

Solstice:

An S.O.L. Magazine



This Issue Contains:

- SOL Event Reports: Industrial Visits, a Moot Workshop, and Guest Lectures
 - Student Submissions: Research Papers and Short Articles, Poems
 - Club and Committee Interviews



EDITOR'S MESSAGE

We, the Publication Committee of S.O.L., are immensely proud to release the first ever School of Law magazine "SOLstice" at the Navi Mumbai campus of N.M.I.M.S.. This issue consists of contributions made by the law students of this prestigious University that project these students' research, opinions, and creativity.

This magazine is the result of a combination of student initiative, faculty and administration support and guidance, active student participation and numerous sleepless nights. The COVID-19 pandemic did not make the road to this release any smoother. Working from home with unpredictable internet and technology, coordinating with about twelve individuals at all times, putting out requests for submissions, all of which required consistency in punctuality, responsiveness and effort by the Committee members, while also focusing on academic and competitive endeavours, was no easy feat. Yet, the members of this Committee have been nothing short of diligent.

Our aim for the next issue to include more segments that shall cover topics like feminism, the acceptance and inclusion of the LGBTQ+ community, racism, and so many more important issues faced each day by innumerable individuals around the world. We aim to act as a platform for these precious opinions and revolutionary thoughts and ideals that students of law possess.

We request the readers to consider this magazine as an account of the precious years spent here, at N.M.I.M.S., Navi Mumbai, while we shall do our best to be as thorough and inclusive as possible. We hope you enjoy each page that has been written by our own law students, to the fullest.

Thank you for taking the time to peruse our magazine!

Jayantika Sethi
Editor-in-Chief
SOLstice

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FOREWORD



"The function of education is to teach one to think intensively and to think critically. Intelligence plus character - that is the goal of true education."

-Dr. Martin Luther King Jr.

The start of a new endeavour and cultivating higher-ordered thinking along the way, or the ability to think critically and synthesize information through diligent study is just one pay-off from earning your degree. The by-product of your efforts is increased character.

It gives me immense pleasure to introduce the first edition of the student-driven magazine, "SOLstice", perceived and created by the highly energetic and enthusiastic Publication Committee, School of Law, Navi Mumbai. The document is a result of hard work, sheer creativity, unbound imagination and untiring efforts of numerous sleepless nights by our young students who have been involved in academic and para-academic work simultaneously.

This document is an evidence of all those efforts that the S.O.L. has been doing over the past one year by inviting professionals from the highest levels and give the students a rare opportunity to meet, discuss and consult all those professionals who are real heroes, ranging from corporations to the higher judiciary.

This newly generated platform has provided a rare opportunity to the students to express their opinions, prejudices, biases and imaginations into the choicest shape, colour and design suiting their mind and brought it onto a comparative parallel to be seen from a distance in order to compare them objectively. We propose to do greater things in the time to come by adding varied critical thinking and complex future outcomes.

I wish the Editorial Board good luck and success.

Prof. (Dr.) Saurabh Chaturvedi
Associate Dean, School of Law
N.M.I.M.S., Navi Mumbai

ABOUT SOLSTICE

"SOLstice" is a publication of the School of Law at the N.M.I.M.S., Navi Mumbai campus. It is drafted, published, and maintained by the Publication Committee of S.O.L.

The name "SOLstice" is a play on the term "S.O.L." which stands for School of Law, and the word "solstice" itself has a significant meaning to the publication. The publication is intended to be bi-annual, in one form or another, just as the two solstices that occur in nature. The logo, too, includes a crescent moon in the upper curve of the "S" and Sun rays at the base of the "e" that act as symbolical indicators of the publication's intentions.

"SOLstice" acts as a platform for law students to share their ideas, opinions*, and legal, political, social, and all other forms of critical analyses, along with their choice of creative outlets, be it short stories, poems, and so on. "SOLstice" shall be published in the form of magazines, newsletters, posters, blogs, social media posts, and so on, as the Committee ideates more creative, yet feasible ways to put forth the students' submissions.

The Publication Committee is proud to present its first Issue of "Solstice" which covers the events organised by the School of Law at the Navi Mumbai campus during the term of 2019-2020., and represents the students of the batches of 2018-23 and 2019-24.

The Publication Committee, of S.O.L. is sincerely grateful for the support and guidance of our mentors; the Director, Dr. P.N. Mukherjee, Dean, School of Law, Prof. (Dr.) Alok Misra, Associate Dean, Prof. Saurabh Chaturvedi and, Faculty-in-Charge, Prof. Manisha Band. We sincerely appreciate Ms. Amruta Kashelkar, Asst. Librarian and Mr. Hitesh Gunjal for their timely assistance in our endeavours.



Dr. P.N. Mukherjee
Director, NMIMS, Navi Mumbai



Prof. (Dr.) Alok Misra
Dean, School of Law,

*All views, descriptions, stated facts and, opinions expressed in this Publication are of the authors' alone, and the Publication, the Committee nor the University shall bear any responsibility for the same.

SCHOOL OF LAW, NAVI MUMBAI:

A 2018-19 REVIEW

N.M.I.M.S., Navi Mumbai introduced the School of Law with its first batches of B.A., LL.B. and B.B.A., LL.B. in August, 2018. With enthusiasm and aspiration, newly admitted law students filled the hallways of the newly constructed, state of the art campus after their Orientation session. The Orientation session included student and faculty interactions, a tour of the campus amenities, and so on. The students were engulfed in their academic pursuits while the University ensured that they were exposed to professionals who shared their experiences via guest lectures. Adv. Rajni Sinha was one such professional who shared her experiences and tips with students regarding the field of Intellectual Property Rights.

Students also got the opportunity to participate in pre-existing intra-college fests such as "Tvaran", a cultural fest, and "Prabalya", a sports fest. Events such as Ganesh Chaturthi, Navratri, Independence Day, Teacher's Day, Halloween, and so on, were celebrated with great enthusiasm. The campus also hosts a sports room where games like table tennis, carrom can be played, along with a music room with a wide range of instruments.

The campus has witnessed some infrastructural updates such as beautification of the hallways, library, and cafeteria. Our cafeteria, cleaning, and security teams have received their respective uniforms, and like us, were proud to bear the N.M.I.M.S. mark. Most importantly, the Moot Courtroom is ready for use. As the campus continues to grow and develop, the students look forward to utilizing the incredible amenities and overall infrastructure of the campus for their all-round development and college experience.

SCHOOL OF LAW EVENT REPORTS (2019-2020)

(All events have been covered thoroughly by our reporters; Anshita Naidu, Niharika Ravi, and P. Nivruthi., unless specified otherwise, while some events have also been covered by Adrija Datta, Ananya Mathew, Jayantika Sethi, and Shivam Singh Rana.
These reports are a result of a combined effort.)

ORIENTATION OF THE BATCH of 2019-24

School of Law, NMIMS, Navi Mumbai conducted a week-long Induction Program for the new batch of 2019-24. The program started on 22nd July 2019. The program included a general introduction to the University and campus, guest lectures, the interaction between seniors and the juniors, etc. the details of which follow.

Day 1: general introduction to the NMIMS Navi Mumbai campus

On the first day, students were acquainted with the general rules of college and campus. This included an overview of the information found in the Student Resource Book (S.R.B.), our infrastructural facilities like the library, music and sports rooms, the 6 computer labs, and lastly, the dress code and attendance regulations. Mrs. Aparna Sant briefed the students on the developments that have taken place at the Campus over the past two years, the Student Collegiate Grievance Departments, timings of the general physician and counselor. Students were also introduced to core members Mrs. Manisha Band (Assistant Professor, SOL NMIMS and Prof (Dr.) Saurabh Chaturvedi (Associate



Dean, SOL).

In the second half, Mrs. Amruta Kashelkar conducted an informative session about library services. The members of the Student Council, along with the SoL representatives, Student Council President Priyesh Joshi and V.P. Vidhi Dua, informed the students of the 5 clubs of the Student Council; MUN Club, Moot Court Club, Alternate Dispute Resolution Club, Debate Club, and the Centre of Excellence, along with a briefing by the P.R. and Placement Committees. The various department Heads explained the purpose and functioning of the respective Clubs and Committees.

Day 2: Inauguration ceremony by honourable Mr. Justice A.P. Bhangale

On this day, Hon'ble Mr. Justice A.P. Bhangale (retd. High Court, Bombay) who is currently Chairperson of Maharashtra State Consumer Redressal Forum (as of 30/7/2019) was heartily welcomed by the Campus Director, Prof (Dr) P.N. Mukherjee and Prof(Dr) Saurabh Chaturvedi for the formal inauguration of orientation ceremony. Prof. (Dr)P.N. Mukherjee, then introduced the students to the chief guest Hon'ble Mr. Justice A.P. Bhangale. The Director also highlighted the opportunities and consequences of choosing the field of law. Sir emphasized that "law is the ocean of knowledge". After the Director, Prof(Dr) Alok Mishra, the Dean of School of Law of NMIMS introduced the students to the facilities in the School of Law and encouraged the students to make full use of it.

his valuable experience at the State Consumer Forum. He also shared, with the students, his dream that in every taluka of Maharashtra, there should exist an independent building of Consumer Forum, even if it is an arduous task. He also pointed out the need to amend the 30year old Consumer Protection Act.

After Hon'ble Justice, Prof (Dr) K.Nandy, an SoL faculty for management, and a motivational speaker took the podium and briefed the students on how good communication skills help in getting an edge over others in any field, whether it is the courtroom, a private chamber, or in a big Multinational company. The vote of thanks was given by Prof (Dr) Saurabh Chaturvedi, the Associate Dean of the School of Law, NMIMS, Navi Mumbai.



Following this Hon'ble Mr. Justice A.P. Bhangale was invited to the podium. Hon'ble Justice has snippets of his most memorable cases. He shared



Day 3 and Day 4: Introduction to SOL and introduction to para-academic activities

On the third day, Dr. Saurabh Chaturvedi gave students their roadmap of the next five years in law school. Prof (Dr) Saurabh Chaturvedi shared his experience in the fields he had worked to date, starting with his experience with the judiciary and its importance in our everyday life. He explained law in relation to one's bright future across the globe. Whether it is corporate or litigation or UN flagship programs or policy making in India, law is a field which has its implications everywhere. Since the students were keen to know about the Uniform Civil Code, Prof (Dr.) Chaturvedi obliged at once and explained the pros and cons of the Uniform Civil Code and why it has been kept as Directive Principles of State Policy under the Indian Constitution.

habitual winner' and take motivation when you are in the stage of life where depression is the key factor destroying a student's performance. Prof (Dr) Nandy shared a snippet of his professional life from 1991, the year globalisation initiatives were started in India.



On the fourth day, there was a yoga session by Ms. Suniti P.. A debate competition conducted by the Debate Club on the topic “Social Media: boon or bane”. The best speakers were felicitated by the Debate Club.



The podium was taken over by Prof (Dr). Nandy who had an interactive session with the students based on contents of his book 'How to be a

Day 5: Interaction with industry expert Mr.

Abhijeet Tople

On the final day of orientation ceremony, Advocate Abhijeet Tople, Dy. General manager, legal regulatory and compliance, Reliance Jio, who has industry experience of nineteen years was invited to interact with the students. Advocate Abhijeet Tople pointed out that students must visit corporate environments to understand the practical application of their theoretical knowledge. He further said that a law student should not hesitate to join any advocate who is of the Session Court or any Lower Court. This would help them learn and understand the practical usage of local laws.

Adv.Tople said that for every law student it is important to read books, legal news and newspapers like The Economic Times. This is because it will not only give you the knowledge of one's surroundings but also keeps a human being and his mind young. A good lawyer must have his/her Knowledge at his fingertips. He emphasized on the importance of the five years of the undergraduate degree, and how these years will help the students in shaping their future career prospects and field of expertise. Sir pointed out the realistic environment of the legal fraternity, and how their extent of knowledge and experience may vary. On the same note, Sir wished all the students good luck and encouraged them to put in their hard work

in all their future endeavours.



Day 6: Cultural activities

The orientation week came to an end after a formal address by Ms. Vidhi Dua. It was followed with a cultural session in which students of both first and second year participated .



MOOTING WORKSHOP



The Moot Court Committee of SoL conducted its first workshop on the 23rd of August, 2019 for the first-year students of B.A., LL.B. and B.B.A., LL.B. students (2019-24). The Moot Club consists of second-year students of SoL (batch of 2018-23) and are working along with Prof (Dr) Saurabh Chaturvedi and the faculty-in-charge for SoL, Mrs Manisha Band. The session began on an informative note when Associate Dean of SoL, Prof (Dr) Saurabh Chaturvedi briefed the students on the basics of mootling and emphasized that moots are a simulation process that requires participants to look at the case from different angles and to maintain a balance between the issue at hand and its possible solutions. Sir also discussed the essential skills that students would gain from Moot Competitions and workshops. Sir also emphasized that one's language and tone while addressing the court is of optimal importance, along with being readily prepared with all

required documents and issues.

The podium was then handed-over to Mrs Manisha Band. She emphasized on the importance of good research and how mootling helps with learning that. Ma'am laid out the framework of working on a moot with three main steps; reading the proposition over and over, researching the existing laws by first reading secondary sources of law that will lead the students to primary sources, and lastly, how to create a detailed yet concise Memorial. Ma'am highlighted the importance of having two versions while creating arguments; one short and one long version of arguments due to the time-restraint.

The Moot Club members briefed the students about the upcoming intra-moot and how the proposition and rule booklet would be circulated to them. This session was useful to students as they understood the process and benefits of competing in moot court competitions.



VISIT TO MAHALOK ADALAT

by Raashi Agarwal (B.B.A., LL.B., Second Year)

On 13th July 2019, NMIMS university gave the law students an opportunity to visit Mahalok Adalat, located at Panvel court, Raigad district. Mahalok Adalat or national lok Adalat is one of the alternative dispute resolution mechanisms in India. Lok Adalat is also referred to as "People's court" "The students of LLB were familiarized with the procedures and working of the Lok Adalat by the Lok Adalat's is deemed to be a decree of a civil court and is final and binding on all parties which can also be contested. The parties if not satisfied can further initiate a litigation by approaching the court of appropriate jurisdiction and file a writ petition

Adalat and if a court fee is paid earlier it is returned in installments. As there are a lot of cases, pending and being consecutively registered in Lok Adalat the application No. is decided according to the age of the matter, the older the case, more the priority it gets.

Lok Adalat does not take specific matter, but all types of cases in rotation. The most used language of Mahalok Adalat at Panvel district is Marathi and Hindi.

During the hearing all the words of the witnesses and other members are recorded. The documents are given to the defendant or prosecution beforehand beforehand. The judge is given the copy of FIR to know the background of the case. All the hearing happen between 11 am to 5 pm and all the administration work is done between 10:30 am to 6:00 pm. The court timing generally extends depending on the arguments presented by the parties. The lawyers there are not given private chambers as this court has space constraints. But the national Lok Adalat's of Pune and Nashik provide the lawyers with private chambers. The

National Level Lok Adalat's are held for at regular intervals where on a single day Lok Adalat are held throughout the country, in all the courts right from the Supreme Court till the Taluk Levels wherein cases are disposed of in huge numbers. This experience gave us the perfect exposure and utmost knowledge.



Furthermore, the main condition of Lok Adalat is both parties in dispute should be willing to settle. There is no court fee to be paid in Lok

VISIT TO J.N.P.T.

On the dewy morning of the 19th of August, 2019, 25 students of B.B.A., LL.B. (batch of 2018-23) were briefed about their upcoming industrial visit. This briefing was conducted by Prof. (Dr) Saurabh Chaturvedi, the Associate Dean of School of Law at the Navi Mumbai campus of S.V.K.M.'s N.M.I.M.S. The students, accompanied by Mr. Hitesh Gunjal, Course Co-ordinator for SoL, were en route to the J.N.P.T., Administration Building to meet with the Executive Manager of Cosco Shipping Lines (India) Pvt. Ltd. Mr Ajit Patil. They were escorted to the docks where they were exposed to various ships, or 'vessels', being unloaded on four different terminals with the use of some 'yard-crane'. The four terminals are J.N.P.T. terminal, A.P.M. terminal, N.S.I.C.T. terminal which is currently leased to D.P. World, and the upcoming N.S.I.G.T.



The students could then ask Mr Ajit Patil any general, and legal questions that they had about Cosco Shipping, or the integrated container

service network in general. In response to the students' questions, Mr Ajit Patil explained insurance procedures and liabilities of Cosco, and of any ship consignor that might lease vessels to Cosco. Sir explained the company's origin and its purpose. As responses to the more generalised queries, the busiest route is between India and China, while the ships were built abroad in China or Korea, the vessels could carry weights ranging between 75 thousand metric tonnes to 1 lakh metric tonnes, most common transits lasted around 45 days, there were about 20 - 24 Indian and non-Indian crew members on each vessel that might carry loose cargo or petroleum or gases, or dry-bulk cargo. The tax requirements of these vessels ranged from G.S.T. to T.D.S. The 200 vessels that were leased to, or by, Cosco were consistently maintained and surveyed by the respective ship owner. The containers that these vessels carried varied in size from 20x8 ft., 40x8 ft. and very few 45x9.5 ft. containers.





For the more legal queries, sir explained how each vessel must carry a minimum of 15 documents at all times; a shipping bill, customs approval, birth hire charges documents, pilot charges and custom

charges documents, bill of loading, and so on. In case of the security protocols, the crew is trained at various training academies like T.S. Rehman in courses like fire-fighting. In case of encounters with pirates, that are more likely near South America and Sudan than near Asian countries, the crew is provided with certain arms for self-defence, and are trained in negotiation. In case of encounters with pirates, that are more likely near South America and Sudan than near Asian countries, the crew is provided with certain arms for self-defence, and are trained in negotiation. In case of smuggled goods, transit companies are not responsible, as they do not tamper with sealed containers once they are loaded onboard. If suspicious of the same, the custom officers, when birthed, and coastal

security have the right to inspect the containers, and seal them if no issue arises, and confiscate the goods otherwise. Similarly, it is mandatory for vessels to have indicators visible like the national flag, 'no smoking' signs, and so on. In case of accidents, like engine failures, the transit company would not be held liable, but the ship owner would be. As an end to the day, the students were taken to the J.N.P.T. Terminal where they witnessed large cranes offloading large dry-bulk cargo containers.

The students benefited from this visit, as they could speak with an individual that has realistic experience in a field that they may not know a lot about, or they may wish to enter in the future.



PARALEGAL

VOLUNTEER TRAINING

PROGRAM AT D.L.S.A.

The students of B.A., LL.B. (2018-23) of the NMIMS School of Law (Navi Mumbai), under the guidance of the Associate Dean, Prof (Dr) Saurabh Chaturvedi, had got an opportunity to attend a training program held by the District Legal Services Authority (D.L.S.A) of Alibaugh. The program had been organized to train the Para Legal Volunteers who will help the D.L.S.A. to solve the problems of the people living in remote areas or people belonging to the weaker sections of the society who are not able to solve their problems due to the lack of legal knowledge.

program by lighting the lamp. He then quoted the tagline of D.L.S.A. that is “Nyaay Sarvanchya Daari” which means “Justice At Your Doorstep”. After the inauguration Adv. M M Gunjal gave a brief lecture on the Criminal Procedural Code (CrPC). He also gave brief information on FIR. FIR is the prime report that is given to the police officers after an unlawful act has been committed. He also told about the different types of offenses namely cognizable and non-cognizable, chapter case, arrest warrant, bailment, etc. The students of NMIMS had asked certain questions related to CrPC such as what is the stand of the judiciary in victimless crimes, the difference between judicial custody and police custody, etc. and they received informative responses for it.

A session on Consumer Protection Act was then conducted by Adv. Nilofer Shaikh. The Consumer Protection Act was drafted on 26th December 1986 but was established on 15th December 1987. While drafting the Act, natural justice had been given maximum importance. As per the Act consumers do not need a lawyer, they can approach the consumer forums with their problems all by themselves. She also gave brief information on the various rights of the consumers and mentioned certain cases regarding consumer protection.



The Chairperson of the program was Hon'ble Justice Abhay Waghwase, who is the Chairman of the District Legal Services Authority of Alibaugh, Justice Waghwase inaugurated the

The students had questions regarding which party should be sued if a defect is found in the services or products, whether the retailer or the manufacturer needs to be sued. Adv. Nilofer clarified all the doubts and confusions of the students. After that there was a session on Women Protection Laws conducted by Adv. Tanushree Pednekar. Ma'am spoke about the Domestic Violence Act 2005 and the Dowry Prohibition Act May 1, 1961. From 26th October, 2006 domestic violence has been illegal. The next session was laws for the protection of women against sexual harassment at the workplace conducted by Adv. Neha Raut. The Sexual Harassment of Women at Workplace Prevention, Prohibition, and Redressal Act was established in 2013. Adv. Raut gave information about some major features of the Act. She also spoke about the compensation given to the victims and the charges filed against the offenders. After that was a session on the Legal Services Authority Act conducted by Hon'ble Justice Jaydeep Mohite. Hon'ble Justice Mohite is the Secretary of the District Legal Services Authority at Alibaug. The Legal Services Authorities Act was established on 11th October 1987. This Act was established to constitute legal services authorities to provide free and competent legal services to weaker sections of the society to ensure that opportunities for securing justice are not denied to any citizen of the Nation.

The program ended with the distribution of identity cards and certificates to the para-legal volunteers. The volunteers can now conduct their work as representatives of district legal services authorities and help in providing legal aid to the weaker sections of the society and anyone who needs legal advice.

On Monday, 17th of February, 2020, the second-year students of School of Law, NMIMS, Navi Mumbai visited the Maharashtra Judicial Academy at Uttan, Bhayander. This visit included a tour of the Academy along with a "One Day Capsule Course". This seminar took place from 9 am to around 4 pm. The students got the privilege of receiving lectures from four main personalities of the Judicial Academy; Shri S.V. Yarlagadda, Joint Director at M.J.A., Shri N.M. Jamadar, Additional Director, Shri K.R. Singhel, Deputy Director, and Smt. Palak N. Jamadar, Additional Director.

VISIT TO

MAHARASHTRA

JUDICIAL ACADEMY

As the students arrived at the campus, they were immediately drawn to the beautiful landscapes and structures of the Academy. The students were directed towards the cafeteria for breakfast, after which they were directed towards the auditorium for the seminar. The aforementioned four dignitaries were seated at the podium and the students of NMIMS, Navi Mumbai were accompanied by the law students of Kishinchand Chellaram Law College, Churchgate, and Gopaldas Advani Law College, Bandra.

The students were given a brief introduction to the Academy and its functioning; how it trains candidates as well as existing judges (via “refresher training” courses), the audience on what they wish to discuss throughout the course. A lot of audience members, across the three colleges, wished to learn more about mediation, the Judiciary and Artificial Intelligence, and legal research and the role of the academy for the same. All these topics were discussed at the end of all four sessions by Shri S.V. Yarlagadda. This introduction session also included discussions on the number of programs conducted by the Academy over the past four

years (around 50 per year), “judicial decision fatigue” as asked by an audience member, and how around 3 thousand Maharashtra judges have been deputed to various locations including Daman and Diu, Sri Lanka, Bhutan, Bangladesh, and so on.

The first session was on ‘Criminal Trial Procedures’ by Joint-Director, Shri S.V. Yarlagadda. This session informed the students on the process of the criminal system in India, from the happening of a crime to imprisonment. The session covered the process of filing of a first information report, the difference between a police station and a police post, the various memorandums maintained at a police station (FIR Registers, Non-Cognizable Records, Station Diary, Occurrence Diary, Case Diary, etc.), the process of investigations, categories of complaints, power to take cognizance by Session judges versus Special Judges, the process of committal after cognizance. The session also included the difference between inquiry and investigation, the meanings and differences of “in-discharge” versus “under the color of duty”, the meaning of “cognizance” and how its interpretation differs for a police officer and a judicial magistrate, how an FIR is not essential for investigation, how statements recorded during investigations are not admissible in a court, the difference between not proved versus disproved, truth versus fact, the definition of “investigation”,

how witnesses to certain offenses cannot be condemned for being inconsistent with previously made statements, the validity of a “tip” given to a police officer, how various final reports made by the police (“A Final, B Final, C Final”) are maintained, and lastly the admissibility of hearsay evidence.

The second session was conducted by Shri N.M. Jamadar, Additional Director at MJA. The topic of discussion was “Judicial Process and Judgement Writing” wherein the Civil Procedure Code was discussed along with the importance of impeccable documentation.

The third session was conducted by Shri K.R. Singhel, Deputy Director on the topic “Judiciary as a Career Option”. The session included discussions on and explanations of the various types of legal careers, the hierarchy of judicial services, entry into the judiciary, and its eligibility criteria. Various categories of candidates were discussed, some of which were lawyers, fresh law graduates, ministerial staff. The age criteria for open category and reserved categories were discussed wherein the reserved category receives a relaxation of five years. The various service condition of CJJD and JMFC, the various facilities provided for the judiciary (petrol allowances, leave encashment, etc.) was discussed.

The appointment of District Judges along with the specific distribution of allotments; 25%

allotment by direct nomination by the Bar, 65% by promotion (criteria being seniority and merit), 10% seats allocated by accelerated promotions via results of competitive examinations. The reasons to join the judiciary, as discussed by Shri K.R. Singhel, are that the judiciary is an essential wing of democracy, the dignity of judicial officers is higher than any other equivalent officers, there exists a kind of independence in the job, holding of a constitutional post by a judge vis-à-vis an IAS officer, and the presiding officer is supreme in his court. Judicial discipline includes how the judiciary is a guardian of the Constitution and how judicial functioning is ‘pious’.

The last session was conducted by Smt. Palak Jamadar, Additional Director at MJA on the topic “Gender Justice”. The session extended from discussions from the situation of the first few female lawyers from Calcutta and Allahabad and how their applications were denied on the basis of the definition of the word “persons” in the General Clauses Act, 1897. There was a lot of involvement of the audience in this session especially.

This visit was extremely beneficial to the students as it provided a practical and realistic perspective on the functioning of the judiciary in India.

VISIT TO NATIONAL DEFENCE ACADEMY

On the 23rd day of February 2020, the second-year students of SOL, NMIMS, Navi Mumbai had the immense privilege to visit the National Defence Academy at Pune. After about a two-hour long travel, the students witnessed the beautiful landscapes of the Academy and the messages of “Service before Self” and “Creating Gentlemen and Warriors”, and were greeted by student ushers who would be accompanying the students throughout the visit.

Upon reaching the Habibullah Hall, the students were shown a documentary on the Academy and its training procedures over the six terms that the 2100 cadets undertake. The specific training for the Navy as well as the Air Force was shown. The cadets are taught various foreign languages like Urdu and French. They do not have access to personal technology but the Beas library is said to have wi-fi for academic research purposes. The documentary showed how the “foundation of virtues” is laid at the Academy. The virtues include leadership and comradery amongst many others. The cadets are known to graduate with “moist eyes and pride in their hearts”.

After viewing the documentary, the students were directed towards a Museum, also known as the “Motivation Centre”. The museum displayed various memorabilia gifted by various foreign dignitaries, along with the various flags captures, badges earned awards won by the cadets and the Academy.



The students were then directed to the Sudan Block where the usher, Cdt. Ketan Patil (a fourth term cadet), informed the students on the historical and architectural specifications of the Sudan Block like the history as well as the funding and the four flags at the entrance of the building (the Air Force flag, the Army flag, the Indian Tricolour, the Navy flag, and the NDA flag), as well as the surrounding structures and buildings like the Salaria Square. He also shared his personal experience at the nine thousand-acre Academy like his experience winning the Championship with his squadron course mates.

GUEST LECTURE ON G.S.T. BY DR. BARENDRA KUMAR BHOI

by Prof. (Dr.) Keshab Nandy

On August 31,2019, Dr Barendra Kumar Bhoi, Visiting Fellow at Indira Gandhi Institute of Development Research and former Principal Adviser, Monetary Policy Department of RBI addressed the law students and faculties of NMIMS on ‘Goods and Service Tax: The Biggest Indirect Tax Reform in India’. The purpose of having GST in India is to achieve multiple objectives - simplify indirect tax regime, provide unified common national market, widen the tax base, increase the tax-GDP ratio over time, mitigate cascading effects/reduce prices, reduce tax evasion/corruption, improve transparency /investment climate/ease of doing business and promote digitisation. He also explained the challenges involved in implementing the GST in India.

The whole system is technology driven and therefor interface while bureaucracy is reduced. The reverse charge is innovative so that more and more entrepreneurs will be encouraged to register for doing business. Introduction of e-way bills is a mechanism through which avoidance of tax payment can be detected easily. Unlike other countries, India did not experience

The Championship includes various events along with the academic results of the squadrons.

The students then visited the Cadets Mess which can seat around two thousand cadets at once where the food is served to all within forty minutes. Events like the NDA Ball and various special dinners are conducted during which, meals are eaten on the beat of the drums.

Cadets may then visit the internal market for their needs. The students of NMIMS were then shown the Equitation Training arena where cadets are trained to ride horses and compete in various contests like the Thimayya Polo Cup. This training area had stables, the Central Riding Arena, Lunging Arena, and some memorials for horses that have served the Academy like Black Velvet and Prithviraj. There were displays of the “Oath for Personnel dealing with Army Animals”, “parts of a bridle” and “points of a horse”.

The visit ultimately came to an end and the students of NMIMS were extremely honored, inspired, and motivated by this experience at this prestigious institution.

inflation at the early stage of the implementation of GST.

Despite reduction in GST rates, GST collection has been more or less stabilised. There are a number of unfinished agenda, which the government is trying to complete in time bound manner. These include rationalization of returns, inclusion of petroleum products within the ambit of GST, and fine-tuning of redressal mechanism. He concluded that GST is transformational and would increase India's tax-GDP ratio going forward. The address was well received by the participants. He also answered a few questions on GST and Indian economy.

GUEST LECTURE ON HIGHER ORGANIZATIONAL PRODUCTIVITY BY MR. SUBRAMANIAM IYER

On the morning of 11th January 2020, the students of the School of Law of NMIMS, Navi Mumbai gathered in the auditorium to attend the guest lecture on "Managerial Excellence for Higher Organizational Productivity" by Mr. Subramaniam Iyer, Senior Advisor at the Employer's Federation of India. Sir is passionate

about organizational programs and is an avid reader of business and motivational books. The guests of honor were Dr. Keshab Nandy, Prof. Manisha Band and Prof. Manasi Ahire. The event began with the lighting of the lamp by the Chief Guest and the guests of honor, which was then followed by the NMIMS anthem. The Chief Guest being an acquaintance of Dr. Keshab Nandy and was thus introduced by him, and invited on the dais to commence the program.



Mr. Subramaniam Iyer began his lecture by briefing the students on what a manager is, what his/her functions are, and how one can transcend the boundaries of being a manager and becoming a well-rounded leader. Sir highlighted the various qualities a manager possesses, and how decision-making skills and problem-solving skills are paramount to being a good manager. He further explained to the students what excellence is and the importance of achieving it.

Sir amplified the necessity of having an “exemplary attitude” towards everything that one does and giving every task a hundred percent dedication to thrive in the current, highly competitive corporate environment.

Sir emphasized the need to “not just go through the day, but to grow through the day”. Sir advised the students to avoid opting for the path of least resistance, and to seek discomfort, to challenge and hone their abilities. Mr. Iyer differentiated between good and great managers and emphasized on the integral nature of good communication skills and the need for taking responsibility for both success and failure of one's projects. Sir highlighted the importance of reading entrepreneurial books while recommending the works of Narayan Murthy, Sudha Murthy, and Robin Sharma. He advised the students to choose humility over arrogance and to apply the principle of ‘learn, unlearn and relearn’ in their lives.

This informative lecture was followed by a question and answer session, wherein the students asked questions about various aspects of Management. Mr. Iyer thus mentioned the paramount importance of being technologically savvy in this age of exponentially growing artificial intelligence. This session was succeeded by a vote of thanks by Prof. Manisha Band wherein the efforts and encouragement of and by Mr. Subramaniam Iyer, the Director of NMIMS, Navi Mumbai, Prof. (Dr) P.N. Mukherjee, the Associate Dean of the School of Law, Prof. (Dr.) Saurabh Chaturvedi, Dr. Keshab Nandy, Prof. Manasi Ahire along with a special mention for the Student Council of SOL for organizing the flawless event. The ceremony came to an end with a photo session of the guests with the students.



GUEST SESSION ON DRUG ABUSE AND CYBER CRIME

On 10th February, second-year students assembled in the auditorium for an awareness workshop on drug abuse and cyber-crime. Director (Dr.) P. N. Mukherjee welcomed the dignitaries namely Dr. Ajit Magdum and Commissioner of Police Sanjay Kumar and team. Dr. Magdum is an expert in drug abuse and operates 9 rehabilitation centers in Navi Mumbai. Mr. Sanjay Kumar is a post-graduate and had previously served eight years in Intelligence Bureau. He has been conferred with a UN medal at Bosnia and Herzegovina.

Dr. Magdum was the first speaker to address the students. He started his session by playing two thought-provoking videos which beautifully summed up the problem of drug abuse. At the beginning of his speech, he spoke about the carcinogenic substances found in tobacco and loss of life caused due to consumption of tobacco. He then shifted his focus to alcohol addiction. He reported that although about 42% of car accidents and 38% of crimes happen under the influence of alcohol, the government has been reluctant to ban it owing to the revenue generated. He went on to talk about the harmful effects of other narcotic drugs like “meow-meow” and heroin.



He shared his concerns about India coming under the international drug trafficking route and being sandwiched between the Golden Crescent and Golden triangle drug trade, areas famous for drug peddling. India's proximity to these regions has caused much havoc in places like Punjab, Haryana, and North-East.

In the second half of his speech, he mentioned the shift of drug use that has taken place. Earlier, it was the slum dwellers who were involved in drug abuse. Currently, it is the young, educated, working professionals who use drugs, seeking chemical comforts. The paradigm shift has occurred due to increasing instances of psychological problems and the easy availability of drugs on the internet. He concluded his speech cautioning the students to stay away from drugs and other intoxicating substances completely.

Students should abstain from even experiencing it once as “drug use becomes drug misuse and then it becomes drug abuse”. He advised the students not to deviate from their path and wished them luck for the future. He concluded by saying “say no to drugs, say yes to life.”

During a brief interview after the session, Dr. Magdum shared the experience of a young boy from Badlapur who previously despised his father and counselors but, with persistent efforts, the boy developed an affinity with the counselors.

He opined that the legalization of marijuana in India was not possible due to the current social condition, adding that he welcomed the regulated use of marijuana for medical purposes only.

The next lecture was delivered by Mr. Sanjay Kumar, Commissioner of Police of Navi Mumbai. Mr. Sanjay Kumar, an eminent speaker, elaborated on the problem of cyber-crime. He attributed the rise in cyber-crime to parents using technology to raise children. He said that cybercriminals take the advantage of the anonymity that cyberspace offers. People don't know who they're interacting with.

He mentioned several instances of cybercrimes he has come across. Recently, Thailand Interpol had contacted him regarding a boy from Navi Mumbai who was involved in circulating child pornography.



He mentioned a case where a hacker hacked the security camera of her home and her activities were live-streamed on a website. He warned students about posting things on social media as it makes people easy victims of crimes. For example, posting vacation pictures sends a signal to robbers that a house is vacant, and breaking in would be easy. He further stated how the Police analyses recruits' social media profiles while hiring candidates.

Ist INTRA-MOOT COMPETITION

The morning of 5th October 2019 was made brighter by the 1st intra-moot court competition of School of Law, Navi Mumbai. The event saw the enthusiastic participation of twenty-seven teams which totaled eighty-one students. The inauguration for the event started with an applause request for the Moot Committee for their immense hard work in organizing the competition. It was followed by a lamp lighting ritual. The lamp was lit by the Director of S.V.K.M.'s NMIMS (Navi Mumbai) Dr. Parthasarathi N. Mukherjee, the Associate Dean of School of Law (Navi Mumbai) Dr. Saurabh Chaturvedi, Dr. Keshab Nandy, Prof. Manisha Band, and President of the Moot Court Committee Ms. Aditi Pareek. The lamp lighting ceremony was followed by an inspiring speech by the Director Dr. P.N. Mukherjee and later the Associate Dean of School of Law Dr. Saurabh Chaturvedi. The Director spoke about the importance of value system and also said that law is a system that constantly changes your ethics and values. He also acquainted everybody with a trick to increase one's level of expertise which was to look beyond the basic textbooks for information. His speech was followed by a few encouraging words by the Associate Dean which lifted everybody's spirits.



As the inauguration ceremony came to an end, Dr. Keshab Nandy and Miss Manisha Band took the opportunity to wish everybody luck which put a smile on the face of the participants and increased their confidence.

The participants were then escorted to their moot courts, where they had to argue an esteemed panel of judges that consisted of 5th Year Law students from NMIMS, Vile Parle and from MNLU. The Speakers were marked individually by the Judges and the Researchers were marked based on the Researcher's test that was conducted on 3rd October 2019. The Researcher's test was checked by Prof. Manisha band and the apex body of the Moot Court Committee.

In total, there were 3 rounds of mooting and the speakers of each group were scored individually by their respective judges. A thoroughly engaging final round ensued, with each team, in turn, putting forth their arguments,

substantiating facts, and engaging the questions put forth by the judges. A roomful of audience beheld heated discussions and grueling rebuttal in utter awe and silence as two speakers each from both teams presented their arguments. The final round was presided over by a panel of 3 judges- the Dean of KPMSOL NMIMS Dr. Alok Misra, Assistant Professor at KPMSOL(Ville Parle) Ms. Anu Mishra, and Assistant Professor at KPMSOL (Vile Parle) Ms.Jharna Sahijwani. As the results were being compiled, each judge addressed the students and the participants, applauding those who stood their ground even whilst being grilled with questions and offering constructive criticism based on the previous and the final rounds. The Director spoke at length about the noble profession of law and how moots help one become a successful lawyer and offered valuable insights into the field of study itself.

Meanwhile, there was a heavy discussion about the winner of the competition. The winners were finally announced by Prof. Manisha Band which was followed by the felicitation ceremony of the winners and the runner ups which was done by the Dean of KPMSOL NMIMS Dr. Alok Misra and by the Associate Dean of NMIMS Dr. Saurabh Chaturvedi. The felicitation was followed by an inspiring and motivating speech by Dr. Alok Misra, Assistant Professors Ms. Anu Mishra, and Ms. Jharna Sahijwani. The judges were impressed by the students and claimed that the students competed far better than they anticipated. The event concluded with a Vote of Thanks delivered by Prof. Manisha Band.



INTERVIEW WITH INTRA-MOOT JUDGES

After an exciting intra moot court competition that took place in the Navi Mumbai campus of NMIMS that had judges from institutes like the MNLU and NMIMS, Vile Parle campus the publication committee had a brilliant opportunity to interview the judges about their experience and advice to the juniors which come as follows -

Q1-Obviously the day was quite stressful for us, how was it for the judges?

A-It was a good day for us. The teams, for being first years, have performed in a really applaud worthy way. Moots are one of the fastest ways any budding law student feels close to being a lawyer. The organization and hospitality shown to us by the moot committee was excellent and worth applause.

Q2-It was the first moot for most of us, how do you think we fared and what should we do to improve?

A-The arguments that happen in the moot courts are not how lawyers argue in the court in an everyday scenario. Moot is like a game with a strict strategy. In an everyday scenario, the arguments are done based on the facts of the cases but in moot courts, the arguments need to be substantiated not only with laws but also case laws. They help in developing research and speaking skills for law students. Unusual or rather the laws that are not used in common parlance are used as the basis for the propositions, which helps the students explore. Moots are also a good way to develop specialization in law for further developing a career as a lawyer.

Our advice to the students would be to make sure that the facts in the proposition are clear to them and that they do not deduce anything other than as explicitly mentioned in the facts. Do not pull out an assumption from the fact sheet.

Q3-Apart from Moot what other co-curricular activities should a budding lawyer pursue to develop requisite skills for the market?

A-A budding lawyer can pursue debates panel discussions and ADR as further co-curricular that can help develop the requisite skills. Debates help students make more concrete arguments and also help develop analytical skills complemented with witty thinking which helps them with the rebuttals.

Q4-In accordance with the current situation what do you think about law as a career option and what advice would you give to your juniors about making the best out of the opportunities one has?

A-Law is a promising and exploratory field that gives one an edge over others especially in today's corporate culture which is extremely cutthroat in its very nature. As students, one should not lose their sleep over realizing specific inclination towards a particular field of law but continue to go with their interests while exploring new options. Don't let yourself be discouraged by your first moot.

Q5-How did your college help you develop into the professional you are today?

A-Every institute has its situations whether they are good or bad, and they deal with it in the most proficient manner. It is to be further noted that there is no difference between studying in an NLU and studying in a private university. The opportunities that are provided here are vast and students should try to use them well. One big advantage that NMIMS has is that they give equal and perhaps more attention to their first years than any other university, which is not a very common phenomenon, especially for law students. This attention is very beneficial as it gives the students a sturdy base for the future.

CLUB/COMMITTEE INTERVIEWS

MOOT COURT COMMITTEE:

Q 1. What is the role of your committee?

The Moot Court Committee encourages the extracurricular activity at Law School in which participants take part in simulated court proceedings involving drafting memorials and participating in oral arguments. The committee is dedicated to organizing such events that encourage students to polish their advocacy skills.

Q2. What opportunities does your Committee provide for students?

The committee offers the students to participate in Intra and National Level Moot Court Events. As Mooting is an important and crucial part of Law School life, the committee works to deliver the best Mooting opportunity to the students to let them explore practical aspects of the law.

Q3. What does the future hold for your committee?

In the future, the committee anticipates manifold experiences for students to explore and master proficient Mooting. The committee works exquisitely towards providing students with exhaustive Moot-Court opportunities impeccably.

Q4. What are your expectations from the students?

The Committee expects the students to fervently participate and develop a dynamic personality by enriching their Mooting knowledge. The students must take away the best from what the committee is wholeheartedly dedicated to providing them with.

Q5. How does your club/committee contribute to students' college experience?

Mooting plays a significant and important role in building the personality of future lawyers. We assure the students, when they will look back they will realize how Mooting helped to make their personality and CV attractive. And this is what they are going to miss the most about Law Life.

Q6. How does it profit their skill set?

When a student Moots, it's the start of their life as a lawyer. Arguing, drafting, researching, team working, building self-confidence, proving your point right, standing by aside, finding loopholes, being polite and calm while a judge during Moot questions, perseverance, accountability, analytical skills, and the list goes on. Mooting comprises the whole package of opportunities you were looking for while choosing Law as a career.

Q7. Any tips for students on how to excel in the competitions you conduct?

Participate, Participate, and Participate. Nothing will be more helpful than your own experience when it comes to Mooting. The committee works in the most earnest manner possible to make sure the students are benefitted from the same. But it comes to the devotion and will of the students. The Committee is available personally to each student to solve and help them with whatever they come across during the process of Mooting. We aim at maximum participation and maximum experience. Just Participate!

ALTERNATE DISPUTE REDRESSAL CLUB:

Q 1. What is the role of your club/committee?

Our club's role is to organize various seminars and competitions related to mediation and also send students for various competitions and summits related to ADR.

Q2. What opportunities does your Club/Committee provide for students?

Our club provides students opportunities to learn about various methods of ADR such as mediation. We also provide them a platform to develop their negotiation skills.

Q3. What does the future hold for your club/committee?

In the future, we are expecting to organize seminars with the help of various mediators and we will also organize a Mediation competition.

Q4. What are your expectations from the students?

Our expectations from the students are to participate in the competitions and seminars that are being organized.

Q5. How does your club/committee contribute to student's college experience?

We help them learn negotiation and mediation skills that are important for law students.

Q6. How does it profit their skill set?

It will add the skills of negotiation, conciliation to their current skill set.

Q7. Any tips for students on how to excel in the competitions you conduct?

The students should know how to settle disputes by providing a win-win situation to both parties.

DEBATE CLUB:

Q1.What is the role of your club/committee?

Freedom is hammered out by the anvil of discussion, dissent, and debate -Hubert H. Humphrey Our club aims to create an environment that fosters healthy discussion and inculcate argumentative spirit. Our club is in charge of organizing debates, colloquiums as well as send students as representative of KPMSOL to debate competitions elsewhere.

Q2. What opportunities does your Club/Committee provide for students?

Our club provides a platform for students to debate on topical issues of the day. A debate typically requires a student to prepare for both sides of the argument. This helps the students to develop a multi-faceted approach, thereby leading to the development of the mind. The debate can act as a stepping stone for moots and MUNs as students are already familiar with debate even before they attend college and the formality and paperwork required in a debate are less.

Q3. What does the future hold for your club/committee?

We plan to conduct large scale events in the coming future as well as increase student participation in fests outside.

Q4. What are your expectations from the students?

In debate competitions, we expect students to sell their points truly from the heart, irrespective of their beliefs. In a debate competition, it's the truth that wins, the participant is just the facilitator. Thus, the students should refrain from personal attacks on opponents and respect their opinion as well.

Q5.How does your club/committee contribute to student's college experience?

A debate has multiple formats and isn't restricted to legal issues. This enables us to venture out and create a diverse set of events for students. The simplicity of debates also helps us conduct multiple events throughout the year.

Q6. How does it profit their skill set?

Debate inculcates on the spot thinking. It helps develop public speaking and a multifaceted approach towards problems. Further, learning how to put the point across while maintaining a cool head is crucial in the legal profession and debate is a good place for that.

Q7. Any tips for students on how to excel in the competitions you conduct?

Raise the quality of your argument, not your voice. Remember the difference between assertive and aggressive and strive for the former.

PLACEMENT COMMITTEE:

Q1.What is the role of your club/committee?

Providing internship & placement opportunities to students and developing cordial relations with the legal fraternity and the corporate world.

Q2.What opportunities does your Club/Committee provide for students?

Internship & Placement opportunities across various fields of law.

Q3.What does the future hold for your club/committee?

In a very short period, the committee has achieved a very high success rate in providing internship opportunities to students in the socio-legal, corporate, and criminal fields. The committee aims to secure higher targets in near future for the betterment of the institution.

Q4.How does your club/committee contribute to student's college experience?

Legal education cannot be restricted to classroom knowledge, therefore internships become mandatory for students. By providing internship opportunities the committee helps students with practical knowledge of the legal field.

Q5. How does it profit their skill set?

Understanding of the law, practical knowledge, CV-building, work experience, multi dimensional approach towards law, etc.

Q6. Any tips for students on how to excel in the competitions you conduct?

Participating in legal Summits, national seminars, guest lectures, work experience, etc.

DIPLOMACY CLUB:

Q1. What is the role of your club/committee?

The diplomacy club will allow the club to indulge in various types of operations, including lectures, mock sessions, panel discussions, seminars, and workshops, etc in relevance to international relations to contribute to the development and general education of students. We organize youth parliaments and MUN conferences to propagate international relations and learning regarding the same.

Q2.What opportunities does your club/committee provide for the students?

The students can embrace the concept of engagement of youth in public policy and decision making along with encouraged opinion-building through empathy & consensus above all.

Q3 What are your expectations from the students?

I expect students to 1) participate in MUN organized by other schools 2) be enthusiastic about the MUN we will be organizing. 3) have a proper schedule between studies and committee work timing. 4) to take this opportunity seriously in attending as well as conducting.

Q4. How does your club/committee contribute to student's college experience?

An MUN conference is every college or school's biggest event. I would like to describe this in a two-fold manner. First when you participate. when a student participates in a conference they socialize make new friends, they learn how to respect other types of ideologies, it will give them immense exposure. MUN has social nights too and MUN conferences are known for that too. secondly when you organize it. Organizing an event is always fun and adds to the maximum of your college experience. The late-night preparations, decorations add to memories.

Q5. How does it profit their skill set?

1)Enhancement of communication skills
2)confidence-building 3)Management skills 4) helps them in delegating and being delegated 5) socializing 6) teamwork 7) research methodology skills 8) reputation and carrying oneself in different types of attires. 9) public speaking 10) hospitality management 11) logistical support management 12) helps in knowledge building.

Q6. Any tips for students on how to excel in the competitions you conduct.

Follow rules of procedure, research well, be confident even if it's your first conference, don't get intimidated by other speakers, try and communicate as much as possible, inculcate from other student's experience.

CENTRE FOR EXCELLENCE:

Q1. What opportunities does your Club/Committee provide for students?

The club arranges for seminars, workshops, and events to help students gain a practical aspect of theoretical studies.

Q2. What does the future hold for your club/committee?

We look forward to inviting eminent lawyers and judges so that students can have a much better knowledge about what and how can they pursue the profession.

Q3. What are your expectations from the students?

We expect students to participate in large numbers as this would benefit them.

Q4. How does your club/committee contribute to student's college experience?

The speakers whom we invite are specialized in their subjects and thus students could use this knowledge in many ways. Some of which can be backing their views with the examples mentioned by the speakers or even could help them to gain deep knowledge in their academic subjects.

Q5. How does it profit their skill set?

The speakers whom we invite are specialized in their subjects and thus students could use this knowledge in many ways.

Q6. Any tips for students on how to excel in the competitions you conduct.

Raising more and more queries would not only help them but would also help other students understand the subject in deep. So raising queries is one of the best ways to get out whatever the speaker has the knowledge of.

CLASS PHOTOS

(All photos in this segment have been included based on maximum possible inclusion of all students, but due to the Covid-19 pandemic, the Committee was unable to take official class photos. Thus, some students may not be present in these pictures, and the Committee sincerely apologises for the same.)

B.B.A., LL.B. (Hons.) [Second Year]



B.A., LL.B. (Hons.) [Second Year]



B.B.A., LL.B. (Hons.) [First Year]



B.A., LL.B. (Hons.) [First Year]



SHORT ARTICLES

Types of Arbitration

- Kartikeya Awasthi, B.A., LL.B. (Second Year)

Arbitration is an adjudicative Dispute Resolution and it is recognised by the Indian laws. Arbitration is governed by the Act known as The Arbitration & Conciliation Act, 1996 which was amended twice in year 2015 and 2019 respectively. In India the matters which are Arbitrable in nature are solely Contractual Disputes, but where rights emanating from a statute are involved, the determination is to be done by the courts.

An Arbitral tribunal is a private forum chosen by the parties to a contractual dispute to get their civil or commercial disputes determined privately unless jurisdiction of Arbitral Tribunal is expressly barred. The Act does not specifically exclude any specific category of civil or commercial disputes from arbitrability. The Supreme Court of India in its judgment of **Booz Allen & Hamilton Inc. v SBI Home Finance Ltd and Ors** listed six categories of disputes which are non-arbitrable, they are:-

- i. Disputes relating to rights and liabilities which gives rise to or arise out of criminal offences;
- ii. Matrimonial disputes relating to divorce, Judicial separation, restitution of conjugal rights, child custody;
- iii. Guardianship matter;
- iv. Insolvency and winding up matters;
- v. Matters related to grant of probate, letter of administration and succession certificate ; and/or
- vi. Matters related to eviction of tenants where the tenants enjoys statutory protection against eviction by special statutesIn addition to the above, the Supreme Court in its recent decision in **Shri Vimal Kishor Shah & Ors v Mr. Jayesh Dinesh Shah & Ors** stated that cases arising out of trust deeds and The Trust Act,1882 are it be listed as non-arbitrable disputes. The Apex Court reasoned that a trust deed cannot be construed as an Agreement let alone an Arbitration Agreement as per section 7 of the Act (which is based on Article 7 of UNCITRAL Model Law on International Commercial Arbitration, 1985).

Ad-Hoc Arbitration

PROS	CONS
<p>i. Suitable for various claims: if properly structured, Ad-Hoc Arbitration is cost effective as compared to institutional Arbitration. The parties can formulate appropriate and impartial proceedings by incorporating suitable Arbitration rules.</p> <p>ii. Control of the process: Parties can present their own rules and set convenient timelines for the Arbitral process. The tribunal, and to a diminished degree, the parties can arrange and conduct the proceedings.</p> <p>iii. Cost effective: In comparison to Institutional Arbitration, Ad-Hoc Arbitration is cost effective. The parties will save the administrative fee paid to any institution (generally on the expensive side).</p> <p>iv. Tribunal remuneration: Unlike in Institutional Arbitration where the institution prefixes the Arbitrator/s fee, in Ad-Hoc Arbitration the parties have the opportunity to negotiate the Arbitrator/s remuneration directly with the Arbitrator/s, who mostly treat the process in a detached manner.</p>	<p>i. Disagreement between parties: The contrasting views of parties may at times be a barrier due to varying degrees of expectations and misinterpretations.</p> <p>ii. Selection of the Arbitral Panel: Parties have to rely on their judgement while choosing an Arbitrator. Prejudices due to national bias or insufficient expertise and knowledge of well renowned foreign Arbitrators may affect the Arbitration.</p> <p>iii. Lack of expertise: It is well known that an Arbitration clause is given little attention in a contract. In the lack of such diligent review, Arbitration may be governed by national laws which may provide default provisions due to an omission in the agreement between the parties.</p> <p>iv. Failure to co-operate: Ad-Hoc Arbitration requires both parties to come together in a spirit of cooperation, backed by their lawyers, with an able procedural timetable and legal system in place to avoid a stalemate. Non-cooperation will more often than not result in a deadlock. Such roadblocks may be required to be resolved by the parties, which will involve a further expenditure of time and costs. The parties may approach courts to resolve such issues to make headway in the Arbitration leading to further expenses and defeating the purpose of an Ad-Hoc Arbitration, namely, resolving the dispute as soon as possible.</p> <p>v. Default: Processing with an Ex-Parte Ad-Hoc Arbitration is risky. The party placed ex parte can challenge the award on the basis that the party was not provided an impartial opportunity to present its case. Also, stating the obvious, the party present will have to bear the costs of the Arbitration, including the remuneration of the tribunal until the costs are recovered from the party placed ex parte.</p>

Institutional Arbitration

PROS	CONS
<p>i. Reputation: The enforcement of an Award from a well-known Arbitration institution is perceived to be beneficial, the executing court may naturally be more accommodative to an institution considering its reputation, e.g. the ICC, given that such institutions have Arbitrations continuously and are relied on for well-supervised Arbitrations. Further, the parties have the advantage of clarifying or seeking assistance from the institution regarding the Arbitration.</p> <p>ii. Supervision: Certain Institutions (like the ICC) review an award by a tribunal before it is published to the parties. This provides for an extra layer of protection which ensures that the content and reasoning are in the lines with the claims / counterclaims. The review is limited to the procedural grounds and does not interfere with the decision on merits, which analyses the compliance with the due process during the Arbitration.</p> <p>iii. Quality of the Arbitral panel: Every international arbitral institution maintains a database of Arbitrators to help the parties appoint the Arbitrator/s in the relevant specialized field of dispute. Some institutions also ensure that there is no conflict to complete the mandate i.e. independence, impartiality, etc.</p>	<p>i. Administration fees: Apart from the costs of the Arbitrators and their respective counsels, the parties have to bear additional fees payable to the institution. In addition to this coordinating with the institution is time-consuming, further increasing expenses.</p> <p>ii. Bureaucratic rules: The informal means of dispute resolution at times may become unnecessarily bureaucratic with the procedural requirements of some arbitration institutions. However, such red-tapism allows for a smooth and organised arbitration, and diminishes procedural conflicts and uncertainty during the arbitration.</p> <p>iii. Sovereignty issues: If a state is involved in arbitration, more often than not, the state may be reluctant to submit to the authority of an institution. This may be purely for political reasons, notwithstanding the stature of the institution.</p>

There were discussions at the Convention to agree disputes which were not arbitrable, however, an agreement could not be reached. Accordingly, each country decides its own arbitrability.

Types of arbitration

There are 2 types of Arbitration followed in India Ad-Hoc Arbitration & Institutional Arbitration. Ad-Hoc Arbitration is subject to a lot of vagaries, such as disagreement amongst parties at different stages of the dispute and uncertainty in the process. Institutional Arbitration is superior on all those fronts. However, a key disadvantage of institutional Arbitration is its cost. A cheap and yet reliable institutional Arbitration framework is likely to trump all the forms of Ad-Hoc Arbitration. Some of the famous International Arbitration Institution such as London Court of International Arbitration closed down their India office.

Execution of arbitral award

Section 36 of The Arbitration & Conciliation Act, 1996 talks about execution or enforcement of Arbitral awards. Once an award is made, the award holder has to wait for a period of 90 days to apply to the appropriate forum for its execution. In this period of 90days, the award might be challenged under Section 34 for the award to be set aside. The court has authority to enforce an award concerning a sum of money, attachment of property, damages, specific performance etc. it can also capable to grant an anti-suit injunction to prevent the award being challenged in a court other than the court of the seat of Arbitration.

An award can only be enforced in the court that has jurisdiction to entertain such application. Only the district judge has jurisdiction to entertain an enforcement application for domestic awards. In a landmark ruling by the Supreme Court **Sundaram Finance v. Abdul Samad & Ors** the court stated that an award holder can initiate execution proceedings in the appropriate court of any district where the assets are located. This makes the process of execution for award holders extremely easy and accessible. For an award from an international commercial arbitration seated in India, one has to approach the Commercial bench of a High Court of the city where assets are located. For a foreign award, one has to approach the commercial Bench of the High Court of the city where assets are located.

It is compulsory to stamp a domestic award before presenting it in court for enforcement or execution. Section 35 of The Stamps Act provides that any award that is insufficiently stamped or not stamped shall be inadmissible for enforcement. For foreign award; the Supreme Court in case of **M/S Shriram EPC Ltd v. Rio Glass Solar SA** stated that foreign awards do not need stamping and can be executed without any stamping requirements. The main reasoning of the court was that a foreign award is not covered by the term “Award” mentioned in Item 12 of Schedule I of The Indian Stamp Act, 1889.

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Unravelling the Shadow of COVID-19 behind Closed Doors

- Pratima Barde, B.B.A., LL.B. (Second Year)

"I'm calling you from the ration shop as I'm scared to talk from home. My husband lost his factory job a month ago and is always in the house. He beats me in front of the kids, doesn't help around and flings the liquor bottle at me if I try to reason things with him. I'm trapped in my own house. Please help!" (April 2020)

Shockingly such calls have been a new trend at various non-profit organisations amid this lockdown period in India. At this crucial time when the world was toiling this unprecedented situation named COVID-19, India witnessed a surgical rise in the cases of domestic violence. Violence against women is so deeply embedded in the institutional fabric of the society, that it is now a social problem that prevails in the Indian societies. It is the most common form of Human Right violation in the entire world. After generations of silence, finally this topic is coming in the limelight due to the popular support of media and various other factors. But the ultimate truth is that women in India have been oppressed and ill-treated since time immemorial. And by the fear of societal criticism and community remarks they don't raise voice for the same. The patriarchal set up of Indian society has always treated women as subordinate to men. They were treated as

chattels or the property of their husbands. Even if we are passed those days, we still witness that position of a women has still not changed in some part of the societies. Women in India has been ill-treated and oppressed since time immemorial. We have all come across to the stories of Dropti and Devaki of the ancient Indian histories, and then witnessed the darker side of the patriarchal society where women were always a subject of crime. Domestic Violence has been cutting across all the barriers of religion, culture, wealth, class, race, caste, sex, education, etc and is now a global problem. The post scenario of COVID-19 lockdown has precisely highlighted this fact. While the government were ramping up efforts to protect people from the virus by maintaining 'social distance', we forgot to think about those individuals for whom home is a place of fear. With no places to turn to, confined within the four falls, dealing with unemployed and frustrated elderly, the government has not only failed to ensure the safety of the women, and children who have been given specific recognition in the constitution due to this age old history of violence but also exacerbated the prevailing situation and has left no option to the victims but to suffer.

What is Domestic Violence?

There is no universally accepted definition to justify violence against women. ‘Domestic’ refers to our ‘home’ or ‘family’. So the term domestic violence signifies the violence that takes place within the family where the offender and the victim share a close relationship. All acts of physical, sexual, economic and psychological abuse are now included in the broader definition of Domestic violence. Domestic violence is the patterned and repeated use of coercive and controlling behaviour to limit, direct, and shape a partner’s thoughts, feelings and actions. Any abusive, coercive, violent act or words inflicted by any member of the family on another can constitute domestic violence.⁵ It is synonymous with domestic abuse and can be experienced by any individual.

Causes for Domestic violence in India

Domestic Violence is used as a tool to establish control and fear in a relationship through violence. There are many reasons for this unhealthy and violent behaviour that is executed. The need to dominate or control the other individual may take form of a physical or a mental abuse. This need can be because of various reasons such as unemployment, poverty, jealousy, anger, social stress, cultural or religious practices, some sort of physical disorder or rigid mentality that domestic violence is a part of normal life, etc. Alcohol and drugs are also one

of the most prominent reasons of abuse. Such people lose control on their mind and display violent behaviour.

‘Home’ is considered as the most safest place for any individual, but the bitter truth is that women are prone to a greater risk of being assaulted in their homes by their loved ones than by the street strangers. Apart from this gender norms or gender inequality is the most customary reason of domestic violence. Some abusers have acknowledged that they have been victims of abuse themselves while they were being raised. While others have confessed, destructive behaviour.

Specifically in times of COVID-19, as distancing measures are put in place people have no option but to stay indoors. Access to all their networks has been denied, the stress of a job loss or other family burden is exacerbating the violent behaviour.

Increasing risk of domestic violence during COVID-19 pandemic: A statistical analysis

The nationwide lockdown has fuelled people with frustration, social and financial stress, anxiety and uncertainty of the future, etc which resulted with a steep rise in the cases of domestic violence in India. ‘Right to live with dignity’ or even the basic ‘Right to life’ has completely vanished. According to the World Health Organisation, one in every three women across the globe experience physical or sexual

violence in their lifetime either by an intimate partner or any perpetrator. The NCRB report states that in every 1.7 minute a crime is recorded against women in India and a woman is subjected to domestic violence every 4.4 minutes. The National Family Health Survey (NFHS-4), 2015-16 highlighted that 30 percent of women in India between the ages of 15-49 have experienced physical violence.

The National Commission of Women (NCW) which records complaints of domestic violence against women has recorded a more than two fold rise in the gender based violence during the initial phases of lockdown.

Laws for combatting domestic violence

Part III of the Indian Constitution, manifests special provisions that are made for women and children due to the history of violence meted out to them. There are other women centric provisions in IPC (Section 498-A: cruelty), Section 125 in CrPc and many such provisions in the personal laws too which act as an effective redressal mechanism to women who are victims of abuse or violence. Other than this we also have the Convention on the Elimination of All Forms of Discrimination against Women, 1979; The Vienna Accord of 1994; the United Nations committee on CEDAW; etc which gives insights on the international responses to eliminate all forms of violence. Furthermore, to strengthen this position after a lot of discussions finally a first legislative attempt was made in 2005 to define domestic violence against women in

broader terms. Indeed, this act is a counterpart of the Sexual Harassment of Women at Workplace Act, 2013. This act intended to be a giant leap forward to realize the goal of completely eliminating any sort of harassment, cruelty or abuse to women at the household at the hands of a male relation. The preamble of the Protection of Women from Domestic Violence Act 2005, envisages its objective and provides an effective protection of the rights of women guaranteed under the Indian Constitution for those who are victims of domestic violence. Other than this it aims to strengthen the economic independence of women in society.

There is one universal truth applicable to all countries, cultures and communities: violence against women never acceptable, never excusable, never tolerable.

- Ban Ki-moon

Current Scenario:

The NHFS data highlights the fact that majority of the women do not seek help when they are victims of domestic violence, and there are many reasons for the same. Seeking help is not easy as it sounds. They believe in this fact that the person whom they want to complain against is their loved one, and it is only the circumstance that's making them do it and it shall not happen again. But domestic violence is like a vicious circle which never stops. Low self-esteem, isolation, family pressure and lack of community support are some

reasons why this vicious circle of violence continues.

With the failure of the Indian government, to assist the victims of violence in this time of crisis, the NGO's have come into picture and ramping efforts to rescue these women. Usually the police is not the first port of call for victims of domestic violence, therefore there need to be some alternatives in place. Other than this most of the women will not have privacy to make such calls or text to these helplines or authorities. Many women are unprivileged and do not have the means like cell phones to even make a call. So ultimately the voice of such women's is unheard in the society. Activists believe that the data revealed does not highlight the true figure of the women who are victims of such violence. They believe that it could be just a tip of the iceberg, as women from the underprivileged communities have no means to reach out.

Solution to fight against violence during pandemic

Our options are limited; our hands are tied up due to the fear of this virus. But the least we can do is not give up. To all those who are enduring violence, should not give up! They should raise a voice against it without thinking of the consequences of their act. '*Acceptance is the first step towards protection*'. Once you accept the bitter fact, everything else will fall in place. There are many non-profit organisations which are working 24*7 for the safety of these women's.

We need to include support services against domestic violence as 'essential services'. With the advent of social media spreading information has not been a challenge. The government should broadcast the helpline number on all the networks. Not only this, but there should be a special task force assigned to help the NCW to track cases of domestic violence. Only such additional support will make a difference in the existing situation.

Recently a bench of Chief Justice D N Patel and Justice C Hari Shankar of the Delhi HC had directed the authorities to ensure that all the helplines and Whatsapp numbers through which victims can seek help are kept functional and to respond to calls or messages received on them. This was done to ensure effective implementation of the provisions of the DV Act post lockdown. Every state and Union Territory needs to take such proactive measures to eradicate violence.

Conclusion

Rights of Women and Children should be treated as inalienable and indivisible part of human rights. India should adopt a 'zero tolerance' policy against domestic violence against women. During this situation there can be varying causes for this violence within the four wall. The stability of the justice system lies in its effort to protect freedom and provide justice in all facets of life. Even after having all the laws in place women in India still undergo domestic violence. We need to take an effort to

protect freedom and provide justice in all facets of life. Even after having all the laws in place women in India still undergo domestic violence. We need to take an effort to understand and analyse these causes. There needs to be an end to this socio-legal problem. Currently there are many NGO's and various other Non profit organisations that have been constantly taking an effort to reach out to these women

and provide them emotional, financial and mental support. We need to spread awareness through all possible mediums to extend support to the victims. We need to make sure that nobody is deprived of justice. And every victim should raise voice against violence, regardless of the fact if the offender is a loved one. Because the bitter truth is that he is still a perpetrator of violence.

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Criminalisation of Triple Talaq

- P.Nivruthi, B.A., LL.B. (First Year)

From qubool hai to talaq talaq talaq, the marriage of a Muslim woman could be summed up in 5 words. But not anymore. Thankfully, the Indian government has passed the Muslim Women (Protection of Rights on Marriage) Bill 2019 which criminalizes Talaq-e-Biddat or instant triple talaq. Talaq-e-Biddat is a form of divorce under sharia law in which a man can divorce by merely saying "talaq talaq talaq". This regressive practice was deemed unconstitutional in *Shayara Bano v. Union of India and Anr.* [(2017) 9 SCC 1] following which the Muslim Women (Protection of Rights on Marriage) Bill 2019 was passed.

This act is a huge step towards women empowerment as Talaq-e-Biddat violates a woman's right to equality. This form of divorce doesn't give the woman the right to pronounce divorce. It only gives a man this right, this stands in violation of Article 15 of the Indian constitution. It is misogynistic and inhuman on the part of the society to not just leave the woman voiceless but to also expect her to pack up and leave. This catastrophic power that the man holds over his wife is a whip that is going to be the death of her instrument of choice. Moreover, Talaq e-Biddat initially had a 3 month waiting period called iddat which was later ignored and so divorce came as a shock to a lot of Muslim women. One second they were married and in the next, they're divorced. After this legislation, it would be a prepared

and a well thought out decision rather than a moment of transient fury. It's time to reconsider and formalize. This act ensures that life altering decisions like divorce aren't taken in the heat of the moment and helps in

reducing impulsive decisions.

Passing of this act was the need of the hour because it was about time that this age old tradition should have been done away with as even the countries in which Islam is deep rooted like Pakistan and Saudi Arabia have banned this heinous practice a long time ago.

On the contrary, criminalization of triple talaq might not be the best idea as punishment doesn't necessarily translate to better social engineering. In this case, the husband might be imprisoned for a maximum period of 3 years while the wife has no source of income which will ultimately lead to her suffering again. Criminalizing a civil matter will definitely have its repercussions.

The fact that offenders will be imprisoned might demotivate women to come forward about this because it is about their own husbands and the stigma against coming forward will lead to a lot of these cases being buried which will defeat the entire purpose of the legislation in the first place. As a country, India and Indians have finally established the importance and indispensability of consent and this should be no exception. If it takes two people to start a marriage, it is only just that it takes both to end it. Arbitrarily enforcing one's will with no recourse for the victim is nothing short of harassment. Rather than this decision being enforced onto the people, it should have a common ground between what the people want and what is *ultra vires* the constitution.

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Green Justice In India

- Rajshri Shrivastava, BA.LLB (First Year)

The color before the word justice mentioned here has now become the reach-to-goal for every state of the country, be it the green zones under the COVID-19 pandemic or the much anticipated Green India Mission pertaining to its nature of environmental justice. The umbrella of environmental justice or the actively called 'Green Justice' is wide-ranging which seeks not only implementation of environmental law, but also protection and preservation of the environment encompassing maintenance of ecological balances and a pollution-free living. It promotes green recreation which means such sustainable arrangements that work in parallelism with the trade and developmental imperatives which are vital to market economy. Speaking of justice, the idea here is to also make sure that no group or section of the society shares a disproportionate impact of the negative consequences on the environment that follow with the industrial development.

Environmental jurisprudence seemed to be absent from the original version of the Indian Constitution. However, under the 42nd Amendment Act of 1976, a Directive Principle concerning the protection of environment was added to the Constitution. Widening the ambit

of 'life' under Article 21 of the Indian Constitution, the Supreme Court stated that Right to Life with dignity also includes Right to a safe and healthy environment and shall be considered as a fundamental right. Following the wake of certain environmental awareness combined with the demand of justice for the endangered environment, in 1996, the Supreme Court created a 'green bench' also called, the forest bench. It was in 2010, following the recommendations of the 186th report of the Law Commission of India that the making of a separate tribunal pertaining to environmental laws and rights is the need of the hour, led to the creation of the National Green Tribunals. India is the third country after New Zealand and Australia to craft such a separate system of Green Courts and hence, this is considered a significant step towards paving the path to green justice.

Ever since, Green Judges and Green Advocates have made the headlines. Recently, retired Hon'ble Justice Deepak Gupta, a Supreme Court Judge, made many elevating judgments concerning environment degradation in his tenure which reflected that environmental degradation is in fact an outcome of the collapse of Rule of Law.

Often do the courts of justice find themselves caught in the crossfire between the ‘right to environment’ and the ‘right to development’ wherein the only way out is a framework where development sustains with the environment. However, the green activists who were exuberant with the formation of NGTs seem dissatisfied with the functionality and the appointments of posts in the present years. In fact, in the past ten years, the NGT never got the required strength of members from judicial and expert community.

Though following its own merits and demerits, this system cannot be rendered a complete fiasco. Providing justice to the environment is not only the role of the Courts of justice but is a vested responsibility of each individual who is a part of such exquisite environment. The idea of justice is extensive and is often puzzling, but the idea of a pure and green environment is simple and explicit. The efforts lie in connecting the two ideas.

Non- Banking Financial Companies (N.B.F.C.s) and its Impact on the Indian Economy

-Aryann Jaju , B.B.A., LL.B. (Second Year) and Pratima Barde, B.B.A., LL.B. (Second Year)

For a large and diverse country like India, ensuring a sound and vibrant financial system is a prerequisite for the growth and economic development of a nation. Over the past few decades there have been a lot of changes in the financial system of the economy. In this prevailing scenario, the non- banking financial companies (NBFCs) sector has scripted a story that is remarkable. They are an alternative to the mainstream banking system. The NBFCs have been providing the complementary services to the economy, like other financial institutions, including banks for fulfilling the funds requirement of the society. NBFCs play a vital role in catering financial requirements to a wide variety of customers especially to those classes of borrowers who are generally excluded from the formal banking sector. They have an edge over banks because of their flexibility and timeline in meeting the credit requirements and low cost speculations which is beneficial for the SMEs and the MSMEs. The NBFC sector largely depends on market and bank borrowings, and is hence meshed into a web of inter-linkages with banks and financial markets. One of the most interesting features of NBFCs is that they have a strong connection at the grassroots level and have maintained a source of touch and communication with the semi- urban and rural segments. The Micro Small & Medium Enterprises (MSMEs) have been defined in India under the MSMED Act 2006 on the basis of capital investment made in plant and

machinery, excluding investments in land and building. In recent times, MSMEs have acquired a lot of attention in India taking into consideration their strategic importance to the country and its economy. 48.8 million MSMEs in the country provide employment to 111.4 million people. These stats clearly show that MSMEs play such a vital role in generating employment. In spite of their contribution to the Indian economy, MSMEs still face lots of challenges. They frequently have to keep up and adjust with the fast changing technologies or else face the risk of becoming technologically outdated. Not just this but they also have to face the elevated costs of credit. The importance of availability of finance and the accessibility to these sources have been understood and identified by MSMEs. MSMEs contributed about 29% to the GDP (Gross Domestic Product) in the Financial year of 2017. This shows the significance of MSMEs for the growth of the economy of the country. NBFCs help out those borrowers who are usually excluded by the Banking sector and that includes MSMEs. NBFCs are the most suited to provide MSMEs with all their business requirements in terms of finance. This is because NBFCs provide easier processes in terms of payment of credit and the repayment of these loans are quite flexible and friendly, even though at a slightly higher cost. NBFCs have been an important business entity for quite some time in rural and semi-urban areas, so there is an opportunity for them to establish

NBFCs have a lot ways in which they serve MSMEs. They do it through (i) Provide an all-round view of the borrower, risks involved, cash flows along with the multiple sources of data if there is no formal data present and accordingly provide differentiated and appropriate credit; (ii) Offering products customized according to the target segment; (iii) risk-based pricing; (iv) Less time consumed in approving credit and getting the payment due to technological processes and the same procedures being used every time. NBFC sector lends around 20% of the MSME sector's credit requirements, clocking a Compound Annual Growth Rate of 30% over the past 5 years. NBFCs that mainly focus on MSMEs generally adopt unique and distinctive business models depending on where the MSME is geographically based so that sector penetration can be improved.

In spite of all of this, there is still an estimated credit shortfall of INR 25 trillion in the MSME sector. This shows the available potential in the MSME sector to increase the GDP of the country even more if it gets the required credit. The lack of credit has resulted in curtailed growth. If the credit shortfall is met with and fixed, the MSME sector has the potential to add approximately INR 30-50 trillion to the GDP. NBFCs will have

to be proactive and play a significant role in increasing the MSME economy if the credit shortfall is to be met with. NBFCs as shadow banks are thus tremendously vital to the economy, especially in country like India where a large portion of its population lives in rural and semi- urban areas. Their focus and specialization in giving credit to MSMEs by segmentation on the basis of a combination of geography, sector and clientele is the reason for NBFCs being able to design services in such a method that they serve their customers in the best way. NBFCs are proving to be the backbone of the country's most essential sector i.e. the MSME by helping them in various ways and fulfilling their capital requirement. Thus NBFCs has helped the economy in attaining the macroeconomic objective by creating employment opportunities and promoting the SMEs and other private industries by lending loans. It is expected that this sector continues to remain robust and stable and ensures growth of the most important sector of our country.

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The Ayodhya Verdict

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The verdict was given by a 5 judge constitutional bench comprising of the then Chief Justice of India Justice Ranjan Gogoi, Justice S A Bobde, Justice D Y Chandrachud , Justice S Abdul Nazeer and Justice Ashok Bhushan with the judgement being unanimous in nature. The first recorded instances of religious violence in Ayodhya occurred in the 1855. Certain "Sunnis claimed that the Bairagis of Hanumangarhi had destroyed a mosque that existed atop it. The Muslims charged on the Hanumangarhi but were repelled and routed.

They hid inside the mosque of Babur that lay at a distance of less than a kilometre from Hanumangarhi." The Babri mosque was attacked by Hindus in the process. Since then, local Hindu groups made occasional demands that they should have the possession of the site and that they should be allowed to build a temple on the site, all of which were denied by the colonial government.

From this various kinds of violence were continuously inflicted on by both the parties through various centuries with placing of an Rama idol and beginning its worship which resulted in the mosque being converted into a de facto temple and then subsequent demolition of the mosque by the crowd on 16 December 1992 during a rally held by various leaders like L.K Advani, Murali Manohar Joshi and Uma Bharti with the conflict boiling down to various terrorist outfits like Indian Mujhahedeen using it as an excuse for its various terrorist attacks on the site of demolition of the Mosque in 2005.

The parties in the case were – Gopal Singh Visharad, an individual who claims he has the

right to worship Lord Ram at Ayodhya; the Nirmohi Akhara, one of the three parties who was offered a portion of the ownership as part of the Allahabad High Court verdict; the Sunni Waqf Board, also offered a portion; and Ram Lalla, the deity, who through a sherbait claims full ownership of the place.

The Supreme Court starts its judgement with a reminder: "This Court is tasked -with the resolution of a dispute whose origins are as old as the idea of India itself."

The Supreme Court relied on accounts from travellers Tieffenthaler and Montgomery Martin and corroborated by both Hindu and Muslim witnesses. It drew an inference of identifiable places for offering worship by Hindu pilgrims at the disputed site. The order notes that Babri Masjid was constructed in 1528 under the command of Babur. It also notes the communal riots between Hindus and Muslims necessitated the British administration to build a grill-brick wall in

1858.

After perhaps centuries of conflict over the land in the city of Ayodhya the whole incident in all its legendary glory and prestige , on November 09 2019 ended up being a fiasco for the Wakq Board and a victory for the Hindus. The judgement directed after taking in all the records and archaeological evidences that the disputed land of 2.77 acres be given to the parties who were in favour of the construction of the Rama Mandir and the parties in favour of Mosque be allotted a different piece of 5 acre land for the construction of Mosque.

They directed the centre to set up a trust within the three months time of the judgement. Till the trust was set up the ownership of the land was to be with the centre. The court also upheld that the Mosque was not abandoned by the Muslim parties that was previously quite strained upon by the other party. Instances of the place if not regularly then for the Friday prayers being used were documented by the court. The Archaeological Survey of India (ASI) gave the court the evidence that stated that another building stood in before the construction of the Mosque, which is now demolished too. The court accepted the evidence stating that it would be a great disservice to the ASI for taking there findings as a mere opinion. The Shia Wakq Boards claim was also dismissed and the court also held that the Muslims were not able to establish their ownership on the land and that the underlying structure was not Islamic in nature. The court also held that the demolition of the Mosque was not the right thing to do and should have been done at any cost. The suit filed by Nirmohi Akhara for sherbaiti rights has been time barred and hence was dismissed. The court said the Akhara might be made a part of the Trust. The Supreme Court refers to Places of Worship (Special Provisions) Act, which prohibits conversion of any place of worship, to say that all religions are equal.

“At the heart of the Constitution is the commitment to equality. Constitution does not distinguish between one faith and another”, says the CJI.

Finally the trust was made by the centre as per the guidelines of the Supreme Court and the foundation stone was laid down, marking the beginning of the construction of the temple on 05 August,2020.

COVID-19 Pandemic-Opportunities for India

-Sneha Nair, B.B.A., LL.B. (First Year)

The COVID-19 is an unprecedented global pandemic severely impacting every facet of public health, economy and livelihood. The last recollection of such a global phenomenon was the Spanish Flu in 1916 which took more lives than in the Second World War.

India, as on May 17, 2020 has reported over 90,000 confirmed cases surpassing China's count at 82,947, thereby potentially becoming the epicenter of the virus in Asia. It would be overly optimistic to think that we would be able to go back to living our normal lives by the end of this May, but given the fatality of this virus, this seems like a far-fetched dream. As most countries are in the midst of a lockdown, millions of people, particularly migrant workers, are out of jobs. There is a shortage of tax revenue to the governments. Most of the companies and MSMEs are unable to pay their employees and are leaning towards bankruptcy. PPPs, ventilators and healthcare as a whole, is falling short contributing to a few of the collateral damages caused by the fatal Coronavirus.

The Government of India has tried to do its best to ease things for the economically backward classes who are suffering the most during this time. In his third address to the nation, the Prime Minister, Mr. Narendra Modi announced a 20-lakh crore stimulus package in order to ease the troubles faced by the country. The objective of this package envisioned the country

becoming 'self-reliant' ('Atmanirbhar Bharat') which could help in boosting the country's economy during and post the pandemic.

The world's over reliance on China, which established itself as the manufacturing hub of the world over the last three decades, got exposed during the outbreak of Coronavirus thereby severely impacting supply chains all over the world. It is as the saying goes, "when one red sock mistakenly ends up in the washing machine with a large pile of white laundry—the entire load turns out pink."

China has found itself under global scrutiny since the outbreak of the virus, both for its delay in not alerting the world for its severity as soon as possible and for reprimanding doctors and journalists who served as forerunners of the pandemic. Factoring in the ongoing trade disputes before the COVID-19 outbreak between the US and China, a lot of global firms are planning on diversifying their manufacturing bases away from China. Countries like Japan, South Korea and India are looking to capitalize on this opportunity. For attracting global manufacturers, India has certain inherent advantages such as a large pool of low cost and diversified work force; cheap land parcels; a developed capital market; large domestic consumption and above all a democratic set up with apposite rule of law.

India has already established its credentials in IT services, pharma and engineering. Therefore, diversification of global supply chain may throw up opportunities for India to become a ‘manufacturing hub’.

Having said that, it will be appropriate to caution that our future development strategy should not be dependent only on above possibilities. We should also fully tap domestic potential to be more resilient to the global shocks. It is why the Prime Minister has highlighted the importance of ‘local’ and urged to be ‘vocal’ about ‘local’. Recent thrust on infrastructure in the country throws huge opportunities for growth, employment generation as well as overall productivity gains. A large pool of experienced migrant laborers is unemployed and are waiting to find jobs. India is at the cusp of capitalizing on this opportunity. There cannot be a better time for this, when the entire world is looking at India as an investment destination as an alternate to China.

India also has the opportunity to expand its healthcare infrastructure and emerge as the global hub for pharma and healthcare. India’s ability to manufacture low cost vaccines at a very large scale could prove to be a game changer. India must also accelerate the ‘Digital India’ initiative across a range of sectors such as Edu-tech, health-tech, fin-tech and E-commerce.

This is also the most appropriate time when India can make a special effort for attracting foreign portfolio investments. The investments by Aramco in Reliance and Facebook in Jio

amply demonstrate the global desire for partnering with successful Indian businesses.

Historically, India has been one to thrive in a crisis like the 1991 Balance of Payments crisis. This time around, the economy is in a better condition and this could be the best time to repurpose the ‘Make in India’ initiative along with ‘Atmanirbhar Bharat’.

The announcements in the past weeks show an urgency to change the post COVID-19 narrative from survival to revival. The crisis has forced us to think innovatively in order for us to go back to our normal lives, but I suppose our normal has a new definition now.

The Citizenship Amendment Act, 2019

- Sayon Bhattacharya, B.B.A., LL.B. (First Year)

Often hailed as the first time religious identity has been used as a criteria for citizenship under the Indian law, Citizenship Amendment Act 2019 has been one of the most controversial legislations passed by the populatorian Bharatiya Janata Party. The bill was on the party's manifesto for a very long time, however it was first introduced to the Lok Sabha in 2016 where it was passed however the bill could not reach till presidential assent due to widespread political opposition in the Rajya Sabha. The party revisited its commitment to amend the citizenship act in its 2019 with a rephrasal of the bill stating that religious minorities (non-muslim) in neighbouring muslim dominated countries such as Pakistan, Afghanistan, and Bangladesh would have the option for an expediated citizenship program. Following the tensions of north eastern states they were excluded from the jurisdiction of the bill as were tribal areas under the state of Assam. It is to be noted that the bill is aimed at providing relief to those fleeing religious persecution in particular, thus the division of muslims and non-muslims as it is assumed that muslims cannot be persecuted under an islamic government.

The bill was finally passed on 4th December 2019 and consequently by Rajya Sabha on 11th December, receiving presidential assent the very next day. The act was to begin enforcement from

10th January 2020. In essence the act is an amendment to the Citizenship Act of 1995 which allowed citizenship to illegal migrants from Afghanistan, Bangladesh, and Pakistan who practiced Hinduism, Sikhism, Buddhism, Jainism, Zoroastrianism, and Christianity having entered India on or before 31st December 2014. Under the old law, the requirement for citizenship is fulfilled by the applicant having lived in India during the last 12 month and for the 11 of the last 14 years. The amendment however brings down the 11 year requirement to a lowly sum of 5 years for practitioners of the aforementioned religions emigrating from the named nations.

Intelligence Bureau records indicate that the immediate beneficiaries of the amendment will be 31,313 people while the majority will be hindu population, sizeable number of sikhs and christians make up the denomination as well. Heavy criticism emanates from the exclusion of known persecuted muslims from muslim states, for example Ahmadiyyas in Pakistan are under heavy persecution as they are considered heretics similarly Hazaras who are hounded and murdered en masse in Afghanistan by the Taliban. Indian government stands its claim by quoting Kerala High Court's decision in Shihabuddin Imbichi Koya Thangal vs K.P. Ahammed Koya which recognised that Ahmadiyyas are but muslim.

The government further stands its ground by saying that Muslims in Islamic Nations are “Unlikely to face religious persecution and thus cannot be treated as persecuted minorities”.

The aftermath of the passage of said act was a particularly cold one, given violent protests and civil unrest throughout India and a similar response from the global community wherein Indo-Japan Summit which was supposed to host then President of Japan, Shinzo Abe was called off. The UK, USA, France, Israel, and Canada among other nations issued travel warnings to its citizens in the wake of such civil unrest. Among these, the most important protests was being held in shaheen bagh in New Delhi where muslim women began 24/7 protests, late February saw tensions reaching a boiling point as riots broke out in parts of Delhi resulting in death toll in no less than 42 individuals in 36 hours. The bill has also been criticised by India’s foreign intelligence agency R&AW which has expressed concern in a deposition to a joint parliamentary committee saying that the provisions of this bill could be used by agents of foreign intelligence agencies to legally infiltrate India.

International backlash in the wake of this bill’s passage was incredibly notable as well. The United Nation called the bill “fundamentally discriminatory in nature” while The Office of the United Nations High Commissioner for Human Rights filed an intervention in the Supreme Court of India. The United States Of America through The United States Commission

on International Religious Freedom similarly called for sanctions against Home Minister Amit Shah and “other principal leadership” which questioned the intent of the bill quoting “Any religious test for citizenship undermines the most basic democratic tenet” however on President Trump’s historic visit to India, he declined to comment on the same. To conclude, yes there may be some elements where the lawmakers could have made a more judicial use of words and judgement to come to a compelling and morally upstanding piece of legislation. For all intents and purposes, this is an internal matter of India and the effects of the same remain to be seen as the legislation comes into use over the years.

RESEARCH PAPERS

Reservation system in India and an analysis on 103rd Constitutional Amendment Act - Darshit Vohra, B.B.A., LL.B. (Second Year)

ABSTRACT

The reservation system is prevailing in India since ages this research paper tries to analyse the history of reservation, various landmark judgement passed on the issue of reservation. This paper also lists down various amendments made in the constitution for insertion of various clauses on reservation. This research paper further analysis the 103rd constitutional amendment Act process of insertion in the constitution, further lists down various arguments which are against the Act like The basic structure doctrine, Principle of equality, Reservation to be granted solely on economic condition of a person etc. Arguments in favor of the act include protecting social equality, discretion of the state etc. In this paper various possible judgements by the Supreme Court on this issue is being predicted. Further paper has various recommendations to eliminate errors existing in the Act.

KEYWORDS

Basic structure Doctrine, Creamy Layer, Arbitrariness, Equality, Backwards, Reverse Reservation and economically weak.

INTRODUCTION: Reservation refers as providing special benefits to a group of people who are not able to compete due to their social

and educational background. The dictionary meaning of reservation is act of withholding something. This system in India was introduced to promote and provide opportunity to those classes of people who were backward. The reservation is undertaken to address the historic oppression, inequality, and discrimination faced by those communities and to give these communities a place in the society. Reservation is governed by various laws, rules and regulations. The main purpose of reservation is to "level" the playing field. Those people who are socially and educationally backward get percentage vacancies in job, admission in schools and even get preference in job promotions. Reservations were introduced to uplift the status of those who were the Reservations in India are given on the following basis: (i) Caste:- It is very peculiar to India as large number of lower castes suffered long in the hands of the upper castes thus to bring them to the mainstream so that they can become give their contribution in the upliftment and betterment of country, earlier reservation was only given on the basis of castes. like ST, SC and the OBC.

(ii) Religion:- In few states like Andhra Pradesh, Kerala there is provision for reservation on the basis of religion.

(iii) Domicile:- In some states in few areas the posts are reserved for the domicile of that state.

(iv) Gender:- For women few seats are reserved in some educational institutes and in some State services.

v) Economic criteria-Those who are economically weak ,they are getting reservation up to 10% in education institution as well as job promotions after the 103rd constitutional amendment Act.

Reservation system in India

Pre-Independence

The reservation system started during the British era. In 1901 reservations were introduced in Maharashtra in favour of non-Brahmin and backward classes. Benefits were given to those categories in education and in employment. There were reforms made in favour of and against reservations before the Indian Independence. Simon commission in 1927 proposed for separate electorates for depressed classes and demand for the wider franchise as the economic, educational and social position of these depressed classes did not allow them to vote properly, it was strongly opposed by Mahatma Gandhi and by many other congress leaders. Poona pact came into force on 1932 when the Prime Minister McDonald announced awards for the separate representations were to be provided to Muslims, Sikhs, Indian Christians, Anglo-Indians, Europeans and Dalits Depressed classes were assigned a number of seats from special constituencies in which voters belonging to the depressed classes were only given the chance to vote. After that in 1935 under Representation of people's Act reservation on seats were granted to the depressed classes. In 1943 reservation for the Scheduled classes became effective.

Post-Independence

Post-Independence the reservation policy gained even more imputes than the pre-independence era. The Constituent assembly chaired by Dr. B.R Ambedkar who framed the reservation policy. There are various measures taken by the government to uplift the people of backward classes, SC and ST.

Constitutional amendments for inclusion of reservation

-In 1995 Indian Parliament added reservations in promotions to the Schedule Castes and Schedule Tribes by 77th Constitutional Amendment insertion of Article 16 (4A) in the Indian constitution.

-81st Constitutional Amendment which inserted Article 16(4B) which provides that vacancies are present in the current year shall be carried in the succeeding year

-After the Indra Sawhney judgement in 2000 82nd amendment was passed which provided relaxation of marks for SC, ST and other backward classes.

-93rd Constitutional Amendment made provisions for upliftment of socially and educationally backward classes of people was inserted in the constitution by making an amendment Article 15(5)

-And recently 103rd constitution amendment is passed in the parliament which provides reservation on the basis of economic criteria in Job promotion and admission in education institution instead under Article 15(6) of the Indian Constitution. And Article 16(6) of the Indian Constitution.

Article 335 of the India Constitution

The Article states that the State shall take into account the claims of members of Scheduled Castes and Scheduled Tribes to any seats in administrative positions, but the appointment

should improve the administrative effectiveness, the state should not appoint them only on the basis of their social status.

Article 46 of the India constitution

This article sets a guideline for the state to make special provision in economic interest for the weaker section of the society and also protect from all kinds of injustice. In the insertion of 103rd constitutional amendment by the state was done under this guideline.

Landmark Judgements on reservation

State of Madras Vs Smt Champakan Dorairajan

Government provided seats in medical and engineering college on the basis of caste which was eventually struck down by the Supreme Court. After that parliament passes the amendment which inserted Article 15(4) which allows the state to make special provision admission of socially and educationally backward classes, SC and ST.

M Balaji V State of Mysore

An order was issued to provide reservation up to 68% in medical and engineering colleges in Mysore. The classification is as follows

1 Backward class 28%

2. More backward class 20%

3. SC and ST 18%. The court struck down the order and held that its crossing the limit of 50% and the classification made is unreasonable.

Indra Sawhney V. Union of India

In this case the judgement was given by the 9 judge Bench decision with the majority of 6:3 held that 27% of reservation should be provided to the other backward classes and creamy layer should be excluded. The total reservation should not exceed 50%. In this case it was declared that reservations for economically poor among forwarding castes as invalid.

M Nagraj v Union of India

In this case the judgement was given by the 5 judge bench similar to the Indra Sawhney case in this case court kept the ceiling of 50% and the concept of creamy lawyer. The State before making the provisions of reservation must prove that there exist reason on the basis of backwardness, inadequate representation etc for making such provisions.. It at the discretion of the state of to give reservation to SC ST and other backward classes it is not obligated to grant reservation.

Jarnail Singh vs. Lachi Narayan Gupta

In this case the Supreme Court revisited the Nagraj judgement the court made certain modification .It accepted the assumption of backwardness of a group by virtue of being declared Scheduled Caste or Scheduled Tribe and said no data was required to justify the backwardness.

Mukesh Kumar vs. state of Uttarakhand.

In this case the 2 Judge Bench held that people of backward class do not have a fundamental right in promotions in jobs it's at the discretion of the state of make special provisions if state makes a special provision it has to justify with quantifiable data.

Analysis of 103rd Constitutional Amendment Act

124th Constitutional Amendment Bill

This constitutional amendment provides 10% reservation to economic backward in upper caste. The bill seeks to amend article 15 and article 16 of the India constitution

It was passed in both the houses of the Parliament (Rajya Sabha and Lok Sabha. The President Ram Nath Kovind gave his assent to 124th Constitutional Amendment bill of the Indian constitution, which is now 103rd Amendment Act of the Indian constitution.

Definition of Economically weaker sections under 124th constitutional amendment Bill.

-Economic weaker sections shall be such as may be notified by the state from time to time on the basis of the family income and other indicators of economic disadvantage. Criteria for reservation.

-All members of the family together should earn less than 8 lakh per annum.

-They should have less than five acres of agricultural land.

-They should not possess a residential flat of 1000sq foot or larger.

-They should not possess a residential plot of 100 yards or more in notified municipalities 200 yards or more in areas other than notified municipalities.

Previous attempts have been made to include economic criteria as a part of reservation.

The P.V. Narsimha Rao government in the year 1992 had attempted to give reservation to the economically backward but it was struck down in the Indra Sawhney case.

The Kerala government in the year 2008 decided to give reservation to the economically weaker sect were granted 7.5% seats

In the year 2011 the chief minister of UP wrote a letter to the prime minister for making a reservation for those who are economically poor.

A bill that was passed in the Rajasthan assembly in the year 2015 which granted reservation to the economically weaker in the society was struck down as it breach 50% rule.

Gujarat High Court in the Dayaram KhemkaranVerma vs. The high court of Gujarat quashed the ordinance which granted reservation on economic criteria in the year 2016.

SR Sinho Commission on Economically Backward Classes (EBCs), 2006 submitted their report on 2010..

This commission suggested measures to uplift the economic backward class.

1.An amendment was recommended for economically poor in the general category

2.The commission recommended people in the general category .who are not paying taxes should be treated as OBC's.

3.EBC children to be made eligible for easy loan facilities for higher education, scholarships, coaching for central and state civil services examinations and subsidized health facilities.

4.There should be special training programs for the economical weaker section so that they can earn their livelihood and also recommended setting up of a National Commission for providing financial assistance to EBCs

Features of the 124 Constitutional Amendment Bill

The reservation for the “economically weaker Sections” in educational institution and public employment in addition to existing reservations.

Under Article 15 of the Indian Constitution due to this amendment clause (6) is been inserted in the constitution of India which provides powers to the state can make effort by making special provision related to admission in educational institutions including private educational institutions whether aided or unaided.

Under Article 16 of the Indian Constitution due to this Amendment clause (6) was inserted in the constitution of India which provided powers to the state to make special provision related to reservation in appointments and posts in favour of economically weaker section of the society .

It's at the discretion of the state to make special provision for economically weaker sections of the society and there is no compulsion them to make it.

The bill also states that it was drafted at the will of the mandate article 46 of the directive principle which urges the government to protect the interest of people who are educationally and economically backward in the society. Socially disadvantaged sections have enjoyed participation in employment and services from the state, no such benefit was provided to economic weaker section of the society.

124th constitutional amendment bill passes in the parliament.

-The bill was introduced the Lok Sabha by Thawaar Chand Gehlot Minister of Social justice and empowerment.

-The Lok Sabha passed the 124th constitutional amendment bill 323 members voted in favour of the bill 3 members voted against the bill. It was further passed in the Rajya Sabha with majority and therefore 124th constitutional amendment bill became 103rd Constitutional amendment Act.

Government claims on 103rd constitutional Amendment Act

-The government claims that people aren't getting fair chance to represent themselves as because they are economically poor so it is necessary to make provision for those people.

-It's at the discretion of the state to make provision for the economic weaker sections of the society.

-The government also claimed that many instances where reservation were granted on economic criteria were struck down by the court as because they didn't have any constitutional backing and therefore they are passing this amendment so that it will get legal sanctity. Supreme had only set a guideline that

reservation should not be more than 50%, but it's not a law previously many states have crossed that limit

-Initially reservation was given on the basis of caste to uplift them now the scenario has become of reverse reservation and the people in the general category aren't getting equal opportunity.

-50% reservation was only for the caste based reservation and not for economic weaker section, reservation won't be impacted.

Current status

Currently the constitutional validity of the Act is challenged in the supreme court by an NGO name Youth for equality on three grounds.

A.Economic criteria shouldn't be the ground for granting the reservation. B. Reservation quota can be granted over and above 50%. C. Insertion of article 15(6) and article 16(6) of the Indian Constitution is a violation of a basic structure of the constitution.

Supreme refused to put a stay on 10% reservation for economically weaker class..

Previously there have been various efforts made by the government to counter judgements via amendments.

-Tamil Nadu's 69 per cent reservations for SC, ST, Backward Classes (BC) and Most Backward Classes (MBC) which breaches the 50% ceiling rule on reservation. They passed to include this law in the ninth schedule to protect from judicial scrutiny. In I.R Coelho vs. State of Tamil Nadu the Supreme Court ruled that laws placed in the Ninth Schedule did not enjoy a blanket protection from judicial scrutiny. However, the Supreme Court is yet to pass the judgment on this case.

-In a judgement which curtailed reservation on promotion of SC and ST 77th amendment was passed which inserted new clause S16 (4A) which provides promotion to the SC and ST.

4.-In Indra Sawhney the court held that relaxation of qualifying marks were held impermissible. Later government passed the 82nd amendment which granted SC, ST and socially and educationally backward relaxation for qualifying marks.

-There was a stipulation that number of reserved vacancies to be filled up in any year, including the carried-forward or backlog reserved vacancies, should not exceed 50 per cent in Devadarshan vs. Union of India. 81nd amendment inserted 4B under article 16 allowed the segregation of the backlog vacancies from the current vacancies and lifted the 50 per cent 'cap' on the backlog vacancies.

Arguments against 10% reservation on the basis of economic criteria

1.The reservation quota is granted over and above 50% : In order to balance equality the substantive rule that was setup which was not to exceed the limit of 50%. Reservations were included to provide equality to the minority sect. In Mr Balaji vs. state of Mysore in this case Supreme Court struck down 68% of reservation granted in medial and engineering colleges and held that it should not cross the ceiling of 50%. In the Indra Sawhney vs. Union of India held that limit of 50% shall not be exceeded barring exceptional circumstances. In the M Nagraj vs. Union of India 50% rule was included in the width test without which the structure of Article 16(1) of the Indian constitution would collapse. Hence 50% rule forms an integral part of the basic structure doctrine. . There is no compelling reason to breach the limit of reservation i.e. 50%. Currently the percentage of reservation is 49.05% because of this act the reservation increased to 59.05%. The protected groups which are competing with the unreserved category, which was the ultimate aim of the reservation won't be able to compete due to the actions of the government.

2.Should private institutions be forced to implement Article 15(6): The question that arises that whether private institutions whose main purpose is to earn profit. In P.A. Inamdar vs. State of Maharashtra in this case Supreme Court held that government cannot impose reservations on unaided and private education. Applying this judgement, the private and unaided education cannot be forced to include reservation on the basis of economic criteria.

3. Breach of Article 14 of the constitution:

This amendment violates the principle of equality which tantamount to violating the basic structure of the constitution. Under Article 14 classifications can be made on two grounds

1.On the basis of reasonable differentia.

2.The classification should be nexus with the object of the act. The amendment don't satisfy either of the criteria there is no proper differentia made and the object is to uplift the economic backward class the aim of reservation was never to have complete access on seats but to reach out to hands of particular groups which are not represented. There is no need to pass an amendment instead government can introduce various schemes to uplift people who are economically backward. The criteria of family income doesn't match to the goal of reservation In Mg Badappanavar vs. state of Karnataka in this case supreme court held that "equality is a basic feature of the constitution treatment of equals as unequal's violates the basic structure of the constitution. Therefore economically backward should not be treated like other backward class

3. Reservation cannot be granted only on the basis of economic criteria: There have previously various attempts made by the government to provide reservation on the basis of economic criteria which has been struck down by the court in the Indra Sawhney judgement.

In Jarnail Singh vs S. Lachmi Narayan in this case Supreme Court held that backward classes are understood as

socially or educationally backward or SC, ST and OBC. It doesn't mention about the economic criteria for being backward. Similarly Gujarat government passed an ordinance in 2016 providing 10% reservation for economically weaker section of the society the state government try to rely on the loophole of extraordinary circumstances but high court of Gujarat held that there is no extra ordinary situation no reservation should be provided on the basis of the economic condition. Caste based reservation helps to reduces social and educational disparity which was the main aim of introducing reservation by giving reservation on the basis of economic condition it's a way of reducing poverty for reducing poverty granting reservation is not the only way there can be various employment schemes, poverty alleviation schemes be introduced by the government. Reservation on the basis of caste was provided as because they faced abuses and discrimination for many decades. They were denied education, health care etc. These things justify caste based reservation but reservation on the economic criteria instead discourages people to work hard due to the benefits that are going to be provided in this Act.

5.The introduction of reservation to the economic weaker section is violative to the basic structure of the constitution. : Every provision in the constitution can be amended until and unless it is not violative to the basic structure of the constitution. In the case of Kesavananda Bharati vs. State of Kerala. The Supreme court ruled that constitutional amendment can be struck down if it is violative of the basic structure of the constitution. In the case of M Nagraj vs. Union of India case laid down twin tests namely with test and the test of identity which satisfies the validity of a constitutional

amendment. The width effect decides the legislative scope. The identity test refers as whether after the amendment the constitution remains the same or not. The amendment violates the basic structure

1. Breach of 50% rule.
2. Absence of compelling reasons for whom the reservation is made. The amendment violated both the width and the identity test.

Arguments in favour of the bill

1. Not violative of 50% cap on reservation:

This act has been opposed that it is violative of 50%, but this is not in the first instance where this 50% limit is breached. Though 50% reservation is considered as a maximum limit but under extraordinary circumstances the limit can be breached. The second contention that is claimed is that 50% reservation is on the basis of caste and not on the basis of economic criteria. There have been many instances where 50% mark is crossed Tamil Nadu 69% reservation for SC, ST, and backward class in seats of education institution.

2. Not violative of the Basic structure Doctrine: It has be rightly mentioned in the previous point that it is not violative of the 50% mark set by the government. Previously ruling were given in relation to the law or subordinate legislation and is never been discarded on the basic structure doctrine. The Supreme Court has never used basic structure to invalidate a constitutional amendment in the past decade.

3. This amendment is consonance with the principle of creamy layer exclusion principle: The 103rd constitutional amendment is in consonance with the creamy layer principle. The creamy layer also proposed economic indicator to adjudge people in the OBC category. The rationale behind that was they were socially advanced with the forward class. The same rationale is applied in the 103rd constitutional amendment so that people who are

economically weaker can compete with people who are economically sound.

4. Economic criteria for reservation :

In Ks Jayshree vs. state of Kerala notified that candidates belonging to the families whose annual income was 10,000 and above would not be eligible for backward class for their admission in the medical college court held it to be a relevant factor so here in this case reservation was given on the basis of economic criteria which wasn't objected by the court. If we analyse statistics there is poverty in all communities. Due to reservation it's creating caste divisions it a good intention to discriminate on the basis of income rather than caste and religion. The Supreme Court in Ram Singh vs. Union of India case while striking down Jatt reservation hoped that there can be new grounds for deciding reservation economic criteria to grant reservation can be one of the criteria.

5. Motive to uplift the economically weaker people:

The main motive of the constitutional amendment is to uplift the economically weaker section of the society so that they can compete with the other people without having any disability. It is also one of the effective measures to reduce poverty from the society. It is necessary that in all the sections of the society justice should be done. Reservation is provided to the economically weaker section of people without affecting the existing reservation. Previously there have been various committee that were set up which held that reservation should be provided to the economically weaker section of the society. Under Article 46 the state also has the power to make provision for economic interest of people. Therefore the state is well within its power to introduce this article

6. Complying to the principle of equality:

The person who is having an annual income less than 8 lakh and the other person who is having an income of 20 lakh can't be considered as

equal therefore it is necessary to make distinction between them because they are not equal. Therefore the government has introduced this reservation to uplift them so that they can compete and they don't lack behind.

7. At the discretion of the state whether to implement this amendment or not:

One of the important point in favor of the amendment is that it's not compulsory for every state to introduce this article those states who feel that people are not able to complete with other people due economic backwardness can implement this section.

Possible Judgments of the Supreme Court on 103 Constitutional Amendment Act

1.The Supreme Court will struck down the 103rd amendment Act in full as it is violative to the basic structure doctrine.

2. The Supreme Court quashes the part of the amendment where ridiculously high income is set to reduce it so that deserving get the benefit.

3.Supreme Court upholds the 103rd amendment Act but if this is done the repercussion are worse other categories of people would demand more percentage of reservation as after that there would not be any cut off.

Personal Opinion

The amendment is introduced in the constitution to uplift the economically weaker section of people by providing reservation in jobs, educational institutions and promotions but reservation is the only way to uplift the economically weaker class? Reservation was initially introduced for those communities who were not represented adequately in our society but over the years the criteria of reservation has changed through various constitutional amendments and various judgements by various Courts. There could have been various measures other than just introducing reservation like implementing various schemes like scholarships, employments scheme etc. Though the motive was positive to uplift the weaker section but it cannot be ultra-virus to the various features of the constitution though there are points in favour of the bill the damage is more than the profit which the act is going to provide. It's a measure taken by the government to reduce economic inequality but it's against various principles of democracy. Therefore the amendment made in the constitution should be struck down as because it is violative to the basic structure, Right to equality and on other various contentions. Even if the Supreme Court approves this amendment implementation is going to be a problem. There are various recommendations:

- 1.If reservation is to be provided to the economically weak section of the society the eligibility criteria should be changed annual income less than 8 lakh should be reduced.
- 2.It is necessary to fix a time period or else it would continue till eternity.
- 3.Reservation can be restricted to only one generation.
- 4.10% reservation exceeds the limit 50% set which is unjust for those who apply on the basis of merit.
- 5.Reservation should solely not be given on the

economic condition of the individual it doesn't corroborate with the purpose of reservation.

Conclusion

Reservation system in India has started over 200 years ago considering the current situation it feels that it is going to continue till eternity. Those who are enjoying the benefit don't want to give up on their right. As long as there is a positive discrimination then it's appropriate where people are not getting opportunity to represent they should be provided with special provision but now a day's reservation system is misused many communities feel that having a reservation is their fundamental right and if not provided they cause public nuisance. Recently in the 103rd Amendment Act which has more problems than benefits even though the Late ex-Finance Minister Arun Jaitley claimed that it will stand the judicial scrutiny as because this time there is a constitutional backing provided to reservation on economical background which was not provided by the Narsimha Rao government but looking at it practically it is difficult that it will pass the judicial scrutiny as because it is violating various principles of the constitution. Thus reservation should not be introduced for personal agenda of the political parties it should be introduced when the backward people actually require and when the state has a quantifiable data for proving the reason for granting reservation. Reservation should be granted when no other measure is available to cure the problem or else it will cause arbitrariness in the society.

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PLURALISM AND THE UNIFORM CIVIL CODE: APPLICABILITY IN INDIA

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*This paper was presented by at the National Seminar on Feasibility of Uniform Civil Code in India at the Kirit P. Mehta School of Law, Mumbai on March 7, 2020

ABSTRACT:

The debate surrounding the Uniform Civil Code stems from the existence of the 44th Article of the Indian Constitution which signifies that the framers of the Constitution expected a time in the future when such a code would be found to be the need of the hour. Goa successfully implemented the Portuguese Civil Code, 1867 and decided not to forsake it once they gained independence from this colonial power in 1961. However, the real test of the Uniform Civil Code lies not in its adoption by a state in which a major section of the demography is homogeneous, but in its implementation in a state as diverse as India.

India is generally held in high regard as a melting pot of cultures, religions and languages. This heterogeneity has led to India focusing largely on protecting its minorities in this unity in-diversity setup. However, it is worthwhile to note that most homogeneous countries with clear religious and cultural majorities have also failed in implementing legislation's akin to the Uniform Civil Code. For instance, the 31st section of the Malaysian Adoption Act, 1952 specifically asserts that this act is not applicable to the Muslim citizens of Malaysia who, in fact, form more than 60% of the total population of

the country even though Article 3 of the Malaysian Constitution defines Islam as the "religion of the federation". States in the Middle East stand proof of the fact that trying to implement a uniform religious policy may, even inevitably, lead to extremist radicalization. While the Uniform Civil Code may not have been feasible in the past decades, its existence, hypothetically, may have avoided numerous communal and religious conflicts that have shaped the socio-political and religious discourse of India today. It remains to be seen whether such a policy will prove to be inclusive of all religious practices without further dividing the country on communal lines by diluting the secular spirit of the Indian state.

Introduction- The Uniform Civil Code

"Secularism and pluralism are two of the defining ethos of Western societies. The former decouples religion from governmental institutions whilst the latter seeks to protect the rights of all citizens to freely practice their creed"

-G. Saad

The Uniform Civil Code, enshrined in the 44th Article of the Indian Constitution, is an aspiration of the Indian state to make its shift

from a set-up defined as secular to one that makes India a pluralistic society. While secularism is the mere existence and the acknowledgment of such diversity, pluralism is an energetic engagement with such diversity. This paradox is most intriguing- for whilst India, in its constitution's preamble, is described as a state that is secular, the next few lines of the preamble guarantee each citizen liberty of faith and worship. Multiple debates over the nature of the would-be Indian state occurred at the offset of the framing of the Indian Constitution where the framers set forth a debate on the wide range of social realities present in India especially with reference to the Code's violation or lack thereof with regard to Article 25 of the Indian Constitution which speaks of the right to practice, profess and propagate the religion of one's choice. The imposition of a Uniform Civil Code is but a positive obligation on the state that manifests in the form of a Directive Principle of State Policy- non-justiciable and eventually enforceable at the option of the state majority and only upon obtaining the assent of the concerned communities.

The Directive Principles of State Policy are a set of Articles in the Indian Constitutions that act as guidelines for future legislators that they may follow to fulfill the aspirations of the constitution makers. These were intended to act

in keeping with the rights and freedoms that the bringers of independence and framers of the constitution intended to gift to the Indian people but were impractical to implement at a time when creating and maintaining unity, law and order in the wake of recent independence, partition and control, or lack thereof gained onus over ensuring the implementation of such laws. On the other hand, it is valid to question the present state of affairs in the country and its conduciveness to the bringing about of a Uniform Civil Code that will forever change the fate of civil and personal laws in the nation. Implementing Article 44 will, no doubt, prove to be a herculean task. The very logistics of it are tough to imagine, especially in the age of widespread internet usage, fake news and yellow journalism. Further, the Indian state and its polity is no stranger to divide on communal lines and this divide is evident now, perhaps more than ever before. The advent of high speed internet at each fingertip has propelled conversation relevant to the state and its polity among all citizens and rising awareness is creating divide for and against a Uniform Civil Code as well. However, it is understood that whilst the implementation of a Uniform Civil Code has been an aspiration reiterated by the ruling party in multiple manifestos over a long reign of election cycles, that now is not the best

time for its bringing about. However, it may be unwise to wait too long in fear of great divide, lest the wait prove fatal to the Indian people and their respective rights to their practice of religion.

The enactment of a Uniform Civil Code would, prospectively, be an enthralling engagement in its fulfilment of the constitution makers' dream of assimilating Indian personal law into a unified code that not only protects and preserves civil law but also engages enthusiastically with Indian diversity. Yet, a scenario where the right wing is rising across the globe and feelings of nationalism and cultural and religious differences causing strife are on the horizon may prove to create a preferential tilt towards a single religion and its personal laws in the drafting of the code. The same personal laws have been applicable to Hindus, Jains, Sikhs, Zoroastrians and Buddhists in India since independence on the pretext that these religions are "quite similar" to Hinduism leading to compromise with personal laws unique to these religions. A Uniform Civil Code may lead to further dilution of the practices of these communities and may endanger the practice of these religions in the country. Furthermore, the fact that Muslims are given the liberty to practice their own personal laws may be seen as unjust enrichment to them as opposed to these other religions. A truly pluralistic set up will be able to guarantee

equality not just between those who follow different religions, but also amongst the different religions themselves.

Historical Background

The Indus Valley Civilisation, heart of the ancient world was one of the most advanced of its time and of times to come. Little evidence has been found of religion causing strife among the primitive Indus Valley people who worshipped divine entities like the Mother Goddess. The Indus Valley Civilisation is considered the birthplace of Hinduism which was practiced widely in India until the advent of the Delhi Sultanate and the Mughals who brought the Qazi administration of Muslim personal laws to India.

Warren Hastings' Judicial Plan introduced Moffusil Courts in the areas of Bengal, Bihar, Odisha and Calcutta in 1772. These courts made no distinction in the administration of justice between Hindus and Muslims. This was not the case under the Mughal dynasty. The Judicial Plan of 1772, however, still governed people based on their respective personal laws. The Supreme Court in Calcutta was established in 1774 and delivered justice based on English law, Hindu law and Muslim law- the first instance where the laws, sentiments and cultures of other religions were ignored. The first law commission under Lord McCauley came to the

conclusion that there was a lack of Lex Loci or “law of the land” for the non-Hindu and non-Muslim citizens in 1835. This has been substantiated by the Supreme Court in many instances such as Mohd. Ahmed Khan v. Shah Bano Begum and Sarla Mugdal and others v. UoI.

Goa and Daman and Diu chose to continue following the Portuguese Civil Code, 1867 after gaining independence from the Portuguese in 1962. Pondichery follows the French Civil Code, 1802. Over the years, multiple efforts have been made to codify various personal laws but little has been done to form a Uniform Civil Code that fulfils the needs of every religion practiced in the Indian subcontinent. It remains to be seen whether a Uniform Civil Code capable of catering to a country that is home to such immense diversity and differentiation will ever be brought into practice.

Hindus were governed by the Mitakshara and Dayabhaga schools of legal thought before independence and different sub-schools evolved under the same whilst the Shia and Sunni sects among the Muslims found different applications of the laws provided by the Holy Quran and were both further divided into different schools. Where Mofussil Courts honoured the personal laws of each Indian minority in the colonial period, practices unique to them and not widely

practiced were shunned in the wake of their assimilation with Hindu law. The Uniform Civil Code has, in that capacity, already been provoked and this is why the debate surrounding the same is, today, centred mostly on Hindu and Muslim personal laws. The bringing forth of such a code, though, has been rejected by influential members of both religious communities. Repeated attempts have been made to bring about something akin to a Uniform Civil Code in the country. A private member bill in the Rajya Sabha regarding the same on the grounds that the code would protect the personal rights of all citizens without considering their religion was squashed as recently as in February 2020.

Pluralism

Based majorly on dialogue and constant exchange of ideas, pluralism is the whole-hearted acceptance of diversity and an active and energetic attempt to both further and safeguard it. Pluralism, in the post-modern era, goes beyond the tolerance of another group's faith or behaviour and encompasses an array of self-enlightenment processes to educate oneself about these behaviours in order to grow not just tolerant, but wholeheartedly accepting of them. Pluralism refers to the active seeking of understanding across lines of difference. True pluralism is only found in theory, for no nation

has been able to cross over completely from being merely secular to pluralistic. A Uniform Civil Code will be required to be near-pluralistic in nature to function without causing any tussle between the wide array of socio-cultural and religious norms it will alter and impose. However, pluralism itself, even as the utmost need of the hour, seems to be unattainable. This is especially the case in a dynamic like India where multiple cultural and psychological sentiments are entwined with religion forming a set of mass belief systems waiting for a Uniform Civil Code to toy with their intricacies. The preamble also states that every citizen must be given liberty of thought belief and worship which encourages citizens to transcend boundaries and be open to other religions and coexist in the same demography. Pluralism thrives on this principle of coexistence and facilitates the same in an egalitarian society.

Is democracy conducive to pluralism?

Democracy is embodied by characteristics like secularism which is considered to be synonymous with pluralism in this day and age, but, as the legendary thinker Plato asserts in his writings, democracy has a tendency to be morphed from aristocracy and to morph into ochlocracy. Democracy is considered the rule of the people; and what is more disgraceful to the rule of the people than a blatant dismissal of the socio-cultural and religious rights of any

minority? Pluralism is not just tolerating minorities but understanding and accepting them and their practices wholeheartedly which leaves little scope for them dissenting. However, this tendency of democracy to turn into “mobocracy” at the saturation point of the people’s displeasure with their government’s intolerant policies stands proof to the fact that pluralism may never be a feature of democratic governments. In fact, most such governments often provide for a travesty of secular practices which push the citizen’s craving of pluralistic society out of their wants and needs.

Is UCC plausible in a pluralistic setup?

A pluralistic society would be a perfect host to the Uniform Civil Code since mutual respect among religions and cultures is expected to be a prominent feature of pluralism. As such, the most sensitive part of the debate surrounding the Code pertains to how it will be drafted and whether the personal laws of a single religion will be given precedence over the rest during the drafting process. India, being a secular Hindu population-majority country with a Hindutva agenda leading party governing at the centre cannot expect to draft such a Code without a slight preference being shown to Hindu personal law as opposed to the rest even though the intention is to have a sitting committee to

decide the fate of every aspect of personal and family law. It is hoped, for example, that the Hindu Marriage Act, 1955, the Muslim Personal law (Shariat) Application Act, 1937 and Sharia law, the Indian Christian Marriage Act, 1872, the Parsi Marriage and Divorce act, 1936 and the Special Marriage Act, 1954 will be assessed and the best and most suitable characteristics of each that may be seen as fit to be applicable to each marriageable individual in the country whilst taking into account the present environment will be compiled into a single uniform marriage act in a society with a pluralistic mind-set. On the other hand, one with a predefined Hindu, Muslim or ultra-secular mind-set would obviously display preference with regard to the political and communal atmosphere. It can be said that whilst a secular society aims to assimilate different religions, a pluralistic society facilitates their integration. Here, the Special Marriage Act, 1954 is a clear attempt to allow some amount of assimilation of communities from different religions in marriage, but hardly pushes for complete integration. Section 19 of the act, under the heading ‘effect of marriage on member of undivided family’ states that marriage under this act within the Hindu, Buddhist, Sikh or Jaina faiths shall lead to severance from the family.

When should UCC be implemented in India?

Eminent political personality and Karnataka Minister C.T. Ravi recently pushed for the implementation of a Uniform Civil Code in the wake of the Citizenship Amendment Act, 2019 protests that have been setting the country alight over the past few months. A pluralistic setup would have, perhaps, never birthed an Act which discriminates giving citizenship to individuals based on religion. The present case of the Citizenship Amendment Act stands testament to the fact that India is not ready for a Uniform Civil Code today. The re election of the Bharatiya Janata Party to the Centre in the 2019 General Elections is evidence that a majority of Indians are developing views that align with the party’s right-wing agenda. As was aforementioned, the party’s manifesto has repeatedly featured its intention to implement a Uniform Civil Code. Yet, leaders of the party have been recurrently questioned for their involvement in the 2002 Godhra communal riots and their display of lack of inclination to stop the same. Furthermore, growing cases of mob lynching and cow vigilantism and the overpoweringly communal state of affairs in the country prevent one from trusting that India is fit to receive the benefits of a Uniform Civil Code at this time.

These facts beg the question- did India miss the

opportunity to implement a Uniform Civil Code in the past?

The 42nd amendment to the Indian Constitution, often referred to as the mini-constitution and almost entirely reversed by the 44th amendment to the Indian Constitution sought to place the non-justiciable Directive Principles of State Policy above the justiciable and highly regarded fundamental rights. The period between the two amendments i.e. 1986 to 1988 can be seen as a fertile time to have laid the seeds of a Uniform Civil Code, but, India had larger concerns during her stint with national emergency and lost her opportunity to an easy bringing about of the Code. However, had it been brought about in this period, it would have been forced to cushion the after-waves of many regressive measures taken by the Gandhi government including the communal shades of the population control drive.

The relevance and need of the Code has been considered every time a communal riot has occurred in the country. It is evident that one cannot view the cause and effect of the Code in a time vacuum for political ideologies that take more than decades to form and furthermore take time to be absorbed into society. The Uniform Civil Code is much more than a mere act waiting its day of legislation. It puts entire communities and religions at stake and is an

open invitation for country-wide riots.

While Hindus, Muslims, Sikhs, Christians, Parsis, Jains, Buddhists and even Jews are considered major stakeholders and it is assumed that they will be consulted for the drafting of the Code, it is intriguing to note that “the world’s newest major religion is no religion.” Atheism and agnosticism are growing steadily as popular beliefs; in fact, two out of the six schools of Hinduism are known to be atheistic in nature. The Code may fail to consider this rising minority of those who almost or completely denounce religion. Further, tribal religion that looks to nature or the metaphysical as the supreme force may have customs and rituals that are completely different from those followed in the mainstream. Where the assimilation of various tribal communities in India is not adequate and entire tribal belts are left to their own local systems of their own tribal governments, the complete dismissal of their culture and practices is highly likely in the course of drafting and implementing a Uniform Civil Code.

Here, it is important to reiterate that pluralism in all senses- religious, cultural and pertaining in any way to caste, class and ethnicity is desirable to create a society that will welcome and preserve the Code. While post-independence Indian history failed to

present a perfect environment for the Code to be brought about and the present day socio-political environment in the country is unwelcoming to the same, it may be unwise for India to wait longer than a century to implement such a measure, lest the divide in personal laws grows vicious. For instance, a large chunk of the argument in favour of the imposition of a two-child policy of population control in India is based on political fear of the growing Muslim population of the country with eminent leaders declaring that only one community (the Muslims) is responsible for the population growth in the country. Such divide is rooted in the separation of personal laws for Muslims and other religious communities and can only be silenced by being breached.

India may, in its most outlandish case in the absence of a Uniform Civil Code in the distant future, face an extreme case of communal violence stemming from an ISIS-like ideological revolution. Today, one can trace ISIS' origin back to the prison works of the Islamic Brotherhood Egyptian Scholar Sayyid Qutb. 'Milestones', one of his most famous works translated to English, paints a picture of radical Islam and the dynamic between Islam and the west that had barely been shaped at the time of writing, but has proved deadly to the Middle East today.

Sayyid Qutb and his contemporary Islamic

scholars also produced a series of skewed perceptions of the Quran and laid down the principle understanding of what the world, today, calls 'Jihad'. Such extreme views that advocate finishing the faith of each follower of every religion but the one you profess is the anti-thesis of pluralism that India risks breeding upon waiting far too long to enact Article 44.

Arguably, though, flashes of the assimilation of personal laws that the Uniform Civil Code seeks to introduce in India have been seen over the past few decades, especially with reference to the legendary Mohd. Ahmed Khan v. Shah Bano Begum and Shayara Bano vs Union of India and others (Triple Talaq) cases.

Furthermore, Goa has a uniform civil code- like civil guideline which it inherited from its erstwhile Portuguese overlords. It is predominantly Catholic in nature and is an amalgamation of mercantile laws, feudal laws, family laws etc. However, this Portuguese Civil Code is not completely inclusive of all the sub-sects of Christianity and has no reference to Hindus or other religious minorities. An amendment made to the same in 1977 failed to completely rectify this fallacy of the Civil Code followed in Goa. In fact, Catholics marrying under the canon law were excluded from the divorce provisions of the civil law according to a 1946 agreement between the Catholic Church

and the Portuguese state which provided unfair advantage to those part-taking in Church marriages in the state.

Precedent in the Common Law System followed by India in the form of Article 141 of the Indian Constitution is the concept of the word of the Supreme Court being binding on the entire country unless specifically barring any part of the State and it is hence debated whether the Uniform Civil Code-like scenario in Goa is in violation to this 141th Article of the Indian Constitution.

Uniformity and Pluralism around the World

The dichotomy of the pluralistic and non-pluralistic identities of Singapore and Malaysia are worth noting in reference to the creation of an environment that may host a uniform civil law. Pre-colonial Singapore was a haven of tolerance but colonialism and British imperialism coupled with white supremacy displayed by the Europeans led to growing insecurities among local ethnic groups. Post-colonial Singapore sought to work actively towards nation building in terms of development of community, ethnicity and group rights. However, a tussle between religious bias and struggle for complete eradication of discrimination led to the gross neglect of individual rights and interests in violation of the most fundamental tenets of democracy.

Ethnic groups' interests were eventually brought into the political realm in Singapore and further clubbed with religion, diluting customs and traditions in the political arena. On the other hand, Malaysia, a highly homogenous country, made a valiant attempt to assimilate adoption laws pertaining to all groups into one document but, alas, a clause in the Malaysian Adoption Act exempts its majority from the law.

Lastly, Canada, since its independence from colonial rules, has been open to integration of different cultures. Canada was a British Colony but Quebec was one looked over by the French. Upon gaining independence, the divide between Catholic and Protestant influence and the following of the Common Law System as opposed to the Civil Law System in the two territories that seemed to be demarcated within the same country gave rise to the Constitutional right to cultures, religion and language which is enshrined in the 2nd section of the Canadian Charter of Freedoms and Rights. However, the implementation of these laws vary in Canada and Quebec. It is important to note here that Quebec follows the Civil Law System predominantly in civil private matters whilst criminal law is uniform over the country.

These countries present themselves as fitting case studies to two major observations relating

to the subject

1. No country has achieved complete pluralism
2. Countries, both homogenous and heterogeneous in religious composition, find it extremely difficult to implement uniform civil and personal laws to the entire population

Concluding notes

The most basic assumption regarding the Uniform Civil Code is that all parties with rights, freedoms, customs and traditions at stake will be consulted during the process of its drafting. Further, the Indian state aspires for each custom and tradition to be well-preserved and well respected if it stands the test of relevance with reference to the post-modern era. However, this may be in violation of prominent jurist Friedrich Carl von Savigny's historical perspective of law which places customs and traditions above all other sources of law.

It is impossible to point at a particular time in the future when it will be befitting to implement Article 44 to the Indian State. However, harbouring pluralistic intentions and secular attitudes in consonance with our pursuit to implement the Uniform Civil Code while simultaneously protecting individual rights seems to be a positive step towards the welfare of the state.

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CREATIVE SUBMISSIONS

Sedentary Introspection

We seek for love and it hardly matters,
Imbecile heads and their solipsistic clatter,
Seldom we find broken feelings,
We preach for love in darken dwellings.

We don't know if we are strong,
This faulty people calls us wrong,
Breach of love is tough road,
Walking alone in subtle mode.

Arduous ways leads to better roads,
Uncanny people and their fake nodes,
Never think if you are wrong,
Caring so much and Loving them long,

Afflictive chapter will come to an end,
Your pain and experience will let people to bend,
Don't worry if it's a bad page,
Life still remains to fill rest of blank page.

by Vedant Dubey [B.B.A., LL.B. Second Year]

My Child

We sat in silence while the dark wind engulfed us and a little too softly her head landed on my shoulder. And she, with her peach cheeks, asked me about the first time I had seen her.

With a broken heart I gave the faintest smile and told her how I had to rush to the hospital with the person she called 'mumma'. And how, after hours of anxiously waiting and walking around I finally saw her, tiny little Mia and held the enormous weight of responsibility on my shoulders.

With the prettiest purple in the sky, the clock ticked to six and I told her about how she couldn't say 'papa' so she said 'paw' and how she soiled her diapers right when it was dinner time and just how, she always knew when papa was in a mood to play.

She read the transparent tears that subsequently rolled down falsely as my expression of love while the adoption papers knew the truth

by Shuchita Ray [B.B.A., LL.B. (Hons.) [Second Year]

Let's Stitch Love

Stranger 1: 'Do you want to stitch?'.

'Your hues overpower mine'.

...

Stranger 100: 'Do you want to stitch?'.

'Our hues don't blend well together'.

...

An infinity and a half later, you walked into my house of picturesque threads and proposed, 'do you fancy stitching?'. I gladly raced to the cupboard of our memories to find our hues holding each other in tiny, little drawers waiting to be entwined together.

I weaved your white and my peach for all the happy times.

I contrived your black and my blue for all the devil's own times.

I interlaced your orange and my yellow for the seemingly insignificant moments that subtlety made their way into our shelf of memories.

I fabricated the three into an apparel to shield us from the brutal weather (labyrinth of life) with golden and silver sparkles to remind us to shine along the way home (path to death, heaven), hoping that the hues won't perish after chronic thunders.

by Shuchita Ray [B.B.A., LL.B. (Hons.) [Second Year]

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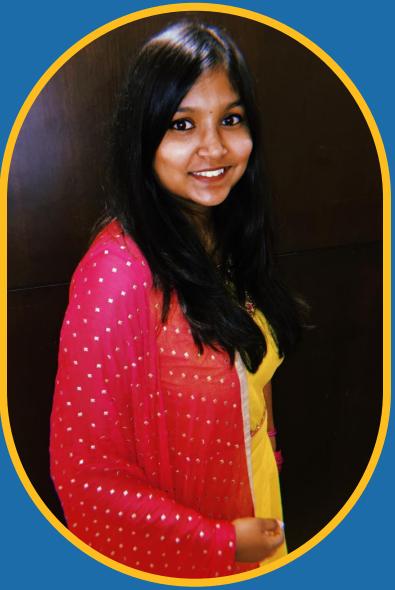
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