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LALITA KUMARI: A JUDICIAL ELUCIDATION OF PLAINLY INTRICATE LEGISLATIVE MANDATE

Prof. (Dr.) Sangita Bhalla*

ABSTRACT

In Lalita Kumari, the Constitutional Bench of the Supreme Court was petitioned to resolve the issue whether police is bound to record the FIR immediately on reporting of a cognizable offence or the recording could be postponed till a 'preliminary inquiry' about the veracity of such information? The solution required weighing up of two important aspects of the criminal justice process, namely, the significance of prompt and fair recording of an FIR and the affects of "burking" of offences by the police. On one hand, the refusal to register the FIR in a valid case would cause irreparable and vital loss to the victim and would frustrate the objectives of the criminal justice system, leading to erosion of public confidence therein. On the other hand, the registration of a false case would violate the constitutional guarantee of 'procedural fairness' and would subject the accused to unnecessary embarrassment. The author argues that in this celebrated judgment, while resolving the issue, the Bench has primarily adhered to formalism- the descriptive/ official theory of adjudication. However, it has also integrated some grains of instrumentalism in its approach, so that the law related to initiation of the criminal process could serve social interests reasonably. For this the Bench has exhaustively analyzed the legislative history of Section 154, the lawmakers' intent behind the provision with the help of established 'rules of legal construction', the stimulating but conflicting pleas of the Bar, the divergent Court opinions on the issue in large number of cases and the investigative scheme of the Code. Then, the Bench held that if the given information ex facie discloses the commission of a cognizable offence, no 'preliminary inquiry' is permissible. Rather, in such a case, an instant and mandatory registration of the FIR is the 'procedure established by law' in conformity with Article 21 of the Constitution. To repel the fears that registration of an FIR may lead to mechanical arrest of the accused, the Court pointed out that the Code provides many procedural safeguards to shield the accused from an arbitrary arrest. The actual remedy lies in the enforcement of those safeguards and not in curtailing the power of police to record FIRs, which could entail serious consequences for the safety and security of the people. However, in some special cases the

* Director, University Institute of Legal Studies, Panjab University, Chandigarh

Bench approved the need for conduct of a sort of 'preliminary verification/ inquiry' just to determine if a cognizable offence may have been committed.

Keywords: Compulsory Recording of FIR, Legislative History, Preliminary Inquiry, Guidelines.

RIGHTS OF TRANSGENDERS: A CONSTITUTIONAL PERSPECTIVE VIS-À-VIS CRIMINAL JURISPRUDENCE

Prof.(Dr.) Rattan Singh*
Shikha Dhiman**

ABSTRACT

All human beings are the creature of God and therefore all should be treated equally irrespective of their caste, color, sex, gender identity and sexual orientation. Transgenders are the human beings and we need to respect them with full dignity. We are no one to discard them or disrespect them in any form. No doubt transgenders are given full right to life and personal liberty but in actual these rights get restricted in one way or the other. Constitution of India guarantees the rights and freedom to all persons including transgenders but the reality is different. Such people are not treated with respect and human dignity. Just because of the infringement of rights of transgenders, the issue is taken up before the Apex Court which pronounced a landmark judgment in this regard. Supreme Court was very firm in its decision as to provide equality of status and opportunity to transgenders living in society. Also, there are many organizations in India who give new face to transgender community by fighting for their rights. Transgenders achieved victory in 2014, when Supreme Court of India declared the 'Transgender' as 'Third Gender' and held that non-recognition of third gender for civil rights is violative of Fundamental Rights guaranteed under Part III of our Constitution of India.

Keywords: Equality, Third Gender and Transgender.

INTELLECTUAL PROPERTY ISSUES UNDER TRIPS AGREEMENT IN CYBER SPACE

Prof. Rajinder Kaur*

Reenu Chauhan**

ABSTRACT

God gifted a wonderful thing called Brain to Man and Mother Nature endowed him with the abundant physical and biological resources on the earth. Man started creating his own world by application of his brain and by utilization of these natural resources. By end of Twentieth Century, the things created and invented by the human mind were recognized as an intellectual property. The owner's right over these properties was accepted and is known as an Intellectual Property Right (IPR). A new set of laws called IPR were enacted to protect these property rights. IPR are advantageous as they provide exclusive rights to the creators or inventors. It encourages individuals to distribute, share information and data instead of keeping it confidential by providing legal defence and offers the creators incentive of their work. It helps in social and financial development of the nation. To protect the IPR in the Indian Territory, India has defined the formation of constitutional, administrative and jurisdictive outline whether they imply the copyright, patent, trademark, industrial designs, or any other parts of the intellectual property rights. Back in the year 1999, the government passed an important legislation based on international practices to safeguard the intellectual property rights but every new invention in the field of technology experiences a variety of threats. Internet is one such threat, which has captured the physical marketplace and has converted it into a virtual marketplace. Today it is critical for every business to develop an effective and collaborative IP management mechanism and protection strategy. The ever-looming threats in the cybernetic world can thus be monitored and confined. Various approaches and legislations have been designed by the law-makers in delivering a secure configuration against such cyber-threats. However it is the duty of the intellectual property right owner to invalidate and reduce such mala fide acts of criminals by taking proactive measures. The International Data Corporation (IDC) projects report states that there is 38% increase from the \$73.7 billion on cyber security in 2016. In 2020, the organizations are expected to spend \$101.6 billion on cyber security software, services, and hardware. The research paper aims to understand the technology of internet, scope of cyber laws, and cyber jurisprudence,

* Professor, University Institute of Legal Studies (UILS), Panjab University, Chandigarh.

** Research Scholar, Department of Laws, Panjab University, Chandigarh.

intellectual property issues in cyber Space with respect to their domain names and related issues, copyright in the digital Media, patents in the cyber world. The research focuses on critical legal issues namely Intellectual Property Rights and cyber law (CL) as key quality determining factors in the cyber software process model and hence in Industry.

Keywords: Cyber Law, Intellectual Property Rights and Trips Agreement.

GROWTH PERFORMANCE OF BANKING SECTOR IN INDIA DURING POST FINANCIAL REFORM PERIOD

Shallu Batra*

Gulshan Kumar**

ABSTRACT

Economic development of any nation is closely related to levels of financial development in economy. Banking sector is backbone of Indian economy and plays a pivotal role in channelizing resources to efficient and productive uses. Financial sector reforms initiated in 1991 by Narsimham committee expected to have impact on Indian banking sector. Keeping this perspective in mind, the present study has been undertaken with objective to examine the impact of financial sector reforms on Indian banking sector in terms of depth, access and efficiency of scheduled commercial banks during the time period from year 1991 to 2015. Depth and access dimensions of banking sector have shown significant improvement as aggregate deposits, aggregate credit, advances to priority sector, per capita deposits and per capita credit had registered high two digit compound annual growth rate in post financial sector reform period. However, profitability of scheduled commercial banks exhibited a varying temporal behaviour and had shown very low levels of compound annual growth rate. Therefore, banks should emphasise on increasing profitability by devising strategies to cut the cost, increasing income other than interest income and by adopting cost effective technology.

Keywords: Depth, Access, Efficiency, Scheduled Commercial Banks, Financial Reform

THE RIGHT OF PRISONERS TO CONJUGAL RELATIONS AND RIGHT TO FAMILY: NEED FOR RESTORATIVE JUSTICE

Dr. Kamaljit Kaur*

ABSTRACT

The issue of conditions of prisoners during imprisonment is extremely vast and there is immense availability of literature on prison law. However, the Right to Conjugal relations with spouse and Right to family have unfortunately been little studied not merely in India, but around the world. Academic research, public policy as well as prison statistics have almost entirely neglected effects of imprisonment on the right of prisoners to conjugal relations with spouse, the families and children of prisoners. The limited research done on this has revealed that the effects of imprisonment on families can be devastating, giving rise to issues of social ostracisation, unemployment etc. The penological interest of state should permit the creation of facilities for conjugal visits during incarceration. However this right is subject to some reasonable restrictions such as the gravity of the offence committed by the person and also its repercussions on the society, good behaviour of the prisoners during jail term, duration of actual sentence already served in the jail, pre- conviction conduct of the convict. The right to conjugal visits, procreation and artificial insemination has been recognized world over even if partially but there is a need to look at two aspects simultaneously that is, rights of prisoners and the preservation of the security and discipline inside jails. The imprisonment curtails many fundamental rights ipso facto but the very fact that a person is a convict does not mean he ceases to be a human. Additional punishment such as denial of family rights and right to procreate must be tested against Article 21 of the Indian Constitution. These rights ensure fairness, morality and natural justice in the society. It has been canvassed that right to life includes right to 'create life' and 'procreate' and this fundamental right cannot be taken away due to imprisonment. The research paper will analyse the possible reasons for not allowing conjugal visits in Indian jails and the right to family and aims to suggest remedial measures in the form of compensation by the state keeping in mind the preferred theory of restorative Justice.

Keywords: Conjugal Relations, Right to Family, Prisoner

* Associate Professor, Rajiv Gandhi National Law University, Patiala.

LAW RELATING TO INTER-COUNTRY ADOPTIONS: PLUGGING THE LOOPHOLES

Dr. Shipra Gupta*

ABSTRACT

The absence of a stringent law has encouraged many unscrupulous people to 'commoditise' the children in the guise of inter-country adoption and also to indulge in other corrupt practices ignoring the 'best interest of the child'. The magnitude of problem of unregulated inter-country adoption necessitates an efficacious regulatory mechanism and stringent laws in place for bringing about coordination within the country of origin and also with the receiving country. The paper makes an attempt to trace the legal development and present an analysis of the existing legal position with reference to its efficacy in regulating inter-country adoptions.

Keywords: Country of Origin, Inter-Country Adoption, Receiving Country

THE CRIMINALIZATION OF BEGGING IN INDIA: A CRITIQUE

Tanmeet Kaur Sahiwal*

ABSTRACT

Begging has been prevalent globally since time immemorial and in its presence has superseded all barriers of caste, creed and the like. In very simple terms, begging means to ask for gifts or charity. The concept has been further defined and elaborated in various international and national legal frameworks. Akin to all social practices, begging too has been subjected to close critical scrutiny ranging from ethical issues like the moral dilemma of giving or not giving of alms, using it as a means of sustenance, etc to social issues like inculcation of begging as a means of easy earning, it's presence as a part of the cultural set-up, it's imposition as a part of caste hierarchy, the use of begging as a means to exploit the vulnerable sections of society, to legal concerns like the institutionalization of begging, begging as an organized crime, it's correlation with trafficking and sexual exploitation, the criminalization of begging and several other incidental matters. The focus of this research paper, however, is to reflect on the present day status of beggars and begging, as well as its consequent criminalization in India.

Keywords: Begging, Criminalization, and Rehabilitation.

ROLE OF NON-GOVERNMENTAL ORGANIZATIONS IN PROTECTION OF CHILD RIGHTS IN INDIA

Simran Brar *

Dr. Jai Mala **

ABSTRACT

In a civilized society, the importance of child welfare cannot be underestimated because the welfare of the entire community, its growth and development depends on the health of its children. Children are considered as highly important national asset and the future paramount well-being of the nation, that's why the protection of child rights is important. These rights overlap significantly with all human rights. Non- governmental organizations play a significant role in protection and promotion of child rights. The present paper elaborates the child rights and role of NGOs in protection of child rights in India.

Keywords: Child Rights, Child Welfare, Non-Governmental Organizations.

PLEA BARGAINING: A REDUNDANT APPROACH IN JUSTICE DELIVERY SYSTEM

Dr. Virender Negi*

ABSTRACT

The justice delivery system is an ongoing process and requires timely as well as updated adaptation to the ever changing needs of the society. The Indian legal system being the peculiar one owing to its overburdened litigants and case laws needed speedy justice machinery. To achieve the said objective the concept of plea bargaining was introduced in 2005. The paper discusses the meaning, nature and reasons for the failure of plea bargaining in India.

Keywords: Justice Delivery System, Plea Bargaining and Prosecutors.

POSITION OF EUTHANASIA IN INDIAN LEGAL SYSTEM: AN OVERVIEW

Dr. Jasneet Kaur Walia*
Parvinder Kaur**

ABSTRACT

As everyone knows that death is universal truth or certain thing, which will occur sooner or later. Even after knowing this fact, it is painful to see our loved ones to die with incurable illness or injury. However, much advancement in medical technology, for eg; ventilators and artificial feeding (which keeps permanent ill patients alive) have prolong the life of patients, which has increased the sufferings of patient and their family members. In India, the Supreme Court and the Law Commission has come a long way to clear the position of euthanasia in India through the landmark cases, for eg: Aruna Shanbaug v. Union of India (2011), Gian Kaur v. State of Punjab, 1996, Common Cause (A Regd. Society) v. Union of India and Another, 2018, 196th and 241st Law Commission reports. But still, there is lack of proper statutory procedure to implement euthanasia in India. Thus, this paper proceeds to clear the concept of euthanasia, its history and meaning, its various types, arguments in favour and against euthanasia, the legal position of euthanasia in India, solution and conclusion.

Keywords: Euthanasia, Incurable Illness, Medical Treatment

ENVIRONMENTAL ACTIVISM: INDIA VS INTERNATIONAL

Dr. Anupam Bahri*

ABSTRACT

Environmental activism encompasses a broad array of individuals and organizations working in scientific, social, conservational, and political fields that address the concerns of environmentalism. These individuals and organizations are known collectively as part of the environmental movement or green movement. Environmental activists within the green movement do not share a common political affiliation or agenda and seek diverse solutions to environmental problems. In this research paper, researcher will throw light on environmental activism at national and international level.

Keywords: Environmental Activism, Environmental Organisation, Environmental Legislation.

HUMAN RIGHTS JURISPRUDENCE AND ARTICLE 21 OF THE INDIAN CONSTITUTION: THE JUDICIAL INTERPRETATION

Monika Negi*

ABSTRACT

Human rights jurisprudence is studied in relation to the concept of international law and documented principles of international community explicitly human rights. Human Rights are the avowed philosophy of International Law, well protected and received legal acumen all over the world for a long period. Indian Constitution aims at a Welfare State and provides wide range of Human Rights protection in its part III, IV and IVA, In form of Fundamental Rights, Directive Principles Of The State Policy And Fundamental Duties .In addition to the Constitutional Provisions the India, The Supreme Court of India, took serious cognizance of Human Rights protection through its liberal interpretation of Constitutional Provisions especially article 21 through its and Judicial Pronouncements.

Keywords: Human Rights Jurisprudence, International Law and Judicial Pronouncements.

SKILL DEVELOPMENT: A WAY TO REAP DEMOGRAPHIC OPPORTUNITY

Dr. Harjeev Kaur Sandhu*

ABSTRACT

The population today is ageing fast throughout the world and adversely impacting the labour requirements across the globe, especially the world's largest economies. This has prompted a debate among economists and demographers about the relationship between population change and economic growth. Understanding the same has accordingly become very important. Accordingly an effort has been made in this paper to analyse the opportunities for the developing countries, especially India to reap demographic dividend.

Keywords: Demographic Opportunity, Demographic Transition, Skill Development.

ROLE OF RIGHT TO SERVICE COMMISSION IN PUNJAB

Dr. Ritu Salaria*

ABSTRACT

The main objective of the law relating to Right to Public Services in India is to provide and guarantee time bound delivery of services for various public services rendered by the Government to citizen and also to have a mechanism for punishing the errant public servant who is deficient in providing the service stipulated under the statute. This legislation further aims to reduce corruption among the government officials and to increase transparency and public accountability. So, under the Right to service legislation Madhya Pradesh became the first state in India to enact Right to Service Act on 18 August 2010 and Bihar was the second to enact this bill on 25 July 2011. Several other states like Bihar, Delhi, Punjab, Rajasthan, Himachal Pradesh, Kerala, Uttarakhand, Haryana, Uttar Pradesh, and Jharkhand have introduced similar legislation for effectuating the right to service to the citizen. In this paper I have focused on the working of the Right to Service Commission of Punjab.

Keywords: Accountability, Public Service, Right to Service

SURROGACY (REGULATION) BILL, 2016: ISSUES AND CHALLENGES

Anju Berwal*

ABSTRACT

Worldwide, surrogacy spins a web of emotional, social and legal issues. Voluntary surrogacy is tolerated by society, but the moment the element of commerce – payment to surrogate mother – crops up, it cries foul. The surrogacy field has been rocked by the scandal¹. The flourishing commercial gestational surrogacy industry in India has led to a debate which compels thinking about commercialization of women's reproductive labor. Whether surrogacy involves exploitation of women, it is imperative to consider the conditions that drive some women towards contractually 'renting' their womb – a choice which is often not a 'respectable' one in our society.

Keywords: In-vitro Fertilization (IVF), Assisted Reproductive Technology (ART), Surrogacy.

RIGHTS OF MINORITIES IN INDIA: CONSTITUTIONAL PERSPECTIVE

Dr. Sushila Chauhan*

ABSTRACT

The minorities are subjected to deprivation and discrimination in any society and polity where minority community has dominance and supremacy. The most common minorities are racial, religious or ethnic groups in a society who are seen as suffering across a broad spectrum of disadvantage and needing special legal protection and positive discrimination. Indian Constitution enshrines various provisions for the protection of the rights of the minorities. The preamble aims to accommodate diversity by guaranteeing every citizen justice, liberty and equality. In spite of all the steps taken by the State the minorities have been unable to associate with majority. Though in India minorities are of various kinds such as religious, linguistic, cultural, untouchable, socially and educationally backward classes but present research paper focuses on two types of minorities i.e. Religious and linguistic minorities. It intends to study the constitutional safeguards provided to the minorities and judicial interpretations of the provisions which protect the rights of minorities.

Keywords: Constitution, Judicial Concern and Minorities.

COMMUNITY SERVICE AS A PUNISHMENT

Dr. Sukhbir Kaur*
Katyayni Dwevedi**

ABSTRACT

Punishment is the authoritative imposition of an undesirable or unpleasant outcome upon a group or individual, in response to a particular action or behavior that is deemed unacceptable or threatening to some norm. It is agreed by almost all penologists that punishment is necessary in all the civilized countries for the offenders. When any criminal commits the crime, he causes loss to the society and the State, so he has to payback something in any form to the society or the State. If criminal will not pay anything to the society or State then there is no possibility to maintain peace in the society and it will be disorder, all the rich and brave persons will harass and crush the poor persons in the society. Community service, also known as community restitution, is a form of punishment intended to benefit the community that's been harmed by an offender's crime. As far as possible prison should be the last resort for the person charged or convict of non violent, petty crimes. This, of late seems to motto of many judges, who instead of giving the traditional prison sentence, are setting a precedent by giving petty, first time offenders an option to work off their debt to the society through community service. Community service can be a reparative sanction that links the nature of the service to the offence to be sanctioned; it can be a positive sanction that evokes responsibility from the offender for his/her actions; it can reduce the burden on the system of incarceration. Community service provides an opportunity for the offender to see first-hand the indirect injuries caused by his/her offence.

Keywords: Community Service, Jurisprudential aspect and Punishment.

JURISTIC ATTENTION TOWARDS ANIMAL WELFARE: GLANCING BACK LOOKING AHEAD

Dr. Tarun Arora*

ABSTRACT

The transformation of law governing animal from property as a subject matter of consideration placing mankind under moral as well as legal obligation is a recent development. Under Earth Jurisprudence, animals are not being considered as property but a living entity. In view of this recent paradigm shift, the present paper maps the development of jurisprudence in context of animal welfare. Assuming law as an instrument of striking the balance, the paper revolves around the examination whether the traditional approach placing animals in subjugation should be continued or there is need to revisit this inter-relationship under the Earth Jurisprudence. Accordingly, relationship between law and morality, animal welfare approaches and tenets of Earth Jurisprudence have been elaborated. The paper also examines the statutory and judicial approach concerning animal rights.

Keywords: Animal Welfare, Earth Jurisprudence, Juristic Attention

FLAWS OF JUDICIAL SYSTEM

Dr. Vinay Sharma*

Dr. Pooja Sood**

ABSTRACT

Justice delayed is justice denied. The important question is regarding the improvement of justice delivery system. The prominent points of discussion in this paper are the lapses in investigation, prolonged trials, delayed justice, corruption and lack of transparency.

Keywords: Union, judiciary, Indian Judicial System, corruption, transparency.

DIGITAL MARKETING IN INDIA: BENEFITS AND CHALLENGES

Tarun Kumar*

Prof. (Dr.) Ranbir Kaur**

Aman Khera***

ABSTRACT

The digital era is the reflection of changing needs and desires of the society. The love for digital technology is growing rapidly with each passing day. Marketing decides the success of any product; more the products are being advertised more the chances of their success grow. The overall marketing umbrella covers advertising, public relations, promotions and sales. Marketing is a process by which a product or service is introduced and promoted to potential number of customers. This paper aims to discuss the importance, benefits and challenges faced by digital marketing in India.

Keywords: Digital marketing, E Marketing and Product Promotion.

CONSUMER AWARENESS OF CSR INITIATIVES IN NORTH INDIA

Dr. Abha*

ABSTRACT

CSR became a critical issue for organizations after financial scandals (e.g., Enron affair), social problems (e.g., poor working conditions in developing countries), and environmental disasters (e.g., Prestige shipwreck) which increased pressure on corporations through increased media coverage and increased transparency requirements. Organizations are increasingly investing resources to demonstrate their commitment, ethical outlook, and responsible behaviour in this area. CSR requires response from both sides, from the company and the consumer. It is optimistic view that economists, managers and finally companies perceive CSR as a crucial part of business especially if they are those units that undertake CSR actions. Actually, CSR without positive response of customers would have no sense and would not be used by companies because every action or expenditure made by them requires some benefits in a short or long time. This study has tried to focus on the most important stakeholder of the organization i.e. consumer and how they perceive the effort made by the corporates in the form of CSR.

Keywords: Corporate Social Responsibility, Consumer Perception, Consumer Attitude.

ARMED FORCES TRIBUNAL: A TOOTHLESS TIGER

Dr. Sonia*

ABSTRACT

An attempt is made by this research paper, as how defence personnel rights in general and their rights to be redressed in particular are being denied, delayed and even violated in many cases. The actual implementation of Armed Forces Tribunal Act, 2007, a beneficent legislation enacted primarily for the better protection of the interests of defence personnel in the country is also examined in this article at the appropriate place. The AFT is a tribunal which does not possess powers of civil contempt. Though there is mention of civil contempt in the rules and forms framed under the AFT Act, the substantive provision is missing. Till date the Tribunal survives on ambiguity.

Keywords: Armed Forces Tribunal, Civil Contempt, Defence Personnel

* Assistant Professor, Department of Laws, Panjab University, Chandigarh.

INVESTMENT TREATY ARBITRATION: THE 'REFINED' FORM OF INTERNATIONAL COMMERCIAL ARBITRATION

Yashesvi Singh Mann*

ABSTRACT

The article outlines the fundamental changes brought by the investment treaty arbitration in regime of international commercial arbitration. The authors acknowledge that both may have a number of similarities, but investment treaty arbitration has surpassed international commercial arbitration on many fronts. The article begins by a brief introduction to arbitration as a method of dispute settlement in international commercial disputes. After giving a quick overview of history and development of international commercial arbitration and investment treaty arbitration, the article turns to the basic similarities and differences between the two. The next part of the article focuses on some of the important improvements brought by investment treaty arbitration in international commercial dispute settlement regime. It concludes by highlighting the major fronts on which investment treaty arbitration has transcended its progenitor.

Keywords: International Treaty Arbitration, International Commercial Arbitration, Investment

THE CULTURAL HISTORY OF *DHRUPAD*; A LIVING TRADITION OF INDIAN CLASSICAL MUSIC

Gauravadeep Kaur*

ABSTRACT

The paper is an analysis of the cultural history of Dhrupad, the most ancient and structured form of Indian Classical Music. It focuses on its unique features such as adaptability and structural form, institutions such as the guru-shishya parampara and gharana, traditions and listening ecology in order to chart out its evolution and subsequent rise, fall and resurgence, rather than chronological historical account. The aim is to highlight the reasons for its ever evolving and living tradition, embedded in the secular Indian cultural tradition, despite in conducive popular Indian music scape.

Keywords: Dhrupad, Indian tradition and Music.

FREEDOM OF PRESS IN DEMOCRATIC STATE

Kush Kalra*

ABSTRACT

The democracy survives only when there is a serious inter play between public opinion and law making. Informed choice is central, in governance in democratic republic. In "Democracy" every citizen is born with an appetite for information that transforms him as a true citizen. Thus, like a child hungry for food, like diseased need medicine, like underfed needs nourishment, like insecure needs security, the citizen depend upon information for his own strength and need. If a citizen's surge for free flow of information is denied, it would be the death bell of democracy itself. The freedom of Press as has been noted is the paramount in public governance in democratic State. Voicing for the deprived, exploited marginalised people, who may be identifiable collectively as a caste, linguistic or belonging to a particular community or religion is not anathema to the constitutional values. Essence of expression must be with an objective to accommodate their need or right within the Scheme of Constitution. Having plural voices in democracy is conducive to democratic and polity itself. Therefore, any attempt of the Press portraying the voice of the people for their upliftment or emancipation cannot be decried as a foul against the State to deny the constitutional protection of free speech and expression. The Press has full freedom to criticize Governmental policy and decision without any fear or restraint. In the context of Press freedom, what could be the prohibited line for the Press? A discussion, in normal course is a deliberation of issues among public. A discussion normally cannot have any impact upon the security of the State or Unity and integrity of the State or also of public order. However, advocacy or incitement, necessarily fall within the prohibited line. The objective line of test is based on the purpose of reporting by the Press. Any distorted version with the intention to polarise people on communal line, certainly would fall within the prohibited line. The proximate relationship between advocacy or incitement and threat caused to the unity and integrity of the Nation or security of the State or public order or decency or morality and other areas referred in Article 19(2), is the gauge to restrict freedom of speech and of the Press.

Keywords: Democracy, Freedom and Press.

* Assistant Professor of Law, Delhi Metropolitan Education, Noida, India.

RIGHT TO HEALTH AND FOOD SAFETY: INDIAN AND INTERNATIONAL PERSPECTIVES

Rita*

ABSTRACT

The right to health and food safety are fundamental human rights which are recognized in international and regional human rights systems. Health has been recognised at the global and regional level by protection of the right to health/health care in international human rights instruments. The content of these rights have been explored and explicated within the context of the major international human rights instrument enshrining the right to health. Apart from international human rights instruments, municipal legal systems also recognise the right to health unambiguously or tacitly. With increasing commercialisation of agriculture and integration of domestic markets into global food and agribusiness system, the issue of food safety regulations in India is becoming a matter of public debate. In relation to health, a rights-based approach means integrating human rights norms and principles in the design, implementation, monitoring, and evaluation of health-related policies and programmes. These include human dignity, attention to the needs and rights of vulnerable groups, and an emphasis on ensuring that health systems are made accessible to all. This paper aims at giving an overview of legal and regulatory framework of different international legal instruments and national laws of India relating to healthcare, food safety and a brief explanation of Sanitary and Phytosanitary measures. The present paper is also an attempt to understand the level of food safety regulations and its compliance in India under the surveillance of India's new Food Safety and Standards Act, 2006.

Keywords: Food Safety, Health, Sanitary

ADOPTION OF SOCIAL MEDIA PLATFORMS BY GOVERNMENT ORGANISATIONS

Ramneek Kaur*

ABSTRACT

Social media is a term used to describe interaction between groups or individuals in which they produce, share, and sometimes exchange ideas over the internet and in virtual communities. Its increasing impact on the society has led various government agencies embrace these platforms to reach out to citizens. In this article an attempt has been made to discuss the use of social media platforms by Indian government agencies and policy governing their use of the same. The need to have a policy for government's use of social media as well as policies adopted by some other nations have been discussed in brief and in the light of the comparison of all the policies, the Indian policy is analyzed.

Keywords: Government Agencies, Government Organisations and Social Media.

COMPENSATION TO VICTIMS OF MEDICAL NEGLIGENCE: FROM NEGLIGENCE TO NO FAULT LOSS DISTRIBUTION

Pratibha Khosla*

Dr. Ajay Ranga**

Dr. Akash Khosla***

ABSTRACT

Medical negligence is an injury that a patient suffers during a treatment as a direct violation of the governing standard of care by the health care provider. Victims of medical malpractice often incur loss of money by abstaining from work during the recovery period; they may experience suffering, pain, and heavy expenditure on medical expenses. In some cases, the cost of medical malpractice reappears years after the injury has occurred. The need to compensate victims for their injuries has long been recognized in most systems of law. The reported cases of medical negligence in Indian health care system have grown over the recent few years. Both the number of malpractice claims and the award paid per claim has increased rapidly. However, in medical negligence cases compensation still depends on proof of quantum of negligence. In theory, "negligence rule" should both provide compensation to iatrogenically injured patients and lead doctors to take appropriate precautions against incidental harm. In practice, however, the rule performs poorly on both dimensions. Victims in India are mostly a horrified lot and as such may avoid contesting their claims against medical man may be due to poor awareness, high costs, lack of confidence and absence of any specialised fora. In fitness of things there is need to decouple remedies for injured parties (victim) from an adversarial court process. A no-fault approach is required to provide benefit to an injured party under which victims of medical battery may obtain compensation even if no negligence occurred. New Zealand and Sweden have adopted legislation implementing no-fault compensation schemes for victims of medical accidents.

* LL.M, Student, University Institute of Legal Studies (UILS), Panjab University, Chandigarh.

** Assistant Professor, University Institute of Legal Studies (UILS), Panjab University, Chandigarh.

*** Senior Assistant, Dr. S.S. Bhatnagar Institute of Chemical Engineering and Technology, Panjab University, Chandigarh

LAW RELATING TO THE RESTITUION OF CONJUGAL RIGHTS IN HINDU MARRIAGE ACT 1955: A CRITICAL ANALYSIS

Nancy Sharma*

ABSTRACT

Marriage imposes an obligation on husband and wife to perform their matrimonial obligations. In case if any party to the marriage withdraws or refuses to perform its part of matrimonial obligation then law provides a remedy to aggrieved party to approach the court and file a petition for restitution of conjugal rights .The remedy is recognized in the section 9 of Hindu marriage act 1955.But on the other side this remedy has become a debatable issue as it is believed that enforcement of this remedy violates the fundamental rights of the parties .Inspite of such existing fact the remedy has not been abolished because it is said to protect and preserve the institution of marriage.

Key words: Conjugal relations, Marriage and Matrimonial home.

HUMAN RIGHTS OF THE ACCUSED: A STUDY UNDER THE INDIAN CRIMINAL LAW

Nidhi Sharma*

ABSTRACT

Human Rights are commonly understood as the inalienable fundamental rights to which a person is inherently entitled simply because he is a human being. Human rights under the Indian criminal law is divided into three categories i.e. human rights of the accused persons, convicts and the prisoners. In order to ensure a free and fair trial an accused person is entitled to certain rights so as to defend himself in an appropriate manner and prove his innocence, till he is proved guilty and punished accordingly. The provisions for the rights of accused persons has been laid down under the Constitution of India and Code of Criminal Procedure, 1973. The judiciary in India has also over the years explained and elaborated the human rights of accused persons in India and has also laid down certain directives for law enforcement. The paper shall focus on the various rights accorded to the accused under the Criminal Procedure Code, 1973 and light shall also be thrown on the role of judiciary in expanding the scope of the basic human rights of accused in India.

Keywords: Accused, Code of Criminal Procedure and Justice.

THE CRITICAL EVALUATION OF NATIONAL JUDICIAL APPOINTMENTS COMMISSION

Mohit Saini*

ABSTRACT

The framers of the constitution wisely and thoughtfully kept the three pillars of democracy viz. the legislature, the judiciary and the bureaucracy separate so that none of them transgress the role allotted to them. The system has been working well till recently when for political compulsions the legislature has started trespassing the judiciary and judiciary trespassing in the area of the legislature. Now to show who is great the legislature has passed the "National Judicial Appointment Commission Act" and judiciary on its part review its validity and held it as unconstitutional and void which sought to give politicians and civil society a final say in the appointment of judges in the highest courts. NJAC was a ploy to bring the judiciary within the ambit of executive in the garb of reforming collegiums system. Thus NJAC restrict the judiciary in scrutinising the executive's malafide actions and its overreach.

Keywords: Executive, Independence of Judiciary and Judicial Appointment.

PERFORMANCE OF MAHATMA GANDHI NATIONAL RURAL EMPLOYMENT GUARANTEE ACT (MGNREGA): AN OVERVIEW

Shallu Nuniwal*

ABSTRACT

The Mahatma Gandhi National Rural Employment Guarantee Act (MGNREGA) was developed by the Indian government to reduce rural poverty through 100 days of guaranteed employment per year. I explore whether this scheme has provided rights based social protection through guaranteed employment for Scheduled Castes, Scheduled Tribes and women in Haryana. I found that the experiences of participating in MGNREGA varied depending on how MGNREGA wages compared to market wages in the region, as well as local implementation of the program. Although MGNREGA offered some basic employment for marginalized groups, it did not provide substantial help to the most vulnerable. However, there was some evidence of small but significant shifts in labour relations. Higher wages, more opportunities for work, better implementation and a greater recognition of the care giving responsibilities of women will be required for this policy to fully meet its goals.

Keywords: Employment Guarantee, Livelihood, Rural Household

PAVING WAY TO THE UNIFICATION OF INTERNATIONAL CONTRACT LAW THROUGH CISG: A CROSS SECTION OF INDIAN PERSPECTIVE

Negar Yaghouti*

ABSTRACT

The ever expanding horizons of the trade and commercial relations in contemporary era of globalization have warranted the trading sector to cope up with its magnitude. The growing economies have often pushed the manufacturing entities to explore new markets for incessant profitability. That's the reason producers in various nations try to profit from an expanded market, rather than be limited to selling within their own borders. However, one of the most controversial components of international trade today is international sales contracts. When disputes arise in contracts consisting of parties from different legal backgrounds and languages, the myriad questions of jurisdiction, good faith, redressal and prompt enforceability of contract become challenging one. One of the solutions for such situation is harmonization and unification of contracts laws. The convention on Contracts for the International Sale of Goods (CISG) is a culmination of years of efforts for harmonization and unification of international contracts laws which became enforceable on 1 January 1988. The purpose of the CISG is to provide a modern, uniform and fair regime for contracts for the international sale of goods. The CISG proved to be the most successful international private law convention in worldwide. Today with 85 member States, the number of CISG membership is continuously increasing. The challenge to bring out unanimous consensus between all the nations at global level thus warranted more deliberate efforts. The emergence of India as the world's fastest growing economy after 1991 on account of the effect of liberalization, globalization and privatization has broadened the canvas of trade with myriad nations. Thus, it's the high time to witness the role of India's steps at global forefronts especially the CISG. It's pertinent that, the familiar and trade friendly legal framework of sales law will facilitate the promotion of international trade between India and other countries. The pivotal role of CISG whilst emerging as the unified international trade law thus warrants a cross

* Research Scholar, Department of Laws, Panjab University, Chandigarh.

INTERNATIONAL HUMAN RIGHTS VIS-A-VIS WOMEN'S REPRODUCTIVE RIGHTS

Amrita Rathi*

ABSTRACT

Women's reproductive health raises sensitive issues for many legal traditions because the subject is related to sexuality and morality. Neglect of women's reproductive health, perpetuated by law, is part of a larger, systematic discrimination against women. Laws obstruct women's access to, reproductive health services. Laws protective of women's reproductive health are rarely or inadequately implemented. Protection of women's reproductive health has not been a priority for governments, as reflected by laws they have created. Historically, the principal duty of women has been viewed as bearing children, particularly sons, and as serving as the foundation of families. The cost of women's health of discharging this duty went unrecognized. Moreover, few laws or policies facilitate women's reproductive health services.

Keywords: Health, Reproductive, Woman

THE SOCIO-LEGAL RELEVANCE OF MONSANTO'S BT COTTON SEEDS DISCOURSE FOR INDIA

Dr. Sabina Salim*

ABSTRACT

Seed is the basis of agriculture; the means of production and the basis of farmers' livelihoods. The advent of biotechnology has posed a challenging situation which requires balancing the interests of farmers in context of, displacing local varieties and introducing GMO seeds which impose extravagant royalties on farmer¹. Issues related to the state of seed have been prominently in news because of the current conflicts related to Monsanto, Indian farmers and the Government of India. Recently the State Governments and the Central Government have acted to bring down the seed prices. The article analyses the relevance of these issues in their socio-legal context.

Keywords: BT Cotton, IPR, Monsanto Technology.