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Department of Justice
Government of India
न्याय विभाग
भारत सरकार

NEWSLETTER VIDHI-LEKH

Newsletter of Probono Club under Faculty of Law



Messages from the Editorial Team

Messages from the Editorial Team

Dear Readers,

I am ecstatic to inaugurate the first edition of our Newsletter “VIDHI-LEKH”, an initiative of our Pro Bono Club, Nyaya Bandhu Legal Services under the Ministry of Law and Justice. On behalf of the Vidhi-Lekh Editorial Team, I would like to extend a very warm welcome to the readership of Vidhi-Lekh. I take this opportunity to thank our authors, editors and reviewers, all of whom have volunteered to contribute to the success of the Newsletter.

The Vidhi-Lekh is a monthly newsletter devoted to publishing articles addressing pertinent Contemporary Legal Issues. The newsletter includes Legal Current Affairs as well as the activities conducted by the Pro Bono Club under the aegis of the Ministry of Law and Justice. We have included the section on upcoming events which are going to be conducted by the Club so that our readers will be informed about the upcoming activities of the Club. I hope this newsletter will enhance the knowledge of our readers.

I am fortunate to be supported by a highly effective team. The current group of Associate Editors worked incredibly hard, particularly in assessing and processing submitted articles.

We hope to keep serving the society and community by publishing value-added articles and information related to the legal issues pertaining to National and International events.

Thank you for reading.



Mrs. Saloni Tyagi Shrivastava
Editor-in-Chief
Vidhi-Lekh

Messages from the Editorial Team

Messages from the Editorial Team

Dear Readers,

It is indeed a great honour to take the role of Managing Editor for our first edition of the newsletter “Vidhi-Lekh”. The outstanding contributions of the editorial team and our contributing writers have brought immense value to our newsletter through their content. In this issue, we will recount the various activities undertaken by the Pro Bono Club of Kalinga University and articles related to contemporary legal issues. Our main goal for this newsletter in the coming years would be to raise its status via quality articles and community-serving activities. A huge thank you to all the members who contributed and supported throughout the creation of this edition.



Ms. Ekta Chandrakar
Managing Editor

Greetings everyone from the Team of Vidhi-Lekh!
Greetings everyone from the Team of Vidhi-Lekh!

We are pleased to put out this pilot edition of the monthly newsletter in association with the Pro-Bono club. Working on this newsletter has been a rewarding rush; we bring to you articles on gripping events, current affairs and legal paradoxes.

Hope you enjoy reading it as much as the students did writing them.



Cheryl Betsy Mathew and Aradhana Singh

LLM 1st Semester
Student Editors

Associate Student Editors List:

Associate Student Editors List:

- Vidhi-Lekh came as an idea that should be shared as a leading light which must be remembered as a landmark of thought. Hope you find the newsletter interesting!



Ram Karda

BA LLB, 7th Semester
Associate Editor

- We hope our Vidhi-Lekh magazine enlightens the untouched parts of global issues and encourages more conversation for a sustainable solution.



Khyati Solanki

BA LLB, 7th Semester
Associate Editor

- We hope this edition of Vidhi-Lekh have you updated with all the current conversations on global legal issues. Looking forward to any suggestions that could make the newsletter more informative and beneficial to the community.



Pratiksha Bhagat

BA LLB, 5th Semester
Associate Editor

Associate Student Editors List:

Associate Student Editors List:

- "Vidhi-Lekh" is dubbed with shades and colours of the society. We hope this Magazine will guarantee that you have the most recent information and solutions.



Sakshi Das

BA LLB, 5th Semester
Associate Editor

- It has been a great honour and pleasure for me to be a part of our first edition of Vidhi-Lekh. Writing and making this newsletter was a combined effort of all the editors, associate editors and writers. Looking forward to more successful issues of Vidhi-Lekh.



Mitali Thakur

BA LLB, 3rd Semester
Associate Editor

- With immense pleasure we are bringing you the first edition of our newsletter. We hope you enjoy reading this issue as much as we have enjoyed making it. Any suggestions or criticism of the magazine would be most welcome.



Komal Pandey

BA LLB, 3rd Semester
Associate Editor

Pro Bono Activities

Pro Bono Activities

1. Inauguration of Pro Bono Club – Webinar on Bridging the Justice Gap: Pro Bono Legal Services in India
2. Kotni-Village Visit: 17th August 2022 – Nukkad Natak on Consumer Rights
3. District Court Visit: 24th September 2022
4. Session on Basics of Litigation in Collaboration with DLSA Raipur 3rd November 2022
5. Session on Road Safety Awareness in Collaboration with DLSA Raipur and Ram Krishna Hospital 7th November 2022

Upcoming Activities by the club:

- The Constitution Day celebration on 26th November 2022
- Reel Making Competition (open to all) - Dates to be announced soon
- PIL Drafting Competition (open to law students)- Dates to be announced soon

Inauguration of Pro Bono Club – Webinar on Bridging the Justice Gap: Pro Bono Legal Services in India

Kalinga University, Pro Bono Club, Faculty of Law organised the inauguration of ProBono Club and Webinar on Bridging the Justice Gap: Pro Bono Legal Services in India on 12th July initiated by Assistant Professor Mrs. Saloni Tyagi Shrivastava, Nodal Officer, Kalinga Pro Bono Club under the Nyaya Bandhu Pro Bono Legal Services Scheme, Ministry of Law and Justice, Government of India. The programme Covered a wide range of topics with a round of discussion aimed to equip Pro Bono Associates with the required skills which will help them to carry various awareness and campaigns. Guests of the Event shared their keen knowledge and experience with the students and enlightened the students and other participants on effective ways to bridge the justice gap. In total 100 participants attended the webinar.

Kotni-Village Visit: 17th August 2022 – Nukkad Natak on Consumer Rights
Nukkad Natak was performed by 7 members of the pro bono club namely:

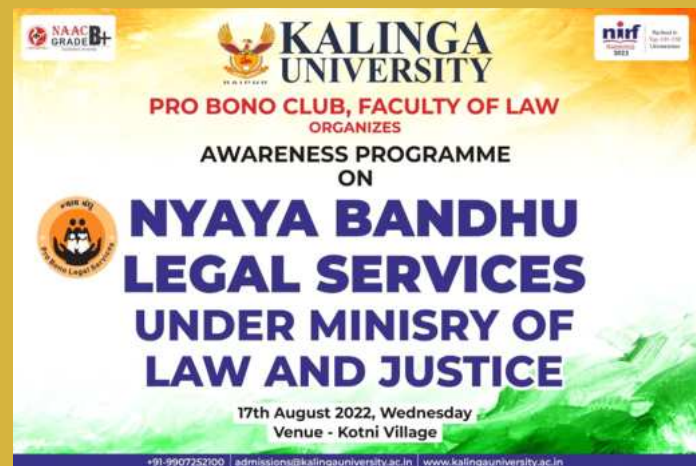


- Sakshi
- Deepanshu
- Sakshi
- Swarnim
- Aryan
- Bhavya
- Rishabh.

On 17th August 2022, Pro Bono Associates went to Kotni for a field visit, where they, first of all, talked to the villagers asking them about their problems and how they can help them to get them solved.

The Nukkad Natak aimed at consumer awareness and other areas as:

- why the customer should take the bill, and check the expiry date of the product before buying
- why we should not invest our money in lottery tickets



District Court Visit: 24th September 2022

Pro Bono Associates went to the district court to inform advocates about the Nyaya Bandhu scheme and to explain to them the process of registering in the Nyaya Bandhu app.

They did register a few advocates in the app. Also explained to them how they can make use of this app to provide legal aid to marginalised people.



Session on Road Safety Awareness in Collaboration with DLSA Raipur and Ram Krishna Hospital 7th November 2022

Pro Bono Club, Faculty of Law in collaboration with DLSA, Raipur and Rama Krishna Hospital conducted a session on Road Safety Awareness.

Dr. S.N. Madharia introduced the students to the basic habits to be adopted as a measure to prevent the risk of road accidents. He also made the audience aware of the basic spine and head injuries which can have serious implications on the lives of human beings if proper preventive measures are not taken before riding or driving a vehicle. The penalties for rash and negligent driving as provided in our legislation were also highlighted upon emphasising the point that our lives are in our own hands and road accidents can be avoided with proper measures and conscious efforts.



Session on Basics of Litigation in Collaboration with DLSA Raipur 3rd November 2022

Pro Bono Club, Faculty of Law, Kalinga University, Naya Raipur welcomed the Hon'ble Guest Mr. Praveen Mishra, Secretary, District Legal Services Authority, Raipur and Mr. Ashutosh Tiwari to conduct a session on Basics of Litigation. The programme was conducted from 2:00 P.M. to 3:45 P.M. at the Auditorium to make the student aware of the "Basics of Litigation". Perceptive inputs were made to him making the beginning of the session more insightful.

They introduced the students to the basics of pro bono and Nyaya Bandhu schemes. The service to mankind can be done in many ways and providing legal aid to the needy is one of them. It is one of the ends for which our entire legal system exists and every small step that moves towards the direction of achieving this end is a step towards serving society.



CURRENT AFFAIRS (NOVEMBER 2022)

- 1) Dhananjay Yeshwant Chandrachud is set to become the 50th Chief Justice of India (CJI) in November 2022.
- 2) The Supreme Court upheld a 10% quota for people belonging to economically weaker sections (EWS) in admissions and government jobs.
- 3) November 9 is observed as the 'National Legal Services Day' in India.
- 4) The Global Shield Against Climate Risks Initiative was launched on November 14, 2022.
- 5) The theme of 'India Water Week 2022' is Water Security for Sustainable Development and Equity.
- 6) Tech- company Google is currently developing an AI model that supports the 1,000 most spoken languages of the world.
- 7) (United Nations Environment Programme) UNEP released the Adaptation Gap Report 2022.
- 8) The word 'Perma-crises has been selected as the 'Word of the Year 2022 by Collins dictionary'.
- 9) The Indian Space Research Organization (ISRO) has collaborated with Japan to explore Venus and the dark side of the moon.
- 10) Ministry of Jal Shakti launched the 'Swachh Survekshan Grameen 2023 Toolkit'.
- 11) Chhattisgarh hosted the 'National Tribal Dance Festival' in 2022.
- 12) Goa hosted the '53rd edition of the International Film Festival of India'.
- 13) Kerala is set to host the 'Track Asia Cup 2022 Cycling Tournament'.

Swarnim Sahu

BA LLB, 3rd Semester



The 50th Chief Justice of India: The process of appointment of CJIs.

The 49th Chief Justice of India (CJI), Uday Umesh Lalit, had a short tenure of over three months and retired on 8th November 2022. His successor, Justice Dhananjaya Yeshwant Chandrachud, will be holding office as the 50th Chief Justice of India. His term will last two years, and he will retire on 10th November 2024. Justice Chandrachud took the oath of office on November 9th 2022, the day after incumbent Chief Justice U.U. Lalit retires at the age of 65.

Who can become the Chief Justice of India?

Apart from being an Indian citizen, the person must:

- A) Served as a judge of a high court or two or more such courts in succession for at least five years, or
- B) Have been an advocate before a High Court or two or more such courts in succession for at least ten years
- C) In the President's, a distinguished jurist.

Who appoints the CJI?

Article 124 of the Indian Constitution provides for the appointment of the CJI and the other judges of the Supreme Court; the appointments are made by the President under clause (2) of Article 124. The appointment by the President is done after consultation with the judges of the Supreme Court, as the President deems necessary. The tenure of the CJI is until they attain the age of 65, and for the High Court judges, the age of retirement is 62 years. The appointment of High Court judges is also done by the President of India, and he should consult the CJI, the Governor of the respective state, and the Chief Justice of the High Court concerned. This is mentioned in Article 217 of the Indian Constitution.

Collegium system

In India, the collegium system has been followed for more than two decades for appointing judges. It consists of the five senior-most judges of the Supreme Court and the High Courts. The collegium recommends the names for the appointment, and if the government does not agree with the collegium's decision, it can raise objections; usually, the decision of the Collegium prevails.

The government's Memorandum of Procedure for the Appointment of Supreme Court Judges says that the Union Minister of Law, Justice and Corporate Affairs should seek the recommendation of the outgoing CJI for the appointment of the next CJI, and seniority is to be the norm. Once the collegium recommendations are final and well received by the CJI, the Law Minister will bring the recommendation to the Prime Minister, who will advise the President on the appointment.

Criticism of the collegiums

The Indian Constitution only talks about the consultation by the President, and the term "collegium" is not mentioned in it. The word "consult" being ambiguous in the constitution makes this method of appointment prone to being challenged in court. There are numerous cases where the appointment of judges has been challenged; one such case is the First Judges Case. In this case, it was held that the recommendations made by the CJI to the President can be refused if there are "cogent" reasons for the refusal of the recommendation made by the CJI. This also meant that the president or the executive had a stronger hand in making appointments than the judiciary.

After subsequent judgments, the Supreme Court of India changed its previous selection process and provided new guidelines for appointing and transferring judges. In the present form of the collegium system, the decisions are taken by a majority of the five senior judges, and this was the result of the Third Judges Case. This protects the judiciary's independence from the executive in matters of judicial appointment in India.

Conventionally, the senior judge after the Chief Justice (in terms of service) is recommended as the next CJI. Former Prime Minister Indira Gandhi broke this convention when she appointed Justice AN Ray as CJI over his senior for a CJI more favourable to her regime in 1973.

The 230th Law Commission's report, submitted in 2009, pointed out the possibility of prevailing nepotism and little space for transparency. The report states this by saying: "Sometimes it appears that this high office (HC Judge) is patronized." A person whose near relative or well-wisher is or has been a judge in the higher courts or is a senior advocate or is a political higher-up has a much better chance of elevation than one without a potent background. It is not necessary that such a person be competent because sometimes persons with even lesser competence are inducted. There is no dearth of such examples. Such individuals should not be appointed, at least not within the same HC."

An alternative was also proposed in the name of the National Judicial Appointments Commission, a body suggested for making appointments that consist of the CJI and the two senior-most judges, the law minister, and two "eminent" persons selected by a panel that includes the Prime Minister, the CJI, and the leader of the opposition party in the Lok Sabha. This bill was passed by Parliament but was later overturned by the Supreme Court in 2015, at that time, the Honourable SC suggested that a memo of procedure should be drafted for such procedures which lead to where their appointment stands in the recent scenario.

A Fight for Freedom: The Curious Case of Hijab.

"Liberty, when it begins to take root, is a plant of rapid growth." Life without Liberty is like a body without a spirit. Freedom is the open window through which brings the sunlight of the human spirit and dignity."

Herbert Hoover

A large protest can be seen in Iran. Women were out on the streets to protest against the mandatory hijab. Bonfires were lit to set the hijab on fire. It had shaken up the government. Protesters were fired upon and more than 31 people were killed. The internet was shut down in many places and people were being mass arrested. It was nothing but a true state of genocide and terror. Can you believe that all of it began with one incident?

A few months ago, on 13th September 2022, Mahasa Amini and her family were travelling from the Kurdistan region to travel to the Iranian capital, Tehran, to visit their relatives. It was late in the evening when they arrived, stopped on their way by the police. This wasn't the common police, but the moral police. The author highlights that Iran has a special police force to check whether the women are properly dressed up or not and as a result, Amini and her family were stopped by the morality police.

It was suggested that Amini was not wearing her hijab properly according to the police when they dragged her out of the car and put her in a police van, and when her brother, Kiarash tried to intervene and talk to the police they responded that his sister was to be taken to the police station for an hour for re-education classes. Amini's family told this to human rights activists and according to the Iranian media website she was then taken to the detention centre, and her brother was also present during the interrogation.

According to the local media reports, Amini's brother claims he heard screams from inside while he was waiting outside the room when he spotted an ambulance arriving, Amini was secretly taken to the Kasra hospital. On September 15th 2022, the Tehran police issued an official statement saying that shortly after Amini's arrest, she had suffered a heart attack at the hospital, Amini was in a coma, and unfortunately, she passed away on September 16, 2022.

This controversy may remind the readers of another incident that was recently seen in India where the Karnataka educational institutions banned Muslim students from wearing hijabs for which they protested in large numbers. At first glance, it might seem that these cases are contradictory in nature. On the one hand, women in India were demanding the right to wear hijab, and on the other, Iranian women, are protesting to ditch the hijab. However, in the author's opinion, both issues are similar in several countries various governments try to dictate and restrict people from selecting their interests.

It is to be noted that these women only wanted freedom and the right to choose if they wanted to wear a hijab, they should be able to do so. It is a known fact that women suffer the brunt of several dilemmas when Government brings amends to any law. In many states of India, like Uttar Pradesh and Uttarakhand, several ministers were also seen taunting women for wearing jeans or skirts in public places leaving them open to being judged left and right by just about anyone. This struggle for freedom is everlasting and it should come at a standstill.

Priti Ranjan

BA LLB, 5th Semester



Uniform Civil Code?

Uniform Civil Code: Tying Nation Secular in True Sense

Ram Karda. B.A., LL. B, 7th Semester

Chhaya Gupta. B.A., LL. B, 5th Semester

History

In ancient Bharat, monarchical rulers used to govern people in the regions of their own will, with some codifying their laws and others having uncoded ones. In its 2nd Law Commission Report in 1835, the East India Company proposed that they codify and unify the Criminal, Evidence, and Contract laws in all of the regions under the company's governance to simplify rules and form the basis of governance throughout the region which comprised various rulers.

Following the 1857 revolt, the British crown seized control of the region. Queen Victoria in her introductory speech, clarified that the family laws of the region must and will be governed by the local people. This signified the intent of colonial rulers to exploit the region and not to civilize its society. The B.N. Rau Committee proposed a common Hindu law that is uniform in nature and provides equal treatment and opportunity to women in 1941. After independence, PM Nehru as well as B.R. Ambedkar made considerable attempts to formulate a common law for this, but it was difficult for the framers of the law to introduce a uniform civil code as, at that moment, the two-nation theory had caused enough communal impairment and society was not in a position to accept customary changes.

UCC: Instant need for the hour

Given that the colonial powers were primarily interested in economic exploitation, it was surprising that they would invest in publicizing family issues. But, now that the nation is of the people, by the people, and for the people, it is expected from the legislators to formulate uniform rules and regulations regarding family issues (i.e., marriage, adoption, maintenance, divorce, etc.) for people in India. This must be stated unequivocally: not only intellectuals but also the Supreme Court, are enunciating the need for UCC for all citizens in India. The Supreme Court has repeatedly reminded the government that "the nation cannot expect any one community to come forward and demand establishing regulations on themselves; it is the duty of the state to research, formulate, discuss, amend, execute, and educate citizens of this nation about the Uniform Civil Code. While formulating the Constitution, the framers kept the UCC in Article 44, signifying that the state should endeavour to make this nation full of diversity with a standard governing system.

It's difficult to admit that most custom laws in all religions were patriarchal, which at the time did not allow women to work and were heavily reliant on their male counterparts, whether father, husband or son. Women of this generation, however, are motivated by the fact that they are self-sufficient, dare to support their families, and govern various states and regions when allowed to do so. So, it would be unfair on our part as a constitutionally governed nation to not adequately represent 50% of our population. This will not only demoralize the female fraternity but also hinder a robust move towards a socially, economically, culturally, and militarily progressive nation. Defiantly, the framers of the constitution as well as various SC judges made their intent clear that they wanted to make this nation an arena for encouraging each other's differences, even if it was based on gender.

Earlier attempts to introduce UCC Well-known activist Aparna Mahanta once stated that the "failure of the Indian state to provide a uniform civil code, consistent with its democratic secular and socialist declarations, further illustrates the modern state's accommodation of the traditional interests of a patriarchal society."

Some of the worrying customary practices were eradicated from time to time by introducing the Widow Remarriage Act, the Women's Right to Property Act, the Protection of the Right of Marriage (Prohibition of Triple Talaq), and the Fundamental Right to Education to all girl children below the age of 14 years.

The Special Marriage Act of 1954 was one of the major attempts to formulate the civil code. This legislation signifies the secularism of this nation, but the major problem with this code is that it is voluntary, and to date, most of the public is not opting to govern their lives with this act to get rid of documentation. This indicates the laziness of people and indicates that the state should be a bit stricter in this aspect by introducing compulsory secular civil law.

Infamous incident of Shah Bano

Shah Bano was the wife of a well-known lawyer in Indore who refused to pay maintenance after their divorce. The Supreme Court held that Section 125 of the CrPC applies to all the citizens of India, and the husband was directed to provide INR 179 as maintenance. SC laid its emphasis on that the UCC when enacted should prevent contradictions between religious texts and present-day laws

5 Key Elements of the SC Judgment in the Shah Bano case:

1. It is a matter of regret that Article 44 has remained a dead letter.
2. UCC will help the cause of national integration by removing disparate loyalties to the law that have conflicting ideologies.
3. No community is likely to save face by making gratuitous concessions on this issue. It is the state that is charged with the duty of securing a UCC, and unquestionably, it has the legislative competence to do so.
4. We understand the challenges of bringing people of different faiths and beliefs together on a common platform. But a beginning has to be made if the constitution is to have any meaning.
5. Piecemeal attempts by courts to bridge the gap between personal laws cannot take the place of a common civil code. Justice for all is a far more satisfactory way of dispensing justice than justice from case to case.

The above judgment faced a lot of backlash, and the Muslim community pressured the government to reverse it. Fortunately, then PM Rajiv Gandhi nullified the above judgment by introducing the Muslim Women (Protection of Rights in Divorce) Act, 1986. This made Section 125 of the CrPC non-operable for Muslim women.

Ray of Hope

The political party that is currently governing the nation is well known for its rock-solid resolutions to transform this nation by making major decisions like the partial abrogation of Article 370 commitment towards the construction of Shri Ram Janmabhoomi Temple, introduction of the Citizenship Amendment Act, surgical strikes, and much more. All of this was previously included in the manifesto of the present government; fortunately, the UCC was one of the major promises in the government's manifesto that is about to be introduced.

After this, all the judicial system has to do is release its burden, and millions of females eager to get their equal cultural, economic, and social rights are ardently waiting for this code; this fact can't be ignored, as females' equality contribution in endeavouring to reach the goal of a \$5 trillion economy will help in archiving it in record time.

- Ram Karda

B.A., LL. B, 7th Semester

- Chhaya Gupta

B.A., LL. B, 5th Semester



Concept of Media and Justice

Media also known as the 4th pillar of democracy plays a crucial role in the shaping of democracy. It creates a relationship between the common man and society. It also plays an important role in the process of justice as under trial by the Media, starting its investigation. The majority of public knowledge about crime and Justice is derived from the media which includes all the media platforms like news channels, newspapers, journals, articles, social media and other websites by publishing the news according to their views on the case.

It is a known fact that whenever an individual comes across any piece of information, they form an idea and move forward with that preconceived bias depending upon the article's portrayal even if it is not the fact. The main role of the media in a democratic country is to provide transparency and raise public awareness among society, not giving rise to any controversy or dispute among the public.

Whenever a controversial or high-profile case comes to a court it becomes a sensational matter for everyone including the general public and media. Any case which receives high media coverage also becomes challenging for the prosecutors as well as the defenders during the trial process of the court. Everyone becomes interested to get to know about the proceedings and evidence discovered by the investigating team during the trial. The influence on the individual created by the television and newspaper also affects the person's reputation even before or after the final decision of the court of law of being guilty or innocent.

The freedom of media is recognised under the Constitution but it has certain limits and must be exercised with responsibilities. The concept of pre-trial by media is becoming a menace. The paparazzi seem to instigate the atmosphere and influence public opinion not realizing how it affects the mindset of the people leading to mob lynching and resulting in a harsh media trial.

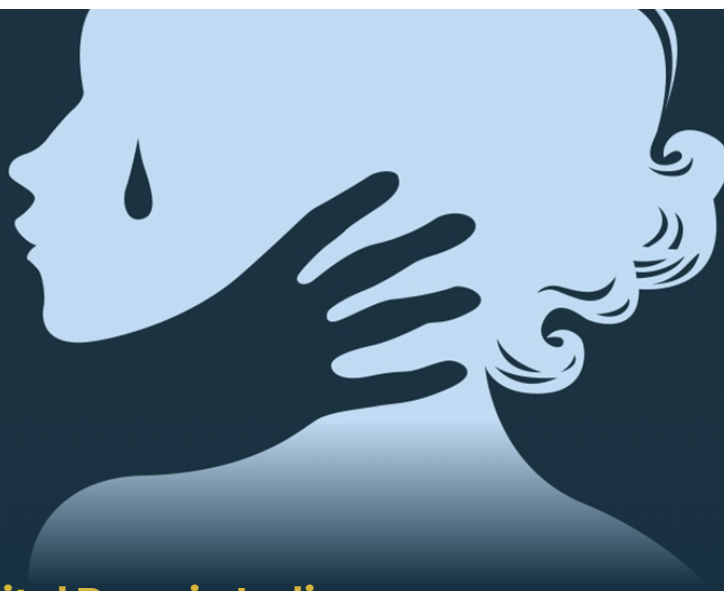
Today we can see that the media is highly influenced by politicians and are even owned by them portraying their political view on the case. In most news channels, we come across the opinions of politicians rather than the facts of the case. We see them giving their personal opinions and having a debate on what punishment should be given and how they should be treated in society. A common man not having the sources to find out the facts of the case believes what is being telecasted in the channels or published in the journals and newspapers to be true.

There are ways in which the media has also resulted in prejudice failure in the eyes of law, the Media trial comes under Contempt of Court, and the very concept of this contempt has been identified by the Contempt of Court Act as both civil and criminal. Such media trials are seen to be regulated under section 3 of the Act, which states, that if a charge sheet or challan is filed, then publication on any matter sub-judice in the Court amounts to contempt of court as the criminal case is pending before the Courts. There should be certain limitations which should restrict the media from publishing their point of view as it affects the judgement and reputation of the particular case. It hampers the final decision of the court. The limitations to be forced on the media must be sensible and reasonable. Where Article 19 of the Constitution enables the media to communicate its thoughts through the freedom of discourse, note that this article likewise gives reasonable restrictions.

Media has a social responsibility of bringing the truth in front of the people, should fulfil its duty and not work like a procurer for politicians or influential people. Selling their honesty and integrity to the ruling parties is not something that should not be done by the media nor should they fear any internal forces, to tell the truth. Concerning providing information in the form of reporting the news, the media must be honest, truthful, unbiased and not affiliated with political parties or social organizations. Unfortunately, in India, the media is leftist and pro-liberal to an extent that it distorts all the good achieved by the ruling party and spreads terrible negativity. Media is a great connector but if it overwhelms all other aspects of propriety and duty, it can become disintegrative and overflow with unnecessary impressions that threaten fair understanding of judgements.

Ummay Zubeariya

LLB, 3rd Semester



Finding the Gap: Marital Rape in India

The tragic state of affairs rests in the fact that marital rape is not recognised under Indian Laws even though the definition of Rape can be found defined in section 375 of the IPC. The same section 375 never considers the notion of husbands' having forceful sex with their wives without her consent to be an act of rape.

In 1976, Australia became one of the very first countries to pass reforms in making marital rape a criminal offence. Between 1970 and 1993, all 50 United States recognised and made it criminalized act. The resolution of Europe on violence against women of 1986 felt the need for the criminalization of marital rape, which France, Germany, the Netherlands, Belgium, and Luxembourg rapidly executed in their domestic laws.

In India, rape in a married relationship is not a crime rather laws against marital rape are either non-existent or Esoteric (esoteric - intended for or likely to be understood by only a small number of people with specialised knowledge or interest) and are not interpreted by the court as the case may be. Marital rape is only considered if the spouse is under the age of 15 and the punishment is not severe. The protection of women from domestic violence act was passed by Congress in 2005, recognizing marital rape as a form of domestic violence.

One is the famous case RIT Foundation vs. Union of India 2022 in the Delhi High Court which was heard for two weeks but ended up in a split verdict. It is because of the religious sentiments, which paves way for the gap in Section 375 of IPC where any sexual act performed within the confines of marriage is not considered illegal. Rape is more than just ferocity against women. It is a grave violation of a person's fundamental rights to life and individual freedom. Marital rape is associated with social shame because it silences a women's voice against her husband. Marital rape is more traumatic with long-term physical and mental consequences which have been proven.

Our country fails to fulfil the responsibility to ensure sexual fairness which includes protection from wrongdoing and treatment by decriminalizing spouse rape. Marital rape is much scarier for a woman in this situation because she has to live with her tormentor regularly.

According to the 2011 United Nations Report on Women, 52 countries have changed their laws to criminalize marital rape. The other countries quintessentially remain those who have exceptions in their rape laws, as well as those who cannot prosecute their spouse under general rape laws. Indian Legislators need to recognise this side of domestic violence as the reports remain ever-increasing and a solution needs to be brought about.

Anshu Puri

BA LLB, 1st Semester



Gender Neutral Laws

The Indian Constitution u/a 14 provides all the citizens of India equality before the law and also provides that the law of the land will protect every citizen equally regardless of their religion, race, caste, sex or place of birth under the same circumstances and the State cannot deny this. Another Article of the Constitution i.e., Article 15 prohibits discrimination on the basis of religion, race, caste, sex, place of birth or any of these. These two articles are the fundamental rights of the citizens of the country. Hence, here we can say that Articles 14 and 15 of the Indian Constitution are the essential rights of the citizens but, if we look there are people and their rights which are getting violated and not even being recognized and acknowledged by the state.

One of the basis provided under articles 14 and 15 is sex, nobody should be discriminated against on the basis of sex/gender /sexual orientation and discrimination between sexes would mean discrimination between male and female, that is what generally people think, but the term sex or gender do include many in reality like transgender, lesbian, gay, bisexual and queers. After the landmark verdict given by the Supreme Court of India in the case of Naz foundation on 6th September 2018 which declared section 377 of the Indian Penal Code, 1860 to be unconstitutional which earlier criminalised consensual sexual relationships between same-sex and hence, the court legalised homosexuality in India and recognised other genders too.

But here we do not come to the end of the problem and this is not the solution by just recognizing other genders or orientations they do not get their rights automatically because the provisions, laws, rules, and regulations are only according to male or female whether they are penal laws for sexual assault, sexual exploitation, rape, voyeurism, stalking, harassment or the rights of maintenance under Criminal Procedure Code, 1973 or the laws for marriage, divorce, adoption and inheritance. The Sexual Harassment of Women at Workplace Act, 2013 recognizes only females as the victims, the LGBTQIA+ and males are not protected under this Act. A survey conducted in 2016 for LGBTQIA+ states that 40% of LGBTQIA+ people are being harassed at their workplace due to their sexual orientation because of which they have to hide their identity. When it comes to the disparity between males and females too we can see the difference in penal laws in the case of rape or sexual assault as the provisions can be seen it is only for the protection of females from the male, it victimises females and males are made the perpetrator but as changing time the dynamics have been changed males are being the victims and female can be the perpetrator and if seen in a larger image after recognizing other genders anyone can be the victim and anyone can be the perpetrator, the old ritual of society to assign certain status to certain gender should be ended. Here comes the need for laws which do not differentiate one gender from the other or look through the assigned status given by society.

The 172nd report of the Indian Law commission suggested enacting gender-neutral sexual offence law and too broad the ambit of section 375 of the Indian Penal Code, 1860 i.e. rape provisions. This came after the Sakshi v/s Union of India (2004). In 2012 a Bill was presented to amend the Indian Penal Code, 1860; The Criminal Procedure Code, 1973 and The Indian Evidence Act, 1872 for providing gender neutrality for penal provisions. The objective of the bill was to respect and empathize with transgenders, male rape and sexual assault victims. Gender-neutral bill have been already implemented in more than 63 countries after the Universal Declaration of Human Rights, 1948 was approved by the United Nations General Assembly for preserving every person's human rights to equality and freedom from discrimination. This bill did not become an Act because the Justice Verma Committee in 2013 reiterated the necessity for it on the basis of the complexity of Indian criminal Law.

After the Navtej Singh Johar v/s Union of India (2018) i.e., after the decriminalisation of section 377 of the Indian Penal Code, 1860; The Criminal Law Amendment Bill, 2019 was presented as a private member's bill in the Upper house of the Parliament. The objective of the bill was to provide protection to forbid discrimination on the basis of gender and to make the laws gender neutral, for the recognition that homosexual people, males or any gender can be a rape victim and anyone can be the perpetrator. This bill mainly focuses on penal laws as suggested by the name only. The alteration which was required to be made in the bill was to amend the term "Man" or "Woman" to "Any Person" or "Other Person". It also suggests amending the term "Penis" and "Vagina" with "Genitals". This bill has not yet been passed as there are many grey areas under the Indian Penal Code which are critical to recognise.

As we saw there are amendments bills which are being brought up in penal laws for the rights and betterment of males and other genders but apart from penal laws there are fields where there is a need for gender-neutral laws for example marriage, divorce, adoption, inheritance, maintenance etcetera. These are the topics which are governed by the personal laws religion-based mostly there are also other enactments under which these topics are covered irrespective of their personal belief. The LGBTQIA+ has been recognised but for their marriage, divorce, adoption, and maintenance there are no such laws. Everywhere the term "Wife" "She/Her" is used and for "Husband" "He/Him" has been used in any of the cases mentioned above, they do not fit under the biological scheme of marriage. Right to marry is a fundamental right under the ambit of article 21 of the Constitution of India. This has been laid in the case of Lata Singh v/s State of Uttar Pradesh (AIR 2006). Same-sex marriages have largely happened in society but there is no legislation governing them. Same-sex couples are not legally entitled to adopt, a single LGBT can adopt though as the law only can only permit their union gets legalised for their union to be legalised as of now there are no such laws. As their union is legalised, they cannot be even divorced, they would not be also.

The declaration of the recognition of same-sex marriage have more legal ramifications than simple legal recognition, they have to be accepted as a member of society and for providing them with their rights every law has to go through huge changes which is a very lengthy process. After the judgment of 2018 and 2014, there is a great advancement in their recognition but still, it would take time to make it at par with the rights of heterosexual people. By just recognising the disparity doesn't come to an end it just opens the gate to more changes which are necessary to be brought. Due to this, there is a need for Gender neutral laws for changing times whether it is criminal law or other civil rights or the personal laws governing the marriage, adoption, inheritance etcetera of the people. One of the solutions that can see is to draft a whole new act for the consideration of LGBTQIA+ as a separate community. For marriages and divorce despite the change in personal law amendment can be inculcated in the Special Marriage Act, 1954. Once their marriages are legalised, they can even experience parenthood by making the adoption laws gender-neutral and allowing same-sex couples to adopt. The government has to take concrete steps it is a very broad area to make changes and to bar the violation of fundamental rights of the LGBTQIA+ community and of the males too.



Espying into the sticky situation of IP and MSMEs in India

This year's World Intellectual Property Day celebration on the 26th of April 2022 advocated that the new generation has a lot of potentials to change the world and WIPO provides the platform to do so. The theme focuses on IP and Youth inventing for an improved future.

The young generation is marching towards various innovation challenges, working a sweat to direct their “let's get up and do this” attitude, resourcefulness and inquisitiveness to steer a course towards a society which is tech-friendly, in essence, a creation of new-age drivers who steer the future to a comfortable living. With all said and done, one of the most affected sectors of society by and large remains the MSME due to the lack of recognition and perception of IP and the non-acceptability of its vast usage. This article talks about the importance and pre-eminence of IP in this sector.

Introducing MSME to all becomes important. MSMEs essentially are Micro, Small and Medium enterprises. They are referred to as small businesses in the private sector. The WORLD BANK categorically classified them on the following basis:

- Employee strength
- Size of Assets
- Annual sales

In India, MSMEs are regulated by the MSME Development Act 2006. This Act has been essentially built to help every MSME to grow and provided subsidies in all spheres, but its execution remains a problem. MSME has contributed a whopping 29% or approximately ₹6.3 crore to India's GDP in the past years, their work ranges from domestic to international trade operations making a massive effort to employ and add up to the entrepreneurial section.

They are involved in the global socio-economic development of nations, making it necessary to protect these fading sectors using IP as a leverage and not a pulling factor. They are certainly not a replacement for MSME, rather than an added benefit to them. The level of R&D done by the MSME is colossal, ranging from technology to product making and their practical usage. When they are likely to be copied, replicated, cloned, sold and passed off by their competitors, it becomes exhausting for the MSMEs to try to get back what they made using their limited knowledge. The use of IPR in this form will protect and safeguard MSMEs against the apprehended dangers.

Secondly, they provide revenue verticals for the owners. Allow them to license their agreements in further developing their R&D arrangements. Helping them to regain their investments spent, nonetheless encouraging them to grow up in a non-hostile environment where they can work freely knowing their works would not be replicated, copied, cloned or anything remotely detrimental to their economical welfare.

Thirdly, IP adds a wholesome canopy to the value chain of its business at every level, enhancing its corporate and monetary value.

Lastly, and most essentially, it provides them with an umbrella of effective IP management also aiding MSMEs in attracting potential investors, accessing financial pools and allowing them to step into new marketplaces domestic and international.

IPR provides a discernible competitive advantage to MSME, it is a need of the hour that proper and effective training be given so that the knowledge of IP and its benefits penetrate their minds allowing them a chance to appreciate the help it can give just like the Chinese, Japanese, and the Korean markets have been doing since ages. Traditional know-how and its exchange have always helped in tapping new unknown techniques. India's growth with Maruti Suzuki is a motivational example among many others.

Our Atmanirbhar Bharat is celebrating its 75th year of Independence, aiming to make India Digital in its true sense. The MeitY has brought in revolutionary guidelines which the companies and MSMEs can use to bring about subsidies, use the incentives provided by the ministry, and an encouraging ICT-IPR ecology for the formation, fortification, cognizance, and commodification of Intellectual Property as well the prerogatives it entails.

They have devised certain dedicated support systems like-

1. Centre of excellence in IP CoE-IP
2. Facilitation for MEITy R&D societies and Grantee Institutions including patents, copyright, design & T.M
3. Created IPR database
4. Supports international Patent Protection of IT (SIP-EIT)- II for MSME and Tech Startups
5. Welfare IPR awareness workshop
6. IP Vista where a user interface covering a virtual hypermedia presentation has been developed by CoE-IP adhering to current Indian IP laws and systems.

Looking just a decade earlier, the need for IP in MSME has changed, base remaining the same for the need for know-how exchange, information exchange, and cultivating innovative ideas.

They want to increase their efficiency by looking into the following inputs -

- Investing in R&D
- Acquiring new technology
- Improving IP Management System (IPMS)
- Developing creative and appealing designs
- Marketing their products & services

MSMEs were granted rights in IP-

- Patents
- Copyright
- Trademark
- Designs
- Trade secret

With a bare reading of the guidelines for the MSME Act 2006, the scope and coverage mentioned simply focus on areas like that of the Specialized IP management program.

1. Specialized IP skills and competence development program
2. Industry-specific program system
3. Training the trainers in long-term and short-term training periods.

The GoI has time and again recognized the importance of IP for MSMEs to protect their rights in terms of intangible assets. In the year 2019, the GoI introduced a relaxation in the IPR filing fees for MSMEs. The Bilateral Patent Prosecution Highway Program would expedite patent filing programs. Mr. Piyush Goyal, Minister of Commerce and Industry, mentioned in the year 2021 that there will be a reduction in IP filing fees as well to encourage MSME, innovation hubs and women entrepreneurs, training women in all walks of life, especially in work have been a major achievement for India.

We have, PepsiCo, Nykaa, Sugar cosmetics etc, all striving to empower women, be it cosmetics to pickle making or even being the CEO of a company.

Recommendations:

It should be a mandate for the employees that as soon as an IP is made into reality, the IPMS should consider protecting its IP at a nascent stage making it advantageous for the owner just like the big conglomerates invest millions, billions in protecting their IP. MSMEs are an important aspect of our economies, let us strive to help them grow with the help of IP integration.

Aradhana Singh

LLM, 1st Semester



Animal Rights in India and their Protection

Animal rights are the most unacknowledged issue in our country. It was heart-breaking to observe such an incident that happened in Kerala, wherein a pregnant elephant was fed a pineapple packed with explosives to eat which resulted in her death. This transpired in a nation where elephants and even snakes are worshipped as Gods and Goddesses. India has made significant advancements in technology, science, health, and education, but at what cost? We as humans have forgotten our moral ideals and humanity even after being so sophisticated and educated. In today's environment, we like having pets in our homes, yet we treat stray animals poorly.

Indians have openly forgotten that animals, like humans, have certain rights, which are to be protected by both the Government and our Constitution. Part 4A of the Indian Constitution deals with basic obligations listed under Article 51A, clause (g), which states that every citizen must enhance the natural environment and have compassion for living beings, including animals and the same, was reiterated in the famous case of *State of Gujarat v. Mirzapur Moti Kureshi Kassab Jamat*, (2005) 8 SCC 534. The Hon'ble Supreme Court here had defined compassion as an emotion derived from sympathy, love, and goodwill.

Karnail Singh and Ors vs. State of Haryana 2019 SCC P&H 704 is the most significant landmark case in which the judicial panel examines animal rights within the context of basic rights, including the primary problem of animal rights that is being repressed by practically everyone without any remorse towards humanity. The advancements in this sector provide a glimmer of hope; nonetheless, we must raise awareness about what constitutes basic crimes against animals that violate their rights, and stringent measures should be imposed to punish such abusers for attempting to mistreat and then forgetting their humanity.

Kajal Pandey

LLM, 1st Semester



Gender Biasness: Protest at Chandigarh University

On September 18th 2022, a huge protest broke out at Chandigarh University, Mohali Punjab, after a girl leaked videos of female students who were undraped and taking baths in their hostel's bathrooms. According to the reports surfaced the accused was a 1st year MBA student, and the protesters claimed that the accused made videos of 60 female students and sold them to a boy who lived in Shimla in exchange for money.

The girl was caught red-handed while she was making the video, it is also been said that the videos were deleted from the phone of the accused by the university for sake of protecting their reputation; the students had accused the university authorities of suppressing facts. The protesters even claimed that after the reveal of the news some of the girls tried to commit suicide, and some of the students claimed the videos were leaked although the university rejected the allegation as false and baseless.

The accused girl was taken in remand by the police but she said that she was only sharing her video with her boyfriend who is 23 years old, who was also arrested from Himachal Pradesh on Sunday. The police also found out that Sunny Mehta and his friend Rankaj Verma are also connected to the case, police seized the phones of all the accused. Also, the three accused were taken to police remand for seven days. On Monday, in order to dig deep into the matter, the Punjab Police established a three-member, all-women Special Investigation Team (SIT) to look into the matter seriously. The SIT comprised of Ludhiana Superintendent of Police as the in-charge, and two more members are one Deputy Superintendent of Police (DSP). The Deputy Inspector General of Police on Tuesday evening said that the SIT also visited the hostel washroom for investigation and the warden had also been interrogated. She stated that the accused had deleted videos but they will be retrieved by the state cyber cell.

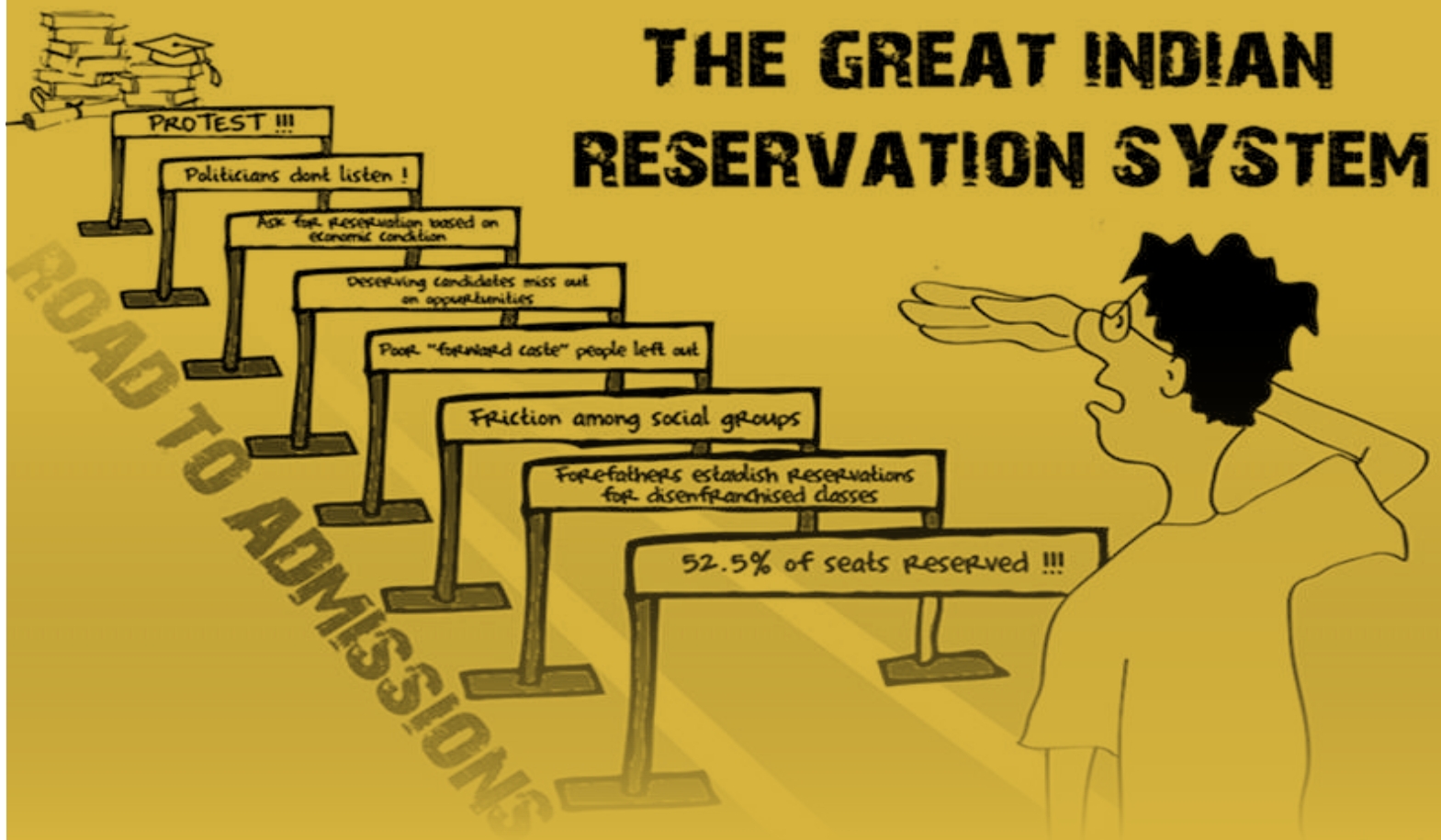
The author would like to draw the attention of the readers towards the fact that section 354C of the Indian penal Code is only made for men and according to this section the accused is always a man and the woman is addressed as the victim. As we can see in this case where accused is a woman who makes inappropriate and personal videos of girls who were videoed bathing and her fellow hostel mates were not aware of the fact that she was invading their privacy by making such videos. We have all talked about equality for many decades, and everybody around us is talking about equality, what widely remains is the talk about Gender Inequality. We can see that section of the Indian Penal Code is a true example of inequality as well as an injustice to men. This case strongly represents that an accused can be of any gender, and our country needs to be “Gender Neutral” we need to understand that crime doesn't have gender, and neither should our laws. Some of the laws present in our Constitution are anti-male laws and it's time to stand up against gender inequality and know the fact that the motive of every criminal is the same.

If we want justice or if we want people to have faith in the Constitution as well as the law, we need to introduce gender neutrality as a solution, several sections under the Indian penal code are gender discriminatory. The law made under section 354C says that we have to protect one sex at any cost, this law helps women to commit crimes freely as they know they will not be punished. The author suggests that the word “man” in section 354C must be replaced by the word “person”. There should be stricter rules and punishments for both genders and we should not allow anyone to misuse the laws on a gender basis. Our Parliament should make laws to safeguard every gender.

Shruti Keshri

B.A., LL. B 5th Semester

THE GREAT INDIAN RESERVATION SYSTEM



Reservation Policy in India

Reservation is a system for unprivileged people of a nation, the opportunity to be treated equally and have equal participation as well as representation of their identity in governance or educational fields of the country.

Introduction

Reservation policy in a country like India is now a very popular term which represents the process of reserving a certain percentage of seats for the backward classes, scheduled castes, scheduled tribes, etc.; such classes get reservations in government educational institutes colleges and also in government jobs and etc.

This article sheds a light on the reservation policy in India and what constitutional provisions are there in this regard for the citizens of India, especially for the backward class.

Why there is a need for reservations in India?

As there had been injustice faced by people from backward castes and classes in India for a very long historical era, which now in the 21st generation has almost come to an end, yet there are few States that believe in such old traditional historical injustice towards backward class, which is a strong reason that why reservation policies should be applied in India.

What is Reservation?

Reservation and Quotas are interrelated components. Reservation is the demonstration of saving a piece of something for a particular reason. A standard quota for a booking directs the amount of that specific thing that will be saved as per the reservation.

Reservation is an instrument which promotes equality among equals- a basic concept behind Article 14 of the Indian Constitution. It is a method of upliftment of the downtrodden to bring them on par with the rest of society.

Reservation is a grace ladder for those sections of society who are historically backward, ones treated averse, to come up in stature and rank. Reservation is a chance to change the generational curve. Although of great importance it is about time to modify the basis on which it is implemented. It should be modified in a way wherein they give seats to segments of society who are financially feeble, rather than reservations based on cultural contrasts. If such a change, although radical, was to be carried out, it would prompt the collapse of a major portion of the shared struggle that exists because of caste-based reservations, simultaneously ensuring that seats are held by those who are meritorious of it.

Critical analysis of Reservation policy

Indian Constitution contains provisions relating to reservations for Schedule Castes, Schedule Tribes and Other Backward Classes(OBC) though beneficial, contains numerous fundamental defects. First and foremost, it is unfair against Muslims as they don't get to enjoy the advantage of such reservation strategies additionally it clothes an umbrella on castes and clans that enjoy their abundance of familial wealth or income as opposed to their status of being socially backwards letting those who are truly in need of such blanket stand in fires of injustice and privilege theft. As we reach a decision about who is truly meriting and qualified for such reservations the measures have been an individual expense instead of his monetary status in the public arena subsequently the gatherings that have a place with what Article 115 of the constitution of India peruses: "that socially and instructive in reverse classes" that have been getting benefits from such reservations despite the fact that practically speaking there are numerous sure gatherings which can't be viewed as the expression "in reverse", and that implies that a considerable lot of the advantages have been involved by or more specifically caught by well of gatherings from the discouraged classes, while less fortunate gatherings from the discouraged classes and the penniless ones have neglected to get the advantages of their reservation privileges.

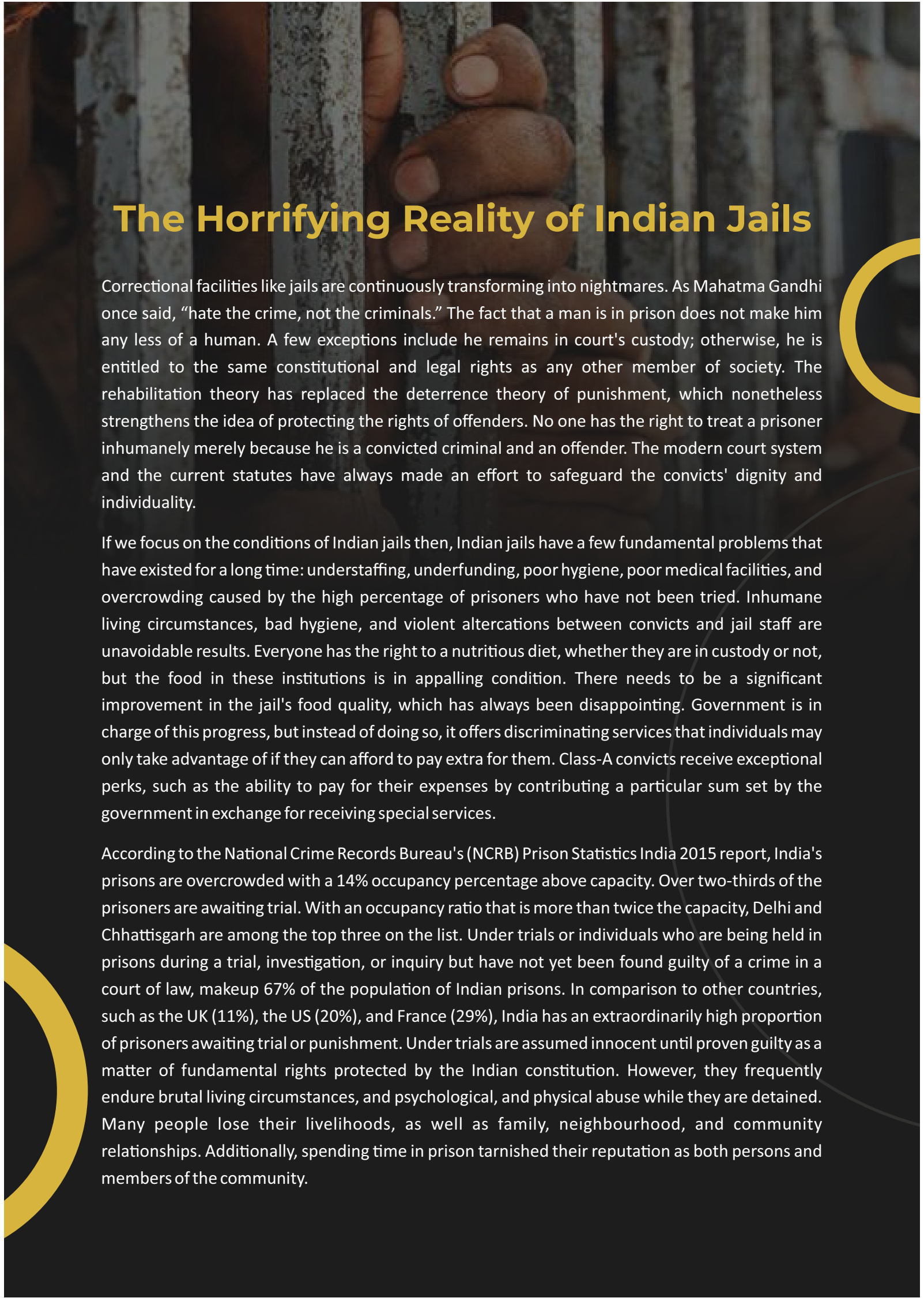
Conclusion

As we can see that there are various welfare schemes initiated by the government of India for SC and ST eg., reservation schemes in educational systems, land allotments agricultural land that is allotted free of cost for farmers many other reservation schemes have been introduced for the welfare of such caste in India.

The author of this article believes that there should be reservations in the educational system of India as it is the right of every citizen That is part of the constitution of India to be part of good and higher education.

However, the author also believes that if the government wishes to keep reservation policies competitive in the market for jobs and public services, it should not be predicated on caste or class or any other criteria regarding reservation policy, but rather on the yearly income and eligibility of any person, and if the person is earning less, he needs more funding for his family and children, which he can only get through a job or public service.

If we enlighten the theory of John rollers of justice where he clearly mentions that "the starting line should be or must be same for all the persons", which means, by providing reservation in the educational systems we are drawing the same line for every person to participate in the competition and clear the higher level of competitions made be public services, jobs etc., by providing them that equal chance of opportunity and fight in the competitions equally and hence, they won't be any need of reservation in jobs and services.



The Horrifying Reality of Indian Jails

Correctional facilities like jails are continuously transforming into nightmares. As Mahatma Gandhi once said, “hate the crime, not the criminals.” The fact that a man is in prison does not make him any less of a human. A few exceptions include he remains in court's custody; otherwise, he is entitled to the same constitutional and legal rights as any other member of society. The rehabilitation theory has replaced the deterrence theory of punishment, which nonetheless strengthens the idea of protecting the rights of offenders. No one has the right to treat a prisoner inhumanely merely because he is a convicted criminal and an offender. The modern court system and the current statutes have always made an effort to safeguard the convicts' dignity and individuality.

If we focus on the conditions of Indian jails then, Indian jails have a few fundamental problems that have existed for a long time: understaffing, underfunding, poor hygiene, poor medical facilities, and overcrowding caused by the high percentage of prisoners who have not been tried. Inhumane living circumstances, bad hygiene, and violent altercations between convicts and jail staff are unavoidable results. Everyone has the right to a nutritious diet, whether they are in custody or not, but the food in these institutions is in appalling condition. There needs to be a significant improvement in the jail's food quality, which has always been disappointing. Government is in charge of this progress, but instead of doing so, it offers discriminating services that individuals may only take advantage of if they can afford to pay extra for them. Class-A convicts receive exceptional perks, such as the ability to pay for their expenses by contributing a particular sum set by the government in exchange for receiving special services.

According to the National Crime Records Bureau's (NCRB) Prison Statistics India 2015 report, India's prisons are overcrowded with a 14% occupancy percentage above capacity. Over two-thirds of the prisoners are awaiting trial. With an occupancy ratio that is more than twice the capacity, Delhi and Chhattisgarh are among the top three on the list. Under trials or individuals who are being held in prisons during a trial, investigation, or inquiry but have not yet been found guilty of a crime in a court of law, makeup 67% of the population of Indian prisons. In comparison to other countries, such as the UK (11%), the US (20%), and France (29%), India has an extraordinarily high proportion of prisoners awaiting trial or punishment. Under trials are assumed innocent until proven guilty as a matter of fundamental rights protected by the Indian constitution. However, they frequently endure brutal living circumstances, and psychological, and physical abuse while they are detained. Many people lose their livelihoods, as well as family, neighbourhood, and community relationships. Additionally, spending time in prison tarnished their reputation as both persons and members of the community.

The jail environment is exceedingly unhygienic. Many diseases and infections arise in such a dirty and unhealthy atmosphere, and the medical aids that should be provided to these convicts receive little consideration. Numerous inmates pass away in prison each year from illnesses that are usually minor and treatable. Not only these but there are also even more problems in Indian jails. Prisoner abuse in the custody setting is fairly common.

Despite the historic ruling in the D.K. Basu Case, which prohibited third-degree torture by police, harsh violence is still often used against inmates. Sometimes, severe and persistent criminals are kept in the same prison. As a result, the first-time offender gradually develops into a habitual offender. In reality, prisons are places of punishment where offenders can change for the better and return to society. However, they suffer from trauma because they are unable to communicate with the outside world or their loved ones. They continue to live in constant worry that they won't be welcomed back into their families or society. With this resulting psychological illness, many of them become serious offenders rather than changing their ways.

The offender should indeed be punished so that it creates a lesson for society and brings relief to the victim but as per the court, Article 21 guarantees the right to life, and neither the State nor anyone else has the authority to violate it. A prisoner who is either on trial or convicted retains his or her humanity. He is still entitled to his fundamental rights while he is in jail. His freedom could be taken away by the legal process. He is nevertheless qualified for all remaining constitutional rights. New and better policies must be implemented in India's jails to give inmates a better quality of life while they are imprisoned. Additionally, there needs to be a central committee that oversees the police officers' treatment of prisoners. Since ancient times, the Indian prison system has undergone numerous changes. But there are still a lot of reforms needed in the contemporary jail system.

Mitali Thakur

BA LLB, 3rd Semester



The Need to Recognise Male Rape and Sexual Harassment

Men are usually considered to be the strong and superior gender. We associate words like Power, Money, Strength, Bravery, Domination and so on with masculinity. This is also the reason why we usually attach the word “perpetrator” to men, but this very notion of masculinity has brought nothing but hardships to men. When it comes to crime against women the world recognizes it and people sympathize with them, but when we talk about crime against men, it is seen as something unbelievable and even preposterous.

This unbending notion that a man is a strong being and he does not mowl over things, that we choose to ignore millions of male victims who are forced to stay silent because of this toxic notion. While history explains the hardships and struggles of women not a single chapter is dedicated to the hardships of men, the violence they faced during genocides and war and other problems. We usually consider a man to be “the saviour” as he is physically stronger than the other genders but what we usually forget is that this “saviour” is also a human who has his struggles which also deserve equal recognition and attention as the problems of any other genders receive. Unfortunately, even today the quandary of men is not recognized. Not just society, but the legal system also does not recognize various crimes against men and even if there are laws the implementation is not impressive.

Rape as defined under section 375 of the Indian Penal Code (IPC), is sexual intercourse with a woman against her will, without her consent, by coercion, misrepresentation or fraud. Now, this very definition of rape poses a huge problem of discrimination. First, it only talks about women as a victim and thus a man or a person belonging to the third gender is left with no actual and fair remedy in case, they face the physical and emotional trauma of rape, second, it is against the very principle of our constitution which says that there should be no discrimination based on gender and lastly, indirectly such a definition of rape denies the very existence of rape of men. Further, what is even more astounding is the definition of Sexual harassment under section 354 of the IPC, which states that when a man either has physical contact and advances involving unwelcome and explicit sexual overtures or demands for sexual favour or forces a woman to watch porn it is called as sexual harassment. Again, the problem is the declaration of a man as a “perpetrator”, when as a legal system we pretend to believe that criminals do not have a gender. This is a serious issue of concern and needs to be discussed more both in the judiciary and in the legislature because laws like these are not only unfair but also goes against the basic principle of “equality before the law”.

We usually hear stories of men being harassed and raped by friends and colleagues but we don't see any good change in the legal system about this. While in the US 1.2 million men have faced sexual violence and harassment in life, it is impossible to get a national-level statistic in India, as we don't recognise male rape in the criminal legal system. According to the Child Sexual Abuse report out of the children who face some kind of sexual abuse 57.3% were boys, while this can be handled by the POSCO act, there is no valid reason why we have a different reaction to the same situation when it is about adult males. Centre for civil society, concluded that 18% of men face rape in India and 16% claimed female perpetrators after their survey. Another report states that of around the 1500 men who were surveyed 71% said they were abused. The 172nd Law Commission of India also believed that there should be gender-neutral rape laws in India. There are various cases of men being raped in prisons and armed forces but there are no official records of the same. In the year, 2017 the constitutionality of the rape laws in India was challenged in the Delhi High Court. In 2019, the Rajya Sabha tried to bring gender-neutral rape laws but wasn't successful either.

In the name of legal remedy, a man can either file a case under section 377 of the IPC or they can file a civil suit for damages and injunction against the person. But, are any of these remedies fair? Why are we so hypocritical about male rape and men being sexually harassed? Why are Indian Laws so victimised? And, how do these laws fulfil the basic principle of equality? These are the few questions which have been left unanswered for many years and it is high time we find answers to them.

Subah Tagora
HNLU, Raipur



The Necessity of Secularism in Educational Institutions

The word secularism was first used in the 19th century by George Jacob Holyoake. He derived it from the Latin word *saeculum* meaning "this present age". He used it concerning social and moral costs or systems. It ordinarily emphasizes the natural and cultural upgrades of human beings. Secularism may be described as "a system of doctrines and practices that rejects any shape of spiritual religion and worship". The Indian idea of secularism calls for national faith and the nation shall deal with all faith equally. Mahatma Gandhi once opined, "My veneration for different faiths is similar to any person's religion". We consider *Sarva Dharma Samabhavana*, identical for all religions and creeds.

- Concept of Secularism

The word secularism was not a part of the Indian context at first. However, eventually, it became integrated into the preamble by the 42nd constitutional amendment in 1976. Dr. B.R. Ambedkar the Chief Architect of our Constitution explains secularism through the following words; "secular states does not imply that it shall not absorb into attention the spiritual sentiments of the people". All that a secular country does is that the parliament shall not be equipped to impose any specific faith upon the relaxation of the people. This is the simplest drawback that the constitution recognizes. (Parliamentary Debates 1951, Vol 3rd, element 2nd). Dr Rajendra Prasad, the first president of India has without a doubt noted that by turning secular, India has not been anti-faith or spiritual. He stated, "There are a few who think that because we're an earthly nation we do not consider our faith or religious values.

Far from being so, it honestly approaches the fact that during this, in the U.S. all unfastened to profess or pontificate the faith in their liking and that we want quantum of all religions and need them to expand by their manner with none hindrance" Jawahar Lal Nehru, defined the secular nature of our country, "its approach even as religions are unfastened, the country such as this even in its huge fold of diverse religions and culture, offers protection and possibilities to all and for this reason brings approximately an environment of tolerance and cooperation.

India as a Secular State:

Ours is a diverse country. It is a country which shall no longer discriminate towards the believers of a specific faith. Indians whether Hindus, Muslims, Sikhs, Christians and others have the liberty to evangelise their religions. Secularism has been added to shape the Constitution of India towards a secular country. Accordingly, it becomes essentially imperative to exercise the faith which is conferred on all individuals through Articles 25 and 26, and safety towards levy of tax for promoting any faith became conferred under Article 27.

- The traits of secular states are;
- A state in which all religions are permitted equally.
- It does not award preferential remedies to the fans of any religion. It now no longer discriminates in opposition to any man or woman because of his religion.
- All residents are eligible to go into the authorities' carrier regardless of their religion.
- Characteristics of secular schooling:

Secular schooling can be detected with the following traits;

- Moral appearance.
- Development of wider imagination and prescience.
- Pluralistic appearance.
- Democratic values Cultural improvement, Synthesis of religious and cloth Humanitarianism.
- Education for Secularism in India:

India's present academic system promotes secular attitudes and values via its huge primarily based ambitions, vast curriculum, enlightened instructors and suitable activities, progressivism, rationality, freedom from bigotry and the same recognition for all religions. The following developments represent schooling for secularism in India-

- Secular ambitions
- Democratic corporation of instructional establishments
- Multiple Science Coaching
- Educated instructors

The present Indian academic system is attempting to create a social climate within the roots of the country, wherein secular values are sought to be promoted successfully and enthusiastically.

The Indian idea of Secularism:

Sarva-dharma-Samanvaya or Sarva-Dharma Samabhavana-same regard for all faiths and creeds

Ekam Brahma Vipra Bahudha Vadanti- God is one, sensible man who names him through special names. Constitutional provisions concerning supplying of spiritual and secular education:

1. Article 28(1) states that no spiritual commands will be supplied in any academic establishments maintained out-of-country funds.

2. No human attending any academic establishments identified through the country or receiving resources out of the country fund will be required to participate in any spiritual commands without his consent. In the case of a minor, consent of his guardian is needed.

- Reason for providing secular schooling:

1. Secular schooling develops an ethical appearance.

2. Secular schooling facilitates the improvement of liberal attitudes and values.

3. It develops a wider imagination and is prescient.

4. It develops a mindset of appreciation and knowledge of others' points of view.

5. It develops democratic values and a humanistic outlook.

6. Secular schooling synthesizes materialism and spiritualism.

7. Secular schooling serves as an antidote to spiritual fanaticism and hatred.

The spirit of secularism is to be evolved as a way to preserve the team spirit and integrity of the nation. Education needs to play an effective function in making human beings ready for a mundane society and a useful life. The author wishes that secularism will seep into a more inherently vital concept in society.

- Educational implications:

There are plenty of educational implications and many effective steps were taken to permeate secularism in institutions throughout the world. It is also laid down in our Indian constitution that spiritual minorities are free to set up their academic establishments with grants.

Conclusion

Secularism needs to be understood as a philosophy of ethical schooling. Also, of the secular conduct of faculty the concept of secularism springs within students. This brings a reformative change within themselves and thereby, in the lifestyles of the college community as a whole. Consequently, all the sports and practical applications of college have to try the inculcation of values of love, reality and tolerance.

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Undermining the Need for a Uniform Civil Code

India is a country of diverse religions, cultures, traditions, and beliefs. Every religion has its principles, laws, beliefs, and customs. The only criticism of this can be that in the present context some of these laws are not suitable for the current dynamics. The introduction and adoption of a uniform civil code can be a solution to this issue.

A uniform civil code will eliminate all sorts of discrimination and prejudices that people face in their respective personal laws. Personal laws create a sort of distinction between citizens.

India is a secular country and hence a secular personal law should be introduced in the country. As it is said that law is equal for all therefore same laws should be applied to all citizens no matter which religion caste or creed they belong to. A uniform civil code in the country will promote equality and remove distinction. Personal laws violate the idea of the right to equality enshrined in Article 14 of our Constitution.

The Constitution of India under Article 44 states that- "the state shall endeavour to secure for its citizen a uniform civil code throughout the territory of India". The desirability of a uniform civil code is consistent with human rights and the principle of equality.

The uniform civil code will provide one law for the entire country, applicable to all religious communities in their laws regarding marriage, divorce, inheritance, adoption, etc. The major goal of enacting a uniform civil code in India is to provide a legal framework that governs the personal affairs of all citizens regardless of religion and faith.

Background of uniform civil code

The origin of the concept of a uniform civil code was brought during British rule when the British government submitted a report in 1835 stating the need for codification of Indian law.

In 1941, the B N Rau committee recommended a codified Hindu law, which was later accepted as the Hindu Succession Act, applicable to hinds, Buddhists, Jain, and Sikhs. However, there were separate personal laws for Muslims, Christians, and Parsis.

Need for the Uniform civil code

The Indian constitution was drafted many years ago, and its authors stressed that the nation has a standard civil code in the future, if not at that time. It is now acknowledged as a necessity in the modern world as India advances toward a society that is more reformist and progressive. It is past time to update the outdated, orthodox laws that were created in patriarchal societies with the needs and desires of only men in mind. UCC is required because personal laws violate fundamental rights.

If implemented nationwide, the UCC will provide the following:

- i. Protection of vulnerable sections of society: The UCC aims to protect vulnerable sections including women and religious minorities and promote unity
- ii. Simplification of laws: The code will simplify the complex laws about marriages, divorce, adoption, and inheritance making them one for all. Different laws on different topics for different religions make it all very complicated to study and understand.
- iii. Equality among citizens in civil matters: Protection of women's integrity against practices such as Triple Talaq Polygamy, etc.
- iv. Gender justice: this will promote gender justice by removing the discriminatory provisions of personal laws.
- v. It will promote secularism and national integration.

Recent developments regarding UCC

A PIL was filed in 2019, regarding the implementation of a uniform civil code. The Ministry of law and justice said that the directive principle of state policy is not enforceable in court that it is a matter of public policy and that no direction in its regard can be issued to the court.

The Hon'ble Supreme Court on several occasions laid out in its judgment that the government should move towards a uniform civil code. The Centre has requested the Law Commission of India to examine the various issues related to uniform civil code.

Challenges faced by the Legislators

- i. Drafting of UCC: Difficult to draft a single law for a multicultural country like India.
- ii. Loss of identity of minorities: many special personal laws are the identity of various minorities.
- iii. Diversity: the immense religious and cultural diversity of a country like ours is a challenge in itself.
- iv. Communal politics.

Highlighting an important judgement, we may notice the need for UCC,

Mohd. Ahmed khan vs Shah Bano Begum, 1985 SC

The court gave the verdict in favour of Shah Bano who claimed maintenance under section 125 of the Code of Criminal Procedure 1973 after her husband separated from her by Triple Talaq. The Hon'ble Supreme Court upheld the MP High Court's judgment and further increased the alimony. The then CJI also stressed the fact that the goal of maintenance is to help those who cannot maintain themselves and that it has nothing to do with a particular religion. A uniform civil code was also recommended in the judgment.

CONCLUSION

For a nation as diverse as India, creating a Uniform Civil Code is a significant issue for the government. The government needs to take a step-by-step approach to fix the outdated personal laws that deal with marriage, divorce, and other issues. It is important to collaborate with local and religious authorities when drafting the standard civil code.

Anushka Sharma

BA LLB, 7th Semester



truecaller

Truecaller: Boon or Bane

In the year 2009, Truecaller had started in Stockholm Sweden, by two engineering students. Alan Mamedi and Nami Zarringhalam created an app to help them discover who was calling them. What would later become one of the most famous communication apps in the world, Truecaller spread like wildfire simply through word of mouth – and ended up going viral across the drastically different cultural landscapes of India”.

How Does the App Work?

Truecaller fundamentally generates a "phonebook" and modifies its junk database by collecting unique Identifiers and contact lists. This is unquestionably the most prevalent... Truecaller receives important and intrusive data from its consumers. Processing "spam" numbers submitted by users. Identifying numbers that have participated in spam-like behaviour, like calling a large number of unconnected Truecaller members. The software then acts as a "phone book," letting users search for phone numbers and obtain IDs and other sensitive contact information. related to the number (including non-users). Surprisingly, scammers and con artists enjoy using this tool. Callers labelled as "spam" will be identified and may be blocked.

What we tell compliance is "An Indian Company."

GDPR put Truecaller's surveillance capabilities, which enable the detection of spam service, in jeopardy. As a result, Truecaller relocated all of its data servers and nearly all of its activities to India, where the government appears to believe it is safe from regulations aimed to protect consumers. Truecaller received a letter from the Article 29 Working Group in 2017 (now superseded by the European Data Protection Board). This letter highlighted concern over Truecaller's handling of personal data soon before the GDPR's implementation date: to preserve its customers' privacy. This is incorrect.

- Truecaller collects personal data from its customers, as well as personal data from non-users.

"[Data protection legislation] applicability cannot be withdrawn unilaterally or signed away by a user accepting True Software's contractual conditions."

- The personal information of non-users (acquired without their consent) is publicly accessible on Truecaller's site (with some restrictions). Truecaller makes no effort to warn these non-users that their information has been gathered or who has accessed it.

- Truecaller relocated its whole operations and data servers to India in 2018, hoping that this would be sufficient to keep EU regulators at bay. "India's own data protection bill is in the draft and is expected to be published for consultation in the short term". Expecting that if rules are approved, Truecaller will face similar issues like GDPR.

"Truecaller has been subject to two Public Interest Litigation cases in India. One is ongoing in the High Court of Bombay".

- According to "Lexters", the petitioner "contended that [Truecaller] collects the user's information and without their consent or permission shares it with its partners, and then the liability is dumped on the users. The app does this by asking to access various features to use the application. Further, the petitioner alleged that it is a manipulated set-up as the users have no choice..."

Truecaller's privacy policy was investigated by the National Information Technology Development Agency (NITDA) in September 2019. The NITDA issued a statement to warn the public about potential data breaches. It referenced "Article 1.1" of the app's privacy policy, which states, "Truecaller may supplement the information you submit with information from third parties and add it to the information you provide". According to "Article 3", 'Truecaller may also provide personal data with third-party marketing, agencies, and networks.' According to NITDA, Truecaller collects far too much data, far above what is required for the programme to perform its basic purpose. There are several circumstances where the app's authenticity is put into doubt. Truecaller's tagging feature saves the person who is tagging his or her name and phone number to the Truecaller database. All of this occurs without consent or even knowledge of the technique. Truecaller was chastised in 2017 by the "Article 29" Working Party, an autonomous European advisory body on data protection and privacy, for illegally acquiring and labelling non-users data.

Truecaller, like numerous other programmes, has separate privacy policies for Europe and the rest of the world. Needless to say, India, which accounts for around 75% of Truecaller's daily active users, does not have a Data Protection Law in place. The Economic Times reported in May 2019 that over 300 million Truecaller users' data in India was being sold on the dark web for roughly Rs 1.5 lakh. Truecaller, on the other hand, asserted that the "majority" of data being transferred on the dark web did not correspond to their database. "In May 2020, an American cyber intelligence firm CybleInc revealed a data leak of the names, gender, age, city, telecom service provider, Facebook accounts, email IDs and mobile numbers of 4.75 crore Indians from the Truecaller database. The personal data was put up on sale for \$1,000 on the dark web. In an email statement, Truecaller, however, denied any breach of its database and claimed that all user information is saved securely".

The Carvan Article

The Indian Investigative Journal "The Caravan" released a superb in-depth report on Truecaller's intrusive app, as well as interviews with several significant individuals regarding how much data the firm was able to gather, on March 9, 2022. Former employees claim that Truecaller has access to user SMS texts and may create a financial profile for each individual. The majority of banking and transaction confirmations in India are done over SMS, which Truecaller's algorithm can read.

"Truecaller denies processing SMS data on its servers and claims that all SMS filtering is done locally; yet, in 2019, a glitch established Unified Payments Interface accounts with ICICI bank for numerous Truecaller users".

Conclusion

Truecaller has evolved from a variety of failed forms into something that is now profitable. Unfortunately, it appears that this shape is not compliant.

Truecaller does not have a price target, but we expect severe immediate and medium-term losses as the app becomes obsolete and regulatory violations are examined. Truecaller denied all of these allegations in a press release. The company also claims to be entirely compliant with Indian rules, including the country's lack of data protection laws. "In the absence of a data protection law, our privacy and data are being treated as a free-for-all. We must take charge of protecting our own privacy, especially so until we have a data protection law. Even when such a law is finally passed, it will not be a magic bullet that would fix all issues. We would have to remain vigilant to protect ourselves, but it would at least create a deterrence and would empower us to act against errants".

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