

LEX SCRIPTA MAGAZINE OF LAW AND POLICY

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Foreword and Introduction by

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Civil Judge, Junior Division (On Probation)

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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 point 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 team mates 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 read 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” aim 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 the 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 the 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 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 magazine.

- Mr. Piyush Ranjan

Civil Judge Junior Division (On Probation)

ABOUT THE MAGAZINE

Lex Scripta Magazine of Law and Policy (ISSN -.....) 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 of 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 intent to make law students and legal enthusiasts to 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 top-notch professors of our university. This magazine aims to cover as many legal information's as possible and intents 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 each and 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.

NOTES FROM THE EDITOR

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 nine submissions bearing the following titles: **A General Overview of Legal Aid and Advice in India, Freedom of Speech and Hateful Speech, The Role of Cyber Law in Cyber Security in India, Criminalization of Marital rape in India, AI and IOT: A Comprehensive Overview, Critical Appreciation of Section 12A (1) of Commercial Courts Act by Way of Legal Fiction, Relationship Between Law and Medicine: An Analysis, Right to Die: Law and Legislative, A Critical Analysis of Gender Pay Gap and Why Is It So Wide in India?**

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 put 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, Ritanand 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, EX-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.

CHAPTER 1

A GENERAL OVERVIEW OF LEGAL AID AND ADVICE IN INDIA

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ABSTRACT

A vital part of the criminal justice system, legal assistance guarantees that those accused of a crime have access to counsel and a fair trial. The significance of legal aid in the criminal court system is examined in this abstract, along with the difficulties in dispensing it. The fundamental right to legal representation is covered in the first section. This right is established in numerous national and international legal systems, including the Universal Declaration of Human Rights. The abstract then looks at the several channels via which legal help is offered, such as public defenders, individual attorneys, and legal aid organisations. Additionally, it covers the difficulties encountered by persons looking for legal assistance, such as a lack of funding and geographic restrictions, and it shows some creative solutions that have been created to deal with these difficulties.

Keywords: Criminal, Justice, Criminal Court, Human Rights, Legal Aid, Funding, Legal Assistance

INTRODUCTION

Since ancient times, Indian society has helped the destitute and those in need. The behaviour was viewed as a sacrifice to the deity. A weaker segment of society should be protected and assisted in whatever way feasible, according to the Dharma philosophy.

These signs of legal assistance date back to the Vedic age, when some shlokas acknowledged the necessity of shielding the defenceless from the violent. Even in the Vedic era, legal help was prioritised; during the Muslim era, head Qazi was selected as a full-time lawyer to offer free legal counsel to the underprivileged.

The Bombay Legal Society was established in the British era in 1924 to provide access to justice for those in need and to reduce the expense of litigation and the legal system. Following India's independence, the creation of a code of criminal process aided legal aid in cases involving criminal culpability.

According to the United Nations Principles and Guidelines, "legal aid" includes free legal advice, assistance, and representation for people who are detained, arrested, or imprisoned, suspected of committing a crime, or who have been charged with it, as well as for victims and witnesses in the criminal justice system. This is given to people who are in need or when it is in the best interests of justice.

Additionally, "legal aid" is meant to cover the ideas of access to legal information, legal education, and other services offered to people through restorative justice and other alternative conflict resolution approaches.

In addition to reducing the prison population, wrongful convictions, jail overcrowding, courtroom traffic, and the rate of reoffending and victimisation, a functioning legal aid system also reduces the amount of time suspects are kept in jails and other detention facilities. It might also defend and uphold the rights of victims and witnesses as part of the criminal justice system. Legal aid can assist in lowering crime by encouraging a better understanding of the law.

DEVELOPMENT OF LEGAL AID IN INDIA

Under a number of statutes, including the Legal Services Authorities Act, 1987, and the Indian Constitution, accused people are given legal representation in India. The Legal Services Authorities Act was passed to ensure that justice is not withheld from anyone on the basis of their socioeconomic condition and to offer free and professional legal services to the poorer segments of society.

Everybody who cannot afford legal representation is entitled to free legal help under the Act. This include not just those who have been charged but also crime victims, eyewitnesses, and anybody else who needs legal representation. Legal services, including advice and representation in court, can be offered as part of legal assistance.

These services might aim to help the poor get legal representation, spread legal awareness, and support Lok Adalats, PILs, and other legal reform initiatives that could help bring about justice. Justice Bhagwati claims that the idea of legal assistance has to do with establishing order in society so that people who require it for the defence of their legal rights can easily access the system of dispensing justice.

Several states, starting with Kerala and moving on to Tamil Nadu and Maharashtra, were suggested in the 14th Law Commission Report to offer free legal aid services to the disadvantaged. In 1971, a commission headed by Justice Bhagwati was formed to investigate the duties of judges as well as the State, Taluka, and District Legal Aid Committees.

However, the Processual Justice to Poor report from 1973 by a panel chaired by Justice Iyer placed emphasis on sustaining the notion through the enactment of legislation and the facilitation of legal aid clinics inside law schools. Justices Bhagwati and Krishna Iyer created the groundwork for NALSA in their joint study, which also looked at the efficiency of legal aid programmes and the role of solicitors. As a result, the 42nd Constitutional Amendment introduced article 39A to Chapter IV of the Directive Principles in 1976. The Lok Adalats were added in 1980 by the Committee for Implementation of Legal Aid Scheme (CILAS), which was run by Justice Bhagwati.

THE LEGAL AID AND ADVICE (AMENDMENT) BILL

A piece of proposed legislation called the Legal Aid and Advice (Amendment) Bill aims to make changes to the current Legal Aid and Advice Act of 1972. The bill was first introduced in 2015 and then reintroduced in 2017 to the Indian Parliament.

The fundamental goal of the legislation is to give marginalised and vulnerable groups in society, including as women, children, seniors, and people with disabilities, greater access to legal aid and counsel. It aims to do this by broadening the range of legal aid services and making more legal aid providers available.

A National Legal assistance and Services Authority would be created under the proposed legislation, and it would be in charge of developing rules and regulations for the distribution of legal assistance and guidance. Additionally, it aims to create State Legal Services Authorities in each state to supervise the localization of legal assistance initiatives.

The creation of legal aid clinics in each district of the nation and the provision of legal assistance to people during the pre-trial, trial, and post-trial phases of legal procedures are among the bill's other important elements. Additionally, the measure aims to amend the Indian Constitution to include legal aid as a fundamental right. Overall, if passed, the Legal Aid and Advice (Amendment) Bill might greatly increase India's marginalised people' access to justice.

NEED OF THIS ACT

The constitutional requirement was put into practise for the provision of legal aid services to the impoverished and members of society's weaker classes. India is a developing nation where the majority of the people are impoverished, barely making ends meet, and unable to pay for services. Therefore, legal aid is crucial for the protection of the vulnerable and destitute as well as for the well-functioning rule of law in society. The government system must offer if the poor illiterate individual is denied equal opportunity to pursue justice because he is not legally competent to help a lawyer for himself.

As a result, the court of the nation has started a programme to offer legal aid services to the underprivileged and needy as a whole society, regardless of their financial situation. The Legal Services Authority Act of 1987 established the National Legal Services Authority (NALSA), which provides free legal services to the destitute and underprivileged who cannot pay them and arranges Lok Adalats for the civil resolution of disputes.

PURPOSE OF THIS ACT

Provide legal aid services to the underprivileged and illiterate so that they can obtain surety justice based on equal opportunity for everyone in the society as a whole. People learn about their legal and constitutional right to receive free legal aid and services from the government through the passage of Article 39A, as well as the obligation of the government to provide free legal services and swift justice to its citizens. Victimized citizens who suffered greatly because they were unable to obtain legal assistance for their needs and requirements must be

compensated. It was the responsibility of the government to offer these services. Encourage the use of alternative conflict resolution methods like ADR, which involves neutral evaluation, arbitration, and mediation and allows the parties to come to an agreement among themselves based on the mediator's arguments. Organised Lok Adalats contributed to the success of free legal aid services in the nation; individuals have recently begun to become aware of their fundamental right to legal assistance and the right to pursue justice within the Act's existing framework.

RIGHT TO FREE TRIAL AND FREE LEGAL AID AS A FUNDAMENTAL CONCOMITANT

Two crucial essential requisites of the right to access justice are the right to a fair trial and the availability of free legal representation.

A number of international human rights treaties and state constitutions recognise the right to a fair trial as a fundamental human right. This right entails the right to a fair trial by an unbiased jury, the right to an open hearing, the right to counsel, the ability to cross-examine witnesses, and the right to appeal.

A recognised tenet of international human rights law, free legal assistance is guaranteed in most national constitutions, including the Indian Constitution. Article 39A of the Indian Constitution guarantees all people access to free legal representation, with a focus on the impoverished and disadvantaged groups in society. A recognised tenet of international human rights law, free legal assistance is guaranteed in most national constitutions, including the Indian Constitution. Article 39A of the Indian Constitution guarantees all people access to free legal representation, with a focus on the impoverished and disadvantaged groups in society.

FREE LEGAL AID IN INDIA

The right to legal representation goes hand in hand with the right to a fair trial, one of the most important human rights. The writers' efforts to create a study about the Indian situation have made this right increasingly important.

India is a nation free of illiteracy, poverty, and the ignorance of a wide variety of individuals who are ignorant of the specifics of the legal system. Only when they are facing a charge, whether criminal or civil, or when they are the victims themselves, do they learn about the legal processes and procedures. Even literate people who lack awareness are unable to understand the requirements of the legal system.

A politician's daughter fell in love with Nitish Katara, a man from a modest background, and it did not sit well with her overly powerful and notorious politician father, so the man was brutally murdered. This was very well depicted by Nilam Katara, the brave mother of the murdered Nitish Katara, the victim of one of India's most famous murders. Ms. Nilam Katara, the mother of the murdered Nitish Katara, whose husband was experiencing a paralytic attack, was forced to face her fate on her own shortly after the tragedy in an effort to seek justice. She did not come from a legal background, and as a result, she had to endure a great deal of hardship as a result of the rigid and formalistic legal procedures in India occasionally

impeding her attempts. Despite coming from a highly educated upper middle-class family and having a good education herself, she endured unfathomable suffering as she fought for justice for her murdered son.

She later described her struggles for justice in an interview, calling for the inclusion of some fundamental legal concepts in primary and secondary education so that citizens are aware of the rules that govern them and are not suddenly exposed to an unfamiliar environment during one of life's most trying periods. Thus, the aforementioned incident can demonstrate that, with the exception of a small group of people, the Indian population knows very little about the complex legal system that governs them and that it is not acceptable to use ignorance of any law from that vast collection of laws as an excuse. In such situations, the need for those who are familiar with the law becomes crucial, and when we consider the illiterate and impoverished mass that makes up the majority of the large Indian population, the need for such people grows exponentially at no cost. Because of this, the Supreme Court of India, the nation's highest court, played a crucial role in establishing free legal aid as one of the fundamental human rights.

Every person who must file or defend a case is entitled to legal services under Section 12 of National Legal Services Authority Act (NALSA) 1987, if they meet the following criteria:

- A. any member of a Scheduled caste or Scheduled Tribe;
- B. they are a victim of human trafficking or a beggar;
- C. they are a woman and child;
- D. a person who is mentally ill or otherwise disabled;
- E. a person who is the victim of unjustifiable circumstances, such as a mass catastrophe, ethnic conflict, caste atrocities, flood, drought, earthquake, or industrial disaster
an industrial worker;
- F. an industrial worker

IMPORTANCE OF LEGAL AID IN INDIA

Legal assistance is essential to ensuring that accused people are not denied justice simply because they lack the financial means to do so. It guarantees that individuals have access to legal counsel, which is necessary to provide a fair trial. The criminal justice system would be severely skewed in favour of those who can afford to retain the best attorneys in the absence of legal aid.

Legal aid is essential for defending the rights of those who have been accused. It guarantees that people are conscious of their rights and that these rights are upheld throughout the course of the inquiry and trial. It aids in the prevention of erroneous convictions and injustices, which can have terrible repercussions for innocent people and their families. Access to justice is another goal of legal assistance, and it is a cornerstone of any democracy. It makes sure

that everyone, regardless of their financial condition, has access to justice, not just those who can afford to pay for it.

ISSUES AND CHALLENGES

There is still a gap that needs to be filled even after numerous law provisions, committees, and authorities. Many people still accept injustice today because they cannot afford to have a lawyer defend them. Many people who are innocent but condemned and unable to defend themselves are among the many reasons why there are so many cases in court that are still outstanding. The execution of legal aid services is hampered by a number of difficulties and problems.

1. Lack of Public Legal Education and Legal Awareness

These legal aid services are for the underprivileged and illiterate, and their lack of education is their main problem. They lack legal knowledge, which means they are ignorant of their fundamental and legal rights. Few people are aware of the legal aid services that are available to them. As a result, the legal aid movement has not succeeded in its purpose because few people are aware of Lok Adalats, Legal Aid, etc.

2. Lack of Support by Advocates, Lawyers, etc.

The majority of lawyers and advocates nowadays do not want to take part in such social services since they all want to be paid fairly for their work. Only a small number of solicitors provide these services, yet the absence of competent legal counsel makes it more difficult to administer justice.

3. Lack of Powers to Lok Adalats

Compared to civil courts, Lok Adalats have fewer powers. First, there aren't enough formalities. The parties cannot be forced to appear for the proceedings in this case, so. There is frequently a delay in the resolution when one of the parties does not show up for the hearing.

4. Underutilisation of Para-legal Volunteers

These paralegal volunteers' primary responsibility is to spread awareness of legal aid programmes and camps while also connecting with the underprivileged and socially vulnerable. But these paralegal volunteers are not properly trained, monitored, or verified. Additionally, compared to the entire population, the number of these volunteers is extremely low.

LANDMARK CASE GENERATING LEGAL AID IN INDIA

Sheela Barse Vs. Union of Indian

A ruling was made that it is a constitutional requirement demanded not only by Art. 39A but also by Articles 21 & 14 to provide legal representation to a poor defendant who has been detained and is in danger of losing his life or his freedom. Everyone has an equal right to life

and liberty, with the exception of situations when it is prohibited by law, according to Article 21.

Hussainara Khatoon v. Union of India

In this case, it was decided that if an accused individual cannot afford to hire counsel, the state must offer free legal help to that person.

Sukhdas Vs. Union Territory Of Arunachal Pradesh

It was also determined that if a suspect was not adequately notified of his rights and persisted in being unrepresented by an advocate, any conviction that resulted from the suspect's trial would be subject to being reversed. Similarly, Article 14 talks about legal equality.

According to Section 304 of the Criminal Procedure Code, the courts must offer legal assistance to an accused who lacks the resources and funds to hire a lawyer at the government's expense. Without a fair trial and expert help defending the accused against the criminal charge, there cannot be fair equality in criminal proceedings.

CONCLUSION

India's population of nearly half is unable to afford the high legal fees that are charged there. However, a lot of these lawyers also do pro bono work.

However, it necessitates the legally mandated free legal assistance for people in need in order to uphold their faith in the legal system. However, no matter how many legislations and laws are written, very nothing will change until and until these people are made aware of the law. The only way to raise legal awareness is through legal education, which involves teaching the disadvantaged about the laws and judicial system. Only then can one hope to see the welfare state notion come to fruition in its truest form, and the term justice—which is referenced in the Preamble of the Indian Constitution—show its power over the country's territory through the Indian people.

Legal aid is important, but there are still a lot of issues that need to be resolved. These include a lack of proper funding for legal aid programmes, a lack of knowledge among people about their legal assistance rights, and a dearth of qualified lawyers ready to offer legal aid services. To solve these issues and guarantee that legal assistance is accessible to everyone, governments and civil society organisations must collaborate.

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CHAPTER 2

FREEDOM OF SPEECH AND HATEFUL SPEECH

YAMUNA NATARAJAN

(Advocate at Madras High Court, Chennai)

ABSTRACT

Freedom of expression and hate speech coexisting has been the subject of much discussion and controversy. Although free speech is a cornerstone of a healthy democracy, hate speech endangers both community peace and individual well-being. This abstract examines the challenges inherent in striking a fair balance between free speech and the suppression of hate speech. It examines what hate speech is and how it affects people, focusing on how it can lead to prejudice and physical violence. Freedom of expression and its role in creating more inclusive communities are also discussed. The need of establishing a balanced method that safeguards free speech while protecting vulnerable populations is emphasised. The purpose of this abstract is to offer a preview of the complete research piece by providing an overview of the complex relationship between free speech and hate speech.

Keywords: Freedom, Speech, Democracy, Suppression, Population, Expression

INTRODUCTION

One of the most important factors in the exercise and preservation of other rights is the right to freedom of speech and expression, which is a fundamental human right. A society's potential for democracy and institutional commitment to democracy are measured by its citizens' ability to express themselves and exchange information. Freedom of expression, however, can be exploited in other situations, leading to a totally distinct problem. It is possible for certain people or organisations to propagate ideas about how superior a race, religion, or nation is in order to degrade others who do not identify with "their" group and to inspire exile, isolation, and even massacre. While freedom of speech is viewed as a political right, freedom of thought is a fundamental civil right, making it impossible for anybody to suppress or restrict human thought. On the other hand, remarks that incite hate, anarchy, and instability in society happen all over the world under the name of free speech. The Nazi Party's anti-Jewish propaganda, the anti-Bengali rhetoric of Pakistan's leaders, the anti-Tutsi propaganda in Rwanda, and the anti-Western propaganda of terrorist organisations up to the present are only a few instances. Free speech, sometimes referred to as freedom of expression, is a widely accepted value that permits individuals to express themselves freely without worrying about punishment, censorship, or interference from the government. In a democratic society, the law imposes formalities, conditions, limitations, and penalties on this freedom. A remark that incites violence or prejudice against an individual or a group because

of their race, religion, ethnicity, sex, gender, ability, sexual orientation, or any other attribute is referred to as hate speech.

LEGAL FRAMEWORK IN INDIA

Article 19(1)(a) of the Indian Constitution states that everyone has the right to free speech and expression. The Preamble of the Indian Constitution protects people's freedom of speech and expression. Although this privilege is not unqualified, Article 19(2) describes the restrictions that may be imposed on its exercise.

The importance of the right to free speech and expression to liberal democracies has been generally acknowledged across the world. According to Article 19 of the Declaration of Human Rights, everyone has the right to freedom of expression. Furthermore, under Article 19(2) of the International Covenant on Civil and Political Rights, everyone has the right to freedom of speech and expression. India recognises the importance of its citizens' right to freedom, as evidenced by its acceptance of a wide range of international treaties.

Section 124A of the Indian Penal Code penalises anyone who, via spoken or written words, visual representation, or any other means, intend to create hatred or contempt for the lawfully established government. The sedition act, which dates back to the colonial era, has been widely criticised for its restrictive nature towards free speech and expression. Despite the fact that the section's reasons make it clear that only attempts to promote hate, contempt, or disaffection constitute sedition, the law has repeatedly been exploited to punish genuine criticism with the goal of effecting change. To be considered an act of sedition, there must be an intention to cause a disturbance in the public order. The Supreme Court ruled in *Kedarnath Singh v. State of Bihar* that only individuals who exploit their First Amendment rights to incite violence or other illegal activity are subject to prosecution under Section 124A. In the case of *Shreya Singhal v. Union of India*, the court stressed the importance of their being a connection between the words stated or expressed and the public disturbance that arises. However, in practise, it has become common to accuse critics of the current government of sedition. In light of this abuse of the law, calls have been made to repeal the Section in order to protect the importance of free speech and expression.

The Indian Constitution forbids the expression of hate speech while claiming the right to free speech and expression. Expressions that could be offensive to others are forbidden. The Indian Constitution's Article 51A (h) mandates that people cultivate a humanistic outlook, a scientific mindset, and a spirit of change. In India, a number of criminal statutes also prohibit hate speech. With the slogan "teach a lesson to Muslims," the appellant in *Dr. Das Rao Deshmukh v. Kamal Kishore Nanasaheb Kadam* solicited votes. The Supreme Court ruled that the poster cannot be justified because it can incite hatred between communities and cause tension between them. It was insulting and incompatible with the nation's secular framework.

There are a number of provisions in the Indian Penal Code of 1860 that limit one's ability to speak freely. Under Section 153A of the Indian Penal Code, it is illegal to actively or passively incite "discord or feelings of enmity, hatred, or ill will between different groups on the basis of religion, race, place of birth, residence, language, region, caste, or community."

The section is written in broad terms that may be used to any kind of representation, including speech, writing, and the visual display of material items.

"Deliberate and malicious acts intended to outrage the religious feelings of any class by insulting its religion or religious beliefs" are punishable under Section 295A. In a similar vein, Section 505(2) forbids the creation, publishing, or dissemination of any statement or report that might incite hatred or dislike amongst members of various groups. The State government has the right to seize any book or material proven to be in violation of the aforementioned rules. The Protection of Civil Rights Act of 1955, whose purpose was to carry out the constitutional prohibition against "untouchability," also includes provisions that punish hate speech directed at those in the "dalit" group. The Act's Section 7(1)(c) forbids the promotion or inducement "to practise untouchability in any form." The Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act of 1989, which was created to safeguard the honour and dignity of those who belong to these groups, punishes if the members of these categories are purposefully humiliated by others.

THE CURRENT CONTEXT: FREEDOM OF SPEECH VS HATE SPEECH

A gathering dubbed "Dharam Sansad" took place in the city of Haridwar, during which Hindutva extremists presented and spread a series of hate speeches against minorities and openly advocated for genocide. Everyone would agree that this type of statement is hate speech. [Unfortunately, these cases were feebly pursued by complicit state officials, and the matter is currently in dispute before the Supreme Court of India.] Similar remarks were made against Muslim candidates who passed the UPSC examination in a recent case before the Supreme Court against Sudarshan TV, which aired the programme "Bindass Bol" (Free Talk). This case hinted at a larger conspiracy and bias. Even the Supreme Court has expressed disapproval of this. There are several examples of prominent people, including politicians, making hateful comments, as well as persons spreading hateful material that serves to reinforce negative stereotypes and discriminatory attitudes. The process of separating free speech from hate speech—which needs to be rigorous—is one that comes up in legal proceedings and academic settings.

A troubling free speech scenario has arisen in India as a result of demonstrations against proposed revision to the Indian Constitution. The executive director of Amnesty International India, Avinash Kumar, pleaded with the prime minister and the chief minister of Uttar Pradesh to permit protesters to demonstrate peacefully and demanded an independent investigation into police brutality. "Permissions for peaceful protests had been denied, protestors had been arrested, the state police had used excessive force, and state officials openly threatened and intimidated protestors," he claimed. Following the repeated chanting of "Shoot the Antinational" by demonstrators during public rallies and election campaigns, which served as inspiration for the anti-Muslim riots that erupted in a section of Delhi, there were acts of violence. Similar phrases with religious connotations were in a song that the Bhartiya Janata Party used in their electoral campaign for the 2020 Delhi elections. It had passages that threatened dissidents, people who did not glorify Rama and those who at the time were labelled traitors (dissenters opposing the laws and policies of the current government).

There is no getting around the truth that diverse viewpoints and debates are essential to a democracy. A society that is progressive values disagreement and dissent. However, it is equally crucial to make sure that the public conversation does not open the door for a statement that is harmful to the peace. Therefore, it is the responsibility of the State to prevent individuals from exercising their freedom in a way that is contrary to the rules of society. The Constitution acknowledges that rights cannot be used in an unrestrained way. As a result, it includes some restrictions on the use of these rights. The state is permitted to impose reasonable restrictions on the exercise of freedom of speech and expression under Clause (2) of Article 19 on the basis of certain considerations, including

- (i) the security of the State and the sovereignty and integrity of India,
- (ii) friendly relations with foreign States,
- (iii) public order,
- (iv) decency or morality, or
- (v) in relation to contempt of court, defamation, or incitement to commit an offence.

JUDICIAL PERSPECTIVE

N.V. Sharma Vs Union of India

Nupur Sharma, a former spokesman for the governing Bharatiya Janata Party, was reprimanded by the Supreme Court (SC) for her inflammatory remarks regarding the Prophet Muhammad during a TV discussion in May 2022, which upset Indian Muslims and offended Islamic countries. The court ordered the suspended spokesman to apologise to the whole nation, noting that she had put the country's security at jeopardy. The Court had said that "her loose tongue has set the entire country on fire" and accused her of "igniting emotions across the country," adding that her outburst was to blame for the unfortunate episode in Udaipur, where a tailor was killed.

Shaheen Abdulla Vs Union of India and Others

In this case, the SC recently issued an interim order holding that "Suo motu action will be taken to register cases even if no complaints are forthcoming and proceed against the offenders in accordance with law as soon as any speech or any action takes place that attracts offences such as Sections 153A, 153B, 295A, and 505 of the IPC, etc. Any unwillingness to follow this directive will be seen as a breach of this Court's authority, and the offending officials will face the proper consequences. In order to safeguard and defend the secular character of Bharat, as envisioned by the Preamble, we also make it plain that such action will be taken regardless of the faith of the speaker or the person who commits the crime. The police in Delhi, Uttar Pradesh, and Uttarakhand were the primary recipients of the interim directives. The court sent letters to the aforementioned three States and requested information on the actions they had taken in relation to hate speech instances.

Pravasi Bhalai Sangathan Vs Union of India and others

The SC in this instance conducted an analysis of the problem and determined that abominable Speech marginalises persons based on their identity and creates the conditions for assaults on

the weak, even violent ones. It further stated that the Law Commission of India should give the subject of hate speech more thought.

LEGAL FRAMEWORK IN OTHER COUNTRIES

The harm that hates speech poses to society's ability to run smoothly has already been acknowledged by many nations throughout the world.

The First Amendment to the United States of America's Constitution provides extensive protection for freedom of expression, which encompasses all forms of communication, including hate speech, within its ambit. The Communications Decency Act, which was established in the USA in 1996, provided social media sites with a limited amount of protection.

The Public Order Act is the main piece of legislation in the UK that forbids any visible representations of hate speech, which includes hate speech expressed online. Additionally, there are additional, more general rules in effect that regulate online interactions. According to the Malicious Communication Act of 1988, sending any information over an electronic media that is sexual, offensive, false, or known to be false is punishable by up to two years in jail.

Since anti-racism campaigners challenged ultranationalist movements against ethnic Koreans ten years ago, hate speech in Japan has been a topic of regulation. In response to the UN Committee for the Elimination of Racial Discrimination's harsh condemnation of the issue in 2014, Japan adopted a framework like that of Europe in 2016 and instituted a nationwide prohibition on hate speech. Municipal governments are obligated by law "to eliminate unjust discriminatory words and deeds against People from Outside Japan."

CONCLUSION

The contemporary right to freedom of speech and expression is not absolute and unquestionable, but it is crucial to individual autonomy, liberty, and democracy. Due to the reciprocal nature of rights and responsibilities, it is incumbent upon every individual to make ethical use of their liberties. This will help keep a good attitude intact. Many have pondered the limits of one's freedom of expression and where they should draw the line in terms of their own independence. We've all heard the argument that one person's rights and freedoms shouldn't come at the expense of another's hardship or inconvenience. Our right is only absolute when it does not infringe upon the rights of others. We have the right to express ourselves freely so long as our words do not incite violence within the country or are not threatening or defamatory against another person. Criticism is welcomed and even encouraged in a democratic system. Critique is vital to improving the quality of our legal system. Any criticism, however, ought to be legitimate and not be used as a double-edged sword to both express and feed turmoil in the country. Nonetheless, due to its very nature, this privilege will always be somewhat open to interpretation.

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CHAPTER 3

THE ROLE OF CYBER LAW IN CYBER SECURITY IN INDIA

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ABSTRACT

This research paper explores the vital role of cyber law in enhancing cyber security in India. It examines the legal framework provided by the Information Technology Act 2000 and other relevant statutes, highlighting their provisions related to cybercrime prevention, investigation, prosecution, data protection and privacy. The paper discusses the impact of cyber law in establishing the guidelines for cyber security practices, promoting international cooperation and raising awareness among individuals and organizations. Through an analysis of relevant case study and legislative developments this paper aims to provide a comprehensive understanding of how cyber law contributes to ensure a secure and safe digital environment in India.

Keywords: Cyber Security, Information Technology Act, Investigation, Cooperation, Cyber Law

INTRODUCTION

Cyber law plays an important role in ensuring cyber security in India. It provides a legal framework to address various cyber threats protects individuals and organizations from cybercrimes and establish the guidelines for cyber security practices. Here are some key aspects of cyber law in cyber security in India –

Legal Framework: The Information Technology Act, 2000 (IT Act) is the primary legislation in India that deals with cybercrimes and cyber security. It defines various offenses such as unauthorized access, hacking, data theft, identity theft, and cyber terrorism. The IT Act also prescribes penalties and punishments for these offenses, which act as a deterrent to potential cybercriminals.

Prevention and Investigation: Cyber law enables law enforcement agencies to investigate and prevent cybercrimes effectively. It empowers them with the authority to gather electronic evidence, conduct search and seizure operations, and track down cybercriminals. The IT Act also provides for the establishment of the Cyber Crime Investigation Cells and Cyber Crime Reporting Portals, which facilitate the reporting and investigation of cybercrimes.

Data Protection: Cyber law in India includes provisions for data protection and privacy. The IT Act imposes obligations on organizations to implement reasonable security practices to protect personal and sensitive information. It also outlines the rights of individuals regarding their personal data, including the right to access, rectify, and delete their information.

Incident Response and Reporting: Cyber law mandates organizations to establish incident response mechanisms to handle cyber security incidents effectively. It requires the reporting of cyber security incidents to the Indian Computer Emergency Response Team (CERT-In), which serves as the national nodal agency for responding to cyber security incidents. Reporting incidents helps in analyzing emerging threats, sharing information, and taking appropriate measures to mitigate risks.

International Cooperation: Cyber law enables international cooperation in tackling cybercrimes and promoting cyber security. India has signed agreements and mutual legal assistance treaties with several countries to facilitate the exchange of information and evidence related to cybercrimes. Such cooperation strengthens the ability to investigate transnational cybercrimes and apprehend offenders.

Awareness and Capacity Building: Cyber law emphasizes the importance of awareness and capacity building initiatives to promote cyber security. The government, along with various organizations, conducts training programs, workshops, and awareness campaigns to educate individuals, businesses, and government officials about best practices, legal provisions, and emerging cyber threats.

Cyber law in India establishes a legal framework for addressing cybercrimes, protecting critical infrastructure, and promoting secure digital transactions. It plays a vital role in enhancing cyber security by enabling prevention, investigation, data protection, incident response, international cooperation, and awareness building.

BACKGROUND AND SIGNIFICANCE OF CYBER SECURITY

In recent years, India has witnessed a rapid growth in digitalization and the adoption of Information and Communication Technology (ICT). This digital transformation has brought numerous benefits, such as increased connectivity, improved efficiency, and enhanced access to services. However, it has also given rise to new challenges, particularly in the realm of cyber security.

➤ Increasing Digital Footprint

India's digital footprint has expanded significantly with the widespread use of the internet, e-commerce platforms, online banking, and digital communication channels. As of 2021, India had over 624 million internet users, making it the second-largest online market globally. This exponential growth has made India an attractive target for cybercriminals seeking to exploit vulnerabilities and gain unauthorized access to sensitive information.

➤ Rising Cyber Threats

India has faced a surge in cyber threats and incidents, including data breaches, financial frauds, and identity theft and malware infections. The country has witnessed high-profile cyber-attacks on government agencies, critical infrastructure, financial institutions, and multinational corporations. These threats pose significant risks to national security, economic stability, and individual privacy.

➤ Impact on Economy and Society

Cyber security incidents have substantial economic and societal implications. Data breaches and cyber-attacks can lead to financial losses, reputational damage, disruption of services, and loss of consumer trust. Businesses, both large and small, face financial and operational risks due to cyber threats. Furthermore, cybercrimes can result in the compromise of sensitive personal information, leading to identity theft and other forms of online fraud.

➤ Protecting Critical Infrastructure

Critical infrastructure sectors such as power grids, transportation systems, healthcare networks, and banking systems are increasingly reliant on interconnected information networks. Any disruption or compromise of these systems can have severe consequences for the nation's security and functioning. Protecting critical information infrastructure is a top priority for the government to ensure the smooth functioning of essential services.

➤ Government Initiatives

Recognizing the significance of cyber security, the Indian government has taken several initiatives to strengthen the nation's cyber security posture. Initiatives like the National Cyber Security Policy, the National Cyber Coordination Centre (NCCC), and the Cyber Swachhta Kendra have been established to address cyber threats, promote information sharing, and enhance the overall cyber security ecosystem in India.

➤ Data Protection and Privacy

In recent years, India has made strides in the domain of data protection and privacy. The introduction of the Personal Data Protection Bill, 2019, aims to establish a comprehensive legal framework for the protection of personal data. This legislation emphasizes the importance of securing personal information and grants individuals' greater control over their data.

➤ International Cooperation

India actively participates in international initiatives and collaborations to address cyber threats. The country is a member of the Global Forum on Cyber Expertise, the International Telecommunication Union, and the Budapest Convention on Cybercrime. These partnerships facilitate information sharing, capacity building, and cooperation in tackling cybercrimes at the global level.

The background and significance of cyber security in India are rooted in the country's rapid digital transformation and the increasing threats posed by cybercriminals. Protecting critical infrastructure, ensuring data privacy, and mitigating the economic and societal impacts of cyber threats are paramount. The government's initiatives, international cooperation, and evolving legal frameworks reflect the nation's commitment to strengthening cybersecurity and safeguarding its digital ecosystem.

LEGAL FRAMEWORK FOR CYBER SECURITY

The legal framework for cyber security in India primarily revolves around the Information Technology Act, 2000 (IT Act), and its subsequent amendments. The IT Act is the primary

legislation governing electronic transactions, digital signatures, and cybercrimes in India. Here are the key components of the legal framework for cyber security in India:

Information Technology Act, 2000: The IT Act was enacted to provide legal recognition for electronic transactions, facilitate e-governance, and deter cybercrimes. It defines various offenses related to unauthorized access, hacking, data theft, identity theft, cyber terrorism, and obscenity in cyberspace. The Act prescribes penalties and punishments for these offenses.

➤ Amendments to the IT Act

a. **Information Technology (Amendment) Act, 2008:** This amendment introduced several significant changes, including the introduction of new offenses such as cyber terrorism, identity theft, and unauthorized access to protected systems. It also expanded the scope of punishment for various offenses.

b. **Information Technology (Amendment) Act, 2011:** This amendment addressed concerns related to data privacy and introduced provisions regarding the protection and handling of sensitive personal data.

➤ National Cyber Security Policy

a. The National Cyber Security Policy was introduced in 2013 to outline the government's vision and approach towards ensuring cyber security in the country. It aims to protect information infrastructure and strengthen the capabilities of various stakeholders to prevent and respond to cyber threats.

b. The policy focuses on creating a secure cyberspace, enhancing the protection of critical information infrastructure, promoting cooperation among stakeholders, and facilitating capacity building initiatives.

➤ Cyber Crime Investigation Cells

a. The IT Act empowers law enforcement agencies to investigate and prevent cybercrimes. Specialized units known as Cyber Crime Investigation Cells have been established across the country to handle cybercrime-related cases.

b. These cells work closely with other law enforcement agencies, such as state police departments and the Central Bureau of Investigation (CBI), to effectively investigate and prosecute cybercriminals.

➤ Indian Computer Emergency Response Team (CERT-In)

a. CERT-In serves as the national nodal agency for responding to cyber security incidents and facilitating coordination among various stakeholders. It operates under the provisions of the IT Act and is responsible for preventing, detecting, and responding to cyber threats.

b. CERT-In is involved in the analysis and dissemination of information on emerging cyber threats, issuing alerts and advisories, and coordinating incident response activities.

➤ Data Protection and Privacy

a. The IT Act includes provisions related to data protection and privacy. It imposes obligations on organizations to implement reasonable security practices to protect personal and sensitive information.

b. The Personal Data Protection Bill, 2019, is currently under consideration and aims to establish a comprehensive framework for the protection of personal data. The bill outlines principles for data processing, individual rights, and the establishment of a Data Protection Authority.

➤ International Cooperation

a. India actively participates in international initiatives and collaborations to address cyber threats. It has signed agreements and mutual legal assistance treaties with several countries to facilitate the exchange of information and evidence related to cybercrimes.

The legal framework for cyber security in India is continuously evolving to keep pace with technological advancements and emerging cyber threats. These measures aim to enhance the prevention, investigation, and prosecution of cybercrimes, protect critical information infrastructure, and promote secure digital transactions.

PREVENTION AND INVESTIGATION OF CYBER CRIME

Prevention and investigation of cybercrimes are crucial aspects of cyber security efforts. In India, several measures and agencies are involved in preventing cybercrimes and effectively investigating them. Here are key aspects related to the prevention and investigation of cybercrimes in India:

1. Prevention of Cybercrimes
 - Cyber security Education

Promoting cyber security education and training programs to enhance the skills and knowledge of professionals in the field.

- Legal and Regulatory Measures

Enforcing the Information Technology Act, 2000, and its amendments, that defines cybercrimes and prescribes penalties and punishments for offenders.

Encouraging organizations to implement cyber security measures through legal requirements and guidelines, such as the National Cyber Security Policy

- Public-Private Partnerships

Collaborating with private sector organizations, industry associations, and cyber security experts to develop and implement cyber security best practices, share threat intelligence, and enhance the overall cyber security ecosystem.

2. Investigation of Cybercrimes
 - Cyber Crime Investigation Cells

Establishing specialized units within law enforcement agencies, such as Cyber Crime Investigation Cells, to handle cybercrime-related cases.

- Digital Forensics

Utilizing digital forensics techniques and tools to collect, analyze, and preserve electronic evidence related to cybercrimes.

Conducting forensic examinations of digital devices, networks, and communication channels to trace the origin of cyber-attacks and identify the culprits.

- Cybercrime Reporting and Coordination

Establishing mechanisms for reporting cybercrimes, such as dedicated helplines, online portals, and email reporting channels.

Coordinating with other law enforcement agencies, such as state police departments, the Central Bureau of Investigation (CBI), and the Indian Computer Emergency Response Team (CERT-In), to share information and collaborate on investigations.

Promoting research and development in the field of cyber security to stay updated with evolving cyber threats and investigation techniques.

The prevention and investigation of cybercrimes require a multi-faceted approach involving awareness, education, legal measures, collaboration between public and private entities, and advanced technological tools. By focusing on prevention, proactive measures, and effective investigation techniques, India aims to deter cybercriminals, protect individuals and organizations, and maintain a secure cyberspace.

DATA PROTECTION AND PRIVACY

Data protection and privacy are crucial aspects of cyber security and play a significant role in the legal framework established by cyber law in India. The protection of personal and sensitive information is essential to maintain trust in digital transactions, safeguard individual privacy, and mitigate the risks of data breaches and unauthorized access. Here's how data protection and privacy function as a role of cyber law in cyber security:

- Legal Obligations for Organizations

The Information Technology Act, 2000, and its subsequent amendments impose obligations on organizations to implement reasonable security practices and procedures to protect personal and sensitive information. Organizations are required to ensure the confidentiality, integrity, and availability of personal data they collect, store, process, or transmit.

- Consent and Purpose Limitation

Cyber law in India emphasizes the importance of obtaining informed and voluntary consent from individuals before collecting or processing their personal data.

Organizations must clearly disclose the purpose of data collection and obtain consent for specific and lawful purposes. They are expected to use the data only for the purpose it was collected, and any further processing should be within the bounds of the original consent.

➤ Individual Rights

Cyber law recognizes and protects the rights of individuals regarding their personal data. Individuals have the right to know how their data is being used, access their data, rectify any inaccuracies, and withdraw consent for further data processing.

The Information Technology Act provides individuals with remedies to seek compensation for any negligent act or deficiency in maintaining security standards that result in harm or loss due to unauthorized access or disclosure of their personal information.

➤ Data Localization

The Personal Data Protection Bill, 2019, currently under consideration, proposes provisions related to data localization. It mandates that certain categories of personal data be stored and processed within the territory of India, ensuring greater control over data and enhancing data protection.

➤ Security Measures

Organizations are required to implement appropriate security measures to protect personal data from unauthorized access, disclosure, alteration, or destruction.

The Information Technology Act mandates the use of reasonable security practices and procedures, including encryption, access controls, regular audits, and secure transmission of data.

➤ Cross-Border Data Transfer

The Information Technology Act and its amendments include provisions related to cross-border transfer of personal data. Such transfers are allowed only if the recipient country ensures an adequate level of data protection or through other mechanisms such as contractual agreements or specific consent from individuals.

➤ Enforcement and Penalties

The Information Technology Act provides for penalties and punishments for non-compliance with data protection provisions. Organizations found in violation of data protection obligations may face financial penalties, imprisonment, or both.

➤ Data Breach Reporting

Organizations are required to report any significant data breaches or incidents involving personal information to the Indian Computer Emergency Response Team (CERT-In). This reporting enables timely response, investigation, and mitigation of the impact of data breaches.

➤ Data Protection Authority

The Personal Data Protection Bill proposes the establishment of a Data Protection Authority to oversee data protection regulations, enforce compliance, and address grievances related to data protection.

➤ Awareness and Education

Cyber law emphasizes the importance of creating awareness among individuals and organizations about data protection, privacy rights, and best practices for safeguarding personal information.

The government, in collaboration with industry bodies and stakeholders, conducts awareness campaigns, workshops, and training programs to educate individuals about data protection measures and privacy considerations.

By incorporating provisions for data protection and privacy, cyber law in India aims to ensure the security and privacy of personal information, promote responsible data handling practices, and empower individuals to have control over their data. These measures contribute to building a secure and privacy-respecting digital ecosystem in the country.

CHALLENGES AND FUTURE PROSPECT

The role of cyber law in cyber security in India is crucial in establishing a legal framework to prevent cybercrimes, protect critical information infrastructure, and promote secure digital transactions. However, there are several challenges and future prospects that need to be addressed for the effective implementation and evolution of cyber law in the realm of cyber security. Here are some key challenges and future prospects:

➤ Challenges

Rapidly Evolving Cyber Threat Landscape:

The cyber threat landscape is continuously evolving, with new attack vectors and sophisticated techniques emerging regularly. Cyber laws need to keep pace with these advancements to effectively address emerging cyber threats.

➤ Jurisdictional Issues

Cyberspace transcends geographical boundaries, leading to challenges in enforcing cyber laws and prosecuting cybercriminals operating from different jurisdictions. International cooperation and mutual legal assistance are necessary to overcome these challenges.

➤ Technological Advancements

Technological advancements, such as artificial intelligence, the Internet of Things, and block chain, present both opportunities and challenges for cyber law. These advancements bring new complexities and require legal frameworks that can address emerging legal and ethical issues.

➤ Cybercrime Investigations and Digital Forensics

Investigating cybercrimes and gathering digital evidence can be challenging due to the complexity and technical nature of digital forensics. Continuous training and development of cyber law enforcement personnel in digital forensics techniques are necessary to effectively investigate cybercrimes.

- Public-Private Collaboration

Promoting collaboration between the government, law enforcement agencies, and the private sector is crucial to combat cyber threats effectively. Building trust and establishing robust mechanisms for information sharing and coordination can be challenging but is essential for a collective approach to cyber security.

- Strengthening cyber security Legislation:

The government can focus on continuously updating and strengthening cyber laws to keep pace with evolving cyber threats. Amendments to existing legislation and the introduction of new laws can address emerging challenges and ensure the legal framework remains relevant.

- Enhancing International Cooperation

Strengthening international cooperation through agreements and collaborations can facilitate information sharing, harmonization of laws, and coordinated efforts in addressing transnational cybercrimes. Developing frameworks for mutual legal assistance and extradition can improve the effectiveness of cyber law enforcement.

- Capacity Building and Training

Investing in capacity building and training programs for law enforcement agencies, judiciary, lawyers, and other stakeholders is crucial. Enhancing their understanding of cyber law, cybercrimes, digital forensics, and emerging technologies can enhance their ability to enforce and interpret cyber laws effectively.

- Public Awareness and Education

Raising awareness among the public about cyber risks, safe practices, and their rights and responsibilities in cyberspace is essential. Conducting awareness campaigns, educational programs, and workshops can empower individuals to protect themselves and contribute to a secure digital environment.

- Collaboration with Technology Industry

Engaging with the technology industry can foster collaboration in addressing cybersecurity challenges. Encouraging the development of secure technologies, promoting responsible data practices, and establishing industry standards can contribute to a more secure cyberspace.

- Data Protection and Privacy

Strengthening data protection and privacy laws and their alignment with international standards can enhance cyber security. Implementing the Personal Data Protection Bill and

ensuring individuals' rights over their data can protect privacy and mitigate the risks of data breaches.

- Continuous Evaluation and Adaptation

Regular evaluation of cyber laws, policies, and their effectiveness is crucial. Embracing feedback from stakeholders, adapting to emerging technologies and threats, and revising legal frameworks as needed. It can ensure the relevance and effectiveness of cyber law in cyber security.

Addressing these challenges and embracing future prospects requires a collaborative approach involving the government, law enforcement agencies, industry, academia, and civil society. By continuously evaluating and updating cyber laws, investing in capacity building, promoting awareness, and fostering collaborations, India can strengthen the role of cyber law in cyber security and create a secure digital ecosystem.

CONCLUSION

In conclusion, the role of cyber law in cyber security in India is of utmost importance in protecting individuals, organizations, and critical information infrastructure in the digital age. The legal framework provided by the Information Technology Act, 2000, and its subsequent amendments establishes provisions and mechanisms to prevent cybercrimes, promote secure digital transactions, and facilitate international cooperation. However, there are challenges to overcome, such as the rapidly evolving threat landscape, jurisdictional issues, and the need for continuous updates to keep pace with technological advancements.

Looking ahead, there are promising future prospects for the role of cyber law in cyber security. Strengthening cyber security legislation, enhancing international cooperation, and focusing on capacity building and training can contribute to more effective enforcement of cyber laws. Public awareness and education, collaboration with the technology industry, and a focus on data protection and privacy can further enhance cybersecurity efforts. Additionally, continuous evaluation and adaptation of cyber laws will ensure their relevance and effectiveness in addressing emerging cyber threats.

By addressing these challenges and embracing future prospects, India can foster a secure and resilient cyberspace. The collaboration of government, law enforcement agencies, industry, academia, and civil society is crucial in creating a robust legal framework that safeguards digital infrastructure, protects personal data, and promotes trust in the digital ecosystem. Ultimately, the role of cyber law in cyber security is instrumental in creating a safer digital environment for individuals, organizations, and the nation as a whole.

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CHAPTER 4

CRIMINALIZATION OF MARITAL RAPE IN INDIA

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ABSTRACT

In India, the prohibition of marital rape has recently been the focus of heated discussion and campaigning. Non-consensual sexual actions carried out by one spouse against the other while still being married are referred to as marital rape. Despite progress in recognizing and addressing gender-based violence, Indian law currently exempts marital rape from criminalization under an exception to Section 375 of the Indian Penal Code (IPC). Some have argued that marital rape should be handled as a private issue or that it might undermine the institution of marriage, and this exemption has allowed to maintain these myths in society. But there is a rising drive to make marital rape a crime and compensate victims. Activists, NGOs, and advocacy organisations for human rights have put in countless hours to dispel myths regarding consent, gender equality, and women's rights as well as to promote public awareness of these issues. The Supreme Court of India recognised forced sex in marriages as a kind of cruelty, demonstrating the judiciary's progress in recognising the seriousness of marital rape. Protecting women's rights and dignity within the institution of marriage necessitates criminalising marital rape. By tackling this issue head-on, India can make tremendous progress towards creating a more inclusive and just society, in which no one is exposed to sexual assault, regardless of their marital status.

This article explores the importance, obstacles, and advancements in the criminalization of marital rape in the Indian context.

Keywords: Marital Rape, Non-Consensual Sexual Actions, Human Rights, Consent, Gender Equality, And Women's Rights.

INTRODUCTION

Marriage is commonly regarded as a sacred union built on trust, affection, and mutual respect. Unfortunately, in various societies, India included, the problem of marital rape has been ignored and treated as a private issue confined to marital relations. Consequently, whether to criminalize marital rape has become a contentious and ongoing debate, igniting enthusiastic discussions, advocacy efforts, and the pursuit of justice. In recent times, there has been an increasing acknowledgement of the seriousness and frequency of marital rape, resulting in a change in perspective and a greater emphasis on the need for reform. Activists, non-governmental organizations (NGOs), and human rights groups have been instrumental in advocating for the criminalization of marital rape and promoting awareness about this issue.

Furthermore, courts have started recognizing the harm caused by coerced sexual acts within a marriage, considering them a form of cruelty and thereby opening avenues for legal redress.

The objective of this article is to explore the importance, obstacles, and advancements in relation to the criminalization of marital rape in India. By analysing the legal framework, societal attitudes, and progress made in combating marital rape, we can gain a deeper understanding of the significance of tackling this issue and securing justice for the victims.

THE LEGAL LANDSCAPE

India has made significant advancements in acknowledging and combating gender-based violence, with a comprehensive legal framework comprising multiple laws dedicated to safeguarding women's rights. Some of which are discussed below:

1. International conventions explicitly against marital rape:
 - Convention on the Elimination of All forms of Discrimination Against Women (CEDAW)
 - Universal Declaration of Human Rights (UDHR)
 - International Convention on Economic, Social and Political Rights (ICESCR)
 - The International Covenant on Civil and Political Rights (ICCPR)

In *Vishakha v. the State of Rajasthan*, the Indian judiciary adopted the Convention on the Elimination of all forms of Discrimination Against Women which is an international convention. A lot of international conventions like CEDAW have been adopted by the Indian Judiciary many a times. Additionally, the legislature also considered it when enacting the Domestic Violence Act, 2005. However, it specifically mentions marital rape as a particularly severe form of violence against women, but no legislation has been enacted to eradicate this form. We ought to make every effort to implement this convention in its entirety.

2. International Human Rights Law Requiring an End to the Exemption for Marital Rape:
 - The UN General Assembly approved the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) in 1979, and it went into effect in 1981. The Convention is the primary international human rights instrument that defines what constitutes discrimination against women and sets an agenda for national action to end such discrimination. It consists of a preamble and 30 articles. It specifically lists marital status as a prohibited ground for 'distinction, exclusion or restriction.'
 - CEDAW's General Recommendation 19 (1992)- The committee tried to fill the crack which was created by the absence of mention of violence against women in CEDAW through the use of an arguably retroactive "creative interpretation" in the drafting of the General Recommendation 19 (GR 19) in 1992. According to GR 19 Gender-based violence, defined as "violence directed against a woman because she is a woman or violence that disproportionately affects women," was explicitly added to the definition of discrimination in Article 1 of CEDAW. It includes threats of such acts,

coercion, and other forms of liberty deprivation in addition to acts that cause physical, mental, or sexual harm or suffering.

- The 1993 Vienna Declaration on the Elimination of Violence against Women (DEVAW)- The GR 19 should be read with the 1993 DEVAW, which is an extraordinary tool that undeniably highlights gender-based violence as a global human rights issue. DEVAW clearly demonstrates international consensus and political commitment to combating all forms of violence against women, despite its non-binding nature. Violence against women is defined by DEVAW as:

Any act of gender-based violence, whether in public or private, that causes or is likely to cause women to suffer physical, sexual, or psychological harm or suffering, including threats of such harm, coercion, or arbitrary deprivation of liberty.

- Regional Instruments and the Criminalization of Marital Rape- Legislative action on spousal rape is also highly prioritized by regional human rights systems. All forms of gender-based violence are considered violations of human rights and fundamental freedoms under the 32 states that have ratified the Inter-American Convention to Prevent, Punish, and Eradicate Violence Against Women. Physical, sexual, and psychological violence that takes place "within the family or domestic unit or within any other interpersonal relationship" is included in this Convention's definition of violence against women.

CURRENT LAWS RELATING TO MARITAL RAPE

The offence of rape is criminalised in sec. 375 of the Indian Penal Code ('IPC'). It was given a more expansive definition after the Criminal Amendment Act of 2013, which includes both sexual penetration and other various sexual acts like oral sex in terms of 'rape'.

Exception Clause in Section 375 of Indian Penal Code, 1860: Exception 2 of the Indian Penal Code, 1860 states that "It is not rape when a man has sexual intercourse or sexual acts with his own wife when the wife is older than 15 years old." Therefore, we can see that it excludes the implementation of this section in between relationships between a husband and wife that is sexual in nature.

This however changed in the Supreme court decision taken in the case of Independent Thought v. Union of India, this case criminalised the rape of a married minor and directed the State and said, that for a husband to have sexual intercourse with his wife, her age should be increased from 15 to 18. But this case still did not throw light upon consensual sex between husband and wife.

Albeit there is a type of non-consensual sexual intercourse between a husband and a wife which has been criminalised under §376B of the IPC, on the grounds that they are living separately or on an account of judicial separation or otherwise.

- Conjugal rights and the concept of rape: The idea of conjugal rights should not compromise a woman's sexual autonomy according to the court. It is very much possible that people may have the misconception that restoring conjugal rights would be of no legal consequence. It is incorrect; There is no overlap or contradiction between these two. Like the formation or dissolution of a contract, marriage is not an instance in which a person loses their right to privacy. It is not a sacrament or decree of restitution of conjugal rights that permits marital rape; rather, it is a means of safeguarding the marriage institution in which the parties are compelled to share a household. Sexual intercourse is not the primary motivation behind its pronouncement it is a work by the state to save the marriage organization. The state cannot force a person to give up their body and sexual privacy against their will.
- Domestic Violence Act, 2005: This Act deals with sexual brutality in an extensive way. Domestic violence is also known as "domestic abuse," "battering," "family violence," or "violence within a couple" when the partners are legally married or have a relationship that is one. It affects both men and women and includes a variety of forms of violence, including physical, sexual, emotional, and economic violence, which may be brought on by social inequality. The Domestic Violence Act of 2005 only covers relationships between domestic partners. The act of marital rape can be dealt with in a variety of ways under this Act. A victim of marital rape may have a history of abuse or domestic violence; The victim may suffer physical harm because of non-consensual behavior. Therefore, a husband cannot, under any circumstances, incite violence or cruelty against women. On August 23, 2005, Smt.Kanti Singh stated in a speech titled "The Motion for Consideration of the Protection of Women from Domestic Violence Bill, 2005": "Domestic Violence" refers to any and all acts of gender-based physical and psychological abuse committed by a family member against women in the family, including but not limited to simple assault, aggravated physical battering, kidnapping, threats, intimidation, coercion, stalking, humiliating verbal use, forcible or unlawful entry, arson, property destruction, sexual violence, marital rape, dowry or related violence, female genital mutilation, violence related to exploitation through prostitution, violence against household workers and attempts to commit such acts shall be termed 'Domestic Violence'."
- JS Verma Committee Report on Marital Rape: This report is a resultant response towards the rising cases of rape in India and after the Delhi Gang Rape Case also known as the Nirbhaya Case (Mukesh v. State (NCT of Delhi), (2017) 6 SCC 1), which pressed the government to enact more stricter rape laws to discourage violence or cruelty against women. Because of this report and the Usha Mehra Committee Report the Criminal Law Amendment Act, 2015 came into force. The view of rape during marriage is the same, and rape's nature cannot change with relationships. This was observed because The

House of Lords in England, according to Lord Keith in 1991, "marriage is in modern times regarded as a partnership of equals and no longer one in which the wife must be subservient chattel of the husband," as the JS Verma committee suggested. Here, the meaning of consent was also discussed on which it was stated that consent cannot be implied by the relationship status. The South African Criminal Law Sentencing Act of 2007, which stipulates that in rape sentences, a justification for deviation from the statutory minimum punishment must be reasonable, addresses a major issue in sentencing: if judges may view marital rape as a less serious offense with lenient sentences. The CEDAW Committee's recommendations were also emphasized. Marriage should not be viewed as a termination of the wife's legal and sexual autonomy; rather, it should be viewed as the first stage of sensitization, education, and awareness. One of the most significant contributions that distinguished sexual relations from sexual activity and sexual violence was the formulation of these recommendations considering marital rape in a manner that was more elaborate and appropriate. Although the extreme form of sexual violence against a wife is not yet covered in this report.

- 42nd Law Commission Report: The conduct of a man with his minor wife was suggested to be subject to criminal liability. The Committee, on the other hand, rejected the recommendation that because sex is a part of marriage, a husband cannot be guilty of raping his wife of any age. Rape of a judicially separated wife was made a crime in 1983 with the addition of Section 376A to the Indian Penal Code.
- 172nd Law Commission Report on Review of Rape Laws: In *Sakshi v. Union of India*, a writ petition sought several recommendations, one of which was the criminalization of marital rapes and the elimination of the marital exception clause. Additionally, the 172nd Report advocated for a gender-neutral approach to rape. India has not, however, adopted it. Again, the exception of marital rape was not included in this report's recommendations.
- 205th Law Commission Report: In the AMENDMENT TO PROHIBITION OF CHILD MARRIAGE ACT, 2006 contained provisions that *Independent Thought v. Union of India* reiterated further. A woman under the age of 16 cannot give her consent, which constitutes rape. Additionally, such marital relationships are regarded as invalid.

CONCLUSION

The criminalization of marital rape in India faces a significant hurdle in the form of deeply ingrained societal perceptions. There are individuals who contend that making marital rape a criminal offense would disrupt the institution of marriage and interfere with family dynamics. Others argue that it should be treated as a private matter without legal intervention. These viewpoints contribute to harmful stereotypes and undermine the crucial principles of consent,

bodily autonomy, and the overall welfare of married women. To effectively tackle the problem of marital rape, a comprehensive approach is necessary, which involves confronting societal perceptions, promoting awareness about consent, gender equality, and women's rights. The first step towards initiating change is recognizing that no person should experience sexual violence, irrespective of their marital status. It is imperative to introduce legislative amendments to the Indian Penal Code (IPC) that explicitly criminalize marital rape, providing survivors with the necessary avenues for justice, support, and redressal. Making marital rape a criminal offense in India is a crucial measure to safeguard the rights and honour of women within the institution of marriage. Achieving this objective necessitates a collaborative endeavour involving legislators, civil society, and the public, working together to challenge prevailing societal norms and cultivate a culture that prioritizes consent and equality. By confronting the issue directly and breaking the silence surrounding it, India can significantly advance towards building an inclusive and fair society, where the atrocities of marital rape are eliminated.

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CHAPTER 5

AI AND IoT: A COMPREHENSIVE OVERVIEW

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ABSTRACT

AI (Artificial intelligence) and IoT (Internet of Things) are two rapidly advancing technologies that are revolutionizing various industries and aspects of our daily lives. With extensive use of IoT, the commercial environment of present times is changing. IoT is assisting in acquiring a significant amount of data from several sources. Wrapping around the multitude of data coming from countless IoT devices, makes it complex to collect, process and probe the data. Investment in new technologies is needed to use the full potential of IoT devices. The confluence of IoT and AI has the potential to completely reshape businesses, industries, and economies. IoT with AI capabilities produces intelligent machines that stimulate smart behavior and supports decision making with little or no human interface. Combining AI and IoT will benefit the common mass as well as specialists alike. AI enables devices to learn from their data and experience whereas IoT deals with devices interacting through the internet. AI and IoT are the top technologies companies are investing in to increase their efficiency and provide competitive advantage.

The paper focuses on giving an overview of AI and IoT and the benefits of combining both.

Keywords: AI (Artificial Intelligence), IoT (Internet of Things), Data, Confluence of AI and IoT.

INTRODUCTION

Numerous businesses have already used AI and IoT in their procedures and products. According to a recent Tech Trend Survey by SADA system, IoT and AI are the most widely used technologies in the present times. Additionally, it was discovered that firms are investing heavily in AI and IoT as the best technology to boost productivity and provide a competitive advantage. According to the IBM Global C-suite Study Program, C-suite executives begin to reinvent their business by digitizing interactions and communications. The results of an IBM Institute survey of C- Suite executives revealed that 19% of those surveyed groups were termed as high performers called Reinventors, are particularly interested in the advantages of augmenting IoT with AI. The Internet of Things (IoT) is one of the most widely used technologies today, and it has had a significant effect on our lives in a variety of ways, including social, commercial, and economical aspects. The IoT holds great promising effects for improving the overall quality of human life.

The term “smart” fascinates humans quite a lot. But what we have is still far from smart like a human. Consider the smartphone as an example of “smart,” though it is smart, it cannot do much automatically. For instance, it is unable to automatically place notifications or message alerts in silent mode when the owner is driving, nor can it lessen the number of distractions caused by it while driving. Another situation can be the inability of a smart phone to call a relative or any nearby hospital in case of an emergency. To make these possible, again certain connections and knowledge will be required. Thus, it can be inferred that artificial intelligence will be required to make these connections and work in synchronization.

AI and IoT being the most intriguing topics alone are a good reason for enterprises to have a firm understanding regarding them.

WHAT IS ARTIFICIAL INTELLIGENCE?

Artificial intelligence (AI) is a broad and multidisciplinary field of computer science that focuses on the development of intelligent machines capable of performing tasks that would typically require human intelligence. AI aims to create algorithms and models that enable machines to learn, reason, perceive, understand language, and make autonomous decisions.

AI is the science of instilling intelligence in machines so that they are capable of doing tasks that traditionally require the human mind. AI based systems are evolving rapidly in terms of application, adaptation, processing speed and capabilities. While human intelligence is actually making a perfect decision at the appropriate time, AI merely chooses the right decision at appropriate time. That is to say, AI lacks the creativity of human intelligence. AI significantly has reduced the repetition of human efforts and could give results in comparatively low time. Most of the ongoing works in AI are enhanced by technology. The interdisciplinary nature of AI with philosophy, physics, sociology, psychology, science, mathematics, and other aspects is used to boost up each other’s efficiency by generating increased data. Analysis of such a huge amount of data has become easier because of AI as the human brain takes a long time to do it.

AI, therefore, relies heavily on data science techniques as data science is the science of developing tools and methods to analyse large volumes of data and gain information from it. Computer science is the primary source of developing tools and is concerned with algorithmic efficiency and storage scalability. Methodologies are borrowed from both the basic sciences, such as, physics, graph theory, statistics, as well as, the social sciences, such as, sociology, economics, political science. Pattern recognition, machine learning, data mining, database management systems and large data analysis are specific techniques which are naturally interdisciplinary with AI.

MACHINE LEARNING (ML) – THE MAIN TOOL IN AI

One of the main tools to achieve AI is Machine Learning (ML). Any form of learning takes place in three ways – supervised, reinforcement and unsupervised. Other methods such as active learning, transfer learning, inductive learning, deductive learning also exist. Hence, the goal of machine learning is not just instilling consciousness in a machine but to design algorithms that allow the machine to learn. learning can be defined as the act of acquiring or

improving behaviours, skills, preferences, thereby increasing the knowledge, including synthesis of various information. This process of learning can be imitated by machines as well. With supervised learning, algorithms learn from labelled examples to make predictions or classify new data. Algorithms find patterns or relationships in unlabelled data through unsupervised learning. Reinforcement learning enables algorithms to learn through trial and error by interacting with an environment and receiving rewards or punishments.

Machine learning is an emerging field in computer science research which gives inanimate systems an ability to learn without actually having to program them explicitly. The IoT is so overwhelming that a human programmer cannot offer precise, fine-grained instructions to execute the work. As a result, the idea of machine learning is developed to be concerned with implicit learning capabilities, which would eventually make a computer or system teach themselves to be independent decision makers and to adapt to the environment. This is how machine learning makes up for the smart concepts for the IoT.

KEY ASPECTS RELATED TO AI

Following are some key aspects and concepts related to artificial intelligence:

1. Deep Learning: Deep learning is a subfield of machine learning that uses artificial neural networks with multiple layers to process and learn from large amounts of data. Deep learning has been phenomenally successful in tasks such as image and speech recognition.
2. Natural Language Processing (NLP): NLP involves the interaction between computers and human language. It focuses on enabling machines to understand, interpret, and generate human language. NLP techniques include text analysis, sentiment analysis, language translation, and chatbots.
3. Computer Vision: Computer vision deals with enabling machines to understand and interpret visual information from images or videos. It involves tasks such as object recognition, image segmentation, facial recognition, and image generation.
4. Robotics: Robotics combines AI, machine learning, and sensors to create intelligent machines capable of interacting with the physical world. Robots can be used in various domains, including manufacturing, healthcare, agriculture, and space exploration.
5. AI Ethics and Responsible AI: As AI becomes more prevalent, ethical considerations are crucial. It involves ensuring fairness, transparency, accountability, and privacy in AI systems. Responsible AI focuses on developing AI systems that benefit society while minimizing potential risks and biases.
6. AI has found applications across various industries and domains as well:
 - i. Healthcare: AI aids in medical diagnosis, drug discovery, personalized medicine, and patient monitoring.
 - ii. Finance: AI is used for fraud detection, algorithmic trading, risk assessment, and customer service.

- iii. Transportation: AI powers autonomous vehicles, traffic prediction, route optimization, and smart transportation systems.
- iv. Education: AI supports personalized learning, intelligent tutoring systems, and educational content creation.
- v. Customer Service: AI chatbots and virtual assistants provide automated customer support.
- vi. Gaming: AI is used for game playing, opponent modeling, and procedural content generation.
- vii. Cybersecurity: AI helps in detecting and preventing cyber threats, anomaly detection, and network security.
- viii. AI Research and Development: AI research focuses on advancing the field by developing new algorithms, models, and technologies. Major research areas include neural networks, reinforcement learning, explainable AI, AI safety, and AI ethics.

WHAT IS IoT?

The Internet of Things (IoT) refers to the network of interconnected physical devices, vehicles, appliances, and other objects embedded with sensors, software, and network connectivity. These devices collect and exchange data, enabling them to communicate and interact with each other without human intervention.

What we had since 1991 was “Internet of Computers (IoC)” and it gradually grew in size as huge number of people started using it. With the advent of pocket phones and connected devices, the “Internet of Devices” started and eventually grew larger as mobile phones, computers, laptops, and tablets became cheaper and more accessible to the common man. In 2016, more than 5.5 million new things got connected every day, thus, emerged, the concept of “Internet of Things” (IoT). It can be inferred that IoT is a combination of various domains. Humans are connected to these devices using some smart objects attached to both which are capable of sending, receiving, and analysing data. These smart objects represent the entity it is attached to, into network.

IoT devices encompass a wide range of objects, from everyday items like smartphones, wearables, and home appliances to industrial equipment and infrastructure. These devices are equipped with sensors that can detect and measure various parameters such as temperature, humidity, light levels, motion, location, and more. IoT devices are connected to each other and to the internet, allowing them to transmit and receive data. Communication technologies used in IoT include Wi-Fi, Bluetooth, Zigbee, RFID (Radio Frequency Identification), cellular networks, and low-power wide-area networks (LPWAN). IoT devices continuously collect data from their environment through sensors. This data is typically sent to cloud platforms or edge computing devices for storage, analysis, and processing. Advanced analytics techniques, such as machine learning and AI, can be applied to extract insights and patterns from the collected data.

APPLICATIONS OF IoT

Following are some applications of IoT:

1. Smart Homes: IoT devices in homes enable automation and remote control of various functions such as lighting, security systems, heating/cooling, and home entertainment. Examples include smart thermostats, connected lighting systems, and voice-activated assistants.
2. Industrial IoT (IIoT): IIoT is the application of IoT in industrial settings. It includes monitoring and optimizing processes, predictive maintenance, asset tracking, and improving operational efficiency. IIoT enables smart factories, energy management systems, and supply chain optimization.
3. Healthcare: IoT devices in healthcare enable remote patient monitoring, smart medical devices, and telemedicine. They can collect real-time patient data, track medication adherence, and improve patient care and outcomes.
4. Smart Cities: IoT is used to enhance urban infrastructure and services. Examples include smart traffic management systems, waste management, environmental monitoring, and energy-efficient street lighting.
5. Agriculture: IoT devices help in precision agriculture, monitoring soil moisture, temperature, and crop health. They optimize irrigation, automate farming processes, and enable better crop management.
6. Security and Privacy: IoT poses unique challenges in terms of security and privacy. With the increased number of connected devices, there is a need for robust security measures to protect data and prevent unauthorized access. Encryption, authentication, and secure protocols are used to safeguard IoT ecosystems.
7. Edge Computing: In some IoT applications, data processing is performed at the edge of the network, closer to the devices themselves. This approach reduces latency, minimizes data transmission to the cloud, and enables real-time decision-making.
8. Standardization and Interoperability: IoT ecosystems involve a wide range of devices and technologies from different manufacturers. Standardization efforts aim to ensure compatibility, interoperability, and seamless integration among devices and platforms. Common standards include MQTT, CoAP, and OPC UA.
9. Future Trends: The field of IoT continues to evolve rapidly. Some emerging trends include the integration of AI and machine learning with IoT, the rise of 5G networks to support massive IoT deployments, and the adoption of edge AI to enable real-time intelligent processing at the device level.

Overall, IoT holds significant potential to transform industries, enhance efficiency, and improve the quality of life. By connecting and harnessing data from diverse devices, IoT enables the development of intelligent systems and innovative applications across various domains.

HOW IoT AND AI SUPPORT EACH OTHER?

IoT and AI are highly complementary technologies. Real-world events are signalled and analysed in IoT to provide the proper responses. In this way, AI is fundamental to IoT and may be found in every IoT application that employs software to provide a reaction to a trigger event. Instead of asking whether to employ AI, IoT consumers and developers should ask

how far AI can be carried. The complexity and diversity of the real-world systems that IoT supports will determine it.

Following are some examples where IoT and AI support each other:

1. Data Collection and Analysis: IoT devices generate vast amounts of data from their sensors and interactions with the physical world. AI techniques, such as machine learning and deep learning, can analyze this data to derive meaningful insights, detect patterns, and make predictions. AI algorithms can process and learn from the massive data streams generated by IoT devices, enabling more accurate and efficient analysis.
2. Intelligent Automation: AI can enable IoT devices to make autonomous and intelligent decisions based on the data they collect. By applying AI algorithms locally on IoT devices or at the edge of the network, real-time processing and decision-making can occur without the need for constant data transmission to the cloud. This allows for faster response times, reduced latency, and increased efficiency.
3. Predictive Maintenance: AI algorithms can analyze the sensor data collected by IoT devices to identify patterns and anomalies that indicate potential equipment failures or maintenance needs. This enables predictive maintenance, where maintenance actions are performed proactively before a breakdown occurs. By combining IoT and AI, organizations can optimize maintenance schedules, reduce downtime, and lower costs.
4. Enhanced Personalization: IoT devices collect data about user behavior, preferences, and contextual information. AI techniques can analyze this data to understand users' needs and provide personalized experiences, recommendations, and services. For example, a smart home system can learn residents' preferences for lighting, temperature, and entertainment and automatically adjust settings accordingly.
5. Real-Time Decision-Making: By combining IoT and AI at the edge, decision-making can happen in real-time without relying solely on cloud-based processing. This is particularly crucial in time-sensitive applications such as autonomous vehicles, smart grids, and industrial automation. AI algorithms deployed on IoT devices can process data locally, enabling immediate actions and reducing dependency on network connectivity.
6. Anomaly Detection and Security: AI algorithms can help identify anomalies and potential security breaches within IoT networks. By analyzing patterns and behaviors, AI can detect abnormal activities or intrusions and trigger alerts or actions to mitigate risks. This is important for ensuring the security and integrity of IoT systems.
7. Energy Efficiency: AI algorithms can optimize energy consumption by analyzing data from IoT devices such as smart meters, sensors, and energy management systems. AI can identify patterns and optimize energy usage in real-time, leading to more efficient operations and reduced energy costs.
8. Scalability and Adaptability: AI algorithms can adapt and learn from the continuous flow of data collected by IoT devices. This enables scalability and flexibility in IoT systems, as AI can adapt its models and behavior based on changing conditions and evolving data patterns.

The combination of AI and IoT can lead to intelligent and connected systems that leverage data to improve decision-making, automate processes, enhance personalization, and optimize resource utilization. The integration of AI and IoT technologies holds great potential to revolutionize industries, improve efficiency, and create innovative applications that benefit individuals, businesses, and society as a whole.

AI BEYOND THE CONTROL LOOP

Most control loop elements require only simple rules, and development may resemble programming more than AI engineering. Applications of IoT that use past data to make decisions are more likely to be tied to planning than to real-time process control; hence, more advanced AI technologies, such as inference engines and generative AI, may be suitable for these applications.

AI can analyse historical and real-time data from sensors and equipment to predict maintenance needs and identify potential failures before they occur. By monitoring patterns and anomalies, AI algorithms can provide insights into when and how equipment should be serviced, optimizing maintenance schedules, reducing downtime, and extending the lifespan of assets. It can be used to detect anomalies and potential security threats within complex systems, networks, and data streams. By continuously analysing patterns and behaviours, AI algorithms can identify abnormal activities or suspicious patterns that may indicate cyber-attacks or breaches. This helps in early detection and response to mitigate risks and protect critical infrastructure.

AI can assist humans in making better decisions by processing large amounts of data, extracting relevant information, and providing insights and recommendations. In areas such as finance, healthcare, and business strategy, AI can analyse data, identify trends, and generate predictions or scenarios to support decision-making processes. AI algorithms can analyse user data, preferences, and behaviour patterns to provide personalized recommendations, tailored advertising, and customized user experiences. This is commonly seen in recommendation systems used by streaming platforms, e-commerce websites, and social media platforms. AI can be applied in healthcare to assist with medical diagnosis, treatment planning, drug discovery, and patient monitoring. By analysing medical data, AI algorithms can help detect patterns, identify diseases, recommend treatment options, and provide personalized healthcare interventions. AI has been used in creative domains such as art, music, and writing. AI algorithms can generate new artistic content, compose music, and even draft stories or articles. This opens up possibilities for collaboration between humans and machines in creative endeavours.

Above mentioned details highlight the broad scope of AI applications beyond the control loop. The ability of AI to process and analyse vast amounts of data, learn from patterns, and make intelligent decisions has the potential to transform various industries and enhance human capabilities in numerous domains.

CONCLUSION

AI continues to evolve rapidly, with new breakthroughs and applications emerging regularly. It holds the potential to transform industries, improve efficiency, and address complex problems, making it an exciting and dynamic field of study and development.

In the future, people will be wearing intelligent gadgets, eating intelligent capsules that judge the impact of medicine on the body, living inside intelligent homes, and so on. Though it might sound like some science fiction, the present study holds for such future endeavors. Everything will be Internet-connected and sophisticated. All scientific disciplines will work together to produce something really valuable. A smart cyber revolution' will occur. The question of whether or not we are moving towards creative destruction is still up for discussion. For instance, machines are now able to take on less-routine tasks, and this transition is occurring during an era in which many workers are already struggling.

We will need to reevaluate how this automation will affect the quality of human existence as we continue to introduce AI models into the real world. While these systems have a plethora of advantages, they also have certain inherent hazards, including the possibility of privacy violations, the codification and entrenchment of biases, the reduction of accountability and obstruction of due process, as well as an increase in the knowledge imbalance between data producers and data holders. It will be challenging to keep track of every segment of unethical behaviour or security violation. Serious repercussions will result from any hardware or software malfunctions or flaws. Even a power outage can be quite inconvenient. In order to track the location of such AI-enabled IoT at all times, we might need to add another AI system on top of it.

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CHAPTER 6

CRITICAL APPRECIATION OF SECTION 12A (1) OF COMMERCIAL COURTS ACT BY WAY OF LEGAL FICTION

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“Laws are effective when individuals abide by them or, alternatively, when they do not, but have to face legal sanctions for their non-compliance.”

-Judith Hahn

ABSTRACT

The whole purpose of enforcing The Commercial Courts Act, 2015 was to improve the ease of doing business and the economy of the country. An Act to provide for the constitution of Commercial Courts, [Commercial Appellate Courts,] Commercial Division and Commercial Appellate Division in the High Courts for adjudicating commercial disputes of specified value and matters connected therewith or incidental thereto.

Keywords: Constitution, Commercial Courts, Division, Dispute, High Court

MEANING

Section 2(c) of The Commercial Courts Act, 2015 defines “commercial disputes” as under:

“Commercial dispute” means a dispute arising out of—

(i) ordinary transactions of merchants, bankers, financiers and traders such as those relating to

mercantile documents, including enforcement and interpretation of such documents;

(ii) export or import of merchandise or services;

(iii) issues relating to admiralty and maritime law;

(iv) transactions relating to aircraft, aircraft engines, aircraft equipment and helicopters, including sales, leasing and financing of the same;

(v) carriage of goods;

(vi) construction and infrastructure contracts, including tenders;

(vii) agreements relating to immovable property used exclusively in trade or commerce;

(viii) franchising agreements;

- (ix) distribution and licensing agreements;*
- (x) management and consultancy agreements;*
- (xi) joint venture agreements;*
- (xii) shareholders agreements;*
- (xiii) subscription and investment agreements pertaining to the services industry including outsourcing services and financial services;*
- (xiv) mercantile agency and mercantile usage;*
- (xv) partnership agreements;*
- (xvi) technology development agreements;*
- (xvii) intellectual property rights relating to registered and unregistered trademarks, copyright, patent, design, domain names, geographical indications and semiconductor integrated circuits;*
- (xviii) agreements for sale of goods or provision of services;*
- (xix) exploitation of oil and gas reserves or other natural resources including electromagnetic spectrum;*
- (xx) insurance and re-insurance;*
- (xxi) contracts of agency relating to any of the above; and*
- (xxii) such other commercial disputes as may be notified by the Central Government.*

Explanation. —A commercial dispute shall not cease to be a commercial dispute merely because—

- (a) it also involves action for recovery of immovable property or for realisation of monies out of immovable property given as security or involves any other relief pertaining to immovable property;*
- (b) one of the contracting parties is the State or any of its agencies or instrumentalities, or a private body carrying out public functions;*

Initially, the whole motive to enforce this legislation was to facilitate speedy disposal of high-stake commercial disputes. Nevertheless, Section 3 of the Commercial Courts Act, 2015 lays down the pecuniary jurisdiction of commercial courts is as under:

“3. Constitution of Commercial Courts. — (1) The State Government, may after consultation with the concerned High Court, by notification, constitute such number of Commercial Courts at District level, as it may deem necessary for the purpose of exercising the jurisdiction and powers conferred on those Courts under this Act:

[Provided that with respect to the High Courts having ordinary original civil jurisdiction, the State Government may, after consultation with the concerned High Court, by notification, constitute Commercial Courts at the District Judge level:

Provided further that with respect to a territory over which the High Courts have ordinary original civil jurisdiction, the State Government may, by notification, specify such pecuniary value which shall not be less than three lakh rupees and not more than the pecuniary jurisdiction exercisable by the District Courts, as it may consider necessary.]

[(1A) Notwithstanding anything contained in this Act, the State Government may, after consultation with the concerned High Court, by notification, specify such pecuniary value which shall not be less than three lakh rupees or such higher value, for whole or part of the State, as it may consider necessary.]

(2) The State Government shall, after consultation with the concerned High Court specify, by notification, the local limits of the area to which the jurisdiction of a Commercial Court shall extend and may, from time to time, increase, reduce or alter such limits.

(3) The [State Government may], with the concurrence of the Chief Justice of the High Court appoint one or more persons having experience in dealing with commercial disputes to be the Judge or Judges, of a [Commercial Court either at the level of District Judge or a court below the level of a District Judge].

The Code of Civil Procedure has also been amended to apply to the Commercial Courts. Section 16 of the Commercial Courts Act, 2015 lay down that:

16. Amendments to the Code of Civil Procedure, 1908 in its application to commercial disputes. — (1) The provisions of the Code of Civil Procedure, 1908 (5 of 1908) shall, in their application to any suit in respect of a commercial dispute of a Specified Value, stand amended in the manner as specified in the Schedule.

(2) The Commercial Division and Commercial Court shall follow the provisions of the Code of Civil Procedure, 1908 (5 of 1908), as amended by this Act, in the trial of a suit in respect of a commercial dispute of a Specified Value.

(3) Where any provision of any Rule of the jurisdictional High Court or any amendment to the Code of Civil Procedure, 1908 (5 of 1908), by the State Government is in conflict with the provisions of the Code of Civil Procedure, 1908 (5 of 1908), as amended by this Act, the provisions of the Code of Civil Procedure as amended by this Act shall prevail.

The concept of pre-litigation mediation is another step for facilitating speedy disposal of commercial disputes. Section 12A of the Commercial Courts Act, 2015 deals with the procedure of pre-litigation mediation and reads as under:

“Section 12A: Pre-Institution Mediation and Settlement. 12A. (1) A suit, which does not contemplate any urgent interim relief under this Act, shall not be instituted unless the plaintiff exhausts the remedy of pre-institution mediation in accordance with such manner and procedure as may be prescribed by rules made by the Central Government.”

In practice, an application under Section 12-A of the Commercial Courts Act, 2015 is filed before the in charge, Mediation Centre of the District which has territorial jurisdiction over the subject –matter of the case and Notice of Mediation proceedings is issued to the Opposite Party. Thereafter, fate of the mediation proceedings depends entirely on the attitude of the Opposite party.

LEGAL FICTION-I

A, a businessman has to recover a sum of Rs. XYZ/- from another businessman B for a commercial transaction; and files an application under Section 12-A of the Commercial Courts Act, 2015 before the in charge, Mediation Centre concerned. Three times Notice is issued to B by the in charge, Mediation Centre. B receives all the three Notices and chooses not to respond to it or appear before the Mediation Centre on the next date of hearing. What option does A have?

A has no other option but to obtain a Non-starter report from the Mediation Centre and file a Commercial Suit before the Principal Judge, Commercial Courts. A file a Commercial Suit for Recovery of the dues against B. Court issues summons to B. B receives the summons; but this time, he appears before the court; because he is aware that in case of his non-appearance before the court, Court may proceed ex-parte and eventually pass a decree against B.

OBSERVATION

No businessman wants to take resort to litigation in the first instance. It is only when he gives up on the opposite party and loses all hope to recover the dues that he engages a lawyer to set the legal ball rolling. Before enforcement of the Commercial Courts Act, 2015, like any other civil suit, A would have filed a civil suit for Recovery in the court of Principal Judge of the courts having pecuniary and territorial jurisdiction; Summons of the case would have been served upon B and it is very unlikely of him to not appear before the court of law to defend the civil suit for recovery; or chose to have the court proceed ex-parte against him.

The process of issuance and serving of the Mediation Notices upon the opposite party takes one month to three months’ time depending on the mode of execution of service of notices and the rigidity of the in charge, Mediation centre with respect to the satisfaction of the proof of service of the notices of the Mediation Centre. The process of issuance and service of court summons also takes similar time. There is no accountability for the time lost in the futile exercise of service of notice of Mediation upon B before filing of the commercial suit in the court of law. B chose not to join the mediation proceedings because he knew that no adverse action can be taken against him for non-appearance. Section 12-A of the Commercial Courts Act, 2015 is a toothless piece of legislation; which in the above-mentioned scenario might prove to be a waste of time, energy and money of the Claimant/Plaintiff and the court machinery.

LEGAL FICTION-II

A, a businessman has to recover a sum of Rs. XYZ/- from another businessman B for a commercial transaction; but his claim is hopelessly time barred. Now, A having no option to take the legal recourse by way of filing a civil suit; pays a prescribed nominal fee and files an application under Section 12-A of the Commercial Courts Act, 2015 before the in charge, Mediation Centre concerned. In a routine and mechanical manner, three times Notice is issued to B by the in charge, Mediation Centre. B receives the Notice. What option does B have?

OBSERVATION

B will participate in the Mediation proceedings and will incur time, money and energy in explaining to the Mediator, how A's claim is time-barred; to which the Mediator may or may not agree depending on his legal expertise. The Mediator might persuade B to pay something to A just to bury the hatchet. If B pays some amount to A, then A would recover an amount which legally he could never recover from B.

Even if B does not join the mediation proceedings, A might obtain a non-starter report from the Mediation Centre and file a commercial suit for recovery deriving a lame cause of action from the date of non-starter report.

CONCLUSION

The law is still evolving. Problems in applying the law were inevitable. Nevertheless, the courts are pro-actively taking note of such difficulties such as the decision of Hon'ble Delhi High court in the case of *Kapil Goel v. Ram Dulare Yadav @Gandhi Bhai* (2022/DHC/004923). Mere enactment will not serve the purpose; rather the procedure of implementation should also serve the object of the Commercial Courts Act. There has to be check and balance mechanism at the stage of filing of the Application under Section 12-A of the Commercial Courts Act, 2015; so that no one can misuse the Legal Machinery for his vested interests. On the other hand, a non-starter report should also culminate into a presumption against the opposite party during the trial; in case of non-appearance of the opposite party despite proof of service of the Notice of the Mediation Centre.

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CHAPTER 7

RELATIONSHIP BETWEEN LAW AND MEDICINE: AN ANALYSIS

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ABSTRACT

The two professions of law and medicine are considered as the noble and learned professions. Each of them has a long tradition of the observance of ethics and each of them has given to society so many people who have achieved distinction in public and private life. Medicine is a science. Science can be defined as any organized body of knowledge. The method of science is descriptive. It investigates facts, digests natural phenomena and then it seeks to present them in the form of a systematic theory. The law, on the other hand, like ethics, is prescriptive. It seeks to lay down norms of human conduct. It deals with human conduct ought to be and not with external factors. Engagement in these professions, directly or indirectly, serves society. The quite common link between the two professions is that the professionals are required to adhere to strict professional ethics and etiquette of the respective professions. Several are required to be followed and the professionals have to keep themselves up to date with the new laws as well.

The paper focuses on the relation between the profession of medicine and the profession of law. The paper also highlights the need for studying law along with medicines.

Keywords: Law, Medicine, Science, Descriptive, Prescriptive, Human Conduct, Profession, Society

INTRODUCTION

In this day of advanced technology, there are a huge number of employment options. A career in a technical field, the legal system, the judicial system, education, medicine, the public sector, social work, etc., are some of the professional opportunities. Professional activity in these fields' benefits society either directly or indirectly. A career in any profession has its own specialties.

Like most other professions, medicine is also governed by laws that are meant to protect the rights of a patient and prevent any kind of fraud or any other sort of crime from being committed. Medical practitioners have to complete required training and obtain medical license from a registered board to start with their medical career. In the course of practice, nurses and physicians have a professional duty of care that requires to use their expertise to help in whatever way they can. According to the Geneva Convention, the duty of a doctor is to keep patients healthy.

The legal and medical fields are respectable ones. While they are two distinct professions, there is one thing they have in common: both are extremely broad fields, and no individual can be considered an expert in either of them. A professional in either field can aim to be

either a General Practitioner or a Specialist in a narrow part of the vast professional field. There are overlapping areas and shared concern in both professions that call for the use of both legal and medical knowledge for the benefit of society. Law and Medicine go hand in hand. These two fields are interlinked. Medical practitioners who have also studied law are confidently positioned to tackle medico-legal issues. Studying law is always beneficial for medical professionals as it enhances awareness and also helps in interpreting health care policies and laws. It also offers a better understanding and addresses ethical questions. In medico-legal cases, courts and adjudicating authorities play a vital role.

ABOUT LAW

The word “law” comes from the Anglo-Saxon language meaning “things lying in due place.” Hence, signifies an orderly arrangement. As applied to humans, it is probable that the need for such rules has been felt since the earliest of mankind. We can comprehend law when we understand our communities better. Law teaches us how to behave and abide by rules and have acceptable conduct.

Law refers to a system of rules and regulations that are established by a governing authority, such as the legislature of a country, judiciary, or any other relevant bodies. These rules are enforceable and govern the behaviour of individuals and organisations within a society. The primary purpose of law is to maintain order, protect individual rights and freedoms, and provide a framework for resolving disputes and administering justice. Law can cover an extensive range of areas including criminal law, civil law, administrative law, labour law, and more. Criminal law for example defines offences against the public and establishes penalties for those who violate the law. Civil law on the other hand deals with disputes between individuals or entities or encompasses areas like that of contract and tort laws.

Law typically is created through legislative process, where lawmakers debate, draft, and pass statutes or acts that outline the rules and regulations. These statutes are often supplemented by regulations or administrative rules that provide further details on how the law should be implemented. Additionally, legal principles derived from judicial decisions known as case law or common law also contribute to the development of the legal system. The legal system includes various components, such as courts, judges, lawyers, and legal professionals who interpret and apply the law to specific cases. Courts play a vital role in the legal system by resolving disputes, interpreting laws, and ensuring justice is served.

Law is a fundamental aspect of society that shapes and governs our interaction, safeguards our rights, and provides a framework for resolving conflicts and maintain order. It plays a crucial role in ensuring fairness, justice, and the functioning of civilized society.

ABOUT MEDICAL FIELD

The medical field, also known as healthcare or medicine, encompasses various professions, practices, and disciplines related to the diagnosis, treatment, and prevention of diseases and the promotion of overall well-being. It is a broad field that includes healthcare providers, researchers, administrators, and support staff working together to deliver medical services

and advance medical knowledge. Several branches and specialties are present within the medical field.

Medical doctors, also known as physicians, diagnose and treat illnesses, injuries, and other medical conditions. They may specialize in specific areas such as internal medicine, paediatrics, surgery, obstetrics and gynaecology, psychiatry, or other specialized fields.

Nurses play a crucial role in patient care, providing direct medical care, monitoring patients, administering medications, and assisting physicians. They work in various settings, including hospitals, clinics, and long-term care facilities. Advanced practice registered nurses (APRNs) have additional training and can provide more specialized care.

Allied health professionals work in collaboration with physicians and nurses to provide specialized diagnostic, therapeutic, and rehabilitative services. They include professionals such as pharmacists, medical laboratory scientists, radiologic technologists, physical therapists, occupational therapists, respiratory therapists, and more.

Medical researchers focus on advancing medical knowledge through scientific research. They conduct studies, clinical trials, and experiments to understand diseases, develop new treatments and therapies, and improve patient care. Medical research encompasses both basic research (bench research) and clinical research (studies involving human subjects).

Healthcare administrators, also known as healthcare managers or healthcare executives, oversee the management and operation of healthcare facilities and organizations. They oversee tasks such as financial management, policy development, staffing, and strategic planning to ensure efficient and effective delivery of healthcare services.

Above are just a few examples of the diverse roles and specialties in the medical field. Collaboration and coordination among the professionals in various disciplines are essential to provide comprehensive and effective healthcare to individuals and communities.

APPLICABILITY OF MEDICINE IN CIVIL LAW

Healthcare practice is largely governed by civil law, which accounts for the majority of violations by providers. Medical malpractice is a type of civil law claim where a patient alleges that a healthcare professional or institution provided substandard care that resulted in harm or injury. In these cases, medical knowledge and expert testimony play a crucial role in establishing the standard of care, determining if there was a breach of that standard, and establishing the causal link between the alleged negligence and the patient's harm.

In personal injury cases, medical evidence is often used to prove the extent and nature of injuries sustained by the plaintiff. Medical professionals may provide expert testimony to explain the cause of injuries, the expected recovery process, and the long-term effects on the plaintiff's health and well-being.

In product liability cases involving medical devices, pharmaceuticals, or other healthcare products, medical expertise may be necessary to determine whether a product's design, manufacturing, or labelling defects caused harm to the plaintiff. Medical experts can provide opinions on the safety, efficacy, and appropriate use of the product in question.

In cases where a person's death is alleged to have been caused by medical negligence or misconduct, medical evidence and expert testimony can be crucial in establishing the cause of death and demonstrating the link to the alleged negligence. Medical experts may provide opinions on the standard of care, potential errors or omissions in treatment, and the resulting impact on the patient's health and life expectancy.

In disability claims, medical evidence is often required to establish the nature and extent of a person's physical or mental impairments and their impact on the individual's ability to work or engage in daily activities. Medical professionals may provide documentation, medical records, or expert opinions to support the disability claim.

Medical evidence and expert opinions can be relevant in insurance claims related to health, life, or disability insurance. Medical professionals may provide documentation, diagnostic reports, treatment records, or expert opinions to support or refute the claim, establish the necessity of medical treatments, or evaluate the extent of the claimed disability.

It is important to note that the specific applicability of medicine in civil law can vary depending on the jurisdiction and the specific circumstances of the case. In civil litigation, parties may consult medical experts, present medical records, and reports, and rely on medical knowledge and principles to support their claims or defences. The court may evaluate this medical evidence to make informed decisions regarding liability, damages, or other relevant legal considerations.

APPLICABILITY OF MEDICINE IN CRIMINAL LAW

Medicine can have several applications in criminal law, particularly in cases where medical knowledge, expertise, or evidence is relevant.

Here are some areas where medicine intersects with criminal law:

1. Forensic medicine involves the application of medical knowledge and techniques to legal matters. Forensic pathologists, for example, play a crucial role in determining the cause and manner of death in suspicious or violent cases. They perform autopsies, examine evidence, and provide expert opinions regarding the injuries sustained and the circumstances surrounding the death.
2. Medicine, particularly psychiatry and psychology, is relevant in criminal cases that involve mental health issues. Mental health professionals may evaluate defendants to determine their mental state at the time of the alleged offense or their competency to stand trial. They may provide expert opinions regarding mental disorders, capacity to understand legal proceedings, or the potential impact of mental health on criminal behavior.
3. Medicine is often involved in cases related to substance abuse or intoxication. Toxicology experts may analyze biological samples, such as blood or urine, to determine the presence and levels of drugs or alcohol in a person's system. This evidence can be crucial in establishing impairment, intoxication, or the influence of substances on the commission of a crime.

4. Medical professionals, such as pediatricians or forensic pediatric specialists, play a critical role in identifying and documenting cases of child abuse or neglect. They may examine the child, document injuries, provide expert testimony, and collaborate with law enforcement and child protective services in investigating and prosecuting such cases.
5. Medical professionals, such as forensic nurses or sexual assault nurse examiners (SANE), are often involved in the examination and documentation of victims of sexual assault or rape. They collect physical evidence, document injuries, and provide expert testimony on the presence of injuries consistent with the alleged assault.
6. Medicine and genetics play a significant role in criminal cases where DNA and biological evidence are crucial for identifying suspects or establishing guilt or innocence. Medical experts may analyze DNA samples, compare them with crime scene evidence, and provide expert testimony on matters such as paternity, identification, or the probability of a DNA match.

It is important to note that the specific applicability of medicine in criminal law can vary depending on the jurisdiction and the specific circumstances of the case. In criminal trials, medical experts may be called upon to provide opinions, present medical records, and reports, analyse forensic evidence, or testify regarding the medical aspects of the case. The court evaluates this medical evidence and expert testimony to assist in determining guilt or innocence, sentencing, or other relevant legal considerations.

APPLICABILITY OF MEDICINE IN ADMINISTRATIVE LAW

Medicine can have various applications in administrative law, particularly in the context of healthcare regulation and oversight. Administrative law governs the activities of administrative agencies and their interactions with individuals and organizations.

Here are some areas where medicine intersects with administrative law:

1. Administrative agencies, such as health departments or medical boards, are responsible for regulating and overseeing healthcare practices and facilities. They establish licensing requirements, guidelines for medical professionals, and standards for healthcare delivery. Medical expertise is essential in developing and implementing regulations that ensure patient safety, maintain professional standards, and protect public health.
2. Administrative law governs disciplinary proceedings against healthcare professionals, such as doctors or nurses, who are accused of professional misconduct or violations of ethical standards. Medical expertise is crucial in evaluating complaints, conducting investigations, and determining the appropriate disciplinary actions based on the evidence presented.
3. In countries like the United States, Medicare and Medicaid are government-funded healthcare programs that provide coverage for eligible individuals. Administrative law plays a significant role in the administration and regulation of these programs. Medical knowledge is essential in determining coverage criteria, evaluating medical

necessity, and establishing reimbursement rates for healthcare services and procedures.

4. Administrative agencies are responsible for issuing medical licenses and credentials to healthcare professionals. Medical expertise is crucial in assessing the qualifications, education, training, and competence of applicants to ensure that they meet the required standards for practice.
5. Administrative agencies oversee the accreditation and licensing of healthcare facilities, such as hospitals, clinics, or long-term care facilities. Medical knowledge is necessary to evaluate the quality of care, infrastructure, equipment, and compliance with regulations to ensure that patients receive safe and appropriate care.
6. Administrative agencies, such as the U.S. Food and Drug Administration (FDA), are responsible for regulating the approval, safety, and efficacy of pharmaceuticals and medical devices. Medical expertise is crucial in evaluating clinical trial data, conducting risk-benefit assessments, and making determinations regarding the approval, labeling, or recall of drugs and medical devices.
7. During public health emergencies, administrative agencies play a crucial role in coordinating and implementing response efforts. Medical expertise is vital in assessing the severity of the health threat, providing guidance on containment measures, developing vaccination strategies, and advising on public health interventions.

In administrative law, medical knowledge is utilized to inform decision-making, establish regulations and standards, evaluate evidence, and ensure that healthcare practices and facilities comply with established guidelines. The collaboration between medical professionals and administrative agencies helps ensure the effective regulation and oversight of the healthcare system to protect public health and safety.

BASIC LAWS WHICH ARE RELEVANT IN MEDICAL PROFESSION

1. Indian Medical Council (Professional Conduct, Etiquette and Ethics) Regulations, 2022
Medical practitioners, like any other professionals, are bound to follow a certain code of conduct. The medical council of India as per Sections 20A and 33(m), code of conduct is set for medical practitioners.
2. Law of Contract
An implied contract is made between a doctor and patient. Patients believe that the doctor can give medical treatment with the knowledge and experience gained from medical education and years of practice and thus treat patients for their diseases.
3. Law of Torts
Medical professionals must be aware of the law of torts as they might face a lawsuit for unliquidated damages under the law of torts.
4. Consumer Protection Act, 1986

Treatments given by medical professionals are covered under the said Act. Patients can approach the appropriate authorities and forums for remedies and grievance redressal.

5. Liability Under Indian Penal Code, 1860

Under Sections 269, 270, 304 A or 338 are the provisions where a doctor can be prosecuted.

6. Transplant of Human Organs Act, 1996

Any surgeon involved in or dealing with organ transplants must be aware of the provisions of the said Act. It governs the practice and procedures related to organs.

7. Pre-Natal Diagnostic Techniques (Prevention of Misuse) Act, 1994

The law had been enacted to curb the menace of female infanticide in India. Doctors should not be encouraging the practice of unlawful abortion. Practitioners if found guilty of any such act will be prosecuted under the said Act.

LAW AND MEDICINE: RELATIONSHIP ANALYSIS

The relationship between law and medicine is a complex and multifaceted one. Both fields are crucial in society and often intersect in various ways. This analysis will explore the different aspects of their relationship, including the legal framework that governs medical practice, medical ethics, medical malpractice, and the role of law in healthcare regulation and policy.

➤ Legal Framework for Medical Practice:

The practice of medicine is regulated by a set of laws and regulations designed to ensure patient safety, protect medical practitioners, and maintain ethical standards. These laws include licensing requirements, scope of practice regulations, and guidelines for medical education and training. The legal framework also addresses issues such as medical confidentiality, informed consent, and patient rights. It provides a structure within which medical professionals can operate and be held accountable for their actions.

➤ Medical Ethics:

Ethical considerations play a crucial role in both law and medicine. Medical ethics provide guidelines for healthcare professionals to make decisions that prioritize patient well-being and autonomy. Concepts such as beneficence, non-maleficence, autonomy, and justice are fundamental in medical ethics. The law often reflects these ethical principles and may intervene in cases where they are violated, such as in cases of medical negligence or refusal of medical treatment.

➤ Medical Malpractice:

Medical malpractice refers to cases where a healthcare professional deviates from the accepted standard of care, resulting in harm to the patient. When such incidents occur, the legal system provides a mechanism for patients to seek compensation for damages through

medical malpractice lawsuits. These cases involve the intersection of medical knowledge, expert testimony, and legal standards of care. The legal system plays a vital role in holding healthcare professionals accountable for their actions and ensuring that patients receive appropriate compensation for any harm suffered.

➤ Healthcare Regulation and Policy:

Law and medicine also intersect in the realm of healthcare regulation and policy. Governments establish legal frameworks to regulate healthcare delivery, pharmaceuticals, medical devices, and health insurance. These regulations aim to protect public health, ensure access to quality care, and control costs. Additionally, legal considerations often influence healthcare policy decisions, such as those related to medical research, public health emergencies, and bioethical issues like organ transplantation or end-of-life care.

➤ Medical-Legal Issues and Litigation:

Various medical-legal issues arise at the intersection of law and medicine. These include matters like patient confidentiality, reproductive rights, medical research ethics, and access to healthcare. As medical science advances, new ethical and legal questions emerge, such as those related to genetic testing, assisted reproductive technologies, or the use of emerging technologies like artificial intelligence in healthcare. Resolving these issues often requires collaboration between legal and medical professionals, as well as policymakers and ethicists.

The relationship between law and medicine is a symbiotic one. The law provides a framework for medical practice, protects patients' rights, and holds medical professionals accountable. At the same time, medical knowledge and ethical considerations shape the law's approach to healthcare regulation and policy. This intricate relationship ensures that medical practice is conducted in an ethical, safe, and legally compliant manner, promoting the well-being of patients and society as a whole.

CONCLUSION

In conclusion, there are many instances when the fields of law and medicine overlap. The laws of a country are established to control the medical industry and safeguard both patients and medical professionals. Laws are founded on the universally recognized human rights concepts and are applied in a way that upholds such rights. Due to the country's growing population and socioeconomic structure, India now has a number of issues with the practice of medicine. Even though medical facilities have improved significantly, and universal healthcare is now available, there is still more that needs to be done to educate the general public. As always, a well-informed patient is necessary in an effective health care system and in improving the health and standard of living of society as a whole.

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CHAPTER 8

RIGHT TO DIE: LAW AND LEGISLATIVE

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ABSTRACT

There has long been a debate as to whether our Constitution should be called "Constitution of India" or "Constitution of India". Although the Constitution has adopted provisions on fundamental rights from other constitutions, we should not hesitate to call our Constitution ours in the truest sense of the word. The Golden Triangle of the Constitution of India, consisting of Articles 14, 19 and 21, has always been an instrument in the hands of the Supreme Court of India when a fundamental rights issue was raised. Where the constitution guarantees everyone the right to life and personal liberty itself. The question arose whether the individual has the right to decide on the complete termination of life. For a long time, the question was answered in the negative and the primacy of the constitution was argued.

The following research article addresses the same issue considering recent developments in the country's constitutional and criminal justice systems. After decades of debate, the Supreme Court has finally decided to break its silence in the historic Aruna Shanbaug case, in which the court recognized that the right to die is an integral part of the right to life. In the following research article, the author offers an in-depth examination of the topic and explains its historical background and constitutional philosophy. The author went a step further and expanded the research field to include a critical analysis of the judgment of Arun Shanbaug and conducted a comparative analysis of the legality of euthanasia in countries such as India, the United States, Great Britain, the Netherlands, and Switzerland. As the concept of euthanasia is a young concept in the Indian legal system, the author has also highlighted its advantages and disadvantages which will help the reader to better understand the argument.

Keywords: Constitution, Golden Triangle, Supreme Court, Philosophy, Criminal Justice

INTRODUCTION

The right to die is a concept based on the belief that a person has the right to make any decision about the end of their life. Possession of this right is often understood to mean that a terminally ill or unwilling person should be able to take their own life or refuse life-prolonging treatment. The fundamental question that arises is whether human beings should have the right to die and what principle might justify that right. The right to life is a fundamental and natural human right. Our democracy is a democracy, that is, by the people, for the people and for the people. The constitution establishes the power that belongs to the people. It is the power of the people for their own good. The constitution creates rights and duties. All our desires turn into rights - even our feelings, our emotions determine the rights

and responsibilities we have. Just as we have the right to live with dignity, we should also have the right to die when the law requires it in a particular situation. On May 11, 2005, the Court of Appeal asked the two ministries whether a terminally ill person should have the right to refuse ventilator support after medical experts concluded that they had reached the point of no return. Whether the right to life can include the right to non-life or the right to die is disputed in several cases. Death can be defined as the end of life. Death can be divided into two types: (i) natural death and (ii) unnatural death. It can be caused by both action and inaction of a person. Bringing about the extinction of life unnaturally, by harming yourself or someone else, is morally reprehensible and punishable. Every living being in the Lawyers world desires to live long lives and prolong their lives by any means possible, and promoting the cessation of such lives is not the intended result of this law. Constitution is a social document. It is the society in its political aspect. We cannot understand its nature without understanding the chief characteristics of the society. If the constitution is such that it has taken into its consideration, the social set up, then only will it stand the test of time. constitution and society grow, develops together, and gets intertwined in each other. The constitution considers change and developments in the society. They are:

- a) Right to education
- b) Right to clean environment
- c) Right to life
- d) Right to go abroad.
- e) Right to privacy.
- f) Right against solitary confinement

MEANING OF RIGHT TO DIE

The right to die refers to the concept that a person has the right to choose whether to end their life when faced with an incurable disease, unbearable condition, or other circumstances that seriously affect their quality of life. The right to die is often associated with euthanasia or assisted suicide when a person enlists the help of a doctor or loved one to end their life peacefully and with dignity. However, the right to die is a hotly debated topic with differing views on the ethical, moral, and legal implications of allowing a person to choose to end their life. The notion of the right to die is often associated with euthanasia or assisted suicide, which is the deliberate intervention of a third party to end the life of a person who wishes to die. However, there are different forms of the right to die, including the right to refuse life-sustaining treatment or to have that treatment terminated. In some countries the right to die has been recognized by law and regulated by laws and policies, while in others it remains a highly contentious issue with no clear legal framework. The debate about the right to die is complex and involves legal, ethical, moral, and religious considerations.

RIGHT TO DIE- LAW AND LEGISLATION

The right to death or euthanasia has been debated in India for many years. Euthanasia is the intentional termination of a person's life to relieve them of suffering. In India, euthanasia is

illegal under Section 309 of the Indian Penal Code, which criminalizes attempted suicide. However, the Supreme Court of India has recognized the right to die with dignity as a fundamental right within the framework of the right to life and personal liberty enshrined in the Constitution of India. In India, the right to die has been a controversial issue with conflicting opinions from different sections of society. On the one hand there are those who argue that individuals should have the right to choose when to end their suffering, on the other hand opponents argue that this right is at odds with the sanctity of life and is easily abused. However, in 2011 the Supreme Court of India legalized passive euthanasia under certain conditions. Passive euthanasia is the denial of treatment or life support that can artificially prolong a person's life. The court ruled that a person can give an advance or "will to live" by expressing a willingness to withhold treatment if they become ill or are in a vegetative state. The Supreme Court has also established guidelines for the passive euthanasia process and appoints a Medical Committee to determine a person's medical condition and whether withholding treatment is in their best interests. In addition, the court stated that the decision to discontinue treatment should be made by a close relative or guardian if the person is unable to make such a decision. In 2018, a bill entitled the Treatment of Terminally Ill Patients (Protection of Patients and Doctors) Act was introduced in the Indian Parliament, which aims to legalize passive and active euthanasia. However, the project met resistance and was eventually withdrawn. There have been several attempts to legalize euthanasia in India, including the introduction of the Treatment of Terminally Ill Patients (Protection of Patients and Physicians) Act 2021, which aims to legalize passive and active euthanasia in certain circumstances. However, the law has not yet been passed.

FUTURE PERCEPTION OF RIGHT TO DIE

The prospects for the right to die in India remain uncertain as the issue continues to be hotly debated and controversial. While the Supreme Court of India has recognized the right to a dignified death and upheld the constitutional validity of passive euthanasia, active euthanasia and assisted suicide remain illegal in India. One direction for the future of the right to die in India is the development of clearer legal and political guidelines related to end-of-life decisions. This may include further clarification of the legal status of passive euthanasia and the development of a legal and ethical framework to guide decisions regarding euthanasia and assisted suicide. Another direction is the development of greater public awareness and education on end-of-life issues, including discussion of palliative care, pain management and the importance of living wills. This can help individuals and their families make informed decisions about end-of-life care and ensure their wishes are respected. Attempts have been made to introduce legislation to provide legal protection for those who choose to end their lives, but these efforts have so far been unsuccessful. There is also a need to increase public discourse and education on this issue, as many people in India are still unaware of the concept of the right to die and its implications for end-of-life care. The COVID-19 pandemic has also highlighted the importance of the right to die and end-of-life decisions, as many people have had to make tough decisions about their own care or that of their loved ones. This could lead to more awareness and discussion in India and pave the way for future changes to the legal framework. The future of India's right to die will depend on many

factors, including changing societal attitudes, legal and ethical issues, and advances in medical technology and palliative care.

SENSITIZATION ON RIGHT TO DIE

The Right to Die is a complex and sensitive issue that involves legal, ethical, and moral considerations. Supporters argue that individuals have the right to choose when and how they die, particularly when they are facing unbearable suffering and inferior quality of life due to terminal illness or chronic pain. They contend that allowing individuals to end their lives through assisted suicide or euthanasia can provide a humane and dignified way of dealing with their suffering. Proponents of the Right to Die argue that individuals have the right to make decisions about their own lives, including the decision to end their suffering and pain when faced with a terminal illness or an inferior quality of life. They argue that allowing individuals to choose when and how they will die is a matter of personal autonomy and dignity, and that denying this right is a violation of basic human rights.

Opponents of the Right to Die argue that it goes against the sanctity of life and that taking the life of another person, even with their consent, is morally and ethically wrong. They also argue that allowing euthanasia or assisted suicide can be easily abused and may lead to the wrongful death of vulnerable individuals, such as the elderly or disabled. The issue of the Right to Die is a complex and multifaceted one that requires careful consideration of legal, ethical, and moral implications. While some countries have recognized this right and have legalized assisted suicide or euthanasia under certain circumstances, others have chosen to prohibit such practices.

CONSTITUTIONAL VALIDITY OF RIGHT TO DIE

The *Aruna Shanbaug v. Union of India*: Case is a landmark judgment by the Indian Supreme Court that laid down guidelines for passive euthanasia in India. The case involved a nurse, Aruna Shanbaug, who had been in a persistent vegetative state for over 40 years after being sexually assaulted and strangled by a hospital ward boy. The hospital staff who had been taking care of her had approached the court seeking permission to withdraw life support systems and allow her to die peacefully.

In its judgment, the Supreme Court upheld the constitutional validity of passive euthanasia and laid down the following guidelines and procedures for the same:

1. Passive euthanasia may be permissible in certain circumstances, such as when a person is in a prolonged vegetative state with no hope of recovery.
2. The decision to turn off life support systems must be made by the Supreme Court after reviewing the medical reports and the opinion of the medical team.
3. The decision to remove life support systems should be made in the best interest of the patient and with due regard to the patient's wishes and preferences.
4. The decision to remove life support systems should be made considering the views of the patient's family and relatives.

5. The decision to phase out life support systems should be made in a transparent and accountable manner, with appropriate safeguards to prevent abuse.
6. The deactivation of life support systems should be performed by qualified healthcare professionals with dignity and with respect for the rights and dignity of the patient.

IMPORTANCE OF RIGHT TO DIE UNDER INDIAN CONSTITUTION

The right to life is an important aspect of individual autonomy and self-determination and is considered a fundamental human right. Although the Indian Constitution does not specifically mention the right to die, it has been interpreted by the Supreme Court of India to include the right to die with dignity as a fundamental right. The constitutional recognition of the right to die is important because it recognizes the individual's right to make choices about his own body and life, including at the end of his life. It also ensures that government and society have a responsibility to respect and protect these rights. In addition, the constitutional right to die is important in addressing the issue of end-of-life care. The right to die with dignity enables people to make informed decisions about treatment in the event of terminal illness or permanent loss of consciousness, which can help alleviate suffering and ensure that medical care is used in the most appropriate, ethical, and compassionate way becomes. In addition, the right to die with dignity can also help to combat societal prejudice and discrimination against terminally ill and disabled people and ensure that they are treated with dignity and respect. Incorporating the right to die into the Indian Constitution is important to affirming the autonomy and self-determination of individuals, protecting their rights, and ensuring ethical and compassionate end-of-life care.

LANDMARK CASES RELATING TO RIGHT TO DIE IN INDIAN CONSTITUTION

There have been several landmark cases in India that have dealt with the issue of the right to die and euthanasia. Some of the most notable cases include:

Gian Kaur v. State of Punjab 1969 AIR 946, 1996 SCC (2) 648: This was one of the first major cases in India to consider the issue of euthanasia. The Indian Supreme Court ruled that the right to life does not include the right to die, and that euthanasia is not legally permissible in India.

Aruna Ramchandra Shanbaug v. Union of India (2011) 4 SCC (2011) 2 SCC (Civ) 280: This case involved a nurse who had been in a vegetative state for over 40 years. The Indian Supreme Court ruled that passive euthanasia, in the form of withholding or withdrawing life support, is permissible under certain circumstances.

Common Cause v Union of India (2017) 10 SCC 1: The Indian Supreme Court ruled that individuals have the right to make a living will, which allows them to specify their end-of-life medical treatment if they become terminally ill or permanently unconscious. The court also held that passive euthanasia is legal under certain circumstances, such as when the patient is in a vegetative state with no hope of recovery.

Rajagopal v. State of Tamil Nadu 1994 SCC (6) 632: The Indian Supreme Court in this case, upheld the validity of the Advance Medical Directive of a patient suffering from cancer, and ordered the hospital to follow the directive.

Shanta Devi v. Union of India 2019: In this case, the Indian Supreme Court rejected the plea for passive euthanasia filed by a patient suffering from Acute Myeloid Leukaemia.

CONCLUSION

In summary, the right to die in India is a complex issue that involves legal, ethical, and moral considerations. While the Constitution of India recognizes the right to life and personal liberty, the interpretation of this right in the context of end-of-life care is subject to legal interpretation and debate. The Supreme Court of India recognized the right to die with dignity as part of the right to life under Article 21 of the Constitution and, in the case of 'Aruna Shanbaug, established guidelines for passive euthanasia. However, the issue of euthanasia and assisted suicide remains illegal and continues to be the subject of legal and ethical debates in the country. The future of the right to die in India will depend on how the legal, ethical, and moral debates on this issue evolve over time and how the Indian legal and judicial system responds to these debates. It is important that stakeholders continue to engage in constructive discussions and debates on this issue to ensure that the rights and dignity of people at the end of life are respected and protected, while ensuring that the sanctity of life is preserved. The right to die is an overly sensitive and emotional issue in India and requires a balance between individual autonomy and the sanctity of life. Greater legal and ethical clarity is needed on this issue to ensure end-of-life support that respects the dignity and autonomy of the person, consistent with the principles of equity and justice. While the right to die in India remains a contentious and contentious issue, overall, it is important that discussions and debates continue to find a solution that respects the rights of individuals while providing adequate safeguards against abuse and misapplication of the law.

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CHAPTER 9

A CRITICAL ANALYSIS OF GENDER PAY GAP AND WHY IS IT SO WIDE IN INDIA?

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ABSTRACT

The society is full of inequality. Let it be the among different groups, among different religious groups. Or let it be between men and women. The highest inequality is seen among the men and women. Lack of opportunities, backwardness in the education might be the reason. It can also be because of lack of ignorance. The situation needs to be analysed and studied.

Keywords: Society, Inequality, Opportunities, Backwardness, Ignorance

INTRODUCTION

Gender gap means the unequal treatment between men and women. It can be in any phase or in any part or in any situation. This is not a new in any terms. Since, the ancient times women face a lot of problems within the society. They have been neglected and have been presented as backward. We saw that during the ancient India women were respected as goddess and were given equal respect as mother in the society. They enjoyed equal rights and privileges as men. They even studied the Vedas and took part in the discussions. But soon, the time changed and proceeded and during the medieval era women were thought to be less capable than men. The birth of women was considered as dusk for the family. The society was patriarchal in nature. Even women have don't right to have property. They didn't have right to work and even to marry. They were very much neglected sections. Moving towards the modern era. The society remained the same. The condition became more complex as we saw sati, child marriage. The condition of women was just like hell. They seemed to live a pathetic life. Efforts were done but the conditions more or less remained the same. The women had to suffer and more. Looking forward after 100 years, the condition remained the same or it has gone more worse. It might also happen that the situations have improved. We will discuss in detail in the following article.

GENDER GAP INDEX

Gender inequality or gender gap still exists in India. It is a major issue that has acquired its roots. Looking at the earlier situation the condition of women, several laws have been made since the establishment of democracy. So that equal rights and opportunities can be provided. But in spite of it the gap still exists and it creates a hindrance in development of the country. It is currently at 127th position out of 146 countries. As compared to the previous times India as raised its position but still it is very behind. the row ranking is because of backwardness of

women in four categories- education, health, economy, politics. As per the recent research the ratio of women as compared to men in India is 44 % is to 55%. This shows that women constantly rank low in the field of medicine in terms of participation. The report presented also shows that women favour to have general practice after completion of degree rather than going for the higher studies. Now, looking at the higher education. The women 48% participation and men have 51%. There is a clear distinction seen in the condition of women. Next comes the participation in economy. As the percentage suggests women contributing to economic participation is 22%. and as compared to men it is very low. Men contribute to 83%. The gap is very high. Finally, comes the politics. According to the report published in 2021, the participation of women is 10.5% of all members in the Parliament. The huge difference is seen in all the four fields. And because of the gap between the percentage, the ranking of India seems to be very low. Apart from this we cannot ignore the violence against women which is still continuing.

CAUSES

Let us look at the different causes of that lead to gender gap within India. First reason or the foremost reason for the gender gap is illiteracy. Women are denied from the education. The education is seen not so much compulsory for women. Ignore 1- 2% people and you will find that condition is same everywhere. People don't value education too much. It is important for the boys because they have to earn for the family. But what's the need for girls. They can depend on men and nourish the children. But till how much extent will you find it correct. I don't think even one percent. Why? because if a girl is education, she can be helping hand for her husband. She can take care of her children education and uplift the status of family. Hence, we can come to a solution that the gender gap can be reduced by providing proper education.

Second reason for the gender gap is the setup of the society. The society is very much patriarchal in nature. It is the issue since the earlier time. And even today this thinking penetrates among the mind of many families. They think that women must depend on others to fulfil her needs. She is not allowed to work. What's the need. She even has to depend on decisions taken by her family on her behalf. Till how much extent it is correct? why will family choose what is right or what is wrong for the girl. She has own brain, own thinking capacity. Let her think. Don't become too selfish and restrict one from living her life.

Third reason is poverty. The poverty is another major for the gender gap. India is not a developed nation yet. It's still in progress but as we can see many people are below poverty line. Being under poverty also deprives from sending girls to school. Parents think it's better to send boys as they will support the family. Hence, parents sacrifice their need to support boys rather than girls. It is because of narrow thinking which persists within the society. Fourth comes the lack of awareness. Though constitution has given enough rights to women but still they are unaware related to it in many fields. This prevents them from achieving the goals they had dreamt for. We see that various things and thoughts penetrate within the society. For ex – women should speak less, listen to men, follow the norms of family. And all this restricts them for being self -independent. They become indulged in all these thinking

and hence limits their capabilities. We should make all women realize the rights which they have got. The values which they must peruse. And this will in a sense will try to limit the gap.

The next reason comes is the traditional customs. In which women are seen as inferior to men. It is seen mainly in rural areas. sons are assumed to be more precious than daughter. Women are seen as weak. Let it be the economic, political and even in other fields.

Finally, comes the child marriage. Even the age bar is set for the marriage. But the preparations start before. They are prepared mentally and hence they don't make effort to do the things better. As an individual we must try to reduce this mentally so that problems are solved.

CONSEQUENCES

Seeing the different examples, we have understood that problems exist. Let's see the effect or the consequence of gender inequality. Because of gender gap women loose opportunities. They end up with child marriage as discussed before. They have teenage pregnancy. The girls are not made up with the mindset. As a result, they are unable to take care of themselves and even the newly born. Even it creates domestic work for child. Poor education and even health issues are seen. Finally, gender gap also creates exploitation among girl section.

SOLUTIONS

If problem persists there must a solution for it. There are various ways we as I individual, government as a responsible can adopt in order to overcome this long - lasting gap.

First, the women participation must be increased in politics. If number of women increase, they will know the problems better that is prevailing among the society. They can raise the issue related to it. And finally, the steps can be taken to make women more and more accurate and responsible.

Next, the violence against women needs to be reduced in the work places. So that women can take jobs and work freely. It will also help in individual and community development.

The health and nutrition among girls specially the adolescent need to be reduced so that they can have better health. Even the awareness related to the hygiene need to be spread. this all factors will try to uplift the condition of women in terms of health. And health is also a parameter in judging the gap.

Government is even trying to reduce the gap through Beti Bachao and Beti Padhao Scheme, Sukanya Scheme and others. Even the steps like Mahila Police Volunteers, Mahila Shakti Kendra have been added to encourage the reduction in gap. All these steps can improve. to promote the equality The Equal Remuneration Act, Special Marriage Act have been launched. The Right to Equality is also ensured within the constitution from Article 14 to Article 18.

Problems are many and solutions are infinite. One has to take a closer look regarding the problems and the solution. I don't say that gender gap through these methods will finish completely. But if we take steps, if we concentrate on the solution, we can try to remove the

gap at much extent. Society is very complex and more complex is the thinking. The old orthodox practice is still continuing. It will take a lot of efforts especially in the rural areas to change the mindset of people. Even education has extended in the urban areas in cities and towns. People are trying to understand the changes. But rural society is still growing at a very slow pace. Efforts need to be done so that the gender gap is reduced to much extent. The gender equality is not a woman's issue, but it is a human issue. It affects us all.

CONCLUSION

Even though the steps and programmes have been launched. But there are limitations that have not allowed the schemes to develop at a rapid pace. This includes the law design. The laws are only made but not implemented in accordance to what it should be made. Skill development programmes have also been not initiated as it should be. Gender equality is not seen as a boon but merely a thought. Social thinking and customs prevail over the law. The women are not even provided much opportunities to speak and to initiate. As a result, things are not becoming right. We as an individual can spread awareness among our own community. If we do, we will try to improve at least in our place and in our neighbourhood. The small steps will benefit the society and benefit us. It will also make us strong in terms of gender gap index. Achieving gender equality requires the engagement of women, men, boys, girls. It is everyone's responsibility. Gender equality must become a lived issue.

Malala Yousafzai even commented that she raised her voice not because she could shout but she raised so that those don't have a voice their voice can be heard. as success cannot come when half of the people are held in backward position.

There is no scientific proof required for gender equality but there must be an acceptance that women are equal to men. But not less not superior. It is even the business that has been unfinished in 21st century. Lastly, both men and women should be free, both must feel strong and it's the time to change the perspective. And it should begin with family first.

It is rightly said "your power is your radical, find it itself."

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