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NEWSLETTER VIDHI-LEKH

Newsletter of Pro Bono Club under the Faculty of Law
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Messages from the Editorial Team

Messages from the Editorial Team

Dear Readers,

I feel ecstatic to release the sixth issue 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 quarterly newsletter devoted to publishing articles addressing 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. I hope this newsletter will enhance our readers' knowledge. 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 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
VIDHI-LEKH



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

Vidhi-Lekh magazine is an initiative under the Pro Bono club of Kalinga University. We feel honoured to have this great opportunity. Working on this newsletter with our team was a rewarding rush. With the help of this newsletter, we try to keep you in touch with gripping events ongoing in the nation, current affairs and legal paradoxes.

We hope you enjoy reading this issue as much as we enjoyed making it.



Mitali Thakur And Komal Pandey

BA LLB (6TH SEMESTER)
STUDENT EDITORS

Associate Student Editors List

Associate Student Editors List

- Honoured to be taking on the role of Vidhi-Lekh's Associate Editor. For this edition, we're proud to look back on yet another superb and outstanding contribution of our editorial team and our contributing writers. I do hope that the newsletter encourages many more including students to use it as a platform to express their creativity. I sincerely hope that this edition makes for an interesting read.

- The opportunity to work on the Vidhi-Lekh editing team has been a huge honour. The most recent legal information is given to the readers by Vidhi-Lekh. I hope that the newsletter inspires more people to use it as a venue for showcasing their artistic ability.

I sincerely hope you enjoy reading the articles.

- This edition of the Vidhi-Lekh is a special series of new topics our writers have thought to bring up. I hope that this will bring a huge bloom in the barren lands of issues and injustice. As an associate editor, I believe that this is a truly beneficial and changing platform for the youth to express their thoughts.



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Associate Student Editors List:

- It has been a great honour to be a part of the Vidhi-Lekh editing team. Vidhi-Lekh provides the readers with the latest legal knowledge. Thanks to all the editors, associate editors and writers who completed these amazing articles. We hope you read the articles and find it interesting.



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LEGAL PERCEPTION TOWARDS POLLUTION IN INDIA



Introduction:

India, a rapidly developing nation, grapples with severe pollution issues stemming from industrial growth, urbanisation, and population expansion. The need for pollution control laws in India is paramount to safeguarding public health, preserving natural resources, and mitigating environmental degradation.

First of all, pollution puts the public's health at serious risk. Poor air quality is a contributing factor to respiratory illnesses, cardiovascular conditions, and early mortality. It is made worse by industrial pollution, burning biomass, and emissions from vehicles. Water sources are contaminated by untreated sewage, industrial effluents, and agricultural runoff, which increases the risk of waterborne illnesses and restricts access to safe drinking water. Enforcing regulations that effectively address pollution is essential to safeguarding residents' well-being and public health.

Furthermore, pollution has a negative effect on the ecology and natural ecosystems. In addition to harming human health, air pollution destroys plants, upends ecosystems, and increases greenhouse gas emissions, which in turn causes climate change. Water pollution puts aquatic life in jeopardy and reduces biodiversity by contaminating rivers, lakes, and groundwater. Food security is threatened by soil pollution, which lowers agricultural production, deteriorates soil quality, and is brought on by chemical and industrial waste runoff. Laws governing pollution are essential to stop environmental deterioration and protect natural resources for coming generations.

Pollution also stifles long-term development and economic growth. The negative economic repercussions of pollution include lost productivity, health care costs, and environmental cleanup costs. These effects have a substantial impact on society. Damage from pollution to agriculture, ecosystems, and infrastructure impedes economic growth even more. India can strengthen environmental sustainability, encourage economic resilience, and promote sustainable development practices through the implementation of pollution control regulations.

To sum up, legislation pertaining to pollution control is essential for tackling the various issues that pollution poses in India. India can maintain the environment, advance sustainable development, and protect public health by passing and implementing strict laws. To ensure a cleaner, healthier, and more sustainable future for everybody, however, and to achieve noticeable outcomes, efficient implementation, enforcement, and monitoring of pollution control legislation are crucial.

India has a complex legal system for controlling pollution, consisting of numerous acts, rules, and court rulings. The legal perspective of pollution control legislation in India is examined in detail in this research, with particular attention paid to significant legislative enactments, regulatory frameworks, enforcement tactics, obstacles, and future prospects.

Legal Framework:

Several significant laws, including the Water (Prevention and Control of Pollution) Act of 1974, the Air (Prevention and Control of Pollution) Act of 1981, and the Environment (Protection) Act of 1986, serve as the foundation for pollution control in India. These laws create regulatory entities like the Central Pollution Control Board (CPCB) and State Pollution Control Boards (SPCBs) to enforce compliance, set criteria for emissions and effluents, and attempt to prevent and regulate pollution.

Regulatory Mechanisms:

By granting licenses, carrying out inspections, and keeping an eye on industrial activity, the CPCB and SPCBs are essential in controlling pollution. These regulations mandate that industries get permission to operate, adhere to specified pollution standards, and provide regular reporting on emissions and effluents. Penalties, the closure of operations, or even jail for offenders are possible outcomes of non-compliance..

Enforcement Strategies:

Although the law offers strong tools for reducing pollution, enforcing them is nevertheless quite difficult. The effectiveness of regulatory measures is frequently undermined by weak implementation, insufficient resources, and bureaucratic obstacles. Enforcement operations are further complicated by the complexity of environmental issues, overlapping jurisdiction, and a lack of coordination among regulatory agencies.

Judicial Interventions:

Through Public Interest Litigation (PIL) and judicial activism, the Indian court has actively addressed environmental issues over the years. Prominent rulings like *M.C. Mehta v. Union of India* have resulted in strict rules, compensation for environmental harm, and the shutdown of polluting companies. By establishing a specialised court for the adjudication of environmental issues, the National Green Tribunal (NGT) was established in 2010, which significantly enhanced the legislative framework for environmental protection.

Obstacles and Suggestions:

In spite of noteworthy advancements, there are still obstacles to efficiently managing pollution in India. These include the need for harsher sanctions for offenders, a lack of public awareness, and insufficient enforcement capacity. Policymakers should prioritise investing in pollution monitoring technologies, encouraging public engagement in environmental decision-making, and improving enforcement systems in order to address these issues. To accomplish sustainable environmental management, government agencies, civil society organisations, and industrial stakeholders must work together more effectively.

Conclusion:

The legal perception of pollution control in Indian law reflects a complete structure designed to protect the environment and public health. However, strict enforcement, public awareness, and stakeholder cooperation are necessary for these laws to be effective. India can reduce the risk of pollution and transition to a more sustainable future by tackling current issues and taking preventative action.

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TEMPLE RECLAMATION: JUSTICE OR FASCISM?



Introduction:

Since the invasion of the Indian subcontinent was started by Muslim invaders, there has been a practice of demolishing non-Muslim places of worship, mainly Hindu temples, so to speak, in the Indian context. This practice of demolishing places of worship of other non-monotheistic faiths was most of the time a result of religious zealotry. This suppression of sentiments and civilizational values of the so-called Dharmic fold resulted in what we see today as the temple reclamation movement.

This movement stands for reclaiming & rebuilding demolished Hindu temples. The advocates of this movement mainly speak for rebuilding and reclaiming the now-transgressed places of worship by judicial means. But we have also seen that this movement also takes violent forms from time to time, so to say, the demolition of the disputed Babri Masjid structure on 9 December 1992 by a mob of karsevaks who were demanding the building of the Ram Mandir at the disputed site of the Babri Mosque structure. This movement first started with the demand to build the Ram Mandir at Ayodhya but now it has started to spread its legs across other disputed places of worship and the common Indian worries that this will open an unnecessary rabbit hole.

Historical Context:

It is said that there existed a Hindu temple at the site of the Babri mosque in the 12th century, as concluded by the Archaeological Survey of India report in the Ram Mandir case submitted to the Supreme Court. Though it can't be conclusively said that the temple was destroyed during the reign of Babar in India because it was a title suit, the Supreme Court gave its verdict in favour of the Hindu side as they were successfully able to prove that the Hindus continuously revered that place as their holy site throughout history and the presence of the temple beneath the disputed structure concreted the claims of the Hindu side.

Another controversial site is the Gyanvapi Mosque in Varanasi, which is said to have been demolished by the Mughal ruler Aurangzeb during his 20th regnal year. This claim of the Hindus is supported by the official biography of Aurangzeb, Masir-e-alamgiri which shows how the ruler ordered the demolition of the pre-existing temple. The remains of the temple can also be seen through the naked eye, and the recent survey report submitted by ASI in the Varanasi court solidifies the claims of a temple. The Hindu side contends that the mosque site should be handed over to them to rebuild the demolished Shiva temple.

Another well-known controversy is the disputed Shahi Idgah site in Mathura, which is said to be the birthplace of Shri Krishna. The Hindus contend that the site on which the mosque exists today has been falsely given to the Muslim side by the then government. They say that the site only belongs to the Hindus, on which there exists the Keshav Ji temple.

Is this Justice?

The core of this whole controversy is whether the Hindus should reclaim their holy sites or not. The answer is YES if you believe in the spirit of justice. Justice is nothing but undoing the wrong, to reinstating the victim in such a place where it feels like the wrong never happened. The temple reclamation movement in this scenario is just a way to undo the historical wrongs committed by the Islamic invaders. The next question that gets raised in this way is whether the historical wrongs should be corrected or should be left in the hands of time and hope that the passage of time will cure the wound of injustice. In my opinion, the latter option is nothing but cowardice. The cowardice to not look into the eyes of injustice and say with courage what is wrong and what is right. The next hindrance to this approach is the Places of Worship Act, 1991 which prohibits conversion of any place of worship and provides for the maintenance of the religious character of any place of worship as it existed on the 15th day of August 1947. This act only makes an exception about the Ram Janmabhoomi case because at that time this matter was sub-judice. My criticism of this act is that it curtails the fundamental rights of citizens to approach the court to enforce their rights. In this case, the violated right is the freedom to practice one's religion freely because if your holiest sites are crumbled in front of your eyes, then how can you practice your faith freely? This act makes it clear that except for the Ayodhya case, no place of worship's religious character will be changed; it means the existence of this act ceases the Hindus from their right to reclaim the Gyanvapi and the Shahi Idgah mosque sites, which is a grave injustice by making sure that one of the holiest sites of the Hindus, i.e. Kashi and Mathura remain crippled. Now, the Muslim side contends here that this is fascism because they feel that they are becoming the victims of majoritarian propaganda propagated by the courts and the state. They argue that it is against the spirit of secularism for the state to indulge in religion in such a way, and they believe that temple reclamation will fuel hate and disharmony between the people of the communities involved. They also believe that the reclaiming of temples is against their interest and their beliefs are being ignored by the state.

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THE AADHAAR DATA SECURITY SCANDAL



Digital privacy rights in India have evolved, and It has also created many social and legal issues. It was started by The Information Technology Act 2000, which primarily focused on protecting electronic transactions and cybersecurity. One of the digital privacy issues was the Aadhaar card, introduced by the government in 2000, which was aimed to streamline social welfare programs and services but created many controversies because of misuse of personal information, which is affecting public privacy.

According to the sources, in 1999, after the Kargil war, the government formed a committee named the 'Kargil Review Committee', which was led by security analyst K. Subrahmanyam to assess national security. In 2000, this committee recommended issuing identity cards to citizens in villages that are near the border areas and then to the border states. The Rangarajan Commission was set up in 2000 by the Government of India which was to evaluate and recommend reforms to improve the statistical system in the country. They noted that every country has databases with unique identification numbers for citizens. A group of ministers which was led by L.K Advani formed to study these recommendations and in 2001, they accepted the proposal for the Multipurpose National Identity Card project.

In 2009, the Aadhaar card was established, which provides every resident in India with a unique 12-digit identification. The Aadhaar card was aimed to streamline and improve government welfare services and subsidies by reducing duplicity and fraud. The card includes biometric and demographic data of individuals, enhancing the accuracy and security of identification. It is used for universal identification documents, which include opening bank accounts, obtaining SIM cards, applying for passports, etc. It also promotes financial inclusion by enabling individuals to establish their identity for banking and financial services. It enables real-time authentication of individuals' identities, which helps the government and service providers verify the identities quickly and securely.

In 2010, the National Identification Authority of India (NIAI) Bill was introduced in parliament which was led by Yashwant Sinha, but rejected by the standing committee in finance because it termed the project as unethical and a violation of Parliament's prerogatives. In November 2012, K.S. Puttaswamy, a former Karnataka High Court Judge, and Lawyer Parvesh Khanna filed a PIL (Public Interest Litigation) against the government. The Supreme Court of India said that the 'Aadhaar' violates the fundamental rights of equality and privacy. In September 2013, the Supreme Court passed an order that no person should suffer for not having an Aadhaar card; later, in August 2015, Three Judges of the Supreme Court benched the limits of Aadhaar card use to specific welfare schemes and ordered that no one should deny the benefits for lack of Aadhaar card.

On 4 January 2018, breaking news came up which was investigated and exposed by a Chandigarh-based Tribune newspaper and confirmed that the personal data of billions of Indians was sold online only for 500 rupees on WhatsApp. Those details in the Aadhaar card hold the world's largest biometric database which was used to administer public services. The scandal started when the government found that people were facing a lot of issues regarding the authentication of Aadhaar cards. To solve this issue, the government decided to appoint village-level entrepreneurs and they will be sent to every village in India to check whether the authentication submitted by them is correct or not. The government provided Admin access to every entrepreneur, which will help them check the entire database where all information related to the Aadhaar card is saved. The Admin was given the right to develop a new login ID and password to access the entire database, this is how one of the anonymous persons found out the way to sell the information. One of the village-level level entrepreneurs, Bharat Bhushan Gupta, found out that someone was selling the information for 500 rupees on WhatsApp. He complained to UIDIA but got no response and then decided to go to the media for help. One of the journalists of 'The Tribune' newspaper investigated himself and published the story, which then created controversies. UIDAI denied this story and said that the Aadhaar card database couldn't be hacked and filed an FIR against the journalist because of the fraud.

The government addressed that the database brings billions of Indians into the digital economy which allows access to social programs in the country and one of the studies revealed in 2018, that 84% of welfare funds are lost to intermediaries. Many critics argue that the Aadhaar benefit has been shown so much, but if it is a potentially lucrative database, then it can never be fully secured. Social activists also came up and blamed the scheme for the death of two people who died due to starvation and were unable to access the ration because of the requirement of an Aadhaar card. On 17th April 2019, UIDAI published a press release saying that they deny data theft reports and assure CIDR and servers are secured. They filed a complaint against the IT grid for Aadhaar violation. No evidence of data has been stolen from UIDAI servers, and urges people to reject fear and false news.

Thousands of scams can take place because of 12-digit Aadhaar cards such as Personal data getting leaked because the Aadhaar database might get accessed by unauthorised people which may lead to misuse. Many cases where Aadhaar details were stolen by illegal activists like opening a bank account or getting phone connections or causing people financially known as 'Identity Theft'. The fingerprint and iris

scans that are collected in Aadhaar for verification have been misused by copying the biometric traits. The Aadhaar data can be misused by government or private agencies, this shows how weak is the legal protection in India, the laws should be strong enough to address Aadhaar fraud and abuse. Due to a lack of consent mechanisms and transparency, sometimes the Aadhaar details get linked to the services without obtaining consent from the people. Aadhaar cards can also help political parties gain votes from people by accessing the Aadhaar details from the public. On 27 May 2002, UIDAI published a press release advising people about the misuse of photoshopped Aadhaar cards and suggesting people use a Masked Aadhaar card by showing only the last 4 digits to protect people's identity and privacy.

Last year, in October 2023, a US-based cybersecurity company named Security posted the details about the data breach. The hacker named 'pwn0001' disclosed the data of 81.5 crore Indians related to Aadhaar cards on the dark web. It was the massive data breach in the country which created a lot of controversies.

Therefore, many scams happen from Aadhaar cards, which are sometimes related to any individual, government, or maybe private entity. Later, the Supreme Court declared that admissions in schools will not require an Aadhaar card, and a mobile connection and bank account are not mandatory to get linked with an Aadhaar card. It will only be mandatory if you want to avail government subsidies, and private companies are not allowed to ask for Aadhaar card details from any person. The PAN card is still mandatory to link with an Aadhaar card. No matter how negatively the Aadhaar card has affected the people of India, it has benefited our digital economy and it was aimed to weed out illegal aliens which were also beneficial to decrease corruption, although it created lots of social issues and controversies. The debates on privacy and security continued but positively Aadhaar card is helping the public in government services, subsidies, and financial transactions.

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EMBRACING DIVERSITY: THE FIGHT FOR LGBTQ+ RIGHTS



The LGBTQ+ community has long been marginalised and denied basic rights. However, in recent years, significant progress has been made in the fight for equality and acceptance. This essay will explore the history of the LGBTQ+ rights movement, the challenges faced by the community, and the importance of continued advocacy.

Historical Context:

The struggle for LGBTQ+ rights dates back decades, with brave individuals paving the way for change. The Stonewall Riots in 1969 marked a turning point, igniting a movement for LGBTQ+ liberation and inspiring future activism.

Milestones in LGBTQ+ Rights:

- a. Marriage Equality: One of the most significant milestones was the legalisation of same-sex marriage. In 2015, the United States Supreme Court ruled in favour of marriage equality, setting a precedent for other countries to follow suit.
- b. Anti-Discrimination Laws: Many nations have implemented laws protecting LGBTQ+ individuals from discrimination in areas such as employment, housing, and public accommodations.
- c. Transgender Rights: There has been increased recognition and protection of transgender rights, including legal recognition of gender identity and access to healthcare.
- d. Conversion Therapy Bans: Numerous jurisdictions have banned the harmful practice of conversion therapy, acknowledging its detrimental effects on LGBTQ+ individuals.

The LGBTQ+ community has faced discrimination and inequality for a long time. But things are changing! In this essay, we'll explore the history of the LGBTQ+ rights movement, the challenges they face, and why it's important to keep fighting for equality.

The LGBTQ+ rights movement started with the Stonewall riots in 1969. Since then, activists have been working hard to challenge unfair laws and attitudes. One big challenge is the lack of legal protection. Some countries still criminalise same-sex relationships and don't recognise same-sex marriages. This denies LGBTQ+ individuals the same rights as everyone else.

Another important aspect is societal acceptance. LGBTQ+ people often face prejudice and discrimination, which can lead to mental health issues and violence. Education and awareness are key to fighting these prejudices. Schools and communities should create inclusive environments that celebrate diversity. Media representation also matters. Positive portrayals can break stereotypes and promote understanding.

But the fight isn't over yet. Transgender individuals, in particular, face unique challenges. They often have limited access to healthcare and are at a higher risk of violence. It's important to recognise that LGBTQ+ rights intersect with other identities and experiences. We need comprehensive anti-discrimination laws that protect everyone.

Mental health is also a big concern within the LGBTQ+ community. Many struggle with depression, anxiety, and even thoughts of suicide. Accessible and inclusive mental health services are crucial. Supportive communities, counselling services, and helplines can make a huge difference for those in need.

The LGBTQ+ rights movement has its roots in the Stonewall riots of 1969, which marked a turning point in the fight for equality. Since then, activists have worked tirelessly to challenge discriminatory laws and attitudes. One of the key challenges faced by the LGBTQ+ community is the lack of legal protection. Many countries still criminalise same-sex relationships or fail to recognise same-sex marriages. This denies LGBTQ+ individuals the same rights and benefits enjoyed by their heterosexual counterparts.

Societal acceptance is another crucial aspect of LGBTQ+ rights. Prejudice and discrimination against the community persist, leading to higher rates of mental health issues and violence. Education and awareness play a vital role in combating these prejudices. Schools and communities must foster an inclusive environment that celebrates diversity and promotes acceptance. Additionally, media representation of LGBTQ+ individuals has a significant impact on public perception. Positive and accurate portrayals can challenge stereotypes and promote understanding.

Despite the progress made, there are still ongoing struggles for LGBTQ+ rights. Transgender individuals, in particular, face unique challenges, including limited access to healthcare and high rates of violence. Intersectionality, recognising the overlapping identities and experiences of individuals, is crucial in addressing these issues. It is essential to advocate for comprehensive anti-discrimination laws that protect all members of the LGBTQ+ community.

In conclusion, the fight for LGBTQ+ rights is far from over. While significant progress has been made, there are still legal and societal barriers that need to be addressed. It is crucial for individuals, communities, and governments to continue advocating for equality and acceptance. By embracing diversity and challenging prejudice, we can create a world where LGBTQ+ individuals can live their lives authentically and without fear of discrimination. Together, we can build a more inclusive and equitable society for all.

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Decoding Responsibility: AI's Ethical and Legal Dilemma Unveiled



In a dynamic society, diverse ideologies foster new possibilities for human leisure. States have different GDPs, political roles, and development levels, but all share the common human element. Humans form social institutions for civilisation improvement, and every state has humans with unlimited wants to cherish.

Anthropological views of humans and their wants are food and clothing (humans started understanding social relations due to geographic reasons). The wearing of clothing began at some point between 83,000 and 170,000 years ago.; shelter (for their survival); and moreover, The Industrial Revolution led to the emergence of two new classes: the working class and the new middle class. The most significant difference between the working class and the nobility was money and social status. Money signifies a rich lifestyle, which is, in the end, a luxurious life that would be full of leisure.

The subject of psychology seeks to understand human behaviour. Moreover, it also provides various vulnerabilities for the same. Leisure is important for humans but, at the same time, precarious for their existence. To decrease the requirement for human labour or to increase the leisure of humans, the invention of AI (artificial intelligence) has been introduced. It was not a chatbot like Chat-GPT, Alexa, or Siri. The first work which is now recognised as AI was done by Warren McCulloch and Walter Pitts in 1943. They proposed a model of artificial neurons. As Plato said, “our need will be the real creator” or “necessity is the mother of invention”. Currently, various private companies are putting in their immense resources to create AI with zero human interference for the sake of automation. AI was introduced as complementary to humans, but due to the technological revolution, it's becoming a substitute for humans.

Generally, AIs are of three types: Weak/NAI (Narrow Artificial Intelligence), AGI (Artificial General Intelligence), and ASI (Artificial Super Intelligence). AGI has the potential to surpass human intelligence according to theories, as AGI is currently under development, companies like OpenAI and IBM are working on the same, and ASI does not have any practical examples; its potential is not yet calculated as it is completely theoretical. Apple's Siri, Google Assistance, and Amazon's Alexa are all categorised under weak or narrow AI. It has immense potential and can be used in a variety of day-to-day operations done by humans. From weather forecasting to solving human problems, it is becoming a major part of our lives. Currently, NAI and AGI are the topics of concern that give birth to problems like data security, ethical concerns, AI terrorism, job loss problems, computing bias, and one of the matters of Consequences are Legal and Ethical complications.

To train an AI, it requires lots of coding, deep learning, and machine learning. Machine learning helps AI understand different possibilities of events and data and generate proper and desirable results for the user. Examples are automatic speech recognition (ASR), customer support, recommendation engines, automated stock prediction applications, and radiology imaging. All these are possible with the help of data. Data from the general public helps train AI. This could be a major concern for the upcoming future, and in many aspects, it started affecting thousands.

According to research by The News Express and StudyIQ, various websites use cookies (which store users' data on their own phones) and microphones to identify which products the user is interested in and show the related results in the form of advertisements. Example: If you repeatedly search for or say a particular thing on your phone, it will start showing you related products in the form of advertisements. This privacy issue has been detected on Android devices. It is possible that computers and machines can turn against mankind itself in the future. Any group or high-tech professionals can unethically use this technology against us destructively, which would definitely result in privacy issues, mass surveillance, online theft, data leakage, etc.

Companies like Google, Apple, Amazon, Microsoft, and the Chinese company "Baidu Inc." have invested 20–30 billion dollars in AI-related research. All these companies have monopolies over their user data and possess a diversity of user data that they can use to train their AI or collaborate together to create an AGI bot or, in the future, an ASI bot.

Do we need to regulate AI, or does AI need to be regulated? This is a question of fact. Currently, various countries have started taking steps related to it. Recently, the U.S. federal government found ways to promote the safe use of AI, provide guidelines for the safe and smart use of AI in a harmonious way, and spread its benefits to the whole world, including its competitors.

In 2018, following the global trend, India also published two road maps for regulating AI. Firstly, an "AI task force" has been constituted by the Ministry of Commerce, and secondly, a document named "National Strategy for Artificial Intelligence" was published by NITI Aayog. According to Sections 43A and

72A of the “Information Technology Act, 2000,” if any person commits a crime using AI, he will be liable under this act, and it will be considered cybercrime and would also be liable under various criminal laws.

India has neither taken any major steps to regulate AI nor adopted any prominent method for the same. India should focus more on privacy-related issues, which can affect the whole population of the country, rather than regulating AI; it is easy to make laws related to privacy as compared to unexplored applications of AI as it is dominantly dependent on data. The government should invest in spreading awareness about internet-related issues in remote areas and should make the remote population aware of their privacy rights. They should make strict laws for data breaches and data leakage by companies that handle user data in various offshore servers and impose heavy fines for the same. The government should focus more on regulating AI applications rather than AI in general.

Every technology has pros and cons, but it's up to us to use the technology in a positive sense, which will harness human potential and help us conquer the world. If we fail to do so, we will definitely face major issues in the present as well as in future. And our future generations will have to live under the surveillance of their own creation.

Puranjay Kar

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THE IDEA OF CORRECTIVE JUSTICE

INTRODUCTION

The Greek philosophers Plato and Aristotle developed the first theories of justice in their respective works, *The Republic* and *Nicomachean Ethics*. According to Plato, justice is the possession and exercise of one's own rights. A righteous guy is one who is in the proper position, gives his utmost effort, and gives precisely what he has been given.

Additionally, Aristotle observed that whenever justice was equated with "full virtue," it was always done "in regard to another person." To put it another way, morality must be understood in terms of "what we owe to each other" if justice is to be associated with morality as such.

CORRECTIVE JUSTICE

Therefore, we regard a society as lacking if it does not offer suitable remedies for these issues or if it does not define what we would typically consider to be an injury or harm in order to make it a basis for recompense. Unfortunately, there are still plenty of instances where damage is not recognised and inadequate solutions are used. Systems based on common law neither fully address the issue of unjust enrichment at the cost of some other person nor do they address situations in which one person may unintentionally benefit another. The full extent of the harm caused by mental discomfort is rarely recognised by social security systems, and not every legal framework considers violations of confidentiality or privacy intrusions to be injuries.

As a result, rights should not be sacrificed in favour of other values; they carry a specific significance and cannot be taken away sans restitution. The demands of corrective justice are not taken seriously by society if these rights are not upheld by its administrative institutions.

Corrective justice focuses on upholding and restoring the parties' fictitious equality at the outset of the transaction. In order to achieve equality, each person must possess what is rightfully theirs. When, in comparison to this baseline, one party experiences a gain and the other a proportional loss, injustice has occurred. By denying one side of the gain and giving it back to the other, the law remedies this injustice and restores the initial equality. The initial positions of the parties are compared by Aristotle to two equal lines. By adding a section to one line that was cut off from the other, the injustice disturbs that equality. With the fix, the section is moved back to the shorter line from the longer one.

FEATURES

- **Rectifying quality**

As the name implies, corrective justice serves to rectify wrongs. Corrective justice establishes a link between the remedy and the wrong by redressing the injustice the offender imposed on the plaintiff. The court, or "justice en- souled" in Aristotle's famous phrasing, does not view the matter under consideration as a value-neutral given and then inquires what is the best way to proceed for the future, all things considered, from the viewpoint of corrective justice. Instead, the remedy responds to the injustice and attempts to undo it as much as possible because the court's goal is to rectify the wrongs done by one party to the other.

- **Co relativity**

It is evident from Aristotle's statement that this rectification affects both parties in a reciprocal manner. A remedy that exclusively benefits a single party does not follow the principles of corrective justice. It is insufficient for the court to simply strip away the defendant's unjust gain since the claimant would still be left with an unjust loss. Additionally, it is insufficient for the law to only compensate the plaintiff for their loss because the defendant would then continue to benefit from their unlawful profit. The remedy entails paying up both the plaintiff's deficit and the defendant's gain at the same time. Thus, both sides receive justice in a single procedure where the plaintiff receives exactly what the perpetrator is forced to give up.

- **Contrast with distributive justice**

According to Aristotle, there are two distinct types of justice: corrective justice and distributive justice. Whether one party committed and the other party experienced a transactional injustice is the main concern of corrective justice, which is concerned with voluntary and involuntary dealings (today's contracts and torts). The allocation of whatever is divisible is the focus of distributive justice.

In terms of their respective roles, corrective justice connects the perpetrator and victim of an injustice. Conversely, distributive fairness compares the prospective parties to the distribution in light of a distributive criterion and deals with the sharing of a gain or burden. Distributive justice connects all parties through the benefit or burden they all bear rather than as doer and victim.

Application

The ideas and rules of tort law specify the circumstances in which the defendant's actions constitute an unjustified violation of the plaintiff's rights. Similar to this, the fundamental principles of contract law—offer and acceptance, consideration, unconscionability, and expectation damages—allow both sides to confer a right on the plaintiff to the defendant's fulfilment of the promise by the mutuality of their action.

CRITICISM

The traditional interpretation of injustice according to Aristotle involves a benefit for the accused and a corresponding harm for the complainant. By simultaneously eradicating the gain and the loss, correlation satisfies its rectification purpose. Only unlawful property seizures plainly follow this pattern. In most tort cases involving unintentional injury, the plaintiff suffers a loss from which the defendant derives no equivalent gain. Similar to this, in circumstances of restitutive damages, the defendant may benefit but without claimants lost, as when the defendant uses without the plaintiff's permission and then returns the item unharmed. The plaintiff would not have used the item during that time. According to Aristotle, corrective justice doesn't seem to be applicable to many types of liability.

However, this assumption would indicate that corrective justice erroneously presupposes beginning equality in the parties' wealth since, in Aristotle's perspective, the foundation for the parties' gain and loss is their initial equality. In reality, however, Aristotle just used the term "equality" to describe each participant's right to receive what is due to them.

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INTERPLAY BETWEEN FINTECH AND DATA PROTECTION



Introduction

India's fintech sector has witnessed remarkable growth, revolutionising how financial services are accessed and utilised. However, this surge in financial technology has brought to the forefront critical concerns related to data privacy and security. In this article, we delve into the intricate relationship between fintech and data protection regulations in India, exploring the regulatory frameworks, compliance requirements, and their implications for both the fintech industry and users. The rapid growth of fintech in India has transformed the financial landscape, offering innovative solutions and convenient services. However, this surge has also brought to the forefront crucial concerns regarding data protection and privacy. In this article, we explore the intricate relationship between fintech and data protection regulations in India, shedding light on the regulatory frameworks, compliance requirements, and their impact on the fintech industry and users.

Data Protection Measures in India's Fintech Landscape

Fintech companies prioritise safeguarding extensive personal and financial data they collect and process. In India, a crucial step towards bolstering data protection has been taken through the Digital Personal Data Protection Act ("the Act"). This legislation focuses on both individual privacy and data security, aiming to foster innovation within the fintech sector. A pivotal aspect of data protection for fintech under this Act is the implementation of heightened data security measures. Fintech companies are mandated to invest significantly in data security, potentially necessitating infrastructure upgrades, robust encryption, and stringent access controls to effectively protect customer data. Additionally, the Act underscores the significance of user consent and transparency. Fintech entities must enhance transparency concerning data collection, usage, and sharing practices. Users are empowered to exercise

control over their personal data, requiring explicit consent for data processing. This, in turn, influences how fintech companies operate. The Act also addresses data localisation, potentially obliging fintech firms to store user data within India. This may lead to increased operational costs as companies establish local data centres or utilise Indian-based cloud services for data processing. However, while these provisions strengthen data protection, they could potentially impact fintech innovation. Stricter data protection laws might slow down innovation as companies navigate a more complex regulatory landscape, potentially delaying the launch of new products and services.

Financial and Operational Implications

Financially, compliance with the Act is anticipated to escalate administrative and legal costs for fintech companies. Compliance could involve hiring data protection officers, conducting regular audits, and investing in compliance tools to adhere to the regulatory requirements. Moreover, the Act may present challenges related to data monetisation for fintech companies. Many fintech entities derive value from analysing customer data to offer personalised services or selling insights to third parties. The Act may impose restrictions on data monetisation, affecting revenue streams and business models. On a positive note, the Act could ignite increased competition within the fintech sector. It might inspire new entrants specialising in data protection and privacy compliance, intensifying competition and fostering better data protection practices industry-wide. For fintech companies operating internationally, aligning practices with both the Act and global data protection regulations like GDPR is crucial. This adds complexity to their operations but is necessary to ensure compliance and maintain international business relations. Additionally, these stringent data protection laws have the potential to bolster consumer trust in fintech services. Consumers are likely to trust fintech companies more, knowing that their personal data is better protected. This trust could serve as a competitive advantage for compliant companies, building stronger and more enduring customer relationships. Lastly, the Act establishes the Data Protection Board of India, playing a critical role in enforcing its provisions. The Board possesses the authority to impose significant financial penalties for non-compliance, emphasising the importance of adherence to the regulatory framework for fintech companies operating in India.

Statutory Considerations

The Act brings about significant changes that directly impact fintech companies. These changes revolve around consent and privacy, placing a strong emphasis on explicit customer consent and robust data security measures. Data rights have been defined comprehensively, encompassing access, correction, erasure, portability, and the obligation to inform customers about data processing during collection. To ensure compliance, fintechs are required to establish clear data processing agreements focusing on security and privacy. The introduction of the concept of data passports and embassies is a notable enhancement for data protection. Individuals are now empowered with the right to request the removal of their personal information, introducing a challenge for fintech companies to comply with data storage requirements. Additionally, fintech entities must maintain thorough audit trails and prioritise transparency in their data usage. Adherence to data classification norms is mandated to ensure secure data storage practices. Establishing operating agreements and penalty arrangements is crucial to uphold the quality of customer service. Navigating the landscape of data privacy compliance becomes

increasingly intricate, as fintech entities must meet the diverse requirements set by various regulators. This includes big tech companies in the fintech sector, which now must abide by principles such as data minimisation, purpose limitation, and consent requirements. These changes signal a noticeable shift in how data is handled within the industry.

FinTech's Forward Expectations

The Act introduces crucial changes that fintech companies must prepare for. Individuals sharing personal data will now possess specific rights, receiving clear notices that elucidate the purposes of data collection and granting them the ability to freely give or withdraw consent. There are exceptions to explicit consent, referred to as 'deemed consent,' which apply to cases like voluntary data submission, legal obligations, public interest, and reasonable purposes. To assist individuals in managing their consent preferences, consent managers registered with the Data Protection Board will play a vital role. Data fiduciaries are entrusted with fundamental responsibilities, such as ensuring data quality, implementing robust security measures, promptly reporting data breaches, limiting data retention, addressing grievances, and adhering to data transfer rules for processors. Notably, significant data fiduciaries will face even more stringent obligations. In the realm of data transfers across borders, the Act introduces a white-listing process as an alternative to mandating data mirroring and local storage, streamlining compliance.

Conclusion

The intersection of fintech and data protection in India demands a careful equilibrium between innovation, compliance, and establishing user trust. It is imperative to give precedence to robust data encryption, stringent access controls, and routine security evaluations to meet the rigorous demands of data protection requirements. Clearly articulating the purpose behind data collection to users, obtaining explicit consent, and empowering users to control their own data are foundational steps to cultivate trust and enhance the overall user experience. Actively engaging with regulators, seeking guidance, and participating in dialogues are vital approaches to comprehend evolving requirements and align business practices accordingly. Integrating privacy considerations at the inception of product and service development, ingraining privacy principles throughout the fintech ecosystem, is fundamental. To summarise, finding the delicate balance between innovation, compliance, and user trust is critical in the realm of fintech and data protection in India. Fintech companies must proactively navigate this landscape to ensure the responsible utilisation of data while continuously propelling innovation within the financial technology sector.

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SECURING INDIA'S FUTURE: UNDERSTANDING CYBER THREATS, BUILDING RESILIENCE, AND FOSTERING ECONOMIC PROSPERITY

ABSTRACT

India confronts dangers from smart online rather than conventional warfare. Cybersecurity breaches have an impact on countries and their essential infrastructure, which includes major financial institutions, hospitals, the ISRO, and nuclear power facilities. Despite their significance, these tragedies frequently miss mainstream media coverage, leaving the general public ignorant of the gravity of the problem. Beyond hacked websites and exposed customer data, there is a deeper and broader concern. In this session, we will discuss the threats and risks discovered in India and its critical infrastructure.

INTERNET AS A WEAPON

India's strong economic growth is accompanied by a significant shift toward digitisation, marking a watershed moment in the technology environment. As healthcare, transportation, and finance embrace digital platforms, the country will confront an increase in cyber threats and cyber-attacks by 2022. Chinese activists have enormous vulnerabilities, as illustrated by the targeted attack on AIIMS healthcare personnel. These intrusions jeopardised the integrity of sensitive health data and raised worries about the security of such information.

ISRO, a global leader in technology and space exploration, was also subject to cyber-attacks in 2019. The installation that occurred during the launch of the Chandrayaan2 mission demonstrates the scope of cyber dangers, even in the most modern technological fields. Vulnerabilities also affect vital infrastructure, as evidenced by the 2020 cyberattack on the Kudankulam nuclear power station. The

attack, which remained undetected for an amazing six months, demonstrated the disastrous repercussions that the internet may have in locations where safety and security are lacking. The most crucial thing.

In the digital sphere, India must boost cyber security measures to preserve its national interests and maintain progress. As the country navigates the digital world, strong defences against cyber-attacks are developing as an essential component of technical resilience and national security frameworks.

HOW DO CYBER ATTACKS HAPPEN

Knowing the many types of cyber-attacks is critical in today's digital world. These attacks include hacking, malware, social engineering, phishing, and DDoS attacks.

Hacking is defined as unauthorised access to systems, which frequently leads to data theft. Ransomware is a malicious attack that encrypts your data and demands payment. Social media manipulates people's brains to extract sensitive information, whereas phishing deceives users into disclosing their information via bogus emails and messages.

DDoS assaults disable servers and impair services. Notable examples include Anonymous Sudan's strikes on Indian airports, which exposed critical infrastructure vulnerabilities.

Financial institutions such as HDFC Bank and government entities have also fallen victim to cyber-attacks. Understanding these risks is vital for developing effective cybersecurity strategies to protect against digital intrusions.

THE IMPACT OF CYBER-CRIME

The global economic effect of the cybercrime epidemic is estimated to be USD10.5 trillion every year. Interestingly, if the internet were a country, it would be the world's third-largest economy, trailing only the United States and China. This demonstrates that cybercrime is spreading globally. The financial crisis is worsening as governments like North Korea impose tough economic restrictions, forcing them to rely on unregulated financial institutions. The Senate's startling discovery indicated that North Korea's missile program is extensively funded by Internet activity, demonstrating the link between the Internet and government services. Recently, there have been issues in neighbouring Pakistan. These secret strategies include deceiving celebrities and acquiring secrets through friendship. Under such conditions, disclosing sensitive information about India and the development of advanced weaponry constitutes a major breach of national security. Cybercrime takes numerous forms and has three harmful effects on countries, including India. First, crucial infrastructure was harmed. Second, a serious financial crisis can destabilise the economic environment. Finally, the spread of cybercrime fuels terrorism and war, posing a severe threat to global peace and security. Faced with several obstacles, countries must prioritise cybersecurity and collaborate to mitigate the consequences of cybercrime.

WHAT CAN WE DO?

India's goal of a USD 5 trillion economy is inextricably connected to the fight against cybercrime within its borders. Surprisingly, studies indicate that 31% of Indians, or 50 million people, have been victims of cybercrime. Discussions frequently discuss the issues posed by cybercrime, but the emphasis should move to viable solutions. cybercrime. Discussions frequently discuss the issues posed by cybercrime, but the emphasis should move to viable solutions.

The key to these ideas is to modify existing legislation. Dr. Pavan Duggal, a distinguished Supreme Court lawyer and Chairman of the International Cyber Security Law Commission, advocates the creation of a cyber security agency in India, similar to the model used in nations such as Australia. Although Prime Minister Narendra Modi pledged a new cyber security policy in his Independence Day 2020 speech, progress with the 2013 Cyber Security Policy has been slow.

Implementing data transmission protocols is critical for combating cyber-attacks. While barring Chinese applications due to data security concerns is a sensible strategy, the reality is that personal data remains in India and within its authority. India can protect sensitive information while also creating local employment opportunities by utilising its geopolitical power and enforcing tough laws to entice firms to establish data centres within its borders. Furthermore, awareness, education, and training must be prioritised in order to strengthen the nation and its cyber security posture. The 2020 assaults on Mumbai and its power infrastructure, carried out by Chinese government-sponsored cybercriminals, highlight the critical necessity for extensive training programs. To avoid cyber threats before they occur, companies and individuals must understand how to identify and remediate security vulnerabilities.

The gravity of cybercrime necessitates universal knowledge and proactive response from all sectors of society. By cultivating a culture of cyber literacy and resilience, India can enhance its defences against evolving cyber threats while also paving the road for long-term economic prosperity and security.

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INTELLECTUAL PROPERTY RIGHTS IN THE DIGITAL AGE: BALANCING INNOVATION AND PROTECTION



Introduction

Using the Scopus database, the literature on intellectual property rights (IPR) authored by Indian researchers is analysed in this study. One aspect of the purpose is to keep track of the sources, authors, institutions, document types, and subject areas of the literature. Another is to analyse publication trends over time. Using bibliometric analysis, Indian researchers on intellectual property rights located and reviewed a significant amount of research papers, conference proceedings, and reviews. The study looks at publishing trends from year to year to chronicle the growth and progress of research in this field.

The digital age has fundamentally changed the way we create, share, and access information. Intellectual property rights (IPR) have faced significant challenges in addition to their many benefits. Patents, copyrights, and trademarks are examples of intellectual property rights that are intended to protect creative works and foster innovation. The inherently digital nature of new breakthroughs and creations complicates traditional IPR regimes, requiring a delicate balancing act between protecting artists' rights and fostering innovation.

EVOLUTION OF INTELLECTUAL PROPERTY RIGHTS

Intellectual property rights (IPR) have seen a digital wrench due to the advent of the digital era. Although the customary legal frameworks safeguarding patents, copyrights, and trademarks continue to function, novel obstacles and prospects have emerged. Digital content is easily copied and shared, which

encourages piracy but also democratises access. In a world of remixes and mashups, this has sparked discussions about ownership, fair use, and the very concept of creativity. Governments are rushing to adjust, creating new laws like the DMCA to suppress piracy while courts are battling complex problems like AI ownership and data privacy. IPR needs to strike a new balance in this changing environment to support innovation and make sure artists get paid for their digital labour. Rapid technical advancements are pushing the limits of what can be owned and protected in the always changing digital world, therefore the evolution is still ongoing.

THE PROGRESS OF TECHNOLOGY AND INTELLECTUAL PROPERTY ISSUES

It is a complex and challenging dance to balance technology and intellectual property (IP). Fundamentally, invention—which is frequently shielded by trademarks, copyrights, and patents—is how technology evolves. This model encourages investment, rewards inventors, and advances the status quo. Still, it's not always an easy task. Challenges emerge: copyright rules hinder open-source development, trade secrets hinder cooperation, and patents may limit access to life-saving medications. Constant bargaining is required to strike a balance between the demands of society and the incentives of innovators. Technology advances but also fair and accessible advancement for all are promoted when the proper balance is struck.

BALANCING INNOVATION AND PROTECTION

It is sometimes surprising how many different and distinctive cultures and traditions there are in the world. Furthermore, the customs of each of those civilisations are reflected in all spheres of expression, including everyday routines, artistic creations, and skilled workmanship. A number of local communities and governments asserted the necessity of legally defending those kinds of cultural expression as trade and society became more globalised during the course of the last century. Some operators tried to capitalise on others' expertise and status when specific goods and abilities from particular areas became well-known throughout the world.

CASE STUDIES AND EXAMPLES

Software Patents: Struggling to strike a balance between protection and innovation is best illustrated by the discussion around software patents. Smartphone patents, including software features and design patents, have been the subject of high-profile legal disputes between corporations such as Apple, Microsoft, and Samsung. These cases show how difficult it is to prevent monopolistic activities that impede competition while still promoting innovation through patent protection.

Digital Copyright: Online content providers like Netflix, Spotify, and YouTube struggle with copyright violations. On the one hand, users want greater access to digital content, while content creators and copyright holders want protection for their works. In an effort to reconcile safeguarding copyrighted content with encouraging user interaction, technologies such as content ID systems and Digital Rights Management (DRM) are popping up. The emergence of open-source software offers a distinctive

paradigm for innovation and cooperation in contrast to proprietary software. Examples of successful community-driven development and shared intellectual property include Linux, Apache, and Mozilla Firefox. It can be difficult for businesses looking to make money from their software products and still contribute to the ecosystem to strike a balance between open-source ideals and proprietary interests.

SOLUTIONS

Strict regulations hinder creativity because innovators hoard information, but lax regulations deter investment and increase the chance of copying. Discovering a sweet spot holds the key to the solution:

- > Flexible Patent Durations: In order to promote quick iterations and knowledge exchange, shorten patent periods in quickly developing fields. However, to ensure a suitable return on investment, lengthen patent terms for ground-breaking ideas.
- > Open Access Models: Give authors incentives to publish their works in the public domain or under Creative Commons licenses, allowing them to keep some control and commercialisation rights.
- > Fair Use and Exceptions: To promote information sharing without impeding innovation, expand the parameters of fair use to include research, instruction, and critique.
- > Collaborative Platforms: Promote open innovation spaces where many perspectives can come together to work toward a common goal while respecting each person's intellectual property rights. International harmonisation aims to facilitate international information sharing by streamlining intellectual property laws and procedures between nations.

CONCLUSION

The conversation around intellectual property rights (IPR) is at the centre of innovation and protection in the quickly changing digital age. In light of the ongoing technological revolution in the creation, dissemination, and consumption of information, it is more important than ever to find a careful balance between promoting creativity and defending the rights of artists.

In conclusion, it is clear that IPR has both potential and challenges in the digital age. On the one hand, it has made information more widely accessible and has made cooperation and creativity like never before possible. Yet, it has made problems with infringement, illegal usage, and piracy worse. So, managing the intricacies of intellectual property rights necessitates a multidimensional strategy that respects both legal and ethical norms and embraces technology breakthroughs.

Going forward, frameworks that encourage innovation, safeguard the rights of creators, and advance fair access to information must be developed through cooperation between legislators, industry players, and consumers. To improve transparency, expedite licensing procedures, and stop digital piracy, this means utilizing cutting-edge technology like block chain and artificial intelligence. In addition, building a healthy digital ecosystem requires promoting an intellectual property rights-aware culture through education and awareness initiatives.

A multitude of intellectual property (IP) rights are applicable to safeguard the diversity of traditional manifestations. Depending on what they are used to protect—music, a plant-based substance, or knowledge of a certain craft—patents, trademarks, copyright, geographical indications, and trade secrets will be more or less relevant. However, it's crucial to emphasize that traditional knowledge itself is not covered by ordinary intellectual property laws.

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Menstrual Leave



FROM TRADITION TO PROGRESS: INDIAN MENSTRUAL LEAVE POLICIES IN COMPARATIVE FOCUS

INTRODUCTION

Smriti Irani, the Union Minister of women and child development, recently stated that she disagrees with the concept of requiring paid menstruation leave for female employees. Irani addressed a question posed by Rajya Sabha member Manoj Kumar Jha on Wednesday, saying that menstruation is a normal aspect of life and shouldn't be viewed as a disability demanding specific leave arrangements. "As a menstruating woman, menstruation and the menstruation cycle is not a handicap; it's a natural part of women's life journey," Irani said.

This draws attention to the perception of menstruation in India and poses the question of the difficulties faced by working women who are going through their menstrual cycle. Does menstruation still carry any social stigma in India? How ought this issue to be handled? This is the subject that this essay has tried to cover.

KEYWORDS

Menstrual leave, taboo, international scenario, legislation

INTERNATIONAL PERSPECTIVE ON MENSTRUAL LEAVE

Menstruation pain and discomfort can be managed by women taking time from work or school during their menstrual cycle, a leave of absence known as menstrual leave. Some nations have passed laws or regulations allowing for menstruation leave, even though it is not yet generally acknowledged as a legal right under international law.

Notwithstanding the fact that many countries have enacted laws or put systems in place to ensure menstrual leave, menstruation leave is still not widely recognised as a legal entitlement. Menstruation

leave was introduced for the first time in Africa in 2017 when Zambia allowed working women to take one day off per month during their menstrual cycle. South Korea, Japan, Taiwan, and other nations have also enacted legislation or policies along similar lines. But the idea of menstruation leave is still debatable, and there are worries that it might reinforce discrimination against women and gender stereotypes. Menstrual leave rules, according to some opponents, may also be exploited or used as an excuse for discriminatory practices against women in the workplace. Women have the right to equal treatment in the workplace and are barred from discriminating on the basis of gender under international human rights legislation. Even though menstruation leave isn't expressly acknowledged as a legal right under international law, women who are refused the opportunity to take time off from work or education during their menstrual cycle may be able to claim that they are the victims of discrimination.

INDIA'S SCENARIO

What are the current legislative initiatives pertaining to previous attempts at menstrual leave? There have been attempts to introduce bills in Parliament regarding menstruation health goods and leave, but these have not yet been successful. As examples, consider the Women's Sexual, Reproductive, and Menstrual Rights Bill of 2018 and the Menstruation Benefits Bill of 2017.

The Menstrual Leave Bill (2022) and Women's Right to Free Access to Menstrual Health Products: In addition to giving women and trans women three days of paid vacation time throughout their menstrual cycle, the proposed Bill seeks to increase the benefit for students. Nearly 40% of female students drop out of school during their menstruation, and about 65% of them say it interferes with their regular academic work, according to data provided by the Bill.

INDIAN CONSTITUTION PROVISIONS

All people of India are entitled to fundamental rights, such as equality, life and liberty, and the ability to work with dignity, according to the Indian Constitution. These rights are codified in Articles 14, 15, 21, and 23. Menstrual leave is an essential first step towards ensuring that women may properly exercise these rights. By addressing the particular difficulties women encounter in controlling their menstrual cycles and avoiding prejudice in the job or in educational institutions, menstrual leave laws can advance gender equality. It is imperative to guarantee that these rules do not infringe upon other essential rights, such as freedom of employment and equality. Menstrual leave regulations should be applied in a fair, non-discriminatory, and considerate manner that upholds the rights of all workers, regardless of gender. Menstrual leave is therefore a significant policy matter pertaining to the fundamental liberties protected by the Indian Constitution.

RECOMMENDATION

The debate over menstrual leave in India has led to calls for further improvements in women's experiences related to this taboo topic.

Stakeholder consultation: Before making menstrual leave a legally binding policy, it is imperative to

undertake discussions with employers, employees, and menstrual health specialists. This will support the menstrual leave program's sustainability, equity, and efficacy.

Clearly defined policies and rules: Menstruation leave should be applied in tandem with clearly established policies and rules to ensure that it is fair and consistent. This includes guidelines for requirements, conditions, and compensation.

Educating and bringing attention to: In order to improve menstrual health and hygiene and to reduce the stigma attached to the menstrual cycle, awareness-raising and educational campaigns are essential. This can be accomplished in a number of ways, such as through the media, the workplace, and educational establishments.

Accessible and reasonably priced menstruation goods: It's critical to guarantee that menstrual products fall into these categories in order to assist ladies in controlling their monthly cycles. Menstrual products can be given out for free or at a reduced cost in public areas like workplaces and schools.

CONCLUSION

Menstrual leave in India is a contentious issue due to its physical and psychological challenges, limiting women's involvement in the workforce and their country's progress. To address this, the public should be actively engaged, raising social awareness and involving both men and women in the workforce. Both men and women actively participate in a nation's affairs, strengthening and flourishing it.

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MENSTRUATION: THE STIGMA PREVAILS AS SACRED BEAUTY DEGRADES



Periods? keep quiet!

It's not a matter of pride

Instead, you should hide

All the pain, suffering, and cravings

Are just some hormonal imbalance and mood swings

It's a disgust and shame

And there is nothing to exclaim

Nothing to be dignified

Secrecy is advised!

Introduction

The preceding sentences illustrate the persistently prevailing perspective of a particular segment of society toward "Menstruation." 'Menstruation' or 'periods' are nothing unknown but surely an undermined sphere of society. 'People who menstruate' still go through a lot of unimaginable, distasteful and pathetic treatment across the world. 'Menstruation' generally means "a series of physiological adjustments made to a woman or girl's reproductive system to prime her body for a future pregnancy. Hormones are the body's inherent chemicals that cause the changes. When a girl reaches puberty, this cycle starts, and it lasts until her fertility ends. It generally occurs between a gap of 28 days between two menstrual cycles subject to biological and medical changes.' There is a prevalent belief that "periods" are only associated with "girls" or "women," yet "periods" can also be associated with "men," specifically "trans men." The 'genitals' play a significant role instead of the 'gender'.

There prevails a continued lack of knowledge, awareness and most importantly the acceptance of periods amongst the population. Due to this 'people who menstruate' face a lot of problems primarily revolving around 'period poverty' and 'infringement of fundamental human rights'.

The following blog will touch on various stigmas about menstruation while focusing on period poverty. 'Period Poverty' in common parlance connotes “The challenge many low-income women and girls have in trying to afford menstruation supplies. The phrase also describes the heightened financial susceptibility that girls and women experience as a result of the expense of menstruation supplies. These encompass not just tampons and menstruation pads but also associated expenses like painkillers and undergarments”.

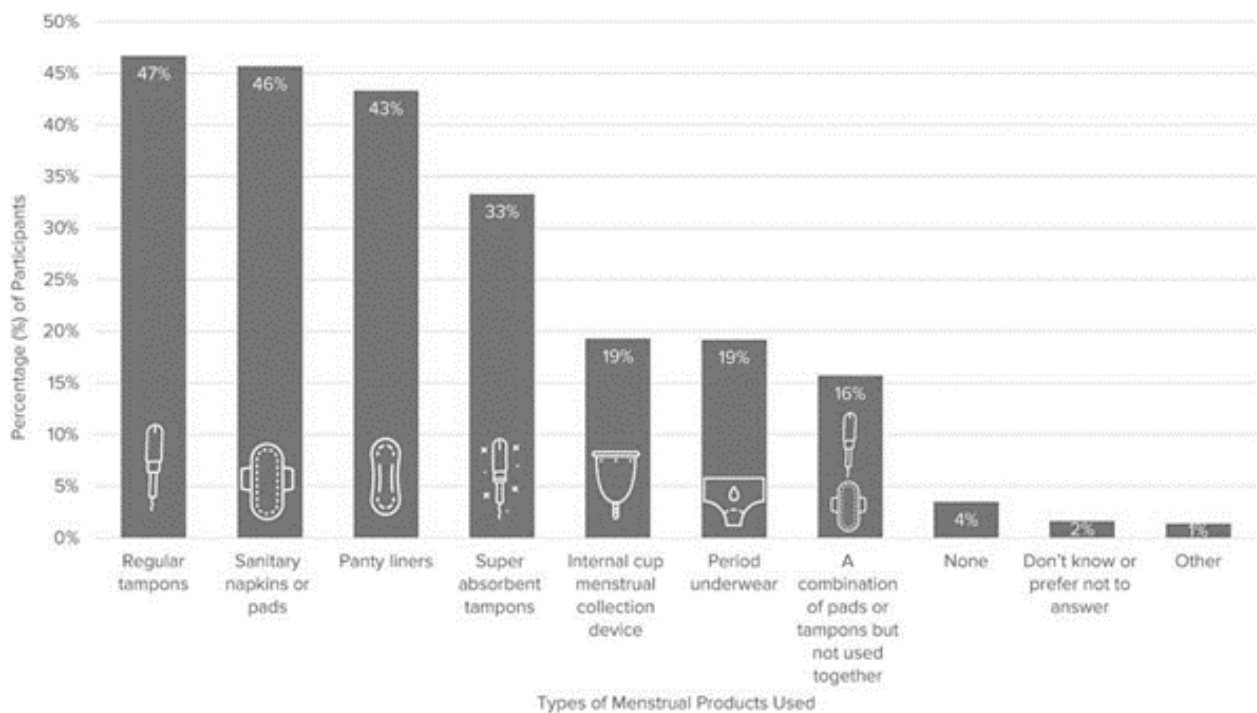
COMMONLY USED PERIOD PRODUCTS: A CRUCIAL CHOICE

Selecting a period product is a smart choice that involves a holistic process of check and balance, including the level of dioxins, environmental impact, geographical conditions, cost, health, safety and the utmost important thing, comfort and satisfaction.

Following is a tabular representation of certain commonly used period products and their advantages and disadvantages.

S.No.	Product Name	Advantages	Disadvantages
01.	Tampons	Comfortable and convenient to use	● Not accessible in a lot of situations. ● For many prospective consumers, the cost is exorbitant. ● Generates a lot of rubbish that needs to be disposed of; it is not good for the environment. ● Given that girls must be placed into the vagina, they could not be culturally acceptable, especially for teenage girls. ● Because they must be put into the vagina, hygiene and the availability of water and soap for hand cleaning are very crucial.
02.	Period panties	Offer an extra layer of defence against leaks during the menstrual cycle.	● Wearing it in hot weather could make you sweat. ● Not easily accessible for purchasing in numerous locations ● Expensive initial investment.
03.	Menstrual cups	● Reusable. ● Just emptying, washing, and drying are required.	● Due to the necessity of vaginal insertion, this product may not be suitable for usage in all cultural contexts, especially for teenage girls. ● Because menstrual cups must be inserted into the vagina, hygiene, as well as having access to water and soap, are very vital. ● Expensive initial investment.
04.	Locally-made biodegradable, disposable pads	● Locally and naturally available; potential for income production; Environmentally friendly because it degrades upon disposal	Not always sufficiently absorbent or in the right form for days with heavier flows.

Studies and research show the diversity in the choice of period products by 'people who menstruate'. According to a study conducted by Harvard T.H. Chan, School of Public Health, “To deal with their periods, 47% of women prefer tampons, 46% sanitary napkins, 43% panty liners whereas only 1% prefer any 'other' products.” The following chart shows the statistical findings of the aforementioned research.



SEX EDUCATION VS SUPERSTITIOUS BELIEFS

Have you ever come across someone being restricted from entering into the temple, touching utensils and other kitchenware, not bath for 3-4 days and not going outside? Yes, all these are just a few examples of how 'people who menstruate' have to go through a lot of such prima facie weird restrictions. We are so surrounded by such beliefs that we often fail to demarcate the line between a myth and a scientific fact. The conditional thinking and psychology of the masses are channelled in such a way that they see menstruation as a curse. Some common myths regarding periods are:

- In one rural Ethiopian community, the taboos surrounding vaginal bleeding resulted in the expulsion of women and girls from the family not only during menstruation but also throughout childbirth and the bleeding that followed.
- The ability of women and girls to maintain good cleanliness and health is also impacted by menstrual stigmas. Certain cultures forbid women and girls from cleaning or touching their genitals when they are menstruating, which could lead to diseases.
- A girl's menarche, or first period, is widely regarded as an indication that she is prepared for marriage, sexual activity, and delivery in many cultures. This shows the lack of 'sex education' to the right person, at right place and most importantly at the right time. 'People who menstruate' are therefore more susceptible to many forms of maltreatment, such as child marriage, sexual assault or coercion, and untimely pregnancy. Such beliefs act as an evil spell on the childhood of such girls, including of 'trans men'. For instance, research conducted in Kenya has revealed that some schoolgirls have used transactional sex to pay for menstruation supplies.

- Statistics show that “approximately 29% (Afghanistan), 16% (West Bengal) and 3% (Nepal) of girls are not able to attend schools”. Such data puts a big question mark on society as to how a biological phenomenon can devastate the lives of 'people who menstruate' by restricting them the basic right to education and, subsequently, opportunities in employment.

THE HUMAN RIGHTS PERSPECTIVE AND THE ROLE OF UNFPA

The inability to afford as well as the lack of requisite knowledge and awareness about period products had led to the infringement of a lot of human rights including inaccessibility to basic health & sanitation and missing opportunities. It's so shocking to know and digest the fact that how girls and women become prey to absenteeism from educational institutions and workplaces due to a lack of proper menstruation products coupled with the ever-persistent social stigmas. UNFPA i.e. United Nations Fund for Population Activities is an agency for sexual and reproductive health aiming to create a society in which all pregnancies are desired, childbirths are safe, and the potential of every youth is realised.

It also advocates for gender parity and provides girls, women, and young people the tools they need to take charge of their bodies and their lives by collaborating with partners in over 150 nations to make a vast array of sexual and reproductive health treatments accessible. Furthermore, it mainly intends and aims to eradicate unfulfilled family planning needs, avoidable maternal deaths, gender-based violence, and detrimental customs such as child marriage and female genital mutilation.

There are four main strategies that UNFPA uses to promote and enhance menstruation health globally:

- Provisions and secure restrooms: In 2017, 18 nations impacted by humanitarian crises received 484,000 dignity kits, which included underwear, pads, and soap. UNFPA also installs solar lights in bathing areas and distributes flashlights to aid in increasing safety in displacement camps. Projects that encourage the development of menstruation health knowledge and skills include educating girls about menstrual cups and teaching them how to create reusable pads.
- Enhancing knowledge and instruction: UNFPA teaches boys and girls alike that menstruation is natural and healthy through its youth programs and all-encompassing sexuality education initiatives.
- Encouraging menstrual health and treating women and girls with menstruation problems are two aspects of supporting national health systems. Additionally, the organization purchases reproductive health supplies that may help treat issues associated with menstruation.
- Compiling information and proof regarding menstrual health and its relationship to global development: Surveys funded by UNFPA provide important light on girls' and women's awareness of their menstrual cycles, health, and access to sanitary facilities—a long-overlooked area of conclusion.

CONCLUSION AND SUGGESTION

There have been a lot of instances showing how the lack of proper education and awareness can result in a devastating effect on society at large. It's the high time that the topics like menstruation, period poverty, sex education at the right time and the hidden plights of trans men needs to be addressed. More attempts should be made to promote menstrual health research and harmonise assessment and observation procedures. Also, access to menstrual health and hygiene facilities and services that adhere to minimal service requirements should be increased. Most importantly, the behaviour of society at large needs to be changed.

It's no more about gender

It's more about the menacing danger

It's time to take an action

No more tolerance for inaction

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SOFTWARE PATENT

ABSTRACT

Software has always caused problems for patent law. Software is an abstract technology, as many have noted, yet patents are purportedly not available for abstract concepts. This article examines what it actually implies, what it doesn't imply, and potential solutions to the abstraction issue with software patents. Two similar approaches to comprehending software's abstract nature are provided in this article. Initially, computer science describes itself as a "science of abstraction," and this term has true doctrinal significance. Second, regardless of how the results are obtained, software code is meant to be what the theory refers to as "functional"—that is, to express abstract outcomes that can be performed on heterogeneous hardware. Claims made about software must inevitably be true since software is functioning. However, the concept specifically prohibits functional claiming. This article also looks at and disproves a third argument put forth by some, which is that software algorithms are "just math." While algorithms may be explained mathematically and incorporate arithmetic, they are not math in and of themselves. Actually, according to this article, the best method to improve software patents would be to have patent holders disclose their inventions to other programmers in the same manner that they would with real, pseudo-code-written algorithms.

Keywords: software, patent, software patent, algorithm, pseudo code, doctrinal, functional claim, functional claiming, arithmetic.

Introduction:

Over the past ten years, India has experienced a boom in the software sector and a continuous rise in technical progress. Because of this, it is now crucial to safeguard the intellectual property included in these programs, software, and the devices that use them. The software is the system's brain, controlling its intangible processes, just like the brain would. But treating software as traditional things is not justifiable because it differs greatly from the goods we experience on a daily basis. When software is sold to a consumer, unlike other goods—especially conventional goods—the buyer is granted a license to use the software, but that license has certain restrictions.

These software firms determine the maximum duration for which the product can be utilised. The licensee is subject to certain specified dos and don'ts that are established by the licensor. The software industry is very competitive, and creators of computer, mobile, and software applications are frequently at risk of losing money because users may use their products without paying for them. The program may also be duplicated and pirated, which puts the creators at a disadvantage because those who do this can sell the copies for less or give them away for free. Furthermore, there's always a chance that rivals may release improved versions of the software, rendering the older models out of date and useless because of the fierce rivalry in the market. Therefore, the act of protecting software through the issuance of a software patent serves to both safeguard the developer's financial interests and foster innovation and creativity among India's future generation of software developers. Software has a key role in technology in today's digital environment. Innovative software and innovative goods that leverage innovative software to enhance product performance are being developed by organisations like technological start-ups, institutes, and multinational corporations. These innovations are occurring in the aforementioned technology domains. Preserving such software against infringement by outside parties is now imperative. By filing patent applications, one can protect computer-related innovations or software using one of the useful instruments known as patents.

A patent that safeguards computer software is known as a software patent. Software that is embedded into a mechanical device, runs on a mobile device, or is a stand-alone computer application can all be covered by software patents. Software must fulfil the same standards as any other kind of innovation in order to be eligible for patent protection. A software invention must, in particular, be novel, practical, and non-obvious. The innovation must meet four criteria in order to be eligible for patent protection. Although all innovations must comply with these last criteria, software inventions are significantly more affected by the eligibility question than other categories of inventions. A software patent is a type of intellectual property that guards computer programs or computer performances in general. A software patent is regarded as a subset of utility patents that lacks a precise legal definition. Software patents are a contentious issue in the US and other countries. Software copyright and software patent are not the same thing. Although a copyright merely protects the expression of an idea, both safeguard the product. It may, for instance, just encompass a software program's specific textual code. Intellectual property law encompasses both software copyrights and software patents.

For several reasons, the notion of "intellectual property" in India has grown to epic proportions in recent years. One of the main causes is that Indians living in cities are becoming more and more conscious of the need to safeguard their intellectual property rights both domestically and internationally, as well as the financial gains that result from doing so. Additionally, patent law promotes innovation in science, technology, and industry in accordance with conventional ideas of intellectual property protection. The main idea behind patent law is that an invention may only be awarded if it is both unique and practical; in other words, it cannot be granted for any other reason. As a result, a patent is granted, which is also known as intellectual property or industrial property. Furthermore, the patent protection for the computer programs is quite recent.

History:

The word "Letter Patent" is where the term "Patent" first appeared. The word "Letter Patent" refers to an open letter, which was a document bearing the Great Seal of the King of England that was sent by the Crown to every subject in the realm, granting specific rights and benefits to one or more people. During the latter half of the 1800s, there was a significant increase in the number of new inventions in the fields of art, manufacturing, machinery, processes, and other materials produced by manufacturers. As a result, inventors became increasingly concerned that their creations would not be violated by others through imitation or adoption of their techniques. In order to protect inventors' rights, the Indian Patents and Design Act, 1911 was passed by the British government at the time. There is a belief in India that inventions pertaining to software cannot be patented. As a result, corporations and inventors often ignore the prospect of patent protection when it comes to software-related ideas and instead move forward with releasing them onto the market. In this sense, there are many creative software innovations that are available without a patent. This might eventually cause the market for the software owners to become less valuable since anybody can use or copy the ideas and resell them under their own names. To make it obvious what is and is not patentable in this regard, it is necessary to carefully review the requirements under the (Indian) Patents Act, 1970.

As is often known, a patent gives the owner of an invention the exclusive right to bar others from producing, using, or marketing a patented technique or product for a certain amount of time. As a result, when carefully applied, patents may be a valuable instrument for giving their owners a competitive edge in the marketplace. Software is designed in such a way that, once it is in the public domain, it can usually be reverse-engineered and even replicated, making it nearly impossible for the owner of the invention to stop others from creating, using, or selling it in the absence of patent protection. Software is often shielded by copyright legislation. However, the functionality or technical features of the software program are not protected by copyright law. The patent law ensures a more comprehensive level of protection. But there has been a lot of misunderstanding over the patentability of software, or Computer Related Inventions (CRI), across a number of nations. The driving force behind contemporary advancements in a variety of industries, including the automotive, healthcare, manufacturing, networking, telecom, and others, is thought to be software, the foundation of technical improvements. Cutting edge technologies like artificial intelligence, machine learning, the Internet of Things (IOT), blockchain, and cognitive computing have also been made possible by software programs. Despite all of this progress, protection for computer-related inventions, or CRIs, still needs to be looked at.

A mathematical or commercial process, a computer program in and of itself, or algorithms are not patentable, as per Section 3(k) of the (Indian) Patents Act, 1970. The Patents Act of 1970 (Indian) does not define the phrase "per se." The word "per se" shall be understood in accordance with the broad dictionary definition, according to the Computer Related Inventions (CRI) rules of 2017. "Per se" means "by itself" in the broadest sense of the word. To put it another way, a computer program cannot be patented on its own. Nevertheless, in actuality, computer software has to be coupled with hardware in order to work; otherwise, it cannot accomplish its intended purpose. Hardware limits must thus be included while preparing the patent application and included in the claims, description, and drawings sections. Additionally, a number of Indian courts have shared their opinions on the following issues of

software patents:

Intex v. Ericsson; Ericsson v. Lava

Software patents have been mentioned by the Honourable Delhi High Court in two separate rulings: Ericsson v. Intex and the more recent Ericsson v. Lava. "It should be noted that mere reference to the use of a 'procedure', 'method', or 'algorithm' in an apparatus which comprises of various network or hardware elements, components, etc. so as to bring about a technical effect or to perform a technical process" is not a sufficient justification to reduce or make the claimed invention to an algorithm, computer program, or even a mathematical method or formula as defined by section 3(k).

The Court also declared that "when hardware components use algorithms to produce a technical function, the 3(k) bar does not apply." The Court continued by declaring that the challenged patents were not, in and of themselves, computer programs, abstract algorithms, or mathematical procedures, and that, on the face of it, the innovations had produced real physical representation as well as an improvement and a technological progress.

Union of India v. Ferid Allani and Others

The Delhi High Court rendered a decision in a more recent lawsuit, ruling that it would be outdated to claim that all innovations in the digital age when the majority of inventions are computer programs, would not be eligible for patent protection. Software would provide the foundation for innovations in artificial intelligence, blockchain technology, and other digital goods, but for that reason alone, they would not cease to be patentable. Furthermore, the Court declared that "due to the evolution of judicial precedents and patent office practices globally and in India, the meaning of 'technical effect' is no longer in dispute."

2013's Draft CRI Guidelines

Despite the fact that neither the CRI Guidelines of 2017 nor the aforementioned instructions specify the word "technical effect," we should take into account some of the examples given in the Draft CRI Guidelines of 2013,⁵ such as "Higher speed." shorter hard drive access times, more economical memory utilisation, a more effective database search plan, more efficient data compression methods, an enhanced user interface, better robotic arm control, and enhanced radio signal receipt and transmission.

Apple Inc. vs. HTC Europe Co. Ltd.

Within the context of the aforementioned case, the UK Court of Appeals defined "technical effect" as an innovation that resolves a technical issue within the computer and has a meaningful technical impact, meaning that the computer itself is enhanced, maybe by boosting its speed. A technological impact that is significant to the field of inventions will also result from an innovation that addresses an issue outside of the computer, such as managing an enhanced process. The following factors must be taken into account when preparing applications for software-related innovations in light of the aforementioned findings made by courts:

- **Hardware characteristics that are structural:** First and foremost, it is crucial to make sure that the description, claims, and drawings of the patent application all make any hardware constraints apparent. In the course of prosecuting the patent application, it is also required to draw the Controller's attention to the hardware constraints mentioned in the application.
- **Addresses a technical issue with a technical solution:** It's important to remember that the term "technical problem" refers to the actual solution of a technical issue. When a technological solution is offered for a non-technical problem, the claimed invention is not considered patentable subject matter. Specifically, the IPAB ruled in *Yahoo Inc. v. Assistant Controller of Patents and Designs* that "the claimed 'invention'" is nothing more than using electronic means to conduct advertisements. S.3 (k) makes it plain that business methods cannot be patented, thus even the claimed technological advantage above the state of the art is just an improvement in the way that business is conducted; the fact that an advance exists does not strengthen the case. Stated differently, a non-technical problem like automating an established business activity will not qualify as patentable subject matter if a technical solution is provided for it.

It's also crucial to remember that the technological solution as stated in the patent application should emphasise actions that are unusual or noticeably different from those typically performed by a general-purpose computer.

- **Technical Advancement over Existing Previous Arts:** If the invention satisfies the aforementioned requirement of providing a technical solution for a technical problem, it must be technically superior to the previous arts that have already been developed. Specifically, the claimed invention is regarded as technically advanced if none of the preceding arts that have been studied separately or in combination reveal the characteristics of the claimed invention.
- **Effect of real-world technology:** The intended outcome that might be attained by the claimed invention is known as the technical effect, as was previously mentioned. The term "real-world technical effect" is more appropriate since the invention under claim should have practical use in the actual world.

It is noteworthy that other prominent patent offices have a nearly same methodology when assessing the patentability of ideas relating to software. Consequently, in order to obtain a competitive edge, it is advised to always obtain a priority date for software-related innovations at the patent office prior to releasing the software product onto the market.

Safeguarding Software's Exclusive Intellectual Property

Copyright and patents are the two most well-known forms of intellectual property protection that experts immediately think of when discussing software licensing. Due to the fact that writing source codes or programs is analogous to authoring a literary work, copyright is one of the most popular ways to protect software. Though the procedure is not simple, particularly in India, obtaining a patent is one of the greatest ways to protect intellectual property. It is very difficult to get a software patent without meeting certain requirements.

The first restriction is that a patent may only be awarded for novel ideas; existing discoveries and products cannot be protected by this restriction. It must also be an original solution and, last but not least, be applicable to the industry. Thanks to the new digital environment, there is always a chance of software piracy and infringement, even after a drawn-out patent application procedure. It just takes a few minutes

to replicate the entire program's code, thanks to these sophisticated programs and technology.

Furthermore, the process, method, or finding of a program or piece of software may not always be protected by copyright protection. Before issuing a patent to an invention, three factors are often considered: originality, non-obviousness, and industrial use of the technology. Computer software and algorithms, on the other hand, are classified in a separate category. When it comes to scientific discoveries, algorithms, and mathematical formulae, patent regulations make an exemption. In India, a patent is only awarded for software that is coupled with innovative hardware, indicating that it is a singular creation with potential for industrial use.

According to the yearly survey conducted by the RBI, software services exports from India surged to over USD108 billion in 2017-2018 from a mere USD 30-40 million in the 1990s. In 2021–2022, it is anticipated to reach USD 227 billion. The latest revision to India's intellectual property laws was made in 2005, which is now seventeen years ago, and in light of the software industry's phenomenal development and expansion, the rules must be updated to reflect current standards. Owing to the antiquated Intellectual Property Laws, there exists a significant legal vacuum and no laws that specifically address software and computer systems. The absence of developed jurisprudence in India makes it difficult to protect intellectual property even with legal provisions in place. As a result, when handling cases involving intellectual property, particularly infringement, the American approach is typically taken. The topic of software and computer program protection is not even addressed explicitly in the 2008 Information Technology Act Amendment.

Software Patents

Regarding software and computer program patents, the operating procedures and guiding principles of the software and computer program cannot be protected by copyright, despite the fact that the expression and techniques of programming codes can. Additionally, since reverse engineering is considered fair use, it is also acceptable to reverse engineer trade secrets. Therefore, in order to protect software, patents are necessary for all of these reasons. A patent covers the extent of the work rather than the method of development. When it comes to safeguarding software functions and concepts, a patent is the best option. Yet, obtaining a patent is not a simple process.

The program or software must also be a technological invention in order to be given a patent rather than just an algorithm. Algorithms, business procedures, computer programs in general and mathematical techniques are not regarded as patentable inventions, according to Section 3(k) of the Patent Act, 2002. The legislation specifies that what is not patentable with regard to computer programs is limited to computer programs in themselves. It follows that software cannot be patented unless it is a part of an invention and is related to it. Hardware must be included in the invention along with software and computer programs in order to avoid the claim under Section 3(k) of the Patent Act, 2002.

Patent laws, akin to copyright laws, provide the patent holder with a license or authorisation for the use of his patented work by an individual or a third party, albeit with restricted rights. However, a formal agreement with all the terms and conditions clearly stated and agreed upon may also be used to issue such a license.

Software Contracts

Software contracts are subject to the same laws as traditional contracts: the Indian Contract Act of 1872. Software can be sold entirely through a software contract, or it might be a license. The Sale of Goods Act, 1930 would apply to software as it is included in the definition of a good, regardless of whether it is mobile, tangible, or intangible. In the case of *Tata Consultancy Services v/s State of Andhra Pradesh* (271 ITR 401), the Supreme Court of India ruled that software could be classified as a "good." It went on to say that software is subject to taxes regardless of whether it is protected by intellectual property.

License Agreement

Although it's not customary, the legitimate owner of software or a computer program may grant access to a third party for usage of their creation. Instead of giving the customer the complete piece of software or computer program, the majority of software and program producers would rather provide them a license. Since a license is subject to intellectual property regulations, this is recommended. Additionally, a license allows the software's legitimate owner to maintain a number of significant and valuable rights. Additionally, there is a greater likelihood that the owner will be able to control a number of software features. As a result, other than the ability to operate it, practically all rights to the program are held by the owner or developer.

Software Patent Registration in India

The Patents (Amendment) Act, 2005, which went into force on May 20, 2003, governs the process of filing patents in India. However, the procedure of obtaining software patents is more complicated than that of obtaining patents for other types of innovations. It would thus be necessary to consult a legal expert in the field of software patent registration in order to get a patent for software.

Software Patent Application in India:

- The concept and all of its supporting details must first be put in writing. Include as much information as you can in the description, such as how the program functions, the field of innovation, the codes, the benefits of the software, and the intended application.
- It is important to provide a thorough explanation of the invention's operation, ideally including references to any schematics, artefacts, or sketches.
- It is advisable to verify if the innovation has previously been registered and, if so, if it satisfies the patent requirements.
- Determining whether to proceed with the patent application should ideally be done after carrying out an appropriate and comprehensive study.
- It is therefore necessary to write a patent application.
- The application ought to be released when all conditions and guidelines have been met.
- Request for Application is the next stage, and the examiner won't look at the application until the request has been filed.

- The best course of action is to address and dispel any concerns made regarding the idea.
- The inventor may verify in the patent journal if they have been given the patent at last, when all conditions have been satisfied and the patent procedure has been finished.

It is crucial to remember that, despite the seemingly simple software patenting procedure, many inventions—particularly those related to technology, which encompasses the creation of software and applications—are not eligible for patent protection in India. For the many Indian programmers and developers who create incredible inventions, the entire process is extremely difficult, time-consuming, and demoralising. It is a well-established principle of patent law, therefore, that the core idea of an invention should be the primary consideration rather than the specific form that is being claimed. As a result, it's critical to evaluate the statements' content in light of their entirety. A claim would not be eligible for patent protection if it included any kind of technique, process, equipment, system, or device, computer program product, or computer-readable media that is classified as exempt. On the other hand, patent registration cannot be refused if the claim taken as a whole does not fit into any of the categories that are excluded. Thus, it is crucial to prove that the patent registration application covers both the software and the innovation that may be used in an industrial setting in order to get patent registration for software. To obtain a patent in India, one has to visit the official website, where they can discover all the details about obtaining a patent, including filing costs, forms, patent office jurisdictions, and more. On the same website, they can also monitor the progress of their patent.

Conclusion

In India, copyright regulations govern the protection of computer software. However, there is a range of protection under licensing agreements for both literal and nonliteral portions of the program, fair use standards, and authors' rights that Indian courts have not yet found and acknowledged. Further analysis leads to the conclusion that these programs may be covered by patent rules if they are inventions as well as algorithm-based software. However, designating the scope and protection of software as a trade secret appears to be a constrained and limited choice for the protection of the intellectual property vested in this software in the absence of appropriate legislation. These restricted alternatives for protecting one's original work in the software and computer fields might discourage innovators and creative thinkers from coming up with fresh ideas in this age of emerging digital technology. Thus, in order to safeguard an artist's work and guarantee that they are never at a disadvantage, it is imperative that the laws—which are now written so ambiguously—be modified.

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HIJAB CONTROVERSY - THE RELATION OF LAW, EDUCATION AND RELIGIOUS GARMENTS AND ACCESSORIES

Introduction:

The Dalai Lama said "India has a great heritage and it's a model for religious harmony where people of different religions live peacefully and in harmony". This article attempts to analyse the importance of the right to freedom and the right to education to coexist and how the government's decision should not leave the petitioners with Hobson's choice, i.e. to either choose education or religious conscience symbolised by wearing of the hijab, public order. Lastly, this article sets out some suggestions to mitigate the dispute. In 2021, a government school in Karnataka barred six students from entering the classroom because they were wearing hijabs and were not following the school uniform guidelines. Thus, the bench of Karnataka High Court, comprising Chief Justice Ritu Raj Awasthi, Justice Krishna S. Dixit, and Justice J. M. Khazi, observed various pleas regarding the ban on hijab on educational premises. This brings our focus to the main point of the relation of education to religious garments.

Hijab and female religious garments:

Since 1400 years back, in the religion of Islam women wear religious garments called veils to cover themselves and prevent unwanted male gaze allowing them to enjoy equal legal, economic and political rights. Hijab, Niqah and Burqa are three separate veils out of which Hijab is the most security friendly garment where only the chest and the head are covered while the face is open hence posing no threat to security or disrupting any 'public order'. Veils are prejudicially looked upon as detrimental for women, but the women who actually voluntarily wear them consider it to be a positive thing. The hijab ban is a prejudiced discrimination against only Muslim girls for wearing their religious garment while Sikh male students could wear patka or turban and Hindu female students could wear bangles, thus violating Article 15 The Constitution. This article is the Pillar for safeguarding equality amongst all.

Indian Laws and protection of religious identity:

The secular country i.e. India promises to secure to its citizens liberty of thought, belief, faith and worship also the essential right to practice and profess by Articles 19, 21A, 22. Senior Adv Yusuf Muchhala worded that "Privacy is the ultimate constitutional value for an individual" and that the dignity of a human being comes from the depth of privacy. Protection has also been given to move freely in any part of India provided not posing any threat to the security and sovereignty of the state. Thus, wearing a veil by a minor person going to school does not harm the integrity of the state. Instead, if such students are not allowed to wear their religious garments it would be a violation of personal liberty. Any freedom to practice, propagate or carry out any religious duty is safeguarded by Article 25 as a fundamental right because the citizens believe in that religion and want to respect it by following certain rituals; hence, the Muslim students wearing hijab is not sedition.

In a very important case of *Nadha Raheem vs Central Board of Secondary* the judge iterated that our country being a home for diversified religions it is nearly impossible to have a particular dress code to be implemented and with this keeping in mind students must be provided education and let them have examinations. The wearers of Hijab in this situation were not carrying any arms or spreading violation thus there should not be any rising cause of prohibition of Article 25. Additionally, Kendriya Vidyalayas have always permitted headscarves for women to be worn over school uniforms and headgear for men. Also, the interests of the minorities are protected by Article 29. It was also reiterated in the case of *Amnah Bint Basheer vs Central Board of Secondary* that it is the right of the citizen of India to retain his identity based on his religion while the state cannot object to their religious identity practices.

The nine-judge bench in the Hijab row case had unanimously come to observe that a "secular state means no religious personal practice in a government institution". "Secular" was amended in 1976 in the Preamble of the Indian Constitution with the 42nd Amendment of the Constitution of India.

Indian secularism is a bit different from the secularism model followed in France. Article 1 of the French Constitution asserts that France shall be "an indivisible, secular, democratic and social Republic"; thus, resulting in a separation wall between the religious practices and the government influence on it where the citizens are not given the right to exercise religion freely. Meanwhile Indian Secularity focusses on "unity in diversity" in article 15(2) and supports all religions and cultures by providing them their right to religion.

Suggestions:

Banning students who wear Hijab from attending examinations and classes is an outright violation of the right to education of the young Muslim women. The National Human Rights Commission has also observed that banning students from attempting examinations due to a change in garments was too drastic. Instead, there should be steps taken by the government, by issuing a circular or notice to modify the uniform rules by including the headscarf as the same colour of the uniform. Thus, not violating the fundamental right of 'Right to Education' for the Muslim students.

Conclusions:

Every individual who is a citizen of India is given two rights in the Indian Constitution: freedom of religion and freedom of conscience, which maintains a balance between the public and the government. The government should not be imposing rules arbitrarily, and neither should the public take the government for granted to maintain peace and order. Thus, in this situation, a religious garment worn by children should not impose any security threats or violate equality.

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A photograph of a black rectangular sign with gold lettering. The sign is mounted on a white brick wall. The text on the sign is in Hindi and English. The Hindi text reads 'विश्वविद्यालय अनुदान आयोग' and the English text reads 'UNIVERSITY GRANTS COMMISSION'. There are some green plants visible on the left side of the sign.

विश्वविद्यालय अनुदान आयोग UNIVERSITY GRANTS COMMISSION

ARE UGC REGULATIONS MANDATORY OR RECOMMENDATORY ON STATUTORY UNIVERSITIES

The University Grants Commission (UGC) came into force on the 28th of December, 1953. It also became a statutory organisation of the government of India by an Act of Parliament in 1956. The main purpose behind setting up such a commission is to elevate the standard of teaching, examination and research in university education.

In India, universities who award their own degrees are categorised into 5 types and they are Central University, State University, Private University, Institutions-deemed-to-be- University and Institute of National Importance. In order to facilitate and supervise the courses run by these colleges and universities, 15 professional councils (like MCI and AICTE) are appointed.

In India, the UGC plays a very significant role in framing the panorama of higher education and acts as the overarching regulatory body. UGC regulations are essentially needed for uplifting the quality of education, research and maintaining good governance within higher educational institutions. Their major goal is to secure the highest standard of education across universities within the country.

Now coming to the question, whether UGC regulations are mandatory or recommendatory on statutory universities. In general, UGC regulations are mandatory in nature, which implies that universities must comply with such regulations for acknowledgement, and failing to comply would amount to some consequences like penalties or termination.

UGC (Establishment and Maintenance of Standard in Private Universities) Regulations, 2003 held that private universities cannot be set up by an executive order but only through a separate act. In Chhattisgarh, 100 private universities were established by an executive order and they put up distance centres to award degrees and thus, opposed the UGC regulations, claiming themselves to be independent as they received no funding from it. While deciding this case, the Supreme Court struck down the Private Universities Act of Chhattisgarh and stuck up for the validity of the UGC regulations. It became clear that UGC regulations are mandatory to be followed even if there is no funding provided to such universities.

Having said that, there is often enough room for flexibility within the framework of mandatory regulation of the UGC. Universities may have the liberty to modify certain aspects of the regulation to their specific context, given that they meet the fundamental requirements as provided in the UGC regulations.

However, within the ambit of mandatory regulations, UGC guidelines can also incorporate some recommendatory regulations. Though these recommendations are not obligatory in nature as that of mandatory regulations provided by the UGC, they are highly persuaded for the enhancement of the educational ecosystem. These recommendations mainly consist of research cooperation, ingenious teaching methods and anything needed for strengthening the prevailing educational system in India.

A petition was filed by C. Selvam of Chromepet, stating that a number of universities were disobeying the mandatory regulations of the UGC while allotting lecturers and principals in those institutions. Undeterred by the earlier order of the High Court, stating that UGC regulations are mandatory and not recommendatory in nature, many universities were flouting the regulation. The petitioner also claimed that universities were trying to dumb down the eligibility criteria and regularise appointments. The litigation started in the year 2006 where the syndicate of Madras High Court passed a resolution stating that UGC regulations were recommendatory and not mandatory in nature. The syndicate also pulled out an order from August 2004, which was sent to numerous affiliated universities.

When the matter was eventually brought before the High Court, the university consented to keep the resolution in abeyance. The Association of Managements of Private Colleges filed a writ appeal which was dismissed by the court in August 2008 and again filed a special leave petition against the order. The writ petition questioned the university's repeated attempts to flout the mandatory norms upheld by the courts.

However, when the matter was taken up, it was stated by the university's attorney that appointments would not be sanctioned without the approval of the syndicate, and the syndicate, in return, has to delve into the matter, bearing in mind the UGC regulations and the decision of the court. Consequently, Justice Ramasubramanian issued notices to the university authorities concerned.

To conclude, I would like to draw the inference that UGC guidelines encircle both mandatory as well as recommendatory features. This perspective fortifies a stability between providing a significant standard of education as well as empowering universities the ductility to reshape certain principles to their unique circumstances. The communal interrelation between UGC and universities gives rise to a responsibility to strengthen the overall quality of higher education in the country.

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Prisons of India and their abusive environment



Introduction:

Mahatma Gandhi once said, “Crime is the result of a troubled mind, and prisons should provide an environment for treatment and care. “Prison is one of the institutions of the society which serves as a reformatory place for the one who does not abide by the law or creates distress in the society. They are meant to provide an environment where the criminals become good citizens and learn to do something productive in order to be able to live a transformed life. They learn something new and are subjected to several activities to grow as a better individual. But prisons are moreover rampantly becoming a house of torture and abuse, making people depressed and leaving them mentally disturbed for life. Article 20(1) of the Indian constitution states that no person shall be convicted of any offense, except those which are contravention of the law in power of the commission of the act. Thus, this law prohibits punishment above what is mentioned in the law that deals with the offence. Even though the Indian courts have allegedly stated that it is necessary to acknowledge the rights of convicts and Enhance their living conditions, it's not being followed.

Abusive world for women behind the bars:

Focusing mainly on the women prisoners, according to the Indian Constitution, women in prison are not given any special safeguards. Contrary to popular assumption, the Indian Constitution grants women the same rights as males. The constitution guarantees equal legal rights for men and women in Articles 14(1) and 15(2), respectively. Indian women in prison, however, still experience a variety of problems. Custodial rape is one of the most heinous crimes and a major setback for India's democracy it is a barbaric act and inside the prison it's even more evil. The idea of the right to life has been expanded to include extensive jail rights for inmates, but Female inmates still confront many challenges. Prisoners have been

divided into gender-specific prisoner groups and granted certain rights under the Prison Act and Prison Regulations, but the treatment of female convicts still needs special consideration. Beyond The age of six, women in prison are not permitted to frequently see their kids. If no one can Care for them, their kids are placed in government homes. It has been observed that these kids Frequently become prey to the local petty gangs. As the world recognises the efforts and the physical anatomy of women, we realise that we must treat women differently than most of the other prisoners are treated. Following the IPC And other legislation, almost 3 lakh women were detained in 2016. The majority of them, or About 50.5 percent of the total percentage, were between the ages of 30 and 50, while the remainder, or about 31.3 percent of the total proportion, were between the ages of 18 and 30. The conditions of women living in jails is very upsetting, the laws and amendments are not implemented in many regions across the country.

Mrs. Rekha Sharma, chairperson of the National Commission for Women in the report mentioned that most of the women barracks are under the charge of male deputy superintendents. The report also mentioned that in most of the jails inspected by the Commission, the members of inmates in the women's barracks are more than the number of inmates authorised; keeping in view the available infrastructures and facilities, it results in the deterioration of the living conditions of inmates as far as availability of space beds moving space between the bed's availability of proper sanitation facilities toilets etc are concerned. Many prisons across the country do not abide by The Prisons Act, 1894, which governs the management and administration of prisons in India. It provides for the classification of prisoners, their treatment, and their rights.

Shocking News headlines:

Taking an insight into the cases of horror inside the jail, we have clear facts which prove the barbarity of the female prisoners:

On 15th May, 2013 according to the news reports in the Neemka district of Faridabad, female prisoners filed a complaint against the jailer and deputy jailer, on the charge of rape and molestation.

In a news report of Dainik Bhaskar, 2013, it was reported that in Sheikhpur, Gopalganj of Bihar, workers in jail were accused for rape and molestation of two female prisoners.

In a recent report of Hindustan Times, dated 8th February 2024, the Calcutta High Court on Thursday took a serious view of submission made by an amicus curia that women prisoners were getting pregnant while under custody in prisons in West Bengal. The amicus curiae informed that about 196 babies were said to have been born in different jails in the State.

These crimes are the visible ones, there are many more such evil acts and mistreatments which are unregistered and still unaddressed, the women suffer inside the prisons afraid and horrified, along with their new born babies whose existence is itself a question to the world outside. Although the law allows a woman to keep her child with her till the age of six, proper nourishment facilities, healthcare etc are hardly available to them, the newborn babies suffer for crimes they never committed.

Conclusion:

A prison is a world far more different from the outer one and needs suitable provisions. Though the makers of the Indian Constitution have tried their best to frame laws in such a way that promotes the condition of Indian women, the executives have failed to get the work done on the ground level. It is essential to conduct independent inspections regularly to make sure the legislation is being followed. Prison officials and other employees who work with female inmates should be required to complete gender-responsive training. If they are to be treated equally, women from ethnic groups, women with impairments, and foreign nationals must all have their needs taken into account. One more point to keep in mind is that the government needs to ensure the safety of women and prevent prisoners from getting bullied by public servants. Criminals are bound to be punished by the law, and the law has to ensure that the public doesn't take the law into their hands and punish the criminals in a way that is unethical and illegal. To address inmate rights violations and allow prisoners a way to communicate with the authorities, a sensitive grievance redressal system should be enacted. The best way to address India's female criminal problem is to enhance jail infrastructure, appoint responsible jailers, and keep women out of traditional prison systems.

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CURRENT AFFAIRS

- 1) On December 5, a five-judge Constitution bench of the Supreme Court commenced hearings on petitions challenging Section 6A of the Citizenship Act. This provision, introduced following the Assam Accord of 1985, determines who is considered a foreigner in the state and was the basis for the final National Register of Citizens (NRC) in Assam in 2019.
- 2) The Supreme Court, in a unanimous decision, declared Article 370, which granted special status to Jammu and Kashmir, a temporary provision of the Indian Constitution.
- 3) The Supreme Court unanimously upheld the Centre's decision to abrogate Article 370 in 2019. The five-judge bench delivered three concurring opinions, affirming that Jammu and Kashmir no longer holds special status in the Indian Union.
- 4) The upcoming data protection rules in India aim to use an Aadhaar-based system to verify children's age for accessing online services and obtaining parental consent. This move is part of operationalising the Digital Personal Data Protection Act, which was notified over four months ago.

- 5) The Telecommunications Bill, 2023 is a significant legislative development aimed at amending and consolidating laws related to the development, expansion, and operation of telecommunication services and networks in India. This new Bill seeks to replace key legislations including the Indian Telegraph Act, 1885, the Indian Wireless Telegraphy Act, 1933, and the Telegraph Wires (Unlawful Possession) Act, 1950.
- 6) The parliamentary panel's 52nd report sheds light on the challenges faced in implementing policies to eradicate child labour by 2025. The committee emphasises the need for a consistent definition of 'child' across various laws.
- 7) In a significant move towards simplification and efficiency, the Parliament passed the Press and Registration of Periodicals Bill, 2023, on Thursday. The legislation aims to revolutionise the process of allotment of titles and registration of periodicals, introducing a seamless online system without the need for physical interfaces.
- 8) The Kerala High Court has ruled that a customer found in a brothel can be charged under the Immoral Traffic (Prevention) Act, 1956. The significant judgment widens the ambit of the law combating human trafficking and commercial sexual exploitation.
- 9) The Uttarakhand government has introduced legislation to implement a Uniform Civil Code (UCC) in the state. If enacted, Uttarakhand would become the second Indian state to adopt a UCC after Goa, where it has been in effect since Portuguese rule.
- 10) On February 15 2024, President Droupadi Murmu granted her assent to the Public Examinations (Prevention of Unfair Means) Bill, 2024, clearing the legislation for implementation after passage by both houses of Parliament in the recently concluded Budget session.

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