

## **Corporate Officials Environmental Liability-A Myth Or Reality**

Ashutosh Tripathi

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### ***Abstract***

*The present article deals with the imposition of responsibility on the officials of the corporate for damaging the environment. This article makes analysis of the existing legal framework which is available for imposing the responsibility on the corporate officials in U.S, E.U and India. The article also analyses the problem which can arise in imposing the environmental responsibility on the officials. In imposing the liability on the corporate officials the paper also makes a study about the suitability of sanctions i.e. whether civil sanctions are suitable or we should go for the criminal sanctions to impose responsibility on the officials of the corporation. The paper advocates for the criminal sanctions for the corporate officials because of the lack of deterring effect of the civil sanctions on the erring corporate officials as they treat the imposition of the penalty as a sort of expense in their balance sheet. In criminal imposition of the responsibility the paper suggested for proving of a low level mens rea, as it is easy to prove and in the setup of the company it is very hard to prove the general mens rea or specific mens' rea. The author compares in this article the legal framework which exists in India and E.U regarding imposition of the environmental liability on the officials of the corporation.*

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## **Sexual Harassment Law in India: thus far and further**

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### ***Abstract***

*16 years after the Landmark Judgment of the Supreme Court of India in Vishaka v State of Rajasthan 1997 AIR 1997 SC 3011, Indian Parliament has taken a step to address the legal void in relation to the sexual harassment of women at workplace. On April 2013, Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 came into force.*

*However it is abominable to note that despite the Constitutional guarantee, of dignity and fundamental freedom the protection had to wait for some abhorrent factors including the allegations of sexual harassment of two Law Interns by a retired Supreme Court Judge and the fatal gang rape of the Delhi victim triggered the enactment of this legislation.*

*It not only incorporates "Vishaka Guidelines" but also has taken progressive steps to address the issue. It defines sexual harassment and also provides the mechanism towards its implementation. One year since its enactment seems to an apt time to reflect as to whether it has been able to provide protection to the victims of sexual harassment.*

*The endeavor of this paper would be to evaluate whether the Act has been able to provide any redressal to the vast majority of women who have been the victims of sexual harassment. Furthermore the paper would highlight the various flaws of the legislation and propose solutions therefore.*

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## **Medico-Legal Evidence in Indian Law: Appreciation, Evaluation & Impact**

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### ***Abstract***

*In Indian judicial System, for any criminal trial of any offence against human body, opinions of Experts are very important for the administration of justice. In criminal cases involving the medical opinion is adduced to establish the below mentioned facts, Medical Evidence are evidence of opinion which is relevant under section 45 of the Indian Evidence Act.*

*Some fact are, Injuries, whether the injuries are Anti – mortem or Post – mortem, the probable weapon used in causing injuries, the effect of injuries, consequences of injuries, whether they are sufficient in the ordinary course of nature to cause death, the duration of injuries and the probable time of death, cause of death, plea of unsoundness of mind, determination of Age etc.*

*The medical opinion has considerable bearing and is of great assistance in the trial of criminal cases. It greatly helps the prosecution in establishing its case by soliciting corroboration from it by showing that the injuries could have been caused by the alleged weapon of offence by the accused persons in the manner alleged.*

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## **Law relating to Human Stem Cell Research and Intellectual Property Rights**

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### ***Abstract***

*Over the past few years, human stem cell research has emerged as a new and exciting field in the life sciences being novel in its potential for clinical applications. This research paper is dealing with many theories in the fields of law, science and ethics. This paper, will also involve the theories concerning the relations between human rights and intellectual property.*

*Stem cell treatment unlike, most other conventional treatments, have a potential to become lifelong cure. There is almost no realm of medicine that would not be touched by this innovation. It is true to say that, this research has the potential to revolutionize the practice of medicine and improve the quality or length of life. However to exploit the therapeutic potential and promises of stem cells, extensive research is required on the risk and benefit of their use. Despite of, potential promises observed in stem cell research, it has been always surrounded with technical, ethical and legal challenges. To overcome these challenges and increase research in this field, countries from all over the world responded differently. The countries worldwide have taken to develop policy in the area of stem cell research have varied enormously. They differ in liberal to intermediate, to restrictive policy approach. To interpret their permissibility with any degree of accuracy, it is crucial to take into account the respective policy frameworks.*

*This research paper provides an overview of the regulatory framework in U.K, U.S.A, India and European Union concerning embryonic and non-embryonic (particularly; Adult, fetal and Umbilical Cord) stem cell research. It details the Substantive requirements, Procedural Safeguards and Policy approach for research and also examines the funding provisions in different countries. This analysis is categorized by whether a particular country was found to*

*have a restrictive or liberal policy design, as well as the analysis of India's stand on stem cell research in comparison to other countries of the world.*

*A major goal of this research paper is to provide a comparative understanding of the India's policy landscape with other nations. It is carried out with the hope that such an analysis will contribute in the development of India's policy framework and provide a context for continued reflection and dialogue on stem cell research.*

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## **Judicial Lawmaking in India**

Isha Wadhwa

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### ***Abstract***

*The paper attempts to analyze one of the basic issues that has been a matter of debate for past many centuries, regarding the role of the judge in the process of adjudication by giving an insight on the two theories of adjudication: Declaratory and Creative theory of adjudication. The paper through analysis of various case laws attempts to answer few basic questions that have been confronted by democratic country like India. Is it the function of the judge to merely declare law as it exists or to make law? Whether under the Indian constitutional scheme, judges make law? If yes, whether such lawmaking power is at par with the legislature's power to enact law? After analysis of divergent views and various judicial decisions in this regard, the paper seeks to establish that judges do make law in the adjudication process; however, it must be resorted to by judges in exceptional circumstances and shall be guided by the principles of self-restraint.*

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## **Judicial Recusal: Setting Canons of Governance in Judiciary**

Dr. Yogesh Pratap Singh

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### ***Abstract***

*Judges are repeatedly excoriated for not living in the real world. But when, as is desirably and increasingly the case, there exists a link between a judge and the world outside the courtroom, problems may arise. Many of them are problems of perception which are harder to evaluate. Scholars have traditionally analyzed judicial impartiality piecemeal, in disconnected debates on discrete topics.*

*This paper highlights this issue and finds that there should be a practical and publically palatable balance between absolute autonomy for the judges. Weighing the situation of Indian justice delivery system with UK and USA, the paper submits that justice should not be left at the mercy of the individual whosoever it may be.*

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## **Human Rights Education and Social Empowerment**

Justice K.G. Balakrishnan, Chairperson, NHRC

(Former Chief Justice of India)

### ***Abstract***

*Knowledge of law is power and helps self-realization. India, the largest democracy in the world, has an emergent need for generating awareness of rights as knowledge so that people live in consonance with the true dictates of democracy and rule of law. When citizens, particularly marginalized or under privileged groups, know what the law has to offer them, they can recognize and challenge injustices much more forcefully. Hence the first step towards that knowledge of law, which can transform people's lives, is legal literacy.*

*The paper highlights the role of National Human Rights Commission, the issue as it exists in India and related concerns.*

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## **Legal Education in the Globalized World**

Prof. (Dr.) Balvinder Shukla, Vice Chancellor, Amity University

### ***Abstract***

*Globalization is fait accompli. It has been debated from several perspectives and from the point of view of education globalization has immense potential for the future of higher education across the globe. Policy formulation for higher education calls for the need to raise academic standards, instituting a better research atmosphere, good governance models, and creation of lucrative career opportunities and promotion of professionalism. Legal education is no exception to this global phenomenon. In fact globalization has brought multiple challenges to legal education in India especially dismantling the status quo. In order to establish a society based on the philosophy of Rule of Law legal and judicial reforms are sine qua non. The role of judicial officers will be critical for the purpose of extending justice to the man standing in the end of the queue.*

*In the light of the above the training imparted to those who wish to join legal profession needs to be revamped to complement the socio-economic mutations taking place in India. A global perspective is the need of the hour for global legal education reflected in global programmes and courses, global faculty and curriculum and more so global legal dialogue.*

*This paper endeavours to highlight the strength and weaknesses in the Indian legal education in the globalizing Indian society to provide responses to the demands of global players.*

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## **All Smoke but no Fire: a Curious Case of Plain Packaging & Intellectual Property**

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### ***Abstract***

*Every year, consumption of tobacco results into billions of death globally. The tobacco epidemic is a global problem with serious consequences for public health. With an aim to minimize the consumption of tobacco, World Health Organization (WHO) has introduced plain packaging policy. The plain packaging is refers to act, which aimed to control tobacco consumption by removal of all attractive and promotional features of tobacco package. The measure limits the use of trademark in Packaging, which is considered as proprietor right to indicate the origin and promote the products. The tobacco companies have strong reservation against the freedom to use its trademark, and argued measures as incompatible with TRIPS provision. The relationship between intellectual property and public health is unique and often debated. Although, intellectual property is kind of a private right, it does have strong public good. The issue of plain packaging holds greater public good than the right of trademark owner, justifying plain packaging.*

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## **Promoting sustainable economic and social reintegration of returnee migrants: Bangladesh perspective**

Thamina Shanzida Sheed, Lecturer, Department of Law, Premier University, Chittagong

### ***Abstract***

*There has been a general absence of a concrete framework for facilitating the reintegration of the returnee migrant workers. In that respect, reintegration is perhaps the least explored area in migration management in Bangladesh. In the absence of any formal support mechanism for the returnee migrants with mainstream economic activities, the capital and skills brought in may not be put to effective use. This article illustrates the specific problems faced by migrants returning to their home countries and families. It identifies the kinds of supports -logistical, legal, socio-psychological, employment, skills related and financial -- they need to enable them to achieve successful reintegration and avoid re-migration. It emphasizes opportunities for remunerative employment as key to successful reintegration. The final section provides some recommendations that may be adopted in social and economic reintegration process of returnee migrants.*

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## **White Collar Crimes in e-commerce: a systems perspective**

Dr. Santosh Kumar, Assistant Professor of Law, Amity Law School, Centre-II, AUUP, Noida  
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### ***Abstract***

*With the rapid growth of the Internet i.e. ICT, the processes by which e-commerce is conducted have amplified. E-commerce includes retailing and wholesale businesses, online newspapers and other information sources, services (pay-per-use schemes for online databases, subscription services, online healthcare services, are a few examples), online gambling services, videoconferencing, offshore and inland banking, stock trading, investment schemes and online insurance etc., everything that traditional commerce can offer.*

*If commercial entities enter into agreements then they can usually agree to B2C e-commerce is the easy situation to deal with as the parties can in general agree whatever terms they so wish. The position can differ considerably with other types of contract, as in business to consumer e-commerce where one of the parties acts as a consumer. Commerce-protection legislation in various countries often imposes limits on the terms and conditions that may be excluded or varied and these cannot be overridden by agreement. Any term which attempts to avoid the legislative provisions is automatically a void activity. The position is somewhat different within the United States where it is possible, in some circumstances, to contract out of the provision provided certain formalities are met. Consumer regulation is an all-pervasive topic which has several aims. Country too have many views, commercial concerns often welcome some degree of consumer protection.*

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## **Women's Inheritance rights under Muslim and Hindu laws: a legal analysis in context of Bangladesh**

Yasmin Farjana, Lecturer, Department of Law, Premier University, Chittagong, Bangladesh

### ***Abstract***

*The legal system of Bangladesh is secular on paper, but the area of proprietary right of women is based on personal laws which differs according to an individual's or family's religion. So the personal laws of our country govern different communities differently. Muslims are largest population in Bangladesh. The Hindu community is also the largest minority group in this country. But unfortunately in our country, after the partition of the sub-continent, no change has been made yet in the area of proprietary right of Hindu women. This inequality is against the commitment of Bangladesh that has undertaken nationally and internationally. The object of this article is to focus a picture of Hindu community's successive right comparing the Muslim women's right from a critical perspective. This paper also aims to suggest some recommendations for policy initiative by the proper authority.*