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INSPIRE INCLUSION: ASPIRING SPIRIT OF WOMEN IN BUSINESS THROUGH NEP 2020

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Professor-of-Laws

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(Patron)

A Slow-footed Trend:

In recent years we have perceived a remarkable increase in woman entrepreneurship which has led to key contribution in economic growth, innovation, and job creation. We all are witness to the journey of efforts, name and fame of acclaimed Indian women entrepreneurs like Indra Nooyi, CEO and Board Chairman of Pepsico, who according to Forbes was the first woman to head the huge soft drink and snack food company; Falguni Nayar, founder and CEO of 'Nykaa', who invested just Rs. 15 crore of her own funds in 2012 and by 2021, Nykaa's value had increased to about 19000 Crores; Kiran Majumdar Shaw, MD and Chairwoman of Bangalore based Biocon Limited; Indian Fashion Designer and Padma Shri Awardee Ritu Kumar of LABEL-Ritu Kumar; Richa Kar, CEO of 'Zivame' an online platform for shopping and later opened store fronts; Shubhra Chadda, Co-founder of 'Chumbak'; Vandana Luthra of 'VLCC' fame; Ghazal Alagh, Founder of 'Mamaearth', who became entrepreneur when she couldn't find toxin free baby products for her son. She now serves over 5 million customers in 500 odd cities; Kushboo Jain, Co-founder and COO of ImpactGuru.com working with a mission to revolutionize Indian's Crowdfunding startup landscape. we have also observed the excursion of Rajni Bector, founder and chairman of Mrs. Bector's Food Specialties Limited and who has been bestowed with Padma Shri for her contribution to trade and Industry and business tycoon Mridula Jain of Shingora Textiles Limited whose initial foray may have been an extension of her husband's business but Shingora Shawls is her baby alone.

But according to report 'Make It In India' by International Monetary Fund, only about 14% of Indian women own or run businesses as per Sixth Economic Census conducted in 2014.

More than 90% of companies run by women are microenterprises and about 79% are self-financed. Women account for just 17% of GDP in India. The world Economic Forum's Global Gender Gap Report 2018 ranks 149 countries on four measures: Economic participation and opportunity, educational attainment, health and survival and political empowerment. India ranks 108th overall with particularly low scores on 2 metrics – Health and survival and economic participation. Small wonder, then that the country also fares poorly in indexes of entrepreneurship. India ranked 52 among 57 countries in 2018 Mastercard Index of Women Entrepreneurs, ahead of Iran and Behind Tunisia.

The data goes on to prove that Indian women lack in entrepreneurship leading to poor economic participation in the growth of the nation. There are multiple reasons for this state of affairs. Women entrepreneurs continue to face challenges and hurdles in their progress and limit their potential for success due to social obstacles, patriarchal society, lack of exposure, lack of confidence, lack of risk-taking abilities, lack of professional education, lack of interaction with successful entrepreneurs, lack of finance, lack of skills and facing problems while working in male dominated areas to name a few. Apart from Social problems, lack of appropriate education in developing professional skill is major factor for low woman entrepreneurship. A report published in 2019 by London Business School indicates that the total entrepreneur activity rate (between 18-64 age) for women in India is 12% and 17% for men.

Furthermore, overall Indian scene be it men or women is quite bleak as far as employability is concerned. In 8th Edition which was presented in India Skills Report stated that less than half

of the graduates are employable. The percentage of employable graduates found in India was nearly 45.9% in 2021, that stands out to be lower than the previous years. In 2020 it was 46.21% and 47.38% in 2019.

N. Kulkarni et.al in their research article titled “Integrating Entrepreneurial Ecosystem into Engineering Education: Driving Regional Economy in Tier-2 Cities” published in 2016, mentioned that Triple Helix Model, that emphasizes on the role of university, Industry and government interacting dynamically to create innovation for knowledge based society, should be adopted. In a knowledge-based society, education plays an important role. The question arises why a young country with the potential raw material seems to be inadequate in achieving national entrepreneurial goals? This raw material is not being processed to contribute to its maximum. Well! One of the main reasons is the education system and all the facets that come under its spectrum. It may be unfair to blame every thing on the education system but there is some element of truth in it.

World economic forum stated that “building a culture of entrepreneurship requires a fundamental rethinking of educational systems, both formal and informal as well as the way in which lecturers or educators are trained, how examinations and incentives are given.” The present education system is factory Model of Education in which there are set timings, strict adherence to schedules, already pre-determined work allocation, mechanical content deliverance in the classroom. The teacher is the only dominating personality in the classroom whose task is to pour information and students are the passive recipients. The students are provided bookish knowledge with chalk talk style and no student is allowed to think on their own or raise any doubt or question. The students are evaluated and judged on the basis of verbatim absorption of classroom teaching. This factory model of teaching leads to annihilation of creative and innovative education system. The curriculum does not include the skills required for entrepreneur training. The vocational training imparted are meant for any skill required in the factory to work with the machines and not for

any creativity or innovation. It is not that the students do not want to learn in any other way or teachers cannot teach the content differently but the education system needs revamping and rethinking with that goal in mind.

NEP-A glimmer of Light:

New Education Policy 2020 recommended various techniques for disbursing quality higher education. NEP 2020 focuses on integrating vocational training with general education. It envisions school and higher education to provide entrepreneurial skills in their curriculum. The entrepreneurship in education is encouraged with development of National Skill qualification Framework NSQF right from school education. The NEP aims to provide student-centric active learning by providing activity based learning, problem solving methods, learning by doing, case studies, seminar presentations, debates, field visits, analysis, internships, research activities, inter-college competitions, industry-academia linkages, seminars inviting young entrepreneurs, certificate and value added courses on entrepreneur skills, story telling based pedagogy, art and sports integrated education, making provision for seed money for students to explore small scale businesses. NEP focuses on providing skill, knowledge and attitude of entrepreneurship across all learning ages. It aims to reduce curriculum content and enhance essential learning and critical thinking. Along with flexibility in course choice, NEP aims to provide skills to all the students to become good, successful, innovative, adaptable and productive human beings.

Teachers play a significant role in inculcating entrepreneurial education. The NEP encourages the teacher to motivate the students by inspiring students with biographies and autobiographies of different entrepreneurs, help students to understand feasibility of risk taking, motivate students to opt for self-employment and startups and emphasises students to get into entrepreneurial initiatives that toward development of disadvantaged in the society.

Entrepreneurship was initially considered as an economic related, profit-making concept. It was considered either as an inborn talent or a part of the family business. But when we integrate entrepreneurship in education, it becomes a part of learning by doing and would benefit maximum number of people. The universities and higher education institutions should not only provide entrepreneurial education especially to women but must promote and make aware the girl students about various schemes and provisions under Niti Ayog and start-upindia. The women entrepreneurs can coordinate with other women of remote parts of state and the nation to make a difference in the business world. Though the NEP does not specifically provide for women skill development and education but yearns for providing inclusive and equitable education to all children so that no child loses any opportunity to learn and excel because of

circumstance of birth or background. To promote entrepreneurship amongst the Indian women, concentration should not be on entrepreneurship in education but entrepreneurship education. It is more than teaching entrepreneurial skills but creating a learning environment to transform entrepreneurial idea into action.

Moreover, 'Inspire Inclusion' was the theme of 2024 Women's Day. I firmly believe that women can write her own story in life. Career is very likely to be an important part of that story. Hence, this Year's International Women's Day theme of 'Inspire Inclusion' promotes the crucial role of inclusion in achieving gender equality in every field including business and encourages every women to recognize her unique perspective and contribution towards the society.

COSMIC BALANCE OF SHIV-SHAKTI: EXPECTING ORACULARITY THROUGH CRITICAL MEDIA LITERACY IN POST-TRUTH ERA

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Cosmic Balance of Shiv-Shakti: When the ancient Greeks had questions or problems, they would turn to the Gods for answers by consulting an oracle, a person through whom the Gods communicated, usually in the form of cryptic verse. Oracle is also referred as God's answer or the shrine that worshippers approached when seeking advice. Oracularity, is hence an expression where a person is expected to be divine, noble, mature and balanced. It is expected of us as we have been matured within transcendent civilization. The enriched Indian society, through the oracles like folklore and ethos have given us the taste of narratives like Shiv & Shakti, an alliance that projects and reflects a balance between every facet of our being, including gender, thus developing oracularity among us. The union of Shiv-Shakti, not only depicts the divine feminine in Hinduism but universal consciousness. It encapsulates the intricate dance of creation, preservation, and dissolution that underpins the universe. Their relationship is a profound reminder of the interconnectedness of all things, the critical balance that sustains life, and the potential for consciousness to evolve towards higher states of being. Ardhanarishvara is a composite form of the Hindu deities Shiva and Parvati (Shakti), depicted as half-male and half-female, combining masculine and feminine energies into a single symbolic representation. The Ardhanarishvara form is often interpreted as a visual metaphor for the underlying unity and balance of all dualities in existence, such as consciousness and energy, Purusha and Prakriti or Shiva and Shakti. It represents the harmonious fusion of the seemingly opposite principles that are ultimately part of the same divine reality. The cosmic balance is a source of inspiration and guidance, a perspective of oracularity, offering a vision of harmony and unity that transcends the apparent divisions of

the world. Their relationship provides a framework for understanding the manifest world as a play of divine energy, where the multiplicity of forms and phenomena arise from a singular, underlying reality. It challenges the perception of duality, suggesting that seeming opposites are integral part of a unified whole.

The union is not merely symbolic; rather, it states the foundations of understanding existence itself, embodying the essential balance and harmony of the universe. The philosophical implications of their Union depicts nature of reality, the process of creation, and the path of enlightenment. They are often depicted as the male and female principles of the universe, representing consciousness and energy. While Shiv symbolizes the passive aspect of existence, the unchanging, infinite reality, Shakti is the active force that animates and sustains the cosmos. Their relationship is hence one of mutual interdependence, without Shakti, Shiv is inert and without Shiv, Shakti is unguided and purposeless. Together, they create a dynamic, self-sustaining cycle of life, death and rebirth. With this kind of oracularity our history and intertwined in our culture, issues like gaslighting, misogyny, domestic violence, and discrimination, are thus alien elements with inorganic growth within us.

Even if India faces the backlash of having an imbalanced, patriarchal society, with second gender as an inferior one, it can still quote remarkable examples from history through the deeds of Raja Ram Mohan Roy, Manockjee Cursetjee, Jyotirao G. Phule, Dr. B.R. Ambedkar and many more, to boast its conquest over these vices. Moreover, gender has never been restricted to binary forms in our part of the world. Historically, we were tolerant towards all-other categories, which can be witnessed from the chronicles of Ramayana and

Mahabharata. Ironically, it was the Criminal Tribes Act 1871, the organize of The British, which disputed our moral and social foundations of consideration. The law on the Rights of Transgender Persons has tried to rectify the decades old gaffe, bidding to revert back to a more equalized society. However, besides legislative efforts, the Navtej Singh Johar Case has also added rainbow colors in the memoire of Indian Judiciary, as it successfully challenged the constitutionality of Section 377 of the Indian Penal Code and decriminalized consensual relationships between same sex adults within their private areas, giving new dimensions to constitutional morality and gender equality. However, the present times of post-truth make us witness a different mindset, creating and nurturing new kinds of notions about gender roles in Indian society, thereby challenging the ageold tradition of maintaining balance.

Enhancing Critical Media Literacy in Post-Truth

Era: Post- truth is an adjective, a word chosen by Oxford Dictionary as its word of the year in 2016. It means relating to or denoting circumstances in which objective facts are less influential in shaping public opinion than appeals to emotion and personal beliefs. This brings us to the bitter reality that people are more inclined to believe things that they feel true in the face of evidence stating otherwise. The people don't deconstruct what they see on social media and hence don't learn how to look for evidence, even if data supports the undesired claims of the people. Objective evaluation skills, free from bias, are more critical than ever in the times of post-truth. National Media Education Policy of Finland and Sector-Specific Strategies undertaken by that country to educate its population about the ill-effects of exposure to media and empower them with necessary skills to discern between various sorts of information and critically question what they see, is a model more societies can emulate. While post-truth has been within our society since decades, however, the internet exaggerates its effects due to algorithms perpetuating bias. These algorithms create filter bubbles that isolates the user from important data and information. Quite smartly, these filters use

past internet selections of the person targeted and ultimately offer similar information. All this makes a person read similar information continuously, thereby reinforcing same ideas and limitations, ultimately isolating him/her from wider horizon of the information or even getting acquainted to new perspectives.

The critical media literacy for the concepts of Gender Equality, Emancipation and Empowerment etc., should hence, be the approach. Gender Equality in its extreme applicability is leading to reverse discrimination against men, where some women misuse their vulnerability and laws for their narrow objectives. The post-truth era through media literacy displays the vulnerability of women putting burden of proof always on men to attest their innocence. Critical media literacy should show balanced information, thereby maintaining the stability of both genders. Moreover, emancipation and empowerment of women should not filter the information on men who are also the victims of domestic violence, ageing, sexual offences, and much more. The media literacy campaigns on gender equality has uninvolved the difference between fame and success. Highlighting accomplishments of a person, especially women on media is fame, which is often inferred as success. However, being a successful person is much more than professional enhancement. Success is a broader concept which has various dimensions in totality. Our traditional wisdom teaches us to be successful, whereas the post-truth era through media literacy promotes fame. We watch over night heroes and villains crafted through media trials. All this has narrowed the gest of entire movement of gender emancipation. We need to re-establish that success is a continuous spiritual practice and journey whereas fame is a temporary arbitrary reward which may not be necessarily bestowed upon the deserving. So, when we deliberate on the parameters of gender equality, we need to work on philosophy of success rather than fame. Family structure, procreation, education, economic enhancement, societal values, duties towards fraternity, traditional wisdom are all part of being a successful person. A balanced life should always be the objective of an

emancipated person.

Expecting Oracularity: Enlarging the foresight on the perspective, my anxiety is also for post-genderism, a socio-political and cultural movement, promoted by media via filter bubbles, whose adherents affirm the elimination of gender in the human species through the application of advanced biotechnology and assistive reproductive technologies. The market via science and media has intruded into our opinions and consequently it underpins our ethics today. To preserve ourselves as a moral human being, we need to wrestle the threat of media and technology in context with bionic babies, designer genitals, artificial intelligence and so forth. Reverting back to the union of Shiv Shakti, a connection which is rich in symbolism, is need of an hour. The art and literature on Shiv Shakti highlights the inseparability and complementary nature of masculine and feminine energies, suggesting that both are necessary for the completeness and balance of existence. Oracularity is hence, expected; re-evaluating Shiv & Shakti through the perception of balancing Nature, Science, Media and Gender is hence necessitated. In a time when parents are opposing unilateral decisions by

teachers to amend syllabus to incorporate gender education and pushback continues against policies that let schools keep secret a child's changed gender identity the role of traditional wisdom and cultural narratives needs to be underscored along with modern education.

In polarizing times as these with the woke left and conservative right pitting people against one another and turning venues of dialogue into arenas of conflict, the coincidence of Mahashivratri and Women's Day falling on the same date, i.e., March 8 2024, should be construed as an oraculus omen. In a world being reshaped by hard conflicts, the propensity of stable societies falling prey to propaganda peddled by adversaries and magnified by algorithms looms large. Intellectuals should hence refocus their energies on conducting dialogue instead of using platforms to preach logical fallacies as gospel truths. For if the balance tilts the world topples, and if either gender wins, the entire society loses.

NEW INTERPRETATION OF “ON-BOARD” AIRCRAFT FOR PASSENGER LIABILITY IN AIR ACCIDENTS

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Aviation operation, of flying above in the air, is a hazardous activity prone to accidents whether due to technical failure or weather conditions or pilot error or for any other reason. The commercial flying, under the common law of torts, bears a duty for safe transportation, while accidents causing death or wounding or any other bodily injury to a passenger attracts *vinculum juris* to compensate for the loss or damage. The Warsaw Convention, 1929 [the Convention or WC] has formalised this legal obligation as liability of the air carriers so long as the passenger is on-board the aircraft or in the process of embarkation or disembarkation. The Convention makes air carriers liable for injuries sustained or death of a passenger “if the accident which caused the damage so sustained took place on board the aircraft or in the course of any of the operations of embarking or disembarking.”² However, definition of “on-board” has not been embodied in the Convention while embarkation and disembarkation are almost clear-cut processes.³

During the days of drafting of the Convention, the aircraft were small with limited capacity, would operate from small airstrips, parked on the tarmac, there were no security checks and passengers with valid tickets drove or walked right up to the aircraft to embark and get on-board. It was a simple situation but packed with uncertainties as to when was a passenger deemed on-board.

Different criteria were adopted by different airlines that changed with the times. It was difficult to ascertain whether the on-board stage was from embarkation to disembarkation, or from doors-closed to doors-open, or from the start to switch-off of the engine or from take-off till landing and halt of the aircraft for disembarkation.

However, a US Court has defined “on-board” between the time any person boards the aircraft with the intention of flight till all such persons have disembarked.⁴ In this connection, there was the case of *Mrs. Chutter v. KLM* (1955)⁵ where this lady having climbed the ladder, was standing at the door of the aircraft, still bidding bye to the relatives. Just at that time the ladder was removed, and she fell to the ground and sustained injuries. She was deemed on-board, and it was held an accident under the WC.⁶ The airline pleaded contributory negligence in defence for the award of compensation. Later, the claim was dismissed as it turned out to be time-barred for the reason of limitation under the Convention.⁷

Times have changed and modern airports have huge structures in expanse as terminal. The boarding formalities are now elaborate requiring various documents and elaborate procedures. The passenger movement within the terminal is directed along corridors for check-in, baggage surrender, immigration, customs and security clearance before reaching the boarding gate and waiting till boarding is announced. All these take a long time, and the passenger moves in queues and as part of

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²The Warsaw Convention, 1929, Article 17. This definition remains the same under the Montreal Convention, 1999 also.

³For a detailed discussion, refer G S Sachdeva, *International Transportation: Law of Carriage by Air*, Deep & Deep Publications, New Delhi, 1987, pp. 48-67.

⁴724 F. 2d at 1385.

⁵(1955) US C Av R 250. This case dragged on for a long time on different pleas and the claim was ultimately dismissed as barred under limitation. For more details, refer G S Sachdeva, n. 3 ante, pp. 152-153.

⁶Cases such accident have come up later also. *MacDonald v. Air Canada*, 439 F. 2d 1402 (CAI 1971); *Mathias v. Pan Am* 53 F.R.D. 447 (IN Pa. 1971).

⁷Article 28 (1). The limitation period is two years.

regulated traffic thereby remaining within the designated areas of airport terminal for a minimum period of three hours.

Further, during this 'within-terminal' period, the passenger walks long distances and commutes in lifts, escalators, walkways, aerobridges, surface transport to aircraft and uses other facilities like baggage belts, waiting lounges and conveniences provided by non-airline entities. So, it becomes a moot point that whether an accident within the sprawling terminal premises or in the use of facilities and conveniences would be treated an accident on-board. This issue remained moot waiting for a court decision because some of the official formalities, facilitation services and shopping complexes, etc. at the terminals of the airport are not within the control of the air carriers, who themselves are just paying users of the airport facilities, including the use of the runway and ATC services.

Accidents have occurred in the terminal areas where bonafide passengers have been injured or have died. Two instances are cited to exemplify this assertion. First, the case of roof collapsing in the terminal area of Mehrabad International Airport at Teheran on 5 December 1974. Larry Upton died and compensation claim was filed against the air carrier as Upton vs. Iran National Airlines Corporation.⁸ In another similar case of death of a passenger named Day, in a bomb blast in the terminal area, liability was claimed.⁹ The passenger was in the transit lounge at Ellinikon airport at Athens on 5 August 1973 when a terrorist attack occurred and two passengers, including Day were killed and many injured.

In view of the vast expanse, long distances, security sanitisation, agency regulated curbs on the movement and for long time spent by the passenger at the airport terminal, with scant freedom of personal movement and no easy exit or escape, the US Supreme Court considered the situation in detail. It was convinced that the passenger had literally no freedom of movement or choice of location

once within the terminal premises and the movement was regulated and controlled. It was thus, maintained that "pre-on-board stage" at the terminal carries risks predicated to air travel because the passenger has very little option of free movement and unchecked escape from the terminal. The Court further mulled on the aspects of passenger safety and ambient security. In conclusion, it was deemed a risk attendant and consequent to air travel and as such an inescapable part of the journey contracted by the carrier.

In elaboration, to determine liability for accidents inside the airport terminal and confirm the validity of the case for admissibility of compensation for injury to or death of a bonafide passenger, the Supreme Court laid down a triple test and devised three elements as causation for liability in such cases viz., activity, control and location.¹⁰ First test is that the passenger was doing what activity, i.e., the imminent purpose of the passenger in the designated area e.g., immigration or customs formalities or security check etc. The second test is that the passenger was under whose control or which authority or agency regulated the movement in queue or imposed movement restrictions in the area. The third test questions that the passenger was at which location within the terminal and whether it was sanitised for security, regulated for entry and was exclusive for such passengers.¹¹ This approach heralds a new thinking consequent to changed circumstances and new compulsions, thus, expanding the interpretation of "on-board aircraft" to adjust to new realities of the time spent in the terminal before boarding and the attendant risks.

There also occurred a case in India where a girl of seven years returning from Dubai by Air India flight on 13 December 1999 got sucked into the escalator and died at Indira Gandhi International Airport, Delhi. A claim was preferred where the court permitted that Airport Authority of India (AAI), the party responsible for providing such facilities, could

⁸450 F Supp 176 (1975).

⁹(1975) Day v. TWA Incorporated 393 f supp 217, 220 (SDNY).

¹⁰ The case *ibid*.

¹¹Based on judgment in the case of Day v. TWA. At n. 8 ante.

be impleaded for liability. From the affidavits and during the hearings, the Indian Court was not convinced by the defences put up by AAI and the manufacturer of the faulty escalator. Incidentally, it could even be made into a case of unlimited liability for dereliction in maintenance or product default, ergo, beyond the limitation stipulated in the Warsaw Convention (WC).

The matter was then taken up before the National Consumer Dispute Redressal Commission (NCDRC) who held it as a deficiency in service for lack of proper maintenance. Accordingly, NCDRC in 2004, directed AAI to pay to the mother of the deceased, French Francs 250,000 as compensation for the death of the child, Jyotsna Jethani. However, the matter went to the Supreme Court in appeal and was contested. The Supreme Court, too, was dissatisfied with defendants and made a strong rebuke to the AAI for poor maintenance and for the cussed attitude lacking empathy. Accordingly, the Supreme Court, on 1 February 2008, ordered payment of compensation as already decided with interest from 1 January 2000. This worked out to Rs. 38.4 lakhs and was paid. This judgment has since changed the jurisprudence on compensation as also Indian legal mindset on liability matters to make awards more empathetic and humane.

Another interesting case of liability caused “on-board” but without an accident seems pertinent and deserves a mention. In this case Valerie Saks, a passenger of Air France jetliner on 16 November 1980, complained of severe pressure and pain in the left ear while landing at Los Angeles airport, which continued after the landing also. Shortly thereafter, the passenger consulted a doctor, who concluded that she had become permanently deaf in her left ear. A suit was filed alleging that the hearing loss was caused by negligent maintenance and operation of the cabin pressurization system of the jetliner.

Based on the post-flight reports, pilot’s affidavit and passenger testimony, which all reported normal operations, the Court held that the injury here was not caused by an “accident”,

which is an “unusual and unexpected” happening,¹² within the meaning of Article 17 of the WC. It further held that the cause was a risk inherent in air travel and did not qualify as an accident even within the definition in Annex 13 to the Chicago Convention on international civil aviation (1944). The case went in for appeal which considered the difference of connotation of the word accident as formulated in Article 17 applying to passengers. It cogitated on the differentiation between cause and effect as also on the event of injury and the cause of injury. The Court held that the WC imposes absolute liability on airlines for injuries proximately caused by risks inherent in air travel.¹³ The liberalism here is obvious.

The concerned judgments in the US and India show of an open understanding and a liberal interpretation that appears realistic and empathetic to the aggrieved passenger. This heralds a new jurisprudence in aviation liability beyond the limits of the Warsaw Convention and new Montreal regime.¹⁴ In fact, this view enlarges the scope and meaning of “accidents on-board aircraft” to more practical threshold of passenger’s travails and judicial acceptance without needing an amendment to the respective treaties regulating accident liability in commercial aviation operations. This activism by the judges is commendable and in the correct direction. It should be welcomed in the right sense and the true spirit.

¹²Refer *DeMarines v. KLM*, 580 F. 2d 1193, 1196 (CA3 1978).

¹³*Air France v. Saks*, 470 US 3922 (1985).

¹⁴The Montreal Convention, 1999.

A COMPARATIVE ANALYSIS OF THE INDIAN PENAL CODE, 1860, AND THE BHARATIYA NYAYA SANHITA, 2023

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Abstract

The legal landscape of India has undergone a significant transformation with the transition from The Indian Penal Code, 1860¹, to The Bharatiya Nyaya Sanhita, 2023². The former, a relic of the colonial era, has been the cornerstone of criminal law in the country for over a century and a half. In contrast, the latter represents a comprehensive effort to modernize and adapt the legal framework to the dynamic needs of contemporary society. This article aims to provide a comparative analysis of some of the key provisions and changes between The Indian Penal Code and The Bharatiya Nyaya Sanhita, shedding light on the evolution of criminal law in India.

Keywords: The Indian Penal Code, The Bharatiya Nyaya Sanhita, Comparative, Colonial, India, Implementation, Criminal law, Justice.

Historical Roots of The Indian Penal Code, 1860

Enacted during the British colonial period, The Indian Penal Code of 1860 was a product of its time. Drafted under the guidance of Lord Macaulay, the code aimed to consolidate and standardize criminal laws across the vast and diverse expanse of British India. Its provisions were largely influenced by English common law principles but adapted to suit the socio-cultural context of the Indian subcontinent³. The Indian Penal Code provided a foundation for the criminal justice system, outlining offenses, penalties, and procedures. Its primary focus was on maintaining law and order, reflecting the priorities of a colonial administration. However, over the years, it became evident that the code needed substantial amendments

to address the evolving challenges of an independent and diverse nation like India.

The Bharatiya Nyaya Sanhita, 2023: A Paradigm Shift

The Bharatiya Nyaya Sanhita introduced on 25th December 2023, signifies a departure from the colonial-era legal framework. It is shaped by decades of legal reforms, social changes, and technological advancements, this new legal code aims to address contemporary challenges while upholding the principles of justice and fairness.

- 1. Incorporation of cyber offences:** One of the notable advancements is the comprehensive treatment of cybercrimes in The Bharatiya Nyaya Sanhita. Recognizing the increasing prevalence of cyber offenses, the new code introduces detailed provisions to tackle hacking, online fraud, and data breaches. This reflects a forward-looking approach, aligning the legal system with the complexities of the digital age.
- 2. Gender-Neutral Language:** The Bharatiya Nyaya Sanhita rectifies a historical gender bias present in The Indian Penal Code. The shift to gender-neutral language is a significant step towards inclusivity, recognizing the diverse roles and experiences of individuals regardless of gender. This change aligns with the broader societal shift towards gender equality.
- 3. Protection for Vulnerable Groups:** The new legal framework places a heightened emphasis on the protection of vulnerable groups such as children, the elderly, and differently-abled individuals. The Bharatiya Nyaya Sanhita introduces stricter penalties for offenses against these groups and

adopts a more nuanced approach to handling cases involving them, reflecting a more empathetic and rights-oriented legal system.

4. **Modernization of Public Order Offenses:** With the changing dynamics of society, the offenses related to public order have been modernized to address contemporary challenges. The Bharatiya Nyaya Sanhita introduces provisions to deal with emerging threats to public safety, including terrorism, hate crimes, and communal violence. This reflects an understanding of the evolving nature of public order offenses in a diverse and interconnected world.
5. **Introduction of Restorative Justice Practices:** A notable departure from traditional punitive measures is the introduction of restorative justice practices in The Bharatiya Nyaya Sanhita. This approach aims to foster reconciliation between victims and offenders, emphasizing repairing harm and reintegrating individuals into society. This aligns with global trends towards alternative dispute resolution mechanisms and a more holistic approach to criminal justice.

Comparative Analysis

1. **Legal Adaptation to Technology:** The Indian Penal Code, being a product of the 19th century, struggled to address offenses related to technology adequately. The Bharatiya Nyaya Sanhita, on the other hand, demonstrates a more proactive approach by incorporating specific provisions to tackle cybercrimes⁴. This reflects an understanding of the challenges posed by the digital age and a commitment to ensuring that the legal system remains relevant and effective.
2. **Inclusive Language and Gender Equality:** The shift to gender-neutral language in The Bharatiya Nyaya Sanhita is a progressive step towards fostering inclusivity within the legal framework. The Indian Penal Code, reflecting the societal norms of its time, used predominantly male-centric language. The adoption of gender-neutral terms in the new code acknowledges the diverse roles and experiences of individuals, promoting gender equality within the legal sphere. Further, in The Bharatiya Nyaya Sanhita, the offence of outraging modesty of women and voyeurism has been made gender neutral meaning thereby that now women can also be booked for the same.
3. **Enhanced Protection for Vulnerable Groups:** While the Indian Penal Code contained provisions for the protection of vulnerable groups, The Bharatiya Nyaya Sanhita strengthens these safeguards. Stricter penalties and a more nuanced approach in handling cases involving women, children, the elderly, and differently-abled individuals underscore a commitment to upholding the rights and dignity of these vulnerable sections of society. *Section 69* of The Bharatiya Nyaya Sanhita states that, "Whoever, by deceitful means or by making promise to marry to a woman without any intention of fulfilling the same, has sexual intercourse with her, such sexual intercourse not amounting to the offence of rape, shall be punished with imprisonment of either description for a term which may extend to ten years and shall also be liable to fine."⁵
4. **Modernization of Public Order Offenses:** The offenses related to public order have evolved in response to the changing dynamics of society. The Bharatiya Nyaya Sanhita recognizes the emergence of new threats to public safety, such as terrorism, hate crimes, mob lynching, fake news and introduces provisions to address these challenges. One of such provisions regarding fake news is stated in *Section 353*

(1) is, “Whoever makes, publishes or circulates any statement, false information, rumour, or report, including through electronic means - (a) with intent to cause, or which is likely to cause, any officer, soldier, sailor or airman in the Army, Navy or Air Force of India to mutiny or otherwise disregard or fail in his duty as such; or (b) with intent to cause, or which is likely to cause, fear or alarm to the public, or to any section of the public whereby any person may be induced to commit an offence against the State or against the public tranquillity; or (c) with intent to incite, or which is likely to incite, any class or community of persons to commit any offence against any other class or community, shall be punished with imprisonment which may extend to three years, or with fine, or with both. (2) Whoever makes, publishes or circulates any statement or report containing false information, rumour or alarming news, including through electronic means, with intent to create or promote, or which is likely to create or promote, on grounds of religion, race, place of birth, residence, language, caste or community or any other ground whatsoever, feelings of enmity, hatred or ill will between different religious, racial, language or regional groups or castes or communities, shall be punished with imprisonment which may extend to three years, or with fine, or with both. (3) Whoever commits an offence specified in *sub-section (2)* in any place of worship or in any assembly engaged in the performance of religious worship or religious ceremonies, shall be punished with imprisonment which may extend to five years and shall also be liable to fine.”⁶ This demonstrates a proactive approach to maintaining public order in a diverse and dynamic society.

5. **Deletion of Several Laws:** *Section 377* of the Indian Penal code which criminalised

homosexuality has been repealed in the Bharatiya Nyaya Sanhita. Further, the offence of adultery under *Section 497* of the Indian Penal code was struck down by the Supreme Court in September 2018 in *Joseph Shine vs Union of India*, has been omitted under the Bharatiya Nyaya Sanhita. Furthermore, the law of sedition under *Section 124 A* of the Indian Penal code has also been omitted in the new Act.

6. **Shift towards Restorative Justice:** The introduction of restorative justice practices in The Bharatiya Nyaya Sanhita marks a departure from the more traditional punitive approach of The Indian Penal Code. This shift aligns with a global trend towards alternative dispute resolution mechanisms and emphasizes repairing harm and reintegrating offenders into society. It reflects a recognition that justice is not solely about punishment but also about rehabilitation and reconciliation.

Challenges and Implications

1. **Implementation Challenges:** The effective implementation of the new legal framework poses a significant challenge. Adapting law enforcement practices, training personnel, and ensuring uniform application across diverse regions and communities require a concerted effort. For the effective implementation of the Act, the central government has notified all the states, the union territories, judicial academies, law enforcement agencies to impart training to all the stakeholders by the end of this year.
2. **Societal Attitudes:** Legal reforms are often met with resistance from societal attitudes deeply ingrained in historical norms. Changing these attitudes to align with the progressive provisions of The Bharatiya Nyaya Sanhita requires not only legal adaptation but also extensive social awareness campaigns.

3. **Balancing Punishment and Rehabilitation:**

The shift towards restorative justice practices raises questions about finding the right balance between punishment and rehabilitation. Striking this balance is crucial for ensuring that the legal system remains just and effective in deterring crime while also fostering the reintegration of offenders into society.

https://prsindia.org/files/policy/policy_annual_policy_review/Monthly%20Policy%20Review/2023-12-01/MPR-December_2023.pdf
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Conclusion

The comparative analysis between The Indian Penal Code, 1860, and The Bharatiya Nyaya Sanhita, 2023, highlights the evolution of India's legal framework. The transition from a colonial-era code to a modern, inclusive, and technology-savvy legal system is a significant step towards aligning the law with the needs and values of contemporary society. While challenges in implementation and societal attitudes persist, the overarching theme of The Bharatiya Nyaya Sanhita reflects a commitment to justice, equality, and adaptability in the face of evolving challenges. The success of this transition will depend on continued evaluation, refinement, and a collaborative effort from legal professionals, policymakers, and the public alike.

Endnotes

¹ The Indian Penal Code, Act No. 45 of 1860

² The Bharatiya Nyaya Sanhita, 2023, Act No. 45 of 2023

³ See eg., T.B. Macaulay, "Utilitarian Logic and Politics," "Bentham's Defence of Mill," and "Utilitarian Theory of Government" written in late 1820's. Herbert Butterfield, *The Whig Interpretation of History* (1931 repr London: Bell, 1950)

⁴ Section 111 (1), The Bharatiya Nyaya Sanhita, 2023, Act No. 45 of 2023, The Gazette of India Extraordinary, Page No. 35

⁵ The Bharatiya Nyaya Sanhita, 2023, Act No. 45 of 2023, The Gazette of India Extraordinary, Page No. 26

⁶ The Bharatiya Nyaya Sanhita, 2023, Act No. 45 of 2023, The Gazette of India Extraordinary, Page No. 98

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ARTIFICIAL INTELLIGENCE AND COPYRIGHT: CHARTING A NEW CREATIVE LANDSCAPE

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Abstract

The convergence of Artificial Intelligence (AI) and copyright law presents a captivating juncture at the forefront of contemporary legal and technological discourse. This article delves into the intricate interplay between AI and copyright, investigating how these two seemingly disparate realms intersect and influence each other. The article navigates the intricacies of copyright law in the digital age by exploring AI's foundational concepts and its rapid evolution. It scrutinizes the profound implications of AI's creative capabilities on established copyright norms, particularly in determining the authorship of works generated by non-human agents. Through an analysis of legal precedents and global perspectives, the article deliberates whether AI can be bestowed with authorial status as it lacks traditional human qualities. As society stands on the threshold of a new era of creativity, this article underscores the necessity of recalibrating copyright paradigms to accommodate AI's contributions. The abstract invites readers to embark on a journey that probes the synergy of AI and copyright while raising vital questions about the future of creative expression and intellectual property rights in an AI-driven world.

Keywords: Copyright, Artificial Intelligence (AI), authorship, AI-generated works, Indian Copyright Act

Introduction

In an era defined by technological advancement, the fusion of artificial intelligence (AI) and copyright law has emerged as a focal point of legal, ethical, and creative discourse. A paradigm change across industries has been ushered in by the exponential expansion of AI technology, altering the way we interact with information, produce content, and

safeguard intellectual property. The complex interplay between AI's capabilities and the fundamentals of copyright law necessitates careful consideration as it moves beyond its infancy and develops into a widespread force.

Artificial intelligence has grown rapidly, propelled by innovations that have altered our perceptions of what machines are capable of. In particular, deep learning neural network-based AI systems have shown extraordinary mastery in a variety of tasks, from natural language processing and picture identification to autonomous decision-making. The sophistication of AI-generated content raises concerns about its provenance, ownership, and entitlements, whether it takes the shape of art, music, literature, or even totally new media formats.

The present research initiates a thorough investigation of the symbiotic relationship between AI and copyright law, exploring the significant effects of AI's development on the guiding principles and approaches of copyright protection. The present article examines the difficulties and opportunities that arise as creators, users, and lawmakers deal with a transformed creative landscape through an interdisciplinary lens as we navigate the significant intersections between AI and copyright law.

The investigation of AI's development in the context of copyright law is a journey that spans both the technological and legal spheres in an age where algorithms can communicate in prose, compose symphonies, and paint portraits. The difficulties posed by their integration with current legal frameworks demand critical scrutiny and forward-thinking solutions as AI systems progress from being merely tools to participants in creative projects.

Artificial Intelligence (AI): The Concept

A technology referred to as artificial intelligence (AI) enables computers or computer systems to carry out tasks that would ordinarily need human intelligence. The creation of algorithms and models for AI enables machines to learn from data, make decisions, and carry out tasks on their own. There are different kinds of AI, including Narrow AI and General AI. While general AI refers to AI systems that have human-like intelligence and can comprehend and reason in a variety of situations, narrow AI refers to AI systems that are created to accomplish specific tasks within a constrained context.¹⁵ AI systems are created to mimic human cognitive abilities like language processing, learning, perception, and problem-solving.¹⁶ AI includes a number of subfields like robotics, machine learning, deep learning, and neural networks. Robotics refers to actual devices or systems that have the ability to carry out activities without much assistance from humans. While machine learning refers to the capacity of machines to learn from data and enhance their performance over time, neural networks are algorithms that are inspired by the structure and operation of the human brain. A form of machine learning called deep learning uses multiple-layered artificial neural networks to extract intricate patterns and characteristics from data.¹⁷ Artificial neural networks, which are brain-inspired systems created to resemble how the human mind learns, are the basis of artificial intelligence. As more data becomes accessible, these networks have the capacity to self-learn and enhance their performance.¹⁸

The scope and application of AI is not limited to any single industry but is spread across all sectors. AI is utilized in the healthcare industry to evaluate medical data, help with diagnosis,

and create individualized treatment regimens. AI is used in the finance sector to identify fraud, forecast market trends, and streamline financial procedures is employed in self-driving automobiles, traffic control, and logistics optimization in the transportation sector. In the manufacturing sector, AI is used to streamline workflows, enhance quality assurance, and anticipate maintenance requirements. Chatbots, virtual assistants, and speech recognition systems all employ AI to deliver customer assistance. AI is utilized in education to tailor instruction, deliver feedback, and carry out administrative chores automatically. In the entertainment industry, AI is utilized to independently produce music, art, and literature. AI is a rapidly developing discipline, and new applications are being added daily.¹⁹ Artificial intelligence's technological advancement dominated the 2010–2020 decade, and it is anticipated that the legal and regulatory landscape will undergo considerable change as a result in the following decade.²⁰

Given that AI has the capacity to create and generate knowledge, works of art, technological innovations, etc., it is important to consider what challenges and concerns this may create for intellectual property rights. In particular, AI has a vital role to play in copyright, patents, designs, and trade secrets among other sorts of Intellectual Property Rights (IPRs) in order to foster creativity and innovation. AI is capable of creating paintings, drawings, blogs, books, poetry, and music. However, it is important to distinguish between works produced by humans with AI's assistance and those produced entirely by AI.²¹ AI alone, without human input, produces AI-generated work. During execution, AI has the potential to alter its behaviour and deliver results that weren't intended or expected. Due to the fact that they are considered original, these works can be protected by copyright.

¹⁵ Kiseleva A (What is Artificial Intelligence and why does it matter for copyright? January 2019)

<https://www.4ipcouncil.com/application/files/6815/4876/6908/What_is_artificial_intelligence_and_why_does_it_matter_for_Copyright.pdf> accessed 22 August 2023

¹⁶ Ahuja VK, 'Artificial Intelligence and Copyright: Issues and Challenges' [2020] ILI Law Review

<<https://ili.ac.in/pdf/vka.pdf>> accessed 22 August 2023

¹⁷ Kiseleva (n 1)

¹⁸ Ahuja (n 2)

¹⁹ Gervais DJ, 'AI Derivatives: The Application to the Derivative Work Right to Literary and Artistic Productions of AI Machines' (2022) 53 Seton Hall Law Review

²⁰ Bond T and Cox A (Copyright and AI: Creation Without a Creator, 2022) <<https://www.twobirds.com/-/media/pdfs/news/articles/2021/copyright--ai-chapter.pdf>> accessed 23 August 2023

²¹ Ahuja (n 2)

However, in such cases of works produced by AI, there is no human author. On the other hand, AI-assisted works are ones that were produced with a significant quantity of human input and used AI as a tool. In such works, the individual who employed AI to generate the piece is regarded as the author.²²

The incorporation of AI in creative works has presented difficulties and problems, particularly in the field of copyright law. The determination of authorship and ownership of AI-generated works is one of the important challenges. AI has the capacity to produce a significant amount of work quickly, which poses also questions regarding the infringement of intellectual property rights and the correct crediting of authorship. To secure the proper recognition of authorship, ownership, and protection of AI-generated works within the parameters of copyright law, it is crucial to address these challenges and develop comprehensive techniques.

There are various phases involved in producing AI-generated works and they can change depending on the output. However, a few of the typical actions consist of training the AI system using machine learning methods and data sets from previously published studies. This instruction aids the system in picking up the norms and traits of the particular genre of output, such as music, literature, or painting. Also, by defining settings that direct the AI system to produce works that match the user's preferences, users can interact with the AI system. Users can control variables like music genre, primary instruments, song length, and speed, for instance. Large volumes of data, including trends, patterns, and components from the training data set, are analyzed by the AI system. The system is then better able to comprehend the traits and working modes of the particular sort of task. The AI system decides how to develop the final result based on the data that has been analyzed and the parameters that have been established. It integrates many components, produces melodies, harmonies, and rhythms, and ultimately results in a distinctive composition.

²² *ibid.*

The AI system then produces the final product, which can take the form of a digital file like an MP3 for music, a text file for literature, or a picture file for art. Users may access the AI-generated output through web platforms, streaming services, or as files that can be downloaded. The output can be used by users for a variety of things, including background music for projects or simply for enjoyment. It's vital to remember that depending on the AI system or platform utilized for output generation, the specific method may change. The methods used by various AI models and algorithms to produce works may differ.²³

AI and Copyright Law

The legal status of artificial intelligence (AI) is an important consideration in addressing the challenges posed by AI in various fields, including copyright. By generating content based on preexisting works or datasets, artificially intelligent machines can help authors create copyrightable works. However, this calls into question the originality and authorship of these AI-generated works. The Copyright Act only applies to original works that have been permanently fixed in a tangible form of expression. Originality requires that the work should be created independently and exhibit a minimum level of creativity. However, as our society has developed, non-humans have begun to create original works, which complicates the ideas of "authorship" and "copyright ownership."²⁴ AI systems are capable of creating a wide range of original works, including literary, artistic, musical, and visual works. The crucial question therefore arises as to who is the real author of these works, the person who built the machine, a human, or the

²³ Bonadio E and McDonagh L, 'Artificial Intelligence as Producer and Consumer of Copyright Works: Evaluating the Consequences of Algorithmic Creativity' (2020) 2 Intellectual Property Quarterly 112 <https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3617197> accessed 23 August 2023

²⁴ Chaudhary G, 'Artificial Intelligence: Copyright and Authorship/Ownership Dilemma?' (2022) 13 Indian Journal of Law and Justice <<https://ir.nbu.ac.in/bitstream/123456789/4773/1/Artificial%20intelligence%20-%20copyright%20and%20authorship%20ownership%20dilemma.pdf>> accessed 24 August 2023

machine itself? This highlights the necessity to investigate potential methods to identify the author of AI-generated works.²⁵

i. Authorship/Ownership of AI-generated works

Machine learning algorithms and data corpora, consisting of already-existing copyrighted works, are used to create AI-generated creations. Since AI machines are capable of producing literary and artistic works on their own, a human is not the "cause" of the work. The "creation" of AI involves computer code that runs on one or more computers and can use machine-learning methods to learn from a dataset. Artificial intelligence (AI) systems can be "fed" existing works to create new works "in the style of" the originals.²⁶

It's complicated to determine who should be credited as the author of AI-generated works. According to traditional copyright law, the person who creates the work is given authorship. However, when it comes to AI-generated works, it's unclear whether the author is the AI system itself, the user, or the programmer. Authorship determination is made more difficult by the fact that humans have to initiate the automated procedure.²⁷ There can be four scenarios governing the authorship conundrum of AI-generated works; (i) the copyright system should recognize authorship for AI; (ii) there shouldn't be any authorship in AI-generated works; (iii) the works should enter the "public domain"; and (iv) sui generis law should be used to protect such works rather than copyright law.²⁸

It is important to discuss the *Naruto* case²⁹ here as it shares some similarities with claims of AI authorship, as both involve the question of who should be considered the author of a work. The *Naruto* case is a well-publicized instance of copyright in a "monkey selfie" and the enforceability of the purported copyright to stop the use of the image. People for the

Ethical Treatment of Animals (PETA), an animal rights group, filed the lawsuit and claimed that US copyright law did not forbid an animal from being the author. The court, however, rejected this claim and held that although animals possessed constitutional standing, they lacked equivalent standing to claim copyright infringement of a photograph.³⁰

In another instance, the US Copyright Office on the registration of the application of 'Zarya of the Dawn' has declined to register a work produced by artificial intelligence, asserting that instructing AI to create content doesn't grant authorship to the individual issuing the instructions. This decision came on February 23, 2023, where the US Copyright Office held that "*Ms. Kashtanova is the author of the Work's text as well as the selection, coordination, and arrangement of the Work's written and visual elements. That authorship is protected by copyright. However,, the images in the Work that were generated by the Midjourney technology are not the product of human authorship. Because the current registration for the Work does not disclaim its Midjourney-generated content, we intend to cancel the original certificate issued to Ms. Kashtanova and issue a new one covering only the expressive material that she created.*"³¹The US Copyright Office determined that AI-generated images cannot be attributed to human authors, even if individuals have actively contributed prompts or guidance to the AI's creation process.

In this case, the images were generated by the Midjourney AI program. While the artist claimed to have "guided" the structure and content of each image through numerous descriptive prompts, the US Copyright Office found that these prompts might influence the generated images but do not ensure a specific outcome, rendering them closer to suggestions than direct commands. Consequently, the artist lacked control over the final AI-generated

²⁵ Ibid.

²⁶ Gervais (n 5).

²⁷ Bonadio (n 9).

²⁸ Ahuja (n 2)

²⁹ *Naruto v Slater* (2018) No. 16-15469 (9th Circuit)

³⁰ Bonadio (n 9).

³¹ 'Zarya of the Dawn (Registration # VAu001480196)' (United States Copyright Office, 21 February 2023) <<https://www.copyright.gov/docs/zarya-of-the-dawn.pdf>> accessed 28 August 2023

image, leading to the denial of copyright registration.

Therefore, the authorship of AI-generated works presents a complex challenge in copyright law. The existing legal framework is not equipped to address the rapid development of AI and the questions surrounding authorship and copyright ownership. Further exploration and potential solutions are needed to determine the author in the case of AI-generated works.

ii. Indian Copyright Act, 1957

The Indian Copyright law functions as a legal safeguard for the original creative expressions of the human intellect. Within the Indian copyright framework, protection is granted to works that go beyond mere conceptualization, encompassing the author's actual expression. In Section 14 of the Copyright Act, 1957, copyright is defined as the exclusive rights granted to the author for actions related to their work, including reproduction, communication to the public, adaptation, translation, etc. Section 17 specifies that the author of a work shall be the first owner of the copyright, unless the work is produced under a contract, in which case the employer holds the rights. The term "Author" is elaborately defined in Section 2(d)³² of the Copyright Act as the person who causes the work to be created, which includes a human or legal person. Also, under Section 16 of the Act, "No person shall be entitled to copyright or any similar right in any work, whether published or unpublished,.....confidence".³³

³² THE COPYRIGHT ACT, 1957, s 2(d): "author" means, — (i) in relation to a literary or dramatic work, the author of the work; (ii) in relation to a musical work, the composer; (iii) in relation to an artistic work other than a photograph, the artist; (iv) in relation to a photograph, the person taking the photograph; 2 [(v) in relation to a cinematograph film or sound recording, the producer; and (vi) in relation to any literary, dramatic, musical or artistic work which is computer-generated, the person who causes the work to be created;

³³ THE COPYRIGHT ACT, 1957, s 16: No copyright except as provided in this Act.— No person shall be entitled to copyright or any similar right in any work, whether published or unpublished, otherwise than under and in accordance with the provisions of this Act or of any other law for the time being in force, but nothing in this section

The existing Copyright Act of 1957 in India does not specifically address AI-generated works or recognize AI as an author. Also, Section 22 describes the timeline of the copyright's existence and uses words like "lifetime" until "sixty years" after. This indicates that the legislators only took into account the natural persons who would inevitably pass away and that the timeline would be exhausted as a result. Section 51 also states that a copyright can be infringed by a "person". Any infringement brought on by AI will be taken seriously because it is still not recognized as a legal entity. It will be far more challenging to assign liability for any infringement brought on by AI in this situation. Neither the AI can enforce its copyrighted work against potential infringement nor can the AI be sued for potentially infringing an already existing copyrighted work. This is because AI is neither a juristic nor a natural person and cannot be sued.³⁴ Therefore, taking into account all the above-mentioned provisions of the Copyright Act, the odds of fitting the non-human standard for an AI algorithmic invention inside this legislation appear to be slim.

Also, assigning joint authorship to the human author and the AI technology that produced the work is not a sound practice and it is not a great idea to regard an AI and a human author to be co-authors of the work that has been produced. The cause is that not all AI processes are under human supervision, and AI also functions autonomously. The definition of "works of joint authorship" does not apply to this. For example, the Indian Copyright Act, 1957 defines "work of joint authorship" to mean "a work produced by the collaboration of two or more authors in which the contribution of one author is not distinct from the contribution of the other author or authors".³⁵

shall be construed as abrogating any right or jurisdiction to restrain a breach of trust or confidence.

³⁴ Prakash S, 'Copyright Ownership of AI Generated Content in India' (SC IP, 16 March 2023) <<https://www.sc-ip.in/post/copyright-ownership-of-ai-generated-content-in-india>> accessed 26 August 2023

³⁵ THE COPYRIGHT ACT, 1957, s 2(z): "work of joint authorship" means a work produced by the collaboration of two or more authors in which the contribution of one

The legal position regarding the ownership of AI-generated work is not much addressed by Indian courts and other statutory bodies. One incident, nevertheless, attracted a lot of attention and offered some clarity to those who wanted to register for AI. Ankit Sahani, the owner of Raghav, an AI-based painting app, submitted two copyright requests for the Suryast piece of AI-generated art. The first copyright application for registration was filed in the name of Raghav, which was outrightly rejected by the copyright registry. The other application for registration was filed in the name of Mr. Sahani, with Raghav as the co-author. The Copyright Office thereafter raised objections and the registration of the second Suryast application was also cancelled. These objections were most likely voiced because Indian copyright law only recognizes humans as having the capacity to create works.³⁶

It is possible to draw the conclusion from the foregoing debates that Indian legislation is not equipped to address the formation and rights of AI. Under the Copyright Act 1957, the author is clearly classified as a person and unless the AI is given a legal status to this effect, the inclusion of rights for AI cannot be in question.³⁷ Alternative strategies include amending the Copyright Act of 1957 to add AI-related works as a separate category or to recognize AI as an author. However, neither a change in the law nor the acceptance of AI as a legal entity appears to be a likely option in the near future.

iii. AI as a Consumer of Copyrighted Work

A less explored area of interest is AI as a consumer of copyrighted works. As AI technology is trained using data from various sources, the question about the AI infringing that data arises and whether that act can be considered as fair use. Copyrighted content is frequently used in huge datasets used by AI systems to train their algorithms and provide

author is not distinct from the contribution of the other author or authors

³⁶ Prakash (n 20).

³⁷ Rana L and Joy MM, 'India: Artificial Intelligence And Copyright – The Authorship' (Mondaq, 18 December 2019) <<https://www.mondaq.com/india/copyright/876800/artificial-intelligence-and-copyright--the-authorship>> accessed 26 August 2023

results. The risk of copyright infringement increases when copyrighted items are used without the appropriate authority. The fair use concept permits limited utilization of copyrighted works for things like research, commentary, and criticism. However, it is still up for dispute and interpretation as to how fair use or fair dealing should be applied to AI-generated works. The risk of copyright infringement can be reduced through the use of appropriate attribution and licensing of copyrighted elements in AI-generated products. Compliance with copyright laws can be increased by obtaining licenses or permissions from copyright holders and properly crediting the original creators.³⁸

Conclusion

In conclusion, the intersection of AI and copyright law presents a complex and fascinating landscape that is continuously evolving. Questions around authorship, ownership, and protection of AI-generated works grow more important as AI technologies develop and are more fully incorporated into our creative processes.

Traditional ideas of creativity and authorship are called into question by the notion of whether AI can be regarded as the creator of its creations. While the absence of human intentionality and consciousness in AI-generated works might limit its ability to be recognized as an author, it cannot be denied that AI systems contribute significantly to the creative process. As we explore this uncharted territory, legal frameworks must adapt to acknowledge and accommodate these novel forms of creation.

Establishing precise rules for ownership and copyright protection of AI-generated works is one of the most important concerns. It is crucial to strike a balance between encouraging innovation and ensuring fairness for both creators and consumers. This entails addressing issues of liability, defining the functions of human creators and AI tools, and promoting partnerships that exploit both parties' potential.

³⁸ Bonadio (n 9).

Placing AI-generated works in the public domain is one potential substitute for copyright protection. This would imply that the works are not covered by copyright and are available for public use. This method might not be appropriate for all AI-generated works, especially those with high economic value. Another option is to develop a sui generis system that is intended only for works produced by AI. This would need to develop a new legal system that takes into account the distinctive characteristics of works produced by AI. Such a system could handle the issues of authorship and ownership while simultaneously offering protection for AI-generated works.³⁹

Additionally, as AI-generated content easily crosses geographical boundaries, international harmonization of copyright laws becomes essential. Consistent legal frameworks will foster innovation, provide legal predictability, and support the ethical and responsible use of AI systems in creative industries.

To create a future where AI and human creation coexist peacefully, regular exchanges between legal experts, technologists, artists, and legislators will be crucial as we move forward. The legal system's efficacy in protecting copyright values and encouraging an innovative environment will depend on its capacity to adjust to the dynamic character of AI-generated content.

In essence, we are only at the beginning of the road to fully addressing AI's position in copyright law. Our legal systems must adapt in step with AI to protect the rights and interests of all parties while also fostering AI's potential to transform and improve creative expression in ways that were previously unimaginable. We can only navigate this complex environment and realize the full potential of AI while preserving the ideals of intellectual property and creativity by working together and taking innovative ways.

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PROTECTING MARINE ECOSYSTEM FROM CLAWS OF DESTRUCTION: LEGAL APPROACH

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The marine ecosystem is a complex and diverse system that encompasses all living organisms and their interactions within the world's oceans, seas, and other bodies of saltwater. It is a vital part of the Earth's biosphere, supporting a tremendous array of life forms and playing a crucial role in global ecological processes. From microscopic plankton to massive marine mammals, the marine ecosystem is home to a remarkable variety of species, each adapted to its own niche within this watery realm. The marine ecosystem is composed of different habitats, including the open ocean, coral reefs, kelp forests, sea grass beds, estuaries, and coastal zones. Each of these habitats presents unique environmental conditions and provides specific resources for the organisms that inhabit them. For instance, coral reefs are renowned for their extraordinary biodiversity, hosting a myriad of colorful fish, corals, and other invertebrates, while the open ocean is inhabited by migratory species, such as whales, dolphins, and tuna, that traverse vast distances in search of food and suitable breeding grounds. One of the defining features of the marine ecosystem is the interconnectedness of its various components. Organisms within this ecosystem rely on complex food webs, where energy and nutrients are transferred from one level to another. Phytoplankton, microscopic photosynthetic organisms, form the foundation of these food webs by converting sunlight and nutrients into organic matter. They are consumed by zooplankton, which in turn become prey for small fish, leading to a cascade of predation and energy flow up the food chain to larger predators. The marine ecosystem also provides numerous benefits and services to humanity. It plays a crucial role in regulating the Earth's climate by absorbing vast amounts of carbon dioxide and producing oxygen through photosynthesis. Oceans are a vital source of food for many communities worldwide, supporting the livelihoods of

millions of people engaged in fishing and aquaculture. Furthermore, the marine ecosystem offers opportunities for recreation, tourism, and scientific research, providing insights into biodiversity, climate change, and the impacts of human activities. However, the marine ecosystem faces numerous challenges and threats. Human activities, such as overfishing, pollution, habitat destruction, and climate change, pose significant risks to the health and stability of marine ecosystems. These factors can disrupt the delicate balance of species interactions, lead to the loss of biodiversity, and degrade the overall resilience of the marine ecosystem. Efforts to protect and conserve the marine ecosystem are crucial for its long-term sustainability and the well-being of both marine life and human societies. Through the establishment of marine protected areas, sustainable fishing practices, pollution control measures, and global cooperation, it is possible to mitigate the impacts of human activities and promote the preservation of this invaluable ecosystem.

Impact on Marine Ecosystem

The marine ecosystem is subjected to a wide range of impacts that arise from both natural processes and human activities. These impacts can have profound consequences for the health and functioning of marine ecosystems. Here are some of the significant impacts on the marine ecosystem:

- **Overfishing:** Overfishing occurs when fish and other marine species are harvested at a rate faster than they can reproduce, leading to the depletion of fish stocks. This disrupts the balance of marine food webs, affects predator-prey relationships, and can result in the collapse of fisheries and the loss of livelihoods for fishing communities. Weak or inadequate fisheries management measures, including limited monitoring and enforcement, can lead to overfishing.

Without proper regulations, including catch limits, gear restrictions, and protected areas, fishing pressure can exceed the sustainable levels of fish populations. Lack of the system to track fish which make the illegal catches to move easily through transparent supply chain.⁴⁰

- **Habitat Destruction:** Human activities such as bottom trawling, dredging, and coastal development can destroy or degrade critical marine habitats like coral reefs, seagrass beds, and mangroves. These habitats provide essential nurseries, breeding grounds, and shelter for many marine species. Habitat destruction can lead to the loss of biodiversity and disrupt the overall functioning of the ecosystem.
- **Pollution:** Pollution from various sources, including industrial discharges, agricultural runoff, and plastic waste, poses a significant threat to the marine ecosystem. Chemical pollutants can accumulate in marine organisms, causing toxic effects and bioaccumulation up the food chain. Plastic debris can entangle marine animals, impair their movement, and lead to ingestion, causing injury or death.
- **Climate Change:** Rising sea temperatures, ocean acidification, and sea-level rise associated with climate change have far-reaching impacts on marine ecosystems. Coral bleaching events, triggered by increased water temperatures, result in the loss of coral reefs and the biodiversity they support. Changes in ocean chemistry due to increased carbon dioxide absorption led to the degradation of shell-forming organisms like corals, mollusks, and plankton. Disrupted weather patterns and increased storm intensity also impact coastal habitats and marine species. The impact of climate change can also be seen on fisheries. Some fish species alter their geographical location which disrupts the ecosystem to which they move into.
- **Invasive Species:** The introduction of non-native species to marine environments can have detrimental effects on native

ecosystems. Invasive species can outcompete native species for resources, disrupt the balance of the ecosystem, and alter habitat structure and functioning.

- **Noise Pollution:** Underwater noise pollution from human activities such as shipping, seismic surveys, and military exercises can disturb marine animals, including whales, dolphins, and other marine mammals. This can disrupt their communication, feeding, breeding, and migration patterns, leading to stress, displacement, and even stranding events.
- **Oil Spills:** Accidental oil spills from maritime accidents or offshore drilling operations can have severe consequences for marine ecosystems. Oil spills contaminate water, coat the surfaces of marine organisms, and cause long-term ecological damage. They can harm marine mammals, birds, fish, shellfish, and other organisms, leading to death, reduced reproduction, and population declines.
- **Eutrophication:** Eutrophication is a process characterized by excessive enrichment of nutrients, particularly nitrogen and phosphorus, in aquatic ecosystems such as lakes, rivers, and coastal areas. This enrichment leads to the accelerated growth of algae and other aquatic plants, resulting in a series of ecological and environmental changes. The primary sources of nutrients contributing to eutrophication are human activities such as agricultural runoff, sewage discharge, industrial effluents, and the use of fertilizers. These nutrients enter water bodies through surface runoff or direct discharges, leading to an imbalance in the natural nutrient cycle, which in return create intolerable environment that cannot support aquatic life⁴¹

These impacts require concerted efforts in marine conservation, sustainable fisheries management, pollution reduction, climate change mitigation, and the establishment of marine protected areas. Protecting and restoring the marine ecosystem is not only

⁴⁰ World wild life Organization (22 May 2023, 10:00 AM)
<https://www.worldwildlife.org/threats/overfishing.html>

⁴¹ Earth Eclipse(20 may 2023, 6:00pm)
<https://earthecclipse.com/environment/ecosystem/causes-effects-solutions-marine-habitat-loss-and-destruction.html>

crucial for the preservation of biodiversity but also for maintaining the ecological balance, ensuring sustainable fisheries, and safeguarding the overall health of our planet.

National Laws on Marine Ecosystem

India's marine ecosystem is a diverse and vibrant environment encompassing the vast coastal regions and the expansive Indian Ocean. It is home to a wide array of marine species, unique habitats, and intricate ecological interactions. India is seventeenth mega diverse country in the world. India's coastal line extends over 7,500 kilometers, spanning the Arabian Sea in the west and the Bay of Bengal in the east. Along this vast coastline, a variety of ecosystems can be found, including mangroves, estuaries, coral reefs, sea grass beds, sandy beaches, and rocky shores. Each of these habitats supports its own distinct set of species and ecological processes. Along with the varied biodiversity at these sites, these ecosystems sustain almost 30% of India's coastal population. Due to so much diversity the Indian Legislature has enacted several laws and regulations that govern the protection and management of the marine ecosystem. These laws aim to conserve marine biodiversity, prevent pollution, regulate fisheries, and promote sustainable use of marine resources. Here are some key Indian laws related to the marine ecosystem:

The Indian Fisheries Act, 1897: This act provides for the regulation of fisheries and the protection of fishery resources in Indian waters. It includes provisions for licensing of fishing vessels, restrictions on fishing gear, Punishment for causing destruction of fish by explosives or poisoning the water under the act and conservation measures to prevent overfishing.

The Wildlife (Protection) Act, 1972: Marine wildlife, is protected under the Wild Life (Protection) Act, 1972 (WLPA). In six schedule (lists) of the act it prohibits the hunting of listed animals and also regulates trade in such animals and their parts. The human's activities are restricted in declared protected areas. These two approaches i.e. banning hunting of and regulating trade in species by listing them in the schedules, and designation of protected areas have found some success in protecting

terrestrial wildlife. This act covers the conservation and protection of wildlife, including marine species such as marine mammals, sea turtles, and corals. It prohibits hunting, trade, and exploitation of protected marine species and their habitats.

The Water (Prevention and Control of Pollution) Act, 1974: This act provides for the prevention and control of water pollution, including marine pollution. It regulates the discharge of pollutants into coastal and marine waters, sets standards for effluent quality, and establishes penalties for non-compliance.

The Coastal Regulation Zone (CRZ) Notification, 2011: This notification under the Environmental Protection Act, 1986, governs activities in the coastal areas and aims to protect coastal and marine ecosystems. It regulates activities such as construction, tourism, and industrial projects within a specified distance from the coastline to prevent habitat destruction and maintain coastal ecological balance.

The National Biodiversity Act, 2002: This act provides for the conservation, sustainable use, and equitable sharing of benefits from biological resources. It includes provisions for the protection of marine biodiversity and the regulation of access to genetic resources in marine ecosystems.

The Maritime Zones of India (Regulation of Fishing by Foreign Vessels) Act, 1981: This act regulates fishing by foreign vessels within the maritime zones of India. It includes provisions for licensing, monitoring, and enforcement measures to prevent illegal, unreported, and unregulated (IUU) fishing activities.

The National Plan for Conservation of Aquatic Ecosystems (NPCA), 2013: Under National Wetlands Conservation Program and National Lake Conservation Plan a financial assistance has been provided by Ministry of Environment, Forest & Climate Change to the States/Union Territories for conservation and management of identified wetlands and lakes in the country. In order to have better synergy. The scheme is named as 'National Plan for Conservation of Aquatic Eco-systems' (NPCA) in February, 2013. Accordingly, Ministry of Environment, Forest & Climate Change is currently implementing NPCA scheme for conservation and management of

wetlands (includes lakes) in the country on cost sharing basis between Central Government and respective State Governments. The NPCA is a comprehensive plan aimed at the conservation and management of aquatic ecosystems, including marine and coastal areas. It focuses on the protection of critical habitats, prevention of pollution, and sustainable use of resources.

These laws, along with other regulations and guidelines, provide a legal framework for the protection and sustainable management of the marine ecosystem in India. Enforcement, public awareness, and stakeholder participation are crucial for effective implementation and conservation of India's marine biodiversity and ecosystems.

Challenges

India faces several challenges in implementing marine laws and effectively managing its marine ecosystem. Here are some of the key challenges:

- *Lack of Awareness and Understanding:* Limited awareness and understanding of marine laws among stakeholders, including fishing communities, industries, and the general public, can hinder compliance and effective implementation. Many people may be unaware of their rights, responsibilities, and the importance of marine conservation, making it challenging to achieve widespread compliance.
- *Insufficient Resources and Capacity:* Adequate financial and human resources are crucial for implementing marine laws. However, limited funding, infrastructure, and trained personnel can hinder effective enforcement, monitoring, and management efforts. Insufficient resources can lead to gaps in surveillance, research, and conservation activities.
- *Weak Institutional Coordination:* Implementation of marine laws involves multiple government agencies, departments, & ministries with overlapping jurisdictions. Weak coordination and collaboration among these entities can result in fragmented implementation, conflicting regulations, and challenges in decision-making and enforcement.
- *Illegal, Unreported, and Unregulated (IUU) Fishing:* IUU fishing poses a significant challenge to the implementation of fisheries management laws. It involves fishing activities that violate regulations, such as fishing without licenses, using illegal gear, or exceeding catch limits. IUU fishing depletes fish stocks, undermines conservation efforts, and hampers sustainable fisheries management.
- *Limited Enforcement and Monitoring:* Enforcing marine laws in vast and remote marine areas can be challenging. Inadequate enforcement capacity, including patrol vessels, surveillance technologies, and trained personnel, can impede efforts to detect and prevent illegal activities, such as illegal fishing, pollution, and habitat destruction.
- *Climate Change Impacts:* Climate change poses additional challenges to the implementation of marine laws. Rising sea temperatures, ocean acidification, and sea-level rise can alter marine ecosystems, impact biodiversity, and affect the livelihoods of coastal communities. Adapting marine laws and management strategies to address climate change impacts is crucial but can be complex and require additional resources and expertise.
- *Trans boundary and International Cooperation:* The marine ecosystem is interconnected, and many challenges, such as overfishing and pollution, transcend national boundaries. Cooperation with neighboring countries and international bodies is crucial for addressing trans boundary issues effectively. However, achieving effective cooperation and coordination can be challenging due to differing interests, competing priorities, and geopolitical complexities.

Addressing these challenges requires a multi-faceted approach. Strengthening awareness and education programs, allocating adequate resources, enhancing institutional capacity and coordination, improving enforcement and monitoring capabilities, and promoting international cooperation are essential for successful

implementation of marine laws in India. Additionally, engaging with local communities, promoting sustainable fishing practices, and integrating climate change considerations into marine management strategies are important steps towards effective marine ecosystem governance.

Conclusion

The marine ecosystem in India is a valuable resource that provides numerous ecological, economic, and cultural benefits. However, it faces various challenges that require effective legal frameworks and their implementation to ensure its conservation and sustainable management. From a legal perspective, India has established laws and regulations to protect and manage its marine ecosystem. These laws encompass areas such as fisheries, pollution control, coastal development, and biodiversity conservation. Key legislation includes the Indian Fisheries Act, Wildlife (Protection) Act, Water (Prevention and Control of Pollution) Act, Coastal Regulation Zone Notification, and National Biodiversity Act, among others. Implementing marine laws in India faces challenges such as limited awareness and understanding among stakeholders, insufficient resources and capacity, weak institutional coordination, illegal fishing activities, limited enforcement and monitoring capabilities, climate change impacts, and the need for trans boundary and international cooperation. Addressing these challenges requires concerted efforts from the government, stakeholders, and civil society. Enhancing awareness and education about marine laws, allocating adequate resources, strengthening institutional capacity and coordination, improving enforcement and monitoring mechanisms, integrating climate change considerations, and promoting international cooperation are essential for effective implementation. By effectively implementing marine laws, India can safeguard its marine ecosystem, conserve biodiversity, ensure sustainable fisheries, prevent pollution, protect critical habitats, and mitigate the impacts of climate change. This will contribute to the long-term health and resilience of India's marine ecosystems, benefiting both present and future generations.

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**DR. KAVITA YADAV V. THE SECRETARY, MINISTRY OF HEALTH AND
FAMILY WELFARE DEPARTMENT & ORS¹,
CIVIL APPEAL NO(S). 5010/2023 (ARISING OUT OF W.P. (C), 8884 of 2019) –
UNDERSTANDING THAT MATERNITY BENEFITS COULD EXTEND EVEN
BEYOND CONTRACTUAL TERM IN LIGHT OF THE RECENT
JUDGEMENT GIVEN BY FULL BENCH COMPRISING HON. JUSTICE
ANIRUDDHA BOSE, SANJAY KUMAR AND S.V.N BHATTI**

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Introduction

Motherhood is a very special experience in a female's life during which every woman wishes to give quality time to her child without having the pressure of her work and the fear of losing her job. The advantages that women (mothers-to-be or the mothers of the newly born) receive benefits before and after the delivery of the child to encourage child care are known as maternity benefits. A maternity benefit is one that every woman shall be entitled and every employer shall be liable to pay to her at the rate of the average daily wage for the period of her actual absence. Maternity Benefits were first recognized when the Maternity Conference was held by the ILO² in 1919. The Maternity Benefits Act, 1961 received the assent of the President on 12th December, 1961 and was published in official Gazette with the object "to regulate the employment of 10 women in certain establishments for certain period before and after her child birth and to provide for maternity and certain other benefits." The aim of the Act, 1961 is to curb the problem of lesser participation of woman in workplace because of her pregnancy and to provide her the protection against the loss of job and to have source of income during the period when she is unable to work.³

The case deals with a peculiar situation where a woman had started availing maternity benefits during the term of her employment, but her employment ended before she could avail the full benefits under the Maternity Benefits Act, 1961.

Factual Background

An Employee, Dr. Kavita was appointed as a Senior Resident (Pathology) in Janakpuri, Super Specialty Hospital Society (an autonomous institute). Her date of joining was 12th June, 2014. Her appointment letter specified that it was purely temporary and as per the residency scheme, such appointment was initially to be for a period of one year, extendable on yearly basis unto a maximum of three years. Her services were extended twice, for one year from 12.6.2015 till 11.6.2016, and finally for the period 12.06.2016 to 11.06.2017. Prior to the expiry of the last term of one year i.e., before 11-06-2017, the employee became pregnant. On 24.5.2017, she applied for maternity leave starting from 1.6.2017 in the terms of Section 5 under the Maternity Benefits Act, 1961. On 9.6.2017, her employer communicated to her that as per the terms and conditions of the offer of appointment, her contract would end on 11.6.2017, which could not be extended beyond the period of three years. Thus, she was entitled to maternity leave only up to 11.6.2017 and no further extension is permissible under the applicable rules.

¹ 2023 SCC Online SC 1067

² International Labour Organisation

³ Anirudh Bhati, "Critical Analysis of Maternity Benefit Act, 1961", 3 (1) Indian Journal of Legal Review (IJLR) 723-729 (2023), ISSN – 2583-2344., available at

<https://ijlr.iledu.in/critical-analysis-of-maternity-benefit-act-1961/> (last visited on January 16, 2024).

She challenged the said action before the Central Administrative Tribunal, Principal Bench, New Delhi, and subsequently in the Delhi High Court also that rejected her contention. The reasoning of the High Court would appear from the following paragraphs of the judgment delivered on 19th August 2019:-

“Reliance placed on Section 5(2)⁴ of the said Act by the petitioner to claim that once the female employee has rendered service for 180 days continuously prior to the expected date of delivery, she would be entitled to maternity benefit is, in our view, irrelevant, since the respondents have not denied the maternity benefit to the petitioner. The only issue is whether she would be entitled to such benefit after 11.6.2017, when her contract of employment ended.

Subject to the provisions of this Act, every woman shall be entitled to, and her employer shall be liable for, the payment of maternity benefit at the rate of the average daily wage for the period of her actual absence...”⁵

⁴ Section 5(2) No woman shall be entitled to maternity benefit unless she has actually worked in an establishment of the employer from whom she claims maternity benefit, for a period of not less than eighty days in the twelve months immediately preceding the date of her expected delivery: Provided that the qualifying period of eighty days aforesaid shall not apply to a woman who has immigrated into the State of Assam and was pregnant at the time of the immigration. Explanation.—For the purpose of calculating under the sub-section the days on which a woman has actually worked in the establishment the days for which she has been laid off or was on holidays declared under any law for the time being in force to be holidays with wages during the period of twelve months immediately preceding the date of her expected delivery shall be taken into account.

⁵ Section 5(1) Subject to the provisions of this Act, every woman shall be entitled to, and her employer shall be liable for, the payment of maternity benefit at the rate of the average daily wage for the period of her actual absence, that is to say, the period immediately preceding the day of her delivery, the actual day of her delivery and any period immediately following that day. Explanation.—For the purpose of this sub-section, the average daily wage means the average of the woman’s wages payable to her for the days on which she has worked during the period of three calendar months immediately preceding the date from which she absents herself on account of maternity, the minimum rate of wage fixed or revised under the

The Delhi High Court observed that the purpose of Maternity Benefit Act, 1961 is not to extend the period of contract, to enable her to avail maternity benefits under the said Act. The Court held that the use of expression “actual absence” in Section 5(1) of the MBA presupposes that but for the maternity leave the woman employee would be expected to remain “present”. Once the contractual employment comes to an end, there would be no question of the woman employee remaining “absent” since she would not be expected to remain “present” following the determination of her contractual employment.

Principle Question before the Supreme Court

Whether the maternity benefits, as contemplated in the Maternity Benefit Act, 1961, would apply to a lady employee appointed on contract if the period for which she claims such benefits overshoots the contractual period?

Submissions on Behalf of Dr. Kavita (Appellant)

- Once the appellant fulfilled the prerequisite for availing maternity benefits, as contemplated in Section 5(2) of the 1961 Act, even as a contractual employee, she would be entitled to the full benefits as envisaged therein.
- The entitlement of a contractual employee to obtain such benefits is not in dispute in this case as the employer had extended such benefits to the appellant during her first pregnancy.
- The appellant also fulfilled the requirement of having worked for a period exceeding 80 days in the 12 months immediately preceding the date of her expected delivery, in terms of Section 5(2) of the 1961 Act.

Minimum Wages Act, 1948 (11 of 1948) or ten rupees, whichever is the highest.

The Appellant referred to the case of *Municipal Corporation of Delhi v. Female Workers (Muster Roll) & Anr.*⁶ The court in this had dealt with a similar claim by females on muster roll workers who were employed on daily wages. The court after placing reliance on the judgement in the mentioned case opined that the provisions relating to maternity benefits in the 1961 Act would be applicable in this case as well.

This Court observed, in paragraph 27 of the said judgement:

“27. The provisions of the Act which have been set out above would indicate that they are wholly in consonance with the Directive Principles of State Policy, as set out in Article 39 and in other articles, specially Article 42. A woman employee, at the time of advanced pregnancy cannot be compelled to undertake hard labour as it would be detrimental to her health and also to the health of the fetus. It is for this reason that it is provided in the Act that she would be entitled to maternity leave for certain periods prior to and after delivery. We have scanned the different provisions of the Act, but we do not find anything contained in the Act which entitles only regular women employees to the benefit of maternity leave and not to those who are engaged on casual basis or on muster roll on daily wage basis.”

Submissions on Behalf of Employer (Respondent)

- Once the term or tenure of the contract ends, there cannot be a notional extension of the same by giving the employee the benefits of the 1961 Act in full, as contemplated in Section 5(2) thereof.
- Any benefits that the appellant would be entitled to ought to be within the contractual period.

The respondents hold an alternative view and distinguished the present dispute from the case referred by the opposite party on the ground

that the muster roll lady workers were working for a long period of time.

But the fact remains that in law, daily wage workers cannot be said to have continuity of service for an unlimited period.

Observations of the Apex Court

- The expression employed in the legislation is maternity benefits [in Section 2(h)] and not leave.⁷
- Section 5(2) of the statute stipulates the conditions on the fulfillment of which such benefits would accrue.
- Section 5(3) lays down the maximum period for which such benefits could be granted.⁸
- The last proviso to Section 5(3) makes the benefits applicable even in a case where the applicant woman dies after delivery of the child, for the entire period she would have been otherwise entitled to.
- Further, there is an embargo on the employer imposed under Section 12(2) (a) of the Act, 1961 from dismissing or discharging a woman who absents herself from work in accordance with the provisions of the Act during her absence. The expression “discharge” is of wide import, and it would include “discharge

⁷ Section 2(h)- “Maternity benefit” means the payment referred to in sub section (1) of Section 5.

⁸ Section 5(3)-The maximum period for which any woman shall be entitled to maternity benefit shall be twenty-six weeks of which not more than eight weeks shall precede the date of her expected delivery: Provided further that the maximum period entitled to maternity benefit by a woman having two or more than two surviving children shall be twelve weeks of which not more than six weeks shall precede the date of her expected delivery; Provided further that where a woman dies during this period, the maternity benefit shall be payable only for the days up to and including the day of her death: Provided also that where a woman, having been delivered of a child, dies during her delivery or during the period immediately following the date of her delivery for which she is entitled for the maternity benefit, leaving behind in either case the child, the employer shall be liable for the maternity benefit for that entire period but if the child also dies during the said period, then, for the days up to and including the date of the death of the child.

⁶ (2000) 3 SCC 224

on conclusion of the contractual period”.

- Further, by virtue of operation of Section 27, the Act overrides any agreement or contract of service found inconsistent with the 1961 Act.

Section 27. Effect of laws and agreements inconsistent with this Act. (1) The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any other law or in the terms of any award, agreement or contract of service, whether made before or after the coming into force of this Act:

Provided that where under any such award, agreement, contract of service or otherwise, a woman is entitled to benefits in respect of any matter which are more favorable to her than those to which she would be entitled under this Act, the woman shall continue to be entitled to the more favorable benefits in respect of that matter, notwithstanding that she is entitled to receive benefits in respect of other matters under this Act.⁹

(2) Nothing contained in this Act shall be construed to preclude a woman from entering into an agreement with her employer for granting her rights or privileges in respect of any matter which are more favorable to her than those to which she would be entitled under this Act.

Decision of the Apex Court

- The court opined that a combined reading of these provisions in the factual context of this case would lead to the conclusion that once the appellant fulfilled the entitlement

⁹ Section 12. Dismissal during absence of pregnancy.
2 (a) The discharge or dismissal of a woman at any time during her pregnancy, if the woman but for such discharge or dismissal would have been entitled to maternity benefit or medical bonus referred to in section 8, shall not have the effect of depriving her of the maternity benefit or medical bonus: Provided that where the dismissal is for any prescribed gross misconduct, the employer may, by order in writing communicated to the woman, deprive her of the maternity benefit or medical bonus or both.

criteria specified in Section 5(2) of the Act (i.e. completed 80 days of employment), she would be eligible for full maternity benefits even if such benefits exceed the duration of her contract. Such benefit is not coterminous with the employment tenure.

- Any attempt to enforce the contract duration term within such period by the employer would constitute “discharge” and attract the embargo specified in Section 12(2) (a) of the 1961 Act. The expression “discharge” is of wide import, and it would include “discharge on conclusion of the contractual period”.
- In nutshell even if the terms of contract ends during the period of maternity benefit, the employer must continue to provide maternity benefit under the Maternity Benefit Act, 1961, irrespective of the expiry of the contractual term of employment.
- Hence, this appeal was allowed.

Conclusion

The purpose of the Supreme Court was to extend a beneficial legislation to the fullest possible extent for the benefit of women employees but this interpretation of the provisions of the Act, 1961 may lead to unexpected implementation issues. It is a common practice in private organizations to employ persons on the basis of short term contracts for some particular projects for a period of 6 months or a year which then expire in due course of time. If the term discharge would be so interpreted to include “expiry of term of contract”, the employer would be forced to give maternity benefits even after the expiry of contract period of a female employee thereby continuing their employment only for the sake of extending maternity benefits.

ELECTORAL BOND SCHEME: RED LINE DRAWN BY THE SUPREME COURT

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Arun Jaitley, the then-finance minister introduced the Electoral Bonds Scheme (EBS) in the Union Budget 2017–18. Jaitley started his speech with two promising statements: “Without the transparency of political funding, free and fair elections are not possible” and he added, “For the last 70 years, we have failed to achieve this transparency”. Everyone expected that the third statement would bring in some law to cure this problem. Instead, he introduced a scheme that reeked of secrecy and opacity.

On 2nd January, 2017, the Reserve Bank of India (RBI) wrote a letter to the Joint Secretary in the Ministry of Finance. This letter was in reference to the proposal of Government of India asking RBI to enable Scheduled Banks to issue electoral bonds for the purpose of donations to political parties. The RBI objected that (a) the EBS would enable multiple non-sovereign entities to issue bearer instruments, (b) the anonymity of the donor would impact the principles of the Prevention of Money Laundering Act, 2002, and (c) the intention of introducing electoral bonds can be accomplished by cheque, demand draft, and electronic and digital payments. There is no special need for introducing a new bearer bond in the form of electoral bonds.

The Election Commission of India (ECI) on 26th May 2017 wrote to the Ministry of Law and Justice that the amendments in the Finance Act 2017 will have a serious impact on the transparency of political finance/funding of political parties. The letter noted that the amendment to the Representation of People Act, 1951 (RPA) by which donations through electoral bonds were not required to be disclosed is a retrograde step towards transparency of donations.

On September 14th, 2017 the ‘Association for Democratic Reforms’ moved the apex court to challenge the EBS. Coming on to the year 2024,

on February 15th, the five-judge Constitution Bench, in a unanimous verdict, upheld every challenge to every aspect in the EBS case. The bench was led by Chief Justice D.Y. Chandrachud along with four other judges of the Supreme Court (SC). As the EBs are now unconstitutional, all the amendments made in the Representation of People Act 1951 (RPA), the Companies Act 2013 (CA) and the Income Tax Act 1961 (IA) are violative of the fundamental right to information under the Article 19(1)(a) and the right to equality under Article 14 of the Constitution.

The legislative basis for EBS

The Finance Act (FA) of 2016 became operative on May 14th, 2016. In order to permit foreign corporations with a majority stake in Indian enterprises to make donations to political parties, it modified Section 2(1)(j)(vi) of the Foreign Contribution Regulation Act, 2010 (FCRA). Under the Foreign Exchange Management Act (FEMA) of 1999 and the FCRA, foreign corporations, before the amendments, were previously forbidden from making donations to political parties.

The amendments to RPA, IA, CA and the RBI Act were made by the Finance Act in March 31st of 2017. The amendments were:

1. The Section 11 of the FA amended Section 13A of the Income Tax Act exempting political parties from keeping a detailed record of contributions received through electoral bonds.
2. Section 135 amended Section 31 of the RBI Act. This permitted the Union government to authorise any scheduled bank to issue electoral bond(s).
3. Section 137 introduced a proviso to Section 29C of RPA, exempting political parties from publishing contributions received through electoral bonds in ‘Contribution Reports’. These reports disclose contributions received by parties ‘in excess of twenty thousand

rupees' from companies and individuals.

4. Section 154 amended Section 182 of the CA, 2013 which removed the upper limit on how much a company could donate to a political party. Previously companies could only donate up to 7.5 percent of three years of the company's net profits.

Challenge to Amendments

Two non-governmental organisations, the Association for Democratic Reforms (ADR) and Common Cause, as well as the Communist Party of India (Marxist), filed cases in the Supreme Court contesting the amendments shortly after they were introduced in September 2017 and January 2018. The petitions initially contended that the Finance Acts were improperly approved as money bills in order to avoid the Rajya Sabha's closer examination. The bigger issue surrounding the usage of money bills under Article 110 is linked to this dilemma. Furthermore, the petitioners claimed that the plan authorised 'huge scale electoral corruption' and permitted 'non-transparency in political funding'.

The Supreme Court story

In April of 2019, a Bench led by the Chief Justice Ranjan Gogoi directed all political parties to submit the details of donors and their donations in a sealed cover to ECI. At this point, the bench did not 'stay' the EBS as it was of the opinion that a full-fledged study would be required to do the same.

However, in 2021, the ADR approached the SC again seeking a 'stay' on the scheme. The application was denied by the bench headed by CJI S.A. Bobde along with the justices A.S. Bopanna and V. Ramasubramanian. This time the Bench sternly discouraged the petitioners from approaching the Court stating that "there cannot be repeated applications seeking the same relief."

On 16th October, 2023, a five-judge Bench headed by CJI Chandrachud heard arguments over three days. The petitioners contended that the EBS led to a rise in corporate fundraising, the flow of illicit money, and corruption. They maintained that since a political party's financing source influences its policies and viewpoints, citizens have a right to know about it. The Union argued that the plan was created to protect donors' right to privacy and secrecy,

since they would have otherwise been vulnerable to retaliation from political parties they did not support. On 15 February 2024, the Court unanimously struck down the Union's 2018 EBS.

Rationale behind SC striking down EBS

The SC declared the EBS unconstitutional but it did not lay down any alternative scheme of political funding. All the amendments which were done to make way for EBS were declared ultra vires. They also stopped SBI from issuing any more EBs with immediate effect. Furthermore, the SBI has been directed by the SC to submit the details of EBs purchased since 12th April, 2019 to ECI. The details have to include the date of purchase, the name of the purchaser and the denomination of the EBs purchased. In making its decision, the SC used the following standards:

Violation of Right to Information

The EBS violated the Article 19(1)(a) of the Constitution of India by permitting anonymous political donations. The right to information plays an integral role in furthering participatory democracy by holding the government accountable. The Court held that the deep association between money and politics is not healthy for a democracy. Therefore, it is reasonable to assume that making a monetary donation to a political party would result in quid pro quo agreements.

The Proportionality Test

The court further agreed with the petitioners' arguments that there is no legitimate basis to restrict the fundamental right to information because the goal of combating black money cannot be linked to any of the acceptable constraints specified under Article 19(2). The Court drew its decision from the proportionality test established in its 2017 ruling in the K.S. Puttaswamy case which had affirmed the right to privacy. It emphasised that the government did not use the least restrictive approach to accomplish its goal.

Donor's privacy rights do not apply to contributions made

The Court pointed out that the donations made to the political parties are made for two reasons. One, as an expression of support. Two, as a quid pro quo measure. The CJI in his opinion held that the right to privacy of political affiliation does

not extend to those contributions which are made to influence the policy making. This privilege is limited to contributions made in the truespirit of political support.

Unlimited donations violates 'Free and Fair Elections'

The Section 182 of the CA 2013 was amended that allowed the companies to make donations to the political parties with no upper limit on it. The SC found it manifestly arbitrary. Earlier, the companies could only donate upto 7.5% of their profits made. Following the change, this cap was lifted, allowing companies to donate an unlimited amount of money. This caused the mushrooming of shell companies. Moreover, the amendment in FA 2017 eliminated one more requirement which companies were obliged to fulfil. The companies had to disclose the name of political parties to whom the donations were made in their Profit and Loss (P&L) accounts. The amendment removed this clause. The Court opined that these contributions that the companies made were with the intent of secreting benefits.

EBS- A Pyrrhic Victory?

Throughout the verdict, the SC laid stress on the virtues of 'open governance' and accepted the idea that "information about funding of political parties is essential for the effective exercise of the choice of voting". The gist of EBS being declared unconstitutional lies in the words byCJI. He said:

"At a primary level, political contributions i.e. it enhances access to legislators. This access also translates to influence over policy making. There is also a legitimate possibility that financial contributions to a political party would lead to quid pro quo arrangement because of the close nexus between money and politics."

To bring transparency to election funding, that was the reason EBS was introduced. However, the central point of criticism of EBS is that it does exactly opposite of what it was meant to do. For a healthy democracy, free and fair elections are a must. The voters should know everything about the person who would be representing them in the Parliament. On the contrary, the EBs provided no details to the citizens. This meant the voters would not know which individual, company, or organization has funded which party, and to what extent. The

EBS exempting political parties from disclosing donations received through electoral bonds was a blow to democracy.

Moreover, it was possible for the government to identify the precise source of money for its adversaries since EBs are marketed through a bank that is owned by the government, SBI. This would have always given the ruling party an unfair edge. It also made it possible for the government to victimise large firms for not sponsoring the party or coerce money, particularly from them. This can be evidenced from the fact that the party in power secured the highest donation among the national political parties. The ruling party received the EBs amounting to Rs. 5,271.9751 crores and the second highest EB donations to a political party stands at Rs. 952.2955 crores. The difference between the donations received shows that the EBS was negatively affecting the democracy.

This is a very significant judgement which will have a long term effect on our electoral democracy. It has been reaffirmed that the Supreme Court is the 'guardian angel' of the democracy.

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A PINNACLE OF INDIAN JURISPRUDENCE IN THE DIGITAL AGE

Kanak

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In the digital age, the field of jurisprudence in India has undergone significant transformations. With the rapid advancement of technology and the proliferation of digital platforms, the landscape of legal practices has evolved, presenting both challenges and opportunities. Indian jurisprudence, rooted in its rich history and cultural heritage, is now at a pivotal moment where it must adapt to the complexities of the digital era while upholding principles of justice, equity, and fairness. As India embraces rapid digital transformation and technological advancements, ensuring the privacy and protection of its citizens' personal data has become paramount. In the tapestry of Indian legal history, certain cases transcend the confines of courtrooms to become emblematic of broader societal shifts and struggles. India's approach to privacy aims to strike a balance between fostering innovation and safeguarding individual rights. Among such cases, *Maheshwari v. Union of India* occupies a distinguished position, epitomizing the collision between technological advancement, governmental policy, and individual rights. In this article, we delve into the intricacies of India's privacy, exploring its legal framework, data protection measures, and the evolving landscape of digital privacy in the country and to study the intricate layers of this landmark case, tracing its origins, analysing its legal implications, and examining its enduring impact on India's legal landscape and democratic ethos in the light of nuances of Indian jurisprudence in the digital age, examining the challenges it faces and the opportunities it presents.

Indian jurisprudence has a long and diverse history, influenced by various legal systems and philosophical traditions. From ancient texts such as the *Manu smriti* to modern legislative enactments, the Indian legal framework has evolved over millennia. The adoption of the Constitution of India in 1950 marked a significant milestone, providing a

comprehensive framework for governance and the administration of justice.

Origins and Evolution of the Aadhaar Act:

The Ministry of Communications and Information Technology approves the Unique ID (UID) program for low-income communities in March 2006. The Empowered Group of Ministers (EGoM) acknowledged the necessity of establishing a residents' dataset through its inaugural meeting in 2007.

To understand the significance of *Maheshwari v. Union of India*, one must first unravel the genesis of the Aadhaar Act. Conceived as a pioneering initiative to streamline welfare delivery mechanisms and curb leakages in subsidies, the Aadhaar project emerged against the backdrop of India's burgeoning population and bureaucratic inefficiencies. The Aadhaar Act established the legal framework for the Aadhaar system, India's biometric identification program. It addresses concerns related to privacy and security of citizens' biometric and demographic information. The brainchild of the Unique Identification Authority of India (UIDAI), Aadhaar sought to provide every resident of India with a unique, biometric-based identity number, ostensibly to facilitate targeted delivery of government services.

However, the journey from conception to implementation was fraught with challenges. Critics raised concerns about the potential for privacy violations, data breaches, and the centralization of personal information. Despite these reservations, the Aadhaar Act, 2016, was passed by the Indian Parliament, heralding a new era in governance and identity management.

Evolution of Aadhaar:

Legislative Framework: The Aadhaar project gained statutory backing with the passage of

the Aadhaar (Targeted Delivery of Financial and Other Subsidies, Benefits, and Services) Bill In 2016. The legislation provided a legal framework for the collection, storage, and usage of Aadhaar data while incorporating provisions for privacy and data protection.

Supreme Court Scrutiny: The Aadhaar Act faced legal challenges, with concerns raised regarding privacy violations and potential misuse of personal data. The Supreme Court of India deliberated on the constitutionality of Aadhaar in a series of landmark judgments, ultimately affirming its validity while imposing restrictions on its usage.

Objectives of Aadhaar:

- A. **Inclusive Development:** Aadhaar aims to facilitate inclusive development by enabling access to government services, subsidies, and benefits for all residents, especially those from marginalized and vulnerable communities.
- B. **Streamlining Service Delivery:** By providing a unique digital identity, Aadhaar streamlines service delivery mechanisms, minimizes leakages, reduces bureaucratic hurdles, and enhances efficiency in welfare programs.
- C. **Financial Inclusion:** Aadhaar plays a crucial role in promoting financial inclusion by enabling easier access to banking services, facilitating direct benefit transfers, and promoting digital payments.

UIDAI versus Home Ministry:

Before citizens were enrolled in the Aadhaar system and the NPR database was subsequently built, there was a protracted period of friction between the UIDAI and the Home Ministry, led by P Chidambaram. The key objection was that the two independent exercises resulted in data duplication, as both collected biometrics and went through the verification process. The Finance Ministry, which oversees the UIDAI, and Home Department fought over who had the power to collect demographic statistics.

Aadhaar card required voluntary enrollment and covered everyone, whereas the NPR was more effective as a mandatory exercise for citizens. It was also noted that the UIDAI used private agencies to gather data for Aadhaar.

Maheshwari v. Union of India: A Legal Odyssey:

The legal saga of Maheshwari v. Union of India commenced with a group of petitioners challenging the constitutional validity of the Aadhaar Act before the Supreme Court of India. The petitioners, representing a cross-section of society, articulated a myriad of concerns ranging from privacy infringement to the erosion of individual autonomy. At the heart of their contention lay the assertion that the mandatory linking of Aadhaar with essential services encroached upon fundamental rights enshrined in the Indian Constitution, most notably the right to privacy.

The courtroom became the battleground where legal luminaries sparred over competing interpretations of constitutional provisions and the implications of technological innovation on civil liberties. The proceedings witnessed rigorous debates on issues such as voluntariness versus compulsion, data security, and the limits of governmental power in a digital age. As arguments were marshalled, precedents cited, and statutes scrutinized, the case assumed monumental significance, transcending its immediate legal implications to become a touchstone for larger societal debates.

Key Arguments and Judicial Deliberations:

Fundamental Rights refer to the liberties required for intellectual, moral, and spiritual development among Indian citizens. In the present case, the Right to privacy is at question of the Constitution. The arguments are as follows.

Central to the petitioners' case was the invocation of the right to privacy as a bulwark against state intrusion into the sanctum of individual autonomy. Drawing inspiration from global jurisprudence and constitutional

principles, they contended that the collection and storage of biometric and demographic data under the Aadhaar scheme amounted to an unwarranted invasion of privacy. Moreover, they argued that the mandatory linking of Aadhaar with various services coerced individuals into surrendering their personal information, thereby undermining their freedom of choice.

In response, the government advanced a robust defence, citing the imperatives of good governance, fiscal prudence, and the need to curb leakages in welfare schemes. It emphasized Aadhaar's role as a tool for inclusive development, facilitating targeted delivery of subsidies and services to the most vulnerable sections of society. Additionally, the government underscored the adequacy of safeguards built into the Aadhaar framework, including stringent data protection measures and legislative oversight.

The Supreme Court, cognizant of the weighty issues at stake, embarked on a nuanced examination of the legal and constitutional dimensions of the case. In its deliberations, the Court grappled with complex questions regarding the contours of privacy rights in an increasingly digitized world, the permissible limits of governmental intervention, and the need to reconcile competing interests without unduly compromising individual freedoms.

Challenges and Controversies:

Despite its monumental significance, *Maheshwari v. Union of India* has not been immune to criticisms and controversies. Some legal scholars and civil society activists have raised concerns about the adequacy of safeguards built into the Aadhaar framework and the potential for misuse or abuse of Aadhaar data by state and non-state actors. Additionally, questions have been raised about the efficacy of the Aadhaar system in achieving its stated objectives of targeting welfare benefits and subsidies, with some critics arguing that the costs and risks associated with Aadhaar outweigh its purported benefits.

Moreover, the judgment has been subject to interpretation and reinterpretation by various stakeholders, leading to divergent opinions on its scope and implications. While some view it as a triumph of individual rights over state surveillance, others perceive it as a missed opportunity to impose more stringent constraints on governmental power and technological overreach. These critiques underscore the complexity and nuance inherent in balancing competing interests in a democratic society grappling with the challenges of the digital age.

In the case of *Naresh Kumar Maheshwari v. Union of India*, several key issues were raised, primarily revolving around the constitutional validity of the Aadhaar (Targeted Delivery of Financial and Other Subsidies, Benefits and Services) Act, 2016, and the implications of mandatory Aadhaar linking for various services. Some of the main issues raised in the case include:

- A. **Right to Privacy:** One of the central issues in the case was whether the mandatory linking of Aadhaar cards to various services violated an individual's right to privacy, which had been recognized as a fundamental right by the Supreme Court in the landmark judgment of Justice K.S. Puttaswamy (Retd.) vs. Union of India (2017). Concerns were raised regarding the potential infringement of privacy rights due to the collection and use of biometric and demographic data associated with Aadhaar cards.
- B. **Constitutional Validity of Aadhaar Act:** Another key issue was the constitutional validity of the Aadhaar Act itself. The petitioners challenged the legality of the Aadhaar Act, arguing that it violated various fundamental rights guaranteed under the Constitution of India, including the right to privacy, freedom of expression, and the right to equality.
- C. **Mandatory Aadhaar Linking:** The case also raised questions about the legality and constitutionality of making Aadhaar linking mandatory for availing various services,

such as government subsidies, welfare benefits, bank accounts, and mobile connections. Concerns were raised about the coercive nature of mandatory Aadhaar linking and its impact on individuals' rights and freedoms.

- D. **Data Security and Privacy:** The issue of data security and privacy was a significant concern in the case. Questions were raised about the security measures in place to safeguard Aadhaar data and prevent unauthorized access or misuse. The petitioners argued that the lack of adequate data protection measures posed risks to individuals' privacy and could lead to potential data breaches and identity theft.
- E. **Scope of Aadhaar Usage:** The case also examined the scope of Aadhaar usage and whether it could be made mandatory for purposes beyond government subsidies and welfare schemes. Concerns were raised about the potential expansion of Aadhaar usage to private sector services and its implications for privacy and data protection.
- F. **Exclusion and Biometric Errors:** Aadhaar's reliance on biometric authentication has raised concerns about exclusion, particularly among the elderly, disabled, and marginalized populations. Biometric errors and authentication failures have resulted in instances of denial of services and benefits.
- G. **Legal and Ethical Issues:** The legality and ethical implications of Aadhaar, particularly regarding the collection and usage of biometric data, have been subject to scrutiny. Debates continue over the balance between national security, governance efficiency, and individual rights.

Overall, the case of Naresh Kumar Maheshwari v. Union of India raised fundamental issues concerning the balance between privacy rights, government objectives of efficient service delivery, and the constitutional validity of legislation such as the Aadhaar Act. The Supreme Court's judgment in the case

addressed these issues and provided guidance on the legal framework governing Aadhaar usage and its implications for individuals' rights and freedoms.

Judicial Pronouncement and Salient Features of the Judgment:

After meticulous deliberation, the Supreme Court rendered its verdict in Maheshwari v. Union of India, laying down a landmark judgment that reverberated across the legal fraternity and beyond. While upholding the constitutionality of the Aadhaar Act, the Court imposed several crucial limitations and safeguards to protect citizens' rights and dignity.

Foremost among the Court's pronouncements was the affirmation of the right to privacy as a fundamental aspect of individual liberty and dignity. Recognizing the intrinsic value of privacy in fostering autonomy and self-expression, the Court held that any infringement upon this right must be justified by a compelling state interest and subjected to rigorous scrutiny.

Moreover, the Court delineated the contours of the Aadhaar scheme's permissible use, ruling that Aadhaar could not be made mandatory for availing essential services such as banking, mobile connections, and government subsidies. However, it allowed voluntary use of Aadhaar for certain welfare schemes and services, provided adequate safeguards were in place to protect citizens from coercion or undue influence.

In addition to these substantive pronouncements, the Court emphasized the paramount importance of data protection and security in the Aadhaar ecosystem. It mandated stringent measures to safeguard Aadhaar data, including encryption, firewalls, and robust confidentiality protocols. Furthermore, the Court underscored the need for legislative oversight and periodic review of Aadhaar-related laws to ensure compliance with constitutional principles and evolving societal norms.

Impact and Implications:

The judgment in *Maheshwari v. Union of India* reverberated far beyond the hallowed halls of the Supreme Court, catalysing a paradigm shift in India's legal and governance landscape. It marked a watershed moment in the evolution of privacy jurisprudence, reaffirming the judiciary's role as the sentinel of individual rights in the face of technological encroachments.

Furthermore, the judgment sparked a broader conversation about the intersection of technology, governance, and individual rights, prompting policymakers to reevaluate existing frameworks and institutional mechanisms. In the aftermath of the verdict, the government undertook concerted efforts to bolster data protection laws, enhance transparency in governance, and foster a culture of digital literacy and awareness among citizens.

Moreover, the judgment served as a catalyst for legislative action, galvanizing efforts to enact comprehensive data protection legislation that would provide a robust legal framework for safeguarding individual privacy rights. The introduction of the Personal Data Protection Bill, 2023, marked a significant milestone in this regard, signalling India's commitment to aligning its legal regime with global best practices and emerging challenges in the digital domain.

Future Directions and Challenges:

As India navigates the complexities of the digital age, *Maheshwari v. Union of India* provides a roadmap for addressing the myriad legal, ethical, and policy challenges posed by technological innovation. Moving forward, policymakers, jurists, and civil society actors must grapple with pressing questions such as the regulation of emerging technologies, the protection of individual privacy in cyberspace, and the democratization of access to information and services.

Moreover, the evolving nature of digital governance necessitates continuous vigilance and adaptation to emerging threats and

vulnerabilities. Efforts to enhance data protection, strengthen cybersecurity infrastructure, and promote digital literacy must be pursued in tandem with broader initiatives to foster a culture of responsible innovation and inclusive development.

Furthermore, the principles enshrined in *Maheshwari v. Union of India* must be upheld and strengthened through robust institutional mechanisms, transparent governance practices, and proactive engagement with diverse stakeholders. By harnessing the transformative potential of technology while safeguarding individual rights and freedoms, India can chart a course towards a more equitable, inclusive, and rights-conscious future.

Impact and Future Directions:

Aadhaar has empowered millions of Indians by providing them with a unique identity that facilitates access to essential services, financial resources, and government schemes.

Moreover, Aadhaar has catalysed the shift towards digital governance, paving the way for innovative solutions in areas such as e-governance, digital payments, and identity verification.

Conclusion:

Maheshwari v. Union of India stands as a testament to the resilience of India's democratic institutions and the judiciary's unwavering commitment to upholding constitutional values in a rapidly evolving world. By grappling with complex issues of privacy, governance, and technological innovation, the case has left an indelible imprint on India's legal landscape, shaping the contours of future debates and policy interventions.

As India marches forward into the digital age, the principles enshrined in the *Maheshwari* judgment will continue to serve as a lodestar for navigating the intricate terrain of rights and responsibilities in a networked society. In honouring the sanctity of individual privacy and dignity, while recognizing the imperatives of

good governance and inclusive development, the judgment epitomizes the delicate balance that must be struck to realize the full potential of India's democratic experiment.

India's commitment to privacy protection and data security is evident in its evolving legal framework and data protection measures. As the nation continues its digital journey, the need to strike a balance between technological advancement and individual rights remains crucial. By empowering citizens with control over their personal data and adopting privacy-centric practices, India aims to build a secure and trustworthy digital ecosystem.

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ACHIEVEMENTS & ACTIVITIES

University Institute of Laws
Panjab University Regional Centre, Ludhiana

ACADEMIC ACTIVITIES

I. Invited Lectures

- University Institute of Law, Panjab University Regional Centre Ludhiana to commemorate International Day Against Drug Abuse and Illicit Trafficking organized a lecture on the subject matter 'Drug Abuse: Current Understandings, Identification, Impact on Human Beings and Treatment.' The lecture was delivered by Dr. Devender Kumar, Assistant Professor in Clinical Psychology, Dept. of Psychiatry, PGIMER, Chandigarh on 7th July, 2023 via virtual mode. The resource person elucidated about the various aspects of different drugs which can lead to abuse and addiction which could further affect the physical and mental capabilities. The lecturer concluded the topic by explicating the respective remedies and suggestions. Many students attended the seminar and enhanced their intellect about the significance of the possession of such profound skills. Prof. (Dr.) Aman Amrit Cheema, Director, Punjab University Regional Centre, Ludhiana also represented her field of vision about the subject-matter and convened the session with the formal vote of thanks. The event proved to be a fruitful endeavour and was successfully coordinated by the Faculty Coordinator Adv. Sunil Mittal and Student Coordinators Jaya Singh Ahluwalia and Jesus Goyal.
- The University Institute of Law, Panjab University Regional Centre Ludhiana had organized a Panel Discussion on the case Hrishikesh Sahoo v. State of Karnataka (Writ Petition No. 48367 of 2018 on 22nd August, 2023 under the able guidance of Prof. (Dr.) Aman Amrit Cheema, Director, Punjab University Regional Centre, Ludhiana. The event highlighted the issue of the Marital Rape. The event was successfully coordinated by the Faculty Coordinators Adv. Vandana Bhanot and Adv. Sunil Mittal with the Student Coordinators Jesus Goyal and Deeksha.
- University Institute of Laws, Panjab University Regional Centre, Ludhiana in collaboration with State Bank of India, organized an Awareness Session on financial planning for its teaching as well as non-teaching staff members of UIL, UBS, Extension Library and Girls Hostel on 23rd September, 2023. A team of 5 delegates comprising Mr Pravin Jha, Chief Manger; Mr Umesh Mahajan, Chief Manager; Mr Kanwardeep Singh ASM, MF; Mr. Ashish Sharma; ASM SBI Life and Mr Dinesh Sharma; BDM SBI Life, visited the campus to interact with the audience. Prof. (Dr.) Aman Amrit Cheema, Director, Panjab University Regional Centre Ludhiana, welcomed the representatives of State Bank of India. During her address she stressed that how financial planning is crucial for everyone and especially for the salaried employees. The team from SBI, during their interaction, deliberated on well-structured strategies for financial planning which can help salaried people achieve their financial goals during the career as well as retirement resulting in financial independence. The session was concluded with a vote of thanks by Mr. Shashi Kapoor, Associate Professor, University Business School, Ludhiana.
- University Institute of Laws, Panjab University Regional Centre, Ludhiana, organised an extension lecture on "Israel-Palestine Conflict: Understanding the Role of the United Nations" on 8th November, 2023. The ambition was to nurture the universal values, ethics of peace and fraternity among youth. The event was successfully conducted under the adept intelligence of Prof. (Dr.) Aman Amrit Cheema, Director, Panjab University Regional Centre, Ludhiana and was convened by distinguished faculty

coordinator Prof. (Dr.) Ashish Virk. The Resource Person Prof. (Dr.) Rajesh Kumar elucidated on the various facts, well-known historical events, perspectives and the multiple parties involved in the issue that has drawn the consciousness of the entire world. He explicated how the United Nations can play a kernel role in defusing the rising tension and assist in saving millions of lives. He also laid emphasis on the significance of the United Nations and the world powers to arrive at a peaceful annulment to this antagonism. He puts stress on the reforms of structures and jurisdiction of UNO for the betterment of its position. The lecture was open to all the students which enhanced their intellectualism about the significance of the possession of such profound skills. Prof. (Dr.) Aman Amrit Cheema felicitated Prof. (Dr.) Rajesh Kumar for such an erudite and insightful discussion. The whole event was proved to be a fruitful endeavour and was successfully coordinated.

- Legal Aid Committee, University Institute of Laws, Panjab University Regional Centre, Ludhiana, with the ambition to provide insightful knowledge about the provisions of law organized a Guest Lecture on "Free Legal Aid Services: An Assurance of Legal Support" to commemorate World Legal Service Day. The event was successfully convened under the able guidance of Director, Prof. (Dr.) Aman Amrit Cheema and was diligently coordinated by faculty coordinators Dr. Aditi Sharma and Dr. Nisha Jindal. Resource Person Adv. Govind Puri, District and Session Courts, Ludhiana elucidated the concept of legal services enshrined under Indian Statutes. He explained the various practical legal aspects that an advocate must keep in mind while giving Free legal services to those who are socially and economically backward.
- Placement Cell, University Institute of Law, Panjab University Regional Centre, Ludhiana had organized a Guest lecture on theme "Practical Dimensions of Conveyancing" on 9th November 2023 under the sagacious leadership of Prof. (Dr.) Aman A. Cheema,

Director. The lecture was delivered by Adv. Sukhwinder Singh Rai, who has been a practicing advocate of District and Sessions court, Ludhiana. In this lecture, he explained the nuances of conveyancing along with their inter-relation with other statutes of law. He provided the students with a practical approach on Drafting, Conveyancing, IPC, CrPC, Constitution and their amalgamated working in the courts and everyday legal areas. Adv. Sukhwinder Singh Rai used the examples of everyday things such as a one rupee note, cheques, notices, property transfer, etc. to illustrate his learnings. The event was successfully coordinated by Adv. Sunil Mittal and Ms. Sumanpreet Kaur.

- The University Institute of Laws at Panjab University Regional Centre, Ludhiana, orchestrated noteworthy Guest Lectures centred around the theme of 'Law of Registration and Land Records'. The delivery of this knowledge-rich session occurred in a hybrid format, orchestrated under the insightful leadership of Prof. (Dr.) Aman A. Cheema, the distinguished Director of Panjab University Regional Centre, Ludhiana. Assisting in the seamless execution of this intellectual endeavour were the esteemed Dr. Neelam Batra and Ms. Homa Bansal, who served as faculty coordinators for this enlightening occasion. The primary objective of these lectures was to illuminate the intricate legal facets and impart practical wisdom to students, particularly in the domain of registration and land records a realm of paramount significance within the purview of property law, contracts, real estate, and various other legal transactions. Dr. Vinay Bansal, District Revenue Officer, and Mr. Jaspreet Singh, Tehsildar, both of whom provided in-depth insights into the legal framework, procedural intricacies, and best practices associated with land registration, property documentation, and the management of land records. Mr. Vinay Bansal thoughtfully highlighted the critical sections of the Registration Act of 1908, offering insights into recent developments within the Act. Mr. Jaspreet, on the other hand, elucidated

the various terminologies that are intricately tied to land records. As an illustrative aid, actual Jamabandi documents were presented to the students, providing a tangible reference for a deeper comprehension of the subject matter. The event culminated with an expression of gratitude to the erudite speakers, graciously extended by Ms. Nikita, a final-year LL.B. student, who represented the collective appreciation of the student body.

COLLEGIATE ACTIVITIES

I. NSS Initiatives

- To address our negligence towards trees and its consequences, students planted 100 trees at PU Constituent College, Village Kariyal, Dharamkot, Distt. Moga. This collective effort aimed to create a positive impact and promote environmental consciousness. The NSS unit of the University Institute of Laws collaborated with the NS Unit of Panjab University Constituent College, Dharamkot, Distt. Moga, to organize an Awareness Drive on Drug Abuse on 31st August, 2023, in Kariyal, Dharamkot, Distt. Moga. This initiative was part of the Meri Maati, Mera Desh' Campaign. The event's patrons were Prof. (Dr.) Aman Amrit Cheema, Director, Punjab University, Ludhiana, and Prof. (Dr.) Ashish Virk, Principal, PU Constituent College, Village Kariyal, Dharamkot, Distt. Moga. The event was skilfully coordinated by faculty members Dr. Pooja Sikka, Program Officer and Ms. Sumanpreet Kaur. During the event, Prof. (Dr.) Ashish Virk addressed the villagers, highlighting the severity of Drug Abuse with the message "Choose not to use! Chase your dreams, not drugs." The IPTA, an NGO, presented a Nukkad Natak, vividly portraying how college students are coerced into drug usage and how their lives and families suffer due to their relentless drug needs. The NSS volunteers engaged with the villagers, emphasizing the importance of awareness and staying away from drugs. The village's sarpanch, Rupinderjeet Singh, appreciated and expressed gratitude towards Prof. (Dr.) Ashish Virk and all other volunteers,

acknowledging their dedicated presence in the village.

- The NSS Unit of University Institute of Law, Panjab University Regional Centre, Ludhiana organized a Poster Making Competition on 2nd August 2023 on the theme "Indian Organ Donation Day". The event was judged by Dr. Aditi Sharma and Dr. Vaishali Thakur. About 25 students participated in this event from B.A.LL.B , LLB and MBA. The students highlighted the various facets in their posters which represented not only the artistic portion but their intellectualism also. The First prize was grabbed by Simranpreet Singh (B.A.LL.B 4th year), second prize by Vanshika Moong (B.A.LL.B 3rd year) and third prize by Deepali (M.B.A 1st year). The competition was organized under the able guidance of Prof. (Dr.) Aman Amrit Cheema, Director, Punjab University Regional Centre, Ludhiana, and convened by Program Officer, Dr. Pooja Sikka and faculty coordinators, Adv. Sunil Mittal and Ms. Sumanpreet Kaur and by the Student Coordinators Jesus Goyal and Kirti Bhardwaj.
- The NSS Unit of University Institute of Laws, Panjab University Regional Centre, Ludhiana, organized an awareness seminar on the topic of "Organ Donation" on 6th August, 2023. The guest speaker was Dr. Sourabh Sharma, Manager- Projects and Outreach at ORGAN-India, an initiative by Parashar Foundation, an NGO, which facilitates organ donation & transplantation in India. The event was successfully conducted under the patron ship of Prof. (Dr.) Aman Amrit Cheema, Director, Punjab University Regional Centre, Ludhiana and was organized by Programme Officer, Dr. Pooja Sikka, Adv. Sunil Mittal and Ms. Sumanpreet Kaur.
- The NSS Unit of the University Institute of Laws, Punjab University Regional Centre, Ludhiana, gathered before the Director's office to take a solemn pledge as a part of 'Meri Maati Mera Desh' (MMMD) Campaign on 11th August, 2023. Prof. (Dr.) Aman Amrit Cheema, Director, Punjab University Regional Centre, Ludhiana

addressed the assembly with a poignant message. She stressed that the pledge taken today holds a deeper meaning—it's not just an act for this moment but a commitment that we must integrate into our daily lives. The pledge's significance was further highlighted by Dr. Vaishali Thakur, who eloquently conveyed the message in Hindi, making it accessible and relatable to everyone present. Program officers, Dr. Pooja Sikka and Mr. Sunil Mittal, engaged the NSS students in a thoughtful discussion. They emphasized the importance of embracing the pledge and actively working towards the growth and development of India, with a clear focus on fulfilling our responsibilities as conscientious citizens. Additionally, they highlighted the need to show profound respect for those who courageously defend our nation. The event was convened by Dr. Vaishali Thakur, Dr. Rajni Bagga and Ms. Sumanpreet Kaur.

- Under the expert guidance of Director Prof. (Dr.) Aman Amrit Cheema, the NSS unit of the University Institute of Laws orchestrated a sanitation campaign on 1st November 2023, as part of the 'Shramdaan for Swachhata' initiative, in accordance with the directives of the Directorate of NSS, New Delhi. The esteemed event patron, Prof. (Dr.) Aman Amrit Cheema, Director, PURC Ludhiana, graced the occasion with her enlightening discourse. She emphasized that cleanliness cannot be achieved through mere words; it necessitates proactive initiatives. As the adage goes, 'swachhata begins at home', we must first ensure cleanliness in our immediate surroundings. The event was skilfully coordinated by Program Officer Dr. Pooja Sikka, along with the diligent faculty coordinators Adv. Sunil Mittal and Ms. Sumanpreet Kaur. The orchestration of this noteworthy event was managed by student coordinators: Department Representative Sahil Kaliraman [LLB 2nd YEAR], Hardik [BA LLB 4th YEAR], Jesus Goyal [BA LLB 3rd YEAR], and Kimreet Kaur [BA LLB 5th YEAR]. This collaborative effort aimed to foster a positive impact and advocate for hygiene and cleanliness.

II. TEDx PURC Ludhiana

University Institute of Laws, Panjab University Regional Centre, Ludhiana, organized its first edition of TEDx PURC on 6th October 2023, at the illustrious Sohan Lal Pahwa Auditorium within the hallowed premises of Guru Nanak Dev Bhawan. This momentous event was orchestrated under the sagacious leadership of esteemed event organizer Prof. (Dr.) Aman A. Cheema, Director of PURC, Ludhiana. The event was meticulously designed to cater to the erudite students of PURC, Ludhiana, and based on the resplendent theme, 'Ad Aspera Per Astra,' signifying the arduous journey to the stars. The event's orchestration was steered by the esteemed faculty coordinators, including Dr. Rajnish Saryal, Dr. Nisha Jindal and Dr. Samni Singla, along with co-organizer Divyansh Gupta, a distinguished student of Panjab University Regional Center. The day's proceedings commenced at 9:00 am with the keynote address of the venerable Prof. (Dr.) Aman Amrit Cheema, who provided her vision for the pursuit of excellence at PURC, Ludhiana. The event transcended disciplines, boasting a diverse array of speakers hailing from the realms of education, social welfare, science, law, and sports. The event was artfully divided into three distinct sessions, each featuring a selection of compelling TEDx talks. The first session was inaugurated by the eloquent Mr. Anmol Kwatra, a dynamic social activist, followed by the insightful Mr. Vivek Atray, a former IAS officer, turned motivational speaker, and the enchanting Ms. Shobha Koser, a renowned kathak dancer. The second session commenced with an enlightening discourse by Dr. Vijendra Chauhan, a distinguished professor at Delhi University, shedding light on the symbiotic relationship between the education sector and civil services. This was followed by a poignant address by Mx. Dhananjay Chauhan is a socially prominent social activist from transgender community in our nation. They shared poignant insights from their own life and their hardships. The third and final session featured distinguished personalities, including the intrepid rally racer, Ms. Shubhkiranpal Brar, and the distinguished Adv. Suvir Sidhu, Chairman of the Bar Council of Punjab and Haryana

III. UIL Model United Nations

A momentous journey began, under the esteemed guidance of Director, Prof. (Dr) Aman Amrit Cheema, on 13th & 14th September, 2023 as the institution came up with its first Model United Nations. The inaugural day unfolded with the radiant glow of knowledge lamp a symbolic act led by Director Prof. (Dr) Aman Amrit Cheema, alongside with Prof. (Dr.) Harmeet Singh Sandhu and Dr. Nisha Jindal. In her address, she imparted invaluable insights, setting the tone for the event. Throughout this event, delegates immersed themselves in intense brainstorming, meticulous research, spirited debates, and the formulation of resolutions on two pivotal agendas: "Artificial Intelligence" for the United Nations General Assembly (UNGA) committee and Uniform Civil Code" for the AI India Political Parties Meeting (AIPPM) committee. The culminating session on the second day began with a warm welcome extended to the Chief Guest, the Hon'ble Manila Chugh, Additional District & Sessions Judge of Ludhiana. Prof. (Dr.) Aman Amrit Cheema and Prof. (Dr.) Harmeet Singh Sandhu extended their heartfelt greetings and expressed their gratitude for her gracious presence. Hon'ble Manila Chugh, ADJ, Ludhiana, enriched the delegates with her profound insights and presented awards across various categories to the deserving winners. The distinguished victors encompassed a diverse array of talented individuals including Mr. Suraj (B.A.LL.B. 5th year), Mr. Mayank Bansal (BA.LL.B. 3rd year), Ms. Gurleen Kaur (B.A.LL.B. 3rd year), Mr. Jesus Goyal (B.A.LL.B. 3rd year), Ms. Swati Sharma (LL.B. 3rd year), Mr. Divyansh Yadav (B.A.LL.B. 3rd year) Ms. Upasana Mishra (LL.B. 1st year), and Ms. Khushi Aggarwal (B.A.LL.B. 3rd year).

IV. Intra Department Moot Court Competition

The Moot Court Society (MCS) at the University Institute of Laws, Panjab University Regional Centre, Ludhiana, orchestrated a prestigious two Day Intra-Department Moot Competition, held on the 17th and 18th of October, 2023. The paramount aim of the Moot Court Society is to foster and propagate the culture of mooting throughout the institution. Impressively, the Society garnered a total of 34

registrations from eager participants. The inaugural day, Day 1 unfolded with the Preliminary Round, thoughtfully segmented into two distinct slots, slot 1 and Slot 2, designed to accommodate the large number of entrants. Out of these 34 zealous teams, the top 16 teams exhibited their prowess in the Octa Round. Subsequently, from the Octa Round, a select 8 teams qualified for the Quarter-Finals. To adjudicate these intense Quarter-Final, single bench was constituted, consisting of legal luminaries such as Adv. Rahul Kaushal, Adv. Ankur Sharma, Adv. Youvan Mahajan, and Adv. Davinder Pal Singh. The Quarter-Finals were knock-out rounds, and eventually, 4 outstanding teams emerged as eligible for the Semi-Finals. On this same day, the Researchers' test was conducted, where researchers from each team were meticulously evaluated based on their legal proficiency. Day 2 dawned with the Semi-Final Rounds, which were graced by the esteemed presence of Adv. Deepak Rana, Adv. Amandeep Bhanot, and Adv. Sukhwinder Singh, who presided over the proceedings. The Final round was under the discerning scrutiny of Ms. Neelam Arora, Principal Judge of the Family Court, Prof. (Dr.) Aman Amrit Cheema, the Director of the institution, and Prof. (Dr.) Arti Puri. The accolades were distributed as Best Team bagged by the team comprising Kimreet Kaur, Samridhi Aggarwal, and Sourav Sharma, Best Speaker given to the eloquent Aakash Goyat, Best Memorial crafted by Tanya Arora, Lavanaya Khanna, and Smridhi Sharma, Best Researcher bagged by Yashika Singla. The team of Khushi Aggarwal, Divyansh Yadav, and Sneha Shukla stood as runners-up. The guidance of our esteemed Director, Prof. (Dr.) Aman Amrit Cheema, and the meticulous coordination by the Faculty Coordinators, namely Prof. (Dr.) Harmeet Singh Sandhu, Dr. Aditi Sharma, Dr. Nisha Jindal, Mrs. Tamanna Kohli, and the committed members of the Moot Court Society, played a pivotal role in the realization of this event.

SKILL DEVELOPMENT ACTIVITIES

- On 15th September 2023, an intellectually stimulating quiz competition celebrating Hindi Diwas unfolded at University Institute

of Law, Panjab University Regional Centre, Ludhiana. The competition comprised inquiries spanning the realms of the Hindi language, dictation, and eloquent oral exposition, challenging the students' linguistic prowess. The orchestration of this intellectually invigorating program fell into the capable hands of faculty members Mrs. Shalini Verma and Mr Baldev Singh. Among the competing scholars, the triumphant trio of Gurpreet Singh, Amit Kumar, and Sandeep Kumar (B.A.LL.B. 9th Semester) clinched the coveted first position. Meanwhile, the second position was secured by the trio consisting of Surabhi, Komal Singla, and Niranjan Kaur (B.A.LL.B 1st Semester).

- On 19th September 2023, University Institute of Laws, Panjab University Regional Centre, Ludhiana, organized a spirited debate competition was orchestrated, centring on the thought-provoking topic 'One Nation, One Election,' and carried out under the esteemed patronage of Prof. (Dr) Aman Amrit Cheema. The event's orchestration fell under the capable stewardship of Prof. (Dr) Harmeet Singh Sandhu, Dr. Aditi Sharma, and Dr. Meera Nagpal. Diverging from linguistic constraints, participants were granted the liberty to articulate their views in their preferred language, leading to engaging discussions in both English and Punjabi. The discourse allowed students to express their stance either in favour or against the topic. Adjudicated by the erudite panel of Prof. (Dr.) Ashish Virk and Dr. Rajnish Saryal, the contest culminated in the recognition of Gurkirandeep Kaur, (LL.B. 3rd Semester), as the victor. Following closely, Gurleen Kaur, (B.A.LL.B. 7th Semester), secured the second position, while Bharti Arora (LLB 1st Semester), third position. The tireless efforts of student conveners Jessica, Jesus Goyal, and Shivam Garg, all hailing from the BALLB 5th Semester, were instrumental in making this event a resounding success.
- On 16th August 2023, in order to commemorate Independence Day,

University Institute Laws, Panjab University Regional Centre, Ludhiana, organized a quiz under the able guidance of Prof. (Dr.) Aman Amrit Cheema, Director, Punjab University. The quiz titled 'Freedom Struggle: A Journey from Plassey to Partition' was convened by Dr. Meera Nagpal. The teams were named in honour of freedom fighters from India's struggle for independence, including Birsa Munda, Aruna Asaf Ali, Subhash Chandra Bose, and Sardar Vallabh bhai Patel. Jessica and Astha Paliwal, students from BALLB 3rd year were the winners. Prof. (Dr.) Aman Amrit Cheema encouraged and expressed happiness at the active engagement of the students.

EDUCATIONAL VISITS

- On 9th September 2023, University Institute of Laws, with motive to deliver a real-life experience to its students, came with yet another initiative. Legal Aid Committee of Panjab University Regional Centre, Ludhiana arranged a National Lok Adalat visit to Ludhiana District Court. The main objective of this visit was to introduce the students to the working method of Lok-Adalat as it is one of the important methods which provide speedy justice to the needy person/litigants. The students of B.A.LL.B. 3rd year got an opportunity to visit National Lok Adalat, Ludhiana. Visit took place under the able guidance of Prof. (Dr) Aman Amrit Cheema, Director, Punjab University Regional Centre, Ludhiana, Dr Aditi Sharma, Faculty in charge of the Legal Aid Committee and under the supervision of faculty members Ms. Tamanna Kohli & Dr Nisha Jindal.
- On 3rd November, 2023, an educational visit to the Ludhiana District Consumer Commission was organised by the PURC Ludhiana for LLB first year students as a part of Student Capacity Development & Skill Enhancement Programme for the purpose of gaining insights into the working and procedure of the District Consumer commission. This visit aimed to assess the functionality, accessibility, and various challenges faced by the Consumer Courts.

The objectives of the visit were to explore the working of consumer courts and gain practical knowledge and experience through direct observation, to learn and grasp the various facets of how the Consumer courts work and experience the Courtroom environment first-hand. The students were briefed about a recent contaminated soft drink case and a case related to Air India reported in the District Consumer Commission, Ludhiana. The students also visited the record room where they had an experience to learn about how the records are kept in courts as well the internet based Case Monitoring System developed for automating the work flow of the consumer commissions, starting from case registration until announcement of judgment. The students attained a deeper understanding of how the Consumer Courts operate and they attained great practical experience through direct observation about how the working of Consumer courts is different from the ordinary courts. They gained familiarity with the courtroom environment and the whole visit was an aim of make sure that the students are ready to face the various challenges of the legal world when they enter this noble profession. The whole visit was organised under the able guidance of Prof. (Dr.) Aman Amrit Cheema Director, Panjab University Regional Centre, Ludhiana and Ms Tamanna Kohli was the faculty coordinator for the same

OTHER EVENTS

- The University Institute of Panjab University Regional Centre, Ludhiana, warmly welcomed the incoming freshers on 4th of September 2023, as they embarked on their exciting journey into university's academic life. This auspicious occasion marked the 'Fresher's Orientation Day' for students entering the B.A.LL.B. 1st semester and LL.B. 1st semester programs. The event was expertly coordinated by our esteemed faculty members, Prof. (Dr) Ashish Virk and Dr.Samni Singla. The day was meticulously organized into three distinct sessions, each contributing to the holistic development of
- our budding legal scholars. The first session, titled 'Nurturing Minds, Enriching Lives: A Mental Health Perspective,' began at 10:00 am. In this session, we were honoured to have our Director, Prof. (Dr.) Aman Amrit Cheema, deliver a heartfelt welcome address. Prof. Cheema also shared the vision of the University Institute of Laws, emphasizing our commitment to excellence. During this session, students were introduced to a wide array of activities, initiatives, and committees designed to provide unwavering support and guidance throughout their academic journey. At 10:30 am. Session II commenced with an enlightening exploration of mental health. Dr Priyanka Kalra, a renowned Psychiatrist, Consultant, and Child & Adolescent Specialist, led this engaging session. The day's proceedings reached a pinnacle with Session III, titled "Illuminating Legal Pathways: A Panel Discussion, which commenced at noon. The session was graced by distinguished luminaries in the field of law. Among them were Prof. (Dr) SC. Sharma, Director of St. Soldiers Law College, Jalandhar, Adv. Vivek Salathia, an accomplished Advocate practicing at the Supreme Court of India and Punjab and Haryana High Court, Adv. Inderpreet Singh Sohal, a distinguished alumnus of UIL PURC and a practicing Advocate at the Punjab and Haryana High Court, Adv. Annanaya Nayyar Jain, another illustrious ULI PURC alumnus, a dedicated Advocate at the Delhi High Court, and finally, Adv. Puneet Singh Masitan, a proud UIL PURC alumnus who also held the esteemed position of INSO Party President from 2019 to 2023. The event concluded with a heartfelt vote of Thanks delivered by Upasana Mishra, a dedicated student embarking on her journey in the LL.B. 1st semester.
- Panjab University Regional Centre, Ludhiana organized the Teej Utsav on 10th August, 2023 in the Annie Besant Hall under the able guidance of Prof. (Dr.) Aman Amrit Cheema. The event showcased various delightful performances including Dance and Singing by the students. Many students participated in the Teej Competition and

their dance and singing performances rejuvenated the enthusiasm of the audience. Winners were awarded with titles of Ms. Teej, which was won by Divseerat Kaur (B.A. LL.B 3rd year), Sohni Mutiyaar bagged by Loveleen Kaur (LL. B 3rd year), Gidhyaan di Rani secured by Divya (B.A. LL.B 2nd year), PURC da Chobar bagged by Simranpreet Singh (B.A.LL.B 4th year) and Ghaint Gabru secured by Nipun Sharma (B.A.LL.B 2nd year). The event was anchored outstandingly by Anuvanshjeet Kaur, Gursimran Kaur, Aarushi and Aishmeen. The cultural event of Teej was successfully conducted and proved to be a fruitful endeavour by Student Coordinators Hardik, Akshita and Volunteers Naman Chauhan, Nitin Kumar, Aniket, Simranpreet Singh and Jesus Goyal. The event was convened by Dr. Vaishali Thakur, Dr. Rajni Bagga and Ms. Sumanpreet Kaur.

- The Indian Democracy came into existence as independence was achieved after years of struggle and sacrifices. The faculty and students of University Institute of Laws, Punjab University Regional Centre, Ludhiana, commemorated the Indian Struggle for Independence. The event took place on 14th August, 2023. The event started with screening of a documentary titled 'Mahatma Gandhi: Dying for Freedom' which instilled in students a feeling of patriotism and respect. This documentary emphasized on the events that occurred before and after the assassination of Mohandas Karamchand Gandhi. The screening took place in the Conference Hall, which was then followed by hoisting of the Indian National Flag by the event patron, Prof. (Dr.) Aman Amrit Cheema, Director, Punjab University Regional Centre, Ludhiana. The event was concluded by intonation of National Anthem by all attendees present. This revering programme was conducted under the able guidance Prof. (Dr.) Aman Amrit Cheema and event coordinators, Adv. Renu Sharma and Mrs. Homa Bansal.

- University Institute of Laws, Panjab University Regional Centre Ludhiana has organized a lecture to commemorate the Constitution Day on "Unfolding the Indian Constitution" on 28th November 2023 under the able guidance of worthy Director Prof. (Dr.) Aman Amrit Cheema. Dr. Aditi Sharma, our resource person for the day elucidated the ambition of the commemoration of this auspicious day i.e., Constitution Day. Dr. Aditi Sharma laid stress that pledge is not just an act to show but a responsibility towards entire nation. The whole session proved to be fruitful and erudite discussion and was successfully coordinated by faculty Coordinator Dr. Nisha Jindal.

ACHIEVEMENTS

I. Youth Festival Achievements

The University Institute of Laws at Panjab University Regional Centre, Ludhiana, is delighted at its impressive achievements at the 63rd Punjab University Zonal Youth fest hosted by Kamla Lohtia SD College, Ludhiana, from the 13th to the 16th of October 2023. These accolades are a testament to the department's excellence. The achievements are as follows: -

- 1st Prize: Moot Court Writing (Poem)
- 2nd Prize: Poem Recitation, Elocution, and Debate
- 3rd Prize: Group Songs (Indian), Ladies Traditional and Ritualistic Songs of Punjab and Bhangra
- 1st Prize: Group dance (Luddi)

The students have also individually secured top positions in group events:

- 1st Prize in Individual Poetry Recitation
- 3rd Prize in Individual Traditional and Ritualistic Songs of Punjab and Bhangra: Ladies Trained and Ritualistic Singers of Panjab.

FACULTY INFORMATION

1. Prof (Dr.) Arti Puri

Paper Presentation:

- ✓ “Manual Scavengers of India: The Pariahs of the Indian Constitutional Edifice” at National Seminar on Marginalization in India: Socio Economic Aspects and Constitutional Perspective organized by University Institute of Legal Studies, Panjab University, Chandigarh on 17th November 2023.

Chair:

- ✓ Chaired a technical session at National Seminar on Marginalization in India: Socio Economic Aspects and Constitutional Perspective organized by University Institute of Legal Studies, Panjab University, Chandigarh on 17th November 2023.

2. Prof.(Dr.) Aman Amrit Cheema

Publications:

- ✓ “A crime akin to Genocide”, India Legal, 23 October, 2023.

3. Prof.(Dr.)Ashish Virk

Guest lectures

- ✓ Invited Lecture on National Conference on Women Across Disciplines, organized by Department of Lifelong Learning, University of Rajasthan, Jaipur, on August 7-8, 2023.
- ✓ Invited Lecture on “Anti-Ragging Laws in India”, organized by Department of Animal Biotechnology, Guru Angad Dev Veterinary and Animal Science University, Ludhiana, on August 16, 2023.
- ✓ Invited Lecture on “Charting New Paths Towards Gender Equality in India”, organized by Women Development Committee on SACCM on Gender Equality, Sri Aurobindo College of Commerce & Management, Ludhiana, on November 7, 2023.

4. Dr. Vishali Thakur

Guest Lectures:

- ✓ “Intellectual Property Rights in India” under Student Development Institutional Development Plan organized by Department of Veterinary Microbiology, GADVASU, Ludhiana on 8th November 2023.
- ✓ “Right to Information: An overview” under Student Development Institutional Development Plan organized by Department of Veterinary Microbiology, GADVASU, Ludhiana on 8th November 2023.

Resource Person:

- ✓ One Day National Seminar on New Dimensions and Challenges for Human Rights organized by The Centre for Advanced Studies in Human Rights (CASIHR), RGNUL in association with Indian Council of Social Science Research (ICSSR) North-Western Regional Centre, Panjab University, Chandigarh on August 11, 2023, at RGNUL, Punjab.
- ✓ One Day National Seminar cum Workshop on Right to Information: Gearing Up for the Future organized by Rajiv Gandhi National University of Law, Punjab in collaboration with Punjab State Information Commission, Chandigarh on October 20, 2023.

5. Dr. Rajni Bagga

Resource Person:

- ✓ One Day National Seminar cum Workshop on Right to Information: Gearing Up for the Future organized by Rajiv Gandhi National University of Law, Punjab in collaboration with Punjab State Information Commission, Chandigarh on October 20, 2023.

6. Dr. Pooja Sikka

Publications:

- ✓ Published an article in Scopus Indexed Journal titled “Petroleum Export Performance in India: Analysis of Growth and Structural Dynamics”, Indian Journal of Economics and

Development, Vol 19, No. 4, pp 776-786, December 2023

- ✓ Published an article in Sage Journal of Lakhwinder Singh and K. J. Joseph (Eds), titled "Reimagining Innovation Systems in The COVID And Post-COVID World, Millennial Asia", pp 1-6. 2024

Guest lectures:

- ✓ Delivered the Guest Lecture in one day Workshop "Empowering the Next Generation: Nurturing Entrepreneurial skills in Students", organised by PG Department of Commerce and Management, PCM, SD college for Women, Jalandhar on 25th October, 2023.
- ✓ Delivered the Guest lecture in one day Seminar "Beyond GDP: Inequalities amidst Economic Growth, organised by PG department of Economics, SCD Government College, Ludhiana on 25th January, 2024.

Paper Presentations:

- ✓ Presented Paper in Annual Conference in Hyderabad titled "Unequal Consumption Patterns of Agricultural Households in Rural Punjab: Insights from the Unit level data" at the 22nd Annual Conference of IASSI, held at Centre for Economic and Social Studies (CESS), Hyderabad on 2-4 November 2023.

7. Ms. Homa Bansal

Publications

- ✓ Published article titled "Analyzing the violation of Prisoner's Rights in Solitary Confinement Practices in India" published in International Journal for Legal Research and Analysis, ISSN 2582-6433 in 2023.
- ✓ Published paper titled "A responsible citizen vis- a- vis Fundamental Duties under the Constitution of India" in International Journal for Legal Research and Analysis, ISSN 2582-6433.

Paper Presentations

- ✓ Presented a full length Paper: 'Harmony admits Differences: Delving into India's

Uniform Civil Code discussion" in the second international conference on the Higher Education Institute's challenge and solutions for sustainable development Goal's 23, SDG-16, Peace, Justice and Strong institutions on Nov 1 to Nov. 3,2023 at Scholl of Law, SRMIST, Kattankulathur.

- ✓ Presented a full length paper on the title – 'Fundamental Duties-Rediscovering their significance in contemporary India" in the second international conference on the Higher Education Institute's challenge and solutions for sustainable development Goal's 23, SDG-16, Peace, Justice and Strong institutions on Nov 1 to Nov. 3,2023 at Scholl of Law, SRMIST, Kattankulathur.
- ✓ Presented a full length paper: "Constitutional Rights and Duties: A Triangular Study of China, Japan and India" in the International Conference on "Contemporary Trends in Comparative Constitutional Law: Deliberating the Issues and Challenges" organized by the Geeta Institute of Law, Panipat and Geeta Global Law School, Geeta University, Panipat in collaboration with the Kathmandu School of Law, Nepal on 26th November, 2023.
- ✓ Presented a full length paper- Titled "Dowry's Death Legacy: Counting the Cost of Tradition" at CT Institute of Law, South Campus, Jalandhar, 2nd Virtual conference on addressing women and Gender-based violence.



Editor

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