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Our Rights

**Government must enact
strong laws and schemes
to protect the witness**



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editorial

Government must enact strong laws and schemes to protect the witness

Recently several shocking criminal cases were reported in Tamil Nadu and other States where the public who witnessed the crimes refused to come forward to help the struggling victims. The serious question is why the people are so passive or disinclined to intervene when a serious crime occurs? The common reason is that people, in general, are frightened to get involved in criminal cases because of the difficulties that may have to face during police investigation and witnessing in courts during the trials. Facing the police, lawyers and judges can be a brutal and bruising experience for many.

Being witness in the police investigation and judicial process requires a person to have a strong sense of civic duty, mental stamina, knowledge of laws and the courage to resist coercion or inducements to help the accused. So it is necessary for the government to create an environment which will enable the public to help victims of crime and dispose freely in courts.

This problem can be solved only by giving legal protection to witnesses. They must also be given due respect during investigation and trial, and financial support to meet their expenses and for spending time and energy for supporting the judicial process to give justice to the concerned persons.

In UK witnesses are given special protection during the police investigation and the trial process. Their anonymity is maintained especially in murder cases so that the accused and his family cannot trace them. This reduces the scope for intimation and harassment of witness. During the trial courts offer special measures to witness to give evidence by way of video-link or ‘incamera’ to protect them from public view. Media is prohibited in publishing the names or identities of witnesses. In serious cases UK police give special protection to witnesses and their families through their “UK Protected Persons Service”.

Government of India is found to be slow to implement witness protection measures. Only Delhi government has notified a witness protection scheme.

The Supreme Court of India recently gave direction to the Union Government to publish guidelines to give protection to “Good Samaritans” who come forward to assist injured persons in distress on the road. The Law Commission in its 198th report has made extensive recommendations for the enactment of witnesses’ schemes. Now the government must act on them without delay. The government must also implement Sections 195A and 275 of the Criminal Procedure Code amended recently to give penalties for threatening witnesses and disposing evidence via video.

Government must now move to enact strong protection laws and schemes which will provide comprehensive protection to witnesses of public crimes so that the public may get confidence to step forward and perform their civic duty when they witness a crime.

— P. D. Mathew, S. J. (Advocate)

Problems faced by Indian judiciary

Emotional speech of the Chief Justice of India, T. S. Thakur

- Q. What did the Chief Justice of India, T. S. Thakur say with emotional outbreak while addressing the conference of Chief Justices and Chief Ministers on the last week of April, 2016?**
- A. He Said, “The judiciary shouldn’t alone have to bear the cross for the huge pendency of cases in the country.” “I lament the inaction on the government’s part in strengthening judicial infrastructure and increasing the judge-population ratio to deal with the mounting number of cases.”

Facts of judge’s population

- Q. What is the population of judges today?**
- A. India has a total of 21,598 judges (sanctioned strength till December 31, 2015). This figure includes 20,502 judges in lower courts, 1,065 High Court judges and 31 Supreme Court judges. However, on the day CJI Thakur made his impassioned speech (April 24), there were six vacancies in the Supreme Court, 432 in the various high courts and a whopping 4,432 (as of December 31, 2015) in the subordinate judiciary.

Lack of judicial infrastructure

- Q. Are there sufficient infrastructure facilities to accommodate all judges, if all vacancies are filled?**
- A. If all the 20,502 posts of judges in the subordinate judiciary are somehow filled, there wouldn’t be enough courtrooms to accommodate all of them since there are currently only 16,513 courtrooms - a shortfall of 3,989 - across the country. Judicial infrastructure, it is clear, hasn’t kept pace with the rate of litigation.

Judge – population ratio

- Q. What did the Law Commission of India point out in 1987?**
- A. In 1987, the Law Commission of India pointed out that the judge-population ratio in India was only 10.5 judges per million population (it is now 12 judges per million) while the ratio was 41.6 in Australia, 50.9 in England, 75.2 in Canada and 107 in the United States.
- Q. What did the Commission recommend?**
- A. The Commission recommended that India required 107 judges per million population. It also suggested that to begin with, the judge strength could be raised five-fold (to 50 judges per million populations) in a period of five years. Almost 30 years later, even that five-fold-increase target looks distant.

Gravity of the problem

Q. What is the gravity of problem?

- A. • The gravity of the situation is all the more pronounced when you consider the fact that there are 38.76 lakh cases pending as on December 31, 2015, in all high courts, of which 7.45 lakh - almost 20 per cent - have been pending for over 10 years.
- The situation in subordinate courts is not any better. Of the 2.18 crore cases pending in lower courts in the country, 1.46 lakh are criminal cases and over 72 lakh are civil cases.

Opinions of lawyers and policy planners on the issues of pendency and shortage of judges

Q. What are the opinions and suggestions made by E. M. Sudarsana Natchiappan, MP and Chairman of the Parliamentary Standing Committee on Personal Law and Justice?

- A. • That there is a burning need to increase the number of judges at all levels, including the Supreme Court and the subordinate courts.
- Start with filling the existing vacancies.
- In most states, the High Courts have taken upon themselves the job of selecting subordinate judges. But the results so far are not very heartening.
- There are either not enough good applicants... or the judges don't have adequate time to do this job. Also, there is need for more transparency in appointment of high court judges. Everything should be in the public domain. Put up the names of the candidates on the website at every stage -from the preliminary level to the final stage of President's approval, with recommendations at various stages. Secondly, civil court fees structure must be suitably modified and it must be made mandatory for state governments to spend the entire fees so collected on building judicial infrastructure.

Q. What is the opinion of Attorney General of India Mukul Rohtagi?

- A. He said, "I think there are needless interference and no self-restraint by the judges. Too much time is being wasted on cases that are plain frivolous. Frivolous cases that consume too much court time should be dealt with a heavy hand and exemplary costs should be imposed on such litigation. The same must be done for cases where corporates file frivolous cases against their business rivals. The judiciary will have to devise a way to deal with this. Unless this is done, even a ten-fold increase in the strength of judges won't serve any purpose."

Q. Opinion of former Supreme Court Judge H. S. Bedion on this matter?

- A. • He said, "Frivolous litigation needs to be tightly regulated. I also agree that in some cases, judges overstep the boundary. They must remember that courts can't be a substitute for the government."

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- “While speedy disposal of cases should be a priority, cases must not be dismissed only because it amounts to addition in the number of disposed cases. “Cases must be decided on merit, not because speedy disposal needs to be done.”
 - “It is not possible to fill all vacancies in one go.”
 - Outstanding lawyers must be encouraged to accept judges’ post.
 - Elevation to High Court or Supreme Court should be on the basis of performance as a judge and not on the basis of seniority.
 - The person who comes at the fag end of his/her career becomes a High Court judge only due to seniority; he/she will only spend their time waiting for eventual retirement.

Opinion of former Union Law Minister and senior lawyer Ashwani Kumar

- There is a general reluctance among good lawyers to accept judgeship. Money is not the only criteria behind this.
- Anyone who accepts judgeship must do it for the honour, prestige and dignity attached to it. Now many good lawyers don’t feel there is enough dignity in being a judge. But this must change.

Government as biggest litigant: P. K. Malhotra, retired Union Secretary

- That the government is the biggest litigant. In most cases the government is either the respondent or a proforma party (where the main case is against somebody else).
- The National Litigation Policy that the government is finalizing will deal with this issue, especially the needless and vexatious litigation by government departments. The Legal Information Management-Based System (LIMBS), which we have launched, makes it mandatory for all government ministries to upload all data about pending cases involving them so that we can monitor them.

A former Supreme Court judge who was the member of the collegium

- There is no quick –fix solution to the issue of shortage of judges and pendency.
- It is only in the last 15 years or so that we have started talking about the judicial system and the issues connected to it.
- The money that the governments were earlier allocating to the judicial sector for creation of infrastructure and hiring more judges. It was dismal.
- Now both the Supreme Court and Central and state governments are aware of the situation and are working together to find solutions.
- Funds, while still not adequate, are more freely available and are being spent. In most states, there is a visible change in the infrastructure.

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- As per government figures, from Rs. 1,245 crore spent on creating judicial infrastructure under the centrally sponsored schemes between 1993 and 2011, the amount went up to Rs. 3,695 crore from 2012 to 2016.

(Source: "Wanted a Judge" by ManeeshChhimbber, Sunday Express, 01/05/2016)

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Public Interest Litigation for environmental protection

- Q. Is environmental protection necessary for healthy human life?**
- A. Yes, very necessary. Environment is part of nature.
- Q. Whose duty is it to create a healthy environment and protect it?**
- A. It is the duty of governments and people.
- Q. Is felling of trees and polluting water etc. punishable?**
- A. Yes.
- Q. Why?**
- A. They destroy nature.
- Q. Are there laws in India to protect environment in India?**
- A. Yes. But many people are not aware of these laws.
- Q. Which Article of the Constitution provide for the protection of environment?**
- A. Article 48-A which is one of the Directive Principles of State Policy. It was added to the Constitution in 1976. This Article directs the state to protect and improve the environment and also to safeguard forests and wildlife.
- Q. What is the Constitutional duty of every Indian citizen?**
- A. To protect and improve the natural environment including forests, lakes, rivers and wildlife and to have compassion for living creatures. (Article 51-A (g)).
- Q. Does the right to life include the right to wholesome environment?**
- A. Yes. It is included in Articles 14, 19, and 21.
- Q. What is the opinion of the Supreme Court towards protection of environment?**
- A. It said in a case that whenever a problem of ecology was brought before the court, the court is bound to bear in mind Articles 48-A and 51-A(g) of the Constitution, and the courts are duty bound to give effect to Fundamental Duties and Directive Principles of State Policy.
- Q. What did the Supreme Court say about the ban imposed by Commissioner of police on production and sale of certain fireworks which produced sounds beyond permissible limits?**
- A. It approved the ban saying that it would affect health and safety of citizens and also will be polluting environment.

Q. Does Article 21 which provides for right to life include the right to wholesome environment?

A. Yes.

Q. What did the Supreme Court say on this issue?

A. It said that right to wholesome environment and right to live should be accompanied with pure air, land and water and held that limestone excavation and quarrying be closed down. Because it was effecting perennial water springs and disturbing the ecology and was polluting the environment with was hazardous to human being, animals and flora and fauna alike.

Q. Whose duty is to protect environment and to provide pollution free air and water to people?

A. It is the duty of governments.

Q. Is the state a trustee of certain common properties such as rivers, seashores, forests and air?

A. Yes. They are meant for the use of the general public.

Q. Does the state have ownership in any of the natural resources?

A. No. But it holds them in trust to be distributed in the interest of general public.

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Making food grain available to needy: points of concern

(NHRC Chief Justice (retired) H. L. Dattu)

- There is an improvement in food grain production but making it available to the needy remains a point of concern.
- It is painful to know that 15 percent of food worth Rs. 92,000/- crore per year is wasted during production, harvesting, transportation and storage.
- Food security has to be read and studied with agricultural practices and the challenges facing them in the wake of falling ground water levels at a rapid speed is causing an alarming situation of drought in several districts.
- It is always useful and pragmatic to hold comprehensive discussions on regular intervals with all the stake holders to evaluate the progress and impediments towards ensuring food and nutritional security to the people of the country.
- The Right to Food and its variations is a human right protecting the right of people to feed themselves in dignity, implying that sufficient food is available, that people have the means to access it, and that it adequately meets the individual's dietary needs.
- I urge the government to expand the scope of discussions on various aspects of the National Food Security Act, 2013.

- There are several food schemes such as the AntyodayaYojna, Integrated Child Development Services (ICDS), mid-day meal scheme and many others. There has been no dearth in the number of policies and programs in food issues. However, the question can be raised on the effectiveness of the programs.
- The Supreme Court emphasized on the appointment of commissioners and other officials to look after the food issues in the country, which has improved the situation and proper implementation of the rights to food in many of the states.
- The Supreme Court issued a series of interim orders recognizing the constitutional Right to Food as flowing from the right to life and providing directives on proper implementation of various programs like the ICDS and PDS.
- The apex court also ordered the creation of a new accountability mechanism, like commissioners for monitoring and reporting on compliance with court orders.

(On 28/04/2016)

NGOs under Lokpal if government funds cross Rs. 1 crore

Q. Who will be covered under the ambit of the Lokpal?

A. Office-bearers of NGOs with an annual government funding exceeding Rs. 1 crore will be covered under the ambit of the Lokpal.

Q. What is the new rule notified under the Lokpal and Lokayukta Act, 2013?

A. That office-bearers of such NGOs will be treated as “public servants”, making them liable to file declaration of annual returns, and will be charged under the anti-corruption laws in case of irregularities.

Q. What is the content of another notification of the government?

A. In another notification, the government specified the home ministry as the competent authority to refer to the Lokpal corruption cases involving office-bearers of NGOs receiving foreign contributions in excess of Rs. 10 lakh a year.

Q. Who comes under the jurisdiction of the Lokpal according to the Lokpal Act?

A. Director, manager, secretary or any other officer of society or association of persons or trust, wholly or partly financed by the government.

Q. Under this law who has to notify the threshold of the annual income that would make an NGO and its office-bearers answerable to the watchdog?

A. The Central Government.

Q. What is stated in the notification issued recently?

A. It stated “In exercise of the powers conferred by clause (g) of sub-section (1) of section 14 of the Lokpal & Lokayuktas Act, 2013, the Central government hereby notifies

the amount of annual income of society or association or person or trust...wholly or partly funded by the government...for being under the jurisdiction of Lokpal, shall be 'one crore rupees'.

Q. Who is spared from the Lokpal Act?

A. Smaller NGOs working with limited funding.

Q. Should they file an annual declaration of returns under the Act?

A. No.

Q. Who has to decide the annual income of the NGO receiving government fund beyond Rs. 1 crore?

A. The Minister In-Charge of Union Ministry/department providing such assistance.

In case the NGO receives assistance from more than one ministry, the ministry/department whose contribution is highest in the year shall be the competent authority.

As per the notification "the original declaration of annual return may be filed before the ministry or department making the highest contribution as financial assistance and a copy of the returns may be sent to all other ministries or department financing such society or association of persons or trust".

Note: The institution of Lokpal is yet to be set up by the Centre as a bill to amend the Lokpal Act is pending in Parliament.

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Consumer Courts are in Bad Shapes, Panel as SC

- Consumer courts, the poor man's window for justice, are in bad shape and need immediate attention.
- The consumer forums and commissions at every level are working with inadequate infrastructure and in many cases the members have no internet access.
- Meager salaries for members make the job unattractive for talented and experienced people.
- There is poor supporting staff for such forums and commissions dealing with thousands of cases.

At present, over 10,000 cases are pending before the National Commission, 98,000 before state commissions and 2.8 lakh before district forums.

- There is inadequate space to accommodate facilities like library, computer room, court rooms, store, mediation hall and visitors waiting room.
- Though the Central government has been financing 11,000 sqft area for construction, states have not built that much area and this is causing constraints.

- In Mumbai and Bengaluru the State Commissions are working in rented or other government buildings with minimum facilities.
- In almost all states there is no separate cadre for this. Employees posted in consumer forums or Commissions are transferred by the time they gain some experience and new persons are posted without any skill.
- All states have asked for a separate cadre of staff under administrative control of the president of State Commission.
- Vacancies of presidents and members vary from State to State. But the fact remains that lot of time is taken to fill up vacancies resulting in the rise of pendency of cases.

(On 01/06/2016)

Right to self - defense

- Q. Do every person have the right to defend one's own self and others?**
- A. Yes.
- Q. Do every person have the right to protect and defend one's own property and others?**
- A. Yes.
- Q. Has a person the right to kill an attacker when his life is in danger?**
- A. Yes. This right is given by Section 100 and 103 of the IPC which provides immunity.
- Q. When can he exercise it?**
- A. When there is an attempt to kill, rape, throw acid etc.
- Q. How much force can a common man use to defend him or others?**
- A. As much force as is necessary for defending.
- Q. When can he/she use the force to defend?**
- A. When immediate aid from the state machinery is not readily available.

Custodial death

- Q. What is custodial death?**
- A. Death of an arrested person while he is kept in police station or jail.
- Q. Is there any possibility that family member of the deceased refusing to accept the body alleging police atrocity?**
- A. Yes.

Q. Is postmortem compulsory in custodial death?

A. Yes.

Q. Who should conduct it?

A. By a specified doctor of a government hospital.

Q. Should a magisterial inquiry be conducted to find the cause of death?

A. Yes.

Q. Where should viscera sample be sent for examination?

A. To a Forensic Science Laboratory

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Human rights related to HIV-AIDS

Q. What is the full form of HIV?

A. Human Immunodeficiency Virus.

Q. What is the full form of AIDS?

A. Acquired Immuno Deficiency Syndrome.

Q. What is their effect?

A. They cause most serious public health problems.

Q. How many infected people are in India Now?

A. There are about 5.2 million infected people in India.

About 1/3 of all AIDS cases in the country are amongst young people in the age group of 15-29 years.


Q. How are HIV & AIDS different from other diseases?

A. They are significantly different from other diseases, because of stigma and discrimination attached to it.

Q. What is the Declaration of Commitment on HIV/AIDS adopted in June 2001 by the UN General Assembly?

A. It declared: "The full realization of human rights





and fundamental freedoms for all is an essential element in a global response to the HIV/AIDS pandemic.

Q. Who has to decide what should be done to one's body in case of any sickness or disease?

A. The affected person. No one can force him.

Q. What should a health care worker do before he tests a person for HIV/AIDS?

A. He must inform that person and take his consent for testing. He must also give the individual the autonomy to choose whether or not to undergo testing. Not allowing the individual to make informed autonomous choices would be a violation of the right to self-autonomy.

Q. Do all people have the human rights of privacy?

A. Yes.

Q. Can anyone force an AIDS patient to reveal about his sickness to the public?

A. No. He or she has the right to disclose as he/she pleases. This right has been guaranteed by both international human rights documents and also under the Constitution of India.

Q. Is maintaining confidentiality critical to both prevention and management of HIV/AIDS?

A. Yes.

Q. Is breach of confidentiality violation of human right?

A. Yes.

Q. Is denial of any services to the victims of AIDS in the healthcare and employment setting their human right violations?

A. Yes.

Q. Are the right to equal treatment and the right to health fundamental rights?

A. Yes.

Q. Who should be made aware of these rights?

A. Patients and care providers.

Q. Is there any valid reason why HIV & AIDS patients should be isolated?

A. No.

Q. Do they have access to treatment provided for any other illness?

A. Yes.

Guilty only if assets are ill-gotten

(Supreme Court)

“Mere possession of assets disproportionate to known sources of income is not an offence and a person could be held guilty only if it is proved that the assets were acquired through illegal means”, the Supreme Court said on 1st June. “Disproportionate asset per se is not a crime. If it is proved that some of the income is not proven, then only the offence is complete, otherwise, it will be an inference only,” a bench of Justices P. C.Ghose and Amitava Roy said while hearing an appeal against the acquittal of Tamil Nadu Chief Minister J.Jayalithaa in a Rs. 67 crore disproportionate assets case.

(On 02/06/2016)

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Court rejects sedition complaint against Kejriwal

In a relief to chief minister Arvind Kejriwal, a trial court on 1st June rejected a criminal defamation and sedition complaint filed against him for allegedly calling Prime Minister Narendra Modi a ‘psychopath and coward’.

The court said that the CM did not say anything to disturb the tranquility of the State or to bring into hatred to contempt the sovereign of the government. It said that Kejriwal’s alleged derogatory expression was ventilation of frustration as he felt aggrieved after the CBI raid at his principal secretary’s office, but added that the alleged remarks does not amount to sedition. Dismissing the complaint, the court also pointed out that the complainant, advocate Pradeep Dwivedi, did not have any locus standi to file the present complaint as he is not the aggrieved person.



“If the contentions of the complainant are accepted, a Pandora’s box of complaints will open. Anyone will be able to launch prosecution on behalf of defamed person and that in turn will take away the discretion of the aggrieved person to condone the act or ignore it,” said metropolitan magistrate Abhilash Malhotra. A complaint was filed against Kejriwal that his comments on his Twitter account on December 15, 2015, that ‘Modi is a coward and a psychopath’, amounted to defamation and sedition. However, the judge found no merit in the complaint and said, “The alleged derogatory words are neither attempted nor excited discontent nor dissatisfaction, public disturbance or lead to civil war to bring into hatred to contempt the sovereign of the government.”

(On 01/06/2016)

Reports of inaction by RPF and GRP over beating a youth for hours in a moving train

Alleged facts of the case

According to the media reports, carried on the 29th March, 2016, the boy named Sumit, had boarded S-2 coach of Mumbai bound Patliputra Lokmanya Tilak Terminus Superfast Express from Jabalpur at 11:00 p.m. on the 25th March 2016.

Reportedly, he had an altercation over drinking water from the bottle of a fellow passenger. Thereafter, a group of them beat and hanged him upside down out of the window of the fast moving train for nearly four hours covering from Jabalpur to Itarasi.

They did not stop at this only and continued to beat him mercilessly at every station till some vendors saved him from their clutches. Allegedly, the group of passengers, who beat Sumit was travelling from Patna to Mumbai to appear in a competitive examination.

Q. Who had taken suo motu cognizance of this media report?

A. The National Human Rights Commission.

Q. What has it done?

- A. • It has issued notices to the Chairman, railway Board and the Director general of Police government of Madhya Pradesh
- They have been given four weeks' time to submit detailed action taken report in this matter.

Q. What are the observations of the Commission?

- A. • That it is a matter of concern that despite deployment of PF to monitor security of the passengers in the moving trains and the GRP at every station, no security personnel noticed the plight of the victim between Jabalpur and Itarasi.
- The contents of the news report are evident of insensitivity and careless attitude of the personnel of these forces.
 - The incident raises a serious issue of violation of human right to life and dignity of the youth.

News

Centre rejects CJI's claim of need for 40K more judges

The Centre virtually rejected Chief Justice of India T. S. Thakur's claim that 40,000 more judges were needed to obliterate over three crore pending cases by saying that his estimates were not backed by any scientific research or data.

Referring to 1987 Law Commission report suggesting increase in judges' strength, the CJI had on May 8 said the judiciary needed an additional 40,000 Judges to erase the mounting pendency. Law Minister V. Sadananda Gowda, however, said the Commission's report was based on opinion of experts and not backed by any scientific research or data.

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Lawyer may have to pay dearly for hasty PIL

An advocate's attempt to rely on online information to file a PIL in the Supreme Court seeking eviction of encroachers from national monuments could become a very costly affair for him.

A bench of Chief Justice T. S. Thakur and Justices R. Banumathi and U. U. Lalit asked petitioner Rajeshwar Singh's counsel whether he had done any ground study on the encroachments. The counsel conceded that most of the material annexed to the PIL was downloaded from the web. The bench said this tendency of rushing to the court without any study had resulted in waste of judicial time. Adjourning the hearing by two months, the bench asked the petitioner to go on an all-India tour, visit the monuments which had been encroached upon, take photographs and place them before the SC.

Last month, the government had informed Rajya Sabha that as many as 278 monuments protected by the Archaeological Survey of India had been encroached upon.

(11/05/2016)

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In April, Rs. 1.17 crore was paid to human rights victims

About Rs. 1.17 crore was provided as relief to victims of human rights violations by various Central and State authorities in April this year on the basis of recommendations made by the National Human Rights Commission (NHRC). According to the panel, it received reports of compliance of its recommendations in 44 cases by different public authorities at the Centre and States in April, out of which 28 cases pertained to violation of right to life in the actions or inactions of public authorities. Apart from initiating departmental and criminal proceedings against the guilty public servants, the governments have paid an amount of Rs. 1.17 crore as relief to the victims of human rights violations or their next of kin and also submitted proof of payment as directed by the Commission.

Ten cases were of deaths in prisons with the maximum of four being reported from Uttar Pradesh, followed by two in Andhra Pradesh and one each in Chhattisgarh, Madhya Pradesh, Uttarakhand and Punjab.

(01/06/2016)

Need of a Uniform Civil Code

Q. Why India needs a Uniform Civil Code?

A. To promote secularism.

Q. What is the effect of different personal laws?

A. Under different personal laws women suffer because their equal rights are not recognized by different personal laws, especially the Muslim personal laws.

Q. What was the constitutional directive on this matter?

A. It has given a directive to the Legislature to enact a Uniform Civil Code applicable to all religious groups to govern all family relationships.

Q. What have the successive governments after independence done to enact a Uniform Civil Code?

A. Successive Indian governments have tended to follow the footsteps of colonial rulers so that in the present day, India has a complex system of personal laws governing inter-personal relationships.

This Constitutional directive has not been acted upon in more than six decades since independence due to lack of political will arising from the fear of offending electoral vote bank groups and backlash from religious communities.

Q. What is the effect of the prevalence of personnel laws in the country?

A. They violate the human right of equality of women.

Q. Can the Uniform Civil Code bring the Muslim women at the same pedestal as their Hindu counterparts?

A. Yes. This also emanates from India's commitments towards Human Rights, both constitutional as well as International.

Q. What was the response of the Supreme Court on this matter?

A. It has time and again reiterated this view.

Rights of women to enter all public temples

Q. Do women have equal rights like men even in religious matters?

A. Yes. The Constitution of India grants them equal rights in religious matters.

Q. Who has to enforce equal rights for women in religious matters?

A. Religious heads and the State government officials.

Q. What are the demands made by women recently?

A. Their right to enter the innermost sanctum where the idol is placed.

Q. What are the objections raised by temple's governing boards?

A. They maintain that women's entry in the innermost sanctum has been prohibited for hundreds of years.

Q. What was the response from Maharashtra Chief Minister Devendra Fadnavis on this issue?

A. He called for a dialogue between women leaders and temple board members of Shani Shingnapur temple in Maharashtra. He has supported the women by saying they have the right to pray.

Q. Can the State government step in and set unfair religious practices right?

A. Yes. While the Constitution protects religious freedom, clause 2(b) of Article 25 allows the State to intervene in religious practice.

Q. Was the Hindu practice of untouchability removed by making a law, (Protection of Civil Rights Act, 1955)?

A. Yes. This law threw open temple doors to all castes, and many states passed laws extending those rights to all classes and sections of Hindus.

Q. If temples have no rights to ban the entry of Dalits or untouchables, can they ban the entry of women on the basis of tradition?

A. No.

Q. Is prohibiting women to enter temples a practice of discrimination against women?

A. Yes. It is a gender discrimination prohibited by the Constitution of India.

Q. Who has to remove such gender discrimination?

A. The state authorities.

Q. Should traditions evolve with time?

A. Yes. All must help to remove old, wrong discriminatory traditions and build new traditions to promote constitutional values of equality, justice, human dignity, fraternity and unity of the people of India.

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Muslim marriage and women's rights

Q. Does the Quran speak on women's rights?

A. Yes. It even promulgates a special chapter under the title "The Women (Surah-al-Nisa).

Q. What is the nature of Muslim marriage?

A. It is only a contract between a Muslim man and a woman. It is not a sacrament.

Q. What is the object of a Muslim marriage?

A. Its object is procreation and legitimization of children.

Q. Who is a marriage guardian (walie-rrikah)?

A. The authority of a person to contract the marriage of another who is incompetent to contract his or her own marriage is called "marriage-guardianship" (Waliyat-e-nikah). The person having such authority is called marriage-guardian (Wali-e-rrikah).

Q. What is a Muslim wife entitled to get from her husband at the time of marriage?

A. She is entitled to get dower (Mahr).

Q. What is ‘dower’?

A. Dower is a sum of money or other property which the wife, is entitled to receive from the husband in “consideration of marriage”. It is inherent in the concept of marriage under Mohammedan law. It is a sort of deterrent to the husband’s absolute power of pronouncing divorce on his wife, so the main object of dower is to offer protection to wife against such arbitrary power. The Dower may be Prompt Dower which is payable at the time of marriage or Deferred Dower which may be paid at the time of death of the husband or on the dissolution of marriage. The quantum of dower depends on the status of the husband and wife.

Q. What is muta marriage?

A. Amuta marriage is a contract marriage for a certain period of time as agreed-by-the parties.

Q. What is the effect of muta marriage on Muslim women?

A. The muta wife suffers miserably as she has no right to inheritance, can be left at the whims and fancies of the husband.

Q. Who enjoys more rights under the Muslim marriage?

A. The husband. The wife enjoys a very fragile marital life as the Muslim husband is vested with an almost absolute right to divorce the wife at any time by resorting to “Triple Talaq method”.

Originally, a Muslim wife had no independent right of divorce. She cannot divorce her husband whenever she likes, as her husband may do.

Q. When is divorce by wife possible under the Muslim law?

A. Under Muslim-law divorce by wife is possible only in the following situations:

- a) Where the husband delegates to the wife the right of Talaq (Talaq-e-tafweez).
- b) Where she is a party to divorce by mutual consent (Khula (on payment of compensation by the wife) and Mubarat (no compensation to be paid).
- c) Where she wants to dissolve the marriage under the Dissolution of Muslim Marriage Act, 1939.

Q. What is provided by Section 2 of the Dissolution of Muslim Marriage Act, 1939?

A. Section 2 of the Dissolution of Muslim Marriage Act, 1939, provides that a woman married under Muslim law shall be entitled to obtain a decree for the dissolution of her marriage on any one or more of the grounds enumerated therein.

Women's panel backs triple talaq ban, in favour of uniform civil code

The National Commission for Women has supported the call for banning triple talaq following a signature campaign by a Muslim women's rights group.

NCW chairperson Lalitha Kumaramangalam said, "It is a good thing that the demand has come from the community. We support the demand for banning bigamy and triple talaq. We at NCW are more than willing to do advocacy on the issue."

She added that the commission was a party to the Shayara Bano writ petition and would be filing a counter affidavit challenging the practice of triple talaq. (02/06/2016)

Decentralize Nirbhaya fund {Delhi Commission for Women (DCW)}

Q. What did DCW Chairperson Swati Maliwal ask the PM Modi

- A. • Immediately decentralize the Nirbhaya Fund so states can use it effectively to curb crimes against women.
- Give some funds to the Delhi transport department to install CCTV cameras in DTC and cluster buses in the capital.
 - Use Nirbhaya Fund be used to install CCTV cameras at police stations across the country, to create one-stop centers, and to provide financial and livelihood-related support to victims of rape, acid attacks and other forms of gender violence.
 - Use the funds to prevent human trafficking and for rehabilitating its victims.
 - Use the fund to ameliorate the dismal conditions of shelter homes to which women rescued from brothels were sent.

Q. What was the question raised by the Supreme Court on this matter?

- A. The Supreme Court had questioned the Modi government for sitting on the Rs. 3,000-crore Nirbhaya Fund and sought to know its plan for the devolution of the fund to the States.

Q. What was the criticism made by AAP functionaries?

- A. AAP functionaries claimed that in the run-up to the 2014 Lok Sabha elections, one of the key BJP slogans was "*Bahuthuanari par vaar, abkibaar Modisarkar*", but this was not converted into action after it come to power.

Q. What are the questions put by AAP before the Party and the Central Government?

- A. "Why has the Central government not disbursed Nirbhaya Fund in the two years since coming to power in May 2014? Has the BJP forgotten the statements it used to give about women's safety when it was in the opposition? What is the BJP's Central government stand on women's safety?" (28/05/2016)

Liberation & rehabilitation of child labourers

Facts of the case

- Many children from West Bengal are employed as labourers in gold and jewelry units in Rajkot city.

Q. Is their employment legal?

A. No. Some of them are below 14 years of old.

Q. Who is entitled to liberate them?

A. The labour and social defense department of the State government.

Q. What should the officials do to rescue them?

A. They must raid the units to rescue the kids.

Q. After rescuing the children what should the officials do?

A. First verify the age of children. Give shelter to boys below 14 at the special home for boys in the city.

Q. Do the employers pay these children?

A. No. They give them food twice a day. The money is sent to their parents directly.

Q. What is the condition of their labour environment?

A. They are made to work in small dingy rooms, that too for long hours. Eight to ten children are kept in a single room.

Q. Who has to lodge a complaint against the persons who employ these children?

A. The officials of the labour department.

Q. What should the officials do after rescuing the children from child labour?

A. They must contact their parents. If they are not traced the children should be handed over to special homes of boys in their native places.

Q. Who bring these children from West Bengal to Rajkot?

A. A network of agents. These agents pay some money to children's parents and then force them to work as labourers.

Q. What should the labour officials do to prevent such child-labour?

A. They must request the district collector to cancel the license of the units where children under 14 were employed.

Action of NHRC against human rights violations

Missing children in Tamil Nadu

A media reported that in Tamil Nadu, the number of missing children is on a rise. More than two children go missing every day in the State and as such, during the first three months of the current year, 271 children have gone missing from different parts of the

State. Reportedly, police do not investigate these cases seriously as these missing children belong to poor segments of society.

Q. Who has taken suo motu of this report?

A. The National Human Rights Commission (NHRC).

Q. What were the observations of the NHRC?

- A. • That losing children is shocking experience and great source of pain for their parents.
• The report raises serious issue of violation of human rights of the victim-children and their parents.

Q. What action has been taken by the NHRC to solve this problem?

A. It has issued notices to the Chief Secretary and Director General of Police, Government of Tamil Nadu calling for detailed reports in the matter. They have been given four weeks to respond.

Q. What were the directions given by the Supreme Court in a similar case related to missing Children (Writ petition (Civil) No. 75/2012 dated 10th May, 2013)?

- A. • FIR must be registered in each case.
• There must be prompt investigation of the missing children by the police.

Q. What is the number of missing children in Tamil Nadu till 23rd March 2016?

A. More than 700 children.

Q. Who are the people behind these disappearances?

A. The mafia that controls begging and even those involved in child prostitution and adoption rackets could be behind these disappearances.

Q. Is begging banned in Chennai?

A. Yes. But seldom any action is initiated against the practice.

Q. To whom to complain if police does not initiate investigation of a missing child?

A. To the NHRC. Its address is –

National Human Rights Commission

ManavAdhikarBhawan Block-C, GPO Complex, INA,
New Delhi – 110 023 Phone No. 011 – 2465 1330

Deaths of 11 children with special needs at a rehabilitation home

Q. Where did these children live?

A. Government run rehabilitation Centre in Jaipur, Rajasthan.

Q. What was the reason for their deaths?

A. Government authority's failure in maintaining the upkeep of the home, and drinking contaminated water at the home.

Q. Was it reported by the media?

A. Yes.

Q. Who has taken *suomotu* cognizance of media reports on this matter?

A. The National Human Rights Commission (NHRC).

Q. Why has the Commission taken cognizance of this matter?

A. Because it is a serious issue related to human rights violations of the victim children.

Q. What action has the Commission initiated?

A. It has issued notices to the Chief Secretary, Director General of Police, Director General Health Service and government of Rajasthan calling for action taken reports within two weeks.

Q. Whom to complain in care of such incidents?

A. To the government and police officials.

Q. Can a complaint also be sent to the NHRC?

A. Yes.

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Death of new borns caused by medical negligence

Q. In a government hospital 5 new borns died within two days. Could it be said that it was due to medical negligence?

A. Yes.

Q. Is medical negligence causing death of new born a serious crime?

A. Yes, it is a criminal offence.

Q. Who can be punished in this case?

A. The medical personnel responsible for the death of the new born.

Q. Should the medical negligence be proved?

A. Yes, by investigation by police.

Q. Should an FIR be lodged against the negligent medical personnel in the nearest police station?

A. Yes.

Q. Can the parents of the dead babies claim compensation from the hospital administration for the damage caused to them?

A. Yes.

Q. Who will fix the amount of compensation?

A. A civil court.

Q. Can the negligent doctor be removed from the hospital?

A. Yes.

Right to education

Q. Is right to education a fundamental right?

A. Yes. It is part of the right to 'life' with dignity (Article 21).

Q. Who has to provide primary free education to children?

A. The State.

Q. Can children be barred from attending school on the basis of their HIV status?

A. No. Barring them from attending school is violation of their right to education.

Q. What is the obligation of the state in this matter?

A. The state has an obligation to ensure the access to education by children infected by HIV.

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Police to counsel juvenile victims and offenders

Q. What is the new pilot project started by the Pune Police?

A. They have selected seven police stations to have dedicated counselors for those brought in under the Juvenile Justice (JJ) Act. Apart from regular counseling, the project will also include career guidance for victims, school workshops, awareness programs and visits to various institutes.

Q. Who has given instructions under the project to inspectors of 7 police stations of Pune district?

A. The Police Commissioner.

Q. What is the reason for police for starting this new project?

A. Juvenile offenders do not get any counseling till the case goes to court and the rehabilitation process starts only after they are transferred to the rehabilitation center. The entire process takes time. It is therefore necessary to have counseling at the police station itself where the offender comes in contact with the legal system for the very first time.

Q. Who will be identified first for this counseling process?

A. Juvenile offenders from the last one year will be identified and the counseling process will then start.

Q. What will happen if offenders who get bail are not counseled?

A. If they are not counseled they may come back as repeat offenders.

Q. If there is any provision in the present JJ Act to have counselors in the police stations?

A. No. So this the first trial project proposed in Maharashtra.

Q. What is the opinion expressed by Women and Child Development Commissioner of Maharashtra?

A. She said, “We have counselors appointed at the rehabilitation house. But, very few cases actually end up there. Offenders who go to the center normally get counseling, but those who are in need of immediate guidance never get it. Through this initiative, even victims will be able to get counseling. If the project yields good results, we could implement it in other districts, too.”

Q. What will the police and counselors do under this project?

- A. • They will track down the children detained under the Act and will keep a track of their education and provide counseling if they are facing any difficulties.
- They will also create awareness programs among children about the negative effects of drugs.
- Children also will be counseled about the negative use or abuse of cellphones, laptops or personal computers which are full of violence and aggression.

News

Priority admission at nearest school for RTE kids

The Ahmedabad District Education Officer has decided that students seeking admission under the Right to Education (RTE) Act will be given preference at schools near their residence or in their wards. The DEO office is also giving the cellphone numbers of liaison officer for admissions.

The city DEO, A. K.Rathod, said that apart from admission in schools located in children’s respective wards, the DEO will conduct a review each week of admissions at different schools. If there is any problem, it will be addressed immediately, he said.

(13/05/2016)

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Child rights panel wants film stalled

The National Commission for Protection of Child Rights (NCPCR) has objected to the film ‘Nil Bate Sannata’, set for release on 21 April, taking exception to its depiction of corporal punishment on children in the classroom on the ground that it violates child rights.

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Pendency up in cases of crime against kids

Though the states have set up special courts under the POCSO Act for trial of such cases, this has not helped as more and more cases have been registered, adding to the pendency list. There are more than 600 special courts to try cases of crimes against children in the country.

Legal problems and solutions

General Principles related to resignation of an employee and its acceptance

1. Resignation submitted by an employee of the company becomes effective and operates to terminate the services of the maker thereof only when it is accepted by the competent Authority and is communicated the same in writing.
2. Till such acceptance and communication, the employee submitting the same continues to remain in service.
3. So long as resignation is not accepted, the employee of the company continues in service and resignation can be withdrawn.
4. The resignation must take effect from the date specified in resignation letter and it cannot be advanced by the employer by accepting the resignation from an earlier date.

Necessity of grievances redressal machinery

Q. What is the amended provision of Industrial Act w.e.f. 15.09.2010?

- A.
- This amendment provides that every industrial establishment employing twenty or more workmen shall have one or more Grievance Redressal Committee for the resolution of disputes.
 - The Grievance Redressal Committee shall consist of equal number of members from the employer and the workmen.
 - The Chairperson of the Grievance Redressal Committee shall be selected from the employer and from among the workman alternatively on rotation basis every year.
 - The total number of members of the Grievances Redressal Committee shall not exceed more than six: Provided that there shall be, as far as practicable, one woman member if the Grievances Redressal Committee has two members and in case the number of members are more than two, the number of women members may be increased proportionately.
 - Not with standing anything contained in Section 9C of the Industrial Dispute Act, providing for setting up of Grievance Redressal Machinery, shall not affect the right of the workman to raise industrial dispute on the same matter under the provisions of this Act.
 - The Grievance Redressal Committee may complete its proceedings within thirty days on receipt of a written application by or on behalf of the aggrieved party.
 - The workman who is aggrieved of the decision of the Grievance Redressal Committee may prefer an appeal to the employer against the decision of Grievance

Redressal Committee and the employer shall, within one month from the date of receipt of such appeal, dispose of the same and send a copy of his decision to the workman concerned.

Q. Does this provision of law apply to establishment having a grievance Redressal Mechanism in an establishment?

A. No.

Encashment of leave

Q. What are the various types of leave?

A. Earned leave, sick leave, casual leave and maternity leave etc.

Q. Which leave can be cashed?

A. Only the earned leave.

Q. What is the rule for the encashment of earned leave?

A. The encashment of earned leave has to be on the last drawn salary.

Consent of an employee on transfer of establishment-not necessary

Q. Is an employer under an obligation to obtain the consent of the employees to transfer an establishment?

A. No. The Supreme Court has held that on transfer of an establishment, no consent of the employees is necessary.

No remedy against termination of an employee in a civil court

Q. In which court should an employee file a case for his alleged illegal termination?

A. In a labour court.

Q. Can he file it in a civil court?

A. No. A Civil court has no jurisdiction in matters covered by Industrial Disputes Act. The matter of illegal termination is an industrial dispute case and not a civil case.

Terminated workers of a contractor cannot claim from the principal employer

Q. What are the facts of the case?

A. The petitioners were engaged in a hospital through the contractor and their services were terminated. They claimed reinstatement from the Management of the hospital and when failed to get relief filed a writ petition against the award of the labour court.

Q. Can the workers employed by the contractor claim to be the workers of the principal employer?

A. No.

Q. What was the judgment of the High Court in this case?

A. While dismissing their petition, the High Court observed when the workers of the contractor holding license under the contract labour, (R&A) Act have been working at the premises of and for the principles employer, they will not become the employees of the principal employer.

Extension of service after retirement

Q. Who fixes the retirement age for an employee?

A. His employer.

Q. Should the retirement age of employees be specifically stated in the appointment letter or service rules?

A. Yes.

Q. Can an employer extend the tenure of service of an employee who settled his dues?

A. Yes, for a specific period. He is free to do so.

Q. Can retired employees demand extension of their service?

A. No. They have no right to demand extension.

Q. What did the Supreme Court rule on this matter?

A. It has held that there is no right for an employee to claim and get extension. The extension of service is dependent on exigencies of service and discretion of employer.

Confirmation of a probationer

Q. What should an employer do when he appoints a probationer?

A. He must fix the period of probation. He must either terminate his service or confirm his appointment at the end of the period of probation.

Q. Can an employer indefinitely keep an employee on probation?

A. No. It is unjust.

Q. Can he extend his term for a definite period?

A. Yes, provided the probationer agrees. Otherwise he is free to leave the job and go away.

Q. What did the Bombay High Court say on confirmation of a probationer?

A. It has held that a probationer will be automatically confirmed on his completion of maximum period of probation.

Discrimination in employment

Q. Can HIV/AIDS patients be discriminated in employment?

A. No. In employment they should be treated like any other type of patients.

Q. Can there be any pre-employment check-up for HIV/AIDS?

A. No.

Q. Can employees be deprived of their employment if found to be HIV positive?

A. No.

Q. How should HIV/AIDS affected employees be treated?

A. Like any other patients-employees. They should have equal access to treatment like any other type of patients.

Q. Should they be helped to get insurance benefits and health care benefits?

A. Yes.

Q. Should they be protected from any sort of discrimination?

A. Yes.

Access to information

Q. Should AIDS patients be informed properly about their sickness and means of treatment?

A. Yes.

Q. Who should provide them with such information?

A. Hospital authorities and health care workers and media.

Q. Do they have rights for free legal aid?

A. Yes.

Q. Should HIV/AIDS patients be instructed about their human rights?

A. Yes. All governments must do their best to inform persons affected by HIV/AIDS about their human rights and legal means to obtain them.

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Warrant against CPCB and release of Rs 7 crore for families of 238 workers died due to silicosis

Q. Who died in Gujarat due to silicosis?

A. 238 workers.

Q. What is silicosis?

A. It is a lung disease caused by inhalation of dust containing silica.

Q. Who has to control pollution from silica?

A. The Central Pollution Control Board (CPCB), because it is an issue of occupational health hazards.

Q. What type of people died due to silicosis while working in Gujarat?

A. Mostly tribals from Madhya Pradesh.

Q. Can a court ask the CPCB to appraise it of steps taken to prevent the disease and to provide workers a dignified and safe working environment?

A. Yes. It had also sought CPCB's response to a detailed report filed by the court on causes of the disease and the safeguards. Since no response was put forth by the CPCB, the bench asked its chairman to appear before the court.

Q. Has he appeared before the court on the fixed day?

A. No. "Despite service of notice on the Chairman of the CPCB, there is neither any personal appearance nor any appearance through the counsel requesting exemption from personal appearance".

Q. What was the response of the court?

A. It issued bailable warrant for securing the presence of the Chairman of the Board on the next date of hearing.

Q. What was the direction given by the Supreme Court to the Gujarat Government?

A. It directed the Gujarat government to release more than Rs. 7 crore as compensation to the families of 238 workers who died due to silicosis after working in Godhra's quartz and stone crushing industries. (30/06/2016)

Judgments at a Glance

Q. Does habitual absence justify dismissal of an employee?

A. Yes. (Karnataka High Court)

Q. Can honorarium given to a person be treated as wages?

A. No. (Bombay High Court)

Q. Is reinstatement of an employee with back-wages appropriate when abandonment of service is not proved?

A. Yes. (Punjab High court)

Q. Is reinstatement of an employee automatic even when his termination of service is illegal?

A. No.

Q. Is termination of an employee invalid for non-payment of retrenchment?

A. Yes. (Supreme Court)

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- Q. Is consuming liquor on duty by an employee a serious misconduct?**
A. Yes, (Hyderabad High Court)
- Q. Can dismissal of a bank employee justified for misappropriation of money?**
A. Yes. (Gauhati High Court)
- Q. Can termination of service of an employee be justified for reimbursement of false medical bills?**
A. Yes. (Bombay High Court)
- Q. What determines employer and employee relationship?**
A. Payment of wages to employees and exercise of their control. (Himachal Pradesh High Court)
- Q. Is absence of an employee unauthorized when leave is without pay?**
A. No. (Delhi High Court)

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Pro-forma suggested for charge-sheet for habitual absence from duty

To

.....
.....

It is reported against you as under:

You are absenting yourself from duty w.e.f.....without prior permission / application or even intimation. In the past also, you have remained absent without obtaining prior sanction of leave or even intimation, details of which are given below (herein give the details).

Sudden absence dislocates the normal work of the establishment, while repeated such absences, on your part, notwithstanding oral and written warnings issued more particularly on.....(dated) have adverse effect both on output as well as on discipline.

(Here in give details of warnings)

Habitual absence from duty is a serious misconduct under the Service Rules.....

In view of the above, you are called upon to explain in writing within 72 hours as to why an appropriate disciplinary action should not be taken against you.

If you fail to submit your explanation within the specified time, it shall be presumed that you accept the charges to be correct and have no explanation to offer. In that event, the Management will be at liberty to take an appropriate action without further reference to you.

For & on behalf of Management

Authorized Signatory

Termination of service of a probationer

Q. Who is a probationer?

A. Probationer is an employee appointed for a temporary period of testing his competence in view of permanent appointment.

Q. Can his competence be tested by the employer?

A. Yes.

Q. When can service be terminated if not satisfied with his performance?

A. At the end of the period of his probation.

Q. How to formulate his termination letter?

A. "That in accordance with clause.....of the appointment letter date appointingyou on probation, your services are terminated from.....with immediate effect".

Q. If the probationer's service is terminated for a specific charge then what procedure must be followed?

A. Then a domestic enquiry must be conducted in accordance with the principles of natural justice to prove the misconduct or indiscipline.

Q. Is an employer obliged to tell the probationer the reasons for dissatisfaction of his work?

A. No.

Q. Is termination order of a probationer stating "performance not being satisfactory" stigmatic or punitive in nature?

A. No. It is neither stigmatic nor punitive in nature.

.....

Failure of contractors to obtain license

Q. Do employers have the right to engage contractors to perform their works?

A. Yes.

Q. Are the contractors bound to get licenses to employ 20 or more workers?

A. Yes. They are bound to get licenses under the Contract Labour (Regulation & Abolition) Act.

Q. Suppose an employer appointed a contractor to execute his work. He brought employees and executed the work. Later it was found that the contractor has no license required under the law. In this case can the workers of the contractor seek their regularization of work under the principal employer?

A. No, held the Karnataka High Court. It is only a procedural irregularity.

Christian Marriage

Q. Who can marry under the Christian marriage?

A. Two Christians or one Christian with any other person. (mixed marriage).

Q. What is the nature of a Christian Marriage?

A. It is a sacrament and a civil contract.

Q. Who can marry under the Christian marriage in India?

A. For a valid Christian marriage the bride must be 18 years of age and the bride groom 21 years.

Q. What is prohibited among the Christians?

A. Polygamy.

Q. What is required for a valid marriage?

A. Free and intelligent consent of the parties.

Q. Do the Christians have a personal law as Hindus and Muslims have?

A. No.

Q. Which laws in India are related to Christian marriage and divorce?

A. The Indian Christian Marriage Act and the Divorce Act.

Q. Do the Christian women enjoy equal rights in their marital lives along with their husbands?

A. Yes.

Q. Can Christians marry if they are within the prohibited degrees of relationships?

A. No.

Q. Is the Child Marriage Restraint Act, 1929 applicable to the Christians?

A. Yes.

Q. Can Christian couple get divorce from the Ecclesiastical (Church) court?

A. No. They can get divorce only from a Family Court.

Q. Under what grounds can they get divorce?

A. Under those grounds applicable to couples under the Hindu Marriage Act.

Q. Should a Christian marriage be registered?

A. Yes. Registration of all marriages is compulsory now.

Abolition of capital punishment

- Q. What are the findings of the National Law University, Delhi on prisoner's life?**
- A.
- Nearly two-thirds of the persons on death row (there were 385 of them as on January, 2015) belonged to the backward classes, religious minorities, Dalits and Adivasis.
 - Two-thirds of the convicts facing death belonged to the economically vulnerable sections and over 80 per cent of them had not completed school.
 - A large majority of the prisoners had undergone custodial torture and most of them claimed they had confessed to the crime in police custody.
 - Less than half could understand legal proceedings and nearly 70 per cent of them said they hardly had any interaction with their lawyers when their cases were in the higher courts.
 - The criminal justice system is disproportionately harsh on the poorer, less educated and socially backward sections.
 - That less than five per cent of the death sentences given by lower courts were confirmed by the Supreme Court stokes the suspicion that the lower judiciary is not sufficiently diligent in following the principle of pronouncing death only in the rarest of the rare cases.
 - That only eight per cent of the individuals on death row had a prior criminal conviction against them and that 25 per cent of the convicts were juveniles or very young, underlines the concern that judges seem to pronounce the death penalty far too often because they are unduly influenced by public opinion.
- Q. What is the final suggestion of the researchers?**
- A. A moratorium on capital punishment is called for until the justice system is overhauled.
- Q. What is the effect of giving death penalty?**
- A. Once the death penalty is given, there is no scope for remedial action if flaws in the investigative or judicial process are revealed or fresh evidence is produced after the execution of the punishment.
- Q. Why about 120 countries have done away with capital punishment?**
- A. They felt that capital punishment amount to revenge and retribution.
- Q. Does death penalty prevent heinous crimes?**
- A. Many are not sure about it.
- Q. What the world is moving towards?**
- A. Towards a more humanistic view of justice that focuses on reformation.
- Q. What is the opinion of government of India on capital punishment?**
- A. In India individual MPs have introduced private members bills seeking an end to capital punishment. The Law Commission of India proposed the abolition of the death penalty in a phased manner. As a first step it recommended that it be given only in terrorism related offences.

Points to Ponder

- Q. How to become free from the fear of both birth and death?**
A. By doing away with attachment to the body.
- Q. What do our dear ones tell us when we visit their tombs?**
A. "All I ask of you is forever to remember me as loving you".
- Q. Does death extinguish love?**
A. Death does not extinguish love. It cannot, because, love does not end.
- Q. What is the nature of a human body?**
A. The body is a gift to be appreciated and a mystery to be lived, not an object to be intrumentalised and victimized.
- Q. How to view every experience?**
A. View every experience as a teacher. Learn from your errors of judgment.
- Q. Who is a wise man?**
A. A wise man is one who does not grieve for things which he has not, but rejoices for those which he has.
- Q. What is the best expression of our gratitude?**
A. The best expression is not to utter words but to live by them.
- Q. What should you do if somebody is better than you?**
A. Learn from him; enjoy other's success.
- Q. What one needs to walk safely through the maze of human life?**
A. One needs the light of wisdom and the guidance of virtue.
- Q. What should you do before you speak?**
A. Reflect: Would my speech or words lead to self-affliction, to the affliction of others, or to both.
- Q. What flies over us leading its shadow behind?**
A. Times.
- Q. What is reflected by the trust of the people in the leaders?**
A. The confidence of the leaders in the people.
- Q. What is the beginning of love?**
A. The smile is the beginning of love.
- Q. When does a global democracy work?**
A. When countries trust one another.
- Q. Why should we keep love always in our hearts?**
A. A life without it is like a sunless garden when the flowers are dead.
- Q. For what should you take time even during your busy hours?**
A. Take time to make the other person feel important.



NYAY DARSHAN

(Centre for Human Rights and Justice)

Nyay Darshan, 5, Sushilnagar Society, Nizampura, Vadodara – 390 002, India
Phone: (0265) 2750199 • nyaydarshan5@gmail.com

One - week's course on Human Rights and Justice

Venue: Nyay Darshan, 5, Sushilnagar, Nizampura, Vadodara – 390 002

Dates: From 2nd October (10am) to 8th October (noon) 2016.

Medium of instruction: **English**

Participants: **Priests, Sisters and lay persons.**

Contents of the Course:

- ❖ Rights of the common people,
- ❖ Rights of women,
- ❖ Rights of children,
- ❖ Rights of senior citizens,
- ❖ Rights of minorities,
- ❖ Rights of employers and employees,
- ❖ Rights of SCs/STs/OBCs,
- ❖ Rights of prisoners,
- ❖ Rights of consumers,
- ❖ Rights of travellers and
- ❖ Rights of patients

Course Fee : Rs. 2000/-

Resource persons: **Fr. P. D. Mathew, S. J. and team members.**

Those who desire to participate in the course may contact Mr. Patrick Christy.

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