Vol XXIII Issue 89 January-March 2024

न्यायप्रवाह

न्यायः मम धर्मः

Nyayapravah

Quarterly News Magazine of
Akhil Bharatiya Adhivakta Parishad

Adhivakta Parishad Supreme Court Unit Celebrated International Women's Day, Left to Right:- Ms. Rashmi Singhania Adv., Hon'ble Ms. Justice Prathiba M. Singh Judge Delhi High Court, Hon'ble Justice Indira Banerjee, Judge Supreme Court, Ms. Rekha Sharma Chairperson NCW, Prof. (Dr.) Raka Arya Member Law Commission of India.

Nyayavadi Parishad Telengana celebrated International Women's Day, Left to Right :- Hon'ble Ms. Justice Madhavi Devi , Judge High Court of Telangana, Mr. Semisani Sunil G.S Telangana, Hon'ble Smt. Justice M.G. Priyadarshani, Dr. P. Laxmi Vice President Telangana, Sr. A Narasimha Reddy Chairman Bar Con. of Telangana, & Shri L. Prabhakar Reddy President of Telangana ABAP.

Adhivakta Parishad Madhya Bharat Prant celebrated International Women's Day, Left To Right:- Presided by Dr. Mrs. Priyambada Bhasin, High Court, MP Gwalior bench, Hon'ble Justice Mrs. Sunita Yadav, Mrs. Nidhi Pathaker Sr. Advocate, Ms. Deepa Chauhan, Ms. Mala Khare, Mr. Dipendra Singh Kushwaha ABAP National Secretary, Mr. Arun Sharma.

Adhivakta Parishad Himachal Pradesh, Unno, Organized a Programme, Which presented by Hon'ble Justic Virendra Singh, Swamy Ram Rubanhand, District Sr. Judge Mr. Unaa Avanesh Avasthi, Mr. Rajesh Chaudhary President Unaa Unit ABAP, Mr. Arun Sharma, G. Secretary Unna ABAP, Mr. Sanjeev Phahda, Mr. Narendra Haripal and Other Advocates.

Adhivakta Parishad Delhi, Dwarka Court Unit celebrated International Women's Day, Left To Right:- Ms. Gurmohina Kuwar, Additional District & Session Judge, Ms. Anuradha Jindal, Pro. Dr. Jyoti Dogra Sood, Ms. Ritu Gupta Pro. NLU Delhi, Mr. Jitendra Solanki, Mr. Ajay Pandey, President Dwarka Unit, ABAP & Sh. Shreehari Borikar North Zone Org. Secretary ABAP.

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Editorial

Point of Views

International Women's Day 2024

Turning a New Leaf

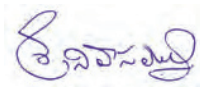
The International Women's Day is being celebrated by various units of the Adhivakta Parishad across the nation. Reports have been coming from various Courts that the Presiding Officers of the Courts and the sitting lady Judges Of High courts have participated in the meetings and gave meaningful messages to the legal fraternity at large. This time, the units of Adhivakta Parishad celebrated International Women's Day by highlighting the role of women in the Constituent Assembly. The posters, banners, postcards have declared that we salute the women jewels; Ms.HansaMehta from Gujrat, Mrs. DakshayaniVelayudhan, AmmuSwaminathan, Annie Mascarene from Kerala, Mrs. Leela Roy, Purnima Banerjee, Renuka Ray from Bengal, Malathi Devi Choudhury from Bihar, DurgabaiDeshmukh, Sarojini Naidu from Andhra Pradesh, Dr.KamlaChoudary Begum, IzazRasul, Smt. VijayalakshmiPandit, AmritKaur from Uttar Pradesh, Smt. Sucheta Kripalani from Punjab were the legendary figures representing the aspirations of women in the framing of the Constitution.

The lady Advocates of Adhivakta Parishad have taken up constructive, innovative activities while celebrating International Women's Day. Apart from paying tributes to the women members of the Constituent Assembly, many lady advocate groups had embarked upon activities like visiting the State-owned, State-funded welfare hostels for the girls, wherein girls from BC, SC, ST communities have been lodged. Visits to the prisons and conducting legal awareness and legal advisory workshops for the women inmates of the prisons have also been taken up.

Adhivakta Parishad salutes the women Advocates who have taken up activity which will expose the women Advocates to the realities, the sufferings of the helpless women from so-called downtrodden sections of the society. The activities have helped the women who are lodged in prisons,who are sheltered in orphanages and social welfare hostels and women in slum areas to realise their legal statusandtheir rights.

Women had always played an important role in all the fields in Bharatvarsh. They ruled the Kingdoms, participated in the Vedic discourses (Brahma Vadini) and had major role in running of affairs of society. The fact that Shakthi, Kaali was averred and the concept of ARDHA NARISWARA was appropriately appreciated is to be taken note of.

As many learned people declared that due to the relentless foreign invasion the space for women in the society has shrunk. Of late, women have asserted themselves in various fields right from Rocket technology to the Armed and Paramilitary forces. society has slowly realised that the role of women , their participation and contribution are immensely important for development of the society. However, women in many areas still face a hostile atmosphere. The women have been insisting for recognition, respect, safe and dignified environment. The Akhil Bharatiya Adhivakta Parishad in its National Council Meeting in December, 2023 passed a resolution regarding the implementation of the provisions of the Sexual harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act which was passed subsequent to the landmark judgment in the case of Vishakha v. State of Rajasthan. The response from women folk to the "NARI SHAKTI SAMMELANS" held by the nationalistic, patriotic organizations throughout the country, shows that the Indian Women are coming forefront to participate as equals in tune with the cultural ethos of this land. The lady Advocates of Adhivakta Parishad had taken a lead role to rope in professionals to aid and protect the girl, a woman in need. It is high time that all the Right-thinking people should participate and assist in this process.



SRINIVASA MURTHY

Uniform Civil Code in India – Myths and Realities

"A common civil code will help a cause of national integration by removing disparate loyalties to laws which have conflicting ideologies."…….. Justice YV Chandrachud

Justice Dr. Bulusu Siva Sankara Rao
M.Com., LL.M., Ph.D., LL.D.
Judge, Judicial Preview, GoAP,

Issue for consideration: Is it that-Without a Uniform Civil Code, labeling India be Secular nation is just a illusion? By Uniform Civil Code, is it meant that all sections of the society irrespective of their religion shall be treated equally according to a national civil code, which shall be applicable to all uniformly and therefore, Uniform Civil Code is necessary for India so that same laws are valid for every citizen irrespective of his religious origin for national integration by removing conflicting ideologies?.

Historical & Pre-Constitutional (British Colonial) perspective: The debate for a Uniform Civil Code dates back to the British Colonial period in India. In the Pre-Independence (colonial era), the Lex Loci Report of October 1840, stressed the importance and necessity of uniformity in the codification of Indian laws, relating to crimes, evidence and contracts etc. But it was also recommended that personal laws of Hindus and Muslims should be kept outside such codification. However, the Queen's 1859 Proclamation promised that absolute non-interference in religious matters. So, while Criminal and some of the Civil laws were codified and became common for the whole country, personal laws of respective religions (sacramental and customary) continue to be governed by separate codes for different communities for a long, leave about some codified laws touching personal laws of particular religions made time to time even during the British Colonial Regime like the: Hindu Widows Remarriage Act, 1856; Hindu Disposition of Property Act, 1916; Hindu Inheritance (removal of disabilities) Act, 1928; Hindu Women Right to Property Act,1937, Parsi Marriage & Divorce Act, 1936; Anand Marriage Act, 1909; Aryan Marriage Validation Act, 1937; Special Marriage Act, 1872; Indian Christian Marriage Act, 1872; the Divorce (Christians) Act, 1869; Indian Succession Act, 1865 as replaced in 1925 governing non-testamentary succession of Christians, Muslim Personal Law (Shariat) Application Act, 1937 & Dissolution of Muslim Marriages Act, 1939.

Post-British Colonial & the Indian Constitutional perspective: In the Post-Colonial era (1946-48) during the drafting of the Constitution, by the Drafting Committee (headed by Dr. B. R. Ambedkar as its chairman with several elite members) appointed by a Resolution passed by the-Constituent-Assembly on August-29,1947 and to function under the aegis of the Constituent-Assembly (as was charged with the duty of preparing a Constitution in accordance with the decisions of the-Constituent-Assembly, based on the reports made by various Committees appointed by it, such as the-Union-Powers-Committee, the-Union-Constitution-Committee, the-Provincial-Constitution-Committee & the-Advisory-Committee on Fundamental-Rights, Minorities, Tribal-Areas etc.,), pushed for a Uniform Civil Code by its inclusion in the Directive Principles of State Policy as Article 35 in Part-IV (Article 44 of the Constitution) mainly due to opposition from religious fundamentalists and a lack of awareness among the citizenry during that time.

Said Article 35 of the Draft Constitution reads: "The State shall endeavour to secure for citizens a Uniform Civil Code throughout the territory of India" This Article 35 of the draft Constitution relates to the implementation of Uniform Civil Code came for discussion on 23rd November, 1948 in the Constituent Assembly Debates, among several other aspects of the Draft Constitution in detail. The discussion and debate includes one of the views in opposing it so as to protect the personal law to follow among justifiable Fundamental Rights as part of their

religion and culture and way of life for ages, like in some of the European Countries. The discussion in support of bringing the Uniform Civil Code is to secure harmony through the Indian Territory with uniformity in the personal laws. The debate against implementation of Uniform Civil Code by those opposing was that, for creating harmony in the land it is not necessary to compel people to give up their personal law, for same is not covered by a proviso for previous approval of a community before the union legislature to determine by law. Article 19 of the Draft Constitution which is equal to Article 25 of the Constitution of India also came for discussion in this regard. The further discussion was that there may be many pernicious practices which may accompany religious practices and those may be controlled in use of the words, subject to public order, morality, and health etc. as incorporated in Article 19. The other discussion of alleged legislative interference with personal laws is a myth, for the personnel laws even encroached by the provisions of the Contract Act, Indian Penal Code, Civil and Criminal Procedure Codes, Registration Act and Sarda Act etc. The discussion in conclusion was to the effect that a stage would come when a Civil Law would be uniform and then the State would be justified to interfere with the settled laws of the different communities at once, like the Marriages and inheritance etc., for the goal should be towards a Uniform Civil Code, but for to say it should be gradual and Parliament may well decide to ascertain through representatives by election speeches and pledges and the election voting could be regarded as consent of majority and it is for the central legislature to decide. So what is provided by a manifesto made it public and the party with this came to power is to regard as majority opinion and consent for the implementation. It is no doubt negated in the discussion Civil Code (Uniform) cannot cover strictly personal law but for property and contract laws etc. The debate taken place includes Muslim marriages as contractual, Hindu marriages as Samskara and European marriages as of Status, leave about the respective purely religious tenets in vogue and in practice. The debate includes the inclusion of the Article for implementation of Uniform Civil Code, for it is not for Muslims alone, as various communities exist in this country with various codes with reference to marriage, divorce, succession/ inheritance, endowments etc., with great differences in the laws of inheritance even among various sections (Dayabhaga, Mitakshara & Mayukha, (besides Marumakkathayam Aliyasantana & Nambudri laws) of Hindu community and the like to be resolved by bringing uniformity as the standard, before annulling respective tenets and codes in brining Uniform Code in respect thereof. The discussion includes legislation covering secular activities in religious practices and saving of existing law. It also came for discussion Hindu Law draft prepared with many provisions which are still running counter to the tenets and scripts which are the sources of Hindu Law, since society is advancing, all must unify and consolidate the nation. The debate includes there is no reason why there should not be a Uniform Civil Code throughout the territory of India, that to be kept in mind by people of all religions, as it will be better for the country, for other than

The discussion in support of bringing the Uniform Civil Code is to secure harmony through the Indian Territory with uniformity in the personal laws. The debate against implementation of Uniform Civil Code by those opposing was that, for creating harmony in the land it is not necessary to compel people to give up their personal law, for same is not covered by a proviso for previous approval of a community before the union legislature to determine by law.

Religious spheres, rest of life must be regulated, unified and modified as early as possible to evolve a strong and consolidative nation with national unity, for the attitude of mind perpetuated under the British Rule that personal law is part of religion as fostered, must outgrow. The discussion includes a Civil Code runs into every civil relation to the law of contracts, property, succession, marriage and similar matters, for communities cannot live in amity with if there is to be no Uniform Civil Code by arriving at a common measure regarding these matters, for the ancient religious thinkers didn't think of a unified nation to be welded together into a democratic whole and thus no use to be thinking always to the past but for helping in welding together as a single nation with Uniform Civil Code. The discussion includes the Criminal Law covered by Penal code with uniform application brought

by the Colonial Rule even running counter to the religious tenets of this country, still adapted the Anglo-Indian Jurisprudence; thus, there is nothing without even this Article for the Parliament in future to bring a Uniform Civil Code for all communities like Muslims, Hindus, Christians, Jews, Catholics etc., and there must be power of the Legislature to interfere with even religious tenets, despite any community is unwilling. The Uniform Civil Code will run into every aspect of Civil Law for uniformity in contracts, properties including inheritance etc., by finding a place in the Concurrent List. In fact, as discussed, in this country, already there is a Uniform Code of Laws covering almost every aspect of human relationship like complete criminal code of IPC and CrPC, Transfer of Property Act, Negotiable Instruments Act, Registration Act etc., with uniform application and the only province the Civil law has not been able to invade so far is mainly marriage/divorce and succession. It was also pointed out by Dr. BR Ambedkar the need of Uniform Civil Code and with the say of the existing legislations of the colonial regime even covering the personal laws. Ultimately, the motion moved by those who are against to the implementation of the Uniform Civil Code to add a proviso to this Article 35 (presently Article 44) with the wording as 'Provided that any group, section or community or people shall not be obliged to give up its own personal law in case it has such a law' was negatived; so also, another proposal that 'Personal law of any community which is guaranteed by the statute shall not be changed, except with the previous approval of the community, leave about the proposal to delete this Article from the directive principles in Part IV of Draft Constitution, was also negatived and therefrom adopted the motion of this Article 35 of the Draft Constitution for Uniform Civil Code shall stand as part of the Constitution and accordingly it was added to the Constitution.

The legal background in the Independent India:

It is with this back drop supra, the need to bring Uniform Civil Code throughout the territory of India was envisaged in Article 44 as one of the directive principles of State policies covered by Part-IV of the Constitution with Articles 36 to 51. The objective of these directive principles is enumerated in Article 37 itself, saying, the provisions contained in the directive principles shall not be enforceable by any court, but nevertheless they are fundamental in the Governance of the Country and it shall be duty of the State to apply these principles in making laws. This position is well clarified by the Supreme Court in Union of India vs. Hindustan Dev. Corp. (2JB)(AIR1994SC988=1993-SCC(3)499. The Supreme Court in Kesavananda Bharathi vs. State of Kerala (13JB)-(AIR1973SC1461=(4)SCC225) & relying on same in Minerva Mills vs. Union of India (5JB)-(AIR1980SC1789=1980SCC(3)625) observed that directive principles and fundamental rights supplement each other in aiming at same goal of bringing about a social revolution and establishment of a welfare State as envisaged in the preamble. Thus, fundamental rights must be harmonised with directive principles and such harmony is one of the basic features of the Constitution. In Jilubhai Nonbhai Khachar Vs. State of Gujarat-

Further, according to Article 31C, which was added as part of the 25th Constitutional Amendment in 1971, notwithstanding anything contained in Article 13, a law that seeks to implement any or all of the directive principles of Part IV shall not be deemed invalid, just because it violates a citizen's fundamental rights under Article 14 (equality before the law and equal protection of laws) or Article 19 (protection of six rights in respect of speech, assembly, movement etc.)

(2JB)(AIR1995SC142) it was observed that fundamental rights & directives are two wheels of a chariot as an aid to make social economic democracy a truism.

Further, according to Article 31C, which was added as part of the 25th Constitutional Amendment in 1971, notwithstanding anything contained in Article 13, a law that seeks to implement any or all of the directive principles of Part IV shall not be deemed invalid, just because it violates a citizen's fundamental rights under Article 14 (equality before the law and equal protection of laws) or Article 19 (protection of six rights in respect of speech, assembly, movement etc.) Further no law containing a declaration that it is for giving effect to such policy shall be called in question in any court on the ground that it does not give effect to such policy. Provided that where

such law is made by the Legislature of a State, the provisions of this Article 31C shall not apply thereto unless such law, having been reserved for the consideration of the President, has received his assent.

The importance of Article 44 of the State shall endeavor to secure all citizens Uniform Civil Code throughout the territory of India - is to effect national integration by bringing all communities on the common flat form on matters presently governed by divorce personal laws. However, that could not be materialized since long after Constitution as regretted by the Constitution Bench (5JB) of the Supreme Court in Mohd. Ahmed Khan Vs. Shah Bano Begum-(5JB) AIR1985SC935=SCC(2)556 that Article-44 has so long remained a dead letter. It was observed further that: There is no evidence of any official activity for framing a common civil code for the country. A belief seems to have gained ground that it is for the Muslim community to take a lead in the matter of reforms of their personal law. A common Civil Code will help the cause of national integration by removing disparate loyalties to laws which have conflicting ideologies. No community is likely to bell the cat by making gratuitous concessions on this issue. It is the State which is charged with the duty of securing a Uniform Civil Code for the citizens of the country and, unquestionably, it has the legislative competence to do so.

The Apex Court in Shah Bano (Supra) quoted what Dr. Tahir Mahmood in his book 'Muslim Personal Law' (1977 Edition, pgs.200-202), has made the powerful plea for framing a Uniform Civil Code for all citizens of India that: "In pursuance of the goal of secularism, the State must stop administering religion based personal laws". He has also appealed the Muslim community that:"Instead of wasting their energies in exerting theological and political pressure in order to secure an "immunity" for their traditional personal law from the State` legislative jurisdiction, the Muslim will do well to begin exploring and demonstrating how the true Islamic laws, purged of their time-worn and anachronistic interpretations, can enrich the Common Civil Code of India."

The Supreme Court in Sarla Mudgal v. Union of India-(2JB)AIR1995SC1531=(3)SCC635, laid down the principles against the practice of solemnizing second marriage by conversion to Islam, with first marriage not being dissolved. The verdict discusses issue of bigamy, the conflict between the personal laws existing on matters of marriage and invokes Article 44 of Indian Constitution by highlighted the dire need for Uniform Civil Code with the observation-When more than 80 per cent of the citizens have already been brought under codified personal law there is no justification whatsoever to keep in abeyance, any more, the introduction of Uniform Civil Code for all citizens in Indian territory.

Furthermore, the Preamble of our Constitution sets out the guiding principles and objectives and declares India "that is Bharat as per Article 1" to be a sovereign, socialist, secular, and democratic republic and it seeks to establish justice, equality, liberty and fraternity among its citizens. The Preamble acts as a key interpretative tool for understanding the intent and spirit of the Constitution.

The term "Secular" was added to the Preamble of the Indian Constitution through the 42nd Amendment in 1976 (during the period of the national emergency) signifies the principle of religious neutrality and equal treatment of all religions by the State. Thus, the inclusion of this term showcases the intent to implement a Uniform Civil Code in India. The legislature has the power to work towards fulfilling a Uniform Civil Code for all of its citizens.

India being a secular State, it cannot be contended by any religious faith that Uniform Civil Code affects their fundamental rights, particularly Articles 25&26 among Articles 12-35 in Part-III of the Constitution. The right to practise, profess and propagate religion guaranteed under Article 25 of the Constitution does not necessarily include the right to acquire or own or possess or inherit property. Article 25(2) being negatively couched is clearly an enabling provision which provides power to the State in the matters mentioned therein. Article 25(2)(a) gives primacy to laws made by competent legislature for regulation of secular aspects and Article 25(2)(b) gives primacy to social welfare & reform.....Similarly, if a particular practice/belief/ part of any religion is in existence and is found to be subjected to social welfare/reform, such right will have to give way to social welfare and reform.

Though the concept of secularism emerged in the west, it has taken a different colour over the period of time. In a democratic country like India, consisting of multiple religions, regions, faith, languages, food and clothing, the concept of secularism is to be understood differently. Secularism, as adopted under our Constitution, is that religion cannot be intertwined with any secular activities

of the State. Encroachment of religion in secular activities is not permissible.

In T.M.A. Pai Foundation v. State of Karnataka, 2002(8)SCC481 (11-JB) The Apex Court reiterated that Article 25(1) is not only subject to public order, morality and health, but also to other provisions of Part III of the Constitution. State is not prevented from making any law in relation to religious practice, as same is permissible under Article 25(2)(a) in relation to economic, financial, political or other secular activities associated with the religious practice. It was observed further at para 82 as under: "Article 25 gives to all persons the freedom of conscience and the right to freely profess, practise and propagate religion. This right, however, is not absolute. The opening words of Article 25(1) make this right subject to public order, morality and health, and also to the other provisions of Part III of the Constitution. This would mean that the right given to a person under Article 25(1) can be curtailed or regulated if the exercise of that right would violate other provisions of Part III of the Constitution, or if the exercise thereof is not in consonance with public order, morality and health. The general law made by the Government contains provisions relating to public order, morality and health; these would have to be complied with, and cannot be violated by any person in exercise of his freedom of conscience or his freedom to profess, practise and propagate religion. For example, a person cannot propagate his religion in such a manner as to denigrate another religion or bring about dissatisfaction amongst people."

In Young Lawyers Association & Ors. (Sabarimala Temple, In Re) v. State of Kerala & Ors., (5JB)2019(11)SCC1, it was held as under: Freedom of religion in Article 25(1), a right which the Constitution recognises, is not absolute. For the Constitution has expressly made it subject to public order, morality and health on one hand and to the other provisions of Part III, on the other. It is a nuanced departure from the position occupied by other rights to freedom recognised in Articles 14,15,19&21. While guaranteeing equality and the equal protection of laws in Article 14 and its emanation, in Article 15, which prohibits discrimination on grounds of religion, race, caste, sex or place of birth, the Constitution does not condition these basic norms of equality to the other provisions of Part III. Similar is the case with the freedoms guaranteed by Article 19(1) or the right to life under Article 21. Evidently, in the Constitutional order of priorities, the individual right to the freedom of religion was not intended to prevail over but was subject to the overriding Constitutional postulates of equality, liberty and personal freedoms recognised in the other provisions of Part III. Clause (2) of Article 25 protects laws which existed at the adoption of the Constitution and the power of the State to enact laws in future, dealing with two categories. In sub-clause (a) of Article 25(2), the Constitution has segregated matters of religious practice from secular activities, including those of an economic, financial or political nature. The expression "other secular activity" which follows upon the expression "economic, financial, political" indicates that matters of a secular nature may be regulated or restricted by law. The fact that these secular activities are associated with or, in other words, carried out in conjunction with religious practice, would not put them beyond the pale of legislative regulation.

The Supreme Court in M. Siddiq(Dead) through LRs. (Ram Janmabhumi Case) v. Mahant Suresh Das & Ors. (5JB)(2020)1SCC1, held at para 91 that: Above all, the practise of religion, Islam being no exception, varies according to the culture and social context. That indeed is the strength of our plural society.

The concept of secularism has been dealt in detail, by the Supreme Court very recently, in Aishat Shifa vs The State of Karnataka on 13.10.2022, (while holding that wearing of hijab by Muslim girl students is not an essential religious practice) by scanning the law to the conclusion that: The word "secular" inserted in the Preamble of Constitution by 42nd Amendment w.e.f. 03.01.1977 is commonly understood in contradistinction to the term 'religious'. The political philosophy of a secular government has been developed in the West in the historical context of the pre-eminence of the established Church and the exercise of power by it over the society and its institutions. The democratic State thereafter gradually replaced and marginalized the influence of the Church. The idea of secularism may have been borrowed in the Indian Constitution from the West; however, it has adopted its own unique brand based on its particular history and exigencies which are far distinct in many ways from secularism as defined and followed in European countries, the United States of America and Australia. The use of word 'Panthnirpeksh' in the Constitution brings out the difference in the terms "Dharmanirpeksh" and

"Panthnirpeksh". 'Panth', or sect, symbolizes devotion towards any specific belief, way of worship or form of God, but Dharma symbolizes absolute and eternal values which can never change, like the laws of nature. Dharma is what upholds, sustains and results in the well-being and upliftment of the Praja (citizens) and the society as a whole. This Court in a judgment reported as A.S. Narayana Deekshitulu v. State of A.P. & Ors.-1996(9)SCC548 quoted the concept of Dharma explained by Justice M. RamaJois in his Legal and Constitutional History of India as "it is most difficult to define Dharma. Dharma has been explained to be that which helps the upliftment of living beings. Therefore, that which ensures welfare (of living beings) is surely Dharma. The learned rishis have declared that which sustains is Dharma". This Court held that "when dharma is used in the context of duties of the individuals and powers of the King (the State), it means Constitutional law (Raja dharma). Likewise, when it is said that Dharmarajya is necessary for the peace and prosperity of the people and for establishing an egalitarian society, the word dharma in the context of the word Rajya only means law, and Dharmarajya means rule of law and not rule of religion or a theocratic State". Any action, big or small, that is free from selfishness, is part of dharma. Thus, having love for all human beings is dharma. This Court held as under: "156. It is because of the above that if one were to ask "What are the signs and symptoms of dharma?," the answer is: that which has no room for narrow-mindedness, sectarianism, blind faith, and dogma. The purity of dharma, therefore, cannot be compromised with sectarianism. A sectarian religion is open to a limited group of people whereas dharma embraces all and excludes none. This is the core of our dharma, our psyche. 157. Nothing further is required to bring home the distinction between religion and dharma; and so I say that the word 'religion' in Articles 25 and 26 has to be understood not in a narrow sectarian sense but encompassing our ethos of. Let us strive to achieve this; let us spread the message of our dharma by availing and taking advantage of the freedom guaranteed by Articles 25 and 26 of our Constitution."

In Kesavananda Bharati (supra), even prior to the addition of the word 'Secular' by the 42nd Amendment, held that the fundamental features of the Constitution, namely, secularism, democracy and the freedom of individual would always subsist in the welfare State. Justice H.R. Khanna referred to the Statement of K. Santhanam and observed: "1481. …K. Santhanam, a prominent southern member of the Assembly and editor of a major newspaper, described the situation in terms of three revolutions. The political revolution would end, he wrote, with independence. The social revolution meant 'to get (India) out of the medievalism based on birth, religion, custom, and community and reconstruct her social structure on modern foundations of law, individual merit, and secular education'. The third revolution was an economic one: 'The transition from primitive rural economy to scientific and planned agriculture and industry'. Radhakrishnan (now President of India) believed India must have a 'socio-economic revolution' designed not only to bring about 'the real satisfaction of the fundamental needs of common man', but to go much deeper and bring about 'a fundamental change in the structure of Indian society'."

In Kesavananda Bharati (Supra), Justice H.R. Khanna Stated further that: Secular State means rising above all differences of religions, and attempting to secure the good of all its citizens irrespective of their religious beliefs and practices. The faith or belief of a person is immaterial from the point of view of the State. For the State, all are equal and all are entitled to be treated equally. The Constitutional promises of social justice, liberty of belief, faith or worship and equality of status and of opportunity cannot be attained unless the State eschews the religion, faith or belief of a person from its consideration altogether while dealing with him. Secularism is thus more than a passive attitude of religious tolerance. It is a positive concept of equal treatment of all religions. Therefore, the object of the State is to bridge the gap between different sections of the society and to harmonize the relationship between the citizens to ensure growth of community in all spheres i.e., social, economic and political.

The secular character of the State was even reiterated in Smt. Indira Nehru Gandhi v. Shri Raj Narain-(5JB)1975 (Supp.) SCC 1 holding that:….the secular character of the State, according to which the State shall not discriminate against any citizen on the ground of religion only, cannot likewise be done away with. The above observations show that the secular character of the Constitution and the rights guaranteed by Article 15 pertain to the basic structure of the Constitution…"

The word 'Secular' after being added in the Preamble was immediately considered in Ziyauddin Burhanuddin

Bukhari v. Brijmohan Ramdass Mehra & Ors.-(5JB)1976(2)SCC176 in holding that "the Secular State, rising above all differences of religion, attempts to secure the good of all its citizens irrespective of their religious beliefs and practices…"

The term 'Secular' was also reconsidered in S.R. Bommai & Ors. v. Union of India & Ors.- (9JB) 1994(3)SCC1 in observing that the State is enjoined to accord equal treatment to all religions and religious sects and denominations. The encroachment of religion into secular activities is strictly prohibited….How are the Constitutional promises of social justice, liberty of belief, faith or worship and equality of status and of opportunity to be attained unless State eschews the religion, faith or belief of a person from its consideration altogether while dealing with him, his rights, duties & entitlements? Secularism is thus a positive concept of equal treatment of all religions.

In Santosh Kumar & Ors. v. Secretary, Ministry of HR Dept. & Anr.-(2JB)1994(6)SCC579, the Apex Court quoted with approval what Justice H.R. Khanna expressed in Kesavananda Bharati (Supra) of secularism is neither anti-God nor pro-God; it treats alike the devout, the agnostic and the atheist. Secularism is not antithesis of religious devoutness.

In Ms. Aruna Roy & Ors. Vs. Union of India & Ors.-(2JB)2002(7)SCC368 the Apex Court observed that all religions have to be treated with equal respect (sarva dharma sambhav) and that there has to be no discrimination on the ground of any religion (panthnirapekshata)."

The Supreme Court in Commissioner of Police & Ors. Vs. Acharya Jagadishwarananda Avadhuta & Anr.-2004(12)SCC770, held that essential part of a religion means the core beliefs upon which a religion is founded. It is upon the cornerstone of essential parts or practices that the superstructure of a religion is built, without which a religion will be no religion. The test to determine whether a part or practice is essential to a religion is to find out whether the nature of the religion would be changed without that part or practice. If taking away of that part or practice results in a fundamental change in the character of that religion or in its belief, then such part could be treated as an essential or integral part of the religion. There cannot be additions or subtractions to such part because it is the very essence of that religion and alterations will change its fundamental character. It is such permanent essential parts which are protected by the Constitution.

In Shah Bano (Supra) it was held in saying the provisions of Muslim Personal Law do not countenance cases in which the wife is unable to maintain herself after the divorce, as under: "14. These Statements in the text books are inadequate to establish the proposition that the Muslim husband is not under an obligation to provide for the maintenance of his divorced wife, who is unable to maintain herself. ……But, one must have regard to the realities of life. Mahr is a mark of respect to the wife. The sum settled by way of Mahr is generally expected to take care of the ordinary requirements of the wife, during the marriage and after. But these provisions of the Muslim Personal Law do not countenance cases in which the wife is unable to maintain herself after the divorce. We consider it not only incorrect but unjust, to extend the scope of the Statements extracted above to cases in which a divorced wife is unable to maintain herself. We are of the opinion that the application of those Statements of law must be restricted to that class of cases, in which there is no possibility of vagrancy or destitution arising out of the indigence of the divorced wife…"

The Supreme Court in Dr. M. Ismail Faruqui vs. Union of India-(3JB)AIR1995SC605=1994 (6)SCC360 in holding that offering of prayer or worship is a religious practice, but its offering at every location where such prayers can be offered would not be an essential or integral part of such religious practice, observed at paras 77&78 that: Article 25 does not contain any reference to property unlike Article 26 of the Constitution. The right to practise, profess and propagate religion guaranteed under Article 25 of the Constitution does not necessarily include the right to acquire or own or possess property. Similarly this right does not extend to the right of worship at any and every place of worship so that any hindrance to worship at a particular place per se may infringe the religious freedom guaranteed under Articles 25 and 26 of the Constitution. The protection under Articles 25 and 26 of the Constitution is to religious practice which forms an essential and integral part of the religion. A practice may be a religious practice but not an essential and integral part of practice of that religion. While offer of prayer or worship is a religious practice, its offering at every location where such prayers can be offered would not be an essential or integral part of such religious practice unless the place has a particular significance for that religion so

as to form an essential or integral part thereof. …….. A mosque is not an essential part of the practice of the religion of Islam and Namaz (prayer) by Muslims can be offered even in an open place"

Later, the Supreme Court in Javed vs. State of Haryana-(3JB)AIR2003SC3057=(8)SCC369 while negating the argument of marrying four women form part of essential religious practice, observed at para 44 that Muslim law nowhere mandates or dictates it as a duty to perform four marriages, further no religious scripture or authority has been brought to the notice of the Court which provides that marrying less than four women or abstaining from procreating a child from each and every wife would be irreligious or offensive to the dictates of the religion.

The Supreme Court in Shayara Bano vs Union of India (3JB)2017(9)SCC1, (Triple Talaq Case), by negating the contention of All-India Muslim Personal Law Board (AIMPLB) of the uncodified Muslim personal law is not subject to Constitutional judicial review and that the Court did not have jurisdiction to entertain a Constitutional challenge to Muslim personal law and this is an essential practice of the Islamic religion and protected under Article 25 of the Constitution, while declaring the practice of Triple Talaq to be unConstitutional, observed that "a practice does not acquire the sanction of religion simply because it is permitted" and it is clear that triple talaq is only a form of talaq which is permissible in law, but at the same time, Stated to be sinful by the very Hanafi school which tolerates it. On an examination of the Holy Quran and Islamic legal scholarship, the practice of triple talaq could not be considered an essential religious practice.

Apart from the above, it is to be noted that Article 51A of the Constitution (Fundamental duties) says it shall be the duty of every citizen of India (a) to abide by the Constitution and respect its ideals and institutions, the national Flag and the National Anthem;……..(e) to promote harmony and the spirit of common brotherhood amongst all the people of India transcending religious, linguistic and regional or sectional diversities; to renounce practices derogatory to the dignity of women.

From this coming to the necessity of the Uniform Civil Code on the spirit of one nation and one uniform personnel law for uniform and effective implementation with practicalities:

Undisputedly the Goa Civil Code was introduced one and half century back in 1870 by the Portuguese while they were ruling the State. After the liberation of Goa in 1961, the same civil code was retained and is in implementation without difficulty.

In fact as the post Constitutional law, instead of bringing Uniform Civil Code to be made applicable for all religions, the then Union Government for political reasons, only passed the Hindu Code Bills in the 1950s. (1955-56), despite no hurdle for Uniform Civil Code that should be drafted keeping in mind the best interest of all the religions.

India has a unique blend of codified personal laws of Hindus, Muslims, Christians, Parsis etc., however, there exists no uniform family-related law in a single statute book for all Indians which is acceptable to all religious communities who co-exist in India, even, a majority of them believe that Uniform Civil Code is definitely desirable and would go a long way in strengthening and consolidating Indian nationhood. The differences of opinion are on its timing & manner in which it should be realized.

Instead of using it as if an emotional or sensitive issue to gain political advantage, political and intellectual leaders should have tried long ago to evolve a consensus. The question is not of minority protection, or even of national unity, it is simply one of treating each human person with dignity, something which personal laws have so far failed to do and as per the spirit of the Constitution particularly from Articles 44,37,31C&51A supra.

Uttarakhand Chief Minister Sri Pushkar Singh Dhami had promised earlier that if re-elected, his Government would bring Uniform Civil Code. BJP leaders welcomed the move. Some 'experts' said Uttarakhand would be the second such State after Goa to do so. Article 44 of the Constitution says that 'State shall endeavour to secure for citizens a Uniform Civil Code throughout the territory of India'.

Uniform Civil Code essentially refers to a common set of laws governing personal matters such as marriage, divorce, adoption, inheritance and succession.

As per Schedule VII of the Constitution, such subjects come in the Concurrent List (Entry No.5), wherein power to legislate rests with both Parliament and State Legislatures.

Accordingly, the State Legislature may introduce amendments to the personal laws enacted by Parliament, that can it be stretched to include the enactment of a Uniform Civil Code throughout the territory of their

particular State, by referring to Goa, as the Goa Civil Code introduced even in 1870 by the Portuguese while they were ruling the State, after the liberation of Goa in 1961, the Civil Code was retained to mean the same once Constitutionally valid as per Articles 12 r/w.44 of the Constitution, the Uttarakhand Govt. or for that matter any State Govt., by bringing a legislation can do so for their State. It is because, as per Article 12 of the Constitution, 'State' includes Central and State Governments etc.,.

Any argument that in the case of Goa, it must be understood that Uniform Civil Code was in existence before it became part of India, to cover by Articles 372 & 372A, despite 372(3), it can be thought of to answer with reference to Articles 372A, for adopting same of Goa by Uttarakhand, with the president of India approval also as per Article 31C.

As per the above, any other State Government brings any such Legislation to validate till the Parliament makes law by Uniform Civil Code for throughout the territory of India, it would at best require Presidential assent under Articles 31C, 252 & 251 r/w. 254, 245(1), 246, 248(1) & 255 of the Constitution, so that same shall prevail over any Central Legislations in this area and any existing law under Article 366(10). The President of India, if necessary can have the power under Article 143 of the Constitution to consult the Supreme Court (which is having original jurisdiction under Article 131 of the Constitution, apart from any aggrieved on such State Legislation can invoke the jurisdiction under Article 32 of the Constitution, for Article 32A of the Constitution bar is since repealed in 1978)

Needless to mention, there is every chance of the Union Government bringing a Uniform Civil Code very soon as Law Commission of India has now taken up the issue though it can be said it is at nasal stage for the reasons: A proposal to examine the issues relating to Uniform Civil Code and make recommendations was forwarded by the Union Government, under the BJP rule and their manifesto covered as one of the items intend to legislate and referred to the Law Commission in 2016 itself.

The 21st Law Commission headed by Justice B.S. Chauhan came out with a consultation paper on 'Reform of Family Law'. As per this paper, UNIFORM CIVIL CODE is neither necessary nor desirable. The Commission stressed on removing discrimination against women within communities rather than looking for equality between communities in terms of family law. "In the absence of any consensus on a Uniform Civil Code, the commission felt that the best way forward may be to preserve the diversity of personal laws but, at the same time, ensure that personal laws do not contradict fundamental rights guaranteed under the Constitution of India," it said. However, the term of the 21st Law Commission ended in August 2018. The 22nd Law Commission was notified on February 24, 2020. The 22nd Law Commission having the tenure of three years now delved afresh into the issue of Uniform Civil Code.

In this context it is to mention that in the PIL filed by the Advocate Sri Ashwini Kumar Upadhyay to formulate Uniform Civil Code before the Delhi High Court in 2019; after more than two years, the Ministry of Law and Justice filed a 12-page affidavit (in 2021), as per which only Parliament can undertake the task of drafting legislation on Uniform Civil Code. Central Government further Stated that it will consult various stakeholders involved in the matter, after receiving a report from the Law Commission of India.

The Union Government urged the High Court to refrain from passing any judicial orders, as per the scheme of separation of powers wherein courts have no jurisdiction on such matters of legislation. It is even Stated, 'Uniform Civil Code will strengthen integration of India by bringing communities on the common platform on matters which are at present governed by diverse personal laws'. However, the affidavit was silent on how much time the Government will take to bring Uniform Civil Code; despite the mind of BJP to formulate and bring into force by legislation the Uniform Civil Code is further confirmed by their manifestoes released for the 2019 General Elections, apart from what appears specifically highlighted in the BJP manifesto of the recent past Uttarakhand Assembly Elections.

Uniform Civil Code as mandated by Article 44 of the Constitution for throughout the territory of India can only be brought by Parliamentary Legislation undoubtedly as is clear from the Government reply before Courts and Parliament (confirmed by the then Law Minister Sri Kiren

Rijiju in February 2022). However, there is abdication of the responsibility by the Union of India right from the year, 1950; for whatever their reason to justify, despite directions of the Supreme Court time and again to the Union to Legislate and bring Uniform Civil Code, which no way justifies their postponement, even after the observations of the Constitution Bench of the Apex Court in Shah Bano supra in 1985, and nothing thereby prevents any State even to legislate or adopt that of Goa as supra. As Article 37 of the Constitution clearly States that Directive Principles are "fundamental in the governance of the country and it shall be the duty of the State to apply these principles in making laws". Article 31C says Articles 14&19 will not come in the way. Thus, fundamental rights shall be harmonised with the directive principles of State policy to legislate and smaller group interest must yield to the larger group interest, to say any resistance by Muslim personnel law Board cannot prevail over the demand by all others of whom when in 1955 itself the Hindu code by codification of personnel laws of Hindus brought in, in 2001 by marriage laws amendments certain provisions of Christian Marriage Act and Criminal Procedure Code etc, are amended, why cannot be for Uniform Civil Code for all religions under Article 31C read with Articles 37 & 44, rather abdication of responsibilities of the State defined by Article 12.

In Shah Bano supra, then Chief Justice Y.V. Chandrachud observed that Parliament should outline the contours of a common civil code as it is an instrument that facilitates national harmony and equality before the law. Later even in Sarla Mudgal (Supra) the supreme court asserted that "a common civil code will help in national integration by removing disparate loyalties of laws which came in the results of conflicting ideologies." Despite all the above there is one State which brings all the religious community under the umbrella of a common law that is Uniform Civil Law, the State of Goa.

In October 2015, the Apex court revived the debate over Uniform Civil Code when it pointed to "total confusion" over the incoherent stipulations about marriage, divorce, adoption, maintenance and inheritance among different religions.

In 2019, the Apex court again expressed its disappointment over lack of Uniform Civil Code: "Whereas the founders of the Constitution in Article 44 in Part IV dealing with the Directive Principles of State Policy had hoped and expected that the State shall endeavour to secure for the citizens a Uniform Civil Code throughout the territories of India, till date no action has been taken in this regard.

Despite being in the Parliamentary domain, the Supreme Court continues to entertain various PILs covering key subjects of Uniform Civil Code. The Apex Court has issued notice to the Government on the need for uniform laws for all citizens across religious faiths on matters of divorce, maintenance, alimony, adoption, guardianship and Uniform Civil Code succession and inheritance.

The Supreme Court in John Vallamattom vs Union of India-(3JB)AIR2003SC2902=(6)SCC611 while explaining as to how the Christians are facing discriminatory treatment by retention of Section 118 of the Indian Succession Act, 1925 in relation to testamentary disposition of property for religious and charitable use, which does not apply to members of Hindu, Mohammadan, Buddhist, Sikh or Jaina Community by virtue of Section 58 of the Act provision by which they are practically prevented from bequeathing property for religious and charitable purposes, in striking down the same as un Constitutional. The expression also indirectly hints the need for Uniform Civil Code.

So, for that matter, any personnel laws including of Muslims and Christians are not outside the scope of fundamental rights, other than Articles 14&19 r/w.31C. What are at best to be saved are core essential religious Practice that are protected by Article 25 a qualified fundamental right (among 25-30) as discussed supra.

In July 2021, the Delhi High Court rightly observed in reiteration of what the Apex Court says time and again of: "In modern Indian society, which is gradually becoming homogenous, the traditional barriers of religion, community and caste are slowly dissipating." It is said that Uniform Civil Code should not "remain a mere hope".

In light of all the above, it becomes crucial for people of the Country to support the implementation of Uniform Civil Code.

Young Advocates- Role and Opportunities during Amritkaal

Justice Sibo Shankar Mishra Judge,
Orissa High Court

At the very outset I forward my warm wishes to all the young Advocates present here on this auspicious day. This day is day to celebrate the professional contributions of the young Advocates at large. We are celebrating this day to honour the great legal luminaries those who have contributed so much for this country. This day assumes importance because of Swami Vivekanandji's Birthday as well. Combination of this auspicious day along with ADHIVAKTA PARISHAD, ODISHA'S enthusiasm in felicitating the young lawyers makes the day further special.

Swami Vivekanandji has said *awake arise stop not till you reach the goal.* Now, the question arises, what is exactly the goal? What is the destination we are talking about? Whether the Amritkaal is indeed the destination or the goal we are supposed to reach?

What is the AMRITKAAL:

According to me, AMRITKAAL is the combination of many things. It is conceptualised as *PANCHA PRANA or PANCHA SUTRA*. Now the question arises, what are the Pancha Sutras?

- The goal of a developed India
- The shedding of colonial mindset
- Embracing our cultural root
- Fostering unity , and
- Instilling the sense of duty among the citizens.

If these Pancha Sutras are instilled in every citizen, then we can cross through this phase of Amritkaal and reach through to a point that would be the *Golden Era.* And to reach this *golden era according to me* is the ultimate goal.

What is Golden Era:

Golden Era in simple language according to me is nothing but *Ram Rajya* as we understand. What is Ram Rajya then? Ram Rajya is nothing but governance, clean governance. The biggest part of clean governance is dispensation of justice and that can be achieved if no person in country or this state is left aggrieved for anything. Then only we can achieve Ram Rajya.

To do this, the rule of law must prevail everywhere under every circumstance.

Role of Young Legal Professionals:

For the purpose of achieving Rule of Law our profession and our fraternity has a greater role. Being lawyers, being judges we have a larger role to play in perfect dispensation of justice and perfect administration of justice. An honest lawyer is a quintessential part of the legal mechanism for the achievement of the ultimate goal.

Golden Era in simple language according to me is nothing but Ram Rajya as we understand. What is Ram Rajya then? Ram Rajya is nothing but governance, clean governance. The biggest part of clean governance is dispensation of justice and that can be achieved if no person in country or this state is left aggrieved for anything. Then only we can achieve Ram Rajya.

Qualities of Young Lawyers :

There are certain qualities or virtues which are inseparable for the end goal to be achieved. They are :

- Honesty
- Courage
- Wit
- Industry
- Eloquence
- Judgment, and
- Fellowship .

However, it is to be borne in mind all the above seven virtues are to be superseded by Gentlemanly trait.

Lawyers: pre-independence and post-independence:

In pre-independence era, the two qualifications of a lawyer were he must be a gentleman who knows English.

Knowing English is obvious because on those days the judges used to be Britishers . So to communicate with the judge and convey your case to the judge, English was essential. So therefore, English was obviously required. Lawyer was expected to have the above seven qualities/ virtues but more importantly he was expected to be a gentleman. Lawyers in those days therefore belonged to very elite class, i.e, from respectable families.

Post–Independence period comprised of leaders, Cabinet Ministers (from both State and Centre) belonged to the Lawyer's fraternity. Lawyer's excelled in all the spheres of the society and proved themselves as natural leaders.

Swami Vivekanandaji's way of success:

Swami Vivekanandaji had said *"Take up one idea. Make that one idea your life, dream of it , think of it , live on that idea. Let the brain, the body , muscles, nerves, every part of your body be full of that idea, and just leave every other idea alone. This is way to success, and this is the way great spiritual giants are produced."*

Swamiji was not describing some fantastical idea, he had conceptualised this "Idea" to be the idea of a gentleman. A gentleman should have the seven qualities discussed above and which is expected from all the lawyers.

The concept of "*Ram Rajya"* in which Rule of Law prevails over everything and everybody can only be realised by the young lawyers of the present day society. Young Lawyers belonging to legal fraternity must remember that the lawyers professions is a respectable profession. The idea and objective of this profession has always been to serve the society and to subserve the cause of justice, it has never been to earn a handsome livelihood. Due to this very nature of the profession the Bar previously used to produce legal luminaries who had contributed their whole life, energy, vitality, for the development of the legal jurisprudence. They had never ever vied for supreme financial benefits. Due to the immense respect attached to the profession many young lawyers got attracted to this profession. Since it is not a profession for the purpose of earning easy, unchallenging, effortless livelihood, many of them started other businesses and other vocations for livelihood. At the same time, there were some young Advocates who were depending upon this profession for earning their exclusive livelihood. This resulted division in the Bar, and deterioration of the professional standard. The number of serious practitioners became less and less and those lawyers earning their livelihood outside their profession increased. The very spirit of the profession that the lawyers are supposed to give social service, instead of the goal of earning more and more money, got subsided. Thus, the deterioration of the bar was quite inevitable.

The Present Scenario:

Hopefully, Amritkaal is going to change more than a few things and hopefully a new sun is going to rise soon. Previously, the parents used to say "*JAHARA NAHI ANYA GATI SE KARE*

OKILATI" means:- Advocacy is the final resort for a person who does not have any other avenue. But, this highly derogatory conception of the legal profession by the society has changed for sure. The career option as a law graduate and a young lawyer has opened up new and has widened avenues presently. The risk taking capability of the young lawyers is infact a great arsenal in the artillery camp of the young soul. Accepting the challenge of a complex matter and taking of the adversaries attached to the problem and converting them into opportunities the young lawyers have the whole sky to conquer and fly beyond the horizon. A young lawyer can be designated as a Senior Advocate , can be a legal Luminary, can be a Judge, can be a Law Minister, can be a Jurist and what not..... .

The concept of "Ram Rajya" in which Rule of Law prevails over everything and everybody can only be realised by the young lawyers of the present day society. Young Lawyers belonging to legal fraternity must remember that the lawyers professions is a respectable profession.

All said and done a young lawyer can have an immense , resourceful, course changing impact on the modern day society with an ubiquitous Rule of Law where the downtrodden are met with the same justice as that of a well established gentry.

(The Speech delivered on the occasion of Young Advocate's Day, Celebrated by Adhivakta Parishad, Odisha at Cuttack)

आपराधिक विधि में सुधार

जगदीश राणा, एडवोकेट राजस्थान हाईकोर्ट

भारतीय न्याय व्यवस्था को आक्रान्ताओं ने नष्ट कर दिया। मुस्लिम आक्रान्ताओं ने मुस्लिम आपराधिक कानूनों को भारत में लागू किया। 1857 के प्रथम स्वतंत्रता संग्राम के पश्चात ब्रिटिश क्रउन ने भारत का शासन इस्ट इंडिया कम्पनी से लेकर, अपने हाथों में ले लिया व भारतीयों का दमन प्रारम्भ किया व अपने कानूनों को भारत में लगाने के आश्य से सन् 1773 में ब्रिटिश संसद द्वारा रेग्यूलेश एक्ट पारित करते हुए कलकत्ता प्रेजीडेन्सी के लिए सुप्रीम कोर्ट स्थापित किया। उसके पश्चात बम्बई व मद्रास प्रेजीडेन्सी में भी सुप्रीम कोर्ट स्थापित किये गये जो ब्रिटिश कानूनों के अनुसार न्याय निश्पादन करने लगे।

इसके पश्चात तीन कानून (1) भारतीय दण्ड संहिता 1860 में, दंड प्रक्रिया संहिता 1882 में व भारतीय साक्ष्य अधिनियम 1872 में ब्रिटिश संसद में पारित कर लागू किये गये। इन कानूनों का मूल उद्देश्य ब्रिटिश सत्ता को बनाए रखने व अंग्रेजों के शासन को चुनौति देने वालों को कठोर दण्ड देना था।

भारत की स्वतंत्रता के पश्चात हमने अंग्रेजों के उपरोक्त कानूनों के अनुसार ही आपराधिक न्याय निश्पादन करना स्वीकार किया व समय–समय पर छोटे–छोटे संशोधन किये जाते रहे।

उक्त तीनों कानून उपनिवेश काल की छाया 75 वर्ष तक बनी हुई थी।

भारतीय संसद ने "भारतीय दण्ड संहिता" के स्थान पर "भारतीय न्याय संहिता" को न्याय निष्पादन हेतु अधिनियमित किया गया जिसे महामहिम राष्ट्रपति जी द्वारा स्वीकृति दी गई है।

भारतीय न्याय संहिता BNS-2023

राष्ट्र की एकता अखंडता, महिला सुरक्षा, महिला सम्मान, बाल अधिकार, सड़क दुर्घटना, आतंकवाद देश से बाहर से किये जा रहे षडयंत्रों, मॉब लिंचिंग, आदि अनेक विषयों का समाधान करने का प्रयास किया है, कुछ उदाहरण निम्न प्रकार है।

नये प्रावधान जो भारतीय न्याय संहिता BNS में जोड़े गये:-

- धारा 2(8) "दस्तावेजों" की परिभाषा में इलेक्ट्रोनिक व डिजिटल रिर्कोड को भी जोड़ा गया।
- धारा 2 (10) जेन्डर (लिंग) की परिभाषा में स्त्री, पुरुष व "ट्रान्सजेंडर" जोड़ा गया है जिससे प्रत्येक व्यक्ति समाहित हो गया है।
- जंगम सम्पत्ती सम्पति (Movable Property) की परिभाषा में सभी प्रकार की चल सम्पति को जोड़ा गया है जैसे कॉपीराईट, पेटन्ट को भी समाहित किया गया है।
- दंड की परिभाषा में एक, नये दण्ड का समावेश किया गया है जो "कमिन्यूटी सर्विस" है।
- सजा माफ करने के प्रावधान में बदलाव करते हुए अब राज्य सरकार द्वारा गठिन समिति सजायाफता बंदियों की सजा की अवधि का लघु करण करने की अधिक अधिकारिता रखेगी।

धारा 433 Cr.P.C. (पुराने कानून) के अनुसार

आजीवन कारावास की सजा भुगत रहे अपराधी को 14 वर्ष पूर्ण करने से पूर्व जेल से रिहा नहीं किया जा सकता था। अब BNS के तहत आजीवन कारावास से दण्डित व्यक्ति को 7 वर्ष पूर्ण होने के पश्चात उसके आचरण के आधार पर 7 वर्ष पश्चात छोड़ा जा सकेगा।

धारा 48 BNS (नया प्रावधान)

भारत में अपराध करने के लिए भारत के बाहर से दुश्प्रेरण करने वाले को दण्डित किया जा सकेगा।

महिला के प्रति अपराध धारा 69 (नया प्रावधान) BNS छल करते हुए योन सम्बंध बनाने वालों को दण्डित करने का प्रावधान किया गया है यदि उक्त छल–नोकरी देने, पदोन्नति का आश्वासन या विवाह करने का वचन देकर व अपनी पहचान छुपा कर किया जाता है तो इस हेतु 10 वर्ष की सजा का प्रावधान किया गया है।

Sec- 76 BNS जो धारा 354 ए भा.द.सं. के स्थान पर लाया गया है। इसमे विशेषता यह है कि पूर्व के कानून में उक्त अपराध हेतु पुरुष को ही दण्डित करने का प्रावधान किया गया था, परंतु नये कानून में शब्द "पुरुष" के स्थान पर "कोई भी व्यक्ति" शब्द से प्रतिस्थापित किया गया है।

नये कानून के तहत यदि कोई महिला, या ट्रॉसजेन्डर भी किसी महिला को बल पूर्वक निवस्त्र करता है तो वे सजा के पात्र बनाए गये है।

बालकों के प्रति अपराध

धारा 95 BNS नई धारा जोड़ी गई है, जिसके अनुसार– यदि कोई व्यक्ति 18 वर्ष से कम आयु के बालक को आपराधिक गतिविधि हेतु नियोजित करता है तो उसे (नियोजन कर्ता) को किये गये अपराध के अनुसार ही दण्ड पाने को अधिकारी होगा। (यही माना जायेगा जैसे उसने स्वयं अपराध किया हो।

धारा 366 A भा.द.सं के स्थान पर धारा 96 BNS जोड़ी गई है। पूर्व के कानून में 18 वर्ष से कम बालिका को भगा कर ले जाना दण्डनीय अपराध था, परंतु नये प्रावधानों में अवयस्क लड़की के स्थान पर "अवयस्क बालक" शब्द जोड़ा गया है। उक्त अपराध अब जेंडरण्न्यूटरल बनाया गया है।.

मानव वध

मॉबलिंचिंग–103 (2) 5 या अधिक व्यक्ति कोई मानव वध किसी व्यक्ति की जाति, धर्म, भाषा, लिंग, स्थान आदि के आधार पर करता हैं तो इसे प्रथक से दण्डनीय अपराध घोषित किया गया है।

धारा 304 भा.द.सं के स्थान पर नई धारा 105 BNS जोड़ी गई है, पूर्व में ऐसे अपराध के लिए कोई न्यूनतम सजा का प्रावधान नहीं था। नये प्रावधान के अनुसार ऐसी हत्या के लिये न्यूनतम दण्ड का प्रावधान किया गया जो 5 वर्ष न्यूनतम किया गया।

सड़क दुर्घटना के मामलों में सजा का प्रावधान बढाया गया है। धारा 304 A भा.द.सं (पुराना) के स्थान पर धारा 106 BNS जोड़ी गई है, इसमें 7 वर्ष की संजा के स्थान पर 5 वर्ष तक के दण्ड का प्रावधान किया है।

धारा 106 की उप–धारा (2) BNS-यदि कोई सड़क दुर्घटना कारित करने के पश्चात पुलिस को सूचित नहीं करता है व दुर्घटना स्थल से भाग जाता है तो सजा के 10 वर्ष तक बढ़ाया जा सकता है।

संगठित अपराध

धारा–111BNS (नया)

111(i) BNS यदि संगठित अपराध कर हत्या की जाती है तो ऐसे लोगों को मृत्यु दण्ड या आजीवन से दण्डित करने का प्रावधान किया गया है व अर्थ दण्ड़ न्यूनतम 10 लाख का प्रावधान किया गया है।

- संगठित अपराध के तहत किये गये अन्य अपराधों हेतु न्यूनतम 5 वर्ष के कारावास का व न्यूनतम 5 लाख रुपये के दण्ड का प्रावधान किया गया है। संगठित अपराधों के लिये, दुष्प्रेरण, सहयोग, जानबूझकर सहायता व शरण देता है तो ऐसा व्यक्ति न्यूनतम 5 वर्ष के कारावास से दण्डित करने का प्रावधान किया गया है।

धारा 112 BNS – संगठित छोटे अपराधों जैसे छिना झपटी, चेन छीनना, धोकेबाजी आदि के अपराधों के लिए 7 वर्ष तक के कारावास का प्रावधान किया गया है जिसमे न्यूनतम सजा 1 वर्ष का प्रावधान किया गया है।

S-117 (3) BNS

गम्भीर चोट पहुँचा कर किसी व्यक्ति को स्थाई रूप से निश्क्त बना देता है तो ऐसे व्यक्ति को न्यूनतम 10 वर्ष तक के कठोर दण्ड़ का प्रावधान किया गया है जो आजीवन कारावास से दंडनीय बनाया गया है। जिसमे सम्पूर्ण शेष जीवन हेतु भी कारावास का प्रावधान किया गया है।

S-117 (4) BNS (मॉब लिंचिग)–

समूह द्वारा गम्भीर उपहति कारित करने वालों को 7 वर्ष तक के दण्ड से दण्डित किया जा सकेगा।

एसिड अटैक करने वाले अपराधी को न्यूनतम 10 वर्ष तक के दण्ड का प्रावधान किया गया व पीडित के इलाज का सम्पूर्ण खर्च आरोपी से वसूलकर पीड़ित को दिलाने का प्रावधान किया गया है।

एसिड अटैक का प्रयास करने को भी दण्डतीय अपराध बनाया गया है जिसमें न्यूनतम 5 वर्ष के कठोर कारावास का प्रावधान किया गया है व सजा 7 वर्ष तक बढ़ाया सब जा सकता है।

बालकों का भिक्षावृति हेतु अपहरण व अंगभंग

S- 363 A IPC =139 BNS – यदि भिक्षावृति कराने हेतु किसी बालक का अपहरण किया जाता है तो ऐसा व्यक्ति न्यूनतम 10 वर्ष तक के कठोर कारावास से दण्डित किये जाने का पात्र बनाया गया है व दण्ड आजीवन कारावास तक का हो सकेगा।

- यदि बालक का भिक्षावृति हेतु अंग भंग किया जाता है ऐसे व्यक्ति न्यूनतम 20 वर्ष तक के कारावास या आजीवन कारावास तक दण्डनीय बनाया गया है। भारत की सम्प्रभुता को चुनौती देने वालों को दण्डित करने का प्रावधान धारा 152 BNS में किया गया है।

देश से बाहर बैठे व्यक्ति के विरुद्ध मुकदमा चलाया जा सकता है। आतंकवादी गतिविधियों के लिए भी दण्ड का प्रावधान किया गया है। ❑

Village Courts : A mode of doorstep justice delivery system

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Abstract

"Whenever you are in a dilemma in taking a decision, you must think about how the decision was going to benefit the poor person sitting last in the row."

-Mahatma Gandhi

At the grass root level, Gram Nyayalaya was set up on the recommendation of the Law Commission (1986)[1] in light of article 39-A of the Constitution to provide: access to justice to the most marginalised sections of society specifically that the rural poor, to reduce barriers to access to justice in terms of distance, time, & associated costs; to reduce dependence of rural citizens on extrajudicial alternative systems of justice; to reduce delay and to reduce workload on higher tiers of judiciary. The preamble of the Constitution of India promises to secure social, economic, and political justice for all its citizens. As regards the dispensation of justice through courts Gram Nyayalaya has a decisive and meaningful role in securing justice. Rural poor are the persons sitting last in the row of justice, they should not be devoid of access to justice hence benefits should be reached to them. This paper will shed light upon bottlenecks in the implementation of village courts in different states and suggest measures for their effective working.

Keywords: *Gram Nyayalaya, Rural Justice,Article 39-A, Constitution, Delay.*

Introduction

Injustice anywhere is a threat to justice everywhere said Martin Luther King meaning therebyjustice is one of the most essential values in all spheres. It is an expression of mutual recognition that makes society function in a better way thereby reducing societal tensions and establishing peace in society. The phrase "access to justice" focuses on two fundamental goals of the legal system or state-sponsored conflict settlement process.[2] The system must, first and foremost, be equally accessible to everyone, and it must also produce outcomes that are both socially and individually equitable. Indian constitution guarantees access to justice under art39A.[3]However, in practice, injustice is unbridled throughout the country and the vulnerable section of the society finds it very difficult to get justice. In this context, it is feasible to state justice delayed is equivalent to justice being denied. The concept of "access to justice" elucidates two critical objectives within the legal framework or state-sanctioned mechanisms for conflict resolution.[4] Firstly, it demands that the legal system be equally accessible to all members of society, irrespective of their background or status. Secondly, it emphasizes the necessity for outcomes that are not only fair at a societal level but also uphold individual equity. The Indian Constitution recognizes and guarantees access to justice through Article 39A.

However, the practical realization of justice faces significant challenges in India, where instances of injustice persist widely. The marginalized sections of society often encounter formidable barriers when seeking legal recourse, rendering the promise of access to justice a mere illusion for them. This discrepancy between constitutional ideals and ground-level realities gives rise to the poignant observation that "justice delayed is justice denied."This paper aims to investigate the pervasive issues within the Indian judicial system, shedding light on the impediments that hinder the smooth delivery of justice.[5] It contends

[1]*Law Commission of India, 144th Report on Gram Nyayalaya (1986).*
[2]*Mathur, S. N. Nyaya panchayats as instruments of justice. Concept Publishing Company, 1997.*
[3]*The Constitution of India, art 39A.*
[4]*Baxi, Upendra, and Marc Galanter. "Panchayat justice: an Indian experiment in legal access." Access to justice 3 (1979): 341-386.*
[5]*Badami, Neela, and Malavika Chandu. "Access to Justice in India." In Institutional Competition between Common Law and Civil Law: Theory and Policy, pp. 211-235. Berlin, Heidelberg: Springer Berlin Heidelberg, 2014.*

that the effective implementation of the Gram Nyayalaya Act is imperative for establishing a system of justice that reaches the doorsteps of every individual. By exploring the nuances of these challenges and advocating for the practical application of legal frameworks, the paper seeks to contribute to the discourse on the pressing need for a more accessible and efficient justice delivery system in India.[6]

Problems of Justice Delivery Mechanism in India

Within the confines of the Constitution, the judicial arm of government is one of the most significant. We discuss here some of the major challenges before the judiciary in the following Heads:

Judges and People Ratio- For effective justice delivery, the 120th Law Commission of India Report, stipulated that India should have 50 judges for every million people.

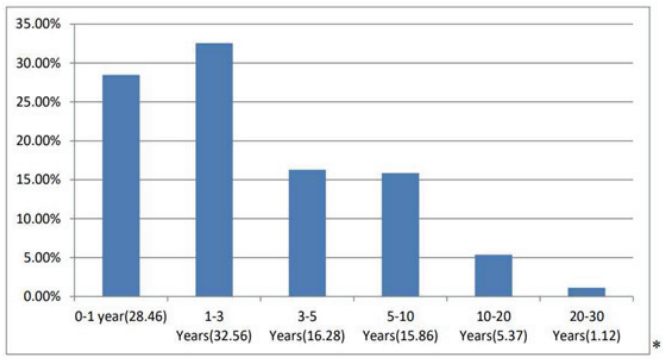
Here's a tabular form summarizing the judge-to-population ratio in different countries and years based on the provided information:

Year	*Country*	*Judges per 10 Lakh (1 million)* People
1987	India	11
2011	India	19.78
2019	India	20.29
2022	India	21.03[7]
2011	United States (USA)	102[8]
2020	England and Wales (UK)	56
2011	China	147

Source- *Data of National Judicial Data Grid*

Delay in the disposal of cases can be understood by the following Chart-

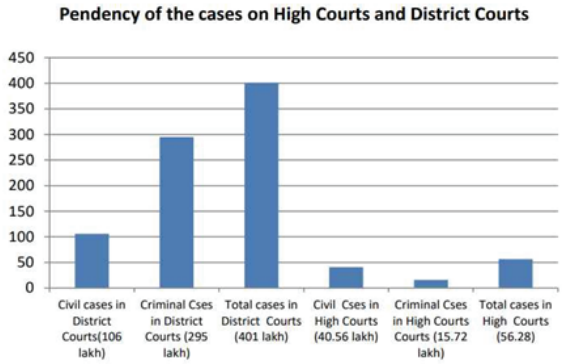
As per data available on National Judicial Data Grid Over 78% of all cases are still pending after more than a year. More than 39% of all cases have been open for longer than three years.More than 86 percent of all cases Data of National Judicial Data Grid before the High Court are still outstanding after more than a year, and more than 58 percent of cases are still waiting after more than three years.[9]



As per data available on National Judicial Data Grid

[10]Delay in disposal of cases can be understood by the above Chart

Pendency of a large number of cases- The Indian judiciary is now dealing with a significant backlog of litigation at every level.



Source- As per data available on the National Judicial Data Grid[11]

[6]Nadagoudar, Suresh V. "Gram Nyayalayas: A Panacea to Ensure Access to Justice."GNLU JL Dev. & Pol.12 (2022): 37.

[7]In a written reply in Rajy Sabha, Law Minister Kiren Rijiju on 05.08. 2021

[8]Subordinate Courts of India: A Report on Access to Justiceavailable at:https://www.google.com/url?sa=i&url=https%3A%2F%2Fmain.sci.gov.in%2Fpdf%2FAccesstoJustice%2FSubordinate%2520Court%2520of%2520India.pdf&psig= AOvVaw2iQje7ljJrfIwf9Z5dyDIb&ust=1701764297619000&source=images&cd=vfe&ved=0CAgQrpoMahcKEwjwmKWWrPWCAxUAAAAAHQAAAAQBA(last visited on Nov 25, 2023).

[9]Data of National Judicial Data Grid available at: https://njdg.ecourts.gov.in/njdgnew/?p=main/pend_dashboard (last visited on Nov 14, 2023).

[10]Data of National Judicial Data Grid available at:https://njdg.ecourts.gov.in/njdgnew/?p=main/pend_dashboard (last visited on Nov 14, 2023).

[11]Ibid.

The Constitution obliges the State to guarantee unhindered access to justice for all citizens. The judiciary has constantly been concerned with concerns such as the load of the subordinate judiciary, judge strength, and resources. Therefore, a need was felt to introduce the concept of a doorstep justice delivery system with the help of GramNyayaLaya. The same has been recommended by the Law Commission under its 114th report in 1986.

Gram Nyayalayas for Justice to Rural Poor: A New Beginning

In ancient India, the communities settled their disputes among themselves and this settlement was done by village elders or respected persons known for their integrity and honesty.

The Law Commission of India on Gram Nyayalayas

The Law Commission of India recommended the creation of Gram Nyayalaya in its 114th Report from 1986. The Nyaya Panchayat model should be replaced by the Gram Nyayalaya model, according to the Law Commission. The report's first main focus was on the concept of participatory justice. The Law Commission listed one of the Indian judicial system's main flaws as being its "foreign" character. The Law Commission highlights the importance of local knowledge and culture for those who decide disputes. The Commission chose a model of a rural court with a three-person panel to accomplish this. A judicially educated officer was to preside over this panel, which also included two lay judges.[12] The 73rd Constitution Amendment Act, 1993 did not include the discharge of justice as a function of Panchayati Raj Institutions within the heads mentioned in the Eleventh Schedule of the Constitution. It is argued though, that the goals of 'social justice' mentioned in Article 243G (a) reflect that justice dispensation is not entirely ruled out in Part IX of the Constitution as an appropriate role of PRIs. The Supreme Court has observed in State of U.P. v. Pradhan Sangh Kshetra Samiti[13] that "Admittedly the basis of the organization of the Nyaya Panchayats under the Act is different from the basis of the organization of the Gram Panchayats, and the functions of the two also differ.

The Gram Nyayalayas Act, 2008

The Rajya Sabha was once more presented with the Gram Nyayalayas Bill, 2008, after the standing committee on the Gram Nyayalayas Bill, 2007, had made recommendations. On January 7, 2009, the President ultimately gave his approval to this Act after it had been approved by Parliament. The Act went into effect on October 2, 2009, the anniversary of Mahatma Gandhi's birth. More than 5000 Nyayalayas were anticipated to be established as a result of this Act.

Objectives of the Act The Gram Nyayalayas Act, 2008-provides for the establishment of Gram Nyayalayas at the block level in the country, as the lowest tier of the judiciary for rural areas. The objects of the Act are:

- to ensure that opportunities for securing justice are not denied to any citizen because of social, economic, or other disabilities;
- to provide access to justice to the citizens at their doorsteps;
- to provide speedy justice at the grassroots level for the vast population that inhabits rural India;
- to set up courts that would travel to the people instead of people travelling far to courts set up in far-off places, mostly in the District Headquarters, thereby bringing to the people of rural areas speedy, affordable, and substantial justice.

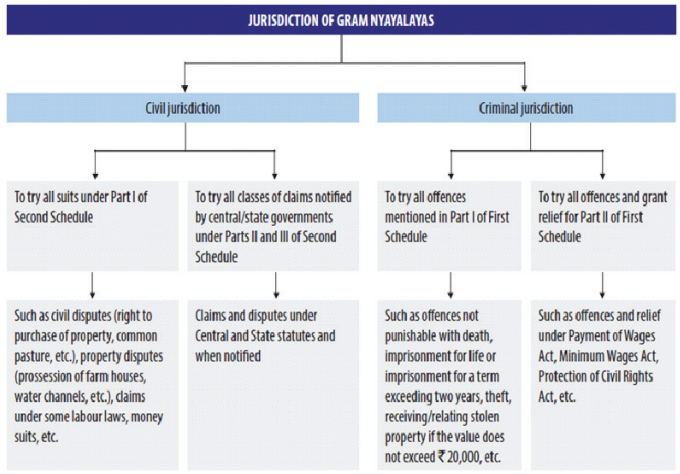
Here's a tabular form summarizing the important features of the Act:

Feature	Description
One Gram Nyayalaya for each block	State Governments establish Gram Nyayalayas for every Panchayat at the intermediate level or a group of contigous Panchayats at the intermediate level in a district.
Nyayadhikari	A judicial officer, 'Nyayadhikari,' presides over each Gram Nyayalaya, appointed by the State Government in consultation with the High Court.
Qualifications of Nyayadhikari	Must be under 45 years of age and eligible to be appointed as a Judicial Magistrate of the First Class with a minimum of 7 years of practice.
Representation Requirements	Ensures representation of women and members of the Scheduled Castes and Scheduled Tribes communities when appointing Nyayadhikaris

[12] *Law Commission of India, 114th Report on Gram Nyayalaya (1986).*
[13] *AIR 1995 SC 1512.*

Mobile Courts	Gram Nyayalayas function as mobile courts, with Nyayadhikaris periodi cally visiting villages for case proceedings.
Territorial Jurisdiction	The jurisdiction of a Gram Nyayalaya extends to the entire area of the intermediate Panchayat where it is established.
Types of Cases Heard	Gram Nyayalayashandle specified criminal cases, civil suits, claims, or disputes as listed in the First and Second Schedules of the Act.
Procedure	The Act has an overriding effect on matters of procedure, with the Code of Civil Procedure and the Code of Criminal Procedure applying only to matters not specified in the Act. The Indian Evidence Act, 1872 does not apply, allowing for the acceptance of evidence that may not be relevant or admissible under the Evidence Act.
Appeals	Appeals can be filed against judg ments/orders. In criminal cases, ap peals go to the Court of Sessions, and in specified civil cases, appeals go to the District Court. Appeals are to be heard and disposed of within six months from the date of filing.
Limitation	Civil cases must adhere to the limitation period prescribed in the Limitation Act of 1963, while Chapter XXXVI of the CrPC applies to offences.

Source-important features of the Gram Nyayalaya Act[14]



Source-important features of the Gram Nyayalaya Act[15]

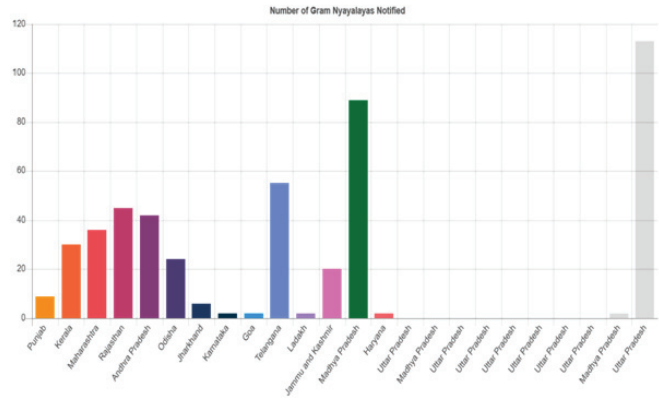
Bottlenecks in the implementation of the Gram Nyayalaya Act

The Gram Nyayalayas Act, 2008 received the permission of the President on the 7th January 2009. The Act came into force on 2nd October 2009. More than 5000 Gram Nyayalayas were expected to be set up under the Act. But after 13 years of enforcement of this Act, various numbers of Gram Nyayalayas were established in respect of expectation.[16] Madhya Pradesh was the first State where the Institution of the Gram Nyayalayawas established before the enactment of the Central Act. For the litigants, Gram Nyayalayas would mean a speedier and more accessible justice system involving less expense, as the simple procedures would not necessarily need the services of a professional lawyer. The political will to set up the required infrastructure will to a large extent determine the success of this Act.[17] A perusal of the Act

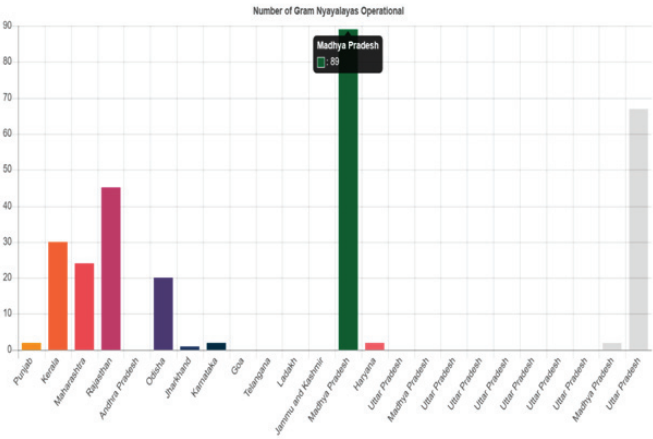
[14]*Egyankosh available at: https://www.egyankosh.ac.in/bitstream/123456789/52060/1/Block-2.pdf (last visited on Nov 15,2023).*
[15]*Egyankosh available at: https://www.egyankosh.ac.in/bitstream/123456789/52060/1/Block-2.pdf (last visited on Nov 15,2023).*
[16]*Bail, Shishir. "From Nyaya Panchayats to Gram Nyayalayas: The Indian State and Rural Justice."Socio-Legal Review 11, no. 1 (2022): 3.*
[17]*Shukla, Shubharth, and Arima Pankaj. "Potential of Gram Panchayat in the Transformation of Rural India: A Socio-Legal Analysis."(2022).*

brings out certain obvious deficiencies, which are as follows:

Below below-mentioned graph shows of notified gram nyayalaya and the functioning of gram nyayalaya.



Source: Number of Gram Nyayalaya Notified available at https://dashboard.doj.gov.in/gn/notified_gram_nyayalaya (last visited on Oct 30,2023).[18]



Source: Number of Gram Nyayalaya working available at https://dashboard.doj.gov.in/gn/notified_gram_nyayalaya (last visited on Oct 30, 2023).[19]

Other Bottlenecks

Concerns/Provisions of the Act	Analysis/Explanation
Appoinment of Nyayadhikari	- The Act separates village-level courts from PRIs, reducing the influence of PRIs on justice. Judges are state-appointed, minimizing populist pressures. However, the state-appointed process may lead to nepotism and corruption without defined criteria for appointments.
Filling up Vacancies	The government aims to introduce 5067 new courts, requiring a substantial number of judges. Vacancies in 18% of judicial posts indicate a historical challenge in filling judicial positions,without making the appointments attractive, the goal of decentralized justice might only remain a promise.
Extension to Urban Areas	- The Act primarily focuses on rural areas (Gram Nyayalayas), neglecting a similar provision for urban regionsConsideration for establishing similar courts in urban areas is necessary for comprehensive justice delivery.
Overlapping Jurisdiction	- The Act designates Gram Nyayalayas as the lowest court, but it overlaps with Courts of Magistrates of the Second Class under the CrPCBoth have jurisdiction over cases with a maximum punishment of one year imprisonment, demanding clarification to avoid confusion and conflict regarding their roles and authority.

[18]*Number of Gram Nyayalaya Notified available at:https://dashboard.doj.gov.in/gn/notified_gram_nyayalaya (last visited on Oct 30,2023).*

[19]*Number of Gram Nyayalaya working available at: https://dashboard.doj.gov.in/gn/notified_gram_nyayalaya (last visited on Oct 30, 2023).*

A Need for Read Down Interpretation of Section 3 of Gram Nyayalaya Act

Section 3 of the Act provides for the 'Establishment of Gram Nyayalayas' & states, (1) to exercise the jurisdiction and powers conferred on a Gram Nyayalaya by this Act, the State Government, after consultation with the High Court, may, by notification, establish one or more Gram Nyayalayas for every Panchayat at intermediate level or a group of contiguous Panchayats at intermediate level in a district or where there is no Panchayat at intermediate level in any State, for a group of contiguous Gram Panchayats. (2) The State Government shall, after consultation with the High Court, specify, by notification, the local limits of the area to which the jurisdiction of a Gram Nyayalaya shall extend and may, at any time, increase, reduce, or alter such limits. (3) The Gram Nyayalayas established under sub-section (1) shall be in addition to the courts established under any other law for the time being in force.

Evaluation Study of the Scheme of Establishing and Operationalizing Gram Nyayalayas, January 2018, sponsored by the Ministry of Law & Justice and conducted by the National Productivity Council, shows that for the period 2009-10 to 2017-18, a mere 320 Gram Nyayalayas have been notified by various State Governments and of that only 204 are operational. Only 11 states have thus far taken steps to even notify Gram Nyayalayas. The position in these states is as follows: No. of Gram Nyayalayas notified and Functioning in the States.

Sl. No.	State	Gram Nyayalayas Notified	Gram Nyayalayas Functional
1	MP	89	89
2	Rajasthan	45	45
3	Karnataka	2	0
4	Orissa	22	14
5	Maharashtra	39	24
6	Jharkhand	6	1
7	Goa	2	0
8	Punjab	2	1
9	Haryana	2	2
10	UP	104	4
11	Kerala	30	30
	Total	**343**	**210**

Source: Evaluation Study of the Scheme of Establishing and Operationalizing Gram Nyayalayas, January 2018 available at http://nyay.upsdc.gov.in/MediaGallery/GramNyayalayaEvaluationReport.pdf (last visited on Oct 30, 2023).[20]

Village Courts in USA

- 1,200 Town & Village Courts/Justice Courts.
- Nearly 1,800 Town and Village judges handle close to 1 million cases a year.
- Jurisdiction to hear both civil and criminal matters.
- Town and village courts are best known for their small claims part.

Best practices: Bihar village court

In June 2017, a long-running land dispute was settled in just six days in a community-owned court in Bihar Returning to his village after many years, Ramashish had received a rude shock. His cousins had deprived him of the 5.90 acres of land he'd inherited. Over the last 20 years. Ramashish had approached villagers, policemen, and civil court judges to resolve the dispute, but without much luck. This was no easy case, but Pushpanjali summoned the 3 disputing parties-Ramashish and his cousins' descendants-to the Gram Katchahri *(village Court-a judicial forum for resolving disputes locally).* Pushpanjali helped the parties realize how much money they were wasting on their legal squabbles, and convineed them to withdraw their cases against each other. With the help of her husband. she measured the disputed property and allocated plots to each party. After 6 days, the parties agreed to her proposal.

State Governments under Section 3 of the Gram Nyayalayas Act, have been defeating the object of the Act, as Section 3 provides that State Governments "may" constitute Gram Nyayalayas and thereby violate the fundamental right of citizens to 'access to justice' with all its facets by not constituting required Gram Nyayalayas. It is most humbly submitted that intervention of this Hon'ble Court is required to redress this violation of Article

[20]*Gram Nyayalaya,available at:http://nyay.upsdc.gov.in/MediaGallery/GramNyayalayaEvaluationReport.pdf (last visited on Oct 30,2023).*

14 & 21 rights of citizens at large and so that the 'object' of the act and intent of the legislature is not frustrated.

In Anita Kushwaha v. Pushap Sadan[21], a Constitutional Bench of this Hon'ble Court declared that Access to Justice is a Fundamental Right guaranteed by Article 14 and Article 21 of the Constitution. The Hon'ble Court held that (1) accessibility to adjudicatory mechanism in terms of distance, (2) speedy justice, and (3) affordable justice, are essential facets of "Access to Justice"

Suggestions and Recommendations

1. Suggestions regarding Jurisdiction: The Jurisdiction of Gram Nyayalaya should be rearranged and extended.The jurisdiction of Gram Nyayalayas needs restructuring, especially in criminal cases, where certain sections like 506 of the IPC have partial jurisdiction, causing confusion and inconvenience for litigants. Inconsistencies in the application of laws across states, such as Uttar Pradesh's seven-year punishment for section 506, further complicate matters. Similarly, while some provisions of the Domestic Violence Act fall under Gram Nyayalayas, section 498A of the IPC, often accompanying such cases, does not. This lack of alignment creates jurisdictional problems for litigants. Hence, a reassessment of Gram Nyayalaya jurisdiction is necessary. Moreover, in civil cases, extending the pecuniary jurisdiction of Gram Nyayalayas to match that of Civil Judges can streamline the legal process, given the similarity in the cadre of Nyayadhikaries.

2. Regarding the Appointment of staff and Infrastructure: The Gram Nyayalayasneed adequate staffing, including conciliators, panel lawyers, and prosecuting officers. Proper infrastructure and resources must be provided as well, as currently, most Gram Nyayalayas operate from rented buildings without basic facilities like drinking water and toilets. The State or District Legal Services Authority should assign panel lawyers to ensure legal aid for those unable to afford representation.

3. Regarding the Training of Nyayadhikari and Advocates: Nyayadhikaries and staff at Gram Nyayalayas require proper training to effectively administer justice at the grassroots level. Currently, they often rely on technical procedures from the civil and criminal procedure codes, which may not align with the spirit of Gram Nyayalaya. Advocates also need training on Gram Nyayalaya procedures, as many are unaware of the rules framed by the state government. Introducing Gram Nyayalaya topics in LLB degree courses and civics at the school level can help create awareness and ensure proper implementation, benefiting a significant portion of the population.

4. Regarding Awareness: To ensure the proper implementation of Gram Nyayalayas and achieve the objectives of the Gram Nyayalaya Act, awareness programs must be initiated in rural areas with the involvement of Administrative Officers, Revenue Officers, Pradhans, and Panchayat members. Additionally, broadcasting awareness programs through radio, TV, newspapers, and social media channels is essential to reach a wider audience and inform them about Gram Nyayalayas.

Way Ahead

- Regarding the Training of Nyayadhikari and Advocates
- To conduct workshops time to time in Gram Nyayalaya or group of Gram Nyayalaya for the training of advocates.
- Gram Nyayalaya should be introduced in LLB degree courses and in civies at the school level.
- Village courts began operating in Papua New Guinea in 1975.
- The court has jurisdiction over all residents normally resident within its area (s 12) with inter-village disputes with by joint sittings.
- They appear to fit relatively well into the life of local communites and their acceplance at the village, Bihar example...

Conclusion

The establishment of Gram Nyayalayas is a significant step towards ensuring access to justice for the marginalized sections of Indian society. It reduces the burden on the courts, saves time and costs, and decentralizes justice delivery at the grassroots level. Despite challenges, Village Courts have positively impacted access to justice for the poor and vulnerable. The Gram Nyayalayas Act aims to provide justice at citizens' doorsteps and must be effectively implemented to ensure speedy justice for all. State governments must prioritize the establishment and functionality of Gram Nyayalayas to guarantee access to justice for every citizen, ultimately serving as a remedy for the longstanding issue of justice accessibility.

[21] *(2016) 8 SCC 509.*

Unravelling the Article 370 Verdict

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Advocate Supreme Court

The Scheduled Tribes (STs), OBCs, Dalits, Women, refugees from Pakistan, Gorkhas, Kashmiri Hindus, and billions of the rural populace residing in Jammu & Kashmir (J&K) have cried for the last 70 years, but Delhi was too deaf to hear it. While other regions merged into the Indian Union and prospered with it, J&K became a victim of its history, its geography, and more so, its politicians. The presence of Article 370 in the Constitution, introduced at the insistence of Pandit Nehru and Sheikh Abdulla despite the opposition of Patel, Ambedkar, and Mukherjee, became the biggest fetter in the inclusive and sustainable development of J&K, and also in the unity and integrity of India.

The disease was identified, but the moot point was who would bell the cat. Dilution was tough, abrogation near impossible. It required immense political will. It is said that no one can stop an idea whose time has come. The time of the oppressed, the vulnerable and marginalised sections of J&K had come. Article 370 died on 5 August 2019 with a stroke of pen when former President Ram Nath Kovind signed the Constitutional Orders (CO) 272 and 273. However, it was not cremated and its corpse continued to be kept in the mortuary in the hope that the Supreme Court of India would blow life into it. However, vide three separate but concurring judgments, the Supreme Court of India unanimously let Article 370 rest in peace vide In Re: Article 370 of the Constitution.

The annulment of Article 370 in J&K marked a pivotal moment in India's political and constitutional landscape. Several petitions were filed questioning the action, its manner, and the propriety which were clubbed and finally heard and decided vide the judgement In Re: Article 370 of the Constitution. This landmark judgement dissects the intricate legal, political, and social implications of CO 272 and 273. These orders aimed to apply and alter Indian Constitution provisions within J&K, sparking a legal saga that delves into constitutional nuances.

At its core, this judicial endeavour scrutinisess crutinizes constitutional principles, historical precedents, and the delicate balance between federalism, state autonomy, and the Union's authority. The judgement stands as a testament to India's democratic values, striving to harmoniseharmonize regional aspirations with national unity.

The Context: Article 370 and its Evolution

Article 370 of the Indian Constitution was a provision that granted special autonomous status to the region of Jammu and Kashmir (J&K). It was introduced to address the unique circumstances surrounding J&K's accession to India in 1947, following the partition of British India.

Article 370 of the Indian Constitution was a provision that granted special autonomous status to the region of Jammu and Kashmir (J&K). It was introduced to address the unique circumstances surrounding J&K's accession to India in 1947, following the partition of British India. The princely states were given the option to accede to either India or Pakistan, and J&K's accession was conditional, with certain privileges and autonomy guaranteed.

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Initially, Article 370 aimed to respect the cultural and political identity of J&K while facilitating its integration into the Indian Union. It limited the jurisdiction of the Indian

Parliament over the state to only three subjects: defense, foreign affairs, and communications. However, over time, various political and administrative changes led to the gradual erosion of the autonomy granted by Article 370.

As governance dynamics evolved and sentiments shifted, interpretations of Article 370 changed, leading to debates about its relevance and impact. The erosion of its original provisions meant that a significant portion of the Indian Constitution became applicable to J&K. By the time it was effectively abrogated on August 5, 2019, by the Government of India, the autonomy granted by Article 370 had been substantially diluted.

This dilution process culminated in December 11, 2023, marking a significant milestone where the erosion of Article 370's provisions became nearly irreversible. By then, a vast majority of the Indian Constitution's provisions, including Union List entries, Articles, and Schedules, were applicable to J&K.

The evolution of Article 370 mirrored the changing socio-political landscape of J&K. What initially served as a bridge for integration between the region and the rest of India gradually transformed into a focal point of contention and divergence. The discussions surrounding Article 370's constitutional significance and its implications for the region's future within India remained highly contentious and polarizing even after its abrogation.The inception of Article 370 in India's Constitution signified a unique attempt to balance regional autonomy with national integration, specifically addressing the distinct status of J&K. Originating from the erstwhile princely state's accession to India in 1947, this provision aimed to grant the region a degree of autonomy while integrating it into the Indian Union.

Initially intended to respect the region's cultural and political identity, Article 370 changed over time, gradually diluting its original provisions. As governance dynamics and sentiments evolved, and so did interpretations of this article, leading to debates about its relevance and impact. The evolution of Article 370 reflected the changing socio-political landscape in J&K. From being a bridge for integration, it became a focal point of divergence, sparking discussions about its constitutional significance and implications for the region's destiny within India. Article 370 in its initial form, accepted encroachments only in the matters of defence, external affairs, and communication. However, it was gradually but steadily diluted so much so that 94 out of 97 entries in the Union List, 260 out of 395 Articles, and 7 out of the 12 Schedules of the Indian Constitution were already applicable to J&K, and this dilution was complete on 5 August 2019 and became almost irrevocable on 11 December 2023

This dilution process culminated in December 11, 2023, marking a significant milestone where the erosion of Article 370's provisions became nearly irreversible. By then, a vast majority of the Indian Constitution's provisions, including Union List entries, Articles, and Schedules, were applicable to J&K.

The Judicial Scrutiny

The arguments centred around four core issues, namely,

1. Whether J&K by Instrument of Accession or otherwise enjoyed a semblance of sovereignty?
2. Whether Article 370 was temporary or has it attained a degree of permanence?
3. The legality of CO 272 and 273. and
4. Challenge to Jammu and Kashmir Reorganisation Reorganization Act, 2019.

Sovereign inside a sovereign?

The legal debate surrounding the validity and scope of Article 370 intensified with various parties presenting divergent interpretations. The petitioners contended that the Instrument of Accession signed by Maharaja Hari Singh delineated the powers delegated to the Union of India, restricting it to matters of defense, external affairs, and communication. They emphasized Paragraph 8 of the Instrument, which contained a non-obstante clause preserving the Maharaja's sovereignty over the state.

However, the court dismissed these arguments, favoring the position advanced by the Union of India. It referenced the Proclamation issued by Karan Singh on November 25, 1949, which explicitly stated that the Constitution of India would supersede all conflicting constitutional provisions within J&K, effectively nullifying Paragraph 8. This proclamation, the court held, signified the complete surrender of sovereignty by J&K to India, facilitated by its sovereign ruler.

Additionally, the court addressed the significance of the separate Constitution of J&K, emphasizing that its existence did not guarantee sovereignty. Instead, it served to delineate the relationship between the Union of India and the state of J&K. Unlike the Indian Constitution, the Constitution of J&K did not explicitly reference sovereignty. The court further underscored that Article 1 of the Indian Constitution and the provisions of Article 370 left no room for doubt regarding J&K's status as an integral part of India. This assertion was reinforced by Section 3 of the Constitution of J&K, which was declared unamendable.

Furthermore, the court clarified that Article 370, along with similar provisions such as Articles 371A to 371J, exemplified a form of asymmetric federalism rather than internal sovereignty. This ruling served to definitively establish the constitutional framework governing J&K's relationship with the Indian Union, reaffirming its integral status within India.The Petitioners argued that the Instrument of Accession executed by Maharaja Hari Singh delegated power to the Union of India only to legislate on defence, external affairs, and communication. More importantly, Paragraph 8 of the Instrument of Accession had a non-obstante clause that nothing in the Instrument would affect the continuance of the sovereignty of the Maharaja in and over the State. And hence, unlike other princely states, it was not a case of merger.

However, the Court rebuffed these arguments and accepted those advances on behalf of the Union of India. The Proclamation by Karan Singh, dated 25 November 1949 unequivocally clarified that the Constitution of India would not only supersede all other constitutional provisions in the State which were inconsistent with it but also abrogate them. This, the court held, would nullify Paragraph 8, and reflects the full and final surrender of sovereignty by J&K, through its sovereign ruler, to India.

The presence of a separate Constitution is no guarantee of sovereignty. The Constitution of J&K was only to further define the relationship between the Union of India and the State of J&K. Neither does the Constitution of J&K have any reference to sovereignty. On the other hand, the Preamble to the Indian Constitution declares India to be a sovereign republic. Article 1 and 370 leave no doubt that J&K is an integral part of India which is further reinforced by unamendable Section 3 of the Constitution of J&K. The Court said loud and clear that Article 370, like 371A to 371J, is a feature of asymmetric federalism and not internal sovereignty.

However, the court dismissed these arguments, favoring the position advanced by the Union of India. It referenced the Proclamation issued by Karan Singh on November 25, 1949, which explicitly stated that the Constitution of India would supersede all conflicting constitutional provisions within J&K, effectively nullifying Paragraph 8.

Article 370: Temporary or Permanent?

The second most important issue raised in the course of the hearing was the nature of Article 370. While the Petitioners relied upon the Proviso to Article 370(3) to argue that since the recommendation of the Constituent Assembly of the state is mandatory the President could declare the said article inoperative. However, since the Constituent Assembly of J&K no longer exists, the said Article has effectively become permanent.

However, the court from an elaborate interpretation encompassing historical, textual, as well as purposive aspects, concluded otherwise. The Court held that Article

370 was introduced to serve a transitional purpose and a temporary purpose. Transitional because it provided an interim arrangement until the Constituent Assembly of the State could decide on the legislative competence of the Union on matters other than the ones stipulated in the Instrument of Accession, and ratify the Constitution. Temporary because of the war conditions in the State. Article 370 outlived the Constituent Assembly of J&K as the war-like situation in the State for which Article 370 was introduced still subsisted.

From a textual perspective, the said Article is placed in Part XXI of the Constitution which deals with temporary and transitional provisions. Furthermore, the marginal note of the provision reads as "temporary provisions concerning the State of Jammu and Kashmir". Article 370 read with Article 1 of the Indian Constitution emphatically states that J & K is an integral part of India.

The Court further held that Article 370(3) and 370(1)(d) had the solemn purpose of enhancing constitutional integration. The Constituent Assembly of J&K, like any other Constitution drafting body, was a temporary body; hence the proviso to Article 370(3) could operate only pending the drafting of the State Constitution. It has already been stated that in light of the war-like situation in the State, the President did not deem it proper to exercise the power under Article 370(3) before the dissolution of the Constituent Assembly of the State. Holding that the power under Article 370(3) cannot be exercised after the dissolution of the Constituent Assembly would lead to the freezing of the process of integration contrary to the purpose of introducing the provision. Furthermore, accepting the contentions of the Petitioner would make Article 370(3) redundant which goes against the established legal maxim Ut res magis valeat quam pereat i.e. The legislature doesn't use superfluous or insignificant words in a provision or statute.

The legality of CO 272 and 273

After discussing that J&K doesn't enjoy any veneer of sovereignty and that Article 370 could be abrogated, the Apex Court discussed the validity of the process of abrogation - Constitutional Orders (COs) 272 and 273.

Under CO 272, Article 367 was amended to replace "Constituent Assembly" in the proviso to Article 370(3) with "Legislative Assembly". The Solicitor General citing precedents like Maqbool Damnoo v. State of Jammu & Kashmir (1972) justified the said act under Article 370(1)(d). However, the Apex Court held it unconstitutional for an amendment to Article 370 could only be made under the procedure mentioned under Article 370(3) and not through an amendment to the interpretation clause. Also, the exercise of power under 370(1)(d) required a prior "concurrence" of the State government. However, the Court clarified that this amendment was not needed as the President already had unilateral powers under Article 370(3) after the dissolution of the Constituent Assembly of J&K.

The court clarified that following the dicta of S R Bommai vs *State of Karnataka* (1994), actions taken by the President under the operation of a Proclamation under Article 356 are judicially reviewable. However, every decision and action taken by the Union Executive on behalf of the State is not subject to challenge. The exercise of power under Article 356(1)(a) and also under 356(1)(c) must have a reasonable nexus with the object of the Proclamation. The person challenging it must establish mala fide or extraneous exercise of power.

CO 272 was also challenged on this ground. However, the Court held that to prove mala fide, "it is necessary to show that the power was exercised with an intent to deceive." Deception can only be proved if the authority usurps power which it doesn't enjoy or improperly exercises the available power. Since concurrence of the State government under 370(3) was not required to begin with, hence the President did nothing wrong when he sought the concurrence of the Union Government on behalf of the State Government. Thus, CO 272 was invalid to the extent it amended Article 367 to effectively amend Article 370, however, the rest of the portions which apply the whole of the Constitution of India to J&K are valid.

Regarding CO 273 vide which the President declared Article 370 to be inoperative, the Apex Court held that the only necessary concomitant of exercising this power is that the President must determine whether the "special circumstances" which necessitated Article 370 have ceased to exist. However, it was a "policy decision completely within the realm of the Executive". Following S R Bommai (supra), the decision was judicially reviewable only on the grounds of mala fide. The Court did not find any mala fide intent as CO 273 was a culmination of the collaborative and integrative process undergone by Article 370(1)(d).

Vires of J&K Reorganisation Act 2019

Following the Constitutional Bench judgement in Babulal Parate vs State of Maharashtra & Ors. (1960), it was held that the Parliament has exclusive and unambiguous power to form and reorganise the States. The Petitioners had argued that the same was done without the mandatory process of referring the Bill to the State Legislature. However, the Bench held that the Presidential Proclamation imposing the President's Rule on the State, the Parliament had assumed the role of the State Legislature, the Union seeking the views of both houses of Parliament on behalf of the State Legislature fulfils the procedural requirement.

The step could be challenged but on the grounds of mala fide. However, the power under Article 356(1)(b) is not subject to Article 357 and as a matter of constitutional propriety, the Court would refrain from reading into the provision something absent. Hence, it is wrong to suggest that the power under Article 356 is limited only to law-making power. The Parliament, on behalf of the State Legislature, could also give consent to matters which have permanent and irreversible consequences like the reorganisation of the state. Hence, there was no malicious intent on the part of Parliament. Further, the Court found a reasonable nexus between the exercise of the constitutional power of the Legislature of the State by Parliament and the object sought to be achieved by the Proclamation.

However, the question of whether Parliament under Article 3 can change the character of a state was left open. Under the Reorganisation Act 2019, the Parliament had converted the erstwhile state to two Union Territories (UTs). The Petitioners argued that such power, if unchecked, could empower Parliament to convert India to a unitary model, thus violating federalism which has been held to be a basic feature of the Constitution by S R Bommai (supra). The Court held that the creation of the UT of Ladakh was permissible under Article 3(1)(a). Relying on the solemn assurance of the Solicitor General on the restoration of statehood to J&K, the Court left the "change of character" question unanswered.

The Parliament, on behalf of the State Legislature, could also give consent to matters which have permanent and irreversible consequences like the reorganisation of the state. Hence, there was no malicious intent on the part of Parliament. Further, the Court found a reasonable nexus between the exercise of the constitutional power of the Legislature of the State by Parliament and the object sought to be achieved by the Proclamation.

Directions & Recommendations

The direction from the Bench for the restoration of statehood to Jammu and Kashmir (J&K) marked a significant development in the region's political landscape. The restoration of statehood was seen as a crucial step towards reinstating normalcy and democratic governance in the erstwhile state. The move aimed to empower the local population and restore their representation in decision-making processes.

In emphasizing the importance of direct elections, the Bench reaffirmed the foundational principles of democracy. Direct elections serve as a cornerstone for ensuring the participation of citizens in shaping their governance and fostering accountability among elected representatives. The

directive to conduct elections before September 30, 2024, underscored the urgency of reinstating democratic processes and institutions in J&K.

Justice Kaul's recommendation for the establishment of a "Truth and Reconciliation Commission" reflected a recognition of the need for healing and reconciliation in the region. Drawing inspiration from the post-apartheid experience of South Africa, such a commission would provide a platform for listening to the narratives of victims, addressing grievances, and fostering national reconciliation. By acknowledging past injustices and working towards reconciliation, the commission could help bridge the deep-seated feelings of distrust and division in J&K society.

The proposed Truth and Reconciliation Commission was envisioned as a mechanism for implementing transformative constitutionalism, wherein constitutional principles are leveraged to bring about social change and address historical injustices. Through its work, the commission would strive to uphold the values of justice, equality, and inclusivity enshrined in the Indian Constitution, thereby contributing to the long-term stability and prosperity of J&K.

It is pertinent to mention that the directives from the Bench underscored a commitment to restoring democratic governance, fostering reconciliation, and promoting inclusive development in Jammu and Kashmir. By addressing both the institutional and societal dimensions of the conflict, the directives aimed to pave the way for a peaceful and prosperous future for the region.

The Bench directed the restoration of statehood to J&K as soon as possible. Noting the direct elections to be a cornerstone of democracy, the Election Commission was directed to conduct elections before 30 September 2024. Justice Kaul recommended the Union to set up a "Truth and Reconciliation Commission". Borrowing from the experience of South Africa in its post-apartheid era, such a Commission would help to listen to the stories, heal the wounds, bridge the feelings of distrust, and fulfil the promise of transformative constitutionalism.

What lies Ahead

The judgement stands as a testament to the evolving nature of constitutional principles, balancing the autonomy of regions within the Indian Union and the need for national integration. It firmly establishes the authority of the Indian Constitution as the guiding document for governance across all states, reiterating the principle of 'one nation, one Constitution'. The immortal lines of Dr Mukherjee "Nahin chalenge ek desh mein do vidhan, do pradhan aur do nishan" found their redemption. The sacrifices and struggles of countless forgotten and unsung heroes of the Praja Parishad Movement finally paid off as the clouds over the abrogation of Article 370 were finally cleared and a fresh breeze blew through the Valley.

The unanimous verdict gives a fillip to the steps undertaken post the abrogation in the direction of socio-economic and political justice like reservation to STs and OBCs, elections to Panchayats, domicile to refugees from Pakistan, gender equality and equal treatment of J&K with rest of India. However, while offering clarity on various legal fronts, the judgement leaves room for ongoing dialogue on the intricate balance between federalism and central authority. The future path might involve continued legal discourse and explorations into the broader implications of such constitutional reforms on Indian governance and unity.

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2. *The Jammu And Kashmir Reorganisation Act, 2019*
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4. *Pledge for an Integrated India*
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"One Nation, One Election: Balancing Benefits and Challenges for India's Democratic Landscape"

Neha Mishra
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➢ **Introduction:** In the vast tapestry of India's democratic landscape, the concept of "One Nation, One Election" has emerged as a compelling idea aimed at streamlining the electoral process. The central tenet of this proposal is to synchronize the Lok Sabha and State Assembly elections across all States, effectively reducing the frequency of polls throughout the country. While this practice was in vogue until 1967, disruptions ensued due to various factors such as defections, dismissals, and dissolutions of government. This article delves into the multifaceted aspects of the "One Nation, One Election" proposal, exploring its potential benefits, challenges, and the implications it holds for India's democratic governance.

1. **Historical Perspective:** To understand the rationale behind the "One Nation, One Election" proposal, it is imperative to delve into the historical backdrop of India's electoral system. Until 1967, the country adhered to the synchronized timing of Lok Sabha and State Assembly elections. However, the subsequent years witnessed a departure from this practice, leading to a fragmented electoral calendar. Factors such as political defections, dismissals, and government dissolutions contributed to the disjointed nature of elections, giving rise to the need for reconsideration.
2. **The Central Idea and Its Benefits:**
   a. **Reduced Cost of Elections:** One of the primary advantages touted by proponents of "One Nation, One Election" is the potential reduction in the cost of elections. The staggered electoral cycles across States necessitate continuous election-related expenditures, including campaigning, security arrangements, and administrative logistics. By synchronizing elections, the financial burden on the exchequer could be significantly alleviated, fostering fiscal prudence and resource optimization.
   b. **Continuity in Policy Decisions:** Another significant benefit envisaged is the prospect of achieving greater continuity in policy decisions. Frequent elections disrupt governance and policy implementation, as the focus shifts towards electoral campaigns. Synchronized elections could provide elected representatives with a more extended period to enact and assess policies, promoting stability and consistent governance.
   c. **Focused Governance:** Synchronized elections have the potential to create a more focused governance environment. With elected leaders having longer tenures, they may be better positioned to address long-term developmental challenges. This could foster a more strategic and cohesive approach to policy formulation, steering away from the short-term vision often associated with election-centric governance.
3. **Challenges on the Horizon:** Despite the potential benefits, the "One Nation, One Election" proposal encounters several formidable challenges that merit careful consideration.
   a. **Logistical Challenges:** The sheer scale of conducting simultaneous elections across the vast and diverse Indian landscape poses a significant logistical challenge. Ensuring the availability and security of electronic voting machines (EVMs),

mobilizing electoral personnel, and managing other resources on such a massive scale necessitate meticulous planning and execution. The Election Commission (EC) faces the daunting task of orchestrating a seamless and secure electoral process.

b. **Security Concerns:** Simultaneous elections may amplify security concerns, both in terms of maintaining law and order during the prolonged election period and safeguarding the integrity of the electoral process. Coordinating the deployment of security forces across the country to prevent any untoward incidents demands a robust and comprehensive strategy to address potential threats.

c. **Constitutional Amendments:** Implementing "One Nation, One Election" would likely require constitutional amendments, as the current constitutional provisions prescribe fixed terms for both the Lok Sabha and State Assemblies. Achieving consensus among various political parties and state governments for such amendments poses a formidable challenge, given the diverse political landscape in India.

d. **Impact on Federal Structure:** Critics argue that synchronized elections could undermine the federal structure of India's democracy. States play a crucial role in the country's governance, and aligning their electoral cycles with the national calendar may lead to a dilution of regional autonomy. Striking a balance between national coherence and regional autonomy is a delicate task that requires nuanced consideration.

4. **International Perspectives:** To contextualize the "One Nation, One Election" proposal, it is instructive to examine international experiences with synchronized elections. Countries like the United States and the United Kingdom have a unified electoral calendar, contributing to political stability. However, the socio-political contexts and constitutional frameworks differ significantly, underscoring the need for India to tailor any such reform to its unique circumstances.

5. **Recommendations for Implementation:** Given the intricate nature of the "One Nation, One Election" proposal, its successful implementation requires a comprehensive and phased approach.

a. **Pilot Programs:** Conducting pilot programs in select States to assess the feasibility and identify potential challenges could provide valuable insights. This phased implementation would allow the government and the Election Commission to fine-tune the process before its nationwide rollout.

b. **Constitutional Reforms:** Addressing constitutional hurdles is imperative for the realization of synchronized elections. Engaging in constructive dialogue with political parties and state governments to build consensus on necessary constitutional amendments is a crucial step in this direction.

c. **Technological Advancements:** Leveraging technological advancements is essential to streamline the electoral process. Continuous innovation in electronic voting machines, voter registration systems, and result tabulation methods can enhance the efficiency and security of synchronized elections.

6. **Conclusion:** The "One Nation, One Election" proposal represents a significant departure from the current electoral practices in India. While the potential benefits of reduced costs, policy continuity, and focused governance are compelling, the proposal's challenges are equally formidable. Striking a balance between the national and regional dimensions of governance, addressing constitutional intricacies, and implementing technological solutions are critical steps in realizing this ambitious reform. As India stands at the crossroads of its democratic evolution, the "One Nation, One Election" proposal prompts a broader reflection on the essence of electoral democracy. The ongoing discourse surrounding this idea underscores the need for a nuanced and inclusive approach, one that respects the diversity of India's political landscape while fostering the efficiency and coherence sought by proponents of synchronized elections. ❑

Eliminating Language Barriers in the Pursuit of Justice: A Comprehensive Analysis

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India, renowned for its cultural richness and linguistic diversity, harbours a multifaceted legal landscape. Amidst this intricate tapestry, the prominence of English in higher courts presents a significant challenge to justice accessibility, given the varying linguistic competencies of its citizens. This challenge underscores the imperative of incorporating local languages not only within Ld. District Courts but also extending this inclusivity to Hon'ble High Courts. Establishing an effective mechanism for translating local languages into English within the higher judiciary emerges as a pragmatic solution to overcome linguistic barriers, ensuring a more equitable dispensation of justice.

At the core of this discussion lies the realization that India's linguistic mosaic is not a mere sociocultural nuance but a substantive factor influencing legal proceedings. English, predominantly used in higher courts, becomes a potential barrier for a substantial portion of the population, as not everyone is well-versed in this language. This linguistic asymmetry introduces a systemic inequality, hindering individuals from fully understanding and participating in legal processes, thereby compromising the fundamental tenets of justice.

The district courts, often the initial locus of legal proceedings, reflect the linguistic diversity prevalent in India. Here, local languages seamlessly integrate with the cultural milieu, enabling a more accessible and comprehensible legal discourse for the litigants. However, as cases progress to the higher courts, the linguistic transition to English becomes pronounced. This shift not only excludes a significant segment of the population but also risks distorting the essence of the case due to potential language-related misunderstandings. Thus, the need to extend the use of local languages to high courts becomes imperative for fostering a legal system that truly resonates with the populace it serves.

The inclusion of local languages in higher judiciary not only addresses linguistic disparities but also enhances the effectiveness and authenticity of legal proceedings. Language is more than a medium of communication; it encapsulates cultural nuances, contextual subtleties, and colloquial expressions that might escape translation.

The inclusion of local languages in higher judiciary not only addresses linguistic disparities but also enhances the effectiveness and authenticity of legal proceedings. Language is more than a medium of communication; it encapsulates cultural nuances, contextual subtleties, and colloquial expressions that might escape translation.

By allowing litigants to present their cases in their native languages, Hon'ble High Courts can capture the essence of their grievances more accurately, fostering a deeper understanding of the issues at hand. This linguistic authenticity in legal discourse ensures that the pursuit of justice remains rooted in the diverse realities of the Indian populace.

However, the incorporation of local languages in Hon'ble High Courts necessitates a comprehensive mechanism for translation to and from English. This mechanism should not be viewed merely as a logistical

accommodation but as an integral aspect of upholding justice. Translation services must be adept at preserving legal precision, ensuring that the meaning and intent of arguments are accurately conveyed. Moreover, these mechanisms should be readily available, efficient, and responsive to the diverse linguistic demands arising in the complex legal landscape.

Beyond linguistic inclusivity, the translation mechanism can act as a catalyst for democratizing legal knowledge. It empowers individuals who may lack proficiency in English by providing them with equal access to legal resources and precedents. This democratization contributes to a more informed and engaged citizenry, reinforcing the democratic ideals upon which the Indian legal system is built.

Thus, keeping in view of the above, the integration of local languages in the higher judiciary is not merely a linguistic adjustment but a transformative step towards a more inclusive and accessible legal framework. By recognizing and embracing linguistic diversity, India's judiciary can ensure that the pursuit of justice resonates with the lived experiences of its citizens. The establishment of a robust translation mechanism further solidifies this commitment, underscoring the pivotal role language plays in the quest for a truly equitable and just legal system.

Initiatives Taken for Inclusion of Local Languages:

1. By Judiciary :

In India, the judiciary has undertaken several initiatives to include local languages in the court, aiming to enhance the accessibility of justice for all citizens. Some notable measures include:

- **Multilingual Court Proceedings:** The judiciary has initiated efforts to conduct court proceedings in multiple languages, particularly in district and lower courts. This allows litigants and participants to use local languages, ensuring that individuals are more comfortable and can express themselves effectively during legal proceedings.
- **Language Inclusion Policies:** Many High courts have adopted language inclusion policies, permitting the use of local languages in filings, petitions, and other legal documents. This policy change facilitates a more inclusive legal process and enables individuals to engage with the judiciary in their preferred language.
- **Translation Services:** Recognizing the importance of linguistic diversity, the judiciary has worked on establishing translation services to bridge the gap between local languages and English in higher courts. These services aid in maintaining the accuracy and legal precision of arguments while making legal proceedings more accessible to a broader audience. Chief Justice of India (CJI) DY Chandrachud said, "English language in its 'legal avatar' is not comprehensible to 99.9% of the citizens". Further, he also indicated that in the quest for increasing accessibility, the next step for the Indian judiciary would be to make judgments from various courts available in all regional languages of India.

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- **Legal Aid in Local Languages:** Legal aid services, which are crucial for those who cannot afford legal representation, have been extended to include assistance in local languages. This ensures that individuals seeking legal assistance can understand their rights and engage effectively with the legal system in their native language.
- **Training Programs:** The judiciary has implemented training programs for legal professionals, judges, and court staff to enhance their proficiency in local languages. This empowers legal professionals to communicate effectively and understand the intricacies of cases presented in various regional languages.
- **Digitization Efforts:** Courts have undertaken initiatives to digitize legal resources and information in multiple languages, making legal knowledge more

accessible to the public. Digital platforms and resources in local languages enable a wider audience to engage with legal content and understand their rights and responsibilities. The Supreme Court of India launched the Electronic Supreme Court Reports (e-SCR) project to provide a digital version of the Supreme Court's judgments with the main objective to make judgments available to all, for free, in regional languages.

- **Public Awareness Campaigns:** The judiciary, in collaboration with legal aid organizations, has launched awareness campaigns in local languages. These campaigns aim to educate citizens about their legal rights, the judicial process, and the resources available to them, fostering a legal awareness that transcends linguistic barriers.

These initiatives collectively reflect a commitment by the Indian judiciary to promote linguistic inclusivity and make the legal system more accessible to all citizens, regardless of their language proficiency. The ongoing efforts signify a proactive approach to addressing linguistic disparities and ensuring that justice is not hindered by language barriers.

2. By Government of India :

Specific initiatives were taken by the Government of India to include local languages in the courts for easy accessibility of justice. Some initiatives and approaches align with the government's broader emphasis on linguistic inclusivity and accessible justice.

- **Legal Empowerment Initiatives:** The government, under Prime Minister Modi, has been actively promoting legal empowerment and awareness programs. These initiatives often include provisions for the use of local languages in legal processes, making legal information more accessible to the general public.
- Digital India Campaign: The Digital India campaign, a flagship initiative by the government, aims to transform India into a digitally empowered society. As part of this initiative, efforts may be directed towards providing digital legal resources and information in local languages, contributing to the overall accessibility of legal knowledge.
- **Legal Aid Services:** The government, through various legal aid schemes, works to assist those who cannot afford legal representation. In these services, there may be provisions for offering legal aid in local languages, ensuring that individuals can comprehend and actively participate in legal proceedings.
- **Language Inclusion Policies:** The government may be involved in formulating policies that encourage the use of local languages in legal documents and proceedings. Such policies aim to remove linguistic barriers, particularly in Ld. Districts and lower courts.
- **Collaboration with States:** Given India's federal structure, the central government collaborates with state governments to implement language-inclusive measures in the judiciary. This cooperation could involve joint efforts to facilitate translation services, conduct training programs, and promote multilingual legal proceedings.
- **Skill Development Programs:** The government, under various skill development initiatives, may conduct programs to enhance the language proficiency of legal professionals and court staff, facilitating better communication in local languages.

Not only this, but it is pertinent to note that our PM Narendra Modi has also been the flag bearer for the inclusion of the local languages or regional languages in the judiciary specifically the higher judiciary. He said that "Local languages should be promoted in Courts for the Common Man". He stressed that it is the priority to think and ponder upon the kind of judicial system we wish to see in the year 2047 which is when the country will complete 100 years of its independence. He further stresses the importance of using regional languages in Court proceedings so that litigants understand the nuances of the legal process easily. He is also of the view that there must be simplification in the language of legislation so that the common man can understand what law is. Prime Minister Modi has now and then emphasized the use of regional languages in the judiciary specifically the higher judiciary, which is evident through his Independence Day speech of 2023, where he thanked the Hon'ble Supreme Court of India for ensuring that the judgments are translated into regional languages.

Therefore because of the above, it is legitimate to point out that both the judiciary and the government are working together in consensus to include the regional languages in the judiciary with the motive of imparting justice to everyone as well as to make justice accessible for every citizen of India.

3. By the Constitution:

The constitution of India recognizes Hindi as the official language of the country and English as the subsidiary official language. Additionally, it allows states to adopt their own official languages for use within their jurisdiction. This linguistic diversity reflects the rich tapestry of India's cultural heritage. The Constitution of India, from Articles 343 to 351, provides for the official language policy.

- **Article 343:** Official Language of the Republic of India- Declares Hindi in Devanagari script as the official language of the Indian government.
- **Article 344:** Commission and Committee of Parliament on Official Language-Empowers the President to appoint a Commission to make recommendations on the use of Hindi and restrictions on the use of the English language.
- **Article 345:** Official Language or Languages of a State-Allows states to adopt any one or more of the languages in use in the state as its official language. In the case of Brij Kishore Sharma vs. Union of India (1965), the Supreme Court upheld the state's power to choose its official language.
- **Article 346:** Official Language for Communication between one State and another or between a State and the Union. It deals with the language to be used for communication between states and between states and the Union.
- **Article 347:** Special provision relating to language spoken by a section of the population of a state provides for the use of a language spoken by a section of the population of a state for official purposes.
- **Article 348:** Language to be used in the Supreme Court and the High Courts and for Acts, Bills, etc. It pertains to the language to be used in the Supreme Court, High Courts, and for legislative purposes.
- **Article 351:** Directive for Development of the Hindi Language-Directs the Union to promote the spread of the Hindi language and develop it to serve as a medium of expression for all the elements of the composite culture of India.

Additionally, the Hon'ble Supreme Court in Balwant Raj v. State of Punjab (1996), highlighted the need for regional languages to be used in legal proceedings for the benefit of litigants who are not well-versed in English. Further, the Hon'ble Kerala High Court in K. R. Purushothaman v. State of Kerala (2005), addressed the issue of using the Malayalam language in the state's judiciary to facilitate better understanding and accessibility for the common people. The Chhattisgarh High Court in Dinesh Kumar Gupta v. State of Chhattisgarh (2007) emphasized the importance of judgments being available in regional languages to ensure justice for all. Further, the Hon'ble Supreme Court in Dr. R. C. Lahoti v. Union of India (2007) emphasized the significance of providing court judgments in regional languages to enhance accessibility and understanding. Not only this, the Hon'ble Karnataka High Court in Subramani vs. Karnataka (2011), addressed the importance of providing legal information and documents in Kannada for the benefit of the people in the state.

It is pertinent to mention that judicial decisions in India have played a role in promoting the inclusion of local languages in the judiciary by emphasizing the importance of linguistic diversity, accessibility, and understanding for all citizens. Judgments have recognized that access to justice should not be hindered by language barriers. Providing legal information, judgments, and court proceedings in local languages enhances accessibility for citizens who may not be proficient in English. Courts have acknowledged that using local languages empowers litigants to fully understand legal processes, enabling them to actively participate in their cases. This is crucial for ensuring justice and fairness. Judicial decisions have highlighted the cultural and linguistic diversity of India. Recognizing and respecting local languages in legal proceedings reflects an understanding of the cultural context in which the law operates. By advocating for the use of regional languages, judgments contribute to creating a legal system that is inclusive and accessible to citizens from various linguistic backgrounds. This aligns with the constitutional commitment to linguistic diversity. Some judgments have reiterated the importance of promoting official languages at the state level, emphasizing the need for legal processes and documents to be available in the languages spoken by the local population.

Hindrances in the inclusion of local languages in the Judiciary :

While the inclusion of local languages in the judiciary is desirable for promoting accessibility and inclusivity, several challenges and hindrances may be encountered:

- **Linguistic Diversity:** India's linguistic diversity poses a significant challenge. The country has a multitude of languages and dialects, making it difficult to accommodate all regional languages uniformly.
- **Standardization of Legal Terminology:** Developing standardized legal terminology in regional languages is complex. Ensuring consistency and accuracy in legal translations requires careful consideration and expert input.
- **Limited Availability of Language Professionals:** There may be a shortage of qualified translators and interpreters proficient in both legal and regional languages, hindering the seamless translation of legal documents and court proceedings.
- **Judicial Workload:** The inclusion of local languages might increase the workload on judges and court staff, as proceedings may take longer due to translation requirements. This can impact the efficiency of the judicial system.
- **Costs and Resource Allocation:** Implementing language inclusion initiatives, such as translation services and language training programs, may incur additional costs. Allocating resources for these purposes may be a challenge for some jurisdictions.
- **Resistance to Change:** There might be resistance to change within the legal community, including judges, lawyers, and court staff, who may be accustomed to working primarily in English. Overcoming this resistance and ensuring buy-in is crucial.
- **Consistency in Implementation:** Achieving consistency in implementing language inclusion measures across different states and regions can be challenging. Variations in linguistic policies may lead to disparities in accessibility.
- **Legal Complexity:** Translating complex legal concepts accurately is a challenge. Ensuring that the nuances of legal language are preserved in regional languages is crucial to avoid misunderstandings and misinterpretations.
- **Technological Infrastructure:** Inadequate technological infrastructure for supporting multilingual legal proceedings and online resources may impede the effective implementation of language inclusion initiatives.
- **Public Awareness:** Lack of awareness among the public about the availability of legal services in regional languages may limit the impact of language inclusion efforts.

Addressing these challenges requires a comprehensive approach involving legal, linguistic, and administrative considerations. It involves collaboration between stakeholders, investment in training and resources, and a commitment to promoting linguistic inclusivity in the legal system.

Way Forward:

The elimination of language barriers in the pursuit of justice is imperative for fostering an inclusive legal system that truly serves the diverse population of India. The inclusion of local languages is not merely a matter of linguistic preference; it is a fundamental step towards democratizing access to justice. By addressing these language barriers, we can ensure that the legal system is more accessible, transparent, and equitable for all citizens.

Efforts to eliminate language barriers must involve a multifaceted approach, including the development of standardized legal terminology, investment in translation services, and the promotion of legal education in regional languages. Recognizing the cultural and linguistic diversity of the nation, these initiatives are crucial for empowering individuals to understand their rights, actively participate in legal proceedings, and engage with the justice system without hindrance.

Moreover, embracing local languages in the judiciary contributes to a more responsive and empathetic legal environment. It reflects a commitment to respecting the cultural identity of different communities, enhancing the legitimacy of legal institutions in the eyes of the public.

While challenges such as linguistic diversity, standardization, and resource allocation exist, the benefits of an inclusive legal system far outweigh these obstacles. The elimination of language barriers is not only a legal imperative but also a social and ethical one. It is a step towards building a legal framework that truly serves the people it is meant to protect, fostering a society where justice is not just a concept but a reality accessible to all, irrespective of linguistic backgrounds. ❑

Judicial System Police Reforms, Prison Reforms Legislative Reforms etc.

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All the civilized countries, societies throughout the world are working by established systems. The systems comprise of the main divisions and the subdivision depending on the requirements of administration and needs of society. In our country we have adopted the democratic system and institutions. The main pillars of our democratic system are Parliament, Executive, Judiciary, the Journalists or Media etc. However in ultimate analysis the People are supreme. All this has been properly set out in the Constitution of India adopted on 26 November 1949 and became functional from 26 January 1950.

The subsequent issue for our consideration is the further subdivisions depending upon the requirements such as the executive acts, judiciary, legislative etc. The judicial system of any country is the system which is engaged in the act of giving justice to common man as well as doing the work of maintaining the equilibrium between all the other limbs of democracy.

The question of internal and external security of the country has been vividly described. For external security we have the forces such as the Army,the Airforce, the Navy and other security agencies. For internal security we have police force and other allied forces. The point which arises for our consideration is the state or condition of the systems as prevailing to day and the reforms required as no system is perfect.

We will deal with them separately.

The Police Force and Reforms.

The police force is the gift of colonial rule in our country. The British had brought into practice the concept of policing in the day to day working in the society. Prior to this each one of the ruling state in the country had maintained the force for the security and the maintenance of peace in the society. However there was need to develop the force which could have the strength of observation of peace, security and to control criminal acts in the society. The police force introduced by the British had the base of working of police in England including the mentality to commit atrocities on the local people in the countries ruled by them and so also the local people admitted in the police force had developed the same mentality which resulted in considering the police force as ante society and not for the safety of people. Consequently therefore there was kind of suspicious relationship between the two. The British had brought into practice the system of using the police force for curbing the independence movement which was on rise during the British rule. The outcome was that the local people admitted in the police force were required to attack and kill the own people of India against their wish. This was giving rise to kind of revolt against the system. The British had passed The Police Act in 1861 for control and governance of the police force.The jalianwala baug incident is the example of the firing by Indians in police under the command of British on Indian people killing innocent people.

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Then came the era after the independence of the

country and adopting our own system of working but the effect of the colonial rule was visible in all system and police system was no exception to that. Consequently the image of police had continued to be the force committing atrocities on the common people and was not considered as the force for protection of the people. Not only that the police force had become the tool at the hands of the political personalities and for their services only. Earlier the police were acting for the British officers and now they were acting for the political personalities.

After independence (transfer of power) there have been attempts to improve the working condition of the police, giving them facilities, giving them the instruments for proper working but what remained the same is the mentality to treat them as servants of political personalities. They are getting ill-treatment at the hands of the political personalities, they are working round the clock without family life, they are not getting holidays,there is interference if they act against the criminals, no proper houses for them and their families, insufficient funds for giving them facilities are some basic problems faced by the police force. Besides this the favouritism and the discrimination are other vices. The most important aspect is that they are the first to suffer in riots and such cases. The Delhi riots are the example of the deaths of the police men besides other incidents.

Hence there are lot many reforms which are required to be carried out for them. In 2006 the Supreme Court had given direction to government to carry out reforms which are as under:

A non-partisan State Security Commission for each state, headed by the Chief Minister/Home Minister, and having the Leader of the Opposition, a retired High Court Judge, a few non-political independent individuals, etc. as members. The Commission would serve the checks and balances purpose of providing restraint against exercise of unbridled 'superintendence' over the police by the state government or by the ruling party by proxy.

A Police Establishment Board as a collegium, comprising the DGP and four other senior police officers, to decide on transfer/postings, etc. of officers up to Dy SP rank, and to make recommendations to the state government on similar matters respecting officers of higher ranks.

Police Complaint Authorities headed by retired judges, one at the state level and one each for the districts, to inquire into the complaints of serious misconduct like custodial deaths/rapes, etc., against senior officers and officers of and below Dy SP level, respectively.

Another important directive mandated a transparent, merit-based process of selection of DGP. This would take care of undesirable extraneous considerations, often governing such appointments. The directive also provides for a fixed minimum tenure of two years to the officers so selected as well as for all officers on operational duties, including District SPs and SHOs. However no steps were taken by the then Governments for implementation of the directions of the Supreme Court except doing something here or there. The most serious issue which has affected the police force totally is the corruption at all levels and that has affected the credibility of the police. Another serious issue is the nexus between police, criminals and politicians which has completely eroded the credibility of the police and therefore the common people are afraid of going to police. Still the fact remains that we need the police force and we must try to bring the changes in the police force and make them free from the control of political personalities and also give them freehand in investigation of crimes. Then only there are some hopes of getting cooperation from police and there will be relation of trust between police and common people.

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The Prison Reforms

This is the related issue of police reforms as the jails or prisons are controlled by the police force. The prisons are maintained and are necessary to keep the accused, the undertrials and convicted accused in safe hands and at secured places so that they are not threat to the common

people.we are required to incur huge expenses for the maintenance of the prisons. There are various categories of the criminals who are inside the jails and out of them large number of accused are undertrials and are waiting for the decision of their cases by the courts but due to the slow working of the courts in deciding the cases they remain in jails for years together indirectly suffering imprisonment without conviction. Moreover the conviction rates in courts is very low so the undertrials suffer the punishments for no reason. This has resulted in the overcrowding of the prisons. Besides that the object of law in giving punishments to the criminals is adopting the reformation and corrective action for those who are not hardened criminals and they could be converted into the good citizens useful to society but this object is often defeated on account of overcrowded prisons and the apathy of the jail authorities. The outcome of it is that there is growth of dissatisfaction with the jail system. The corruption is other angle of the jail administration and those who are influential criminals they enjoy all the facilities available in jails and prisons and the unfortunate accused are deprived of the same.

There is urgent need to pay attention to the reforms in the jail system and administration through out the country and it is necessary to see that the undertrials in petty or small offences do not become hardened criminals in the company of the hardened criminals. At the same time it is necessary to reduce the burden and overcrowding in jails and prisons. This is possible only if there is fast disposal of the cases and to give bails to those who are not involved in serious offences as they are not threats to the society. This also can reduce the overcrowding in jails. The permanent committee comprising of different members from various fields should be set-up to judge the working of the jails and prisons and try to introduce the corrective measures for improving the conditions of jails. Another serious issue relating to jails is that many a times the women criminals are sexually and physically abused. So also some times the pregnant women convicts deliver babies while serving sentences. The question of their settlement is also equally important.

The British had introduced the reform system during their rule and there after also the committees were also appointed from time to time for introducing the reforms in prison administration but still lot has to be done for improving the conditions of prison and the miseries of the prisoners.

The reformation of the criminals is the object of the punishments but due to overcrowding of the prisons the object of reformation is frustrated and therefore the vocational education given to prisoners is also not proving that effective.

Legislative Reforms

In Democracy the Legislature is one of the most important pillars of democracy because the legislature plays important role in making of laws for governance of the country. We have State Legislature and Central Legislature and both are making laws for the benefits of the citizens. Basically the legislatures are run by the elected representatives of the people who look after the administration of the country and state.

There is urgent need to pay attention to the reforms in the jail system and administration through out the country and it is necessary to see that the undertrials in petty or small offences do not become hardened criminals in the company of the hardened criminals. At the same time it is necessary to reduce the burden and overcrowding in jails and prisons.

The laws made by the parliament are required to be followed by all but the important aspect of the entire story is that many members of the legislature are not that competent so there has to be proper criterion for allowing the people who contest elections and become the members of legislative assembly. The reforms must start from there.

The next duty of the legislature is to examine the legal system at regular intervals so that the laws in practice are checked and the effective steps are taken to judge effect of laws in general as well as remove defects in laws which fail to give justice. In this regard it is necessary to see that

the laws are amended extensively and not in patchwork manner such as when Nirbhaya case was committed by the accused some amendments were carried out to the laws relating to criminal trials. Besides that the effectiveness of law is judged after long period. As far as possible the effectiveness of law must be judged every five years and the changes in law should be effected then only we can expect better legislative Reforms.

It seems not only in our country but world wide that many a times the laws are made, enacted,and changed to suit the convenience of some classes of society or sometimes for convenience and comfort of the politicians. There are lot many such examples. This has to be controlled.

We have very lethargic system to give justice. There should be attempts to give early justice.

The Reforms in Judiciary

The final step in the process is that of hearings of the matters in courts. But there is inordinate delay in disposal of cases in courts. The delays must be reduced as fast as possible.

The judicial reforms call for sufficient number of judges, moreover there should be proper service conditions and atmosphere for giving justice. Besides that the judges should be given the refreshing courses for keeping them prepared with modern technology. For example the information and technology has been changing very fast and new concepts of offences are coming to our knowledge but our Act is very old and it has not been amended so fast and hence the situation is not very satisfactory regarding the trial of offences concerning the information and technology nor the prosecutors,courts, advocates and investigation agency are in position to deal with the offences effectively. Consequently the accused get advantage of the situation and can easily get out of it. As against this the foreign countries have been working very fast and are able deliver justice early. In America for example,the accused was killed as he suffocated while he was being arrested by the police and the accused police were tried for the offences as per their law within two months. We have the latest example of Ahmedabad Court where the accused were convicted after 13 years of the commission of offences. The other story of the so called judicial infallibility came to light when the Supreme Court had acquitted the accused having once confirmed the punishments and directed the compensation of Rs. 500000/ each to the accused. The accused had suffered the imprisonment for 15 long years without having committed the crime in question. Their social life was completely destroyed The most serious issue was the real accused had gone Scot free. The victims didn't get justice.

The delayed justice is another reason for loosing faith in the judicial system. The other effect of the delay in judicial system is that the accused are no more afraid of trials and punishments and the the victims of the offences and their relatives are suffering the injustice and are getting frustrated on account of the same.

All these departments of the Judicial system are required to be reformed so that the system would be in position to work effectively and people will be able to take advantage of the same.

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In all this the common and worst angle of the judicial system is the corruption at all levels which has virtually paralyzed the judicial system and poor people are not getting justice. They languish in jails waiting for their turn for hearing of the case and disposal of it but by that time they suffer sentence without trials. But the rich and influential people can open the doors of Supreme Court even at night.

The outcome of the discussion is that if the Reforms are not undertaken fast then the entire Judicial system will get suffocated and die under its own burden and that would be travesty of the justice and the system as whole. ❑

Criminal Reforms & Proposed bills: The Dawn of a New Era

Anushkaa Arora
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Introduction

The Emergence of new legislation and proposed bills promises to guide to a beginning of transformation, challenging age-old norms, archaic rules and seeking to address the complicated issues that have plagued system for years. The Introduction of three Criminal Law Bills namely Bharatiya Nyaya Sanhita Bill 2023[1] replacing the Indian Penal Code, 1860, Bharatiya Nagarik Surkaksha Sanhita Bill 2023[2] replacing the Criminal Procedure Code, 1973 and Bharatiya Sakshya Bill 2023[3] replacing the Indian Evidence Act, 1872 are set to bring new reformations to the Indian Criminal Laws and Post British Period Laws. These bills aim to bring justice oriented solutions for the criminal offences, enhancing citizen's protection, modernize the criminal justice system by updating laws, incorporating digital interfaces, expediting legal process and introducing community services as form of punishment for minor offences. There are about 358 sections in the Bharatiya Nyaya Sanhita Bill replacing 511 sections from the Indian Penal Code, 533 sections in the Bharatiya Nagarik Suraksha Sanhita Bill changing 160 sections from the Criminal Procedure Code, 170 sections in the Bharatiya Sakshya Bill changing 23 sections from the Indian Evidence Act respectively. As we set on this journey through the tangled maze of Indian Criminal reforms, we expect the dawn of a new era in the pursuit of justice, one that seeks to stabilize the situation and repair the very essence of India's legal framework.

Reforms

Some of the reforms included in the 2023 bills are as follows:

i. Modernization of Criminal Justice System which includes using of zero FIR, electronic filing of FIR, inclusion of new cyber offences, and modernizing evidence collection for speedy trial and justice.
ii. Creativity which includes new process to conduct trial in absentia and to implement community services as a form of punishment for minor offences.
iii. Stringent Provisions for Women and Children which includes a separate chapter to these issues relating to offences against women and children.
iv. Victim Rights which includes protection victim's rights to a greater extent, provide support and ensuring their participation in their case scenario.
v. Police Reforms includes the major task is to minimize custodial torture and deaths, stopping police brutality, planning of training programs for proper law enforcement following ethics and code of conduct.
vi. Fast Delivery of Justice includes the requirement for judgements to be given within 30 days after the conclusion of the trial and limitation for numerous adjournments.
vii. Gender Sensitive Legislation is included as present is the need of the hour for gender sensitive laws, these bills implement measures to take stringent penalties for offenders involved in violence against women and improved support system for survivors
(viii) Redefinition of Offences and Technology includes the definitions for various offence has been provided under these bills which includes terrorism, mob lynching, organized crimes and other negligent laws giving new dimensions for criminal laws and also with the growth technology, used for evidence collection and data security process.

Insights of Reforms

In depth analysis into the recently proposed reforms are being illustrated below for ease of understanding

In the BNS bill, a separate chapter has been allocated for women and children for offences relating to false promise, Employment related issues. Further, Abetting or inducting children into crime has been made as punishable in the above mentioned bill. There is detailed definition of documents; address of new crimes and cyber offences under the bill. There are new definitions of Terrorism for the First time; Armed Rebellion, separatist activities, organized crimes, mob lynching made an offence explicitly under the BNS The BNSS bill contains provisions for sexual intercourse on false promise of marriage, employment etc., as a new offence. There is stringent provision against Gangs and Gang related crimes under the bill. Granting Bail to the first time offenders after serving about one third of the maximum sentence has been included in the bill.

In the BSB bill, the accepted documents as evidence for crime includes electronic and digital records, video graphs, emails, messages. With regard to provision for Speedy trials, there is an explicit provision in the BNSS bill about the registration of cognizable offence at any police station, irrespective of the area or jurisdiction where the actual offence is committed also referred to as filing of Zero FIR. Also a provision was added to allow the conduct of preliminary inquiry to predict the existence of a prima facie case even if the information discloses commission of a cognizable offence punishable with more than three years but less than seven years of imprisonment.

Reforms Much Needed

India was abetting said reforms for a very long time, various judgments of the Hon'ble Apex Court keep on sending the Indian Legislature demand there is a need to change all age old archaic laws pertaining to the Criminal Procedure Code, Indian Penal Code, Indian Evidence Act and India finally witnesses the said reforms in the year 2023.

Few Judgments which acted as constant reminder to Indian Legislature are as follows:

In the judgment of State of A.P. vs Punati Ravulu[4], the Supreme Court of India ordered that there is breach of duty if a public official fails to record information about the crime in accordance with Section 154(3) of the CrPC. Further in Lalita Kumari vs Govt. of Uttar Pradesh[5], it was held that the police have no option but to file an FIR if the collected information discloses cognizable offence.

All the Provisions of CrPC on arrest has been retained in the BNSS. Furthermore, in the case of RP Kapur vs State of Punjab,[6] the Supreme Court held that criminal proceedings against a person can be quashed if the case being dealt where there is a legal bar against continuance of criminal proceedings, where the allegation filed in the FIR does not constitute an offence, where the allegations made an offence but there is no evidence to prove them. So there is specific provision regarding mandatory duty of the police office to collect evidence, gather proper reasons with justifiable material to arrest the person also, for the judicial magistrate in criminal cases contained in BNSS.

The BSB defines and addresses organized crime in an elaborate way. If the offence committed is punishable less than three years of imprisonment by an infirm or person aged over 60 years, then arrest can be done only after getting prior approval from the Deputy Superintendent of Police. Also, there are new regulations with regard to 'handcuffs' for the police officials to arrest a person. It provides for mandatory visit of the crime scene by a forensic expert and collect evidence for offences punishable with more than seven years of imprisonment. Despite the ban of 'two finger test' in the Lillu & Anr vs State of Haryana[7], decided by the apex court that this test proved to be violative of privacy and dignity of the rape survivor or victim, there is still no provision under the code regarding the same. There is assistance in trial procedures, 90-day window for investigation after charge sheet filing; application for witness Protection scheme to be made by the States.

The Sedition law defined under Section 124 of IPC[8] has been repealed in the BNS. These are the reforms and repeals in the newly drafted criminal law bills but there were still varying opinions and challenges raised by legal scholars and authorities regarding other side of these three criminal reform bills.

Challenges to the Proposed Criminal Lawreform Bills

Despite there is modernization and repeal of old archaic laws replacing it with new definitions and provisions, there still exist challenges in the newly proposed criminal reform bills.

Gender Biased Language the BNS bill still holds genders bias by treating women as needing protection neglecting men's problems not considering them as equals.

Section 73 (BNS) bill contains regressive terminology "outraging modesty" still reflecting outdated conceptions about women's behavior and morality. Also the bills do not provide sufficient protection for men or Non-binary individuals who face similar violations to that of women. This specifically focuses on sexual offences against women and not comparatively address sexual offences penetrated by men against other men or women against other women.

Discretionary Powers and Potential for misuse the "right to handcuff" power given to the police authorities and law enforcement agencies may misuse this power for self or other motives.

Extension of detention and not strong protection against State Abuse and Violence the detention period been extended to 90 days in certain cases raising concerns regarding individual liberties and fundamental rights protection.

Ambiguity in the Definition of Offences the Definition of offences like "subversive activities" and "provocation and intimidation of the government" is vague and broad, leading to misconception and confusion.

The bill expanding the scope of judicial custody for clear investigation by extending the time period but also relaxing the provision of the mandatory recording of statement of a woman, a male under the age of 15 or above 60 based on their willingness is believed that this provision not to be misused by the Police for the crimes against the children or women. In the Shreya Singhal vs Union of India[9], judgment the Supreme Court held that Section 66A[10] of the Information Technology Act as unconstitutional. Similarly, the terms used in these newly reform bills regarding cyber offences and organized crimes are vague and challenged for misuse. Merging of earlier sections into one by excluding the 'definition' part into offences and punishments is the new addition in the reform bills. In the definition of 'terrorist act' in the Sanhita, it has been largely derived from the UAPA Act[11]. The expression used "such as to destroy the political, economic or social structure of the Country" is vague. There needs more clarity and deliberations in framing the bill in many parts as it is crucial to deliver justice for the crime related offences and one cannot be pushed into a state of confusion and non-confirmatory mode of accepting the law.

When it comes to the challenges faced in terms of using Sanskrit language as naming the title for the Criminal Reform Bills, it is widely opposed by South Indian Advocates and Legal Associates as its use violates Article 348(3) of the Constitution of India[12] which states that Where the legislature of the State has prescribed any language other than in English language for use in bills introduced, Acts passed by, the Legislature of the State or Ordinances promulgated by the Governor of the State shall be in the English language under this article. So usage of Hindi Language as titles for bills to come into parlance of Courts violates the Constitution and most of the people find it difficult to accept the same. There are still many judgments and issues going on in Tamil Nadu Courts regarding use of Tamil for easy conduct of trial and also judgement to be delivered in Tamil. But the latest introduction of the bills naming them in other language is kind of adding fuel to the fire, stirring opinions and controversies in Tamil Nadu. The Content of the new bills as already discussed before are also one of the challenges to the present existing legal practice and reality.

Conclusion

The introduction of new criminal reform bills marks a significant change in our justice system. These reforms have been crafted for update of new laws, reviving old archaic laws, delivery of speedy justice and modernization for the welfare of the people. While there are undoubtedly be challenges and debates ahead, it is clear that society is progressing and evolving through the introduction of the new criminal reform bills. We have to make sure that making clarity and deliberation would ratify the downs and vagueness in certain areas of the bills. Also, we cannot ignore the fact that one cannot run the country by constantly relying on old punishments, norms and policies, it has to be changes and updated with time and people. When these three bills come into force, it is now up to the lawmakers, legal professionals, and the public to work together to ensure that these reforms fulfil the promise and lead us towards a more just and humane future.

Notes

1. BNS- Bhartiya Nyaya Sanhita Bill, 2023 replacing Indian Penal Code, 1860
2. BNSS- Bharatiya Nagarik Surkaksha Sanhita Bill,2023 replacing Criminal Procedure Code, 1973
3. BSB- Bharatiya Sakshya Bill, 2023 replacing Indian Evidence Act, 1872
4. State of A.P. vs Punati Ravulu [1993 AIR SC 2644]
5. Lalita Kumari vs Govt. of Uttar Pradesh [2014 2 SCC 1]
6. RP Kapur vs State of Punjab [2009 ALL SCR (O.C.C.)80]
7. Lillu & Anr vs State of Haryana [AIR 2013 SC 1784]
8. Section 124 of Indian Penal Code,1860- Definition of Sedition- Whoever by words, either spoken or written, or by signs, or by visible representation, or otherwise, brings or attempts to bring into hatred or contempt, or excites or attempts to excite disaffection towards, the Government established by law in India, a shall be punished with imprisonment for life, to which fine may be added, or with imprisonment which may extend to three years, to which fine may be added, or with fine.
9. Shreya Singhal vs Union of India [AIR 2015 SC 1523]
10. Section 66A of Information Technology Act, 2000- Punishment for sending offensive messages through communication service, etc.
11. UAPA Act- Unlawful Activities (Prevention) Act, 1967.
12. Article 348 of Indian Constitution, 1950- pertains to the language to be used in the Supreme Court and in the High Courts, as well as for acts, bills, and other legal documents.

भारत में लैंगीक न्याय हेतु समान सिविल संहिता एक महती आवश्यकता–एक विश्लेषणात्मक अध्ययन

विजय लक्ष्मी जोशी,

सहायक प्राध्यापक, शासकिय विधि महाविद्यालय शाजापुर

शोधसारः–प्रस्तुत शोधपत्र में भारत में लैंगीक न्याय हेतु एक समान सिविल संहिता लागू करने की आवश्यकता को संक्षेप में प्रस्तुत किया गया हैं। वर्तमान में भारत में लैंगीक न्याय हेतु एक समान सिविल संहिता लागू करने की आवश्यकता पर विभिन्न राजनीतिक दलों एवं समाज सुधारकों द्वारा जोर दिया जा रहा है तो वहीं अल्पसंख्यक एवं अनुसूचित जनजाति समुदायों द्वारा इसका पुरजोर विरोध किया जा रहा हैं।

शोधपत्र के विषय को समझने के लिए हमें सर्वप्रथम लैंगीक न्याय एवं एक समान सिविल संहिता का अर्थ समझना होगा। लैंगीक न्याय का अर्थः– लैंगीक न्याय का अर्थ होता है लिंग के आधार पर स्त्री और पुरुष में किसी भी प्रकार का भेदभाव नहीं किया जाना।

एक समान सिविल संहिता का अर्थः– एक समान सिविल संहिता को यद्यपि किसी भी कानून में अभी तक परिभाषित नहीं किया गया हैं किन्तु सक्षेप में हम इसे इस प्रकार समझ सकते हैं कि एक समान सिविल संहिता का अर्थ है– सभी नागरिकों पर उनके निजी मामलों जैसे विवाह, तलाक, उत्तराधिकार, दत्तक, भरण–पोषण में एक समान विधि का लागू किया जाना, अर्थात सभी नागरिकों पर उनके निजी मामलों में उनके धर्म के अनुसार उनकी वैयक्तिक विधि न लागू होकर एक समान विधि लागू होगी जिसे एक समान सिविल संहिता कहा जाएगा।

वर्तमान में हिन्दुओं पर जिसमें बौद्ध, जैन, सिख भी शामिल हैं हिन्दू मैरिज एक्ट 1955, विवाह एवं तलाक के मामलें में, भारतीय उत्तराधिकार अधिनियम 1956, उत्तराधिकार कें मामलें में, हिन्दू दत्तक ग्रहण एवं भरण पोषण अधिनियम 1956, दत्तक और भरण पोषण के मामलों में लागू होते हैं। मुस्लिम समुदाय के निजी मामलों में शरिअत अधिनियम 1937 लागू होता है। इसी तरह पारसी एवं ईसाई समुदाय पर उनके निजी मामलों में उनके धर्म के अनुसार अलग–अलग कानून लागू होते है। एक समान सिविल संहिता लागू होने के बाद इन सभी पर उपरोक्त कानून लागू न होकर एक समान कानून लागू होगा।

प्रत्येक सभ्य समाज में मुख्यतः दो प्रकार की विधियाँ लागू होती है, एक आपराधिक विधि जो आपराधिक मामलों में लागू होती है दूसरी सिविल विधि जो सिविल मामलों जैसे विवाह, बंटवारे, उत्तराधिकार, तलाक, सम्पति के मामलें, मानहानि, संविदा आदि में लागू होती हैं। वर्तमान में सभी भारतीयों पर चाहे वे किसी भी धर्म के अनुयायी हों, एक समान आपराधिक विधि जैसे– भारतीय दण्ड संहिता, दण्ड प्रक्रिया संहिता इत्यादि लागू होती है एवं संविदा के मामलों में भारतीय संविदा अधिनियम, निजी मामलों को छोड़कर सभी सिविल मामलों में सिविल प्रक्रिया संहिता लागू होती हैं। केवल निजी मामलों

प्रत्येक सभ्य समाज में मुख्यतः दो प्रकार की विधियाँ लागू होती है, एक आपराधिक विधि जो आपराधिक मामलों में लागू होती है दूसरी सिविल विधि जो सिविल मामलों जैसे विवाह, बंटवारे, उत्तराधिकार, तलाक, सम्पति के मामलें, मानहानि, संविदा आदि में लागू होती हैं।

जैसे विवाह, तलाक, उत्तराधिकार में भारतीय अपने अपने धर्म के अनुसार अपनी अलग–अलग वैयक्तिक विधियों से शासित होते हैं। एक समान सिविल संहिता का उद्देश्य निजी मामलों में धर्म के आधार पर भेदभाव को मिटाकर सभी पर एक समान विधि लागू करना हैं, जिससे भारतीयों में एकता, अखण्डता एवं बंधुत्व की भावना सुदृढ हो सके एवं लैंगिक न्याय के लक्ष्य को प्राप्त किया जा सके। संविधान में समान सिविल संहिता हेतु उपबंधः–संविधान में एक समान सिविल संहिता को शामिल करने का प्रस्ताव सर्वप्रथम संविधान सभा के बंबई राज्य के सदस्य मीनू मसानी ने 23 नंवबर 1948 को संविधान सभा की बैठक में रखा, तब संविधान सभा के अल्पसंख्यक समुदाय के सदस्यों के द्वारा इसका यह कहकर विरोध किया गया कि यह उनकी धार्मिक स्वतंत्रता पर कुठाराघात हैं। यद्यपि के.

एम. मुंशी, ए. कृष्णा स्वामी अय्यर, डॉ. भीमराव अंबेडकर इसके पक्ष में थे किन्तु विरोध को देखते हुए इसे निति निर्देशक तत्व में अन्तर्विष्ट किया गया।

भारतीय संविधान के भाग 4 निति निर्देशक तत्व के अनुच्छेद 44 में एक समान सिविल संहिता लागू करने का राज्य को निर्देश दिया गया है– अनुच्छेद 44 में उपबंधित किया गया है कि राज्य, भारत के समस्त राज्य क्षेत्र में नागरिकों के लिए एक समान सिविल संहिता प्राप्त करने का प्रयास करेगा। किन्तु निति निर्देशक तत्व प्रवर्तनीय नहीं होने के कारण इसे न्यायालय द्वारा लागू नहीं कराया जा सकता है, यही हमारे देश की सबसे बड़ी विडम्बना हैं।

एक समान सिविल संहिता और लैंगीक न्याय के बीच संबंधः– भारत में एक समान सिविल संहिता के माध्यम से हम लैंगीक न्याय के लक्ष्य को प्राप्त कर सकते है। भारत में एक हिन्दू नारी अपने तलाक के बाद अपने पूर्व पति से भरण–पोषण पाने की अधिकारिणी होती है जबकि एक मुस्लिम नारी शरिअत के अनुसार तलाक के बाद अपने पूर्व पति से इददत की अवधि के बाद भरण–पोषण पाने की अधिकारिणी नहीं होती। इस प्रकार केवल धर्म के आधार पर दो महिलाओं के भरण–पोषण के अधिकार में भेदभाव संविधान की समानता के मूल अधिकार के प्रतिकूल है इसके अतिरिक्त शरिअत के अनुसार एक पुरूष एक साथ चार विवाह कर सकता है जबकि एक स्त्री एक समय में एक विवाह ही कर सकती है, द्विविवाह उसके लिए दण्डनीय है। तलाक के मामले में भी शरिअत ने पुरूषों को स्त्रियों से अधिक अधिकार दिए हैं, वह अपनी इच्छा से जब चाहे तब अपनी पत्नी को तलाक दे सकता हैं। उत्तराधिकार के मामले में भी केवल लिंग के आधार पर स्त्री एवं पुरूष के बीच भेदभाव किया जाता है। इसके अलावा पारसी धर्म में यदि एक महिला किसी अन्य धर्म के पुरूष से विवाह कर लेती है तो उसे अपने पिता की सम्पति में कोई हक नहीं मिलता, जबकि पुरूष के साथ ऐसा नहीं हैं। ईसाई धर्म में एक महिला केवल जारकर्म के आधार पर अपने पति से तलाक नहीं ले सकती उसे जारकर्म के अलावा पति की क्रूरता, अभित्यजन भी साबित करना पड़ता है जबकि एक हिन्दू महिला केवल जारकर्म के आधार पर हिन्दू विवाह अधिनियम 1955 के अधीन अपने पति से तलाक ले सकती है। इस प्रकार एक स्त्री केवल इस आधार पर कि वह मुस्लिम, ईसाई, एवं पारसी धर्म की उपासक है अपने मूल अधिकारों से वचित हो रही है, जबकि अन्तराष्ट्रीय प्रसंविदाओं में कहा गया है कि केवल जन्म, लिंग, धर्म के आधार पर मानव अधिकार प्रदाय करने में कोई विभेद नहीं किया जाएगा।

मानव अधिकारों की सार्वभौम घोषणा के अनुच्छेद 2 के अनुसार– प्रत्येक व्यक्ति इस घोषणा में उपवर्णित अधिकारों एवं स्वतंत्रताओं का हकदार है, इसमें लिंग, भाषा, धर्म के आधार पर कोई विभेद नहीं किया जाएगा। इसी प्रकार सिविल तथा राजनैतिक अधिकारों के अन्तराष्ट्रीय प्रसंविदा 1966 के अनुच्छेद 2 में लिंग के आधार पर विभेद का प्रतिशोध किया गया है, महिलाओं के विरूद्ध सभी प्रकार के भेदभाव की समाप्ति पर अभिसमय 1979, महिलाओं के विरूद्ध धर्म, लिंग सहित विभिन्न आधारों पर भेदभाव को प्रतिशोध करता है। अतः हमारे देश में एक समान सिविल संहिता का लागू न होना लैंगिक न्याय की प्राप्ति में सबसे बड़ा बाधक हैं एवं इसी वजह से भारतीय नारी केवल धर्म के आधार पर अपने मानव अधिकारों से वचित होती रही है, जो कि संविधान की मूल भावना के खिलाफ है।

प्रत्येक व्यक्ति इस घोषणा में उपवर्णित अधिकारों एवं स्वतंत्रताओं का हकदार है, इसमें लिंग, भाषा, धर्म के आधार पर कोई विभेद नहीं किया जाएगा। इसी प्रकार सिविल तथा राजनैतिक अधिकारों के अन्तराष्ट्रीय प्रसंविदा 1966 के अनुच्छेद 2 में लिंग के आधार पर विभेद का प्रतिशोध किया गया है, महिलाओं के विरूद्ध सभी प्रकार के भेदभाव की समाप्ति पर अभिसमय 1979, महिलाओं के विरूद्ध धर्म, लिंग सहित विभिन्न आधारों पर भेदभाव को प्रतिशोध करता है।

एक समान सिविल संहिता पर न्यायपालिका का दृष्टिकोणः– भारतीय न्यायपालिका सदैव एक समान सिविल संहिता को लागू करने के पक्ष में रही हैं, निम्नलिखित प्रकरणों में भारतीय न्यायालयों के द्वारा दिए गए निर्णय इसका जीवंत साक्ष्य है–

1. "शाहबानो बेगम बनाम मोहम्मद अहमद खान" के बाद में सर्वप्रथम एक समान सिविल संहिता को लागू करने की आवश्यकता को उजागर किया गया। इस मामल में सुप्रीम कोर्ट ने एक समान सिविल सहिता लागू न किए जाने पर दुःख प्रकट करते हुए कहा कि ''अनुच्छेद 44 मात्र एक मृत अक्षर बनकर रह गया है। सरकार ने इसे लागू करने के लिए

अभी तक कोई प्रयास नहीं किया है''। प्रस्तुत बाद में एक मुस्लिम महिला को उसके पति के द्वारा तलाक दिए जाने के बाद ईदद्त की अवधि के बाद भरण–पोषण देने से इस आधार पर इंकार कर दिया गया कि शरिअत अधिनियम 1937 के अनुसार एक मुस्लिम पति अपनी तलाकशुदा पत्नी को केवल ईददत की अवधि तक ही भरण–पोषण करने का दायी होता है उसके बाद नहीं। अंत मे पत्नि के द्वारा सुप्रीम कोर्ट में अपने पति के विरूद्ध याचिका प्रस्तुत करने पर न्यायालय ने निर्णय दिया कि एक मुस्लिम तलाकशुदा स्त्री जिसने पुर्नविवाह नहीं किया है अपने पूर्व पति से भरण–पोषण की हकदार होगी। उसे दण्ड प्रकिया संहिता की धारा 125 के अधीन भरण–पोषण का अधिकार होगा यहॉ पर शरिअत अधिनियम लागू नहीं होगा।

2. सरला मुदगल बनाम भारत सघं में उच्चतम न्यायालय ने भारत सरकार से सविधान के अनुच्छेद 44 पर नया दृष्टिकोण अपनाने का निवेदन करते हुए सरकार को 1995 तक एकशपथ पत्र फाईल करने का निर्देश दिया जिसमें इस बात का उल्लेख करने को कहा कि सभी नागरिकों के लिए समान सिविल संहिता बनाने के लिए क्या प्रयास किए गए है।

3. डैनियल लतीफी बनाम भारत संघ में कलकत्ता उच्च न्यायालय ने पुनः शाहबानो के मामले को जीवित करते हुए निर्णित किया कि एक मुस्लिम तलाकशुदा स्त्री अपने पूर्व पति से इददत की अवधि के बाद भी जब तक कि उसका पुर्नविवाह नहीं हो जाता, भरण–पोषण की हकदार हैं।

4. जान वलामत्तम बनाम भारत संघ के मामले में उच्चतम न्यायालय ने एक बार पुनः समान सिविल सहिता के न बनाने के लिए दुःख प्रकट करते हुए इसके बनाने के लिए जोरदार संस्तुति की हैं। उच्चतम न्यायालय ने कहा कि विवाह, उत्तराधिकार इस प्रकार की पथं निरपेक्ष बातें अनुच्छेद 25 के अंतर्गत नहीं आती हैं। अनुच्छेद 44 इस धारणा पर आधारित है कि एक सभ्य समाज में धर्म और व्यक्तिगत विधि में कोई संबंध नहीं हैं।

एक समान सिविल सहिता के लागू किए जाने के विपक्ष में दिए जाने वाले तर्कों की आधार विहिनताः–

कुछ अल्पसंख्यक समुदाय के सगंठनों एवं अनुसूचित जनजाति संगठनों के द्वारा एक समान सिविल सहिता के विपक्ष में कई तर्क दिए जाते है जैसे–

1. कुछ अल्पसंख्यक समुदाय का तर्क है कि एक समान सिविल संहिता उनको भारतीय सविधान के अनुच्छेद 25 द्वारा प्राप्त धार्मिक स्वतंत्रता के अधिकार पर कुठाराघात है। अतः यें असंवैधानिक है क्योकि यह उनके धार्मिक स्वतंत्रता के मूल अधिकार का अतिक्रमण करती हैं।

2. इसके विपक्ष में यह तर्क दिया जाता है कि इसके माध्यम से बहुसख्यंक, अल्पसंख्यक पर अपना धर्म एवं रिति–रीवाज थोपंना चाहते है जो कि भारत के ''पथंनिरपक्षे'' राज्य की अवधारणा के प्रतिकूल है इससे उनकी अल्पसख्यंक संस्कृति का अस्तित्व ही खत्म हो जाएगा।

3. कुछ अनुसूचित जनजाति सगंठन एक समान सिविल संहिता के विपक्ष में तर्क देते है कि बहुविवाह उनकी संस्कृति का एक अहम हिस्सा है एवं उनके निजी कानून में तलाक की प्रक्रिया अत्यंत सरल हैं। अतः एक समान सिविल संहिता उन पर लागू नहीं की जानी चाहिए। उपरोक्त तर्क एकदम आधारविहिन हैं एवं इनमें से अधिकांश तो एक समान सिविल संहिता का गलत अर्थ निकालने के कारण दिए गए हैं। यह तर्क बिलकुल भी सत्य नहीं हैं कि एक समान सिविल संहिता अल्पसंख्यक समुदाय की धार्मिक स्वतंत्रता का अतिक्रमण करती हैं, क्योकि यह सुस्पष्ट है कि धार्मिक स्वतंत्रता का अधिकार आत्यंतिक नहीं हैं अनुच्छेद 25(2) के अधीन लोक व्यवस्था, सदाचार, स्वास्थय, सामाजिक कल्याण और सुधार के आधार पर इस पर निबंर्धन लगाए जा सकते है। सामाजिक कल्याण और सुधार के आधार पर हिन्दू धर्म की बहुत सी कुप्रथाओं जैसे बालविवाह, सतिप्रथा, दहेज प्रथा, बहुविवाह, देवदासी प्रथा, छुआछतू प्रथा, विधवा पुर्नविवाह पर रोक आदि पर रोक लगा दी गई हैं। इसके साथ ही मुस्लिम धर्म के तीन तलाक को भी वर्तमान में 2019 में कानून बनाकर प्रतिबंधित

कुछ अनुसूचित जनजाति सगंठन एक समान सिविल संहिता के विपक्ष में तर्क देते है कि बहुविवाह उनकी संस्कृति का एक अहम हिस्सा है एवं उनके निजी कानून में तलाक की प्रक्रिया अत्यंत सरल हैं। अतः एक समान सिविल संहिता उन पर लागू नहीं की जानी चाहिए। उपरोक्त तर्क एकदम आधारविहिन हैं एवं इनमें से अधिकांश तो एक समान सिविल सहिता का गलत अर्थ निकालने के कारण दिए गए हैं। यह तर्क बिलकुल भी सत्य नहीं हैं कि एक समान सिविल संहिता अल्पसंख्यक समुदाय की धार्मिक स्वतंत्रता का अतिक्रमण करती हैं।

कर दिया गया है तो इस आधार पर मुस्लिम धर्म की विभिन्न कुप्रथाओं जैसे –हलाला, बहुविवाह, बालविवाह, को खत्म क्यों नहीं किया जा सकता। इसके अतिरिक्त विवाह, उत्तराधिकार जैसी पंथनिरपक्ष बातें धर्म के अंतगर्त नहीं आती हैं।

द्वितीय तर्क यह दिया जाता हैं कि एक समान सिविल संहिता के माध्यम से बहुसख्यंक, अल्पसंख्यक पर अपने रिति रीवाज थोपना चाहते हैं, अल्पसंख्यक समुदाय का यह भय निरर्थक हैं, क्योंकि एक समान सिविल सहिता का अर्थ है– सभी धर्मों के लिए एक जैसे कानून न कि एक ही कानून। इसके द्वारा धर्मों के सभी व्यक्तिगत रिति रीवाजों को नष्ट नहीं किया जाएगा बल्कि उन्हीं प्रथाओं को जो लैंगीक न्याय, महिलाओं के समानता के अधिकार एवं मानवाधिकारों के प्रतिकूल है, निबंधित किया जाएगा, जैसे– बाल विवाह, बहुविवाह, हलाला, मुता विवाह आदि।

तीसरा तर्क यह दिया जाता है कि एक समान सिविल संहिता असंवैधानिक है यह सविधान के उपबंधों के प्रतिकूल है जो कि सही नहीं है बल्कि इसके लागू नहीं होने के कारण मुस्लिम स्त्रियों के सविधान के अनुच्छेद 14 में प्रदत्त समता के अधिकार, अनुच्छेद 15 में प्रदत्त लिंग एवं धर्म के आधार पर विभेद के प्रतिशेध के अधिकार का हनन हो रहा है। अनुसूचित जनजाति संगठनों का यह तर्क कि बहुविवाह उनके धर्म का अभिन्न हिस्सा है, वर्तमान में एक सभ्य समाज में जहॉ महिलाओं को पुरूषों के बराबर दर्जा दिया जाता है, आधारविहिन लगता हैं। बहुविवाह पहले हिन्दूओं में भी प्रचलित था किन्तु हिन्दू विवाह अधिनियम 1955 लागू करके इसे प्रतिबधित कर दिया गया है। बहुविवाह किसी भी सभ्य समाज में नैतिक नहीं माना जाता, अमेरिकी न्यायालयों ने भी इसे लोक आचरण के विरूद्ध घोषित किया है। पहले हिन्दू भी अपने निजी मामलों जैसे– विवाह, दत्तक, उत्तराधिकार इत्यादि में वेदों, श्रुतियों के द्वारा शासित होते थे किन्तु फिर हिन्दू कोड बिल बनाकर उनकी वैयक्तिक विधियों का सहिताकरण कर दिया गया जिसके द्वारा बहुविवाह पर प्रतिबधं, महिलाओं को तलाक एवं दत्तक लेने का अधिकार, पैतृक सम्पति में पुत्रियों को पुत्रों के बराबर अधिकार, बालविवाह पर प्रतिबंध, आदि के लिए उपबंध किया गया। जब हिन्दू समुदाय समाज के हित में अपनी धार्मिक भावनाओं का त्याग कर सकते हैं तो अन्य समुदाय क्यों नहीं? पहले आपराधिक मामलों में मुस्लिम समुदाय शरिअत कें द्वारा शासित होता था किन्तु ब्रिटिश शासन काल में सभी के लिए एक समान क्रिमीनल कोड पारित करने के बाद अब आपराधिक मामलों में शरिअत के द्वारा शासित न होकर दण्ड प्रक्रिया संहिता, भारतीय दण्डसंहिता एवं भारतीय साक्ष्य अधिनियम के द्वारा शासित होते है, अतः जब एक समान आपराधिक संहिता के लागू किए जाने पर उसे धार्मिक स्वतंत्रता का हनन नहीं माना गया तो अब एक समान सिविल संहिता को धार्मिक स्वतंत्रता का हनन क्यों माना जा रहा हैं? सीरिया, टयूनिसिया, मोरक्को, पाकिस्तान, ईरान जैसे मुस्लिम देशों में भी सामाजिक हित में वैयक्तिक विधियों का सहिताकरण हो चुका है तो भारत में क्यों नहीं किया जा सकता हैं?

निष्कर्षः– निष्कर्शतः यह कहा जा सकता है कि एक समान सिविल सहिता के लागू करने के विरोध में जो तर्क दिए जाते है वे आधारविहिन है वस्तुतः एक समान सिविल सहिता भारतीय स्त्रियों को लैंगीक न्याय एवं मानवाधिकार प्रदान करने का एक सशक्त माध्यम है। अतः इस पर कठोर रूख न अपनाते हुए सामाजिक कल्याण हेतु इसे उदारता से स्वीकार किया जाना चाहिए। ❑

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Article 84 : An Analysis

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Resent trend , rightly, generated that we have to come out of hibernation of colonial laws (legislation and procedure) – but what about our own inertia against changes to make it more living to keep pace with lives in reality. A beautiful representative example would be Article 84 (pertaining to MP & 173 to MLA) of the Constitution.

What we got as Article 84 of the Constitution, that was Article 68-A in the Draft Constitution. It is obvious on the face of record that it was subsequently inserted in the Draft Constitution by amendment after Article 68, and was not there initially in the Draft Constitution even. The relevant excerpts from Constitution Assembly Debates, Vol. III, Book No. III at pages 89 and 93 respectively, run as follows:

The Hon'ble Dr. B.R. Ambedkar : Mr. President, Sir, I beg to move:

That the following new article be inserted after Article 68:-

68-A. A person shall not be qualified to be chosen to fill a seat in Parliament unless he –

(a) is a citizen of India;

(b) is, in the case of a seat in the Council of States, not less than thirty-five years of age and, in the case of a seat in the House of the People, not less than twenty-five years of age ; and

(c) possesses such other qualifications as may be prescribed in this behalf by or under any law made by Parliament.

While it is desirable that a People's Representative who actually wishes to serve in the Parliament/Assembly should have some higher qualifications than merely being a voter. The functions that he is required to discharge in the House require experience, certain amount of knowledge and practical experience in the affairs of the world, and so additional qualifications are required, to secure the proper candidates who would be able to serve the House better than a mere ordinary voter might do, while no such discussions were advanced at all.

The objection, inter alia, raised by Mahboob Ali Baig Sahib Bahadur in the Constituent Assembly on this Article 68A runs as follows:

Further, it is a recognized principle that when you are making a Constitution you should leave the future legislature to lay down the qualifications of persons who want to stand for election. It is surprising that while unnecessary provisions have been introduced in the Constitution, the most important provision which qualifies or disqualifies a person from becoming a member of this Parliament is sought to be left to the future Parliament. That is against principle; as Dr. Ambedkar himself has said, you are now preparing a machinery for qualifying a person to be a citizen and who, under certain circumstances, becomes a

The functions that he is required to discharge in the House require experience, certain amount of knowledge and practical experience in the affairs of the world, and so additional qualifications are required, to secure the proper candidates who would be able to serve the House better than a mere ordinary voter might do, while no such discussions were advanced at all.

voter and a member of Parliament or a Minister or President or Vice-President. While you prescribed qualifications for a voter, while you prescribed qualifications for a man to become a President or Vice President and so on and so forth, there is no reason why you should, in the case of a person who should be made eligible to stand for election, leave the matter to a future Parliament. It is dangerous and it is opposed to principle.

That is the most important and dangerous provision in the first part of this amendment. As for clause (b) I am one with those who consider that when once you have been declared as a voter you must be entitled to stand for election. The very fact that you are broad- basing representation to Parliament by giving suffrage to persons of a certain age with certain qualifications must enable every voter to stand for election. I know there are Constitutions which provide different qualifications for persons to become members of Parliament.

That is true. It is true more in the case of the Council of States than in the case of the House of the People. Whatever that might be, I might even consent to raising the age-limit for a member who seeks election, but I am opposed to the future Parliament being given the right to legislate with regard to the qualifications or disqualifications for a man becoming a Member of Parliament. I humbly submit that Dr. Ambedkar will take into consideration this serious objection and withdraw his amendment and bring it forward if necessary with suitable amendments.

But upon conclusion of debates only one amendment was inserted in Article 68-

A to Clause (b) i.e. minimum age was reduced from 35 to 30 years and we got Article 84 in the Constitution of India.

Article 84. Qualification for membership of Parliament –

A person shall not be qualified to be chosen to fill a seat in Parliament unless he, -

(a) is a citizen of India, and makes and subscribes before some person authorised in that behalf by the Election Commission an oath or affirmation according to the form set out for the purpose in the Third Schedule;

(b) is, in the case of a seat in the Council of States, not less than thirty years of age and, in the case of a seat in the House of the People, not less than twenty five years of age; and

(c) possesses such other qualifications as may be prescribed in that behalf by or under any law made by Parliament ;

But what ought to have been the minimum education qualification of a Member of Parliament (as well as State Assembly) – which ought to have been :

That is the most important and dangerous provision in the first part of this amendment. As for clause (b) I am one with those who consider that when once you have been declared as a voter you must be entitled to stand for election.

(b)(i) is a graduate from a University approved under University Grand Commission ;

And if this proposed amendment is now brought as 106th amendment of the Constitution, that to be operative prospectively; and for current Members of 17th Loksabha, this 106th amendment of the Constitution would not be operational for them in future too (i.e. who won till date any election in Parliament / State Assembly).

The Constitution left it open that the educational qualification of an MP (Article 84 /MLA -Article 173) , to be governed by a law to be legislated by Parliament in future and till date, after lapse of about 75 years–no such Statute has yet been legislated. The obvious consequence

of which, that a person who puts his signature by thumb impression only, could be an MP. It was not the solitary case of Late Phoolen Devi but many such persons having zero literacy background became MPs / MLAs. Parliament is the highest body of the People representative. Law is legislated there. We are governed by the Rule of Law. Policies of Governance are legislated by persons who are not having required educational qualification – more so in the digital world.

Organisation :PRS India Source :https:// www.oneindia.com

oneindia.com/educational-qualification-of-mps-in-india/ Current 17th Loksabha educational qualification as follows : 12th Pass or HS are 67 MPs

10th Pass or Secondary are 45 MPs 8th Pass are 12 MPs

5th Pass are 4 MPs Literate is One MP

Others : 13 MPs (one of them is Mrs. Sonia Gandhi) Not available : Two MPs

Total there are about 26 % under-graduate MPs.

This percentage is almost same since 12thLoksabha, that is one fourth MPs are undergraduate (it would be more qua MLAs).

Literacy rate of India would be as follows (senses report) :

1947	:	12%
1951	:	18.33%
1961	:	28.30%
1971	:	34.57%
1981	:	43.57%
1991	:	52.02%
2001	:	65.40%
2011	:	74.04%

2021:: NA

The growth of literacy rate is about 10% in every ten years while current Loksabha has about 25% undergraduate MPs – it appears ridiculous that persistently we have not changed to amend the Constitution or Representation of People's Act to stipulate minimum educational qualification who would represent the People in Parliament and State Assemblies – the cardinal job of whom is to legislate to govern the People by the Rule of Law. Further, more educated people means grown with better reasoning and exposure to all India affairs as well as world affairs.

Such amendments would bring a substantial change in the process of Election – total political ecosystem would get a metamorphosis since under qualified people would be stopped from being aspirant to be a member in Parliament and State Assemblies – which eliminate entry of illiterate but otherwise powerful persons in the temple of Democracy.

Since such amendments would operate prospectively, and present Members are not to be affected – so there should be no objection from any corner, and number of litigations would be much less, (which are generate from wrong / inappropriate / defective / deficient legislations as well as lack of vision & wisdom) as the whole body of Houses to be properly qualified – thus debates on every new Bill would be effective and participatory. Just imagine what Himalayan achievement for the We, the People could be made by mandating the minimum educational qualification to be a peoples' representative in Parliament and State Assemblies – which have not been done in 75 years.

It was enumerated before Supreme Court regarding Article 84 in SLP (C) 220 of 2013 (Usha Bharati –Vs- State of U.P. & Ors.) with qualification and other interpretation under statute and articles of the Constitution of India.

Legally vis-a-vis Constitutionally, changes do not mean ecdysiasts, but structural amendments to be with Life and Society, its reforms and not just a promo of decolonising everything. ❑

Modernization of India's Criminal Justice System : A Glimpse

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The criminal justice system is a set of laws, procedures, and institutions that aim to prevent, detect, prosecute, and punish crimes while ensuring the rights and safety of the public. It includes police forces, judicial institutions, law enforcement agencies and other supporting institutions such as forensic and investigative agencies. India is the largest democracy in the world but unfortunately, with time its shine is fading due to a flawed and outdated criminal justice system. Criminal law, like any other law, must meet the pace at which society is evolving. So, the Government is trying to change the existing criminal justice system.

Indian judicial system is complex, slow-moving and often hard to navigate. For many individuals, the Indian criminal justice system can be daunting and overwhelming. Unfortunately, it is a system that is often plagued by corruption, inefficiency and a lack of transparency. As a country with a population of over 1.3 billion people, it is no surprise that the judicial system faces numerous hurdles in its quest to provide justice to all. Currently, the Indian criminal justice system is facing the following challenges:

1. One of the foremost challenges is the issue of backlog. Indian courts are burdened with a huge number of pending cases leading to significant delays in the delivery of justice. This backlog not only affects the efficiency of the system but also undermines public trust and confidence in the judiciary.
2. Another crucial challenge is the lack of access to justice particularly for marginalised and underprivileged sections of society. The majority of Indians, especially those in rural areas struggle to navigate the complex judicial procedures and often face obstacles in obtaining judicial aid. This aggravates the existing socio-economic disparities and denies justice to those who need it the most.
3. Additionally, the Indian criminal justice system grapples with issues of corruption and inefficiency. Instances of bribery, nepotism and delay tactics are not uncommon in handling the smooth functioning of the judiciary and compromising its integrity. These shortcomings erode public trust in the system.
4. Furthermore, the rapid pace of technology advancements poses a unique challenge to the Indian judicial system. With the increasing prevalence of cybercrime and the need to adapt to emerging technology, the judicial framework often struggles to keep up with the evolving landscape. This necessitates the implementation of robust laws and regulations to address these digital challenges effectively.
5. Moreover, the shortage of judges and supporting staff is a significant bottleneck in the justice delivery system. The ratio of judges to population in India is considerably lower compared to other countries leading to a strain on the existing judicial resources.
6. One of the major challenges is the criminal justice system is based on the laws and procedures enacted by the British in the 1860s. These laws are archaic and not relevant to contemporary times. They do not address new forms of crime like cybercrime, terrorism, organized crime, mob lynching etc.
7. The criminal justice system is often accused of violating the human rights of accused, victims, witnesses and other stakeholders. Examples include custodial torture, extrajudicial killings, false arrests, illegal detention,

forced confessions, unfair trials and harsh punishments.

Therefore, the government is preparing a road map for unlocking justice in India and ensuring that every individual has access to a fair and impartial judicial system. The Indian government has taken the following steps to solve above said challenges to some extent:

1. Introduction of the national judicial data grid to improve transparency and accessibility of information and enable lawyers and the general public to track the progress of cases.
2. Increase in budget allocation for the judiciary.
3. Permission for the recruitment of more judges.
4. Setting up additional courts to reduce the backlog of cases.
5. Introduction of e-courts and video conferencing facilities.
6. To ensure that justice should not be denied due to financial constraints, the government has given responsibility to the national legal services authority to provide free legal aid to the needy.

Existing laws of the criminal justice system in India

The keystone of the Indian criminal justice system rests on three pillars:

1. **The Indian penal code** is the official criminal code of India drafted in 1860 under the Charter Act of 1833.
2. **The Criminal Procedure Code** provides procedures for administering criminal law in India. It was enacted in 1973.
3. **The Indian Evidence Act** contains a set of rules and allied issues governing the admissibility of evidence in the Indian courts of law. It was passed in India by the imperial legislative council in 1872 during the British Raj.

The legal framework of criminal laws in the country carries signs of a bygone time with three criminal laws. Because these laws were formulated during the British colonial era. These laws were primarily designed to serve colonial interests and suppress any potential uprisings. The laws have not undergone any major changes since India gained its independence. An effective criminal justice system is essential for an orderly society and the protection of human rights. Criminal law as any other law must meet the pace at which society is evolving. As the nation is marching into the 21st century, the need for modernization in criminal laws is imperative. The criminal justice system urgently needs reform measures. There is a need to rethink and reformulate the criminal laws to address the needs of the today's era.

Therefore, the government is trying to replace existing criminal laws. The change that is taking place is more than reform. Truly It is a symbol of progress. The purpose of these reforms in criminal laws is colonial freedom from existing criminal laws, to get speedy justice and to free courts from the burden of cases.

Proposed Changes in India's Criminal Justice System

Recently the Union Home Minister Mr. Amit Shah introduced three new Bills in the Lok Sabha that propose a complete overhaul of the country's criminal justice system. The proposed three bills are as follows:

1. The Bharatiya Nyaya Sanhita bill 2023 in place of IPC 1860
2. The Bharatiya Nagrik Suraksha Sanhita bill 2023 in place of the CrPC 1898.
3. The BharatiyaSakshya Bill 2023 in place of the Evidence Act 1872.

These bills are considered very important and huge reforms in the Indian criminal justice system.

Proposed changes in the Bharatiya Nyaya Sanhita Bill 2023

The Bharatiya Nyaya Sanhita is sub-divided into 19 chapters consisting of 356 sections instead of 511 sections. 175 sections have been changed, 8 new sections have been added and 22 sections have been repealed. This bill supersedes the IPC, presenting an essential revamping of India's criminal legal architecture. Nyaya Sanhita bill aims to create a fair, just and modern legal framework that

reflects the evolving needs of Indian society. Key changes proposed in the bill include:

1. The offence of sedition has been written under the proposed law with new nomenclature and a more expansive definition. It penalises the following:
   i) attempting to Exide secession armed rebellion.
   ii) encouraging feelings of separatist activities.
   iii) endangering the sovereignty or unity and integrity of India. These offences will be punishable with imprisonment of up to 7 years or life imprisonment and a fine.
2. It offers new provisions to protect women, children and senior citizens from violence.
3. The bill makes committing petty organised crime punishable with imprisonment between 1 and 7 years and a fine. Petty crime includes organised pickpocketing, snatching and theft.
4. It strengthens the independence of the judiciary.
5. This bill introduces new categories of offences like cyber-crimes, terrorism, honour crime, mob lynching etc.
6. The bill fixes a maximum limit of 180 days to file a charge sheet.
7. It also proposes 10 years imprisonment for sexual intercourse with women on false promise of marriage.
8. Under the IPC importing girls under the age of 21 years for illicit intercourse with another person is an offence. The bill specifies that importing boys under the age of 18 years for illicit intercourse with another person will also be an offence.

Proposed changes in the Bharatiya Nagrik Suraksha Sanhita Bill 2023

The Bharatiya Nagrik Suraksha Sanhita bill 2023 reflects a necessary step towards modernising India's criminal justice system. This bill makes revisions to 160 sections, introduces 9 novel sections and abolishes 9 sections.

1. It emphasizes the use of technology for trials because the complexities of existing bills and inadequate technology integration have led to hindrances in delivering justice promptly.
2. This bill adopts citizen-centric practices.
3. It focuses on spreading up the legal process.
4. The bill makes video recording of statements of survivors of sexual violence mandatory which can help in preserving evidence and preventing manipulation.
5. The bill mandates that police must inform about the status of a complaint in 90 days, which can enhance accountability and transparency. Section 41A of the CrPC will be renumbered as Section 35. This change includes an added safeguard, stipulating that no arrest can be made without prior approval from an officer at least at the rank of Deputy Superintendent of Police (DSP), especially for offences punishable by less than 3 years or for individuals above 60 years.
6. The government must decide on granting ordinance sanction to prosecute a public servant within 120 days of receiving a request. Failure to do so will result in automatic sanction being assumed. Sanction is not mandatory in cases of sexual crimes or trafficking etc.
7. The framework for trials in absentia is outlined, particularly in rigorous anti-terrorism legislation like the Unlawful Activities (Prevention) Act. In such cases the burden of proof shifts to the accused requiring them to prove their innocence rather than the state having the responsibility to prove guilt.

Proposed changes in the BharatiyaSakshya Bill 2023

BharatiyaSakshya Bill will now have 170 sections instead of the earlier 167, 23 sections have been changed, 1 new section has been added and 5 have been repealed. This bill introduces a new section specifically addressing electronic evidence. With the increasing prevalence of digital manipulation and forgery, the bill seeks to address issues related to the authenticity and integrity of electronic evidence. So, this law outlines the procedure or mechanism for maintaining a secure and reliable chain of custody for electronic evidence, thereby enhancing its evidentiary value. BharatiyaSakshya bill 2023 has drawn significant

attention and debate since its proposal. This bill, if passed, will bring about substantial change to the legal landscape in India, particularly regarding the admissibility and treatment of electronic evidence.

1. One of the key objectives of the proposed bill is to streamline the process of admitting electronic evidence in court. The bill provides that electronic or digital reports will have the same legal effect as paper records.
2. It establishes robust measures that safeguard individuals' privacy rights.
3. It also lays down the specific criteria for the admissibility of electronic evidence to prevent the tempering of digital data or misuse of sensitive information.
4. The proposed changes also address the issue of expert testimony about electronic evidence. It seems to establish criteria for certifying experts in digital forensics and technology, ensuring that only qualified professionals can provide expert opinions and analysis regarding electronic evidence.
5. Proposed changes also address the issue of cross-border data transfer. The changes seek to establish a framework for international cooperation and data sharing, ensuring that individuals' privacy rights are respected even when dealing with cross-border legal matters.
6. This bill strengthens the procedures and practices related to cybercrime and digital forensics. With the borderless nature of the internet, it has become difficult to determine the jurisdiction in which a cybercrime offence occurs. This bill aims to outline a clear framework for determining jurisdiction, enabling law enforcement agencies to investigate effectively and prosecute cyber criminals.
7. It introduces the presumption of innocence as a fundamental principle of the criminal justice system. Thus, the introduction of specialized electronic evidence courts is a commendable move towards creating a dedicated forum to handle electronic evidence-related cases.

These changes can help level the playing field and ensure that justice is not compromised due to the technical nature of electronic evidence.

Conclusion:

An effective criminal justice system is essential for an orderly society and the protection of human rights. Transparency, accountability and efficiency in the legal system are a must. So, the criminal justice system urgently needs reform measures in India. These proposed criminal laws have ignited a spectrum of reactions underscoring pivotal facets related to criminal law reforms. The nature and extent of changes require months, if not years, of study discourse and deliberations. The bills hold the potential to shape the future landscape of criminal law. Therefore, the task of testing their efficacy, sustainability and adherence to the rule of law and justice delivery capacity becomes paramount. However, change cannot happen in isolation. Citizens, legal professionals, policymakers and the government must come together and actively participate in addressing these challenges and reforms. Laws have never been sufficient to usher changes unless society is willing.

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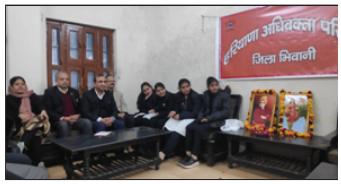
स्वामी विवेकानंद जयंती (युवा दिवस)

अधिवक्ता परिषद हरियाणा, भिवानी इकाई

अधिवक्ता परिषद भिवानी इकाई, द्वारा जिला अध्यक्ष सुमित जांगड़ा की अध्यक्षता में स्वामी विवेकानंद जयंती के अवसर पर "युवा अधिवक्ता दिवस" का आयोजन बार एसोसिएशन भिवानी के रीक्रिएशन हाल में किया गया।



इस कार्यक्रम में प्रांत अध्यक्ष श्री चंद्रपाल चौहान, प्रांत उपाध्यक्ष शीला तंवर और विभाग प्रमुख श्री गणेश बंसल की गरिमामयी उपस्थिति रही है। कार्यक्रम में करीब 60 अधिवक्ताओं में भाग लिया जिसमें युवा अधिवक्ताओं की भागीदारी भी सराहनीय रही।

फतेहाबाद इकाई

स्वामी विवेकानंद जयंती पर राष्ट्रीय युवा दिवस समारोह का आयोजन किया गया समारोह की अध्यक्षता श्री प्रदीप बेनीवाल एडवोकेट प्रधान बार एसोसिएशन फतेहाबाद की अध्यक्षता में संपन्न हुआ।

High Court Unit of Haryana

High Court Unit of Haryana Adhivakta Parishad has celebrated Swami Vivekananda Jayanti and Young Advocate Day at Ladies Bar Room of Punjab and Haryana High Court, Chandigarh.

The Occasion was graced by Sh. B.R. Mahajan ji, Senior Advocate, Advocate General Haryana, Sh. Vijay Kumar Jindal, Senior Advocate, Sh. Chetan Mittal, Senior Advocate, Former ASGI, office bearers of Punjab and Haryana Bar Association. Besides that, more than 135 members attended the occasion.

कुरुक्षेत्र इकाई

आज अधिवक्ता परिषद कुरुक्षेत्र द्वारा स्वामी विवेकानंद जयंती को युवा अधिवक्ता दिवस के रूप में मनाया गया।

पानीपत इकाई

जिला न्यायालय पानीपत में अधिवक्ता परिषद पानीपत इकाई द्वारा आज दिनांक 12 जनवरी 2024 को स्वामी विवेकानंद जयंती 'राष्ट्रीय युवा दिवस' मनाया गया। इस कार्यक्रम के मुख्य वक्ता श्री सुशील गौड़ जी (माननीय जिला सह संघचालक) रहे। इस कार्यक्रम में जिला बार एसोसिएशन पानीपत के प्रधान श्री अमित कादियान व सभी बार कार्यकारिणी सदस्य व अधिवक्ता परिषद पानीपत के सदस्य एवं काफ़ी संख्या में महिला एवं युवा अधिवक्तागण भी उपस्थित रहे।

सोनीपत इकाई

अधिवक्ता परिषद हरियाणा जिला इकाई सोनीपत में स्वामी विवेकानंद जयंती को युवा अधिवक्ता दिवस के रूप में मनाया गया। मुख्य वक्ता के रूप में रजनीश मलिक प्रदेश कार्यकारिणी सदस्य अधिवक्ता परिषद हरियाणा थे।

–अशोक कुमार, महामंत्री

Adhivakta Parishad Punjab Patiala Unit

Patiala unit of Adhivakta Parishad Punjab Celebrated "Young Advocates Day" on 25 January, 2024 in Bar Room of District Courts Patiala to commemorate the birth anniversary of Swami Vivekananda ji. Additional District & Sessions Judge (Retd.) Sh. G. S. Dhillon presided over the function and Sh. Baljinder Thakur, Ex-member, Punjab State Human Rights Commission was the keynote speaker on this occasion. A large number of advocates and law students of Patiala attended the programme.

मोगा इकाई

मोगा, 20 जनवरी स्थानीय अधिवक्ता परिषद की ओर से स्वामी विवेकानंद के जन्म दिवस को समर्पित युवा दिवस का आयोजन किया गया, अधिवक्ता परिषद के सचिव निशांत कौशिक, एडवोकेट यज्ञ दत्त गोयल, संजीव गोयल, पवन शर्मा, चितुल गर्ग, शैंकी मनचंदा, राहुल कांसल, मेघना गुप्ता आदि ने भी अपने विचार प्रकट किए।

स्वामी विकानंद के जीवन पर चर्चा करते अधिवक्ता परिषद के सदस्य।

Adhivakta Parishad Delhi

Adhivakta Parisad, Delhi Prant is organized Young Advocates Day celebrates on topic Amritkal Read Ahead for Young Advocates, and chife Guest Hon'ble Mr. Justice Subramoium Prasad Judge, Delhi, Guest of Honour Mr. Sandeep Sethi (Senior Advocate, Delhi High Court) & Speaker Swami Gananatha Nanda Ji be present in the program there.

-Akhilesh Vyas, General Secretary

Delhi High Court Unit

Adhivakta Parishad Delhi High Court Unit organized Young Advocates Day on the Occasion of Swami Vivekanand G Where Ms. Suruchi Aggarwal G Sr. Adv. and Sh. Rajshekhar Rao Sr. Adv. delivered speech. This programme was attended by 142 Advocates. Sh. Sanjay Poddar Sr. Adv. President Delhi Prant, Sh. Jivesh Tiwari Gen. Sec., Sh. Jitendra Tripathi G and Sh. Vivek Sharma G also graced the Occasion.

पटियाला हाउस कोर्ट इकाई

अधिवक्ता परिषद पटियाला हाउस इकाई नई दिल्ली के तत्वाधान में गुरुवार को स्वामी विवेकानंद जयंती एवम युवा अधिवक्ता दिवस के पावन अवसर पर रक्तदान शिविर का आयोजन सेंट्रल हॉल पटियाला हाउस कोर्ट नई दिल्ली में डॉक्टर राम मनोहर लोहिया अस्पताल के सहयोग से किया गया। कुल 52 लोगो ने रक्त दान किया।

तीस हजारी इकाई

अधिवक्ता परिषद तीस हजारी इकाई के द्वारा कैलाश दीपक हॉस्पिटल के तद्वाधान में मेगा स्वास्थ्य शिविर का आयोजन किया गया। इस स्वास्थ्य शिविर में पच्चीस से अधिक चिकित्सकों के द्वारा 500 से अधिक लोगो का स्वास्थ्य जाँच किया गया।

-Jivesh Tiwari, General Secretary

Adhivakta Parishad Supreme Court Unit

Adhivakta Parishad Supreme Court Unit, Organuize Blood Donation Camp, on the occasion of dwami Vivekananda Jayanti & Young Advocates Day, And Chif Justice of India, hon'ble Dr. Justice D.Y. Chandrachud, was present Inaugurate on 12th January 2024 in Supreme Court Lawns and others 8 judes of supreme court was present in blood donation camp.

-Nachiketa Joshi,
General Secretary, Supreme Court

अधिवक्ता परिषद हिमाचल प्रदेश शिमला इकाई

अधिवक्ता परिषद हिमाचल प्रदेश शिमला ईकाई द्वारा युवा अधिवक्ता दिवस के उपलक्ष्य में जिला न्यायालय शिमला में एक कार्यक्रम का आयोजन किया गया। जिसमें न्यायमूर्ति श्री तरलोक सिंह चौहान जी माननीय न्यायाधीश हिमाचल प्रदेश उच्च न्यायालय मुख्यातिथि के रुप में उपस्थित रहे। उनके साथ राम कृष्ण मिशन शिमला के सचिव स्वामी तनमहिमानंद जी विशिष्ट अतिथि के रुप में उपस्थित रहे। इस अवसर पर उपस्थित सभी व्यक्तियों को स्वामी विवेकानंद जी की किताब "His call to the nation"भी वितरित की गई।

ऊना इकाई

युवा अधिवक्ता दिवस पर मंगलवार को ऊना के निजी होटल में अधिवक्ता परिषद हिमाचल प्रदेश को ऊना इकाई की ओर से कार्यक्रम आयोजित किया। इसमें हिमाचल प्रदेश उच्च न्यायालय शिमला के न्यायमूर्ति वीरेंद्र सिंह ने विशेष रूप से शिरकत की। इस मौके पर इस मौके पर एसोसिएशन के अध्यक्ष संजीव फांडा, उपाध्यक्ष नरेंद्र हरिपाल और अन्य अधिवक्ता गण उपस्थित रहे।

–अमित सिंह चंदेल, महामंत्री, हिमाचल प्रदेश

अधिवक्ता परिषद जयपुर प्रान्त

अधिवक्ता परिषद राजस्थान, जयपुर प्रान्त की उच्च न्यायालय इकाई, जयपुर की ओर से युवा अधिवक्ता दिवस आयोजित किया गया। जिसमें अध्यक्षता श्री बसन्त सिंह छाबा उपमहान्यायभिकर्ता भारत सरकार, मुख्य वक्ता माननीय न्यायाधिपति श्री अनूप कुमार ढंड, विशिष्ट अतिथि वरिष्ट अधिवक्ता श्री राजीव सुराणा का मार्ग दर्शन युवा अधिवक्ताओं को प्राप्त हुआ। अखिल भारतीय अधिवक्ता परिषद राजस्थान क्षेत्र के क्षेत्रीय मंत्री श्री कमल परसवाल व प्रान्त अध्यक्ष श्री नीरज बत्रा की गरिमामय उपस्थिति रही।

–जितेंद्र सिंह राठोर, महामंत्री
जयपुर प्रांत

अवध प्रांत, अम्बेडकरनगर इकाई

अधिवक्ता परिषद अवध जनपद अम्बेडकरनगर इकाई द्वारा स्वामी विवेकानन्द के जन्म दिवस को युवा दिवस के रूप में मनाया गया। कार्यक्रम में संजय कुमार त्रिपाठी, मधुर द्विवेदी, विपिन कुमार तिवारी, प्रदीप मिश्रा, अनिल वर्मा, अमित सिंह, कृपा षंकर तिवारी, सुनील कुमार श्रीवास्तव, मनोज पाण्डेय, नारायण स्वामी, प्रेमचन्द्र श्रीवास्तव, राम बिहारी, विजय सिंह, भूपेन्द्र सिंह, ए०डी०जी०सी० आदि सैकड़ो अधिवक्ता मौजूद रहे।

अमेठी इकाई

अधिवक्ता परिषद अवध की अमेठी इकाई द्वारा तहसील सभागार में स्वामी विवेकानंद की जंयती को युवा अधिवक्ता दिवस के रूप में मनाया गया। कार्यक्रम की अध्यक्षता बार एसोसिएशन के अध्यक्ष पंडित शिवमूर्ति तिवारी ने किया। कार्यक्रम में बतौर मुख्य वक्ता के रूप में परिषद के प्रांतीय उपाध्यक्ष पंडित अनिल दूबे जी रहे।

बलरामपुर इकाई

अधिवक्ता परिषद के नेतृत्व में स्वामी विवेकानंद के जन्म दिवस को युवा दिवस के रूप में मनाया गया।

बाराबंकी इकाई

आज दिनांक 15 जनवरी 2024 को जिला बार एसोसिएशन के प्रांगण में अधिवक्ता परिषद अवध बाराबंकी इकाई द्वारा विवेकानंद जयंती को युवा दिवस के रूप में मनाया गया।

गोंडा इकाई

अधिवक्ता परिषद गोंडा के द्वारा युवा दिवस को जिला बार पुस्तकालय मे अवध प्रांत जनपद गोंडा के द्वारा स्वामी विवेकनद जयंती को न्याय व्यवस्था में युवा अधिवक्तावों की भूमिका पर आयोजित किया गया। इस कार्यक्रम मे अधिवक्ता परिषद के सभी कार्यकर्ता उपस्थित रहे।

हरदोई इकाई

अधिवक्ता परिषद हरदोई इकाई द्वारा स्वामी विवेकानंद की जयंती को युवा अधिवक्ता दिवस के रूप में मनाया गया।

लखीमपुर–खीरी इकाई

अधिवक्ता परिषद अवध लखीमपुर–खीरी इकाई द्वारा आज जिला अधिवक्ता संघ सभागार में स्वामी विवेकानन्द जयंती के उपलक्ष्य में राष्ट्रीय युवा दिवस–युवा अधिवक्ता दिवस का आयोजन किया गया।

रायबरेली इकाई

अधिवक्ता परिषद अवध प्रांत इकाई रायबरेली द्वारा दिनांक 12–01–2024 को दीवानी परिसर में स्वामी विवेकानंद जी के जन्म दिवस को

युवा दिवस के रूप में मनाया गया। जिसकी अध्यक्षता वरिष्ठ अधिवक्ता श्री अशोक कुमार चौधरी ने की।

सुलतानपुर इकाई

आज स्वामी विवेकानंद जी के जयंती के उपलक्ष में युवा दिवस के रूप में संगोष्ठी का आयोजन वरिष्ठ

अधिवक्ता श्री वीरेंद्र कुमार चतुर्वेदी के चेम्बर दीवानी सुलतानपुर में आयोजित की।

लखनऊ हाई कोर्ट इकाई

अधिवक्ता परिषद अवध प्रांत के लखनऊ हाई कोर्ट में स्वामी विवेकनद जयन्ती (राष्ट्रीय युवा दिवस) के उपलक्ष्य में आयोजित किया जिसमे राष्ट्र निर्माण में युवा अधिवक्ताओ की भूमिका के विषय

मे रहा जिसमे मुख्य अतिथि माननीय न्यायमूर्ति श्री बृजराज सिंह जी, स्वामी रामाधीसनन्द जी, श्री ओमप्रकाश श्रीवास्तव जी, श्री अन्नद मणि त्रिपाठी जी, और श्री मनोज कुमार मिश्रा जी, इस कार्यक्रम में उपस्थित रहे।

–मीनाक्षी परिहार सिंह,महामंत्री,

अवध प्रांत,

ब्रज प्रांत, रामपुर इकाई

अधिवक्ता परिषद ब्रज प्रदेश रामपुर इकाई द्वारा महान विभुति स्वामी विवेकानंद जी की जयंती के उपलक्ष्य में जिला कचहरी में आयोजित किया गया। 110 परिक्षार्थी इस राष्ट्रीय युवा दिवस कार्यक्रम में

आयोजित प्रश्नोत्तरी प्रतियोगिता में अपनी बुद्धिमता का आकलन करने उपस्थित हुए।

–राखी शर्मा, महामंत्री, ब्रज प्रांत

अधिवक्ता परिषद गुजरात, राजकोट

राष्ट्रीय युवा दिवस के उपलक्ष्य में अधिवक्ता परिषद राजकोट महानगर द्वारा स्वामी विवेकानंद जी की मूर्ति को पुष्प माला अर्पित की, साथ ही सूत्रधार और अधिवक्ता परिषद के आगामी कार्यक्रम की चर्चा हुई। इस कार्यक्रम में 30 अधिवक्ता ड्रेस कोड के साथ उपस्थित रहे।

–अलकेश शाह, महामंत्री गुजरात

अधिवक्ता परिषद महाकौशल प्रांत जबलपुर इकाई

तकनीकी प्रशिक्षण आयोजित अधिवक्ता परिषद जबलपुर द्वारा अपने पदाधिकारी एवं सदस्य गणों के लिए तकनीकी प्रशिक्षण आयोजित किया गया।

प्रशिक्षण रजिस्ट्रार (IT) उच्च न्यायालय एवं उनकी टीम द्वारा दिया गया जिसमे की ERP सोफ्टवेयर द्वारा

उच्च न्यायालय में समस्त कार्य संपादित करने का तरीका समझाया गया। अधिवक्ता परिषद की हाइकौर्ट इकाई के इस आयोजन में वरिष्ठ अधिवक्ता अतुलानन्द अवस्थी, अनिल खरे,

पुष्पेंद्र यादव, जान्हवी पंडित विशिष्ठ अतिथि रहे। अधिवक्ता परिषद के हरीश अग्निहोत्री ने अधिवक्ता परिषद के इतिहास व कार्यप्रणाली की जानकारी दी।

अधिवक्ता परिषद महाकौशल प्रांत
भोपाल इकाई

अधिवक्ता परिषद जिला इकाई भोपाल द्वारा स्टडी सर्किल का आयोजन दिनांक 8 फरवरी 2024 को किया गया कार्यक्रम में भोपाल के प्रधान न्यायाधीश श्री अमिताभ मिश्र जी मुख्य रूप से उपस्थित रहे।

–प्रशांत एम. हर्ने, महामंत्री, महाकौशल प्रांत

Adhivakta Parishad Odisha Prant

Adhivakta Parishad Odisha prant, Young Advocates Day celebration on 12.01.24. Honourable Justice Sibo Shankar Mishra, Judge Orissa High Court Chief Guest, Sri Manoj Mishra Senior Advocate Orissa High Court attended as Chief Speaker. Ajit K Pattanayak state President, Smt. Sanghamitra Rajguru Vice President and Debasis Tripathy, state General Secretary are on the stage. 9 Young advocated from 9 Bar Associations are felicitated. Law students of 2 law colleges, NLU, and University law college attended the function. One candidate who has qualified State Judicial Service is also felicitated. 234 persons attended this function.

- Debasis Tripathi, General Secretary

Adhivakta Parishad, Mumbai

Adhivakta Parishad, Mumbai in association with Advocates Association of Western India (AAWI) celebrated Young Advocate's Day at (AAWI Bar Room) of Bombay High Court.

A calendar for the year 2024 was published in the August at the hands of all the legal luminaries.

-Akash Kotecha, General Secretary

National Workshop on Litigation organised

Inauguration of the National Workshop on Litigation organised by Akhil Bharatiya Adhivakta Parishad at IIIT, Prayagraj.

Shri K. Srinivas Murthy, President, Akhil Bharatiya Adhivakta Parishad giving concluding remarks during the samarop of two-days National Workshop on Litigation at IIIT, Prayagraj.

Officer holders of Akhil Bharatiya Adhivakta Parishad being welcomed for the inaugural session of its National Workshop on Litigation being organised at IIIT, Prayagraj.

Nyayakendra

Adhivakta Parishad Delhi Patiala House Court Unit

A free Legal Aid and Awareness Camp was organised today by Adhivakta Parishad Delhi Patiala House Court Unit. A special case came to light in today's camp: - An organization made 50-60 women its members and took a loan against their organization and absconded. The members of Adhivakata parishad also assured to help them in future with proper legal assistance.

International Women's day

अधिवक्ता परिषद पंजाब

होशियारपुर, 17 मार्च जिला होशियारपुर कचहरी परिसर में अखिल भारतीय अधिवक्ता परिषद पंजाब द्वारा अंतर्राष्ट्रीय महिला दिवस समारोह मनाया गया। इस कार्यक्रम में मुख्यातिथि के तौर पर पंजाब एंड हरियाणा हाई कोर्ट के न्यायाधीश आलोक जैन शामिल हुये।

–अखिलेश व्यास, महामंत्री,पंजाब

Adhivakta Parishad Harayana (Sirsa Unit)

International Women's Day was celebrated by Adhivakta Parishad Sirsa in which Chief guest Smt. Vani Gopal Sharma, District and Sessions Judge Sirsa, Guest speaker, Ms. Deepti Garg, IPS, ASP Sirsa, Civil Judge Shrimati Pooja Singla, CJM Mrs. Anuradha, and Joint Sectary Bar Association Sirsa Ms. Rakhi Morya were graced the occasion by their presence. On this occasion, the office bearers of Distt. Bar Association Sirsa were also present. More than hundred Women advocates and students participated in this program. Around 50 male advocates were also participated in this program.

-Ashok Kumar Sirsi,General Secretary, Haryana

अधिवक्ता परिषद हिमाचल प्रदेश (शिमला) इकाई

दिनांक 20–03–2024 को अधिवक्ता परिषद शिमला जिला ईकाई द्वारा महिला दिवस के उपलक्ष्य में एक कार्यक्रम का आयोजन किया गया। इस कार्यक्रम में मुख्याथिति, अतिरिक्त जिला एवं सत्र न्यायधीश श्रीमति प्रवीण चौहान ने लैंगिक समानता विषय पर अपने विचार व्यक्त किए। इसके साथ ही सदस्य जिला उपभोक्ता आयोग श्रीमति योगिता दत्ता द्वारा भी उपरोक्त विषय पर विस्तार से जानकारी दी।

पटियाला हाउस इकाई

महिला दिवस पर पटियाला हाउस इकाई द्वारा दूसरा एक दिवसीय महिला न्याय परामर्श शिविर का आयोजन

3 मार्च महिला दिवस पर पटियाला हाउस इकाई द्वारा अपना दूसरा एकदिवसीय। महिला न्याय परामर्श शिविर झुग्गी बस्ती लोधी रोड पर लगाया गया। शिविर में काफी महिलाओं ने अपनी समस्या बतायी। कार्यक्रम में श्रीमती रितेश जी, सौम्या जी, ऋचा जी, महिमा जी, संजना जी के नेत्रत्व में लगाया गया। एक अदभुत अनुभव रहा।

अधिवक्ता परिषद दिल्ली (द्वारका) इकाई

27 मार्च 2024 को द्वारका कोर्ट परिसर में अंतर्राष्ट्रीय महिला दिवस के सुअवसर पर अधिवक्ता परिषद द्वारका इकाई द्वारा " Women's outreach in new era" विषय पर एक संगोष्ठी का भव्य आयोजन किया गया जिसमें द्वारका कोर्ट की अतिरिक्त जिला सत्र न्यायधीश श्रीमती गुरमोहिना कौर, मुख्य अतिथि, श्रीमती अनुराधा जिंदल, सम्मानित अतिथि के रूप मे पधारी। तत्पश्चात प्रोफेसर डॉ. ज्योति डोगरा सूद, आई.एल.आई. ने महिला के जीवन के विविद् पहलुओ के बारे मे विशेष उल्लेख किया। एनएलयू की प्रोफेसर डॉ. ऋतु गुप्ता ने भी महिलाओं के योगदान और उस पर आज के समाज के बदलते परिवेश को चिंहित किया। इस अवसर पर द्वारका कोर्ट बार के श्री जितेंद्र सोलंकी एवम अन्य पदादिकारी भी उपास्थित रहे। इस अवसर पर लगभग 125 अधिवक्ता उपस्थित रहे। तत्पश्चात श्री अजय पांडे जी, अध्यक्ष, द्वारका इकाई, ने इकाई को सफल महिला दिवस का आयोजन करने पर धन्यवाद दिया और आयोजन मे सम्मिलित सभी व्यक्तियों का धन्यवाद दिया।

पटियाला हाउस इकाई

अंतर्राष्ट्रीय महिला दिवस पर महिला सशक्तिकरण पर एक संगोष्ठी का आयोजन किया।

पटियाला हाउस सेंट्रल हाल सभागार में आयोजित संगोष्ठी में न्यायाधीश विनीता गोयल, सुखविन्दर कौर, वरिष्ठ अधिवक्ता अर्चना पाठक दावे, डॉ. सीमा सिंह, मनीषा अग्रवाल और पत्रकारिता संस्थान जुड़ी कनु शारदा मुख्य वक्ता के रूप में उपस्थित रहे। इस मौके पर अधिवक्ता परिषद संगठन मंत्री श्री श्रीहरिबोरिकर भी कार्यक्रम में उपस्थित रहे। कार्यक्रम में लगभग 200 महिलाओं की सहभागिता रही।

–जिवेश तिवारी, महामंत्री, दिल्ली

Adhivakta Parishad Supreme Court Unit

A Chief Guest Hon'ble Ms. Justice Parthiba M. Singh, Judge, Delhi High Court delivering her talk on the topic "Women in Law— Catalyst in Social Change" during the International Women's Day celebration organized by Adhivakta Parishad, Supreme Court Unit.

-Nachiketa Joshi,

General Secretary, Supreme Court

अधिवक्ता परिषद जयपुर

अधिवक्ता परिषद राजस्थान, जयपुर प्रान्त की जिला न्यायालय इकाई जयपुर के द्वारा दिनांक 06–03–2024 को दी बार एसोसिएशन जयपुर के सतीशचन्द सभागार में अन्तर्राष्ट्रीय महिला दिवस का कार्यक्रम मनाया गया। विषय –राष्ट्रीय निर्माण में महिलाओं का योगदान। मुख्य वक्ता डॉ. चेतना रजिस्ट्रार सशस्त्र बल अधिकरण तथा विशिष्ट अतिथि जिला एवं सत्र न्यायाधीश महानगर द्वितीय ने अधिवक्ताओं को संबोधित किया। मुख्य अतिथि श्रीमती नंदिनी व्यास जिला एवं सत्र न्यायाधीश जयपुर महानगर प्रथम उपस्थित रही। कार्यक्रम में लगभग 100 महिला अधिवक्ता और 50 पुरुष अधिवक्ता भी उपस्थित रहे।

अलवर इकाई

दिनांक 12–03–2024 को जिला बार एसोसिएशन के लाईब्रेरी हाल मे महिला दिवस पर विचार गोष्ठी का आयोजन किया गया जिसमे मुख्य अतिथि एसीबी जज शिवानी सिंह विशिष्ठ अतिथि पोस्को जज मुकेश चौधरी, शिल्पा समीर, एडीजे जज रेणू श्रीवास्तव फैमिली जज जगमोहन अग्रवाल, राजेन्द्र सैनी, अन्य न्यायाधीश एवं न्यायिक अधिकारी उपस्थित थे। गोष्ठी मे 30 महिला अधिवक्ता 110 पुरूष अधिवक्ता तथा करीब 25 न्यायाधीश एवं न्यायिक अधिकारी उपस्थित थे।

टोंक इकाई

अधिवक्ता परिषद राजस्थान पूर्व प्रांत जिला इकाई टोंक द्वारा टोंक न्यायालय परिसर के जिला अभिभाषक संघ कक्ष में अंतर्राष्ट्रीय महिला दिवस मनाया गया। कार्यक्रम में मुख्य अतिथि एमएसिटी न्यायाधीश रंजना सर्राफ, पोक्सो न्यायधीश नुसरत बानो, एसीजीएम न्यायधीशनिधी शर्मा, एडीआर न्यायधीश रुबीना अंसारी अधिवक्ता परिषद के प्रांतीय उपाध्यक्ष अशोक कासलीवाल, अधिवक्ता परिषद टोंक अध्यक्ष जितेंद्र जैन रहे।

सीकर इकाई

अधिवक्ता परिषद, राजस्थान (जयपुर) के इकाई सीकर एवं शेखावती लॉ कॉलेज, सीकर के संयुक्त तत्वधान मेन आयोजित महिला दिवस समारोह को आयोजित किया गया। इस कार्यक्रम मे मुख्य अतिथि के तौर पर श्रीमति निशा पुनिया, विशिष्ट अतिथि श्रीमति ममता कुमावत और मुख्य वक्ता कमलेश राठौड़ जी सम्मिलित थे।

–जितेंद्र सिंह राठौर, महामंत्री, जयपुर प्रान्त

अधिवक्ता परिषद जोधपुर

अखिल भारतीय अधिवक्ता परिषद जोधपुर प्रान्त के द्वारा अन्तर्राष्ट्रीय महिला दिवस के उपलक्ष्य में लघु उद्योग भारती जोधपुर अंचल में वक्ता माननीय न्यायमूर्ति डॉ. पुष्पेन्द्र सिंह भाती के द्वारा महिला दिवस में संबोधन करते हुए सम्पन हुआ।

–श्याम पालीवाल, महामंत्री, जोधपुर

अधिवक्ता परिषद अवध प्रांत

अधिवक्ता परिषद अवध प्रांत द्वारा 'Benefits of Filing Income Tax' विषय पर युवा अधिवक्ताओं हेतु वर्कशॉप का आयोजन किया गया। इस संगोष्ठी में युवा अधिवक्ताओं ने बढ़–चढ़कर प्रतिभाग किया। कार्यक्रम की अध्यक्षता माननीय प्रदेश अध्यक्ष श्री ओ.पी. श्रीवास्तव जी ने की और मुख्य अतिथि के रूप में शासकीय अधिवक्ता श्री वी के सिंह जी उपस्थित रहे। सत्र में जीव संखधर जी, पंकज अग्रवाल जी और मनीष मिश्र जी ने विशेषज्ञों के नाते प्रमुखता से विषय सभी के मध्य रखा।

लखनऊ इकाई

महिलाओं को हर क्षेत्र में मिले सम्मान– जस्टिस संगीता चंद्रा

अवध बार के सभागार में हुई अधिवक्ता परिषद की संगोष्ठी में न्यायमूर्ति संगीता चंद्रा ने बतौर मुख्य अतिथि ने अपने विचार व्यक्त किए। लखनऊ इकाई ने अंतरराष्ट्रीय महिला दिवस के उपलक्ष्य में संगोष्ठी की। अवध बार एसोसिएशन के महामंत्री मनोज कुमार मिश्र तथा तन्वी जैन ने कार्यक्रम का सफल संचालन किया।

सिविल कोर्ट लखनऊ इकाई

अधिवक्ता परिषद ने महिलाओं के विरुद्ध अपराधों पर किया संगोष्ठी का आयोजन

लखनऊ दिनांक 22–03–2024 को सिविल कोर्ट में अधिवक्ता परिषद सिविल कोर्ट इकाई द्वारा महिलाओं के विरुद्ध हो रहे अपराधों में महिला अधिवक्ताओं की भूमिका पर संगोष्ठी आयोजन किया जिसमें बाल आयोग की सदस्य एवं वरिष्ठ अधिवक्ता उच्च न्यायालय श्रीमती अनीता अग्रवाल, जिला शासकीय अधिवक्ता (क्रिमिनल) श्री मनोज त्रिपाठी, अधिवक्ता परिषद सिविल कोर्ट इकाई अध्यक्ष राकेश पाण्डेय की उपस्थिति में अनेकों महिला अधिवक्ताओं ने अपने–अपने विचार रखे, अंत में कार्यक्रम की मुख्य वक्ता अनीता अग्रवाल ने महिलाओं को सशक्त करने और महिला अधिकारों पर विस्तार से जानकारी दी। कार्यक्रम का संचालन कविता मिश्रा ने किया।

सीतापुर इकाई

"राष्ट्र निर्माण में नारी शक्ति की भूमिका" विषय पर संगोष्ठि का आयोजन

अधिवक्ता परिषद अवध प्रांत इकाई जनपद सीतापुर द्वारा अन्तर्राष्ट्रीय महिला दिवस के उपलक्ष्य में संगोष्ठी का आयोजन बुधवार को बार एसोसिएशन सीतापुर सभागार में आयोजित किया गया। जिसमें मुख्य अतिथि के रूप में अधिवक्ता परिषद महामंत्री मीनाक्षी परिहार सिंह एडवोकेट उपस्थित रहीं, जबकि विशिष्ट अतिथि वरिष्ठ महिला अधिवक्ता मीरा कटियार, परिषद अध्यक्ष सुरेश प्रकाश श्रीवास्तव, वरिष्ठ अधिवक्ता हरीकरन लाल वर्मा रहें। जबकि संचालन महिला अधिवक्ता आरती राय ने किया।

गोण्डा इकाई

अधिवक्ता परिषद गोंडा द्वारा अंतर्राष्ट्रीय महिला दिवस पर संगोष्ठी का आयोजन किया गया जिसमें राष्ट्र निर्माण में महिलाओं की भूमिका पर चर्चा की गई मुख्य अतिथि के रूप में अधिवक्ता परिषद अवध प्रांत के उपाध्यक्ष अरविंद सिंह संरक्षक घनश्याम पांडे कार्यक्रम की अध्यक्षता व संचालन कार्यकारी अध्यक्ष महामंत्री धनलाल तिवारी अधिवक्ता परिषद के समस्त सदस्य उक्त संगोष्ठी में शामिल रहे।

लखीमपुर खीरी इकाई

दिनांक 22–03–2024 को अधिवक्ता परिषद अवध प्रांत जिला इकाई लखीमपुर खीरी द्वारा अन्तर्राष्ट्रीय महिला दिवस कार्यक्रम का आयोजन पुस्तकालय कक्ष जिला अधिवक्तासंघ खीरी में किया गया, महिला दिवस के उपलक्ष में अधिवक्ता संघ खीरी की स्क्रीनिंग कमेटी की अध्यक्षा वरिष्ठ अधिवक्ता अधिवक्ता परिषद जिला इकाई लखीमपुर की कार्यकारिणी की वरिष्ठ सदस्या कार्यक्रम की मुख्य वक्ता श्रीमती उर्मिला सिंह का सारगर्भित उद्बोधन प्राप्त हुआ।

अयोध्या इकाई

अधिवक्ता परिषद अवध प्रान्त जिला इकाई अयोध्या के देवतुल्य पदाधिकारी/कार्यकर्ताओं द्वारा सिविल कोर्ट कचहरी प्रांगण में अंतरराष्ट्रीय महिला दिवस के उपलक्ष में विषय– संपत्ति पर बेटियों के अधिकार का सामाजिक प्रभाव, पर संगोष्ठी का आयोजन किया गया जिसमें वरिष्ठ और कनिष्क अधिवक्तागण ने अपने–अपने भाव व्यक्त किए।

सुलतानपुर इकाई

दिनांक 14–03–2024 को राष्ट्रीय अधिवक्ता परिषद अवध प्रांत जिला इकाई सुल्तानपुर द्वारा अंतरराष्ट्रीय महिला दिवस के रूप में कार्यक्रम आयोजित किया गया कार्यक्रम में मुख्य अतिथि के रूप में श्रीमती अंकिता शुक्ला प्रथम अपर न्यायाधीश कुटुम्ब सुल्तानपुर तथा विशिष्ट अतिथि के रूप में तृतीय अपर न्यायाधीश कुटुम्ब श्रीमती मधु गुप्ता, तथा चतुर्थ अपर न्यायाधीश कुटुम्ब श्रीमती नीलिमा सिंह, श्रीमती पामेला श्रीवास्तव चतुर्थ अपर मुख्य न्यायिक मजिस्ट्रेट सुल्तानपुर का मार्गदर्शन प्राप्त हुआ।

–मिनाक्षी परिहार सिंह, महामंत्री, अवध प्रांत

अधिवक्ता परिषद् ब्रज प्रान्त (आगरा) इकाई

अधिवक्ता परिषद ब्रज प्रान्त के आगरा इकाई द्वारा महिला दिवस के उपलक्ष्य में गोष्ठी का अयोजन किया गया जिसमे नारी शक्ति अमृतकल की अग्रदूत का विषय रखा गया।

गाजियाबाद इकाई

अंतर्राष्ट्रीय महिला दिवस के अवसर पर महिला गोष्ठी का आयोजन

अधिवक्ता परिषद ब्रज की गाजियाबाद इकाई द्वारा बार सभागार गाजियाबाद में अंतर्राष्ट्रीय महिला दिवस के अवसर पर एक महिला गोष्ठी का आयोजन किया गया। मुख्य वक्ता के रूप में वरिष्ठ अधिवक्ता सुनीता दत्ता जी रही।

मुजफ्फर नगर इकाई

अधिवक्ता परिषद मुजफ्फर नगर के द्वारा अंतराष्ट्रीय महिला दिवस को राष्ट्र निर्माण में नारी शक्ति की भूमिका पर चर्चा की जो की अधिवक्ता परिषद ब्रज महिला शाखा मुजफ्फर नगर इकाई के द्वारा मनाया गया।

–राखी शर्मा, महामंत्री, ब्रज प्रांत

अधिवक्ता परिषद काशी प्रांत (प्रयागराज)

अधिवक्ता परिषद काशी प्रान्त उच्च न्यायालय इकाई द्वारा आयोजित महिला दिवस कार्यक्रम मे माननीया न्यायमूर्ति मंजू रानी चौहान जी, माननीया न्यायमूर्ति साधना रानी ठाकुर जी, माननीया न्यायमूर्ति रेनू अग्रवाल जी और माननीया न्यायमूर्ति ज्योत्सना शर्मा जी की गरिमामय उपस्थिति रही।

–नीरज कुमार सिंह, महामंत्री, काशी प्रांत

अधिवक्ता परिषद काशी प्रांत
कानपुर नगर

दिनांक 08.10.2023 को अखिल भारतीय अधिवक्ता परिषद के स्थापना दिवस के अवसर पर एक समारोह एवं गोष्ठी का आयोजन शहर के प्रतिष्ठित स्टाक एक्सचेंज में किया गया गोष्ठी एवं समारोह का विषय 'त्वरित न्याय में सूचना प्रद्यौगिकी का योगदान' था। कार्यक्रम में मुख्य अतिथि के रूप में माननीय न्यायमूर्ति श्री मंयक कुमार जैन व मुख्य वक्ता के रूप में माननीय न्यायमूर्ति श्री अरूण कुमार सिंह देशवाल अतिविशिष्ठ अतिथि के रूप में श्री सत्य प्रकाश राय राष्ट्रीय उपाध्यक्ष व श्री अश्वनी कुमार त्रिपाठी पूर्व प्रदेश महामंत्री समेत अन्य अधिवक्ता उपस्थित रहे।

–ज्योति मिश्रा, प्रदेश मंत्री, अधिवक्ता परिषद, काशी प्रांत

अखिल भारतीय अधिवक्ता परिषद (गुजरात)

अधिवक्ता परिषद पालनपुर की ओर से विश्व महिला दिवस मनाया गया महाशिवरात्रि के शुभ अवसर पर हर गंगेश्वर महादेव मंदिर, हाथीदरा में विश्व महिला दिवस मनाया गया। जिसमें मंदिर के महंत परम पूज्य श्री दयालपुरी बापू के आशीर्वाद से कार्यक्रम की शुरुआत की गई।

–अलकेश शाह, महामंत्री, गुजरात

राजकोट इकाई

विश्व महिला दिवस की पूर्व संध्या पर, दिनांक 07.03.2024 को अधिवक्ता परिषद राजकोट इकाई की महिला अधिवक्ता एवं दतोपंत ठेंगड़ी द्वारा राष्ट्रीय श्रमिक शिक्षा एवं विकास बोर्ड श्रम एवं रोजगार मंत्रालय भारत सरकार–श्रम बोर्ड के क्षेत्रीय प्रबंधक श्री जे. जे। पटेल साहब और श्री मोरारजीभाई देसाई लोक शिक्षा प्रतिष्ठा ट्रस्ट एनजीओ समन्वयक श्रीमती चंद्रिकाबेन उनदाकड़ ने महेश्वर महादेव मंदिर, महेश्वरी सोसायटी, कोठारिया रोड, राजकोट में भारत के विकास में महिलाओं की भूमिका और कामकाजी महिलाओं के लिए संवैधानिक अधिकारों पर एक कार्यक्रम का आयोजन किया जिसमें वक्ता थे डॉ. धरा ठाकर व्यास ने महिलाओं के संवैधानिक अधिकारों जैसे समानता, गरिमापूर्ण जीवन और स्वतंत्रता का अधिकार, साइबर अपराध का शिकार होने से बचने के लिए न्यायपालिका, सरकार और पुलिस द्वारा प्रदान की जाने वाली सुरक्षा जानकारी, साथ ही पर्यावरण की सुरक्षा, संरक्षण पर मार्गदर्शन दिया। जिसमें 80 से 85 महिलाएं मौजूद थीं।

सुरेन्द्र नगर इकाई

अधिवक्ता परिषद गुजरात एवं सुरेन्द्रनगर बार एसोसिएशन एवं जिला कानुनी सेवा सत्ता मंडल के संयुक्त उपक्रम में ''अंतरराष्ट्रीय महिला दिवस'' का कार्यक्रम महिला न्यायाधीश श्री चौहान मेडम एवं शर्मा मेडम एवं जिला कानुनी सेवा सत्ता मंडल के महामंत्री एवं न्यायधीश श्री शाह साहेब की उपस्थिति में संपन्न हुआ। आज के कार्यक्रम का आयोजन महिला वकील द्वारा संचालित किया गया। इस कार्यक्रम में वक्ता Dr. Harshida Raval का वक्तव्य हुआ। इस कार्यक्रम में बार के प्रमुख श्री झाला एवं नोटरी पब्लिक एसोसिएशन के चुडास्मा एवं लेबर बार के प्रमुख शुशिल भाई शाह उपस्थिति रहे।

–अलकेश शाह, महामंत्री, गुजरात

अधिवक्ता परिषद मध्य भारत प्रांत

अधिवक्ता परिषद मध्य भारत प्रांत द्वारा महिला दिवस 08/03/24 के उपलक्ष्य में दिनांक 14.03.2024 को इण्डियन इंस्टीट्यूट ऑफ ट्रेवल एण्ड टूरिज्म मैनेजमेन्ट (आई0आई0टी0टी0एम0) कैम्पस ग्वालियर में एक कार्यक्रम का आयोजन किया गया। कार्यक्रम में मंच पर शोभायमान अतिथिगण में से कार्यक्रम की अध्यक्षता डॉ श्रीमती प्रियम्बदा भसीन, चीफ गेस्ट माननीय न्यायाधिपति श्रीमती सुनीता यादव उच्च न्यायालय ग्वालियर, गेस्ट ऑफ ऑनर, ग्वालियर की प्रथम सीनियर एडवोकेट श्रीमती निधि पाटनकर, अखिल भारतीय अधिवक्ता परिषद के माननीय राष्ट्रीय मंत्री श्री दीपेन्द्र सिंह कुशवाह जी,

मध्य भारत प्रांत के अध्यक्ष श्री वीरेन्द्र पाल जी, श्रीमती दीपा चौहान राष्ट्रीय परिषद सदस्य अखिल भारतीय अधिवक्ता परिषद, अरुण शर्मा अध्यक्ष जिला ईकाई ग्वालियर, श्रीमती माला खरे उपाध्यक्ष मध्य भारत प्रांत एवं श्रीमती कीर्ति द्विवेदी कार्यकारिणी सदस्य अभिभाषक संघ ग्वालियर उपस्थित रहे।

अधिवक्ता परिषद महाकौशल प्रांत (जबलपुर) इकाई

केंद्रीय जेल जबलपुर में दी गई कानूनी सलाह

अंतर्राष्ट्रीय महिला दिवस के अवसर पर जिला न्यायालय इकाई जबलपुर द्वारा रविवार दिनांक 10 मार्च 2024 को केंद्रीय जेल जबलपुर जाकर महिला कैदियों को निशुल्क कानूनी सलाह प्रदान की गई जेल अधीक्षक श्री अभिषेक तोमर एवं उपाधीक्षक श्री हिमांशु तिवारी की ओर से अधिवक्तागणों को कानूनी सलाह देने हेतु व्यवस्था की गई। अध्यक्ष श्री आशीष पांडे महामंत्री श्री राम मिलन प्रजापति कोशाध्यक्ष श्री मनोज शिवहरे एवं मंत्री श्रीमती सीमा साहू सहित जेल उपाधीक्षक मैडम रुपाली मिश्रा एवं सहायक उपाधीक्षक मैडम अंजू मिश्रा मंचसीन थे। काफी संख्या में अधिवक्तागण ने उपस्थित होकर जेल में बंद महिला कैदियों को कानूनी सलाह प्रदान की अंत में जेल प्रशासन की ओर से सभी अधिवक्तागणों का आभार व्यक्त किया गया।

जबलपुर इकाई

अधिवक्ता परिषद महाकौशल प्रांत की जिला न्यायालय इकाई जबलपुर द्वारा अंतर्राष्ट्रीय महिला दिवस के अवसर पर एक कार्यक्रम का आयोजन किया गया कार्यक्रम में मुख्य अतिथि के रूप में श्रीमती बरखा दिनकर विशेष न्यायाधीश पॉक्सो जबलपुर पूजनीय साध्वी ज्ञानेश्वरी विशिष्ट अतिथि के रूप में उपस्थित।

भोपाल इकाई

अधिवक्ता परिषद जिला इकाई भोपाल द्वारा स्टडी सर्किल का आयोजन दिनांक 8 फरवरी 2024 को किया गया कार्यक्रम में भोपाल के प्रधान न्यायाधीश श्री अमिताभ मिश्र जी मुख्य रूप से उपस्थित रहे एवं सत्र न्यायाधीश श्री अतुल सक्सेना जी द्वारा साक्ष्य अधिनियम के संबंध में सभागृह को संबोधित किया गया सदस्य उक्त कार्यक्रम में लगभग 180 की संख्या में अधिवक्तागण उपस्थित रहे।

भोपाल इकाई

अधिवक्ता परिषद जिला इकाई भोपाल द्वारा आज महिला दिवस का आयोजन किया गया जिसमें भोपाल ज़िले की सभी अधिवक्ता बहनों ने भाग लिया इस अवसर पर अधिवक्ता परिषद के प्रांतीय महामंत्री श्री प्रशांत जी श्री संजीव जी जिला कार्यकारिणी श्रीमती डाली शर्मा एवं गोल्ड विजेता उपस्थित रहे।

–प्रशांत हरने, महामंत्री, महाकौशल प्रांत

सतना इकाई

सतना इकाई अधिवक्ता परिषद द्वारा अंतर्राष्ट्रीय महिला दिवस का कार्यक्रम आज दिनाक 14.3.2023 को सम्पन्न हुआ। जिसमें सतना न्याय विभाग की सभी महिला न्यायाधीश वा अधिवक्ता संघ सतना के ज़िला अध्यक्ष श्री बद्री विशाल पाठक जी वा सतना इकाई के अधिवक्ता उपस्थिति रही।

रीवा इकाई

दिनांक 20 मार्च 2024 को अधिवक्ता परिषद जिला इकाई रीवा द्वारा महारानी लक्ष्मीबाई की शहादत दिवस के उपलक्ष में स्थानीय मजदूर संघ कार्यालय जिला रीवा में महिला दिवस के कार्यक्रम का आयोजन किया गया कार्यक्रम में मुख्य अतिथि के रूप में जिला एवं सत्र न्यायालय रीवा मध्य प्रदेश की वरिष्ठ अधिवक्ता

शशि प्रभा सिंह रही तथा विशिष्ट अतिथि के रूप में रजनी सेन एडवोकेट ज्योति त्रिपाठी राजश्री सिंह एवं अन्नपूर्णा त्रिपाठी उपस्थिति रही।

–प्रशान्त एम. हर्ने, महामंत्री महाकौशल प्रान्त

अधिवक्ता परिषद मालवा प्रांत (रतलाम) इकाई

सम्मान समारोह में समाजसेवी अदिति दवेसर ने शुक्रवार को महिला दिवस अंतर्गत अधिवक्ता परिषद की तरफ से न्यायालय परिसर में आयोजित सम्मान समारोह में मुख्य वक्ता के रूप में व्यक्त किए।

झाबुआ इकाई

अधिवक्ता परिषद मालवा प्रांत की झाबुआ इकाई द्वारा अंतर्राष्ट्रीय महिला दिवस के अवसर पर महिला सम्मान कार्यक्रम के अंतर्गत न्याय अधिकारियों का अधिवक्ता परिषद इकाई झाबुआ के पदाधिकारियों ने कार्यस्थल पर जाकर सम्मान कर श्रीफल ओर मोती माला सम्मान पत्र भेंट कर सम्मानित किया गया।

–वाल्मीकि सकरगायें, महामंत्री, मालवा प्रांत

Adhivakta Parishad Bihar Unit

Bihar unit of ABAP celebrated international women's day on 14th March 2024. Chief Guest Hon'ble Smt. Justice G Anupama chkravarty inaugurated the function.

-Sanjeev Kumar, General Secretary, Bihar

अधिवक्ता परिषद झारखंड

अंतरराष्ट्रीय महिला दिवस पर बुंडू अनुमंडल में न्याय शिविर का आयोजन

अंतरराष्ट्रीय महिला दिवस के अवसर पर अधिवक्ता परिषद, झारखंड की बुंडू अनुमंडल इकाई के तत्वावधान में एक अनुसूचित जाति/जनजाति की बस्ती में एक न्याय सह जागरुकता शिविर का आयोजन किया गया जिसमें अनेक महिलाओं सहित अन्य लोगों ने अपनी–अपनी समस्याओं के निराकरण के लिए सलाह ली। कार्यक्रम की मुख्य रूप से परिषद की प्रदेश सचिव श्रीमती किरण सुषमा खोया, अनुमंडल अध्यक्ष श्री अनूप जायसवाल, महामंत्री श्री संजय मुखर्जी,

जिला बार एसोसिएशन के अध्यक्ष श्री रामचरण महतो, सामाजिक कार्यकर्ता श्रीमती अंजलि लकड़ा,श्रीमती नेहा सेठ, दिलीप कुमार राय,संजय पांडे, बासुदेव प्रमाणिक सहित अनेक अधिवक्ता उपस्थित थे।

बोकारो इकाई

आज दिनांक 11–03–2024 को बोकारो जिला अधिवक्ता संघ परिसर में संघ के महिला अधिवक्ताओं ने, अंतर्राष्ट्रीय महिला दिवस के अवसर पर 'अधिवक्ता परिषद' के जिला महिला

प्रमुख अर्चना ठाकुर के नेतृत्व में अपनी सांगठनिक एकता का परिचय देते हुए संविधान सभा में नारी शक्ति के योगदान विषय पर चर्चा की, इस आयोजन को सफल बनाने में महिला अधिवक्ताओं ने अपना योगदान दिया ।

–विजय नाथ कुवर, महामंत्री, झारखंड

Adhivakta Parishad Andhara Pradesh

23/3/2024 AP State Nyayavadi Parishad, Tirupati Dist., legal awareness programme was Organized at tirupati on the occassion of International Womens Day Celebrations. Dist. Judges, Sub judges and PDM judges participated. Women Legal Scholar and Sr. Advocates actively participated in the said Function.

-Pasala Ponna Rao,General Secretary,Andhra Pradesh

Adhivakta Parishad Telangana

Telangana state Nyayavadhi Parishad unit conducted International Women's day on16.3.2024 at Andhra Mahila sabha law college Hyderabad 150 law college girl students

participated for the essay competition on role of women in framing Indian constitution. The Chief Guest for the Function Honble Justice Smt. Madhavi Garu, Guest of Honour Honble Justice Smt M.G. Priyadarshini, Smt. Vijaylaxmi Dean for Osmania law college. Narasimha Reddy Chairman Andhra Mahila sabha Law Colleges and other senior advocates participated in the Function.

- Semsani Sunil,General Secretary, Telangana

Adhivakta Parisad Konkan Prant (Mumbai)

Akhil bharatiya Adhivakta Parisad Konkan Prant celebrated International Woman's Day, on 11th march 2024 in Navi Mumbai Court Bar Association & Taluka legal Services authority, Belapur on topic Role of Women's advocate in today's Era Specaker dr. Asmita Vaidya (Principal Government Law Coolage, Churchgate, Mumbai. Programmed Heal in CBD Belapur Court.

-Aakash Kotecha,General Secretary, Konkan

Adhivakta Parishad Nagaland

Advhivakta Parishad Nagaland Organized International Women Day Organised on 10th March 2024.

Adhivakta Parishad South Tamilnadu

Akhila Bharatha Vazhakkarinargal Sangam, Tiruchirappalli Organized International Women;s Day Celebration.

-Anand Murthy, General Secretary, South Tamilnadu

Adhivakta Parishad Goa

In Commemoration of International Women's Day, ABAP Goa Prant, sponsered one time meal at Jeevan Anand Saunsthan at Parra, Bardez-Goa. Jeevan Anand Sausthan is a Rehabilitation Home for homeless people. There are 25 ladies currently looking after at their rehabilitation center was an initiative serving Women who are deserted and homeless.

- Siddhi Parodkar, General Secretary, Goa

Adhivakta Parishad Odisha

Adhivakta Parishad Odisha organised Symposium.. Income Tax Return : Duty towards Nation Building. Justice Dr Sanjeeb Kumar Panigrahi, Judge Orissa High Court Praticipated as Chief Guest andSenior Advocate Sri Basudev Panda, as Chief Speaker.

State Executive Committee Meeting Adhivakta Parishad Odisha

State Executive Meet of Adhivakta Parishad Odisha held on 10.03.24 at Bargarh. On the dias... From left...

Manoj Rath, Rabindra Panda, Kambupani Padhi, Bishnu Patra, D. Murali Krishna, Ajit Pattanayak, Debasis Tripathy and Jayashree Mohapatra.

Adhivakta Parishad South Tamilnadu

Akila Bharthiya Adhivakta Parisad South Tamilnadu State Executive Committee Meeting held on 29th March 24 at Trichy.

Adhivakta Parishad Supreme Court Unit felicitated Women Advocates namely Sr. Adv. S Khajuria, Sr. Adv. N S Nappinai, Sr. Adv. Nisha Bagchi, Sr. Adv. Haripriya Padmanabhan, Sr. Adv. S Janani, Sr. Adv. Liz Mathew, Sr. Adv. Uttara Babbar & Sr. Adv. Archana Pathak Dave designated as Senior Advocate by Supreme Court of India in 2024.

Adhivakta Parishad Jodhpur Unit: Hon'ble Justice Dr. Pushpendra Singh Bhati addressed International Women's Day Programme organized by Adhivakta Parishad, Jodhpur Prant.

State Executive Meeting of Adhivakta Parishad Odisha unit held on 10.03.24 at Bargarh. Presided by Manoj Rath, Rabindra Panda, Kambupani Padhi, Bishnu Patra, D. Murali Krishna, Ajit Pattanayak, Debasis Tripathy and Jayashree Mohapatra.

जनवरी से मार्च 2024
20रु. प्रति अंक

RNI No. DELBIL/2002/09703

Adhivakta Parishad, Delhi Prant celebrated Young Advocates Day, presided by Sr. Adv. Sanjay Poddar President Delhi, Mr. Sandeep Sethi Sr. Adv., Hon'ble Justice Subramonium Prasad, Judge Delhi High Court Swami Ganahatha Ji, Mr. Jivesh Tiwari General Secretary, Delhi State.

Adhivakta Parishad Odisha Unit celebrated Young Advocates Day. Function was presided by Hon'ble Justice Sibo Sankar Mishra, Judge, Orissa High Court, Mr. Manoj Mishra Sr. Advocate, Mr. Ajit K. Dattanayak, Mr. Sanshamitra Rajuru, & Mr. Debasis Tripathy Ji.

सम्पादक श्री के श्रीनिवास मूर्ति द्वारा सम्पादित, प्रकाशक व मुद्रक डी. भरत कुमार स्वामी, अखिल भारतीय अधिवक्ता परिषद्, प्रवासी भवन, 50, दीन दयाल उपाध्याय मार्ग, नई दिल्ली–110002 से प्रकाशित तथा एमिनेंट ऑफसेट, डी–94, ओखला औद्योगिक क्षेत्र फेस–1, नई दिल्ली–110020 से मुद्रित।