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# **GENDER JUSTICE AND FEMINIST JURISPRUDENCE**

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# WOMEN'S ABSENCE IN JUSTICE SYSTEMS: IMPLICATIONS FOR GENDER JUSTICE



-Simreen Kochhar

Reviewed by Sanya Kaushik

This study explores the under-representation of women in legal systems and its detrimental impact on achieving gender justice. Women continue to be disproportionately underrepresented in the legal profession, courts, and decision-making positions, notwithstanding advancements in gender equality. Social conventions discourage women from pursuing legal jobs by portraying the legal profession as a male domain. Women are further marginalized by institutional prejudices in the legal system due to hostile work conditions, discriminatory hiring practices, and a dearth of gender-sensitive regulations. There are severe repercussions to this under-representation. It creates an impression of prejudice towards men and calls into question the validity of legal structures. The absence of women's distinct experiences and viewpoints in the legislative process results in laws that might not sufficiently address gender-related concerns. Due to their difficulty in finding appropriate representation for their problems, women's access to justice is further impeded. Increasing the number of women involved in the legal system would help us go closer to attaining gender justice and creating a more equal society overall.

The under-representation of women in legal systems is a longstanding and widespread problem that has significant global ramifications for gender justice. Women are still disproportionately underrepresented in the legal profession, the court, and decision-making positions within justice institutions, even in light of advances in gender equality in other domains. The lack of mention of gender-based issues in legal frameworks and their ability to provide equal treatment under the law is seriously called into doubt. This imbalance is a result of institutional impediments, sociocultural norms, and economic inequities, all of which reinforce systemic biases and impede the advancement of gender equality. Formulating solutions to advance gender equity and provide fair access to legal remedies for all genders requires understanding the underlying causes and consequences of women's absence from justice systems. This study examines the various facets of women's under-representation in the legal system, discusses the implications for gender justice, and makes doable suggestions for promoting greater equality and inclusion in the legal framework.

## Historical Background

Historically, due to societal norms, women are restricted from working and giving their best in law, and men best suit the justice system to provide justice inclined towards men. Gender stereotypes portray women as incompetent to be professionals in the field of law. The belief that women are fundamentally less adept or competent in questions of law and government is also reinforced by cultural ideas around gender roles. These beliefs further deter women from choosing professions in law since media portrayals, curricula in schools, and cultural norms reinforce them. These social and cultural barrier divides make the legal profession unwelcoming to women and prevent them from moving up the judicial hierarchy.

## Institutional Challenge

In addition to sociocultural impediments, institutional elements within justice systems also play a crucial role in the marginalization of women. Gender prejudices that are firmly ingrained in recruitment and promotion procedures systematically penalize women in the legal profession and judicial positions. Even with advancements in gender equality, many establishments continue to give preference to male applicants, which keeps women underrepresented in the legal system at all levels. The work cultures in justice institutions frequently encourage sexist and harassing situations, which discourages women from pursuing or advancing in legal jobs. In addition to undermining women's career goals, the pervasiveness of hostile treatment and discrimination based on gender also erodes their confidence and sense of belonging in the legal profession. In addition, women's alienation within these organizations is made worse by the lack of gender-sensitive policies and support networks.

The neglect of gender-specific issues, such as work-life balance and family obligations, further supports the idea that the legal profession is unwelcoming to women. These institutional issues impede the advancement of gender equality by maintaining the underrepresentation and marginalization of women in the legal system. To address these systemic problems and support women's progress in the legal profession, comprehensive reforms that aim to eradicate discriminatory practices, promote inclusive workplace environments, and establish gender-sensitive regulations are required.

### **Implications**

The lack of representation of women in the legal system has significant consequences for gender justice, as it undermines the validity and credibility of legal frameworks. Systemic biases continue, and other viewpoints are ignored when women are underrepresented in the legal profession, the judiciary, and decision-making positions within justice institutions. The public's confidence in the fairness and impartiality of legal systems is undermined by this disparity, which supports the idea that justice is fundamentally prejudiced in favour of men. Furthermore, women are not sufficiently represented and involved in formulating laws and regulations. In that case, they may fail to take into account the unique needs and experiences of women, which would serve to solidify gender inequality in society further. The lack of female representation in the legal system undermines their capacity to adequately address discrimination, gender-based violence, and other types of injustice that affect women. Women's distinct viewpoints and experiences are essential for comprehending the subtleties of gender-based problems and developing suitable legal remedies. Without their involvement, legal systems might not be able to identify and address the structural obstacles and cultural norms that support discrimination and gender disparity. Women can, therefore, still have difficulties getting access to the legal system and seeking compensation for rights abuses.

Gender justice cannot be achieved because of the under representation of women in the legal system. It emphasizes how critical it is to implement structural changes to support gender equality within legal frameworks, such as steps to boost the proportion of women in the legal profession and decision-making positions within justice organizations. Societies can go closer to implementing the ideas of gender justice and promoting inclusive and equitable societies for people of all genders by ensuring that women have equal access to the legal system and actively participate in its development.

In conclusion, attaining gender justice is severely hampered by the under representation of women in the legal system. This longstanding problem is caused by sociocultural norms, institutional impediments, and economic disparities that impede the advancement of gender equality and reinforce systemic biases. Wide-ranging effects result from women's exclusion from the legal system, including diminished legal framework legitimacy and hindered attempts to address gender-based concerns effectively. Comprehensive reforms are required to promote gender equity and guarantee equal access to legal remedies for all genders.

This entails combating discriminatory behaviours, promoting welcoming work environments, and putting gender-sensitive regulations in legal organizations in place. Society can step toward achieving gender justice and building a more inclusive and equitable society for all by encouraging more women to practice law, participate in legal professions, and hold decision-making positions in justice groups.

# PRACTICING 'STRATEGIC FEMINISM' IN THE HOTBED OF PATRIARCHY IN UTTAR PRADESH



This interview digs into the travel of Iqra Hasan, a 27-year-old political trailblazer from Kairana in western Uttar Pradesh, who is reclassifying the political scene through her special approach to 'strategic feminism' in a locale known for its dug in patriarchy.

*-Riya Chouhan*

*Reviewed by Molika Bansal*

At just 27 years old, Iqra Hasan is stepping into the political limelight as one of the youngest candidates in the upcoming Lok Sabha Elections. Iqra Hasan is venturing into the political spotlight as one of the most youthful candidates in the up-and-coming Lok Sabha decisions. She holds a postgraduate degree in Worldwide Law from the College of London School of Oriental and African Ponders, bringing a scholarly point of view to her family's political bequest in Kairana, a key voting demographic in western Uttar Pradesh. Running on a Samajwadi Party (SP) ticket as a portion of the Indian National Formative, Comprehensive Collusion (INDIA), Hasan speaks to a modern era of political authority that grasps dynamic values while handling conventional control structures.

Kairana, once known for its wealthy social legacy and domestic to the Kirana Gharana of Hindustani Classical music, has confronted critical social and political challenges for a long time. The voting demographic has ended up synonymous with wrongdoing, rancher dissents, and tall rates of Hindu-Muslim pressures, exacerbated by the political dominance of two Gurjar families—one Hindu and one Muslim. This is the complex scene in which Iqra Hasan has risen, outfitted with a combination of scholastic insight and grassroots engagement.

Her political travel started out of the blue. Iqra Hasan is the girl of the late Munawwar Hasan, who served twice as an MP and twice as an MLA, and Tabassum Hasan, a previous MP from Kairana. When her brother, Nahid Hasan, a three-time MLA, was charged with activity infringement and misbehavior with government authorities, the family saw it as a political quarrel coordinated by the administering Bharatiya Janata Party (BJP), driven by the family of the late Hukum Singh, a noticeable BJP figure. This turmoil compelled Iqra Hasan to step in, bringing an unused vitality to the political scene.

Despite these challenging circumstances, Iqra Hasan rapidly adjusted to the rigors of political life. Her unobtrusiveness and political adroitness have earned her laud over party lines, and her common viewpoint has struck a chord with the differing voters of Kairana. Neighborhood political spectators note that her profound understanding of nearby traditions and consistent nearness among the individuals allow her a solid edge over her rivals. Indeed the sitting BJP MP, Pradeep Chaudhary, confronts an imposing challenger.

Iqra Hasan's approach to legislative issues is grounded in her commitment to her constituents. She recognizes that victory in Kairana requires more than fair political maneuvering—it requests a veritable association with the individuals. "I haven't taken a getaway for the past two a long time. I go to Delhi, as it were, for a day or two. It's a 24x7 work. Individuals inquire me around advancement works, but what individuals here truly need is me being there in their celebration and grieving," Hasan shared in a meet with The Hindu.

Her methodology of 'strategic feminism' includes exploring patriarchal structures whereas leveraging the discernment of helplessness to make space for alter. This approach permits her to challenge conventional parts and desires, situating herself as a trusted and sympathetic pioneer. By reliably being show in the lives of her constituents, Hasan has built a compatibility that rises above political affiliations, making her a solid contender in the upcoming elections.

Iqra Hasan's story is a guide of trust for ladies in legislative issues and confirms the control of versatility and realness. Her travel underscores the potential for a modern wave of administration in Uttar Pradesh, one that values inclusivity and engagement while recognizing the deep-rooted challenges that lie ahead. As the decisions draw closer, all eyes will be on Kairana to see if Iqra Hasan's brand of 'strategic feminism' can genuinely change the political scene.

## GENDER JUSTICE IN THE DIGITAL AGE



-Aanand Saran

Reviewed by Samiksha Biswakarma

The digital age has brought unprecedented opportunities for social and economic empowerment, but it has also exacerbated existing gender disparities and created new forms of gender-based violence and harassment. In the digital age, achieving gender justice necessitates addressing the complex interplay between technology and societal norms. This article explores the gender disparities in access to and use of digital technologies, examines the impact of online gender-based violence and harassment on women's rights and well-being, and discusses strategies to promote digital gender equality and ensure safe and inclusive digital spaces for women.

By advocating for inclusive digital spaces and equitable opportunities, this article contends that achieving gender justice in the digital age is essential not only for ensuring women's rights and well-being but also for harnessing the full potential of technology to create a more equitable society.

### Internet Access and Connectivity

The digital age has ushered in transformative opportunities, but it has also highlighted significant gender disparities in access to and use of digital technologies. According to the International Telecommunication Union (ITU) women are 21% less likely to have access to the internet compared to men in low and middle-income countries. Economic barriers, lack of digital literacy, and cultural norms and stereotypes are key factors that prevent women from accessing and utilizing digital technologies. These barriers not only limit women's ability to participate in the digital economy and society but also perpetuate gender inequalities in other areas of life.

Digital literacy is a fundamental requirement for leveraging the benefits of the digital age and participating fully in the digital economy and society. However, there is a significant gender gap in digital skills, with women being less likely to possess basic digital skills compared to men. Promoting digital literacy among women is crucial for closing the gender gap in access to and use of digital technologies. Investing in digital literacy and skill development programs for women and girls can help to bridge this gap and empower women to fully participate in the digital revolution.

### Impact of Online Gender-Based Violence and Harassment

#### Types of Online Gender-Based Violence and Harassment:

The digital age has also brought new forms of gender-based violence and harassment that disproportionately affect women and girls. Cyberstalking and online harassment are prevalent, with women and girls being disproportionately targeted. These forms of online gender-based violence can have serious psychological and emotional consequences for the victims. Additionally, the non-consensual sharing of intimate images, often referred to as "revenge porn," is another form of online gender-based violence that disproportionately affects women and girls, violating their privacy and dignity.

### **Psychological and Emotional Impact:**

The psychological and emotional impact of online gender-based violence and harassment can be profound, leading to anxiety, depression, and other mental health issues among victims. The emotional toll of online gender-based violence and harassment can also impact women's participation in online spaces and their ability to benefit from the opportunities offered by the digital age fully. Addressing online gender-based violence and harassment is crucial for creating a safe and inclusive digital environment where women can fully participate and thrive.

### **Strategies to Promote Digital Gender Equality and Ensure Safe and Inclusive Digital Spaces for Women**

#### **Policy and Legal Frameworks:**

To address the gender disparities in access to and use of digital technologies and combat online gender-based violence and harassment, strong policy and legal frameworks are essential. Implementing and enforcing legislation that criminalizes online gender-based violence and harassment is crucial for protecting women's rights and ensuring accountability. Promoting and protecting women's digital rights and privacy is also essential for creating a safe and inclusive digital environment where women can fully participate and thrive.

#### **Digital Literacy and Skill Development:**

Promoting digital literacy among women is crucial for closing the gender gap in access to and use of digital technologies. Investing in digital literacy and skill development programs for women and girls can help to bridge this gap and empower women to fully participate in the digital revolution. Providing training and resources on online safety and security can empower women to protect themselves from online gender-based violence and harassment and navigate the digital world safely and confidently.

#### **Awareness and Advocacy:**

Raising awareness about the risks and consequences of online gender-based violence and harassment is crucial for changing attitudes and behaviors and promoting a culture of respect and equality online. Collaborative efforts between governments, civil society organizations, and the private sector are essential for promoting digital gender equality and ensuring safe and inclusive digital spaces for women. By fostering collaboration and advocating for policies and initiatives that promote digital gender equality and protect women's rights online, we can work towards creating a more inclusive and equitable digital future for all.

### **Conclusion**

The digital age offers immense potential for promoting gender equality and women's empowerment but poses significant challenges and risks. Addressing the gender disparities in access to and use of digital technologies and combating online gender-based violence and harassment is crucial for realizing the full benefits of the digital revolution and ensuring that it is inclusive and equitable for all.



# ADVANCING TRANS RIGHTS IN GERMANY: A HISTORIC VOTE



-Shivangi Tyagi

Reviewed by Agam Tandon

LGBTQ+ rights have a complicated history in Germany, where progress for transgender people has lagged. This essay looks at a recent vote in the Bundestag to change the law regarding gender recognition. Under the previous system, psychological assessments and documentation of gender identity were mandatory. The new law permits self-declaration in front of witnesses and uses a self-determination methodology. This vote prioritizes autonomy and lowers bureaucratic barriers, marking a win for the transgender rights movement. Still, there are obstacles to overcome, such as issues with execution and the requirement for social acceptance. The necessity of attending to the needs of intersex people is also acknowledged in the report. Germany has made significant progress, and other countries hoping to promote transgender rights should take note.

In recent years, there has been a notable shift in the landscape of LGBTQ+ rights in Germany. Even with the tremendous advancements, transgender people still encounter obstacles in their quest for social acceptance and legal recognition. But in December 2023, a landmark vote in the German parliament signaled a change in direction. This essay explores this historic ruling, examining the prior legal system's treatment of transgender people as well as the revolutionary potential of the new self-determination model. We will examine the possible outcomes of this vote, including the promotion of an inclusive society and the empowerment of transgender individuals. We will also tackle the outstanding issues, such as ensuring the implementation goes smoothly and encouraging a better knowledge of society. In the end, this decision represents a ray of hope for the global growth of transgender rights as well as for the transgender population in Germany.

In recent decades, Germany has made significant progress toward promoting equality for LGBTQ+ people. In 2017, the nation made same-sex marriage legal, which was a major step toward recognizing the rights of the LGBTQ+ population. Even so, transgender people in Germany still have to deal with several difficulties, such as prejudice, a lack of legal recognition, and difficulties getting access to healthcare.

There have been complaints about the antiquated and insufficient legislative framework that governs transgender rights in Germany. People who want to change their gender marker on official documents are currently required by law to have a mental diagnosis and undertake intrusive medical treatments. Many people believe that this is an unnecessary and stigmatizing process. More marginalizing people of different gender identities is the fact that non-binary people are not legally recognized in Germany.

## The Historic Vote

The historic decision in Germany signified a sea change in how the nation views transgender rights. It resulted from years of advocacy work by progressive lawmakers, LGBTQ+ organizations, and transgender people. The Transsexual Law is an antiquated legal framework that has been criticized for its intrusive and stigmatizing procedures for gender recognition. This was the main focus of the vote.

By removing the requirement for medical procedures and psychological diagnoses, the proposed bill aimed to reduce obstacles to legal gender recognition. Instead, in accordance with international human rights standards that place a strong emphasis on autonomy and self-determination, people would be given the freedom to self-determine their gender identification. This change recognized people's intrinsic right to identify their own gender, which was a substantial departure from the previous pathologizing approach to transgender identities.

The bill also recognized non-binary identities, filling a significant legal framework gap. The law demonstrated a commitment to inclusivity and the acknowledgment of all gender identities by recognizing the range of gender experiences that go beyond the conventional male/female dichotomy.

Passionate arguments on both sides, representing deeply held views about gender, identity, and societal norms, typified the debate preceding the vote. In the end, a rising consensus on the significance of preserving equality and human rights for all people was highlighted by the bill's passing with widespread support from different political parties. All things considered, the historic vote was a major win for transgender rights in Germany and an indication of a movement toward increased tolerance, acceptance, and recognition in society.

### **Implications and Challenges**

The bill's passing marks a major win for transgender rights in Germany and establishes a standard that other nations can adhere to. Germany has become one of the increasing number of nations that acknowledges individuals' freedom to choose their gender identity by embracing a self-determination paradigm for legal gender recognition.

Yet, there are still obstacles in the way of guaranteeing transgender people in Germany complete equality, even in light of these developments. Though prejudice and discrimination against transgender people still exist in several societal domains, including the workplace, the medical field, and the educational system, attitudes toward these people are still not universal. To guarantee that transgender people can fully exercise their rights, the new legislation's implementation will call for coordinated efforts from governmental bodies, civil society organizations, and the general public. Support services, awareness-building, and removing structural obstacles to equality are all included in this.

### **Conclusion**

The historic vote in Germany demonstrates the nation's commitment to equality and human rights and marks a critical turning point in the growth of transgender rights. Germany has made a significant advancement in fostering inclusivity and reaffirming the rights of transgender people by changing the legal recognition procedure and acknowledging non-binary identities. However, there is still a long way to go before there is complete equality, and continued work is required to address the stigma, prejudice, and structural obstacles that transgender people must overcome. Germany can lead the way toward a more inclusive and equitable society by persisting in its advocacy for change and cultivating a culture of respect and acceptance.



# INTELLECTUAL PROPERTY RIGHTS

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# STRIKING A BALANCE BETWEEN INTELLECTUAL PROPERTY RIGHTS AND HUMAN RIGHTS IN THE ERA OF TECHNOLOGY AND INNOVATION



*Samiksha Biswakarma*

*reviewed by Amrit Shree Upadhyay*

Intellectual property (IP) rights are critical for safeguarding artists and encouraging innovation. Patents grant innovators exclusive rights to their inventions, allowing them to recover expenses and prevent imitation. Copyrights preserve the work of authors, artists, and musicians by ensuring recognition and reward. Without copyright, creativity may suffer. Trademarks are essential for business identity. Overall, intellectual property rights are critical for fostering creativity and ensuring innovation. Without copyright protection, people may be less likely to create unique contexts, resulting in a stagnation of artistic and cultural expression. Trademarks are another important part of intellectual property rights, as they safeguard businesses' brand identification and reputation.

For example, Coca-Cola is a drink company that has its own trademark. This is done to prevent the other companies who are willing to sell juice or drinks from copying their trademark. This is also done with the purpose of stopping and lowering the competition in the market. However, the balance between intellectual property rights and broader societal interests, such as access to critical resources, has become a significant cause of conflict.

## Understanding the Link Between Intellectual Perspectives Rights and Human Rights

The possibility of limiting access to knowledge and information is at the heart of the conflict between intellectual property rights (IPR) and human rights. Furthermore, there is a considerable divide in technological growth, with certain areas leading in innovation and others trailing behind. The problem is exacerbated when cutting-edge technology, which is protected by strict intellectual property laws, is out of reach for people in developing countries. As a result, striking a balance between these two spheres while also ensuring access to knowledge, information, and technological innovation presents a significant challenge.

Flexible intellectual property rules are quite important. These laws should include provisions such as forced licensing, which allow countries to temporarily waive patent rights, particularly during emergencies such as public health crises. This standard helps to ensure that everyone has access to critical innovations when they need them, while also remembering that everyone has the right to good health.

It is also critical for inventors to consider the impact of their creations on society from the start. Including ethical assessments early on ensures that new inventions respect people's rights and values. And it's not just a one-time event; keeping an eye on how things are going and adjusting as needed is critical.

Sharing knowledge and resources is an important step towards ensuring that everyone benefits from innovative ideas. By fostering open-source software and making research more available, more people may participate in and use new technologies, thus promoting everyone's right to learn and profit from progress. By encouraging open-source software and assuring open access to research and educational resources, more people may profit from technological breakthroughs while also supporting the right to education and stimulating innovation.

Public awareness is crucial. Individuals can promote justice by teaching others about the ethical consequences of intellectual property decisions. Engaging civil society ensures that many viewpoints are included when developing policy, making the process more democratic. To strike a balance between intellectual property rights and human rights, legislative frameworks, responsible innovation, inclusive policies, international collaboration, public-private partnerships, and public awareness must all be combined. It is about working together to build a fair and ethical innovation environment for all.

In the *Novartis v Union of India* case (AIR 2013 SC 1311), the Supreme Court of India rendered a landmark decision that prioritized life-saving pharmaceuticals over patent rights. Novartis, a pharmaceutical corporation, sought a patent for the cancer medicine "imatinib mesylate", but the court denied it. They claimed that imatinib mesylate did not meet the Patent Act's standards because it was not an innovation. The court's opinion emphasized that simply discovering a novel form of an existing material is insufficient to obtain a patent.

In the *Bayer Corporation v Union of India* case (AIR 2014 Bom 178), the court permitted NATCO Pharma Ltd. To manufacture and distribute Nexavar since it is in the public interest. This demonstrated that India is more concerned with the well-being of its citizens than with protecting the profits of large pharmaceutical companies. Countries such as South Africa, Thailand, and India have had difficulty finding the most important medicines that are cheap for their citizens. Thailand, for example, has awarded licenses for heart and AIDS medications to benefit more people and set an example for other countries.

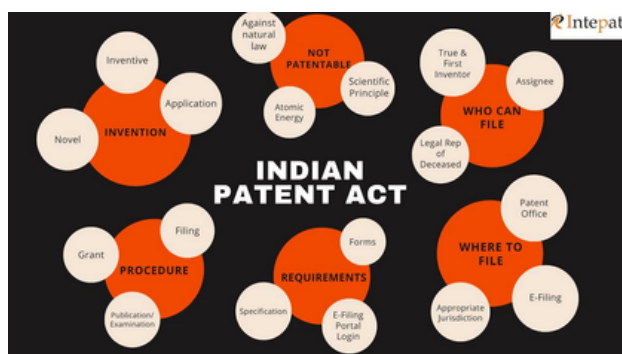
### **Balancing Intellectual Property Rights With Human Rights: Patent Rights Versus Right to Health and Right to Food**

The link between Intellectual property Rights (IPR) and Human Rights is clear in the context of medical patents and the Rights to Health, which was particularly underlined during the HIV/AIDS epidemic. Many medications used to treat HIV/AIDS are patent-protected, influencing drug prices and access. In terms of the Right to Food, genetic engineering patents have an impact on farmer rights and food access. Although the relationship between IPR and Human Rights has been acknowledged, discussions are generally held in Human Rights forums. This means that there is a clear disparity: Human Rights language is frequently discussed in Intellectual property Rights organizations, but the reverse is less prevalent. This disparity emphasizes the need for a more balanced approach in which both realms interact and are treated equally.

The balance between intellectual property rights (IPR) and human rights remains a key concern, especially in an era of technological advancement and creativity. While intellectual property rights are essential for safeguarding innovation and promoting creativity, they must not obstruct access to crucial resources and breakthroughs that are critical for human well-being. Recent legal cases, such as *Novartis v Union of India* and *Bayer Corporation v Union of India*, highlight the growing acceptance of the public interest over exclusive patent rights, particularly for life-saving pharmaceuticals.

We can build an innovative ecosystem that benefits everyone while also aligning with all persons' fundamental rights by prioritizing ethical standards, accessibility and larger ideals of human dignity.

## **INTRODUCTION OF INNOVATIVE UPDATES TO PATENT RULES IN INDIA**



**Bhavay Anand**

**Reviewed by Samiksha Biswakarma**

In the ever-changing canvas of intellectual property rights, patents stand as the core of innovation, providing inventors with exclusive rights toward their creations. Patents not only incentivize inventors to bring their creations to reality but also foster economic growth by encouraging investments in research and development. To adapt to the rapid growth of evolving technologies and global advancements, patent and regulation laws undergo periodic revisions. On March 15th, 2024, significant amendments were made to the patent rules, aiming to streamline processes, strengthen the protection of creators, and foster a conducive environment for innovators. These amendments aim to align with international standards and target key areas of concern in the Indian patent practice and procedures.

### **Statement and Undertaking (Form-3)**

The requirement to periodically provide updated information regarding corresponding patent applications of Form-3 after filing has been eased. The applicant must first file form-3 within 6 months from the date of filing the patent application. "Thereafter, as per the latest amendments in [Rule 12(2)], the applicant is required to furnish the updated Form-3 [details in respect of corresponding application(s) filed in any foreign jurisdiction along with its updated status] within three months from the issuance of the first statement of objections under sub-rule (3) of rule 24B or sub-rule (8) of rule 24C instead of earlier provision of filing Form-3 within six months from filing the corresponding application in each country. The latest amendment thus eliminates the burden on the applicant to recurrently furnish the updated Form-3 within six months each time after filing the corresponding application outside India."

Rule 12(3) has been amended, which now allows the controller to use an accessible and available database for considering the information relating to applications filed in a country outside India without relying on the applicant for the same, thereby eliminating the requirement for the applicant to submit information relating to objection in respect of Novelty & Patentability as well as claims of the application allowed in a foreign jurisdiction.

Failing to submit Form 3 on time may lead to a condonation of delay or allowing more time for filing Form 3, up to 3 months, in particular upon making an application on Form 4 as per the new sub-rule 5 of rule-12. As a large entity, you may get a penalty of INR 10,000/month, but as a non-large party, either individual/startup/small entity/educational institution or all of them together would be charged INR 2000/ per month.

### **Divisional Application**

According to rule 12, the newly added sub-rule 2A further elaborates on the filing of the divisional application. The applicant can now have more than one divisional application(s) under section 16 based on an invention disclosed in the provisional specification.

### **Request for Examination**

According to Rule 24B(1)(i) under the current amendment, the deadline to file the RFE (Form-18/Form-18A) reduced significantly from 48 months to 31 months as compared to earlier from the date of application filing or priority date, whichever is earlier. Nevertheless, this expiry date for MPEP is included from March 15, 2024, which means that for any application filed before March 15, 2024, the MPEP shall continue to be 48 months from the date of filing the application or priority date, whichever is earlier following the newly inserted sub-clause (vi) in Rule 24B.

### **Strengthening Patent Protection Inventions**

"The amendments of 2024 are designed to strengthen the division applications through reinforcing the patent protection. In light of the recent jurisprudential development and international standards, the instituted rules now have clearer guidelines for filing divisional applications. The applicant can now file a divisional application at a wish concerning inventions disclosed in provisional and complete specifications, even in the previous divisional applications. A Divisional of divisional, which is also called a division within a division, is allowed now.

Further, in accordance with the new Rule 29A, the grace period to file the Indian patent application is to be counted from the date of public disclosure of the invention in front of a learned society, which comes under Section 31. The filing of Form 31 by the concerned person along with the evidence is now mandatory for claiming the grace period."

### **Reducing Hassles to Patent Holder**

"Now, the inventor can file a request along with Form 8A to issue a certificate of inventorship to an inventor. This move strengthens and encourages the inventor by publishing their name on the certificate.

Further, to reduce the hassle for the applicant, there is an alteration in the procedure for consideration of representations in pre-grant opposition. Now, the representation is to be considered by the Controller and to be notified to the opponent/applicant within one month.

Further, there is an official fee for filing a pre-grant opposition. Now, the opponent has to think twice before filing an opposition, and the applicant will be relieved of the unnecessary hassle."

### **Conclusion**

In short, the amendments are a good support for the convenient approval of grants by regularly reporting on the status of the corresponding patent pursuits in other countries. Firstly, the red tape relieves participants from annual audits and damages by submitting late annual reports or delays made during Rule 138.

A recent move by India to amend its Patent Rules in 2024 clearly reflects the country's positive attitude toward dynamic changes in the field of invention, technology, and intellectual property rights. By employing stricter procedures, making small room for the adoption of technology, and creating strong enforcement mechanisms, these amendments will consequently promote a favorable area for innovation and protect good idea propriety. As technology continues to develop and grow with possibilities more and greater than we ever could have imagined, it is key for patent law and regulation reform to remain progressive and meet the challenges as they come along, in addition to striking a balance between the innovation and keeping all parties in the innovation ecosystem happy.

## E-COMMERCE PLATFORMS OBLIGED TO PROVIDE COMPLETE DETAILS OF SELLERS, CAN'T BE EXPLOITED TO FACILITATE IPR INFRINGEMENT



ECOMMERCE  
REGULATIONS YOU  
SHOULD BE IN  
COMPLIANCE WITH

*Prakritish Sarma*

*Reviewed by Sanya Kaushik*

The rapid growth of e-commerce has revolutionized business operations, providing a convenient platform for online transactions. However, this digital transformation has introduced intellectual property challenges that e-commerce platforms must navigate. These platforms serve as vital intermediaries, connecting sellers and consumers, necessitating transparency in seller details and preventing intellectual property rights (IPR) infringement. This article explores the dual responsibilities of e-commerce platforms in ensuring transparency and combating IPR infringement to establish a secure and reliable online marketplace that fosters innovation and safeguards the interests of all stakeholders. Transparency in seller details empowers consumers to make informed decisions while preventing IPR infringement, safeguards rights and promotes fair competition. Leveraging advanced technologies, fostering collaboration, and adhering to regulations are key to fulfilling these responsibilities. As e-commerce continues to evolve, platforms must prioritize transparency, ethics, and IP protection to remain vigilant and adapt to challenges.

The rapid growth of e-commerce has revolutionized the way businesses operate, providing a convenient and accessible platform for buying and selling goods and services online. However, this digital transformation has also brought forth a range of intellectual property (IPR) challenges that e-commerce platforms must address. E-commerce platforms have become crucial intermediaries in the digital marketplace, facilitating transactions between sellers and consumers. With this pivotal role comes the responsibility to ensure transparency in seller details and prevent IPR infringement. The Delhi High Court has emphasized the importance of e-commerce platforms providing comprehensive seller details to consumers, underscoring the need for transparency and accountability.

### Transparency in Seller Details

Transparency in seller details is a fundamental aspect of e-commerce platforms and is essential for building trust and confidence among consumers. By providing comprehensive and accurate information about sellers, including business profiles, contact information, and product listings, platforms empower buyers to make informed purchasing decisions. Transparent seller details not only enhance credibility and accountability but also help mitigate risks associated with fraudulent activities. E-commerce platforms are obliged to disclose details about the sellers' offering goods and services, such as the name of their business, their geographic address, customer care number, any rating or feedback about the seller, and any other information necessary to help consumers make informed decisions. The Delhi High Court has emphasized the importance of this transparency, ruling that e-commerce platforms must provide comprehensive seller details to consumers. This ruling marks a significant step towards empowering consumers and promoting ethical practices in the digital marketplace.

### Upholding Ethical Standards

E-commerce platforms have a responsibility to uphold ethical standards within the online marketplace. They should have clear policies and guidelines that sellers must adhere to, including rules on product authenticity, copyright infringement, and fair competition.

By enforcing ethical standards, platforms create a level playing field for all sellers, promote healthy competition, and protect the rights of intellectual property owners. Transparency, accountability, and ethical conduct are essential pillars that underpin the success of e-commerce platforms in today's digital economy.

### **Legal Obligations**

In addition to ethical considerations, e-commerce platforms have legal obligations to comply with intellectual property laws and regulations. Platforms must not knowingly facilitate or condone IPR infringement and should take proactive measures to prevent unauthorized use of intellectual property. The Consumer Protection (E-Commerce) Rules, 2020 in India, have established a comprehensive framework to regulate the e-commerce industry and protect consumer rights. These rules cover a broad range of clauses, such as those pertaining to data protection, transparency, product quality, and dispute settlement. By adhering to legal requirements, platforms contribute to a safe and secure online environment for both sellers and consumers. The adoption of these regulations is in keeping with a more significant global trend to bolster consumer protection laws in the rapidly evolving e-commerce landscape.

In conclusion, e-commerce platforms have a dual responsibility to ensure transparency in seller details and prevent IPR infringement. By upholding ethical standards, complying with legal obligations, and implementing robust measures to protect intellectual property rights, platforms can foster a trustworthy and sustainable online marketplace. Transparency, accountability, and ethical conduct are essential pillars that underpin the success of e-commerce platforms in today's digital economy.

### **Upholding Ethical Standards**

E-commerce platforms are responsible for preventing intellectual property rights (IPR) infringement by implementing robust measures to safeguard intellectual property. This involves a multifaceted approach that includes verifying the authenticity of products, monitoring listings for potential infringements, and promptly addressing any reported violations. Platforms must have comprehensive mechanisms in place to handle complaints related to intellectual property issues and take swift action to remove infringing listings. The Consumer Protection (E-Commerce) Rules, 2020 in India, have a strict position against fake and fraudulent goods, making e-commerce marketplaces more accountable for any such products offered on their platforms. Many global e-commerce stores have developed specific tools to allow IPR holders to report and remove infringing listings, protecting their brands. For example, eBay's Verified Rights Owners (VeRO) programme allows rights holders to report instances of alleged trademark, copyright, design, and other IP infringements, with eBay's customer service team assisting in the process. Amazon's Brand Registry tool enables rights holders to register their trademarks and gain access to powerful search and report tools to identify and take down infringing listings. Facebook also offers tools like 'Rights Manager' for rights owners to identify and block infringing content by uploading audio and video files, and the 'Commerce and ads IP tool' for trademark owners to search for and report infringing content in ads, Marketplace posts, and group sale posts. Leveraging advanced technologies is crucial in preventing IPR infringement on e-commerce platforms. Artificial intelligence (AI) algorithms can aid in assessing product listings for potential patent violations, reducing the burden on IP rights holders and facilitating prompt resolution of disputes. Content recognition systems, such as fingerprinting and watermarking, can help combat copyright infringement by detecting unauthorized reproduction, distribution, and sale of copyrighted works on online platforms. Collaboration between IPR holders, e-commerce platforms, and regulatory agencies is essential in effectively preventing infringement. Encouraging the exchange of information, best practices, and technological expertise can enhance detection capabilities and foster a culture of proactive IP protection. Policymakers should advocate for standardized licensing agreements, incentivize disclosure of patent information, and promote collaboration between platforms and patent offices to bolster patent protection within the e-commerce landscape. Preventing IPR infringement on e-commerce platforms requires a multifaceted approach that combines robust policies, advanced technologies, and collaborative efforts. By leveraging cutting-edge tools, fostering cooperation, & e-commerce platforms can create a secure and fair online marketplace that safeguards IP rights and nurtures innovation.

### **Conclusion**

E-commerce platforms play a crucial role in ensuring transparency and preventing IPR infringement. Upholding ethical standards, complying with legal obligations, and implementing robust IP protection measures are essential for fostering a trustworthy online marketplace. Empowering consumers with comprehensive seller details and safeguarding intellectual property rights are key priorities. By leveraging technology, fostering collaboration, and adhering to regulations, platforms can create a secure environment that promotes fair competition and innovation. As e-commerce continues to evolve, platforms must remain proactive in upholding transparency and IP protection. By embracing these principles, platforms can solidify their position as reliable intermediaries and drivers of progress in the digital economy.



# ETHICAL CONSIDERATIONS IN IPR



*Anushkha Srivastava*

*Reviewed by Agam Tandon*

Intellectual property (IP) refers to the creations of the mind or ideas expressed in a tangible format. It encompasses the work produced by scholars and can be documented even if its immediate value is not apparent. IP includes inventions, creative works, discoveries, know-how, show-how, and artistic creations that have value and are generated through human activity by individuals or entities.

In education, intellectual property includes patentable inventions, trademarkable symbols, copyrightable works, and licensable materials. Faculty outputs such as books, publications, syllabi, presentation files, and lecture notes are examples. Course materials like readings, assignments, tools, simulations, student contributions, discussions, and exams constitute intellectual property.

Key categories of intellectual property are patents, plant breeder's rights, copyrights, trademarks, and trade secrets. Research is vital in creating intellectuals. Funders of research projects may seek to disseminate technological advancements broadly. While the funder supports securing international IP protection, the researcher retains copyright and full licensing rights.

The creator of intellectual property (IP) holds two fundamental rights: economic and moral. Economic rights enable the creator to sell, profit from, or retain exclusive rights to the benefits derived from their work. Moral rights affirm the creator's ownership and connection to the work, remaining with them throughout their lives and often upheld even after death. Editors or others seeking to modify the work must obtain the original author's consent, preserving the integrity of the creator's vision. For example, royalties from William Shakespeare's works continued to benefit his family long after his passing, with moral rights ensuring that no alterations could be made even after the copyright entered the public domain.

The Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS), established during the 1986 Uruguay Round under the General Agreement on Tariffs and Trade (GATT), standardized significant protections for Intellectual Property Rights (IPRs) in the global trade system. Developing-country members of the World Trade Organization (WTO) were mandated to adhere to these stringent patent standards by 2005, except for certain least-developed countries granted extensions exempting them from patent protection until 2013 and from pharmaceutical patents until 2016. Over the past decade, the United States has actively pursued bilateral and regional Free Trade Agreements (FTAs) worldwide, known as 'TRIPS-plus' agreements, such as NAFTA and CAFTA-DR. These agreements incorporate IPR standards surpassing those set by the TRIPS agreement, aiming to enhance IP protections in international trade.

## *Related Conventions and Problems Associated with It*

A large body of contemporary academic literature suggests that IPRs implemented in the TRIPS agreement and various US FTAs give rise to several ethical problems. This review paper aims to overview the problems associated with intellectual property rights (IPRs). Additionally, it outlines and discusses various proposals for mitigating these issues. The paper adopts a primarily descriptive approach. While it occasionally presents personal viewpoints, its main objective is not to advocate for or defend any specific solutions to the issues discussed. Instead, the paper seeks to illuminate, clarify, and contextualize several significant arguments regarding the ethical nature of IPRs. This is intended to equip policymakers and other stakeholders with the information needed to form their own informed opinions on the matter. The ethical problems raised by IPRs are most pertinent when it comes to socially valuable goods such as life-saving medicines and genetically modified seeds that are given intellectual property (IP) protection. The discussions in this paper will almost exclusively revolve around just one product type to bring out the broader theoretical problems/issues caused by implementing IPRs. In line with much contemporary literature on the ethical dimensions of IPRs, the product type in question is life-saving medicines. The TRIPS agreement incentivizes innovation



but can lead to ethical issues. Developing new, safe drugs is expensive, time-consuming, and financially risky. Pharmaceutical companies, bearing all development costs, are willing to invest in R&D with strong financial incentives. IPRs on pharmaceutical innovations are crucial for ensuring these incentives exist.

In the absence of intellectual property rights (IPRs), market prices for pharmaceutical products will likely be driven down to just above marginal production costs, preventing firms from recouping their R&D investments and leading to undersupply in pharmaceutical innovation. IPRs create a temporary monopoly, allowing firms to charge prices significantly higher than marginal costs, which helps recoup R&D expenses and encourages further innovation. However, high prices resulting from IPRs can exclude potential buyers who would purchase the product at a price slightly above marginal cost but cannot afford it at monopoly prices, leading to an exclusion or access problem. This issue is particularly problematic for life-saving medicines, as many potential buyers in low-income countries need more financial resources to afford them. Consequently, there needs to be more R&D investment in drugs for diseases prevalent in these regions, such as malaria, leishmaniasis, and Chagas' disease, highlighting the 'availability problem' imposed by the TRIPS agreement, which enforces strong IPRs.

The availability problem arises because the incentive mechanism for innovation under IPRs links innovation motivation directly to product pricing. The TRIPS agreement ensures that profits come solely from sales, thereby increasing the incentive to invest in R&D based on the market price a product can command. Consequently, TRIPS' strong IPR protection does not promote investment in R&D for products beneficial to poor or small populations. Thus, socially valuable goods, including life-saving medicines, are produced at a different rate for these populations than for wealthier and larger populations.

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### **Solution To the Problem**

According to Pogge (2005), two standard solutions to the access problem are differential pricing and compulsory licensing. Differential pricing involves selling IP-protected products at different prices based on regional income levels. This allows firms to maintain high profits in wealthy markets while offering lower prices in poorer regions, theoretically improving access to essential products like medicines. However, this method faces issues such as the risk of parallel trade, where cheaper drugs are smuggled into high-income countries, and social justice concerns, where wealthy individuals in low-income countries access cheaper drugs while poorer individuals in high-income countries do not.

Compulsory licensing permits governments to authorize the production of generic versions of patented drugs in response to public emergencies. However, it has several drawbacks. Initially, the WTO only allowed compulsory licenses for domestic production, disadvantaging countries without manufacturing capabilities. The 2003 WTO amendment allowed the export of generic drugs, but this process has proven cumbersome and inefficient. Furthermore, compulsory licensing may discourage direct investment and innovation, as pharmaceutical companies may avoid markets perceived as legally hostile and reduce R&D for drugs likely to be subject to such licensing.

Given these challenges, neither differential pricing nor compulsory licensing fully addresses the access problem. Alternative solutions must be explored to amend the current IPR system under the TRIPS agreement to address both access and availability issues better.

The ethical dilemmas posed by intellectual property rights (IPRs) under the TRIPS agreement, particularly concerning life-saving medicines, underscore significant access and availability issues. While differential pricing and compulsory licensing offer partial solutions, they face substantial limitations and challenges. To address these shortcomings, it is imperative to explore alternative mechanisms that balance the need for innovation incentives with broader access to essential medicines. Policymakers must work towards reforming the IPR system to ensure that socially valuable goods are available and affordable to all populations, regardless of their economic status.

# AI AND INTELLECTUAL PROPERTY RIGHTS: NAVIGATING LEGAL COMPLEXITIES



**Archit Tiwari & Shruti Chauhan**  
**Reviewed by Molika Bansal**

Through AI-enabled innovations, the emergence of AI-generated inventions has ushered in a revolution, some of which are the possible applications to better human life. These innovations are driven by the scope of artificial intelligence. But also, with the possibilities for AI, intellectual property rights hurdles become critical, such as in the context of authorship and the possession of machine-generated creations. The conventional paradigm of intellectual property law may be inadequate to appropriately address the multifaceted issues involved in AI-generated creations, thus leading to disputes about patentability, inventorship, and the allotment of rights. In India, where the patent system is a key driver in not just fostering creativity but also pushing for economic growth, it is, therefore, necessary to adapt and evolve to remain effective in accommodating AI innovations. During this period, the cooperation of policymakers, regulators, and legal experts is crucial to building solid, reputable frameworks that guard innovation and ethical interests while safeguarding intellectual property rights. This dynamic scenario obliges me to perceive the challenges and opportunities that AI-invented inventions offer within the Indian Patent system; through which I will try to offer insights and guidance for students, practitioners, and policymakers alike.

With the rise of AI as technology, the world is entering a novel era, but it also gives birth to many legal challenges, especially related to intellectual property rights.

Among the greatest problems that one may encounter in this regard are that of authorship and ownership of AI-based created works. In intellectual property law, the standard rule is to give ownership rights to the individual or entity who generated or made a work. AI systems can create things that might be considered to be artworks of equal quality to the humans who are creating them. This raises pertinent questions: Who gets to claim the attribution or ownership of AI works – the original creator, the programmer, or the machine itself? However, in addition to what the answer is, who, among all this, will be considered the rightful possessor of the rights and protections?

Determining the validity of patents due to their abstract nature, similar to that of human rights, is equally complex. A condition, patentability is based on an innovation's newness and inventiveness grade; it is also based on the technical details of innovation that are disclosed. Because these AI-based inventions may impart subjectivity within, the factors that are worth it cannot be determined easily. In this connection, the identity issues have been posed for the inventor, and the limit of man's participation in the creation process appears to be blurred. Evolving ethical implications and the role of jurists and practitioners make it essential to exercise our due diligence and foresight in addressing this matter of complexity.

## **Patentability Of AI Inventions: Legal And Technical Considerations**

AI seems to be the latest trend. The AI-based inventions have made the Indian patent system, governed by the Patents Act of 1970, struggle with the current complicated scenario. As such, the Act itself avoids being targeted by a specific terminator, 'inventor,' and the adjacent illustration directs to a situation of vagueness by depicting the inspiring point of when a 'patent applicant' comes into question. In the first place, uncertainties besides the way that patent technologies that make use of the IP rights abide are being taken.

Some recent contests of law, including the case "Ferid Allani v. Union of India and Ors" suggested the law. The Delhi High Court decision that has been recently given is that copyright protection can be granted to works of artificial intelligence if the works meet the criteria for originality and authorship under the Copyright Act of 1957. However, the very granularity of authority, whether human inclusion is essential in creating AI-generated works or who is responsible for IP violations, remains ambiguous.

### **Addressing Legal and Ethical Concerns**

It is not only the nitty-gritty of dealing with AI-crafted inventions; there are other logical and ethical issues that are closely associated with AI innovation. Policymakers, regulators, and legal experts face multidimensional problems in the domain of artificial intelligence that are far from mere technical specifics. On the one hand, obscured by all these apprehensions are algorithmic bias, data privacy, and accountability. In addition, the generation and utilization of large quantities of personal data in AI applications leads to highly important issues regarding infringement of privacy and data security.

Leadership Accountability is another main component of AI ethical management. Alongside this phenomenon of AI technology unification with other segments of society, creating visible points of responsibility for algorithms-driven choices becomes critically important.

After all, the proper solution for the legal and ethical problems resulting from AI novelty will have to be holistic and encompassing. Through proactive approaches to the issues of algorithmic bias, data privacy, and accountability, all parties concerned in AI development can create a milieu of advantageous and ethical progression of AI that considers fundamental fairness, transparency, and societal prosperity principles.

### **Case Studies: Legal Precedents and Judicial Interpretation**

Several landmark rulings have moved the legal jurisdiction on AI (Artificial Intelligence) and intellectual property rights in India. *M/S Kibow Biotech v. M/S The Registrar of Trade Marks* case was decided by the Delhi High Court, which touched on the question of AI-driven agents' ability to be granted an exclusive interest for the trademark. The court ruling, based upon the 1999 Trade Marks Act, decertified the possibility of the rights to individual trademarks being granted to AI systems, emphasizing the imperative that humans should retain ownership. Also in South Asia, AI creations come into the question of when created works by a machine are protected under the Copyright Act of 1957, *South Asia FM Limited v. Union of India* was the case decided in the Delhi High Court. This passage explains that work must involve intellectual acts of humankind - namely, remarkable creativity - to be considered copyrightable, and it highlights the role that people play as the source of inspiring ideas in the copyright environment. These judgments have been handed over as a gem in a way to legally untangle the complexity emanating from artwork produced by AI, and the application of the existing intellectual property laws in India.

### **Conclusion: Towards a Robust Framework for AI Innovation**

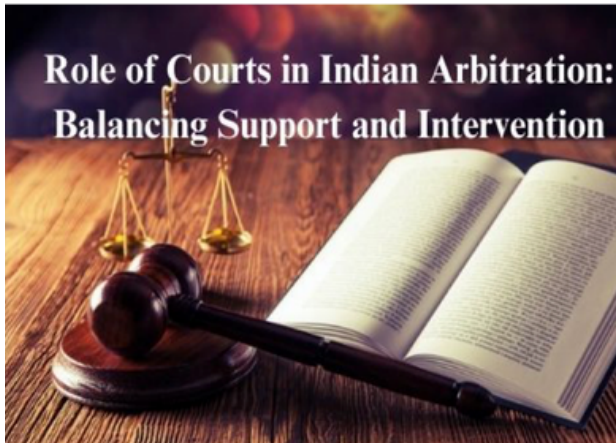
Finally, the rise of AI-based inventions has brought a significant turning point in the Indian patent system, strengthening the nature of innovation. Even though implementing AI can deliver many innovations and economic welfare, its emergence also causes plenty of legal and ethical problems, which are better studied. By introducing strict and comprehensive regulations, India can successfully face the complex legal understanding of AI innovation, thus making the country a trailblazer in AI advancement while preserving the sanctity of intellectual property law. With an AI-augmented stream of development ahead, we need policymakers, legal professionals, and stakeholders to engage in a multi-stakeholder approach to ensure innovation occurs in a paramount framework of ethical responsibility and legal accountability.

# **ALTERNATIVE DISPUTE RESOLUTION**

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LAWPINION

# ROLE OF COURTS IN INDIAN ARBITRATION: BALANCING SUPPORT AND INTERVENTION



Arbitration, as a crucial part of Alternative Dispute Resolution (ADR), has gained significant importance in India owing to its expediency and flexibility. The role of courts in Indian Arbitration is pivotal, as they serve as guardians of the arbitration process while ensuring the integrity of the legal framework. This article explores deeper into the intricate relationship between Indian courts and Arbitration, exploring the delicate balance between providing support and exercising intervention. The article discusses about the thin line between the acceptable intervention that works as support and over interference by the judiciary into the arbitration process. The Arbitration, as complex as it seems, simplifies the complexities with the negotiations; let's explore further!

*Madhavi Vipin Pathak*

*Reviewed by Amrit Shree Updhayay*

Alternate Dispute Resolution (ADR) is commonly misunderstood as legal redressal with no or minimal court involvement, but there's a whole new dimension unseen where courts are the ones who guide the entire ADR mechanism. At the very beginning of the arbitration system, the courts were the foundation stone of the system as the courts assigned institutions to the parties in dispute. Although the main aim of arbitration is to provide redressal with minimal interventions by the court, the courts strive to maintain balanced support with limited interventions. Let's look into the supportive role of Courts in arbitration in three stages:

- Pre-arbitral Stage
- During the arbitration process
- Post-arbitral Award

## *Pre-Arbitral Stage:*

The very first question that stands when we consider any case to be resolved through arbitration is who will refer the parties for arbitration? The same is answered under section 8 of the Arbitration and Conciliation Act, 1926, which mandates any judicial authority to introduce the parties to arbitration in respect of an action brought before it, which is the theme of the arbitration agreement. It is to note that the judicial authority mentioned in the section is commonly referred to civil courts before whom the aggrieved parties reached for any violation regarding the agreement signed between the parties and if such agreement carries any arbitration clause, the court is bound to refer it for arbitration. Furthermore, Section 9 gives the court the power to grant interim measures in accordance to Section 36 of the act. The court shall have the power of making order as it has for the purpose of, and in relation to, any proceedings before it. Section 11 gives the courts the power regarding the appointment of an arbitrator; according to this section, the Supreme Court or the High Court or a person designated by them should make sure that an arbitrator is appointed within sixty days from the date of notice to the opposite party. Section 45 talks about the power of judicial authority to refer the parties for arbitration. That is, through this section, the act enables the courts to decline to refer parties to arbitration if it is found that the arbitration agreement is null and void, inoperative or incapable of being performed.

## *During the Arbitration Process*

Section 27 states the court's assistance in handling the evidence. Section 27 of the Arbitration and Conciliation Act makes a provision for the arbitral tribunal to seek the assistance of the court in taking evidence. Such help can be looked for willingly or by involvement with the contest, with the court's endorsement.

### Post Arbitral Award

Section 34 gives the court the judicial power to intervene and set aside the arbitral award because, after all, the arbitrators might not always be right with their decisions. After the awards are granted, the parties are right to approach courts for appeals in their matter, and the court has the authority to adjudicate the same.

### Interventions by the Courts

The main objective behind setting up arbitration in India is to reduce the load on the Courts by settling the matters amicably out of the court. Therefore, it was with the expectation of very minimal interference by the courts. The courts were made the guiding authority or host; we can say, so that the arbitral process runs smoothly, ensuring justice and unbiased settlements. For this purpose, section 5 of the Arbitration and Conciliation Act of 1996 clearly marks the borderline for the Courts pertaining to Judicial interventions. Section 5 states that,

*"5. Extent of judicial intervention–Notwithstanding anything contained in any other law for the time being in force, in matters governed by this Part, no judicial authority shall intervene except where so provided in this Part"*

Thus, it hereby enunciates that apart from the supportive authority given to the courts under Part I of the act, no other authority lies with the courts regarding the arbitration process. However, despite of various supportive actions, Courts often outreach its limitations and supersede its jurisdiction over the arbitration process.

### Striving for the Balance

Since the inception of the Arbitration and Conciliation Act in 1996, numerous occasions have arisen wherein the judiciary and arbitral tribunals synergistically upheld the principle of impartial arbitration. Courts vigilantly preserve arbitrators' autonomy, while arbitrators safeguard procedural integrity, culminating in the swift resolution of myriad disputes via arbitration, thus lowering the burdens on judicial dockets. This pro-arbitration disposition of the Courts has substantially fostered a harmonious equilibrium between support and intervention, thereby fortifying the efficacy of the arbitration framework.

In sum up, Indian courts serve a crucial role in arbitration, providing essential support and oversight to ensure fairness and efficiency. They establish clear rules and guidelines, akin to a playbook, to guide the arbitration process, fostering a sense of predictability and confidence among parties. Additionally, courts act as vigilant guardians, intervening when necessary to rectify procedural irregularities or uphold fundamental principles of justice. This collaborative dynamic between courts and arbitration resembles a well-coordinated team effort, where each player has a distinct role to play. Courts act as referees, ensuring that the game of arbitration is played by the rules and that all parties have a level playing field. Their intervention, though sparing, serves to maintain the integrity of the process and bolster public trust in arbitration outcomes.

As India's economy continues to grow and attract more business transactions, the synergy between courts and arbitration becomes increasingly critical. This harmonious relationship not only facilitates the swift resolution of disputes but also enhances India's reputation as a favourable destination for commercial ventures. Ultimately, the balance between court support and intervention ensures that arbitration remains a reliable and effective mechanism for resolving conflicts in India's evolving legal landscape.



# NEGOTIATION AND MEDIATION: IS THAT A LAW STUDENT'S CUP OF TEA?



This article examines the necessity of integrating negotiation and mediation skills into legal education. It highlights these methods as more efficient, cost-effective, and relationship-preserving alternatives to traditional litigation. The discussion emphasizes their potential to reduce court caseloads, foster ethical behavior, and broaden career opportunities for lawyers. Through a hypothetical scenario, the article demonstrates the practical advantages of these skills, advocating for their crucial role in developing well-rounded, contemporary legal professionals.

Riya Chouhan

Reviewed by Agam Tandon

## Analysis: Negotiation and Mediation – Essential or Optional for Law Students?

The realm of legal education has traditionally revolved around courtroom drama, litigation, and the art of advocacy. However, Sandeep Bhalothia's thought-provoking article, "Negotiation and Mediation: Is that a Law Student's Cup of Tea?" challenges this paradigm, emphasizing the importance of negotiation and mediation in shaping well-rounded lawyers.

Negotiation and mediation play a critical role in modern conflict resolution, offering an alternative to traditional litigation that can be more flexible, cost-effective, and conducive to maintaining relationships. These methods have gained significant traction in legal and non-legal contexts, demonstrating their importance in today's society.

## Why is It Important?

- **Efficiency and Economic Effectiveness:** Negotiation and mediation are typically more efficient and economical when opposed to litigation. Conventional court disputes can be drawn out and costly, with court expenses and attorney fees building up over time. Conversely, negotiations and mediation frequently result in faster dispute resolution and less financial strain on all parties.
- **Maintenance of Connections:** The emphasis that negotiation and mediation place on teamwork and fostering relationships is among its biggest advantages. These techniques promote cooperation between parties in search of a solution, as opposed to litigation, which can potentially worsen conflict. This method is particularly helpful when resolving conflicts amongst relatives, business associates, or other individuals who maintain continuous interactions.
- **Adaptability and Personalization:** Compared to typical litigation, negotiation and mediation give more flexibility. The results of a court case cannot be greatly altered; instead, they are determined by precedents and legal laws. On the other hand, through mediation, parties might investigate innovative ideas tailored to their needs and preferences. All parties involved may experience more satisfying results due to this flexibility.
- **Keep Information Private:** A degree of anonymity that is not available in litigation is provided by mediation and bargaining. The specifics of a disagreement are included in the public record, and court cases are open to the public. However, mediation is usually a private procedure that lets parties settle their differences out of the public eye. The parties concerned may communicate openly and develop trust due to this confidentiality.
- **Possession and Authority:** The parties have more control over the resolution during mediation and negotiation. In mediation, parties can maintain decision-making authority, in contrast to litigation, when the outcome is decided by a judge or jury.
- **Flexibility Throughout Industries:** Mediation and negotiation are useful in various contexts outside of the legal field. These techniques provide flexible means of settling conflicts in various contexts, including international negotiations, domestic conflicts, and disputes at work. Their extensive applicability highlights their significance in a variety of contexts.



- ***Diminished Volume of Court Cases:*** Negotiation and mediation can assist in lessening the pressure on the court system as the number of cases before the courts rises. These techniques free up resources and reduce the time judges and attorneys spend on individual cases by settling conflicts out of court. A less caseload in court could lead to a more effective judicial system.
- ***Encouragement of Moral Behavior:*** An increasingly moral method of resolving disputes is encouraged via negotiation and mediation. These approaches promote fair and honest communication between parties by emphasizing consensus-building and collaboration. A stronger sense of fairness and more peaceful resolutions may result from this emphasis on ethics.
- ***Developing Legal Professionals' Skills:*** Beyond typical litigation, bargaining, and mediation offer significant skills for legal professionals. Attorneys who are skilled in mediation and negotiation are better able to meet the demands of their clients and handle difficult cases. Further, these abilities lead to new job opportunities in corporate law and alternative dispute resolution (ADR).
- ***Towards a Society with Greater Peace:*** In the end, conflict reduction and cooperation are the main ways negotiation and mediation lead to a more peaceful society. By resolving conflicts without the use of forceful measures, these techniques promote mutual respect and cooperation. This strategy aligns with society's larger social justice and harmony objectives.

#### ***Understanding How Mediation Works With the Help of a Hypothetical Situation***

As a law student, I participated in a class assignment that involved a hypothetical dispute between two neighbors over a property line. This experience helped me understand the practical value of negotiation and mediation and how these skills could be applied to resolve everyday conflicts.

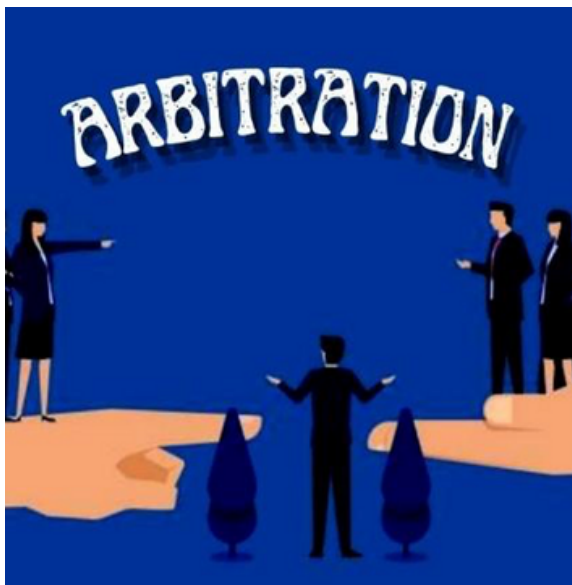
In this scenario, my client, Mr. A, believed that his neighbor, Mrs. B, had extended her garden into his property by several feet. He was frustrated and was considering taking legal action to resolve the dispute. On the other hand, Mrs. B argued that the boundary was unclear and that she was not intentionally encroaching on Mr. A's property. Our law professor set up a mediation session to help both parties resolve their differences without going to court. I represented Mr. A, and a classmate represented Mrs. B, while another classmate acted as the mediator.

This made-up scenario demonstrated the usefulness of mediation and bargaining in settling common problems. During my legal studies, I discovered that these abilities were not only useful but also contributed to favorable results for all parties. I was able to assist my client in reaching an acceptable resolution without the need for legal action by putting an emphasis on clear communication, inventiveness, and shared interests.

In my opinion, as a law student, my negotiation and mediation abilities are extremely valuable and may greatly improve both my legal education and future employment opportunities. These abilities signify a change in perspective from the conventional adversarial strategy to one that is more cooperative and problem-solving-oriented. This is significant to me because it is consistent with my own principles and the changing legal industry, where customers are looking for more affordable and cooperative means of resolving conflicts.

Through negotiation and mediation, I have an added opportunity to enhance important soft skills like empathy, active listening, and effective communication. These abilities are critical for settling conflicts, developing trusting relationships with clients, and contributing productively to teams.

# ROLE OF COURTS IN INDIAN ARBITRATION: BALANCING SUPPORT AND INTERVENTION



Ridhima Verma & Mansi

Reviewed by Samiksha Biswakarma

Arbitration has emerged as a critical alternative dispute resolution globally, including in India. This paper delves into various roles of arbitration within the framework of Indian courtrooms. Special emphasis is laid on the Arbitration and Conciliation Act, which aims to streamline the arbitration process and enhance its efficiency. Furthermore, this study scrutinizes the interface between arbitration and Indian courts. It analyses the judicial approach towards arbitration. In this research paper, we also see a quick bite reference of important landmark judgements with regard to arbitration in the Indian legal system and further elucidating the future steps towards approaching arbitration more appropriately and efficiently. Ultimately, this research paper offers insights into the evolving landscape of arbitration in Indian courts, highlighting its significance as a preferable method for resolving disputes in India's legal system.

The word arbitration is of Latin origin i.e. arbitrary meaning to judge. According to section 2 (1) (a) of the Arbitration and Conciliation Act of 1996, Arbitration is a method which resolves disputes outside of the courts and the judicial system. Parties can only refer their disputes for arbitration only when an arbitration agreement exists between the relevant parties to the agreement.

## Importance of Arbitration in India

Arbitration is important for numerous reasons in this developing country i.e. India. Firstly, it is a more efficient way of resolving disputes compared to litigation. In India, the judiciary is already overburdened, and cases can take years to be resolved. However, in comparison to this arbitration proceedings are resolved within 6-12 months, which makes it a more efficient way of resolving disputes.

Secondly, it is a flexible process as in arbitration parties can choose the place and time of the arbitration, as well as the language in which the proceedings will be conducted. This flexibility ensures that parties choose the language in which they are convenient.

Thirdly, it is a cost-effective process. As compared to litigation, the costs of arbitration are significantly lower as arbitration proceedings are less formal and streamlined, and parties do not have to pay for court fees or any legal representation.

Further, we can also say that arbitration is a breakthrough in a traditional litigation chain started by Britishers in India and further demolished and transformed by the constitution of this country i.e. India.

## Differences Between Arbitration and Court Proceedings

Arbitration is a private process which includes informal communication, whereas, in contrast, court proceedings are a public process involving formal communication.

Further, the arbitration process is exercised in such a manner that it is proven to be cost-effective and less expensive in comparison with court proceedings. In contrast, it requires a large sum of money in court proceedings.

The arbitration process starts rather quickly. Once the arbitrator is selected, the case can be heard by the arbitrator or the tribunal, depending upon the case. While, court proceedings can only be heard when a particular date is scheduled for the case or when the court has time to hear the case.

## The Arbitration Council of India

It lays down the standards, makes the arbitration process more friendly, and cost effective, and ensures timely disposal of arbitration cases. The ACI will grade and accredit arbitral institutions and arbitrators and frame policies for such grading and accreditation. Further, the norms for accreditation of arbitrators are set out in a new eighth schedule to the act, criticized for being an exhaustive rather than being an inclusive list of conditions/qualifications.

Of its functions and duties under the act. By empowering ACI in such a manner, though well-intentioned, the 2018 amendments make yet another regulator.

The role of courts in Indian arbitration is very crucial in ensuring the effectiveness and integrity of the arbitration process. Indian arbitration law, primarily governed by the Arbitration and Conciliation Act, 1996, provides a supportive framework for arbitration proceedings while maintaining judicial oversight.

- If there are any disputes regarding the appointment process or the parties fail to agree on the appointment of arbitrators then courts step in to resolve such matters.
- Courts in India play a vital role in supervising and supporting arbitration proceedings. Courts assist in appointing arbitrators, ensuring compliance with procedural requirements, and facilitating the enforcement of arbitration agreements and awards.
- Indian courts generally adopt a pro-arbitration stance, aiming to minimize judicial intervention in arbitration proceedings. The legislative intent behind the Arbitration and Conciliation Act is to promote alternative dispute resolution mechanisms and reduce the burden on the traditional court system.
- One of the most pivotal roles of courts is to ensure that the arbitration panel is constituted fairly and impartially, in accordance with the provisions of the arbitration agreement of the law. The courts' involvement helps maintain the integrity of the arbitration process and safeguards the rights of the parties involved.

#### Judicial Intervention Before Arbitration Proceedings

The decision given by the Arbitrator is final and binding on the parties as there is no provision for appeals. The decision given by the Arbitrator is called an "award". Though the parties through an arbitration agreement agree to abide by the award, it can be set aside by the intervention of the court although on limited grounds. But it is not that it is only after an award is passed that courts can intervene. In suitable cases, such intervention can be during the proceedings as well.

In *Vidcocon Industries Ltd. V. Union of India*, Hon'ble Apex court observed that intervention of courts is expressly barred, except in situations specially provided for in the Act itself.

The extent and role to be played by the courts in arbitral proceedings is aptly explained by the Supreme Court in *Surya Dev Vs. Ram Chander Rai*. Observation by the Supreme Court in the said case is as herein below:

"If it intervenes in pending proceedings there is bound to be a delay in termination of proceedings. If it does not intervene, the error of the moment may earn immunity from correction.....Thus, the power is there but the exercise is discretionary which will be governed solely by the dictates of judicial conscience enriched by the judicial experience and practical wisdom of the Judge".

#### Conclusion

Introducing arbitration mainly aims to ensure speedy and swift relief to disputes with the least court intervention. However, it is observed that the warranted intervention of courts by giving appropriate interpretation on a case basis is to ensure that the ultimate objective of the act is attained. Thus, there cannot be a denial that courts' role in arbitration is required.

Arbitration in our developing country i.e. India will also get its real pace when a proper action will be taken by Indian law societies. In other words, we can also prefer arbitration as a rising gold bird, especially in the field of disputing centre areas; the only requirement here is to make people aware of the arbitration process, have the knowledge as to how to approach the arbitration centre for their disputes rather than approaching courts which are already overburdened by the cases.

# ENVIRONMENTAL LAW



# HARYANA'S GREEN HYDROGEN POLICY: A STEP TOWARD SUSTAINABLE ENERGY



The Haryana Green Hydrogen Draft Policy 2024 marks the state's major step toward a greener future by focusing on green hydrogen production. The goal of the policy is to establish Haryana as a global leader in green hydrogen technology by emphasizing important areas such as workforce training, research, financial incentives, and infrastructure development. Green hydrogen is a clean substitute for conventional hydrogen manufacturing, which releases carbon dioxide into the atmosphere. It is created by splitting water into hydrogen and oxygen using renewable energy sources like solar or wind power. By providing a range of incentives, the policy aims to promote the production of green hydrogen while highlighting the significance of renewable energy sources. The main authority in charge of monitoring green hydrogen projects and making sure they adhere to the goals of the policy is the Haryana Green Hydrogen Planning Committee (HGHP). HGHP expedites the development process by offering a single-window solution for project approvals.

*Riya Chouhan*

*Reviewed by Molika Bansal*

The Indian state of Haryana has introduced a draft green hydrogen policy, marking a major step towards a sustainable energy future. This new "Haryana Green Hydrogen Draft Policy 2024" was announced by the government's new renewable energy department in Haryana to achieve gender parity. The official gazette states that the policy went into effect on February 15, 2024.

This strategy presents a thorough framework intended to encourage the growth of green hydrogen production and the infrastructure that goes along with it. With an emphasis on clean energy and various incentives, Haryana hopes to establish itself as a front-runner in the developing green hydrogen industry. The policy creates a favorable environment for expanding green hydrogen projects in the state by addressing important issues such as land distribution, infrastructure development, financial incentives, and the role of important state institutions.

**Green hydrogen** is hydrogen gas generated by electrolyzing water and separating hydrogen from oxygen using renewable energy sources, such as wind, sun, or hydropower. This technique, known as electrolysis, is deemed "green" when fueled by renewable energy sources since it produces hydrogen without emitting carbon dioxide.

The key organization in charge of directing every facet of green hydrogen development in the state is the Haryana Green Hydrogen Planning Committee (HGHP). This project demonstrates Haryana's dedication to developing a practical and efficient strategy for green hydrogen.

The Haryana Green Hydrogen Planning Committee (HGHP), serving as the state's main agency, will manage and oversee green hydrogen projects to ensure they align with the policy's objectives. By coordinating efforts among relevant ministries and agencies, Haryana aims to become a leader in green hydrogen technology, thereby playing a key role in advancing India's renewable energy goals.

## Key Elements

- **Building Infrastructure:** HGHP aims to provide the water resources, transportation networks, and renewable energy sources required for the generation of green hydrogen. This guarantees a reliable and effective chain of supply for green hydrogen. The policy designates the Haryana Green Hydrogen Planning Committee (HGHP) as the primary supervisor and coordinator of green hydrogen initiatives.
- **Financial Incentives:** These incentives aim to accelerate the development of Green hydrogen initiatives.
- **Promoting Innovation and Research:** HGHP encourages innovation and research in the field of green hydrogen, with a particular emphasis on fuel cells, electrolyzers, and innovative technologies.
- **Developing the Workforce and Fostering Social Inclusion:** The policy aims to improve skills and generate employment in the green hydrogen sector. To guarantee that everyone benefits from the sector's success, it also tackles social and gender issues.

### HGHP's Role in Advancing Green Hydrogen Projects

The Haryana New & Renewable Energy Department oversees the Haryana Green Hydrogen Planning Committee, which comprises authorized representatives from several state departments. Its main responsibility is supervising and managing green hydrogen-related operations while acting as a single point of contact for project developers.

Green hydrogen projects must be registered and licensed by HGHP, which also ensures compliance with state laws and regulations and permits the creation of green hydrogen hubs. It is also crucial that the committee assists project developers in navigating the complex approval process by offering a single-window service to reduce bureaucratic hurdles.

### Haryana's Vision for Green Hydrogen

Making the state a leader in green hydrogen technology by 2030 is the main objective of the Haryana Green Hydrogen Policy. The policy targets producing 250 kilotons of green hydrogen annually (kTPA) and a manufacturing capacity of 2 GW electrolyzers. By meeting these goals, Haryana hopes to lessen its dependency on fossil fuels and majorly contribute to India's renewable energy ambitions. The HGHP is a progressive approach to sustainable energy that aligns with India's National Green Hydrogen Mission. It prepares Haryana to take the lead in advancing green hydrogen as a sustainable alternative energy source.

Haryana aims to become a leader in green hydrogen technology and significantly contribute to India's renewable energy goals. To make sure that all green hydrogen initiatives in the state are well-planned, strategically coordinated, and adhere to the set policy framework, HGHP plays a crucial role in realizing this objective.

The HGHP works to encourage collaboration between different state and federal authorities in order to accelerate the development process for green hydrogen projects. This includes overseeing regulatory responsibilities, allocating land, and ensuring the necessary infrastructure is in place. With this concentrated effort, Haryana intends to create a strong green hydrogen sector that might encourage innovation and support India's larger transition to renewable energy sources.

## UNEARTHING THE BATTERY WASTE MANAGEMENT RULES FOR SUSTAINABLE LIVING



The article explores the intricacies of the Battery Waste Management Rules of 2024 by understanding the nuances. It has been observed that battery waste significantly increases the number of pollutants released into the environment. Primarily released in 2022 and after its implementation, it was subjected to changes and amendments that were finally released and in force from the release date itself. The Ministry of Environment, Forest and Climate Change issued the notification for the same, and it was one of the most essential steps towards a better and more sustainable lifestyle. It further questions the need for amendment and the solutions on which one can work to help the cause.

*Moulika Sharma*

*Reviewed by Sanya Kaushik*

### What is Battery Waste Management?

Batteries are one of the most aiding products used as portable devices in the electrical industry and have been in demand for a long. It is a practice wherein several practices are used, from the collection, transportation, and recycling of batteries to their safe disposal. Batteries usually comprise heavy metals such as lithium, mercury, cadmium, and lead. Its main aim in waste management is to dispose of hazardous material safely.

### **The need for Battery Waste Management**

Battery waste management in India is essential because improper disposal of batteries releases toxic chemicals. It is a constant threat to the environment and is causing immense harm to the environment. The pollutants harm the human body immensely as they end up in landfills. Moreover, a license was introduced to back the same by law. In this manner, the company can display its sheer dedication towards a clean and better living for the country's citizens. As said, the CEO should not be called Chief Executive Officer but rather the Chief Environment Officer, who also acts as a responsible citizen. Almost a decade ago, the ministry announced hazardous waste management, which the manufacturers prescribed to collect and recycle. A National project was launched in 2019 that promotes eco-friendly practices and encourages sustainable living. Waste management prevents harm to the environment and can help extract certain metals back, which could be reused to produce new ones. It is not just in India, but at a global level, that this problem is being addressed, and the European Council has continuously worked towards it to make ends meet. The primary decision included making the consumer aware. The idea behind the decision was to increase transparency by introducing a labeling system and giving consumers the freedom to purchase.

Looking towards the growing need and global engagement, India also introduced a bill in 2022 that had certain flaws, such as:

- i. Lack of Information, i.e., the labels did not reveal the composition of the chemicals in the batteries.
- ii. There was no clear discharge of any budget for manufacturers in this particular field.
- iii. No safety standards are being introduced.
- iv. Overshadowing the chemical composition of the battery.

Now, all these have to be addressed in order to have a comprehensive and effective action plan. The Ministry of Environment, Forest and Climate Change (MoEFCC), on March 14, 2024, issued the Battery Waste Management (Amendment) Rules, 2024. They introduced several things, including extended producer responsibility. Producers had to work on the lines provided and were granted the liberty to appoint any entity, if required, to collect the battery waste.

A few significant changes introduced through the amendment in 2024 were the definition of battery, which now clearly mentions that it no longer includes battery components. It made it mandatory for the producers to submit an annual production report. Alongside making the laws stringent, the ministry has curated the rules to make the manufacturer duty-bound and a mandatory protocol to provide each pack of batteries with an EPR.

Whatever the scenario, but at the ground level, one can work on the 3 R's, i.e., Reduce, Recharge, and Recycle. Now, all the 3 Rs have their positives and negatives. Herein, the most important thing is to recharge; rechargeable batteries are better than one-time battery cells any day, which any average Indian will throw away after its utilization without even giving it a second thought. Rechargeable batteries offer many benefits, such as being economical, preventing waste creation, preventing resources from being exploited, and environmental protection, which is the most important of all. Batteries are an essential part of every age group, be it for toys for toddlers or hearing aid machines for the elderly. The use of batteries cannot be defied, but we can condemn the usage and try to practice the 3Rs.



# HUMANITARIAN LAW



# EVIDENCE: THE T-SHIRT THAT GAVE IT AWAY



*Kamran Panwar*

*Reviewed by Radhika Bhargava*

A philosopher and a logician take their child on a train from London to Glasgow. As they cross the border into Scotland, they see a brown cow standing alone in a field. 'Look,' says the child, 'the cows in Scotland are brown.' 'No,' says the philosopher, 'there are cows in Scotland, and at least one of them is brown.' 'That's not right either,' says the logician, 'there is at least one cow in Scotland, of which one side appears to be brown.'

The above-mentioned anecdote is one used in literature to talk about a variety of topics, and here, it helps me give a start to this paper by talking about perception. I am writing this paper to talk about a recent case that was solved by investigating authorities because of evidence they found at the crime scene. That sentence by itself makes the case look undeserving of a paper on it, but that's because of how an uninformed reader reads it and the perception that it's utilized. The term "Evidence" is generally used by people for things commonly associated with specific grave offences. Even its day-to-day use is for things like weapons lying around, but is it really that linear?

The point I will try to make in this article is that evidence can be anything, and how it's not only about hypotheticals. but will also try to give examples including, but not limited to, talking about the Karjat murder case in depth as it's the most recent case to be covered regarding this topic.

## What is Evidence?

**"Facts, information, documents, etc. that give reason to believe that something is true."**

The definition above is provided and agreed upon by the most followed dictionaries in the world. This definition is no different than what the Indian evidence act provides us with as it says:

"Evidence", as defined in section 3, means -

1. All documents produced for the inspection of the Court; such documents are called documentary evidence.

The definition is not exhaustive of all matters which a Court can consider in determining questions of fact. This is also pointed out in a Calcutta case, Joy Comar v. Bindu Lai. Now if the lawmakers have given the term such a wide interpretation, why do we, as the general public, limit it?

Tara Lamont in her paper "What counts as evidence" talks about how different people consider different things as possible evidence and it always depends on outside factors. She also talks about how evidence should ideally be researched such as having the right kind of knowledge to do it, starting with the right question in your head, thinking about inclusion in research rather than the vice versa, whom should it be relevant to, Etc.

## What Are the Different Types of Evidence?

Researchers have discussed that there are different types of evidence, and the types should be differentiated before moving further with using it. Helen Kara talks about it in "What is Good Evidence?" saying that There are many types of evidence, which can be divided into informal and formal evidence. You might think investigators would only use formal evidence, but, in fact, they consider a wide range of evidence, including informal evidence from colleagues, superiors, the public, and other stakeholders, to determine what's best. Formal and informal evidence are not discrete categories defined by the nature of the evidence itself. Whether evidence is defined as formal or informal depends on how the evidence is gathered and the wider context.

## Unique Examples of Evidence Used in the Past

The American legal hemisphere has had many instances of unique evidence being the deciding factor in a case because their judges are open to consideration regarding the same. Certain cases with unique/informal evidence are the Richard debate case, where the accused was convicted based on Fitbit's location tracking, and the Tiquez Timmon case, where 2 students were caught because of a Nintendo Switch. The Nintendo Switch stolen from the victim's home was connected to a network, and the police could trace the IP address and follow the game system's online activity, eventually leading them to the 2 delinquents.

### The Karjat Murder Case

The recent murder case from Karjat Murbad road, Navi Mumbai, gives a ray of hope regarding the Indian investigative agencies finally following the American method and taking into account smaller details to decide a case. On February 29, a man was spotted with his limbs tied up and his throat slit and dumped in the bushes of a forest area on the isolated road near the Abasa farmhouse at Kashele village. The murder victim was so hard to identify that a picture of him had to be circulated in the area as well as to informers of the police to identify the body. The name was confirmed to be Suraj by one of the said informers and his job was of a freelance catering staff for different hotels.

It was near impossible to identify a killer through this information but the senior inspector of the Karjat police station, Surendra Garad, connected the dots as the body, when found, had its hands tied with a torn-up t-shirt with the name, Mount View Resort. When inquired it was realized that the t-shirt was only provided to a few labor contractors and talking to the other laborers in the area, 2 men, Dilip Dhansani (35) and Vijay Waghri (38) were caught as suspects. After interrogation Dhansani confessed that Suraj was convincing other labor to not work for him as he abused their rights and hence, with his aide, Vijay, Dilip gave Suraj alcohol only to kill him and throw him in the bushes in Karjat. They would've never been caught if the informal evidence wasn't looked at as important by 1 inspector on the scene, but that inspector and this perception is what gives hope of justice.

## UNDERSTANDING PAKISTAN'S INTERNAL CONFLICT THROUGH A HUMANITARIAN PERSPECTIVE



The article will explore the implications and diversification of International Laws on Internal Conflict as stated in Article 3 of the Geneva Conventions. The recent conflict between the Pakistan Armed Forces and the Punjab Police of Pakistan is a good example of how the saviour of humanity is indulging in a not-so-humanitarian activity. The media is laying down the unseen boundaries to be maintained by the institutes to defend all the humanity left in the country, but this article explores how the media of Pakistan has failed to do so. Finally, the reason behind such internal armed conflicts is also mentioned in the article, along with some recommendations for how to repair them.

*Nandini Vats & Hargun Dang,  
Reviewed by Amrit Shree Updhayay*

### Background

Bahawalnagar is the capital city of the state of Punjab, a province in Pakistan. Earlier, it was known for its fertility because of Ganga and Satluj during the old civilization period of Harrapa and Mohenjo-Daro. In retrospect, there are some serious political tensions over a conflict between the Pakistani Army and the Police. Troops of the Pakistani Army forces attacked a police station for a dispute over an allegedly unlicensed weapon belonging to a soldier's family member. This incident covered the media as rapidly as a fire in the forest.

The initiation of the conflict began when the police officers raided the house of an army officer belonging to a Special Service Group (SGG) commando, Khali. It is also important to note that the family was not in the custody of the police. The police officers even captivated the relatives of the commando. The soldiers were indeed quite combative during the whole dispute, but the media outraged the journalists' rights, and activists merely accused the Punjab Police of the accusation of the government.

### Role of Media in the Conflict

Now, it is vital to understand that the role of the media is extremely crucial in these situations. The video containing clips of Pakistani Army personnel beating the police officers is a mere violation of fundamental rights. The video clips depict mere torture and degrading. The Media is the fourth pillar of democracy.

"The way the lungs are crushed in the country today so that nobody will blow the whistle is a very dangerous trend for the country. So, we need to support, stand up, speak out, stay alert, and need to stay with at least a few of those whistleblowers who are left in the country," -Supreme Court Justice Kurian Joseph.

The phrase by the Honourable Justice lays a great emphasis on the regulation and portrayal of media. Media should be neutral to situations of political parties, authorities, and institutions and should give a rational view on the pertaining issue. In my opinion, a lot of flavour has been added while describing the situation. Alongside this, there is an eminent lack of due process of law. Due process is a federal feature that thereby grants power to the court to declare the law null and void not only on procedural grounds but also on the grounds of justice, equity, and principles of natural justice. Over the past few years, one can notice that procedures established by law are fading away due to the forthcoming judicial review. In the issue discussed above, the police arrested a man amounting illegal weapons, further resulting in a clash between the Army and the police, which merely indicates that the Army has clashing principles with the law and has more authority to exercise, and the people of Pakistan cannot solely rely on the protection and regulations laid down by the police.

### International Humanitarian Legalities

The basics of the International Laws clarify that these laws are based on the concept of *jus in bello*, which means laws of warfare. Various laws are available to stop the internal armed conflict that is occurring. These laws are essential for the sustainability of democracy in a country. Various treaties and conventions are there like a superhero to protect civilians from armed conflicts and villains to democracy. The country is sinking into the flames of violence, ignited by various factors such as the fuel poured by politics or the greedy hunger for power. The only way to overcome this hunger is not to surrender to it but to confront it head-on until it extinguishes itself, similar to a fire consuming its fuel. The laws present at the international level to protect the interests of humanity and democracy act as the fire extinguisher that will end the fire of internally armed conflicts. It is irrelevant that both parties agree that they are in an armed conflict, as in *Prosecutor v. Limaj et al.* These laws or arrangements are as follows:

#### **1. Common Article 3 of the Geneva Conventions**

Non-international armed conflicts, also known as internal armed conflicts, are conflicts of a non-international nature that are taking place within one of the High Contracting Parties. This implies that at least one of the involved parties lacks government backing. For a conflict to be classified as an internal armed conflict, two criteria must be met: first, there must be protracted armed violence that has escalated hostility to a certain minimum level of intensity, and second, the involved parties must demonstrate a certain degree of organization. The Syrian Civil War serves as a prime example of an internal armed conflict.

#### **2. Article 1 of Additional Protocol II**

Additional Protocol II applies to non-international armed conflicts within a High Contracting Party's territory involving its armed forces and rival armed groups or organized armed groups with responsible command and territorial control. Wars of national liberation are treated as international armed conflicts. Article 3, along with Additional Protocol II, specifies the level of organization required. While Common Article 3 covers conflicts with some organizations but not territorial control, Protocol II demands both. The International Committee of the Red Cross acknowledges variations in territorial control. Protocol II applies specifically to conflicts between government and dissident forces, contrasting with Common Article 3's broader scope.

### Flaws in Democracy and Conclusion

The failure of democracy in Pakistan has various reasons. Firstly, the corruption and illiteracy rates in the country are extremely high. Secondly, there is the massive influence of pressure groups like the Pakistan Muslim League (PML) and Pakistan People's Party (PPP). The improper functioning of tribunals and the feudal system, exposure to military intervention in the political sphere, and dishonest elections are indicative of the failure of democracy in Pakistan. Some recommendations to help Pakistan solve the issue would be imparting education to all and conducting free and fair elections through democratic lines. The removal of corruption from the system is a pre-requisite that would also eventually help decrease the influence of the Pressure groups, and fair play of the judicial body is essential for Pakistan to overcome the stated discrepancies.

# WHAT'S NEW



# LEGAL LOUNGE

EST. 2023

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# LEGAL LOUNGE, THE OFFICIAL PODCAST OF LAWPINION

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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](mailto:lawpinion@gmail.com)

# LAW SCHOOL CORNER



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# LAW SCHOOL CORNER

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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  
[www.lawpinion.co.in/blog/categories/law-school-corner](http://www.lawpinion.co.in/blog/categories/law-school-corner)

# LAWPINION

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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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Newsletter

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