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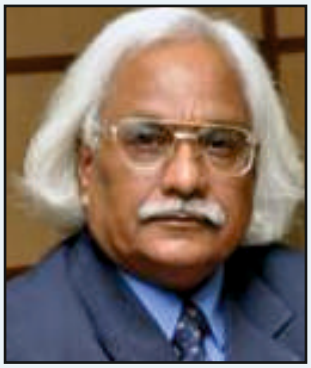
INDEX

OUR **GUIDING FORCE**

Dr. Aseem Chauhan
Chancellor, Amity University Haryana



Prof. P.B. Sharma
Vice-Chancellor, Amity University Haryana

Maj. Gen. B. S. Suhag (Retd.)
Dy. Vice Chancellor, Amity University Haryana

Prof. (Dr.) Padmakali Banerjee
Pro-Vice Chancellor & Dean-Academics
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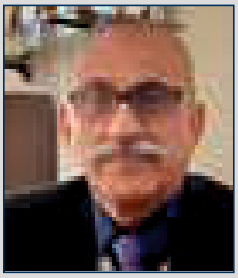
DIRECTOR SPEAKS

As promised, we are coming out with the next edition of Amilawyers, the second of the Academic Year. As usual, the period between the previous Issue and this has been extremely busy, very eventful and fruitful. Our students have excelled in all fields be it Academics, Sports or other Extra-Curricular activities. The Final Year students are undergoing Internships before they enter the vast and competitive arena of dispensation of justice. The Faculty Members have richly contributed through their Research oriented Articles and Paper Presentations in various National and International Conferences. If I report on all the Events that we organised or participated in, I am likely to consume the whole space. So I will submit a brief report only.

Maj. Gen. P.K. Sharma (Retd.)
Professor and Director, ALS
Dean Faculty of Law

HEALTH CARE AND **LAW**



Maj. Gen. P.K. Sharma (Retd)
Professor & Director,
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The goals of medicine, as laid down in the Hippocratic Oath, are founded on profound moral-ethical principles, which require Healthcare providers to be committed to the mitigation of suffering, to uphold the primacy of life and to recognise their corresponding obligations. However, historically, the medical profession has grown beyond the individual 'Doctor-Patient' or 'Researcher-Subject' relationship, characterised by mere care giving, into a complex organisation that exercises power and authority, influences political decisions concerning Healthcare, and functions even as a business enterprise. Codified Bioethics Principles, evolved in close relation to Medical Research under varied historical circumstances, have had a greater influence on research ethics than on the practice of Medical Care. Consequently, the process of translating the noble goals of medicine and integrating ethical principles into public health ethics, as operating principles of the Healthcare System, has been slow and fraught with struggle.

Globally, in the face of violations of the Human Right to Health and the breach of ethical principles in Health and Medical Care, citizens have resorted to Judicial-Legal System, which has resulted in a process referred to as "Judicialization of Healthcare". Judicial-Legal Principles emerging from court judgments are referred to as Public Healthcare or Social Rights Jurisprudence and quite often have ethical-moral overtones. Legal Scholars have alluded to the influence of such jurisprudence on Healthcare Policies in India. Citizens and civil society organisations have fought against violations of the Right to Life and Dignity in Healthcare by filing social action litigations in the Supreme Court of India and various High Courts and have also approached quasi-judicial bodies, such as the National Consumer Dispute Redressal Commission (NCDRC). The original Consumer Protection Act, 1986 did not envisage to include medical profession, which was only brought under the purview of Consumer Protection Act in 1994 following a Supreme Court judgement in V.P. Shanta Vs Indian Medical Association. Ever since doctors and hospitals so came under the purview of the ibid Act, there has been a tremendous rise in medical negligence cases. Over the years, the amount of compensation has also seen a steep upward trend, with forums asking doctors and hospitals to pay compensation commonly in the denominations of lakhs and crores. The Consumer Protection Bill, 2018 had included "healthcare" in the list of services. The Bill was passed in the Lok Sabha in December 2018, but lapsed in the Rajya Sabha due to continuous demands from various medical organisations to remove "healthcare", among other issues. The New Consumer Protection Act, 2019 removes "healthcare" from the List of Services. There were two lists in the Bill, 2019- Inclusion List and Exclusion List. The Government has just taken "Healthcare" out of Inclusion List, but it has not been included in the Exclusion List. Even as the Act, 2019 grants immunity to doctors from facing cases filed by disgruntled patients and their family members in Consumer Courts, the Indian Medical Association feels that it does not provide blanket protection to doctors. The Act 2019, states that "Services" will include banking, financing, insurance, transport, processing, supply of electrical or other energy, telecom, boarding or lodging or both, housing construction, and entertainment. However, the Act 2019 also says "but not limited to" before listing out the categories of Services, which leaves it open to Judicial Interpretation. In the past, Consumer Forums have penalised Government Doctors who didn't come under the purview of the relevant Act. By the same interpretation, all Services rendered to a Patient by Medical Practitioner are still covered under the CPA, 2019. But the current Act (2019) will not cover when the Services are provided 'free of cost'. That is to say Charitable or Governmental Dispensaries/Hospitals, Primary Health Centres or any other practitioner providing Services free of cost to a patient, will not be covered under purview of CPA,2019. Recently, Good Samaritan guidelines sanctioned by the Supreme Court of India as standing orders, are endorsed by the Ministry of Road Transport and Highways in Motor Vehicle Act,2019.For years, Indians hesitated to help an accident victim and Good Samaritan laws weren't in place to protect the rescuers. Eighty percent of road accident victims in India don't receive any emergency medical care within the so-called "golden hour". Seventy-four percent of bystanders are unlikely to assist a victim of serious injury because of fear of legal hassles, including police questioning and court appearances and many citizens who desired to help victims are unaware of where to take them for emergency trauma care. The concept of such assistance has been incorporated in the recently passed Motor Vehicle Act, 2019.

In the face of the gaps in policy and law, that prevent the effective enforcement of professional duties, the ethical principles of "saving life" and "duty of care", backed by the jurisprudential mandate, can be potent instruments to impel the medical profession to provide ethical care to patients. The legal overtones of this ethical duty were strongly reinforced in a judgement of Parvat Kumar Mukerjee vs. Ruby General Hospital, 2005 decided by the National Consumer Commission, stating that "medical professionals cannot refuse the duty to care".

SURROGACY-**A FERTILITY TOURISM IN INDIA**

Dr. Ajay Kumar Bhatt
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Amity Law School

In India Surrogacy is a very old concept. We must know about Niyoga, that means use of vitality of another male for the purpose of reproduction in ancient India. In Niyoga rights of a husband to reproduce children were wilfully delegated to another male. This can be called a male version of surrogacy. Niyoga was a practice of forming a temporary alliance to reproduce a child, in case the husband was impotent or dead. In Hindu Religion, it is a duty of a man as a husband to provide his wife with a child, only on the completion of this duty, a man can attain Moksha (Salvation). In Mahabharata, Dhritrashtra, Pandu and Vidura were born through the Niyoga system. Not only in Hinduism, such practices can be seen in the form of levirate marriages, mentioned in Christianity, Judaism, Islam and many other religions. The examples of Surrogacy practiced in modern period, are also present in Indian mythology. In Hindu Religion, Kartikeya, the God of War, often termed as the God of Fertility also, was born out of Surrogacy, when seeds of Lord Shiva were cultivated by Ganga to reproduce Kartikeya.

These days Surrogacy is considered noble choice made by certain females to help infertile couples. This is called, in other words, 'reproductive choice'. However, Surrogacy in India is mostly unregulated, and females are being exploited bytheir husbands, IVF Centres and Doctors. Many women in India have no idea about reproductive rights and reproductive health.

The flourishing market of 'fertility tourism' for infertile couples from abroad has gained attraction, particularly in India, the world's top destination for Commercial Surrogacy. The main reasons are low cost and not, yet Government regulated.

Lot of money gets generated from Surrogacy in India, but no one cares for health and consent of Surrogates. Surrogacy Regulation Bill was introduced in Lok Sabha on 15 July 2019 and is yet to be passed as an Act of the Parliament. The Bill bans Commercial Surrogacy.

There is a definite need for women in our country to be educated about their reproductive health and rights. Strong regulationsare required in protecting the wombs from being rented just for the sake of money. Fertility Tourism is a curse and, therefore, must be discouraged through stringent laws.

TWO STALWARTS OF INDIAN NATIONALISM- **GANDHI AND SAVARKAR**

Dr. Santosh K. Tripathi
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Amity Law School

Mohandas Karamchand Gandhi and Vinayak Damodar Savarkar are two characters of India's freedom struggle who have sought much attention not only among the clan of historians but also among the common man. Both have left enough traces of their ideologies, to be discussed by generations to come. In present times there is a lot of discussion and comparison of their respective contributions to the nation and society, particularly after the saffron revolution of the year 2014.

Savarkar's vision of a grand Constitutional Republic, which he proposed in 1908 itself, was years ahead of the Congress resolution of Complete Independence of 1929. His rivalry with Gandhi was deeply rooted in his idea of Hindu Rashtra which means the hegemony of Hindu culture and practices. He also believed that every community living on Indian soil must link its blood and ancestry to its great past as most of the non Hindu religious communities are the neo converts whose ancestors did not come from outside and belonged to this pious land. He, therefore, advocated Shuddhi Movement to bring back Muslims to the Hindu fold. He condemned Gandhi's idea of wooing Muslims through Khilafat like movements, which he believed would excite the aspirations of the Muslims to demand for a Muslim State. Contrary to it, Gandhiji believed that no struggle against the British can succeed unless and until the participation of Muslims was ensured.

Savarkar was revolutionary by nature for which he had to undergo hard sufferings particularly at Kala Pani or Cellular Jail of Andaman and Nicobar Islands. He had turned India House of London founded by Shyamji Krishna Varma into the centre of revolutionary ideas and people. He argued for militant nationalism and, therefore, never denounced use of guns and bombs for seeking freedom. Means were not important for Savarkar in his quest for freedom. On the other hand, the whole struggle of Gandhi for India's freedom was based on righteous means and, therefore, truth and non-violence became his weapons for making India free from the British supremacy. Gandhiji also wanted to make freedom struggle more inclusive by adding all sections of society

Savarkar on one hand romanticized the idea of dying martyr and, therefore, suffered rigorous imprisonment for decades, Gandhi on the other hand condemned the revolutionary way of winning freedom and, therefore, emphasized on passive resistance and mass mobilization as the methods to achieve independence.

LANDMARK DECISIONS BY NINE-JUDGE BENCHES IN **THE HISTORY OF THE SUPREME COURT**

Pranshul Pathak
Coordinator, Assistant Professor,
Amity Law School

1.) The State Trading Corporation of India Ltd v. CTO AIR (1963)

The Bench comprised of B Sinha, Das SK, Gajendragadkar, PB Sarkar, Wanchoo KN, Hidayatullah, KC DasGupta, JC Shah, RajagopalaAyyangar- JJ.

The Bench interpreted the word 'citizen' in a broader perspective and held that the State Trading Corporation although a legal person was not a citizen and can act only through natural persons. It was also observed that certain Fundamental Rights enshrined in the Constitution for protection of "person" (such as the right to equality under Article 14) are also available to a company. Section 2(f) of Citizenship Act, 1995 expressly excludes a company or association or body of individuals from citizenship.

"Even if the State Trading Corporation be regarded as a department or organ of the Government of India, it will, if it be a citizen competent to enforce fundamental rights under Part III of the Constitution against the State as defined in Art. 12 of the Constitution."

2.) Superintendent and Remembrancer Of Legal Affairs West Bengal Vs. Corporation of Calcutta (1966)

The Bench of K. Subbarao, K N Wanchoo, Shah JC, S M Sikri, Bachawat RS, Ramaswami, Shelat JM, Bhargava, VishishthaVaidyalingam- JJ.

The Bench considered whether the State of West Bengal, when it was carrying on a trade, as owner and occupier of the market at Calcutta, without obtaining the license was bound by the Calcutta Municipality Act or by necessary implication was exempted to obtain the license. The court held that an enactment applies to citizens as well as to the State unless it expressly or by necessary implication exempts the State from its operation, steers clear of all the anomalies and is consistent with the philosophy of equality enshrined in the Constitution.

" The State cannot claim the exemption to obtain a license on the ground that the Calcutta Municipal Act does not expressly or by necessary implication to make it binding on the State."

3.) Naresh Shridhar Mirajkar&Ors. v. State of Maharastra (1966)

The Bench comprised of Gajendragadkar, AK Sarkar, KN Wanchoo, Hidayatullah, JC Shah, Mudholkar, Sikri, SM Bhachawat, V Ramaswami- JJ.

The majority held that a Judicial order passed by a Court cannot be challenged as infringing Fundamental Rights.

4.) The Ahmedabad St. Xaviers College v. State of Gujarat (1974)

The Bench comprised of Ray, A.N., Reddy, P.J. & Palekar, D.G., Khanna, Hans Raj Mathew, K.K., Beg, M. H. Dwivedi, S.N., Chandrachud, Y.V. &Alagiriswami, A- JJ.

The Court interpreted the contours of rights of minority educational institutions under Article 30.

"The rights conferred on the religious and linguistic minorities to administer educational institutions of their choice is an absolute right."

5.) Indira Sawhney Etc. Etc v. Union of India &Ors. ("Mandal Commission Case" 1992)

The Bench comprised of M.H. Kania, C.J., M.N. Venkatachaliah, S.R. Pandian, T.K. Thommen, A.M. Ahmadi, Kuldip Singh, P.B. Sawant, R.M. Sahai B.P. Jeevan Reddy- JJ.

The Bench by 6:3 majority upheld 27% SEBC reservation in government jobs, with the exclusion of 'creamy layer'.

"While reserving posts for backward classes, the departments should make a condition precedent that every candidate must disclose the annual income of the parents beyond which one could not be considered to be backward. What should be that limit can be determined by the appropriate State. Income apart, provision should be made that wards of those backward classes of persons who have achieved a particular status in society either political or social or economic or if their parents are in higher services then such individuals should be precluded to

avoid monopolization of the services reserved for backward classes by a few. Creamy layer, thus, shall stand eliminated. And once a group or collectivity itself is found to have achieved the constitutional objective then it should be excluded from the list of backward classes."

6.) Supreme Court Advocates-on-Record Association & Anr. v. Union of India (1993)

The Bench of S. Ratnavel Pandian, A.M. Ahmadi, Kuldip Singh, J.S. Verma, M.M. Punchhi, Yogeshwar Dayal, G.N. Ray, Dr. A.S. Anand, S.P. Bharucha- JJ, gave shape to the "Collegium System" for judicial appointments, by interpreting "consultation " in Articles 124 and 217 as "concurrence".

The Bench held that the role of Chief Justice of India in the matter of appointment of the Judges of the Supreme Court is unique, singular and primal. Neither the CJI not the executive can push through an appointment of the Judges in the Supreme Court in derogation of the wishes of the other.

7.) S.R. Bommai v. Union of India (1994)

The Bench comprising Pandian, S.R., Ahmadi A.M., Verma J.S., Sawant, P.B., Ramaswamy, K., Agrawal S.C., Yogeshwar Dayal, Jeevan Reddy, K Singh discussed restrictions on imposing Presidential Rule under Article 356 of the Constitution.

" Article 356 of the Constitution confers a power upon the President to be exercised only where he is satisfied that a situation has arisen where the Government of a State cannot be carried on in accordance with the provisions of the Constitution. Under our Constitution, the power is really that of the Union Council of Ministers with the Prime Minister at its head. The satisfaction contemplated by the article is subjective in nature."

8.) I.R.Coelho (Dead) by Lrs v. State of Tamil Nadu (2007)

The Bench of the then CJI Y.K. Sabharwal, and Justices Ashok Bhan, Arijit Pasayat, B.P. Singh, S.H. Kapadia, C.K. Thakker, P.K. Balasubramanyan, Altamas Kabir, D.K. Jain considered the immunity of laws included in the Ninth Schedule, when they infringe Fundamental Rights.

It was observed:"A law that abrogates or abridges rights guaranteed by Part III of the Constitution may violate the basic structure doctrine or it may not. If former is the consequence of the law, whether by amendment of any Article of Part III or by an insertion in the Ninth Schedule, such law will have to be invalidated in the exercise of judicial review power of the Court."

9.) Justice K.S. Puttuswamy (Retd.) v. Union of India (2017)

The Bench in this case comprised of the then CJI J S Kehar, Justices Chelameshwar, S A Bobde, R K Agarwal, R F Nariman, A M Sapre, D Y Chandrachud, S K Kaul and Abdul Nazeer-JJ.

This Bench delivered the landmark verdict declaring "Right to Privacy" a Fundamental Right under Article 21 of the Constitution.

"The right to privacy is protected as an intrinsic part of the right to life and personal liberty under Article 21 and as a part of the freedoms guaranteed by Part III of the Constitution."

The Bench unanimously held that the Right to Privacy is a Fundamental Right protected under the Constitution of India. The petition challenged the constitutional validity of the Government's Aadhaar scheme on the ground that it violates the Right to Privacy. This decision has been recognized as being of great legal and political significance.

DATA PROTECTION BILL: **AN OVERVIEW**

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Associate Professor,
Amity Law School

With technology influencing every facet of life around us, and the quantum of personal information being shared online or offline, it has become essential, and at the same time crucial, to strike a balance between the cultural revolution brought about by this very digital transformation and the associated implications of personal data protection. With most organizations on a digitization spree, PDPB is a valuable step towards a sustainable solution that would aid India in strengthening its personal data.

As the future comes with exciting technological possibilities, the same technology also helps us create safer methods, helping us to eliminate vulnerabilities, the brighter side of the technology wedge, as it were. Disruptive technologies, such as quantum computing, block chain used in financial technology, or artificial intelligence (AI) being used in every kind of industry, could address and solve some of the human errors that create problems in technology today. Machine learning increases the capacity to make innumerable inferences about individual consumers and their choices. Marketing and promotional companies now have the capability to predict what television shows viewers will want to watch and what brands consumers will want to spend most on.

The Personal Data Protection Bill (PDP Bill) is India's first attempt to domestically legislate the mechanisms for the protection of personal data and aims to set up a Data Protection Authority in the country. The Bill regulates the processing of citizens' personal data by Government, companies incorporated in India, and foreign companies that are dealing with personal data of customers in India. Through the proposed law, the Government of India is rooting for data sovereignty by mandating certain class of data to be stored within Indian borders.

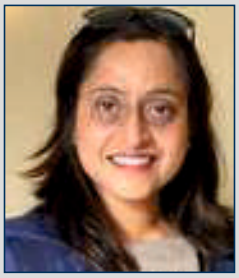
On August 24, 2017, a Constitutional Bench of nine Judges of the Supreme Court of India, in Justice K.S.Puttaswamy (Retd.) v. Union of India upheld that privacy is a Fundamental Right, which is entrenched in Article 21 [Right to Life & Liberty] of the Constitution. This led to the formulation of a comprehensive Personal Data Protection Bill, 2019. However, this draft serves a political economy which at first blush appears attractive in its promise of taking us away from the dull maxims of constitutionalism and delivering us a digital utopia.

Hence, on a broader read, the Data Protection Bill is not a leaky oil barrel with large exceptions, but it is a perfect one as the bill provides a preventive framework for the collection and use of personal data. No entity can collect a person's data without their consent, and higher requirements apply for processing "sensitive personal data". Unless the user consents, personal data cannot be stored and processed except for the purpose it was collected for. Businesses who collect data have to comply with a number of requirements, including security and transparency, segregation of different types of data, and conducting data audits.

The enactment of the Bill will effectuate a shift in the data protection framework in India. It will also impose substantial compliance requirements on entities processing personal data of individuals. These include organizational obligations such as a data trust score, data protection impact assessment, annual data audits, appointment of a Data Protection Officer and a transparent mechanism for data processing to enable access by data principals.

While the Bill is a milestone in the evolution of data privacy norms in India, certain provisions, imposing data localization and restricting cross-border data flows, stand out as onerous and may act as deterrent to the growth of data-intensive products and services in India. It is hoped that the final version of the law is able to secure a free and fair digital economy that empowers Indian citizens.

TWO TAX REGIMES: **WHICH ONE TO CHOOSE**



Ms. Monica Yadav
Associate Professor,
Amity Law School

Before announcing a multi-tiered simplified tax regime for the tax payers. Finance Minister Ms. Nirmala Sitharaman in her budget speech said that, "Currently the Income Tax Act is riddled with various exemptions and deductions which make compliance by the taxpayer and administration of the Income Tax Act by the tax authorities a burdensome process." The Finance Minister did not do away with the existing tax regime and said that Individuals and Hindu Unified Families (HUF) have the option to pay tax as per the new regime under reduced rates with almost no exemptions/ deductions currently available or continue with the old regime with higher rates.

- The rates of income-tax in the case of Individuals or HUFs are as under:

  - Upto Rs. 2,50,000 Nil.
  - Rs. 2,50,001 to Rs. 5,00,000 5 per cent.
  - Rs. 5,00,001 to Rs. 10,00,000 20 per cent.
  - Above Rs 10,00,000 30 per cent.

- In the case of every individual, being a resident in India, who is of the age of sixty years or more but less than eighty years at any time during the previous year:

  - Upto Rs. 3,00,000 Nil.
  - Rs. 3,00,001 to Rs. 5,00,000 5 per cent.
  - Rs. 5,00,001 to Rs. 10,00,000 20 per cent.
  - Above Rs 10,00,000 30 per cent.

- In the case of every individual, being a resident in India, who is of the age of eighty years or more at any time during the previous year:

  - Upto Rs. 5,00,000 Nil.
  - Rs. 5,00,001 to Rs. 10,00,000 20 per cent.
  - Above Rs 10,00,000 30 per cent.

- The new rates as proposed by the Finance Ministry, by insertion of Section 115BAC in the Income Tax Act, 1961 which provides that on satisfaction of certain conditions, an Individual or HUF shall, from assessment year 2021-22 onwards, have the option to pay tax in respect of the total income at following rates:

  - Upto 2,50,000 Nil.
  - 2,50,001 to 5,00,000 5 per cent.
  - 5,00,001 to 7,50,000 10 per cent.
  - 7,50,001 to 10,00,000 15 per cent.
  - 10,00,001 to 12,50,000 20 per cent.
  - 12,50,001 to 15,00,000 25 per cent.
  - Above 15,00,000 30 per cent.

The option shall be exercised for every previous year where the individual or the HUF has no business income, and in other cases the option once exercised for a previous year shall be valid for that previous year and all subsequent years.

The option shall become invalid for a previous year or previous years if the Individual or HUF fails to satisfy the conditions and other provisions of the Act shall apply;

The condition for concessional rate shall be that the total income of the individual or HUF is computed without any exemption or deduction under the various provisions of the Income Tax Act, 1961.The new tax policy has close to zero exemptions.

It is up to the taxpayers to choose the regime under which they would like to file their taxes. According to some experts, in theory, the new regime with lowered rates and lesser complications may seem attractive to taxpayers. However, considering the overall tax benefits a person can avail under current exemptions and deductions, they may end up paying a higher tax amount overall under different slabs.

Ravi Tanna, a Chartered Accountant practising in Rajkot (Table 1) opined that even with a higher tax rate, considering the most common deductions and exemptions, a taxpayer will pay a lower tax amount overall as per the old regime.

Analysis of tax benefit / loss to the taxpayers with housing loan Deduction hats off to the intelligence of FM			
	Old Rate	New Rate	Tax Benefit
Total Income	7,50,000.00	7,50,000.00	
Less: Housing Loan Interest	(2,00,000.00)	-	
Deduction u/s 80C	(1,50,000.00)	-	
Deduction u/s 80D	(25,000.00)	-	
Taxable Income	**3,75,000.00**	**7,50,000.00**	
Tax Payable	-	**37,500.00**	**(37,500.00)**
Total Income	10,00,000.00	10,00,000.00	
Less: Housing Loan Interest	(2,00,000.00)	-	
Deduction u/s 80C	(1,50,000.00)	-	
Deduction u/s 80D	(25,000.00)	-	
Taxable Income	**6,25,000.00**	**10,00,000.00**	
Tax Payable	**37,500.00**	**75,000.00**	**(37,500.00)**
Total Income	12,00,000.00	12,00,000.00	
Less: Housing Loan Interest	(2,00,000.00)	-	
Deduction u/s 80C	(1,50,000.00)	-	
Deduction u/s 80D	(25,000.00)	-	
Taxable Income	**8,25,000.00**	**12,00,000.00**	
Tax Payable	**77,500.00**	**1,15,000.00**	**(37,500.00)**
Total Income	15,00,000.00	15,00,000.00	
Less: Housing Loan Interest	(2,00,000.00)	-	
Deduction u/s 80C	(1,50,000.00)	-	
Deduction u/s 80D	(25,000.00)	-	
Taxable Income	**11,25,000.00**	**15,00,000.00**	
Tax Payable	**1,50,000.00**	**1,87,500.00**	**(37,500.00)**
Total Income	17,50,000.00	17,50,000.00	
Less: Housing Loan Interest	(2,00,000.00)	-	
Deduction u/s 80C	(1,50,000.00)	-	
Deduction u/s 80D	(25,000.00)	-	
Taxable Income	**13,75,000.00**	**17,50,000.00**	
Tax Payable	**2,25,000.00**	**2,62,500.00**	**(37,500.00)**

https://www.thehindubusinessline.com/economy/budget/old-vs-new-tax-regime-heres-all-you-need-to-know/article30713454.ece

The above Table takes into consideration the most common exemptions and deductions availed by most Individual taxpayers. However, Experts say that the tax regime has now become very taxpayer specific. Each taxpayer will have to study his/her specific situation at the start of the financial year and then decide whether to opt for the new or the old regime and the benefit of the old or new regime would have to analysed on a case to case basis.

The new regime may be preferable to Individuals like senior citizens or first-time taxpayers who do not have home loans and are not able to avail the deductions under Sections 80C & 80D. Another important aspect to be considered while comparing the two regimes is the immediate cash-flow for the taxpayers.

To avail the benefits of the old regime, which in theory does lead to a lower payable tax amount, one must consider the cash crunch caused when money is invested in different schemes to avoid tax liability. The taxpayer avails the benefits of these investments after a year when they file their returns. Hence, the new scheme may appear attractive to some as they pay only the tax amount every month as compared to having their money blocked in investments for a year.

While the new tax regime is simpler, the decision whether to opt for it is not. DGM, Taxmann.com, Naveen Wadhwa believes that every taxpayer should check which exemptions and deductions he/she are eligible for and then do the calculations on whether their tax liability will be lower in the new regime or the old one.

SIM SWAP FRAUDS AND **PREVENTIVE MEASURES**

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Amity Law School

Introduction: SIM Card, now sharpened as a new cyber weapon for virtual offenses, has proved to open doors of new Scams. SIM Swapping or frequently switching of mobile SIM often confuses the Mobile Network Carrier (MTN) which their materially affect their services and pose difficulty in tracing the real ID of a user. Cyber criminals generally use multiple SIMs for commission of traditional or cyber offense directly or indirectly or use SIM as a tool or mean for commission of same. Now the SIM Swapping, SIM Replacement Scams are increasing day by day.

Meaning of SIM Swap Scam:

SIM Swap Scam is a "form of fraud, which includes the registered perpetrator having an already mobile no. of a 'mobile network service provider', also having another new SIM Card with the same registered number or from another mobile network service provider. That is generally used for 'interception of notifications, OTPs, net banking, security of accounts, e-transactions with a view to the commission of theft for client, with pre-notification or receiving information too late."

SIM Swap can also be done with the objective of committing other acts for, e.g. sending a heavy voice or internet bill which the user is bound to pay. SIM Swap is principally an act to defraud others and causing wrongful loss to them.

Modus Operandi of SIM Swap Scams:

The modus operandi of 'SIM Swap Scam' is very complex to decode. Phase one generally includes the act of a criminal trying to gain the credentials of a person especially that which relating to his Net-banking profile. This is often done by sending phishing emails by following a usual mode of 'SMiShing', which means sending SMS on mobile phone or vishing, that is conducted through voice call, to obtain username, id or password of bank account. Generally it is achieved if the person gives reply to the mail, SMS or voice call from the perpetrator. It can also be done by making you visit a phishing website, that means proxy or fake website, and entering your login id or password. Another modus operandi of this scam, is when the perpetrator collects critical information from Mobile Network Operators and attempts to trace user's mobile number. It can also be achieved through social engineering. It can be done with a call or SMS to extort the user's information e.g. name, ID, address and unique information of the user's SIM. After collection of the same, persuade the user for SIM replacement or revival of damaged or lost SIM Card. Alternatively, instead of following the above long-lengthy process, the perpetrator manages the information through an accomplice employed with the mobile network service provider.

How to avoid becoming a victim of a SIM Swap Scam

- Make sure to become familiar with existing Scams by reading appropriate blogs, forums, or articles in newspapers, so when we see such email or SMS in our inbox, we know it is bogus.
- Don't ever reply to suspicious emails. Banks would never ask us to provide any confidential information through email.
- Don't ever click on links that may lead to phishing websites-websites engineered to appear and operate like the official website. These may download a virus on to your PC, just by visiting them, which could serve as another means of obtaining our banking account password(s).
- Use common sense. If an email is received claiming to be from bank, ask yourself if this is the same email address associated with your online banking account?
- Don't use publicly visible email addresses for banking. Use a secure, private email address that nobody but you and your bank only knows.
- Always visit the official website of a bank by typing in address bar. Bookmarking the website isn't safe because there are forms of malware that could tamper with bookmarks so that they redirect us to phishing websites.
- Always log in to your online banking profile via the official website. There are ways to make sure that it's the official website. not only by looking at the URL but by checking the security certificate, which usually appears in the form of a padlock in your browser. We could even lookup the website on a database, which would confirm whether it is safe or not.
- Change your online banking passwords frequently, at least once every 3 months: and make sure it's a strong password too.
- Don't answer calls or reply to SMSes from numbers you are not familiar with.
- Even though it may be tempting to put your phone on silent or switch it off when multiple calls come through, it may not be the best idea, as this is exactly what the criminal may want you to do so that you don't notice anything strange going on with your phone.
- Take note of the number, the call or SMS came from. You can then look up this number on smscodes.co.za or even contact your mobile network operator and check with them for more information.
- Consider joining a bank that gives you better security when it comes to banking, especially with online and cell phone banking. Some banks are known for not being secure with the features they provide. The same could be said for some cellular networks.
- If the bank only offers two-step verification security that relies on using a mobile phone to access your account, then check whether or not you can set a backup number or an email address where you can at least receive notifications.

RAPE LAWS: **RUDENESS OF THE SYSTEM TOWARDS LAW**

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"RAPE" is one of the most heinous crimes of today and in the recent past its commission has escalated. The Rape Laws though have evolved but still seem to lack in protecting the Rape Victims as even reporting the crime becomes nearly impossible for the victim due to the humiliation he/she faces from the police and later from the society. The rigidity of the Laws is not sufficient to curb this evil and there is a need to strengthen the administration of the existing Laws. If we find out where the workings of the Police and the Judiciary have failed, then it becomes easy to find the solution for the problem. According to the Supreme Court of India, it is mandatory to record an FIR in rape cases as soon as the victim approaches the Police, however, it is not happening in rural areas and they have to approach Officers and Politicians for the same.

Further, to check the violation of Law and social control, the most significant instrument is Criminal Law as it prohibits the criminal human conduct through procedures and penalties. In India, it has become important to not only see rape as a legal problem but also as a social issue. Being a patriarchal society, females have never been considered as the first class citizens of the nation and they, from the very beginning, are either taught or they learn to be submissive and docile. This is one the major reasons that the number of rape cases reported are not even one-third of the total number of rape incidents. Therefore, it is not surprising that the Indian Penal Code, 1860 has been ignorant of the concept of 'consent' being important for a really long time as the Rape Laws initially were not stringent and the general notion has been that strict Laws can only prevent crimes from being committed. The first major amendment in the definition of Rape came after the Mathura Rape Case in this case, the culprits were set free because the prosecution could prove that the victim was habitual to sexual intercourse and there was no sign of any injury or any struggle on the victim's body. The Lawyers revolted and were of the view that the Court didn't not rely on the hard evidence and, therefore, its decision was not only biased and influenced by the cultural taboo of pre-marital sex, resulting in interpreting 'submission' during rape as 'consent'. The protests from different sections of the society, that is, the Lawyers, Women, NGOs etc., led to the amendment in Section 114(A) of the Indian Evidence Act in 1983 wherein the term 'Custodial Rape' was introduced to prevent the public servants from raping women in their custody. Furthermore, in Sakshi v. Union of India , a PIL was filed which contented that rape victims were not comfortable in discussing or reporting Rape due to the fear of humiliation during cross-examination. This resulted in reviewing of the Rape Laws and it was observed that discrediting the rape victim's testimony was the cause of hesitation of the rape victims in filing FIR. Hence, the provision was amended and direct cross-examination of rape victims by the advocates was prohibited thereafter. If the cross examination is inevitable then such questions or questions which may be humiliating can be asked by the Presiding Officer only. .

Additionally, Criminal Law today has taken into consideration the protection of the classes which are easily enticed and can be persuaded easily, that is, minor and weak minded against such abuses and crimes. The POCSO Act was a result of this and was made to include special cases of assault of children. This Act is a gender neutral and also the cases of such assault have been fast tracked.

Another horrific incident of Rape was the Nirbhaya Case of 2012, which shook the Nation and raised a lot of fingers on the Government and the Judiciary. The Fundamental Rights of the Women were now in even graver danger. Consequently, the existing Rape Laws and the definition of 'Rape' were amended to cover all the crimes against women like stalking, acid attacks, voyeurism etc. The punishment for Rape has been increased from 7 years to 10 years and in extreme cases of death of the rape victim or vegetative state of the victim, the sentence has been enhanced to 20 years. Apart from this, the Criminal Law (Amendment) Act, 2013, also stated that rape victim's character was irrelevant and immaterial in such cases. It also amended the age of the accused in violent crimes like Rape and Murder from 18 years to 16 years. In Lalita Kumari vs. State of U.P. (2013) , the Supreme Court observed that the situation will improve if strong actions are taken against the Police Officers who did not record the FIR in rape cases. Even, the Indian Judicial System is very time consuming as it follows very obsolete Laws wherein the decision comes but not justice. The main reason behind this is the lack of willingness in the Judicial System as even after a long investigation process, the matter gets stuck in Court's puzzle. So to curb this evil we should not emphasize on increasing the number of Judges but we have to reduce the number of cases. Law should not only punish the wrongdoer but also fake litigants.

Another major case which stirred outrage among the people was the Kathua Rape Case wherein an 8 year old girl was raped and murdered. The incident was so brutal that it raised protests against the Government and forced it to address the issue urgently. Resultantly, Criminal Law (Amendment) Ordinance was passed within 3 months of the incident. The most important change was made to POCSO as the crime was against a child. As per the amendment, punishment of minimum 20 years of imprisonment was to be given in case of rape of a child below 16 years of age and in case of rape of a child below 12 years, Death Penalty is provided. The Fast Track clause was also altered to 6 months from one year. The Ordinance, however, is not free from flaws and loopholes but Death Penalty to the person accused of Rape is a welcome step.

In the past two decades the Indian Criminal Laws have evolved tremendously. From being pro-accused, they have become pro-victim. But it is disheartening to note that even with the increase in rigidity and strictness of the Laws, 'the crime' still persists. Along with the atrocities which are faced by rape victims, they have been fighting with the system also. In a country where in case of emergency a Law is made in a fortnight it is high time that women feel safe and secure in the society. A society where women are not free and safe is a crippled society and, therefore, far away from development. The need of the hour is to have Fast Track Judicial System instead of Fast Track Courts, only then the dream of building a new and safe India will be fulfilled for all and particularly women and poor segment of the society. It is the system which needs reformation all together so as to give a safe haven to the victims of such crimes and the population in general.

ARTIFICIAL INTELLIGENCE-AIDED LAW INTERPRETATION: **BOON OR CURSE TO INDIAN LEGAL SYSTEM**

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Courts adhere to the directive to promote accessibility and re-use of public sector information and publish considered cases online, and this widens the door for Artificial Intelligence-Aided Law Interpretator. Application of Artificial Intelligence to Legal Informatics was always a key concern for Computer Science and Engineering .After a long research and deliberation ,AI experts from IIT Kharagpur have attempted a novel Artificial Intelligence-aided model to automate the summarization of a legal document and extraction of information by implementing Machine Learning technique and statistical tool. Though the idea of automation and semi-automation of the legal domain belong to Manupatra, SSC Online and LexisNexis since the early 90s but this distinctive model is expected to equip Indian Legal System and various stakeholders such as firms, corporations with cost effective Legal Consultancy.

Globally adopted AI model is based on:

- Application of theories of legal decision making (Precedents).
- Models of Argumentation.
- Knowledge, Representation and Case-based Reasoning.
- Consideration of social organization based on multi-agent system norms (dealing with obligations, permissions and prohibitions).
- Need of storing conceptual information and retrieve large amounts of textual data and intelligent databases.

Advantage of Applications of AI to Legal Informatics

For a country like India, using common law system prioritizes the doctrine of legal precedent over statutory law, and where legal documents are often written in an unstructured way, the AI can bring phenomenal difference. In Technologically Advanced Nations AI simulates certain cognitive processes of Legal Intellectuals, AI offers multiple benefits including convenience, efficient solution, and freedom from mundane work and expedite fact findings. Here are some examples of legal tasks AI can automate.

- Advice layman about violation of Laws and its implications in future.
- Predicts legal outcomes and guide the parties on favorability of taking a particular situation to court, so that legal costs can be minimized.
- Conduct several downstream tasks such as summarization of legal judgments, legal search, case law analysis and other functions.

International Perspectives of Artificial Intelligence-aided model

Globally, in countries such as US, Britain, Japan, Singapore and Australia, Artificial Intelligence is being used to perform Legal Research, Documentation Review during litigation and conduct due diligence, analyze contracts to determine whether they meet pre-determined criteria and to even predict outcomes.

Conclusion

Artificial Intelligence-aided Law model can appear as bloom especially in countries like India where Judges are short in number and pendency of cases is large. However, AI Model except in Legal Search seems to be less trusted by Legal Fraternity in India and will take a decade to become part and parcel of Advocacy. Notwithstanding that, there is a need to encourage Indian Legal Fraternity to adopt AI model for legal proficiency and to recompense progression stage toil of their client.

In future, I expect AI Model will be equipped with Classified Tax Commandment based on old judgments and also a day might come when this model will help Police in interrogation with psychological based questionnaire and will establish distinctiveness of hard core, general, professional criminals and others using their replies to questions.

MEDICAL TERMINATION OF PREGNANCY **(AMENDMENT) BILL, 2020: AN ANALYSIS**

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On January 29, 2020, the Union Cabinet approved Medical Termination of Pregnancy (Amendment) Bill, 2020. The Bill aims to amend the Medical Termination of Pregnancy Act, 1971 and is to be introduced in the coming Session of Parliament.

In order to increase access of women to safe abortion services and taking into account the advances in medical technology, the Ministry of Health and Family Welfare has proposed amendments after extensive consultation with various stakeholders and several ministries.

Salient features of proposed Amendments:

- The Bill proposes the requirement of the opinion of one registered medical practitioner (instead of two or more) for termination of pregnancy up to 20 weeks of gestation (foetal development period from the time of conception until birth).
- It introduces the requirement of the opinion of two registered medical practitioners for termination of pregnancy of 20-24 weeks of gestation.
- It has also enhanced the gestation limit for 'special categories' of women which includes survivors of rape, victims of incest and other vulnerable women like differently-abled women and minors.
- It also states that the "name and other particulars of a woman whose pregnancy has been terminated shall not be revealed", except to a person authorised in any law that is currently in force.

What is the Need for the Amendment?

- Currently, women seeking to terminate the pregnancy beyond 20 weeks have to face a cumbersome legal recourse. This denies the reproductive rights of women (as abortion is considered an important aspect of the reproductive health of women).
- Obstetricians argue that this has also spurred a cottage industry (kind of informal industry) of places providing unsafe abortion services, even leading to the death of the mother.

  As a result, a 2015 study in the India Journal of Medical Ethics noted that 10-13% of maternal deaths in India are due to unsafe abortions. This makes unsafe abortions to be the third-highest cause of maternal deaths in India.

- According to Section 3 (2) of the MTP Act, 1971 a pregnancy may be terminated by a registered medical practitioner:

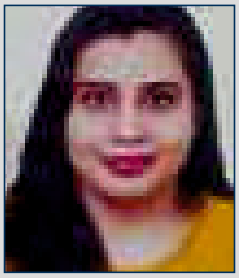
a. Where the length of the pregnancy does not exceed twelve weeks, or

b. Where the length of the pregnancy exceeds twelve weeks but does not exceed twenty weeks. In this case, the abortion will take place, if not less than two registered medical practitioners are of opinion, that the continuance of the pregnancy would involve a risk to the life of the pregnant woman (her physical or mental health); or there is a substantial risk that if the child were born, it would suffer from some physical or mental abnormalities to be seriously handicapped.

- One of the criticisms of the MTP Act, 1971 was that it failed to keep pace with advances in medical technology that allow for the removal of a foetus at a relatively advanced state of pregnancy.
- The original law states that, if a minor wants to terminate her pregnancy, written consent from the guardian is required. The proposed law has excluded this provision.

It is a step towards the safety and well-being of women and many of them will be benefitted from this. Recently, several petitions were received by the Courts seeking permission for aborting pregnancies at a gestational age beyond the present permissible limit on grounds of foetal abnormalities or pregnancies due to sexual violence faced by women. The proposed increase in gestational age will ensure dignity, autonomy, Confidentiality and justice for women who need to terminate the pregnancy.

MEDIA ACCOUNTABLITY - **NEED OF THE HOUR**



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Today, due to empowerment of citizens, commercialisation and increasing digitalized information flow a new demand has been posed on journalistic quality and professional legitimacy. In a rapidly changing world, professional journalism is confronted with a call for more public accountability, as is the case with many other sectors. In western societies, journalism is a free and privileged profession, and the issue of journalistic quality is traditionally a matter of professional self-regulation and market forces. In developing countries, the installation of self-regulatory bodies is traditionally seen as an indicator for professionalization. However, some argue that professional self-regulation has not been adequate and that commerce is rather deteriorating than improving the profession. The notion of declining journalistic quality is gaining ground within media policy, as we witnessed in policy suggestions towards stricter regulation of the press when, the previous Chairman of the Press Council of India, former Justice of the Supreme Court, Justice M. Katju, argued that television and radio need to be brought within the scope of the Press Council of India or a similar regulatory body. Internationally, existing professional organisations like press councils and journalists' unions discard external media regulation and consecutively articulate the importance for journalism of being transparent and responsive towards the audience.

In general terms, media accountability theory addresses the question how media performance is regulated. In the 'professional responsibility frame', media accountability is a matter of internal self-regulation. Journalists are primarily accountable to their colleagues, and quality is regulated by, for instance, daily newsroom discussions, in media journalism or in press council hearings. In the 'legal-regulation frame', media performance is regulated by law and governmental media policy. This functions for instance when news persons who feel harmed by media go to court, or when public media services are audited. The 'market frame' translates media performance in commercial forces, where customer behaviour is the essential mean for holding media to account. Another way of determining accountability is in the voluntary and critical interaction between journalists and news users about journalistic performance. Unfortunately, the concept accountability in our country is notorious for its ambiguity. The conceptual ambiguity is clearly serving as a weak spot in the argument for self-regulation. Some journalists claim their profession is the most transparent of all because it is performed in the public sphere and inevitably will be corrected by a critical audience; others however, criticize the profession for hiding behind a facade of pretended openness.

Moreover, in India there exists an age-old dilemma between freedom of expression including the essential requirement in democracy to have free and vibrant mass media and any form of accountability to society and the public at large, which has become more complex and more urgent at once. And so, there is general agreement now that the mass media have become monsters of sorts, self-righteous and deprived of self-criticism, sensationalist and scandal-obsessed, often irresponsible and generally insensitive. It is not as if these general tendencies have not been commented upon. There was widespread public condemnation of the crassly insensitive and even downright dangerous handling of the terrorist attacks in Mumbai in November 2008. More recently, there have been careful investigations into and shocking exposes of the growing phenomenon of paid news, which increasingly mocks at any pretence of objective and honest reporting. Yet nothing seems to make any difference. Despite all the criticism and complaints, often aired within the same media, there has been hardly any change in the general manner of functioning, especially of the more popular media. The explicit desire to sensationalise and the implicit but equally strong desire to present the news in ways that suit their corporate bosses have come to define the way that most mass media in the country operate today. There is a need to think of new, creative ways to make sure that our media are accountable to the general public, including those without any political voice.

So, the question that more and more people are asking is: how do we ensure accountability of the mass media, some way of making them work for the public good? Almost all the other major institutions of our democracy are coming under some form of scrutiny and public accountability, only the media themselves, who appear to be the arbiters of the fate of all the others, seem to be exempt from any kind of answerability, except to their owners and advertisers.
The problem is compounded with the new media growing apace and often without even the loose self-regulation that characterises other more established media. In the case of online media, their power has increased greatly without them having to answer to anyone, because at present it is not even clear who they would have to answer to.

The solution cannot really be state regulation, because of the inevitable conflicts of interest and propensity of governments to try and control unfavourable media presentations. And, of course, there can never be complete certainty or unanimity on what the public interest actually is. The issue is a thorny one and not easily resolved, also because, ideas of accountability are not easily applied to a typical mass media situation, because power is so imbalanced. Media publishers have the means and the power to publish at will, protected by legal rights and with no formal obligations beyond those to their shareholders, within the limits of the law. There is no generally shared framework of normative principles that is strong enough to justify claims against the media that go beyond some very basic legal rights. Claims also vary widely in their reference, some concerning individual matters where law may provide support, others referring to broad public issues that are not covered by law or regulation. In the latter case, most accountability claims can be rejected or ignored.

Yet, because the problem is getting so much worse and because self-regulation does not seem to have made much impact, we urgently need to think of new and creative ways to make sure that our media are actually accountable to the general public, including those without any political voice to speak of. The old dilemma, of who will guard the so-called guardians (of democracy) themselves, has never been so pressing.

ARTICLE 370 AND THE CURRENT SITUATION

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A few months ago, India underwent a major constitutional and political change, as the Central Government, through a Presidential Order, revoked Article 370. The Order was followed by the passing of The Jammu and Kashmir Reorganisation Act, 2019 through which the State of Jammu and Kashmir has been downgraded to two Union Territories namely Jammu & Kashmir and Ladakh.

The Government has justified its move by arguing that Article 370 was the root of terrorism in J&K, stalled its development, prevented proper Health Care and Education and blocked Industries; and it was, therefore, necessary to integrate the region with the rest of India and develop it.

SIGNIFICANCE OF ARTICLE 370 AND CHANGES BROUGHT BY ITS ABROGATION

The Article allowed the State a certain amount of autonomy- its own Constitution, a separate Flag and freedom to make laws. Foreign Affairs, Defence and Communications remained the preserve of the Central Government. As a result, Jammu and Kashmir could make its own rules relating to Permanent Residency, Ownership of Property and Fundamental Rights. It could also bar Indians from outside the State from purchasing property or settling there.

The State of Jammu & Kashmir will no longer have a separate Constitution but will have to abide by the Indian Constitution much like any other State. All Indian laws will be automatically applicable to the people residing there, and people from outside the State will be able to buy property there.

CAN ARTICLE 370 BE ABROGATED?

Article 370 mandates a recommendation of the State Constituent Assembly before the President of India can declare it inoperative. The State Constituent Assembly was dispersed after framing the Constitution of Jammu & Kashmir in 1957, without, however, making any such recommendation. The Government vide the Presidential Order amended Article 367 of the Constitution according to which the expression 'Constituent Assembly of the State' as used in the Constitution is now to be read as 'Legislative Assembly of the State'. This in effect means that under Article 370, the President now requires the consent of the Legislative Assembly of the State and not the Constituent Assembly.

An important question that is bound to arise is why the Government amended Article 367 (interpretation clause) and not Article 370 itself. The answer is twofold. First, the erstwhile language of Article 370(3) did not allow the President to amend it without the concurrence of the Constituent Assembly, therefore the Government cleverly changed the meaning of the expression 'Constituent Assembly' itself, to the 'Legislative Assembly of the State'. Second, since the last few months, J&K was under the Governor's Rule which meant that the Governor has the power to assume to itself the functions and powers of the Government of the State (Section 92, Constitution of J&K).

The Central Government can argue that since, the powers of the Government of the State were currently with the Governor (including powers of the Legislative Assembly); he could grant consent as required under Article 370 for ceasing the operation of the provision. The Presidential Order is tantamount to the President doing indirectly what he cannot do directly i.e. amending Article 370 through Article 367 because he has no power to amend Article 370 directly.

GOVERNOR HAD POWER TO GRANT THE CONSENT UNDER ARTICLE 370(3)

As per Section 92(1) of the J&K Constitution, every proclamation made by the Governor during the Governor's Rule needs to be tabled before the State Assembly as soon as it is convened. The Governor can only take temporary actions and actions with permanent consequences are to be taken by the State Assembly only.

The Hon'ble Supreme Court in Prem Nath Kaul v. State of J&K (1959), while discussing the Article, opined that our Constitution makers assigned great importance to the final decision of the Constituent Assembly under Clause 3. The justification for this could be that the makers wanted to vest in the Constituent Assembly, the task of protecting the State from acts of the Central Government, that are not in the State's interests.

In the controversy at hand, the Governor could not have acted as the Guardian envisaged under the Article, as it was answering to its political appointee and would have the interest of the Centre in mind as against the interests of the State. The Government has time and again reiterated that Part XXI of the Constitution which contains Article 370 is temporary in nature as evidenced from its title i.e. Temporary, Transitional and Special Provisions.

While this is true, one cannot ignore that this Part is as integral to the Constitution as any other, as held by the Supreme Court in Raghunath Ganpat Rao v. Union of India (1994). Therefore, to see such an integral part of the Constitution being erased from existence in an unconstitutional matter, without any debate or discussion is shocking. Multiple Supreme Court decisions have established that Article 370 is a permanent provision precisely because the Constituent Assembly of Kashmir dissolved itself without making such a recommendation.

The Law recognises acts of omission (in this case, not recommending the abrogation of Article 370). That is to say that by dissolving itself without recommending abrogation, the Constituent Assembly of J&K made clear its intention to not abrogate Article 370.

CONCLUSION

The Government's action is, from a legal standpoint, clever. But it is perhaps a bit too clever as the abrogation of Article 370 was a historical promise. Prime Minister Nehru himself agreed that Article 370 would be rendered obsolete by the passage of time.

The abrogation move may bolster the government's ability to make the fruits of India's economic progress directly available to Kashmir. Yet, the manner in which this has been done is unlikely to inspire trust in the ordinary Kashmir and may well cause lasting damage to the tradition of Constitutional propriety. I wish to state that any act no matter how righteous when done in violation of the Principles of the Constitution is an act of Constitutional impropriety and liable to be quashed.

In sum, a purported process to change the constitutional status of a sensitive border State has been achieved without any Legislative input or representative contribution from its people. The bifurcation of States in the past cannot be cited as a binding precedent as, under Article 3 of the Constitution, the President seeks the views of the Legislature of the States concerned, even if concurrence is not mandatory.

In the present scenario, J&K has been represented by an unelected Governor appointed by the Centre, while Parliament has ventured to ratify the conversion of a State into two Union Territories without any recommendation from the State.

True, the special status of J&K was meant to end, but only with the concurrence of its people. The Centre's abrupt move disenfranchised them on a matter that directly affected their life and sentiments. Moreover, this was done after a massive military build-up and the house arrest of senior Political Leaders, and the communications shutdown reveals a cynical disregard of democratic norms.

CLEARING THE AIR ON BS-VI: **BHARAT EMISSION STANDARD 6**

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Indian auto industry is at the Final stage of transitioning from BS4 to BS6 emission norms which will be implemented fully from April 2020. This transition can be considered as a landmark and milestone technological leap which country's auto industry is taking towards clean air.

Before we go further into details of its advantages and disadvantages, we need to understand what it is and why it is important for World and not only for India. 'Bharat stage Emission Standards (BSES)' are the emission standards inducted by the Indian Government to curb and control the output of air pollutants from combustion engines and Spark-ignition engines equipment, including automobiles.

In year 2000, First time Indian government introduced Emission Norms and they were called Bharat Stage (BS) norms. These norms were derived from European emission standards. Following to that, subsequent iterations, BS2, BS3 and BS4, also got implemented in 2001, 2005 and 2017 respectively.

While India implemented BS4 norms in 2017, the other European countries had already implemented Euro-6 (equivalent to BS-6) in 2015 itself. To maintain the pace with the global level, Indian government decided to skip BS-5 and directly achieve the BS-6 level. After much discussions, deliberations and extensions, the deadline for BS-6 norms implementation was fixed to April 2020

Now when we try to understand the difference between upcoming BS-6 levels and incumbent BS-4, the major improvement is that the former contains five times lesser sulphur content (10 parts per million) as compared to BS-4 (50 ppm). Oxides of nitrogen (NOx), which are produced as a result of combustion, will also be brought down by 25 per cent for petrol engines and 70 per cent for diesel engines.

Another notable change will be the presence of OBD (On-board Diagnostics) and RDE (Real Driving Emission) on all vehicles which will enable real-time tracking of all kind of emissions.

Till now we were understanding that how this change will help environment and people but it's also equally important to understand its impact on manufacturers and customers.

It is correct that this transition from level 4 to level 6 in emission norms will lead us to cleaner fuels and more refined engines which will help in bringing down damaging pollutants but it is also true that car-makers will have to spend heavily to develop BS-6 norm compliant petrol and diesel engines for their existing product line.

Also, carmakers have to finish their existing stock of BS4 vehicles before the mandated deadline of April 2020 because after that they can't sell BS-4 compliant vehicles. This is forcing carmakers and dealers to indulge in heavy discounting and offers.

As per the reports from auto industry, the cost of upgrading diesel and petrol engines to meet BS6 norms will make the vehicle more expensive. Where Petrol engine car prices are expected to increase in the range of 10,000-20,000 Rs, the diesel engine cars may get costlier by 80,000-1,00,000 Rs.

All these factors will play key role in changing the trends, sales and customer choices in coming years, but it is a much needed and awaited change which will help country in reaching global standards and a cleaner air quality and shall be supported by all.

CAA AND ARTICLE 14

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It is very clear that Article 246 provides for the three lists mentioned in the Seventh Schedule. Entry 17 of the Union List clearly states that the Parliament will have the power to make laws on "Citizenship, naturalization and aliens". More importantly, Article 11 of the Constitution provides the Parliament with power to regulate the Right of Citizenship by law. By the virtue of this power, being conferred to the Parliament, Citizenship Act, 1955 was enacted. Similarly, by the virtue of same powers, Citizenship Amendment Act, 2019 has been enacted by the Parliament of India. This means that the Parliament has the discretion to decide on granting or terminating citizenship to people, and all other matters connected to it.

The Citizenship (Amendment) Act, 2019 was passed by the Parliament of India on 11 December 2019. It amended the Citizenship Act of 1955 by providing a path to Indian citizenship for members of Hindu, Sikh, Buddhist, Jain, Parsi and Christian religious minorities, who had fled persecution from Pakistan, Bangladesh and Afghanistan before December 2014. Muslims were not given such eligibility. The Act was the first instance of religion being overtly used as a criterion for citizenship under Indian nationality law.

According to the CAA, Hindu, Christian, Buddhist, Jain, Sikh and Parsi migrants who have entered India illegally, that is, without a visa-on, or before December 31, 2014 from the Muslim-majority countries of Pakistan, Afghanistan and Bangladesh and have stayed in the country for five years, are eligible to apply for Indian citizenship.

Whether the CAA violates Article 14 of the Constitution:

On prima facie reading of Article 14 of the Constitution, one may definitely conclude that it violates Article 14. As eminent lawyer and jurist Harish Salve says, 'You don't have the same law for the lion and the lambs'. This basically takes us to the proposition that equals have to be treated equally and unequals ought not to be treated equally. This is considered to be the essence of Article 14.

Article 14 permits classification but prohibits 'class legislation'. Equal protection of law guaranteed by Article 14 does not mean that all laws must be general in character. It does not mean that the same laws should apply to all persons. It does not mean that every law must have universal application for, all person are not, by nature, attainment or circumstances in the same position. The varying need of different classes of persons often require separate treatment. From the very nature of society, there should be different places and the legislature controls the policy and enacts laws in the best interest of the safety and security of the State. In fact, identical amount to unequal circumstances would amount to inequality. Thus, a Reasonable Classification is permitted for the development of society. Article 14 forbids class-legislation but it does not forbid Reasonable Classification.

The CAA seeks to classify persons belonging to six communities from the three theocratic States-

1. They are declared as religious minorities in their home country.
2. They have been victims of religious persecution.
3. They have sought refuge or citizenship in India.

The fact that these communities are considered to be religious minorities in their home country cannot be contested. The contention which may arise is that whether these communities have been victims of religious persecution in these three countries.

COMPARATIVE ANALYSIS OF CONSUMER PROTECTION ACT: **1986 AND 2019**

Neha Mishra
Assistant Professor,
Amity Law School

INTRODUCTION:

With the advent of new era India has emerged as superpower and has undergone through immense technological advancement which is on one hand a boon for the nation while on the other it is considered to be a curse. Law is always considered to be as an instrument to do “Social Engineering” in order to meet the needs of the society and therefore has to strike a balance between societal and individual interests. Recently, the Parliament passed the Consumer Protection Act, 2019 on 09.08.2019 to replace the Consumer Protection Act, 1986 ("1986 Act"). This has been done to keep pace with growing complexities in consumer disputes involving e-marketplaces, online aggregators, intermediaries, endorsers and to bring about efficiency in the consumer dispute resolution framework. The new legal regime on consumer protection overhauls the older regime to address issues arising from unique trade forms used in this era of digitization and e-commerce. It provides for the establishment of a new authority for monitoring consumer welfare with powers such as ordering product recalls and issuing safety notices. This Act has been passed with an aim to give greater protection to consumer interests, promote expeditious settlement and make the process of filling a consumer complaint easier. It also provides for the setting up of a dedicated regulatory authority to monitor consumer welfare and initiate suo moto action against unfair trade practices detrimental to consumers at large.

Comparative Analysis of Consumer Protection Act: 1986 and 2019

The Government instead of bringing an amendment in the 1986 Act, enacted a new Act altogether so as to provide enhanced protection to the consumers, taking into consideration the booming e-commerce industry and the modern methods of providing goods and services such as online sales, tele-shopping, direct selling and multi-level marketing in addition to the traditional methods.The 2019 Act has brought in some major changes and provides for more protection to the consumers in parimateria to the earlier 1986 Act. The changes made out by the New Act, 2019 are as follows:

Basis	Consumer Protection Act, 1986	Consumer Protection Act, 2019
Ambit of Law	All goods and services for consideration, while free and personal services are excluded	All goods and services, including telecom and housing construction, and all modes of transactions (online, teleshopping, etc.) for consideration. Free and personal services are excluded
Unfair trade practices (Defined as deceptive practices to promote the sale, use or supply of a good or service	Includes six types of such practices, like false representation, misleading advertisements	Adds three types of practices to the list, namely: failure to issue a bill or receipt; refusal to accept a good returned within 30 days; and disclosure of personal information given in confidence, unless required by law or in public interest. Contests/ lotteries may be notified as not falling under the ambit of unfair trade practices.
Product liability	No Provision	Claim for product liability can be made against manufacturer, service provider, and seller. Compensation can be obtained by proving one of the several specified conditions in the Act.
Unfair contracts	No Provision	Defined as contracts that cause significant change in consumer rights. Lists six contract terms which may be held as unfair.
Central Protection Councils (CPCs)	CPCs promote and protect the rights of consumers. They are established at the district, state, and national level.	The new Act makes CPCs advisory bodies for promotion and protection of consumer rights. Establishes CPCs at the District, State and National Level.
Regulator	No Provision	Establishes the Central Consumer Protection Authority (CCPA) to promote, protect, and enforce the rights of consumers as a class. CCPA may issue safety notices, pass orders to recall goods, prevent unfair practices, and reimburse purchase price paid; and impose penalties for false and misleading advertisements.
Pecuniary jurisdiction of Commissions	District: Up to Rs 20 lakh; State: Between Rs 20 lakh and up to Rs one crore; National: Above Rs one crore.	District: Up to Rs one crore; State: Between Rs one crore and up to Rs 10 crore; National: above Rs 10 crore.
Composition of Commissions	District: Headed by current or former District Judge and two Members. State: Headed by a current or former High Court Judge and at least two Members. National: Headed by a current or former Supreme Court Judge and at least four Members.	District: Headed by a President and at least two Members. State: Headed by a President and at least four Members. National: Headed by a President and at least four Members
Appointment	Selection Committee (comprising a judicial member and other officials) will recommend members on the Commissions.	No provision for Selection Committee. Central Government will appoint through notification
Alternate dispute redressal mechanism	No Provision	Mediation cells will be attached to the District, State, and National Commissions
Penalties	If a person does not comply with orders of the Commissions, he may face imprisonment between one month and three years or fine between Rs 2,000 to Rs 10,000, or both.	If a person does not comply with orders of the Commissions, he may face imprisonment up to three years, or a fine not less than Rs 25,000 extendable to Rs one lakh, or both.
E-commerce	No Provision	Defines direct selling, e-commerce and electronic service provider. The Central Government may prescribe rules for preventing unfair trade practices in e-commerce and direct selling.

CYBER SAFETY: **DO NOT BECOME A VICTIM OF CYBER CRIME**

Asha Meena
Assistant Professor,
Amity Law School

In the modern age of globalization, the Internet has influenced almost all the day to day human functioning. Without internet, it has now become impossible to imagine human life. Even the illiterate people can be seen taking frequent advantage of the internet technology especially in the areas like banking, ATM, railway/flight reservation etc. though with the help of others. At the same time, it is necessary to be safe and secure while using internet technology. Cyber criminals often target the innocent in many ways. Banking frauds, ATM & Credit card frauds, e-mail frauds, phishing, fake profiles on social networking sites, internet lottery frauds, job scandals are some of the common examples where innocent people are easily targeted by the cyber criminals. Though, we have made significant progress in the detection and investigation of such crimes, it is better to observe certain precautions as prevention is always better than cure.

Here are some important tips to be safe and secure in the internet world:

Internet Banking: Safety comes first

The following precautions can save you from being targeted while using online banking facilities:

1. Change your banking password at periodical intervals.
2. Do not use public computers to login.
3. Do not share your details with anyone.
4. Keep checking your savings account regularly.
5. Scan your computer regularly with antivirus.
6. Disconnect the internet connection when not in use.
7. Access your bank website only by typing the URL in the address bar of your browser.

Beware of Phishing Attacks

There are instances of fraudsters sending emails with fraudulent website links that are designed exactly like the bank's original website. Once you enter your login details on such a website, they may be used to access your account and steal your money. Phishing is a fraudulent attempt, usually made through e-mail, phone calls, SMS etc. seeking your personal and confidential information.

Bank never sends such e-mail/SMS or calls over phone to get your personal information, password or one time SMS password. Any such e-mail/SMS or phone call is an attempt to fraudulently withdraw money from your account through Internet Banking. Never respond to such e-mail/SMS or phone call. Please report immediately to the bank as well as to the police if you receive any such e-mail/SMS or phone call.

Credit card frauds

As the technology for making life comfortable progressed, so did fraudulent techniques to trick credit card holders. No matter how safe your wallet is, fraudsters find ways to use your credit cards without your knowledge. This may be because somewhere, at some point of time, you were not careful with your credit card details. Fraudsters are continuously finding new ways to TICK you. The only way to avoid such tricks is to be watchful and take utmost care or your credit cards. The following are a few steps to ensure you do not fall prey to tricksters:

1. Avoid sharing card information.
2. Keep credit cards at safe locations.
3. Use credit cards safely on the internet.
4. Be an alert customer.

Internet Lottery Fraud

Many times, you receive e-mail/SMS that you are a winner of some National or International lottery/ award. The fraudsters then ask you to follow certain instructions to get the amount of lottery or award. They sometimes ask you to open a bank account and deposit certain amount as Income Tax deduction. Many times they ask to deposit clearance money to get the benefit. It is strongly advised not to respond such e-mail/SMS. You should simply delete such E- mails/ SMS from your inbox.

Hacking of Computer System / Websites:

Hacking is the process of exploiting vulnerabilities to gain unauthorized access to computer systems/resources or websites. Computer hacking is the practice of modifying computer hardware and software to accomplish the goal outside of the creator's original purpose. In computer hacking, the hacker takes the control of the system and misuses the same for hidden motives. Similarly, websites are hacked and modified/disfigured by the cyber criminals. In December 2010, the website of the Central Bureau of Investigation was hacked by cyber criminals identifying themselves as "Pakistani Cyber Army".

Cheating by E - mail hacking:

Many times, cyber criminals hack the e-mail password of innocent people and send numerous messages to the persons who are in the contact list. This has become an easy way to extract money. Please do not respond to such e-mails.

Fake Profiles on Social Media:

It is very common to create profile of others on social media and a lot of teenagers become victim of such fake profiles. It is strongly suggested to share minimum information on the social media profiles.

Pornography

It is very common to post nude pictures of girls on websites. The victims of such circumstances often go impatient because their pictures are shown on these websites. The most important thing to do is to report such activities to the Cyber Cell and to the police. On the other hand, it is ones own responsibility to be aware and vigilant and not fall prey to such things at any cost.

Online shopping:

We advised to go for online shopping only through reputed websites. Try to make payment only on the delivery of purchased item.

LEGISLATIONS RELATING TO CYBER SECURITY

THE RESERVE BANK OF INDIA

- Issue of demand bills and notes (Section 31) provides that only Bank and except provided by Central Government shall be authorized to draw, accept, make or issue any bill of exchange, hundi, promissory note or engagement for the payment of money payable to bearer on demand, or borrow, owe or take up any sum or sums of money on the bills, hundis or notes payable to bearer on demand of any such person.

The important recommendations of an Expert Committee on Bank Frauds submitted to RBI include:

- A need for including financial fraud as a criminal offence.
- Amendments to the IPC by including a new chapter on financial fraud.
- Amendments to the Evidence Act to shift the burden of proof on the accused person.
- Special provision in the Cr. PC for properties involved in the Financial Fraud.

IT ACT,2000

- **Section 66:** If any person, dishonestly, or fraudulently, does any act referred to in section 43, he shall be punishable with imprisonment for a term which may extend to two three years or with fine which may extend to five lakh rupees or with both.
- **Section 66C:** Whoever, fraudulently or dishonestly make use of the electronic signature, password or any other unique identification feature of any other person, shall be punished with imprisonment of either description for a term which may extend to one lakh rupees.
- **Section 66D:** Whoever, by means of any communication device or computer resource cheats by personation, shall be punished with imprisonment of either description for a term which may extend to three years and shall also be liable to fine which may extend to one lakh rupees.

The IT Act has recommended an amendment to Section 417 of the IPC so as to include cyber and financial fraud.

IPC, 1860

- **Section 419:** When the fraudster by stolen identifying information impersonates the victim to commit fraud or cheating.
- **Section 420:** When the fraudster deceive people into disclosing valuable personal data in the nature of identifiable information which is used later to swindle money from victim account.
- **Section 468:** When the fraudster commits forgery of website which is in the nature of electronic record to lure the victims to pass their identifiable information in order to cheat them.
- **Section 471:** When fraudster fraudulently or dishonestly uses as genuine, the aforesaid fake website in the nature of electronic record.

Changes in legislations: electronic transactions

- Section 91 of IPC shall be amended to include electronic documents also.
- Section 92 of Indian Evidence Act, 1872 shall be amended to include commuter based communications.
- Section 93 of Bankers Book Evidence Act, 1891 has been amended to give legal sanctity for books of account maintained in the electronic form by the banks.
- Section 94 of the Reserve Bank of India Act, 1939 shall be amended to facilitate electronic fund transfers between the financial institutions and the banks. A new clause (pp) has been inserted in Section 58(2).

Conclusion: Though the rate of cyber-crime has increased but there is no doubt about the fact that there is improvement in the technology to stop such crimes, especially against women, children and elderly people. There is a dire need for the people to be alert and aware about what's happening in their surroundings and about the Laws that are provided to them in order to keep them safe. There can be no improvement if the people do not help and be with the administration to suppress such crimes and to punish cyber criminals.

LAIKA'S VOYAGE

Sanjum Bedi
Assistant Professor,
Amity Law School

Mahatma Gandhi once rightly said, "The greatness of a nation is judged by the way it treats its animals." The domestication of animals began with dogs. Indian emperor Ashoka converted to Buddhism and issued edicts advocating vegetarianism and offering protections to wild and domestic animals. Animal testing is a valuable asset in scientific research since their physiology is similar to human physiology. Article 51A(g) of the Indian Constitution mentions that to kill or maim any animal, including stray animals, is a punishable offence.

Laika's voyage into Earth's orbit was a landmark moment in human history. Laika was a mongrel dog, found wandering in the streets of Moscow. While the Americans preferred to send monkeys into space, the Soviets found dogs easier to train. They knew that she would not survive the trip home. Laika would spend a few days in orbit above the Earth. Then, she would be euthanized with poison in her dog food. Outside of the Soviet Union, Laika's doomed mission was an outrage. The British, in particular, campaigned to stop the mission. The Royal Society for the Prevention of Cruelty to Animals urged people to call the Soviet embassy and complain. Others held a moment of silence each day at 11:00 AM in quiet protest.

However, on the 40th Anniversary of the Bolshevik Revolution, the scientists rushed the job so that they could get the date right. Therefore, the original plans for a return mission had to be scrapped. There was enough time to do it, but not enough, to make one that could come back. One of the scientists, Boris Chertok, said "Laika wouldn't even have enough space in the launching vehicle to turn around, and, to make sure she didn't, she would be chained in a single spot". To get her ready, Laika was put into smaller and smaller cages. She would be left locked up in claustrophobic conditions for up to 20 days. Then she'd be pulled into an even tighter space. Everyone knew that she would not survive the flight. For the next three days, she was grounded inside the spacecraft, waiting on Earth as there had been a malfunction that had to be repaired, and so Laika was kept in freezing cold temperatures, unable to move. Finally, on November 3, 1957, Laika took off. As the spacecraft blasted off of the Earth and into space, Laika panicked. For the first time in Earth's history, a living thing was floating in space. Her heart slowed, and she began to relax, but she would never again calm down to the heart rate she had on Earth. For years after the mission, the Soviets claimed that Laika survived her first day in space. They claimed that she drifted in orbit around the Earth for days. At last, she ate the poisoned food they'd prepared for her and passed peacefully onto the other side with the Earth below her. The truth didn't come out until 2002, when one of the scientists, Dimitri Malashenkov, revealed the brutal fate Laika really met. Laika died within seven hours, sometime during her fourth circuit around the Earth, in excruciating pain. The temperature control system on the hastily built satellite malfunctioned. The shuttle started getting hotter and hotter, soon going well past 40 degrees Celsius (100 °F) and rising into sweltering extremes. Laika, who had calmed down when she'd become weightless, began to panic once more. After five months and 2,570 orbits around the Earth, the satellite that had become Laika's coffin fell down to the Earth. It streaked across the sky while people around the world watched, creating a small panic in the United States.

Even in India, plethora of cases has been noted in the past, which portray the ghastly instances that took place with animals. Some of the major incidences from 2018 are mentioned below:

A man had unnatural sex with three cows in Vadodara.

Eleven monkeys were brutally killed and dumped near a highway in Rajasthan.

Several stray dogs were poisoned to death in Nagpur to prevent them from stealing meat from the local meat market

A stray dog fractured its skull after being beaten with an iron rod in Mumbai.

A cow was run over by a police vehicle in Chhattisgarh.

21 beagles were confined in cages for scientific experiments in Pune.

A street dog was left to die when workers poured hot tar on it while it was sleeping in a street in Agra

India has a fair repertoire of animal protection laws that, with certain amendments, can completely change the scenario of how animals are treated in India. Animals are made to surrender themselves for crucial experiments on projects like cloning. They are heavily dosed with anaesthesia and other chemicals and are made to go some specific painful procedures or are kept in some uncomfortable environment, which they would never opt for if set free, falls under the this scope. As a result of all this, millions of animals suffer and die in laboratory experiments.

Cosmetics Testing on animals is banned according to the Drugs & Cosmetics Rules, 1945. Using the animals for scientific experiments leading to unsure results is highly reprehensible. Poisoning any wild animal or even attempting to do so is punishable by law. Wildlife Protection Act, 1972 is the major legislation which is The specifically enacted for the protection of the wildlife in India. Besides this, The Wild Life (Transactions and Taxidermy) Rules, 1973; The Wild Life (Stock Declaration) Central Rules, 1973; The Wild life (Protection) Licensing (Additional Matters for Consideration) Rules, 1983; The Wild Life (Protection) Rules, 1995; The Wild Life (Specified Plants - Conditions for Possession by Licensee) Rules, 1995; Forest Conservation Act, 1980; Forest (Conservation) Rules, 1981; National Forest Policy, 1988; Biological Diversity Act, 2002 can make a vast difference if implemented properly. Conveying animals in any manner or position which causes discomfort, pain or suffering is a punishable offence under Section 11(1)(d) Prevention of Cruelty to Animals, (Transport of Animal) Rules, 2001.

ANALYSIS OF THE SURROGACY **(REGULATION) BILL, 2019**

Ankita Sharma
Assistant Professor,
Amity Law School

Surrogacy is defined as a practice where a woman gives birth to a child for an 'intending couple' with the intention to hand over the child after the birth to the said 'intending couple'. The practice of Surrogacy has gained respect as an attractive reproductive alternative for infertile couples who wish to conceive a child biologically, related to at least one of them. A study conducted by Indian Council of Medical Research (ICMR) revealed that around 2,000 babies were produced every year in India through 'Commercial Surrogacy'wherein a woman is paid an agreed sum for renting her womb. Women's rights advocates claim that the lack of a clear 'Law on Surrogacy' and the commercialisation of an unregulated sector have left room for unethical medical practices and the exploitation of both surrogates and infertile couples.

To regulate Surrogacy in India, the Surrogacy (Regulation) Bill, 2019 was introduced by the Minister of Health and Family Welfare in the Lok Sabha on July 15, 2019. The Bill prescribes certain guidelines which need to be followed for married couples to opt for Surrogacy in the country. The Lower House of the Parliament readily passed the Bill but many Human Rights activists and legal experts highlighted several lacunae in the Bill.

According to the Bill, Surrogacy is permitted only for intending couples who suffer from proven infertility and not for commercial purposes or not for producing children for sale, prostitution or other forms of exploitation and for any condition or disease specified through regulations. The Bill explicitly prohibits 'Commercial Surrogacy', but allows 'Altruistic Surrogacy'. This implies that the surrogate mothers would not be given any monetary compensation except for the insurance coverage during pregnancy and other medical expenses. It denies a woman agency over her body or reproductive rights. The Bill bans 'Commercial Surrogacy' by justifying how it could prevent the exploitative black market practices that could damage the surrogate's and the child's health and safety. However, instead of regulating the surrogacy market by eliminating the agents/middlemen and paying the surrogates directly to ensure no such malpractices take place, the Bill puts the women who have willingly entered the practice, especially from low-income groups, in an economically disadvantaged position.

It also states that a surrogate could only be a 'close relative' of the 'intending couple'. It may be argued that the 'close relative' clause for Surrogate Mother could lead to coercion and further exploitation of women due to the patriarchal nature of the Indian family system. It may even lead to emotional or physical abuse. Moreover, the definition of 'close relative' remains unclear. The Bill 'specifies' that to be eligible for becoming a Surrogate Mother, the woman needs to be a:

- Close relative of the intending couple,
- A married woman with her own child/children, and
- Between the age of 25 to 35.

Further, the Bill provides that the intending couples could not be same-sex couples, in a live-in relationship, widows, widowers or single persons. It is pertinent to observe here that although, Section 377 of Indian Penal Code was struck down in 2018, the right to start a family through Surrogacy has been denied to the LGBTQ+ community, thereby, risking to marginalize them. The Bill 'specifies' that National and State Surrogacy Boards will be constituted to regulate, register, and authorise Surrogacy Clinics across the nation. These clinics will be the only organizations permitted to carry out Surrogacy. Also, heterosexual married couples from India will be issued a 'certificate of essentiality' and a 'certificate of eligibility' by the 'appropriate authority'.

The core issue of ensuring the rights of surrogates has been reduced to a mere debate on the effcacies of Altruistic Surrogacy and abandoning Commercial Surrogacy arrangements. While the aim of the Bill must be to mitigate the malpractices and misuse of artificial reproductive technologies that exploit women and their reproductive labour, the Bill has taken a much conventional, obsolete and regressive approach. The Government could do so by ensuring a strict surveillance of the surrogacy market.

The Bill was sent to the Select Committee of Rajya Sabha that recommended certain crucial changes to the Bill taking a more progressive approach. The Union Cabinet has approved certain recommendations such as allowing a 'willing' woman to be a surrogate mother and not only a 'close relative' along with making provisions for widows and divorced women to opt for Surrogacy besides infertile Indian couples. The Bill is set to be tabled in the second half of the Budget Session beginning in March 2020.

TOWARDS **RIGHT TO FREEDOM**

Dr. S Mukherjee
Assistant Professor,
Amity Law School

Freedom is the name of a dream;
it is the price of fulfilling expectation.
Freedom is the value of our blood;
It is the outcome at the end of the war.

In our unlucky nation,
Freedom is the SumTotal of
failures and emptiness
Oh, alas ! FREEDOM……..

Lands are fertile
but alas!
farmers have NO freedom
of living.
We are seeing crop fields with wide horizons
Nevertheless, Freedom remains to unrestrictedly
die early in the country

Many slogan sounds to
hide in a superficial way
but still
the grave hangs;
how depressing you are ‘FREEDOM’!

The school system is nonetheless independent
All shawls eat freedom, the freedom that
has come at the cost of millions of lives whose reward is
mere two minutes of silence!

Oh, alas ! FREEDOM……..

Thereafter,
theft, bribery,
steal again and again
the development is crawling at childhood;
but still waiting for a holiday to feel you my dear ‘freedom’
Oh, alas ! FREEDOM……..

AWARD WINNERS

WE ARE PROUD OF YOU

A. Shri Baljit Shastri Award.

S. No.	Name of Awardee	Course	Batch
1.	Ms Monica Yadav	Master of Laws	2011-2013
2.	Col YS Sindhu (Retd)	Master of Laws	2012-2014
3.	Mr. K Remruatfela	Master of Laws	2014-2015
4.	Mr. Govind Kumar Saxena	Master of Laws	2015-2016
5.	Ms Sangeeta	BA LLB (H)	2012-2017
6.	Mr. Mayank Shekhar	BA LLB (H)	2013-2018
7.	Ms Shivani Suhag	BBA LLB (H)	2014-2019

B. Trophy

S. No.	Name of Awardee	Course	Batch
1.	Ms Shabanoo Begum	Master of Laws	2012-2014
2.	Ms Sangeeta	BA LLB (H)	2012-2017
3.	Ms Shringar Bhattaria	B.Com LLB (H)	2013-2018
4.	Ms Shilpy	BA LLB (H)	2014-2019

C. Gold Medal

S. No.	Name of Awardee	Course	Batch
1.	Mr. Abhishek Choudhary	Master of Laws	2013-2014
2.	Ms Dipika Rani	Master of Laws	2014-2015
3.	Mr. Nishant Khosla	Master of Laws	2015-2016
4.	Ms Shweta Tyagi	Master of Laws	2016-2017
5.	Mr. Sankalp Pandey	Master of Laws	2017-2018
6.	Ms Vaasawa Sharma	Master of Laws	2018-2019
7.	Ms Sangeeta	BA LLB (H)	2012-2017
8.	Ms Shringar Bhattaria	B.Com LLB (H)	2013-2018
9.	Ms Vanshika Mittal	BA LLB (H)	2013-2018
10.	Ms Monika Sharma	BBA LLB (H)	2013-2018
11.	Ms Shilpy	BA LLB (H)	2014-2019
12.	Ms Abhilasha Yadav	BBA LLB (H)	2014-2019

ACHIEVERS

STUDENTS APPOINTED AS:

Legal Officer, RBI

- **Mr. Nishant Khosla**
  LL.M
  (Batch : 2015-2016)

Young Professional (Advocate) :
Ministry of Commerce & Industry, Govt of India

- **Mr. Ayush Shrivastava**
  BA LLB (H)
  (Batch : 2013-2018)

Legal Firm: Trilegal

Ms Jojongandha Ray
(Batch: 2014-2019)
Package: Rs15.4 lakhs per Annum + perquisites

EVENTS & ACTIVITIES

1. Inaugural Session of the 3rd International Conference, on 08-09 November 2019, on the Theme, “Criminal Justice System : National and International Perspectives”.
2. Workshop on Access to Justice by Narender Singh Rawat, Chief Judicial Magistrate, District Court Gurugram.
3. Coffee With Expert On “My Encounter With Big Cat: with Mr. Daulat Singh Shaktawat.
4. Dr. Rajulben L.Desai, Member National Commission for Women speaking on “Preventing Sexual Harassment at Workplace”.
5. Justice Swatanter Kumar addressing on “NGT: An Important Pillar in the Development of Environmental Laws for Waste Management:.
6. Guest Lecture on White Collar Crimes delivered by Mr. Bharat Chugh, Partner Designate, Luthra & Luthra Partners.
7. Faculty Development Programme on Intellectual Property Rights by IPR experts from MS Law Partners, Mr. Ayush Sharma and Mr. Abhishek Magotra.
8. Guest Lecture on Environmental Contamination by Mr. Pranav Sinha.
9. Folk Dance Competition organized as an initiative of 24x7.
10. 3rd Amity Intra Moot Court Competition, 2019.
11. Mr. Amar Kumar Sundram spoke on “Intricacies of being a Corporate Lawyer”.

ALUMNI: MS. DAMINI GARG, BBA LLB (2014-2019)

ALS की कहानी

लोग कहते हैं कॉलिज में कहती हूँ जिन्दगानी
क्या बताऊँ ए दोस्तों कुछ ऐसी ही है रवानी
आखिर ये है मेरे ALS की कहानी
सुनो मेरी जुबानी

प्राचीन पंचगाँव की भूमि पर Amity University की
अपनी ही पहचान है,
पर Amity Law School इसकी जान है
Departments है बहुत यहा
पर ALS जैसा न कोई दूजा जहाँ
और Departments के लिए ये इक अनसुलझी पहेली है
आपको क्या बतायें कि Department नहीं ये हमारी
family है;
जिसे बस हम समझ पायें ऐसी पहेली है।
जैसे यथार्थ का अनुभव कराने वाली कोई सहेली है।

Director Sir, Retd. Major General हैं, पर यहां कोई दिखावनी नहीं है,
समतुल्य है पिता के,
क्यूँ?
क्योंकि ये भूमिका उन्होंने सदा निभायी है,
जिन्दगी तुम्हें देख मुस्कुरायें ऐसे जियों, ये बात हमें हमेशा
सिखायी है।

Pathak Sir हैं और अनोखे, रिश्तों में हम उन्हें बांध नपाते
हैं
कोई भी दिक्कत आयें सामने, उन्हें आगे खड़ा हमेशा पाते हैं।
कहते हैं गलतियां करने से नहीं, गलतियों को न अपनाने से डरो,
हर परिस्थिति में खुशी ढूंढ लाना वो खुलकर बताते हैं।
सिर्फ किताबों से कोई महान नहीं बनता
मैदान भी फतेह कराते हैं, औ इसी भरोसे पर आखिर
SANGTHAN हम जीत जाते हैं।

यहां गुरु सिर्फ गुरु नहीं और भी कई रिश्ते निभाते हैं।

हम इनसे पिता की फटकार, माँ का दुलार, भाई का स्नेह
औ बहन सा प्यार पाते हैं।
जिन्दगी में आये सवालों को
ये पल में हल कराते हैं।
न थकने न रुकने का हौसला दे, मंजिल दिखाते हैं,
किताबी ज्ञान ही नहीं जिन्दगी जीने का फलसफा सिखाते हैं।
LAW पढ़ने आये थे हम यहां, पता नहीं था इन Subject जिन्दगी
भी पढ़ाते हैं।

सुनती हमेशा आयी थी भाषाओं ने देश बांट रखा है,
इन इन्सा को दूसरे से छाँट रखा है,
पर ALS की तो हवा सुहानी है,
भाषा की इन अलग ही कहानी है,
बंगाल से आया कोई अवधी में कवि पाता है,
तो कोई पंजाबी में हरियाणवी की छटा दिखाता है।
कहीं भी बाँटे ये भाषा मगर ALS को बांट न पाती है,
कुछ ऐसी है मेरी ये family दिल की भाषा बन जाती है।

University के मेरे अन्य साथी बनाते रहें दोस्ती की कहानियाँ
जो इक साल जुड़े, दूजे सांल छूटे, तीजे साल टूटे ऐसी नाकामियाँ
ALS ने जानी न जाने कितने रिश्तों की रवानियां
मैंने भी पायी हैं यहाँ कई भाई औ बहनों की शोखियाँ
जिनके मिलने से बाकी ही न रहीं मेरी खामोशियाँ
ऐसी है मेरी ALS की कहानियाँ

लिखने सुनने कहने को काफी लम्बी पड़ी कहानी है
क्या लिखूँ क्या छोड़ूँ ये 5 साल मिसलानी है.
चलो, कोशिश करती हूँ इस वाक्य में तुम्हें बताने की,
क्या?
कि ALS की ये कहानियाँ अपरिभाषित जिन्दगानी है,
लोग कहते हैं कॉलिज में कहती हूँ जिन्दगानी है।

ALUMNI: MS. DAMINI GARG, BBA LLB (2014-2019)

आज की सुबह थे अनकही अनपानी सी कहानी कह गयी
ये दिल की धुंधं न जाने कैसी कहानी कह गयी।
आज की सुबह ने महसूस कराया कि मैं क्या हूँ?
मेरे वजूद से मुझे मिला
न जाने ये कहानी खुद कहाँ खो गयी।
न जाने कहाँ खो गयी।

— दामिनी गर्ग 'गर्ग'

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