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THE PINK TAX

EDITION III

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INTERNATIONAL LAW

THE ISRAEL-HAMAS CONFLICT AND INTERNATIONAL LAWS

Soumyajit Patra
Reviewed by Samiksha Biswakarma

The Israel-Hamas conflict, entrenched in historical disputes since the 1948 Arab-Israeli War, recently intensified with the 2023 Israel-Hamas War. Rooted in territorial disagreements and exacerbated by events like the 2006 Hamas victory, the conflict involves allegations of war crimes by both parties. The article delves into the impact on civilians, the role of international law, and the contentious allegations of war crimes against both Israel and Hamas. International law, especially international humanitarian law (IHL), is pivotal, with both parties facing allegations of war crimes. The ICC, UN resolutions, and national jurisdictions are invoked for investigations, though challenges like contested ICC jurisdiction persist.

The Roots of the Rivalry

Let's start by going back in time the longstanding conflict between Israel and Hamas dates back to the aftermath of the 1948 Arab-Israeli War, which led to the establishment of the State of Israel. Over the years, tensions escalated through events like the 1967 Six-Day War, the First and Second Intifadas, and the 1982 Lebanon War. In 2006, Hamas won the Palestinian legislative election, leading to internal conflicts and a subsequent blockade on Gaza by Israel and Egypt, exacerbating the humanitarian situation. The Oslo Accords in the early '90s aimed for peace but faced obstacles with the Second Intifada and further clashes. Territorial disputes center on the Israeli occupation of Palestinian territories, including the West Bank and Gaza Strip, since 1967. While Israel withdrew from Gaza in 2005, a blockade persists, contributing to economic decline and severe humanitarian issues. The core issues involve land disputes, settlement expansions, control over borders, and the contested status of Jerusalem. The 2023 escalation, marked by the Israel-Hamas war, was influenced by historical grievances, settler violence, and the blockade, leading to widespread destruction, casualties, and international calls for a ceasefire. The conflict's complexity stems from historical events, ongoing disputes, and competing narratives, making a comprehensive resolution challenging.

The Recent Escalation of the Conflict

We all know that the recent escalation in violence between Israel and Hamas was triggered by the 2023 Israel-Hamas War, initiated by a surprise attack launched by Hamas-led Palestinian militant groups on southern Israel from the Gaza Strip on October 7, 2023.

Termed "Operation Al-Aqsa Flood," the attack involved rocket barrages on Israel and thousands of militants breaching the Gaza-Israel barrier to target Israeli communities and military bases. This marked a significant military escalation, reminiscent of the Yom Kippur War fifty years prior. The impact on civilians has been devastating, with casualties numbering 1,139, including 766 civilians, during the initial Hamas offensive. Israel responded with "Operation Swords of Iron," involving an extensive aerial bombardment campaign and a large-scale ground invasion. The ongoing conflict has led to widespread destruction of infrastructure, severe humanitarian crises, and a staggering death toll. Gaza has seen 23,357 Palestinians killed, including 17,000 women and children and 112 journalists. Approximately 500,000 Israelis and almost the entire 2.3 million population of Gaza have been internally displaced. The scale of destruction, coupled with a collapsing healthcare system, shortages of essential supplies, and allegations of war crimes, underscores the dire consequences of this recent escalation.

International Law and Conflict

As we are well aware of all that happened, let's get to the legal bit. In the Israel-Hamas conflict, the principles of IHL are pertinent. One fundamental principle is the Equal Application Principle, which emphasizes that the laws of war apply equally to all belligerent parties. Regardless of the circumstances, both Israel and Hamas are bound by the rules set out in IHL treaties and customary international law. Critical aspects of IHL include the protection of civilians, proportionality in military actions, and the distinction between combatants and non-combatants. Common Article 3 of the Geneva Conventions sets out minimum standards prohibiting murder, Cruel treatment, and torture, providing protections for civilians and combatants no longer engaged in hostilities Proportionality, another crucial principle, dictates that combatants must avoid military attacks that harm civilians more than the anticipated military gain. Violations of these principles can be considered war crimes, subject to legal consequences. The United Nations (UN) resolutions also play a vital role in addressing conflicts. c While not a direct source of international law, UN resolutions can influence the international community's perception and response. Relevant resolutions concerning the Israel-Hamas conflict may include calls for ceasefires, humanitarian access, and peaceful negotiations.

The International Criminal Court (ICC) is another avenue for addressing violations of international law. The ICC has jurisdiction over war crimes, and in 2015, Palestine acceded to the ICC, allowing it to investigate and prosecute crimes committed in the region. The International Criminal Court (ICC) is another avenue for addressing violations of international law. The ICC has jurisdiction over war crimes, and in 2015, Palestine acceded to the ICC, allowing it to investigate and prosecute crimes committed in the region.

Allegations of Wrongdoing: War Crimes

The following are the allegations-

Rocket Attacks: Hamas has been accused of launching thousands of rockets at Israeli towns, targeting civilians, which is a clear violation of IHL principles prohibiting attacks on non-combatants.

Border Incursion: Sending gunmen across the border from Gaza, Hamas attacked and killed civilians in their homes, an act constituting war crimes.

Airstrikes and Blockade: Israel's military response involved extensive airstrikes on Gaza, with critics arguing that some may have disproportionately harmed civilians. The blockade, restricting the delivery of essential goods, raises concerns about collective punishment, potentially violating IHL.

Palestinian Accession: Palestine joined the ICC in 2015, allowing investigations into alleged war crimes. The ICC asserted jurisdiction over crimes committed in Gaza, a move contested by Israel.

Calls for Investigations: The UN has called for investigations into potential violations by both parties. Independent commissions have been proposed to assess the conduct of all involved.

Contested Jurisdiction: The ICC's jurisdiction over Gaza is disputed by Israel, posing challenges to the court's ability to hold individuals accountable.

In summary, allegations of war crimes against both Israel and Hamas have triggered international calls for investigations and accountability. The ICC, UN, and national jurisdictions play roles in assessing and potentially prosecuting those responsible, though challenges persist, including jurisdictional disputes.

Conclusion

Decades of historical friction have led to the Israel-Hamas war, which just erupted into the catastrophic 2023 Israel-Hamas War. The conflict, which dates back to the aftermath of the 1948 Arab-Israeli War, is about border control, settlement expansions, and territory disputes. It has been made worse by incidents like the 2006 victory of Hamas and the ensuing siege. A surprise strike by Hamas on southern Israel during the most recent escalation resulted in extensive destruction and deaths. Given that both sides are accused of committing war crimes, international law- in particular, international humanitarian law (IHL)- plays a critical role. Investigations can be conducted through the ICC, UN resolutions, and national jurisdictions, yet difficulties such as disputed ICC jurisdiction still exist.

A comprehensive resolution to the conflict is still challenging because of the underlying historical grievances and current conflicts that have contributed to its complexity. This highlights the urgent need for international attention and diplomatic efforts to address this persistent problem.

SECURING CYBERSPACE: NAVIGATING GLOBAL CHALLENGES IN GOVERNANCE AND INTERNATIONAL LAW

Adrija Hazra and Agam Tandon
Reviewed by Shreya Doneriya

In the 21st century, escalating cyber threats amid technological progress necessitate global efforts for secure cyberspace governance. The digital revolution has reshaped societies but introduced vulnerabilities, with state-sponsored attacks and transnational cybercrime challenging global security. This article explores the intricate landscape, addressing challenges like the absence of unified governance, technological complexity, and the delicate balance between security and privacy. Global initiatives, including UN efforts and international treaties, aim to fortify cybersecurity governance. The role of international law is crucial, providing a legal framework for responsible behavior and human rights protection. Ongoing collaboration and adaptability are imperative for building a resilient global cyberspace.

Introduction

In the 21st century, the world stands at the crossroads of unparalleled technological progress and escalating cyber threats, necessitating the imperative of secure cyberspace governance for nations globally. The transformative impact of digital technologies has reshaped societal functions, economic operations, and international interactions. However, this digital revolution has concurrently introduced vulnerabilities, with state-sponsored cyber-attacks, transnational cybercrime, and the proliferation of malicious actors challenging global security. The borderless nature of cyberspace accentuates its interconnectedness, blurring traditional geopolitical boundaries and distinctions. A breach in one corner of the world can resonate globally, compromising critical infrastructure, jeopardizing sensitive information, and eroding trust in the digital economy. As nations grapple with evolving cyber threats, the crucial demand for robust governance structures and internationally accepted legal frameworks becomes evident. This article delves into the intricate landscape of cyber threats, examining multifaceted challenges and promising opportunities in establishing effective global governance and international laws to fortify cyberspace. From the intricacies of attribution to the complexities of divergent national interests complicating regulatory endeavors, the journey to secure the digital realm requires navigating a terrain characterized by constant evolution and technological dynamism.

The Evolving Threat Landscape

The multifaceted nature of cyber threats poses challenges to individuals, organizations, and nations worldwide. Here are some key aspects of the evolving threat landscape:

- **State-Sponsored Cyber-Attacks**: Nation-states are increasingly leveraging cyberspace as a tool for achieving strategic objectives. State-sponsored cyber-attacks can range from espionage and information warfare to sabotage of critical infrastructure.
- **Organized Cybercrime**: The rise of organized cybercrime syndicates has created a thriving underground economy. These criminal groups engage in activities such as ransomware attacks, financial fraud, and the sale of stolen data on the dark web. Cybercriminals often collaborate across borders, making it challenging for law enforcement to track and prosecute them effectively.
- **Non-State Actors and Hacktivism**: Non-state actors, including hacktivist groups, engage in cyber activities to advance ideological or political agendas. These attacks can manifest as website defacements, distributed denial of service (DDoS) attacks, or data breaches. Hacktivism blurs the lines between political activism and cybercrime, presenting unique challenges for attributing attacks and determining motives.
- **Emerging Technologies and Threats**: As technologies such as artificial intelligence (AI) and quantum computing advance, new possibilities for both offensive and defensive cyber capabilities emerge. Threats associated with deepfakes, AI-driven attacks, and the potential vulnerabilities in quantum-resistant cryptographic systems pose future challenges that demand ongoing research and preparedness.

Challenges in Cyberspace Governance

Cyberspace's decentralized governance challenges arise from the absence of a universal authority, hindering the formulation of enforceable rules. Diverse national approaches complicate the creation of a unified framework that caters to all stakeholders. The swift evolution of technology, including AI and quantum computing, necessitates agile governance structures. Striking a balance between robust cybersecurity and individual privacy is critical, as enhanced surveillance measures raise concerns about unwarranted data intrusions. Achieving this equilibrium is vital for fostering public trust in cyberspace governance initiatives. The shortage of skilled professionals poses a hurdle for many countries in building effective cybersecurity governance. Addressing these challenges requires international efforts, including knowledge-sharing, training programs, and collaborative initiatives to strengthen global cybersecurity governance. Developing responsive frameworks and bridging skill gaps are essential steps in navigating the dynamic and complex nature of cyberspace governance.

Efforts Towards Global Cybersecurity Governance

- United Nations (UN) Initiatives: The UN has been at the forefront of efforts to address cybersecurity challenges through various initiatives. The Group of Governmental Experts (GGE) on Developments in the Field of Information and Telecommunications in the Context of International Security is one such platform. GGE reports have provided valuable insights into responsible state behaviour in cyberspace, outlining norms and recommendations for preventing conflict and ensuring stability.
- **The Budapest Convention on Cybercrime**: known as the Council of Europe Convention on Cybercrime, aims to harmonise national laws and facilitate international cooperation in investigating and prosecuting cybercrime. Adopted in 2001, the convention promotes the development of effective legal frameworks and encourages countries to collaborate on combating cyber threats.
- **The Paris Call for Trust and Security in Cyberspace**: Launched in 2018, the Paris Call is a multi-stakeholder initiative that brings together governments, the private sector, and civil society to enhance international cooperation in cyberspace. Participants commit to a set of principles, including protecting against cyber-attacks on critical infrastructure and promoting responsible behaviour in cyberspace.
- **Global Commission on the Stability of Cyberspace (GCSC)**: The GCSC is an independent organisation dedicated to developing norms and policies to enhance the stability and security of cyberspace. The Commission brings together experts from various fields to provide recommendations on issues such as norms of behaviour, capacity building, and the protection of critical infrastructure.

The Role of International Law

International law plays a critical role in shaping the governance of cyberspace, providing a legal framework to navigate the complexities of the digital realm. The Tallinn Manual, a comprehensive analysis by legal experts, interprets existing international law in the context of cyber operations, offering guidance on state responsibility and attribution of cyber incidents. While there is no dedicated treaty for cyberspace, various international agreements, diplomatic dialogues, and initiatives like the UN Group of Governmental Experts contribute to the development of norms for responsible state behaviour. The United Nations Charter and principles of collective security extend to cyberspace, emphasising the prohibition of the use of force and the collective response to threats. Human rights protections are integral, ensuring that individuals enjoy rights online equivalent to those offline. As the international community works to address the evolving threats, the role of international law remains central in fostering stability, preventing conflicts, and establishing norms for a secure and cooperative digital future.

Conclusion

In conclusion, the 21st-century digital landscape demands a collaborative approach to address escalating cyber threats. The transformative impact of technology introduces vulnerabilities, from state-sponsored cyber-attacks to organised crime and emerging technologies. Governance challenges include the lack of a unified structure, technological complexity, and balancing security with privacy concerns. Global initiatives like UN efforts, the Budapest Convention, the Paris Call, and the Global Commission on Cyberspace Stability represent strides, yet challenges persist. International law, exemplified by the Tallinn Manual, guides responsible state behavior and attribution. As the international community navigates this evolving landscape, the role of international law remains crucial, fostering stability, preventing conflicts, and establishing norms for a secure and cooperative digital future. Ongoing collaboration and adaptability are imperative for building a resilient global cyberspace.

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GENDER JUSTICE AND FEMINIST JURISPRUDENCE

BEYOND THE BLUSH: THE PINK TAX PREDICAMENT

Bhavya Singh
Reviewed by Shreya Doneriya

The Pink Tax, a sneaky pricing tactic that's quite common in the world of shopping, is when companies charge more for items and services that are targeted towards women compared to similar things meant for men. This article dives deep into the many sides of the Pink Tax, looking at how it shows up in personal care stuff, clothes, and even toys for kids. Besides just being about money, the Pink Tax keeps gender stereotypes alive and well, making it even harder to reach real gender equality. The article also looks into the continuous initiatives in consumer advocacy and legislative actions to tackle this problem, with a focus on the importance of raising awareness and promoting education. In the end, getting rid of the Pink Tax entails a culture change that questions long-held gender expectations and promotes a consumer environment where fairness and equality triumph over unfair pricing methods.

In the vast array of options available to consumers, where each product adds its own touch to the mosaic of our everyday existence, a delicate but harmful trend emerges—a trend that goes beyond the attractive packaging and fashionable designs to expose an unseen imbalance called the "Pink Tax." This is not just a simple pricing tactic; it is a complex occurrence that unfairly impacts women in the realm of commerce. The purpose of this article is to delve into the intricate details of the Pink Tax, unveiling its various forms, consequences, and the cultural foundations that uphold it. Imagine this: you leisurely walk through the different sections of a grocery store, looking for products to take care of yourself. The shelves catch your eye with their colorful packaging, offering you the promise of smooth and glossy hair or precise shaving. However, hidden beneath the surface of this perfect world of consumerism is a disparity in pricing that often goes unnoticed. It's strange how the razor marketed towards women, with its soft pastel colors and delicate design, ends up being more expensive than the simple and practical one meant for men. Does the increase in price come from the beauty of the design, the comfortable handle, or the belief that a gentler touch is necessary? The answer, hidden within the complexities of marketing targeted toward specific genders, refers to the Pink Tax.

According to a 2015 study by the New York City Department of Consumer Affairs, women's products are generally more expensive than men's products, but there's no good reason why. The study concluded that products designed specifically for women cost an average of 7 percent more than products designed for men. This diversity includes clothing, toys, and healthcare products, among others. The biggest difference is in personal care and grooming products, where women's products are 13% more expensive than men's products. Many countries have explored the red tax, including Argentina, France, Germany, the United Kingdom, Australia, and Italy.

For example, in the United Kingdom, women and girls spend an average of 37% more than men on toys, cosmetics, and clothing. In the UK, girls' clothes are 12% more expensive than boys' clothes. A survey of 10 companies by the Singapore Sunday Times found that women in half paid more for certain products and services, such as dry cleaning and shaving. Singaporean women will also have to pay more for Careshield Life, the government's national long-term care insurance scheme. Even though such a gender-biased marketing technique is violative of women's rights, it is still very much legal in most countries, including India
.

On the worrisome part, many women are not even aware of the extra price that they have been paying for decades. This discrimination is still not taken as a real problem, as it is so well embedded in our minds that we don't see a problem in paying extra. The "pink tax" on clothing not only makes things difficult; it also shows subtle changes hidden in our client's environment. The plain white T-shirt, once a symbol of simplicity, has become the canvas for the complexity of sexual value.

As we continue to explore the many layers of the Pink Tax, the sartorial field reveals the competitive dance between fabric, fashion, and expectations of femininity-based pricing bias isn't confined to adulthood; it infiltrates childhood through toys and accessories. Walk down the toy aisle, and the Pink Tax reveals itself in the pricing of toys marketed towards girls, often priced higher than their male-targeted counterparts.

This practice not only impacts parental wallets but also subtly reinforces societal expectations about the perceived value of products based on gender, laying the foundation for ingrained gender norms from an early age. Yet, the consequences of the Pink Tax extend beyond the immediate financial burden on consumers. Its cumulative effects contribute significantly to the gender wealth gap, hindering women's financial independence over a lifetime.

The extra dollars spent on identical products over the years could have been redirected towards investments, education, or savings, thereby perpetuating economic inequality between genders.

In response to the inequity embedded in the Pink Tax, consumer advocacy groups and legislators have taken steps to address this issue. Some US states have implemented laws limiting payment based on gender for certain services, such as dry cleaning. While these efforts are laudable, they only scratch the surface of a deeper, broader problem.

But eliminating the pink tax is not just a matter of legislative intervention; it needs social change. This phenomenon is rooted in long-standing gender norms and expectations that assign different values to objects based on the gender with which they were created. Challenging and reversing these patterns is a complex and ongoing process that requires collective action, learning, and cultural change. Pink Tax is more than a simple business; it is a social phenomenon. It shows the deep injustice done to our consumers. This is a call to action, asking consumers to clarify and businesses to re-evaluate their pricing strategies. It invites a closer look at the subtle ways in which gendered value perpetuates and exacerbates social inequality.

In conclusion, the insidious "pink tax" is woven into our consumers' diets and needs to be recognized and reformed. Beyond the appeal of packaging and design, there are price differences that place an unfair burden on women across the industry. From personal care products to children's toys, pink taxes are increasing social inequality and widening the gender wealth gap. Although legal measures are a step towards correcting the problem, the removal of the pink tax will require social change that affects gender norms and raises consumer awareness. There is a need for a call to action for consumers and businesses to re-evaluate and reject price discrimination as the way forward.

BREAKING THE SILENCE: UNVEILING THE REALITY OF WORKPLACE SEXUAL HARASSMENT IN INDIA

Agam Tandon
Reviewed by Samiksha Biswakarma

The article exposes the awful reality of sexual harassment at work in India, a widespread problem that is often shrouded in stigma and silence. Legal frameworks notwithstanding, underreporting is still pervasive and masks the actual scope of the issue. Vulnerability in particular demographics, cultural norms, and societal pressures compound the problem. Complete solutions are required due to the psychological and professional effects on survivors. The suggested measures encompass educational initiatives, compliance with legal protocols, corporate responsibility, and cultural sensitivity. It takes proactive measures, questioning social norms, and encouraging open communication to cultivate a harassment-free workplace. The article promotes a transition to progressive, inclusive workplaces that are harassment-free, acting as a catalyst for change.

Introduction

A troubling shadow hangs over the careers of countless people in the mosaic of India's professional environment, where ambition meets opportunity: **workplace sexual harassment**. This common problem, which is frequently shrouded in social stigma and silence, threatens the foundation of an inclusive and progressive workplace. To break through the layers of difficulties that support a culture of denial and silence, this article aims to shed light on the harsh realities of workplace sexual harassment in India. It is more important than ever to address workplace sexual harassment in India as the country's workforce diversifies and its economic landscape changes. The rate of harassment is still shockingly high despite legal frameworks designed to protect employees, hidden behind a web of societal norms, fear, and organizational ignorance. This article aims to be a catalyst for change by encouraging an overall awareness of the problem and creating a space where survivors are not burdened by silence. Let us go on a journey to face the uncomfortable realities that impede the development of safer and more equitable workplaces, from examining the cultural elements that lead to the underreporting of harassment to looking at the existing legal frameworks.

The Magnitude of the Issue: Unravelling the Scale of Workplace Sexual Harassment in India

A disturbing reality emerges in the busy hallways of India's professional spaces: the widespread and deeply ingrained problem of workplace sexual harassment. This issue, which affects people in many different industries and regions, is enormous in scope.

One must make their way through a complex web of systemic barriers, cultural complexities, and underreporting to fully appreciate the scope of this challenge.

1. **Underreporting and the Veil of Silence**: Understanding the extent of sexual harassment in the workplace is largely dependent on the notable underreporting of cases. Many victims choose to live with the suffering rather than risk the consequences of coming forward due to social stigma, fear of retaliation, and worries about professional repercussions. This underreporting hides the true scope of the problem in addition to encouraging an atmosphere of impunity. Victims often internalize their shame out of fear of social rejection and judgment. Due to the prevailing social situation, survivors may opt to put up with harassment in silence, seeing it as an unfavorable but unavoidable part of the workplace.
2. **Cultural Norms and Societal Pressures:** The narrative surrounding workplace harassment is significantly shaped by cultural factors. In India, there is a culture of silence regarding workplace sexual harassment due to deeply rooted cultural prejudices surrounding discussions of sexuality. Victims, especially women, are burdened with fears of being judged and facing professional consequences due to societal expectations and traditional gender roles. To break through this silence and establish truly inclusive workplaces, it is necessary to question established conventions and encourage open dialogue.
3. **Occupational Sectors and Vulnerable Demographics:** The ubiquity of sexual harassment in the workplace highlights the severity of the problem and shows that no workplace is spared. It's a widespread issue that calls for extensive action in every area of the workforce. Furthermore, the impact is amplified for specific demographics due to their vulnerability. Women, members of LGBTQ+ communities, and marginalized groups frequently experience increased risk. This calls for strict measures and nuanced approaches to support the victims.
4. **Psychological and Professional Impact:** The significant psychological and professional ramifications of workplace sexual harassment extend beyond the statistical data. The psychological consequences of the trauma go beyond the immediate experience and impact the survivors' overall state of mind. When victims of harassment change their career paths or, in the worst situations, quit the workforce entirely, it becomes a barrier to their ability to advance in their careers.

Addressing Workplace Sexual Harassment in India: Comprehensive Solutions

1. **Education and Awareness Programs**: A. Provide thorough training programs with an emphasis on inappropriate conduct to inform staff members about various kinds of sexual harassment. B. To guarantee a thorough understanding of the legal implications and consequences of workplace harassment, hold frequent workshops and sensitization sessions. C. Integrate these programs into the onboarding process and make them a regular component of ongoing professional development to help cultivate an awareness-based culture.
2. **Adherence to Legal Frameworks**: Employers need to be fully aware of all applicable national and local laws regarding sexual harassment in the workplace, including the Sexual Harassment of Women at Workplace (Prevention, Prohibition, and Redressal) Act, 2013, and the Vishaka Guidelines, which was developed by the Supreme Court in 1997, specifically address safer work environments, proactive measures to prevent harassment at work, the establishment of complaint committees, and disciplinary action. In addition to outlining reporting guidelines, definitions of harassment, and the consequences for violators, these laws also create thorough internal policies that are in line with the law.
3. **Corporate Accountability**: A. Create and provide Internal Complaints Committees (ICCs) with the authority to hear complaints in an unbiased and effective manner. B. Make sure the resolution process is transparent, that the actions taken to address reported incidents are communicated, and that there is a commitment to accountability.
4. **Cultural Shift and Sensitization**: A. Encourage a respectful and inclusive culture by putting a strong emphasis on zero tolerance for harassment through leadership initiatives. B. Train employees on diversity and inclusion to combat stereotypes and unconscious biases in the workplace. Promote open discussion about harassment by setting up spaces where staff members can express their concerns and share their experiences without fear of retaliation. C. Organizations can cultivate an atmosphere at work where sexual harassment is actively addressed and prevented by concentrating on these solutions, which will help them create a more proactive and supportive environment.

Conclusion: Nurturing a Harassment-Free Workplace

The issue of sexual harassment in the workplace in India is deeply ingrained in societal norms and cultural contexts, and it goes beyond statistics and legal frameworks. Because of social pressures, fear, and stigma, this widespread issue is frequently covered up by underreporting. Changing the way people view workplace harassment requires challenging societal norms, busting myths, and encouraging open communication.

Businesses, legislators, advocacy organizations, and individuals all need to work together to create a workplace free from harassment that has zero tolerance for harassment

In conclusion, breaking the silence means sharing a commitment to establishing progressive and inclusive workplaces. It entails tearing down obstacles that encourage harassment, fostering an environment of responsibility, and making sure people can pursue their professional ambitions in a safe, courteous, and harassment-free workplace.

CYBER SHIELD: UNVEILING THE SHADOWS OF SEXTORTION

Ananya Singh
Reviewed by Sanya

The threatening release of explicit, private, or embarrassing photos of a sexual nature without agreement is known as sextortion. This is typically done to obtain more images, sexual acts, money, or other items. Although this conduct has garnered more attention from the public, teens have not yet been the subject of a scientific investigation. By examining the prevalence of sextortion practices among 5,568 middle and high school children in the United States, a nationally representative sample, the current study closes this gap. Roughly 3% of students acknowledged threatening somebody who had shared an image with them in confidence, while 5% of students said they had experienced sextortion. Additionally, young people who threatened others were more likely to have been victims of sextortion firsthand.

Introduction

Portmanteauing the terms "sex" with "extortion," sextortion is a relatively new concept. Threatening another person with violence or any other form of harm is a common way for someone to take advantage of someone against their will. Sextortion is a type of exploitation in which victims—including minors and young adults—are forced to share sexual pictures or videos of themselves. Using threats to reveal the material to the public, the predator will utilize the photographs as leverage over the target.

Notwithstanding the grave consequences of this offense, there is a paucity of scientific data regarding sextortion. To investigate the offenses of 152 cyber sextortion perpetrators, content analysis of media articles and court records was conducted. To create a qualitative understanding of offenders who used cyber sextortion, characteristics of offenders, victims, demands, and tactics were identified and synthesized. Intimately violent cyber-sextortion offenders, minor-focused cyber-sextortion offenders, cybercrime cyber-sextortion offenders, and transnational criminal cyber-sextortion offenders were the four themes of offenders identified by the results based on the characteristics of the crimes. Policies about crime control may need to adjust due to the variety of online sextortion. Certain perpetrators are more likely to be captured and prosecuted based on the crime victim and approach. Additionally, there has not been any legislative action aimed against cyber-sextortion, which restricts victims' access to legal remedies. We address some of the difficulties that this crime poses for the criminal justice system and talk about how this work adds to the body of knowledge on cyber sextortion.

Defining and Understanding Sextortion

Sextortion is defined as the unlawful and coercive release of explicit, intimate, or degrading photographs under threat, usually in an attempt to get more pictures, money, sex, or other rewards. The fundamental principles of classic extortion, essentially threats of damage in exchange for something of value, align with this arrangement. When someone engages in sextortion, they run the risk of having their sexually explicit photo disclosed. The previously discussed elements of ransomware (where sexual content is held and used as leverage until the target does something the aggressor wants), fraud (where deception is frequently used to obtain the sexual content in the first place), and blackmail (the threat to share personal sexual content) are also pertinent.

While sextortion has not been thoroughly investigated in adolescence, it is a crime against minors that has been thoroughly examined throughout time. It might be an example of adolescent dating violence because the perpetrator could be a boyfriend or girlfriend.

As per the findings of the 2015 Youth Risk Behaviour Survey, which involved 9th to 12th graders in the United States, 11.7% of girls and 7.4% of boys reported having been victims of physical teen dating violence, while 15.6% of girls and 5.4% of boys reported being victims of sexual teen dating violence. Earlier research has indicated that 26.3% of kids in romantic relationships have experienced some “cyber dating abuse victimization” in the past year, supporting earlier exploratory works highlighting the reality that teens utilize technology to abuse their partners. For instance, if one partner tries to end the relationship, the loving partner can threaten to disclose sexual photos that were given in private or break into their partner's social network account, create a hate website to inspire others to make nasty remarks and tales or send demands for explanations in private messaging. It is important to separate revenge porn from sextortion, as the latter involves the unapproved sharing of graphic photographs and has also been under heavy criticism lately.

There is less slang for it: "nonconsensual pornography," which is the deliberate humiliation of someone by sharing naked photos online. Both revenge porn and sextortion are types of picture-based sexual abuse in which the primary tool of manipulation or injury is an intimate or explicit image. Sextortion is often private, whereas revenge porn is more likely to be public. This is the main distinction between the two. Whereas the aggressor in sextortion is trying to obtain something valuable from the target in private, the aggressor in revenge porn is trying to humiliate the target publicly. If photos taken in confidence are later made public, sextortion could turn into revenge porn. Due to its public nature, revenge porn has drawn the most attention from journalists, lawmakers, and legal experts. On the other hand, sextortion has, thus far, mostly escaped widespread public scrutiny, partly because many victims opt to remain anonymous.

Current Study

Although earlier studies have shed some light on the characteristics of sextortion among victims, the current research aims to advance these efforts by offering a more comprehensive understanding of sextortion victimization and offending, particularly among early and middle adolescents. This task has not yet been accomplished. Due to their developmental stage, adolescents may be especially susceptible to sextortion. Although the exact causes of this are still up for debate, it has long been recognized that teenagers take more significant risks than either adults or children. These young people's brain development may not have progressed to the point where they are capable of fully controlling their urges and desires, particularly when it comes to taking risks with their sexuality. Significant peer pressure may also exist. The overall objective of the current study is to establish baseline data on the extent of sextortion in a young sample by assessing the prevalence of the practice across critical demographic variables, identifying the victim-perpetrator relationship, assessing the extent of harm inflicted, and identifying the victims' sources of distress. We intend to provide an initial overview of the frequency of sextortion, the parties involved, and the recipient of the target's incidence report within this experimental framework.

Indian Laws against Sextortion

Sextortion in India is illegal and punishable under sections 354 (D), 506 / 507, 509 IPC, 384 IPC, and Sec. 67 of the IT Act. These crimes' perpetrators typically profit from the victim's silence and the ambiguity of the law. Everyone must therefore be aware of the portions and codes helpful to them in these situations. The Criminal Procedure Code's Section 108(1)(i)(a) gives the victim the authority to notify her local magistrate about a person she thinks would distribute any pornographic material by giving them a call. To prevent the individual or people from spreading the information, the magistrate has the authority to place them in custody and require them to sign a bond. The accused might be discouraged by this. This remedial part can be completed quickly because the victim can file a complaint with the magistrate without providing direct proof against the offender. Anyone who uses any electronic device, including apps and other social media, to publish or threaten to distribute any private or compromising photos of another person is guilty of a crime under Section 292 of the Indian Penal Code (IPC).

Conclusion

According to the current study, 5% of American students between the ages of 12 and 17 report having experienced sextortion, while 3% acknowledge making threats to release graphic photos of other people. Men were more likely than women to report having been involved in sextortion, either as an offender or a victim. There was no discernible pattern of involvement by age or race. Furthermore, a higher proportion of girls than males sought assistance from adults, but, in general, it seems that young people lack faith in the ability of parents, educators, law enforcement, or other authority figures to provide them with real support or assistance. Future studies to gain a deeper understanding of the nature of as well as the degree to which teenagers engage in sexual assault. Professionals who deal with young people can then better tackle the issue by teaching pupils about the dangers of sharing sexual or otherwise embarrassing digital content and letting them know that help is available if they become victims.

EXPLORING THE GENDERED DYNAMICS: INVESTIGATING PATRIARCHY IN THE INDIAN JUDICIARY

Aaina Agrawal
Reviewed by Shreya Doneriya

The significant underrepresentation of women in key roles is highlighted in this article, which explores the widespread gender disparities within the Indian Judiciary. The tragic passing of India's first female Supreme Court judge, Justice Fathima Beevi, highlights how urgently significant improvements in the struggle for gender equality are needed. There are still just 4.1% of female justices in the Supreme Court and 13% in the High Courts, despite significant advancements in the gender realm. The Lower Judiciary's regional subtleties highlight the issue's complexity even further. State-level quotas for women provide a glimpse of progress, but complete adjustments are necessary to address institutional obstacles, sexual harassment, and the persistent "Old Boys' Club" mentality. Justice Fathima Beevi's legacy serves as a poignant reminder of the urgent need for a diverse and inclusive judiciary, emphasizing the necessity for sustained efforts to break down systemic obstacles and bridge the gender gap.

Introduction

The persistence of Gender inequities within the legal system is highlighted by the lack of women in the higher ranks of the Indian Judiciary. The death of India's First Female Supreme Court Judge, Justice Fathima Beevi, recently in Kollam, Kerala, at the age of 96, highlights the urgent need for substantial reform in the fight for Gender Equality even with limited triumphs. Justice Fathima Beevi was appointed to the Supreme Court of India in 1989. She broke down barriers by becoming the First Female Supreme Court Justice in Asia as well as the First Muslim Female Judge. Though she recognized the patriarchal structure of the Indian Judiciary, Justice Beevi thought her appointment had given women more opportunities.

Supreme Court Representation

Justices Hima Kohli, Bela Trivedi, and BV Nagarathna, appointed simultaneously in 2021, setting a record and producing the most female justices in the history of the Supreme Court of India, are the only women serving as justices within the current panel of 33. Notably, Justice Nagarathna is scheduled to take office as India's First Female Chief Justice on 25.09.2027; however, her term will only last for 36 days. But with just 11 female justices appointed to the Supreme Court of India overall, the Gender gap still stands at 4.1%, underscoring the 96% male representation of the Judiciary.

High Court Representation

India now has 25 High Courts with 1,114 judges authorized to serve in them, out of which only 782 are currently in service, leaving 332 judge positions open. Interestingly, just 13% of these judges are female, which highlights the ongoing Gender imbalance. There is only One Female Chief Justice out of the 25 High Courts in the nation: Justice Sunita Agarwal, who was appointed to the Gujarat High Court in July 2023.

In July 2023, Union Law Minister Arjun Ram Meghwal, explained that reservations based on caste or class are not available for nominations to higher courts in response to a question about the representation of marginalized groups among High Court judges. In spite of this, the Central Government has asked Chief Justices of the High Courts to consider individuals from a variety of backgrounds, including women, minorities, scheduled castes, and scheduled tribes.

Subordinate Judiciary

A complicated situation in the Lower Judiciary was revealed by a 2018 study conducted by the Vidhi Centre for Legal Policy. In all, 15,806 judges in the Lower Judiciary were identified during the survey, which ran from March to July 2017. The results shed light on regional differences as well as state-level initiatives to alleviate Gender Imbalance.

Surprisingly, just 3 of the smallest states—Goa, Meghalaya, and Sikkim—have more than 60% females of their judges, with 103 altogether. On the other hand, regardless of their differences in geography, culture, or other factors, every other state—apart from Telangana and Puducherry—recorded a lower than 40% presence of female judges.

The India Justice Report (IJR) 2022, a more recent study, supports the ongoing Gender Gap. Only 13% of High Court judges and 35% of Subordinate Court judges are female, the paper claims. Goa leads the pack with 70% of its District Court judges being female, closely followed by Meghalaya (62.7%), Telangana (52.8%), and Sikkim (52.4%).

Reservations for Women

In an effort to encourage the representation of females in the Judiciary, some states, including Andhra Pradesh, Assam, Bihar, Chhattisgarh, Jharkhand, Karnataka, Odisha, Rajasthan, Tamil Nadu, Telangana, and Uttarakhand, have instituted quotas that reserve between 30%-35% of all seats for direct appointment.

Reasons for Gender Disparity

The enduring problem of Gender Inequality in the Indian Judiciary stems from the complex interaction between systemic restrictions and cultural prejudices that prevent women from entering and advancing in the legal field.

- **"Old Boys' Club" mindset**: Senior Counsel Indira Jaising drew attention to subtle biases that contribute to women's isolation in the legal field, such as men receiving preferential treatment during case hearings and amicable interactions between male judges and attorneys.
- **Sexual Harassment and a Lack of Supportive Infrastructure**: Client mistrust of women leads to increased turnover in the Judiciary and litigation for female attorneys managing high-profile cases. Women's legal careers are further hampered by inadequate maternity leave to subpar toilet facilities.
- **Institutional Views on Women's Appointments**: Former Indian Chief Justice SA Bobde stressed that finding qualified women candidates is the primary concern while responding to an intervention in the case of 'M/s PLR Projects Pvt Ltd. v. Mahanadi Coalfields Ltd.' by the Supreme Court Women Lawyers' Association in April 2021. High Court Chief Justices have stated that several campaigners for women turn down invitations to serve as judges, citing obligations to their families. Advocates such as Veena Gowda have responded that comparable rejections also happen in the case of males, yet this hasn't stopped the collegium from selecting more men to be judges.

Conclusion

The legacy of Justice Fathima Beevi emphasizes how urgently India's judiciary needs to undergo gender reform. It is essential to get rid of ingrained prejudices and deal with institutional issues. Positive precedents can be found in state-level quotas for women in the Lower Judiciary. Holistic changes that eliminate structural obstacles guarantee a judiciary that reflects the variety of a progressive society and genuinely closes the gender gap.

FEMINIST APPROACHES TO DOMESTIC VIOLENCE LAWS: PROGRESS AND GAPS

Yashi Srivastava
Reviewed by Vrinda

The feminist approaches to domestic abuse laws are thoroughly examined in this study, which also identifies ongoing legal framework inadequacies and critically assesses the progress that has been accomplished. The article examines significant turning points and the revolutionary influence of feminist movements as it follows the development of domestic abuse laws throughout history through the prism of feminist activism. It addresses the particular difficulties experienced by people at the intersections of several identities and explores the integration of intersectionality into legal frameworks. Feminist criticisms of definitional difficulties are provided as the text explains the difficulties in identifying and characterising various types of abuse. Moreover, it negotiates the precarious equilibrium that feminist legal systems require between victim-centric strategies and perpetrator accountability. Additionally, this article addresses economic empowerment as a legal remedy, emphasizing its significance in combating financial abuse within the broader spectrum of domestic violence laws. The article's goal is to advance a comprehensive knowledge of the accomplishments and continuing obstacles in achieving justice for victims of domestic abuse within a feminist legal framework by means of this analysis.

Understanding the Need & Emergence of Domestic Violence

The development of reactions to domestic abuse demonstrates a transforming path characterised by evolving legislative frameworks, increased awareness, and societal viewpoints. Domestic violence was once considered a private matter, but in the later half of the 20th century, it became a significant public issue and a human rights and public health concern. The feminist movement of the 1960s and 1970s was crucial in bringing domestic abuse into the public eye and tenaciously pushing for recognition as a serious social issue. The 1970s and 1980s saw the beginning of legal reforms addressing domestic abuse, including the construction of shelters and the adoption of laws offering protective measures and support services for survivors. The ensuing decades saw a substantial reworking of the legal system.

Domestic abuse in the modern world is strongly rooted in the principles of fundamental human rights. Global legal systems, guided by international accords, prioritise everyone's right to live without fear of violence, regardless of their gender, age, or other characteristics. In order to reduce the strain on healthcare systems and improve general well-being, it is imperative to address the significant public health effects of domestic abuse on survivors. Initiatives that challenge the unequal power dynamics inherent in patriarchal norms and advance gender equality are closely tied to efforts in reducing domestic violence. It is imperative to address the well-being of children who have been exposed to domestic violence, as this requires interventions to guarantee their safety and long-term welfare. Domestic violence has serious social and economic repercussions in addition to the personal cost it causes. These include decreased productivity, rising medical costs, and the continuation of poverty cycles. Consequently, ending domestic abuse benefits to both the welfare of the individual and the larger society. Legislation, such as the Protection of Women from Domestic Violence Act in India, serves as an important example of legal protection; yet, continuous obstacles highlight the necessity for continued implementation and enforcement efforts. The fight against domestic abuse requires cultural changes that emphasise community support and a shift in norms. Public awareness campaigns and educational initiatives are essential in influencing public opinion and promoting group action. Ultimately, combating domestic abuse demands a team effort that includes legislative actions, social assistance, training, and cultural change—all of which are critical to achieving the continuous goal of building safer and more just societies. In field of domestic violence law, the case of "Hiral P. Harsora v. Kusum Narottamdas Harsora" is noteworthy. In 2009, Bombay High Court ruled that victims could request protection for incidents that occurred before Domestic Violence Act, as the act could be implemented retroactively. This ruling established a significant precedent and widened the Act's purview.

Beating Financial Abuse

The idea that granting women greater financial authority is a potent means of addressing financial abuse in partnerships is examined. The frequently overlooked problem of financial abuse in domestic abuse cases is the focus of this article, which examines how assisting survivors in becoming financially independent is a crucial legal tactic. It demonstrates the synergistic benefits of granting women economic power with feminist legal strategies. The importance of women having their own finances is discussed in the article as a means of preventing and addressing domestic abuse. In order to interrupt the cycle of control and ensure that survivors can take care of themselves, it states that legal plans should support women in becoming financially independent in addition to providing physical protection. Law can promote women's autonomy and wellbeing in this way.

Challenges faced

"Unpacking Feminist Perspectives" explores the nuances of understanding domestic abuse from a feminist perspective, emphasising the complexity that defies simple categorization. In light of many types of compulsion and control, the article highlights the necessity for a comprehensive view of abuse. The book "A Feminist Balance in Domestic Violence" simultaneously analyses the delicate relationship between victim-centred judicial systems and offenders' accountability in domestic abuse situations. The paper examines how legal systems are set up to empower victims while maintaining due process rights for the accused, navigating this precarious balancing. Through their support of an all-encompassing, feminist-informed viewpoint that tackles the various forms of abuse, provides justice for survivors, and upholds fairness and accountability in the context of domestic violence, both pieces advance the refinement of legal procedures.

Public Reaction on Feminist Approach on Domestic Violence

Through the transformational lens of the Domestic abuse Act, feminist approaches have significantly changed public attitudes of domestic abuse. By questioning established practices, these initiatives promote empathy and a better comprehension of the complexity surrounding intimate partner abuse. Influenced by feminist perspectives, the Act represents public recognition of the seriousness of domestic violence in addition to providing legal remedies. Feminist awareness initiatives seek to debunk stereotypes, combat victimisation, and advance accountability. Even with advancements, persistent attitudes present obstacles that require ongoing lobbying. Feminist discourse cultivates societal accountability and legal empowerment for survivors, resulting in a community that is better informed and empathetic.

Current Status of Domestic Violence

In India, domestic violence is a serious concern. The nation has attempted to address this issue through legislation, most notably the 2005 enactment of the Protection of Women from Domestic Violence Act (PWDVA). This law recognises a range of abuse types, including verbal, physical, sexual, emotional, and financial abuse, and it offers safeguards such as protection orders and the designation of protection officers. The uniform application of the act throughout states is still fraught with difficulties, nevertheless, with certain areas experiencing problems like the non-appointment of protection officers. Furthermore, the legislation does not completely take into consideration the intricacies of LGBTQ+ partnerships and does not explicitly include male victims. To truly end domestic abuse in the Indian context, sustained efforts are needed to guarantee the efficient application of current laws, increase public awareness, and modify legislative frameworks to be more inclusive.

RE-EVALUATING CONSENT: MARITAL RAPE IN INDIAN LEGAL LANDSCAPE

Debapriya Chakraborty
Reviewed by Molika Bansal

The law in India did not criminalise marital rape till the majority of 2023. It did not recognize that it is a crime for a husband to rape his wife. The reasons for this are manifold and can be found in various reports of the Law Commission, Parliamentary debates, and judicial decisions. The reasons range from protecting the sanctity of the institution of marriage to the already existing alternative remedies in law. Through an analysis of Article 14 of the Constitution of India, it is argued that the previously existing arguments advanced not to criminalize marital rape are erroneous. Further, we note that the marital rape exception clause found in the Indian Penal Code, 1860 is wholly unconstitutional. In this paper, we depict how recent legal developments have paved the way for new alternative remedies for a woman to seek redress if her husband rapes her. We conclude on the note that the criminalization of marital rape is a significant step for upholding the dignity and respect of Indian women within their personalized realms.

Introduction

Rape, defined as sexual contact or penetration without consent, is a crime committed by the victim's spouse. The burden of proof for consent often lies on the victim, but it can also arise when consent is taken for granted, such as in a marriage between the offender and the victim. Currently, only fifty-two countries recognize marital rape as a crime, with many parts of the world, including India, not considering it as a crime. The "marital rape exception clause" is a common defense in these countries.

There are four primary defenses for not making marital rape a crime. The first reason is the belief that wives have no rights in marriage because they are their husbands' subordinates. The second reason is the unity idea, which maintains that a married woman's identity blends with her husband's after marriage, preventing her from having a distinct personality. However, with the feminist revolution in the 1970s, these arguments lost significance. The "implied consent" theory assumes that consent exists when a man and woman enter the marriage as an institution and consent to engage in sexual activity is considered a civil contract. The fourth and most recent rationale is that criminal law cannot infringe upon a husband and wife's marital interactions, as it is a personal domain that the law should not encroach upon.

Defining Consent

The most important question arising before the Court of Law is the definition of consent, mainly because of the concept of "implied consent" and the "expectation of conjugal sexual relationship within a marriage." After an in-depth analysis of the arguments advanced in the case of **RIT Foundation v. Union of India**, the judges have held that there is a difference between the 'right to sex' and the 'reasonable expectation of sex', making consent within a marital relationship an essential factor. It has been further noted that there is no "inherent consent" in a marriage. Implied consent cannot be considered irrevocable in nature. The right to say no is integral to a woman's fundamental right to privacy and dignity. This debate has also brought up the question of a woman's autonomy and whether contemporary democracies can keep depending on laws from the 17th century that saw women as the "property of the husband," devoid of independence or decision-making capacity. New legal provisions have been made to protect women.

Intelligible Rationale

A question frequently brought up is regarding the "difference" between an act performed outside of marriage and a marital relationship qualifies as an "intelligible differentia" for Article 14, which permits the application of different laws to married and single women. It was that since a married woman is entitled to prosecute anyone, there is no justification for elevating the "marital relationship" and denying her the ability to pursue legal action against her spouse. Thus, it has been established that marriage is no longer a "sacrosanct" institution, and there have been legal reformations in place to protect women.

Historical Background of Marital Rape in The Indian Context

The Indian Penal Code criminalizes rape under Section 375, which includes physical contact and oral sex. However, Exception 2 excludes sexual relations between a husband and wife from the definition of rape. This may lead to an assumption of consent between the victim and the offender in married situations. The sanctity of marriage may also lead legislators to exclude this component from marriages.

The Law Commission's 172nd Law Report criticized the validity of the Exception Clause, arguing that the relationship between marital rape and matrimony should be clarified. The J.S. Verma Committee released a report in 2012 advocating for the punishment of marital rape and enhancing the effectiveness of criminal law in handling situations of heinous sexual assault against women. The Criminal Law Amendment Bill of 2012 aimed to replace "rape" with "sexual assault" but did not contain legislation making marital rape a crime. The Parliament Standing Committee on Home Affairs recommended removing the exception clause in S375, but it was declined due to the existing remedies and the strain on the family system until 2016.

Legal Developments in Favour of Criminalizing Marital Rape

Despite legal setbacks, the first significant judgment that came in favor of penalizing marital rape was **Independent Thought v. UOI (2017),** where it was held that any non-consensual sexual contact with girls below the age of 18 would be a crime. This led to an amendment of the age criteria from 15 to 18, as mentioned in the Exception Clause.

Further, in the case of **All India Women Democratic Association v. Union of India (2019),** it was argued that if sex workers have the freedom to withdraw their consent even at the advanced stages, then why is it not applicable to married women?

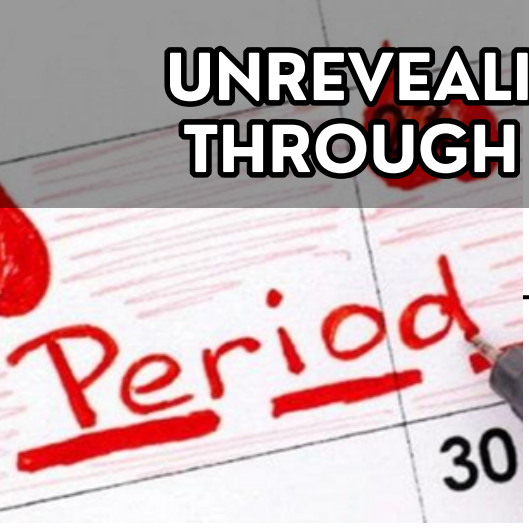
The Kerela High Court, in another judgment in 2021, ruled that marital rape is considered a valid ground for divorce. In a marital relationship, the husband and wife are equal partners, and the husband cannot assert superior rights over the wife about her body or personal status. The court said any physical or non-physical encroachment on marital space would be harsh. The mere fact that marital rape is not recognized by penal law does not preclude the court from considering it a cruel act to award a divorce.

Recently, the Gujarat High Court, in the case of **Anjana Ben Modi v. State of Gujarat (2023)**, held that the standard procedure in the majority of these situations is for the husband to be excused if he is the one carrying out the same actions as another man. However, this cannot be tolerated. Rape committed by a husband on his wife will also be considered as rape. Not every action is intended to result in punishment. The act of forcing or forcibly having sex with a woman against her consent is what is being penalized.

Conclusion & Way Forward

The Delhi High Court delivered a split-verdict criminalizing marital rape in 2022. However, it was opposed by Justice C. Harishanker because such change would require consideration of various aspects such as cultural, social, and legal norms. In late 2022, a fresh petition at the Supreme Court was filed under the name of **Hrishikesh Sahoo v. Union of India**. This could be the turning point for all the women awaiting justice. The lack of legal consequences for marital rape contributes to a culture of silence and impunity, further marginalizing survivors and compromising their right to bodily autonomy. Criminalizing marital rape will challenge social practices that support gender-based violence by promoting the fundamental rights and dignity of every person, regardless of their marital status. To promote a society that values equality, respect, and consent within the institution of marriage, this legal reform is an essential first step.

UNREVEALING THE GAPS: NAVIGATING THROUGH MENSTRUAL LEAVE POLICY



Vijetha Saishree & Sneha
Reviewed by Amrit Shree Updhayay

This article delves into the ongoing debate surrounding menstrual leave policies in India, particularly focusing on corporate spaces. Analyzing the recent remarks made by Smriti Irani against paid menstrual leave, this piece explores the challenges and perspectives associated with the issue. It outlines the current status of menstrual leave policies in India, emphasizing the absence of a centralized direction and the varying approaches states and corporations adopt. The global discourse on menstrual leave is also examined, highlighting the dichotomy between opponents and proponents. Additionally, the constitutional imperative for equality is discussed, asserting that paid menstrual leave aligns with constitutional principles. The article also addresses challenges in corporate settings, including the stigma surrounding menstruation and discrimination affecting hiring practices. Two critical aspects, hiring practices, and the wage gap, are also explored in the context of menstrual leave. This article concludes by proposing comprehensive solutions for corporate settings, including education programs, inclusive policies, training sessions, increased representation, and transparent communication. Ultimately, it advocates for menstrual leave as a progressive step towards recognizing and accommodating the workforce's diverse needs, contributing to gender equality and dignity in the workplace.

Introduction

The recent comments by Smriti Irani, Union Minister for Women and Child Development, against paid menstrual leave have reignited the debate on HR policies and menstrual health in India. The discussion surrounding menstrual leave is often framed as an 'entitlement' rather than an incentive for women to participate in the workforce entirely. This article analyzes the challenges and perspectives of menstrual leave in India, explicitly focusing on corporate settings and addressing issues such as hiring practices and the wage gap.

Current Status of Menstrual Leave Policy in India

There must be a centralized direction for 'paid menstruation leave' in India. The Supreme Court dismissed a public interest litigation (PIL) advocating for menstrual leave, by stating that the issue falls within the domain of policy and should be approached through the Ministry of Women and Child Development.

While no specific law governs menstrual leave, two Indian states, Bihar and Kerala, have taken a progressive step in introducing menstrual leave policies. Additionally, some industry giants, including Zomato, Swiggy, and Byju's, have voluntarily implemented paid menstrual leave, setting industry practice standards.

Arguments For and Against Menstrual Leave

The global discourse on menstrual leave encapsulates a dichotomy of perspectives. Opponents posit that menstruation-related health issues, affecting a relatively small percentage of women, can be adequately addressed through existing sick leave provisions. Their apprehensions extend to potential repercussions in hiring practices, fearing employers might shy away from hiring women to avoid perceived disruptions. In contrast, proponents frame menstruation as a natural biological process, distinct from illness, warranting dedicated leave policies. They argue that such policies not only recognize gender differences but also promote workplace equality by acknowledging the unique challenges faced by women. Advocates contend that embracing menstrual leave contributes to improved productivity and aligns with human rights principles, emphasizing the need for workplaces to adapt to the diverse needs of their workforce. This ongoing debate underscores the broader conversation about dismantling gender biases and fostering inclusive policies that recognize and respect the biological realities of women in the professional sphere.

Challenges in Corporate Settings

The integration of menstrual leave policies into the corporate world faces multifaceted challenges. Firstly, pervasive ignorance and social stigma surrounding menstruation contribute to a culture of silence, hindering open discussions about women's menstrual needs in the workplace. The prevailing lack of awareness perpetuates a sense of discomfort and inhibits the establishment of supportive environments where women can openly express their requirements. Secondly, the apprehension of discrimination poses a substantial hurdle to adopting menstrual leave policies. This concern, emphasized by figures such as Smriti Irani, suggests that employers might perceive such policies as a potential source of bias. The fear is that acknowledging the need for menstrual leave may adversely affect hiring decisions and hinder career advancement opportunities for women. This apprehension reflects the broader challenge of overcoming ingrained biases and stereotypes within corporate structures, underscoring the importance of fostering inclusive policies that address the specific needs of women in the workforce. Efforts to dismantle these barriers are essential for creating workplaces that are truly equitable and supportive of all employees.

Hiring Practices and Menstrual Leave

One of the critical challenges in corporate settings is the potential discrimination during the hiring process. Employers may be reluctant to hire women, fearing increased absenteeism during menstruation. This reluctance contributes to the underrepresentation of women in the workforce, exacerbating gender disparities. Companies should adopt inclusive hiring practices to address this, focusing on skills and qualifications rather than making assumptions about women's productivity based on their menstrual cycles.

Wage Gap and Menstrual Leave

The existing gender wage gap in India is a multifaceted issue influenced by various factors, including discriminatory practices and societal expectations. The absence of specific policies addressing menstrual leave may contribute to this gap by perpetuating an environment where women's needs are overlooked. Companies must recognize the importance of menstrual health and create policies supporting women's well-being, ultimately contributing to a more equitable workplace.

Solutions for Corporate Settings

A comprehensive approach is essential to effectively address the challenges associated with menstrual leave in corporate settings. Firstly, companies should prioritize education and awareness programs to demystify menstrual health, dispel myths, and reduce the prevailing stigma. This initiative can foster a more supportive environment, encouraging women to discuss their needs openly without fear of judgment. Secondly, employers must proactively introduce inclusive policies that specifically address menstrual health, encompassing paid menstrual leave, to ensure equitable treatment for all employees. Thirdly, training sessions and sensitization programs should be implemented for employees and management to cultivate understanding and empathy, breaking down entrenched stereotypes and fostering a culture of inclusivity. Moreover, advocating for increased representation of women in leadership roles and decision-making processes is crucial. Diverse perspectives at the top can result in more nuanced, inclusive policies that cater to the workforce's diverse needs. Lastly, fostering transparent communication channels where employees feel at ease discussing their needs, including menstrual health, is fundamental to dispelling misconceptions and creating a workplace that genuinely values the well-being of all its employees.

Conclusion

Addressing the challenges associated with menstrual leave in corporate settings is crucial for creating a more inclusive and equitable workplace. Companies play a pivotal role in shaping societal norms, and by adopting progressive policies and practices, they can contribute to breaking down barriers for women in the workforce. Menstrual leave should be viewed not as an 'entitlement' but as a step towards recognizing and accommodating the diverse needs of the workforce, ultimately promoting gender equality and dignity in the workplace.

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INTELLECTUAL PROPERTY RIGHTS

STRATEGIC ALLIANCE FOR IPR: GPAI SUMMIT SHAPES THE FUTURE OF AI

Vijetha Saishree Palle,
Reviewed by Twinkle

India recently led the global partnership on the Artificial Intelligence Summit at the chair in December 2023, which marked a milestone in the worldwide disclosure of AI development. The current submission includes a showcase of India's commitment towards AI and speaks about the need for revolving in reformative IPR laws worldwide. The summit unfolded nuanced perspectives on the intricacies of the web relationship between artificial intelligence and IPR. The summit acted as a forum to properly explore the dynamics of the evolving notions in the landscape of technology, several eminent lawyers and justices like Pratibha Singh and lawyers. Pravin Anand highlighted the need for legal adaptability in facing AI dynamics and urgency in the paradigm shift in patent norms. The summit also raised a spark about the needed agency to develop an international collaboration to deal with this loophole in the legal framework.

Introduction

The recent summit of GPAI, also known as the global partnership on artificial intelligence, was held in New Delhi. The summit witnessed the participation of 28 countries, with the European Union adopting the 'New Delhi Declaration' of the GPAI. This article explores the key highlights of the GPAI Summit, the significance of the Delhi Declaration, and the strategic initiatives introduced by India to propel the responsible development of AI, with a specific focus on the importance of Intellectual Property Rights (IPR). It brought forth several critical discussions on the intersection of the web of artificial intelligence, AI, intellectual property rights, or IPR. Eminent speakers at the summit raised several thought-provoking questions and dilemmas about the space and the realm of AI development, which has Potentially raised the existing patent laws, and this submission also sparked a discussion on the need for a better legal framework to deal with the development.

Importance of IPR in AI

The evolving landscape of AI technology has brought the focus towards the role of intellectual property rights to ensure the continuity of encouragement to innovate and support interest as well as promote fair competition. It further encourages investment in research and the development of AI. IPR incorporates patents, copyrights, trademarks, and trade secrets, providing legal frameworks to safeguard the creations and inventions of individuals and organizations. Patents in AI allow inventors to protect novel algorithms, processes, or applications, ensuring that the fruits of their labor remain exclusive for a defined period. Copyrights can protect the expression of creative AI works, such as artistic creations or literary outputs. Trademarks become essential in branding AI products and services, distinguishing them in the market. Additionally, trade secrets guard proprietary algorithms, methods, or datasets that give a competitive edge. Moreover, the ethical use of AI raises questions about data ownership, privacy, and responsible AI practices. Striking a balance between fostering innovation and safeguarding individual rights becomes paramount in developing and deploying AI technologies. The symbiosis of AI and IPR necessitates a recalibration of existing legal frameworks to accommodate the dynamic nature of AI innovation. Striving for a harmonious integration of intellectual property protection and responsible AI practices is essential to foster innovation while ensuring ethical considerations in the ever-evolving world of artificial intelligence.

AI and Patent Law: Need for Reformative Adoption

Honorable Justice Pratibha Singh emphasized the agency and the immediate need to align the framework of patent law with the advancements and reformations in AI technology. She also gained knowledge of the unprecedented changes that took place in a short period and highlighted the dynamic nature of AI with the emergence of the volume nature of AI technology, which challenges the traditional norms and timelines associated with the protection of patents. New laws must be implemented since these obsolete frameworks do not do justice anymore.

Reputed advocate Praveen Anand added to the depth of these concerns, which shed light on the challenges of meeting the essential requirements for patenting in the context of the year. Due to AI's dynamic nature, which is undoubtedly present, it poses several difficulties in making clear distinctions and adequate disclosures. The biggest hurdle while posing the patented process is the notion of insufficiency in disclosure.

While addressing these new challenges, Justice Singh pointed out that section 3,000 of the Patent Act of 1970 describes the obstructions to patenting AI in India despite such boundaries, which are ambiguous in nature. Companies like Nokia Ericsson Interdigital have obtained successful patents for AI generated in inventions that have demonstrated their active contribution to several technological advancements.

AI-Generated Content and A Need for IPR Protection

A renowned professor from the University of Oxford, Nick Bostrom, focused on the challenges of IPR or intellectual property rights while protecting AI-generated content, especially in the US. Since only human beings are recognized as valid authors, ambiguity regarding copyright protections for individual elements of AI-generated codified systems has been raised. He highlighted the case of Kristina and her AI-generated comic book. He discussed the court ruling that unique images generated using AI algorithms do not, unfortunately, enjoy the protection of copyright laws.

This brought forward the ambiguous nature of the boundaries, John, and the lack of copyright protection for age-generated content extends to several parts of the world, raising concerns about using trade secrets to protect AI algorithms, as mentioned by Justice Singh. Previously, this shift posed challenges to the growth of technology and the emergence of several new forms of algorithms, which potentially risks the original intent of patent protection to encourage disclosure.

Adapting be a loss to AI: a new proposal for change and transformation.

Eminent lawyer Praveen Anand proposed transformative reforms for IPR laws to accommodate the unique characteristics of AI inventions. He suggested considering machines of ordinary scale (MOCA) as a benchmark for judging machine-made inventions. The approach aims to bridge the gap of the current assessment of IPR laws, which relies on the hypothetical person of ordinary skills in art, also known as PSITA. At the same time, it recognizes the creative intentions inherent in AI inventions. Anand argues that comparing the innovative mechanisms of types of machinery would offer a more accurate evaluation.

Conclusion

The GPAI Summit, the global partnership on artificial intelligence, became an avid forum to raise critical questions and dilemmas about the evolving landscape of AI art and its interaction with intellectual property rights. It has sparked a cold and raised alarms for a legal rethink, which has become an urgent need in adapting patent laws while addressing the private issues in IPR protection for AI-generated content has its Complexities in intricacies of deep fakes within the realm of IPR, which needed crucial navigation through the critical steps towards fostering a more harmonious relationship and intersection between innovation and legal safeguards. It requires a global collaborative initiation at their GPAI summit that underscores the necessity for international cooperation in creating a legal framework that supports innovation and promotes and ensures ethical and responsible usage of AI technologies.

JB PHARMA'S CONTRACT: IN LIGHT OF THE TRADEMARK ACT 1999

Dishti Garg
Reviewed by Shreya Doneriya

The author discusses the company JB Pharma contracting a trademark licensing agreement with Novartis to distribute and promote the ophthalmology brands in 1089 Cr. This paper also presents the legislative and judicial standing concerning quality control provisions associated with trademark licensing in India. The paper attempts to weigh and critique the feasibility of the alternatives available to the court in deciding the outcome of a finding of naked licensing, keeping in mind the consequences of each action, and attempts to suggest solutions for the same. The trademark proprietor has to ensure the consistency of quality in the good or service, and if any failure to meet terms and conditions they shall forfeit the trademark. The purpose of a trademark is to promise goods or services of consistent quality. This paper analyzes the legal provisions of trademark laws to protect consumers in trademark licensing.

Introduction

In everyday language, a "license" is commonly understood as the authorization granted by a property owner to a potential user, allowing them to utilize the owner's property under specified conditions, if any. This definition has been broadened to encompass the realm of trademark licensing over the years. The global perception of trademark licensing has undergone a significant transformation, shifting from negative criticism to being recognized as an essential practice in the present era. Certainly, it refers to a legal situation in which a trademark owner grants a license of their trademark to another entity without establishing or enforcing sufficient quality control and standards regarding how the licensee uses the trademarks. This situation is often described interchangeably as 'licensing in gross' or 'bare licensing'.

A similar procedure was done by JB Pharma on December 29, 2023, when it shook hands with Novartis and entered into a pact to distribute and promote ophthalmology brands at 1089 Cr. At its meeting on December 19, 2023, the board of directors endorsed the ratification of a trademark license contract for a portfolio of specific ophthalmology brands with Novartis Innovative Therapies AG.

The agreement is perpetual for the Indian market and will take effect in January 2027, according to a regulatory filing from JB Pharma. On the financial details of the agreement, JB Pharma said that they would divide the payments into two parts. One 964 Cr it will pay, excluding applicable taxes, stamp duty, and working capital, for the trademark license agreement to Novartis Innovative Therapies AG, Switzerland. The remaining 125 crore, excluding applicable taxes, stamp duty, and working capital, will be paid to Novartis Healthcare Pvt Ltd.

The legal foundation for the concept of trademark licensing is firmly established in Indian law. According to Section 2(r) of the Trademarks Act, 1999, the 'permitted use' of a registered trademark involves its utilization by either a 'registered user' or 'a person besides registered proprietor and a registered user,'. This arrangement is based on a written licensing agreement with the proprietor after the trademark's registration, outlined in Clause (i) and (ii) respectively. Section 48 of the Trade Marks Act addresses the entities involved in the licensing process, specifically mentioning a registered 'proprietor' and a registered 'user.

About JB Pharma

J.B. Chemicals and Pharmaceuticals Ltd. serves as the leading entity within the 'Unique' group of companies. Mr. J.B. Mody established the company in collaboration with his two brothers, Mr. D.B. Mody and Mr. S.B. Mody. The core activities of the company involve the production of bulk drugs, intermediates, and formulations, as well as ayurvedic and herbal preparations. In the preceding year, the company introduced several new formulations to the local market and expanded its Bulk Drugs operations, attributing the growth to its research and development efforts.

Importance of Trademark

Section 46 stipulates that the rejection or withholding of permission for the registration of a trademark should not be based solely on the grounds that the applicant does not currently use or have plans to use the trademark. The Registrar can approve the registration if certain conditions are met. These conditions include the formation and registration of a company under the Companies Act, 1956, with the intention of assigning the trademark to that company for use. This provision aligns with the decision in the case of American Home Products Corporation v. Mac Laboratories (P) Ltd, where an application for rectification was rejected because the proprietor intended to use the mark through a registered user. In such cases, the tribunal may request the applicant to provide security for the costs of any related opposition or appeal proceedings. Failure to provide such security may result in the application being treated as abandoned.

In interpreting the term 'use', Indian courts, as seen in J N Nicholas Ltd v Rose and Thistle, clarify that it goes beyond actual physical sales. Even mere advertisement, without the existence of the goods, can be considered a form of 'use' of the mark.

Registration of Trademark

A trademark provides the right to safeguard the identity of a business. Upon submission of the application to the trademark office, the initial examination focuses on verifying the accuracy of factual details, ensuring that files are in the correct class and contain accurate information. Upon acceptance of the trademark application, the registrar publishes the mark in the Trademark Journal, displaying the trademark name or symbol, or both. This publication invites objections, and if none are received, the application is accepted and marked as 'Registered.

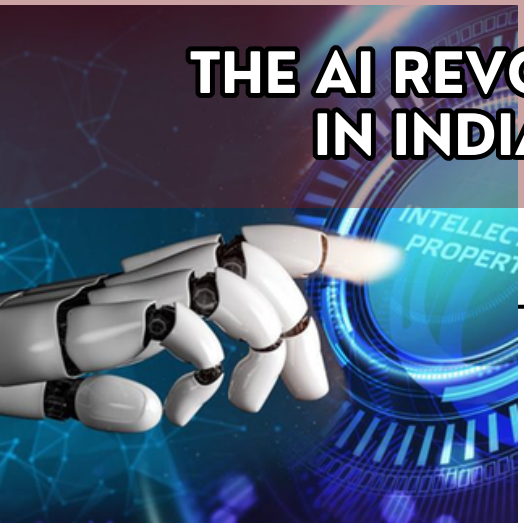
It's crucial to note that trademark registration is not permanent. Trademark laws stipulate that a registered trademark must undergo renewal every ten years. The Delhi High Court, in the case of Rob Mathys India v Synthes Ag Chur , has established that in certain situations, the relationship between a licensor and a licensee may itself indicate a sufficient level of control. This is particularly evident when the licensor specifies that the licensee can only manufacture goods in accordance with prescribed stipulations and quality standards.

Consequently, this differing treatment of common-law and registered licensees may result in discordance when compared to the legal stance articulated in Gujarat Bottling Co., where it was asserted that a common-law license should be subject to the same restrictions as the registered use of a trademark.

Conclusion

Given the expanding consumer base, increasing incomes, and the rapid pace of goods in the market, it is evident that licensing will remain a key strategy for firms aiming to grow. The legal framework must adapt to this reality. To establish trademark invalidation as a legitimate legal consequence of naked licensing, there is a need for legislative provisions that ensure public awareness of the cancellation of registration. This communication could occur through channels such as advertising. The possibility of trademark invalidation could potentially result in unregulated passing off, posing a more significant threat to the quality control of the affiliated mark, as elucidated.

THE AI REVOLUTION: REDEFINING CREATIVITY IN INDIA'S INTELLECTUAL LANDSCAPE



Soumyajit Patra
Reviewed by Twinkle

This paper delves into the significant influence of generative AI on India's intellectual property (IP) laws, revealing a multifaceted environment full of obstacles and opportunities for change. The increase in AI-generated content highlights the shortcomings of current legal frameworks by asking important queries regarding authorship and ownership. In the midst of the global legislative struggle to create rules that keep pace with technological advancements, India finds itself at a critical turning point. The conversation promotes a flexible legal framework that balances protecting intellectual property rights with promoting a thriving innovation environment, taking into account the dynamic nature of AI-driven innovation. Responsible integration is necessary, as ethical considerations pertaining to AI, society, and intellectual property are crucial. The investigation pushes India to embrace AI's revolutionary potential and modify its legislative framework in order to take the lead in the world's AI-driven innovation landscape.

Introduction to AI and Intellectual Property Rights

If you have not been living under a rock since last year, Generative AI has knocked at your door multiple times. We all have heard about it, threatening to take away your job or making your life easier in some way. So, today, let's see what difference it creates in the world of Intellectual property. AI, particularly generative AI, can be seen as a helping hand to a human. However, the major problem it creates is that this relationship between an AI and a human needs to fit into the usual notion of authorship and creativity leading to raising questions about the real author of the work.

AI evolution has challenged and focused more on thinking about IPR, and the Copyright Act of 1957 and the Trade Marks Act of 1999 in India face new complexities as they were primarily designed for human-authored content. The emergence of AI-generated trademarks and copyrights brings challenges to the forefront, such as determining ownership and the role of AI in the creative process. Globally, legislative bodies are trying to understand and formulate laws that are in tune with these technologies and the challenges they bring with them.

Exemplified by initiatives in the European Parliament, the US Patent and Trademark Office, and China's National Intellectual Property Administration. India's national strategy for AI acknowledges intellectual property as a critical enabler, emphasizing the need for an adaptive legal framework.

Who Owns the Content in The Age of AI?

Ownership rights are difficult to assign due to the blurring of the boundaries between human and machine creation. Examples of AI producing stuff on its own upend conventional notions of authorship and call for a review of legal frameworks. Authorship and ownership definitions must be precise since they serve as the basis for future legal challenges to intellectual property rights. Creators, programmers, and AI systems may find themselves in legal limbo when legal frameworks fail to keep up with the rapidly changing landscape of AI-driven innovation without clear definitions. Addressing ownership issues in AI-generated content is a critical first step in creating a legal framework that supports innovation and safeguards the rights of those engaged in this cooperative and revolutionary process.

Adapting IP Laws for the AI Era

There is a legal void since the amount of content produced by AI has surpassed the laws intended for works written by humans. In AI-generated content, identifying ownership, authorship, and originality becomes challenging, underscoring the shortcomings of existing legal frameworks. A flexible legal framework that can keep up with the ever-changing world of AI-driven innovation is crucial for addressing these issues. A framework like this should define ownership clearly and make apparent the responsibilities that programmers, users, and AI systems play in the creative process.

In addition to reducing legal uncertainty, updating IP laws to reflect AI breakthroughs creates opportunities for innovation and economic progress. Acknowledging artificial intelligence as a co-creator creates a favorable atmosphere for human-machine cooperation. India can take the lead in the global AI-driven innovation scene, encouraging creativity and safeguarding intellectual property rights by accepting the revolutionary potential of AI and adjusting the legal system appropriately.

Balancing between IP and AI

A vibrant and dynamic ecosystem depends on striking a delicate balance between defending intellectual property rights (IPR) and encouraging innovation by providing access to AI technologies. The information demonstrates the difficulties that arise from unclear authorship and ownership in the era of artificial intelligence, requiring a sophisticated approach to legal frameworks.

There are instances in progressive jurisdictions where this equilibrium thrives. The proposed AI Act from Europe outlines the responsibilities of AI systems and aims to regulate AI while encouraging transparency in innovation. The Patent and Trademark Office in the United States is investigating AI and intellectual property to encourage innovation by providing clear guidelines.

Policies that support innovation and safeguard intellectual property must coexist peacefully. By striking this balance, it is possible to use AI tools for innovation without violating creators' rights, fostering an atmosphere that encourages both creativity and technical growth.

Conclusion

In conclusion, exploring AI's impact on intellectual property laws in India unveils a landscape marked by transformative potential and intricate challenges. As AI becomes an indispensable co-creator, the series has highlighted the complexities surrounding authorship, ownership, and the inadequacies of existing legal frameworks. This sets the stage for re-evaluating intellectual property laws that can adapt to the rapidly evolving AI landscape. The show explores the hazy boundaries between ownership and AI-generated content, highlighting the legal conundrums that arise when identifying the actual creator. It emphasizes the importance of transparent and flexible legal frameworks to deal with these issues. Examining how inadequate current regulations are in light of AI developments, a legal framework that keeps up with technological changes is recommended. Also covered is the fine line that must be drawn between promoting innovation and defending intellectual property rights. It emphasizes how unnecessarily restrictive rules can impede technological advancement and how crucial it is to strike a balance that fosters a vibrant innovation ecosystem. Finally, an examination is conducted of the ethical issues that arise when artificial intelligence, intellectual property, and society converge. The show examines skewed algorithms, possible abuses of AI-generated content, and broader societal effects, promoting a comprehensive strategy that puts responsible AI use first. A thorough story is created by linking these pieces together giving readers insight into how India's IP laws and artificial intelligence are developing. Adopting ethical principles is urged by this comprehensive viewpoint to guarantee a fair and balanced integration of AI in intellectual property areas.

EXCEPTIONS TO THE COPYRIGHT INFRINGEMENT ACT: ARE THEY REALLY BEING IMPLEMENTED?

Chetna Gupta
Reviewed by Agam Tandon

The practical application of exceptions to copyright infringement is examined in this article, with a special emphasis on Section 52 of India's Copyright Act and global viewpoints. It examines exceptions such as fair use and educational use and emphasizes the critical role that copyright plays in preserving creators' exclusive rights throughout artistic fields. The Department of Promotion of Industry and Internal Trade has released a public notice to address the recent worries about royalties during marriage ceremonies and sparks a discussion on the implementation of these exceptions. The discussion takes into account the worldwide context, referencing the US's revolutionary fair use concept as demonstrated by the Andy Warhol Foundation v. Goldsmith case. The article's conclusion highlights continued efforts to strike a compromise between society's interests and creators' rights of copyright.

Introduction

With advancements in technology, Intellectual property rights have become an important part of our society now. Intellectual property also consists of many forms of different rights one of which is copyright. Copyright law is widely used in the whole world on a greater level due to innovation and the growth of artistic work. Does it mean that no other person will be able to use what I created, even for personal pleasure? Someone once said, that everything newly created on this earth has once taken inspiration and included parts of what's already created, so wouldn't every new thing created be an infringement of some other creation? The answer is no. The question we are going to discuss here is whether the exceptions to the copyright act really being enforced or not.

What is Copyright?

Copyright serves as a legal structure offering exclusive rights to creators and proprietors of original artistic endeavors. This legal mechanism safeguards diverse creative works and extends its protection over a wide range of artistic mediums, encompassing writing, music, films, etc. Authors are empowered with the right to control and determine how their works are utilized, distributed, reproduced, exhibited, or performed by others.

What Are the Exceptions to Copyright Infringement?

Section 52 of the Copyright Act of India, 1957 outlines various acts that do not constitute copyright infringement. Some key exceptions include:

1. Fair Use: "Fair use of literary, dramatic, musical, or artistic works for private use, research, criticism, or review is allowed. This includes the making of copies or adaptations of computer programs for personal use, back-ups, and interoperability.
2. Educational Use: Reproduction of works for educational purposes, performance in educational institutions, and making sound recordings for educational purposes are exempted.
3. Reporting Current Events: Fair dealing with works for reporting current events in newspapers, magazines, or through broadcasts is permitted.
4. Judicial Proceedings: Reproduction of works for judicial proceedings or reporting on judicial proceedings is exempted.
5. Government Works: Reproduction or publication of works by the Secretariat of a Legislature for legislative use is not considered infringement.
6. Public Libraries: Making copies of books by public libraries and reproducing unpublished works in libraries for research or private study are exceptions.
7. Official Publications: Reproduction or publication of official gazettes, legislative acts, reports of committees, and court judgments are exempted.
8. Artistic Works in Public Places: Making or publishing paintings, drawings, or photographs of works of architecture or sculptures permanently situated in public places is allowed.
9. Religious and Official Ceremonies: Performance or communication to the public of works during religious or official ceremonies is exempted.
10. Ephemeral Recording: Broadcasting organizations can make ephemeral recordings for their own broadcast and retain them for archival purposes."

These exceptions aim to balance the protection of copyright with the need for public access and use of creative works in specific contexts.

What's in The News?

The news is about the collection of royalties by the Copyright Societies for playing musical works, sound recording, etc. in ceremonies relating to marriages before the issue of a public notice by the Department of Promotion of Industry and Internal Trade (DPIIT) in the Ministry of Commerce & Industry in July 2023 after several complaints were made in this regard.

"The ministry's circular read- It is commonly known that certain actions make an exception to the copyright infringement as stated in Section 52 of the Copyright Act of 1957. The Central Government, State Governments, or any local authority may not organize an official event or a legitimate religious ceremony that involves the performance or public communication of literary, dramatic, or musical works, including sound recordings, without violating copyright laws, as stated in Section 52 (1) (za). Regarding this provision, a marriage procession and other related celebrations are included in a religious service.

The ministry demonstrated compliance and recognition of the exemption provision since the public notice provided advises the public against complying with any such requests from any person, entity, or copyright society."

What's the International Scenario Surrounding the Law?

Exceptions to the copyright infringement act are being interpreted and transformed on the international level like in the USA, one example of which is the "transformative fair use doctrine". "Supreme court case of Andy Warhol Foundation for the Visual Arts, Inc. v. Goldsmith is an appeal in which Andy Warhol's Prince Series was not a fair use of a copyrighted photograph of the artist Prince taken by Lynn Goldsmith in 1981 as the image remained Orange Prince's "recognizable foundation." SC in its decision of May 2023 gave the similar decision but reasoning was a little different and was based on the context of the usage of the product rather than the product. The first fair use factor takes into account whether using a copyrighted work has a different purpose or character. This is an issue of degree, and the usage's commercial aspect must be taken into account when weighing the difference in degree. Therefore, maintaining and interpreting the exclusions to copyright infringement is a frequent task for the courts.

Conclusion

Copyright safeguards creators' exclusive rights to various artistic works, with Section 52 of India's Copyright Act delineating exceptions like fair use and educational use. Recent concerns over collecting royalties for music at weddings led to a public notice emphasizing the exemption of such events from copyright infringement. Globally, the transformative fair use doctrine, as seen in the US Supreme Court's Andy Warhol Foundation v. Goldsmith case, reflects ongoing efforts to balance intellectual property protection. These exceptions seek to reconcile copyright protection with societal needs, requiring awareness, compliance with legal provisions, and adaptation to evolving creative dynamics for a nuanced balance between creators' rights and broader societal interests.

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ENVIRONMENT LAW

ROLE OF G20 IN ENVIRONMENT: POLICIES VS. IMPLEMENTATION

Niranjani & Tanisha Parkhey
Reviewed by Agam Tandon

The G20, a pivotal international economic collaboration platform, discussed diverse issues during India's 2023 presidency, focusing on the theme 'One Earth, One Family, One Future.' Despite significant discussions on environmental priorities, challenges persist. The circular economy initiative, RECEIC, aims to promote sustainability but faces skepticism regarding enforceability without a specific governing body. The "blue economy" principles emphasise responsible ocean resource use, yet their effectiveness hinges on strict implementation. Energy transition discussions lack clarity on concrete actions. While G20's focus on climate change highlights urgency, the absence of consensus raises doubts about the discussions' impact. The need for tangible actions following dialogues is emphasised, urging member states to implement policies for a sustainable and resilient future amid global climate challenges.

Introduction

The Group of Twenty (G20) serves as a crucial platform for international economic collaboration, exerting a pivotal influence on the global framework and governance regarding major economic issues. Initially concentrated on broad macroeconomic concerns, the G20 has broadened its scope to encompass various areas such as trade, climate change, sustainable development, health, agriculture, energy, environment, and anti-corruption. In 2023, the G20 will center its efforts around the theme 'One Earth, One Family, One Future,' emphasizing the interconnectedness of all living entities on Earth and in the broader cosmos. Marking a historic moment, India will host the G20 Leaders' Summit for the first time in September 2023, with a record 43 Heads of Delegations participating. India's presidency, grounded in democratic principles and multilateralism, signifies a significant step towards seeking practical global solutions for the collective benefit and embodies the concept of "Vasudhaiva Kutumbakam," portraying the world as one family.

Now, let us look into India's G20 priorities concerning the subject of the environment. India placed a significant emphasis on addressing climate change, particularly by prioritizing climate finance and technology. However, consensus on climate change was elusive, leading to an unresolved outcome in the environmental meeting. Therefore, it is important to assess whether India's presidency was successful at initiating climate and environment preservation policies among the G20 members.

Designing a Circular Economy World

The circular economy envisions a sustainable system where materials are continually reused and nature is regenerated. An industry-driven initiative, RECEIC, has been established to globally promote resource efficiency and circular economy practices. Its core objectives include fostering knowledge-sharing, best practices, and sustainability among participating industries. The coalition operates based on three guiding principles: Partnerships for impact, Technology Cooperation, and Finance for scale. RECEIC aims to facilitate company-to-company collaboration, enhance capabilities across sectors, and leverage global experiences to drive on-ground private sector action for resource efficiency and circular economy transition. The organization serves as an advisor, guiding companies in reducing waste through sustainable practices, minimizing greenhouse emissions, and decreasing dependence on raw materials. While this initiative is commendable and extends beyond India's presidency, there is a need for skepticism regarding its enforceability. The absence of a specific governing body raises concerns about smooth functioning and the potential disregard of advice. This vulnerability may expose RECEIC to lobbying efforts and companies choosing not to adhere to suggested actions and steps.

The concept of "blue economy" involves encouraging the mindful use of ocean resources to stimulate economic growth, improve people's lives, and generate job opportunities, all while ensuring the health of ocean ecosystems.A report named 'Chennai High-Level Principles for a Sustainable and Resilient Blue/ocean-based economy was released after the G20 environment and Climate ministers meeting. This report lists nine important principles and these principles help us understand the importance of the ocean and its resources. This principle focuses on dealing with pollution in the oceans and along the coasts, which can come from various sources like plastics, air pollutants, and other harmful substances. It further addresses the problems of overusing marine resources and engaging in illegal activities that harm the ocean.

In December, countries worldwide agreed on the Kunming-Montreal Global Biodiversity Framework, aiming to significantly reduce the loss of important biodiversity areas by 2030. This includes ecosystems with high ecological value, all while respecting the rights of indigenous people and local communities. The G20 meeting confirmed its commitment to achieving this goal, and G20 ministers recommitted to the Paris Agreement while agreeing on principles for sustainable ocean-based economic activities.

Energy Transitions

The 4th Energy Transitions Working Group meetings (ETWG meetings) were conducted under India's G20 Presidency. There were detailed discussions on six main areas. These include addressing technology gaps for energy transition, securing low-cost financing, ensuring energy security with diverse supply chains, promoting energy efficiency and responsible consumption, exploring future fuels, and ensuring universal access to clean energy with fair and affordable transmission methods.

In the first meeting, there was an agreement among members that fossil fuels would still be used in most countries for the next two decades to increase the use of renewable energy. In the second meeting, India suggested the idea of a Global Biofuels Alliance, which received widespread support. The third meeting emphasized the importance of providing everyone with access to modern and sustainable energy. The last- fourth marked convergence on hydrogen-related issues.

Conclusion

The theme "One Earth, One Family, One Future," summarises India's G20 presidency in 2023, focusing on critical climate issues. While incredible steps have been taken towards addressing environmental issues, questions can be asked when one assesses the discussions critically. The G20's focus on climate change makes the urgency of environmental actions very evident, however, the lack of any agreement or consensus on the same makes one suspicious about the effectiveness of the discussions. The conferences need to be followed by concrete actions that will help our planet in reality.

The establishment of RECEIC for promoting sustainable practices is a good initiative yet there are questions about its enforceability as the lack of a specific governing body challenges its ability to reach its goals. The blue economy principles outline offers a comprehensive approach to ocean-based activities; however, they will be not useful unless these principles are implemented strictly. Energy transition and discussions around it lack clarity on the concrete actions required to be performed, only resembling ambitious goals with almost no clear path to achieve them.

In the end, while crucial dialogues have taken place in G20 2023, the member states must be vigilant in implementing the policies suggested and raised. Discussions are very helpful to raise awareness about crucial issues in the public but actions to solve these issues and ensure a sustainable, inclusive, and resilient future are required at this stage of climate change.

UTTARAKHAND TUNNEL COLLAPSE: UNEARTHING ENVIRONMENTAL OVERSIGHT BYPASS

Moulika Sharma
Reviewed by Amrit Shree Updhayay

Uttarakhand, known as “the land of God itself”, went through a tragedy when a tunnel under construction collapsed and 41 workers got trapped inside the debris. The tunnel, which was being built under the 880-km Char Dham Project from Silkyara to Barkot aimed to provide a shorter path for pilgrimage and military needs. This article critically analyses the importance of geophysics and the role of rescue experts in critical times like this, who brought those workers to safety. It also delves into the harm and repercussions that hill cutting could invite.

Uttarakhand known as “Dev Bhoomi” hosts lakhs of people every year for tourism and pilgrimage, because of its beauty and religious significance. Char Dham and Hemkund Sahib yatra are some of the major pilgrimage sites where tourists turn up in huge numbers, making them the backbone of Uttarakhand's economy. A tunnel under construction from Silkyara to Barkot under 880-km Char Dham project experienced a collapse that obstructed the entire project. It raised many questions and brought a number of agencies under scrutiny.

On 12th November when the entire country was joyous and busy with Diwali festivities, with the whole nation anticipating a World Cup Win, the workers who were working in the Uttarkashi tunnel were about to experience their deadliest trauma. There was a landslide at the construction site of the tunnel on both ends, luckily the tunnel was still intact and people inside were safe from the landslide. On the 13th of November, Chief Minister Pushkar Dhami made his visit to the tunnel. The other workers inserted a 12m pipe through the debris to reach the workers and establish communication. Food was provided through the pipe; medication was sent to the needful and other pipes were laid down to avoid suffocation.

On 14th November 800-900 mm pipes were inserted through debris in the hopes of saving them which could've led to another catastrophe. The distance between the entrance and the workers was 57 meters, also the amount of which had to be penetrated to rescue the lives of the workers. They used a special auger machine to drill holes in pipes. Then, they sent in new pipes to bring in food and water supplies. Using this method, they successfully provided the pipes as a source for their basic human needs.

On 18th November, the PMO team made five different evacuation plans to save the workers and on 19th November Transport Minister Nitin Gadkari reached there for the rescue operation and examined everything. There was an iron obstacle that obstructed the drilling path, which was later removed on 23rd November.

On the same day, a new problem emerged, the boring machine started developing cracks and the operation was again halted. On the 25th Arnold Dix, an international tunnel expert suggested vertical and manual drilling. On the next day, the vertical drilling began, with 86 meters to drill to reach the workers. By the end of the day, the machine drilled up until there were 19 meters of distance remaining, and only 12 meters were left to drill but the machine malfunctioned.

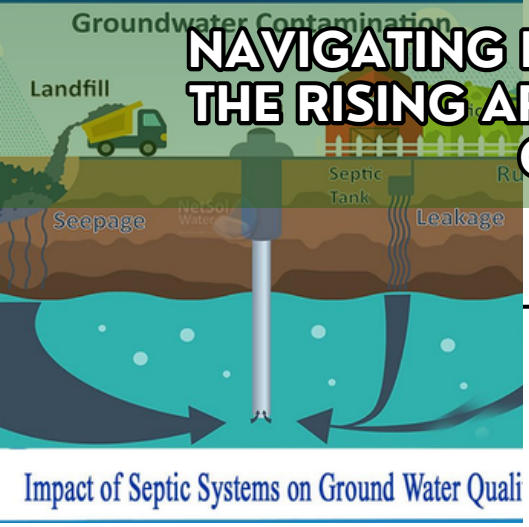
Multiple experts were called and they suggested rat mining as the solution. Rat mining is a practice where as small as five square meter pits are made and these rat miners move through the narrow spaces. Ultimately, 41 workers were saved due to the efforts of these Rat miners. The original plan of drilling horizontally was successful, and after the rescue, Arnold Dix stated this as his toughest operation. All of the workers were alive and the government took them to medical as Badrinath, Kedarnath, Gangotri, and Yamunotri are sites that hold significance in Hindu Pilgrimage. And Char Dham All Weather Project was started to establish better connectivity between these sites. Costing 12,000 crores, this project aims to build an infrastructure of 825 kilometers. Enhancing infrastructure in Uttarakhand, there is potential to stimulate economic growth and boost travel-related industries, leading to increased employment opportunities. The development of a comprehensive infrastructure, including two-lane roads, bridges, and tunnels, is expected to contribute to a reduction in travel time and fuel costs. Implementation of new signboards and enhanced security measures will promote safer driving practices, potentially leading to a decrease in road accidents. Enhancing infrastructure will aid the military in securing the Indian border, particularly with China, aiming to prevent the recurrence of historical events. This approach seeks to ensure better preparedness through improved infrastructure in such circumstances.

Now, these are the benefits but there are challenges as well. The mighty Himalayas pose a big geological problem, and another problem is the water that seeps inside the rocks. There is a study which was conducted in 2010, which simply suggests that whenever a rock contains water, it is extremely difficult to identify its strength and the threshold of handling weight and pressure. The excavation begins nonetheless.

A German-Austrian engineering consultancy named Bernard Group was hired to construct this tunnel. In August, it was mentioned that building in the Himalayas is much tougher than anticipated in the initial project description. To decide on constructing a tunnel, the Supreme Court formed a committee. Environmentalists suggested a narrow tunnel, while underground construction experts argued that the methods being used, though over 200 years old, are proven and reliable. Only after studying the seismic conditions and receiving the approval of the committee appointed by the Supreme Court, did the construction begin, and yet 41 workers were trapped. A geological report submitted to the Ministry of Road Transport and Highways (MoRTH) before the commencement of the Silkyara-Barkot tunnel project shows that the proposed tunnel could encounter weak rocks and adequate support structure needed to prop up the weak rocks. "From the surface geology, it may be anticipated that the rock type to be encountered along the diversion tunnels would be 20% good (Class 2), 50% fair (Class 3), 15% poor (Class 4), and 15% very poor (Class 4)", the report said. The report also stated that the majority of rocks are sedimentary rocks like slate and slit stone, and the chances of occurrence of wedges in between the rocks which can impact the stability was also mentioned. Due to the nature of the rock, proper support was supposed to be created to avoid the danger. Any construction in the Himalayas mountains would have such conditions. The government put in every inch of effort and yet it took us more than two weeks to bring those workers to safety.

Hence, the negligence in this part of the project could have taken the lives of those innocent individuals who were working in the tunnel. Rules should be stricter, with no exceptions allowed, whether the tunnel is short or long. It's for the safety of the people, and we shouldn't expose them to danger. Measures need to be taken to avoid the harm that a natural disaster could bring.

NAVIGATING LEGAL FRAMEWORKS FOR ADDRESSING THE RISING ARSENIC AND FLUORIDE GROUNDWATER CONTAMINATION IN INDIA



Rishita Yadav
Reviewed by Sanya

Recently, notices were issued by the National Green Tribunal (NGT) to 24 States, 4 Union Territories, the Central Ground Water Authority (CGWA), and the Union Ministry of Environment Forest and Climate Change regarding the issue of the presence of chemicals like Arsenic and Fluoride in the Groundwater of these states and UTs. The tribunal was hearing a case in which it took suo motu (on its own) notice of a media report highlighting arsenic and fluoride levels over acceptable limits in groundwater in several parts of various states and union territories. These chemicals are known to have dangerous repercussions on the human body, mind and overall health. The Central Ground Water Authority (CGWA) is responsible for regulating groundwater and has been directed by the Supreme Court to act on groundwater contamination matters. Lately, CGWA has been criticized for having a casual approach in undertaking the statutory responsibilities and obligations put on it for the welfare of the public at large. This article examines the legal framework associated with the management of groundwater pollution in India and suggests ways in which it can be effectively tackled.

Introduction

The NGT was established in 2010 as a specialized court for environmental matters, with an emphasis on environmental disputes and concerns such as implementing nature laws, conserving natural resources, and managing pollution. The tribunal functions autonomously of the Civil Procedure Code and comprises three primary bodies: the Leader, Judges, and Experts, each serving a tenure of 5 years.

In 1997, the Central Ground Water Board was established as the Central Ground Water Authority (CGWA) under Subsection (3) of Section 3 of the Environment (Protection) Act, 1986, to regulate and govern groundwater management and development in the nation. To simplify the CGWA's regulatory responsibility, district magistrates/deputy commissioners of revenue districts were designated as authorized authorities to approve for groundwater extraction for drinking/domestic usage in notified areas. A recent panel debate convened by the NGT based on media reports showed a widespread issue of excessive arsenic and fluoride levels in groundwater throughout many states and territories. The report identified arsenic in 230 locations across 25 states and fluoride in 469 districts covering 27 regions. According to the panel, consisting of Justice Sudhir Agarwal and Expert Member A Senthil Vel, CGWA has been avoiding its legal obligations of keeping a check on the groundwater pollution levels of various areas by stating that water management is a state subject and it is not bound to regulate issues related to it. This particular contention of CGWA had already been rejected by the apex court in 1997 and a 2022 Tribunal order. Therefore, in response to it, the notice was issued by NGT. The matter has been listed for hearing on 15th February 2024.

Legal Framework for Groundwater Management in India

A. Central Ground Water Board (CGWB):

The Central Ground Water Board is the national apex organization in charge of conducting scientific surveys, exploring, monitoring development, managing, and regulating the country's substantial groundwater resources for irrigation, drinking, household, and industrial purposes. It is a subordinate office of the Ministry of Water Resources under the Government of India.

The Central Ground Water Board (CGWB) is actively involved in various programs to improve groundwater management. These include thorough macro and micro-level research, an exploratory drilling program to discover groundwater resources, and of installing a network of observation wells to monitor groundwater levels and quality. The Department of Water Resources, River Development, and Ganga Rejuvenation, under the Ministry of Jal Shakti, has issued guidelines for controlling and regulating groundwater extraction, including measures to prevent pollution from industries. These precautions are intended to avoid future degradation of groundwater quality near polluting enterprises. The recommendations demand wellhead protection, mandating that tube wells or bore wells be erected in sanitary locations, with Reinforced Concrete Cement (RCC) grouting surrounding the tube-well, and no recharge methods within the plant premises.

B. National Aquifer Mapping Programme (NAQUIM) by CGWB:

NAQUIM envisions mapping aquifers (water-bearing formations), characterizing them, and developing Aquifer Management Plans to help with the sustainable management of groundwater resources. NAQUIM was implemented as part of the Ground Water Management and Regulation Scheme under the Department of Water Resources, River Development, and Ganga Rejuvenation.

C. Central Ground Water Authority (CGWA):

As mentioned earlier, it is the main body for the regulation of groundwater and, in matters of groundwater contamination, has been authorized by the Supreme Court to make decisions. The CGWB, the Central Pollution Control Board (CPCB), and state authorities are entrusted with monitoring water quality and combating contaminants.

Furthermore, the CGWB provides data to state governments for corrective steps and builds contamination-free wells. It has also cooperated with the Geological Survey of India (GSI) for further investigation.

Steps Taken to Tackle This Issue

A. The CGWB is constantly updating its database on arsenic contamination regions according to the Bureau of Indian Standards' (BIS) acceptable limit for arsenic in drinking water, i.e., 0.01 mg/L.

B. CGWB has taken various initiatives, including exchanging data with state governments for remedial efforts, drilling wells for groundwater investigation, and handing over successful contamination-free wells to state governments.

C. The CGWB, in partnership with the National Institute of Hydrology, has developed a study on mitigation and remediation of groundwater pollution.

D. The CGWB signed an MoU with the Geological Survey of India (GSI) for further research. The study focuses on groundwater pollution with uranium, lead, arsenic, fluoride, and mercury. It is part of a more significant effort to address the substantial health risks caused by hazardous compounds and metals in groundwater across several districts and states in India.

E. The Central Pollution Control Board (CPCB) and state agencies also monitor water quality and collect important data for future reference and corrective action.

F. CGWB has been constructing arsenic-safe exploratory wells in affected parts of states like West Bengal, Bihar, and Uttar Pradesh under the National Aquifer Mapping Programme (NAQUIM).

G. Finally, the National Green Tribunal (NGT) has paid attention to the significance of arsenic and fluoride pollution in groundwater throughout numerous states and districts in India, mandating immediate preventative and protective actions by responsible authorities.

Suggestions for Effective Handling of This Issue

A. Stringent Pollution Prevention Laws: Enforcing rigorous pollution prevention legislation, including penalties and fines, is critical to reducing groundwater contamination. For example, The US's Clean Water Act imposes strict controls on emissions into bodies of water, indirectly safeguarding groundwater. Violators face potential penalties and legal repercussions.

B. Decentralization: It empowers local organizations to manage groundwater resources in accordance with regional demands. The state of Maharashtra decentralized groundwater regulation to local bodies like gram panchayats, which enabled community-driven solutions and effective monitoring of groundwater use.

C. Quick Legal Intervention: Rapid litigation and legal actions guarantee that businesses follow the rules, averting pollution and over-exploitation. The Plachimada controversy in Kerala involved legal battles against Coca- Cola accused of depleting and contaminating groundwater with calcium and magnesium. Legal actions forced the plant's closure and thus prevented further contamination.

D. Community Involvement: Programmes for raising public knowledge in the community encourage prudent use of groundwater like The Water Wise Utah program in the United States encourages community participation in water conservation.

Conclusion

In conclusion, safeguarding groundwater demands a comprehensive legal approach, integrating aquifer-centric management, pollution prevention laws, and community engagement. Emphasizing the resource's shared nature, decentralized regulation, and lessons from successful models are vital. We can address pollution threats by implementing stringent measures and proactive legal interventions, and ensure sustainable groundwater use. Only through collaborative efforts and responsible governance can we preserve this invaluable resource for present and future generations, securing a water-rich future.

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ALTERNATIVE DISPUTE RESOLUTION

BUILDING BRIDGES, SETTLING DISPUTES: THE RISE OF ADR IN INDIA

Shivantika Dwivedi & Isha Kaliraman
Reviewed by Vrinda

India's ambitious infrastructure development plans hinge on the success of Public-Private Partnerships (PPPs). However, the intricate web of contracts and diverse interests inherent to these partnerships create fertile ground for potential disputes. Traditional court litigation, with its glacial pace and astronomical costs, proves ill-equipped to navigate this complex landscape. Here, Alternative Dispute Resolution (ADR) emerges as a beacon of hope, offering swift, flexible, and cost-effective solutions. This article delves into the intricacies of ADR within the Indian PPP ecosystem, analyzing its various forms, their advantages and limitations, and the need for robust frameworks and capacity building to optimize its effectiveness. We illuminate the path with real-life examples, showcasing how ADR has helped navigate disagreements and pave the way for continued collaboration in various Indian PPP projects.

A Perfect Storm of Complexity

Imagine a colossal bridge rising across a turbulent river, a testament to the power of collaboration between the public and private sectors. This is the essence of a PPP; a delicate dance where public needs intertwine with private expertise. However, beneath the grand vision lies a complex terrain of contracts, timelines, and financial calculations. Inevitably, disagreements can arise, threatening to derail progress and erode trust. Traditional litigation, burdened by its own cumbersome processes and exorbitant costs, often proves unsuitable for navigating these disputes. Enters ADR, offering a nimble and streamlined alternative.

A Spectrum of Solutions

Alternative Dispute Resolution (ADR) emerges as a multidimensional toolkit for Indian Public-Private Partnerships (PPPs), providing unique solutions to complex difficulties. Notably, as demonstrated by the Delhi-Gurgaon Expressway issue, negotiating is a simple yet effective method similar to informal discourse. Here, smart discussions between the National Highways Authority of India and the concessionaire averted a protracted court fight, effectuating a swift conclusion relative to toll collection. Mediation, managed by an impartial third party, presents as an integral technique promoting amicable settlements, as demonstrated by the Mumbai Metro Line 1 dispute resolution, in which effective mediation reduced delays and insured the project's continuous continuity. Arbitration, which resembles a condensed trial, is exemplified in the Chennai International Airport dispute, where an appointed tribunal issued a binding adjudication, resulting in a mutually acceptable agreement between a private operator and the Airports Authority of India on airport charges.

In cases where technical complexities obfuscate disputes, the indispensable tool of expert determination, as demonstrated in the Chennai Metro Rail Limited case, leverages the expertise of neutral technical authorities to expeditiously navigate and resolve disagreements over technical specifications, thereby accelerating project progress. This wide set of ADR instruments demonstrates their critical function in creating legal bridges and facilitating conflict settlement, indicating an important rise in their incorporation into the landscape of Indian PPPs. Compared to the traditional justice system, ADR offers several compelling advantages in the PPP arena. ADR methods are substantially speedier, often concluding disputes in months versus years in court. This contributes to shorter project timelines, lower cost overruns, and faster completion. With lower legal fees, lower administrative costs, and streamlined procedures, alternative dispute resolution (ADR) mechanisms typically come in under litigation's price range. This limits the monetary weights on the two accomplices, especially the public area, permitting assets to be diverted towards project advancement. ADR strategies are intrinsically versatile, taking into account tailor-made methods to suit the particular necessities of each debate. This can remember varieties for timetables, rules of proof, and the degree of custom, guaranteeing an interaction that lines up with the exceptional qualities of the conflict. ADR procedures are frequently secret, defending delicate business data and reputational worries of the two players. This can be urgent for safeguarding working connections and encouraging proceeded with cooperation, especially in long haul PPP projects. Dissimilar to the ill-disposed nature of case, ADR underlines correspondence and understanding. This is essential for the PPP project's long-term success because it encourages amicable settlements, maintains trust and cooperation among the partners, and fosters positive working relationships.

Bridging the Gaps

Regardless of the appeal, challenges remain. Numerous partners need adequate information about ADR choices and their advantages. Expanded outreach and instructive drives are critical to bring issues to light and empower its reception. Organizations that are accountable for leading and implementing ADR processes must increase their mastery and assets. Preparing programs for go-betweens, mediators, and care providers is critical to ensuring effective and predictable implementation. While India recognizes ADR, further legislative change is required to clarify the scope of arbitrability, streamline procedural requirements, and establish consistency in court interpretation. To maintain the process's integrity, it is essential to strengthen judicial mechanisms for the recognition and enforcement of ADR awards, particularly arbitration awards. By addressing these challenges, India can unlock the full potential of ADR and pave the way for a more efficient and collaborative PPP ecosystem. Here are some actionable steps:

A. **Invest in awareness campaigns:** Organize workshops, seminars, and online resources to educate public and private stakeholders about ADR options and their benefits for PPP disputes. Partner with industry bodies, legal associations, and government agencies to create a comprehensive awareness campaign.

B. **Strengthen institutional capacity**: Establish dedicated ADR centers within PPP regulatory bodies equipped with trained mediators, arbitrators, and technical experts. Invest in training programs to enhance their skills and ensure consistent application of ADR procedures.

C. **Refine the legal framework**: Review and update the Arbitration and Conciliation Act, 1996, and other relevant laws to address specific concerns of PPP disputes. Clarify the scope of arbitrability, streamline timelines and procedures, and ensure swift judicial enforcement of ADR awards.

D. **Promote international harmonization:** Collaborate with international organizations and other countries to develop harmonized ADR practices for PPP disputes. This can facilitate cross-border investments and ensure greater investor confidence in India's PPP framework.

E.**Leverage technology**: Develop online platforms and digital tools to streamline ADR processes, facilitate document sharing, and enhance communication between parties. This can improve efficiency, accessibility, and transparency of ADR mechanisms.

Examples of Success

The positive impact of embracing ADR in Indian PPPs is already evident:

A. NHAI Dispute Resolution Panel: The National Highways Authority of India (NHAI) established a dedicated Dispute Resolution Panel comprising experienced arbitrators and mediators. This panel has successfully resolved numerous contractual disputes with concessionaires, expediting project progress and minimizing financial losses.

B. PPP Arbitration Tribunals: Several dedicated PPP Arbitration Tribunals have been established across India, equipped with specialized infrastructure and expertise to handle complex PPP disputes efficiently. These tribunals have earned a reputation for swift and fair resolutions, attracting greater investor confidence in the PPP sector.

The Road Ahead

The future of Indian Public-Private Partnerships (PPPs) depends on cultivating a collaborative culture and implementing effective conflict resolution processes. With the implementation of Alternative Dispute Resolution (ADR), India can provide its infrastructure development apparatus with a powerful tool for navigating disagreements, maintaining alliances, and assuring the timely completion of projects. Beyond operational efficiency, the benefits of ADR include the development of long-term trust and understanding between public and private parties, laying the groundwork for a sustainable and healthy PPP ecosystem. As India scales its infrastructure ambitions, ADR must be woven into the very fabric of PPP As India pursues its infrastructure goals, it is critical to seamlessly integrate ADR into the fabric of PPP contracts. India can elevate ADR from a promising alternative to a linchpin of prosperous PPP partnerships by strategically investing in awareness campaigns, capacity building initiatives, and the fortification of a comprehensive legal framework, propelling the country towards a more luminous infrastructure future.

THE NEW MEDIATION LAW IN INDIA

Chidansh Rawat
Reviewed by Samiksha Biswakarma

India, a rising economic giant, has long recognized the crucial role of efficient dispute resolution mechanisms to reduce its long pendency of cases and burden on the courts. In past years, India has showcased streamlining of arbitration laws seeking to bolster India's position as a preferred forum for international and domestic commercial disputes. The Mediation Act, 2023 is an act passed by the Parliament of India to provide for the promotion and facilitation of mediation. The Act aims to provide a more accessible and affordable means of resolving disputes. In 2019, India also signed the Singapore Convention on Mediation aiming to streamline the enforcement of international mediated settlement agreements, making it easier and faster for parties to resolve cross-border disputes through mediation. In recent years, a renewed focus on streamlining the arbitration landscape has seen significant legislative developments designed to bolster India's position as a preferred forum for international and domestic commercial disputes.

The Mediation Act, 2023 is an act passed by the Parliament of India to provide for the promotion and facilitation of mediation as a means of resolving disputes. The Act provides a clear and comprehensive framework for mediation and will help to ensure that mediation is accessible and affordable to all.

It provides for the establishment of a Mediation Council, which will be responsible for promoting and facilitating mediation. The Act also provides for the appointment of mediators and for regulating mediation proceedings. The Act is intended to provide a more accessible and affordable means of resolving disputes and to reduce the pendency of cases and the burden on courts. The Act applies to all civil disputes, including commercial disputes, family disputes, and labor disputes.

A mediator is a person who is appointed to assist the parties in resolving their dispute. The mediator is not a judge and does not have the power to pronounce a verdict on the dispute, his role is to assist the parties to communicate with each other, to understand each other's perspective, and to reach a mutually acceptable solution to the dispute. Mediation proceedings are confidential. The parties are not required to disclose any information that they do not want to disclose. The mediator is also not required to disclose any information that is disclosed to him or her during the mediation proceedings.

The Act provides for the establishment of a Mediation Council, which will be responsible for promoting and facilitating mediation as a means of resolving disputes. The Council will also be responsible for developing and maintaining a code of practice for mediators and for providing training and accreditation for mediators. Mediation in India is not new. The historical use of mediation through Panchayats to resolve communal conflicts is well known and continues to be advocated. The practice of conciliation lost its place during British rule, leading to disputes and delays in the adversarial legal system. Section 89 (1) of the Code of Civil Procedure 1908 allows courts to offer arbitration, conciliation, judicial mediation, or conciliation to resolve disputes. Although mediation centers have been set up in different parts of India they lack structure and legal recognition, which hinders participation.

To address this issue, the Mediation Act 2023 was proposed to streamline the mediation process and create a comprehensive legal framework. In 2019, India also signed the United Nations Convention on International Settlement Agreements Resulting from Mediation, also known as the Singapore Convention on Mediation. This convention aims to streamline the enforcement of international mediated settlement agreements, making it easier and faster for parties to resolve cross-border disputes through mediation

The Conciliation Bill, 2021 was introduced in the Rajya Sabha on 20.12.2021 and referred to the Standing Committee on Personnel, Public Grievances, Law and Justice on 21.12.2021. On 13 July 2022, the Standing Committee published its 117th Report on the Reconciliation Act in which it made certain recommendations regarding the Regulations. The union board accepted some of these recommendations and the council adopted the Conciliation Act 2023 Rajya Sabha on 2 August 2023 and Lok Sabha on 7 August 2023. The Mediation Act received the president's assent on 15 September 2023 and is known as the Mediation Act, 2023.

The Mediation Act aims to "promote and facilitate mediation," with a special emphasis on community mediation, online mediation, and institutional mediation with the sole objective to speed up dispute resolution.

Key provisions of the act include –

- **Place of mediation**: The mediation shall take place within the territorial jurisdiction of the court or tribunal of competent jurisdiction to decide the subject matter of the dispute, or at any other place by mutual consent of the parties. Parties may also conduct the mediation proceedings (including pre-litigation mediation) online, provided the parties agree to do so by written consent.
- **Process**: Mediation is deemed to have commenced from the date a party receives notice invoking mediation under a mediation agreement. In case there is no such agreement, from the date of appointment or consent of the mediator to be appointed, whichever the case may be. The mediator is required to assist the parties in an independent, neutral, and impartial manner guided by principles of objectivity and fairness. The mediator may meet the parties separately or jointly, as frequently as required. The mediator shall not be bound by the principles of the Code of Civil Procedure, 1908 or the Indian Evidence Act, 1872. This would ensure more flexibility from procedural requirements and party autonomy in arriving at an amicable settlement.
- **Role of the mediator**: The mediator's role is limited to facilitating the voluntary resolution of the dispute by assisting the parties in identifying the issue, advancing a better understanding, clarifying priorities, exploring areas of settlement, generating options, and laying emphasis on the ultimate responsibility of the parties to decide their claims - whilst ensuring that the mediator does not impose a settlement on the parties or give an assurance that the mediation may result in a settlement.
- **Time limit**: The mediation proceeding is required to be completed within a period of 120 days from the date fixed for the first appearance of the mediator. This Time period may be extended by a further period if mutually agreed by both parties, not exceeding 60 days

Today, it is a fact that India has progressed significantly in the excursion of advancing and executing mediation and alternative dispute resolution components. India has a long way to go in turning into the best option of the worldwide business bodies in the simplicity of settling disputes in business by discretion and other ADR strategies. Consistent transformations in view of the learnings of the significant business purviews of the world and legitimate executions of the equivalent as to discretion can use India as the world forerunner in speedy and effective debate goals.

THE FUTURE OF ADR: EMERGING TRENDS AND INNOVATIONS

Ayesha
Reviewed by Agam Tandona

Alternative Dispute Resolution (ADR) describes the various ways in which disagreements can be settled out of court. Neutral evaluation, arbitration, and mediation are typical ADR procedures. ADR is experiencing a transformative evolution, adapting to the changing legal landscape and escalating demand for cost-effective alternatives. Compared to ordinary court hearings, these procedures are often more relaxed, less official, and confidential. Technological advancements, industry-specific frameworks, cultural flexibility, and interaction with the legal system are all components of ADR's growth. It tackles issues with the dynamics of power and digital concealment while emphasizing environmental conflict resolution. Resolving international conflicts in an approachable, effective manner while balancing innovation and ethics. In light of ethical innovation and legal system integration, the research delves into the dynamic future of alternative dispute resolution (ADR), highlighting its critical role in altering conflict resolution with flexible solutions for a range of international disputes.

The term "Alternative Dispute Resolution," or "ADR," refers to the different ways people can resolve disputes without a trial. Alternative Dispute Resolution (ADR) has evolved significantly in the past few years. ADR appears to have a bright future ahead of it, with innovative techniques and new trends to match the evolving legal landscape and the increasing demand for affordable alternatives. Their cost-effectiveness, quick decisions, discretion, and flexibility are what make them acceptable or interesting. The future of dispute resolution in India is likely to be shaped by a combination of arbitration, mediation, and negotiation. The traditional adversarial court-based litigation will continue to have its place, but it is expected that more disputes will be diverted towards these alternative methods. On the other hand, as developments in technology and cultural norms modify, the field of alternative dispute resolution (ADR) is evolving. These changes are opening the field of ADR to new concepts and creative methods.

The first significant technological change in ADR was the introduction of telephones and fax machines. These technological advancements facilitated communication across long distances, opening the door for a combination of remote and in-person ADR procedures. The integration of technology is a clear trend that will influence alternative dispute resolution (ADR) in the future. With the growing popularity of online dispute resolution (ODR) services, parties concerned can participate in ADR processes from a distance. These platforms make use of AI-driven tools, encrypted messaging systems, and video conferencing to facilitate negotiation, arbitration, and mediation. This allows them to efficiently overcome geographical limitations and increase accessibility. Especially when it comes to analysing massive databases, the use of AI-powered algorithms is growing in popularity. This programme offers the best options and assists in predicting possible outcomes. Furthermore, blockchain technology is becoming more and more popular due to its potential to create immutable records, guarantee transparency, and enhance security in alternative dispute resolution (ADR) processes.

Technological innovations such as online dispute resolution (ODR), smart contracts, and remote hearings have fundamentally changed the way that disputes are resolved. The implementation of remote hearings was expedited by the worldwide epidemic (COVID-19), proving its effectiveness without sacrificing fairness. Adopting technology is essential because it will transform case management and existing legal processes while enhancing human judgment in conflict resolution rather than substituting it. In the upcoming era of Alternative Dispute Resolution (ADR), there is a noticeable trend towards the creation of specialised methods tailored to certain sectors or types of conflicts. Customised frameworks for arbitration and mediation that are relevant to industries such as technology, healthcare, building, and intellectual property are becoming more common. These specific approaches are made according to the unique needs and complexities of every industry, therefore improving competence and knowledge in solving disputes.

Within the field of Alternative Dispute Resolution (ADR), the value of ethnic awareness and cultural competence is becoming more and more apparent. Effective settlement of conflicts requires a knowledge of and willingness to accommodate other points of view, cultural nuances, and societal contexts. To effectively handle conflicts resulting from a variety of cultural backgrounds and to achieve equitable outcomes, ADR experts are more and more participating in specialised instruction. ADR techniques are anticipated to be essential in settling conflicts pertaining to sustainability, climate change, and natural resource management as environmental issues gain worldwide popularity.

These difficult matters are likely to require the services of specialized or professional panels and mediators with knowledge of environmental law.

More and more legal systems and governments are realising that Alternative Dispute Resolution (ADR) can decrease court congestion and speed up the administration of justice. A growing number of laws encouraging the use of alternative dispute resolution (ADR) are being passed across the world. To achieve maximum efficiency and objectivity in dispute resolution, hybrid models that combine elements of traditional litigation with ADR are also being explored. One of the Regulatory Changes is in response to the changing demands of companies and individuals looking for alternative conflict resolution procedures, governments and organisations are reviewing and revising the laws pertaining to alternative dispute resolution (ADR).

Alternative Dispute Resolution (ADR) has a bright future, but it also presents a few difficulties that need to be addressed. Maintaining the standards and moral principles of ADR professionals is of utmost importance. In an increasingly digital world, maintaining privacy in online processes becomes a significant obstacle. To ensure justice and equitable outcomes in alternative dispute resolution (ADR) procedures, it is still imperative to address power disparities between disputing parties. Moreover, maintaining confidence and dependability in these processes depends on guaranteeing the implementation of ADR findings and obtaining adherence to settlements. Navigating these complexities is integral to maximizing the effectiveness and credibility of ADR in contemporary legal landscapes.

The future of alternative dispute resolution (ADR) is dynamic, characterised by advancements in technology, customised approaches, inclusion of other cultures, and a stronger integration with legal frameworks. ADR's widespread acceptability and effectiveness will depend critically on finding a balance between innovation and ethical observance as it develops. Further, it can also provide an accessible mode of dispute resolution to masses which will eventually reduce the burden on the traditional court system. ADR's development is set to reshape the field of conflict resolution in this fast-paced period by offering effective and easily accessible solutions for a broad range of worldwide conflicts.

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CORPORATE LAW

SEBI'S PROPOSAL: TRANSFORMING RETAIL PARTICIPATION IN THE CORPORATE BOND MARKET

Chetna Gupta
Reviewed by Agam Tandona

This article examines the Securities and Exchange Board of India's (SEBI) recent proposal to lower the minimum investment ticket size from Rs. 1,00,000 to Rs. 10,000 for retail individual investors (RIIs) in the corporate bond market. In line with larger initiatives over the previous fifteen years to improve the market's growth and efficiency, the action intends to increase retail participation. The importance of the suggested changes is discussed in this article, with a focus on the advantages that issuers and investors may experience. It talks about the market's growth trajectory, regulatory interventions, and historical background. Although the paper acknowledges the constructive intentions behind SEBI's initiative, it emphasizes that careful examination of structural and implementation elements is necessary to ensure a meaningful impact on the development of the corporate bond market.

Introduction

The economy is developing at a fast pace, and various initiates and investment plans have been introduced in the market for people to constantly expand their income sources, one of which is the corporate bond market. “A bond is a fixed-income instrument that represents a loan made by an investor to a borrower.” Investment in the corporate bond market is currently very low, also because banks these days serve a better interest on investment than these bonds. The minimum ticket size for investors to buy the corporate bond is Rs. 1,00,000 currently but SEBI is discussing changing specifically reducing the ticket size to make this bond more accessible to small investors namely retail individual investors. In this article, we'll discuss the corporate bond market and SEBI’s initiative and its effects on the bond market.

What’s in The News?

In a consultation paper released on 19 December 2023, SEBI proposed the possibility of allowing issuers to introduce NCDs (non-convertible debentures) or NCRPS (non-convertible redeemable preference shares) with a face value of Rs 10,000 as reduced from a previous face value of Rs. 1,00,000. This initiative seeks to increase the involvement of non-institutional investors in the corporate bond market. As outlined in the SEBI document, the issuer is required to engage a merchant banker to oversee the implementation of this proposal.

What Is a Corporate Bond?

“Corporate bond is a kind of financial security that a firm issues and sells to investors. The investor receives a certain amount of interest payments at either a fixed or variable interest rate in exchange for providing the firm with the money it requires. The bond "reaches maturity," or expiration, at which point payments stop and the initial investment is refunded.”

Why Is the SEBI Bringing in These Reforms? What Is the History of It All?

Considerable and varied work has been done in the last fifteen years to improve the growth of corporate bond markets. These measures cover a wide range of reforms, from the creation of a supportive regulatory framework to enhancements in the corporate bond market's microstructure. Moreover, initiatives to develop associated risk and derivative markets as well as policies to increase secondary market liquidity have been undertaken. The main regulator of the corporate bond market, SEBI, has been instrumental in improving the microstructure of the market. These efforts include, among other things, implementing an electronic bidding platform (EBP) for primary issuances, operationalizing a trade reporting platform for increased transparency, introducing request for quote (RFQ) platforms, consolidating stock through reissuance, and introducing delivery versus payment (DvP) settlement mode to eliminate settlement risk.

By requiring large borrowers to raise a portion (roughly 50%) of their incremental borrowings through market instruments, increasing investment caps, and introducing the Voluntary Retention Route, the RBI has also helped to develop the corporate bond market by allowing banks to offer partial credit enhancement (PCE) to increase the pool of potential investors. Additionally, attempts have been made to persuade the RBI, IRDAI, and PFRDA, among other regulatory bodies, to invest in corporate debt instruments.

Over the previous five years, the corporate bond market has grown at a compound annual growth rate (CAGR) of 9%. Crisil Ratings predicts that the market's remarkable size will more than quadruple from about Rs 43 lakh crore at the end of the previous fiscal year to Rs 100–120 lakh crore by FY30. The pace is likely to continue.

Even after such different measures and potential for growth, participation of retail individual investors (RII) in trading and investing in the corporate bond market remains limited. This is not a good thing. Reducing the ticket size from Rs. 1,00,000 to Rs. 10,000 is to bring in the retail crowd to invest in the corporate bond market Retail investors and issuers will significantly benefitted from the approval of these measures for various reasons-

- A lower face value makes investments more accessible to retail investors and gives them more options for investing than just fixed-income products like fixed deposits, which can lead to better returns.
- Retail investors' portfolios, which have historically been primarily concentrated on traditional investments like government securities and equities, are anticipated to become more diversified as a result of this shift.
- Increased participation from non-institutional investors could democratize the corporate bond market by drawing in a wider range of investors.

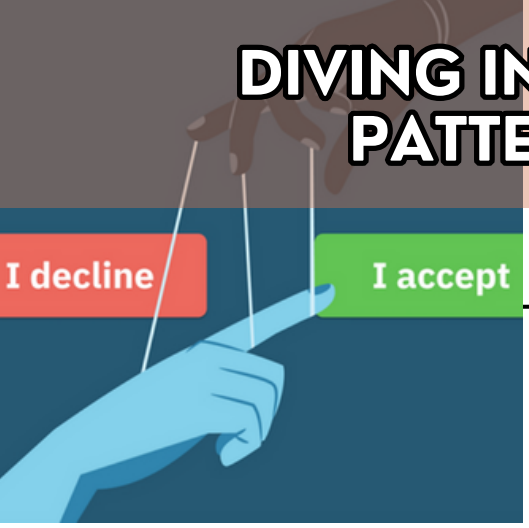
From the issuer’s point of view, this move will help them in various ways. Like:

- Issuers believe that a diverse investor base is essential to sustaining steady market demand. For example, take just your perspective- will it not be beneficial for you to get various products when going outside to buy a product? A diverse group of investors with varying risk tolerances, investing philosophies, and goals promotes active trading, liquidity, and affordable borrowing.
- Retail investors provide greater flexibility than institutional investors, who could have certain restrictions on investing tenors. This enables issuers to satisfy the demand from retail investors for longer tenors, which may not be available to institutional investors.
- This flexibility allows issuers to acquire money for long-term projects or operations in line with their company demands. Moreover, the increasing retail participation's diversity can lessen reliance on a small group of institutional investors, making the institutional market less vulnerable to short squeezes and extreme market fluctuations.

Conclusion

SEBI's initiative of reducing the ticket size designed to enhance retail involvement in the corporate bond market development aligns with broader efforts over the past fifteen years to enhance the growth and efficiency of the corporate bond market. As we delve into the details of SEBI's proposal, the historical context, and the potential implications for both issuers and retail investors, it becomes clear that while the move is positive, However, careful consideration and discussion on certain structural and implementation aspects are necessary to ensure a substantial and meaningful impact on the corporate bond market.

DIVING INTO CONCERNS: CCPA'S DARK PATTERNS GUIDELINES CRITIQUE



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On November 30, 2023, the Central Consumer Protection Authority (CCPA) notified the Guidelines for Prevention and Regulation of Dark Patterns under Section 18 of the Consumer Protection Act of 2019. This was a part of the Government's initiative to harmonize its development plans with the global standards on control of dark patterns. These Guidelines describe 13 practices that are considered to be Dark Patterns while the original draft for these Guidelines described only 4 of them. Dark patterns are design patterns or practices that are deceptive and are mainly intended to mislead and defraud users into doing certain things that they would otherwise wish to avoid. These patterns are based on the history of user interactions and experiences and therefore, after examining consumer habits the websites find ways in which the users are likely to be deceived. In the technologically advanced world of today, there is a plethora of e-commerce websites with millions of online users. Due to this large user engagement, sellers and organizations offering services on these websites are likely to deceive consumers, severely impairing their ability to make decisions and hampering their autonomy and rights.

Unveiling the Motivations Behind the Use of Dark Patterns: Why Do Companies Engage in It?

Firstly, by using deceptive tactics and strategies, companies can make users agree to certain Terms and conditions or click certain anonymous links that are not directly intended by the users to gain huge monetary benefits. This results in increased revenue and profits and therefore acceleration of the financial growth of their business.

Secondly, dark patterns help companies find a way into consumer insights including their behaviors, preferences, buying patterns, and online activities and thus help to gather extensive user data which in turn provides the necessary information to prepare a framework for advertising and marketing strategies.

Finally, it helps in attention-grabbing, often by the use of manipulative prompts or flashy visuals to divert users towards specific content, promotions, or actions that serve the objectives of the company and are not intended by the users.

Shortcomings of The Guidelines on Dark Patterns

1. **Applicability**:

The guidelines apply to:

- Platforms that consistently offer goods or services in India, including foreign ones
- Advertisers, i.e., individuals involved in creating, producing, and releasing ads either independently or through delegated services, promote the sale of their goods or services.
- Sellers and service providers, meaning individuals engaged in the business of importing, selling, distributing, or marketing products or services for commercial objectives.

The main drawback of this section is that it is too vague and uncertain. The guidelines aim to apply to both advertisers and sellers. However, the operational restrictions are specified for "persons (including platforms)."Due to this wording, potential confusion is created about the entities to which these guidelines truly pertain. The use of the term "persons," especially alongside the broad category of "platforms," raises questions about the scope and clarity of the regulatory framework. Also, as a result of this definition, advertising agencies or endorsers offering assistance for these advertisements might not be covered by the Guidelines. Therefore, further clarification is needed to determine the intended applicability of these guidelines and avoid potential confusion during implementation.

2. Undefined Penalty Thresholds:

While the Consumer Protection Act of 2019 outlines penalties for dark patterns mentioned in Annexure 1, the guidelines fail to provide clarity on the threshold for these penalties. Non-compliance with the Act's directions can result in imprisonment for up to six months, a fine of up to Rs 20 lakh, or both. However, the guidelines do not specify the criteria for determining when such severe penalties are applicable. This lack of specificity could lead to situations where businesses unintentionally violate regulations without clear guidance on the severity of consequences.

3. Unclear definitions

The Guidelines define Dark Patterns as, "any practices or deceptive design pattern using user interface or user experience interactions on any platform that is designed to mislead or trick users to do something they originally did not intend or want to do, by subverting or impairing the consumer autonomy, decision making or choice, amounting to a misleading advertisement or unfair trade practice or violation of consumer rights"

Concerns are raised about the inclusion of "misleading advertisement" and "violation of consumer rights" in the definition of dark patterns which make room for added ambiguity and complexity. These additional elements may hinder the ability to clearly distinguish between acceptable marketing practices and deceptive strategies. For instance, some common business practices, like requiring payment details for free subscriptions, might be unintentionally covered under certain definitions, potentially hindering legitimate market practices.

In my opinion, a simpler definition that focuses solely on the intent to mislead users would be more effective.

This kind of definition would highlight the core issue of dark patterns—deliberately designing interfaces or experiences to trick users into taking actions they didn't intend or want to take.

4. Jeopardizing Right to Privacy:

-The existing guidelines lack explicit provisions for regulating interfaces or designs responsible for personal data collection, creating a potential gap in safeguarding consumer privacy. Despite the recent enactment of the Digital Personal Data Protection Act in 2023, this legislative framework may not comprehensively address the issue of unauthorized personal data collection without consumer consent.

The guidelines should align with global trends emphasizing users' free and informed consent in data protection laws. Legislation in the US and the EU, such as the California Consumer Privacy Rights Act, 2020, and the General Data Protection Act, incorporates measures to discourage dark patterns and protect consumer rights. Notably, Apple was fined €8 million under the French Data Protection Act for making the 'personalized advertisements' option the default without prior agreement and making changing the setting difficult through many steps.

By incorporating provisions defining limits on data collection and requiring explicit consent, the guidelines can enhance the legal framework and empower consumers, fostering trust in digital interactions.

5. Inflexibility of The Guidelines

A noteworthy concern within the guidelines revolves around the insufficient mechanisms for reporting and adaptation. Although the Guidelines offer a representative list of dark patterns, they ignore the fact that misleading methods in the digital realm are ever-changing. In light of this, the guidelines ought to implement a flexible feedback system that enables customers, members of the public, and industry participants to report new occurrences of dark patterns. This strategy is necessary to stay up to date with new misleading techniques and preserve the applicability of the rules.

Conclusion

In conclusion, the guidelines for the prevention and regulation of dark patterns introduced by the Central Consumer Protection Authority (CCPA) present a progressive step in addressing deceptive design practices. While acknowledging their commendable intent, the guidelines exhibit certain shortcomings.

However, the guidelines highlight the severity of penalties under the Consumer Protection Act of 2019, to strengthen the regulatory framework, there is a need for clearer definitions, specific penalty criteria, and alignment with global standards. Moreover, incorporating dynamic reporting mechanisms for evolving dark patterns would enhance the guidelines' responsiveness, ensuring a more comprehensive and adaptive approach to online consumer protection.

FROM MERGERS TO MISUSE: ASSESSING CRIMINAL IMPLICATIONS IN INDIA

Arjun Gupta
Reviewed by Vrinda

In recent times, the convergence of corporate law and criminal liability has become a focal point of discussion, particularly concerning the strategic use of mergers and acquisitions (M&A) to navigate legal obligations. India, with its expanding corporate sector, is no stranger to the complexities surrounding these transactions. The strategic maneuvers employed in these transactions often demand a comprehensive understanding of the legal nuances and safeguards embedded in the Indian legal system. The evolving nature of corporate law necessitates a thorough exploration of relevant legislation, including the Companies Act, 2013, and its implications on criminal liability. This article explores the detailed landscape of evading criminal liability through M&A in the Indian legal framework, examining key provisions that shape this complex interaction.

In India, the Companies Act, 2013 serves as the cornerstone of the corporate legal framework, delineating the rights and responsibilities of companies and their officers. Criminal liability can be triggered for a range of offenses, spanning from financial irregularities to corporate fraud. A foundational understanding of these legal provisions is essential for unraveling the dynamics of M&A transactions within the Indian legal context. Corporate entities can incur criminal liability under Section 17 of the Companies Act, 2013, wherein companies are held accountable for offenses committed by their officers. This provision introduces the concept of corporate criminal liability, raising questions about the potential exploitation of M&A transactions as a means for corporations to shield themselves from impending criminal investigations or prosecutions. The Companies Act further provides a statutory mechanism for companies to restructure through a "Scheme of Arrangement" under Sections 230-232. While the primary objective of this mechanism is to safeguard the interests of shareholders and creditors, there exists the potential for its inadvertent exploitation as a shield against criminal liability.

The crux of the matter lies in a fundamental legal question: does Indian law recognize criminal successor liability of a company following a 'merger'? In 2021, the Supreme Court, in **Religare Finvest Ltd. v State of NCT (AIRONLINE 2021 DEL 825)** delivered a consequential judgment, answering in the negative.

The ruling in this case highlighted that criminal liability cannot be automatically transferred through a merger, whether by contract or statute. The court emphasized that clause 3(3) of the amalgamation scheme only provided for the continuation of liability against the officers of the erstwhile bank. Beyond this specific case, the broader implications of the Supreme Court's decision are significant, suggesting that companies could potentially exploit mergers to evade various legal obligations. This extends to circumventing environmental laws, sidestepping money laundering regulations, or escaping criminal proceedings initiated by state authorities or regulatory bodies like the Securities and Exchange Board of India. A critical aspect that emerges is the maintenance of criminal actions initiated by the merged company. If the successor cannot be criminally liable for the actions of the merged company, questions arise about the justification of allowing the successor to pursue criminal actions filed by the merged entity, particularly when the successor was never the victim of those acts. This nuanced aspect introduces complexities that may lead to potential misuse and manifest injustice in contemporary legal landscapes. The heart of the matter lies in the Supreme Court's interpretation of the Companies Act, 2013, and the transfer of 'rights and liabilities' to the successor company. The decision in Religare Finvest draws parallels with an older ruling in McLeod Russel India Limited v. Regional Provident Fund Commissioner, Jalpaiguri, which suggested that criminal liability cannot be transferred even by statute. However, this dictum merits reconsideration, especially in light of the relevant provisions of transfer under the Companies Act and its potential impact on successor liability in criminal matters. International perspectives, such as the recent decision of the Criminal Chamber of the French Supreme Court, add complexity to the debate. While the French court held that criminal liability of the merged company could be transferred to the successor company, the Indian Supreme Court has maintained a contrasting stance. The differences in legal frameworks and their interpretations underscore the need for a nuanced analysis within the Indian context. In the wake of these legal deliberations, a thoughtful and comprehensive review of the Companies Act becomes imperative. Such a review should take into account the intricacies of mergers, the potential for misuse, and the evolving challenges posed by corporate actions. Furthermore, a close examination of international legal precedents can offer valuable insights into how other jurisdictions handle the intersection of mergers and criminal liability.

A critical aspect of this discussion involves analyzing landmark cases such as the Satyam scandal and the IL&FS crisis. These cases provide insights into the judicial response to corporate malfeasance within the context of M&A. Courts have demonstrated a willingness to pierce the corporate veil, holding individuals accountable and underscoring the importance of corporate governance and individual responsibility.

A thorough examination of these cases is crucial for understanding the evolving jurisprudence surrounding M&A and criminal liability. Regulatory bodies, including the Securities and Exchange Board of India (SEBI) and the Ministry of Corporate Affairs (MCA), play a pivotal role in overseeing corporate transactions. Their vigilance is essential in preventing the potential misuse of M&A as a tool to evade criminal liability. Amidst these legal considerations, ethical dimensions also come to the forefront. Aspiring legal professionals must actively engage in discussions surrounding corporate ethics. While M&A transactions can offer legitimate business advantages, it is essential to emphasize that they should not serve as a shield for unlawful activities. Encouraging a culture of transparency, accountability, and ethical conduct within the corporate sector is integral to maintaining the integrity of M&A transactions in India.

In conclusion, navigating the complexities of mergers, acquisitions, and criminal liability in India requires a meticulous examination of existing legal frameworks. Reflecting on these challenges, the words of the eminent legal scholar, Roscoe Pound, resonate: "Law must be stable, and yet it cannot stand still." Looking ahead, a proactive and dynamic approach is essential. The legal community must engage in a robust discourse to address the gaps in the current legal framework and explore avenues for reform. Striking a balance between facilitating legitimate corporate transactions and ensuring accountability for unlawful acts is paramount. A careful reevaluation of legislative provisions, coupled with an in-depth understanding of their practical implications, can pave the way for a more equitable and just legal landscape in India. The way forward involves a comprehensive review of the Companies Act, 2013, exploring potential amendments, and ensuring a nuanced interpretation of transfer provisions. Engaging in thoughtful legal discourse and considering international perspectives will be instrumental in refining corporate legal frameworks, ultimately achieving a delicate balance between accountability and facilitating legitimate business transactions.

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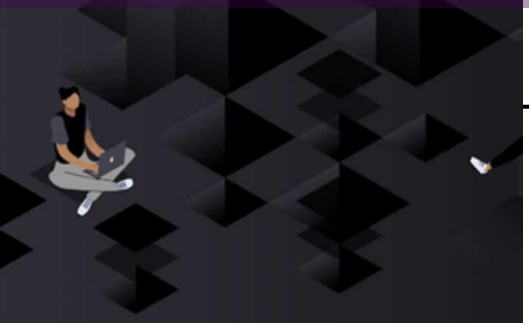
INFORMATION TECHNOLOGY LAW

UNRAVELING THE LEGAL COMPLEXITIES: E-COMMERCE DARK PATTERNS AND THEIR IMPLICATIONS

Abhilasha Shaw
Reviewed by Molika Bansal



In the fast-paced world of e-commerce, businesses are constantly innovating to capture consumers' attention and drive sales. However, with this innovation comes a darker side – using deceptive design techniques known as dark patterns. Hidden within the virtual corridors of online shopping platforms, coined by computer scientists and UX designers, dark patterns are deliberate design choices in user interfaces that manipulate and confuse consumers, steering them towards actions they might not otherwise choose. This article delves into the legal complexities surrounding these dark patterns, shedding light on their prevalence, effectiveness, and implications for consumer protection.

Understanding E-Commerce Dark Patterns

Dark patterns in e-commerce refer to design choices deliberately implemented to influence user behavior in a way that benefits the business, often at the expense of the consumer. These patterns can take various forms, such as misleading interfaces, hidden costs, forced continuity, and urgency tactics. While not all dark patterns are necessarily illegal, they raise serious ethical questions about the balance between business interests and consumer rights.

The Proliferation of Dark Patterns

Recent research conducted by computer scientists at Princeton and the University of Chicago revealed the pervasive presence of dark patterns on popular shopping websites. The study crawled over 11,000 websites and found that more than 11 percent employed these manipulative techniques. Notably, mobile apps, a growing frontier in e-commerce, were identified as particularly susceptible, with 95 percent of analyzed free Android apps in the US Google Play Store featuring dark patterns.

This proliferation has caught the attention of scholars, lawmakers, and investigative reporters alike. Bipartisan legislation, such as the DETOUR Act, is being considered to curb the use of dark patterns. However, the efficacy of these manipulative techniques remains a crucial yet unanswered question in academic research.

The Legal Landscape

The legal landscape surrounding e-commerce dark patterns is evolving, and lawmakers are grappling with how to address these deceptive practices. Some jurisdictions have already taken steps to regulate dark patterns, recognizing the need to protect consumers from manipulative design tactics.

One key challenge is defining and distinguishing a dark pattern from legitimate design choices. Establishing a clear legal framework requires a nuanced understanding of user experience design, consumer psychology, and the evolving nature of e-commerce platforms.

Consumer Protection Laws

Consumer protection laws are crucial in addressing the legal complexities associated with dark patterns in e-commerce. Many countries have laws prohibiting deceptive and unfair business practices, providing a foundation for addressing dark patterns. However, the effectiveness of these laws often depends on their enforcement and interpretation by regulatory bodies.

Some legal frameworks, such as the European Union's General Data Protection Regulation (GDPR), include provisions that touch on transparency and user consent issues, which are central concerns regarding dark patterns. As consumers become more aware of their rights, legal systems are pressured to adapt and provide robust protections against deceptive e-commerce practices.

Privacy Concerns

E-commerce dark patterns often involve collecting and using personal data to tailor deceptive experiences. Privacy concerns add another layer of complexity to the legal landscape. Laws like the GDPR aim to give consumers control over their personal data, requiring businesses to obtain explicit and informed consent. However, dark patterns can undermine these efforts by manipulating users into unknowingly surrendering their privacy rights.

The Role of Technology

Advancements in technology, such as artificial intelligence and machine learning, have enabled more sophisticated dark patterns. The use of algorithms to analyze user behavior and deliver personalized, persuasive content raises ethical questions about the role of technology in shaping consumer choices. Legal frameworks must adapt to regulate static dark patterns and dynamic and adaptive ones driven by advanced technologies. In digital markets, online information becomes a critical tool for monitoring how companies engage in legal compliance and where public authorities should intervene. The challenge lies in navigating the vast sea of digital data to pinpoint potential consumer violations. As digitalization transforms the way consumers are protected on the internet, regulatory effectiveness hinges on the ability to gather and analyze evidence related to new online harms.

International Cooperation

E-commerce operates globally, making international cooperation essential in addressing the legal complexities associated with dark patterns. Harmonizing laws and regulations across borders can help create a unified front against deceptive e-commerce practices. Organizations like the International Consumer Protection and Enforcement Network (ICPEN) are working to foster collaboration among consumer protection authorities worldwide.

Challenges in Enforcement

Enforcing laws against dark patterns in e-commerce presents challenges due to online platforms' dynamic and often elusive nature. Identifying and penalizing businesses that engage in deceptive practices requires cooperation between regulatory bodies, technology experts, and legal professionals. Additionally, the rapid evolution of e-commerce practices necessitates agile legal frameworks that can adapt to new challenges as they arise.

Corporate Responsibility

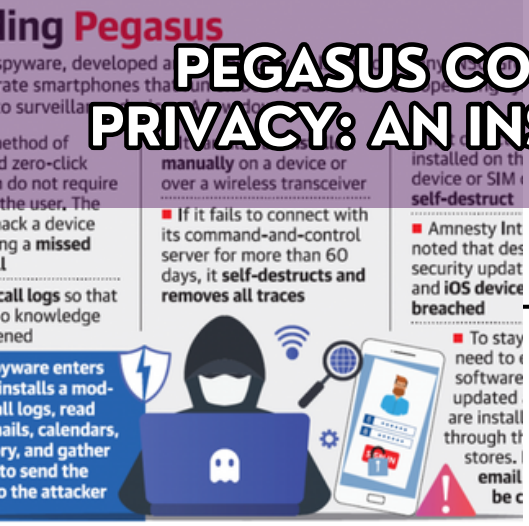
While legal frameworks play a vital role, e-commerce platforms are responsible for voluntarily adopting ethical practices. Corporate social responsibility in the digital age includes a commitment to transparent, user-centric design that respects consumer autonomy. Businesses that prioritize ethical conduct build trust with their customer base and contribute to shaping a positive digital environment.

Conclusion

In the ever-changing landscape of digital markets, the efficacy of consumer protection laws relies on adapting to new challenges. Consumer forensics emerges as a forward-thinking solution, navigating the complexity of digital transactions through evidence-based investigation and enforcement. This approach ensures a future-proof strategy to safeguard consumers in the dynamic world of digital commerce. Unraveling legal complexities in e-commerce dark patterns is a collaborative process involving lawmakers, businesses, and consumers. As technology shapes online commerce, legal frameworks must evolve for consumer protection. Striking a balance between innovation and ethical conduct is vital for fostering a transparent, user-centric, and fair digital marketplace. Effectively regulating dark patterns in e-commerce demands a multi-faceted approach, incorporating legal, technological, and ethical considerations.

PEGASUS CONTROVERSY AND THE BATTLE FOR PRIVACY: AN INSIGHT INTO THE INDIAN PERSPECTIVE

Agam Tandon
Reviewed by Twinkle



This study delves into the Indian perspective on the Pegasus spyware controversy, shedding light on its impact on privacy rights. Focusing on recent developments, the legal framework in India, and public discourse, the research aims to unravel the challenges faced by the nation in safeguarding privacy amidst intrusive surveillance technologies. It highlights implications, such as invasion of privacy, chilling effects on freedom of expression, erosion of trust, and global concerns. The study proposes comprehensive privacy legislation, judicial checks on surveillance powers, public awareness initiatives, and international cooperation to protect privacy rights. Overall, it underscores the urgent need for legal safeguards, public awareness, and global collaboration to address the challenges posed by surveillance technologies in India.

Introduction

Concern over Pegasus spyware has spread widely, bringing up significant issues regarding surveillance and privacy. It is spyware that was created by the Israeli company NSO Group and is purportedly used by governments to track people, including politicians, journalists, and activists. Global discussion on how to strike a balance between personal privacy and national security has been spurred by the Pegasus revelations. Exploiting device vulnerabilities, it infiltrates mobiles, enabling thorough monitoring of calls, messages, and activities. Its stealthy zero-click attacks make detection difficult. The controversy, notably impactful in India, unveils alleged misuse against activists and politicians, posing grave concerns over privacy violations and potential power abuse. Urgent international cooperation is essential to address the cross-border implications, striking a delicate balance between national security and preserving individual privacy in the digital age.

Privacy Laws and Legal Framework in India

Right to Privacy: The right to privacy has gained immense significance in the digital age, where technological advancements enable widespread surveillance and data collection. The right to privacy was declared a fundamental right by the Supreme Court of India in a landmark judgment in 2017 in the case of **K. S. Puttaswamy v. Union of India.**

This decision significantly enhanced privacy protections for Indian citizens. The proliferation of surveillance technologies like Pegasus has raised concerns about the potential infringement of privacy rights. In India, with its vast population and expanding digital landscape, the right to privacy becomes crucial in protecting individuals from unwarranted surveillance and the misuse of personal data.

The right to privacy is considered a fundamental right under Article 21 of the Indian Constitution, which guarantees the protection of life and personal liberty. Information Technology Act, 2000: The main body of legislation in India governing different facets of digital communication, cybersecurity, and electronic transactions is the Information Technology Act, 2000. Section 43 of the Information Technology Act addresses unauthorized access to computer systems. Pegasus usually obtains access to a target's device without the target's permission, which may be construed under this section as unauthorized access.

Pegasus Controversy: Unveiling the Intrusion

Understanding Pegasus: Capabilities and Methodology: The Israeli company NSO Group developed Pegasus. It is designed to infiltrate mobile devices, allowing complete surveillance and monitoring of the target's activities. Pegasus can exploit vulnerabilities in operating systems to gain access to the device's various functionalities, such as calls, messages, emails, social media activities, and location data. Pegasus' methodology entails sending malicious links or messages to specific individuals, also known as zero-click attacks.

Users may find it challenging to recognize that Pegasus is installed surreptitiously on their devices, which raises questions about possible abuse and privacy infringement. Alleged Misuse and Targeting in India: The Pegasus controversy revealed allegations of the misuse and targeting of spyware in India. Reports indicated that prominent individuals, including activists, journalists, politicians, lawyers, and human rights defenders, were allegedly targeted using Pegasus.

In October 2023, the spyware on an iPhone was discovered to have targeted Siddharth Varadarajan, the founding editor of the digital media outlet The Wire, and Anand Mangnale, the South Asia editor at The Organised Crime and Corruption Reporting Project (OCCRP). Donncha O Cearbhaill, the head of Amnesty International's Security Lab, stated that "Increasingly, journalists in India face the threat of unlawful surveillance simply for doing their jobs, alongside other tools of repression including imprisonment under draconian laws, smear campaigns, harassment and intimidation." The individuals targeted in India were reportedly chosen for their involvement in critical social, political, or human rights issues. Their phones were compromised, and their communications were monitored, potentially compromising sensitive information and undermining their privacy and freedom of speech.

Implications for Privacy Rights in The Case of Pegasus Spyware

1. **Invasion of Privacy**: The use of Pegasus spyware involves a covert intrusion into individuals' devices, granting access to their personal communications, data, and activities. This invasion violates the privacy right, which is essential for the protection of personal autonomy and individual freedom.

2. **Effect on Freedom of Expression**: The knowledge that one's communications and activities may be monitored can have a chilling effect on freedom of expression. Individuals may feel reluctant to express their opinions, engage in political discourse, or participate in activism, fearing reprisals or potential consequences.

3. **Erosion of Trust**: The widespread use of such technologies undermines trust in government institutions, technology companies, and the overall digital ecosystem. When individuals are subjected to unwarranted surveillance, it erodes trust in the protection of their personal data and their ability to freely engage in online activities.

4. **Potential Abuse of Power**: The misuse of surveillance technologies concerns the potential abuse of power by government agencies or other entities with access to such tools. Without proper oversight and accountability, there is a risk that surveillance capabilities may be used for political targeting, or suppressing dissenting voices.

5. **Global Implications**: The implications of the Pegasus controversy extend beyond national borders. The global nature of surveillance technologies necessitates international cooperation in addressing the challenges posed by their misuse. International human rights standards and frameworks can guide discussions on privacy protection and hold governments accountable for their actions.

Recommendations and The Path Forward

The revelations surrounding the Pegasus spyware have emphasized the urgent need to strengthen legal safeguards for privacy and promote public awareness. To address these challenges and protect privacy rights, the following measures are crucial :

1. **Comprehensive Privacy Legislation**: Governments should enact comprehensive privacy laws that provide clear guidelines and protections against the misuse of surveillance technologies. These laws should establish strict limitations on surveillance activities and establish remedies for privacy violations. Privacy laws should be updated to provide robust protections for individuals' personal data and privacy rights.

2. **Judicial Review and Checks on Power**: It can serve as a check on the abuse of surveillance powers and protect the privacy of individuals. Courts should provide an effective avenue for individuals to challenge the legality of surveillance operations and seek redress for privacy violations.

3. **Public Awareness and Digital Rights Education**: Promoting public awareness is vital in empowering individuals to understand their rights and the implications of surveillance technologies. Educational institutions should raise awareness about privacy rights and the potential risks associated with surveillance technologies.

4. **International Cooperation and Standards**: Collaboration among nations is essential to address the global challenges posed by surveillance technologies. International cooperation can foster the development of common standards, principles to protect privacy rights, and formulation of global guidelines.

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HUMANITARIAN LAW

IMPACT OF TOURISM ON THE LOCAL TRIBES OF LAKSHADWEEP

Nadini Vats
Reviewed by Molika Bansal

Lakshadweep, India's smallest union territory, is known for its pristine islands and vibrant corals. The island now faces the dual challenges of preserving indigenous tribes and managing the growing tourism industry. This recently came to light when Prime Minister Narendra Modi visited the island and made significant investments in its developments. The majority of Lakshadweep's population are scheduled tribes with no scheduled caste. Despite governmental efforts, a substantial gap persists between the tribes and mainstream society, with traditional occupations coexisting alongside emerging sectors like tourism. The latter, however, raises ecological concerns, including resource depletion, coastal habitat destruction, and potential socio-cultural impacts on tribal communities. This paper advocates for a balanced approach through Integrated Coastal Area Management. While acknowledging tourism's potential adverse effects, such as strain on public facilities and environmental degradation, it highlights the positive aspects, including infrastructural development and economic growth. To ensure tribal welfare, the paper proposes involving tribal communities in decision-making, offering education and employment opportunities, and promoting responsible tourism practices.

Lakshadweep is the smallest union territory with beautiful islands at the edge of our diverse landmass. Before the linguistic reorganization of the states, it was a part of the Malabar district, now known as Chennai. The people of Lakshadweep follow the Islamic religion and belong to the Sufi sect. There are many mosques' religious practices, like Ramzan fasts and mauled in the name of the prophet, which indicates the influence of Islam on the people.

The entire indigenous population is classified as scheduled tribes. The tribes are socially and economically backward. Culturally, the island can be divided into two regions; one being all the inhabited islands, and the other is named "Minicoy." The Minicoy tribe is culturally different from all other tribes on the island. The Minicoys are closer to the people of Maldives and their styles, and the other tribes have cultures similar to those of the coast of Kerala. The tribes of Lakshadweep are considered backward from the mainstream lifestyle of the country. Despite the government running various schemes to uplift the tribes, there is a massive gap between ordinary citizens of the country and the tribes of Lakshadweep.

Age-old professions are also prevalent during these times, but the main occupation of the residents is fishing, territorial foods like coconut, and tourism is also an upcoming field nowadays.

Tourism also dramatically impacts the island, firstly by depletion of Natural Resources with increased tourism, Destruction of coastal habitats, endangerment of the marine and aquatic ecosystems, dumping of solid wastes, etc. There would be a physical and a tremendous socio-cultural impact on the tribes of Lakshadweep. None of us can imagine no fish at Kadmat Island, the architectural wonders commercialized at Kalpeni Island, and the depletion of the colourful coral reefs giving life and colour to the ocean.

Duesenberry coined the term 'Demonstration effect,' which refers to being influenced by others. In this scenario, being influenced by a foreign lifestyle is very different from the lifestyle of the tribes.

Perceiving traditions differently can cause disbalance between the tribes of the island. Tourism can emerge as the primary occupation of the people of Lakshadweep. Recently, Mr. Narendra Modi, the Prime Minister of India, also visited Lakshadweep and posted pictures on social media, boosting the island's popularity. The Prime Minister has also made significant investments, connectivity, and hospitality on the island. Let me highlight the latter side to you: the tourism industry would be dominated by various multinational companies and agencies, and there would be negligible local interference.

The question arises if it's right for our leisure to captivate others' homeland. The strain on public facilities, displacement of the local population, and creation of restricted zones that are not within the limits of the locals is unfair to them, their homeland. The advancement of tourism will cause beach erosion due to building dune removal and dredging.

Trampling of shallow waters is a joint exercise on the island. Being an island, fresh water has always been a problem; tourists and waste have always been directly proportional. The dumping of garbage would cause damage to marine life, and freshwater shortages would increase. Tribals may be highly vulnerable, but their traditions should not be affected, and their pride should not come into question.

Tourists' leisure and expectations have negative implications, but it is not always this way. Some positive effects can be the number of tourists enjoying the island's beautiful scenery, which will also increase infrastructural development. An increase in tourism will also lead to some economic factors like Gross Domestic Product (GDP),

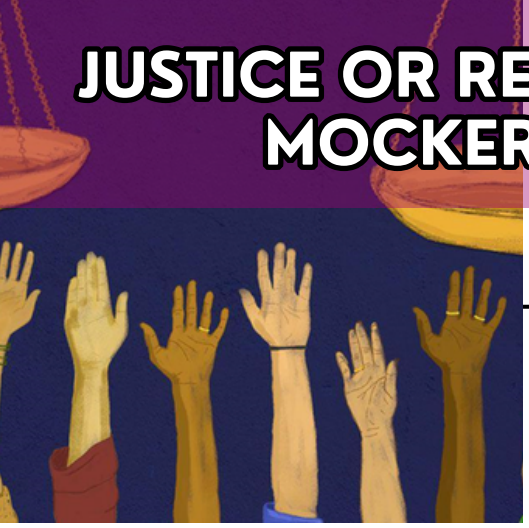
Tourist Penetration Index (TPI): all these rates will increase and pave the way for the development of Lakshadweep. A lot of souvenirs, tickets, and services will increase the monetary flow in the economy.

IThe tribes would be well educated and taught in a hospitable manner, which would generate employment opportunities for the tribals. This will be a significant contribution to the upliftment of the tribes. A massive cultural advancement will occur with an increase in public services and facilities, which will benefit not only the tourists but also the local population.

The preservation of the rich cultures, like representing the cultural dance named 'Lava' of the tribes of Lakshadweep, can also be a source of income. They can showcase their rituals and artifacts, which they still use in their day-to-day activities. Handicrafts, including Kokali and Parichakli (two art forms) and local markets, can also be set up by the tribes of Lakshadweep to sustain the tourism industry.

A loss of qualitative effects like congestion, inflation, the decline in cultural values, and loss of identity will be replaced by urbanization, more employment, social forward and advertising, artificial attractions, etc. To strike a balance between the welfare of tribals and tourism, a long-term plan by the Integrated Coastal Area Management would be the ideal solution to the current problems. No harm should be done to the innocent tribals who have enriched and kept the island's beauty safe in their hands. Local cultures and traditions should be kept in mind and should work on the upliftment of the tribals. Tribals can also be included to show their vibrant culture and extravagant folklore. Tourists should also be aware that their behaviour awareness should be spread amongst all living on the planet. Tourist sensation towards the tribes and their social and environmental milieu is necessary.

JUSTICE OR REVENGE: FAKE ENCOUNTERS AND MOCKERY IN THE JUDICIAL SYSTEM



Hargun Dang
Reviewed by Molika Bansal

This research critically examines the dichotomy between justice and revenge, probing into the intricate dynamics and societal ramifications of these concepts. Justice, defined as an impartial, emotion-free corrective response for societal betterment and the rehabilitation of wrongdoers, faces challenges, particularly in jurisdictions with substantial legal backlogs. The proverbial maxim "Justice delayed is justice denied" highlights the temporal dimension, with studies projecting daunting timelines for case resolution. The research delves into the psychological aspects of revenge, its manifestation in various scenarios, and its potentially addictive nature. It has been found that while revenge may offer a seemingly straightforward resolution, authentic justice involves correction and rehabilitation, challenging wrongdoers to become law-abiding citizens. The human rights in the context of encounters in India, are commonly known as "extra-judicial killings." Tracing their history back to British rule, the study analyzes the constitutional provisions, notably Article 21, and scrutinizes encounters as potential violations of the right to life and personal liberty. The legal landscape, critiquing the use of the term "encounter" in the absence of explicit legal authority. It examines the Criminal Procedure Code (CrPC), emphasizing the absence of specific legal provisions for encounters, and highlights the potential misuse of the right of private defense outlined in IPC Section 96. Considering the judicial response to fake encounters, the study notes the weak aspects of the legal system and suggests the need for robust norms to deter and prosecute errant law enforcement officials. Acknowledging the risk of revenge consuming the judicial system, the research advocates for a superheroic legal framework that safeguards the vulnerable from exploitation.

Justice, as defined herein, represents an impartial and emotion-free response to rectify wrong actions for the greater societal good. It posits a goal of societal improvement and the rehabilitation of wrongdoers. The proverbial maxim, "Justice delayed is justice denied," underscores the temporal dimension of justice delivery, particularly in jurisdictions like India, where an overwhelming backlog of over one crore cases prevails.

Studies suggest a disconcerting projection of 300 years or more for resolving these pending cases, raising pertinent questions about the viability of the justice system's effectiveness.

Delays in cases, individuals often turn to revenge as an expedient alternative. Drawing parallels with cinematic portrayals, where revenge is likened to the dual-bike-riding protagonist in "Phool Aur Kante," this research scrutinizes the emotional underpinnings of revenge. Fueled by anger and satisfaction, revenge provides a potent dopamine release for individuals enduring protracted waits for justice.

The addictive nature of revenge is likened to the dependence observed in substance abusers, emphasizing its allure as a quick-fix solution. Unlike punishment, revenge can be carried out for mere slights, or by unauthorized agents, or by agents who display an inappropriate emotional response to what they perceive as an instance of wrongdoing The psychological aspects of revenge explore its manifestation in scenarios of oppression, exploitation, injury, or insult. It contends that revenge, driven by a visceral emotion like anger, satisfies the individual seeking retribution. However, this satisfaction comes with potential pitfalls, analogous to the risks of handling a sharp knife. Cinematic depictions further illustrate the ambivalence surrounding revenge, where audiences may cheer for a character achieving personal vengeance but recoil if the true culprit is revealed to be someone else.

The Indian Constitution, the supreme law of the land, lays down specific provisions and principles to ensure justice and protect the human rights of all individuals. One such provision is Article 21, which guarantees the right to life and personal liberty. This article critically analyzes encounters in India and how they relate to justice and human rights as outlined in the Indian Constitution. Encounters, commonly referred to as "extra-judicial killings" or "fake encounters," are incidents where law enforcement agencies kill individuals without following due process of law.

These encounters often occur under the pretext of self-defense or in an attempt to curb criminal activities. Imagine the history of "extra-judicial killings" as a dark and twisted tree, with its roots tracing back to the British era. This tree bears the bitter fruits of injustice and abuse of power. The origins can be traced back to the infamous case of Alluri Sitarama Raju, a symbol of resistance against the British. In this case, the smell of " fake encounter," baked in the bakery of the British era, reached the nose of ordinary citizens in 1924. It was revenge, a cold-blooded revenge.

The National Human Rights Commission has set specific guidelines that must be followed in the case of encounters. These guidelines are as follows:

- The officer-in-charge in a police station must record it in an appropriate register.
- If the police party is involved in the encounter and the report is filed at the same police station, then it is desirable that the case be transferred to an independent investigation agency like CID (Crime Investigation Department).
- When a police party is alleged to have committed a criminal act, then it is required that an FIR to this effect must be registered under appropriate sections of the I.P.C.
- The close kin (relative) must be part of the Magisterial Inquiry, which will be held for all the cases of death linked with encounter.
- Appropriate and prompt action should be taken against the police officers found guilty in the Magisterial Inquiry.

These guidelines are till the magisterial inquiry of an encounter case. There are a few more guidelines related to the compensation to the deceased party.

Restriction on the right to life in India, a legal sanction for killing a beyond-doubt confirmed criminal, is allowed only by the "procedure established by law" as per Article 21 of the Constitution of India and that too in "the rarest of rare cases" as per a Supreme Court verdict in 1983. These cases show the weak side of our judicial system. The Criminal Procedure Code (CrPC) lays down a procedure which had to be followed by police while dealing with an accused. The purpose of the code is to provide machinery for prosecution, trial, and punishment of offenders under substantive criminal law. i.e., the Indian Penal Code and other laws passed by the State occasionally.

In CRPC, there are no words such as “encounter” and “extra-judicial killings.” Where does this come from? In reality, our Indian legal system does not have any authority to take anyone’s life except the judiciary. But in Indian Penal Code (IPC) section 96, “Nothing is an offence which is done in the exercise of the right of private defence.”

Police officials try to exploit this section to complete their personal missions. The mission of revenge. If they are found guilty of a “fake encounter,” they can be charged under Section Section-299 of the Indian Penal Code for culpable homicide. And, compensation must be granted to the kin(relative) of the deceased in case the police officers are prosecuted on the basis of a magisterial investigation.

In the end, the revenge will eat up the judicial system like a termination. Slowly and gradually, the Indian Judicial system has to make the norms for “fake encounters” strong. These new norms should be like a superhero, which protects the deprived from the hands of evil. People can hold on to a superhero's cape whenever they feel exploited. The Indian judicial system still stands tall and broad.

PICARD LAW: UNDERSTANDING THE KEY LEGAL DEVELOPMENTS

Sneha & Vijetha Saishree
Reviewed by Amrit Shree Updhayay

The Picard law or the Cult law of France was adopted in year 2001 by the French parliament. The Picard law was aimed at enhancing measures to prevent and suppress sectarian movements that undermine the basic rights and freedoms of individuals. This legislation was passed by the National Assembly in the year 2000. The law is targeted to punish sects whose activities are deemed cultic and suppress fundamental freedom, human rights, and manipulation. The international community has raised concerns about the controversial nature of the law, with some critics arguing that it encroaches upon religious freedom. In contrast, supporters assert that the law actually upholds and strengthens religious freedom. But it seems that the new draft relating to Picard law in November 2023 is trying to make the already bad law worse.

The concept of freedom of religion and the separation of church and state has been integral to the French notion of governance, dating back to at least the French Revolution and, in some aspects, as far back as the 16th-century reformation and wars of religion. In France, the separation of religion and state is embodied in laïcité, where political authority refrains from meddling in religious doctrine, and religion refrains from influencing public policies. In the French context, "freedom of religion" primarily signifies an individual's liberty to believe or not believe in the tenets of any religion. Additionally, due to the historical dominance of the Catholic Church, the French state perceives its role less as safeguarding religion from state intervention and more as safeguarding individuals from interference by religion. But the suicides in Solar temple from year 1994 to 1997 led France to establish a parliamentary commission to pass laws against cults in France. The reason being, that most suicide victims were French and wealthy members of the French society. Following this observation, a committee for sects was established which was named as "Interministerial Board of Observation of Sects" and was succeeded in 1998 by the "Interministerial Mission in the Fight Against Sects" (MILS). In 2002, MIVILUDES, the "Interministerial Monitoring Mission Against Sectarian Abuses," took over from MILS. In 2001, when France introduced the contentious About-Picard law aimed at combating cults, the initial proposal sought to penalize "mental manipulation." However, both international and French scholars, along with prominent legal experts, raised objections, contending that this concept was merely a substitute for the discredited theory of "brainwashing." This theory has been debunked as pseudoscience and recognized as a tool for discriminating against unpopular religions by academics and courts in various countries.

Amendments in Picard Law

On November 15, the government introduced a proposed law to "strengthen efforts against cultic deviations." The justification for this renewed crackdown on "cults" is the increasing number of "sassiness" received by MIVILUDES. As previously detailed by "Bitter Winter," these "sassiness" are not necessarily reports of real incidents; they encompass inquiries and questions directed to MIVILUDES and may be susceptible to falsehood or manipulation. Claims have emerged suggesting that "cults" proliferated during the COVID-19 pandemic, with some allegedly promoting anti-vaccination sentiments. Consequently, a new offense has been established, termed "provocation to abandon or refrain from necessary medical treatment," carrying a one-year imprisonment along with a fine. It's worth noting that this extends beyond COVID and vaccines. Despite the State Council's recommendation to omit this provision due to concerns about freedom of speech and "the freedom of scientific debates," the government chose to reject the council's advice, retaining the article in the draft law.

The core of the new proposed law revolves around the establishment of a novel criminal offense termed "psychological subjection." Those found guilty of inducing a state of "psychological subjection" in their victims through "serious or repeated pressure" or the use of manipulative techniques capable of altering judgment would face a three-year jail penalty. In cases where the perpetrators constitute an "organized band" employing these techniques systematically, such as in a "cult," the penalty escalates to seven years. This crime is deemed to occur when the use of "psychological subjection" results in a significant deterioration in the victims' physical or mental health or compels them to perform actions detrimentally affecting themselves.

Problems with the New Draft

This new offense is distinct from the existing provision on "abus de faiblesse," which penalizes actions induced by psychological techniques in situations where the victim is considered "weak." In contrast, "psychological subjection" applies universally, without the necessity of the victim being in a position of weakness. Moreover, the use of "or" instead of "and" is crucial in connecting the deterioration of the victim's mental health to the potential harm caused by "brainwashing" techniques. This allows punishment for "psychological subjection" even when there is no evidence of the victim engaging in self-damaging behavior; the mere occurrence of a "deterioration of mental health" is deemed sufficient. The government argues that the existing About-Picard law does not directly address the criminalization of the state of "psychological subjection" resulting from operations and techniques aimed at placing the victim under the perpetrator's control. The proposed law seeks to rectify this by broadening the scope of criminality and accommodating situations where the victim may not exhibit explicit self-harming behaviors but experiences a decline in mental health, a condition presumed in scenarios of psychological subjection. Notably, anti-cult associations are expected to play a role in advocating this theory during trials, with prosecutors and judges advised to seek the opinion of MIVILUDES when in doubt.

Conclusion

France appears to be reverting to the year 2000 by contemplating the reintroduction of the crime of "psychological manipulation," a concept abandoned in the 2001 About-Picard law due to constitutional concerns. The State Council in France, often a moderating influence, examined the recent draft law on November 9 and offered a preliminary opinion on the potential violations of religious liberty related to the new crime of "brainwashing." The Council suggested changing the term "assujettissement" (subjugation) to "sujétion" (subjection) and specifying that the crime should involve one-on-one manipulation rather than a generic discourse to a broad audience, including via the Internet. However, many scholars argue that the concept of "brainwashing" is unfounded, and criminalizing it poses a threat to freedom of religion or belief. Despite the government's assurance that it targets techniques, not beliefs, the subjective determination of "cultic deviance" by anti-cultists, MIVILUDES, or the majority of society remains a concerning aspect of the proposed law.

SAFEGUARDING CULTURAL HERITAGE IN THE SHADOW OF ARMED CONFLICT: A COMPREHENSIVE APPROACH TO PRESERVING HUMANITY'S TREASURES

Prakritish Sarma
Reviewed by Samya

It is challenging for a culture to survive when its cultural heritage is destroyed. A legal framework for the protection of cultural heritage sites during armed conflicts was established by the 1954 Hague Convention for the Protection of Cultural Property in the Event of Armed Conflict, which, along with its two protocols, outlines measures to prevent the destruction, theft, or plunder of cultural property. Cultural heritage represents the identity and history of a community as well as humanity at large, and its destruction not only results in a significant loss to humanity but also fuels violence and hinders reconciliation. Examples of recent conflicts that have destroyed numerous cultural sites include those in Yemen, Ukraine, and Syria. The preservation of cultural heritage is a tool for conflict prevention, peacebuilding, and post-conflict healing; hence, it is essential that the international community strive toward protecting the cultural legacy that is at risk in conflict zones.

Introduction

Every time there has been a war, mankind has witnessed and history proves that the sufferers are not only the people but also everything around them. The old term "History has been changed" is often used after brutal wars; what does that mean? Did someone go in the past and change it? No. It means everything that the people stood for, everything they ever believed in, and their own culture has been destroyed by the dominant forces. It includes every monument with cultural significance, and even they are forced to change their customs and lifestyle. In short, the destruction of cultural heritage and humankind is the price they pay for a barbaric conflict. One of the most persuasive examples of this can be found in the great land of Bharat. Since medieval times, this land has been attacked by various rulers of different empires. Every time an invader attacked, they took a piece of their cultural heritage with them, from the Afghan and Mughal rulers tearing down the Hindu temples to the Burmese destroying the birthplace and ashrams of Assamese scholars and gurus to the British breaking the idols inside the Ellora Caves. It is often seen as a by-product of war. This global issue was always addressed until 1954 when the Hague Convention for the Protection of Cultural Property in the Event of Armed Conflict was established in the aftermath of World War II.

Current Scenarios

Many places in today's world are victims of gruesome wars, which, as a result, have affected their cultural practices and heritage. One of the most recent examples is that of the conflict going on in Ukraine. Since the conflict started in 2014, which has now resulted in a war, it has caused damage to approximately 1600 Ukrainian cultural heritage sites, out of which 700 monuments and memorials and more than 200 museums, archives, and libraries. Another significant example of this would be what is happening in Syria, where many cultural heritage sites have been converted into dust. The ancient city of Palmyra, a UNESCO World Heritage site, and Damascus considered the oldest modern city in the world, have been robbed of all their beautiful monuments and prestigious cultural heritage. The Roman era amphitheater, temples, and arches are destroyed. All the museums and archive halls have been looted. All of it happened because of the Middle East conflict and the region's instability. Yemen is also a country that has become a victim of this. The ancient city of Marib is on the verge of destruction. The city is home to several ancient temples and palaces, one of which is the temple of the Moon God and the other of the Sun God. The ancient city's irrigation, made in the first millennium B.C., is at risk of destruction. The conflict has destroyed all the cultural heritage sites in the country. The ancient city structure is now in its last days of existence.

The Importance of Protecting the Cultural Sites in A Warzone

Culture is one of those things that keeps people in unity. It is like a bridge between one person and another. The purpose of culture is to keep people joined together. Hence, it is essential to keep it safe. The destruction of cultural sites is a significant loss to humanity. Cultural heritage is a source of pride and identity, and cultural sites are essential not only for communities but also for humanity in general since they show the success and achievements of human civilization and human history. Destruction does not stop with the demolition of a cultural site, but after all, the fueled violence and hatred in people's minds bring in another conflict during the war or once the dust of war settles. The international committee recognizes the importance of the protection of cultural heritage after the mass destruction in World War 2. The 1954 Hague Convention for the Protection of Cultural Heritage and Cultural Sites during an Armed Conflict is an instrument for conflict prevention, building defenses of peace, and post-conflict recovery. The Convention recognizes the need to protect the cultural heritage of a region during a war. It also recognizes the prevention and restoration of cultural sites as a factor for reconciliation and peacebuilding.

International Legal Framework for Cultural Heritage Protection in Warzones

The international law protects Cultural Heritage. The 1954 Hague Convention for the Protection of Cultural Heritage and Cultural Sites during an Armed Conflict is an instrument for conflict prevention, building defenses of peace, and post-conflict recovery. This Convention and its two protocols establish a framework for protecting cultural property during armed conflicts and outline measures to prevent its destruction, theft, or pillage. The 1954 Hague Convention has been ratified by 133 countries, including most countries affected by conflicts. The Convention provides a legal framework for protecting cultural heritage sites during conflicts. The Convention requires states to take measures to protect cultural heritage sites during conflicts and to refrain from any act of hostility directed against such sites.

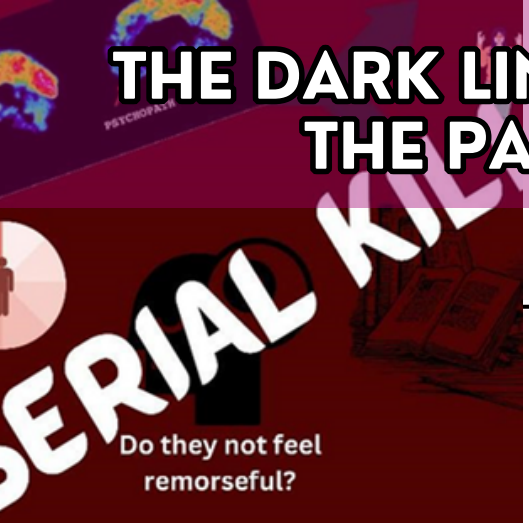
The legal frameworks for protecting cultural heritage in conflict zones are essential for mitigating the impact of war on cultural sites. These frameworks provide for the protection of cultural property and outline measures to prevent its destruction and ensure accountability for crimes against cultural heritage. The Convention is the foundation for protecting cultural heritage during armed conflicts. By adhering to these legal frameworks and strengthening international cooperation, the international community can work towards preserving the cultural heritage at risk in conflict zones.

Conclusion

Protecting cultural heritage in war zones is crucial as it represents the identity and history of a community and humanity. The 1954 Hague Convention for the Protection of Cultural Property in the Event of Armed Conflict provides a legal framework for protecting cultural heritage sites during conflicts. The International Committee of the Blue Shield emphasizes the need for partnership between the heritage, humanitarian, and uniformed sectors to protect cultural heritage sites during conflicts. The preservation of cultural heritage is an instrument for conflict prevention, peacebuilding, and post-conflict recovery.

THE DARK LINK: CHILDHOOD TRAUMA AND THE PATH TO SERIAL HOMICIDE

Hasika & Eshaan Sharma
Reviewed by Molika Bansal



The "Jack the Ripper" case, which took place in Whitechapel, London in the 1880s, caught my attention and motivated me to write this piece. Jack The Ripper is an unidentified anonymous guy who was single-handedly responsible for London's East End murders in 1888, murders that terrified many and scarred history. For us, Jack the Ripper's crimes remain shrouded in mystery. While experts would like to say he had anywhere between three and eight victims, it's in no way inevitable. It got me thinking about serial killers and their motivations. What made them do that in the first place? What was the sinister connection that led them to murder innocent people repeatedly? This study delves into the intricate and often overlooked connection between childhood trauma and the emergence of serial homicide. The dark linkage dissects into the significant effects that adversity faced in childhood may have on people, revealing the intricate interplay of psychological, social, and environmental elements that shape the trajectory of a serial murderer. This multidisciplinary approach to investigation explores the early life experiences of serial killers, looking into patterns of trauma, abuse, and neglect that may have been particularly important in forming the psychopathic tendencies of those who became serial killers.

Since the first records of serial killers date back to the early 1890s, countless questions have been raised about what causes a person to act in this manner, and it is hard to tell when and where the killer is born. The macabre annals of serial killers paint a chilling portrait of human depravity. Yet, lurking beneath the surface of cold-blooded violence often lies a hidden story, a tragic tapestry woven from threads of unspeakable pain and unhealed wounds. We are only able to hypothesize as to why famous killers such as John Wayne Gacy and Jack the Ripper committed heinous crimes.

How does a normal being turn into these awful creatures that haunt the real world with their notoriety? It has been closely followed by Violent Crime to learn the reasons behind and methods by which regular people may become the most ruthless killers on the planet.

It was discovered that these murderers were motivated by several reasons, each of which had a significant and individual impact on each killer. We encounter various scenarios throughout our lives that might change our behavior, upend our mental state, and strain our relationships with others.

An individual's personality determines how they will react to these experiences, whether adaptive stress or psychological damage. An individual can occasionally be shaped by a profoundly traumatic upbringing. What we're now learning about is serial killers' motives. Research conducted by eminent criminologists such as Michael Newton and James Brussel uncovers a startling reality: a considerable proportion of serial killers worldwide bear the wounds of maltreatment, neglect, or aggression during their early years. India, with its complex social realities and cultural undercurrents, is no exception. Cases like the notorious Raman Raghav dubbed the "Psycho Raman," who endured a childhood rife with physical and emotional abuse, stand as stark testaments to this grim connection.

The types of traumas encountered in early childhood may profoundly affect the development of a child's mind. Dissociation, attachment issues, and deep-seated aggression, as explored by trauma experts like Judith Lewis Herman and Bessel van der Kolk, can fester like malignant shadows, warping perceptions and driving individuals towards a path of darkness. For some, violence becomes a twisted echo of the pain they endured, a perverse attempt to regain control over a world once defined by helplessness. However, the link between trauma and serial homicide is not a definitive one.

Not every survivor succumbs to the shadow. Resilience, as stressed by the work of prominent psychiatrists such as Viktor Frankl, may thrive even in the most extreme environment. Stories of individuals like Arun Mathur, a survivor of brutal childhood abuse who went on to become a successful social worker, offer testaments to the human spirit's capacity for healing and transformation.

Understanding the role of childhood trauma in shaping the minds of serial killers is not about excusing their heinous acts but about illuminating the complex tapestry of factors that contribute to such outcomes. This understanding will be vital for the development of efficient intervention and an end to vicious cycles. I've learned that various factors might contribute to the development of a serial killer.

While not all serial murderers are motivated by the same things or come from comparable backgrounds, there are often remarkable parallels in the motivations behind their desire to kill. It is evident that there is a substantial correlation between childhood trauma and the development of a killer. This written report will aid in the public's understanding of the ramifications of abuse suffered throughout childhood. Child abuse, in any form, can have long-lasting impacts on an individual, and in many circumstances, those effects can be fatal.

In India, where mental health awareness and access to care remain limited, addressing the psychological consequences of childhood trauma takes on added significance. Culturally sensitive therapy approaches, community-based support systems, and destigmatizing mental health care are crucial steps in fostering resilience and preventing the darkness from claiming another soul.

The whispers of the dark link between childhood trauma and serial homicide demand our attention. We can hope to find a way to a safer future, where the scars of the past do not determine the destiny of our future, by acknowledging the shadows, understanding their origins, and nurturing the light of resilience.

THE ROLE OF HUMANITARIAN ORGANISATIONS IN CONFLICT ZONES

Pihoo Agrawal
Reviewed by Twinkle

The principles of humanitarian access under international humanitarian law (IHL) are well-defined; nevertheless, putting them into practice at the country level might present difficulties. States must find a balance between protecting the security of civilian populations and humanitarian organizations and making sure that people have access to products and services that allow them to fully enjoy their rights in order to ensure full respect for those regulations. When offering support and help in crisis areas, humanitarian groups encounter many difficulties. These difficulties are frequently caused by how dynamic and complicated these ecosystems are. This article discusses the difficulties the organization faces in helping the injured party while hampering their own lives at risk. It goes on to discuss the intricate global humanitarian situation that occurred in Yemen.

Introduction

There are an increasing number of people in need of humanitarian aid. Humanitarian needs remain a result of armed conflict. In many countries, the lack of political solutions has resulted in protracted crisis that have caused massive destruction, internal and external population displacement, and a collapse of law and order. Organizations are dedicated to preventing and/or reducing suffering caused by violent conflicts. Typically, their duties include looking for, gathering, and moving the sick and injured, as well as the missing and dead; treating the sick and injured; helping prisoners of war; and aiding the civilian populace by delivering humanitarian aid. In IHL, they are also occasionally referred to as unbiased humanitarian organizations. One subset of humanitarian organizations are relief societies. Governments in each of these countries have recognized these societies, and their employees are treated on an equal basis with military medical personnel—so long as they abide by military rules and regulations.

The Role of Humanitarian Organisation: International Humanitarian Law

International humanitarian law pertains to armed warfare scenarios. It seeks to safeguard some very vulnerable populations and lessen the impact of conflicts on both people and property. Additionally, it sets out measures.

There are four fundamental and generally acknowledged humanitarian principles that direct humanitarian activity; however, each humanitarian organization may adhere to a different set: humanity, independence, impartiality, and neutrality. Regarding IHL, the first difficulty stems from various opinions about the degree of protection that the law provides for humanitarian relief workers. IHL protects humanitarians in the same way that it protects all other civilians: assaults on them are forbidden and, when carried out on purpose, constitute war crimes. However, IHL also provides extra protection to a few specifically listed groups of aid workers, including medical, UN, and associated staff. It's unclear how much of these various legal protection levels actually translate into various degrees of field protection that organizations receive. Many believe that the legal protections now in place for humanitarians are appropriate, at least insofar as attacks on them are outlawed by law. As a result, they have concentrated their efforts on improving protection for civilians in general. Others argue that because it is the vital role of humanitarian aid workers to provide aid in conflict situations, there should be more security for them specifically. As desirable as it may be to amend IHL, given the current political climate, opening up key articles of international law to amendment is likely to harm rather than promote humanitarian values.

If current safeguards have shown to be insufficient in actuality, a number of practitioners have expressed the necessity for a greater emphasis on the application and enforcement of the law in order to better protect both civilians and humanitarians. For humanitarian actors, putting the legislation into practice and claiming protection in the field and justice when attacks do occur provide a second barrier. In fact, relatively few violent crimes against humanitarians are ever looked into or prosecuted on their own. In many conflict zones, there is a breakdown of law and an element of insecurity, therefore challenges in implementing the law are to be expected . The question of whether humanitarian groups should even be in the business of enforcing legal compliance emerges, even though it might become challenging for them to do so. It is normal for the attacked groups to demand justice, but humanitarian organizations have good reason to avoid the enforcement domain even in cases where tools for enforcement are available.

Humanitarian Aid Workers: The Jeopardy to Their Security

Increased efforts over the past two decades to measure and monitor incidences of violence and threats against humanitarian assistance workers have led to a far better awareness of security incidents and trends of violence affecting humanitarian aid workers and programs. However, there are still a lot of issues with data gathering, sharing, analysis, and governance, which affect our comprehension of events and trends as well as the best ways to respond.

Health professionals and humanitarian health groups commonly operate in combat environments where they face direct attacks and where ongoing hostilities undermine essential services and basic institutions. According to Humanitarian Data Exchange (HDX) 2019 and Safeguarding Health in Conflict Coalition (SHCC) 2018, violence against humanitarian health professionals is a continuous and widespread issue in today's world and can even be fatal. "The most dangerous place on earth for health-care providers" is Syria in particular (Fouad et al. 2017). Attacks by violence against personnel and humanitarian health organizations have a lot of detrimental effects. Health professionals may experience financial loss, psychological distress, physical suffering, or even pass away. Attacks have the power to demolish medical facilities, stop the supply of necessary goods from reaching their destination, stop services from being provided, or even force an organization to close. After some initial attempts in the late 1990s to use mortality rates to quantify violence against aid workers, three databases have been formed to document and exchange data on security incidents. A Humanitarian Outcomes project, the Aid Worker Security Database (AWSD) offers the most publicly available data. Despite the fact that there are still gaps in our quantitative understanding of security occurrences and patterns affecting humanitarian action, research in this field has led to a considerably fuller picture.

Case of Yemen: A Primal Alarm of Humanitarian Failure and Crisis for Women

Yemen continues to be one of the biggest humanitarian catastrophes on earth. A startling 21.6 million people would need humanitarian aid in 2023, with 80% of the nation unable to meet their basic needs for food and shelter. The COVID-19 pandemic, natural calamities, economic collapse, and eight years of violence have disproportionately affected women and girls. Their access to potentially life-saving sexual and reproductive health services has been severely hampered by the health system's virtual collapse. Every two hours, a woman dies in pregnancy or childbirth today, from causes that, given access to treatments, are virtually totally preventable. It is anticipated that over 1.5 million expectant and nursing mothers will experience acute malnutrition in 2023, increasing the risk of low birth weight and health problems for the unborn child. Ensuring that all Yemeni women and girls have access to services that are essential to their health, well-being, and life is UNFPA's top goal. UNFPA is requesting $70 million in 2023 as part of the Yemen Humanitarian Response Plan in order to reach 3.9 million individuals.

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LEGAL LOUNGE, THE OFFICIAL PODCAST OF LAWPINION

Lawpinion proudly introduces its latest endeavor, the "Legal Lounge" podcast – a dynamic platform poised to revolutionize legal discourse. This innovative podcast promises not only insightful talks but also a depth of understanding rarely found in mainstream legal discussions.

The "Legal Lounge" aims to carve out a unique space where enthusiastic individuals can engage in discussions that go beyond the surface, diving deep into various legal facets. This podcast is not just a monologue; it's a stage for dynamic debates and thoughtful deliberations on pressing legal issues.

We extend an invitation to all passionate individuals interested in contributing to this enriching platform as guest speakers. The emphasis is on creativity and engagement – prospective speakers are encouraged to propose topics that not only stand out for their originality but also promise a profound exploration of legal complexities. The selection process prioritizes topics that offer depth and a fresh perspective.

The inclusion of guest speakers marks a significant expansion for the "Legal Lounge" podcast. This approach ensures a diverse range of perspectives, creating a series that is not only dynamic but also enriching for its audience.

Lawpinion's vision for the "Legal Lounge" podcast stems from the recognition that there's a crucial need for a platform where people can openly discuss and dissect legal issues. In a world where the legal landscape is constantly evolving, Lawpinion saw an opportunity to create a space that goes beyond traditional conversations, offering an avenue for individuals to voice their opinions, share insights, and contribute meaningfully to legal discourse.

To further amplify this vision, Lawpinion invites not just established legal experts but anyone passionate about the law to become part of the "Legal Lounge" community. This inclusive approach is designed to break down barriers and make legal discussions accessible to a wider audience. By encouraging participation from diverse backgrounds and perspectives, Lawpinion aims to enrich the podcast with a mosaic of opinions and insights.

Our commitment to fostering dialogue is rooted in the belief that awareness and understanding of legal issues should be widespread. Through this initiative, the aim is not only to discuss legal challenges but also to empower individuals with knowledge, encouraging them to actively engage with the law.

The "Legal Lounge" podcast, as an extension of Lawpinion's broader mission, is not just a one-way communication channel. It's a call to action, an invitation for individuals to join the conversation, express their views, and contribute to a collective understanding of legal matters. By providing a platform for open discussions, Lawpinion envisions creating a community where the exchange of ideas leads to a more informed and empowered society.

As we move forward, Lawpinion is dedicated to expanding this vision, making the "Legal Lounge" a hub for legal awareness and fostering a sense of shared responsibility in navigating the complexities of the legal world. Whether you are a seasoned legal professional or someone passionate about societal issues, Lawpinion welcomes you to be part of this transformative journey towards a more informed and engaged society.

All in all, the "Legal Lounge" podcast is set to be a beacon for those seeking nuanced and insightful discussions on the ever-evolving landscape of legal issues.

To be a part of our podcast as a guest, approach us at lawpinion@gmail.com

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LAW SCHOOL CORNER

The Law School Corner, proudly introduced by Lawpinion, stands as a transformative milestone on our website, specifically designed to be a guiding force for law students navigating the intricate landscape of legal education. This curated section goes beyond being a mere repository of information; it serves as a comprehensive resource, directly addressing the challenges commonly faced by law students – from the initial stages of selecting compelling topics to the advanced realm of researching and writing on pertinent legal subjects.

In the midst of our commitment, Lawpinion envisioned the Law School Corner as a direct response to the myriad doubts and uncertainties that many law students encounter, particularly in the realm of legal research. Recognizing that students often grapple with these challenges, we saw an opportunity to bridge the gap and offer a dedicated space to address these concerns comprehensively.

At the heart of this initiative is our dedication to fostering student growth. The carefully curated content is a testament to this commitment, as it transcends theoretical discussions and immerses students in practical insights.

By delving into real-world scenarios, this content not only enhances students' writing skills but also demystifies the role of technology in the legal field, offering valuable insights that go beyond traditional academic discourse.

As an integral component of Lawpinion, the Law School Corner is more than a platform – it's a commitment to nurturing the skills and knowledge of law students. It reflects our vision of providing an indispensable resource, supporting students in their pursuit of excellence in legal education. With a sharp focus on skill enhancement, the clarification of uncertainties, and the provision of practical applications, the Law School Corner is poised to become an essential companion for every law student, heralding a revolution in the landscape of legal education. As we embark on this transformative journey, Lawpinion is committed to empowering the next generation of legal professionals through this innovative and forward-thinking initiative.

We invite all law students and enthusiasts to keep a vigilant eye on our website, ensuring that you stay updated for further insightful articles and developments in the ever-evolving field of legal education.

To know more or to read the well versed articles in this column, login to
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LAWPINION

Lawpinion, established in 2023 by a group of friends who met in law school is a student-based community of writers who express their opinions on legal issues ranging from domestic laws to international laws. We thrive on building a peer review system and holding discussions on laws made around the world as well as aspire to publish student-written articles that are thoroughly researched. With this vision, Lawpinion was established. Research plays an important role in a law student's life. We are there to help students build a strong base for themselves with the help of our platform.

We have established several research cells and communities to cater to different interests and fields. These include the Gender Justice and Feminist Jurisprudence Cell, the Intellectual Property Rights Cell, the Alternative Dispute Resolution Cell, the Humanitarian Law Cell, the Information Technology Law Cell, the Environmental Law Cell, the International Law Cell, and the Corporate Law Cell. By joining these communities, you can gain knowledge from others, and have the opportunity to contribute your thoughts to the Lawpinion Quarterly Newsletter, thereby enhancing your research skills.

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