented by computers were virtual reality simulators, such as the work of Ivan Sutherland. Such devices are characterized by bulky headsets and other types of sensory input simulation. Contemporary virtual worlds, in particular the multi-user online environments, emerged mostly independently of this research, fueled instead by the gaming industry but drawing on similar inspiration. While classic sensory-imitating virtual reality relies on tricking the perceptual system into experiencing an immersive environment, virtual worlds typically rely on mentally and emotionally engaging content which gives rise to an immersive experience.*

[14] Associate Professor, School of Law, Christ University, Bangalore.

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## Contents


| | | |
|---|---|---|
| 1 | Artificial Intelligence and Law<br>*Dr P L Jayanthi Reddy* | 7 |
| 2 | 'e' Learning During Covid-19<br>*Prof Rakesh Suryadevara* | 9 |
| 3 | Personal Data Protection and Linkage<br>*Dr PL Jayanthi Reddy* | 10 |
| 4 | Electronic Contract VIS A VIS Cloud Computing<br>*Mrs. Farzana* | 11 |
| 5 | The Curious Case of Collusion by Algorithms<br>*Richa Prateek Jain* | 12 |
| 6 | Cyber Crimes and Digital Signatures<br>*Dr. Akbar Khan* | 13 |
| 7 | Right to Privacy and Techno-Legal Issues<br>*K Sita Manikyam* | 14 |
| 8 | Invisible Kineticism in Visible Technology: A Brief Sketch on the Nexus Between Nanotechnology and Information Technology<br>*Srinivas Borra* | 15 |
| 9 | Detecting and Preventing Click Fraud: The Economic and Legal Aspects<br>*C P Nandini* | 16 |
| 10 | Sexual Violence Depicted Against Women in Video Games: The Effect of Virtual World on the Real World<br>*Ahmar* | 17 |
| 11 | 'Global Glow of Nano Universe- an Emerging Technology'<br>*Dr. Geetanjali Chandra* | 18 |
| 12 | 'E-Pharmacy – A new projectile of pharmaceutical industry'<br>*Dr. Hamsika Moparty* | 19 |
| 13 | "Intellectual Waste – An Incendiary Against Innocent" (An Insight on E-Waste Management)<br>*Dr. Abhijeet Rohi* | 20 |
| 14 | "Be it real or virtual – Dispute settlement is common"<br>*Dr. Sunitha Adhay Jain* | 21 |
| 15 | 'CYBER WORLD WAR - Emergency for addition of International Cyber Laws in International Humanitarian Law'<br>*MS. Mangala Gajanan Hiwarale* | 22 |

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# 'CYBER WORLD WAR - Emergency for addition of International Cyber Laws in International Humanitarian Law'

**MS. Mangala Gajanan Hiwarale**[15]

*Abstract:*

*World development is parallel with much advancement in Information Technology consisting web technology, e-commerce, social networking etc. Information Technology has played and playing vital role Globalisation. Recent surveys revealed that 55% of world's market is occupied by Online Market witnessing greater share of Cyber Technogies in World Development in reaching faster and easier. We know that, world cyber technology has widely expanded and playing more than expected role in strengthening respective fields yielded to unboundaried businesses ex: Space, Defence, Science, Research, Software, Communications, Banking, Marketing, Shopping, Education, Entertainment, Gaming, Social Networking etc. Such a top widely used Cyber Technology is dead in means of its security and it's adverse effects victimising many innocent international cyber users. This is because, Cyber Technologies having great loop holes in designing, programming and functioning and more partcularly utterly failing as neither it could prevent users from breach nor catch such breachers. It is shocking to know that world's best 10 softwares are under the list of this categorised victims US Department of Justice, Linkedin, Democratic National Convention, Yahoo, World Anti-Doping Agency, Dyn, Adultfriendfinder together puts 2000 million victimisations suffering from their personal, private, official and confidential information. Then thinking about other millions of softwares, count of victims is behind imaginary. One has to take the responsibility.*

*Thus, this field is inviting it's evils like hacking, fraud, malfare, cheating, privacy less, security less etc. Such victims losing their valuable information on other side countable loss of hard-earned valuable money, crime records, murders, suicides, mental disorders, disputes are noticed. Graphs of victimisation, and nature of victimisation with figures worldwide:*

*Innocence of a common man, lack of infrastructures, non-availability of suitable software, mere knowledge of laws, partial implementation of laws, gaps in international laws are becoming major investment free businesses for International Fraudulent Communities.*

[15] Joint Civil Judge Junior Division and Judicial Magistrate First Class, Akot, Akola, Maharashtra.

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# Contents


| | | |
|---|---|---|
| 1. | Judicial Activism<br>*Dr Y Gangi Reddy* | *8* |
| 2. | Advocates Academy<br>*Dr Y Gangi Reddy* | *9* |
| 3. | Legal Education in India<br>*Dr Akbar Khan* | *10* |
| 4. | Medical Tourism and Legalities<br>*Dr Madhuri Irene* | *11* |
| 5. | National Education Policy 2020, a Step Towards International Standardization<br>*Dr Akbar Khan* | *12* |
| 6. | Professional Development and Continuous Education<br>Dr Rekaraj Jain | *13* |
| 7. | Legal Contours of Transgender Rights<br>*Dr. Rekharaj Jain* | *14* |
| 8. | Article 370 of the Constitution of India: A Catagorical Critique<br>*Dr. Irfan Rasool* | *15* |
| 9. | Section 89 of the Code of Civil Procedure 1908 as a Tool of Speedy Disposal of Civil Suits<br>*Dr.Madhuri Irene* | *16* |
| 10. | Missile Technology Control Regime Opportunities and Challenges- Indial Legal Perspective<br>*Dr.Sanu Rani Pal* | *17* |
| 11. | Gig-Economy and Social Security to Gig- workers in India: A Study<br>*Dr. M Ravindranath & Dr. Manu Datta* | *18* |
| 12. | Changing Dynamics of Live in Relationships<br>*Ms Priti* | *19* |
| 13. | Accessibility for Divyangjan(Persons with Disability) in India<br>*Mrs.L.Lakshmi* | *20* |
| 14. | 19th Century African-American Women Slave Narrative<br>*O.Sankar* | *21* |
| 15. | Human DNA Profiling Bill 2015: An Analysis<br>*Dr Damodar Reddy* | *22* |
| 16. | Protection of Animal Rights in India<br>*Dr. K.V.Ravi Kumar* | *23* |
| 17. | Dilemma in Divorce Theory with Special Reference to Hindu Law<br>*Dr. Madhuri Irene* | *24* |
| 18. | Manhole Deaths: Realising the Unrealistic<br>*Dr.S.Kannan* | *25* |
| 19. | Excluded among the Excluded : The Status of Tribal Women in Telangana<br>*Dr S Kannan* | *26* |
| 20. | "From Berated Blindness To Blooming Blue Economy"- An Emergent Call To Protect Marine Wealth<br>*Dr. Madhuri Irene* | *27* |
| 21. | Effective Presentation Skills, Language, Gender, Understanding the Power Structure.<br>*O Sankar* | *28* |

22. Access to Institutional Credit among Scheduled Tribes in Telangana . A Case study from Sankarpalli Mandal. *29*
*Dr. Kannan*

23. Protection of Human Rights in India. *30*
*Dr.K.Ravi Kumar*

24. A Qualitative Analysis of Cross Dressing Legitimacy with Special Reference to India *31*
*Dr.Rekharaj Jain*

25. Community Sanitary Latrines in insanitary Condition Requires Amendment in Manual Scavengers Act 2013 *32*
*Dr. Kannan*

26. Commercialisation of Leisure and Sports: A Case Study of Khanapur Village , Telangana *33*
*Dr .S.Kannan*

27. Women , Surrogacy Law and Social Justice *34*
*Astha Srivastav*

28. 360 Degrees Sustainable Models for Indian Universities *35*
*Dr. Arun Kumar*

29. UNLIKELY END OF SINO-US TRADE WAR *36*
*Dr. S. Uma*

30. Maternal Commitments and Women Workforce Participation in Urban India *37*
*Dr. Iti Vyas*

31. The Threshold of OECD Revised Guidance on Profit-Split Method during COVID-19. *38*
*Dr. Vinay Sharma*

32. Plea Bargaining ; A Critical Analysis *39*
*Dr.T.Himavati*

33. Stem Cell Protection: Legal and Ethical Issues *40*
*Dr. A.Sreelatha*

34. Regulation of Clinical Trials in India: A Critical Study with special reference to the Drugs and Cosmetics Act, 1940 *41*
*Aditi Nidhi*

35. Changing Perceptions in Space Law: A Special Focus on Theory of Non-Appropriation and Commercialization of Outer Space *42*
*Dr. Poorvi Kantroo*

36. Merchant of Venice : The Quest for Justice *43*
*Dr Padmanabha Rao*

37. Justice Irrespective of Gender: Unsex the Women Empowerment Laws *44*
*Katiyani Juneja*

38. UBER : Issues and Challenges *45*
*Ms Sanu Rani Paul*

39. Democracy in Singapore *46*
*Dr. Uma Sonti*

40. Problems and Prospects of Handloom Sector in Employment Generation in Telangana State *47*
*P. Kesari*

41. Issues of Internal Migrant Labour in India and Legal Response. An Analysis *48*
*Manu Datta*

42. Objectification of women in media: A Feminist-Legal Analysis *49*
*Stithi Dasgupta*

43. Challenging a foreign arbitral award in domestic courts- An Analysis *50*
*Dr.P.L.Jayanthi Reddy*

44. Heterogenity and Spirituality *51*
*Dr. Rekharaj Jain*

45. A Critical Analysis on Mahatma Gandhi Rural Employment Guarantee Act 2005 *52*
*Y. Gangi Reddy*

46. The Concept of Freedom and the Constitutional Control: A socio-political analysis *53*
*Dr. Dilshad Shaik*

47. Environmental Protection in the Framework of International Law - A Study *54*
*Prof.T.Sita Kumara*

48. The balance between environmental protection and developmental activities: Past, Present and Future A Socio-legal Analysis *55*
*Dr.R.D.Vijayasekhar*

49. The Issue of Collective Land Ownership Under African Customary Land Law: The Case of Cameroon *56*
*Fonja Julius Achu*

50. Misleading Advertisements in India: A Comparative and Critical Analysis *57*
*Anita A Patil*

51. Educational Qualifications of Elected Representatives: Need of the Hour for a Progressive Democracy *58*
*Masood Ahmad*

52. The Impact of Artificial Insemination on the Institution of Family: Legal Nuances *59*
*Dr. D Srujana*

53. The Role of Law Commission in Revamping the Overburdened Supreme Court *60*
*B Muthu Kumar*

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# Judicial Activism

Dr Y Gangi Reddy[1]

*Abstract :*

*The Supreme Court of India is currently handling critical issues which are more fundamental in the history of Indian independence. After the roaster issues raised by some of the honourable judges in press meet, the independence of the investigating agency- CBI and defence and country's security are on the cards of the Apex body. In addition to it, the religious independence and equality issues relating to Shabarmalai temple, Ayodhya temple i are other significant issues before the court.*

*The orders of the Supreme Courts are defied in the case of Shabarimalai temple and Diwali green cracker issues. Though the order is issued in favour of the women to enter into the temple, the religious groups supported by the political fractions, have created a havoc in the recent past near to the temple and resulting in the law and order situation. Though the Apex Court has issued the orders, to avoid more pollution in seriously polluted city -Delhi and other places to use green crackers in the light of Deewali festival. Not much attention is paid and implemented the order. The Court, without giving clarity of the green crackers have ordered to use green crackers for the Deewali , a festival of lights, is the criticism it faced. Another significant case before the Court in the hearing is the Raffile fighter issues. It is an important issue because of its relation to the internal security, solder's motivation and international business transaction. When the government is charged with an allegation of a scam in the purchase of Raffile fighters and fixing of the offset partners for French manufacturer through a government to government agreement, the petitions are filed under the trial before the court. It is a very critical case, as it relates to use of public funds, quality of the military performance when the fighters are inducted into it, Government's role, are some of the important issues associated with the case. However, the Supreme Court has dealt many cases of national importance earlier, we are sure, without compromising at any stage, the court will certainly standby the merits of the case and protect the interests of the country without compromising or coming under the pressure from different parties interested in the issue.*

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# Contents


1. Judicial Activism — 8
   *Dr Y Gangi Reddy*
2. Advocates Academy — 9
   *Dr Y Gangi Reddy*
3. Legal Education in India — 10
   *Dr Akbar Khan*
4. Medical Tourism and Legalities — 11
   *Dr Madhuri Irene*
5. National Education Policy 2020, a Step Towards International Standardization — 12
   *Dr Akbar Khan*
6. Professional Development and Continuous Education — 13
   Dr Rekaraj Jain
7. Legal Contours of Transgender Rights — 14
   *Dr. Rekharaj Jain*
8. Article 370 of the Constitution of India: A Catagorical Critique — 15
   *Dr. Irfan Rasool*
9. Section 89 of the Code of Civil Procedure 1908 as a Tool of Speedy Disposal of Civil Suits — 16
   *Dr.Madhuri Irene*
10. Missile Technology Control Regime Opportunities and Challenges- Indial Legal Perspective — 17
    *Dr.Sanu Rani Pal*
11. Gig-Economy and Social Security to Gig- workers in India: A Study — 18
    *Dr. M Ravindranath & Dr. Manu Datta*
12. Changing Dynamics of Live in Relationships — 19
    *Ms Priti*
13. Accessibility for Divyangjan(Persons with Disability) in India — 20
    *Mrs.L.Lakshmi*
14. 19th Century African-American Women Slave Narrative — 21
    *O.Sankar*
15. Human DNA Profiling Bill 2015: An Analysis — 22
    *Dr Damodar Reddy*
16. Protection of Animal Rights in India — 23
    *Dr. K.V.Ravi Kumar*
17. Dilemma in Divorce Theory with Special Reference to Hindu Law — 24
    *Dr. Madhuri Irene*
18. Manhole Deaths: Realising the Unrealistic — 25
    *Dr.S.Kannan*
19. Excluded among the Excluded : The Status of Tribal Women in Telangana — 26
    *Dr S Kannan*
20. "From Berated Blindness To Blooming Blue Economy"- An Emergent Call To Protect Marine Wealth — 27
    *Dr. Madhuri Irene*
21. Effective Presentation Skills, Language, Gender, Understanding the Power Structure. — 28
    *O Sankar*

22. Access to Institutional Credit among Scheduled Tribes in Telangana . A Case study from Sankarpalli Mandal. 29
*Dr. Kannan*

23. Protection of Human Rights in India. 30
*Dr.K.Ravi Kumar*

24. A Qualitative Analysis of Cross Dressing Legitimacy with Special Reference to India 31
*Dr.Rekharaj Jain*

25. Community Sanitary Latrines in insanitary Condition Requires Amendment in Manual Scavengers Act 2013 32
*Dr. Kannan*

26. Commercialisation of Leisure and Sports: A Case Study of Khanapur Village , Telangana 33
*Dr .S.Kannan*

27. Women , Surrogacy Law and Social Justice 34
*Astha Srivastav*

28. 360 Degrees Sustainable Models for Indian Universities 35
*Dr. Arun Kumar*

29. UNLIKELY END OF SINO-US TRADE WAR 36
*Dr. S. Uma*

30. Maternal Commitments and Women Workforce Participation in Urban India 37
*Dr. Iti Vyas*

31. The Threshold of OECD Revised Guidance on Profit-Split Method during COVID-19. 38
*Dr. Vinay Sharma*

32. Plea Bargaining ; A Critical Analysis 39
*Dr.T.Himavati*

33. Stem Cell Protection: Legal and Ethical Issues 40
*Dr. A.Sreelatha*

34. Regulation of Clinical Trials in India: A Critical Study with special reference to the Drugs and Cosmetics Act, 1940 41
*Aditi Nidhi*

35. Changing Perceptions in Space Law: A Special Focus on Theory of Non-Appropriation and Commercialization of Outer Space 42
*Dr. Poorvi Kantroo*

36. Merchant of Venice : The Quest for Justice 43
*Dr Padmanabha Rao*

37. Justice Irrespective of Gender: Unsex the Women Empowerment Laws 44
*Katiyani Juneja*

38. UBER : Issues and Challenges 45
*Ms Sanu Rani Paul*

39. Democracy in Singapore 46
*Dr. Uma Sonti*

40. Problems and Prospects of Handloom Sector in Employment Generation in Telangana State 47
*P. Kesari*

41. Issues of Internal Migrant Labour in India and Legal Response: An Analysis 48
*Manu Datta*

42. Objectification of women in media: A Feminist-Legal Analysis 49
*Stithi Dasgupta*

43. Challenging a foreign arbitral award in domestic courts- An Analysis 50
*Dr.P.L.Jayanthi Reddy*

44. Heterogenity and Spirituality 51
*Dr. Rekharaj Jain*

45. A Critical Analysis on Mahatma Gandhi Rural Employment Guarantee Act 2005 52
*Y. Gangi Reddy*

46. The Concept of Freedom and the Constitutional Control: A socio-political analysis 53
*Dr. Dilshad Shaik*

47. Environmental Protection in the Framework of International Law - A Study 54
*Prof.T.Sita Kumara*

48. The balance between environmental protection and developmental activities: Past, Present and Future A Socio-legal Analysis 55
*Dr.R.D.Vijayasekhar*

49. The Issue of Collective Land Ownership Under African Customary Land Law: The Case of Cameroon 56
*Fonja Julius Achu*

50. Misleading Advertisements in India: A Comparative and Critical Analysis 57
*Anita A Patil*

51. Educational Qualifications of Elected Representatives: Need of the Hour for a Progressive Democracy 58
*Masood Ahmad*

52. The Impact of Artificial Insemination on the Institution of Family: Legal Nuances 59
*Dr. D Srujana*

53. The Role of Law Commission in Revamping the Overburdened Supreme Court 60
*B Muthu Kumar*

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# Advocates Academy

Dr Y Gangi Reddy[2]

*Abstract :*

*The lawyers are considered as the social engineers as they are the architects of desired society. The legal professionals and judicial system play vital role in upholding the Rule of Law in a country. Rule of Law is the bedrock of the democracy as it strives for balancing the three wings of the constitution and promotes the independency.*

*The law is dynamic and grows organically with the addition of new legislations, case laws, policy documents, research documents, working papers, commission reports and so on. At the same time ignorance of law is not excusable. The spread of advocates with their socio and economic divergences, it will be difficult for them to reach and acquire the required updates from the clouds of law to protect the clients from the complex problems forming part of the new laws and procedures. Every advocate needs to build the knowledge bank for the beneficial use of the society. The social fabric requires well-informed citizens for healthy democratic values and socio-political empowerment.*

*As such, there is a need for continuous learning avenues for the advocates. Advocates need continuous updating on variety of new generation laws and legal principles. A well framed institution having the processes and models to provide the knowledge required for the advocates is the need of the hour. The institution like the Advocates Academy, on lines with the Judicial Academy is desired for providing the trainings, legal forum discussions, organizing the workshops, seminars and symposiums to enlighten the advocates . It should not provide the updations on the happenings in the legal arena, but also a resource centre and repository for the advocates references. The Advocates Academy is already existing in some of the states and other countries propagating the advocacy issues. The states in India, having no such facilities, are required to take immediate initiations for establishing the Advocates Academy for providing continuous learning to the advocates with array of programs.*

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# Contents


| | | |
|---|---|---|
| 1. | Judicial Activism<br>*Dr Y Gangi Reddy* | *8* |
| 2. | Advocates Academy<br>*Dr Y Gangi Reddy* | *9* |
| 3. | Legal Education in India<br>*Dr Akbar Khan* | *10* |
| 4. | Medical Tourism and Legalities<br>*Dr Madhuri Irene* | *11* |
| 5. | National Education Policy 2020, a Step Towards International Standardization<br>*Dr Akbar Khan* | *12* |
| 6. | Professional Development and Continuous Education<br>Dr Rekaraj Jain | *13* |
| 7. | Legal Contours of Transgender Rights<br>*Dr. Rekharaj Jain* | *14* |
| 8. | Article 370 of the Constitution of India: A Catagorical Critique<br>*Dr. Irfan Rasool* | *15* |
| 9. | Section 89 of the Code of Civil Procedure 1908 as a Tool of Speedy Disposal of Civil Suits<br>*Dr.Madhuri Irene* | *16* |
| 10. | Missile Technology Control Regime Opportunities and Challenges- Indial Legal Perspective<br>*Dr.Sanu Rani Pal* | *17* |
| 11. | Gig-Economy and Social Security to Gig- workers in India: A Study<br>*Dr. M Ravindranath & Dr. Manu Datta* | *18* |
| 12. | Changing Dynamics of Live in Relationships<br>*Ms Priti* | *19* |
| 13. | Accessibility for Divyangjan(Persons with Disability) in India<br>*Mrs.L.Lakshmi* | *20* |
| 14. | 19th Century African-American Women Slave Narrative<br>*O.Sankar* | *21* |
| 15. | Human DNA Profiling Bill 2015: An Analysis<br>*Dr Damodar Reddy* | *22* |
| 16. | Protection of Animal Rights in India<br>*Dr. K.V.Ravi Kumar* | *23* |
| 17. | Dilemma in Divorce Theory with Special Reference to Hindu Law<br>*Dr. Madhuri Irene* | *24* |
| 18. | Manhole Deaths: Realising the Unrealistic<br>*Dr.S.Kannan* | *25* |
| 19. | Excluded among the Excluded : The Status of Tribal Women in Telangana<br>*Dr S Kannan* | *26* |
| 20. | "From Berated Blindness To Blooming Blue Economy"- An Emergent Call To Protect Marine Wealth<br>*Dr. Madhuri Irene* | *27* |
| 21. | Effective Presentation Skills, Language, Gender, Understanding the Power Structure.<br>*O Sankar* | *28* |

22. Access to Institutional Credit among Scheduled Tribes in Telangana . A Case study from Sankarpalli Mandal. 29
*Dr. Kannan*

23. Protection of Human Rights in India. 30
*Dr.K.Ravi Kumar*

24. A Qualitative Analysis of Cross Dressing Legitimacy with Special Reference to India 31
*Dr.Rekharaj Jain*

25. Community Sanitary Latrines in insanitary Condition Requires Amendment in Manual Scavengers Act 2013 32
*Dr. Kannan*

26. Commercialisation of Leisure and Sports: A Case Study of Khanapur Village , Telangana 33
*Dr .S.Kannan*

27. Women , Surrogacy Law and Social Justice 34
*Astha Srivastav*

28. 360 Degrees Sustainable Models for Indian Universities 35
*Dr. Arun Kumar*

29. UNLIKELY END OF SINO-US TRADE WAR 36
*Dr. S. Uma*

30. Maternal Commitments and Women Workforce Participation in Urban India 37
*Dr. Iti Vyas*

31. The Threshold of OECD Revised Guidance on Profit-Split Method during COVID-19. 38
*Dr. Vinay Sharma*

32. Plea Bargaining ; A Critical Analysis 39
*Dr.T.Himavati*

33. Stem Cell Protection: Legal and Ethical Issues 40
*Dr. A.Sreelatha*

34. Regulation of Clinical Trials in India: A Critical Study with special reference to the Drugs and Cosmetics Act, 1940 41
*Aditi Nidhi*

35. Changing Perceptions in Space Law: A Special Focus on Theory of Non-Appropriation and Commercialization of Outer Space 42
*Dr. Poorvi Kantroo*

36. Merchant of Venice : The Quest for Justice 43
*Dr Padmanabha Rao*

37. Justice Irrespective of Gender: Unsex the Women Empowerment Laws 44
*Katiyani Juneja*

38. UBER : Issues and Challenges 45
*Ms Sanu Rani Paul*

39. Democracy in Singapore 46
*Dr. Uma Sonti*

40. Problems and Prospects of Handloom Sector in Employment Generation in Telangana State 47
*P. Kesari*

41. Issues of Internal Migrant Labour in India and Legal Response: An Analysis 48
*Manu Datta*

42. Objectification of women in media: A Feminist-Legal Analysis 49
*Stithi Dasgupta*

43. Challenging a foreign arbitral award in domestic courts- An Analysis 50
*Dr.P.L.Jayanthi Reddy*

44. Heterogenity and Spirituality 51
*Dr. Rekharaj Jain*

45. A Critical Analysis on Mahatma Gandhi Rural Employment Guarantee Act 2005 52
*Y. Gangi Reddy*

46. The Concept of Freedom and the Constitutional Control: A socio-political analysis 53
*Dr. Dilshad Shaik*

47. Environmental Protection in the Framework of International Law - A Study 54
*Prof.T.Sita Kumara*

48. The balance between environmental protection and developmental activities: Past, Present and Future A Socio-legal Analysis 55
*Dr.R.D.Vijayasekhar*

49. The Issue of Collective Land Ownership Under African Customary Land Law: The Case of Cameroon 56
*Fonja Julius Achu*

50. Misleading Advertisements in India: A Comparative and Critical Analysis 57
*Anita A Patil*

51. Educational Qualifications of Elected Representatives: Need of the Hour for a Progressive Democracy 58
*Masood Ahmad*

52. The Impact of Artificial Insemination on the Institution of Family: Legal Nuances 59
*Dr. D Srujana*

53. The Role of Law Commission in Revamping the Overburdened Supreme Court 60
*B Muthu Kumar*

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# LEGAL EDUCATION IN INDIA

Dr Akbar Khan[3]

*Abstract :*

*The legal education in India has faced many turbulences during last few decades. The Advocates Act 1961 has empowered the Bar Council of India to define and maintain the standards of the legal education in the interest and quality of Bar and Bench. The Legal Education Regulations framed by it by following the due process of law have succeeded to some extent in instilling the quality parameters in imparting the legal education at different levels such as admissions of students into legal education centres, designing of the law programs and curriculum and also before and after the enrolment of the successful students as advocates.*

*There is a wide gap among the legal education institutions offering the legal education across the country. The standards of national law universities, law departments or units of the traditional universities, affiliated colleges of the universities, law schools forming parting of the private and deemed universities varies throwing wide gaps in between quality of the students passing out from such universities. It is because of the structure and financial conditions of the institutions. The national law universities are established with the financial support of the state governments, bar councils and under the patronage of the Judiciary. The state governments have allotted the required land to the national law universities at nominal rates or on free and also allotted quite a handsome amount of budgets initially. As such they are able to develop and build the world class infrastructure including the libraries and moot courts. It makes a significant distinguishing factor among the legal education institutions. The law departments of traditional universities and its affiliated colleges always caught in fund crunches and fall under non-priority sector of such universities. Accordingly, the non- availability of qualitative academic infrastructure and resources impacts the quality of legal education offered by such universities. The varied standards of the legal professionals can be easily noticed among the students passing out from different class of legal education institutions and their impact upon the Bar and Bench.*

*The Legal Education Rules framed by the Bar Council of India have paved a way for standardization of the legal education in India. The frequent inspection of the legal education centres for the purpose assessing the availability of physical and human resources to impart the legal education and accord approvals to the institutions permitting them to impart the legal education is one of the good and sound approach in standardizing the legal education, but, many a times because of various factors such as socio-economic and political and complex business environments. There should be a self regulation and mechanism to assess the availability of infrastructure at the affiliated colleges and approval should be provided at nominal cost so that the funds may be utilized for improving the quality of legal education at their end. All the legal education institutions should be treated at equal pedestal and provide the opportunities for them to grow by providing the financial assistances to the weaker ones.*

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# Contents


1. Judicial Activism — 8
   *Dr Y Gangi Reddy*
2. Advocates Academy — 9
   *Dr Y Gangi Reddy*
3. Legal Education in India — 10
   *Dr Akbar Khan*
4. Medical Tourism and Legalities — 11
   *Dr Madhuri Irene*
5. National Education Policy 2020, a Step Towards International Standardization — 12
   *Dr Akbar Khan*
6. Professional Development and Continuous Education — 13
   Dr Rekaraj Jain
7. Legal Contours of Transgender Rights — 14
   *Dr. Rekharaj Jain*
8. Article 370 of the Constitution of India: A Catagorical Critique — 15
   *Dr. Irfan Rasool*
9. Section 89 of the Code of Civil Procedure 1908 as a Tool of Speedy Disposal of Civil Suits — 16
   *Dr.Madhuri Irene*
10. Missile Technology Control Regime Opportunities and Challenges- Indial Legal Perspective — 17
    *Dr.Sanu Rani Pal*
11. Gig-Economy and Social Security to Gig- workers in India: A Study — 18
    *Dr. M Ravindranath & Dr. Manu Datta*
12. Changing Dynamics of Live in Relationships — 19
    *Ms Priti*
13. Accessibility for Divyangjan(Persons with Disability) in India — 20
    *Mrs.L.Lakshmi*
14. 19th Century African-American Women Slave Narrative — 21
    *O.Sankar*
15. Human DNA Profiling Bill 2015: An Analysis — 22
    *Dr Damodar Reddy*
16. Protection of Animal Rights in India — 23
    *Dr. K.V.Ravi Kumar*
17. Dilemma in Divorce Theory with Special Reference to Hindu Law — 24
    *Dr. Madhuri Irene*
18. Manhole Deaths: Realising the Unrealistic — 25
    *Dr.S.Kannan*
19. Excluded among the Excluded : The Status of Tribal Women in Telangana — 26
    *Dr S Kannan*
20. "From Berated Blindness To Blooming Blue Economy"- An Emergent Call To Protect Marine Wealth — 27
    *Dr. Madhuri Irene*
21. Effective Presentation Skills, Language, Gender, Understanding the Power Structure. — 28
    *O Sankar*

22. Access to Institutional Credit among Scheduled Tribes in Telangana . A Case study from Sankarpalli Mandal. 29
*Dr. Kannan*

23. Protection of Human Rights in India. 30
*Dr.K.Ravi Kumar*

24. A Qualitative Analysis of Cross Dressing Legitimacy with Special Reference to India 31
*Dr.Rekharaj Jain*

25. Community Sanitary Latrines in insanitary Condition Requires Amendment in Manual Scavengers Act 2013 32
*Dr. Kannan*

26. Commercialisation of Leisure and Sports: A Case Study of Khanapur Village , Telangana 33
*Dr .S.Kannan*

27. Women , Surrogacy Law and Social Justice 34
*Astha Srivastav*

28. 360 Degrees Sustainable Models for Indian Universities 35
*Dr. Arun Kumar*

29. UNLIKELY END OF SINO-US TRADE WAR 36
*Dr. S. Uma*

30. Maternal Commitments and Women Workforce Participation in Urban India 37
*Dr. Iti Vyas*

31. The Threshold of OECD Revised Guidance on Profit-Split Method during COVID-19. 38
*Dr. Vinay Sharma*

32. Plea Bargaining ; A Critical Analysis 39
*Dr.T.Himavati*

33. Stem Cell Protection: Legal and Ethical Issues 40
*Dr. A.Sreelatha*

34. Regulation of Clinical Trials in India: A Critical Study with special reference to the Drugs and Cosmetics Act, 1940 41
*Aditi Nidhi*

35. Changing Perceptions in Space Law: A Special Focus on Theory of Non-Appropriation and Commercialization of Outer Space 42
*Dr. Poorvi Kantroo*

36. Merchant of Venice : The Quest for Justice 43
*Dr Padmanabha Rao*

37. Justice Irrespective of Gender: Unsex the Women Empowerment Laws 44
*Katiyani Juneja*

38. UBER : Issues and Challenges 45
*Ms Sanu Rani Paul*

39. Democracy in Singapore 46
*Dr. Uma Sonti*

40. Problems and Prospects of Handloom Sector in Employment Generation in Telangana State 47
*P. Kesari*

41. Issues of Internal Migrant Labour in India and Legal Response: An Analysis 48
*Manu Datta*

42. Objectification of women in media: A Feminist-Legal Analysis 49
*Stithi Dasgupta*
43. Challenging a foreign arbitral award in domestic courts- An Analysis 50
*Dr.P.L.Jayanthi Reddy*
44. Heterogenity and Spirituality 51
*Dr. Rekharaj Jain*
45. A Critical Analysis on Mahatma Gandhi Rural Employment Guarantee Act 2005 52
*Y. Gangi Reddy*
46. The Concept of Freedom and the Constitutional Control: A socio-political analysis 53
*Dr. Dilshad Shaik*
47. Environmental Protection in the Framework of International Law - A Study 54
*Prof.T.Sita Kumara*
48. The balance between environmental protection and developmental activities: Past, Present and Future A Socio-legal Analysis 55
*Dr.R.D.Vijayasekhar*

49. The Issue of Collective Land Ownership Under African Customary Land Law: The Case of Cameroon 56
*Fonja Julius Achu*
50. Misleading Advertisements in India: A Comparative and Critical Analysis 57
*Anita A Patil*
51. Educational Qualifications of Elected Representatives: Need of the Hour for a Progressive Democracy 58
*Masood Ahmad*
52. The Impact of Artificial Insemination on the Institution of Family: Legal Nuances 59
*Dr. D Srujana*
53. The Role of Law Commission in Revamping the Overburdened Supreme Court 60
*B Muthu Kumar*

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# Medical Tourism and Legalities

Dr Madhuri Irene[4]

*Abstract :*

*India is becoming the hub of medical tourism of the world. Tourists from various countries like USA, Canada, Brittan and Australia are visiting India not only to experience hospitality of Indian culture, but also for treating their ailments. India has laid its prominent footing in the healthcare services in the global market in addition to the computer and software sector because of quality medical education it imparts. The young personnel graduating every year are taking responsibilities of healthcare services and rejuvenating the field with their expertise. The investments in the healthcare industry are mounting in multifold and even the FDIs are showing interest in the healthcare sector. A number of reasons of growth of medical tourism may be quoted like the availability of expertise in the niche areas of healthcare services such as plastic surgery, heart operations, replacement of organs like kidneys, ortho-neuro surgeries and treatments relating to dental care including surgery and cosmetic-dental treatments.*

*The Indian government is also encouraging the medical tourism. The Indian Health Policy has declared that the 'treatment of foreign patients is equivalent to the export of health services'. The government has also permitting incentives for such services. It is a welcome measure and legal protection to the medical tourism. But, there arises some issues which need to be addressed legally. The foreign patients require post operational care and regular checkup after their treatment to avoid side effects and medical complications. Because of short stay of foreign patients as tourists in India, who came on tourism and availed the healthcare services, the post operational care may not be provided to them as required. It may cause health problems and land the Indian healthcare services providers into legal tangle. And sometimes it may cause concern among other visitors to India effect the medical tourism adversely. The doctors may not have opportunity to monitor the health of the foreign patients in order to advise them properly in the light of the treatment they have. There are other legal barriers for the medical tourism like transfer of funds, insurance coverage, claims settlement, applicability of law relating to drugs and pharmaceuticals etcs which needs to be addressed immediately.*

*In this context there is every need for a comprehensive legislation on medical tourism and use of healthcare services. The legislation should provide for cross-boundary health insurance services. The concept of medical negligence and its application to the foreign patients should be clearly defined to avoid legal complications. The legislation should specify the protection to the Indian healthcare services against untoward incidents or complexities that arise from the medical tourism. As a general principle it should protect the consumers, the foreign patients and define the hierarchy of judiciary to deal with the disputes arising between the service providers and service recipients. The legislation should deter the malafide transactions and moral hazards. A well designed and drafted law is the requirement of the day to address various complexities expected to result of interstate transactions of healthcare services. Care has to be taken to impose responsibility upon the healthcare service providers to contribute part of their income from the medical tourism for treatment of poor of the country.*

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# Contents


| | | |
|---|---|---|
| 1. | Judicial Activism<br>*Dr Y Gangi Reddy* | *8* |
| 2. | Advocates Academy<br>*Dr Y Gangi Reddy* | *9* |
| 3. | Legal Education in India<br>*Dr Akbar Khan* | *10* |
| 4. | Medical Tourism and Legalities<br>*Dr Madhuri Irene* | *11* |
| 5. | National Education Policy 2020, a Step Towards International Standardization<br>*Dr Akbar Khan* | *12* |
| 6. | Professional Development and Continuous Education<br>Dr Rekaraj Jain | *13* |
| 7. | Legal Contours of Transgender Rights<br>*Dr. Rekharaj Jain* | *14* |
| 8. | Article 370 of the Constitution of India: A Catagorical Critique<br>*Dr. Irfan Rasool* | *15* |
| 9. | Section 89 of the Code of Civil Procedure 1908 as a Tool of Speedy Disposal of Civil Suits<br>*Dr.Madhuri Irene* | *16* |
| 10. | Missile Technology Control Regime Opportunities and Challenges- Indial Legal Perspective<br>*Dr.Sanu Rani Pal* | *17* |
| 11. | Gig-Economy and Social Security to Gig- workers in India: A Study<br>*Dr. M Ravindranath & Dr. Manu Datta* | *18* |
| 12. | Changing Dynamics of Live in Relationships<br>*Ms Priti* | *19* |
| 13. | Accessibility for Divyangjan(Persons with Disability) in India<br>*Mrs.L.Lakshmi* | *20* |
| 14. | 19th Century African-American Women Slave Narrative<br>*O.Sankar* | *21* |
| 15. | Human DNA Profiling Bill 2015: An Analysis<br>*Dr Damodar Reddy* | *22* |
| 16. | Protection of Animal Rights in India<br>*Dr. K.V.Ravi Kumar* | *23* |
| 17. | Dilemma in Divorce Theory with Special Reference to Hindu Law<br>*Dr. Madhuri Irene* | *24* |
| 18. | Manhole Deaths: Realising the Unrealistic<br>*Dr.S.Kannan* | *25* |
| 19. | Excluded among the Excluded : The Status of Tribal Women in Telangana<br>*Dr S Kannan* | *26* |
| 20. | "From Berated Blindness To Blooming Blue Economy"- An Emergent Call To Protect Marine Wealth<br>*Dr. Madhuri Irene* | *27* |
| 21. | Effective Presentation Skills, Language, Gender, Understanding the Power Structure.<br>*O Sankar* | *28* |

22. Access to Institutional Credit among Scheduled Tribes in Telangana . A Case study from Sankarpalli Mandal. 29
*Dr. Kannan*

23. Protection of Human Rights in India. 30
*Dr.K.Ravi Kumar*

24. A Qualitative Analysis of Cross Dressing Legitimacy with Special Reference to India 31
*Dr.Rekharaj Jain*

25. Community Sanitary Latrines in insanitary Condition Requires Amendment in Manual Scavengers Act 2013 32
*Dr. Kannan*

26. Commercialisation of Leisure and Sports: A Case Study of Khanapur Village , Telangana 33
*Dr .S.Kannan*

27. Women , Surrogacy Law and Social Justice 34
*Astha Srivastav*

28. 360 Degrees Sustainable Models for Indian Universities 35
*Dr. Arun Kumar*

29. UNLIKELY END OF SINO-US TRADE WAR 36
*Dr. S. Uma*

30. Maternal Commitments and Women Workforce Participation in Urban India 37
*Dr. Iti Vyas*

31. The Threshold of OECD Revised Guidance on Profit-Split Method during COVID-19. 38
*Dr. Vinay Sharma*

32. Plea Bargaining ; A Critical Analysis 39
*Dr.T.Himavati*

33. Stem Cell Protection: Legal and Ethical Issues 40
*Dr. A.Sreelatha*

34. Regulation of Clinical Trials in India: A Critical Study with special reference to the Drugs and Cosmetics Act, 1940 41
*Aditi Nidhi*

35. Changing Perceptions in Space Law: A Special Focus on Theory of Non-Appropriation and Commercialization of Outer Space 42
*Dr. Poorvi Kantroo*

36. Merchant of Venice : The Quest for Justice 43
*Dr Padmanabha Rao*

37. Justice Irrespective of Gender: Unsex the Women Empowerment Laws 44
*Katiyani Juneja*

38. UBER : Issues and Challenges 45
*Ms Sanu Rani Paul*

39. Democracy in Singapore 46
*Dr. Uma Sonti*

40. Problems and Prospects of Handloom Sector in Employment Generation in Telangana State 47
*P. Kesari*

41. Issues of Internal Migrant Labour in India and Legal Response: An Analysis 48
*Manu Datta*

42. Objectification of women in media: A Feminist-Legal Analysis 49
*Stithi Dasgupta*

43. Challenging a foreign arbitral award in domestic courts- An Analysis 50
*Dr.P.L.Jayanthi Reddy*

44. Heterogenity and Spirituality 51
*Dr. Rekharaj Jain*

45. A Critical Analysis on Mahatma Gandhi Rural Employment Guarantee Act 2005 52
*Y. Gangi Reddy*

46. The Concept of Freedom and the Constitutional Control: A socio-political analysis 53
*Dr. Dilshad Shaik*

47. Environmental Protection in the Framework of International Law - A Study 54
*Prof.T.Sita Kumara*

48. The balance between environmental protection and developmental activities: Past, Present and Future A Socio-legal Analysis 55
*Dr.R.D.Vijayasekhar*

49. The Issue of Collective Land Ownership Under African Customary Land Law: The Case of Cameroon 56
*Fonja Julius Achu*

50. Misleading Advertisements in India: A Comparative and Critical Analysis 57
*Anita A Patil*

51. Educational Qualifications of Elected Representatives: Need of the Hour for a Progressive Democracy 58
*Masood Ahmad*

52. The Impact of Artificial Insemination on the Institution of Family: Legal Nuances 59
*Dr. D Srujana*

53. The Role of Law Commission in Revamping the Overburdened Supreme Court 60
*B Muthu Kumar*

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# National Education Policy 2020, a Step Towards International Standardization

Dr Akbar Khan[5]

*Abstract :*

*The right to education is considered as part of the right to life guaranteed under Article 21 of the Constitution of India. Article 45 and 35(f) of the Constitution imposes duty on the Government to provide access to education to all. As part of its constitutional duty, the Government has established Higher Educational Institutions and also encouraging the private players with the excellence in education resources to impart the education to the public. The right to primary education is considered as a fundamental right to the children between the age of 6 and 14 years. The Governments, central and state, have initiated various schemes to promote the primary education and accessing the same by the children.*

*The New Educational Policy 2020 (NEP) pronounced in July 2020 is a visionary document and step towards the standardisation of Indian education system internationally. The Cabinet has pronounced that the new Educational Policy 2020 is an effort to make India a 'Global Knowledge Super Power'. It is considered as one of the major leap towards building a quality education system in India during the last half a decade. With the ever-changing socio-economic and political environment of the world, need for dynamic and quality education system is felt and after enough homework and brain-storming, the NEP 2020 has taken shape envisaging the need to modify the existing educational models prevailing at school and higher education levels. The NEP is planning to embrace the emerging technologies to inject the professionalization and scientific approach to the existing models along with financial support. Another important feather in the hat of higher education is discarding of the age old system of 'affiliated colleges' in next 15 years. It helps the prospects to have fair and equal opportunities. The NEP is also aimed to increase the gross enrolment ratios in the higher education. The formation of single regulatory body in the name of 'Higher Education Commission of India' with four independent verticals is another important element of the NEP 2020. A move towards the establishment of Multidisciplinary Education and Research Universities is aimed to encourage the interdisciplinary and choice based credits approach to the teaching learning process and reduce the gap between the industry and academia. Many Universities in India do not have sufficient facilities today to foster the research which is required to enhance the skill sets of individual students and transform him to employer instead of seeking employment. This move is a step towards the self reliance and self sufficiency.*

*Permitting the foreign universities to establish their campuses in India is a threat to domestic universities as none of the universities in India have ranked at the global higher education rankings. It is a double edge sword as it creates the competition among the Indian Universities to realign themselves to meet the challenge from the foreign universities on one count and the foreign universities may force some of the universities or higher education institutions to close or merge with others as there is scarcity of resources on other side. The entry of foreign universities into India is to be made on selective and need based, if not, they will not only wipe-off the age old universities of India representing our culture and heritage.*

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# Contents


| | | |
|---|---|---|
| 1. | Judicial Activism<br>*Dr Y Gangi Reddy* | *8* |
| 2. | Advocates Academy<br>*Dr Y Gangi Reddy* | *9* |
| 3. | Legal Education in India<br>*Dr Akbar Khan* | *10* |
| 4. | Medical Tourism and Legalities<br>*Dr Madhuri Irene* | *11* |
| 5. | National Education Policy 2020, a Step Towards International Standardization<br>*Dr Akbar Khan* | *12* |
| 6. | Professional Development and Continuous Education<br>Dr Rekaraj Jain | *13* |
| 7. | Legal Contours of Transgender Rights<br>*Dr. Rekharaj Jain* | *14* |
| 8. | Article 370 of the Constitution of India: A Catagorical Critique<br>*Dr. Irfan Rasool* | *15* |
| 9. | Section 89 of the Code of Civil Procedure 1908 as a Tool of Speedy Disposal of Civil Suits<br>*Dr.Madhuri Irene* | *16* |
| 10. | Missile Technology Control Regime Opportunities and Challenges- Indial Legal Perspective<br>*Dr.Sanu Rani Pal* | *17* |
| 11. | Gig-Economy and Social Security to Gig- workers in India: A Study<br>*Dr. M Ravindranath & Dr. Manu Datta* | *18* |
| 12. | Changing Dynamics of Live in Relationships<br>*Ms Priti* | *19* |
| 13. | Accessibility for Divyangjan(Persons with Disability) in India<br>*Mrs.L.Lakshmi* | *20* |
| 14. | 19th Century African-American Women Slave Narrative<br>*O.Sankar* | *21* |
| 15. | Human DNA Profiling Bill 2015: An Analysis<br>*Dr Damodar Reddy* | *22* |
| 16. | Protection of Animal Rights in India<br>*Dr. K.V.Ravi Kumar* | *23* |
| 17. | Dilemma in Divorce Theory with Special Reference to Hindu Law<br>*Dr. Madhuri Irene* | *24* |
| 18. | Manhole Deaths: Realising the Unrealistic<br>*Dr.S.Kannan* | *25* |
| 19. | Excluded among the Excluded : The Status of Tribal Women in Telangana<br>*Dr S Kannan* | *26* |
| 20. | "From Berated Blindness To Blooming Blue Economy"- An Emergent Call To Protect Marine Wealth<br>*Dr. Madhuri Irene* | *27* |
| 21. | Effective Presentation Skills, Language, Gender, Understanding the Power Structure.<br>*O Sankar* | *28* |

22. Access to Institutional Credit among Scheduled Tribes in Telangana . A Case study from Sankarpalli Mandal. 29
*Dr. Kannan*

23. Protection of Human Rights in India. 30
*Dr.K.Ravi Kumar*

24. A Qualitative Analysis of Cross Dressing Legitimacy with Special Reference to India 31
*Dr.Rekharaj Jain*

25. Community Sanitary Latrines in insanitary Condition Requires Amendment in Manual Scavengers Act 2013 32
*Dr. Kannan*

26. Commercialisation of Leisure and Sports: A Case Study of Khanapur Village , Telangana 33
*Dr .S.Kannan*

27. Women , Surrogacy Law and Social Justice 34
*Astha Srivastav*

28. 360 Degrees Sustainable Models for Indian Universities 35
*Dr. Arun Kumar*

29. UNLIKELY END OF SINO-US TRADE WAR 36
*Dr. S. Uma*

30. Maternal Commitments and Women Workforce Participation in Urban India 37
*Dr. Iti Vyas*

31. The Threshold of OECD Revised Guidance on Profit-Split Method during COVID-19. 38
*Dr. Vinay Sharma*

32. Plea Bargaining ; A Critical Analysis 39
*Dr.T.Himavati*

33. Stem Cell Protection: Legal and Ethical Issues 40
*Dr. A.Sreelatha*

34. Regulation of Clinical Trials in India: A Critical Study with special reference to the Drugs and Cosmetics Act, 1940 41
*Aditi Nidhi*

35. Changing Perceptions in Space Law: A Special Focus on Theory of Non-Appropriation and Commercialization of Outer Space 42
*Dr. Poorvi Kantroo*

36. Merchant of Venice : The Quest for Justice 43
*Dr Padmanabha Rao*

37. Justice Irrespective of Gender: Unsex the Women Empowerment Laws 44
*Katiyani Juneja*

38. UBER : Issues and Challenges 45
*Ms Sanu Rani Paul*

39. Democracy in Singapore 46
*Dr. Uma Sonti*

40. Problems and Prospects of Handloom Sector in Employment Generation in Telangana State 47
*P. Kesari*

41. Issues of Internal Migrant Labour in India and Legal Response: An Analysis 48
*Manu Datta*

42. Objectification of women in media: A Feminist-Legal Analysis 49
*Stithi Dasgupta*
43. Challenging a foreign arbitral award in domestic courts- An Analysis 50
*Dr.P.L.Jayanthi Reddy*
44. Heterogenity and Spirituality 51
*Dr. Rekharaj Jain*
45. A Critical Analysis on Mahatma Gandhi Rural Employment Guarantee Act 2005 52
*Y. Gangi Reddy*
46. The Concept of Freedom and the Constitutional Control: A socio-political analysis 53
*Dr. Dilshad Shaik*
47. Environmental Protection in the Framework of International Law - A Study 54
*Prof.T.Sita Kumara*
48. The balance between environmental protection and developmental activities: Past, Present and Future A Socio-legal Analysis 55
*Dr.R.D.Vijayasekhar*

49. The Issue of Collective Land Ownership Under African Customary Land Law: The Case of Cameroon 56
*Fonja Julius Achu*
50. Misleading Advertisements in India: A Comparative and Critical Analysis 57
*Anita A Patil*
51. Educational Qualifications of Elected Representatives: Need of the Hour for a Progressive Democracy 58
*Masood Ahmad*
52. The Impact of Artificial Insemination on the Institution of Family: Legal Nuances 59
*Dr. D Srujana*
53. The Role of Law Commission in Revamping the Overburdened Supreme Court 60
*B Muthu Kumar*

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# Professional Development and Continuous Education

Dr Rekaraj Jain[6]

*Abstract :*

*The legal professionals play vital role as 'social engineers' in fixing the persistent maladies of the society through probono litigations and otherwise. They are reactive for inconsistent and imbalances that grow up wildly in the society because of immature and incomplete planning and implementations of strategies adopted by the administrators. India being the congregation of the people with multilingual and multi-religious out-looks has multifarious challenges and issues, unknown to the people previously. The dynamics of the society in general and business in specific are throwing numerous unanswered questions for the consideration of the legal professionals, and they stand in the forefront in this facet. Many legal professionals, with their past legal education spelled out in certain limited areas, are facing crisis when new legal issue engrossed with complex socio-political and economic toppings of new era knowledge basis to address and resolve the same. Many professional are in need of updating the social contact base with a support of reorganized and simplified knowledge base for this purpose. It is not easy to mould themselves to the required designs of the day. There is a need for motivation and restructuring of knowledge base on regular intervals. The growth of the knowledge and knowledge groups is the requirement of the date. It is essential to update the intellectual capacities and urges of the legal professionals. The continuous education is the only available resource for multiple questions of the clients and legal professionals. The people at the helm of affairs of the law schools should make the legal professionals possible to attend the simulations and applications. The continuous learning by legal professional through continuous learning with the coordination of law school faculty members is the requirement of the day. The Bar Council of India, as part of their regular functions is organizing and disseminating the knowledge. It helps in the professional development and uplifting of the people. In addition to the BCI efforts, the law schools/colleges across the country are to be given opportunity to adopt some Bar Councils or Bar Associations to impart knowledge relating to latest happenings in the legal field.*

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# Contents


| | | |
|---|---|---|
| 1. | Judicial Activism<br>*Dr Y Gangi Reddy* | *8* |
| 2. | Advocates Academy<br>*Dr Y Gangi Reddy* | *9* |
| 3. | Legal Education in India<br>*Dr Akbar Khan* | *10* |
| 4. | Medical Tourism and Legalities<br>*Dr Madhuri Irene* | *11* |
| 5. | National Education Policy 2020, a Step Towards International Standardization<br>*Dr Akbar Khan* | *12* |
| 6. | Professional Development and Continuous Education<br>Dr Rekaraj Jain | *13* |
| 7. | Legal Contours of Transgender Rights<br>*Dr. Rekharaj Jain* | *14* |
| 8. | Article 370 of the Constitution of India: A Catagorical Critique<br>*Dr. Irfan Rasool* | *15* |
| 9. | Section 89 of the Code of Civil Procedure 1908 as a Tool of Speedy Disposal of Civil Suits<br>*Dr.Madhuri Irene* | *16* |
| 10. | Missile Technology Control Regime Opportunities and Challenges- Indial Legal Perspective<br>*Dr.Sanu Rani Pal* | *17* |
| 11. | Gig-Economy and Social Security to Gig- workers in India: A Study<br>*Dr. M Ravindranath & Dr. Manu Datta* | *18* |
| 12. | Changing Dynamics of Live in Relationships<br>*Ms Priti* | *19* |
| 13. | Accessibility for Divyangjan(Persons with Disability) in India<br>*Mrs.L.Lakshmi* | *20* |
| 14. | 19th Century African-American Women Slave Narrative<br>*O.Sankar* | *21* |
| 15. | Human DNA Profiling Bill 2015: An Analysis<br>*Dr Damodar Reddy* | *22* |
| 16. | Protection of Animal Rights in India<br>*Dr. K.V.Ravi Kumar* | *23* |
| 17. | Dilemma in Divorce Theory with Special Reference to Hindu Law<br>*Dr. Madhuri Irene* | *24* |
| 18. | Manhole Deaths: Realising the Unrealistic<br>*Dr.S.Kannan* | *25* |
| 19. | Excluded among the Excluded : The Status of Tribal Women in Telangana<br>*Dr S Kannan* | *26* |
| 20. | "From Berated Blindness To Blooming Blue Economy"- An Emergent Call To Protect Marine Wealth<br>*Dr. Madhuri Irene* | *27* |
| 21. | Effective Presentation Skills, Language, Gender, Understanding the Power Structure<br>*O Sankar* | *28* |

22. Access to Institutional Credit among Scheduled Tribes in Telangana . A Case study from Sankarpalli Mandal. 29
*Dr. Kannan*

23. Protection of Human Rights in India. 30
*Dr.K.Ravi Kumar*

24. A Qualitative Analysis of Cross Dressing Legitimacy with Special Reference to India 31
*Dr.Rekharaj Jain*

25. Community Sanitary Latrines in insanitary Condition Requires Amendment in Manual Scavengers Act 2013 32
*Dr. Kannan*

26. Commercialisation of Leisure and Sports: A Case Study of Khanapur Village , Telangana 33
*Dr .S.Kannan*

27. Women , Surrogacy Law and Social Justice 34
*Astha Srivastav*

28. 360 Degrees Sustainable Models for Indian Universities 35
*Dr. Arun Kumar*

29. UNLIKELY END OF SINO-US TRADE WAR 36
*Dr. S. Uma*

30. Maternal Commitments and Women Workforce Participation in Urban India 37
*Dr. Iti Vyas*

31. The Threshold of OECD Revised Guidance on Profit-Split Method during COVID-19. 38
*Dr. Vinay Sharma*

32. Plea Bargaining ; A Critical Analysis 39
*Dr.T.Himavati*

33. Stem Cell Protection: Legal and Ethical Issues 40
*Dr. A.Sreelatha*

34. Regulation of Clinical Trials in India: A Critical Study with special reference to the Drugs and Cosmetics Act, 1940 41
*Aditi Nidhi*

35. Changing Perceptions in Space Law: A Special Focus on Theory of Non-Appropriation and Commercialization of Outer Space 42
*Dr. Poorvi Kantroo*

36. Merchant of Venice : The Quest for Justice 43
*Dr Padmanabha Rao*

37. Justice Irrespective of Gender: Unsex the Women Empowerment Laws 44
*Katiyani Juneja*

38. UBER : Issues and Challenges 45
*Ms Sanu Rani Paul*

39. Democracy in Singapore 46
*Dr. Uma Sonti*

40. Problems and Prospects of Handloom Sector in Employment Generation in Telangana State 47
*P. Kesari*

41. Issues of Internal Migrant Labour in India and Legal Response: An Analysis 48
*Manu Datta*

42. Objectification of women in media: A Feminist-Legal Analysis 49
*Stithi Dasgupta*
43. Challenging a foreign arbitral award in domestic courts- An Analysis 50
*Dr.P.L.Jayanthi Reddy*
44. Heterogenity and Spirituality 51
*Dr. Rekharaj Jain*
45. A Critical Analysis on Mahatma Gandhi Rural Employment Guarantee Act 2005 52
*Y. Gangi Reddy*
46. The Concept of Freedom and the Constitutional Control: A socio-political analysis 53
*Dr. Dilshad Shaik*
47. Environmental Protection in the Framework of International Law - A Study 54
*Prof.T.Sita Kumara*
48. The balance between environmental protection and developmental activities: Past, Present and Future A Socio-legal Analysis 55
*Dr.R.D.Vijayasekhar*

49. The Issue of Collective Land Ownership Under African Customary Land Law: The Case of Cameroon 56
*Fonja Julius Achu*
50. Misleading Advertisements in India: A Comparative and Critical Analysis 57
*Anita A Patil*
51. Educational Qualifications of Elected Representatives: Need of the Hour for a Progressive Democracy 58
*Masood Ahmad*
52. The Impact of Artificial Insemination on the Institution of Family: Legal Nuances 59
*Dr. D Srujana*
53. The Role of Law Commission in Revamping the Overburdened Supreme Court 60
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# Legal Contours of Transgender Rights

Dr. Rekharaj Jain[7]

*Abstract :*

*The sex of a human baby is determined at the time of birth either as male or female. An individual is either born as a male or female and at times can be a hermaphrodite. The person's whose gender identity, expression or behavior is different from those typically associated with their assigned sex at birth is termed as transgender. Being transgender does not imply any specific sexual orientation. Therefore transgender people may identify as straight, gay, lesbian, bisexual. Gender identity refers to a person's internal sense of being male, female or something else - a blend of both or neither. For transgender people, however, their birth sex and their gender identity are different. Transitioning from one gender to another is a complex process and may involve transition to a gender that is neither traditionally male nor female. Many countries have enacted laws for recognizing rights of transsexual persons, who have undergone either partial/complete SRS. Today most of the countries now legally recognize sex reassignments surgery. In spite of it they face many legal issues after transition. Transgender face discrimination in nearly every aspect of their lives. Various surveys and reports finding reveals that transgender people experience high levels of discrimination in the area of marriage, employment, housing, health care, education, and legal systems.In India transgender community as a whole, face multiple forms of oppression. In India due to the absence of suitable legislation protecting the rights of the members of the transgender community, they are been excluded from all social, cultural, political and economic spaces, leaving them vulnerable to physical and sexual violence and poverty. India's third gender has finally achieved full legal recognition with Supreme Court landmark ruling in 2014. The Rights of Transgender Persons Bill, 2014 was passed by the Rajya Sabha on 24th April, 2015 an historic private Bill to promote transgender rights. Transgenders continue to experience both blatant and subtle forms of discrimination in everyday life. Our society often ridicules and abuses the transgender community. Now it is a time to confront anti-transgender bias in our communities and rebuild a foundation of health, social and economic security for transgender people in our communities. It is not only for the State but also every individual must take responsibility for the pervasive civil rights violations and callous disregard towards transgender.*

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# Contents


| | | |
|---|---|---|
| 1. | Judicial Activism<br>*Dr Y Gangi Reddy* | *8* |
| 2. | Advocates Academy<br>*Dr Y Gangi Reddy* | *9* |
| 3. | Legal Education in India<br>*Dr Akbar Khan* | *10* |
| 4. | Medical Tourism and Legalities<br>*Dr Madhuri Irene* | *11* |
| 5. | National Education Policy 2020, a Step Towards International Standardization<br>*Dr Akbar Khan* | *12* |
| 6. | Professional Development and Continuous Education<br>Dr Rekaraj Jain | *13* |
| 7. | Legal Contours of Transgender Rights<br>*Dr. Rekharaj Jain* | *14* |
| 8. | Article 370 of the Constitution of India: A Catagorical Critique<br>*Dr. Irfan Rasool* | *15* |
| 9. | Section 89 of the Code of Civil Procedure 1908 as a Tool of Speedy Disposal of Civil Suits<br>*Dr.Madhuri Irene* | *16* |
| 10. | Missile Technology Control Regime Opportunities and Challenges- Indial Legal Perspective<br>*Dr.Sanu Rani Pal* | *17* |
| 11. | Gig-Economy and Social Security to Gig- workers in India: A Study<br>*Dr. M Ravindranath & Dr. Manu Datta* | *18* |
| 12. | Changing Dynamics of Live in Relationships<br>*Ms Priti* | *19* |
| 13. | Accessibility for Divyangjan(Persons with Disability) in India<br>*Mrs.L.Lakshmi* | *20* |
| 14. | 19th Century African-American Women Slave Narrative<br>*O.Sankar* | *21* |
| 15. | Human DNA Profiling Bill 2015: An Analysis<br>*Dr Damodar Reddy* | *22* |
| 16. | Protection of Animal Rights in India<br>*Dr. K.V.Ravi Kumar* | *23* |
| 17. | Dilemma in Divorce Theory with Special Reference to Hindu Law<br>*Dr. Madhuri Irene* | *24* |
| 18. | Manhole Deaths: Realising the Unrealistic<br>*Dr.S.Kannan* | *25* |
| 19. | Excluded among the Excluded : The Status of Tribal Women in Telangana<br>*Dr S Kannan* | *26* |
| 20. | "From Berated Blindness To Blooming Blue Economy"- An Emergent Call To Protect Marine Wealth<br>*Dr. Madhuri Irene* | *27* |
| 21. | Effective Presentation Skills, Language, Gender, Understanding the Power Structure.<br>*O Sankar* | *28* |

22. Access to Institutional Credit among Scheduled Tribes in Telangana . A Case study from Sankarpalli Mandal. *29*
*Dr. Kannan*

23. Protection of Human Rights in India. *30*
*Dr.K.Ravi Kumar*

24. A Qualitative Analysis of Cross Dressing Legitimacy with Special Reference to India *31*
*Dr.Rekharaj Jain*

25. Community Sanitary Latrines in insanitary Condition Requires Amendment in Manual Scavengers Act 2013 *32*
*Dr. Kannan*

26. Commercialisation of Leisure and Sports: A Case Study of Khanapur Village , Telangana *33*
*Dr .S.Kannan*

27. Women , Surrogacy Law and Social Justice *34*
*Astha Srivastav*

28. 360 Degrees Sustainable Models for Indian Universities *35*
*Dr. Arun Kumar*

29. UNLIKELY END OF SINO-US TRADE WAR *36*
*Dr. S. Uma*

30. Maternal Commitments and Women Workforce Participation in Urban India *37*
*Dr. Iti Vyas*

31. The Threshold of OECD Revised Guidance on Profit-Split Method during COVID-19. *38*
*Dr. Vinay Sharma*

32. Plea Bargaining ; A Critical Analysis *39*
*Dr.T.Himavati*

33. Stem Cell Protection: Legal and Ethical Issues *40*
*Dr. A.Sreelatha*

34. Regulation of Clinical Trials in India: A Critical Study with special reference to the Drugs and Cosmetics Act, 1940 *41*
*Aditi Nidhi*

35. Changing Perceptions in Space Law: A Special Focus on Theory of Non-Appropriation and Commercialization of Outer Space *42*
*Dr. Poorvi Kantroo*

36. Merchant of Venice : The Quest for Justice *43*
*Dr Padmanabha Rao*

37. Justice Irrespective of Gender: Unsex the Women Empowerment Laws *44*
*Katiyani Juneja*

38. UBER : Issues and Challenges *45*
*Ms Sanu Rani Paul*

39. Democracy in Singapore *46*
*Dr. Uma Sonti*

40. Problems and Prospects of Handloom Sector in Employment Generation in Telangana State *47*
*P. Kesari*

41. Issues of Internal Migrant Labour in India and Legal Response: An Analysis *48*
*Manu Datta*

42. Objectification of women in media: A Feminist-Legal Analysis 49
*Stithi Dasgupta*

43. Challenging a foreign arbitral award in domestic courts- An Analysis 50
*Dr.P.L.Jayanthi Reddy*

44. Heterogenity and Spirituality 51
*Dr. Rekharaj Jain*

45. A Critical Analysis on Mahatma Gandhi Rural Employment Guarantee Act 2005 52
*Y. Gangi Reddy*

46. The Concept of Freedom and the Constitutional Control: A socio-political analysis 53
*Dr. Dilshad Shaik*

47. Environmental Protection in the Framework of International Law - A Study 54
*Prof.T.Sita Kumara*

48. The balance between environmental protection and developmental activities: Past, Present and Future A Socio-legal Analysis 55
*Dr.R.D.Vijayasekhar*

49. The Issue of Collective Land Ownership Under African Customary Land Law: The Case of Cameroon 56
*Fonja Julius Achu*

50. Misleading Advertisements in India: A Comparative and Critical Analysis 57
*Anita A Patil*

51. Educational Qualifications of Elected Representatives: Need of the Hour for a Progressive Democracy 58
*Masood Ahmad*

52. The Impact of Artificial Insemination on the Institution of Family: Legal Nuances 59
*Dr. D Srujana*

53. The Role of Law Commission in Revamping the Overburdened Supreme Court 60
*B Muthu Kumar*

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# Article 370 of the Constitution of India: A Catagorical Critique

Dr. Irfan Rasool[8]

*Abstract:*

*Article 370 of the Constitution and its importance is analyzed in this paper. He traces the history of Jammu and Kashmir and the Union of India . The salient features of the Instrument of Accession executed by Maharaja on 26 October 1947 . The highlights are mainly . Firstly The Instrument of Accession will govern the relationship with the Dominion of India (Article 1 of the IOA)). Secondly no future Constitution of the Dominion of India was to be automatically binding (Article7, IOA). Thirdly a separate acceptance through a separate supplementary Instrument was required (Article 5, IOA) and lastly the internal administration of the State was governed by the Jammu and Kashmir Constitution Act, 1939 (Article 8, IOA). Further faculty discussed draft of Article 306 –A that the Constituent Assembly made it clear that Jammu and Kashmir's association with India would be based 'only' on the terms of Instrument of Accession and the State was still to be governed by the provisions of its own Constitution Act of 1939. As per Article .Notwithstanding anything in this Constitution Article 370(1)(b) The power of Parliament to make laws for the said State shall be limited to (i) those matters in the Union List and the Concurrent List which, in consultation with the Government of the State, are declared by the President to correspond to matters specified in the Instrument of Accession governing the accession of the State to the Dominion of India as the matters with respect to which the Dominion Legislature may make laws for that State; and (ii) such other matters in the said Lists as, with the concurrence of the Government of the State, the President may by order specify. 370(1)(c) The provisions of article 1 and of this article shall apply in relation to that State. 370 (1)(d) Such of the other provisions of this Constitution shall apply in relation to that State subject to such exceptions and modifications as the President may by order specify :Provided that no such order which relates to the matters specified in the Instrument of Accession of the State referred to in paragraph (i) of sub-Para (b) shall be issued except in consultation with the Government of the State: 370(3)*

*Notwithstanding anything in the foregoing provisions of this article, the President may, by public notification, declare that this article shall cease to be operative or shall be operative only with such exceptions and modifications and from such date as he may specify: Provided that the recommendation of the Constituent Assembly of the State referred shall be necessary before the President issues such a notification. Faculty concluded by saying that the mischief began with the incorporation of Article 370 in the Indian Constitution, primarily because it is neither consistent with the terms and implications of the Instrument of Accession and not an Instrument supplementary to the Instrument of Accession nor with the federal principles adopted by the Constitution of India.*

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# Contents


| | | |
|---|---|---|
| 1. | Judicial Activism<br>*Dr Y Gangi Reddy* | *8* |
| 2. | Advocates Academy<br>*Dr Y Gangi Reddy* | *9* |
| 3. | Legal Education in India<br>*Dr Akbar Khan* | *10* |
| 4. | Medical Tourism and Legalities<br>*Dr Madhuri Irene* | *11* |
| 5. | National Education Policy 2020, a Step Towards International Standardization<br>*Dr Akbar Khan* | *12* |
| 6. | Professional Development and Continuous Education<br>Dr Rekaraj Jain | *13* |
| 7. | Legal Contours of Transgender Rights<br>*Dr. Rekharaj Jain* | *14* |
| 8. | Article 370 of the Constitution of India: A Catagorical Critique<br>*Dr. Irfan Rasool* | *15* |
| 9. | Section 89 of the Code of Civil Procedure 1908 as a Tool of Speedy Disposal of Civil Suits<br>*Dr.Madhuri Irene* | *16* |
| 10. | Missile Technology Control Regime Opportunities and Challenges- Indial Legal Perspective<br>*Dr.Sanu Rani Pal* | *17* |
| 11. | Gig-Economy and Social Security to Gig- workers in India: A Study<br>*Dr. M Ravindranath & Dr. Manu Datta* | *18* |
| 12. | Changing Dynamics of Live in Relationships<br>*Ms Priti* | *19* |
| 13. | Accessibility for Divyangjan(Persons with Disability) in India<br>*Mrs.L.Lakshmi* | *20* |
| 14. | 19th Century African-American Women Slave Narrative<br>*O.Sankar* | *21* |
| 15. | Human DNA Profiling Bill 2015: An Analysis<br>*Dr Damodar Reddy* | *22* |
| 16. | Protection of Animal Rights in India<br>*Dr. K.V.Ravi Kumar* | *23* |
| 17. | Dilemma in Divorce Theory with Special Reference to Hindu Law<br>*Dr. Madhuri Irene* | *24* |
| 18. | Manhole Deaths: Realising the Unrealistic<br>*Dr.S.Kannan* | *25* |
| 19. | Excluded among the Excluded : The Status of Tribal Women in Telangana<br>*Dr S Kannan* | *26* |
| 20. | "From Berated Blindness To Blooming Blue Economy"- An Emergent Call To Protect Marine Wealth<br>*Dr. Madhuri Irene* | *27* |
| 21. | Effective Presentation Skills, Language, Gender, Understanding the Power Structure.<br>*O Sankar* | *28* |

22. Access to Institutional Credit among Scheduled Tribes in Telangana . A Case study from Sankarpalli Mandal. 29
*Dr. Kannan*

23. Protection of Human Rights in India. 30
*Dr.K.Ravi Kumar*

24. A Qualitative Analysis of Cross Dressing Legitimacy with Special Reference to India 31
*Dr.Rekharaj Jain*

25. Community Sanitary Latrines in insanitary Condition Requires Amendment in Manual Scavengers Act 2013 32
*Dr. Kannan*

26. Commercialisation of Leisure and Sports: A Case Study of Khanapur Village , Telangana 33
*Dr .S.Kannan*

27. Women , Surrogacy Law and Social Justice 34
*Astha Srivastav*

28. 360 Degrees Sustainable Models for Indian Universities 35
*Dr. Arun Kumar*

29. UNLIKELY END OF SINO-US TRADE WAR 36
*Dr. S. Uma*

30. Maternal Commitments and Women Workforce Participation in Urban India 37
*Dr. Iti Vyas*

31. The Threshold of OECD Revised Guidance on Profit-Split Method during COVID-19. 38
*Dr. Vinay Sharma*

32. Plea Bargaining ; A Critical Analysis 39
*Dr.T.Himavati*

33. Stem Cell Protection: Legal and Ethical Issues 40
*Dr. A.Sreelatha*

34. Regulation of Clinical Trials in India: A Critical Study with special reference to the Drugs and Cosmetics Act, 1940 41
*Aditi Nidhi*

35. Changing Perceptions in Space Law: A Special Focus on Theory of Non-Appropriation and Commercialization of Outer Space 42
*Dr. Poorvi Kantroo*

36. Merchant of Venice : The Quest for Justice 43
*Dr Padmanabha Rao*

37. Justice Irrespective of Gender: Unsex the Women Empowerment Laws 44
*Katiyani Juneja*

38. UBER : Issues and Challenges 45
*Ms Sanu Rani Paul*

39. Democracy in Singapore 46
*Dr. Uma Sonti*

40. Problems and Prospects of Handloom Sector in Employment Generation in Telangana State 47
*P. Kesari*

41. Issues of Internal Migrant Labour in India and Legal Response: An Analysis 48
*Manu Datta*

42. Objectification of women in media: A Feminist-Legal Analysis 49
*Stithi Dasgupta*

43. Challenging a foreign arbitral award in domestic courts- An Analysis 50
*Dr.P.L.Jayanthi Reddy*

44. Heterogenity and Spirituality 51
*Dr. Rekharaj Jain*

45. A Critical Analysis on Mahatma Gandhi Rural Employment Guarantee Act 2005 52
*Y. Gangi Reddy*

46. The Concept of Freedom and the Constitutional Control: A socio-political analysis 53
*Dr. Dilshad Shaik*

47. Environmental Protection in the Framework of International Law - A Study 54
*Prof.T.Sita Kumara*

48. The balance between environmental protection and developmental activities: Past, Present and Future A Socio-legal Analysis 55
*Dr.R.D.Vijayasekhar*

49. The Issue of Collective Land Ownership Under African Customary Land Law: The Case of Cameroon 56
*Fonja Julius Achu*

50. Misleading Advertisements in India: A Comparative and Critical Analysis 57
*Anita A Patil*

51. Educational Qualifications of Elected Representatives: Need of the Hour for a Progressive Democracy 58
*Masood Ahmad*

52. The Impact of Artificial Insemination on the Institution of Family: Legal Nuances 59
*Dr. D Srujana*

53. The Role of Law Commission in Revamping the Overburdened Supreme Court 60
*B Muthu Kumar*

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# Section 89 of the Code of Civil Procedure 1908 as a Tool of Speedy Disposal of Civil Suits

Dr.Madhuri Irene[9]

*Abstract:*

*Section 89 of the Code of Civil Procedure, which gives the Court the power to refer the dispute for settlement or conciliation was introduced with a purpose of amicable, peaceful and mutual settlement between parties without intervention of the court. However, the issue is that even after more than a decade of its implementation, the provision provided for ADR under Section 89 suffers from many anomalies. The constitutional validity of this section was upheld but the frequency with which ADR is utilized for resolution of disputes remains minute, which arises due to lack of knowledge about the same or on account of the reluctance of the parties.The alternate forums accorded under Section 89 are economically more viable as there are relatively lesser amount of transaction costs and thus, there is a need to make people aware about the same. However, the author believes that the provision under Section 89 is right in its essence but its purpose is defeated due to legal intricacies, draftsmen's error and lack of awareness among individuals.The provision under Section 89 is an attempt to bring about resolution of disputes between parties, minimize costs and reduce the burden of the courts. It is provided for with the sole objective of blending judicial and non-judicial dispute resolution mechanism and bringing alternate dispute mechanism to the center of the Indian Judicial System.*

*Sec.89 deals with the Settlement of Dispute Outside the Court – (1) Where it appears to the Court that there exist elements of a settlement which may be acceptable to the parties, the Court shall formulate the terms of settlement and give them to the parties for their observations and after receiving the observations of the parties, the Court may reformulate the terms of a possible settlement and refer the same for –*

*(a)Arbitration;b) Conciliation;(c) Judicial settlement including settlement through Lok Adalat; or (d) Mediation.Even though Sec.89 has certain limitations like not applicable to Representative suits, Disputes relating to election to public offices, Cases involving grant of authority by the section after enquiry, as for example, suits or grant of probate or letters of administration. Cases involving serious and specific allegations of fraud, fabrication of documents, forgery, impersonation, coercion etc. Cases requiring protection of sections, as for example, claims against minors, deities and mentally challenged and suits for declaration of title against the Government. Cases involving prosecution for criminal offences.Still sec.89 acts as tool for speedy disposal.*

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# Contents


| | | |
|---|---|---|
| 1. | Judicial Activism<br>*Dr Y Gangi Reddy* | *8* |
| 2. | Advocates Academy<br>*Dr Y Gangi Reddy* | *9* |
| 3. | Legal Education in India<br>*Dr Akbar Khan* | *10* |
| 4. | Medical Tourism and Legalities<br>*Dr Madhuri Irene* | *11* |
| 5. | National Education Policy 2020, a Step Towards International Standardization<br>*Dr Akbar Khan* | *12* |
| 6. | Professional Development and Continuous Education<br>Dr Rekaraj Jain | *13* |
| 7. | Legal Contours of Transgender Rights<br>*Dr. Rekharaj Jain* | *14* |
| 8. | Article 370 of the Constitution of India: A Catagorical Critique<br>*Dr. Irfan Rasool* | *15* |
| 9. | Section 89 of the Code of Civil Procedure 1908 as a Tool of Speedy Disposal of Civil Suits<br>*Dr.Madhuri Irene* | *16* |
| 10. | Missile Technology Control Regime Opportunities and Challenges- Indial Legal Perspective<br>*Dr.Sanu Rani Pal* | *17* |
| 11. | Gig-Economy and Social Security to Gig- workers in India: A Study<br>*Dr. M Ravindranath & Dr. Manu Datta* | *18* |
| 12. | Changing Dynamics of Live in Relationships<br>*Ms Priti* | *19* |
| 13. | Accessibility for Divyangjan(Persons with Disability) in India<br>*Mrs.L.Lakshmi* | *20* |
| 14. | 19th Century African-American Women Slave Narrative<br>*O.Sankar* | *21* |
| 15. | Human DNA Profiling Bill 2015: An Analysis<br>*Dr Damodar Reddy* | *22* |
| 16. | Protection of Animal Rights in India<br>*Dr. K.V.Ravi Kumar* | *23* |
| 17. | Dilemma in Divorce Theory with Special Reference to Hindu Law<br>*Dr. Madhuri Irene* | *24* |
| 18. | Manhole Deaths: Realising the Unrealistic<br>*Dr.S.Kannan* | *25* |
| 19. | Excluded among the Excluded : The Status of Tribal Women in Telangana<br>*Dr S Kannan* | *26* |
| 20. | "From Berated Blindness To Blooming Blue Economy"- An Emergent Call To Protect Marine Wealth<br>*Dr. Madhuri Irene* | *27* |
| 21. | Effective Presentation Skills, Language, Gender, Understanding the Power Structure.<br>*O Sankar* | *28* |

22. Access to Institutional Credit among Scheduled Tribes in Telangana . A Case study from Sankarpalli Mandal. *29*
*Dr. Kannan*

23. Protection of Human Rights in India. *30*
*Dr.K.Ravi Kumar*

24. A Qualitative Analysis of Cross Dressing Legitimacy with Special Reference to India *31*
*Dr.Rekharaj Jain*

25. Community Sanitary Latrines in insanitary Condition Requires Amendment in Manual Scavengers Act 2013 *32*
*Dr. Kannan*

26. Commercialisation of Leisure and Sports: A Case Study of Khanapur Village , Telangana *33*
*Dr .S.Kannan*

27. Women , Surrogacy Law and Social Justice *34*
*Astha Srivastav*

28. 360 Degrees Sustainable Models for Indian Universities *35*
*Dr. Arun Kumar*

29. UNLIKELY END OF SINO-US TRADE WAR *36*
*Dr. S. Uma*

30. Maternal Commitments and Women Workforce Participation in Urban India *37*
*Dr. Iti Vyas*

31. The Threshold of OECD Revised Guidance on Profit-Split Method during COVID-19. *38*
*Dr. Vinay Sharma*

32. Plea Bargaining ; A Critical Analysis *39*
*Dr.T.Himavati*

33. Stem Cell Protection: Legal and Ethical Issues *40*
*Dr. A.Sreelatha*

34. Regulation of Clinical Trials in India: A Critical Study with special reference to the Drugs and Cosmetics Act, 1940 *41*
*Aditi Nidhi*

35. Changing Perceptions in Space Law: A Special Focus on Theory of Non-Appropriation and Commercialization of Outer Space *42*
*Dr. Poorvi Kantroo*

36. Merchant of Venice : The Quest for Justice *43*
*Dr Padmanabha Rao*

37. Justice Irrespective of Gender: Unsex the Women Empowerment Laws *44*
*Katiyani Juneja*

38. UBER : Issues and Challenges *45*
*Ms Sanu Rani Paul*

39. Democracy in Singapore *46*
*Dr. Uma Sonti*

40. Problems and Prospects of Handloom Sector in Employment Generation in Telangana State *47*
*P. Kesari*

41. Issues of Internal Migrant Labour in India and Legal Response: An Analysis *48*
*Manu Datta*

42. Objectification of women in media: A Feminist-Legal Analysis 49
*Stithi Dasgupta*

43. Challenging a foreign arbitral award in domestic courts- An Analysis 50
*Dr.P.L.Jayanthi Reddy*

44. Heterogenity and Spirituality 51
*Dr. Rekharaj Jain*

45. A Critical Analysis on Mahatma Gandhi Rural Employment Guarantee Act 2005 52
*Y. Gangi Reddy*

46. The Concept of Freedom and the Constitutional Control: A socio-political analysis 53
*Dr. Dilshad Shaik*

47. Environmental Protection in the Framework of International Law - A Study 54
*Prof.T.Sita Kumara*

48. The balance between environmental protection and developmental activities: Past, Present and Future A Socio-legal Analysis 55
*Dr.R.D.Vijayasekhar*

49. The Issue of Collective Land Ownership Under African Customary Land Law: The Case of Cameroon 56
*Fonja Julius Achu*

50. Misleading Advertisements in India: A Comparative and Critical Analysis 57
*Anita A Patil*

51. Educational Qualifications of Elected Representatives: Need of the Hour for a Progressive Democracy 58
*Masood Ahmad*

52. The Impact of Artificial Insemination on the Institution of Family: Legal Nuances 59
*Dr. D Srujana*

53. The Role of Law Commission in Revamping the Overburdened Supreme Court 60
*B Muthu Kumar*

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# Missile Technology Control Regime Opportunities and Challenges- Indial Legal Perspective

Dr.Sanu Rani Pal[10]

*Abstract:*

*MTCR was evolved in April 16, 1987 as a voluntary organization to limit the spread of ballistic missiles and other unmanned delivery systems that could be used for chemical, biological and nuclear attacks. India's entry into MTCR will have greater impact in terms of non-proliferation and export of defense equipment's and transfer of technology to friendly nations. India have a responsibility to contain non-proliferation vertically as well as horizontally, but as MTCR does not prohibit transfer of defense equipment to non-member countries India can benefit through export of defense equipment and technology transfer without fearing the sanctions imposed by the laws of other MTCR countries. As of now, India is a leading importer of defense equipment. Government and Ministry of Defense has come up with various strategies in the recent years to ease defense exports laws in India. In this context the seminar analyses the importance of MTCR, the opportunities it guarantees and the challenges which it poses to the Indian defense export regime. This paper discusses the guideline of MTCR. The MTCR guidelines establish the basis of coordination of export control policies and appropriate procedures in the field of transfers and equipment. The Guidelines and the Annex form the basis for controlling transfers to any destination beyond the member -state. It highlights MTCR and India as India committed to unilateral adherence to MTCR Guidelines since 2008 and had signed Hague Code of Conduct against Ballistic Missile Proliferation (HCOC) which was considered to be complementary to MTCR. India does not have a specialized law facilitating and regulating the export of defense services, goods, technology, design, production facilities etc., and the law relating to MTCR is the Foreign Trade (Regulations & Development) Act, 1992 (FTDR Act, 1992). The Act contains three lists viz; export list, import list and SCOMET list. The SCOMET list deals with the export of strategic items like defense goods, services, technology etc.*

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# Contents


| | | |
|---|---|---|
| 1. | Judicial Activism<br>*Dr Y Gangi Reddy* | *8* |
| 2. | Advocates Academy<br>*Dr Y Gangi Reddy* | *9* |
| 3. | Legal Education in India<br>*Dr Akbar Khan* | *10* |
| 4. | Medical Tourism and Legalities<br>*Dr Madhuri Irene* | *11* |
| 5. | National Education Policy 2020, a Step Towards International Standardization<br>*Dr Akbar Khan* | *12* |
| 6. | Professional Development and Continuous Education<br>Dr Rekaraj Jain | *13* |
| 7. | Legal Contours of Transgender Rights<br>*Dr. Rekharaj Jain* | *14* |
| 8. | Article 370 of the Constitution of India: A Catagorical Critique<br>*Dr. Irfan Rasool* | *15* |
| 9. | Section 89 of the Code of Civil Procedure 1908 as a Tool of Speedy Disposal of Civil Suits<br>*Dr.Madhuri Irene* | *16* |
| 10. | Missile Technology Control Regime Opportunities and Challenges- Indial Legal Perspective<br>*Dr.Sanu Rani Pal* | *17* |
| 11. | Gig-Economy and Social Security to Gig- workers in India: A Study<br>*Dr. M Ravindranath & Dr. Manu Datta* | *18* |
| 12. | Changing Dynamics of Live in Relationships<br>*Ms Priti* | *19* |
| 13. | Accessibility for Divyangjan(Persons with Disability) in India<br>*Mrs.L.Lakshmi* | *20* |
| 14. | 19th Century African-American Women Slave Narrative<br>*O.Sankar* | *21* |
| 15. | Human DNA Profiling Bill 2015: An Analysis<br>*Dr Damodar Reddy* | *22* |
| 16. | Protection of Animal Rights in India<br>*Dr. K.V.Ravi Kumar* | *23* |
| 17. | Dilemma in Divorce Theory with Special Reference to Hindu Law<br>*Dr. Madhuri Irene* | *24* |
| 18. | Manhole Deaths: Realising the Unrealistic<br>*Dr.S.Kannan* | *25* |
| 19. | Excluded among the Excluded : The Status of Tribal Women in Telangana<br>*Dr S Kannan* | *26* |
| 20. | "From Berated Blindness To Blooming Blue Economy"- An Emergent Call To Protect Marine Wealth<br>*Dr. Madhuri Irene* | *27* |
| 21. | Effective Presentation Skills, Language, Gender, Understanding the Power Structure.<br>*O Sankar* | *28* |

22. Access to Institutional Credit among Scheduled Tribes in Telangana . A Case study from Sankarpalli Mandal. 29
*Dr. Kannan*

23. Protection of Human Rights in India. 30
*Dr.K.Ravi Kumar*

24. A Qualitative Analysis of Cross Dressing Legitimacy with Special Reference to India 31
*Dr.Rekharaj Jain*

25. Community Sanitary Latrines in insanitary Condition Requires Amendment in Manual Scavengers Act 2013 32
*Dr. Kannan*

26. Commercialisation of Leisure and Sports: A Case Study of Khanapur Village , Telangana 33
*Dr .S.Kannan*

27. Women , Surrogacy Law and Social Justice 34
*Astha Srivastav*

28. 360 Degrees Sustainable Models for Indian Universities 35
*Dr. Arun Kumar*

29. UNLIKELY END OF SINO-US TRADE WAR 36
*Dr. S. Uma*

30. Maternal Commitments and Women Workforce Participation in Urban India 37
*Dr. Iti Vyas*

31. The Threshold of OECD Revised Guidance on Profit-Split Method during COVID-19. 38
*Dr. Vinay Sharma*

32. Plea Bargaining ; A Critical Analysis 39
*Dr.T.Himavati*

33. Stem Cell Protection: Legal and Ethical Issues 40
*Dr. A.Sreelatha*

34. Regulation of Clinical Trials in India: A Critical Study with special reference to the Drugs and Cosmetics Act, 1940 41
*Aditi Nidhi*

35. Changing Perceptions in Space Law: A Special Focus on Theory of Non-Appropriation and Commercialization of Outer Space 42
*Dr. Poorvi Kantroo*

36. Merchant of Venice : The Quest for Justice 43
*Dr Padmanabha Rao*

37. Justice Irrespective of Gender: Unsex the Women Empowerment Laws 44
*Katiyani Juneja*

38. UBER : Issues and Challenges 45
*Ms Sanu Rani Paul*

39. Democracy in Singapore 46
*Dr. Uma Sonti*

40. Problems and Prospects of Handloom Sector in Employment Generation in Telangana State 47
*P. Kesari*

41. Issues of Internal Migrant Labour in India and Legal Response: An Analysis 48
*Manu Datta*

42. Objectification of women in media: A Feminist-Legal Analysis 49
*Stithi Dasgupta*

43. Challenging a foreign arbitral award in domestic courts- An Analysis 50
*Dr.P.L.Jayanthi Reddy*

44. Heterogenity and Spirituality 51
*Dr. Rekharaj Jain*

45. A Critical Analysis on Mahatma Gandhi Rural Employment Guarantee Act 2005 52
*Y. Gangi Reddy*

46. The Concept of Freedom and the Constitutional Control: A socio-political analysis 53
*Dr. Dilshad Shaik*

47. Environmental Protection in the Framework of International Law - A Study 54
*Prof.T.Sita Kumara*

48. The balance between environmental protection and developmental activities: Past, Present and Future A Socio-legal Analysis 55
*Dr.R.D.Vijayasekhar*

49. The Issue of Collective Land Ownership Under African Customary Land Law: The Case of Cameroon 56
*Fonja Julius Achu*

50. Misleading Advertisements in India: A Comparative and Critical Analysis 57
*Anita A Patil*

51. Educational Qualifications of Elected Representatives: Need of the Hour for a Progressive Democracy 58
*Masood Ahmad*

52. The Impact of Artificial Insemination on the Institution of Family: Legal Nuances 59
*Dr. D Srujana*

53. The Role of Law Commission in Revamping the Overburdened Supreme Court 60
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# Gig-Economy and Social Security to Gig- workers in India: A Study

Dr. M Ravindranath & Dr. Manu Datta[11]

*Abstract :*

*Gig work is popular in present times due to flexibility and convenience in contrast with traditional fixed time jobs. Gig economy is multi-billion economy in value and provides jobs to millions in India. Digital platforms have enormously extended the scope of gig works in multiple sectors such as information technology, Online Cab Services, delivery of goods and other service sectors. As the name suggests the employees are required to do certain gigs or tasks as per their own convenient timings. However, gig work has its own limitations and drawbacks including job and income insecurity, inherent risks involved in performing jobs and lack of social security in case of any accident or miss-happening . In the absence of employer -employee relation, which is principal characteristic of gig work, protecting hands of labour legislation are not generally available to gig workers. Recently, Social Security Code, 2020 seeks to bring gig workers into protective umbrella of labor welfare legislation and provides for extension of welfare schemes on par with other unorganized sector workers. However, the Code falls short of vesting Substantive rights upon gig workers. In present paper authors seek to find causes responsible for additional vulnerability of gig workers than other unorganized sector workers. The paper further seeks to inquire the need of necessary changes in current legislative framework in order to prevent exploitation of gig-workers.*

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# Contents


| | | |
|---|---|---|
| 1. | Judicial Activism<br>*Dr Y Gangi Reddy* | *8* |
| 2. | Advocates Academy<br>*Dr Y Gangi Reddy* | *9* |
| 3. | Legal Education in India<br>*Dr Akbar Khan* | *10* |
| 4. | Medical Tourism and Legalities<br>*Dr Madhuri Irene* | *11* |
| 5. | National Education Policy 2020, a Step Towards International Standardization<br>*Dr Akbar Khan* | *12* |
| 6. | Professional Development and Continuous Education<br>Dr Rekaraj Jain | *13* |
| 7. | Legal Contours of Transgender Rights<br>*Dr. Rekharaj Jain* | *14* |
| 8. | Article 370 of the Constitution of India: A Catagorical Critique<br>*Dr. Irfan Rasool* | *15* |
| 9. | Section 89 of the Code of Civil Procedure 1908 as a Tool of Speedy Disposal of Civil Suits<br>*Dr.Madhuri Irene* | *16* |
| 10. | Missile Technology Control Regime Opportunities and Challenges- Indial Legal Perspective<br>*Dr.Sanu Rani Pal* | *17* |
| 11. | Gig-Economy and Social Security to Gig- workers in India: A Study<br>*Dr. M Ravindranath & Dr. Manu Datta* | *18* |
| 12. | Changing Dynamics of Live in Relationships<br>*Ms Priti* | *19* |
| 13. | Accessibility for Divyangjan(Persons with Disability) in India<br>*Mrs.L.Lakshmi* | *20* |
| 14. | 19th Century African-American Women Slave Narrative<br>*O.Sankar* | *21* |
| 15. | Human DNA Profiling Bill 2015: An Analysis<br>*Dr Damodar Reddy* | *22* |
| 16. | Protection of Animal Rights in India<br>*Dr. K.V.Ravi Kumar* | *23* |
| 17. | Dilemma in Divorce Theory with Special Reference to Hindu Law<br>*Dr. Madhuri Irene* | *24* |
| 18. | Manhole Deaths: Realising the Unrealistic<br>*Dr.S.Kannan* | *25* |
| 19. | Excluded among the Excluded : The Status of Tribal Women in Telangana<br>*Dr S Kannan* | *26* |
| 20. | "From Berated Blindness To Blooming Blue Economy"- An Emergent Call To Protect Marine Wealth<br>*Dr. Madhuri Irene* | *27* |
| 21. | Effective Presentation Skills, Language, Gender, Understanding the Power Structure.<br>*O Sankar* | *28* |

22. Access to Institutional Credit among Scheduled Tribes in Telangana . A Case study from Sankarpalli Mandal. 29
*Dr. Kannan*

23. Protection of Human Rights in India. 30
*Dr.K.Ravi Kumar*

24. A Qualitative Analysis of Cross Dressing Legitimacy with Special Reference to India 31
*Dr.Rekharaj Jain*

25. Community Sanitary Latrines in insanitary Condition Requires Amendment in Manual Scavengers Act 2013 32
*Dr. Kannan*

26. Commercialisation of Leisure and Sports: A Case Study of Khanapur Village , Telangana 33
*Dr .S.Kannan*

27. Women , Surrogacy Law and Social Justice 34
*Astha Srivastav*

28. 360 Degrees Sustainable Models for Indian Universities 35
*Dr. Arun Kumar*

29. UNLIKELY END OF SINO-US TRADE WAR 36
*Dr. S. Uma*

30. Maternal Commitments and Women Workforce Participation in Urban India 37
*Dr. Iti Vyas*

31. The Threshold of OECD Revised Guidance on Profit-Split Method during COVID-19. 38
*Dr. Vinay Sharma*

32. Plea Bargaining ; A Critical Analysis 39
*Dr.T.Himavati*

33. Stem Cell Protection: Legal and Ethical Issues 40
*Dr. A.Sreelatha*

34. Regulation of Clinical Trials in India: A Critical Study with special reference to the Drugs and Cosmetics Act, 1940 41
*Aditi Nidhi*

35. Changing Perceptions in Space Law: A Special Focus on Theory of Non-Appropriation and Commercialization of Outer Space 42
*Dr. Poorvi Kantroo*

36. Merchant of Venice : The Quest for Justice 43
*Dr Padmanabha Rao*

37. Justice Irrespective of Gender: Unsex the Women Empowerment Laws 44
*Katiyani Juneja*

38. UBER : Issues and Challenges 45
*Ms Sanu Rani Paul*

39. Democracy in Singapore 46
*Dr. Uma Sonti*

40. Problems and Prospects of Handloom Sector in Employment Generation in Telangana State 47
*P. Kesari*

41. Issues of Internal Migrant Labour in India and Legal Response: An Analysis 48
*Manu Datta*

42. Objectification of women in media: A Feminist-Legal Analysis 49
*Stithi Dasgupta*

43. Challenging a foreign arbitral award in domestic courts- An Analysis 50
*Dr.P.L.Jayanthi Reddy*

44. Heterogenity and Spirituality 51
*Dr. Rekharaj Jain*

45. A Critical Analysis on Mahatma Gandhi Rural Employment Guarantee Act 2005 52
*Y. Gangi Reddy*

46. The Concept of Freedom and the Constitutional Control: A socio-political analysis 53
*Dr. Dilshad Shaik*

47. Environmental Protection in the Framework of International Law - A Study 54
*Prof.T.Sita Kumara*

48. The balance between environmental protection and developmental activities: Past, Present and Future A Socio-legal Analysis 55
*Dr.R.D.Vijayasekhar*

49. The Issue of Collective Land Ownership Under African Customary Land Law: The Case of Cameroon 56
*Fonja Julius Achu*

50. Misleading Advertisements in India: A Comparative and Critical Analysis 57
*Anita A Patil*

51. Educational Qualifications of Elected Representatives: Need of the Hour for a Progressive Democracy 58
*Masood Ahmad*

52. The Impact of Artificial Insemination on the Institution of Family: Legal Nuances 59
*Dr. D Srujana*

53. The Role of Law Commission in Revamping the Overburdened Supreme Court 60
*B Muthu Kumar*

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# Changing Dynamics of Live in Relationships

Ms Priti[12]

*Abstract:*

*India has gradually adopted several western ideas and lifestyles one of which is the concept of live in relationships. Live-in relationship is one of the areas which has been under censure and is considered to be an extremely argued topic in India regarding its legality as well as its repercussions on the society. A long term cohabitation between a major man and a major woman has been equated to a valid marriage.1. Marriage is generally described as a basic civil right of a person. It is a formal relationship between two people taking place voluntarily by the parties by and large in public, after which the status of the parties are changed to that of a "husband" and "wife". Marriage has a great legal and social significance like inheritance, succession, duty to maintain the household jointly and severally. Marriages in India either take place under the respective personal laws of the parties or under the specific provisions of the Special Marriage Act, 1954 i.e. it is either considered as a sacrament or a contract. The legal consequences of marriage that follow add to the sanctity of this relationship by the virtue of the fact that marriage confers certain status, rights and duties on the parties. A live-in relationship on the other hand is a type of arrangement in which a man and woman live together without entering into the formal relationship of marriage. 2 . This form of relationship has become an alternate to marriage especially in metropolitan cities where individual freedom is the top priority amongst the youth and very few want to get entangled into the hassles of a married life. There are basically two types of live-in relationships; first "by option/choice" and second "by situation/chance.3." Since there are no specific laws on the subject of live in relationships in India, the definition of live in relationships is not clear and so is the status of the couples in these relationships. The concept of live-in relationships are now gaining popularity and have even found limited recognition in the eyes of the law. Though the debate rages on in public forum with recommendations and opinions yet coming in from various authorities and Commissions to either amend the existing laws or desist from doing so, there have been no amendments to the existing personal law. 4. The harm caused to a "legally wedded wife" and her children, in a case where a man maintains live-in relationship with another woman without the knowledge of his legally wedded wife and the probability that such legalization will increase the practice of Live-in-relationship.*

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# Contents


| | | |
|---|---|---|
| 1. | Judicial Activism<br>*Dr Y Gangi Reddy* | *8* |
| 2. | Advocates Academy<br>*Dr Y Gangi Reddy* | *9* |
| 3. | Legal Education in India<br>*Dr Akbar Khan* | *10* |
| 4. | Medical Tourism and Legalities<br>*Dr Madhuri Irene* | *11* |
| 5. | National Education Policy 2020, a Step Towards International Standardization<br>*Dr Akbar Khan* | *12* |
| 6. | Professional Development and Continuous Education<br>Dr Rekaraj Jain | *13* |
| 7. | Legal Contours of Transgender Rights<br>*Dr. Rekharaj Jain* | *14* |
| 8. | Article 370 of the Constitution of India: A Catagorical Critique<br>*Dr. Irfan Rasool* | *15* |
| 9. | Section 89 of the Code of Civil Procedure 1908 as a Tool of Speedy Disposal of Civil Suits<br>*Dr.Madhuri Irene* | *16* |
| 10. | Missile Technology Control Regime Opportunities and Challenges- Indial Legal Perspective<br>*Dr.Sanu Rani Pal* | *17* |
| 11. | Gig-Economy and Social Security to Gig- workers in India: A Study<br>*Dr. M Ravindranath & Dr. Manu Datta* | *18* |
| 12. | Changing Dynamics of Live in Relationships<br>*Ms Priti* | *19* |
| 13. | Accessibility for Divyangjan(Persons with Disability) in India<br>*Mrs.L.Lakshmi* | *20* |
| 14. | 19th Century African-American Women Slave Narrative<br>*O.Sankar* | *21* |
| 15. | Human DNA Profiling Bill 2015: An Analysis<br>*Dr Damodar Reddy* | *22* |
| 16. | Protection of Animal Rights in India<br>*Dr. K.V.Ravi Kumar* | *23* |
| 17. | Dilemma in Divorce Theory with Special Reference to Hindu Law<br>*Dr. Madhuri Irene* | *24* |
| 18. | Manhole Deaths: Realising the Unrealistic<br>*Dr.S.Kannan* | *25* |
| 19. | Excluded among the Excluded : The Status of Tribal Women in Telangana<br>*Dr S Kannan* | *26* |
| 20. | "From Berated Blindness To Blooming Blue Economy"- An Emergent Call To Protect Marine Wealth<br>*Dr. Madhuri Irene* | *27* |
| 21. | Effective Presentation Skills, Language, Gender, Understanding the Power Structure.<br>*O Sankar* | *28* |

22. Access to Institutional Credit among Scheduled Tribes in Telangana . A Case study from Sankarpalli Mandal. 29
*Dr. Kannan*

23. Protection of Human Rights in India. 30
*Dr.K.Ravi Kumar*

24. A Qualitative Analysis of Cross Dressing Legitimacy with Special Reference to India 31
*Dr.Rekharaj Jain*

25. Community Sanitary Latrines in insanitary Condition Requires Amendment in Manual Scavengers Act 2013 32
*Dr. Kannan*

26. Commercialisation of Leisure and Sports: A Case Study of Khanapur Village , Telangana 33
*Dr .S.Kannan*

27. Women , Surrogacy Law and Social Justice 34
*Astha Srivastav*

28. 360 Degrees Sustainable Models for Indian Universities 35
*Dr. Arun Kumar*

29. UNLIKELY END OF SINO-US TRADE WAR 36
*Dr. S. Uma*

30. Maternal Commitments and Women Workforce Participation in Urban India 37
*Dr. Iti Vyas*

31. The Threshold of OECD Revised Guidance on Profit-Split Method during COVID-19. 38
*Dr. Vinay Sharma*

32. Plea Bargaining ; A Critical Analysis 39
*Dr.T.Himavati*

33. Stem Cell Protection: Legal and Ethical Issues 40
*Dr. A.Sreelatha*

34. Regulation of Clinical Trials in India: A Critical Study with special reference to the Drugs and Cosmetics Act, 1940 41
*Aditi Nidhi*

35. Changing Perceptions in Space Law: A Special Focus on Theory of Non-Appropriation and Commercialization of Outer Space 42
*Dr. Poorvi Kantroo*

36. Merchant of Venice : The Quest for Justice 43
*Dr Padmanabha Rao*

37. Justice Irrespective of Gender: Unsex the Women Empowerment Laws 44
*Katiyani Juneja*

38. UBER : Issues and Challenges 45
*Ms Sanu Rani Paul*

39. Democracy in Singapore 46
*Dr. Uma Sonti*

40. Problems and Prospects of Handloom Sector in Employment Generation in Telangana State 47
*P. Kesari*

41. Issues of Internal Migrant Labour in India and Legal Response: An Analysis 48
*Manu Datta*

42. Objectification of women in media: A Feminist-Legal Analysis 49
*Stithi Dasgupta*

43. Challenging a foreign arbitral award in domestic courts- An Analysis 50
*Dr.P.L.Jayanthi Reddy*

44. Heterogenity and Spirituality 51
*Dr. Rekharaj Jain*

45. A Critical Analysis on Mahatma Gandhi Rural Employment Guarantee Act 2005 52
*Y. Gangi Reddy*

46. The Concept of Freedom and the Constitutional Control: A socio-political analysis 53
*Dr. Dilshad Shaik*

47. Environmental Protection in the Framework of International Law - A Study 54
*Prof.T.Sita Kumara*

48. The balance between environmental protection and developmental activities: Past, Present and Future A Socio-legal Analysis 55
*Dr.R.D.Vijayasekhar*

49. The Issue of Collective Land Ownership Under African Customary Land Law: The Case of Cameroon 56
*Fonja Julius Achu*

50. Misleading Advertisements in India: A Comparative and Critical Analysis 57
*Anita A Patil*

51. Educational Qualifications of Elected Representatives: Need of the Hour for a Progressive Democracy 58
*Masood Ahmad*

52. The Impact of Artificial Insemination on the Institution of Family: Legal Nuances 59
*Dr. D Srujana*

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# Accessibility for Divyangjan(Persons with Disability) in India

Mrs.L.Lakshmi[13]

*Abstract:*

*India signed and ratified the UNCRPD in 2007. The process of enacting a new legislation in place of the Persons with Disabilities Act, 1995 (PWD Act, 1995) began in 2010 to make it compliant with the UNCRPD and shift from the existing medical model. After series of consultation meetings and drafting process, and with Accessible India Campaign taken up vigorously by Indian Government the Rights of PWD Act, 2016 (RPWD Act, 2016) was passed by both the houses of the Parliament and was notified on December 28, 2016 after receiving the presidential assent. Principles stated to be implemented for empowerment of Persons With Disabilities (PWD) or Divyang Jan are respect for inherent dignity, individual autonomy including the freedom to make one's own choices, and independence of persons. The RPWD Act, 2016 lays intends to ensure nondiscrimination, full and effective participation and inclusion in society, respect for difference and acceptance of disabilities as part of human diversity and humanity, equality of opportunity, accessibility, equality between men and women, respect for the evolving capacities of children with disabilities. The RPWD Act, 2016 reflects a paradigm shift in thinking about disability from a medical, social welfare concern to a human rights issue. The presentation would highlight the need for inclusion of accessibility provisions in the RPWD Act, 2016 and the duty of the Government and private establishments to ensure the dignity of PWD in providing barrier free environment.*

[13] Assistant Professor, ICFAI Law School, Hyderabad.

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# Contents


| | | |
|---|---|---|
| 1. | Judicial Activism<br>*Dr Y Gangi Reddy* | *8* |
| 2. | Advocates Academy<br>*Dr Y Gangi Reddy* | *9* |
| 3. | Legal Education in India<br>*Dr Akbar Khan* | *10* |
| 4. | Medical Tourism and Legalities<br>*Dr Madhuri Irene* | *11* |
| 5. | National Education Policy 2020, a Step Towards International Standardization<br>*Dr Akbar Khan* | *12* |
| 6. | Professional Development and Continuous Education<br>Dr Rekaraj Jain | *13* |
| 7. | Legal Contours of Transgender Rights<br>*Dr. Rekharaj Jain* | *14* |
| 8. | Article 370 of the Constitution of India: A Catagorical Critique<br>*Dr. Irfan Rasool* | *15* |
| 9. | Section 89 of the Code of Civil Procedure 1908 as a Tool of Speedy Disposal of Civil Suits<br>*Dr.Madhuri Irene* | *16* |
| 10. | Missile Technology Control Regime Opportunities and Challenges- Indial Legal Perspective<br>*Dr.Sanu Rani Pal* | *17* |
| 11. | Gig-Economy and Social Security to Gig- workers in India: A Study<br>*Dr. M Ravindranath & Dr. Manu Datta* | *18* |
| 12. | Changing Dynamics of Live in Relationships<br>*Ms Priti* | *19* |
| 13. | Accessibility for Divyangjan(Persons with Disability) in India<br>*Mrs.L.Lakshmi* | *20* |
| 14. | 19th Century African-American Women Slave Narrative<br>*O.Sankar* | *21* |
| 15. | Human DNA Profiling Bill 2015: An Analysis<br>*Dr Damodar Reddy* | *22* |
| 16. | Protection of Animal Rights in India<br>*Dr. K.V.Ravi Kumar* | *23* |
| 17. | Dilemma in Divorce Theory with Special Reference to Hindu Law<br>*Dr. Madhuri Irene* | *24* |
| 18. | Manhole Deaths: Realising the Unrealistic<br>*Dr.S.Kannan* | *25* |
| 19. | Excluded among the Excluded : The Status of Tribal Women in Telangana<br>*Dr S Kannan* | *26* |
| 20. | "From Berated Blindness To Blooming Blue Economy"- An Emergent Call To Protect Marine Wealth<br>*Dr. Madhuri Irene* | *27* |
| 21. | Effective Presentation Skills, Language, Gender, Understanding the Power Structure.<br>*O Sankar* | *28* |

22. Access to Institutional Credit among Scheduled Tribes in Telangana . A Case study from Sankarpalli Mandal. 29
*Dr. Kannan*

23. Protection of Human Rights in India. 30
*Dr.K.Ravi Kumar*

24. A Qualitative Analysis of Cross Dressing Legitimacy with Special Reference to India 31
*Dr.Rekharaj Jain*

25. Community Sanitary Latrines in insanitary Condition Requires Amendment in Manual Scavengers Act 2013 32
*Dr. Kannan*

26. Commercialisation of Leisure and Sports: A Case Study of Khanapur Village , Telangana 33
*Dr .S.Kannan*

27. Women , Surrogacy Law and Social Justice 34
*Astha Srivastav*

28. 360 Degrees Sustainable Models for Indian Universities 35
*Dr. Arun Kumar*

29. UNLIKELY END OF SINO-US TRADE WAR 36
*Dr. S. Uma*

30. Maternal Commitments and Women Workforce Participation in Urban India 37
*Dr. Iti Vyas*

31. The Threshold of OECD Revised Guidance on Profit-Split Method during COVID-19. 38
*Dr. Vinay Sharma*

32. Plea Bargaining ; A Critical Analysis 39
*Dr.T.Himavati*

33. Stem Cell Protection: Legal and Ethical Issues 40
*Dr. A.Sreelatha*

34. Regulation of Clinical Trials in India: A Critical Study with special reference to the Drugs and Cosmetics Act, 1940 41
*Aditi Nidhi*

35. Changing Perceptions in Space Law: A Special Focus on Theory of Non-Appropriation and Commercialization of Outer Space 42
*Dr. Poorvi Kantroo*

36. Merchant of Venice : The Quest for Justice 43
*Dr Padmanabha Rao*

37. Justice Irrespective of Gender: Unsex the Women Empowerment Laws 44
*Katiyani Juneja*

38. UBER : Issues and Challenges 45
*Ms Sanu Rani Paul*

39. Democracy in Singapore 46
*Dr. Uma Sonti*

40. Problems and Prospects of Handloom Sector in Employment Generation in Telangana State 47
*P. Kesari*

41. Issues of Internal Migrant Labour in India and Legal Response: An Analysis 48
*Manu Datta*

42. Objectification of women in media: A Feminist-Legal Analysis 49
*Stithi Dasgupta*

43. Challenging a foreign arbitral award in domestic courts- An Analysis 50
*Dr.P.L.Jayanthi Reddy*

44. Heterogenity and Spirituality 51
*Dr. Rekharaj Jain*

45. A Critical Analysis on Mahatma Gandhi Rural Employment Guarantee Act 2005 52
*Y. Gangi Reddy*

46. The Concept of Freedom and the Constitutional Control: A socio-political analysis 53
*Dr. Dilshad Shaik*

47. Environmental Protection in the Framework of International Law - A Study 54
*Prof.T.Sita Kumara*

48. The balance between environmental protection and developmental activities: Past, Present and Future A Socio-legal Analysis 55
*Dr.R.D.Vijayasekhar*

49. The Issue of Collective Land Ownership Under African Customary Land Law: The Case of Cameroon 56
*Fonja Julius Achu*

50. Misleading Advertisements in India: A Comparative and Critical Analysis 57
*Anita A Patil*

51. Educational Qualifications of Elected Representatives: Need of the Hour for a Progressive Democracy 58
*Masood Ahmad*

52. The Impact of Artificial Insemination on the Institution of Family: Legal Nuances 59
*Dr. D Srujana*

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# 19th Century African-American Women Slave Narrative

O.Sankar[14]

*Abstract:*

*Faculty discusses that his paper seeks to interrogate the different ways in which the Slave History has been mediated throughout history in the form of writing and the possibilities of retrieving human experience, in this case slave experience, from the 'text', is the primary focus of the chapter. When education is denied to the slaves, we should re-read the available documents to comprehend the text. Also we should re-examine the agencies and the writers who construct the black identity in narration. Historically, such construction was made possible by blacks who had spacial interaction with the whites. Domestic slaves in particular had spacial interaction with the mistress and it is often observed in their writing. The narration of a Black Women primarily emerges from such interaction, and their history has been written. But the conventions of the slave narration and its implied readers somehow restricts the delivery of the narration from their social standing. Such restricted narration down the history is perceived for the empowerment of the narrator and their coloured community. Further he said , for most of the 19th Century African American Women writing – the "freedom of speech" is unattainable because of the then existing readership. Their narration has been embedded with anonymity, and their readers has been advised frequently that "It will naturally excite surprise that a woman reared in Slavery should be able to write so well" (Maria Child). These testimonies not only interrupts the narration, but unstabilises the textual space of an autobiography. Nonetheless, their narration has been brought in print and academicians like Jean Fagan Yellin for an instance, retrieves Harriet Jacobs's family history. Further he said the events within the narrative carrying oral essence in the form of soliloquy, aside, lament, gossips, rumors, has to be critically examined. And such attempts provides the clue to analyze the mediation of slave experience within the restricted writing space of 19th Century America.*

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# Contents


| | | |
|---|---|---|
| 1. | Judicial Activism<br>*Dr Y Gangi Reddy* | *8* |
| 2. | Advocates Academy<br>*Dr Y Gangi Reddy* | *9* |
| 3. | Legal Education in India<br>*Dr Akbar Khan* | *10* |
| 4. | Medical Tourism and Legalities<br>*Dr Madhuri Irene* | *11* |
| 5. | National Education Policy 2020, a Step Towards International Standardization<br>*Dr Akbar Khan* | *12* |
| 6. | Professional Development and Continuous Education<br>Dr Rekaraj Jain | *13* |
| 7. | Legal Contours of Transgender Rights<br>*Dr. Rekharaj Jain* | *14* |
| 8. | Article 370 of the Constitution of India: A Catagorical Critique<br>*Dr. Irfan Rasool* | *15* |
| 9. | Section 89 of the Code of Civil Procedure 1908 as a Tool of Speedy Disposal of Civil Suits<br>*Dr.Madhuri Irene* | *16* |
| 10. | Missile Technology Control Regime Opportunities and Challenges- Indial Legal Perspective<br>*Dr.Sanu Rani Pal* | *17* |
| 11. | Gig-Economy and Social Security to Gig- workers in India: A Study<br>*Dr. M Ravindranath & Dr. Manu Datta* | *18* |
| 12. | Changing Dynamics of Live in Relationships<br>*Ms Priti* | *19* |
| 13. | Accessibility for Divyangjan(Persons with Disability) in India<br>*Mrs.L.Lakshmi* | *20* |
| 14. | 19th Century African-American Women Slave Narrative<br>*O.Sankar* | *21* |
| 15. | Human DNA Profiling Bill 2015: An Analysis<br>*Dr Damodar Reddy* | *22* |
| 16. | Protection of Animal Rights in India<br>*Dr. K.V.Ravi Kumar* | *23* |
| 17. | Dilemma in Divorce Theory with Special Reference to Hindu Law<br>*Dr. Madhuri Irene* | *24* |
| 18. | Manhole Deaths: Realising the Unrealistic<br>*Dr.S.Kannan* | *25* |
| 19. | Excluded among the Excluded : The Status of Tribal Women in Telangana<br>*Dr S Kannan* | *26* |
| 20. | "From Berated Blindness To Blooming Blue Economy"- An Emergent Call To Protect Marine Wealth<br>*Dr. Madhuri Irene* | *27* |
| 21. | Effective Presentation Skills, Language, Gender, Understanding the Power Structure.<br>*O Sankar* | *28* |

22. Access to Institutional Credit among Scheduled Tribes in Telangana . A Case study from Sankarpalli Mandal. *29*
*Dr. Kannan*

23. Protection of Human Rights in India. *30*
*Dr.K.Ravi Kumar*

24. A Qualitative Analysis of Cross Dressing Legitimacy with Special Reference to India *31*
*Dr.Rekharaj Jain*

25. Community Sanitary Latrines in insanitary Condition Requires Amendment in Manual Scavengers Act 2013 *32*
*Dr. Kannan*

26. Commercialisation of Leisure and Sports: A Case Study of Khanapur Village , Telangana *33*
*Dr .S.Kannan*

27. Women , Surrogacy Law and Social Justice *34*
*Astha Srivastav*

28. 360 Degrees Sustainable Models for Indian Universities *35*
*Dr. Arun Kumar*

29. UNLIKELY END OF SINO-US TRADE WAR *36*
*Dr. S. Uma*

30. Maternal Commitments and Women Workforce Participation in Urban India *37*
*Dr. Iti Vyas*

31. The Threshold of OECD Revised Guidance on Profit-Split Method during COVID-19. *38*
*Dr. Vinay Sharma*

32. Plea Bargaining ; A Critical Analysis *39*
*Dr.T.Himavati*

33. Stem Cell Protection: Legal and Ethical Issues *40*
*Dr. A.Sreelatha*

34. Regulation of Clinical Trials in India: A Critical Study with special reference to the Drugs and Cosmetics Act, 1940 *41*
*Aditi Nidhi*

35. Changing Perceptions in Space Law: A Special Focus on Theory of Non-Appropriation and Commercialization of Outer Space *42*
*Dr. Poorvi Kantroo*

36. Merchant of Venice : The Quest for Justice *43*
*Dr Padmanabha Rao*

37. Justice Irrespective of Gender: Unsex the Women Empowerment Laws *44*
*Katiyani Juneja*

38. UBER : Issues and Challenges *45*
*Ms Sanu Rani Paul*

39. Democracy in Singapore *46*
*Dr. Uma Sonti*

40. Problems and Prospects of Handloom Sector in Employment Generation in Telangana State *47*
*P. Kesari*

41. Issues of Internal Migrant Labour in India and Legal Response. An Analysis *48*
*Manu Datta*

42. Objectification of women in media: A Feminist-Legal Analysis 49
*Stithi Dasgupta*

43. Challenging a foreign arbitral award in domestic courts- An Analysis 50
*Dr.P.L.Jayanthi Reddy*

44. Heterogenity and Spirituality 51
*Dr. Rekharaj Jain*

45. A Critical Analysis on Mahatma Gandhi Rural Employment Guarantee Act 2005 52
*Y. Gangi Reddy*

46. The Concept of Freedom and the Constitutional Control: A socio-political analysis 53
*Dr. Dilshad Shaik*

47. Environmental Protection in the Framework of International Law - A Study 54
*Prof.T.Sita Kumara*

48. The balance between environmental protection and developmental activities: Past, Present and Future A Socio-legal Analysis 55
*Dr.R.D.Vijayasekhar*

49. The Issue of Collective Land Ownership Under African Customary Land Law: The Case of Cameroon 56
*Fonja Julius Achu*

50. Misleading Advertisements in India: A Comparative and Critical Analysis 57
*Anita A Patil*

51. Educational Qualifications of Elected Representatives: Need of the Hour for a Progressive Democracy 58
*Masood Ahmad*

52. The Impact of Artificial Insemination on the Institution of Family: Legal Nuances 59
*Dr. D Srujana*

53. The Role of Law Commission in Revamping the Overburdened Supreme Court 60
*B Muthu Kumar*

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# Human DNA Profiling Bill 2015: An Analysis

Dr Damodar Reddy[15]

*Abstract :*

*The seminar presentation started with the discussion on what is DNA and DNA Profiling or Analysis or DNA Fingerprinting or testing or typing and its scientific developments. It proceeded on how DNA Profiling as a forensic technique used in the analysis of body substances used to identify individuals by characteristics of their DNA. The use of DNA Profiling in the investigations and inquiries in the foreign countries and in the Indian legal system in order to expedite the civil and criminal disputes, identify the unclaimed dead persons and to track down missing persons etc. along with the case laws. In the light of this backdrop the analysis of the various clauses of the Human DNA Profiling Bill, 2015 was made. The analysis is made on the various definitions, constitution, powers and functions of DNA Profiling Board, DNA Laboratories and their Standards, Quality Control , Infrastructure and Training of staff, setting up of DNA Data Bank , Confidentiality and Access to DNA Profiles and Offences and Penalties for the contravention of the provisions. Followed by discussion and Question and Answers.*

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# Contents


| | | |
|---|---|---|
| 1. | Judicial Activism<br>*Dr Y Gangi Reddy* | *8* |
| 2. | Advocates Academy<br>*Dr Y Gangi Reddy* | *9* |
| 3. | Legal Education in India<br>*Dr Akbar Khan* | *10* |
| 4. | Medical Tourism and Legalities<br>*Dr Madhuri Irene* | *11* |
| 5. | National Education Policy 2020, a Step Towards International Standardization<br>*Dr Akbar Khan* | *12* |
| 6. | Professional Development and Continuous Education<br>Dr Rekaraj Jain | *13* |
| 7. | Legal Contours of Transgender Rights<br>*Dr. Rekharaj Jain* | *14* |
| 8. | Article 370 of the Constitution of India: A Catagorical Critique<br>*Dr. Irfan Rasool* | *15* |
| 9. | Section 89 of the Code of Civil Procedure 1908 as a Tool of Speedy Disposal of Civil Suits<br>*Dr.Madhuri Irene* | *16* |
| 10. | Missile Technology Control Regime Opportunities and Challenges- Indial Legal Perspective<br>*Dr.Sanu Rani Pal* | *17* |
| 11. | Gig-Economy and Social Security to Gig- workers in India: A Study<br>*Dr. M Ravindranath & Dr. Manu Datta* | *18* |
| 12. | Changing Dynamics of Live in Relationships<br>*Ms Priti* | *19* |
| 13. | Accessibility for Divyangjan(Persons with Disability) in India<br>*Mrs.L.Lakshmi* | *20* |
| 14. | 19th Century African-American Women Slave Narrative<br>*O.Sankar* | *21* |
| 15. | Human DNA Profiling Bill 2015: An Analysis<br>*Dr Damodar Reddy* | *22* |
| 16. | Protection of Animal Rights in India<br>*Dr. K.V.Ravi Kumar* | *23* |
| 17. | Dilemma in Divorce Theory with Special Reference to Hindu Law<br>*Dr. Madhuri Irene* | *24* |
| 18. | Manhole Deaths: Realising the Unrealistic<br>*Dr.S.Kannan* | *25* |
| 19. | Excluded among the Excluded : The Status of Tribal Women in Telangana<br>*Dr S Kannan* | *26* |
| 20. | "From Berated Blindness To Blooming Blue Economy"- An Emergent Call To Protect Marine Wealth<br>*Dr. Madhuri Irene* | *27* |
| 21. | Effective Presentation Skills, Language, Gender, Understanding the Power Structure.<br>*O Sankar* | *28* |

22. Access to Institutional Credit among Scheduled Tribes in Telangana . A Case study from Sankarpalli Mandal. 29
*Dr. Kannan*

23. Protection of Human Rights in India. 30
*Dr.K.Ravi Kumar*

24. A Qualitative Analysis of Cross Dressing Legitimacy with Special Reference to India 31
*Dr.Rekharaj Jain*

25. Community Sanitary Latrines in insanitary Condition Requires Amendment in Manual Scavengers Act 2013 32
*Dr. Kannan*

26. Commercialisation of Leisure and Sports: A Case Study of Khanapur Village , Telangana 33
*Dr .S.Kannan*

27. Women , Surrogacy Law and Social Justice 34
*Astha Srivastav*

28. 360 Degrees Sustainable Models for Indian Universities 35
*Dr. Arun Kumar*

29. UNLIKELY END OF SINO-US TRADE WAR 36
*Dr. S. Uma*

30. Maternal Commitments and Women Workforce Participation in Urban India 37
*Dr. Iti Vyas*

31. The Threshold of OECD Revised Guidance on Profit-Split Method during COVID-19. 38
*Dr. Vinay Sharma*

32. Plea Bargaining ; A Critical Analysis 39
*Dr.T.Himavati*

33. Stem Cell Protection: Legal and Ethical Issues 40
*Dr. A.Sreelatha*

34. Regulation of Clinical Trials in India: A Critical Study with special reference to the Drugs and Cosmetics Act, 1940 41
*Aditi Nidhi*

35. Changing Perceptions in Space Law: A Special Focus on Theory of Non-Appropriation and Commercialization of Outer Space 42
*Dr. Poorvi Kantroo*

36. Merchant of Venice : The Quest for Justice 43
*Dr Padmanabha Rao*

37. Justice Irrespective of Gender: Unsex the Women Empowerment Laws 44
*Katiyani Juneja*

38. UBER : Issues and Challenges 45
*Ms Sanu Rani Paul*

39. Democracy in Singapore 46
*Dr. Uma Sonti*

40. Problems and Prospects of Handloom Sector in Employment Generation in Telangana State 47
*P. Kesari*

41. Issues of Internal Migrant Labour in India and Legal Response. An Analysis 48
*Manu Datta*

42. Objectification of women in media: A Feminist-Legal Analysis 49
*Stithi Dasgupta*

43. Challenging a foreign arbitral award in domestic courts- An Analysis 50
*Dr.P.L.Jayanthi Reddy*

44. Heterogenity and Spirituality 51
*Dr. Rekharaj Jain*

45. A Critical Analysis on Mahatma Gandhi Rural Employment Guarantee Act 2005 52
*Y. Gangi Reddy*

46. The Concept of Freedom and the Constitutional Control: A socio-political analysis 53
*Dr. Dilshad Shaik*

47. Environmental Protection in the Framework of International Law - A Study 54
*Prof.T.Sita Kumara*

48. The balance between environmental protection and developmental activities: Past, Present and Future A Socio-legal Analysis 55
*Dr.R.D.Vijayasekhar*

49. The Issue of Collective Land Ownership Under African Customary Land Law: The Case of Cameroon 56
*Fonja Julius Achu*

50. Misleading Advertisements in India: A Comparative and Critical Analysis 57
*Anita A Patil*

51. Educational Qualifications of Elected Representatives: Need of the Hour for a Progressive Democracy 58
*Masood Ahmad*

52. The Impact of Artificial Insemination on the Institution of Family: Legal Nuances 59
*Dr. D Srujana*

53. The Role of Law Commission in Revamping the Overburdened Supreme Court 60
*B Muthu Kumar*

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# Protection of Animal Rights in India

Dr. K.V.Ravi Kumar[16]

*Abstract :*

*All animals should enjoy the same rights as human beings. In legal theory, the 'non-human animals' are merely treated as objects of legal rights and duties, but not the subjects thereof, as animals are incapable of holding legal rights and duties. The step taken by the Uttarakhand High Court in Narayan Dutt Bhatt v Union of India & Others (Writ Petition (PIL) No. 43 of 2014), is a positive step towards the protection of wildlife as such a judgment to will secure environmental interests, but, the question of expanding the definition of legal persons to include animals, involves a deeply contentious issue in law and philosophy. If the rights of animals are truly recognized, the Indian legal system will have to be completely changed to cater to the rights of animals. The use of animals as labor will have to be completely eliminated, to actually recognize their rights.*

*In the society, people were ready to fight against the cruelty to animals such as Bear being dragged on the road, or a Zoo that keeps its animals badly, or a dog being beaten and chained, a Poacher or a restaurant that serves partridge, or venison or veal. Teachers do not know that dissection in schools is illegal, and the Municipal Corporation does not know that chickens cannot be carried stuffed in tempos and that small slaughterhouses situated in colonies are illegal. Policeman do not know about any of the laws pertaining to animal abuse. There is no end to cruelty to animals. You may have found full grown adults stoning and harming stray dogs, shooting innocent birds and leaving completely harmless animals to starvation and death, or seen companies illegally experimenting their products on animals, animals being mistreated and harmed for entertainment in zoos and parks, men carrying an unimaginable number of cattle in a cart or truck, beating them and overloading them. Despite prevailing of the laws to protect the animals, implementation of the laws in preventing the cruelty to animals is weak. Therefore, I made an attempt in this seminar to make awareness about the rights of animals to the society at large.*

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# Contents


| | | |
|---|---|---|
| 1. | Judicial Activism<br>*Dr Y Gangi Reddy* | *8* |
| 2. | Advocates Academy<br>*Dr Y Gangi Reddy* | *9* |
| 3. | Legal Education in India<br>*Dr Akbar Khan* | *10* |
| 4. | Medical Tourism and Legalities<br>*Dr Madhuri Irene* | *11* |
| 5. | National Education Policy 2020, a Step Towards International Standardization<br>*Dr Akbar Khan* | *12* |
| 6. | Professional Development and Continuous Education<br>Dr Rekaraj Jain | *13* |
| 7. | Legal Contours of Transgender Rights<br>*Dr. Rekharaj Jain* | *14* |
| 8. | Article 370 of the Constitution of India: A Catagorical Critique<br>*Dr. Irfan Rasool* | *15* |
| 9. | Section 89 of the Code of Civil Procedure 1908 as a Tool of Speedy Disposal of Civil Suits<br>*Dr.Madhuri Irene* | *16* |
| 10. | Missile Technology Control Regime Opportunities and Challenges- Indial Legal Perspective<br>*Dr.Sanu Rani Pal* | *17* |
| 11. | Gig-Economy and Social Security to Gig- workers in India: A Study<br>*Dr. M Ravindranath & Dr. Manu Datta* | *18* |
| 12. | Changing Dynamics of Live in Relationships<br>*Ms Priti* | *19* |
| 13. | Accessibility for Divyangjan(Persons with Disability) in India<br>*Mrs.L.Lakshmi* | *20* |
| 14. | 19th Century African-American Women Slave Narrative<br>*O.Sankar* | *21* |
| 15. | Human DNA Profiling Bill 2015: An Analysis<br>*Dr Damodar Reddy* | *22* |
| 16. | Protection of Animal Rights in India<br>*Dr. K.V.Ravi Kumar* | *23* |
| 17. | Dilemma in Divorce Theory with Special Reference to Hindu Law<br>*Dr. Madhuri Irene* | *24* |
| 18. | Manhole Deaths: Realising the Unrealistic<br>*Dr.S.Kannan* | *25* |
| 19. | Excluded among the Excluded : The Status of Tribal Women in Telangana<br>*Dr S Kannan* | *26* |
| 20. | "From Berated Blindness To Blooming Blue Economy"- An Emergent Call To Protect Marine Wealth<br>*Dr. Madhuri Irene* | *27* |
| 21. | Effective Presentation Skills, Language, Gender, Understanding the Power Structure<br>*O Sankar* | *28* |

22. Access to Institutional Credit among Scheduled Tribes in Telangana . A Case study from Sankarpalli Mandal. 29
*Dr. Kannan*

23. Protection of Human Rights in India. 30
*Dr.K.Ravi Kumar*

24. A Qualitative Analysis of Cross Dressing Legitimacy with Special Reference to India 31
*Dr.Rekharaj Jain*

25. Community Sanitary Latrines in insanitary Condition Requires Amendment in Manual Scavengers Act 2013 32
*Dr. Kannan*

26. Commercialisation of Leisure and Sports: A Case Study of Khanapur Village , Telangana 33
*Dr .S.Kannan*

27. Women , Surrogacy Law and Social Justice 34
*Astha Srivastav*

28. 360 Degrees Sustainable Models for Indian Universities 35
*Dr. Arun Kumar*

29. UNLIKELY END OF SINO-US TRADE WAR 36
*Dr. S. Uma*

30. Maternal Commitments and Women Workforce Participation in Urban India 37
*Dr. Iti Vyas*

31. The Threshold of OECD Revised Guidance on Profit-Split Method during COVID-19. 38
*Dr. Vinay Sharma*

32. Plea Bargaining ; A Critical Analysis 39
*Dr.T.Himavati*

33. Stem Cell Protection: Legal and Ethical Issues 40
*Dr. A.Sreelatha*

34. Regulation of Clinical Trials in India: A Critical Study with special reference to the Drugs and Cosmetics Act, 1940 41
*Aditi Nidhi*

35. Changing Perceptions in Space Law: A Special Focus on Theory of Non-Appropriation and Commercialization of Outer Space 42
*Dr. Poorvi Kantroo*

36. Merchant of Venice : The Quest for Justice 43
*Dr Padmanabha Rao*

37. Justice Irrespective of Gender: Unsex the Women Empowerment Laws 44
*Katiyani Juneja*

38. UBER : Issues and Challenges 45
*Ms Sanu Rani Paul*

39. Democracy in Singapore 46
*Dr. Uma Sonti*

40. Problems and Prospects of Handloom Sector in Employment Generation in Telangana State 47
*P. Kesari*

41. Issues of Internal Migrant Labour in India and Legal Response: An Analysis 48
*Manu Datta*

42. Objectification of women in media: A Feminist-Legal Analysis 49
*Stithi Dasgupta*
43. Challenging a foreign arbitral award in domestic courts- An Analysis 50
*Dr.P.L.Jayanthi Reddy*
44. Heterogenity and Spirituality 51
*Dr. Rekharaj Jain*
45. A Critical Analysis on Mahatma Gandhi Rural Employment Guarantee Act 2005 52
*Y. Gangi Reddy*
46. The Concept of Freedom and the Constitutional Control: A socio-political analysis 53
*Dr. Dilshad Shaik*
47. Environmental Protection in the Framework of International Law - A Study 54
*Prof.T.Sita Kumara*
48. The balance between environmental protection and developmental activities: Past, Present and Future A Socio-legal Analysis 55
*Dr.R.D.Vijayasekhar*

49. The Issue of Collective Land Ownership Under African Customary Land Law: The Case of Cameroon 56
*Fonja Julius Achu*
50. Misleading Advertisements in India: A Comparative and Critical Analysis 57
*Anita A Patil*
51. Educational Qualifications of Elected Representatives: Need of the Hour for a Progressive Democracy 58
*Masood Ahmad*
52. The Impact of Artificial Insemination on the Institution of Family: Legal Nuances 59
*Dr. D Srujana*
53. The Role of Law Commission in Revamping the Overburdened Supreme Court 60
*B Muthu Kumar*

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# Dilemma in Divorce Theory with Special Reference to Hindu Law

Dr. Madhuri Irene[17]

*Abstract:*

*Under shastric Hindu Law marriage is regarded as an indissoluble union of the husband and wife. Manu has declared that, "Let mutual fidelity continue till death; this in brief may be understood to be the highest dharma of husband and wife". Divorce means dissolution of marriage by a competent court. This presentation discusses divorce under Hindu Law. It analyses how the concept was non-existent under ancient law due to the sacramental nature of marriage, but was introduced under the Hindu Marriage Act, 1955. It is about studies and the different theories of divorce- fault, mutual consent, and breakdown; and also describes the grounds for divorce under this Act, and focus on how these grounds were modified through amendments in the year 1976 and marriage bill 2013.she briefly dwells on the grounds that are available. The pros and cons of addition of irretrievable breakdown as a ground for divorce amidst growing debate about its merits."She explains the dilemma in diverse Judgments through certain case laws.*

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# Contents


| | | |
|---|---|---|
| 1. | Judicial Activism<br>*Dr Y Gangi Reddy* | *8* |
| 2. | Advocates Academy<br>*Dr Y Gangi Reddy* | *9* |
| 3. | Legal Education in India<br>*Dr Akbar Khan* | *10* |
| 4. | Medical Tourism and Legalities<br>*Dr Madhuri Irene* | *11* |
| 5. | National Education Policy 2020, a Step Towards International Standardization<br>*Dr Akbar Khan* | *12* |
| 6. | Professional Development and Continuous Education<br>Dr Rekaraj Jain | *13* |
| 7. | Legal Contours of Transgender Rights<br>*Dr. Rekharaj Jain* | *14* |
| 8. | Article 370 of the Constitution of India: A Catagorical Critique<br>*Dr. Irfan Rasool* | *15* |
| 9. | Section 89 of the Code of Civil Procedure 1908 as a Tool of Speedy Disposal of Civil Suits<br>*Dr.Madhuri Irene* | *16* |
| 10. | Missile Technology Control Regime Opportunities and Challenges- Indial Legal Perspective<br>*Dr.Sanu Rani Pal* | *17* |
| 11. | Gig-Economy and Social Security to Gig- workers in India: A Study<br>*Dr. M Ravindranath & Dr. Manu Datta* | *18* |
| 12. | Changing Dynamics of Live in Relationships<br>*Ms Priti* | *19* |
| 13. | Accessibility for Divyangjan(Persons with Disability) in India<br>*Mrs.L.Lakshmi* | *20* |
| 14. | 19th Century African-American Women Slave Narrative<br>*O.Sankar* | *21* |
| 15. | Human DNA Profiling Bill 2015: An Analysis<br>*Dr Damodar Reddy* | *22* |
| 16. | Protection of Animal Rights in India<br>*Dr. K.V.Ravi Kumar* | *23* |
| 17. | Dilemma in Divorce Theory with Special Reference to Hindu Law<br>*Dr. Madhuri Irene* | *24* |
| 18. | Manhole Deaths: Realising the Unrealistic<br>*Dr.S.Kannan* | *25* |
| 19. | Excluded among the Excluded : The Status of Tribal Women in Telangana<br>*Dr S Kannan* | *26* |
| 20. | "From Berated Blindness To Blooming Blue Economy"- An Emergent Call To Protect Marine Wealth<br>*Dr. Madhuri Irene* | *27* |
| 21. | Effective Presentation Skills, Language, Gender, Understanding the Power Structure.<br>*O Sankar* | *28* |

22. Access to Institutional Credit among Scheduled Tribes in Telangana . A Case study from Sankarpalli Mandal. *29*
*Dr. Kannan*

23. Protection of Human Rights in India. *30*
*Dr.K.Ravi Kumar*

24. A Qualitative Analysis of Cross Dressing Legitimacy with Special Reference to India *31*
*Dr.Rekharaj Jain*

25. Community Sanitary Latrines in insanitary Condition Requires Amendment in Manual Scavengers Act 2013 *32*
*Dr. Kannan*

26. Commercialisation of Leisure and Sports: A Case Study of Khanapur Village , Telangana *33*
*Dr .S.Kannan*

27. Women , Surrogacy Law and Social Justice *34*
*Astha Srivastav*

28. 360 Degrees Sustainable Models for Indian Universities *35*
*Dr. Arun Kumar*

29. UNLIKELY END OF SINO-US TRADE WAR *36*
*Dr. S. Uma*

30. Maternal Commitments and Women Workforce Participation in Urban India *37*
*Dr. Iti Vyas*

31. The Threshold of OECD Revised Guidance on Profit-Split Method during COVID-19. *38*
*Dr. Vinay Sharma*

32. Plea Bargaining ; A Critical Analysis *39*
*Dr.T.Himavati*

33. Stem Cell Protection: Legal and Ethical Issues *40*
*Dr. A.Sreelatha*

34. Regulation of Clinical Trials in India: A Critical Study with special reference to the Drugs and Cosmetics Act, 1940 *41*
*Aditi Nidhi*

35. Changing Perceptions in Space Law: A Special Focus on Theory of Non-Appropriation and Commercialization of Outer Space *42*
*Dr. Poorvi Kantroo*

36. Merchant of Venice : The Quest for Justice *43*
*Dr Padmanabha Rao*

37. Justice Irrespective of Gender: Unsex the Women Empowerment Laws *44*
*Katiyani Juneja*

38. UBER : Issues and Challenges *45*
*Ms Sanu Rani Paul*

39. Democracy in Singapore *46*
*Dr. Uma Sonti*

40. Problems and Prospects of Handloom Sector in Employment Generation in Telangana State *47*
*P. Kesari*

41. Issues of Internal Migrant Labour in India and Legal Response: An Analysis *48*
*Manu Datta*

42. Objectification of women in media: A Feminist-Legal Analysis 49
*Stithi Dasgupta*
43. Challenging a foreign arbitral award in domestic courts- An Analysis 50
*Dr.P.L.Jayanthi Reddy*
44. Heterogenity and Spirituality 51
*Dr. Rekharaj Jain*
45. A Critical Analysis on Mahatma Gandhi Rural Employment Guarantee Act 2005 52
*Y. Gangi Reddy*
46. The Concept of Freedom and the Constitutional Control: A socio-political analysis 53
*Dr. Dilshad Shaik*
47. Environmental Protection in the Framework of International Law - A Study 54
*Prof.T.Sita Kumara*
48. The balance between environmental protection and developmental activities: Past, Present and Future A Socio-legal Analysis 55
*Dr.R.D.Vijayasekhar*
49. The Issue of Collective Land Ownership Under African Customary Land Law: The Case of Cameroon 56
*Fonja Julius Achu*
50. Misleading Advertisements in India: A Comparative and Critical Analysis 57
*Anita A Patil*
51. Educational Qualifications of Elected Representatives: Need of the Hour for a Progressive Democracy 58
*Masood Ahmad*
52. The Impact of Artificial Insemination on the Institution of Family: Legal Nuances 59
*Dr. D Srujana*
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# Manhole Deaths: Realising the Unrealistic

Dr.S.Kannan[18]

*Abstract:*

*This paper gives insight on the scavenger and that they possess the lowest occupational status in the social structure of the society from the beginning of the caste system. As per the 2011 Socio-Economic and Caste Census, 1,80,657 households in India were dependent on manual scavenging for income. However many provision in the constitution and also an enactment of a comprehensive legislation on The Prohibition of Employment as Manual Scavengers and their Rehabilitation between 2013 and mid of 2017, nearly 1,400 people have died while cleaning septic tanks and underground sewage across India. Why it happens and why it is stereotyped to particular community and effectiveness of this legislation are taken into consideration for the present study. Further,he says that the legislation prohibits employment of manual scavengers, terming it as a non-bailable offence and offenders could be imprisoned for up to five years and also provides one-time rehabilitation package of Rs.40,000 to the identified manual scavengers. However, no study has conducted to what extent this Act was utilized/benefitted by the manual scavengers. Further he said that the study also analyses the fund allocation and also status of rehabilitation work undertaken by the state governments in India. At the end the study provides the policy measures to eradicate and the alternatives for the manual scavenging occupation in India.*

[18] Assistant Professor, ICFAI Law School, Hyderabad

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# Contents


| | | |
|---|---|---|
| 1. | Judicial Activism<br>*Dr Y Gangi Reddy* | *8* |
| 2. | Advocates Academy<br>*Dr Y Gangi Reddy* | *9* |
| 3. | Legal Education in India<br>*Dr Akbar Khan* | *10* |
| 4. | Medical Tourism and Legalities<br>*Dr Madhuri Irene* | *11* |
| 5. | National Education Policy 2020, a Step Towards International Standardization<br>*Dr Akbar Khan* | *12* |
| 6. | Professional Development and Continuous Education<br>Dr Rekaraj Jain | *13* |
| 7. | Legal Contours of Transgender Rights<br>*Dr. Rekharaj Jain* | *14* |
| 8. | Article 370 of the Constitution of India: A Catagorical Critique<br>*Dr. Irfan Rasool* | *15* |
| 9. | Section 89 of the Code of Civil Procedure 1908 as a Tool of Speedy Disposal of Civil Suits<br>*Dr.Madhuri Irene* | *16* |
| 10. | Missile Technology Control Regime Opportunities and Challenges- Indial Legal Perspective<br>*Dr.Sanu Rani Pal* | *17* |
| 11. | Gig-Economy and Social Security to Gig- workers in India: A Study<br>*Dr. M Ravindranath & Dr. Manu Datta* | *18* |
| 12. | Changing Dynamics of Live in Relationships<br>*Ms Priti* | *19* |
| 13. | Accessibility for Divyangjan(Persons with Disability) in India<br>*Mrs.L.Lakshmi* | *20* |
| 14. | 19th Century African-American Women Slave Narrative<br>*O.Sankar* | *21* |
| 15. | Human DNA Profiling Bill 2015: An Analysis<br>*Dr Damodar Reddy* | *22* |
| 16. | Protection of Animal Rights in India<br>*Dr. K.V.Ravi Kumar* | *23* |
| 17. | Dilemma in Divorce Theory with Special Reference to Hindu Law<br>*Dr. Madhuri Irene* | *24* |
| 18. | Manhole Deaths: Realising the Unrealistic<br>*Dr.S.Kannan* | *25* |
| 19. | Excluded among the Excluded : The Status of Tribal Women in Telangana<br>*Dr S Kannan* | *26* |
| 20. | "From Berated Blindness To Blooming Blue Economy"- An Emergent Call To Protect Marine Wealth<br>*Dr. Madhuri Irene* | *27* |
| 21. | Effective Presentation Skills, Language, Gender, Understanding the Power Structure.<br>*O Sankar* | *28* |

22. Access to Institutional Credit among Scheduled Tribes in Telangana . A Case study from Sankarpalli Mandal. 29
*Dr. Kannan*

23. Protection of Human Rights in India. 30
*Dr.K.Ravi Kumar*

24. A Qualitative Analysis of Cross Dressing Legitimacy with Special Reference to India 31
*Dr.Rekharaj Jain*

25. Community Sanitary Latrines in insanitary Condition Requires Amendment in Manual Scavengers Act 2013 32
*Dr. Kannan*

26. Commercialisation of Leisure and Sports: A Case Study of Khanapur Village , Telangana 33
*Dr .S.Kannan*

27. Women , Surrogacy Law and Social Justice 34
*Astha Srivastav*

28. 360 Degrees Sustainable Models for Indian Universities 35
*Dr. Arun Kumar*

29. UNLIKELY END OF SINO-US TRADE WAR 36
*Dr. S. Uma*

30. Maternal Commitments and Women Workforce Participation in Urban India 37
*Dr. Iti Vyas*

31. The Threshold of OECD Revised Guidance on Profit-Split Method during COVID-19. 38
*Dr. Vinay Sharma*

32. Plea Bargaining ; A Critical Analysis 39
*Dr.T.Himavati*

33. Stem Cell Protection: Legal and Ethical Issues 40
*Dr. A.Sreelatha*

34. Regulation of Clinical Trials in India: A Critical Study with special reference to the Drugs and Cosmetics Act, 1940 41
*Aditi Nidhi*

35. Changing Perceptions in Space Law: A Special Focus on Theory of Non-Appropriation and Commercialization of Outer Space 42
*Dr. Poorvi Kantroo*

36. Merchant of Venice : The Quest for Justice 43
*Dr Padmanabha Rao*

37. Justice Irrespective of Gender: Unsex the Women Empowerment Laws 44
*Katiyani Juneja*

38. UBER : Issues and Challenges 45
*Ms Sanu Rani Paul*

39. Democracy in Singapore 46
*Dr. Uma Sonti*

40. Problems and Prospects of Handloom Sector in Employment Generation in Telangana State 47
*P. Kesari*

41. Issues of Internal Migrant Labour in India and Legal Response: An Analysis 48
*Manu Datta*

42. Objectification of women in media: A Feminist-Legal Analysis 49
*Stithi Dasgupta*
43. Challenging a foreign arbitral award in domestic courts- An Analysis 50
*Dr.P.L.Jayanthi Reddy*
44. Heterogenity and Spirituality 51
*Dr. Rekharaj Jain*
45. A Critical Analysis on Mahatma Gandhi Rural Employment Guarantee Act 2005 52
*Y. Gangi Reddy*
46. The Concept of Freedom and the Constitutional Control: A socio-political analysis 53
*Dr. Dilshad Shaik*
47. Environmental Protection in the Framework of International Law - A Study 54
*Prof.T.Sita Kumara*
48. The balance between environmental protection and developmental activities: Past, Present and Future A Socio-legal Analysis 55
*Dr.R.D.Vijayasekhar*

49. The Issue of Collective Land Ownership Under African Customary Land Law: The Case of Cameroon 56
*Fonja Julius Achu*
50. Misleading Advertisements in India: A Comparative and Critical Analysis 57
*Anita A Patil*
51. Educational Qualifications of Elected Representatives: Need of the Hour for a Progressive Democracy 58
*Masood Ahmad*
52. The Impact of Artificial Insemination on the Institution of Family: Legal Nuances 59
*Dr. D Srujana*
53. The Role of Law Commission in Revamping the Overburdened Supreme Court 60
*B Muthu Kumar*

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# Excluded among the Excluded : The Status of Tribal Women in Telangana

Dr S Kannan[19]

*Abstract:*

*In the process of planned development in India, the different segments of the population uplifted their socio-economic condition by utilizing the educational, occupational and other infrastructural facilities provided by the central as well as state governments. However, certain segments of the population like schedule caste and schedule tribe population were excluded and highly exploited in the process of industrialization and urbanization. The most vulnerable and excluded group in the process is Schedule Tribe population in general and in particular the tribal women. They are the most excluded among the excluded. Against this background the study analyses through the tribal literatures in which way they are excluded in the process of development. The literature review reveals that the factors like mean age of marriage and fertility, sex ratio, literacy and work participation rate can better reveal the status of tribal women. The study covers only the tribal population of Telangana state of India (as it is newly formed in 2014 from the state of Andhra Pradesh and no study conducted on status of tribal women). Further, Scheduled Tribes also constitute about 9.34% (the tribal women constitutes 4.5%) of the total population in Telangana state. The information were gathered from Census of India reports and Statistical Year Book of Telangana. This paper analyze the status of women among the scheduled tribes in Telangana state. Frequent comparisons made by using the factors like mean age of marriage and fertility, sex ratio, literacy and work participation rate to the tribal women with other segments of the women population. Through the analysis, the study portrays the backwards of the tribal women in terms of work participation, literacy, mean age of marriage and fertility. The tribal development policies need to keep eye on the above factors to uplift the status of tribal women in the state of Telangana.*

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# Contents


| | | |
|---|---|---|
| 1. | Judicial Activism<br>*Dr Y Gangi Reddy* | *8* |
| 2. | Advocates Academy<br>*Dr Y Gangi Reddy* | *9* |
| 3. | Legal Education in India<br>*Dr Akbar Khan* | *10* |
| 4. | Medical Tourism and Legalities<br>*Dr Madhuri Irene* | *11* |
| 5. | National Education Policy 2020, a Step Towards International Standardization<br>*Dr Akbar Khan* | *12* |
| 6. | Professional Development and Continuous Education<br>Dr Rekaraj Jain | *13* |
| 7. | Legal Contours of Transgender Rights<br>*Dr. Rekharaj Jain* | *14* |
| 8. | Article 370 of the Constitution of India: A Catagorical Critique<br>*Dr. Irfan Rasool* | *15* |
| 9. | Section 89 of the Code of Civil Procedure 1908 as a Tool of Speedy Disposal of Civil Suits<br>*Dr.Madhuri Irene* | *16* |
| 10. | Missile Technology Control Regime Opportunities and Challenges- Indial Legal Perspective<br>*Dr.Sanu Rani Pal* | *17* |
| 11. | Gig-Economy and Social Security to Gig- workers in India: A Study<br>*Dr. M Ravindranath & Dr. Manu Datta* | *18* |
| 12. | Changing Dynamics of Live in Relationships<br>*Ms Priti* | *19* |
| 13. | Accessibility for Divyangjan(Persons with Disability) in India<br>*Mrs.L.Lakshmi* | *20* |
| 14. | 19th Century African-American Women Slave Narrative<br>*O.Sankar* | *21* |
| 15. | Human DNA Profiling Bill 2015: An Analysis<br>*Dr Damodar Reddy* | *22* |
| 16. | Protection of Animal Rights in India<br>*Dr. K.V.Ravi Kumar* | *23* |
| 17. | Dilemma in Divorce Theory with Special Reference to Hindu Law<br>*Dr. Madhuri Irene* | *24* |
| 18. | Manhole Deaths: Realising the Unrealistic<br>*Dr.S.Kannan* | *25* |
| 19. | Excluded among the Excluded : The Status of Tribal Women in Telangana<br>*Dr S Kannan* | *26* |
| 20. | "From Berated Blindness To Blooming Blue Economy"- An Emergent Call To Protect Marine Wealth<br>*Dr. Madhuri Irene* | *27* |
| 21. | Effective Presentation Skills, Language, Gender, Understanding the Power Structure.<br>*O Sankar* | *28* |

22. Access to Institutional Credit among Scheduled Tribes in Telangana . A Case study from Sankarpalli Mandal. 29
*Dr. Kannan*

23. Protection of Human Rights in India. 30
*Dr.K.Ravi Kumar*

24. A Qualitative Analysis of Cross Dressing Legitimacy with Special Reference to India 31
*Dr.Rekharaj Jain*

25. Community Sanitary Latrines in insanitary Condition Requires Amendment in Manual Scavengers Act 2013 32
*Dr. Kannan*

26. Commercialisation of Leisure and Sports: A Case Study of Khanapur Village , Telangana 33
*Dr .S.Kannan*

27. Women , Surrogacy Law and Social Justice 34
*Astha Srivastav*

28. 360 Degrees Sustainable Models for Indian Universities 35
*Dr. Arun Kumar*

29. UNLIKELY END OF SINO-US TRADE WAR 36
*Dr. S. Uma*

30. Maternal Commitments and Women Workforce Participation in Urban India 37
*Dr. Iti Vyas*

31. The Threshold of OECD Revised Guidance on Profit-Split Method during COVID-19. 38
*Dr. Vinay Sharma*

32. Plea Bargaining ; A Critical Analysis 39
*Dr.T.Himavati*

33. Stem Cell Protection: Legal and Ethical Issues 40
*Dr. A.Sreelatha*

34. Regulation of Clinical Trials in India: A Critical Study with special reference to the Drugs and Cosmetics Act, 1940 41
*Aditi Nidhi*

35. Changing Perceptions in Space Law: A Special Focus on Theory of Non-Appropriation and Commercialization of Outer Space 42
*Dr. Poorvi Kantroo*

36. Merchant of Venice : The Quest for Justice 43
*Dr Padmanabha Rao*

37. Justice Irrespective of Gender: Unsex the Women Empowerment Laws 44
*Katiyani Juneja*

38. UBER : Issues and Challenges 45
*Ms Sanu Rani Paul*

39. Democracy in Singapore 46
*Dr. Uma Sonti*

40. Problems and Prospects of Handloom Sector in Employment Generation in Telangana State 47
*P. Kesari*

41 Issues of Internal Migrant Labour in India and Legal Response: An Analysis 48
*Manu Datta*

42. Objectification of women in media: A Feminist-Legal Analysis 49
*Stithi Dasgupta*
43. Challenging a foreign arbitral award in domestic courts- An Analysis 50
*Dr.P.L.Jayanthi Reddy*
44. Heterogenity and Spirituality 51
*Dr. Rekharaj Jain*
45. A Critical Analysis on Mahatma Gandhi Rural Employment Guarantee Act 2005 52
*Y. Gangi Reddy*
46. The Concept of Freedom and the Constitutional Control: A socio-political analysis 53
*Dr. Dilshad Shaik*
47. Environmental Protection in the Framework of International Law - A Study 54
*Prof.T.Sita Kumara*
48. The balance between environmental protection and developmental activities: Past, Present and Future A Socio-legal Analysis 55
*Dr.R.D.Vijayasekhar*

49. The Issue of Collective Land Ownership Under African Customary Land Law: The Case of Cameroon 56
*Fonja Julius Achu*
50. Misleading Advertisements in India: A Comparative and Critical Analysis 57
*Anita A Patil*
51. Educational Qualifications of Elected Representatives: Need of the Hour for a Progressive Democracy 58
*Masood Ahmad*
52. The Impact of Artificial Insemination on the Institution of Family: Legal Nuances 59
*Dr. D Srujana*
53. The Role of Law Commission in Revamping the Overburdened Supreme Court 60
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# "FROM BERATED BLINDNESS TO BLOOMING BLUE ECONOMY"- AN EMERGENT CALL TO PROTECT MARINE WEALTH

Dr. Madhuri Irene[20]

*Abstract:*

*As the epical anecdote says when angry Rama positioned his 'Agni Arrow' to dry up the ocean, the Sagar King surrendered before Rama to facilitate Ramsetu. Today our perverted human intellect has polluted and poisoned the oceanic life to satiate its cruel greed for no reason, and the impact of climate change on oceans is found to be catastrophic. The majority of human population gropes in darkness to realize the vitality of marine wealth and health and the global community is just initiating action to protect and preserve the fabulous material wealth, the strength of plant and animals in oceanic waters.*

*The perpetual population growth and unbridled and uneven economic development resulted in increase of anthropogenic activities on land leading to degradation of oceanic eco system. There is a need to resort to "ridge to reef" of "source to sea" approach linking terrestrial, fresh water, coastal and marine ecosystems. A high-level panel of world leaders have formulated an 'Ocean Action Agenda' to ensure that all EEZ (Exclusive Economic Zones) are sustainably managed by 2030. This Action Agenda hopes to (i) produce 6 times more food from the ocean, (ii) generate 40 times more renewable energy and (iii) to contribute one-fifth of the GHG emissions reductions to stay within 1.5 degree Celsius. As stated by the Prime Minister of Norway the humanity's well being is deeply intertwined with the health of the oceans.*

*This write up intends to emphasize on the significance of Blue Economy as a part of national and global economy.*

**Key Words:** *Blue Economy, Exclusive Economic Zones, Law of Sea, Oceans, Greenhouse gases*

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# Contents


| | | |
|---|---|---|
| 1. | Judicial Activism<br>*Dr Y Gangi Reddy* | *8* |
| 2. | Advocates Academy<br>*Dr Y Gangi Reddy* | *9* |
| 3. | Legal Education in India<br>*Dr Akbar Khan* | *10* |
| 4. | Medical Tourism and Legalities<br>*Dr Madhuri Irene* | *11* |
| 5. | National Education Policy 2020, a Step Towards International Standardization<br>*Dr Akbar Khan* | *12* |
| 6. | Professional Development and Continuous Education<br>Dr Rekaraj Jain | *13* |
| 7. | Legal Contours of Transgender Rights<br>*Dr. Rekharaj Jain* | *14* |
| 8. | Article 370 of the Constitution of India: A Catagorical Critique<br>*Dr. Irfan Rasool* | *15* |
| 9. | Section 89 of the Code of Civil Procedure 1908 as a Tool of Speedy Disposal of Civil Suits<br>*Dr.Madhuri Irene* | *16* |
| 10. | Missile Technology Control Regime Opportunities and Challenges- Indial Legal Perspective<br>*Dr.Sanu Rani Pal* | *17* |
| 11. | Gig-Economy and Social Security to Gig- workers in India: A Study<br>*Dr. M Ravindranath & Dr. Manu Datta* | *18* |
| 12. | Changing Dynamics of Live in Relationships<br>*Ms Priti* | *19* |
| 13. | Accessibility for Divyangjan(Persons with Disability) in India<br>*Mrs.L.Lakshmi* | *20* |
| 14. | 19th Century African-American Women Slave Narrative<br>*O.Sankar* | *21* |
| 15. | Human DNA Profiling Bill 2015: An Analysis<br>*Dr Damodar Reddy* | *22* |
| 16. | Protection of Animal Rights in India<br>*Dr. K.V.Ravi Kumar* | *23* |
| 17. | Dilemma in Divorce Theory with Special Reference to Hindu Law<br>*Dr. Madhuri Irene* | *24* |
| 18. | Manhole Deaths: Realising the Unrealistic<br>*Dr.S.Kannan* | *25* |
| 19. | Excluded among the Excluded : The Status of Tribal Women in Telangana<br>*Dr S Kannan* | *26* |
| 20. | "From Berated Blindness To Blooming Blue Economy"- An Emergent Call To Protect Marine Wealth<br>*Dr. Madhuri Irene* | *27* |
| 21. | Effective Presentation Skills, Language, Gender, Understanding the Power Structure.<br>*O Sankar* | *28* |

22. Access to Institutional Credit among Scheduled Tribes in Telangana . A Case study from Sankarpalli Mandal. *29*
*Dr. Kannan*

23. Protection of Human Rights in India. *30*
*Dr.K.Ravi Kumar*

24. A Qualitative Analysis of Cross Dressing Legitimacy with Special Reference to India *31*
*Dr.Rekharaj Jain*

25. Community Sanitary Latrines in insanitary Condition Requires Amendment in Manual Scavengers Act 2013 *32*
*Dr. Kannan*

26. Commercialisation of Leisure and Sports: A Case Study of Khanapur Village , Telangana *33*
*Dr .S.Kannan*

27. Women , Surrogacy Law and Social Justice *34*
*Astha Srivastav*

28. 360 Degrees Sustainable Models for Indian Universities *35*
*Dr. Arun Kumar*

29. UNLIKELY END OF SINO-US TRADE WAR *36*
*Dr. S. Uma*

30. Maternal Commitments and Women Workforce Participation in Urban India *37*
*Dr. Iti Vyas*

31. The Threshold of OECD Revised Guidance on Profit-Split Method during COVID-19. *38*
*Dr. Vinay Sharma*

32. Plea Bargaining ; A Critical Analysis *39*
*Dr.T.Himavati*

33. Stem Cell Protection: Legal and Ethical Issues *40*
*Dr. A.Sreelatha*

34. Regulation of Clinical Trials in India: A Critical Study with special reference to the Drugs and Cosmetics Act, 1940 *41*
*Aditi Nidhi*

35. Changing Perceptions in Space Law: A Special Focus on Theory of Non-Appropriation and Commercialization of Outer Space *42*
*Dr. Poorvi Kantroo*

36. Merchant of Venice : The Quest for Justice *43*
*Dr Padmanabha Rao*

37. Justice Irrespective of Gender: Unsex the Women Empowerment Laws *44*
*Katiyani Juneja*

38. UBER : Issues and Challenges *45*
*Ms Sanu Rani Paul*

39. Democracy in Singapore *46*
*Dr. Uma Sonti*

40. Problems and Prospects of Handloom Sector in Employment Generation in Telangana State *47*
*P. Kesari*

41. Issues of Internal Migrant Labour in India and Legal Response: An Analysis *48*
*Manu Datta*

42. Objectification of women in media: A Feminist-Legal Analysis 49
*Stithi Dasgupta*

43. Challenging a foreign arbitral award in domestic courts- An Analysis 50
*Dr.P.L.Jayanthi Reddy*

44. Heterogenity and Spirituality 51
*Dr. Rekharaj Jain*

45. A Critical Analysis on Mahatma Gandhi Rural Employment Guarantee Act 2005 52
*Y. Gangi Reddy*

46. The Concept of Freedom and the Constitutional Control: A socio-political analysis 53
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47. Environmental Protection in the Framework of International Law - A Study 54
*Prof.T.Sita Kumara*

48. The balance between environmental protection and developmental activities: Past, Present and Future A Socio-legal Analysis 55
*Dr.R.D.Vijayasekhar*

49. The Issue of Collective Land Ownership Under African Customary Land Law: The Case of Cameroon 56
*Fonja Julius Achu*

50. Misleading Advertisements in India: A Comparative and Critical Analysis 57
*Anita A Patil*

51. Educational Qualifications of Elected Representatives: Need of the Hour for a Progressive Democracy 58
*Masood Ahmad*

52. The Impact of Artificial Insemination on the Institution of Family: Legal Nuances 59
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O Sankar[21]

*Abstract:*

*The development in science and technology made every individual autonomous in learning. It is unlikely in this digital world for a student to be physically present to access knowledge. Every book of History, philosophy, medicine, economics, science and literature are digitalized; and are made available for the students. Further every individual can access information/ knowledge on their computer or from their smartphone. Meanwhile, the digital platform, internet in specific is facing knowledge explosion. That is, sites like Wikipedia/ Quora/ Yahoo answers and other such websites invite its user to edit the contents. When the contents are open for the public to edit, even the 'opinions' of an individuals is passed on as knowledge. Many students rely on information that is gathered on such sites. Thereby making the teachers responsible to guide the students towards proper source of knowledge. Technology also brought observable change in behavior among the students. It is undeniable that the students these days use smartphone in excess, both inside and outside the classroom. The illusion of staying connected elsewhere on social network and ignoring the present can be seen in almost all the students. The juncture of virtual knowledge and the mental absence of the student-learners drive teachers, educators, academicians in formulating different methods to keep the students engaged intellectually in classroom. This paper focuses on the digital distractions, overlapping, and manipulation of knowledge and the importance of classroom learning/ teaching. In precise, it talks about "performance" a method in classroom teaching that includes singing, acting and other activities; and how it enhances both the teachers and the students in knowledge sharing process. In addition to it, the paper also focuses on teacher-centric performances that not only grasps the attention of the students, but creates a space for limitless learning opportunities between teachers and students.*

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# Contents


| | | |
|---|---|---|
| 1. | Judicial Activism<br>*Dr Y Gangi Reddy* | *8* |
| 2. | Advocates Academy<br>*Dr Y Gangi Reddy* | *9* |
| 3. | Legal Education in India<br>*Dr Akbar Khan* | *10* |
| 4. | Medical Tourism and Legalities<br>*Dr Madhuri Irene* | *11* |
| 5. | National Education Policy 2020, a Step Towards International Standardization<br>*Dr Akbar Khan* | *12* |
| 6. | Professional Development and Continuous Education<br>Dr Rekaraj Jain | *13* |
| 7. | Legal Contours of Transgender Rights<br>*Dr. Rekharaj Jain* | *14* |
| 8. | Article 370 of the Constitution of India: A Catagorical Critique<br>*Dr. Irfan Rasool* | *15* |
| 9. | Section 89 of the Code of Civil Procedure 1908 as a Tool of Speedy Disposal of Civil Suits<br>*Dr.Madhuri Irene* | *16* |
| 10. | Missile Technology Control Regime Opportunities and Challenges- Indial Legal Perspective<br>*Dr.Sanu Rani Pal* | *17* |
| 11. | Gig-Economy and Social Security to Gig- workers in India: A Study<br>*Dr. M Ravindranath & Dr. Manu Datta* | *18* |
| 12. | Changing Dynamics of Live in Relationships<br>*Ms Priti* | *19* |
| 13. | Accessibility for Divyangjan(Persons with Disability) in India<br>*Mrs.L.Lakshmi* | *20* |
| 14. | 19th Century African-American Women Slave Narrative<br>*O.Sankar* | *21* |
| 15. | Human DNA Profiling Bill 2015: An Analysis<br>*Dr Damodar Reddy* | *22* |
| 16. | Protection of Animal Rights in India<br>*Dr. K.V.Ravi Kumar* | *23* |
| 17. | Dilemma in Divorce Theory with Special Reference to Hindu Law<br>*Dr. Madhuri Irene* | *24* |
| 18. | Manhole Deaths: Realising the Unrealistic<br>*Dr.S.Kannan* | *25* |
| 19. | Excluded among the Excluded : The Status of Tribal Women in Telangana<br>*Dr S Kannan* | *26* |
| 20. | "From Berated Blindness To Blooming Blue Economy"- An Emergent Call To Protect Marine Wealth<br>*Dr. Madhuri Irene* | *27* |
| 21. | Effective Presentation Skills, Language, Gender, Understanding the Power Structure.<br>*O Sankar* | *28* |

22. Access to Institutional Credit among Scheduled Tribes in Telangana . A Case study from Sankarpalli Mandal. 29
*Dr. Kannan*

23. Protection of Human Rights in India. 30
*Dr.K.Ravi Kumar*

24. A Qualitative Analysis of Cross Dressing Legitimacy with Special Reference to India 31
*Dr.Rekharaj Jain*

25. Community Sanitary Latrines in insanitary Condition Requires Amendment in Manual Scavengers Act 2013 32
*Dr. Kannan*

26. Commercialisation of Leisure and Sports: A Case Study of Khanapur Village , Telangana 33
*Dr .S.Kannan*

27. Women , Surrogacy Law and Social Justice 34
*Astha Srivastav*

28. 360 Degrees Sustainable Models for Indian Universities 35
*Dr. Arun Kumar*

29. UNLIKELY END OF SINO-US TRADE WAR 36
*Dr. S. Uma*

30. Maternal Commitments and Women Workforce Participation in Urban India 37
*Dr. Iti Vyas*

31. The Threshold of OECD Revised Guidance on Profit-Split Method during COVID-19. 38
*Dr. Vinay Sharma*

32. Plea Bargaining ; A Critical Analysis 39
*Dr.T.Himavati*

33. Stem Cell Protection: Legal and Ethical Issues 40
*Dr. A.Sreelatha*

34. Regulation of Clinical Trials in India: A Critical Study with special reference to the Drugs and Cosmetics Act, 1940 41
*Aditi Nidhi*

35. Changing Perceptions in Space Law: A Special Focus on Theory of Non-Appropriation and Commercialization of Outer Space 42
*Dr. Poorvi Kantroo*

36. Merchant of Venice : The Quest for Justice 43
*Dr Padmanabha Rao*

37. Justice Irrespective of Gender: Unsex the Women Empowerment Laws 44
*Katiyani Juneja*

38. UBER : Issues and Challenges 45
*Ms Sanu Rani Paul*

39. Democracy in Singapore 46
*Dr. Uma Sonti*

40. Problems and Prospects of Handloom Sector in Employment Generation in Telangana State 47
*P. Kesari*

41. Issues of Internal Migrant Labour in India and Legal Response: An Analysis 48
*Manu Datta*

42. Objectification of women in media: A Feminist-Legal Analysis 49
*Stithi Dasgupta*

43. Challenging a foreign arbitral award in domestic courts- An Analysis 50
*Dr.P.L.Jayanthi Reddy*

44. Heterogenity and Spirituality 51
*Dr. Rekharaj Jain*

45. A Critical Analysis on Mahatma Gandhi Rural Employment Guarantee Act 2005 52
*Y. Gangi Reddy*

46. The Concept of Freedom and the Constitutional Control: A socio-political analysis 53
*Dr. Dilshad Shaik*

47. Environmental Protection in the Framework of International Law - A Study 54
*Prof.T.Sita Kumara*

48. The balance between environmental protection and developmental activities: Past, Present and Future A Socio-legal Analysis 55
*Dr.R.D.Vijayasekhar*

49. The Issue of Collective Land Ownership Under African Customary Land Law: The Case of Cameroon 56
*Fonja Julius Achu*

50. Misleading Advertisements in India: A Comparative and Critical Analysis 57
*Anita A Patil*

51. Educational Qualifications of Elected Representatives: Need of the Hour for a Progressive Democracy 58
*Masood Ahmad*

52. The Impact of Artificial Insemination on the Institution of Family: Legal Nuances 59
*Dr. D Srujana*

53. The Role of Law Commission in Revamping the Overburdened Supreme Court 60
*B Muthu Kumar*

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# Access to Institutional Credit among Scheduled Tribes in Telangana . A Case study from Sankarpalli Mandal.

Dr. Kannan[22]

*Abstract:*

*India having a vast network of financial institutions, with co-existence of dual (formal and informal) financial systems that both operate in the rural credit requirement. A large number of formal and informal agencies lend money to farmers for their short and long term needs. The formal agencies include Cooperatives, Regional Rural banks, Scheduled Commercial Banks, Non-banking financial institutions, Self-help groups, Microfinance institutions and other government agencies. The informal sources comprise money lenders, friends, relatives, traders/shop keepers, employers and others. A large number of formal institutional agencies are involved in the disbursement of credit to agriculture and non-agricultural activities. However, the persistence of money lenders in the rural credit requirement is still a major concern. In this backdrop, faculty has examined the penetration of agricultural and non-agricultural credit flow and has identified the determinants of institutional credit at the tribal household level in Telangana through macro and micro level analysis. For macro level analysis the data collected from Statistical Year Book and Social Development Report of Telangana State to understand the credit flow among the schedule tribes. For micro level analysis on the access to institutional credit facility among schedule tribes in comparative perspective, three villages were chosen from Shankarpally Mandal (having tribal population of 2085, which constitute 3.19% to the total population) of Ranga Reddy District in Telangana state. One of the village situated nearby Mandal office (within radius of 5 km), another village little far away from the Mandal office (within radius of 10 km) and the third village far away from Mandal office (within and above radius of 15 km). From each village all the available Schedule Tribe households with the criteria of resident of that particular village for stipulated period of time (at least for the period of two census years) were included for the study. Semi structured interview schedule was used to collect from the head of Schedule Tribe households. The macro level analysis on access to institutional credit support assessed through holding of bank account, sources of credit facility, rate of interest for loan, duration and security for the loan. Majority of them have bank account (75%), however, the proportionate of the household utilizing non-institutional credit facility with high rate of interest (22%) is higher among schedule tribes in Telangana. They borrowed for household expenditure for long term duration of payment by providing personal security. This call for micro-level explorations that enable comprehension of the linkage between purpose of loan, source of loan, duration of loan and type of security against which loans are provided to the schedule tribes.*

*This study involves on the micro level analysis which reveals that the village which have close proximity to Mandal office have more access to institutional credit than the villages situated far away from the Mandal office. The reasons for more access in close proximity villages were banks are situated in Mandal head quarter area, educational attainment of the household head, small family size, household expenditure and occupation in non-agricultural sector. The reasons for less access to institutional credit facility for villages situated far away from Mandal office reveals that dependency on agriculture with small land holding, illiteracy, household and medical expenditure and more procedures for formal credit. Further, borrowing from money lender makes him to less right on selling his farm products of his own, which leads to fall in debt trap. At the end the he suggested for policy implication like, formal financial institutions should develop more flexible products and service to meet the income and expenditure pattern of the tribal*

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# Contents


| | | |
|---|---|---|
| 1. | Judicial Activism<br>*Dr Y Gangi Reddy* | *8* |
| 2. | Advocates Academy<br>*Dr Y Gangi Reddy* | *9* |
| 3. | Legal Education in India<br>*Dr Akbar Khan* | *10* |
| 4. | Medical Tourism and Legalities<br>*Dr Madhuri Irene* | *11* |
| 5. | National Education Policy 2020, a Step Towards International Standardization<br>*Dr Akbar Khan* | *12* |
| 6. | Professional Development and Continuous Education<br>Dr Rekaraj Jain | *13* |
| 7. | Legal Contours of Transgender Rights<br>*Dr. Rekharaj Jain* | *14* |
| 8. | Article 370 of the Constitution of India: A Catagorical Critique<br>*Dr. Irfan Rasool* | *15* |
| 9. | Section 89 of the Code of Civil Procedure 1908 as a Tool of Speedy Disposal of Civil Suits<br>*Dr.Madhuri Irene* | *16* |
| 10. | Missile Technology Control Regime Opportunities and Challenges- Indial Legal Perspective<br>*Dr.Sanu Rani Pal* | *17* |
| 11. | Gig-Economy and Social Security to Gig- workers in India: A Study<br>*Dr. M Ravindranath & Dr. Manu Datta* | *18* |
| 12. | Changing Dynamics of Live in Relationships<br>*Ms Priti* | *19* |
| 13. | Accessibility for Divyangjan(Persons with Disability) in India<br>*Mrs.L.Lakshmi* | *20* |
| 14. | 19th Century African-American Women Slave Narrative<br>*O.Sankar* | *21* |
| 15. | Human DNA Profiling Bill 2015: An Analysis<br>*Dr Damodar Reddy* | *22* |
| 16. | Protection of Animal Rights in India<br>*Dr. K.V.Ravi Kumar* | *23* |
| 17. | Dilemma in Divorce Theory with Special Reference to Hindu Law<br>*Dr. Madhuri Irene* | *24* |
| 18. | Manhole Deaths: Realising the Unrealistic<br>*Dr.S.Kannan* | *25* |
| 19. | Excluded among the Excluded : The Status of Tribal Women in Telangana<br>*Dr S Kannan* | *26* |
| 20. | "From Berated Blindness To Blooming Blue Economy"- An Emergent Call To Protect Marine Wealth<br>*Dr. Madhuri Irene* | *27* |
| 21. | Effective Presentation Skills, Language, Gender, Understanding the Power Structure<br>*O Sankar* | *28* |

22. Access to Institutional Credit among Scheduled Tribes in Telangana . A Case study from Sankarpalli Mandal. 29
*Dr. Kannan*

23. Protection of Human Rights in India. 30
*Dr.K.Ravi Kumar*

24. A Qualitative Analysis of Cross Dressing Legitimacy with Special Reference to India 31
*Dr.Rekharaj Jain*

25. Community Sanitary Latrines in insanitary Condition Requires Amendment in Manual Scavengers Act 2013 32
*Dr. Kannan*

26. Commercialisation of Leisure and Sports: A Case Study of Khanapur Village , Telangana 33
*Dr .S.Kannan*

27. Women , Surrogacy Law and Social Justice 34
*Astha Srivastav*

28. 360 Degrees Sustainable Models for Indian Universities 35
*Dr. Arun Kumar*

29. UNLIKELY END OF SINO-US TRADE WAR 36
*Dr. S. Uma*

30. Maternal Commitments and Women Workforce Participation in Urban India 37
*Dr. Iti Vyas*

31. The Threshold of OECD Revised Guidance on Profit-Split Method during COVID-19. 38
*Dr. Vinay Sharma*

32. Plea Bargaining ; A Critical Analysis 39
*Dr.T.Himavati*

33. Stem Cell Protection: Legal and Ethical Issues 40
*Dr. A.Sreelatha*

34. Regulation of Clinical Trials in India: A Critical Study with special reference to the Drugs and Cosmetics Act, 1940 41
*Aditi Nidhi*

35. Changing Perceptions in Space Law: A Special Focus on Theory of Non-Appropriation and Commercialization of Outer Space 42
*Dr. Poorvi Kantroo*

36. Merchant of Venice : The Quest for Justice 43
*Dr Padmanabha Rao*

37. Justice Irrespective of Gender: Unsex the Women Empowerment Laws 44
*Katiyani Juneja*

38. UBER : Issues and Challenges 45
*Ms Sanu Rani Paul*

39. Democracy in Singapore 46
*Dr. Uma Sonti*

40. Problems and Prospects of Handloom Sector in Employment Generation in Telangana State 47
*P. Kesari*

41. Issues of Internal Migrant Labour in India and Legal Response: An Analysis 48
*Manu Datta*

42. Objectification of women in media: A Feminist-Legal Analysis 49
*Stithi Dasgupta*

43. Challenging a foreign arbitral award in domestic courts- An Analysis 50
*Dr.P.L.Jayanthi Reddy*

44. Heterogenity and Spirituality 51
*Dr. Rekharaj Jain*

45. A Critical Analysis on Mahatma Gandhi Rural Employment Guarantee Act 2005 52
*Y. Gangi Reddy*

46. The Concept of Freedom and the Constitutional Control: A socio-political analysis 53
*Dr. Dilshad Shaik*

47. Environmental Protection in the Framework of International Law - A Study 54
*Prof.T.Sita Kumara*

48. The balance between environmental protection and developmental activities: Past, Present and Future A Socio-legal Analysis 55
*Dr.R.D.Vijayasekhar*

49. The Issue of Collective Land Ownership Under African Customary Land Law: The Case of Cameroon 56
*Fonja Julius Achu*

50. Misleading Advertisements in India: A Comparative and Critical Analysis 57
*Anita A Patil*

51. Educational Qualifications of Elected Representatives: Need of the Hour for a Progressive Democracy 58
*Masood Ahmad*

52. The Impact of Artificial Insemination on the Institution of Family: Legal Nuances 59
*Dr. D Srujana*

53. The Role of Law Commission in Revamping the Overburdened Supreme Court 60
*B Muthu Kumar*

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*household. Also to establish customer service centers which can be established in the remote villages on alternative days, so as to cover all the remote villages. Judiciary action against money lenders needs serious attention to protect the tribals from their clutches. He suggested Literacy programme for household heads on various schemes on tribal welfare and skill development for alternative employment through audio-video visual methods will improve the prevailing situation.*

# Protection of Human Rights in India.

**Dr.K.Ravi Kumar**[23]

***Abstract:***

*Human Rights are those minimal rights which every individual must have against the State or other Public Authority by virtue of his being a member in human family. These human rights could apply to every person and every part of the world without any exception irrespective of race, sex, religion, creed and color, therefore these rights said to be universal. Human Rights are inherent in every human being, which is basic for human life and its development. These human rights are very much essential for the full development of the human personality and for human happiness. Further he said violations of human rights is a heinous crime against society, and have been taking place in various forms such as discrimination, inequalities, custodial deaths, sexual violence, communal violence, genocide, and abuse of human rights etc., An attempt has been made by faculty to analyse the role of Supreme Court of India in protecting human rights. Through the judicial interpretation, the Apex Court has widened the scope of human rights. Further the major contribution of judiciary to the human rights jurisprudence have been two fold : one is the substantive expansion of Article 21 of the Constitution of India, and the other is the procedural innovation of Public Interest Litigation. Therefore, this topic is choosen for seminar because it is important to Protect Human Rights in general and specifically Role of Supreme Court of India in protecting the human rights at National level is significant to discuss .*

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# Contents


| | | |
|---|---|---|
| 1. | Judicial Activism<br>*Dr Y Gangi Reddy* | *8* |
| 2. | Advocates Academy<br>*Dr Y Gangi Reddy* | *9* |
| 3. | Legal Education in India<br>*Dr Akbar Khan* | *10* |
| 4. | Medical Tourism and Legalities<br>*Dr Madhuri Irene* | *11* |
| 5. | National Education Policy 2020, a Step Towards International Standardization<br>*Dr Akbar Khan* | *12* |
| 6. | Professional Development and Continuous Education<br>Dr Rekaraj Jain | *13* |
| 7. | Legal Contours of Transgender Rights<br>*Dr. Rekharaj Jain* | *14* |
| 8. | Article 370 of the Constitution of India: A Catagorical Critique<br>*Dr. Irfan Rasool* | *15* |
| 9. | Section 89 of the Code of Civil Procedure 1908 as a Tool of Speedy Disposal of Civil Suits<br>*Dr.Madhuri Irene* | *16* |
| 10. | Missile Technology Control Regime Opportunities and Challenges- Indial Legal Perspective<br>*Dr.Sanu Rani Pal* | *17* |
| 11. | Gig-Economy and Social Security to Gig- workers in India: A Study<br>*Dr. M Ravindranath & Dr. Manu Datta* | *18* |
| 12. | Changing Dynamics of Live in Relationships<br>*Ms Priti* | *19* |
| 13. | Accessibility for Divyangjan(Persons with Disability) in India<br>*Mrs.L.Lakshmi* | *20* |
| 14. | 19th Century African-American Women Slave Narrative<br>*O.Sankar* | *21* |
| 15. | Human DNA Profiling Bill 2015: An Analysis<br>*Dr Damodar Reddy* | *22* |
| 16. | Protection of Animal Rights in India<br>*Dr. K.V.Ravi Kumar* | *23* |
| 17. | Dilemma in Divorce Theory with Special Reference to Hindu Law<br>*Dr. Madhuri Irene* | *24* |
| 18. | Manhole Deaths: Realising the Unrealistic<br>*Dr.S.Kannan* | *25* |
| 19. | Excluded among the Excluded : The Status of Tribal Women in Telangana<br>*Dr S Kannan* | *26* |
| 20. | "From Berated Blindness To Blooming Blue Economy"- An Emergent Call To Protect Marine Wealth<br>*Dr. Madhuri Irene* | *27* |
| 21. | Effective Presentation Skills, Language, Gender, Understanding the Power Structure.<br>*O Sankar* | *28* |

22. Access to Institutional Credit among Scheduled Tribes in Telangana . A Case study from Sankarpalli Mandal. 29
*Dr. Kannan*

23. Protection of Human Rights in India. 30
*Dr.K.Ravi Kumar*

24. A Qualitative Analysis of Cross Dressing Legitimacy with Special Reference to India 31
*Dr.Rekharaj Jain*

25. Community Sanitary Latrines in insanitary Condition Requires Amendment in Manual Scavengers Act 2013 32
*Dr. Kannan*

26. Commercialisation of Leisure and Sports: A Case Study of Khanapur Village , Telangana 33
*Dr .S.Kannan*

27. Women , Surrogacy Law and Social Justice 34
*Astha Srivastav*

28. 360 Degrees Sustainable Models for Indian Universities 35
*Dr. Arun Kumar*

29. UNLIKELY END OF SINO-US TRADE WAR 36
*Dr. S. Uma*

30. Maternal Commitments and Women Workforce Participation in Urban India 37
*Dr. Iti Vyas*

31. The Threshold of OECD Revised Guidance on Profit-Split Method during COVID-19. 38
*Dr. Vinay Sharma*

32. Plea Bargaining ; A Critical Analysis 39
*Dr.T.Himavati*

33. Stem Cell Protection: Legal and Ethical Issues 40
*Dr. A.Sreelatha*

34. Regulation of Clinical Trials in India: A Critical Study with special reference to the Drugs and Cosmetics Act, 1940 41
*Aditi Nidhi*

35. Changing Perceptions in Space Law: A Special Focus on Theory of Non-Appropriation and Commercialization of Outer Space 42
*Dr. Poorvi Kantroo*

36. Merchant of Venice : The Quest for Justice 43
*Dr Padmanabha Rao*

37. Justice Irrespective of Gender: Unsex the Women Empowerment Laws 44
*Katiyani Juneja*

38. UBER : Issues and Challenges 45
*Ms Sanu Rani Paul*

39. Democracy in Singapore 46
*Dr. Uma Sonti*

40. Problems and Prospects of Handloom Sector in Employment Generation in Telangana State 47
*P. Kesari*

41. Issues of Internal Migrant Labour in India and Legal Response: An Analysis 48
*Manu Datta*

42. Objectification of women in media: A Feminist-Legal Analysis 49
*Stithi Dasgupta*

43. Challenging a foreign arbitral award in domestic courts- An Analysis 50
*Dr.P.L.Jayanthi Reddy*

44. Heterogenity and Spirituality 51
*Dr. Rekharaj Jain*

45. A Critical Analysis on Mahatma Gandhi Rural Employment Guarantee Act 2005 52
*Y. Gangi Reddy*

46. The Concept of Freedom and the Constitutional Control: A socio-political analysis 53
*Dr. Dilshad Shaik*

47. Environmental Protection in the Framework of International Law - A Study 54
*Prof.T.Sita Kumara*

48. The balance between environmental protection and developmental activities: Past, Present and Future A Socio-legal Analysis 55
*Dr.R.D.Vijayasekhar*

49. The Issue of Collective Land Ownership Under African Customary Land Law: The Case of Cameroon 56
*Fonja Julius Achu*

50. Misleading Advertisements in India: A Comparative and Critical Analysis 57
*Anita A Patil*

51. Educational Qualifications of Elected Representatives: Need of the Hour for a Progressive Democracy 58
*Masood Ahmad*

52. The Impact of Artificial Insemination on the Institution of Family: Legal Nuances 59
*Dr. D Srujana*

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# A Qualitative Analysis of Cross Dressing Legitimacy with Special Reference to India

Dr.Rekharaj Jain[24]

*Abstract:*

*The ways of dressing echoes human prerequisite which attempt to align one's self with a specific sexual group and also reflects sensation of attire. Attires influence and shape the appearance with substantial impression on the construction of social identity. Cross-dressing is morphism of expression of disguise and self-expression usually associated with the opposite sex which has been practiced in ample in many societies. Crossdressing reveals a form of gender transgression indicating the most visible form of gender non-conformity Crossdressers can be categorized into clear groups-transvestities, enuchs, transsexual men and drag queens. He further said cross dressing are of diverse diversities and various reasons may be attributed. Mostly crss dressing has been used for purpose of disguise,comfort,and self-expression throughout history including the modern times. Even socio-pyscho and religious inference also reveals that individuals who cross-dressed did so for innumerable reasons. Originally cross dressing was a private affair but currently it is visible openly due to growing acceptance of different sexualities as people are veering away from the strict confines of dress code. Dressing to express sexual orientation adds a different layer of complexity. Laws pertaining to dress varied around the world. Laws criminalizing cross-dressing flourished throughout the 20th century, which was perhaps a relection of sciety's perception of cross-dressing as sexual deviance yet cross-dressing existed. Later on cross dressing laws are challenged on varius grounds. One's choice of attire may be described as an expression of individual liberty and autonomy, or an expressive statement protected under the right to freedom of expression. He further said that his paper takes the current stock of the context and aims to bring greater clarity pertinent to the thematic area of concerns regarding a qualitative analysis of cross-dressing legitimacy with special reference to India.*

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# Contents


| | | |
|---|---|---|
| 1. | Judicial Activism<br>*Dr Y Gangi Reddy* | *8* |
| 2. | Advocates Academy<br>*Dr Y Gangi Reddy* | *9* |
| 3. | Legal Education in India<br>*Dr Akbar Khan* | *10* |
| 4. | Medical Tourism and Legalities<br>*Dr Madhuri Irene* | *11* |
| 5. | National Education Policy 2020, a Step Towards International Standardization<br>*Dr Akbar Khan* | *12* |
| 6. | Professional Development and Continuous Education<br>Dr Rekaraj Jain | *13* |
| 7. | Legal Contours of Transgender Rights<br>*Dr. Rekharaj Jain* | *14* |
| 8. | Article 370 of the Constitution of India: A Catagorical Critique<br>*Dr. Irfan Rasool* | *15* |
| 9. | Section 89 of the Code of Civil Procedure 1908 as a Tool of Speedy Disposal of Civil Suits<br>*Dr.Madhuri Irene* | *16* |
| 10. | Missile Technology Control Regime Opportunities and Challenges- Indial Legal Perspective<br>*Dr.Sanu Rani Pal* | *17* |
| 11. | Gig-Economy and Social Security to Gig- workers in India: A Study<br>*Dr. M Ravindranath & Dr. Manu Datta* | *18* |
| 12. | Changing Dynamics of Live in Relationships<br>*Ms Priti* | *19* |
| 13. | Accessibility for Divyangjan(Persons with Disability) in India<br>*Mrs.L.Lakshmi* | *20* |
| 14. | 19th Century African-American Women Slave Narrative<br>*O.Sankar* | *21* |
| 15. | Human DNA Profiling Bill 2015: An Analysis<br>*Dr Damodar Reddy* | *22* |
| 16. | Protection of Animal Rights in India<br>*Dr. K.V.Ravi Kumar* | *23* |
| 17. | Dilemma in Divorce Theory with Special Reference to Hindu Law<br>*Dr. Madhuri Irene* | *24* |
| 18. | Manhole Deaths: Realising the Unrealistic<br>*Dr.S.Kannan* | *25* |
| 19. | Excluded among the Excluded : The Status of Tribal Women in Telangana<br>*Dr S Kannan* | *26* |
| 20. | "From Berated Blindness To Blooming Blue Economy"- An Emergent Call To Protect Marine Wealth<br>*Dr. Madhuri Irene* | *27* |
| 21. | Effective Presentation Skills, Language, Gender, Understanding the Power Structure.<br>*O Sankar* | *28* |

22. Access to Institutional Credit among Scheduled Tribes in Telangana . A Case study from Sankarpalli Mandal. 29
*Dr. Kannan*

23. Protection of Human Rights in India. 30
*Dr.K.Ravi Kumar*

24. A Qualitative Analysis of Cross Dressing Legitimacy with Special Reference to India 31
*Dr.Rekharaj Jain*

25. Community Sanitary Latrines in insanitary Condition Requires Amendment in Manual Scavengers Act 2013 32
*Dr. Kannan*

26. Commercialisation of Leisure and Sports: A Case Study of Khanapur Village , Telangana 33
*Dr .S.Kannan*

27. Women , Surrogacy Law and Social Justice 34
*Astha Srivastav*

28. 360 Degrees Sustainable Models for Indian Universities 35
*Dr. Arun Kumar*

29. UNLIKELY END OF SINO-US TRADE WAR 36
*Dr. S. Uma*

30. Maternal Commitments and Women Workforce Participation in Urban India 37
*Dr. Iti Vyas*

31. The Threshold of OECD Revised Guidance on Profit-Split Method during COVID-19. 38
*Dr. Vinay Sharma*

32. Plea Bargaining ; A Critical Analysis 39
*Dr.T.Himavati*

33. Stem Cell Protection: Legal and Ethical Issues 40
*Dr. A.Sreelatha*

34. Regulation of Clinical Trials in India: A Critical Study with special reference to the Drugs and Cosmetics Act, 1940 41
*Aditi Nidhi*

35. Changing Perceptions in Space Law: A Special Focus on Theory of Non-Appropriation and Commercialization of Outer Space 42
*Dr. Poorvi Kantroo*

36. Merchant of Venice : The Quest for Justice 43
*Dr Padmanabha Rao*

37. Justice Irrespective of Gender: Unsex the Women Empowerment Laws 44
*Katiyani Juneja*

38. UBER : Issues and Challenges 45
*Ms Sanu Rani Paul*

39. Democracy in Singapore 46
*Dr. Uma Sonti*

40. Problems and Prospects of Handloom Sector in Employment Generation in Telangana State 47
*P. Kesari*

41. Issues of Internal Migrant Labour in India and Legal Response: An Analysis 48
*Manu Datta*

42. Objectification of women in media: A Feminist-Legal Analysis 49
*Stithi Dasgupta*
43. Challenging a foreign arbitral award in domestic courts- An Analysis 50
*Dr.P.L.Jayanthi Reddy*
44. Heterogenity and Spirituality 51
*Dr. Rekharaj Jain*
45. A Critical Analysis on Mahatma Gandhi Rural Employment Guarantee Act 2005 52
*Y. Gangi Reddy*
46. The Concept of Freedom and the Constitutional Control: A socio-political analysis 53
*Dr. Dilshad Shaik*
47. Environmental Protection in the Framework of International Law - A Study 54
*Prof.T.Sita Kumara*
48. The balance between environmental protection and developmental activities: Past, Present and Future A Socio-legal Analysis 55
*Dr.R.D.Vijayasekhar*

49. The Issue of Collective Land Ownership Under African Customary Land Law: The Case of Cameroon 56
*Fonja Julius Achu*
50. Misleading Advertisements in India: A Comparative and Critical Analysis 57
*Anita A Patil*
51. Educational Qualifications of Elected Representatives: Need of the Hour for a Progressive Democracy 58
*Masood Ahmad*
52. The Impact of Artificial Insemination on the Institution of Family: Legal Nuances 59
*Dr. D Srujana*
53. The Role of Law Commission in Revamping the Overburdened Supreme Court 60
*B Muthu Kumar*

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# Community Sanitary Latrines in insanitary Condition Requires Amendment in Manual Scavengers Act 2013

Dr. Kannan[25]

*Abstract:*

*This Paper emphasized on law relating to Manual Scavenger's Act 2013. The manual scavenger law makes it offence to employ people as manual scavengers to clean insanitary latrines.He further said that it is the responsibility of every local authority whether municipality/panchayat,cantonment board or railway authority that it is responsible for scavengers in its area to identify manual scavengers.He also explained manual scavenger as a person who has been employed to handle undecomposed human waste from an insanitary latrine, open drain or pit/railway track is a manual scavenger under the law. He could have been employed by anyone ,someone from their village/by agency/contractor, irrespective of the fact whether employed on regular or contract basis. It discusses about exception to this provision that if any person who is employed to clean human waste and does so with the help of the appropriate protective gear and equipment will not be considered as manual scavenger. It further explains that law prevents manual scavenger by demolishing insanitary latrines. It imposed time bound commitments by local authorities like municipal bodies, cantonment boards and railway authorities. The Act mandates local authorities that within two months it has to carry survey of insanitary latrines in its area and publish a list of all such latrines which were identified during the survey. Within 15 days of publishing the list the authority to send a notice to the person who has constructed/used the insanitary latrine to pull it down. The time given is six months. If not done then another three months is extended if there is good reason. Local authority to build as many sanitary latrines as possible in nine months. Local authorities to build an adequate number of sanitary latrines for the community in their respective areas within three years. Further he said that it is unlawful and an offence under this Act for any person municipality/agency/contractor to build an insanitary latrine or employ a manual scavenger. All the manual scavengers to be discharged immediately. A person who had an insanitary latrine at the time of the Act came into force had to pull it down/convert it within six mnths. Further extension of three months if good reason exists. It also lays down rules and procedures for the rehabilitation of manual scavengers thrugh training in alternate employment , financial help and help with purchasing property. The law is not implemented effectively and still there are many remote villages where manual scavengers and insanitary latrines found and that the Act should be amended to make it more affective by adding stringent punishments for those who do not demolish/cnvert insanitary latrines within a certain period and steps to be taken more seriously to rehabilitate these manual scavengers.*

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# Contents


| | | |
|---|---|---|
| 1. | Judicial Activism<br>*Dr Y Gangi Reddy* | *8* |
| 2. | Advocates Academy<br>*Dr Y Gangi Reddy* | *9* |
| 3. | Legal Education in India<br>*Dr Akbar Khan* | *10* |
| 4. | Medical Tourism and Legalities<br>*Dr Madhuri Irene* | *11* |
| 5. | National Education Policy 2020, a Step Towards International Standardization<br>*Dr Akbar Khan* | *12* |
| 6. | Professional Development and Continuous Education<br>Dr Rekaraj Jain | *13* |
| 7. | Legal Contours of Transgender Rights<br>*Dr. Rekharaj Jain* | *14* |
| 8. | Article 370 of the Constitution of India: A Catagorical Critique<br>*Dr. Irfan Rasool* | *15* |
| 9. | Section 89 of the Code of Civil Procedure 1908 as a Tool of Speedy Disposal of Civil Suits<br>*Dr.Madhuri Irene* | *16* |
| 10. | Missile Technology Control Regime Opportunities and Challenges- Indial Legal Perspective<br>*Dr.Sanu Rani Pal* | *17* |
| 11. | Gig-Economy and Social Security to Gig- workers in India: A Study<br>*Dr. M Ravindranath & Dr. Manu Datta* | *18* |
| 12. | Changing Dynamics of Live in Relationships<br>*Ms Priti* | *19* |
| 13. | Accessibility for Divyangjan(Persons with Disability) in India<br>*Mrs.L.Lakshmi* | *20* |
| 14. | 19th Century African-American Women Slave Narrative<br>*O.Sankar* | *21* |
| 15. | Human DNA Profiling Bill 2015: An Analysis<br>*Dr Damodar Reddy* | *22* |
| 16. | Protection of Animal Rights in India<br>*Dr. K.V.Ravi Kumar* | *23* |
| 17. | Dilemma in Divorce Theory with Special Reference to Hindu Law<br>*Dr. Madhuri Irene* | *24* |
| 18. | Manhole Deaths: Realising the Unrealistic<br>*Dr.S.Kannan* | *25* |
| 19. | Excluded among the Excluded : The Status of Tribal Women in Telangana<br>*Dr S Kannan* | *26* |
| 20. | "From Berated Blindness To Blooming Blue Economy"- An Emergent Call To Protect Marine Wealth<br>*Dr. Madhuri Irene* | *27* |
| 21. | Effective Presentation Skills, Language, Gender, Understanding the Power Structure.<br>*O Sankar* | *28* |

22. Access to Institutional Credit among Scheduled Tribes in Telangana . A Case study from Sankarpalli Mandal. 29
*Dr. Kannan*

23. Protection of Human Rights in India. 30
*Dr.K.Ravi Kumar*

24. A Qualitative Analysis of Cross Dressing Legitimacy with Special Reference to India 31
*Dr.Rekharaj Jain*

25. Community Sanitary Latrines in insanitary Condition Requires Amendment in Manual Scavengers Act 2013 32
*Dr. Kannan*

26. Commercialisation of Leisure and Sports: A Case Study of Khanapur Village , Telangana 33
*Dr .S.Kannan*

27. Women , Surrogacy Law and Social Justice 34
*Astha Srivastav*

28. 360 Degrees Sustainable Models for Indian Universities 35
*Dr. Arun Kumar*

29. UNLIKELY END OF SINO-US TRADE WAR 36
*Dr. S. Uma*

30. Maternal Commitments and Women Workforce Participation in Urban India 37
*Dr. Iti Vyas*

31. The Threshold of OECD Revised Guidance on Profit-Split Method during COVID-19. 38
*Dr. Vinay Sharma*

32. Plea Bargaining ; A Critical Analysis 39
*Dr.T.Himavati*

33. Stem Cell Protection: Legal and Ethical Issues 40
*Dr. A.Sreelatha*

34. Regulation of Clinical Trials in India: A Critical Study with special reference to the Drugs and Cosmetics Act, 1940 41
*Aditi Nidhi*

35. Changing Perceptions in Space Law: A Special Focus on Theory of Non-Appropriation and Commercialization of Outer Space 42
*Dr. Poorvi Kantroo*

36. Merchant of Venice : The Quest for Justice 43
*Dr Padmanabha Rao*

37. Justice Irrespective of Gender: Unsex the Women Empowerment Laws 44
*Katiyani Juneja*

38. UBER : Issues and Challenges 45
*Ms Sanu Rani Paul*

39. Democracy in Singapore 46
*Dr. Uma Sonti*

40. Problems and Prospects of Handloom Sector in Employment Generation in Telangana State 47
*P. Kesari*

41. Issues of Internal Migrant Labour in India and Legal Response: An Analysis 48
*Manu Datta*

42. Objectification of women in media: A Feminist-Legal Analysis 49
*Stithi Dasgupta*

43. Challenging a foreign arbitral award in domestic courts- An Analysis 50
*Dr.P.L.Jayanthi Reddy*

44. Heterogenity and Spirituality 51
*Dr. Rekharaj Jain*

45. A Critical Analysis on Mahatma Gandhi Rural Employment Guarantee Act 2005 52
*Y. Gangi Reddy*

46. The Concept of Freedom and the Constitutional Control: A socio-political analysis 53
*Dr. Dilshad Shaik*

47. Environmental Protection in the Framework of International Law - A Study 54
*Prof.T.Sita Kumara*

48. The balance between environmental protection and developmental activities: Past, Present and Future A Socio-legal Analysis 55
*Dr.R.D.Vijayasekhar*

49. The Issue of Collective Land Ownership Under African Customary Land Law: The Case of Cameroon 56
*Fonja Julius Achu*

50. Misleading Advertisements in India: A Comparative and Critical Analysis 57
*Anita A Patil*

51. Educational Qualifications of Elected Representatives: Need of the Hour for a Progressive Democracy 58
*Masood Ahmad*

52. The Impact of Artificial Insemination on the Institution of Family: Legal Nuances 59
*Dr. D Srujana*

53. The Role of Law Commission in Revamping the Overburdened Supreme Court 60
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# Commercialisation of Leisure and Sports: A Case Study of Khanapur Village , Telangana

Dr .S.Kannan[26]

*Abstract:*

*Commercialisation of leisure activities started in 19th century in many nations and shown it face in India in the beginning of 20th century. However it was intensified after the Globalisation, Privatisation and Liberalisation policy. Commercialisation of leisure activity moved out of the people from drawing-rooms into commercially or corporately operated facilities. Neo-Marxists saw it an inevitable commercialisation of leisure, turning into a market product. It emerged initially in the forms of clubs, entertainment centres, amusement parks, Arts centres, etc. Commercialisation of sports has existed for several decades in India, but only in recent years has the phenomenon has been taken seriously on a larger scale. In this context, the present study focus on how the commercial players playing major role in the recent years to engage their leisure time of the corporate leaders and business man in some sort of physical activity. In order to understand this phenomenon, the empirical exercise conducted in Kanapur village of Gandhipet mandal in Rangareddy district, Telangana. The data collected from all the sports academies emerged in the past one decade and their nature of sports activity provided to their clients. The study also covers who prefers commercialised sports as their leisure activity, how much time and cost they are spending and their satisfaction level. The study finds that peoples stays whole day in office and their business preferred to spend their leisure activity in sports in order to maintain their physical and mental health. There were thirty five faculty members present and they interacted with the speaker.*

[26] Assistant Professor, Icfai Law School, Hyderabad

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# Contents


| | | |
|---|---|---|
| 1. | Judicial Activism<br>*Dr Y Gangi Reddy* | *8* |
| 2. | Advocates Academy<br>*Dr Y Gangi Reddy* | *9* |
| 3. | Legal Education in India<br>*Dr Akbar Khan* | *10* |
| 4. | Medical Tourism and Legalities<br>*Dr Madhuri Irene* | *11* |
| 5. | National Education Policy 2020, a Step Towards International Standardization<br>*Dr Akbar Khan* | *12* |
| 6. | Professional Development and Continuous Education<br>Dr Rekaraj Jain | *13* |
| 7. | Legal Contours of Transgender Rights<br>*Dr. Rekharaj Jain* | *14* |
| 8. | Article 370 of the Constitution of India: A Catagorical Critique<br>*Dr. Irfan Rasool* | *15* |
| 9. | Section 89 of the Code of Civil Procedure 1908 as a Tool of Speedy Disposal of Civil Suits<br>*Dr.Madhuri Irene* | *16* |
| 10. | Missile Technology Control Regime Opportunities and Challenges- Indial Legal Perspective<br>*Dr.Sanu Rani Pal* | *17* |
| 11. | Gig-Economy and Social Security to Gig- workers in India: A Study<br>*Dr. M Ravindranath & Dr. Manu Datta* | *18* |
| 12. | Changing Dynamics of Live in Relationships<br>*Ms Priti* | *19* |
| 13. | Accessibility for Divyangjan(Persons with Disability) in India<br>*Mrs.L.Lakshmi* | *20* |
| 14. | 19th Century African-American Women Slave Narrative<br>*O.Sankar* | *21* |
| 15. | Human DNA Profiling Bill 2015: An Analysis<br>*Dr Damodar Reddy* | *22* |
| 16. | Protection of Animal Rights in India<br>*Dr. K.V.Ravi Kumar* | *23* |
| 17. | Dilemma in Divorce Theory with Special Reference to Hindu Law<br>*Dr. Madhuri Irene* | *24* |
| 18. | Manhole Deaths: Realising the Unrealistic<br>*Dr.S.Kannan* | *25* |
| 19. | Excluded among the Excluded : The Status of Tribal Women in Telangana<br>*Dr S Kannan* | *26* |
| 20. | "From Berated Blindness To Blooming Blue Economy"- An Emergent Call To Protect Marine Wealth<br>*Dr. Madhuri Irene* | *27* |
| 21. | Effective Presentation Skills, Language, Gender, Understanding the Power Structure<br>*O Sankar* | *28* |

22. Access to Institutional Credit among Scheduled Tribes in Telangana . A Case study from Sankarpalli Mandal. 29
*Dr. Kannan*

23. Protection of Human Rights in India. 30
*Dr.K.Ravi Kumar*

24. A Qualitative Analysis of Cross Dressing Legitimacy with Special Reference to India 31
*Dr.Rekharaj Jain*

25. Community Sanitary Latrines in insanitary Condition Requires Amendment in Manual Scavengers Act 2013 32
*Dr. Kannan*

26. Commercialisation of Leisure and Sports: A Case Study of Khanapur Village , Telangana 33
*Dr .S.Kannan*

27. Women , Surrogacy Law and Social Justice 34
*Astha Srivastav*

28. 360 Degrees Sustainable Models for Indian Universities 35
*Dr. Arun Kumar*

29. UNLIKELY END OF SINO-US TRADE WAR 36
*Dr. S. Uma*

30. Maternal Commitments and Women Workforce Participation in Urban India 37
*Dr. Iti Vyas*

31. The Threshold of OECD Revised Guidance on Profit-Split Method during COVID-19. 38
*Dr. Vinay Sharma*

32. Plea Bargaining ; A Critical Analysis 39
*Dr.T.Himavati*

33. Stem Cell Protection: Legal and Ethical Issues 40
*Dr. A.Sreelatha*

34. Regulation of Clinical Trials in India: A Critical Study with special reference to the Drugs and Cosmetics Act, 1940 41
*Aditi Nidhi*

35. Changing Perceptions in Space Law: A Special Focus on Theory of Non-Appropriation and Commercialization of Outer Space 42
*Dr. Poorvi Kantroo*

36. Merchant of Venice : The Quest for Justice 43
*Dr Padmanabha Rao*

37. Justice Irrespective of Gender: Unsex the Women Empowerment Laws 44
*Katiyani Juneja*

38. UBER : Issues and Challenges 45
*Ms Sanu Rani Paul*

39. Democracy in Singapore 46
*Dr. Uma Sonti*

40. Problems and Prospects of Handloom Sector in Employment Generation in Telangana State 47
*P. Kesari*

41. Issues of Internal Migrant Labour in India and Legal Response: An Analysis 48
*Manu Datta*

42. Objectification of women in media: A Feminist-Legal Analysis 49
*Stithi Dasgupta*
43. Challenging a foreign arbitral award in domestic courts- An Analysis 50
*Dr.P.L.Jayanthi Reddy*
44. Heterogenity and Spirituality 51
*Dr. Rekharaj Jain*
45. A Critical Analysis on Mahatma Gandhi Rural Employment Guarantee Act 2005 52
*Y. Gangi Reddy*
46. The Concept of Freedom and the Constitutional Control: A socio-political analysis 53
*Dr. Dilshad Shaik*
47. Environmental Protection in the Framework of International Law - A Study 54
*Prof.T.Sita Kumara*
48. The balance between environmental protection and developmental activities: Past, Present and Future A Socio-legal Analysis 55
*Dr.R.D.Vijayasekhar*
49. The Issue of Collective Land Ownership Under African Customary Land Law: The Case of Cameroon 56
*Fonja Julius Achu*
50. Misleading Advertisements in India: A Comparative and Critical Analysis 57
*Anita A Patil*
51. Educational Qualifications of Elected Representatives: Need of the Hour for a Progressive Democracy 58
*Masood Ahmad*
52. The Impact of Artificial Insemination on the Institution of Family: Legal Nuances 59
*Dr. D Srujana*
53. The Role of Law Commission in Revamping the Overburdened Supreme Court 60
*B Muthu Kumar*

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# Women , Surrogacy Law and Social Justice

Astha Srivastav[27]

*Abstract:*

*This Paper analyses as Whether surrogacy enhances women's reproductive liberty or creates a socially unjust arrangement to their detriment is an contentious topic. A meaningful analysis in this regard can be made only if the socio-economic position of the women is involved, their purpose and expectations from the process, as well as their roles and decision-making powers are thoroughly understood. An analysis of rights of the children born out of the whole process as well as the reproductive autonomy of commissioning parents is also required.In India, women have had little bodily autonomy and their agency in the reproductive process is restricted by deep rooted patriarchy, weak position in the familial and social structures and the consequent poor health and educational status. This, along with the rapid development of Assisted Reproductive Technologies has created a paradoxical scenario in which enhancement of women's rights and their exploitation, share an uneasy co-existence in a surrogacy arrangement. As India gears up to adopt the Surrogacy Regulation (2019) Bill, its effect on both the sides of the surrogacy arrangement needs to be scrutinized. The Bill, in its current form adopts a straight-jacketed approach and only partially succeeds in providing just opportunities and rights to all stakeholders. This paper analyses the possible impact that the bill may have on women, particularly in respect of their decision-making powers and their reproductive freedom. It takes into consideration legislations and international guidelines on surrogacy from around the world and experiences gained out of issues which have arisen in lawsuits.*

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# Contents


| | | |
|---|---|---|
| 1. | Judicial Activism<br>*Dr Y Gangi Reddy* | *8* |
| 2. | Advocates Academy<br>*Dr Y Gangi Reddy* | *9* |
| 3. | Legal Education in India<br>*Dr Akbar Khan* | *10* |
| 4. | Medical Tourism and Legalities<br>*Dr Madhuri Irene* | *11* |
| 5. | National Education Policy 2020, a Step Towards International Standardization<br>*Dr Akbar Khan* | *12* |
| 6. | Professional Development and Continuous Education<br>Dr Rekaraj Jain | *13* |
| 7. | Legal Contours of Transgender Rights<br>*Dr. Rekharaj Jain* | *14* |
| 8. | Article 370 of the Constitution of India: A Catagorical Critique<br>*Dr. Irfan Rasool* | *15* |
| 9. | Section 89 of the Code of Civil Procedure 1908 as a Tool of Speedy Disposal of Civil Suits<br>*Dr.Madhuri Irene* | *16* |
| 10. | Missile Technology Control Regime Opportunities and Challenges- Indial Legal Perspective<br>*Dr.Sanu Rani Pal* | *17* |
| 11. | Gig-Economy and Social Security to Gig- workers in India: A Study<br>*Dr. M Ravindranath & Dr. Manu Datta* | *18* |
| 12. | Changing Dynamics of Live in Relationships<br>*Ms Priti* | *19* |
| 13. | Accessibility for Divyangjan(Persons with Disability) in India<br>*Mrs.L.Lakshmi* | *20* |
| 14. | 19th Century African-American Women Slave Narrative<br>*O.Sankar* | *21* |
| 15. | Human DNA Profiling Bill 2015: An Analysis<br>*Dr Damodar Reddy* | *22* |
| 16. | Protection of Animal Rights in India<br>*Dr. K.V.Ravi Kumar* | *23* |
| 17. | Dilemma in Divorce Theory with Special Reference to Hindu Law<br>*Dr. Madhuri Irene* | *24* |
| 18. | Manhole Deaths: Realising the Unrealistic<br>*Dr.S.Kannan* | *25* |
| 19. | Excluded among the Excluded : The Status of Tribal Women in Telangana<br>*Dr S Kannan* | *26* |
| 20. | "From Berated Blindness To Blooming Blue Economy"- An Emergent Call To Protect Marine Wealth<br>*Dr. Madhuri Irene* | *27* |
| 21. | Effective Presentation Skills, Language, Gender, Understanding the Power Structure.<br>*O Sankar* | *28* |

22. Access to Institutional Credit among Scheduled Tribes in Telangana . A Case study from Sankarpalli Mandal. *29*
*Dr. Kannan*

23. Protection of Human Rights in India. *30*
*Dr.K.Ravi Kumar*

24. A Qualitative Analysis of Cross Dressing Legitimacy with Special Reference to India *31*
*Dr.Rekharaj Jain*

25. Community Sanitary Latrines in insanitary Condition Requires Amendment in Manual Scavengers Act 2013 *32*
*Dr. Kannan*

26. Commercialisation of Leisure and Sports: A Case Study of Khanapur Village , Telangana *33*
*Dr .S.Kannan*

27. Women , Surrogacy Law and Social Justice *34*
*Astha Srivastav*

28. 360 Degrees Sustainable Models for Indian Universities *35*
*Dr. Arun Kumar*

29. UNLIKELY END OF SINO-US TRADE WAR *36*
*Dr. S. Uma*

30. Maternal Commitments and Women Workforce Participation in Urban India *37*
*Dr. Iti Vyas*

31. The Threshold of OECD Revised Guidance on Profit-Split Method during COVID-19. *38*
*Dr. Vinay Sharma*

32. Plea Bargaining ; A Critical Analysis *39*
*Dr.T.Himavati*

33. Stem Cell Protection: Legal and Ethical Issues *40*
*Dr. A.Sreelatha*

34. Regulation of Clinical Trials in India: A Critical Study with special reference to the Drugs and Cosmetics Act, 1940 *41*
*Aditi Nidhi*

35. Changing Perceptions in Space Law: A Special Focus on Theory of Non-Appropriation and Commercialization of Outer Space *42*
*Dr. Poorvi Kantroo*

36. Merchant of Venice : The Quest for Justice *43*
*Dr Padmanabha Rao*

37. Justice Irrespective of Gender: Unsex the Women Empowerment Laws *44*
*Katiyani Juneja*

38. UBER : Issues and Challenges *45*
*Ms Sanu Rani Paul*

39. Democracy in Singapore *46*
*Dr. Uma Sonti*

40. Problems and Prospects of Handloom Sector in Employment Generation in Telangana State *47*
*P. Kesari*

41 Issues of Internal Migrant Labour in India and Legal Response. An Analysis *48*
*Manu Datta*

42. Objectification of women in media: A Feminist-Legal Analysis 49
*Stithi Dasgupta*

43. Challenging a foreign arbitral award in domestic courts- An Analysis 50
*Dr.P.L.Jayanthi Reddy*

44. Heterogenity and Spirituality 51
*Dr. Rekharaj Jain*

45. A Critical Analysis on Mahatma Gandhi Rural Employment Guarantee Act 2005 52
*Y. Gangi Reddy*

46. The Concept of Freedom and the Constitutional Control: A socio-political analysis 53
*Dr. Dilshad Shaik*

47. Environmental Protection in the Framework of International Law - A Study 54
*Prof.T.Sita Kumara*

48. The balance between environmental protection and developmental activities: Past, Present and Future A Socio-legal Analysis 55
*Dr.R.D.Vijayasekhar*

49. The Issue of Collective Land Ownership Under African Customary Land Law: The Case of Cameroon 56
*Fonja Julius Achu*

50. Misleading Advertisements in India: A Comparative and Critical Analysis 57
*Anita A Patil*

51. Educational Qualifications of Elected Representatives: Need of the Hour for a Progressive Democracy 58
*Masood Ahmad*

52. The Impact of Artificial Insemination on the Institution of Family: Legal Nuances 59
*Dr. D Srujana*

53. The Role of Law Commission in Revamping the Overburdened Supreme Court 60
*B Muthu Kumar*

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# 360 Degrees Sustainable Models for Indian Universities

Dr. Arun Kumar[28]

*Abstract:*

*This paper presents* ***360 Degrees Sustainable Models in Indian Universities (skill development and entrepreneurship . It*** *emphasises that the key role of higher education institutions is the transition to a more sustainable society . A sustainable university has been defined as a higher educational institution that addresses on a regional or a global level, the minimization of negative environmental, health effects generated in the use of their resources in order to fulfill its functions of teaching, research,outreach and partnership in ways to help society make the transition to sustainable lifestyles. Sustainability is a never ending journey; there is still a wide range of areas where we can better ourselves, both in the research, teaching, and operations. He also highlighted that this research will provide insight into some of the target areas of the Indian Universities, and inspire students, faculty and employees to actively participate in thetransition. As Indian universities are having a lot of scope for sustainable improvement, the present research finds the gap of studies that are to be focused on universities.*

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HYDERABAD

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(Deemed to be University u/s 3 of the UGC Act, 1956)

# Contents


| | | |
|---|---|---|
| 1. | Judicial Activism<br>*Dr Y Gangi Reddy* | *8* |
| 2. | Advocates Academy<br>*Dr Y Gangi Reddy* | *9* |
| 3. | Legal Education in India<br>*Dr Akbar Khan* | *10* |
| 4. | Medical Tourism and Legalities<br>*Dr Madhuri Irene* | *11* |
| 5. | National Education Policy 2020, a Step Towards International Standardization<br>*Dr Akbar Khan* | *12* |
| 6. | Professional Development and Continuous Education<br>Dr Rekaraj Jain | *13* |
| 7. | Legal Contours of Transgender Rights<br>*Dr. Rekharaj Jain* | *14* |
| 8. | Article 370 of the Constitution of India: A Catagorical Critique<br>*Dr. Irfan Rasool* | *15* |
| 9. | Section 89 of the Code of Civil Procedure 1908 as a Tool of Speedy Disposal of Civil Suits<br>*Dr.Madhuri Irene* | *16* |
| 10. | Missile Technology Control Regime Opportunities and Challenges- Indial Legal Perspective<br>*Dr.Sanu Rani Pal* | *17* |
| 11. | Gig-Economy and Social Security to Gig- workers in India: A Study<br>*Dr. M Ravindranath & Dr. Manu Datta* | *18* |
| 12. | Changing Dynamics of Live in Relationships<br>*Ms Priti* | *19* |
| 13. | Accessibility for Divyangjan(Persons with Disability) in India<br>*Mrs.L.Lakshmi* | *20* |
| 14. | 19th Century African-American Women Slave Narrative<br>*O.Sankar* | *21* |
| 15. | Human DNA Profiling Bill 2015: An Analysis<br>*Dr Damodar Reddy* | *22* |
| 16. | Protection of Animal Rights in India<br>*Dr. K.V.Ravi Kumar* | *23* |
| 17. | Dilemma in Divorce Theory with Special Reference to Hindu Law<br>*Dr. Madhuri Irene* | *24* |
| 18. | Manhole Deaths: Realising the Unrealistic<br>*Dr.S.Kannan* | *25* |
| 19. | Excluded among the Excluded : The Status of Tribal Women in Telangana<br>*Dr S Kannan* | *26* |
| 20. | "From Berated Blindness To Blooming Blue Economy"- An Emergent Call To Protect Marine Wealth<br>*Dr. Madhuri Irene* | *27* |
| 21. | Effective Presentation Skills, Language, Gender, Understanding the Power Structure.<br>*O Sankar* | *28* |

22. Access to Institutional Credit among Scheduled Tribes in Telangana . A Case study from Sankarpalli Mandal. 29
*Dr. Kannan*

23. Protection of Human Rights in India. 30
*Dr.K.Ravi Kumar*

24. A Qualitative Analysis of Cross Dressing Legitimacy with Special Reference to India 31
*Dr.Rekharaj Jain*

25. Community Sanitary Latrines in insanitary Condition Requires Amendment in Manual Scavengers Act 2013 32
*Dr. Kannan*

26. Commercialisation of Leisure and Sports: A Case Study of Khanapur Village , Telangana 33
*Dr .S.Kannan*

27. Women , Surrogacy Law and Social Justice 34
*Astha Srivastav*

28. 360 Degrees Sustainable Models for Indian Universities 35
*Dr. Arun Kumar*

29. UNLIKELY END OF SINO-US TRADE WAR 36
*Dr. S. Uma*

30. Maternal Commitments and Women Workforce Participation in Urban India 37
*Dr. Iti Vyas*

31. The Threshold of OECD Revised Guidance on Profit-Split Method during COVID-19. 38
*Dr. Vinay Sharma*

32. Plea Bargaining ; A Critical Analysis 39
*Dr.T.Himavati*

33. Stem Cell Protection: Legal and Ethical Issues 40
*Dr. A.Sreelatha*

34. Regulation of Clinical Trials in India: A Critical Study with special reference to the Drugs and Cosmetics Act, 1940 41
*Aditi Nidhi*

35. Changing Perceptions in Space Law: A Special Focus on Theory of Non-Appropriation and Commercialization of Outer Space 42
*Dr. Poorvi Kantroo*

36. Merchant of Venice : The Quest for Justice 43
*Dr Padmanabha Rao*

37. Justice Irrespective of Gender: Unsex the Women Empowerment Laws 44
*Katiyani Juneja*

38. UBER : Issues and Challenges 45
*Ms Sanu Rani Paul*

39. Democracy in Singapore 46
*Dr. Uma Sonti*

40. Problems and Prospects of Handloom Sector in Employment Generation in Telangana State 47
*P. Kesari*

41. Issues of Internal Migrant Labour in India and Legal Response: An Analysis 48
*Manu Datta*

42. Objectification of women in media: A Feminist-Legal Analysis 49
*Stithi Dasgupta*
43. Challenging a foreign arbitral award in domestic courts- An Analysis 50
*Dr.P.L.Jayanthi Reddy*
44. Heterogenity and Spirituality 51
*Dr. Rekharaj Jain*
45. A Critical Analysis on Mahatma Gandhi Rural Employment Guarantee Act 2005 52
*Y. Gangi Reddy*
46. The Concept of Freedom and the Constitutional Control: A socio-political analysis 53
*Dr. Dilshad Shaik*
47. Environmental Protection in the Framework of International Law - A Study 54
*Prof.T.Sita Kumara*
48. The balance between environmental protection and developmental activities: Past, Present and Future A Socio-legal Analysis 55
*Dr.R.D.Vijayasekhar*

49. The Issue of Collective Land Ownership Under African Customary Land Law: The Case of Cameroon 56
*Fonja Julius Achu*
50. Misleading Advertisements in India: A Comparative and Critical Analysis 57
*Anita A Patil*
51. Educational Qualifications of Elected Representatives: Need of the Hour for a Progressive Democracy 58
*Masood Ahmad*
52. The Impact of Artificial Insemination on the Institution of Family: Legal Nuances 59
*Dr. D Srujana*
53. The Role of Law Commission in Revamping the Overburdened Supreme Court 60
*B Muthu Kumar*

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# UNLIKELY END OF SINO-US TRADE WAR

Dr. S. Uma[29]

*Abstract*

*A trade war is an economic conflict that takes place because of extreme protectionism followed by a state or states against other states due to several reasons. This takes the form of tariff and other non-tariff barriers in the process of reducing trade deficit. Trade deficit occurs when imports of a country are more than exports. This paper deals with why the Sino-US trade war has been taking place for a long time.*

*The present trade war is happening between two largest economies in the world, United Stated and China. Though initiated by USA, both the states started increasing tariffs on each other's goods. To reduce high trade deficit, President of United States of America, Donald Trump increased tariffs on imported Chinese products. And china retaliated in the same manner. This paper also explores the reasons for unlikely end of trade war between US and China and also deals with economic and political implications of Sino- US trade war on countries involved and also on India. It also attempts to explore how India can turn trade war to its advantage.*

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# Contents


1. Judicial Activism
   *Dr Y Gangi Reddy* 8
2. Advocates Academy
   *Dr Y Gangi Reddy* 9
3. Legal Education in India
   *Dr Akbar Khan* 10
4. Medical Tourism and Legalities
   *Dr Madhuri Irene* 11
5. National Education Policy 2020, a Step Towards International Standardization
   *Dr Akbar Khan* 12
6. Professional Development and Continuous Education
   Dr Rekaraj Jain 13
7. Legal Contours of Transgender Rights
   *Dr. Rekharaj Jain* 14
8. Article 370 of the Constitution of India: A Catagorical Critique
   *Dr. Irfan Rasool* 15
9. Section 89 of the Code of Civil Procedure 1908 as a Tool of Speedy Disposal of Civil Suits 16
   *Dr.Madhuri Irene*
10. Missile Technology Control Regime Opportunities and Challenges- Indial Legal Perspective 17
    *Dr.Sanu Rani Pal*
11. Gig-Economy and Social Security to Gig- workers in India: A Study
    *Dr. M Ravindranath & Dr. Manu Datta* 18
12. Changing Dynamics of Live in Relationships
    *Ms Priti* 19
13. Accessibility for Divyangjan(Persons with Disability) in India
    *Mrs.L.Lakshmi* 20
14. 19th Century African-American Women Slave Narrative
    *O.Sankar* 21
15. Human DNA Profiling Bill 2015: An Analysis
    *Dr Damodar Reddy* 22
16. Protection of Animal Rights in India
    *Dr. K.V.Ravi Kumar* 23
17. Dilemma in Divorce Theory with Special Reference to Hindu Law
    *Dr. Madhuri Irene* 24
18. Manhole Deaths: Realising the Unrealistic
    *Dr.S.Kannan* 25
19. Excluded among the Excluded : The Status of Tribal Women in Telangana
    *Dr S Kannan* 26
20. "From Berated Blindness To Blooming Blue Economy"- An Emergent Call To Protect Marine Wealth 27
    *Dr. Madhuri Irene*
21. Effective Presentation Skills, Language, Gender, Understanding the Power Structure. 28
    *O Sankar*

22. Access to Institutional Credit among Scheduled Tribes in Telangana . A Case study from Sankarpalli Mandal. 29
*Dr. Kannan*

23. Protection of Human Rights in India. 30
*Dr.K.Ravi Kumar*

24. A Qualitative Analysis of Cross Dressing Legitimacy with Special Reference to India 31
*Dr.Rekharaj Jain*

25. Community Sanitary Latrines in insanitary Condition Requires Amendment in Manual Scavengers Act 2013 32
*Dr. Kannan*

26. Commercialisation of Leisure and Sports: A Case Study of Khanapur Village , Telangana 33
*Dr .S.Kannan*

27. Women , Surrogacy Law and Social Justice 34
*Astha Srivastav*

28. 360 Degrees Sustainable Models for Indian Universities 35
*Dr. Arun Kumar*

29. UNLIKELY END OF SINO-US TRADE WAR 36
*Dr. S. Uma*

30. Maternal Commitments and Women Workforce Participation in Urban India 37
*Dr. Iti Vyas*

31. The Threshold of OECD Revised Guidance on Profit-Split Method during COVID-19. 38
*Dr. Vinay Sharma*

32. Plea Bargaining ; A Critical Analysis 39
*Dr.T.Himavati*

33. Stem Cell Protection: Legal and Ethical Issues 40
*Dr. A.Sreelatha*

34. Regulation of Clinical Trials in India: A Critical Study with special reference to the Drugs and Cosmetics Act, 1940 41
*Aditi Nidhi*

35. Changing Perceptions in Space Law: A Special Focus on Theory of Non-Appropriation and Commercialization of Outer Space 42
*Dr. Poorvi Kantroo*

36. Merchant of Venice : The Quest for Justice 43
*Dr Padmanabha Rao*

37. Justice Irrespective of Gender: Unsex the Women Empowerment Laws 44
*Katiyani Juneja*

38. UBER : Issues and Challenges 45
*Ms Sanu Rani Paul*

39. Democracy in Singapore 46
*Dr. Uma Sonti*

40. Problems and Prospects of Handloom Sector in Employment Generation in Telangana State 47
*P. Kesari*

41. Issues of Internal Migrant Labour in India and Legal Response: An Analysis 48
*Manu Datta*

42. Objectification of women in media: A Feminist-Legal Analysis 49
*Stithi Dasgupta*
43. Challenging a foreign arbitral award in domestic courts- An Analysis 50
*Dr.P.L.Jayanthi Reddy*
44. Heterogenity and Spirituality 51
*Dr. Rekharaj Jain*
45. A Critical Analysis on Mahatma Gandhi Rural Employment Guarantee Act 2005 52
*Y. Gangi Reddy*
46. The Concept of Freedom and the Constitutional Control: A socio-political analysis 53
*Dr. Dilshad Shaik*
47. Environmental Protection in the Framework of International Law - A Study 54
*Prof.T.Sita Kumara*
48. The balance between environmental protection and developmental activities: Past, Present and Future A Socio-legal Analysis 55
*Dr.R.D.Vijayasekhar*

49. The Issue of Collective Land Ownership Under African Customary Land Law: The Case of Cameroon 56
*Fonja Julius Achu*
50. Misleading Advertisements in India: A Comparative and Critical Analysis 57
*Anita A Patil*
51. Educational Qualifications of Elected Representatives: Need of the Hour for a Progressive Democracy 58
*Masood Ahmad*
52. The Impact of Artificial Insemination on the Institution of Family: Legal Nuances 59
*Dr. D Srujana*
53. The Role of Law Commission in Revamping the Overburdened Supreme Court 60
*B Muthu Kumar*

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# Maternal Commitments and Women Workforce Participation in Urban India

Dr. Iti Vyas[30]

*Abstract:*

*This Paper discusses about economic growth and emphasized that, Since 1990, India has witnessed robust economic growth. Despite of this high economic growth, urbanization, declining fertility rates and educational progress, a large part of the urban Indian women are out of the workforce. There is a gross mismatch between economic growth and female participation in the labor force. Many socioeconomic factors are responsible for this low female labourforce participation rate (FLFPR). The faculty tried to explore the relation between motherhood responsibilities/commitments and female participation in the work force. The study made by the faculty is based on the secondary data, sourced from National Sample Survey, World Bank and primary (field) data to examine the impact of having a young child on mother's employment in urban India for the period 1990 to 2019 and its effect on child development. The analysis also looks at household environment, type of care provided to children, parental education, father's occupation etc. to examine the maternal commitments. The Findings of study shows that the care of young children plays an important role in deciding mother's labour force participation, especially when appropriate formal child care facility is not available. The study shows the mixed results when mothers return to paid work within six months after childbirth. Other factors such as family income, father's role, parental education, quality of interaction with children have greater influence on child development than early maternal employment per se.*

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# Contents


1. Judicial Activism
   *Dr Y Gangi Reddy* 8
2. Advocates Academy
   *Dr Y Gangi Reddy* 9
3. Legal Education in India
   *Dr Akbar Khan* 10
4. Medical Tourism and Legalities
   *Dr Madhuri Irene* 11
5. National Education Policy 2020, a Step Towards International Standardization
   *Dr Akbar Khan* 12
6. Professional Development and Continuous Education
   Dr Rekaraj Jain 13
7. Legal Contours of Transgender Rights
   *Dr. Rekharaj Jain* 14
8. Article 370 of the Constitution of India: A Catagorical Critique
   *Dr. Irfan Rasool* 15
9. Section 89 of the Code of Civil Procedure 1908 as a Tool of Speedy Disposal of Civil Suits 16
   *Dr.Madhuri Irene*
10. Missile Technology Control Regime Opportunities and Challenges- Indial Legal Perspective 17
    *Dr.Sanu Rani Pal*
11. Gig-Economy and Social Security to Gig- workers in India: A Study
    *Dr. M Ravindranath & Dr. Manu Datta* 18
12. Changing Dynamics of Live in Relationships
    *Ms Priti* 19
13. Accessibility for Divyangjan(Persons with Disability) in India
    *Mrs.L.Lakshmi* 20
14. 19th Century African-American Women Slave Narrative
    *O.Sankar* 21
15. Human DNA Profiling Bill 2015: An Analysis
    *Dr Damodar Reddy* 22
16. Protection of Animal Rights in India
    *Dr. K.V.Ravi Kumar* 23
17. Dilemma in Divorce Theory with Special Reference to Hindu Law
    *Dr. Madhuri Irene* 24
18. Manhole Deaths: Realising the Unrealistic
    *Dr.S.Kannan* 25
19. Excluded among the Excluded : The Status of Tribal Women in Telangana
    *Dr S Kannan* 26
20. "From Berated Blindness To Blooming Blue Economy"- An Emergent Call To Protect Marine Wealth 27
    *Dr. Madhuri Irene*
21. Effective Presentation Skills, Language, Gender, Understanding the Power Structure. 28
    *O Sankar*

22. Access to Institutional Credit among Scheduled Tribes in Telangana . A Case study from Sankarpalli Mandal. 29
*Dr. Kannan*

23. Protection of Human Rights in India.
*Dr.K.Ravi Kumar* 30

24. A Qualitative Analysis of Cross Dressing Legitimacy with Special Reference to India 31
*Dr.Rekharaj Jain*

25. Community Sanitary Latrines in insanitary Condition Requires Amendment in Manual Scavengers Act 2013 32
*Dr. Kannan*

26. Commercialisation of Leisure and Sports: A Case Study of Khanapur Village , Telangana 33
*Dr .S.Kannan*

27. Women , Surrogacy Law and Social Justice
*Astha Srivastav* 34

28. 360 Degrees Sustainable Models for Indian Universities
*Dr. Arun Kumar* 35

29. UNLIKELY END OF SINO-US TRADE WAR
*Dr. S. Uma* 36

30. Maternal Commitments and Women Workforce Participation in Urban India
*Dr. Iti Vyas* 37

31. The Threshold of OECD Revised Guidance on Profit-Split Method during COVID-19. 38
*Dr. Vinay Sharma*

32. Plea Bargaining ; A Critical Analysis
*Dr.T.Himavati* 39

33. Stem Cell Protection: Legal and Ethical Issues
*Dr. A.Sreelatha* 40

34. Regulation of Clinical Trials in India: A Critical Study with special reference to the Drugs and Cosmetics Act, 1940 41
*Aditi Nidhi*

35. Changing Perceptions in Space Law: A Special Focus on Theory of Non-Appropriation and Commercialization of Outer Space 42
*Dr. Poorvi Kantroo*

36. Merchant of Venice : The Quest for Justice
*Dr Padmanabha Rao* 43

37. Justice Irrespective of Gender: Unsex the Women Empowerment Laws
*Katiyani Juneja* 44

38. UBER : Issues and Challenges
*Ms Sanu Rani Paul* 45

39. Democracy in Singapore
*Dr. Uma Sonti* 46

40. Problems and Prospects of Handloom Sector in Employment Generation in Telangana State 47
*P. Kesari*

41. Issues of Internal Migrant Labour in India and Legal Response: An Analysis
*Manu Datta* 48

42. Objectification of women in media: A Feminist-Legal Analysis 49
*Stithi Dasgupta*
43. Challenging a foreign arbitral award in domestic courts- An Analysis 50
*Dr.P.L.Jayanthi Reddy*
44. Heterogenity and Spirituality
*Dr. Rekharaj Jain* 51
45. A Critical Analysis on Mahatma Gandhi Rural Employment Guarantee Act 2005 52
*Y. Gangi Reddy*
46. The Concept of Freedom and the Constitutional Control: A socio-political analysis 53
*Dr. Dilshad Shaik*
47. Environmental Protection in the Framework of International Law - A Study 54
*Prof.T.Sita Kumara*
48. The balance between environmental protection and developmental activities: Past, Present and Future A Socio-legal Analysis 55
*Dr.R.D.Vijayasekhar*

49. The Issue of Collective Land Ownership Under African Customary Land Law: The Case of Cameroon 56
*Fonja Julius Achu*
50. Misleading Advertisements in India: A Comparative and Critical Analysis 57
*Anita A Patil*
51. Educational Qualifications of Elected Representatives: Need of the Hour for a Progressive Democracy 58
*Masood Ahmad*
52. The Impact of Artificial Insemination on the Institution of Family: Legal Nuances 59
*Dr. D Srujana*
53. The Role of Law Commission in Revamping the Overburdened Supreme Court 60
*B Muthu Kumar*

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# The Threshold of OECD Revised Guidance on Profit-Split Method during COVID-19.

Dr. Vinay Sharma[31]

*Abstract:*

*The global outbreak of the novel Corona Virus (COVID-19) has engulfed the world economy by affecting healthcare systems; inpacted financial markets devastated major world economies and disrupted lives and livelihood. It has not only been a supply chain disruption but it has brought to the fore the sustainability aspect in the near term of businesses. Multi-National Enterprises (MNE) are exposed to risk of their business, tax impact on the profits earned by the over a financial period and legal jurisdictions which extend beyond local and international barriers. The impact of COVID-19 is that MNE's have turned their efforts to search for tax havens to reduce their tax liability and in particular to use transfer pricing scenarios to be assessed, by looking and re-examining the role and profile of their entities. MNE's need to analyse global transactions, risks and various assets and bring them to jurisdictions that are least affected so that losses are mitigated.The major issue before MNE's shall be on the perspective of transfer pricing with respect to compliance and the methods of transactional transfer pricing shall be apt to mitigate the crisis. Appropriateness of Transfer Pricing methods would be tested in the current scenario to conclude that Arm's – Length principle has been applied to inter-company transactions. Transfer pricing methods have been conservative and deal with multiple year data which can be co-related to the rules and methods of the Arms-length principle. The role of transfer pricing has been based on the Arm's length principle and the evaluation of the same is done through methods of pricing. These methods followed have been the basis of transfer pricing and these methods have been scrutinized and evaluated by the Organisation for Economic Co-operation and Development (OECD). OECD and G-20 countries have proposed a framework for transfer pricing and the methods of computation so that corporations have used tax havens to reduce their tax payments in that particular country. With these the OECD wanted to look into transfer pricing which would be inclusive of BEPS (Base Erosion and Profit Sharing) and have issued revised guidelines to compute transactions under the transactional profit-split method. In view of COVID-19 there is a need to analyse the role of profit split method vis-à-vis the Arms-length principle by countries and the need to look at controllable and uncontrollable transactions which are defined under the principle. An integrated approach towards the concept of uncontrollable transaction is needed and the methodology of transfer pricing.*

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# Contents


1. Judicial Activism
   *Dr Y Gangi Reddy* 8
2. Advocates Academy
   *Dr Y Gangi Reddy* 9
3. Legal Education in India
   *Dr Akbar Khan* 10
4. Medical Tourism and Legalities
   *Dr Madhuri Irene* 11
5. National Education Policy 2020, a Step Towards International Standardization
   *Dr Akbar Khan* 12
6. Professional Development and Continuous Education
   Dr Rekaraj Jain 13
7. Legal Contours of Transgender Rights
   *Dr. Rekharaj Jain* 14
8. Article 370 of the Constitution of India: A Catagorical Critique
   *Dr. Irfan Rasool* 15
9. Section 89 of the Code of Civil Procedure 1908 as a Tool of Speedy Disposal of Civil Suits 16
   *Dr.Madhuri Irene*
10. Missile Technology Control Regime Opportunities and Challenges- Indial Legal Perspective 17
    *Dr.Sanu Rani Pal*
11. Gig-Economy and Social Security to Gig- workers in India: A Study
    *Dr. M Ravindranath & Dr. Manu Datta* 18
12. Changing Dynamics of Live in Relationships
    *Ms Priti* 19
13. Accessibility for Divyangjan(Persons with Disability) in India
    *Mrs.L.Lakshmi* 20
14. 19th Century African-American Women Slave Narrative
    *O.Sankar* 21
15. Human DNA Profiling Bill 2015: An Analysis
    *Dr Damodar Reddy* 22
16. Protection of Animal Rights in India
    *Dr. K.V.Ravi Kumar* 23
17. Dilemma in Divorce Theory with Special Reference to Hindu Law
    *Dr. Madhuri Irene* 24
18. Manhole Deaths: Realising the Unrealistic
    *Dr.S.Kannan* 25
19. Excluded among the Excluded : The Status of Tribal Women in Telangana
    *Dr S Kannan* 26
20. "From Berated Blindness To Blooming Blue Economy"- An Emergent Call To Protect Marine Wealth 27
    *Dr. Madhuri Irene*
21. Effective Presentation Skills, Language, Gender, Understanding the Power Structure. 28
    *O Sankar*

22. Access to Institutional Credit among Scheduled Tribes in Telangana . A Case study from Sankarpalli Mandal. 29
*Dr. Kannan*

23. Protection of Human Rights in India. 30
*Dr.K.Ravi Kumar*

24. A Qualitative Analysis of Cross Dressing Legitimacy with Special Reference to India 31
*Dr.Rekharaj Jain*

25. Community Sanitary Latrines in insanitary Condition Requires Amendment in Manual Scavengers Act 2013 32
*Dr. Kannan*

26. Commercialisation of Leisure and Sports: A Case Study of Khanapur Village , Telangana 33
*Dr .S.Kannan*

27. Women , Surrogacy Law and Social Justice 34
*Astha Srivastav*

28. 360 Degrees Sustainable Models for Indian Universities 35
*Dr. Arun Kumar*

29. UNLIKELY END OF SINO-US TRADE WAR 36
*Dr. S. Uma*

30. Maternal Commitments and Women Workforce Participation in Urban India 37
*Dr. Iti Vyas*

31. The Threshold of OECD Revised Guidance on Profit-Split Method during COVID-19. 38
*Dr. Vinay Sharma*

32. Plea Bargaining ; A Critical Analysis 39
*Dr.T.Himavati*

33. Stem Cell Protection: Legal and Ethical Issues 40
*Dr. A.Sreelatha*

34. Regulation of Clinical Trials in India: A Critical Study with special reference to the Drugs and Cosmetics Act, 1940 41
*Aditi Nidhi*

35. Changing Perceptions in Space Law: A Special Focus on Theory of Non-Appropriation and Commercialization of Outer Space 42
*Dr. Poorvi Kantroo*

36. Merchant of Venice : The Quest for Justice 43
*Dr Padmanabha Rao*

37. Justice Irrespective of Gender: Unsex the Women Empowerment Laws 44
*Katiyani Juneja*

38. UBER : Issues and Challenges 45
*Ms Sanu Rani Paul*

39. Democracy in Singapore 46
*Dr. Uma Sonti*

40. Problems and Prospects of Handloom Sector in Employment Generation in Telangana State 47
*P. Kesari*

41. Issues of Internal Migrant Labour in India and Legal Response: An Analysis 48
*Manu Datta*

42. Objectification of women in media: A Feminist-Legal Analysis 49
*Stithi Dasgupta*
43. Challenging a foreign arbitral award in domestic courts- An Analysis 50
*Dr.P.L.Jayanthi Reddy*
44. Heterogenity and Spirituality 51
*Dr. Rekharaj Jain*
45. A Critical Analysis on Mahatma Gandhi Rural Employment Guarantee Act 2005 52
*Y. Gangi Reddy*
46. The Concept of Freedom and the Constitutional Control: A socio-political analysis 53
*Dr. Dilshad Shaik*
47. Environmental Protection in the Framework of International Law - A Study 54
*Prof.T.Sita Kumara*
48. The balance between environmental protection and developmental activities: Past, Present and Future A Socio-legal Analysis 55
*Dr.R.D.Vijayasekhar*

49. The Issue of Collective Land Ownership Under African Customary Land Law: The Case of Cameroon 56
*Fonja Julius Achu*
50. Misleading Advertisements in India: A Comparative and Critical Analysis 57
*Anita A Patil*
51. Educational Qualifications of Elected Representatives: Need of the Hour for a Progressive Democracy 58
*Masood Ahmad*
52. The Impact of Artificial Insemination on the Institution of Family: Legal Nuances 59
*Dr. D Srujana*
53. The Role of Law Commission in Revamping the Overburdened Supreme Court 60
*B Muthu Kumar*

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# Plea Bargaining ; A Critical Analysis

Dr.T.Himavati[32]

*Abstract:*

*Plea bargaining introduced in Criminal Procedure Code by an amendment of Criminal Law Amendment Act 2005 is an exception to Rule of law which prevails in India .The Indian penal code is specific in providing specific punishments for offences and as per rule of law a criminal court should impose the same punishment without any change. But by introducing plea bargaining concept in criminal procedure code –Negotiations between prosecution and accused is made possible after charge sheet is laid, for a lenient or lesser punishment ,with approval of the judge .This mode of dispensation of Criminal justice was not available till 2005 in our country. The Supreme Court consistently disapproved the application of plea bargaining in its judgments and held that the plea bargaining is unconstitutional and State should dispense justice as statute provides .While that being so the Law Commission of India in its 154th Report recommended inclusion of plea bargaining in Criminal procedure code and the said report was approved by V.S. Malimath Committee on Criminal Justice reforms .Thus a new chapter XXIA consisting of sections 265A TO 265 L was added to Criminal Procedure Code giving scope to plea bargaining , which is a new concept in Criminal Law Justice System in India . This procedure is brought on statute book in the public interest to render speedy justice to the accused on one hand and for speedy disposal of huge pendency of criminal cases on the other. The provisions of section 265A TO 265L provide a detailed procedure to invoke the plea bargaining by the accused (subject to limitations).Plea bargaining is the process whereby the accused and the prosecutor in a criminal case work out a mutually satisfactory disposition of the case subject to the approval of the judge. It involves the defendant pleading guilty to lesser offence in return to a lighter sentence than that possible for the lesser charge. Therefore it can be said that plea bargaining refers to pre trial negotiations between the defendant through his or her advocate and the prosecution(and also victim) during which the accused agrees to plead guilty in exchange for lesser punishment with the approval of the judge. Thus it is a tripartite agreement.The concept of plea bargaining should be made more attractive for the accused to opt as alternative to regular court trial in criminal justice dispensation for speedy justice which is required in the interest of society at large. The present provisions of plea bargaining require a relook in the light of provisions of The Probation of Offenders Act 1958 to bestow the non disqualification on the accused (Defendant).*

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# Contents


1. Judicial Activism
   *Dr Y Gangi Reddy* 8
2. Advocates Academy
   *Dr Y Gangi Reddy* 9
3. Legal Education in India
   *Dr Akbar Khan* 10
4. Medical Tourism and Legalities
   *Dr Madhuri Irene* 11
5. National Education Policy 2020, a Step Towards International Standardization
   *Dr Akbar Khan* 12
6. Professional Development and Continuous Education
   Dr Rekaraj Jain 13
7. Legal Contours of Transgender Rights
   *Dr. Rekharaj Jain* 14
8. Article 370 of the Constitution of India: A Catagorical Critique
   *Dr. Irfan Rasool* 15
9. Section 89 of the Code of Civil Procedure 1908 as a Tool of Speedy Disposal of Civil Suits 16
   *Dr.Madhuri Irene*
10. Missile Technology Control Regime Opportunities and Challenges- Indial Legal Perspective 17
    *Dr.Sanu Rani Pal*
11. Gig-Economy and Social Security to Gig- workers in India: A Study
    *Dr. M Ravindranath & Dr. Manu Datta* 18
12. Changing Dynamics of Live in Relationships
    *Ms Priti* 19
13. Accessibility for Divyangjan(Persons with Disability) in India
    *Mrs.L.Lakshmi* 20
14. 19th Century African-American Women Slave Narrative
    *O.Sankar* 21
15. Human DNA Profiling Bill 2015: An Analysis
    *Dr Damodar Reddy* 22
16. Protection of Animal Rights in India
    *Dr. K.V.Ravi Kumar* 23
17. Dilemma in Divorce Theory with Special Reference to Hindu Law
    *Dr. Madhuri Irene* 24
18. Manhole Deaths: Realising the Unrealistic
    *Dr.S.Kannan* 25
19. Excluded among the Excluded : The Status of Tribal Women in Telangana
    *Dr S Kannan* 26
20. "From Berated Blindness To Blooming Blue Economy"- An Emergent Call To Protect Marine Wealth 27
    *Dr. Madhuri Irene*
21. Effective Presentation Skills, Language, Gender, Understanding the Power Structure. 28
    *O Sankar*

22. Access to Institutional Credit among Scheduled Tribes in Telangana . A Case study from Sankarpalli Mandal. 29
*Dr. Kannan*

23. Protection of Human Rights in India.
*Dr.K.Ravi Kumar* 30

24. A Qualitative Analysis of Cross Dressing Legitimacy with Special Reference to India 31
*Dr.Rekharaj Jain*

25. Community Sanitary Latrines in insanitary Condition Requires Amendment in Manual Scavengers Act 2013 32
*Dr. Kannan*

26. Commercialisation of Leisure and Sports: A Case Study of Khanapur Village , Telangana 33
*Dr .S.Kannan*

27. Women , Surrogacy Law and Social Justice
*Astha Srivastav* 34

28. 360 Degrees Sustainable Models for Indian Universities
*Dr. Arun Kumar* 35

29. UNLIKELY END OF SINO-US TRADE WAR
*Dr. S. Uma* 36

30. Maternal Commitments and Women Workforce Participation in Urban India
*Dr. Iti Vyas* 37

31. The Threshold of OECD Revised Guidance on Profit-Split Method during COVID-19. 38
*Dr. Vinay Sharma*

32. Plea Bargaining ; A Critical Analysis
*Dr.T.Himavati* 39

33. Stem Cell Protection: Legal and Ethical Issues
*Dr. A.Sreelatha* 40

34. Regulation of Clinical Trials in India: A Critical Study with special reference to the Drugs and Cosmetics Act, 1940 41
*Aditi Nidhi*

35. Changing Perceptions in Space Law: A Special Focus on Theory of Non-Appropriation and Commercialization of Outer Space 42
*Dr. Poorvi Kantroo*

36. Merchant of Venice : The Quest for Justice
*Dr Padmanabha Rao* 43

37. Justice Irrespective of Gender: Unsex the Women Empowerment Laws
*Katiyani Juneja* 44

38. UBER : Issues and Challenges
*Ms Sanu Rani Paul* 45

39. Democracy in Singapore
*Dr. Uma Sonti* 46

40. Problems and Prospects of Handloom Sector in Employment Generation in Telangana State 47
*P. Kesari*

41. Issues of Internal Migrant Labour in India and Legal Response: An Analysis
*Manu Datta* 48

42. Objectification of women in media: A Feminist-Legal Analysis 49
*Stithi Dasgupta*

43. Challenging a foreign arbitral award in domestic courts- An Analysis 50
*Dr.P.L.Jayanthi Reddy*

44. Heterogenity and Spirituality 51
*Dr. Rekharaj Jain*

45. A Critical Analysis on Mahatma Gandhi Rural Employment Guarantee Act 2005 52
*Y. Gangi Reddy*

46. The Concept of Freedom and the Constitutional Control: A socio-political analysis 53
*Dr. Dilshad Shaik*

47. Environmental Protection in the Framework of International Law - A Study 54
*Prof.T.Sita Kumara*

48. The balance between environmental protection and developmental activities: Past, Present and Future A Socio-legal Analysis 55
*Dr.R.D.Vijayasekhar*

49. The Issue of Collective Land Ownership Under African Customary Land Law: The Case of Cameroon 56
*Fonja Julius Achu*

50. Misleading Advertisements in India: A Comparative and Critical Analysis 57
*Anita A Patil*

51. Educational Qualifications of Elected Representatives: Need of the Hour for a Progressive Democracy 58
*Masood Ahmad*

52. The Impact of Artificial Insemination on the Institution of Family: Legal Nuances 59
*Dr. D Srujana*

53. The Role of Law Commission in Revamping the Overburdened Supreme Court 60
*B Muthu Kumar*

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# Stem Cell Protection: Legal and Ethical Issues

Dr. A.Sreelatha[33]

*Abstract:*

*Whether the killing of embryos is a violation of the basic and fundamental Rights, the right to life" The main discussion should not be about when human Life begins even because is almost consensual, at least in biological terms, that it begins when fecundation is completed. Human beings have, since time immemorial, found an unnatural appeal towards increasing their life span and improving the quality of living. It is this allure towards the promise of a better life that has led to the advancement in the field of medicine, this development From a hesitant use of plants and herbs to alleviate the pain experienced by Ancient people which hailed the medicinal properties as magical and the labelling of innocent doctors as witches, carrying out the work of the devil. But when we should recognize to that human life the dignity attributed to each human person and therefore, grant it human rights that should be respected. The embryo ought to be granted the entire list of human rights, just as a human born person, and its destruction should be qualified as a homicide.National organizations are professional dynamic in supporting and advancing this region. Nonetheless, there are many difficulties in current stem undeveloped cell research in India. Neither proper guidelines nor any laws governing the same are present.*

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# Contents


| | | |
|---|---|---|
| 1. | Judicial Activism<br>*Dr Y Gangi Reddy* | *8* |
| 2. | Advocates Academy<br>*Dr Y Gangi Reddy* | *9* |
| 3. | Legal Education in India<br>*Dr Akbar Khan* | *10* |
| 4. | Medical Tourism and Legalities<br>*Dr Madhuri Irene* | *11* |
| 5. | National Education Policy 2020, a Step Towards International Standardization<br>*Dr Akbar Khan* | *12* |
| 6. | Professional Development and Continuous Education<br>Dr Rekaraj Jain | *13* |
| 7. | Legal Contours of Transgender Rights<br>*Dr. Rekharaj Jain* | *14* |
| 8. | Article 370 of the Constitution of India: A Catagorical Critique<br>*Dr. Irfan Rasool* | *15* |
| 9. | Section 89 of the Code of Civil Procedure 1908 as a Tool of Speedy Disposal of Civil Suits<br>*Dr.Madhuri Irene* | *16* |
| 10. | Missile Technology Control Regime Opportunities and Challenges- Indial Legal Perspective<br>*Dr.Sanu Rani Pal* | *17* |
| 11. | Gig-Economy and Social Security to Gig- workers in India: A Study<br>*Dr. M Ravindranath & Dr. Manu Datta* | *18* |
| 12. | Changing Dynamics of Live in Relationships<br>*Ms Priti* | *19* |
| 13. | Accessibility for Divyangjan(Persons with Disability) in India<br>*Mrs.L.Lakshmi* | *20* |
| 14. | 19th Century African-American Women Slave Narrative<br>*O.Sankar* | *21* |
| 15. | Human DNA Profiling Bill 2015: An Analysis<br>*Dr Damodar Reddy* | *22* |
| 16. | Protection of Animal Rights in India<br>*Dr. K.V.Ravi Kumar* | *23* |
| 17. | Dilemma in Divorce Theory with Special Reference to Hindu Law<br>*Dr. Madhuri Irene* | *24* |
| 18. | Manhole Deaths: Realising the Unrealistic<br>*Dr.S.Kannan* | *25* |
| 19. | Excluded among the Excluded : The Status of Tribal Women in Telangana<br>*Dr S Kannan* | *26* |
| 20. | "From Berated Blindness To Blooming Blue Economy"- An Emergent Call To Protect Marine Wealth<br>*Dr. Madhuri Irene* | *27* |
| 21. | Effective Presentation Skills, Language, Gender, Understanding the Power Structure.<br>*O Sankar* | *28* |

22. Access to Institutional Credit among Scheduled Tribes in Telangana . A Case study from Sankarpalli Mandal. 29
*Dr. Kannan*

23. Protection of Human Rights in India. 30
*Dr.K.Ravi Kumar*

24. A Qualitative Analysis of Cross Dressing Legitimacy with Special Reference to India 31
*Dr.Rekharaj Jain*

25. Community Sanitary Latrines in insanitary Condition Requires Amendment in Manual Scavengers Act 2013 32
*Dr. Kannan*

26. Commercialisation of Leisure and Sports: A Case Study of Khanapur Village , Telangana 33
*Dr .S.Kannan*

27. Women , Surrogacy Law and Social Justice 34
*Astha Srivastav*

28. 360 Degrees Sustainable Models for Indian Universities 35
*Dr. Arun Kumar*

29. UNLIKELY END OF SINO-US TRADE WAR 36
*Dr. S. Uma*

30. Maternal Commitments and Women Workforce Participation in Urban India 37
*Dr. Iti Vyas*

31. The Threshold of OECD Revised Guidance on Profit-Split Method during COVID-19. 38
*Dr. Vinay Sharma*

32. Plea Bargaining ; A Critical Analysis 39
*Dr.T.Himavati*

33. Stem Cell Protection: Legal and Ethical Issues 40
*Dr. A.Sreelatha*

34. Regulation of Clinical Trials in India: A Critical Study with special reference to the Drugs and Cosmetics Act, 1940 41
*Aditi Nidhi*

35. Changing Perceptions in Space Law: A Special Focus on Theory of Non-Appropriation and Commercialization of Outer Space 42
*Dr. Poorvi Kantroo*

36. Merchant of Venice : The Quest for Justice 43
*Dr Padmanabha Rao*

37. Justice Irrespective of Gender: Unsex the Women Empowerment Laws 44
*Katiyani Juneja*

38. UBER : Issues and Challenges 45
*Ms Sanu Rani Paul*

39. Democracy in Singapore 46
*Dr. Uma Sonti*

40. Problems and Prospects of Handloom Sector in Employment Generation in Telangana State 47
*P. Kesari*

41. Issues of Internal Migrant Labour in India and Legal Response: An Analysis 48
*Manu Datta*

42. Objectification of women in media: A Feminist-Legal Analysis 49
*Stithi Dasgupta*
43. Challenging a foreign arbitral award in domestic courts- An Analysis 50
*Dr.P.L.Jayanthi Reddy*
44. Heterogenity and Spirituality 51
*Dr. Rekharaj Jain*
45. A Critical Analysis on Mahatma Gandhi Rural Employment Guarantee Act 2005 52
*Y. Gangi Reddy*
46. The Concept of Freedom and the Constitutional Control: A socio-political analysis 53
*Dr. Dilshad Shaik*
47. Environmental Protection in the Framework of International Law - A Study 54
*Prof.T.Sita Kumara*
48. The balance between environmental protection and developmental activities: Past, Present and Future A Socio-legal Analysis 55
*Dr.R.D.Vijayasekhar*

49. The Issue of Collective Land Ownership Under African Customary Land Law: The Case of Cameroon 56
*Fonja Julius Achu*
50. Misleading Advertisements in India: A Comparative and Critical Analysis 57
*Anita A Patil*
51. Educational Qualifications of Elected Representatives: Need of the Hour for a Progressive Democracy 58
*Masood Ahmad*
52. The Impact of Artificial Insemination on the Institution of Family: Legal Nuances 59
*Dr. D Srujana*
53. The Role of Law Commission in Revamping the Overburdened Supreme Court 60
*B Muthu Kumar*

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# Regulation of Clinical Trials in India: A Critical Study with special reference to the Drugs and Cosmetics Act, 1940

Aditi Nidhi[34]

*Abstract:*

*Medicines play a crucial role in the development of physical health and welfare. Medicines usually either enable us to prevent or to reduce the pain of other diseases. Generating a new medicine is a complex and lengthy process, and it may take several years for its progression. The development of drugs is the process where once a lead compound has been located through the process of medical discovery; new pharmaceutical medicine is generated and brought into the market. A clinical trial is a scientific term used for testing of newly generated drug to know its safety, efficiency, and efficacy. Any development of new drugs undergoes various tests before being released in the market commercially. India is an eye-catching destination for the healthcare industry to perform clinical trials due to its diverse population, living in various climatic environments, suffering from different diseases on the basis of socio-economic, environmental, and seasonal changes. There are many added advantages for the pharmaceutical companies to have their preferred location like India. The reasons for the same would be the lack of stringent regulation, no accountability, ease of finding participants, minimal government intervention in case of emergencies, cheap human resources, illiteracy, poverty, and compensation, etc. Nowadays, foreign pharmaceutical companies have to indulge in the practice of testing their medicines on Indian citizens without their consent, before launching them in the market. The subjects are not adequately informed about the same which puts them in grave danger. In India, the Drugs and Cosmetics Act, 1940 under Schedule Y provides for the regulatory and approval framework for clinical trials, alongside the Ethical Guidelines of Biomedical research for human subjects recommended by the Indian Council of Medical Research (ICMR). Schedule Y neglects to provide a more efficient and comprehensive framework for regulating clinical trials. The methods used by pharmaceutical companies for conducting clinical trials have raised several critical issues. Therefore, the research aims to carry out a thorough review of the international and national laws on clinical trials, ethical and socio-legal concerns, existing disputes, events, and recent legislative developments and their effects on human subjects and stakeholders.*

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# Contents


| | | |
|---|---|---|
| 1. | Judicial Activism<br>*Dr Y Gangi Reddy* | *8* |
| 2. | Advocates Academy<br>*Dr Y Gangi Reddy* | *9* |
| 3. | Legal Education in India<br>*Dr Akbar Khan* | *10* |
| 4. | Medical Tourism and Legalities<br>*Dr Madhuri Irene* | *11* |
| 5. | National Education Policy 2020, a Step Towards International Standardization<br>*Dr Akbar Khan* | *12* |
| 6. | Professional Development and Continuous Education<br>Dr Rekaraj Jain | *13* |
| 7. | Legal Contours of Transgender Rights<br>*Dr. Rekharaj Jain* | *14* |
| 8. | Article 370 of the Constitution of India: A Catagorical Critique<br>*Dr. Irfan Rasool* | *15* |
| 9. | Section 89 of the Code of Civil Procedure 1908 as a Tool of Speedy Disposal of Civil Suits<br>*Dr.Madhuri Irene* | *16* |
| 10. | Missile Technology Control Regime Opportunities and Challenges- Indial Legal Perspective<br>*Dr.Sanu Rani Pal* | *17* |
| 11. | Gig-Economy and Social Security to Gig- workers in India: A Study<br>*Dr. M Ravindranath & Dr. Manu Datta* | *18* |
| 12. | Changing Dynamics of Live in Relationships<br>*Ms Priti* | *19* |
| 13. | Accessibility for Divyangjan(Persons with Disability) in India<br>*Mrs.L.Lakshmi* | *20* |
| 14. | 19th Century African-American Women Slave Narrative<br>*O.Sankar* | *21* |
| 15. | Human DNA Profiling Bill 2015: An Analysis<br>*Dr Damodar Reddy* | *22* |
| 16. | Protection of Animal Rights in India<br>*Dr. K.V.Ravi Kumar* | *23* |
| 17. | Dilemma in Divorce Theory with Special Reference to Hindu Law<br>*Dr. Madhuri Irene* | *24* |
| 18. | Manhole Deaths: Realising the Unrealistic<br>*Dr.S.Kannan* | *25* |
| 19. | Excluded among the Excluded : The Status of Tribal Women in Telangana<br>*Dr S Kannan* | *26* |
| 20. | "From Berated Blindness To Blooming Blue Economy"- An Emergent Call To Protect Marine Wealth<br>*Dr. Madhuri Irene* | *27* |
| 21. | Effective Presentation Skills, Language, Gender, Understanding the Power Structure.<br>*O Sankar* | *28* |

22. Access to Institutional Credit among Scheduled Tribes in Telangana . A Case study from Sankarpalli Mandal. 29
*Dr. Kannan*

23. Protection of Human Rights in India. 30
*Dr.K.Ravi Kumar*

24. A Qualitative Analysis of Cross Dressing Legitimacy with Special Reference to India 31
*Dr.Rekharaj Jain*

25. Community Sanitary Latrines in insanitary Condition Requires Amendment in Manual Scavengers Act 2013 32
*Dr. Kannan*

26. Commercialisation of Leisure and Sports: A Case Study of Khanapur Village , Telangana 33
*Dr .S.Kannan*

27. Women , Surrogacy Law and Social Justice 34
*Astha Srivastav*

28. 360 Degrees Sustainable Models for Indian Universities 35
*Dr. Arun Kumar*

29. UNLIKELY END OF SINO-US TRADE WAR 36
*Dr. S. Uma*

30. Maternal Commitments and Women Workforce Participation in Urban India 37
*Dr. Iti Vyas*

31. The Threshold of OECD Revised Guidance on Profit-Split Method during COVID-19. 38
*Dr. Vinay Sharma*

32. Plea Bargaining ; A Critical Analysis 39
*Dr.T.Himavati*

33. Stem Cell Protection: Legal and Ethical Issues 40
*Dr. A.Sreelatha*

34. Regulation of Clinical Trials in India: A Critical Study with special reference to the Drugs and Cosmetics Act, 1940 41
*Aditi Nidhi*

35. Changing Perceptions in Space Law: A Special Focus on Theory of Non-Appropriation and Commercialization of Outer Space 42
*Dr. Poorvi Kantroo*

36. Merchant of Venice : The Quest for Justice 43
*Dr Padmanabha Rao*

37. Justice Irrespective of Gender: Unsex the Women Empowerment Laws 44
*Katiyani Juneja*

38. UBER : Issues and Challenges 45
*Ms Sanu Rani Paul*

39. Democracy in Singapore 46
*Dr. Uma Sonti*

40. Problems and Prospects of Handloom Sector in Employment Generation in Telangana State 47
*P. Kesari*

41. Issues of Internal Migrant Labour in India and Legal Response. An Analysis 48
*Manu Datta*

42. Objectification of women in media: A Feminist-Legal Analysis 49
*Stithi Dasgupta*
43. Challenging a foreign arbitral award in domestic courts- An Analysis 50
*Dr.P.L.Jayanthi Reddy*
44. Heterogenity and Spirituality 51
*Dr. Rekharaj Jain*
45. A Critical Analysis on Mahatma Gandhi Rural Employment Guarantee Act 2005 52
*Y. Gangi Reddy*
46. The Concept of Freedom and the Constitutional Control: A socio-political analysis 53
*Dr. Dilshad Shaik*
47. Environmental Protection in the Framework of International Law - A Study 54
*Prof.T.Sita Kumara*
48. The balance between environmental protection and developmental activities: Past, Present and Future A Socio-legal Analysis 55
*Dr.R.D.Vijayasekhar*

49. The Issue of Collective Land Ownership Under African Customary Land Law: The Case of Cameroon 56
*Fonja Julius Achu*
50. Misleading Advertisements in India: A Comparative and Critical Analysis 57
*Anita A Patil*
51. Educational Qualifications of Elected Representatives: Need of the Hour for a Progressive Democracy 58
*Masood Ahmad*
52. The Impact of Artificial Insemination on the Institution of Family: Legal Nuances 59
*Dr. D Srujana*
53. The Role of Law Commission in Revamping the Overburdened Supreme Court 60
*B Muthu Kumar*

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# Changing Perceptions in Space Law: A Special Focus on Theory of Non-Appropriation and Commercialization of Outer Space

Dr. Poorvi Kantroo[35]

*Abstract:*

*The non-appropriation principle's definition is the foundation for determining whether resource extraction is legalized in the realm of outer space or not? This has been a debate and topic of deliberation for many analysts and commentators whether to reject an interpretation permitting resource extraction outright, or at the very least tread carefully around it. Undeniably, it is presumed that OST allows ownership of space material blurring the essence of Article, justifying mercantile ambitions. At its very core, the succinct prohibition presents supplementary issues because it omits reference to the role of nongovernmental entities. Subsequently, two questions arising from the OST are whether the non-appropriation principle applies equally to nations and their businesses; and, what the scope of that restriction is. The topic for today's Seminar is to ponder and muse if technology has technology outrun the international law governing outer space? This is a question that poses before the space community as a dilemma presents itself as private entities become capable of space travel and new technology makes asteroid mining a reality. Although the Outer Space Treaty's "non-appropriation" principle prohibits nations from claiming sovereignty over space bodies, but does that constraint include resource extraction. The non-appropriation principle, interpreted in conjunction with existing legal regimes, distinguishes between forbidden appropriation and permissible extraction. Hence the point to ponder is whether the theory of non-appropriation must eb dealt with a liberal outlook in the wake of commercialization , or as old fashioned narrow approach is a must to prevent exploitation of outer space?*

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# Contents


1. Judicial Activism
   *Dr Y Gangi Reddy* — *8*
2. Advocates Academy
   *Dr Y Gangi Reddy* — *9*
3. Legal Education in India
   *Dr Akbar Khan* — *10*
4. Medical Tourism and Legalities
   *Dr Madhuri Irene* — *11*
5. National Education Policy 2020, a Step Towards International Standardization
   *Dr Akbar Khan* — *12*
6. Professional Development and Continuous Education
   Dr Rekaraj Jain — *13*
7. Legal Contours of Transgender Rights
   *Dr. Rekharaj Jain* — *14*
8. Article 370 of the Constitution of India: A Catagorical Critique
   *Dr. Irfan Rasool* — *15*
9. Section 89 of the Code of Civil Procedure 1908 as a Tool of Speedy Disposal of Civil Suits
   *Dr.Madhuri Irene* — *16*
10. Missile Technology Control Regime Opportunities and Challenges- Indial Legal Perspective
    *Dr.Sanu Rani Pal* — *17*
11. Gig-Economy and Social Security to Gig- workers in India: A Study
    *Dr. M Ravindranath & Dr. Manu Datta* — *18*
12. Changing Dynamics of Live in Relationships
    *Ms Priti* — *19*
13. Accessibility for Divyangjan(Persons with Disability) in India
    *Mrs.L.Lakshmi* — *20*
14. 19th Century African-American Women Slave Narrative
    *O.Sankar* — *21*
15. Human DNA Profiling Bill 2015: An Analysis
    *Dr Damodar Reddy* — *22*
16. Protection of Animal Rights in India
    *Dr. K.V.Ravi Kumar* — *23*
17. Dilemma in Divorce Theory with Special Reference to Hindu Law
    *Dr. Madhuri Irene* — *24*
18. Manhole Deaths: Realising the Unrealistic
    *Dr.S.Kannan* — *25*
19. Excluded among the Excluded : The Status of Tribal Women in Telangana
    *Dr S Kannan* — *26*
20. "From Berated Blindness To Blooming Blue Economy"- An Emergent Call To Protect Marine Wealth
    *Dr. Madhuri Irene* — *27*
21. Effective Presentation Skills, Language, Gender, Understanding the Power Structure.
    *O Sankar* — *28*

22. Access to Institutional Credit among Scheduled Tribes in Telangana . A Case study from Sankarpalli Mandal. 29
*Dr. Kannan*

23. Protection of Human Rights in India. 30
*Dr.K.Ravi Kumar*

24. A Qualitative Analysis of Cross Dressing Legitimacy with Special Reference to India 31
*Dr.Rekharaj Jain*

25. Community Sanitary Latrines in insanitary Condition Requires Amendment in Manual Scavengers Act 2013 32
*Dr. Kannan*

26. Commercialisation of Leisure and Sports: A Case Study of Khanapur Village , Telangana 33
*Dr .S.Kannan*

27. Women , Surrogacy Law and Social Justice 34
*Astha Srivastav*

28. 360 Degrees Sustainable Models for Indian Universities 35
*Dr. Arun Kumar*

29. UNLIKELY END OF SINO-US TRADE WAR 36
*Dr. S. Uma*

30. Maternal Commitments and Women Workforce Participation in Urban India 37
*Dr. Iti Vyas*

31. The Threshold of OECD Revised Guidance on Profit-Split Method during COVID-19. 38
*Dr. Vinay Sharma*

32. Plea Bargaining ; A Critical Analysis 39
*Dr.T.Himavati*

33. Stem Cell Protection: Legal and Ethical Issues 40
*Dr. A.Sreelatha*

34. Regulation of Clinical Trials in India: A Critical Study with special reference to the Drugs and Cosmetics Act, 1940 41
*Aditi Nidhi*

35. Changing Perceptions in Space Law: A Special Focus on Theory of Non-Appropriation and Commercialization of Outer Space 42
*Dr. Poorvi Kantroo*

36. Merchant of Venice : The Quest for Justice 43
*Dr Padmanabha Rao*

37. Justice Irrespective of Gender: Unsex the Women Empowerment Laws 44
*Katiyani Juneja*

38. UBER : Issues and Challenges 45
*Ms Sanu Rani Paul*

39. Democracy in Singapore 46
*Dr. Uma Sonti*

40. Problems and Prospects of Handloom Sector in Employment Generation in Telangana State 47
*P. Kesari*

41. Issues of Internal Migrant Labour in India and Legal Response: An Analysis 48
*Manu Datta*

42. Objectification of women in media: A Feminist-Legal Analysis 49
*Stithi Dasgupta*
43. Challenging a foreign arbitral award in domestic courts- An Analysis 50
*Dr.P.L.Jayanthi Reddy*
44. Heterogenity and Spirituality 51
*Dr. Rekharaj Jain*
45. A Critical Analysis on Mahatma Gandhi Rural Employment Guarantee Act 2005 52
*Y. Gangi Reddy*
46. The Concept of Freedom and the Constitutional Control: A socio-political analysis 53
*Dr. Dilshad Shaik*
47. Environmental Protection in the Framework of International Law - A Study 54
*Prof.T.Sita Kumara*
48. The balance between environmental protection and developmental activities: Past, Present and Future A Socio-legal Analysis 55
*Dr.R.D.Vijayasekhar*

49. The Issue of Collective Land Ownership Under African Customary Land Law: The Case of Cameroon 56
*Fonja Julius Achu*
50. Misleading Advertisements in India: A Comparative and Critical Analysis 57
*Anita A Patil*
51. Educational Qualifications of Elected Representatives: Need of the Hour for a Progressive Democracy 58
*Masood Ahmad*
52. The Impact of Artificial Insemination on the Institution of Family: Legal Nuances 59
*Dr. D Srujana*
53. The Role of Law Commission in Revamping the Overburdened Supreme Court 60
*B Muthu Kumar*

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# Merchant of Venice : The Quest for Justice

Dr Padmanabha Rao[36]

*Abstract:*

*The concept of justice in Shakespeare's* The *Merchant* of *Venice is both endearing and timeless; its relevance to the human condition which, is inexorably intertwined with sin and grace is central to the play. The trial scene provides a rare glimpse of the inherent divinity and fallibility of the human soul. Nevertheless, the seductive desire for personal revenge is not peculiar to Shakespearean characters; it is universal and exists in everyone and everywhere. The present article is a quest for justice in Shakespeare's* The *Merchant* of *Venice. It examines the role of law in the light of Christian values and hints at the consequences of rigid application of the law that would lead one down a sinister path of injustice. The article presents a review of Shakespearean works related to law followed by a brief overview of Venetian Law and finally focusing on the idea of justice as explored in* The *Merchant* of *Venice.*

[36] Assistant Professor, Icfai Law School, Hyderabad

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(Deemed to be University u/s 3 of the UGC Act, 1956)

# Contents


| | | |
|---|---|---|
| 1. | Judicial Activism<br>*Dr Y Gangi Reddy* | *8* |
| 2. | Advocates Academy<br>*Dr Y Gangi Reddy* | *9* |
| 3. | Legal Education in India<br>*Dr Akbar Khan* | *10* |
| 4. | Medical Tourism and Legalities<br>*Dr Madhuri Irene* | *11* |
| 5. | National Education Policy 2020, a Step Towards International Standardization<br>*Dr Akbar Khan* | *12* |
| 6. | Professional Development and Continuous Education<br>Dr Rekaraj Jain | *13* |
| 7. | Legal Contours of Transgender Rights<br>*Dr. Rekharaj Jain* | *14* |
| 8. | Article 370 of the Constitution of India: A Catagorical Critique<br>*Dr. Irfan Rasool* | *15* |
| 9. | Section 89 of the Code of Civil Procedure 1908 as a Tool of Speedy Disposal of Civil Suits<br>*Dr.Madhuri Irene* | *16* |
| 10. | Missile Technology Control Regime Opportunities and Challenges- Indial Legal Perspective<br>*Dr.Sanu Rani Pal* | *17* |
| 11. | Gig-Economy and Social Security to Gig- workers in India: A Study<br>*Dr. M Ravindranath & Dr. Manu Datta* | *18* |
| 12. | Changing Dynamics of Live in Relationships<br>*Ms Priti* | *19* |
| 13. | Accessibility for Divyangjan(Persons with Disability) in India<br>*Mrs.L.Lakshmi* | *20* |
| 14. | 19th Century African-American Women Slave Narrative<br>*O.Sankar* | *21* |
| 15. | Human DNA Profiling Bill 2015: An Analysis<br>*Dr Damodar Reddy* | *22* |
| 16. | Protection of Animal Rights in India<br>*Dr. K.V.Ravi Kumar* | *23* |
| 17. | Dilemma in Divorce Theory with Special Reference to Hindu Law<br>*Dr. Madhuri Irene* | *24* |
| 18. | Manhole Deaths: Realising the Unrealistic<br>*Dr.S.Kannan* | *25* |
| 19. | Excluded among the Excluded : The Status of Tribal Women in Telangana<br>*Dr S Kannan* | *26* |
| 20. | "From Berated Blindness To Blooming Blue Economy"- An Emergent Call To Protect Marine Wealth<br>*Dr. Madhuri Irene* | *27* |
| 21. | Effective Presentation Skills, Language, Gender, Understanding the Power Structure.<br>*O Sankar* | *28* |

22. Access to Institutional Credit among Scheduled Tribes in Telangana . A Case study from Sankarpalli Mandal. 29
*Dr. Kannan*

23. Protection of Human Rights in India. 30
*Dr.K.Ravi Kumar*

24. A Qualitative Analysis of Cross Dressing Legitimacy with Special Reference to India 31
*Dr.Rekharaj Jain*

25. Community Sanitary Latrines in insanitary Condition Requires Amendment in Manual Scavengers Act 2013 32
*Dr. Kannan*

26. Commercialisation of Leisure and Sports: A Case Study of Khanapur Village , Telangana 33
*Dr .S.Kannan*

27. Women , Surrogacy Law and Social Justice 34
*Astha Srivastav*

28. 360 Degrees Sustainable Models for Indian Universities 35
*Dr. Arun Kumar*

29. UNLIKELY END OF SINO-US TRADE WAR 36
*Dr. S. Uma*

30. Maternal Commitments and Women Workforce Participation in Urban India 37
*Dr. Iti Vyas*

31. The Threshold of OECD Revised Guidance on Profit-Split Method during COVID-19. 38
*Dr. Vinay Sharma*

32. Plea Bargaining ; A Critical Analysis 39
*Dr.T.Himavati*

33. Stem Cell Protection: Legal and Ethical Issues 40
*Dr. A.Sreelatha*

34. Regulation of Clinical Trials in India: A Critical Study with special reference to the Drugs and Cosmetics Act, 1940 41
*Aditi Nidhi*

35. Changing Perceptions in Space Law: A Special Focus on Theory of Non-Appropriation and Commercialization of Outer Space 42
*Dr. Poorvi Kantroo*

36. Merchant of Venice : The Quest for Justice 43
*Dr Padmanabha Rao*

37. Justice Irrespective of Gender: Unsex the Women Empowerment Laws 44
*Katiyani Juneja*

38. UBER : Issues and Challenges 45
*Ms Sanu Rani Paul*

39. Democracy in Singapore 46
*Dr. Uma Sonti*

40. Problems and Prospects of Handloom Sector in Employment Generation in Telangana State 47
*P. Kesari*

41. Issues of Internal Migrant Labour in India and Legal Response: An Analysis 48
*Manu Datta*

42. Objectification of women in media: A Feminist-Legal Analysis 49
*Stithi Dasgupta*
43. Challenging a foreign arbitral award in domestic courts- An Analysis 50
*Dr.P.L.Jayanthi Reddy*
44. Heterogenity and Spirituality 51
*Dr. Rekharaj Jain*
45. A Critical Analysis on Mahatma Gandhi Rural Employment Guarantee Act 2005 52
*Y. Gangi Reddy*
46. The Concept of Freedom and the Constitutional Control: A socio-political analysis 53
*Dr. Dilshad Shaik*
47. Environmental Protection in the Framework of International Law - A Study 54
*Prof.T.Sita Kumara*
48. The balance between environmental protection and developmental activities: Past, Present and Future A Socio-legal Analysis 55
*Dr.R.D.Vijayasekhar*

49. The Issue of Collective Land Ownership Under African Customary Land Law: The Case of Cameroon 56
*Fonja Julius Achu*
50. Misleading Advertisements in India: A Comparative and Critical Analysis 57
*Anita A Patil*
51. Educational Qualifications of Elected Representatives: Need of the Hour for a Progressive Democracy 58
*Masood Ahmad*
52. The Impact of Artificial Insemination on the Institution of Family: Legal Nuances 59
*Dr. D Srujana*
53. The Role of Law Commission in Revamping the Overburdened Supreme Court 60
*B Muthu Kumar*

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# Justice Irrespective of Gender: Unsex the Women Empowerment Laws

Katiyani Juneja[37]

*Abstract:*

*Gender is a term given to the anticipated masculine or feminine behaviour or the roles allocated by both the sexes on the social upfront. It is generally accepted that the inequality between men and women stems from such assumptions about the roles assigned to them by the society. This seminar is an attempt to deal with the different perspective of gender justice. It is common that in India women are regularly and continuously subject to harassment but even men's rights activist scored a significant victory in India when the Supreme Court essentially identified them as the victims in the Domestic Violence cases. It is time to recognize the problem of men as a social and public health issue and develop appropriate strategies and interventions. Under these circumstances this seminar dealing with gender neutrality is a welcome one as it has contemporary importance and significance. The seminar attempts to bring to light to the study of gender equality laws from the international perspective in addition to Indian perspective. The seminar focuses upon the comprehensive view on the implications of India's ratification to Convention on Elimination of all forms of Discrimination Against Women (CEDAW), 1979 and its reservation for the provisions of the Convention. Hereby all the relevant statutory laws and judicial trends have also been traced critically.*

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# Contents


| | | |
|---|---|---|
| 1. | Judicial Activism<br>*Dr Y Gangi Reddy* | *8* |
| 2. | Advocates Academy<br>*Dr Y Gangi Reddy* | *9* |
| 3. | Legal Education in India<br>*Dr Akbar Khan* | *10* |
| 4. | Medical Tourism and Legalities<br>*Dr Madhuri Irene* | *11* |
| 5. | National Education Policy 2020, a Step Towards International Standardization<br>*Dr Akbar Khan* | *12* |
| 6. | Professional Development and Continuous Education<br>Dr Rekaraj Jain | *13* |
| 7. | Legal Contours of Transgender Rights<br>*Dr. Rekharaj Jain* | *14* |
| 8. | Article 370 of the Constitution of India: A Catagorical Critique<br>*Dr. Irfan Rasool* | *15* |
| 9. | Section 89 of the Code of Civil Procedure 1908 as a Tool of Speedy Disposal of Civil Suits<br>*Dr.Madhuri Irene* | *16* |
| 10. | Missile Technology Control Regime Opportunities and Challenges- Indial Legal Perspective<br>*Dr.Sanu Rani Pal* | *17* |
| 11. | Gig-Economy and Social Security to Gig- workers in India: A Study<br>*Dr. M Ravindranath & Dr. Manu Datta* | *18* |
| 12. | Changing Dynamics of Live in Relationships<br>*Ms Priti* | *19* |
| 13. | Accessibility for Divyangjan(Persons with Disability) in India<br>*Mrs.L.Lakshmi* | *20* |
| 14. | 19th Century African-American Women Slave Narrative<br>*O.Sankar* | *21* |
| 15. | Human DNA Profiling Bill 2015: An Analysis<br>*Dr Damodar Reddy* | *22* |
| 16. | Protection of Animal Rights in India<br>*Dr. K.V.Ravi Kumar* | *23* |
| 17. | Dilemma in Divorce Theory with Special Reference to Hindu Law<br>*Dr. Madhuri Irene* | *24* |
| 18. | Manhole Deaths: Realising the Unrealistic<br>*Dr.S.Kannan* | *25* |
| 19. | Excluded among the Excluded : The Status of Tribal Women in Telangana<br>*Dr S Kannan* | *26* |
| 20. | "From Berated Blindness To Blooming Blue Economy"- An Emergent Call To Protect Marine Wealth<br>*Dr. Madhuri Irene* | *27* |
| 21. | Effective Presentation Skills, Language, Gender, Understanding the Power Structure<br>*O Sankar* | *28* |

22. Access to Institutional Credit among Scheduled Tribes in Telangana . A Case study from Sankarpalli Mandal. 29
*Dr. Kannan*

23. Protection of Human Rights in India. 30
*Dr.K.Ravi Kumar*

24. A Qualitative Analysis of Cross Dressing Legitimacy with Special Reference to India 31
*Dr.Rekharaj Jain*

25. Community Sanitary Latrines in insanitary Condition Requires Amendment in Manual Scavengers Act 2013 32
*Dr. Kannan*

26. Commercialisation of Leisure and Sports: A Case Study of Khanapur Village , Telangana 33
*Dr .S.Kannan*

27. Women , Surrogacy Law and Social Justice 34
*Astha Srivastav*

28. 360 Degrees Sustainable Models for Indian Universities 35
*Dr. Arun Kumar*

29. UNLIKELY END OF SINO-US TRADE WAR 36
*Dr. S. Uma*

30. Maternal Commitments and Women Workforce Participation in Urban India 37
*Dr. Iti Vyas*

31. The Threshold of OECD Revised Guidance on Profit-Split Method during COVID-19. 38
*Dr. Vinay Sharma*

32. Plea Bargaining ; A Critical Analysis 39
*Dr.T.Himavati*

33. Stem Cell Protection: Legal and Ethical Issues 40
*Dr. A.Sreelatha*

34. Regulation of Clinical Trials in India: A Critical Study with special reference to the Drugs and Cosmetics Act, 1940 41
*Aditi Nidhi*

35. Changing Perceptions in Space Law: A Special Focus on Theory of Non-Appropriation and Commercialization of Outer Space 42
*Dr. Poorvi Kantroo*

36. Merchant of Venice : The Quest for Justice 43
*Dr Padmanabha Rao*

37. Justice Irrespective of Gender: Unsex the Women Empowerment Laws 44
*Katiyani Juneja*

38. UBER : Issues and Challenges 45
*Ms Sanu Rani Paul*

39. Democracy in Singapore 46
*Dr. Uma Sonti*

40. Problems and Prospects of Handloom Sector in Employment Generation in Telangana State 47
*P. Kesari*

41. Issues of Internal Migrant Labour in India and Legal Response: An Analysis 48
*Manu Datta*

42. Objectification of women in media: A Feminist-Legal Analysis 49
*Stithi Dasgupta*
43. Challenging a foreign arbitral award in domestic courts- An Analysis 50
*Dr.P.L.Jayanthi Reddy*
44. Heterogenity and Spirituality 51
*Dr. Rekharaj Jain*
45. A Critical Analysis on Mahatma Gandhi Rural Employment Guarantee Act 2005 52
*Y. Gangi Reddy*
46. The Concept of Freedom and the Constitutional Control: A socio-political analysis 53
*Dr. Dilshad Shaik*
47. Environmental Protection in the Framework of International Law - A Study 54
*Prof.T.Sita Kumara*
48. The balance between environmental protection and developmental activities: Past, Present and Future A Socio-legal Analysis 55
*Dr.R.D.Vijayasekhar*

49. The Issue of Collective Land Ownership Under African Customary Land Law: The Case of Cameroon 56
*Fonja Julius Achu*
50. Misleading Advertisements in India: A Comparative and Critical Analysis 57
*Anita A Patil*
51. Educational Qualifications of Elected Representatives: Need of the Hour for a Progressive Democracy 58
*Masood Ahmad*
52. The Impact of Artificial Insemination on the Institution of Family: Legal Nuances 59
*Dr. D Srujana*
53. The Role of Law Commission in Revamping the Overburdened Supreme Court 60
*B Muthu Kumar*

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# UBER : Issues and Challenges

**Ms Sanu Rani Paul**[38]

*Abstract:*

*This paper deals with Gig economy. In a gig economy workers act as a medium between the individual buyer and the seller through a for-profit company, which has facilitated the channel with the help of web based or mobile based application which is managed by the company. The employment of the gig workers will be regulated by an agreement between them and the workers are treated as 'self-employed' or 'independent contractors' and not as employees of the online service provider/the for-profit company.Seminar tries to have an overview over the challenges which the Uber is facing worldwide and tracing legal transformations occurred worldwide following the foray of on demand taxi services and an analysis of the same to probe whether the changes proposed to be made to the Indian law is going to address the shortcomings existing in the 'gig-economy 'or not.The Business Model of Uber Michael Lewis of Harvard University refers business model as a term of art", he predicted that future companies will be based on business models connected only with the internet. TheEmergence of Uber ,The taxi service giant was famously named as 'Everyone's private driver 'during the time of its inception. Apart from being the first cab service in the 'shared economy' it is also one of the earlier initiatives originated in Paris at the LeWeb Conference, which was an initiative for the Internet Startups way back in 2008.Uber in USA-In USA there are divergent opinions from the Courts of different States on the matter. In Ohio, Ohio employment law consider ride sharing employees as non-employees for the purpose of application of employment law. Whereas in California, in O'Connor v. Uber Technologies Inc., the United States District Court for the Northern District of California allowed a class action certification for a suit challenging Ubers classification of its drivers' as 'independent contractors.Uber in UK-The complex issues involved in the status of gig-employees were widely deliberated in 2016 by the Employment Tribunal in UK in a landmark judgment in the case of Aslam & Ors. v. Uber & Ors., wherein it was decided that the drivers of Uber were not self-employed independent contractors and were in fact workers within the meaning of the Employment Rights Act, 1996 and that they were entitled to the benefit of worker's rights such as paid annual leave, the national minimum wages, rest breaks and pension contributions.*

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# Contents


1. Judicial Activism
   *Dr Y Gangi Reddy* 8
2. Advocates Academy
   *Dr Y Gangi Reddy* 9
3. Legal Education in India
   *Dr Akbar Khan* 10
4. Medical Tourism and Legalities
   *Dr Madhuri Irene* 11
5. National Education Policy 2020, a Step Towards International Standardization 12
   *Dr Akbar Khan*
6. Professional Development and Continuous Education
   Dr Rekaraj Jain 13
7. Legal Contours of Transgender Rights
   *Dr. Rekharaj Jain* 14
8. Article 370 of the Constitution of India: A Catagorical Critique
   *Dr. Irfan Rasool* 15
9. Section 89 of the Code of Civil Procedure 1908 as a Tool of Speedy Disposal of Civil Suits 16
   *Dr.Madhuri Irene*
10. Missile Technology Control Regime Opportunities and Challenges- Indial Legal Perspective 17
    *Dr.Sanu Rani Pal*
11. Gig-Economy and Social Security to Gig- workers in India: A Study
    *Dr. M Ravindranath & Dr. Manu Datta* 18
12. Changing Dynamics of Live in Relationships
    *Ms Priti* 19
13. Accessibility for Divyangjan(Persons with Disability) in India
    *Mrs.L.Lakshmi* 20
14. 19th Century African-American Women Slave Narrative
    *O.Sankar* 21
15. Human DNA Profiling Bill 2015: An Analysis
    *Dr Damodar Reddy* 22
16. Protection of Animal Rights in India
    *Dr. K.V.Ravi Kumar* 23
17. Dilemma in Divorce Theory with Special Reference to Hindu Law
    *Dr. Madhuri Irene* 24
18. Manhole Deaths: Realising the Unrealistic
    *Dr.S.Kannan* 25
19. Excluded among the Excluded : The Status of Tribal Women in Telangana
    *Dr S Kannan* 26
20. "From Berated Blindness To Blooming Blue Economy"- An Emergent Call To Protect Marine Wealth 27
    *Dr. Madhuri Irene*
21. Effective Presentation Skills, Language, Gender, Understanding the Power Structure 28
    *O Sankar*

22. Access to Institutional Credit among Scheduled Tribes in Telangana . A Case study from Sankarpalli Mandal. 29
*Dr. Kannan*

23. Protection of Human Rights in India. 30
*Dr.K.Ravi Kumar*

24. A Qualitative Analysis of Cross Dressing Legitimacy with Special Reference to India 31
*Dr.Rekharaj Jain*

25. Community Sanitary Latrines in insanitary Condition Requires Amendment in Manual Scavengers Act 2013 32
*Dr. Kannan*

26. Commercialisation of Leisure and Sports: A Case Study of Khanapur Village , Telangana 33
*Dr .S.Kannan*

27. Women , Surrogacy Law and Social Justice 34
*Astha Srivastav*

28. 360 Degrees Sustainable Models for Indian Universities 35
*Dr. Arun Kumar*

29. UNLIKELY END OF SINO-US TRADE WAR 36
*Dr. S. Uma*

30. Maternal Commitments and Women Workforce Participation in Urban India 37
*Dr. Iti Vyas*

31. The Threshold of OECD Revised Guidance on Profit-Split Method during COVID-19. 38
*Dr. Vinay Sharma*

32. Plea Bargaining ; A Critical Analysis 39
*Dr.T.Himavati*

33. Stem Cell Protection: Legal and Ethical Issues 40
*Dr. A.Sreelatha*

34. Regulation of Clinical Trials in India: A Critical Study with special reference to the Drugs and Cosmetics Act, 1940 41
*Aditi Nidhi*

35. Changing Perceptions in Space Law: A Special Focus on Theory of Non-Appropriation and Commercialization of Outer Space 42
*Dr. Poorvi Kantroo*

36. Merchant of Venice : The Quest for Justice 43
*Dr Padmanabha Rao*

37. Justice Irrespective of Gender: Unsex the Women Empowerment Laws 44
*Katiyani Juneja*

38. UBER : Issues and Challenges 45
*Ms Sanu Rani Paul*

39. Democracy in Singapore 46
*Dr. Uma Sonti*

40. Problems and Prospects of Handloom Sector in Employment Generation in Telangana State 47
*P. Kesari*

41. Issues of Internal Migrant Labour in India and Legal Response: An Analysis 48
*Manu Datta*

42. Objectification of women in media: A Feminist-Legal Analysis 49
*Stithi Dasgupta*

43. Challenging a foreign arbitral award in domestic courts- An Analysis 50
*Dr.P.L.Jayanthi Reddy*

44. Heterogenity and Spirituality 51
*Dr. Rekharaj Jain*

45. A Critical Analysis on Mahatma Gandhi Rural Employment Guarantee Act 2005 52
*Y. Gangi Reddy*

46. The Concept of Freedom and the Constitutional Control: A socio-political analysis 53
*Dr. Dilshad Shaik*

47. Environmental Protection in the Framework of International Law - A Study 54
*Prof.T.Sita Kumara*

48. The balance between environmental protection and developmental activities: Past, Present and Future A Socio-legal Analysis 55
*Dr.R.D.Vijayasekhar*

49. The Issue of Collective Land Ownership Under African Customary Land Law: The Case of Cameroon 56
*Fonja Julius Achu*

50. Misleading Advertisements in India: A Comparative and Critical Analysis 57
*Anita A Patil*

51. Educational Qualifications of Elected Representatives: Need of the Hour for a Progressive Democracy 58
*Masood Ahmad*

52. The Impact of Artificial Insemination on the Institution of Family: Legal Nuances 59
*Dr. D Srujana*

53. The Role of Law Commission in Revamping the Overburdened Supreme Court 60
*B Muthu Kumar*

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# Problems and Prospects of Handloom Sector in Employment Generation in Telangana State

P. Kesari[40]

*Abstract:*

*This paper discusses about the handloom weavers problems and the declining trend of handlooms referring to 2019 census .It refers to challenges in handloom industry like raw material, marketing and sales network in specific are discussed. Lack of reliable data with respect to number of craftsman, their socio economic conditions, poor quality yarn , infra structure required for processing yarn ,financial crisis pose concern for the decline of handloom weavers. Political intervention in cooperative societies is another cause. The paper emphasizes on marketing in handloom sector for good quality products. It concludes by raising concern for decline in handloom sector leading to lack of employment opportunities . It suggests that government should help weavers by bringing about various schemes to uplift these handloom weavers and to keep our tradition and culture intact.*

[40] Assistant Professor, Icfai Law School, Hyderabad

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(Deemed to be University u/s 3 of the UGC Act, 1956)

# Contents


| | | |
|---|---|---|
| 1. | Judicial Activism<br>*Dr Y Gangi Reddy* | *8* |
| 2. | Advocates Academy<br>*Dr Y Gangi Reddy* | *9* |
| 3. | Legal Education in India<br>*Dr Akbar Khan* | *10* |
| 4. | Medical Tourism and Legalities<br>*Dr Madhuri Irene* | *11* |
| 5. | National Education Policy 2020, a Step Towards International Standardization<br>*Dr Akbar Khan* | *12* |
| 6. | Professional Development and Continuous Education<br>Dr Rekaraj Jain | *13* |
| 7. | Legal Contours of Transgender Rights<br>*Dr. Rekharaj Jain* | *14* |
| 8. | Article 370 of the Constitution of India: A Catagorical Critique<br>*Dr. Irfan Rasool* | *15* |
| 9. | Section 89 of the Code of Civil Procedure 1908 as a Tool of Speedy Disposal of Civil Suits<br>*Dr.Madhuri Irene* | *16* |
| 10. | Missile Technology Control Regime Opportunities and Challenges- Indial Legal Perspective<br>*Dr.Sanu Rani Pal* | *17* |
| 11. | Gig-Economy and Social Security to Gig- workers in India: A Study<br>*Dr. M Ravindranath & Dr. Manu Datta* | *18* |
| 12. | Changing Dynamics of Live in Relationships<br>*Ms Priti* | *19* |
| 13. | Accessibility for Divyangjan(Persons with Disability) in India<br>*Mrs.L.Lakshmi* | *20* |
| 14. | 19th Century African-American Women Slave Narrative<br>*O.Sankar* | *21* |
| 15. | Human DNA Profiling Bill 2015: An Analysis<br>*Dr Damodar Reddy* | *22* |
| 16. | Protection of Animal Rights in India<br>*Dr. K.V.Ravi Kumar* | *23* |
| 17. | Dilemma in Divorce Theory with Special Reference to Hindu Law<br>*Dr. Madhuri Irene* | *24* |
| 18. | Manhole Deaths: Realising the Unrealistic<br>*Dr.S.Kannan* | *25* |
| 19. | Excluded among the Excluded : The Status of Tribal Women in Telangana<br>*Dr S Kannan* | *26* |
| 20. | "From Berated Blindness To Blooming Blue Economy"- An Emergent Call To Protect Marine Wealth<br>*Dr. Madhuri Irene* | *27* |
| 21. | Effective Presentation Skills, Language, Gender, Understanding the Power Structure.<br>*O Sankar* | *28* |

22. Access to Institutional Credit among Scheduled Tribes in Telangana . A Case study from Sankarpalli Mandal. 29
*Dr. Kannan*

23. Protection of Human Rights in India. 30
*Dr.K.Ravi Kumar*

24. A Qualitative Analysis of Cross Dressing Legitimacy with Special Reference to India 31
*Dr.Rekharaj Jain*

25. Community Sanitary Latrines in insanitary Condition Requires Amendment in Manual Scavengers Act 2013 32
*Dr. Kannan*

26. Commercialisation of Leisure and Sports: A Case Study of Khanapur Village , Telangana 33
*Dr .S.Kannan*

27. Women , Surrogacy Law and Social Justice 34
*Astha Srivastav*

28. 360 Degrees Sustainable Models for Indian Universities 35
*Dr. Arun Kumar*

29. UNLIKELY END OF SINO-US TRADE WAR 36
*Dr. S. Uma*

30. Maternal Commitments and Women Workforce Participation in Urban India 37
*Dr. Iti Vyas*

31. The Threshold of OECD Revised Guidance on Profit-Split Method during COVID-19. 38
*Dr. Vinay Sharma*

32. Plea Bargaining ; A Critical Analysis 39
*Dr.T.Himavati*

33. Stem Cell Protection: Legal and Ethical Issues 40
*Dr. A.Sreelatha*

34. Regulation of Clinical Trials in India: A Critical Study with special reference to the Drugs and Cosmetics Act, 1940 41
*Aditi Nidhi*

35. Changing Perceptions in Space Law: A Special Focus on Theory of Non-Appropriation and Commercialization of Outer Space 42
*Dr. Poorvi Kantroo*

36. Merchant of Venice : The Quest for Justice 43
*Dr Padmanabha Rao*

37. Justice Irrespective of Gender: Unsex the Women Empowerment Laws 44
*Katiyani Juneja*

38. UBER : Issues and Challenges 45
*Ms Sanu Rani Paul*

39. Democracy in Singapore 46
*Dr. Uma Sonti*

40. Problems and Prospects of Handloom Sector in Employment Generation in Telangana State 47
*P. Kesari*

41. Issues of Internal Migrant Labour in India and Legal Response: An Analysis 48
*Manu Datta*

42. Objectification of women in media: A Feminist-Legal Analysis 49
*Stithi Dasgupta*

43. Challenging a foreign arbitral award in domestic courts- An Analysis 50
*Dr.P.L.Jayanthi Reddy*

44. Heterogenity and Spirituality 51
*Dr. Rekharaj Jain*

45. A Critical Analysis on Mahatma Gandhi Rural Employment Guarantee Act 2005 52
*Y. Gangi Reddy*

46. The Concept of Freedom and the Constitutional Control: A socio-political analysis 53
*Dr. Dilshad Shaik*

47. Environmental Protection in the Framework of International Law - A Study 54
*Prof.T.Sita Kumara*

48. The balance between environmental protection and developmental activities: Past, Present and Future A Socio-legal Analysis 55
*Dr.R.D.Vijayasekhar*

49. The Issue of Collective Land Ownership Under African Customary Land Law: The Case of Cameroon 56
*Fonja Julius Achu*

50. Misleading Advertisements in India: A Comparative and Critical Analysis 57
*Anita A Patil*

51. Educational Qualifications of Elected Representatives: Need of the Hour for a Progressive Democracy 58
*Masood Ahmad*

52. The Impact of Artificial Insemination on the Institution of Family: Legal Nuances 59
*Dr. D Srujana*

53. The Role of Law Commission in Revamping the Overburdened Supreme Court 60
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# Issues of Internal Migrant Labour in India and Legal Response: An Analysis

Manu Datta[41]

*Abstract:*

*India is a geographically vast and culturally diverse country where people move and settle, permanently and temporarily, for the purpose of employment and other reasons from one geographical area to another. Uneven economic grown and concentration of industrialization in few urban locations has made migration of labour force inevitable. The word migration is used in international arena as signifying movement of people from one nation to another. In India, however, legislature has used to term for inter-state or intra- state movement in labour legislation and thus recognized this particular class of labour as more vulnerable than non-migrant labour. Climate change and Globalization are major factors contributing to increasing rate of internal migration in India. Migrant labour need special protection of law for various social, cultural and political reasons. The present research paper is intended to highlight some major issues concerned with migration and examine the legislative response including some recent developments.*

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# Contents


| | | |
|---|---|---|
| 1. | Judicial Activism<br>*Dr Y Gangi Reddy* | *8* |
| 2. | Advocates Academy<br>*Dr Y Gangi Reddy* | *9* |
| 3. | Legal Education in India<br>*Dr Akbar Khan* | *10* |
| 4. | Medical Tourism and Legalities<br>*Dr Madhuri Irene* | *11* |
| 5. | National Education Policy 2020, a Step Towards International Standardization<br>*Dr Akbar Khan* | *12* |
| 6. | Professional Development and Continuous Education<br>Dr Rekaraj Jain | *13* |
| 7. | Legal Contours of Transgender Rights<br>*Dr. Rekharaj Jain* | *14* |
| 8. | Article 370 of the Constitution of India: A Catagorical Critique<br>*Dr. Irfan Rasool* | *15* |
| 9. | Section 89 of the Code of Civil Procedure 1908 as a Tool of Speedy Disposal of Civil Suits<br>*Dr.Madhuri Irene* | *16* |
| 10. | Missile Technology Control Regime Opportunities and Challenges- Indial Legal Perspective<br>*Dr.Sanu Rani Pal* | *17* |
| 11. | Gig-Economy and Social Security to Gig- workers in India: A Study<br>*Dr. M Ravindranath & Dr. Manu Datta* | *18* |
| 12. | Changing Dynamics of Live in Relationships<br>*Ms Priti* | *19* |
| 13. | Accessibility for Divyangjan(Persons with Disability) in India<br>*Mrs.L.Lakshmi* | *20* |
| 14. | 19th Century African-American Women Slave Narrative<br>*O.Sankar* | *21* |
| 15. | Human DNA Profiling Bill 2015: An Analysis<br>*Dr Damodar Reddy* | *22* |
| 16. | Protection of Animal Rights in India<br>*Dr. K.V.Ravi Kumar* | *23* |
| 17. | Dilemma in Divorce Theory with Special Reference to Hindu Law<br>*Dr. Madhuri Irene* | *24* |
| 18. | Manhole Deaths: Realising the Unrealistic<br>*Dr.S.Kannan* | *25* |
| 19. | Excluded among the Excluded : The Status of Tribal Women in Telangana<br>*Dr S Kannan* | *26* |
| 20. | "From Berated Blindness To Blooming Blue Economy"- An Emergent Call To Protect Marine Wealth<br>*Dr. Madhuri Irene* | *27* |
| 21. | Effective Presentation Skills, Language, Gender, Understanding the Power Structure<br>*O Sankar* | *28* |

22. Access to Institutional Credit among Scheduled Tribes in Telangana . A Case study from Sankarpalli Mandal. 29
*Dr. Kannan*

23. Protection of Human Rights in India. 30
*Dr.K.Ravi Kumar*

24. A Qualitative Analysis of Cross Dressing Legitimacy with Special Reference to India 31
*Dr.Rekharaj Jain*

25. Community Sanitary Latrines in insanitary Condition Requires Amendment in Manual Scavengers Act 2013 32
*Dr. Kannan*

26. Commercialisation of Leisure and Sports: A Case Study of Khanapur Village , Telangana 33
*Dr .S.Kannan*

27. Women , Surrogacy Law and Social Justice 34
*Astha Srivastav*

28. 360 Degrees Sustainable Models for Indian Universities 35
*Dr. Arun Kumar*

29. UNLIKELY END OF SINO-US TRADE WAR 36
*Dr. S. Uma*

30. Maternal Commitments and Women Workforce Participation in Urban India 37
*Dr. Iti Vyas*

31. The Threshold of OECD Revised Guidance on Profit-Split Method during COVID-19. 38
*Dr. Vinay Sharma*

32. Plea Bargaining ; A Critical Analysis 39
*Dr.T.Himavati*

33. Stem Cell Protection: Legal and Ethical Issues 40
*Dr. A.Sreelatha*

34. Regulation of Clinical Trials in India: A Critical Study with special reference to the Drugs and Cosmetics Act, 1940 41
*Aditi Nidhi*

35. Changing Perceptions in Space Law: A Special Focus on Theory of Non-Appropriation and Commercialization of Outer Space 42
*Dr. Poorvi Kantroo*

36. Merchant of Venice : The Quest for Justice 43
*Dr Padmanabha Rao*

37. Justice Irrespective of Gender: Unsex the Women Empowerment Laws 44
*Katiyani Juneja*

38. UBER : Issues and Challenges 45
*Ms Sanu Rani Paul*

39. Democracy in Singapore 46
*Dr. Uma Sonti*

40. Problems and Prospects of Handloom Sector in Employment Generation in Telangana State 47
*P. Kesari*

41. Issues of Internal Migrant Labour in India and Legal Response: An Analysis 48
*Manu Datta*

42. Objectification of women in media: A Feminist-Legal Analysis 49
*Stithi Dasgupta*
43. Challenging a foreign arbitral award in domestic courts- An Analysis 50
*Dr.P.L.Jayanthi Reddy*
44. Heterogenity and Spirituality 51
*Dr. Rekharaj Jain*
45. A Critical Analysis on Mahatma Gandhi Rural Employment Guarantee Act 2005 52
*Y. Gangi Reddy*
46. The Concept of Freedom and the Constitutional Control: A socio-political analysis 53
*Dr. Dilshad Shaik*
47. Environmental Protection in the Framework of International Law - A Study 54
*Prof.T.Sita Kumara*
48. The balance between environmental protection and developmental activities: Past, Present and Future A Socio-legal Analysis 55
*Dr.R.D.Vijayasekhar*
49. The Issue of Collective Land Ownership Under African Customary Land Law: The Case of Cameroon 56
*Fonja Julius Achu*
50. Misleading Advertisements in India: A Comparative and Critical Analysis 57
*Anita A Patil*
51. Educational Qualifications of Elected Representatives: Need of the Hour for a Progressive Democracy 58
*Masood Ahmad*
52. The Impact of Artificial Insemination on the Institution of Family: Legal Nuances 59
*Dr. D Srujana*
53. The Role of Law Commission in Revamping the Overburdened Supreme Court 60
*B Muthu Kumar*

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# Objectification of women in media: A Feminist-Legal Analysis

**Stithi Dasgupta**[42]

*Abstract:*

*In the 21st century media is one of the most influential organ of any state and its impact on social-cultural ethos can not be ignored. Gender issues which is one of the most prevalent issue of present day also gets influenced by this influential role of media.Amongst the several concerns of gender disparity ,objectification of women is a very critical problem.This research titled "objectification of women in media:A feminist-legal analysis" will ponder upon the problem of objectification of women in media with feminist-legal point of view with focus on electronic media in specific. It will also delve into recent additions in electronic media and legal parlance of India with regard to it.*

[42] Assistant Professor, Icfai Law School, Hyderabad

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# Contents


| | | |
|---|---|---|
| 1. | Judicial Activism<br>*Dr Y Gangi Reddy* | *8* |
| 2. | Advocates Academy<br>*Dr Y Gangi Reddy* | *9* |
| 3. | Legal Education in India<br>*Dr Akbar Khan* | *10* |
| 4. | Medical Tourism and Legalities<br>*Dr Madhuri Irene* | *11* |
| 5. | National Education Policy 2020, a Step Towards International Standardization<br>*Dr Akbar Khan* | *12* |
| 6. | Professional Development and Continuous Education<br>Dr Rekaraj Jain | *13* |
| 7. | Legal Contours of Transgender Rights<br>*Dr. Rekharaj Jain* | *14* |
| 8. | Article 370 of the Constitution of India: A Catagorical Critique<br>*Dr. Irfan Rasool* | *15* |
| 9. | Section 89 of the Code of Civil Procedure 1908 as a Tool of Speedy Disposal of Civil Suits<br>*Dr.Madhuri Irene* | *16* |
| 10. | Missile Technology Control Regime Opportunities and Challenges- Indial Legal Perspective<br>*Dr.Sanu Rani Pal* | *17* |
| 11. | Gig-Economy and Social Security to Gig- workers in India: A Study<br>*Dr. M Ravindranath & Dr. Manu Datta* | *18* |
| 12. | Changing Dynamics of Live in Relationships<br>*Ms Priti* | *19* |
| 13. | Accessibility for Divyangjan(Persons with Disability) in India<br>*Mrs.L.Lakshmi* | *20* |
| 14. | 19th Century African-American Women Slave Narrative<br>*O.Sankar* | *21* |
| 15. | Human DNA Profiling Bill 2015: An Analysis<br>*Dr Damodar Reddy* | *22* |
| 16. | Protection of Animal Rights in India<br>*Dr. K.V.Ravi Kumar* | *23* |
| 17. | Dilemma in Divorce Theory with Special Reference to Hindu Law<br>*Dr. Madhuri Irene* | *24* |
| 18. | Manhole Deaths: Realising the Unrealistic<br>*Dr.S.Kannan* | *25* |
| 19. | Excluded among the Excluded : The Status of Tribal Women in Telangana<br>*Dr S Kannan* | *26* |
| 20. | "From Berated Blindness To Blooming Blue Economy"- An Emergent Call To Protect Marine Wealth<br>*Dr. Madhuri Irene* | *27* |
| 21. | Effective Presentation Skills, Language, Gender, Understanding the Power Structure,<br>*O Sankar* | *28* |

22. Access to Institutional Credit among Scheduled Tribes in Telangana . A Case study from Sankarpalli Mandal. 29
*Dr. Kannan*

23. Protection of Human Rights in India. 30
*Dr.K.Ravi Kumar*

24. A Qualitative Analysis of Cross Dressing Legitimacy with Special Reference to India 31
*Dr.Rekharaj Jain*

25. Community Sanitary Latrines in insanitary Condition Requires Amendment in Manual Scavengers Act 2013 32
*Dr. Kannan*

26. Commercialisation of Leisure and Sports: A Case Study of Khanapur Village , Telangana 33
*Dr .S.Kannan*

27. Women , Surrogacy Law and Social Justice 34
*Astha Srivastav*

28. 360 Degrees Sustainable Models for Indian Universities 35
*Dr. Arun Kumar*

29. UNLIKELY END OF SINO-US TRADE WAR 36
*Dr. S. Uma*

30. Maternal Commitments and Women Workforce Participation in Urban India 37
*Dr. Iti Vyas*

31. The Threshold of OECD Revised Guidance on Profit-Split Method during COVID-19. 38
*Dr. Vinay Sharma*

32. Plea Bargaining ; A Critical Analysis 39
*Dr.T.Himavati*

33. Stem Cell Protection: Legal and Ethical Issues 40
*Dr. A.Sreelatha*

34. Regulation of Clinical Trials in India: A Critical Study with special reference to the Drugs and Cosmetics Act, 1940 41
*Aditi Nidhi*

35. Changing Perceptions in Space Law: A Special Focus on Theory of Non-Appropriation and Commercialization of Outer Space 42
*Dr. Poorvi Kantroo*

36. Merchant of Venice : The Quest for Justice 43
*Dr Padmanabha Rao*

37. Justice Irrespective of Gender: Unsex the Women Empowerment Laws 44
*Katiyani Juneja*

38. UBER : Issues and Challenges 45
*Ms Sanu Rani Paul*

39. Democracy in Singapore 46
*Dr. Uma Sonti*

40. Problems and Prospects of Handloom Sector in Employment Generation in Telangana State 47
*P. Kesari*

41. Issues of Internal Migrant Labour in India and Legal Response: An Analysis 48
*Manu Datta*

42. Objectification of women in media: A Feminist-Legal Analysis 49
*Stithi Dasgupta*
43. Challenging a foreign arbitral award in domestic courts- An Analysis 50
*Dr.P.L.Jayanthi Reddy*
44. Heterogenity and Spirituality 51
*Dr. Rekharaj Jain*
45. A Critical Analysis on Mahatma Gandhi Rural Employment Guarantee Act 2005 52
*Y. Gangi Reddy*
46. The Concept of Freedom and the Constitutional Control: A socio-political analysis 53
*Dr. Dilshad Shaik*
47. Environmental Protection in the Framework of International Law - A Study 54
*Prof.T.Sita Kumara*
48. The balance between environmental protection and developmental activities: Past, Present and Future A Socio-legal Analysis 55
*Dr.R.D.Vijayasekhar*
49. The Issue of Collective Land Ownership Under African Customary Land Law: The Case of Cameroon 56
*Fonja Julius Achu*
50. Misleading Advertisements in India: A Comparative and Critical Analysis 57
*Anita A Patil*
51. Educational Qualifications of Elected Representatives: Need of the Hour for a Progressive Democracy 58
*Masood Ahmad*
52. The Impact of Artificial Insemination on the Institution of Family: Legal Nuances 59
*Dr. D Srujana*
53. The Role of Law Commission in Revamping the Overburdened Supreme Court 60
*B Muthu Kumar*

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# Challenging a foreign arbitral award in domestic courts- An Analysis

Dr.P.L.Jayanthi Reddy[43]

*Abstract:*

*A foreign award by definition under section 44 of Arbitration and Conciliation Act 1996 means an award passed in such territory as the Central Government by notification may declare to be a territory to which the New York Convention applies. Therefore being mere signatory to convention is not enough. Identifying international dispute is a task ,most importantly the award must relate to arbitration disputes that may be commercial disputes,property disputes ,family disputes etc. Again the challenge is of domicile of party and hence private international law plays an important role. In recent years the growth of International Commercial Arbitration in India is because of rise of disputes in International commercial transactions between foreign and indian parties and parties choosing more of arbitration for resolution. In recent years India was criticized for being an arbitration -unfriendly jurisdiction but currently the arbitration community witnessed significant judicial maturity by Indian courts. The recent Amendment 2015 has brought India a pro arbitration approach rather than an arbitration unfriendly by narrowing the scope of intervention of the Indian Courts in execution of foreign awards and by limiting the scope of public policy of India applicable to foreign awards. This article discusses in the light of several judgments, the excessive intervention of courts prior to 2015 Amendment and role of international conventions, also the hostility it received from arbitration community and the success of arbitration in the current years. There are no strict rules laid down neither in domestic law, nor in conventions and UNCITRAL model law with regard to enforceability of awards. There are many lacunas and challenges in excecution of foreign arbitral awards. This article is an attempt to look into those lacunas and to address the problem of enforceability of foreign arbitral award .*

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# Contents


| | | |
|---|---|---|
| 1. | Judicial Activism<br>*Dr Y Gangi Reddy* | *8* |
| 2. | Advocates Academy<br>*Dr Y Gangi Reddy* | *9* |
| 3. | Legal Education in India<br>*Dr Akbar Khan* | *10* |
| 4. | Medical Tourism and Legalities<br>*Dr Madhuri Irene* | *11* |
| 5. | National Education Policy 2020, a Step Towards International Standardization<br>*Dr Akbar Khan* | *12* |
| 6. | Professional Development and Continuous Education<br>Dr Rekaraj Jain | *13* |
| 7. | Legal Contours of Transgender Rights<br>*Dr. Rekharaj Jain* | *14* |
| 8. | Article 370 of the Constitution of India: A Catagorical Critique<br>*Dr. Irfan Rasool* | *15* |
| 9. | Section 89 of the Code of Civil Procedure 1908 as a Tool of Speedy Disposal of Civil Suits<br>*Dr.Madhuri Irene* | *16* |
| 10. | Missile Technology Control Regime Opportunities and Challenges- Indial Legal Perspective<br>*Dr.Sanu Rani Pal* | *17* |
| 11. | Gig-Economy and Social Security to Gig- workers in India: A Study<br>*Dr. M Ravindranath & Dr. Manu Datta* | *18* |
| 12. | Changing Dynamics of Live in Relationships<br>*Ms Priti* | *19* |
| 13. | Accessibility for Divyangjan(Persons with Disability) in India<br>*Mrs.L.Lakshmi* | *20* |
| 14. | 19th Century African-American Women Slave Narrative<br>*O.Sankar* | *21* |
| 15. | Human DNA Profiling Bill 2015: An Analysis<br>*Dr Damodar Reddy* | *22* |
| 16. | Protection of Animal Rights in India<br>*Dr. K.V.Ravi Kumar* | *23* |
| 17. | Dilemma in Divorce Theory with Special Reference to Hindu Law<br>*Dr. Madhuri Irene* | *24* |
| 18. | Manhole Deaths: Realising the Unrealistic<br>*Dr.S.Kannan* | *25* |
| 19. | Excluded among the Excluded : The Status of Tribal Women in Telangana<br>*Dr S Kannan* | *26* |
| 20. | "From Berated Blindness To Blooming Blue Economy"- An Emergent Call To Protect Marine Wealth<br>*Dr. Madhuri Irene* | *27* |
| 21. | Effective Presentation Skills, Language, Gender, Understanding the Power Structure.<br>*O Sankar* | *28* |

42. Objectification of women in media: A Feminist-Legal Analysis 49
*Stithi Dasgupta*
43. Challenging a foreign arbitral award in domestic courts- An Analysis 50
*Dr.P.L.Jayanthi Reddy*
44. Heterogenity and Spirituality 51
*Dr. Rekharaj Jain*
45. A Critical Analysis on Mahatma Gandhi Rural Employment Guarantee Act 2005 52
*Y. Gangi Reddy*
46. The Concept of Freedom and the Constitutional Control: A socio-political analysis 53
*Dr. Dilshad Shaik*
47. Environmental Protection in the Framework of International Law - A Study 54
*Prof.T.Sita Kumara*
48. The balance between environmental protection and developmental activities: Past, Present and Future A Socio-legal Analysis 55
*Dr.R.D.Vijayasekhar*

49. The Issue of Collective Land Ownership Under African Customary Land Law: The Case of Cameroon 56
*Fonja Julius Achu*
50. Misleading Advertisements in India: A Comparative and Critical Analysis 57
*Anita A Patil*
51. Educational Qualifications of Elected Representatives: Need of the Hour for a Progressive Democracy 58
*Masood Ahmad*
52. The Impact of Artificial Insemination on the Institution of Family: Legal Nuances 59
*Dr. D Srujana*
53. The Role of Law Commission in Revamping the Overburdened Supreme Court 60
*B Muthu Kumar*

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# Heterogenity and Spirituality

Dr. Rekharaj Jain[44]

*Abstract:*

*Heterogeneity signifies variability which is often used in distinction to homogeneity. Spirituality is an array of many perspectives and it is quite difficult to assign a precise content. Liberalism and spirituality are distinct aspects of our human existence but hand in hand. In global age spirituality and democracy must stay engaged in equipping its adherents to hold the democratic system. Spirituality and human rights are two indispensable mores which, in diverse ways, contribute immensely to the development of human societies. In an era of globalization, liberalism, democracy and human rights will have the meaning only if we all make a great contribution to human existence through spirituality.*

[44] Assistant Professor, Icfai Law School, Hyderabad

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# Contents


| | | |
|---|---|---|
| 1. | Judicial Activism<br>*Dr Y Gangi Reddy* | *8* |
| 2. | Advocates Academy<br>*Dr Y Gangi Reddy* | *9* |
| 3. | Legal Education in India<br>*Dr Akbar Khan* | *10* |
| 4. | Medical Tourism and Legalities<br>*Dr Madhuri Irene* | *11* |
| 5. | National Education Policy 2020, a Step Towards International Standardization<br>*Dr Akbar Khan* | *12* |
| 6. | Professional Development and Continuous Education<br>Dr Rekaraj Jain | *13* |
| 7. | Legal Contours of Transgender Rights<br>*Dr. Rekharaj Jain* | *14* |
| 8. | Article 370 of the Constitution of India: A Catagorical Critique<br>*Dr. Irfan Rasool* | *15* |
| 9. | Section 89 of the Code of Civil Procedure 1908 as a Tool of Speedy Disposal of Civil Suits<br>*Dr.Madhuri Irene* | *16* |
| 10. | Missile Technology Control Regime Opportunities and Challenges- Indial Legal Perspective<br>*Dr.Sanu Rani Pal* | *17* |
| 11. | Gig-Economy and Social Security to Gig- workers in India: A Study<br>*Dr. M Ravindranath & Dr. Manu Datta* | *18* |
| 12. | Changing Dynamics of Live in Relationships<br>*Ms Priti* | *19* |
| 13. | Accessibility for Divyangjan(Persons with Disability) in India<br>*Mrs.L.Lakshmi* | *20* |
| 14. | 19th Century African-American Women Slave Narrative<br>*O.Sankar* | *21* |
| 15. | Human DNA Profiling Bill 2015: An Analysis<br>*Dr Damodar Reddy* | *22* |
| 16. | Protection of Animal Rights in India<br>*Dr. K.V.Ravi Kumar* | *23* |
| 17. | Dilemma in Divorce Theory with Special Reference to Hindu Law<br>*Dr. Madhuri Irene* | *24* |
| 18. | Manhole Deaths: Realising the Unrealistic<br>*Dr.S.Kannan* | *25* |
| 19. | Excluded among the Excluded : The Status of Tribal Women in Telangana<br>*Dr S Kannan* | *26* |
| 20. | "From Berated Blindness To Blooming Blue Economy"- An Emergent Call To Protect Marine Wealth<br>*Dr. Madhuri Irene* | *27* |
| 21. | Effective Presentation Skills, Language, Gender, Understanding the Power Structure.<br>*O Sankar* | *28* |

22. Access to Institutional Credit among Scheduled Tribes in Telangana . A Case study from Sankarpalli Mandal. 29
*Dr. Kannan*

23. Protection of Human Rights in India. 30
*Dr.K.Ravi Kumar*

24. A Qualitative Analysis of Cross Dressing Legitimacy with Special Reference to India 31
*Dr.Rekharaj Jain*

25. Community Sanitary Latrines in insanitary Condition Requires Amendment in Manual Scavengers Act 2013 32
*Dr. Kannan*

26. Commercialisation of Leisure and Sports: A Case Study of Khanapur Village , Telangana 33
*Dr .S.Kannan*

27. Women , Surrogacy Law and Social Justice 34
*Astha Srivastav*

28. 360 Degrees Sustainable Models for Indian Universities 35
*Dr. Arun Kumar*

29. UNLIKELY END OF SINO-US TRADE WAR 36
*Dr. S. Uma*

30. Maternal Commitments and Women Workforce Participation in Urban India 37
*Dr. Iti Vyas*

31. The Threshold of OECD Revised Guidance on Profit-Split Method during COVID-19. 38
*Dr. Vinay Sharma*

32. Plea Bargaining ; A Critical Analysis 39
*Dr.T.Himavati*

33. Stem Cell Protection: Legal and Ethical Issues 40
*Dr. A.Sreelatha*

34. Regulation of Clinical Trials in India: A Critical Study with special reference to the Drugs and Cosmetics Act, 1940 41
*Aditi Nidhi*

35. Changing Perceptions in Space Law: A Special Focus on Theory of Non-Appropriation and Commercialization of Outer Space 42
*Dr. Poorvi Kantroo*

36. Merchant of Venice : The Quest for Justice 43
*Dr Padmanabha Rao*

37. Justice Irrespective of Gender: Unsex the Women Empowerment Laws 44
*Katiyani Juneja*

38. UBER : Issues and Challenges 45
*Ms Sanu Rani Paul*

39. Democracy in Singapore 46
*Dr. Uma Sonti*

40. Problems and Prospects of Handloom Sector in Employment Generation in Telangana State 47
*P. Kesari*

41. Issues of Internal Migrant Labour in India and Legal Response: An Analysis 48
*Manu Datta*

42. Objectification of women in media: A Feminist-Legal Analysis 49
*Stithi Dasgupta*

43. Challenging a foreign arbitral award in domestic courts- An Analysis 50
*Dr.P.L.Jayanthi Reddy*

44. Heterogenity and Spirituality 51
*Dr. Rekharaj Jain*

45. A Critical Analysis on Mahatma Gandhi Rural Employment Guarantee Act 2005 52
*Y. Gangi Reddy*

46. The Concept of Freedom and the Constitutional Control: A socio-political analysis 53
*Dr. Dilshad Shaik*

47. Environmental Protection in the Framework of International Law - A Study 54
*Prof.T.Sita Kumara*

48. The balance between environmental protection and developmental activities: Past, Present and Future A Socio-legal Analysis 55
*Dr.R.D.Vijayasekhar*

49. The Issue of Collective Land Ownership Under African Customary Land Law: The Case of Cameroon 56
*Fonja Julius Achu*

50. Misleading Advertisements in India: A Comparative and Critical Analysis 57
*Anita A Patil*

51. Educational Qualifications of Elected Representatives: Need of the Hour for a Progressive Democracy 58
*Masood Ahmad*

52. The Impact of Artificial Insemination on the Institution of Family: Legal Nuances 59
*Dr. D Srujana*

53. The Role of Law Commission in Revamping the Overburdened Supreme Court 60
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# A Critical Analysis on Mahatma Gandhi Rural Employment Guarantee Act 2005

Y. Gangi Reddy[45]

*Abstract:*

*This Paper discusses the Constitutional Dimensions of the Mahatma Gandhi Rural Employment Guarantee Act 2005 . The various schemes which are introduced by the government like Jawhar Gram Samridhi yojana, Sampoorna Grameena rozgar yojana, its objectives are analyzed in this paper. The specific activities that are undertaken in enforcing under this Act are criticized.The study finds there are issues of bogus registrations, no equal wages, delay in preparing estimates, requisition of funds based on false measurement of works. All this poses threat of food security and livelihood and quality of life ultimately leading to farmer's suicides. This paper suggests to incorporate in the legislation food security and farmer's safety and security .*

[45] Associate Professor, Icfai Law School, Hyderabad

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(Deemed to be University u/s 3 of the UGC Act, 1956)

# Contents


| | | |
|---|---|---|
| 1. | Judicial Activism<br>*Dr Y Gangi Reddy* | *8* |
| 2. | Advocates Academy<br>*Dr Y Gangi Reddy* | *9* |
| 3. | Legal Education in India<br>*Dr Akbar Khan* | *10* |
| 4. | Medical Tourism and Legalities<br>*Dr Madhuri Irene* | *11* |
| 5. | National Education Policy 2020, a Step Towards International Standardization<br>*Dr Akbar Khan* | *12* |
| 6. | Professional Development and Continuous Education<br>Dr Rekaraj Jain | *13* |
| 7. | Legal Contours of Transgender Rights<br>*Dr. Rekharaj Jain* | *14* |
| 8. | Article 370 of the Constitution of India: A Catagorical Critique<br>*Dr. Irfan Rasool* | *15* |
| 9. | Section 89 of the Code of Civil Procedure 1908 as a Tool of Speedy Disposal of Civil Suits<br>*Dr.Madhuri Irene* | *16* |
| 10. | Missile Technology Control Regime Opportunities and Challenges- Indial Legal Perspective<br>*Dr.Sanu Rani Pal* | *17* |
| 11. | Gig-Economy and Social Security to Gig- workers in India: A Study<br>*Dr. M Ravindranath & Dr. Manu Datta* | *18* |
| 12. | Changing Dynamics of Live in Relationships<br>*Ms Priti* | *19* |
| 13. | Accessibility for Divyangjan(Persons with Disability) in India<br>*Mrs.L.Lakshmi* | *20* |
| 14. | 19th Century African-American Women Slave Narrative<br>*O.Sankar* | *21* |
| 15. | Human DNA Profiling Bill 2015: An Analysis<br>*Dr Damodar Reddy* | *22* |
| 16. | Protection of Animal Rights in India<br>*Dr. K.V.Ravi Kumar* | *23* |
| 17. | Dilemma in Divorce Theory with Special Reference to Hindu Law<br>*Dr. Madhuri Irene* | *24* |
| 18. | Manhole Deaths: Realising the Unrealistic<br>*Dr.S.Kannan* | *25* |
| 19. | Excluded among the Excluded : The Status of Tribal Women in Telangana<br>*Dr S Kannan* | *26* |
| 20. | "From Berated Blindness To Blooming Blue Economy"- An Emergent Call To Protect Marine Wealth<br>*Dr. Madhuri Irene* | *27* |
| 21. | Effective Presentation Skills, Language, Gender, Understanding the Power Structure.<br>*O Sankar* | *28* |

22. Access to Institutional Credit among Scheduled Tribes in Telangana . A Case study from Sankarpalli Mandal. 29
*Dr. Kannan*

23. Protection of Human Rights in India. 30
*Dr.K.Ravi Kumar*

24. A Qualitative Analysis of Cross Dressing Legitimacy with Special Reference to India 31
*Dr.Rekharaj Jain*

25. Community Sanitary Latrines in insanitary Condition Requires Amendment in Manual Scavengers Act 2013 32
*Dr. Kannan*

26. Commercialisation of Leisure and Sports: A Case Study of Khanapur Village , Telangana 33
*Dr .S.Kannan*

27. Women , Surrogacy Law and Social Justice 34
*Astha Srivastav*

28. 360 Degrees Sustainable Models for Indian Universities 35
*Dr. Arun Kumar*

29. UNLIKELY END OF SINO-US TRADE WAR 36
*Dr. S. Uma*

30. Maternal Commitments and Women Workforce Participation in Urban India 37
*Dr. Iti Vyas*

31. The Threshold of OECD Revised Guidance on Profit-Split Method during COVID-19. 38
*Dr. Vinay Sharma*

32. Plea Bargaining ; A Critical Analysis 39
*Dr.T.Himavati*

33. Stem Cell Protection: Legal and Ethical Issues 40
*Dr. A.Sreelatha*

34. Regulation of Clinical Trials in India: A Critical Study with special reference to the Drugs and Cosmetics Act, 1940 41
*Aditi Nidhi*

35. Changing Perceptions in Space Law: A Special Focus on Theory of Non-Appropriation and Commercialization of Outer Space 42
*Dr. Poorvi Kantroo*

36. Merchant of Venice : The Quest for Justice 43
*Dr Padmanabha Rao*

37. Justice Irrespective of Gender: Unsex the Women Empowerment Laws 44
*Katiyani Juneja*

38. UBER : Issues and Challenges 45
*Ms Sanu Rani Paul*

39. Democracy in Singapore 46
*Dr. Uma Sonti*

40. Problems and Prospects of Handloom Sector in Employment Generation in Telangana State 47
*P. Kesari*

41. Issues of Internal Migrant Labour in India and Legal Response. An Analysis 48
*Manu Datta*

42. Objectification of women in media: A Feminist-Legal Analysis 49
*Stithi Dasgupta*

43. Challenging a foreign arbitral award in domestic courts- An Analysis 50
*Dr.P.L.Jayanthi Reddy*

44. Heterogenity and Spirituality 51
*Dr. Rekharaj Jain*

45. A Critical Analysis on Mahatma Gandhi Rural Employment Guarantee Act 2005 52
*Y. Gangi Reddy*

46. The Concept of Freedom and the Constitutional Control: A socio-political analysis 53
*Dr. Dilshad Shaik*

47. Environmental Protection in the Framework of International Law - A Study 54
*Prof.T.Sita Kumara*

48. The balance between environmental protection and developmental activities: Past, Present and Future A Socio-legal Analysis 55
*Dr.R.D.Vijayasekhar*

49. The Issue of Collective Land Ownership Under African Customary Land Law: The Case of Cameroon 56
*Fonja Julius Achu*

50. Misleading Advertisements in India: A Comparative and Critical Analysis 57
*Anita A Patil*

51. Educational Qualifications of Elected Representatives: Need of the Hour for a Progressive Democracy 58
*Masood Ahmad*

52. The Impact of Artificial Insemination on the Institution of Family: Legal Nuances 59
*Dr. D Srujana*

53. The Role of Law Commission in Revamping the Overburdened Supreme Court 60
*B Muthu Kumar*

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# THE CONCEPT OF FREEDOM AND THE CONSTITUTIONAL CONTROL A SOCIO-POLITICAL ANALYSIS

Dr. Dilshad Shaik[46]

*Abstract:*

*Individual freedom should be subject to social control, otherwise it would be antisocial and undermine national security. Individuals must grow within social boundaries to prevent antisocial or unrestricted growth that can be achieved by harmonizing individual freedom and social control. Freedom must be managed for the benefit of society, but social interests must not be arrogant to justify the complete deprivation of individual liberty. Freedom cannot be independent, but it must be combined with the virtues that accompany it. Freedom and morality; Freedom and law; Freedom and justice; Freedom and public interest; Freedom and responsibility that are closely related to orderly progress and social stability. A human being, a rational individual, must live in harmony with the same rights of those who are different from others in order to achieve the opposite desires. This intertwined network is difficult to define within a defined range of action that can limit freedom of action. Therefore, freedom is not always absolute freedom, but it must be armed within the limits of the law. In other words, freedom as a social concept is a right guaranteed to all members of society, as freedom cannot exist without social restraints, and some freedoms involve the oppression of others. Must not be. When freedom is considered a social order, the problem of establishing freedom must be the problem of organizational resistance that society has towards individuals. Therefore, the freedoms of all citizens are born and must be subordinate to most freedoms. In other words, common well-being is the end of society, ensuring that lawlessness and anarchy do not manipulate social welfare and harmony, and that powerful courses and forces are not at work. Impairing social welfare and order. Therefore, the essence of civil liberty is to keep the individual's liberty subject to the restrictions of social control that can adapt to the needs of dynamic social development. The concept of individual liberty in accordance with social order is consistent with the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights and other alliances. This paper focuses on the socio-political insights and analyses the pros and cons.*

[46] Dean, School of Law, Sathyabhama Institute of Science and Technology (Deemed to be University), Chennai 600 119, deanlaw@sathyabama.ac.in

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(Deemed to be University u/s 3 of the UGC Act, 1956)

# Contents


| | | |
|---|---|---|
| 1. | Judicial Activism<br>*Dr Y Gangi Reddy* | *8* |
| 2. | Advocates Academy<br>*Dr Y Gangi Reddy* | *9* |
| 3. | Legal Education in India<br>*Dr Akbar Khan* | *10* |
| 4. | Medical Tourism and Legalities<br>*Dr Madhuri Irene* | *11* |
| 5. | National Education Policy 2020, a Step Towards International Standardization<br>*Dr Akbar Khan* | *12* |
| 6. | Professional Development and Continuous Education<br>Dr Rekaraj Jain | *13* |
| 7. | Legal Contours of Transgender Rights<br>*Dr. Rekharaj Jain* | *14* |
| 8. | Article 370 of the Constitution of India: A Catagorical Critique<br>*Dr. Irfan Rasool* | *15* |
| 9. | Section 89 of the Code of Civil Procedure 1908 as a Tool of Speedy Disposal of Civil Suits<br>*Dr.Madhuri Irene* | *16* |
| 10. | Missile Technology Control Regime Opportunities and Challenges- Indial Legal Perspective<br>*Dr.Sanu Rani Pal* | *17* |
| 11. | Gig-Economy and Social Security to Gig- workers in India: A Study<br>*Dr. M Ravindranath & Dr. Manu Datta* | *18* |
| 12. | Changing Dynamics of Live in Relationships<br>*Ms Priti* | *19* |
| 13. | Accessibility for Divyangjan(Persons with Disability) in India<br>*Mrs.L.Lakshmi* | *20* |
| 14. | 19th Century African-American Women Slave Narrative<br>*O.Sankar* | *21* |
| 15. | Human DNA Profiling Bill 2015: An Analysis<br>*Dr Damodar Reddy* | *22* |
| 16. | Protection of Animal Rights in India<br>*Dr. K.V.Ravi Kumar* | *23* |
| 17. | Dilemma in Divorce Theory with Special Reference to Hindu Law<br>*Dr. Madhuri Irene* | *24* |
| 18. | Manhole Deaths: Realising the Unrealistic<br>*Dr.S.Kannan* | *25* |
| 19. | Excluded among the Excluded : The Status of Tribal Women in Telangana<br>*Dr S Kannan* | *26* |
| 20. | "From Berated Blindness To Blooming Blue Economy"- An Emergent Call To Protect Marine Wealth<br>*Dr. Madhuri Irene* | *27* |
| 21. | Effective Presentation Skills, Language, Gender, Understanding the Power Structure.<br>*O Sankar* | *28* |

22. Access to Institutional Credit among Scheduled Tribes in Telangana . A Case study from Sankarpalli Mandal. 29
*Dr. Kannan*

23. Protection of Human Rights in India. 30
*Dr.K.Ravi Kumar*

24. A Qualitative Analysis of Cross Dressing Legitimacy with Special Reference to India 31
*Dr.Rekharaj Jain*

25. Community Sanitary Latrines in insanitary Condition Requires Amendment in Manual Scavengers Act 2013 32
*Dr. Kannan*

26. Commercialisation of Leisure and Sports: A Case Study of Khanapur Village , Telangana 33
*Dr .S.Kannan*

27. Women , Surrogacy Law and Social Justice 34
*Astha Srivastav*

28. 360 Degrees Sustainable Models for Indian Universities 35
*Dr. Arun Kumar*

29. UNLIKELY END OF SINO-US TRADE WAR 36
*Dr. S. Uma*

30. Maternal Commitments and Women Workforce Participation in Urban India 37
*Dr. Iti Vyas*

31. The Threshold of OECD Revised Guidance on Profit-Split Method during COVID-19. 38
*Dr. Vinay Sharma*

32. Plea Bargaining ; A Critical Analysis 39
*Dr.T.Himavati*

33. Stem Cell Protection: Legal and Ethical Issues 40
*Dr. A.Sreelatha*

34. Regulation of Clinical Trials in India: A Critical Study with special reference to the Drugs and Cosmetics Act, 1940 41
*Aditi Nidhi*

35. Changing Perceptions in Space Law: A Special Focus on Theory of Non-Appropriation and Commercialization of Outer Space 42
*Dr. Poorvi Kantroo*

36. Merchant of Venice : The Quest for Justice 43
*Dr Padmanabha Rao*

37. Justice Irrespective of Gender: Unsex the Women Empowerment Laws 44
*Katiyani Juneja*

38. UBER : Issues and Challenges 45
*Ms Sanu Rani Paul*

39. Democracy in Singapore 46
*Dr. Uma Sonti*

40. Problems and Prospects of Handloom Sector in Employment Generation in Telangana State 47
*P. Kesari*

41. Issues of Internal Migrant Labour in India and Legal Response. An Analysis 48
*Manu Datta*

42. Objectification of women in media: A Feminist-Legal Analysis 49
*Stithi Dasgupta*
43. Challenging a foreign arbitral award in domestic courts- An Analysis 50
*Dr.P.L.Jayanthi Reddy*
44. Heterogenity and Spirituality 51
*Dr. Rekharaj Jain*
45. A Critical Analysis on Mahatma Gandhi Rural Employment Guarantee Act 2005 52
*Y. Gangi Reddy*
46. The Concept of Freedom and the Constitutional Control: A socio-political analysis 53
*Dr. Dilshad Shaik*
47. Environmental Protection in the Framework of International Law - A Study 54
*Prof.T.Sita Kumara*
48. The balance between environmental protection and developmental activities: Past, Present and Future A Socio-legal Analysis 55
*Dr.R.D.Vijayasekhar*

49. The Issue of Collective Land Ownership Under African Customary Land Law: The Case of Cameroon 56
*Fonja Julius Achu*
50. Misleading Advertisements in India: A Comparative and Critical Analysis 57
*Anita A Patil*
51. Educational Qualifications of Elected Representatives: Need of the Hour for a Progressive Democracy 58
*Masood Ahmad*
52. The Impact of Artificial Insemination on the Institution of Family: Legal Nuances 59
*Dr. D Srujana*
53. The Role of Law Commission in Revamping the Overburdened Supreme Court 60
*B Muthu Kumar*

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IJARST

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# Environmental protection in the framework Of international law - A study

**Prof. T. Sita kumari**[47]

*"The environment is no one's property to destroy but everyone's responsibility to protect"*

*Abstract:*

*The environment is the basis of our survival and the earth's existence. The environment is the total of the natural surroundings around us. Environmental protection thus refers to the protection and saving of the environment from the dire impact of human and human-made activities.* Environmental protection is a matter of domestic interest for almost every country and it also represents no less interest in the international dimension. That is mainly because the activities, that pollute or harm the environment in a certain state, generally tend to backfire also on other states, or on areas that are not subject to the sovereignty of any state. Most serious environmental problems cannot be solved or administrated only by a state unilaterally, but they require an international collaboration between states, more often a joint effort of states. This applies without exception on issues such as global warming, biodiversity, land, safeguarding the quality of air, water, earth and oceans, deforestation and desertification of the planet, administration of the trash and other hazardous waste, also thinning of the ozone layer

The paper concerns international environmental law and its main topics delineate: why an international dimension of environmental protection; the lack of direct referring on environmental protection in international law and the use of the state's responsibility principle. *All nations and all people share the same atmosphere and we only have one. Addressing the environmental chaos by all the countries both individually and collectively will be critical to the well-being of the people and prosperity of the present as well as the future generations.*

[47] Dept. of Law, SPMVV, Tirupati

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# Contents


| | | |
|---|---|---|
| 1. | Judicial Activism<br>*Dr Y Gangi Reddy* | *8* |
| 2. | Advocates Academy<br>*Dr Y Gangi Reddy* | *9* |
| 3. | Legal Education in India<br>*Dr Akbar Khan* | *10* |
| 4. | Medical Tourism and Legalities<br>*Dr Madhuri Irene* | *11* |
| 5. | National Education Policy 2020, a Step Towards International Standardization<br>*Dr Akbar Khan* | *12* |
| 6. | Professional Development and Continuous Education<br>Dr Rekaraj Jain | *13* |
| 7. | Legal Contours of Transgender Rights<br>*Dr. Rekharaj Jain* | *14* |
| 8. | Article 370 of the Constitution of India: A Catagorical Critique<br>*Dr. Irfan Rasool* | *15* |
| 9. | Section 89 of the Code of Civil Procedure 1908 as a Tool of Speedy Disposal of Civil Suits<br>*Dr.Madhuri Irene* | *16* |
| 10. | Missile Technology Control Regime Opportunities and Challenges- Indial Legal Perspective<br>*Dr.Sanu Rani Pal* | *17* |
| 11. | Gig-Economy and Social Security to Gig- workers in India: A Study<br>*Dr. M Ravindranath & Dr. Manu Datta* | *18* |
| 12. | Changing Dynamics of Live in Relationships<br>*Ms Priti* | *19* |
| 13. | Accessibility for Divyangjan(Persons with Disability) in India<br>*Mrs.L.Lakshmi* | *20* |
| 14. | 19th Century African-American Women Slave Narrative<br>*O.Sankar* | *21* |
| 15. | Human DNA Profiling Bill 2015: An Analysis<br>*Dr Damodar Reddy* | *22* |
| 16. | Protection of Animal Rights in India<br>*Dr. K.V.Ravi Kumar* | *23* |
| 17. | Dilemma in Divorce Theory with Special Reference to Hindu Law<br>*Dr. Madhuri Irene* | *24* |
| 18. | Manhole Deaths: Realising the Unrealistic<br>*Dr.S.Kannan* | *25* |
| 19. | Excluded among the Excluded : The Status of Tribal Women in Telangana<br>*Dr S Kannan* | *26* |
| 20. | "From Berated Blindness To Blooming Blue Economy"- An Emergent Call To Protect Marine Wealth<br>*Dr. Madhuri Irene* | *27* |
| 21. | Effective Presentation Skills, Language, Gender, Understanding the Power Structure.<br>*O Sankar* | *28* |

22. Access to Institutional Credit among Scheduled Tribes in Telangana . A Case study from Sankarpalli Mandal. 29
*Dr. Kannan*

23. Protection of Human Rights in India. 30
*Dr.K.Ravi Kumar*

24. A Qualitative Analysis of Cross Dressing Legitimacy with Special Reference to India 31
*Dr.Rekharaj Jain*

25. Community Sanitary Latrines in insanitary Condition Requires Amendment in Manual Scavengers Act 2013 32
*Dr. Kannan*

26. Commercialisation of Leisure and Sports: A Case Study of Khanapur Village , Telangana 33
*Dr .S.Kannan*

27. Women , Surrogacy Law and Social Justice 34
*Astha Srivastav*

28. 360 Degrees Sustainable Models for Indian Universities 35
*Dr. Arun Kumar*

29. UNLIKELY END OF SINO-US TRADE WAR 36
*Dr. S. Uma*

30. Maternal Commitments and Women Workforce Participation in Urban India 37
*Dr. Iti Vyas*

31. The Threshold of OECD Revised Guidance on Profit-Split Method during COVID-19. 38
*Dr. Vinay Sharma*

32. Plea Bargaining ; A Critical Analysis 39
*Dr.T.Himavati*

33. Stem Cell Protection: Legal and Ethical Issues 40
*Dr. A.Sreelatha*

34. Regulation of Clinical Trials in India: A Critical Study with special reference to the Drugs and Cosmetics Act, 1940 41
*Aditi Nidhi*

35. Changing Perceptions in Space Law: A Special Focus on Theory of Non-Appropriation and Commercialization of Outer Space 42
*Dr. Poorvi Kantroo*

36. Merchant of Venice : The Quest for Justice 43
*Dr Padmanabha Rao*

37. Justice Irrespective of Gender: Unsex the Women Empowerment Laws 44
*Katiyani Juneja*

38. UBER : Issues and Challenges 45
*Ms Sanu Rani Paul*

39. Democracy in Singapore 46
*Dr. Uma Sonti*

40. Problems and Prospects of Handloom Sector in Employment Generation in Telangana State 47
*P. Kesari*

41. Issues of Internal Migrant Labour in India and Legal Response: An Analysis 48
*Manu Datta*

42. Objectification of women in media: A Feminist-Legal Analysis 49
*Stithi Dasgupta*

43. Challenging a foreign arbitral award in domestic courts- An Analysis 50
*Dr.P.L.Jayanthi Reddy*

44. Heterogenity and Spirituality 51
*Dr. Rekharaj Jain*

45. A Critical Analysis on Mahatma Gandhi Rural Employment Guarantee Act 2005 52
*Y. Gangi Reddy*

46. The Concept of Freedom and the Constitutional Control: A socio-political analysis 53
*Dr. Dilshad Shaik*

47. Environmental Protection in the Framework of International Law - A Study 54
*Prof.T.Sita Kumara*

48. The balance between environmental protection and developmental activities: Past, Present and Future A Socio-legal Analysis 55
*Dr.R.D.Vijayasekhar*

49. The Issue of Collective Land Ownership Under African Customary Land Law: The Case of Cameroon 56
*Fonja Julius Achu*

50. Misleading Advertisements in India: A Comparative and Critical Analysis 57
*Anita A Patil*

51. Educational Qualifications of Elected Representatives: Need of the Hour for a Progressive Democracy 58
*Masood Ahmad*

52. The Impact of Artificial Insemination on the Institution of Family: Legal Nuances 59
*Dr. D Srujana*

53. The Role of Law Commission in Revamping the Overburdened Supreme Court 60
*B Muthu Kumar*

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# The balance between environmental protection and developmental activities: Past, Present and Future
## A socio-legal analysis

Dr.R.D. Vijayasekhar[48]

*Abstract:*

*The balance between environmental protection and developmental activities could only be maintained by strictly following the principle of sustainable development. This is a development strategy that caters to the needs of the present without negotiating the ability of upcoming generations to satisfy their needs. The strict observance of sustainable development will put us on a path that ensures development while protecting the environment, a path that works for all peoples and for all generations. It is a guarantee to the present and a bequeath sustainability to the future. All environment-related developmental activities should benefit more people while maintaining the environmental balance. This could be ensured only by strict adherence to sustainable development without which life of the coming generations will be in jeopardy. While the right to a clean environment is guaranteed as an intrinsic part of the fundamental right to life and personal liberty, the right to development can also be declared as a component of Article 21. The principle of sustainable development and precautionary principle need to be understood in a proper context. The expression sustainable development incorporates a wide meaning within its fold. It contemplates that development ought to be sustainable with the idea of preservation of natural environment for present and future generations. The primary requirement underlying this principle is to ensure that every development work is sustainable; and this requirement of sustainability demands that the first attempt of every agency enforcing environmental rule of law in the country ought to be to alleviate environmental concerns by proper mitigating measures. The future generations have an equal stake in the environment and development. This paper analyses the interrelation between the environmental protection and the developmental activities for the present and the future based on the past experiences.*

[48] Principal, Anantha College of Law, Tirupati, AP

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(Deemed to be University u/s 3 of the UGC Act, 1956)

# Contents


| | | |
|---|---|---|
| 1. | Judicial Activism<br>*Dr Y Gangi Reddy* | *8* |
| 2. | Advocates Academy<br>*Dr Y Gangi Reddy* | *9* |
| 3. | Legal Education in India<br>*Dr Akbar Khan* | *10* |
| 4. | Medical Tourism and Legalities<br>*Dr Madhuri Irene* | *11* |
| 5. | National Education Policy 2020, a Step Towards International Standardization<br>*Dr Akbar Khan* | *12* |
| 6. | Professional Development and Continuous Education<br>Dr Rekaraj Jain | *13* |
| 7. | Legal Contours of Transgender Rights<br>*Dr. Rekharaj Jain* | *14* |
| 8. | Article 370 of the Constitution of India: A Catagorical Critique<br>*Dr. Irfan Rasool* | *15* |
| 9. | Section 89 of the Code of Civil Procedure 1908 as a Tool of Speedy Disposal of Civil Suits<br>*Dr.Madhuri Irene* | *16* |
| 10. | Missile Technology Control Regime Opportunities and Challenges- Indial Legal Perspective<br>*Dr.Sanu Rani Pal* | *17* |
| 11. | Gig-Economy and Social Security to Gig- workers in India: A Study<br>*Dr. M Ravindranath & Dr. Manu Datta* | *18* |
| 12. | Changing Dynamics of Live in Relationships<br>*Ms Priti* | *19* |
| 13. | Accessibility for Divyangjan(Persons with Disability) in India<br>*Mrs.L.Lakshmi* | *20* |
| 14. | 19th Century African-American Women Slave Narrative<br>*O.Sankar* | *21* |
| 15. | Human DNA Profiling Bill 2015: An Analysis<br>*Dr Damodar Reddy* | *22* |
| 16. | Protection of Animal Rights in India<br>*Dr. K.V.Ravi Kumar* | *23* |
| 17. | Dilemma in Divorce Theory with Special Reference to Hindu Law<br>*Dr. Madhuri Irene* | *24* |
| 18. | Manhole Deaths: Realising the Unrealistic<br>*Dr.S.Kannan* | *25* |
| 19. | Excluded among the Excluded : The Status of Tribal Women in Telangana<br>*Dr S Kannan* | *26* |
| 20. | "From Berated Blindness To Blooming Blue Economy"- An Emergent Call To Protect Marine Wealth<br>*Dr. Madhuri Irene* | *27* |
| 21. | Effective Presentation Skills, Language, Gender, Understanding the Power Structure.<br>*O Sankar* | *28* |

22. Access to Institutional Credit among Scheduled Tribes in Telangana . A Case study from Sankarpalli Mandal. 29
*Dr. Kannan*

23. Protection of Human Rights in India. 30
*Dr.K.Ravi Kumar*

24. A Qualitative Analysis of Cross Dressing Legitimacy with Special Reference to India 31
*Dr.Rekharaj Jain*

25. Community Sanitary Latrines in insanitary Condition Requires Amendment in Manual Scavengers Act 2013 32
*Dr. Kannan*

26. Commercialisation of Leisure and Sports: A Case Study of Khanapur Village , Telangana 33
*Dr .S.Kannan*

27. Women , Surrogacy Law and Social Justice 34
*Astha Srivastav*

28. 360 Degrees Sustainable Models for Indian Universities 35
*Dr. Arun Kumar*

29. UNLIKELY END OF SINO-US TRADE WAR 36
*Dr. S. Uma*

30. Maternal Commitments and Women Workforce Participation in Urban India 37
*Dr. Iti Vyas*

31. The Threshold of OECD Revised Guidance on Profit-Split Method during COVID-19. 38
*Dr. Vinay Sharma*

32. Plea Bargaining ; A Critical Analysis 39
*Dr.T.Himavati*

33. Stem Cell Protection: Legal and Ethical Issues 40
*Dr. A.Sreelatha*

34. Regulation of Clinical Trials in India: A Critical Study with special reference to the Drugs and Cosmetics Act, 1940 41
*Aditi Nidhi*

35. Changing Perceptions in Space Law: A Special Focus on Theory of Non-Appropriation and Commercialization of Outer Space 42
*Dr. Poorvi Kantroo*

36. Merchant of Venice : The Quest for Justice 43
*Dr Padmanabha Rao*

37. Justice Irrespective of Gender: Unsex the Women Empowerment Laws 44
*Katiyani Juneja*

38. UBER : Issues and Challenges 45
*Ms Sanu Rani Paul*

39. Democracy in Singapore 46
*Dr. Uma Sonti*

40. Problems and Prospects of Handloom Sector in Employment Generation in Telangana State 47
*P. Kesari*

41. Issues of Internal Migrant Labour in India and Legal Response: An Analysis 48
*Manu Datta*

42. Objectification of women in media: A Feminist-Legal Analysis 49
*Stithi Dasgupta*

43. Challenging a foreign arbitral award in domestic courts- An Analysis 50
*Dr.P.L.Jayanthi Reddy*

44. Heterogenity and Spirituality 51
*Dr. Rekharaj Jain*

45. A Critical Analysis on Mahatma Gandhi Rural Employment Guarantee Act 2005 52
*Y. Gangi Reddy*

46. The Concept of Freedom and the Constitutional Control: A socio-political analysis 53
*Dr. Dilshad Shaik*

47. Environmental Protection in the Framework of International Law - A Study 54
*Prof.T.Sita Kumara*

48. The balance between environmental protection and developmental activities: Past, Present and Future A Socio-legal Analysis 55
*Dr.R.D.Vijayasekhar*

49. The Issue of Collective Land Ownership Under African Customary Land Law: The Case of Cameroon 56
*Fonja Julius Achu*

50. Misleading Advertisements in India: A Comparative and Critical Analysis 57
*Anita A Patil*

51. Educational Qualifications of Elected Representatives: Need of the Hour for a Progressive Democracy 58
*Masood Ahmad*

52. The Impact of Artificial Insemination on the Institution of Family: Legal Nuances 59
*Dr. D Srujana*

53. The Role of Law Commission in Revamping the Overburdened Supreme Court 60
*B Muthu Kumar*

International Journal For Advanced Research In Science & Technology

IJARST

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# The Issue of Collective Land Ownership Under African Customary Land Law: The Case of Cameroon

Fonja Julius Achu[49]

*Abstract:*

*Customary landholding generally connotes the various methods of acquisition and use including rights and duties that may accrue to any individual or group within a particular society in relation to land. Customary land law in Africa has existed for centuries, serving as an integral part of traditional agricultural economies. African customary land law recognizes the fact that land in Africa is owned collectively by a family, village or community and not by an individual. Therefore, an individual's title to land is rare under African customary land law. Individual ownership of land under African customary land law is a feature of modernization. This paper investigates why land is still mostly held collectively by a family, village or community and not by an individual under customary law. The author accomplishes this by perusing records mainly from documentary and internet search. The data collected constitutes the sources from which customary and statutory law rules are drawn, stated and analyzed in the light of the stated aim of the paper. The results inter alia identify that land is held principally by the family and community under customary law and that the genesis of individual ownership is a product of modernism. The results are significant because they expose the weaknesses of the customary law regarding individual ownership of land.*

[49] Ph.D. (Yaounde University), Senior Lecturer in Laws, Faculty of Laws and Political Science, University of Yaoundé II, Soa, Yaounde, Cameroon.

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# Contents


| | | |
|---|---|---|
| 1. | Judicial Activism<br>*Dr Y Gangi Reddy* | *8* |
| 2. | Advocates Academy<br>*Dr Y Gangi Reddy* | *9* |
| 3. | Legal Education in India<br>*Dr Akbar Khan* | *10* |
| 4. | Medical Tourism and Legalities<br>*Dr Madhuri Irene* | *11* |
| 5. | National Education Policy 2020, a Step Towards International Standardization<br>*Dr Akbar Khan* | *12* |
| 6. | Professional Development and Continuous Education<br>Dr Rekaraj Jain | *13* |
| 7. | Legal Contours of Transgender Rights<br>*Dr. Rekharaj Jain* | *14* |
| 8. | Article 370 of the Constitution of India: A Catagorical Critique<br>*Dr. Irfan Rasool* | *15* |
| 9. | Section 89 of the Code of Civil Procedure 1908 as a Tool of Speedy Disposal of Civil Suits<br>*Dr.Madhuri Irene* | *16* |
| 10. | Missile Technology Control Regime Opportunities and Challenges- Indial Legal Perspective<br>*Dr.Sanu Rani Pal* | *17* |
| 11. | Gig-Economy and Social Security to Gig- workers in India: A Study<br>*Dr. M Ravindranath & Dr. Manu Datta* | *18* |
| 12. | Changing Dynamics of Live in Relationships<br>*Ms Priti* | *19* |
| 13. | Accessibility for Divyangjan(Persons with Disability) in India<br>*Mrs.L.Lakshmi* | *20* |
| 14. | 19th Century African-American Women Slave Narrative<br>*O.Sankar* | *21* |
| 15. | Human DNA Profiling Bill 2015: An Analysis<br>*Dr Damodar Reddy* | *22* |
| 16. | Protection of Animal Rights in India<br>*Dr. K.V.Ravi Kumar* | *23* |
| 17. | Dilemma in Divorce Theory with Special Reference to Hindu Law<br>*Dr. Madhuri Irene* | *24* |
| 18. | Manhole Deaths: Realising the Unrealistic<br>*Dr.S.Kannan* | *25* |
| 19. | Excluded among the Excluded : The Status of Tribal Women in Telangana<br>*Dr S Kannan* | *26* |
| 20. | "From Berated Blindness To Blooming Blue Economy"- An Emergent Call To Protect Marine Wealth<br>*Dr. Madhuri Irene* | *27* |
| 21. | Effective Presentation Skills, Language, Gender, Understanding the Power Structure.<br>*O Sankar* | *28* |

22. Access to Institutional Credit among Scheduled Tribes in Telangana . A Case study from Sankarpalli Mandal. 29
*Dr. Kannan*

23. Protection of Human Rights in India. 30
*Dr.K.Ravi Kumar*

24. A Qualitative Analysis of Cross Dressing Legitimacy with Special Reference to India 31
*Dr.Rekharaj Jain*

25. Community Sanitary Latrines in insanitary Condition Requires Amendment in Manual Scavengers Act 2013 32
*Dr. Kannan*

26. Commercialisation of Leisure and Sports: A Case Study of Khanapur Village , Telangana 33
*Dr .S.Kannan*

27. Women , Surrogacy Law and Social Justice 34
*Astha Srivastav*

28. 360 Degrees Sustainable Models for Indian Universities 35
*Dr. Arun Kumar*

29. UNLIKELY END OF SINO-US TRADE WAR 36
*Dr. S. Uma*

30. Maternal Commitments and Women Workforce Participation in Urban India 37
*Dr. Iti Vyas*

31. The Threshold of OECD Revised Guidance on Profit-Split Method during COVID-19. 38
*Dr. Vinay Sharma*

32. Plea Bargaining ; A Critical Analysis 39
*Dr.T.Himavati*

33. Stem Cell Protection: Legal and Ethical Issues 40
*Dr. A.Sreelatha*

34. Regulation of Clinical Trials in India: A Critical Study with special reference to the Drugs and Cosmetics Act, 1940 41
*Aditi Nidhi*

35. Changing Perceptions in Space Law: A Special Focus on Theory of Non-Appropriation and Commercialization of Outer Space 42
*Dr. Poorvi Kantroo*

36. Merchant of Venice : The Quest for Justice 43
*Dr Padmanabha Rao*

37. Justice Irrespective of Gender: Unsex the Women Empowerment Laws 44
*Katiyani Juneja*

38. UBER : Issues and Challenges 45
*Ms Sanu Rani Paul*

39. Democracy in Singapore 46
*Dr. Uma Sonti*

40. Problems and Prospects of Handloom Sector in Employment Generation in Telangana State 47
*P. Kesari*

41. Issues of Internal Migrant Labour in India and Legal Response: An Analysis 48
*Manu Datta*

42. Objectification of women in media: A Feminist-Legal Analysis 49
*Stithi Dasgupta*

43. Challenging a foreign arbitral award in domestic courts- An Analysis 50
*Dr.P.L.Jayanthi Reddy*

44. Heterogenity and Spirituality 51
*Dr. Rekharaj Jain*

45. A Critical Analysis on Mahatma Gandhi Rural Employment Guarantee Act 2005 52
*Y. Gangi Reddy*

46. The Concept of Freedom and the Constitutional Control: A socio-political analysis 53
*Dr. Dilshad Shaik*

47. Environmental Protection in the Framework of International Law - A Study 54
*Prof.T.Sita Kumara*

48. The balance between environmental protection and developmental activities: Past, Present and Future A Socio-legal Analysis 55
*Dr.R.D.Vijayasekhar*

49. The Issue of Collective Land Ownership Under African Customary Land Law: The Case of Cameroon 56
*Fonja Julius Achu*

50. Misleading Advertisements in India: A Comparative and Critical Analysis 57
*Anita A Patil*

51. Educational Qualifications of Elected Representatives: Need of the Hour for a Progressive Democracy 58
*Masood Ahmad*

52. The Impact of Artificial Insemination on the Institution of Family: Legal Nuances 59
*Dr. D Srujana*

53. The Role of Law Commission in Revamping the Overburdened Supreme Court 60
*B Muthu Kumar*

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# Misleading Advertisements in India: A Comparative and Critical Analysis

**Anita A Patil**[50]

*Abstract:*

*The influence of advertisements on consumer choice is undeniable, and that is why advertisements should be fair and truthful. Misleading advertisements distort competition and of course consumer choice. Even after 30 years of enactment of Consumer Protection Act, 1986 and even after a paradigm shift from Caveat Emptor to Caveat Venditor, the manufacturers and service providers of all the sectors exploit the Indian consumers. The question that arises is whether advertising is a boon or a bane. There are always two sides to the coin. Advertising is a must for economic growth but should not be allowed to mislead or become a nuisance factor. Consumer must be aware of his rights, raise voice against exploitation and seek redressal of his grievances. Consumers' consciousness determines the effectiveness of consumerism. It is the duty of the consumer to identify his rights and protect them. The Consumer Protection Act, 1986 does not have any provisions which specifically deal with misleading advertisements. However, they do prohibit "unfair trade practices" and provide for remedies for such cases. Advertisements may be brought under these provisions; however, they are not sufficient to deal with all the aspects of advertisements, which might require regulation. As opposed to India, a number of foreign legislations have specific laws dealing with advertisements. Hence, this paper aims to make a thorough, comprehensive, comparative and critical study of misleading advertisements in India, identify the hurdles to achieving the basic objects of the consumer welfare legislations to control misleading advertisements, and find out the solutions for the same in the Consumer Protection Bill 2015.*

[50] Assistant Professor of Law, Chair on Consumer Law and Practice, National Law School of India University, Bengaluru, Karnataka, India.

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(Deemed to be University u/s 3 of the UGC Act, 1956)

# Contents


| | | |
|---|---|---|
| 1. | Judicial Activism<br>*Dr Y Gangi Reddy* | *8* |
| 2. | Advocates Academy<br>*Dr Y Gangi Reddy* | *9* |
| 3. | Legal Education in India<br>*Dr Akbar Khan* | *10* |
| 4. | Medical Tourism and Legalities<br>*Dr Madhuri Irene* | *11* |
| 5. | National Education Policy 2020, a Step Towards International Standardization<br>*Dr Akbar Khan* | *12* |
| 6. | Professional Development and Continuous Education<br>Dr Rekaraj Jain | *13* |
| 7. | Legal Contours of Transgender Rights<br>*Dr. Rekharaj Jain* | *14* |
| 8. | Article 370 of the Constitution of India: A Catagorical Critique<br>*Dr. Irfan Rasool* | *15* |
| 9. | Section 89 of the Code of Civil Procedure 1908 as a Tool of Speedy Disposal of Civil Suits<br>*Dr.Madhuri Irene* | *16* |
| 10. | Missile Technology Control Regime Opportunities and Challenges- Indial Legal Perspective<br>*Dr.Sanu Rani Pal* | *17* |
| 11. | Gig-Economy and Social Security to Gig- workers in India: A Study<br>*Dr. M Ravindranath & Dr. Manu Datta* | *18* |
| 12. | Changing Dynamics of Live in Relationships<br>*Ms Priti* | *19* |
| 13. | Accessibility for Divyangjan(Persons with Disability) in India<br>*Mrs.L.Lakshmi* | *20* |
| 14. | 19th Century African-American Women Slave Narrative<br>*O.Sankar* | *21* |
| 15. | Human DNA Profiling Bill 2015: An Analysis<br>*Dr Damodar Reddy* | *22* |
| 16. | Protection of Animal Rights in India<br>*Dr. K.V.Ravi Kumar* | *23* |
| 17. | Dilemma in Divorce Theory with Special Reference to Hindu Law<br>*Dr. Madhuri Irene* | *24* |
| 18. | Manhole Deaths: Realising the Unrealistic<br>*Dr.S.Kannan* | *25* |
| 19. | Excluded among the Excluded : The Status of Tribal Women in Telangana<br>*Dr S Kannan* | *26* |
| 20. | "From Berated Blindness To Blooming Blue Economy"- An Emergent Call To Protect Marine Wealth<br>*Dr. Madhuri Irene* | *27* |
| 21. | Effective Presentation Skills, Language, Gender, Understanding the Power Structure.<br>*O Sankar* | *28* |

22. Access to Institutional Credit among Scheduled Tribes in Telangana . A Case study from Sankarpalli Mandal. 29
*Dr. Kannan*

23. Protection of Human Rights in India. 30
*Dr.K.Ravi Kumar*

24. A Qualitative Analysis of Cross Dressing Legitimacy with Special Reference to India 31
*Dr.Rekharaj Jain*

25. Community Sanitary Latrines in insanitary Condition Requires Amendment in Manual Scavengers Act 2013 32
*Dr. Kannan*

26. Commercialisation of Leisure and Sports: A Case Study of Khanapur Village , Telangana 33
*Dr .S.Kannan*

27. Women , Surrogacy Law and Social Justice 34
*Astha Srivastav*

28. 360 Degrees Sustainable Models for Indian Universities 35
*Dr. Arun Kumar*

29. UNLIKELY END OF SINO-US TRADE WAR 36
*Dr. S. Uma*

30. Maternal Commitments and Women Workforce Participation in Urban India 37
*Dr. Iti Vyas*

31. The Threshold of OECD Revised Guidance on Profit-Split Method during COVID-19. 38
*Dr. Vinay Sharma*

32. Plea Bargaining ; A Critical Analysis 39
*Dr.T.Himavati*

33. Stem Cell Protection: Legal and Ethical Issues 40
*Dr. A.Sreelatha*

34. Regulation of Clinical Trials in India: A Critical Study with special reference to the Drugs and Cosmetics Act, 1940 41
*Aditi Nidhi*

35. Changing Perceptions in Space Law: A Special Focus on Theory of Non-Appropriation and Commercialization of Outer Space 42
*Dr. Poorvi Kantroo*

36. Merchant of Venice : The Quest for Justice 43
*Dr Padmanabha Rao*

37. Justice Irrespective of Gender: Unsex the Women Empowerment Laws 44
*Katiyani Juneja*

38. UBER : Issues and Challenges 45
*Ms Sanu Rani Paul*

39. Democracy in Singapore 46
*Dr. Uma Sonti*

40. Problems and Prospects of Handloom Sector in Employment Generation in Telangana State 47
*P. Kesari*

41. Issues of Internal Migrant Labour in India and Legal Response: An Analysis 48
*Manu Datta*

42. Objectification of women in media: A Feminist-Legal Analysis 49
*Stithi Dasgupta*

43. Challenging a foreign arbitral award in domestic courts- An Analysis 50
*Dr.P.L.Jayanthi Reddy*

44. Heterogenity and Spirituality 51
*Dr. Rekharaj Jain*

45. A Critical Analysis on Mahatma Gandhi Rural Employment Guarantee Act 2005 52
*Y. Gangi Reddy*

46. The Concept of Freedom and the Constitutional Control: A socio-political analysis 53
*Dr. Dilshad Shaik*

47. Environmental Protection in the Framework of International Law - A Study 54
*Prof.T.Sita Kumara*

48. The balance between environmental protection and developmental activities: Past, Present and Future A Socio-legal Analysis 55
*Dr.R.D.Vijayasekhar*

49. The Issue of Collective Land Ownership Under African Customary Land Law: The Case of Cameroon 56
*Fonja Julius Achu*

50. Misleading Advertisements in India: A Comparative and Critical Analysis 57
*Anita A Patil*

51. Educational Qualifications of Elected Representatives: Need of the Hour for a Progressive Democracy 58
*Masood Ahmad*

52. The Impact of Artificial Insemination on the Institution of Family: Legal Nuances 59
*Dr. D Srujana*

53. The Role of Law Commission in Revamping the Overburdened Supreme Court 60
*B Muthu Kumar*

IJARST

International Journal For Advanced Research In Science & Technology

ISSN: 2457-0362

# Educational Qualifications of Elected Representatives: Need of the Hour for a Progressive Democracy

**Masood Ahmad**[51]

*Abstract:*

*Former Chief Election Commissioner S Y Qureshi has rightly said that the higher the position, the higher should be the qualification. There has been growing concern over the years in India about several aspects of our electoral system. One such is prescribing the mandatory educational qualification for contesting the election of MP and MLA. In the Constituent Assembly, B R Ambedkar remarked that "I think that it is a matter which might be left to the legislatures. If the legislature at the time of the prescribing qualification feels that literacy qualification is a necessary one, I no doubt think that they will do it." This seems to suggest that the framers believed that the power to the Parliament under the omnibus clauses of (which became) Articles 84 and 102, included the power to prescribe literacy qualifications. An attempt has been made in this paper to draw attention to the urgent need for electoral reforms, while making a balance between 'wisdom' and 'knowledge' for the better administration of democracy, in the light of the recent ordinances passed by Rajasthan and Haryana governments. The paper also discusses and critically evaluates the judgment of Haryana High Court in the case of Rajbala & Others vs. State of Haryana & Others while citing foreign instances.*

[51] Assistant Professor (Law), AMU, Murshidabad Center, West Bengal

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# Contents


1. Judicial Activism *8*
   *Dr Y Gangi Reddy*
2. Advocates Academy *9*
   *Dr Y Gangi Reddy*
3. Legal Education in India *10*
   *Dr Akbar Khan*
4. Medical Tourism and Legalities *11*
   *Dr Madhuri Irene*
5. National Education Policy 2020, a Step Towards International Standardization *12*
   *Dr Akbar Khan*
6. Professional Development and Continuous Education *13*
   Dr Rekaraj Jain
7. Legal Contours of Transgender Rights *14*
   *Dr. Rekharaj Jain*
8. Article 370 of the Constitution of India: A Catagorical Critique *15*
   *Dr. Irfan Rasool*
9. Section 89 of the Code of Civil Procedure 1908 as a Tool of Speedy Disposal of Civil Suits *16*
   *Dr.Madhuri Irene*
10. Missile Technology Control Regime Opportunities and Challenges- Indial Legal Perspective *17*
    *Dr.Sanu Rani Pal*
11. Gig-Economy and Social Security to Gig- workers in India: A Study *18*
    *Dr. M Ravindranath & Dr. Manu Datta*
12. Changing Dynamics of Live in Relationships *19*
    *Ms Priti*
13. Accessibility for Divyangjan(Persons with Disability) in India *20*
    *Mrs.L.Lakshmi*
14. 19th Century African-American Women Slave Narrative *21*
    *O.Sankar*
15. Human DNA Profiling Bill 2015: An Analysis *22*
    *Dr Damodar Reddy*
16. Protection of Animal Rights in India *23*
    *Dr. K.V.Ravi Kumar*
17. Dilemma in Divorce Theory with Special Reference to Hindu Law *24*
    *Dr. Madhuri Irene*
18. Manhole Deaths: Realising the Unrealistic *25*
    *Dr.S.Kannan*
19. Excluded among the Excluded : The Status of Tribal Women in Telangana *26*
    *Dr S Kannan*
20. "From Berated Blindness To Blooming Blue Economy"- An Emergent Call To Protect Marine Wealth *27*
    *Dr. Madhuri Irene*
21. Effective Presentation Skills, Language, Gender, Understanding the Power Structure. *28*
    *O Sankar*

22. Access to Institutional Credit among Scheduled Tribes in Telangana . A Case study from Sankarpalli Mandal. 29
*Dr. Kannan*

23. Protection of Human Rights in India. 30
*Dr.K.Ravi Kumar*

24. A Qualitative Analysis of Cross Dressing Legitimacy with Special Reference to India 31
*Dr.Rekharaj Jain*

25. Community Sanitary Latrines in insanitary Condition Requires Amendment in Manual Scavengers Act 2013 32
*Dr. Kannan*

26. Commercialisation of Leisure and Sports: A Case Study of Khanapur Village , Telangana 33
*Dr .S.Kannan*

27. Women , Surrogacy Law and Social Justice 34
*Astha Srivastav*

28. 360 Degrees Sustainable Models for Indian Universities 35
*Dr. Arun Kumar*

29. UNLIKELY END OF SINO-US TRADE WAR 36
*Dr. S. Uma*

30. Maternal Commitments and Women Workforce Participation in Urban India 37
*Dr. Iti Vyas*

31. The Threshold of OECD Revised Guidance on Profit-Split Method during COVID-19. 38
*Dr. Vinay Sharma*

32. Plea Bargaining ; A Critical Analysis 39
*Dr.T.Himavati*

33. Stem Cell Protection: Legal and Ethical Issues 40
*Dr. A.Sreelatha*

34. Regulation of Clinical Trials in India: A Critical Study with special reference to the Drugs and Cosmetics Act, 1940 41
*Aditi Nidhi*

35. Changing Perceptions in Space Law: A Special Focus on Theory of Non-Appropriation and Commercialization of Outer Space 42
*Dr. Poorvi Kantroo*

36. Merchant of Venice : The Quest for Justice 43
*Dr Padmanabha Rao*

37. Justice Irrespective of Gender: Unsex the Women Empowerment Laws 44
*Katiyani Juneja*

38. UBER : Issues and Challenges 45
*Ms Sanu Rani Paul*

39. Democracy in Singapore 46
*Dr. Uma Sonti*

40. Problems and Prospects of Handloom Sector in Employment Generation in Telangana State 47
*P. Kesari*

41. Issues of Internal Migrant Labour in India and Legal Response: An Analysis 48
*Manu Datta*

42. Objectification of women in media: A Feminist-Legal Analysis 49
*Stithi Dasgupta*

43. Challenging a foreign arbitral award in domestic courts- An Analysis 50
*Dr.P.L.Jayanthi Reddy*

44. Heterogenity and Spirituality 51
*Dr. Rekharaj Jain*

45. A Critical Analysis on Mahatma Gandhi Rural Employment Guarantee Act 2005 52
*Y. Gangi Reddy*

46. The Concept of Freedom and the Constitutional Control: A socio-political analysis 53
*Dr. Dilshad Shaik*

47. Environmental Protection in the Framework of International Law - A Study 54
*Prof.T.Sita Kumara*

48. The balance between environmental protection and developmental activities: Past, Present and Future A Socio-legal Analysis 55
*Dr.R.D.Vijayasekhar*

49. The Issue of Collective Land Ownership Under African Customary Land Law: The Case of Cameroon 56
*Fonja Julius Achu*

50. Misleading Advertisements in India: A Comparative and Critical Analysis 57
*Anita A Patil*

51. Educational Qualifications of Elected Representatives: Need of the Hour for a Progressive Democracy 58
*Masood Ahmad*

52. The Impact of Artificial Insemination on the Institution of Family: Legal Nuances 59
*Dr. D Srujana*

53. The Role of Law Commission in Revamping the Overburdened Supreme Court 60
*B Muthu Kumar*

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# The Impact of Artificial Insemination on the Institution of Family: Legal Nuances

Dr. D Srujana[52]

*Abstract*

*Brahma is believed as creator of the world. It looks as though human is delegated some of HIS powers as it is evident by Artificial Insemination. Modern medicine and science have allowed opportunities for conceiving children through invitro fertilization , artificial insemination. Infertility in both men and women can be treated by Artificial Insemination.*

*However, lot many legal concerns are around the issue of Artificial Insemination. Sperm taken from other male other than actual husband and on other hand womb of an woman other than the wife leads to many amending question as regards the status of a child and parents. This is because according to the already existing legal position, only legally wedded wife and husband are only treated as parents to children. The laws across the world are fairly inconsistent . To create common, consistent and suitable legal system to accommodate the latest medical developments with regard artificial insemination is the need of the hour across the world.*

[52] Principal, Aurora's Legal Sciences Academy, Hyderabad, Telangana State

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# Contents


| | | |
|---|---|---|
| 1. | Judicial Activism<br>*Dr Y Gangi Reddy* | *8* |
| 2. | Advocates Academy<br>*Dr Y Gangi Reddy* | *9* |
| 3. | Legal Education in India<br>*Dr Akbar Khan* | *10* |
| 4. | Medical Tourism and Legalities<br>*Dr Madhuri Irene* | *11* |
| 5. | National Education Policy 2020, a Step Towards International Standardization<br>*Dr Akbar Khan* | *12* |
| 6. | Professional Development and Continuous Education<br>Dr Rekaraj Jain | *13* |
| 7. | Legal Contours of Transgender Rights<br>*Dr. Rekharaj Jain* | *14* |
| 8. | Article 370 of the Constitution of India: A Catagorical Critique<br>*Dr. Irfan Rasool* | *15* |
| 9. | Section 89 of the Code of Civil Procedure 1908 as a Tool of Speedy Disposal of Civil Suits<br>*Dr.Madhuri Irene* | *16* |
| 10. | Missile Technology Control Regime Opportunities and Challenges- Indial Legal Perspective<br>*Dr.Sanu Rani Pal* | *17* |
| 11. | Gig-Economy and Social Security to Gig- workers in India: A Study<br>*Dr. M Ravindranath & Dr. Manu Datta* | *18* |
| 12. | Changing Dynamics of Live in Relationships<br>*Ms Priti* | *19* |
| 13. | Accessibility for Divyangjan(Persons with Disability) in India<br>*Mrs.L.Lakshmi* | *20* |
| 14. | 19th Century African-American Women Slave Narrative<br>*O.Sankar* | *21* |
| 15. | Human DNA Profiling Bill 2015: An Analysis<br>*Dr Damodar Reddy* | *22* |
| 16. | Protection of Animal Rights in India<br>*Dr. K.V.Ravi Kumar* | *23* |
| 17. | Dilemma in Divorce Theory with Special Reference to Hindu Law<br>*Dr. Madhuri Irene* | *24* |
| 18. | Manhole Deaths: Realising the Unrealistic<br>*Dr.S.Kannan* | *25* |
| 19. | Excluded among the Excluded : The Status of Tribal Women in Telangana<br>*Dr S Kannan* | *26* |
| 20. | "From Berated Blindness To Blooming Blue Economy"- An Emergent Call To Protect Marine Wealth<br>*Dr. Madhuri Irene* | *27* |
| 21. | Effective Presentation Skills, Language, Gender, Understanding the Power Structure.<br>*O Sankar* | *28* |

22. Access to Institutional Credit among Scheduled Tribes in Telangana . A Case study from Sankarpalli Mandal. 29
*Dr. Kannan*

23. Protection of Human Rights in India. 30
*Dr.K.Ravi Kumar*

24. A Qualitative Analysis of Cross Dressing Legitimacy with Special Reference to India 31
*Dr.Rekharaj Jain*

25. Community Sanitary Latrines in insanitary Condition Requires Amendment in Manual Scavengers Act 2013 32
*Dr. Kannan*

26. Commercialisation of Leisure and Sports: A Case Study of Khanapur Village , Telangana 33
*Dr .S.Kannan*

27. Women , Surrogacy Law and Social Justice 34
*Astha Srivastav*

28. 360 Degrees Sustainable Models for Indian Universities 35
*Dr. Arun Kumar*

29. UNLIKELY END OF SINO-US TRADE WAR 36
*Dr. S. Uma*

30. Maternal Commitments and Women Workforce Participation in Urban India 37
*Dr. Iti Vyas*

31. The Threshold of OECD Revised Guidance on Profit-Split Method during COVID-19. 38
*Dr. Vinay Sharma*

32. Plea Bargaining ; A Critical Analysis 39
*Dr.T.Himavati*

33. Stem Cell Protection: Legal and Ethical Issues 40
*Dr. A.Sreelatha*

34. Regulation of Clinical Trials in India: A Critical Study with special reference to the Drugs and Cosmetics Act, 1940 41
*Aditi Nidhi*

35. Changing Perceptions in Space Law: A Special Focus on Theory of Non-Appropriation and Commercialization of Outer Space 42
*Dr. Poorvi Kantroo*

36. Merchant of Venice : The Quest for Justice 43
*Dr Padmanabha Rao*

37. Justice Irrespective of Gender: Unsex the Women Empowerment Laws 44
*Katiyani Juneja*

38. UBER : Issues and Challenges 45
*Ms Sanu Rani Paul*

39. Democracy in Singapore 46
*Dr. Uma Sonti*

40. Problems and Prospects of Handloom Sector in Employment Generation in Telangana State 47
*P. Kesari*

41. Issues of Internal Migrant Labour in India and Legal Response: An Analysis 48
*Manu Datta*

42. Objectification of women in media: A Feminist-Legal Analysis 49
*Stithi Dasgupta*

43. Challenging a foreign arbitral award in domestic courts- An Analysis 50
*Dr.P.L.Jayanthi Reddy*

44. Heterogenity and Spirituality 51
*Dr. Rekharaj Jain*

45. A Critical Analysis on Mahatma Gandhi Rural Employment Guarantee Act 2005 52
*Y. Gangi Reddy*

46. The Concept of Freedom and the Constitutional Control: A socio-political analysis 53
*Dr. Dilshad Shaik*

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*Prof.T.Sita Kumara*

48. The balance between environmental protection and developmental activities: Past, Present and Future A Socio-legal Analysis 55
*Dr.R.D.Vijayasekhar*

49. The Issue of Collective Land Ownership Under African Customary Land Law: The Case of Cameroon 56
*Fonja Julius Achu*

50. Misleading Advertisements in India: A Comparative and Critical Analysis 57
*Anita A Patil*

51. Educational Qualifications of Elected Representatives: Need of the Hour for a Progressive Democracy 58
*Masood Ahmad*

52. The Impact of Artificial Insemination on the Institution of Family: Legal Nuances 59
*Dr. D Srujana*

53. The Role of Law Commission in Revamping the Overburdened Supreme Court 60
*B Muthu Kumar*

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# The Role of Law Commission in Revamping the Overburdened Supreme Court

B Muthu Kumar[53]

*Abstract*

*The Constitutional framers conferred extensive powers on the Supreme Court. The exercise of multitudinous functions heavily burdened the Court with cases within a short period of time after its inception. In spite of curtailing its jurisdiction, the Parliament has amplified it under Article 138 and the Court by its activist approach. Many proposals for reforming the Supreme Court were suggested then. Moreover, the Supreme Court itself expressed its inability in managing its docket on many occasions through its judgments. Nonetheless, it took certain policy decisions in entertaining the cases particularly under Article 32. Moreover, many public interest litigations were filed to restructure its jurisdiction. In this backdrop, the paper analyzes the jurisdiction of the Supreme Court and the downside of judicial activism that has resulted in litigation explosion. The issues relating to direct appeals from Tribunals and Commissions are also examined. Further, the various reports of the Law Commission are studied to know the suggestions to revamp the Supreme Court to its original character as contemplated by the Constitutional framers. Finally, the possible reformatory steps are also analyzed by considering the practicability in establishing the National Court of Appeal.*

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## Contents


| | | |
|---|---|---|
| 1 | Access to New Research and Inventions<br>*Mr. Dilip Sharma* | 6 |
| 2 | IPR Policy and Awareness Programs<br>*Prof Dilip Sharma* | 7 |
| 3 | New Dimensions of Patenting Medical Inventions<br>*Dr S V Damodar Reddy* | 8 |
| 4 | Piracy and Law<br>*Dr. Rekraj Jain* | 9 |
| 5 | Fostering of Intellectual Property Culture in SMEs and Challenges<br>*Dr S V Damodar Reddy* | 10 |
| 6 | Compulsory Licensing Challenges in Patent Law<br>*Dr.Veena* | 11 |
| 7 | Parallel Imports , Issues and Trademarks<br>*Rukmini Desai* | 12 |
| 8 | Intellectual Property Management in Universities, Research and Educational Institutions Practice & Perspective Plans.<br>*Dr S V Damodar Reddy* | 13 |
| 9 | "The Enigma of Protecting Background Performers: An Analysis Under the Indian Copyright Law"<br>*Ms Manini Sidhu* | 14 |
| 10 | Street Art and Graffiti: Basics and Recognition<br>*Rishav Soni,* | 15 |
| 11 | Traditional Knowledge in India: A Legislative Analysis<br>*Rukma Lavanya* | 16 |
| 12 | "The Enigma of Protecting Background Performers: An Analysis Under the Indian Copyright Law"<br>*Ms Manini Sidhu,* | 17 |
| 13 | Protecting the Performers' Rights: An Analysis of the Relevant Law in the Indian Copyright Regime<br>*Aftab Jeelani Wani* | 18 |
| 14 | Modern Encroachment on Traditional Rights of Farmers: An Analysis of the Conceptual Basis of Farmers' Rights in IPR Regime<br>*Showkat Hussain* | 19 |
| 15 | Intelligent Trademarks: "Is Artificial Intelligence Colliding with Trademark Law?"<br>*Kalyan Revalla* | 20 |
| 16 | Evolution of Farmers' Rights in Intellectual Property Regime: International and Indian Perspective<br>*Showkat Hussain* | 21 |
| 17 | Patenting of Life Forms: Reflections on Some Legal and Ethical Issues<br>*M Hussain* | 22 |
| 18 | The Concept of Originality Under Copyright Law: An Analysis of Judicial Interpretation and Juristic Opinions<br>*Aftab Jeelani Wani* | 23 |

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IJARST

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# Access to New Research and Inventions

Mr. Dilip Sharma[1]

*Abstract*

*In the knowledge driven economy the commercialization of new knowledge acquired through researches has furthered activities relating to new inventions and laid yawning foundations for stronger IPR regime. Invention, protection and commercialization are three dimensions of the research portfolio and IPR regime. Securing rights on the new inventions and protecting them have become part of business transactions. Parameters for measuring the strength of the business organization has shifted to the number of inventions and number of patents.*

*The organizations and business houses, irrespective of its size and financial statuses, are striving to fix their share in the research and innovations by contributing their funds. The medium and large industries and business enterprises are establishing their own departments or subsidiaries for undertaking the researches. The small enterprises, because of their financial constraints, are not able to have their own research units, but, are undertaking the research activities on consortium basis. Some of them are entering into the agreements with the universities and other community institutions to improve their IPR portfolio by obtaining the rights upon the new inventions. The government policy, granting tax deductions and exemptions for the investments in the research and development activities also is encouraging the business people to invest the money in the research activities. The tax benefits and concessions received by the research institutions are contributing to the deficit in the financial budgets of the government and the extent of the gap is filled by the new taxations. In other words the common public through their tax payments are facilitating the governments to extend benefits to the research institutes for the promotion of new inventions.*

*In India and other countries, the government is also establishing the research institutions in various fields like, science, technology, agriculture, medicine, biotech, space and other industries. These institutions are fully funded by the government through out the process of inventions. Universities also contributing to the new researches and inventions by allocating budgets from their available finances or through grants from the University Grants Commission or from the funds received philanthropists.*

*It is an equitable proposition that the benefits accrued through inventions undertaken by public funding should be shared by the public who contributed directly or indirectly. It is the natural justice. The knowledge created should fall on to the public domain for easy access and used for the welfare of the society without any restrictions. But, the other argument crops up in defense of the protection of the inventions are that the research institutions should have the rights on their inventions as they have applied their intellectual capital for undertaking invention. The argument sounds good. A strategic policy should be formulated to strike balance between the granting of rights to the research institutions and public access and the same may be incorporated in the IPR law. And the tenure of protection of inventions should be made short when the public funds are used for the research activities there after the knowledge created should fall into the public domain without any hindrances.*

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## Contents


| | | |
|---|---|---|
| 1 | Access to New Research and Inventions<br>*Mr. Dilip Sharma* | 6 |
| 2 | IPR Policy and Awareness Programs<br>*Prof Dilip Sharma* | 7 |
| 3 | New Dimensions of Patenting Medical Inventions<br>*Dr S V Damodar Reddy* | 8 |
| 4 | Piracy and Law<br>*Dr. Rekraj Jain* | 9 |
| 5 | Fostering of Intellectual Property Culture in SMEs and Challenges<br>*Dr S V Damodar Reddy* | 10 |
| 6 | Compulsory Licensing Challenges in Patent Law<br>*Dr. Veena* | 11 |
| 7 | Parallel Imports , Issues and Trademarks<br>*Rukmini Desai* | 12 |
| 8 | Intellectual Property Management in Universities, Research and Educational Institutions Practice & Perspective Plans.<br>*Dr S V Damodar Reddy* | 13 |
| 9 | "The Enigma of Protecting Background Performers: An Analysis Under the Indian Copyright Law"<br>*Ms Manini Sidhu* | 14 |
| 10 | Street Art and Graffiti: Basics and Recognition<br>*Rishav Soni,* | 15 |
| 11 | Traditional Knowledge in India: A Legislative Analysis<br>*Rukma Lavanya* | 16 |
| 12 | "The Enigma of Protecting Background Performers: An Analysis Under the Indian Copyright Law"<br>*Ms Manini Sidhu,* | 17 |
| 13 | Protecting the Performers' Rights: An Analysis of the Relevant Law in the Indian Copyright Regime<br>*Aftab Jeelani Wani* | 18 |
| 14 | Modern Encroachment on Traditional Rights of Farmers: An Analysis of the Conceptual Basis of Farmers' Rights in IPR Regime<br>*Showkat Hussain* | 19 |
| 15 | Intelligent Trademarks: "Is Artificial Intelligence Colliding with Trademark Law?"<br>*Kalyan Revalla* | 20 |
| 16 | Evolution of Farmers' Rights in Intellectual Property Regime: International and Indian Perspective<br>*Showkat Hussain* | 21 |
| 17 | Patenting of Life Forms: Reflections on Some Legal and Ethical Issues<br>*M Hussain* | 22 |
| 18 | The Concept of Originality Under Copyright Law: An Analysis of Judicial Interpretation and Juristic Opinions<br>*Aftab Jeelani Wani* | 23 |

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# IPR Policy and Awareness Programs

Prof Dilip Sharma[2]

*Abstract*

*Knowledge is nobody's property. It is the property of the intellects who strive hard to exist in the struggle among the competitors. The skills and labor of intellectuals dominates and penetrates into the existing knowledge and new knowledge is created. It stimulates the traditional and indigenous knowledge and metamorphoses them into new creations, the core concerns of intellectual property. The new knowledge and inventions are not created only by the scientists, academia, but, during the real life struggles, the industry workers, uneducated traditional cultivators, business entrepreneurs also develops new knowledge, invents new processes and products. The technical knowledge coming out of real life situations and experience has a greater contribution towards the intellectual capital. Sometimes, the creativity or inventions rising from the field will be more useful than that of research labs and Universities. Inventions in textiles designs, pharma industries, software and computer appliances, telecommunications, seeds and plant varieties have its roots from the industry.*

*The present scenario of IPR policy – bringing awareness on the importance of intellectual property rights and their protection, shows that it is limited to certain pockets of the society. The Government is concentrating in granting of funds to the Universities, voluntary organizations, government departments, associations and Confederations for conducting seminars and workshops in the process. There is no paucity in the efforts. But, it is observed in most of the cases, the academia, bureaucrats, scientists and other cream of the society are actively taking part and they interact, discuss, and come with some resolution for the enrichment of IPR Regime. But, the purpose is not solved as it is not reaching the gross roots of the industry from where the real share of inventions is coming. As a result, number of new inventions and creations are left unnoticed. The persons interested may adapt the same and customize the inventions to meet their personal needs and patent them. The original inventors, requiring the protection, are not aware of their rights and the process of patenting or registering of their IPRs. It results in counterfeit products which drains the benefits of the real inventor.*

*The lack of awareness at the basic gross root levels also causes concern of unintentional seepage of trade secrets and confidential information to the competitor. It is known fact that most of the inventors are passive in enforcing their rights because of huge expenditure and fail to quantify the damages they suffer due to the piracy or infringement. Even the educated, authors who published their books on agreements for royalties, the producers of music and cinematographic films are not coming forward to knock the doors of justice to recoup their damages. It is not out of place to state that the percentage of advocates or consultants handling the patents and other related IPR issues is very very negligible. The number of litigations in courts is very low when compared to other property litigations. It shows the need to improve the situation.*

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## Contents


| | | |
|---|---|---|
| 1 | Access to New Research and Inventions<br>*Mr. Dilip Sharma* | *6* |
| 2 | IPR Policy and Awareness Programs<br>*Prof Dilip Sharma* | *7* |
| 3 | New Dimensions of Patenting Medical Inventions<br>*Dr S V Damodar Reddy* | *8* |
| 4 | Piracy and Law<br>*Dr. Rekraj Jain* | *9* |
| 5 | Fostering of Intellectual Property Culture in SMEs and Challenges<br>*Dr S V Damodar Reddy* | *10* |
| 6 | Compulsory Licensing Challenges in Patent Law<br>*Dr.Veena* | *11* |
| 7 | Parallel Imports , Issues and Trademarks<br>*Rukmini Desai* | *12* |
| 8 | Intellectual Property Management in Universities, Research and Educational Institutions Practice & Perspective Plans.<br>*Dr S V Damodar Reddy* | *13* |
| 9 | "The Enigma of Protecting Background Performers: An Analysis Under the Indian Copyright Law"<br>*Ms Manini Sidhu* | *14* |
| 10 | Street Art and Graffiti: Basics and Recognition<br>*Rishav Soni,* | *15* |
| 11 | Traditional Knowledge in India: A Legislative Analysis<br>*Rukma Lavanya* | *16* |
| 12 | "The Enigma of Protecting Background Performers: An Analysis Under the Indian Copyright Law"<br>*Ms Manini Sidhu,* | *17* |
| 13 | Protecting the Performers' Rights: An Analysis of the Relevant Law in the Indian Copyright Regime<br>*Aftab Jeelani Wani* | *18* |
| 14 | Modern Encroachment on Traditional Rights of Farmers: An Analysis of the Conceptual Basis of Farmers' Rights in IPR Regime<br>*Showkat Hussain* | *19* |
| 15 | Intelligent Trademarks: "Is Artificial Intelligence Colliding with Trademark Law?"<br>*Kalyan Revalla* | *20* |
| 16 | Evolution of Farmers' Rights in Intellectual Property Regime: International and Indian Perspective<br>*Showkat Hussain* | *21* |
| 17 | Patenting of Life Forms: Reflections on Some Legal and Ethical Issues<br>*M Hussain* | *22* |
| 18 | The Concept of Originality Under Copyright Law: An Analysis of Judicial Interpretation and Juristic Opinions<br>*Aftab Jeelani Wani* | *23* |

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# New Dimensions of Patenting Medical Inventions

Dr S V Damodar Reddy[3]

*Abstract*

*The growth in the field of technology, science is unmatchable and unpredictable. It is not confined to a certain segment of the society or section of research area. Every new invention under the sun is patentable. However, the patent law bars some of the inventions are not the subject matter of the patents. This restriction has invited a number of criticisms. The segments of intense research and new inventions are the pharmaceuticals and biotechnology. The latest research on DNA structures has opened new vistas in understanding the creativity and root causes for a number of chronic diseases which again triggered the inventions in the field of drugs and pharmaceuticals. These inventions also brought some of the new methods of medical treatments and equipment to diagnose and treat the diseases which were considered as incurable.*

*The researches have developed a new process of producing new living things without natural reproductive process, but by means of artificial mechanisms – the cloning. Considering ethical issues involved in, the human cloning is made as non-patentable subject matter. In addition to, the methods of medical treatments are tagged as non patentable by the law of the patents. The patent law does not permit the patenting the diagnostic, therapeutic and surgical methods. Ethical issues and public interest are the drivers for not providing patentability to medical treatments. Whatever the new method of treatment is invented or conceptualized, that should be shared by all the people irrespective of place of invention or person invented. Human kind should reap the fruits of such invention and universalization of such invention should be the policy. Treatment methods are interdependent upon the implements designed and produced for the said purpose. If the implements are patented, the companies manufacturing them may directly control the treatment methods by creating scarcity or fixing high prices. End results will be – non-availability of equipments to persons in need and companies having patents upon them shall control which is against the public policy.*

*However, the equipment that is invented for undertaking medical treatments may be allowed to be produced by any company interested in the manufacturing of medical instrumentation and infrastructure which controls the price tags of the equipment. The price tag of equipment is reflected on the treatment cost of individual and health care establishments which again discriminates the poor from enjoying the fruits of researches in the area. It is essential to bring such newly invented equipment and infrastructure under the category of non patentable subject matter. The process patents or the product patents relating to such equipments should be discouraged and incentives for new inventions in the said area should be granted to encourage the continuation of inventions in the medical field. Like the provisions made to the life saving drugs across the globe new initiation may be taken to fix the moderate and affordable rates to the equipments that is used in the medical treatments including the surgery.*

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## Contents


| | | |
|---|---|---|
| 1 | Access to New Research and Inventions<br>*Mr. Dilip Sharma* | 6 |
| 2 | IPR Policy and Awareness Programs<br>*Prof Dilip Sharma* | 7 |
| 3 | New Dimensions of Patenting Medical Inventions<br>*Dr S V Damodar Reddy* | 8 |
| 4 | Piracy and Law<br>*Dr. Rekraj Jain* | 9 |
| 5 | Fostering of Intellectual Property Culture in SMEs and Challenges<br>*Dr S V Damodar Reddy* | 10 |
| 6 | Compulsory Licensing Challenges in Patent Law<br>*Dr.Veena* | 11 |
| 7 | Parallel Imports , Issues and Trademarks<br>*Rukmini Desai* | 12 |
| 8 | Intellectual Property Management in Universities, Research and Educational Institutions Practice & Perspective Plans.<br>*Dr S V Damodar Reddy* | 13 |
| 9 | "The Enigma of Protecting Background Performers: An Analysis Under the Indian Copyright Law"<br>*Ms Manini Sidhu* | 14 |
| 10 | Street Art and Graffiti: Basics and Recognition<br>*Rishav Soni,* | 15 |
| 11 | Traditional Knowledge in India: A Legislative Analysis<br>*Rukma Lavanya* | 16 |
| 12 | "The Enigma of Protecting Background Performers: An Analysis Under the Indian Copyright Law"<br>*Ms Manini Sidhu,* | 17 |
| 13 | Protecting the Performers' Rights: An Analysis of the Relevant Law in the Indian Copyright Regime<br>*Aftab Jeelani Wani* | 18 |
| 14 | Modern Encroachment on Traditional Rights of Farmers: An Analysis of the Conceptual Basis of Farmers' Rights in IPR Regime<br>*Showkat Hussain* | 19 |
| 15 | Intelligent Trademarks: "Is Artificial Intelligence Colliding with Trademark Law?"<br>*Kalyan Revalla* | 20 |
| 16 | Evolution of Farmers' Rights in Intellectual Property Regime: International and Indian Perspective<br>*Showkat Hussain* | 21 |
| 17 | Patenting of Life Forms: Reflections on Some Legal and Ethical Issues<br>*M Hussain* | 22 |
| 18 | The Concept of Originality Under Copyright Law: An Analysis of Judicial Interpretation and Juristic Opinions<br>*Aftab Jeelani Wani* | 23 |

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# Piracy and Law

Dr. Rekraj Jain[4]

*Abstract*

*The piracy is the pest gulping the cream of the intellectual property and leaving pulp, resulting in irreparable damages to the owners. There are some occasions where the organizations have downed their shutters while paying the penalties when their piracy is detected. The plague of piracy has spread to all the corners of the society and irrespective of class or classes of intellectual property viz., copyrights, patents, trademarks, trade secrets, bio-technology, electronic property and so on. The most effected areas of the piracy are pharmaceuticals, music industry and cinema. Number of cases are filed in different courts of US and people are facing litigations, spending money and time to protect themselves.*

*Music and cinema industries are the worst affected areas by the piracy. Sale of counterfeit music discs, cinema tapes are dominating than the sale of original and licensed ones resulting in loss of crores of rupees to the original owner. According to Motion Picture Association of US, the cinema industry in the US had suffered to a tune of 3 billion US dollars whereas the music industry has lost in multiples of billions not only in US but also in other countries. The Napster case is one of the celebrated cases of music piracy which shows the roots into all corners of the society. Internet is a double-edged tool which not only helps the original owners to capture the untapped businesses and also facilitates the authors and others in promoting the piracy. Downloading of the music and motion pictures through Internet has become a fashion of the day.*

*Most of the Legislations relating to IPR enacted by the developed and developing countries have provisions defining the piracy of the intellectual property and also penalties for the infringement and piracy of the copyrighted material or patented products and services. They realized that further delay in enforcement of the rights of the owners will certainly encourage the piracy and brings down the morale of owners of intellectual property which ultimately affects economy of the country.*

*In India, the powers are given to the police for making investigations and enquiries relating to pirated goods. The legislations also are stringent in India by providing great penalties and punishments to the infringers and persons engaged in piracy but even then the rate of piracy is increasing and the music and cinema industries are suffering losses. The time has ripen for the intellects and authorities to have a round table and discuss the pros and cons of enforcement mechanism that is existing today and come out with a solution to curb the piracy which is a caterpillar sucking the blood of nation's economy.*

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## Contents


| | | |
|---|---|---|
| 1 | Access to New Research and Inventions<br>*Mr. Dilip Sharma* | 6 |
| 2 | IPR Policy and Awareness Programs<br>*Prof Dilip Sharma* | 7 |
| 3 | New Dimensions of Patenting Medical Inventions<br>*Dr S V Damodar Reddy* | 8 |
| 4 | Piracy and Law<br>*Dr. Rekraj Jain* | 9 |
| 5 | Fostering of Intellectual Property Culture in SMEs and Challenges<br>*Dr S V Damodar Reddy* | 10 |
| 6 | Compulsory Licensing Challenges in Patent Law<br>*Dr. Veena* | 11 |
| 7 | Parallel Imports , Issues and Trademarks<br>*Rukmini Desai* | 12 |
| 8 | Intellectual Property Management in Universities, Research and Educational Institutions Practice & Perspective Plans.<br>*Dr S V Damodar Reddy* | 13 |
| 9 | "The Enigma of Protecting Background Performers: An Analysis Under the Indian Copyright Law"<br>*Ms Manini Sidhu* | 14 |
| 10 | Street Art and Graffiti: Basics and Recognition<br>*Rishav Soni,* | 15 |
| 11 | Traditional Knowledge in India: A Legislative Analysis<br>*Rukma Lavanya* | 16 |
| 12 | "The Enigma of Protecting Background Performers: An Analysis Under the Indian Copyright Law"<br>*Ms Manini Sidhu,* | 17 |
| 13 | Protecting the Performers' Rights: An Analysis of the Relevant Law in the Indian Copyright Regime<br>*Aftab Jeelani Wani* | 18 |
| 14 | Modern Encroachment on Traditional Rights of Farmers: An Analysis of the Conceptual Basis of Farmers' Rights in IPR Regime<br>*Showkat Hussain* | 19 |
| 15 | Intelligent Trademarks: "Is Artificial Intelligence Colliding with Trademark Law?"<br>*Kalyan Revalla* | 20 |
| 16 | Evolution of Farmers' Rights in Intellectual Property Regime: International and Indian Perspective<br>*Showkat Hussain* | 21 |
| 17 | Patenting of Life Forms: Reflections on Some Legal and Ethical Issues<br>*M Hussain* | 22 |
| 18 | The Concept of Originality Under Copyright Law: An Analysis of Judicial Interpretation and Juristic Opinions<br>*Aftab Jeelani Wani* | 23 |

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# Fostering of Intellectual Property Culture in SMEs and Challenges

Dr S V Damodar Reddy[5]

*Abstract*

*Knowledge has the power to drive and influence the economy and the technology. Ideas, innovations and human intelligence, forming the part of knowledge, are the most valuable intellectual commodities in today's world. The knowledge creation is dependant upon the intellectual competencies and capacities of the persons involved. Thus, the intellectual property and knowledge creation are interdependent and inter-related. The knowledge so created or acquired is applied for the development of new products and process, modifications. Existing products are modified as a part of improvement of their quality.*

*With the liberalization of economy and opening of markets, investments in to the business are flowing from different parts of the world based upon the competencies and capacities of business enterprises. Dynamic social needs demands new products and services or modifications for the existing products and services. A continual research is warranted to satisfy the need. The earning of products and services also depends upon maximization of profits by excluding pirates from sharing benefits of research. IP Rights protection influences the investments, product developments, market incentives, trade policies, competition laws, and other regulations. Increased investments, liberalized systems deregulates the licencing, technology development policies develop additional IPRs.*

*The development of scientific and technological researches changed the growth phase of business. The post industrial revolution period witnessed greater encouragement to innovations like locomotives, planes, printing machine, telephone, and many other industrial products. The industries including the manufacturing of machinery, petroleum, cement, chemicals, automobiles, paper, textiles, and rubber, plastic are benefited because of continuous research activities. Thus, the business houses especially the Small and Medium Enterprises and research institutes interacts with one other. The SMEs undertake the responsibility of supplying of products and services which are required to satisfy the demands of consumers, in the process depends upon the research institutions to help them in finding the solutions for consumer problems.*

*The intellectual property helps SMEs in brand and image building which promotes the sales of its product and attracts investments from outside world. Trademarks, industrial designs and intellectual property protection can be powerful tools for creating value for SME business. SMEs should use the intellectual property creatively, pro-actively. They must be transformed from mere legal concepts and enforceable rights into commercially valuable assets and that can be achieved primarily by putting them to work as tools for creating and developing a brand value for SME business. Management of IP assets of SME also plays important role which depends upon the awareness of the employers and employees of the SME. Lack of awareness and commercialization of existing intellectual property are important hurdles in the economic benefits of the SME.*

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## Contents


| | | |
|---|---|---|
| 1 | Access to New Research and Inventions<br>*Mr. Dilip Sharma* | 6 |
| 2 | IPR Policy and Awareness Programs<br>*Prof Dilip Sharma* | 7 |
| 3 | New Dimensions of Patenting Medical Inventions<br>*Dr S V Damodar Reddy* | 8 |
| 4 | Piracy and Law<br>*Dr. Rekraj Jain* | 9 |
| 5 | Fostering of Intellectual Property Culture in SMEs and Challenges<br>*Dr S V Damodar Reddy* | 10 |
| 6 | Compulsory Licensing Challenges in Patent Law<br>*Dr. Veena* | 11 |
| 7 | Parallel Imports , Issues and Trademarks<br>*Rukmini Desai* | 12 |
| 8 | Intellectual Property Management in Universities, Research and Educational Institutions Practice & Perspective Plans.<br>*Dr S V Damodar Reddy* | 13 |
| 9 | "The Enigma of Protecting Background Performers: An Analysis Under the Indian Copyright Law"<br>*Ms Manini Sidhu* | 14 |
| 10 | Street Art and Graffiti: Basics and Recognition<br>*Rishav Soni,* | 15 |
| 11 | Traditional Knowledge in India: A Legislative Analysis<br>*Rukma Lavanya* | 16 |
| 12 | "The Enigma of Protecting Background Performers: An Analysis Under the Indian Copyright Law"<br>*Ms Manini Sidhu,* | 17 |
| 13 | Protecting the Performers' Rights: An Analysis of the Relevant Law in the Indian Copyright Regime<br>*Aftab Jeelani Wani* | 18 |
| 14 | Modern Encroachment on Traditional Rights of Farmers: An Analysis of the Conceptual Basis of Farmers' Rights in IPR Regime<br>*Showkat Hussain* | 19 |
| 15 | Intelligent Trademarks: "Is Artificial Intelligence Colliding with Trademark Law?"<br>*Kalyan Revalla* | 20 |
| 16 | Evolution of Farmers' Rights in Intellectual Property Regime: International and Indian Perspective<br>*Showkat Hussain* | 21 |
| 17 | Patenting of Life Forms: Reflections on Some Legal and Ethical Issues<br>*M Hussain* | 22 |
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# Compulsory Licensing Challenges in Patent Law

Dr.Veena[6]

*Abstract:*

*The patent is one of the intellectual property rights granted for an invention, a product or process. It is an exclusive monopoly right to the patentee for a limited period of 20 years to make use of the patented product or process. The patentee has a right to commercialize his invention which is an incentive to his intellectual outcome and excludes others to make use unauthorizedly. The Agreement on Trade Related aspects of Intellectual Property Rights (TRIPs) is one of the World Trade Organization agreements provides global minimum standards for grant, protection and enforcement of intellectual property which includes patents to bring harmonization of laws. India being a member of WTO amended Indian Patent Act 1970 accordingly in 2005 for product patents in the pharmaceutical field. The population in developing and least developed countries could not afford patented drugs as they were proved expensive due to exclusive patent right. The generic industries cannot reverse-engineer the process of research and development carried out by foreign researches, as it is prohibited under the patent law. The TRIPS Agreement made provisions relating to public health and made a provision for compulsory licensing. In this paper an attempt was made to study the concept of compulsory licensing at national level with respect to domestic law which is a check to the exploitation of patentee rights and public health of national interest. The compulsory licensing was to make use of a patented product by a third party which is opposite to right of voluntary license exercised by the patentee. Sections 84-92 of Patent Act 1970 deals with the various provisions which need to be fulfilled for grant of compulsory license to someone other than the rightful owner. A person can approach and make a request to the Controller for grant of compulsory license on expiry of three years of grant on any of the conditions – i) reasonable requirement of the public with respect to the patented invention have not been satisfied, ii) patented invention is not made available to the public at reasonable or affordable price or iii) patented invention is not worked within the territory of India. The Controller is empowered to issue compulsory licenses Suo motu in case of 'national emergency' or 'public non-commercial use'. India granted first compulsory license to Natco pharma on March 9, 2012 for the generic production of Bayer's corporation Nexavar, a life saving drug used to cure liver and kidney cancers. In some of the cases, controller rejected outrightly compulsory license on the grounds that it was not applied for license before approaching the Controller for compulsory license, or not substantiated public use, exorbitant prices, etc., In Roche's Herceptin case, Ministry of Health denied compulsory license. Other cases include the BDR Pharma concerning Dasatinib and Lee Pharma for Saxagliptin drug denied compulsory license. The paper focus on the study of various judicial pronouncements towards the protection of patent rights and public welfare. It further studies about how to strike a balance between patent rights and compulsory license by overcoming the challenges to make it available in sufficient quantity at required time and at affordable prices. It also suggests to promote research and development and to establish full proof legal mechanism in this regard.*

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## Contents


| | | |
|---|---|---|
| 1 | Access to New Research and Inventions<br>*Mr. Dilip Sharma* | 6 |
| 2 | IPR Policy and Awareness Programs<br>*Prof Dilip Sharma* | 7 |
| 3 | New Dimensions of Patenting Medical Inventions<br>*Dr S V Damodar Reddy* | 8 |
| 4 | Piracy and Law<br>*Dr. Rekraj Jain* | 9 |
| 5 | Fostering of Intellectual Property Culture in SMEs and Challenges<br>*Dr S V Damodar Reddy* | 10 |
| 6 | Compulsory Licensing Challenges in Patent Law<br>*Dr.Veena* | 11 |
| 7 | Parallel Imports , Issues and Trademarks<br>*Rukmini Desai* | 12 |
| 8 | Intellectual Property Management in Universities, Research and Educational Institutions Practice & Perspective Plans.<br>*Dr S V Damodar Reddy* | 13 |
| 9 | "The Enigma of Protecting Background Performers: An Analysis Under the Indian Copyright Law"<br>*Ms Manini Sidhu* | 14 |
| 10 | Street Art and Graffiti: Basics and Recognition<br>*Rishav Soni,* | 15 |
| 11 | Traditional Knowledge in India: A Legislative Analysis<br>*Rukma Lavanya* | 16 |
| 12 | "The Enigma of Protecting Background Performers: An Analysis Under the Indian Copyright Law"<br>*Ms Manini Sidhu,* | 17 |
| 13 | Protecting the Performers' Rights: An Analysis of the Relevant Law in the Indian Copyright Regime<br>*Aftab Jeelani Wani* | 18 |
| 14 | Modern Encroachment on Traditional Rights of Farmers: An Analysis of the Conceptual Basis of Farmers' Rights in IPR Regime<br>*Showkat Hussain* | 19 |
| 15 | Intelligent Trademarks: "Is Artificial Intelligence Colliding with Trademark Law?"<br>*Kalyan Revalla* | 20 |
| 16 | Evolution of Farmers' Rights in Intellectual Property Regime: International and Indian Perspective<br>*Showkat Hussain* | 21 |
| 17 | Patenting of Life Forms: Reflections on Some Legal and Ethical Issues<br>*M Hussain* | 22 |
| 18 | The Concept of Originality Under Copyright Law: An Analysis of Judicial Interpretation and Juristic Opinions<br>*Aftab Jeelani Wani* | 23 |

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# Parallel Imports , Issues and Trademarks

Rukmini Desai[7]

*Abstract:*

*A parallel import is a non-counterfeit product imported from another country without the permission of the intellectual property owner. Parallel imports are often referred to as grey goods or grey-market goods. The goods imported are different from genuine goods, meaning that they have actually been manufactured by, for or under license from the brand owner for the requirements of the consumers of a particular jurisdiction, and then are imported into a different jurisdiction from that intended by the brand owner Parallel importers usually purchase products in one country at a price that is cheaper than the price at which they are sold in a second country. They then import the products into the second country. The products are then sold at a price which is normally somewhere between the usual price found in the country of export and the country of import. A related concept is the exhaustion of rights, or the doctrine of exhaustion. This is a concept in intellectual property law whereby an owner will lose or exhaust certain rights after the first use of the subject matter which is the subject of intellectual property rights. Exhaustion of IP rights refers to the extent to which IP owners can control the distribution of their products. For example, the ability of a trade mark owner to control further sales of a product bearing its mark are generally exhausted following the sale of that product.*

*This concept typically arises in the context of parallel imports, and may therefore be relevant nationally, regionally or internationally. If a right becomes exhausted in one jurisdiction, an intellectual property owner may not be able to enforce its rights in another jurisdiction. In India, parallel importation is intricately linked to the principle of exhaustion of rights under the Trademarks Act, 1999. The principle of exhaustion of rights is enshrined in Article 6 of the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPs), which states that "nothing in this Agreement shall be used to address the issue of the exhaustion of intellectual property rights". Hence, each state is entitled either to prohibit or to allow parallel imports within its own legal framework. The Government of India definitely here must intervene in this matter so as to maintain a balance between the interests of the Consumers and Trademark Holders, so that no one is at a higher risk. Ultimately the bottom line is that the decision on whether to allow Parallel Imports is a choice between quality control and price control; between the economic rights of trademark owners and consumer access; between trade monopolies and free trade.*

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## Contents


| | | |
|---|---|---|
| 1 | Access to New Research and Inventions<br>*Mr. Dilip Sharma* | *6* |
| 2 | IPR Policy and Awareness Programs<br>*Prof Dilip Sharma* | *7* |
| 3 | New Dimensions of Patenting Medical Inventions<br>*Dr S V Damodar Reddy* | *8* |
| 4 | Piracy and Law<br>*Dr. Rekraj Jain* | *9* |
| 5 | Fostering of Intellectual Property Culture in SMEs and Challenges<br>*Dr S V Damodar Reddy* | *10* |
| 6 | Compulsory Licensing Challenges in Patent Law<br>*Dr. Veena* | *11* |
| 7 | Parallel Imports , Issues and Trademarks<br>*Rukmini Desai* | *12* |
| 8 | Intellectual Property Management in Universities, Research and Educational Institutions Practice & Perspective Plans.<br>*Dr S V Damodar Reddy* | *13* |
| 9 | "The Enigma of Protecting Background Performers: An Analysis Under the Indian Copyright Law"<br>*Ms Manini Sidhu* | *14* |
| 10 | Street Art and Graffiti: Basics and Recognition<br>*Rishav Soni,* | *15* |
| 11 | Traditional Knowledge in India: A Legislative Analysis<br>*Rukma Lavanya* | *16* |
| 12 | "The Enigma of Protecting Background Performers: An Analysis Under the Indian Copyright Law"<br>*Ms Manini Sidhu,* | *17* |
| 13 | Protecting the Performers' Rights: An Analysis of the Relevant Law in the Indian Copyright Regime<br>*Aftab Jeelani Wani* | *18* |
| 14 | Modern Encroachment on Traditional Rights of Farmers: An Analysis of the Conceptual Basis of Farmers' Rights in IPR Regime<br>*Showkat Hussain* | *19* |
| 15 | Intelligent Trademarks: "Is Artificial Intelligence Colliding with Trademark Law?"<br>*Kalyan Revalla* | *20* |
| 16 | Evolution of Farmers' Rights in Intellectual Property Regime: International and Indian Perspective<br>*Showkat Hussain* | *21* |
| 17 | Patenting of Life Forms: Reflections on Some Legal and Ethical Issues<br>*M Hussain* | *22* |
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# Intellectual Property Management in Universities, Research and Educational Institutions Practice & Perspective Plans.

Dr S V Damodar Reddy[8]

*Abstract:*

*Intellectual Property Rights plays a vital role for the progress of the economies on account of the rapid developments and changing needs of the societies. Economies over the period have grown with considerable pace and are about to grown with leaps and bounds in the coming future. It emphasizes on IP'S developed in Universities, Research and Educational Institutions. Describes a slogan i.e file early and file often and MNC's Global companies slogans to file patents. Intel own 44,973 patents and Hewlet Packard own 56274 patents as on 2018. IBM Google Corp and Amazon adopted strategies by open source code challenge for anyone to develop the program. Trade secrets of Mahila Griha Udyog Lijjat Papad and Jet home products . At the same time others are progressing so as to catch the speed of the developed economies. This is all made possible only with the Intellectual Property Rights. The objective of this paper is to emphasize the importance of Intellectual Property Rights, its Generation and Management. Today effective management of Intellectual Property Rights play a vital role in order to reap the maximum benefits from the inventions and the innovations made. The paper mainly focuses on the Management of Intellectual Property Rights in the Universities, Research & Educational Institutions. Future Economies thrive and progress to a great extent only if the invention and innovation culture develops right from the Institutes of learning, in contrast to the regular mode of developments which are made in the Industry, Trade and Commerce.*

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## Contents


| | | |
|---|---|---|
| 1 | Access to New Research and Inventions<br>*Mr. Dilip Sharma* | *6* |
| 2 | IPR Policy and Awareness Programs<br>*Prof Dilip Sharma* | *7* |
| 3 | New Dimensions of Patenting Medical Inventions<br>*Dr S V Damodar Reddy* | *8* |
| 4 | Piracy and Law<br>*Dr. Rekraj Jain* | *9* |
| 5 | Fostering of Intellectual Property Culture in SMEs and Challenges<br>*Dr S V Damodar Reddy* | *10* |
| 6 | Compulsory Licensing Challenges in Patent Law<br>*Dr. Veena* | *11* |
| 7 | Parallel Imports , Issues and Trademarks<br>*Rukmini Desai* | *12* |
| 8 | Intellectual Property Management in Universities, Research and Educational Institutions Practice & Perspective Plans.<br>*Dr S V Damodar Reddy* | *13* |
| 9 | "The Enigma of Protecting Background Performers: An Analysis Under the Indian Copyright Law"<br>*Ms Manini Sidhu* | *14* |
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| 13 | Protecting the Performers' Rights: An Analysis of the Relevant Law in the Indian Copyright Regime<br>*Aftab Jeelani Wani* | *18* |
| 14 | Modern Encroachment on Traditional Rights of Farmers: An Analysis of the Conceptual Basis of Farmers' Rights in IPR Regime<br>*Showkat Hussain* | *19* |
| 15 | Intelligent Trademarks: "Is Artificial Intelligence Colliding with Trademark Law?"<br>*Kalyan Revalla* | *20* |
| 16 | Evolution of Farmers' Rights in Intellectual Property Regime: International and Indian Perspective<br>*Showkat Hussain* | *21* |
| 17 | Patenting of Life Forms: Reflections on Some Legal and Ethical Issues<br>*M Hussain* | *22* |
| 18 | The Concept of Originality Under Copyright Law: An Analysis of Judicial Interpretation and Juristic Opinions<br>*Aftab Jeelani Wani* | *23* |

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IJARST

ISSN: 2457-0362

# "The Enigma of Protecting Background Performers: An Analysis Under the Indian Copyright Law"

**Ms Manini Sidhu**[12]

*Abstract:*

*The Copyright Act 1957 (hereinafter referred to as the "Act"), governs the rights granted under copyright and its various neighbouring rights -- which will be the focus of the seminar. The proviso to the definition of 'performers', as named so by the drafters of the law, explicitly excludes a very important part of the show – background performers. Often, they are termed as 'Extras' or 'Walk-ons' in the entertainment industry, but there is a fine line of difference between the two categories. The seminar attempts to bring to light, such dissimilarities, and highlight as to why this class of performers must receive due recognition for their creative contributions.*

[12] Assistant Professor, ICFAI Law School,, Hyderabad

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## Contents


| | | |
|---|---|---|
| 1 | Access to New Research and Inventions<br>*Mr. Dilip Sharma* | 6 |
| 2 | IPR Policy and Awareness Programs<br>*Prof Dilip Sharma* | 7 |
| 3 | New Dimensions of Patenting Medical Inventions<br>*Dr S V Damodar Reddy* | 8 |
| 4 | Piracy and Law<br>*Dr. Rekraj Jain* | 9 |
| 5 | Fostering of Intellectual Property Culture in SMEs and Challenges<br>*Dr S V Damodar Reddy* | 10 |
| 6 | Compulsory Licensing Challenges in Patent Law<br>*Dr. Veena* | 11 |
| 7 | Parallel Imports , Issues and Trademarks<br>*Rukmini Desai* | 12 |
| 8 | Intellectual Property Management in Universities, Research and Educational Institutions Practice & Perspective Plans.<br>*Dr S V Damodar Reddy* | 13 |
| 9 | "The Enigma of Protecting Background Performers: An Analysis Under the Indian Copyright Law"<br>*Ms Manini Sidhu* | 14 |
| 10 | Street Art and Graffiti: Basics and Recognition<br>*Rishav Soni,* | 15 |
| 11 | Traditional Knowledge in India: A Legislative Analysis<br>*Rukma Lavanya* | 16 |
| 12 | "The Enigma of Protecting Background Performers: An Analysis Under the Indian Copyright Law"<br>*Ms Manini Sidhu,* | 17 |
| 13 | Protecting the Performers' Rights: An Analysis of the Relevant Law in the Indian Copyright Regime<br>*Aftab Jeelani Wani* | 18 |
| 14 | Modern Encroachment on Traditional Rights of Farmers: An Analysis of the Conceptual Basis of Farmers' Rights in IPR Regime<br>*Showkat Hussain* | 19 |
| 15 | Intelligent Trademarks: "Is Artificial Intelligence Colliding with Trademark Law?"<br>*Kalyan Revalla* | 20 |
| 16 | Evolution of Farmers' Rights in Intellectual Property Regime: International and Indian Perspective<br>*Showkat Hussain* | 21 |
| 17 | Patenting of Life Forms: Reflections on Some Legal and Ethical Issues<br>*M Hussain* | 22 |
| 18 | The Concept of Originality Under Copyright Law: An Analysis of Judicial Interpretation and Juristic Opinions<br>*Aftab Jeelani Wani* | 23 |

International Journal For Advanced Research In Science & Technology

IJARST

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# Street Art and Graffiti: Basics and Recognition

Rishav Soni[10]

*Abstract:*

*Street art is an important form of art deserving the same copyright protection as similar artistic formats. Denial of intellectual property protection to street artists' works would preclude a great artist from further development or deny the public of a wonderful artist and could work to discourage the development of the Arts. Graffiti, as an art form, has always existed at the fringes of society. It should be no surprise that it also exists at the fringes of copyright law. However, the mainstream success of graffiti has brought it commercial success and, where there's money there's litigation. Many of the issues surrounding graffiti and copyright remain unsettled and may still be for some time. Settlements are easier and cheaper than wading through murky legal waters. Still, these issues won't go away.As long as there's a drive to commercialize graffiti, there will be copyright issues Particular attention is to be paid to see whether the law is able to accommodate the needs of street and graffiti artist, and give them the right tool to protect their interest for example, against companies trying to commercially exploit their artwork .*

[10] Assistant Professor, ICFAI Law School, Hyderabad

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## Contents


| | | |
|---|---|---|
| 1 | Access to New Research and Inventions<br>*Mr. Dilip Sharma* | 6 |
| 2 | IPR Policy and Awareness Programs<br>*Prof Dilip Sharma* | 7 |
| 3 | New Dimensions of Patenting Medical Inventions<br>*Dr S V Damodar Reddy* | 8 |
| 4 | Piracy and Law<br>*Dr. Rekraj Jain* | 9 |
| 5 | Fostering of Intellectual Property Culture in SMEs and Challenges<br>*Dr S V Damodar Reddy* | 10 |
| 6 | Compulsory Licensing Challenges in Patent Law<br>*Dr. Veena* | 11 |
| 7 | Parallel Imports , Issues and Trademarks<br>*Rukmini Desai* | 12 |
| 8 | Intellectual Property Management in Universities, Research and Educational Institutions Practice & Perspective Plans.<br>*Dr S V Damodar Reddy* | 13 |
| 9 | "The Enigma of Protecting Background Performers: An Analysis Under the Indian Copyright Law"<br>*Ms Manini Sidhu* | 14 |
| 10 | Street Art and Graffiti: Basics and Recognition<br>*Rishav Soni,* | 15 |
| 11 | Traditional Knowledge in India: A Legislative Analysis<br>*Rukma Lavanya* | 16 |
| 12 | "The Enigma of Protecting Background Performers: An Analysis Under the Indian Copyright Law"<br>*Ms Manini Sidhu,* | 17 |
| 13 | Protecting the Performers' Rights: An Analysis of the Relevant Law in the Indian Copyright Regime<br>*Aftab Jeelani Wani* | 18 |
| 14 | Modern Encroachment on Traditional Rights of Farmers: An Analysis of the Conceptual Basis of Farmers' Rights in IPR Regime<br>*Showkat Hussain* | 19 |
| 15 | Intelligent Trademarks: "Is Artificial Intelligence Colliding with Trademark Law?"<br>*Kalyan Revalla* | 20 |
| 16 | Evolution of Farmers' Rights in Intellectual Property Regime: International and Indian Perspective<br>*Showkat Hussain* | 21 |
| 17 | Patenting of Life Forms: Reflections on Some Legal and Ethical Issues<br>*M Hussain* | 22 |
| 18 | The Concept of Originality Under Copyright Law: An Analysis of Judicial Interpretation and Juristic Opinions<br>*Aftab Jeelani Wani* | 23 |

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# Traditional Knowledge in India: A Legislative Analysis

**Rukma Lavanya**[11]

*Abstract:*

*A major problem faced in creating a comprehensive and efficient legislative framework for protection of Traditional Knowledge is the difficulty faced in defining it and the absence of a universal understanding of the concept. However, Traditional Knowledge needs to be protected because there is a vast global market for it (in addition to the dire need for it in matters of mitigating the effects of climate change; the creation of a market in fact helps in preserving it and consequently, there are consent, equity and compensatory issues that need to be taken care of. This research intends to study the various aspects of Traditional Knowledge, like, the economic importance of Traditional Knowledge, the socio-cultural importance of Traditional Knowledge and tries to analyze the legislative framework available for the protection of Traditional Knowledge in India. It also delves into the question of the need for a sui generis legislation.*

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## Contents


| | | |
|---|---|---|
| 1 | Access to New Research and Inventions<br>*Mr. Dilip Sharma* | 6 |
| 2 | IPR Policy and Awareness Programs<br>*Prof Dilip Sharma* | 7 |
| 3 | New Dimensions of Patenting Medical Inventions<br>*Dr S V Damodar Reddy* | 8 |
| 4 | Piracy and Law<br>*Dr. Rekraj Jain* | 9 |
| 5 | Fostering of Intellectual Property Culture in SMEs and Challenges<br>*Dr S V Damodar Reddy* | 10 |
| 6 | Compulsory Licensing Challenges in Patent Law<br>*Dr. Veena* | 11 |
| 7 | Parallel Imports , Issues and Trademarks<br>*Rukmini Desai* | 12 |
| 8 | Intellectual Property Management in Universities, Research and Educational Institutions Practice & Perspective Plans.<br>*Dr S V Damodar Reddy* | 13 |
| 9 | "The Enigma of Protecting Background Performers: An Analysis Under the Indian Copyright Law"<br>*Ms Manini Sidhu* | 14 |
| 10 | Street Art and Graffiti: Basics and Recognition<br>*Rishav Soni,* | 15 |
| 11 | Traditional Knowledge in India: A Legislative Analysis<br>*Rukma Lavanya* | 16 |
| 12 | "The Enigma of Protecting Background Performers: An Analysis Under the Indian Copyright Law"<br>*Ms Manini Sidhu,* | 17 |
| 13 | Protecting the Performers' Rights: An Analysis of the Relevant Law in the Indian Copyright Regime<br>*Aftab Jeelani Wani* | 18 |
| 14 | Modern Encroachment on Traditional Rights of Farmers: An Analysis of the Conceptual Basis of Farmers' Rights in IPR Regime<br>*Showkat Hussain* | 19 |
| 15 | Intelligent Trademarks: "Is Artificial Intelligence Colliding with Trademark Law?"<br>*Kalyan Revalla* | 20 |
| 16 | Evolution of Farmers' Rights in Intellectual Property Regime: International and Indian Perspective<br>*Showkat Hussain* | 21 |
| 17 | Patenting of Life Forms: Reflections on Some Legal and Ethical Issues<br>*M Hussain* | 22 |
| 18 | The Concept of Originality Under Copyright Law: An Analysis of Judicial Interpretation and Juristic Opinions<br>*Aftab Jeelani Wani* | 23 |

International Journal For Advanced Research In Science & Technology

IJARST

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# Protecting the Performers' Rights: An Analysis of the Relevant Law in the Indian Copyright Regime

**Aftab Jeelani Wani**[13]

*Abstract*

*In the traditional copyright regime, performers had no specific rights as those granted to an author or a creator of a work, since they were considered only as intermediaries between the author and the communication of his work to the public and hence not capable of possessing rights like an author or a copyright owner. With the advent of copying technology in the 20th century, the copyright system was at stake, and performers could not protect themselves from exploitation of their works. However, subsequent protection against unauthorized exploitation was granted to performers under 'neighboring rights' or 'related rights'. Only economic rights were granted to them initially under the international agreements, and subsequently, moral rights were granted for the first time at the international level through World Intellectual Property Organization (WIPO) Performances and Phonograms Treaty (WPPT) in 1996. Though the Indian Copyright Act, 1957 recognized the performers' economic rights in 1994, it did not provide for any moral rights until the Copyright (Amendment) Act, 2012 came into effect. This paper attempts to analyze the development of law relating to the performers' rights in the Indian copyright regime under the influence of different international agreements, and how far the provisions of the Copyright Amendment Act 2012 in India with respect to performers' rights have made the Indian Law compatible with different international instruments.*

[13] Lecturer, Kashmir Law College (Affiliated to University of Kashmir), Nowshera, Srinagar, Jammu and Kashmir, India.

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## Contents


| | | |
|---|---|---|
| 1 | Access to New Research and Inventions<br>*Mr. Dilip Sharma* | 6 |
| 2 | IPR Policy and Awareness Programs<br>*Prof Dilip Sharma* | 7 |
| 3 | New Dimensions of Patenting Medical Inventions<br>*Dr S V Damodar Reddy* | 8 |
| 4 | Piracy and Law<br>*Dr. Rekraj Jain* | 9 |
| 5 | Fostering of Intellectual Property Culture in SMEs and Challenges<br>*Dr S V Damodar Reddy* | 10 |
| 6 | Compulsory Licensing Challenges in Patent Law<br>*Dr. Veena* | 11 |
| 7 | Parallel Imports , Issues and Trademarks<br>*Rukmini Desai* | 12 |
| 8 | Intellectual Property Management in Universities, Research and Educational Institutions Practice & Perspective Plans.<br>*Dr S V Damodar Reddy* | 13 |
| 9 | "The Enigma of Protecting Background Performers: An Analysis Under the Indian Copyright Law"<br>*Ms Manini Sidhu* | 14 |
| 10 | Street Art and Graffiti: Basics and Recognition<br>*Rishav Soni,* | 15 |
| 11 | Traditional Knowledge in India: A Legislative Analysis<br>*Rukma Lavanya* | 16 |
| 12 | "The Enigma of Protecting Background Performers: An Analysis Under the Indian Copyright Law"<br>*Ms Manini Sidhu,* | 17 |
| 13 | Protecting the Performers' Rights: An Analysis of the Relevant Law in the Indian Copyright Regime<br>*Aftab Jeelani Wani* | 18 |
| 14 | Modern Encroachment on Traditional Rights of Farmers: An Analysis of the Conceptual Basis of Farmers' Rights in IPR Regime<br>*Showkat Hussain* | 19 |
| 15 | Intelligent Trademarks: "Is Artificial Intelligence Colliding with Trademark Law?"<br>*Kalyan Revalla* | 20 |
| 16 | Evolution of Farmers' Rights in Intellectual Property Regime: International and Indian Perspective<br>*Showkat Hussain* | 21 |
| 17 | Patenting of Life Forms: Reflections on Some Legal and Ethical Issues<br>*M Hussain* | 22 |
| 18 | The Concept of Originality Under Copyright Law: An Analysis of Judicial Interpretation and Juristic Opinions<br>*Aftab Jeelani Wani* | 23 |

IJARST

International Journal For Advanced Research In Science & Technology

ISSN: 2457-0362

# Modern Encroachment on Traditional Rights of Farmers: An Analysis of the Conceptual Basis of Farmers' Rights in IPR Regime

**Showkat Hussain**[14]

*Abstract:*

*A discussion on the devolution of rights upon farmers in the field of Intellectual Property Rights (IPRs) is actually a discussion on the proprietary claims on plant genetic resources. Many justifications are given for the grant of IPRs to persons who invest their skill, labor, time and effort in creating something that helps develop the society. These justifications have given rise to new forms of properties like, patents, copyrights, designs, trademarks, and Breeder's Rights, etc. Using the same analogy, it is argued that farmers must also be rewarded for their past, present and future contributions in conserving, improving, and making available plant genetic resources. The farming community has over centuries protected and preserved our plant genetic resources and it would be unfair if they were not rewarded for their efforts. The farming community is an equally important stakeholder in maintaining future food security of the world. But the farming community has been denied that what is due to them. This paper presents an analysis of the conceptual basis of farmers' rights in IPR regime.*

[14] University of Kashmir, The Jammu & Kashmir Bank Ltd, Law Department, BKC Mumbai

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## Contents


| | | |
|---|---|---|
| 1 | Access to New Research and Inventions<br>*Mr. Dilip Sharma* | 6 |
| 2 | IPR Policy and Awareness Programs<br>*Prof Dilip Sharma* | 7 |
| 3 | New Dimensions of Patenting Medical Inventions<br>*Dr S V Damodar Reddy* | 8 |
| 4 | Piracy and Law<br>*Dr. Rekraj Jain* | 9 |
| 5 | Fostering of Intellectual Property Culture in SMEs and Challenges<br>*Dr S V Damodar Reddy* | 10 |
| 6 | Compulsory Licensing Challenges in Patent Law<br>*Dr. Veena* | 11 |
| 7 | Parallel Imports , Issues and Trademarks<br>*Rukmini Desai* | 12 |
| 8 | Intellectual Property Management in Universities, Research and Educational Institutions Practice & Perspective Plans.<br>*Dr S V Damodar Reddy* | 13 |
| 9 | "The Enigma of Protecting Background Performers: An Analysis Under the Indian Copyright Law"<br>*Ms Manini Sidhu* | 14 |
| 10 | Street Art and Graffiti: Basics and Recognition<br>*Rishav Soni,* | 15 |
| 11 | Traditional Knowledge in India: A Legislative Analysis<br>*Rukma Lavanya* | 16 |
| 12 | "The Enigma of Protecting Background Performers: An Analysis Under the Indian Copyright Law"<br>*Ms Manini Sidhu,* | 17 |
| 13 | Protecting the Performers' Rights: An Analysis of the Relevant Law in the Indian Copyright Regime<br>*Aftab Jeelani Wani* | 18 |
| 14 | Modern Encroachment on Traditional Rights of Farmers: An Analysis of the Conceptual Basis of Farmers' Rights in IPR Regime<br>*Showkat Hussain* | 19 |
| 15 | Intelligent Trademarks: "Is Artificial Intelligence Colliding with Trademark Law?"<br>*Kalyan Revalla* | 20 |
| 16 | Evolution of Farmers' Rights in Intellectual Property Regime: International and Indian Perspective<br>*Showkat Hussain* | 21 |
| 17 | Patenting of Life Forms: Reflections on Some Legal and Ethical Issues<br>*M Hussain* | 22 |
| 18 | The Concept of Originality Under Copyright Law: An Analysis of Judicial Interpretation and Juristic Opinions<br>*Aftab Jeelani Wani* | 23 |

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IJARST

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# Intelligent Trademarks: "Is Artificial Intelligence Colliding with Trademark Law?"

**Kalyan Revalla**[15]

*Abstract:*

*We have entered a generation where Artificial Intelligence (AI) is creating a tectonic shift in the way people interact with the technology. Human is being replaced by the Artificial Intelligence to perform the automatic complex cognitive tasks. AI is trying to build the 'transhumanism' system where it can outperform the human capabilities. Though AI had failed to link the intelligence and consciousness but it was able to build a Neural network technology which is designed in a way works similar to the human brain. This process of AI is creating ripples in the trademark law. As AI reduces the human involvement in the product suggestion and product purchasing process then the validity of the traditional trademark law is questioned. Traditionally, trademark is treated as tool for the source identification and hence the legal protection but in the modern world the trademarks changed their character and also being used as an effective tool for both the corporate and social communication. Once the machine learning replaces the human then the aspect of source identification evaporates where as they can directly recollect the source by analyzing the data. And by this questions are raised regarding the basic tenants of the trademark law include likelihood of confusion, initial interest confusion, post purchase confusion, average consumer and imperfect recollection where AI is not going to face any of the confusions and it will perfectly recollect the source. These are some of the aspects where AI is hitting hard at the trademark law. It appears that trademark law need to adopt or reform or evolve according to the technological changes but it is highly impossible to get rid of the trademark law as long as there is an emotional chord between the consumer and brand.*

[15] Deputy Commissioner, Central Board of Indirect Taxes and Customs (CBIC), Government of India

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## Contents


| | | |
|---|---|---|
| 1 | Access to New Research and Inventions<br>*Mr. Dilip Sharma* | 6 |
| 2 | IPR Policy and Awareness Programs<br>*Prof Dilip Sharma* | 7 |
| 3 | New Dimensions of Patenting Medical Inventions<br>*Dr S V Damodar Reddy* | 8 |
| 4 | Piracy and Law<br>*Dr. Rekraj Jain* | 9 |
| 5 | Fostering of Intellectual Property Culture in SMEs and Challenges<br>*Dr S V Damodar Reddy* | 10 |
| 6 | Compulsory Licensing Challenges in Patent Law<br>*Dr.Veena* | 11 |
| 7 | Parallel Imports , Issues and Trademarks<br>*Rukmini Desai* | 12 |
| 8 | Intellectual Property Management in Universities, Research and Educational Institutions Practice & Perspective Plans.<br>*Dr S V Damodar Reddy* | 13 |
| 9 | "The Enigma of Protecting Background Performers: An Analysis Under the Indian Copyright Law"<br>*Ms Manini Sidhu* | 14 |
| 10 | Street Art and Graffiti: Basics and Recognition<br>*Rishav Soni,* | 15 |
| 11 | Traditional Knowledge in India: A Legislative Analysis<br>*Rukma Lavanya* | 16 |
| 12 | "The Enigma of Protecting Background Performers: An Analysis Under the Indian Copyright Law"<br>*Ms Manini Sidhu,* | 17 |
| 13 | Protecting the Performers' Rights: An Analysis of the Relevant Law in the Indian Copyright Regime<br>*Aftab Jeelani Wani* | 18 |
| 14 | Modern Encroachment on Traditional Rights of Farmers: An Analysis of the Conceptual Basis of Farmers' Rights in IPR Regime<br>*Showkat Hussain* | 19 |
| 15 | Intelligent Trademarks: "Is Artificial Intelligence Colliding with Trademark Law?"<br>*Kalyan Revalla* | 20 |
| 16 | Evolution of Farmers' Rights in Intellectual Property Regime: International and Indian Perspective<br>*Showkat Hussain* | 21 |
| 17 | Patenting of Life Forms: Reflections on Some Legal and Ethical Issues<br>*M Hussain* | 22 |
| 18 | The Concept of Originality Under Copyright Law: An Analysis of Judicial Interpretation and Juristic Opinions<br>*Aftab Jeelani Wani* | 23 |

IJARST

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# Evolution of Farmers' Rights in Intellectual Property Regime: International and Indian Perspective

**Showkat Hussain**[16]

*Abstract*

*Ever since the homo-sapiens began to use land for creating means of sustenance like food, clothing and shelter, the importance of land as a crucial input in the development of human civilization was realized. Besides, the settlement of people, after nomadic life, also brought into focus the relevance of agricultural land for their survival and development. With the passage of time, the position of the farmer became most vulnerable and pitiable which needed protection at the societal level through the instrument of law. After the Second World War, with the growth of international trade, many new doctrines and concepts were evolved and propagated. Among these, the concept of Intellectual Property, though evolved in the 19th century, witnessed increased recognition and acceptance in the global community. One of the aspects of the Intellectual Property Rights (IPRs) was the protection of breeders' rights. The plant breeders were given protection and many international conventions were convened for this purpose. The International Undertaking on Plant Genetic Resources (IU), the Convention on Biological Diversity, TRIPs Agreement and International Treaty on Plant Genetic Resources for Food and Agriculture, 2001 are four important international conventions that are relevant to the construction of ownership and control of plant genetic resources in global debates on plant variety protection. After according protection to plant breeders, it was soon realized that the rights of the breeders were in conflict with those of farmers. As a result, the concept of farmer's rights was put forth both at international and national levels.*

[16] Lecturer, Sopore Law College, University of Kashmir, Srinagar, Jammu & Kashmir, India.

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## Contents


| | | |
|---|---|---|
| 1 | Access to New Research and Inventions<br>*Mr. Dilip Sharma* | 6 |
| 2 | IPR Policy and Awareness Programs<br>*Prof Dilip Sharma* | 7 |
| 3 | New Dimensions of Patenting Medical Inventions<br>*Dr S V Damodar Reddy* | 8 |
| 4 | Piracy and Law<br>*Dr. Rekraj Jain* | 9 |
| 5 | Fostering of Intellectual Property Culture in SMEs and Challenges<br>*Dr S V Damodar Reddy* | 10 |
| 6 | Compulsory Licensing Challenges in Patent Law<br>*Dr. Veena* | 11 |
| 7 | Parallel Imports , Issues and Trademarks<br>*Rukmini Desai* | 12 |
| 8 | Intellectual Property Management in Universities, Research and Educational Institutions Practice & Perspective Plans.<br>*Dr S V Damodar Reddy* | 13 |
| 9 | "The Enigma of Protecting Background Performers: An Analysis Under the Indian Copyright Law"<br>*Ms Manini Sidhu* | 14 |
| 10 | Street Art and Graffiti: Basics and Recognition<br>*Rishav Soni,* | 15 |
| 11 | Traditional Knowledge in India: A Legislative Analysis<br>*Rukma Lavanya* | 16 |
| 12 | "The Enigma of Protecting Background Performers: An Analysis Under the Indian Copyright Law"<br>*Ms Manini Sidhu,* | 17 |
| 13 | Protecting the Performers' Rights: An Analysis of the Relevant Law in the Indian Copyright Regime<br>*Aftab Jeelani Wani* | 18 |
| 14 | Modern Encroachment on Traditional Rights of Farmers: An Analysis of the Conceptual Basis of Farmers' Rights in IPR Regime<br>*Showkat Hussain* | 19 |
| 15 | Intelligent Trademarks: "Is Artificial Intelligence Colliding with Trademark Law?"<br>*Kalyan Revalla* | 20 |
| 16 | Evolution of Farmers' Rights in Intellectual Property Regime: International and Indian Perspective<br>*Showkat Hussain* | 21 |
| 17 | Patenting of Life Forms: Reflections on Some Legal and Ethical Issues<br>*M Hussain* | 22 |
| 18 | The Concept of Originality Under Copyright Law: An Analysis of Judicial Interpretation and Juristic Opinions<br>*Aftab Jeelani Wani* | 23 |

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# Patenting of Life Forms: Reflections on Some Legal and Ethical Issues

M Hussain[17]

*Abstract:*

*Biotechnology and genetic engineering have made it possible to create new life forms or even to re-evolve the life forms. Stem cell technology, somatic cell hybridization, genome technology, gene therapy and cloning are the buzzwords of modern scientific developments and research. The developments in these branches of science in the field of pharmaceuticals, agriculture and human healthcare are significant, with medicines such as insulin, erythro protein and interferon produced on commercial scale. In agriculture, the development of disease-resistant plant varieties, hybrid seeds and plants, nitrogen fixing microorganisms, new plant varieties with shorter life cycle, etc., and in human life science, the reconstruction of organs and creating life through cloning, biotechnology and genetic engineering are making a long-lasting impact on the human life. A section of the scientific world argues that the risk involved in commercially applying most of these scientific techniques can cause serious and irreparable damages to environment. Some others view that patenting in such areas should not be allowed for the reasons of biodiversity preservation and rights of indigenous people. Some critics of cloning technology and organ reconstruction technology foresee the danger to nature as compared to its advantages. This paper attempts to analyze the arguments against the patenting of life forms, which have been divided into the following: ethical and religious arguments; environmental implications; economic considerations; and legal issues. The author has also attempted to analyze the questions as to whether there are certain inherent values in life and whether patenting life forms violates such inherent values. The paper concludes with some important suggestions as to patenting of life forms.*

[17] Senior Associate Professor, Department of Law, University of Kashmir, Srinagar

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# on

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## Contents


| | | |
|---|---|---|
| 1 | Access to New Research and Inventions<br>*Mr. Dilip Sharma* | 6 |
| 2 | IPR Policy and Awareness Programs<br>*Prof Dilip Sharma* | 7 |
| 3 | New Dimensions of Patenting Medical Inventions<br>*Dr S V Damodar Reddy* | 8 |
| 4 | Piracy and Law<br>*Dr. Rekraj Jain* | 9 |
| 5 | Fostering of Intellectual Property Culture in SMEs and Challenges<br>*Dr S V Damodar Reddy* | 10 |
| 6 | Compulsory Licensing Challenges in Patent Law<br>*Dr. Veena* | 11 |
| 7 | Parallel Imports , Issues and Trademarks<br>*Rukmini Desai* | 12 |
| 8 | Intellectual Property Management in Universities, Research and Educational Institutions Practice & Perspective Plans.<br>*Dr S V Damodar Reddy* | 13 |
| 9 | "The Enigma of Protecting Background Performers: An Analysis Under the Indian Copyright Law"<br>*Ms Manini Sidhu* | 14 |
| 10 | Street Art and Graffiti: Basics and Recognition<br>*Rishav Soni,* | 15 |
| 11 | Traditional Knowledge in India: A Legislative Analysis<br>*Rukma Lavanya* | 16 |
| 12 | "The Enigma of Protecting Background Performers: An Analysis Under the Indian Copyright Law"<br>*Ms Manini Sidhu,* | 17 |
| 13 | Protecting the Performers' Rights: An Analysis of the Relevant Law in the Indian Copyright Regime<br>*Aftab Jeelani Wani* | 18 |
| 14 | Modern Encroachment on Traditional Rights of Farmers: An Analysis of the Conceptual Basis of Farmers' Rights in IPR Regime<br>*Showkat Hussain* | 19 |
| 15 | Intelligent Trademarks: "Is Artificial Intelligence Colliding with Trademark Law?"<br>*Kalyan Revalla* | 20 |
| 16 | Evolution of Farmers' Rights in Intellectual Property Regime: International and Indian Perspective<br>*Showkat Hussain* | 21 |
| 17 | Patenting of Life Forms: Reflections on Some Legal and Ethical Issues<br>*M Hussain* | 22 |
| 18 | The Concept of Originality Under Copyright Law: An Analysis of Judicial Interpretation and Juristic Opinions<br>*Aftab Jeelani Wani* | 23 |

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# The Concept of Originality Under Copyright Law: An Analysis of Judicial Interpretation and Juristic Opinions

Aftab Jeelani Wani[18]

*Abstract:*

*The sine qua non for statutory copyright protection to a literary, dramatic, musical and artistic work under any legal system is that the work must be 'original'. But no copyright law, whether national or international, has provided any sort of definition or meaning as to what the term 'original' in the context of the subject means. The matter, therefore, has been left open for the national courts to determine and legal fraternity to ponder upon. As such, different theories have developed across the globe in relation to the meaning of the term 'original' under copyright law. The interpretation of the term 'original' has significant legal consequences as it has a direct bearing on the question of as to what qualifies for the subject matter of copyright and what not and is, therefore, an important aid in deciding the cases of infringement of copyrighted works. This paper analyzes the various aspects of the concept of 'originality' at international and national levels including the approach of the Supreme Court of India vis-à-vis interpretation of the term 'original' as a sine qua non for grant of copyright protection.*

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## Contents


| | | |
|---|---|---|
| 1 | Beyond Reasonable Doubt....<br>*Prof Answesha Panigrahi* | 7 |
| 2 | A Socio Psyco-Legal Perspective of Restorative Justice of Crime Victims<br>*Dr.Rekh Raj Jain* | 8 |
| 3 | Sexual Abuse of Minor Girl Child<br>*Mrs. Geetha Priyadarshini* | 9 |
| 4 | Capital Punishment: A Legal Assault on the Indian Economy<br>*Ms. Priti* | 10 |
| 5 | Socio-Legal Disparity and the Need for Sentencing Reforms in White Collar Crimes<br>*Ms Priti* | 12 |
| 6 | Effective Human Restoration of Prisoner's with Special Reference to India<br>*Dr.Rekh Raj Jain* | 14 |
| 7 | Neuro-criminology in the Court Room<br>*Dr. K.S.Rekh Raj Jain* | 15 |
| 8 | Notching up Reformation- A Transformative Justice Approach to Corrections<br>*Anwesha Panigrahi* | 16 |
| 9 | Fugitive Economic Offender and Extradition Law in India: A Critical Analysis<br>*Dr. Sumanth Meher* | 17 |
| 10 | Prisoners Right to Conjugal Visitation: A Legal Perspective<br>*Dr.P.L.Jayanthi Reddy* | 18 |
| 11 | Decriminalisation of Adultery Law<br>*Amit Kumar* | 19 |
| 12 | Evolving Capacities of Children: An Analysis in Reference to the Juvenile in Conflict<br>*D.V.N Murty* | 20 |
| 13 | Criminal Justice Administration in India: Focus on the Victims of Crime<br>*Mudasir Bhat* | 21 |
| 14 | Brutality of Honor Killings is on the Rise: The Need for a New Legislation<br>*D V Srilakshmi* | 22 |
| 15 | Protection of Rights of Women Prisoners in India<br>*T Sita Kumari* | 23 |
| 16 | Child Emotional Abuse: Causes, Effects and Remedies<br>*Anubha Srivastava*<br>*Sunitha Abhay Jain* | 24 |

| | | |
|---|---|---|
| 17 | Commutation of Death Sentence to Life Imprisonment on Grounds of Delay: The Ground Realities<br>*Ashutosh Hajela* | 25 |
| 18 | The Prevention of Money Laundering Act, 2002: Caveat Emptor<br>*D Ganesh Kumar*<br>*Akshay D Gudinho* | 26 |
| 19 | The Social Impact of the Supreme Court Ruling on Adultery in India: An Analysis<br>*N B Chandra Kala*<br>*A Anuradha* | 27 |
| 20 | "The smile of a child speaks the language of god"<br>*Dr. Anita Yadhav* | 28 |
| 21 | Right to abortion: Time to revisit the Medical Termination of Pregnancy (MTP) Act, 1971<br>*Mr. Amit Yadav* | 29 |
| 22 | Policy Framework for the child protection in India - An Analysis on POCSO Act.<br>*Dr. Sanjay Bang* | 30 |
| 23 | "Man, wooing woman through sanctity and sentiment - A critique on application of Domestic Violence Act"<br>*Dr. Aarti Tyagi* | 31 |
| 24 | Role of Forensic Evidence in Criminal Cases.<br>*Dr.P.Vara Lakshmi* | 32 |
| 25 | Role of Forensic Science in Criminal Investigations<br>*Dharmitha Kovvuri* | 34 |

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# Beyond Reasonable Doubt...

Prof Answesha Panigrahi[1]

Abstract :

The Allahabad High Court judgement acquitting parents of Aarushi in double murder case and exposing the way the prosecution was conducted is posing many questions on the weaknesses of investigations. The lacuna in the investigations and collection of evidences forced the Court to acquit the alleged offenders. Even the expert evidence is missing the fine details of the body autopsy. The prosecution was not able to prove the case beyond reasonable doubt and many questions were unanswered. The Court also flayed the trial judge for his parochial approach. The benefit of doubt was given to the parents of Aarushi. Like, in a book and movie produced based on the incident, the shoddy and insensitive investigation of the prosecuting agency has become the centre of debate after the judgement.

It is not the first case of its kind. Many cases filed by the government investigating agencies, are lost because of imperfect investigation and collection of evidences at the time and place of incidence or failing to use and place the evidence before courts. As a result, many innocent people are being placed in remand as under -trials on one hand and real offenders are acquitted on other hand. Tax payers money is spent for the trials having no effective results. Negative messages are spread in the society. The government machineries are demeaned. The public is losing their faith in the judicial process.

In order to rebuild the image of the investigating agencies and reimpose the confidence among the common man in the judicial process, there is a need to understand the reasons for substandard investigations and collection of evidences. The expertise, knowledge and skill-sets of members of investigating team members are to be assessed before they are given the task. The sufficient training in the field of investigation, forensic science, evidence collection and use of equipment's and devices are to be provided to the agencies. It may minimise the case failures, help in the nailing the real offenders and saving the face of the investigating agencies in the public.

[1]

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## Contents


| | | |
|---|---|---|
| 1 | Beyond Reasonable Doubt....<br>*Prof Answesha Panigrahi* | 7 |
| 2 | A Socio Psyco-Legal Perspective of Restorative Justice of Crime Victims<br>*Dr.Rekh Raj Jain* | 8 |
| 3 | Sexual Abuse of Minor Girl Child<br>*Mrs. Geetha Priyadarshini* | 9 |
| 4 | Capital Punishment: A Legal Assault on the Indian Economy<br>*Ms. Priti* | 10 |
| 5 | Socio-Legal Disparity and the Need for Sentencing Reforms in White Collar Crimes<br>*Ms Priti* | 12 |
| 6 | Effective Human Restoration of Prisoner's with Special Reference to India<br>*Dr.Rekh Raj Jain* | 14 |
| 7 | Neuro-criminology in the Court Room<br>*Dr. K.S.Rekh Raj Jain* | 15 |
| 8 | Notching up Reformation- A Transformative Justice Approach to Corrections<br>*Anwesha Panigrahi* | 16 |
| 9 | Fugitive Economic Offender and Extradition Law in India: A Critical Analysis<br>*Dr. Sumanth Meher* | 17 |
| 10 | Prisoners Right to Conjugal Visitation: A Legal Perspective<br>*Dr.P.L.Jayanthi Reddy* | 18 |
| 11 | Decriminalisation of Adultery Law<br>*Amit Kumar* | 19 |
| 12 | Evolving Capacities of Children: An Analysis in Reference to the Juvenile in Conflict<br>*D.V.N Murty* | 20 |
| 13 | Criminal Justice Administration in India: Focus on the Victims of Crime<br>*Mudasir Bhat* | 21 |
| 14 | Brutality of Honor Killings is on the Rise: The Need for a New Legislation<br>*D V Srilakshmi* | 22 |
| 15 | Protection of Rights of Women Prisoners in India<br>*T Sita Kumari* | 23 |
| 16 | Child Emotional Abuse: Causes, Effects and Remedies<br>*Anubha Srivastava*<br>*Sunitha Abhay Jain* | 24 |

| | | |
|---|---|---|
| 17 | Commutation of Death Sentence to Life Imprisonment on Grounds of Delay: The Ground Realities<br>*Ashutosh Hajela* | 25 |
| 18 | The Prevention of Money Laundering Act, 2002: Caveat Emptor<br>*D Ganesh Kumar*<br>*Akshay D Gudinho* | 26 |
| 19 | The Social Impact of the Supreme Court Ruling on Adultery in India: An Analysis<br>*N B Chandra Kala*<br>*A Anuradha* | 27 |
| 20 | "The smile of a child speaks the language of god"<br>*Dr. Anita Yadhav* | 28 |
| 21 | Right to abortion: Time to revisit the Medical Termination of Pregnancy (MTP) Act, 1971<br>*Mr. Amit Yadav* | 29 |
| 22 | Policy Framework for the child protection in India - An Analysis on POCSO Act.<br>*Dr. Sanjay Bang* | 30 |
| 23 | "Man, wooing woman through sanctity and sentiment – A critique on application of Domestic Violence Act"<br>*Dr. Aarti Tyagi* | 31 |
| 24 | Role of Forensic Evidence in Criminal Cases.<br>*Dr.P.Vara Lakshmi* | 32 |
| 25 | Role of Forensic Science in Criminal Investigations<br>*Dharmitha Kovvuri* | 34 |

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# A Socio Psyco-Legal Perspective of Restorative Justice of Crime Victims

Dr.Rekh Raj Jain[2]

Abstract:

Crime happens in many forms and has different effects. The tail-end of the criminal justice is prison as modern Criminal justice opines punishment as a primary response to crime. The most evident sufferer of crime is the victim who has been personally harmed. The most obvious effects of crime is that the victim suffer to ongoing social legal and psychological problems. Thus crime victims are vital from societal, psychological and legal as each of them has their own approach and perspective.The upsurge ideology and concern for crime victims in the present times had led to many initiatives from different angles. But the ultimate voice of echo is that it insists on justice to repair the damages. Therefore focus has shifted to vendetta of restoration of justice. Restorative justice is a new movement in the fields of victimology and criminology. Restorative justice is a "new" way of responding to crime and harm based on ancient practices. The stakeholders in the restorative process comprises the victim, the offender and the community with a major ideology to promote repair, reconciliation and reassurance of healing to the victim and with an aim to involve the community in actively preventing crime by reducing recidivism, by rehabilitating and reintegrating offenders. Restorative justice, therefore, advocates restitution to the victim by the offender rather than retribution by the state against the offender. The restorative process involves all the stakeholders in face to face interface as it is stated to be a most power method of addressing not the material and physical damages caused by crime, but also the social, psychological and legal perspective of a victim. Restorative justice is an approach to criminal justice system that emphasis on the victim and the community rather punishing and incarcerating the offender. Restorative justice practices help in saving valuable resources of the State and strengthening the image of the justice system in the eyes of the public. The society has now awakened to realize that the punitive options under the current system neither benefits the society nor serve as an effective deterrent. Replacing the retributive model of criminal justice by a restorative model will signal the dawning of a new era for crime victims.

[2] Assistant Professor, ICFAI Law School, Hyderabad

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## Contents


| | | |
|---|---|---|
| 1 | Beyond Reasonable Doubt....<br>*Prof Answesha Panigrahi* | 7 |
| 2 | A Socio Psyco-Legal Perspective of Restorative Justice of Crime Victims<br>*Dr.Rekh Raj Jain* | 8 |
| 3 | Sexual Abuse of Minor Girl Child<br>*Mrs. Geetha Priyadarshini* | 9 |
| 4 | Capital Punishment: A Legal Assault on the Indian Economy<br>*Ms. Priti* | 10 |
| 5 | Socio-Legal Disparity and the Need for Sentencing Reforms in White Collar Crimes<br>*Ms Priti* | 12 |
| 6 | Effective Human Restoration of Prisoner's with Special Reference to India<br>*Dr.Rekh Raj Jain* | 14 |
| 7 | Neuro-criminology in the Court Room<br>*Dr. K.S.Rekh Raj Jain* | 15 |
| 8 | Notching up Reformation- A Transformative Justice Approach to Corrections<br>*Anwesha Panigrahi* | 16 |
| 9 | Fugitive Economic Offender and Extradition Law in India: A Critical Analysis<br>*Dr. Sumanth Meher* | 17 |
| 10 | Prisoners Right to Conjugal Visitation: A Legal Perspective<br>*Dr.P.L.Jayanthi Reddy* | 18 |
| 11 | Decriminalisation of Adultery Law<br>*Amit Kumar* | 19 |
| 12 | Evolving Capacities of Children: An Analysis in Reference to the Juvenile in Conflict<br>*D.V.N Murty* | 20 |
| 13 | Criminal Justice Administration in India: Focus on the Victims of Crime<br>*Mudasir Bhat* | 21 |
| 14 | Brutality of Honor Killings is on the Rise: The Need for a New Legislation<br>*D V Srilakshmi* | 22 |
| 15 | Protection of Rights of Women Prisoners in India<br>*T Sita Kumari* | 23 |
| 16 | Child Emotional Abuse: Causes, Effects and Remedies<br>*Anubha Srivastava*<br>*Sunitha Abhay Jain* | 24 |

| | | |
|---|---|---|
| 17 | Commutation of Death Sentence to Life Imprisonment on Grounds of Delay: The Ground Realities<br>*Ashutosh Hajela* | 25 |
| 18 | The Prevention of Money Laundering Act, 2002: Caveat Emptor<br>*D Ganesh Kumar*<br>*Akshay D Gudinho* | 26 |
| 19 | The Social Impact of the Supreme Court Ruling on Adultery in India: An Analysis<br>*N B Chandra Kala*<br>*A Anuradha* | 27 |
| 20 | "The smile of a child speaks the language of god"<br>*Dr. Anita Yadhav* | 28 |
| 21 | Right to abortion: Time to revisit the Medical Termination of Pregnancy (MTP) Act, 1971<br>*Mr. Amit Yadav* | 29 |
| 22 | Policy Framework for the child protection in India - An Analysis on POCSO Act.<br>*Dr. Sanjay Bang* | 30 |
| 23 | "Man, wooing woman through sanctity and sentiment - A critique on application of Domestic Violence Act"<br>*Dr. Aarti Tyagi* | 31 |
| 24 | Role of Forensic Evidence in Criminal Cases.<br>*Dr.P.Vara Lakshmi* | 32 |
| 25 | Role of Forensic Science in Criminal Investigations<br>*Dharmitha Kovvuri* | 34 |

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# Sexual Abuse of Minor Girl Child

Mrs. Geetha Priyadarshini[3]

Abstract:

Child sexual abuse as a form of child abuse in which an adult or older adolescent uses a child for sexual stimulation. Forms of child sexual abuse include engaging in sexual activities with a child, child grooming, or using a child to produce child pornography. WHO Consultation on Child Abuse Prevention which stated that: "Child sexual abuse is the involvement of a child in sexual activity that he or she does not fully comprehend, is unable to give informed consent to, or for which the child is not developmentally prepared and cannot give consent, or that violates the laws or social taboos of society. Child sexual abuse is evidenced by this activity between a child and an adult or another child who by age or development is in a relationship of responsibility, trust or power, the activity being intended to gratify or satisfy the needs of the other person. This may include but is not limited to: — the inducement or coercion of a child to engage in any unlawful sexual activity; — the exploitative use of a child in prostitution or other unlawful sexual practices; — the exploitative use of children in pornographic performance and materials". Child sexual abuse can occur in a variety of settings, including home, school, or work (in places where child labor is common). Child marriage is one of the main forms of child sexual abuse. The effects of child sexual abuse can include depression, post-traumatic stress disorder, anxiety, complex post-traumatic stress disorder, propensity to further victimization in adulthood, and physical injury to the child, among other problems. Sexual abuse by a family member is a form of incest and can result in more serious and long-term psychological trauma, especially in the case of parental incest. The POCSO Act 2012, which protects the children from sexual abuse and throws light on the important provisions under the Act. This paper suggests that proper implementation of these provisions required for affective working of the POSC Act.

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## Contents


| | | |
|---|---|---|
| 1 | Beyond Reasonable Doubt....<br>*Prof Answesha Panigrahi* | 7 |
| 2 | A Socio Psyco-Legal Perspective of Restorative Justice of Crime Victims<br>*Dr.Rekh Raj Jain* | 8 |
| 3 | Sexual Abuse of Minor Girl Child<br>*Mrs. Geetha Priyadarshini* | 9 |
| 4 | Capital Punishment: A Legal Assault on the Indian Economy<br>*Ms. Priti* | 10 |
| 5 | Socio-Legal Disparity and the Need for Sentencing Reforms in White Collar Crimes<br>*Ms Priti* | 12 |
| 6 | Effective Human Restoration of Prisoner's with Special Reference to India<br>*Dr.Rekh Raj Jain* | 14 |
| 7 | Neuro-criminology in the Court Room<br>*Dr. K.S.Rekh Raj Jain* | 15 |
| 8 | Notching up Reformation- A Transformative Justice Approach to Corrections<br>*Anwesha Panigrahi* | 16 |
| 9 | Fugitive Economic Offender and Extradition Law in India: A Critical Analysis<br>*Dr. Sumanth Meher* | 17 |
| 10 | Prisoners Right to Conjugal Visitation: A Legal Perspective<br>*Dr.P.L.Jayanthi Reddy* | 18 |
| 11 | Decriminalisation of Adultery Law<br>*Amit Kumar* | 19 |
| 12 | Evolving Capacities of Children: An Analysis in Reference to the Juvenile in Conflict<br>*D.V.N Murty* | 20 |
| 13 | Criminal Justice Administration in India: Focus on the Victims of Crime<br>*Mudasir Bhat* | 21 |
| 14 | Brutality of Honor Killings is on the Rise: The Need for a New Legislation<br>*D V Srilakshmi* | 22 |
| 15 | Protection of Rights of Women Prisoners in India<br>*T Sita Kumari* | 23 |
| 16 | Child Emotional Abuse: Causes, Effects and Remedies<br>*Anubha Srivastava*<br>*Sunitha Abhay Jain* | 24 |

| | | |
|---|---|---|
| 17 | Commutation of Death Sentence to Life Imprisonment on Grounds of Delay: The Ground Realities<br>*Ashutosh Hajela* | 25 |
| 18 | The Prevention of Money Laundering Act, 2002: Caveat Emptor<br>*D Ganesh Kumar*<br>*Akshay D Gudinho* | 26 |
| 19 | The Social Impact of the Supreme Court Ruling on Adultery in India: An Analysis<br>*N B Chandra Kala*<br>*A Anuradha* | 27 |
| 20 | "The smile of a child speaks the language of god"<br>*Dr. Anita Yadhav* | 28 |
| 21 | Right to abortion: Time to revisit the Medical Termination of Pregnancy (MTP) Act, 1971<br>*Mr. Amit Yadav* | 29 |
| 22 | Policy Framework for the child protection in India - An Analysis on POCSO Act.<br>*Dr. Sanjay Bang* | 30 |
| 23 | "Man, wooing woman through sanctity and sentiment – A critique on application of Domestic Violence Act"<br>*Dr. Aarti Tyagi* | 31 |
| 24 | Role of Forensic Evidence in Criminal Cases.<br>*Dr.P.Vara Lakshmi* | 32 |
| 25 | Role of Forensic Science in Criminal Investigations<br>*Dharmitha Kovvuri* | 34 |

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# Capital Punishment: A Legal Assault on the Indian Economy

Ms. Priti[4]

Abstract:

Faculty started by explaining that until 1960's, the usage of economics was restricted to anti-trust laws, tax law or for determining the quantum of compensation or monetary damages in claims. But after 1960, the limited application of economics expanded to more traditional legal areas like Constitutional Law, Criminal Law, Property Law etc. She said, Capital punishment has probably been one of the most argued penological measures in the contemporary criminal justice delivery systems. In India capital punishment is given for offences under Indian Penal Code 1860 like murder, dacoity with murder, waging war against the state, abetment of mutiny, giving or fabricating false evidence leading to procure one's conviction for capital offense, abetment of suicide by child or insane person, attempt to murder by a life convict if hurt is caused, kidnapping for ransom, rape resulting in death or permanent vegetative state of the victim, punishment for repeat offenders of rape. Apart from the offences mentioned in IPC there are certain other offences under special legislations like Defense of India Act 1971, Unlawful Activities (Prevention) Act 1967, Air Force Act 1950, Army Act 1950, Navy Act 1957, Narcotic Drugs and Psychotropic Substance Act 1985 etc. which are punishable by death. Further she states that the most favored arguments by propounders of death penalty as stated by Martin Kasten for death penalty is that it acts as a deterrence against crimes in the society and that it is more economical than keeping a convict behind bars for his entire life Vis a Vis life imprisonment. This research paper tries to highlight the economic impact of executing a death penalty case in India starting from trial to the execution of sentence. The research paper intends to do a cost benefit analysis of death penalty as opposed to a sentence of life imprisonment i.e. by weighing the costs of executing the convict versus the costs of keeping the convict alive for life by using empirical study. She further explains the cost of a death penalty case includes not only the cost of executing the penalty as such but also several other costs incurred by the State like collection of forensic evidence, special security for the convicts etc. in all stages of the trial the punishment for which is death. It may be noted that majority of the countries provide a multi-layered procedural safeguard such as reviews, revisions, appealsto the interests of a person convicted and awarded capital punishment because human life is precious and any attempt to take away that life by the State must be based on proper procedure and on reasonable grounds. Similarly in India, there are several layers of procedural safeguards given to a convict after he is awarded death penalty like confirmation of sentence by High Court, review, revision, appeal to the Supreme Court, curative petitions, and pardon by the President.

Moreover the costs incurred in investigation, discovery, collecting the evidence; that includes forensic evidence is much more when compared to that of a case where the intended punishment is not death penalty because of the assessment of mitigating and aggravating circumstances. The calculation of mitigating and aggravating factors based on which the death penalty is awarded in our country seems to be an expensive exercise because expert opinion is required to solidify these factors. Furthermore the expenses incurred in the upkeep and security of the death row convicts is comparatively high as they are usually high profile criminals who require a more secure haven. She concludes by saying that the paper contends to point out that it is economically unviable to bear these costs, which is reflected from the argument that the death penalty also fails in achieving the intended utility of deterrence, as India

[4] Assistant Professor, ICFAI Law School, Hyderabad

follows the rarest of the rare principle where minimum number of death sentences are awarded and not all of which actually result in execution. Most death penalty sentences are either commuted to life imprisonments or the trials take decades to get completed or the convicts are eventually granted pardon by the President. However, as aforementioned, regardless of these significant possibilities, the extra expenses attached to a trial of a death penalty case start mounting right from when the trial commences. Therefore the pertinent point here is that not only the State incurs these extra expenditures in the first place, they are also rendered pointless when the execution is not materialized. It is also remarkable to note that once we arrive at an estimate that death penalty does burn a hole in the state exchequer's pockets and that too without any material yields, we can further reflect upon the opportunity costs of retaining the capital punishment. If our country eliminates death penalty, the valuable employee hours spent on the trial of death penalty cases can be directed towards any other project of the State for strengthening the legal system like incorporating effective rehabilitative and reformative elements in the criminal justice delivery system.

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## Contents


| | | |
|---|---|---|
| 1 | Beyond Reasonable Doubt....<br>*Prof Answesha Panigrahi* | 7 |
| 2 | A Socio Psyco-Legal Perspective of Restorative Justice of Crime Victims<br>*Dr.Rekh Raj Jain* | 8 |
| 3 | Sexual Abuse of Minor Girl Child<br>*Mrs. Geetha Priyadarshini* | 9 |
| 4 | Capital Punishment: A Legal Assault on the Indian Economy<br>*Ms. Priti* | 10 |
| 5 | Socio-Legal Disparity and the Need for Sentencing Reforms in White Collar Crimes<br>*Ms Priti* | 12 |
| 6 | Effective Human Restoration of Prisoner's with Special Reference to India<br>*Dr.Rekh Raj Jain* | 14 |
| 7 | Neuro-criminology in the Court Room<br>*Dr. K.S.Rekh Raj Jain* | 15 |
| 8 | Notching up Reformation- A Transformative Justice Approach to Corrections<br>*Anwesha Panigrahi* | 16 |
| 9 | Fugitive Economic Offender and Extradition Law in India: A Critical Analysis<br>*Dr. Sumanth Meher* | 17 |
| 10 | Prisoners Right to Conjugal Visitation: A Legal Perspective<br>*Dr.P.L.Jayanthi Reddy* | 18 |
| 11 | Decriminalisation of Adultery Law<br>*Amit Kumar* | 19 |
| 12 | Evolving Capacities of Children: An Analysis in Reference to the Juvenile in Conflict<br>*D.V.N Murty* | 20 |
| 13 | Criminal Justice Administration in India: Focus on the Victims of Crime<br>*Mudasir Bhat* | 21 |
| 14 | Brutality of Honor Killings is on the Rise: The Need for a New Legislation<br>*D V Srilakshmi* | 22 |
| 15 | Protection of Rights of Women Prisoners in India<br>*T Sita Kumari* | 23 |
| 16 | Child Emotional Abuse: Causes, Effects and Remedies<br>*Anubha Srivastava*<br>*Sunitha Abhay Jain* | 24 |

| | | |
|---|---|---|
| 17 | Commutation of Death Sentence to Life Imprisonment on Grounds of Delay: The Ground Realities<br>*Ashutosh Hajela* | 25 |
| 18 | The Prevention of Money Laundering Act, 2002: Caveat Emptor<br>*D Ganesh Kumar*<br>*Akshay D Gudinho* | 26 |
| 19 | The Social Impact of the Supreme Court Ruling on Adultery in India: An Analysis<br>*N B Chandra Kala*<br>*A Anuradha* | 27 |
| 20 | "The smile of a child speaks the language of god"<br>*Dr. Anita Yadhav* | 28 |
| 21 | Right to abortion: Time to revisit the Medical Termination of Pregnancy (MTP) Act, 1971<br>*Mr. Amit Yadav* | 29 |
| 22 | Policy Framework for the child protection in India - An Analysis on POCSO Act.<br>*Dr. Sanjay Bang* | 30 |
| 23 | "Man, wooing woman through sanctity and sentiment – A critique on application of Domestic Violence Act"<br>*Dr. Aarti Tyagi* | 31 |
| 24 | Role of Forensic Evidence in Criminal Cases.<br>*Dr.P.Vara Lakshmi* | 32 |
| 25 | Role of Forensic Science in Criminal Investigations<br>*Dharmitha Kovvuri* | 34 |

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# Socio-Legal Disparity and the Need for Sentencing Reforms in White Collar Crimes

Ms Priti[5]

Abstract:

White collar crimes are generally non-violent crimes committed by a person belonging to high and respectable social status in commercial setups for financial gains. These offences tend to have a huge bearing on an individual's pockets, corporation's accounts and the economy of the nation. They can be in the form of frauds, thefts, tax evasions, insider trading, corruption and bribery, embezzlement, forgery, counterfeiting, money-laundering, insurance fraud, medical fraud, identity thefts and so on. The recent surge in white collar crimes has led to debates on the effectiveness of the legislations dealing with such offences. The treatment of such offenders in the criminal justice system has been an issue of deliberation since the very beginning. The fact that white collar crimes are differentiated from other crimes raises more concerns of the effectiveness of the sanctions. It has been observed that those who enjoy a place in the higher social circle, may use their status to get an unfair advantage in the legal process and tend to get away with less sanctions. Faculty discusses about another pertinent issue is that the data on white collar crimes is not easily available in the public domain and remains concealed under the cloak of official confidentiality. The reason behind the same is that incumbent governments do not wish to give an impression of their country as one which is perforated with the higher-class being law-breakers. Further the fact that the officials who themselves are involved in illegal activities do not wish to alert the public of the wrongful acts happening in other such places. She concludes by referring about the recent years, that India has seen a surge in white collar crimes due to rapid increase in commerce and technology. Furthermore the intermittent technological slump has added to the pressures of the employees to meet the high standards set by the companies. Even though there are several legislations in our country like Essential Commodities Act 1955, the Industrial (Development and Regulation) Act, 1951, The Import and Exports (Control) Act, 1947, The Foreign Exchange Management Act, 1999, Companies Act, 2013, Prevention of Money Laundering Act, 2002 and regulatory bodies like Securities and Exchange Board of India, *Serious Fraud Investigation Office*, Reserve Bank of India the gaps in these legislations and regulatory bodies seem to be ineffective in handling the cases efficiently. Therefore a need has been felt to introduce certain reforms in the sentencing pattern of these offences in order to handle them more effectively.

It is pertinent to note that these offences may have a serious impact on the victim, public and economy therefore sentencing reforms are vital. This article will dwell upon various possible alternatives to imprisonment one of which could be imposing higher amount of fines, this will not only help in saving the various administrative costs attached to imprisonment but also help in neutralizing the loss caused by these frauds to the economy. If the cost of incarceration for white collar crimes is the same for offenders with dissimilar earning capabilities, imprisoning the ones with very high earning capabilities is a waste of social capital if the objectives sought to be achieved by imprisonment can be achieved via other means. This can be further substantiated by doing a cost benefit analysis of the choice between fining and imprisoning. Some of the other suggested alternatives to imprisonment can be disgorgements, cancellation of licenses, revoking of registrations, dismissal from boards etc. This article

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intends to discuss the various feasible alternatives to imprisonment by analyzing the lacunae in the present legal framework and suggest reforms in order to make sentencing more effective for white collar offences.

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## Contents


| | | |
|---|---|---|
| 1 | Beyond Reasonable Doubt....<br>*Prof Answesha Panigrahi* | 7 |
| 2 | A Socio Psyco-Legal Perspective of Restorative Justice of Crime Victims<br>*Dr.Rekh Raj Jain* | 8 |
| 3 | Sexual Abuse of Minor Girl Child<br>*Mrs. Geetha Priyadarshini* | 9 |
| 4 | Capital Punishment: A Legal Assault on the Indian Economy<br>*Ms. Priti* | 10 |
| 5 | Socio-Legal Disparity and the Need for Sentencing Reforms in White Collar Crimes<br>*Ms Priti* | 12 |
| 6 | Effective Human Restoration of Prisoner's with Special Reference to India<br>*Dr.Rekh Raj Jain* | 14 |
| 7 | Neuro-criminology in the Court Room<br>*Dr. K.S.Rekh Raj Jain* | 15 |
| 8 | Notching up Reformation- A Transformative Justice Approach to Corrections<br>*Anwesha Panigrahi* | 16 |
| 9 | Fugitive Economic Offender and Extradition Law in India: A Critical Analysis<br>*Dr. Sumanth Meher* | 17 |
| 10 | Prisoners Right to Conjugal Visitation: A Legal Perspective<br>*Dr.P.L.Jayanthi Reddy* | 18 |
| 11 | Decriminalisation of Adultery Law<br>*Amit Kumar* | 19 |
| 12 | Evolving Capacities of Children: An Analysis in Reference to the Juvenile in Conflict<br>*D.V.N Murty* | 20 |
| 13 | Criminal Justice Administration in India: Focus on the Victims of Crime<br>*Mudasir Bhat* | 21 |
| 14 | Brutality of Honor Killings is on the Rise: The Need for a New Legislation<br>*D V Srilakshmi* | 22 |
| 15 | Protection of Rights of Women Prisoners in India<br>*T Sita Kumari* | 23 |
| 16 | Child Emotional Abuse: Causes, Effects and Remedies<br>*Anubha Srivastava*<br>*Sunitha Abhay Jain* | 24 |

| | | |
|---|---|---|
| 17 | Commutation of Death Sentence to Life Imprisonment on Grounds of Delay: The Ground Realities<br>*Ashutosh Hajela* | 25 |
| 18 | The Prevention of Money Laundering Act, 2002: Caveat Emptor<br>*D Ganesh Kumar*<br>*Akshay D Gudinho* | 26 |
| 19 | The Social Impact of the Supreme Court Ruling on Adultery in India: An Analysis<br>*N B Chandra Kala*<br>*A Anuradha* | 27 |
| 20 | "The smile of a child speaks the language of god"<br>*Dr. Anita Yadhav* | 28 |
| 21 | Right to abortion: Time to revisit the Medical Termination of Pregnancy (MTP) Act, 1971<br>*Mr. Amit Yadav* | 29 |
| 22 | Policy Framework for the child protection in India - An Analysis on POCSO Act.<br>*Dr. Sanjay Bang* | 30 |
| 23 | "Man, wooing woman through sanctity and sentiment - A critique on application of Domestic Violence Act"<br>*Dr. Aarti Tyagi* | 31 |
| 24 | Role of Forensic Evidence in Criminal Cases.<br>*Dr.P.Vara Lakshmi* | 32 |
| 25 | Role of Forensic Science in Criminal Investigations<br>*Dharmitha Kovvuri* | 34 |

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# Neuro-criminology in the Court Room

Dr. K.S.Rekh Raj Jain[7]

Abstract:

A crime is composed of elements. The cardinal principle to establish criminal liability i.e. both actus rues and mens rea must be proved. Since, 17th century criminal law emphasized on mental state of mind which is referred as mens rea. The existence of mens rea is decided by the judiciary by adducing of evidence. With advancement of the years, complexities concerning the usage of mens rea have arisen in courts in several cases. To resolve such issues the court started depending on the scientific inventions. The progression of sciences led to the evolution of multi-disciplinary as well as interdisciplinary fields and one among them is neuroscience. Neuroscience is concerned with the study of the structure and function of the nervous system. The applications of neuroscience to criminology have acquired increasing scientific and legal value. A specific field neuro law evolved which links the brain to law, enables to explore the effects of discoveries in neuroscience on legal rules and standards. The creator of today's most successful technologies is neuroimaging. By neuroimaging it is possible to predict whether a brain is predisposed to criminal activity. Brain imaging enables access to original information that may potentially be used by judiciary systems across the world. Advances in neuroimaging are revolutionizing our understanding of the brain and evidence suggests that the number of cases involving neuroimaging implications is rapidly increasing to determine criminal culpability. Neuroimaging data has questionable probative value in the criminal law.The application of brain imaging techniques and principles of neuroscience enables to comprehend and predict crime. A growing body of knowledge shows that criminal behaviour has a neurobiological basis, there emerged a sub-discipline of bio-criminology and criminology, a neuro-criminological discipline. Neuro-criminology studies the makeup and composition of the brain and looks for correlations between characteristics of the brain and criminal behavior. Neuro-criminology concentrates on studying the brains of criminals.This paper examines: the current use of neuro-criminology to comprehend and explain criminal behavior, adduce of evidence and its relevancy, horizon of consent and plausible future applications of neuro-criminology in sentencing.

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## Contents


| | | |
|---|---|---|
| 1 | Beyond Reasonable Doubt....<br>*Prof Answesha Panigrahi* | 7 |
| 2 | A Socio Psyco-Legal Perspective of Restorative Justice of Crime Victims<br>*Dr.Rekh Raj Jain* | 8 |
| 3 | Sexual Abuse of Minor Girl Child<br>*Mrs. Geetha Priyadarshini* | 9 |
| 4 | Capital Punishment: A Legal Assault on the Indian Economy<br>*Ms. Priti* | 10 |
| 5 | Socio-Legal Disparity and the Need for Sentencing Reforms in White Collar Crimes<br>*Ms Priti* | 12 |
| 6 | Effective Human Restoration of Prisoner's with Special Reference to India<br>*Dr.Rekh Raj Jain* | 14 |
| 7 | Neuro-criminology in the Court Room<br>*Dr. K.S.Rekh Raj Jain* | 15 |
| 8 | Notching up Reformation- A Transformative Justice Approach to Corrections<br>*Anwesha Panigrahi* | 16 |
| 9 | Fugitive Economic Offender and Extradition Law in India: A Critical Analysis<br>*Dr. Sumanth Meher* | 17 |
| 10 | Prisoners Right to Conjugal Visitation: A Legal Perspective<br>*Dr.P.L.Jayanthi Reddy* | 18 |
| 11 | Decriminalisation of Adultery Law<br>*Amit Kumar* | 19 |
| 12 | Evolving Capacities of Children: An Analysis in Reference to the Juvenile in Conflict<br>*D.V.N Murty* | 20 |
| 13 | Criminal Justice Administration in India: Focus on the Victims of Crime<br>*Mudasir Bhat* | 21 |
| 14 | Brutality of Honor Killings is on the Rise: The Need for a New Legislation<br>*D V Srilakshmi* | 22 |
| 15 | Protection of Rights of Women Prisoners in India<br>*T Sita Kumari* | 23 |
| 16 | Child Emotional Abuse: Causes, Effects and Remedies<br>*Anubha Srivastava*<br>*Sunitha Abhay Jain* | 24 |

| | | |
|---|---|---|
| 17 | Commutation of Death Sentence to Life Imprisonment on Grounds of Delay: The Ground Realities<br>*Ashutosh Hajela* | 25 |
| 18 | The Prevention of Money Laundering Act, 2002: Caveat Emptor<br>*D Ganesh Kumar*<br>*Akshay D Gudinho* | 26 |
| 19 | The Social Impact of the Supreme Court Ruling on Adultery in India: An Analysis<br>*N B Chandra Kala*<br>*A Anuradha* | 27 |
| 20 | "The smile of a child speaks the language of god"<br>*Dr. Anita Yadhav* | 28 |
| 21 | Right to abortion: Time to revisit the Medical Termination of Pregnancy (MTP) Act, 1971<br>*Mr. Amit Yadav* | 29 |
| 22 | Policy Framework for the child protection in India - An Analysis on POCSO Act.<br>*Dr. Sanjay Bang* | 30 |
| 23 | "Man, wooing woman through sanctity and sentiment – A critique on application of Domestic Violence Act"<br>*Dr. Aarti Tyagi* | 31 |
| 24 | Role of Forensic Evidence in Criminal Cases.<br>*Dr.P.Vara Lakshmi* | 32 |
| 25 | Role of Forensic Science in Criminal Investigations<br>*Dharmitha Kovvuri* | 34 |

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# Notching up Reformation- A Transformative Justice Approach to Corrections

Anwesha Panigrahi[8]

Abstract:

From time immemorial, stories of transformation have been interwoven into various mythological and religious expressions from around the world. The Indian epic Ramayana,itself begins with transformation of a dacoit into a sage. Dasyu Ratnakar, who was an intransigent dacoit confessed to Narada upon being confronted that his sole motive behind wrongdoings was to provide for his family. Narada listened to him, and brought him to the realisation that a virtuous goal does not justify crime as the means; that what he did was self-repression of his inherent goodness, which comes as a part and parcel of his being human. Ratnakar, consequently, reformed himself into a sage propagating the virtue of inherent goodness through the glorious epic. Transformation is not a new concept, nor is it a concept limited to complex developed societies (For instance, the Igbo indigenous justice system). (Elechi, 2008) This paper is an attempt to suggest a re-entry of this forgotten element into the entire system, more specifically, the criminal justice system. Enacting the dual role of both victim and offender interchangeably often based on external circumstances, as human beings we are all vulnerable. (Morris,2000 pg.3) Transformative justice as a concept recognises this fact and provides for a humanistic and holistic approach for society and community to transform into better custodians of justice. It considers crime as a manifestation of deeper evils, which serves as an opportunity for ameliorating the wounded society. In her magnum opus, Morris observes, it is all about "turning irritation into iridescence". Transformative Justice (hereinafter TJ) therefore inculcates the virtue of healing and negates harm.

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## Contents


| | | |
|---|---|---|
| 1 | Beyond Reasonable Doubt....<br>*Prof Answesha Panigrahi* | 7 |
| 2 | A Socio Psyco-Legal Perspective of Restorative Justice of Crime Victims<br>*Dr.Rekh Raj Jain* | 8 |
| 3 | Sexual Abuse of Minor Girl Child<br>*Mrs. Geetha Priyadarshini* | 9 |
| 4 | Capital Punishment: A Legal Assault on the Indian Economy<br>*Ms. Priti* | 10 |
| 5 | Socio-Legal Disparity and the Need for Sentencing Reforms in White Collar Crimes<br>*Ms Priti* | 12 |
| 6 | Effective Human Restoration of Prisoner's with Special Reference to India<br>*Dr.Rekh Raj Jain* | 14 |
| 7 | Neuro-criminology in the Court Room<br>*Dr. K.S.Rekh Raj Jain* | 15 |
| 8 | Notching up Reformation- A Transformative Justice Approach to Corrections<br>*Anwesha Panigrahi* | 16 |
| 9 | Fugitive Economic Offender and Extradition Law in India: A Critical Analysis<br>*Dr. Sumanth Meher* | 17 |
| 10 | Prisoners Right to Conjugal Visitation: A Legal Perspective<br>*Dr.P.L.Jayanthi Reddy* | 18 |
| 11 | Decriminalisation of Adultery Law<br>*Amit Kumar* | 19 |
| 12 | Evolving Capacities of Children: An Analysis in Reference to the Juvenile in Conflict<br>*D.V.N Murty* | 20 |
| 13 | Criminal Justice Administration in India: Focus on the Victims of Crime<br>*Mudasir Bhat* | 21 |
| 14 | Brutality of Honor Killings is on the Rise: The Need for a New Legislation<br>*D V Srilakshmi* | 22 |
| 15 | Protection of Rights of Women Prisoners in India<br>*T Sita Kumari* | 23 |
| 16 | Child Emotional Abuse: Causes, Effects and Remedies<br>*Anubha Srivastava*<br>*Sunitha Abhay Jain* | 24 |

| | | |
|---|---|---|
| 17 | Commutation of Death Sentence to Life Imprisonment on Grounds of Delay: The Ground Realities<br>*Ashutosh Hajela* | 25 |
| 18 | The Prevention of Money Laundering Act, 2002: Caveat Emptor<br>*D Ganesh Kumar*<br>*Akshay D Gudinho* | 26 |
| 19 | The Social Impact of the Supreme Court Ruling on Adultery in India: An Analysis<br>*N B Chandra Kala*<br>*A Anuradha* | 27 |
| 20 | "The smile of a child speaks the language of god"<br>*Dr. Anita Yadhav* | 28 |
| 21 | Right to abortion: Time to revisit the Medical Termination of Pregnancy (MTP) Act, 1971<br>*Mr. Amit Yadav* | 29 |
| 22 | Policy Framework for the child protection in India - An Analysis on POCSO Act.<br>*Dr. Sanjay Bang* | 30 |
| 23 | "Man, wooing woman through sanctity and sentiment – A critique on application of Domestic Violence Act"<br>*Dr. Aarti Tyagi* | 31 |
| 24 | Role of Forensic Evidence in Criminal Cases.<br>*Dr.P.Vara Lakshmi* | 32 |
| 25 | Role of Forensic Science in Criminal Investigations<br>*Dharmitha Kovvuri* | 34 |

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# Fugitive Economic Offender and Extradition Law in India: A Critical Analysis

Dr. Sumanth Meher[9]

Abstract:

The economic offence is a broad subject which consists of diverse categories of financial offences. These financial offences are both white-collar crimes as well as blue-collar crimes. In India, to regulate these financial offences, the legislature has not only adopted the general criminal laws but also created several specific laws. Moreover, through the special laws, some specific investigating agencies and special courts have established to investigate and try the specific economic offences. Despite this, some offenders of the white-collar crimes find a way to evade legal process and flew away from the country. To address these specific issues, in 2018 the Indian Parliament has enacted the Fugitive Economic Offender Act, 2018. This Act of 2018 equipped with some stringent provisions to deter the economic offender from evading the legal process but these provisions have also attracted many criticisms. Moreover, some of the provisions of this Act of 2018 have adopted so as to indirectly compelled the fugitive economic offender to return back to the country. However, the transportation of those fugitives are regulated by the extradition law which is enacted in 1962 but it has severely criticized by the jurist for its practicality and insignificant result. In light of the above stated facts, the researcher has made a doctrinal study of the Indian legal framework which is meant to regulate the fugitive economic offender and their extradition. The objective of the study is to ascertain and critically analyses the statutory measures to control the economic offences and fugitive economic offender. Moreover, the study also critically analyses the laws relating to the transportation of fugitive economic offender. In the end, the researcher has suggested certain measures to strengthen the legal framework to regulate the fugitive economic offender.

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## Contents


| | | |
|---|---|---|
| 1 | Beyond Reasonable Doubt....<br>*Prof Answesha Panigrahi* | 7 |
| 2 | A Socio Psyco-Legal Perspective of Restorative Justice of Crime Victims<br>*Dr.Rekh Raj Jain* | 8 |
| 3 | Sexual Abuse of Minor Girl Child<br>*Mrs. Geetha Priyadarshini* | 9 |
| 4 | Capital Punishment: A Legal Assault on the Indian Economy<br>*Ms. Priti* | 10 |
| 5 | Socio-Legal Disparity and the Need for Sentencing Reforms in White Collar Crimes<br>*Ms Priti* | 12 |
| 6 | Effective Human Restoration of Prisoner's with Special Reference to India<br>*Dr.Rekh Raj Jain* | 14 |
| 7 | Neuro-criminology in the Court Room<br>*Dr. K.S.Rekh Raj Jain* | 15 |
| 8 | Notching up Reformation- A Transformative Justice Approach to Corrections<br>*Anwesha Panigrahi* | 16 |
| 9 | Fugitive Economic Offender and Extradition Law in India: A Critical Analysis<br>*Dr. Sumanth Meher* | 17 |
| 10 | Prisoners Right to Conjugal Visitation: A Legal Perspective<br>*Dr.P.L.Jayanthi Reddy* | 18 |
| 11 | Decriminalisation of Adultery Law<br>*Amit Kumar* | 19 |
| 12 | Evolving Capacities of Children: An Analysis in Reference to the Juvenile in Conflict<br>*D.V.N Murty* | 20 |
| 13 | Criminal Justice Administration in India: Focus on the Victims of Crime<br>*Mudasir Bhat* | 21 |
| 14 | Brutality of Honor Killings is on the Rise: The Need for a New Legislation<br>*D V Srilakshmi* | 22 |
| 15 | Protection of Rights of Women Prisoners in India<br>*T Sita Kumari* | 23 |
| 16 | Child Emotional Abuse: Causes, Effects and Remedies<br>*Anubha Srivastava*<br>*Sunitha Abhay Jain* | 24 |

| | | |
|---|---|---|
| 17 | Commutation of Death Sentence to Life Imprisonment on Grounds of Delay: The Ground Realities<br>*Ashutosh Hajela* | 25 |
| 18 | The Prevention of Money Laundering Act, 2002: Caveat Emptor<br>*D Ganesh Kumar*<br>*Akshay D Gudinho* | 26 |
| 19 | The Social Impact of the Supreme Court Ruling on Adultery in India: An Analysis<br>*N B Chandra Kala*<br>*A Anuradha* | 27 |
| 20 | "The smile of a child speaks the language of god"<br>*Dr. Anita Yadhav* | 28 |
| 21 | Right to abortion: Time to revisit the Medical Termination of Pregnancy (MTP) Act, 1971<br>*Mr. Amit Yadav* | 29 |
| 22 | Policy Framework for the child protection in India - An Analysis on POCSO Act.<br>*Dr. Sanjay Bang* | 30 |
| 23 | "Man, wooing woman through sanctity and sentiment - A critique on application of Domestic Violence Act"<br>*Dr. Aarti Tyagi* | 31 |
| 24 | Role of Forensic Evidence in Criminal Cases.<br>*Dr.P.Vara Lakshmi* | 32 |
| 25 | Role of Forensic Science in Criminal Investigations<br>*Dharmitha Kovvuri* | 34 |

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IJARST

ISSN: 2457-0362

# Prisoners Right to Conjugal Visitation: A Legal Perspective

Dr.P.L.Jayanthi Reddy[10]

Abstract:

Prison Population in India has increased tremendously in recent years. The growing prison population led to various challenges before prison administrators. One of the recent challenges is the right to conjugal visitation of convicted prisoners. This article discusses about right to conjugal life for prisoners in the precincts of Jail. It also tries to find whether if any legislation enacted or the right is provided in our Prisoner's laws. Also Article 21 of Indian Constitution is analyzed to trace the right of conjugal visitation. International perspective is also been highlighted regarding United States and also in Europe to find if conjugal visitation rights exist and if they have legal backup. The article tries to explore the international instruments on the right to conjugal visitation. An Analysis of the treaties it is understood that this right is partially recognized by way of Art 8 and 12 of European Convention on Human Rights or as the rights that are fundamental to the liberty and human dignity emanating from the Eighth Amendment and is further subject to reasonable restrictions social order and security. It refers to the role of Judiciary in developing this right . This article tries to analyze if any legislation or policy is brought in India on par with regulations internationally.

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## Contents


| | | |
|---|---|---|
| 1 | Beyond Reasonable Doubt....<br>*Prof Answesha Panigrahi* | 7 |
| 2 | A Socio Psyco-Legal Perspective of Restorative Justice of Crime Victims<br>*Dr.Rekh Raj Jain* | 8 |
| 3 | Sexual Abuse of Minor Girl Child<br>*Mrs. Geetha Priyadarshini* | 9 |
| 4 | Capital Punishment: A Legal Assault on the Indian Economy<br>*Ms. Priti* | 10 |
| 5 | Socio-Legal Disparity and the Need for Sentencing Reforms in White Collar Crimes<br>*Ms Priti* | 12 |
| 6 | Effective Human Restoration of Prisoner's with Special Reference to India<br>*Dr.Rekh Raj Jain* | 14 |
| 7 | Neuro-criminology in the Court Room<br>*Dr. K.S.Rekh Raj Jain* | 15 |
| 8 | Notching up Reformation- A Transformative Justice Approach to Corrections<br>*Anwesha Panigrahi* | 16 |
| 9 | Fugitive Economic Offender and Extradition Law in India: A Critical Analysis<br>*Dr. Sumanth Meher* | 17 |
| 10 | Prisoners Right to Conjugal Visitation: A Legal Perspective<br>*Dr.P.L.Jayanthi Reddy* | 18 |
| 11 | Decriminalisation of Adultery Law<br>*Amit Kumar* | 19 |
| 12 | Evolving Capacities of Children: An Analysis in Reference to the Juvenile in Conflict<br>*D.V.N Murty* | 20 |
| 13 | Criminal Justice Administration in India: Focus on the Victims of Crime<br>*Mudasir Bhat* | 21 |
| 14 | Brutality of Honor Killings is on the Rise: The Need for a New Legislation<br>*D V Srilakshmi* | 22 |
| 15 | Protection of Rights of Women Prisoners in India<br>*T Sita Kumari* | 23 |
| 16 | Child Emotional Abuse: Causes, Effects and Remedies<br>*Anubha Srivastava*<br>*Sunitha Abhay Jain* | 24 |

| | | |
|---|---|---|
| 17 | Commutation of Death Sentence to Life Imprisonment on Grounds of Delay: The Ground Realities<br>*Ashutosh Hajela* | 25 |
| 18 | The Prevention of Money Laundering Act, 2002: Caveat Emptor<br>*D Ganesh Kumar*<br>*Akshay D Gudinho* | 26 |
| 19 | The Social Impact of the Supreme Court Ruling on Adultery in India: An Analysis<br>*N B Chandra Kala*<br>*A Anuradha* | 27 |
| 20 | "The smile of a child speaks the language of god"<br>*Dr. Anita Yadhav* | 28 |
| 21 | Right to abortion: Time to revisit the Medical Termination of Pregnancy (MTP) Act, 1971<br>*Mr. Amit Yadav* | 29 |
| 22 | Policy Framework for the child protection in India - An Analysis on POCSO Act.<br>*Dr. Sanjay Bang* | 30 |
| 23 | "Man, wooing woman through sanctity and sentiment – A critique on application of Domestic Violence Act"<br>*Dr. Aarti Tyagi* | 31 |
| 24 | Role of Forensic Evidence in Criminal Cases.<br>*Dr.P.Vara Lakshmi* | 32 |
| 25 | Role of Forensic Science in Criminal Investigations<br>*Dharmitha Kovvuri* | 34 |

International Journal For Advanced Research In Science & Technology

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# Decriminalisation of Adultery Law

Amit Kumar[11]

Abstract:

Adultery is a crime and an act against sanctity of marriage which is committed by a man which is offensive and illicit. This paper discusses its definition under IPC by referring to several case laws. Most particularly Yuzuf Abdul Aziz vs State of Bombay, Somithri Vishnu vs Union of India, Revathi vs Union of India case . The law of Adultery which is 150 years old has been into debatable controversies with regard to gender based approach, questioning equality clause and its contentions whether it has to be preserved , altered or removed from penal statutes. The paper discusses decriminalization of adultery law in the light of judgment in Joseph shine vs Union of India case observation that women can also be punished not only male. The right to privacy is infringed under section 497, as freedom of woman by discriminating in opposition to married women and the husband. The law on adultery is considered to be arbitrary and undermines the dignity of woman. Therefore, the law of adultery was struck down for being violative of Article 14, 15, 21 of the Indian constitution The paper concludes by referring to societal changes at present and that woman are no longer seen as property of their husbands.

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## Contents


| | | |
|---|---|---|
| 1 | Beyond Reasonable Doubt....<br>*Prof Answesha Panigrahi* | 7 |
| 2 | A Socio Psyco-Legal Perspective of Restorative Justice of Crime Victims<br>*Dr.Rekh Raj Jain* | 8 |
| 3 | Sexual Abuse of Minor Girl Child<br>*Mrs. Geetha Priyadarshini* | 9 |
| 4 | Capital Punishment: A Legal Assault on the Indian Economy<br>*Ms. Priti* | 10 |
| 5 | Socio-Legal Disparity and the Need for Sentencing Reforms in White Collar Crimes<br>*Ms Priti* | 12 |
| 6 | Effective Human Restoration of Prisoner's with Special Reference to India<br>*Dr.Rekh Raj Jain* | 14 |
| 7 | Neuro-criminology in the Court Room<br>*Dr. K.S.Rekh Raj Jain* | 15 |
| 8 | Notching up Reformation- A Transformative Justice Approach to Corrections<br>*Anwesha Panigrahi* | 16 |
| 9 | Fugitive Economic Offender and Extradition Law in India: A Critical Analysis<br>*Dr. Sumanth Meher* | 17 |
| 10 | Prisoners Right to Conjugal Visitation: A Legal Perspective<br>*Dr.P.L.Jayanthi Reddy* | 18 |
| 11 | Decriminalisation of Adultery Law<br>*Amit Kumar* | 19 |
| 12 | Evolving Capacities of Children: An Analysis in Reference to the Juvenile in Conflict<br>*D.V.N Murty* | 20 |
| 13 | Criminal Justice Administration in India: Focus on the Victims of Crime<br>*Mudasir Bhat* | 21 |
| 14 | Brutality of Honor Killings is on the Rise: The Need for a New Legislation<br>*D V Srilakshmi* | 22 |
| 15 | Protection of Rights of Women Prisoners in India<br>*T Sita Kumari* | 23 |
| 16 | Child Emotional Abuse: Causes, Effects and Remedies<br>*Anubha Srivastava*<br>*Sunitha Abhay Jain* | 24 |

| | | |
|---|---|---|
| 17 | Commutation of Death Sentence to Life Imprisonment on Grounds of Delay: The Ground Realities<br>*Ashutosh Hajela* | 25 |
| 18 | The Prevention of Money Laundering Act, 2002: Caveat Emptor<br>*D Ganesh Kumar*<br>*Akshay D Gudinho* | 26 |
| 19 | The Social Impact of the Supreme Court Ruling on Adultery in India: An Analysis<br>*N B Chandra Kala*<br>*A Anuradha* | 27 |
| 20 | "The smile of a child speaks the language of god"<br>*Dr. Anita Yadhav* | 28 |
| 21 | Right to abortion: Time to revisit the Medical Termination of Pregnancy (MTP) Act, 1971<br>*Mr. Amit Yadav* | 29 |
| 22 | Policy Framework for the child protection in India - An Analysis on POCSO Act.<br>*Dr. Sanjay Bang* | 30 |
| 23 | "Man, wooing woman through sanctity and sentiment – A critique on application of Domestic Violence Act"<br>*Dr. Aarti Tyagi* | 31 |
| 24 | Role of Forensic Evidence in Criminal Cases.<br>*Dr.P.Vara Lakshmi* | 32 |
| 25 | Role of Forensic Science in Criminal Investigations<br>*Dharmitha Kovvuri* | 34 |

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IJARST

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# Evolving Capacities of Children: An Analysis in Reference to the Juvenile in Conflict

D.V.N Murty[12]

Abstract:

Child is unique in himself or herself. A child happens to be what an adult is in front of him or her.In our daily life we hear about different crimes from petty to heinous being committed by children who are either economically affluent, or poor or orphans. They are the takers of different fate but what is common among them all is that they are children still in the stage of development. When a child develops right from infancy to the teenage he or she has got some capacities in all these stages. These capacities may be to take a decision or to form an opinion or any talent which may be much beyond their age which they want to express but the adults around them unmindfully snub them for what they are saying or doing. This leads to suppression of their feelings affecting their psychologies which later on either construct them or destruct them. This psychological depression sometimes leads some children to commit crimes through which they satisfy their frustration which emerges out of the former. Children are taken for granted as not having any capacity to think, act or take any decision, but children at every stage have got some capacities which must be respected. This presentation will deal with the definitional aspect of evolving capacities, reasons for the juvenile delinquency in evolving children, different reasons for such delinquency and the responsibility of the parents or guardians in making better the future citizens

[12] Assistant Professor, ICFAI Law School,, Hyderabad

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## Contents


| | | |
|---|---|---|
| 1 | Beyond Reasonable Doubt....<br>*Prof Answesha Panigrahi* | 7 |
| 2 | A Socio Psyco-Legal Perspective of Restorative Justice of Crime Victims<br>*Dr.Rekh Raj Jain* | 8 |
| 3 | Sexual Abuse of Minor Girl Child<br>*Mrs. Geetha Priyadarshini* | 9 |
| 4 | Capital Punishment: A Legal Assault on the Indian Economy<br>*Ms. Priti* | 10 |
| 5 | Socio-Legal Disparity and the Need for Sentencing Reforms in White Collar Crimes<br>*Ms Priti* | 12 |
| 6 | Effective Human Restoration of Prisoner's with Special Reference to India<br>*Dr.Rekh Raj Jain* | 14 |
| 7 | Neuro-criminology in the Court Room<br>*Dr. K.S.Rekh Raj Jain* | 15 |
| 8 | Notching up Reformation- A Transformative Justice Approach to Corrections<br>*Anwesha Panigrahi* | 16 |
| 9 | Fugitive Economic Offender and Extradition Law in India: A Critical Analysis<br>*Dr. Sumanth Meher* | 17 |
| 10 | Prisoners Right to Conjugal Visitation: A Legal Perspective<br>*Dr.P.L.Jayanthi Reddy* | 18 |
| 11 | Decriminalisation of Adultery Law<br>*Amit Kumar* | 19 |
| 12 | Evolving Capacities of Children: An Analysis in Reference to the Juvenile in Conflict<br>*D.V.N Murty* | 20 |
| 13 | Criminal Justice Administration in India: Focus on the Victims of Crime<br>*Mudasir Bhat* | 21 |
| 14 | Brutality of Honor Killings is on the Rise: The Need for a New Legislation<br>*D V Srilakshmi* | 22 |
| 15 | Protection of Rights of Women Prisoners in India<br>*T Sita Kumari* | 23 |
| 16 | Child Emotional Abuse: Causes, Effects and Remedies<br>*Anubha Srivastava*<br>*Sunitha Abhay Jain* | 24 |

| | | |
|---|---|---|
| 17 | Commutation of Death Sentence to Life Imprisonment on Grounds of Delay: The Ground Realities<br>*Ashutosh Hajela* | 25 |
| 18 | The Prevention of Money Laundering Act, 2002: Caveat Emptor<br>*D Ganesh Kumar*<br>*Akshay D Gudinho* | 26 |
| 19 | The Social Impact of the Supreme Court Ruling on Adultery in India: An Analysis<br>*N B Chandra Kala*<br>*A Anuradha* | 27 |
| 20 | "The smile of a child speaks the language of god"<br>*Dr. Anita Yadhav* | 28 |
| 21 | Right to abortion: Time to revisit the Medical Termination of Pregnancy (MTP) Act, 1971<br>*Mr. Amit Yadav* | 29 |
| 22 | Policy Framework for the child protection in India - An Analysis on POCSO Act.<br>*Dr. Sanjay Bang* | 30 |
| 23 | "Man, wooing woman through sanctity and sentiment – A critique on application of Domestic Violence Act"<br>*Dr. Aarti Tyagi* | 31 |
| 24 | Role of Forensic Evidence in Criminal Cases.<br>*Dr.P.Vara Lakshmi* | 32 |
| 25 | Role of Forensic Science in Criminal Investigations<br>*Dharmitha Kovvuri* | 34 |

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IJARST

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# Criminal Justice Administration in India: Focus on the Victims of Crime

**Mudasir Bhat**[13]

Abstract:

Administration of justice is the first promise of our Constitution. For achieving this end, courts have been established. Since the dawn of civilization, crime has been existing in our society. For curbing criminality, criminal law courts have been established. In the administration of justice, much focus has been on the rights of the accused. It seems trial starts with the accused and ends with the accused. The role of victim has been neglected in the process of administration of justice. It is only during the last few years that the role of victim in the judicial administration has been highlighted. At the national level, the Malimath Committee Report plays an important role in highlighting the role of the victim in the criminal administration of justice. It has been pointed out that to make the role of the victim more proactive, many steps need to be taken. There is a dire need for reformation of the criminal law in our country so that the victim is not taken as a forgotten identity. This paper mainly focuses on the position of the victims of crime in the whole criminal justice delivery system.

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## Contents


| | | |
|---|---|---|
| 1 | Beyond Reasonable Doubt....<br>*Prof Answesha Panigrahi* | 7 |
| 2 | A Socio Psyco-Legal Perspective of Restorative Justice of Crime Victims<br>*Dr.Rekh Raj Jain* | 8 |
| 3 | Sexual Abuse of Minor Girl Child<br>*Mrs. Geetha Priyadarshini* | 9 |
| 4 | Capital Punishment: A Legal Assault on the Indian Economy<br>*Ms. Priti* | 10 |
| 5 | Socio-Legal Disparity and the Need for Sentencing Reforms in White Collar Crimes<br>*Ms Priti* | 12 |
| 6 | Effective Human Restoration of Prisoner's with Special Reference to India<br>*Dr.Rekh Raj Jain* | 14 |
| 7 | Neuro-criminology in the Court Room<br>*Dr. K.S.Rekh Raj Jain* | 15 |
| 8 | Notching up Reformation- A Transformative Justice Approach to Corrections<br>*Anwesha Panigrahi* | 16 |
| 9 | Fugitive Economic Offender and Extradition Law in India: A Critical Analysis<br>*Dr. Sumanth Meher* | 17 |
| 10 | Prisoners Right to Conjugal Visitation: A Legal Perspective<br>*Dr.P.L.Jayanthi Reddy* | 18 |
| 11 | Decriminalisation of Adultery Law<br>*Amit Kumar* | 19 |
| 12 | Evolving Capacities of Children: An Analysis in Reference to the Juvenile in Conflict<br>*D.V.N Murty* | 20 |
| 13 | Criminal Justice Administration in India: Focus on the Victims of Crime<br>*Mudasir Bhat* | 21 |
| 14 | Brutality of Honor Killings is on the Rise: The Need for a New Legislation<br>*D V Srilakshmi* | 22 |
| 15 | Protection of Rights of Women Prisoners in India<br>*T Sita Kumari* | 23 |
| 16 | Child Emotional Abuse: Causes, Effects and Remedies<br>*Anubha Srivastava*<br>*Sunitha Abhay Jain* | 24 |

| | | |
|---|---|---|
| 17 | Commutation of Death Sentence to Life Imprisonment on Grounds of Delay: The Ground Realities<br>*Ashutosh Hajela* | 25 |
| 18 | The Prevention of Money Laundering Act, 2002: Caveat Emptor<br>*D Ganesh Kumar*<br>*Akshay D Gudinho* | 26 |
| 19 | The Social Impact of the Supreme Court Ruling on Adultery in India: An Analysis<br>*N B Chandra Kala*<br>*A Anuradha* | 27 |
| 20 | "The smile of a child speaks the language of god"<br>*Dr. Anita Yadhav* | 28 |
| 21 | Right to abortion: Time to revisit the Medical Termination of Pregnancy (MTP) Act, 1971<br>*Mr. Amit Yadav* | 29 |
| 22 | Policy Framework for the child protection in India - An Analysis on POCSO Act.<br>*Dr. Sanjay Bang* | 30 |
| 23 | "Man, wooing woman through sanctity and sentiment - A critique on application of Domestic Violence Act"<br>*Dr. Aarti Tyagi* | 31 |
| 24 | Role of Forensic Evidence in Criminal Cases.<br>*Dr.P.Vara Lakshmi* | 32 |
| 25 | Role of Forensic Science in Criminal Investigations<br>*Dharmitha Kovvuri* | 34 |

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# Brutality of Honor Killings is on the Rise: The Need for a New Legislation

D V Srilakshmi[14]

Abstract:
It is hard to believe that in the 21st century, that too, in the largest democracy of the world, families murder their kith and kin for allegedly saving their honor. In India and some other countries, females in a family are considered as the custodians of the honor of the family. When a woman goes against the family, especially when they marry or elope with their partners belonging to a different caste or community, the members of the family or the community kill them for the sake of defending their honor. This paper makes an attempt to tackle the very important issue of honor killing that is growing in size day by day like a monster untamed. This paper seeks to understand the very concept of honor in killing and then highlights how honor killings are counterproductive. The paper also examines the present law as it stands, by presenting the views of the honorable courts on the subject and discusses as to what can be done to curb the menace.

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## Contents


| | | |
|---|---|---|
| 1 | Beyond Reasonable Doubt....<br>*Prof Answesha Panigrahi* | 7 |
| 2 | A Socio Psyco-Legal Perspective of Restorative Justice of Crime Victims<br>*Dr.Rekh Raj Jain* | 8 |
| 3 | Sexual Abuse of Minor Girl Child<br>*Mrs. Geetha Priyadarshini* | 9 |
| 4 | Capital Punishment: A Legal Assault on the Indian Economy<br>*Ms. Priti* | 10 |
| 5 | Socio-Legal Disparity and the Need for Sentencing Reforms in White Collar Crimes<br>*Ms Priti* | 12 |
| 6 | Effective Human Restoration of Prisoner's with Special Reference to India<br>*Dr.Rekh Raj Jain* | 14 |
| 7 | Neuro-criminology in the Court Room<br>*Dr. K.S.Rekh Raj Jain* | 15 |
| 8 | Notching up Reformation- A Transformative Justice Approach to Corrections<br>*Anwesha Panigrahi* | 16 |
| 9 | Fugitive Economic Offender and Extradition Law in India: A Critical Analysis<br>*Dr. Sumanth Meher* | 17 |
| 10 | Prisoners Right to Conjugal Visitation: A Legal Perspective<br>*Dr.P.L.Jayanthi Reddy* | 18 |
| 11 | Decriminalisation of Adultery Law<br>*Amit Kumar* | 19 |
| 12 | Evolving Capacities of Children: An Analysis in Reference to the Juvenile in Conflict<br>*D.V.N Murty* | 20 |
| 13 | Criminal Justice Administration in India: Focus on the Victims of Crime<br>*Mudasir Bhat* | 21 |
| 14 | Brutality of Honor Killings is on the Rise: The Need for a New Legislation<br>*D V Srilakshmi* | 22 |
| 15 | Protection of Rights of Women Prisoners in India<br>*T Sita Kumari* | 23 |
| 16 | Child Emotional Abuse: Causes, Effects and Remedies<br>*Anubha Srivastava*<br>*Sunitha Abhay Jain* | 24 |

| | | |
|---|---|---|
| 17 | Commutation of Death Sentence to Life Imprisonment on Grounds of Delay: The Ground Realities<br>*Ashutosh Hajela* | 25 |
| 18 | The Prevention of Money Laundering Act, 2002: Caveat Emptor<br>*D Ganesh Kumar*<br>*Akshay D Gudinho* | 26 |
| 19 | The Social Impact of the Supreme Court Ruling on Adultery in India: An Analysis<br>*N B Chandra Kala*<br>*A Anuradha* | 27 |
| 20 | "The smile of a child speaks the language of god"<br>*Dr. Anita Yadhav* | 28 |
| 21 | Right to abortion: Time to revisit the Medical Termination of Pregnancy (MTP) Act, 1971<br>*Mr. Amit Yadav* | 29 |
| 22 | Policy Framework for the child protection in India - An Analysis on POCSO Act.<br>*Dr. Sanjay Bang* | 30 |
| 23 | "Man, wooing woman through sanctity and sentiment – A critique on application of Domestic Violence Act"<br>*Dr. Aarti Tyagi* | 31 |
| 24 | Role of Forensic Evidence in Criminal Cases.<br>*Dr.P.Vara Lakshmi* | 32 |
| 25 | Role of Forensic Science in Criminal Investigations<br>*Dharmitha Kovvuri* | 34 |

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# Protection of Rights of Women Prisoners in India

T Sita Kumari[15]

Abstract:
Of the three organs of Government, the judiciary has become a vanguard of human rights in India. It performs this function mainly by innovative interpretation and application of the human rights provisions of the Constitution. One of the basic tenets of our legal system is the benefit of the presumption of innocence of the accused till he is found guilty at the end of the fair trial on legal evidence. Even a convict has basic human rights. Only certain rights need to be restricted, but the remaining rights are not curtailed by any process of law, and the judiciary from time to time has recognized those rights by way of different pronouncements.1 A person, who is found guilty and imprisoned, does not cease to be a human being. In India, the women prisoners have several rights under various legislations and also under the recommendations of the different committees appointed by central and various state governments in India. This paper focuses on the rights of the prisoners in general and that of the women prisoners in particular.

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## Contents


| | | |
|---|---|---|
| 1 | Beyond Reasonable Doubt....<br>*Prof Answesha Panigrahi* | 7 |
| 2 | A Socio Psyco-Legal Perspective of Restorative Justice of Crime Victims<br>*Dr.Rekh Raj Jain* | 8 |
| 3 | Sexual Abuse of Minor Girl Child<br>*Mrs. Geetha Priyadarshini* | 9 |
| 4 | Capital Punishment: A Legal Assault on the Indian Economy<br>*Ms. Priti* | 10 |
| 5 | Socio-Legal Disparity and the Need for Sentencing Reforms in White Collar Crimes<br>*Ms Priti* | 12 |
| 6 | Effective Human Restoration of Prisoner's with Special Reference to India<br>*Dr.Rekh Raj Jain* | 14 |
| 7 | Neuro-criminology in the Court Room<br>*Dr. K.S.Rekh Raj Jain* | 15 |
| 8 | Notching up Reformation- A Transformative Justice Approach to Corrections<br>*Anwesha Panigrahi* | 16 |
| 9 | Fugitive Economic Offender and Extradition Law in India: A Critical Analysis<br>*Dr. Sumanth Meher* | 17 |
| 10 | Prisoners Right to Conjugal Visitation: A Legal Perspective<br>*Dr.P.L.Jayanthi Reddy* | 18 |
| 11 | Decriminalisation of Adultery Law<br>*Amit Kumar* | 19 |
| 12 | Evolving Capacities of Children: An Analysis in Reference to the Juvenile in Conflict<br>*D.V.N Murty* | 20 |
| 13 | Criminal Justice Administration in India: Focus on the Victims of Crime<br>*Mudasir Bhat* | 21 |
| 14 | Brutality of Honor Killings is on the Rise: The Need for a New Legislation<br>*D V Srilakshmi* | 22 |
| 15 | Protection of Rights of Women Prisoners in India<br>*T Sita Kumari* | 23 |
| 16 | Child Emotional Abuse: Causes, Effects and Remedies<br>*Anubha Srivastava*<br>*Sunitha Abhay Jain* | 24 |

| | | |
|---|---|---|
| 17 | Commutation of Death Sentence to Life Imprisonment on Grounds of Delay: The Ground Realities<br>*Ashutosh Hajela* | 25 |
| 18 | The Prevention of Money Laundering Act, 2002: Caveat Emptor<br>*D Ganesh Kumar*<br>*Akshay D Gudinho* | 26 |
| 19 | The Social Impact of the Supreme Court Ruling on Adultery in India: An Analysis<br>*N B Chandra Kala*<br>*A Anuradha* | 27 |
| 20 | "The smile of a child speaks the language of god"<br>*Dr. Anita Yadhav* | 28 |
| 21 | Right to abortion: Time to revisit the Medical Termination of Pregnancy (MTP) Act, 1971<br>*Mr. Amit Yadav* | 29 |
| 22 | Policy Framework for the child protection in India - An Analysis on POCSO Act.<br>*Dr. Sanjay Bang* | 30 |
| 23 | "Man, wooing woman through sanctity and sentiment – A critique on application of Domestic Violence Act"<br>*Dr. Aarti Tyagi* | 31 |
| 24 | Role of Forensic Evidence in Criminal Cases.<br>*Dr.P.Vara Lakshmi* | 32 |
| 25 | Role of Forensic Science in Criminal Investigations<br>*Dharmitha Kovvuri* | 34 |

IJARST

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# Child Emotional Abuse: Causes, Effects and Remedies

**Anubha Srivastava**[16]

**Sunitha Abhay Jain**[17]

Abstract:

Child emotional abuse is severe and persistent ill-treatment of a child and it can have long lasting and devastating effects on the child's emotional health and psyche and development. Child emotional abuse needs to be addressed in relation to the relationships and the environment of a child. It is very important to focus on the safety and wellbeing of the child and also to identify the factors involved in child emotional abuse. Child emotional abuse can affect a child from infancy, through adolescence and into adulthood. Signs of emotional abuse may also be present in a child's actions, or their physical, mental and emotional development. In the light of the above, in this paper, an attempt is made to analyze the concept of child emotional abuse; various types of emotional abuse in relation to children; and the causes, effects and identification of child emotional abuse. Further, an attempt is also made to suggest certain solutions to deal with child emotional abuse.

[16] Associate Professor, School of Law, Christ University, India.

[17] Assistant professor, School of law, Christ University, Bangalore, India.

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## Contents


| | | |
|---|---|---|
| 1 | Beyond Reasonable Doubt....<br>*Prof Answesha Panigrahi* | 7 |
| 2 | A Socio Psyco-Legal Perspective of Restorative Justice of Crime Victims<br>*Dr.Rekh Raj Jain* | 8 |
| 3 | Sexual Abuse of Minor Girl Child<br>*Mrs. Geetha Priyadarshini* | 9 |
| 4 | Capital Punishment: A Legal Assault on the Indian Economy<br>*Ms. Priti* | 10 |
| 5 | Socio-Legal Disparity and the Need for Sentencing Reforms in White Collar Crimes<br>*Ms Priti* | 12 |
| 6 | Effective Human Restoration of Prisoner's with Special Reference to India<br>*Dr.Rekh Raj Jain* | 14 |
| 7 | Neuro-criminology in the Court Room<br>*Dr. K.S.Rekh Raj Jain* | 15 |
| 8 | Notching up Reformation- A Transformative Justice Approach to Corrections<br>*Anwesha Panigrahi* | 16 |
| 9 | Fugitive Economic Offender and Extradition Law in India: A Critical Analysis<br>*Dr. Sumanth Meher* | 17 |
| 10 | Prisoners Right to Conjugal Visitation: A Legal Perspective<br>*Dr.P.L.Jayanthi Reddy* | 18 |
| 11 | Decriminalisation of Adultery Law<br>*Amit Kumar* | 19 |
| 12 | Evolving Capacities of Children: An Analysis in Reference to the Juvenile in Conflict<br>*D.V.N Murty* | 20 |
| 13 | Criminal Justice Administration in India: Focus on the Victims of Crime<br>*Mudasir Bhat* | 21 |
| 14 | Brutality of Honor Killings is on the Rise: The Need for a New Legislation<br>*D V Srilakshmi* | 22 |
| 15 | Protection of Rights of Women Prisoners in India<br>*T Sita Kumari* | 23 |
| 16 | Child Emotional Abuse: Causes, Effects and Remedies<br>*Anubha Srivastava*<br>*Sunitha Abhay Jain* | 24 |

| | | |
|---|---|---|
| 17 | Commutation of Death Sentence to Life Imprisonment on Grounds of Delay: The Ground Realities<br>*Ashutosh Hajela* | 25 |
| 18 | The Prevention of Money Laundering Act, 2002: Caveat Emptor<br>*D Ganesh Kumar*<br>*Akshay D Gudinho* | 26 |
| 19 | The Social Impact of the Supreme Court Ruling on Adultery in India: An Analysis<br>*N B Chandra Kala*<br>*A Anuradha* | 27 |
| 20 | "The smile of a child speaks the language of god"<br>*Dr. Anita Yadhav* | 28 |
| 21 | Right to abortion: Time to revisit the Medical Termination of Pregnancy (MTP) Act, 1971<br>*Mr. Amit Yadav* | 29 |
| 22 | Policy Framework for the child protection in India - An Analysis on POCSO Act.<br>*Dr. Sanjay Bang* | 30 |
| 23 | "Man, wooing woman through sanctity and sentiment – A critique on application of Domestic Violence Act"<br>*Dr. Aarti Tyagi* | 31 |
| 24 | Role of Forensic Evidence in Criminal Cases.<br>*Dr.P.Vara Lakshmi* | 32 |
| 25 | Role of Forensic Science in Criminal Investigations<br>*Dharmitha Kovvuri* | 34 |

International Journal For Advanced Research In Science & Technology

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# Commutation of Death Sentence to Life Imprisonment on Grounds of Delay: The Ground Realities

**Ashutosh Hajela**[18]

Abstract:

The paper focuses on the origin and development of 'Mercy Jurisprudence' by the Supreme Court of India as far as the notion of commutation of death sentence to life imprisonment on grounds of exorbitant delay is concerned. The Supreme Court has of late started dealing 'passionately' with the delays caused in the execution of the death sentences and the delays in the disposal of the mercy petitions and has ruled in several cases that the uncalled for delays in the ultimate disposal of such matters need to be compensated by commuting the death penalty into life imprisonment. The doctrine evolved by the Apex Court has created 'benefit' in favor of persons convicted of terrorist activities, including the assassin(s) of Rajiv Gandhi. The paper ponders over the practical consequences or repercussions of the 'active style' of the judiciary in thus dealing with the cases which have already passed the test of the 'rarest of rare' category and are offenses definitely involving a high sense of moral obnoxiousness. The paper tries to visualize the feasibility, if any, in dealing 'sympathetically' with such cases and the impact of the doctrine on the sense of justice as vested in the common man. The paper also examines the impact of such 'commutations' upon the sense of retribution potently inherent in human beings, especially in cases involving extreme moral turpitude, cases of terrorism, etc. Further, the paper highlights the fact of inconsistencies in the decisions of the Apex Court even during a relatively short period of time which reflects poorly upon the justice delivery mechanism.

[18] Assistant Professor, Amity Law School (Affiliated to GGSIPU, Delhi), Delhi, India.

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## Contents


| | | |
|---|---|---|
| 1 | Beyond Reasonable Doubt....<br>*Prof Answesha Panigrahi* | 7 |
| 2 | A Socio Psyco-Legal Perspective of Restorative Justice of Crime Victims<br>*Dr.Rekh Raj Jain* | 8 |
| 3 | Sexual Abuse of Minor Girl Child<br>*Mrs. Geetha Priyadarshini* | 9 |
| 4 | Capital Punishment: A Legal Assault on the Indian Economy<br>*Ms. Priti* | 10 |
| 5 | Socio-Legal Disparity and the Need for Sentencing Reforms in White Collar Crimes<br>*Ms Priti* | 12 |
| 6 | Effective Human Restoration of Prisoner's with Special Reference to India<br>*Dr.Rekh Raj Jain* | 14 |
| 7 | Neuro-criminology in the Court Room<br>*Dr. K.S.Rekh Raj Jain* | 15 |
| 8 | Notching up Reformation- A Transformative Justice Approach to Corrections<br>*Anwesha Panigrahi* | 16 |
| 9 | Fugitive Economic Offender and Extradition Law in India: A Critical Analysis<br>*Dr. Sumanth Meher* | 17 |
| 10 | Prisoners Right to Conjugal Visitation: A Legal Perspective<br>*Dr.P.L.Jayanthi Reddy* | 18 |
| 11 | Decriminalisation of Adultery Law<br>*Amit Kumar* | 19 |
| 12 | Evolving Capacities of Children: An Analysis in Reference to the Juvenile in Conflict<br>*D.V.N Murty* | 20 |
| 13 | Criminal Justice Administration in India: Focus on the Victims of Crime<br>*Mudasir Bhat* | 21 |
| 14 | Brutality of Honor Killings is on the Rise: The Need for a New Legislation<br>*D V Srilakshmi* | 22 |
| 15 | Protection of Rights of Women Prisoners in India<br>*T Sita Kumari* | 23 |
| 16 | Child Emotional Abuse: Causes, Effects and Remedies<br>*Anubha Srivastava*<br>*Sunitha Abhay Jain* | 24 |

| | | |
|---|---|---|
| 17 | Commutation of Death Sentence to Life Imprisonment on Grounds of Delay: The Ground Realities<br>*Ashutosh Hajela* | 25 |
| 18 | The Prevention of Money Laundering Act, 2002: Caveat Emptor<br>*D Ganesh Kumar*<br>*Akshay D Gudinho* | 26 |
| 19 | The Social Impact of the Supreme Court Ruling on Adultery in India: An Analysis<br>*N B Chandra Kala*<br>*A Anuradha* | 27 |
| 20 | "The smile of a child speaks the language of god"<br>*Dr. Anita Yadhav* | 28 |
| 21 | Right to abortion: Time to revisit the Medical Termination of Pregnancy (MTP) Act, 1971<br>*Mr. Amit Yadav* | 29 |
| 22 | Policy Framework for the child protection in India - An Analysis on POCSO Act.<br>*Dr. Sanjay Bang* | 30 |
| 23 | "Man, wooing woman through sanctity and sentiment - A critique on application of Domestic Violence Act"<br>*Dr. Aarti Tyagi* | 31 |
| 24 | Role of Forensic Evidence in Criminal Cases.<br>*Dr.P.Vara Lakshmi* | 32 |
| 25 | Role of Forensic Science in Criminal Investigations<br>*Dharmitha Kovvuri* | 34 |

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# The Prevention of Money Laundering Act, 2002: Caveat Emptor

D Ganesh Kumar[19]

Akshay D Gudinho[20]

Abstract:

This paper seeks to gauge the attention of constitutional functionaries and legal practitioners generally, and homebuyers specifically by highlighting a few discrepancies in the Prevention of Money Laundering Act, 2002. The said Act has been amended a number of times since its first enactment owing to the growing emphasis on curbing money laundering in the political narrative in India. In drafting the law and empowering the enforcement agencies, the Parliament has sought to tackle the problem of money laundering and weed out the proceeds of crime hidden in the deepest crevices of the financial system. However, in doing so, has the Parliament gone a few steps too far? This paper seeks to answer this very question in the affirmative. The paper deals with the constituents of the "proceeds of crime" in tandem with the offense of money laundering under the said Act prior to and after the Prevention of Money Laundering (Amendment) Act, 2012. Pursuant thereto, the nature of the attachment and confiscation proceedings under the said Act have been discussed. Thereafter, how the said amendment works to the bereavement of bona fide homebuyers is dealt with on three counts: (i) the right to property; (ii) the burden of proof, and (iii) wrongful attachment of property. The paper concludes with a few alternative interpretations to the said Act provided by the Indian Judiciary which supports the suggestions made by the authors to remedy discrepancies highlighted in the Act.

[19] Graduate of Law, Pune, Maharashtra, India.

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## Contents


| | | |
|---|---|---|
| 1 | Beyond Reasonable Doubt....<br>*Prof Answesha Panigrahi* | 7 |
| 2 | A Socio Psyco-Legal Perspective of Restorative Justice of Crime Victims<br>*Dr.Rekh Raj Jain* | 8 |
| 3 | Sexual Abuse of Minor Girl Child<br>*Mrs. Geetha Priyadarshini* | 9 |
| 4 | Capital Punishment: A Legal Assault on the Indian Economy<br>*Ms. Priti* | 10 |
| 5 | Socio-Legal Disparity and the Need for Sentencing Reforms in White Collar Crimes<br>*Ms Priti* | 12 |
| 6 | Effective Human Restoration of Prisoner's with Special Reference to India<br>*Dr.Rekh Raj Jain* | 14 |
| 7 | Neuro-criminology in the Court Room<br>*Dr. K.S.Rekh Raj Jain* | 15 |
| 8 | Notching up Reformation- A Transformative Justice Approach to Corrections<br>*Anwesha Panigrahi* | 16 |
| 9 | Fugitive Economic Offender and Extradition Law in India: A Critical Analysis<br>*Dr. Sumanth Meher* | 17 |
| 10 | Prisoners Right to Conjugal Visitation: A Legal Perspective<br>*Dr.P.L.Jayanthi Reddy* | 18 |
| 11 | Decriminalisation of Adultery Law<br>*Amit Kumar* | 19 |
| 12 | Evolving Capacities of Children: An Analysis in Reference to the Juvenile in Conflict<br>*D.V.N Murty* | 20 |
| 13 | Criminal Justice Administration in India: Focus on the Victims of Crime<br>*Mudasir Bhat* | 21 |
| 14 | Brutality of Honor Killings is on the Rise: The Need for a New Legislation<br>*D V Srilakshmi* | 22 |
| 15 | Protection of Rights of Women Prisoners in India<br>*T Sita Kumari* | 23 |
| 16 | Child Emotional Abuse: Causes, Effects and Remedies<br>*Anubha Srivastava*<br>*Sunitha Abhay Jain* | 24 |

| | | |
|---|---|---|
| 17 | Commutation of Death Sentence to Life Imprisonment on Grounds of Delay: The Ground Realities<br>*Ashutosh Hajela* | 25 |
| 18 | The Prevention of Money Laundering Act, 2002: Caveat Emptor<br>*D Ganesh Kumar*<br>*Akshay D Gudinho* | 26 |
| 19 | The Social Impact of the Supreme Court Ruling on Adultery in India: An Analysis<br>*N B Chandra Kala*<br>*A Anuradha* | 27 |
| 20 | "The smile of a child speaks the language of god"<br>*Dr. Anita Yadhav* | 28 |
| 21 | Right to abortion: Time to revisit the Medical Termination of Pregnancy (MTP) Act, 1971<br>*Mr. Amit Yadav* | 29 |
| 22 | Policy Framework for the child protection in India - An Analysis on POCSO Act.<br>*Dr. Sanjay Bang* | 30 |
| 23 | "Man, wooing woman through sanctity and sentiment – A critique on application of Domestic Violence Act"<br>*Dr. Aarti Tyagi* | 31 |
| 24 | Role of Forensic Evidence in Criminal Cases.<br>*Dr.P.Vara Lakshmi* | 32 |
| 25 | Role of Forensic Science in Criminal Investigations<br>*Dharmitha Kovvuri* | 34 |

International Journal For Advanced Research In Science & Technology

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# The Social Impact of the Supreme Court Ruling on Adultery in India: An Analysis

N B Chandra Kala[21]

A Anuradha[22]

Abstract:

According to Collins English Dictionary, voluntary sexual intercourse between a married man or woman and a partner other than the legal spouse is adultery. Adultery law as per Section 497 of IPC states that if a man has sexual intercourse with a married woman without her husband's consent, he is punishable by law. The man could be imprisoned for five years or more and even pay a fine. The law allows the aggrieved husband of a married woman in adulterous relationship to file a complaint. But the same right is not available to an aggrieved wife if her husband is found to be in an adulterous relationship. The adultery law in IPC reduces a woman to an object because no consent of the married woman is required for a man to have sexual intercourse with her. As per Section 497, if the woman's husband agrees, the act is not a crime. This is the reason many have called this as an anti-women law. This section of the IPC had remained controversial. It was challenged in courts claiming it to be against the Constitution of India. India's top court has now ruled that adultery is no longer a crime, striking down a 158-year-old colonial-era law which it said treated women as male property. This paper discusses the impact of the said ruling on the society and whether the ruling is a boon or a bane to the society in general and to the institution of marriage in particular.

[21] Head, Department of Law, Sri Padmavathi Mahila Visvavidyalayam, Tirupati, Andhra Pradesh, India

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## Contents


| | | |
|---|---|---|
| 1 | Beyond Reasonable Doubt....<br>*Prof Answesha Panigrahi* | 7 |
| 2 | A Socio Psyco-Legal Perspective of Restorative Justice of Crime Victims<br>*Dr.Rekh Raj Jain* | 8 |
| 3 | Sexual Abuse of Minor Girl Child<br>*Mrs. Geetha Priyadarshini* | 9 |
| 4 | Capital Punishment: A Legal Assault on the Indian Economy<br>*Ms. Priti* | 10 |
| 5 | Socio-Legal Disparity and the Need for Sentencing Reforms in White Collar Crimes<br>*Ms Priti* | 12 |
| 6 | Effective Human Restoration of Prisoner's with Special Reference to India<br>*Dr.Rekh Raj Jain* | 14 |
| 7 | Neuro-criminology in the Court Room<br>*Dr. K.S.Rekh Raj Jain* | 15 |
| 8 | Notching up Reformation- A Transformative Justice Approach to Corrections<br>*Anwesha Panigrahi* | 16 |
| 9 | Fugitive Economic Offender and Extradition Law in India: A Critical Analysis<br>*Dr. Sumanth Meher* | 17 |
| 10 | Prisoners Right to Conjugal Visitation: A Legal Perspective<br>*Dr.P.L.Jayanthi Reddy* | 18 |
| 11 | Decriminalisation of Adultery Law<br>*Amit Kumar* | 19 |
| 12 | Evolving Capacities of Children: An Analysis in Reference to the Juvenile in Conflict<br>*D.V.N Murty* | 20 |
| 13 | Criminal Justice Administration in India: Focus on the Victims of Crime<br>*Mudasir Bhat* | 21 |
| 14 | Brutality of Honor Killings is on the Rise: The Need for a New Legislation<br>*D V Srilakshmi* | 22 |
| 15 | Protection of Rights of Women Prisoners in India<br>*T Sita Kumari* | 23 |
| 16 | Child Emotional Abuse: Causes, Effects and Remedies<br>*Anubha Srivastava*<br>*Sunitha Abhay Jain* | 24 |

| | | |
|---|---|---|
| 17 | Commutation of Death Sentence to Life Imprisonment on Grounds of Delay: The Ground Realities<br>*Ashutosh Hajela* | 25 |
| 18 | The Prevention of Money Laundering Act, 2002: Caveat Emptor<br>*D Ganesh Kumar*<br>*Akshay D Gudinho* | 26 |
| 19 | The Social Impact of the Supreme Court Ruling on Adultery in India: An Analysis<br>*N B Chandra Kala*<br>*A Anuradha* | 27 |
| 20 | "The smile of a child speaks the language of god"<br>*Dr. Anita Yadhav* | 28 |
| 21 | Right to abortion: Time to revisit the Medical Termination of Pregnancy (MTP) Act, 1971<br>*Mr. Amit Yadav* | 29 |
| 22 | Policy Framework for the child protection in India - An Analysis on POCSO Act.<br>*Dr. Sanjay Bang* | 30 |
| 23 | "Man, wooing woman through sanctity and sentiment – A critique on application of Domestic Violence Act"<br>*Dr. Aarti Tyagi* | 31 |
| 24 | Role of Forensic Evidence in Criminal Cases.<br>*Dr.P.Vara Lakshmi* | 32 |
| 25 | Role of Forensic Science in Criminal Investigations<br>*Dharmitha Kovvuri* | 34 |

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# "The smile of a child speaks the language of god"

**Dr. Anita Yadhav**[23]

Abstract:

If the jurisprudential authorisation to Law for creating 'Rights' is to be admitted, the first species of living entity to claim for the same is – Child. Childhood is the most beautiful of all life's seasons. "The childhood shows the man, as morning shows the day" said John Milton in his 'Paradise Regained.' Children are adorable precious gems – divine gifts to parents, blooming with innocent eyes and smiles, responding to the capricious adult play and giggle when mingle with their buddies – and signify the sanctity and faith of love symbolising God. Even a devil dances to the gestures of a child. Unfortunately, Childhood is a promise that is never kept as Ken Hill said.

The lofty proclamation of the Charter of the United Nations - recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world – remains an empty vessel without a child cared and protected.

Children are greatest national asset and resource. Children should be allowed and provided opportunity to grow up to become robust citizens, physically fit, mentally alert and morally healthy, endowed with skills and activations needed by the society. Equal opportunities for development to all children during the period of growth should be provided for reducing inequality and ensuring social justice, which in turn would serve as an effective tool to curb delinquency in juveniles.

This Article highlights on the rights of Children under JJ Acr.

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## Contents


| | | |
|---|---|---|
| 1 | Beyond Reasonable Doubt....<br>*Prof Answesha Panigrahi* | 7 |
| 2 | A Socio Psyco-Legal Perspective of Restorative Justice of Crime Victims<br>*Dr.Rekh Raj Jain* | 8 |
| 3 | Sexual Abuse of Minor Girl Child<br>*Mrs. Geetha Priyadarshini* | 9 |
| 4 | Capital Punishment: A Legal Assault on the Indian Economy<br>*Ms. Priti* | 10 |
| 5 | Socio-Legal Disparity and the Need for Sentencing Reforms in White Collar Crimes<br>*Ms Priti* | 12 |
| 6 | Effective Human Restoration of Prisoner's with Special Reference to India<br>*Dr.Rekh Raj Jain* | 14 |
| 7 | Neuro-criminology in the Court Room<br>*Dr. K.S.Rekh Raj Jain* | 15 |
| 8 | Notching up Reformation- A Transformative Justice Approach to Corrections<br>*Anwesha Panigrahi* | 16 |
| 9 | Fugitive Economic Offender and Extradition Law in India: A Critical Analysis<br>*Dr. Sumanth Meher* | 17 |
| 10 | Prisoners Right to Conjugal Visitation: A Legal Perspective<br>*Dr.P.L.Jayanthi Reddy* | 18 |
| 11 | Decriminalisation of Adultery Law<br>*Amit Kumar* | 19 |
| 12 | Evolving Capacities of Children: An Analysis in Reference to the Juvenile in Conflict<br>*D.V.N Murty* | 20 |
| 13 | Criminal Justice Administration in India: Focus on the Victims of Crime<br>*Mudasir Bhat* | 21 |
| 14 | Brutality of Honor Killings is on the Rise: The Need for a New Legislation<br>*D V Srilakshmi* | 22 |
| 15 | Protection of Rights of Women Prisoners in India<br>*T Sita Kumari* | 23 |
| 16 | Child Emotional Abuse: Causes, Effects and Remedies<br>*Anubha Srivastava*<br>*Sunitha Abhay Jain* | 24 |

| | | |
|---|---|---|
| 17 | Commutation of Death Sentence to Life Imprisonment on Grounds of Delay: The Ground Realities<br>*Ashutosh Hajela* | 25 |
| 18 | The Prevention of Money Laundering Act, 2002: Caveat Emptor<br>*D Ganesh Kumar*<br>*Akshay D Gudinho* | 26 |
| 19 | The Social Impact of the Supreme Court Ruling on Adultery in India: An Analysis<br>*N B Chandra Kala*<br>*A Anuradha* | 27 |
| 20 | "The smile of a child speaks the language of god"<br>*Dr. Anita Yadhav* | 28 |
| 21 | Right to abortion: Time to revisit the Medical Termination of Pregnancy (MTP) Act, 1971<br>*Mr. Amit Yadav* | 29 |
| 22 | Policy Framework for the child protection in India - An Analysis on POCSO Act.<br>*Dr. Sanjay Bang* | 30 |
| 23 | "Man, wooing woman through sanctity and sentiment - A critique on application of Domestic Violence Act"<br>*Dr. Aarti Tyagi* | 31 |
| 24 | Role of Forensic Evidence in Criminal Cases.<br>*Dr.P.Vara Lakshmi* | 32 |
| 25 | Role of Forensic Science in Criminal Investigations<br>*Dharmitha Kovvuri* | 34 |

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# Right to abortion: Time to revisit the Medical Termination of Pregnancy (MTP) Act, 1971

**Mr. Amit Yadav**[24]

Abstract :
It is the need of the hour that restrictive abortion laws in India need to be liberalised keeping in the mind upcoming recent cases related to the abortion. For instance, on February 28, 2017, the Supreme Court has refused to allow a woman to abort her 26-week of the foetus on the ground that, it is suffering with down syndrome. In another case In May 2017, the apex court denied a plea to abort another 26-week-old foetus, to 35-year-old HIV-positive woman who had been sexually assaulted. The court cited a report prepared by a doctor at the All-India Institute of Medical Sciences (AIIMS). The main reason for refusing the abortion is the Ceiling of 20 weeks put by Medical Termination of Pregnancy (MTP) Act, 1971. According to MTP Act, abortion is a qualified right and if pregnancy has crossed 20 weeks of the permitted period for abortion it can be only allowed if there is 'substantial risk' to the woman's life or to her 'physical or mental health'.

Therefore, foetus with severe abnormalities is not concerned ground for abortion under MTP Act, 1971 and ultimately woman need to suffer excruciating pain & agony on account of the deliveries that they are forced to go through. Keeping in mind above challenges this paper try to explore the Constitutional validity of the 20-week restriction on abortion imposed by MTP Act, and Further attempt will made to analyse the women's reproductive right as a personal liberty and life under Art.21 of the Indian Constitution.

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# Contents


| | | |
|---|---|---|
| 1 | Beyond Reasonable Doubt....<br>*Prof Answesha Panigrahi* | 7 |
| 2 | A Socio Psyco-Legal Perspective of Restorative Justice of Crime Victims<br>*Dr.Rekh Raj Jain* | 8 |
| 3 | Sexual Abuse of Minor Girl Child<br>*Mrs. Geetha Priyadarshini* | 9 |
| 4 | Capital Punishment: A Legal Assault on the Indian Economy<br>*Ms. Priti* | 10 |
| 5 | Socio-Legal Disparity and the Need for Sentencing Reforms in White Collar Crimes<br>*Ms Priti* | 12 |
| 6 | Effective Human Restoration of Prisoner's with Special Reference to India<br>*Dr.Rekh Raj Jain* | 14 |
| 7 | Neuro-criminology in the Court Room<br>*Dr. K.S.Rekh Raj Jain* | 15 |
| 8 | Notching up Reformation- A Transformative Justice Approach to Corrections<br>*Anwesha Panigrahi* | 16 |
| 9 | Fugitive Economic Offender and Extradition Law in India: A Critical Analysis<br>*Dr. Sumanth Meher* | 17 |
| 10 | Prisoners Right to Conjugal Visitation: A Legal Perspective<br>*Dr.P.L.Jayanthi Reddy* | 18 |
| 11 | Decriminalisation of Adultery Law<br>*Amit Kumar* | 19 |
| 12 | Evolving Capacities of Children: An Analysis in Reference to the Juvenile in Conflict<br>*D.V.N Murty* | 20 |
| 13 | Criminal Justice Administration in India: Focus on the Victims of Crime<br>*Mudasir Bhat* | 21 |
| 14 | Brutality of Honor Killings is on the Rise: The Need for a New Legislation<br>*D V Srilakshmi* | 22 |
| 15 | Protection of Rights of Women Prisoners in India<br>*T Sita Kumari* | 23 |
| 16 | Child Emotional Abuse: Causes, Effects and Remedies<br>*Anubha Srivastava*<br>*Sunitha Abhay Jain* | 24 |

| | | |
|---|---|---|
| 17 | Commutation of Death Sentence to Life Imprisonment on Grounds of Delay: The Ground Realities<br>*Ashutosh Hajela* | 25 |
| 18 | The Prevention of Money Laundering Act, 2002: Caveat Emptor<br>*D Ganesh Kumar*<br>*Akshay D Gudinho* | 26 |
| 19 | The Social Impact of the Supreme Court Ruling on Adultery in India: An Analysis<br>*N B Chandra Kala*<br>*A Anuradha* | 27 |
| 20 | "The smile of a child speaks the language of god"<br>*Dr. Anita Yadhav* | 28 |
| 21 | Right to abortion: Time to revisit the Medical Termination of Pregnancy (MTP) Act, 1971<br>*Mr. Amit Yadav* | 29 |
| 22 | Policy Framework for the child protection in India - An Analysis on POCSO Act.<br>*Dr. Sanjay Bang* | 30 |
| 23 | "Man, wooing woman through sanctity and sentiment - A critique on application of Domestic Violence Act"<br>*Dr. Aarti Tyagi* | 31 |
| 24 | Role of Forensic Evidence in Criminal Cases.<br>*Dr.P.Vara Lakshmi* | 32 |
| 25 | Role of Forensic Science in Criminal Investigations<br>*Dharmitha Kovvuri* | 34 |

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# Policy Framework for the child protection in India - An Analysis on POCSO Act.

Dr. Sanjay Bang[25]

Abstract:
Child an innocent creation of God has been mercilessly killed tortured and exploited in this society. Children are considered to be the future of every society. A child is not only the responsibility of the family but also the society and the nation. They required atmosphere where they can grow without any fear from any one. The crimes against children are increasing day by day such kidnapping, murder, sexual abuse, child labor so on. Thus they need the protection in reference to various issues and problem in this regard. Children are entitled to various human rights and fundamental right. UNICEF, UDHR has granted various humans right to them internationally. Whereas the Constitution of India granted shield of protection to these children in the form of fundamental rights. Which covered various angles of their protection right to health education safety? The Ministry of women and child welfare has provided many schemes and policies for the child protection, Such as National Policy for Children, 22-08-1974, National Plan of Action for Children 2005_Integrated Child Development Services (ICDS) Scheme etc. The researcher wants to analyze the various policies and schemes for the child protection and their implementation in reference to the issues and problems for child protection in modern era.
This article point out the child protection under POCSO Act, 2015

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## Contents


| | | |
|---|---|---|
| 1 | Beyond Reasonable Doubt....<br>*Prof Answesha Panigrahi* | 7 |
| 2 | A Socio Psyco-Legal Perspective of Restorative Justice of Crime Victims<br>*Dr.Rekh Raj Jain* | 8 |
| 3 | Sexual Abuse of Minor Girl Child<br>*Mrs. Geetha Priyadarshini* | 9 |
| 4 | Capital Punishment: A Legal Assault on the Indian Economy<br>*Ms. Priti* | 10 |
| 5 | Socio-Legal Disparity and the Need for Sentencing Reforms in White Collar Crimes<br>*Ms Priti* | 12 |
| 6 | Effective Human Restoration of Prisoner's with Special Reference to India<br>*Dr.Rekh Raj Jain* | 14 |
| 7 | Neuro-criminology in the Court Room<br>*Dr. K.S.Rekh Raj Jain* | 15 |
| 8 | Notching up Reformation- A Transformative Justice Approach to Corrections<br>*Anwesha Panigrahi* | 16 |
| 9 | Fugitive Economic Offender and Extradition Law in India: A Critical Analysis<br>*Dr. Sumanth Meher* | 17 |
| 10 | Prisoners Right to Conjugal Visitation: A Legal Perspective<br>*Dr.P.L.Jayanthi Reddy* | 18 |
| 11 | Decriminalisation of Adultery Law<br>*Amit Kumar* | 19 |
| 12 | Evolving Capacities of Children: An Analysis in Reference to the Juvenile in Conflict<br>*D.V.N Murty* | 20 |
| 13 | Criminal Justice Administration in India: Focus on the Victims of Crime<br>*Mudasir Bhat* | 21 |
| 14 | Brutality of Honor Killings is on the Rise: The Need for a New Legislation<br>*D V Srilakshmi* | 22 |
| 15 | Protection of Rights of Women Prisoners in India<br>*T Sita Kumari* | 23 |
| 16 | Child Emotional Abuse: Causes, Effects and Remedies<br>*Anubha Srivastava*<br>*Sunitha Abhay Jain* | 24 |

| | | |
|---|---|---|
| 17 | Commutation of Death Sentence to Life Imprisonment on Grounds of Delay: The Ground Realities<br>*Ashutosh Hajela* | 25 |
| 18 | The Prevention of Money Laundering Act, 2002: Caveat Emptor<br>*D Ganesh Kumar*<br>*Akshay D Gudinho* | 26 |
| 19 | The Social Impact of the Supreme Court Ruling on Adultery in India: An Analysis<br>*N B Chandra Kala*<br>*A Anuradha* | 27 |
| 20 | "The smile of a child speaks the language of god"<br>*Dr. Anita Yadhav* | 28 |
| 21 | Right to abortion: Time to revisit the Medical Termination of Pregnancy (MTP) Act, 1971<br>*Mr. Amit Yadav* | 29 |
| 22 | Policy Framework for the child protection in India - An Analysis on POCSO Act.<br>*Dr. Sanjay Bang* | 30 |
| 23 | "Man, wooing woman through sanctity and sentiment - A critique on application of Domestic Violence Act"<br>*Dr. Aarti Tyagi* | 31 |
| 24 | Role of Forensic Evidence in Criminal Cases.<br>*Dr.P.Vara Lakshmi* | 32 |
| 25 | Role of Forensic Science in Criminal Investigations<br>*Dharmitha Kovvuri* | 34 |

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# "Man, wooing woman through sanctity and sentiment – A critique on application of Domestic Violence Act"

Dr. Aarti Tyagi[26]

Abstract:
From biblical beam to the present boutique era, woman is subjected to the thrust of the individual and societal capricious attitude. The opulence of legislative measures seeking to alleviate the suffering women is gradually proving to be nothing but legal obesity. Constitutional and statutory safeguards, balancing the need of the union of man and woman for vindicating the 'family unit', invited additional strength in the form of Domestic Violence Act, 2005. Law's cruelty hardly tames the human bestiality, and hence the compatriot feminism is required to control the man's aggressiveness through soft legal peddling in view of the need to preserve and protect much-valued 'family unit'. Law relating to Domestic Violence is a soothing reflection of the balancing wheel of man and woman relation in the family and society.

This legislation on domestic violence also engendered staggering statistics of complaints by women against men and other family members creating calamitous consequences. Instead of strengthening the bonds of wife and husband, the D.V. Act sadly prodded separation of couple and disruption of serene family environment. Adding fuel to the fire, judicial interpretations in some quarters imported the element of 'equality' in application of Domestic Violence Act, 2005, not only for women but also for men. Thus the Domestic Violence Act of 2005, once perceived to be woman paradise became the joint residence of cantankerous couple. End results impact on family status, children destitution, property possession, economic upheavals etc., and family spirit is being jettisoned by individual ego.

The article focuses mainly on practical application of PWDV Act, 2005.

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## Contents


| | | |
|---|---|---|
| 1 | Beyond Reasonable Doubt....<br>*Prof Answesha Panigrahi* | 7 |
| 2 | A Socio Psyco-Legal Perspective of Restorative Justice of Crime Victims<br>*Dr.Rekh Raj Jain* | 8 |
| 3 | Sexual Abuse of Minor Girl Child<br>*Mrs. Geetha Priyadarshini* | 9 |
| 4 | Capital Punishment: A Legal Assault on the Indian Economy<br>*Ms. Priti* | 10 |
| 5 | Socio-Legal Disparity and the Need for Sentencing Reforms in White Collar Crimes<br>*Ms Priti* | 12 |
| 6 | Effective Human Restoration of Prisoner's with Special Reference to India<br>*Dr.Rekh Raj Jain* | 14 |
| 7 | Neuro-criminology in the Court Room<br>*Dr. K.S.Rekh Raj Jain* | 15 |
| 8 | Notching up Reformation- A Transformative Justice Approach to Corrections<br>*Anwesha Panigrahi* | 16 |
| 9 | Fugitive Economic Offender and Extradition Law in India: A Critical Analysis<br>*Dr. Sumanth Meher* | 17 |
| 10 | Prisoners Right to Conjugal Visitation: A Legal Perspective<br>*Dr.P.L.Jayanthi Reddy* | 18 |
| 11 | Decriminalisation of Adultery Law<br>*Amit Kumar* | 19 |
| 12 | Evolving Capacities of Children: An Analysis in Reference to the Juvenile in Conflict<br>*D.V.N Murty* | 20 |
| 13 | Criminal Justice Administration in India: Focus on the Victims of Crime<br>*Mudasir Bhat* | 21 |
| 14 | Brutality of Honor Killings is on the Rise: The Need for a New Legislation<br>*D V Srilakshmi* | 22 |
| 15 | Protection of Rights of Women Prisoners in India<br>*T Sita Kumari* | 23 |
| 16 | Child Emotional Abuse: Causes, Effects and Remedies<br>*Anubha Srivastava*<br>*Sunitha Abhay Jain* | 24 |

| | | |
|---|---|---|
| 17 | Commutation of Death Sentence to Life Imprisonment on Grounds of Delay: The Ground Realities<br>*Ashutosh Hajela* | 25 |
| 18 | The Prevention of Money Laundering Act, 2002: Caveat Emptor<br>*D Ganesh Kumar*<br>*Akshay D Gudinho* | 26 |
| 19 | The Social Impact of the Supreme Court Ruling on Adultery in India: An Analysis<br>*N B Chandra Kala*<br>*A Anuradha* | 27 |
| 20 | "The smile of a child speaks the language of god"<br>*Dr. Anita Yadhav* | 28 |
| 21 | Right to abortion: Time to revisit the Medical Termination of Pregnancy (MTP) Act, 1971<br>*Mr. Amit Yadav* | 29 |
| 22 | Policy Framework for the child protection in India - An Analysis on POCSO Act.<br>*Dr. Sanjay Bang* | 30 |
| 23 | "Man, wooing woman through sanctity and sentiment – A critique on application of Domestic Violence Act"<br>*Dr. Aarti Tyagi* | 31 |
| 24 | Role of Forensic Evidence in Criminal Cases.<br>*Dr.P.Vara Lakshmi* | 32 |
| 25 | Role of Forensic Science in Criminal Investigations<br>*Dharmitha Kovvuri* | 34 |

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# Role of Forensic Evidence in Criminal Cases

Dr.P.Vara Lakshmi[27]

Abstract:
Forensic science is science applied in Courts, forensic evidence is used in both civil and criminal Courts. Handwriting, signatures, finger and foot prints, blood and sperm testing, polygraph or lie-detector tests, Narco-Analysis, DNA Fingerprinting, Breathalyzer testing, and ballistics or weapons are all examples of forensic science. In comparison to polygraph and narco-analysis, fingerprints and DNA testing offer a better level of confidence and dependability. Fingerprint identification is one of the oldest ways, but with the advancement of biometrics technology, the science has gotten more advanced. Apart from the traditional physical inspection of fingerprints, optical, ultrasonic, and computer-aided comparisons have become popular, greatly improving the accuracy. The arch, loop, and whorl are the three primary patterns of fingerprint ridges. An arch is a pattern in which ridges enter from one side of the finger, rise in the middle to create an arc, and then escape from the other side. The loop is a pattern in which the ridges enter from one side of a finger, curve, and then escape from the same side. Ridges develop in a circular pattern around a central spot on the finger in the whorl pattern. There are a few more minor features that aid in the identification procedure.

Unlike the science of handwriting and signatures, the science of fingerprints has always been favored by courts. "The science of fingerprint identification is an exact science that does not admit of any mistake or doubt, and the risk of an incorrect opinion is practically non-existent," the Supreme Court said. "The science of handwriting identification, unlike the science of finger prints identification, which has achieved near-perfection, is not quite perfect, and the risk is, therefore, higher," it has been said. "Expert evidence as to handwriting is only opinion evidence and it can never be conclusive," the court stated in "SPS Rathore v CBI"[28],. However, there is no reason for dismissing expert opinion, considering it on par with accomplice's evidence, and requiring for corroboration constantly. It is a rule of thumb that no conviction should be relied exclusively on expert testimony, and courts should search for further evidence to back up their findings.

As indicated in the above, the Court has the ability to order any individual present in the Court to produce a sample of his handwriting or signature for comparison by itself under section 73 of the Evidence Act, 1872. The Courts have frequently concluded that since they are not experts in handwriting or fingerprints, it is not desirable for the Court to take on a duty that should be handled by an expert. Forensic science is science applied in Courts, much as forensic medicine is medicine used in Courts. Handwriting, signatures, finger and foot prints, blood and sperm testing, polygraph or lie-detector tests, Narco-Analysis, DNA.
Fingerprinting, Breathalyzer testing, and ballistics or weapons are all examples of forensic science. In comparison to polygraph and narco-analysis, fingerprints and DNA testing offer a better level of confidence and dependability. Fingerprint identification is one of the oldest ways, but with the advancement of biometrics technology, the science has gotten more advanced. Apart from the traditional physical inspection of fingerprints, optical, ultrasonic, and computer-aided comparisons have

[27] Associate Professor, Damodaram Sanjivayya National Law University.

become popular, greatly improving the accuracy. The arch, loop, and whorl are the three primary patterns of fingerprint ridges. An arch is a pattern in which ridges enter from one side of the finger, rise in the middle to create an arc, and then escape from the other side. The loop is a pattern in which the ridges enter from one side of a finger, curve, and then escape from the same side. Ridges develop in a circular pattern around a central spot on the finger in the whorl pattern. There are a few more minor features that aid in the identification procedure to apprehend the criminal in criminal cases.

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## Contents


| | | |
|---|---|---|
| 1 | Beyond Reasonable Doubt....<br>*Prof Answesha Panigrahi* | 7 |
| 2 | A Socio Psyco-Legal Perspective of Restorative Justice of Crime Victims<br>*Dr.Rekh Raj Jain* | 8 |
| 3 | Sexual Abuse of Minor Girl Child<br>*Mrs. Geetha Priyadarshini* | 9 |
| 4 | Capital Punishment: A Legal Assault on the Indian Economy<br>*Ms. Priti* | 10 |
| 5 | Socio-Legal Disparity and the Need for Sentencing Reforms in White Collar Crimes<br>*Ms Priti* | 12 |
| 6 | Effective Human Restoration of Prisoner's with Special Reference to India<br>*Dr.Rekh Raj Jain* | 14 |
| 7 | Neuro-criminology in the Court Room<br>*Dr. K.S.Rekh Raj Jain* | 15 |
| 8 | Notching up Reformation- A Transformative Justice Approach to Corrections<br>*Anwesha Panigrahi* | 16 |
| 9 | Fugitive Economic Offender and Extradition Law in India: A Critical Analysis<br>*Dr. Sumanth Meher* | 17 |
| 10 | Prisoners Right to Conjugal Visitation: A Legal Perspective<br>*Dr.P.L.Jayanthi Reddy* | 18 |
| 11 | Decriminalisation of Adultery Law<br>*Amit Kumar* | 19 |
| 12 | Evolving Capacities of Children: An Analysis in Reference to the Juvenile in Conflict<br>*D.V.N Murty* | 20 |
| 13 | Criminal Justice Administration in India: Focus on the Victims of Crime<br>*Mudasir Bhat* | 21 |
| 14 | Brutality of Honor Killings is on the Rise: The Need for a New Legislation<br>*D V Srilakshmi* | 22 |
| 15 | Protection of Rights of Women Prisoners in India<br>*T Sita Kumari* | 23 |
| 16 | Child Emotional Abuse: Causes, Effects and Remedies<br>*Anubha Srivastava*<br>*Sunitha Abhay Jain* | 24 |

| | | |
|---|---|---|
| 17 | Commutation of Death Sentence to Life Imprisonment on Grounds of Delay: The Ground Realities<br>*Ashutosh Hajela* | 25 |
| 18 | The Prevention of Money Laundering Act, 2002: Caveat Emptor<br>*D Ganesh Kumar*<br>*Akshay D Gudinho* | 26 |
| 19 | The Social Impact of the Supreme Court Ruling on Adultery in India: An Analysis<br>*N B Chandra Kala*<br>*A Anuradha* | 27 |
| 20 | "The smile of a child speaks the language of god"<br>*Dr. Anita Yadhav* | 28 |
| 21 | Right to abortion: Time to revisit the Medical Termination of Pregnancy (MTP) Act, 1971<br>*Mr. Amit Yadav* | 29 |
| 22 | Policy Framework for the child protection in India - An Analysis on POCSO Act.<br>*Dr. Sanjay Bang* | 30 |
| 23 | "Man, wooing woman through sanctity and sentiment - A critique on application of Domestic Violence Act"<br>*Dr. Aarti Tyagi* | 31 |
| 24 | Role of Forensic Evidence in Criminal Cases.<br>*Dr.P.Vara Lakshmi* | 32 |
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# Role of Forensic Science in Criminal Investigations

**Dharmitha Kovvuri**[29]

Abstract :

Criminal investigation is a pragmatic science that comprises the study of facts, used to categorize, uncover and demonstrate the culpability of an accused criminal. The ancient world was devoid of standardized practices of forensic practice. Basically, investigation was supported by the witness testimony. Forensic science has come up in a big way to assist criminal investigation. Forensic science is that piece without which the puzzle of a criminal investigation is incomplete. It enables the authorities to identify the suspect in crime also helps in decisive when and how a crime has occurred. Forensic scientists examine and analyse evidence from crime scenes and elsewhere to develop objective findings that can assist in the investigation and prosecution of perpetrators of crime or absolve an innocent person from suspicion.

Forensic scientists use analytical and scientific techniques to examine evidence from crimes and prepare legal statements that summarise the results for court cases. Forensic science is the application of science to the law by gathering and examining evidence to be used in a legal case. Forensic science facilitates criminal investigation in all varied facets and plays the pivotal role in keeping law and order in a society. It has become an indispensable part of criminal investigations and two will never separate.

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