

Legacy

2014-15

No Legacy is as Rich as Honesty



न्याये संस्थिता लोकयात्रा

Charutar Vidya Mandal's

R. N. Patel Ipcowala School of Law & Justice

(A self-Financed English Medium College,

affiliated to S P University & approved by Bar Council of India)



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Charutar Vidya Mandal's R. N. Patel Ipcowala School of Law & Justice

The Iron man of India, Sardar Vallabhbhai Patel, inspired establishment of Charutar Vidya Mandal (CVM) in 1945-46 and, today, the CVM is the largest educational trust with global repute. It is running 48 educational institutions from KG to PG and Research having more than 40,000 students. Many stalwarts and legal luminaries received their virtual education from the CVM's institution/s and they attained great heights in their later career. As a tribute to Late Sardar Vallabhbhai Patel, R.N. Patel Ipcowala School of Law & Justice was established in the year 2012 and offering 5- years integrated law courses such as BBA, LL.B (Hon's) /BA, LL.B (Hon's)/ B.Com, LL.B (Hon's).

Salient features of the institutions are:

- 5 years integrated (Honours) Law programme with CBCS Pattern (BA, B Com, BBA + LLB).
- The course curriculum is unique in India. It is a blend of practices & Theory.
- 4 years Integrated LL.M - Ph.D after LL.B (Proposed Subject to approval of CVM/SPU)
- 4 years Integrated LL.B - LL.M after graduation (Purposed Subject to approval of CVM/SPU)
- 1 year LL.M/ Regular Ph.D in Law/ Diploma Courses (Purposed Subject to approval of CVM/SPU)
- Legal Research activities through Legal Research Centre

R N Patel Ipcowala school of Law & Justice established by Charutar Vidya Mandal and affiliated to well known Sardar Patel University, recognized by Bar Council of India and also accommodates highly experienced & knowledgeable faculties, eminent guest speakers, innovative courses, and moots. R N Patel Ipcowala School of Law & Justice is moving towards glorious days ahead and can be very effective in providing necessary guidelines to promising and upcoming legal practitioners.

In the indubitable era of globalization and modernization, R N P Ipcowala School of Law & Justice would like to impart law with a mission and a vision to achieve rapid strides of excellence and perfection through academic endeavor by principles of virtue of quality of humanity, compassion, passion for law, legality and integrity coupled with discipline and morality. Thus discharging fulfilling and contributing earnest path with unflinching determination, full fledge dedication and devotion to make the student community (future legal fraternity) to achieve academic excellence through the process of transformation of development and growth.



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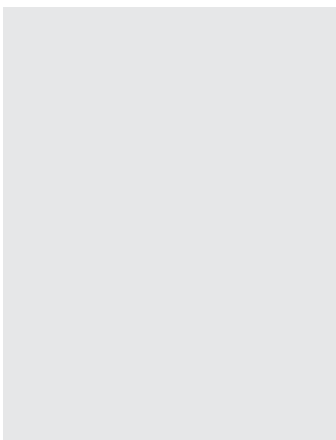
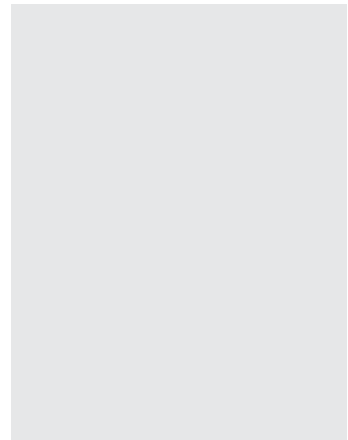
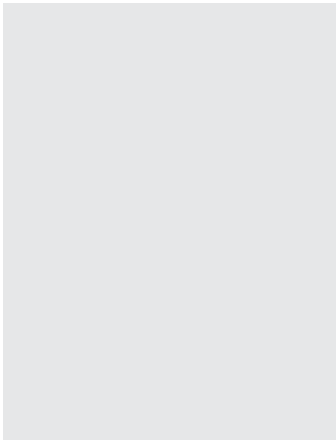
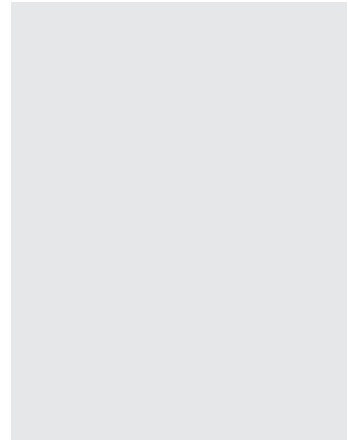
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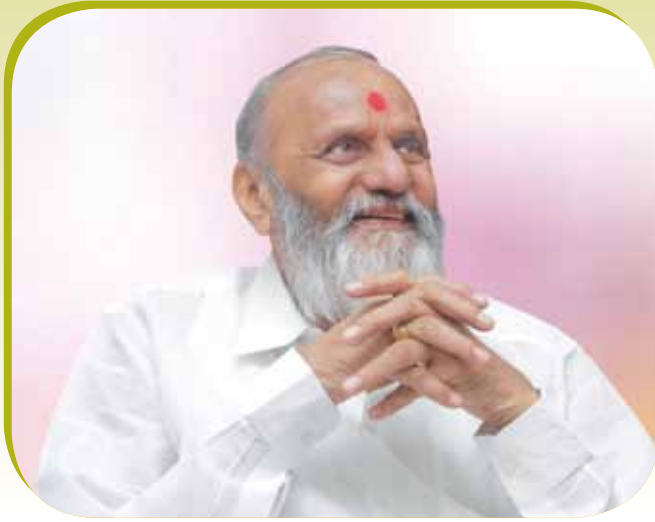


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From the Chairman's Desk

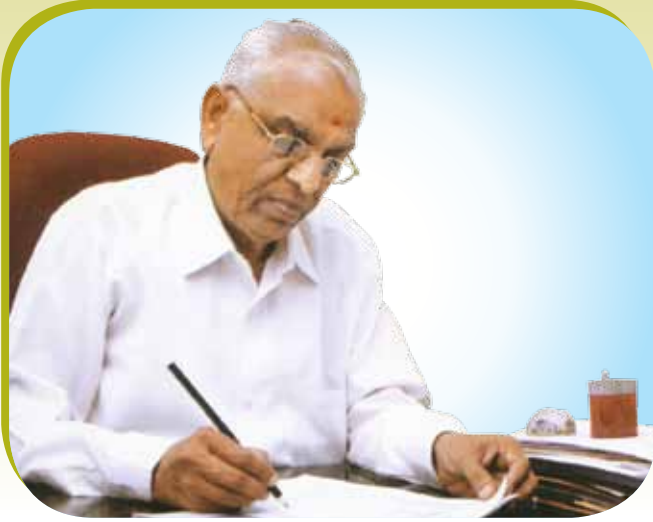
EDUCATION in law enables the citizens learning their rights and duties. A society enlightened by law can be most effective in shaping the Nation and putting a check on abuses and misuses of laws. It can lay the foundation of a nation whose citizens love justice, are law abiding and believe in just and lawful co-existence for all members of society. But, however just the laws, they cannot be effective in delivering effective social justice unless they are put into action by professionals well versed and well instructed in law

With above vision, as a tribute to Sardar Patel, Charutar Vidya Mandal established the R.N. Patel Ipcowala School of Law & Justice. Our guiding principle is constant change, motivation and up gradation, creating state -of-the-art knowledge infrastructure for our students, instilling in them the ability to learn so that they can face my challenge anywhere in the world.

Dr. C. L. Patel (Charutar Ratna)

Chairman
Charutar Vidya Mandal





From the Secretary's Desk

LOOKING to the need of industry, legal system and social requirement, there is a mismatch between demand for legal experts and supply of legal experts. Charutar Vidya Mandal wants to step in and provide highly talented and educated legal professionals. The pressing need to do something about the legal education as it is administered at present has engaged the attention of almost everyone concerned with the legal profession. Legal education is the heart and the very soul of the society for administering rule of law in a democratic country like ours. Therefore, quality legal education is to be imparted to the people taking into consideration the changing needs of the society and in the changing era of globalization. The syllabus is framed keeping in mind the changing environmental and legal factors. In R.N.Patel Ipcowala School of Law and Justice, the students will find dedicated and highly qualified team of faculty. The library is enriched with books and journals that will help the students to acquire additional knowledge. An exhaustive volume of All India report (AIR) starting from 1950-2015 and Supreme Court cases (SCC) are processed for the benefits of the students.

Prin: S. M. Patel

Secretary
Charutar Vidya Mandal





From the Principal's Desk

“WE cannot expect people to have respect for law and order until we teach respect to those we have entrusted to enforce those laws.” □ Hunter S. Thompson

Law is ever growing and evolves with, also brings about development and necessary change in every walk of life as per the need of the hour. The only solution to the existing and new challenges which inevitably emerges must be addressed through extensive research and dialogue. To quote Elie Wiesel, “There may be times when we are powerless to prevent injustice, but there must never be a time when we fail to protest.”

Through the Legacy 2015, R N Patel Ipcowala School of Law & Justice aim to provide a platform for the future legal fraternity and others interested in the field of education to express their opinions freely and openly. The rationale behind Legacy 2015 is to encourage different ideologies and points of view not only from those in the legal community, but also from the general populous having an interest in legal issues. The articles in the journal are from diverse fields of law and cover several relevant and contemporary issues along with the student's creativity, songs and short notes.

“All love is expansion, all selfishness is contraction. Love is therefore the only law of life. He who loves lives, he who is selfish is dying. Therefore love for love's sake, because it is the only law of life, just as you breathe to live.” Swami Vivekananda

Dr. Shaliesh N Hadli
Principal





From the Editors Desk

Dear Readers,

On behalf of editorial team it is certainly a matter of immense pleasure and proud opportunity of presenting the third issue of RNPISL&J publication “Legacy” on the principal of no legacy is as rich as honesty for the year 2015. The concept behind confluence was to provide a platform for the future legal fraternity & the faculties of RNPISL&J to show cause their creative thinking’s. It is an honor and privilege for me to coordinate the activities of these periodical.

It is my heartiest gratitude honor to our chairman Dr. C L Patel and Secretary Prin. S M Patel for their unconditional support which enabling me to bring out this magazine. I express my gratitude to my Principal Dr. S N Hadli for providing me valuable inputs for the same.

I am also thankful to my faculty members for providing me the constant support for performing this activity. The present issue of the magazine contains 26 numbers of article from the various areas by the faculties as well as students. It’s also noticeable that many of contributors provides valuable article in the area of legal studies. Last but not least I express my thanks to all the contributors for sharing their ideas and thoughts by the way of articles.

Dr. Jay R Joshi

Faculty of Finance & Accounting



Consumer Protection Act & Medical Negligence

Dr. Shailesh N Hadli
PRINCIPAL

“Consumer is supreme and has the right to get satisfied for the amount he pays”. Medical practice is capable of rendering great service to the society provided due care, sincerity, efficiency and skill are observed by doctors. Medical profession has its own ethical parameters and code of conduct. This profession is rendering a noble service to humanity and has sustained itself on public trust. Increased mechanization and commercialization of profession has brought in an element of dehumanization in medical practice. Health care has now been reduced to a business, which determines the patient-doctor relationship. Medical Negligence has become an important issue to be dealt with and for which solution is a must.

There is no precise definition on the term of Medical negligence. Supreme Court in *Jacob Mathew v. State of Punjab*, opined “Negligence is the breach of a duty caused by the omission to do something which a reasonable man, guided by those considerations which ordinarily regulate the conduct of human affairs would do, or doing something which a prudent and reasonable man would not do. Actionable negligence consists in the neglect of the use of ordinary care or skill towards a person to whom the defendant owes the duty of observing ordinary care and skill, by which neglect the plaintiff has suffered injury to his person or property”.

The apex court opined concept of negligence differed in civil and criminal law. What might be negligence in civil law might not necessarily be negligence in criminal law. ‘Criminal Negligence’ is an offence against the State while ‘Civil Negligence’ is an offence against the individual act, which leads to injury i.e. physical injury, hurt- Section 319, grievous hurt- Section 320 Indian Penal Code (IPC). Loss of property

(financial loss) due to some negligent act is always a civil negligence. The decision of the Apex Court raises a fresh debate on the issue of ‘Criminal Negligence by the Doctors’. High degree of negligence is necessary to prove the charge of criminal negligence u/s 304-A IPC and the standard of negligence required to be proved beyond doubt which can be described as “gross negligence”.

The Medical Council of India (MCI) and the State Medical Councils recognize the medical qualifications granted by any authority or institution of India or other Countries. They have framed the rules about the professional misconduct of the registered medical practitioner. Any aggrieved patient can complain to the State Councils about a registered medical practitioner

“Negligence is the breach of a duty caused by the omission to do something which a reasonable man, guided by those considerations which ordinarily regulate the conduct of human affairs would do, or doing something which a prudent and reasonable man would not do. Actionable negligence consists in the neglect of the use of ordinary care or skill towards a person to whom the defendant owes the duty of observing ordinary care and skill, by which neglect the plaintiff has suffered injury to his person or property”.



about an alleged wrong committed by him. The Council initiates proper hearing where the concerned doctor is given adequate opportunities to represent his side. If it arrives at the conclusion that the doctor has indeed committed an act, which involves an abuse of professional position that might reasonably be regarded as disgraceful or dishonorable by professional men of good repute and competence, the doctor is either given a warning notice or temporarily or permanently debar him for practicing medicine. The Council does not have any statutory powers to award any compensation to the aggrieved patient or legal heirs.

The Judiciary has stepped in rescue of the common man for the protection of the common man, the courts in various cases has favored the public at large. In *Bolam v. Friern Hospital Management Committee* the court has stated the rule for assessing the appropriate standard of reasonable care in negligence cases involving skilled professionals (Doctors). Where the defendant has represented him or herself as having more than average skills and abilities: this test expects standards which must be in accordance with a responsible body of opinion, even if others differ in opinion. The opinion of the court “*if a doctor reaches the standard of a responsible body of medical opinion, he is not negligent*”. Was widely criticized for its overreliance on medical testimony and personal judgment. In English tort case of *Whitehouse v Jordan and another*; where an obstetrician had pulled too hard in a trial of forceps delivery and had thereby caused the plaintiff’s head to become wedged with consequent asphyxia and brain damage. The trial judge had held the action of the defendant to be negligent but this judgment had been reversed by Lord Denning, in the Court of Appeal, emphasizing that an error of judgment would not tantamount to negligence. When the said matter came before the House of Lords, the views of Lord Denning on the error of judgment was rejected and it was held that an error of judgment could be negligence if it is an error which would not have been made by a reasonably competent professional man acting with ordinary care. Doctors in India may be held liable for their

services individually or vicariously unless they come within the exceptions specified, in the case of *Indian Medical Association v. V. P. Santha & others* Doctors are not liable for their services individually or vicariously if they do not charge fees. Thus free treatment at a non-government hospital, governmental hospital, health centre, dispensary or nursing home would not be considered a “*service*” as defined in *Section 2 (1) (0) of the Consumer Protection Act, 1986*.

In *DrLaxmanBalkrishna Joshi v. DrTrimbakBapuGodbole*, the Supreme Court held that if a doctor has adopted a practice that is considered “*proper*” by a reasonable body of medical professionals who are skilled in that particular field, he or she will not be held negligent only because something went wrong. Doctors must exercise an ordinary degree of skill. In *V. Kishan Rao v. Nikhil Super Specialty Hospital* the Supreme Court held that “*there cannot be a mechanical or straitjacket approach that each and every medical negligence case must be referred to experts for evidence*”.

The Supreme Court further declared that “this Court makes it clear that in these matters no mechanical approach can be followed by these Forum. Each case has to be judged on its own facts. If a decision is taken that in all cases medical negligence has to be proved on the basis of expert evidence, in that event the efficacy of the remedy provided under this Act will be unnecessarily burdened and in many cases such remedy would be illusory”.

The present and existing laws pertaining to professional misconduct and negligence is far from satisfactory. The legislations are not adequate and do not cover the entire field of medical negligence. In the present era medical services are commercialized applying the rule of “ordinary skilled professional standard of care” in establishing the medical negligence may not do the proper justice to the injured patients. The appeal is made while deciding medical negligence cases, more incline may be showed towards injured parties ensuring them higher medical skills at the hand of doctors rather applying “ordinary skilled” rule.



Biasness That Contaminates Workplace

Dr. Susanta Kumar Shadangi
FACULTY OF LAW

Biasness refers to an inclination towards a partial perspective and refusal to consider any possible merits of view. People are biased towards an individual, a race, a religion, a social class or a political party etc. It means they stick to their personal view not to an open mind which is often considered as prejudice. It is a human tendency to make a decision in certain circumstances based on his personal factors rather than evidence. Indian organizations are no exceptions to it and are deeply accommodated with biasness in some forms or other on various grounds especially while hiring employees. It is found that biases have been rampant through the centuries primarily on caste, gender, age, qualification or economic status.

Very often we proclaim that we have been able to modernize ourselves to a large extent in better education, more jobs, and high-tech working environment but unable to understand one thing that we are underlying the thought process, which still needs some tweaking i.e. discrimination or differences. No doubt difference is as essential part of recognizing an individual. That is also unavoidable at the workplace which makes the workplace stronger. But when this difference is used to generalize individual based on what we think of that group, becomes bias.

Corporate India till date is yet to adopt the concept of equal opportunity in its true sense and it is found that one in every two employees are experiencing one or other kind of discrimination during the process of Recruitment or at work (The Team Lease Study). It is also revealed that as one grows older, the less discrimination he/she is likely to face as 54 percent of employees in the age group of 21 to 35 years are reported to have experienced discrimination as compared to those above 50 years. Interestingly, although not significantly, good looks are considered an added

advantage in some metros like Pune and Delhi and Mumbai. The underlying preferential treatment is still witnessed in various circumstances at various degrees while others are discriminated in one way or the other at the same time and at the same situation. Therefore it is highly essential that organizations in order to avoid this should have diversity policies and strategies to deal with these problems. Although discrimination on gender, qualification, caste and religion have ceased to some extent, the Indian industries still has a long way to go before the working environment becomes truly biasfree. Hence it is highly essential on the part of the organizations to have clear and transparent policies on discrimination and its proper enforcement otherwise which, productivity is sure to be adversely affected.

In addition to above, other few things should also be considered just to make the working environment a biasfree and congenial one.

In the first place, one must have to admit that every one holds some form of bias or other and must think how it is made and what the logic behind it is. In the second place, he must consider what has made him to hold bias? Is it because of fear or because of insecurity? Thirdly, it is one of the best ways to eliminate biasness is to search for a truth through his personal experience. In the fourth place, one has to commit to experience on individual not on groups, keeping in mind that everyone is a unique individual. Fifthly, keep connection with individuals, embarrass each opportunity to meet a new person and appreciate the uniqueness that makes him different. And at the end let him talk about his own experience on bias with others and share about their experiences to find out the blind spot that he possesses so that the fact will be coming out and the unnecessary and unwanted things will be eliminated easily which will help to build a bias free workplace.



Sleepless Night for Directors: New Companies Act

Dr. Jaykymar Joshi
FACULTY OF ACCOUNTS & FINANCE

The old corporate testament of 1956 has been pushed into the annals of history, beginning the All Fools Day this year. 282 vital sections of the new company law have been made effective, giving vent to a modern, resilient regulatory testament.

The new law assumes directors and key management personnel to be the sentinels of governance. It seeks to put in a quandary the questionable independence of independent directors.

A host of rulings by various courts in India in the past have established that a corporate body can be prosecuted and penalized, yet not be imprisoned! But will the new law permeate down to the decision makers harbored behind the facade of a corporate body? The attribution of criminality to the “officer who is in default” is established under section 2(60) of the Companies Act, 2013. He shall be liable to penalty or imprisonment.

The new Act craves to implicate every director, who is “aware” of any contravention. He need not even participate in any meetings of the board, but if the information as to a contravention contained in any of the proceedings of the board received by him, he is deemed liable for it. Without doubt he is liable, too, in case he participates in such proceedings without objecting to a contravention, or where such contravention has taken place with his consent or connivance. The intent of the law here seems to entice an independent director to turn a whistleblower.

A mere awareness of a contravention makes a director liable to penal action, and it is ironical that the law seems to turn a blind eye in protecting the whistleblower. Even though section 2(60) says “for the purpose of any provision in this Act”, it is debatable whether it will ring fence the liability of a director to a contravention under company law.

The responsibility of a director under this umbrella could in all possibility be cited in proceedings under several other laws (like FEMA) wherein a director’s responsibility to comply is specifically enshrined.

In *Iridium India Telecom Limited vs Motorola and others* (2011), the Supreme Court observed that a

corporation is virtually in the same position as an individual, and may be convicted of common law as well as statutory offences.

The court reiterated its earlier decision in *Standard Chartered Bank vs Directorate of Enforcement* that a company is liable to be prosecuted and punished for criminal offences, even though the criminal act/ offence is committed through its agents.

the apex court, thus, recognizes that a legal persona needs agents to conceive and execute malice. Now, the penal section oft-repeated in the new company law, ie, Section 447. The section seeks to imprison a guilty for a minimum of six months (three years, in case the fraud involves public interest) up to a maximum of 10 years.

‘Fraud’ in relation to the affairs of a company includes any act, omission, concealment of any fact or abuse of position with intent to deceive, to gain undue advantage from, or to injure the interests of the company or its stakeholders. It is difficult for a director to stay clear of all these four intents and prove innocence.

Given the abject apathy to compliance with law, coupled with the enforcement mechanism enmeshed in corruption rendering it dysfunctional, ‘fraud’ as defined above is a source of sustenance for many a corporate. Also, certain independent directors representing specialized/technical areas of expertise may not have the depth of legal and financial acumen to detect the nuances of ‘fraud’.

In this backdrop, can any independent director absolve himself of his criminal liability under the new act? To add fuel to the fire, SEBI is deepening the ‘PIT’ Regulations, and this is bound to have huge criminal implications on ‘connected persons’. It seems law has got serious with frauds, with Serious Fraud Investigation Office buttressed with a legal status under the new company law.

From the above it seems that the Directors are bound to have sleepless nights if the enforcement machinery is disturbed from its slumbers, regulatory system is cleaned up, and surveillance becomes technology-driven.



Change Management

Mr. Dipal Patel
FACULTY OF MANAGEMENT

Author: Prof. Dr. Passenheim Olaf • Language: English • Subject: Change Management

Released: 2010 (1st edition) • Media Type: Soft copy (online) • Pages: 50 • ISBN: 978-87-7681-705-3

The book change management consist of five different chapter and it mention about change management, reason for changes, origins of it, different theory and model, process of management changes and also covered different projects and at last conclusion.

Chapter 1 is introduction and it starts with Barack Obama with said during election campaign with a plan to renew Americas promise with the words “change we can believe in” and in his victory speech Obama said “change has come to America”. And apart that they focused on business world and how they look changes and all.

Change is as an alteration strategy for the company and the job of manager is simple and straightforward if changes were not occurring. And good manager manage to change in the company’s environment. And also highlight on structure, technology as well as people.

There are many reasons for changes, and there are two type of reasons, external consist: market situation, technology, government law & regulations and economics and internal consist: corporate strategy, workforce, technology and employee attitude.

Change management has its origins in 1950s, that days modern management were introduced which included e.g. teamwork, autonomous groups and also between top-down and bottom-top approaches began. In this there are many concept gave the idea about the change management and its origin with figures too.

Chapter 2 concept of change management is covered lewins change theory which consist of 3-stage model of change that come to be known as the unfreezing- change-refreeze model. Other one is chin & benne’s “Effecting

changes in human system”, and many of the approaches shared many overlapping concepts. Some model primarily focus on innovation and organization while other on the individual. It includes empirical-rational, power-coercive and normative-re-educative approach. Then other one is bullock and batten’s phases of planned change which covered exploration, planning, action and integration phases which is the organization has to make decision on the need for change, understanding the problem, changes identified are agreed and implemented and stabilizing and embedding change respectively. Fourth theory they mention is beckhard and harris change formula.

It is as $(D * V * F) > R$. where D= dissatisfaction, V= vision, F= first steps and R= resistance to change.

And the 5th one is 7-S model by McKinsey & company in late 1970s to help managers addresses the difficulties of organization change. It shows immune system and the many interconnected variables involved make change complex, and that an effective change effort must address many of their issues simultaneously.

Chapter 3 is the change process and process consists of 10 stages. And it is having top-bottom change and bottom-up change and also discusses about how to start it, change management process and it consist of three phases preparing for change, managing for change and reinforcing change.

Even it covers about transition period and talk about people and try to comfortable them in temporary situations where they are not accountable for the hazards of normal work, refreeze and in practice it is slow process as transition seldom stop cleanly, but go more in fits and starts with a long tail bit and pieces and



this chapter also covered how to deal with the change.

Chapter 4 focused on change management projects and it says that it influence by external and internal influences, outsourcing, financial problems, staff problems and business culture problems and this are important factor which we have to consider while talking about change management. Then there is a change strategies and approaches which are directive, expert, negotiating, education and participative strategies. Then about some failed change management projects which is given by 4-5 example to get more idea about it, one more topic covered pitfalls in a change management project which consist of eight steps and how change took place and how it affect. And at last

topic covered is bringing change to success and that is of five different steps.

Chapter 5 is conclusion and it talk about change management and how it work, about different things like different aspects of change management and they are as follow, content, commitment, capability and culture.

Overall book provide good information on change management and it cover many things as I mention previously.

References

Passenheim, P. D. (2010). Change Management.

<http://bookboon.com/en/search?q=change+management>

“The Incomplete Journey”

Ms. Hani Mehta
FACULTY OF ENGLISH

The journey may be long or short, but it must end at the very point where one finds “Own self”. Life is a journey, where one travels from birth to death. This journey is a collection of small journeys. And this small journey gives one so many “Experiences”, which lead one to “Learn” “The Life” and “New Ways”. But not all journey finishes. In those “Uncompleted” journey life gets changed.

As usual an evening after a hard day at “Wandering and Roaming” I started my journey towards “Home”. Travelling in the evening of dark and cold winter, text chatting with Piya but with lots of thought in mind of my own Almighty, accompanied by music I was common meaningless and not so serious with life, with the realization of lacking something in life.

Suddenly, a blank pause.... senseless I, woke up where was just a “change” in everything. Burden of emptiness and futility of life turned into the weight of Piaggio. Laid on the road, blood running out couldn’t find difference between the pain and living. What a hard try that was to escape from weight and pain. Surrounded by

familiar but unknown faces and voices I, felt like no one could hear me. Even tears couldn’t decide and finally ran out with the blood and not from eye.

Everything got changed, direction, vehicle, and destination. Like home was replaced by hospital, auto by ambulance and normal life was replaced with “New Life”. Almost a year in half dead condition suffering from pain of worthless lonely soul more than injuries I came to know what and who are mine.

This common journey transformed into very uncommon journey that changed meaning or in better words explained what life is, a question to what is being and why being? It is now new life with new thoughts, new feelings, and new goal for the same old things. Absurd being of mine turned into realization of existence.

Nothing is same like before. Feelings are changed now on that same way, route, and road towards home. But there is a question in heart. Would I be able to complete that “uncompleted” distance from the spot of accident to the home with that same feeling?



Our Profession

Mr. M Prakash George
FACULTY OF LAW

Law is a profession whereby we have to deal with many subjects in practical life i.e., in our advocate practice. It may be a medical subject it may be it subject or it may be an engineering subject. When our client comes to us for legal advice, we are not sure which matter is he bringing to us and which field it is about.

As a lawyer how should be our approach in such situations? Should we say to our client that I haven't got any knowledge on your field and its totally a new subject to me, will give you a reference no. of my friend he has got good knowledge on your field and he will help you in this matter. OR would say like this let's see what can be done in this matter. We should always take the second option and should take the case file from our client. We shouldn't tell to our client that this particular aspect is not known to me. Google , Wikipedia is there for you. Google it get the information from Wikipedia..

Use of information technology and various gadgets in our smartphones would help you in achieving your goal as an advocate. Even use of e-books will help us in getting what we want to know form browsing the net. Lots of tools and books are available in front of us to make a good Lawyer/ Advocate.

Once the case is in our hand we should ask various questions and counter question to put client and learn the things that will help us in our case. Jot down the details in our case file. It will always help you in pleading your matter before the honourable court. Keep a winning strategy for your client. Have a good friend's circle who will guide you in the procedure and will help you to win the case in the court of law.

Our profession is like the sea whereby each drop of water will make the sea a whole sea. If drops of water is not poured in it the sea won't be formed. Exploring our skills would be there only when we enter into the field and learn new things of which we are not aware of. Always have a basic knowledge of each field. What that field is ment for and which people work in the said field. Saying no is easy but saying yes is difficult task. Keep this phrase in your mind always "Know something about everything and everything about something". You know your profession and its procedure to be followed. Let not people come and fool you by false representation. Good judges are there for you to help good advocates are there to help you.

Use of information technology and various gadgets in our smartphones would help you in achieving your goal as an advocate. Even use of e-books will help us in getting what we want to know form browsing the net. Lots of tools and books are available in front of us to make a good Lawyer/Advocate.

If you have the burning desire and passion for the law you will learn many thing is in life which will be useful in our life. Look at the actors who perform various role and achieve many things in their life. If they say that flying a chopper is not in my hand and I don't have any hand on it then that actor will remain only a simple



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Secularism in India – an Overview

Mr. Harishchandra Salve
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The concept of secularism as embodied in the Constitution of India can be viewed in the context of the following provisions of the Constitution: The Constitution guarantees freedom of conscience, freedom to profess, practice and propagate religion and also freedom to establish religious institutions and manage or administer their affairs. It prohibits discrimination on grounds of religion and guarantees legal and social equality to all by providing for equality before law and equal protection of laws, prohibiting discrimination with regard to places of public importance and providing for equal opportunity in matters of public employment. The Constitution also guarantees religious minorities the right to establish and administer educational institutions of their choice and to conserve their script, language and culture.

These provisions would naturally point out that the Constitution of India attempts to construct India the philosophy of secularism on freedom, equality and tolerance in the field of religion. And viewed in this context it is clear that the Constitution does not construct a wall of separation between the state and religion. Although the term secularism was not in the original text of the Constitution, secularism was a subject of animated discussion when the Constituent Assembly looked for consideration of the provisions dealing with the freedom of religion.

The Supreme Court decisions

In the *R.K. Bukhari v R. Mehra* (AIR-1975, SC 1788) in this case the returned candidate and the other contesting candidates were both Muslims. It was argued that one of the candidates had criticized Mr. Chagla of the Congress party for not living a true Muslim as he had supported a change in the Muslim Personal law and that such criticism on religious grounds amounted to a corrupt practice under section 123(3). The Supreme Court upheld the view that propaganda on grounds of religion, profession and practice is not merely an undignified personal attack on

These provisions would naturally point out that the Constitution of India attempts to construct India the philosophy of secularism on freedom, equality and tolerance in the field of religion. And viewed in this context it is clear that the Constitution does not construct a wall of separation between the state and religion.

candidates but also an attempt to get votes by arousing the religious sentiments of electors. It further upheld the view that the unity and integrity of the nation and public peace and order cannot be allowed to be disturbed in the name of religion, for that would violate the secular democratic character of Constitution.

In the case of *Harcharan Singh vs Sajjan Singh* (AIR 1985 SC 236), it was alleged that the returned candidate, his election agent and other persons with his consent had appealed to the electors in the name of Sikh religion. The trial court dismissed the petition and justice Mukherji speaking further court held that mere distribution of tickets and sponsorship by a religious body like they would not itself constitute an appeal on the grounds of religion. In a similar vein in *Kin tar Singh vs Muktior Singh* (AIR 1965 SC 141), the Chief Justice Gajendra Gadkar speaking for the unit observed: “so long as, law does not prohibit the information of such parties and in fact recognizes them for the purpose



of election and parliamentary life, it would be necessary to remember that an appeal made by such candidates of such parties (or votes may, if successful), lead to their election and in an indirect way may conceivably be influenced by consideration of religion, race, caste, community or language. This infirmity cannot, perhaps, be avoided so long as parties are allowed to function and are recognised, through their composition trap be predominantly based on membership of particular communities or religion.

Analysis of judgment: the courts have failed to strike a balance between the requirements of secularism in the country and the right of a candidate of political party having religious affiliation to exploit his affiliation for winning the election. This separation is essential for the unity and integrity of the nation since election propaganda whether based on linguistic or communal rivalry can be quite poisonous and disturbs the whole democratic polity. However, courts come into the picture only when a particular Act is alleged

to have been committed. There is an inherent limitation which prevents the courts from going beyond the judicial circumference and therefore the courts cannot be the appropriate forum for preventing the use of such practices.

Conclusion:

Secularism has to play a important role at present stage of Indian democracy because today when the Indian democracy seems to face the challenge of narrow divisive trends and tendencies, a rational and scientific approach which is the basis of secularism has become a matter of utmost importance. Communal disturbances which have distinguished the public life in the recent past, as well the birth and growth of narrow and divisive trends and obscurantist theories are mainly the result of ignorance can be fought not by legislation alone but by education, and in the process of educating the traditional Indian mind, secularism and all that it stands for the political leaders have to play a major role.

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actor and will get not big roles where stunts, action are to be performed. We too are an actor expect our profession is different from the reel actors. We have to learn many thing in life from writing adjournment of proceedings to writing of judgment, from the base to the top. When we achieve our highest level and the designation in our life that is to be a Judge of court in the higher level hierarchy.

Many advocates are enrolled in the bar council but only a few could succeed to the top level of the chart. Let we be a few among them to reach the top on the chart. Let us make some difference from the regular advocates who practice the advocacy. Our subject is like a continuous learning procedure. Every now and then we need to learned how to do a particular matter that is in front of us.

Let us know our subject thoroughly and in deep manner and the other subjects only the basic knowledge that what that subject is related to,

what is its objective and how it is used in that particular filed. Though we may not the subject terminology and the equation in it but we can learn and do some research work on it and can prepare our drafting work. Which would be an incredible one say one of the best drafting.

Our clients may come from any range we should be ready to defend our client with high standards and with power play techniques. Follow our ethics that we have learned and keep the faith in ourselves and in our client. So that we can win the case in our side though we are not aware of the subject matter in depth.

Our manners, dress code, history of our profession the way we speak to our clients , to judges and to fellow advocates/ lawyers will all affect our profession and life style. From the first day of the college of LL.B wear an invisible gown of our dress code and act like an Advocate/ Lawyer from the first days itself thing that you have become an advocate on the same day. This will lead to our targeted goal of our life and have peaceful and happy life.



Bal Swachh Bharat Mission in India

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Swachh Bharat Abhiyan is a national campaign by the Government of India, covering 4041 statutory towns, to clean the streets, roads and infrastructure of the country.

As a part of the Swachh Bharat Abhiyan, the mega cleanliness drive in India, and also as a part of the Children's Day celebrations, the Government of India has launched yet another campaign "Bal Swachhata Abhiyan". This campaign will be carried out together by the education. This campaign was officially launched on 2 October 2014 at Rajghat, New Delhi, where Prime Minister Narendra Modi himself cleaned the road. It is India's biggest ever cleanliness drive and 3 million government employees and school and college students of India participated in this event. The mission was started by Prime Minister Modi, who nominated nine famous personalities for the campaign, and they took up the challenge and nominated nine more people and so on. It has been carried forward since then with people from all walks of life joining it.

Household and environmental sanitation facilities on and health departments from November 14, Children's Day, to November 19, the birth anniversary of Indira Gandhi, in all schools across the country. The Central Government has issued directives so that the campaign is implemented efficiently. The idea

is to spread cleanliness awareness among the children. Through this campaign, the school students will play the role as cleanup ambassadors in the school's nearby and surrounding areas and also display an encouraging way for the locals to keep their surroundings clean.

Considering the importance of cleanliness and inculcating cleanliness from a very young age, it's necessary that every citizen of the country, including the children, should come forward to be a part of the mega cleanliness drive. The Directorate of Education has addressed all Heads of Government and Government-aided schools and private schools to carry out the cleanliness mission and sensitize children and make them aware of the different aspects of hygiene.

Bal Swachhata Abhiyan includes clean schools, clean surroundings and play area, pure drinking water facilities, proper toilets, safe and clean food and personal hygiene. Each student can spread cleanliness awareness among his family members effectively and thereby pave the way for a clean society as a whole. Children will also be given training on washing hands properly and how to maintain their personal hygiene and cleanliness. How to use toilets and keep them clean. Officials would also spread awareness about water-borne diseases, the use of clean water, proper cleaning of water tanks in schools and so on.

Bal Swachhata Abhiyan five-day programmers in schools are:

14th November: Clean Schools/Surroundings/Play areas

15th November: Clean Food

17th November: Clean Self, Personal Hygiene, Child Safety

18th November: Clean Drinking Water

19th November: Clean Toilet

Children will also be given training on washing hands properly and how to maintain their personal hygiene and cleanliness. How to use toilets and keep them clean.

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Significance of CRM in Legal Services

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Now a day, tough competition between companies requires that those ones establish techniques in order to be faster, more efficient and more forceful for their targets. This is the reason why CRM was created.

CRM stands for Client Relationship Management which means managing your client. It is a business strategy which is used to create and sustain long-term, profitable client relationship. It is necessary in order to retain old customers, acquire new customers and improve profitability from the existing client base.

It is very critical to build client relationship but for the successful business it is must to have successful client relationship management. This applies to all industries like banking and investment, insurance, health, legal, government, education, hotel, etc.

In legal services, what actually matters is “CLIENT”.

Client is a source of information of what one knows, who knows whom, and so on. To deal with a lot of information with busy schedule and giving each client full attention is the most important.

An efficient and effective CRM strategy is beneficial to a law firm in several ways¹:

1. It helps the firm to build and maintain a loyal customer base.
2. It can have more volume of earning by giving the best legal services more to the group of those clients with whom it has

maintained a good relationship and are satisfied with the firm and its quality of services.

3. Over the time, it incurs lower costs in serving those clients because of their increasing confidence and lesser doubts or questions about the services.
4. It can lead to lesser promotional campaigns in order to attract the clients.
5. It also helps the firms to retain its employees if it has a stable base of satisfied clients.

If lawyers better manage the client relationship and the associated information, they will be benefited from happier customers, repeat business and referrals. For this large firms use the CRM software systems to manage the contacts and files of information with the purpose of paperless work. The most common CRM system software options for law firms are:

Aderant Front Office from Aderant (www.aderant.com)

ContactEase from Cole Valley Software (www.colevalley.com)

Elite Apex marketing Manager from Thomson Elite (www.elite.com/solutions/products/apex-marketing-manager.asp)

Interaction from Lexis/Nexis Interface Software (www.interfacesoftware.com)

Law Office Accelerator from Baseline Data Systems (www.lawofficeaccelerator.com)²

1. http://business.gov.in/manage_business/client_relation.php
2. <http://www.cba.org/cba/practicelink/tayp/crm1.aspx>



Role of Social Media in Election

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Media is considered as an essential tool for contesting election. Democracy is incomplete without media. People around world at the time of election get connected with news of the political parties. Media is known as ‘Watch Dog’ because it sees the rules of election commission. Election without media is very contradiction. Media is given importance because in 21st century there is no life without media. In 2005 yearly World Press Freedom Day it was announced the role of media in election. It was furthermore noted that media is important factor in contesting election because it leads to good governing of governmental bodies, it provides transparency and therefore it results in good governance in society. Media, to prove its importance have to work hard and have to bring accuracy in reporting what all is going at the time of election. They have right to argue Freedom of Information and Expression as it provided in Indian Constitution. Media at the time of election have to give coverage of opposition party and their behavior. In this context there was leading case of Union of India (UOI) v Association of Democratic Reforms and Anr.¹ In these case Association for Democratic Reforms, a non political, non partisan group based in Gujarat, filed a request with the High Court asking for certain information to be disclosure of participate who are conducting election in Parliament and State Legislatures. The High Court granted the request and directed Election Commission of India to give information regarding criminal record, financial assets, liabilities and educational qualifications. Under article 19(1)(a) which guarantee right to speech and expression to citizens of India. Union of India challenged decision of High Court in Supreme Court seeking that these rights doesn't allowed to citizen to know about background of candidate for election. Supreme Court modified High Court judgment that is mandatory to give

details whether a candidate is acquitted/convicted/discharged under any criminal proceedings, before six months of filing nomination form whether there is offence against imprisonment for 2 years or more, the assets of candidate and its spouse, Liabilities and educational qualification.

The concept of media now has totally changed because of invasion of mass communication and online journalism. Online journalism connects every country with each other. Role of media is accurate at the time of election, they try to provide accurate and proper information to viewers about what is actual politics. Due to these viewers at the time of election can contest their right vote to right person. Media connects citizen to political parties or with their leaders. Media try to bring open debate for citizen with political leaders so that they can discuss their problems and their needs, these program is mainly seen in India T.V. in the show of Rajat Sharma i.e. App Ki Adalat in which their open discussion with audience and certain problems are been discussed. Face book, Twitter and YouTube help political leaders to express their ideas, their mission and their work. The best way to connect with voters is medium through social media. According to face book, at the time of election Narendra Modi's base grew by 14.86 % between April 7 and May 12. Further, according to face book between the day the elections were announced and may 18, the counting day, 29 million people made 227 million pole-related interactions with 13 million people on face book posting 75 million updates related to Narendra Modi.² In the leading case of Indira Gandhi v Raj Narain,² Raj narain an opposition candidate filed a case against Prime Minister of India, Indira Gandhi for guilty of electoral malpracticises. The case was filed under Allahabad High Court. Raj Narain had contested

1. Union of India (UOI) v. Association for Democratic Reforms and Anr. WITH People's Union for Civil Liberties (PUCL) and Anr. v. Union of India (UOI) and Anr. (2002) 5 Supreme Court Cases 294 (Supreme Court of India)
2. State of Uttar Pradesh v. Raj Narain-AIR-0069-SC



election in 1971 against Indira Gandhi, who represent the constituency of Rae Bareilly in the Lok Sabha. Gandhi won by two-to-one margin, and her party Indian National Congress won a majority in Indian Parliament. Narain filed a petition against Gandhi alleging using bribery government machinery and resources and unfair contesting election. This incident has changed whole scenario in the Indian.

Politics. Justice Jagmohanlal Sinha held invalidated Indira Gandhi's win and barred her for holding office of election for 6 years. Indira was held convicted for bribery; Indira was only convicted for contesting unfair election. Media plays an indispensable role in democracy. They discuss success and failure of candidate, governments and electoral management bodies. Main role of media at the time of election are; they educate voters on how to cast their vote as voting is an fundamental right it is to be used in right sense, by reporting them of election campaign, they bring candidate and voters together for communication, media gives an platform to voters for discussing their views/problems/needs with parties, they give platform to voters and parties to debate, they provide results of the election. Media is medium through which citizens are connected with parties. At the day of election media get authority from Election Commission of India to stay at exit polls, they stay there and give live report of what is current

situation of voting through the medium of T.V., Internet, Radio and Newspaper. Media use to check whether there is true and fair voting is carried on or whether malpractices is not carried on for taking undue advantages. In this 15th Lok Sabha election, concept of media had totally changed. BJP won with the leading vote because of media. BJP leaders try to reach public through Internet. City like Gorakhpur where Internet source is very low but then too they reached their and given them belief of fulfilling their needs, due to these idea these ideas there was drastic win for BJP. Role of social media doesn't get over after giving education to voters, or giving reports to viewers of exit poll but media sees that right of adult franchise is not violated in this context. According to our constitution, a person who is above 18 years of age and he is citizen of India can context vote as per the international adult franchise. Every person in this world want to elect their candidate. The main role of EMB (Electrol Management Body) comes in the role of election. The main roles of EMB are to communicate with media and a medium communicate with public and tells the message of EMB. In short it works as a mediator. The media plays a role in the functioning of EMB, they try to scrutinize and integral elections. EMB tries to see whether media is working as a proper mediator to the viewers and views that media is felling its role or not.

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As part of the first-day programme, during the morning assembly, the students will take a vow that they will not use plastic bags, will not waste any paper and use the dustbins for throwing garbage in the school. Also, all students and teachers must clean the classrooms, library, labs, kitchen and other areas. Express Yourself Through: CBSE Expression Series The Central Board of Secondary Education (CBSE) has launched on its website CBSE Expression Series on 'Bal Swachhata Mission' 14th to 19th November 2014. This is an interesting way for school children to express themselves through essay, poem, poster, drawing and painting. Each

day a new topic will be assigned for the children in three categories. Topics based on themes for each day will be announced on CBSE's official website one day in advance. Thirty best entries on each day will be rewarded with a cash prize of Rs 2,500.

Conclusion:

By launching of a campaign is not enough. Proper implementation is more necessary. It's high time now that we teach our children to be clean and maintain hygiene. Not only in schools, but also in home and outside, a child should be well aware of cleanliness, safety and personal hygiene which will make them stronger and healthy and responsible citizens of the country.



Gender Inequality in India

Burhan Dhangadhrawala
BBA LLB (SEM IV)

“No nation, no society, no community can hold its head high and claim to be part of the civilized world if it condones the practice of discriminating against one half of humanity represented by women.” – Prime Minister Man Mohan Singh

The only concern here is gender inequality. The widespread practice of aborting female fetuses happens every day: the reality of gender inequality in India, origin of gender inequality and how to deactivate it.

Reality of Gender Equality

Firstly, the reality of gender inequality in India is very complex and diversified, because it is present in many ways, many fields and many classes. Fields like education, employment opportunities, where men are always preferred over women. Consider the case – a girl taking admission in mechanical engineering. Doesn't it sound a bit awkward because it's always considered a man's field. There again comes this menace – gender inequality. The gender inequality faced by women was so much that many women claimed May

Here, just as women's domestic work is undervalued, so are their skills in the world of employment. Most are concentrated in the poorly-paid, low-skilled 'women' sectors of the economy.

God give sons to all. This is a fact and India has witnessed gender inequality from its early history due to its socio-economic and religious practices that resulted in a wide gap between the position of men and women in the society. Clearly, then gender gaps that are widespread in access to basic rights, access to and control of resources, in economic opportunities and also in power and political voice are an impediment to development.

Origin of Gender Equality

Secondly, the origin of this gender inequality has always been the male ego. At least in India, a woman still needs the anchor of a husband and a family. Their dominating nature has led women to walk with their head down. It was all practiced from the beginning and is followed till date. Consider the woman's reservation case in parliament. The opposing party believes that women are born to do household work and manage kids, and not to corrupt the country by taking hold over politics. Here, just as women's domestic work is undervalued, so are their skills in the world of employment. Most are concentrated in the poorly-paid, low-skilled 'women' sectors of the economy.

Deactivating Gender Inequality

What we need today are trends where girls are able not only to break out of the culturally determined patterns of employment but also to offer advice about career possibilities that look beyond the traditional pail of jobs. It is surprising that in spite of so many laws, women still continue to live under stress and strain. To ensure equality of status for our women we still have miles to go.

Thus, it is rightly said – Man and Woman are like two wheels of a carriage. The life of one without the other is incomplete.



Men can be Victims of Abuse Too

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Introduction :

Domestic violence is one of biggest fundamental rights violations that affect women and children all over the country. It has no bar of age, sex, etc. thus nowadays women are more safe on streets than in their homes. But what about male victims who suffer in silence ?

When “male” and “domestic violence” are mentioned together, it is generally thought by people that men might be the perpetrator and maybe they are in some cases. But recently more and more cases of domestic violence against men have been reported.

Men are generally reserved in talking about their abuse in public be it mental or physical abuse. They feel that if they will share it with others, they themselves might be misunderstood as wrongdoers. Such men are always backed by law and law always protects such men against violence but law is helpless when the victims are too ashamed to seek help. These days people brag about equality but they are all hypocrites when it comes to domestic violence with reference to gender. For example: when a man hits a woman, he is advised that he shouldn't but when a woman hits a man, man is told that he should take it like a man.

Domestic violence against men is one of the taboos and is on the rise. Only women are not the victim of domestic violence as domestic abuse knows no gender, skin colour or age thus leaving men and children victims too. In our society, where the roles of men and women is increasingly becoming blurred, female on male dominating is on the rise. Moreover, domestic violence against men is a serious threat but the plight is that it is not easy to identify a male victim because of a number of reasons, they suffer in silence. They might be embarrassed to report for the abuse cause to them and also because men are considered physically stronger

Men are generally reserved in talking about their abuse in public be it mental or physical abuse. They feel that if they will share it with others, they themselves might be misunderstood as wrongdoers. Such men are always backed by law and law always protects such men against violence but law is helpless when the victims are too ashamed to seek help. These days people brag about equality but they are all hypocrites when it comes to domestic violence with reference to gender.

than women as said traditionally. This is partially due to the image our western society generally has of Man. Men are often thought of as strong, domineering and macho. Boys, even at a young age, are taught that it is unmanly to cry (“big boys don't cry”). young boys are taught not to express their emotions but to suck it up. To many, the idea of a grown man being frightened or vulnerable is a taboo, the idea of a man - usually physically the stronger - of being battered, ludicrous. Hence many male victims of abuse may feel “less of a man” for suffering abuse, feel as though they are in some way not manly enough and ought to have the ability to prevent the abuse. Moreover, in case of reports, men are more likely to be arrested than woman. Men fear that if they will talk about their abuse to someone else, they might them self be considered a wrongdoer.



Domestic violence occurs between two people in an intimate relationship, violence might be emotional, sexual and physical abuse. Violence may be caused in hetero sexual or same sex relationship.

Wondering, how often men might be victim of the domestic violence, the below survey might clear the vagueness:

- One in ten men in the United States have experienced rape or physical violence by their partner.
- One in four men in the United States has been slapped, shoved or pushed by his partner.
- One in seven men has experienced severe physical violence by their intimate partner.
- Domestic violence to which men are victims may include the following:
- He might be forced into any type of sexual activity, pressure to have sex as well as unsafe sex.
- His money might be controlled by the woman.
- The woman might insult, push, use weapon, abuse his children, stalk , etc.

Effects of domestic violence:

- Domestic violence may leave men depressed and anxious.
- Some men may involve themselves into drugs, alcohol or unprotected sex.
- Domestic violence might also affect children who though are just witnesses become psychiatric disorder patients and are at risk of developmental problems.

Men should not be reluctant that they are the victims of domestic violence, not worrying that whether they themselves might be considered the wrongdoers. Instead the key to stop domestic abuse, men should talk to someone atleast be it a friend, relative, health care provider or other close contact. At first, you might find it hard to talk about the abuse. However, you'll also likely feel relief and receive much-needed support.

The district court can help you obtain a restraining order that legally mandates the abuser to stay away from you or face arrest. Local advocates may be available to help guide the victim through the process. There is also a hotline available which can provide crisis intervention which is National Domestic Violence Hotline: 800-799-SAFE (800-799-7233)

Conclusion :

It is apparent that one of the biggest problems is the lack of understanding of society that women are much abusive as men. The physiological effect of not being believed is very much there in men and is damaging. As a healing process for domestic violence, it is found that having someone to talk and share their problems, thus providing a solution may serve as a vital element. Thus this being a serious problem, the risk of suicide is also very high among men. Children should be taught that its not only wrong to hit a girl but to hit anybody. Devastation of such kind of behavior be it male or female must be shown to younger ones.

Case study:

Ian McNicholl, 47, has painful memories to remind him of the terror he endured when he found himself a male victim of domestic violence.

His then fiancée, Michelle Williamson, punched him in the face several times, stubbed out cigarettes on his body, lashed him with a vacuum cleaner tube, hit him with a metal bar and a hammer and even poured boiling water on to his lap. That at 6ft he was almost a foot taller than her made no difference. He still has burn marks on his left shoulder from when she used steam from an iron on him. Williamson, 35, is now serving a seven-year jail sentence for causing both actual and grievous bodily harm.

During the trial last year McNicholl told the court that, during more than a year of attacks and intimidation, he had lost his job, home and self-respect. He had been too scared to go to the police and had considered suicide. She was only arrested after two neighbours saw her punch him.



“Right to Silence” a Safeguard to Accused

Harnish M. Patel
BBA LLB (SEM IV)

The ‘right to silence’ is a principle of common law and it means that normally courts or tribunals of fact should not be invited or encouraged to conclude, by parties or prosecutors, that a suspect or an accused is guilty merely because he has refused to respond to questions put to him by the police or by the Court. The deprivation of the concept of self incrimination has its legal sources laid down in the American and English jurisprudence that no one shall be compelled to give testimony which may expose him to prosecution for crime. Historically, the legal protection against self incrimination is directly related to the question of torture for extracting information and confession.¹ The right against self-incrimination finds its earliest embodiment in the medieval law of the Roman church in the Latin maxim ‘Nemo tenetur seipsum accusare’ which means that ‘No man is obliged to accuse himself’.

In India, said concept has been articulated in the Article 20(3)² of the Indian Constitution. Further article 21 of the said constitution works as the safeguard as fundamental rights against self incrimination by stating that the liberty of a person cannot be taken away except by a procedure established by the law, which was affirmed by The Supreme Court of India in the

case of Maneka Gandhi V Union Of India¹ that, “Article 21 of the Constitution of India requires a fair, just and equitable procedure to be followed in criminal cases.”

The procedure established in the CrPC under section 161, 313 and 315 raise a presumption against guilt and in favor of innocence, grant a right to silence both at the stage of investigation and at the trial and also preclude any party or the court from commenting upon the silence. Further according to Durga Das Basu in his commentary on article 20 of the constitution states that “To draw an adverse inference from the refusal to testify is indeed to punish a person who seeks to exercise his right under Art. 20(3). Just as no inference of guilt can be made from the fact that the accused is invoking the protection of Art. 20(3), so no inference of guilt can be made from the mere fact that he refuses to answer or to make a statement.”³

Hence “right to silence” protects the accused from giving involuntary statements, in the form of fundamental rights as provided under article 20 of the Indian Constitution and it is well said that “The exercise of the power to extract answers begets a forgetfulness of the just limitations of that power.”⁴

1. (3) No person accused of any offence shall be compelled to be a witness against himself

2. Maneka Gandhi V Union Of India, (1978 (1) SCC 248)

2. Silver Jubilee Edition Vol.2 pg.38

4. Wigmore, EVIDENCE, 2264 (2nd edn, 1923) as cited in Fred Inbau, Self-Incrimination: what can a Accused Person be compelled to do?, 28(2) JOURNAL OF CRIMINAL LAW AND CRIMINOLOGY 261, 264 (1937).



Sports law as an emerging carrier option

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(One should always remember a career driven by passion is sure of attaining the success everyone aspires for.)

Introduction:

As it is well said that “Hard work becomes easy when your work becomes your play. Never underestimate the value of loving what you do.” Here in current days for sports maniac the sports law is one of the best options as a carrier. There are various societies with their own principals, customs & traditions and such things needs to be changed as per the changing scenario. Now peeping into the society of sports there has been observed drastic changes. With the modernization in the field of sports, sports has taken a strong and solid turn in the activities related to its governance and management. For maintaining the dignity of sports there should be proper rules and regulations and certain laws to be implanted by government for keeping the respect of every sport as it is, the level should not deteriorate.

Need for sports law in India

As India has seen a lot of scams and unwanted activities which are ethically wrong like the ipl

fiasco, the CWG catastrophe, the Hockey harakiri, the Weightlifting Shame, the IOA-Sports ministry stand-off etc which are all different screenplays on the same script-Indian sport lacks a vibrant and dynamic regulatory framework and good governance. In other words, it lacks a fundamental grounding in good Sports law. Thus, their requires a person who can understand the laws and can help in maintaining the governance in the flied of sports. If one is certain about a career in sports law- a conscious choice of research project topics in subjects like labor law, tax law and intellectual property law among others could create synergies towards developing specialized sports law acumen. Post a specialization in sports management, student with an inclination towards law can opt for a course in sports law. A degree in civil law can also suffice the purpose. There is a world full of opportunities for students interested in this field. Sports Law is relatively a new fragment of law but it is gaining momentum and candidates with a keen interest in law and sports are going ahead with this career option.



Teenage

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Teenage?? Teenage is amalgamation of attraction, infatuations, bondings, jealousy, competition, friendships, love, breakups, attitude and ego.

The word teenage contains lots of emotions within itself. This is the age when we come to know about the outside world when we actually step out of our comfort zones. “The world” where we are surrounded by so many people but still we feel alone. There comes two types of people one who become our life and the other ones’ become the lesson for our life, whom we can’t forget easily. We will come across people who don’t want or let us go up in our life, and they will pull us down. On a contrarory we will meet people who are straight forward and guide us in all possible ways. These kind of people carry ‘MAIN ESA HI HU’ attitude. No matter what the world thinks they don’t care about anybody.

The word ‘teenage’ itself describes many relations and emotions linked with it. Teenage life is like a jigsaw puzzle. There is friendship attached with jealousy, attitude with ego, exams and related competition with the class competitors etc are linked to each other and all these are interlinked with a life of a teenager. Teenager’s are very anxious for everything that happens at

this age, as they even don’t know that what is happening or what next will take place in their life. Like when we enter from school to college we are very excited as well as very curious to know about the very new life, again a journey of new friends, new teachers everything totally new with an essence in it. During this time we start forming a group of new friends. Eventually what happens is that they get carried away by or with the company and then their life changes, but on the other hand it may also happen that the company is not always bad depending on the individuals’ skills to recognize people.

As to sum up with this I could say that my teenage cannot be ever described, as the 1000 page book will also be less to describe it. We carry minute things and precious memories out of our that phase of life. Being teenager is like we are free soul and care free by nature, but after teenage we step in world as adults the word itself describes a level of maturity and responsibilities on us. As the pain of ending teens is like having a heavy heart that is what I feel about only 6 months left with me of being teenager. That is what teenage is. “So be a teenager by heart and remember your memorable teenage.”



Media and Law: It's Impact on Indian Society

Jayeshkumar Shivrambhai Mali
B COM LLB (SEM VI)

“Media and the law: it's impact on Indian society”

In the era of Technology, the man and country growing rapidly with changes. We know the social media and mass media are medium of communication to public. It will share knowledge, messages and fast information to public or individually. One of the major Role of media: legal awareness to public: Now a days, Media play vital role to aware the public through television and newspaper. “Media Law” covers an area of law, which involves all media-TV, film, music, publishing, advertising, and internet. There are many programme like Satya mev jayate, Savdhaan India, Crime petrol, Gumrah, Emotional atyachar which will create legal awareness into comman people. This is a way to communicate mass public.

In spite of that many programme are not conducted awareness but it create problem which directly affected to human mind and society. It will change human ideology to do act which has been seen by them. It is also hazardous to society or public moral. The programmes like Rodies, AIB*, uncensored shot, Big Boss etc. Media and the law: its advantages and disadvantages; if we see in the welfare of public, Moral programmes will give confidence and fill the energy into man or society. They can raise their voice against any

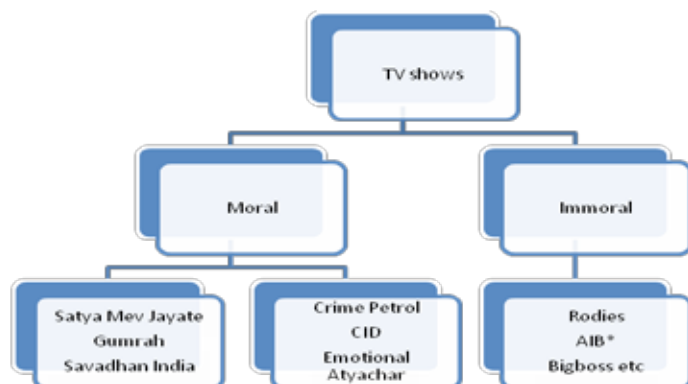
crime or offences. It will create awareness through seeing the act and end of the story. It will spread the knowledge of law through the medium of media communication. Cases: which are highly criticise by media, (NIRBHAYA) 2012 Delhi gang rape, (AARUSHI TALWAR) Noida double murder case refers to the murder of 14-year-old Aarushi Talwar and 45-year-old Hemraj.

If we see in the in context to immorality of public. The people were using abusing words in formal and informal communication, after all that it will effect on youth behaviour, language and attitudes. These types of immorality programmes harm public and society. Moreover, it create dangerous impact on human mind and behaviour. It lead to create criminal mind and to do wrong in society as well as to nation.

Conclusion:

As we observe such things, it seems to be two sides of the same coin. One of the side give awareness and another side give immorality to public and society. Control of all such things lie under the authority of Censored Board. It covers under THE CINEMATOGRAPH ACT, 1952. Who are responsible for watching such things! Therefore, first of all we have to change ourselves, Television Rating Point is that indicates the popularity of a channel or programme. If we don't see this type of programme or channel, A Programme name with higher TRP refers to large number of Viewers. The rates for a program is decided.so, we have to stop seeing this programme and automatically the TRP comes down and programme will be end.

So, as much as possible we have to protest vulgarism in film, serial or any telecast which directly or indirectly affect to the society and public moral. It is against the Indian culture.



Human Suicide Bomb in India: A Review

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Introduction to Terrorism in India

“The term Terrorism means premeditated, politically motivated violence perpetrated against non combatant targets by sub national groups or clandestine agents, usually intended to influence an audience”. U S Code S – 2656 f (d). The one the word terrorism makes the mind with the words like al- Qaeda , Lashake-e-Taiba etc. But this has changed now days. Terrorism is differentiated into two forms the one is based on the religion while other is the internal insurgent group which is fighting against the government to secure their desired rights. The India has been targeted by the different groups for the several times, as the India is the growing market and it is the future of the southern Asian countries , various countries has tried to manipulate the political scenario by using the terrorism .as this is the only the modern day war fair. Media reports has allegedated that mostly the terrorist activities in India are sponsored by the Pakistan through its Inter-Services Intelligence commonly known as ISI. The report further claims that the Pakistani government has the illegal support and help in terrorism and its growth.

In India the terrorist activities are mainly:

Religious terrorism: This mainly between Islamic group and Hindu.

Ethno-nationalist terrorism: The certain group is demanding for the separate state or country.

For e.g.: Violent Tamil Nationalist Groups, National Vidurbha force.

Narco terrorism: For the creation of the narco traffic zone so to earn high money and finance the other terrorist activities.

Many terrorist activities were recorded in past.

The attackers used to place hidden bomb but

with advance in weapon technology they came out individually as the killing machines and the most latest is the human suicide bombing which come out from last 3 decades in India. During the attack of the 26/11 the police commissioner in his report to the committee has stated that the police is such an authority or body which takes action after completion of crime and we are trained for the same, but on that day the crime was happening continuously happening as well as increasing and we were not able to stop as the situation was never faced as well as trained by the any police officer including me, with the introduction of the technology the terrorism has become the easier and terrorist also have opted the technical views to gain the high heights of destruction.

Types of Bomb:

A bomb is range of explosive weapons which is based on the exothermic reaction which gives the violent release of energy mainly fatal. It is ranging from the low explosives to the nuclear as well as the hydrogen bomb. The bombing was initially used on the opponent by the *Jin* dynasty, china for first time. As the time elapsed, the use of bomb become public, it was the most valuable weapon for the terrorism.

Terrorist used them by various ways of throwing, time setting, speed setting etc. The most modern way of bombing is the human suicide bomb.

Human Suicide Bomb:

The human suicide bomb and the bomb are the same with results fatal but their uses are different. The Human suicide bomb is the one in which person carrying or placing bomb has to die, whereas other bombs are monitor by placing in advance and use of timer or remote etc. The world



history has witnessed various suicidal attacks but the weirdest among them were *Kamikazi* attack, *Tokkotai Pilot attack*, *9/11 Attack*, etc. India has witnessed the human suicide attack for the first time by the LTTE, Sri Lanka has pioneered it in this attack, the target was the Indian ex Prime Minister *Rajiv Gandhi* and the Indian political system.

Assassination:

On island (Sri Lanka), Britishers were the only ruler and they ruled by the British colonial rule when the country was known as the Ceylon. Before the independence there were many conflicts between Sinhalese and the Tamil. After independence from British the island was gaining as well as constructing the political strength to form the democratic nation. But the scenario changed which lead to the civil war. This war was mainly focused on the extremist groups and the government. The main aim was to gain the total control over the Northern and the Eastern forest and should be named it as a Tamil Eelam. The various groups were formed but among them the highly prominent and the most ferocious was the Liberation Tigers of Tamil Eelam (LTTE), which was commonly known as the Tamil tigers, commended and headed by Velupillai Prabhakaran. The war has ruined the peace of nation, humanity was demolished, various peoples lost their lives and properties, Tamil youth joined the gorilla armed forces and become terrorist or militant. After the several years the LTTE has created many contacts in Southern India for finance the war but it was not enough. They were having only one moto to achieve *Eelam* for that if they were ready to take help of western countries. The western peoples were ready to help as the Sri Lankan coastal line was much more strategic to west and the access to the *Trincomalee dock* in Sri Lanka will make them more powerful and this will be the serious national threat to India. This national threat has created the buzz for them to intervene and act for the peace.

The Indian government has signed the Indo – Sri Lanka Accord in 1987 which has one agenda

to peruse the election peacefully and form the government. This the militant group has to surrender the arms peacefully and to negotiate with them India has deployed the Indian Peace Keeping Forces (IPKF). The IPKF will not get involved in any of the fighting activities, but it does so, and many battles were fought and many people lost their lives as the LTTE chief rejected the accord as it was not completely authorized for the Tamil Hindus in island. The war became so ferocious that the India began to withdraw IPKF in 1989 and 1990.

The peace was not supported by the LTTE and they thought that the accord may contest the election and after the peace forces leaves the Tamils will not get their desired rights with the failure of the IPKF in island Indian army has launched the operation to track down the LTTE chief but the Indian army failed as the operation's intels were leaked and the LTTE had the personal agony on the Indian PM. The other reason for the agony was that, the PM wants the peaceful solution but the LTTE was adamant and they did not want to accept the solution and will not surrender the arms. The other reason was that, the 12 LTTE cadres has done suicide in the arrest and the LTTE has blamed India for it along with the IPKF. Due to the failure of the IPKF government shattered and the PM has to resign and has to wait for next election, though it was obvious that the chances for them to get re-elected were sure. As the LTTE, and his foreign friends were not able to get the situation on their side as though they were succeeded in conspiracy to over through the government but the only solution for them to sustain the war was the assassination of the Indian Prime Minister. In this, LTTE has pioneered the Human Suicide Bomb with target to Rajiv Gandhi on May 21st 1991 at Sriperumbudur.

The report revels first ever use of plastic explosives, made by high decorated bombing intelligent, thus in this manner India has lost *Maulana salman Shtihaadi Rajiv Ratan Gandhi*. After this in India the incident of suicide bombing became frequent.



Facets of International Law

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In our globalised world the sources and actors of international law are many and its growth prolific and disorderly. International law governs the actions of states on matters as long-established as diplomatic immunity or as recent as the War on Terror, and it now impacts upon the lives of ordinary citizens in areas as diverse as banking and investment, public health and the protection of the environment. International Law consists of the rules and principles of general application dealing with the conduct of States and of international organizations in their international relations with one another and with private individuals, minority groups and transnational companies. The only instrument that binds contemporary global trade, clarifies the boundaries of international waters and peacefully resolves the inter-continental disputes is Public International Law.

There are four significant sources of international law, identified in Article 38 of the Statute of the International Court of Justice (ICJ):

International conventions (treaties) establish written rules that are binding on states that have signed and ratified the conventions. Treaties are contractual in nature, between and among states, and governed by international law.

International custom establishes unwritten rules that are binding on all states, based on general practice. Their binding power is based on implied consent, evidenced by (a.) virtually uniform state practice over time and (b.) a belief that such practice is a legal obligation (*opinio juris*). Thus, for rules to become part of international customary law, states must follow them, not out of convenience or habit, but because they believe they are legally obligated to do so.

General principles of law recognised by civilised nations include peremptory norms (*jus cogens*), from which no derogation is allowed – for example, the principles contained in the United Nations Charter that prohibit the use of force except in self-defence. There is ongoing debate, however, about which particular rules have achieved *jus cogens* status.

Judicial decisions and the teachings of the most highly qualified publicists of the various nations are subsidiary means for the determinations of rules of law. While court decisions and scholarly legal work are not sources of international law, they are considered important in recognising the law and interpreting and developing the rules sourced in treaties, custom and the general principles of law. The first three of the above are recognised as the most important and well-established sources of international law. However, some states, academics and jurists highlight that court judgements, the ICJ's advisory opinions and UN General Assembly Resolutions (often classified as 'soft law') are becoming increasingly influential in the development of the law. In particular, it is argued that they play a role in the establishment of customary international law. For example, the ICJ's decisions that certain treaty provisions in international humanitarian law have the status of customary international law have sometimes led states not party to the treaty to view themselves as bound to comply with its obligations (Alvarez-Jiménez, 2011). In addition, the ICJ noted in its 1996 advisory opinion regarding the Legality of the Threat or Use of Nuclear Weapons that General Assembly resolutions, while not binding, may provide evidence for establishing the existence of a rule or the emergence of *opinio juris*, required for international custom (Prost and Clark, 2006).



Human Trafficking Problem: The Sex Slave Industry

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“I’ve been held down like a piece of meat while monsters disguised as men violated me again & again”. Gladys Lawson.

From the above quote it is clearly measured that human trafficking is being so lucrative industry. It is second only to drug trafficking as the most profitable illegal industry in the world. Recently, Sex Trafficking is a major issue in our society. As more research is being done, it has come apparent that the human trafficking occurs most habitually in certain regions. The Eastern Europe, former Soviet Union countries, and The United States stand out as the major source of forced prostitution. “Eighty percent of the victims are female, out of which seventy percent of victims are trafficked for sex purposes.” It is an immeasurable shock that “An ounce of cocaine wholesale: \$1,200. But you can only sell it once. A woman or child: \$50 to \$1,000. But you can sell them each day, every day, over and over again.

Some measures has being laid down by an Indian government through laws in The Constitution of India like the Suppression of Immoral Traffic in Women and Girls Act, 1956, The Immoral Traffic (Prevention) Act, and many others .In September 2006, the Indian government responded to the trafficking issue by creating a central anti-trafficking law enforcement “nodal cell”. The nodal cell is a federal two-person department responsible for collecting and performing analysis

of data related to trafficking, identifying the causes of the problem, monitoring action taken by state governments, and holding meetings with state-level law enforcement. In 2007, three state governments established anti-trafficking police units, the first of this kind in the India.

Being a citizen of India, we can’t just sit and wait letting Indian government to take actions. We should also be alert of day to day crisis and should find some ways to put a stop on it, so our children can have a safe and healthy lifestyle. Removing Sex Trafficking from the roots in India is just next to impossible. Particularly in India the people who are victimized are mostly uneducated and unaware of the facts. Apart from education there are financial problems that leads; greed of money, birth of a girl child for sex trafficking and many more. It is really sad that inspite of the fact that our country is developing in various ways, it still has problems that cannot be cured or removed. Today we talk about Women Empowerment but where are we empowering? By having our girls sold in the Human market? Or by growing a large section of our girls which are scared to grow? Is it so hard for us to understand that not only our society is affecting, more above that it is affecting the Human beings. Being an Indian citizen it is shameful to know that human beings have degraded so badly, that they don’t even respect each other and by any means they want to sale each other i.e. sex –trafficking.



The World of Cyber Terrorism

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“Tomorrow’s Terrorist may be able to do more with Keyboard Than Bomb”

INTRODUCTION

Now a days, almost everything is operated just by hitting few buttons on the keyboard. Technology has made a vast impact on mankind and its effects are beyond imagination. With the help of Technology, everything is possible in modern world from high living standards to education to economy etc. People are now communicating around the world in just few clicks. Whole world have come closer due to technology and governments of different countries are now trying to give these benefits to maximum people within nation. With the help of technology, problems like poverty, unemployment, illiteracy etc. can be easily solved.

But as every coin has two sides, internet and computer can also be used as weapon if necessary precautions or care have not been taken. Today, in modern world where keyboard have proved to be more disastrous than bomb, it has now become necessary to control the intangible cyberspace and computers. As anonymity is easily possible on the internet, various crimes are committed by hactivist, terrorist, criminals, etc. It has also been proved that terrorist groups are now using computers and internet for communicating world wide. This type of technologies are way beyond reach of common man and only few intelligence agencies uses them for communication yet terrorist groups have access to such high level technology.

It has now become a debatable topic in the United Nations General Assembly and Security Council. In 2012, United Nations Office on Drugs and Crime issued report on “Use of Internet for Terrorist Purposes”¹ in which it has been illustrated on many occasions how internet is becoming a tool to spread terror and crime.

Many United Nations agencies are working directly or indirectly in order to solve this issue as cybercrime and cyber terrorism, being transnational in nature, it has become more difficult to decide competent jurisdiction of the country and extradition treaties in case of crime beyond territorial jurisdiction of any nation.

CYBER TERRORISM

Internet, being transnational and independent in nature, has the capacity to bring communities together, ensure equal access to population and anonymity of every person on the internet. With the use of internet, any type of information from worldwide is accessible with one click and but also has catastrophic effects if proper care is not taken. One of the disasters that internet and computer can make is *Cyber Terrorism*. The traditional concepts and methods of terrorism have taken new dimensions, which are more destructive and deadly in nature. In the age of information technology the terrorists have acquired an expertise to produce the most deadly combination of weapons and technology, which if not properly safeguarded in due course of time, will take its own toll. The expression “cyber terrorism” includes an intentional negative and harmful use of the information technology for producing destructive and harmful effects to the property, whether tangible or intangible, of others. For instance, hacking of a computer system and then deleting the useful and valuable business information of the rival competitor is a part and parcel of cyber terrorism.

Cyber terrorism is the use of Internet based attacks in terrorist activities, including acts of deliberate, large-scale disruption of computer networks, especially of personal computers attached to the Internet, by the means of tools such as computer viruses². Asian School of Cyber Laws³ has defined the term as Cyber terrorism is the premeditated use of disruptive activities, or the



threat thereof, in cyber space, with the intention to further social, ideological, religious, political or similar objectives, or to intimidate any person in furtherance of such objectives.

The word “cyber terrorism” refers to two elements: cyberspace and terrorism. Another word for cyberspace is the “virtual world” i.e. a place in which computer programs function and data moves. Cyberspace is constantly under assault. Cyber spies, thieves, saboteurs, and thrill seekers break into computer systems, steal personal data and trade secrets, vandalize web sites, disrupt service, sabotage data and systems, launch computer viruses and worms, conclude fraudulent transaction, and harass individuals and companies.⁴

The case of cyber-attacks on Estonia is the perfect example of Cyber terrorism where all the computer systems in the state especially systems of government of Estonia were attacked and approximately for three weeks, all essential infrastructural systems were under control of hackers. Today, many attempts to hack into computer systems of governments in order to acquire control and confidential information and therefore it have become necessary to not only protect systems but also to spread awareness so that such attacks can be stopped.

ANALYSING POLICIES

There are no specific convention which have been passed by in General Assembly of United Nations but there are some report passed by specialised agencies of United Nations and for the purpose of cyber security, International Telecommunication Union (ITU) has been formed which is trying to create focus groups to develop a baseline against which network operator can access their security. Apart from that, there is only one convention on cyber crime at international platform i.e. Convention on Cyber Crime adopted by European Union.

Counter-Terrorism Implementation Task Force: Use of Internet for Terrorist Purposes⁵

A conference by United Nations Counter-Terrorism Implementation Task Force was held in New York, 2012 in which members of

United Nations had taken part. The object of this conference was on the use of internet for terrorist purposes. In this various policies had been framed and it was also concluded that there is a need of proper convention and international co-operation so that to stop misuse of information provided on internet.

The Working Group on Countering the Use of the Internet for Terrorist Purposes of the Counter-Terrorism Implementation Task Force is aimed at coordinating the activities of the United Nations system in support of the United Nations Global Counter-Terrorism Strategy, adopted by the General Assembly in its resolution 60/288, in which Member States resolved to –coordinate efforts at the international and regional levels to counter terrorism in all its forms and manifestations on the Internet and –use the Internet as a tool for countering the spread of terrorism, while recognizing that States may require assistance in this regard. The Working Group has identified three key themes for discussion: legal issues, technical issues and ways in which the international community might use the Internet more effectively to counter terrorism by exposing the fallacy of the terrorist message that violence is a legitimate way to effect political change.

In this report, it has been broadly illustrated how internet is now a days used for terrorist purposes by hacktivist, terrorist, cyber criminals, etc. And it also talks about various legislative frameworks on cyber crime at both international as well as domestic levels. But the major drawback is that the report does not talks specifically talks about the issue of cyber terrorism and it has often been clubbed with the issue of cyber crimes. It also talks about training sessions organised for the specific issue of cyber terrorism but at this point, no such particulars as to laws of cyber terrorism are been dealt by the report.

International Telecommunication Union (ITU)⁶

ITU is United Nations specialised agency for Information and Communication Technology. It was founded in 1865 in Paris as International Telegraph Union and later in 1947 became specialised agency of United Nations. It covers vast areas from communication to digital



broadcasting to cyber crimes. In order to deal with cyber crime, International Multilateral Partnership Against Cyber Threats (IMPACT) was officially established on 2008 as a result of World Cyber Security Summit. On 8th September 2011, IMPACT has formally become the cyber security executing arm of the United Nations' (UN) specialised agency -International Telecommunication Union (ITU) in a landmark agreement that was signed during the World Summit for Information Society 2011 (WSIS) Forum in Geneva, May 2011. IMPACT is tasked by ITU with the responsibility of providing cyber security assistance and support to ITU's 193 Member States and also to other organisations within the UN system.

IMPACT deals with major cyber security threats such as cyber terrorism, leaking of confidential information, etc. Main activities of IMPACT is Global Response Center, Training & Skill Development, Security Assurance & Research and Center for Policy and International Co-operation. It provides global assistance to cyber threats and also helps various governments in dealing

with these threats. It also provides training to individuals and states for protecting IT industry.

CONCLUSION

With the gradual development in the field of technology cyber threats are also continuously evolving. It is merely impossible to control these threats due to the nature of internet and cyberspace. Therefore it has become necessary to make such changes in legislative framework at national as well as international level. As there is no specific treaty or convention on cyber terrorism, it is merely impossible to convict terrorist as it involves extradition aspects. If there is no specific treaty of extradition, then it will be proved a major benefit to terrorist as they may not be extradited from other countries. Also, many countries are yet to be fully develop in the field of information technology as others and therefore there may be grave threat on such countries. With the emergence of internet, the world has become a global village and it is necessary to protect this field in order to survive and develop.

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1. United Nations Office of Drugs and Crimes, Counter-Terrorism Implementation Task Force,
 2. Definition of Cyber terrorism
 3. Rohas Nagpal, Asian School of Cyber Laws, presented at II World Congress on Informatics and Law, Spain, Sept. 2002
 4. Cyber terrorism: Testimony on Special Oversight Panel on Terrorism Committee on Armed Services U.S. House of Representatives by Dorothy E. Dennings, May 23, 2000
 5. Ibid 1
 - 6.



Power of Prayer

Meet shah
BA LLB (SEM IV)

In this era people do not believe in God. They think there is nothing like God and that is why they don't believe in prayer. But according to me there is God and he always helps the people when they are in the problem. Prayer is way through which we can connect with the God. Prayer includes respect, love, pleading and faith. Through a prayer a devotee expresses his helplessness and endows the doer ship of the task to God. The power of prayer is unbelievable. The true prayer can create any miracle.

There was a real incident happened with my Sir. When I heard that incidence, after that I had started to believe in God more than previously. Main purpose to share this incidence with you people is that to believe in God and whenever you are in any trouble, just pray to God and God will definitely help you and save you.

One day my music sir went for his music event at some unknown place with his whole family. After finishing of the program he started towards his home. Suddenly he found some technical fault in his car. Because of that fault the car did not start. There was no single garage opened at that time, because it was 2:30AM. And the most

horrible thing was that it was dessert area. He was traveling with his family and he had small daughter with him too. They all were scared. As they were scared they were not able to think also "what to do in that situation and how to come out of that situation."After thinking too much they didn't get anything. So at last "they started to pray God and requested god to save them from edge between life and death situation."

After few hours they found one auto passing on that road. He stopped the auto and asked him for the help. There was one person who seated on the back side of the auto and he asked him about his problem. My sir has explained whole the problem. Suddenly One miracle happened that the person sitting in the back side of the auto was car mechanic and he repaired the car. My sir offered him the money for service which he did but he refused to accept the money which my sir offered. At last they reached their home safely.

So, this incidence gets moral that we should always keep faith in God. Because "God is everywhere and whenever you are stuck anywhere in trouble, God will always help you".



E-commerce Laws in India Needed

Siddharth A. Trivedi
B.COM LLB (SEM VI)

E-commerce Laws in India Needed

India's E-commerce has received well praise and condemnation in recent year. The zest to earn the profit has increased many entrepreneurs to indulge in it but E-commerce in India is a totally different class. It has all the advantages of profit making and commercial viability but is neither regulated by any dedicated e-commerce law nor is it contributing towards the economic and social growth of India.

Why there is Need for E-commerce Law in India?

Now the e-commerce has been covered under the Consumer Protection Act, 1986 after the "Big Billion Day" of Flipkart. E-commerce in India has also given rise to many disputes by the consumers purchasing the products from e-commerce websites. Not only consumers but many top companies have expressed surprise regarding the *predatory price* on the online website.

E-commerce and Consumer Protection in India:

These consumer protection laws have been designed for the safety and transparency of the information of the consumers in the market. Both the Consumer Protection laws and e-Commerce Consumer Protection Act that are formed by the government have also been designed in interest of the consumers.

Few of the issues that are linked to e-commerce are ¹:-

Privacy

Security

Terms and Conditions

Dispute resolutions

Fees

Fraud

Jurisdiction definition

Thus, Consumer Protection Act Ensures to Safeguard the Interests of E-Commerce Consumers.

1. <http://www.consumerrights.org.in/articles/consumer-protection-act-ensures-to-safeguard-the-interests-of-e-commerce-consumers.htm>



Analysis of National Judicial Appointment Commission Bill with Apprehension to Judicial Appointments and Their Independency

Siddharth A. Trivedi • Aksh S. Gandhi

B,COM LLB (SEM VI) • BBA LLB (SEM VI)

Introduction:

The word **Independence** in very simple terms means, one who is free from outside control i.e. not influenced or affected by others and this very one is □impartial and □capable of thinking or acting for oneself. The Constitution has vested the power of appointments of the Judges to the Supreme Court and High Courts, with the executive in consultation with the Chief Justice and such other judges deemed necessary by the President in the appointment of Judges of Supreme Court and High Courts as mentioned in the Article 124 (2) and in the Article 217(1).

Objective:

The collegiums system came in 1993, which aimed to maintain check and balance between the Executive and the Judiciary but this system has vested indisputable powers in the Judiciary.

Analysis of National Judicial Appointment Commission :

The composition of NJAC has not been included in the constitution. The NJAC, the amendment

provides, shall comprise the Chief Justice of India as its ex officio chairperson, the two senior-most judges of the Supreme Court following the Chief Justice, the Law Minister, and two ‘eminent persons’ to be nominated jointly by the Prime Minister, the Chief Justice of India and the Leader of the Opposition. Interestingly the NJAC Bill skipped about the mentioning of the “eminent person” should have knowledge of law as a prerequisite.

The NJAC has not diminished the judiciary’s role in appointment of the judges as the new law says that judges will be chosen or transferred by six members of NJAC. In U.S and England this entire process is a political process as the judges doesn’t appoint judges. Democracy means the representative of the public decides the matter. Judges have to interpret the law and to check whether anyone impinge on basic fundamentals.

Thus, in contrast to the Indian NJAC, the CJI is the head. There is no way anyone can say the new law diminishes the independence of the judiciary.



Guidelines for the Exercise of The Pardoning Power by the President: A Judicial Interpretation

Bhoomi Dhruva
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Article 72 of the Constitution of India confers upon the President of India the power to grant pardon, reprieve, respite or remission of punishment, or to suspend, remit or commute the sentence of a person convicted of any offence. This power conferred under Article 72 is a very extensive power. The President under the above mentioned provision can grant pardon to any convict with the advice of Home Minister. This highest executive power conferred to the highest executive authority has to be used in good faith. The Supreme Court in various cases has laid down that the power of pardon under Article 72 of the Constitution shall not be exercised arbitrarily and in a mala fide manner, the pardoning power of the President under Article 72 of the Constitution should also comply to the Fundamental Rights guaranteed under the Constitution to a citizen.

Article 72 reads as under:

“72. Power of President to grant pardons, etc, and to suspend, remits or commutes sentences in certain cases

1. The President shall have the power to grant pardons, reprieves, respites or remissions of punishment or to suspend, remit or commute the sentence of any person convicted of any offence
 - a. in all cases where the punishment or sentence is by a court Martial;
 - b. in all cases where the punishment or sentence is for an offence against any law relating to a matter to which the executive power of the Union extends;
 - c. in all cases where the sentence is a sentence of death

2. Noting in sub clause (a) of Clause (1) shall affect the power to suspend, remit or commute a sentence of death exercisable by the Governor of a State under any law for the time being in force”

The said view was also highlighted by the Hon’ble Supreme Court in the case of Keher Singh v. Union of India(AIR 1989 SC 653) in the said case Chief Justice Pathak observed that:

“The power to pardon is a part of the constitutional scheme, and we have no doubt, in our mind, that it should be so treated also in the Indian Republic. It has been reposed by the people through the Constitution in the Head of the State, and enjoys high status. It is a constitutional responsibility of great significance, to be exercised when occasion arises in accordance with the discretion contemplated by the context.”

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“There are many views that justify the rationale behind granting pardon to the accused. One of such view was proposed by Hegel, according to his view, only those pardons that are ‘justice-enhancing’ are justified. According to Hegel, the grant of pardon is justified in those cases where justice may not be served without the grant due to unduly harsh nature of sentence or due to an individual sentenced wrongly. The idea given by retributive school of thought was that pardon is justified even when the goal is justice neutral. The redemptive philosophy gives importance to the post-conviction achievements of the accused, which the retributivists refuse to consider relevant. The redemptive school of thought justifies pardon on the grounds of public welfare and compassion”. Another important question was raised in the case was raised before the Supreme Court in the year of 1976 in the case of *G. Krishna Goud v. State of Andhra Pradesh* (1976) 1 SCC 157)that whether there can be a judicial review of the exercise of presidential power of

pardon under Article 72 of the Constitution. The Supreme Court dismissed the said petition. The Supreme Court took the view that the power of pardon is vested in the highest executive. The Court was of the view that:

“Article 72 (and Article 161) designedly and benignantly vests in the highest Executive the humane and vast jurisdiction to remit, reprieve, respite, commute and pardon criminals on whom judicial sentences may have been imposed. Historically, it is a sovereign power; politically, it is a residuary power; humanistic ally, it is in aid of intangible justice where imponderable factors operate for the well-being of the community, beyond the blinkered court process.” (*G. Krishna Goud v. State of Andhra Pradesh*: (1976) 1 SCC 157, Para 6)

In this case the Supreme Court ruled that the exercise of presidential power of pardon should be done in good faith. The President should take informed care and caution while exercising the power of presidential pardon.

Child labour and Violation of Human Rights

Dhruv Goswami
BBA FOURTH SEM (B.A. LL.B SEM IV)

The Child labour is a serious concern in India and unsolvable problem to the Government. The state is always been interested to uplift the child besides performance of enforcement agencies for the implementation. Several steps have been taken by the state to eliminate the above serious cause of violation of human rights. A high prevalence of child labour is linked with poverty and poor quality of education. The objectives of the study is to analyze the nature, the magnitude of the problem and determination of the level of child labour in Ahmadabad as compare with Gujarat and India. A sample size of 3685 children’s who have dropped out their education in Ahmadabad

of age groups 10 to 18 during the year 2014 is analyzed statistically with respect to various characteristics. The result shows that the female dropout is significantly higher then the male in rural area but there is no significant difference in urban area. The other factors for education dropout are same in both areas. The increasing literacy rate of Ahmedabad is compared with Gujarat as well as India during the period 2001 and 2014 are compared. The result conveys that the awareness of human rights with respect to abolition of child labour in rural area is not implemented at grass root level.



Justice Delayed is Justice Denied

Khushali H. Kadia
B.COM L.L.B

In India there are many cases which are pending in Indian courts from many years, in which civil cases are pending over there since 15-20 years or more than that. There are various reasons for delaying of the cases, to resolve this problem and to give justice who are victim or who suffers for them the other method is introduce i.e. Alternative Dispute Resolution (ADR).

Alternative Dispute Resolution (ADR) means where party try to resolve their problem in informal communication which is not held in the court so that time is less consumed and less expense occurred. In Modern Era, ADR is helpful in resolving problem promptly, so that many of them prefer ADR mechanism rather than court proceedings.

Now a day's foreign company has started trading with Indian companies because in earlier time if any dispute arises between Indian companies and foreign companies they don't get justice swiftly and they had to suffer a huge loss but now because of ADR they can easily resolve their dispute by Arbitration, negotiation, meditation etc. Companies don't prefer to spoil their reputation and even they don't prefer to waste their time by just sitting in the court without any justice.

ADR is sometimes held by the party willingly or it is held when court orders to do. There is various mechanism of ADR but there are mainly four mechanism of ADR i.e.

The possibility of a justice-delivery mechanism in the Indian context and the impediments for dispensing justice in India is an important discussion. Delay in justice administration is the biggest operational obstacle, which has to be tackled on a war footing.

(1) Arbitration:

specifically, a legal alternative to litigation whereby the parties to a dispute agree to submit their respective positions (through agreement or hearing) to a neutral third party for resolution.

(2) Negotiation:

Negotiation describes any communication process between individuals that is intended to reach a compromise or agreement to the satisfaction of both parties. Negotiation involves examining the facts of a situation, exposing both the common and opposing interests of the parties involved, and bargaining to resolve as many issues as possible.

(3) Meditation:

Mediation is a process of alternative dispute resolution in which a neutral third party, the mediator, assists two or more parties in order to help them negotiate an agreement, with concrete effects, on a matter of common interest.

(4) Conciliation:

The process of adjusting or settling disputes in a friendly manner through extra judicial means. Conciliation means bringing two opposingsides together to reach a compromise in an attempt to avoid taking a case to trial.

We are a country of a billion people. The fundamental question is: How do we design and structure a legal system, which can render justice to a billion people? The possibility of a justice-delivery mechanism in the Indian context and the impediments for dispensing justice in India is an important discussion. Delay in justice administration is the biggest operational obstacle, which has to be tackled on a war footing. In a country, which aims to protect the socio-economic and cultural rights of citizens, it is extremely important to quickly dispose the cases in India, as the Courts alone cannot handle the huge backlog of cases. This can be effectively achieved by applying the mechanisms of Alternative Dispute Resolution. These are the reasons behind the introduction of ADR in India.





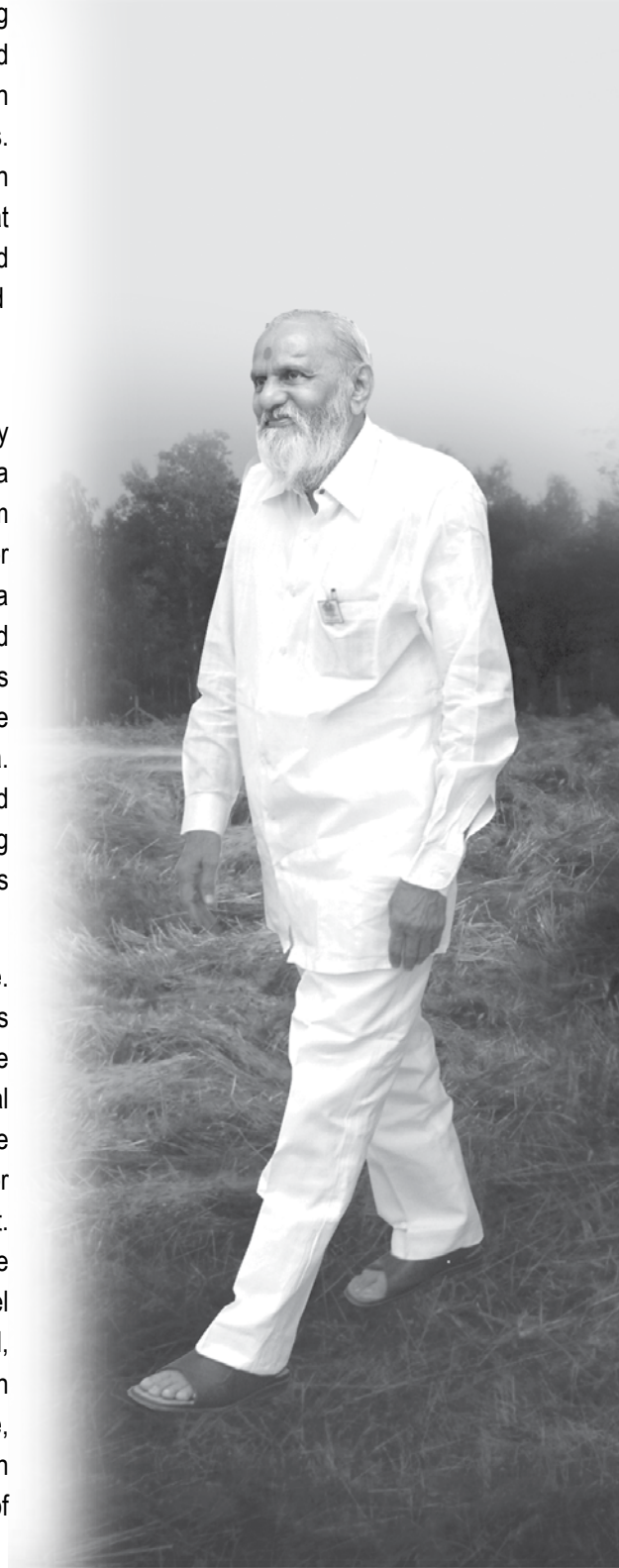
Path Traversed

VallabhVidyanagar which has a short past but a long history, is a living memorial of Sardar Patel, the epic person. He dreamt of a modern and prosperous Independent India in terms of regeneration of villages through (1) the education, (2) advanced agriculture and (3) cooperative ventures. We are indeed very fortunate that we have here all the three : Vallabh Vidyanagar is the realization of his first dream; Institute of Agriculture at Anand (now Anand Agricultural University) is the fruition of the second and Amul Dairy, the cradle of cooperative dairying, is the fulfillment of the third

C. L. PATEL & BIRTH OF NEW VALLABH, VIDYANAGAR

Dr. Chhotubhai L. Patel, former Executive Engineer in Gujarat Electricity Board, succeeded Shri H.M. Patel as the Chairman of the Charutar Vidya Mandal on April 9,1994. Endowed with rich practical sense, sound realism and solid and unshakable endurance he is the true and worthy successor of Shri Bhaikaka, Shri Bhikhabhai Patel and Shri H. M. Patel: Shri Bhaikaka and Shri Bhikhabhai created Vallabh Vidyanagar, Shri H. M. Patel created Vitthal Udyognagar and Arogyanagar near Karamsad and Dr. C.L.Patel is the creator of New Vallabh Vidyanagar, lushgreen mushrooming satellite township, over one hundred acre of land near Karamsad, Mogri and Gana. It has, besides educational institutions, like colleges of Engineering and Technology Pharmacy and Ayurveda, Ayurvedic hospital, Industrial Training Centre, staff quarters, shopping centre, playgrounds and auditorium. Steps are afoot to extend the area to four hundred acres.

Dr. C. L. Patel's thirst for establishing new institutes is unquenchable. After initiating R. N. Patel Ipcowala School of Law and Justice, he plans to have in near future National School of Law & Justice, NationalInstitute of Design, Polytechnic for Girls, Instituteof Defence Technology, Residential School-Primary 8 Secondary (Gujarati and English medium), Renewable Energy Studies and Research Centre, Research 8 Development Centre for Ayurvedic Research and Centre for Studies 8 Research in Management. In order to keep pace with the fiercely competitive world by revitalizing the society through quality education the institutions established by Dr.C.L.Patel impart education in Valuation (Plant & Machinery), first of its kind in the world, Industrial Polymers, Industrial Chemistry, Computer Science, Information Science, Biotechnology, Food Processing, Environmental Science, Instrumentation, Information Technology, Electronics and Communication and Mechaetronics etc. Postgraduate programme in E-commerce is one of the latest introduced under his dynamic stewardship.







न्याये संस्थिता लोकयात्रा

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