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The Legal Gauge

The latest news and announcements

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PERSONAL DETAILS CAN'T BE DISCLOSED UNDER RTI: DELHI HC

By Simran Parmani

The Delhi High Court dismissed an RTI appeal that was seeking information such as the address and father's names of the candidates that have been appointed as the multi-tasking staff at the Rashtrapati Bhavan. The Court upheld that such information will lead to an unwarranted breach of privacy and thus, cannot be revealed under the Right to Information Act. The division bench of Chief Justice D N Patel and Justice Jyoti Singh stated that the Right to Information is subjected to certain limitations. Section 8 of the RTI Act categorically mentions that personal information that has no relation to any public interest or welfare cannot be supplied. The RTI Applicant had filed an appeal against the judgement given by Justice Pratibha Singh, who had dismissed the writ petition and had imposed a fine of Rs. 25,000 for concealing the fact that his daughter had appeared for the same exam. The Delhi High Court stated that it was in full agreement with the reasons given by the single judge. Advocate Anurag Alhuwalia, central government's standing counsel, informed the court that five out of six details that had been sought had already been provided to the applicant, and the remaining one regarding the personal details of the candidates had been denied.

Preventive Detention Laws in India – An instrument of despotism for the Executive?

Preventive Detention held to be a Necessary Evil to Maintain Public Order

BY SIMRAN PARMANI

The Supreme Court, on multiple occasions, has shown its dismay regarding the blatant trivialization of Preventive Detention Laws. In the recent case of Banka Sneha Sheela vs. State of Telangana, the apex court reiterated the same by stating that the mere possibility of apprehension of breach of law and order cannot be the ground to detain a person under Preventive Detention Laws.

The Court was dealing with a petition submitted by the wife of the accused. Her husband, Banka Ravikanth, was facing detention under the Telangana Prevention of Dangerous Activities Act, 1986. He was detained based on the directives given by the Cybedrabad police commissioner in September 2020. This detention was imposed even after the accused had secured bail in five criminal cases. The police had placed the allegations of cheating, criminal breach of trust, and criminal intimidation under Sections 420, 406, and 506 of the Indian Penal Code against him. The court, while allowing her plea, mentioned that whether the detenu is a white-collar offender is disputable, yet a preventive detention order can be passed only if his activities adversely affect or can cause a potential threat to the maintenance of public order.

The bench comprising of Justice N.F. Nariman and Justice Rishikesh Roy also laid out a clear distinction between 'law and order' and 'public order.' Both the terms have different meanings and cannot be used interchangeably. The court observed that mere contravention of the law in the form of criminal breach of trust or indulging in cheating could affect the 'law and order,' but for it to affect the 'public order,' it has to stir problems for the community at large. The judges, while quoting Section 2(a) of the Telangana Prevention of Dangerous Activities Act, stated that public order is defined as "harm, danger or alarm or a feeling of insecurity among the general public or any section thereof or a grave, widespread danger to life or public health." They categorically mentioned that it is crucial that the line between the concept of 'law and order,' 'public order,' and 'security of the state' are not blurred because all three concepts have different meanings.

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While justifying its actions, the Telangana Government stated that the detention order was passed because the accused was an alleged habitual fraudster and could potentially cheat more members of society if he was allowed to roam freely. They contended that Multiple FIRs had been filed against him, and he had to be detained because he received anticipatory bail in all the criminal cases. The government pleaded the court to give a liberal interpretation of the term 'public order' and also to allow further detention since the ordinary law had no deterrent effect on the detenu.

In response, Advocate Gaurav Agarwal, appearing for the petitioner, argued that the order was perverse and had been passed only because the accused had been granted anticipatory bail. Therefore, the State had taken the incorrect course of action and should have instead opted to move to cancel the bail of the accused.

The court rejected Telangana's police contention and mentioned that there are various remedies available in the ordinary law that deals with issues when the anticipatory bail is granted in a wrong way. Instead of invoking the reasoning regarding 'public order,' the State should have appealed against the bail order.

The judges, while agreeing to the fact that 'Preventive detention is a necessary evil only to prevent public disorder' refused to adopt a narrower meaning of the term 'public order' as doing so would violate the liberty of an individual that has been bestowed on them as a fundamental right under Article 21 of the Constitution. The Court must ensure that the facts brought before it directly and inevitably leads to harm, danger or alarm, or feeling of insecurity among the general public or any section thereof at large so that the citizens' Right to Life is not put in jeopardy.

Therefore, the bench allowed the appeal and quashed the detention, stating that the case does not fit in with the Section 2(a) of the Telangana Prevention of Dangerous Activities Act, and the facts do not align with the provisions of the said Act.

'Party Autonomy One of The Pillars of Arbitration': Key Takeaways from Amazon- Future Retail Judgment of Supreme Court

By Isha Singh

The Supreme Court, in a case titled as Amazon.com NV Investment Holdings LLC v. Future Retail Limited, held that an award/order by an Emergency Arbitrator would be covered by Section 17 of the Arbitration and Conciliation Act and it can be enforced under the provisions of Section 17(2). It also held that no appeal lies under Section 37 of the Arbitration Act against an order of enforcement of an Emergency Arbitrator's order made under Section 17(2) of the Act.

The petitioner is Amazon.com NV Investment Holdings, whereas the respondents are Future Coupons Pvt. Ltd. and Future Retail Limited (FRL). The disagreement arose when FRL, managed by Biryanis, approved transferring its tangible assets to a Restricted Person in violation of contractual responsibilities, contrary to the shareholders' agreement between petitioner and respondent. As a result, the petitioner has commenced arbitration procedures following the Shareholders Agreement's arbitration clause. According to one of the Agreement's provisions, the Rules of the Singapore International Arbitration Centre (SIAC) would apply to the resolution of disputes between the parties. In addition, the agreement will be governed by the Indian legislature. Following that, following SIAC rules, the petitioner applied for the appointment of an emergency arbitrator, which resulted in the work of the same.

Regarding the issue of the legal status of an Emergency Arbitrator, the Court held that the concept of an emergency arbitrator is based upon party autonomy as the law gives complete freedom to the parties to choose an arbitrator or an arbitral institution. Further, the emergency arbitrator is an arbitrator for all purposes. A litigant can receive justice within 15 days through this system, yet if the Emergency Arbitrator's order is not followed, the entire procedure will be rendered useless. The parties consented to the rules relating to Emergency Arbitration in this case by agreeing to incorporate the SIAC Rules into the arbitration agreement. The current legal structure is sufficient to recognise the Emergency Arbitration, and no changes were necessary. The court further stated that the order of the emergency arbitrator is binding upon the parties but not on the subsequently constituted arbitral tribunal, which has the power to reconsider, modify, terminate or annul the order/award of the emergency arbitrator. Therefore, there exist the same powers to an emergency arbitrator as provided to the arbitral tribunal under the Act.

It is Upon the Will of a Child to Choose her/his Surname: Delhi HC

By Anshita Naidu & Saumya Krishnakumar

The High Court of Delhi, in a case titled as Vindhya Saxena v. East Delhi Municipal Corporation, observed that a father does not own the daughter to dictate terms and that every child has a right to use his or her mother's surname. The court through Hon'ble Justice Rekha Palli held that, a child is free to use the surname of the mother and is not bound legally to use to the surname of the father.

This decision of the court came pursuant to a plea, filed by a father of a minor girl, seeking direction to the authorities to reflect his name as his daughter's surname in the official documents and not her mother's name.

It was thus argued by the council appearing on behalf of the petitioner, during the course of hearing that the daughter in this case is a minor and cannot decide such issues on her own, claiming that the surname was changed by his estranged wife from Shrivastava to Saxena. The council also submitted that the name change would make it difficult to avail insurance claims from LIC as the policy was undertaken in the name of the child with her father's surname.

The court however declined to allow the plea and through Hon'ble Justice Rekha Palli's words stated that "The father does not own the daughter to dictate that she should use only his surname. If the minor is happy with her surname, what is your problem?" Justice Palli in a strongly worded order also said that she sees no merit in the present writ petition and the apprehension that the LIC (policy) will be dishonoured is wholly misconceived and is an attempt to somehow settle scores with the petitioner's estranged wife.

The court finally disposed of the petition and granted a liberty to the petitioner to approach his daughter's school to reflect his name as the father.

Public Interest over Political Considerations; A Responsibility under Section 123 of CrPC

By Anshita Naidu & Saumya Krishnakumar

The Supreme Court of India, in a long awaited judgment of Ashwini Kumar Upadhyay & Ors. v. Union of India & Ors., finally directed that no prosecution against sitting of former MPs and MLAs will be withdrawn without the permission of the High Court of the concerned state.

A petition was filed in the Supreme Court in the year 2016 by Mr. Ashwini Kumar Upadhyay, who demanded that an order be issued directing the Centre to take appropriate steps to debar persons charged with criminal offences from contesting elections, establishing political parties and becoming office bearers of any party. The petition further sought a direction for providing adequate infrastructure to set up Special Courts to hear criminal cases involving members of the Legislature, Executive and Judiciary within one year.

Thus the Supreme Court on August 10, 2021, in a bench comprising of the Chief Justice of India NV Ramana, Justice Vineet Saran and Justice Surya Kant, issued the above mentioned direction and stated that the court finds it appropriate to direct that no prosecution against a sitting or former MPs or MLAs shall be withdrawn without the leave of the High Court to curb the misuse of power by the state governments under Section 321 of the Criminal Procedure Code (CrPC) that authorizes a prosecutor to seek withdrawal of a criminal case against the accused.

It was further added by the bench that all trial judges hearing the criminal cases against MPs and MLAs in special courts shall continue in their present posts till its further orders. To this end, the registrar general of all 25 high courts were asked to submit details of judges hearing such cases in the special courts, status of pendency, judgments delivered, and other details.

This decision came pursuant to a report submitted by the Amicus Curiae Vijay Hansaria with the assistance of Advocate Sneha Kalita, providing necessary details regarding the status of trials against MP, MLAs. According to the amicus curiae, the central agencies, including CBI have failed to submit a status report regarding the pendency of cases being investigated by them, even after repeated orders by the apex court.

It would be pertinent to note that the amicus curiae also informed the court about various instances where in the state governments have attempted to withdraw cases against their party MPs and MLAs, even those booked for serious offences.

PEGASUS SPYWARE: A GOVERNMENT PERSONA?

A matter that would strike at the very root of Indian democracy with respect to its ideals on personal liberty, if proved to be true.

BY ANSHITA NAIDU & SAUMYA KRISHNAKUMAR

A media consortium disclosed on July 18, 2021, that 300 phones from India were revealed to be on the list of potential targets on the leaked database of Israeli spyware firm NSO, that supplies the Pegasus spyware. It is still not established whether all phones were actually hacked or not. 40 Indian journalists, political leaders like Rahul Gandhi, election strategist Prashant Kishore, former ECI member Ashok Lavassa etc., were reported to have been in the list of targets, as per a report in The Wire.

The petitioners had originally highlighted that the Government of India had not made any kind of categorical denial of them having used the Israeli Pegasus spyware, as reiterated by senior advocate Kapil Sibal. The five petitioners who were reported to be in the alleged target list stated that they had strong reasons to believe that they had been subjected to a "deeply intrusive surveillance and hacking by the Government of India or some other third parties."

A Bench consisting of the Chief Justice of India N.V. Ramana and Justice Surya Kant said that the allegations of the government using Israel-based technology to spy on civilians, journalists, ministers, parliamentarians, activists were "no doubt serious", provided the news reports were true. The Bench directed the petitioners, including senior journalists N. Ram, the Editors Guild of India, Rajya Sabha Member John Brittas and five journalists, reported to be targeted by Pegasus spyware, to serve copies of their petitions to the offices of the Attorney General of India and the Solicitor General. Former Union Minister Yashwant Sinha, represented by senior advocate Manish Tiwari, has also filed a petition.

The court did not issue a formal notice to the Government. The Chief Justice of India said that some of the petitioners had expanded the scope of their pleas beyond Pegasus to other issues, including a challenge on authorised interceptions under the Telegraph Act. Chief Justice N. V. Ramana, who is leading the bench that is hearing these petitions, reminded the petitioners and their lawyers that "when the matter is in court, it should be deliberated here," and told the petitioners seeking a probe into the Pegasus scandal that they ought to be having faith in the system and hence not take part in "parallel debates on social media."

The Supreme Court then scheduled to hear the Public Interest Litigations (PILs) on August 10. The apex court heard a batch of pleas, including the one filed by the Editors Guild of India that sought an independent probe into the alleged Pegasus snooping matter.

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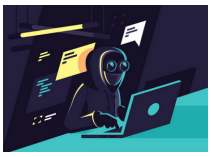
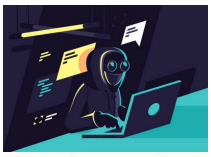


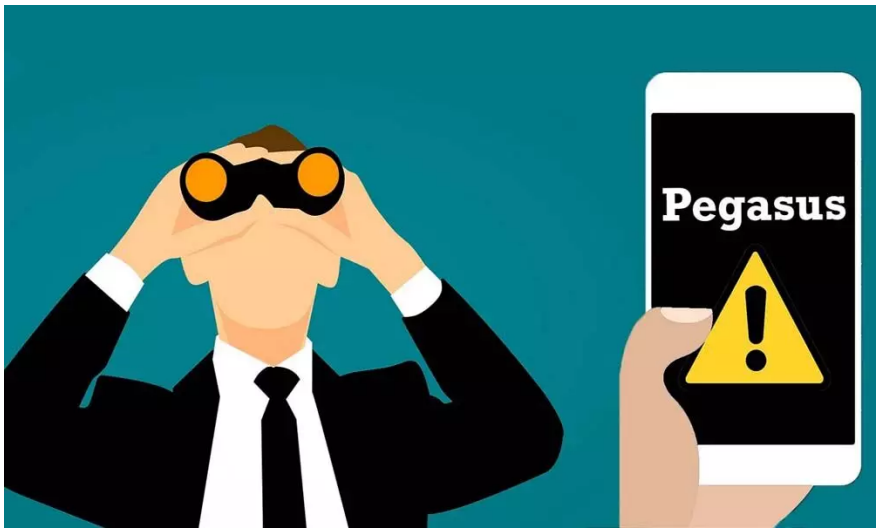


On August 16, after hearing a batch of petitions demanding an independent probe into the Pegasus issue, the Supreme Court has stated that the government could file a detailed affidavit in the matter if they wanted to, however, the Supreme Court stated that it cannot compel the government to file an affidavit. The case was then adjourned until the next day.

In the two-page affidavit consequently filed by the government, the government unequivocally denied all allegations made against it by all the petitioners with respect to using military-grade spyware to snoop on journalists, politicians, activists and the court staff. The government then stated that it planned to set up a committee of experts to probe into the Pegasus scandal.

Senior advocate Kapil Sibal rebutted the government affidavit by saying that it was filed by the Ministry of Electronics and Information Technology, and not the Ministry of Home Affairs, despite the fact that the Ministry of Home Affairs authorises surveillance under the law. He also said that the government had offered no details about whether the government agencies used the Pegasus Spyware at all, or whether the stated 'facts and contentions' were correct or false in its affidavit. Lastly, he stated that if the government did not get the time to properly study the petitions before replying to them, then the Supreme Court must give them the required time for doing so.

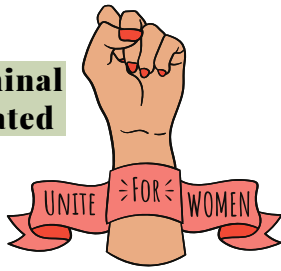
The Pegasus allegations have caused an acrimonious standoff between the government and the opposition thus leading to multiple disruptions and chaos in the monsoon session of parliament.As has been stated by the petitioners, if the Pegasus reports are proved to be true, it would indicate that unauthorized surveillance is being conducted on activists, journalists, politicians and even the judiciary, and hence the matter would then become one that would strike at the very root of Indian democracy and the ideals that the Constitution of India are supposed to guarantee.



KERALA HIGH COURT MAKES BIG STRIDES IN FEMINIST JUSRISPRUDENCE

Judgments Broadening the Definitions of Rape in Indian Criminal Law and Recognising Marital Rape as Ground for Divorce Celebrated

By Isha Singh



"We saw women rising in defence of a sister through the WCC; we saw nuns rallying behind one of them against Bishop Franco Mulakkal; and we saw some healthy debates in connection with the Sabarimala issue," said Ms. Ajitha. "Yes, feminism has a future in Kerala."

The last few years are signs of victory and recognition for the feminist movement in Kerala. While P. Viji's struggle for the right to sit for women in work spaces met with success through an amendment to the Shop and Establishments Act, there were many incidents that tested the public's attitude towards women's issues. In the case of Santosh v. State of Kerala, the court was dealing with a sexual assault case. The incident came in light when in a medical camp conducted in Thirumarady Government School the victim revealed certain incidents of sexual assault committed against her by her neighbour during the course of examination. However, it was only after the Child Line authorities pursued it, that an FIR was filed by the victim's family. The victim had revealed multiple instances of sexual assaults such as, making her to hold the genitals of the appellant till he ejaculated, showing obscene pictures, attempt to put his penis into the mouth of the victim, the incident of sexual acts between her thighs and pushing it up and down followed by ejaculation. She also stated about various incidents of touching her private parts and chest. The preliminary question of law posed before the Bench for consideration was whether, the term "rape" as contained in the amended section 375 takes in sexual assaults beyond penile penetration into vagina, urethra, anus, and mouth; the known orifices in the human body to which such penetration as imaginably possible. The Court was called upon to decide the question of whether penetration to "any part of the body of such a woman" under section 375(c) of the Code brings within its ambit a penile sexual act committed between the thighs held together; which do not qualify to be called an orifice.

The Bench consisting of Justice K. Vinod Chandran and Justice Ziyad Rahman A.A denied the objection raised by the accused regarding inconsistencies and variations in the statement of victim. The Bench stated that it would not have been possible for her to narrate incidents of this nature with such clarity, unless she was subjected to such acts. The bench had taken the view that the veracity of the victim's statement could not be a reason to discard the evidence in its entirety as it is a well settled position of law that, in such circumstances, the attempt of the court should be to separate the grains of truth as discernible from the entire evidence. On the objection with regard to absence of any corroborating evidence, the Bench stated that the incident in question could not have any ocular evidence because sexual offences are usually committed in utmost secrecy and when nobody is available.

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It was further noted that the incident of sexual assault was committed about eight months prior to the date of registration of crime. Regarding the delay in disclosure of the alleged acts and delay in registering the FIR, the Bench was of the view that the delay in disclosure was only natural since the victim was a school going girl who felt threatened with police action, if disclosure is made of the sexual assaults to her parents. Hence, the Bench found the delay on the part of the victim was justifiable. Further, considering the mental state of the mother of the victim and her family, of being saddled with the disrepute of a rape and that its consequences could not be wished away, the Bench opined that on being faced with the circumstance of a neighbour having sexually violated a school going child it was only natural for the family of the victim to go on denial mode and not report the same for reason of the consequent ill-repute to the family. The Bench reached to the conclusion that the appellant had committed the offence of rape as he had penetrative sexual act between the thighs of the victim held together; an act of manipulation of the body of the victim to obtain sexual gratification, which culminated in ejaculation.

In 2015, in the case XXXX v. XXX, the bench comprising of Justice A. Muhamed Mustaque and Justice Kauser Edappagath was dealing with a case of cruelty that was put forward by the respondent-wife on constant harassment and demand for money in spite of the fact that she had been given 501 gold sovereigns at the time of marriage besides car and flat. The respondent also alleged sexual perversion and physical harassment as a part of the cruelty; while the allegations of extramarital relationship were levelled against the respondent by the appellant. Relying on the decision of the Supreme Court in Samar Ghosh v. Jaya Ghosh, (2007) 4 SCC 511, the Bench held that the appellant's licentious and profligate conduct could not be considered as part of normal conjugal life. Therefore, the Bench held that insatiable urge for wealth and sex of a spouse would also amount to cruelty. Similarly, the unsubstantiated allegations of adultery alleged by the appellant also constituted mental cruelty. The bench held the view that Right to respect for physical and mental integrity encompasses bodily integrity; any disrespect or violation of bodily integrity is a violation of individual autonomy.

Therefore, marital privacy is intimately and intrinsically connected to individual autonomy and any intrusion, physically or otherwise into such space would diminish privacy. This essentially would constitute cruelty. Hence, merely for the reason that the law does not recognise marital rape under penal law, it does not inhibit the court from recognizing the same as a form of cruelty to grant divorce. Accordingly, the Bench held that marital rape is a good ground to claim divorce.

Threat to Human Rights and Bodily Integrity Highest at Police Stations: CJI NV Ramana

By Isha Singh

Asserting that human rights and dignity are "sacrosanct," Chief Justice of India (CJI) NV Ramana, on Sunday, 8 August, raised concerns regarding custodial torture and violations of human rights at police stations. He said that the threat to human rights and bodily integrity are highest in police stations, adding that custodial torture and other police atrocities still prevail despite constitutional guarantees. He further pointed out that the lack of effective legal representation at police stations is huge detriment to detained persons. His remarks came while releasing the “Vision and Mission” document of NALSA (National Legal Services Authority) and Mobile App for free legal Aid and services here today.

To keep police excesses in check, the CJI said that dissemination of information about the constitutional right to legal aid and availability of free legal aid services is necessary. The installation of display boards and outdoor hoardings in every police station/prison is a step in this direction, he added. The CJI also emphasised the need for bridging the gap of accessibility to justice between the highly privileged and the most vulnerable. He said the digital divide has made access to justice difficult. Rural and remote areas suffer from a lack of connectivity.

"For all times to come, we must remember that the realities of socio-economic diversity which prevail in our nation, cannot ever be a reason for denial of rights," he added.

During the ongoing monsoon session, the Centre has informed the Parliament that between 2020 to 2021, as many as 1,840 deaths in judicial custody have been recorded across all states and Union Territories, and 100 deaths have been recorded in police custody. Furthermore, the number of custodial deaths have been increasing over the years as 1,797 cases were recorded between 2018 and 2019, and 1,584 cases were reported between 2019 and 2020.

The issue, according to him, is the basic inequality in India when it comes to accessing justice. “If we want to remain as a society governed by the rule of law, it is imperative for us to bridge the gap of accessibility to justice between the highly privileged and the most vulnerable.” Towards the end of the speech, he urged all lawyers, especially seniors, to dedicate some percentage of their working hours to help those in need. “No institution, how big or noble, can be successful, unless it is ably aided by all the stakeholders to turn it into a public movement,” he concluded.

MARRIAGE UNDER SPECIAL MARRIAGE ACT CAN BE REGISTERED THROUGH VIDEO-CONFERENCING: SUPREME COURT UPHOLDS HIGH COURT JUDGEMENT

INDIAN COURTS ASSERT THAT A MARRIAGE UNDER THE SPECIAL MARRIAGE ACT CAN BE REGISTERED THROUGH VIDEO-CONFERENCING.

By Hetavi Bari

The COVID-19 pandemic has deeply affected the working system in all fields. Work-From-Home via online platforms has become the new normal. Among all the rapid changes, Courts have also adopted technology. In a recent judgment, a High Court rightly allowed the registration of a marriage via Video-Conferencing. In State of Haryana & Anr. v. Ami Rajan & Anr., the issue arose whether the Marriage Certificate Book has to be signed by both parties or whether this process can be done via Video Conferencing.

After the completion of the marriage, both respondents returned to their respective workplaces in the UK and USA. An application for registration of marriage was filed before the Marriage Officer who called them to appear on April 3, 2020, but due to Covid-19, the appellants made an application requesting to conduct a second motion hearing through video conferencing. The single bench judgment rejected the above contention and held that both parties be present for the registration of the marriage. Aggrieved by these observations, the parties moved the High Court. Appellants laid reliance on the judgement given in the case of Upasana Bali and another vs. State of Jharkhand and Others, which held that the presence of the parties could be secured through video conference in specific cases.

While answering the argument as placed by the respondents stating the provision of section 15 is mandatory in nature, the court looked into Deepak Krishan and another vs. District Registrar, Ernakulam and Others, as referred by the respondent, which stated that the judgement was not mandatory. Noncompliance with this provision would not render the application for registration of marriage against the provisions of Section 15 of the Act. Thus, in the concerned case, it was held that the presence can be secured through VC. The certificate will be issued after verification as per the statutory provisions. The court further held that no violation of section 47 would be permitted, and the certificate will be made part of the public record after issuance of the same.

On August 9, 2021, the Apex Court withholding the judgment issued by the High Court deemed it inappropriate for the Supreme Court to interfere with the practical directions given by the lower court, dismissing the Special Leave Petition. Thus, the decision given by the Punjab and Haryana High Court can be seen as a praiseworthy step towards implying the advancements of science in judicial procedures.

Editor Speaks

Women & War

"Soldiers" have Historically Perpetrated Violent Sexual Crimes against Women during Conflict, yet Women's Sexual Safety in War Time Continues to Merely Remain a Point of Intellectual Discourse

Niharika Ravi

"Rape has accompanied warfare in virtually every known historical era."
-Gerda Lerner, Women's History Author

Afghanistan's fall to the Taliban has hit the world this month and plunged the country into a darkness it had de-familiarised itself with in the past two decades. A primary and most predominant cause for concern that had emerged very early in the Taliban's seize of Afghanistan was the safety of the nation's womenfolk- physical, mental, sexual, intellectual, and financial. Insular and extremist groups have often seemed to counteract detested Western "freedoms" by imposing ruthlessness over women and women's bodies. It appears as though giving women agency over their own bodies is seen as a Western sin, the only remedy to which seem to be inhuman atrocities committed under the garb war.

The discourse, and particularly the intellectual discourse on use of sexual violence as a weapon of war and armed conflict, was strengthened in 2018 when Nadia Murad and Denis Mukwege won the Nobel Peace Prize for their efforts to end the use of sexual violence as a weapon of war and armed conflict. While physician Mukwege was lauded for treating "thousands" of such victims of war in the Democratic Republic of Congo, Murad is a celebrated survivor. In her Nobel lecture and her book, she speaks of the atrocities she underwent when the ISIS attacked her village because it was a settlement of the Yazidi Community, a targeted ethnic minority. While Murad's escape from ISIS after enduring three months of sexual slavery has been decorated, the present assault on women's rights in Afghanistan stands evidence that such decorations have made but a dent in securing women from lifetimes of sexual servitude as a consequence of war and internal unrest. Murad, in fact, highlighted the following in her Nobel Lecture-
"I had the privilege of participating in the Paris Peace Conference. This conference celebrated the 100th anniversary of the end of World War I. But how many genocides and wars have taken place since World War I ended? The victims of wars, in particular internal wars, are countless. The world condemned these wars and recognised these genocides. It however failed to put an end to acts of war and to prevent their recurrence."

This statement is glaring in light of the Afghanistani siege. Weeks before the Taliban's advent on Kabul, the militant group had already demanded lists of girls and widows for "marriage" with its fighters, despite the proclamation that they would uphold women's rights this time. News of women being abused, both physically and sexually, in a myriad of grotesque forms emerge daily from the region and it is further indicated that the Taliban's actions shall result in a ripple effect on women's rights to nearby countries, particularly, Pakistan.

Mass events of sexual violence have been components of war since time immemorial, yet, almost never spoken of. A culture of silence and shame envelopes the surviving women, whether they be from Europe in the world wars, the stories of which are seldom told, or of the infamous Asian "comfort women" targeted by the Imperial Japanese Army, or innumerable others in world history. Even the Indian Sepoy Mutiny of 1857 is silently marred by shades of contentious sexual violence accounts against women and children, both British and Indian. Sexual violence continues to be a common denominator in war, unrest, and protest in the 21st century, yet, it is the breaking of this very culture of shame and silence that brought Nadia Murad her Nobel. Murad is one of countless women in the world whose bodies have been rendered unfortunate casualties of war, but, she is one who spoke against the atrocities committed against her person. Murad's brand of feminism is unique for merely the reason that she is among the few who have broken the silence that envelops many. "We want people to accept women's messages so women wouldn't be afraid to talk about what they went through," she says in this regard.

As World Leaders and Global Peace-Keeping Agencies ponder the implications of the creation of an Islamic Emirate of Afghanistan, and deliberate a further course of action, millions of women have already lost well-established basic human rights. While this article rejects the patriarchal structures that surround the incident of rape, it advocates for women exercising the right to bodily autonomy. Forced sex, in any way or form, with or without marriage, shall continue to rob women of this most fundamental right to self until our campaigns for sexual safety during war time are translated to action across the globe. It is debatable whether avoiding war is the answer to women's sexual safety, for it may rather be time to ensure that rights' education is imparted irrespective of region, religion, language, or class in order to guarantee equality over honour in our post-modern societies.

NEWSLETTER BY THE PUBLICATION COMMITTEE, SOL

Editor: Niharika Ravi

Research Team:
Jasmita Verma and Jwaalaa Suresh

Design:
Eesha Tekale, Aastha Yadav, and Vasundhra Pareek

Reporters:
Isha Singh, Saumya Krishnakumar, Anshita Naidu, Hetavi Bari, and Simran Parmani

Connect with us on Instagram @pub.com20

Email us at pc.sol@nmims.edu.in