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NEWSLETTER VIDHI-LEKH

Newsletter of Pro Bono Club under the Faculty of Law

Issue No. 2 | February, 2023



Messages from the Editorial Team

Messages from the Editorial Team

Dear Readers,

I am ecstatic to release the second issue of our Newsletter “VIDHILEKH”, 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 published 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 the knowledge of our readers. I am fortunate to be supported by a highly effective team. The current group of Associate Editors worked incredibly hard, particularly in assessing and processing submitted articles. We hope to keep serving the society and community by publishing value-added articles and information related to the legal issues pertaining to National and International events.

Thank you for reading.



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

Messages from the Editorial Team

Messages from the Editorial Team

Dear Readers,

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



Ms. Ekta Chandrakar
Managing Editor

Greetings Everyone from the Team of Vidhi-Lekh!

Greetings Everyone from the Team of Vidhi-Lekh!

“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, 4TH SEMESTER
STUDENT EDITORS

Associate Student Editors List:

Associate Student Editors List:

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



KHYATI SOLANKI
BA LLB, 8TH SEMESTER
ASSOCIATE EDITOR

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



RAM KARDA
BA LLB, 8TH SEMESTER
ASSOCIATE EDITOR

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



PRATIKSHA BHAGAT
BA LLB, 6TH SEMESTER
ASSOCIATE EDITOR

Associate Student Editors List:

Associate Student Editors List:

- “It has been a great honour and pleasure for me to be a part of Vidhi-Lekh. Any suggestions or criticism of the magazine would be most welcome.”



CHHAYA GUPTA

BA LLB, 6TH SEMESTER
ASSOCIATE EDITOR

- “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.”



SWARNIM SAHU

BA LLB, 4TH SEMESTER
ASSOCIATE EDITOR

- “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.”



ASHUTOSH SINGH

BA LLB, 2ND SEMESTER
ASSOCIATE EDITOR

- “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 them interesting.”



DAMINI MAHANAND

BA LLB, 2ND SEMESTER
ASSOCIATE EDITOR

Articles for Issue 2 of Vidhi-Lekh

Articles for Issue 2 of Vidhi-Lekh



MENTAL HEALTH

How do we define mental health? It is referred to as a person's condition with regard to their psychological, social and emotional well-being. According to the World Health Organisation (WHO), mental health is defined as a state of well-being in which the individual realizes his or her own abilities, can cope with the normal stresses of life, can work fruitfully and productively and is able to make a contribution to his or her community.

The term mental health came into the limelight only in recent times. Not everyone was well aware of this term. Even today folks don't consider it a major issue. The significance of understanding Mental illness as equal to physical illness is still undervalued. More than 50% of the population will be diagnosed with a mental disorder or illness at some point in their lifetime. Childhood trauma or abuse, social disadvantages like poverty or debt, social isolation or loneliness, experiencing stigma and discrimination such as racism, bereavement or some sort of severe long-term stress. Any of the above could be the root of mental illness. Life is a roller-coaster journey with all its ups and downs. There comes days when we are low and life seems tough and difficult. People are not open to talking about the problems they are facing in life. There still persists a stigma Of people being judged and treated differently when they open up about their depressed state of mind. People are still not open about accepting mental health issues as any other health issue.

1 out of every 5 American sufferers from mental illness. Quoting the numbers, 56 million Indians suffer from depression and another 38 million suffer from anxiety disorders. There has been a hike in the percentage of suicidal deaths due to depression. The person suffering starts avoiding socializing and putting himself or herself in a state of mind where he or she is not able to appreciate the good in life and overthink the odds.

Society should try and accept mental illness and depression as any other physical illness and the person suffering should feel free to communicate their state of mind. If this does not help, the person should seek professional help without the fear of being judged. This could help mankind save lives. As an individual, we should take care of ourselves. Self-love is the key. Nothing in this world is as important as one's life. Suicide kills not just the person but also kills so many emotions that the person was holding within. Psychotherapy is one of the professional treatments for mental illness which is provided by a trained individual. Psychotherapy explores feelings and behaviours and seeks to improve an individual's well-being. Psychotherapy paired with proper medications could prove to be the most effective way to recover.

In recent times the Indian government in coordination with the Indian health care system is raising awareness about mental health issues. The common folks particularly those belonging to the educated sector now seem to be a little more aware of these persisting issues and have also accepted it as something very normal that anyone could come across at some point in life. However, there still exists a huge mob which does not understand the true value of mental health education. People still look down on depression and anxiety as something taboo. Promoting more campaigns on such issues could help increase awareness. The government should try and conduct more such campaigns that would educate people about the importance of mental health.

In a nutshell, the things that need to be mentioned here include: understanding of the importance of mental health, making people aware of the outcomes of poor mental health, making people understand the importance of communicating and venting out emotions, the role of administration and healthcare segment in spreading awareness about mental health and considering mental illness as equal and important as physical illness. We live in a progressive world where such growth is essential and vital. Mental illness should not be considered a taboo and people should be open to talking about the issues they face.

A person as a listener should never judge or mock a person suffering from depression and anxiety. Care should be taken for the self as well as others. Each life matters each soul is important, and each person has equal importance and contribution towards society and community. Let's each one of us contribute towards making the world a better place for each one of us to live. Let's communicate and share the sad part of each one's story the way we cherish happy days. Let's give shoulders to others when they are in need and also seek help when we are in need. Let's break the bridges and boundaries that keep us down and rise above to be better humans for one another.

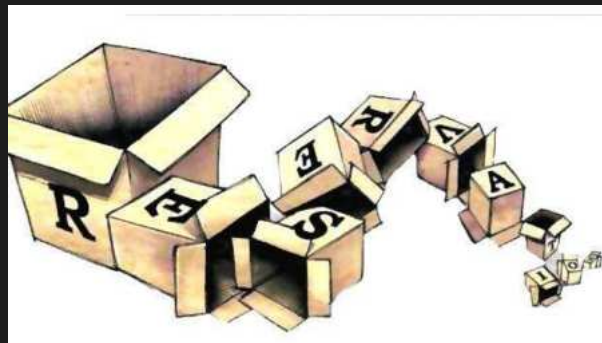
FAHMIDA ARSHI

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**RAJENDRA INSTITUTE OF MEDICAL SCIENCES
RANCHI, JHARKHAND**

ECONOMICALLY WEAKER SECTION RESERVATION

[The Constitution (One Hundred & Third Amendment) Act, 2019]



INTRODUCTION

A 10% reservation was established for the Economic Weaker Section class by the Constitution (One Hundred and Third Amendment) Act of 2019. The subcategory group of people living in India who have a family annual income of fewer than 8 lakhs is known as the Economically Weaker Section. An EWS applicant must meet all the EWS economic requirements and should not fall under the SC, ST, and OBC categories in order to qualify for this category. The applicants only from the general category would be eligible for a 10% reservation if the criteria were fulfilled.

HISTORY

The government's goal in implementing the 10% EWS reservation was to help the economically weak person. In January 2019, The Government of India approved a 10% reservation for the Economic Weaker Section (EWS) in the General category. The bill of (One Hundred and Third Amendment) Act, 2019 was passed in parliament. On 12th January 2019, the President gave his approval to the Bill and on January 14, 2019, the 103rd Constitutional Amendment came into force.

The Constitution (One Hundred and Third Amendment) Act, 2019, amended Articles 15(6) and 16(6) of the Indian Constitution to authorize 10% reservations to the EWS category. The total reservation quota is now increased by the 103rd Amendment to 59.5% from 49.5%. The 103rd Constitutional Amendment breached the 50% reservation ceiling limit which was set by the Supreme Court nine-judge bench in the Indra Sawhney & Others v. Union of India case[1].

The PIL (Public Interest Litigation) was filed in the Supreme Court of India to challenge the EWS quota in 2019. The Supreme Court bench headed by former CJI Ranjan Gogoi refused to stay the 10% EWS reservation but agreed to hear the challenging petition.

In November 2022, a five-judge constitution bench headed by former CJI UU Lalit upheld the EWS reservation in government jobs and education by a majority view of 3:2 in the verdict of Janhit Abhiyan vs Union of India.

EFFECTS OF 103rd CONSTITUTIONAL AMENDMENTS

The Indian Constitution's Articles 15(6) and 16(6) were amended by the Constitution (One Hundred and Third Amendment) Act of 2019 to permit 10% reservations for the EWS category.

Articles 15(6): Nothing in this article or sub-clause (g) of clause (1) of Article 19 or clause (2) of Article 29 shall prevent State from making:

- (a) any special provision for the advancement of any economically weaker sections of citizens other than the classes mentioned in clauses (4) and (5); and
- (b) any special provision for the advancement of any economically weaker sections of citizens other than the classes mentioned in clauses (4) and (5) insofar as such special provisions relate to their admissions to

educational institutions including private educational institutions, whether aided or unaided by the State, other than the minority educational institutions referred to in clause (1) of Article 30, which in the case of reservation would be in addition to the existing reservations and subject to a maximum of ten per cent of the total seats in each category.

Explanation: For the purpose of this article and Article 16, “economically weaker sections” shall be such as may be notified by the State from time to time on the basis of family income and other indicators of economic disadvantages.

Article 16(6): Nothing in this article shall prevent the State from making any provision for the reservation of appointments or posts in favour of any economically weaker sections of citizens other than the classes mentioned in clause (4), in addition to the existing reservation and subject to a maximum of ten percent of the posts in each category.

ELIGIBILITY CRITERIA

Eligibility criteria for Economically Weaker Section (EWS) reservation followed as:

- Applicants must fall under the general category. SC, ST and OBC are not eligible for 10% EWS reservation.
- Applicant's family annual income should be below 8 lakh rupees per year.
- Agricultural land of the applicant's family should be less than 5 acres.
- The area of the residential flat of the applicant's family should be less than 1000 square feet.

CHALLENGES AND ISSUES

- EWS reservation breached the 50% reservation ceiling limit which was set by the Supreme Court nine-judge bench in the Indra Sawhney & Others v. Union of India case[1]. Now the total reservation quota is 59.5%. Now there is no final limit of reservation. Government or Supreme Court should make one reservation boundary to not cross them again.
- Government set a limit of Rs 8 lakh per annum (family income), which was very high. As per the report of NSSO and the IT department, more than 90% of families fall within this limit. This limit must be changed to reduce congestion in the EWS reservation.
- For every government, reservation is the only solution to eliminating inequality. Every time they come up with a new reservation policy. There are four different categories of reservation in India SC, ST, OBC, and the recent one EWS reservation. And we don't know if the last or more reservation policy will be coming in the future.

CONCLUSION

Though there has been much debate on the reservation, it is clear that reservation is not temporary and now it has become a major part of Indian society. Time to time reservation is increasing and exceeding every limit. Every new government comes with a new reservation theory to tackle inequality in the country. And the last one the Constitution (One Hundred and Third Amendment) Act, 2019, sets a 10% reservation for the Economic Weaker Section class to uplift the people who are economically poor of the general category. There are many challenges also for EWS to tackle to clear their path in the reservation.

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IMPACT OF MINING ON KOLAR GOLD FIELDS

INTRODUCTION

Kolar Gold Fields is roughly 100 kilometres away from Bangalore. The KGF was the second-deepest gold mine in the world, at a depth of 3,000 meters, and was run by the Bharat Gold Mines Limited (BGML), a public sector venture. The mines were operational for 121 years before being abruptly shut down on February 28, 2001. John Taylor and Sons, an English company, began systematic mining in 1880, marking the beginning of modern history. In 1956, the Mysore government assumed control of the mines; in 1962, the Indian government did likewise. Due to high operational expenses and low revenue, the mines were shut down. The region also has a fascinating past.

The KGF was the first city in India to be electrified in 1902, giving it the nickname "mini-England." To address the area's water needs, the British government also created a lake. There were no power outages or water shortages in the region while the mine was in operation. But now that the gold has been extracted, the region has also lost its lustre because there is no reliable source of energy or water to drink.

IMPACTS

ENVIRONMENTAL EFFECTS

The mine abruptly shut down without warning, leaving behind environmental debris close to the BGML site. The mines have produced around 35 million tonnes of ore processing waste throughout the years. The mounds of cyanide and silica-containing effluents are dumped. The research found that there are 13 significant dumps on the surface, taking up almost 15% of the total land area, or 58.12 square kilometres. Some of the cyanide dumps, sometimes referred to as cyanide hills locally, are 40 meters tall.

During monsoon season, streams that pass through residue dumps produce flooding, and chemicals from the dump leak into water tanks and productive agricultural regions. Previously, the land was used to cultivate vegetables, rice, ragi, and groundnuts; however, due to improper catchment areas, water is not properly collected, and the district frequently experiences droughts. As a result, the land has become unproductive. Previously, it was used to grow these crops.

The pollution of land and water is caused due to mine waste/mill tailing runoff, thus resulting in silting up of water bodies, which is a common feature in the study area. The siltation of tanks and land extends beyond 10 kilometres from these dumps.

HEALTH RISKS:

The town's cyanide dumps are an eyesore and a health threat. Due to the oxidation of sulphur dioxide caused by the tailing materials, which is caused by these dumps, the township and its surroundings are enveloped in a cloud of dust and smell strongly of sulphur dioxide, which causes air pollution or a dust danger. Due to the acidity of the sulphide dust tailing materials caused by contact with water, froth is sometimes visible on the surface in low-lying places. Inhaling dust with particles smaller than 10 μm in diameter poses health risks. Although respiratory allergies are widespread in the community.

The main health issue produced by rock and mineral dust is lung damage. Both mineworkers and the nearby towns are at risk from dust. Coal dust, which causes black lung disease, and silica dust, which causes silicosis, are the two most hazardous types of dust. There are no accessible restrooms, and the colonies' open drains collect wastewater, which leads to a variety of contagious illnesses.

SOCIO-ECONOMIC EFFECT

However, the effects on people's health are not the only issue; the residents of the town are also having trouble making ends meet. In the KGF, there are still about 260,000 residents and as the mines are not operational anymore there is a lack of employment opportunities they have to travel daily about 100kms to Bangalore to get paid and also most of the income is spent on travel.

Due to tailings covering 15–25% of the lease area, economies in societies that are dependent on agriculture and forestry often expand at a slower rate. The former miners do not receive any financial or medical assistance from the government, and they are forced to live in utter poverty. Over 400 colonies house people in shanties no bigger than 100 square feet.

After the mills closed, "we were suddenly untouchables, and the government is treating us like we don't exist." - said, mine workers.

CONCLUSIONS

The borders of Tamil Nadu and Andhra Pradesh are not far away, and KGF has the labour force, adequate infrastructure, and acres of land that may be utilized for industrial purposes. To provide KGF residents with job options, the state government ought to have taken advantage of these prospects. The degraded mining site can be rehabilitated with the use of landscaping and developed as an ecotourism spot.

Even the tailings can be used as a substitution for fly ash or in brick construction.

The region is in a mess as a result of the unexpected shutdown. The Indian government should strengthen the laws and regulations that are in place to prevent unforeseen mine closures and mitigate their consequences on the local population. If the government, the mining corporation, and the residents of KGF demonstrate their support and interest in resurrecting the town, these issues and challenges will be addressed and may be improved.

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7TH SEMESTER



GOOD GOVERNANCE

"Governance" is not a brand-new idea. It is as old as human civilization itself. In a nutshell, "governance" refers to the process of making decisions and how those decisions are carried out (or not carried out). Corporate governance, international governance, national governance, and municipal governance are just a few of the situations in which the word "governance" can be employed. The World Bank defines governance as 'how power is exercised in the management of a country's economic and social resources for development.'

Depending on the level of government being discussed, there are different other actors involved in governance. Other actors in rural areas can include powerful landowners, groups of small-scale farmers, cooperatives, NGOs, research organizations, religious figures, financial institutions, political parties, the military, etc.

Urban environments have far more complicated conditions. Media, lobbyists, foreign funders, multinational corporations, etc. may also participate in or influence decision-making at the national level in addition to the actors mentioned above.

The term "civil society" refers to all players other than the government and the armed forces. One of the actors in governance is the government.

Organized crime syndicates, particularly in urban regions and at the national level, have a say in various countries in addition to civil society.

There are 8 key traits of good governance. It is PARTICIPATORY, CONSENSUS ORIENTED, ACCOUNTABLE, TRANSPARENT, RESPONSIVE, EFFECTIVE AND EFFICIENT, EQUITABLE AND INCLUSIVE AND FOLLOWS THE RULE OF LAW.

1. PARTICIPATORY

Men and women participating equally is a crucial component of effective governance. Direct participation or participation through reputable intermediary institutions or representatives are also acceptable options. This refers to both a civil society that is organized and the freedom of association and expression.

2. RULE OF LAW

Fair and impartially implemented legal frameworks are necessary for good governance. Both an unbiased and incorruptible police force and an independent judiciary are necessary.

3. TRANSPARENCY

Additionally, it implies that individuals who may be impacted by such choices and their implementation have open access to information. It should also be simple to comprehend.

4. RESPONSIVENESS

Institutions and processes must make an effort to serve all stakeholders in a timely manner as a condition of good governance.

5. CONSENSUS ORIENTED

To reach a broad social consensus on what is desirable for the entire community and how this might be done, good governance necessitates the mediation of the various interests in society. It also calls for a comprehensive and long-term viewpoint on what is required for sustainable human development and how to accomplish its objectives. Understanding the historical, cultural, and social settings of a particular society or community is the only way to do this.

6. EQUITY AND INCLUSIVENESS

This calls for providing opportunities for all groups, but especially the most vulnerable, to develop or maintain their welfare.

7. EFFICIENCY AND EFFECTIVENESS

Good governance is the practice of producing outcomes that satisfy societal needs while maximizing the use of available resources.

8. ACCOUNTABILITY

The public and institutional stakeholders must hold governmental institutions, the commercial sector, and civil society organizations responsible.

INITIATIVES OF GOOD GOVERNANCE IN INDIA

- Right to Information
- E-Governance
- Legal Reforms
- Ease of Doing Business
- Decentralization
- Police Reforms
- Aspirational Districts Programme
- Good Governance Index

CHALLENGES TO GOOD GOVERNANCE

- Criminalization of Politics
- Corruption
- Red Tapism
- Gender Disparity
- Growing incidence of violence
- Delay in Justice
- Centralization of Administrative System
- Marginalization of Socially and Economically Backward People

HOW GOOD GOVERNANCE IS ASSESSED

There is no standard method to assess the country on good governance. There are different international agencies that have devised different indexes/measures to rate a country's performance on good governance. A few of them are mentioned below:-

Human development index (HDI) - by UNITED NATIONS DEVELOPMENT PROGRAMME (UNDP)

Quality of life index (QLI) - by ECONOMIST'S INTELLIGENCE UNIT

Ease of doing business index - by WORLD BANK GROUP

Corruption perception index - by TRANSPARENCY INTERNATIONAL

Environmental performance index - by YALE UNIVERSITY & COLUMBIA UNIVERSITY OF USA

Universal human rights index - by UNITED NATIONS HIGH COMMISSIONER FOR HUMAN RIGHTS

CRITICISM OF GOOD GOVERNANCE

Since governance is realized differently in different socio-political & cultural settings, it is not possible to have universal yardstick of good governance for all cultures. Also, this concept of good governance suffers from ETHNOCENTRISM AND EURO-CENTRISM. It is not even followed completely by the USA & other developed countries who gave this concept.

CONCLUSION

It should be obvious from the discussion above that good governance is an ideal that is challenging to attain in its entirety. Very few communities and nations have even come close to fully implementing good governance. However, steps must be taken to advance this ideal in order to make it a reality in order to assure sustainable human growth.

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RESERVATION AND EQUALITY

State governments are empowered by the constitution to make special reservations for the less privileged class of society, but this power has some limitations set by the Supreme Court. A recent amendment made by the Chhattisgarh government about increasing the reservation for SC/ST/OBCs of society up to 76% which is the highest among all the states, has highlighted a critical question, is the state government allowed to exceed 50% limit for reservation set by the supreme court in 1992 in Indra Sawhney Case to understand the legality of this new bills introduced by Chhattisgarh government we must trace the timelines of important decisions made by the supreme court on this issue. In 1992 in Indra Sawhney vs. Union of India Ors, Supreme Court upheld the 27% quota for backward classes, upheld the principle that total reservation should not exceed the 50% limit and also introduced the concept of creamy layer.

Now coming back to the present, two amendment bills related to the reservation in government jobs and admission in educational institutions were passed by the Chhattisgarh government assembly, taking the total reservation percentage to 76. According to the bills, ST's will get a 32% quota, OBC's 27%, SC's will get 13% and 4% for EWS in government jobs and educational institutions. Earlier also in 2012 when the state government tried to cross the 50% limit and increase it to 58%, the Chhattisgarh High court held it unconstitutional.

In other states like Maharashtra in 2014 was halted by the Bombay High Court from increasing its reservation quota as it was exceeding the limit. But states like Tamil Nadu, Andhra Pradesh and Haryana have successfully increased their reservation percentage beyond the 50% cap, i.e., 69%, 66.66%, and 67%. In the case of Tamil Nadu, the limit was

crossed as several communities which are the most backwards within the list of SEBC's (Socially and Economically Backward Classes) were seeking internal reservation so that a few communities which are politically dominant were able to corner all the benefits of reservation. Therefore, Tamil Nadu Made internal reservations for most backward communities with a separate reservation of 20%, which resulted in a total reservation of 69%. It was decided to bring in special legislation and also include it in the 9th schedule of the constitution to ward off any challenge based on fundamental rights. Thus, a 1994 act was passed, although this act was challenged before the Supreme Court, and it has been pending for 27 years.

The answer to the question that “Are the state governments allowed to exceed the limit of 50% even when it's already decided in 1992 Indra Sawhney case” has been given by the 103rd constitutional amendment which was introduced in 2019 but is recently amended in 2022, which introduced 10% reservation for EWS in education and employment was upheld by supreme courts constitution bench with a 3:2 majority while upholding the amendment justice Dinesh Maheshwari stated that 50% ceiling limit was “not inflexible” and does breaching of the set limit did not violate the basics structure of constitution according to the new amendment reservation up to 10% for EWS(economically weaker sections) can be made in addition to the existing reservations which might lead to exceeding the 50% limit does not result in violation of the constitution and do not cause any damage to the basic structure of the constitution of India. On the contrary, Justice Bhatt and U. U. Lalit gave the dissenting opinion stating "permitting the bridge of 50% rule would become a gateway of further infractions which would result in compartmentalisation the rule of equality would then be reduced to the right of reservation leading us back to the days of Champakam Dorairajan".

This acceptance by the Supreme Court has made it apparent to all the state governments that the limit of 50% is flexible and can be exceeded constitutionally. But something more essential has also been stated by the Supreme Court that while making extra reservations for the EWS category the poor among SC/ST/OBC can be excluded. This new provision allows general category people for the first time to have a reservation quota. This will help the poor underprivileged general category people to uplift and improve their life.

This decision has successfully maintained the balance of equality, which was every time questioned by society whenever more than necessary reservations were made. Parity is served by the Supreme Court while making every category feel assured and secure about their existence in society.



NOT ONLY WOMEN, BUT MEN ALSO SUFFER

WHAT IS RAPE?

Rape is basically defined as sexual harassment of women by men. It has been understood that only women are sexually harassed in a patriarchal society. Rape of males is seen as taboo in society. They are generally afraid that society will doubt their sexual identity and that they'll be called non-masculine if they open up about the assault they faced. Consequently, most of the victims are afraid of filing a complaint about the assault they experienced.

There are certain myths in society about sexual assault against men, such that men are not vulnerable to sexual harassment, men are the only ones who always need sex and many other things. Therefore, the problem of Rape of men is not generally addressed. Sexual violence can happen to anyone, no matter what their age or gender is. There are numerous laws to protect, but at the same time, we fail to acknowledge that men are also subjected to sexual harassment.

In India, we have some laws regarding rape, but that is also subjected to women only, like, According to section 375 of the Indian Penal Code, Rape is a crime that only sees men as perpetrators and women as the victim and not vice-versa. Here Rape is considered as the act of penile penetration, or any foreign object into the vagina without the consent of a woman or girl. Hence, wholly rape is only considered for women and there is no clause for the rape of men. There is a single provision for men that they are sodomised under section 377(10) of the Indian Penal Code is modelled on Buggery Act, 1533 where unnatural sex is an act against God. Though there's POCSO (Protection of Children from Sexual Offences) for the sexual assault of male child, such provisions do not exist for an adult male.

What can be done regarding this? some have to suffer, women also go through this, men should also experience it, and men are not literally vulnerable to any kind of sexual assault, all these are typically thinking of a patriarchal society? But when we say we have gender equality it should be provided in all situations and conditions, without considering one's gender.

There are provisions for women which is the best in a democracy, but if we say democracy means equality, means no gender discrimination, no class, no race, nothing, then there should be provisions for men as well. Their rapes should also be criminalized. In 2013, the centre passed a criminal amendment act under the recommendation of the Justice Verma committee which replaced the term 'rape' with "sexual assault" to cover all genders. However later it was protected by many women that it should be rape only as men are not easily vulnerable to this, and due to the protest, laws are amended again. This can only be eradicated through awareness that males can also get raped not just by women but by other men.

We have seen over the years, the criminal laws in India have been amended many times by lawmakers to meet the requirements of an ideal society. In the Nirbhaya case, the amendments within the ambit of sexual offences against women contributed tremendously towards the safety of women. Now society requires gender-neutral rape laws. When we support feminism, it doesn't just mean for women, it is for gender neutrality.

AVISHI GUPTA

BA LLB, 1ST SEMESTER



THE LITERACY RATE IN INDIA

People don't realize how a book can change a person's whole sight or an aspect of watching things around them and understand the environment they are in at the same time. literacy can be simply defined as the capacity to read and write. In other words, literacy can be explained as the number of persons who is 7 or above and has the ability to read, write and understand at the same time and is treated as literate whereas literacy rate means the percentage of the adult population aged 15 years and over which is literate expressed as a percentage of the corresponding population, total or for a given sex, in a given country, territory, or geographic area, at a certain point of time, usually mid-year. literacy is an essential characteristic of a population and also help in sharpening and shaping our economy as it improves the public's ability to comprehend and evaluate critical issues only skilled and educated citizens can make intelligent and quick choice and can undertake various research and development projects. An increase in literacy is a doorway for more educational and employment opportunities that give our economic society to get a way out of poverty. As literate people know, the better use of the resources that are available and the knowledge of the literate also benefits their surrounding communities.

With the change in time and technology, it is essential that people upgrade themselves with knowledge and with new skills learning as it enables people and their problem-solving capacities to contribute to the betterment of the Indian economy. In our country, India the adult literacy rate is taken from people above 15 years of age and for youth, the literacy is calculated from people aged between 15-25 years. Among the 28 states of India, a state like Kerala with 94.00% is the only state in India to have the highest literacy rate followed by Lakshadweep with 91.85%, Mizoram with 91.33% and Goa with 88.70% proven to have the highest literacy rate meanwhile state like Bihar with 61.80% has seen with the lowest literacy rate followed by Arunachal Pradesh with 65.38%, and Jharkhand with 66.41% has demonstrated the lowest literacy rate based on the recent survey of the year 2023.

Kerala has always proved to have the highest literacy rate from all over the state in India. As per the researched data of the year 2011 over 91.98 percent of females and 96.02 percent of males were found literate whereas in a state like Bihar has a poor literacy rate of 10.41 crores of the population whose overall literacy rate was only 61.8 percent which is less than an average literacy rate 72.98 percent of India. As per the census of 2011 male literacy rate was 71.2 percent whereas the female literacy rate was only 51.5 percent in Bihar.

Now, discussing why states like Kerala have the highest literacy rate whereas states like Bihar have the lowest literacy is because going back to early times Bihar had a low literacy rate since the start as even the British government didn't give much attention towards the education sector and construction of schools and colleges. Coming back to the current situation, the spending of the British government has always spent less money on education expenditures. No improvement has been seen in the current situation of state. People of Bihar are more likely to be attracted to the world of politics rather than going to school and colleges there is also a very broad gap in male and female literacy rates. Child marriage is still a very common practice in Bihar which is still going on. Usually, girl children seem to get married at a very early stage of life which is a reason for illiteracy in women in Bihar. People of Bihar still believe that women are fit to sit in the kitchen only. The birth of a girl's child is often seen as something to be sorry about. Preference for male children is more in Bihar where 37% of women and 30% of men want sons more than a daughter thus, parents in Bihar continue to have children until they get a male child. The low literacy rate in Bihar has also led to an increase in the crime rate. A lot of manpower is used whereas women of Bihar are discouraged from women's empowerment. Women hardly have any right to raise their voices against discrimination. Whereas, the situation in Kerala is way more different from Bihar. Kerala has always played an important role in increasing the literacy rate of India. Kerala has always proved to have the highest literacy rate from the year 1991. Even in the 20th century, even during the times of British colonial rule, Kerala has always focused on providing and granting access to education for lower castes and women and each and every person of the state. Women of Kerala were never deprived of education. Kerala holds the highest female literacy rate of 92 percent in the country. Kerala has always focused on making the people aware of the importance of education and also political parties which mobilized the working class also gave importance to reading and education which gave Kerala a favourable outcome.

In conclusion, literacy is the strongest weapon which can defeat social evils such as dowry, child marriage, corruption and child labour. If India wants to be a developed country and powerful country, then literacy is the key to it. The Indian government should pay more attention to educating people and encouraging them to contribute to the country by educating even the girl child. The government should provide free education to backward states like Bihar, Rajasthan and Odisha where women are deprived of education. Government should bring more schemes and allocate money to promote literacy. Computer and digital literacy should also be encouraged. More new schools and colleges should be constructed. At the last, each and every one has the right to be literate and to be educated.

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SHOULD MARITAL RAPES BE CRIMINALIZED IN INDIA?

The term Marital Rape (also referred to as spousal rape) refers to the unwanted intercourse by a man on his wife obtained by force, threat of force or physical violence or when she is unable to give consent. In India, Marital Rape exists de facto but not de jure, i.e., the definition of rape under Section 375 of the Indian Penal Code does not include Marital Rape as a criminal offence. Exception 2 of Section 375 states that sexual intercourse by a man with his own wife, the wife not being under 15 years of age, is not rape. Thus, in India Marital Rape is not a criminal offence and it is only covered in the definition of domestic violence which is defined under the Protection of Women from Domestic Violence Act, 2005.

Marital Rape is a non-criminalized criminal offence that is violative of Article 14 and Article 21 of the Constitution, although the Constitution guarantees equality to all, Indian criminal law discriminates against female victims who have been raped by their own husbands. It is a heinous crime which is equivalent to rape per se. It has a severe and long-lasting effect on women. Women who are raped by their partners live under the constant fear of getting hurt every now and then.

The bench in *Nimeshbhai Bharatbhai Desai vs. State of Gujarat* stated that the wife does not have a right to initiate proceedings against her lawfully wedded husband for the offence of rape punishable under Section 376 as the idea is that, by marriage, a woman gives irrevocable consent to her husband to have sex with her any time he demands it. The bench however strongly stressed that Marital Rape is not merely a concept and stated that:- "It is time to jettison the notion of implied consent in marriage. The law must uphold the bodily autonomy of all women, irrespective of their marital status."

The lawmakers must realize that if the sanctity of the Constitution is to be maintained, the dignity and honour of women must be vindicated. It is the need of the hour to make Marital Rape a criminal offence in order to reduce the rate of non-criminalized crime in India. The legislature should take cognisance of this legal infirmity and bring marital rape within the purview of rape laws by eliminating Section 375 (Exception 2) of IPC.

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NON-ALIGNMENT MOVEMENT

The Non-Alignment Movement was formed during the period of the Cold War. The reason behind its formation was that the States did not seek to formally align themselves with either of the blocs. The blocs meant the United States or the Soviet Union, but instead decided to remain free, independent or neutral. As a matter of fact, this basic concept for the group originated in 1955 during the decisions which took place at the Asia-Afrika Bandung conference which was held in Indonesia.

The Non-Alignment Movement was founded under the leadership of great leaders i.e. JOSIP BROZ TITO of Yugoslavia, GAMAL ABDEL NASSER of Egypt, PANDIT JAWAHARLAL NEHRU of India, KWAME NKRUMAH of Ghana and SUKARNO of Indonesia. The First NAM Summit Conference was held in the Year 1961, September in Belgrade, Yugoslavia.

PRINCIPLES:

As Jawaharlal Nehru was a founding member, the principles of NAM were largely guided by Panchsheel principles, which include:

- *Respect for the principles enshrined in the charter of the United Nations and International Law.
- *Respect for sovereignty, sovereign equality and territorial integrity of all States.
- *Peaceful settlement of all international conflicts in accordance with the Charter of the United Nations.
- *Respect for the political, economic, social and cultural diversity of Countries and their citizens.
- *Non-interference in the internal affairs of States, which means no state or group of states has the right to intervene either directly or indirectly, whatever the motive, in the Internal affairs of any other State.

OBJECTIVES:

Non-Alignment Movement has sought to “create a free path in World Politics that would not result in member states becoming pawns in the struggles between the major powers”. It defines the Right to

Independent judgment, the struggle against imperialism and neo-colonialism, and the use of moderation in relations with all big powers as the three basic elements that have influenced its approach. At present, an additional goal is facilitating a restructuring of the International Economic Order.

INDIA'S POSITION:

India was one of the founders and also the largest member of NAM and was an active participant in NAM meetings till the 1970s but India's inclination towards the erstwhile USSR created confusion among smaller members. It led to the weakening of NAM and small nations drifted towards either the US or USSR. India has also engaged itself with new and some old global and international powers. On the other hand, India is striving hard for a multipolar World Order and asserting itself as one of the players in the field. Multipolar World Order is very much close to that of the Non-Alignment Movement Principles.

EMERGING GLOBAL ORDER:

World has again, no doubt, moved towards bi-polarity, one led by the US and the other by China-Russia. Syria could be considered a prime example in which both US and Russia could be seen asserting their powers. The most escalating tension in the Indo-Pacific region is due to China's assertion and the US acting as a counterweight to keep a check on the Chinese expansionist policy. The issue of global climate change and the occurrence of Catastrophic disasters raising demand to form a global consensus to deal with it is also an emerging global order along with the change in US policies, protectionism, prevalent terrorism and nuclearization of the Middle East.

NAM'S SIGNIFICANT RELEVANCE IN PRESENT-DAY WORLD

Earlier, the NAM was a political movement but now the movement is shifting towards the political concept of the economy. It's also true that the bipolarity of the World i.e., the existence of two superpowers blocs has come to an end after the Cold War but still, the World has a wide economic gap between the first and the third World countries. NAM continues to hold relevance to maintaining World Peace. It has played an active role to stand by its founding principles, idea and purpose, which mainly aims to establish a peaceful and prosperous World.

Also, NAM is relevant due to its principles especially the idea of preserving the Independence of every nation to save the territorial integrity and sovereignty holds its relevance along with this NAM has become an integral part of foreign policy which includes the policy to avoid colonization and imperialism continues to remain valid for all the countries around the globe. As a matter of fact, NAM acts as a catalyst to foster Cooperation between the countries of both the Northern and Southern Hemispheres. It raises issues that are of major concern for the southern countries and their interests.

CONCLUSION:

The need of the hour is to call out for none other than NAMs revitalization for it in order to be able to cater to the 21st Century needs of Third World Countries more efficiently.

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DOES THE LGBTQ+ COMMUNITY HAVE CONSTITUTIONAL RIGHTS?

What is the meaning of independence if the expressions of love and relationships have to be practised behind closed doors? Being with a partner of one's choice is not an atrocious sin but a fundamental right. The real challenge here is not legal, but the liberation of the orthodoxy that lies within us!

LGBTQIA+ community is at the receiving end of gender and identity-based discrimination, and the members go through an excruciating struggle when looking for safe spaces for living. The LGBTQ+ acronym stands for Lesbian, Gay, Bisexual, Transgender, Queer and others, so basically, people who don't identify with gender heterosexual 'ideals'. It has always been a part of India's history. For instance, it was represented in several Hindu temples where we could see images of same-sex people embracing or showing their genitals to one another. It's also mentioned in other types of documents: for example, we track down proof of its existence in religious books, most specifically in Sanskrit religious sources such as Manusmriti and Shikhandi or even a chapter of the Kama sutra of Vatsyayana. LGBTQIA+ community is at the receiving end of gender and identity-based discrimination, and the members go through an excruciating struggle when looking for safe spaces for living. Landlords and brokers blatantly deny providing them rented spaces, rooms or apartments, citing their identities as a cause of possible 'disturbance' in respective neighbourhoods.

In 2018, Commenting upon the landmark judgment 'Navtej Singh Johar V. Union of India' of The Hon'ble Supreme Court against Section 377, Rashtriya Swayamsevak Sangh (RSS) leader Mr. Arun Kumar uttered the word – “unnatural” in his comments. He stated:

“Gay marriage and relationship are not compatible with nature and are not natural, so we do not support this kind of relationship. Traditionally, India's society also does not recognize such relations. The major problems the LGBTQ+ community face in the society of equality are:

Lack of support in school;

In a recent case, a class X student of a school in Haryana, Faridabad ended his life after suffering harassment and abuse from his schoolmates for years.

Family rejection;

This body of work has not fully articulated the conflict management strategies used by LGBTQ adults when a parent rejects their LGBTQ identity—a type of conflict that fits with the notion of a serious and often irresolvable conflict.

Homelessness, Rapes;

According to statistics from the Crisis intervention team of the LGBT Collective in Telangana, there have been 15 instances of 'corrective rapes' have been reported in the group in the last five years.

Breach of rights and Marriages;

The right to marry a person of one's choice is integral to **Article 21** of the Constitution. The Constitution guarantees the right to life. This right cannot be taken away except through a law that is substantively and procedurally fair, just and reasonable. Intrinsic to the liberty that the Constitution guarantees as a fundamental right is the ability of each individual to make decisions on matters central to the pursuit of happiness. Matters of belief and faith, including whether to believe are at the core of constitutional liberty. The **contentions raised by the Centre** need to be examined. It has been argued that same-sex marriages are not rooted in the Indian family setup and are inconsistent with Indian culture, rituals, values, and so on. Taking the limited binary understanding of a “biological male” and “biological female”, the Centre reasoned against importing western ideas into the Constitution.

The law may regulate (subject to constitutional compliance) the conditions of a valid marriage, as it may regulate the situations in which a marital tie can be ended or annulled. These remedies are available to parties to a marriage for it is they who decide best on whether they should accept each other into a marital tie or continue in that relationship. Society has no role to play in determining our choice of partners. Under Article 227 (2) (b) of **the Constitution**, the High Court can make rules for all subordinate courts and tribunals within the State to entertain proceedings of same-sex couples. In addition, until a law is enacted, the Supreme Court can issue directions under Article 142 to fill the vacuum, as was done in cases such as **Vineet Narain and others v. Union of India and another** and **Vishaka v. State of Rajasthan**.

With respect to the literal rule of construction argued in Part 1 of this series, the Act has several provisions that are gender-neutral. While the words “husband”, “wife”, “bride” and “bridegroom” should ideally be given their ordinary and natural meaning, adopting this course in same-sex marriages would result in depriving same-sex couples of their fundamental right to marry.

Lastly, the responsibility lies with the judiciary to rightfully interpret and expand the scope of individual rights. In the present case, the court can within its rights direct the government to make a law recognising same-sex marriages in India. Many other ways through which legal and ideological changes can be brought to the people to make the law understand the value of it are, Be inclusive, Stay informed, Education in teenagers, Awareness against misinterpretation and assumptions, Support on the basis of equality. It doesn't conclude with just facts and points of assertion, the moral and federal responsibility matters a lot to bring change, not only amongst our society but also to the world.

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CURRENT AFFAIRS (DECEMBER 2022)

- 1) On December 1, the Reserve Bank of India unveiled a framework allowing overseas subsidiaries and branches of Indian banks and financial institutions to undertake activities that are not specifically permitted in the Indian domestic market.
- 2) The Union Ministry of Information and Broadcasting has recently approved the Print and Digital Media Association (PADMA) as a self-regulatory body for publishers of news and current affairs across India.
- 3) On December 1, the Supreme Court exempted Maharashtra's Tungareashwar Wildlife Sanctuary (TWS) from its June order mandating the creation of a 1 km eco-sensitive zone (ESZ) around all protected areas in India.
- 4) The Rajya Sabha has recently passed the Wildlife (Protection) Amendment Bill, 2022 which makes changes to the Wildlife (Protection) Act, 1972 and gives effect to India's obligations to the CITES.
- 5) The National Judicial Commission Bill was introduced in the Rajya Sabha recently. It is a private member Bill that proposes major reforms in the Indian Judiciary. Its key features include the Appointment of Judges.
- 6) The Indian Parliament has recently passed the Energy Conservation (Amendment) Bill, 2022, which amends the Energy Conservation Act, 2001 and promotes energy efficiency and conservation in India.

7) The Multi-State Cooperative Societies (Amendment) Bill, 2022 was introduced in Lok Sabha on December 7, 2022.

8) Atal Innovation Mission (AIM), NITI Aayog and UNDP India jointly launched the 5th edition of Youth Co: Lab on December 15, 2022. Youth Co: Lab is the largest youth innovation movement in the Asia Pacific.

9) Supreme Court Bans Two-Finger Test; Says It's Based On Patriarchal Mindset That Sexually Active Women Can't Be Raped. The Supreme Court on Monday prohibited "Two-Finger Test" in rape cases and warned that persons conducting such tests will be held guilty of misconduct.

10) The Jan Vishwas (Amendment of Provisions) Bill, 2022 is a 108-page bill introduced in the Lok Sabha by the Union Minister of Commerce and Industry, Piyush Goyal. The bill aims to promote ease of doing business in India by decriminalizing minor offences in 42 Acts administered by 19 ministries.

11) Scotland and Spain have recently passed gender reform laws to make it easier for individuals to change their legally registered gender without requiring any medical supervision.

12) In its annual 'World Economic League Table', the London-based Centre for Economics and Business Research (CEBR) predicted that India will become the third economic superpower by 2037.

13) The Bengaluru-based Indian Institute of Science (IISc) has been chosen as the secretariat for Science 20 (S20) – the science working group of the G20 summit. About the S20 2023 The Science 20 (S20) 2023 will work towards resolving common global-level challenges like poverty.

14) The US Census Bureau, on December 30, 2022, projected that the global population will hit 7.9 billion on the 2023 New Year's Day.

15) The Allahabad High Court had ordered the Uttar Pradesh Government to conduct urban local body elections without the OBC reservations as the "triple test" requirement for the quota has not been fulfilled.

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CURRENT AFFAIRS (JANUARY AND FEBRUARY, 2023)

- 1) The Chief Justice of India (CJI), D. Y. Chandrachudh, has announced the launch of the electronic Supreme Court Reports (e-SCR) project, which aims to provide free access to around 34,000 judgments of the apex court to lawyers, law students, and the general public.
- 2) The Supreme Court of India recently made a significant ruling in a case involving the fundamental right to freedom of speech. In a 4-1 majority decision, the Constitution Bench of the court stated that an individual can seek enforcement of this right not only against the government but also against other citizens.
- 3) The government of Bihar, led by Chief Minister Nitish Kumar, is set to begin the first phase of a caste-based survey in the state on January 7, 2023.
- 4) Uttarakhand Governor Lt Gen (Retd) Gurmit Singh has approved a bill providing 30% horizontal reservation for domiciled women citizens of the state in public services and posts.
- 5) The Supreme Court of India has recently ruled that the exclusion of Sikkimese women who marry non-Sikkimese men after April 1, 2008, from exemptions under the Income Tax Act is unconstitutional and amounts to gender discrimination.
- 6) The Canadian Apex court announced that it is to stop pronouncing mandatory minimum sentences. Mandatory minimum sentences are judgments that do not leave discretion to the court. Meaning the punishment cannot be reduced in the future.
- 7) The Union Ministry of Environment, Forest, and Climate Change released the E-Waste Management Rules in 2022. The rules target companies in the consumer goods field.
- 8) The Constitution of India says the Supreme Court shall have a maximum of 34 judges including the Chief Justice. Recently, five new judges were appointed by the President of India. With this, the strength of judges in the apex court increased to 32.

9) The Governor of Uttarakhand recently issued an ordinance to control unfair recruitment in the state. In accordance with the ordinance, the State Government can impose fines of up to 10 crores of rupees against unfair practices in exams and in recruitment.

10) The US senate recently passed a resolution condemning China. According to the resolution, China is changing the status of LAC using its military force. Also, the resolution lauded India for the country's steps to defend itself against Chinese aggression at the border.

11) The Government of Spain recently passed a Menstrual Paid Leave Law. According to the law, women in the country can take paid leave during their periods.

12) The State Cabinet of MP recently approved a New Liquor policy. According to the policy, the areas for drinking alcohol will be closed. These are areas that are usually attached to bars. The new policy is called the "NEW EXCISE POLICY".

13) A Public Interest Litigation was filed with the Supreme Court on Menstrual leave. The apex court first agreed to take up the PIL and said "will hear it in a week". However, recently the SC refused to take the PIL. According to SC, creating laws or passing judgment on such leaves will become a deterrent to women's employment.

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