न्यायप्रवाह
न्यायः मम धर्मः
Nyayapravah
Quarterly News Magazine of Akhil Bharatiya Adhivakta Parishad

ISSN NO. : 2582-1733

Vol XXII Issue 88 October-December 2023

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People Centric Justice Delivery System

Dispute Resolution Mechanism is the touch stone on which the maturity of civilization / society is judged. Justice delivery system in the modern world is most important to maintain social equilibrium/ harmony and also to protect the weak from the predators who practice law of jungle. The Anglo-Saxon jurisprudence which has been imposed upon Indian Society by the Colonial West has not been able to address the needs of the society. It was meant not to be ! The East India Company had different agenda i.e., to break , tear apart the social fabric of India. The community life was sought to be ravaged. Courts and schools were their tools.

The present justice delivery system is Court centric and the judicial wing has been struggling for several decades to sustain , reform the system with little help from half hearted executive.

In a population of 139.23 crores citizens in India, 5.05 crores Court cases are pending. Currently, there are 14.2 Judges per million population in our country. If the demographic standard is adopted India must have 69,600 judges but the sanctioned strength is 25,081. The optimum judge to population ratio is 50 judges for million population as declared by Apex court in 2002 in All India Judges Association case.

As per the report compiled in November, 2023, the number of Court rooms is not equivalent to the Judges strength in High Courts. Sanctioned strength of the judges in 25 High Courts is 1,114 whereas number of Court rooms is only 980. The shortfall ranges up to 37.84% like in Andhra Pradesh. The scenario in the District Courts which cater to the needs of people at the grass roots is alarming. The total sanctioned strength is 25,081 whereas, the Court rooms are only 20,831 and the shortage is 19.47%. The sanctioned judicial strength in District Court is 8,387 and the vacancies is 1,788. The sanctioned strength of judicial officer excluding higher judicial service is 16,694 and vacancies are 3,512.

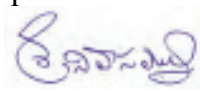
The actual time taken for recruitment for Civil Judges (Junior Division) varies from 945 days (Bihar-1051 days, Haryana – 646 days, Sikkim – 199 days). The actual time taken for recruitment to higher judicial service is no better and it ranges from 150 days of Uttarakand to 1270 days of Punjab and 1173 days of Jammu & Kashmir. In many states it is High Court which is recruitment agency and in some states it is local Service Commission.

The statistics can continue to be quoted like this but the pathetic condition of the justice delivery system has to be understood in correct perspective. Regarding the infrastructure nearly 40% of the Court Complexes do not have a power backup. Number of Wash rooms, female-friendly toilets, wash rooms for third gender, seating / waiting area for litigants, waiting room for under trials is also not upto the mark. Accessibilities for persons with disabilities leaves much to be desired. Nearly 50% of the District Court complexes do not have ramps. 75% of the District Court complexes do not have wheel chairs and nearly 70% do not have disable friendly wash rooms and 81.4% complexes do not have lift facility. Only 35% of the District Court complexes have functional CCTV cameras. It is noticed that the court complexes are constructed at such places where no public transport system is available. Thus access is denied.

The Hon'ble President of India suggested that All India Judicial Services so that appropriate representation will be given to marginalized sections. '6' States with maximum vacancies of judges was taken and it was found that 66.3% posts meant for marginal section are not filled up.

The court language has got the attention of policy makers, judges and also public. Some states have permitted usage of local language in trial courts. But there is need to make strides in this issue

The Dispute Resolution Mechanism has become Court centric and it does not take into account the basic cultural, ethos of country. Way back in 1820, Thomas Munro , one of the British Governor had expressed the apprehension regarding imposition of the English Court system here. In the East India papers which is quoted by Ramesh Chandra Dutt in the Economic history of India, Thomas Munro grudgingly acknowledges the efficiency of the Dispute Resolution Mechanism at community /village level which had the trust of the local population. This is high time for everyone to work hard to restore the confidence, trust of the peoples in justice delivery system and make it people centric in letter and spirit.



SRINIVASA MURTHY

Statement From Akhil Bharatiya Adhivakta Parishad

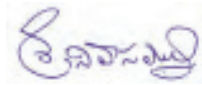
Akhil Bharatiya Adhivakta Parishad joins the nation to express happiness at the outcome of the judgment of Hon'ble Supreme Court wherein the abrogation of Article 370 of constitution of India was upheld.

There are many points of view on this nature of Article 370 in political terms. But the fact is that this article was used not to inculcate the feeling of integrity amongst the Jammu & Kashmir people but this constitutional provision was put into use to create anti India feelings.

The constitutional experts have been wondering and were always troubled how such 'temporary' provision was used to create a 'sovereignty' within sovereign state of India. The constitutional provision became a tool to justify the anarchy in the state of Jammu & Kashmir.

The fast deteriorating situation in J&K post 1980s was justified, glorified in the name of article 370. This article was paraded to create an anti-India echo system in J&K, India and in international fora.

The paradox is that article 370 was used to deny various welfare measures arising out of Indian consitution like benefits for SC, ST, BC communities and women in J&K .! This article was used to stiffle Indian Constitution. The legal constitutional logjam created by busy bodies in the name of article 370 had to be cleared. This was how the nation felt. The Adhivakta parishad expresses deep satisfaction that the institutions , Parliament, Judiciary have responded in need of hour and future generations will cherish this day.



SRINIVASA MURTHY

Enabling the Specially Abled in India : Accessibility to Divyangjan

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"Disability need not be an obstacle to success." -Stephen Hawking

Introduction :

According to the World Bank, one in every 12 households in India has a person living with a disability which sums up to around 80 million people with disability which may be due to age, birth, accident or some medical condition. According to the Oxford Dictionary, a disability could be described as an impairment which can be intellectual, cognitive, improvement, sensory, exercise or the mixture of all these. Further, the Preamble of the Convention on the Rights of Persons with Disabilities (CRPD), 2006 describes disability as "disability results from the interaction between persons with impairments and attitudinal and environmental barriers that hinder their full and effective participation in society on an equal basis with others." The CRPD, 2006 further emphasizes that "Persons with Disabilities include those who have long-term physical, mental, intellectual or sensory impairments which in interaction with various barriers may hinder their full and effective participation in society on an equal basis with others." Lastly, the World Health Organization (WHO) defines Disability as "an umbrella term, covering impairments, activity limitations, and participation restrictions. Impairment is a problem in body function or structure; an activity limitation is a difficulty encountered by an individual in executing a task or action; while a participation restriction is a problem experienced by an individual in involvement in life situations. Thus, disability is a complex phenomenon, reflecting an interaction between features of a person's body and features of the society in which he or she lives."

Persons with disability or we can refer to them as Specially Abled Persons or Divyangjans as given by PM Modi, which is working on changing the approach of the whole world towards Divyangs. These face various disadvantages, encountering restricted entry to fundamental services such as education, employment, and rehabilitation facilities. The pervasive social stigma significantly impedes their ordinary social and economic pursuits. Achieving an inclusive, barrier-free society involves fostering awareness and implementing policies, underscoring the importance of obtaining comprehensive and dependable statistics on the socio-economic conditions of people with disabilities.

Persons with disability or we can refer to them as Specially Abled Persons or Divyangjans as given by PM Modi, which is working on changing the approach of the whole world towards Divyangs. These face various disadvantages, encountering restricted entry to fundamental services such as education, employment, and rehabilitation facilities.

Constitutional Provisions:

The Indian Constitution offers considerable opportunities for creating legal mechanisms to safeguard the rights of individuals with disabilities. The subsequent paragraphs outline key constitutional provisions that support and address disability-related concerns in India.

The Constitution of India, as outlined in its Preamble, aims to ensure justice, social, economic, and political, along

with liberty of thought, expression, belief, faith, and worship, and equality of status and opportunity for all citizens. The fundamental principle underlying the rights guaranteed in Part III of the Constitution is the dignity of the individual. Part III enumerates six Fundamental Rights applicable to all citizens, and in some instances, to non-citizens as well. These rights encompass Equality, Freedom, Protection against Exploitation, Freedom of Religion, Cultural and Educational Rights, and Constitutional Remedies. Notably, Persons with Disabilities (PwDs) are entitled to these rights, despite the absence of explicit mention in this section of the Constitution.

Moreover, the State is mandated by various provisions of the constitution to afford equal treatment to all individuals, including those with disabilities. Article 41 of the Constitution of India asserts that the State, considering its economic capacity and development, must actively ensure the right to work, education, and public assistance for instances of unemployment, old age, sickness, disablement, and other forms of undeserved need. Article 46 imposes on the State a duty to give special attention to the educational and economic welfare of the more vulnerable segments of the population, shielding them from social injustice and various forms of exploitation.

The Indian Constitution, in delineating legislative powers between the Centre and States, assigns jurisdiction over disability-related matters to the State list. The provision for relief to individuals with disabilities falls under Entry No. 09 of List II, establishing it as a subject within the purview of the states in the constitutional framework of India.

Article 249 of the Constitution empowers the Parliament to enact legislation on any subject, regardless of the list it falls under, to meet the requirements of international obligations.

Legal Provisions:

Some of the important statues that have been enacted by the Government of India for the welfare of Specially abled Persons are listed below:

1. The Mental Health Act, 2017

Replacing the Mental Health Act of 1987, the Indian government enacted 'The Mental Health Care Act, 2017' on April 7, 2017. The goal is to ensure mental healthcare and services for individuals with mental illness while safeguarding, promoting, and fulfilling their rights in the delivery of mental healthcare and related matters.

2. The National Trust for the Welfare of Persons with Autism, Cerebral Palsy, Mental Retardation and Multiple Disabilities Act, 1999

On December 30, 1999, the Government of India enacted the National Trust for the Welfare of Persons with Autism, Cerebral Palsy, Mental Retardation, and Multiple Disabilities Act. Its objective is to establish a national body for the well-being of individuals with these disabilities. The trust provides comprehensive care, managing inherited properties, and addressing the specific vulnerabilities of certain disabled groups. The enactment responds to the demand for a dependable framework to support severely disabled individuals and their families.

The Indian Constitution, in delineating legislative powers between the Centre and States, assigns jurisdiction over disability-related matters to the State list. The provision for relief to individuals with disabilities falls under Entry No. 09 of List II, establishing it as a subject within the purview of the states in the constitutional framework of India.

3. The Rehabilitation Council of India Act, 1992

The establishment of the Rehabilitation Council of India (RCI) in 1986 as a registered society aimed to regulate the training of rehabilitation professionals and maintain a Central Rehabilitation Register. In September 1992, Parliament enacted the RCI Act, making it a statutory body in June 1993. Subsequent amendments in 2000 broadened its scope. The RCI sets policy guidelines for training and education in Rehabilitation, and institutions must seek recognition under the RCI Act. Additionally, the Act stipulates penalties for unqualified individuals providing services to persons with disabilities.

4. Right of Persons with Disabilities (RPWD) Act, 2016

The Rights of Persons with Disabilities (RPwD) Act, 2016, supersedes the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation)

Act, 1995. Enacted on December 28, 2016, and effective from April 19, 2017, the RPwD Act aligns with India's commitment as a signatory to the United Nations Convention on the Rights of Persons with Disabilities (UNCRPD). This legislation recognizes disability as an evolving and dynamic concept. It not only replaces the preceding Act but also reflects a comprehensive approach to uphold the rights, protection, and active participation of persons with disabilities in society, in accordance with international obligations.

An accomplishment worth noting is the expansion of recognized disabilities from the pre- existing seven, as defined in the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995, to a total of 21. Furthermore, the Central Government has been granted the authority to include additional types of disabilities, reflecting a more inclusive approach to encompass a broader spectrum of conditions and ensuring that the legal framework can adapt to evolving understanding and awareness of various disabilities.This expansion is crucial for a more inclusive legal framework, with provisions empowering the Central Government to incorporate additional disability types as needed.

According to the Rights of Persons with Disabilities Act, 2016,"Person with disability" means a person with long term physical, mental, intellectual or sensory impairment which, in interaction with barriers, hinders his full and effective participation in society equally with others, and "Person with benchmark disability" means a person with not less than forty per cent. of a specified disability where specified disability has not been defined in measurable terms and includes a person with disability where specified disability has been defined in measurable terms, as certified by the certifying authority.

The RPWD Act 2016 marks a pivotal step in advancing the rights of persons with disabilities in India. The legislative framework also addresses the institutional infrastructure required to cater to the diverse needs of persons with disabilities. A key provision mandates the establishment of Special Courts in every district to handle cases pertaining to violations of the rights of disabled individuals. Moreover, State Governments are directed to establish district-level committees and dedicated State Funds to enhance the welfare of persons with disabilities. At the national level, a fund is also set up to further support these welfare initiatives.

This landmark legislation has been instrumental in bringing disability concerns into sharp focus within the legal landscape. However, its weaknesses have surfaced over the ten years since its enforcement, revealing the need for a robust implementing mechanism. Acknowledging these shortcomings, the government, contrary to usual indifference, responded to the demand from the disability movement for an overall review of the Act. To address this, a committee was constituted, which conducted a comprehensive review, harmonizing the perspectives of the disability sector and relevant bodies. This process aims to strengthen the implementation of the Act and ensure its effectiveness in safeguarding the rights and well-being of persons with disabilities in India. The ongoing commitment to addressing these challenges underscores the importance of continually evolving jurisprudence on disability rights.

The RPWD Act 2016 marks a pivotal step in advancing the rights of persons with disabilities in India. The legislative framework also addresses the institutional infrastructure required to cater to the diverse needs of persons with disabilities.

Schemes of Government of India for The Accessiblity :

1. Deendayal Disabled Rehabilitation Scheme :

The Deendayal Disabled Rehabilitation Scheme (DDRS) is a flagship initiative in India aimed at empowering persons with disabilities. Launched by the Ministry of Social Justice and Empowerment, this scheme focuses on creating an inclusive and accessible environment for individuals with disabilities. DDRS provides financial assistance to various organizations, including NGOs, for implementing projects related to rehabilitation, skill development, and creating barrier-free infrastructure. Its key objectives include enhancing the employability of persons with disabilities, facilitating their economic self-reliance, and promoting social integration. The scheme encompasses a range of activities, from providing assistive

devices to supporting community-based rehabilitation programs. By addressing the multifaceted needs of persons with disabilities, DDRS plays a crucial role in fostering their overall development, independence, and meaningful participation in society.

2. Sugamya Bharat Abhiyan :

Sugamya Bharat Abhiyan, launched by the Government of India, is a transformative initiative with the goal of building an inclusive and accessible India for persons with disabilities. Translating to "Accessible India Campaign," this program emphasizes the creation of barrier-free environments, both physical and digital, to ensure equal opportunities and participation for all citizens.

The campaign focuses on three key components: the built environment, transportation systems, and information and communication technologies. It involves making public spaces, government buildings, and transportation facilities accessible to people with diverse abilities. This includes constructing ramps, accessible toilets, tactile paths, and auditory signals. Additionally, public transportation is being modified to accommodate individuals with disabilities.

In the digital sphere, Sugamya Bharat Abhiyan aims to enhance accessibility to information and services through various government websites and mobile applications. This involves making websites compliant with Web Content Accessibility Guidelines (WCAG) to ensure that people with disabilities can navigate and access information easily.

The campaign is not just a physical or technological endeavor but a comprehensive effort to foster a culture of inclusivity. It involves creating awareness about the needs and rights of persons with disabilities and encouraging a collective responsibility towards building a more accessible nation. Sugamya Bharat Abhiyan is a crucial step towards achieving a barrier-free and inclusive society, aligning with the principles of equality, dignity, and empowerment for all citizens.

3. Unique Disability ID Project :

The Unique Disability ID (UDID) project is an innovative initiative by the Government of India, aiming to provide a unique identification to persons with disabilities. Launched under the Department of Empowerment of Persons with Disabilities (DEPwD), this project assigns a distinct ID to each individual with disabilities, facilitating efficient tracking of their benefits and services. The UDID card includes essential details, ensuring streamlined access to various schemes and entitlements. This project significantly enhances the government's ability to address the specific needs of persons with disabilities and ensures targeted delivery of support, fostering inclusivity and empowerment in the disability sector.

4. Sugamya Bharat Abhiyan:

Sugamya Bharat Abhiyan, translating to "Accessible India Campaign," is a flagship initiative launched by the Government of India to create an inclusive and accessible environment for persons with disabilities. This nationwide campaign focuses on making public spaces, transport, and digital infrastructure barrier-free. It involves modifying infrastructure with features like ramps, accessible toilets, and tactile paths. Public transportation systems are adapted to accommodate individuals with disabilities. In the digital realm, the campaign emphasizes enhancing accessibility to government websites and mobile applications. Sugamya Bharat Abhiyan extends beyond physical modifications; it aims to raise awareness about the needs of persons with disabilities, fostering a more inclusive and empathetic society. By prioritizing accessibility, the campaign strives to ensure equal opportunities, dignity, and empowerment for all citizens.

The campaign is not just a physical or technological endeavor but a comprehensive effort to foster a culture of inclusivity. It involves creating awareness about the needs and rights of persons with disabilities and encouraging a collective responsibility towards building a more accessible nation.

5. National Handicapped Finance and Development Corporation

The National Handicapped Finance and Development Corporation (NHFDC) is a government-sponsored entity in India dedicated to empowering persons with disabilities through financial assistance and developmental initiatives. Established in 1997 under the Ministry of Social Justice and Empowerment, NHFDC aims to provide economic

opportunities and promote self-employment among individuals with disabilities.

NHFDC offers a range of financial schemes, including loans at concessional rates, to support entrepreneurial ventures and skill development programs for persons with disabilities. These initiatives aim to enhance their economic independence and integrate them into mainstream society. The corporation also focuses on creating awareness about various government schemes and benefits available for persons with disabilities.

NHFDC plays a crucial role in facilitating inclusive development by addressing the financial needs of individuals with disabilities, fostering entrepreneurship, and promoting sustainable livelihoods. By providing accessible financial resources, NHFDC contributes to the larger goal of ensuring equal opportunities and social inclusion for persons with disabilities across various sectors of society.

Role of Judiciary in The Upliftment of Divyangjans :

The Indian judiciary has played a pivotal role in advancing the rights and well-being of disabled persons, shaping legal frameworks, and issuing landmark judgments that contribute to their upliftment and inclusion. Courts across India have consistently addressed issues related to accessibility, discrimination, employment, education, and social integration for persons with disabilities (PWDs).

1. Right to Education and Inclusive Schools:

In the case of "National Federation of the Blind v. Union of India" (2013), the Delhi High Court emphasized the right of visually impaired students to pursue education in regular schools. The judgment stressed the need for inclusive education and reasonable accommodations to ensure equal opportunities for disabled students.

2. Employment Opportunities:

In the case of "State of Punjab v. Ram Lubhaya Bagga" (1998), the Supreme Court held that reservations for disabled persons should extend to promotions as well. This judgment contributed significantly to enhancing employment opportunities and career advancement for individuals with disabilities in the public sector.

3. Accessibility in Public Spaces:

The case of "Disabled Rights Group (DRG) v. Union of India" (2011) before the Delhi High Court focused on ensuring accessibility in public spaces. The court directed the government to undertake measures such as installing auditory signals at traffic intersections and constructing ramps to make public spaces more inclusive for PWDs.

4. Rights of Persons with Intellectual Disabilities:

In the case of "National Institute of Intellectual Disability v. State of Andhra Pradesh" (1985),the Supreme Court recognized the rights of persons with intellectual disabilities. The judgment emphasized the need for a supportive environment and adequate facilities for their overall development.

5. Recognition of the Third Gender:

While not specific to disabilities, the landmark judgment in "National Legal Services Authority (NALSA) v. Union of India" (2014) by the Supreme Court recognized the rights of the transgender community. This inclusive judgment, acknowledging the rights of transgender persons, indirectly benefits disabled individuals within the transgender community.

NHFDC offers a range of financial schemes, including loans at concessional rates, to support entrepreneurial ventures and skill development programs for persons with disabilities. These initiatives aim to enhance their economic independence and integrate them into mainstream society.

6. Reservation in Higher Education:

The case of "Rajeev Kumar Gupta v. Union of India" (2006) addressed the reservation of seats for disabled persons in institutions of higher education. The court emphasized the importance of equal opportunities and directed the implementation of reservation policies for disabled students in professional courses.

7. Accessibility in Air Travel:

The case of "Jeeja Ghosh v. Union of India" (2012) dealt with the issue of accessibility in air travel for persons with disabilities. The court's intervention led to guidelines being issued to airlines to ensure the dignity and comfort of disabled passengers.

8. Recognition of Dyslexia:

In the case of "Poonam v. Union of India" (2007),

the Delhi High Court recognized dyslexia as a disability and directed educational institutions to provide necessary accommodations for students with dyslexia. This judgment contributed to a broader understanding of disabilities beyond the physical realm.

9. Implementation of Rights of Persons with Disabilities Act:

The "RajiveRaturi v. Union of India" (2013) case before the Delhi High Court focused on the effective implementation of the Rights of Persons with Disabilities (RPwD) Act. The court emphasized the need for proper implementation of the provisions of the Act to ensure the rights and well-being of disabled persons.

10. Judicial Activism for Accessibility:

Courts have often taken suo moto cognizance of issues related to accessibility. For instance, the Delhi High Court initiated proceedings on its own in the matter of "Court on its Own Motion v. Union of India" (2018) to address the accessibility of courts for persons with disabilities. This proactive approach demonstrates the judiciary's commitment to inclusivity.

11. Equal grant for Transport Allowance:

The Apex Court in the matter of "Deaf Employees Welfare Association v. Union of India" (2013) held that there should be a grant of transport allowance to speech and hearing-impaired persons also on par with blind and orthopedically disabled government employees. Further, the Court held that there cannot be discrimination between a person with a disability of blindness and a person with disability of hearing impairment as there must be equality of law and equal protection of law.

12. Right to reproduction:

The Supreme Court in the very famous case of "Suchita Srivastava v. Chandigarh Administration" (2009) recognized the right to legal capacity of women with mental retardation to take independent decisions on her pregnancy. Furthermore, the Court held that a reproductive choice should be respected despite other factors that may cause the termination. Therefore, the Supreme Court laid out the specific right of legal capacity which was not subject to an understanding of one's situation and capacities. This case follows the spirit of protection of legal capacity under Article 12 of the CRPD, 2006.

Moving ahead, the Indian judiciary has been at the forefront of promoting the rights and upliftment of disabled persons. Landmark judgments have set precedents, ensuring that disabled individuals have equal opportunities in education, employment, and public spaces. The evolving jurisprudence reflects a growing awareness of the diverse needs of persons with disabilities and a commitment to creating a more inclusive and equitable society. While significant strides have been made, continued judicial activism, effective implementation of laws, and awareness campaigns are crucial for sustained progress in the upliftment of disabled persons in India.

Social Development for the Accessibility :

In recent years, India has witnessed several noteworthy social development initiatives aimed at fostering the growth and inclusion of persons with disabilities (PWDs). From legal advancements to grassroots initiatives, various sectors have shown a commitment to creating an accessible and equitable environment for individuals with diverse abilities.

The Hon'ble Supreme Court of India has played a crucial role in advancing the rights of persons with disabilities. It has delivered landmark judgments, interpreting and reinforcing the legal framework for the protection and empowerment of PWDs.

The Hon'ble Supreme Court of India has played a crucial role in advancing the rights of persons with disabilities. It has delivered landmark judgments, interpreting and reinforcing the legal framework for the protection and empowerment of PWDs. The court has often taken a proactive stance, addressing issues related to accessibility, discrimination, and the overall well-being of individuals with disabilities. Recently the Hon'ble Chief Justice of India inaugurated Mitti Café in the Hon'ble Supreme Court premises which is in itself a move towards the inclusion of the specially abled persons in the society and giving them equal respect and opportunity. Mitti Cafe is an inspiring example of a social enterprise making a positive impact. It focuses on empowering persons with intellectual and developmental disabilities by providing

them with employment opportunities. The cafe, with multiple locations, not only serves as a platform for skill development but also challenges societal perceptions about the capabilities of individuals with disabilities. Further, last year on 3rd December 2002 on the International Day of Persons with Disabilities, the Hon'ble CJI DY Chandrachud constituted "Supreme Court Committee on Accessibility" to ensure access for Persons with Disability in the justice system.

Further, the Central Government vision of Smart India also includes the idea of the inclusion and accessibility of the specially abled persons. Several Indian cities have undertaken initiatives to enhance accessibility for disabled individuals as part of the Smart Cities Mission. These efforts include the creation of accessible infrastructure, such as ramps, tactile paths, and audible signals at traffic intersections, making urban spaces more inclusive for all citizens.

Not only this, but the New Education Policy (NEP) that was introduced in 2020 envisions a more inclusive and flexible education system. It emphasizes the integration of students with disabilities into mainstream education, promoting barrier-free campuses, and providing necessary support for diverse learning needs. The policy aims to create an inclusive and empowering educational environment for all students.

Many educational institutions are adapting their infrastructure to become more disabled-friendly. This includes the construction of ramps, accessible classrooms, and facilities catering to the specific needs of students with disabilities. These changes contribute to a more inclusive learning environment.

Furthermore, recognition and incorporation of sign language and Braille in various domains have gained momentum. Efforts have been made to make public spaces, educational materials, and information more accessible through the use of sign language interpretation and Braille signage.

Apart from education, in the realm of sports as well, there has been an increased focus on promoting inclusivity. Various initiatives aim to provide equal opportunities for persons with disabilities to engage in sports and recreational activities. This not only fosters physical well-being but also contributes to changing societal attitudes towards disability.

It is apposite to mention that there must be the accessibility of movies to specially abled persons as well so that they can also choose to live a life full of entertainment. Therefore, the film industry has made strides in enhancing accessibility for persons with disabilities. Subtitles, audio descriptions, and inclusive content have become more prevalent, ensuring that individuals with visual or hearing impairments can enjoy and understand cinematic experiences.

Efforts have been made to create accessible washrooms in public spaces, ensuring that facilities are designed to accommodate the needs of individuals with disabilities. This contributes to their dignity and independence in daily life.

It is important to secure the health of the Specially abled persons as well. Health insurance schemes tailored for persons with disabilities have emerged, providing financial protection for medical expenses. These initiatives aim to address the unique healthcare needs of individuals with disabilities and reduce the financial burden on them and their families.

Many educational institutions are adapting their infrastructure to become more disabled-friendly. This includes the construction of ramps, accessible classrooms, and facilities catering to the specific needs of students with disabilities. These changes contribute to a more inclusive learning environment.

Furthermore, these recent social development instances in India demonstrate a collective effort to create a more inclusive and accessible society for persons with disabilities. From legal frameworks to grassroots initiatives, each step contributes to breaking down barriers, challenging stereotypes, and fostering an environment where individuals with disabilities can thrive. While progress has been made, continued commitment and collaborative efforts across sectors are essential to building a truly inclusive nation.

Conclusion :

In India, the journey toward enabling and enhancing accessibility for persons with disabilities, often referred to as Divyanjans, has seen remarkable strides yet acknowledges ongoing challenges. This concerted effort involves not only legal frameworks but also societal transformations, technological innovations, and a shift in perceptions. As we reflect on the progress made and the path ahead, several key aspects come to light.

The legal landscape for persons with disabilities in India has evolved significantly. Landmark legislation such as the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995, and the subsequent Rights of Persons with Disabilities (RPwD) Act, 2016, have laid the foundation for inclusivity. These laws recognize a spectrum of disabilities and emphasize the rights of Divyanjans in areas such as education, employment, and accessibility. The commitment to periodic amendments and reviews demonstrates an adaptability to the evolving needs of the specially abled community.

One of the cornerstones of empowering Divyanjans is ensuring their access to education and subsequent employment opportunities. Efforts have been made to create inclusive educational environments, with schools and colleges adapting infrastructure and curricula to accommodate diverse needs. Furthermore, reservations in educational institutions and government jobs provide a crucial avenue for enhancing representation. However, challenges persist, and a more nuanced approach is necessary to address the unique requirements of individuals with various disabilities.

Technology has emerged as a powerful tool in enhancing accessibility for Divyanjans. From screen readers for the visually impaired to adaptive keyboards for those with motor disabilities, technological innovations have opened new avenues for independence. Mobile applications and assistive devices play a pivotal role in facilitating communication, navigation, and access to information. Continued research and development in this domain hold the promise of further transforming the lives of the specially abled.

An integral aspect of creating an inclusive society is fostering a shift in perceptions. Awareness campaigns, advocacy initiatives, and the active involvement of disabled individuals in various fields contribute to changing societal attitudes. Recognizing and celebrating the achievements of Divyanjans not only promotes inclusion but also dispels stereotypes. However, there is an ongoing need for sensitization programs to eradicate stigma and create an environment where individuals with disabilities are viewed through the lens of their abilities rather than limitations.

Despite significant progress, challenges persist. Infrastructure remains a major hurdle, with many public spaces still lacking in accessibility features. Limited awareness about the diverse needs of different disabilities often results in inadequate accommodation. The employment gap for Divyanjans, particularly in the private sector, underscores the need for targeted policies and corporate inclusivity initiatives. Additionally, rural areas often face greater challenges due to a lack of resources and awareness.

The way forward involves a multi-pronged approach. Strengthening the implementation of existing laws, ensuring widespread accessibility in public spaces, and promoting inclusivity in every sector are imperative. Education and sensitization campaigns need to be intensified to create a more empathetic and understanding society. Collaboration between government bodies, NGOs, and private enterprises is essential to address the multifaceted challenges faced by Divyanjans comprehensively.

Therefore, the journey towards enabling the specially abled in India and enhancing accessibility for Divyanjans reflects a commendable trajectory marked by legislative advancements, technological innovations, and shifting societal attitudes. While celebrating achievements, it is crucial to acknowledge the existing gaps and commit to bridging them. The true measure of success lies in a society where every individual, irrespective of ability, can navigate life with dignity, independence, and equal opportunities. It is a collective responsibility to continue this journey, ensuring that the specially abled not only have a place in society but thrive as active contributors to its diverse tapestry.

Use of Local Languages in Courts: Assurance of Accessibility to Law

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Background

In medieval society, and even today, in many of the tribal cultures that prevail in the country, law is mainly based on customs which prevail in the tribal community, law is not dependent upon the symbolic language and its meaning. With the emergence of the industrial revolution, the rational-legal approach made law reliant on its interpretation. A paradigm shift has been witnessed in making, understanding and practicing the law. This shift has aided a few elites in monopolizing the interpretation of law. In the modern era, lawyers now have effectively controlled the meaning and interpretation of law because of which it becomes difficult for the masses to get easy access to law.

The nation has witnessed many movements with respect to access to justice, and they have at times failed, however, with respect to access to law not much attention has been given by the Indian intellectuals and the institutions of democracy.

Justice VR Krishna Iyer was of the belief that law should reach doors of the people belonging to different societies however, this has not been the case, law has remained distant from common people. Language is an important aspect of access to law and its accessibility is a precondition to understanding the technical nuances of law.

Constitutional Provisions with Respect to Language

Article 343(1) of the Indian Constitution states that the official language of the Union shall be Hindi however, a perusal of clause (2) of Article 343 would show that English language was to be used for all the official purposes of the Union for 15 years from the date of commencement of the Constitution. But at present we see that English has become so dominant that it is still used as an official language in the country. Article 348(1) & (2) of the Constitution reads as:-

"348. Language to be used in the Supreme Court and in the High Courts and for Acts, Bills, etc. – (I) Notwithstanding anything in the foregoing provisions of this Part, until Parliament by law otherwise provide-

Justice VR Krishna Iyer was of the belief that law should reach doors of the people belonging to different societies however, this has not been the case, law has remained distant from common people. Language is an important aspect of access to law and its accessibility is a precondition to understanding the technical nuances of law.

(a) All proceedings in the Supreme Court and in every High Court,
(b) The authoritative texts-
  (i) Of all Bills to be introduced or amendments thereto to be moved in either House of Parliament or in the House or either House of the Legislature of a State,
  (ii) Of all Acts passed by Parliament or the Legislature of a State and of all Ordinances promulgated by the President or the Governor of a State, and

(iii) Of all orders, rules, regulations and bye-laws issued under this Constitution or under any law made by Parliament or the Legislature of a State, shall be in the English Language.

(2) Notwithstanding anything in sub-clause (a) of clause (1), the Governor of a State may, with the previous consent of the President, authorise the use of the Hindi Language, or any other language used for any official purposes of the State, in proceedings in the High Court having its principal seat in that State:

Provided that nothing in this clause shall apply to any judgment, decree or order passed or made by such High Court."

Article 348 mandates the use of ONLY English as the language to be used in the Supreme Court and the High Courts of the country. The clause (2) of Article 348 provides that the Governor of a State may, with the previous consent of the President authorize the use of Hindi or any other language used for any official purpose, in proceedings in the High Court. However, it further states that nothing in the said clause would apply to any judgment, decree or order made by the High Court. Therefore, English is considered to be the primary language in Indian High Court and Supreme Court Courts.

The Constitution of India was adopted in the year 1950 in English language however, its Hindi version was adopted in the year 1987. Earlier, it was presumed that the use of English language would fade away with the passage of time and Hindi alongwith the other regional languages will attain popularity over the period of time however, that has not been the case. Article 345 of the Constitution states that the State may adopt of one or more languages in use in the State for the official purpose. Article 351 requires that:-

"It shall be the duty of the Union to promote the spread of the Hindi language, to develop it so that it may serve as a medium of expression for all the elements of the composite culture of India and to secure its enrichment by assimilating without interfering with its genius, the forms, style and expressions used in Hindustani and in the other languages of India"

These provisions clearly portray the intent of the Constituent Assembly to promote the use of Hindi and the other regional languages for the official purpose. However, over the period of time English has become the dominant language and its overuse has diminished the use of other languages thereby, denying the common man access to law.

Other Legislations on Language

The Official Languages Act, 1963 is an act to provide for the languages which may be used for the official purposes of the Union, for transaction of business in Parliament, for Central and State Acts and for certain purposes in High Courts. The provisions of the Act are in consonance with the word and spirit of Article 348 of the Constitution of India and therefore, the act also gives primacy to the English language when it comes to delivery of the orders in High Courts and Supreme Court because the Act states that where any judgment / decree / order is passed in any such language it shall be accompanied by a translation of the same in English.

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In India the Section 137 and Order 18 Rule 5 of Code of Civil Procedure gives the liberty to all the subordinate courts to use the language as the State Government determines. The state government has the power to declare any regional language as an alternative for the proceeding of the court. Section 272 of the Code of Criminal Procedure empowers the State Government to determine the language of all courts other than the High Courts, meaning thereby, that the language used in the

proceeding of the district courts shall be the regional language as the state government directs.

Use of Local Language : Need of the Hour

India is a country of diversity. Different regions have different languages. People from different societies have their own ways of communicating to each other. In India only 10.5 percent of people can speak English. Therefore, it becomes difficult for the common masses to interpret the court orders and judgments. The Supreme Court as the entire nation has witnessed, has at times delivered lengthy judgments on relevant issues of National importance, be it the Ayodhya Ram Mandir Case, Keshavanand Bharti, Indra Sawhney (Mandal Commission Case) etc. and all these judgments have been delivered in the English language. Now, because of this linguistic barrier it becomes difficult for the rest 90 percent of the population to understand the spirit of the judgments. It is only the media that interprets and make the people aware of the issues decided in the landmark judgments. This raises the concern that, Is law to be confined to only those who are well-verse with the language? If people are paying taxes to run the country then are they not entitled to get access to the law and justice of the country?

Even after 76 years of Independence it is saddening to see that one alien language has captured each and every institution in the country. It becomes difficult for the common citizens coming from different classes of the society for instance, the Bonded labours, the fishermen, farmers, class-IV employees etc. to interpret the law because of the barrier imposed by English language. Some of the Sessions Judge in the metropolitan Cities have started to conduct the trials in English language as a consequence of which it becomes difficult for the accused to understand the offences which are levelled against him. English is just merely a language and in the present scenario people are being forced to be proficient in it. The Supreme Court and the High Courts of the country by delivering the judgments for adjudicating the rights of the parties are not delivering justice to those who have no understanding of the language. It is to be understood that it is the litigants who pay for the court proceedings and therefore, to maintain their faith in law language of their convenience should be used to conduct the proceedings of the court.

In India there are 17,000 judges in the District Courts, 1100 judges in the High Courts and 34 judges in the Supreme Court. By the virtue of Section 272 of CrPC, Section 137 and Order 18 Rule 5 of CPC, the lower court proceedings are conducted in the local language as the State determines. Therefore, this fact raises the question that if 17,000 judges can conduct the court proceedings in the local language then is it difficult for the rest 1134 judges to conduct the court proceedings in local language? Also, Article 21 of the Constitution guarantees access to justice to the citizens of India but the language barrier makes it difficult for the layman to understand word and spirit of the law existing.

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If a person desires to practice law in the High Courts and the Supreme Court he is forced to learn English language. Article 19 of the Constitution ensures that every citizen has freedom of speech and expression however, Article 348 of the Constitution curtails this right of a person because of the mandate to use the alien language in the court proceedings. In Madhu Limaye v. Ved Murti, one of the counsels insisted on arguing in Hindi, but no heed was paid to the request made by the advocate and the Supreme Court refused his request. Eighth schedule of the Constitution enlists 22 languages to be used for official purpose and it is pertinent to point out here that English finds no place in those 22 languages still, in the present scenario it has dominated the entire system which is deeply saddening.

Way Forward

It is to clarified that authors are not against the use of English language but are of the view that law should be accessible to the common masses. Therefore, to make it accessible to the layman the authors in this sub-head have an attempt to remove this linguistic barrier. Firstly, a perusal of article 348(1) of the Constitution states that "(1) Nothwithstanding anything in the foregoing provisions of this Part, until Parliament by law otherwise provides" an interpretation of this provision clearly states that English language is to be used until the Parliament by law decides meaning thereby, that it is upon the desire of the legislature upto when they desire to keep it operative, therefore, the authors suggests that the parliament by amending the said provision by the virtue of Article 39A will ensure that the common masses of the country are getting access to the law and justice. Secondly, it is relevant to mention here that in International Court of Justice court proceedings are conducted in English and French however, the rules provide that if any of the parties desire the proceedings to be conducted in the language of their choice then a translator is provided to them therefore, the same thing can be implemented in the court functioning of our country as well.

Concluding Remarks

In the light of the above discussion the authors are of the view that use of local languages in the court proceedings is the need of the hour considering the social strata of the country. Some of the Indian states like Uttar Pradesh, Madhya Pradesh, Bihar, Chattisgarh and Rajasthan have made the use of Hindi language in the court proceedings, but the main barrier still gets imposed where the people neither understand Hindi nor English for example the Southern India region has its different languages and therefore, it becomes most important to make the law accessible to them by translating the orders and the proceedings to be made in regional language.

The use of English language imposes barrier in respect to accessing law, court, procedure and adjudication. The parties to a proceeding remain unsatisfied in the current adjudicatory mechanism because the final culmination is not properly communicated to them. The judiciary as well as the other institutions of our democracy however, must mirror the social and geographical diversity of the country. The law before the constitutional courts should be based on one's intelligence and understanding of law and not mere proficiency in language. Article 348 of the Constitution is a temporary provision and henceforth, it should be amended by the Parliament. As stated above also that only 10.5 percent of the population can speak English in the country therefore, it becomes much difficult for the common masses to understand the legal terminologies in English. Following things should be allowed in the court proceedings considering the diverse culture of the country:-

It is to clarified that authors are not against the use of English language but are of the view that law should be accessible to the common masses. Therefore, to make it accessible to the layman the authors in this sub-head have an attempt to remove this linguistic barrier.

(1) Pleadings should be allowed in the local language of the parties.
(2) Evidence should be recorded in the local language of the region where the matter is adjudicated.
(3) Arguments should be allowed to be done in the local language if the party so desires.
(4) Judgments should be delivered in the local language so that the parties can develop faith in the Indian Legal System.

Prime Minister Narendra Modi highlighted the issue of language barrier and therefore, in the direction to make law accessible for the layman the Supreme Court has directed that the operative part of the judgments to translated in different languages.

The term access to justice is much broader in India despite of having free legal aid services law and justice is not accessible to each and every citizen in India therefore, there is need for Indianisation to increase the accessibility by shaping the system in accordance with the needs and sensibilities of the Indian Population. ❑

Hybrid Courts: A New Way to Justice and Accessibility

Pramila Nesargi, *Senior Advocate*
Kartik Kumar Aggarwal, *Advocate*
Neha Mishra, *Advocate*

अनागतविधानं तु कर्तव्यं शुभमिच्छता।
आपदाशंकमानेन पुरुषेन विपश्चिता।।

... Lord Rama

Above – quote is taken from Valmiki Ramayana, which simply translates to "Wise man should foresee tragedy and misfortunes, and take action to prevent and overcome such tragedy and misfortune before it strikes".

Indian Judicial system although is one of the most robust justice delivery systems of the world, is at present plagued with one of the major issues i.e., accessibility to Courts to all and ever-increasing costs of the proceedings.

This problem further aggravates with the ever-growing population. For instance, in many states like Rajasthan and Uttar Pradesh, there are many matters which fail to reach the Courts. There are times, when the statements and evidences are not recorded merely for the reason that the witnesses fail to reach the Courts on time or try to avoid Court proceedings and cases gets prolonged. This not only results in piling of the matters to be decided, but also swindles the faith over our judicial system.

It was in the year of 2007, that the Government of India, came up with e-Courts Integrated Mission Mode project for the computerization of District and subordinate Courts with the objective of improving access to justice with technology. This project was conceptualised on the basis of the "National Policy and Action Plan for implementation of Information and Communication Technology (ICT) in the Indian Judiciary - 2005".

As per a report of the Press Information Bureau, there have been total of 10 key focus areas for digitization of the Courts:

Implementation of SMS, Email services, setup of Kiosks, Judicial services center and e-courts website and applications.

Implementation of e-filing system.

Implementation of e-Court Fees.

Setup of e-Sewa Kendra in all Courts.

Implementation of technology enabled process for serving and issuing of summons.

Establishment of National Judicial Data Grid (NJDG).

Enabling Courts to undertake hearing through Virtual onferencing mode.

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Live streaming of Court proceedings.

Upgrading the existing websites of the court to the S3WaaS (Secure Scalable & Sugamya Website As A Service) platform.

Search portal for obtaining judgements and orders free of cost.

The above initiatives have been implemented in three phases:

Phase I and Phase II of the e-Court Mission mode project:

Phase I of the project was a pilot project, with an overall expenditure of ₹ 639.41 Crore, and Phase II of the project had an overall expenditure of ₹ 1668.43 Crore. Both phases together achieved the following milestones:

18,735 District and Subordinate Courts have been digitalized till date.

99.4% of Court Complexes have been connected through WAN.

1272 Jails have been enabled through Virtual Conferencing.

JSC (Judicial Service Centers) have been established in various court complexes, especially High Courts to act as filing counters.

13672 Courts have been enabled with software.

Establishment of the National Judicial data Grid: Data Repository of orders, judgments, and case details of 18,735 District & Subordinate Courts created as an online platform under the e-Courts Project.

Phase III of the e-Court Mission project

Phase III of the project was approved by Union Cabinet chaired by Hon'ble Prime Minister as a central sector scheme spanning four years (2023 onwards) with a budget of Rs. 7210 Crores.

The basic philosophy behind Phase III of the project is "Access and Inclusion".

We need to understand that in modern times, the complete access to justice can only be achieved through inclusion of technology. We need to understand this that our Indian Judicial system, though rigid but is also one of the most flexible judicial systems which quickly adapts to changes. For instance, the Hon'ble High Court of Delhi, recently rolled out e-Inspection service of the Judicial files, which soon is going to be implemented throughout the nation. The Live streaming of the court proceedings, further enhances the transparency in the system and inclusion of the general public in the justice making system.

Justice delivery systems is an indispensable pillar of any civilized society and faith needs to be instilled in the heart of the General Public. One of the reason why people refrain from taking legal recourse is the unnecessary adjournments and delay in disposals of the matters. We also need to understand that lawyers specially in urban areas like Delhi, Mumbai etc., face a major issue of travelling and traffic jams which ultimately delay in final disposal of the matters. Again, this problem can be easily tackled with hybrid hearing process, wherein the Lawyers as well as Litigants unless it is extremely necessary, can join the proceedings through Virtual Conferencing. This would not only instil the faith of the litigant in the judicial system but would also prove to be cost effective and more efficient than travelling physically to the Courts. With the same view in mind, the Hon'ble Chief Justice of India, gave a direction to all the High Courts to not to deny video conferencing facilities or hybrid mode of hearing to any member of the Bar or Litigant.

But it's not always rainbows and butterflies. The inclusion of technology and hybrid mode of working of the courts do come with its own cost. As on date of writing this article, Indian Courts have above 4 Crore (44704059 to be precise) pending cases. Digitizing the entire records would not only be cumbersome but would also take time.

The condition of the Lawyers and Litigants is not much different. There have been instances, wherein the lawyers specifically those who are not accustomed to technology have been struggling with the e-filing systems as well as online mode of hearing.

Furthermore, there is an acute shortage of skilled staff in the Courts. For instance, in Courts outside Delhi and other metropolitan areas, the Order sheets are not getting uploaded on time leave apart inclusion of the hybrid mode of hearing thereby, making the implementation of the project in these areas a far-fetched dream. Several judicial officers as well as staff at district level are also not comfortable with the e-Courts and hybrid mode of hearing.

The condition of the Lawyers and Litigants is not much different. There have been instances, wherein the lawyers specifically those who are not accustomed to technology have been struggling with the e-filing systems as well as online mode of hearing. There is further a need to provide access to high-speed internet in the court premises for the use of lawyers, litigants and the Court staff to promote hybrid mode of hearing. This can only be achieved through rigorous trainings and a robust feedback and monitoring system.There is another big problem outside the Court premises. India is a land of large landmasses with low to absolutely no internet connectivity. On one hand, if through use of technology we will be able to reach to larger

population, the lack of internet connectivity in these areas would definitely prove to be a barrier to achieve the same. Even the Courts and Tribunals in these areas face this very issue and are unable to implement the project within their premises.

The other drawbacks of the system are realised when the matters reach the evidence stage. The evidences and statements of the parties cannot with the present technology be recorded through video conferencing, because of the question over the reliability of the same, therefore forcing the litigants and the judicial officers to opt for traditional means. There, is further need to bring in amendments to the existing laws to produce of undertrials before using technological means and to empower the jail complexes with internet facilities, which would not only help in speedy disposals but would also aid in curbing unnecessary financial expenses of the state.

Once, we achieve the above technological barriers, the Phase III of the e-Courts mission would definitely achieve its objective of "Access and inclusion".

Hybrid hearing boon or bane?

For the last one and half years there has been excitement regarding the announcements made by Hon'ble Chief Justice of India regarding entry of new technology into justice delivery systems. There has been insistence for hybrid hearing in all courts. This coupled with E-filing has been hailed as giant leap towards democratisation of Indian Judiciary.

Without basic facilities in courts (especially trial courts) like updated computers with proper software , networking (lack of proper supply too) e-filing has created difficulties and many high courts have responded to remove difficulties or slowed down the process till proper infrastructure is in place.

It is claimed that Hybrid hearing will facilitate lawyers from any where to argue any case in any court. Coupled with live streaming the litigant public can have access to court proceedings. Many concerned persons including advocates, persons who held and are holding posts of judges have a word of caution.

The judicial process is not limited to judges hearing arguments of both sides and delivering judgment alone. We must be bothered about creation of well informed mature bar who has social consciousness as core commitment. Students from colleges enter profession and start practising in courts. The bar has to blossom with specific reference to local needs and local laws for local populations. Young student who enters the court hall has to learn basic ingredients of court room behaviour. The young advocates will earn the art of presenting a case while watching the seniors. The discussions among bar members on an issue will result in churning of minds. When there is exchange of views ,ideas (often conflicting) discussions and challenges the minds will be razor sharp.

The bar in each court has to carry forward the great traditions. Each generation of lawyers in each court has to 'grow' gradually. This does not happen on couple of virtual conferences. Group of lawyers in each age group will have to discuss in court halls ,in court premises, in canteens. While arguing one senior will whisper to young advocate about an earlier unreported case. Then some quick discussion and then new point will emerge. Each area has its local laws. The interpretation of local laws for the relevant cases has to evolve over time. New generation has new ideas, new view point. This has to mingle/merge/ mix with earlier practises and then only better ideas, practises emerge.

The younger generation needs to be told what to do in court and what not to do in front of judge. How to address the court, how to interact, how to behave towards other members of bar. The court premises is a modern gurukul. HYBRID hearing kills the process of learning ,stunts the process of blossoming. Hybrid hearing is like a video game!!

Yes ,the learned lawyers from Delhi, Bombay, Chennai, Prayag Raj, Kolkotta bring in the knowledge when they argue the cases. It is also difficult for each of these knowledgeable, wise persons to travel to small courts and these local lawyers will be at a loss not able hear these wise men/women.

But when Hybrid hearings become order of the day there will be no chance for any local lawyer to become 'wise' and attain knowledge through regular day to day grinding. The Hybrid hearing kills the local talents.

Many tend to brush away any small doubt/question about hybrid hearing branding this as fear of local lawyers who have vested interests and control the system and who are worried about losing practise to wise knowledgeable men/women who appear on computer screen.

The talent has to be groomed over a period of time. The social interaction in court premises will guide the bar to be more mature and be socially committed. Good bar produces good judges. Will hybrid hearing help groom and sustain good, sober, knowledgeable, responsible bar.?

LEARNED PERSONS ACROSS THE COUNTRY NEED TO PONDER OVER THIS.

Criminal Law Reforms & Proposed Bills: A Gender Perspective

Charu Walikhanna

Advocate Supreme Court & Former Member NCW

To uphold constitutional rights and ensure justice, the Union Home Minister presented three groundbreaking Bills in the Lok Sabha on August 11, 2023 aimed at revamping criminal laws -The Bharatiya Nyaya Sanhita, 2023 (BNS) to replace the Indian Penal Code, 1860, the Bharatiya Nagarik Suraksha Sanhita, 2023 (BNSS) to replace the Code of Criminal Procedure, 1973 and the Bharatiya Sakshya Bill, 2023 (BSB) to replace the Indian Evidence Act, 1872. As many as 313 changes have been proposed in these three Bills with the objective of expediting court proceedings and ensuring that justice is delivered by courts within a three year timeframe, thereby preventing people from enduring the 'tareekh par tarekh' syndrome. This initiative by the government is pioneering, as its signifies the most substantial overhaul of criminal laws in the past seventy years.

Presently, the three Bills have since been referred to the relevant Parliamentary Standing Committee for review and recommendations.

Crimes Against Women

Violence against women has been in the spotlight since the brutal gang rape of Nirbhaya, after which thousands of protesters took to the streets, and even today, over a decade later, heated discussions persist on the need for safety of women. According to the National Crime Records Bureau data, crimes against women have increased and almost 10% of the victims were minors[1]. In percentage terms, major crime heads under 'Crime Against Children' during 2020 were Kidnapping & Abduction (42.6%) and Protection of Children from Sexual Offences Act, 2012 (38.8%) including child rape.[2]

Crime rate under the category of Cyber Crimes had increased with 6.6% cases registered in 2020 relating to sexual exploitation. It may be underpinned that these figures do not capture the true picture since a large number of rape and molestation cases go unreported as the police refuses to register the FIR or tries to coax the victim to settle the matter with the accused.

Further it is stated that the National Crime Records Bureau (NCRB) publishes the data on crime against women which is available for the year up to 2020. The data published by NCRB shows a declining trend in the crime against women which was 3,71,503 in the year 2020, as against 4,05,326 in the year 2019 . For the ûrst time, almost all indicators related to marital and natal violence such as dowry death (Sec. 304B Indian Penal Code or IPC), cruelty by husband or his relatives (Sec. 498A IPC), dowry harassment (the Dowry Prohibition Act), domestic violence (the Protection of Women from Domestic Violence Act) have registered decline as indicated in the following table:

Marital Offence	2019	2020
Cruelty by husband or his relatives (Sec. 498A IPC)	1,24,934	1,11,549
Dowry Harassment (under the Dowry Prohibition Act, 1961)	13,307	10,366
Dowry Death (Sec. 304B IPC)	7,141	6,966
Domestic Violence (under The Protection of Women from Domestic Violence Act, 2005)	553	446

The conviction rate in cases of rape stood at 39.3%, being lower than the conviction rate in cases of murder (44.1%). These statistics clearly highlight the pressing need for a comprehensive overhaul of the current law and enforcement systems. Without a doubt, it is imperative to make the criminal justice system in Bharat more responsive to the needs of women who are victims of sexual assault

[1]ENDNOTES

https://ncrb.gov.in/en/search/node/crime%20against%20women

[2] Ncrb.gov.in - Crime in India – 2020 SNAPSHOTS (States/UTs)

and gender based violence. Numerous modifications have been incorporated into the Bills; nevertheless, this article currently assesses the reforms through a gender-focused lens.

Concept of Zero Fir

Despite the introduction of Section 166A in the CrPC by Criminal Law Amendment Act 2013 (CLA 2013) which prescribes imprisonment of up to one year for refusing to register FIR in cases of sexual violence, including include voyeurism and stalking; yet still the practice of police declining to register the FIR still prevails, apart from intimidating the victim her into withdrawing her complaint or simply dismissing the complaint by saying it does not fall in their jurisdiction. This situation has been remedied by the BNSS which in Clause 173 (1) clearly states that information relating to the offence, can be given to the police irrespective of the area where the offence is committed.

In the investigation of crime the Bill also provides for the use of technology and forensic sciences, which play a crucial role in rape and murder cases. Forensic Science plays a pivotal role in the identification of a victim's body, utilising Advanced forensic techniques such as DNA Reports. These methods are not only critical in identifying the body, but also for analysing the crime scene and collection of evidence that offers clinching scientific support to substantiate the guilt of the accused. Keeping this in mind in Clause 176 relating to the procedure for investigation for offences punishable by imprisonment for at least seven years, it is mandatory for forensic expert to visit the crimes scene to collect forensic evidence and also cause videography of the process on mobile phone or any other electronic device. Since many States do not have forensic laboratory facilities or DNA profiling units the section has a proviso which states that where forensics facility is not available in respect of the offence, then State Government shall notify the utilisation of such facility of any other State.

The promotion of technology has been advocated to enhance the security of case records and enable quicker access. Commencing from the initial FIR, to the case diary and chargesheet, right upto the final judgement the records have to be digitally maintained. Clause 37 makes it mandatory for the State Government to establish a Police control room in every district and at State level; and designate a police officer in every district and in every police station, who shall be responsible for maintaining the information about the names and addresses of persons arrested, nature of the offence, to be prominently displayed including in digital mode in every police station and at the district headquarters. Clause 532 make provision for trials, inquiries and proceedings to be held in electronic means, by use of electronic communication or use of audio-video electronic means. Clause 105 of relating to Recording of search and seizure through audio-video electronic means is a significant reform since often the accused uses the defence of planting of evidence and contest the seizures as being false.

Rape

Rape is the fourth most common crime in Bharat with an average of 86 cases being registered daily (2021 Annual Report NCRB), with dalit women disproportionately being victims of this heinous crime. Since women are typically less physically strong, they may encounter challenges while attempting to defend themselves against an assailant. Nonetheless, the law provides protection for them if in their effort to resist the attacker results in his death or injury. In the BNS Sanhita Clause 38 corresponds with Section 100 IPC concerning the right of private defence. It has been articulated in a more detailed manner, explicitly encompassing actions like voluntary causing death or any other harm to the assailant. The exercise of this right extends to specified circumstances which include assault with intention of committing rape (c); and assault with intention of gratifying unnatural lust (d).

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Definition

The definition of rape in the BNS Sanhita Clause 63 corresponds with Section 375 IPC, and no alteration has been made in the definition. Historically, the concept of rape primarily centred on forceful genital intercourse perpetrated by a man against a woman, in which penetration was essential ingredient of the offence. Post Nirbhaya a plethora of legal and policy reforms were initiated, however, the quest for justice for survivors of gender-based violence is far from being over; and the proposed Bills present an opportune time to revamp the law by revisiting the definition of rape.

The definition of rape was expanded in the CLA 2013 to encompass a broader range of acts, including penetration into any body part and insertion of any object; thus including non-penile penetration, penetration of the anus and the urethra, and oral sex. All of these different types of offences were consolidated under one category, attracting a minimum punishment of seven years imprisonment. This leads one to contemplate on the question of whether a brutal act of heinous rape can be equated to non-consensual oral sex, when it comes to adherence of minimum punishment requirements. It appears exceedingly unlikely that a large number of judges, influenced by ingrained sexist stereotypes about women, would consider all kinds of non-peno-vaginal rape as deserving of 10 years' imprisonment. In the process of reform and decolonisation the BNS Sanhita needs to address this shortcoming on the fundamental premise that not all crimes inflict the same degree of harm on the victim. It is essential that punishments are proportionately based on the severity or degree of harm inflicted. Acknowledging the gravity of rape during communal or sectarian violence and to convey a strong message that women should not be instrumentalized for violence, a distinct provision has been included in Clause 64 (g) with more stringent penalties ie. rigorous imprisonment for a term which shall not be less than ten years, but which may extend to imprisonment for the remainder of that person's natural life. Clause 65 proposes separate and distinct provisions for rape of minors under 16 years and under 12 years of age with an enhanced minimum punishment.

A criminal trial for rape revolves around multiple narratives, presented by both the prosecution and the defense, and ultimately culminates in the narrative crafted by the final judgment. The case facts are usually presented in a manner invoking stereotypes in terms of female consent, communication, and desire. Illustrating this point is the case of Mahmood Farooqui vs State (Govt of NCT of Delhi): Crl.A.944/2016[3], wherein the High Court acquitting the appellant, relied on sexist stereotypes about consent. In her testimony the prosecutrix stated that she had said 'no' multiple times before and during the act. The High Court, observed that "78.Instances of woman behaviour are not unknown that a feeble no may mean a ye"'. Questions to be decided were framed from the accused's perspective, rather than the victim ie. "83. The questions which arise are whether or not there was consent; whether the appellant mistakenly accepted the moves of the prosecutrix as consent; whether the feelings of the prosecutrix could be effectively communicated to the appellant and whether mistaking all this for consent by the appellant is genuine…"The High Court giving the benefit of doubt to the appellant concluded, "102. But, it remains in doubt as to whether such an incident, as has been narrated by the prosecutrix, took place and if at all it had taken place, it was without the consent/will of the prosecutrix and if it was without the consent of the

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[3] *In one of the first cases of non-peno-vaginal rape under the amended Section 375 IPC, the appellant was convicted for oral rape by the trial court, and sentenced to 7 years imprisonment. Subsequently in appeal he was acquitted by the Delhi High Court. The Supreme Court dismissing the case declined to interfere with the High Court judgement.*

prosecutrix, whether the appellant could discern/ understand the same."

Judgments like these serve as a reflection of the factors contributing to the low conviction rates in rape cases, including the reason why women hesitate to report sexual assault. Not surprising women's reluctance to report often stems from the fear of being disbelieved by the police, and the challenge of substantiating the sexual assault because criminal law requires 'proof beyond reasonable doubt, apart from being stigmatised and shamed. It is important to acknowledge that due to the same reasons many women choose not to report sexual harassment, a factor that further emboldens the perpetrator. The definition of Assault or criminal force to woman with intent to outrage her modesty, Sexual harassment and punishment for sexual harassment, Assault or use of criminal force to woman with intent to disrobing, Voyeurism and Stalking in Clauses 73, 74, 75 and 76 respectively is the same as in IPC Sections 354, 354A, 354B, 354C, 354D, and no change has been made.

Marital Rape – The topic of marital rape has been a subject of heated debate in the recent times; and it has not been criminalised in the BNS Sanhita for Clause 63 states - Sexual intercourse or sexual acts by a man with his own wife, the wife not being under eighteen years of age, is not rape. This clause corresponds with the exception carved out in Section 375 (IPC), which exempts non-consensual sexual intercourse between a legally wedded husband and wife from the definition of rape. There are opponents as well as proponents of the criminalization of marital rape. Those in favour of the exemption contend that this provision safeguards the sanctity of marriage, asserting that implementing marital rape legislation may pose a risk to the institution of family. Whereas, on the other hand it is argued that the non-recognition of the offence marital rape is a blatant violation of women's rights, and infringes the fundamental rights of equality and dignity enshrined in the Constitution. Non-criminalising marital rape encourages male dominance and lends legal sanction to patriarchy, which in turn exacerbates domestic violence and sexual abuse.

To alleviate the concerns of those who believe it may legitimize sexual violence within marital relationships, it is clarified that the current legal framework already protects married women. In case the woman wants her marriage to subsist but the sexual violence to ebb, then she has the option of resorting to The Protection of Women from Domestic Violence Act (PWDV Act) 2005. She has the right to approach the police station directly and register a complaint, or file a complaint to a Protection Officer or Service Provider, or go to court (Magistrate). The Act gives a very expansive definition to the term "domestic violence", and includes 'sexual abuse' as a form of violence. According to Section 3 of the PWDV Act -(ii) "sexual abuse" includes any conduct of a sexual nature that abuses, humiliates, degrades or otherwise violates the dignity of woman. The law provides a number of reliefs ranging from

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counselling of both parties and monetary compensation, to protection order restraining respondent from committing act of violence. All in the hope of enabling the woman lead a peaceful marital life. Section 31 of the PWDV Act imposes penalty for breach of protection order by respondent, which includes imprisonment or fine. In case the woman wants her husband punished in the first instance itself, she has the option to use an alternate route of criminal action against her husband as proposed under Clause 85 which corresponds with Section 498A IPC, relating to husband or relative of husband of woman subjecting her to cruelty, and attracts a three year imprisonment.

Adjudication, Sentencing & Judgement

As stated above no alteration has been made in the definition of rape, but the punishment has been raised from minimum seven years to 10 years or life imprisonment. In Clause 65 the punishment for rape on a girl under 16 years of age is minimum 20 years which may extend to imprisonment for the remainder of person's natural life; and if the girl is under 12 years of age the punishment includes death penalty. There is a concern that when punishments become so severe, then Courts may be reluctant to award conviction in sexual offence cases, taking into account the shortcomings in both, investigation and prosecution. This could potentially result in a further decline in conviction rates. Enhancing punishments may end up providing a perverse incentive for courts to acquit the accused. For example in Criminal Appeal 61 of 2022: Rahul v State of Delhi, the Supreme Court reversed a well reasoned High Court judgement[4] of death penalty (dated 26.08.2014) to acquittal on grounds of doubting the circumstances under which the accused were arrested, discovery of incriminating articles, DNA evidence on record and raised serious doubts regarding the story put-forth by the prosecution. Notable is the fact that the fact that the Supreme Court took seven years to adjudicate a special fast track court matter and the judgement was pronounced after laying reserved for seven months (07.11.2022). Pertinent in this context is the landmark case of Anil Rai vs. State of Bihar :MANU/SC/1586/ 2001 5 wherein the Apex Court opined "..Unfortunately, the Judges concerned had no concern until one of them reached near the date of his superannuation. They then reminded themselves of the obligation of delivering the judgment. It was thus that the impugned judgment had come out, at last, from torpidity." "…6 . If delay in pronouncing judgments occurred on the part of the Judges of the subordinate judiciary, the whip of the High Court studded with supervisory and administrative authority could be used and it had been used quite often to chide them and sometimes to take action against the erring judicial officers. … But unfortunately, the later years have shown slackness on the part of a few Judges of the superior Courts in India with the result that once arguments is concluded before them, the records remain consigned to hibernation. Judges themselves normally forget the details of the facts and niceties of the legal points advanced. Sometimes the interval is so long that the Judges forget even the fact that such a case is pending with them expecting judicial verdict. Though it is an unpleasant fact, it is a stark reality."

In the light of the aforesaid, and with the intention to reduce the pendency in the judicial system, the pronouncement of judgment has been made time-bound with the introduction of Clause 258 in the BNSS. It states, "After hearing arguments and points of law (if any), the Judge shall give a judgment in the case, as soon as possible, within a period of 30 days from the date of completion of arguments, which may for specific reasons extend to a period of 60 days".

Recommendation

The CLA 2013 broadened the definition of the crime of rape, however, faltered in recognising the full spectrum of sexual offences and need for graded punishment. The BNS Sanhita should on the lines of the Protection of Children from Sexual Offences (POCSO) Act prescribe graded punishment as per the gravity of the offence; and accordingly amend the definition of rape in Clause 63, so that it distinguishes between different forms of penetration, rather than grouping them all into a single category of gravity for the purpose of minimum punishment. Secondly, to fully accomplish the process of reform, it is imperative to change the terminology used and discard archaic terms such as 'rape', and 'outraging the modesty of women'; instead within the category of 'Sexual Crimes Against Women', different offences and their corresponding punishments can be classified. ❑

[4] Trial was conducted by a Special Fast Track Court, Dwarka Courts, New Delhi conducted the trial and all the three accused vide order dated 13.02.2014 were convicted for having committed the offences punishable under Sections 365/34 IPC; 367/34 IPC; 376(2)(g) IPC; 302/34 IPC and 201/34 IPC. By later Order dated 19.02.2014, the Ld. Trial Court imposed the sentence of death subject to confirmation by the High Court as provided under Section 366 Cr.P.C. Criminal Appeal No. 563/2014, 726/2014 and 1036/2014 were file which were heard by the High Court along with Death Sentence Reference No. 01/2014. By a common judgment and Order dated 26.08.2014 passed in the aforesaid Criminal Appeals and the Death Sentence Reference, the High Court affirmed the conviction of the accused persons, so also, affirmed the sentence of death and other sentences imposed upon the accused persons by the Ld. Trial Court.

Indian Constitution - Unitary or Federal

Ashok Kumar Chakrabarti
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The burning question arises in our Country on national issues asto whether the states can question each and every issue of the nation and even the laws made by Parliament on the pretext that Indian Constitution is federal.

In the recent past, the amendment of the Citizenship Act (hereinafter called Citizenship Amendment Act) of 2019 and the enactment of the Farm laws of 2020 gave rise to unprecedented Political Stir throughout the Country and those who were opposing such enactments took the main shelter and/or pretext of the federal structure of the Constitution of India.

Before coming to the moot question asto whether such a justification is valid within the Constitutional frame work, a cursory glance on the meaning of federalism may enlighten us. It is true that some federal principles are dominant in our Constitution; establish the essence of federalism i.e. having states and Sovereign Union Government with a division of functions between them. Furthermore, questions still arise asto whether India is a federal State in the traditional sense and/or on the basis of agreements between various states including the territories of the Country.

In the case reported in AIR 1994 Supreme Court, page 1918 (1994)3 SCC Page-1 (S.R. Bommai-Vs-Union of India) a nine Judge Bench of the Hon'ble Supreme Court considered Inter-alia the nature of federalism under the Constitution of India. Hon'ble Apex Court held that there is a significant absence of expressions like 'federal' or 'federation' in the Constitutional vocabulary and the Parliament's Power under the Constitution is supreme. It had further been held in the said judgementthat the Power to intervene in the matters of State given by the Constitution to the Central Government and to the Parliament negate the very concept of federalism.

In the United States, the states are Sovereign and enjoy their own separate existence. States have their own Constitutions; they have their rights to collect income tax independently.Supremacy of the States, independence of the Judiciary, decentralization and the actual separation of powers constitute United States as a federal country.

In the recent past, the amendment of the Citizenship Act (hereinafter called Citizenship Amendment Act) of 2019 and the enactment of the Farm laws of 2020 gave rise to unprecedented Political Stir throughout the Country and those who were opposing such enactments took the main shelter and/or pretext of the federal structure of the Constitution of India.

Some people take the plea that list II of the Seventh Schedule of the Constitution of India gives power to the State Legislatures to enact their own laws and the existence of the upper house of the Parliament being the Council of States. But a comparative study of Indian Constitution and the Constitution of United States reflects that both the Constitutions are completely different on the issue of federalism.

The Sovereign power is divided in a Federal State between the national Government and some other local

governments and the same territory is controlled by the two levels of government. Inother words, in a federal state, there exists unique features of balance between horizontal and vertical division of Powers. The diversity of public policy is also allowed in the federal Constitution and the Constitution allows the States to make important Policies for the States.

The Constituent Assembly incorporated List II of the Seventh Schedule of the Constitution of India and gave powers to the State Legislatures to enact their own laws since some independent States like Hyderabad and North Eastern States merged in India. In our Constitution Parliament can by law form a new state, alter the size of an existing state, alter the name of an existing state and can even curtail the power, both executive and legislative by constitutional amendments.

Article 352 of the Constitution of India gives power to the President on the recommendation of the Central Government to proclaim emergency on the objective satisfaction that a grave emergency exists whereby the security of the country or any territory thereof is threatened and onvarious other grounds.

Article 353 of the Constitution of India describes the effect of proclaimation of emergency; and the executive power of the Union shall extend to the giving of directions to any State and the manner in which such power is to be exercised. The said power of the Parliament are enough powers to make laws with respect to any matter regarding imposition of duties upon the Union officers even if the same is not included and/or enumerated in the Union list, being the list to enact laws by the Union only.

Article 354 talks about distribution of revenues while Proclaimation of emergency is in operation and the power of the President to pass an order that all or any of the Provisions of Articles 268 to 279, being the provisions regarding distribution of revenue between Union and states, shall cease to operate during such Proclaimation,

Article 355 of the Constitution of India clothes the Union to protect states against external aggression and Internal disturbances and to ensure that the government of every state is carried on according to the Provisions of the Constitution. This term 'external aggression' in Article 355 is a word of wide import and not limited to war, but comprises many other acts other than war. The question of national security and to maintain the same is primary to the Union under the said Article and the question of national security is not a question of law, but a policy of the Union government.

The President, on receipt of a report from the Governor of a State or otherwise, if, is satisfied that a situation has arisen in which, the government of a State cannot be carried on in accordance with the provisions of the Constitution, the President may, by Proclaimation (a) assume to himself all or any of the functions of the government of that state and all or any of the powers vested in or exercisable by the Governor or anybody or authority in the State other than the legislature of the State, (b) power to declare, under the said Article that the Powers of the legislature of the State shall be exercisable by or under the authority of the Parliament and (c) to make such incidental and consequential provisions as shall appear to the President to be necessary or desirable for giving effect to the object of Proclaimation including Provisions for suspending whole or in part the operation of any Provision of the Constitution relating to anybody or authority in the state.

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The appointment of the Governor and the report for exercising power under Article 356 of the Constitution of India itself shows that power of the Parliament and Union of India is supreme under the Constitution of India.

The Constitution of India also gives power to the Parliament to confer on the President the Power of the legislature of the state to make laws and the power to delegate. Powers upon the Union officers and authorities. It is also provided in Article 357 that the President of India is given power to deal with consolidated fund of the state pending the sanction of such expenditure by Parliament. Article 357(2) gives another independent power to continue in force with laws during Proclaimation and even when such Proclaimation ceases to operate.

Article 360 gives power to the President to issue proclaimation of financial emergency in the Country if the situation so exists. The President of India and the Governors of States or Raj Promukhs have been various protections under Article 361.

In case of a conflict between the laws made by the Union and the states and particularly the laws made under List III of the Constitution, the laws of the Union shall prevail.

List I being Union list of the Seventh Schedule of the Constitution of India gives power to the Union under Entry I and (IIA) for deployment of Forces in the States. The State laws require the assent of the President as head.

On a plain reading of the above provisions and the structure of the Constitution of India, it is crystal clear that the Indian Constitution is not federal in the same manner and object of the Constitution of United States and India is not a free federation as has been held in the cases reported in Kuldeep Nair Vs. Union of India (2006(7) SCC Page-1], ITC Limited -Vs.- Agricultural Produce market Committee [2002(9) SCC 232], State of West Bengal-Vs.- Union of India [AIR 1963, SC 1241].

The Constitution of India is Supreme and Constitution gives the President of India to exercise all independent and unfettered powers on the aid and advice of the Council of Ministers of the Union Government including right to suspend freedom of expression conferred under Article 19, during emergency. The object of the Constitution of India is to provide a strong Centre which is unitary and the power of the Parliament to legislate with respect to matters in the State list in national interest, in case there is a resolution of the Council of States, and the power to give effect to provisions regarding All India Services, unmistakably demonstrate and/or destroy the basic concept of federal state in India Constitution.

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Finally, under Indian Constitution, there is one citizenship i.e. the Citizenship of India and the Preamble to the Constitution of India begins with the words 'We, the People of India, having solemnly resolved toConstitute India a Sovereign, Socialist, Secular, Democratic Republic and to secure to all its citizens, justice, liberty, equality and fraternity.

Indian Constitution is unitary with some federal features and is completely distinguishable with the federal Constitution of the United States.

मृत शरीर के साथ संभोग भारत में नहीं अपराध

अभिषेक सिंह, *शोधार्थी विधि*

यौन संबंध के प्रावधान में किसी व्यक्ति को मृत शरीर के साथ संभोग करने के आरोप में दोषी ठहराने की धारा नहीं है। कर्नाटक उच्च न्यायालय ने हाल में यह कहते हुए केंद्र से भारतीय दंड संहिता (आईपीसी) के संबंधित प्रावधानों में संशोधन करने को कहा है। इसके अलावा न्यायालय ने लाशों के साथ **यौन संबंध** के लिए अपराधीकरण और सजा प्रदान करने वाले नए प्रावधान लाने को भी निर्देश दिए है। केंद्र सरकार को धारा 377 के प्रावधानों में संशोधन करना चाहिए या मृत महिलाओं के खिलाफ नेक्रोफिलिया (मृत शरीर पर यौन हमला) या परपीड़न के रूप में अलग प्रावधान पेश करना चाहिए जैसा कि ब्रिटेन, कनाडा, न्यूजीलैंड और दक्षिण अफ्रीका में किया गया है। जस्टिस बी वीरप्पा और वेंकटेश नाइक टी की खंडपीठ ने 30 मई को आदेश में कहा कि मृत व्यक्तियों, विशेष रूप से महिलाओं की मृत्यु उपरांत भी उनके मृत देह की गरिमा के रूप में लेना चाहिए।

ऐसी बेइज्जती नहीं हो

न्यायालय ने मौजूदा मामले की चर्चा करते हुए कहा कि हमारा अनुभव है कि समाचार पत्र मुआवजे या बेहतर सुविधाओं की मांग के समर्थन में लोगों की अवैध रूप से लाशों को सड़क पर या पुलिस थानों के सामने रखने, घंटों तक यातायात बाधित करने की रिपोर्ट प्रकाशित करते हैं। समाज को मृतकों का ऐसा अपमान नहीं करने देना चाहिए। राज्य को लोगों द्वारा उनके शलीन और गरिमापूर्ण अंतिम संस्कार के लिए दुरुपयोग किए गए शवों को अपने कब्जे में लेना चाहिए।

धारा 375 या धारा 377 के तहत अपराध है?

न्यायालय ने सवाल करते हुए पूछा कि आरोपी ने शव के साथ शारीरिक संबंध बनाए। लेकिन क्या यह भारतीय दंड संहिता की धारा 375 या धारा 377 के तहत एक अपराध है? न्यायमूर्ति बी वीरप्पा और वेंकटेश नाइक टी की खंडपीठ ने 30 मई को अपने फैसले में कहा कि भारतीय दंड संहिता की धारा 375 और 377 के प्रावधानों को ध्यान से पढ़ने से यह स्पष्ट होता है कि मृत शरीर को मानव या व्यक्ति नहीं कहा जा सकता है। इसलिए, यह भारतीय दंड संहिता की धारा 375 या 377 के प्रावधान में शामिल नहीं हो सकते। भारतीय दंड संहिता की धारा 376 के तहत दंडनीय कोई अपराध नहीं है। अधिक से अधिक, इसे परपीड़न और नेक्रोफीलिया के रूप में माना जा सकता है।

नेक्रोफिलिया बीमारी क्या होती है?

यूनाइटेड किंगडम और कनाडा सहित कई देशों के उदाहरणों का हवाला देते हुए, उच्च न्यायालय ने कहा कि नेक्रोफिलिया एक ऐसी बीमारी है, जिसमें शख्स शवों के साथ यौन संबंध बनाता है। अपने फैसले में कहा कि यहीं सही समय है जब केंद्र सरकार आईपीसी की धारा 377 के प्रावधानों में संशोधन कर सकती है। इसमें पुरुषों, महिलाओं या जानवरों के मृत शरीर को शामिल किया है।

सत्र न्यायालय ने आरोपी को ठहराया था दोषी

21 वर्षीय पीड़िता के भाई ने अपनी बहन की हत्या की शिकायत दर्ज करवाई थी। भाई ने अपनी शिकायत में बताया था कि उसकी बहन कंप्यूटर क्लास से वापस नहीं लौटी और घर के रास्ते में उसका गला रेतकर हत्या कर दी गई। साथ ही उसका शव भी वहीं पड़ा हुआ मिला था। पुलिस ने आरोपी को घटना के एक हफ्ते बाद गिरफ्तार कर लिया था। दोषी ठहराते हुए सत्र न्यायालय ने उसे धारा 302 (हत्या) के तहत दोषी करार देते हुए आजीवन कारावास की सजा सुनाई थी। इसमें उसे धारा 376 के तहत यौन संबंध का दोषी पाते हुए 14 अगस्त, 2017 को 10 साल कैद की सजा सुनाई गई थी।

आरोपी को दोषी ठहराना गलत

इसके बाद आरोपी ने सत्र न्यायालय के फैसले को चुनौती देते हुए उच्च न्यायालय में अपील दायर की मामले की

सुनवाई खंडपीठ ने की। आरोपी के अधिवक्ताओं ने तर्क दिया कि आरोपी का कार्य **नेक्रोफीलिया** के अलावा और कुछ नहीं है और उक्त अधिनियम के लिए अभियुक्त को दोषी ठहराने के लिए भारतीय दंड संहिता में कोई विशेष प्रावधान नहीं है। उच्च न्यायालय ने आरोपी को हत्या का दोषी पाया लेकिन उसे यौन संबंध के आरोपों से बरी कर दिया।

आरोपी को किया बरी

उच्च न्यायालय ने आईपीसी की धारा 376 के तहत व्यक्ति को बरी कर दिया है। आरोपी पर महिला की हत्या और फिर उसके मृत शरीर के साथ शारीरिक संबंध बनाने का आरोप था। घटना 25 जून 2015 की है और आरोपी तुमकुरु जिले के गांव का रहने वाला है। हालांकि, उच्च न्यायालय ने आईपीसी की धारा 302 हत्या के तहत आरोपी को कठोर आजीवन कारावास और 50,000 रुपये के जुर्माना देने का आदेश दिया है।

सरकार को निर्देश

छह महीने के भीतर मृतकों, विशेषकर महिलाओं के खिलाफ अपराध को रोकने के लिए सरकारी और निजी मुर्दाघरों में सीसीटीवी कैमरे स्थापित करें। मुर्दाघरों में स्वच्छता बनाए रखें और शवों को गरिमापूर्ण तरीके से संरक्षित करें। क्लिनिकल रिकॉर्ड की गोपनीयता बनाए रखें और मृतकों से संबंधित सूचनाओं की सुरक्षा के लिए एक तंत्र रखें, विशेष रूप से एचआईवी और आत्महत्या के मामलों में। सुनिश्चित करें कि पोस्टमॉर्टम रूम आम जनता के लिए खुले नहीं हैं। समय–समय पर मुर्दाघर के कर्मचारियों के बीच शवों को संभालने के बारे में जागरूकता बढ़ाएं।

भारत मे महिलाओं से बलात्कार से संबंधित कानून की ऐतिहासिक पृष्ठभूमि

भारत में बलात्कार को स्पष्ट तौर पर भारतीय दंड संहिता में परिभाशित अपराध की श्रेणी में वर्ष 1960 में शामिल किया गया। उससे पहले इससे संबंधित कानून पूरे देश में अलग–अलग तथा विवादास्पद थे। वर्ष 1833 के चार्टर एक्ट के लागू होने के बाद भारतीय कानूनों के संहिताबद्ध करने का कार्य प्रारंभ किया गया। इसके लिये ब्रिटिश संसद ने लॉर्ड मैकॉले की अध्यक्षता में पहले विधि आयोग का गठन किया। आयोग द्वारा आपराधिक कानूनों को दो भागों में संहिताबद्ध करने का निर्णय लिया गया। इसका पहला भाग भारतीय दंड संहिता तथा दूसरा भाग दंड प्रक्रिया संहिता बना। भारतीय दंड संहिता के तहत अपराध से संबंधित नियमों को परिभाषित तथा संकलित किया गया। इसे अक्तूबर 1860 में अधिनियमित किया गया लेकिन 1 जनवरी, 1862 में लागू किया गया। आपराधिक न्यायालयों की स्थापना तथा किसी अपराध के परीक्षण एवं मुकदमे की प्रक्रिया के बारे में है।

भारतीय दंड संहिता की धारा 375 में बलात्कार को परिभाषित किया गया तथा इसे एक दंडनीय अपराध की संज्ञा दी गई। धारा 376 के तहत बलात्कार जैसे अपराध के लिये न्यूनतम सात वर्ष तथा अधिकतम आजीवन कारावास की सजा का प्रावधान किया गया।

भारतीय दंड संहिता के तहत बलात्कार की परिभाषा में निम्नलिखित बातें शामिल की गई हैं

किसी पुरुष द्वारा किसी महिला की इच्छा या सहमति के विरुद्ध किया गया शारीरिक संबंध।

जब हत्या या चोट पहुँचाने का भय दिखाकर दबाव में संभोग के लिये किसी महिला की सहमति हासिल की गई हो।

18 वर्ष से कम उम्र की किसी महिला के साथ उसकी सहमति या बिना सहमति के किया गया संभोग।

इसमें अपवाद के तौर पर किसी पुरुष द्वारा उसकी पत्नी के साथ किये गये संभोग, जिसकी उम्र 15 वर्ष से कम न हो, को बलात्कार की श्रेणी में नहीं शामिल किया जाता है।

वर्ष 1972 का मामला

वर्ष 1860 के लगभग 100 वर्षों बाद तक बलात्कार तथा यौन हिंसा के कानूनों में कोई बदलाव नहीं हुए लेकिन 26 मार्च, 1972 को महाराष्ट्र के देसाईगंज पुलिस स्टेशन में मथुरा नाम आदिवासी महिला के साथ पुलिस कस्टडी में हुए बलात्कार ने इन नियमों पर खासा असर डाला। सेशनकोर्ट ने अपने फैसले में यह स्वीकार करते हुए आरोपी पुलिसकर्मियों को बरीकर दिया कि उस महिला के साथ पुलिस स्टेशन में संभोग हुआ था किंतु बलात्कार होने के कोई प्रमाण नहीं मिले थे और वह महिला यौन संबंधों की आदी थी। हालाँकि सेशन कोर्ट के इस फैसले के विपरीत उच्च न्यायालय ने आरोपियों के बरी होने के निर्णय को वापस ले लिया। इसके बाद सर्वोच्च न्यायालय ने फिर उच्च न्यायालय के फैसले को बदलते हुए यह कहा कि इस मामले में बलात्कार के कोई

स्पष्ट प्रमाण नहीं उपलब्ध है। सर्वोच्च न्यायालय ने कहा कि महिला के शरीर पर कोई घाव या चोट के निशान मौजूद नहीं है जिसका अर्थ है कि तथाकथित संबंध उसकी मर्जी से स्थापित किये गए थे।

आपराधिक कानून में संशोधन

मथुरा मामले के बाद देश में बलात्कार से संबंधित कानूनों में तत्काल बदलाव को लेकर मांग तेज हो गई। इसके प्रत्युत्तर में आपराधिक कानून (दूसरा संशोधन) अधिनियम, 1983 पारित किया गया।

इसके अलावा भारतीय दंड संहिता में धारा **228 ए** जोड़ी गई जिसमें कहा गया कि बलात्कार जैसे कुछ अपराधों में पीड़ित की पहचान गुप्त रखी जाए तथा ऐसा ना करने पर दंड का प्रावधान किया जाए।

वर्तमान में बलात्कार से संबंधित कानूनों की प्रकृति

दिसंबर 2012 में दिल्ली में हुए बलात्कार तथा हत्या के मामले के बाद देश में आपराधिक कानून (संशोधन) अधिनियम, 2013 पारित किया गया जिसने बलात्कार की परिभाषा को और अधिक व्यापक बनाया तथा इसके अधीन दंड के प्रावधानों को कठोर किया।

इस अधिनियम में जस्टिस जे. एस. वर्मा समिति के सुझावों को शामिल किया गया जिसे देष में आपराधिक कानूनों में सुधार तथा समीक्षा के लिये बनाया गया था। यौन हिंसा के मामलों में कारावास की अवधि को बढ़ाया तथा उन मामलों में मृत्युदंड का भी प्रावधान किया जिसमें पीड़ित की मौत हो या उसकी अवस्था मृतप्राय हो जाए। इसके तहत कुछ नए प्रावधान भी शामिल किये गए जिसमें आपराधिक इरादे से बलपूर्वक किसी महिला के कपड़े उतारना, यौन संकेत देना तथा पीछा करना आदि शामिल हैं।

सामूहिक बलात्कार के मामले में सजा को 10 वर्ष से बढ़ाकर 20 वर्ष या आजीवन कारावास कर दिया गया।

इस अधिनियम द्वारा अवांछनीय शारीरिक स्पर्श, शब्द या संकेत तथा यौन अनुग्रह करने की मांग करना आदि को भी यौन अपराध में शामिल किया गया।

इसके तहत किसी लड़की का पीछा करने पर तीन वर्ष की सजा तथा एसिड अटैक के मामले में सजा को दस वर्ष से बढ़ाकर आजीवन कारावास में बदल दिया गया।

नाबालिगों के मामले में कानून

जनवरी 2018 में जम्मू–कश्मीर के कठुआ में एक आठ वर्षीय बच्ची के साथ हुए अपहरण, सामूहिक बलात्कार तथा हत्या के मामले के बाद पूरे देश में इसका विरोध हुआ तथा आरोपियों के खिलाफ सख्त कार्यवाही की मांग की गई।

इसके बाद आपराधिक कानून (संशोधन) अधिनियम, 2018 पारित किया गया जिसमें पहली बार यह प्रावधान किया गया कि 12 वर्ष से कम आयु की किसी बच्ची के साथ बलात्कार के मामले में न्यूनतम 20 वर्ष के कारावास या मृत्युदंड की सजा का प्रावधान होगा।

इसके तहत में एक नया प्रावधान भी जोड़ा गया जिसके द्वारा 16 वर्ष से कम आयु की किसी लड़की के साथ हुए बलात्कार के लिये न्यूनतम 20 वर्ष का कारावास तथा अधिकतम उम्र कैद की सजा हो सकती है। बलात्कार के मामले में न्यूनतम सजा के प्रावधान को सात वर्ष से बढ़ाकर अब 10 वर्ष कर दिया गया है।

विदेशों में क्या है कानून

यूनाइटेड किंगडम में, यौन अपराध अधिनियम, 2003 की धारा 70 के तहत जानबूझकर या लापरवाही से शव के साथ संबंध बनाने पर आरोपी को 6 महीने से लेकर 2 साल तक की सजा का प्रावधान है. कनाडा में आपराधिक संहिता, 1985 की धारा 182 नेक्रोफिलिया को दंडनीय बनाती है। वहीं कनाडा में सजा पांच साल तक की सजा और दक्षिण अफ्रीका में आपराधिक कानून (यौन अपराध और संबंधित मामले) संशोधन अधिनियम, 2007 की धारा 14 नेक्रोफीलिया पर रोप लगाती है।

नेक्रोफिलिया पर भारत का कानून

नेक्रोफिलिया एक अपराध तो है लेकिन भारतीय दंड संहिता में इसकी सजा नहीं दी गयी है। अभी तक नेक्रोफिलिया को अपराध की श्रेणी में नहीं रखा गया है। हालांकि, कुछ केस में आईपीसी सेक्शन 297 लगाया जाता है लेकिन इनमें भी नेक्रोफिलिया पर स्पष्ट तौर से कुछ नहीं कहा गया है। आईपीसी सेक्शन 297 के अनुसार अगर कोई किसी इंसान की भावना को ठेस पहुंचाने की मंशा से धर्म का अपमान करने के लिए शमशान या कब्रिस्तान (लाश की खुदाई या लाश से गलत हरकत करना) में घुसता है, जबकि उस संबंधित शख्स को पता है कि उसके कार्य से किसी को ठेस पहुंचेगी तो इसे अपराध माना जाएगा। ❑

Ancient Legal Wisdom And The Concept Of Laws: Unveiling The Court Insight

Bhumika Choubisa

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Introduction

In the era, where women are actively participating in every sphere of working fields it becomes the duty of the administration to make them available with the basic needs of livelihood at their working places. Not just for women, even men are subjected to get these basic facilities like separate washrooms and toilets, common room. But where are we standing? Even the noble profession of advocacy is struggling to get these basic requirements at their working place- court campus or premises.

Women have struggled a lot from gaining education to practising professions of their own choice, from stepping out from their homes to serving the Nation, even still facing criticism from their family or society. Even after being a part of its whole journey law field is still said to be dominating, as is seen by the proportion of male and female advocates registered at the Bar Council and Bar Associations in India. Women are fighting hard against this male-dominated mentality to establish themselves in the field of law resulting in increasing numbers of women registrations, female Magistrates and Judges at different levels. Although the number of lady advocates is on rise but the provision of sufficient facilities like separate toilets, girls' common rooms, feeding rooms, crèches, etc., for them is still sadly lacking.

Even the public infrastructure is designed to cater to men. A report in 2012 found that there are almost twice as many public toilets for men than there are for women in Mumbai. Additionally, the toilets that do exist, lack proper hygiene standards and are often unsafe. A 2017 study by ActionAid India found that 35% of the 229 toilets surveyed in Delhi did not have a separate section for women, 53 percent did not have running water and 45% did not have mechanisms to lock the door from inside.

Women are nowhere lacking at proficient in their work but this lack of basic facilities in the court premises is creating hindrances in their active working in the field, leaving female advocates struggling to find availability of these basic facilities near court premises and this is discouraging them from entering or serving this legal system through advocacy. These facilities are not just required for the female advocates but also for the female staff working in the court, practising interns, female clients and visitors.

Women have struggled a lot from gaining education to practising professions of their own choice, from stepping out from their homes to serving the Nation, even still facing criticism from their family or society. Even after being a part of its whole journey law field is still said to be dominating, as is seen by the proportion of male and female advocates registered at the Bar Council and Bar Associations in India.

Basic Requisites

Any infrastructure is required to have at least the following basic facilities available.

- Separate and adequate number of toilets: every court campus must provide a separate and adequate number of toilets so that she does not have to stand in a long queue or to find toilets at nearby places. It must ensure that these toilets are to be clean and properly equipped, must have proper water and electricity

supply, sufficient numbers of dustbin, dispensing anti-bacterial soaps, etc., are the very basic requirement that must be availed not just in the court premises but at every workplace and public places. Ensuring the toilets are regularly cleaned and disinfected.

- **Ladies' common room:** as it is seen that many female advocates does not have their own chambers or personal place to sit in the court complex in this case a ladies common room must be provided to them where they can comfortably sit, rest, study, have informal discussions in free time. This room should be equipped with drinking water facility, a water cooler with water purifier, attached washroom with a sanitary napkin vending machine, chairs to seat, properly ventilated, well lit, neat and clean.
- **Feeding room:** a female advocate is not just a working women but can also be a mother. Non existence of feeding room force mother advocates to stay their home in order to regularly feed their small children. A feeding room should be located in a physically separate area, with direct access away from restrooms but close to the workspace. It must also ensure privacy, so entrances must therefore be closed properly and the facilities must be designed to ensure that mothers using room are not visible from the outside. Ideally, these room should have handwashing facilities and necessary supplies such as drinking water, liquid soap, dispenser, hand sanitizer, cleaner for surfaces and paper towels.
- **Creche:** a crèche is a facility which enables parents to leave their children while they are at work and where children are provided stimulating environment for their holistic development. Crèche are designed to provide group care to children, usually up to 6 years of age, who need care, guidance and supervision away from their home during the day.

  Creche need to be available near the workplace so that female advocates can work freely without worrying about the care of their children. Crèche should have adequate space for all the children, preferably on the ground floor, physical environment should be reasonably suitable for children with special need, facilitating with well lighted with adequate ventilation, food and cooking facilities, health check-up, medicine & first aid kit, equipment and play material.
- Others facilities like proper security, CCTV cameras, medical facilities, etc.

Poor Facilities at Different Courts of India

- A 2019 report by the Vidhi Centre for Legal Reform Policy found that among the 74 district courts in Uttar Pradesh, four didn't have a single washroom at all, while seven had no facilities for women.
- At the Hapur District Court, out of four tiny toilets for women, only one is functional. The toilet's door is cracked leaving no privacy for women, and there is no running water.
- Highlighting the major concern over judicial infrastructure in the country, Chief Justice of India N.V. Ramana stated on October 23, 2021 that 26 per cent of the court premises have no separate toilets for women and 16 per cent even do not have toilets, while only 54 per cent courts have purified drinking water facilities.
- Union Law Minister- KirenRijiju told the RajyaSabha that twenty-six percent of court complexes in India do not have a separate toilet for women on Decenber 02, 2021.
- In Andhra Pradesh, 69 per cent court complexes did

Creche need to be available near the workplace so that female advocates can work freely without worrying about the care of their children. Crèche should have adequate space for all the children, preferably on the ground floor, physical environment should be reasonably suitable for children with special need, facilitating with well lighted with adequate ventilation, food and cooking facilities, health check-up, medicine & first aid kit, equipment and play material.

not have washrooms for women. In Odhisha, 60 per cent and Assam 59 per cent court complexes are facing these conditions.

- No toilet for women lawyers in Ooty Court complex for the last 25 years.

Challenges she faces due to Lack of Basic Requisites in Court Campus

- **Lack of Inadequate and Separate Toilet Facilities**

It is seen that these inadequate and poor functioning toilets are not just problems for women but men also faces the same in the court premises but the difference is they are less constrained by inadequate sanitation due to their willingness and ability to relieve themselves in public and the absence of social stigma and personal safety risk associated with men doing so, whereas the women has these social stigma and risk of sexual harassment or assault, means they are unable to relieve in public. This left them with no choice except to wait until they reached home or go in search of toilets near court premises. Such search affects the number of hours they spent on working.

Inadequate number of toilets forced them to spend lot of time in long queues just to use toilets which discourages women from using the facilities resulting in having less water intake to avoid using toilets frequently.

Even where such toilet facilities are available they lack at proper functioning and cleanliness this affects women the most as they are expected to always exhibit a certain degree of cleanliness. During the time of menstruation, she is highly in need of services or infrastructure particularly a private, clean and equipped place which she can use to change, wash or dispose of sanitary materials safely and discretely. But due to lack of use place in the court premises lady advocates mostly avoid working in fields rather prefer to stay at home so they do not face the problem of inadequate or dirty toilets and lack of facilities.

The health burden of inadequate sanitation may cause women to purposely restrict their fluid intake, despite thirst or heat signals, to avoid the need for a toilet. Delaying urination and refraining from drinking water to avoid using toilets often lead to dehydration in heat and cause internal injuries such as acute kidney injuries (AKI) or UTIs. For women who are menstruating, the need for adequate sanitation becomes even more acute and lack of access to it puts them at a higher risk of urogenital infections.

Such sanitation problems not just affect the physical health of the lady advocates but equally affect their mental health of them, affecting proficiency in their work and even causing financial loss to them.

It is also observed that in many court premises toilets are at hidden places which leaves the women with the fear of being sexually assaulted or attacked. These problems are not just faced by the lady advocates but also are matters of concern for the law interns, clients and visitors.

- **Lack of other Facilities**

Alike importance of proper facilities of toilet, other facilities like common room, feeding room, crèche, etc., are equally important. On giving general thought over it, it seems to be less important but is creating hindrance in their working.

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Lack of availability of general facilities act as a drawback for the women who are working hard to make their name in this field of law. Where women are the integral part of this field, women should have get these requisites decades before, even before raising demand for it.

Governing Statues

- The Constitution of India under Article 14 guarantees gender equality, that no person shall be discriminated of the basis of different gender.
- The Constitution of India does not recognize the right to sanitation explicitly but it does recognize it indirectly under different articles. Article 15(3) empowers the State to enforce special provisions and laws for protecting the interests of women and children.
- Article 21 "Protection of Life and Personal Liberty" also ensure right to sanitation.

- Article 47 of the Indian Constitution is among the Directive Principles of State Policy, directing the State to raise the level of nutrition and the standard of living and to improve public health as among its primary duties.
- Article 48A directs the States to endeavour to protect and improve the environment which indirectly instructs to have a proper sanitation system in order to protect and improve the environment.
- According to section 33 of Building and Other Construction Workers (Regulation of Employment and Conditions of Services) Act 1996, it is the duty of employer to provide sufficient latrine and urinal facilities at work place.-When such law understand the importance of availing latrine and urinal facilities at work place then why there is not such law to avail such facilities in the court premises which is the work place for many advocates and lawyers.
- Section 8 of Person with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995, held the Government is responsible for availing sufficient facilities at toilets according to the requirements of persons with disabilities.
- The National Human Right Commission provides it is a mandatory duty to provide basic sanitation facilities that is a right to have separate toilets for men and women at public places, school and workplaces.

Judicial Precedent

- In L.K. Koolwal v. State of Rajasthan

The honorable High Court of Rajasthan observed that maintenance of health, preservation of sanitation and environment falls within the purview of Article 21 of the Indian Constitution as it adversely affect the life of the citizen and amounts to slow poisoning and reducing the life of the citizens because hazards created, if not checked.

- Virendra Gaur v. State of Haryana

The Honorable Supreme Court of India states that Article 21 protects the right to life as a fundamental right. Enjoyment of life and its attainment, including the right to life with human dignity encompasses within its ambit and sanitation without which life cannot be enjoyed.

- P. Saravanan v. Union Of India

The Honorable Madras High Court mentioned that the right conferred by Article 21 of the Constitution of India cannot be meaningful, if facilities of clean and hygienic toilets are not provided.

Conclusion & Suggestion

Lack of basic general facilities for women is a wide spread problem faced by she in serving in this legal system as an advocate. This is not just affecting their working but also to their physical and mental health. It is somewhere dragging women behind; making all the struggles and fight she did to get in this profession meaningless. At the time where she should be facilitated with facilities such as a common girls room, feeding room, proper cleanliness, dustbin, etc she has to fly to fulfil such a basic requirement of toilet in court premises, this shows where our Nation is standing in growth and development.

The government must ensure her safety, comfort and health. Adequate numbers of toilet must be constructed in the court premises, separately for men and women. These not be at certain corners of the premises as it increases the fear. It needs to be at the center for easy accessibility of women. Ensuring the toilets are regularly cleaned and disinfected, facilities like dustbins, dispensing anti-bacterial soaps. It must have properly trained female caretakers mainly for the women's toilets to ensure the facilities are always clean to use.

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Apart from these government should ensure that is does not approve any such project of infrastructure that does not possess the basic facilities like separate women's toilets or washrooms, common rooms, feeding rooms, crèches, etc., to ensure that the dignity of women is maintained and are given equal importance as it is given to men at the workplace. As availing of these basic facilities is a sign of the real level of inclusion of women in the legal system or the field of law. ❑

Sedition under the 2023 Bill, Repealed or Reformed ?

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In this article, we analyse and compare Section 124 A (Sedition) of the Indian Penal Code (hereinafter referred to as the "IPC") and the proposed Section 150 (Acts endangering sovereignty unity and integrity of India) of the Bharatiya Nyaya Sanhita Bill, 2023 (hereinafter referred to as the "Bill") so as to find out whether the essence of Section 124A IPC will lose its existence with the enactment of the Bill or will it continue to disguise under Section 150 of the Bill. We will analyse when the Bill is brought into force, Sedition will be a law of the past and be considered repealed or will it continue to exist as a reformed provision with whittled down force.

The crime of Sedition has been misused by various Governments, pre-independence and post-independence, to their advantage from time to time and unfortunately often as a means to punish for showing disaffection towards the Government and seldom doing so for the Country. The power to misuse emerges from the very provision itself as it legitimises invoking powers under the colonial era law to punish a person for even showing disaffection towards the Government as if there was no fundamental right guaranteed under Article 19(1)(a) of the Constitution of India. But yes, there was no democratically elected Government when Section 124A was introduced in the year 1870 by the British to incarcerate Indians for voicing against the British Government. It was a law to silence the voice of Indians against the British.

Under Section 124A of the IPC, it is a crime punishable by life imprisonment to bring or attempt to bring hatred or contempt, excite or attempt to excite disaffection towards the 'Government' and not the 'Country'. Is Government and Country the same? It was often debated. The essence of enacting the said provision was to discipline the citizens by forcing them to abide by the command of the Government as it were its subjects. At the time of its enactment in the pre-independent India, there was no democratically elected Government and Indians were in fact considered to be subjects of the British, however, this provision ought to have been rendered otiose or should have been deleted from IPC after India gained its independence. But, it did not and rather thereafter the democratically elected Governments started misusing the said provision for their advantage by supressing the fundamental rights of the citizens to freely speak and express in the Independent India. It was as if the Government of independent India had merely stepped into the shoes of the British Government with the same sense that the citizens of India should abide by the diktats of the Government (which they chose) without any questions. Could affection towards Government be 'forced' by law was a matter of debate over the years and still continues to be so and if so, why would India have a democratically elected government at all when there is Section 124 A (Sedition), as both were conceptually anti-thesis to each other.

The crime of Sedition has been misused by various Governments, pre-independence and post-independence, to their advantage from time to time and unfortunately often as a means to punish for showing disaffection towards the Government and seldom doing so for the Country.

This issue was raised in the Constituent Assembly by Sri K. M. Munshi who said that in a democratic government there should be a line between criticism of Government and incitement to compromise the national security and integrity. He said that essence of democracy was the criticism of Government, however, Section 124 A IPC was retained. Nonetheless, the same could was subjected to the judicial scrutiny in the year 1950 when in the case of Romesh Thapar v. State[1] the Apex Court held the policy of Madras to ban a journal namely Cross Roads as unconstitutional and similarly the attempt of another Government to pre-censor the journal namely the Organiser published by the Rashtriya Swayamsevak Sangh (RSS) met the same fate in the case of Brij Bhushan v. Delhi[2]. Later in the year 1950, the Punjab & Haryana High Court in the case of Tara Singh Gopi Chand v State[3] declared Section 124 A IPC as unconstitutional and the same was struck down.

With the rising outrage and objections to the crime of sedition, the Constitution of India was amended on June 18, 1951 and 'reasonable restrictions' were added to Article 19 and later Nehru in his Parliamentary address advocated for getting rid of Section 124A IPC and called it objectionable and obnoxious having no place in our Country.

Following the suit, in 1958 the Allahabad High Court in the case of Ram Nandan v State of UP[4] also declared Section 124A IPC as unconstitutional thereby declaring that with the enforcement of the Constitution of India, the aforesaid provision was rendered void in the eyes of law. However, putting rest to the surge of judicial pronouncements on the subject but invoking a greater public debate, a five-judge constitution bench of the Apex Court in the case of Kedar Nath v State of Bihar[5] upheld the constitutional validity of Section 124A IPC observing that"

"…every State, whatever its form of Government, has to be armed with the power to punish those who by their conduct, jeopardies the safety and stability of the State, or disseminate such feelings of disloyalty as have the tendency to lead to the disruption of the State or to public disorder…"

After 60 years of its pronouncements in the Kedar Nath case, the Apex Court on 11 May 2022 in the case of S. G. Vombatkere v Union of India observed that despite the riders and safeguards provided in the Kedar Nath case, the law on sedition was being widely misused and as such directed to keep the operation of Section 124A IPC in abeyance. By it order dated September 12, 2023, the aforesaid matter was referred to be heard by a bench of five or more judges since the Kedar Nath case was decided by a Constitution Bench. While doing so, the Apex Court observed that in the Kedar Nath case the constitutional validity of Section 124A was tested at the anvil of Article 19(1)(a), however, in S. G. Vombatkere the challenge was that the said provision violated Article 14 of the Constitution of India. Although it was submitted by the Central Government that the hearing in the matter should be deferred considering the Parliament of India was in the process of re-enacting the provisions of the penal code and the Bill was already placed before the Standing Committee, however, the Apex Court declined to accept the same. While declining to defer the hearing, the Apex Court observed that even if the Bill is brought into force, Section 124 A will remain to be on the statute book and the re-enactment would not apply retrospectively, and as such the ongoing criminal prosecutions would continue to be governed by Section 124A of the IPC.

The Bharatiya Nyaya Sanhita Bill, 2023 was introduced in the Lok Sabha on August 11, 2023 with an intent to repeal IPC and to redefine and introduce the criminal offences in the Country. Before we proceed further with the analysis of the provisions relating to 'Sedition' under IPC and the Bill, it may be pertinent to put the same in juxtaposition for better comparison:

[1] 1950 AIR 124
[2] 1950 SCR 605
[3] 1951 CriLJ 449
[4] 1959 CriLJ 1
[5] 1962 AIR 955

Section 124 A of the IPC Sedition	Section 150 of the Bill Acts endangering sovereignty unity and integrity of India
Whoever by words, either spoken or written, or by signs, or by visible representation, or otherwise, brings or attempts to bring into hatred or contempt, or excites or attempts to excite *disaffection* towards, the Government established by law in India, shall be punished with imprisonment for life, to which fine may be added, or with imprisonment which may extend to three years, to which fine may be added, or with fine	Whoever, purposely or knowingly, by words, either spoken or written, or by signs, or by visible representation, or by electronic communication or by use of financial mean, or otherwise, excites or attempts to excite, secession or armed rebellion or subversive activities, or encourages feelings of separatist activities or endangers sovereignty or unity and integrity of India; or indulges in or commits any such act shall be punished with imprisonment for life or with imprisonment which may extend to seven years and shall also be liable to fine
Explanation 1 - The expression "disaffection" includes disloyalty and all feelings of enmity. Explanation 2 - Comments expressing disapprobation of the measures of the Government with a view to obtain their alteration by lawful means, without exciting or attempting to excite hatred, contempt or disaffection, do not constitute an offence under this section. Explanation 3 - Comments expressing disapprobation of the administrative or other action of the Government without exciting or attempting to excite hatred, contempt or disaffection, do not constitute an offence under this section.	**Explanation -** Comments expressing disapprobation of the measures, or administrative or other action of the Government with a view to obtain their alteration by lawful means without exciting or attempting to excite the activities referred to in this section.

What we knew as 'Sedition' for more than a century will certainly lose its existence and will be archived in legal history if and when the Bill is brought into force. However, a new provision akin to 'sedition' will continue to govern the crime against India under Section 150. Although the intent of both the provisions is the same, however, the offence under Section 150 of the Bill will be made out only if any act endangering sovereignty, unity and integrity of India is committed. Earlier it was a crime to even raise a voice against a democratically elected Government and its policies and administration which had become a bone of contention, however, now under the Bill there will not be any such offence. Rather, as it should have originally been, the offence would only be said to be committed by any person if he by any means or act endangers sovereignty, unity and integrity of India. It was argued that under Section 124A of IPC the 'Government' was equated with 'India' and the same could have never been the intent of the legislature if the said provision was enacted in the independent India. Now, the said argument will finally rest when the Bill is enacted and sedition in its true sense will serve its purpose to protect India from all acts which endangers its sovereignty, unity and integrity. It is pertinent to note that the Bill will only apply prospectively, so for those who are already facing indictment or criminal prosecution under Section 124 A IPC, the legislature must

make an arrangement to ensure that they are not discriminated in law.

If closely compared, the distinction between the two provisions is evident that the phrase 'disaffection towards the Government' has been omitted and this change is a welcome step. Under the future legal regime, 'sedition' under a different nomenclature will continue to breathe in the form of an offence under Section 150 which aims to solemnly protect the interest of India which is above all forms of Government. With its enactment, criticising a government will no longer be a crime rather committing any act jeopardising the interest of India would attract a severe punishment. That being said, another phrase which has been sought to be omitted is the requirement of incitement of violence, and in its place the phrase "encourages feelings of separatist activities" has been added. The aforesaid phrase may invoke a broad spectrum of acts which might be said to be constituting an offence and may be misused by the law enforcement agencies. An act which might be said to be encouraging feelings of separatist activities would be purely circumstantial and difficult to prove in the Court of law and at the same time would give an opportunity to invoke the same against a person who may have separatist feeling but may not be encouraging others for committing separatist activities.

That said, it is clear that if the Bill is enacted, the offence of sedition which has been a bone of contention for several years for being a sword at the hands of the Government would whittle down and rather may serve its true purpose of saving the country from the acts of secession or armed rebellion or subversive activities, or separatist activities which definitely endangers sovereignty, unity and integrity of India. However, it is interesting to note that the explanation to Section 150 of the Bill has not been drafted correctly and there seems to be an inadvertent mistake. It appears that the drafters wanted to carve out an exception in the explanation to Section 150 by stating that if any person criticizes government or its policies with an intent of them being revised or altered and such act does not excite any activities which are punishable under Section 150, then such an act would not constitute an offence under Section 150. However, it seems that the said explanation could not be transcribed completely and the aforesaid underlined phrase could not be mentioned in the explanation. Explanation to Section 150 as it reads now is incomplete and vague. Nonetheless, giving a benefit of doubt, and assuming that it would be an intent of the legislature to carve out the aforesaid exception, it is rather clear that 'sedition' as it exists under Section 124 A has been repealed and only for the said purposes the explanation has been provided in Section 150 of the Bill. For the sake of clarity, the explanation to Section 150 as it reads in Bill and as it ought to have been stated, is as follows:

Explanation to Section 150 of the Bill as it reads now	Explanation to Section 150 of the Bill as it should have been stated
Explanation - Comments expressing disapprobation of the measures, or administrative or other action of the Government with a view to obtain their alteration by lawful means without exciting or attempting to excite the activities referred to in this section.	**Explanation -** Comments expressing disapprobation of the measures, or administrative or other action of the Government with a view to obtain their alteration by lawful means without exciting or attempting to excite the activities referred to in this section, *shall not constitute an offence under this Section*.

The Bill has been passed by the Lok Sabha and is currently under discussions before the Standing Committee and finally after more than 75 years of its independence, India may soon have its own penal laws.

Sexual Assault on dead bodies: A Serious crime outside the framework of the Indian Law

Prakash Salsingikar

The Karnataka High Court has recently given a landmark judgment about sexual abuse on dead bodies. In this case, 21-year-old girl returns home from computer class at 3:30 p.m. every day. One day, when she did not come home till late, her family thought that she must have gone to a friend's house. In the evening, her brother hears that one girl has been murdered, he goes there and finds out that she is his sister. They believe that someone stripped of her clothes and threw her in the bush and raped her and killed her by slitting her throat so that she would not tell anyone. During the investigation, the police arrested the accused and when the case came before the court, the court framed two charges against him. The first one is that the accused killed the girl and then raped her dead body. In this case, the Sessions Court found the accused guilty and sentenced him to life imprisonment for murder and ten years for raping her dead body. The accused challenged this sentence before the Karnataka High Court. The High Court convicted him of murder, but acquitted of rape charges. The court concluded that even if rape is proved, there is no provision of punishment in Indian law for rape on dead body. Doing this with a dead body is a mental illness called Necrophilia.

Murder first or rape first?

After reading the judgment of the Karnataka High Court, one important point is that this case is based on circumstantial evidence (no eyewitnesses) and from the various facts before the Court, it has been concluded that exactly how the crime should have been committed, who should have committed it. The court did not discuss any evidence regarding the first murder or the first rape. The charge of murder which was earlier fixed in the lower court is upheld. If there was a case of rape first and murder later so that the truth does not come out, or murder during harassment, punishment under 376 would also have been given. But by maintaining the conclusion that the murder took place first, it is considered that the sexual abuse was committed on the dead body. The Hon'ble High Court has discussed in this judgment what definitions have been given in the law in relation to person, dead body, woman, man as it is a crime of sexual abuse on a dead body.

Provisions of the Indian Penal Code refer only to living persons. According to Section 3(42) of the General Clauses Act, Person means an individual, company or group of individuals. The definition of person is given in section 11 of the Indian Penal Code, while section 10 defines a man and a woman. According to this, women or men of any age. According to Section 377, the offense of unnatural intercourse is to have physical intercourse with any woman, man or animal against the law of nature. This includes a person of any age according to the definition of a man and a woman. When age is mentioned, it is in reference to a living person. This does not include dead bodies.

What exactly is necrophilia?

Necrophilia is sexual intercourse with dead bodies. Necrophilia - This is a morbid attraction to death and the dead, and in particular, a sexual attraction to corpses. It is a psychosexual disorder and is classified under the group of disorders called 'paraphilia'. Necrophilia comes from the Greek words nekros meaning dead body and philios meaning love/attraction. Although necrophilia mainly involved men, occasional examples of women necrophilia have been reported.

Section 46 of the Indian Penal Code defines death. Also, according to the Indian Penal Code, rape refers to a living person and does not include a dead body, as sexual intercourse against the person's will is rape. A dead body is not capable of consenting or resisting and a dead body

does not have emotions so abuse on a dead body cannot be termed as a crime unless the existing law is amended. According to the Transplantation of Human Organs and Tissues Act, some provisions have been given about organ donation. This law says that after the death of the person, the organ should not be black marketed or sold. Although it is not a crime under Indian law, there are certain human rights even after death. According to Article 21 of the Constitution of India, every person has the right to live and die with dignity and to receive proper treatment and cremation after death.

What is the law in other countries?

Different countries have laws in this regard and according to Section 70 of the United Nations Sexual Offenses Act 2003, if a person knowingly inserts any part of his body into any part of the body of a deceased person, the punishment for such a person can be up to two years, if found guilty. Necrophilia is a crime under section 3 of Canada's Criminal Procedure Code of 1985, punishable up to five years in prison. In New Zealand Criminal Law 1961 section 150 provides for a sentence of up to 2 years. Section 14 of the Criminal (Sexual Offences) Act 2007 criminalizes necrophilia in South Africa.

Countries where Necrophilia is an offence :

THE UK: In the United Kingdom, Section 70 of the Sexual Offences Act, 2003 makes it an offence for a person who intentionally sexually penetrates, knowingly or recklessly, any part of his body into any part of a dead person. The punishment for the same ranges from 6 months to a term not exceeding 2 years.

CANADA: In Canada, Section 182 of the Criminal Code of Canada, 1985 makes Necrophilia punishable. The punishment in Canada is imprisonment for a term of not more than five years. The law in Canada appears to be similar though not identical to Section 297, IPC.

NEW ZEALAND: In New Zealand, Section 150 of the Crimes Act, 1961, serves imprisonment for two years to any person doing any act on the corpse, whether buried or unburied, to harm its dignity.

SOUTH AFRICA: In South Africa, Section 14 of the Criminal Law (Sexual Offences and Related Matters) Amendment Act, 2007 prohibits necrophilia.

In India, corpses don't have the rights of a legal person. But there are several judgments that uphold the right to human dignity even after death. Will the right to dignity be extended to prevent sexual violation of corpses?

Right to a dignified funeral of an unclaimed body :

Even an unclaimed body has the right to be respectfully buried according to its religion. If an heirless corpse is found, efforts are made to find his heirs, and if they are not found, a funeral is conducted by the government. If someone trespasses or commits any crime in the place of funeral such as crematorium, graveyard, there are more or less provisions in the Indian Penal Code. There is a provision of punishment up to 3 years if someone tries to grab the property of the deceased person. If anyone defames a deceased person, the offense of defamation under section 499 is committed. Although there are many such provisions, sexual assault with dead bodies is not considered a crime in India.

Mental patients who cannot satisfy their lust with a living person do such things with dead bodies because the dead body cannot resist in any way and one can do whatever one wants with that body. We have also heard of dead bodies being removed from graveyards and this being done to dead bodies in mortuaries. Some accused kill to fulfill their need and then have sex with the dead body. In this case too, the accused had a prior history of molesting women and failed therefore he must have committed the murder.

Important recommendations to the government in the judgment of the High Court :

The Karnataka High Court, in its judgment, said that the state government expressed concern over incidents of sexual harassment by security guards in many government as well as private hospitals where dead bodies are kept, especially young women. It is said that the body should get the respect it deserves. In this case, even if the said person was proved to have committed unnatural intercourse, the Hon'ble Court held that unfortunately, since it was a dead body, the person could not be punished under the relevant section. Here the court has stated that Article 377 needs to be amended.

In this judgement, the High Court has recommended to the central government that 377 should be amended. Accordingly, CCTV should be installed in all the mortuaries, regular cleanliness should be maintained in the mortuaries, dead bodies should be kept in proper clean environment, curtains or screens should be installed where the premises of the mortuaries are not in the façade. Efforts should be made to sensitize the staff. We can expect the government to consider these matters in the new upcoming laws.

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Uniform Civil Code and Strengthening Family Laws

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The subject of Uniform Civil Code ('the UCC', in short) has been a contentious issue in India since its inception. But the irony is despite there being an endless campaign and debate, there is scant clarity on the subject in the public domain. It continues to be a constitutional dichotomy and/or a dilemma insofar as India, the sovereign socialist secular democratic republic is concerned. There is no gainsaying that Article44 of the Constitution of India clearly deals with the subject in quite unambiguous terms. But, the said Article44 falls under Part-IV of the Constitution, which deals with the subject of Directive Principles of State Policy. Part-III of the Constitution deals with the subject of Fundamental Rights of the citizens, which contains Articles12 to 35 of the Constitution. To know accurately about the framing of the Constitution, we need to visit the Constituent Assembly Debates to read into the minds of the framers of the Constitution and most importantly, the circumstances leading to such framing of Articles in different parts of the Constitution. Unless we read into the minds of the framers of the Constitution and examine or analyze the circumstances leading to the framing of different Articles in various parts, we shall not be able to deduce the real purport and/or intent and most importantly the Himalayan helplessness confronted by the erudite scholars who had extensively debated in the Constituent Assembly with all their wisdoms and intuitions. In the above backdrop, let's now proceed to deliberate on the subject.

The Genesis:

Why is it so important to discuss and deliberate on the subject of UCC? Is it truly a constitutional goal to achieve? Or can it be ignored and less prioritized like many other provisions of the Constitution? Will it promote communal disharmony among the people of India to bring legislation in conformity with the UCC? Will it stall national economy and growth by implementation of the mandate of Article44 of the Constitution? Has the country suffered in manifold ways in the absence of UCC till date?? These are the questions of vital importance, which need to be answered in Public Interests qua National Interests.

Fundamental Rights:

Fundamental Rights are otherwise known as Natural Rights or Universal Rights, which are axiomatic in nature across the planet applicable to all human beings. These are primordial rights necessary for the development of human personality, which enable a man to live with dignity and honour and in the manner, he likes the best. Part-III of Indian Constitution is inspired by the Civil Rights chapter of the constitution of the USA. These rights are almost similar to the Human Rights contained in the Universal Declaration of Human Rights, 1948 of the UNO. But the most significant aspect of these rights is that these rights are not absolute in nature and have been made subject to public interests viz. public order, morality, health, safety and national security.

Directive Principles of State Policy (DPSP):

Part-IV of the Indian Constitution i.e. from Article-36 to 51, deals with the DPSP. This part has been derived from Irish constitution, as the Constituent Assembly is said to had been influenced and inspired by the Irish national movement, particularly with the Irish Home Rule movement. The DPSP are fundamental in the governance of the country and it is the duty of the State to apply these principles in making laws. The most peculiar and significant aspect of this part is that unlike the Fundamental Rights, the provisions of the DPSP are not enforceable through Courts, as the Courts are precluded to interfere in the policy matters of the State. This is the most anti-people twist insofar as the DPSP are concerned.

Fundamental Rights Vs. DPSP:

Fundamental Rights are basic human rights guaranteed to the citizens by a welfare State. DPSP are the ideals basing upon which the State is to formulate its policy of governance and enact laws to govern its citizens.

Infringement of Fundamental Rights are punishable under law, whereas policies and laws inconsistent with both Fundamental Rights and DPSP can be declared ultra vires by Constitutional Courts under the scheme of Judicial Review. But the primary and substantial difference between fundamental rights and DPSP is that when violation of Fundamental Rights can be assailed before the Constitutional Courts under judicial review, the inaction of the State in not making laws to achieve the objectives of the provisions of the DPSP is not assailable before the said Courts. Implementation of the DPSP has been left to the absolute discretion of the State thereby making the whole of Part-IV of the Constitution immune from enforcement in law irrespective of the ideals contained in the said Part-IV are highly imperative to be implemented insofar as national interest are concerned. Constitutional provisions are thereby made directory and not obligatory and at the same time has been prone to discrimination and/or made illusory at the hands of the States, which are enjoined with the duties to govern their People in consonance with the Constitutional ideals. This is the biggest constitutional mockery deeply imbedded in our Constitutional mechanism concerning governance of the people. However, the only solace and sanguinity that is available to the People is that any rational and proactive State(s) is/are equipped and fortified with the people-friendly ideals contained in the DPSP to enact essential laws in the paramount interests of the People and the nation at large. No one can stand on the way to make such enactments. But it requires a strong State to spring into actions, as weak States may not risk such steps which involve vote bank politics and a host of other issues to the sheer misfortune of the People.

Judicial Review vis-à-vis DPSP:

Unlike inertia of the State in the realm of withholding or violating the Fundamental Rights of the citizens are interfered with by the Constitutional Courts under the scheme of Judicial Review and guidelines are framed to govern the field until appropriate legislation is enacted, no Courts in India has yet shown such activism in framing guidelines to govern the field in case of inertia of the States in not enacting laws in conformity to the DPSP. This is another grey area, which requires to be explored in the judicial arena for the pivotal interest of the nation so as to make the Constitutional goals a reality instead of making the same illusory. Do the People of India not deserve the fruits of the Constitutional ideal through Courts when there is complete laxity on the part of the States to bring the same into actions? The Judiciary of India is solely answerable against this pivotal question concerning national interests and prosperity of the nation. When every fundamental rights of the citizen(s) can yield before national (plural) interests, then why inertia in not bringing appropriate laws thereby not discharging duties in consonance with the mandates of the DPSP shall not be interfered with by the Courts on the touchstone of the same ground of national (Plural) interests?

Article-44 of the Constitution of India:

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

The simple interpretation of the above provision suggests that the State means the Union of India, as no regional State would be capable of securing the citizens a uniform civil code throughout the territory of India. But this does not mean that the State(s) may not be able to bring such code for their respective people within their territory. As per Entry-5 of List-III (Concurrent List) of Schedule-VII of the Constitution, matters falling under the UCC are covered under this entry. Hence, UCC is the subject of the Union & the State concurrently. But the irony is that this has been made part of non-justiciable rights of the citizens and as such has been underrated by the makers of our Constitution in comparison to the justiciable rights embodied under Part-III of the Constitution.

Why should there be a Uniform Civil Code at all for the citizens throughout the territory of India?

To address this question, we need to visit the Constituent Assembly debates to know about the minds of the makes of the Constitution. Let me quote few thoughts of some distinguished members of the said assembly. Members viz. M. R. Masani, Hansa Mehta and Amrit Kaur in a dissent note expressed their views on the uniform civil code as being non-justiciable. They maintained as follows:

"One of the factors that has kept India back from advancing into nationhood has been the existence of personal laws based on religion, which keep the nation divided into watertight compartments in many aspects of life. We are of the view that a uniform civil code should be guaranteed to the Indian people within a period of 5 to 10 years."

The above dissent note then went into demand that the UCC be put into the justiciable part of the fundamental rights. After the draft was finalized by Dr. Ambedkar putting it in the chapter of DPSP of the Constitution, on 23rd of November 1948, the Constituent Assembly took up this matter for discussion. Muslim members vehemently opposed this provision and wanted that this should not include personal laws at all. The residuary part of the UCC should only be implemented with the prior assent of the community in question. Muslim members viz. Mr. Ismail, Nazziruddin and Pocker S. Bahadur argued as follows:

1. That UCC provision tends to violate the freedom of religion provision of the Fundamental Rights chapter;
2. The UCC would create disharmony with the Muslim community;
3. No interference must take place in the personal law without the approval of religious communities;

Mr. K. M. Munshi, Alladi Krishnaswamy and Dr. Ambedkar took part in the debate and defended the UCC. Mr. Munshi made the following points:

1. That the UCC was important for unity of the nation and also for upholding the secular credentials of the Indian Constitution;
2. Till now the debate seemed to be around Muslim sentiments. Munshi argued that even Hindus are insecure about this provision. He asked the members of the Assembly: How was any reform possible in the Hindu society, specifically with regards to the rights of women- if there was no uniform civil code?
3. Munshi asked the Muslim members as to what was inheritance/marriage etc. got to do with personal law?

Mr. Alladi Krishnaswami Aiyyar then joined debate as maintained his points as follows:

1. He responded to the arguments of the Muslim members that the UCC would bring about disharmony. He submitted that the UCC would do the opposite- it would in fact create amity among communities. He further paid emphasis on the ability of the UCC to bring about unity in the country.
2. Then he asked the Muslim members why there were no protests when the British interfered with Muslim practices by bringing about a uniform civil code?

At this point Dr. Ambedkar came into the debate and added as follows:

1. Dr. Ambedkar maintained that there was nothing new about the UCC, as it already existed in the form of a common civil code in the country except for the areas of marriage, inheritance- which are the main targets of the UCC in the draft Constitution;
2. Dr. Ambedkar further reminded the assembly that the UCC was only optional, as it was being placed in the DPSP chapter of the Constitution and the State was not obliged to immediately bring the provisions into effect. It can do so when it wishes to. Hence, this provision of the UCC allowed future legislatures to legislate such that the UCC comes to effect only after the consent of the communities as obtained.

Personal Laws vis-à-vis Human Rights:

Critically looking into the above debates, after efflux of 75 years one can easily interpret the minds of the respective members who participated in the debate. It appears, the Muslims were the main obstacles in making the UCC a justiciable right for the citizens of India. Why the Muslims opposed with such vehemence? It is quite obvious for the Muslims, who always want to maintain their distinct identity. In common prudence, no rational man can ever argue that marriage/inheritance/adoption etc. are religious practices for any other religion except the Muslims. What is the reason behind this? The only reason for this is to maintain their distinct identity and culture with certain agenda. At the time of the constitutional assembly debate, the whole of the nation had not recovered from the trauma of partition of India. Thus there was Himalayan helplessness before the collective wisdom of the nation, as it had then already failed and given in to the unjust demands of the Muslims. It was quite obvious for the erudite members of the assembly to yield before the unjust and irrational demands of the Muslim members of the assembly, who had advanced absurd arguments in opposing the UCC to be a justiciable right. Had there been sensibility, wisdom and harmony of mind prevailed over the Muslim members of the assembly, the UCC would have then become a justiciable right and the fate of this county would have been different than today. In the absence of the UCC as a justiciable right, the country as a whole, including the Muslim community, has to suffer horrendously. Shah Bano's case before the Supreme Court of India of the year 1985 is still fresh in the memory of the country, where the victim was a Muslim lady, who was divorced by the barbaric practice of triple talaq and was left penniless and homeless. The Supreme Court came to her rescue on the anvil of protecting human rights, but the

then ruling party of the country for the sake of its sheer vote bank turned down the decision of the Supreme Court by bringing ordinance at the instance of Mullahs on the sole plea of protecting personal laws. This very episode loudly told the entire world that the bourgeois of the Muslim communities wanted their mediaeval personal laws to prevail over the Human Rights of the Muslim citizens of this country. This shocked the conscience of the country, but yet to no avail.

Personal Laws vis-à-vis Secular Credentials:

Any religious scripture viz. the Bhagwat Gita, the Vedas, the Quran or the Bible etc. in no parlance or connotation could be treated to be embodied with personal laws to govern the citizen's rights to marriage, divorce, inheritance, adoptions etc. India essentially being a Secular country from time immemorial, religion (the methods of worshiping the almighty) has never prevailed over the politics and governance of the people. It is the Dharma (i.e. the virtues, righteousness and basic human values) that had played the major role in administration of justice and governance of the people. So, the distinction between Religion & Dharma must be clearly defined and for that matter, personal laws have to be segregated from religion and may be declared as secular. Then only the State or the Union will be able to implement the UCC in its true perspectives, as the experiment has been successfully implemented in the State of Goa. Besides, the Law Commission of India may be tasked to take out empirical study with regard to UCC in other parts of the globe where there are sizable number of Muslim populations. If all the developed countries in the world can rationalize their personal laws and bring the same under one umbrella like the UCC irrespective of their demography, then why the same cannot be implemented in India. We have already travelled more than 75 years in our journey as an independent nation. Enough materials and experiences we have with us for introspection, then why to continue practice with colonial agenda? Moreover, as there is no embargo against implementation of the UCC by bringing proper legislation, the Union or the State(s) are free to do so. Why the discretion shall not be used for collective interests of the nation? The recent issue of demand for same-sex marriage also stems from the same crisis of absence of a UCC. Had there been UCC in the field for governance of the people, then such host of demands in the realm of marriage and personal rights would not have cropped up. Absence of UCC, therefore, has put the entire equilibrium of the society at stake.

Conclusion:

Harmony among the people, national integration and national security are dominant issues before the nation. These factors have got direct nexus with the very existence of this ancient nation. Already there has been severe damage and loss to the land and people (the demography) of this nation on the plea of safeguarding religious pluralism. If we glace at all the past censuses, we may clearly find rapid decrease in Hindu population and constant growth of Muslim population. Why is this happening? The reason is existence of different personal laws for different populations of one single country. Is it not the duty of the State to look into the securities and welfare of all the communities living in this country by adopting a holistic approach? Then why the cards are to be played in the line of majority and minority? The demography of this country is equally important on par with other assets. In no circumstances, the demography of the country can be put to peril thereby risking the national security. Population growth has to be rationalized forthwith. No community can be allowed to assert its communal or religious rights against national security and national growth. For the sake of national integration and communal harmony, it is high time that Uniform Civil Code to regulate and rationalize the personal laws of the citizens of India must be implemented and necessary other legislations may be brought into force in consonance with the spirit of such UCC. Constitutional Courts must be given authority under Judicial Review to intervene where the States are failing to bring appropriate legislation(s) in consonance with the sprits of UCC, like the Courts having the power to interfere where there is breach of Fundamental Rights or excess of demand for enforcement of fundamental rights. Nation's interests i.e. the plural interests vis-à-vis the basic human rights must be prioritized against religious or communal rights to make India truly Secular. All double standards in the name of majority and minority or in any other form whatsoever, must be abandoned. Then only we can proudly say that India is the country of One Nation, One People and One Law. Then only we can be able to achieve true prosperity in our secular democracy.

Navigating the Ethical Labyrinth: A Comprehensive Examination of Deepfake Regulation in India

Shaantam Saini

Introduction

The insidious rise of deepfakes, exemplified by the recent scandal involving Indian actress Rashmika Mandanna, has thrust this sophisticated form of digital manipulation into the public spotlight in India. The manipulated video, decried for its misogynistic undertones and invasion of privacy, serves as a stark reminder of the ethical and regulatory challenges posed by deepfakes and AI-based fake news. As technology advances at an unprecedented pace, the potential harm to an individual's reputation, privacy, and the broader societal fabric looms larger. This academic discourse critically examines the policy implications, international case studies, and comparative analyses, identifies gaps in the existing regulatory framework and outlines a comprehensive roadmap for navigating the intricate ethical labyrinth of deep fakes in the Indian context.

As the boundaries between reality and manipulated digital content blur, the need for a nuanced and adaptive regulatory framework becomes evident. This discourse seeks to unravel the complex layers of deepfake regulation, emphasizing the importance of aligning technological advancements with ethical considerations in India's ongoing quest for a secure and trustworthy digital landscape.

Policy Implications of Deepfakes and AI-Based Fake News

Challenges of Regulating Deepfakes and AI-Based Fake News

Crafting effective regulatory frameworks for deepfakes and AI-based fake news is a daunting task, given the rapid evolution of technology. The lack of universally accepted definitions for these terms adds complexity to the regulatory landscape. The dynamic nature of the internet, with its global reach, makes it difficult to enforce regulations across borders. However, the absence of federal laws specifically addressing deepfakes in India is not a legislative oversight but a reflection of the evolving nature of these technologies.

India's existing legal framework, notably the Information Technology (IT) Act of 2000 and relevant sections of the Indian Penal Code, does provide a foundational basis for addressing certain aspects of deepfake misuse. Sections 67 and 67A of the IT Act criminalize the transmission of obscene material and sexually explicit content in electronic form, respectively. Additionally, Section 500 of the IPC deals with defamation. The Personal Data Protection Bill, pending in the Indian Parliament, holds the potential to offer a more comprehensive legal framework for addressing privacy concerns related to deepfakes.

As the boundaries between reality and manipulated digital content blur, the need for a nuanced and adaptive regulatory framework becomes evident. This discourse seeks to unravel the complex layers of deepfake regulation, emphasizing the importance of aligning technological advancements with ethical considerations in India's ongoing quest for a secure and trustworthy digital landscape.

Case Studies of Deepfakes and AI-Based Fake News

Examining international case studies reinforces the need for a robust regulatory framework. The Pelosi

deepfake incident in the United States demonstrated how a manipulated video could be used to discredit a political figure. Similarly, during the Myanmar genocide, Facebook's role in spreading fake news had severe consequences, contributing to violence against the Rohingya minority. These incidents underscore the broader societal implications of unchecked dissemination of deepfakes and AI-based fake news.

In the Indian context, the 2020 Delhi assembly polls witnessed the emergence of a deepfake video featuring the Bhartiya Janta Party's Delhi President criticizing his opponent. This video, a result of morphing an older video related to the Citizenship Amendment Act 2019, exemplifies how deepfakes can infiltrate political discourse, influencing public opinions during critical electoral events.

Comparative Analysis of Deepfakes and AI-Based Fake News Policies

A comparative analysis of regulatory approaches globally reveals valuable insights. France has adopted a comprehensive strategy with the establishment of the Online Harms Regulator, emphasizing the need for a centralized authority. Singapore takes a more targeted approach, criminalizing specific content harmful to an individual's reputation or privacy. The United Kingdom, while lacking specific legislation, proposes measures to enhance transparency and user control.

France's Law No. 2020-766 of June 24, 2020, on Confronting Respect for the Principles of the Republic introduces a broad definition of "online harms," encompassing deepfakes and AI-based fake news. The establishment of the Online Harms Regulator, with the authority to impose significant fines on non-compliant platforms, demonstrates a proactive approach to enforcement.

Singapore's Protection from Online Harms Act (POHA) criminalises the creation and dissemination of deepfakes and AI-based fake news intending to harm a person's reputation or privacy. This targeted approach empowers the Singapore Police Force to investigate and prosecute offences under the POHA, accompanied by provisions for victim compensation and support.

While the United Kingdom has not enacted specific legislation for deepfakes and AI-based fake news, the "Online Harms White Paper" outlines proposed measures. These include increasing transparency around social media companies' algorithmic use, empowering users to control data and privacy settings, and supporting fact-checking and verification tools.

Gaps in the Existing Policy Framework AND the Way Forward

Lack of Clear and Consistent Definitions

The absence of clear and consistent definitions for deepfakes and AI-based fake news poses a significant challenge. To address this, the Indian government can take a proactive stance by establishing a working group or committee comprising experts from academia, industry, government, and civil society. This group can work towards developing precise and widely accepted definitions.

Insufficient Scope of Regulation

While the current focus is on protecting individuals, the potential societal harms of these technologies necessitate an expanded regulatory scope. The Indian government could consider broadening the scope to include the protection of privacy, democratic processes, and national security. This broader approach aligns with global concerns about the potential misuse of deepfakes.

Singapore's Protection from Online Harms Act (POHA) criminalises the creation and dissemination of deepfakes and AI-based fake news intending to harm a person's reputation or privacy. This targeted approach empowers the Singapore Police Force to investigate and prosecute offences under the POHA, accompanied by provisions for victim compensation and support.

Inadequate Enforcement Mechanisms

Enhancing enforcement mechanisms is crucial for effective regulation. Measures such as increased fines for non-compliant platforms, improved global cooperation, and investment in advanced content detection technologies

can strengthen enforcement. Cooperation with law enforcement agencies globally is particularly vital, considering the decentralised nature of deepfake technology.

Lack of Specific Legislation

The absence of specific legislation tailored to address the challenges of deepfakes and AI-based fake news creates uncertainty. The Information Technology Act, 2000, does not account for the nuances of deepfake creation, distribution, and misuse. The Indian government could consider drafting and enacting legislation explicitly targeting these technologies, providing legal clarity and a foundation for effective regulation.

Vulnerability of Non-Existent Human Faces

The unique vulnerability of synthetic faces, not existing in the real world, presents a distinct challenge. Platforms must take preventative measures to combat the misuse of these synthetic faces in deepfakes. Addressing this concern requires specific regulations or guidelines from the government, ensuring that synthetic faces are not employed to create deceptive content.

Limited Protection for Deceased Persons' Data

The current legal framework lacks provisions for protecting the personal data of deceased persons. Amending the pending Personal Data Protection Bill, 2019, to explicitly include deceased persons as data subjects can fill this gap. Such an amendment would grant legal rights to heirs, allowing them control over the usage of their deceased loved ones' data.

Absence of Clear Guidelines for Intermediaries

Clear guidelines for intermediaries, especially social media platforms, are essential to curb the spread of deepfakes and AI-based fake news. Collaboration with law enforcement agencies and prompt identification, removal, and reporting of such content by intermediaries can mitigate the rapid dissemination of deceptive content.

Lack of Public Awareness

Public awareness about deepfakes and AI-based fake news remains relatively low in India. Launching public awareness campaigns can bridge this gap, educating people about the dangers of these technologies. Such campaigns can provide information on identifying fake content, reporting it to platform operators, and seeking help from law enforcement agencies.

Concluding Remarks

India stands at a critical juncture in its efforts to grapple with the multifaceted challenges posed by deepfakes and AI-based fake news. The evolving nature of this threat demands a dynamic and comprehensive regulatory approach, one that aligns with the principles of individual privacy, ethical use of technology, and the safeguarding of democratic processes. While the Indian government has taken initial steps through advisories and existing legal frameworks, there remains a pressing need to fortify the nation's defences against the malicious potential of deepfakes.

The proposed amendments to the Personal Data Protection Bill, 2019, exemplify India's commitment to adapt legal frameworks to contemporary challenges. However, a concerted effort is required to bridge the awareness gap among the public, fortify enforcement mechanisms, and bolster international collaboration in tackling cross-border implications. As India charts its course in the digital era, a proactive and adaptive stance in shaping policies will be indispensable to foster a resilient, secure, and ethical technological landscape. The journey towards combating deepfakes is not only a legal imperative but a societal responsibility, necessitating collective vigilance and collaborative action. ❑

India stands at a critical juncture in its efforts to grapple with the multifaceted challenges posed by deepfakes and AI-based fake news. The evolving nature of this threat demands a dynamic and comprehensive regulatory approach, one that aligns with the principles of individual privacy, ethical use of technology, and the safeguarding of democratic processes.

Indigenous Legal System: Its Relevancey

M. Sundara Rami Reddy,
Advocate

Introduction:

"In India more than 70% of disputes were resolved by village Panchayats, comprising selected (by disputants) members of village. It means the role of Ordinary Law Courts in India is that of a small tip of ice berg".Shivaraj S. Huchhanavar writes in Vol.7 No.1 NALSAR Law Review 2013 an article titled "In Search of True Alternative to Existing Justice Dispensing System in India":

It is true that, even now more than 70% cases are resolved locally by panchayat, caste groups, trade guilds etc.

The following passage in Complete Works of Sri Aurobindo, Vol. 20 Pages 391-392 is relevant

"A greater sovereign than the king was the Dharma, the religious, ethical, social, political, juridic and customary law organically governing the life of the people. This impersonal authority was considered sacred and eternal in its spirit and the totality of its body, always characteristically the same, the changes organically and spontaneously brought about in its actual form by the evolution of the society being constantly incorporated in it, regional, family and other customs forming a sort of attendant and subordinate body capable of change only from within, — and with the Dharma no secular authority had any right of autocratic interference. The king was the only guardian, executor and servant of the Dharma, charged to see to its observance and to prevent offences, serious irregularities and breaches. He himself was bound the first to obey it and observe the rigorous rule it laid on his personal life and action and, on the province, powers and duties of his regal authority and office."

Let us be frank to admit that Adversarial (English) legal system failed:

Government of India, Ministry of Home Affairs by its order dated 24 November 2000, under Chairmanship of V.S. Malimath and the said Committee submitted its report in March 2003 and in it, it is stated that at Page 24:

2.4. "There are two major systems in the world. There are adversarial systems which have borrowed from the inquisitorial system and vice versa."

It is astonishing that the Committee on Reforms of Criminal Justice System, Government of India, appointed by the Ministry of Home Affairs could find two systems in the world. It has not acknowledged 'our own system' i.e. Dharmic / Indigenous legal system.

The Committee further goes on to say:

"2.2. The system followed in India for dispensation of criminal justice is the adversarial system of common law inherited from the British Colonial Rulers. …. In the adversarial system truth is supposed to emerge from the respective versions of the facts presented by the prosecution and the defence before a neutral judge. The judge acts like an umpire to see whether the prosecution has been able to prove the case beyond reasonable doubt and gives the benefit of doubt to the accused….. The judge in his anxiety to maintain his position of neutrality never takes any initiative to discover truth. He does not correct the aberrations in the investigation or in the matter of production of evidence before court. As the adversarial system does not impose a positive duty on the judge to discover truth, he plays a passive role."

Shivaraj S. Huchhanavar writes in Vol.7 No.1 NALSAR Law Review 2013 an article titled "In Search of True Alternative to Existing Justice Dispensing System in India":

"Around 1970's the situation in US was not totally different from other developed and developing countries of the world it had suffered all short of defects for the reason of adopting English system of justice administration. Edward Bennet Williams, as appeared in U.S. News and World Report of September 21, 1970,

: The Legal System isn't working. It is like scarecrow in the field that doesn't scare the Crows anymore because it is too beaten and tattered-and the crows are sitting on the arms and cawing their contemptuous defiance."

In the same manner Earn Warren in his Speech at Johns Hopkins University as Reported in San Francisco Examiner and Chronicle of Nov. 15, 1970,

"The greatest weakness of our judicial system is that it has become clogged and does not function in a fluent fashion resulting in prompt determination of guilt or innocence of those charged with crime . Considering the delay in resolving the dispute Abraham Lincoln has once said: ¯Discourage litigation. Persuade your neighbours to compromise whenever you can point out to them how the nominal winner is often a real loser, in fees, expenses, and waste of time."

When regular judicial mechanism virtually sinking, we adopted Alternative Disputes Resolution (ADR), which has not delivered the results.

"Community-based ADR is often designed to be independent of a formal court system that may be biased, expensive, distant, or otherwise inaccessible to a population. New initiatives sometimes build on traditional models of popular justice that relied on elders, religious leaders, or other community figures to help resolve conflict. India embraced Lok Adalat village-level people 's courts in the 1980s, where trained mediators sought to resolve common problems that in an earlier period may have gone to the Panchayat, a council of village or caste elders.

"Mandatory process of ADRs requires the parties to negotiate, conciliate, mediate or arbitrate, prior to court action. ADR processes may also be required as part of prior contractual agreement between parties. Whereas, in voluntary processes, submission of dispute to the ADR process depends entirely on the will of the parties.".Shivaraj S. Huchhanavar writes further: "Most commonly used forms of ADRs are Mediation, Conciliation, Arbitration and Lok Adalats. Let us have an eye bird view on these aspects of ADRs."

After elaborate discussion he concludes:

On Mediation:

"Panchayat system of ancient India can be an example, where we can find the efficacy of mediation as tool of dispute resolution but fundamental distinction lies between both is that Panchayat system is backed by popular support of the whole community and is relatively conclusive and widely respected by the people, that sense of popularity not lies with mediation. Ancient Panchayat system was so efficient because they were not worried about convenience of parties to the dispute, it is the 'Dharma' that binds both disputant party and Pancha (mediators). Pancha(s) not only represent the parties to the dispute but they represent the whole community in which they live. That they no more oblige to settle individual interest but community interest is of greater importance to them, henceforth their decision gains popular support to which every member of that community feels obliged. For this reason, Mediations seems to be toothless and less effective and it is already falling into disused (that has already happened in USA)."

On Conciliation:

"Tough conciliation acquired statutory recognition in India, their efficacy in resolving disputes or arriving at the settlement is negligible. Nothing significant has been achieved by giving statutory recognition to this mechanism, rather a waste of State resources and hurdle to the disputant parties in the way of choosing appropriate forum of redressal.

"For the failure of this mechanism there are several reasons,

(a) Lack of proper personnel, inadequate training and low status enjoyed by conciliation officer and too frequent transfer.
(b) Undue emphasis on legal and formal requirements.
(c) Considerable delay in conclusion of conciliation proceedings.
(d) Lack of adjudicating authority with conciliator.
(e) Failure of conciliation had much impact as failure leads to reference of dispute to Labour Courts and Tribunals.
(f) Failure to magnetize people as there are little differences in environ of Courts and Conciliation Board(s)."

On Arbitration:

"Even though all procedural innovation is made adversarial character of this mechanism cannot be undermine arbitrator is adjudicator unlike Mediator and Conciliator. For several reasons arbitration fail to gain much efficacy in Indian Legal system, this system is widely in use at international level." and On Lok Adalats:

"The Authority or Committee organizing Lok Adalat may, on application from any party to a dispute, refer the said dispute to Lok Adalat, after giving a reasonable opportunity for hearing to all the parties. Lok Adalat shall proceed to dispose of a case refereed to it expeditiously. -Shall be guided by principles of law, justice, equity and fair play. - Shall yearn to reach a settlement or compromise between parties. - When no compromise or settlement is accomplished, the case is to be returned to the court which referred it. Then the case will proceed in the court from the stage immediately before the reference." ❑

संविधान दिवस कार्यक्रम

अधिवक्ता परिषद जम्मू एवं कश्मीर

Srinagar, Law day Celebrate:

Celebrated the Constitution Day on Sunday 26, November 2023 at the High Court Premises, Srinagar.

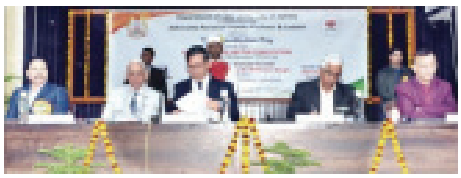
The function started with the recitation of the Preamble to the Constitution by the participants. Officers of the Central Government also participated in the function which culminated with the National Anthem.

Adhivakta Parishad Jammu & Kashmir

"Constitution Day celebrated by Jammu

Indian constitution is not assimilation of foreign ideas: CJ

The topic of the event was "Bhartiya Values and the Constitution". JAMMU, Dec 13: Chief Justice of Jammu and Kashmir & Ladakh High Court, Justice N Kotiswar Singh today said that the Indian constitution is not the assimilation of foreign ideas even though the words were foreign but the values of Indian Constitution are very much Indian.



CJN Kotiswar along with VC JU Prof Umesh Rai and other dignitaries during a function at University of Jammu.

Guest of honour, Prof Umesh Rai (Vice-Chancellor, JU) spoke on

DC Raina (Advocate General of J&K), who was also the guest of honour, spoke how constitution was demanded for the first time on 26th January 1930 and the journey, the constituent Assembly travelled till its enforcement.

Constitution Day

President, Adhivakta Parishad, Jammu, Kashmir and Ladakh) gave a brief introduction at the beginning of the event. Prof Satinder Kumar (Head, Department of Law, JU) in his welcome address also shared his thoughts on the topic. The vote of thanks was delivered by Tahir Shamsi. Advocate Rohan Nanda conducted the proceeding of the function. Prominent among those present on the occasion were Justice Rahul Bhartti, Justice Vinod Chatterjee Koul, Retd Justice M L Manhas, Prof Arvind Jasrotia (Rector, Kathua Campus), Prof Prakash Antahal (Dean Students Welfare), Dr Vijay Saigal (president, JUTA), faculty members of Dept of Law and the Law School, officers of High Court, Advocates from District and High Court, students and scholars.

-Rohan Nanda,

General Secretary Jammu & Kashmir

अधिवक्ता परिषद हरियाणा

प्रांतीय अधिवेशन गुरूग्राम विश्वविद्यालय में मनाया गया।

हरियाणा अधिवक्ता परिषद का प्रांतीय अधिवेशन जिला गुरुग्राम में गुरुग्राम यूनिवर्सिटी में मनाया गया अधिवेशन में मुख्य अतिथि न्यायमूर्ति माननीय श्री पंकज जैन जी न्यायाधीश पंजाब व हरियाणा उच्च न्यायालय, न्यायमूर्ति श्री वीरेंद्र सिंह जी न्यायाधीश हिमाचल प्रदेश उच्च न्यायालय, विशिष्ट अतिथि श्री बलदेव राज महाजन जी महाधिवक्ता, हरियाणा, श्री डी. भरत कुमार जी महामंत्री अखिल भारतीय अधिवक्ता परिषद, श्री मुकेश गर्ग जी

कार्यकारिणी सदस्य अखिल भारतीय अधिवक्ता परिषद, श्री श्रीहरि बोरीकर जी उत्तर क्षेत्रीय संगठन मंत्री, प्रोफेसर डॉक्टर दिनेश कुमार जी वी. सी. गुरुग्राम विश्वविद्यालय रहे। इस कार्यक्रम में हरियाणा के सभी 23 जिलों व सभी सब–डिविजनों से भागीदारी रही। अधिवेशन में लगभग 1200 अधिवक्ताओं ने भाग लिया महिला अधिवक्ताओं और विद्यार्थियों की भागीदारी रही। अधिवेशन का विषय सांस्कृतिक संप्रभुता रहा।

धन्यवाद प्रस्तावना में जिला अध्यक्ष गुरुग्राम श्री अरुण जी और महामंत्री श्री पवन जी ने सभी अधिवक्ताओं का धन्यवाद किया।

Gurugram Unit Haryana

Celebrate the Law day Programe:

Advocates' Day celebration in the memory of Dr. Rajendra Prasad by Adhivakta Parishad, Gurugram unit in association with District Bar Association, Gurugram.

–अशोक कुमार, *महामंत्री, हरियाणा*

Adhivakta Parishad Punjab

Patiala Unit celebrated Constitution Day:

Adhivakta Parishad Patiala celebrated Constitution Day in which Shri Sanjiv Gupta Retired District Attorney participated as Chief Guest. As the main speaker, Advocate Pushpinder Handa and Advocate Gurpreet Kaur Sekhon presented their views to the audience (advocates). Shri Charanveer Singh National Executive Member took charge of the stage secretary.

Mr. Amanpreet Singh Bhatia, President of Adhivakta Parishad Patiala Unit, thanked the audience.

Jalandhar Unit

Advocate Parishad Jalandhar unit organized a program on Constitution Day at the DAV Institute of Technology, and Haryana High Court judge Justice Sandeep Moudgil ji participated as the chief guest. Of Advocate General of Haryana Shri Baldev Raj Mahajan ji and Additional Advocate General of Madhya Pradesh Jaideep Rai ji were present as special guests. The program was organized under the supervision of Punjab Advocate Council President Vivek Soni and Chief Secretary Akhilesh Vyas. The team of Bharat Bhushan Sekhri, Advocate Ravish Malhotra and Ashish Bhandari Advocate of Jalandhar Unit organized the entire program. On this occasion, District Bar Association President Mr. Aditya Jain and Secretary Mr. Tejinder Singh Dhaliwal were also mainly present. Members of Punjab Advocate Council from all the district units participated in the program and a large number of lawyers from Jalandhar registered their presence.

Among the guests were Vikram Sharma, Ashok Poothi, Madam Ravinder Kaur, Harpreet Singh, Kunal Goyal, Neha Bima, Manit Malhotra, Bhupanesh Mehta, Bhupendra Singh Kalra, Karan Kumar etc.

-Akhilesh Vyas, *General Secretary, Punjab*

Adhivakta Parishad Delhi

Legal Conclave-2023 Organised by Adhivakta Parishad, Delhi

Adhivakta Parishad, Delhi Prantorganised a "LEGAL CONCLAVE – 2023" on Saturday, 28th October 2023 at N.D.M.C Convention Centre, 15 Sansad Marg, Connaught Place, New Delhi – 110001, from 09:00 AM to 05:00PM.

The central theme of the conclave revolved around

"Comparison, Suggestions and Solutions" with respect to the 3 criminal law bills which were recently introduced in the Parliament.

The Conclave was inaugurated by Hon'ble Mr. Justice Rajesh Bindal, Supreme Court of India. The Conclave started with recitation of Vande Mataramfollowed by three different sessions having panel discussions on Bhartiya Nagarik Suraksha Sanhita, 2023, Bhartiya Nyaya Sanhita, 2023, and Bhartiya Sakshya Bill, 2023.

The conclave comprised of in-depth discussions on criminal laws by legal luminaries like HMJ Rajesh Bindal (Supreme Court of India), HMJ C. Hari Shankar (Delhi High Court), ASG Vikramjeet Bannerjee (Supreme Court of India), Prof. (Dr.) G.S. Bajpai, VC, NLU Delhi, Sr. Adv. Sh. Sanjay Jain (Former ASG Supreme Court of India), Sr. Adv. Sh.Sanjeeva Bhaskar Rao Deshpande, Adv. Anand De, Sr. Adv. Sh. Jayant Mehta and Prof. (Dr.) Seema Singh, Delhi University.

The programme was attended by around 1000 lawyers, senior advocates, academicians, judicial officers and law students. The programme ended with vote of thanks by Shri Jitesh Shrivastav Ji, President, Adhivakta Parishad, Delhi Prant and with the National Anthem.

तीस हजारी कोर्ट इकाई दिल्ली

अधिवक्ता परिषद, दिल्ली की तीस हजारी कोर्ट इकाई द्वारा संविधान दिवस मनाया गया।

अधिवक्ता परिषद, दिल्ली की तीस हजारी इकाई द्वारा संविधान दिवस दिनांक 08.12.23 को मनाया गया। कार्यक्रम का विशय Principles and Concepts of the Indian Constitution पर कोर्ट के लाल चंद वत्स हॉल में एक कार्यक्रम आयोजित किया गया। कार्यक्रम में मुख्य वक्ता श्री अरुण भारद्वाज जी, सीनियर एडवोकेट, दिल्ली हाई कोर्ट ने अपने अभिभाषण में संविधान के महत्वपूर्ण अनुच्छेदों को व्याखित किया तथा, वकालत के क्षेत्र में प्रैक्टिस के साथ–साथ अपना जीवन वास्तव में सार्थक कैसे बने, इसके लिए सभी को प्रेरित और मार्गदर्शित किया।

Central Administrative Tribunal (CAT) unit of the Delhi Adhivakta Parishad

The Central Administrative Tribunal (CAT) unit of the Delhi Adhivakta Parishad hosted a distinguished event at the Constitution Club, New Delhi, commemorating Constitution Day and Advocates Day on 13th December.

Sh Naresh Kaushik, of the Supreme Court, graced the occasion as the Chief Guest,

Guests of honor included Sh. Shreehari Borikar, North Zone Organizing Secretary of the Akhil Bhartiya Adhivakta Parishad, and Sh. D. Bharat Kumar, General Secretary of the Parishad.

Sanjay Poddar, Senior Advocate High Court Of Delhi, provided insights on addressing case pendency. The program concluded with the felicitation of members from various units of the Delhi Adhivakta Parishad.

Sh Narender Datt Kaushik, President of the CAT Adhivakta Parishad, expressed gratitude in his vote of thanks.

Advocates Day, Celebration by Adhivakta Parishad Delhi

Akhil Bharatiya Adhivakta Parishad Delhi Prant has celebrated Advocates Day , Topic : "Amrit Kaal"

Adhivaktaon ki Sankalp Yatra on 15 December 2023 at ISIL, New Delhi in which over 300 delegates have joined. That Hon'ble Justice Ms. Mini Pushkarna has joined as a Chief Guest and Sh Chetan Sharma Additional Solicitor General joined as a Guest of Honour. The welcome note was given by Shri Jitesh Vikram Srivastava Former President Delhi Prant and by Sh Sanjay Poddar President Delhi Prant, further vote of thanks was given by Sh Jivesh Tiwari General Secretary, Delhi Prant.

-Jivesh Kumar Tiwari, *General Secretary, Delhi*

अधिवक्ता परिषद उदयपुर

भारत बोध एवं संवैधानिक नैतिकता पर संगोष्ठी

उदयपुर जिला एवं सेशन न्यायाधीश चंचल मिश्रा ने कहा है कि प्रत्येक व्यक्ति को संविधान में दिए गए अधिकारों व कर्तव्यों का पूर्ण निष्ठा व ईमानदारी के साथ पालन करना चाहिए और आम जनता को भी इसकी पालना करवानी चाहिए।

संगोष्ठी में राजस्थान विद्यापीठ के कुलपति प्रोफेसर एस. एस. सारंग देवोत ने कहा कि संविधान जनमानस को शिक्षा, चिकित्सा, स्वास्थ्य एवं अभिव्यक्ति की स्वतंत्रता प्रदान करता है।

समारोह में बतौर विशिष्ठ अतिथि सम्बोधित करते हुए सारंग देवोत ने कहा कि संविधान के विभिन्न दीवारों पर लगाया जाना न्याय संगत है।

वरिष्ठ अधिवक्ता ऋषभ कुमार जैन ने कहा कि अधिवक्ता परिषद अधिवक्ताओं के लिए एक वृक्ष के समान है। अधिवक्ता परिषद की प्रदेश पदाधिकारी वंदना उदावत ने अधिवक्ता परिषद के इतिहास पर प्रकाश डाला।

इस संगोष्ठी में जिला एवं सेशन न्यायालय के अधीनस्थ न्यायालयों के न्यायिक अधिकारी सहित वरिष्ठ अधिवक्ता शांति लाल चपलोत, शंभू सिंह राठौड, नरपत सिंह राठौड़, प्रवीण खंडेलवाल, दिनेश गुप्ता, राजेंद्र सिंह राठौड़, सहित बार एसोसिएशन के कार्यकारी अध्यक्ष योगेंद्र दशोरा सहित सैकडो अधिवक्ता महिला पुरुष उपस्थित रहे।

प्रदर्शनी लगाई गई जिससे सभी अधिवक्ताओं न्यायिक अधिकारियों ने अवलोकन किया इसमें संविधान की विस्तृत रूप से व्याख्या की गई थी। यह प्रदर्शनी अधिवक्ताओं के लिए आकर्षण का केंद्र रही।

–श्याम पालीवाल, *महामंत्री, जोधपुर*

अधिवक्ता परिषद ब्रज प्रांत

कासगंज संविधान दिवस पर कार्यक्रम

अधिवक्ता परिषद ने संविधान दिवस के अवसर पर भारतीय संविधान भारत के संबंध में परिचर्चा का आयोजन केशव भवन नदरई गेट पर अधिवक्ता परिषद कासगंज द्वारा किया गया। कार्यक्रम के शुभारंभ में प्रदेश उपाध्यक्ष गिरीश चंद्र पांडेय, डी.

जी. सी. क्राइम संजीव सिंह यदुवंशी व जिलाध्यक्ष अरुण माहेश्वरी ने भारत माता, डॉ. भीमराव अंबेडकर व डा. राजेंद्र प्रसाद के चित्र पर माल्यार्पण व दीप प्रज्वलन व राष्ट्रगान से किया।

विभाग प्रचारक कुलदीप ने कहा कि हमें अपने देश के महापुरुषों के जीवन से प्रेरणा लेनी चाहिए।

अनिता भारद्वाज, पूनम गोस्वामी, इंदु चौहान एडवोकेट ने वंदेमातरम का गायन किया। संचालन जिला उपाध्यक्ष प्रेमवीर सिंह एडवोकेट ने किया। कार्यक्रम में दर्जनों अधिवक्ता उपस्थित रहे।

Bulandshahar unit is Celebrating Constitution Day

Adhivakta Parishad, Brij, Bulandshahar unit is celebrating Constitution Day on 2nd December, 2023 at 2:30 PM at District & Sessions Court auditorium, Bulandshahar. Dr. Seema Singh, Asst. Professor, Faculty of Law, University of Delhi to be the Chief Guest.

Baghpat unit is Celebrating Constitution Day

Adhivakta Parishad, Brij Pradesh, Baghpat unit is celebrating Constitution Day on 2nd December, 2023 at 1 PM at Chaudhary Charan Singh Auditorium, District & Sessions Court, Baghpat. Hon'ble Mr. Justice Saurabh Shyam Shamshery to be the Chief Guest

Chandausi Unit, Celebrations of Constitution day:

Our Constitution is the greatest book in the world... Rakhi Sharma State General Secretary Advocate Council

State Executive Member Shri Sarvesh Sharma Chandausi - Our Constitution The specialty of the country's governance constitution Our Constitution fulfills the aspirations of the Students of Advocate Council Braj District Unit College participated and were honored on the Constitution Day organized by Sambhal. On the occasion of Pawan in the meeting, State Rastogi of Advocate Council Braj, Bar Association President Rajesh Yadav, General Secretary Ratri Sharma presented the Indian Constitution Sachin Goyal, Vishnu Sarma, Mr. Best told. Advocate Council's District Sharma, Praveen Gupta, Nagendra Singh Raghav Sauraj Unit Sambhal organized Solanki, Vinod Gupta, Sanjeev Tiwari, Ajay Gupta, Rudra Pratap Singh Sonu Kumar Gupta in the auditorium of Chandosi Bar Association on the occasion of Constitution Day, chief guest in the program. Civil Akhilesh Yadav, Luvmohanvarshney, Neelam Judge Senior Division Mayank Vipathi by Varshney, Rajni Sharma, Amrish Aggarwal, Yogash It was said that the main credit for giving the Republic of India this unique Sharma, business leader Arvind Kumar Gupta, Sheen document goes to Dr. Bhimrao Gupta, etc. The program goes to Ambedkar who was present, for which the country was presided over by senior advocate Devendra Vara.

Will remain indebted to him. But this great operation was done by Sachin Goyal.

-Rakhi Sharma, *General Secretary, Braj Prant*

अधिवक्ता परिषद काशी प्रांत

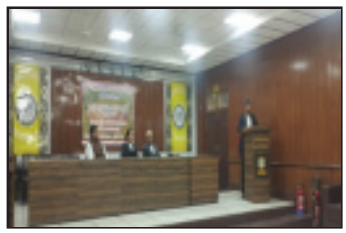
हमारा संविधान जीवित ग्रंथ : न्यायमूर्ति मुनीर

अधिवक्ता परिषद काशी प्रांत की उच्च न्यायालय ईकाई की तरफ से बुधवार को संविधान दिवस के उपलक्ष्य में हाईकोर्ट के लाइब्रेरी हाल में संगोष्ठी आयोजित की गई। इसमें मुख्य अतिथि न्यायमूर्ति जे.जे. मुनीर उपस्थित थें।

काशी प्रांत महामंत्री नीरज सिंह ने धन्यवाद ज्ञापित किए। विषय प्रवर्तन शुचिता त्रिपाठी ने किया। संचालन उच्च न्यायालय ईकाई के महामंत्री वरूण सिंह ने किया।

लखनऊ ईकाईः

अधिवक्ता परिषद लखनऊ हाईकोर्ट के अध्यक्ष वरिष्ठ अधिवक्ता ओपी श्रीवास्तव ने बृहस्पतिवार को शाम अवध बार के मालवीय सभागार में यह विचार संविधान दिवस पर



अधिवक्ता परिषद की संगोष्ठी में व्यक्त किये। ईकाई के महासचिव शैलेन्द्र सिंह राजावत ने भी संविधान की विशेषताओं को अद्वितीय कहा।

उपाध्यक्ष अनिल कुमार पांडेय, मीनाक्षी सिंह परिहार ने संविधान के गुणों की चर्चा का सबको धन्यवाद ज्ञापित किया। संगोंष्ठी में सैकडों कार्यकर्ता शामिल हुए।

–नीरज कुमार सिंह, *महामंत्री, काशी प्रांत*

अधिवक्ता परिषद उत्तराखण्ड नैनिताल :

सभी ग्रंथो से ऊपर है भारतीय संविधान

हाई कोर्ट बार एसोसिएशन सभागार में आयोजित गोष्ठी में मुख्य वक्ता शासकीय अधिवक्ता गजेंन्द्र सिंह व विशिष्ट वक्ता मुख्य स्थाई अधिवक्ता चंद्रशेखर रावत थे। सीएससी सहित हाई कोर्ट बार एसोसिएशन अध्यक्ष दिनेश रावत ने संविधान को सभी ग्रंथो से ऊपर बताया।

Roorkee Unit is organising Constitution Day:

Parishad, Uttarakhand, Roorkee Unit is organising a talk on the occasion of Constitution Day on 2nd December, 2023 at 4 PM. Mrs. Rama Pandey, Hon'ble Additional District Judge, Roorkee to be the Chief Guest of the event.

-Anuj Sharma, *General Secretary, Uttarakhand*

अधिवक्ता परिषद गुजरात

पंश्चिम कच्छ इकाई

अधिवक्ता परिषद पश्चिम कच्छ, जिला कानूनी सेवा सत्ता मंडल (DLSA) एवं नहेरु युवा केन्द्र के संयुक्त तत्वावधान में आज गुजरात के कच्छ जिले में पश्चिम कच्छ ईकाई के द्वारा भुज में संविधान दिवस मनाया गया। कार्यक्रम का आयोजन आल्फा प्लस स्टडी सेन्टर के कोलेजियन युवा को केन्द्रित रखा गया था।

DLSA के सचिव श्री आर. बी. सोलंकी एवं जिला युवा अधिकारी श्रीमती रचना शर्मा ने प्रासंगिक उद्‌बोधन किया। कार्यक्रम में अधिवक्ता प्रविरभाई धोलकिया, धवलभाई पाठक, सावित्रीबहन जाट, रीमाबहन राठौड, दक्षाबहन गोर, हेतभाई परमार उपस्थित रहे। अन्यों में 8 शिक्षकगण तथा 54 कॉलेज स्तर के विद्यार्थी विध्यार्थिनी की उपस्थिति रही। संकलन एवं आयोजन अधिवक्ता परिषद पश्चिम कच्छ ईकाई के संयोजक निपूणभाई माकड का रहा।

अधिवक्ता परिषद पालनपुर द्वारा 26 नवंबर को संविधान दिवस मनाया गया

अधिवक्ता परिषद पालनपुर ने 26 नवंबर 2023 को हातिदरा स्थित श्री हर गंगेश्वर महादेव मंदिर के पवित्र परिसर में संविधान दिवस एवं अधिवक्ता स्नेहमिलन का कार्यक्रम आयोजित किया। इस शुभ अवसर पर अधिवक्ता परिषद गुजरात प्रांत के उपाध्यक्ष श्री धीरजभाई धरानी, अधिवक्ता परिषद गुजरात के प्रांत के महामंत्री श्री अलकेश शह, अधिवक्ता परिषद पालनपुर तालुक अध्यक्ष श्री नरेशभाई चौरसिया, जिला श्री जिग्नेशभाई आचार्य, श्री धर्मेंद्रभाई सोनगरा, श्री प्रकाशभाई धरवा, श्री उदयभाई आचार्य, सिद्धार्थभाई ओझा और सभी वकील उपस्थित थे।

संत श्री दयालपुरी बापू ने आशीर्वाद दिया और सनातन हिंदू धर्म के बारे में बताया।

–अल्केश शाह, *महामंत्री, गुजरात*

अधिवक्ता परिषद मालवा प्रांतः

संविधान दिवस के उपलक्ष में इंदौर नगर के 21 स्थान पर निशुल्क विधिक न्याय शिविरः

अधिवक्ता परिषद मालवा प्रांत एवं सेवा भारती के संयुक्त तत्वाधान में दिनांक 26 नवंबर संविधान दिवस के उपलक्ष में इंदौर नगर के 21 स्थान पर निशुल्क विधिक न्याय शिविर का आयोजन सफलतापूर्वक किया गया।

जीत नगर, भीम नगर, अनुराधा नगर, कुंदन नगर, महादेव नगर, जबरन कॉलोनी, मेघदूत नगर, कुलकर्णी भट्टा, गोमा की फेल, शिवाजी नगर, कैलोद कांकड, राखी नगर, प्रेम नगर, अर्जुनपुरा, नाथ तोडा, समता नगर, ममता बाग, भामाशाह नगर, भील कॉलोनी एवं सांवरिया धाम। उक्त आयोजन में विधि छात्रों ने भी हिस्सा लिया जो शहर के सभी मुख्य लॉ कॉलेजो से आये थे।

उक्त शिविर में अखिल भारतीय अधिवक्ता परिषद के मध्य प्रदेश छत्तीसगढ क्षेत्र संयोजक श्री विक्रम जी दुबे मालवा प्रांत अध्यक्ष श्री उमेश जी यादव मालवा प्रांत महामंत्री श्री वाल्मिक सकरगाए एवं हाईकोर्ट इकाई अध्यक्ष श्री सुनील जैन साहब के नेतृत्व में उक्त न्याय शिविर का कार्यक्रम सफलतापूर्वक संपूर्ण हुआ।

–विक्रम दुबे, *महामंत्री, मालवा प्रांत*

अधिवक्ता परिषद महाकौशल प्रांत

जबलपुर इकाई द्वारा संविधान दिवस पर व्याख्यानमाला संपन्न :

अखिल भारतीय अधिवक्ता परिषद महाकौशल प्रांत की जबलपुर इकाई द्वारा सविधान दिवस कार्यक्रम हाई कोर्ट परिसर जबलपुर में धूमधाम से संपन्न हुआ। कार्यक्रम में मुख्य वक्ता के रूप में माननीय न्यायाधिपति श्री विषाल मिश्रा जी एवं मुख्य अतिथि अतिरिक्त महाधिवक्ता श्री हरप्रीत रूपराह जी की उपस्थिति में संपन्न किया गया। मंच में प्रांत इकाई के उपाध्यक्ष एस. पी. सिंह, कार्यकारी अध्यक्ष श्रीमती सुशीला पालीवाल, महिला प्रमुख सुश्री नीलम दत्त हाई कोर्ट बार के अध्यक्ष श्री संजय वर्मा एवं सचिव श्री परितोष त्रिवेदी जी की उपस्थिति गरिमामय रही।

जिला इकाई छतरपुर

जिला ईकाई छत्तरपुर ने आज मोतीलाल नेहरू लॉ कॉलेज मे संविधान दिवस का कार्यक्रम किया।

–प्रशांत एम. हर्ने, *महामंत्री, महाकौशल प्रांत*

अधिवक्ता परिषद मध्य भारत ग्वालियर

संविधान दिवस के अवसर पर न्यायलय परिसर श्योरपुर में व्याख्यानमाला कार्यक्रम का अयोजन।

जिला एवं सत्र न्यायधीश राकेश गुप्ता, सचिव जिला विधि प्राधिकरण पवन कुमार बादिल, अतिरिक्त पुलिस अधीक्षक सत्येन्द्र सिंह तोमर, दीपेन्द्र सिंह कुशवाह राष्ट्रीय मंत्री, अखिल भारतीय अधिवक्ता परिषद, ने अपना उद्बबोधन दिया।

परिषद के महामंत्री बलवीर सिंह जाट ने आभार प्रकट किया। एडवोकेट शदर जैन ने मंच संचालन किया। कार्यक्रम में बडी संख्या में अधिवक्ता परिषद के सदस्य पदाधिकारीगण उपस्थि रहें।

–विवके जैन, महामंत्री, *मध्य भारत ग्वालियर*

अधिवक्ता परिषद छत्तीसगढ

अधिवक्ता परिषद जिला मुंगेली के द्वारा आज संविधान दिवस मनाया गया। उपस्थित अधिकारियों के संविधान के संबंध में विचार व्यक्त कर संविधान के महत्व को बताया गया। सभी अधिवक्तागण ने संविधान का पालन एवं सम्मान करने का निर्णय किया गया।

–नीरज कुमार शर्मा, *महामंत्री, छत्तीसगढ़*

अधिवक्ता परिषद देवगिरी प्रांत

बेलापुर जिला न्यायालय में संविधान दिवस मनाया गया।

कार्यक्रम में नवी मुंबई के जिला व सत्र न्यायाधीश माननीय श्री पी, ए, साने साहब एवं बेलापुर न्यायालय के सभी न्यायाधीश, नवी मुंबई कोर्ट बार असोसिएशन के अध्यक्ष श्री. सुनील मोकल तथा नवी मुंबई बार असोसिएशन के

पदाधिकारी, लगभग 100 से अधिक अधिवक्ता इस कार्यक्रम में उपस्थित थे।

–संगीता आर. बैगुल, *महामंत्री, देवगिरी प्रांत*

Nationalist Lawyer Forum West Bengal

Annual General Meeting, 2023, 40th AGM at Iskcon Mandir, Sri Mayapur, Nadia, West Bengal

We organized 40th AGM on 9th September 2023, total 340 delegates from various court units of different of West Bengal attended AGM.

Gracious presence of Sri Divvela Bharat Kumarji, National General Secretary, Sri Santosh Kumarji, National office Secretary, Sri Kamabupani Padhi, our Zonal Coordinator, Sri Jaladhar Mahataji, Saha Khetra Prachayak, Purba Khetra Rastriya Sayam Sevak Sangha and Sri Janapriya Das, Mahanta, Iskcon, and their valuable Speech enlightened our karyakartas.

Audit report of financial year 2022-2023 was submitted and copies of which were circulated among the delegates.

Nationalist Lawyers Forum, West Bengal affiliated to Akhil Bharatiya Adhivakta Parishad.

Constitution day 2023 has been observed by most of the Court units, in various Districts of West Bengal. The Districts which observed constitution day are Bankura, Purutia, Burdwan (East & West), 24 Parganas (North & South), Calcutta High Court Unit, Nadia, Murshidabad, Darjeeling, Aliporeduar, Uttar Dinajpur, Learned Advocate, Law students participated and delivered their valuable speech to observe the constitution day, 26th November.

(Dipnakar Dandapath), ***General Secretary,***

Nationalist Lawyers Forum,West Bengal

Akhila Bharatha Vazhakkarignargal Sangam ABVA

–North Tamil Nadu

74" CONSTITUTION DAY CELEBRATION to be held on Monday, 27th Day of November 2023, at Conference Hall of South India Federation of Indian Industry Chamber (First Floor) (opp. To Esplanade PS & High Court of Madras).

Hon' ble Mr. Justice KRISHNAN RAMASAMY Judge, High Court of Madras has kindly consented to be the Chief Guest of the Celebration and deliver the speech on Fundamental Duties Under Constitution of India. Shri. AR. L. Sundersam Lr. Additional Solicitor General of India, High Court of Madras will preside over the Function and Administer Constitutional Day Oath. Shri. R. Rajesh Vivekanant, Deputy Solicitor General of India, High Court of Madra.

-D. Keshvan, *General Secretary, Tamil Nadu*