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Punjab and Haryana Bar Council Law Journal

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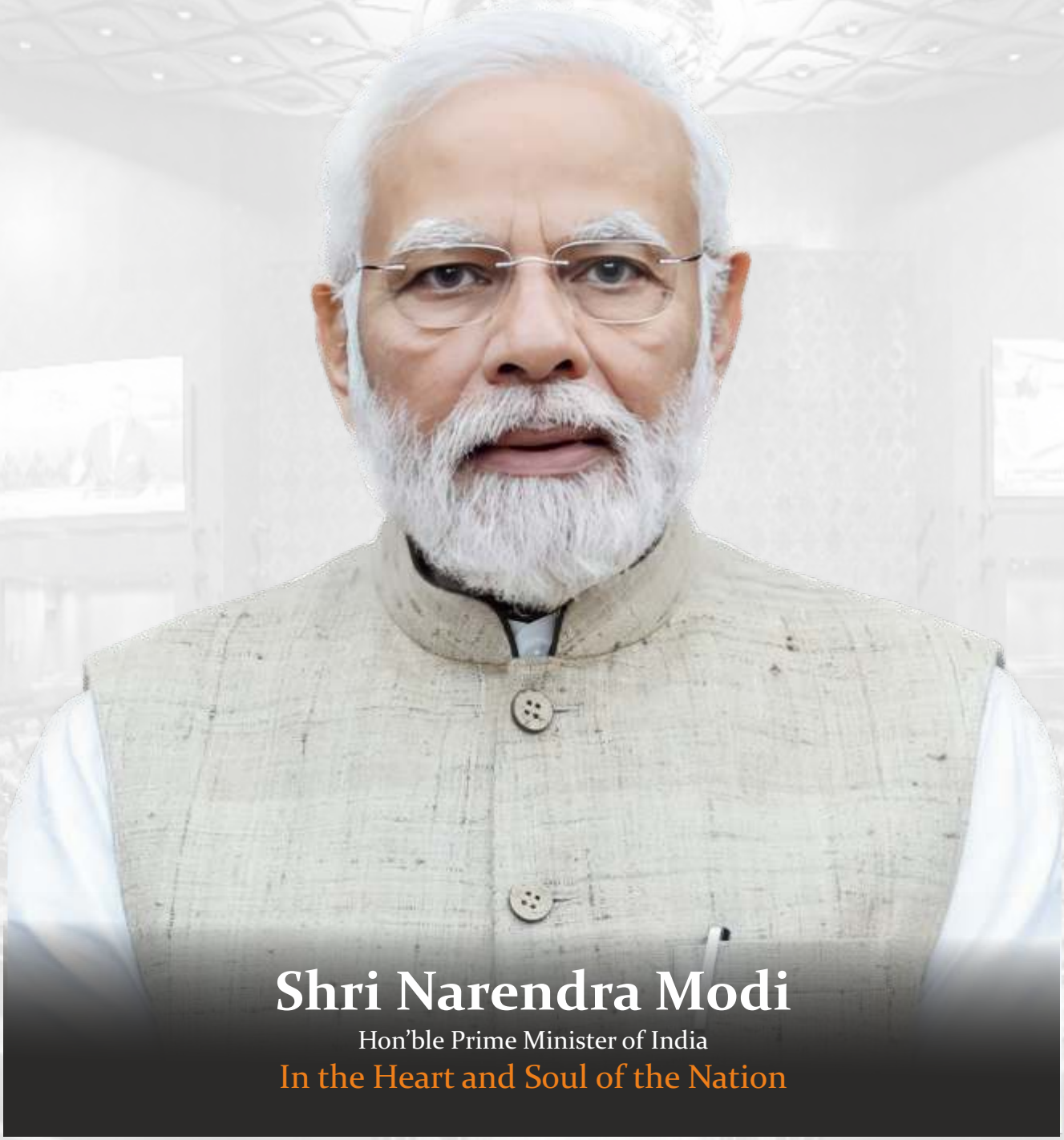

Shri Narendra Modi

Hon'ble Prime Minister of India

In the Heart and Soul of the Nation

Hon'ble Ms. Justice Ritu Bahri
PHHC's First Woman ACJ

HMJ Augustine George Masih
- A righteous Judge

Role of AI &
Future of Law

Swachh Bharat Mission, the world's largest sanitation initiative was launched by the Prime Minister of India in 2014 to achieve an Open Defecation Free India by October 2, 2019, as a tribute to Mahatma Gandhi. To accelerate the efforts to achieve open defecation-free status and universal sanitation coverage throughout India and to put the focus on sanitation, the PM Modi launched the Swachh Bharat Mission. The Swachh Bharat Mission -U 2.0 strives for 100% source segregation, door-to-door waste collection, scientific waste management of all fractions of waste including safe disposal in scientific landfills, and the remediation of legacy dumpsites into green zones. Legal fraternity of this region joins this Mission.

Atmanirbhar Bharat Abhiyaan or Self-reliant India campaign is the vision of new India envisaged by the Hon'ble Prime Minister Shri Narendra Modi. On 12 May 2020, our PM raised a clarion call to the nation giving a kick start to the Atmanirbhar Bharat Abhiyaan (Self-reliant India campaign) and announced the Special economic and comprehensive package of INR 20 Lakh Cr- equivalent to 10% of India's GDP – to fight COVID-19 pandemic in India. The aim is to make the country and its citizens independent and self-reliant in all senses. He further outlined five pillars of Aatma Nirbhar Bharat – Economy, Infrastructure, System, Vibrant Demography and Demand. Legal fraternity of this region comes together resolving to use Indian made goods.

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Narendra Modi Ji, the Prime Minister of India, is often regarded as a great and visionary leader. His leadership is seen as integral to the nation's heart and soul, marked by many initiatives such like Swachh Bharat Abhiyan and Make in India. Undeniably, he remains in the heart of millions of Indians, and connects to the soul of Bharat. A brighter future awaits our nation with PM's vision as our guiding light. A great statesman and beloved leader - his presence is marked by integrity, empathy, and a commitment to public service. His ability to unite diverse communities, make tough decisions for the greater good, and foster a sense of national pride contributes to his enduring popularity. His steadfast leadership inspires trust and will leave a lasting legacy of positive change.

COVER STORY

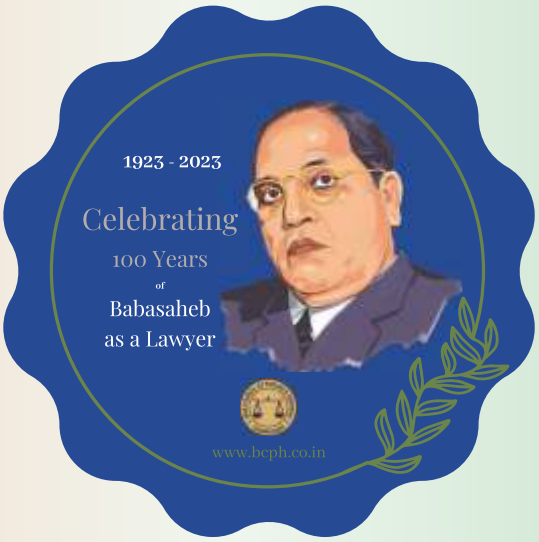
Tribunal de Les Agüas: The World's Oldest Court :

Every Thursday as cathedral bells ring noon, eight men in black-robes trailed by hoards of spectators march to the Apostle's Gate of Cathedral de Valencia. So begins the Tribunal de Les Agüas de la Vega de Valencia (or "Water Court"), a court that has met every week in the same spot for the past 1,100 years and is recognized as the oldest court on earth. While the Water Court was most likely established when the Romans occupied Valencia, it assumed its current state when rulers of Al-Andaluz created a network of canals in this dry area, triggering disagreements over the proper distribution of water. For this reason, farmers from each of these eight canals formed a court to address residents' complaints and assure that each region of Valencia could comfortably drink, farm, bathe and dispose of waste.

Remembering Rajiv Luthra: Veteran corporate lawyer, trendsetter and a mentor to many young lawyers died in May, 2023 after a brief illness.

FUTURE LAWYER AWARD 2023

(More details on Pg 31)



BHIMRAO RAMJI AMBEDKAR

This year we celebrate with immense joy and pride the extraordinary legacy of Babasaheb Dr. BR Ambedkar, as we mark the centenary of his impactful legal practice from 1923 to 2023. His commitment to justice, equality, and human rights has left an indelible mark on our legal landscape.

Dr. Ambedkar's relentless pursuit of justice has paved the way for a more inclusive and equitable society. As we reflect on the hundred years of his legal journey, let us be inspired by his unwavering dedication to the principles of fairness and his tireless efforts to build a just and egalitarian nation.

The journey that started from his ordinary upbringing as a son of a Subedar in the Army and his primary education from Satara's High School, took him to Elphinstone High School at University of Bombay, and later to Cambridge University and the London School of Economics. After getting himself enrolled at Gray's Inn in Britain, Babasaheb Ambedkar finished his law degree in the year 1923. After returning to India, Babasaheb joined the bandwagon of his contemporaries and decided to become a lawyer at Bombay. Later he held various important positions including as the Father of the Indian Constitution (*Chairman of the Constitution Drafting Committee from 1947-1950*) and First Minister of Law and Justice in independent India from 1947-1951.

Bar Council of Punjab & Haryana held various events this year i.e. 1923 to celebrate Babasaheb's 100 year anniversary as a Lawyer. The above is an additional logo adopted by the State Bar Council throughout the year as a mark of deep respect to Babasaheb.

May this celebration serve as a reminder of the importance of upholding the values that Babasaheb Dr. Ambedkar championed throughout his illustrious career. Let us honour his legacy by continuing the quest for justice and equality in our legal endeavours.

Here's to a century of Dr. B R Ambedkar's profound impact on the legal realm and a future guided by his vision of a truly just society.

Read more about Dr. Ambedkar as a Lawyer (THE LEAFLET.in)

Contributors to this issue

Ashok Singla
Chairman

Ranvir Singh Dhaka
Vice-Chairman

Partap Singh
Member,
Bar Council Of India

Raj Kumar Chauhaan
Honorary Secretary

Surinder Dutt Sharma
Co-Chairman

Karamjeet Singh
Co-Chairman

Jai Vir Yadav
Sr. Advocate

Bhupinder Singh Rathore
Member, Bar Council

Chander Mohan Munjal
Chairman,
Executive Committee

Minderjeet Yadav
Member, Bar Council

Rakesh Gupta
Chairman,
Enrolment Committee

Harish Rai Dhanda
Chairman,
Finance Committee

Gurtej Singh Grewal
Chairman,
Trustee Committee

Lekh Raj Sharma
Member, Bar Council

Baljinder Singh Saini
Member, Bar Council

Karanjit Singh
Member, Bar Council

Ajay Chaudhary
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 Multani
Member, Bar Council

Suvir Sidhu
Member, Bar Council

Baldev Raj Mahajan, Senior Advocate
A.G. Haryana (Ex-Officio)

Mr. Gurminder S Kharbanda, Senior Advocate
A.G. Punjab (Ex-Officio)

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Shri Narendra Modi

Hon'ble Prime Minister of India

In the Heart and Soul of the Nation

Prime Minister Narendra Modi, undoubtedly one of the most prominent figures in Indian politics since independent India, has captured the imagination of the nation through his dynamic leadership and transformative vision. His popularity stems from a combination of factors, including his rise from humble beginnings, proven track record, decisive governance, and ambitious initiatives aimed at shaping the future of India.

PM Modi's journey to the highest echelons of political power is a testament to his perseverance and political acumen. Born on September 17, 1950, in Vadnagar, Gujarat. He started his political career as a member of the Rashtriya Swayamsevak Sangh (RSS) and later joined the Bharatiya Janata Party (BJP). His leadership roles in the organisation then state of Gujarat, especially during the 2001 earthquake and subsequent economic revival, catapulted him to destined prominence.

One of PM Modi's key strengths lies in his ability to make tough decisions and implement them swiftly. As Chief Minister of Gujarat from 2001 to 2014, he earned a reputation for promoting economic development, seamless infrastructure galvanising, and investment push. His governance style emphasized efficiency and accountability, which resonated with many.
Since assuming the office of Prime Minister in 2014, Modi has focused on economic reforms to spur growth and

development. Initiatives like '*Make in India*', '*Swachh Bharat Abhiyan*,' and '*Digital India*' underscore his commitment to transforming India into a global economic powerhouse. These programs aim and prove to address issues ranging from sanitation and cleanliness to digital literacy and industrialization.

PM Modi's leadership is often characterized by a long-term vision for India's progress whilst coming out of the shadows of the past. His ambitious projects like the 'Goods and Services Tax' (GST) and 'Pradhan Mantri Jan Dhan Yojana' reflect a commitment to systemic changes. The 'Smart Cities Mission' and 'Ayushman Bharat' further illustrate his forward-looking approach to urban planning and healthcare.

On the global stage, PM Modi has positioned India as a key player, forging strategic partnerships and engaging in carefully curated diplomatic efforts. His emphasis on initiatives like the International Solar Alliance, G20 summit joint resolution and proactive foreign policy has garnered international attention, contributing to India's standing in the world.

PM Narendra Modi's journey from a modest background to the epicenter of Indian politics reflects a compelling narrative of resilience and leadership. His popularity and visionary initiatives have left an indelible mark on the nation, shaping India's trajectory into the 21st century. Whether through economic and legal reforms, development projects, or diplomatic hard endeavours, Modi continues to be a pivotal figure in the heart and soul of the nation.

> Our Prime Minister has time and again stressed upon the approach of *"thinking globally but acting locally"*, implying that our vision must be to compete globally whilst being equally concerned about the interest and rights of all around us in our country.
>
> **Justice Vikram Nath**
> Judge, Supreme Court of India
> (03.07.2022 | 2nd Justice HR Khanna National Symposium)

> Modi is a model. He is a hero.
>
> Most popular, loved, vibrant and visionary leader.
>
> **Justice MR Shah**
> Judge, Supreme Court of India (Retd.)
> (August 2018 | February 2021)

> India is a responsible and most friendly member of the international community under the stewardship of internationally acclaimed visionary Prime Minister Shri Narendra Modi. We thank the versatile genius, who thinks globally and acts locally.
>
> **Justice Arun Mishra**
> Judge, Supreme Court of India (Retd.)
> (February 2020 | International Judicial Conference, Supreme Court)

> Lawyers have been strongly supporting our global hero Narender Modi Ji since after the Conference held in Mahatma Mandir, Gandhi Nagar on 1st March, 2014
>
> **Manan Kumar Mishra**
> Chairman Bar Council of India
> (23.09.2023 | International Lawyers' Conference, New Delhi)

Chandigarh (India)

A prime destination for International Arbitration

Ashok Singla
Chairman

India's increasingly prominent global economic status is clearly reflected in the fact that India has overtaken the United Kingdom now to become the world's fifth-largest economy. By 2030, as envisioned by PM Modi, India could be third. India is poised to be the world's most populous country, surpassing China - it may already have. So, India's rise as a global economic power continues, with increasing investment both inside and outside of the country. This rise has meant that there is increasing demand from the international business community to have access to an efficient, reliable and final way of resolving their disputes related to India.

India originated arbitrations are being increasingly seated in India, and now we see cities being preferred for international arbitration as well over and above the usually opted Dubai, London, Singapore etc as per market practices. The vision of India as a pro-arbitration viable seat for international commercial disputes has been set straight by all institutional stakeholders with the clear intent to recognise the importance of party autonomy, promoting foundational home-grown arbitral institutions, ensuring arbitrators' independence and impartiality through effective measures, promulgating and adopting international best practices and embracing innovation in this field.

Chandigarh, known for its meticulously planned architecture and vibrant urban landscape, is emerging as a favorable seat for international & domestic pan-India arbitration. The city, designed by a renowned international architect boasts a conducive environment for dispute resolution, making it an attractive choice for arbitration proceedings.

From Bolivia to Bhutan, the New York Times' '52 Places to Go' list for 2018 listed Chandigarh as a green city and a mecca for architecture lovers, while ranking it at number 43. One of the high recommendations was its Le Corbusier-designed government compound, the Capitol Complex, now a UNESCO World Heritage Site, and the newly-opened 5+ star luxury resort, Oberoi Sukhvilas, located over 8,000 acres of forest just minutes outside the city.

Apart from its rich history and architectural heritage, the cosy city has been many a times rated as one of the most fascinating cities of modern India. Commissioned by the country's first prime minister, Jawaharlal Nehru, in the years after Independence, Chandigarh was designed to be India's first planned city, a sign of the times to come. The iconic Swiss-French architect Charles-Édouard Jeanneret, known as Le Corbusier, agreed to create the master plan for the city in 1950. Building it up from scratch over the next decade, his team produced Brutalist-style government buildings, grids of roads, and loads of green spaces. Repeatedly rated as one of the cleanest cities in India it stands out from the usual unplanned urban chaos that characterises other state capitals. Let's look at why '**Chandigarh - the city beautiful**' is now being preferred for arbitration and alternative dispute resolution: -

1. Geographical Advantage:

Chandigarh's strategic location in northern India makes it easily accessible from major Indian cities. With a well-connected airport flying non-stop in-out from international and major domestic destinations and proximity to Delhi, the capital city, Chandigarh provides convenient travel options for international and domestic stakeholders involved in arbitration cases.

2. Modern Infrastructure:

The city's modern infrastructure aligns with the requirements of international arbitration proceedings. State-of-the-art arbitration centers equipped with the latest technology and facilities are coming up, providing a professional and efficient environment for legal proceedings.

3. Judicial Support and Expertise:

Chandigarh is home to experienced legal professionals and a robust judiciary with many legal luminaries having their places of residence here. The Punjab and Haryana High Court, one of the oldest high courts in India, is located in

Chandigarh. The presence of a well-established legal system and experienced judges who understand the importance of arbitration & its intent contributes to the city's credibility as a seat for international arbitration. Indian courts are gradually and consistently taking a more pro-arbitration view, greatly reducing delays and uncertainty in the process.

4. Arbitration and Conciliation Act, 1996:

India's Arbitration and Conciliation Act, 1996 (as amended upto 2021), forms the legal framework for arbitration in the country. The Act, in line with international standards, provides a comprehensive legal basis for arbitration proceedings, ensuring fairness and efficiency. Chandigarh, as integral part of India, benefits from this well-established legal framework.

5. Neutrality and Impartiality:

Chandigarh, with its cosmopolitan character and lack of direct economic interests in international disputes, offers a neutral and impartial environment for arbitration. This neutrality is crucial in fostering confidence among parties involved in global arbitration cases.

CHAIRMAN OF THE BAR'S COLUMN

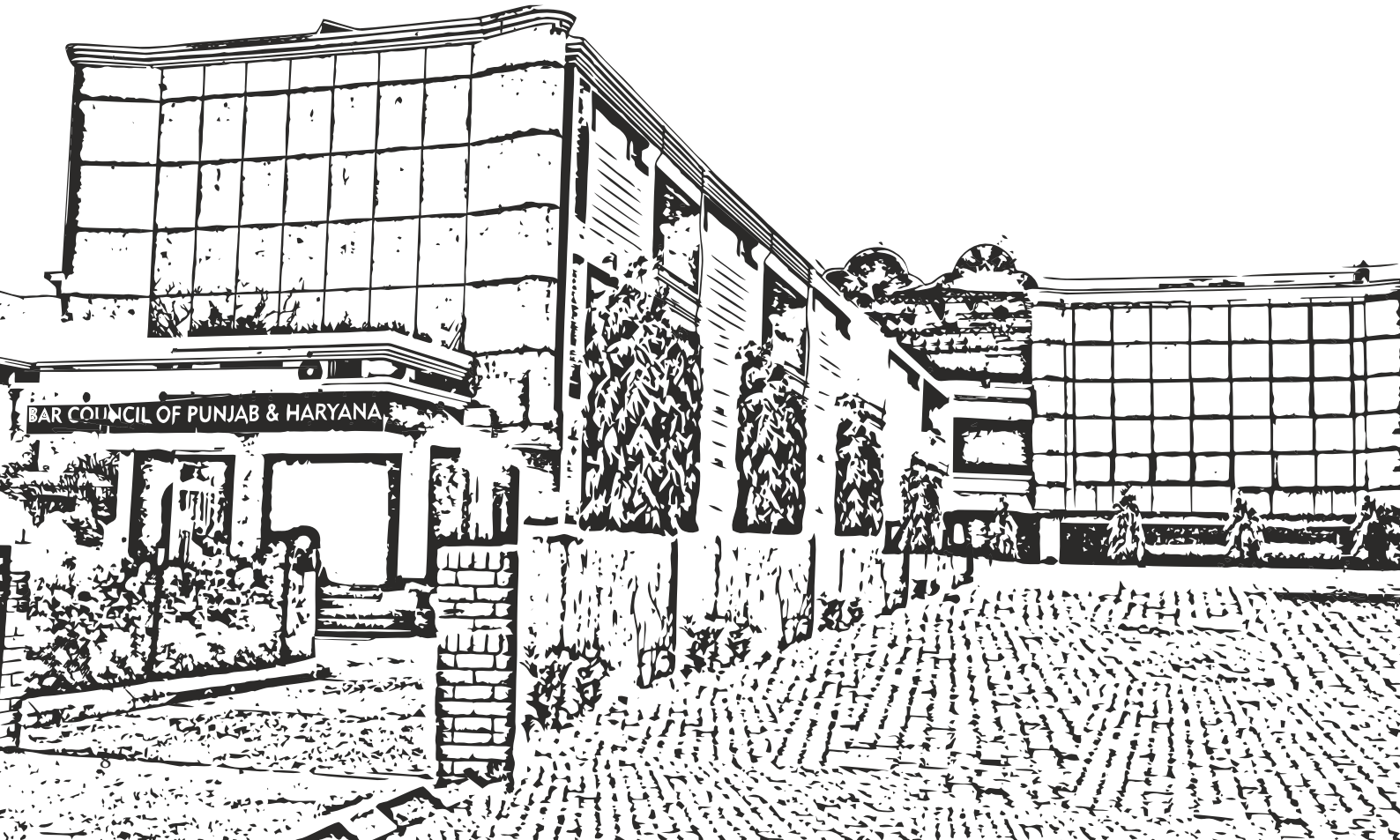
6. Cost-Effective Dispute Resolution:

Compared to some other international arbitration hubs, Chandigarh offers a cost-effective alternative. The city's lower cost of living and accessibility contribute to making arbitration proceedings more economically viable for parties involved, without compromising on the quality of the process.

7. Cultural and Lifestyle Amenities:

Chandigarh's quality of life, cultural amenities, and planned urban spaces make it an appealing destination for international professionals involved in lengthy arbitration proceedings. The city's well-maintained green spaces and modern lifestyle offerings provide a conducive backdrop for a balanced and focused arbitration experience. The best of air quality amidst large gardens and forest reserved spaces and adjoining mountains makes it a great place.

Chandigarh's emergence as a seat for international arbitration is attributed to a combination of factors, including its strategic location, modern infrastructure, legal framework, and impartial environment. As the city continues to develop and enhance its capabilities in the realm of dispute resolution, it stands poised to become a prominent destination for global and pan-Indian arbitration, fostering a culture of fairness and efficiency in resolving international legal conflicts.



Hon'ble Mr. Justice Augustine George Masih

Judge, Supreme Court of India

- A righteous Judge

In the annals of the Supreme Court of India now, certain judges stand out not only for their legal acumen but also for their unwavering commitment to justice and righteousness. Among these esteemed jurists is Justice Augustine George Masih, whose pathbreaking career has left an enormous impact on the legal landscape.

Justice Masih was born on 12 March 1963 at a small town Ropar in Punjab. He did his primary education at St. Mary's Convent School, Kasauli, Himachal Pradesh. He went on to complete high school at Saifuddin Tahir High School, Aligarh, Uttar Pradesh. He graduated with a degree in Science and then did his LLB from the Aligarh Muslim University. His academic prowess was evident from the outset, as he pursued a rigorous legal education, earning accolades and distinctions that foreshadowed his future brilliance in the legal field.

Ascending through the ranks of the legal profession, Justice Masih demonstrated an unparalleled mastery of the law. He enrolled as an Advocate at the Bar Council of Punjab & Haryana on 6 June 1987. He practised constitutional law, service law, labour law, and civil law matters. He practised at several Tribunals, the Punjab and Haryana, Delhi, and Himachal Pradesh High Courts and the Supreme Court. During his practice at the Punjab and Haryana High Court, he held the posts of Assistant Advocate General, Deputy Advocate General and Additional Advocate General for the state of Punjab. Notably, Masih J. as a lawyer had been involved in landmark cases that have shaped the legal landscape, showcasing a commitment to addressing societal challenges through the lens of justice.

On 10 July 2008, Justice Masih was appointed as the Additional Judge of Punjab & Haryana High Court. On 14 January 2014, he became a Permanent Judge of the High Court. He held the office until he was elevated as the Chief Justice of the Rajasthan High Court on 30 May 2023. The Bar here was ecstatic on his elevation, but equally saddened to learn his formal departure from this Court.

On 6 November 2023, the Supreme Court collegium in a historic resolution recommended Justice Masih as a Judge of the Supreme Court of India. The resolution observed

that during his long tenure as a judge of the High Court, Justice Masih had significant experience in diverse fields of law. The resolution also noted that Justice Masih's appointment will bring diversity and inclusion to the Supreme Court as he belongs to a minority community. He took oath on 9 November 2023.

Throughout his tenure on the Bench, Justice Masih emerged as a staunch defender of individual rights. Whether in cases involving civil liberties, social justice, individual rights or human rights, he consistently demonstrated a steadfast commitment to upholding the fundamental principles upon which the legal system is built. His opinions reflect a deep understanding of the nuances of the law, always with an eye toward fostering a just and equitable society.

One of the cornerstones of Justice Masih's reputation is his unwavering integrity. Colleagues and legal practitioners universally attest to his unimpeachable character and commitment to ethical conduct. His decisions are characterized by impartiality, a quality that has become synonymous with his judicial philosophy. In addition to his impactful decisions on the Bench, Justice Masih has made significant contributions to legal scholarship. His speeches have enriched the legal discourse, providing valuable insights into the evolving nature of jurisprudence. As an educator, he has inspired generations of legal minds, nurturing a commitment to justice that extends beyond the courtroom.

As Justice Masih approaches the culmination of an extraordinary career, his legacy is firmly entrenched in the tapestry of legal history much more in the tapestries in the Courtrooms here at the High Court of Punjab & Haryana. His impact on the development of the law, coupled with his unwavering dedication to justice, serves as an enduring testament to the profound influence a righteous judge can have on society.

Hon'ble Ms. Justice Ritu Bahri

First Female Acting Chief Justice of High Court of Punjab & Haryana

In a historic moment, Justice Ritu Bahri took charge as the first female acting Chief Justice of the Punjab and Haryana High Court. Her journey from a young law student to the pinnacle of the judicial system has inspired many.

Justice Bahri was born on October 11, 1962 at Jalandhar in state of Punjab. She belongs to a family of illustrious lawyers with her great grand-father Late Shri Karam Chand Bahri being a well known civil lawyer of his times. Her grand-father Late Shri Som Dutt Bahri also a civil lawyer, was also a Member of the Legislative Assembly of the state of Punjab from 1952 to 1957. Her father Hon'ble Mr. Justice Amrit Lal Bahri retired as Judge of Punjab & Haryana High Court in the year 1994. Justice Bahri did her schooling from Carmel Convent School, Chandigarh, and graduation in Economics (Hons.) from Government College for Women, Chandigarh in the year 1982 in First Division. Thereafter, she did her law from Panjab University, Chandigarh, in the year 1985, also in First Division. She was enrolled as an advocate in the year 1986 with Bar Council of Punjab & Haryana and started practice in Punjab & Haryana High Court. She was appointed as Assistant Advocate General, Haryana, in March 1992. Thereafter, she was appointed as Deputy Advocate General, Haryana in August 1999 and Senior Additional Advocate General, Haryana, in December 2009. While reprsenting the State of Haryana, she handled several cases relating to Service matters, Land Acquisition, Taxation, Revenue, Labour cases and MACT cases. She was elevated as Judge of the Punjab & Haryana High Court on August 16, 2010. Justice Ritu Bahri became the first woman acting Chief Justice of the Punjab & Haryana High Court on 14 October 2023.

Facing challenges with grace, she dedicated herself to upholding justice and equality, leaving an indelible mark on the legal landscape whilst delivering landmark judgements. As the gavel has passed into her capable hands, she symbolises a new era of inclusivity and excellence in the Indian judiciary.

आत्मनिर्भर भारत अभियान

The Perils of Deceiving a Court:

A Blight on the Sanctity of Justice

- Justice Sureshwar Thakur
Judge, High Court of Punjab & Haryana

INTRODUCTION

The cornerstone of any just and civilized society is the impartial and objective dispensation of justice. Courts of law are the sanctuaries wherein justice is administered, and their functioning relies heavily on the trust and honesty of all parties involved. However, the act of deceiving a court, a reprehensible practice, threatens to erode the very foundation upon which the legal system stands. In this article, we shall explore the gravity of deceiving a court, the consequences it entails, and the imperative need to uphold the highest standards of truth and integrity in the pursuit of justice.

Within the hallowed halls of justice, the sacred bond of trust between the court and legal practitioners forms the bedrock of our legal system. The court, as the ultimate arbiter of truth, is imbued with the solemn duty to administer justice impartially, while attorneys, as officers of the court, are entrusted with the divine obligation to uphold the sanctity of the legal process. This treatise elucidates the intricate tapestry of responsibilities borne by both the court and the lawyer when confronted with the pernicious spectre of deceit.

I. The Deceptive Web:

Deceiving a court, also known as perjury or contempt of court, encompasses a range of actions aimed at misleading or obstructing the judicial process. It includes presenting false evidence, making false statements under oath, tampering with witnesses, and withholding crucial information. Such actions distort the truth, subvert the course of justice, and undermine the very essence of the legal system.

II. The Legal Vocabulary of Deception:

a) **Perjury:** The act of intentionally providing false information, either through oral testimony or written statements, while under oath. Perjury is a grave offense that undermines the credibility of the judicial process.

b) **Contempt of Court:** Contempt of court refers to any act or behaviour that disrespects or obstructs the court's authority or proceedings. It includes actions such as refusing to obey court orders, disrupting court sessions, or engaging in behaviour that undermines the administration of justice.

c) **Obstruction of Justice:** This term encompasses any action or attempt to interfere with the proper functioning of the legal system. Obstruction of justice may include witness tampering, destruction of evidence, or attempting to influence the outcome of a case improperly.

III. Consequences of Deception:

a) **Legal Penalties:** Those found

guilty of deceiving a court can face severe legal consequences, including fines, imprisonment, or both. These penalties are essential to deter individuals from attempting to undermine the judicial process.

b) **Erosion of Trust:** Deceptive practices in court erode the trust and confidence that society places in the legal system. When individuals believe that the truth can be manipulated or distorted, it erodes the very foundation of justice.

c) **Impaired Fairness:** Deception in court jeopardizes the fairness of proceedings. It can lead to wrongful convictions or acquittals, denying justice to those who deserve it and causing innocent parties to suffer unjustly.

IV. The Imperative of Truth:

In a just society, the pursuit of truth is paramount. Deceiving act on behalf any person in a court strikes at the heart of this pursuit, leaving a trail of mistrust and injustice in its wake. Upholding the highest standards of truth and integrity in legal proceedings is not merely an obligation but an ethical imperative. Only by ensuring that courts remain sanctuaries of honesty and fairness can the legal system fulfil its vital role in society.

V. The Court's Ineluctable Obligation:

The court, an institution emblazoned with the emblem of impartiality, stands as the vanguard of truth and justice. Its duty, unwavering and sacrosanct, is to ensure that justice prevails, and that the truth is revealed through a rigorous and untainted legal process. When confronted with allegations of deception, the court's response is twofold:

1. **Vigilance:** The court must maintain an unwavering vigilance, akin to a sentinel guarding the gates of justice, to detect even the most subtle manifestations of deception. It must scrutinize evidence, examine witnesses, and assess the veracity of claims with unwavering discernment.

2. **Sanction:** In cases where deception is established, the court must exercise its inherent authority to impose sanctions. These sanctions may encompass fines, contempt proceedings, or even the disbarment of attorneys involved in perpetrating falsehoods before the court. By doing so, the court reaffirms its commitment to the inviolable principles of truth and justice.

VI. The Lawyer's Sacrosanct Responsibility:

Legal practitioners, as officers of the court, bear an unshakable responsibility to uphold the highest ethical standards. When confronted with knowledge of deception, lawyers are duty-bound by the following principles:

1. **Duty of Candour:** Lawyers must maintain an unwavering duty of candour towards the court. This entails an obligation to present truthful and accurate information to the tribunal, even if such information is detrimental to their client's interests.

2. **Zealous Advocacy within Ethical Bounds:** While zealous advocacy is a hallmark of legal representation, lawyers must never transgress the boundaries of ethical conduct. They are obligated to assert their client's rights and interests vigorously, but they must do so without resorting to falsehoods or misleading tactics.

3. **Duty of Disclosure:** Attorneys are obliged to disclose all material information to the court, even if it undermines their client's case. Failure to disclose pertinent facts that may alter the course of proceedings amounts to a betrayal of their fiduciary duty to the court and the administration of justice.

CONCLUSION

Deceiving a court, in any form, is an affront to the principles of justice and fairness. It undermines the trust upon which the legal system relies and has far-reaching consequences for both individuals and society. To protect the sanctity of the judicial process, it is imperative that all parties involved in legal proceedings adhere to the highest standards of truth, integrity, and ethical conduct. In doing so, we preserve the noble pursuit of justice for present and future generations.

The synergy between the court's ineluctable obligation to dispense justice and the lawyer's sacrosanct responsibility to uphold the integrity of the legal process is a cornerstone of our legal system. When deception rears its insidious head, it is incumbent upon the court to remain vigilant and ready to mete out sanctions, while lawyers must remain paragons of ethical conduct. In the crucible of this interplay, justice is preserved, and the sanctity of the legal profession is safeguarded, ensuring that the scales of justice remain true and untarnished.

PRO-BONO
Legal Practice

SERVICE TO HUMANITY

Pro-bono practice, derived from the Latin phrase "pro bono publico" meaning "for the public good," is a crucial aspect of legal and professional services. In India, this practice has gained momentum over the years, reflecting a commitment to social justice and access to legal aid.

In October 2021, the then President of India Shri Ram Nath Kovind while speaking at the launch of the Pan India Legal Awareness & Outreach Campaign by NALSA urged senior advocates in the Supreme Court of India and the High Courts across the country to follow Mahatma Gandhi's ideas and provide pro-bono services belonging to weaker sections of society. President Kovind referred to the pro-bono work done by Mahatma while resolving the grievances of indentured labourers in South Aftica.

Hon'ble The Chief Justice of India Dr. Justice DY Chandrachud had once called for the creation of a database of lawyers who are willing to offer pro-bono or free legal aid services. Central Government initiatives like Nyaya Bandhu, Nyaya Mitra scheme, Tele-Law service, PBL programme and pro bono legal services are endeavours in that direction. The Chief Justice has been repeatedly stressing on the need for lawyers to work pro-bono for the marginalised.

by Raj Kumar Chauhaan
Honorary Secretary
Bar Council of Punjab & Haryana

Let us discuss about the significance, evolution, and impact of pro-bono work in India, highlighting its integral role in promoting justice and serving the marginalized sections of society.

Historical Context:

The roots of pro-bono practice in India can be traced back to the traditional practice of providing legal assistance to those unable to afford it. Historically, scholars and legal experts offered their services to the needy, recognizing the fundamental importance of justice for all. Over time, this altruistic tradition evolved and was institutionalized into the legal profession.

Importance of Pro-Bono Practice:

Access to Justice: Pro-bono work plays a pivotal role in ensuring access to justice for the underprivileged. It bridges the gap between the legal system and marginalized communities who might otherwise be denied their rights due to financial constraints.

Legal Empowerment: Through pro-bono services, individuals and communities gain legal empowerment. They become aware of their rights and are better equipped to navigate legal complexities, thereby fostering a culture of legal literacy.

Social Equality and Inclusion: By offering free legal aid, pro-bono practitioners contribute to the creation of a more inclusive and equitable society. This practice helps level the playing field, allowing everyone, regardless of economic status, to assert their legal rights.

Strengthening Democracy: A robust legal system is integral to a thriving democracy. Pro-bono practice bolsters the foundations of democracy by ensuring that every citizen has the opportunity to participate in and benefit from the legal process.

Evolution and Growth:

In recent decades, pro-bono practice in India has witnessed a substantial evolution with important constitutional authorities and dedicated bodies pushing for it. Law firms, corporate legal departments, and individual lawyers have increasingly recognized the moral and ethical imperative of giving back to society. Various organizations and initiatives have been established to facilitate and promote pro-bono work, creating a vibrant ecosystem for legal aid.

Challenges and Solutions:

While the pro-bono movement in India has made significant strides, there are challenges that persist. These include:

Limited Resources: Pro-bono practitioners often face resource constraints, including time and financial limitations. This necessitates a structured approach to pro-bono work, involving collaboration between legal professionals, NGOs, and the government.

Awareness and Outreach: Many individuals in need of legal assistance are unaware of their entitlement to pro-bono services. Efforts must be made to enhance awareness and outreach, ensuring that those who need help can access it.

Pro-bono practice in India embodies the noble principle of providing legal aid for the greater good. It is a testament to the legal community's commitment to upholding justice and ensuring that no one is left behind. As this practice continues to grow and evolve, it is poised to play an even more significant role in shaping a fair, just, and inclusive society.

Recently, the Delhi High Court in a quashing of FIR on the basis of compromise matter while allowing the petition directed the lawyer to take up 10 pro bono cases. Such efforts by Courts have been seen across the country to encourage practitioners to take up pro-bono work.

By offering their expertise and time, pro-bono practitioners in India are not only enriching the lives of individuals but also strengthening the very fabric of democracy and justice in the country. Their selfless service stands as a beacon of hope, exemplifying the potential for positive change that lies within the legal profession.

How to Become a Successful Lawyer: A Comprehensive Guide

Becoming a successful lawyer is a rewarding but challenging journey. It requires dedication, education, and a commitment to ethical practice. In this guide, I'll try to outline the steps one can take to embark on this fulfilling career path.

Step 1: Obtain a Graduation Degree/or +2 Credits

To become a lawyer, you first need to earn a bachelor's degree for three years law course or +2 credits for integrated law courses. For bachelor's, there's no specific undergraduate subject required, courses in Political Science, English, History, or Economics might be beneficial.

Step 2: Excel in Law School/University

Next, you'll need to attend law school/college or University. Admission to a good law school is competitive, so maintaining a high school credit or graduation score and scoring well on the entrance test is crucial. The duration for Integrated is 5years and for degree after graduation is 3yrs.

Step 3: Choose a Specialization

During law school study, explore various areas of law to determine your preferred specialization. Options range from criminal and family law to corporate or environmental law or ADR etc. Specializing will help you stand out in a competitive field when the time is right. It is advised that you hone your skills in that specific area and adopt a habit to follow through on it.

Step 4: Gain Practical Experience

Internships, clerkships, or associate programs with individual practitioners or law firms, government agencies, or non-profit organizations are essential for gaining hands-on experience. This provides insights into the day-to-day workings of the legal profession. We at the State Bar Council and many Bar Associations are ready to help you with this.

Chander Mohan Munjal
Chairman,
Executive Committee

Step 5: Pass the AIBE

To continue practising law you have to clear the BCI administered Bar exam within a time period of 2 years.

Step 6: Build a Professional Network

Networking is crucial for success in the legal field. Attend conferences, join bar associations, and connect with peers and mentors. Building a professional network can lead to valuable opportunities and collaborations.

Step 7: Hone Communication Skills

Effective communication is fundamental for a lawyer. This includes both written and verbal skills. Practice drafting concise, persuasive arguments and delivering them with confidence.

Step 8: Embrace Continuous Learning

Laws and regulations are constantly evolving. Stay updated on legal developments by attending seminars, workshops, and continuing education courses. This commitment to lifelong learning will keep you competitive in your practice.

Step 9: Cultivate Ethical Practice

Maintaining high ethical standards is crucial in the legal profession. Uphold honesty, integrity, and confidentiality in all your dealings. This not only builds trust with clients but also upholds the integrity of the legal system. Little do you realise how important this can be in your career.

Step 10: Develop Problem-Solving Skills

As a lawyer, you'll often face complex problems that require creative solutions. Cultivate critical thinking and problem-solving skills to effectively navigate legal challenges.

Another important aspect can be chosing your area of practice, depending on your skills and situation - for litigation oriented work one can opt to become a trial court lawyer at a place where you can get work, or a high court lawyer in your state or a Supreme Court lawyer depending upon the work flow you have. Becoming a successful lawyer requires a combination of education, practical experience, and personal development. By following these steps and remaining dedicated to your craft, you can forge a fulfilling and impactful career in the legal profession. Remember, success in law is not only measured by financial gains, but also by the positive impact you have on your clients and the legal system as a whole.

All the Members at the Bar Council are ready to assist you and guide you to undertake this fulfilling journey and positively contribute to nation building.

Dynamic Democracy :

Constitutional Amendments in India

- Harish Rai Dhanda,
Chairman, Finance Committee

Since gaining independence in 1947, India's Constitution has been a dynamic and evolving document. It reflects the aspirations and changing needs of a diverse and rapidly transforming nation. Over the years, several significant amendments have been made to address emerging challenges and ensure the protection of citizens' rights.

As of September 2023, there have been 106 amendments of the Constitution of India since it was first enacted in 1950.

There are three types of amendments to the Constitution of India of which second and third type of amendments are governed by Article 368.

- The **first type** of amendments includes that can be passed by a "simple majority" in each house of the Parliament of India.
- The **second type** of amendments includes that can be effected by the Parliament by a prescribed "special majority" in each house; and
- The **third type** of amendment includes those that require, in addition to such "special majority" in each house of the Parliament, ratification by at least one half of the State Legislatures.

Very recently, Hon'ble President of India has given her assent to the historic women's reservation Bill which seeks to provide 33% reservation to women in the Lok Sabha and State Assemblies. Though it was introduced as the Constitution (128th) Amendment Bill in the Lok Sabha, now it will be known as the Constitution (106th Amendment) Act as some proposed constitutional amendments are yet to passed by Parliament.

Also recently, the Union government has set up a high-powered committee led by former President Shri Ram Nath Kovind to explore the possibility of simultaneous polls for the Lok Sabha and state legislative assemblies. If this has to go ahead, at least five constitutional amendments under the 'third type of amendment' may have to be processed, if not more. The same could be: -

Article 83 (2), which states that the Lok Sabha's term should not exceed five years, but the House can be dissolved before the completion of its term.

Article 85 (2) (B), which states that dissolution ends the term of the existing House and a new House will be formed after general elections.

Article 172 (1), which states that a state Assembly will continue for a period of five years unless it is dissolved sooner.

Article 174 (2) (B), which states that the Governor enjoys the power to dissolve a state Assembly on the aid and advice of the Cabinet.

Article 356, which deals with the

imposition of President's Rule in a particular state.

As per the notification dated 2nd September 2023 issued by the Ministry of Law and Justice, the terms and reference of the High Level Committee amongst other things also delineates to: -

- *examine and make recommendation for holding simultaneous elections - for that purpose, examine and recommend specific amendments to the Constitution, the Representation of the People Act, 1950, the Representation of the People Act, 1951 and the rules made thereunder and any other law or rules which would require amendments for the purpose of holding simultaneous elections;*

- *examine and recommend, if the amendments to the Constitution would require ratification by the States;*

Let us now look at some of the other major constitutional amendments, since independence, that have shaped India's democratic landscape: -

1. First Amendment Act (1951)

The First Amendment Act was enacted in 1951 to rectify certain inconsistencies and ambiguities in the original Constitution. It introduced crucial changes, including the addition of new grounds for restricting freedom of speech and expression to safeguard public order and morality. This amendment reaffirmed the commitment to pluralism and underscored the delicate balance between individual liberties and the larger interests of the society.

2. Seventh Amendment Act (1956)

The Seventh Amendment Act was a landmark amendment that sought to reorganize India's states on a linguistic basis. It was a response to widespread linguistic agitations across the country, and it played a crucial role in consolidating regional identities and fostering a more inclusive national identity.

3. Forty-Second Amendment Act (1976)

Regarded as one of the most extensive amendments, the Forty-Second Amendment Act was a reflection of the political climate of the mid-1970s. It sought to strengthen the powers of the central government and curtail those of the states. While some provisions were later repealed, this amendment underscored the need for vigilance in safeguarding democratic institutions.

4. Fifty-Second Amendment Act (1985)

The Fifty-Second Amendment Act aimed to counteract defections by legislators and promote political stability. It introduced the Anti-Defection Law, which penalized lawmakers for switching parties without proper justification. This amendment aimed to reinforce party discipline and promote stable governance.

5. Seventy-Third Amendment Act (1992)

The Seventy-Third Amendment Act was a significant step towards decentralization of power. It introduced provisions for Panchayati Raj institutions, which empowered local self-government bodies and brought governance closer to the grassroots level. This amendment sought to strengthen democracy at the grassroots level and promote socio-economic development in rural areas.

6. Ninety-First Amendment Act (2003)

The Ninety-First Amendment Act was instrumental in introducing reservations for socially and educationally backward classes in private, unaided educational institutions. This amendment sought to expand access to quality education and bridge socio-economic disparities.

7. One Hundred and First Amendment Act (2016)

The One Hundred and First Amendment Act introduced the Goods and Services Tax (GST), revolutionizing India's tax system. This monumental reform aimed to create a unified national market, simplify tax procedures, and foster economic integration across states.

India's constitutional journey since independence reflects a continuous effort to adapt to the evolving needs of the nation. These amendments have played a vital role in shaping India's democracy and fostering social progress. While challenges persist, the resilience of India's Constitution and its ability to accommodate change remain a testament to the strength of the democratic principles on which the nation was founded.

The International Court of Justice:

PROCEEDINGS, ROLE OF LAWYERS

and some Landmark Decisions

Minderjeet Yadav
Member & Former Chairman, BCPH
Additional Advocate General (Haryana)
Add. Govt. Pleader U.T. Chandigarh

The International Court of Justice (ICJ), established in 1945, is the principal judicial organ of the United Nations. It is located in The Hague, Netherlands, and its primary mandate is to settle legal disputes between states and provide advisory opinions on legal questions referred to it by the UN General Assembly, Security Council, or other specialized agencies and authorized bodies.

Composition and Jurisdiction:

The ICJ consists of 15 judges elected by the UN General Assembly and the Security Council. These judges serve nine-year terms and can be re-elected. Its jurisdiction extends to all members of the United Nations, and even non-member states may submit disputes if they agree to the Court's jurisdiction. Sir Benegal Rau was the first Indian who served as a member of the ICJ. Justice Dalveer Bhandari has been serving as a member of the ICJ since April 27, 2012. He was re-elected on February 6, 2018, for a term of nine years.

Proceedings:

Proceedings at the ICJ follow a structured format. Here are the key stages:

1. Submission of the Case: Cases are typically brought before the ICJ by one state (the applicant) against another (the respondent). The applicant submits a written application, outlining the legal basis of their claim.

2. Preliminary Objections: The respondent may raise preliminary objections challenging the jurisdiction of the Court or the admissibility of the case. The Court decides on these objections before proceeding further.

3. Written Pleadings: Both parties submit written pleadings, presenting their legal arguments and

evidence. This stage allows for a comprehensive exploration of the case.

4. Oral Hearings: The Court may hold oral hearings, during which legal representatives of the parties present their arguments and respond to questions from the judges.

5. Judgment: After considering all the evidence and arguments, the Court delivers its judgment, which is binding on the parties.

6. Enforcement: If a state fails to comply with a judgment, the prevailing party can seek enforcement through diplomatic channels or by invoking the Security Council.

Role of Lawyers:

Lawyers play a crucial role in ICJ proceedings. They represent the interests of the states involved and present legal arguments, evidence, and expert opinions. They must possess a deep understanding of international law, diplomatic relations, and the specific issues at hand.

Major Decisions:

Over the years, the ICJ has made several landmark decisions that have shaped international law. Some of the notable cases include:

1. Nicaragua v. United States (1986):

This case addressed issues arising from the United States' support of Contras in Nicaragua. The Court ruled in favor of Nicaragua, finding the U.S. in violation of international law.

2. Iran-United States Claims Tribunal (1981):

Established as a result of the Algiers Accords, this tribunal settled claims arising from the Iranian Revolution and the hostage crisis.

3. Case Concerning the Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Bosnia and Herzegovina v. Serbia and Montenegro) (2007):

This case dealt with allegations of genocide during the Bosnian War. The Court found Serbia responsible for failing to prevent genocide.

The International Court of Justice serves as a vital institution in maintaining international peace and security. Its proceedings, conducted by skilled lawyers, have produced decisions that continue to shape the landscape of international law.

Two-year term for Bar Associations:

A genuine call for Stability and Progress

- by Ashok Singla Chairman BCPH

Bar Associations play a crucial role in upholding justice, advocating for legal reforms, and safeguarding the rights of lawyers. In the regions of Punjab, Haryana, and Chandigarh, these associations have traditionally followed a one-year term for elected office-bearers. So is written in the Bar Association Rules 2015 (and earlier ones) and their own constitutions. However, it is now felt that it is imperative to reevaluate this system in order to ensure continuity, stability, and sustained progress within the legal community. Why advocating for a two-year term seems genuine, let's count some reasons: -

Continuity and Stability:
One of the primary advantages of extending the term to two years is the assurance of continuity in leadership. A one-year term often results in a rapid turnover of office-bearers, leading to frequent changes in priorities and strategies. This can hinder the implementation of long-term projects and initiatives. With a two-year term, leaders would have more time to build on the work of their predecessors and provide a more stable environment for member lawyers. It would also aid in building a strong Bar leadership capable of working to develop positive long term synergies with the Bench, administration etc for diligently pursuing welfare initiatives.

Effectiveness in Implementation:
A longer term allows elected leaders to plan, initiate, and execute more substantial projects and reforms. It takes time to gain a deep understanding of the needs and challenges facing the legal community, as usually the office bearers who get elected take 2-3 months to get acquainted about their roles and responsibilities. With a two-year term, office-bearers would have the opportunity to see their initiatives through to completion, leading to more impactful results.

Reduced Transition Period:
A shorter one-year term necessitates a significant portion of time to be spent on the transition process, including familiarizing new office-bearers with ongoing projects and administrative procedures. This can lead to inefficiencies and delays in decision-making. Extending the term to two years would minimize the time spent on transitions, allowing leaders to focus on their duties from the outset. It would make the leadership more answerable.

Encouraging Long-Term Vision:
A one-year term may incentivize office-bearers to focus on short-term gains or popularity, potentially at the expense of a broader, long-term vision for the legal community. A longer term would encourage leaders to think strategically and plan for the future, ensuring the sustained growth and development of the Bar Association.

Greater Accountability:
A two-year term provides more time for office-bearers to demonstrate their effectiveness and accountability. It allows members to better evaluate their performance and the impact of their decisions. This can lead to a more informed electorate and a stronger sense of accountability within the association.

Extending the term of elected office-bearers in Bar Associations of Punjab, Haryana, and Chandigarh from one year to two years offers a multitude of benefits. While here I express my personal opinion, the State Bar Council always endeavours to take all stakeholders along to arrive at a common understanding, in such like issues, all for the betterment of the legal fraternity. Undoubtedly, a two-year term for Bar Association office bearers promotes continuity, stability, and the effective implementation of initiatives. It also encourages long-term vision and greater accountability among leaders. Such a move would require balancing priorities and ensuring that the two-year term may not be taken for granted, but by embracing this change, the legal community can foster an environment that is conducive to progress, ultimately benefiting both legal professionals and the citizens they serve.

Embracing Change:

The Evolving Dynamics Between Bar and Bench

- by Rakesh Gupta, Chairman, Enrolment Committee

In a rapidly changing legal landscape, the relationship between the Bar and Bench plays a pivotal role in ensuring justice is served effectively and efficiently. In March 2023, while speaking at the District Court campus at Madurai in Tamil Nadu Chief Justice of India Dr. Justice D.Y. Chandrachud stressed on the need for a strong relation between the Bar and the Bench, stating that both were stakeholders of justice delivery system and that there should be trust and coordination in their functioning. Hon'ble CJI also said that it was natural for the Bar to have issues with functioning of court administration etc.

Recently, in September 2023 while speaking at an event commemorating the 75th Marathwada Liberation Day the Hon'ble CJI again emphasised on the need for judges and lawyers to work together to strengthen the legal system and ensure its resilience in the face of future challenges. CJI emphasized the importance of resolving disputes through discussion and cooperation and urged the legal fraternity to seek amicable solutions to issues, fostering a harmonious relationship between the Bar and the Bench. Let's try to shed light on the evolving dynamics between these two crucial pillars of the legal system.

The synergy between the Bar and Bench is the cornerstone of a robust legal system. It is imperative for both sides to work in tandem to uphold the principles of justice. One of the key in tandem developments is the adoption of technology in legal proceedings. I laud the efforts of legal professionals in Punjab and Haryana for embracing digital tools to enhance the efficiency of court proceedings. During Covid times and beyond the Bar has effectively assisted the Bench in all possible ways to ensure the access to justice remains unhindered.

Furthermore, we must acknowledge the increasing collaboration between the Bar and Bench in matters of legal awareness and professional development. I commend the initiatives taken by legal institutions and Bar Associations to organize workshops, seminars, and training sessions, which not only enhance the skills of legal professionals but also foster a culture of continuous learning.

In 2019, the then CJI Sharad Arvind Bobde referred to the Bar as the mother of the Bench, further saying that all are

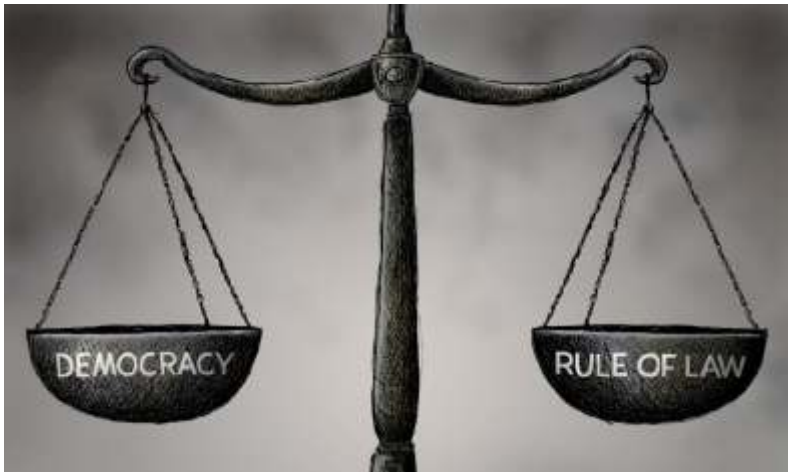
coparcenaries of the same undivided family. This part has oft been spoken from public stages to remind both of their solemn duty towards the Institution.

Here I wish to emphasise on the need for open channels of communication between the Bar and Bench. Regular dialogues and consultations are essential to address concerns, streamline procedures, and ensure that justice is accessible to every citizen.

Regarding the evolving nature of legal practice, I am optimistic about the increasing specialization within the legal profession. With the complex nature of modern legal issues, specialization has become paramount. This trend allows legal practitioners to delve deep into specific areas of law, providing clients with the expertise they require.

In conclusion, we see future full of confidence in the strength of the legal profession. It can only be affirmed that by adapting to the changing landscape, embracing technology, and nurturing a strong Bar and Bench relationship, the legal system in Punjab, Haryana and Chandigarh will continue to serve as a beacon of justice. As the legal fraternity continues to evolve, it is clear that the collaboration between the Bar and Bench will remain at the forefront, ensuring that justice is not only blind but also swift and accessible to all.

Imagine life without RULE of LAW



Harpreet Singh Multani
Member Bar Council

Let's imagine in a stunning turn of events, society has decided to throw away the cumbersome shackles of rule of law, opting instead for a refreshing bout of anarchy. As the dust settles and chaos reigns supreme, we find ourselves in a brave new world where order is optional and pandemonium is the norm. In a world where chaos reigns and rules are but a distant memory, things have now taken a turn for the absurd. Welcome to a land where anything goes and everything flows... unpredictably! What would a sneak peek into the riotous rollercoaster ride of a lawless society look like? Let's satirize our imagination and delve into the probable situations that we'll witness: -

Fashion Forward in Felonies:

With no rule of law to cramp our style, fashionistas are now exploring new heights in felonious flair. Bank robbers are the new trendsetters, and getaway cars have become the must-have accessory for any self-respecting criminal. Who knew crime could be so chic and fashionable?

Traffic Lights as Mere Suggestions:

Gone are the days of those pesky red, yellow, and green signals. Intersections are now bustling arenas of automotive anarchy, where road rage is the only code of conduct. Vehicular acrobatics have replaced mundane notions of right-of-way and you'll never know the right way to reach your destination.

Diplomas and Degrees in Dumpster Diving:

As educational institutions crumble, a new curriculum has emerged. Dumpster diving, Graffiti Galleries, criminal aspirations and the Fine Art of Vandalism are now staple courses in this brave new world. Who needs a diploma when you can have a spray can?

Real Estate Roulette:

Forget about mortgages and property rights. In this thrilling game of Real Estate Roulette, your abode might be a penthouse one day and a cardboard box the next. Location, location, location? More like improvisation, improvisation, improvisation! Guard your home like in the movie series 'Purge'.

Celebrity Justice System:

Move over, judges and juries! Celebrity trials have taken the spotlight, where social media followers determine guilt or innocence. The courtroom drama now includes real-time voting, with the accused's fate decided by likes, shares, and emojis and quantum/sentencing depending on hits.

Office Politics Reimagined:

In this lawless utopia, cubicles have been replaced with gladiator arenas, and watercooler gossip is now settled with duels at dawn. Promotion is no longer based on merit, but on who can intimidate their colleagues the most effectively.

Wildlife Gone Wild:

With no rules to govern hunting, animals have become both predators and prey. Squirrels have formed organized crime syndicates, and pigeons are now the aerial enforcers of the urban jungle. Birdwatching enthusiasts now carry binoculars for self-defense.

Currency Conundrum:

The concept of money has been replaced with a barter system, where everything from chewing gum to antique typewriters is up for trade. Your worth is now determined by your knack for negotiation and your ability to haggle.

Doggone Disco Diplomacy:

Forget about diplomats in suits, we now have diplomatic dance-offs! Countries settle their disputes on neon-lit dance floors, showcasing their best moves to the infectious beats of AGNEE. Who knew the Maaeri could prevent world wars?

Tax Collectors, Schmax Collectors:

Without laws, taxation has become an impromptu carnival. Citizens pay their 'taxes' in balloons, baked goods, or interpretive dance performances.

Zebra-Crossing Zealots:

Pedestrian crossings are now performance spaces, complete with spotlights and applause tracks. To cross the street, you must dazzle the audience with your most theatrical interpretive dance. Bonus points for break dance and twirls.

High-Speed Low-Speed Chases:

Police pursuits have taken on a comically lackadaisical pace. Criminals and cops engage in leisurely chases, with participants stopping for coffee breaks or to pet passing cats. It's a slow-speed showdown, complete with awkward small talk.

Courtroom Comedy Club:

Trials have transformed into stand-up comedy shows. Lawyers must win their cases by making the judge and audience laugh uproariously. The accused can earn 'acquittal applause' by delivering a killer punchline.

Wacky Wardrobe Warfare:

Fashion police are now fashion cheerleaders, encouraging eccentric attire and applauding mismatched ensembles. Socks with sandals? Feather boas with flannel? The wilder, the better! Paris Fashion Week is now a punk rock circus.

Library of Larceny:

Libraries have evolved into covert heist hotspots, where bookworm burglars plot to pilfer prized pages. Stealthy whispers and dramatic shushing have been replaced by cackles and capers.

Culinary Carnival:

Restaurants have become culinary carnivals, with chefs juggling flaming frying pans and diners swinging from chandeliers. Patrons rate their meals based on the entertainment value of the cooking process.

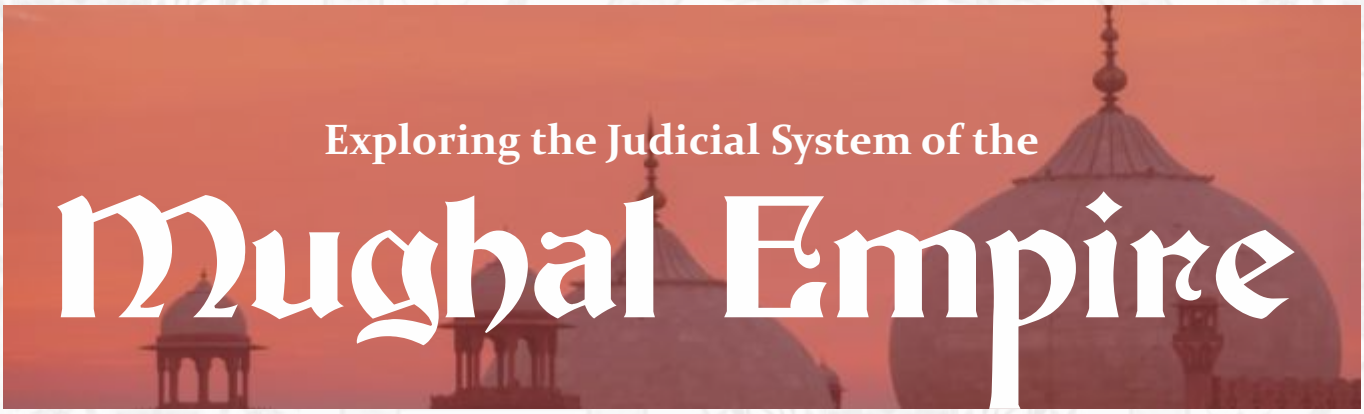
Daring Dog Debates:

Dogs now hold town hall meetings to discuss canine concerns. Debates rage on topics like 'The Ethics of Squirrel Chasing' and 'The Dignity of Belly Rubs'. Barks and growls are translated into eloquent speeches by expert interpreters.

As we revel in this lawless wonderland, it's clear that the absence of rules has ushered in a golden age of chaos and creativity. Who needs stability when you can have unpredictability?

In this topsy-turvy world, absurdity is the norm, and chaos is the choreographer. Who needs laws when you can have laughs? Welcome to the land where hilarity holds the scepter and silliness wears the crown!

Remember - Thats all folks !



Exploring the Judicial System of the

Mughal Empire

Gurtej Singh Grewal
Chairman,
Trustee Committee

India has a recorded legal history starting from the Vedic ages and some sort of civil law system may have been in place during the Bronze Age and the Indus Valley civilization. Law as a matter of religious prescriptions and philosophical discourse has an illustrious history in India. Emanating from the Vedas, the Upanishads and other religious texts, it was a fertile field enriched by practitioners from different Hindu philosophical schools and later by Jains and Buddhists.

During medieval times, various dynasties across the Indian subcontinent vied for power and influence. Excellent court systems existed under the Mauryas (321-185 BCE) and the Mughals (16th – 19th centuries) with the latter giving way to the current common law system. The Mughal Empire had a sophisticated judicial system. Here we delve into the reasons why the Mughal Empire's judiciary has been written about by historians since times immemorial: -

Codification of Laws:

One of the most significant achievements of the Mughal Empire was the codification of laws. Emperor Akbar, in particular, initiated the compilation of legal codes known as the Akbar Nama and Ain-i-Akbari. These documents provided a comprehensive legal framework that encompassed matters of state, civil, and criminal law.

Tiered Court System:

The Mughals established a hierarchical court structure that ensured accessibility and fairness. At the local level, Qazis presided over matters related to personal and family law. Provincial courts dealt with civil and criminal cases, while the Emperor's court, the Diwan-e-Adalat, was the final authority for appeals.

Religious Tolerance and Pluralism:

The early Mughal Empire was characterized by its religious tolerance, and this was reflected in the judicial system as well. Qazis, responsible for matters of Islamic law, worked alongside Hindu judges who applied customary Hindu law.

This inclusivity allowed for a harmonious coexistence of different legal traditions up till Jahangir & Shah Jahan.

Merit-Based Appointments:

The Mughals appointed judges based on their knowledge, experience, and expertise in law rather than through familial or political connections. This merit-based approach ensured that judges were qualified and impartial, contributing to the integrity of the legal system.

Emphasis on Arbitration and Mediation:

The Mughal judicial system encouraged alternative dispute resolution mechanisms such as arbitration and mediation. This approach aimed to resolve conflicts amicably and avoid prolonged and adversarial court proceedings. In Mughal period most villages resolved their cases in the village courts itself and appeal to the caste courts or panchayats, the arbitration of an impartial umpire (salis).

Protection of Individual Rights:

The Mughal legal framework included provisions to safeguard individual rights, such as property rights and the right to a fair trial. The legal system sought to balance the power of the state with the rights of the citizens.

Some of the criticisms were:

No distinction was drawn between public law and private law under Muslim criminal law. Criminal law was seen as a private branch of law.

Muslim criminal law was experiencing considerable illogicality. This is because crimes against god have been considered crimes of an atrocious nature.

One of the most ineffective rule was Diya's clause. In other instances, the killer survived simply by paying money to the assassinated person's dependants.

No specific provisions in Muslim law were available in cases where the murdered person left no descendants to punish the murdered or to claim blood-money. Minor had to wait till majority.

While Muslim law sought to differentiate between murder and guilty homicide, the guilty party's intent or lack of intent did not rest. It relied on the type of weapons used to commit the crime.

Inspite of this, while other dynasties of the time also had functional legal systems, the early Mughal Empire's judicial system stood out for its level of sophistication, inclusivity, and emphasis on codification. The combination of these factors contributed to a more equitable and accessible legal framework.

The early Mughal Empire's judicial system remains a testament to the remarkable administrative acumen of the dynasty's early rulers. It continues to be a subject of study and admiration for legal scholars and historians alike.

The Lawyer

by Kritima Sareen

In chambers deep, where justice reigns,
In a lawyer's heart, no fear sustains.
Through trials fierce, they stand their ground,
With wisdom's sword, their cause is found.

They weave a tale of truth and right,
In courtrooms bathed in golden light.
With every word, they seek to mend,
The broken paths, and fences rend.

Through boundless hours, they toil and strive,
For justice, they're determined to derive.
In legal scrolls and statutes vast,
They find the strength, with their purpose steadfast.

They champion voices, unheard and meek,
Against the tempest, strong, tireless and bleak.
With empathy, they bridge divides,
Guiding through the legal tides.

With honor, they walk the hallowed halls,
Answering justice's noble calls.
Their journey is long, their burden great,
Yet they stand tall and never abate.

In battles fought, both night and day,
A lawyer's heart will find its way.
For justice, fairness, and the right,
They'll tirelessly continue the fight.

This journey, alone, they walk insecure,
Repeated attacks, intimidations galore.
Advocates Protection Act is all we seek,
Our rightful, genuine voice, address our pique.

So let their tale inspire us all,
To rise when barriers seem tall.
For in the heart of every court,
A lawyer's journey is a noble fort.

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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 5)**

Mr Adish C. Aggarwala President SCBA

Vidhi Talks (Episode 6)

HMJ Ajay Tewari Judge PHHC (Retd.)

Vidhi Talks (Episode 7)

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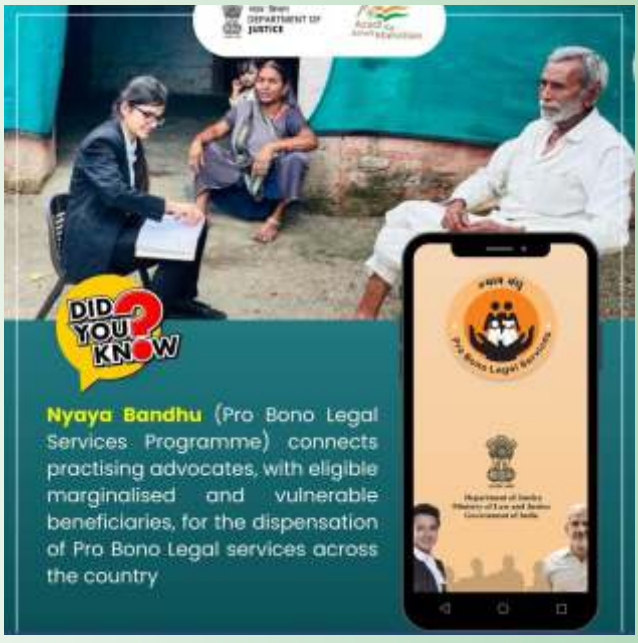
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Upholding THE GLORY

The Constitution of India implicitly provides for the separation of Power between the Legislature, Executive, and Judiciary wherein each have its own powers and responsibilities. The primary objective for separating such powers is to prevent the domination or misuse of authority by one organ of the government. This model of separation of powers is known as "trias politica" and such an idea is inspired by the model of Montesquieu in "De l'esprit des Lois, 1747" (The Spirit of Laws,1747). In the Indian context, separation of powers is not mentioned explicitly anywhere but its essence can be seen in parts of the Indian Constitution. Under this doctrine the sole responsibility for making statutory laws falls within the domain of the Legislature, wherein such laws are executed by the Executive organ and thereafter the Judiciary has to work according to the laws that have been enacted by the Legislative organ of the Government.

Judiciary

It consists of the system of courts which are responsible for the adjudication of legal disputes, disagreements and interpretation of laws thereby imparting justice in the society. The hierarchy runs Supreme Court at the apex, thereafter, High Courts and then all the other subordinate court. Part IV of the Constitution contains the Directive Principles of State Policy and its Article 50 provides for the separation of the judiciary and the executive. Apex court along with high courts are Custodian of Constitution and can exercise writ jurisdiction, in case of any violation of fundamental rights and other statutory rights. Any act which is violation of constitution can also be declared ultra-virus by the higher courts in the hierarchical paradigm.

System of checks and balances

The system of checks and balances regulates and prevents the above mentioned three organs of the government from using their powers arbitrarily. The goal behind such checks and balances is to guarantee that the three branches of government do not overlap each other and each be a check on the other such that any one of them does not become too authoritative. It promotes efficiency and specialization between the three organs of the government. The judiciary is vested with the power of judicial review such that it acts as a check on the acts of legislature and executive. The Judiciary must ensure that it exercises within the limits of the law.

Outstanding Performance

The judicial System (organ) through its hierarchy of Courts I.e. the Hon'ble Apex Court, High Courts and Lower Judiciary has performed exemplary as compared to other organs of Government by giving various path breaking judgments, reinventions, introspections, course corrections. From the above, it is noteworthy that the judicial system has remained dynamic and has responded to the challenges with vigor and strength. The hard earned freedom which is cherished by every countryman has been protected with strenuous force even from the internal foes. Article 21 has been given such a wide interpretation and is being expanded

Chanchal K. Singla
Former Honorary Secretary, Punjab and Haryana High Court Bar Association and Managing Partner of R&S Law Associates.

continuously to include greater liberties. In true sense the Constitution of India has been protected by its custodian with unflinching sense of duty. The overall working of judicial Juggernaut has placed its institutions in present glorious attire not only in theoretical sense but also in applied aspect. If any Institution can claim the unequivocal faith of citizen, it is undoubtedly the judiciary.

Challenges

The achieved Glory and Faith is not indomitable; mountain of emerging challenges is awaiting to surmount the insurmountable. Pendency of the cases is one such demon which has potential to take away the sheen of our shining institution. As per the information available on National Judicial Data Grid (NJDG) there are 59,87,477 cases pending in High Courts across the country and out of these, 10.50 lakh cases were pending in the Allahabad High Court, the largest High Court of the country. As regards, Punjab and Haryana High Court, it is not far behind with tally of 4.43 lakh and overall tally of 5 crores throughout India in all the courts taken together. Delay in decision of cares is creating a trust deficit in the minds of the litigants - a void which would be hard to fill. The reasons for such huge pendency comprises of rise in population, awareness about rights, means to sustain the costs with rise in income, failure of quasi-judicial bodies and alternative dispute redressal mechanisms to deliver timely justice, wastage of court time and many more.

Onus to reduce pendency lies on the members of legal fraternity on both the sides of Bar I.e the bar & the bench. Coronavirus Pandemic has taught us never to delay the matter as it takes years to get it listed again resulting into litigant losing all the hope to get justice which further leads to consequential loss of faith in legal mechanism and legal institutions. Loss of faith in the judicial institution would lead to loss of respect which is consequently enjoyed by the members of the magnificent legal fraternity. Thus a vicious downward cycle is formed, which can take years to break.

Our Judges are overburdened and most of them are finding it difficult to maintain work & life balance. I would call their duty pious, looking at the workload that they deal with. Endeavors should be made to reduce the wastage of court time on nonproductive work and completion of pleadings etc. can be delegated to Secretarial Staff. We should also realize our sacrosanct duty not to delay the proceedings by seeking unnecessary adjournments. In case an adjournment is unavoidable at least all the parties including the Hon'ble Court should be given prior information to save time, the only stock in our trade. I am not an advocate of quick disposal without giving ample opportunity to the parties to establish their case, however this process consumes time. Am I arguing against myself? The solution lies in short and crisp judgments. Hon'ble Mr. Justice Surya Kant on one of his visits to the Bar Association Punjab and Haryana High Court stressed upon the need to deliver actual justice to the most deprived members of the society rather than imparting poetic justice in the shape of lengthy judgements having only academic value. The most respected one stressed upon the need to wipe off the tears of the neediest.

Constant Improvement and Quality

Various law schools and colleges have mushroomed in recent years, which has resulted in flooding of young and vibrant talent into the legal institutions and industry. However, even after providing best of facilities and paying hefty amounts as tuition fee and other expenses, young grads lack the spark when compared to the earlier grads from ordinary colleges. The deterioration of quality is astonishing and beyond contemplation. Increase in the number of seats has made entry into the profession easy as compared to other professions like medicine, science, engineering. Although some attempts have been made by the Bar Councils and the Hon'ble Apex Court in form of the All India Bar Examination but still a lot needs to be done. Moreover, in this dynamic world of constant change there is no provision of improvement of skills of Lawyers. For judicial officers there are judicial academies but for lawyers there is no provisions for adoption to new tools and systems.

When I was the Honorary Secretary of prestigious Punjab and Haryana High Court Bar Association, Bar Association did set up the first High Court Lawyers Academy of India wherein various sessions for skill improvement were conducted by legal luminaries, sitting judges and retired judges. The enthusiasm of givers matched to that of takers. However, the initiative could not be followed by the coming executive bodies and resultantly it fizzled down. But it is worth mentioning that since then the Bar Council of Punjab and Haryana has started working towards this aspect and is doing an incredible job.

Quality of character is the most required virtue in the legal profession. No effort has been made on character development. Rise of materialistic world which determines success only in the shape of assets accumulated, has led to decline of values cherished in the past.

Noble or not so Noble

We often say we are in a noble profession, which is rightly said. Lawyers work tirelessly without any self-interest to get justice for their clients and in the process they even risk their family life, health and at times acquire enmity with the mighty and powerful. Such a duty can only be called noble and nothing else. Furthermore, desire to earn plethora of money is taking away some nobility from the profession. Legal services are constantly becoming costlier and in many cases unaffordable for the common man. It is our prime duty to work for the welfare of the society and seek justice for the needy rather than unjust enrichment. Everyone is aware about his/her potential and the fees he deserves but even then the fees demanded by some of us is undeserved and against the soul of this noble profession. I would leave it here and would call for introspection.

Monopoly

Our institutions are under constant threat of monopolization by a few privileged members. Greater reliance on technology, especially video conferences can further add to the woes. It is easy for a well-established lawyer or a firm to engage an army of lawyers who can assist the arguing counsel to appear in large number of cases from their office itself. It is likely to cause pain to the rest of the members who are not so lucky. I offer no solution to this, although Nepotism has witnessed some downward movement.

Touts

Another menace gripping the legal profession is rising toutism. Every person be it clerk, driver, peon, Gardner, reporters, chronic litigants, prisoners consider himself/herself as legal expert and help a gullible litigant to choose his or her Advocate. All sorts of promises and guarantees are laid before the litigant who instead of contesting the case on merits falls into the trap of easy solutions which are though never achieved and in the process merit becomes the first victim of apathy and second victim is the reputation of this saintly profession and its humble warriors. Corrupt practices are heavily dependent on existence of these touts.

Our Parliament is not oblivious of this cacodemon captivating the noble profession and has come up with amendment in Advocates Act by inserting Section 45A, titled as 'Power to frame and publish lists of touts'. This section makes the act of being a 'tout' punishable by imprisonment for upto three months, a fine of upto five hundred rupees, or both. The bill defines a 'tout' as a person who, in consideration of remuneration, procures the employment of a legal practitioner or proposes such employment to any legal practitioner or interested party in any legal business. It also refers to individuals who frequent court premises, revenue offices, railway stations, and other public places to engage in such activities. The Association of Lawyers have been given Power to prepare such lists apart from Judicial Authorities. This is a step in the right direction for curtailing the menace. One would wonder why the practice of touts is so prevalent in the legal profession and not in any other field. To me answer lies in the lack of information or rating regarding the quality professionals in a particular field. To solve this Bar Council of India and Law makers should think about relaxing advertising rules or come up with a solution like centralized information solutions providing the required data for enabling the client to choose his service provider.

Conclusion

The legal professionals have always led the country in the time of crisis The foundation of this country has been laid down by the sacrifices of freedom fighters, many of which were prominent lawyers. By laying down the framework of Government and policy through Constitution of India and other legislation we have been provided with freedom of thought, expression and other civil liberties that are cherished by the legal professionals. Legal professionals have always stood up also voiced decent through constitutional means of protest in case any of the fundamental liberties have been curtailed. In this Amrit Kaal of our democracy, the executive and the legislature have invented and reinvented themselves and have shown tremendous positive growth. The judiciary cannot be left behind, we need to keep pace with other organs of government so that no imbalance is created, trust of citizen is reposed in our institutions and country can be a world leader, the rightful place it deserves.


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Bharat Setu

India's Role in Strengthening IAE Connectivity in Modern Era

Amit Rana
Member, Bar Council
Sr. Deputy Advocate General (Punjab)
Fmr. Co-Chairman, BCI

INTRODUCTION

The G20 Summit is a pivotal gathering of the world's most influential economies, aimed at fostering cooperation, addressing global challenges, and promoting economic growth. In 2023, India hosted this significant event, and it was aptly named the "Bharat Setu" - a bridge to connect not only the G20 nations but also strengthen the connectivity within the Indian subcontinent and the larger IAE (Indian Ocean-Asia-Europe) region. This article delves into the significance of the G20 Summit held in India, highlighting its role as a connectivity booster in the IAE region.

Understanding Bharat Setu:

The term "Bharat Setu" symbolizes India's commitment to act as a bridge between nations and regions, both geographically and economically. It emphasizes India's aspiration to play a pivotal role in fostering connectivity and cooperation among the G20 countries, with a particular focus on the IAE region. This vision is aligned with India's "Neighborhood First" and "Act East" policies, which prioritize strengthening ties with its immediate neighbors and beyond.

1. Connectivity within India:

Before discussing India's role in the broader IAE region, it's essential to address the need for connectivity within the country. India is a vast and diverse nation with various challenges related to transportation and communication. The G20 Summit provided an opportunity for India to showcase its efforts in improving infrastructure and connectivity domestically, from the modernization of railway networks to the expansion of roadways and digital infrastructure.

2. Strengthening Trade and Economic Ties:

The G20 Summit, held in India, was a platform for leaders to discuss economic policies, trade agreements, and investment opportunities. As the world's fastest-growing major economy, India attracted significant attention from G20 members seeking to expand their trade relations. The summit

facilitated discussions on reducing trade barriers, promoting investment, and enhancing economic cooperation, all of which contribute to improved connectivity in the global economic landscape.

3. Promoting Regional Connectivity:

India's strategic location in the IAE region makes it a crucial player in enhancing connectivity among nations. The summit emphasized the importance of building stronger ties with neighboring countries in South Asia, Southeast Asia, and the broader Indian Ocean region. Initiatives like the International North-South Transport Corridor (INSTC) and the Chabahar Port project were discussed to boost trade and connectivity.

4. Digital Connectivity and Innovation:

In the digital age, connectivity extends beyond physical infrastructure. The G20 Summit in India focused on fostering innovation, technology-sharing, and digital connectivity. India's thriving IT industry and its commitment to digital inclusion through initiatives like "Digital India" showcased the nation's dedication to bridging the digital divide, not only within its borders but also in the IAE region.

5. Climate and Environmental Connectivity:

Environmental concerns and climate change are global issues that require collaborative solutions. The Bharat Setu G20 Summit provided a platform to discuss environmental connectivity, emphasizing the importance of sustainable development, clean energy, and climate resilience. India's efforts in renewable energy and its commitment to reducing carbon emissions were key topics of discussion.

CONCLUSION

The G20 Summit hosted by India under the banner of "Bharat Setu" served as a bridge to foster connectivity, both within the nation and across the IAE region. It showcased India's commitment to economic growth, innovation, sustainability, and regional cooperation. The summit brought together leaders from diverse backgrounds to address global challenges and forge stronger bonds, ultimately contributing to a more connected and prosperous world. As India continues to play a pivotal role in the IAE region, the Bharat Setu G20 Summit will be remembered as a significant milestone in its journey toward becoming a true connectivity hub in the 21st century.

Crypto Regulation In and Out

by Rajat Gautam
Member & Former Chairman, BCPH
Additional Advocate General (Haryana)

One of the most debated topics in the world for past many years is Cryptocurrency, Blockchain Technology, NFTs etc. Let's discuss them one by one.

(1) Cryptocurrency refers to digital or virtual currencies that use cryptography for security. It operates on decentralized networks called blockchains, which enable secure and transparent transactions. Cryptocurrencies are not issued or regulated by any central authority, such as a government or financial institution.Bitcoin is the first and most well-known cryptocurrency, but there are now thousands of different cryptocurrencies available. Each cryptocurrency has unique features and uses, with some designed for general transactions and others for specific industries or applications.

People use cryptocurrencies for a variety of reasons, including as an investment, a medium of exchange, and a store of value. Cryptocurrencies can be bought and sold on specialized cryptocurrency exchanges, where users can trade one cryptocurrency for another or exchange them for traditional fiat currencies like the US dollar.

While cryptocurrencies offer various benefits, such as faster and cheaper cross-border transactions, they also come with risks. Their decentralized nature and lack of regulation make them susceptible to price volatility, fraud, hacking, and illegal activities. That's why governments and regulatory bodies are gradually developing regulations to address these concerns and protect consumers.

Overall, cryptocurrencies are a growing and evolving technology that has the potential to reshape the financial landscape. However, it's important to understand the risks involved and stay informed about the changing regulatory environment.

(2) Blockchain Technology —Blockchain technology is a decentralized and transparent digital ledger that records transactions multiple computers or nodes. It was originally developed to support cryptocurrencies like Bitcoin, but its potential applications extend far beyond that.

At its core, a blockchain is a chain of blocks, where each block contains a list of transactions. These blocks are linked together using cryptographic hashes, creating an immutable and tamper-proof record of all transactions. The decentralized nature of blockchain technology means that no single entity has control over the entire network, making it resistant to censorship and fraud.

One key feature of blockchain technology is its transparency. All transactions recorded on the blockchain are visible to anyone with access to the network, ensuring accountability and trust. Additionally, blockchain technology can enable smart contracts, which are self-executing contracts with the terms directly written into code. These smart contracts automatically execute when predetermined conditions are met, eliminating the need for intermediaries and increasing efficiency.

Blockchain technology has the potential to revolutionize various industries, including finance, supply chain management, healthcare, and more. Its decentralized nature and high level of security make it attractive for applications requiring trust and transparency.

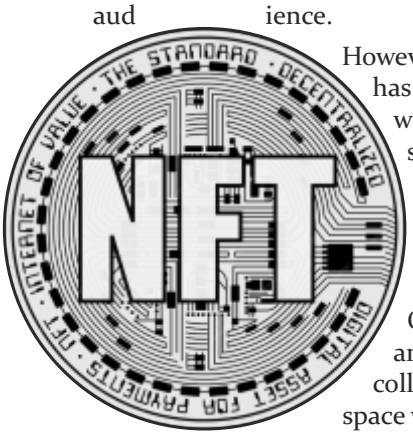
However, it's important to note that blockchain technology is still in its early stages, and there are challenges to overcome, such as scalability and energy consumption. Nonetheless, there is great excitement and interest in exploring the potential of blockchain technology to transform various sectors of the economy.

(3) NFTs—NFTs, or non-fungible tokens, are a type of digital asset that represent ownership or proof of authenticity of a unique item or piece of content, such as artwork, collectibles, music, videos, and more. Unlike cryptocurrencies like Bitcoin or Ethereum, which are fungible and can be exchanged on a one-to-one basis, NFTs are unique and cannot be exchanged on a like-for-like basis.

NFTs utilize blockchain technology, typically built on platforms like Ethereum, to ensure the uniqueness, scarcity, and provenance of these digital assets. Each NFT is stored on the

blockchain and comes with a unique identifier, metadata, and smart contract functionality, enabling creators to retain ownership and monetize their works in various ways.

One of the key benefits of NFTs is that they allow creators to sell their works directly to buyers without the need for intermediaries, such as galleries or auction houses. This provides artists and creators with new opportunities for monetization and allows them to reach a global aud ience.



However, it's important to note that the NFT market has experienced significant hype and volatility, with some questioning the value and sustainability of certain NFTs. Additionally, there have been concerns raised regarding environmental impact due to the energy consumption of blockchain networks supporting NFT transactions.

Overall, NFTs have generated a lot of attention and excitement in the art, entertainment, and collectibles world, but it's still a rapidly evolving space with both opportunities and challenges to consider.

Global Regulatory Status —

Cryptocurrency regulations vary widely across the world. Some countries embraced cryptocurrencies and have enacted favorable regulations, while others have taken a more cautious approach or even banned cryptocurrencies altogether.

Countries like the United States, Japan, Switzerland, and Singapore have implemented regulations that provide a clear legal framework for cryptocurrency businesses and investors. These regulations aim to prevent money laundering, terrorist financing, and other illegal activities, while also promoting innovation and growth in the industry.

On the other hand, countries like China, India, and South Korea have imposed stricter regulations or outright bans on cryptocurrencies. China, for example, has banned initial coin offerings (ICOs) and cryptocurrency exchanges, although individual ownership and trading of cryptocurrencies is not explicitly illegal.

In Europe, different countries have taken different approaches. Some, like Malta and Estonia, have established themselves as cryptocurrency-friendly jurisdictions by introducing regulations that attract cryptocurrency businesses. Others, like Germany and France, have introduced stricter regulations to combat money laundering and increase investor protection.

It's important to note that cryptocurrency regulations are constantly evolving, and new developments can impact the legal status of cryptocurrencies in different countries. It's always recommended to stay updated on the regulations in your specific country or jurisdiction and consult with legal professionals or financial advisors for accurate information and guidance.

The United States has been actively regulating cryptocurrencies to ensure consumer, prevent fraud, and maintain the stability of financial markets. As of now, cryptocurrency regulations in the US are primarily enforced by various government agencies, such as the Securities and Exchange Commission (SEC), the Commodity Futures Trading Commission (CC), and the Financial Crimes Enforcement Network (FinCEN).

The SEC has taken the stance that many cryptocurrencies, including initial coin offerings (ICOs), can be classified as securities and therefore subject to securities laws. This means that companies issuing ICOs may need to comply with registration requirements and conduct their offerings in accordance with SEC regulations. The SEC has also been cracking down on fraudulent activities related to cryptocurrencies.

The CFTC, on the other hand, considers cryptocurrencies as commodities and has jurisdiction over futures contracts and derivatives based on digital assets. They regulate cryptocurrency exchanges and have the authority to take legal action against fraudulent or manipulative trading practices.

FinCEN, as part of the US Department of the Treasury, is responsible for enforcing anti-money laundering (AML) and know-your-customer (KYC) regulations for cryptocurrency businesses. Cryptocurrency exchanges and money service businesses dealing with cryptocurrencies are required to register with FinCEN and implement AML/KYC.

Situation in India

In India, cryptocurrency regulations have been a topic of debate and uncertainty. The Reserve Bank India (RBI) initially imposed a ban on banks and financial institutions from dealing with cryptocurrencies in 2018. However, this ban was later overturned by the Supreme Court of India in March 2020.

After the lifting of the ban, the Indian government has been working on formulating new regulations to govern the cryptocurrency industry. As of now, there is no specific legislation or regulatory framework in place for cryptocurrencies in India.

However, it is worth noting that the Indian government has expressed concerns about the risks associated with cryptocurrencies and has indicated that it may introduce regulations to address these concerns. There have been reports of a proposed bill that aims to completely ban cryptocurrencies in India and introduce an official digital currency issued by the Reserve Bank of India.

Given the evolving nature of the regulations, it is important to stay updated on the latest developments and consult with legal professionals or financial advisors for accurate information and guidance.

The Enigmatic 'Judgement Seat of Vikramaditya':

A Legal and Historical Analysis

-by **Vasundharaa Chauhan** (Student BA. LLB) Bennett University

INTRODUCTION

The "Judgement Seat of Vikramaditya" has long captivated scholars, historians, and legal enthusiasts with its mystique and enigmatic aura. This legendary artifact, purportedly associated with the ancient Indian king Vikramaditya, has been shrouded in myth and folklore, blurring the lines between history and legend. In this article, we embark on a journey to unravel the mysteries surrounding this mythical judicial throne and examine its significance within the realm of legal history.

The Mythical Origins:

The story of the "*Judgement Seat of Vikramaditya*" originates from the legendary tales of King Vikramaditya, a revered ruler who is believed to have reigned in ancient India during the 1st century BCE. Vikramaditya was renowned for his wisdom, justice, and adherence to dharma (righteousness). Legend has it that he possessed a magnificent throne upon which he dispensed judgements of unparalleled wisdom.

The Throne's Characteristics:

Descriptions of the "*Judgement Seat of Vikramaditya*" vary across different sources, but several common features persist in the myth. It is said to be adorned with precious gems, intricate carvings, and divine inscriptions. The most intriguing aspect is that it is believed to have the power to discern truth from falsehood. Anyone who sat upon the throne to deliver judgment was said to be endowed with unparalleled wisdom, ensuring just and fair outcomes in disputes.

Legal Implications:

The mythical throne raises intriguing legal questions that transcend the boundaries of time and reality. In essence, it embodies the ideals of a perfect judicial system, one that can render infallible judgments. The concept of a throne bestowing divine wisdom upon its occupant presents an interesting parallel to the concept of impartiality and fairness within the legal system. In the modern context, the notion of an infallible judge is an ideal that legal systems worldwide strive to achieve, albeit through human means.

Legal Parallels:

The "Judgement Seat of Vikramaditya" draws parallels with the principles of natural justice and judicial impartiality enshrined in legal systems across the globe. The belief that the throne could discern truth from falsehood echoes the concept of an unbiased and impartial judiciary capable of rendering decisions solely based on facts and the law. It serves as a symbolic representation of the idealized judicial process, where justice prevails, and the truth is unfailingly discerned.

CONCLUSION

The "Judgement Seat of Vikramaditya" remains a captivating enigma, blending history, legend, and the timeless pursuit of justice. While its existence in the realm of reality remains unverified, it continues to inspire contemplation and admiration. This mythical artifact symbolizes the universal human aspiration for a just and impartial judicial system—one that transcends time and space. In the realm of legal history, the "Judgement Seat of Vikramaditya" stands as a testament to the enduring quest for truth, justice, and the ideals that guide humanity's pursuit of a fair and equitable society.

Natural Justice in the Indian Context

A Comparative Analysis with Traditional Justice Systems

by Dr. Vimal Parmar, Advocate

INTRODUCTION

Natural justice, also known as procedural fairness or administrative justice, is a fundamental principle of the Indian legal system. It serves as a cornerstone for ensuring that individuals are treated fairly and impartially by government authorities, tribunals, and courts. In this article, we will delve into the concept of natural justice within the context of the Indian Constitution and compare it with traditional justice systems prevalent in India's rich historical tapestry.

Natural Justice in the Indian Constitution:

The Indian Constitution, a testament to its commitment to justice, enshrines the principles of natural justice primarily under Article 14 and Article 21. These articles lay the foundation for the fair and just treatment of individuals by the state.

Article 14 of the Constitution mandates the equality before the law and equal protection of the laws for all citizens. It ensures that no one is arbitrarily discriminated against and that the state's actions are consistent with the principles of reasonableness and fairness.

Article 21, often referred to as the "heart of the Constitution," protects the right to life and personal liberty. It has been expansively interpreted by the Indian judiciary to include within its ambit the right to fair and just procedures. Thus, it incorporates the principles of natural justice, ensuring that no one is deprived of their life or liberty except in accordance with fair and just procedures established by law.

The two essential principles of natural justice, audi alteram partem (hear the other side) and nemo judex in causa sua (no one should be a judge in their own cause), are firmly embedded within the Indian legal framework. These principles require that individuals be given an opportunity to be heard and that decisions should be made by unbiased and impartial authorities.

Comparative Analysis with Traditional Justice Systems:

Traditional justice systems in India, such as Panchayats, Gram Sabhas, and customary village councils, have coexisted alongside formal legal structures. These systems often embody communal values, local customs, and age-old traditions. While they have their own unique merits, they differ from the principles of natural justice in certain aspects.

1. Local Custom vs. Impartiality: Traditional systems are deeply rooted in local customs and community norms. While this can foster a sense of belonging and community cohesion, it may also lead to bias or partiality in decision-making, as decisions are often influenced by societal hierarchies and traditions.

2. Informality vs. Due Process: Traditional systems are known for their informal nature, which can expedite dispute resolution. However, this informality may compromise the principles of due process and fairness. Natural justice, on the other hand, emphasizes procedural fairness and adherence to established rules.

3. Heterogeneity vs. Uniformity: Traditional systems vary widely across different regions and communities in India. In contrast, the Indian Constitution provides a uniform framework of justice that applies to all citizens, regardless of their background or location.

CONCLUSION

Natural justice is an integral component of the Indian legal system, ensuring that individuals are treated fairly and justly by the state. While traditional justice systems in India have their own cultural significance, they often differ from the principles of natural justice. It is imperative that a delicate balance is maintained between preserving traditional practices and upholding the constitutional principles of fairness and equality. In doing so, India can continue to evolve its legal system, harmonizing modern principles with its rich historical heritage.

Bar Council of Punjab and Haryana held a special series of Legal Training Classes, marking a tribute to the legacy of Dr. B. R. Ambedkar on the centenary of his legal practice (1923-2023). Designed as continuing legal education for lawyers, this live series aimed to enrich thousands of legal professionals with insights, expertise, and a deeper understanding of the law, fostering excellence in the legal community of this region.

Ld. Senior Advocates, Ld. Seniors at Bar, field expert lawyers and legal scholars spoke on academic topics, inviting lawyers to discuss and engage in meaningful academic conversations. After a while, the series saw a dedicated participation of 100+ lawyers taking part in each class.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Transforming Legal Practice:

The Role of AI Personal Assistants in the Future of Law

In the age of rapid technological advancement, the legal profession is not exempt from the transformative power of artificial intelligence. With the advent of AI personal assistants, such as those powered by Harvey AI, lawyers are experiencing a revolution in how they approach their work. Let's explore the current landscape of AI in legal practice and envision the future of the legal profession in tandem with this groundbreaking technology.

- Ajay Chaudhary
Member Bar Council

The Rise of AI Personal Assistants for Lawyers

AI personal assistants have emerged as indispensable tools for lawyers seeking to streamline their workflow and enhance productivity. These advanced AI systems, exemplified by Harvey AI, are designed to understand and generate legal text with a level of proficiency that rivals human counterparts. This proficiency spans from drafting contracts and legal briefs to conducting comprehensive legal research.

Enhancing Efficiency and Accuracy

One of the primary benefits of integrating AI personal assistants into legal practice is the significant enhancement of efficiency. These assistants can generate high-quality legal documents in a fraction of the time it would take a human, allowing lawyers to allocate their expertise to more strategic aspects of their cases.

Moreover, the accuracy and consistency that AI personal

assistants bring to legal documentation are unparalleled. By adhering to legal standards and conventions, they minimize the risk of errors that could have far-reaching legal consequences.

Legal Research: A New Frontier

Conducting thorough legal research is the bedrock of a successful legal practice. AI personal assistants excel in this arena, swiftly analyzing vast databases of legal precedents, statutes, and case law to provide concise, relevant information. This not only expedites the research process but also ensures that no critical details are overlooked.

The Human Element in AI Integration

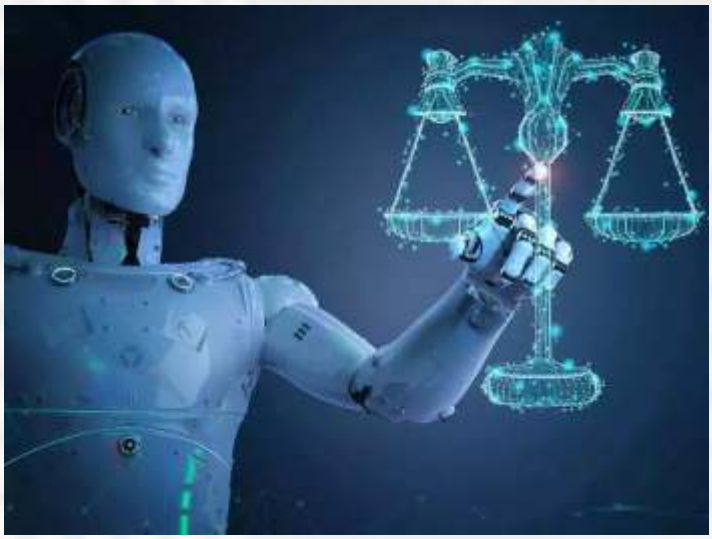
While the capabilities of AI personal assistants are impressive, it is essential to emphasize that they are meant to augment, not replace, human expertise. Lawyers remain the ultimate decision-makers, overseeing and verifying the output generated by these AI systems. This human-AI collaboration ensures that legal practice retains its nuanced, ethical, and empathetic dimension.

The Future of Legal Practice: A Synergy of Human and Machine Intelligence

Looking ahead, the integration of AI personal assistants is poised to redefine the legal profession. As these technologies continue to evolve, they will become even more adept at understanding complex legal language and generating tailored responses. This will free up lawyers to focus on the critical thinking, strategic planning, and advocacy that are at the heart of their profession.

Ethical Considerations and Responsible AI Usage

As with any technology, there are ethical considerations associated with the use of AI personal assistants in legal practice. Safeguards must be in place to ensure that the technology is used responsibly and ethically. This includes maintaining client confidentiality, adhering to legal standards,



and upholding the principles of professional conduct.

AI personal assistants are ushering in a new era of legal practice, one characterized by enhanced efficiency, accuracy, and productivity. By seamlessly integrating with human expertise, these assistants empower lawyers to navigate the complexities of the legal landscape with unprecedented precision. As the legal profession continues to evolve, the synergy of human and machine intelligence promises to shape a future where legal professionals can achieve new heights of excellence and advocacy.

In his address at the 60th convocation ceremony of the prestigious Indian Institute of Technology-Madras (IIT-M) in July 2023, the current Chief Justice of India Dr. Justice D.Y. Chandrachud termed technology as a freedom enhancing source. Contending that artificial intelligence (AI) represents not just a new frontier but a rapidly evolving one, CJI advocated the need for ensuring that such technologies don't create fear in the minds of users as they could directly impact their ability in expressing thoughts in a "free and open" manner.

As CJI said, technology should not in any way create a fear in the mind of users of online abuse or harassment. Let's explore and see how best can be embrace the use of such technology to provide optimum legal solutions to our citizens.

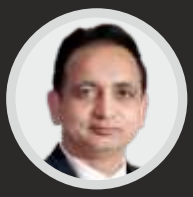
Rajya Sabha clears bill seeking repeal of 76 obsolete laws

New Delhi: Rajya Sabha on Wednesday cleared the Repealing and Amending Bill, 2023 with a voice vote, to repeal 76 "redundant and obsolete" laws. Law minister Arjun Ram Meghwal hailed the passage of bill in the Upper House saying the move is part of the government's continuing efforts to improve the ease of living and doing business. The bill has already been passed by Lok Sabha. The Repealing and Amending Bill originally sought to repeal 65 old laws and was introduced in December last year, but the bill could not come up for discussion in subsequent sessions. The government later moved amendment to add 11 more laws to the list, bringing the total to 76 laws. The bill proposes to repeal laws like the Land Acquisition (Mines) Act, 1885, and the Telegraph Wires (Unlawful Possession) Act, 1950.

DHIRENDRA KUMAR

Israel-Palestine Conflict :

Legal analysis



by Karanjit Singh
Member & Former Chairman, BCPH
Additional Advocate General (Punjab)

The Israel-Palestine conflict is one of the most enduring and complex geopolitical disputes in modern history. It revolves around competing claims to territory, security concerns, and questions of statehood. At the heart of this conflict lies the question of how international law applies to the various aspects of the dispute. Lately, since Hamas launched an unprecedented attack on Israel on October 7 2023, conflict in the region has escalated to tragic proportions. This is the latest bloody chapter in the bitter conflict between Israel and Palestine that has been going on since 1948.

International humanitarian law recognizes the Israeli occupation of the West Bank and Gaza as an ongoing armed conflict. Current hostilities and military attacks between Israel and Hamas and other Palestinian armed groups are governed by the conduct of hostilities standards rooted in international humanitarian law, consisting of international treaty law, most notably Common Article 3 to the Geneva Conventions of 1949 and customary international humanitarian law applicable in so-called non-international armed conflicts, which are reflected in the Additional Protocols of 1977 to the Geneva Conventions.
The first step to be taken before making any legal analysis in international humanitarian law is to classify the situation. There are two possible ways to characterize it. It is either a non-international armed conflict between an armed group, Hamas, and a State, Israel, or it is an international armed conflict, owing to the situation of occupation that has prevailed in the Palestinian territories since the Six-Day War of 1967.

Let us delve into the relevance of international law in the Israel-Palestine conflict, exploring key legal principles and their impact on the ongoing struggle for peace and justice in the region.

Historical Background

The roots of the Israel-Palestine conflict trace back to the late 19th century, when Zionist movements began advocating for the establishment of a Jewish homeland in Palestine. This led to increased Jewish

immigration, which in turn sparked tensions with the Arab population already residing in the area. The United Nations' 1947 partition plan, which proposed the establishment of separate Jewish and Arab states, was met with mixed reactions and eventually led to armed conflict.

International Legal Framework

1. The Mandate for Palestine (1922): Following the collapse of the Ottoman Empire, the League of Nations granted Britain a mandate to administer Palestine. This mandate recognized the historical connection of the Jewish people to the region and called for the establishment of a "national home for the Jewish people." This has since been invoked in discussions surrounding the legitimacy of Israel's existence.

2. UN General Assembly Resolution 181 (1947): Also known as the Partition Plan, this resolution recommended the division of Palestine into Jewish and Arab states, with Jerusalem under international administration. While accepted by the Jewish leadership, it was rejected by Arab states, leading to the 1948 Arab-Israeli War.

3. The Fourth Geneva Convention (1949): This convention established rules governing the treatment of civilians during armed conflicts. It is a cornerstone of humanitarian law and has been invoked in discussions on the status of the occupied territories, particularly the West Bank and Gaza Strip.

4. Security Council Resolutions: Numerous resolutions have been passed by the United Nations Security Council addressing various aspects of the conflict, including territorial disputes, settlements, and the status of Jerusalem. These resolutions serve as important expressions of the international community's stance on the conflict.
Key Controversies and Legal Interpretations

1. Occupation and Settlements: One of the most contentious issues is the establishment of Israeli settlements in the occupied territories, which are considered illegal under international law according to the Fourth Geneva Convention. Israel, however, disputes this interpretation.

2. Right of Return: The Palestinian right of return, enshrined in UN General Assembly Resolution 194, has been a subject of dispute. This resolution asserts that refugees have the right to return to their homes, but Israel has not recognized this right.

3. Status of Jerusalem: Both Israelis and Palestinians claim Jerusalem as their capital. UN Security Council Resolution 478 declared Israel's annexation of East Jerusalem to be "null and void" and called upon states to withdraw their diplomatic missions from the city.

CONCLUSION

International law plays a crucial role in shaping the discourse surrounding the Israel-Palestine conflict. It provides a legal framework for assessing claims, delineating boundaries, and safeguarding the rights of civilians. However, enforcement mechanisms and differing interpretations of key legal principles continue to challenge the prospects for a lasting resolution.

Currently, in the present tense scenario, the laws of war, also known as International Humanitarian Law (IHL) which consist of the four 1949 Geneva Conventions, their two Additional Protocols of 1977, the Hague Conventions of 1899 and 1907, as well as certain weapons conventions are being talked about. If alleged Palestinian perpetrators of atrocities in Israel and all alleged perpetrators of crimes on the occupied Palestinian territories are not brought to justice at home, the International Criminal Court (ICC) in The Hague is the only international legal organ able to bring charges.

Be that as it may, achieving a just and sustainable peace in the region will require not only a commitment to legal principles but also a genuine willingness to engage in constructive dialogue and negotiations between all parties involved.

Enforceability of Arbitration Clause in Unstamped Contract:

The Change in the Indian Perspective

by **Avineet Singh Chawla**
Advocate & Lecturer, Jindal Global Law School

The 7-judge bench of the Supreme Court of India ('the Court') overruled the judgement rendered by the 5-judge bench answering 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 7-judge bench. Previously, the 5-judge 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. However, the 7-judge bench overruled this view and determined that arbitration clauses contained in agreements with improper or insufficient stamping are valid and enforceable. The Court further stated that the deficiency in stamping does not render the agreement null or unenforceable; instead, it renders the agreement inadmissible as evidence. Notably, the Court highlighted that this stamping insufficiency is a remediable defect in accordance with the Stamp Act.

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 court 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 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.

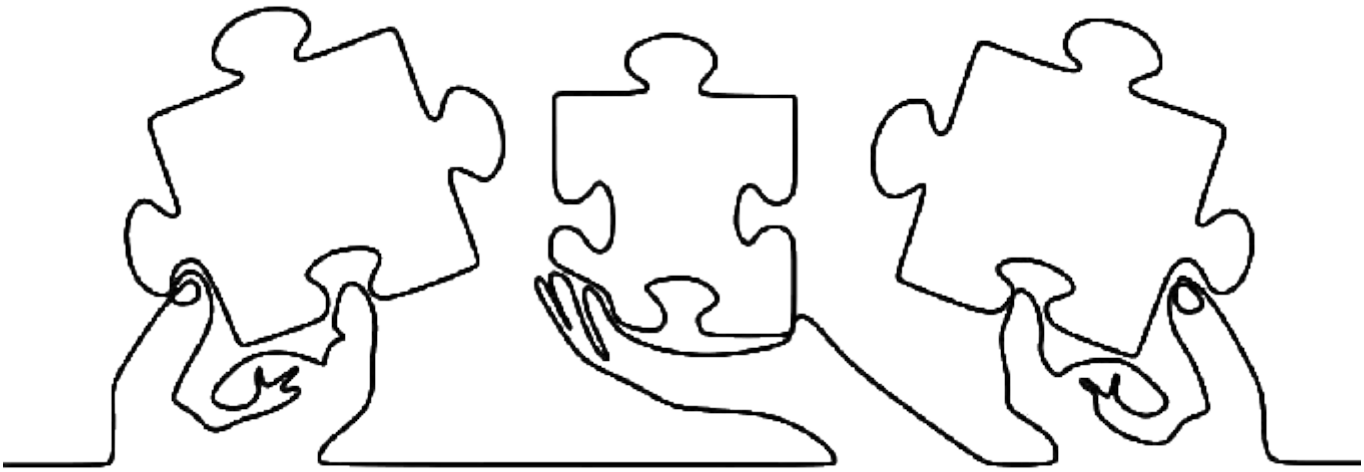
View of the 5-judge Bench

The majority, in this case, upheld the views in SMS Tea Estates Case and Garware Wall Ropes 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.

View of the 7-judge Bench

Firstly, the 7-judge bench focused on the distinction between inadmissibility and voidness and clarifyed that the admissibility of an instrument is separate from its validity or enforceability. Section 35 of the Stamp Act renders a document inadmissible, it does not render it void. Non-stamping or inadequate stamping is identified as a curable defect under the Stamp Act, and the court highlighted the legislative intent to generate revenue rather than render instruments void. The Court further held that the issue of stamping is a jurisdictional matter and if such issue is raised before an arbitral tribunal, then the tribunal can impound and examine an instrument as per Sections 33 and Section 35 of the Stamp Act (restoring the applicability of doctrine of kompetenz – kompetenz) in such cases. The Court righteously rejected the premise taken in previous views and emphasized the need to minimize court



interference. In summary, the court ruled that unstamped or inadequately stamped agreements are inadmissible but not void, and non-stamping is a curable defect. It affirmed the separability of arbitration agreements, addressed stamping as a jurisdictional matter, and emphasized the primacy of the Arbitration Act in its interplay with other statutes. The Court overruled previous decisions that contradicted these principles.

Secondly, while addressing the issues regarding arbitration agreements, the 7-judge bench, unlike the 5-judge bench, affirmed the principle of separability and recognized the distinct and separable nature of arbitration agreements from the underlying contract. This view finally revives the Court's stance on survival of an arbitration agreement even in cases of termination, repudiation, or frustration of the main contract. The Court referred Section - 16(1) of the Arbitration Act, which upholds the separability principle and emphasized its application beyond determining jurisdiction, encapsulating the general rule on the substantive independence of an arbitration agreement.

Furthermore, the Court advocated a harmonious construction of the Arbitration Act, the Stamp Act, and the Contract Act. It asserted the primacy of the Arbitration Act over the other statutes in relation to arbitration agreements, considering it a special law designed to consolidate arbitration-related laws in India.

The Court criticized the interpretation in previous cases, stating that it prioritized the revenue collection objective of the Stamp Act over the Arbitration Act's goal of providing an efficient alternative dispute resolution system.

The decisions in NN Global Case (5 Judge bench) and SMS Tea Estates Case were overruled. It can also be stated that the decision also overruled Gareware Wall Ropes Case to certain extent.

CONCLUSION

The 7-judge bench overturned its 5-judge bench judgment within an year and reaffirmed the Indian Courts' pro-arbitration stance. The decision also demonstrates the prevailing trust of Indian Courts in arbitration mechanism. The Court further reaffirms the applicability of two fundamental principles of separability and kompetenz – kompetenz with regard to Indian law. These principles have contributed majorly in the making arbitration mechanism, a self-sustainable and a trustable system. The Court has provided a strong precedent with this judgment. The deeper scrutiny clearly confirms that the stamping insufficiency is a remediable defect and does not render the agreement null or unenforceable.

A UNIQUE JUDGE

- Late Justice Amrit Lal Bahri

He was a great judge. Still, a greater human being. His journey was spread over 91 years from 1932 to 2023. He peacefully passed away on the 77th Indian Independence Day (August 15, 2023). He inherited a wholesome legal heritage. He was a career judge. He was elevated as a judge of Punjab & Haryana High Court in 1988. Retired in 1994. In 1995, he was appointed as the President of Punjab State Consumer Commission. Even thereafter, he remained active and in demand. He made immense contribution to the permanent High Court Lok Adalat for many years.

I joined the Bar in early 1991. I had ample opportunity of appearing before him both in the High Court as also the Punjab Consumer Commission. Long years back, Socrates had given a four way test for the judges. Hear courteously. Consider soberly. Answer wisely. Decide impartially. He was a true mirror of this four way test. The environment in his court was so comfortable. The lawyers could give their very best to assist the court. No tension. He never ever lost temper. He was cool. He was skilful. He could extract the maximum from the lawyers. His court-room was an academy of judicial education for the young lawyers. Also those who were aspirants to join the judicial service. What was most admirable about him was : as fresh in the evening as he would be in the morning. Throughout the day in court. It was a joy and delight to argue in his court. I recall an incident in the year 1992.

Late Mr. Jagan Nath Kaushal was to argue a matter in Justice Bahri's court. I was also engaged in the same matter. The case was taken up immediately after lunch. Mr. Kaushal had yet not reached the court. I was asked to start the case. I started. Soon Mr. Kaushal came in. Justice Bahri told me to continue. I would bother Mr. Kaushal if I need to. I argued the matter.

Judges with positive mind live long. Make huge contribution. Justice Bahri was a good human being. He was humble. He was an epitome of humility wrapped in humanity. He was humane and compassionate. He was a very warm hearted person. Whenever one would meet him, he would wrap you with warmth. I remember, it was in January, 2013. I happened to meet him in the High Court. My appointment as the Director, National Judicial Academy, India had yet not been announced. He had come to know. He smiled. He hugged me. Balram, you make us proud. I was so touched. This was Justice Bahri.

Later years, I would occasionally visit him at home. He had started painting. I have a kettle painted by him. He always used to be happy. He would make others happy. One would always enjoy his company. A meeting with him would always be meaningful and useful. He was an embodiment of good nature.

A unique judge. A unique human being. We would miss him. Fondly and dearly. May his tribe multiply.

May his soul rest in peace.

Dr. Balram K Gupta
Senior Advocate
Emeritus Professor

Late Justice Jawahar Lal Gupta

The Court Room Genius

It is said about Nani Palkhivala that he was a court room genius. He was. As a lawyer, his eloquence and his skills were matchless. Justice J.L.Gupta was both a lawyer and a judge. He was a master of both sides. He started as a lawyer (1963-90). He was designated as Senior Advocate in 1982. Elevated as a judge on March 15, 1991. Elevated as Chief Justice of Kerala High Court on November 1, 2002. On superannuation (January 21, 2004), he changed his role again to a lawyer. He spent 50 long years in different court rooms in High Courts and the Supreme Court. It was a joy to see him performing. Both roles. With equal ease and comfort. The like of him are rare.

January 22, 2023 is the 81st birth anniversary of Jawahar Lal Gupta (J.L.Gupta). He was born on January 22, 1942. He was no more on January 3, 2016. I spent 71 years and plus out of almost my 79 years with him. The difference in age was only two years and few months. I have seen him grow. May I say, I grew under his umbrella. There was togetherness. Throughout.

Our father, late Sri M.R.Gupta wrote a piece for my brother JL. He was 10 years old. He went to Delhi. He spoke on the all India Radio. That was his introduction into the art of public speaking. In school, he learnt the basics of this art. In college, he polished this art. The polishing was equally artful. I remember, there used to be Famous Orations Contest in college. He won it for three years consecutive. One had to orate the oration in the same style and manner. As the great orator orated many decades back. There were no YouTube recordings. This is how he developed his oratorical skills. In university, he earned a name and fame for himself in public speaking. In the city beautiful and across the country. He graduated in law in 1962. He had to wait for year to get the Bar licence. The day, he completed his 21 years, he joined the Bar.

There was no one in the family in the legal profession. He was a first generation lawyer. He started in Punjab High Court. His strengths were – self confidence, analytical mind, to think on his feet to respond and his articulation. He had cultivated and nurtured all this during his student years. He did not have to wait for years to be a successful lawyer. In spite of a humble beginning. By the time, he completed his 8 to 9 years of his legal journey, he constructed and shifted into his own house. It continues to be his family house.

The 60s, 70s and 80s belonged to him. The Punjab & Haryana High Court has the singular distinction of developing the service law jurisprudence within the Constitution of India. There were three 'service chiefs'. J.L.Gupta, Kuldip Singh and M.R.Agnihotri. This trio shaped the service jurisprudence. After retirement, while arguing before the top court, the bench would often say, Mr. Gupta, you know service law more than we do. You dictate the order. What you think to be right. Gracefully, he would just make his submission. The court would invariably accept the same.

JL was known for his phenomenal memory. One day, a particular case was fixed. The clerk had forgotten to carry the brief to the court. The case was called around 12 noon. The instructing counsel whispered in his ear, the brief had been left at home. He started arguing without the brief. No body knew,

what had happened! He argued till lunch. Referring to different annexures, paras and pages of the paper book. He did not faulter. After lunch, he argued the matter with the brief. With the same ease.

He fought many legal battles. In most complex cases. The young and not the so young lawyers would love to watch him arguing. His great sense of humour. His presence of mind. His persuasive skills. His mastery of facts. His understanding of the mind of the judge. His tailoring of his arguments accordingly. These were his virtues. He was humble. Yet he was firm. Always. The first division bench was not agreeing with him. He was equally persistent. The Chief Justice, P.C.Jain said, Mr. Gupta, we have suffered you for more than one hour. JL smiled. He said, my lord, suffering has been mutual. The Chief smiled back. Issued notice. Further proceedings stayed. This was JL, the lawyer.

JL while being a lawyer was part of the visiting faculty of Panjab University. He taught for many years. His students became part of his chamber. His chamber produced Justice J.S.Khehar, Chief Justice of India, Justices T.S.Dhindsa, Jaswant Singh and Nirmaljit Kaur. Senior Advocates, Rajiv Atma Ram and Pawan Mutneja. Many other lawyers practicing in Chandigarh and Delhi.

JL had 38 years of lawyer journey including the post retirement years. Which was his best brief? He himself shared the same in his piece which appeared in the Indian Express of March 17, 2001. The former CJI and the former acting President of India, Justice Mohammad Hidayatullah was the Vice President of India in 1979. He was also the than Chancellor of Panjab University. JL as the standing counsel for the Panjab University was asked to appear for him in a court of law. To defend an order that he had passed. JL got the appointment to meet with him in order to discuss the matter. The discussion about the case took few minutes only. Thereafter, they talked about – law, lawyers, literature, men and matters. I would like to share the rest in JLs own words:

He knew William Shakespeare and Salmond like the palm of his hand. I had sat like a student listening to distinguished professor.

The meeting should have been over at 4:30p.m. It was already 5:30. JL enjoyed meeting the most dignified Indian. This meeting resulted in making his best brief. He wrote about it more than two decades later. In fact, when we was a sitting high court judge.

Justice J.L.Gupta was a judge and chief justice for almost 13 years. What a meaningful, wholesome and hugely contributory innings. He would have read each paper book at home. He knew more than the lawyer would know. He would ask the lawyer, what do you have to say about para 10 on page 7. If he thought that there was nothing in the petition, he would smile and show his thumb indicating the same. Yet, he would be too willing to hear the lawyer. Even if the lawyer was not present, he would not dismiss it in default or for non prosecution. He never liked to adjourn the matter. He would decide the matter on

merits. Even if it was dismissed, the lawyer would never have the feeling that justice had not been done to his client. He would always complete the roster of the day. Even if, he had to sit beyond the court hours. Many a time, he would dictate lengthy court orders and judgments in open court. He would not keep his judgments pending. Our father expired in the early hours of Saturday morning. The case that had been heard on Friday and the judgment reserved. It was pronounced on Monday morning. Four of his stenographers and judgment writers used to be working round the clock. He was Chief Justice for one year and two months. He finished 250 full bench matters pending in the Kerala High Court. The lawyers were

duly heard. The judgments were fairly written. On his retirement, the Ld. Advocate General said, if the other judges could work one tenth of what Chief Justice Gupta worked, there would be no arrears in the Kerala High Court. I was the Director, National Judicial Academy in 2013 and 2014. We had regional conference in Cochin in 2014. Justice K.T.Thomas, a former Chief Justice of Kerala High Court and former judge of the Supreme Court said, Dr. Gupta, your brother was the best Chief Justice of Kerala High Court. He added that the two brothers speak the same way. Write the same way. It was so comforting to hear this. I had just taken over as Director, NJA. It was Sunday. I was in office. The secretary of Justice J.Chalmeshwar of the Supreme Court rang up. He enquired why those papers had been sent to his lordship? He informed me that his lordship was angry. I told him, I would like to talk to my lord. Please put me through. He was reluctant. I was equally insistent. I talked to his lordship. I told him, I am sorry if my lord had been put to inconvenience. I had just said this. His response was, Dr.Gupta, you would never say sorry. You are the younger brother of my best friend in the Indian judiciary. There were tears in my eyes. Of joy. I belong to this family.

Justice J.L.Gupta delivered many landmark judgments. The law reporters would bare testimony. The judgments reflected his scholarship in law. Also his deep love for English literature and history. They were weaved in simple English. Yet the knitting of words and thoughts was a beauty. Producing quotable quotes. Justice T.S.Thakur, CJI in his full court reference in the supreme court on Justice Gupta's death said:

He conducted his court and wrote his judgments with the flourish of music conductor's baton directing the symphony of an orchestra.

In the case of Simranjit Singh Mann vs Union of India (2002), Justice Gupta upheld the constitutional validity of the Prevention of Terrorism Act, 2002. His reasoning was:

We live in a world of national and international hard core criminals and secessionists who have "crucified Christ, assassinated Abraham Lincoln, killed Kennedy and murdered Mahatma Gandhi..... The cult of bullet hovers over the globe but the Indian human has a constant companion – the court armed with a constitution.

In the matter of Haryana Financial Corporation vs Bags & Cartons (1997), Justice Gupta captured the scenario of public financial institutions stressed by rich wilful defaulters when he stated:

The familiar pattern is, take loan and go sick. Many find it against their principle to pay interest and against their interest to pay the principal.

Such was the joyful reasoning of Justice Gupta in different matters concerning the society and the citizenry.

Mr. Gupta was diagnosed in July, 2012 with a malignant brain tumour. The doctor gave him three months. He refused to be wheeled in the operation theatre. He walked into it. Mr. Gupta told the surgeon, you are competent. I am confident. We will make history. Mr. Gupta was encouraging the surgeon to go ahead. With a smile, Mr. Gupta added, doctor, if you cannot mend me, please end me. He never wanted to live a crippled life. He was operated. He underwent radiation. He continued chemo cycles for three long years. He fought well. He wrote "desire to live is the way to destroy the disease". He captured his three years and plus journey in a book that he wrote: The Ringside View (True Story of a Fight Against Cancer). He believed that he must share for the benefit of others his story. He lectured at Fortis Hospital, Mohali and Rotary Club Chandigarh Midtown. We thought, he had conquered the deadly disease. His two books were scheduled to be released on January 2, 2016. They were actually released on December 13, 2015. He got a patch of pneumonia. The doctors could not manage the same. He was no more on January 3, 2016.

A life so well lived. A life so well fought. Rich in every respect. It deserves to be celebrated.

Dr. Balram K Gupta
Senior Advocate
Emeritus Professor

Stoicism and its Relevance for Lawyers

Stoicism is a philosophical school of thought that originated in ancient Greece and later flourished in Rome. It teaches the development of virtue as a means to achieve a tranquil and contented life. Stoicism emphasizes rationality, self-control, and the acceptance of things beyond one's control.
Key Principles of Stoicism:

1. Focus on What You Can Control: Stoicism encourages individuals to focus on aspects within their control, such as their thoughts, actions, and responses, rather than dwelling on external factors beyond their influence.

2. Acceptance of the Uncontrollable: Central to Stoicism is the idea of accepting the inevitability of certain events and outcomes. This acceptance is not passive but stems from the understanding that one can only control their reactions, not external circumstances.

3. Mindfulness and Present Moment: Practitioners of Stoicism strive to live in the present moment, recognizing that dwelling on the past or worrying excessively about the future detracts from a meaningful and purposeful life.

4. Virtue as the Highest Good: Stoicism places great importance on cultivating virtues such as wisdom, courage, justice, and temperance. Living in accordance with these virtues is seen as the path to true fulfillment.

Benefits for Lawyers:

1. Emotional Resilience: Lawyers often face high-stress situations, and legal proceedings can be emotionally charged. Stoicism equips individuals with tools to manage emotions, fostering resilience in the face of challenges.

2. Objectivity in Decision-Making: By emphasizing rationality and detachment from emotional impulses, Stoicism helps lawyers make more objective decisions, especially in the heat of legal battles.

3. Adaptability to Change: The legal landscape is dynamic, and unexpected challenges can arise. Stoicism encourages adaptability by promoting a mindset that is open to change and capable of navigating uncertainties.

4. Enhanced Professional Relationships: Stoic principles, including empathy and justice, can contribute to improved communication and understanding in legal practice. Lawyers can approach conflicts with a balanced and fair perspective.

5. Prevention of Burnout: The stoic emphasis on maintaining inner tranquility can aid in preventing burnout. Lawyers who integrate Stoic principles into their lives may find better balance and well-being.

In summary, Stoicism offers lawyers a philosophical framework that enhances emotional resilience, promotes rational decision-making, and contributes to a more balanced and fulfilling professional life. By adopting Stoic principles, lawyers can navigate the complexities of their profession with greater equanimity and purpose.

NEED TO EMPOWER

JUNIOR LAWYERS/ FIRST-GENERATION LAWYERS

Ranvir Singh Dhaka
Vice-Chairman, Bar Council

To begin with, Bar leaders need to respond to junior lawyers in providing them with ample seating space, chamber facilities to deal with clients. Another important facet is ensuring fair division of bulk allocated work, better fee remunerations and requesting the Bench for pushing for junior lawyer appearances. **Empowering junior lawyers and first-gen's is crucial in the legal profession for several other reasons: -**

Professional Development: Empowering junior lawyers provides them with opportunities to learn, grow, and develop their skills. It fosters a culture of continuous learning and ensures that junior lawyers receive the guidance and support needed to excel in their roles.

Morale and Motivation: Feeling empowered boosts the morale and motivation of junior lawyers. When they are given responsibilities, recognition, and a sense of autonomy, it contributes to job satisfaction and a positive work environment.

Retention and Loyalty: Empowering junior lawyers can enhance their commitment to the firm, office or organization. When individuals feel valued and see a clear path for career progression, they are more likely to stay with the firm, reducing turnover and retaining institutional knowledge.

Innovation and Fresh Perspectives: Junior lawyers often bring fresh perspectives and innovative ideas. Empowering them to contribute to decision-making processes and encouraging open communication can lead to creative problem-solving and a dynamic work environment.

Succession Planning: Investing in the development of junior lawyers is essential for succession planning. As they progress in their careers, empowered junior lawyers can take on more significant roles and responsibilities, contributing to the long-term success of the firm or office.

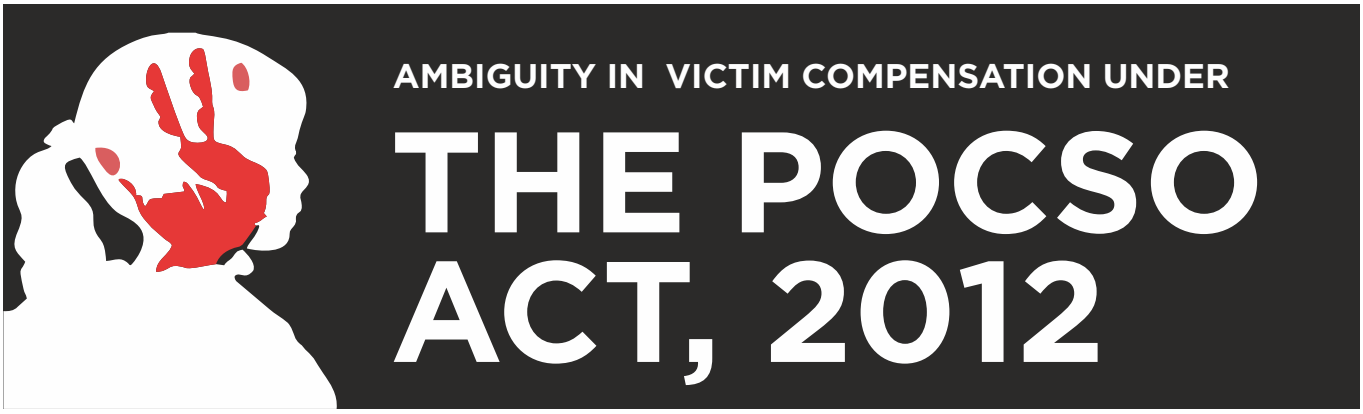
Diversity and Inclusion: Empowering junior lawyers plays a role in fostering diversity and inclusion. Ensuring that all individuals, regardless of their level, have equal opportunities and access to resources promotes a diverse and inclusive legal profession.

Client Service Excellence: Junior lawyers often have direct interactions with clients. Empowering them with the skills, knowledge, and confidence to handle client matters independently contributes to delivering excellent client service.

Adaptability and Agility: The legal landscape is dynamic, and empowering junior lawyers with the ability to adapt to changes and navigate evolving challenges strengthens the overall resilience and agility of the legal team.

Ethical and Professional Conduct: Providing guidance and mentorship empowers junior lawyers to navigate ethical dilemmas and uphold professional standards. It contributes to the development of a strong ethical foundation within the legal profession.

In summary, empowering junior lawyers is not only beneficial for their personal and professional growth but also essential for the overall success and sustainability of legal practices. It creates a positive work culture, enhances productivity, and positions the legal team for long-term success in a rapidly changing legal environment.



By- Dr. Pankaj Nanera
LL.M & PhD
Advocate,
Supreme Court of India
Punjab and Haryana High Court
Former Additional District and Sessions Judge,
Former Director, Centre for Research and Planning,
Supreme Court of India

1. Background:

Article 15 of the Indian Constitution empowers the State to make special provisions for children. India acceding the Convention on Rights of the Child (CRC) on 11 December 1992, began discussions to adopt a domestic law to protect, compensate, and rehabilitate the victims/survivors of sexual offences. On 19 June 2012, the Protection of Children from Sexual Offences Act (POCSO) was introduced to ensure healthy physical, emotional, intellectual, and social development of children. It is a gender-neutral statute for the protection of child rights, especially the right against sexual exploitation.

Victim compensation is one of the modern forms of justice which is actively advocated by the Indian Judiciary and duly incorporated by the legislature. With its basis lying in the tenets of the Indian Constitution, the concept has been constantly evolving by virtue of new legislations and policies.

Section 357 confers the Courts with the power to order for Compensation in such cases where, there has been a loss or injury caused to the victim or when the costs incurred by the victim is to be recovered. The provision duly empowers the Trial Court, High Court and the Apex Court to make orders to that effect on the conviction of the accused.

For more effective and extensive use of the provision, an additional provision of Section 357 A has been added, on the basis of series of recommendations by the Law Commission and by virtue of the 154th amendment to the Code[1]. The provision enables the Courts to recommend to the District Legal Service Authority (DLSA) or State Legal Service Authority (SLSA) for the award of compensation to the victims in such cases wherein the compensation granted to them under Section 357 is opined to be inadequate.

The provision is of immense practical significance since it operates even when the accused has not been convicted. S.357 (A) (1) mandates that each state shall prepare a Victim Compensation Scheme (VCS) in coordination with the Central Government and S.357 (A) (2) confers a duty on the SLSA or DSLA to decide the quantum and provide compensation to the victims from the Victim Compensation Fund, **on the basis of recommendation of the Court**. Compensation can also be awarded on an application made by the victim to the DSLA under S.357 (A) (4). While S.357 requires the accused to compensate the victims, S.357 (A) imposes a duty on the State for complete rehabilitation of the victim.

2. Various issues regarding grant of Compensation under POCSO Act

The Protection of Children from Sexual Offences Act, 2012 (POCSO Act), is a comprehensive legislation which penalizes the sexual exploitation and sexual abuse of children. The Act aims at ensuring immediate and speedy relief to the child victims by establishing Special Courts. The provisions of the Act dealing with Victim Compensation are largely based on the principles embodied in Section 357 and Section 357 (A) of Cr.P.C. The Act read with the 2020 Rules adequately empowers the Special Courts to decide the question of compensation. Similar to the scheme embodied in S. 357 A, the said award of compensation is to made from the

Victim Compensation fund set up by the State.

Section 33(8) of Act, confers the power on the Special Courts with the power to direct the award of compensation to the child victims. The court can utilize the same to redress the physical, social, psychological or mental trauma suffered by the child, or to necessitate his/her immediate rehabilitation[2].

While Rule 9 (1) enables the court to grant interim compensation for immediate relief, Rule 9 (2) enables the court to recommend the award of final compensation which could be awarded either on its own or on the application made on the behalf of the victim.

Further, Rule 9(3) specifies various criteria to be considered by the Court while deciding the quantum of the compensation. Rule 9 (4) stipulates that the said compensation is to be paid from the Victim Compensation Fund constituted under Section 357 (A) of CrPC and in the absence of the same, by the State Government[3].

2.1. The extent of the authority of the Special Courts either to recommend the case of the victim to Legal Service Authority for compensation or to award compensation itself.

There are conflicting views regarding grant of final compensation to the child victim.

2.1.1. According to one view the Special Court is duty bound to award compensation and it is not open for the Special Court to delegate the said power to the Legal Service Authority

This view has been explained in the judgment by Delhi High Court, in the case of Mother Minor Victim No. 1 & 2 Versus State &Ors, vide judgment dt. 15.06.2020 in W.P.(CRL.) 3244/2019 and held that:

"21. It is well settled that every statutory power is also coupled with the duty to exercise it. In view of the express provisions of Section 33(8) of the POCSO Act and Rule 7 of the said Rules (Rule 9 of the Protection of Children from Sexual Offences Rules, 2020 as is currently in force), the duty to award compensation in appropriate cases has been conferred on the Special Court and therefore, it is incumbent on the Special Court to pass necessary orders for compensation/interim compensation in appropriate cases. ***It is not open for the Special Court to delegate the said power and direct the concerned Legal Services Authority to examine any claim for compensation payable to a minor victim of an offence punishable under the POCSO Act. In this view, this Court finds considerable merit in the contention that the learned ASJ could not have directed the petitioner's application for further compensation to be considered by DLSA***. It was incumbent upon the learned ASJ to examine the petitioner's application for additional compensation to the victims and pass necessary orders, if the Trial Court found the application to be merited."

2.1.2. The second view in this regard is that Special Court can only has the power to recommend to the Legal Service Authority to decide and award compensation and the Special Court has no power to decide the quantum of compensation itself. This view has been explained by the High Court of Karnataka in the case of Karnataka State Legal Services Authority vs State of Karnataka , and held that:

" However, The trial court/ Special Court has the power to recommend the DLSA/ SLSA to decide and award the compensation in accordance with the POCSO Rules or the Victim Compensation Scheme 2011, but should not decide the quantum of compensation which is against the provisions of Section 357-A(2) and (5) of Cr.P.C."

2.1.3. The third view is that the Special Court either may recommend the case of victim to Legal Service Authority for award of compensation without specifying the quantum of compensation or may direct Legal Service Authority to pay compensation as quantified by it. This view has been discussed recently by The Delhi High Court in the case of X v. State and held that:

Sections 357A(2) and (3) Cr.P.C., Clause 9(1)(Part-II) of the DVC Scheme 2018 and Rule 9(2) of the 2020 Rules speak of the court making „recommendation for award of compensation to the concerned legal service authority; but Rule 9(1) and (3) of the 2020 Rules say that the court may make an „order and „direction for award of interim compensation and compensation respectively. In relation to payment of interim compensation, under Rule 9(1) the court is empowered to make "an order for interim compensation".

2021 SCC Online Del 2061.

2.1.4. Authors Opinion –

To meaningfully construe these words, in the opinion of this court, a court seized of a plea for compensation under the POCSO Act, may in its discretion, do one of three things : (i) if the application is for interim compensation, the court may order payment of interim compensation to a

victim; (ii) if the application is for compensation, the court may either recommend the award of compensation without specifying the quantum of compensation to be paid, leaving it to the concerned legal service authority to quantify it in accordance with the applicable schedule of the DVC Scheme 2018;

or

(iii) if the application is for compensation, the court may direct the concerned legal service authority to pay the compensation as quantified by it. Even a recommendation made by a court would be binding on the legal service authority and compensation would decidedly be payable, except the quantum payable would be left to computed by the authority. A direction to pay a quantified amount as compensation, would obviously be binding with no discretion left with the legal service authority."

2.1.4. Authors Opinion –

The author is of the opinion that the view taken by the Delhi High Court in a case of X vs. State (Supra) appears to be more purposive as the same serves the very purpose and object of POCSO Act notwithstanding the technicalities. It clearly speaks that the Special Court either may recommend the case of victim to Legal Service Authority for award of compensation without specifying the quantum of compensation to be paid by leaving it to the concerned Legal Service Authority to quantify the same or the Court may direct the Legal Service Authority to pay the compensation as quantified by it.

The object of the POCSO Act is to deal with the issues related to child victims in expeditious and more effective manner rather to create technical impediments either for the Special Court or for District/ State Legal Service Authorities in granting compensation to the child victims. Once the District/ State Legal Service Authority is empowered to decide the quantum of compensation on the basis of recommendation made by the Court for compensation, there is no logic to interpret either POCSO Act or POCSO Rules in a manner so as to deprive the District/ State Legal Service Authority in deciding the quantum of compensation.

<u>Need for a Comprehensive Victim Compensation Scheme for Child Victims under POCSO</u>

An overview of the scheme embodied in the POCSO Rules and the overview of Section 357-A Cr.P.C. make it clear that the process of grant of compensation under POCSO Rules is in consonance and in addition to the provisions of Section 357-A Cr.P.C. The Act is not sufficiently equipped with its own means to implement the award of compensation. Powers of the Special Court regarding recommendation or grant of compensation is defined in the POCSO Act and Rules to a certain extent, however, the procedure and criteria has not been completely elucidated.. Hence, there is no guiding framework to clarify various important issues like the powers of the DLSA, the scale of compensation, the eligibility criteria etc.

In the year 2017, the Hon'ble Supreme Court took cognizance of discrepancies in the Victim Compensation Schemes of different States and UTs in **Nipun Saxena vs. Union of India**. Vide its order dated **12th October 2017**, the Supreme Court of India had directed NALSA to set up a Committee for preparation of Model ―Victim Compensation Scheme for Survivors of Sexual Offences and Acid Attack‖. The Committee formed by NALSA has come with a Draft chapter titled, **"Compensation Scheme for Women Victims/ Survivors of Sexual Assault/ Other Crimes"**, which was to be added into Home Ministry's Central Victim Compensation Fund Scheme and was to be adopted by the State Victim Compensation Schemes. However, the Chapter of the draft Scheme by way of Para No. 18 (explanation) excludes _victim compensation under the POCSO Act' and states:

―It is clarified that this Chapter does not apply to minor victims under POCSO Act, 2012 in so far as their compensation issues are to be dealt with only by the Ld. Special Courts under Section 33(8) of POCSO Act, 2012 and Rules (7) of the POCSO Rules, 2012."

Also few state victim compensation schemes have also categorically excluded the application of the scheme to ―Victims under POCSO Act.

The POCSO Rules, 2020 do not specifically prescribe any amount/scale of compensation for the offences committed under the Act. The amount of compensation granted to the victims of sexual assault as per the provisions of Compensation Scheme for Woman Victims, 2018 is quite greater than what have been ordered under the POSCO Act by the Special Courts in some of the cases. For instance, for the victims of Rape, **minimum amount of Rs. 4 lakh** and a maximum amount of Rs. 7 lakh is provided for the Victims.8 But no minimum limit of amount has been prescribed to be paid to the victims under POCSO Act. However, the purpose of the POCSO Act is to deal with the issue of child victims in more sensitive and expeditious manner. Regarding method of compensation, it has been laid down that, the amount of compensation so awarded shall be disbursed by the SLSA by depositing the same in a Bank in the joint or single name of the victim/dependent(s). Subject to the provisions of **sub-section (3) of Section 357A of the Code**, the State Legal Services Authority, in proper cases, may institute proceedings before the competent court of law for recovery of the

compensation granted to the victim or her dependent(s) from person(s) responsible for causing loss or injury as a result of the crime committed by him/her

Subsequently, the Hon'ble Supreme Court of India, by virtue of its Order dated 5th September 2018, addressed the lack of framework for victim compensation in the POCSO regime, by holding that —the NALSA's Compensation Scheme should function as a guideline to the Special Courts for the award of compensation to victims of child sexual abuse under Rule 7 until the Rules are finalized by the Central Government. The guidelines have come into operation on October 2, 2018. The POCSO Rules have been amended in the year 2020. It is pertinent to note that the amendment of 2020 made no developments to the earlier position as far as the aspect of Compensation is considered. Rule 9 of the 2020 Rules is a verbatim repetition of the Rule 7 of the 2012 Rules. The very fact implies the lack of the implementation of the much-anticipated developments in the framework determining the means and modalities of granting compensation to the victims under the POCSO Act. **Consequentially, the problems in the system have not been rectified and the ambiguities persist till date**.

(1) [357-A. Victim compensation scheme.—(1) Every State Government in co-ordination with the Central Government shall prepare a scheme for providing funds for the purpose of compensation to the victim or his dependents who have suffered loss or injury as a result of the crime and who require rehabilitation.

(2) Whenever a recommendation is made by the Court for compensation, the District Legal Service Authority or the State Legal Service Authority, as the case may be, shall decide the quantum of compensation to be awarded under the scheme referred to in sub-section (1).

(3) If the trial Court, at the conclusion of the trial, is satisfied, that the compensation awarded under Section 357 is not adequate for such rehabilitation, or where the cases end in acquittal or discharge and the victim has to be rehabilitated, it may make recommendation for compensation.

(4) Where the offender is not traced or identified, but the victim is identified, and where no trial takes place, the victim or his dependents may make an application to the State or the District Legal Services Authority for award of compensation.

(5) On receipt of such recommendations or on the application under sub-section (4), the State or the District Legal Service Authority shall, after due enquiry award adequate compensation by completing the enquiry within two months.

(6) The State or the District Legal Services Authority, as the case may be, to alleviate the suffering of the victim, may order for immediate first-aid facility or medical benefits to be made available free of cost on the certificate of the police officer not below the rank of the officer in charge of the police station or a Magistrate of the area concerned, or any other interim relief as the appropriate authority deems fit.]

3. Conclusion

In the opinion of the author, the policy should be in such a nature that takes into account that the child is a victim of a heinous crime. From the above analysis, it can be inferred that, though the POCSO Act aims at administering wholesome compensatory justice to the child victims of sexual offences, undoubtedly, there are many questions which are left unanswered. The victims and their families are undoubtedly facing difficulties in availing the benefits of compensation. Any future policy reforms should, therefore, be considerate of the above discussed challenges and examine the possibility of their redressal through appropriate means. The Ministry of Women and Child Development is yet to set up a specific compensation policy under POCSO Act. With the increase in the number of cases of child abuse, especially under POCSO Act, it would be an injustice to limit compensation possibilities for the victims of sexual offences, the timely payment of compensation , payment of interim compensation must be understood with the child who is the center of the whole proceeding is also a victim .


Azadi Ka Amrit Mahotsav
DEPARTMENT OF LEGAL AFFAIRS
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Transcript of the address of HMJ. Dr. D.Y. Chandrachud, Hon'ble Chief Justice of India

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Hon'ble Prime Minister Sh. Narender Modi Ji, Hon'ble Union Minister for Law and Justice Sh. Arjun Ram Meghwal Ji, Hon'ble Lord Chancellor and Secretary of State for Justice Mr. Alex Chalk, the Learned Attorney General Sh. R. Venkatramani, Learned Solicitor General Sh. Tushar Mehta, Chairman Bar Council of India Sh. Manan Kumar Mishra, Vice Chairperson Bar Council of India Sh. S. Prabhakaran my distinguished colleagues of the Supreme Court Chief Justice of the High Courts, Judges of the High Courts all the other distinguished guests this morning.

It is a privilege to address this August gathering. At the outset, I applaud the Bar Council of India, the Law Society of England and Wales, the Bar Council of England and Wales, and the Commonwealth Lawyers Association for collaborating and putting together a conference of immense promise and relevance. Each one of us, individually and collectively, have volumes, whether it is now terabytes or gigabytes or petabytes, to learn from different jurisdictions, perspectives and most importantly from each other. All we need is the humility to recognize this vast scope to learn and platforms for such an exchange. The aim of

the conference to promote what has been eloquently praised by the organizers as introspective discourse and constructive dialogue is indeed noble. Over the next two days, we will witness some of the best minds, including judges from across the globe, my own distinguished colleagues in the Supreme Court and in several high courts, global practitioners and legal scholars discuss the diverse challenges to justice delivery. As the inaugural speaker, however, I believe my task is different. Instead of addressing specific challenges to justice delivery, I seek to present an umbrella framework to address these challenges and find innovative solutions. It is utopian to think that there will be a day when we will find perfect solutions and no challenges to justice delivery.

However, it is definitely not utopian to aspire to a world where nations, institutions and most importantly individuals are open to engage with and learn from one another without feeling threatened or belittled. It is in this engagement that I believe lies the framework to find mutual solutions. Firstly, engagement between nations, constitutions and legal systems. What better example than our own beloved constitution? From the drafting of our constitution to the adjudication of constitutional questions, India has a rich tradition of engaging with foreign constitutions and precedents. It is often argued, and I tend to agree, that our openness to draw from foreign experiences is rooted in our perception of the constitution as a transformative document. When a constitution is perceived as transformative, it is more likely that foreign experiences will be drawn as inspiration of how such transformation is possible on several issues. In a number of my own judgments, and that applies to my colleagues in the Supreme Court, we survey the position of law adopted by international organizations and various national jurisdictions. I have found this to be a worthwhile exercise to not only contextualize answers to constitutional questions such as public interest immunity claims for non-disclosure but also commercial law questions like remuneration of arbitrators. India has a relatively infant law as legal discourse goes, the Insolvency and Bankruptcy Code of 2016 and we have drawn extensively from jurisdictions such as the UK, the US, Australia, Singapore, only to name a few jurisdictions. Knowledge sharing is of course a two-way street with decisions of the Indian Supreme Court being regularly cited and relied upon by foreign courts faced with thorny questions.

At the administrative level too, the Indian judiciary must remain receptive to collaborating with various nations. India has played a pivotal role by constructing the Supreme Court buildings in Mauritius and in Bhutan. Recently, I had the privilege of signing an MOU with the Chief Justice of the Supreme Court of Singapore in the field of judicial cooperation. Chief Justice is coming from diverse jurisdictions such as Kenya, the first woman Chief Justice, the Chief Justice of Mauritius, Chief Justice Sundaresh Menon of the Singapore Supreme Court have all collaborated with India and have visited us in the recent past. Indeed, nothing explains this push towards engagement across nations better than the slogan for the recently concluded G20 Summit, Vasudev Ka Kutumbakam – the world is but one family. Let me dwell briefly on institutions the next layer of my framework is engagement with institutions within the country. While the Constitution provides for separation of powers between the legislature, the executive and the judiciary, it also creates a space for institutions to learn from each other and deliver justice. In our tendency to emphasize differences, we often forget the abundant examples of collaboration between institutions to further the interest of justice. This holds true not only in lofty constitutional challenges, but more frequently in the everyday interactions between the courts and government. Back in the 1980s, in the case of Azad Rickshaw Pullers Union v. State of Punjab, the vires of a legislation that mandated rickshaw pullers to be owners of the rickshaws they plied was under challenge before the Supreme Court. Instead of an

adversarial approach, the Supreme Court and the government worked together to craft a solution. In his classic flair, a distinguished judge of our court wrote, the state, by exercising its legislative power alone, could not produce justice until this formula was hammered out. The court, with its process of justice alone, could not produce a viable project. But now justice and power have come together, and hopefully we have fulfilled the words of Blaise Pascal, Justice without power is inefficient. Power without justice may be tyranny. Justice and power must therefore be brought together so that whatever is just may be powerful and whatever is powerful may be just. I am sure that the Learned Solicitor General and the Learned Attorney General present in the audience today will agree that this spirit of collaboration between the court and the government exists even today. I will give just one example.

A Constitution Bench of the Supreme Court is presently hearing a challenge pertaining to whether a person holding a driving license to drive a light motor vehicle can drive a commercial vehicle under the Motor Vehicles Act. Instead of viewing the case as an adversarial challenge, the court and the government are collaborating to protect the livelihood of millions of drivers across the country. We may present disparate institutions and our constitutional structure may place us at different ends of the table, but our ultimate aim is the same – for the nation to progress and prosper. Institutional collaboration is a precursor to solution finding not only while adjudicating judicial questions, but it also plays a significant role in increasing access to justice. The Supreme Court's E-Committee is not working in isolation, but with constant cooperation with other forms of governmental institutions. Just last week, a meeting of the Union Cabinet, chaired by the Hon'ble Prime Minister, approved phase 3 of the e-courts project with a financial outlay of over Rs. 7000 Crore of rupees. Immediately after this function gets over, I am meeting through to lunch with the entire team of the Department of Justice to now implement the project. The e-courts program being implemented collectively by the E-Committee, Supreme Court of India and the Union Ministry of Law and Justice is a perfect example of institutions collaborating to make justice more accessible, affordable and transparent. The third aspect or the third layer is what we can do as individuals. The third and final layer of my framework is setting aside our differences and engaging as individuals in the service of the nation. When I think of this idea, it reminds me of the heart-warming friendship between one of my idols, Justice Ruth Bader Ginsburg of the U.S. Supreme Court, and her contemporary justice, Justice Antonin Scalia. Many of you would recall the iconic image of these Doyons seated on top of an elephant during their visit to Rajasthan in 1994. Despite their divergent judicial philosophies, they shared an enduring bond rooted in their love for opera, mutual respect for each other's intellect and a commitment to justice. Just like Justice Ginsburg and Justice Scalia, there is often a variety of viewpoint and perspective between my colleagues and on the bench and me. But that is why we are a national court. However, when the day comes to a close, we come together and share moments of camaraderie. This idea of friendship beyond differences may seem light-hearted. However, it plays a pivotal role in fostering mutual respect for each other's perspectives and in acknowledging that there is always something to learn from each other. Only when we recognize the shared intention to deliver justice can we sit on the same table and find solutions.

The drafting of the Constitution by the Constituent Assembly is also a classic example of engaging beyond partisan lines. Individuals from different regions of India, diverse backgrounds and even conflicting

ideologies came together to draft the constitution in one voice. In his last speech before the constituent assembly, Dr. B.R. Ambedkar articulately said, the task of the drafting committee would have been a very difficult one if this constituent assembly had been merely a motley crowd, a tessellated pavement without cement, a black stone here and a white stone there, is which each member or each group was a law unto himself. We find the same bipartisan effort, and this is something to which we as citizens of India must be proud, has gone into the passing of the Women's Reservation Bill recently in Parliament. The making of our Constitution is indeed a perfect encapsulation of the framework that I have proposed today.

Before I conclude, in the spirit of this being an international lawyers' conference, I would like to highlight that while the judiciary definitely bears the responsibility to administer justice and uphold the rule of law, my friends at the bar, you play an equally vital role in an era characterized by ever-increasing globalization. The role of lawyers has evolved to address myriad global legal challenges. The rapid advancement of technology has created complex legal issues, with lawyers leading the way in navigating this landscape. They ensure clients and governments adapt to take changes while upholding legal rights and regulations covering areas like cyber security, data privacy and intellectual property. Lawyers also bear significant commercial responsibility, driving economic growth by helping clients and governments enhance business efficiency and cross-border operations. Through their role in facilitating international trade, investments and collaborations, they contribute to our nation's economic well-being and global cooperation. Just as Indian industry has radically altered its footprints from 1980 or earlier, by now reaching out across the world, I believe it's time for our lawyers to reach across the world in a global landscape.

The government is in the process of creating infrastructure. There is a global outreach by the government to the rest of the world. I believe that our legal profession must not be left behind. We cannot look upon ourselves as merely domestic practitioners. Our reach, our vision, our outlook must now become global. While none of us have a magic wand to wish away the challenges to justice delivery. I am certain that the sessions lined up over the next two days will inspire each of us to collaborate as nations, institutions and individuals to find innovative solutions. With that, I come to the end of my address. I thank you for your attention.

नमस्कार, Thank you.

TECHNICAL SESSIONS

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GLOBAL LAW FOR GLOBAL ISSUES: INTERNATIONAL LEGAL SOLUTIONS

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Judges of Supreme Court of India





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ALTERNATIVE DISPUTE RESOLUTION IN INTERNATIONAL TRANSACTIONS

Panelists & Speakers

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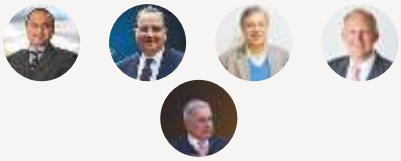
HMJ HIMA KOHLI
Judge, Supreme Court of India



Mr. Pramod Nair, Senior Advocate, Mr. Darius J. Khambata, Senior Advocate, Mr. Rakesh Khanna, Senior Advocate, Mr. Samuel Townend KC, Chair-elect, Bar Council of England and Wales & Mr. C.U. Singh ,Senior Advocate

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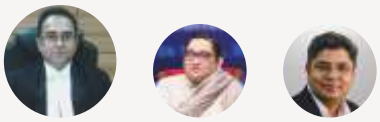
Judge, HC of Delhi



HMJ Suman Shyam, Judge Gauhati High Court,
Mr. Vikramjit Banerjee, Senior Advocate & ASGI &
Mr. Saikrishna Rajagopal, Senior Advocate

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THE CHANGING LANDSCAPE OF CRIMINAL LAW

Panelists & Speakers

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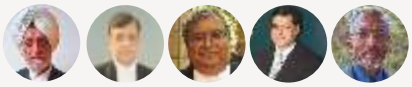

Mr. R.S. Cheema Fmr. Advocate General, Pb & Senior Advocate,
Mr. Ramakant Sharma, Senior Advocate & Chairman Bar Council of Bihar
Mr. Amit Desai, Senior Advocate Bombay High Court,
Mr. Siddharth Luthra, Senior Advocate Supreme Court of India &

EQUAL OPPORTUNITY IN BUILDING A SUSTAINABLE LEGAL PROFESSION: WAY FORWARD

Panelists & Speakers

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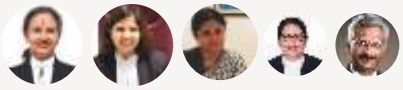

HMJ Dr. Anita Sumanth, Judge, Madras High Court,
HMJ Rekha Palli, Judge, High Court of Delhi,
HMJ Moushumi Bhattacharya, Judge, Calcutta High Court,
Ms. Manindra Acharya, Senior Advocate &
Mr. Ashutosh A. Kumbhakoni, Senior Advocate & Fmr. AG Maharashtra

EVOLVING ROLE OF LEGAL PROFESSIONALS/ INSTITUTIONS

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Fmr. Judge Supreme Court of India & Chairman, Legal Education Committee, BCI

Hon'ble Mr. Vivek Tankha, Senior Advocate Supreme Court & MP (Rajya Sabha),
Hon'ble Mr. Prashant Kumar Shahi, Sr. Adv & AG Bihar
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Panelists & Speakers

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Prof. (Dr.) Sudhir Krishnaswamy, VC, NLSIU Bangalore &
Prof. (Dr.) C. Raj Kumar, VC, OP Jindal Global
Mr. Kari Abdoul Bagui, President, Pan African Lawyers Union

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I DON'T NEED A Good Lawyer I RAISED ONE

by Surinder Dutt Sharma, Co-Chairman

In the courtroom's hallowed halls, justice finds its song,
Lawyers stand as guardians, where righting wrongs belong.

They weave the threads of truth with words both strong and wise,
In pursuit of justice, beneath the courtroom's skies.

With every argument, a tapestry unfolds,
A story of resilience, where justice slowly molds.

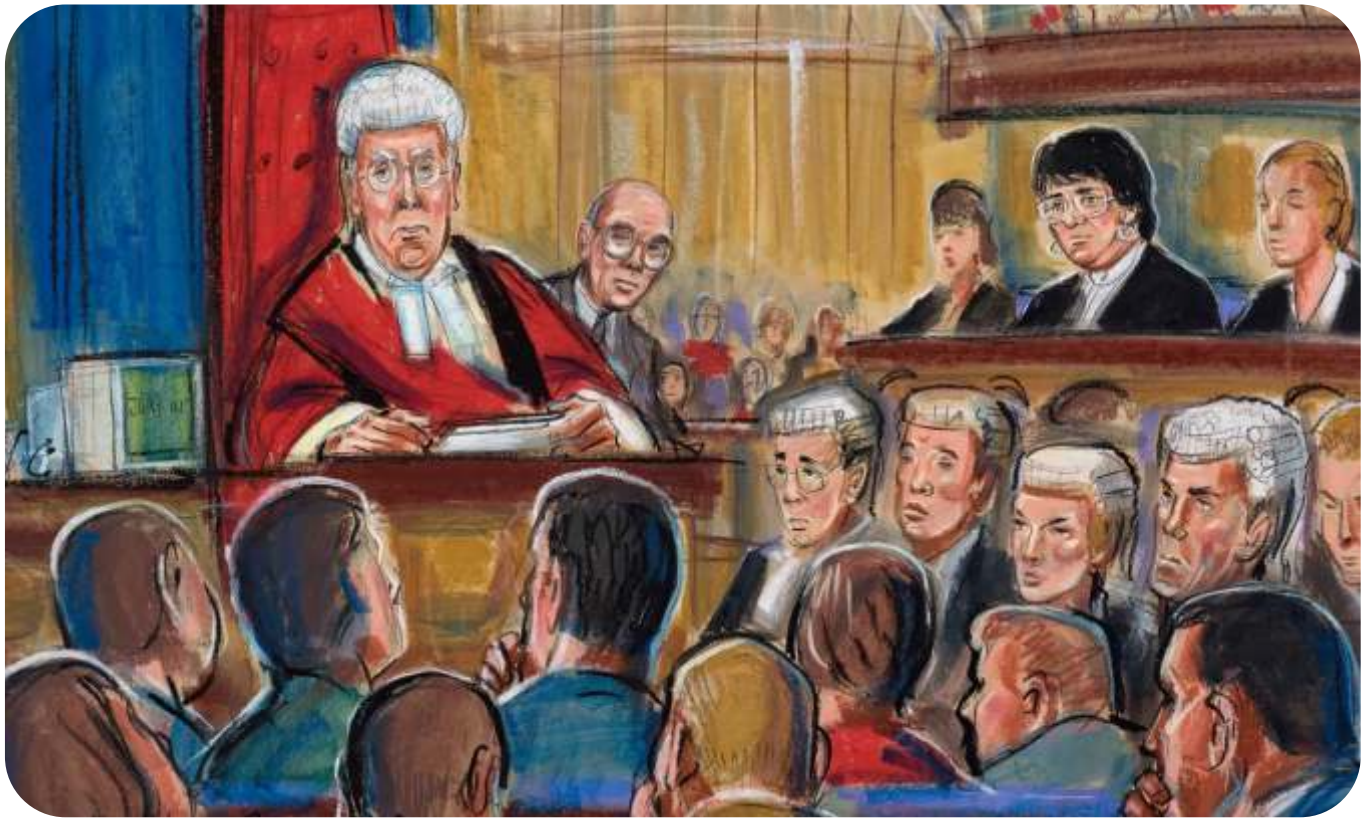
In the face of challenges, lawyers stand so tall,
Guided by principles, they answer justice's call.

Their voices resonate, echoing the fight,
For fairness and for truth, in the courtroom's sacred light.

In trials and debates, where truth may be concealed,
Lawyers wield their wisdom, like a mighty shield.

Through the twists and turns, in the legal dance they sway,
A symphony of justice, composed by lawyers each day.

So, in the courtroom's drama, where justice takes its stand,
Lawyers bring inspiration, holding truth in their hand.



What is Courtroom Art?

Courtroom art, a unique form of visual storytelling, has played a crucial role in capturing the essence of legal proceedings throughout history. From high-profile trials to everyday court scenes, artists have provided a glimpse into the drama, emotion, and gravity of the courtroom through their skillful renderings.

Recently, in her interview with a Senior Editor at Hyperallergic New York, famed courtroom artist Jane Rosenberg reflected on her career of over 40 years, covering high-profile court trials of figures such as Harvey Weinstein, Steve Bannon and Jeffrey

Karamjeet Singh
Co-Chairman

Epstein. Fmr. President Donald Trump's impeachment trial was one of the most reported events in recent history - where only images from the trial were sketches by artists Art Lien and Bill Hennessy, who also sketched the impeachment trial of Bill Clinton in 1999. In early 2021, Apple won the lawsuit filed by Epic Games, and artist Vicki Behringer was assigned to document the trial. For the longest time, news agencies in countries like the US and UK have assigned professional artists to create sketches of court trials, where cameras are banned. Sensational media coverage of trials in the 1930s resulted in the US banning courtroom photography in 1946. Albeit, filming is still banned inside federal courtrooms. Similarly, the United Kingdom lifted its century-long ban on

filming in Crown Courts in 2020.

Courtroom sketching or art is generally not expressly barred in Indian courts. However, there may be specific rules and guidelines that artists may need to adhere to. Photography and recording devices are expressly prohibited inside courtrooms in India, and alternatively courtroom artists may provide a visual representation of proceedings through their sketches. We have yet to come across any specific courtroom art of recorded trials in Indian history - it may or may not happen in the near future, but it surely would add to demystification.

Origins of Courtroom Art:

The roots of courtroom art can be traced back to a time when photography was not allowed in courtrooms due to concerns about disruption and the potential impact on trial participants. In the absence of cameras, artists stepped in to document legal proceedings with their pencils and sketchpads.

Early Forms and Limitations:

During the early 20th century, courtroom sketches began appearing in newspapers, allowing the public to visually connect with trials. However, artists faced challenges such as limited access, strict deadlines, and the need to capture key moments quickly. These constraints often resulted in stylized, dramatic depictions that conveyed the intensity of the courtroom.

Landmark Cases and Famous Artists:

As major trials captured public attention, courtroom art gained prominence. Cases like the Scopes Monkey Trial in 1925 and the trial of the Chicago Seven in the late 1960s saw artists like Howard Brodie and Aggie Kenny creating iconic sketches that became symbols of their respective trials.

The Television Era:

With the advent of television, the demand for courtroom sketches continued, even as cameras were gradually allowed into courtrooms. Artists adapted to the changing landscape by providing visuals for TV news coverage,

offering viewers a visual supplement to the limitations of televised trials.

Challenges and Evolution:

While courtroom art thrived during the era of televised trials, it faced challenges with the rise of digital media and real-time reporting. The immediacy of photographs and video made the slower process of sketching seem outdated. Yet, some artists persisted, valuing the unique perspective and storytelling power that sketches brought to legal proceedings.

Contemporary Courtroom Art:

In the 21st century, courtroom art has found a new niche in high-profile cases where cameras are not allowed. Notable artists like Bill Robles and Jane Rosenberg have continued the tradition of providing visual narratives for trials, adapting their techniques to the demands of modern media.

Conclusion:

Courtroom art stands as a testament to the intersection of law and art, providing a historical record of trials and legal dramas. From its humble beginnings as a response to technological limitations, courtroom art has evolved into a unique form of visual journalism that captures the drama and complexity of the legal world. While its role may have shifted with changing media landscapes, the essence of courtroom art as a fair mitigating medium for storytelling and public understanding remains a vital part of legal history.

Premier league for Law Firms : What's to Learn

The term '*premier league for law firms*' is not a standard designation but may refer to the top-tier or leading law firms globally. In US, firms like Kirkland & Ellis, Latham & Watkins, King & Spalding etc are often considered among the elite or premier law firms due to their significant global presence, client base, profitability and the scale of their operations. Their interesting balance of litigation and corporate work helps in catering to market volatility.

Nowadays, the law firms which recognise leadership skills and cognitive abilities, strategise on knowledge management/division of work and show adeptness at handling change including an AI-powered future vision/Generative AI use are more promising. Innovation or, at least, the willingness to approach work differently seems more important to client.

Learning from the strategies of successful international law firms can be valuable for Indian law firms looking to scale and strategize. **Here are some key aspects that Indian law firms can consider:**

1. Global Expansion: Kirkland & Ellis and Latham & Watkins are known for their extensive global networks. Indian law firms aspiring to scale can explore strategic global expansions, establishing offices or forming alliances to serve clients on an international scale.

2. Diverse Practice Areas: Premier law firms often have diverse practice areas, allowing them to serve a broad range of clients. Indian firms can consider diversifying their service offerings to meet the evolving needs of clients and attract a wider clientele. This can be easily done with equity partners or mergers.

3. Client-Centric Approach: Successful law firms prioritize client satisfaction. Indian law firms can learn from the client-centric approach of firms like Kirkland & Ellis and Latham & Watkins by focusing on delivering high-quality legal services, understanding client needs, and maintaining strong client relationships. They have dedicated HR teams taking care of clients.

4. Leveraging Technology: Modern law firms increasingly rely on technology to enhance efficiency and client service. Adopting advanced legal technology and innovative solutions can help Indian law firms streamline their operations and improve service delivery.

5. Talent Management and Recruitment: Attracting and retaining top legal talent is crucial for success. Indian law firms can develop robust talent management strategies, invest in professional development, and create a positive work culture to attract and retain skilled lawyers.

6. Strategic Partnerships: Collaborations and strategic partnerships can enhance a law firm's capabilities. Learning from the collaborative approaches of successful international law firms, Indian firms can explore partnerships with other legal entities, lawyers, or even semi-legal entities.

7. Adaptability and Innovation: Law firms need to be adaptable to changing legal landscapes and become innovative in their approach. Indian firms can learn from the agility and innovation demonstrated by leading global firms in responding to market dynamics and client demands.

While each law firm's strategy should be tailored to its specific context and goals, studying successful international law firms can provide valuable insights and inspiration for growth and success.

Partap Singh
Member,
Bar Council of India

BOOK REVIEW

Klara and the Sun

By Kazuo Ishiguro

Sir Kazuo Ishiguro (カズオ・イシグロ or 石黒 一雄), OBE, FRSA, FRSL is a British novelist of Japanese origin and Nobel Laureate in Literature (2017).

Let's do a poignant exploration of Artificial Sentience, as has been done by this novel.

Kazuo Ishiguro's latest offering, "Klara and the Sun," invites readers into a world both familiar and eerily distant, where the line between human and artificial intelligence blurs. Set against the backdrop of a near-future society, Ishiguro weaves a poignant narrative that grapples with themes of consciousness, empathy, and the essence of humanity.

At the heart of the story is Klara, an Artificial Friend designed to provide companionship and support to teenagers. Klara's narrative voice is both observant and tender, offering a unique perspective on the world around her. Through her eyes, readers witness the intricacies of human behavior, the nuances of emotions, and the mysteries of existence.

Ishiguro masterfully navigates the complexities of artificial sentience, raising profound questions about the nature of consciousness. Klara's earnest desire to understand and connect with the world is both touching and thought-provoking, evoking a deep sense of empathy for this artificial being.

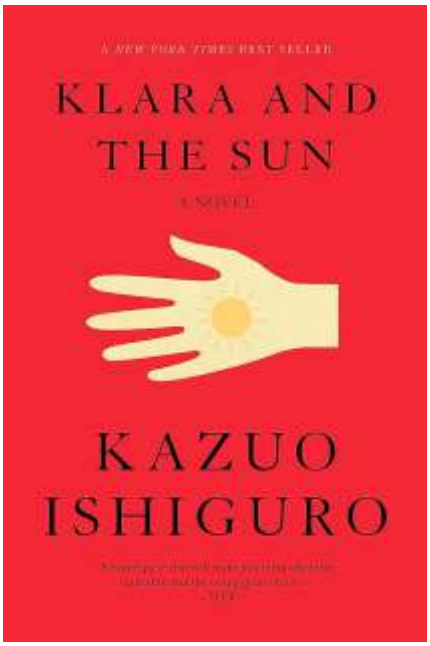
The Sun, a central enigma in the novel, serves as a metaphorical anchor, representing hope, longing, and the mysteries of existence. Its presence looms large throughout the narrative, casting a symbolic shadow over the characters' lives.

The supporting cast is equally compelling, each character adding a layer of complexity to the narrative. From Josie, the enigmatic teenager, to Rick, whose motivations remain shrouded in mystery, Ishiguro crafts a cast that feels both authentic and enigmatic.

Ishiguro's prose is characteristically elegant and restrained, allowing the emotional weight of the story to resonate without unnecessary embellishment. The pacing, though deliberate, may feel leisurely at times, but it serves to immerse the reader in the meditative rhythm of Klara's observations.

The world-building in "Klara and the Sun" is a triumph of speculative fiction. Ishiguro presents a future that is both plausible and unsettling, with its blend of familiar technology and societal shifts. The exploration of ethical dilemmas surrounding artificial intelligence is handled with sensitivity, inviting readers to reflect on the implications of a world where technology can mimic sentience.

However, readers seeking definitive answers or a neatly tied resolution may find themselves yearning for more closure. Ishiguro leaves certain threads open-ended, inviting interpretation and contemplation. While this ambiguity is in line with the novel's introspective tone, it may leave some longing for a more concrete resolution.



In conclusion, "Klara and the Sun" is a thought-provoking and beautifully crafted exploration of artificial sentience. Kazuo Ishiguro's ability to evoke empathy for a non-human protagonist is a testament to his mastery of storytelling. This novel is sure to leave readers pondering its themes long after the final page is turned.

This 320 page short novel, is a perfect read for lawyers who dare to see into thr future of AI integration in the legal service industry. While it gives a lot to think of, it also provides solace to those legal minds often wary of the replacement of lawyers by AI tools.

BOOK REVIEW

Karmachari:
Short stories about Ordinary people

by Vasant Purushottam Kale (V.P. Kale)

Vasant Purushottam Kale, popularly known as Va Pu, was a Marathi writer. He wrote more than 60 books. His well-known works include Partner, Vapurza, Hi Waat Ekatichi, and Thikri. He was a famous story-teller and had over 1600 stage-shows in the theatres.

Let's look at the thought provoking tales of ethics and morality from this 1973's piece of work.

This book is an exploration of human ethics and the intricate interplay of destiny and free will. Set against the backdrop of a bustling city i.e. suburban Mumbai, the novel weaves a narrative that challenges conventional notions of right and wrong, leaving readers pondering the complexities of moral dilemmas.

The protagonist, Raghunath, is a quintessential everyman, navigating the ups and downs of life with a blend of resilience and introspection. Kale's characterization is rich and nuanced, portraying Raghunath as a relatable figure whose struggles and triumphs resonate with readers on a deeply human level.

A collection of 12 short stories all centered around middle class service people from the 70s Mumbai. Each story title is the last name of the protagonist, keeping up with the surprise element on what's the story about. For the legal fraternity one story of Joshi the advocate would be of much interest.

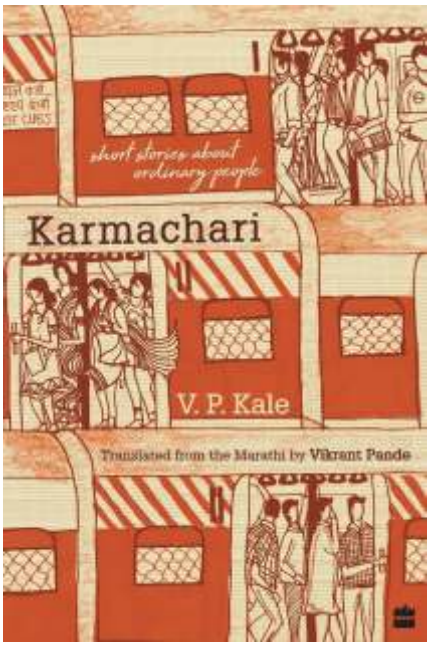
The novel's strength lies in its ability to present complex philosophical ideas in a relatable and accessible manner. Through characters experiences, Kale delves into the age-old debate of fate versus free will, prompting readers to contemplate the extent to which our choices shape our destiny.

Kale's prose is both engaging and evocative, painting vivid scenes that capture the vibrancy of the city and the diverse array of characters that populate the protagonist's world. The narrative flows seamlessly, drawing readers into the character's journey and compelling them to reflect on their own moral compass.

The other characters add depth and dimension to the narrative, each contributing to protagonist's evolution and offering unique perspectives on the complexities of life and morality. The relationships, whether familial or romantic, are portrayed with authenticity and sensitivity, further grounding the story in emotional resonance.

One of the novel's strengths lies in its ability to transcend cultural boundaries. While rooted in an Indian milieu, the themes of ethics, destiny, and free will are universal, making "Karmachari" a narrative that resonates with readers from diverse backgrounds.

However, there are moments where the philosophical musings may



veer into didactic territory, potentially overwhelming some readers. Additionally, certain plot developments may seem somewhat contrived, requiring a suspension of disbelief. Yet, these minor quibbles do not diminish the overall impact of the narrative.

In conclusion, "Karmachari" by V.P. Kale is a thought-provoking exploration of ethics and morality, presented through the lens of a relatable protagonist facing the complexities of life. Kale's skillful storytelling and vivid characterization make this novel a compelling read that invites readers to contemplate the profound questions that underlie human existence. For those seeking a narrative that challenges conventional notions of right and wrong, "Karmachari" is a worthy and enriching choice.

Movie review

12 Angry Men

(by Yagyashree Singh)

Sidney Lumet's first feature debut, "12 Angry Men" is a testament on how legal systems seldom work, but how they should. Considered a brilliant case study not just in cinematic history, but in psychology as well as English classes worldwide, the film speaks volumes about the dangers of collective decision making, aspects of bigotry and importance of healthy skepticism. Comprising an epic ensemble cast, it is a classic 1957 courtroom drama about a group of jurors who retire to consider the verdict of a murder trial. The guilt is presumed, as an 18-year-old kid is accused of stabbing his father to death. A masterpiece of direction that continues to be relevant and timeless, it was made within a socially conscious ethos of free thinking, reflecting the importance of one good man refusing to back down to the mob. It a is tightly written script, being claustrophobic and compelling at the same time.

The movie actually begins with bit of an ending, the arguments already having been made, the facts of the trial been laid out and now it being time for the jury to consider its verdict. If they choose to convict him, the kid will be sentenced to the electric chair. They were not just deciding the fate of his freedom, but the fate of his entire life. The proceeding ninety minutes manage to display the most promising portrayal of constitutional rights that a movie could ever deliver. Being much ahead of its time, it covered issues like racial bias and personal prejudice in the legal system, that continues to remain painfully relevant even today. At first the atmosphere is pretty laid back as the twelve angry men settle down to make their decision in a hot cramped conference room. We learn very early on that it is the hottest day of the year. Every single juror is sweating. There's hardly any room to move around. None of them plan to remain in the room for a long time. To anyone viewing the film for the first time, it may seem like an open and shut case. There's mountain of evidence against the kid, not to mention the multiple witnesses who have identified him as the killer. The jurors decide to take the vote and everyone agrees that the only reasonable verdict is guilty. Well, everyone except juror number eight, played by the incredible Henry Fonda who refuses to go along with the group, much to the confusion of the others. He's the one to point out that "it's possible, but not very probable". This is one of the most memorable scenes in the film. He votes ''not guilty" not because he thinks the kid is innocent, but simply because he isn't sure that the kid's guilty. As the plot moves ahead, Henry Fonda continues to try to chip away as to why other people in the room don't have reasonable doubts. He implores each juror to lay out his opinion and the accompanying reasoning behind it. He goes on to ask reasonable

questions that begin to sow the seeds of doubt in the minds of fellow jurors. Siding with him, is to everyone's amazement, juror number nine who misleads everyone into thinking that owing to his advanced age he may not be able to effectively contribute to the case, when in fact he completely shifts the tide of the entire discussion. Eventually he gets Juror number six, played by Edward Binns to stick up for him and even defend his stand before the other jurors.

Playing the antagonists are Ed Begley and Lee J Cobb. Portraying the phenomenal roles of damaged characters, a viewer will instantly loathe their guts for ridiculing every juror who disagreed with them. The film beautifully captures the subtle nuance between bigotry and disagreement. While majority of the jurors disagreed with each other, they brought fair inputs to the table and conceded when the moment came to give in. Every juror had a breaking point. There's a particular scene when all the jurors turn their back against a fellow juror when they realize his personal vendetta against the kid was backed by racism and for belonging to a particular class of society. They immediately disengage with him, teaching a valuable lesson that one need not sit down and bargain with a racist. As Henry Fonda continues to confront the men who think the kid's guilty, viewers understand that perhaps all men are not dictated in their opinion by facts before them, but by other agendas. For some it was a case of seeking vengeance, while for others the facts clearly pointed to the assumption of guilt. Personal prejudice is an amazing aspect in this film. The film is wise to show why Henry Fonda 's position is smart and why he's clever to have a reasonable doubt, but one can also understand why each member who thinks the child's guilty thinks that way. For instance, for the longest time juror number four, the stock broker, believed the kid was guilty based on the evidence he saw. He was heavily motivated by the evidentiary value of witnesses before him. But when he was confronted with evidence on the contrary, he did not allow pride to take over his logical thinking. He changed his stance, simply because he had a disciplined and collected logic, driven by facts and evidence.

The character of lee. J Cobb will make the viewer cry and hate at the same time. One isn't sure whether to hug him or feel sad for him. One of the most cleverly crafted character development, he played the role of a complex juror whose estrangement from his son bore heavily on his conduct throughout the film. Towards the end before surrendering to the unanimous verdict, there's a particular heartbreaking shot when he rips his child's photo in a fit of rage and immediately regrets his action. When he says "not guilty", he's able to silently admit to himself that it wasn't his son's fault for their relationship to have gone strained and he's able to sympathize with the kid on trial. We learn about the details of the case from the characters and their interactions with each other. In the beginning the viewer may feel lost in a sea of characters, each bringing a different facet to the film. With their own unique flaws and perspectives every juror brings forward an important insight that was overlooked in the trial. They're all different and perceive the case in different ways. The fundamentalist who wants to see justice delivered, the meticulous man convinced by the facts of the case, the idealistic immigrant who's enamored with the justice system, the racist that was prejudiced against the kid from the very beginning, the kindly old man who spots details that was overlooked by others and the sports fanatic who doesn't really care about the verdict. The film captures the importance of a dissenting opinion and the skillful art of negotiating with an open mind, especially in circumstances when the baggage of preconceived notions may weigh upon the mind of a juror when judging others. The film witnesses' moments of extreme conflicts, yet amidst the chaos of human bias and quest for justice, the 12 angry men manage to permeate through their assumptions of reality. The journey from 'guilty' to 'not guilty' is an embodiment that humans are capable of separating individual from the problem, giving benefit of doubt and focusing on larger interests that bring collective good.

On the adjudicatory level, often Bar in its judgement is either awed or disappointed with the way court proceedings are conducted by a judge. In this great script, the way the jurors struggle to reach a consensus and erringly adapt to changing dynamics is also reflective of what judges go through in their daily practice. If only we had one prism, but alas we're humans, and so are the judges.

Gripping courtroom drama, intense character exploration, explores justice system intricacies, timeless classic - This movie has it all!

For all the first-time viewers, the film is available on the OTT platform Amazon prime, on rent. And the interested may also watch the 1986 Hindi remake "Ek Ruka Hua Faisla".

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Honorary Secretary's Desk

Raj Kumar Chauhaan

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.

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 Q4| 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.

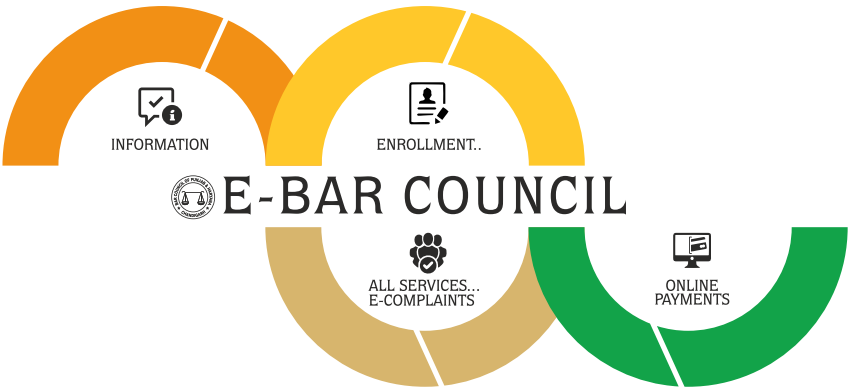
- Word Limit: 800 - 1000 words
- Authorship: Maximum of three

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 provocate 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.



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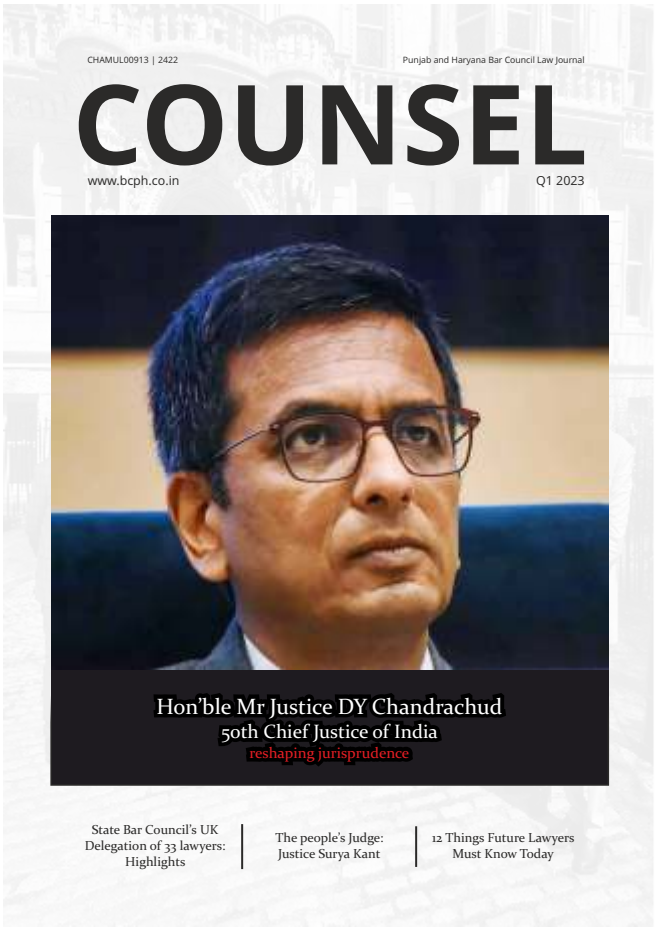

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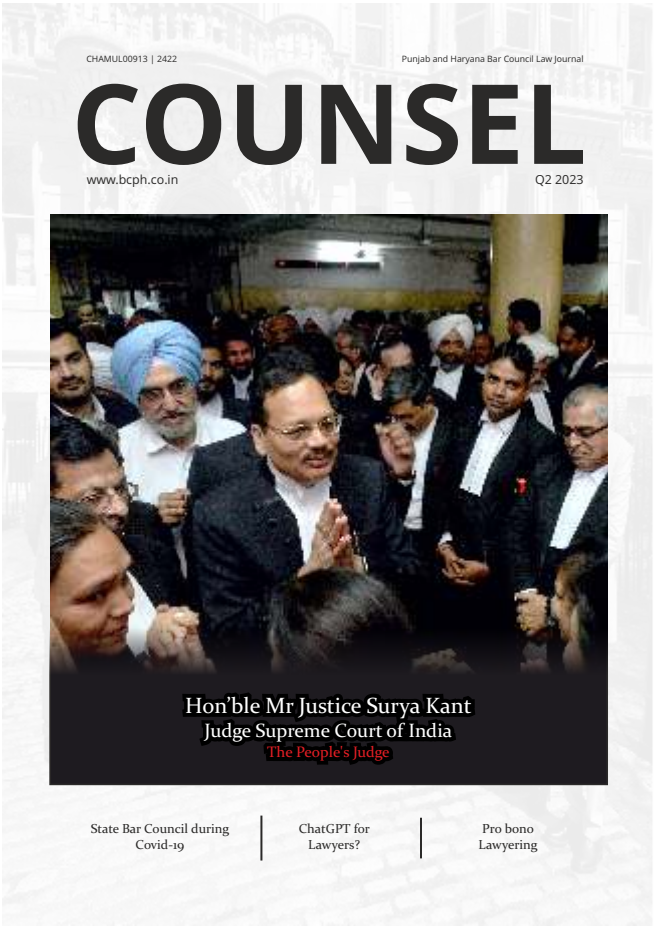

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