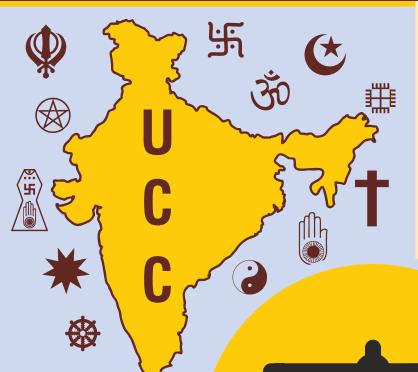
Vol XXII Issue 86 April-June 2023

# THE STANTISSUE 30 April-Julie 2023 THE STANTISSUE 30 APRIL-JULIE



## UNIFORM CIVIL CODE

Need of the Nation

ONE NATION



ONE LAW

Legality of Same Sex Marriage

- A Debate





## Akhil Bhartiya Adhivakta Parishad, National Executive Meeting at Goa, on 8th -9th April 2023



Smt. Meeratai Khadakkar ji, Vice president ABAP, lighting the lamp, and Sh. K. S. Murthy Ji, President, ABAP, Sh. Shreehari Borikarji, North Zone Organising Secretary, Sh. D Bharat Kumar, National Genaral Secretary, ABAP, Sh. Baldev Mahajan Ji, Spl. Invitee, Former President ABAP, Smt. Anjali Neel Helekar ji, Secretary ABAP



**Cultural Programme at Goa** 



#### ISSN NO.: 2582-1733

#### Vol XXII Issue 86 April-June 2023

#### **EDITOR** K. SRINIVASA MURTHY

Sr. Advocate, Andhra Pradesh High Court

#### **SUB EDITOR**

Vinay P. Navare

Sr. Advocate, Supreme Court of India

#### ASSISTANT EDITOR

Santosh Kumar

Advocate, Supreme Court of India

#### **EDITORIAL TEAM**

M.P. Bendre

Advocate, Pune

Dr. G. Babu

Advocate, Chennai High Court

Archana P. Dave

Advocate, Supreme Court of India

#### Manisha Aggarwal Narain

Advocate, Delhi High Court

#### **Praneet Pranav**

Advocate, Supreme Court of India

#### Shubhendu Anand

Advocate, Supreme Court of India



#### RESEARCH TEAM

Ankita Chaudhary, Advocate Ayush Anand, Advocate Vedansh Anand, Advocate Aditya Kashyap, Advocate



#### EDITORIAL OFFICE

50, Pravasi Bhawan, Deendayal Upadhyaya Marg, New Delhi - 110002 Ph.: 011-23213469

e-mail: nyayapravah@gmail.com nyayapravah@rediffmail.com

www.adhivaktaparishad.org



#### DESIGN & PRODUCTION

MIMANSA GRAFIX

D-94, Okhla Industrial Area Phase-I, New Delhi - 110020

Disclaimer: Any opinions or views on any contemporary or past topics, issues or developments expressed by third parties, whether in abstract or in interviews, are not necessarily shared by editor/ publisher. All disputes are subject to the exclusive jurisdiction of comptent courts and forums in Delhi/New Delhi only.



T 1			1
Ηd	Πt	oria	П

Uniform Family Laws - The need of the Hour	4
Legal Countenance	
Uniform Civil Code - R.G. Ramani	5
Society Began from Marriage - Biraja Mahapatra	10
Curative - Rarest of Rare case - Sneha Kalita & Kavya Jhawar	12
Point of View	
Uniform Civil Code - Pre & Post Independence _ Ajay Jagga	14
Uniform Civil Code: Need of the Hour for Indian Society - Kartik Kumar Aggarwal and Neha Mishra	18
Legal Aspects for Protection of Environment In Recent Era - Sampa Sengupta Ray	23
Same Sex Marriage can Erode The Traditional System of India - Dr. B. Ramaswamy	29
Surrogacy: A Legal and Ethical analysis - Abhay Aggarwal	33
Cyber Crime : A Bloodless WAR - Chinmayee Sahoo	36
Reports	42
National Executive Meeting - 2023 (08.04.2023 - 09.04.2023) organised at MADGA	48 1 <i>0, GOA</i>
Memory Lal Bahadur Singh - A Swayamsewak	49

## Uniform Family Laws-The need of the Hour

very society has to recognise the aspirations of new generation and respond to the issues which concerns the citizens. The refusal will lead to discontent in society. Women of this country are at the receiving end due to lack of uniform family laws. It is rather strange that this issue has not drawn the attention of 'elite' policy makers. Due to divergent laws governing marriage, divorce, alimony/ maitainance, succession and guardianship the women of this country are suffering. Several studies have shown that due to lack of uniform family laws there is immense suffering and agony.

Article 44 of constitution of India declares that endeavour be made to towards uniform civil code. The courts have said that this governments are to take necessary steps. The apex court had declared that power of parliament to reform and rationalise the personal laws is unquestioned. 'Power' does not operate in vacuum. It flows from responsibility and accountability.

The fact that the personal laws have a connect to religion has been exploited by the selfish forces. It has become a profitable business for some groups to raise the bogey of religious persecution whenever there is an attempt to rationalise the family laws. Law can never be static. It has to be dynamic and respond to the changing

needs of society. Gender dignity, gender equality leading to gender justice is in tune with constitutional scheme.

The 'progressive' crowd which shouts hoarse on women being at the receiving end in this country and launch vicious attack on Bharathiya culture in this regard maintain steady silence when family laws are discussed. These self proclaimed torch bearers promote the religious bigots who have been stone walling any meaningful discussion on this issue.

Such of the personal laws which permit the gender discrimination have to be appropriately tackled. The farce of protection of distinct culture, religious identity to obstruct uniform family laws has to be exposed. The policy makers have to be sensitised motivated nudged and prodded to move on to make uniform family laws a reality. In Goa there is uniform civil code and all the communities follow it. A similar code should be drafted forthwith and be placed before the nation. It is constitutional mandate. Lets full fill the promise made to womenfolk by the framers of constitution.



## **Uniform Civil Code**

#### R.G. Ramani

Senior Advocate

- (1) Part IV of the Constitution of India provides for Directive Principles of State Policy and Article 44 thereof provides for Uniform Civil Code for the citizens. The said Article provides that the State shall endeavor to secure for the citizens a uniform civil code throughout the territory of India.
- (2) Goa is the only State of India that has Uniform Civil Code regardless of religion, gender, caste. In Goa, Hindus, Christians and Muslims of Goan origin are all bound by the same law related to Marriage, Divorce, Succession. However, usages and customs of Gentile Hindus are saved. The aspiration of the Article 44 of the Constitution of India to bring into existence certain uniformity in family laws finds its realization in the State of Goa.
- (3) Uniform Civil Code in Goa is based on liberty, equality and non discrimination on the grounds of religion, race, caste or sex. Though these laws were made during the Portuguese regime much prior to the framing of the Constitution of India, they are in conformity with Articles 14, 15 and 21 of the Constitution of India and are not in conflict with Articles 25, 26 and 29 of the Constitution of India.
- (4) Late Shri Y.V. Chandrachud, the Hon'ble Chief Justice of India inaugurated the Lawyer's symposium on "Family Laws in Goa" held in December, 1979. It would not be out of place, on this occasion, to quote some excerpts of His Lordship's address in the said Conference. "It is heartening to find that the dream of a Uniform Civil Code in the country finds its realization in the Union Territory of Goa, Daman and Diu only. How many outside Goa are aware of this, I cannot guess". "A Uniform Civil Code remains to-day a distant goal. In my view it would be retrograde step if Goa too were to give up uniformity in its personal

laws which it now possesses."

"Portuguese followed a different policy in the matter of personal laws than the British. The Civil Code enacted by them, covering, inter alia, family laws, applied to all the communities living in this Union Territory, excerpt that the customs and usages of the non-Christians were saved to a very limited extent."

His Lordship's splendid address in the said conference has gone a long way to set the Uniform Civil Code in Goa on a strong footing.

Goa is the only State of India that has Uniform Civil Code regardless of religion, gender, caste. In Goa, Hindus, Christians and Muslims of Goan origin are all bound by the same law related to Marriage, Divorce, Succession. However, usages and customs of Gentile Hindus are saved. The aspiration of the Article 44 of the Constitution of India to bring into existence certain uniformity in family laws finds its realization in the State of Goa.

#### I will now give some salient features of: Marriage Law in Goa

- (1) Marriage is a civil contract solemnized between two different persons of different sex with the purpose of legitimately constituting a family and is presumed to be perpetual without prejudice to its dissolution by way of Divorce.
- (a) Marriage to be solemnized before the Officer of Civil Registration and only such marriage is valid.
- (b) Impediments to the marriage following shall not contract marriage –

#### Legal Countenance

- (i) Relatives by consanguinity or affinity in direct line
- (ii) Legitimate or illegitimate brothers and sisters by full blood
- (iii) Males and females who have not attained majority
- (iv) Those under disability due to insanity
- (v) Any spouse convicted of commission or abetment of murder of other spouse with any other person convicted of same offence
- (vi) Those joined by another marriage not yet dissolved.
- (c) Marriage to which consent is proved to have been caused by mistake or coercion is voidable.

Marriage celebrated in contravention of provision providing for prohibition of marriage between certain persons is void.

- (d) Suit for annulment can be filed on the following grounds—
- (i) ignorance of his/her status
- (ii) ignorance of non-bailable offence
- (iii) ignorance of an irremediable and previous physical defect like impotency and any incurable disease.

Has to be filed within one year

#### Effects of Annulment -

Children are always held legitimate

- (e) Proof of marriage is certified copy of the certificate of marriage issued by Sub-Registrar
- (f) Special provisions regarding the Catholic Marriage produces civil effects only if in conformity with canonical laws
- (g) Contract by the spouses in respect of their properties
  - (i) Marriage is presumed to be by Regime of Communion of Assets
  - (ii) Ante-nuptial Agreement can be entered into by Regime of Absolute Separation of Properties or of the Simple Communion of Acquired Properties or by the Dotal Regime (endowment of properties by the wife's parents or others).
  - (iii) Spouses under Communion of Assets cannot alienate properties without the consent of each other.

- (h) Separation of Persons and Properties on the following grounds -
  - (i) Adultery committed by the wife
  - (ii) Adultery committed by the husband with public scandal, or complete abandonment of wife or keeping a mistress in the house
  - (iii) Conviction of the spouse to life imprisonment
  - (iv) Ill-treatment and serious injuries.

## (2) In case of persons married under Regime of Communion of Assets -

- (i) Each spouse has 50% share in all the assetsOut of this 50% of each spouse25% is the Disposable share25% is the Indisposable share or Legitime
- (ii) Immoveable properties cannot be alienated or charged without the participation of both the spouses
- (iii) Specific properties cannot be bequeathed by one spouse without the written consent by a public deed by the other spouse
- (iv) Husband cannot renounce any inheritance without the consent of the wife
- (v) Wife cannot incur debts without the permission of the husband except in the absence or impediment of the husband
- (vi) Husband or wife cannot move the Court in respect of disputes of ownership and possession of immovable properties without the consent of the other spouse.
- (vii)Communion ends by the dissolution of the marriageProperties of the communion are equally partitioned between the spouses or his/her heirs and each one shall account for his/her liabilities to
- (viii)Father and mother shall continue to have parental control over their children and shall have the right to supervise children's education. Both are bound to maintain their children in proportion to their own income and properties.

the common pool.

#### (3) Divorce -

### (a) Divorce suit cannot be decreed on admission by the defendant

- (i) But the Plaintiff may withdraw the suit before judgment becoming final or spouses may try to reconcile
- (ii) Judgment of divorce to be published in two newspapers and Government Gazette
- (iii) Divorce by mutual consent only by spouses who have been married for over 2 years and both having completed age of 25 years.
- (iv) Provisional divorce is granted for 1 year for which both the spouses are required to be present before the Judge.
- (v) After 1 year, the spouses shall appear again before the Judge to report if they still maintain their decision to separate or if they reconciled and accordingly judgment invalidating provisional divorce or sanctioning divorce shall be passed.
- (vi) No new marriage for 1 full year.

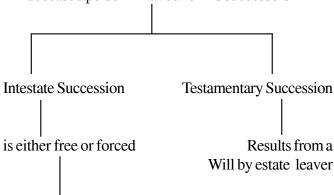
#### (b) Contested divorce on the following grounds –

- (i) Adultery committed by the wife
- (ii) Adultery committed by the husband
- (iii) Final conviction of one of the spouses to undergo major punishment under the Penal Code (provided the petitioner was not convicted as coaccused, or abettor or accomplice in the offence which resulted into the conviction to undergo major punishment)
- (iv) Ill-treatment or serious injuries
- (v) Complete abandonment of the conjugal domicile for a period of not less than three years
- (vi) Absence, where, nothing has been heard of the absentee, for a period not less than 4 years
- (vii) Incurable unsoundness of mind when at least three years have elapsed after its pronouncement by judgment, become final for want of appeal
- (viii) De facto separation, freely consented, for 10 consecutive years, whatever may have been the cause of that separation
- (ix) Chronic vice of gambling
- (x) Contagious disease found incurable or an incurable disease involving sexual aberration (can be invoked only after pre-institution verification of the nature and the characteristics of the incurable disease by previous examination)

#### **Some Salient features of:**

#### **Succession Law in Goa**

(1) Succession is the transmission of the estate of a deceased person in favour of his successors



is reserved by law to the forced heirs and places restrictions on the freedom of the estate leaver to dispose of his estate

Forced heir means the heir whom the estate leaver cannot deprive of the portion of his estate reserved to such heir by law, except in cases where the law permits the estate leaver to disinherit him

- (a) Succession opens on the death of the estate leaver
- (b) Inheritance is partitioned by a mandatory inventory or optional inventory

by a Deed of Partition if all heirs are major and no there is disability

- (c) There is freedom to accept or renounce inheritance
- (d) Order of legal succession
  - (i) Descendants
  - (ii) Surviving spouse
  - (iii) brothers and sisters and their descendants
  - (iv) Collaterals not comprised in (iii) upto 6<sup>th</sup> degree
  - (v) State
- (e) Married persons cannot dispose of their entire estate
  Disposable portion is
  freely disposable
  (50% of the estate)

  Legitime
  (remaining 50%)
- (f) Parents or grand parents cannot sell or mortgage their assets to their children or grandchildren unless all the remaining children or grandchildren with their spouses give written consent
- (g) Wills to be by registered deed before the Civil Registration Office Married persons cannot make a Will of specific property without the consent of each other given by a public deed.
- (h) After the Divorce or Annulment of Marriage, spouses to partition their assets by an Inventory

#### **Distinguishing Features**

In Goa	Outside
(1) All matters relating to succession governed by one single system of law	(1) Not under one single system
<ul><li>(2) Will is a public document executed before the office of Civil Registration Office and recorded in his book.</li><li>No probate required</li></ul>	<ul><li>(2) Will is a private document.</li><li>Registration is optional.</li><li>Probate required.</li></ul>
(i) Where undivided share is bequeathed by a Will, Transferee is Testamentary heir	(i) Where some share is bequeathed by a will, Transferee is a legatee
Besides legal heirs in case of intestate succession, there can be Testamentary heirs in case of Testamentary Succession	There is no testamentary heir even in case of Testamentary succession but only legal heir as in case of Intestate Succession
(ii) where specific property is bequeathed by a Will, Transferee is legatee	(ii) Where specific property is bequeathed by a will, it is specific legacy
(3) Where there are descendants or ascendants, a Will or a Gift cannot be made of the entire estate in favour of stranger.	(3) There is no restriction of disposition, even if there are legal heirs.
It can be only to the extent of disposable share which is 50% portion of estate, the remaining 50% portion is called indisposable portion or legitime which passes to all legal heirs as a matter of right	Muslim law does not permit disposal of more than 1/3 rd part, either by a Will or a Gift
Consequences of disposition exceeding disposable share, is reduction of disposition to the extent of 50%	
(4) Unless there is an ante- nuptial Agreement drawn, marriage is deemed to be under Regime of Communion of Assets. Before husband's death -  (i) Wife gets undivided half share in the properties  (ii) She becomes heir, if no descendants  (iii) No property can be alienated without her participation  (iv) No Will can be executed of a specific property without her consent	(4) Before death of one spouse, the other spouse does not have any independent right as a result of marriage Right of succession to the other spouse whenever the law so provides.
Marriage can be by Regime of Absolute Separation of Assets or Regime of Separation of all the Properties Acquired before marriage and with Communion of Assets or those Acquired after marriage or by Dotal Regime	

(5) "Legitime" or Indisposable share and Disposable (5) Does not arise share are calculated as on the date of the death In such computation, all dispositions intervivos by way of Gift are added to the disposition by Will and taken into consideration (6) Upon the death "Inventory" is instituted to have (6) In case of Testamentary Succession, the executor judicial partitionAn Administrator is appointed as does the distribution and otherwise, letters of provided by law amongst the interested parties administration are to be obtained with succession certificate. (7) In case of heirs under disability, Inventory is called No such provision Orphans jurisdiction (i) there is intervention of family council No such provision (8) If heirs are not under Orphan's jurisdiction (i) Voluntary partition outside Court permissible (ii) Succession Certificate of Qualification of heir Succession Certificate is obtained through Court can be obtained upon execution of such document before Special Notary as per prescribed only procedure (iii) The Inventory is not merely of distribution of In Distribution of assets, there is no bidding. assets. Bidding can take place amongs heirs and Distribution is done by the Executor or Administrator surviving spouse as the case may be (9) Right of the heirs is inchoate. It is perfected on Right accrues to the heir upon the death. It does not acceptance of inheritance. Before acceptance, it can depend upon the acceptance be renounced (10) The heir is forbidden to renounce the estate during No such restriction the lifetime of the testator (11) If one heir sells to a stranger his undivided right to Does not arise the estate, the other heirs are entitled to have it by way of preemption.

#### Usages and Customs of Gentile Hindus of Goa

#### 1. Marriage solemnized between Gentile Hindus -

- i) If performed according to their religious rights, produced all the civil effects which the laws of the Country acknowledged to the Catholic and civil marriages
- ii) Registration of Civil Registration of Marriage is mandatory
- iii) In the absence of legitimate male issue, Gentile Hindus of any caste are permitted to adopt a male in accordance with the ceremonies prescribed by his/her religious rites.

Gentile Hindu widows can also take in adoption an adoptee. If such adoption is under authorization of

- her husband, such adoptee is considered for all effects adopted during the subsistence of marriage.
- iv) Adoption only by public deed of adoption with the express consent of the adoptee, if major and of his legitimate parents.
- v) Hindus living in the same house and with same domestic economy are considered as a joint family.

#### Joint family managed by Head of Family.

2. Non-Catholic inhabitants of Goa, who are not Hindus, would observe the provisions of this law insofar as they were applicable to them and not contrary to their religious rites and in the same manner their private usages are safeguarded insofar as they are not contrary to morality and public order.

## Society Began from Marriage

#### Biraja Mahapatra

Advocate & Former Journalists

Several state Bars and even Bar Council of India, right wing organizations and even the Central Government through its solicitor Tushar Mehta have urged the Supreme Court to refrain from making any such declaration in the touchstone of fundamental rights laws as enshrined in the Constitution.

fter the judgment in Navtej Singh Johar vs Union of India in 2018 decriminalizing consented sexual act involving adults from the mischief of Section 377 IPC, another major issue regarding legal sanction for same sex marriage and consequential constitutional and legal rights has come for a scrutiny before the constitution bench of the top court.

All anal sex, oral sex and such acts among opposite sex couples, even if consensual, were punishable as "unnatural offence" under Section 377 IPC prior to 2018 judgment. But it opened optimism to demand marriage status for same sex couples. Now no criminality could be attached if there is a union among same sex partners.

There is widespread apprehension among lawyers, media circles and mostly people believing in cultural conservatism if Supreme court would give a declaration legitimizing same sex marriage.

Several state Bars and even Bar Council of India, right wing organizations and even the Central Government through its solicitor Tushar Mehta have urged the Supreme Court to refrain from making any such declaration in the touchstone of fundamental rights laws as enshrined in the Constitution.

Until the last date of hearing on 12.05.2023, they were voicing demand that policy relating to same sex

marriage is rather in the domain of Parliament and not in that of the judiciary.

The question to be decided by the Supreme Court is if same sex relationships can come under the ambit of marriage for which there could be a declaration until some

The question to be decided by the Supreme Court is if same sex relationships can come under the ambit of marriage for which there could be a declaration until some statute is made by the Parliament. What could be consequential legal rights under adoption and succession laws among other things following such declaration if any are the challenges before the Supreme Court.

statute is made by the Parliament. What could be consequential legal rights under adoption and succession laws among other things following such declaration if any are the challenges before the Supreme Court.

In books of sociology, anthropology and ancient Indian texts, references relating to regulations of marriage are in abundance. But hardly there is any text on how marriage came up as an institution.

There is evidence of marriage under Mesopotamia civilization in some 2350 BC. Roman king Nero was a

#### Legal Countenance

gay. He got ceremonially married twice between 54 and 65 AD. Picturesque manifestations of unnatural sex are found on the walls of ancient temples. Unnatural sex is a manifestation of sexual preference. This is personal to a person. Nevertheless it is regulated and never open in India.

Marriage has not been defined in Hindu Marriage Act or Special Marriage Act. Under Sec 112 of Evidence Act, it is referred to as "a ceremony by which two persons are made husband and wife: particularly matrimonial unions".

Manu Smriti has references to eight types of marriages and all marriages are about male-female union. These forms are (1) "Brahma" refers to arrange marriage (2) Daiba: groom's family look for a bride, (3): Arsa: a girl is sent to matrimonial home on a transaction of money or kind from bride groom family to the girl's family, (4) Prajapataye: boy's family look for a grihalaxmi (5) Gandharva: love marriage. (6) Rakshasa: groom battles with bride's family to pick up the wife (7) Asura - rich people buying girls and forcibly marrying them and (8) paikasa: girl gets married against her wishes.

## But no form of marriage does have any reference to same sex marriage.

Let us have an imaginative story about the significance of marriage. Marriage has given us home, family, clan, community and after all society. The foundation of the society emerges from the vows of two persons: a man and a woman when they form a union for procreation.

In the primitive age there was no regulation of sex. A man could have sex with as many women as he could. A father could have had sex with his daughter, a son with mother and a brother with sister. Then most of them may have been visited with genetic disorders and violent consequences.

And someday by accident a boy and a girl stranger to each other had a sexual union and that they, as a result of conception, had begotten a strong child. These trio formed a family, developed a strong bond among themselves and the offspring emerged stronger and more intelligent than others.

They got the wisdom to make marriage an institution. After this, sexual union between other than husband and wife was viewed as immoral and illegitimate. Thus society has evolved from the institution of marriage and not from unnatural sex unions.

More than looking into the issue of marriage through the prisms of statutes, one has to look beyond for a vision.

Sexual behavior has been regulated because society needs to remain in order. Sexual orientation is one's fundamental right. Right to live-in is also a fundamental right. But maintaining an orderly society has always been a challenge at any given time.

Sexual behavior has been regulated because society needs to remain in order. Sexual orientation is one's fundamental right. Right to live-in is also a fundamental right. But maintaining an orderly society has always been a challenge at any given time.

Undoubtedly society started from an institution called marriage. It is the first social institution as it regulates society's sexual behavior. But can such a right be extended to say two adult women or two adult boys? Can court to give a declaration that they are married. The wise Supreme Court may find an answer as it is bound to be a historical one.

## **Curative - Rarest of Rare case**

#### Ms. Sneha Kalita, AOR & Ms. Kavya Jhawar

Advocate

curative petition is something which the lawyers, law students, perhaps ordinary men would have come around either while watching it on the television sets or discussing in law lectures, seminars etc. as all witnessed the historic case of Yakub Abdul Razak Memon v. State of Maharashtra popularly known as 1993 Bombay Blast case, <sup>1</sup> for the first time, the Supreme Court sat for hearing the said case at midnight at 3 a.m. against the final plea of the execution of Yakub Memon for his role in the 1993 Mumbai blasts case.

'Curative Petition', a term, a concept, which has been coined by the Hon'ble Supreme Court in 2002 by means of its judgment in the case of Rupa Ashok Hurra v. Ashok Hurra.<sup>2</sup> Before coming to the facts of this case and the reason why the Supreme Court carved out this extraordinary jurisdiction, it is important to understand what is the meaning of the term 'Curative Petition'.

Curative petition, in layman's language means a method devised by the Supreme Court to review or to revise (relook) its own decision passed in review (dismissing or allowing the same). Any party who wishes to challenge the order of review, can file a curative petition. However, no person under the sun can approach the Supreme Court by means of curative petition and it has to be used very sparingly by the Court to ensure that no injustice is done to any person.

Conferring of Curative jurisdiction by the Supreme Court as an extraordinary measure, was not done by any law made by the Parliament, but by the Supreme Court itself exercising its power under Article 137 of the Constitution. The emergence of the curative petition is in relation with the interpretation of the review petition by the Supreme Court which is enshrined in Article 137 of the Constitution which says that:

"Article 137. Review of judgments or orders by the Supreme Court.- Subject to the provisions of any law made by Parliament or any rules made under Article 145, the Supreme Court shall have power to review any judgment pronounced or order made by it."

Curative petition is generally heard by the top three senior most judges of the Supreme Court of India (including the Chief Justice of India) plus the judges who dismissed the review petition. If, however, for the reason of superannuation or other, any or all of the Judges who heard the review are not available, then only the three senior most judges of the Court will hear the curative petition.

As it has been said, curative is a concept evolved by the Supreme Court in the judgement of Rupa Ashok Hurra. In this case, the question was whether an aggrieved person is entitled to any relief against the final judgment or order of the Supreme Court after the dismissal of a review petition. The Supreme Court held that to prevent abuse of its process and gross injustice, it may reconsider its judgements in exercise of its inherent powers under Article 137 of the Constitution. Para 42 of the said judgement held that:

"The concern of this Court for rendering justice in a cause is not less important than the principle of finality of its judgment. We are faced with competing principles ensuring certainty and finality of a judgment of the Court of last resort and dispensing justice on reconsideration of a judgment on the ground that it is vitiated being in violation of the principle of natural justice or apprehension of bias due to a Judge who participated in decision making process not disclosing his links with a party to the case, or abuse of the process of the court. Such a judgment, far from ensuring finality, will always remain under the cloud of uncertainty...We are of the view that though Judges of the highest Court do their best, subject of course to the limitation of human fallibility, yet situations may arise, in the rarest of the rare cases, which would require reconsideration of a final judgment to set right miscarriage of justice complained of. In such case it would not only be proper but also obligatory both legally and morally to rectify the error. After giving our anxious consideration to the question we are persuaded to hold that the duty to do

<sup>&</sup>lt;sup>1</sup> Yakub Abdul Razak Memon v. State of Maharashtra, (2015) 9 SCC 552

<sup>&</sup>lt;sup>2</sup> Rupa Ashok Hurra v. Ashok Hurra, (2002) 4 SCC 388

#### Legal Countenance

justice in these rarest of rare cases shall have to prevail over the policy of certainty of judgment.."

The Supreme Court by means of paragraph 52 of the said judgment carved out the following conditions to be fulfilled by a party who wishes to file curative petition:

- 1. the petitioner must state that the grounds mentioned in curative were taken in review petition;
- 2. the review petition was dismissed by circulation; and
- 3. a certificate by a senior advocate with regard to the fulfillment of above requirements.

To give effect to this judgment of the Supreme Court especially with regard to the pre-conditions for filing curative petition, the Supreme Court Rules were amended in the year 2013 and an attempt was made to incorporate the provision of curative petition by way of Order 48. Order 48 of the Supreme Court Rules, 2013 lays down the pre-conditions for registration of a curative petition:

- 1. that the grounds mentioned in curative were taken in the review petition;
- 2. that the review petition must be dismissed by circulation;
- 3. the curative petition shall be accompanied by a certificate of a Senior Advocate that the petitioner meets the aforesaid requirements; and
- 4. a certificate by the Advocate-on-Record to the effect that it is the first curative in the impugned matter.

It is mandatory to fulfill all the conditions mentioned above and non-fulfilling of even one of them amounts to curative not being entertained by the Hon'ble Supreme Court.

In P.N. Eshwara v. Registrar Supreme Court of India, (1980) 4 SCC 680, the Supreme Court held that a written submission is capable of explicit expression and that it is capable of doing adequate justice in the matter of setting forth the case of the litigant. If there is a need for an oral hearing, the Court may allow so. But that an oral hearing is mandatory in all classes of cases and at every stage of every case is not acceptable.

However, in Mohd. Arif v. Supreme Court of India<sup>3</sup>, the Supreme Court while hearing a death sentence case held that in all cases concerning imposing of death penalty,

the Supreme Court shall keep a room for oral hearing. "Death penalty is irreversible in nature. Once a death sentence is executed, that results in taking away the life of the convict. If it is found thereafter that such a sentence was not warranted, that would be of no use as the life of that person cannot be brought back." Thus, the Supreme Court held that limited oral hearing even at the review stage is mandated by Article 21 of the Constitution in all death sentence cases as even when there is a remote chance of deviating from such a decision already made in review, oral hearing and entertaining of curative would be justified. Hence oral hearing, in death sentence cases, becomes too precious to be parted with.

In yet another historic case of Yakub Abdul Razak Memon v. State of Maharashtra, 4 for the first time, the Supreme Court was opened for judges and a hearing was conducted at midnight 3 a.m. against the final plea of the execution of Yakub Memon for his role in the 1993 Mumbai blasts case. The Supreme Court in this judgment held that there cannot be a review of a review and the same would not be maintainable under Article 32 of the Constitution. It further held that if the judges who decided the review petition demitted office, they cannot be made parties by judicial imperative and that a judgment has to be read in proper perspective but not as a statute.

There have been a series of judgment in which the Supreme Court has dismissed the curative even at the stage of admission, because it did not meet one of the conditions mentioned above, in most cases, lack of proper certificate by the senior advocate.<sup>5</sup>

Therefore, it can be stated with no uncertainty that time and again the Supreme Court has placed a check in entertaining curative petition and has strictly adhered to the principle of 'rarest of rare cases' along with the conditions mentioned in Rupa Ashok Hurra. Just like the midnight hearing happening only in rarest of rare cases, similarly the Curative petition also should be entertained rarely. It is considered as the last and final resort and has to be used sparingly, for preventing the Supreme Court to become a floodhouse for all curatives.

<sup>&</sup>lt;sup>3</sup> Mohd. Arif v. Registrar, Supreme Court of India, (2014) 9 SCC 737

<sup>&</sup>lt;sup>4</sup> Yakub Abdul Razak Memon v. State of Maharashtra, (2015) 9 SCC 552

<sup>&</sup>lt;sup>5</sup> Sidram S. Patil v. Gurunath Shivappa Patil, (2005) 2 SCC 358,

Gurdeep Singh v. State of Punjab, (2005) 10 SCC 468, Bakshi & Co. v. CST, (2005) 12 SCC 398: 2005 SCC OnLine SC 481, CBI v. Keshub Mahindra, (2011) 6 SCC 216, Pawan Kumar Gupta v. State (NCT of Delhi), (2020) 4 SCC 54

## Uniform Civil Code-Pre & Post Independence

#### Ajay Jagga

Advocate, Punjab & Haryana High Court

India and the spirit of the Constitution of India and the spirit of the Constitution is better visible when this word is translated in Hindi i.e. SAMVIDHAM, as under

संविधान : सम + विधान = संविधान

सम = सामान

सामानविधान

This Uniform civil code has two parts

- (i) Uniform
- (ii) Civil Code

#### First is Uniform:

This is defined as "Remaining the same in all cases" AND/OR "A group of things that are standardized or identical". This term is generally used for DRESS or Cloths **Second is Civil Code** 

A civil code is a systematic collection of laws designed to comprehensively deal with the core areas of private law such as for dealing with business and negligence lawsuits and practices. A jurisdiction that has a civil code generally also has a code of civil procedure. So harmony is possible through uniformity.

#### **Origin of Uniform Civil Code**

1840, on the basis of the Lex Loci report, the British Government established uniform laws for crimes, evidence and contracts, but the personal laws of Hindus and Muslims are intentionally left to them.

1947 Indian Independence Act received Royal assent on 18-7-47

**Background:** 3rd June Plan which was formulated after the leaders of the Indian National Congress and the Muslim League agreed to the recommendations of the Viceroy Lord Mountbatten.

- The Indian Independence Act was passed in 1947.
- Partitioned India and Created two independent dominions; India and Pakistan.
- Pakistan was split into Pakistan and East Pakistan which is now Bangladesh.

- Bengal and Punjab provinces were partitioned between the two new countries.
- These dominions separated the Muslim and Hindu incl Sikh population and caused the biggest forced migration which has ever happened that was not the result of war or famine.
- The Act repealed the use of 'Emperor of India' as a title for the British Crown and ended all existing treaties with the princely states.
- Lord Mountbatten continued as Governor-General and Jawaharlal Nehru was appointed India's first Prime Minister
- Muhammad Ali Jinnah became Pakistan's Governor-General and Liaquat Ali Khan its Prime Minster.

The supporter of the Uniform Civil Code also opposed the minority communities in the Constituent Assembly. As a result, only a specific point was added to the Constitution pursuant to Article 44 of Part IV of the Directive Principles of State Policy. As it is incorporated in the DPSP, they are not enforceable in the Indian court.

#### **India independence act: 1947:**

1.-(i) As from the fifteenth day of August, nineteen hundred and forty-seven, two independent Dominions shall be set up in India, to be known respectively as India and Pakistan.

In 1946, the Constituent Assembly was set up to frame our Constitution in Independent India, which consisted of two types of members: one who was a proponent to reform society by adopting the Uniform Civil Code, such as Dr B. R. Ambedkar, and second those who were essentially Muslim representatives who advocate personal laws.

The supporter of the Uniform Civil Code also opposed the minority communities in the Constituent Assembly. As a result, only a specific point was added to the Constitution pursuant to Article 44 of Part IV of the Directive Principles of State Policy. As it is incorporated in the DPSP, they are not enforceable in the Indian court.

Section 8 of the Act says that the power of legislation, shall initially be with the Constituent Assembly of each dominion.

#### Pak constitution: Article 260 (3) (b):

"non-Muslim" means a person who is not a Muslim and includes a person belonging to the Christian, Hindu, Sikh, Budhist or Parsi community, a person of the Quadiani group or the Lahori group (who call themselves Ahmadis' or by any other name), or a Bahai, and a person belonging to any of the scheduled castes.]

04-11-1948 :Sh.B R Ambedkar: (volume VII of proceeding of constituent assembly)

The means adopted by the Draft Constitution are three

- (1) a single judiciary,
- (2) uniformity-in fundamental laws, civil and criminal,
- (3) a common All-India Civil Service to man important posts.

#### Further he said:

Care is taken to eliminate all diversity from laws which are at the basis of civic and corporate life. The great Codes of Civil & Criminal Laws, such as the Civil Procedure Code, Penal Code, the Criminal Procedure Code, the Evidence Act, Transfer of Property Act, Laws of Marriage Divorce, and Inheritance, are either placed in the Concurrent List so that the necessary uniformity can always be preserved without impairing the federal system.

#### Mohammad Ismail Khan (23-11-1948) from Manjeri (Kerala) Prez IUML.

Again this amendment does not seek to introduce any innovation or bring in a new set of laws for the people, but only wants the maintenance of the personal law already existing among certain sections of people. Now why do people want a uniform civil code, as in article 35? Their idea evidently is to secure harmony through uniformity. But I maintain that for that purpose it is not necessary to regiment the civil law of the people including the personal law. Such regimentation will bring discontent and harmony will be affected. But if people are allowed to follow their own personal law there will be no discontent or dissatisfaction. Every section of the people, being free to follow its own personal law will not really come in conflict with others.

I have no doubt that a stage would come when the civil law would be uniform. But then that time has not yet come. We believe that the power that has been given to the State to make the Civil Code uniform is in advance of the time. As it is, any State would be justified under article 35 to interfere with the settled laws of the different communities at once. For instance, there are marriage practices in various communities. If we want to introduce a law that every marriage shall be registered and if not it will not be valid, we can do so under article 35. But would you invalidate a marriage which is valid under the existing law and under the present religious beliefs and practices on the ground that it has not been registered under any new law and thus bastardise the children born?

Hussain Imam (23-11-1948) volume VII :prominent politician of Bihar, member of the Constituent Assembly of India in 1946. One of the key members of the Pakistan Muslim league, Hussain imam played a key role in Pakistan's foundation. One of Jinnah's closest friends, Hussain Imam played an influential role in Pakistani politics using his wealth and remained and affluent figure for the Pakistan movement.

Again this amendment does not seek to introduce any innovation or bring in a new set of laws for the people, but only wants the maintenance of the personal law already existing among certain sections of people. Now why do people want a uniform civil code, as in article 35? Their idea evidently is to secure harmony through uniformity.

Sir, I feel that it is all right and a very desirable thing to have a uniform law, but at a very distant date. For that, we should first await the coming of that event when the whole of India has got educated, when mass illiteracy has been removed, when people have advanced, when their economic conditions are better, when each man is able to stand on his own legs and fight his own battles. Then, you can have uniform laws. Can you have, today, uniform laws as far as a child and a young man are concerned?

Shri K. M. Munshi (23-11-1948) volume VII, Member, C.Assembly - Bombay

I know there are many among Hindus who do not like a uniform Civil Code, because they take the same view as the honourable Muslim Members who spoke last. They feel that the personal law of inheritance, succession etc. is really a part of their religion. If that were so, you can never give, for instance, equality to women. But you have already passed a Fundamental Right to that effect and you have an article here which lays down that there should be no discrimination against sex. Look at Hindu Law; you get any amount of discrimination against women; and if that is part of Hindu religion or Hindu religious practice, you cannot pass a single law which would elevate the position of Hindu women to that of men. Therefore, there is no reason why there should not be a civil code throughout the territory of India.

#### B.R. Ambedkar(23-11-1948) volume VII

My friend, Mr. Hussain Imam, in rising to support the amendments, asked whether it was possible and desirable to have a uniform Code of laws for a country so vast as this is. Now I must confess that I was very much surprised at that statement, for the simple reason that we have in this country a uniform code of laws covering almost every aspect of human relationship. We have a uniform and complete Criminal Code operating throughout the country, which is contained in the Penal Code and the Criminal Procedure Code. We have the Law of Transfer of Property, which deals with property relations and which is operative throughout the country. Then there are the Negotiable Instruments Acts: and I can cite innumerable enactments which would prove that this country has practically a Civil Code, uniform in its content and applicable to the whole of the country. The only province the Civil Law has not been able to invade so far is Marriage and Succession. It is this little corner which we have not been able to invade so far and it is the intention of those who desire to have article 35 as part of the Constitution to bring about that change. Therefore, the argument whether we should attempt such a thing seems to me somewhat misplaced for the simple reason that we have, as a matter of fact, covered the whole lot of the field which is covered by a Uniform Civil Code in this country. It is therefore too late now to ask the question whether we could do it. As I say, we have already done it.

#### B.R. Ambedkar (23-11-1948) volume VII

Coming to the amendments, there are only two observations which I would like to make. My first observation would be to state that members who put forth

these amendments say that the Muslim personal law, so far as this country was concerned, was immutable and uniform through the whole of India. Now I wish to challenge that statement. I think most of my friends who have spoken on this amendment have quite forgotten that up to 1935 the North-West Frontier Province was not subject to the Shari at Law. It followed the Hindu Law in the matter of succession and in other matters, so much so that it was in 1939 that the Central Legislature had to come into the field and to abrogate the application of the Hindu Law to the Muslims of the North-West Frontier Province and to apply the Shari at Law to them. That is not all.

#### **B.R.** Ambedkar (23-11-1948) volume VII

My honourable friends have forgotten, that, apart from the North-West Frontier Province, up till 1937 in the rest of India, in various parts, such as the United Provinces, the Central Provinces and Bombay, the Muslims to a large extent were governed by the Hindu Law in the matter of succession. In order to bring them on the plane of uniformity with regard to the other Muslims who observed the Shariat Law, the Legislature had to intervene in 1937 and to pass an enactment applying the Shariat Law to the rest of India.

## B R Ambedkar 2 December, 1948 (Vol – VII) (When the debate on religion was going on)

In Europe there is Christianity, but Chistianity does not mean that the Christians all over the world or in any part of Europe where they live, shall have a uniform system of law of inheritance. No such thing exists. I personally do not understand why religion should be given this vast, expansive jurisdiction so as to cover the whole of life and to prevent the legislature from encroaching upon that field. After all, what are we having this liberty for? We are having this liberty in order to reform our social system, which is so full of inequities, so full of inequalities, discriminations and other things, which conflict with our fundamental rights. It is, therefore, quite impossible for anybody to conceive that the personal law shall be excluded from the jurisdiction of the State. Having said that, I should also like to point out that all that the State is claiming in this matter is a power to legislate. There is no obligation upon the State to do away with personal laws. It is only giving a power. Therefore, no one need be apprehensive of the fact that if the State has the power, the State will immediately proceed to execute or enforce that power in a manner that may be found to be objectionable by the Muslims or by the Christians or by any other community in India.

UNIFORM CIVIL CODE also refers as the UCC seeks to implement the same set of secular civil laws to govern all people, including those belonging to different religions and regions. The Uniform Civil Code intends to apply to the whole body of legislation governing property rights and personal matters such as marriage, divorce, maintenance, adoption and inheritance.

#### Part IV Directive Principles of State Policy

Article 44. The State shall endeavour to secure for the citizens a uniform civil code throughout the territory of

In the John Vallamattom v. Union of Indi a case in 2003. Chief Justice V.N. Khare had observed: "It is a matter of regret that Article 44 of the Constitution has not been given effect to. Parliament is still to step in for framing a common civil code in the country."

In fact, the Supreme Court in October 2015 said there was total confusion due to various Personal Laws and sought to know if the government was willing to implement a Uniform Civil Code. It observed: "What happened to it? Why don't you (the government) frame and implement it?"

The recent committee in Uttarakhand and Gujarat for UCC, were challenged in SC but the challenges were dismissed, thus paving the way for UCC.

The SC refused to entertain a PIL challenging the decisions of the Uttarakhand and Gujarat governments to constitute committees for implementing Uniform Civil Code (UCC) in their respective states.

Both the Uttarakhand and Gujarat governments have constituted committees to look into the issue of implementation of UCC.

This to govern matters of divorce, adoption, inheritance, guardianship, succession of all citizens equally regardless of their religion, gender and sexual orientation.

Article 162 empowers the State to constitute such committees.

- It provides for one law that applies to all religious communities in personal matters such as marriage, divorce, inheritance, adoption, etc.
- In India, Article 44 in the Part IV (DPSP) of the Indian Constitution lays down that the state shall endeavour to secure a UCC for the citizens throughout the territory of India.

#### **Argument against UCC:**

Anti-minority and anti-tribal: In Meghalaya, for example, property succession and marriage laws

- are governed by traditional and customary procedures.
- Communal Politics: The demand for a UCC is considered to be framed in the context of communal
- Violates Article 25: It seeks to preserve the freedom to practice and propagate any religion.
- Plurality in already codified civil and criminal laws: As a result, the concept of "one nation, one law" cannot be applied to diverse personal laws of different communities.
- Law Commission of India (in past): A UCC is neither necessary nor desirable at this stage in the country.

Strengthening Family Laws: All the laws related to marriage, inheritance, family, land etc. should be equal for all Indians. UCC is the only way to ensure that all Indians are treated the same. India has codified personal laws of Hindus, Muslims, Christians, Parsis but there exists no single or law or say family law in a single legal book for all which acceptable to all, who are Bhartiya. However, it is also true that most of the people believe that UCC is desirable and need of the hour and would help in strengthening and consolidating the family laws. The timing and the manner needs to discussed and finalized.

#### **Conclusion:**

It is proven that the provision of Uniform Civil Code is already made in the Constitution of India by way of Article 44. Now the states need to begin the process of introduction and implementation of the Uniform Civil Code by constituting the committees for this purpose and the States are empowered under article 162 of the Constitution of India to constitute such committees. The State of Gujarat, Uttarakhand have already constituted such committees. Infact the constitution of these committees were challenged in the Apex Court by way of petition but the Hon'ble CJI has already dismissed the petition stating that the states have the right form committees. So the provision of UCC is already there in the Constitution of India and now only the States have to start the process for implementing the same, in accordance with law. And this will also strengthen the family laws of the India i.e. Bharat.

## Uniform Civil Code: Need of the Hour for Indian Society

Kartik Kumar Aggarwal, Advocate and Neha Mishra. Advocate

ndia is the oldest civilization in the world and is famous for its unity in diversity. For ages this land has housed different civilizations which have co-existed peacefully, and at the same time following their varied traditions and cultures as well as local laws. One thing over here which we need to understand is that, our Indian Constitution itself defines India as a Union of State. To reproduce verbatim, Article 1(1) states that "India, that is Bharat, shall be a Union of States". Before we delve into the present form of the constitution, let's look at our rich Indian history over the topic.

To begin with, our Indian geography from the inception was ruled by different rulers who used to govern their small kingdoms. For instance, during Vedic period, sixteen major oligarchies and monarchies used to exist around the Ganga plain. These oligarchies and Monarchies were also referred to as Mahajanpadas. It was at this time Jainism and Buddhism also started to develop in India. These Mahajanpadas used to have their own local laws which were based on their varied customs and traditions. Later on during Medieval period new kingdoms emerged thereby continuously changing the political as well as societal scenarios in the region. Some kingdoms even tried

to merge with the other, constant wars and expansions of these kingdoms led to incorporation of diverse societies into the constitution of these kingdoms and these cultures continued to co-exist peacefully with one another. It was again during this period that the Indian society was introduced with the Islamic traditions when the Delhi

To begin with, our Indian geography from the inception was ruled by different rulers who used to govern their small kingdoms. For instance, during Vedic period, sixteen major oligarchies and monarchies used to exist around the Ganga plain. These oligarchies and Monarchies were also referred to as Mahajanpadas.

Sultanate was established in 1206. The evidences suggest that during the Mughal rule, although there were certainly attempts to the contrary, but still many different societies co-existed with each other. But yes, this cannot be ruled out that the attempt to introduce intolerance or variation in laws were laid only during this period. For example, destruction and looting of the Indian neighbouring

kingdoms and temples. Evidences of the broken idols of the Hindu gods, can be found at various archaeological sites.

Our great country was already trying to cope up with the Islamic invasion, when it was once again introduced to the Western culture and soon witnessed the influx of Christianity as well as other cultures like Zoroastrianism.

Before proceeding further, we must remember that this Indian society of ours which we call as Bhartiya Sabhyata has been governed since ages based on the principals of Vedas. It is to be understood that Vedas are considered to be sourced from sacred laws and their supremacy cannot be challenged in any way. Furthermore, all other sources of Sanatani Laws, such as Upanishads, Smrities, sutras etc are a mere commentaries based on the Four Vedas.

Mantra VI-72, of the Maha Upanishad speaks about ''वसुधैव कुटंबकम'' i.e. the whole world is a family. This is based on the vedic principal of equality and brotherhood. At the same time, RigVeda mentions about

#### समानो मन्त्रः समितिः समानी समानं मनः सह चित्तमेषाम्। समानं मन्त्रमभिमन्त्रये वः समानेन जुहोमि।।

Which simply translates to, "everyone's thoughts, gatherings and heart shall be equal. I God give you this sermon and direct you to enjoy equally."

From the above we can understand that how our Bhartiya Sabhyata from the very inception was focussed on providing common laws and equal treatment for all and for constructing a society free of discrimination, and this is the foremost reason why different religions such as Islam, Christianity, Zoroastrianism etc. flourished so beautifully here. But this again cannot be ruled out that it was these religions only which on introduction also brought with them their own personal laws which conflicted with the prevailing laws over here in the India.

With the establishment of the English government. It was this government in 1840, which made initial attempts to establish uniform laws for all the citizens of this nation with regards to the Criminal offences but the personal laws of all sects were left to them and their existence

The irony of our country is, on one hand our great constitution advocates for equality before law in Article 14, yet fears for implementation of Article 44, which simply states that "The State shall endeavour to secure for its citizens a uniform civil code throughout the territory of India".

remained unchallenged for a very long time. Although there were major attempts to rule out those laws which were unfavourable or discriminatory for the parts of the society, for example Sati Pratha, but yet these different codes or legislations as a whole continue to exist till date. For example, inheritance laws for the Hindus are governed by Hindu Succession Act, 1956 while Muslim law of inheritance is completely different. Similarly, when we talk

about marriage and Divorce in different personal laws, there are widespread differences among them. At the same time, specifically Laws governing the Muslims in India has remained unchanged to a larger extent. One of the example of this is the age of the marriage in marriage has remained unchanged and till date the minimum age of marriage has been 16 years for Muslims while other personal laws suggest minimum marriage age to be 18 years for Bride and 21 years for the Groom.

The irony of our country is, on one hand our great constitution advocates for equality before law in Article 14, yet fears for implementation of Article 44, which simply states that "The State shall endeavour to secure for its citizens a uniform civil code throughout the territory of India". One thing which is being feared by not only our lawmakers but also by our Judiciary is that implementation of the Uniform Civil Code, will directly impact the unity of India. Stating to the contrary what we as a citizen feel is that implementation of the Uniform Civil Code is the only way to save the unity of this nation.

Personal laws in India were established based on the individual faith and religion but in the process our lawmakers failed to strike a balance between the interest of the individual societies and the Country as a whole. Lets take for instance, divorce laws in Islam, wherein the Muslim women are only left with the option of Khula while there are varying forms of Talaq for the Muslim man. Furthermore, the hardships of the Muslim women increase post-divorce when they are left with minimum to nothing for their survival as they do not have any other protection

except the provisions of section 125 of Code of Criminal Procedure, 1973. Similarly, the practice of Halala is another example of atrocities committed by the Personal Laws. On the other hand, we feel there can be elements of succession laws which could be borrowed and brought into existence in the Hindu Laws which could secure the interest of all the legal heirs and avoid discrimination by the Testator.

Supporters of Personal Laws advocate the fact that Article 25 and Article 26 of the Constitution provides for

Personal laws in India were established based on the individual faith and religion but in the process our lawmakers failed to strike a balance between the interest of the individual societies and the Country as a whole. Lets take for instance, divorce laws in Islam, wherein the Muslim women are only left with the option of Khula while there are varying forms of Talaq for the Muslim man.

the freedom of religion and propagation of religion and based on them the establishment of personal laws are correct, but our interpretation of the same falls to the contrary.

Our understanding is that the religion and the civil laws are entirely on different footings and one should not intermix them. For instance, religion can only define the ceremonies in a marriage but when we are living in nation with diverse ideologies should religion govern the way such marriage is validated by the courts or the process of separation. Similarly, the ownership of movable and immovable properties is always subject to the registration with the state. And once the same is subject of the state, then why do we need personal laws to govern succession and the same should always be a state subject.

Hon'ble Apex Court of India, in the matter of <u>Mohd.</u>

<u>Ahmed Khan vs Shah Bano Begum And Ors, 1985</u>

AIR 945 noted that

"...It is also a matter of regret that Article 44 of our Constitution has remained a dead letter. It provides that "The State shall endeavour to secure for the citizens a uniform civil code throughout the territory of India". There is no evidence of any official activity for framing a common civil code for the country. A belief seems to have gained ground that it is for the Muslim community to take a lead in the matter of reforms of their personal law. A common Civil Code will help the cause of national integration by removing disparate loyalties to laws which have conflicting ideologies. No community is likely to bell the cat by making gratuitous concessions on this issue. It is the State which is charged with the duty of securing a uniform civil code for the citizens of the country and, unquestionably, it has the legislative competence to do so."

Similarly in the introductory paragraph of the judgment delivered in the matter of Smt. Sara Mudgal vs Union of India, 1995 AIR 1531, the Hon'ble Apex Court clearly shed light on the fact that it is high time to introduce Uniform Civil Code. The operative part of the judgement reads as follows:

"The State shall endeavour to secure for the citizens a uniform civil code through-out the territory of India" is an unequivocal mandate under Article 44 of the Constitution of India which seeks to introduce a

"The State shall endeavour to secure for the citizens a uniform civil code throughout the territory of India" is an unequivocal under Article mandate 44 of the Constitution of India which seeks to introduce a uniform personal law - a decisive step towards national consolidation. Pandit Jawahar Lal Nehru, while defending the introduction of the Hindu Code Bill instead of a uniform civil code, in the Parliament in 1954, said "I do not think that at the present moment the time is ripe in India for me to try to push it through".

uniform personal law - a decisive step towards national consolidation. Pandit Jawahar Lal Nehru, while defending the introduction of the Hindu Code Bill

instead of a uniform civil code, in the Parliament in 1954, said "I do not think that at the present moment the time is ripe in India for me to try to push it through". It appears that even 41 years thereafter, the Rulers of the day are not in a mood to retrieve Article 44 from the cold storage where it is lying since 1949. The Governments - which have come and gone - have so far failed to make any effort towards "unified personal law for all Indians". The reasons are too obvious to be stated. The utmost that has been done is to codify the Hindu law in the form of the Hindu Marriage Act, 1955. The Hindu Succession Act, 1956, the Hindu Minority and Guardianship Act, 1956 and the Hindu Adoptions and Maintenance Act, 1956 which have replaced the traditional Hindu law based on different schools of thought and scriptural laws into one unified code. When more than 80% of the citizens have already been brought under the codified personal law there is no justification whatsoever to keep in abeyance, any more, the introduction of "uniform civil code" for all citizens in the territory of India."

In conclusion our take is that there is an immediate need for the implementation of the Uniform Civil Code in the country failing which there's a high fear of social divide followed by propagation of several other groups demanding their own personal laws. Furthermore, one of the innate principals of the legal system is its ability to mould itself to adapt the new principals. But the hard fact

is in India, we have always been so possessed by our age old principals that we fail to understand the need of the hour. A verse in Surat Al-Baqarah states that:

"...Allah intends for you ease and does not intend for you hardship..."

Similarly, in Surat A1 – Hajj, it is stated that

In conclusion our take is that there is an immediate need for the implementation of the Uniform Civil Code in the country failing which there's a high fear of social divide followed by propagation of several other groups demanding their own personal laws. Furthermore, one of the innate principals of the legal system is its ability to mould itself to adapt the new principals.

"... He has chosen you and has not placed upon you any difficulty..."

There have been several other verses which state that the God almighty has never placed any difficulty on the mankind and if these verses are treated to be true coupled with the concept of Istihsan, then there is an immediate need for the implementation of the uniform civil code as in absence of them we are surely facing hardships.

## **Legal Aspects for Protection** of Environment In Recent Era

#### Sampa Sengupta Ray

Advocate and Mediator

#### **Introduction:**

Environment protection is important for all human beings since time immemorial. Every human being is dependent on nature for its existence. The ancient texts highlight that everybody should protect nature as per duty and Indians are always concerned about nature. The ancient Greeks developed the first environmental philosophy followed by India and China. It would be pertinent to mention here that the protection of the environment is a common subject for every human being.

In the recent era, the protection of the environment is a matter of concern for humanity. Due to pollution, global warming, overpopulation, deforestation, overconsumption, technological advancement and industrialization the condition of our environment is deteriorating day by day. As a result, Environmental law is obligatory to prevent & eliminate acts & behaviours which is detrimental to the environment.

World is rapidly loosing its biodiversity due to over explotation of natural resources and unplanned development. As per global assessment by the Intergovernmental Platform on Biodiversity and Ecosystem Services (IPBES), the world has lost 87% of its wetlands in the past 300 years due to rapid urbanisation and unsustainable agriculture, and 3.2 billion people or two-fifths of humanity are affected due to worsening land degradation.

Population & its impact on environment has to be balanced. It would be pertinent to mention here that evolution of agriculture and farming heralded a new era which theorized that world population is growing exponentially as against an arithmetic growth-rate for food stuffs. As a result existing food would fail to support the population after a certain interval of time. Catastrophes like deadly diseases, famines natural disaster and war would then bring the population under control again. By the 16th Century, the no. had reached 500 million. By the middle of the current century, the figure is expected to reach 9.3 billion, which is beyond the capacity of the planet, according to the renowned Malthusian theory. Thus, India and many other developing countries need to ensure urgent steps, so that world population could be brought under control. Since it would take decades to experience the effects of any affirmative action initiated now, So it is a sine-qua-non to act in haste!

Environmental protection focuses on solving problems arising from the interaction between humans and environmental systems and includes issues related to conservation, pollution, loss of biodiversity, land degradation or environmental policy.

Environmental protection focuses on solving problems arising from the interaction between humans and environmental systems and includes issues related to conservation, pollution, loss of biodiversity, land degradation or environmental policy. The key aim of environmental protection is to prevent the degradation of the natural environment which is affected by increasing population, technology and overconsumption, all of which have created a negative impact on the environment and humans and animals at risk.

What is Environment: The word Environment has been derived from the French word "Environia" which means "to surround". It consists of both biotic and abiotic

components. As per section-2(a) of the Environment Protection Act, 1986 "environment" includes water, air and land and the interrelationship which exists among and between water, air, land and human being, other living creatures, plants, micro-organism and property.

Legal Developments in the Field of Environmental Protection: It is said that environmental law is an amalgamation of common law and statutory principles. There are 3 important goals of environmental protection which are to protect human health, eco systems and sustainable development.

In 1968, the Economic and the Social Council of the UN passed a resolution, to convene an International Conference on problems of the human environment. The UN Conference of Human Environment at Stockholm was the 1<sup>st</sup> Conference held at the global level took place on June 5-6, 1972, in Stockholm, Sweden. India was a participating and addressing country in that Conference. Based on Stockholm Conference, 1972 every year World Environment Day is celebrated on 5<sup>th</sup> June in different countries to create awareness and inspire people to protect the environment. As a result, the 1<sup>st</sup> World Environment Day was celebrated in the year 1973, and the theme was "Only One Earth". In 2022, it was held in Sweden after 50 years of the 1<sup>st</sup> Conference.

Incidentally, the enactment of the Wildlife Protection Act, 1972 is co-incident with the Stockholm Conference. Based on Stockholm Conference, 1972 on human development,3 main Acts have been passed in India.

- The Water (prevention and Control of Pollution) Act, 1974.
- The Air (Prevention and Control of Pollution) Act. 1981.
- The Environment (Protection) Act, 1986.

In 1992, 2<sup>nd</sup> UN Conference on Environment and Development which is popularly known as Earth Summit was conducted in Rio de Janerio, brazil. After this Conference, a commission on S.D. was set up in 1993. Based on this Conference, 2 Acts have been passed for the protection of the Environment in India.

- The National Environment Tribunal Act, 1995.
- The National Environment Appellate Authority Act, 1997.

The 3<sup>rd</sup> Conference was the Johensburg Conference, 2002 on Sustainable Development in South Africa. Based on this Conference Biodiversity Act, 2002 has been passed in India.

All these 3 major events were conducted under the supervision of the United Nations. How International Law influences the domestic legal regime is a classic example of S.D. It is the development that meets the need of the present without compromising the ability of the future generation to meet their own needs. The old concept was environment & development cannot go together but now the concept is environment is proportional to development. The 1<sup>st</sup> case in India where the Apex Court had applied the doctrine of S.D. was Vellore Citizens Welfare Forum Vs U.O.I. case<sup>1</sup> and the next is Taj Mahal Case<sup>2</sup>.Based on S.D, a new concept of Sustainable Tourism is

In 1968, the Economic and the Social Council of the UN passed a resolution, to convene an International Conference on problems of the human environment. The UN Conference of Human Environment at Stockholm was the 1<sup>st</sup> Conference held at the global level took place on June 5-6, 1972, in Stockholm, Sweden.

established which means Tourism without harm to the environment, within the context of overall S.D.

Besides the efforts of the UNs, and its member States there are several non-governmental organizations involved & pledged to protect the environment, such as Earth Watch, Environmental Change Research Centre, Friends of the earth, Geo Physical Fluid Dynamics Laboratory, Global Forum, Greenpeace, World Wide Fund for Nature. The UNs General Assembly set up a Commission under the name of the 'world Commission on Development'',

<sup>1(1996)5</sup>SCC281

<sup>&</sup>lt;sup>2</sup> M.C.Mehta Vs U.O.I 1986

1983. The primary object is to consider the issues involving the relationships between environment & development. The important aspect are S.D, international co-operation, the Rio Declaration & common future.

**Environmental Law in India:**- Previously Courts in India did not show interest in the administrative domain for environmental protection. The "Silent Valley Case" is a classic example in this regard. Over some time, litigations related to environmental issues grew rapidly. Gradually, Courts set up a socio-legal Commission. Thus, taking the indigenous judicial approach the Courts and the Tribunals used the sustainable development principle, precautionary principle and polluter pays principle to decide on environmental issues. Now, the Courts in India use an open environmental assessment approach. The 1stattempt at a comprehensive statutory Environmental Impact Assessment (EIA) programme began on 27th January, 1994 when the Union Ministry of Environment and Forests issued a notification dealing with mandatory EIA.

To give effect to the International conference, Bhopal Gas Leak Tragedy, 1984 & Oleum Gas Leak Case, 1985 the following laws have been passed by Parliament.

- Mines and Minerals (Development and Regulation)
   Act, 1957 and State Policies and rules made there under.
- The Wildlife protection Act, 1972.
- The Water (Prevention and Control of Pollution) Act, 1974.
- The Forest (Conservation) Act, 1980.
- The Air (Prevention and Control of Pollution) Act, 1981.
- The Environment (Protection) Act, 1986.
- The (National Environment Tribunal) Act, 1995.
- The National Environment Appellate Authority Act, 1997.
- The Biological Diversity Act, 2002 and
- The National Green Tribunal Act, 2010.

Pil and Judicial Activism: Public Interest Litigation relating to environmental protection has considerably increased in recent times. The PIL is a tool for improvement of the environmental protection which was initiated in the mid-60s in the USA. In India, Hon'ble Justice P.N. Bhagwati & Hon'ble Justice Iyer through their landmark judgments initiated the system of PIL. Since 1985 various environmental cases have been brought before the Court as writ petitions, normally by individuals acting on a pro bono basis before the Hon'ble SC and HC under Articles 32 and 226 of the Constitution.

Recently, Judiciary has adopted a healthy trend of interpreting the law in a social context. Hitherto, the rigidity of locus standi rule deprived the poorer sections of the society of approaching the Courts for enforcement of their Fundamental Rights against the affluent class of society. Now, PIL has liberalized the locus standi rule to such an extent that it has opened new vistas for the redressal of social problems including environmental pollution

The PIL is a tool for improvement of the environmental protection which was initiated in the mid-60s in the USA. In India, Hon'ble Justice P.N. Bhagwati & Hon'ble Justice Iyer through their landmark judgments initiated the system of PIL.

problems.

The Judicial activism was the aftermath of Maneka Gandhi's case³which opened the new frontiers in Article 21.Subash Kumar Vs State of Bihar⁴ and T.Damodar Rao Vs the Special officer, municipal corporation, Hyderabad⁵ and Dehradun Quarrying Case⁶ are the landmark cases of Judicial Activism. A most remarkable feature of the expansion of Article 21 is that many of the non-justiciable Directive Principles embodied in Part-IV

<sup>&</sup>lt;sup>3</sup>AIR 1978SC597

<sup>&</sup>lt;sup>4</sup> AIR 1991 SC420

<sup>&</sup>lt;sup>5</sup> AIR1987AP171

<sup>6 (1985)2</sup>SCC431

of the Constitution have now been resurrected as enforceable Fundamental Rights by the magic wand of Judicial activism playing on Article 21 namely Article 48(a),41,42,45,47,49 should be upgraded to the status of Fundamental Rights by amending the Constitution under Article 368 of the Constitution of India.

## Why Environment Protection act has been Passed or Enacted:-

In the year 1960, modern environmental movement started to protect the environment. As a result, Govt. around the World took steps to frame laws to protect the environment and in the 1970s, Environment Protection Agency was established in the United States.

The main reason for passing of the Environment Protection Act, 1986 is considered to response to the Bhopal Gas Leak Tragedy<sup>7</sup>, 1984 & Oleum Gas Leak case8,1985 where the Hon'ble SC of India took a bold decision for a comprehensive law on the urgent need basis concerning environment protection, domestically the need for Environment (Protection) Act, 1986 was felt. The SC took a bold decision holding that it was not bound to follow the 19th Century rule of strict liability of English law, the House of Lords laid down the rule recognizing the no-fault liability of the defendant. It could evolve a rule suitable to the social &economic conditions prevailing in India. The Hon'ble SC evolved absolute liability as part of the Indian Law. The Court observed that in such cases compensation must be co-related to the magnitude & capacity of the enterprise. Ultimately facing the difficulty of the victim's, Environment (Protection) Act, 1986 was passed by the Indian Parliament.

The Public Liability Insurance Act, 1991 have been passed, which provides for mandatory insurance to provide immediate relief to the persons affected by accidents occurring while handling any hazardous substances. The main object is to award compensation for a hazardous substance.

To implement the decisions adopted at this Stockholm Conference, 1972 the Indian Parliament exercised its powers under Article 253 of the Constitution of India

which empowers the Union Government to enact laws to give effect to the International Treaty, Agreement or Convention signed by the Country. This Act covers all forms of pollution i.e. air, water, soil and noise. This Act is also called the umbrella Act because it makes the coordination between different States as well as the Central authorities under other environment-related laws such as Water Act and Air Act. ENVIRONMENTAL CRIME: The violation of laws intended to protect the environment & human health is referred to as environmental crime. There are 3 fundamental principles of environmental principles which are the precautionary principle, the polluter pays principle and the public right to know the principle. Polluter pays principle is an important tool to address environmental violations.. Therefore, it is important that this principle is applied in a fair and objective manner. The judiciary has a key role in environmental governance.

Constitutional Environmentalism: Constitutional environmentalism means constitutional commitments

The Public Liability Insurance Act, 1991 have been passed, which provides for mandatory insurance to provide immediate relief to the persons affected by accidents occurring while handling any hazardous substances. The main object is to award compensation for a hazardous substance.

toward environmental protection i.e. environmental care by the Constitution. Stockholm Conference, 1972 was the starting point. After this to protect our environment several Constitutional provisions have been introduced.

It is said that the Indian Constitution is among the few in the World that contains a specific Constitutional provisions on environmental protection. India became the 1<sup>st</sup> country in the world to pass the amendment to safeguard the environment.

The Environment Protection Act, 1986 has important Constitutional implications, with an international

<sup>&</sup>lt;sup>7</sup> M.C.Mehta and Anr Vs U.O.I &Ors,20<sup>th</sup>December1986

<sup>&</sup>lt;sup>8</sup> M.C.Mehta and Anr.Vs U.O.I &Ors, 20th December, 1986

background, because this Act was a major step taken under Artcles-48A & 51 A(g) by the 42<sup>nd</sup> Amendment Act, 1976 of the Constitution of India which incorporates a Directive Principles of a State Policy and Fundamental Duty. This chapter explicitly enunciate the National commitment to protect & improve the environment.

Before 1976, there was no direct provision in the Indian Constitution. Environment Protection & improvement were 1st time explicitly incorporated into the Constitution by the Constitution (42<sup>nd</sup> Amendment) Act, 1976.Before 1976, the subject of Forest & Wildlife has been enumerated in the Entry 20 State list. By this 42<sup>nd</sup> Amendment Act, 1976 subjects of Forest & Wildlife have been transferred from State list to concurrent list i.e. Entry 20 to Entry 17-A &17-B.

**Environmental Crisis:** An environmental crisis is an unprecedented ecological crisis that occurs when there is a destabilization of ecological balance.

The survey report of W.H.O says that 7 million people die in the world every year due to air pollution & out of this half of the people die only in India & China. Due to water pollution by the year 2025, 48 countries with more than 2.8 billion people i.e. 35% of the projected global population in 2025 will be affected by water stress or scarcity. The facts indicate that India is expected to become 'water stressed' by 2025 & 'water scarce' by 2050.

For remedy, at this moment a gradual change is required from non-renewable & polluting energy sources to those that are renewable & non-polluting energy resources. A change-over is needed from pollution prone technologies to environment-friendly technologies. Also, there is a requirement to do through research on the usefulness of legislations and policies that are in place to protect the environment nowadays.

**Environmental Ethics:** In the recent era, the role of environmental ethics in the protection of the environment is very important. It was the year 1970, Earth Day of the U.S.A helped to develop environmental ethics. It is a branch of a new sub-discipline of philosophy that deals with the ethical problems surrounding environmental protection.

E.g. a person living in poverty in an underdeveloped country may find it morally acceptable to cut down the forest to make room for farmland where he can grow food for his family. However, a person in a developed country may find this action morally unacceptable because the destruction of forests increases carbon dioxide emissions into the atmosphere, which can negatively impact the environment. Environmental ethics mainly deals with the question of need vs greed and comfort vs luxury.

**Environmental Justice:** Environmental justice & environmental protection are the preconditions of sustainable development. Justice and sustainability are the basic principles of environmental ethics. Justice is relevant in the field of ethics called principles of environmental justice which are concerned with the inequitable access to environmental resources (clean food, air and water) among lower-income communities, not in wealthy suburbs. There are various dimensions of environmental justice such as Distribution of Environmental justice, Participatory environmental justice and Domestic environmental justice. Articles 38 & 39 of the Constitution of India embody the Jurisprudential doctrine of Distributive justice.

**Environmental Jurisprudence:** Environmental jurisprudence is a form of special civil action related to environmental cases, which codified a change in ethics & legal recognition that extends to the natural world. Indian Legislation made an endeavour towards including the Principles of Environmental Protection in the Jurisprudence in India most notably in the 42<sup>nd</sup> Amendment Act, 1976 of the Indian Constitution. Mr. M.C. Mehta renowned environmental lawyer revived the concept of environmental jurisprudence India through PIL.

M.C. Mehta's Case and Doon valley Case entertained by the Supreme Court shows that the traditional rule of locus standi did not stand in the way in cases of environmental protection and the Court has passed directly to the Government for taking environmental protection measures in the interest of the general public. Some of the landmark judgments having a fair share in the development of the environmental jurisprudence in India are:

Kamal Nath's Case<sup>9</sup>, the public trust doctrine was articulated for the 1st time I India in M.C. Mehta Vs. Kamal Nath which emphasizes the State's affirmative duty to protect the environment. This doctrine is now accepted as part of the Indian law and it is actively applied to protect the environment.

<sup>91997(1)</sup>SCC388

Ganga Pollution Case<sup>10</sup>, the SC in Vellore citizens welfare forum Vs U.O.I declared that the precautionary principle & polluter pays principle are part of the environmental jurisprudence of this Country. These principles have been accepted as a part of the law of the land under article 21 of the Constitution of India.

Precautionary principle states that if an activity has the potential to cause harm to the environment, then steps should be taken to prevent that harm even if there is there is no clear evidence that the activity is damaging because precaution is better than cure.

Polluter Pays Principle was 1<sup>st</sup> adopted at the international level which was also adverted to the Indian Council for Enviro-legal Action vs. U.O.I<sup>11</sup>. This principle states that the party responsible for causing pollution should be held responsible for clearing it up.

**Need of Amendment of the Legislation :** There is a plethora of State & National laws available to protect the environment. But some of them are very old and a few others are new. The older ones need amendments while the newer ones need enlargements so that every aspect of environment protection is taken care of based on the current situation and the legal framework needs to be updated. A better understanding of environmental problems means all laws should be updated every 5-10 years to accommodate newer corners. The environmental law is not about dos and doesn't. There is an urgent need to make an in-depth study of the effect of the present-day environmental protection legislation and policies on industry and the economy. Forestry is in dire need of massive input of science & technology as also appropriate incentives. India is one of the 17 mega-biodiversity countries that have contributed around 167 economic plant species like rice, sugarcane, millets, pulses, tea etc. to the world agriculture and livestock species to world animal husbandry.

Awareness: In India, the awareness towards improving the quality of environment has increased substantially and all efforts are being made at different levels to minimise environmental pollution and thus help in improving the quality of life. Awareness and education

are important inputs for a correct appraisal of environmental problems. In December, 1982 International Conference on Environmental Education was held in New Delhi which emphasized that environmental education must start from childhood. As per orders from the Court now 2 slides free of cost on environment-related awareness will be shown in every Cinema Hall and the environment has become a compulsory subject upto class 12 from Academic Session, 1992 and University Grants Commission will also introduce this subject in higher classes in different Universities.

In M.C Mehta Vs U.O.I(1983) 1 SCC 471 the Hon'ble Supreme Court has held that under Article 51-A(g) the Central Government must introduce compulsory teaching of lessons for at least 1 hour a week on protection and improvement of the natural environment in all the educational institutions of the Country. This will help everyone improve the importance of environmental awareness. Environmental impact assessment must be made a statutory obligation, so that we can avoid accidents like Bhopal Gas Leak Tragedy in future.

Conclusion:- Environment protection is a matter of concern for every human being dependant on nature for existence. As a result for the 1<sup>st</sup> time after India's Independence we are witnessing a phase of good governance which is a clarion call to Amrit Kaal. This year this celebration has got a special significance due to the G-20 Presidency of Bharat with the theme Vashudhaiva Kutumbakam-one Earth, one Family, one Future.

A secured future depends on the environment. Every human has a moral obligation to protect our mother environment and promote sustainable development of the planet for future generations. Indian Courts have shown a positive trend to resolve environmental problems by evaluating the balancing technique between development and environmental task.

#### Reference:

- 1. https://www.conserve-energy-future.com
- 2. https://www.scu.edu
- 3. "Legal language, Legal Writing and general English" by Dr.S.C.Tripathi
- 4. "A compendium of Essays", by Unique Publishers
- 5. Constitution Law of India, Dr J.N.Pandey

M.C Mehta Vs U.O.I [Mehta 1] [1987]4SCC463 and M.C
 Mehta VS U.O.I [MehtaII]AIR 1988 SCC 1115
 11(1996)3SCC212

## Same Sex Marriage can Erode The Traditional System of India

Dr. B. Ramaswamy

(Author & Legal Expert)

## Same-sex marriage can erode traditional systems of India What is Same-sex marriage:

Same-sex marriage refers to the legal union of two individuals of the same sex. It is a controversial issue in many societies, including India, where traditional values and cultural norms play an important role in shaping attitudes towards marriage and family. People in India still view homosexuality as taboo. In India, marriage is traditionally viewed as a sacrament between two individuals of different genders, and same-sex partnerships are widely regarded as unethical and contrary to tradition and religion. Lesbian marriages are often deemed to be unholy due to personal religious beliefs. Some individuals in India believe that homosexuality is a negative influence from western cultures and is not in keeping with Indian values.

#### Present status of same-sex marriage in India:

Currently, same-sex marriage is not recognized in India. The country's legal system does not provide for marriage equality and the rights and benefits that come with it, such as inheritance rights, joint property ownership, and adoption rights. The Indian legal system does not recognize same-sex marriages, and the country's laws define marriage as a union between a man and a woman.

#### Why it erodes our traditional systems:

Same-sex marriage in Indiawill erode traditional systems by challenging the long-standing cultural and religious beliefs that view marriage as a union between a man and a woman for the purpose of procreation and the continuation of the family line. Same-sex marriage will lead to a breakdown of family structures, and will weaken the social fabric of Indian society.

Opponents of legalizing same-sex marriage argue that marriage is a sacred institution that is defined as a union between a man and a woman. They believe that changing the definition of marriage to include same-sex couples would undermine traditional family values and the institution of marriage. They argue that the primary purpose of marriage is to procreate and raise children, and that same-

sex couples cannot fulfil this purpose, thus making their union fundamentally different from that of opposite-sex couples.

Secondly, it would have a negative impact on children raised by same-sex couples. They argue that children need both a mother and a father to have a well-rounded upbringing and that same-sex couples cannot provide this. They claim that children raised by same-sex couples are more likely to have emotional and behavioural problems, and that legalizing same-sex marriage would promote the

Currently, same-sex marriage is not recognized in India. The country's legal system does not provide for marriage equality and the rights and benefits that come with it, such as inheritance rights, joint property ownership, and adoption rights. The Indian legal system does not recognize same-sex marriages, and the country's laws define marriage as a union between a man and a woman.

adoption of children by same-sex couples, which they argue would be detrimental to the child's well-being.

Thirdly, that legalizing it would lead to a breakdown of social norms as it would pave the way for other forms of unconventional relationships and would ultimately threaten the country's cultural and religious traditions. They believe that same-sex marriage is not consistent with the Indian cultural and religious beliefs, and that legalizing it would be a step towards westernization and would lead to the erosion of traditional values.

Lastly, opponents of same-sex marriage argue that most of the Indian population does not support it as the traditional values of the country are under threat and that

legalizing same-sex marriage would go against the beliefs and opinions of most of the population.

## Viewpoint of Different religion on same sex marriage:

#### **Hinduism:**

According to the Hindu Law Marriage is a body for the performance of religious duties. It is deemed as a holy union in Hindu Law. It is also considered to be a union of flesh to flesh and blood to blood. It is a religious sacrament and not a civil contract. The Hindu Marriage Act 1955, Sec.5 provides right to marry under statutory condition.

Hinduism is against Homosexuality and is unacceptable to most Hindus. Hinduism teaches that the 'natural' thing is for men and women to marry and have children. On the contrary, those who go against this natural relationship are violating their own dharma.

The Manusmriti stipulates severe penalties for females engaging in sex with a girl, establishing the existence of such relationships during the menstrual cycle.

#### **Islam:**

Muslim The Qur'an and Muhammad's Sunnah are both the sources of Islamic Shariah law. According to this legislation, homosexuality is a crime against God and a sin. The four primary schools of Sunni jurisprudence now have different views on how to treat homosexuality, but they all concur that it is deserving of a severe punishment. Muhammad himself had said, "If you find anyone doing as Lot's people did, kill the one who does it, and the one to whom it is done." The "appearance" of homosexuality was also condemned by him when he cursed effeminate males and manly women and commanded his followers to "Turn them out of your houses." His succeeding rulers naturally followed this stance on gays. Even moderate Muslims consider homosexuality to be abhorrent and disgusting.

#### **Christianity:**

Regarding the view of homosexuality, there has been a heated dispute in the Christian community. In contrast to the other sentence, which suggests homosexuals should be embraced so they can discover a greater calling in God and mend their ways, the first line criticizes the idea as a whole. After modern Western nations started to legalize homosexuality, a rift in thought developed. However, Christianity has long condemned homosexuality.

#### **Government's view:**

The Centre in India's Supreme Court has opposed same-sex marriage, stating that it is not a fundamental right

under Article 21 of the Constitution. The government argued that statutory recognition of marriage as a union between a "man" and a "woman" is intrinsic to Indian cultural and societal values and that there is a compelling interest for society and the state to limit recognition to heterosexual marriages only. The Centre also stated that the issue of same-sex marriage is a matter of legislative policy and should be decided by the parliament rather than the courts.

#### **Supreme court's view:**

India's Supreme Court has said it will not interfere in personal law issues, but will examine whether the right can be conferred under the Special Marriage Act to include the term "person" instead of just "man and woman." A five-judge Constitution bench, led by Chief Justice of India DY Chandrachud, indicated that it may only confine to

Hinduism is against Homosexuality and is unacceptable to most Hindus. Hinduism teaches that the 'natural' thing is for men and women to marry and have children. On the contrary, those who go against this natural relationship are violating their own dharma.

the interpretation of the Special Marriage Act to develop a notion of a "civil union" that finds legal recognition under the Act. The bench's hearing will be limited to this scope and will involve the Centre, religious bodies, and individuals. Impact of Same-sex Marriage on various aspects of the society:

#### **Impact on the Individual:**

At the individual level, some individuals may experience discomfort with the concept of same-sex marriage due to cultural or religious beliefs. This could result in conflicts and increased tension between individuals with divergent views on the matter.

#### **Impact on the Children:**

The National Commission for Protection of Child Rights (NCPCR) has expressed concerns about the impact of same-sex marriage and adoption by same-sex couples on children. The NCPCR has argued that children may not receive emotional bonding and a gender-balanced family, which are necessary for their well-being. The commission also stated that allowing same-sex marriage and adoption could lead to confusion and psychological distress for children. The NCPCR has referred to studies that found that children raised by heterosexual couples are emotionally more stable. It has argued that allowing same-sex couples to adopt is akin to "endangering the children." The NCPCR has asked that "children may be saved by this Hon'ble Court from being subjected to experimentation or being treated as 'subject.""

#### Impact on the religion:

India, a nation known for its religious diversity, places great importance on religion in its society. Same-sex marriage, being perceived as a departure from traditional religious beliefs, may incite social unrest. Various religious leaders in India have already voiced their opposition to same-sex marriage, contending that it runs counter to the tenets of their respective religions. Such a stance could potentially provoke discord between those who advocate for same-sex marriage and those who resist it, further fracturing Indian society.

#### **Impact on the family:**

India's family system is considered the foundation of society, and it is believed that it will play a significant role in helping the country's children lead it to greater heights as it becomes a cultural and economic superpower. Marriage is a critical part of Indian society, and it is seen as a sacred bond between a man and a woman. However, the concept of same-sex marriage challenges this traditional notion of marriage, which may result in the deterioration of conventional family structures. The family unit is critical to Indian society, providing social order, emotional, and financial support to its members. The acceptance of samesex marriage could disrupt this traditional family structure, which may negatively impact Indian society. At the family level, the legalization of same-sex marriage could lead to familial conflicts and estrangement, particularly if families are not accepting of LGBTQ+ relationships, resulting in emotional harm to family members.

#### **Impact on the society:**

The legalization of same-sex marriage could have significant impacts at various levels. At the community level, same-sex marriage legalization could generate social tension and division, particularly in conservative or religious communities, potentially leading to the marginalization of the LGBTQ+ community, decreased quality of life, and negative mental health impacts. At the societal level, legalizing same-sex marriage could lead to the breakdown

of traditional family structures and consequential implications for society, including reduced birth rates, changes in cultural norms, and shifting societal values. At the national level, legalization of same-sex marriage could result in backlash from conservative or religious groups, leading to increased polarization and division within the nation, which could compromise national unity and cohesion and potentially affect economic and social development.

#### **Impact on Ethics and Value:**

The issue of same-sex marriage in India is likely to lead to further ethical and value conflicts. While some religious and moral groups view it as unethical, others support equal rights for the LGBTQ+ community. Policymakers will face a challenge in balancing the right to marry and the rights of those who oppose it on ethical grounds. The idea of same-sex marriage may also challenge traditional values and beliefs in India, leading to conflicts between those who believe in preserving such values and those who support equal rights. These conflicts may arise due to differing opinions on what is considered ethical and traditional, and policymakers will need to navigate these conflicting views to arrive at a just and inclusive policy.

#### Different perspectives and views on the Same-sex **Marriage:**

#### **Ancient view:**

Ancient India did not have a clear stance on samesex marriage, and attitudes varied depending on the region and time period. While some ancient texts and traditions depicted homosexuality, there were also social and cultural pressures to conform to heterosexual norms.

#### **Medieval view:**

In medieval India, attitudes towards same-sex relationships continued to be influenced by religious and cultural traditions. The Islamic rule that spread across parts of India during this time brought with it Islamic attitudes towards homosexuality. Under Islamic law, same-sex relationships were considered a sin and were punishable by death. This led to a harsher view towards homosexuality in some parts of medieval India.

#### **Modernistic view:**

From a modernist perspective, same-sex marriage is seen to promote equality and social progress, and to challenge traditional norms and conventions. The focus is on the individual's right to choose their partner and build a life together based on mutual love and respect, rather

than on strict societal expectations and norms.

#### **Post-Modernism:**

Some postmodernist theorists might argue that samesex marriage challenges and disrupts traditional norms and conventions, particularly those related to gender, sexuality, and the institution of marriage itself. They may view samesex marriage to subvert and deconstruct traditional power structures and binary categories, and to promote individual freedom and self-expression. On the other hand, some postmodernists may critique the concept of marriage as a social construct that reinforces heteronormativity and patriarchal values, and they may question the need for any form of marriage, whether same-sex or opposite-sex.

### **Post-industrialism:**

From a post-industrial perspective, same-sex marriage is seen to promote social progress and equality, and to challenge traditional attitudes towards sexuality and gender. It is seen as a natural extension of the movement towards greater social justice and inclusivity, and to promote the dignity and rights of all individuals, regardless of their sexual orientation or gender identity.

#### **Post-technology:**

Perspectives on same-sex marriage reflect the ways in which technological advancements have affected social attitudes and practices related to sexuality and gender. In the post-technology era, the internet and social media have facilitated greater awareness, visibility, and acceptance of LGBTQ+ identities, including same-sex relationships.

#### **Conclusion:**

The issue of same-sex marriage in India is complex and has the potential to significantly impact the country's social and cultural systems. Legalizing same-sex marriage could challenge long-held traditional family structures and religious beliefs that form the foundation of Indian culture. It could also impact population growth, as marriage is viewed as a means of procreation and carrying on the family lineage. The movement to sanctify same-sex marriage under the guise of equality and freedom needs to be addressed urgently by the legislature, not the judiciary. Marriage is a cornerstone of society and a universal social institution established to regulate and control human life. It is through the family that children learn about relationships, citizenship, and societal expectations. The traditional idea of marriage as a permanent, monogamous relationship between one man and one woman is central to the nuclear family. Protecting and promoting marriage is vital to ensuring a healthier

society. Society accepts the union of two individuals through marriage to bear offspring and provide care forthem until they are self-sufficient. It is essential to carefully consider the implications of legalizing same-sex marriage before making any decisions that may impact India's social and cultural systems.

#### **References:**

- https://indianexpress.com/article/opinion/columns/issueof-same-sex-marriage-legislature-judiciary-culture-8374668/
- https://www.thehindu.com/news/national/same-sexmarriages-can-rock-societal-values-centre/article 66610499.ece
- https://www.thehindu.com/news/national/explained-whatis-indias-stand-on-same-sex-marriage/article66636166.ece
- https://theunn.com/indian-culture-vs-same-sex-marriage/
- https://www.legalserviceindia.com/legal/article-7250-samesex-marriage-and-homosexuality-in-india-an-insight.html
- https://www.indiatvnews.com/news/india/legalising-samesex-marriage-in-india-will-have-devastating-impact-onsociety-former-high-court-judges-open-letter-indiantraditions-latest-updates-2023-03-29-858731
- https://www.firstpost.com/explainers/india-same-sexmarriage-hearing-special-marriage-act-civil-union-supremecourt-12475752.html
- https://indianlawportal.co.in/same-sex-marriage-in-india/
- https://www.indiatoday.in/news-analysis/story/sushilmodi-sparks-row-with-same-sex-marriage-remarks-courtrulings-and-law-2311667-2022-12-21
- 10. https://indianexpress.com/article/opinion/columns/issueof-same-sex-marriage-legislature-judiciary-culture-8374668/
- 11. https://indianexpress.com/article/opinion/columns/issueof-same-sex-marriage-legislature-judiciary-culture-8374668/
- 12. https://indianexpress.com/article/india/timeline-of-section-377-7205718/
- 13. https://blog.ipleaders.in/issues-and-challenges-of-samesex-marriages-in-india/
- 14. https://www.hindustantimes.com/india-news/bar-councilof-india-urges-supreme-court-to-leave-same-sex-marriagecase-to-legislature-calls-it-destabilising-to-social-structure-101682276890074.html
- 15. https://www.financialexpress.com/india-news/leave-samesex-marriage-issue-to-legislative-consideration-bar-councilurges-supreme-court/3059708/
- 16. https://www.telegraphindia.com/india/centre-urgessupreme-court-to-make-states-union-territories-parties-toproceedings-on-pleas-on-same-sex-marriage/cid/1930799
- 17. https://www.thequint.com/news/law/same-sex-marriagecase-supreme-court-hearing-dy-chandrachud-latestupdate#read-more
- 18. https://www.indiatoday.in/law/story/here-is-why-centreopposing-granting-legal-recognition-same-sex-marriageexplained-2346398-2023-03-14
- 19. https://www.msn.com/en-in/news/in-depth/same-sexmarriage-case-why-child-rights-panel-thinks-adoption-bysame-sex-couples-may-harm-children/ar-AA1a16WH
- 20. https://www.outlookindia.com/national/same-sex-marriageevolution-of-marriage-in-heteronormative-india-news-279373

## Surrogacy: A Legal and Ethical analysis

Abhay Aggarwal, Lloyd Law College

contract in which a woman bears a pregnancy "for" another couple is referred to as a surrogacy. Numerous infertile couples travel to India, where commercial surrogacy is permitted, from all over the world. Although it seems that everyone involved would benefit from this arrangement, there are certain sensitive concerns that need to be addressed through carefully crafted rules in order to safeguard the surrogate mothers and the intended parents' rights.

The global frequency of infertility is on the rise, which has prompted the development of assisted reproductive technologies (ART). When an infertile woman or couple is unable to conceive, surrogacy is offered as a possible option. In a surrogacy agreement, a surrogate mother conceives and gives birth to a child on behalf of another couple or individual.

Surrogacy is the agreement of a woman (the surrogate mother) to carry a kid to term in order to give birth to a child that will be given to other people (the intended parents) who are unable to have children.

#### **Surrogacy In India**

In India, there are primarily two forms of surrogacy:

- 1. Traditional/Natural/Partial surrogacy
- 2. Gestational surrogacy.

**Traditional surrogacy:** The intended father's or sperm donor's sperm are used to artificially inseminate the surrogate mother. Since the surrogate's own egg was utilised, she is the child's genetic and biological mother. IUI is the method applied in this kind.

Gestational surrogacy: Because her eggs are not at all used in gestational surrogacy, the surrogate mother is not genetically connected to the kid. The intended father supplies the sperm, the intended mother provides the eggs, and the two are combined in-vitro to create the embryo, which is then placed in the surrogate mother's womb to continue developing. These days, IVF or ICSI are employed.

While commercial surrogacy is outlawed in England, several US states, and Australia, which exclusively

recognises altruistic surrogacy, it is permitted in India, Ukraine, and California. Germany, Sweden, Norway, and Italy, in contrast, do not recognise any surrogacy agreements. India is become a popular location for fertility tourism. So-called surrogacy services lure couples from overseas to India every year since the cost of the entire operation there is up to one third cheaper than it is in the United States and the United Kingdom (10-20 lakhs).

Reproductive freedom is a fundamental human right recognised in Article 16.1 of the 1948 Universal Declaration of Human Rights and is protected in India

The global frequency of infertility is on the rise, which has prompted the development of assisted reproductive technologies (ART). When an infertile woman or couple is unable to conceive, surrogacy is offered as a possible option. In a surrogacy agreement, a surrogate mother conceives and gives birth to a child on behalf of another couple or individual.

under Article 21 of the Indian Constitution.

In many situations, intended parents are people who have spent years attempting to become pregnant, either naturally or in vitro. Intentional parents can include, for instance, single males who want a child and single women who are unable to bring a child to term due to infertility or health concerns.

#### **Surrogacy's Evolution**

In 2002, India authorised commercial surrogacy. The commercial businesses and rules were then provided to the foreign visitors who had arrived looking for ladies who would rent out their wombs to enable them to become parents. Finally, this undermined the dignity of women and

promoted the sale of newborns, organs, and other things.

In the 228th report of the Indian Commission, it was suggested that commercial surrogacy be outlawed in favour of ethical surrogacy. It was also mentioned that women who rent their wombs do so because they are poor and struggle to pay for basic requirements.

The ICMR was put into effect in 2005 to outlaw commercial surrogacy.

#### **Related Cases**

### Baby Manji Yamada v. Union of India (AIR 2009 SC) Case Laws:

- A Japanese couple's baby Manji Yamada was born to an Indian surrogate mother; the pair had split up at the time of the baby's birth.
- There were no legal safeguards in Japan or India for the biological father to return with his kid.
- In the end, the Supreme Court gave the child's grandma permission for her to go.

The Gujarat High Court ruled in Jan Balaz v. Anand Municipality that the child born to a surrogate mother for a German couple needed a birth certificate in the name of the biological mother in order to be registered as an Indian and awarded a passport.

These landmark instances led to the passage of a law that forbids foreign spouses.

Numerous surrogacy bills have been approved as of late:

Surrogacy regulation bill 2016:

It was approved by LOKSABHA in 2016:

#### **Features:**

- The Bill exclusively enables surrogacy for couples who are unable to conceive. In the event of any other illnesses that would prohibit a woman from giving birth to a child, this surgery is not permitted.
- The Bill outlines the qualifying requirements that the intended couple must meet in order to commission surrogacy. It also enables new conditions to be imposed by regulations. Possible over-delegation of legislative authority.
- The prospective couple's closest relative who has given birth should be the surrogate mother.

At accordance with Section 3 of the Act, no commercial surrogacy shall be performed by a specialist or medical professional in a location other than one that is recognised as a surrogacy clinic.

 No specialist or medical professional may practise without a licence.

- No clinic or individual shall in any manner encourage a woman to act as a surrogate mother by promotion, assistance, or marketing of commercial surrogacy.
- The phrase "seeks a woman to act as a surrogate" implies that the woman is open to serving as a surrogate.
- No abortions may be performed without the mother's agreement, and the Medical Termination of Pregnancy Act of 1971 shall be followed by the appropriate authority.
- No human embryo or gamete storage is permitted for surrogacy purposes.

#### **Surrogacy regulation bill 2019:**

• The Bill's Section 4(ii) outlines the specific circumstances in which surrogacy is legal in India:

In the 228th report of the Indian Commission, it was suggested that commercial surrogacy be outlawed in favour of ethical surrogacy. It was also mentioned that women who rent their wombs do so because they are poor and struggle to pay for basic requirements. The ICMR was put into effect in 2005 to outlaw commercial surrogacy.

- The intended parents must have infertility that has been documented by medical records in order to qualify for surrogacy.
- Only altruistic surrogacy, which provides actual assistance to intended parents without any financial gain aside from medical costs, should be authorised.
- It limits commercial surrogacy, which is done by surrogate mothers in order to get financial rewards.
- The offspring of surrogacy shall not be sold, used as prostitutes, or exposed to any other kind of exploitation.
- The pair has any illness or condition that is listed as such by law.

#### **Eligibility:**

(1) According to Section 4(iii)(a) of the Bill, the intended couple must meet certain requirements in order to be eligible to undergo surrogacy.

A "certificate of essentiality" and a "certificate of eligibility" are required for the pair. The intended pair receives a certificate of essentiality upon fulfilment of the following requirements:

- District Medical Board certificate proving the couple's infertility.
- The Magistrate Court granted the couple custody of the kid, and they received 16 months of insurance to cover the surrogate mother's medical costs, including any necessary healing procedures.
- (2) Clause 4 (ii)(a) of Chapter III of the Surrogacy Regulation bill 2020and some of the related clauses at pages 43–45 require the following:
- 4.(ii) Surrogacy and surrogacy operations are prohibited unless they are used for the following objectives, specifically:
  - When a couple plans to use a gestational surrogate because of a medical condition: Provided that an Indian couple or a woman planning to use a surrogate must acquire a certificate of recommendation from the Board upon submission of an application in the format and manner specified by the Board.
- (3)(i) A District Medical Board certification of a medical indication in favour of one or both members of the intended spouse or the intended mother needing gestational surrogacy.
- (ii) Insurance coverage from an insurance company or agent recognised by the Insurance Regulatory and Development Authority established under the Insurance Regulatory and Development Authority Act, 1999, covering postpartum delivery complications for a period of 36 months in favour of the surrogate mother;
  - If a woman is prepared to act as the intended woman, the intending couple or the intending woman [specified expressly in Section 4 (1) of the 2020 Bill at page 44 of the same report] must approach the competent authorities.
- (iii) No woman shall donate her own gametes in an attempt to behave as a surrogate mother;
  - A woman is only permitted to take on the role of a surrogate mother once.

#### **Issues**

The rights of the children produced, the ethical and practical repercussions of the further commodification of women's bodies, the exploitation of low-income and poor women in need of money, and the moral and ethical repercussions of turning a woman's body's natural biological function into a business transaction are just a few of the numerous issues raised by surrogacy.

#### **Conclusion:**

For infertile couples worldwide, childlessness is a very serious and serious conditionall throughout the globe. It's important to feel sorry for the situation and look for a solution. However, solutions to complex issues don't often come right away. It is odd that individuals are using surrogates while there are about 12 million orphaned

The rights of the children produced, the ethical and practical repercussions of the further commodification of women's bodies, the exploitation of low-income and poor women in need of money, and the moral and ethical repercussions of turning a woman's body's natural biological function into a business transaction are just a few of the numerous issues raised by surrogacy.

children in India. For childless families who wish to give these youngsters a home, adoption is a difficult and drawnout process in India. Despite the country's 60 years of independence, there is still no comprehensive adoption legislation that is applicable to all of its residents, whether they be Non-Resident Indians (NRIs), Persons of Indian Origin (PIOs), or Overseas Citizens of India (OCIs). Courts must carefully review solutions to determine any potentially serious consequences of their outcomes.

Due to a lack of social agreement, efforts to create legislative legislation in response to advancements in assisted reproductive technologies are thwarted. It is important to strike a balance between empathy for individuals who want to have children and support for reproductive freedom, as well as worries about the commercialization of reproductive practises and alterations to natural family structures.

## Cyber Crime: A Bloodless WAR

#### Ms. Chinmayee Sahoo

Advocate, Karnataka High Court, Bengaluru

#### Introduction

ARPANET (Advanced Research Projects Agency Network) was the first public packet switched network which was first used in the year 1969 and it was mainly used for academic and research purpose, it was very little known this will move on to become public on January 1st 1983 with a new communication protocol which is known as "Transmission Control Protocol/ Internet Protocol" (TCP/IP), where this technology enabled different computers to talk to each other and communicate, thereafter the combination of Computer and Internet has changed the way communication was held, business was carried on in private sector and government sector and the technology have contributed to greatest level of developments, at present this has taken a giant step with developments in Big Data, Machine Learning and Artificial Intelligence.

On the flip side of the technological development is coined as "Cybercrime/Online crime, online fraud etc..." Cybercrime and data issues is a growing area of concern to all the countries at all levels of developments and affecting everyone who is a online user whether buyer, seller, Private or public organizations.

When the transactions went from offline mode to online mode, there was growth of online crimes like cheating, fraudulent transactions, financial frauds, stalking, phishing, ransomware attacks, social engineering, etc... and there raised a global requirement for all the countries to regulate the cyber space, before cyber laws came into force in India the crimes were handled by IPC which was not foolproof to handle cyber-crime cases and criminals were getting escaped easily.

As per Cyber security ventures report in Cybercrime magazine the Global Cyber-crime damages is accounted as follows: \$6 Trillion a Year, \$500 Billion a Month, \$115.4 a week, \$16.4 Billion in a day, \$684.9 an Hour, \$11.4 Million in a minute and \$190,000 a second.

Now almost 156 countries that amounts to 80 per cent countries have enacted cybercrime legislation, the evolving cybercrime landscape and resulting skills gaps are a significant challenge for law enforcement agencies and prosecutors, especially for cross-border enforcement.

International position in Cyber Space is with few exceptions (most notably, the Budapest Convention on Cybercrime and the not-yet-in-force African Union Convention on Cyber Security and Personal Data Protection), international law does not have tailor-made rules for regulating cyberspace.

#### What are Cyber Laws?

Widely Known as Internet Laws. Cyber formally refers to "Computers", "Computer networks" or "Virtual Reality". Legal issues that are related to the use of internet are termed as Cyber Laws. Cyber laws are related to Legal informatics and supervise and regulate the digital circulation of Information. Cyber-crimes or computer-oriented crime is crime using computer as a weapon for committing such crimes such as financial frauds, misrepresentation, breach of privacy or identity theft, malicious and provocative propaganda etc. Cyber-crimes in simple terms refer to any criminal activity where a computer or network are the source, target or place of crime. It refers to computer-mediated activities which is either criminal or regarded as illicit and which can be conducted through global electronic networks.

In the Year 2000, Ministry of Electronics and Information Technology came up with a legislation widely knowns as Information Technology Act, 2000 (I.T. Act, 2000) in order to deal E-commerce. The Act aims at facilitating electronic or digital transactions and is intended to reduce cyber-crimes. The IT Act 2000 imposes both civil and criminal liability depending on the nature of the act committed by the person/institution. IT Act 2000 recognizes the civil and criminal offences and accordingly establishes the legal approach of dealing with such offences.

#### **Classification:**

Cyber-crimes are broadly classified into three categories:

Against person Against Government Against Property

#### **Against Person:**

Pornography

Transmission of obscene Material

Trafficking

Harassment

Cyber Defamation

Cyber Stalking

**Email Spoofing** 

Financial frauds using Credit card, debit card or ATM etc.

#### **Against Government**

Cyber-Extortion

Cyber Terrorism

Computer viruses

Hacking of Govt websites

#### **Against Property**

Copyright

**Intellectual Property Violations** 

Cyber Squatting

**DDOS** Attack

#### Features of ITACT 2000

It defines various terminologies used in the Act like cyber cafes, computer systems, digital signatures, electronic records, data, asymmetric crypto-systems, etc. under Section 2(1).

It protects and legitimizes all the transactions and contracts made through electronic means and says that all such contracts are valid. (Section 10A)

It also gives recognition to digital signatures and provides methods of authentication.

It contains provisions related to the appointment of the Controller and its powers.

It recognises foreign certifying authorities (Section 19).

It also provides various penalties in case a computer system is damaged by anyone other than the owner of the system.

The Act also provides provisions for an Appellate Tribunal to be established under the Act. All the appeals from the decisions of the Controller or other Adjudicating officers lie to the Appellate Tribunal at the Telecom Dispute Settlement and Appellate Tribunal (TDSAT)

Further, an appeal from the Tribunal lies with the High Courts.

The Act describes various offences related to data and defines their punishment.

It provides circumstances where the intermediaries are not held liable even if the privacy of data is breached.

The table below summaries the applicability of the Act to various Cyber Crimes

Provisions Under	Offences
ITACT	
Section 43	Penalty for damaging
	computer systems
Section 43 A	Compensation in case of
	protecting data
Section 65	Offences related to
	computer Source code
Section 66	Offences related to crime
	including data theft,
	destruction of data,
	password stealing, DDos
	Attack, damaging computer
	etc
Section 66A	Online offensive
	communication [repealed
	by Hon'ble Supreme Court
	in the case Shreya Singhal
	vs Union of India in the
	year 2015 (AIR 2015 SC
	1523)]
Section 66B	Offences relating to
	computer includes software
	piracy, stolen computer
g .:	resource.
Section 66C	Identity Theft
Section 66D	Cheating by Personation
Section 66E	Voyeurism
Section 66F	Cyber terrorism and
Section 67	Cyber Warfare
Section 67A	Cyber Obscenity
Section 67B	Cyber Pornography
Section 70	Child Pornography
Section 72	Hacking a protected system Breach of Privacy by
Section 12	officer in charge under the
	Act
Section 72A	Breach of Privacy by
Section / 2A	Intermediaries
Section 79	Liability of Intermediaries
Section 85	Corporate Criminal Liability
Section 05	Corporate Ciminal Liability

Section 43 of the IT Act 2008 imposes civil liability where a person without the permission of the owner

# Point of View

access the computer and extracts any data or damages the data contained therein. Section 43 and 66of the IT Act cover the criminal liability.

Information Technology Act has led to changes in many other act, one such changes which was brought in is in Indian Evidence Act by inserting section 65B, where the secondary evidences are produced in court like for example where a server is a primary evidence and this cannot be produced in court, only a portion of electronic evidence is extracted in the form of printout / soft copy in CD (Compact Disk) or Pen drive, this section helps to certify the same and holds genunity of the evidence.

#### **Institutional Framework**

Apart from dealing with the IT Laws the Central Government and the State have taken various measures to combat cyber-crimes. A separate cell has been established to conduct investigation such as Cyber Crime Investigation Cell that provides police forces to collect information and investigate the cyber-crimes that are reported to them. Cyber forensics Laboratory are developed for assistance during the seizure and search of computers upon request by the investigating authorities.

The "Indian Computer Emergency Response Team" (CERT-In) established by the Department of Information Technology is obliged to collect, analyse, all relevant information relating to incidences of cybercrime, provide forecast alert regarding threats to cyber security. Further Section 69A of IT Act 2008, the Central Government authorises to order any government agency/intermediary to block access of any information generated, transmitted, receives or hosted in any computer resource, if it felt as essential to do so in the interest of sovereignty and integrity of India or security of the state.

CERT-IN Plays a vital role as Nodal Agency or responding to Computer security incidents as and when they occur, with below mentioned responsibilities:

Collection, analysis and dissemination of information on cyber incidents.

Forecast and alerts of cyber security incidents

Emergency measures for handling cyber security incidents

Coordination of cyber incident response activities.

Issue guidelines, advisories, vulnerability notes and whitepapers relating to information security practices, procedures, prevention, response and reporting of cyber incidents.

Such other functions relating to cyber security as may

be prescribed.

IT Act takes care in ensuring that the authorities under the Act do not misuse their power. E.g.- if a person securing access in pursuance of powers conferred under the enactment to any electronic record, book, information, document and if he discloses the same without consent of the concerned person can be criminally held liable under section 72 of the IT ACT 2008. Section 69B authorizes government agency to monitor and collect data or information receives, or store in any computer system for the purpose of cyber security.

### Amendments to It Act Amendment in 2008:

Brought changes in Section 66A of the IT Act, it provided punishment for sending offensive messages through electronic mode. However, this section was further struck down by the supreme court in the case of Shreya Singhal Vs Union of India (AIR 2015 SC 1523) declaring violative of Article 19(1)

Information Technology Intermediaries Guideline Rules In order to hold the intermediaries accountable, the Government issued certain guidelines such as

- a) Intermediaries to publish and amend their privacy policy so that citizens could be protected from unethical activities like pornography, spreading of objectionable images and text.
- b) Appointment of Nodal Officer or Grievance officer to attend to queries 24X7
  - c) End to End Encryption

#### **Most Common Cyber Crimes**

1. Phishing: Refers to an act of attempting to acquire sensitive information like Usernames, Password and Credit card details by disguising as a trustworthy source. It includes contacting the victims through email, luring them with financial benefits and thereby collecting sensitive information. Often such information is collected through fake websites that replicates the original website.

Land Mark Judgement: UMASHANKAR VS ICICI BANK Ltd. C.M.A 2863 of 2019 Madras High Court, decided on 11<sup>th</sup> Nov 2022.

#### First Adjudication in India

**Facts:** In this case, the petitioner received an email from ICICI Bank asking to update his KYC by providing his Internet Banking username and password. The petitioner replied to the email with the aforementioned details and later on found that he was defrauded of Rs. 6.46 Lakhs.

# Point of View

**Judgement:** The complaint was filed before the Adjudicating officer seeking compensation for financial fraud. The Adjudicating Authority found ICICI Bank to be guilty of offences under section 85 read with Section 43 of the IT Act, 2000 and directed it to pay Rs. 12.85 lakh to the petitioner. The Bank went to the TDSAT where the order passed by the Adjudicating Authority was upheld. Aggrieved by the order ICICI Bank filed an appeal in the Madras High Court where the Bank was found guilty and was directed to pay the compensation to the complainant for the financial loss.

**Impact:** The banks cannot simply wash their hands in case of any unauthorized / fraudulent transaction as they are the custodian of the customers fund and the bank are required to act or lodge an FIR or compliant for the said unauthorized transaction..

- 2. Identity Theft: It is an act of stealing identity of another person on cyberspace with the use of cyber technology. Most of the financial frauds takes place by impersonation. This can be dealt with IT Act along with IPC depending upon the consequences of such identity theft. Eg- Credit card frauds, debit card frauds, scams pertaining to lottery, romance scams, fake job offers, fake Giveaways etc etc.
- 3. Cyber obscenity: Trading of any sexually expressive material within the cyber space is termed to be cyber-Obscenity.

Landmark Judgement: Suhas Katti vs Tamil Nadu (C No. 4680 of 2004, Court of Metropolitan Magistrate, Egmore, Chennai) – The first ever conviction case in India in connection with the posting of obscene messages on the internet.

Facts: The victim filed a complaint against the accused under section 67 of the IT Act r/w 469 and 509 of IPC. The accused wanted to marry the victim but the victim rejected the proposal. On being refused, the accused posted obscene and defamatory messages about the said victim on Yahoo messenger groups harming her reputation and insulting her modesty. The accused also forwarded emails received in a fake account opened by him in the victim's name. The posting of messages resulted in annoying calls to the victim. The calls were in the belief the victim is soliciting for sex work. The victim was fed up with the harassment took steps against it and filed a report again him.

**Judgement:** The accused was found guilty of the said offence and was convicted and was sentenced to 1 year of simple imprisonment and a fine of Rs 500/-.

**Impacts:** Introduced the significance of giving electronic evidence under 65B of the Indian Evidence Act for the first time in Court where a certified copy of the electronic document in yahoo server was produced and was accepted as prime evidence.

### Landmark Judgements (Supreme Court of India)

Shreya Singhal vs Union of India (AIR 2015 SC 1523 Writ Petititon No. 167 of 2012)

Facts: Two girls were detained by the Mumbai police in 2012. The arrest was made in response to a bandh call in Maharashtra. The two girls were accused of publishing their comments on Facebook. They were charged under 66A of the IT Act.

**Issues:** Does Section 66A of the IT Act violate the Fundamental Right to Freedom of Speech and Expression?

**Judgement:** The Supreme court observed and held that Section 66 of the IT act was abrogated in its entirety for infringing Article 19(1)(A) of the Constitution of India and not protected under Article 19(2). it was also observed by the Court that Section 66A is capable of limiting all forms of internet communication as it makes no distinction "between mere discussion or advocacy of a particular point of view, which may be annoying when or inconvenient and incitement casual connection with public order, security of state" (para 20). The Court invalidated Section 66A as it violated the Right to Freedom of Expression guaranteed under Article 19(1) of the Constitution of India.

Impact: Section 66A was Struck down from the IT **ACT 2008** 

Avinash Bajaj vs State (NCT) Delhi (Criminal Misc. Case No. 3066 of 2006 filed before Delhi High Court, Criminal Appeal No. 1483 of 2009, Supreme Court)

Facts: An obscene MMS was listed for sale on www.bazee.com (now ebay.com). Though the website had pre-requisite safety filters to detect such kind of listing, but this listing was not tracked. A complaint was registered against the company and upon investigation the Managing Director of the company was arrested and was held responsible for mishandling the content on the website. Avinash Bajaj was arrested under section 67 of the IT Act and his bail was rejected by the Trail Court.

#### **Issues:**

- 1. Are the offences under Section 292 and 294 of IPC and Section 67 of IT Act attracted?
- 2. Whether the MD of the company be held liable if the company has not been arraigned as a principle accused under Section 67 of the IT Act?

# Point of View

Judgement: The Hon'ble High Court held that the charge-sheet did not make any prima facie case against the petitioner, It also held that the concept of automatic criminal liability on the MD of a company was not recognized in the Indian Penal Code and hence was not held liable under the provisions of Section 292 and 294 of the Indian Penal Code. However, Avinash Bajaj was held liable to the charges under section 85 of the IT Act as, together with Section 67 of the same Act, it argued that even if the company had not been arraigned as a principal accused, a director will be criminally liable.

The Supreme Court, in 2012[1], overruled the findings while stating that, vicarious liability cannot be fastened to Avinash Bajaj and he could not be held liable under the provisions of the IT Act as the company was not arraigned as an accused. In this regard, the Supreme Court drew an alignment between Section 85 of the IT Act and Section 141 of the Negotiable Instruments Act, 1881. Section 141 of the NI Act is of the same substance as section 85 of the IT Act, in the context of certain offences by Companies under the NI Act. In interpreting section 141 of the NI Act, the Supreme Court held that the commission of an offence by the company was an express condition precedent to attract the liability of others in charge of the company, hence, since there was no case made against the company, Avinash Bajaj was discharged.

**IMPACT:** IT ACT was revised to introduce, an amendment to section 79(1)(2) of the IT act. This section provides "SAFE HARBOUR" to intermediaries (such as websites, Apps etc) from penalties under the IT ACT for content made available on its platform by Third party.

### **Adjudicating Institution for Civil Remedies**

Supreme court of India High Court (Section 62,IT ACT) Cyber Appellate Tribunal

Adjudicating Officer (section 46, IT ACT)

#### **Remedies for A Cyber Vicitm**

Criminals have discovered that the cyber world makes it easier to commit crimes thus it has become a major issue that laws and infrastructure be put to regulate such crimes. As per the study women and children are the primary victims. The majority of cyber crimes are unreported owing to the victim's reluctance and shyness, as well as defamation of the family's name. In effect the questions posed for the law by the advancing technology

are many such as

How does the law deal with computer Hackers or those who introduce viruses?

How to deal with issues in case of Cyber squatting and Domain infringement?

How to approach in case of any cyber fraud or data theft?

Is there a remedy ???? Is that only the criminal be punished or the vicitm will get compensation as well?

To answer all these there are two sort of remedies available for cyber victims

There are two sort of remedies for a Cyber victim

- Criminal proceedings and the other is
- Claiming for Civil Damages.

A cyber victim can report the incident by calling cyber helpline no. 1930 or the victim can lodge a formal complaint on the National Cyber Crime Reporting Portal www.cybercrime.gov.in, thereafter police will start Investigation and submit the report to Court and trail begins and the cyber criminal will be punished accroding to IT Act and other relevant IPC sections.

Many people are not aware of the Adjudicating process where the vicitim is not at fault and have lost money due to the negligence of Intermediary like Bank, the intermediary is expected to implement "Reasonable security practice" to safeguard the computer and computer network and if they fail to do so they will be liable for compensating damages for the negligence, for example money gets deducted without sharing any OTP or credentials and here there is no fault of victim, these type of financial frauds are dealt as civil damages and IT Secretaty of the State who is Adjudicating officer (Under Section 46 IT ACT )can pass an order upto 5 crore of damages and over and above 5 crore civil court will have the Jurisdcition.

The above process is depiciated below in the form of flow chart.

#### **Loopholes**

IT ACT 2008 is considered to be toothless tiger by some cyber law experts. When the entire work has been digitalised, including banking, internet shopping, online purchases the IT Act have loopholes in technology related laws that need to be addressed.

- 1. Lack of Data protection laws: The act does not provide any clarity on "sensitive Personal data" or takes any measure to protect data.
- 2. Lack of guidelines for Third Party Information: Under section 79 of the IT Act 2008 provides "SAFE HARBOUR" which exempts liabilities of the intermediaries such as WhatsApp, Facebook, Instagram etc. The guidelines do not specify any penalty or damages to be borne by the companies if rules are not being followed.
- 3. Lacks IPR protection: Domain related issues are not addressed in the IT ACT 2008.

Safety Measures: The users of computers and

internet should take a few preliminary precautions for user safety:

- 1. Do not share your financial credentials at any point time that creates a emergency
- 2. Do not Log into any bank account or access any sensitive data using public IP always use a secured network like VPN.
- 3. Always verify the URL before clicking on the link. It's usually misspelled or minor difference.
- 4. Always keep a backup of your data's.
- 5. update your security software
- 6. Frequently change your password.
- 7. use of encryption and two factor authentication
- 8. keep your social media account in Private mode rather than making it Public.
- 9. In case of any fraud Please register your complain by Dialing 1930 or log into www.cybercrime.gov.in

With the emerging cyber-crimes in India, more stringent laws need to be in place to combat cyber-crimes. The IT Act 2008 needs to be more specific in terms of the penalties. However, this Act has somehow been beneficial in the dealing with cyber-crimes and have spread awareness to the society at large.





### ADMISSION OPEN FOR 2022-2023

- +91 8026720604 | +91 9886201746 +91 7019425622 | +91 9448270604
- office@nargund.edu.in
- ఱ www.nargund.edu.in
- 2nd main, Dattatreyanagar, BSK 3rd stage, Bangalore-85

### BANGALORE CAMPUS

**Nargund College** of Pharmacy

B. Pharm | D. Pharm | Pharm. D M. Pharm | Ph. D

Nargund College of Physiotherapy

Bachelor of Physiotherapy

Nargund Independent PU College

PCMB | HEBA

### KOPPAL CAMPUS

Dr. Gurachar Nargund College of Pharmacy

B. PHARM | D. PHARM

Bheemajja PU College

PCMB | HEBA

# अंबेडकर जयंती कार्यक्रम

# अधिवक्ता परिषद जम्मू एवं कश्मीर



### उधमपुर ईकाई

अधिवक्ता परिषद् ऊधमपुर की ओर से ऊधमपुर जिला कोर्ट परिसर में अंबेडकर जयंती के उपलक्ष्य पर एक कार्यक्रम का आयोजन किया गया जिसमें काफी संख्या में अधिवक्ताओं ने भाग लिया।

इस अवसर पर बार एसोसिएशन ऊधमपुर के अध्यक्ष जय देव सलाथिया मुख्य वक्ता के रूप से उपस्थित रहे। यह कार्यक्रम जिला महामंत्री अधिवक्ता पवन हांडा जी की अध्यक्षता में आयोजित किया गया तथा मंच संचालन अधिवक्ता मनोती गुप्ता जी द्वारा किया गया।

रोहन नन्दा, महामंत्री

# अधिवक्ता परिषद हरियाणा

### कुरूक्षेत्र

कुरूक्षेत्र अधिवक्ता परिषद के सदस्य डॉ. भीमराव अम्बेड़कर की जयन्ति व वैशाखी का पर्व मनाया गया।



# अधिवक्ता परिषद इकाई सिरसा

डॉक्टर बाबा भीमराव अम्बेडकर जी की जयंती पर शत शत नमन! आज सिरसा में समरसता दिवस मनाया गया और सभी माननीय सदस्यों ने कार्यक्रम में शामिल होकर कार्यक्रम को धूम धाम से मनाया।



चन्द्रपाल सिहं चौहान, महामंत्री

# Adhivakta Parishad Punjab Unit



Adhivakta Parishad Patiala unit celebrated 'SAMRASTA DIWAS' to commemorate 132<sup>nd</sup> Birth Anniversary of Baba Saheb Dr. Bhim Rao Ambedkar Ji, on 20.04.2023 on the Bar Room, District Courts Patiala.

Sh. Rakesh Gupta, member and former chairman, Bar Council of Punjab & Haryana, presided over the function and spoke on the topic of 'Contribution of Dr. Ambedkar in Bharat Nirman'. Sh. Sachin Sharma, General Secretary, DBA Patiala and Sh. Satish Gupta, Advocate also shared their view with the audience. A large number of advocates were present to grace the function.

Akhilesh Vyas, General Secretary

### Adhiyakta Parishad Himachal Pradesh

North Zone Abyas Varg 10-11th June, 2023 Organised at Dharamsala Distt. Kangra Himachal Pradesh.

On dated 10-11thJune, 2023 Akhil Bharatiya Adhivakta Parishad North Zone Abyas Varg was organised by Adhivakta Parishad Himachal Pradesh, at Dharamsala Distt. Kangra, Himachal Pradesh. In this Abyas Varg 215 delegates participated from North zone of Akhil Bhartiya Adhivakta Parishad, which includes delegates from Supreme court of India, Delhi, Jammu, Kashmir & Ladhak, Punjab, Haryana, Chandigarh & Himachal Pradesh.



(Addressing the advocates present in the program, Sh. D. Bharat Kumar, National General Secretary, Left to right: - Sh. Amit Singh Chandel, General Secretary H.P., Sh. Avinash Sharma, State working President H.P., Sh. Padamkant Dwivedi, National Secretary, Sh. R. Rajenderan, National Vice-President, Sh. Shreehari Borikar ji, North Zone Organising Secretary, Dr. Seema Singh, National Vice President &Smt. Neera Jain, Special Invite ABAP.)

After the decision for reorientation of the Organizational working at National Executive Meeting at Goa on dated 8-9 April ,2023, in which it was decided that at State Level for future working of the Organisation there will be four Aayams.



Keeping in view the above for the first time after the decision at Goa National Executive meeting, the Ayamwise Abyas Varg was organized, in which Aayam wise programme schedule of the Abyas Varg was designed by the Senior office bearers of the Organisation.

For guidance and future planning of the organisational working during different sessions of the Abyas Varg Senior Office Bearers of Akhil Bhartiya Adhivakta Parishad, who remained present in the Abyas Varg and chaired the different sessions, in this Abyas Varg were National Vice-President Sh. Rajenderan Ji, National General Secretary Sh. D. Bharat Kumar Ji, North Zone Organising Secretary Sh. Shreehari Borikar Ji, National Vice Presidents Smt. Seema Singh Ji & Sh. Satya Parkash Rai Ji, National Secretaries Sh. Charan Singh Tyagi Ji, Sh. Padamkant Dwivedi Ji & Sh. Deepender Kushwaha Ji, North Zone Secretary Sh. Ranbir Singh Kharkali ji and National Office Joint Secretary Sh. Amit Sharma Ji.

Our one of the Senior most member of the Adhivakta Parishad Sh. Baldev Raj Mahajan ji, Ex-National President of the Akhil Bharatiya Adhivakta Parishad and now National Executive Member and presently Advocate General of the State of Haryana, also remained present in the Abyas Varg for the guidance of the participants of the Abyas Varg. Sh D.C. Raina Ji Advocate General J&K and Ladakh also remained present and in the sessions chaired by him gave guidance to the members present for future working of the Organization.

**Amit Singh Chandel, General Secretary** 

### **Adhivakta Parishad Supreme Court Unit**

Adhivakta Parishad Supreme Court Unit Celebrate "SAMARASATA DIVAS" (Dr. Babasaheb Ambedkar Jayanti) on 19.04.2023 (Wednesday)



Topic: "Dr. Ambedkar & the Constitution of India" Chief Guest: Hon'ble Mr. Justice B.R. Gavai Judge, Supreme Court of India & Guest of Honour: Mr. Sidharth Dave Senior Advocate, Supreme Court of India.

Nachiketa Joshi, General secretary

# अधिवक्ता परिषद जयपुर प्रांत

### जिला न्यायालय अलवर ईकाई

अधिवक्ता परिषद जयपुर प्रांत, जिला न्यायालय इकाई अलवर की ओर से आज दिनांक 15 अप्रैल 2023 को दी बार एसोसिएशन के सभागार में डॉक्टर भीमराव रामजी अंबेडकर की जयंती (समरसता) पर कार्यक्रम आयोजित किया गया।

कार्यक्रम की मुख्य अतिथि सेशन जज श्रीमती शिवानी सिंह रही। मुख्य वक्ता सेशन जज श्री मुकेश चौधरी रहे। कार्यक्रम में अपर सेशन जज श्री सुनील गोयल एवं मुख्य न्यायिक मजिस्ट्रेट श्री अजीत कुड़ी भी उपस्थित रहे। कार्यक्रम में न्यायिक अधिकारी गण एवं अधिवक्ताओं की लगभग 100 संख्या रही।



# अधिवक्ता परिषद जयपुर प्रांत

### जिला न्यायालय जयपुर ईकाई

अधिवक्ता परिषद् राजस्थान जयपुर प्रांत, जिला न्यायालय इकाई, जयपुर द्वारा दिनांक 12 अप्रैल 2023 को दि डिस्ट्रिक्ट बार एसोसिएशन के सभागर में डॉ. बाबा साहब भीमराव रामजी अंबेडकर जयंती (समरसता दिवस) कार्यक्रम आयोजित किया गया।



कार्यक्रम की मुख्य अतिथि प्रोफेसर श्रीमती अल्पना कटेजा अर्थशास्त्र विभाग एवं निदेशक यूजीसी मानव संसाधन विकास केंद्र, राजस्थान विश्वविद्यालय।



मुख्य अतिथि प्रोफेसर श्रीमती अल्पना कटेजा कार्यक्रम में संबोधित करती हुई।

कार्यक्रम के मुख्य वक्ता डॉ. विपिन चंद्र जी क्षेत्रीय संगठन मंत्री एवं राष्ट्रीय कार्यकारिणी सदस्य अखिल भारतीय साहित्य परिषद ने अपने उद्बोधन में बताया। कार्यक्रम में लगभग 150 अधिवक्ताओं की उपस्थिति रही।

> जितेन्द्र सिंह राठौड़ प्रान्त महामंत्री

# अधिवक्ता परिषद काशी प्रांत

अधिवक्ता परिषद संतकबीर नगर (एसएनबी)



अधिवक्ता परिषद संत कबीर नगर इकाई द्वारा शनिवार को दीवानी कचहरी परिसर में डॉ. भीमराव अंबेडकर की जयंती मनाई गई। मुख्य अतिथि जिला जज देवेंद्र सिंह जी, गोष्ठी में प्रमुख रूप से अपर जिला जज प्रताप सिंह, महेंद्र सिंह, काशिफ शेख, सीजेएम हिरकेश कुमार, सिविल जज प्रभात दूबे, जेएम अजीत मिश्र तथा अधिवक्ता परिषद के अध्यक्ष बलराम राय, महामंत्री राजेश सिंह, सिविल बार के महामंत्री चतुर जी शुक्ला, उपस्थित रहें।

### अधिवक्ता परिषद गोरखपुर ईकाई

अधिवक्ता परिषद काशी गोरखपुर इकाई ने बुधवार 19 अप्रैल को डॉक्टर भीमराव रामजी अंबेडकर के जन्म जयंती समरसता दिवस पर एक संगोष्ठी, दी कमिश्नर कोर्ट बार एसोसिएशन गोरखपुर के सभागार में आयोजित किया गया जिसके मुख्य अतिथि सेंटएंड्रबूज डिग्री कॉलेज के विधी विभाग के डा० आतुल सिंह ने विषय पर विस्तार से चर्चा किया।



कार्यक्रम को अधिवक्ता परिषद के पूर्व प्रदेश मंत्री बुजेन्द्र कुमार सिंह स्वाध्याय मंडल प्रमुख बद्री विशाल दुबे शम्भू नारायन निषाद, प्रबीन शुक्ला,अजय कुमार मिश्र, सल्वेंद्र यादव, आदि ने संबोधित किया।

नीरज सिंह, महामंत्री

### अधिवक्ता परिषद ब्रज प्रांत

### अमरोहा इकाई

अधिवक्ता परिषद ब्रज की अमरोहा इकाई द्वारा किशोर न्याय अधिनियम के संदर्भ में स्वाध्याय मंडल का हुआ आयोजन।





### कासगंज, जिला ईकाई पटियाली की बैठक का आयोजन

कासगंज के जिलाध्यक्ष बुजराज सिंह शाक्य एडवोकेट जी की अध्यक्षता में एक बैठक का आयोजन किया गया ।



अधिवक्ता परिषद के संरक्षक संजीव सिंह यदुवंशी जी एडवोकेट ने अधिवक्तागण में राष्ट्रीय विषय, व्यक्त किए।

राखी शर्मा, महामंत्री

### Adhivakta Parishad Uttarakhand Dr. Ambedkar Jayanti Program in Dehradun





# अधिवक्ता परिषद गुजरात

### सुरेन्द्रनगर ईकाई

डा.बाबासाहेब आंबेडकर जन्म जयंती के अवसर पर अधिवक्ता परिषद सुरेन्द्रनगर गुजरात के माध्यम से सुरेन्द्रनगर बार एसोसिएशन के संयुक्त उपक्रम से सामाजिक समरसता दिन कार्यक्रम मनाया गया। इस कार्यक्रम में अधिवक्ता श्री वी. के. राठोड़ एवं अधिवक्ता अक्षतभाई व्यास ने बाबा साहेब के विचारों एवं मूल्यों से अवगत किया।



# गुजरात हाई कोर्ट ईकाई

अधिवक्ता परिषद गुजरात हाई कोर्ट यूनिट द्वारा डॉ. बाबा साहेब अंबेडकरजी की जन्म जयंती समरसता दिवस दिनांक 20-04-2023 को हाई कोर्ट की AIR कैफे लाइब्रेरी में मनाया और मान्य श्री आर.सी. कोडेकर सीनियर एडवोकेट भी मौजुद थे। जिसमे कुल 67 अधिवक्ताओं ने भाग लिया और डॉ बाबा साहेब आम्बेडकर जी को पुष्पांजलि अर्पित किया।

### गुजरात हाई कोर्ट ईकाई

गुजरात प्रांत और हाई कोर्ट की टीम उच्च न्यायलय के एक्टिंग





चीफ जस्टिस साहब को मिले और ऑर्जिनल कंस्टीट्यूशन की रिप्लिका परेम बनाकर भेंट दी। और उच्च न्यायलय में लगाने के लिए 24 परेम भेंट दी गई। हर जिला यूनिट में इसी तरह ऑर्जिनल कंस्टीट्यूशन की रिप्लिका परेम लगानी चाहिए।

### अधिवक्ता परिषद गुजरात, पालनपुर ईकाई

अधिवक्ता परिषद पालनपुर तालुका द्वारा डॉ. बाबा साहेब अंबेडकर की जयंती मनाई गई ।



अल्केश शाह, प्रांत महामंत्री

### अधिवक्ता परिषद मालवा प्रांत

### जिला इकाई रीवा

अधिवक्ता परिषद जिला इकाई रीवा द्वारा दिनांक 17 अप्रैल को सामाजिक समरसता दिवस के उपलक्ष में ए. डी. आर. सेंटर जिला न्यायालय परिसर में विचार गोष्ठी कर मनाया गया।



जिसमें सिचव जिला विधिक सेवा के अपर जिला न्यायाधीश श्री अहमद रजा एवम जिला विधिक अधिकारी अभय मिश्र उपस्थित रहे साथ ही परिषद के पदाधिकारी गण एवम अन्य अधिवक्ता उपस्थित रहें।

### जिला ईकाई छिंदवाड़ा

डॉक्टर भीमराव अंबेडकर जी का जन्मदिन, सामाजिक समरसता दिवस के उपलक्ष में आज दिनांक 20/04/2023 को अखिल भारतीय अधिवक्ता परिषद जिला छिंदवाड़ा के द्वारा कार्यक्रम का आयोजन शासकीय अधिवक्ता कार्यालय मैं दोपहर 2:30 बजे से किया गया।



जिसमें अधिवक्ता परिषद जिला इकाई अध्यक्ष श्री दिलीप धारा, शासकीय अधिवक्ता एवं अधिवक्ता परिषद के अन्य कार्यकर्ता उपस्थित रहे ।

विक्रम दुबे, महामंत्री

### Adhivakta Parishad Deogiri Prant

Adhivakta Parishad Deogiri Prant, High Court Unit in association with The Advocate's Association of Bombay High Court, Bench at Aurangabad, cordially invite you to celebrate "Samarasta Din - Social Harmony Day" to mark 132nd Birth Anniversary of Dr. Babasaheb Ambedkar. In the gracious presence of: Chief Guest: Hon'ble Shri Justice Nitin W. Sambre, Judge Bombay High Court and Guest Speaker: Dr. Dilip Ukey, Vice Chancellor, MNLU Mumbai. Date: Monday April 24, 2023 Time: 4.30 pm Venue - High Court Conference Hall. RSVP - Adv. Nitin Chaudhary, President, High Court Unit, ABAP, Deogiri Prant & Advocate's Association BHC, Aurangabad Adv. Suhas Urgunde, Secretary, Advocate's Association BHC, Aurangabad Adv. Swapnil Joshi, General Secretary, High Court Unit, ABAP, Deogiri Prant.

Dr. Sangita R Bagul, General Secretary

### Goa

Adhivakta Parishad, Goa High Court Unit celebrated Samarasata Divas (Dr. Babasaheb Ambedkar Jayati).



Siddhi Parodkar, General Secretary

### Adhivakta Parishad Manipur Imphal

Adhivaktya Parishad Manipur observed the birth anniversary of 18<sup>th</sup> April 2023 of Dr. Bhim Rao Ambedkar today at their of office located at thangmeiband lairen Hanjaba Leikai.

According to a statement issued by Salam Rupchandra Singh, General SecretaryAdhivkta Parishad, Manipur the function was presided over by I Jugeshwar Singh president of adhivakta praishad, Manipur and former Principal of Royal academy of Law, Oinam.



During thr observance Programme, the attendees Acknowledge the Contribution of Dr. BR Ambedakar who took active part in framing the Constitution of India.

Salam Rupchandra Singh, General Secretary

# Adhivakta Parishad Karnataka South High Court







Karnataka High Court Justice Hanchate Sanjiv Kumar inaugurated the 4-day civil judge recruitment preliminary examination training program from today on behalf of Adivakta Parishad Karnataka South Bangalore Unit, in Seshadripuram College hall and addressed and wished

the examining lawyers. Karnataka highcourt judge Justice Rajesh Rai attended the program.

**Anand Murthy, General Secretary** 

# Adhivakta Parishad Telangana



Adhivakta Parishad unit Telangala conducted the Ambedkar Jayanthi programme at Mahaboob Nagar on 14.4.2023 by the Team of NPTS Mahabbob Nagar Dist., Committee.

Semsani Sunil, General Secretary

# Akhil Bharatiya Vazhakkarignargal Sangam (ABVS)Tamilnadu

On 13.04.2023 Our ABVS madurai district unit (South Tamilnadu) conducted Ambedkar jeyanthi and installation of this year unit. More than 200 advocates participated in that program with presence of Mr. K. Palanikumar National Executive Committee Member, ABAP and Mr.B.Rajes Saravanan (State President, ABVS (South Tamil Nadu))

#### Special guests of the

Mr. K. Govindarajan, Deputy Solicitor General of High Court of India, Madurai Branch and Mr. G. Thalaimutharasu Member, Tamil Nadu & Puducherry Bar Council given a wonderful lecture for our advocates.





Mr. M. Karunanidhi, Member, National Law Commissionand office state secretary P. Selvakumar all are participated.

Akhila Bharayha Vazhakkarignargal Sangam ABVS-



TN- North State Executive Meeting,Krishnagiri On 10-06-2023. D. Keswan, General Secretary

# **National Executive Meeting**

2023 (08.04.2023 - 09.04.2023) organised at Madgaon, Goa

The National Executive Meeting of the Akhil Bharatiya Adhivakta Parishad was organised on 8th & 9th April 2023 at Goa by the Goa Unit of the organisation, which witnessed a participation of 96 delegates from all across the country.

The first session began with lighting of lamp and Vande Mataram at 9:30 am on 8th April 2023. Sh. Santosh Riwankar, State President of Goa Unit delivered his welcome address. Sr. Adv. K. Srinivas Murthy, National President gave his inaugural address. Minutes of the National Conference at Kurukshetra was read over by Sh. Amit Sharma, Assistant Office Secretary and placed approval, which was a done by the delegates present therein. Sh. Chuni Lal Arora, National Treasurer presented the Statement of Accounts and placed before the delegates for approval, which was approved. Sh. D. Bharat Kumar, National General Secretary discussed the organisational framework and distribution of work and interacted with the delegates on contemporary issues.

Second Session began with the address by Sh. Shreehari Borikar, North Zone Organising Secretary who gave a detailed outline on the division of the work of organisation. Sh. D. Bharat Kumar continued the discussion in the session of the aspect of Training and Abhyas Varg, and went on to take inputs and lead the discussion on office work and think

tank. In the third session, delegates were divided into different groups for subject wise discussion & deliberation.

The Second Day began with the morning session at 10 am with the discussion on Nyayapravah, its publication, circulation, contribution and membership from various prants. Reports of various events held in the respective prants were presented in the meeting. In the Concluding Session, General Secretary of Goa Unit. Sh. Pravin Faldessai did the Vyavastha Parichay and thanked the delegates. This was followed by the proposal of Vote of Thanks by Sh. Shreehari Borikar. It was also informed that the next 27th to 29th December meeting shall be held at Guwahati. At the end, Sr. Adv. K. Shrinivas Murthy delivered the Concluding remarks and stated that as per new challenges, the organisation must evolve its functioning with outreach and focus on narrative building ecosystem. He inspired the delegates to channelize the Sajjan shakti for the welfare of samaj, and wished that everyone shall continue the noble work.

**Santosh Kumar,** *Office Secretary* 

R ambali Singh and Moona Devi of Pandha village of Azamgarh, U.P. were blessed with a son on 4th July, 1930 who they named Lal Bahadur Singh. For his primary education, the young boy used to walk to Rasulpur Primary School which was 3 kms away from his village. His Father passed away in 1937 at a young age. He then took admission in the Junior High School Lalgani and further enrolled in Intermediate Wesley Inter College Azamgarh. He was inspired by nationalist thoughts from the very beginning and his



Lal Bahadur Singh, a Swayamsevak:-

Mantra. Being an advocate he discharged the responsibility of the President of the Akhil Bharatiya Adhivakta Parishad, U.P., while discharging the responsibility of the National Vice-President and Patron of the Akhil Bharativa Adhivakta Parishad and was assigned the role of the National Advisor of the Akhil Bharatiya Adhivakta Parishad. He was a Member of the Bar Council of U.P. from 1967 to 1978. He received the responsibility of District Government Advocate (Criminal).

In order to make the city of Azamgarh a crime & terror-

love for the nationalist cause started with his protest against the daily prayer held at Wesley Inter College, Azamgarh. He was expelled from the school for opposing Christianity. In 1946, he came in contact with the Rashtriya Swayamsevak Sangh. Due to his interest in studies and Sangh work in Azamgarh city, he formed a huge group and made it his hobby to oppose Christianity and made studies a competition. He was noticed by the local administration for leading the group. Despite being expelled from Wesley Inter-College, Azamgarh, he started a new movement in the city by mobilizing students against use of Christianity in prayer meetings, he started inculcating patriotism among them, and aroused sentiments against the Christian Principal. At the time of Independence, he became the favorite of the then frontline freedom fighters. After the assassination of Gandhi ji, he remained concealed at Raj Ghat and nearby villages along with his companions Guru Prasad Asthana, Raghuveer Singh and others, however the administration arrested them. He was expelled from his family after the news of arrest reached them. When he reached his village on his release from jail, he was not allowed to enter the house. Being a meritorious student, he was dear to the people of the town and started earning his livelihood by giving tuition to the children. Due to his interaction with Sangh, he started conducting various programs in the entire district. Initially, did the work of expanding in Coalsa block area of Arjamgarh.

At the time of establishment of Jan Sangh in 1952, he was bestowed the responsibility of the General Secretary of District Azamgarh. According to the plan, elections were to be contested on all the seats and Late Raghuveer Singh, Jang Bahadur Lal, Kailash Lal, Brijmohandas Agarwal etc. contested the elections on the assigned lamp symbol. He again came under the influence of Rashtriya Swayamsevak Sangh and received Diksha from Maharishi Devarhwa Baba and discharged all the assigned responsibilities of the affiliated organizations of Rashtriya Swayamsevak Sangh and was made a member of the executive committee of Rashtriya Swayamsevak Sangh, Kashi Prant. Subsequently, he was appointed as the President of Kashi Prant in 1990, and then in 1991, got the responsibility of regional president of Jagran free city he was appointed as the special government prosecutor. Further, he played a key role in the sentencing of punishment against notorious criminals, Dhruv Kumar Singh & Kuntu Singh. Also only because of his consistent efforts, a Special Court of Order sentence of the former Minister Angad Yadav. Till his last breath, he continue to Advocate against the dreaded criminal & ex-MLA mafia Mukhtar Ansari.

Remembrance: - 1. "Today suddenly I thought of meeting Babu Lal Bahadur Singh ji at Azamgarh - gradually the desire to meet in my mind & with the cooperation of fellow friends, I reach to his Krishnayan Villa". After meeting with Shri Lal Bahadur Singh ji I remembered the words of respected Guruji. Respected Guruji used to say that 'people should take the advise of the Red Brave Lion (Lal Bahadur Singh)'. Lal Bahadur ji will always be known as the true Sangh Swayamsevak.

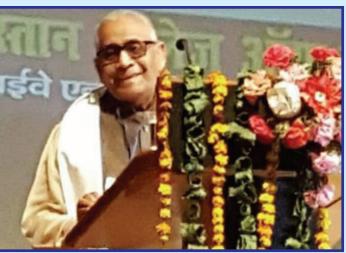
After returning and having a meal for the day requested by his both son Jitendra & Harendra, we were returning to Lucknow. While on the way to reaching Lucknow, we received a call from his son Jitendra, he informed us that 'Pitaji is no more in the world'. After this call, there was complete darkness before me. I was not able to think properly, that a few moments back the Swayansevak who requested with the greatest respect to have a meal, Lal Bahadur ji is no more in the world & left for a heavenly abode.

That the dedicated Swayamsevak even to his last moment of life, only after requested food to the Pracharak left the soul for the last rites- Virendra dated 27.12.2022.

Remembrance:-2. A disheartened person, a Karyakarta defeated by the society and circumstances used to get inspiration from Babuji to move forward with his selfknowledge. On 27.12.2022, after coming to Aryamgarh at 9 am, I met him, had a few discussions, then left for home. In the afternoon, I came to know from a friend's phone that Babuji is no more. Very Surprising but true - the great man to whom I met in the morning is no more, I never thought that it would be the last meeting. Oh, respected great man, our mentor, patron from whom we got the initial knowledge of law, has left for the heavenly abode.

- Jitendra Singh

ल बहादुर सिंह का जन्म 4 जुलाई 1930 को आजमगढ़ के पंदहा गांव में हुआ। पिता का नाम स्व0 रामबली सिंह व माता का नाम स्व0 मूना देवी था। गांव से प्राथमिक शिक्षा के लिए 3 किमी0 दूर रसूलपुर प्राथमिक विद्यालय पैदल जाते थे। 1935–36 में अविकसित क्षेत्र में गांव में जलने वाले पंचायत के लैप के नीचे पढ़ाई किए। अल्प आयु में ही पिता जी का साया 1937 में दूर हो गया जूनियर हाईस्कूल लालगंज फिर इण्टर मीडिएट वेस्ली इण्टर कालेज आजमगढ़ में दाखिला लिये। प्रारम्भ



एक स्वयंसेवक लाल बहादुर सिंह:-

अध्यक्ष का दायित्व, अखिल भारतीय अधिवक्ता परिषद के राष्ट्रीय उपाध्यक्ष संरक्षक का दायित्व का निर्वहन करते हुए अखिल भारतीय अधिवक्ता परिषद के राष्ट्रीय सलाहकार का दायित्व मिला। दयानन्द स्नातकोत्तर महाविद्यालय आजमगढ़ एवं तिलकधारी महाविद्यालय जौनपुर के प्रबन्धकारिणी के सदस्य रहें। बार कौसिल ऑफ उ0प्र0 के

बार कौसिल ऑफ उ०प्र0 के सदस्य 1967 से 1978 तक, जिला शासकीय अधिवक्ता (फौजदारी) की जिम्मेदारी 1977 में मिली आजमगढ़ में अपराध मुक्त समाज के उद्देश्य से

से ही मन में राष्ट्र प्रेम के कारण वेस्ली इण्टर कालेज आजमगढ़ में होने वाले दैनिक प्रार्थना का विरोध किए। ईसाइयत का विरोध करने के कारण विद्यालय से निष्कासित कर दिये गये। 1946 में राष्ट्रीय स्वयं सेवक संघ के सम्पर्क में आये। आजमगढ नगर में पढाई और संघ के कार्य में रूचि के कारण अपनी एक विशाल टोली बनाकर ईसाइयतका विरोध करना, पढ़ाई को प्रतियोगी बनाना अपना शौक बना दिए। पूरी टोली के अगुआ होने के कारण प्रशासन की नजर इन पर पड़ने लगी। वेस्ली इण्टर कालेज आजमगढ़ से निष्कासित होने के बावजूद वहाँ प्रार्थना सभा में छात्रों को ईसाइयत के खिलाफ एक जुट करना उनमें राष्ट्र प्रेम का भाव जगाना, ईसाई प्रधानाचार्य के खिलाफ नारेबाजी कराना आन्दोलन कराना एक नगर में नई दिशा प्रारम्भ कर दिये। आजादी के समय तत्कालीन अग्रिम पिक्त के स्वतन्त्रंता सेनानी के प्रिय बन गए। गाँधी जी हत्या के समय नगर से दूर राज घाट व और उसके समीप के गांव में अपने साथी गुरू प्रसाद अस्थाना, रघुवीर सिंह व अन्य के साथ छुप कर रहते रहें। धीरे-धीरे प्रशासन के लोगों को इन लोगों की जानकारी होने पर गिरफ्तार किए गए। गिरफ्तारी की सूचना पुलिस द्वारा गांव में परिवार के लोगों को मिली तब वह परिवार से भी निष्कासित किए गए। जेल से छूटने पर गांव में पहुँचे तो उनकों घर में प्रवेश करने नहीं दिया गया। मेधावी छात्र होने के कारण नगर के लोगों के प्रिय हो गए। बच्चों को ट्यूशन पढ़ा कर अपनी जीवन यापन चलाने लगें। संघ के सम्पर्क के कारण पूरे जिले में प्रवास कर कार्यक्रम बनने लगा। प्रारम्भ में कोयलसा ब्लॉक क्षेत्र आर्यमगढ़ में विस्तारक का कार्य किए। भारतीय जनसंघ की स्थापना के समय 1952 में जिला आजमगढ़ के महामंत्री का दायित्व मिला। योजना के अनुसार सभी सीटों पर चुनाव लड़ाया गया प्रमुख रूप से स्व0 रघुवीर सिंह जंगबहादुर लाल, कैलाश लाल, बृजमोहनदास अग्रवाल आदि को दीपक चुनाव चिन्ह से चुनाव लड़ाए। पुन: वापस राष्ट्रीय स्वयंसेवक संघ के दायित्व में आए। महर्षि देवरहवा बाबा से दीक्षा प्राप्त किये राष्ट्रीय स्वयंसेवक संघ के विभाग कार्यवाह का दायित्व, राष्ट्रीय स्वयंसेवक काशी प्रान्त के कार्यकारण के सदस्य, हिन्दुजागरण मंच के 1990 में काशी प्रांत के अध्यक्ष का दायित्व तदोपरान्त जागरण मंत्र के क्षेत्रीय अध्यक्ष का दायित्व 1991 में मिला। अधिवक्ता परिषद उ०प्र० के

दुरदान्त अपराधी उन्मूलन में विशेष शासकीय अधिवक्ता नियुक्त किये गये जिससे अपराधी घ्रुव कुमार सिंह कुन्दु सिंह को सजा कराया। पूर्वमंत्री अंगद यादव के खिलाफ चल रहे मुकदमें में माननीय विशेष न्यायालय द्वारा सजा सुनाई गई। पूर्व विधायक दुर्दान्त अपराधी माफिया मुख्तार अंसारी के खिलाफ जीवन के अन्तिम समय तक विधिक पैरवी करते रहे।

स्मरण:-1.''मैं आज अचानक आजमगढ़ बाबू लाल बहादुर सिंह जी से मिलने का विचार बनाया-क्रमश: मन में मिलने की लालसा-सार्थियों का सहयोग उनके कृष्णायन आवास तक पहुंचा दिया।'' श्री लाल बहादुर सिंह जी से मिलकर पुज्य गुरूजी के शब्द याद आ गए। पुज्य गुरू जी कहते थे Red Brave Lion (लाल बहादुर सिंह) से परामर्श कर लिया करें। संघ-स्वयंसेवक एवं संघ निष्ठा के लिए लाल बहादुर जी सदैव जाने जाएंगे।

आज हमसभी लोगों को आदर-सम्मान के साथ दोनों पुत्रों जितेन्द्र, हरेन्द्र से भोजन कराने का आदेश दिया-पूरा परिवार निष्ठापूर्वक भोजन कराया और हम सभी वापस लखनऊ के लिए वापस आ रहे थे कि जितेन्द्र का फोन आया पिताजी नहीं रहे''। एक अंधेरा सा छा गया। मैं सोच भी नहीं पाया क्या किया जाय वापस आया तो जिस स्वयंसेवक ने सम्मान पूर्वक भोजन का आग्रह किया था वह स्वयं सेवक एक पार्थीव शरीर हो गया।

संघ जीवन को समर्पित लाल बहादुर जी ''अंतिम समय में प्रचारक को भोजन कराकर अपनी अंतिम यात्रा को निकल दिये'' हे स्वयंसेवक तुमकों कोटिश: नमन-वीरेन्द्र दिनांक 27.12.2022

स्मरण-2-एक निराश हो गए व्यक्ति समाज और परिस्थितियों से हारा हुआ कार्यकर्ता को अपने आत्मज्ञान से आगे चलने की प्रेरणा मिलती थी बाबूजी से। दिनांक 27.12.2022 प्रात: 9 बजे आर्यमगढ़ आकर उनसे मिला कुछ बाते हुए फिर घर के लिए निकल गए। अपरान्ह में मित्र के फोन से पता चला कि बाबूजी नहीं रहे। आश्चर्य किन्तु सत्य-जिस महामानव से प्रात: मिला वही हमारी अंतिम मुलाकात होगी ऐसा सोचा भी न था। हे पूज्य महामानव हमारे संरक्षक जिनके द्वारा कानून का प्रारम्भिक ज्ञान प्राप्त किया वह नहीं रहें। कोटिश: नमन।

जितेन्द्र सिंह

# North Zone Abhyas Varg 10-11th June, 2023 Organised at Dharamsala, Distt Kangra, Himachal Pradesh



Addressing the advocates present in the program, Sh. D. Bharat Kumar, National General Secretary, Left to right: - Sh. Amit Singh Chandel, General Secretary H.P., Sh. Avinash Sharma, State working President H.P., Sh. Padamkant Dwivedi, National Secretary, Sh. R. Rajenderan, National Vice-President, Sh. Shreehari Borikar ji, North Zone Organising Secretary, Dr. Seema Singh, National Vice President & Smt. Neera Jain, Special Invite ABAP.



# Akhil Bhartiya Adhivakta Parishad, National Executive Meeting at Goa, on 8th -9th April 2023



Right to Left: - Sh. Shreehari Borikar ji, North Zone Organising Secretary, Sh. Baldev Raj Mahajan ji, Ex-National President of ABAP & Present AG of Haryana, Sh. D. Bharat Kumar, National General Secretary, Sh. K. S. Murthy, President of ABAP, Smt. Meeratai Khadakkar Vice- President & Smt. Anjali Neel Helekar, National Secretaries



The organising team (Adhivakta Parishad Goa) of the National Executive Meeting of Akhil Bharatiya Adhivakta

Parishad with the national office bearers

सम्पादक श्री के श्रीनिवास मूर्ति द्वारा सम्पादित, प्रकाशक व मुद्रक डी. भरत कुमार स्वामी, अखिल भारतीय अद्यवक्ता परिषद्, प्रवासी भवन, 50, दीन दयाल उपाध्याय मार्ग, नई दिल्ली—110002 से प्रकाशित तथा एमिनेंट ऑफसेट, डी—94, ओखला औद्योगिक क्षेत्र फेस—1, नई दिल्ली—110020 से मुद्रित।