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# ESSAYS

# IN

# LAW

# ( A collection of 26 original legal essays )

#  BY

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**PREFACE TO THE BOOK**

The book titled as ***“ Essays in law****”* is a collection of the original legal writings of the author earlier written on [www.shvoong.com](http://www.shvoong.com/) & [www.facebook.com](http://www.facebook.com/). The essays are aimed at focusing on the prevailing legal problems the world over. An attempt has been made to devise ways and means to solve the problems. This is the second effort of the author after getting success with his earlier e- book on “ ***Privacy law- a comparative study****”. Co-operation of the audience is solicited.* Any suggestions for further improvements of the book are welcome.

 S.K. Sharma, Advocate

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1. **RIGHT TO SLEEP: A FUNDAMENTAL RIGHT**

**INTRODUCTION:** The Supreme Court of India indicted the Delhi Police for midnight crackdown on the sleeping supporters of Yoga Guru Ramdev on June,4, 2011. It said that the Police abused their powers and acted arbitrarily in using batons and teargas to evict the agitators from the Ramlila Ground in Delhi. The Police being protectors of the Society can not take recourse to such illegal acts . The Bench recommended criminal prosecution and disciplinary action against erring police personnel. The Court described the Police action “as striking at the foundation of Democracy”. The Court held the Police act to be unjustifiable. The Police was let loose on innocent persons, violating their fundamental right.

The Courts in the past had declared the Domiciliary visits of the Police unconstitutional infringing the “ Right to Privacy”. Such rights like “ *Right to Privacy* “ and *“ Right to sleep”* have not been specifically mentioned in the Constitution as Fundamental Rights. These are derivative rights emanating from the specifically mentioned Fundamental Right of “ Life and Personal Liberty” mentioned in Art. 19(1)(a) of the Constitution of India. Law enjoins a duty upon the protectors of law not to deprive a person of his “ life or personal liberty” without the procedure established by law. This is no procedure prescribed by law to attack the sleeping supporters & peaceful demonstrators of Baba Ramdev that also at mid-night. Everybody has a right to protest in a peaceful way in a Democracy. Such attacks are not only condemnable by any civilized society but at the same time are also required not to be repeated in future.

**REASON FOR THE POLICE ACTION:** The Court opined that the Documents on record showed that some of the Police personnel certainly abused their authority, were unduly harsh and violent towards the people present at the Ramlila Maidan. The Police and the State could have avoided the tragic restraint, patience and resilience. The Orders were passed by the Police in “ undue haste” and were executed with force and over-jealousness, as if an emergent situation existed. The Court did not accept the plea of “ threat perception from the IB “ and held that it should have exercised reasonable restraint even while acting on these, instead of going there and taking the kinds of action that was undertaken. The Police has also been directed to compensate the victims of the violence.

**CONCLUSION:-** Unlawfully depriving a person of sleep is a violation of his or her fundamental right. The Police action was tortuous and a violation of a fundamental human right. The Police action against sleeping people was unjustifiable as “ a sleeping crowd can not be included within the bracket of an unlawful category unless there is sufficient material to brand it as such”. “ An individual is entitled to sleep as comfortably and as freely as he breathes. Sleep is essential for a human being to maintain the delicate balance of health necessary for its very existence and survival. Sleep is, therefore, a fundamental and basic requirement without which the existence of life itself would be in peril”. “ To disturb sleep, therefore would amount to torture which is now accepted as a violation of a human right………….similar to a third-degree method, justified as necessary police action to extract the truth out of an accused involved in heinous and cold-blooded crimes”, one judge of the Court opined.

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2. **PROTECTIONS AGAINST SEXUAL ABUSE OF THE CHILD :-**

**INTRODUCTION:-**  Juvenile Justice Act has been enacted for the protection of the child & doing justice to the children . Recently some cases have come to notice in Delhi where the children kept in some private orphanages have been sexually used . Such orphanages are not even registered under the Juvenile Justice Act in the absence of which , it was not possible to take any legal action against the management of such orphanages. There are some 30 unregistered orphanages running in Delhi. Problems faced with such Orphanages are

* Overcrowding with more than 1000 children & there is need to decongest the same.
* Need to have a counsellor to take care of the problems faced by the juveniles kept in the orphanages.
* No separation between Boy’s home and the Girl’s home.
* Need to shift some of the children who had admitted to being sexually assaulted , to the Govt. run orphanages.
* An immediate serious follow-up of the troubled cases by the Child Welfare Department.
* Compulsory registration of the orphanages.
* Protection of the sexually assaulted juveniles sharing crucial evidence.
* Harsh punishment of those involved in sex with juveniles. Any leniency in sentence has an adverse effect on the Society & there will be no deterrence against repetition of such crimes.
* Mandatory for the organizers of the Orphanages to report the matters of sexual abuse to the Police.
* Need not to register the children as orphans who have a living parent .
* Need of Medical care against levels of depression of orphans sexually assaulted .
* Safeguards against physical and sexual violence of the orphans kept in the orphans.
* Co-operation from the orphanage through the investigation.

**CONCLUSION:**-Most of the private –run orphanages do not accept such sort of occurrences of sexual abuse of the inmates of the orphanage. They only admit the known cases of eve-teasing only but not the cases of sexual assault except the one reported recently. A strong vigil is required over doubtful orphanages . The Govt. and the NGOs must do the needful to the cause so that such acts of sexual abuse are not repeated in future. Laws are to be strengthened and punishments are to be made stringent to put a curb or eradication of the evil from the orphanages where the orphans are sent for protection and not for sexual use .A big social harm is done to Society by repetition of such acts .

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3.**MEDIA TRIAL:-**

**LEGAL POSITION IN INDIA**:- Extensive use of television and cable services, has changed the whole pattern of publication of news and several such publications are likely to have prejudicial impact on the suspects, accused, witnesses and even Judges and in general, on the administration of justice. Sensationalized news stories circulated by the media have steadily struck at the guarantees of a right to a fair trial and posed a grave threat to the presumption of innocence. The pervasive influence of the press is increasingly proving to be detrimental to the impartial decision-making process of the judiciary.

In the case of *Zahra Habibullah Sheikh v. State of Gujarat*, the Supreme Court explained that a “fair trial obviously would mean a trial before an impartial Judge, a fair prosecutor and atmosphere of judicial calm. Fair trial means a trial in which bias or prejudice for or against the accused, the witnesses, or the cause which is being tried is eliminated.” According to our law, a suspect/accused is entitled to a fair procedure and is presumed to be innocent till proved guilty in a Court of law. None can be allowed to prejudge or prejudice his case by the time it goes to trial.

Right to a fair trial is absolute right of every individual within the territorial limits of India vide articles 14 and 20, 21 and 22 of the Constitution. Needless to say right to a fair trial is more important as it is an absolute right which flows from Article 21 of the constitution to be read with Article 14. Freedom of speech and expression incorporated under Article 19 (1)(a) has been put under ‘reasonable restriction’ subject to Article 19 (2) and Section 2 (c) of the Contempt of Court Act.

**INVESTIGATIVE JOURNALISM VIS-A-VIS INDIVIDUAL RIGHTS**:-The right to a fair trial is at the heart of the Indian criminal justice system. It encompasses several other rights including the right to be presumed innocent until proven guilty, the right not to be compelled to be a witness against oneself, the right to a public trial, the right to legal representation, the right to speedy trial, the right to be present during trial and examine witnesses, etc. The media assumption of guilt clearly encroaches upon the right to legal representation — a critical component of the right to fair trial — and may also intimidates lawyers into refusing to represent accused person. Supreme Court and House of Lords in U.K. accept that prejudicial publications may affect Judges subconsciously. The Indian print media have reported trials but rarely taken positions on verdicts after they were delivered. In cases of fake drugs, rape, especially of children, selling drugs without prescription, stealing entitlements from poor beneficiaries etc. positive role of the press is desired.

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**+VE AND –VE ASPECTS**: - In India, trial by media has assumed significant proportions. Some famous criminal cases that would have gone unpunished but for the intervention of media are Priyadarshini Mattoo case, Jessica Lal case, Nitish Katara murder case and Bijal Joshi rape case. The media however drew criticism in the reporting of murder of Aarushi Talwar, when it preempted the court and reported that her own father Dr. Rajesh Talwar, and possibly her mother Nupur Talwar were involved in her murder. Print and television had tarnished reputations of accused people before trials, later proved innocent, other issues about the privacy rights of individuals or defendants may also arise. Public figures, with slender rights against defamation are more in danger and more vulnerable in the hands of the media.

Media has now reincarnated itself into a ‘public court’ and has started interfering into court proceedings overlooking the golden principles of *‘presumption of innocence until proven guilty’* and *‘guilt beyond reasonable doubt’*. In the present day media trial, the media itself does a separate investigation, builds a public opinion against the accused even before the court takes cognizance of the case which is no doubt an illegitimate use of freedom and transgressing the prudent demarcation of legal boundaries. It is necessary to check prejudicial publicity of the subject matter pending before a court. It should be legally permissible to pass restraint order on the media.

**CONCLUSION:** - Journalists need to be legally trained in certain aspects of law relating to freedom of speech in Art.1 9(1)(a) and the restrictions which are permissible under Art. 19(2) of the Constitution, human rights, law of defamation and contempt. Norms of the Press Council emphasize the importance of accuracy and fairness and encourages the press to “eschew publication of inaccurate, baseless, graceless, misleading or distorted material.” The norms urge that any criticism of the judiciary should be published with great caution. and are largely observed in breach.

It is true our system of investigation, prosecution and trial is slow, many times corrupt. But the process exists, and works. It should have a proper chance. Print media in India, have rarely crossed the line, though they do express strong political opinions. It will be dangerous to gag the press in the name of contempt of court. If the appellate court feels that the media publicity affected fair trial, it can always reverse the decision of the lower court. Interference with the due administration of criminal justice will have to be remedied by Parliament.

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**4. CHANGING SEXUAL VALUES:-**

**AN INTRODUCTION**:- Of late, the Societies world over have accepted the sexual values in the shape of “ artificial fertilization”,” single parents”,”live-in-couples” and preferring to be homosexuals and giving importance to “same-sex-relationship”. All these trends in society are being witnessed because they have become necessitous & those practicing them have found them to be the viable and better alternatives replacing the old age sexual values. In the past, man had been predominant in society and had assumed the functions of division of labor suited to those times. Use of female as a “sex vehicle “has lost its meaning in the present age of “gender equality”. In modern days the woman is exercising more and more freedom of action & keeping in view the changing role of the women with the pursuit of enjoying status in life, there is equal need of protection of hard earned “freedom of women”. Women presently are no more a “home confine” and cannot be taken for granted for looking after the household only. Women has come out from all sorts of clutches & has “right to be let alone” & decide for herself the “right” and the “wrong”. Delicate sexual decisions like whether to marry or not; whether to rear & beget the child or not; right of abortion, right of serogations etc. cannot be left to man alone where futures of both are involved. More and more women empowerment has resulted in changing sexual values of the day & has resulted in giving importance to concepts like “separate but equal” meaning thereby that the women can lead free, independent and separate life in equal measurement with the men in society in sharing of opportunities.

**NEED OF SUITABLE LAW CHANGE**: It has rightly been said that “law-in-books “is one thing and”law-in-action” another. Indian law on the subject of criminalization of sex is of British period. Indian Penal Code, 1860 presently has no provisions providing protection and safety to the changing sexual values in life. Courts by “judicial activism” have recognized the sexual concepts like “live-in-relationship” and the concept of “homosexuality” in departure to the existing laws. Courts have given importance to these rights keeping in mind the acceptance of these sexual values by the society well ahead of the political will. Law must give recognition to “deference to the wishes of the people”& make /amend suitable laws to serve the purpose. Laws presently are redundant & in bad shape & require immediate replacement. The old age dividing line between “ natural “ and “ unnatural “, “ acceptable “ and “ unacceptable”, “ just” and” unjust” and “ immoral” and “ legal” was a thin one and had been blurred by passage of time and time has come to give them legal recognition by incorporating them in the Penal Statutes. Law should endeavor to safeguard and protect the females against the “sexual sins” of cruelty committed by fellows of the opposite sex.

**CONCLUSION**: - Sex confined to opposites only and that also in the form of marriage has lost its old age values. What used to be the wrong in the past has become right by social acceptance. Law is to change keeping in view the sexual values internalized by the society. Law has to catch-up with these changing values. Law is to find ways and devise means of protecting the hard won battle of women freedom. Women is to be seen as a part of the mainstream who can contribute to effective and meaningful citizenry. World has witnessed revolutionary results by assumption of more and more responsibilities by women. Courts are always watchful and act as “ Custodians “ when it’s question of protecting and safeguarding the rights of women. Only the political will has lagged behind .More and more representation of women in Parliament and State Legislatures and at other local and grass root levels to espouse the cause of women is the need of the day.

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5. **RIGHTS OF COMMON MAN:-**

**INTRODUCTION**:-Meaning of the common man as understood in the present context is the one who is deprived , uncared, underprivileged, having identity crisis & unsecured of his rights as regards, home, job, opportunity, marriage decisions, rights to beget & rear the child, health, insurance, education, nutrition ,pollution free environment, rights against destitution and old age survival etc. He is the one who feels insecure against any unlawful intrusion whether Governmental or private into a sphere which he can call his own & none of the business of anybody.

JOHN RAWLS in his *“ Theory of justice”* highlighted three aspects to deliver justice namely

(a) Each one according to his need;

(b) Each one according to his desires;

(c) Each one according to his deserts ( what he deserves)

Laws in the society should keep these aspects in mind so as to have a homogeneous , perfect & ideal society so as to sub serve the common good. When ever in the past, law made efforts on these lines, it worked wonders and brought about the desired changes.

**POSITION IN INDIA**:- India can be cited as an example where in the past as compared to other Nations, most of its social legislations like DOWRY PROHIBITION ACT & CHILD MARRIAGE RESTRAINT ACT etc. remained dead letters due to lack of political will in implementation of the same. In contrast, legislations like CONSUMER PROTECTION ACT has worked wonders and has brought revolution in protecting the consumer rights of common man. There is complete awareness and consciousness among the common man about the infringement of his consumer rights and also the forums for redressal . Violators of the consumer rights are penalized suitably at almost no cost and time as opposed to the common law system in the Courts which is not only expansive but at the same time denies justice due to delays.

Awareness among the common man of his VOTING RIGHTS is another manifestation of power of his power to change the Government if it does not deliver the goods. Gone are the days when the Governments survived even without delivering the desired results. Fear of the rejection by the people and the common man has kept the Governments of the day on wheels whether in making of the policies or in its implementation. Lots of Social welfare schemes like free education, free medical facilities , pensions of the weaker sections and the widow, food at concessional rates etc. have brought the desired results at some places. It

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can work perfectly in other places also provided , there is watch and check by the Guardians and Custodians of law & proper infrastructure on the delivery justice system to see that the benefits reach the common man.

Still a lot is desired to be done in India despite the enshrinement & recognition of basic fundamental freedoms in the Preamble, Art. 19 and Directive Principles of State Policy under the Constitution . Some of the Fundamental Rights like “ Right to Privacy” ,” Right to strike”, “ Right of publication” etc. got recognition by *judicial activism* even though not specifically mentioned in the Constitution. There are still other valuable rights pending enactment and amendment since long like “ Right to reject” the Electoral Candidate , enactment of “Lok Pal Act” to curb corruption by the public servants and passing of “ Women’s Reservation Bill “ empowering the woman adequately by representations in Parliament. Such laws if enacted and such rights if given can really revolutionize the Indian Society & India can achieve the desired economic prosperity and development.

**CONCLUSION:-** India has paid a big price in the past due to non- availability of the proper laws and if available non-implementation of the same. Law acts as a means of Social change, Social control, Social awareness & societal making. Power balance has to change . All efforts should be geared to bestow more and more Rights on the common man & also power empowerment of the common man . Common man should be made more and more conscious and aware and should be seen as a viable and alternate pillar of the society to assume responsibility whether in power sharing, law making or delivery justice system. Common man should not be seen as enemy of the system but should be geared and seen as a friend who in any eventuality can stand up to the task of Nation building .The general feeling among the common man that power wielders reflect the thinking of the elite should give way to the feeling that power is the real reflection of the wish of the common man. In an ideal & homogeneous society, besides the making of the desired laws & its implementation, role of the Voluntary Organizations, NGOs and other Non- profitable RWAs can play effective and decisive role to safeguard the *“ Rights of the common man” .*

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6. **REDEFINING OBSCENITY**

**AN INTRODUCTION**:- The definition of what exactly constitutes an obscenity differs from culture to culture, between communities within a single culture, and also between individuals within those communities. Many cultures have produced laws to define what is considered to be obscene, and censorship is often used to try to suppress or control materials that are obscene under these definitions: usually including, but not limited to, pornographic material. public can access and *obscenity*, access to which should be denied. There is legal distinction between artistic nudity, and permitted commercial pornography. Areas of sexual materials range between the permitted areas of erotic art (which usually includes "classic nude forms" such as Michelangelo's David statue and M.F. Hussain’s painting of Goddess Saraswati nude and the

Legally, a distinction is made between socially permitted material and discussions that the generally less respected commercial pornography.

**COMPARATIVE VIEW**:- (1) **POSITION IN U.S.A**.:- Many historically important works have been described as obscene or prosecuted under obscenity laws, including the works of Charles Baudelaire, Lenny Bruce, William S. Burroughs, Allen Ginsberg, James Joyce, D. H. Lawrence, Henry Miller, Samuel Beckett, and the Marquis de Sade. The question of "obscenity" presently always refers to the "*Miller test obscenity*". In the *Miller* decision the use of the words "contemporary community standards" means that the law evolves along with social mores and norms. Some state authorities issued injunctions against films like *Deep Throat* (1972) and *The Devil in Miss Jones* (1973) to protect "local community standards". State laws on *internet porn* are recently expanding regulating the age limits to purchase porn

(2**) POSITION IN U.K**.:-In the United Kingdom, the *Obscene Publications Acts* sets the criteria for what material is allowed to be publicly accessed and distributed. Stanley Kauffmann's novel *The Philanderer* was published by Penguin Books in 1957 and was unsuccessfully prosecuted for obscenity. The *Criminal Justice and Immigration Act 2008* prohibits the possession of "extreme pornography". Sex crime has generated particular concern. As opposed to questions of "indecency", which have been applied to sexual explicitness, films charged with being obscene have been viewed as having "a tendency to deprave and corrupt" and been liable to prosecution.

(3) **POSITION IN INDIA** : In India, since time immemorial , the ‘purity’ of woman has social honor and reputation. Indian culture placed great importance on values such as fidelity. Even portrayal of women is being given utmost importance . Indian values remained focused on these aspects till advertising and new bohemian way of thinking changed the popular perception. In India, however, despite considerable freedom, a woman’s role and position in the family and the society is greatly influenced by values such as decent conduct. In Indian law, obscenity has been well defined by existing provisions U/S. 292, Indian Penal Code and mostly relates to how something like a book or film portrays sexual conduct. Citizen’s freedom of expression under Art. 19(1)(a) can be restricted to prevent indecency in public interest.

(4) **POSITION IN OTHER COUNTRIES:-**The Canadian Criminal Code defines obscene materials for the purposes of this Act, any publication a dominant characteristic of which is the undue exploitation of sex and any one or more of the following subjects, namely, crime, horror, cruelty and violence, shall be deemed to be obscene.

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In South Africa, legislators have opted for a detailed list of prohibited material. Schedule 1 of the 1996 Films and Publications Act, lists

a. child pornography; b. explicit violent sexual conduct; c. bestiality; d. explicit sexual activity which degrades a person and which constituted incitement to cause harm; or e. the explicit infliction of or explicit effect of extreme violence which constitutes incitement to cause harm.

The Japanese Supreme Court, in Koyama v. Japan, ruled that a work could be judged "obscene" under Article 175 of the Constitution if "it aroused and stimulated sexual desire, offended a common sense of modesty or shame, and violated "proper concepts of sexual morality."

**CONCLUSION:**- It is incumbent upon the legislature to devise precise guidelines if it wishes to regulate sexually explicit material. The Word *“Indecent*” in the statute is an undefined word which, standing alone, offers no guidelines whatsoever as to its parameters. The Constitution of India guarantees everyone the right to freedom of expression. India is also a party to the International Covenant on Civil and Political Rights and therefore bound to respect the right to freedom of expression guaranteed by Article 19 thereof. Under the European Convention of Human Rights, in order to determine whether a restriction was necessary in a democratic society, the court examines whether the interference:

“…Corresponded to a pressing social need', whether it was 'proportionate to the legitimate aim pursued', and whether the reasons given by the national authorities to justify it are 'relevant and sufficient'.”

Viewing the law on obscenity in India *vis-à-vis* the technological advancements , it is clearly outdated and inconsistent with constitutional and international guarantees of freedom of expression and in desperate need of amendment. The word 'obscene' has not been defined in the code. The laws are vague in that no specific definition is laid down which could lead to arbitrary interpretation and in gross violation of freedom of expression enshrined in the Constitution of India. India must make suitable changes in the law relating to obscenity so as to avoid being “ *reductio ad absurdum*” meaning thereby not to “ *reduce everything to absurdity*”.

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7. **ROAD ACCIDENTS: CAUSES, EFFECTS AND CURE**

**AN INTRODUCTION**: Delhi enjoys the world-class road infrastructure but road safety depends upon how far are people law abiding. People in Delhi have an attitude of breaking road rules. The position in other cities like Mumbai is not the same. Though roads are not that good but people are law abiding and observe the traffic norms. Of late, the Courts have become very strict in adhering to ***deterrent policy of sentencing.***Courts have clearly mandated that rash and negligent drivers should be awarded deterrent punishment as leniency shown to them could escalate the number of road accidents endangering life of public at large as automobiles have become *death traps.* People in general do not observe the traffic rules. Absence of police personnel on roads prompts them to speed vehicles , jump red lights.

**CAUSES OF ROAD ACCIDENTS**: The following can be the major causes of road accidents:-

1. Drivers not up to the grade due to lack of adequate experience ( less than 5 years on heavy vehicles );

2. Plying of buses ( particularly the Govt.) more than 10 years old;

3. Deaths and injuries due to traffic violations by its drivers like speeding and jumping red lights;

4. Driving in drunken state;

5. Overcrowding the passenger vehicles both Govt. and private;

6. Inadequacy of the traffic laws.

The road accidents result in loss of life & are a cause of serious injuries. Sudden death snatches even the sole bread earner from their near and dear ones . Award of a paltry sum as compensation in the form of *ex-gratia* payment is not at all adequate. Law has yet to find an answer to the equivalent of loss of life and property resulting due to road accidents. Non availability of the proper remedies under law is encouraging the traffic violators to commit the rash and negligent acts.

**REMEDIES:** Installation of the ***GLOBAL POSITIONING SYSTEM*** in the heavy vehicles used for carrying passengers to ensure efficient and disciplined service . Plan to install ***LASER SPEED VIOLATION SYSTEM*** on the pattern of US and European Countries to keep an eye on speeding motorists . Such high-tech speed detection system would click photographs of speeding vehicles and has an automatic in-built number plate recognizer. Strategic locations are to be identified like Ring Road, Outer Ring Road in Delhi, all National Highways, DND Flyover, Airport Terminals etc. Unless the people have deterrence of being watched and severally punished particularly at night when 50% of accidents occur, one cannot have any respite from the repeated and ever increasing Road accidents . With the increase in number of motor vehicles, there is equal need of monitoring and detecting the speed of vehicles. A strong vigil on the roads can save the lives of hundreds caused due to speeding vehicles. Hit and run cases will start disappearing. If the transport system works properly, there will be an overall sense of discipline amongst the people. ***AWARENESS ANS CONSCIOUSNESS*** of the Traffic Rules amongst the people are the key to reducing road accidents & can play an important role in escaping from endangering life on roads.

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8. **LEGAL REMEDIES**: -

We have legal maxim “***ubi jus ibi remedium***” which means that where there is right there is remedy. Right without remedy is like a shadow without substance. All the statutes guaranteeing legal rights have an in-built & inherent mechanism for the legal remedies. Courts have given recognition to new legal rights & remedies by judicial activism even though such rights & remedies were not foreseen by the Legislature. New and new remedies for the redressal of the causes have been designd by the Legislature to suit to the present day situations.

The enactments of statutes like Consumer Protection Act, 1986 in which the definition of “ Consumer” almost encompasses everything including grievance against the Medical Practitioners , Advocates, Airways, Banks, Electricity, Water & Telephone Department, Postal Department, Telecommunications, Dealers and Manufacturers , Railways, Insurance Companies, Builders etc.

Law has made big inroads in settling the Matrimonial disputes by setting up the Family Courts. The enactment of the “ Protection of Women against Domestic Violence Act” is highly effective tool in safeguarding the life, liberty, property and well being of the women. The earlier days of registering cases under Penal Code has been done away with & remedies provided under Domestic Violence Act are a step towards speedier dispensation of justice. Provisions under Hindu Marriage Act have also been made effective by giving Divorce in appropriate cases where marriage loses its sanctity and relation between the spouses deteriorate to a point where they can not live together as husband and wife.

Law has also made provisions of stringent penalty in Cheque Dishonor cases and has made provision of levying penalty to the double of the amount under Sections 138-142 of the Negotiable Instruments Act besides the remedy of recovery of the amount under summary procedure under O. 37 CPC. The offence has also been made compoundable if the aggrieved person agrees to it. The legal position is such that Civil and Criminal proceedings regarding dishonor of the same cheque can continue side by side. It is open to the aggrieved party to resort to either of the two or both.

Now the registration of FIR has been made compulsory. Under the provisions of the Criminal Procedure Code , on the refusal of the Police Officer to register the complaint you can send the complaint by Registered Post to the Deputy Commissioner of the District under whose jurisdiction that Police Station falls. This is provided under Section 154(iii) of the Criminal Procedure Code. Said DCP is under duty to register the said FIR if it discloses the offence . In the event of the failure on the part of either to register the complaint , you can then file the

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complaint before the Metropolitan Magistrate under section 196 of the Criminal Procedure Code.

Rent Control Act is the other beneficial legislation which by Amendment in 1988 has come as a big relief to the Landlord as well as to the Tenant. A relationship of Landlord and Tenant is created by contract. Mere payment of rent does not necessarily establish relationship of landlord and tenant. Landlord is the person who has the right to receive the rent . In case the monthly rent is bellow Rs. 3500/- , the provisions of Delhi Rent Control Act, would be applicable, wherein you can be evicted only under certain specified grounds which includes non payment of rent, subletting of the premises, bonafide requirement of the landlord etc. In case the monthly rent is above Rs. 3500/-and agreement is registered( if over one year) then the terms of the lease would prevail. The landlord under such circumstances is liable to serve you with a notice under section 106 of the Transfer of Property Act giving 15 days time on the expiry of the tenancy month for terminating the tenancy. Thereafter, he Has to file a suit for ejectment which will be tried by the Court. The landlord can not forcibly evict you from the premises and the procedure before the Court will take few years to be decided.

Motor Vehicles Act has also made provisions providing stringent penalty for persons driving in rash and negligent manner resulting in death. Courts have shown no leniency in such cases. A motor accident has two facets . One is the commission of criminal offence and the other is compensation claim. The person responsible for causing the accident by negligent driving is liable to be booked for criminal offence, further liable to pay compensation to the victim. However, if the vehicle is insured, Insurance Company will pay.

**CONCLUSION:** Though the statutes have been tried to be more and more effective by making suitable amendments but still a lot is desired to be done to deliver speedy justice to the common man. In criminal cases, the prosecution has to tighten the evidence gathering machinery so that the guilty can be brought to the book. Similarly Alternate Disputes Redressal ( ADR ) is also being viewed as a viable and suitable mechanism for the redressal of the disputes. Settling the matter through Mediation and Conciliation is need of the day which not only saves the time and money of the litigants but at the same time saves the litigant from the time consuming evidentiary process.

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9. **CORRUPTION AND THE LAW:-**

**AN INTRODUCTION:** Corruption in Society is spreading like an epidemic which unless controlled is bound to affect each nook and corner of the Society. Corruption is interwoven with the way of life in day to day working. Those in power have left the hope of earning by honest means. It is rightly said that “ power corrupts and absolute power corrupts absolutely”. There is a complete failure of the stem of checks and balances which the founding fathers had given in the democratic set-up. The laws of the day are inadequate to combat & cure the disease of corruption. People have hardly any remedies left to them unless the system enforces stringent penalties & strengths the monitoring plans against the violators.

**POSITION IN INDIA**: Social activist Anna Hazare sat on a fast as a crussador and savior for the cause of eradication of corruption in December 2011 for putting pressure on the Govt. of the day for passing of the long pending ***LOK PAL BILL*** . Unfortunately, the Bill could not see the light of the day due to Parliamentary procedural constraints. The Bill has been kept in abeyance for the time being. After all the political will is the foremost and frontrunner cause for the delay in passing of the Bill. The people should be equally armed with the ***“ Right to reject***” if the elected representatives cannot deliver the goods and safeguard the public interest. Further delay in passing of the prestigious ***LOK PAL BILL*** will certainly reflect the vested interests of the politicians of the day.

As per Transparency International’s Corruption Perception Index India was ranked 95th corruption Nation out of the 183 Countries surveyed. There is high incidence of bribing ( more than 75%) in cities like Ahemdabad, Chandigarh and Hyderabad and very low in Chennai, Mumbai and Kolkata. The willingness to bribe is high in Delhi because of its being a “ Centre of opportunities”. Report has given India 3.3 points which is a cause of concern. Recently, as per the Report, India has been ranked at No. 19 with 7.5 points.

**POSITION WORLD-WISE**: As per Transparency International’s Corruption Perception Index, Position of China is better as compared to neighboring countries namely India, Pakistan, Nepal. As per the Report, the Nation getting points below five are serious and a cause of concern. In the G-20 developed Countries, Australia and Switzerland have been placed at S.No. 8 whereas New Zealand occupies the top place. Amongst the South Asian Countries, Nepal has been shown to be the most corrupt Nation.

**CONCLUSION:** If the system of checks and balances as foreseen by the founding fathers are in place, corruption is on decline and people do not feel the need to bribe. Corruption and development are in opposition to each other. Corruption if permitted is making the system inefficient & inoperative. The 2G ruling of the Indian Supreme Court is an eye opener for controlling discretionary power by cancelling 122 licences in allotment of natural resources like radio frequencies to Telecommunication Companies in 2008. The Apex Court disapproved the concept of “ First come first serve basis “ of issuance of licences. This is noteworthy development in Indian policy making & has led to new transparency in policy-making. Courts can play the leading role in curbing corruption by keeping a watch on the way the discretion vested in the authorities are exercised. There is close link between corruption, unemployment and economic development which if guarded honestly can steer Country through to any heights. As per Indian Planning Commission estimates, if corruption declines , there will be 12% increase in annual investments & opening for new job opportunities as well as poverty will be eradicated. We ourselves, the SUPREME in the name of the “ People of India” are to blame for the outcome of the incurable disease of corruption. If India is to reach the top place among the corruption free Nations, it has to curb the 2G & Commonwealth Games Scams. Then inter linkage of the corrupts is to broken.

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10.**WATCH ON THE NET** : **INADEQUACY OF CYBER LAWS**

**AN INTRODUCTION** :-Article 19(1)(a) of the Constitution of India gives every Citizen of India “ Freedom of speech and expression” which can be curtailed only under some specified conditions as stated in Art. 19(2). The freedom can be curbed only when there is danger to the Sovereignty, public order, public morality and public decency etc. There are umpteen number of instances when the freedom had been curtailed in the past by unjustifiable means. Such curbing conditions are to be judged vis-à-vis other democratic Countries and the norms followed by them. India is not an exception to others. A dividing line has to be drawn in each and every case to decide what is just and what is unjust, what is controllable and what is absolute freedom . A freedom is not to be curtailed by unjustifiable means . In a democratic set up, the opposition is to be tolerated and not to be eschewed. After all, the underlying intentions of the person wanting absolute freedom is to have paramountcy and supremacy in a rule of law. The freedom can not be allowed to be curtailed in the guise of the public interest. The claim of the Government in curbing freedom to safeguard public interest, religious sentiments etc. is to pass the *“strict scrutiny test*” of the Courts as the hidden intentions to curb opposition are not ruled out.

**CYBER LAW IN INDIA :** The Indian debate is more about a long standing divide between proponents of freedom of information and those concerned with the social or security consequences of incendiary speech. The problems inherent in this are encapsulated in Articles 69a and 79 of the ***Indian Telecommunications Act*** – one that wholeheartedly backs free speech and the other that provides a long list of exceptions including blasphemy and pornography. The authorities find it difficult to in controlling access to digital media. There are 22 networking sites in India which *include Facebook India, Facebook,, Google India Pvt. Ltd. Google Orkut, Youtube, Blogspot,, Microsoft India Pvt. Ltd., Microsoft, Zombie Time, Exboii, Boardreader, IMC India, My Lot, Shyni Blog and Topix, Yahoo.* A Delhi Court has ordered the stated sites to remove all “ anti-religious” or “ anti-social” contents from their sites within 90 days. Monitoring contents on the Internet , particularly those generated by users, has been a controversial issue. It is not that a task to have a watch on the net as contemplated.

**CONCLUSION**: We in India do have the Cyberlaw but it is not effective. Law is supposed to be stringent in punishing those misusing it. It is also true the foreign Social networking sites operate from India but Indian laws are less digested by them. In such like cases, the Govt. is bound to be strict. But the Govt. should not censor the net but should adopt strict tactics for compliance of the law. The intentions of the Govt. over the contents which it wants to censor are not specified. There are conflicts of interests as the matters which are considered to be bad by the Govt. , the social sites like Facebok and Orkut follow those rules. The proposed mechanism of a common filter for Social site like Facebook can not be feasible as it operates in so many Countries and is next to impossible to have auto control. India being the biggest democracy in the world and banning Social sites like Facebook will be another dark Chapter in Indian History. The parallel of the same can be drawn when Emergency was imposed in 1975 .There is a need of consciousness and awareness towards the Cyber laws. If it so happens, there will never be the need to complain and become a target of attack.

There is a strong case against pre-censorship. It is hardly possible to draw a line between the nice and nasty versions . Google and similar Companies have been more than willing by obliging the objector to take post facto action when they have received a complaint. There can not be better substitute to this sound principle. Even totalitarian States having everything in their hands depend primarily on screening and blocking what appears rather than trying to pre-empt, its genesis. At the same time, India needs to follow other liberal democracies in making clear that intermediaries –like websites and search engines –should have limited liability for the information created by some other entity that they happen to carry or dig up. They can not be held vicariously liable for the acts of the other to which they are not parties. Holding them liable in such like situations are against the equitable principles also striking at the root of the conscience of the people.

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11.**EQUAL PROPERTY RIGHTS OF HINDU WOMAN:**

**AMENDED LAW**:- The Hindu Succession Act, 1956 is an Act to codify the law relating to intestate succession among Hindus. This Act has brought about important changes in the law of succession but without affecting the special rights of the members of a Mitakshara Coparcenary. The Parliament felt that non-inclusion of daughters in the Mitakshara Coparcenary property was causing discrimination to them and, accordingly, decided to bring in necessary changes in the law.The Hindu Succession (Amendment) Act, 2005 (for short, `2005 Amendment Act') came into force on September 9, 2005. By 2005 Amendment Act, Section 6 of the Hindu Succession Act, 1956 (for short `1956 Act') was substituted. The statement of objects and reasons of the 2005 Amendment Act, inter alia, reads as under :

".......The retention of the Mitakshara coparcenary property without including the females in it means that the females cannot inherit in ancestral property as their male counterparts do. The law by excluding the daughter from participating in the coparcenary ownership not only contributes to her discrimination on the ground of gender but also has led to oppression and negation of her fundamental right of equality guaranteed by the Constitution. Having regard to the need to render social justice to women, the States of Andhra Pradesh, Tamil Nadu, Karnataka and Maharashtra have made necessary changes in the law giving equal right to daughters in Hindu Mitakshara coparcenary property."

With the above object in mind, the Parliament substituted the existing Section 6 of the 1956 Act by a new provision vide 2005 Amendment Act. The new Section 6 provides for parity of rights in the coparcenary property among male and female members of a joint Hindu family on and from September 9, 2005. The Legislature has now conferred substantive right in favour of the daughters. According to the new Section 6, the daughter of a copercener becomes a coparcener by birth in her own rights and liabilities in the same manner as the son. The declaration in Section 6 that the daughter of the coparcener shall have same rights and liabilities in the coparcenary property as she would have been a son is unambiguous and unequivocal. Thus, on and from September 9, 2005, the daughter is entitled to a share in the ancestral property and is a coparcener as if she had been a son.

The right accrued to a daughter in the property of a joint Hindu family governed by the Mitakshara Law, by virtue of the 2005 Amendment Act, is absolute, except in the circumstances provided in the proviso appended to sub-section (1) of Section 6.

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The excepted categories to which new Section 6 of the 1956 Act is not applicable are two, namely, (i) where the disposition or alienation including any partition has taken place before December 20, 2004; and (ii) where testamentary disposition of property has been made before December 20, 2004. Sub- section (5) of Section 6 leaves no room for doubt as it provides that this Section shall not apply to the partition which has been effected before December 20, 2004. For the purposes of new Section 6 it is explained that `partition' means any partition made by execution of a deed of partition duly registered under the Registration Act 1908 or partition effected by a decree of a court. In light of a clear provision contained in the Explanation appended to sub-section (5) of Section 6, for determining the non-applicability of the Section, what is relevant is to find out whether the partition has been effected before December 20, 2004 by deed of partition duly registered under the Registration Act, 1908 or by a decree of a court.

**JUDICIAL PRONOUNCEMENT:-** The Supreme Court in *Ganduri Koteshwaramma & Anr. Vs. Chakiri Yanadi & Anr* .decided on 12-10-2011 ruled that the female inheritors would have succession rights and the same liabilities fastened on the property along with the male members.A Hindu woman or girl will have equal property rights along with other male relatives for any partition made in intestate succession after September 2005, the Supreme Court has ruled. In The judgment the Court said that under the Hindu Succession (Amendment) Act, 2005, the daughters are entitled to equal inheritance rights along with other male siblings, which was not available to them prior to the amendment.The apex court said the female inheritors would not only have the succession rights but also the same liabilities fastened on the property along with the male members. The term coparcener refers to the equal inheritance right of a person in a property. “The new Section 6 provides for parity of rights in the coparcenary property among male and female members of a joint Hindu family on and from 9 September 2005. The legislature has now conferred substantive right in favor of the daughters.”

“According to the new Section 6, the daughter of a coparcener becomes a coparcener by birth in her own rights and liabilities in the same manner as the son. The declaration in Section 6 that the daughter of the coparcener shall have same rights and liabilities in the coparcenary property as she would have been a son is unambiguous and unequivocal,” Justice Lodha, writing the judgment, said.

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**12. Need of the Day- Recognition of New Legal Rights:**

Dworkin once wrote the book “ Taking rights seriously”. Now the big question is how far are we serious about our legal rights in day-to-day life. Law is to meet the demands of the Society. There is hardly any society on earth which could have visualized & foreseen all the possible rights. This is an impossible task. Law changes with society . Societies have changed by leaps and bounds. What one time used to be the concepts of the West are no more the same. People remaining in other parts of the world have also aped the West. Similarly the Western people have inclined towards the Indian values by accepting Meditation as the way to have universal peace of mind and body. The main pursuit of the whole communities is to have maximum amount of happiness. Social norms when internalized takes the shape of law. Law is to keep pace with changes in Societies.

Even in India, the Governments of the day are getting serious by giving recognition and importance to more and more rights. Latest in the string are Right to education and Right to information by enacting the suitable legislations . Right to refuse requires suitable amendment in the Election law and Lok Pal Act was recently a topic of public concern . Similar is the concern about citizens right to clean drinking water and sanitation. India has world’s 17 % population but only 4% of water. India is a water stressed Nation because of rising population and urbanization.

According to World Bank estimate, the poor quality of drinking water causes 21% of diseases in India and this creates a burden of around Rs. 300 Crores every year. This is despite the Country spending Rs. 1,48,000/- Crores to provide drinking water since 1990s.. Around one-third of the Indians don’t have access to clean drinking water and more than half of the Country’s population to clean sanitation. Only 42.2 % people in Jharkhand and 38% in Manipur have access to clean drinking water whereas in Punjab, Delhi, Himachal Pradesh and Uttrakhand have nearly 90% coverage.

In a new draft National Water Policy , the Water Resources Ministry has suggested that the access to safe drinking water and sanitation be regarded as a right. To achieve the goal, the Ministry has proposed a National water framework, which will help each State to come up with essential legislation on water governance. The State legislation will have to provide necessary authority to lower tiers of the Govt. to deal with the local water situation, the Draft states. It also states that the local

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government Institutions will ensure access to a minimum quantity of potable water that will be available within the reach of each household. But it will come with a price for everyone; water users Associations will have the power to charge tariff. The new Policy will force the State Governments. To ensure safe drinking water access to all in the next few years. The Draft says:

“ Water needs to be managed as a community resource, by the State , under public trust doctrine to achieve food security, livelihood…….”

Conclusion: Need of the day is to recognize and enact more and more new laws to curb all sorts of menace in the Society. Recognising & making laws in bits and pieces despite the need is the root cause of trouble. Delay on part of the legislation & half hearted effort on the part of the

Governments of the day is not taking the Country too far. It is rightly said “ Where there is a will , there is a way”. There must be the political will to recognize and make laws to subserve the public interest . With the advanced technology , there is more and more threat to the legal rights and law is required to protect and safeguard the endangered rights. The utmost need is to select the selected rights from the Universally accepted rights by all civilized Nations of the world & to have full concern of the violation of the global human rights as enunciated in the International documents like “The Universal Declaration of Human Rights”, “The Covenant on Civil , Political & Economic Rights” and laws relating to curbing all sorts of Racial Discriminations. The ultimate goal is to have an equitous & balanced Society. This can be made possible by countering all sorts of imbalances in the Society by recognizing and giving importance to more and more rights through the instrumentality of law.

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**13.Environmental Protection- Global Combatting**

1.**EFFECTS OF POLLUTION**:-There are a number of different types of pollution that have a large cumulative impact on our Local environment. Traditional forms of pollution have included:-

.Air pollution .Water pollution .Land contamination & modern forms include Thermal pollution, Noise pollution, Light pollution, & Visual pollution

Pollutants are known to be a factor in many illnesses and diseases including cancer, immune diseases, allergies and asthma. While the general public have become more aware of the potential harm posed by the more traditional forms of pollution, awareness of the consequences of the more modern additions is less well known. Public concern over the release of radiation into the environment greatly increased following the disclosure of possible harmful effects to the public from nuclear weapons testing. Noise pollution can cause serious damage to human hearing over time and cause sleep disturbance and stress. Water pollution can seriously degrade our waterways which causes a loss of biodiversity, health of the waterway and also causes visual pollution.

Thousands of environmentally untested chemicals are routinely discharged into waterways; Nonconventional pollutants vary from biologically inert materials such as clay and iron residues to the most toxic and insidious materials such as halogenated hydrocarbons (DDT, kepone, mirex, and polychlorinated biphenyls--PCB). The latter group may produce damage ranging from acute biological effects (complete sterilization of stretches of waterways) to chronic sub-lethal effects that may go undetected for years. The chronic low-level pollutants are proving to be the most difficult to correct and abate because of their ubiquitous nature and chemical stability.

Thermal changes affect the aquatic system by limiting or changing the type of fish and aquatic biota able to grow or reproduce in the waters. Thus rapid and dramatic changes in biologic communities often occur in the vicinity of heated discharges.

Photochemical smog produces eye irritation and lacrimation and causes severe damage to many types of vegetation, including important crops. Acute effects include an increased mortality rate, especially among persons suffering from respiratory and coronary ailments. Air pollution also has a deleterious effect on works of art.Oxides of sulfur and nitrogen, carried long distances by the atmosphere and then precipitated in solution as acid rain, can cause serious damage to vegetation, waterways, and buildings.

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Certain pollutants decrease the concentration of ozone occurring naturally in the stratosphere, which in turn increases the amount of ultraviolet radiation reaching the Earth's surface. Such radiation may damage vegetation and increase the incidence of skin cancer.

Humans also pollute the atmosphere on a global scale. The concentration of carbon dioxide in the atmosphere is increasing at a rate of about 0.2% every year. The effect of this increase may

be to alter the Earth's climate by increasing the average global temperature. Increased exposure to medical X rays and to radiation emissions from microwave ovens and other household appliances, although of considerably less magnitude, all constitute sources of environmental radiation. A major concern about this type of exposure is the potential for genetic damage. . Irradiation produces a long series of photochemical reactions.

The long-term (chronic) effects of persistent pesticides are virtually unknown, but many scientists believe they are as much an environmental hazard as are the acute effects..

2. **GLOBAL COMBATTING**- With economic growth also comes an increasing demand for industry and agriculture, which can both greatly, impact on air quality.

The open dump attracts populations of rodents and other pests and often emitted hideous odors. This problem can be solved with the help of the residents.

Recycling of materials is practical to some extent for much municipal and some industrial wastes, and a small but growing proportion of solid wastes is being recycled. New processes of sorting ferrous and nonferrous metals, paper, glass, and plastics have been developed, and many communities with recycling programs now require refuse separation. Crucial issues in recycling are devising better processing methods, inventing new products for the recycled materials, and finding new markets for them. Incineration is another method for disposing of solid wastes. Advanced incinerators use solid wastes as fuel, burning quantities of refuse and utilizing the resultant heat to make steam for electricity generation. Wastes must be burned at very high temperatures, and incinerator exhausts must be equipped with sophisticated scrubbers and other devices for removing dioxins and other toxic pollutants. Problems remain, however: incinerator ash contains high ratios of heavy metals, becoming a hazardous waste in itself, and high-efficiency incinerators may discourage the use of recycling and other waste-reduction methods.

Composting is increasingly used to treat some agricultural wastes, as well as such municipal wastes as leaves and brush. Composting systems can produce usable soil conditioners, or humus, within a few months. Non persistent (readily degradable) pesticides or substitutes, insect sterilization techniques, hormone homologues that check or interfere with maturation stages, and introduction of animals that prey on the pests present a potentially brighter picture for pest control with significantly reduced environmental consequences.

Radioactive nuclear wastes cannot be treated by conventional chemical methods and must be stored in heavily shielded containers in areas remote from biological habitats. The safest of storage sites currently used are impervious deep caves or abandoned salt mines. Most radioactive wastes, however, have half-lives of hundreds to thousands of years, and to date no storage method has been found that is absolutely infallible.

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**14.Undermining Centre and State Relations**

India is a democratic Country & concept of federalism operates in the governance of Centre and State relations . Whether India is a true federal or quasi-federal depends upon how powerful the Centre is .If the Centre is weak, the federal spirit is lost and there can not be smooth Centre-State relations. For operation of democracy in a truly federal State , there should be a strong centre for maintaining proper balance and proper functioning and strong decision making power. At the same time in a true federalism, the Centre cannot discriminate in the different party ruled States in disbursement of the funds nor should the Centre make any efforts to topple the different party ruled Governments for their own good. India’s experience in the past for operation of true federalism has not been good. There are instances in the past when the Centre has misused its authority whether in disbursement of funds or different party ruled States had struggled for survival .

At present India is being ruled by an alliance which is not at all good for a strong governance and at the same time the different party ruled States are facing discrimination. The latest example has been witnessed in the neighbouring State of Uttar Pradesh which is being ruled by a different party government. The Chief Minister of Uttar Pradesh Ms. Mayawati has protested against the Centre and has labeled allegations that she was unable to maintain National Highways in Uttar Pradesh due to non-sanction of funds by the Centre as the National Highways are maintained by the Centre. She has notified at 48 different places in the State informing the public by communicating this message. The war between Centre and States has come on the Road as the Centre has refuted the charge. There seems to be substance in the allegations of the Chief Minister against the Centre due to single reason that it is different party ruled State. The Centre has kept the National interest at bay by not sanctioning the funds for maintenance of the National Highways for their petty trivial political differences which is not at all a healthy sign of good governance.

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15. **Consumers and the Law**

With the industrial development and rapid rise in international trade and commerce , a variety of consumer goods have appeared in the market to cater to the needs of the consumers and a host of other services have been made available to the consumers like insurance ,transport, electricity ,housing , entertainment. Finance and banking. With the coming into existence of a new class of manufacturers and traders with better knowledge of markets , the earlier concept of relationship between the traders and the consumers has been affected and thus making the concept of consumer sovereignty almost inapplicable. The trend of publicity of goods by various advertisements has become order of the day. Most of the advertisements are misleading and defects in the products are detected later on. The advertisements of goods and services in television, newspapers and magazines influence the demand for the same by the consumers though there may be manufacturing defects or imperfections or short comings in the quality, quantity and the purity of the goods or there may be deficiency in the services rendered. In spite of various provisions providing protection to the consumer and providing for stringent action against adulterated and sub-standard articles in the different enactments like Code of Civil Procedure, 1908, The Indian Contract Act, 1872, The Sale of Goods Act, 1930, The Indian Penal Code , 1860, The Standards of Weights and Measures Act, 1976 and Motor Vehicles Act, 1988, very little could be achieved in the field of Consumer Protection. Though the then Monopolies and Restrictive Trade Practices Act, 1969 and the Prevention of Food Adulteration Act, 1954 have provided relief to the Consumers yet it became necessary to protect the consumers from the exploitation and to save them from adulterated and sub-standard goods and services and to safeguard the interests of the consumers. With this objective in mind and in order to provide for better protection of the interests of the consumers, the legislature in its wisdom enacted the CONSUMER PROTECTION ACT, 1986. The said Act was suitably amended by the Consumer Protection ( Amendment) Act, 2002.

The Consumer Protection Act, 1986 has made provisions to promote and protect the rights of the consumers such as :

(a) The right to be protected against marketing of goods which are hazardous to life and property;

(b) The right to be informed about the quality, quantity , potency., purity, standard and price of goods to protect the consumer against unfair trade practices;

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(c) The right to be assured , wherever possible , access to an authority of goods at competitive prices;

(d) The right to be heard and to be assured that consumers interests will receive due consideration at appropriate forums;

(e) The right to seek redressal against unfair trade practices or unscrupulous exploitation of consumers; and

(f) Right to consumer education.

The Act makes provision for establishment of Consumer councils and other authorities for the settlement of consumers’ disputes and for matters connected therewith. To provide speedy and simple redressal to consumer disputes, a quasi-judicial machinery has been set up at the District, State and Central levels. These quasi-judicial bodies observe the principles of natural justice and have been empowered to give relief of a specific nature and to award, wherever appropriate, compensation to consumers. Penalties for non-compliance of the orders given by the quasi-judicial bodies have also been provided. Now the complaint can be filed by the legal heir or the representative of the deceased consumer. The pecuniary jurisdiction of the District Forum has also been increased to Rs. 20 lakhs, that of State Commission to Rs. One Crore and matters above one crore are to be tried and entertained by the National Commission. There is also a provision of appeal to the Supreme Court from the orders of the National Commission.

Consumer dispute mostly relate to the deficiency in service in pursuance of any contract or in relation to any goods. When the case is not a simple case of deficiency in service and involves determination of complex questions of facts and law, which cannot be satisfactorily determined by the redressal agency in the time frame provided under the Rules, it would be better for the complainant o seek redress of his grievances in a Civil Court if so advised. The remedy provided under the Act is in addition to the provisions of any other law for the time being in force. The provisions of this Act give the consumer an additional remedy besides those that may be available under other existing laws. The Consumer Protection Act, 1986 with its simple and less expansive mechanism has come to a great relief to the litigants.

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**16.Right of Government to Withhold Information**

Right of information has not been enumerated as a fundamental right under Part III of the Constitution. It emanates as a fundamental right from the " speech and expression" as contained in Article 19 (1)(g) of the Constitution of India. Right of information is indisputably a fundamental right. These rights have been set out in broad terms leaving scope for their expansion and adaption , through interpretation, to the changing needs and evolving notions of a free society.

Every right-legal or moral - carries with it corresponding obligation. It is subject to several exemptions/exceptions which entitle the Government to withhold information. A balance is to be maintained between the public's right to know and the Government's right to conceal. Government can withhold information in public interest but at the same time , it can not be allowed to retain something in the guise of public interest. The Government has to be bonafide and genuine in its endeavour to retain information. Here comes the role of the Courts as the Custodians of the Rule of Law and to see if the required balance between the peoples' right to know and the Government's right to withhold information.

Generally , the exemptions / exceptions under the laws of the land entitle the Government to withhold information relating to the following matters:

(i) International relations

(ii)National Security ( including defence) and public safety:

(iii)Investigation, detection and prevention of crime;

(iv)Internal deliberations of the Government;

(v)Information received in confidence from a source outside the Government;

(vi)Information , which if disclosed, would violate the privacy of individual;

(vii)Information of an economic nature, ( including Trade Secrets ) which, if disclosed , would confer an unfair advantage on some person or government to an unfair advantage;

(viii)information , which is subject to a claim of legal professional privelege, e.g;communication between a legal advisor and the client; between a physician and the patient;

(ix)Information about scientific disclosure.

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A Statute carries with it a presumption of constitutionality .. Such a presumption extends also in relation to a law, which has been enacted for imposing reasonable restrictions on the fundamental rights. A reasonable restriction on the exercise of the fundamental right is always permissible in the interest of the security of the State .If a reasonable restriction was imposed in the interest of the State by reason of a valid piece of legislation, the Court normally would respect the legislative policy behind the same. A further presumption may also be drawn that the statutory authority would not exercise the power arbitrarily.

The Court will not normally exercise its power of judicial review unless it is found that formation of belief by the statutory authority suffers from mala fide , dishonesty or corrupt practice. The order can be set aside if it is ultra vires the powers conferred upon the authority and there were no grounds for passing the orders. The claim of immunity and privilege of the State has to be based on public interest. When any claim of privilege is made by the State in respect of any document the question whether the document belongs to the privileged class has first to be decided by the Court. Though Section 123 of the Indian Evidence Act.,1872 is silent as regards the instrumentality of deciding the issue of whether the document is one that relates to any affiairs of State . But the clue as regards the supremacy of the Court in such matters is found in section 162 of the Indian Evidence Act. It only empowers the Court to inspect the document unless it refers to matters of State, or take other evidence to enable it to determine on its admissibility.

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**17. Dowry Deaths and the Law**

Dowry system is a big slur and curse on our society, democracy and the Country. Unfortunate and condemnable instances of dowry deaths are frequently occurring in our society. Dowry killing is a crime of its own kind and it is basically an economic problem of a class which suffers both from ego and complex. The legislature was seriously concerned about unfortunate reality of our society and to curb and combat increasing menace of dowry deaths with a firm hand, the DOWRY PROHIBITION ACT, 1961 was enacted. This Act made the dowry practice punishable and at the same time ensures that any dowry if given does ensure for the benefit of the wife. This is a beneficial legislation aimed to curb the dowry evil. It is most unfortunate that instances of dowry deaths are rapidly increasing.

Section 304 B of the Indian Penal Code was inserted by the Dowry Prohibition ( Amendment ) Act, 1986 with a view to combating the increasing menace of dowry death. It provides that were the death of a woman is caused by any burns or bodily injury or occurs otherwise than under normal circumstances within sevenr years of her marriage and it is shown that soon before her death she was subjected to cruelty or harassment by her husband or any relative of her husband for or in connection with any demand of dowry shall be guilty under Section 304 B of the Indian Penal Code . Proper analysis of Section 304 B of the Indian Penal Code ad Section 113 B of the Indian Evidence Act shows that there must be material to show that soon before her death the victim was subjected to cruelty or harassment. The prosecution is under an obligation to rule out any possibility of natural or accidental death. Where the ingredients of Section 304 B of the Indian Penal Code are satisfied , the Section would apply. If the death is unnatural , either homicidal or suicidal, it would be death which can be said to have taken place in unnatural circumstances and the provisions of Section 304 B would be applicable.
Crimes are generally committed in the privacy of residential homes and in secrecy and it is difficult to get independent direct evidence in such cases. That is why the legislature has, by introducing Sections 113A and 113B in the Evidence Act, tried to strengthen hand by permitting a presumption to be raised if certain fundamental facts are established that the unfortunate event has taken place within seven years of the marriage. The death, otherwise than under normal circumstances , under Section 304 B of the Indian Penal Code would mean the dath not in usual course either natural or accidental death. Section 304B creates a substantive death.

It is unfortunate that the evil of dowry still remains in the society despite the law on the subject being in vogue for more than 50 years . Such law is a dead letter being unable to deliver the purpose behind ts enactment . It is a redundant law and the maxim " reductio ad absurdem " fairly applies to it which means that it has reduced everything to absurdity. Law with some meaning and purpose has its applicability in the society and it eradicates the evil sought to be removed by it. But the law on Dowry Prohibition has lost its sanctity . Time has come for rethinking on this unmanageable evil. Time demands complete repeal of the law and it is for the legislature of the day to make a more effective and stringent statute with effective State machinery to combat the crime and to save the society from ever-increasing menace of dowry deaths. It is only that law which delivers the good, is considered to be good law. Law which has become obsolete and redundant requires immediate removal from the Statute List. After all, law must change with the demands of the society.

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**18. Compensation as a Public Law Remedy for Violation of Fundamental Right**

Award of compensation as a public law remedy for violation of the fundamental rights enshrined in Art. 21 of the Constitution, in addition to the private law remedy under the law of Torts was evolved in the last two and half decades by the Courts in India. The concept first recognized by the Apex Court in BHAGALPUR BLINDING CASE , KHATRI (II) 1981 (1)SCC 627 & BHAGALPUR BLINDING CASE , KHATRI (IV) 1981 (2)SCC 493 and evolved through cases of Rudul Shah ( 1983) 4 SCC 141,Bhim Singh ( 1985) 4 SCC 677, Peoples’ Union for Democratic Rights ( 1989) 4 SCC 730, Nila Bati Behera ( 1993)2 SCC 746 , D. K. Basu case ( 1997 ) 1 SCC 416 & Sube Singh Case ( decided on 3-2-06). It is now well settled that award of compensation against the State is an appropriate and effective remedy for redress of an established infringement of a fundamental right under Art. 21 , by a public servant. The quantum of compensation will , however, depend upon the facts and circumstances of each case. Award of such compensation by resorting to public law remedy will not come in the way of the aggrieved person claiming additional compensation in a Civil Court, in enforcement of the private law remedy in tort, nor come in the way of the Criminal Court ordering compensation under section 357 of the Indian Criminal Procedure Code.

Illegal detention and custodial torture are recognized as one of the violations of the fundamental rights of life and liberty guaranteed under Article 21 of the Indian Constitution. In case where custodial death or custodial torture or other violation of the rights guaranteed under Article 21 of the Indian Constitution is established , Courts may award compensation in a Writ proceeding under Article 32 or 226 of the Indian Constitution. The violation ought be gross and of a magnitude to shock the conscience of the Court. Before the Court can award compensation as a public law remedy under Art. 21 or 226, custodial torture alleged should result in death and should be supported by medical report or other corrobation evidence. Where the allegations are false or exaggerated fully or in part, Courts may not award compensation as a public law remedy under art. 21 or 226, but relegate the aggrieved party to the traditional remedies by way of appropriate civil/criminal action. It ought to be a fit case for award of the compensation.

Custodial violence requires to be tackled from two ends, that is by taking measures that are remedial and preventive . Award of compensation is one of the remedial measures after the event. Efforts should be made to remove the very causes, which lead to custodial violence, so as to prevent such occurrences. The endeavour should be to achieve a balanced level of functioning, where police respect human rights, adhere to law, and take confidence building measures and at the same time , firmly deal with organized crime , terrorism, white collared crime, deteriorating law and order situation etc. Courts of the day have adopted the award of compensation as a public law remedy wherever negligence is apparent on the face of the incidents. Concrete cases which have come before the Courts for resorting to this remedy of compensations are blindings at Bhagalpur due to Bhopal Gas Tragedy , deaths due to custodial violence in police custody. The proposed endeavour to incorporate the concept of reimbursement by the public servant concerned against their wrongdoing in the coming LOK PAL ACT to counter rampant corruption by the public servants, is another manifestation of awarding compensation by way of a public law remedy.

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**19. Custodial Violence–Deaths Due to Police Torture**

PROVISIONS:Art.21 of Indian Constitution mandates that no person shall be deprived of his life or personal liberty except according to procedure established by law. This sacred and cherished right i.e. personal liberty has an important role to play in the life of every citizen. Life or personal liberty includes a right to live with human dignity . There is an in-built guarantee against torture or assault by the State or its functionaries. Chapter V of the Criminal Procedure Code , 1973 in India deals with the powers of arrest of persons and the safeguards required to be followed by the Police to protect the interest of the arrested person. Articles 20(3) and 22 of the Indian Constitution further manifest the constitutional protection extended to every citizen and the guarantees held out for making life meaningful and not a mere animal existence. The Universal Declaration of Human Rights in 1948 which marked the emergence of a worldwide trend of protection and guarantee of certain basic human rights stipulates in Article 5 that “ No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment”. Despite this pious declaration & the Constitutional & statutory safeguards, the crime continues unabated though every civilized nation & society shows its concern and makes efforts for its eradication.

MEANING & APPROACH OF THE COURTS: The Courts must not lose sight of the fact that death in Police custody is perhaps one of the worst kinds of crimes in a civilized society, governed by rule of law and poses a serious rights of the citizens recognized by the Constitution and is an affront to human dignity. Police excesses and the maltreatment of detainees/under-trial prisoners or suspects tarnishes the image of any civilized nation and the men in ‘ Khakhi’ to consider themselves to be above the law and sometimes even to become law unto themselves. Rarely in cases of police torture or custodial death, there is any direct ocular evidence of the complicity of the police personnel alone who can only explain the circumstances in which a person in their custody had died. Exaggerated and strict adherence to the principle of proof beyond reasonable doubt in police torture cases, often results in miscarriage of justice. Police often give such deaths a colour of suicide or police encounter attempting to protect the erring police officials. In the ultimate analysis the society suffers and a criminal gets encouraged. Tortures in police custody, which of late are on the increase, receive encouragement by this type of an unrealistic approach at times by the Courts.

REMEDIES AGAINST CUSTODIAL DEATHS: It is difficult to comprehend how torture and custodial violence can be permitted to defy the rights flowing from the Constitution. The dehumanising torture, assault and death in custody which has assumed alarming proportions raise serious questions about the credibility of rule of law and administration of criminal justice system. The cry for justice becomes louder and warrants immediate remedial measures. The diabolic recurrence of police torture resulting in a terrible scare in the minds of common citizens that their lives and liberty are under a new and unwarranted peril because guardians of law destroy the human rights by custodial violence and torture and invariably resulting in death. Unless stern measures are taken to check such deaths , the foundations of the criminal justice delivery system would be shaken and the civilization itself would risk the consequence of heading , towards total decay resulting in anarchy and authoritarianism reminiscent of barbarism. The courts must, therefore, deal with such cases in a realistic manner and with the sensitivity which they deserve , otherwise the common men may tend to gradually lose faith in the efficacy of the system of judiciary itself.

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**20.Protection of Women From Domestic Violence**

PURPOSE OF LEGISLATION: Domestic violence is undoubtedly a human rights issue and serious deterrent to development. The Vienna Accord of 1994 and the Beijing Declaration and The Platform for Action ( 1995) have acknowledged this. The United Nations Committee on Convention on All Forms of Discrimination Against Women ( CEDAW) in its General Recommendations No. XII( 1989) has recommended that State Parties should act to protect women against violence of any kind especially that occurring within the family. The phenomenon of domestic violence is widely prevalent but has largely remained invisible in the public domain. Before the enactment of the PROTECTION OF WOMEN FROM DOMESTIC VIOLENCE ACT , 2005, , where the woman was subjected to cruelty by her husband or her relatives, he was tried under Section 498 A of the Indian Penal Code. The civil law did not address itself to this phenomenon in its entirety. The law on the subject has been enacted keeping in view the rights guaranteed under Articles 14, 15 and 21 of the Constitution to provide for a remedy under the civil law which is intended to protect the woman from being victims of domestic violence in the society.

CONTENTS OF LEGISLATION: It defines “shared household “ under section 2(s) and covers those woman who are or have been in a relationship with the abuser where both parties have lived together in a shared household and related by consanguinity, marriage or through a relationship in the nature of marriage or adoption. In addition, relationships with family members living together as a joint family are also included. Even those women who are sisters , widows, mothers, single women, or living with the abuser are entitled to protection. Act enables wife or female living in a relationship in the nature of marriage to file a complaint against any relative of the husband or the male partner, it does not enable any female relative of the husband or the male partner to file a complaint against the wife or the female partner. Section 3 defines the expression “ domestic violence” to include actual abuse or threat or abuse that is physical, sexual, verbal, emotional or economic. Harassment by way of unlawful dowry demands to the woman or her relatives is also covered under the definition of domestic violence. Section 17 provides right to reside in a shared household. It provides for the rights of a woman to secure housing . It also provides for the right of a woman to reside in her matrimonial home or shared household., whether or not she has any title or rights in such home or household. The right is secured by a residence order, which is passed by the Magistrate. Section 18 empowers the Magistrate to pass protection orders in favor of the aggrieved person to prevent the respondent from aiding or committing an act of domestic violence or any other specified act, entering a workplace or any other place frequented by the aggrieved person, attempting to communicate with her , isolating any assets used by both the parties and causing violence to the aggrieved person, her relatives or others who provide her assistance from domestic violence .Section 21 makes provision for custody orders and compensation orders ca n be passed under section 22. The Act provides for appointment of Protection Officers and registration of non- governmental organizations as service providers for providing assistance to the aggrieved person with respect to her medical examination, obtaining legal aid, safe shelter etc.

CONCLUSION: The PROTECTION OF WOMEN FROM DOMESTIC VIOLENCE ACT , 2005, is a beneficial legislation and has played an important part as an instrument of social control. With the enactment of the statute , there is decline in the violence in domestic relationship due to the stringent punishment provided under Act depending upon gravity of the offence committed . It has checked to a great extent the extortion of money demands from the side of the husband from the wife or her relatives .

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**21.Right to Information**

**SOURCE OF THE RIGHT** : Now , the Right to Information Act, 2005 has been enacted with an object to provide for setting out the practical regime of right to information for citizens to secure access to information under the control of public authorities. This right has been conferred in order to promote transparency and accountability in the working of every public authority. The main task achieved by this enactment is that democracy requires an informed citizenry and transparency of information which are vital to its functioning and also to contain corruption. The governments and their instrumentalities have been held accountable by the Act. Whereas revelations under the Act is likely to conflict with other public interests including efficient operations of the Governments , a balancing is necessary to harmonise these conflicting interests while preserving the paramountcy of democratic ideal as well to ensure that rights under the Act are not withheld by the Government in the guise of the Public Interest. The basic idea behind the Act is to furnish certain information to the Citizens who desire to have it.

**MEANING OF RIGHT TO INFORMATION**: Information under Section 2(f) of the Act means any material in any form, including records ,documents, memos, e-mails, opinions, advices, press releases, circulars, orders logbooks contracts, reports, papers , samples, models, data material held in any electronic form and information relating to any private body which can be accesses by a public authority under any law for the time being in force. Section 2(j) of the Act defines ‘Right to Information’ which means the right to information accessible under the Act which is held by or under the control of any public authority and includes the right to(i) inspection of work, documents, records, (ii)taking notes, extracts or edified copies of documents or records,(iii) taking certified samples of material (iv) obtaining information in the form of diskettes ,floppies ,tapes, vdeo casettes or in any other electronic mode or through printouts where such information is stored in a computer or in any other device. The Right of Information has been conferred on all the citizens of the Country.

 **REQUEST FOR OBTAINING INFORMATION** : Under Section 6 of the Act, for obtaining information , a person has to make a request in writing or through electronic means in English or Hindi or in the Official language of the area, with the prescribed fee, to the Central Public Information Officer or State Public Information Officer of the concerned public authority, or to the Central Assistant Public Information Officer or State Assistant Public Information Officer, as the case may be. Under section 7 of the Act, the concerned Officer on receipt of the request under section 6 shall as expeditiously as possible , and in any case within 30 days of the receipt of the request, either provide the information on payment of such fee as may be prescribed or reject the request for any of the reasons specified in Sections 8 and 9. If the information sought concerns the life or liberty of a person , the same shall be provided within 48 hours of the receipt of the request. Section 20 of the Act has made provision for imposition of the penalty if any Central Public Information Officer or State Public Information Officer, as the case may be , has without any reasonable excuse , refused to receive an application for information or has not furnished information within the specified time or malafidely denied the request for information or knowingly given incorrect , incomplete or misleading information or destroyed information which was the subject of request or obstructed in any manner in furnishing the information, a penalty of two hundred and fifty rupees each day till application is received or information s furnished , so however,, the total of such penalty shall not exceed twenty-five thousand rupees shall be imposed on that officer. There is a provision of appeal to an Officer higher in rank. No Court can entertain any suit, application or other proceedings in respect of any order made under the Act.

 **CONCLUSION**: This piece of legislation has worked wonders & has given an example of effective and fruitful legislation. What used to be hidden from the citizens has been made accessible by the Act. The principle of accountability of the concerned officer & imposition of penalty for wrongs of the concerned Officer is an eye-opener for the legislation to incorporate in other legislations also wherever required.

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**22. Crime and Punishment**

Law demands that no innocent person shall be punished let thousands of
criminals be set free. Social order is that guilty should be brought to book,
fairly tried and punished by procedure established by law. Law means not only
written law but also includes law as interpreted by the Courts. Courts are the
best custodians & saviors of law and society. It is true that guilty should
not be allowed to go scot free. Guilty should be punished under prevailing law
in proportion to the crime committed. Particular criminal statute under which
the guilty is punished prescribes the term of punishment.

Some of the offences are personal and relating to family and personal
matters. Other offences are societal and economical. Some of the offences are of
trivial nature inviting little or no punishment and can be pardoned either due
to compromise between the parties or by imposition of little fine provided the
courts are assured that the offences will not be repeated by the offenders in
future. Other offences are of heinous nature & in cases like murder
punishment is awarded up to death penalty can be imposed. Courts are normally reluctant to award death penalty. Normally in heinous crimes only sentence of
life imprisonment is awarded but there are some cases placed in category of
“rarest of rare cases” in which death penalty are awarded.

The underlying idea behind the punishment is reformative part of sentencing
policy. In modern day focus is on reformative aspect instead of condemning a
criminal. Award of harsh punishment acts as a big deterrent for crime control in
Society. It is only fear of stringent punishment which acts as an eye opener for
future offenders various criminal statutes are: Indian Penal Code, Criminal
Procedure Code, Prevention of Corruption Act, Domestic Violence Act, Narcotic
Drugs and Psychotropic Substances Act, Prevention of Trafficking in Women &
Child Abuse Act, Prevention of Food Adulteration Act, and Dowry Prohibition Act
& Contempt of Courts Act etc.

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**23. Terrorist attack on Delhi High Court**

**Background**:In the last decade , when the Terrorists attacked World Trade Centre, in theUnited States popularly known as 9/11 attack, the terrorism has been adopted as a means to meet the demands of the terrorists.Terrosrist believe that by horror killings of innocent people, the Governmebnts can be forced to be bowed down to succumb to their pressures.Despite the lives of the innocent people being involved, terrorism has not been allowed to raise its ugly head. Terrorist acts by terrorists are acts of desparation & frustration. Terrorists know no other way to get their demands met except resorting to violent means.
Present blast:India is also becoming target of terrorists in recent past. Indian Parliament was attacked by Terrorists in 2001 convicting one Afzal Guru to death sentence. Responsibility of the present blast is owned by HARKAT -UL- JEHADI- ISLAMI claiming terror bombing for the release of the convict Afzal Guru . Present bomb blast on delhi High Court on 7th September, 2011 is the second in quick succession just within 100 days of the earlier mild attack, resulting in 11 deaths and 72 injuries.Present attack is the third worst terrorist strike since Nov. 2008 Mumbai attack.Number of terrorist attcks on the Capital since 1997 has gone upto an alarming 30.Present attack in Delhi is 19th attack in Delhi in 15 years. Attack on Delhi High Court has shocked the legal community as well as the common man . Attack on Citadel of Justice is antithesis of Rule of Law & cannot be tolerated by any Civil Society.
Consequences: Terrorism is a crime that affects all.India is a peace loving Country believing in SECULARISM which teaches tolerance towards all RELIGIONS. Any sort of efforts to create hatred among any sections of Society is not permitted under our Constitution .Freedoms guaranteed whether of Speech, assembly ,or of religion are not absolute under our Constitution. All Art. 19 freedoms can be curtailed or restricted in public interest. Lawful demand of any group can be met only by lawful means. Anybody indulging in criminal activities or any Organisation supporting them is bound to be punished by law of the land.

**Conclusion**: Terrorist attacks on Governmental Institutions are of senseless violence exposing loopholes in security system which has an inadequate and incapable intelligence atrocities gathering system and a weak counter-terrorism mechanism. Had CCTvs been installed in Delhi High Court as planned , there was remote possibility of the criminal act being repeated. Such acts are condemnable by all sections of Society and affirms that our shared struggle continues against those who would commit such attrocities. Law has its deterrent effect & strong and stringent measures are the need of the day to Counter such efforts in future. Such acts are eye-openers for the future & we all concerned have to find ways and means to combat such repetitions. A strong United Nations is the need of the day to counter terrorism & deterrent measures are to be adopted by it to counter the TERRORISM which has assumed an international stature to protect all humanity and their well preserved HUMAN RIGHTS. The United Nations must see to it that the faith of the humanity should not be shattered due to its inactiveness & inactions. If United Nations finds it impossible to counter terrorism , then the time has come to replace it by an alternative &efficacious NEW WORLD BODY on the pattern of United Nations

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**24. Right to Die- A Questionable Right**

**Meaning of Right to life**:There are two groups of thoughts as regards right to die -one favouring it & another strongly opposed to it. Right to life has been covered under Art. 21 of the Indian Constitution . Article 21 is a provision guaranteeing protection of life and liberty. Right to life is a natural right embodied in Art. 21. Word " life" in Art. 21 has been construed as life with human dignity. any aspect of life which makes it dignified may be read into it but not that extinguishes it. ' Right to life 'including right to live with human dignity would mean the existence of such a right upto the end of natural life . This also includes right to a dignified life upto the point of death including a dignified procedure of death. In other words, this may also include the right of a dying man to also die with dignity when his life is ebbing out. Abetment of suicide and attempt to suicide are two distinctive offences.
**Protagonists of Right to die**: As per the supporters of the concept that one has a " right to die", they believe that suicide is intentional taking of one's life . different methods are adopted in committing suicide. Morality has no defined contours and it would be too hazardous to make a bald and bold statement that commission of suicide is per se an immoral act. If human acts can be treated inhumanely, charge of morality should not be levied if such human beings think that it would be better to end the wretched life instead of allowing further humiliation or torture There is secularisation of suicide . Every individual enjoys freedom of religion under our Constitution. Protagonists believe that there is nothing against religionin what he does. Self killing is conceptually different from abetting others to kill themselves . They stand on different footing, because in one case, a person takes his own life and in the other , a third person is abetted to take his life.Euthansia is not much unrelated to act of committing suicide in as much as whenever passive euthansia has been held to be permissible under the law, one of the requirements insisted is cosent of the patientor of his relations in case the patient be not in position to give voluntary consent Justification for allowing persons to commit suicide is not required to be played down or cut down because of any encouragement to persons for " legalization of mercy killing".

**Opposition to Right to die**: " Right to life" is a natural right embodied in Art. 21 but suicide is an unnatural termination or extinction of life and therefore, incompatible and inconsistent with the concept of ' Right to life'. when a man commits suicide , he has to undertake certain positive acts and genesis of those acts cannot be traced to, or be included within the protection of the " Right to life" under Art. 21. The significant aspect of sanctity of life is not to be overlooked. There is no similarity in the nature of other rights, such as the 'right to freedom of speech' etc. to provide a comparable basis to hold that the ' Right to life' also includes the ' Right to die' with dignity at the end of life is not to be confused or equated with the ' Right to die' an unnatural death curtailing the natural span of life. A question may arise , in the context of a dying man, who is, terminally ill or in a persistent vegetative state that he may be permitted to terminate it by a premature extinction of his life in those circumstances.

**Conclusion**: Any aspect of life which marked it dignified may be read into it but not that which extinguishes it and is, therefore, inconsistent with the continued existence of life resulting in effacing the right itself. Suicide is a social menace & punishment provided under law acts as a big deterrent against its commission. What is forbidden under law can not be allowed or permitted under the guise of inhumane treatment in society. Suicide is a disease which can not be allowed to permeate the fabrics of the Society.

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**25.Recognition of Live-In -Relationship in India**

**Recognition of concept** :Of late the Apex Court in India has recognized the concept of live-in-relationship . What in legal parlance is meant by this relationship ? Now the wiling partners irrespective of any religion, caste or creed can join and live with a partner of his or her choice. After having lived as per the terms of agreement, the partners can separate from each other without any sort of liabilities of the sharing partners. The idea of “ live-in-relationship” has commonly been recognized as “ easy to walk-in & easy to walk –out” sort of arrangement. What used to be immoral in the earlier past has now been stamped with legality. The Supreme Court has given recognition to this flexible concept keeping in view the changing patterns in India Societies. This relationship has been recognized as a step short of marriage. If the partners are willing to continue the relationship for a healthy length of time , it can assume the status of marriage though in the initial stages it was never meant to ne marriage by the sharing partners.

**Legal Implications**: The willing partners still share the house-hold in the domestic relationship and are almost governed by same set of legal principles as in case of marriage . Law relating to maintenance, legitimacy of the children, devolution of property whether testate or intestate have been made applicable to “ live-in-relationship” partners also by judicial pronouncements of the Highest Court. The Court has provided a via media or a way out for easy separation in case there is no compatibility between the willing partners. This way has been provided by the Courts to save the lives of the people which used to be wasted through litigations because in the earlier set-up, once you get married you could only be separated by recourse to a court of law which used to take decades for deciding the disputes. There was no point in continuing such marriages which had already broken down & there was no possibility of reconciliation between the warring spouses . Cases are abundant when the matters were pending in the courts. Possibility of extra marital relationships were not ruled out due to longevity in decision making by the Courts. In the modern day times with access made so easy , the concept got recognition with a sigh of relief for those who are not willing to continue the domestic relationship further. The law and the Courts have not restrained them from separating from each other & to have further continuance of relationship with a new partner. The recognition of live-in-relationship by the Courts can be covered under yet another significant right recognized under our Constitution namely “ Right to Privacy” under its Art. 21 by which is meant that the sharing partners have their inviolate personality & have been left free in decision making without State interference .

**Need of the time** : With the recognition of live-in-relationship by the Courts in India, the institutions of marriages in all the religions have received a big set back. Despite its recognition by the Apex Court, full absorption of the concept in all sections of the society will remain a cherished dream. For the time being this relationship may serve only the higher echelons of society . No doubt law is plays a very important role in social change . Need of the day is a separate comprehensive law on the subject covering all aspects of the relationship & keeping in mind the all ages. Indian Society in the past is known for suffering in marital relations & effort had been made to continue the marital ties with a firm dedication that the marriage relationship ought not to break come whatever may. But with this the recognition of principle of live-in-relationship by the Courts in India , plurality of sexual relationships are not ruled out . All –in-all , it is a big set back to & quite in opposition to the “sacrosanct “ view of Hindu life.

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**26.Marriage & Divorce Problems**

“ Marriage and Divorce problems” focusses on knowing the root causes of matrimonial discords & the ways out of their resolutions by counseling etc. These problems are everywhere in all the personaland family laws of all religions namely Hindus, Muslims , Parses etc. There are common problems among various communities in their family & matrimonial relations . The suggestions for separations, divorce etc. have been made only when all conciliatory efforts for amicable settlement of the dispute fails. The resort to the Courts for seeking matrimonial relief is only in the last .Firstly the efforts are made to reconcile the dispute through Gram Panchayats ( Village forum) in case of villagers, family friends , relatives & mediators in case of villagers as well as for others. With the breakup of the Joint families & the inclination of the society towards nuclear one, is the root cause of all matrimonial troubles. The families have become smaller and smaller in modern day societies with little or no control of the elderly members in the original family of the spouses.

While settling the issues of matrimony, it is not only living separate of the spouses which is material but other equally important issues are relating to maintenance of the spouses and their children, custody of the children & future prospects of leading a harmonious life assume equal importance. Divorced or separated persons are not debarred from remarrying either with each other or with other partners. Entering and ending the matrimony has been facilitated by the Computers. Internet access to the prospective marrying couples as well for separating couples has eased to some extent the matrimonial problems. Now through matrimonial forums , the prospective marrying couples have a wide range to choose from.

Of late, Judicial recognition of Live-in-relationship by the Courts have added fuel to the fire. Live-in-relationships are judicially placed short of marriages while retaining all other rights namely maintenance of the spouse as well as of the child, custody related problems & succession & inheritance rights etc. Devolution of the properties in the families of the spouses have not allowed to be affected by Live-in-relationships. Such relationships have been given judicial recognition keeping in view the social trend . Friend making has been borrowed from the Western countries even in Countries like India where social norms used to be different from the West. What used to be immoral has been given judicial recognition. Now the partners have been permitted to live together & then get separated if they wish without any legal wrangles & complications. By Live-in-relationships , the courts have stamped “ easy to walk-in & easy to walk –out” of the matrimony.

Some of the important legislations covering the matrimonial matters are : Hindu Marriage Act, Muslim Personal Law, Parsi Marriage Act, Special Marriage Act ( for inter-caste & inter-religious marriages) . For Hindus legal marriages can be performed traditionally, through Courts, Arya Samaj Marriages through legally recognized Arya Samaj Temples etc. Muslims recognize marriage performed before Kazi. For Christians, marriages can be performed in Churches . One can adopt any of the forms of marriages. Legislations are adequate to safeguard the rights and liabilities whether for marriages or for Live-in- relationships.