

LEX SCRIPTA MAGAZINE

Editor in chief

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Amity University Jharkhand**

Foreword and Introduction by

Mr. PIYUSH RANJAN

Civil Judge, Junior Division (On Probation)

Nitya Publications

First Edition 2023

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ISBN : 978-93-5641-069-5

Price : Rs. 250.00

Published & Printed by :

Nitya Publications, Bhopal MP India

Web: www.nityapublications.com

Email: info@nityapublications.com

Mob. 9009291840

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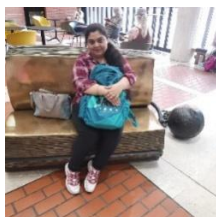
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FOREWORD

As a legal academic scholar and a legal enthusiast with a curiosity to explore much into the field of juristic arena it gives me a bundle of joy to go through this edition of the peer reviewed magazine “Lex Scripta Magazine of Law and Policy” released by Mr. Riday Mukherjee, who is one of my previous law pursuers and a well-known legal researcher and publisher.

This magazine is a team effort of various law scholars from Amity University Jharkhand, coming together to contribute different legal points of view on many topics. The magazine includes well researched prominent topics of public importance which are current issues such as cybercrime, drug abuse, regulation of donation of organs etc. The topics covered also talk about various government policies related to the same in a well-researched manner and this makes the magazine more outlined and knowledgeable for a layman too, to go through it.

Lastly, it can be concluded that this magazine is well researched and makes a balance between law and its policies that go side by side to each other.

Lex Scripta Magazine of Law and Policy is a commendable work of Mr. Riday Mukherjee and his teammates that makes a way for a very good initiative for the young legal researchers. I wish him and his team success with good wishes so that I can look forward to reading the next edition of this magazine.

- Mr. Piyush Ranjan
Civil Judge Junior Division
(On Probation)

INTRODUCTION

Law & Policy embraces varied research methodologies that interrogate law, governance, and public policy within India in order to advance the socio-legal policy field. “Lex Scripta Magazine on Law and Policy” aims to make a vital contribution to the current dialogue on contemporary policy by publishing innovative, peer-reviewed articles on such critical topics as government and self-regulation, health, environment, family, gender, legal decision-making, criminal justice, and human rights.

Together, laws and policies form a foundation for Indian society, guiding its behaviours and norms and determining its resiliency. Laws and policies are critical determinants of health and well-being. They can encourage positive behaviours and discourage harmful behaviours, and they can enhance legal literacy. Central to an entire range of economic sectors, they contribute to conditions in the environments in which people are born, live, learn, work, play, worship, and age, and people's experiences of these conditions. Laws and policies shape everyday life circumstances, societal institutions, and systems. A policy is not in itself a law, but the policy-making process can identify laws that are needed to accomplish the policy's goals. Policies set out goals and planned activities; laws establish institutional and legal frameworks to achieve them.

Laws and policies can be adopted and influenced at multiple levels – federal, state, tribal, local, and even organizational/institutional. This magazine gives a gist of different legal topics acquainted with the current scenario and the policies embedded for them by the concerned authorities and legislation.

Laws set out standards, procedures and principles that must be followed. If a law is not followed, those responsible for breaking them can be prosecuted in court.

As the contents and work of this magazine is concerned, policy sets out the goals and planned activities of a ministry and department but it may be necessary to pass a law to enable the government to put in place the necessary institutional and legal frameworks to achieve their aims. Laws must be guided by current government policy and articles with peer research of this magazine sets out a classic effort of all the team members of the magazine.

- Mr. Piyush Ranjan
Civil Judge Junior Division
(On Probation)

ABOUT THE MAGAZINE

Lex Scripta Magazine of Law and Policy is an Online quarterly magazine which is Peer Review, Academic, published online, that seeks to provide an interactive platform for the publication of Short Articles and Long Articles. Lex Scripta commenced in 2022 as a student initiative. It is a brand-new platform for students to conduct and engage in legal research and to contemplate upon burning legal issues and allied disciplines. Founded by enthusiastic law students from Amity University Jharkhand. It is a magazine of law and policy. This platform is an opportunity for legal enthusiasts to come up with contemporary legal research. It aims at engaging a wider community of readers and practitioners and to keep them updated with the recent developments in the government policies and the new statute as well as enacted laws coming into existence.

Lex Scripta Magazine of Law and Policy relies on the academic contributions by its authors with an aim of encouraging more readers to participate in return for more views. We aspire to provide a healthy environment for learning and growing. We pay regards to our constant supporters and readers and humbly request them to sustain the support and provide honest feedback so that there is always enough room for improvements as this would in turn aid us to remain steadfast in the path we have chosen.

MISSION

Lex scripta aims to cover various articles which talk about the current legal system and all the laws that are being enacted by the legislature and the reasons behind the same. Here on this platform, we aspire to come up with all burning legal matters that are prevailing in the Indian legal system and society. We intend to make law students and legal enthusiasts ponder upon the burning legal issues.

VISION

Lex scripta aspires to reach as many people as it can and provide them with relevant legal updates. The articles under this magazine aim to be simple and yet very informative so that every person unrelated to a legal field finds the articles easy to be understood. Our articles are inspired by the works of renowned advocates and topnotch professors of our university. This magazine aims to cover as much legal information as possible and intends to attract as many people as possible and help them to get to know about the legal updates and issues prevailing in the current legal scenario. The motive is to make people aware of the legal happenings in the society. We aspire to achieve the aim of making every citizen of our country aware of their legal rights. Hence, we focus on the current burning legal topics and the articles are very much oriented towards being simple, informative yet easy to understand.

NOTE FROM THE EDITORS

We come up with this note as we express our humble gratitude to everyone associated with this magazine. Our peers, student editors, Professors and all the other eminent personalities associated with our magazine. we are grateful for all the support that has been given to the magazine out of love. we hope to satisfy our readers with quality content and envisage success to the inaugural issue of the magazine and gain recognition in the near future. With the magazine paving new opportunities for students to gain knowledge and publish their articles with us, we hope our magazine becomes a medium for catalysing free exchange of legal thoughts and interpretations of new legal policies through the eyes on young future lawyers.

The issue features ten submissions bearing the following titles: The Pardoning Power of Governor and Perarivalan Judgement: A Glimmer of Hope?, An Analysis of Reproductive Rights and Laws for women in India, A Detailed Study on Central Vista Project, Laws and Constitutional Provisions for Environment Protection, A Detailed Study of Government Policies regarding Climate Change and Environmental Crisis in India, Criminal Liability for Online Harassment and Cyberstalking, A Detailed Comparison of Union Budget, Drug Abuse in India: A Critical Analysis,

Rise of Fake Feminism in Modern Era, A Critical Study of Dowry Death and Dowry System in India, Cybersecurity: Categories and Challenges, Influence of Cyber Laws on Data Security: An Analysis, Evolution of Indian Contract Act: A Detailed Study, Organ Donation in India and Globally, A Detailed Study on Behavioral and Emotional problems faced by Orphanage in India “Highlighting Post COVID Era”, Important Landmark Cases Of Environmental Law : Case Comments.

Academic integrity and quality of research have always been the non-negotiable utmost requirements of the AUJ academia. The same has been dutifully imbedded in the context of the Magazine. We have precisely congregated sixteen articles on burning legal issues that can be spotted in the society. We hope our devoted attempt is recognized by our readers and contributors and they continue to extend their support to take our Magazine to new heights.

We hope our readers will enjoy reading the Magazine as much as we did putting it together for you.

ACKNOWLEDGEMENT

The Editor would like to extend his reverence towards all those who have significantly contributed to the magazine. To begin with, my valued seniors at the workplace for being the guiding light: Dr. Ashok K Chauhan, Founder President, Ritnand Balved Education Foundation; Dr. Atul K Chauhan, Chancellor, Amity University; Prof Dr. Raman Kumar Jha, Vice-chancellor, Amity University Jharkhand; Dr. Ashok K Srivastava, Acting Pro Vice-Chancellor, Amity University Jharkhand; Prof Dr. Ajit Kumar Pandey, Dean(Academics) Amity University Jharkhand and Prof Dr. S Arvind Pandey, Director, Amity Law School, Amity University Jharkhand.

I am extremely grateful to Nitya Publication for endowing me with the opportunity to publish the given work. They have been extremely cooperative and it was a wonderful experience working with them. Looking forward to future academic collaborations with them.

I am expressing my gratitude to Mr. Piyush Ranjan, Civil Judge, Junior Division (on Probation) for assenting to write the foreword and introduction for this magazine. I am highly indebted to Sir for being generous to pen down his valuable thoughts for the magazine. Alongside, I am thankful to all contributors. It was overwhelming to receive contributions from legal professionals, academicians, and research scholars from all over India.

Last, but never the least, I am beholden to the relentless and unconditional affection of my family members.

THE PARDONING POWER OF GOVERNOR AND PERARIVALAN JUDGEMENT: A GLIMMER OF HOPE?

AUTHOR: NITESH RANJAN

CO-AUTHOR: AMAN UPADHYAY

“Forgiving is more courageous than punishing. The weak cannot forgive. Forgiveness is the prerogative of the strong”

- Mahatma Gandhi

ABSTRACT

The Supreme Court recently released AG Perarivalan, one of the seven convicts in the Rajiv Gandhi Assassination Case which took place in Sriperumbudur town of Tamil Nadu in 1991¹. In this case, the Governor had a major role to play. Article 153² mandates for each state to have a governor. It is appointed by the President and can address his resignation only to the President. The Governor has the executive authority of a state. The powers and jurisdiction of a governor have been a debatable issue in India. The Governor's use or abuse of the pardoning power is not exempt from judicial review. In some circumstances, a limited judicial review is an option. However, the Court may intervene if the Governor exceeds his authority under the constitutional framework. The Court will refrain from evaluating the propriety or sufficiency of the reasons for exercising this power in a specific case. For instance, the courts will intervene when the clemency power is used arbitrarily, dishonestly, or in complete disregard of constitutional law. In the context of the case, we will be analyzing the pardoning power of the Governor in India.

Keywords: Supreme Court, Article 153, president, governor, judicial review.

INTRODUCTION

Perarivalan was convicted of purchasing batteries that were used for triggering the bomb to assassinate the former Prime Minister Rajiv Gandhi. The conviction of Perarivalan was under, the Foreigners Act, 1946³, The Passport Act, 1967⁴, Explosive Substance Act, 1908⁵, Terrorist and Disruptive Activities (Prevention) Act, 1987⁶, and The Wireless Telegraphy Act, 1933⁷.

¹ Swamanwaya Rautray (2022, May 18), Rajiv Gandhi Assassination Case: SC of A G Perarivalan. The Economics Times. <https://economictimes.indiatimes.com/news/india/rajiv-gandhi-assassination-case-sc-orders-release-of-a-g-perarivalan/articleshow/91634476.cms?from=mdr>

² The Constitution of India 1949.

³ The Foreigners Act, 1946 Act

⁴The Passports Act, 1967

⁵ The Explosive Substances Act, 1908

⁶*Terrorist and Disruptive Activities (Prevention) Act, 1987*,

⁷ *The Indian Wireless Telegraphy Act, 1933*

While releasing Perarivalan, the Apex Court exercised its extraordinary power conferred to it under Article 142⁸ of the Constitution of India which states that,

“In the exercise of its jurisdiction, the supreme court may pass any decree or make any order required to complete justice in any case or matter standing before it.”

He spent sixteen years of his imprisonment time on execution row before his sentence was remitted⁹ to life imprisonment in 2014 by the Supreme Court. In 1998, TADA Court awarded¹⁰ the death penalty to Perarivalan and 25 other convicts, which was upheld by the Supreme Court in 1999. They filed¹¹ a mercy plea before the President of India in 2001 which was rejected only in 2011 after 11 long years. In 2014, his death sentence along with other convicts was commuted to life imprisonment by the Supreme Court. In the following year, they filed a mercy plea before the governor of Tamil Nadu under Article 161¹² of the Constitution of India only to get no reply, and finally, the Apex court pronounced its judgment on 15/05/2022. In this case, the Supreme Court made some noticeable observations regarding the remission of sentences by the Governor.

UTILIZATION OF PARDONING POWER BY THE GOVERNOR

Pardon- When the governor pardons, all sentences, punishments, and disqualifications associated with the convict's conviction and sentence are completely wiped away.

But he is not permitted to commute the court-martial sentence. The President's pardoning authority under Article 72 is broader than the Governor's pardoning authority under Article 161.

The State government, not the Governor alone, is the one who actually exercises the Governor's exclusive right under Article 161 to pardon a prisoner.

Respite- When the Governor exercises his "Respite" pardoning authority, he decides to substitute a lesser sentence for the one that would have been imposed on the convict initially. The President may use this power, for instance, due to a special circumstance, such as a convict's physical disability or a woman offender's pregnancy.

Reprieve- When the governor exercises his pardoning authority to "Reprieve," he temporarily halts the execution of a sentence, especially a death sentence. He gives the prisoner enough time to ask him for a pardon or commutation by doing this.

Remit- The length of the sentence is reduced when the President uses the remitting power of pardon, but the nature of the sentence is left unchanged. For instance, a sentence of strict

⁸ *The Constitution of India 1949, art. 142*

⁹ Megha Kaveri (2021, January 25) Perarivalan's Long Wait: A Timeline of Events since Rajiv Gandhi Assassination. *The News Minute*. <https://www.thenewsminute.com/article/perarivalan-s-long-wait-timeline-events-rajiv-gandhi-assassination-142139>

¹⁰ *ibid.*

¹¹ Bureau ITGD, *President Pratibha Patil Rejects Mercy Pleas of Rajiv Gandhi's Killers*. *India Today*. <https://www.indiatoday.in/india/north/story/president-pratibha-patil-rejects-mercy-plea-rajiv-gandhi-killers-139164-2011-08-11>

¹² *The Constitution of India 1949, art. 161*

imprisonment for two years may be reduced to strict imprisonment for one year, but the strictness of the imprisonment is maintained.

Commute- The governor has the authority to commute a death sentence or the punishment or sentence of any person found guilty of a violation of state law.

PARDONING POWER OF GOVERNOR AND PRESIDENT: A COMPARISON

The theory of punishment and pardon is not new, monarchs are also used to pardon convicts. The same concept has been carried forward to modern times as well. In the process of drafting the constitution, the members of the constituent assembly took it as a matter of concern and vested the pardoning power to the president as well as the governor, both these authorities use this power under their domain. There are distinctions between the pardoning power of a Governor and that of a President. It is wider in the case of the president. Governors cannot pardon a death sentence whereas a president can. Also, the former cannot pardon the sentence by a Court Martial but the latter can.

By the effect of Article 161, the governor of a state can grant pardons reprieves, respites, or remissions of punishment. In addition to that, he can also commute the sentence of any individual convicted of any offense against any law relating to a matter, to which the executive power of the State extends. The power is vested to the governor to avoid any kind of discrimination as the governor does not represent any political party and is not expected to support any either. But he doesn't have the authority to pardon death sentences and sentences imposed by a court-martial, however, he can suspend, remit or commute a death sentence.

SUBSTANTIAL DEVELOPMENT

The pardoning power of a governor has passed through many amendments over time. However, it is being challenged in the court of law on various grounds such as jurisdiction, uncertainty on the limitation of time up to which a governor may address the mercy plea, and whether the power has been exercised by the governor arbitrarily or with malice, etc.

in *State v. K.M. Nanavati*, the validity of the Governor's order suspending the sentence imposed by the Bombay High Court on Commander Nanavati was challenged on the ground that an appeal was pending before the Supreme Court, and as such, the trial had not concluded. A Full Bench of the Bombay High Court dismissed this contention on the ground that the word 'trial' did not include the proceedings in an appeal and in any case, the powers under Article 161 could be exercised at any stage. The court relied upon the judgment of the Madras High Court in *In re Channugada*, and held that the framers of our Constitution intended to confer on the President and the Governors, within their respective spheres, the same power of pardon, reprieve, and clemency, both in its nature and effect, as was possessed by the Sovereign in Great Britain and by the President in the United States.

After the sentence was suspended, Nanavati appealed his conviction to the Supreme Court, where he entered a plea to be exempted from the requirements of Order 21 Rule 5¹³ of the Supreme Court Rules which required that while a criminal appeal is pending, the appellant, before the appeal could be heard, had to accept his sentence. This pleading was executed per the Governor's order to suspend the sentence. The Governor had the authority to grant a full

¹³ *Supreme Court Rules, 2013, Order 11, Rule 5.*

pardon at any point in the proceeding, including while the appeal was pending, but he could not grant a suspension of the sentence while the matter was under judicial review before the Court, the Constitution Bench ruled by a majority of four against one¹⁴.

The courts have therefore come to the following conclusions regarding the stages at which the various types of pardoning power can be exercised under the Constitution:

- (a) A pardon may be granted before or after conviction, or at any point after the commission of the offence.
- (b) Pardons may be granted while an appeal to a higher court is pending.
- (c) A sentence cannot be postponed while an appeal is pending before the Supreme Court.

In *Kehar Singh v Union of India*¹⁵, it was held that the grant of pardon is an act of grace and it cannot be claimed by the convict as a matter of right. In *Maru Ram v Union of India*¹⁶, the Supreme Court held that the pardoning power of the governor can be exercised only on the aid and advice of the council of ministers of the state. Although the governor can send back the mercy plea to the ministerial council of the state for reconsideration, if no changes are made by the ministerial council, then the governor is obligated to accept it. Hence, the State government wields the actual power in this regard. However, the state government has misused this provision in several instances. Sometimes, the governor is used as a shorthand expression for the State government. The state government has been given this privilege for they are constituted by the people through the direct election and they are accountable and responsible to the people.

In the recent case of *State of Haryana v Raj Kumar*,¹⁷ the Supreme court laid down that the Governor's pardoning power supersedes section 433A¹⁸ of the Code of Criminal Procedures, 1860, which mandates that the sentence of prisoners can only be remitted after the completion of 14 years in jail. The supreme court ruled that the governor can pardon inmates before they have served a minimum of 14 years in prison. "The constitutional authority granted to the President/Governor to grant pardons under Articles 72 or 161 of the Constitution cannot and does not in any way be affected by Section 433-A of the Code... The Governor has the authority to grant a pardon if the prisoner has not served 14 years or more of actual imprisonment. Although the Governor is required to act with the assistance and counsel of the State Government, the court noted that the Governor's authority "de hors the restrictions imposed under Section 433-A... Such power is in the exercise of the power of the sovereign."

PERARIVALAN JUDGEMENT: A RAY OF HOPE?

Laws in India are so complex and intricate that they need to be interpreted extensively to arrive at a judgment. While interpreting the laws, if the judges come across any loophole, they try to fill in the gaps by delivering novel judgments. This is sometimes termed judicial activism. This case has also witnessed a trial that was based on precedents and good conscience.

¹⁴ AIR 1961 SC 112.

¹⁵ 1989] AIR 653, [1988] SCR Supl. (3)1102.

¹⁶ [1980] AIR 2147, [1981] SCR (1)1196.

¹⁷ 2007 (147) PLR 766.

¹⁸ *The Code of Criminal Procedures, 1908*

Perarivalan's petition under Article 161 had been languishing for two and half years after his sentence was recommended for remission¹⁹. When the Supreme Court started enquiring about the matter, the Governor sent the plea to the president for consideration and had been pending for more than a year since the governor's referral. The Supreme Court exercised its authority under Article 142 and paved the way for the release of Perarivalan. The Supreme Court questioned the Governor's act of referring the mercy petition to the president of India on the well-established ground of constitutional conventions and judicial precedents. The honorable court observed that, in case there is any difference in opinion, the governor can only send it back to the State for reconsideration and the president has no role to play under article 161. In the course of the arguments, the Additional Solicitor-General of India, K.M. Nataraj, argued that if the offence in question was based on a parliamentary law, only the President, and not the State Governor, could consider a claim for pardon or remission under Article 72 of the Constitution. It was observed that sending the file to the president is contradicting the settled law and that the governor was bound to take a call on the mercy petition as per the advice of the council of the ministers of the state. Though the apex court, through this judgment, tried to address some of the ambiguities under Article 161 and somewhat succeeded in its intention there are still some areas that have some lacunae that need to be addressed. One such area is the time duration up to which a mercy petition can be stayed. If it takes longer for a mercy plea to be addressed, then its purpose might be vitiated. This loophole is used by the government sometimes to serve its purpose.

CONCLUSION

This judgment analyses and advocates the importance of a reformatory degree of punishment.

In the fabric of today's complex social structure, policymakers need to focus more on reforming the convicts and bringing them back to the mainstream of society. This judgment can have an outstanding remark in this regard as the grant of mercy is one of the instrumental ways through which the above-mentioned idea can be practically implemented.

Mercy is granted to a convict by closely monitoring his conduct while undergoing the sentence, remaining period of sentence, health, the gravity of the crime, etc. The whole purpose of granting mercy is to provide a possibility to the convict to be a better person and lead a good life. But, if it is delayed unconditionally or not at all addressed, it is both demoralizing and at the same time worthless for the convict as "*Justice delayed is justice denied*".

In the Shatrughan Chouhan case²⁰, it was observed that because of the President's and Governor's high rank, the legislation does not limit their jurisdiction, although it does provide that they must respond to the mercy petition within a reasonable time frame. Despite the Supreme Court's remark on the status of the pardoning power of the governor and president,

¹⁹ Sohini Chowdhury (2022, May 18). Supreme Court Orders Release of Ag Perarivalan, Convict in Rajiv Gandhi Assassination Case. Live Law. <https://www.livelaw.in/top-stories/supreme-court-orders-release-of-ag-perarivalan-convict-in-rajiv-gandhi-assassination-case-199403>

²⁰ [2014] 3 SCC 1.

the same is not being practiced. This loophole needs to be rectified as soon as possible and provisions must be made in statute to strengthen the provision further.

AN ANALYSIS OF REPRODUCTIVE RIGHTS & LAWS FOR WOMEN IN INDIA

AUTHOR - STUTI RANJAN

ABSTRACT

Our society comprises both men and women. Where both the genders have equal contribution towards the human sustainability on the earth. But a history of women facing oppression, rights cannot be denied. With evolution, women's rights have been given values and now it is one of the primary matters which a country prioritizes over and makes laws to secure them. The developed nations have strong laws on the same and the developing ones are trying to match it with the developed one. The article given below discusses the rights and laws a woman has during her reproductive stage. The article is being written with the sole purpose to make a woman aware of her rights and laws so that there could not be any act by the society which infringes human rights or works as an oppression for the women.

The paper given below provides detailed and analysed information about the reproductive rights given under the Indian constitution and the laws which benefit the women. The act thoroughly discusses the rights secured by acts such as The maternity benefit act, The surrogacy act, and the medical termination of pregnancy act. The aforementioned acts secure and regulate women's rights during the phase of pregnancy as well as prevent the illegal use of surrogacy and the medical termination of pregnancy.

Keywords: society, gender, oppression, human rights, women, maternity benefit, surrogacy

INTRODUCTION

Women and children had always been considered as the weaker section of people in society. Women had a history of oppression and deprivation from basic human rights as compared to men. Whether it be the right to vote, right to education, right against discrimination such as Right to get paid equally for equal work, etc. women all around the world had to fight almost a battle in order to get equal human and political rights. The NCRB (national crime record bureau) reported a 56.5% rate of total crime against women in the year 2020.²¹In India women and children had always been a subject to exploitation. Children on the other hand, are a very vulnerable section of our society. Children often become an easy target for criminals due to their easy manipulative mind. The amount of crime rate increasing towards women and children is one big issue in our society. Crimes such as rapes, domestic violence, child labor, prostitution, child trafficking, child pornography etc are one of the severe crimes which show up a bitter side of society and mortify the humanity. There arises the requirement of utmost significant laws made to secure the rights of women and children.

REPRODUCTION DEFINED

Reproduction is a biological process by which an offspring or a young one of any living being comes into existence. Simply, Reproduction can be defined as the process of having babies,

²¹ National crime report bureau, crime against women. <https://ncrb.gov.in>.

producing young ones, or producing new plants. Reproduction is one of the key features of living organisms which is useful for regular existence of living organisms on earth. Reproduction can be further explained as a method through which living organisms gain immortality by creating a replica of their own. During the pregnancy phase a woman has to go through various mental and physical challenges and it is often suggested by the doctors to take good care of a pregnant lady. Excess mental or physical stress can lead to health risk of a woman and the unborn child. Hence it is of utmost need to protect women in pregnancy phase from any mental or physical stress. Our hectic routine life and stress leaves severe effects on the fertility of human beings, where the involvement of technology comes to the rescue as an assisted reproductive technology (ART). With the involvement of ART (assisted reproductive technology) into medical science, new methods of reproduction have been introduced into the field of medical science. These modes and methods include IVF (in vitro fertilization), GIFT (gamete intra fallopian transfer), ZIFT (zygote intra fallopian transfer) and surrogacy techniques etc. the termination of pregnancy or abortion in India has been abused a lot. The abuse of abortion process often comes into light in cases of Female Foeticide (the practice of killing an unborn female at fetus through abortion) either surgically or with the use of medicines. There was an utmost need to regulate all these reproductive practices through strong laws governing them.

REPRODUCTIVE RIGHTS OF WOMEN IN INDIA

Our constitution is the most basic law which a citizen must follow and is protected within. The constitution enshrines the rules and regulations one must follow in order to enjoy its citizenship in a peaceful environment and getting protection and security over their fundamental rights. The fundamental rights enshrined under article 12-35 of the constitution includes article 21 which ensures the right to life and personal liberty to the citizen of India.²² The right to life and personal liberty under article 21 has a wide scope as it includes the right of enjoying a dignified and peaceful life. This means that anything which adversely affects the dignity of anybody's life can be rightfully challenged and get ridden off. As stated in the case of **Suchita Srivastava and another vs. Chandigarh administration** by Supreme Court that the reproductive anatomy is a matter of personal liberty as guaranteed under article 21 of the constitution.²³

ACTS AND LAWS

The laws in India which ensures proper health, fitness and human rights of women comprises the below given laws. These laws ensure health, economy, human rights, dignity and prevention of gender discrimination during the phase of pregnancy, the challenges faced during it, the regulation of ART (assisted reproductive technology) and regulate termination of pregnancy.

- Maternity benefit (amendment) act, 2017
- Surrogacy regulation act, 2021
- Medical Termination of pregnancy (amendment) act, 2021

²² *Constitution of India, article 21*

²³ *Suchita Srivastava & anr vs Chandigarh Administration (2009) (civ) 570 SCC Online SC 1562*

With the evolution of gender equality and gender neutrality all over the world, it came into picture that the women workers in certain establishments were burdened with work which either effect's health or the financial situations of women. Working class women either must prevent maternity in stipulation of remaining employed or either had to suffer financially, here the maternity benefit (amendment) act, 2017 comes to the rescue as the act aims to regulate the employment of women in certain establishment for certain period before and after childbirth and to provide for maternity benefit and certain other benefits.²⁴ The act contains 30 sections in itself.

The Maternity Benefit Act, 2017 concerns benefitting a woman working in certain given establishments under Sec 2(e) of the act itself. The act defines establishments in the sec 2(e) of the act. The act moreover makes certain rules and regulations for the employment of women during pregnancy phase, right of the women to get paid during pregnancy phase, provides for procedures to claim maternity benefits with cases such as death of women or miscarriage, the act concerns payment of medical bonus (sec 8), leave for miscarriage (sec 9), nursing breaks etc. The act strictly prohibits any dismissal or deduction in paid monetary terms made during the pregnancy phase of a female worker on the ground of her absence from work. The act also provides for certain penalties imposed on the employers contravening the provisions of the act.

ART

Assisted reproductive technology abbreviated as ART can be defined as a method which cures infertility involving technology. ART includes artificial methods of fertilization subsequently resulting in reproduction in human beings. ART includes all fertility treatments in which either eggs or embryos are handled.²⁵ In general ART procedures involve surgically removing eggs from a women ovary combining them with sperm in the laboratory, and inserting in back them to the women's body or donating them to another women.²⁶

The transfer of fertilized human germ cells into the womb of a surrogate mother is specifically termed as surrogacy. Surrogacy technique of reproduction can be defined as a method through which the fertilization of male and female germ cell takes place in laboratories and then injected into the womb of another women commonly called a surrogate mother who agrees to deliver the child after completion of gestation period (9 months) to the actual mother or the owner of the female egg cells eventually as an alternative of natural reproduction. The fertilization technique involved in surrogacy known as In-vitro fertilization often abbreviated as IVF. IVF can be better understood as the fertilization which takes place In-vitro (out of the human body). The fertilization of human gametes or somatic cells

INTRODUCTION TO THE SURROGACY ACT, 2021

The surrogacy act of 2021 is an act which regulates surrogacy in India.²⁷ The act sets out certain eligibility criteria for the intending couple, the surrogate mother, medical practitioner who executes or supervises the surrogacy. The Surrogacy act received the assent of the president on

²⁴ *Maternity Benefit Act, 1961.*

²⁵ *What is Assisted reproductive technology. <https://www.cdc.gov>*

²⁶ *What is Assisted reproductive technology <https://www.cdc.gov>.*

²⁷ *The Surrogacy (Regulation) Act, 2021*

the 25th December 2021, for becoming a fully-fledged act. The act contains 8 chapters and 54 sections into it.

The surrogacy regulation act, 2021 aims the prevention and reduction of commercial surrogacy in India. Commercial surrogacy refers to the definition given in the sec 2(g) of the Act.²⁸ Almost everything on earth has a bright and a dark side, same applies to the Surrogacy technique which was intended to cure infertility among couples who intend to become parents. Surrogacy is a treatment which proves to be a boon for the couple of same sex. Surrogacy is a way of completing the family for the same sex couple. It's a boon for the women suffering any kind of womb anomalies.

Whereas, the dark side of assisted reproductive technology specifically in surrogacy came into the light through the commercialization of surrogacy technique. Commercialization of surrogacy means using the method of surrogacy in exchange of any monetary benefits and using the surrogacy technique for providing reproductive services to the intending couples. The use of commercial surrogacy and the abuse of surrogacy in India made India a hub of cheap and easily accessible country for surrogacy since always.²⁹ The sole reason for India turning into a hub for surrogacy was the technique of surrogacy which was not under regulation.³⁰ There were neither any statute governing the surrogacy technique nor securing it from abuse. The landmark case of **Baby Manji Yamada vs Union of India** could be counted as a case which preserved the requirement of regulation of surrogacy in India.³¹ The 2021 broadcast 'MIMI' depicts the dark side of commercial surrogacy explicitly. This feature is based on contract-based surrogacy which later gave rise to a difficult situation for the protagonist.

The surrogacy act, 2021 is an act which sets out certain eligibility criteria and restrictions for the intending couple, surrogate mother, and the medical practitioner executing surrogacy. The act promotes the altruistic surrogacy (sec 2b)³² and demotes the commercial surrogacy (sec 2g) under itself.³³ The act mandatorily instructs the surrogacy clinics to be registered, and prohibits any other surrogacy clinics to perform surrogacy without registration. The act makes it compulsory to avail a certificate of recommendation from the board specifically state board for ART (assisted reproductive technology) under this act. Moreover, the act prohibits the intending couple from abandoning the child born through surrogacy,³⁴ the act states that the child born out of surrogacy would deemed to be a biological child of intending couples and is entitled to all the rights and privileges same as the natural child.³⁵ According to the act an intending couple would be restricted from performing surrogacy in case they do not possess a written consent of surrogate mother informant about all the effect and procedures she has to undergo during surrogacy.³⁶

MEDICAL TERMINATION OF PREGNANCIES ACT, 1971

²⁸ *The Surrogacy (Regulation) Act, 2021, s 2 (g)*

²⁹ *The Baby Factory: Surrogacy, the blooming business in Gujrat, India Today*(August 23, 2013)

³⁰ *Bhaoyajyoti chilukoti (2014, October 18) India is the international surrogacy hub due to low cost and unregulated laws. The Health Site.Com* <https://www.thehealthsite.com>

³¹ *Baby Manji v Union of India (2008), Scc onLine SC 1470.*

³² *The Surrogacy (Regulation) Act, 2021, s 2 (b)*

³³ *The Surrogacy (Regulation) Act, 2021, s 2 (g)*

³⁴ *The Surrogacy (Regulation) Act, 2021, s 7*

³⁵ *The Surrogacy (Regulation) Act, 2021, s 8*

³⁶ *The Surrogacy (Regulation) Act, 2021, s 6*

Any women have all the rights to decide her pregnancy and to decide if she wants to bear or raise the child or not.³⁷

Abortion means killing a fetus in its unborn state specifically in the womb of the mother. Abortion has always been a subject to controversy as there can be different aspects and situations where abortion is executed. Abortion sometimes can be used as an abusive tool to execute gender discrimination through female feticide which affects the health of women and infringes her right to decide over her pregnancy. Abortion can be a useful tool in protecting a woman's health and in some cases her dignity as well.

Therefore, it was of great significance to regulate the abortion procedure for women in India. The Medical Termination of Pregnancy Act was an act of 1971(principal act) which later got amended in the recent year of 2021(amendment act). The act contains five sections in itself.³⁸

The act defines termination of pregnancy as 'a procedure to terminate a pregnancy by using medical or surgical methods' as per the Act.³⁹ The act makes termination of pregnancy to be mandatorily executed by a registered medical practitioner.⁴⁰ The number of practitioners may vary according to the length of pregnancy which is to be terminated.⁴¹ The state proposes to constitute a medical board in every state and UTs. The act also prescribes the powers and functions of the medical board. The act concerns the mental and physical health of the pregnancy caused by rape. The act properly evaluates the termination and the aftermath of termination of pregnancy on the mental health of women. The information and particulars of any women is under strict confidentiality according to this act and any revelation contravening the provisions of the act would be punishable for doing the same.⁴²

CONCLUSION

Conclusively, all these act and laws enacted with a sole aim to reduce the sufferings of women and children who got affected until the regulation of these sectors contributed majorly in increasing crime against women and children. With the enactment of these laws the aggrieved women or children would now have a chance to raise their voice against the suppression.

³⁷ PTI, *women have the right to decide on pregnancy: SC judge, The economic times (New Delhi, 11 Feb 2017)*

³⁸ *Medical Termination (amendment) Act, 2020*

³⁹ *Medical Termination (amendment) Act, 2020, s 2 (e)*

⁴⁰ *Medical Termination (amendment) Act, 2020, s 3*

⁴¹ *R and Anr v state of Haryana & ors (2020), 5 KLT 583*

⁴² *Medical Termination (amendment) Act, 2020, s 4*

A DETAILED STUDY ON CENTRAL VISTA PROJECT

AUTHOR: PRAGYA PRIYAM

INTRODUCTION

The Central Vista Redevelopment Project was proposed in September 2019 by the Union Ministry of Housing and Urban Affairs. It was proposed to give a facelift to Lutyens' Delhi and make it an important tourist attraction in India as well as to equip the country's central administration with modern facilities. Under this project, a new Parliament building, a new Central Secretariat and a new Rajpath will be built at a distance of 3 km from India Gate to Rashtrapati Bhavan. Along with this, the North and South blocks will be converted into museums. The estimated total cost of this redevelopment project is Rs. 20,000 crore and is expected to be completed by 2026. The raw materials used for construction are sourced from different parts of India. Sandstone and granite are obtained from Dholpur and Jaisalmer in Rajasthan. The timber for the wooden structure for the new Parliament House is procured from Nagpur and is being designed by craftsmen and artisans from Mumbai. The hand-woven carpets are from the city- Bhadohi, Uttar Pradesh.

DESIGN FOR CENTRAL VISTA

Central Vista refers to the area extending from Rashtrapati Bhavan to India Gate in Delhi. Though this remarkable and historical complex was constructed during the British Raj, it gained its nurturing and importance in the post-independence era. Part of the Central Vista includes the Rashtrapati Bhavan, Parliament House, North and South Blocks and the Central Government Secretariat Building along the Rajpath. Institutions like the National Museum, National Archives, Indira Gandhi National Center for the Arts (IGNCA), Udyog Bhawan, Bikaner House and many other nearby plots come under the umbrella of Central Vista.

This redevelopment includes two main features- a new Parliament building and a new common Central Secretariat. The new Parliament building will be constructed at the intersection of the triangle of Red Cross Road and Raisina Road. The new Parliament has a seating capacity of about 900 to 1200 Ministers of Parliament. This proposed capacity is sufficient to allow a joint session of both the Houses. Another new feature includes the PM's residence and his office which is to be located at the back of the South Block. The main objective of a PMO in the vicinity is to improve efficiency. PM's house to be connected to his new office and new Parliament through nuclear attack resistant underground tunnels. Similarly, the new residence of the Vice President will be located behind the North Block.

Keeping the Rashtrapati Bhavan untouched, the North and South blocks will be converted into museums showcasing the 'Making of Modern India' and 'India at 75'. The current National Museum will be demolished and relocated. There shall be no other building higher than the structure to ensure the prominence of the India Gate and to maintain the splendor of the war memorials. The plan also includes demolition of some existing secretariat buildings such as

Rail Bhavan, Shastri Bhavan as well as the Ministry of External Affairs building, the Vice President's residence and other buildings along the Rajpath.⁴³

The new Secretariat of the Central Government will have eight buildings, each with eight floors, which will take over the place where IGNCA and Raksha Bhavan are currently located. The entire house is able to house around 25,000 to 32,000 employees belonging to different ministries.

HISTORY AND EVOLUTION OF CENTRAL VISTA

In the colonial era, after King George V announced the shift of India's capital to Delhi from Calcutta (now Kolkata), the Delhi Town Planning Committee was set up in 1912. Prominent British architects Edwin Lutyens and Herbert Baker envisaged the Central Vista Complex as the center of administration in India to house all the facilities needed for the efficient functioning of government. It was inaugurated in 1931 and consists of the building namely Rashtrapati Bhavan, parliament House, North and South Blocks and Record Office (later renamed the National Archives) along with the India Gate memorial and civic gardens on either side of the Rajpath. Together they designed the Parliament House Building. In addition, Lutyens designed the Rashtrapati Bhavan and Herbert designed the North and South Blocks. The plan was based on traditional urban planning tools, consisting of a strong axis, an emphasized focal point, the formation of important nodes, and a fixed end point. At that time, it was one of the largest projects of its kind in the world, conceived and designed to reflect India's spirit, progress and global importance.

Central Vista's design is influenced by India. This includes the use of red and beige sandstone that was used for the monumental architecture of Delhi since the 13th century; Modelling of the Viceroy's House dome on the Great Stupa at Sanchi, ancient Indian bell capitals for the pillars of the Dominion located between the Secretariat blocks; and countless feature of Indian architecture- jaali (perforated stone screens), chhajja (perforated overhangs), chhatris (pillared domes) and more.

FROM KINGSWAY TO RAJPATH TO KARTAVYA PATH

The section between Rashtrapati Bhavan and the grand Chhatra below the iconic India Gate has been renamed as "Kartavya Path". Built by British architects Edwin Lutyens and Herbert Baker, the British called it "Kingsway" in honour of king George V, the then Emperor of India. After independence, the name of this section was changed to Rajpath, which literally translates to Kingsway in Hindi. Since that time Rajpath has become synonymous with the annual Republic Day parade. On this year's Independence Day, PM Narendra Modi in his address to the nation underlined the need to let go of the colonial burden. The renaming of Rajpath is being seen as a step in the same direction. It marks a change in the Kartavya Path from the erstwhile Rajpath as a symbol of power to being an example of public ownership and empowerment. According to a statement issued by the PMO, Kartavya Path will have improved parking spaces, new pedestrian underpasses, exhibition panels and improved night lighting. For the annual Republic Day parade, the Ministry of Urban Affairs has announced

⁴³ *Central Vista Project: The Central Vista Redevelopment Plan. Rethinking The Future.* <https://www.re-thinkingthefuture.com>

that seating arrangements will be made in place of the temporary structure that comes up every year.

NETAJI'S STATUE AT INDIA GATE'S GRAND CANOPY

PM Narendra Modi unveiled the 28 feet tall statue of Netaji Subhash Chandra Bose at India Gate on September 8. This statue has been installed at the grand Chhatra of India Gate. The statue is carved in jet black granite, the 65,000 kg statue replacing the 50-foot marble statue of King George V that was added to the India Gate complex in 1936 as a tribute to the deceased Emperor. It was removed in 1968 and has been vacant since. Netaji's statue will stand where his hologram statue was unveiled on his 125th birth anniversary.⁴⁴

AIM OF CENTRAL VISTA PROJECT

This redevelopment project aims to redevelop the Central vista which serves as the country's central area of administration.⁴⁵ With this reform, India will get a place that will meet the needs of the future, the work of an architectural genius that will attract tourists and a place for the smooth functioning of India's central administration.

NEED FOR CENTRAL VISTA PROJECT

1. GOVERNANCE BENEFITS

Improving the productivity and efficiency of administration, providing it with highly functional and purpose-designed office infrastructure is the main objective of the Central Vista redevelopment Project. There are many contingency government benefits. Some of which are discussed below:

There will be an easy movement of personnel, documents, and goods, thereby increasing administrative efficiency. The proximity and ease of inter-departmental movement along with flexible and modular floor plans enable the government to function in a more efficient and productive manner by aggregating all 51 Central Government Ministries including 10 Common Central Secretariat buildings.

Another benefit is the increase in office spaces which will bridge the huge gap between current and future demand and existing availability. With the help of this modern workspace will be created with the latest technology for better productivity and efficient use of human resources. The infrastructure and facilities will be made at par with global standards. The redevelopment project will strive towards sustainable development with the creation of green buildings and clean transport. The overall redevelopment will accelerate efficiency and synergy in government functioning.

The Prime Minister's Office, the residence and the Vice President's residence are proposed to be built near the South Block and North Block respectively, adjacent to the Parliament and the General Central secretariat which will help in addressing the security and logistics arrangements in a comprehensive manner without any interference with regular movement of traffic.

⁴⁴ *The Indian Express*. <https://indianexpress.com>

2. SOCIAL BENEFITS

Improved public spaces in Central Vista, including the National Museum, IGNCA, revamped Central Vista Avenue, India Gate Plaza and Lawns will be accessible to the public. About 80,000 sq. m. of government spaces in the North and South Blocks will open as public spaces due to be converted into the National Museum Complex. An underpass is also being constructed within Central Vista Avenue to ensure road safety for visitors to the iconic location while easing traffic congestion. People can access Central Vista Avenue via public transportation or park their vehicles at the dedicated parking space available on site. In addition, dedicated spaces for social gatherings in the refurbished avenue will provide leisure and entertainment opportunities to tourists.

3. ENVIRONMENTAL SUSTAINABILITY

Environmental sustainability is at the core of the Central Vista Redevelopment Master Plan which has a comprehensive approach to harnessing centralised systems and infrastructure, promoting the use of public transport and upgradable technology, systems, and services. Simultaneous strict measures are also being taken to reduce the environmental impacts of the Central Vista Project during the construction phase. Steps are being taken to reduce air emissions, noise, waste water discharge, soil erosion as well as construction waste at the site. The projects will result in an increase in green cover. Trees will not be cut in any project in Central Vista. Trees will be planted in the eco-park being developed by NTPC at Badarpur after the permission of the competent authorities.

3,230 trees are proposed to be transplanted at Eco-Park, NTPC, Badarpur after obtaining EC from the Ministry of Environment & Forests and permission from the Forest Department. 1,753 new trees will be planted within the project sites of CCS and other buildings and 2,000 new trees are to be planted in the Central Vista area.⁴⁶

GUIDING PRINCIPLES OF CENTRAL VISTA REDEVELOPMENT PLAN

1. RESTORING THE ORIGINAL SYMMETRY AND LAYOUT OF THE CENTRAL VISTA:

The Central vista was originally designed with a strong underpinning geometry, spectacular symmetry and a carefully choreographed processional route (axis, focal, point, nodes and termination). The master plan aims to restore the original symmetry and order while respecting the heritage of the building and the spaces.

2. STRENGTHENING THE FUNCTIONING OF LEGISLATURE:

The first purpose-designed parliament for independent India, equipped with state-of-the-art infrastructure to meet all the needs of an expanded Parliament is proposed by the Master Plan. After the current building is renovated and refurbished, the two will be used in conjunction. In addition, a separate building is also planned for the offices for the Members of Parliament. The existing Parliament House, library and annex, along with the new Parliament House and chambers for Members of Parliament will form an integrated Legislative Enclave.

⁴⁶ www.centralvista.gov.in

3. IMPROVING PRODUCTIVITY AND EFFICIENCY OF ADMINISTRATION:

The planned Common Central Secretariat (CCS) will consist of 10 office buildings and a Central Convention Centre. Presently, 39 Ministries are in Central Vista, while 12 Ministries have their offices outside Central Vista. All the 51 Ministries are envisaged to be set up in 10 CCS buildings to improve coordination, cooperation and administrative coordination. Office spaces are being planned with ample space with modern technical facilities and amenities. The existing buildings of Central Vista will be replaced with modern office buildings with a capacity of about 54,000 personnel, which will meet the present and future needs of the ministries.

4. CONSERVATION AND REJUVENATION OF CULTURAL AND HERITAGE FACILITIES:

Central Vista Avenue will be renovated, its infrastructure upgraded and new social amenities provided while maintaining its essential character in order to use it with adequate infrastructure for national events and of a suitable quality to be made more comfortable. The magnificent North and South Blocks will be renovated as the National Museum. They will hold exhibitions of 'India till 1857' and 'India from 1857' respectively. IGNCA will continue its important cultural agenda in expanded, purpose-designed, world class facilities at a new location opposite Hyderabad House on the Hexagon. In addition, a purpose-designed facility has also been envisioned next to the historic building of the National Archives of India (NAI) to house state-of-the-art facilities.

5. PROVIDING ADEQUATE AND SECURE INFRASTRUCTURE FOR EXECUTIVE OFFICES:

A modern, secure and properly equipped Executive Enclave is planned to house the executive offices and facilities of the Prime Minister's Office, the Cabinet Secretariat and the National Security Council Secretariat. Secure residential facilities for the Vice President and the Prime Minister have been planned at the back of the North and South Blocks which have all the necessary facilities for their daily functioning.

6. ENSURING ENVIRONMENTAL SUSTAINABILITY, EXPANDING PUBLIC SPACE AND EXTENDING THE CENTRAL VISTA AXIS:

The overall objective of the planned works on Central Vista is to ensure environmental sustainability, expand and improve the public space and expand its axis. New India Garden is being planned near Yamuna River. Thus, extending the present Central Vista axis to 2.24 km to realize the vision of 'Ridge to River'. In addition, a publicly accessible National Biodiversity Arboretum is planned to the west of the President's estate to showcase India's endangered plants in high-tech greenhouses set amidst indigenous forests.

7. PROVIDING ADEQUATE AND SECURE FACILITIES FOR THE VICE PRESIDENT AND THE PRIME MINISTER:

Modern, adequate, and secure residential facilities for the Vice President and the Prime Minister are planned in the North of North Block and South of South Block respectively. These new residential facilities will be highly functional and will be equipped with all necessary amenities. Establishing offices and residences of all the dignitaries at one place will reduce infrastructure constraints and improve traffic management of the city.

8. PROMOTING TRANSIT ORIENTED DEVELOPMENT:

The Central Vista Redevelopment Project is envisaged by integrating the principles of transit-oriented development. An Automated People Mover of about 3.1 km length will be built underground to connect and integrate all the buildings of the Common Central Secretariat. It will run in a close loop to meet the transportation requirement of government employees working in these buildings. It will provide connectivity to the existing metro network at Udyog Bhawan and Central Secretariat stations on the yellow and purple lines of the Delhi Metro, further connectivity from the National Capital Region (NCR) and will reduce the need to commute to office using private vehicles. All the buildings of the Central Secretariat will be connected to each other and to Delhi's Metro network through a secure underground people mover and with the city's bus network via grade shuttle. As a result of the adoption of shared transit facilities, the overall emissions and air pollution levels from private vehicles are expected to come down, resulting in an improvement in the overall air quality of the capital city.⁴⁷

WHY THE CENTRAL VISTA PROJECT IS BEING OPPOSED

Critics pointed to the project with several flaws in the approval process at the wrong time. The notification for the project was issued in April and was immediately cleared by the Expert Appraisal Committee of the Environment Ministry at a time when the country was reeling from the COVID pandemic.⁴⁸

➤ LACK OF TRANSPARENCY:

According to reports, the planning of the project has been going on since 2015, but behind the scenes. There is no information about the tender floated, either the procedure followed, or the criteria for selection of the companies that made it. No exhibition of the proposed buildings was held, no data was disclosed, no models or drawings were displayed.

➤ CHANGES IN HERITAGE STATUS:

Central Vista has been awarded the highest grade 1 heritage status by the Unified Building Bye-laws of Delhi. Grade 1 classified buildings cannot be changed and "no interference can be made unless it is in the interest of strengthening and prolonging the life of the buildings". However, later, the heritage Conservation Committee made a distinction to redefine the status of 'heritage' between pre-independence and post-independence buildings, leading to post-independence buildings built by Indian architects and engineers in the 60s. The building was allowed to be demolished. This, in effect, allowed the demolition and replacement of buildings such as Krishi Bhawan, apart from the National Museum and the Indira Gandhi National Center for the Arts (IGNCA).

➤ LAND USE CHANGES:

In 2020, the Delhi Development Authority made land use changes to convert public open spaces such as district parks and children's play areas for use as government offices. Before the notification, there was a 60/40 split between public/semi-public (60 per cent) use and

⁴⁷ www.mapsofindia.com

⁴⁸ <https://zeenews.india.com>

government (40 per cent) use including museums, galleries, art centres, national library, (Delhi) High Court, etc. After the notification, it was reduced to 95 per cent for government use and 5 per cent for public and semi-public use.

➤ ENVIRONMENT CLEARANCE:

On April 22, the new Parliament building was given environmental clearance from the Ministry of Environment, Forest, and Climate Change without any Environmental Impact Assessment (EIA).

CASE FILED

RAJEEV SURI v. UNION OF INDIA

This case was filed in the Delhi High Court in March 2020 against the land use change and another petition regarding the violation of Central Vista's heritage status. The petitions were transferred to the Supreme Court and are now under the jurisdiction of the Apex court.

CONCLUSION

The Central Vista Project should be projected as a project that fulfils the aspirations of the people and not as something imposed on the people. All valid concerns should be taken into account and a proper assessment should be made to ensure that the project will not have any negative impact.

LAWS & CONSTITUTIONAL PROVISIONS FOR ENVIRONMENT PROTECTION

AUTHOR: ADITI ADARSH

ABSTRACT

Environment law is a network of regulation and customary laws that deals with the effects of activities done by human beings with nature or the environment. These laws are also termed as environment and natural resource laws. It basically manages specific natural resources and assessments on the impact of the environment. Environment law encompasses issues related to air and water quality, pollution control and the protection of natural resources. It aimed at the protection and the development of the environment and its natural resources.

Keywords: environment law, customary laws, human beings, protection, development, environment.

INTRODUCTION

Environmental laws play a crucial role in protecting the nature and preservation of the natural resources. Various laws are enacted in order to preserve and protect nature and absence of these laws will significantly impact nature and its resources. It pertains to issues such as raising pollution, hunting endangered animals, deforestation at large scale, depletion of natural resources, greenhouse gas emissions, pollution of air water and soil and many more. Environment laws are made so that proper balance should be maintained with the ecosystem. It ensures that it cooperates with the environment and does not cause any harm to the environment or its ecosystem.

Regulations and treaty agreements between the different countries, corporations, public interest initiatives are for promoting the individuals towards conservation of natural resources and concern towards nature. Laws help to prevent environmental degradation or deterioration of the environment through the depletion of resources, the destruction of ecosystems and extinction of wildlife. It plays a vital role in protecting and preserving natural resources, habitats, animals etc. it is based on the principle of sustainable development.

Sustainable development is the development that meets all the needs of the present without compromising the ability of future generations to meet their own needs. It basically says that there must be a balance between present development and environment. Present development must not degrade or cause the depletion of the environment.

The environment legislation ensures 'environment conservation' along with it also seeks to promote 'sustainable development'.

SOME LAWS RELATED TO ENVIRONMENT PROTECTION AND WILDLIFE

- The Environment (Protection) Act, 1986
- The Forest (Conservation) Act, 1980

- The Wildlife (Protection) Act,1972
- Water (Prevention & Control of Pollution) Act,1974
- Air (Prevention & Control of Pollution) Act,1981

1) **The Environment (Protection) Act, 1986**

The scope of this act is that it extends to the whole of India. Basically, this Act came into force on 19 November 1986. Section 2 of the Environment Protection Act, 1986 deals with the definition clause.

Definition:

Environment includes air, water and land and the inter relationship which exists among and between air, water & land and human beings, plants, other living creatures, micro- organism and property.

Measures taken by the central government are:

- ❖ Standards are laid down for the quality of the standard of the environment.
- ❖ Proper planning and execution of the National program for prevention, controlling and abatement of environment pollution.
- ❖ Procedure regarding the duties and powers are laid down in order to safeguard and handle the hazardous substance.
- ❖ Proper examination of the manufacturing process should be done of the materials which can cause environmental pollution.
- ❖ Power to inspect at various premises, products, materials, equipment, and substances and provide power to direct authorities for the prevention and control of environment pollution.

2) **The Forest (Conservation) Act, 1980**

The scope of this act is that it extends to the whole of India except the state of Jammu & Kashmir.

This act came into force on 25th October, 1980.

It covers all types of forest such as reserved or protected or any forested land.

Objectives of the act are:

- ❖ Protecting and conserving the forest along with flora and fauna.
- ❖ Any illegal non forestry activities within a forest can be immediately stopped.
- ❖ Protection of forest and prevent deforestation which will subsequently lead toward degradation of land.
- ❖ Prevention from the loss of biodiversity and to prevent conversion of forests into agricultural lands or grazing lands or building of business or residential units.

3) The Wildlife (Protection) Act, 1972

This act is applicable to the whole of India except the state of Jammu & Kashmir. It was enacted in order to provide protection of countries' wild animals, birds, and plant species in order to ensure ecological security and conserve wildlife in India. It provides for the safeguard and the protection of the flora and the fauna.

Need for wildlife protection:

There is immense need for this due to the drastic decline in the various species of the flora and the fauna. Rapid decline in the flora and the fauna can significantly cause ecological imbalance which affects drastically many aspects of climate and ecosystem. There were only 5 National parks in India prior to the enactment of this act.

Salient features of wildlife protection act are:

- ❖ This act emphasizes on the formation of the wildlife advisory board, wildlife wardens etc.
- ❖ This act also helped India to become a party to the (CITES) Convention on International Trade in Endangered Species.
- ❖ A comprehensive list of endangered wildlife of the country was prepared for the first time.
- ❖ Under this act it prohibits the hunting of endangered species and scheduled animals are prohibited from being traded according to the provisions under this act.
- ❖ It also provides licenses for the purpose of the transfer, sale and possession of some wildlife animals and provides establishment of wildlife sanctuaries, national parks etc.
- ❖ The act also created 6 schedules which basically provide varying degrees of protection to classes of flora and fauna and provide for the establishment of the National Tiger Conservation Authority.
- ❖ Some of the protected areas under the wildlife Protection Act are Sanctuaries, National parks, Conservation reserve, Community reserve and Tiger reserve.

4) Water (Prevention and Control of Pollution) Act, 1974

This act was enacted on 23rd March 1974. This act basically defines the water pollution and water quality standards. Basically, it is designed to assess the pollution levels and punish the polluters.

It is an act to provide control and prevention of water pollution and restoring and maintaining the wholesomeness of water.

Salient features of this act are:

- ❖ No individual shall discharge any poisonous or polluting matter detrimental to water bodies or on land or it can be into a well or in stream.
- ❖ With the consent of the State Board the trade effluent or sewage shall be regulated. The discharge must meet the standards prescribed by the State Board.
- ❖ It prohibits and regulates the disposal of polluting matter in any water bodies.

Main objectives of this act are:

- ❖ Prevention and control of water pollution.
- ❖ Maintaining or restoring the wholesomeness of water
- ❖ Establishment of the boards for the control and preservation of water pollution.
- ❖ It provides penalties for contravention of provision of this act.
- ❖ Establishment of Central and State testing water laboratories, testing and assessing the extent of the water pollution.

5) Air (Prevention & Control of Pollution) Act, 1981

It was enacted on 29th March 1981.

It is applicable to the whole of India except the state of Jammu and Kashmir.

This act was enacted for the control preservation and abatement of air pollution. This was the first attempt to combat air pollution. This act prohibits the use of fuels that pollute the environment and the substances also helps to regulate the appliances that give rise to air pollution.

Basically, there are two boards Central and State Board which help in improving the quality of the air.

Functions related to Central Pollution Control Board (CPCB) are:

Central board's main function is to improve the air quality and to prevent, control the pollution of air in the country.

It also advises on the matter concerning the prevention and control of air pollution to the central government. Coordination with the activities of the state boards and resolving disputes arising among them.

Function of State Pollution Control Board (SPCB) are:

Planning a comprehensive program for the control, prevention, or abatement of air pollution in the State. Advising on any matter concerning the prevention, control, or abatement of air pollution to the state government. Encouraging, conducting, and participating in the investigations and research relating to problems of air pollution.

CONSTITUTIONAL PROVISIONS RELATED TO THE ENVIRONMENT

❖ **Article 14**

Article 14 talks about equality before law and equal protection of law.

This fundamental right impliedly cast a duty upon the state that the state should be fair while taking any actions regarding environment protection and therefore it cannot infringe Article 14.

Case Law

MC Mehta VS Union of India and others 1986⁴⁹

⁴⁹ M.C. Mehta And Anr Vs Union of India, 1986

Shriram Food and Fertilisers, a hazardous industry, was based in a densely populated area in Delhi. There was a leakage of oleum gas from one of the units of the Shriram Food and Fertilisers Ltd. Complex at Delhi. Due to leakage of oleum gas several others were affected and one advocate also died. In this case the Supreme court of India initiated the Absolute Liability Principle stating that in case of industries that are engaged in hazardous activities the rule of the absolute liability will be applied. The industries that cause harm to the environment or to people through any accident would be held absolutely liable.

❖ **Article 19(1)g**

Article 19(1)g states that it is the fundamental right of citizens to practice any profession or to carry any occupation, trade, business in any part of the country with some reasonable restrictions.

According to this fundamental right the citizen cannot practice any trade or any business activities if it is hazardous to the health of the public.

Case Law

Indian Handicrafts Emporium & Ors VS Union of India and Ors.⁵⁰

In this case it was held that a trade which is dangerous to ecology may be regulated or totally prohibited.

❖ **Article 21**

Article 21 is the fundamental right which is given in Part III of the Indian Constitution

According to Article 21 of Indian Constitution states that “no person shall be deprived of his life or personal liberty except the procedure established by the law”

According to this fundamental right every person has the right to live in a pollution free environment.

Case Law

MC Mehta VS Union of India 1987⁵¹

In this case the Supreme court of India treated the right to live in a pollution free environment as the fundamental right.

Subhash Kumar VS State of Bihar ⁵²

In this case it was held that the right to get pollution free water and air is a fundamental right guaranteed under Article 21.

Damodar Rao VS S.O Municipal Corporation, 1987⁵³

In this case the apex court held that polluting the environment amounts to violation of right to life under article 21

⁵⁰ *Indian Handicrafts Emporium & Ors. Vs Union of India, 2003.*

⁵¹ *M.C. Mehta vs Union of India 1987 SC 1086.*

⁵² *Subhash Kumar Vs State of Bihar And Ors. 1991*

⁵³ *Damodar Rao And Ors. Vs The Special Officer Municipal, 1987.*

❖ Article 48-A

Article 48-A is Directive Principle of State Policy is given under part IV of the Indian Constitution.

Article 48-A of Indian Constitution states that the state shall endeavor to protect and improve the environment and to safeguard the forests and wildlife of the country.

According to this article it provides protection for the improvement of the environment and safeguarding of forest and wildlife.

❖ Article 51-A(g)

Article 51-A (g) is the Fundamental Duty is given under part IV-A of the Indian Constitution.

This article states that it shall be the duty of every citizen of India to protect and improve the natural environment including forests, lakes, rivers and wildlife and to have compassion for living creatures.

According to this article it imposes a fundamental duty on every individual or citizen to protect and improve the natural environment including forest, rivers, lakes and wildlife.

Article 48-A and Article 51-A (g) were added in Indian Constitution through 42nd amendment

Case Law

State of W.B VS Sujit Kr Rana, 2004⁵⁴

In this case the supreme court held that the provisions of Article 48A and 51-A(g) should be kept in mind while interpreting any statutory provision.

❖ Article 253

Article 253 says that parliament has the power to make any law for the whole or any part of territory of India for implementing any treaty agreement or convention with any other countries or any decision made at any international conference or association or other body.

The Environment Protection Act, 1986 was enacted under Article 253

According to this article parliament has power to make laws for the country.

CONCLUSION

Protection of the environment is beneficial for both the people and the ecosystem. Environmental protection not only evolved as the country's fundamental law but it also made connections or linked with the human rights policy. The basic human right of every individual is to live in a pollution free environment and with dignity. Laws and provisions are made in order to make harmony between the people and the environment and understand the importance of the natural resources and ecosystem. These enactments are made in order to develop a positive attitude towards the environment and living creatures too so that a proper balance could be maintained in the surroundings.

⁵⁴ State of West Bengal And Ors vs Sujit Kumar Rana, 2004.

A DETAILED STUDY OF GOVERNMENT POLICIES REGARDING CLIMATE CHANGE AND ENVIRONMENTAL CRISIS IN INDIA

AUTHOR: ARUSHI RANJAN

INTRODUCTION

The issue of environmental pollution dates back to the emergence of Homo Sapiens on Earth and was first recognized by Plato 2500 years ago, indicating its longstanding origin. Nevertheless, in contemporary times, the challenges related to managing and protecting the environment have become more complex and urgent, reflecting the evolution of this problem. Industrialisation, urbanisation, population explosion, poverty, over exploitation of resources, depletion of traditional resources of energy and raw materials and the research for new sources of energy and raw materials, are some of the factors which have contributed to environmental deterioration in India.

The impacts of climate change on the well-being and existence of billions of individuals are already evident worldwide. The alteration of natural systems due to global warming leads to modifications in rainfall patterns and distribution, melting of glaciers, and alterations in the behavior and ecology of species and ecosystems. Such changes have resulted in rising sea levels, droughts, floods, and heat waves, and changes in the distribution and behaviour of vectors and pathogens causing direct and indirect impact on human health. While physical trauma is a component of the health consequences of climate change, the majority of its impact arises from non-traumatic conditions such as respiratory, cardiovascular, and kidney diseases, vector-borne illnesses, as well as mental and psychosocial problems.⁵⁵

INDIA'S STAND ON CLIMATE CHANGE

Climate change already has a major effect in India. Most of our rivers are polluted, deforestation goes on increasing day by day, noise pollution is at an alarming stage, land erosion has become a common feature. These effects are likely to become more severe and undermine India's progress towards achieving the sustainable development goals. The sustainable development agenda has also set a goal for the global community to "take urgent action to combat climate change and its impacts."

The Indian Constitution puts duty on the "state⁵⁶" as well as "citizens⁵⁷" to protect and improve the environment. The right to live in a healthy environment is considered as a fundamental right under Article 21 of the Constitution.

⁵⁵ Sukumaran, Naveen, *Impact of Climate Change: Why Health Matters* (May 29, 2022). *On Human Rights in Health Care*, Directorate of Public Relations and Publications, CUSAT, 2022, pp. 44-67

⁵⁶ Article 48-A of the Constitution of India

⁵⁷ Article 51-A(g)

STATUTORY PROVISIONS RELATING TO ENVIRONMENT PROTECTION

In addition to the specific legislations relating to environment protection, broadly the statutory provisions regarding environmental protection can be discussed under-

General Provisions:

1. *Law of crimes*

Sections 268 to 294-A of Chapter XIV of the Indian Penal Code, 1860 address offenses that impact public health, safety, decency, convenience, and morals. These provisions enable control over any action or inaction that harms an individual by contaminating the environment.

In *K. Ramakrishnan V. State of Kerala*,⁵⁸ the Kerala High Court held that smoking in public areas amounts to public nuisance and cases can be filed under section 290 of the Indian Penal Code. The court also held that it is violative of the right to life provided under article 21 of the Constitution.

In *Murli S. Deora V. Union of India*,⁵⁹ also, the Supreme Court held that smoking in public places violates the fundamental right of the passive smokers under Article 21 of the Indian Constitution.

Section 268 of the IPC defines public nuisance and section 290 provides for punishment for public nuisance. Section 269 to 271 makes a negligent act likely to spread infection of disease dangerous to life, punishable. The punishment for this is both a fine and/or imprisonment upto 6 months. Section 277 can be used to control water pollution as it provides that fouling of water of public spring, well or reservoir rendering it less fit for purposes shall be punishable with imprisonment upto 3 months and/or a fine.

The provisions of Criminal Procedure Code, 1973 can also be invoked to prevent the pollution of almost all kinds. Chapter X, consisting of Parts B and C, includes Sections 133 through 144, which offer swift and efficient solutions for preventing and managing public disturbances caused by air, water, and noise pollution. By invoking Section 133 of Cr. P.C., measures can be taken to eradicate public nuisances that result from the release of effluents and air discharge that creates difficulties for the masses.

In *Krishan Gopal V. State of M.P.*,⁶⁰ a complaint was filed against the noise and air pollution caused from the glucose factory situated a few feet away from the house of the complainant. It was further complained that ash from the boiler of the factory was causing a great deal of atmospheric pollution resulting in harmful effects on the residents of the locality. The factory had been installed under the license granted by appropriate authorities.

It was argued before the High Court that inconvenience caused to the inmates of a house cannot and should not be considered as a public nuisance as it was essentially private in nature for which it was not permissible to invoke section 133 of Cr. P.C.

Rejecting the above contention, the High Court observed that it was not the intention of law that the community as a whole or large number of complainants should come forward to

⁵⁸ A.I.R. 1999 Ker. 385

⁵⁹ (2001) 8 SCC 765

⁶⁰ (1986) Cr. L.J. 396

register their complaint under section 133 of the Cr. P.C. This provision does not require any number of complaints. It further pointed out that granting a permission for the installation of a boiler in a residential locality and running of the factory was itself blatantly violative of law. Thus, the court ordered that the factory from which the nuisance was caused had to be closed.

2. *Civil Procedure Code*

Section 91 of the Code of Civil Procedure provides the right of action in case of public nuisance. In case of public nuisance or other wrongful act affecting or likely to affect the public, a suit for declaration or injunction or for such other relief as may be suited in the circumstances of the case may be instituted-

- (a) by the advocate general: or
- (b) with the leave of the court

This section does not limit or affect any other right of suit which may exist independently of its provisions. Thus, the persons causing air or noise pollution or causing public nuisance are liable for prosecution.

SPECIFIC PROVISIONS

After the Stockholm Conference of 1972, the Indian Parliament has enacted a number of laws directly relating to pollution of the environment, like-

1. *The Water (Prevention and Control of Pollution) Act, 1974*

This Act is meant to tackle one facet of environmental pollution. The primary goal of the Water Act is to ensure access to uncontaminated drinking water for all individuals. Its other main objectives are to provide for the prevention and control of water pollution and to establish Central and State boards for the prevention and control of water pollution.

2. *The Air (Prevention and Control of Pollution) Act, 1981*

The Act was enacted by the parliament under article 253 of the Constitution to implement the decisions taken at the United Nations Conference on the Human Environment held at Stockholm. It was decided to take appropriate steps for the preservation of natural resources of the earth, which among other things include preservation of quality of air and control of air pollution,

3. *The Forest (Conservation) Act, 1980*

This Act has been passed with a view to check deforestation which has been taking place in the country on a large scale and which has caused ecological imbalance and thus led to environmental degradation. It aims at putting restrictions on the dereservation of forests or use of forest-land for non-forest purposes.

4. *The Wildlife (Protection) Act, 1972*

The Wildlife Protection Act of 1972 is the result of a long-running process that began in 1887 with the protection of a few wild birds and expanded to include wild animals in 1912 and specific plants in 1919, eventually covering almost all wildlife resources that require protection and management. Wildlife is a component of 'forests,' and it was a state topic until Parliament approved this legislation in 1972. It is now a Concurrent List.

The Act has been enacted for the following reasons-

- (i) To provide for protection of wild animals, birds and plants and for matters connected therewith;
- (ii) To ensure the ecological and environmental security of the country

The Act adopts a two-pronged conservation strategy-

- (i) Specified endangered species are protected regardless of location;
- (ii) All species are protected in specified areas.

5. *The Environment (Protection) Act, 1986 etc.*

It is an act to provide for the protection and improvement of the environment and for matters connected to it.

The objectives of this Act are-

- (i) The aim of enacting a comprehensive environmental protection law is to address any gaps in the coverage of significant environmental threats, given that existing legislation primarily targets specific kinds of pollution or hazardous materials.
- (ii) To co-ordinate activities of the various regulatory agencies under the existing laws and creation of an authority for environmental protection.
- (iii) To provide for deterrent punishment to those who endanger human environment, safety, and health.
- (iv) To ensure sustainable development.

GOVERNMENT POLICIES

On June 30, 2008, the Indian Government unveiled the National Action Plan on Climate Change (NAPCC), which encompasses eight National Missions focused on climate change. Its objective is to establish a national approach that fosters India's ability to adjust to climate change and bolster the environmental sustainability of its development trajectory. The plan emphasizes that sustaining a strong growth rate is crucial for improving the quality of life of India's large populace and decreasing their susceptibility to climate change effects. The 8 missions are⁶¹-

1. National Solar Mission

The NSM was designed in January 2010⁶² to establish India as a global leader in solar energy, by creating favorable policies for rapid diffusion of solar technology across the country. Initially targeting 20 GW solar power installation by 2022, this goal was increased to 100 GW in early 2015. Several programs and schemes under the Mission have facilitated the growth of grid-connected solar power installed capacity from 25 MW in 2010-11 to around 36.32 GW as of October 31, 2020.

⁶¹ Ministry of Science and Technology, Department of Science & Technology, <https://dst.gov.in/climate-change-programme>.

⁶² Press Information Bureau Government of India, Ministry of New and Renewable Energy <https://www.pib.gov.in/PressReleseDetailm.aspx?PRID=1685046>

2. National Mission for Enhanced Energy Efficiency

The National Mission for Enhanced Energy Efficiency (NMEEE) aims to bolster the energy efficiency market by developing a supportive regulatory and policy framework, and promoting inventive and sustainable business models in the energy efficiency sector.

3. National Mission on Sustainable Habitat

The National Mission on Sustainable Habitat was approved by the Prime Minister's Council for Climate Change in June 2010⁶³ to achieve-

- (i) Development of sustainable habitat standards that enable robust developmental strategies concurrently tackling climate change-related concerns.
- (ii) preparation of comprehensive city development plans that address adaptation and mitigation concerns.
- (iii) Enabling cities to take up energy efficient, long term and cost saving transport planning with the help of comprehensive mobility plans.
- (iv) Development of capacities for conducting activities pertaining to the Mission.

4. National Water Mission

A National Water Mission has the potential to revolutionize water resource management in India by promoting sustainable practices that conserve water, reduce wastage, and ensure fair distribution both within and across states. The Mission will be guided by the principles of the National Water Policy and develop a comprehensive framework to optimize water use through regulatory mechanisms that offer differentiated entitlements and pricing. It will prioritize the recycling of wastewater to meet the growing water demands of urban areas and leverage innovative technologies like low-temperature desalination to address the water needs of coastal cities that lack access to other water sources. Through these efforts, the National Water Mission aims to increase water use efficiency by 20%, paving the way for a more sustainable and water-secure future for all.

5. National Mission for Sustaining the Himalayan Ecosystem

The objective of this mission is to safeguard the Himalayan region⁶⁴ and its biodiversity and halt the melting of its glaciers.

Concerning issues addressed by the mission are-

- (i) Himalayan Glaciers and the associated hydrological consequences
- (ii) Biodiversity conservation and protection
- (iii) Wildlife conservation and protection
- (iv) Traditional knowledge societies and their livelihood
- (v) Planning for sustaining the Himalayan Ecosystem

⁶³ Central Public Health & Environmental Engineering Organisation (CPHEEO), Ministry of Housing and Urban Affairs, Government of India. <http://cpheeo.gov.in/cms/national-mission-on-sustainable-habitat.php>

⁶⁴ Government of India, Department of Science & technology, Ministry of Science & technology, New Delhi (June, 2010)

6. National Mission for a Green India

The objective of the Mission is to address climate change through a blend of adaptation and mitigation measures. This approach is designed to facilitate:

- (i) Enhancing carbon sinks in sustainably managed forests and other ecosystems
- (ii) Adaptation of vulnerable species/ecosystems to the changing climate
- (iii) Adaptation of forest-dependent communities

7. National Mission for Sustainable Agriculture

The aim of the initiative is to enhance the productivity, sustainability, profitability, and resilience of agriculture. This will be accomplished by encouraging integrated and composite farming systems tailored to each location; promoting soil and moisture conservation measures; implementing comprehensive soil health management practices; adopting efficient water management techniques, and incorporating rain-fed technologies into mainstream agricultural practices.

8. National Mission on Strategic Knowledge for Climate Change

The National Mission on Strategic Knowledge for Climate Change (NMSKCC) endeavors to create a robust and active knowledge system that will assist and guide national efforts to achieve the goal of environmentally sustainable development.

NEED TO ESTABLISH ENVIRONMENTAL COURTS

Keeping in view the fact that cases involving issues of environmental pollution, ecological destruction and conflict over natural resources are increasingly coming up for adjudication and these cases involve assessment and evolution of scientific and technical data, the Supreme Court has suggested the setting up of Environmental Courts on the regional basis with one professional judge and two experts drawn from Ecological Science Research Group keeping in view the nature of the case and expertise required for its judgement. There would of course be a right to appeal to the Supreme Court from the decision of the environmental court.⁶⁵

The Supreme Court has asked the High Court to constitute a Special Bench "Green Bench" to monitor and deal with cases on environmental matters.⁶⁶ Green Benches are already functioning in some of the High Courts such as Calcutta, Madhya Pradesh, Madras, Allahabad and Punjab and Haryana High Courts. However, in matters of environmental pollution, considerable difficulty is experienced by the Supreme Court or the High Courts in adjudicating upon the correctness of technological and scientific opinions presented to the courts or regarding the efficiency of the technology proposed to be adopted by the industry or in regard to the need for alternative technology or modifications as may be suggested by the Pollution Control Board.

CONCLUSION

From the mid-twentieth century onward, India has experienced an increase in average temperatures, a decline in monsoon rainfall, a rise in extreme weather conditions such as floods

⁶⁵ *M.C. Mehta V. Union of India*, A.I.R. 1987 S.C. 965 at 982

⁶⁶ *Vellore Citizen's Welfare Forum V. Union of India* (1996) 5 SCC 647 at 669

and droughts, and an elevation in sea levels and the severity of cyclones. These shifts in the regional climate have been compellingly linked to human activities. The trend of human-induced climate change is projected to persist throughout the twenty-first century. To increase the precision of future climate projections, particularly in the context of regional forecasts, it is crucial to devise strategic approaches for enhancing knowledge of Earth system processes, while also continuing to improve observation systems and climate models.

CRIMINAL LIABILITY FOR ONLINE HARASSMENT AND CYBERSTALKING

AUTHOR: ADITI PRASAD

INTRODUCTION

Recently, the rise of the internet has led to the upsurge in new forms of harassment and stalking, known as online harassment and cyberstalking. These forms of harassment can take many distinct forms, from sending threatening messages or spreading false rumours to tracking a victim's movements online or in real life. India has not only bagged one of the peak ranks for having the highest number of internet users, but we also ace the records of global sexual harassment. The harassment faced by women online reflects the image of harassment faced by them in the real world. What is more striking is that instances of cyberstalking against men are on a surge. Experts have asserted that the ratio is 50:50 vis-à-vis the cases of cyberstalking faced by men and women. In response to the growing threat of cyber-crimes, governments around the world have enacted laws and regulations aimed at protecting individuals from online harassment and cyberstalking, and imposing criminal liability on perpetrators. This article explores the issue of criminal liability for online harassment and cyberstalking, examining the nature and prevalence of these crimes, the legal frameworks governing them, and the challenges of prosecuting and punishing offenders. Ultimately, it argues that a greater awareness of the harms of online harassment and cyberstalking, as well as stronger laws and enforcement mechanisms, are needed to protect individuals from these insidious forms of digital abuse.

THE LEGAL DEFINITIONS OF ONLINE HARASSMENT AND CYBERSTALKING

Internet harassment and cyberstalking are severe issues that have become more common as social media and digital communication have grown in popularity. While these acts can be extremely harmful to victims, the legal meaning of these offences varies depending on the country in which they occur.

To properly comprehend the nature of online harassment and cyberstalking, it is necessary to investigate the legal definitions of these offences. In general, online harassment is defined as a pattern of action that is meant to cause distress or harm to another person. Sending threatening or abusive messages, publishing sensitive or private information without authorisation, and creating phoney profiles or social media accounts to impersonate or harass someone are all examples of this.

Cyberstalking, on the other hand, is a more serious offence that involves persistent and intentional action that is intended to harass, intimidate, or threaten someone through the use of internet communication. This includes sending unwanted messages, following someone's online movements, and employing technology to stalk or watch someone in person. These offences' legal definitions might vary greatly depending on the jurisdiction in which they occur. These may be characterised as particular criminal acts in some circumstances, while

others may come under broader categories such as harassment, stalking, or domestic abuse. Many jurisdictions have created legislation to handle online harassment and cyberstalking, recognising the unique nature of these crimes in the digital age. Prosecutors must generally prove that the perpetrator meant to cause injury or terror in the victim, that the victim had a reasonable fear of danger, and that the perpetrator's acts were the source of this fear in order to establish responsibility for online harassment and cyberstalking. They must also be able to identify the culprit, which might be difficult in circumstances where the attacker conceals their identity through anonymous accounts or other means. Ultimately, understanding the legal definitions of online harassment and cyberstalking is critical for properly dealing with these situations and holding perpetrators accountable. We may obtain a better grasp of the legal system in place to protect victims and prevent these behaviours from recurring in the future by reviewing the many definitions of these crimes and the legal requirements that must be met to establish responsibility. Online harassment and cyberstalking can both result in serious effects, such as emotional hardship, social isolation, and even physical damage. These acts are unlawful in many jurisdictions and can result in criminal prosecution or civil litigation. The definitions and penalties for online harassment and cyberstalking vary by country, but they often involve actions designed to cause harm or create a hostile environment for the victim.

TYPES OF ONLINE HARASSMENT AND CYBERSTALKING

In the digital era, cyberstalking and online harassment are concerns that are growing more and more common. Numerous people report experiencing various types of online harassment, intimidation, and threats. To address the issue and hold offenders accountable, it is crucial to understand the many forms of online harassment and cyberstalking. Here are a few typical examples of cyberstalking and internet harassment:

- **Threats**: This form of internet harassment comprises making threats to damage a target person physically or psychologically. Threats can take many different forms, from overtly violent statements to subtle threats.
- **Doxxing**: It is the act of publishing or disseminating someone's personal information without that person's permission with the intention of hurting or embarrassing them. This may entail disclosing personal contact information, residential addresses, or even financial data.
- **Cyberbullying**: It is when someone intentionally and repeatedly bullies or harasses another person using electronic communication. This can involve saying offensive things, distributing false information, or posting embarrassing images or videos.
- **Revenge porn**: Revenge porn is the dissemination of pornographic material without the subject's permission. This can have detrimental psychological and emotional impacts that can be done to shame, threaten, or embarrass the victim.
- **Stalking**: Whether done online or off, stalking entails persistent and unwelcome activity directed at a specific person. This can involve establishing unwelcome and persistent contact with the person or viewing, watching, or monitoring the person's actions.
- **Hate Speech**: The use of words or images with the intent to disparage, offend, or degrade is known as hate speech.

IMPACT OF ONLINE HARASSMENT AND CYBERSTALKING ON VICTIMS

The victims of cyberstalking and online harassment are severely impacted. They may injure you physically, psychologically, and emotionally. Victims of abuse have occasionally even committed suicide as a result of the abuse they experienced. We will go into more detail about the effects of cyberstalking and online harassment on victims in this section.

- Emotional discomfort: Victims of cyberstalking and online harassment may experience severe emotional distress. They might experience anxiety, depression, and terror. As if they have no one to turn to for assistance, they could also feel hopeless and isolated. Relationships between victims and their friends and family may worsen as a result of the victim's isolation.
- Psychological Trauma: Online stalking and harassment victims may also experience psychological trauma. They may experience nightmares, flashbacks, and hyperarousal, which are all signs of post-traumatic stress disorder (PTSD). Moreover, they can have a hard time focusing, sleeping, and eating. Their general health and well-being may suffer as a result.
- Physical Harm: In some instances, cyberstalking and online abuse can cause a victim's bodily pain. They may be the subject of physical attack, stalking, or threats of harm in person. Extreme circumstances could put sufferers in danger of death.
- Damage to Reputation: Cyberstalking and online abuse can seriously harm a victim's reputation. Online rumours or false charges can hurt a person's personal and professional relationships, possibly resulting in social exclusion, job loss, and relationship problems.
- Financial repercussions: Online stalking and harassment victims may potentially experience financial repercussions. To address the emotional and physical harm brought on by the abuse, they can be required to take time off work or shell out money for medical care. If they want to take the offender to court, they might also have to pay legal fees.
- Fear of Internet Activity: Those who have experienced cyberstalking or online harassment may develop a fear of using the internet or participating in social media. As a result, they might pass up crucial chances, such as job interviews or social gatherings, further isolating them from society.
- Long-Term Effects: The effects of cyberstalking and online harassment can linger for a very long time. Years after the abuse has stopped, victims may continue to suffer from emotional pain, psychological trauma, and physical harm. They might also have trouble building relationships and trusting people, which would keep them socially isolated.

LEGAL JURISDICTIONS AND PUNISHMENTS:

Cyberstalking and online harassment are illegal in India and are subject to several statutes, including:

- Indian Penal Code (IPC) Section 354D⁶⁷ makes stalking, including online surveillance, a crime. If found guilty of cyberstalking, a person could face up to three years in jail and/or a fine.
- Information Technology Act, 2000:

⁶⁷ Indian Penal Code 1860

This law includes provisions that make cyberstalking and online harassment illegal. Sending offensive messages via a communication device, including the internet, was illegal under Section 66A ⁶⁸of the Act, and offenders could face up to three years in jail and/or a fine. However, the Supreme Court of India invalidated this clause in 2015 because it was illegal.

- The 2013 Act for the Protection of Women from Sexual Harassment at Work:

This Act contains measures to safeguard women from workplace sexual harassment, including that which occurs online. Employers are required to set up an internal complaints committee to investigate and handle sexual harassment claims, including those made online.

- Juvenile Justice Act of 2015:

The Juvenile Justice Act of 2015 outlines provisions for the recovery of kids who have been harassed and stalked online. It also includes guidelines for dealing with those who harass and stalk minors online.

- The 2018 Criminal Law Amendment Act:

This Act modified the Indian Penal Code to establish penalties for those who harass and stalk women online. Three to five years in jail and/or a fine are possible penalties.

CRIMINAL LIABILITY FOR ONLINE HARASSMENT AND CYBERSTALKING

Criminal liability for cyberstalking and online harassment refers to the possible penalties that the perpetrators of these crimes may experience. Online harassment is the act of intimidating, threatening, or harassing someone else through electronic communication. Cyberstalking is a term used to describe an ongoing pattern of online harassment that may also encompass offline stalker behaviour and involves threats or intimidation. Depending on the jurisdiction and the seriousness of the conduct, cyberstalking and online harassment are subject to varying degrees of criminal culpability. Online harassment may occasionally be charged as a misdemeanour, although more serious incidents may be charged as felonies. These crimes are punishable by fines, incarceration, and restraining orders. Identifying the appropriate jurisdiction to bring charges for cyberstalking and online harassment is one of the difficulties in doing so. It can be challenging to determine which law enforcement agency has jurisdiction to investigate and punish certain offences because they can be committed across different jurisdictions. Also, it may be challenging to track down the offender of the crime due to the anonymity of online communication. The legal standard needed to establish these offences is another obstacle. Prosecutors must demonstrate that the behaviour was both undesired and caused the victim mental distress in order to show online harassment or cyberstalking. It may be challenging to establish this in court, especially if the offender asserts that their actions were intended as a joke or that they had no intention of causing harm. Notwithstanding these difficulties, there have been several examples of online harassment and cyberstalking that have been successfully prosecuted in recent years. For instance, in 2016 a guy was given a 14-year prison term for using several fictitious online identities to pursue and harass his ex-girlfriend. It is significant to highlight that cyberstalking and online harassment do not just apply to individuals. Businesses that offer online communication platforms, including social networking websites, may also be held accountable if they do not take reasonable precautions to stop these crimes

⁶⁸ *Information Technology Act, 2000*

from happening on their platforms. These businesses could occasionally be obliged to assist law enforcement in locating those responsible for internet abuse and cyberstalking.

PREVENTION AND INTERVENTION STRATEGIES

In order to address the issue of online harassment and cyberstalking, prevention and intervention techniques are essential. Criminal responsibility is a crucial tool for making offenders responsible for their acts, but preventative and intervention techniques can also help prevent these crimes from happening in the first place and offer support to victims. Education is a useful preventative tactic. Raising awareness of these problems and encouraging good online behaviour can be achieved by educating both kids and adults about the negative impacts of online harassment and cyberstalking. Children can be taught the value of digital citizenship and responsible behaviour online, and tools and assistance can be made available to those who have been the targets of online harassment and cyberstalking. The creation of policies and procedures for internet safety is another preventative measure. This may involve putting in place regulations outlawing cyberstalking and online harassment on social media sites and establishing precise procedures for reporting such violations. Also, social media corporations can create algorithms to find and delete content that is against their rules. In situations where cyberstalking and online harassment have already taken place, intervention measures can be especially crucial. The creation of victim support services is one efficient intervention technique. This can involve giving victims who want to file a lawsuit against their abuser's psychotherapy and therapy services as well as legal support. Using restraining orders is another intervention approach. A restraining order that forbids their attacker from contacting them either online or offline may be available in some circumstances for victims of cyberstalking and online harassment. This may be a powerful strategy for ending the harassment and giving the victim a sense of security. Finally, law enforcement organisations may be quite effective in stopping situations of online harassment and cyberstalking and stepping in to help. Investigating and pursuing perpetrators may be part of this, as well as offering victims assistance and resources. To identify and find the offenders, law enforcement organisations may cooperate with social media firms.

INTERNATIONAL PERSPECTIVES

Cyberstalking and online harassment are global concerns that need to be addressed from a worldwide viewpoint. Because the internet has no geographical boundaries, it is crucial to take a coordinated global strategy to solve these issues. We shall examine several international viewpoints about criminal responsibility for online harassment and cyberstalking in this subtopic. The fact that cyberstalking and online harassment are frequently committed across national lines makes fighting these crimes difficult. It can be challenging to determine which jurisdiction should have control over a given matter because different nations have distinct laws and regulations. This can be particularly difficult when the victim and the attacker are from different nations. The United Nations and the Council of Europe are two international organisations that have taken steps to address the problem of online harassment and cyberstalking. In 2013, the UN issued a resolution stating that online abuse of women and girls violates those individuals' human rights. The member states were asked by this resolution to take action to stop and handle internet harassment and stalking.

Similar to this, the Council of Europe's Convention on Cybercrime provides a legal framework for dealing with cybercrime among its member countries, such as online harassment and cyberstalking. The Convention establishes safeguards for the rights of victims and calls on member states to work together to investigate and prosecute cybercrime. Many nations have created their own laws and regulations to deal with online harassment and cyberstalking in addition to international organisations. For example, in the United Kingdom, the Malicious Communications Act makes it a criminal violation to transmit a communication that is excessively offensive or threatening, with the goal to cause distress or worry to the recipient. In Canada, provisions for online harassment and cyberstalking were added to the Criminal Code in 2014. The modifications make it illegal to intimidate or harass someone online and allow for the issuance of peace bonds, which function similarly to restraining orders.

CONCLUSION

In conclusion, cyberstalking and online harassment are severe offenses that can be extremely damaging to a person's mental and emotional health. Technology and social media platforms are being used more frequently, which has made it simpler for criminals to commit these offenses remotely and in secret. To hold these offenders responsible and give the victims justice, laws and regulations are in place in many countries around the globe. It's critical that people are informed of their legal options and how online harassment and cyberstalking are governed by local laws. As a community, we must work to establish a secure and welcoming space where people can access the internet without worrying about being harassed or stalked. We can prevent and fight online harassment and cyberstalking and ensure a safer and more equitable digital environment for everyone by educating ourselves on the legal repercussions of these crimes.

A DETAILED COMPARISON OF UNION BUDGET 2022-2023

AUTHOR: TANYA SHREE

ABSTRACT

Budgeting is a component of managerial accounting, and firms use this process to determine their budgets for long-term objectives and growth. An effective budget for the company will be created through this method for the organisation. According to the article, companies utilise several methods for creating their budgets. Corporations are to higher institutions (Central Management Company and Service Management Company) to generate budgets. The major goal of the budget is to grow the company and reduce the amount of wasted resources and money. Many organisations, according to the literature analysis, struggle with their budgeting procedures. Who utilises inaccurate information in the budgeting process, after all. Many of the businesses struggle because they cannot effectively use technology in their operations.

Development companies use advanced technology for their budgeting procedures because these systems can collect the precise data that is required for budgeting, easily monitor their company's performance, and analyse results. If the latter are unfavourable, these systems can be used to change a company's budgeting procedures right away. With a bottom-up strategy, authorities are divided among the lower levels and are responsible for creating each department's budget, as opposed to a top-down approach that uses top management to create budgets. Due to the inflation rate, governmental regulations, consumer demands, and organisational goals, the selective article describes how firms employ the conventional budgeting procedure. Because of the COVID 19 problem, as I discussed, the conventional budgeting procedure is preferable for businesses.

Keywords: Budget, Corporation, Inflation Rate, consumer demands.

INTRODUCTION

The Budget was first introduced in India on April 7, 1860 when Scottish economist and politician James Wilson from East India Company presented it to the British Crown. Independent India's first budget was presented on November 26, 1947 by the then Finance Minister R K Shanmukham Chetty.⁶⁹

The last budget was presented by the financial minister of India Smt. Nirmala Sitaraman. In that she mentioned about the 2021-2022, at the time of the pandemic. And the budget of 2023 or we can say that financial statement of India put forward by the finance minister Smt. Nirmala Sitaraman on 1st February 2023. The people were so excited as well as impatient to know about the budget and what's new in this year's budget, how it will look?

Before the presentation of the budget, the survey which is. Financial would be provided in the parliament that is. Totally about every zone performance for. Consideration of demand action.

⁶⁹ *Teqipadmin (March 15, 2023), Budget 2023 Date & Time, Expectations, Income Tax, New Schemes, <https://teqip.in/budget-date-time-expectations.html>*

In the budget session 2023, it will start of in the parliament on date 31st January 2023, our respected president of India, Droupadi Murmu, will be forwarded Lok Sabha and Rajya Sabha joint sitting in the central hall to start the session, at first the financial survey, before the house would be set down. Then for the revered president there will be a motion of thanks and the discussion about the budget 2023 will begin. The prime minister of India, Shri Narendra Modi, will be answering the debate that grew up during the conversation. And now in the second part the Main focus will be on the demands of grants. The money bill/ and the budget (2023) proceed. On April 6th, the session finished.

HIGHLIGHTS OF BUDGET

Spending: The government's proposed budget for 2022–23 calls for spending Rs 39,44,909 crore, an increase of 4.6% from the previously revised estimate for 2021–22. The total spending for 2021–22 is anticipated to be 8.2% higher than anticipated in the budget.

Receivables: In 2022–23, receipts (other than borrowings) are anticipated to total Rs 22,83,713 crore, up 4.8% from the revised projection for 2021–22. The predicted total receipts (excluding borrowings) for 2021–22 are 10.2% greater than those projected in the budget.

GDP: In 2022–2023, the government forecasts a nominal GDP growth rate of 11.1%. (i.e., real growth plus inflation).

Deficits: The target revenue deficit for 2022–2023 is 3.8% of GDP, which is less than the previously estimated 4.7% for that period. In comparison to the previously estimated 6.9% of GDP in 2021–2022 (which was marginally higher than the budget estimate of 6.8% of GDP), the fiscal deficit for 2022–2023 is expected to be 6.4% of GDP. Estimated interest costs come to Rs 9,40,651 crore, or 43% of revenue.

Extra Budgetary Resources (EBR): The budget has stopped relying on EBR or loans from the National Small Savings Fund after a period of years.

Allocations by ministry: Of the top 13 ministries with the greatest allocations, the Ministry of Communications saw the highest percentage rise in allocation in 2022–2023, followed by the Ministry of Road Transport and Highways (52%), and the Ministry of Jal Shakti (25%).⁷⁰

TAX PROPOSALS IN THE MAIN FINANCE BILL

Income tax:

Both individual and corporate income tax rates remain unchanged.

Long Term Capital Gains (LTCG) Surcharge:

Now, the LTCG surcharge on listed stocks and equity mutual funds is set at 15%. If the total income is between Rs 2 crore and Rs 5 crore, the surcharge on other LTCG is 25%; if it is above Rs 5 crore, it is 37%. They would be limited by the budget to 15%.

⁷⁰ Teqipadmin (March 15, 2023), Budget 2023 Date & Time, Expectations, Income Tax, New Schemes, <https://teqip.in/budget-date-time-expectations.html>

Tax on virtual digital assets:

A 30% tax will be applied to any income derived from the transfer of cryptocurrencies and non-fungible tokens. Any loss resulting from such transactions cannot be carried over to other years or offset against any other income.

Return of income update:

Within two years of the assessment year, taxpayers may submit an updated return of income. If they file it in the year following the assessment year, they must pay a 25% penalty on the tax and interest that is owed, and a 50% penalty in the next year.

Co-ops:

The alternative minimum tax will drop from 18.5% to 15% for co-ops. For cooperatives with a total annual income of between one crore and ten crore rupees, the surcharge will be decreased from 12% to 7%.

New enterprises and start-ups:

New domestic companies engaged in manufacturing have an option to pay tax at 15% (without claiming any deductions) if they commence production by March 31, 2023. There is a tax alternative available for several sorts of startups.

Changes in customs duty:

Customs duties have changed for more than five hundred different items. Many customs exemptions are also being phased out.

HIGHLIGHTS OF POLICY

Legislative proposals:

In place of the Special Economic Zones Act of 2005, a new law will be introduced that will allow states to collaborate on the "Development of Enterprise and Service Hubs," which will encompass both new and existing industrial enclaves. Legislative changes will also be brought in to promote agro-forestry and private forestry. Amendments will be made in the Insolvency and Bankruptcy Code to facilitate cross border insolvency resolution.

Fiscal Management: Rs 51,971 crore has been budgeted in 2021-22 towards settling the liabilities of Air India.

MSMEs:

The Emergency Credit Line Guarantee Scheme (ECLGS) will now be in effect through March 2023, and its guarantee coverage will increase by Rs 50,000 crore to a total of Rs 5,000 crore. The Credit Guarantee Trust for Micro and Small Enterprises will be updated to enable an extra two lakh crores of rupees in credit.

Health and Nutrition:

Under Ayushman Bharat Digital Mission, an open platform for National Digital Health Ecosystem will be established. It will consist of digital registries of health providers and health facilities, unique health identity, consent framework, and universal access to health facilities.

To give people access to high-quality mental health counselling and care services, a national telemental health programme will be introduced.

River linking: The Ken-Betwa Link Project is expected to cost Rs 44,605 crore to complete. There are currently five more river linking projects in operation.

Labour and Employment: An e-portal for the Digital Ecosystem for Skilling and Livelihood (DESH) will be unveiled. The portal will support citizens in developing their skills, obtaining credentials, and locating relevant employment.

Roadways:

In 2022–2023, the PM Gati Shakti Master Plan for Expressways will be developed. The National Highways network will be expanded by 25,000 km in 2022–23.⁷¹

Railways:

One-station-one-product concept will be implemented to help local businesses and supply chains. 400 new Vande Bharat trains will be developed and manufactured during the next three years. Further, 100 cargo terminals for multimodal logistics facilities will also be developed during the next three years.⁷²

Communications:

Facilitate the rollout of 5G mobile services between 2022 and 2023, spectrum auctions will be held. A programme for design-led manufacturing will be introduced as part of the Production Linked Incentive (PLI) Scheme to create an ecosystem for 5G.

BUDGET ASSESSED OF 2022-23 AS COMPARED TO REVISED ASSESSED OF 2021-22

Overall Expenditure:

In 2022–2023, the government is expected to spend Rs 39,44,909 crore. This represents a 4.6% increase over the updated forecast for 2021–2022. Revenue expenditure is anticipated to total Rs 31,94,663 crore (an increase of 0.9%), while capital expenditure is anticipated to total Rs 7,50,246 crore (an increase of 24.5%). The significant increase in loans and advances to state governments is primarily to blame for the rise in capital expenditures. In 2022–23, the central government is expected to loan and advance Rs 1,40,057 crore, a 153% increase over the updated estimates for 2021–22.⁷³

Overall Receipts:

Government receipts (excluding borrowings) are projected to total Rs 22,83,713 crore, up 4.8% from the updated estimates for 2021–22. Borrowings, which are estimated to total Rs 16,61,196 crore, an increase of 4.4% above the revised projection for 2021–22, would be used to close the gap between these receipts and expenditures.

Transfer to states:

⁷¹ <https://byjus.com/free-ias-prep/union-budget-2022-23/> (visited on March 3, 2023)

⁷² <https://byjus.com/free-ias-prep/union-budget-2022-23/> (visited on March 3, 2023)

⁷³ <https://prsindia.org/budgets/parliament/union-budget-2022-23-analysis#:~:text=Expenditure%3A%20The%20government%20proposes%20to,8.2%25%20higher%20than%20budget%20estimate.> (visited on March 3, 2023)

In 2022–2023, the federal government will give states and union territories a total of Rs 16,11,781 crore. This is a 0.5% slight increase over the updated predictions for 2021–2022. Devolution of Rs. 8,16,649 crores from the dividend pool of central taxes and grants and loans totalling Rs. 7,95,132 crores make up the transfer to states.

According to the updated projections, back-to-back loans of Rs 1,59,000 crore will be given to the states in 2021–2022 in place of GST compensation.

Deficits:

In 2022–2023, the revenue deficit is expected to be 3.8% of GDP and the fiscal deficit is expected to be 6.4% of GDP. The primary deficit goal for 2021–22 is 2.8% of GDP, which is the fiscal deficit minus interest payments.⁷⁴

GDP growth estimate:

Nominal GDP growth is projected to increase at a rate of 11.1% in 2022–2023.

EXPECTATIONS OF BUDGET AND NEW SCHEME OF BUDGET 2023

Many look forward to some relief from the escalating costs each year. Before the general elections in 2024, the FM will present the fifth budget. The Department of Economic Affairs will create the budget with assistance from the other departments.

The money will open doors for international producers. Due to increasing demands, the health zone is more likely to receive additional funding. This will help them prepare for the dangerous varieties that are being found. More money will be raised by MGNREGA and others to help the rural population.

The capital expenditure will be used to run the Union administration. Considering the pandemic, the previous budget prioritised recovery. The FY24 budget is more designed to support the growth of the financial and investment banker.

The government anticipates mentioning new plans from the need areas in its annual financial report for 2023–24. The government will take action to include greater development into the current plan.

They are also working to develop new plans for transportation, education, security, taxes, food, and other areas. The funds will be designated for the ministry in order to give the plans life and ensure that the strategy is executed flawlessly. Check out the government website if you want to learn more about the upcoming budget. The budget information will also be broadcast on television.

CONCLUSION

The most significant document a city creates is its budget. It includes the plans for a city's fiscal year's finances, politics, and service delivery. It is an essential instrument for informing the public about public policy. Even though each city generates its annual operating budget in a unique way, all cities engage in several similar activities. It is crucial to comprehend the terms

⁷⁴<https://prsindia.org/budgets/parliament/union-budget-2022-23-analysis#:~:text=Expenditure%3A%20The%20government%20proposes%20to,8.2%25%20higher%20than%20budget%20estimate.> (visited on March 3, 2023)

and ideas involved in the budget process, regardless of whether your city creates an annual budget that is composed of several sheets of paper stapled together or a 1,000-page document with charts and graphs. Municipal authorities who have been appointed or elected must participate in the difficult process of budget formulation. The procedure combines the efforts of individuals with knowledge and expertise in finance, accounting, policymaking, management, state legislation, and other related fields.

DRUG ABUSE IN INDIA : A CRITICAL ANALYSIS

AUTHOR: ANUSHKA DEEP

ABSTRACT

The United Nation office on crime and drugs (UNODC) has published the booklet which contains the worldwide trend on demand and supply of the drugs. According to which Cannabis is the most used drug as no less than 209 million people consumed it (2022), followed by opioids and then after Amphetamines and Cocaine. Drugs which are introduced in the body to produce some action or to alter mood, emotion, or some bodily function. We can trace the use of drugs as old as the history of mankind. The use and dependence on the drugs have both traditional and social roots in India, as in the end of 19 century the use of cocaine can be seen in some parts of Bihar and Bengal because of its exhilarating effects. However, it can be now considered as one of the most devastating health problems worldwide. According to the centres for Disease Control and Prevention in 2020, 91,799 drug overdose deaths occurred in the United States. The global communities need to increase the efforts to prevent the supply of the drugs as the collective use illicit drugs, alcohol kills 11.8 million people each year. This data related to death is more than the death caused by all types of cancer. At least 15.3 million people have drug use disorder and a total of 148 countries reported injecting drugs out of which 120 countries reported HIV infection among their population.

Keywords: crime, drugs, cocaine, Diseases control and Prevention.

INTRODUCTION

Substance use also known as Drugs abuse is ranked as one of the most devastating and costly disorders in both social and medical fields. The addictive drugs over-stimulate the reward system of our brain and release neurotransmitter dopamine in large amounts. That euphoric feeling and heightened pleasure is so satisfying that the brain wants that feeling again and again. But the repetitious exposure to these illicit drugs induces widespread adaptive changes in the brain, which results in backlash. In India millions of people are dependent on alcohol, cannabis, and opiates. According to the report jointly published by UN office on drugs and crime and India's ministry of social justice, In India where the population mark touches the billions, estimated number of 62.5 million people consume alcohol ,8.75 million consume cannabis and 2 million people consume opiates.⁷⁵In the total estimated numbers 17% to 26% are dependent users and need urgent treatment. "That drug abuse is an exclusively urban phenomenon is a myth," said Gary Lewis, the South Asia regional representative of the UN Office on Drugs and Crime. Injecting drugs and high-risk behaviours are seen in urban and rural areas, he added. Drug addiction is a preventable disorder. Many countries had taken the initiative to criminalise the use of some drugs to decrease its prevalence.

⁷⁵ United Nations Office on Drugs and Crime. <https://www.unodc.org/unodc/data-and-analysis/world-drug-report-2022.html>

DRUGS MISUSE, DRUG ABUSE AND DRUG ADDICTION

When the drugs prescribed by the doctor are used in different ways than directed or done without following the direction given by doctor, it can lead to adverse side effects and this is known as Drug misuse. whereas drugs abuse also known as substance use disorder happens when any psychoactive substance, alcohol are misused to inflict harm or to get high, as people who are suffering from SUD significantly experience altered thinking and behaviour and when the use of drug become a form of dependence which is also known as severe SUD, a brain disorder which manifest as the uncontrollable usage of drug despite knowing its consequences. People with drug addiction suffer intense or tepid withdrawal symptoms when they do not consume the substance.

The major difference among them is that intent, a person misuses the drugs to treat some specific problem and get over it whereas a person abuses the drugs to evoke certain feelings and when the abuse of substance becomes severe, it becomes an addiction. The distinction lies on the self-control of the person's intake. Drug addiction has a great impact on all the fields of a person's life, and he becomes unable to change the situation.⁷⁶

LEGAL BODIES THAT ENFORCE DRUG REGULATION

The drug abuse trend is gaining its momentum across the country at a very high speed, many youths are also involving themselves in this trend and that is the very dangerous move as it not only affects their lives but the life of their family and dependents.

The government of India has been taking an active decision regarding drug restraint and to improve the physical and mental power, so that they can actively participate and contribute to the development of Indian society.

The legal bodies governing the drug abuse in the Indian society are: -

1. Narcotics control division
2. Central Bureau of Narcotics (CBN)
3. The Narcotics control Bureau
4. Other agencies like Directorate of Revenue Intelligence, Central Bureau of Investigation, Custom commission, Border security force.

LAWS THAT GOVERN DRUG ABUSE IN INDIA

In India drug abuse was not properly govern in the early phase but after **The Narcotics drugs and Psychotropics Substances (NDPS) Act of 1985**, which was enacted to win the battle against the drugs trafficking as this act criminalised the use, trade, export, import of any kind of narcotic drugs.⁷⁷

In case of law being violated, the minimum sentence is of the period of 10 years or the fine of ten lakhs where the maximum sentence is of time 20 years and a fine of twenty lakhs. Under

⁷⁶ Adept, (2020, Aug 19). Drug misuse, abuse and addiction: what's the difference?. Meridian Psychiatric partners. <https://meridianpsychiatricpartners.com/drug-misuse-abuse-and-addiction-whats-the-difference/>

⁷⁷ Shivani Sangwan, (2022, September 27). Indian Laws Related to Drugs. Legal Bites. <https://www.legalbites.in/topics/articles/indian-laws-related-to-drugs-347133>

chapter II of the given act, the law imposed that people addicted with drugs must cure them and improve their health by sending them to rehabilitation centres.

This act worked as a deterrent in the society against the consumption of drugs.

In 1986, the Indian government established the Narcotic Control Bureau, whose headquarter was in New Delhi and its regional offices were in Mumbai , Kolkata , Chennai and Varanasi . By 1988 The Narcotic Drugs and Psychotropic Substances Consultative Committee was established by the central government, which consisted of 18 members and a chairperson and their duties were to examine NDPS act regularly.

JUDICIAL REVIEW

In Hira Singh v. Union of India⁷⁸ the Supreme court constructed a strict illustration of the Narcotics Drugs and Psychotropic substance, it also widened the definition of the “small quantity” in the possession and the penalty imposed on the accused . The court stated that while determining whether a seizure of a mixture of narcotic drug with one or more neutral substances to constitute a small quantity or commercial quantity the weight of the neutral substance should be taken into the account in addition of the offending drug.⁷⁹

Sushant Singh Rajput - Death Case

Sushant Singh Rajput, a Bollywood actor who passed away on 14 June 2020, is surrounded with many assumptions and claims relating to his death, but one of the most important factors in his death case is involvement of drugs. The NCB had arrested more than 30 people from 2020-2021 because of their involvement in the case including actress Rhea Chakraborty, Sushant Singh's claimed girlfriend, she was charged for buying drugs for the late actor. A chargesheet filed by the NCB held her and 34 others accused. Her brother Showik Chakraborty has also been named as an accused. In this case many names from the high societies of Bollywood were highlighted in the involvement in trade of drugs. The case has not been finalised yet and many more assumptions are still on their way to the given case. NCB had also managed to arrest the drug supplier Regal Mahakal, who was under their radar for a long time. To ascertain the nature and involvement of the accused, the case is still going on. ⁸⁰

CONCLUSION

Drug abuse is one of the most concerning and major problems in India. As thousands of people are dying because of drug abuse. It not only has a negative impact on the society but it also leads to increase in crime rate. Families become victims as a result of drug abuse culture. Domestic violence, financial crisis etc are the kinds of problems families suffer from. Its long term use affects and damages the mental ability and impact mental processes like behaviour, decision making, memory, and judgements. Currently India does possess a system of national or local monitoring for drug misuse, said Dr. Rajat Ray, head of the centre for Behavioural Sciences. India had implemented many acts and laws to control the use of drugs and poisons.

⁷⁸ Criminal appeal no. 722 of 2017 (Arising out of SLP (Crl.) No. 6092 of 2014)

⁷⁹ Shivani Sangwan, (2022, September 27). Indian Laws Related to Drugs. Legal Bites. <https://www.legalbites.in/topics/articles/indian-laws-related-to-drugs-347133>

⁸⁰ Express News Service, (2023, February 17). 'Drugs' case filed after Sushant Singh Rajput's death: Mumbai special court allows NCB. <https://indianexpress.com/article/cities/mumbai/sushant-singh-rajput-mumbai-court-ncb-8451097/>

Although we need to understand that only the establishment of treatment centres is not enough, we have to encourage and make people aware of the devastating effects of drug abuse or encourage them to seek treatment.

RISE OF FAKE FEMINISM IN MODERN ERA

AUTHOR: CHITRA KUMARI

ABSTRACT

The concept of feminism has gained significant attention in modern India, with women fighting for their rights and equal opportunities in various fields. However, there is a growing concern about the rise of fake feminism in India, which has created an illusion of gender equality while perpetuating patriarchal attitudes and practices. This research paper aims to explore the concept of fake feminism in modern India.

This paper starts by defining the term Fake Feminism and what are some of the examples of fake feminism. It also explores its impact in the modern society. It also examines the historical context of feminism by stating the early feminist movements and different phases of feminism. Furthermore, the paper analyses the legal framework for women's rights and the laws enacted to protect Women's rights. This paper also explores some of the legal strategies for combating fake feminism in modern India.

Finally, the paper concludes by discussing the need for a more nuanced understanding of feminism in India and the importance of challenging fake feminism to ensure that legal practices are truly inclusive and gender-just.

Keywords: feminism, modern India, gender, gender equality, modern society fake feminism, women's rights.

INTRODUCTION

In recent years, the term "feminism" has gained significant attention and momentum in India, with many individuals and organizations advocating for gender equality and women's empowerment. However, with this growing movement has come an unfortunate trend of "fake feminism" - a phenomenon where individuals or groups claim to support feminism but engage in actions or hold beliefs that undermine the movement's core principles. Fake feminism, also known as "faux feminism" or "performative feminism", refers to actions or statements that appear to support feminist principles, but, do not further the cause of women's rights and may even harm it.⁸¹ One example of fake feminism is when individuals or organizations use feminist language and imagery for marketing or branding purposes. This can take the form of slogans, logos, or advertising campaigns that seem to promote feminist values, but, are designed to appeal to consumers and increase profits. This type of "feminist branding" can be seen to co-opt feminist ideals and use them for capitalist gain, rather than genuinely supporting women's empowerment and equality. Another example of fake feminism is when individuals or groups use feminism as a way to advance their own agendas, without actually supporting

⁸¹ Dr Vihan Sanyal, *Women's Day Special: 11 signs that tell your partner is a faux feminist*, *The Free Press Journal* (mar 6, 2022, 10:08 AM), <https://www.freepressjournal.in/lifestyle/womens-day-special-11-signs-that-tell-your-partner-is-a-faux-feminist>

women's rights.⁸² For example, a politician who claims to support women's issues during an election campaign, but then fails to follow through with actual policies or initiatives once in office. Or, a male celebrity who publicly supports feminism but then engages in misogynistic behaviour or perpetuates harmful stereotypes in their work. Fake feminism can also manifest as performative actions or statements that do not actually challenge the status quo or work towards meaningful change. This can include things like wearing a feminist t-shirt or posting a feminist meme on social media, but not taking any concrete steps to address issues of gender inequality in their personal or professional life. While these actions may appear to support feminist principles, they do not actually create any substantive change. The impact of fake feminism on the feminist movement can be damaging. It can create confusion and mistrust among those who are genuinely committed to women's rights, and undermine the credibility of the feminist movement as a whole. Additionally, it can distract from the real issues facing women and prevent progress towards meaningful change. Feminism often promotes misandry and the elevation of women's interests above men's, and criticizes radical feminist positions as harmful to both men and women. To combat fake feminism, it is important to prioritize the voices and experiences of women and to hold individuals and organizations accountable for their actions. This means actively seeking out diverse perspectives and advocating for policies and initiatives that address the root causes of gender inequality. It also means being critical of individuals or groups who claim to support feminism but fail to follow through with actual action or change.

HISTORICAL CONTEXT OF FEMINISM IN INDIA

Feminism in India has a long and complex history that is closely intertwined with the country's social, political, and cultural evolution. Feminist thought and activism in India can be traced back to the ancient Hindu texts, which had many strong female characters such as Sita, Draupadi, and Savitri, who were portrayed as being equal to or even superior to men. However, in reality the women's lives were quite different, as they were often subject to patriarchal norms and practices. The feminist movement in India can be traced back to the early feminist movements that emerged in the 19th and early 20th centuries. These movements were primarily concerned with women's education and social reform, and they sought to challenge the patriarchal norms and practices that were prevalent in Indian society.

Feminism in India spans over several decades, and it has evolved through different phases. The first wave of feminism in India began in the late 19th and early 20th centuries and was led by women activists who advocated for equal rights and opportunities for women, including access to education, employment, and political representation. This phase of feminism was largely focused on issues of legal equality and women's suffrage.

The second wave of feminism in India began in the 1970s and was characterized by a broader focus on women's liberation and the dismantling of patriarchal structures. This phase of feminism was influenced by the international feminist movement, and it sought to address issues such as domestic violence, sexual harassment, reproductive rights, and the representation of women in the media and popular culture.

⁸² Becker Herby, *The Rise of Femvertising: Authentically Reaching Female Consumers*, Capstone 1, 19 (2016), https://conservancy.umn.edu/bitstream/handle/11299/181494/BeckerHerby_%20Final%20Capstone_2016.pdf?sequence=1

The third wave of feminism in India emerged in the 1990s and was characterized by a greater focus on intersectionality and diversity. This phase of feminism acknowledged that women's experiences are shaped by a variety of factors, including race, class, sexuality, and disability, and it sought to address the ways in which different forms of oppression intersect and compound each other.⁸³ The #MeToo movement is a global movement that gained momentum in India in 2018. The movement was primarily focused on bringing to light incidents of sexual harassment and assault in the workplace and other settings. The #MeToo movement in India can be seen as part of the broader third wave of feminism, which emphasizes the importance of intersectionality and the recognition of multiple forms of oppression. The movement had a significant impact on Indian society, with several prominent individuals, including politicians, journalists, and actors, being accused of sexual harassment or assault. The movement also led to the creation of several initiatives aimed at preventing sexual harassment and assault in the workplace, including the formation of internal complaints committees and the establishment of a national helpline for victims of sexual harassment. However, the #MeToo movement in India was also subject to criticism and controversy. Some critics argued that the movement was biased against men and that it focused too much on individual cases rather than addressing broader systemic issues of gender inequality. Others raised concerns about the potential for false accusations and the impact that these accusations could have on the reputations and livelihoods of accused individuals.⁸⁴

Overall, while feminism in India has made significant progress in advancing women's rights and challenging patriarchal structures, there is a need to be vigilant against the phenomenon of fake feminism and to ensure that feminist activism is grounded in a commitment to gender equality and social justice

LAW AND FAKE FEMINISM IN MODERN INDIA

Feminism has gained momentum in India over the past few years, with women speaking out about discrimination, harassment, and assault. However, there has also been a rise in fake feminism, where individuals or groups misuse the principles of feminism to further their personal agendas.

India has witnessed a significant rise in feminism and its associated movements in recent times. Women have come forward with stories of discrimination, harassment, and assault, sparking conversations about gender inequality and the role of law in addressing it. However, alongside this rise in feminism, there has been a rise in fake feminism, where people misuse the principles of feminism to further their personal agendas.

Law is a crucial tool for addressing gender inequality. It sets the legal framework for ensuring equal rights and opportunities for all citizens, irrespective of their gender. In India, the Constitution guarantees several fundamental rights, including the right to equality before the law and the right against discrimination. The government has also enacted several laws and policies aimed at promoting gender equality, such as the Prevention of Sexual Harassment at Workplace Act, 2013, and the Protection of Women from Domestic Violence Act, 2005.

⁸³ DR. SANGRAM D. MORE, *FEMINISM IN THE NOVELS OF JYOTI ARORA AND NAMITA GOKHALE 12,13,14*(Dnyann Publication 2022)

⁸⁴ Michela Menegatti , *Behind the Lines of #Me Too: Exploring Women's and Men's Intentions to Join the Movement*, *Sustainability*, 1, 4 (2022), file:///C:/Users/Lenovo/Downloads/sustainability-14-12294-v2%20(1).pdf

However, the implementation of these laws has been far from satisfactory. Despite the legal protections in place, women in India continue to face discrimination, harassment, and violence. For instance, a 2019 report by the National Crime Records Bureau revealed that there were over 4 lakh cases of crimes against women, including rape, kidnapping, and sexual harassment, reported in the country. Additionally, many cases go unreported due to the social stigma and shame associated with being a victim of sexual violence.⁸⁵

Fake feminism can harm the larger cause of gender equality by diluting the urgency of the issue and providing cover for those who engage in discriminatory or harassing behavior. For example, some individuals may claim to be feminists but may also engage in practices such as slut-shaming or victim-blaming, which are antithetical to feminist values. Similarly, some individuals may use feminism as a way to gain popularity or social status, without actually contributing to the movement in any meaningful way.

One way in which fake feminism exploits the legal framework in India is by deflecting criticism and avoiding accountability. For example, when individuals are accused of engaging in discriminatory or harassing behavior, they may use claims of fake feminism to deflect criticism and avoid accountability. They may argue that they are being targeted unfairly because of their gender or that the accusations against them are part of a larger conspiracy to discredit them.⁸⁶

The relationship between law and fake feminism in modern India is complex. It is important for individuals to be aware of the principles of feminism and to work towards achieving genuine gender equality, rather than using the movement for personal gain. Additionally, there is a need for better implementation of existing laws and policies to ensure that women are protected and their rights are upheld.

COMBATING FAKE FEMINISM IN MODERN INDIA

Feminism refers to the advocacy of women's rights, status and power at par with men on the grounds of 'equality of sexes'. In other words, it relates to the belief that women should have the same social, economic and political rights as men. It is a crucial aspect of modern society that has brought about significant social change, particularly for women's rights and empowerment. However, as with any movement, there are those who seek to exploit it for their own personal gain. In India, there has been a rise in "fake feminism," which involves individuals and groups claiming to be feminists while promoting ideas and practices that go against the true principles of feminism.

Combating fake feminism is essential for promoting gender equality and women's rights in India. Legal strategies can be an effective tool for combating fake feminism, especially when it comes to addressing instances of harassment or discrimination against women. Here are some legal strategies that can be used to combat fake feminism:

Anti-Discrimination Laws

Anti-discrimination laws are designed to protect individuals from discrimination based on gender, race, religion, sexual orientation, or other protected categories. These laws can be used

⁸⁵ UNODC, <https://www.unodc.org/e4j/en/crime-prevention-criminal-justice/module-9/key-issues/1--gender-based-discrimination-and-women-in-conflict-with-the-law.html> (last visited Mar. 17, 2023).

⁸⁶ Shruthi Sundaram, *The Dangerous Rise of Fake Feminism scares shit out of ME, An Injustice* (Aug. 13, 2021), <https://aninjusticemag.com/the-dangerous-rise-of-fake-feminism-scares-the-shit-out-of-me-3472e58954be>

to combat instances of discrimination against women, including those perpetrated under the guise of fake feminism. For example, if a woman is denied a job or a promotion because of her gender, she can file a discrimination complaint with the relevant authorities.⁸⁷

Harassment Laws

Harassment laws can be used to combat instances of sexual harassment, which can often be a form of fake feminism. Sexual harassment can take many forms, including unwanted advances, inappropriate comments or gestures, or even physical contact. Women who experience sexual harassment can file a complaint with the relevant authorities or seek legal representation to take legal action against the perpetrator.

Cyber Laws

In the age of social media, cyber laws are becoming increasingly important in combating fake feminism. Women who experience online harassment, including cyberstalking, revenge porn, or hate speech, can use cyber laws to take legal action against the perpetrators. The Indian Penal Code (IPC) has provisions related to cybercrime, including stalking, identity theft, and defamation, which can be used to prosecute individuals who misuse online platforms to perpetuate fake feminism.

Defamation Laws

Defamation laws can be used to combat instances of fake feminism where individuals or groups spread false information or make defamatory statements about women. Women who are defamed or misrepresented can use defamation laws to seek legal redress. The IPC has provisions related to defamation that can be used to hold individuals accountable for making false or defamatory statements⁸⁸.

Civil Remedies

Civil remedies can be used to seek compensation or damages for harm caused by fake feminism. Women who experience discrimination, harassment, or other forms of harm can seek compensation through civil remedies. This can include seeking compensation for lost wages, medical expenses, or emotional distress.

Legal strategies can be an effective tool for combating fake feminism in India. Anti-discrimination laws, harassment laws, cyber laws, defamation laws, and civil remedies can all be used to hold individuals accountable and seek legal redress for harm caused by fake feminism. It is important to remember that legal action should always be pursued in conjunction with other strategies, such as education and awareness, building a stronger feminist movement, and promoting inclusive feminism, to create lasting change.

CONCLUSION

The fight for genuine gender equality in India requires a long-term and sustained effort from individuals, communities, and the government. It is important for individuals to educate

⁸⁷ *Open Edition Journals*, <https://journals.openedition.org/revus/5802> (last visited Mar. 17, 2023)

⁸⁸ Debarati Halder and K. Jaishankar, *Cyber Crime and the Victimization of Women: Laws, Rights and Regulations*, IGI Global, (Jan. 2012), https://www.researchgate.net/publication/278015875_Cyber_Crime_and_the_Victimization_of_Women_Laws_Rights_and_Regulations

themselves and others on the intersectional nature of gender-based discrimination and to actively work towards dismantling patriarchal structures in their own lives and communities. It is also crucial for the government to take a more proactive and comprehensive approach to addressing gender-based discrimination, including not only legal reform but also efforts to shift societal attitudes and beliefs. Only then can India truly progress towards a more equal and just society. We need to stop looking at feminism in a bad light, giving it a negative tone in the name of 'feminazi', and start pointing out fake feminists who spread wrong agendas. Because we need an open world where all the genders are equal; neither do we need patriarchy nor matriarchy.

The Indian judiciary has played a crucial role in addressing fake feminism and upholding the principles of gender equality through landmark cases such as the Sabarimala temple case and the Triple Talaq case. These cases challenged patriarchal attitudes and practices and set a precedent for future legal decisions that prioritize gender justice.

To ensure legal practices are truly inclusive and gender-just, there is a need for a more nuanced understanding of feminism in India. Challenging fake feminism and promoting gender equality requires a collective effort from society, government, and the judiciary. It is only through this collaborative approach that we can achieve true gender equality and justice in modern India.

A CRITICAL STUDY OF DOWRY DEATH AND DOWRY SYSTEM IN INDIA

AUTHOR: BHAWANA KUMARI

ABSTRACT

Dowry, which is also known as Dahej, refers to any property or other valuable security that one party in a marriage gives or agrees to give to another party in the marriage. It is one of the ingrained social problems that has become a major problem to women's daily lives as well as society. The dowry system is the pernicious thing that has killed and rendered countless vulnerable women helpless, driving some of them to commit suicide. The dowry is the oldest social ailment in the Indian subcontinent. It has developed into a severe societal disorder that is entrenched deeply inside people. Many people see dowry as a sign of social status and self-recognition.

One of India's most horrifying or terrible pressing issues is Dowry Death. There have been laws passed and incorporated into the country's legal system, as well as campaigns and awareness programmes launched by governmental and non-governmental organisations against dowry deaths and the dowry system in India, but despite the existence of such initiatives, the statistics on dowry-related deaths in the nation have only risen.

Keywords: Dowry, dahej, social problem, women, dowry death.

INTRODUCTION

Marriage is recognised as a social institution that represents a civilised social order in which two individuals who are capable of entering into a union have sworn allegiance to the institution's norms and values and promised to have a bond that will last throughout the duration of the marriage. It serves as a support system for the survival of humans. Despite all the promises made during various marriage ceremony occasion, specific circumstances occur where the husband and his family demands dowry which if not fulfilled, sometimes results in a dangerous situation which eventually leads to the death of the bride.

Over the years, the practice of dowry has become so ingrained in Indian society that it has become a social hazard that reformers and legislators cannot effectively address. Whilst the efforts for the eradication of the dowry practice stretch back to more than a century, it has likely become the most serious social issue during the last two decades or so as indicated by the escalating violence against women emerging from matters pertaining to dowry. It is generally accepted that dowry, in its original form, was not founded on greed and extortion, as is the case now, but rather was a present that showed the husband that the bride's family loved and respected him. The unfortunate developments in our society of bride burning, murder-suicide, and dowry death are burning symptoms of an eccentric social ailment. Given that almost every segment of society practices the dowry system, regardless of the religion, caste, or creed to which they belong, India has recently seen dark evils of the system in a more acute form in

almost all regions of the country. Not only are married women tortured, humiliated, abused, driven to commit suicide and mistreated daily, but thousands of them are even burned to death as a result of parents who cannot afford to fulfil the dowry demands.⁸⁹

Despite the rapid rise of middle-class society and the youth population, steps towards modernization, enormous privileged economic development, better education system, etc., there are still some areas where the growth is still lacking. One of these problems is the pervasive Dowry System and associated Deaths, which are on the rise over time. The Dowry Prohibition Act, the first national legislation to address the social ill of dowry, was passed in the year 1961. This law forbids the giving and receiving of dowries. Many preventive and disciplinary elements are included in the act, but as may be expected, the goals have not been met. Along with the Dowry Prohibition Act of 1961 many additional laws have been passed to lessen the practise of dowry and the deaths that are associated with it. Sections 304 B (dowry death) and 498 A (cruelty by husband or his relatives) have been incorporated into the Indian Penal Code (I.P.C.), and Section 113 B (presumption as to dowry death) has been added to the Indian Evidence Act (I.E.A) in order to reduce the cases related with dowry and dowry deaths.

Even though modifications in Indian criminal law reflect substantial legislative efforts to prevent dowry-related crimes, and that they have been in existence for many years, they have been widely criticised as unsuccessful. Yet while laws grant enormous power, neither the police nor the courts are able to properly enforce them. Due to the fact that women and their families are unable to establish guilt beyond a reasonable doubt, it often takes a long time for a case to be listed in court and the husbands and his families are exonerated, even in murder cases. There is a concern of dowry related legislation in India being routinely overused, specifically section 498-A of IPC because of mechanical arrest by the police. In the case of Preeti Gupta and others v. State of Jharkhand and others, Section 498-A was challenged, and the Supreme Court expressed sadness about the likely misuse of anti-dowry laws and recommended a thorough investigation.

BACKGROUND

There is no explicit proof of dowry in Indian history. According to historical eyewitnesses, dowry was negligible in ancient India, and daughters held the right of inheritance. Later in the twentieth century, evidence suggests that bride pricing occurred, resulting in poor men being bachelors. The Manu Law permitted dowry and bride wealth, but it was mostly linked with the upper castes, such as Brahmins (Priestly).

But, as part of the conjugal estate, marriage required the reciprocation of gifts. Vedic literature, such as the Vedas, demonstrates the absence of such behaviours during that time. It appears that a woman in ancient India possessed ownership rights over the property owned by her father. Even Hindu legal records like the Smritis attest to the fact that dowries were absent or infrequently occurring enough to escape notice.⁹⁰

⁸⁹ Snehasis Behera, (2022, may 24), *Evils of Dowry and Cruelty in India: A Legal Analysis*. <https://lawessential.com/miscellaneous/f/evils-of-dowry-and-cruelty-in-india-a-legal-analysis>

⁹⁰ Snehasis Behera, (2022, may 24), *Evils of Dowry and Cruelty in India: A Legal Analysis*. <https://lawessential.com/miscellaneous/f/evils-of-dowry-and-cruelty-in-india-a-legal-analysis>

The practise of dowry in India dates back to the Middle Ages, when a woman would receive a gift—often money—or another kind—such as farmland, jewellery, animals, etc.—in order to maintain her freedom after marriage. The British made the tradition of dowry necessary throughout the colonial era, and marriage was rendered legally valid.

India still observes traces of bride-price haggling Dowry despite the Dowry Prohibition Act of 1961 making the practice illegal.

STATISTICS RELATED TO DOWRY DEATH

Regarding dowry-related deaths or abuse by husbands or in-laws, India by far has the highest number. According to the National Crime Record Bureau (NCRB), a total of 8,233 deaths due to dowry lust were reported in 2012, which essentially implies that every 90 minutes a bride was burned.

In 1996, Indian police estimated that they received over 2,500 reports of bride-burning each year. Over time, there has been an increase in death polls. Every day in 2019-20, a total of 20 brides die, for what reason? Dowry is the answer to it.⁹¹

The severity of such offences is not limited to rural areas; educated families like mine and yours living in large centres like Mumbai and Delhi are also offenders.

A new pattern in crime emerged in the year 2020. Days of lockdown saw a rise in crimes against women. Lockdown forced the criminals to lock up with their victims. As a result, the crime rate increased while the number of cases filed decreased. Ninety dowry killing incidents were reported in the state of Haryana in the month of April immediately following the lockdown in March.⁹²

IMPACT OF DOWRY SYSTEM

- **Gender discrimination:** As a result of the dowry system, it has frequently been seen that women are treated less favourably than men, whether in terms of education or other threats.
- **Influencing Women's Careers:** The greater background for dowry is women's low labour-force participation and, as a result, their lack of financial independence. The poorer sectors of society who send their daughters to work and earn money to assist them save for her dowry. Even when they send their girls to school, parents from middle- and upper-class backgrounds don't highlight the importance of employment possibilities.
- **Many Women End Up Unmarried:** Despite being educated and professionally capable, an uncountable number of females in the country remain single indefinitely because their parents cannot meet the demand for pre-marriage dowry.
- **Objectification of Women:** Nowadays, dowries are more like investments made by the bride's family to gain access to influential contacts and lucrative business prospects. This reduces women to becoming nothing more than commodities.

⁹¹ Fizana Ashraf Malik, Huma Akhtar Malik, "Dowry System as a Social Evil: A Study of India", Vol. 2(1) *American Journal of Multidisciplinary Research in Africa* (January, 2022).

⁹² Fizana Ashraf Malik, Huma Akhtar Malik, "Dowry System as a Social Evil: A Study of India", Vol. 2(1) *American Journal of Multidisciplinary Research in Africa* (January 2022).

- **Crime against Women:** The dowry system can occasionally result in crimes against women, including physical and emotional harm as well as fatalities.

LEGISLATIVE ENACTMENTS

Dowry prohibition act, 1961

In May 1961, the Dowry Prohibition Act became operative. Although the act has strict prohibitions and was the first legal legislation to outlaw this cruel practise, dowry continues to be the focus of all Indian marriages, leading to the deaths of many women. The primary goal of this act is to prohibit the improper practice of paying or receiving dowry.

The Dowry Prohibition Act of 1961 was deemed ill-conceived and badly executed in the latter half of the 1970s. A Parliamentary Committee was formed by the government to investigate the act's flaws. As a result, a number of adjustments were made to the working of the Act to address the concerns of various social groups and women's welfare organisations to prevent inhuman treatment of women in the name of dowry; yet it was thought that the current or reformed regulations were insufficient.

The legislature's efforts to reduce dowry fatalities resulted in amendments to the Act in 1984 and 1986. Dowry death was added to the Indian Penal Code in 1986. The Indian Penal Code now includes a new section 304-B. Laws against dowry demands and dowry-related harassment have been significantly reinforced over time. Giving or taking dowry is a cognizable offence that carries a minimum sentence of seven years in jail and, in some circumstances, a maximum sentence of life in prison. Every untimely death of a woman within the first seven years of her marriage must be investigated, according to the Dowry Prohibition Act (Amendment) of 1986.⁹³

The Indian penal code, 1890

Section 304B: If a woman dies as a result of burns, bodily harm, or other conditions within seven years and it is done by her husband or in-laws for dowry, the husband or relative is deemed to have caused her death and is punished with imprisonment for a term not less than seven years but which may extend to life imprisonment.⁹⁴

Criminal Procedure Code

Section 198A explains the prosecution of offences against marriage.

The Evidence Act, 1872

Section 113A deals with presumption as to abetment of suicide by a married woman. And 113B deals with presumption as to dowry death.

The Protection of Women From Domestic Violence Act, 2005

⁹³ Shashwat Pratyush, (2019, August 16), *Dowry Death in India: A legal Study*. <https://blog.ipleaders.in/dowry-deaths-india-legal-study/>

⁹⁴ Shashwat Pratyush, (2019, August 16), *Dowry Death in India: A legal Study*. <https://blog.ipleaders.in/dowry-deaths-india-legal-study/>

The Domestic Violence Act came into force by the Indian government and was enacted to protect women exclusively.⁹⁵

MEASURES FOR PREVENTING DOWRY DEATH AND CRUELTY

Just introducing statutes and changing sections to address a societal issue is never adequate. This needs the harsh and violent application of such laws. That aspect has plenty of space for improvement. Even though the authorities take such charges very seriously, a lack of competent investigative procedures frequently leads to the accused being released. The government must enact a zero-tolerance policy for such offenders and make institutional changes to guarantee that the law is upheld.

The key is to be socially conscious. Initiatives to raise social awareness can also help with public education and the eradication of the dowry culture. As a result of improved awareness, people have begun to conduct simple marriages without taking/giving dowry, and dowry is a social taboo that may be eradicated with all our contributions and more understanding. Because it is in our blood, clean-up will take longer. We will never be able to fully satiate our cravings with other people's money or belongings.

Education is required not just to choose one's purpose in life, but also to open one's eyes and ears to a world beyond what one can see right now. In order to address pervasive social issues like dowry, it is imperative that we all concentrate on educating girls. If they are aware of their rights, they will be able to speak out against the practise of dowry and ongoing marginalisation. Also, they will be able to strive for independence rather than viewing marriage as their only option.

CONCLUSION

When a woman is abused, she loses her dignity. Saying that marital conflict need not result in suicide is one thing; however, suggesting that one or two assaults on women are acceptable is another, and does an injustice to society. Judges must recognise the difficulties that women face. It's a tragedy that, despite numerous protests and educated citizens, this lethal dowry practice persists. There has been anti-dowry legislation aiming at banning the giving and receiving of dowry, but it appears that the offender is immune. Dowry is still a necessity for accepting marriage offers in many parts of the world. The situation has advanced to the point that dowry conflicts could result in violence against women. Men will always be viewed as superior to women due to dowries, which will serve as a magnet for injustice. This is destabilising society and fostering negativity. Also, it has turned into a nightmare for families who cannot afford it.

⁹⁵ *Shashwat Pratyush, (2019, August 16), Dowry Death in India: A legal Study. <https://blog.ipleaders.in/dowry-deaths-india-legal-study/>*

CYBERSECURITY: CATEGORIES AND CHALLENGES

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ABSTRACT

The importance of cyber security is growing for people, businesses, and governments across the globe. One of the biggest issues in cybersecurity is keeping our data safe in a world where everything is online, from cute kitten videos and our vacation journals to our credit card information. There are many different types of cyber security concerns, including ransomware, phishing, malware assaults, and more. In terms of local cyberattacks, India is ranked 11th worldwide and has already had 2,299,682 occurrences in the first quarter of 2020.

Digital technology is encompassing all occupations, all over the world and has brought the real meaning of globalization. At one end the digital technology or the cyber system has provided opportunities to communicate around the world and on the other end some individuals exploit this opportunity for criminal practices. Criminals take advantage of the internet and other global network connections to exploit online sources. The situation is alarming. Cybercrime is the talk of town in every sphere. Everyday a new technology is being developed for committing cybercrime and often to tackle new cybercrimes lack of proper backup technology is observed. Therefore, the cybercrime investigation becomes difficult without proper framework. The primary objective of this paper is to categories cybercrimes or e-crimes, challenges faced and how to manage it.

Keywords – cybercrime, digital technology, internet, cyber system, e-crimes.

INTRODUCTION

Like every other area of life, technology offers advantages and disadvantages. The quality of a person' s life is improved in practically every area, including health care, transportation, communication, smart cities, etc. We must overcome a number of obstacles if we want to avoid making technology our own worst enemy.

More than any other area of technology, cyber security is a danger. Technology-controlled gadgets are already being abused by cybercriminals to further crimes like theft and fraud. It is exceedingly challenging to prevent such cyber-attacks using technological standards that are still under development and improving gradually. The evolution of technology and increasing accessibility of smart tech means there are multiple access points within users' homes for hackers to exploit. While law enforcement attempts to tackle the growing issue, criminal numbers continue to grow, taking advantage of the anonymity of the internet.

As more people connect to the digital world, cybercrime is expanding at a similar rate. Cybercrime may be said to be those species of which the genus is the conventional crime and where either a computer is an object or subject of the conduct constituting a crime or any criminal activity that uses a computer either as an instrumentality, target, or a means for perpetuating further crimes. In the present situation, e-crime has been one of the major concerns as it has been increasing rapidly. Cybercrime occurs in a wide range. Thus,

WHAT IS CYBERCRIME?

When early computerized phones became a target in the 1970s, cybercrime history began. Through a set of codes, tech-savvy individuals discovered a technique to avoid paying for long-distance calls. They were the earliest known hackers to manipulate hardware and software to steal long-distance phone time.

People became aware of the vulnerability of computers and other digital devices as a result of this. Major risks are now being created for individuals who are online. The economies of numerous countries have been severely impacted. Additionally, as technology advances, implications are growing quickly. As a result, fighting cybercrime is turning into an extremely challenging endeavor for law enforcement agencies.

A definition can be yielded that any unlawful acts wherein the computer is either used as a tool or as a target for committing crime, is cybercrime.⁹⁶

Cybercriminal is a person who commits an illegal act with a guilty intention with respect to the cyber system. Such criminals can be hackers, organized hackers, or cyber terrorists. E-crime can include any range of unlawful activity, such as, money laundering, intellectual property, economic espionage, online extortion, pornography, or non-delivery of any product purchased online. It is not easy to identify crime methods.

Following is a list of *cyber criminals*:

- i. Crackers – individuals who intend to cause loss to satisfy antisocial motives. Virus creators and distributors also fall into this category.
- ii. Hackers – individuals who explore others' computer systems.
- iii. Pranksters – individuals who perpetrate tricks on others. Generally, they do not intend any harm.
- iv. Career criminals – individuals who earn most of their income from e-crimes. Their contents are usually malicious.
- v. Cyber terrorists – they can be of several types. They are individuals who break into government websites or websites of any other leading organizations. They can also be a group of individuals who crash a website by flooding it with traffic.
- vi. Cyber bulls (cyberbullying) – any harassment that occurs via the internet. Name-calling in chatrooms, malicious emails, posting fake profiles are some of the cyber bullying.
- vii. Salami attackers – individuals who make alterations in financial institutions which are completely unnoticed. For example, an employee of a bank inserts some program that would deduct an exceedingly small amount from accounts of all the customers.

Modus operandi, when, where, and by whom the crime was committed gets difficult to investigate as the algorithm of the internet gives a perfect platform for any criminal activity.

REASON FOR COMMITTING E-CRIME

⁹⁶ Security, P. (2021b, April 26). *Types of Cybercrime*. Panda Security Mediacenter. <https://www.pandasecurity.com/en/mediacenter/panda-security/types-of-cybercrime/>

Cybercriminals always opt for an easy way to make a huge profit. They target people or organizations who are rich, where huge amounts of money flow on a daily basis and can be hacked easily.

Some of the e-criminals do it for the sake of recognition or to fight for a cause which he thinks is correct and attract masses to conduct any kind of antisocial movements. Low marginal cost of online activity due to global reach makes it effortless for criminals to hack into systems. Official investigation takes a comparatively longer period of time since evidence can be deleted and retrieval of data is tough. Lack of reporting standards and difficulty in identification of type crime makes it troublesome for criminals to do their work. Codes, intellectual property, high profiled data, and other information are sold at a very pricey range, giving them an opportunity to make money really quickly.

CAUSES OF CYBERCRIME

Number of cybercrimes are increasing across the globe. Computers are vulnerable, so laws are required to protect and safeguard them against cybercriminals.⁹⁷ Due to the complex technology, the computer can be breached. Hackers can steal access codes, fingerprints, retina scans etc. that can easily be used to fool biometric systems and bypass firewalls can be utilized to get past many security systems.⁹⁸ Data may be stored on the computer in an unusually minimal amount of space. This makes it much easier for individuals to steal data from other storage systems and exploit it for their own financial gain.

Cybercriminals take advantage of the gaps created by imperfect program codes. Negligence is another cause of malware interference. Data erasing is one of the biggest causes of e-crime. Data related to crime can be destroyed and no traces may be found, paralyzing the whole investigation.

CATEGORIES OF CYBERCRIME

Cybercrimes are broadly classified into three:

i. Crime Against Individuals

Cyber Defamation, hacking, indecent exposure, spoofing emails, IRC crime (Internet Relay Chat), net extortion, malicious code, trafficking, distribution, posting, phishing, credit card fraud, and the dissemination of pornographic material, including software piracy, are all examples of cybercrimes committed against individuals. The potential harm of such a crime to an individual person can hardly be bigger.

ii. Crime Against Property

e-crime against all forms of property. These offences include salami attacks, intellectual property crimes, and computer vandalism (erasing other people's property). This type of crime is frequently committed at financial institutions or with the intent to conduct financial crimes.

⁹⁷ Bandakkanavar, R. (2022, June 27). *Causes of CyberCrime and Preventive Measures*. Krazytech. <https://krazytech.com/technical-papers/cyber-crime>

⁹⁸ Bandakkanavar, R. (2022, June 27). *Causes of CyberCrime and Preventive Measures*. Krazytech. <https://krazytech.com/technical-papers/cyber-crime>

This sort of offence has a crucial characteristic in that the alteration is so minute that it would typically go unnoticed.

iii. Crime Against Organization

One specific type is cyberterrorism. The advancement of the internet has shown how individuals and organizations are using the standard of cyberspace to intimidate national and international governments as well as to terrorize their citizens. When a person cracks into a website that is administered by the government or the military, this offence clearly becomes terrorism.

MEASURES AGAINST CYBERCRIME

To tackle cybercrime effectively, establish multidimensional public-private collaborations between law enforcement agencies, the information technology industry, information security organizations, internet companies, and financial institutions. Unlike the real world, Cybercriminals do not fight one another for supremacy or control.⁹⁹ Instead, they cooperate to enhance their skills and even support one another in finding new possibilities. Therefore, the traditional means of criminal justice cannot be applied to cybercriminals. Utilizing the solutions offered by Cross-Domain Solutions is the best course of action. This enables companies to employ a single system made up of both software and hardware to authenticate information access and transfer when it occurs between multiple security classification levels. This enables smooth information sharing and access inside a certain security classification but prevents information from being intercepted or accidentally released to users outside of that security classification. This promotes the security of the network and the systems connected to it.

By maintaining strong passwords, being social media savvy, using trusted sources to download or to surf through the internet are some other measures.

Data encryption can be used to secure sensitive data. Keeping the computer system linked with latest patches and updates along with strong security software.

In the case of children using the technology, **parent control** should be enabled. children' s computer systems should be checked frequently to safeguard them from any kind of crime.

CYBER LAWS IN INDIA

India's cyber laws have aided in the growth of electronic commerce and government by ensuring maximum connection and reducing security concerns. Additionally, this has increased the breadth and efficiency of digital media and made it available in a larger range of applications.¹⁰⁰

➤ **Information Technology Act, 2000 (IT Act)**

IT Act, 2000 is the first cyberlaw approved by the Indian Parliament. The Act defines its object as following:

⁹⁹ Bandakkanavar, R. (2022, June 27). *Causes of CyberCrime and Preventive Measures*. Krazytech. <https://krazytech.com/technical-papers/cyber-crime>

¹⁰⁰ Garg, R. (2022, April 28). *Cybercrime laws in India*. iPleaders. <https://blog.ipleaders.in/cyber-crime-laws-in-india/>

“to provide legal recognition for transactions carried out by means of electronic data interchange and other means of electronic communication, commonly referred to as electronic methods of communication and storage of information, to facilitate electronic filing of documents with the Government agencies and further to amend the Indian Penal Code, the Indian Evidence Act, 1872, the Banker’s Book Evidence Act, 1891 and the Reserve Bank of India Act, 1934 and for matters connected therewith or incidental thereto.”¹⁰¹

Following are the sections that directs the process to investigate cybercrimes:

- i. Section 43 - pertains to those who engage in cybercrime, such as harming the victim's computer without the victim's proper consent. If a computer is damaged in such a case without the owner's permission, the owner is completely entitled to a reimbursement for the whole damage.
- ii. Section 66 - applies to any dishonest or fraudulent conduct covered. In such cases, the maximum penalty is three years of imprisonment or a fine of Rs. 5 lakhs.

In *Poona Auto Ancillaries Pvt. Ltd., Pune v. Punjab National Bank, HO New Delhi & Others* (2018), Rajesh Aggarwal of Maharashtra’s IT department (representative in the present case) ordered Punjab National Bank to pay Rs 45 lakh to Manmohan Singh Mattharu, MD of Pune-based firm Poona Auto Ancillaries. In this case, a fraudster transferred Rs 80.10 lakh from Matharu’s account at PNB, Pune after the latter answered a phishing email. Since the complainant responded to the phishing mail, the complainant was asked to share the liability. However, the bank was found negligent because there were no security checks conducted against fraudulent accounts opened to defraud the Complainant.

- iii. Section 66 B to 66 F - describes the penalties for fraudulently receiving stolen communication devices or computers; digital signatures, password hacking, other forms of identity theft; cheating by personation using computer resources; taking pictures of private areas, publishing or transmitting them without person’s consent; cyber terrorism respectively with respective punishments of fine and imprisonment.
- iv. Section 67 - involves electronically publishing obscenities. If convicted, the prison term is up to five years and the fine is up to Rs 10 lakh.

➤ **Indian Penal Code, 1860 (IPC)**

If IT Act does not cover sufficient crimes, following IPC sections would be applicable:

- i. Section 292 - Although the initial aim of this section was to address the selling of pornographic materials, it has now developed to cover a variety of cyber offences as well. This clause also applies to how pornographic or sexually explicit activities of children are publicized or distributed electronically. Such offences are punishable by up to two years in jail and penalties of Rs. 2000. For repeat (second time) offenders, any of the aforementioned offences may result in a sentence of up to five years in jail and a fine of up to Rs. 5000.

¹⁰¹ Garg, R. (2022, April 28). *Cybercrime laws in India*. iPleaders. <https://blog.iplayers.in/cyber-crime-laws-in-india/>

ii. Section 354 C - According to this section, cybercrime is defined as the taking or publication of images of a woman's privates or intimate acts without her consent. Voyeurism is the only topic covered in this section because it is illegal to observe a woman engage in sexual activity. Sections 292 of the IPC and Section 66E of the IT Act are wide enough to cover offences of a similar character in the absence of this section's essential components. First-time offenders may receive a sentence of up to three years in jail, while repeat offenders may receive a sentence of up to seven years.

iii. Section 354 D - This section describes and penalizes stalking, including both physical and online stalking. Cyberstalking is the practice of tracking a woman through technology, such as the internet or email, or contacting her despite her lack of interest. For the first offence, this crime has a maximum sentence of 3 years in jail; for the second offence, it carries a maximum sentence of 5 years in prison and a fine.

A victim in the case *Kalandi Charan Lenka v. the State of Odisha*(2017) has received a series of obscene messages from an unknown number that has damaged her reputation. The accused also sent emails to the victim and created a fake account on Facebook containing morphed images of her. The High Court, therefore, found the accused prima facie guilty of cyberstalking on various charges under the IT Act and Section 354D of IPC.

iv. Other sections, Sections 379, 420, 463, 465 and 468 also deal with certain provisions related to cybercrime.

CONCLUSION

Cybercrime has created a major threat to those who use the internet, with millions of users' information stolen within the past few years. It has also made a major dent in many nations' economies. IBM president and CEO Ginni Rometty described cybercrime as "the greatest threat to every profession, every industry, every company in the world." Read below for shocking statistics on cybercrime's impact on our society to date.

Technology development has led to the emergence of unpleasant aspects on the dark web. Intelligent individuals have turned the Internet into a tool for immoral activities, which they frequently use for financial benefit. Cyber laws therefore enter the picture at this time and are crucial for every person. Some actions are categorized as grey activities that are not subject to legal regulation since cyberspace is an incredibly challenging area to manage. Because the cyber criminals sit in one nation and access the computer from another, we are aware that it might be challenging to detect these hackers. The best way to prevent this is for us to be watchful and vigilant, and to always use strong and unique IDs and passwords online.

INFLUENCE OF CYBER LAWS ON DATA SECURITY: AN ANALYSIS

AUTHOR: KUMAR ARYAN

ABSTRACT

The internet has now become an integral part of everybody's daily routine. Everything in the world is affected by it, from online purchasing to simple conversations. Businesses have also opted to do their business online; E-commerce has thus become more well-known. Nowadays, a lot of official business is done online, and e-finance has become quite popular in the past year. The risks associated with using the internet have increased as its use has grown. Thus, everything is stored online in the form of data. In this era of online data storage, data protection becomes a necessary provision. Data security or data protection is screening of data from any unauthorized access throughout its lifecycle. To tackle data threat provisions under the Indian laws have been made. Cyber laws deal with safeguarding data and prescribe punishment related to data theft and other similar activities.

The paper deals with the influence of cyber laws on data protection in India along with legal aspects.

Keywords: internet, data, data protection, data security, cyber laws.

INTRODUCTION

To safeguard their vital assets, businesses all over the world are making significant investments in information technology (IT) cyber security capabilities. The methods for incident detection and response to protecting organizational interests have three common elements: people, processes, and technology. This is true regardless of whether an enterprise needs to protect a brand, intellectual capital, and customer information or provide controls for critical infrastructure. Cyberattacks, information misuse, and data sharing are all considered forms of cybercrime since data and information are now considered assets of all enterprises. As a result, measures have been implemented to combat this crime in many parts of the world. The nations that accept acts need to enhance it by embracing technology and educating their citizens and organisations. On the other side, the nations where no such crimes have occurred are the most susceptible in this situation, therefore they must adopt the best practices from other nations and establish an exhaustive law for their areas to outlaw this kind of crime and punish those who do it.

The Information Technology Act 2000 (the IT Act) and a number of other acts serve as a stand-in for data protection legislation in India as there is not any special legislation for this matter. According to a 2017 decision by the Indian Supreme Court, people of India have a basic right to privacy that is principally protected by Article 21 of the Indian Constitution. According to the Court, this right encompasses, among other things, the right to informational privacy. In the wake of this ruling, a 10-member committee headed by former Supreme Court Judge BN Sri

Krishna was appointed in order to give it substance through comprehensive legislation. The Sri Krishna Committee released a report that looked at the patchwork of pertinent laws that exist in India today, researched other countries' statutory approaches to privacy and data protection, and provided a thorough justification for a better legal system. A proposal of the 2018 Personal Data Protection Bill was included with the study.¹⁰²

CYBER LAW AND IT's IMPORTANCE

The term 'cyberlaw' consists of two words, 'cyber' and 'law.' The word 'cyber' means anything related to information technology as to compute on the internet, and the word 'law' means any set of procedural rules and regulations which has been entrenched in society to follow to ensure peace and harmony. Thus, cyber laws are such procedural rules and regulations that regulate technological threats, where a computer or any similar device is used either as a target or as a tool. It includes regulations for accessing and using the internet and even lays out guidelines for preserving online privacy. Cyber law covers a wide range of concerns, including legal informatics and electronic components like computers, software, and hardware, as well as information systems. It is the legal framework that must be used to combat cybercrimes.

In short, cyber law refers to the body of rules and regulations governing the use of the internet and other forms of networking and information technology in accordance with norms of law, justice, and ethics. It is relevant to the internet and associated technologies.¹⁰³

CATEGORIES OF CYBER CRIME

Cybercrimes are broadly classified into three:

iv. Crime Against Individuals

Cyber-crimes against specific people include cyberdefamation, hacking, indecent exposure, spoofing emails, IRC crime (Internet Relay Chat), net extortion, malicious code, trafficking, distribution, posting, phishing, credit card fraud, and the spread of pornographic material, including software piracy. There is perhaps no crime that could do an individual more harm.

v. Crime Against Property

theft of any kind of property. These offences include computer vandalism (erasing other people's property), salami attacks, and intellectual property violations. This kind of crime is commonly perpetrated in or with the aim to commit financial crimes at financial institutions. The adjustment being so little that it usually goes unreported is a vital aspect of this type of offence.

vi. Crime Against Organization

One specific type is cyberterrorism. The advancement of the internet has shown how individuals and organizations are using the standard of cyberspace to intimidate national and international governments as well as to terrorize their citizens. When a person cracks into a

¹⁰² Aditi Subramaniam, Sanju Das, (2022, October 27) *The Privacy, Data Protection and Cybersecurity Law Review: India, The Law Reviews*. <https://thelawreviews.co.uk/title/the-privacy-data-protection-and-cybersecurity-law-review/india>

¹⁰³ *Analysis of cyber law in India, Prime Legal*. <https://primelegal.in/2022/10/15/analysis-of-cyber-law-in-india/>

website that is administered by the government or the military, this offence clearly becomes terrorism.¹⁰⁴

ABOUT DATA PROTECTION AND DATA PRIVACY

Data can take on any form, including computer printouts, magnetic or optical storage media, punched cards, punched tapes, or being stored internally in the memory of the computer. Data is defined as a representation of information, knowledge, facts, concepts, or instructions which are being prepared or have been prepared in a formalized manner, and are intended to be processed, is being processed, or has been processed in a computer system or computer network.

Accumulation of facts in the form of numbers, measurements, observations or passwords, anything that can be fed into a computer system is data. Data can be personal data, the information which is related to a person specific and is used for identification of the particular person. Any specifications such as name, address, phone number, pan card or any other such card number, even the medical reports or IP address of the device which is used by the person are considered as personal data.

Thus, to safeguard data, data protection is required. Data protection is the synchronization of techniques and practices used to secure the confidentiality, usability, and integrity of the data. This synchronization prevents any potential of data loss, theft, or corruption, and should a breach occur, it may assist to mitigate the harm done.

Data protection and Data privacy are interconnected to each other.

The concept of data privacy is more akin to dictating how data should be gathered and managed based on how sensitive and important the data is that is being supplied. The rules governing data protection are used to manage data privacy. Although data protection safeguards the data from those who do not have access to it, data privacy specifies who has access to the data.

Every level, whether personal, business, or governmental, protects data; however, the method and scope used at each level might vary depending on the circumstances, including who requires access and whose data has to be protected. A few perspectives must be kept in mind during the data protection procedure. The procedure, regardless of the degree at which it is being carried out, must stay within a certain range; anything in excess is harmful, and the data must be accurate and pertinent in nature.

The most important justification for data protection is that it protects all forms of valuable data and prevents unauthorized access to it by anybody. It also aids in maintaining a line of privacy, as when an employee gives personal information to the HR department of a company, which keeps the information to itself and forbids any unauthorized access, or when a client shares the information. When this line of privacy is maintained, it increases the trust and confidence of clients in the organization, which in turn aids the organization's survival in society.

¹⁰⁴ Bandakkanavar, R. (2022, June 27). *Causes of CyberCrime and Preventive Measures*. Krazytech. <https://krazytech.com/technical-papers/cyber-crime>

LAWS FOR DATA PROTECTION IN INDIA

Specific Act for data protection has not been enforced in India. However, laws for data protection and privacy have been deduced from existing following statutes.

i. Constitution of India

Although there is no specific provision for Right to Privacy, the courts have derived it from existing provisions in relation to fundamental rights. As stated under Article 21 "No person shall be deprived of his life or liberty except according to the procedure established by law". Right to Privacy takes its frame from Article 21. In the case of **M. P. Sharma and Others. V Satish Chandra, District Magistrate, Delhi, and Ors.**¹⁰⁵, the Supreme Court refrained from acknowledging the right to privacy as a part of Article 21. The question whether Right to Privacy is a part of Article 21 was first answered in the landmark case of **Maneka Gandhi v Union of India**. The apex court held that Right to Privacy was a vital component of right of life under Article 21 of the Indian constitution.

ii. Indian Contract Act, 1872

S. 27 of the said Act provides that a person would be compensated in case of data leakage of any manner and also lays down the mechanism to be imposed with the person who is behind such data leakage depending upon to what extent it is leaked.

iii. Indian Penal Code, 1860

The said Act was amended to include the term "data" in the definition of "movable property," making data theft or its misuse a violation of the act. Because they are mobile by nature, computer data or databases are protected under the legislation. It has been demonstrated to be extremely successful in preventing data theft.

iv. Copyright Act, 1957

This act provides protection to the Intellectual Property Rights of all kinds of works including the literary, dramatical, artistic work. The word "literary work" now includes computer databases owing to an amendment to the legislation. Customers will profit from the modification as no other institution, save the service provider, is permitted by law to utilize the information they submit in any way.

v. Information Technology Act, 2000

This law was established as a foundation for managing the virtual economy, which includes e-commerce, electronic contracts, emails, and much more. The statute was passed in 2000, but since then, the virtual environment has expanded greatly, making it increasingly relevant in nature. It grants all transactions aided by the electronic technique, commonly referred to as e-commerce, a legal standing.¹⁰⁶

¹⁰⁵ 1954 AIR 300, 1954 SCR 1077

¹⁰⁶ *Analysis of cyber law in India, Prime Legal.* <https://primelegal.in/2022/10/15/analysis-of-cyber-law-in-india/>

vi. The Personal Data Protection Bill, 2006

The Personal Data Protection Bill, now under consideration as data protection legislation in India, was inspired by the ruling in **K. S. Puttaswamy (Retd.) v. Union of India**¹⁰⁷. Although Parliament has not yet approved it, it provides us with a good indication of the development of India's data protection regulations. In July 2017, the Ministry of Electronics and Information Technology appointed a committee headed by former Supreme Court Judge B. N. Sri Krishna to investigate issues with data privacy.

CONCLUSION

Data will increase in value day by day due to the exponential rise in the number of individuals producing and consuming it globally. It will be crucial to protect citizen data since data drives growth. Governments from all over the world will need to modify existing laws or create new ones in order to keep up with the continuously evolving nature of technology. Due to the internet's integration into daily life, both legal and illegal acts have been done on computers and other digital sources on a large scale. The government must adjust by enacting new laws that consider the reality of the digital era as cybercrime frequency rises. Cyber law establishes what is permitted and prohibited online.

Although consumers freely divulge personal information when making purchases online or exchanging emails, it is the duty of the State to monitor and safeguard the interests of its citizens.

A set of laws and guidelines specified in the Information Technology Act of 2000 control cybercrime. The battle against crimes that target computer systems and networks also depends on this law. People may easily conduct safe online financial transactions inside the legal system thanks to cyber law. In other words, the legislation has made it easier for us to utilize all technological gadgets.

¹⁰⁷ No 494 of 2012; (2017) 10 SCC 1; AIR 2017 SC 416

EVOLUTION OF INDIAN CONTRACT ACT: A DETAILED STUDY

AUTHOR : SNEHA SHARMA

ABSTRACT

We assume that Indian Contract act 1872 was derived from English Law (England), but we should not forget that before English Law or before the existence of English law, there was a society which was following law. The society was governed through laws, which we can see in medieval times, when there was no existence of law or contract law the remedy was given to the people either by Kings or Tribal Chief. The point of question is that if there was no existence of law then how the remedy/punishment/fine was given? And if there was no existence of law the crime must be committed at the peak. So, one can say that there were rules/laws which were followed by the people before enforcement or evolution of English Law. In Indian history, the transfer of properties, performance of service was taking place, not just only property transfer but also agreement for commercial transactions and personal relationship. How was this possible then? Without any encoded laws existing, how the people laid down principles by which the society was running in ancient and medieval period? Indian legal history has very a vast concept, which we will be discussing further in the article.

Keywords: Indian Contract, English law, society, kings, tribal chief, Indian history.

INTRODUCTION

As the advancement of trade in India was initiated by British, and both the parties constituted different laws which collided with each other, and there was also Mohammedan Law which was different from Hindu Law. Therefore, to overcome this situation English law or Common Law was enforced.

We had a history of the judiciary that started on 2nd Century BCE. The Brihaspati Smriti includes detailed hierarchy of judiciary during that era. And the hierarchy which we follow today that is the Supreme Court which lies at the top and is very similar to the hierarchy mentioned in Brihaspati Smriti that includes Emperor Court at the top as of today. Though in 18th Century, Courts of justice was established by Charters at Madras, Calcutta and Bombay, so it became applicable according to Indian circumstances which showed indiscriminate behaviour of English Law towards Hindu and Mohammedan Law. "Dharma" is the word commonly used in Hindu society which means duty which is very essential part of law. So here I will derive contractual relation between religion and contract law. ¹⁰⁸

The Hindu Law which was the compilers of Smritis and the collective law that are found in Dharma shastras, evolved in India. The rules that govern contract that is Vyavahara Mayukha, the Arthashastra by Kautilya, only existing treaties and politics and government which

¹⁰⁸ Krish Bhatia, *Contract Law Through the Lens of Ancient Indian Religious Texts*, *Indian Journal of Law and Legal Research*, Vol IV Issue III 2 (2022).

everyone is aware of. Medieval period which is also evident of Manu smriti which contains about breach of contract and the consequences for both perspectives, it also reviewed about the pledge and explained the complicated parts of the pledges. We should not forget about Ramayana, which is famous Indian epic that contains modern principles of contract law.¹⁰⁹ We Indian are famous for our culture and history that we have. So, in this paper I am going to derive the contractual relation between religious and historical texts with Indian Contract Act and its derivation from English Law.

RELIGIOUS TEXTS, POLLOCK & MULLA CONTEXT & ENGLISH LAW

➤ **Hindu Period**

➤ Hindu law is the combination of numerous customs and Vedas which contain various aspects of Hindu law. Manu Smriti deals with incompetence that is an essential part of contract law.

➤ It laid down a valid contract, that talks about which party is not competent to the contract, that is a minor, intoxicated person, old man, during an insanity period. This means no one can form a contract with them if so, it will not be considered a valid contract. According to Narada smriti the majority age is considered as 16 years means at 16 years person is eligible to enter into a contract which is not similar in modern contract.^[3]

Ø **British Period**

As Indian Contract Act was not established nor enforced so English law ruled over Indian presidency towns i.e., Madras, Calcutta, Bombay under the Charter of 1726,^[4] which was stated by King George. Since, it is not possible to enforce all promises, they pretended 2 assumptions:

- 1) When a promise is enforced and then an exception for that promise is evolved which becomes undesirable to enforce.
- 2) It is pretended that promises are generally unenforceable and the exception which is created after the formation of a promise becomes desirable to enforce.

But in the case if any one of the parties is from different religion means if one party is Hindu and another is Muslim then the defendant law will be enforceable. It was only applicable for presidency towns. But the cities which are situated outside the presidency town, the case was dealt by justice, equity, and good conscience.

This was followed before the implementation of Indian Contract Act, 1872. In the year 1862, after the introduction of the high court, the judgement started establishing by the help of personal law in contract cases.

Ø **The Advent of Indian Contract Act**

The Indian Contract bill which defines law related contract sale of immovable property, indemnity, guarantee, agency, partnership, and bailment was drafted by the third law commission in 1861 in England.^[5]

¹⁰⁹ Krish Bhatia, *Contract Law Through the Lens of Ancient Indian Religious Texts*, *Indian Journal of Law and Legal Research*, Vol IV Issue III 2 (2022).

Ø Pollock & Mulla with English Law

Before we codified our own law our judges derived judgements by the help of English Law. For example, the case of **Bhagwan Das Goverdhandas Kedia v. Girdhar Lal Purushottam Das** is a landmark case by the Supreme Court which was derived from the help of English Law cases that is **Adams v. Lindsell** and **Payne v. Cave** in which theory of instantaneous and non-instantaneous mode of communication was justified by **Justice Denning** LJ with exceptions.

While drafting the Indian Contract Act, 1872 there was a collision between the Indian Legislature and the commission, and the Commission resigned. Some of the proposals were rejected by the Commissioners and some were derived from the **New York Code of 1862** and many other countries which are generally sound and useful.

➤ Manu Smriti's

It constitutes set of duties of King, society. The text has all the assumption, probability, and circumstances with remedy. That we have evolved now our ancestors had already assumed and overcame the circumstances many centuries ago.¹¹⁰ They even established law that has another name that is "Dharma" which shows that they were so advanced and ahead from us. Which I conclude from the text of Manu smriti which contains all types of laws before.

CONCLUSION

By evaluating the development of the contract through different historical periods, it can be determined that despite the technicalities and the modes and techniques of punishment, the underlying principle of all laws—that minors cannot enter contracts, that consent must be given by both parties in a manner and sense that are mutually acceptable, and that certain people—such as those who are inebriated or elderly—must not enter into contracts—may vary depending on the circumstances.

¹¹⁰ Krish Bhatia, *Contract Law Through the Lens of Ancient Indian Religious Texts*, *Indian Journal of Law and Legal Research*, Vol IV Issue III 3 (2022).

ORGAN DONATION IN INDIA AND GLOBALLY

AUTHOR: ARPITA KUMARI

ABSTRACT

Organ donation is the entire practice of retrieving a human organ from a living or deceased person, who is referred to as Donor, and transplanting it into a recipient. The recipient will be a patient who is suffering from organ failure and who will not survive unless the person receives an organ replacement. The process of recovering the organs is known as Retrieval. Donation of an organ or tissue is to help someone that needs a transplant, to save the person's life. One donor can save up to seven lives and help many more through eye and tissue donation as well.

Twentieth century has given us one of the greatest wonders of medical science, which has saved the lives of many people /patients, which is known as organ donation . The successful recovery of life saving organs is a manifested process that includes a team work of specialists. This article aimed to review the concept of organ donation, legal aspects of organ donors, process of transferring organs by an alive person, the current perspective of India and globally and stand attempted by government authorities to promote awareness about this concept.

Keywords: organ, organ donation, donor, recipient, transplant, save life.

INTRODUCTION

Sharing the spirit of life and give another a new life is said to be divine. The person who is giving their organ has a feel of giving a new life to the fellow human beings. in our Hindu mythology organ donation is considered as an act of deed since past. Like lord Ganesh who has sacrifice their teeth to write Vedas and in respect of Parashuraam.

The organ is defined as the process of retrieving or transferring an organ or part of the body from a live or dead person and then transplanting it into another living person to save them. In simple terms, organ donation is when a person allows their part to be removed, legally , by their consent .It was reported that 25 different organ /tissues can be donated by human beings after checking the psychiatric and medical fitness of donors. The most transplanted organs are kidney, liver, and heart, and cornea are most transplanted tissue. The rate of organ transplantation is increasing day by day in the last two decades and given outstanding result to the human beings globally ,but is challenging to the increasing population of elderly transplant patients with comorbidity.^[1]

VARIOUS TYPES OF DONORS

There are four types of donors

1. Living Donation
2. Deceased Donation
3. Tissue Donation

4. Paediatric Donation

1. LIVING DONATION

Living donation occurs when a living or alive person legally with their consent donates an organ for transplantation to another person. The living donor can be family member or relatives and that person who were emotionally attach with the patients such as friends. They must have to fulfil the medical criteria and undergo comprehensive circumstance before being accepted as suitable donor. living donation includes kidney donation.¹¹¹

2. DECEASED DONATION

Deceased organ donation is the process of transplanting organ, which is possible only at time of donors death. This is the standard practice commonly known as dead donor rule. It requires that the donor to be declared death before transplanting their organ of any life sustaining organs. Deceased organ includes cornea, liver, brain.

3. TISSUE DONATION

Tissue donation includes skin, bone, heart; this type of donation takes place when the donors declared as death. It is also important because it protect the patients from skin burns or any type of skin or bone diseases so, this type of transplantation occurs.¹¹²

3. PEDIATRIC DONATION

Paediatric translation differs slightly from other organ donation because organ size is different so, it is critical to be successful transplant, children often response better to child sized organ.it is difficult to find the same size of organ for children.¹¹³

ORGAN TRANSPLANTATION IN INDIA

Since the 1970s organ transplantation has been conducted in India which is a kidney transplant. India has made a few strides forward since but a lot more need to be done. Until then no country will able to collect. Organ transplantation is a proven remedy for nearly five years in India treating patients with severe organ failure. However, the deceased organ donation rate in India is very low (0.26 per million population), a low rate that contributes in part to 500,000 deaths per year due to the lack of available organs. Kerala, one of the South Indian states with 35 million people, claims to have some of the best health statistics in the country, in fact some are similar to high income countries, with a donation rate of organs of 1.03 per million of the population. demographic. Although this rate is four times higher than the national rate, it is still lower than that of neighbouring Tamil Nadu, which has the highest organ donation rate in the country (1.9 per million inhabitants). Worryingly, deceased donor transplant data from the Kerala Network for Organ Sharing (KNOS) shows a sharp drop in donations over the past year. In 2015, 218 major organs were donated from 72 decedents , compared to 29 major organ donations from only 8 decedents in 2018, demonstrating the major limitations of existing deceased organ donation programs at the government level. Lack of or neglect of brain death declarations in many state hospitals has been identified as one of the leading causes of delayed or missed organ donation. The Government of Kerala, in close collaboration with the Spanish

¹¹¹ (2023, Jan 10), UNOS. <https://unos.org/news/2022-organ-transplants-again-set-annual-records/>

¹¹² (2023, Jan 10), UNOS. <https://unos.org/news/2022-organ-transplants-again-set-annual-records/>

¹¹³ UNOS. <https://unos.org/news/2022-organ-transplants-again-set-annual-records/> visited on (2023, Jan 10).

Institute of Donation and Transplantation, has recently offered a transplant supply management training program for professionals (mainly neurologists and anaesthesiologists) across the country. The training program includes the best way to determine brain death and obtain family consent for organ removal and transplantation. In addition, the government is currently planning to introduce a new position of transplant coordinator in every hospital in the state to facilitate the donation of organs from the deceased. Declarations of brain death in Kerala are made by a committee of medical experts, comprising two doctors from outside the hospital who treat brain-dead patients and one who must work in a government agency. Additionally, there is now a provision to videotape pane tests performed to assess and diagnose brain death. These medical governance measures will ensure the transparency of the process and, ultimately, resolve any misunderstandings among the population regarding organ donation in the health care system. In addition to these efforts, another major area of intervention to increase organ donation rates is the fight against religious and superstitious beliefs regarding organ donation. It should be noted that no religious law prohibits their followers from donating organs and tissues, so they generally have a positive attitude towards organ donation. In 2012, the MOHAN Foundation organized a "unique" multi-religious gathering called "Sant Sangma", where religious leaders agreed that organ donation is the most important form of donation. However, lack of education and awareness about organ donation, especially religious ordinances, was found to be a strong negative predictor in many cases. Therefore, national authorities should support research programs that investigate important factors affecting organ donation in the general population and provide community-based interventions. It is also expected to explore the possibility of bringing together non-profit, community and faith-based organizations in Kerala under a common platform to facilitate organ donation. Experts attending the International Conference on Mixed Methods Research (ICMMR 2019) at Mahatma Gandhi University in Kerala, India, discussed the role of community-based participatory research approaches in answering these questions. Better research on beliefs and superstitions in communities, using appropriate designs, will lead to better policies and universal health education programs.¹¹⁴

FACTOR AFFECTING ORGAN DONATION IN INDIA & GLOBALLY

UNO has generated a list of potential recipients based on the factor of

➤ **Blood Donation**

There are many types of blood in different human beings. this is difficult to find the same types of blood to donate to the patients. sometimes it happens that blood bank also have no blood so that the patients died from suffering.

➤ **Organ Size**

There are different types of people in this world and their size or height is also different sometime it happens that the organ size of the donors is also different so it cannot fulfil the needs of patients. It is difficult to find the same size organs donors.

➤ **Legal And Ethical Issues**

¹¹⁴ Cleveland Clinic, <https://my.clevelandclinic.org/health/articles/11750-organ-donation-and-transplantation>.

Various factors have been noted that in organ transplantation such as consent, financial support to the donor and his or her family, and equitable distribution of donated organs . 19 in Indian law, Chapter 11(3) section 9 states that untied living donations have a high potential to abuse .this is the main reason why kidney trafficking is still prevalent in India.

➤ Financial Issues

Another obstacle is the financial capacity of poor beneficiaries. we regularly look to social media, newspaper and roadside billboard asking to help needy patients in need of organ transplants. In India, most transplant are obtained through social donations rather than government funding.

RANK OF INDIA IN ORGAN DONATION AS PER GLOBAL

According to preliminary data from the United Network for Organ Sharing (UNOS), 42,887 organ transplants will be performed in the United States in 2022, a 3.7% increase from 2021 and a new annual record. Under federal contract. Also in the first year, more than 25,000 kidney transplants were performed in the United States. The total is 25,498, an increase of 3.4% from 2021. Additionally, liver (9,528), heart (4,111) and lung (2,692) transplants set annual records. "One million transplants have been performed nationwide this year, and we are thrilled to mark accelerated progress towards the next million," said Congressman Jerry McCauley, MD.H., Chairman of the UNOS Council. ¹¹⁵"We thank all living and deceased organ donors, as well as loved ones of deceased donors, who made a vital donation. We also salute all the clinicians and professionals involved in organ donation and transplantation who work tirelessly to get as many transplants as possible "We also had to recommit to meeting the ongoing needs," said Dr. Macaulay. "Many are still eagerly awaiting lifesaving transplants. We must continue to increase our ability to provide them with this important opportunity by ensuring that as many donated organs as possible are utilized. Remains Donation Trends National 2022 people became deceased organ donors, marking the 12th consecutive record year for deceased donations and a 7.5% increase from 2021. As medical criteria for deceased organ donation based on favourable clinical experience develop, more and more donors come from less traditional eligibility categories. There will be 4,776 circulatory deaths (DDC donors) rather than brain deaths in 2022, an increase of nearly 14% from 2021. There were 5,789 deceased donors aged 50 or older, the first time that more than 5,000 donors belonged to this age group in one year. There has been an increase in fundraising in many places across the country. Of the 57 organ procurement organizations (OPOs)*, 42 (73.6%) is an increase from the 2021 total. Two-thirds of OPOs (38 total) in 2022 set an all-time record for donor recovery in one year. Living Donation Trends a total of 6,466 people will be living organ donors in 2022, slightly less than in 2021. Living organ donation has changed significantly in recent years, reflecting various trends in need transplantation and the circumstances in which living donation is an option. After the all-time high of 7,389 in 2019, 2020 fell to 5,726 due to the impact of the COVID-19 pandemic. While most living donors provide a kidney for the transplant, an increasing number donate part of their liver. In 2022, there will be 603 living donor liver transplant cases, a record for the year, an increase of almost 6% from 2021.

¹¹⁵ Lalitha Mohan, T Thanga Panner Selvam, "Perspective on organ donation in India: A comprehensive review", *The Journal of Community Health Management* 7 (3): 73-76 (2020).

India is now ranked third in the world only after USA and CHINA as per the data available on the global observatory on donation and transplantation.

CONCLUSION

Organ donation and transplantation offer new avenues for scientific progress and socially progressive thought. The current review shows that organ donation in India remains in limbo due to factors such as lack of awareness among medical professionals and the general public, religious and organizational issues, and legal and ethical concerns. In India, due to the high number of fatal road accidents, the potential for donations from deceased persons is huge and the reserve is not yet tapped. Few hospitals and specialized NGOs in the country have indicated that deceased donation is a viable option.

From this research I found that Indians had already evolved with laws, which they followed many centuries back. Manu Smriti and Ramayana are not only religious books but a book with full of knowledge. The study which we are acquiring, our ancestors had already discovered, not only about how to rule society but laws which society has to follow for peaceful life which we even follow today to reduce crime and ultimately peaceful life.

A DETAILED STUDY OF BEHAVIOURAL AND EMOTIONAL PROBLEMS FACED BY ORPHANAGE IN INDIA "HIGHLIGHTING POST COVID ERA"

AUTHOR: KHUSHI SINGH

ABSTRACT

Up to 45% of orphaned children and adolescents in orphanages struggle with behavioural and emotional issues. The intervention of emotional and behavioural issues in orphan children and adolescents has been the subject of several literature studies. Based on the type of group method employed in published publications, there are few reviews of therapies for emotional and behavioural problems in the orphan group. The lack of a family's love and care, orphans and other vulnerable children and adolescents (OVCA) housed in institutions are more likely than others to experience behavioural and emotional issues. Studies examining the psychological wellbeing of these kids in India are few. For these kids, frequent screenings for behavioural issues, emotional issues, hyperactivity, and peer issues are necessary. Several multicentre studies must also be conducted due to the dearth of available data to provide a full overview of these issues. Researchers in the field of mental health have always placed a high priority on studying children and adolescents. Research has focused on behavioural issues like hyperactivity and conduct issues in individuals as well as emotional issues including sadness, anxiety, and difficulties interacting with others.

Keywords: Adolescents, orphans, vulnerable children, behavioural, emotional, psychological, hyperactivity.

INTRODUCTION

In the world of eyes, like a forested sight, the person who lost the soul of his life, roaming in the streets without any help. In the heavy blow of sun, nobody notices my pain, all they look with pity eyes for a day, And for them life moves, but what for me, I stand like a day dreamer, wishing to get a brighter life, what about my soul, which cries everyday night. Just hope that everything becomes right and fine, and I may get a brighter life.

These are some lines which describe the pity condition lived by children when they become orphans.

Orphanage, a place in where the children without parents are cared for and even housed. The word itself gives us meaning and definition and we easily get to the point. If a child has no parents because they died or lost custody, the child is regarded as orphan. Orphans are parentless. They don't have anyone to guide or take care of. They completely lose their supporting units. It is the prime and soul duty of these orphanages to care and nourish these little kids, to look after them until they get placed in homes or get adopted by someone else.

It might sound very deep and vivid thinking about these children that they don't have their guides to guide them. Teach them what life is. Make them fulfil all the desires of life. Make

them stay connected to the surrounding, etc. But since, there are non-governmental organisations which are made to help these children to learn all the moves of life starting from the letter 'A' to the letter 'Z'.

The situation of orphanages remains very vivid and problematic since the ancient times. Not talking about past, I may prefer you to know the recent problems faced by orphanages post covid era. According to the data published by "Ministry of Women and Child Development", there are nearly 577 children across the county who have become orphan since the second wave of pandemic hit the country. Many field specialists suggest that it is due to higher mortality rate of the young adults. The age estimated is between 30 to 40 years. Even there are cases when all the family members have been affected by the virus and children are left alone. They have no one to look after their needs and necessities. It increased the number of orphans in India, where the number was already high. Hence, there came a need to increase the number of orphanages here.

According to UN, India has 29.6 million orphaned since 2018. Even the number is more than the total population, that exists in Sri Lanka. ¹¹⁶

There are different challenges which are faced by the orphanage, and they highlight different situations that worsen the condition.

CHALLENGES FACED BY ORPHANAGES

1. Shortage of Funds – The major issue and problem faced by the orphanages are the funds. They face the heavy crisis of funds. Being a nongovernmental organisation, the government issues the funds extremely late and even a small amount does not cater the needs. Hence, the first challenge faced by the orphanage is the funding issue.¹¹⁷
2. Lack of facilities – The government even does not provide the adequate facilities like proper educational facilities, health, sanitation to these kids apart from the funds provided.
3. Proper awareness campaign - The government does not take enough measures to drive the awareness campaign and even to encourage increased adoption of orphan kids so that they can overcome the challenges faced by the orphanages.
4. Survey – The government does not ensure that the orphanages are working well through the surveys. The agencies do not act very steadily or properly in order to improve the condition of orphanages. ¹¹⁸
5. Lack of foreign investments- The orphanages even fail to take help from the foreign agencies like the other organisations who aim in providing funds for public welfare.

¹¹⁶ Posted on (2021, June 1), Orphaned Children in India – Explained, pointwise, ForumIAS. <https://blog.forumias.com/orphaned-children-in-india/>

¹¹⁷ Posted on (2021, June 1), Orphaned Children in India – Explained, pointwise, ForumIAS. <https://blog.forumias.com/orphaned-children-in-india/>

¹¹⁸ Posted on (2021, June 1), Orphaned Children in India – Explained, pointwise, ForumIAS. <https://blog.forumias.com/orphaned-children-in-india/>

WAYS TO OVERCOME WAYS

1. Adequate funding - If the government ensures proper funding, then the situation might get under control or may improve.
2. Better Surveillance - If the government takes initiative to hire another set of officials apart from the service for looking after the situation, it might prove especially useful. This will not include the corruption indeed .
3. Promote other investments- The orphanages might take some steps to encourage the investments by other set of organisations.
4. Awareness campaigns- The orphanages must launch the awareness campaigns so that society becomes aware and there must be an increase in the number of adoption cases.

Recently I paid a visit to one of the orphanages, and I was very much surprised to see the location of the place. Located at about 20 kms from the city surrounded by jungles. The place is typically very much inward. As I entered there, I felt very amazed by the warm greetings of little kids. Hearing the stories from the owners made me stand like a dump.

He told me that a kid was literally taken from the center of, the jungle, like area where he was thrown just two or three hours after his birth.

Another story was two sisters whose parents were killed by the terrorists and both were raped. The girls were brought to the orphanages. Like this, there were about many stories that made me think what the life these kids are surviving through.

One thing that hit me, was there was no facility of television , we in today's generation use cell phones single handily , but these children even do not have a television to get connected ,through the world. The major problem they were facing the post covid era was the shortage of funds. They even did not have enough to meet the requirements of the grocery. This was surprising. Even they said that they have two centres working, but only one of it is receiving fund but at a period of eight to twelve months. There was a huge gap, and it further increased the difficulty .

They further added that the children go to the school, but the government school failed to provide much care and concern, and students face.

much difficulty to complete their education. Hence, the proportion of students taking jobs is nearly 0.1% in case they do not get adopted. These are some challenges I found personally which the orphanages are facing and this is not for one place or one location.

I don't know, but I think the awareness within the people is also not much as compared to what is should be. People if they take initiative and work towards adoption then the whole story will finish. The numbers in orphanages will reduce and automatically they will face quite a less challenge as compared to the previous times.

Highlighting post covid times-

In the post covid times, the situation I guess is further worsened. As mentioned earlier the problems like funding issue remains the same. Apart from it, the increasing number of orphans led to increase in number of orphanages.

CONCLUSION

Hence, we find that there are many problems faced by the orphanage. even there exists problems, but there are solutions to it. We can ensure and spread awareness as present-day youth. we can organize clubs for imparting donations. These will give them financial help. Even some sort of programmes like the programs related to the adoption can be launched. It will reduce the burden of the orphanages. According, the individual, a narrow and broad concept launched by the government can overcome this challenge. It can provide a relief to some extent. At least, it will overcome the shortcomings indeed. If taken seriously, we can overcome the problem to some extent.

IMPORTANT LANDMARK CASES OF ENVIRONMENTAL LAW : CASE COMMENTS

AUTHOR: JYOTI YADAV

GAS LEAKS COURT CASE

❖ *M.C. Mehta And Anr vs Union of India & Ors 1987 AIR 1086, 1987 SCR (1) 819*

FACTS

In 1985, a deadly gas leak occurred at the Union Carbide India Limited (UCIL) pesticide plant in Bhopal, India, causing the death of thousands of people and injuring hundreds of thousands. As a result, the Indian government enacted the Environment Protection Act, 1986, which established regulatory measures for the protection and improvement of the environment.

In 1987, another gas leak occurred at the Shriram Foods and Fertilizers Industries (SFFI) plant in Delhi, leading to the death of one worker and injuring several others. The incident prompted environmental activist M.C Mehta to file a Public Interest Litigation (PIL) in the Supreme Court of India against the Union of India and the SFFI plant.¹¹⁹

ISSUE

One of the most significant issues with the Bhopal Gas Tragedy is the lack of accountability on the part of Union Carbide Corporation and the Indian government. Despite the severity of the disaster, Union Carbide Corporation failed to take full responsibility for the accident, and the Indian government did not hold the corporation accountable for the long-term effects of the tragedy. The victims and their families did not receive adequate compensation or medical assistance, and many continue to suffer from the effects of the toxic gas exposure.

The Bhopal Gas Tragedy continues to be an issue that highlights the need for greater corporate accountability and better safety regulations. The victims and their families deserve justice, and steps must be taken to prevent similar tragedies from occurring in the future.

OPINION

Opinions on the M.C Mehta Vs Union of India gas leaking Shri Ram factory case are divided. Some believe that the Supreme Court's judgments were necessary to hold polluting industries accountable and to protect the environment and public health.

Others argue that the judgments created an undue burden on industries and hindered economic development. There are also those who believe that while the judgments were necessary, they were not implemented effectively, and the victims of the gas leak did not receive adequate compensation or support.

¹¹⁹ Deepikanuals. *Legal Aspects of Bhopal Gas tragedy. Legal Service India.*
<https://www.legalservicesindia.com/article/373/Legal-Aspects-of-the-Bhopal-Gas-Tragedy.html>

JUDGEMENT

The Supreme Court of India delivered several judgments in the M.C Mehta Vs Union of India gas leaking Shri Ram factory case, including:

In 1987, the Supreme Court directed the Union of India to take necessary steps to prevent further harm to workers and residents in the area surrounding the SFFI plant.

In 1988, the Supreme Court directed the SFFI plant to stop its operations and ordered the Union of India to investigate the plant's activities. In 1991, the Supreme Court directed the Union of India to pay compensation to the victims of the gas leak and their families.

In 2004, the Supreme Court directed the Union of India to respond appropriately to ensure that the hazardous waste generated by the SFFI plant was properly disposed of.

RLEK VS STATE: ENVIRONMENT

❖ *Rural Litigation and Entitlement Kendra & Others V. State Of Uttar Pradesh & Others Supreme Court Of India*¹²⁰

FACTS

The Rural Litigation and Entitlement Kendra (RLEK) and others filed a public interest litigation in the Supreme Court of India against the State of Uttar Pradesh and others in 1982. The petitioners alleged that illegal mining, deforestation, and environmental degradation were taking place in the Himalayan region of Uttar Pradesh, particularly in the Mussoorie Hills. The petitioners sought to protect the environment and the rights of the local people.¹²¹

ISSUE

The main issue in the case was the impact of mining on the environment and the rights of the local communities. The mining activities had caused severe damage to the forests, water bodies, and wildlife habitats in the region. The issue between RLEK and the State regarding the environment is an ongoing one. RLEK's efforts to protect the environment and the rights of local communities have led to significant legal battles against the State, resulting in the protection of the environment in various parts of India. However, there is still a long way to go, and RLEK's work is crucial in safeguarding India's environment for future generations.

OPINIONS

The RLEK and other petitioners believed that the Supreme Court's decision was a victory for the environment and the local people. They believed that the court's order would help protect the fragile ecosystem of the Himalayas and ensure that the rights of the local people were respected.

On the other hand, some mining companies and the state government were unhappy with the Supreme Court's decision. They believed that the court's order would lead to a loss of jobs and revenue and would hamper the development of the region. Some critics also argued that

¹²⁰ 1985 AIR 652, 1985 SCR (3) 169.

¹²¹ Posted on 2022, April 21. *Rural Litigation and Entitlement Kendra & Ors v. State of UP & Ors. The Legal Lock.* <https://thelegallock.com/rural-litigation-and-entitlement-kendra-ors-vs-state-of-u-p-ors>

the court's decision was an example of judicial overreach and that the court was interfering in the executive's domain.

JUDGEMENT

The Supreme Court of India delivered its judgment on the case on February 12, 1985. The court ordered the closure of all mining operations in the Mussoorie Hills and directed the government to take steps to protect the environment. The court also ordered the formation of a committee to monitor the implementation of its orders and directed the government to take steps to rehabilitate the people affected by the mining operations.

KANPUR POLLUTION CASE

❖ *Subhash Kumar v. State Of Bihar & Others Supreme Court Of India*¹²²

FACTS

The case was based on a Public Interest Litigation (PIL) filed by Subhash Kumar, a law student, highlighting the environmental pollution caused by tanneries and other industrial units in and around the city of Kanpur. The PIL also pointed out the failure of the State Pollution Control Board in enforcing environmental regulations and protecting the environment.

ISSUES

Industrial pollution: Kanpur is home to a large number of polluting industries, particularly in the leather and textile sectors. These industries generate a significant amount of toxic waste, which is often disposed of improperly, leading to soil and water contamination. The government needs to take strict measures to regulate these industries and ensure that they operate in an environmentally sustainable manner.

- Vehicular emissions:

Kanpur is also grappling with high levels of vehicular emissions, which are a major contributor to air pollution in the city. The government needs to promote the use of public transportation and encourage the adoption of cleaner fuels and vehicles.¹²³

- Waste management:

The city's waste management infrastructure is inadequate, with much of the waste being dumped in open landfills or burned in the open, leading to air and water pollution. The government needs to invest in better waste management systems, including recycling and composting, and enforce regulations on waste disposal.

- Lack of public awareness:

There is a general lack of public awareness about the causes and effects of pollution in Kanpur. The government needs to launch campaigns to educate citizens about the importance of environmental sustainability and the role they can play in reducing pollution.

- Health impacts:

¹²² 1991 AIR 420, 1991 SCR (1) 5

¹²³ Posted on (2021, July 7), *Subhash Kumar State v State of Bihar Case Brief, The Law Express.* <https://thelawexpress.com/subhash-kumar-vs-state-of-bihar-case-brief>

The high levels of pollution in Kanpur are having a serious impact on the health of its citizens, particularly respiratory illnesses. The government needs to prioritize public health interventions, including providing access to healthcare and promoting healthy lifestyles.

OPINION

The State of Bihar and other respondents in the case argued that the closure of industries would lead to a loss of employment and revenue for the state. They also argued that the implementation of pollution control measures would be costly and time consuming.

On the other hand, Subhash Kumar and other petitioners argued that the environmental damage caused by the industries was a violation of their fundamental right to a clean environment. They also argued that the State Pollution Control Board had failed in its duty to protect the environment, and that the polluting industries should be held accountable for the damage caused.

Overall, the Subhash Kumar v State of Bihar & Others case set an important precedent for environmental protection in India. It established the principle of the right to a clean Environment as a fundamental right, and emphasized the importance of holding polluting industries accountable for their actions.

JUDGEMENT

The Supreme Court passed a series of landmark judgements in this case. It held that the right to a clean environment is a fundamental right under Article 21 of the Indian Constitution. The Court also held that the polluter pays principle should be applied, i.e., the industries that cause pollution should bear the cost of remediation and compensation for damage caused to the environment.

The Court directed the closure of polluting industries in and around Kanpur and ordered the installation of pollution control equipment in the remaining industries. The Court also directed the creation of a monitoring mechanism to ensure compliance with environmental regulations.
