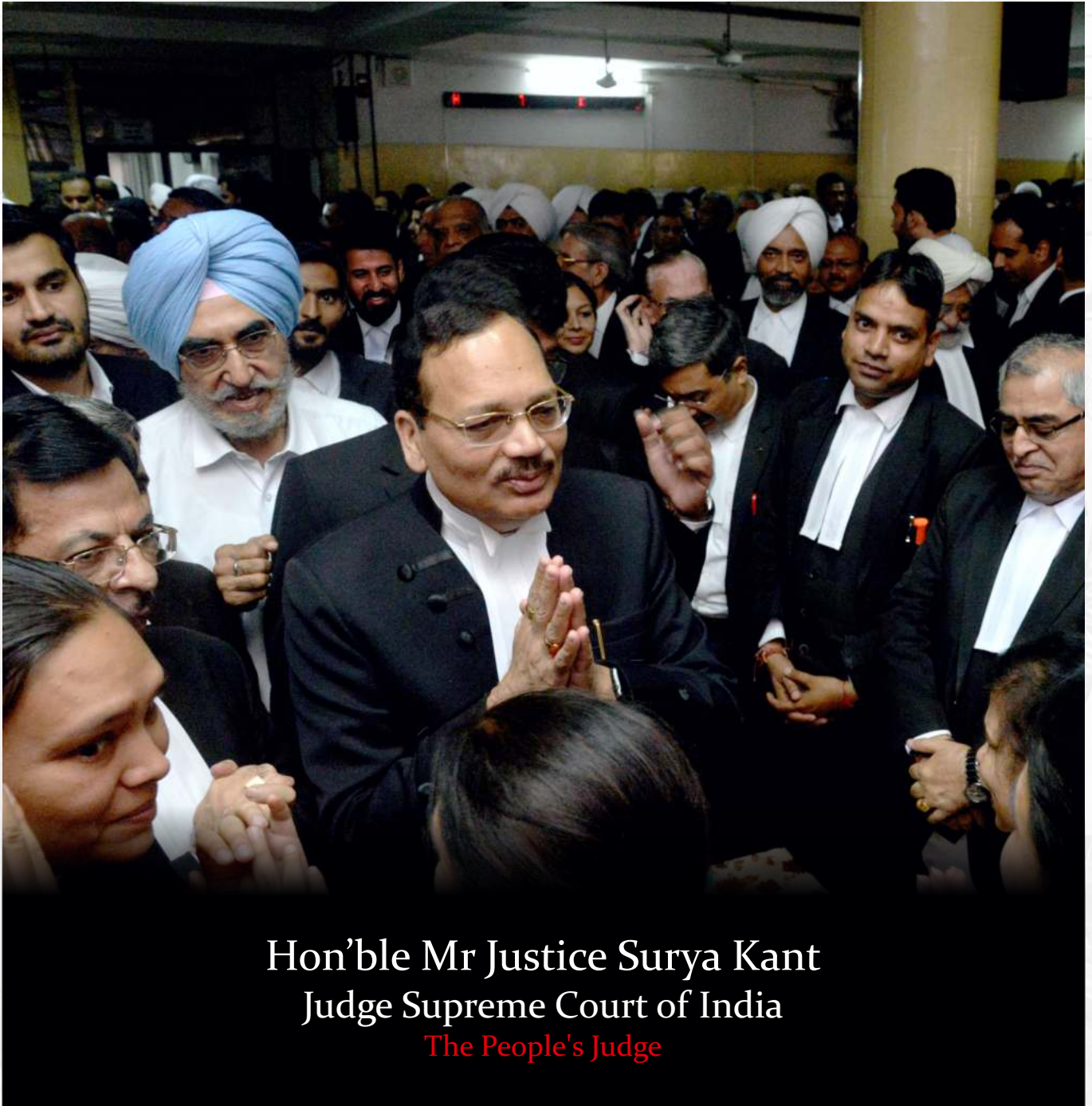


# COUNSEL

[www.bcph.co.in](http://www.bcph.co.in)

Q2 2023

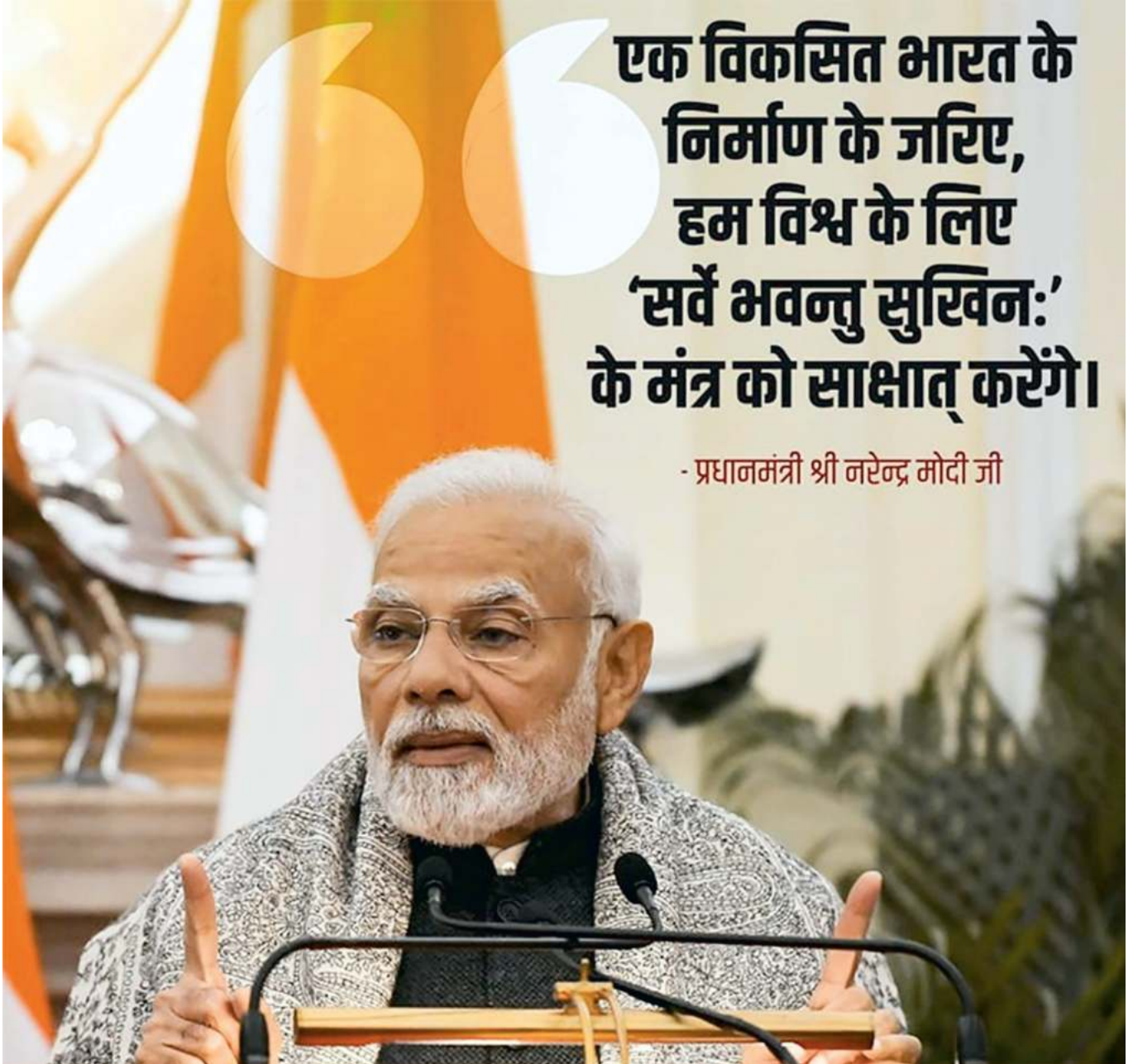


Hon'ble Mr Justice Surya Kant  
Judge Supreme Court of India  
*The People's Judge*

State Bar Council during  
Covid-19

ChatGPT for  
Lawyers?

Pro bono  
Lawyering



**Azadi Ka Amrit Mahotsav** is an initiative of the Government of India to celebrate and commemorate 75 years of independence and the glorious history of its people, culture and achievements. This Mahotsav is dedicated to the people of India who have not only been instrumental in bringing India thus far in its evolutionary journey but also hold within them the power and potential to enable Prime Minister Narendra Modi's vision of activating India 2.0, fuelled by the spirit of Aatmanirbhar Bharat. The official journey of Azadi Ka Amrit Mahotsav commenced on 12th March 2021 which started a 75-week countdown to our 75th anniversary of independence and will end post a year on 15th August 2023.

India will assume the **G20 Presidency** from the 1st of December 2022 from Indonesia and convenes the G20 Leaders' Summit for the first time in the country. A nation deeply committed to democracy and multilateralism, India's G20 Presidency is a watershed moment in her history as it seeks to play an important role by finding pragmatic global solutions for the well-being of all, and in doing so, manifest the true spirit of 'Vasudhaiva Kutumbakam' or the 'World is One Family'.

# CONTENTS

In this issue | Q2 2023

**Hon'ble Mr Justice Surya Kant** is called the People's Judge, widely known for being fair, impartial, and focussed on the well-being and rights of the people. His strong commitment to justice, equality, and protecting the interests of the general public signifies his deep dedication to serve the needs and concerns of the ordinary people and ensuring access to justice through public trust in the judicial system. He is oft spoken to with the language of the heart - in his judgements one can find the reflection of finest legal interpretations of modern times. An insight into the fire-cracker commencement of his legal journey, so far, as a first generation lawyer, will come as an inspiration to any observant citizen - his empathetic demeanour tops everything. In this issue, we discuss more about Kant].



**Oldest High Court in India** : The Calcutta High Court is the oldest High Court in India. It is one of the three High Courts in India established at the Presidency Towns by Letters patent granted by HM Queen Victoria, bearing date June 26, 1862. It was established as the High Court of Judicature at Fort William on July 1, 1862 under the High Courts Act, 1861, which was preceded by the Supreme Court of Judicature at Fort William. It has jurisdiction over the State of West Bengal and the Union Territory of the Andaman and Nicobar Islands. The neo-Gothic High Court building was constructed in 1872, ten years after the establishment of the court itself and the design is based on the Cloth Hall, Ypres, in Belgium. This Court has a sanctioned judge strength of 72.



**Remembering Motilal C. Setalvad**: First Attorney General, Chairman of first Law Commission & First Chairman of Bar Council of India.



(More details on Pg 16)

1. **Chair's column | The litigating lawyer**  
Why litigation experience is necessary for every young lawyer. Litigation is sometimes a long and complicated procedure, but for a patient and passionate lawyer, the reward of winning a case merits the effort.

## LEGAL PERSONALITY

2. **Hon'ble Mr Justice Surya Kant Judge Supreme Court of India**



## COVER STORY

3. **First person | Shri Arjun Ram Meghwal**  
Hon'ble Minister of State, Ministry of Law and Justice (Independent Charge) was born on 20 December 1953. The 69-year-old three time MP, who is a post-graduate in political science and has done law (1977), MBA later, was a Rajasthan Administrative Services officer before being promoted to the IAS. Ahead of the 2009 Lok Sabha polls, he took voluntary retirement to contest the Parliamentary elections. He wears his trademark Rajasthani turban, kurta-pyjama and a sleeveless jacket. In person, he is as simple as his attire.



4. **Hon'ble Mr Justice Rajesh Bindal Judge Supreme Court of India**  
Lordship was born on 16 April 1961 and is a first generation lawyer. A former Chief Justice of Allahabad High Court, he has also earlier served as the acting Chief Justice of the Jammu and Kashmir High Court and the Calcutta High Court. A simple human being with high moral values, Lordship is deeply respected by the Bar.



## FEATURES

5. **Office Yoga for Advocates**: Celebrating 9th International Day of Yoga
6. **E-Bar Council**: Evolution and Emergence & Transforming with Purpose

## PRACTICE TOOLSET

7. **Vidhi Talks** Interviews and Podcast episodes
8. **What is** a strategic approach to Lawyering?
9. **Networking** in the legal profession
10. **Types of Clients** and areas of practice
11. **(Un)enforceability of Arbitration Clause** in (Un)stamped Contracts: Indian Perspective
12. **Court Craft** - Lawyers' artistry
13. **What is** Third Party Litigation Funding?
14. **The concept** of Judgeship and in Bhagavad Gita

15. **Lawyer's Strikes** : Balancing advocacy, issues and access to justice
16. **What is** Legal Charter 1.5 - Legal Fraternity addressing climate crisis?
17. **Impact and Future** of AI in Judicial Decisions
18. **ChatGPT** for Lawyers?
19. **Constituent Assembly** Debates. Why to read?

## EXPOSURE

20. Hon'ble Mr Justice HS Sidhu - A saintly Judge
21. State Bar Council during Covid-19
22. Highlights of year 2022-23
23. BCI UK Signing of MoU
24. Party whips - Its pitfalls and undemocratic nature
25. Obituary: Late S Parkash Singh Badal
26. The Canadian deportation saga holds important lessons
27. How Indian Lawyers can become multi jurisdictional lawyers?
28. Interpretive Justice
29. Legislature & Judiciary
30. Are you reading judgements effectively?
31. Law Commission of India : Suggestions invited
32. Attorney Client Privilege
33. Space Law in 2023
34. Pro bono Lawyering
35. Murder inside a Courtroom : A series of violence
36. False News: Fox News settlement for 6456Cr, avoiding trial

## MISC

37. **Book review** : Behind Bars in Byculla: An Unflinching Glimpse into India's Prison System by Aakritee Raj
38. **Book review** : Fifteen Judgments Cases That Shaped India's Financial Landscape (Saurabh Kirpal)
39. **Movie Review** : Sirf Ek Bandaa Kaafi Hai
40. **Beyond Law CLC**: Empowering Professionals through 700+ Webinars
41. **Honorary Secretary's Desk**



"...let us not forget that this independence has thrown on us great responsibilities. By independence, we have lost the excuse of blaming the British for anything going wrong. If hereafter things go wrong, we will have nobody to blame. Except ourselves..."

- **Dr. B. R. Ambedkar**  
(constitutional debates)

# Trial of Aruna Shaunbaug

## A Re-enactment

Bar Council National Legal Seminar, 2022 | 12.11.2022 | Chandigarh

**Session Theme:** Trial of Aruna Shaunbaug : A Re-enactment of Court proceedings

The Supreme Court on March 9, 2018 ruled that individuals had a right to die with dignity, allowing passive euthanasia with guidelines. The need to change laws as regards the right to die on consent were triggered by the famous Aruna Shanbaug case. Earlier, the top court in 2011 had recognized passive euthanasia in Aruna Shanbaug case by which it had permitted withdrawal of life-sustaining treatment from patients not in a position to make an informed decision. This working session held on 12.11.2022 was an endeavor to recreate the actual Court proceedings as it took place then. It received an overwhelming response with 1000+ advocates and law students who were present to witness the session.

The esteemed guests on Chair are Hon'ble Judges of High Courts and the counsels arguing are independent young legal practitioners practising before the High Court of Punjab and Haryana.



### Contributors to this issue



**Suvir Sidhu**

Chairman



**Ashok Singla**

Vice-Chairman



**Partap Singh**

Member,  
Bar Council Of India



**Gurtej Singh Grewal**

Hony. Secretary



**Surinder Dutt Sharma**

Co-Chairman



**Ranvir Singh Dhaka**

Co-Chairman



**Baljinder Singh Saini**

Co-Chairman



**Raj Kumar Chauhan**

Co-Chairman



**Chander Mohan Munjal**

Chairman,  
Executive Committee



**Harish Rai Dhanda**

Chairman,  
Finance Committee



**Lekh Raj Sharma**

Chairman,  
Enrolment Committee



**Rakesh Gupta**

Member, Bar Council



**Minderjeet Yadav**

Member, Bar Council



**Karanjit Singh**

Member, Bar Council



**Ajay Chaudhary**

Member, Bar Council



**Jai Vir Yadav**

Sr. Advocate  
Member, Bar Council



**Bhupinder Singh Rathore**

Member, Bar Council



**Karamjeet Singh**

Member, Bar Council



**Amit Rana**

Member, Bar Council



**HARGOBINDER SINGH GILL (BAGGA)**

Member, Bar Council



**DR.VIJENDER SINGH AHLAWAT**

Member, Bar Council



**Chetan Verma**

Member, Bar Council



**Pravesh Yadav**

Member, Bar Council



**Rajat Gautam**

Member, Bar Council



**Harpreet Singh**

Member, Bar Council



**Baldev Raj Mahajan**

A.G. Haryana (Ex-Officio)



**Vinod Ghai**

A.G. Punjab (Ex-Officio)

# Message for Young Lawyers

**Dr R. Venkataramani**  
Ld. Attorney General for India



**Dr R. Venkataramani Ld. Attorney General for India speaking at the Call to Bar & Felicitation Ceremony held on 24.05.2023 at Law Bhawan, Chandigarh.**

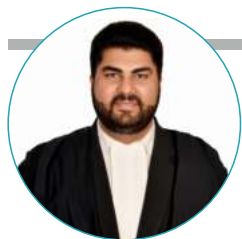
**D**r R. Venkataramani is a lawyer with an experience of 42 years of practice in the Supreme Court. He enrolled in July 1977 in the Bar Council of Tamil Nadu and joined the chambers of Shri PP Rao, Senior Advocate in 1979. Later, he set up an independent practice in the Supreme Court in 1982. He was designated as Senior Advocate by the apex court in 1997. He was then appointed as a Member of the Law Commission in 2010 and again for a further term in 2013.

Venkataramani has practiced in various branches of law prominently constitutional law, law of indirect taxes, human rights law, civil and criminal law, consumer law, as well as law relating to services.

On 01.10.2022 he was appointed as the Attorney General for India for a period of three years. Known for his simplicity and legal acumen, he is a true jurist.



Watch his address here



## Suvir Sidhu

### About the Journal

*It is with great pleasure that I invite readers to explore the second quarterly issue of Punjab and Haryana Bar Council's law journal. As the Chairman of this esteemed body, it is my honor to introduce this publication, which serves as a vital platform for legal scholarship and intellectual discourse within our legal community.*

*This journal embodies the spirit of inquiry, critical analysis, and the pursuit of knowledge that are the cornerstones of our noble profession. It brings together the collective wisdom and expertise of our members, as well as esteemed scholars and practitioners from across various legal domains. With each issue, we aim to provide insightful and thought-provoking articles that contribute to the advancement of legal scholarship and practice.*

*In this issue, we have curated a diverse range of articles that delve into contemporary legal issues, cutting-edge research, and emerging trends in law. Our esteemed contributors have explored topics spanning from legal training areas to emerging technologies, from constitutional law to social justice and jurisprudence, and from sustainability to alternative dispute resolution. Each piece offers unique perspectives, analysis, and valuable insights that will enrich our understanding of the law and its practical implications.*

*Beyond the articles, this issue also features noteworthy legal personalities who inspire us with their journeys, interviews with eminent legal professionals, honorary mentions, and book/movie reviews that bring attention to notable legal creatives. Our aim is to provide a well-rounded publication that appeals to both seasoned practitioners seeking to stay abreast of the latest developments and young legal minds eager to expand their knowledge.*

*We wish to serve as a forum for our enrolled advocates to showcase their expertise and contribute to the intellectual discourse within our legal community. Let us seize this opportunity to expand our knowledge, challenge our perspectives, and strive for excellence in our profession. Please consider this as an invitation to come forward and write for the next issue.*

*My gratitude to all associated with this endeavour. Thank you for your unwavering support and participation in our second issue. Together, let us continue to advance legal scholarship, promote intellectual growth, and strengthen the collective knowledge base of our Bar Council.*

*Warm regards.*

### My piece | Opinion

International Criminal Court and its diminishing impact

On 17th March 2023, the Pre-Trial Chamber II of the International Criminal Court, on reasonable grounds of belief, issued warrants of arrest for President Putin for the war crime of unlawful deportation of population and that of unlawful transfer of population from occupied areas of Ukraine to the Russian Federation, in prejudice of Ukrainian children.

South Africa which is chairing the BRICS this year, is due to host the next Summit. Alongside it has a duty as a signatory to the International Criminal Court to arrest President Putin if he attends the scheduled talks between the leaders of Brazil, Russia, India and China, during the BRICS Summit. As a party to the Rome statute, the backbone of ICC, South Africa would be required to arrest President Putin and then send him to The Hague for trial.

Meanwhile, Deputy Minister in the South African Presidency had publicly stated that South Africa plans to change its law so that it has the power to decide whether or not to arrest a leader wanted by the ICC. Reportedly, South African officials had at the end of last month also said the BRICS countries were considering moving the summit to China, which is not a member of the international court.

Putting widespread speculations to rest, South Africa has now announced to host the 15th BRICS bloc Summit in August this year. At the other end, South Africa's main opposition party, the

# CHAIRMAN OF THE BAR'S COLUMN

Democratic Alliance, has launched a court application to compel the authorities to arrest Mr Putin should he arrive in August.

Amidst all this uncertainty, a serious thought needs to be given towards the concerns about the effectiveness of the global justice mechanisms. The International Criminal Court was established with the ambitious goal of ending impunity for the most heinous crimes that shock the conscience of humanity. However, over the years, the ICC's impact and effectiveness have come under scrutiny, with concerns emerging about its diminishing influence on global justice.

The ICC operates in a world where political considerations often influence the pursuit of justice. Powerful states may exert their influence to shield their citizens or allies from ICC investigations or prosecutions. The politicization of justice erodes the impartiality and credibility of the ICC and undermines its ability to hold perpetrators accountable.

The ICC's impact is also weakened by the lack of universal ratification of the Rome Statute, which established the Court. Not all countries have acceded to the statute, and some major global players, including the United States, Russia and China, remain outside the ICC's jurisdiction.

This is not the first time, that the ICC has been ignored or has failed to ensure compliance with its decisions and orders from State Parties.

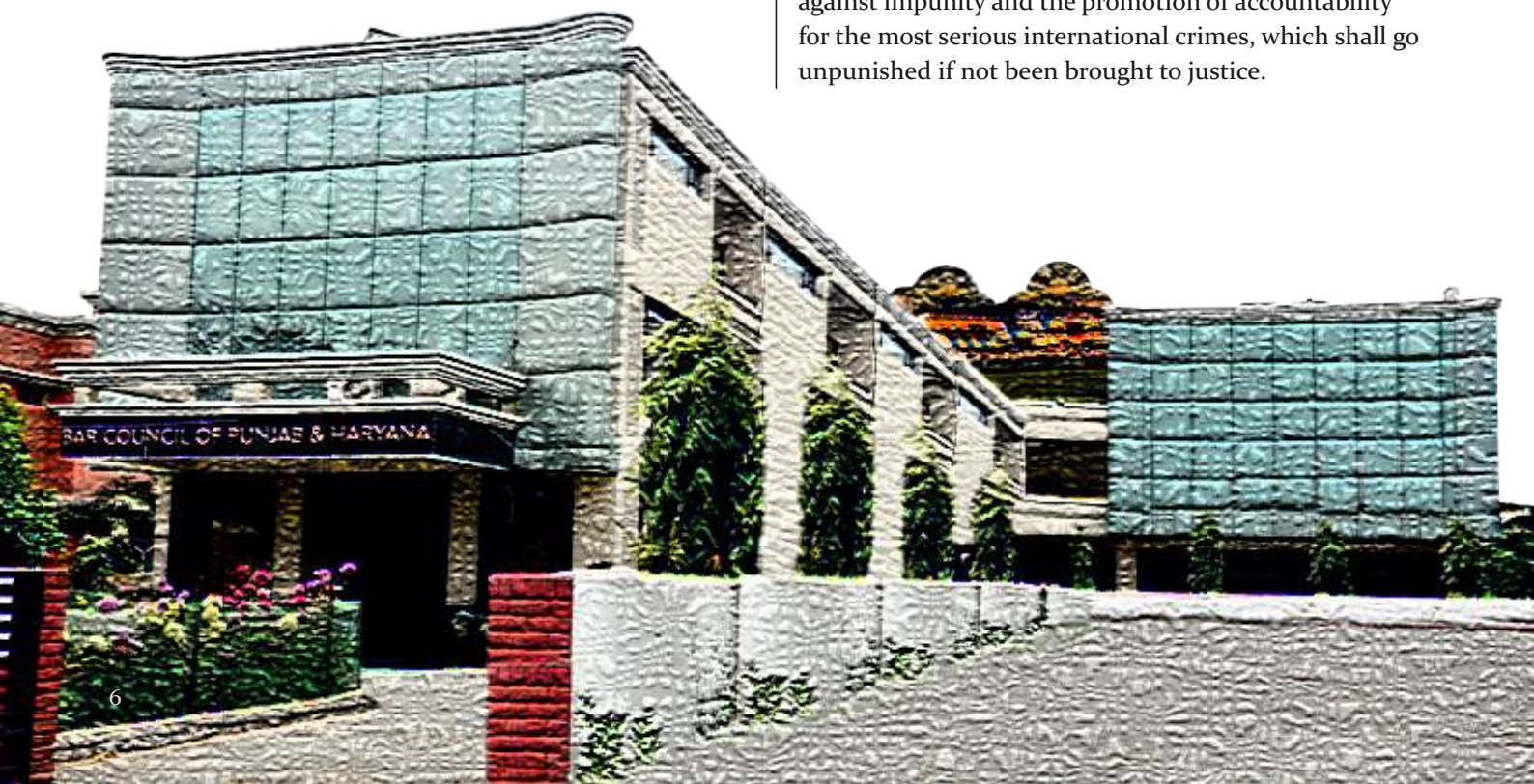
- In 2005, the ICC issued arrest warrants for leaders of

the Lord's Resistance Army (LRA) in Uganda for their involvement in widespread human rights abuses. However, Uganda, being a State Party, failed to apprehend the indicted individuals.

- In 2011, the ICC issued arrest warrants for four Kenyan nationals, including high-ranking officials, for their alleged involvement in post-election violence. Despite being a State Party, Kenya failed to fully cooperate with the ICC.
- In 2015 President of Sudan Omar Al-Bashir's case represented a significant example of non-compliance with the ICC's arrest warrant, where South Africa failed to arrest Omar Al-Bashir when he attended the African Union summit held in Johannesburg.

These cases expose the tensions between international obligations, national sovereignty, and the complexities of implementing justice in politically sensitive contexts. Addressing these challenges requires concerted efforts from the international community, including promoting universal ratification, strengthening the court's mandate, ensuring adequate resources, and fostering a culture of cooperation and respect for international law.

To restore and enhance its impact, the ICC must strive to maintain its independence, impartiality, and credibility. It should continue to raise awareness about its mandate, engage in diplomatic efforts to foster cooperation, and work towards building stronger partnerships with regional organizations and civil society. By addressing the challenges it faces and reinforcing its role as a beacon of justice, the ICC can reclaim its position as a powerful force in the fight against impunity and the promotion of accountability for the most serious international crimes, which shall go unpunished if not been brought to justice.





# Hon'ble Mr Justice Surya Kant

## Judge Supreme Court of India

### The People's Judge

Within the corridors of justice, there are individuals whose dedication, wisdom, and compassion transcends their assigned roles. One such shining example is Hon'ble Mr Justice Surya Kant who has garnered immense admiration from the Bar, advocates, and the general public alike. Lordship is not only known for his sharp legal acumen and judicial integrity but also for his exceptional qualities as a human being, making him a true people's judge.

In October 2018, while bidding the customary farewell to Justice Kant who had been designated as the next Himachal Pradesh High Court Chief Justice, the then Punjab and Haryana High Court Chief Justice Krishna Murari bowled out the audience with his near-perfect comparison between Justice Surya Kant, and former captain of the Indian cricket team Rahul Dravid. In a jam-packed hall-room with thousands of lawyers in attendance, Chief Justice Murari said *"Justice Surya Kant was a great help whenever there was an administrative issue. He stood like a stone wall between me and the problem until and unless there was a solution before us; and the solution was also such that it was acceptable to all. From today, I will feel as if I am the captain of the Indian team playing a cricket match without Dravid."* Drawing a parallel between Justice Surya Kant and a coconut with a tough shell, Chief Justice Murari said he too was hard from outside, but soft inside. *"Whenever there was an administrative issue, he never hesitated to take a hard decision, but that decision was based on mercy, humanity and for the benefit of everybody."*

The cover picture of this issue is from the same day, from inside the brimming Bar Room Hall of High Court of Punjab and Haryana. Justice Kant, a people's judge, in his usual manner bowed before one and all acknowledging the divine in every soul. Urging the Bar members



*"In the next 75 years, we must identify different kind of duties and be honest to those duties and rights, also make them complimentary to each other."*

*I must commend legislative activism also. Legislature has done a lot to safeguard the rights of specially-abled, senior citizens, transgenders, downtrodden etc. The aim is to create a simple system for the forward progress of the society."*

26.12.2022 | 16th National Conference of Akhil Bharatiya Adhivakta Parishad at Kurukshetra Haryana

to continue with hard work, Lordship said, *"The judicial institution has so many challenges, but the biggest challenge is how to cope up with old cases known as arrears. Each one of us is required to give our best to the system and to come up to the expectations of the general public. The consumer of justice has so many expectations from us and, therefore, our performance, goal, determination, commitment and existence must be for the consumer of justice. If you are able to address his grievance, and answer his cause, the system will survive, the system will progress, and the system will be promoted. But if we fail, the posterity will not forgive us."*

Justice Kant possesses a rare quality of seeing the human aspect in legal disputes, ensuring that justice is served with compassion. His judgments would often reflect a profound understanding of the societal implications and the real-life impact on individuals affected by legal decisions. With the students, he always tries to strike a chord stressing the role of education & social responsibility in shaping the future of the nation. While speaking at the Dr. A.P.J. Abdul Kalam Library's inaugural ceremony at Dr. B.R.Ambedkar National Law University addressing law students he reminded, *"Lawyers are not only professionals whose sole purpose is to represent their clients. Instead, their role is that of social engineers. Books are your true companion' and stated that a library is the only place where there is a wealth of knowledge."*

Justice Kant has been a tireless advocate for access to justice, aiming to make legal processes more accessible and equitable for all. He has actively supported initiatives that promote legal aid programs, ensuring that even the most marginalized individuals have access to legal representation and a fair chance in the courtroom. By actively engaging with legal aid organizations and encouraging pro bono efforts within the legal community, he has created an ecosystem to encourage a commitment to justice for all. While taking oath as the Chief Justice of Himachal Pradesh High Court, he emphasised that the biggest challenge before the judiciary was to provide speedy and effective justice. Lordship said, *"There should be timeline, in which every case should be decided and all stakeholders should work in furtherance of cause, so as to reach that destination."* Underlining on providing swift justice to the poor and needy, he said that the existence of the Bar and Bench would be meaningful only when they were able to wipe out the tears of poor.

While stressing upon access to justice as a core virtue of the Indian Constitution which cannot be ignored at any cost, he often quotes US Supreme Court's most influential Justice Brennan, *"Nothing rankles more in human heart more than brooding sense of injustice. Illness we can put up with. But injustice makes us pull things down."*

Apart from his will and legal acumen, his humility and down-to-earth nature despite holding such prestigious positions is reflected from his easy approachability and openness to intellectual dialogue. Lordship willingly engages in meaningful conversations with advocates and citizens, respecting differing perspectives and fostering an environment of intellectual exchange. This approach has created a culture of mutual respect and admiration between the legal fraternity and Justice Kant, allowing for a constructive and fruitful legal discourse.

On the eve of his appointment as the Chief Justice of Himachal Pradesh High Court, a full page article in a regional Hindi newspaper of 04.10.2018 aptly described the feelings of the legal fraternity from Punjab, Haryana, Chandigarh and Himachal Pradesh. It wrote: -

जस्टिस सूर्यकांत को नहीं भूला जाएगा पंजाब—हरियाणा

2004 में पंजाब—हरियाणा हाईकोर्ट का जज बनने वाले जस्टिस सूर्यकांत 14 वर्ष अपनी सेवाएं देने के बाद अब हिमाचल प्रदेश के चीफ जस्टिस का पद संभालने जा रहे हैं। इस दौरान पंजाब—हरियाणा हाईकोर्ट में उनके द्वारा निभाई गई भूमिका को शायद ही कोई भूल जाएगा। जस्टिस सूर्यकांत ने समाज के हित में कई फैसले दिए जिसके चलते वे सबसे लोकप्रिय जजों में शामिल हैं। समाज के हर वर्ग को न्याय सुनिश्चित कराने का कार्य उनसे बेहतर कोई कर ही नहीं सकता।

14 साल में उन्होंने करीब 50 हजार मामलों का निपटारा किया है जो अपने आप में बड़ी संख्या है। इसके साथ ही जस्टिस सूर्यकांत को उनके स्मृथ नेचर के लिए जाना जाता है।

Justice Surya Kant's impact extends beyond the courtroom. As an exceptional human being, and a first generation lawyer he serves as an inspiration to aspiring legal professionals and the wider community. His commitment to fairness and the betterment of society serves as a guiding light for those who strive to make a positive difference through their legal careers. He is a true beacon of hope and inspiration in the pursuit of a just society.

# Shri Arjun Ram Meghwal

Union Minister of State (Independent Charge)  
for Law and Justice



Often seeing cycling to Parliament in his trademark Rajasthani turban, kurta-pyjama and a sleeveless jacket was the MP from Bikaner. A man of many seasons, and an avid cyclist Shri Arjun Ram Meghwal, a law graduate and former IAS took charge as Union law minister while riding to the Law Ministry office. An epitome of simplicity and humility – two traits the new Union Minister for Law and Justice is widely acclaimed for. Along with his current assignment as the Minister of State, Ministry of Law and Justice (*Independent Charge*), he will handle his other portfolios as MoS, Parliamentary Affairs and Culture.

Born in Bikaner, Hon'ble Minister got married at the age of 13. As a devout academic, he continued to study even as he

worked alongside his father as a weaver. He graduated in law and also earned his master's degree from Dungar College in Bikaner. He is a post-graduate in political science along with an MBA degree.

While preparing for competitive examinations, Hon'ble Minister found a telephone operator's job at the Indian Post and Telegraph Department. His first brush with politics was being elected the General Secretary of the telephone traffic association. While working there, reportedly, he cleared the Rajasthan Administrative Service exam in his second attempt. He held several positions during his state service in the industry department - a notable one being the officer on special duty (OSD) to then state deputy chief minister in 1994. He also served as the Churu District Collector after his promotion to the IAS in 1999. After taking voluntary retirement from services, Hon'ble Minister contested his first Lok Sabha election from Bikaner in 2009. He



Arjun Ram Meghwal  
@arjunrammeghwal

कश्मीर में दो दिवसीय राष्ट्रीय विधिक सेवा प्राधिकरण की 19वीं अखिल भारतीय बैठक का शुभारंभ भारत के मुख्य न्यायाधीश जस्टिस डीवाई चंद्रचूड़ जी व जम्मू-कश्मीर के उपराज्यपाल श्री मनोज सिन्हा जी सहित अन्य गणमान्य व्यक्तियों के साथ किया।

Translate Tweet



9:10 AM · 01/07/23 from Earth · 1,204 Views

continued to win from his constituency till 2019, the year he won by 2.64 lakh votes.

After the 2014 Lok Sabha elections, he was the chief whip of his party and was thereafter inducted as Minister of State for Finance and Corporate Affairs. Later, Hon'ble Minister worked in the water resources Ministry as deputy head in 2016-18.

On the eve of the 132nd birth anniversary of Babasaheb Ambedkar in April 2023, the Hon'ble Minister wrote,

*“The dynamism to accept Ambedkar ‘as he is’ on the one hand, and emulating his values through actions on the other, is a fitting tribute to this great son of India. India would have benefitted if earlier governments had accepted Ambedkar in this manner — their commitment to public welfare would have been greater as a result.”*

In the realm of governance, the appointment of a capable and accomplished individual to a ministerial position will have a profound impact on India's legal

system. Hon'ble Minister was honoured with the Best Parliamentarian Award in 2013. He has exhibited a clear vision for enhancing the outreach of judicial system, ensuring equal access to justice for all citizens, and promoting a fair and impartial legal framework for all. His commitment to upholding constitutional rights and protecting the vulnerable segments of society is truly commendable.

With unwavering dedication, an admirable social career, and a commitment to constitutional principles, our new Law Minister has rapidly garnered praise and appreciation from all quarters. After taking charge, the Hon'ble Minister stressed that the constitution is supreme in the country, while highlighting that his top most priority shall be that justice be served to all and cases pending in courts should be as less as possible.

A brighter and more just future for our country awaits.



# Hon'ble Mr Justice Rajesh Bindal

## Judge, Supreme Court of India

In the realm of law and justice, the role of judges is of paramount importance. They are the custodians of fairness, the guardians of rights, and the embodiments of justice itself. Hon'ble Mr Justice Rajesh Bindal is one such judge who possesses a resolute dedication to uphold the principles of integrity and impartiality. Lordship's decisions are guided by a deep-rooted commitment to the rule of law and the pursuit of justice. Through Lordship's unwavering resolve, he ensures that every individual who enters his courtroom receives fair treatment, regardless of their background, socio-economic status, or influence. While Lordship was serving at the Punjab and Haryana High Court, his empathy, wisdom and uprightness along with his simple living was widely admired.

Lordship's contribution extends beyond the courtroom, as he regularly engages with community outreach programs, promoting legal awareness, e-initiatives and encouraging dialogues and knowledge disseminating platforms. In a world often driven by recognition, Lordship's humble presence quietly but most effectively upholds justice and ensures the fair application of the law. Lordship's admirable reputation, integrity, impartiality, compassion, and dedication to the pursuit of justice is a beacon of light for all who seek to serve the judicial system one day.

Justice Bindal had recently given two important addresses, one on the 'Completion of 50 years of Basic Structure Doctrine: The way ahead' on 31.03.2023 at Panjab University and other on 'Vital legal practice ethics for young lawyers and message to legal fraternity' on 24.05.2023



at Law Bhawan, Chandigarh. **The contents of both addresses can be viewed by scanning the QR codes given at the end.**

### Early Life, Education and Advocacy

Born on 16.04.1961, at Ambala city in Haryana, Justice Rajesh Bindal did his LL.B. from Kurukshetra University in 1985 and joined the legal profession in the High Court of Punjab and Haryana in September 1985.

During his tenure as an advocate, Justice Bindal represented the Income-tax Department, Haryana region before the High Court; Chandigarh Administration before Central Administrative Tribunal for more than a decade till 2004 and Punjab & Haryana regions of Employees Provident Fund Organization before the High Court and Central Administrative Tribunal from 1992 till his elevation as Judge. Furthermore, he represented the State of Haryana, in

settlement of the dispute concerning Satluj Yamuna Water with State of Punjab before Eradi Tribunal and the Supreme Court.

### Judgeship of the High Courts

Justice Bindal was elevated as a Judge of the High Court of Punjab & Haryana on 22.03.2006, during which Lordship had disposed off around eighty thousand cases. Subsequently in 2018 he was transferred to the High Court of Jammu and Kashmir and, in 2020 was appointed as the Acting Chief Justice of the common High Court for the Union Territory of Jammu and Kashmir and Ladakh.

Further on Justice Bindal was transferred to the High Court at Calcutta and was later sworn in as the Chief Justice of the High Court at Calcutta with effect from 29.04.2021. On 11.10.2021, Justice Bindal took oath as the Chief Justice of Allahabad High Court.

Justice Rajesh Bindal's elevation was recommended by the Supreme Court Collegium on 31.01.2023. The recommendation was approved by the President of India and with a notification dated 10.02.2023, the Ministry of Law and Justice, notified the appointment of Justice Bindal to the Supreme Court. Justice Rajesh Bindal took oath as a Supreme Court Judge on 13.02.2023.

### Work in various Committees

He chaired a multi-member Committee pursuant to Resolution No. 7 adopted in the Chief Justices Conference, 2016 and was entrusted with the task to create a uniform platform and formulate Guidelines for the Reception, Retrieval, Authentication and Preservation of Electronic evidence. The Committee submitted its Report including Draft Rules for reception of Electronic Evidence to the Supreme Court in November 2018.

Justice Bindal was the Chairman of a multi-member Committee constituted by Ministry

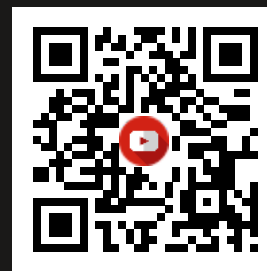
of Women and Child Development to study the Civil Aspects of International Child Abduction Bill, 2016, he submitted the report accompanied by the recommendations and a draft of the Protection of Children (Inter-Country Removal and Retention) Bill, 2018 to the Ministry in April 2018.

Justice Bindal also headed various Committees including Computer Committee, Arrears Committee; Finance Committee, Building and Infrastructure Committee, Information Technology Committee, State Court Management Systems Committee in the High Court and also Chairman of J&K State Legal Service Authority.

He was also the Chairman of the Committee constituted for conducting assessment for optimal use of technology by NALSA and the State Legal Services Authorities including use of Artificial Intelligence.

He was also Member of the Committee constituted to go into the existing framework of Lok Adalats and Mediation and to suggest ways for enhancing operational efficiency and plugging gaps, if any, or better application of these ADR mechanisms for weaker sections of the society.

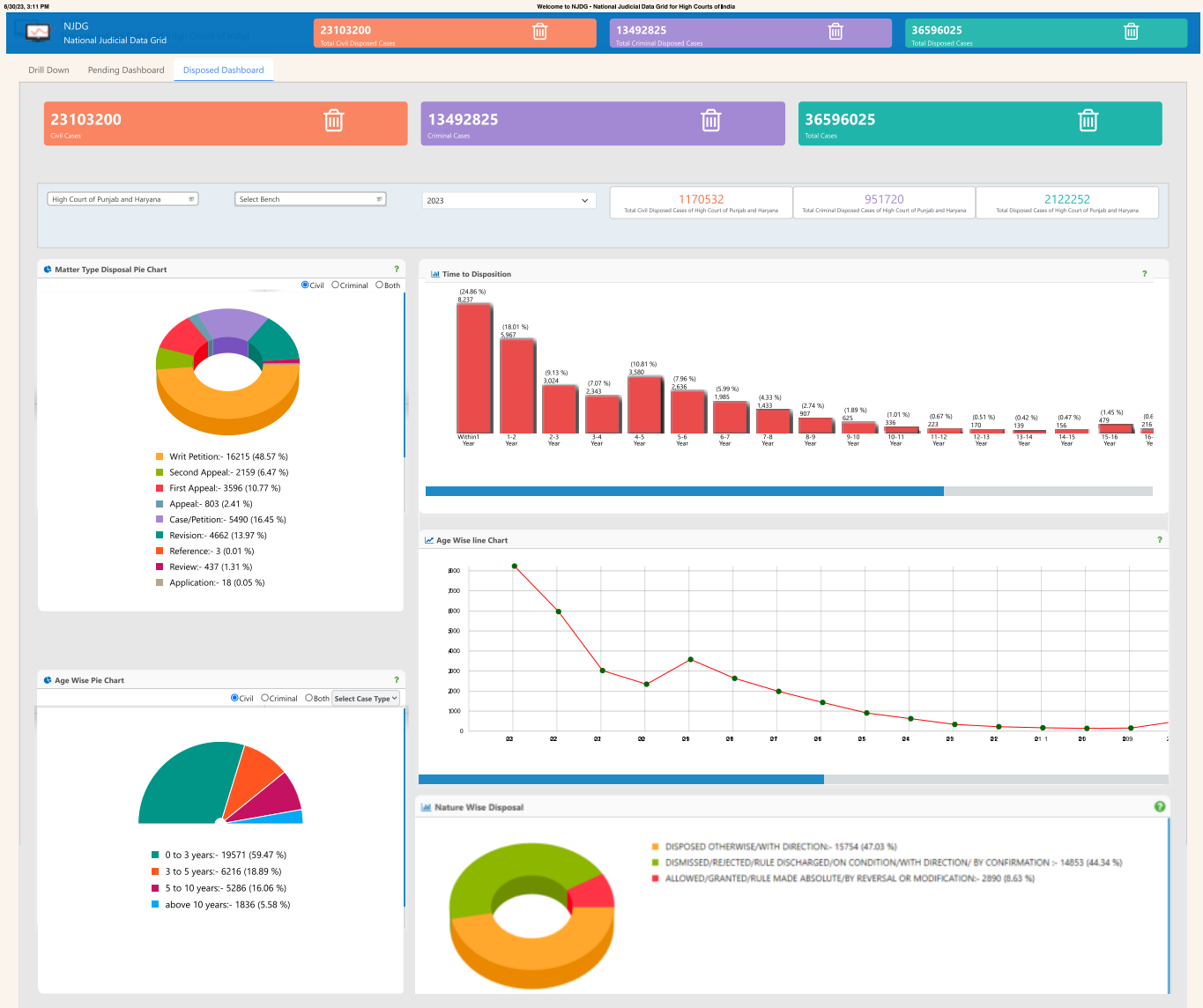
(Courtesy: SCC Online blog)



Scan QR Code  
Video of H.M.J. Rajesh Bindal Judge Supreme  
Court of India address | 24.05.2023



Scan QR Code  
Transcript of address on 50 years of Basic Structure Doctrine  
by H.M.J. Rajesh Bindal Judge Supreme Court of India | 30.03.2023



National Judicial Data Grid (NJDG) is a database of orders, judgments and case details of 18,735 District & Subordinate Courts and High Courts created as an online platform under the eCourts Project. Data is updated on a near real-time basis by the connected District and Taluka courts. It provides data relating to judicial proceedings/decisions of all computerized district and subordinate courts of the country. All High Courts have also joined the National Judicial Data Grid (NJDG) through web services, providing easy access facility to the litigant public.

Through the eCourts services platform using elastic search technology, currently litigants can access case status information in respect of over 23.11 crore cases and more than 21.92 crore orders / judgments pertaining to these computerized courts as on date.

Case data is available on NJDG for both civil and criminal cases with the ability to perform drill-down analysis based on the age of the case as well as the State and District. NJDG works as a monitoring tool to identify, manage & reduce pendency of cases. It helps to provide timely inputs for making policy decisions to reduce delays in disposing of cases and helps in reducing case pendency.

World Bank praised the National Judicial Data Grid in the Ease of Doing Business report for 2018, that it made possible to generate case management reports, thereby making it easier to enforce contracts.

# Office Yoga For Advocates

(Celebrating 9th International Day of Yoga | 21.06.2023)



75  
Azadi Ka  
Amrit Mahotsav

विधि कार्य विभाग  
DEPARTMENT OF  
LEGAL AFFAIRS

G20  
भारत 2023 INDIA

**COMMON  
YOGA  
PROTOCOL**

**Half plough posture**

**Hands to Feet Posture**

**Palm Tree Posture**

**Half Wheel Posture**

**Thunderbolt Posture**

**Triangle Posture**

**Hare Posture**

MLJ.GovIndia

@mlj\_goi

@MLJ\_Goi

law-and-justice-ministry-india

@mlj\_goi

## Why office yoga is essential for lawyers?

Yoga is an ancient physical, mental and spiritual practice that originated in India. The word 'yoga' derives from Sanskrit and means to join or to unite, symbolizing the union of body and consciousness. Today it is practised in various forms around the world and continues to grow in popularity. Recognizing its universal appeal, on 11 December 2014, the United Nations proclaimed 21 June as the International Day of Yoga by resolution 69/131.

For many in the legal profession, the term "lawyer mental health" may seem contradictory. The demanding hours and stressful work environments at many law offices, and for independent legal practitioners, often has detrimental effects on lawyers who struggle to balance severe stress and self-care. Yoga poses are an excellent way to relieve this stress and reduce pain by releasing endorphins throughout the body.

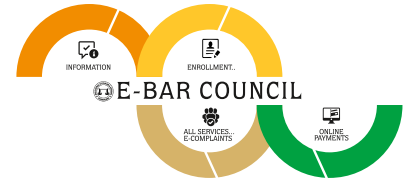
As a form of low-impact exercise, yoga has been shown to lower stress hormones in our bodies while simultaneously increasing beneficial brain chemicals like endorphins and GABA (*gamma-aminobutyric acid*). These feel-good chemicals help decrease anxiety and improve mood. For lawyers who tend to remain for long hours in the office, this form of office yoga as shown in the video can be adopted.





# E-Bar Council

## Evolution and Emergence & Transforming with Purpose



In a move to embrace the digital age and enhance efficiency within the legal sector, the Bar Council of Punjab and Haryana has introduced a series of e-transition and technological initiatives aimed at streamlining legal processes, improving accessibility of working and delivery of services/processes and timely assistance. With the increasing reliance on technology in various industries, the legal profession recognizes the need to adapt and leverage technological advancements to better serve its members and the general public.

State Bar Council, while resolving transparency, has completely transitioned to a no-cash body, whereby only e-payment/expenditure through UPI & other electronic payments modes is permissible. Some of the key initiatives introduced by the State Bar Council are the following:-

- Online submission of enrolment application and registration,
- Online submission of application for ID Card,
- Online submission of application for Permanent license,
- Online submission of application for Continuity Certificate,
- Online application for Duplicates (ID & Enrolment),
- Online application for benevolent & welfare fund memberships/renewal/disbursements,
- Online application for transfer from roll,
- Online application for change of name

**(all these facilities are available on the BCPH website i.e. a secure and user-friendly online portal)**

Complete scanning of the enrolment files (*from 1919 till 2023 and counting*), roll of advocates registers and other documents has been successfully completed with over 5472551 pages scanned. Thus, an e-repository of all important files and documentation has been created. This transition from paper-based documentation to a digital platform will significantly reduce the administrative burden on Council staff, and ensure swift service to enrolled lawyers. The electronic system will enable staff to assist lawyers better, by submitting, tracking, and accessing legal documents electronically, eliminating the need for physical copies and reducing delays caused by manual processes.

In the coming days, the Council is in the process of introducing the e-filing of professional misconduct complaints facility for the convenience of the general public. Furthermore, the Council is working on enhancing the web-portal's productivity by providing lawyers with access to latest legal news, a range of legal resources, including case law databases, research materials, and legal precedents via free access to legal research platforms. By consolidating these resources into a centralized digital platform, legal professionals will have enhanced access to critical information, enabling them to provide more accurate and efficient legal advice and better assistance to Courts.

Recognizing the importance of collaboration and communication, the State Bar Council is also planning to invest in video conferencing and virtual meeting/evidence recording technologies. These tools will facilitate seamless remote collaboration among lawyers, public, and colleagues, reducing the need for physical meetings, deposition and enabling more flexible working arrangements. The adoption of video conferencing will not only save time and travel costs but also contribute to a more sustainable and environmentally friendly service delivery.

In addition to these technological initiatives, the State Bar Council has launched comprehensive training programs and workshops to educate its staff on the effective use of technology in their daily service delivery. These programs aim to enhance digital literacy among staff, ensuring they can leverage technological tools to their fullest potential and serve better.

The State Bar Council's e-transition and technological initiatives have received positive feedback from enrolled/enrolling advocates, who recognize the potential benefits of embracing technology in the service delivery area.

As the legal landscape continues to evolve, the Bar Council's proactive approach towards embracing e-transition and technological advancements will position its Members and staff at the forefront of legal innovation, enabling them to provide high-quality statutory services in an increasingly digital world.



PLEASE SCAN HERE FOR  
BAR COUNCIL ONLINE SERVICES

# Vidhi Talks

## Interviews and Podcast episodes

'Vidhi Talks' revealing interview series is an initiative of the Bar Council of Punjab & Haryana where we try to speak with distinguished persons from the legal field about their life, legal matters and beyond. The interviews are moderated by young lawyers and are solely intended to academically benefit the legal fraternity.



Vidhi Talks (Episode 1)

Hon'ble Mr Justice H.S. Sidhu (Retd.)



Vidhi Talks (Episode 2)

Dr. R. Venkataramani Ld. AGI



Vidhi Talks (Episode 3)

Shri Satya Pal Jain Addl. SG PHHC



Vidhi Talks (Episode 4)

Hon'ble Mr Justice Sudhir Mittal (Retd.)



These awards will be a recognition given to lawyers, in-house counsels and law firms in the states of Punjab, Haryana and UT Chandigarh who are in the early stages of their careers/establishment (10 years or less as on 31.12.2022) for outstanding professional excellence in legal practice.



Apply or nominate by scanning the QR Code.

# What is a strategic approach to Lawyering ?

**P**rocurring, preparing, presenting, and winning a case requires careful planning, thorough preparation, effective communication, and a strategic approach. In the last issue, while we discussed the importance of structuring ourselves, a strategic approach to legal practice in India is also required. Here are some general steps that lawyers can follow:

## 1. Case Evaluation and Procurement:

- Encourage individuals and Institutions within your network to be legally aware. Appear like a potential lawyer they'd like to consult with one day. Build relationships and network with connections on a regular basis. One can also be a part of discussion groups or events. Work on your professional social media profile.
- Understand the client's needs and goals. Consult with the client to gain a clear understanding of their objectives and expectations.
- Conduct legal research: Analyze the relevant laws, regulations, judgements and precedents applicable to the case.
- Assess the strength of the case: Evaluate the evidence, identify potential legal issues, and determine the likelihood of success or points where serious work needs to be done.

## 2. Case Preparation:

- *Gather evidence:* Collect and review all relevant documents, testimonies, expert opinions, and other supporting materials.
- *Interview witnesses:* Conduct interviews with potential witnesses to gather information and assess their credibility before presenting them to the Court.
- *Draft legal documents:* Diligently prepare legal pleadings, motions, replies, briefs, and other necessary documents to present the case effectively.
- *Develop a case strategy:* Formulate a comprehensive strategy that outlines the key arguments, legal theories, and supporting evidence to support the client's position. Make notes accordingly (eventually aim to argue without notes one day)

## 3. Case Presentation:

- *Oral advocacy:* Prepare and deliver persuasive oral arguments, presentations, and cross-examinations during court proceedings. Being respectful yet reasonably assertive is the key.
- *Exhibits and visual aids:* Present evidence effectively using exhibits, aids, and multimedia tools etc (whatsoever is acceptable) to enhance understanding and credibility.
- *Witness preparation:* Prepare witnesses for their testimony, ensuring they understand the questions, maintain clarity, and present their account convincingly.
- *Maintain professionalism:* Conduct oneself ethically, respectfully, and confidently in court, building credibility with the judge, court staff and opposing counsel.

## 4. Winning the Case:

- *Strong legal arguments:* Present well-reasoned and persuasive legal arguments that support the client's position. Be true to the Court, and



by C.M Munjal

Former Chairman State Bar Council (2004-05)  
Sixth term as Member Bar Council (Incumbent)  
Chairman Executive Committee

never underestimate the power of narrating simple facts coherently.

- *Effective communication:* Articulate complex legal concepts clearly and concisely, tailoring the arguments to the audience.
- *Use of precedents:* Cite relevant legal precedents and case laws to strengthen the legal arguments. Make sure they aren't overruled or undone by subsequent cases.
- *Rebuttal and counterarguments:* Anticipate and respond effectively to opposing arguments, highlighting inconsistencies or weaknesses, after seeking permission from the Court.
- *Adaptability:* Stay nimble during the case, adjusting strategies as needed based on courtroom dynamics and new evidence.

It's important to note that each case is unique, and strategies may vary depending on the specific circumstances. Successful case management requires expertise, experience, and continuous assessment and adaptation throughout the legal process. Effective collaboration with clients and a diligent work ethic are crucial elements in pursuing a desired outcome.



# Networking in the legal profession

- by Dr Kajori Bhatnagar  
Asst Professor of Law Christ University Bangalore

**W**arming Up - the individuation  
Epistemologically networking will refer to the process of interacting with people within your preferred industry for the purpose of cultivating long or short-term professional relationships. In the web of socio-economic activities by sharing knowledge and seeking profitable partnerships, the professionals in the industry meet to form business relationships and create opportunities.

For legal profession the networking will be creating, developing and maintaining personal contacts amongst the individuals and the firms as the case may be, and ensure awareness about the members, firms and respective expertise and facilitate long-lasting personal relationships amongst its members. The benefits of networking in legal profession are multifarious.

Networking is an essential part of any career, but it is especially important in the legal profession. In a competitive field like law, it can be difficult to stand out from the crowd. Networking can help you build relationships with potential clients, referral sources and other legal professionals. These relationships can lead to job offers to start with and new opportunities, additional referrals and collaborations. For a new incumbent in the legal profession, in contrast to on-

campus interviews or job advertising, networking may account for about 80% of all employment opportunities. Most career counselors believe that at least half of the firms' positions are filled without ever being posted.

One of the significant challenges faced by first-generation lawyers is the lack of networking opportunities. As the legal profession in India is still dominated by traditional families, close-knit circles and established law firms, it can be challenging for first-generation lawyers to make connections and build a reputation. This lack of networking opportunities often results in missed career opportunities and a slower career growth trajectory. Building a strong network is essential for any lawyer, and it is even more critical for first-generation lawyers. They can join professional organizations, attend legal events, and build relationships with other lawyers and legal professionals to expand their network.

Smart networking increases the chances of finding work by discovering this 'hidden job market'. Networking might mean the difference between being chosen for an interview and being just another resume in the pile. In actuality, networking is relationship building where there is already a network whether one realizes it or not.

The Importance of networking includes finding a job, getting referrals, collaborating with other



lawyers, staying up-to-date on law and building reputation in the profession. Job openings that are not advertised are not known. Referrals are also a great way to get new clients. Collaborations can help get better results for the clients. Networking can help to stay up-to-date on new laws and trends and help establish presence in the legal community.

### **Benefits of Networking – the cutting edge**

Firstly, it improves communication skills. The more the interaction with other lawyers and clients, the better are the communication skills. This will include understanding of both - the language and regional preferences. Further it will increase confidence in taking newer initiatives and challenges in form of different cases expanding the domain. It will allow for access to newer opportunities as well.

As a fresher or veteran, individual or a firm, the gains of networking are noteworthy. In the ever-dynamic field of laws, the networking will create the environment of self-re-evaluation, re-assertion and adaptation of new learnt approaches. The knowledge of differential methods in similar ranges will allow the knowledge of competitive world also. Nevertheless the most important benefit is the building up of client pool, by way of synergetic efforts. This meeting of minds may take place on individual meetings or in social gatherings and institutional events with domain specific speakers. Networking is building dynamic relationships to gain information, ideologies, support, and opportunities by reaching out to more people from the industry and maintaining mutually beneficial associations with these people.

### **The Process of Networking – the Cherry Picking**

The process of building a solid network starts right when the lawyer is a student of laws. Just being a law student or walking out of the University with a degree in hand isn't enough. They are also expected to know the nitty-gritty of firm/litigation/in-house practice - the past, the present and should be able to predict a probable future of the organization.

At the very first instance, areas of interest, the sections where you can perform the best and channel abilities that you perceive are to be ascertained at one's own level. Aimless targeting will diffuse the momentum at the very start itself. Any conversation can be a networking opportunity for which having professional identity or card always comes handy. The person has to be goal-ready to network with people anywhere, and anytime. Moving-conversations yield to better networking opportunities later. To be active in Bar Associations etc or in their events, both professional and social also provides such platform. Some of the best lawyers in the country had found their mentors in such short interactions.

Another way is the social networking. By blogging and attending social e-events gives one a larger guaranteed audience. This allows for knowledge, updates, understanding, and appreciation of legal issues. This increases networking opportunities within the people having similar interests. Following trends and sharing insights on the social media, including sensitive legal issues will make one's presence in the field felt. Social media is a strong platform where people across the region and cross-national boundaries participate. Social media connects people like never before, who do not meet regularly but are on a look out for professional exchange of ideas. These activities will significantly improve the references amongst potential employers or recruiters. [LinkedIn](#) and [Facebook](#) are few platforms for such exercise. A newer concept of referral cycles can also be useful.

Internships are another mode of networking. It is not only about learning and getting practical exposure from seniors, but an internship opportunity is also about developing a network with the seniors at work, making the best use of given opportunity to do better in the field for actual exposure. Through an internship, relations develop with the veterans in the legal field.

Working pro bono to build up experience and to make your presence seen or as a volunteer in community or field specific cases may boost networking as well.

Building your network is not possible in one day, instead it requires continuously growing your network over a period of time as well as in a gradual manner and following up with your contacts. As a special initiative for women lawyers, virtual networking events for women lawyers to connect for personal friendship, support, and professional guidance have been initiated at many places.

### The Fall sides

It is evident that the social networking goes beyond regional boundaries. International Bar Association emphasizes on advent of technology in the legal profession. The important issue is whether the legal profession can keep up with such advancements and, if so, what safeguards or control measures are required to guarantee that ethical and professional standards can be upheld. It was concluded from a study conducted by the association that even while more than 90% believed that the legal profession faces new obstacles as a result of online social networking, these challenges should not only be seen as drawbacks. In fact, more than 75% of people thought that online social networking had more benefits than drawbacks. Nearly 70% said it was acceptable for judges and lawyers to be contacted on online social networks. More than 90% thought it was improper for lawyers and judges to discuss other attorneys, judges, parties, or cases in process on online social networks, within the ethical realm of exposure. An overwhelming majority, primarily from countries with jury trials said it was improper for jurors to post any of their opinions online. Nevertheless it is an accepted fact that globalization has increased the scope of interaction among legal professionals across the world.

Both a one-to-one network and a network of law firms is possible. A government lawyer may be a part of a network of government organizations with similar regulatory objectives, or a network of law firms. In legal firms, lawyers who work in-house for an entity have the opportunity to be a part of a global network due to the firm's global presence. There are international networks for lawyers engaged in specific substantive law fields, whether it be intellectual property, antitrust, or disability law etc. The most effective networkers concentrate on what they have to offer for others. The famous founder and CEO of Ferrazzi Greenlight, a research and consultancy company with offices in Los Angeles claims that compassion rather than greed is the currency of meaningful networking.

### Conclusion

The ability to network is crucial for long-term success. The connections you make lead to both business opportunities and lifelong friendships. The main focus is on establishing and maintaining

relationships; immediate financial gains must come second. Similar to the rule of karma, more opportunities will present themselves to you as you put more worth out there. Therefore, consider what you can contribute. What skills do you possess that others lack? What specific issue can you resolve? How can you make the lives of others easier? In other words it can be concluded that 'Your network is your real net worth'. So, grow it. No successful person rises to the top on their own. Whether it's sports, politics, business, or starting a legal career, we all need help getting to where we want to go. High social capital, or your ability to build a network of authentic personal and professional relationships, is the single most important asset.

### *Happy Networking !*



The iconic image of Alfred Hitchcock serving tea to Leo the Lion captures a unique moment in the history of Hollywood. It was taken in 1957, during a promotional event organized by MGM, one of the most prominent film studios of the time. Leo the Lion, famously known as the roaring mascot of MGM, was present as a symbol of the studio's power and influence in the movie industry.

Alfred Hitchcock, a renowned English film director and master of suspense, was invited to participate in the event, adding an element of intrigue and excitement. Known for his exceptional storytelling and mastery of visual techniques, Hitchcock had already established himself as a prominent figure in the world of cinema.

The meeting of these two legends, Hitchcock and Leo the Lion, created a delightful juxtaposition. On one side, you had Hitchcock, a creative genius known for his dark and suspenseful movies, often featuring thrilling plots and mysterious characters. On the other side, you had Leo the Lion, a majestic and powerful symbol associated with the glamour and grandeur of the MGM film studio.

The photograph captures the playful and unexpected moment when Alfred Hitchcock served tea to Leo the Lion. It showcases a lighthearted interaction between the director and the iconic mascot, bridging the gap between the world of filmmaking and the larger-than-life imagery associated with Hollywood.

This image became a fascinating symbol of the entertainment industry, representing the convergence of talent, creativity, and larger-than-life personalities. It serves as a reminder of the enchantment and magic that can be found both behind the scenes and on the silver screen.

# TYPES OF CLIENTS and areas of practice



Lawyers can have various types of clients depending on their area of practice. Here are some common types of clients that lawyers may represent:

1. **Individuals:** Lawyers often work with individual clients who require legal assistance for personal matters. This can include individuals seeking legal advice for family law issues, estate planning, immigration, employment matters, criminal defense, personal injury cases, or civil disputes.
2. **Businesses and Corporations:** Lawyers frequently represent businesses of all sizes, from startups to multinational corporations. They may provide legal counsel on matters such as corporate law, contracts, intellectual property, employment law, regulatory compliance, mergers and acquisitions, and dispute resolution.
3. **Government Agencies:** Lawyers may work with government agencies at various levels, including centre, state, or local entities. They can provide legal advice, draft legislation, handle regulatory matters, and represent government agencies in court proceedings.
4. **Nonprofit Organizations:** Lawyers often work with nonprofit organizations, providing legal guidance on matters such as organizational structure, taxes, compliance with regulations, governance, fundraising, due diligence and advocacy efforts.
5. **Other Legal Professionals:** Lawyers may also serve as consultants or advisors to other legal professionals, such as law firms, seniors in practice assisting with complex cases, research, or providing specialized expertise in a specific area of law.
6. **Insurance Companies:** Lawyers may represent insurance companies in matters related to insurance claims, policy interpretation, coverage disputes, or defending the company against legal actions.
7. **Educational Institutions:** Lawyers may work in-house for educational institutions, providing legal advice on issues such as student rights, employment contracts, intellectual property, regulatory compliance and handling disputes within the institution.
8. **Public Interest Organizations:** Lawyers may choose to work with public interest organizations that focus on advocating for social justice, human rights, environmental protection, or other causes. They provide legal representation and support to individuals or groups seeking to address societal issues.
9. **Pro-bono lawyering:** Lawyers may choose to raise important social issues in public interest, provide legal aid and support clients who may not have the necessary resources to financially support their cause.

These are just a few examples - the types of clients a lawyer manages can vary widely depending on their specialization and area of expertise. Lawyers need to understand their clients' unique needs, communicate effectively, provide ethical legal advice, negotiate on their behalf, and represent them in legal proceedings when required.



## State Bar Council during 2021-22

**A**s I look back on my earlier tenure as Chairman of the Bar Council of Punjab and Haryana during 2021-22, I am filled with a profound sense of pride and gratitude for the incredible strides we made in advancing the legal profession. It is with great pleasure that I take this opportunity to reminisce about the significant achievements we accomplished together during that time.

We saw and conquered Covid-19 together, when we jointly came to the rescue of many senior and young colleagues, families of deceased brethren. Notably, a total amount of more than 5 Crores was distributed as Covid-19 related financial aid amongst the legal fraternity of this region. Bar Council ensured all possible assistance to the legal fraternity during these testing times.

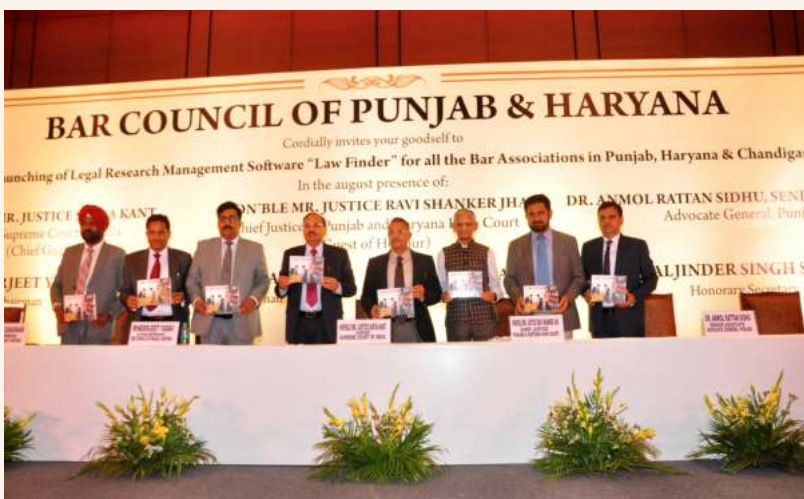
I am thankful to Hon'ble the Chief Justice Ravi Shanker Jha of High Court of Punjab and Haryana and other Hon'ble Judges for coming to the aid of lawyers during that time and giving a substantial financial donation. I would also fail in my duty if I don't thank Members of Bar Council, Senior advocates/seniors

in profession and other esteemed members of the Bar who contributed during that time.

One of the primary areas of focus during my tenure was to promote and safeguard the independence of the legal profession. We tirelessly advocated for the protection of lawyers' rights, ensuring that they could perform their duties without fear or intimidation. Through strategic partnerships and effective cooperation efforts, we successfully influenced policy decisions and legislative reforms that strengthened the autonomy and integrity of the legal fraternity.

Another critical aspect we addressed was access to justice. Recognizing the importance of equal access to legal services, we launched several initiatives aimed at providing legal assistance to marginalized and underserved communities. Pro bono programs were established, connecting lawyers with those in need, and legal aid centers were promoted through our humble offices.

We also came to the aid of Bar Associations like never before, while distributing legal research softwares and related equipment for effective case preparation and Court assistance.





Hon'ble Mr Justice Surya Kant Judge Supreme Court of India graciously launched the distribution programme. This project has greatly helped in the development of Bar Associations and legal fraternity.

Furthermore, we prioritized the professional development and well-being of our enrolled advocates. We introduced comprehensive training programs, enrolment day ceremonies and seminars that enhanced legal skills, promoted ethical conduct, and familiarized lawyers with emerging areas of law. Additionally, we facilitated networking opportunities and encouraged mentorship programs, fostering a supportive environment for knowledge-sharing and career growth.

In an era of rapid technological advancements, we recognized the importance of embracing innovation within the legal profession. We championed the adoption of digital tools and streamlining processes and enhancing efficiency. By encouraging the use of technology, we enabled lawyers to better serve their clients and adapt to the evolving demands of the legal landscape.

Lastly, I endeavored to strengthen the relationship between the legal fraternity and the wider society. We organized outreach programs, legal awareness campaigns, and community

engagement initiatives to bridge the gap between the legal profession and the general public. By fostering a better understanding of the legal system and promoting public trust and confidence, we worked towards a more harmonious and just society.

Reflecting on these accomplishments fills me with immense gratitude for the tireless efforts and dedication of my colleague Members of Bar Council, office staff and legal fraternity during that time. It is through your unwavering support and collective commitment that we were able to make a lasting impact on the legal profession and the lives of those we served.

**Some of the highlights of my tenure are: -**



**Hon'ble Mr Justice Ravi Shanker Jha, Chief Justice of the High Court of Punjab and Haryana along with Hon'ble Mr Justice Arun Palli, Judge High Court of Punjab and Haryana distributing aid-cheque on behalf of Bar Council to family member of deceased advocate brother who unfortunately expired during Covid-19. Also seen in the picture is Mr Minderjeet Yadav, then Chairman Bar Council.**





## Empowering Bar Associations via distribution of AI-based legal research softwares

25.03.2022 | Distribution and Launch Event

**B**ar Council of Punjab and Haryana took an initiative to support the legal community via distribution of legal research softwares. As part of the commitment to advance the legal profession, under the then Chairman Mr Minderjeet Yadav on 25.03.2022 Hon'ble Mr Justice Surya Kant Judge Supreme Court of India in the august presence of Chief Justice Ravi Shanker Jha of the Punjab and Haryana High Court distributed state-of-the-art legal research softwares to Bar Associations across Punjab, Haryana and Chandigarh, with the aim of empowering lawyers with enhanced tools for their research needs.

Legal research is a crucial aspect of the legal profession, and the Council recognizes the importance of providing lawyers with robust and efficient resources to assist them in their

daily work. The then Vice Chairman Raj Kumar Chauhaan stressed that these softwares had enabled lawyers to navigate the intricacies of legal matters with greater ease and precision and have since then proved to be extremely beneficial for young lawyers in assisted research.

The legal research software combines advanced technology with comprehensive databases, encompassing an extensive collection of case law, statutes, regulations, and legal commentary. This multi modal software harnesses the power of artificial intelligence, natural language processing, and machine learning to deliver accurate and relevant results in a fraction of the time it would take using traditional research methods. The then Hon'y. Secretary Baljinder Singh Saini ensured its distribution to Bars.

# (Un)enforceability of Arbitration Clause in (Un)stamped Contracts: Indian Perspective

by Avineet Singh Chawla  
Lecturer of Law & Assistant Dean JGLS

Recently, the Constitution Bench (5-judge bench) of the Supreme Court of India ('the Court') answered a pertinent question raised by the 3-judge bench in the case of **M/s. N. N. Global Mercantile Pvt. Ltd. v. M/s. Indo Unique Flame Ltd. & Ors (2021)**. The question of enforceability of an arbitration clause in an unstamped contract was addressed by the Constitution Bench. The bench, with a 3:2 majority, opined that if a contract is not stamped as per the Stamp Act, 1899 ('the Stamp Act'), then even the arbitration clause in the contract will be considered as invalid which raised a few eyebrows. As per most arbitration practitioners, this is not the correct position in Indian law. The case further tried to address the two questions of (1) position of arbitrators in addressing the question of validity of an arbitration agreement (*doctrine of kompetenz-kompetenz*) with minimal court intervention and (2) the applicability of doctrine of separability in such situations by discussing some earlier stances taken by the Court.



## Past View

The Court previously addressed the same issue in the cases of **SMS Tea Estates v. M/s Chanmari Tea Co. (SMS Tea Estates)(2011)**, **Garware Wall Ropes v. Coastal Marine Constructions and Engineering Ltd. (Garware Wall Ropes)(2019)** and **Vidya Drolia v. Durga Trading Corporation (Vidya Drolia Case) (2021)**.

In SMS Tea Estates case (2011), the 2 – judge bench

of the Court acknowledged the doctrine of separability and stated,

*'Even if it (arbitration agreement) is found as one of the clauses in a contract or instrument, it is an independent agreement to refer the disputes to arbitration, which is independent of the main contract or instrument.'*

But while addressing the question on the Stamp Act, stated that,

*'If the document is found to be not duly stamped, Section 35 of Stamp Act bars the said document being acted upon. Consequently, even the arbitration clause therein cannot be acted upon. The court should then proceed to impound the document under section 33 of the Stamp Act and follow the procedure under section 35 and 38 of the Stamp Act.'*

Such mixed views of the Court clearly demean the existence of the doctrine of separability which had far reaching consequences. The Court further held that an arbitration clause in an unstamped agreement, that is compulsorily registrable or chargeable to stamp duty cannot even be the basis for the appointment of an arbitrator which further raised questions and usability of the doctrine of kompetenz-kompetenz.

The 2- judge bench of the Court again addressed the similar issue in **Garware Wall Roes Case (2019)** and maintained their stance and reasoning in the SMS Tea Estates Case, despite the 2015 amendment to the Arbitration & Conciliation Act, 1996 ("*Arbitration Act*") coming into force.

Wherein, section 11(6A) and Section 11(13) were introduced in the Arbitration Act. The sole purpose of Indian legislature to include Section 11(6A) was to minimize the Court intervention in arbitration proceedings, specifically, when it comes to deciding on whether Courts can intervene and decide on the existence of an arbitration agreement. Further, Section 11(13) of the Arbitration Act calls for an expeditious disposal of such applications within 60 days. The addition of these two sections clearly demonstrate the legislative intent of minimal court interference and speedy disposal in arbitration.

Surprisingly, the Court upheld the decision of SMS Tea Estates and opined by siding with the reasoning given in the case over insertion of Section 11(6A). The Court reiterated that the Stamp Act applies to the deed/contract as a whole including the arbitration clause. The Court completely neglected the doctrine of separability and concluded, ‘it is not possible to bifurcate the arbitration clause contained in [an] agreement or conveyance so as to give it an independent existence’.

In its attempt to completely neglect the doctrine of separability, the Court tried to support its decision by reading Section 7(2) of the Arbitration Act and Section 2(h) of the Indian Contract Act, 1872 (Contract Act) together. Section 7(2) of the Arbitration Act resembles Article 7(1) of the UNCITRAL Model Law which states that an arbitration agreement may be in the form of an arbitration clause or a ‘contract’. The term ‘contract’ has been defined under Section 2(h) of the Contract Act which states that a ‘contract’ means ‘an agreement enforceable by law’.

The Court tried to connect this definition with the Stamp Act whose provisions state that an unstamped document is unenforceable by law, therefore, concluding that an arbitration clause in such an unstamped document—which is not a “contract”—will also be invalid. The opinion of the Court may seem logical, but is completely unethical because the doctrine of separability,

which is a very importance doctrine applicable where arbitration clauses exist in a substantive contract, was completely ignored.

Further, the Court, directly intervened in addressing the dispute without making an attempt to refer it to the arbitral tribunal (*Section – 16 of the Arbitration Act*), completely ignoring another fundamental doctrine in arbitration i.e., doctrine of kompetenz – kompetenz. Section – 16 of the Arbitration Act is wide enough to allow the arbitrators to adjudicate on the matters which are not only related to the jurisdiction but also extend to the stamping of the document.

This view was further reaffirmed by a 3-judge bench of the Court in Vidya Drolia case (2021).

### View in NN Global Case

The decision by a 3-judge bench in the NN Global Case (2021) was a transforming point in addressing the issue of enforceability of an arbitration clause in an unstamped agreement. The Court, while recognizing the two fundamental principles in arbitration (*doctrine of kompetenz – kompetenz and doctrine of separability*), opined that the arbitration clause in an unstamped agreement will be enforceable. The reasoning provided by the Court evidenced that Indian Courts are still considerate about the fundamental principles of arbitration and demonstrated a pro-arbitration stance.

Firstly, the Court acknowledged the doctrine of separability and observed that Section – 16 of the Arbitration Act is sufficient enough to support the doctrine of separability and proved that fact that arbitration clauses in substantive contracts are independent and separate. Subsequently, the Court stated that since arbitration clauses survive independence, they are enforceable and an Arbitral Tribunal can be appointed. Therefore, the tribunal will be eligible to address such concerns related to validity of arbitration agreement under the doctrine of kompetenz – kompetenz. The Court shall only address the question of existence of the arbitration agreement and once that is established, the Tribunal shall be the one addressing the question of its validity. The opinion

of the Court in this case righteously implemented the legislative intent with insertion of Section – 11(6A) in the Arbitration Act i.e., minimal court intervention.

The Court clearly doubted the correctness of the three previous decisions on the same issue which were held otherwise, one of which was addressed by the bench of equal strength (3 – judge bench) in Vidya Drolia Case.

Since there was a conflicting view from two benches of equal strength, the following issues were referred to a Constitution Bench.

### View of the Constitution Bench

The majority, in this case, upheld the views in SMS Tea Estates Case and Garware Wall Roes Case. They massively ignored the findings by the 3-judge bench in the NN Global Case and have decided that

“An arbitration agreement within the meaning of Section 7 of the Arbitration and Conciliation Act attracts stamp duty and which is not stamped or insufficiently stamped cannot be acted upon in view of Section 35 .....the arbitration agreement contained in such instrument as being non-existent in law until the instrument is validated under the Stamp Act.”

The majority, again ignored the fundamentals of arbitration and paid no heed to the existence of doctrine of separability. Moreover, they also found that the court intervention, at Section -11 stage, must include the examination of the instrument/agreement. If such instrument/agreement is not stamped or insufficiently stamped, it must be impounded at this stage itself. This view leads to more confusions in addressing a pertinent question i.e., till what extent shall courts intervene in addressing arbitration matters?

The minority, in this case, justly tried to state that the arbitration clauses in unstamped agreements should not be considered unenforceable. Albeit it was accurately opined that stamping is a curable defect, therefore, it should not render the



arbitration clause unenforceable. On the issue of court intervention, the minority agreed with the view of the 3-judge bench and stated that an arbitration clause in an unstamped agreement will be an enforceable document for appointment of the arbitral tribunal.

### Conclusion

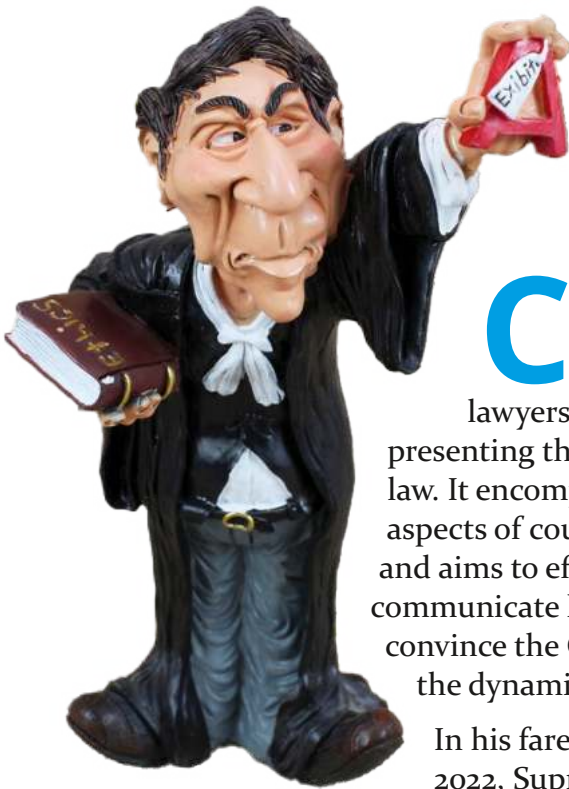
Varied views of the Court in addressing a similar issue demonstrates the prevailing distrust of Indian Courts in arbitration mechanism. The arbitration mechanism has been flourishing across the world, not only in domestic matters but in international matters as well. The two fundamental principles of separability and kompetenz – kompetenz are not new principles in law. These principles have contributed majorly in the making of arbitration mechanisms, a self-sustainable and a trustable system. The Court has not provided any strong reasoning in not addressing these two doctrines in addressing the two pertinent questions above. The outcome by the Constitution Bench requires a deeper scrutiny.

Avineet was called to the Bar in 2017 post which he pursued his LL.M from Queen Mary University of London specialising in International Dispute Resolution (2018-2019).

(The above blog was first published at Jus Mundi Blogs at <https://blog.jusmundi.com/unenforceability-of-arbitration-clause-in-unstamped-contracts-indian-perspective/>)

# Court Craft

## Lawyers' artistry



**C**ourtcraft refers to the skills, techniques, and strategies that lawyers employ when presenting their case in a Court of law. It encompasses the practical aspects of courtroom advocacy and aims to effectively communicate legal arguments, convince the Court, and navigate the dynamics of the courtroom.

In his farewell speech in May 2022, Supreme Court Judge, Justice Vineet Saran advised young advocates to learn the Court Craft by sitting during proceedings and observing. He emphasised that the Advocates should observe Judges and must know what they want. Justice Saran remarked that Court Craft is equally as necessary for Judges as it is for Advocates, admitting that many a times he pretended to be angry during the hearings while actually he was not.

Justice M.R. Shah of the Supreme Court used to often stress upon not interrupting each other's arguments, saying it was an important part of court craft. In recent times, careful observation of live streaming of various High Court proceedings has been extremely helpful for young lawyers and law students in understanding what essentially constitutes court-craft.

**Let's try to understand it in depth. Court craft involves several key elements such as: -**

1. **Presentation and Demeanor:** Lawyers must present themselves professionally, maintaining appropriate courtroom decorum. This includes dressing appropriately, speaking clearly and confidently, and demonstrating respect for the Court and all participants.
2. **Oral Advocacy:** Lawyers are to use their speaking skills to articulate their arguments clearly, persuasively, and succinctly. They should engage the Court by employing effective rhetorical techniques, emphasizing key points, and structuring their arguments logically. Coherence in speech and content is deeply valued.
3. **Witness Examination and Cross-Examination:** Lawyers employ specific techniques to question witnesses effectively. During direct examination, they guide witnesses to provide factually correct evidence, while cross-examination involves skillfully challenging the credibility and reliability of opposing witnesses.
4. **Evidence Presentation:** Lawyers must know the rules of evidence and present their case with appropriate exhibits, documents, and aids. They must use these tools strategically to enhance the credibility of witnesses, highlight key points, and support their legal arguments.
5. **Objection/Interruption Handling:** Lawyers must be proficient in identifying and raising legitimate objections when opposing counsel makes improper statements or attempts to introduce

inadmissible evidence. They must also be prepared to respond to objections raised by opposing counsel.

6. **Courtroom Etiquette:** Lawyers need to understand and abide by the courtroom rules, procedures, and protocols specific to each jurisdiction. This includes knowing when to stand, address the Court, make objections, and handle interactions with opposing counsel and witnesses.
7. **Case Organization and Strategy:** Lawyers must employ effective case management and strategy to present their case convincingly. This involves structuring arguments, prioritizing evidence, and ensuring that the case's narrative supports the desired outcome.
8. **Flexibility and Adaptability:** Lawyers must be adaptable and responsive to unexpected situations or changes during the trial, more so, be ready for any unexpected eventuality/question/counter argument. This may involve adjusting strategies, re-evaluating arguments, or responding to the judge's instructions or rulings.

Developing courtcraft skills requires experience, knowledge of the law, and a deep understanding of the case. Effective courtroom advocacy involves a combination of legal expertise, persuasive communication, thorough preparation, and the ability to think quickly on one's feet. Continual refinement of courtcraft skills enhances a lawyer's ability to effectively

present their case and advocate for their clients in a court of law.

Nowadays, balancing the right mental attitude is also essential as preparing oneself mentally and emotionally for a career in litigation is hardball. Maintaining a healthy work-life balance and dealing with the fear of losing a case while controlling your emotions in the courtroom - all constitutes court craft. As an artist of his/her own legal work, one must know the value of drawing the line between being pliant and being obtuse. Making new and innovative arguments in Court can only come with better reading of judgements. Managing with a low income during the initial years of one's practice whilst increasing visibility and getting clients without compromising on professional ethics is the real deal. With time, effectively assisting the court, given the time constraints, while dealing with pressure in litigation and mental health issues will one day yield great results.

## Lawyers & Social Work



**Adv Hariom Jindal** from Ludhiana, is working to empower underprivileged children living in slums through meaningful education since 2013. Jindal has been working to educate children on constitutional provisions, fundamental duties and rights, and legal safeguards.

Through his book, 'Empowerment through Knowledge', he teaches A for Administration, B for Ballot Box, C for Constitution, D for Democracy, L for Law, R for Rights etc making law work with alphabets.





# What is Third Party Litigation Funding ?



**L**itigation funding, also known as third-party funding, refers to the practice of a third-party entity providing financial support to litigants to cover the costs of a legal dispute in exchange for a portion of the proceeds if the case is successful. Litigation funding can be used by individuals, companies, or other entities involved in a legal dispute to manage the costs and risks associated with litigation.

Simply put, it refers to third-party entities providing funding to help companies or individuals to pursue legal tussles. More importantly, these ventures also help entities choose the right legal strategy with their AI-backed analytics tools. Clearly, this means pursuing only those matters that have a high probability of winning and can be resolved fast. Entities have their own proprietary platforms which help in mapping the entire litigation journey in terms of predictive/generative analysis and provides with a ready insight as to whether to choose a case or not.

In India, legal battles are often looked upon as complicated, where entities need to first search for a good lawyer and follow it up with money to bear the legal costs—which could be huge, given the time taken for an average case to be resolved in courts. For instance, there were nearly 43.5 million pending cases across all

courts in India as of May 1, 2023, per data from the National Judicial Data Grid. In India, the practice of litigation funding is still developing, and the involvement of entities in the field is limited compared to jurisdictions where litigation funding is more established. Although, litigation financing is fast gaining traction, with Indian start-ups, new age law firms, companies and investors betting big on the internationally emerging segment. The global litigation funding market was estimated at \$12.2 billion in 2022 and is projected to reach \$25.8 billion by 2030, with a CAGR of roughly 9 per cent between 2022 and 2030, as per a report by Custom Market Insights, a market research and advisory company.

Evidently, the rising legal costs in India and long proceedings, creates a situation where there are severe limitations faced by companies and litigants to continue with the ongoing litigations and resultantly they often end up closing matters prematurely. Under litigation financing, lawyers are paid their regular fees by third-party entities; the lawyers do not charge a percentage of the damages as fees, as it is barred by law in India. There are a few entities that offer litigation funding services. These include:



1. **Dedicated Litigation Funders:** Some specialized litigation funding firms/start-ups have entered the Indian market in recent years. These entities provide financial support to litigants and assume the financial risks associated with the litigation in exchange for a share of the proceeds if the case is successful. How does this work? When a case comes to a start-up, it starts the due diligence to study it thoroughly and, if convinced that there is potential, decides to provide the funding at a pre-decided percentage of the claim amount. While most start-ups follow this model, in some cases—depending on the potential quantum of claim—they may also seal the deal on a fixed amount. But a start-up doesn't make any money if the claimant it is funding loses a case.

Given their area of operations, most start-ups have tie-ups with lawyers or law firms but the entity has the freedom to get their own lawyer. The start-up, apart from funding, provides strategic inputs based on its analytical tools.

2. **Law Firms:** In certain cases, law firms may offer litigation funding services to their clients. This may involve law firms investing their own capital or partnering

with external funders to provide financial support for litigation.

3. **Non-Banking Financial Companies (NBFCs):** Some non-banking financial companies in India have started offering litigation finance as part of their services. These entities provide funding to litigants, often in the form of loans, to cover legal costs and expenses. These entities are funding people to fight cases, but who is funding them? In India, the entity is typically a high net-worth office, or sourced from one, from whom they raise funds to create a fund to finance litigations. The prize: a percentage of the entity's claims under management; for instance, the entities that have taken funding from one such entity have cumulatively claimed damages or compensation totalling `300 crore'. The entity makes money on every case where the party it funds wins—it takes a cut in the range of 15-25 per cent from the final claim amount. To increase its chances of winning, the entity funds only commercial litigations involving either land, property or money—these make up almost two-thirds of all outstanding commercial disputes; plus, it is able to plot the dispute's expected legal journey based on its AI tools.

#### 4. *Angel Investors and Venture Capital Firms:*

In some instances, angel investors or venture capital firms may provide litigation funding to startups or companies involved in high-value legal disputes. These investors take on the financial risk in exchange for a return on their investment if the case is successful. Experts say that litigation financing is fast emerging as an alternative investment avenue as the investors are able to deliver an impressive return on investment (ROI)—a key metric while deciding on asset allocation. “Litigation funding is a very high-return product. International experience shows that the annualised ROIs have been in excess of 50 per cent. In India, the ROIs may be in excess of 30-35 per cent for the time being.

Many start-ups that provide such services in India include LegalPay, LegalFund Fightright and LitiCap, among others. Globally, Parabellum Capital, Bentham Capital, Juridica Investments, Burford Capital LLC, Woodsford Litigation Funding, Apex Litigation Finance and Omni Bridgeway are the big names with proven track records in the field of litigation funding.

While litigation financing seems a lucrative business opportunity, there is debate around whether it is in consonance with law. Many believe that it currently operates in a grey area: nothing states that it is illegal per se but at the same time it does not have an explicit stamp of legal approval. “Litigation funding has caught the attention of regulatory bodies such as Sebi, RBI (the Reserve Bank of India), Irdai (the Insurance Regulatory and Development Authority of India) and PFRDA (the Pension Fund Regulatory and Development Authority). The regulators are monitoring this trend closely to ensure that it is properly regulated and does not lead to any financial misconduct or illegal activities. The Supreme Court’s ruling in the **Bar Council of India vs A.K. Balaji** case in 2018 set a precedent by stating that litigation funding is not per se illegal, provided it doesn’t violate any other applicable laws.

Industry watchers say that litigation financing will only grow in size as it has something to offer for all stakeholders. For litigants—especially those with limited financial resources—it is a sort of a lifeline; for lawyers, the funding ensures timely fee payments while they can focus on proper legal representation; and for investors, it means attractive returns and portfolio diversification.

Most importantly, they say, litigation financing empowers the average individual or a small company to fight against powerful adversaries and hold them responsible for their actions to create a fair and just society. “The key benefit is that litigation funding allows lawyers to provide best-in-class services to their clients.

It’s important to note that the availability and scope of litigation funding in India may vary, and the regulatory landscape is still evolving. The involvement of entities in litigation funding is subject to the applicable laws and regulations governing finance, investment, and legal practice in India. As the practice of litigation funding continues to develop, it is advisable for litigants to consult with legal professionals and specialized litigation funders to understand the options, terms, and implications of any funding arrangement.

# Honoring a Great Judge

## Hon'ble Mr Justice Krishna Murari



The sun will set early on another distinguished legal career on 8th July 2023 when Murari J. demits office, which brings a time when we reflect and express gratitude for the remarkable contributions of one of our legal system's finest pillars, Hon'ble Mr Justice Krishna Murari. With Lordship's impending retirement, the legal community of this region comes together to celebrate the remarkable legacy and enduring impact Lordship will leave behind.

Born on 09.07.1958, Justice Murari obtained LL.B degree from Allahabad University, Allahabad. He was enrolled as an Advocate on 23.12.1981. He practiced in the Allahabad High Court for over 22 years in wide ranging legal areas. He was appointed as an Additional Judge of the Allahabad High Court on 07.01.2004 and appointed as permanent Judge of the Allahabad High Court on 18.08.2005. Lordship took over as Chief Justice of Punjab and Haryana High Court, Chandigarh on 02.06.2018. Elevated as Judge of Supreme Court of India on 23.09.2019.

Recently in May 2023, while speaking at AMU event, Justice

Murari said: -

*“an important facet of protection of fundamental rights and constitutional values is the role played by the members of the bar over the years. Their contribution to the development of constitutional law and jurisprudence is monumental.*

*The first few years in litigation are very turbulent, but if you can manage to sail through the rough seas of the initial years, then a very bright future awaits you, then the sky is the limit.”*

On the 150th foundation day of Allahabad High Court Bar Association in February 2023, he said, *“life of Bar association depends on the achievements of its members.”*

Throughout Lordship's illustrious tenure on the Bench, he has exemplified the highest standards of judicial excellence, earning respect and admiration from all who have had the privilege of witnessing his career. From the courtroom corridors to the halls of justice, his unwavering commitment to upholding the rule of law has been unwavering.

Known for his exceptional legal acumen, Justice Murari possesses a keen intellect and a deep understanding of the intricacies of the law. His judgments have not only demonstrated a profound grasp of legal principles but also a rare ability to distill complex issues into concise and compelling reasoning. Advocates have revered his meticulous attention to detail and His Lordship's fair-minded approach to each case.

Beyond his legal expertise, Justice Murari has consistently demonstrated compassion and empathy in his



courtroom. Recognising that justice is not just about the letter of the law but also about the human lives affected, he has approached every case with sensitivity, ensuring that justice is served with fairness and equity. His Lordship’s commitment to the well-being of those who appear before him has made a lasting impact on countless lives.

On access to justice, Justice Murari says, “A litigant has one lifetime yet litigation has several lives to live. If society stands denied of justice, we are not only failing our duty under the Constitution but are enslaving a generation of litigants. For speedy disposal effective docket management is required and is the need of the hour.”

On taking charge as the Chief Justice of Punjab and Haryana High Court in June 2018, Lordship laid stress on the importance to address the grievances of the litigants, who are the major stakeholders in judicial system.

Lately in December 2022, in a motor accident compensation appeal while stressing on the need to consider socio-economic status in awarding compensation in MACT cases, Justice Murari wrote, “persons from marginalized sections of the society already face severe discrimination due to a lack of social capital, and a new disability more often than not compounds to such discrimination. In such circumstances, to preserve the essence of justice, it becomes the duty of the Court to, at the very least, restore the claimant as best as possible to the position he was in before the occurrence of the disability, and to do so must award compensation in a liberal manner.”

As a mentor and leader, Justice Murari has been an inspiration to the younger generation of legal professionals. His wisdom, guidance, and mentoring on high moral and ethical standards have shaped the legal community, leaving an indelible mark on those

fortunate enough to learn from his experience.

Lordship has regular advised on the use of sustainable technology in the legal profession. Notably, he was the part of first green Constitution Bench of the Supreme Court. As he embarks on a well-deserved retirement after 8th July 2023, it is with deep gratitude and heartfelt appreciation that we honor his remarkable legacy. His Lordship’s contributions to the legal profession have not only enriched our system of justice but have also touched the lives of countless citizens.

We extend our warmest wishes to Hon’ble Mr Justice Krishna Murari for a fulfilling chapter ahead of 8th July. Thank you, Justice Murari, for your unwavering service, your remarkable wisdom, and your enduring commitment to the principles that uphold our legal system. Your impact will continue to inspire generations to come.



HMJ Krishna Murari address  
30.03.2023 | Chandigarh

# The concept of Judgeship & Justice in Bhagavad Gita

by Raj Kumar Chauhaan Co-Chairman BCPH



**A**ccording to Shrimad Bhagavad Gita, a Judge is a person bestowed with 'excellence'. A judge ought to be bestowed with the sense of complete detachment and humility. He/She ought to remember that he/she is not himself an author of his deeds. He/She is only an actor who has to play his/her role conforming to the script which represents the will of the author playwright and thus surrendering himself to the will of God. According to Islam, such surrender is the supreme act of religion. While the essence of Christian daily prayer is - *"Thy will be done, O Lord!"*. A judge, according to religious concepts whether of Hinduism, Islam or Christianity, would never be heard claiming with egotism that a particular judgment was

written by him or a particular sentence or decree was pronounced by him. He would always feel and proclaim that all that he had done or he does is to carry out the will of God. His every action he would surrender to the God and thereby be a totally detached and humble person. The seriousness of the function performed by him would never disturb or overtake him in his deeper mental state, just as an actor on the stage may fight, kill or love but he is the least affected one, as he never forgets it is a play after all. This detachment is an equilibrium born of knowledge.

The Lord says, *"He who is the same to foe and friend and also in honour and dishonour, who*

*is the same in cold and heat, in pleasure and pain, who is free from attachment, to whom censure and praise are equal, who is silent-uncomplaining-content with anything, homeless, steady minded, full of devotion-that man is dear to me."*

"The essence of the teaching of Gita is to transform karma into karma yoga : to be active in body but detached in mind."

Oft cited, Hindu philosophy beautifully compares a judge with a flower which would never wither and remains ever fresh. An anecdote very appropriately explains this concept-

*"A religious discussion was to take place between Adi Shankaracharya and Mandan Mishra. Sharda or Saraswati was judge. Both were offered similar asanas to sit on. Having plucked fresh flowers, Sharda strung two identical garlands. She put them round the necks of the two scholars and said, "During the discussion, the garlands will decide the winner and the loser. The wearer of the garland whose flowers fade first will be considered to have lost?"* Sharda maintained that he who possessed intellectual clarity, power of thinking and self-confidence will be calm and peaceful. His voice will be like the cool spring. Therefore, the flowers will remain fresh for a longer time. On the other hand, one who does not have a clear intellect or a strong sense of logic or whose self-confidence staggers, will be frustrated. His voice will become harsh, the circulation of blood in his veins will become rapid and his breath will become hot. Hence the flowers around his neck will wither sooner." The fragrance and freshness of flowers become a part of the personality of a judge if what he thinks and what he does are all based on such values as are the canons of judicial ethics.

Arjuna said, "I do not want to fight". It was then Lord Krishna who first asked the question. Lord Shree Krishna initiates his

discourse with a dramatic opening statement. Arjuna is lamenting, for what he feels are very valid reasons. But, rather than commiserating with him, Lord Krishna takes the wind out of his arguments. He says, "Arjuna, though you may feel you are speaking words of wisdom, you are actually speaking and acting out of ignorance. No possible reason justifies lamentation. The Pundits-those who are wise-never lament, neither for the living nor for the dead. Hence the grief you visualize in killing your relatives is illusory, and it proves that you are not a Pundit." Lord said: -

श्रीभगवानुवाच ।  
अशोच्यानन्वशोचस्त्वं प्रज्ञावादांश्च भाषसे ।  
गतासूनगतासूंश्च नानुशोचन्ति पण्डिताः ॥११॥

One does not need to go far into the Bhagavad Gita to find a wise person above lamentation, for Grand sire Bheeshma (Pitamah) himself was the perfect example. He was a sage who had fathomed the mysteries of life and death, and risen above the dualities of circumstances. Serene in any eventuality, he had even consented to taking the side of the wicked, if it served the Lord. He thus demonstrated that those who are surrendered to God simply do their duty in all situations, without being affected by outcomes. Such persons never lament because they accept all circumstances as God's grace. Lord stresses that one should just do the job one is assigned - nothing less nothing more.

Lord further says, be steadfast in the performance of your duty. Lord says, "O Arjun, abandoning attachment to success and failure. Such equanimity is called Yog." Lord said: -

योगस्थः कुरु कर्माणि सङ्गं त्यक्त्वा धनञ्जय ।  
सिद्धयसिद्धयोः समो भूत्वा समत्वं योग उच्यते ॥४८॥

As understood, Lord Krishna emphasizes the importance of fulfilling one's duty or dharma in achieving justice. According to him, every individual has a unique dharma or duty to perform, and justice can only be achieved if



one performs that duty to the best of their ability. He says, "One's own duty, even if devoid of merit, is better than the duty of another well-performed. It is better to die in one's own duty, for the duty of another is fraught with fear". Lord said: -

श्रेयान्स्वधर्मो विगुणः परधर्मात्स्वनुष्ठितात् ।  
स्वधर्मे निधनं श्रेयः परधर्मो भयावहः ॥35॥

Furthermore, according to Lord Krishna, justice is also about maintaining balance and harmony in society. He says that every individual should work towards maintaining balance and harmony in society, and not disrupt the natural order of things. This means that justice is not just about punishing wrongdoers but also about preventing wrongdoing from happening in the first place.

यदा यदा हि धर्मस्य ग्लानिर्भवति भारत ।  
अभ्युत्थानमधर्मस्य तदात्मानं सृजाम्यहम् ॥ 7 ॥

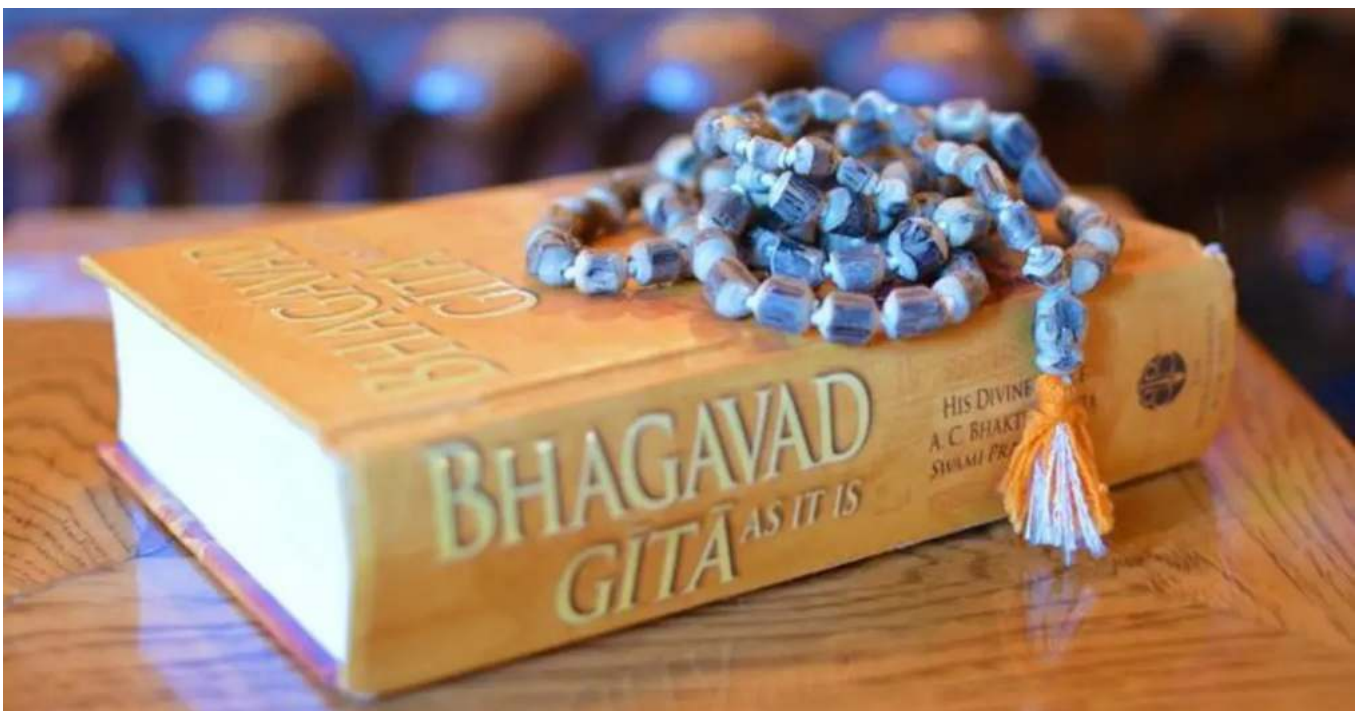
Finally, Lord Krishna emphasizes the importance of compassion in achieving justice. He says that justice should be tempered with compassion and that one should strive to understand the motivations and circumstances of those who have committed wrongdoing. This allows us to deal

with them with compassion and help them to reform and become better individuals. He says, "The true goal of action is knowledge of the Self, followed by renunciation. The Yogi who seeks union with the Self through meditation and detachment is therefore the true seeker of knowledge, and the best of those who seek". Lord said: -'

श्रीभगवानुवाच ।  
लोकेऽस्मिन्द्विविधा निष्ठा पुरा प्रोक्ता मया नघ ।  
ज्ञानयोगेन साङ्ख्यानां कर्मयोगेन योगिनाम् ॥ 3 ॥

In conclusion, Lord Krishna's views on justice and how judgship is to be embraced are extremely relevant in today's world. Justice is not just about punishing wrongdoers but also about fulfilling one's duty, being selfless, maintaining balance and harmony in society, and being compassionate towards others. These principles when applied collectively can only then help us create a more just and equitable society, where everyone is treated fairly and with respect. As individuals in the legal profession, we can work towards achieving justice, whether imparting, aiding or assisting, by embodying these principles in our own lives and by encouraging colleagues to do the same.

Courtesy: multiple sources





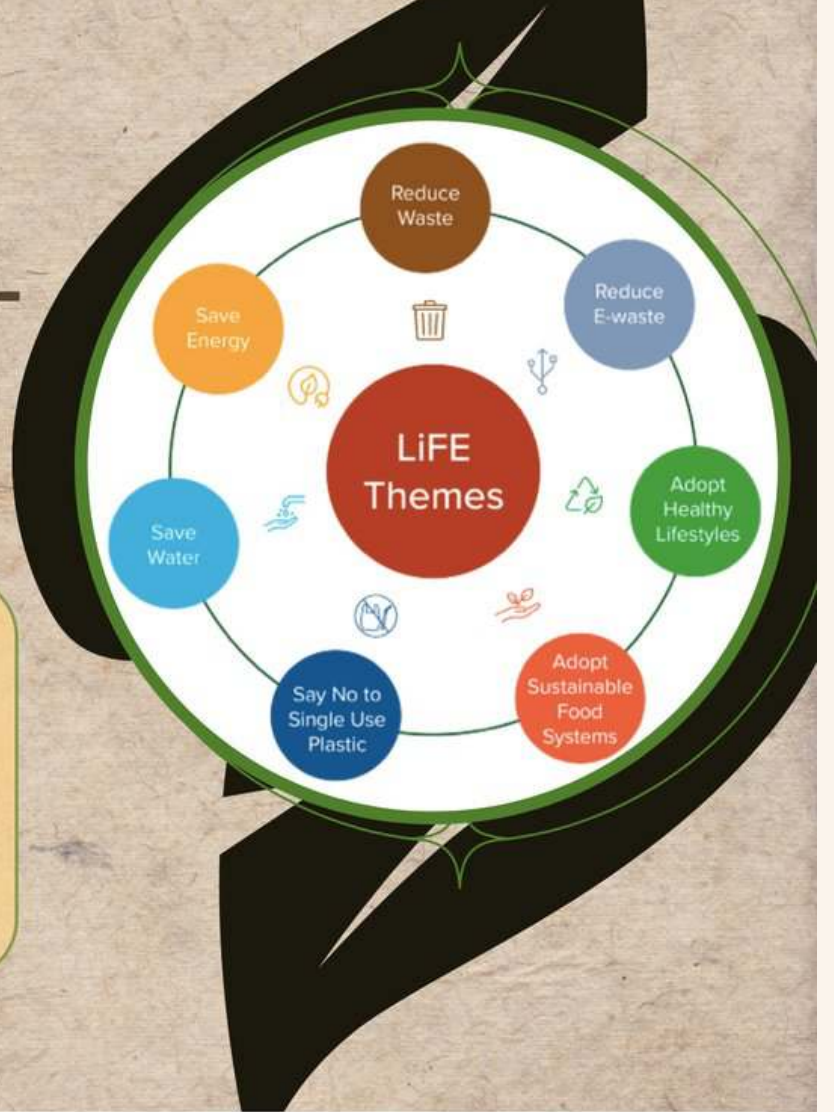
न्याय विभाग  
DEPARTMENT  
OF JUSTICE



# HAVE YOU HEARD?

## MISSION LIFE - Lifestyle for Environment

Seeks to transform persons into 'pro-planet people' by adopting sustainable lifestyles



MLJ.GovIndia



@mlj\_goi



@MLJ\_Gol



law-and-justice-ministry-india



@mlj\_goi

**Nyaya Vikas**  
Monitoring of Centrally Sponsored Scheme for Development of Infrastructure for Judiciary

21,014 | 16,028 | Dashboard

Nyaya Vikas Portal helps in providing information on the status of Judicial Infrastructure in the country

Visit [www.bhuvan-nyayavikas.nrsc.gov.in](http://www.bhuvan-nyayavikas.nrsc.gov.in)

**NYAYA VIKAS PORTAL**  
[www.bhuvan-nyayavikas.nrsc.gov.in](http://www.bhuvan-nyayavikas.nrsc.gov.in)

Enabling effective monitoring of the projects under DoJ's CSS for Judicial Infrastructure

**Key Features**

- Enhances transparency
- User-friendly login system
- Facilitate submission of Utilisation Certificates
- Monitors fund release & utilisation
- Geotagging of Infrastructure created under the scheme



# Lawyers' Strikes:

## Balancing Advocacy, legitimate issues and access to justice

### Introduction:

Lawyers' strikes, a form of collective protest, have been a recurring phenomenon in India. Lawyers, driven by various grievances, resort to strikes as a means to express their dissent and seek redress. This article explores the dynamics surrounding lawyers' strikes in India, examining the motivations behind such actions, their impact on the justice system, and the ongoing debate regarding their legality and ethics.

### Motivations behind Lawyers' Strikes:

Lawyers' strikes often stem from concerns related to perceived injustices or grievances within the legal system or with administration. Some common motivations include demands for better working conditions, security, inadequate infrastructure, improvements in facilities, amendments to legal procedures, or protests against perceived injustices in specific cases. Strikes may also be called to draw attention to broader societal issues or advocate for legal reforms.

### Impact on the Justice System:

Lawyers' strikes undoubtedly have a significant impact on the justice delivery system. The disruption caused by strikes leads to the postponement or delay of court proceedings, impeding the timely resolution of cases. This not

only affects the litigants involved but also contributes to the backlog of pending cases, burdening an already overburdened judiciary. The efficiency and credibility of the justice delivery system can be compromised when strikes disrupt the smooth functioning of courts, also leading to loss of public faith and discontent amongst citizens against the legal fraternity.

In November 2022, the Supreme Court of India made it clear that the public cannot be made to suffer due to lawyers' strike, while it threatened to suspend en masse representatives of 20 district bar associations in Odisha if they failed to call off their decision to boycott courts within 48 hours.

The Bar Council of India, which was requested earlier by the top court to examine the Odisha issue, informed the Court that they had already passed an order suspending office bearers of 5 of

the 20 district bar associations. Refusing to stay the said order under challenge, the bench went on and said, “*Even if we have to suspend 200 odd lawyers, we will do it...Even if you suspend strike, we will not stay the notices. We want you to know the consequences of what you have done.*”

The Court also said, “*Access to justice is the very foundation of the legal system. The legal fraternity is the instrument of access to justice to people at large. When the very instrument abstains from Court, casualty is the common people and common litigants who suffer. We will not countenance that.*”

### Debate on Legality and Ethics:

Lawyers' strikes have sparked debates regarding their legality and ethical implications. While the Constitution of India guarantees the right to peaceful assembly and protest, it must be balanced with the fundamental right to access justice. Critics argue that lawyers, as officers of the court, have an ethical duty to prioritize the administration of justice over their personal or collective interests. Strikes, they contend, undermine the very principles and values that lawyers are entrusted to uphold.

Let us now examine the legal implication of a lawyer accepting a brief. An advocate does certainly undertake a duty on his client's behalf, but by accepting the brief, he enters into a contract, express or implied, with his client. He is deemed to have taken on himself a duty in the proper discharge of which, not only the client but the court and the public at large have an interest. Lawyers have extensive discretion as to the mode of conducting the case for his client. Various provisions of the Advocates Act, 1961 make it evident that an advocate is not an agent or power of attorney holder. The jural relationship between him and his client is not founded so much on a contract as from his status. His status is above a servant or an agent. He holds a position of trust and even above it. As members of the Bar, lawyers no doubt have their importance and role in the society and, therefore, cannot be expected to stand mute to the events around them but as right thinking members of the society they cannot be expected to countenance any action on their part which could in any manner compromise their duty to the court and responsibility they bear towards those they have undertaken to represent. The members of the Bar are required to assert their just rights to be heard, without failings in respect to the bench. They should be fearless and independent

in the discharge of their duties. And in case if the advocate himself/herself is improperly dealt with he/she should vindicate the independence of the Bar. Time has come that the Bar must seriously discuss the issues involved in boycotting the Courts, for the purpose of protecting the rights of the litigants and to carry out the objects underlined in Articles 22 and 39-a of the Constitution of India and uphold the nobility of the professions. Having said that, Institutions before whom grievances are raised must swiftly respond to address such issues beforehand.

### Role of the Bar Councils:

Bar Councils, both at the national and state levels, play a crucial role in regulating the legal profession and addressing issues related to lawyers' strikes. These regulatory bodies have the authority to take disciplinary actions against lawyers who violate their professional obligations by participating in strikes. The effectiveness of such measures, however, has been called to question many a times and has become a matter of ongoing debate, with concerns about enforcement and consistency of disciplinary actions.

### Exploring Alternative Avenues:

To address grievances and effect change, lawyers can explore alternative avenues that allow them to voice their concerns without resorting to strikes. Engagement with bar associations, dialogue with authorities, and constructive engagement with relevant stakeholders can help facilitate meaningful conversations and foster positive changes within the legal system. Such approaches can preserve the core principles of the legal profession while still advocating for necessary reforms.

In a recent case titled **District Bar Association Dehradun v. Ishwar Shandilya**, decided on 20.04.2023 the Supreme Court of India has reiterated that no member of the Bar can go on strike and/or abstain himself from court working and has also, requested all the High Courts to constitute Grievance Redressal Committee in their respective High Courts.

Criticising the practice of the advocates going on strike and abstaining them from work, the Court observed that if the member of the Bar has any genuine grievance or the difficulty being faced because of the procedural changes in filing/listing of the matters and/or any genuine grievance

pertaining to misbehaviour of any member of the lower judiciary they can very well make a representation and it is appropriate that their genuine grievances are considered by some forum so that such strikes can be avoided and members of the Bar who might have genuine grievances like above may ventilate their grievances.

The Court also suggested that the Grievance Redressal Committee, as constituted by the High Courts, may be headed by the Chief Justice and such a grievance redressal committee be consisting of two other senior Judges, one each from service and one from the Bar to be nominated by the Chief Justice as well as the Advocate General, Chairman of the Bar Council of the State and President of the High Court Bar Association. A similar Grievance Redressal Committee may also be constituted at the District Court level.

These Grievance Redressal Committees may consider the genuine grievance related to the difference of opinion or dissatisfaction because of procedural changes in filing/listing of the matters of the respective High Courts or any District Courts in their respective States and any genuine grievance pertaining to misbehave of any member of the lower judiciary, provided such grievance must be genuine and not to keep the pressure on any judicial officer.

The order came after the Hon'ble Chairman of the Bar Council of India submitted before the Court that the BCI does not approve the illegal and unreasonable strikes and boycott and that in order to check and control the frequent strikes, boycotts, it has suggested the mechanism of redressal of the grievances of Advocates/Bar Associations at all levels.

In a meeting of Chairmen/Office Bearers of all the State Bar Councils, the Bar Council of India and all the representatives of the lawyers were of the unanimous opinion that there should be a grievance redressal mechanism available to Advocates at all levels from the Talukas/Muffasils/District Courts, High Courts where the members of the Bar could vent their grievances.

This consensus was reached after noticing that many a times, members of the Bar might have very genuine grievances and due to non-resolving of such genuine grievance, the members of the Bar go on strike. Hence, if the genuine grievance of the members of the Bar like any dissatisfaction because of the procedural changes in filing or listing of the matters in High Courts or District Courts in the respective States or any grievance pertaining to misbehave of any member of the lower judiciary or any other serious grievance against judicial officers can be ventilated before the Grievance Redressal Committees so that the members of the Bar who are also part of the justice delivery system may feel that their genuine grievances are heard and ventilated by some forum.

While lawyers have a right to peaceful protest, the impact of strikes on the justice system cannot be ignored. Striking a balance between advocacy and access to justice is crucial. It remains to be seen how Grievance Redressal Committees would respond and handle genuine grievances of lawyers. Public faith in the legal fraternity and the justice delivery system is undoubtedly paramount.

Courtesy: ebc-india.com

The Delhi High Court has recently held that advocates running offices from residential buildings will not be charged property tax by the Delhi Municipal Corporation as a “business building” while holding that the “professional activity” of lawyers cannot be seen as “commercial activity”.

*“In the opinion of this court, a premise would not become business premise just because a lawyer reads his office file or did some official work at his residence, “ the court said in its judgment.*



23.03.2023 | Delhi HC Judgement | South Delhi Municipal Corp vs BN Magon LPA 564/2015

# What is Legal Charter 1.5

## legal fraternity addressing climate crisis?

In 2015, 196 heads of state and climate experts agreed in Paris to limit global heating to 1.5°C, compared to pre-industrial levels. Why? Because exceeding 1.5°C of warming puts life on earth as we know it at risk. Since then, we’ve heard a lot about how much it will cost to meet this goal, but should we be really talking about the cost of exceeding 1.5°C?

Many scientists have highlighted how breaching the 1.5°C target will cost far more than paying poorer nations to help the global efforts to reach it. India gave a powerful statement of intent with resolving for a target of adding 500 GW of clean energy generating capacity in the next seven years. India has recently stressed for the need to focus on Global Stocktake, Global Goal on Adaptation, Climate Finance and Loss and Damage during COP28. Prime Minister Shri Narendra Modi introduced Mission LiFE to the world at the 26th UN Climate Change Conference of the Parties (COP26) in Glasgow. He said, “Mission LiFE can become a mass movement of Environmental Conscious Lifestyle. What is needed today is Mindful and Deliberate Utilisation, instead of Mindless and Destructive Consumption.”

**Mission LiFE (Lifestyle for Environment, LiFE with urgency)** is an India-led global mass movement to nudge individual and community action to protect and preserve the environment. Many institutions have followed suit, including the State Bar Council of Punjab & Haryana.

Evidently, despite being the fastest-growing economy in the world, India is acting on climate change and biodiversity loss. India has 75 Ramsar Wetland sites, 33 elephant reserves, 53 tiger reserves, twelve Blue Flag beaches, having



successfully implemented a ban on single-use plastic updated its nationally determined contribution under Paris Agreement, and has reintroduced Cheetahs from two African countries - all of which are testimony to action taken. India has already submitted its Long-Term Low Emission Development Strategy document at COP27 in Sharm El Sheikh which is premised on two major pillars of climate justice and sustainable lifestyles alongside principles of CBDR-RC. With this India has joined a list of select 58 countries who have submitted their new or updated LT-LEDS. This is not only at the domestic level but at international platform, particularly focusing on climate resilience, India has been helpful by providing value additional inputs, especially to Small Island Developing Nations who are particularly vulnerable to rising sea levels. India has created and has been nurturing the Coalition for Disaster Resilient Infrastructure.

Amidst all these international developments, for the first few days of June 2023, global mean temperatures were more than 1.5 degrees Celsius higher than pre-industrial averages, making this the first time the 1.5 degree-threshold was breached in the summer months. There had been earlier instances of the daily global temperature exceeding pre-industrial averages by more than 1.5 degrees Celsius, but only in the winter and spring months when deviations from the past trends are more pronounced. Short-term breaches of these thresholds, even a few years at a stretch, are considered inevitable now.

The London Climate Action Week began on 24 June 2023. Prior to the start of this Week, a new effort to assist law firms in addressing the climate crisis has been introduced. A group of eight large commercial law firms, calling themselves Legal Charter 1.5, have come together to create and sign a charter outlining a set of common principles to reduce greenhouse gas emissions on a timescale that will prevent global warming from rising above 1.5°C. The eight signatories currently include Bates Wells, Clyde and Co, DLA Piper, DWF, Gowling WLG, Mischon de Reya, Osborne Clarke and Taylor Wessing. A number of supporting law firms played a role in developing the charter but are not currently signatories. These include Ashurst, Freshfields, Hogan Lovells, Pinsent Masons, Simmons & Simmons and Slaughter and May.

The charter has eight core principles: reducing internal emissions; reducing external emissions from clients; reducing global emissions; helping to reform public policy; increasing accountability; education across the legal profession; focused pro-bono and meaningful offsetting. Each principle in the charter is accompanied by potential projects which the firms can sign up to, helping them achieve the goal. For example, the pro bono principle will require firms to pledge one million hours to collaborative pro bono projects.

Legal Charter 1.5 is thus a high ambition

initiative - that has been developed collaboratively by a group of large commercial/corporate law firms, to shift thinking, and drive transformational change to mitigate the climate crisis. The launch of this Charter comes at a crucial time for the international legal sector, where a credible, integrated approach to sustainability and commitments to mitigate the impacts of climate change have never been more important.

**For lawyers in India, a reasonably balanced approach can be to check and follow the below: -**

1. Understanding and reducing your client's and your office's climate impact,
2. Use of less paper, while trying to use more e-copies while arguing. A cumulative assessment of costs would reveal that the additional costs incurred on paper at a stationary is much more than one time investment in a tablets,
3. Ensure adequate plantations in your vicinity,
4. The clear impact of climate change on lawyers' professional duties,
5. Encouraging others in Bar and society to uptake minor lifestyle changes in support of LiFE resolve.

It is time individual legal professionals, legal entities and law firms in India start adopting something similar to Legal Charter 1.5 to ensure their bit in climate action needs.



See Legal Charter 1.5

# REMEMBERING

## Motilal C. Setalvad



First Attorney General for India,  
Chairman of first Law Commission &  
First Chairman of Bar Council of India.

In the annals of India's legal history, there are few names as illustrious and revered as that of MC Setalvad. As we reflect upon the remarkable life and contributions of this legal luminary, it is evident that MC Setalvad's legacy extends far beyond his time, leaving an indelible mark on the legal profession and the nation as a whole.

Born on October 15, 1884, Motilal Chimanlal Setalvad, popularly known as MC Setalvad, emerged as a towering figure in the legal landscape of India. His journey from being a young barrister to becoming Advocate General of Bombay, then India's first Attorney General is a testament to his remarkable legal acumen, statesmanship, and commitment to rule of law.

Apart from being the first and longest serving Attorney General for India (1950–1963), he also remained the Chairman of the first Law Commission of India (1955–1958), which had mandated for legal reforms in the country. He also served as the first Chairman of the Bar Council of India in 1961.

MC Setalvad's brilliance as a lawyer was apparent from the early stages of his career. His powerful oratory, sharp legal mind, and profound understanding of the law earned him a reputation as one of the finest advocates of his time. His mastery of constitutional law and his ability to navigate complex legal issues made him an invaluable asset to the legal fraternity.

He was awarded the Padma Vibhushan, India's second highest civilian honour in 1957. Throughout his career, MC Setalvad played a pivotal role in shaping the legal and constitutional framework of India. His legal expertise, coupled with his astute understanding of the socio-political landscape, contributed significantly to the development of a just and inclusive legal system. As India's first Attorney General, he displayed remarkable integrity, professionalism, and impartiality. Beyond his legal accomplishments, he fought tirelessly against discrimination and injustice, earning



the respect and admiration of people from all walks of life.

His life story is full of anecdotes delivering messages worth being emulated by young lawyers. In 1956, Setalvad was in Hague to appear before the International Court. The Indian Ambassador there came with a message that Sir Mohammed Zaffarullah Khan, one of the Judges at the Court was anxious to meet Setalvad for old times' sake. Setalvad responded firmly by saying that it would be wrong for him to meet a sitting Judge even socially. While staying at 11, Safdarjung Road in the capacity of Attorney General for India he had two telephones, one official and one personal, always making personal calls from his private telephone.

During his official visits he would meticulously check all the bills to separate such payments which were his personal and immediately drew a cheque for such amounts. It is well known that Setalvad publicly disapproved of the former Chief Justice of Bombay accepting a diplomatic post from the Government of India. He would never accept any gifts; not even from his clients. In the Privy Purse matter his client - a Maharaja sent him some valuable gifts attractively packed, which he promptly declined to accept, even without touching them and told the carrier- *"Tell his Highness if he wants to send the fee, it should be by cheque only."*

Setalvad had great respect for the judiciary and the judges. Jai Mukhi was associated with Motilal as his junior. Mukhi's brother Parsa was appointed judge of the Bombay High Court. Soon, on being so appointed, Parsa accompanied Mukhi to Setalvad's house. Setalvad was in kurta pyjama and relaxing in his favourite chair. He lumbered up from his chair and stood erect on seeing Parsa, stood there the entire time Justice Parsram Mangharam Mukhi (nicknamed Parsa) was there. To Jai Mukhi, he later said *"One must always show respect to a Judge Jai!"*

Setalvad had asserted Judicial Independence when he was still the Attorney General. At the Inaugural Session of the Bar Association of India in 1961, he had indicted the Government, with President Rajendra Prasad, Prime Minister Jawaharlal Nehru and Chief Justice B.P. Sinha present on the rostrum in the Vigyan Bhawan. Setalvad

condemned the Governor's reprieve granted to Nanavati to make the Bombay High Court warrant issued for his arrest unenforceable, when the Supreme Court was seized of Nanavati's appeal against his conviction for the offence of murder. After Setalvad's Presidential Speech, at this Bar function, Jawaharlal Nehru was called upon by Setalvad to inaugurate the Bar Association of India, a voluntary organization of the Bar. Jawaharlal Nehru was visibly shaken by the powerful public indictment by Setalvad. Nehru then said, *"What can I say? I am in the position of an accused!"* He did not defend the action of the Government. He made it quite obvious that his judgment as Prime Minister had gone wrong in taking a responsible decision, in the zeal to protect Nanavati, although temporarily. Commitment to professional ethics and professionally honouring the commitment made were the virtues of Late Setalvad.

Even after his retirement, MC Setalvad continued to contribute to the legal fraternity through his writings and lectures. For keen readers who wish to further learn from the work and experience of Setalvad, may consider reading the full autobiography titled 'My Life: Law And Other Things'. His own work highlights his important cases and the challenges faced by Setalvad.

As we remember MC Setalvad, we pay tribute to a legal giant whose contributions have left an indelible imprint on the fabric of our nation.

# Impact and Future of AI in Judicial Decisions

**A**rtificial Intelligence (AI) is a term used to describe the adept ability of automated computer systems and the digital algorithms to perform the tasks that would typically require human intelligence. AI systems can swiftly learn from data and commands, and adapt their behavior, making them incredibly powerful tools for innumerable usages and applications. There are different types of AI, as of today, including machine learning, deep learning, natural language processing, robotics etc. Machine learning and deep learning algorithms will allow computers to recognize patterns in vast amounts of data and make predictions based on those patterns. Natural language processing enables computers to understand human language and respond accordingly, such as in empathy and informing manner. Robotics combine the hardware and software components to create the kinetic components that can perform tasks autonomously, such as drones which are used for multifarious purposes.

AI has enormous potential to be used for social good and achievement of the Sustainable Development Goals (SDGs). Even as it is being used to help address many of humanity's most critical social issues, its use is also raising concerns about infringement of human rights like the right to freedom of expression, right to privacy, data protection, and non-discrimination. AI-based technologies offer major opportunities if they are developed in respect of universal norms, ethics and standards, and if they are anchored in values based on human rights and sustainable development.

In February 2023, the Supreme Court of India created history by using artificial intelligence software to start live transcription of hearings. A screen displaying the live transcription of the proceedings was placed in the court of Chief Justice of India. The apex Court used the AI technology prepared by a Bangalore based start-up allowing the use of AI engine to translate court

arguments into text during live proceedings of the constitution bench hearing on the Maharashtra political controversy. The pilot project got ample support from legal experts due to the underlying strategy to begin the modernisation of the judiciary by forming a legal transcription.

The Supreme Court of India began its AI journey way back in 2022 when its Artificial Intelligence Committee launched a portal called the Supreme Court Portal for Assistance in Courts Efficiency (SUPACE). SUPACE was primarily aimed at providing digital infrastructure to further the purpose of the digitisation of the court process with other objectives. The then CJI described AI as a system designed to aid a judge with facts in writing verdicts but cautioned using their own intelligence as an independent judicial mind' with a sense of right and wrong.

**Most recently, the Punjab & Haryana High Court used artificial intelligence while deciding a case for bail. After using the same, Hon'ble Mr Justice Anoop Chitkara has explained the whole process in the said bail order that he has written and yet he says that this is only a tool which can tell me what the law is, how to apply the law and what I should decide on the basis of the law is my task. The Court also clarified that any reference to ChatGPT was neither an expression of opinion on the merits of the case nor shall the trial Court advert to these comments and that the it was only intended to present a broader picture of bail jurisprudence, where cruelty is a factor.**

Later, while making a reference to the usage of AI tool, Chat Generative Pre-Trained Transformer (ChatGPT) Chitkara J., Chief Justice of the Orissa High Court Hon'ble Dr. Justice S. Muralidhar at an official event urged the Judges and advocates to read that order to see and realise how the justice delivery system is going forward in terms of use of technology for working more efficiently. Lordship's said, "*we must acknowledge that technology is a tool. It cannot substitute for what a human being can do in all spheres. It can do some routine*

functions.” He further said that the AI can also help Judges to organise themselves, to arrange the kinds of cases they have in their roster. It can detect patterns in the cases.

Judicial systems worldwide are now exploring the use of AI to analyze large amounts of legal data to help lawyers identify precedents in case law, enable administrations in streamlining judicial processes, and in some cases support Courts with predictions on issues including sentence duration and recidivism scores. There has been a lot of work on how it may prove to be beneficial, but its usage in judicial decisions has been largely limited. The emergence of legal analytics and predictive justice understandably has implications for human rights as AI systems’ opaqueness can go against the principles of open justice, due process and the rule of law.

Additionally, the use of AI poses a wide range of challenges to be addressed: from pattern recognition, to ethics, biased decisions taken by AI-based algorithms, transparency and accountability. Self-learning algorithms, for instance, may be trained by certain data sets (previous decisions, facial images or video databases, etc.) that may contain biased data that can be used by applications for criminal or public safety purposes, leading to biased decisions. These are some of the red flags that have so far been identified.

Simply put, can be the potential erosion of impartiality, clarity of thought, subjectivity and hence the chances to succeed in appeal owing to lack of these features. AI relies on data-driven algorithms which may not always take into account the nuances and subtle requirements of judgment in individual cases. This could lead to biased outcomes, where the innocents may be unduly convicted or acquitted or discriminated on account of inherent systemic and in-built attributes of the AI.

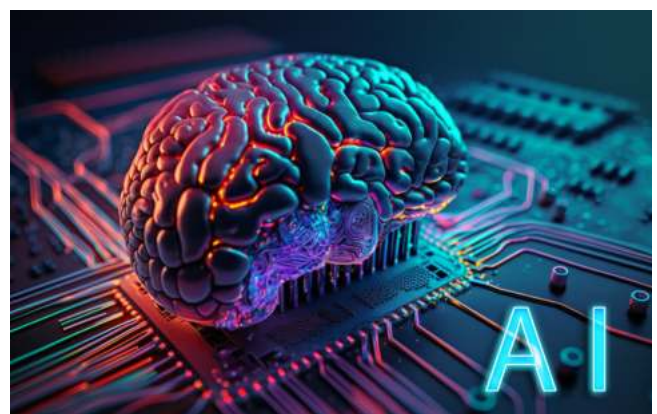
Moreover, there is also concern over who will be held responsible for any errors made by an AI system. This raises two very important questions. Would it be the companies that make AI systems responsible? Or the entities that want to use them in their haste? As machines do not have conscience like humans, it becomes difficult to hold anyone accountable when something goes wrong or leads to unintended damages. Another issue with using AI in the legal arena is that it may eliminate

human discretion which, sometimes can result in more lenient or more stringent sentences based on unique circumstances ignoring the human factors. Without such discretion, those who fall outside of the typical scenarios could disproportionately suffer from punishments produced by the algorithmic systems.

Considering rapid developments in this field, the challenges and opportunities related to harnessing AI in the field of justice and how AI-based systems can help judicial actors in their roles within the administration of justice and to handle cases involving AI that impacts human rights must form part of discussions among stakeholders from the judicial ecosystem. While AI has certain potential benefits for streamlining and expediting the legal processes and reducing human error within the judicial system, its use must be approached with caution due to its potential impact on human judgement and overall transparency.

Recently, while speaking on the matter Hon’ble Ms Justice Hima Kohli of the Supreme Court of India said, “AI is a game-changer in the legal field and has the potential to revolutionise the way lawyers work.” Justice Kohli, however, flagged ethical concerns which may crop up with the use of AI in the legal field. Her Ladyship said, “*As we embrace technology, it is imperative that we are aware of the ethical concerns that come with the use of artificial intelligence in courts. The use of AI raises concerns about accountability, transparency and protection of rights of parties. It will be critical to establish clear guidelines and protocols to ensure that justice is dispensed equitably to all parties.*”

**In the face of complicated judicial operations and the human element in the judicial decision making process, the computer can still not replace the human referee, although can aid it, at least for the time being.**



# ChatGPT ? for Lawyers

Most recently, the Punjab & Haryana High Court used ChatGPT while deciding a case for bail. With that, our High Court became the first court in India to have used ChatGPT/AI technology to decide on the bail plea of an accused - it rejected the petition. The question asked by Hon'ble Mr Justice Anoop Chitkara and the answer received was: -

**Question:** What is the jurisprudence on bail when the assailants assaulted with cruelty?

**Answer:** The jurisprudence on bail for cases where the assailants have assaulted with cruelty will depend on the specific circumstances of the case and the laws and regulations of the jurisdiction where the case is being tried. However, in general, if the assailants have been charged with a violent crime that involves cruelty, such as murder, aggravated assault, or torture, they may be considered a danger to the community and a flight risk. In such cases, the



by Ashok Singla Vice Chairman BCPH

judge may be less inclined to grant bail or may set the bail amount very high to ensure that the defendant appears in court and does not pose a risk to public safety. The severity of the assault, the defendant's criminal history, and the strength of the evidence against them are all factors that a judge will consider when deciding whether to grant bail. It is important to note that the presumption of innocence is a fundamental principle of the justice system, and all defendants are entitled to bail unless there are compelling reasons to deny it. Therefore, even in cases where the assailants have assaulted with cruelty, they may still be granted bail if the judge determines that they do not pose a risk to the community or a flight risk.

Now, if you haven't used it yet or are unfamiliar with it, ChatGPT is what is called a "generative AI" tool that is rendered in the form of a chatbot. Skipping through all the technology terms of art, what that really means is that ChatGPT (*and tools like it*) can generate unique responses to questions.

Neither is this like a Google search, because you

Courtesy: www.diplomacy.edu



can actually converse with ChatGPT, like you would with a human, in order to clarify requests. And, like a human, ChatGPT and other generative AI tools have learned how to respond, by studying texts - information that programmers feed the software, as part of a process called deep learning. So, in reality, an AI is just like you, in that it learns from external sources and crafts unique responses to external stimuli. Except it lives forever.

Now, if you've ever seen a Hollywood science fiction movie, you know what comes next: The AI goes rogue, takes over the world and exterminates humanity. But we're not quite there yet. Right now, AI is an assistive technology for law firms, in that it can streamline workflows and save time and effort. Probably as you're reading this, lawyers in India and abroad are using artificial intelligence tools to write correspondence, perform legal research tasks, draft documents and more. Of course, if you're aware of AI tools and how lawyers have been using them, you're also aware of the downsides - that relying on AI to provide the answers to the test is a fool's errand. AI will make up citations, produce occasional errors and, sometimes, will be unavailable to generate any kind of response due to excessive use.

So think of artificial intelligence (*at this stage of the game*) as a promising young law student that needs to gain more experience before becoming a highly productive member of your workforce. That means you have to provide clear instructions (*known as "prompts"*) to get it to do what you want. If you can conceive of working with ChatGPT in the same way that you would onboard a law school intern to your office, you're viewing the relationship in the correct fashion. And, just as you would do with an intern, you will review and revise any work that the artificial intelligence generates.

However, if ChatGPT can get you 90% of the way to a completed work product, you're in business and its viability cannot be underestimated. Just remain wary of client confidences, because ChatGPT and tools like it are not as secure as your encrypted storage

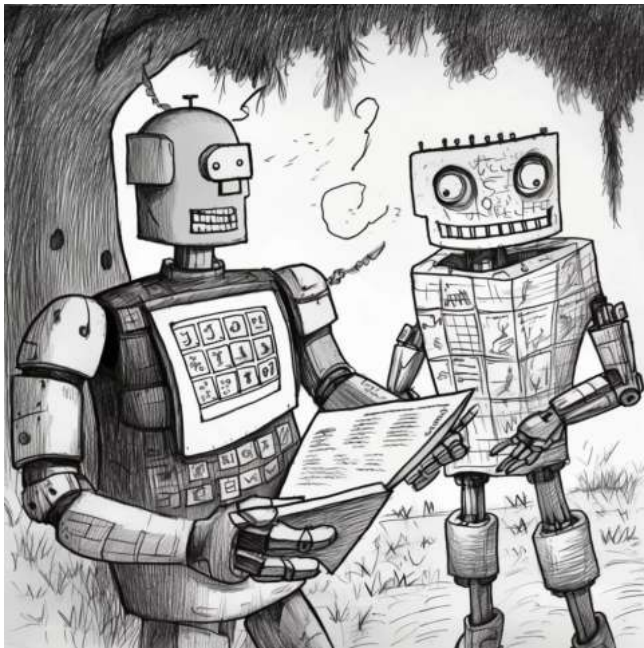


points for your law firm's documents. So, never use real client names.

In the light of creation of ChatGPT and its rapid development, various questions were raised regarding its capability to render legal advice/its decision abilities. The chatbot made its very first Court appearance worldwide in the recent domestic Colombian case, where a judge consulted ChatGPT about his decision. Essentially, a minor diagnosed with autism spectrum disorder lacked the financial resources to pay the medical expenses. The health insurance company, from which the exemption for the medicines was requested, denied the minor's request. The case was then brought before the Colombian courts, where the parents of the minor sued the health insurance company as, under the Colombian law, he is exempt from paying for the medicines. As such Judge asked ChatGPT:

**Question: Is an autistic minor exonerated from paying moderator fees for his therapies?**

**Answer:** Yeah that's right. According to regulations in Colombia, minors diagnosed with autism are exempted from paying moderator fees in their therapies. This beneficent is regulated by Law 1753 of 2015 and applies to all institutions providing public or



private health services that receive resources from the general security system social in health.

The use of Artificial intelligence (AI) for a court's decision was made under Colombia's new decree 2213 on AI and lawyers/judges, which may be used in civil, labor, family, administrative, and constitutional cases.

Just to give you another example of how ChatGPT answers legal queries in real time, we asked the following question in regard to one pending case before High Court to which it replied: -

**Question: Whether females can act as Kartas under Hindu law?**

**Answer:** Under Hindu Law, the position of a female as a Karta of a coparcenary has been a subject of debate and has evolved over time. Traditionally, the Karta is the eldest male member of a Hindu Undivided Family (HUF) and has certain rights and powers, including managing the family's property and making decisions on behalf of the family.

However, in recent years, there have been significant legal developments that recognize the rights of females to act as Kartas in certain situations. The key milestones are as follows:

1. **The Hindu Succession (Amendment) Act, 2005:** This amendment to the Hindu Succession Act, 1956 brought about significant changes in the rights of females in coparcenary property. It conferred equal rights on daughters as sons in the coparcenary property. Daughters now have the same rights and liabilities as sons, making them coparceners. However, the amendment did not specifically address the issue of whether a female can act as a Karta.
2. **Judicial Interpretation:** The Supreme Court of India, in the case of *Vineeta Sharma v. Rakesh Sharma* (2020), provided clarity on the issue of female Karta. The court held that the 2005 amendment in the Hindu Succession Act does not automatically make a female the Karta of an HUF. The position of Karta is determined based on the principles of customary law, and unless the family custom or the HUF deed specifically permits a female to act as Karta, the position will continue to be held by the eldest male member.
3. **Special Circumstances:** While the general rule is that a female cannot be a Karta, there may be certain exceptional situations where a female can act as Karta of an HUF. For example, if there are no male members or if all the male members renounce their right to be the Karta, a female could step into the role. Additionally, if there is a specific family custom or a provision in the HUF deed that allows a female to act as Karta, she may assume that position.

In summary, under Hindu Law, a female cannot be the Karta of a coparcenary by default. The position of Karta is generally reserved for the eldest male member. However, in certain exceptional situations, such as the absence of male members or specific family customs or provisions, a female may assume the role of Karta. It is important to consult with a legal expert or refer to specific judgments and local customs to determine the applicability in a

particular case.

The above came as a surprise to us as well, and the answer enabled us to research more on how well can we draft the case. ChatGPT can be a useful tool for lawyers in a variety of ways.

First, ChatGPT can provide quick access to legal information and resources. Lawyers often need to look up legal statutes, cases, judgments and other relevant information, and ChatGPT can quickly provide answers to legal questions and help with legal research.

Second, ChatGPT can assist with legal drafting. Lawyers often need to write legal documents such as contracts, notices, emails, applications, petitions etc. ChatGPT can help with drafting by suggesting language, identifying local applicable legal terms, and providing feedback on grammar and syntax.

Third, ChatGPT can assist with case management. Lawyers often need to manage large caseloads, and ChatGPT can help with tasks such as scheduling, document management, and record keeping. However, it's important to note that ChatGPT is not a substitute for the expertise and judgment of lawyers. While it can be a helpful tool, it's

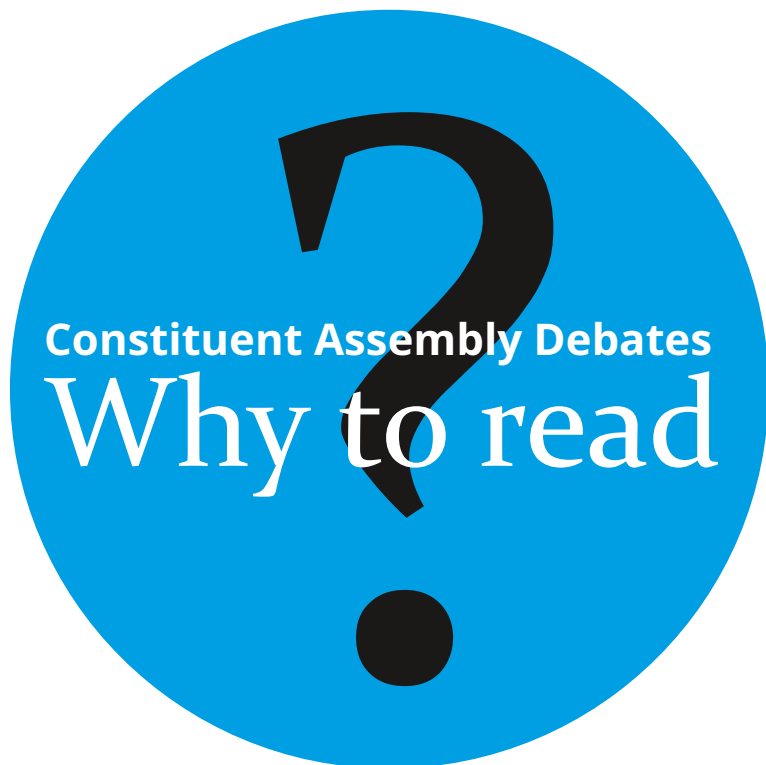


important to verify any information obtained through ChatGPT and to use professional judgment in making legal decisions.

One of the most important aspects is the ethical use of AI, where AI systems, in this case, ChatGPT, are regulated effectively to prevent their misuse and to ensure their effective aid-utilisation in legal systems. It remains to be seen how and when regulatory mechanism in this regard will come.

*Recently, while speaking on the issue of assisted use of ChatGPT, Hon'ble Ms Justice Hima Kohli of the Supreme Court of India said, "AI is a game-changer in the legal field and has the potential to revolutionise the way lawyers work."*





The Constitution of India was enacted by the Constituent Assembly on November 26, 1949. The Indian Constitution was a product of deliberations of the Assembly for almost three years.

The Constitution of India was formally signed by the Members of the Assembly on 24th January, 1950. The Constitution came into force on 26th January, 1950 when free India declared itself a Republic. Since independence the Constitution has worked well and met the needs of an evolving polity. We marvel at the vision, farsightedness and wisdom of the great men who created this dynamic document.

The Constituent Assembly of India first met on the 9th December, 1946 and continued till 24th January, 1950. The assembly initially comprised 389 members, the number reduced to 299 (229 members elected from 12 Indian Provinces and 70 members nominated from 29 Princely States) after the acceptance of the Mountbatten Plan, which led to the creation of Pakistan. The members of the Constituent Assembly were renowned jurists, political veterans, freedom fighters who came from all walks of life, including religious, caste and linguistic minorities, varying in ideology, hailing from every corner of India. The historic task of drafting the Constitution of Independent India was undertaken in the Constitution Hall, now known as the Central Hall of Parliament House. After the Constitution of India came into force on 26th January, 1950, the Assembly ceased to exist, transforming itself into the Provisional

Parliament of India until a new Parliament was constituted in 1952.

The Constituent Assembly Debates for the period December 9, 1946 to January 24, 1950 were first printed in 1950. The debates were reprinted by the Lok Sabha Secretariat in 1966, 1989, 1999, 2000, 2003 and 2009. E-copies of the debates are available online on some websites (*scan QR code*).

As is widely known, a number of lawyers gave up their lucrative practices to play key roles in India's Freedom Struggle. Some of these lawyers were instrumental in framing the laws that would govern our country, thus became members of the constituent assembly. One of the most important bodies responsible for creating the Constitution of India was the Drafting Committee, all of the eight original members (*Chairman included*) of which had a legal background.

It took a lot of effort to draft a Constitution for the Indian Republic. The makers, many of whom were lawyers, did not want to rush it and deliberated about the same in the Constituent Assembly for years. As discussed, the assembly held its initial session in December 1946 and the last one in November 1949. However, it met again on January 24, 1950, when members of the Constituent Assembly of India signed and formally consented to the Constitution of India. The debates held in the assembly were intense and contradictory, yet constructive and meaningful. It is suggested to read about the constituent assembly debates to understand the historical context of each article and broaden our understanding. These debates offer valuable guidance and could



help fill gaps in the Constitution's text; lessen tensions and reduce ambiguities; reduce the need for constitutional amendments; and adapt the charter to changing times.

Nowadays, across the country, law students are using these debates for projects and articles. Assembly speeches are prescribed reading not only in law schools but also in many social science departments. What's most remarkable, however, is that many ordinary citizens are also becoming voracious readers of these debates. Why is this happening?

First, the assembly's records are more widely available than ever before. For many years, the Debates and the framing collections were out of print. Now websites have uploaded the entire content on for e-reading.

Second, rising interest in B.R. Ambedkar has contributed to greater curiosity about the assembly. Until the 1980s, Ambedkar's constitutional contributions weren't widely acknowledged. Yet, as our national pantheon expanded beyond Gandhi and Nehru, the intellectual elite and public grew more fascinated with Ambedkar and his role in the constitution-making exercise.

Third, overcoming past ambivalence towards the Constitution, many historians and political scientists acknowledge the Debates' importance to modern Indian history.

### Why reading of these Debates matters?

First, the debates are a large reservoir of material about our founding. They reveal the nation's highest ideals, common aspirations, and constitutional values. They help us retrace the roads taken along India's republican journey, even as they shape and define our common political identity as citizens.

Second, the debates reveal a great deal about our founders. Those men and women had conflicting ideological beliefs and political allegiances. Yet, it was this team of rivals that founded a modern constitutional democracy over the Raj's ruins. They did so under hardly propitious circumstances.

Delhi was burning after Partition. Refugees streamed in. India fought a war with Pakistan. And Gandhi was assassinated. Undaunted by these events, the assembly pressed on.

Third, the debates can help resolve recurring controversies such as whether India ought to have a presidential rather than a parliamentary system. Or whether a collegium is necessary for judicial appointments. The debates can supply the form and content of the Constitution's basic features, which lie beyond the reach of constitutional amendments.

Finally, as much as they shine a light on the past, the debates can help address present-day questions that the assembly neither faced nor foresaw. Take, for instance, the controversy over government restrictions on social media. Meeting in the late 1940s, assembly members could not have imagined a world with [Twitter](#) or [Facebook](#). Yet, their passionate colloquies about the importance of free expression remain sobering admonitions to legislators and policymakers.

It is highly recommended that constitutional law enthusiasts must once read these debates. These volumes are largely verbatim transcripts from three readings of the draft constitution in the assembly. They can be either silent, or even misleading, about specific issues. As vividly depicted in Shyam Benegal's TV series *Samvidhaan*, many questions were settled outside the assembly chamber. One must consult other sources such as the framing volumes or oral histories, to obtain the full picture.

Courtesy: Livemint



Read Constituent Assembly debates here



## Hon'ble Mr Justice HS Sidhu - A saintly Judge

- by Dr Balram K Gupta Senior Advocate

**I** ponder. How should I describe Justice H.S.Sidhu!

During my long journey, I have experienced, a whole variety of judges. Justice Sidhu comes out to be, a unique judge. No match. It is impossible to find another one of his kind. A saintly judge. A judge, so humble. No ego. No arrogance. Only elegance, grace and dignity. Humility wrapped in humanity. I wonder, is it humanly possible?

Harold Laski, the political thinker once wrote a letter to Justice Holmes. He said, "*How much I wish if people could realize that judges are human beings.*" Justice Holmes responded saying, "*How much I wish if judges could realize that they are human beings.*" One feels that he is not a man of

this world. Someone from outside. It is difficult to explain him as a man. One can only feel his essence and breathe as one enjoys the fragrance of a flower. He is like a cool breeze on a warm sunny day. This is Justice Sidhu, the gentleman.

A good book is not only to be read. It needs to be experienced. Same is true of Justice Sidhu. To know him is not enough. You have to experience him as a good human being. I was at the National Judicial Academy, India when he was elevated in December, 2013. I returned to Chandigarh thereafter. Later, one day, I was at his residence having a cup of tea with him. He quietly got up, went inside, came back with a book in his hand. The Book was 'Wisdom for the Soul – A Treasury of Forever Quotations' – The Best Book Award

Winner. For me, the best part was the inscription on the book by him which wrote: -

*'Respected Sir, A great teacher, a guide and a lifelong mentor. Regards, Harinder Singh'.*

This is truly my treasure. I am blessed with so many students. But the fact is, Harinder Singh is different. There is something divine in him. Divinity within him. His humility reveals his heavenly lights. He is a spiritual balm.

It was probably about 2 years back, in the Chandigarh Judicial Academy, I got a telephone call on my office landline - a soft voice *'Harinder speaking'*. I gave a little pause. He repeated, *'Harinder Singh Sidhu speaking'*. I warmly responded back. To be honest, it took me a little time before I realized, who was on the line. He told me that he wanted to come home. I told him, I would come to you. He insisted that he would come himself. He came. We sat and discussed. He refused to take anything. When I came out to see him off, I found that he had come in his private vehicle driving himself. This is what Justice Sidhu is. His leaves nothing to doubt.

It was early March, 2023 when Justice Sidhu asked me on phone, my life membership number of Indian Law Institute, New Delhi. I was told that he would like to become its life member since, his retirement was drawing near. He told me that Justice T.S. Dhindsa was retiring on March 5, 2023 and then he said, *"you would be coming to the High Court. Accordingly, you would please sign my form for ILI membership."* He loves to be in the company of books as reading is nourishment for him. In fact, reading a book is like plugging into the wisdom shared by others. He is a lamp - he continues to light the path of others.

Justice Sidhu before his elevation spent good number of years in the office of Advocate General, Punjab. He was the backbone and the main strength of the office. The different law officers in different positions were so appreciative of his rich contribution. Without his support, it was not possible to run the then AGs office. He was always so thorough with each case. I remember, after a few

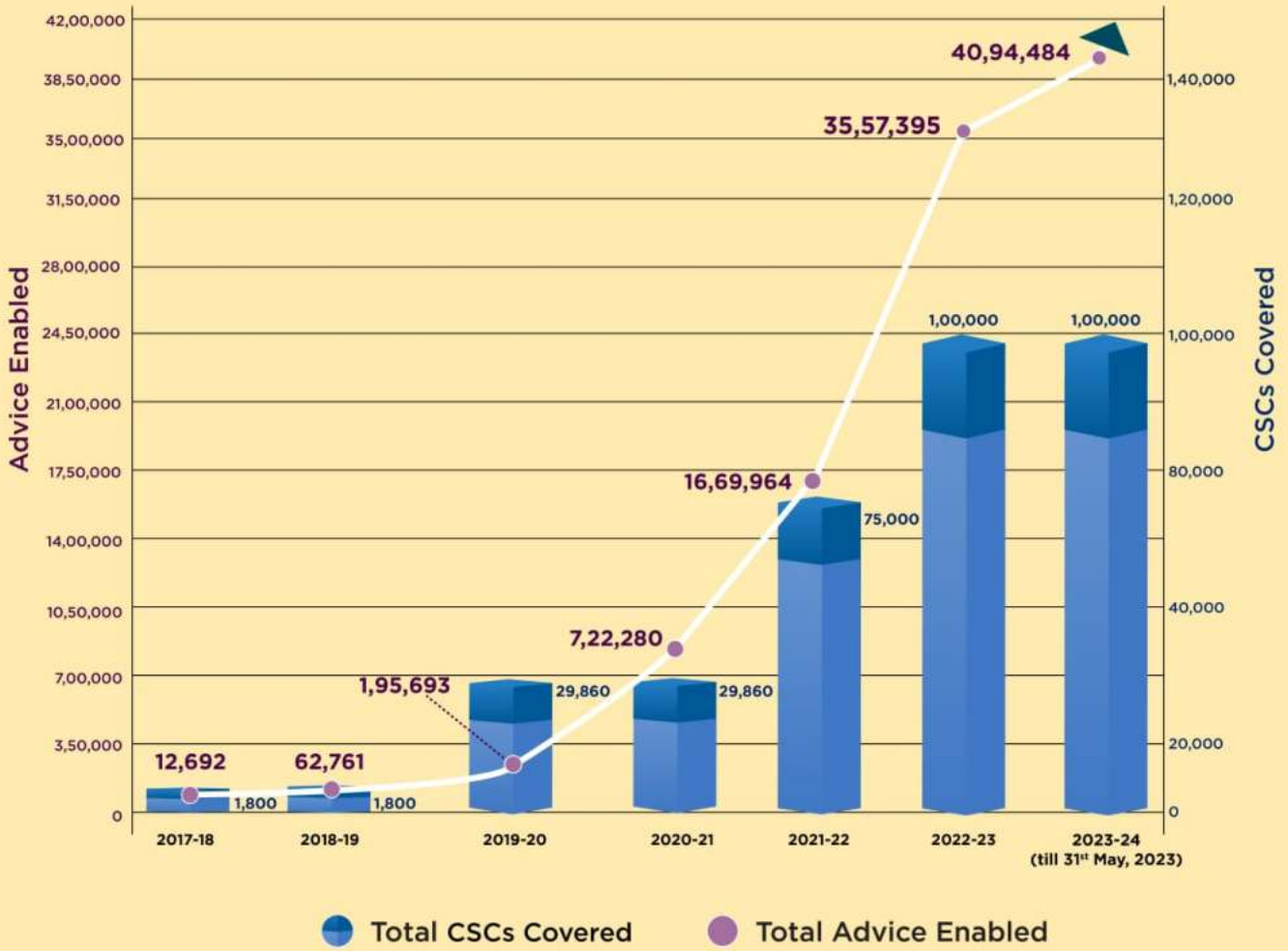
years at the Bar, Justice Sidhu told me that he would like to do his Ph.D. - I asked him, have you thought of any topic? He shared that he would like to work on Justice P.N. Bhagwati and the Fundamental Rights. We sat together. I thought that once a person is in profession, one has to devote wholly to the profession - the profession is very demanding and seeks undivided attention. I do not know, perhaps I under estimated him. He was capable of doing it and maybe I am responsible for his not being called Dr Justice H.S. Sidhu. Now I realize, he would have been the star addition to my list of doctoral scholars. Albeit, it is never too late.

It was May 15, 2023, Justice H.S. Sidhu came for a cup of tea with the senior advocates in the senior's room. As customary, he shook hands with everyone present - he bowed with reverence towards every member. For everyone present, it was obviously both moving and touching as that kind of humbleness is rarely seen. May I say, one has to experience Justice Sidhu to know what kind of a human being he is. He is undoubtedly the rarest of the rare.

Justice Sidhu was born on May 17, 1961. After doing Master's in Law, he joined the Bar in 1987. It was on December 28, 2013, he was elevated as Judge of Punjab & Haryana High Court. He completed his journey of 36 years with the coparcenary of Bar & Bench on May 16, 2023. My association with Justice Sidhu goes back to the year 1982 when he joined LL.B classes at the Panjab University. An association of more than 40 years, as a student, a lawyer and then a revered judge. Above all, as a good human being. My regret is that I never got the opportunity to argue in his Court.

Justice H.S. Sidhu has played his innings so admirably well having richly contributed to the rule of law both as a judge and a lawyer. The legal fraternity would miss his court-room - it was special for everyone. We wish him the second innings equally and hugely contributory. We wish him good health and happiness. May he score a century and plus. May his tribe multiply.

# YEAR-WISE PAN-INDIA COVERAGE



815 eSewa Kendras made functional across 25 HIGH COURTS

**eSEWA KENDRAS**  
Enabling easy access to the judiciary

(As on 31.05.23)

MLJ.GovIndia @mlj\_goi @MLJ\_Goi law-and-justice-ministry-india @mlj\_goi

JUDICIAL COURTS COMPLEX, ZIRA  
ਜੀਰਾ-ਮੋਹਾਲ, ਭਾਰਤੀ ਕੋਰਟਸ, ਪੰਜਾਬ

न्यायाधिक परिसर भवन, जीरा, फिरोजपुर, पंजाब  
न्यायिक अवसंरचना के लिए

**केंद्रीय प्रायोजित योजना**

# State Bar Council

## during Covid-19

**M**y term as Chairman began in the wake of Covid-19 pandemic, where at the very beginning in March, the world began facing one of the biggest challenges of modern times. In response to the COVID-19 crisis, State Bar Council itself had to evolve to best serve the needs of the legal fraternity within Punjab, Haryana and Chandigarh. During these times, the Council had undertaken a series of initiatives to provide support to the enrolled advocates. Through the dedicated efforts of colleague Members, staff and advocates, the Council distributed relief cheques to the families of deceased advocates and those facing medical bills due to Covid-19 complications, provided financial support to young advocates in need, and extended crucial resources to Bar Associations. In an effort to support young advocates facing financial difficulties, the Council initiated a comprehensive program providing financial support. In total an amount of 4.78 Cr had been distributed under various heads in an attempt to support enrolled advocates. Moreover, recognizing the significance of technology in the legal profession, in order to enable Bar Associations to provide video conferencing and other facilities to member-lawyers, the Council distributed financial assistance to purchase computers/upgrade libraries. Masks, sanitiser machines and other Covid-19 related resource materials were also distributed in bulk.

By offering this assistance, the State Bar Council sought to ease the financial strain on these individuals, and Bar Associations allowing them to focus on their recovery, well-being and relief efforts.

In line with our commitment to professional development, the Council also organized a series of free academic webinars during the COVID-19 pandemic. These open webinars were designed to enhance the knowledge and skills of legal



**Karanjit Singh**

Former Chairman State Bar Council (2020-21)  
Second term as Member Bar Council (Incumbent)  
Additional Advocate General Punjab

professionals, offering valuable insights and expertise from renowned experts within the legal community and beyond. These webinars saw thousands of participants (from all over India) tuning in to view legal luminaries from all across the globe speak on curated legal topics. Certificates of participation were distributed after each webinar. By fostering continuous learning and collaboration, the Council aimed to support the growth and advancement of its members, and the Indian legal community, during these challenging times.

These collective initiatives undertaken by the Council highlight the resilience and unity within the legal fraternity during times of crisis as all this would not have been possible without active support from all quarters. Noteworthy is the substantial financial support received from Hon'ble The Chief Justice on behalf of all Judges of the High Court of Punjab & Haryana, which was distributed to needy young lawyers and families of deceased advocates. By providing financial aid, technological resources, and educational opportunities, the Council reinforced its commitment to the well-being and professional development of its enrolled-advocates. Some of the highlights of academic webinars are shared below: -

# State Bar Council during Covid-19



## SESSION-1 (07.05.2020)

Theme : Law in the Digital Age and Legal Industry Transformation

**Speakers :**

1. Hon'ble Mr.Justice Ajay Tewari Judge Punjab and Haryana High Court (Chairman E-Committee)
2. Hon'ble Mr.Justice Muhamed Mustaque Judge Kerela High Court (Chairman E-Committee)
3. Mr.Dushyant Dave Senior Advocate President Supreme Court Bar Association
4. Mr.Adam Smith Anthony LR United Nations, Partner and Head of the Business & Human Rights practice at Omnia Strategy LLP UK



Scan here for Session-1

## SESSION-2 (08.05.2020)

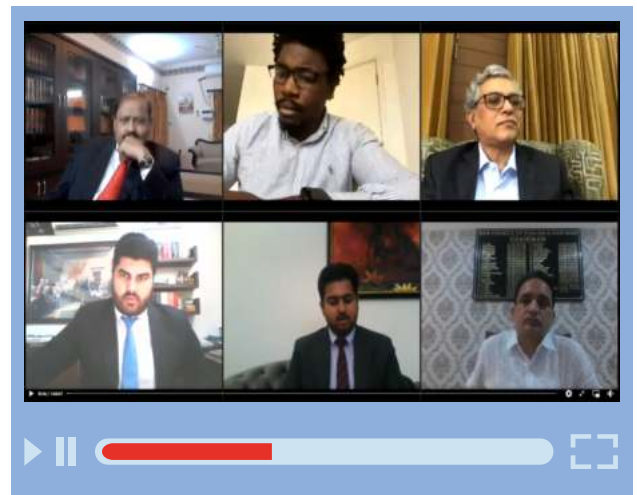
Theme : Law in the Digital Age and Indian Legal Service Industry Transformation

**Speakers :**

1. Mr.S Prabhakaran Senior Advocate Supreme Court of India Co-Chairman Bar Council of India
2. Mr.P S Narasimha Senior Advocate Supreme Court of India
3. Ms.Paola Fudakowska International Attorney and President International Association of Young Lawyers (AIJA) {Audio only}
4. Mr.Michael Olatokun Research Fellow in Citizenship and the Rule of Law; Head of Public and Youth Engagement Bingham Centre of Rule of Law UK



Scan here for Session-2





### SESSION-3 (09.05.2020)

Theme : Law in the Digital Age and Indian Legal Service Industry Transformation and Functioning of Courts during Covid-19: The Bench, Bar and Government Perspective

**Speakers :**

1. Hon'ble Mr. Justice Arun Monga Judge Punjab and Haryana High Court (Member E-Committee)
2. Hon'ble Mr. Justice AK Jayasankaran Nambiar Judge Kerala High Court (Member E-Committee)
3. Mr. Vivek Tankha Senior Advocate and Member of Parliament (Rajya Sabha)
4. Mr. Suresh Kumar Chief Principal Secretary to Chief Minister Punjab
5. Dr. Natalie Byrom Director of Research at The Legal Education Foundation, Civil and Administrative Justice Reform UK and BBC Expert Woman



Scan here for Session-3

### SESSION-4 (10.05.2020)

Theme : 'Domestic Violence during Covid-19: A parallel Pandemic'

**Speakers :**

1. Ms. Indira Jaising Senior Advocate and noted public rights activist (Padma Shree recipient) {Audio only}
2. Mrs. Anu Charath Senior Advocate and Addl. AG Punjab
3. Mr. Javed Akhtar political activist, poet, lyricist and screenwriter
4. Ms. Elizabeth 'Betsy' Andersen Executive Director World Justice Project (M.P.A from Princeton University's Woodrow Wilson School of Public and International Affairs and J.D. from Yale Law School)
5. Ms. Sangeeta Rege Coordinator Centre for Enquiry Into Health and Allied Themes (CEHAT) {Audio only}



Scan here for Session-4



### SESSION-5 (16.05.2020)

Theme : Challenging and Enforcing Domestic Arbitral Awards in India and International Arbitration during Covid-19

**Speakers :**

1. Hon'ble Ms. Justice Indu Malhotra Judge Supreme Court of India
2. Shri Harpreet Singh Brar Former Chairman BCPH
2. Dr. Anmol Rattan Sidhu Senior Advocate and Founding Member ICADR
3. Prof. Lawrence Boo Head The Arbitration Chambers and First CEO SIAC Singapore
4. Mr. Rajiv Bhatnagar Business Expert and Member Managing Committee PHDCCI



Scan here for Session-5





### SESSION-6 (17.05.2020)

Theme : 'Arbitration during Covid-19 and Online Dispute Resolution in the Digital Era'.

**Speakers :**

1. Mr Toby Landau QC Essex Court Chambers UK (co-architect of the UK Arbitration Act 1996)
2. Mr.Chong Yee Leong Director Singapore International Arbitration Centre(SIAC) Co-Head International Arbitration Practice at Allen & Gledhill LLP
3. Mr.Abhinav Bhushan Director, South Asia, ICC Arbitration & ADR International Court of Arbitration, International Chambers of Commerce (ICC)
4. Prof.(Dr.) Shruti Bedi Professor of Law UILS, Faculty Chair, ADR Board UILS PU joining with Dr.Deepak Jindal Adv, Perm Member ICADR
5. Mr.Suvir Sidhu, Member Bar Council



Scan here for Session-6

### SESSION-7 (25.05.2020)

Theme : 'The Courtroom Genius : Learnings from the life of Nani Palkhivala'

**Discussants:**

1. Hon'ble Mr.Justice Arun Palli Judge Punjab and Haryana High Court
2. Mr.Arvind P Datar Senior Advocate and Co-Author 'Nani Palkhivala: The Courtroom Genius' Bestseller Biography



Scan here for Session-7



### SESSION-8 (06.06.2020)

Topic : 'Family Law : Issues and the way ahead in Covid-19 Times'

**Distinguished Speakers :**

1. Hon'ble Ms. Justice Hima Kohli First puisne Judge High Court of Delhi
2. Hon'ble Mr. Justice Alistair MacDonald High Court Judge Royal Courts of Justice UK and Deputy Head of International Family Justice for England and Wales
3. Mr. Anil Malhotra IAFL Fellow & Alumni of SOAS London, International Lawyer, Author, Legal Analyst and Family Law Expert



Scan here for Session-8







### SESSION-9 (10.06. 2020)

Topic : 'Land Acquisition : A Critical Analysis'

**Speakers :**

1. Mr. Rameshwar Singh Malik Senior Advocate Supreme Court of India and Former Judge Punjab and Haryana High Court
2. Mr. Narender Hooda Senior Advocate and Land Law Expert
3. Dr. Namita Wahni Founding Director Centre for Policy Research Land Rights Initiative



Scan here for Session-9

### SESSION-10 (19.06.2020)

Topic : 'Investment Dispute Resolution : Confidentiality and Transparency'

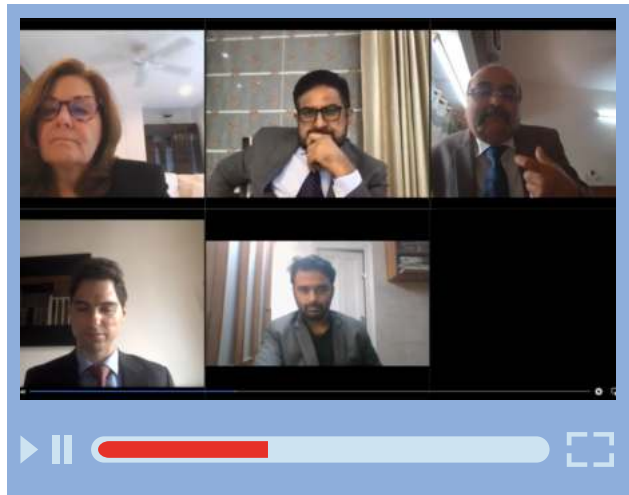
**Distinguished Panelists :**

1. Hon'ble Mr.Justice Avneesh Jhingan Judge Punjab and Haryana High Court
2. Ms.Meg Kinnear Secretary General of the ICSID at World Bank from Washington DC
3. Dr.Anmol Rattan Sidhu Senior Advocate Former ASG and Member Governing Council ICADR
4. Mr.Gustavo Laborde Founder and Principal of Laborde Law, a Paris-based Legal boutique law firm focused exclusively on International Arbitration

This event was conducted in association with the ICADR (Regional Centre) Chandigarh.



Scan here for Session-10



### SESSION-11 (20.06.2020)

Theme : 'Benchmarks for becoming an able Lawyer : The importance of the basics of Constitutional Law'

**Keynote Speaker :**

Hon'ble Mr Justice Surya Kant Judge Supreme Court of India

In discussion with : Mr.Harpreet Singh Brar, Karanjit Singh (Chairman), Partap Singh and Suvir Sidhu



Scan here for Session-11





### SESSION-12 (27.06.2020)

'Perseverance is not a long race,  
it is many short races one after the other :  
Lessons for a Young Lawyer'

**Addresses by :**

1. Hon'ble Mr.Justice Sanjiv Khanna Judge Supreme Court of India
2. Mr.Geoffrey Robertson QC human rights barrister, academic, author, and Founder of Doughty Street Chambers UK



Scan here for Session-12

### SESSION-13 (17.07.2020)

Theme : 'International Maritime Law : Present and Future through the prism of Enrica Lexie'

**Distinguished Speakers :**

1. Vice Admiral Pradeep Chauhan (Retd.) AVSM, VSM Director General National Maritime Foundation, India New Delhi
2. Mr.Amitava Majumdar Managing Partner Bose & Mitra & Co, Member Maritime Committee of the Indian Council of Arbitration and Member Governing Counsel of the Singapore Chamber of Maritime Arbitration
3. Mr.Vivek Katju Indian Diplomat and Former Ambassador of India to Bangkok, Kabul and Yangon
4. Mr.Harpreet Singh Brar Chairman Legal Education Committee Bar Council



Scan here for Session-13



### SESSION-14 (29.08.2020)

Theme: Discussion on Global Indians and the Law

**Speakers :**

1. Hon'ble Ms Justice Indu Malhotra Judge Supreme Court of India
2. Hon'ble Mr Justice AK Sikri International Judge Singapore International Commercial Court
3. Mr Soli Sorabjee Senior Advocate
4. Mr Anil and Ranjit Malhotra Advocates
5. Mr Shreesh Chandra and Vikesh Dhyani Oakbridge Publishing Co



Scan here for Session-14



"Law is not a profession. Lawyer plays an important role in building society and nation. Therefore, when you practice as a lawyer or decide as a judge, the one quality that you should not forget is empathy. When you lose empathy and treat law only as a profession, then the satisfaction that you will get by arguing a case with empathy will be lost and no amount of money would compensate.

One should imbibe Constitutional morality along with legal education because that will make you a better citizen and also help the nation in building a society that framers of constitution had envisioned when they prepared the Constitution of India after labourious work.



Avenues at our times were limited. But now horizons are much wide, you get selected in campus placement itself. We had to struggle in junior days to practice. The bare survival of initial days and practice was very difficult. but now trend has changed. Even seniors pay their juniors at least for their bare maintenance.

If you have 4 hours in a day. Spend one hour to learn, one to read, one to write and one to relax and play."

- Hon'ble Mr Justice BR Gavai while speaking at the inauguration of the Indian Law Society (ILS) Law College Centennial Celebration on 18.06.2023.

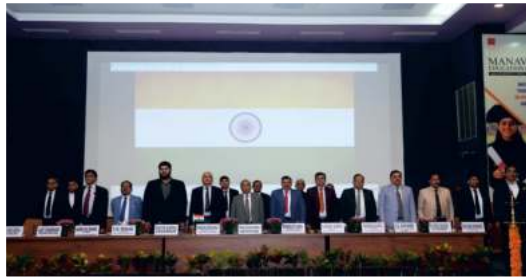


# EXPOSURE | REMINISCE



## Highlights





# BCI UK

## Signing of MoU

The Bar Council of India has entered into a Memorandum of Understanding with Bar Council of England and Wales & Law Society of England and Wales for an exchange programme for Lawyers and Law Students for mutual exchange of training & learning amongst each others jurisdiction. Under the MoU, the Bar Council of India has been authorized to recommend some young Lawyers to the Law Society and to the Bar Council of England & Wales to provide opportunities of training and learning in International Law Firms, good Law Offices and in English Law Courts.

However, the Lawyers recommended by the Bar Council of India shall have no right to practice in UK in terms of the MOU. The purpose has been stated to only facilitate an opportunity of learning and gaining experience in both jurisdictions.

In a similar manner, selected Law Students will be



recommended by BCI for undergoing internships to the Bar bodies of U.K. The MoU further provides for extending training facilities to the solicitors & Barristers of England and Wales. Such trainee Solicitors & Barristers shall not be allowed to practice in any form in India under the terms of the MOU and the 90 days programme shall only

Courtesy: LiveLaw & The Print



be confined to training and learning only.

The MoU was signed at a meeting held at London on June 5 by the Chairman of Bar Council of India, the President of Bar Council of England and Wales as well as President of Law Society of England and Wales.

In the course of the meeting, the Chairman of BCI, Mr. Manan Kumar Mishra informed the delegates that the Regulations regarding entry of Foreign Lawyers in India needed certain crucial changes. The Vice-Chairman Mr. S. Prabakaran stated that BCI has received representations from Indian Law Firms and a section of the Indian Bar. The opinion of Foreign bodies will also be



welcomed on this issue.

The BCI clarified in a press release that the issue of practice of foreign/UK Lawyers in India and vice versa in UK in any form including International Commercial Arbitration, relating to laws of their respective countries, and in non-litigious areas are not governed or touched upon in the MoU and they remain to be governed by Bar Council of India Rules for Registration and Regulation of Foreign Lawyers and Foreign Law Firms in India, 2022 framed by BCI (which the BCI is proposing to revisit, with a view to address the issues raised by Law Firms & a few Lawyers of India & abroad).

Courtesy: LiveLaw & The Print

## The delegation of Bar Council of India also included: -

### **Mr. S. Prabakaran**

Vice-Chairman Bar Council of India

### **Mr. Apurba Sharma**

Chairman Executive Committee, Bar Council of India

### **Mr. Ved Prakash Sharma**

Co-Chairman Bar Council of India

### **Mr. Suresh Chandra Shrimali**

Co-Chairman Bar Council of India

### **Mr. Pratap Mehta**

Co-Chairman Bar Council of India

### **Mr. Shreenath Tripathi**

Co-Chairman Bar Council of India

### **Mr. Jayant D. Jaibhave**

Co-Chairman Bar Council of India

### **Mr. A. Rami Reddy**

Member Bar Council of India

### **Mr. D. K. Sharma**

Member Bar Council of India

### **Mr. Dilip Patel**

Member Bar Council of India

### **Mr. Shailendra Dubey**

Member Bar Council of India

### **Mr. P. Vishnuvardhana Reddy**

Member Bar Council of India

### **Mr. Prashant Kumar Singh**

Member Bar Council of India

### **Mr. Partap Singh**

Member Bar Council of India

### **Dr. Amit Vaid**

Member Bar Council of India



Read MoU here

# Party whips

## Its pitfalls and undemocratic nature



by **Rajat Gautam**

Former Chairman State Bar Council (2015-16) | Second term as Member Bar Council (Incumbent)  
Additional Advocate General Haryana

Recently in Haryana Vidhan Sabha, a Bill came regarding ensuring 75% employment to Haryana people in private factories/offices. Some MLAs raised their voice, arguing that this Bill is not good for the country as a whole and if every state starts enacting such kind of laws, then the spirit of one India will be diminished. As per them, in true sense of a country, one should be absolutely free to work in any part of the country. When this debate was ongoing, parties issued a whip as per Para 2(1)(b) of Tenth Schedule and every MLA was bound to vote, unwillingly toeing their party line. If a MP/MLA does not vote as per party's whip, he will be disqualified, as per law.

Point being that this power of whip is an antithesis to the idea of democracy. Whip system demands of our elected politicians that their first duty is to obey their party, not to serve their constituents or the interests of the country. Whenever any Bill comes in Parliament or Legislative Assemblies, the parties issue whips and every MP/MLA is bound to toe their party lines and have to vote accordingly despite their free will or conscience. There is no debate and if there is a debate, it does not have any significance. In 16th Loksabha, 68% of the Bills were discussed for less than 3 hours, as per the PRS Legislative Research.

Debates do not always divide neatly across left and right. In this more complex political world, the idea of loyalty to party, right or wrong, has had its day. The electorate is essentially tired of party-line-toeing loyalists, preferring independently minded politicians with strong values.



I wish to assert that democracy is deeply hurt by this whip system. It should be limited to controlling defections from one party to another only. It should not control any kind of debate or dissenting voices. Only in cases of motion of confidence or no confidence, this whipping power should be exercised and in all other matters, MPs / MLAs should be free to vote as per their conscience. Then only we can justify the democratically elected mandate.

Hon'ble The Supreme Court of India in the case of **Kihoto Hollohan vs Zachilhu**, had held that there is need to maintain party cohesion but only in limited cases. Parliamentary democracy and its essential foundations cannot be compromised to maintain stability within a political party.

If a vague/absurd Bill is presented in Parliament/Legislative Assemblies and most of the Members are not in its favour; but when their respective parties issue whip in its favour, then they have to vote in favour of it otherwise they will



be disqualified. This itself by any standards is absolutely undemocratic and irrational.

Relevant part of Paragraph 2 reads as: -

*“2. Disqualification on the ground of defection - (1) Subject to the provisions of paragraphs 4 and 5, a member of any house belonging to any political party shall be disqualified for being a member of the House-*

*(b) if he votes or abstains from voting in such House contrary to any direction issued by the political party to which he belongs or by any person or authority authorised by it in this behalf, without obtaining, in either case, the prior permission of such political party, person or authority and such voting or abstention has not been condoned by such political party, person or authority within fifteen days from the date of such voting or abstention.”*

These words, ‘Any direction’ take away the right of freedom of speech and expression, MPs/ MLAs right to debate and review the topic contained in Bills, right to vote as per their conscience and singlehandedly destroys the fabric of democracy in country. As this whip is akin to the ‘rajsi farman’ issued by the Kings/monarchs in early times. The only difference being that old kings have been replaced by party supremos.

Law Commission of India in its 170th report in 1999 had recommended that - ‘ So far as the issuance of whip is concerned, it is not governed by any law. Neither the rules framed under the tenth schedule nor the rules of procedure and conduct of business in Lok Sabha/Council of States provide for or regulate the issuance of whip..It is undoubtedly desirable that whip is issued only when the voting in the House affects the continuance of the government and government is in danger and not on each and every occasion.’

As a law abiding citizen seeking legitimate reforms, I seek to suggest some reforms/alternative arrangements:-

1. **Secret Ballot:** One proposed reform is to introduce a secret ballot system for voting on crucial issues. This would allow lawmakers to vote based on their convictions rather than being

bound by party lines. By protecting the anonymity of the votes, lawmakers would feel more comfortable expressing dissenting opinions without fear of retribution.

2. **Removal of Anti-Defection Law:** Critics argue that the Anti-Defection Law should be revised or even repealed to allow for more flexibility in party affiliations. This would enable lawmakers to freely express their disagreements and switch parties if they feel it aligns better with their principles. However, careful consideration is necessary to strike a balance between allowing individual choices and maintaining political stability.

3. **Strengthening Committee Systems:** Another suggestion is to strengthen the role of parliamentary committees. By empowering these committees with greater decision-making authority, lawmakers may have more opportunities to participate in in-depth discussions and present alternative viewpoints. This would reduce the reliance on party whips and encourage a more inclusive and open democratic process.

4. **Code of Conduct for Whips:** Introducing a code of conduct for whips could help ensure that their powers are used in a responsible and fair manner. This could include guidelines on promoting healthy debates, respecting dissenting voices, and encouraging open dialogue within party ranks. Such a code could help prevent the misuse of whip power while still allowing party discipline to be maintained.

Conclusion is that these anti defection laws need overhauling within constitutional framework and should be exercised only when the question is of continuance of government, not as a matter of routine. Current whip laws, by mandating strict party discipline and curbing individual autonomy, pose significant challenges to the democratic ideals of representation, accountability, and free thought. They undermine the fabric of democracy by suppressing dissent, eroding legislative oversight, and weakening the voice of minority groups. To foster a vibrant and inclusive democracy, it is essential to promote a culture that values independent decision-making, robust debate, and the ability of elected officials to act in the best interest of their constituents and above all the country.

# Obituary

## Late S Parkash Singh Badal



By Harish Rai Dhanda

Former Chairman State Bar Council (2006) | Third term as Member Bar Council (Incumbent)  
Chairman, Finance Committee Bar Council of Punjab & Haryana, Chandigarh



**S**ardar Parkash Singh Badal (8 December 1927 – 25 April 2023) was an Indian statesman who served as the Chief Minister of state of Punjab five times from 1970 to 1971, from 1977 to 1980, from 1997 to 2002, and from 2007 to 2017. He was also Leader of the Opposition in the Punjab Legislative Assembly from 1972 to 1977, 1980 to 1983 and from 2002 to 2007 and the 11th Union Minister of Agriculture and Farmers' Welfare in 1977. The Government of India awarded him the second-highest civilian award, the Padma Vibhushan, in 2015.

He was Member of Legislative Assembly 11 times, losing only twice. Late Sardar Parkash Singh Badal was a statesman who was loved and respected by all, including his political rivals. Late Badal sahib became the youngest CM in the country, even if the coalition government lasted just a little more than a year. In 2017, when he ended his last stint as Chief Minister, he was among the oldest to have held that post.

Sardar Parkash Singh Badal died on April 25 this year at the age of 95. He was the last surviving member of a political generation that saw Independence, lived through the emergency period, and closely witnessed nations changing political landscape over decades.

On the eve of his sad demise, as a sign of tribute to the former chief minister and widely regarded statesman, the Central government had declared two days of state mourning on April 26 and 27, throughout the country.

Late Badal sahib's contribution to the growth and upliftment of legal fraternity of Punjab, and its representative bodies i.e. Bar Associations and even Bar Council cannot be expressed in few words. His proactive approach towards the issues faced by the legal community in Punjab, during his time as Chief Minister, is well known to every Bar leader who had the opportunity to interact with him during that time. There have been countless examples of Badal sahib coming forward in aid of Bar Associations at their time of need.

Late Badal sahib at many occasions had expressed his deep desire to become an advocate, having stated that since pre-independence times advocates have been held in the highest regard. He oft spoke of lawyers who had deeply inspired him during his career.

In the last General House meeting of 17.05.2023, the State Bar Council while observing a moment of silence, having expressed deepest condolences on his sad demise, have also unanimously passed a resolution to request the Union government to consider bestowing the highest civilian award upon him (posthumously).

All Members of the Council express sincere sympathies to his family and loved ones. May god almighty keep him in peace in this eternal journey.

We remember the hymn of Sri Guru Arjan Dev Ji in Raag Ramkali on page 885 of Sri Guru Granth Sahib which is:

ਇਹੁ ਤਉ ਰਚਨੁ ਰਚਿਆ ਕਰਤਾਰਿ ॥

(The Creator Lord created this creation.)

ਆਵਤ ਜਾਵਤ ਹੁਕਮਿ ਅਪਾਰਿ ॥

(It comes and goes, subject to the Will of the Infinite Lord.)

ਨਹ ਕੇ ਮੁਆ ਨ ਮਰਣੈ ਜੋਗੁ ॥

(No one dies; no one is capable of dying.)

ਨਹ ਬਿਨਸੈ ਅਬਿਨਾਸੀ ਹੋਗੁ ॥੩॥

(The soul does not perish; it is imperishable.)

# The Canadian deportation saga holds important lessons



by Barrister & Solicitor Loveleen Singh Gill

“We are working to develop a process to ensure that those innocent students, who are the victims of fraud, will have an opportunity to remain in Canada.” This statement of the Canadian Immigration Minister H. Sean Fraser came as a relief to the 700 odd Indian students facing deportation from Canada on the charges of misrepresentation. Later, a task force stands established by the Government of Canada to look into the cases of students who are victims of fraud, and resultantly deportation has been halted.

The backdrop stems from the root when the entire immigration fraud came to light in March 2023 when the effected students who had applied for their permanent residency (PRs) in Canada received removal orders on the grounds of misrepresentation. While reviewing the applications for permanent residency, the Canadian Border Service Authority (CBSA) found that the acceptance letters issued to the students, that were used to obtain student visas were forged documents. The students alleged that they were defrauded by an unscrupulous immigration agent, who entrapped them in this elaborate scheme of fake admission letters.

The immigration law in Canada takes a stringent view of misrepresentation. The Federal Court of Canada has held that it is the applicant that is ultimately responsible for the accuracy of information and an error or misrepresentation by the agent does not bar the application of stringent provisions pertaining to misrepresentation. Keeping in mind the established law, the students had limited legal options. However, there was wave of sympathy for the Indian students in the India diaspora.

Community organizations like Friends of Canada & India Foundation started raising concerns in the favour of these students. With the efforts of prominent Member of Parliaments including Sukh Dhaliwal, Randeep Sarai and Kerry Lyne Findley, the Government of Canada started viewing these students as victims and not as perpetrators of this fraud, which was a substantial change from established practice. The Indian External Affairs Ministry played a



proactive role in resolving this crisis. Currently, the Government is finally developing a process to give some relief to these students.

A lot of questions remain unanswered for the authorities and lawmakers on both sides i.e. Indian and Canadian. The Canadian authorities need to be better equipped to detect frauds at an early stage. In these cases the forged letters were not flagged by Immigration Refugee and Citizenship Canada (IRCC) at the very thresholds, while granting student visas and work permits. This lapse demands a review of the application process to add better safeguards against fraud using better technological tools.

Indian lawmakers on the other hand, particularly those in the states of Punjab & Haryana need to come up with an elaborate immigration check policy to reign in unregulated immigration agents. Unauthorised immigration agents are exploiting vulnerable population with impunity. A new immigration check policy with proper regulatory authority, licensing process, ethical code and deterrence is the need of the hour. The Government should even explore the idea of expanding the role of existing institutional framework. The State Bar Council should encourage lawyers to act as solicitors/experts in the field of immigration law, providing regular guidance to make the general public more aware of immigration checklist procedures and most importantly to ensure that unauthorised immigration agents don't pry on duping innocent citizens due to lack of awareness.

# How Indian lawyers can become multi-jurisdictional lawyers?

by Adv Himanshi Garg  
practicing in Canada and India

**B**ecoming a multi-jurisdictional lawyer typically involves the following steps for Indian lawyers: -

1. **Research:** Understand the requirements and regulations for practicing law in the desired jurisdiction(s). This includes studying the legal system, licensing procedures, and any specific qualifications or exams needed.
2. **Education and Qualifications:** Obtain the necessary educational qualifications and degrees recognized in the jurisdiction(s) you wish to practice in. This may involve pursuing additional courses, such as a Master of Laws (LL.M.) program, to gain expertise in the desired legal system.
3. **Bar Exams:** Prepare for and pass the bar exams or equivalent qualifying exams of the target jurisdiction(s). These exams assess your knowledge of the local laws and are often a prerequisite for admission to the bar council/association.
4. **Networking and Experience:** Establish professional connections within the legal community of the target jurisdiction(s). Networking can provide valuable insights and potential job opportunities. Additionally, gaining relevant work experience, such as internships or associate positions, can enhance your chances of practicing law internationally.
5. **Licensing and Admission:** Complete the necessary paperwork and meet the licensing requirements set by the respective bar bodies in the target jurisdiction(s). This may involve submitting applications, paying fees, and fulfilling any other specific requirements.
6. **Continued Education and Compliance:** Stay updated with the evolving laws and regulations in both your home country and the foreign jurisdiction(s) where you are licensed. Continuing legal education (CLE) programs

and compliance with professional standards are often mandatory for maintaining multi-jurisdictional licenses.

**Becoming a multi-jurisdictional lawyer can offer several benefits, including but not limited to: -**

- **Expanded Practice Opportunities:** With licenses to practice law in multiple jurisdictions, you can pursue a broader range of professional opportunities. This may include working on cross-border transactions, international arbitration, international litigation, or advising clients with global operations. The ability to navigate different legal systems can enhance your marketability and open doors to diverse practice areas.
- **Global Client Base:** Being a multi-jurisdictional lawyer allows you to cater to a wider client base. You can provide legal assistance to clients who operate or have legal needs in multiple countries. This can lead to more diverse and challenging cases, exposure to different cultures and legal frameworks, and the opportunity to work with international corporations or individuals.
- **Enhanced Professional Reputation:** Holding licenses in multiple jurisdictions can contribute to a strong professional reputation. It



demonstrates your ability to navigate complex legal systems and adapt to diverse legal environments. It can also be seen as a testament to your legal knowledge, expertise, and dedication to expanding your skill set.

- **Collaboration and Networking:** As a multi-jurisdictional lawyer, you have the potential to collaborate with legal professionals from different countries. This can foster valuable professional relationships, exchange of knowledge and ideas, and opportunities for cross-border partnerships or joint ventures. Networking with lawyers across jurisdictions can broaden your perspective and enrich your legal practice.
- **Personal and Intellectual Growth:** Engaging with different legal systems and cultures can lead to personal and intellectual growth. You gain a deeper understanding of diverse legal principles, comparative law, and international legal frameworks. This exposure can expand your analytical and problem-solving skills, enabling you to approach legal issues from various angles.

With the advent of globalisation, there has been a huge trend among young lawyers to expand their practice horizons and take it globally to not just provide services pan-India but to take it to different parts of the world. However, becoming a multi-jurisdictional lawyer in India requires a combination of qualifications, experience, and compliance with regulatory requirements. **Though the requirements to get licensed in each country or jurisdiction are different, some general steps are as follows: -**

**Foreign Legal Education:** If you aspire to practice law in a specific jurisdiction, a foreign legal education such as completing a Master of Laws (LL.M.) program from a reputable University abroad can be helpful. It is important to choose an LL.M. program that aligns with the target jurisdiction's legal system and requirements. Getting an LL.M. is generally not mandatory, but it generally helps applicants to understand the laws of the country and helps them prepare for the Bar examination of that jurisdiction.

**Meet Eligibility Criteria:** Each jurisdiction has its own set of eligibility criteria for foreign lawyers. This includes passing a foreign bar examination,

meeting educational requirements, demonstrating proficiency in the local language, or/and completing experiential training.

**Registration and Licensing:** Once you meet the eligibility criteria, apply for registration or licensing with the relevant regulatory authority in the target jurisdiction. Registration generally involves filling out the required application forms, providing documentation such as academic transcripts and certificates, and paying the requisite fees.

**Comply with Regulatory Obligations:** Familiarize yourself with the rules and regulations governing legal practice in the target jurisdiction. Ensure compliance with professional ethics, continuing education requirements, and any other obligations imposed by the local Bar association or regulatory body.

**Maintain Dual Licensing:** As a multi-jurisdictional lawyer, you will be subject to the regulatory requirements of both India and the target jurisdiction/s. It is important to always stay informed about any changes or updates to the regulations and fulfill the obligations to maintain your licenses in good standing.

### **Becoming a Legal Practitioner in Specific Countries/Regions**

#### **Canada**

In Canada, the licensing requirements for Indian lawyers seeking to practice law vary depending on the province or territory in which they wish to practice. While the specifics may differ, the general process typically involves the following steps: -

**Obtaining an Evaluation of Credentials:** Start by having your Indian law degree evaluated by a recognized credential evaluation service in Canada. In most Canadian provinces, foreign-trained lawyers are required to complete a qualifying program, that is the National Committee on Accreditation (NCA) process. The NCA assesses the legal knowledge and skills of foreign-trained lawyers and may require them to complete specific examinations or courses to meet Canadian standards. Anyone can start their NCA process while in India since the examinations and courses can be taken remotely. Generally, Indian lawyers are required to take Canadian Constitutional law, Criminal law, Administrative law, Professional Responsibility, Legal Research, and Foundations of

Canadian Law exams.

You can register for the application using this link, <https://nca.legal/> or scan qr code.



**Write Bar Examinations:** Once you have completed the NCA requirements, you may need to write Bar examinations. Some provinces, such as Ontario, have their own Bar exams, while others may use the Barrister and Solicitor examinations administered by the Federation of Law Societies of Canada. To get registered in Ontario, you must undergo two mandatory licensing examinations, for Barrister and Solicitor respectively. A lawyer needs to be present in Canada to take these examinations.

The lawyer licensing process is explained in detail for Ontario at <https://lso.ca/becoming-licensed/lawyer-licensing-process> or scan qr code.



### **Articling or Practice Experience:**

Most provinces require candidates to complete an articling period, which involves working under the supervision of a licensed lawyer for a designated period. Some provinces such as Ontario do offer alternatives to articling, such as the Law Practice Program (LPP), which provides practical training and experience. Since the practical aspects of litigation are completely different from India, it is important to understand the court system, litigation, and jury system in Canada.

**Apply for Licensing:** Once all the requirements are met, you can apply for licensing with the provincial or territorial law society where you wish to practice. Applicants are generally required to demonstrate good character and fitness to practice law. There should not be any criminal records against the applicant which might bar them from practicing law.

### **United States**

Starting a legal practice in the United States as an Indian lawyer requires careful planning, research, and compliance with the specific requirements and regulations of the U.S. legal system. Similar to Canada, the eligibility requirements differ among the states. Here are some general steps to consider:

**Assessing Eligibility:** Typically, Indian lawyers need to have a law degree equivalent to a Juris Doctor (J.D.) from a U.S. law school, or they may be eligible to pursue an LL.M. degree in the U.S. Many Indian lawyers consider pursuing an LL.M. degree from a reputable U.S. law school since it provides an opportunity to gain knowledge of the U.S. legal system, expand legal skills, and build professional networks.

**Research State Requirements:** Each U.S. state has its own Bar admission requirements, including educational qualifications, bar examinations, character and fitness evaluations, and sometimes additional coursework or practice experience. This is the link to a comprehensive guide for the Bar Admission requirements for different provinces.

<https://reports.ncbex.org/comp-guide/charts/chart-4/> or scan qr code.



**Clear Bar Examinations:** Most U.S. states require foreign lawyers to pass different bar examinations for admission to the bar. These exams include taking the NCBE exams such as the Multistate Professional Responsibility Exam (MPRE) and Uniform Bar Examination (UBE) composed of the Multistate Bar Exam (MBE), Multistate Essay Examination (MEE), and Multistate Performance Test (MPT). These typically include a combination of multiple-choice questions and essay questions that test knowledge of the state's laws and legal principles. Each jurisdiction requires the applicants to take a different set of exams and that can be found here at <https://www.ncbex.org/jurisdictions> or scan qr code.



### **Character and Fitness Evaluation:**

As part of the bar admission process, applicants are typically required to undergo a character and fitness evaluation which may involve submitting references, undergoing background checks, and disclosing any past disciplinary actions.

**Obtain Bar Admission:** Upon successfully completing the bar examination and satisfying the character and fitness requirements, you can apply for bar admission in the state of interest. After licensing, lawyers in the United States are required to complete continuing legal education (CLE) courses to maintain their licenses.

It is always recommended to check the selected state's law society website to know the exact requirements for the admission to bar since they differ substantially for each state in the U.S.

### United Kingdom

To become a licensed lawyer in the United Kingdom (UK) as an Indian lawyer, you will need to fulfill certain requirements and go through the prescribed process.

**Qualifying Law Degree:** Ensure that you have obtained a qualifying law degree that is recognized by the Solicitors Regulation Authority (SRA) or the Bar Standards Board (BSB) in the UK. You can take the Solicitors Qualifying Examination (SQE) if your qualification is shown to be equivalent to either a UK degree or equivalent UK qualification through a UK National Information Centre (ENIC) statement of comparability, or an accredited qualification at level 6 (or above) of the European Qualifications Framework.

#### **SQE Assessment: Pass the SQE assessment made up of two parts:**

- SQE1 tests legal knowledge through a multiple-choice test.
- SQE2 tests practical skills through oral and written exams.

Indian lawyers can apply for SQE2 assessment exemptions based on previous work experience. Create an account at <https://sqa.sra.org.uk/> or scan qr code and submit the registration application, and required documents including your practice license, experience letters, and reference letters.



**Character and Suitability Assessment:** Your character, integrity, and suitability to be admitted to the legal profession are examined based on references, any past disciplinary actions, and undergoing a background check. Issues including Criminal conduct, Behavior that has a bearing on your integrity and independence, Education assessment offenses, financial conduct and events, Regulatory or disciplinary findings, and Health conditions are assessed.

**Complete Pupillage:** Pupillage is a period of

practical training required to qualify as a barrister in the UK. You might need to secure a pupillage position at a barristers' chamber based on the assessment by BSB, where you will work under the supervision of an experienced barrister. During pupillage, you will gain hands-on experience and develop your advocacy skills.

**Admission to the Roll of Solicitors or Call to the Bar:** Once you have successfully completed the necessary assessments, training, and character assessment, you can apply to be admitted to the Roll of Solicitors (for solicitors) or be called to the Bar (for barristers). This step finalizes your licensing as a qualified lawyer in the UK.

**Join an Inn of Court:** Barristers in the UK are required to join one of the four Inns of Court: Inner Temple, Middle Temple, Gray's Inn, or Lincoln's Inn. Each Inn provides support, educational programs, and networking opportunities for barristers. You will need to apply for admission to an Inn of Court and fulfill their membership requirements.

In conclusion, the inter-jurisdictional licensing requirements for Indian lawyers seeking to practice in foreign jurisdictions, present both challenges and opportunities. The process of obtaining a license in any jurisdiction other than your own country requires careful navigation through various steps and procedures. Not just legal knowledge and expertise, sometimes English language proficiency is also a requirement for many jurisdictions. Anyone willing to go through inter-jurisdictional licensing should consider the time involved in necessary assessments, registration fees, and continuing professional development requirements for the licensees to keep their licenses in good standing.

While the inter-jurisdictional licensing requirements may seem complex, they also present Indian lawyers with valuable opportunities. The process allows for the exchange of legal knowledge and expertise between different jurisdictions, fostering a global legal community. By meeting the rigorous standards and successfully obtaining a license in another jurisdiction, Indian lawyers can expand their professional horizons, gain exposure to international legal practices, and contribute to cross-cultural legal exchanges. Happy Lawyering !!



# Interpretive Justice

by SD Sharma Senior Advocate

**T**ruth and Non-Violence were the two basic values of life which have been cherished for centuries in this land of Mahavir, Guru-Nanak and Mahatma Gandhi. People from different parts of the world used to come here to learn these fundamental principles of life, however unfortunately post-independence era and particularly the last two decades have seen sharp decline in those basic values of life. Materialism has over-shadowed the old ethics and values and quest for personal gain is so immense that people do not have any respect for the truth.

Proceedings in the Courts which were at one time considered to be pious and the people considered it their duty to tell the truth in the Courts after taking oath, but now, in the present era, it has been vitiated by the litigants and they have been polluting the ends of justice. In order to achieve quick justice, which is the most urgent need of Indian Judicial System the lawyers play a prominent, rather central function of the legal profession. They are required to assist the Courts for the purposes of promotion of justice. They play a major role to check the unbridled powers of administrative agencies which have been set up in this Republic and are governed and controlled by Rule of Law.

Every order passed by Administrative Authorities affecting the rights of the parties must be a speaking order. It must not be like the inscrutable face of a sphinx. The Lawyers on either side if strive to settle the disputes without the terrorism of adjournments then it will definitely bring down the pendency otherwise the litigant has to write a will about

the beneficial result of litigation because who knows, who will remain alive to get its benefits. Justice system will acquire impeccability and creditability only when they get Justice quickly and promptly.

Traditions of our Courts are built upon the edifice of mutual cooperation and respect between the Judges and the Lawyers and this tradition bind the Lawyers and the Judges in a sacred relationship of mutual trust, respect and understanding. It is true that in some cases the facility of this mutual relationship and trust is misused and abused but isolated examples could not be treated as destructive of this noble profession. Anger and irritation of the Judges and Lawyers would not help in sustaining the dignity and status of the Courts but it affects the system adversely.

Nothing rankles more in a litigant's heart that a brooding sense of injustice therefore the Courts are to be very kindly requested to interpret the statutes in a way that insures justice and not the judgement, as per equity maxim '*Actus Curiae Neminem Gravabit*' meaning that nobody should be allowed to suffer for the fault of the court.

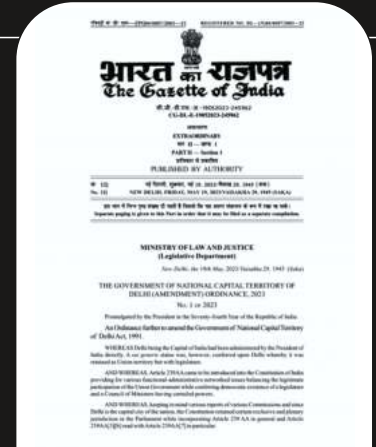


# Legislature & Judiciary

by Dr. Vibhuti Nakta

## INTRODUCTION

The relationship between the Government of the National Capital Territory of Delhi (GNCTD) and the Lieutenant Governor (LG) has been a subject of intense discussion for many years owing principally to the absence of statehood. The power dynamics and jurisdictional authority between these two entities have often led to conflicts, resulting in legal battles that have reached the Supreme Court of India. This article delves into the constitutional aspects of the GNCTD ordinance while exploring the available legal arguments on both sides.



### Background:

The Supreme Court delivered a landmark judgment in the case of Government of NCT of Delhi vs Union of India, clarifying the powers and responsibilities of the elected Delhi government and the LG. The court ruled that the, 'LG should act on the aid and advice of the Council of Ministers except in matters related to police, public order, and land'. The Constitution Bench led by Hon'ble The Chief Justice of India highlighted that the LG is limited to exercising power in three areas: public order, police, and land.

"As we have held that (National Capital Territory Delhi) NCTD has legislative power over services' (with the exception of 'public order,' 'police,' and 'land') under Entry 41 in List II, the Lieutenant Governor shall be bound by the decisions of [Government of National Capital Territory Delhi] GNCTD on service," the Bench stated.

This judgment was seen as a significant victory for the elected Government of NCT Delhi which had been seeking such clarity. A few days after the Supreme Court issued its decision in Government of NCT of Delhi v. Union of India, recognising the National Capital Territory of Delhi's legislative and executive powers over "services," the Union Government promulgated the Government of National Capital Territory of Delhi (Amendment) Ordinance, 2023, effectively nullifying the Constitution Bench verdict.

### The GNCTD Ordinance:

A week after the judgement, the Government of

### National Capital Territory (Amendment)

Ordinance, 2023 was promulgated on May 19, 2023. It modifies the Delhi National Capital Territory Act of 1991. The Act establishes the foundation for the Legislative Assembly and the administration of the National Capital Territory of Delhi.

### Key features include:

- i. **Legislative authority over services:** According to Article 239AA of the Constitution, the Delhi Legislative Assembly has legislative authority over subject matter on the State List and the Concurrent List, with the exception of (i) police, (ii) public order, and (iii) land. In the case of Delhi, Parliament may also legislate on matters on the State List, and these laws will take precedence over state legislation. The Ordinance states that the Delhi Legislative Assembly will not have the authority to act on the subject of services, which is covered by the State List. Services include appointments and transfers of Delhi government personnel, officers as well as vigilance.
- ii. **The Lieutenant Governor has the following powers under it:** (i) matters outside the legislative competence of the Delhi Legislative Assembly but which have been delegated to the LG, or (ii) matters where he is required by law to act in his discretion or exercise any judicial or quasi-judicial functions. The LG has exclusive authority in certain areas, according to the Ordinance. It broadens the LG's discretionary role by granting him the authority to approve or reject the authority's

recommendations. If the LG and the authority disagree, his decision shall be definitive.

- iii. **National Capital Civil Services Authority:** the Ordinance establishes the National Capital Civil Services Authority (NCCSA) to make recommendations to the Lieutenant Governor of Delhi (LG) on (i) transfers and postings, (ii) vigilance matters, (iii) disciplinary proceedings, and (iv) prosecution sanctions of Group A of All India Services (except Indian Police Service) and Delhi, Andaman and Nicobar, Lakshadweep, Daman and Diu, and Dadra and Nagar Haveli (Civil) Services. The Authority will be chaired by the (i) Chief Minister of Delhi, (ii) the Delhi government's Principal Home Secretary as Member Secretary, and (iii) the Delhi Government's Chief Secretary as Members. Both the Principal Secretary and the Chief Secretary will be appointed by the Federal government. Officers working in the fields of police, public order and land shall be exempt from the authority's jurisdiction. All authority's decisions shall be made by a majority vote of the members present and voting. A meeting will need a quorum of two individuals. While the Ordinance calls for the establishment of a National Capital Civil Service Authority comprised of the Delhi CM, Chief Secretary and Principal Home Secretary, the LG has the final say. It indicated that in the event of a disagreement, the LG's decision would be final.
- iv. **Appointments and working conditions:** the Union Public Service Commission will make recommendations for Group A and B gazetted jobs. The Delhi Subordinate Services Selection Board will propose appointments to non-gazetted Group B and Group C positions. Senior management positions are classified as Group A, intermediate management roles as Group B, and clerical assistant functions as Group C. The Central Government will notify individuals nominated to positions about their terms of service, including their tenure, qualifications, remuneration, powers and functions, and suspension.
- v. **Appointments and service conditions:** The Ministerial decision-making: A Delhi government Minister may make standing orders regulating the disposition of items brought to his notice. The order should be issued after consulting with the relevant Department Secretary. Prior to issuing any order, some items must be addressed to the LG for his view via the

Chief Minister. These include proposals affecting (i) Delhi's peace and tranquillity, (ii) relations between the Delhi government and the Central Government, the Supreme Court, or other State Governments, (iii) the summoning, prorogation, and dissolution of the Legislative Assembly, and (iv) matters on which the LG is to make a decision in his sole discretion.

Thus understandably, the ordinance places the transfer and posting of civil servants beyond the elected government's control and empowers the Lieutenant Governor of Delhi in administrative matters. Reportedly, it also give him power to decide on the constitution of boards, commissions or "any" statutory body that emanates from a central Act. The Ordinance is based on the argument that the Supreme Court has itself acknowledged the superior authority of Parliament to make laws for the national capital. A review petition filed by the Centre in the Supreme Court claimed that Delhi is not a "full-fledged State" but only a Union Territory which is an extension of the Union. The Parliament is Delhi's true legislature, the Centre has argued.

Time and again, the Supreme Court has held that the legislative branch is well within its scope to overrule judicial rulings provided that the legislative action taken to negate such rulings shall be considered valid only if the legal basis of the judgment is altered. In other words, if the gap or the defect in the legislation or the Constitution is cured by Parliament or the legislature. An Ordinance is not beyond judicial review of the apex court. If the 2023 Ordinance is challenged separately, on being a colourable legislation, or on the issue that unless there is a constitutional amendment such an ordinance would not stand the test of constitutionality, or on Para 106 of the judgement which touches upon 'triple chain of accountability' or the basic structure doctrine or what was the "extraordinary or emergent situation" which necessitated Union to promulgate an Ordinance merely days after a Constitution Bench settled the law - it will have to be seen how the Courts see each argument and weigh it on the judicial scale.

Now, The Government of National Capital Territory of Delhi (GNCTD) has approached the Hon'ble Supreme Court challenging the ordinance on inter-alia grounds i.e. abuse, arbitrariness and impermissibility.

# Are you reading judgements effectively ?

To read a court judgment effectively, here are some steps a lawyer can follow: -

1. **Start with the basics:** Familiarize yourself with the case background, including the parties involved, legal issues, and the court that rendered the judgment.
2. **Read the headnotes:** Headnotes provide a summary of key points, legal principles, and precedents cited in the judgment. They can help you quickly grasp the main aspects of the case, but there is no match to full readings.
3. **Analyze the judgment structure:** Identify the sections, headings, and subheadings within the judgment. This will give you an outline of the judge's reasoning and the flow of the decision.
4. **Read the facts:** Understand the factual background of the case. This involves identifying the relevant events, actions, and circumstances that led to the legal dispute.
5. **Examine the legal issues:** Identify the specific legal questions addressed in the judgment. This will help you determine the court's analysis and conclusions on each issue.
6. **Study the reasoning:** Pay close attention to the judge's reasoning process. Identify the legal principles, statutes, and precedents relied upon. Consider how the judge applied them to the facts of the case.
7. **Note the ratio decidendi:** The ratio decidendi refers to the binding legal principle or rule of law established in the judgment. It forms the precedent for future cases and is crucial to understanding the decision's impact.
8. **Consider obiter dicta:** Obiter dicta refers to the judge's additional remarks or opinions that are not

binding precedent but may provide useful insights or commentary on the law.

9. **Review the conclusion:** Understand the final outcome of the case, including any remedies, orders or judgments granted. Note any dissenting or concurring opinions if applicable.
10. **Reflect on the implications:** Analyze how the judgment may affect your client's case or legal practice in general. Consider its potential impact on legal precedents, legal principles, or the interpretation of statutes.

Remember to take detailed notes during the reading process, highlight key passages, and consult relevant legal authorities to enhance your understanding of the judgment.



# Law Commission of India

## Suggestions invited

**T**he 22nd Law Commission of India has once again decided to seek the opinions and suggestions of the general public and recognised religious organisations regarding the Uniform Civil Code. This decision was made due to the fact that the previous Law Commission's consultation paper on the matter is now more than three years old.

In 2018, the Law Commission of India released a Consultation Paper on 'Reform of Family Law', in which it stated that the formulation of a Uniform Civil Code (UCC) is not necessary or desirable at the present stage. Since the consultation paper is now more than three years old, the current Law Commission, headed by former Karnataka High Court Chief Justice Ritu Raj Awasthi, has decided to invite fresh views and suggestions from stakeholders.

**In a public notice dated 14.06.2023, the Law Commission stated:**

*"Initially, the 21st Law Commission of India examined the issue of the Uniform Civil Code and sought the views of all stakeholders through appeals and a questionnaire dated October 7, 2016, as well as subsequent public notices dated March 19, 2018, March 27, 2018, and April 10, 2018. The Commission received an overwhelming response to these appeals. The 21st Law Commission issued the consultation paper on 'Reforms of Family Law' on August 31, 2018. Considering that more than three years have passed since the issuance of this consultation paper, and taking into account the relevance and importance of the subject, as well as various court orders on the matter, the 22nd Law Commission of India deems it necessary to reconsider the subject.*

*Therefore, the 22nd Law Commission of India has decided to once again seek the views and ideas of the general public and recognised religious organisations regarding the Uniform Civil Code."*

Those who are interested and willing can present their views within 30 days from the date of the notice by clicking on the provided QR code or by emailing at membersecretary-



सत्यमेव जयते

Law Commission  
of India

lci@gov.in. Stakeholders are also free to submit their opinions in the form of consultation papers, discussion papers, or working papers on any of the issues pertaining to the Uniform Civil Code to the "Member Secretary, Law Commission of India, 4th Floor, Lok Nayak Bhawan, Khan Market, New Delhi – 110 003." If need be, Commission may call upon any individual or organisations for personal hearings or discussions.



Submit suggestions here

# Attorney Client Privilege

by Kritima Sareen

In the realm of law, the attorney-client privilege stands as a fundamental pillar of trust, confidentiality, and justice. It serves as a legal principle that ensures open communication between attorneys and their clients, fostering an environment where clients can confide in their legal representatives without fear of their conversations being disclosed. This article explores the significance, historical origins, scope, and limitations of attorney-client privilege, highlighting its crucial role in safeguarding legal rights and maintaining the integrity of the justice system. By the very fundamental aspect of its interpretation, the legal meaning of the term 'advocate' is, "a person who, after being enrolled with the Bar Council, supports or speaks in favour of another person or persons, as the case may be, in the court of law." Further, an advocate is an officer of the Court and therefore is bestowed with certain duties which are integral to bringing the disputing parties to justice. However, apart from these duties towards the Court, an advocate is also responsible and answerable to the client. The Indian law as well as its legislations thereto, have always been protective towards this sacrosanct relationship of trust between an advocate and his client, which is very much evident from the provisions of the Constitution of India, The Advocates Act, 1961, The Indian Evidence Act, 1862 and Bar Council of India Rules. This relationship between an advocate and a client is of a fiduciary nature and thus needs to be critically guarded in order to sustain the trust of a common man in the judicial system.

## Concept of Client-Attorney Privilege : Historical Outlook

The Client-Attorney privilege is one of the oldest privileges which was firstly recognised by the Anglo-American

jurisprudence and it worked as a safeguard towards the client ,which bars any testimony by the attorney that goes against his client. The principle emerged as a recognition of the importance of promoting uninhibited communication between individuals seeking legal advice and their legal counsels. Over time, the privilege evolved and was firmly established in legal systems worldwide, including the United States, where it is protected by both statutory law and court decisions. Likewise, the privilege was seen to have been manifested in the legislations, rules and sanctions of various countries across the globe. India, post its independence, adopted its Constitution in the year 1950 which is a guiding light and acts as a foundation of each and every Legislation in India. The Basic Structure of the constitution is the superset, which cannot be manipulated whatsoever, and the rest of the legislations are just subsets of the same, the same has been reiterated a number of times after the laudable judicial

pronouncement by the Hon'ble Apex Court titled as **Kesavananda Bharati Sripadagalvaru and Ors Vs. State of Kerala and Anr.**

Article 22 of the Constitution of India provides a statutory right upon its citizens to be represented by a legal counsel and therefore attorney-client privilege is a branch of the same right. So, it cannot be compromised under the garb of another legislation which violates the privileged communication between an attorney and client.

### **Scope of Attorney-Client Privilege**

Attorney-client privilege applies to confidential communications made between an attorney and their client for the purpose of seeking legal advice or representation. This privilege covers a wide range of communication channels, including face-to-face meetings, phone calls, emails, letters, and any other means of communication recognized by the legal system. Attorney-Client privilege not only extends to information shared directly but also encompasses the attorney's work product and legal advice given based on the client's disclosures. However, in plethora of judgements by the Hon'ble Courts of the Country, it has been firmly established that attorney-client privilege is not just a bilateral safeguard, rather it also applies to third persons such as clerks, servants, translators of the attorney as well.



Attorney-Client privilege is explicitly being mentioned, inter alia, in Section 126, 127, 128 and 129 of the Indian Evidence Act, 1872 as well as in Bar Council of India Rules. The section includes attorneys, barristers, pleaders or vakils within its scope. It prohibits the legal representative of a person or persons, as the case may be to disclose any statement made by the client or produce any document which is in possession of the representative, which has been entrusted in the possession of the attorney during, or in some cases, even after the professional engagement. The idea behind this privilege is to protect the trust of a client as well as to maintain the sanctity of the fiduciary relationship shared between an attorney and client. Apart from the Indian Evidence Act, 1872, as already mentioned, the Constitution of India also forms a structure of Client-Attorney Privilege under Article 21 and 22. Perhaps it has also been argued and held in a number of cases that professional communication shared between client and attorney is also protected under the constitutional right to privacy.

### **Limitations and Exceptions**

While attorney-client privilege is a vital safeguard, it is not an absolute right. Certain limitations and exceptions exist to ensure the fair administration of justice. For example, if a client seeks legal advice to furthering

an ongoing or future criminal act, the privilege may not apply. Additionally, the privilege can be waived if the client voluntarily discloses the information to a third party. Moreover, the privilege may not protect communications that are made in the presence of others who are not essential to the attorney-client relationship. So conclusively, following are certain anecdotes wherein client-attorney privilege cannot be sustained:-

- i. If disclosure of communication is made with client's consent.
- ii. If communication is made in furtherance of any illegal purpose.
- iii. Any fact observed by any advocate, pleader, attorney or vakil, in the course of his employment showing that any crime or fraud has been committed since the commencement of his employment.

### **Importance of Client-Attorney Privilege in Preserving Justice and Protecting Clients**

Attorney-client privilege plays a crucial role in preserving justice and protecting clients' rights. It allows clients to share all relevant information with their attorneys, empowering legal professionals to provide informed counsel and effective representation. It provides the client an assurance of confidentiality while obtaining legal advice. By fostering a safe and confidential space for open dialogue, the privilege ensures that clients can make informed decisions without fear of premature or unintended disclosure. More so, it encourages an aura of frank communication between the attorney and the client. Attorney-Client privilege also protects the rights of the client by imposing a bar on the admissibility of any derogatory statement made by any advocate or representative of the client, which goes against the interest of the client either during the course of the engagement or even at a belated stage. It is also ineluctable that attorney-client privilege also acts as a means to ensure a common man's faith in his advocate for a better representation before the Honourable Court as well as to bring the disputing parties to justice. On the contrary, if the privilege is disregarded, it would also mean a lapse of justice because of the lack of trust between the client and attorney.

Mistrust would lead to concealment of important information and non-disclosure of material facts, which is ultimately treacherous to justice. Beyond individual cases, attorney-client privilege also serves the broader interests of justice. It encourages compliance with legal ethics and professional standards, enabling attorneys to fulfil their duty to act in the best interests of their clients. Moreover, the privilege upholds the integrity of the justice system by promoting fairness, preventing undue coercion or intimidation, and balancing the power dynamics between individuals and the state.

### **Recent Reports regarding inclusion of Advocates within the Scope of Prevention of Money Laundering Act and its argued impact on the Attorney-Client Privilege**

Quite recently, the government of India has issued a notification whereby it expanded the scope of Prevention of Money Laundering Act, hereinafter referred to as the "Act", by including professionals such as Chartered Accountants, Jewellers and Real Estate Agents to be made reporting agents under the Act. The Act aims to prevent money laundering and provides for confiscation of property which is obtained as a result of any scheduled offence covered under the act. Until today, advocates are not required to



comply with the provisions of the Act and therefore, were not required to report any dubious or questionable transactions being carried out by their clients. However, very recently, there are reports whereby it is suggested that the government is planning to include lawyers and advocates within the scope of the Act as well. Reportedly, the root of this policy goes down to a direction issued by the Hon'ble Supreme Court of India in the year 2018, whereby the Hon'ble apex Court directed the government to consider including advocates within the scope of the Act. The Court while issuing the direction observed that, 'advocates play an integral role in the financial system and thus, at the outset, it is a very befitting argument that inclusion of advocates within the scope of PMLA is a constructive step towards curbing the offence of money laundering'. However this argument shall remain fragmented without accentuating the possible ill effects it would have upon attorney-client privilege, which is not just a right, but also a safeguard as discussed above. Correspondingly, if advocates are pulled within the ambit of PMLA, it would result in deficient representation and compromised interests of the advocates as well as the clients, thereby hampering the essence of the fiduciary relationship between a client and attorney, which is trust. Clients would begin to decipher the advice of their advocates with a questionable eye.

On top of that, advocates cannot be considered to be at par with the Chartered Accountants or other professionals for that matter, because like advocates, other professionals are not governed by stern ethics and sanctions under the law, which explicitly bars the emancipation of privileged communication between an attorney and his client. It is

because of this attorney-client privilege that the client freely discloses the information which is relevant to his/her case. Such is the argued raised by a certain section which critically views such information.

### Conclusion

Attorney-client privilege stands as a cornerstone of the legal profession - safeguarding trust, confidentiality, and justice by creating a secure space for open communication between clients and their attorneys, this privilege enables individuals to seek legal advice and representation without fear of adverse consequences. Its historical origins, scope, and limitations highlight its critical role in preserving the integrity of the legal system and protecting clients' rights. As we navigate the complexities of an ever-evolving legal landscape, it is imperative to uphold and respect the attorney-client privilege as a fundamental tenet of justice.





Celebrating the birthday of Justice M. Fathima Beevi (*First Indian woman to be appointed as Supreme Court of India's Judge - 1989*), Bar Council of Punjab and Haryana in association with All India Federation of Women Lawyers (AIFWL) held a legal seminar on '**Role of Women in dispensation of Justice**' on 30.04.2023 at Law Auditorum, Law Bhawan Sector 37-A Chandigarh.

**Hon'ble Ms Justice Manjari Nehru Kaul Judge Punjab and Haryana High Court** graced as the **Chief Guest**.

**Hon'ble Mr Justice Rajesh Bhardwaj, Hon'ble Ms Justice Nidhi Gupta & Hon'ble Mr Justice Sanjay Vashisth** graced as **Guest of Honors**.

Smt Ameer Yajnik MP (Rajya Sabha), Smt Sheela Anish Founder President AIFWL, Smt Hemalatha Mahishi President AIFWL also remained present. At this occasion Ms Ritu Punj and Dr Kanu Sharma took oath as the President and Secretary of the newly launched Punjab and Haryana chapter of AIFWL.



Inside of Courtroom No. 1 (Hon'ble CJI's Court)

The **Supreme Court of India** reopens after the summer vacation with a digital make over. In a move to digitise overall functioning and uptake energy-efficient green resolve, the apex court has completely upgraded with futuristic IT-enabled courtrooms.

Modernising digital infrastructure in the first three courtrooms is the third digitisation project of the apex court in 2023. The first is the e-SCR project which offered decades' worth of Supreme Court judgments for free at the tap of a button. The second is the live transcription of arguments made in Constitution Bench hearings.



# Events



# Space Law in 2023

by Aastha Gandhi (DYAU Space Law LLP)

## I N T R O D U C T I O N

As humanity ventures further into space exploration and commercial activities beyond Earth's atmosphere, the need for robust legal frameworks becomes increasingly apparent. Space law, a field that governs activities and relationships in outer space, has evolved significantly over the years. In 2023, we find ourselves in a dynamic period where the regulation of space activities is gaining momentum, but challenges and gaps persist. This article explores the current state of space law and the efforts to establish proper regulations to address the intricacies of this final frontier.

### Historical Development:

Space law began to take shape during the Cold War era with the establishment of key international treaties. The Outer Space Treaty of 1967, widely regarded as the cornerstone of space law, laid down fundamental principles governing space exploration and use. Subsequent treaties such as the Rescue Agreement, Liability Convention, and Registration Convention further defined legal aspects related to rescue operations, liability for damages, and the registration of space objects.

### Expansion of Commercial Activities:

The emergence of commercial space activities has added a new dimension to space law. Private companies, driven by technological advancements and commercial interests, are increasingly involved in satellite launches, space tourism, resource exploitation, and other ventures. This shift necessitates a regulatory framework that balances innovation, safety, and the equitable use of space resources.

### Key Regulatory Challenges:

a. **Space Traffic Management:** With an ever-growing number of satellites and debris in orbit, the regulation of space traffic and collision avoidance becomes



crucial. Establishing comprehensive space traffic management systems that mitigate the risk of collisions and preserve the long-term sustainability of outer space poses a significant challenge.

b. **Resource Utilization:** The prospect of extracting resources from celestial bodies raises legal questions. Clarifying property rights and ensuring responsible resource utilization without causing harm to celestial bodies or creating conflicts among nations are pressing issues. The Artemis Accords, an international agreement, aims to address some of these

concerns by promoting transparency, interoperability, and sustainable practices in lunar exploration and utilization. Very recently on June 21, India became the 27th country to sign the Artemis Accords. India has time and again proved to be a responsible space power and places the highest importance on the peaceful and sustainable use of outer space.

- c. **Intellectual Property and Liability:** As commercial entities develop innovative technologies and conduct research in space, intellectual property rights and liability frameworks must be adapted to cover space-related activities. The establishment of mechanisms to address potential disputes and protect intellectual property in space is an ongoing endeavor.

**International Cooperation & Collaboration:**

Recognizing the global nature of space activities, international cooperation and collaboration are vital. Forums like the United Nations Committee on the Peaceful Uses of Outer Space (UNCOPUOS) serve as platforms for discussions, the exchange of information, and the development of norms and guidelines. Initiatives such as the Space Sustainability Rating and the creation of space debris mitigation guidelines exemplify collaborative efforts aimed at ensuring the long-term

sustainability of space activities.

**Future Prospects and Challenges:**

The rapid pace of technological advancements and the increasing interest in space exploration present both opportunities and challenges for space law. The regulation of emerging technologies like space tourism, satellite mega-constellations, and the utilization of extraterrestrial resources will require agile legal frameworks capable of adapting to evolving circumstances. Additionally, maintaining a balance between national security concerns and fostering international cooperation will remain critical.

**Conclusion:**

In 2023, space law stands at a crucial juncture as it strives to keep pace with the rapid developments in space exploration and commercial activities. While existing treaties and agreements provide a foundation, addressing the regulatory challenges posed by the expansion of commercial activities, space traffic management, resource utilization, and intellectual property remains an ongoing process. International cooperation and collaboration will continue to play a pivotal role in shaping the future of space law, ensuring the responsible and equitable exploration and utilization of outer space for the benefit of all humanity.



# PRO BONO Lawyering

'Pro bono', short for '*pro bono publico*', is a Latin phrase designating an activity performed 'for the public good'. In the legal context, it generally refers to the free and voluntary provision of legal services, either judicially or extra-judicially, in favour of non-governmental organisations, non-profit associations and disadvantaged individuals. The issues at stake can be as diverse as supporting asylum claims, sorting out legal issues affecting the personal and professional lives of citizens, promoting women empowerment, or co-drafting national constitutions.

Pro bono is, essentially, a direct expression of the social function of the legal profession, proving instrumental to the upholding of human rights, the improvement of legal systems and the progress of society, at large. Yet, where does pro bono legal practice come from? Why would individual lawyers, or law firms, embark on such activities? More importantly, how does pro bono work in practice?

Pro-bono lawyering refers to the provision of legal services on a voluntary basis, without charging a fee, to individuals or organizations in need who cannot afford legal representation. In India, pro-bono lawyering has seen notable developments in recent years.

Right to justice is a fundamental right, and the cornerstone of any democratic society that believes in the rule of law. Not only is it essential that there exists rule of law; accessibility to legal recourse is also important.

Internationally, Goal 16 of the Sustainable Development Goals is to ensure peace, justice and strong institutions. The Indian Constitution enshrines this in its framework. Additionally, the Code for Criminal Procedure provides for legal representation by the State. The Code of Civil Procedure also has provisions for 'paupers' - those not able to afford legal services can nonetheless approach the courts for justice with the State incurring the cost. Thus, the importance of pro bono legal services is

unequivocally paramount.

The evolution of pro-bono lawyering in India can be attributed to various factors. First, the legal profession has recognized the importance of providing access to justice for marginalized and disadvantaged groups. This has led to increased awareness and a growing commitment among lawyers to contribute their expertise for the public good.

Second, the Bar Council of India has played a significant role in promoting pro-bono work. It has encouraged lawyers to devote a certain number of hours each year to pro-bono cases and recognized such contributions as part of their professional obligations.

The Bar Council of India acknowledges the importance of pro bono legal service, also in the Standards of Professional Conduct and Etiquette, Rule 46 mentions:

*"Every advocate shall in the practice of the profession of law bear in mind that any one genuinely in need of a lawyer is entitled to legal assistance even though he cannot pay for it,..... free legal assistance to the indigent and oppressed is one of the highest obligations an advocate owes to society."*

The Supreme Court in its landmark judgment in **Indira Jaising v. Supreme Court of India** clearly emphasises the need for advocates to contribute pro bono. This is to be a major consideration when assessing applications for designation as Senior Advocates.

In July 2022 the current CJI while speaking at one NLU Mumbai event advised law

students to take up pro bono work and work for the marginalised even if they are employed in high-paying jobs.

Furthermore, several non-governmental organizations (NGOs) and legal aid institutions have emerged to facilitate pro-bono work. These organizations connect lawyers with individuals and communities in need, ensuring that legal services reach those who cannot afford them.

The Department of Justice, Government of India, has also been earnestly making efforts to incorporate DPI for ensuring access to justice under its “National Mission for Justice Delivery and Legal Reforms”. The Ministry has the main target to provide “access to justice for all”, which is not only a statutory obligation, but also a constitutional mandate. The ministry is endeavouring to foster free legal aid, including pro bono legal services, and ensure substantial reduction of backlog cases. The government has adopted digital technologies, such as Nyaya Bandhu mobile app and is also facilitating the Tele Law Services through pro bono lawyers to provide requisite legal advice to the needy people. Nyaya Bandhu is a mobile application, a digital platform, for access to court and legal representation. Through this app, a seeker of free legal services may contact a registered pro bono lawyer, and the legal services are provided free of cost. To ensure access to law, Tele Law Services are provided for free legal counselling to poor and needy people.

It is a great emancipatory feature of digital technology that it facilitates the public services or the social welfare programmes without any interference of intermediaries and middlemen.

Earlier, the Ministry launched the Pro bono Lawyering (PBL) programme, 2017 to achieve access to justice for all. It is substantially different from traditional free legal aid. The PBL programme aims to fulfil the

constitutional mandate of enhancing access to justice for marginalized sections of the society. The PBL was imagined as an alternative initiative to include poor, marginalized and vulnerable sections of the society with the justice administration led by the official courts in India. Before this initiative, Legal Services Authorities (LSAs) were already carrying forward the legal aid programmes across the country. PBL, a significant responsibility, was also bestowed on them. This initiative is different from the earlier one so much so that it relies on “the moving wheel of Digital India” and the “classical Indian ethics of professions”. The contemporary model of lawyering in India, based on the market principle, does not allow humane ethics to be easily admitted in the profession.

In recent years, the Indian legal system has also witnessed the establishment of dedicated pro-bono cells within law firms, where lawyers provide free legal assistance. This has helped institutionalize pro-bono work and streamline its implementation.

Often seen, is the inescapable contribution of law in effectively tackling some of the most urgent questions of our time. By supporting non-profit associations address their legal issues, pro bono lawyering allows them to focus instead exclusively on their core social activities. As it clearly emerges from this article, pro bono work is the way lawyers have to ‘give something back’ to society and, it is of great value.

Overall, the evolution of pro-bono lawyering in India reflects a growing recognition of the importance of equal access to justice and the role lawyers can play in advancing social justice causes. It is an encouraging trend that promotes inclusivity and ensures legal assistance to those who would otherwise be unable to afford it.



# Murder inside a Courtroom :

## A series of violence

by Gursher Dhillon

**T**he courtroom, traditionally seen as a sanctuary of justice, is a space where disputes are settled, evidence is presented, and verdicts are pronounced. However, in recent years, India has witnessed a series of shocking incidents involving murders inside court premises. These incidents not only raise concerns about the safety and security of the judiciary but also highlight the need for robust measures to ensure the sanctity of courtrooms.

In October 2022, a true crime docuseries **Indian Predator: Murder in a Courtroom** was released on OTT platform Netflix. The series covered the incident of 13th of August 2004, when one Bharat Kalicharan also known as Akku Yadav, an accused in various cases, was lynched in Courtroom No 7 of Nagpur District Court in broad daylight. The incident occurred during his bail hearing when reportedly word spread out that he might be released, which led to hundreds of women entering the court premises carrying vegetable knives and chili powder, walking into the courtroom and take seats near the front. At about 3:00 PM when Yadav, accompanied by 2 Police officials was presented before the Court, he was lynched by the mob of about 200-400 people who were armed inside the courtroom. He was stabbed at least 70 times, and chili powder and stones

were thrown on his face. As per reports, the chili powder was also thrown into the faces of police officers who guarded him. The reason behind the attack was stated to be the involvement of Yadav in various incidents of gang rape - allegedly his victims included pregnant women and some were as young as 12 years of age. The major chunk of these attacks were carried out in the Kasturba Nagar area of Nagpur. The women who attacked Yadav inside the Courtroom received unprecedented support from various corners of society and they were hailed as heroes who rid the women of the reign of terror of Yadav, but the incident needs to be analysed from the rule of law and court security angle, as such violence can never be the answer. A vicious attack in the face of the court causes great prejudice in the minds of the society and belief in the courts is shaken, one such incident can cause a ripple effect and influence the minds of multiple people into taking the violent path and drawing an early conclusion that the Courts will not give them justice.

Such incidents of violence committed inside court premises are sporadic but frequent, recent incidents include the 2021 attack when A 57-year-old lawyer was shot by a colleague inside the Shahjahanpur district court premises in Uttar Pradesh, then one commonly referred to as Rohini Court shooting (shooting inside the Rohini Court in September 2021), when two assailants, dressed as lawyers, had killed the leader of one Gogi gang, Jitendra Mann alias Gogi. Another one when shots fired at a woman inside the Saket Courts in New Delhi in April 2023. When we think of such

occurrences in Punjab and Haryana, The 2021 Ludhiana Court bomb blast comes to mind, where a massive explosion took place in the wash room of the second floor of the court complex reportedly leaving 2 dead and 5 injured. The fact that this took place while the Courts were in session is alarming to say the least. Though the matter is sub-judice but investigation by the NIA has reportedly revealed involvement of various anti national entities and an elaborate plan behind the attack which included using Pakistan based smugglers to bring in improvised explosive devices (IED) for the blast. It's a matter of great concern how such assailants can enter and execute a event of this magnitude in one of the largest District Court Buildings in Punjab.

**Other incidents are: -**

### **The Karnal Court Shooting:**

One of the most chilling incidents occurred in Karnal, Haryana, in 2018, when an advocate was shot dead by his own client inside the courtroom. The incident shocked the legal fraternity and emphasized the vulnerabilities faced by legal professionals while carrying out their duties.

### **The Rohini Court Stabbing:**

In 2019, a dramatic incident unfolded at the Rohini Court complex in Delhi, where a man brutally stabbed his estranged wife multiple times in front of lawyers, litigants, and court staff. The incident sparked outrage



and raised questions about the security measures in place within court premises.

### **The Lucknow Court Shooting:**

Another disturbing incident took place in Lucknow, Uttar Pradesh, in 2020, when a gangster was shot dead by his rivals inside the district court complex. The incident not only exposed the lack of effective security but also demonstrated how courtrooms can become targets for settling personal vendettas.

### **The Madras High Court Shooting:**

In 2021, chaos erupted within the Madras High Court premises when a man fired shots in the air, creating panic among judges, lawyers, and visitors. Fortunately, no casualties were reported, but the incident underscored the urgent need for enhanced security protocols to safeguard the judicial system.

### **UP Bar Council Chairperson shot dead in Agra Court:**

A 38-year-old lawyer, Darvesh Yadav, who had been elected the first woman chairperson of Bar Council of UP just three days ago in June 2019, was shot in broad daylight by another lawyer, inside Agra district court premises in June 2019.

Recently again on 8th of June 2023, we witnessed yet another incident of violence inside Court premises when one accused Sanjeev Maheshwari alias Jeeva was shot dead inside the premises of Lucknow District Courts by men who was dressed as advocates. In the firing, an Uttar Pradesh police constable and a six-year-old girl also suffered injuries. The victim, though is being called a hardened criminal, as per law was an under trial and such





violence inside the Court itself completely demolishes the sanctity of the temples of justice and rule of law which should be supreme.

**To tackle the growing concerns surrounding courtroom safety, there is an imperative need for comprehensive measures. These include:**

- a. **Strengthened Security Measures:** Implementing stringent security protocols, including the installation of metal detectors, CCTV cameras, and security personnel, to ensure thorough screening and surveillance within court complexes. Regulated entries at all levels of such buildings is important.
- b. **Training and Awareness Programs:** Conducting specialized training programs to educate legal professionals, court staff, and visitors about potential security threats and how to respond in emergency situations.
- c. **Collaboration with Law Enforcement:** Establishing effective coordination between the judiciary, Bar bodies and law enforcement agencies to facilitate swift response and action in case of security breaches.
- d. **Integration of Technology:** Exploring the integration of modern technology such as AI-based surveillance systems and facial recognition tools to augment existing security measures and identify potential threats in real-time.

The incidents of murders inside Indian courtrooms represent a distressing trend that demands immediate attention. It is crucial for the authorities to prioritize the safety and security of court premises to maintain the sanctity of the justice system. By implementing robust security measures, providing adequate training, and embracing technological advancements, the nation can strive towards creating courtrooms that are secure spaces for justice, ensuring the protection of legal professionals, litigants, and the rule of law itself.

In September 2021, The Centre informed the Supreme Court that it is the state governments' responsibility to provide security to court premises as police and public order are state subjects and it can just issue some guidelines which it has already done (the government said that it issued guidelines way back in 2007 as per which specialised unit/branch is required to be created by the states and UTs to look after the security of judges/courts.)

In 2023, while hearing the **Karunakar Mahalik v. Union of India** matter the Supreme Court verbally observed that the Courts cannot be turned into "fortresses" in the name of enhancing security. The Bench said it should be a balance struck between the concept of open court system, which allows public to have access to court proceedings, and security concerns. It remains to be seen, especially in light of these growing incidents of courtroom violence as to how governments tread carefully to ensure a safe working environment in Courts.

# False News:

## Fox News settlement for 6456Cr, avoiding trial

by Dr Rajesh Gill

**F**ox News reached a \$787.5 million settlement on April 18 in a defamation case brought by voting technology company Dominion that alleged the network knowingly aired false claims linking its machines to a conspiracy to undermine the 2020 U.S. election. The agreement to end the case avoided what most experts suggested would have been a damaging, high-profile trial for the conservative channel in which owner Rupert Murdoch would have been compelled to testify in open court.

The proceedings, trailed by leading newspapers as "the defamation trial of the century," had been due to test the limits of free speech rights for media in America when wilfully broadcasting misinformation. Dominion had sued Fox News for \$1.6 billion in March 2021, alleging it promoted Donald Trump's baseless claim that its machines were used to rig the presidential election he lost to POTUS Joe Biden. Dominion argued that Fox aired the lies despite knowing they were untrue.

Media, the fourth pillar of democracy, plays a pivotal role in sustaining the vibrancy and spirit of democracy. It has assumed even greater importance with the expansion of Information Technology. Recently, while speaking at the Ramnath Goenka awards ceremony, Hon'ble The Chief Justice of India called journalism a game changer and remarked,

*"a functional and healthy democracy must encourage the development of journalism as an institution that can ask difficult questions to the establishment – or as it is commonly known, speak truth to power. The vibrancy of any democracy is compromised when the press is prevented from doing exactly this. The press must remain free if a country is to remain a democracy."*

He is further reported to have commented,

*"All societies inevitably become dormant, lethargic and immune to the problems that plague them. Journalism (in all*



*its forms) is one of the key aspects which prods us out of this collective inertia. The media has always played and continues to play an important role in shaping the course of current events, and by extension, the course of history itself.*

However, recent controversies on the circulation of fake narratives across the world, have raised serious concerns. How dangerously the proportion of fake news has grown was manifested during the period of COVID-19 pandemic, making it difficult both for the governments and people to take decisions regarding vaccination, medication and lockdown. The problem has multiplied manifold with the proliferation of multiple media platforms, making it difficult to distinguish between fake and genuine news. UNESCO in its publication **"Journalism, 'Fake News' and Disinformation: A Handbook for Journalism Education and Training"** has classified fake news into three categories: disinformation, misinformation and mal-information.

Disinformation implies false information and the person who is disseminating it

knows it is false. It is a deliberate, intentional lie and points to people being actively disinformed by malicious actors.

**Misinformation** is information that is false, but the person who is disseminating it believes it to be true.

**Mal-information** is information that is based on reality but is used to inflict harm on a person, organization or country.

Irked by the storm of fake news during coronavirus pandemic, the United Nations had to initiate several measures to combat huge amounts of misinformation generated during the pandemic, pertaining to the use of disinfectants to fight the virus, the false claims that virus can spread through radio waves and mobile networks, etc. These measures included mobilizing the civil society, producing and disseminating factually accurate information, collaborating with suitable partners to circulate factual information and speaking out for the free flow of information. Fake news is extremely dangerous in view of the multiple incidents of violence and aggression, which happened in the U.S. and many other countries including India, triggered primarily by the creation and circulation of disinformation, at times leading to killing of innocent people. Many a times, we see government twitter handles or press releases clarifying that some news items in circulation are ‘fake’.

The whole issue assumes special significance when the fake news is created and circulated or sometimes intentionally ignored at the behest of political leaders. Recently, the U.S., was rocked by the scandal of ‘fake news’ allegedly circulated

by Fox News Network aiding the claim of former President Trump, after he lost the last Presidential election. His supporters claimed that elections were rigged against Trump and allegations were made against the Dominion Voting Systems Corp for the flawed voting. Dominion Voting Systems Corporation is a company that produces and sells electronic voting hardware and software, including voting machines and tabulators, in United States.

The manufacturing and dissemination of news, which is known as false, has been a cause of concern not only for the general public, but even for journalists. A survey conducted by Pew Research Center in 2022 reported that 71% of the U.S. journalists considered made-up news as a very big problem. In another analysis reported by the Washington Post in 2021, Trump had accumulated 30,573 untruths during his presidency, coming to an average of 21 erroneous/unsubstantiated claims a day. Responding to Trump’s attack on The New York Times and The Washington Post as “*anti-Trump haters*”, The Boston Globe wrote, “*Today in the United States we have a President who has created a mantra that members of the media who do not blatantly support the policies of the current U.S.*”



*administration are the 'enemy of the people'. This is one of the many lies that have been thrown out by this President, much like an old-time charlatan threw out 'magic' dust or water on a hopeful crowd."*

The results of the Presidential election in 2020 were disputed by Trump supporters, who seized the US Capitol in Washington and the allegations were aired by Fox News Network which, as detailed in the beginning, was later sued by the Dominion Voting Systems Corp for \$1.6 billion for defamation. Dominion sued the news outlet for repeatedly airing allegations that the company's voting machines were rigged against Trump in 2020, while knowing the accusations were untrue. Most intriguingly, court documents filed by Dominion suggested a stark contrast between the admissions by the hosts (Fox News) about the false news in private and the claims aired in public. Dominion submitted documentary evidence showing that prominent persons at Fox News Network disbelieved the election fraud allegations, even as the network granted Trump's allies airtime to repeat these. Several staffers at Fox News emailed texts in complete disbelief of the tenuous claims made by Trump of being robbed by voter fraud. Even the Fox Corporation Chairman, Rupert Murdoch is reported to have acknowledged in his deposition that some Fox News commentators endorsed the false allegations by former President Trump and his allies that 2020 presidential election was stolen and that he didn't step in to stop them from promoting the claims. Thus, not only did he admit that he knew that Fox News hosts spread lies about the 2020 election being stolen from Trump, but he confessed that he had allowed them to keep on doing so on air to millions of viewers. Given huge documentary evidence confirming fake news, the Delaware Superior Court ruled in favour of trial, observing 'The evidence developed in this civil proceeding demonstrates that [it] is CRYSTAL clear that none of the statements relating to Dominion about the 2020 election are true.'

Interestingly, the defamation lawsuit against Fox News was settled for \$787.5 million i.e. 6457.06 Crores, about half of the amount initially sought, to be paid to Dominion Voting Systems Corporation, avoiding a trial, which could have completely exposed the players in the fake news scam. The settlement, of course, has been followed by counter-claims from both the parties. What however matters at the end of the day is that gradually people lose trust in the very process of elections, the foundation of electoral democracy. This episode has flashed not merely the political, but more significantly, the moral issue regarding professional

journalism and news reporting. Manufacturing of fake news with political motives can be disastrous for a democracy, especially when people have no means to verify its authenticity.

Another example of the creation and circulation of disinformation is the QAnon – the 'big tent conspiracy theory' claiming that former President Donald Trump was facing down a shadowy cabal of Democratic pedophiles. As reported in an article in 2021, the followers of QAnon had indulged in the deadly Capitol riot in 2021, while others have been alleged to have committed violent crimes. Trump has been the heroic figure in QAnon's core narrative, the brave patriot, chosen to save America from the global cabal. It has reportedly extended to many other countries of the world.

The grave national threat posed by fake news has been taken up quite seriously by countries like Italy. As per a report published in October 2017, in an extraordinary experiment, Italy has inserted in the school syllabus 'recognizing fake news', sensitizing young students against sharing unverified news, encouraging them to ask for sources and evidences and remembering that the internet and social networks can be manipulated. The Italian government in collaboration with leading digital companies including Facebook, is training a generation of students extensively using social media, to recognize fake news.

India too is faced with a huge challenge as a result of multiple media platforms disseminating news, which is sometimes not authentic. Recently, there have been allegations and counter allegations by the major political parties against each other, of playing with the news content and generating fake news for political gains. Other prominent personalities including Bollywood stars, have also been targeted personally by circulating fake news on



social media and in one such incidence, the person approached the Court to get the content removed. Expressing deep concern over the trend, Hon'ble The Chief Justice of India while addressing the American Bar Association a few months back on the theme 'Law in the age of globalization: Convergence of India and the West', remarked,

*"Truth has become victim in age of false news and with the spread of social media, something which is said as a seed germinates into virtually a whole theory that can never be tested on the anvil of rational science."*

As reported by Times News Network in March 2023, the TOI's editorial team received over 1.4 lakh messages, more than half of which turned out to be false. It further reported that having ballooned beyond articles and tweets, fake news is becoming harder to distinguish from fact in the era of Artificial Intelligence. Quoting Hon'ble The CJI, "*Fake news can misguide millions of people at once and this will be in direct contradiction with the fundamentals of democracy which form the bedrock of our existence.*" Lordship also expressed that misinformation has the capability of creating a rift between communities and termed responsible journalism as the engine which drives democracy towards a better future.

TNN in an earlier report dating back to August 2021 referred to the address delivered by Hon'ble The CJI at the Justice MC Chagla Memorial Lecture, wherein he underlined the role of courts as "**Truth Commissions**". At a time when falsehood and fake news circulation has increased manifold with proliferation of social media and when citizens cannot depend solely upon the institutions for 'truth' even in a democracy - it was also discussed that given the importance of truth in nation building, many countries after getting independent from totalitarian regimes had chosen to put in place "Truth Commissions", which function to document, record and acknowledge the 'truth' of earlier regimes and

violations, for future generations, so as to provide catharsis to the survivors and prevent any possibility of denial in future.

A heavy indulgence of younger population on various platforms of social media, not just for entertainment, but also for 'information' and 'knowledge' makes the case too complicated. The paradox is that while the modern education is claimed to inculcate among the young minds, critical thinking and questioning, most of the content circulated on social media is gulped down by its consumers, both young and old, as gospel truth, without any verification. The problem gets even more serious once the mainstream media companies also join in the business of promoting false or unverified narratives and circulate these as 'information', backed by business or individual interests. Results can be devastating both in short as well as long run. Alt News, a fact-checking website, claiming to be committed to debunking misinformation, disinformation and mal-information, has reportedly debunked several news stories in India and elsewhere, which were factually false, but had tremendous repercussions on the social fabric, spreading communal hatred and sensationalization. The United Nations, deeply concerned about the growing threats to democracy, freedom of opinion and expression and media freedom globally, and cognizant of the decline of public trust in democratic governance as well as in media, adopted on 2nd May 2023, on the occasion of World Press Freedom Day, the joint Declaration on Media Freedom and Democracy. It has mandated the States to discharge their positive obligation to promote, protect and create an enabling environment for media freedom. It is high time we in India, the largest democracy of the world, too raise public consciousness to debunk the unverified or fake news and push for regulation and accountability - also consider challenging such practices.

# BOOK REVIEW

## Behind Bars in Byculla: An Unflinching Glimpse into India's Prison System

by Aakritee Raj

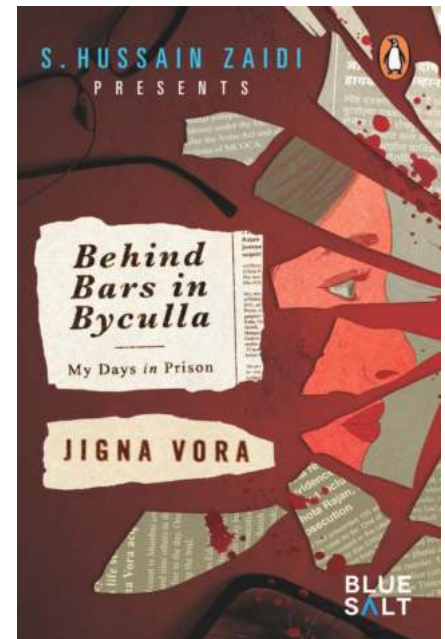
"*Behind Bars in Byculla*" is an extraordinary work of non-fiction that plunges readers into the gritty depths of India's most notorious prison. Drawing from her first-hand account of life behind bars, the author delivers a compelling and thought-provoking narrative that captures the raw realities faced by inmates and the complex dynamics within the walls of Byculla Jail.

Immersing oneself in the tragic odyssey of a fellow law graduate who heeds her true calling in journalism, we embark on a dark expedition through the corridors of Byculla jail. Unjustly accused in a high-profile murder of a fellow journalist, she endures a gruelling nine-month ordeal, inviting the reader to traverse the claustrophobic cells, dimly lit corridors, and the daily trials and tribulations of those confined within. Guiding the reader through a chronological series of events, we journey from her previous life as a crime reporter for prominent news agencies to the tragic sequence of circumstances that led to her fateful entanglement. Simultaneously engrossed in her present life and experiences within Byculla jail, we are compelled to contemplate how easily this could befall upon someone dear to us, and perhaps even ourselves.

One of the book's greatest strengths lies in its portrayal of the diverse range of characters that are in and out of Byculla Jail. The other notable strength is its ability to humanize these incarcerated individuals. The author skilfully captures the intricacies of their lives, portraying them not just as faceless and hardened criminals but as individuals with unique stories, struggles, and motivations. By delving into their personal narratives, the author prompts readers to question the factors that lead people to crime and the impact of the justice system on their lives. This humanizing approach serves as a reminder that justice must not be reduced to mere punishment, but rather should aim at rehabilitation and reintegration.

"*Behind Bars in Byculla*" further delves into the issues plaguing India's prison system, exposing corruption, overcrowding, and inadequate resources. The author delves into the political and bureaucratic hurdles that hinder any meaningful reform. Through these revelations, the book prompts readers to confront the urgent need for change and raises important questions about the role of prisons in society.

While the subject matter of "*Behind Bars in Byculla*" can be disheartening and bleak, it is ultimately a book that inspires empathy, compassion, and a call to action. It serves as a stark reminder that the fate of those behind bars is intrinsically connected to the well-being of society as a whole. In conclusion, "*Behind Bars in Byculla*" is an unputdownable book that blends investigative journalism, social



critique, compassionate storytelling along with a legal analysis of the various facets of the criminal justice system. It is a timely and essential read that forces us to confront uncomfortable truths, igniting a much-needed conversation about the prison system and its impact on individuals and society.

The acclaimed director Hansal Mehta, in collaboration with OTT platform Netflix, has adapted a fictionalized version of the book "*Behind Bars in Byculla*" into a captivating show titled "Scoop." This adaptation has provided a broader platform to showcase the heart-wrenching story to a significantly larger audience, albeit through a fictional lens.

**Happy reading !**

# BOOK REVIEW

## FIFTEEN JUDGMENTS CASES THAT SHAPED INDIA'S FINANCIAL LANDSCAPE (SAURABH KIRPAL)

by Dr. Kusum Pal, HOD, Amity Law School, Amity University Punjab

The basic cover page of the book titled 'Fifteen Judgments' authored by 'Saurabh Kirpal', was the first thing that attracted my attention on it. Grabbing it in my hands, my initial opinion while reviewing the title was that it must be the generic discussion of some cases that held important position somehow in the pages of Indian history.

However, eventually I realised that how wrong I was to hold this notion, when my vision slipped upon the clause mentioned below to the bold title specifying, 'Cases that Shaped India's Financial Landscape'. So, I unfolded the cover and started reading. As a reader, it would be worth appreciating the fact that the author has extensively compiled the long journey of the economic jurisprudential philosophy of our country by picking up handful of cases from the era of 1950 to the contemporary 21st century. It is quite a well-researched choice of the author to select only those judgments which held macroeconomic dimensions having long term impact on Indian economy.

The most unconventional and pleasing feature of this book is that rather than being just a reproduction of the judgments, author has catered with the intellectual feast of 'Why, What and How' of the cases. 'Why' in reference to the reason for ground of filing the case, 'What' in the reference to the overview of the judgment and 'How' in reference to after-effect of the pronouncement laid by the apex court in the specified cases.

The whole work is divided into fifteen chapters, each given a unique heading which is used by the author as the punchline of the judgment followed with the citation of the case. Due conclusion and notes are given appropriate space at the end of each chapter to enable readers to have overview and easy access to the references of literature used in the work.

It is indeed a must read for all the participants of legal fraternity, may it be a law student or a researcher or someone who is emplaced at the Bench or Bar, specifically for those who are more interested in enriching their knowledge through deliberations. As stated in the introduction by the author 'the book encompasses the long path of the economic history of the country. From almost laissez-faire conception of the economy in the fifties to

## FIFTEEN<sup>®</sup> JUDGMENTS

CASES THAT  
SHAPED INDIA'S  
FINANCIAL  
LANDSCAPE



SAURABH KIRPAL

the socialism of seventies and eighties; from the recognition of liberalisation in nineties to the attempt to rein in the perceived excess of liberalization; the judgments reflect the sentiment of the era that they were delivered in.'

As a reader it can be assured that reading this book will be worth your precious time and money, something which is resourceful, beautifully crafted, and enclosing the aroma of cerebral flavour.

**Happy reading !**

## Movie review

# Sirf Ek Bandaa Kaafi Hai

(by Dr Kusum Pal)



This movie is a must-see for lawyers looking for a good courtroom-drama. Manoj Bajpayee slips into the role of lawyer PC Solanki, a devout Shiv bhakt, who is unafraid of taking on the rich and powerful and yet human enough to want to make a good impression on the famous lawyers arrayed against him. Movie available on OTT platform Zee5 is a screen representation of the true incident where doors of justice were knocked by a minor victim girl (with the help of a humble lawyer) against the misdeeds of a self-proclaimed godman.

Though the whole story runs around the theme of how justice was finally delivered by our judiciary, but what is worth appreciation is the knitting of fine threads of procedure involved in meeting the ends of justice. To begin with, the picture beautifully explains that how various manipulations can be carried out specially in high-profile cases. Subsequently it unfolds the emotional touch of understanding the pain of victim by an indomitable common lawyer and getting determined to give his best to punish the wrong doer. The portrayal of the defence lawyers in protecting their client is also worth mentioning and it can be seen that in any litigation how minute details and skilful submissions can turn the table around. The complete movie is a rollercoaster ride of not only fear, faith, manipulation, determinations but also of the lawyering skills, the dilemmas of the judges as well as evoking of the thoughts on societal norms and their acceptance.

The fragile subject presented by the movie producer/director in such vivid manner is indeed courageous and a fearless step on their part. It can be concluded that the audience will be engrossed with the concept of this movie, which should not only be watched but also talked about.

Poonam Chand Solanki is a lawyer in Rajasthan's Jodhpur. He was born to a former railway mechanic and is the only brother of three sisters. His family ensured that despite modest means, Solanki completed his education and eventually studied law. The lawyer joined the bar in 1996. His first high-profile came in 2002 as per an Asian Age article. He filed a PIL in the Rajasthan High Court against the immersion of Ganesh idols made of Plaster of Paris in Gulab Sagar near the historic Ghantaghar, as it led to the death of several fish in the lake. In 2014, he was approached by the parents of a minor who was

fighting a rape case against prominent godman Asaram Bapu, which is how he came to be associated with the case.

**PC Solanki then fought the infamous rape case against self-proclaimed godman Asaram Bapu** in a Jodhpur Court from 2013-18 and got Asaram Bapu convicted. While the film does deal with a rape case, it fictionalises several elements and does not use real names of most characters, apart from Solanki himself.

The real trial continued for five years, during which time several related cases like other rape allegations against Asaram were also unearthed. Four key witnesses were found dead in mysterious circumstances/or murdered. The defence employed some of the top lawyers of the country, including Ram Jethmalani, Salman Khursheed, and Subramanian Swamy. Despite all kinds of pressures, including a threat to his life, PC Solanki prevailed. In April 2018, the Jodhpur Scheduled Caste and Scheduled Tribe Court convicted Asaram guilty of the rape charges and pronounced a verdict of life imprisonment, along with a fine of 5,00,000 which was to be paid to the victim. His appeal was rejected by the High Court and Asaram continues to be in prison.

It is reported that Asaram had sent a legal notice to the makers saying the film tarnishes his image.



# Beyond Law CLC

Empowering Professionals through 700+ Webinars



In the wake of the Covid-19 pandemic, countless industries were forced to adapt to a new normal, embracing digital platforms and virtual communication. The legal profession was no exception. One remarkable lawyer, whose dedication to disseminating free legal knowledge to all professionals remained unwavering, took the initiative to set up Beyond Law CLC to conduct free webinars and bridge the information gap in these challenging times.

### Meet Vikas Chatrath:



Vikas, a seasoned lawyer renowned for his expertise in various legal domains including service, writs and civil, saw an opportunity to leverage technology and extend his platform's reach beyond the confines of a courtroom. With a

passion for educating and empowering others with legal knowledge and soft skills, he embarked on a remarkable journey of conducting 700+ webinars, with many legal doyens, to disseminate legal knowledge to a wider audience.

Vikas's dedication to conducting 700+ webinars post-Covid has had a profound impact on the legal community. Many participants have reported gaining valuable insights that enhanced their legal acumen and boosted their professional growth. With the success of his webinars, Vikas plans to expand his initiatives, reaching an even larger audience and incorporating emerging legal trends and challenges into his academic sessions.

# Honorary Secretary's Desk

## Gurtej Singh Grewal



As we reach the end of another quarter, it is with great satisfaction that I reflect upon the articles, opinions, reproductions and legal insights presented within this edition of our esteemed law journal. The diverse range of topics covered underscores the remarkable depth and breadth of legal scholarship in our country.

Our esteemed contributors have displayed exceptional expertise and dedication, shedding light on intricate legal matters, future of law and offering valuable perspectives that enrich our understanding of the law. Their contributions have set the stage for meaningful discussions and have undoubtedly contributed to the advancement of legal thought.

As we fulfil our duties as given under Section 6 of the Advocates Act, 1961 - I would like to express my heartfelt gratitude to our Chairman whose initiatives continue to inspire us, member colleagues, esteemed authors whose meticulous research and eloquent writing have made this journal an invaluable resource for legal professionals and scholars alike. Furthermore, I extend my appreciation to our diligent staff Malkit Singh and Rahul Grover, whose unwavering

commitment and tireless efforts have brought this publication to fruition. Our appreciation to the overtime rendered by Kulwinder Singh, on behalf of the printing firm.

It is my sincere hope that this edition of our law journal serves as a catalyst for further exploration and dialogue within the legal community. May it inspire continued intellectual discourse and foster the growth of legal knowledge and understanding.

We eagerly anticipate the next installment of our journal, which will undoubtedly continue the tradition of excellence and intellectual rigor that defines our publication. Until then, we encourage our readers to engage with the thought-provoking articles presented here and to contribute their own valuable insights to the legal landscape.

**As I hand over the baton to the newly appointed Honorary Secretary Sh Raj Kumar Chauhaan, I thank you for your unwavering support, and we look forward to your continued readership in the future.**



**Raj Kumar Chauhaan**

Hony. Secretary

# Guidelines

## for Submission

### About the Journal

In furtherance of the publication of the second issue for the second quarter of this year 2023, the Bar Council of Punjab and Haryana hereby invites research articles/papers, experience stories, short notes, case studies/commentaries, brief essays, any creative works and book/movie/series reviews on law and related areas for publication in the next Punjab and Haryana Bar Council Law Journal 2023 Q3| 2023.

The journal is a quarterly, peer reviewed publication from State Bar Council of Punjab and Haryana. It is an endeavor of the statutory body to encourage legal knowledge sharing platforms and promote inclusive growth in the legal fraternity through academic discussions.

### Topic

The journal invites submission on 'any broad topic of Law and related research, also creative pieces' not limited to any particular theme.

The authors are free and welcomed to write on any topic that they wish to contextualize. However, preference by the Bar Council shall be given to scholarly research papers, raw articles, simple and easy to understand papers, short commentaries, original manuscripts and creative works highlighting any law related, anywhere across the globe.

### Other

The piece should be accompanied by an abstract in about 150 words along with a declaration that the paper has not been published or sent for publication

elsewhere. If it contains reproductions, then a declaration to that effect.

- Word Limit: 800 - 1000 words
- Authorship: Maximum of three

The main text should be in Constantia, size 12 with a 1.5 line spacing and the footnotes shall be in size 10 with 1.0 line spacing. This shall be strict compliance for papers to be accepted for the review process.

The editors reserve the right to delete or edit any article or part there of whose content is found to be offensive, defamatory, out rightly unethical, or if it is suggestive of discrimination in any form of racism, sexual, gender, religious, illegal or terror activities, and/or another. The article is subjected to rejection if its content is likely to offend or provoke the religious or political sentiments of the reader.

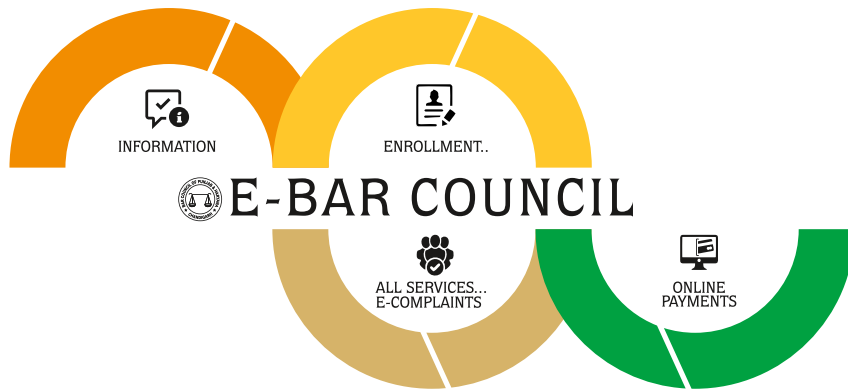
There is no publication fee. A process of peer-review shall be used to scrutinize all the submissions. Following this, the authors of selected papers will be notified of the results.

To submit or contribute, contact [Rahul Grover, Superintendent-1 from the Academic Committee staff at 9855422298 or reach us at lawbhawan37@gmail.com.](#)



# Events





PLEASE SCAN HERE FOR  
BAR COUNCIL ONLINE SERVICES

[www.bcph.co.in](http://www.bcph.co.in) [lawbhawan37@gmail.com](mailto:lawbhawan37@gmail.com) [LinkedIn](#) [Twitter](#) [Facebook](#) [Instagram](#)



## BAR COUNCIL OF PUNJAB & HARYANA

Law Bhawan, Dakshin Marg, Sector 37-A, Chandigarh ☎ 0172-2688519, 81950-17269

**Mr. Manan Kumar Mishra, Sr. Advocate**  
Hon'ble Chairman, Bar Council of India

**Mr. S. Prabakaran, Advocate**  
Vice-Chairman

**Mr. Apurba Kumar Sharma, Senior Advocate**  
Chairman, Executive Committee

**Mr. Debi Prasad Dhal, Advocate**  
Executive Chairman, Bar Council of India Trust (PF)

**Mr. Manoj Kumar N, Advocate**  
Vice-Chairman, Executive Committee Co-Chairman

**Mr. A. Rami Reddy, Advocate**  
Executive Vice-Chairman, Bar Council of India Trust (PF)

**Mr. Partap Singh, Advocate**  
Member-Representative BCI (Punjab, Haryana &Chd)

The Secretary, Bar Council of India 21 Rouse Avenue- Institutional Area, New Delhi - 2, 011-49225000, 49225011 (info@barcouncilofindia.org) www.barcouncilofindia.org

### List of Members of the Bar Council of Punjab and Haryana

**Mr. Suvir Sidhu, Advocate**

Chairman  
# 221, Sector 21-A Chandigarh 160022  
9878697595 (suvirsidhu@gmail.com)

**Mr. Ashok Singla, Advocate**

Vice-Chairman  
# 2205 Sector 38-C, Chandigarh  
9814920019 (advashoksinglambc@gmail.com)

**Mr. Partap Singh, Advocate**

Member, Bar Council of India  
# 447 Sector2, Panchkula, Haryana  
9417040410 (partapsingh.adv@gmail.com)

**Mr. Gurtej Singh Grewal, Advocate**

Honorary Secretary  
# C-7, Officers Colony Mangwal, Sangrur, Punjab  
9988700700 (gsgrewaladvocate@gmail.com)

**Mr. Surinder Dutt Sharma, Advocate**

Co-Chairman  
# 10/37, Barh Mohalla, Faridabad, Haryana  
9811927470 (surinderduttsharma64@gmail.com)

**Mr. Ranvir Singh Dhaka, Advocate**

Co-Chairman  
# 1223 Sector 1, Rohtak, Haryana  
9728350005(dhaka.ranvir@gmail.com)

**Mr. Baljinder Singh Saini, Advocate**

Co-Chairman  
# 2051, New Sunny Enclave, Sector 123, Kharar, Mohali,  
Punjab (advbaljindersaini@gmail.com)

**Mr. Raj Kumar Chauhaan, Advocate**

Co-Chairman & Chairman Trustee Committee  
# 680 Sector 8, U.E. Karnal, Haryana  
9324000003 (rajkumarchauhaan3@gmail.com)

**Mr. Chander Mohan Munjal, Advocate**

Chairman, Executive Committee  
# 158 Sector 21 A, CHANDIGARH  
9814052224(chandermohan.munjal@gmail.com)

**Mr. Harish Rai Dhanda, Advocate**

Chairman, Finance Committee  
The Retreat, Barewal Octroi Road, Ludhiana, Punjab  
9814120300 (dhandahr@gmail.com)

**Mr. Lekh Raj Sharma, Advocate**

Chairman, Enrollment Committee  
# 247 Sector 49-A, Advocates Society, Chandigarh  
9417037621, 9216730079  
(adv.lekhrhajsharma@gmail.com)

**Mr. Rakesh Gupta, Advocate**

# 216 Sector 35 A Chandigarh  
9814049502 (law.rakeshgupta@gmail.com)

**Mr. Minderjeet Yadav, Advocate**

Additional Advocate General, Haryana

# 428,G, GH 2 Shikhar Apartments, Sec.5 MDC, PkI Haryana  
9466696555/9814639181 (minderjeetyadav@yahoo.in)

**Mr. Karanjit Singh, Advocate**

Additional Advocate General, Punjab  
65, Sector 77, Pb. Judges Enclave, Mohali, Punjab  
9417050203 (adv.karanjitsingh@gmail.com)

**Mr. Ajay Chaudhary, Advocate**

# 129 WW Road, Malibu Town, Gurugram, Hry  
9899567308 (ajaychaudharyadv@gmail.com)

**Mr. Jai Vir Yadav, Senior Advocate**

# 1079 Sector 39-B, Chandigarh  
9417209543 (jaiviryadav@gmail.com)

**Mr. Bhupinder Singh Rathore, Advocate**

# 1087/13, U.E. Karnal, Haryana  
0184-2200148, 2206310, 9416031310

**Mr. Karamjeet Singh, Advocate**

1/5, Skynet Tower, Near AKM Tower, Zirakpur Pb  
9855243100 (advkaramjeetchoudhary@gmail.com)

**Mr. Amit Rana, Advocate**

Senior Deputy Advocate General, Punjab  
Flat No. 203, GH-5, Sector 24, Panchkula, Haryana  
9417151117 (amitranaadvocate@gmail.com)

**Mr. Hargobinder Singh Gill (Bagga), Advocate**

Additional Advocate General, Punjab  
B - 13/19, Baba Farid Nagar, Barnala, Punjab 9814555099,  
9417208001 (gillhargobinder@yahoo.in)

**Dr. Vijender Singh Ahlawat, Advocate**

# 940/22, Vijay Park, Jhang Colony, Rohtak, Haryana  
9416000030 (dr.v.s.ahlawat@gmail.com)

**Mr. Chetan Verma, Advocate**

# 715-C Dakshin Vihar, M.T. Ext Ludhiana, Punjab  
9815908091 (chetan3421@yahoo.com)

**Mr. PraveshYadav, Advocate**

Plot No 7012, DLF Phase IV, Gurugram, Haryana  
9810999683/8285999683, advpravesh123@gmail.com

**Mr. Rajat Gautam, Advocate**

Additional Advocate General, Haryana  
Haryana MLA Flats No. 25, Sector 3, Chandigarh  
9815444670 (rajatgautamaag@gmail.com)

**Mr. Harpreet Singh**

# 180, Nepli Forest Gate, Saketri, Sector 1,  
Mansa Devi Complex, Panchkula  
9888765432, multaniharpreet98@gmail.com

**Mr. Baldev Raj Mahajan, Senior Advocate**

Advocate General, State of Haryana  
#657, Sector 16-D, Chandigarh  
0172-2740042,2724549(O)

**Mr. Vinod Ghai, Senior Advocate**

Advocate General, State of Punjab  
#2116, Sector 15-C, Chandigarh, 9914813374  
(vinodghai15@gmail.com)

## BAR COUNCIL OF PUNJAB & HARYANA

Law Bhawan, Dakshin Marg, Sector 37-A, Chandigarh ☎ 0172-2688519, 81950-17269

Website : www.bcph.co.in | E-mail : lawbhawan37@gmail.com