THE SACJ NEWS BULLETIN

The NUJS Society for Advancement of Criminal Justice - Annual NewsLetter (2019-20)

Containing news and updates of Crime, Cases and Much More!

About NUJS

The West Bengal National University of Juridical Sciences was established under the WBNUJS Act, 1999 (West Bengal Act IX of 1999) adopted by the West Bengal Legislature in July, 1999. The university was notified under Clause (f) of Section 2 of the UGC Act, 1956 in August 2004 and has been granted permanent affiliation by the Bar Council of India in July 2005. On 28 October 2002, the University's present day campus was inaugurated by the then Chief Justice of India, B.N. Kirpal. The NUJS, Kolkata, along with GNLU and NLSIU, Bengaluru remain the only National Law Schools which have the Honourable Chief Justice of India as the Chancellor. This set up provides an aura of exclusivity and a rare stature to these National Law Schools in India. NUJS is considered one of the best amongst the elite National Law Schools in India which are developed on the five-year degree model, as proposed and implemented by the Bar Council of India. The university offers a five-year integrated B.A./BSc. LLB (Hons.) degree programme at the undergraduate level and a Master of Laws (LLM) programme at the postgraduate level. Admission to the former programme is through the Common Law Admission Test, a highly competitive, nationwide common entrance examination, held jointly by the National law schools.NUJS also offers MPhil & PhD. The Chief Justice of India is the Chairman of the General Council, the supreme policy making body of the University, along with being the Chancellor. Currently, Prof. (Dr.) Nirmal Kanti Chakraborty is the Vice Chancellor of the University.

About The NUJS Society for Advancement of Criminal Justice

The Society for Advancement of Criminal Justice (SACJ) is a premier academic society under the Student Juridical Association (SJA) at the National University of Juridical Sciences (NUJS), Kolkata. Having been founded in initial days of the University by Professor Dr. Kavita Singh, a Professor of Law, who acted as the faculty advisor of the society till 2018-2019, the SACJ focuses on contemporary issues concerning Criminal Law and Justice.

The principles governing the interplay of criminal laws with the society and its conception of morality form the core of the Society. Considering the perennial importance of law and crime in any civilised society and given the increasing awareness regarding individual and collective human rights, the field of criminal justice has attained greater social significance than ever before. The role of criminal justice interventions in producing safe and just societies cannot be overemphasised upon, and the Society aims at fulfilling its greater responsibility towards the society. It allows future lawyers and lawmakers an opportunity to develop a deeper and more holistic understanding of the criminal justice system and the problems that plague it, so as to allow remedial measures to be taken and mitigation mechanisms to be developed. In doing so, the Society follows an interdisciplinary approach that extends to sociological and jurisprudential aspects of criminal justice, as well as to the non-criminal branches of law. In addition to the socio-legal edge of the Society, it is the contemporaneous relevance of its functioning that serves to raise the interest quotient of this Society, making it one of the most active academic societies in the University.

From the desk of the Vice Chancellor - Prof. (Dr.) Nirmal Kanti Chakrabarti

The **Society for Advancement of Criminal Justice** is established since the initial days of the University accommodating various prevalent discourses about Criminal Law and Justice. SACJ has been successful in organising various conference, training programmes, legal conclaves, workshops, quiz competitions and lectures sessions, and Webinars. These activities generated the academic strength of WBNUJS.

The students of the university as society members has enthusiastically engaged in creating their first newsletter which includes various national and international topics of debates such as 'Hate Speech', 'CAA/NRC', 'COVID and trends of Criminal Law'. Government of India re-defines Child Porn, Proposes Stiff Penalty', 'NIA Bill', 'Triple Talaq' and many other topics of socio-legal significance. The inclusion of the section of 'Criminal News' is of vital importance highlighting the specific areas to the legal academia. This initiative will encourage further ideas for organising events to be organised and expand the forum of criminal law and its advancement in the justice system.

This year, the Society for Advancement of Criminal Justice has expanded in terms of collaboration with other organisations such as International Justice Mission and Indian National Bar Association, organising conference on Indian Criminal Justice System- Delivery and Role of Courts in collaboration with Indian National Bar Association and Workshop on Combatting Trafficking Through Technology :Modern Methods of Crime Detection in collaboration with the International Justice Mission, Bureau of Police Research and Development by organising workshop on " prison administration and prisoner rights", 'conclave on contemporary issues surrounding criminal law and justice administration' and many more.

I express my appreciation about the activities of SACJ and congratulate the Society for releasing the first Issue of the annual newsletter 2019-20. This year has been a cooperative effort of all the enthusiastic minds of students representing SACJ and achieving the growth and progression of the society altogether, under the relentless guidance of the Faculty advisors and other faculties of this university.

09.07.2020

Prof. (Dr.) Nirmal Kanti Chakrabarti
Vice-Chancellor, WBNUJS

The Words of Our Founder - Prof. Dr. Kavita Singh

It was one sunny afternoon in the year 2005, when Prof. Durgadas Banerjea, the head of our School (**School of Criminal Justice Administration, (SCJA)**) at NUJS who was also my mentor and guide, called me and asked me to address a request made my young students of NUJS (SJA). I left with the students, towards my chamber, where one of them placed before me their intention to form the **"Society of Criminal Justice**" at the University under the aegis of the student body. The students then discussed with me at large what would be the composition of this society, how would the members and the office bearers be selected, the disciplinary procedure for misconduct of the members and the activities the Society would conduct. After a long discussion, I asked them to submit idea of the society in the form of a proposal to Prof. Banerjea, which then was placed before the then Hon'ble Vice Chancellor Prof. B. S. Chimni for his approval.As soon as the then VC Sir approved, NUJS saw the establishment of the student run Society of Criminal Justice. The next step was to select the members for this society, for which we released the Call for Applications to the GB and then based their selection on the statement of interests submitted by the applicants. Professor Sarfaraz Khan, my colleague at the SCJA and I took the interviews of the applicants. Fifteen dedicated members were selected from GB and out of them, we appointed three students to the posts of Director, Deputy Director and Treasurer respectively. Hence, a proposal from a very enthusiastic group of students led to the formation of this society in the year 2005.

From the time of its conception, the Society has been going very strong. We have organised many guest talks, lectures by dignitaries related to the field of Criminal Law. We also organised various workshops and panel discussions in the years of 2005, 2008 and 2010, where the panellists discussed on various legal reforms and amendments required in the Criminal Law Legislations. The name of the society was changed from Society of Criminal Justice to its present name **Society for Advancement of Criminal Justice** in the year 2011 by a constitutional amendment carried out at the behest of the then director Mr. Ashish Goel, however, the selection procedure remained the same till the year 2017, after which the selection took place as per the SJA rules. My colleagues Ms. Sampa Karmakar and Mr. Faisal Fasih assisted me in the selection of the office bearers and the members of the society. The journey of experimentation and several new activities continued with the society organising its flagship National Writing Competition, the event which still continues and Criminal Law Quiz Competitions, in both online and offline formats. Prof. Sarfaraz helped me in preparing the interactive questions for Quiz that was meant to promote curiosity as well as increase knowledge of the students of NUJS, especially those studying Criminal Law. The society also prides itself on submitting report to Law Commissions of India and Karnataka on the issues of death penalty and Cases & Counter Cases respectively. It also had an online blog page by the name of 'Breaking the Code of Criminal Procedure" and an online journal- SACJ Criminal Law Review.

Now, I would like to congratulate the society for releasing its **First Annual Newsletter Copy**. The journey of the society from its inception to the present has been full of adventures and experiments. As the founding faculty advisor, I enjoyed the Journey with the Society and my best wishes and blessings will always remain with it, its faculty advisors and its members.

The Words of the Faculty Advisors

"The Society for Advancement of Criminal Justice (SACJ) is a dedicated forum for presenting contemporary developments and happenings with a two fold objectives. First, to raise relevant issues in the field of criminal law for professionals to ponder over at various levels, and to find solution for prevention of crime. Second, to create awareness among the general public about certain events so that crime may be checked at individuals level as well. It is a platform to connect academia with various legal and non-legal professionals involved in the process of administration of criminal justice including members of the Bar and the Bench, police officers, media persons and doctors. An endeavour would be made to provide a comprehensive coverage relating to criminal law and its allied areas. This society is predominantly run by few interested and dedicated students. I wish them all the best in their journey."

Mr. Faisal Fasih

Assistant Professor of Law & Faculty Advisor, SACJ - WBNUJS
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"The Society for Advanced Criminal Justice (SACJ) is one of the oldest societies ***comprising*** of students across the batches of WBNUJS as members! The society was initially started under the guidance of Prof. Kavita Singh, who is now a mentor ***of the society,*** along with Prof. N.K. Chakrabarti, our Vice-Chancellor.

Several legal luminaries and stalwarts have visited our ***university*** campus in the heart of the city of Kolkata to deliver their lectures during seminars, workshops organized by SACJ. Recently, ***on 13-14th March, 2020*** the society had held a two-day 'law conclave' ***on 'Medical Termination of Pregnancy Bill,'*** ***'Role of media trials,'*** '***Women and Crime'***, and other topics of contemporary relevance. Students also undertake ***activities such as writing*** blogs on several developments in criminal law, organizing quizzes ***and*** essay competition where other universities take part. It is also our practice to prepare conclusive reports of every event. We are also conducting various webinars in ***current pandemic*** situation as ***an earnest*** effort to ***contribute to the advancement of*** legal education, remembering the vision of Late Prof. Madhava Menon, our founding Vice-Chancellor. To mention few webinars conducted include, Dr. Nagarathna A. Associate Professor, NLSIU Bengalore spoke on 'Regulating Illegal Content Online,' Mr. Gopal Subramanium, Senior Advocate and Former Solicitor General spoke on 'Advancing Criminal Justice in Present and Future,' and Ms. Geeta Luthra, Senior Advocate Supreme Court spoke on 'Prevention of Money Laundering'. I also thank Mr. Faisal Fasih my senior colleague and Faculty Advisor, SACJ for his continuous guidance for the Society.

I am sure this newsletter containing news updates, legal updates and blogs prepared by our students would immensely contribute to academia. I wish them all success ***and appreciate their constant efforts in the orchestration of all the events***! "

Mr. Surja Kanta Baladhikari

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Message from the Convenor (SACJ 2019-20)

Anshul R. Dalmia

"The Criminal Justice System isn't broken; it was built this way"

While we live in an environment streaked with murders by policemen, with illegal detentions of several activists and protestors, with the longest internet ban ensuing in a democratic country leading to multiple violations of our fundamental rights and freedoms granted by the Constitution, it is obvious that we turn to our criminal justice system with hope and optimism. However, in such a situation, instead of protecting the citizens and their rights, the State through several elements of the justice system itself engages in riots, orders armed mobs to open fire in educational institutions, and censors both the media and the press escalating unrest and emergency in the country. In circumstances like these, it becomes imperative that we question the existing framework, which highlights governance through an arbitrary rule of the State and not through the effective rule of law. The Courts have always had the transformative power to remedy the legacies of injustice caused primarily by the State, the one who was supposed to preserve and secure these intrinsic civil rights. In the current situation, one can only hope a semblance of protection from the judiciary.The absence of which, adds on to the extreme hopelessness faced by the people in our country. The intellectual reformation process is thus, the starting point of the melting iceberg, which stands for the accessibility of justice. The contours of our system have to be reworked from the foundation, thus altering several of our beliefs and presumptions.

This Newsletter, is thus a step towards the momentous change which is the need of the hour. The Society for Advancement of Criminal Justice, has always attempted in culturing an environment where students seek to not only merely accept the status quo prevalent, but also effectively challenge and critique it. Through our annual essay, quiz and judgment writing competitions, we aim to provide a nation - wide platform where law students could effectively express themselves. Over the past year, we have organized several lectures, conferences, conclaves and seminars that have allowed for a healthy discourse on contemporary criminal issues. The Society recently, even provided comments on the amendments that are needed to be implemented to the criminal laws to the Ministry of Human Affairs in order to facilitate further engagement. Through this newsletter, we seek to draw the attention of the legal fraternity and contribute in increasing awareness regarding contemporary issues engulfing the criminal justice system.

I would like to thank all the students who have contributed to this Newsletter. Moreover, I would like to sincerely express my gratitude to the Vice Chancellor, Prof (Dr.) NK Chakrabarti for his constant support as well as our Faculty Advisors, Prof. Faisal Fasih and Prof Surja Baladhikari for their unrelenting encouragement. This would not be possible without all my fellow office bearers and members, who have helped the Society grow in unimaginable ways. I hope you all find the newsletter instructive and engaging. We hope to hear your critique too.

Year 2019-20 in the field of Crimes, Criminal Law and Criminal Justice - A Prologue by Deepanshu Agarwal (SACJ Co-Convenor 2019-20 & Convenor 2020-21)

Crime has been prevalent in the society since primordial times. It would not be wrong to say crimes gave birth to the law and the laws resulted in classification of the crimes. This interface between crimes and laws led to evolution of what we call as Criminal Justice System which is an agency of many branches- all responsible for ensuring justice to the society by punishing the offender while also keeping his rights in mind, both in accordance of law. As the crimes increase, the role of criminal justice system increases and the responsibility of the system also increases. The past academic year (June 2019-May 2020) also saw a huge increment in the responsibility of the Criminal Justice System which comprises of the agencies including Police, the investigating agencies, the Prosecution and defence lawyers, the Courts, the prisons etc. The criminal justice system was in limelight throughout the year as we debated on the performance of its core agencies.On one hand, the incidents like the Hyderabad Encounter Killing Case smirched and stigmatized the Police Uniform; on the other we saw the roles of the agencies like CBI and the ED coming into questions. While we witnessed the long-standing Ranbir Penal Code being abolished and the practice of Triple Talaq being criminalized, arrests and FIRs against political activists and Journalists became a common feature. There were nationwide protests against the Citizenship Amendment Act, with the capital city of the country, becoming victim to the multiple instances of violence, including its worst ever riots. These all issues and events on one hand raise legitimate questions on the performance of Criminal Justice System but the several landmark and progressive judgments by the Supreme Court and the government finally realizing the need of a reform in Criminal Laws gives all of us a hope of a better tomorrow.

This Annual Newsletter prepared by the Society for Advancement of Criminal Justice at NUJS is an attempt to encapsulate very briefly all the major updates and events that happened in the field of Crimes, Criminal Law and Criminal Justice throughout the year. The aim of this newsletter is not merely restricted to update the readers with the news, the judgements and the activities conducted by the society in the past year, but to encourage them to develop their own understanding and opinion of the critical issues that occurred in the field of Crimes and Criminal Law. The whole field of Crimes and Criminal Justice is nothing less than a match or a clash between two parties. The Criminal Justice System has to constantly deal with the dynamics of clash of Law & National Security and of Human Rights. Through this newsletter, we want our readers to try to determine the winner of this core clash keeping the nuances of each issue in mind. We at the Society for Advancement of Criminal Justice want you to write, debate, discuss and hence promote discourse in this area of Criminal Law and Justice, thereby fulfilling the core objective as envisaged by our society.

Happy Reading!

THE TOPICAL

Most Important Topics | Criminal | Analysed

EC and Hate Speech - Praneeta Tiwari

The Supreme Court has directed EC to take strict actions against hate speeches, (including the journalists hosting debates under the same purview). The Bench was initially irked at the EC's 'Powerlessness and Toothlessness' over the matter and thus issued strong directive for the same.

Lincoln City Council being 'American' - Praneeta Tiwari

Lincoln City council enacted an ordinance to outlaw various types of Hate Crime, thereby committing themselves to American Concepts of Justice.

Hate Crime Bill - Scotland - Praneeta Tiwari

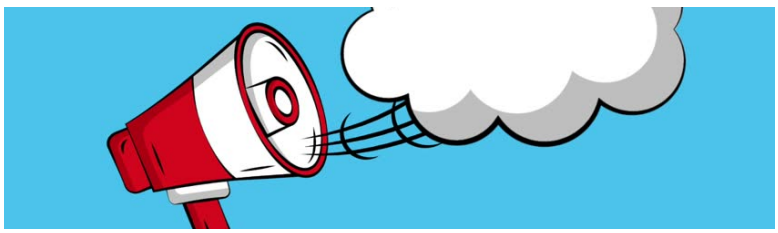
On the 24th of April, 2020 Scotland enacted its Hate Crime Bill. Hamza Yosouf, Scotland's Justice Secretary remarked that the bill was 'milestone' in protecting victims. The citizens are protected by specific rules and legislations with respect to hate crime based on Religion, Race and Sexuality.

Hate Speech

Interplay between Hate Speech and Crimes by Aditi Singh Chandel

Hate speech is often recognised by the consequences it may have in society. There may be devastating effects of such expressions like discrimination, violence and fear among the people. There is no fix definition of hate speech, and scholars have given different meanings from time to time. It is widely agreed that hate speech is targeted to offend a person based on his caste, race, religion or maybe any such disparity in his ideology.

India is a country having a diverse population belonging to different religions, caste and class. The concept of the prohibition of hate speech came to protect the rights of the



Journalists and Hate Speech - Aditi Singh Chandel

Recently FIRs were filed against top TV Anchors for allegations of spreading hate through their news programmes.IPC Section 295 (A) deals with Hate speech.

- Arnab Goswami, Editor-in Chief of Republic TV Network was booked at several places in the country following his controversial program on Palghar mob lynching when he was accused of defaming Congress President Sonia Gandhi and communalising the incident. This case was registered under Sections 153, 153 A, 295 A, 500, 505 (2), 511 and 120 (B) of the IPC.
- Zee News TV channel's Editor-in-Chief Sudhir Chaudhary has been booked by the Kerala police under non-bailable sections for his March 11 program on 'Jihad' on his TV show Daily News and Analysis (DNA) under Section 295(A).
- Amish Devgan, anchor of News18 TV channel has been booked by the Mumbai Police for allegedly spreading false news on his show Aar Paar on May 1 under Section 295(A) and 124(A).

minority population. The political struggle entirely based upon linguistic differences and religion can also be counted as one of the primary reasons for the requirement of such prohibiting laws.

Earlier, in the game of power politics, people tried to spread hatred against each-others religion to secure votes in elections. In this way, they always hurt the sentiments of the other community. British considered it as the offence of blasphemy then. To tackle such problems laws prohibiting such speeches were enacted. In India, the Indian Penal Code contains several provisions marking such speeches as offences such as Section 153, Sec. 153A, Sec. 295A, Sec. 500, Sec. 505(2), Sec. 511 and Sec. 120B. Even if the police deny to register a FIR against any such person, then we can attain an order directly from the magistrate under Section 156(3) of the Criminal Procedure Code.

With the development of information & technology sector, there has been an enormous increase in the number of cases violating these laws. Social media has given a massive platform for people to express their views freely. But sometimes with malicious intent, they write or post offensive contents, which is taken care of under these laws.

In the landmark judgment of Shreya Singhal v. Union of India, hon'ble Supreme Court of India scrapped Section 66A of Information and Technology Act, 2000 that gave the power to police to arrest the person for posting allegedly offensive contents on websites, as it was in derogation of Article 19(1)(a) of the Constitution. Realising the loophole that the statute had which could cover any opinion or dissent, the Supreme Court declared it unconstitutional clarifying the fact that it was outside the purview of Article 19(2) of the Indian Constitution.

Everything comes with its pros and cons. In one hand, these anti-hate speech laws prevent maliciously spreading hatred; on the other hand, it also is seen as infringing the fundamental right to free speech and expression. These prohibiting laws are sometimes harshly criticised as well. This is one of the never-ending fights between rights that involves different jurisprudential approaches.

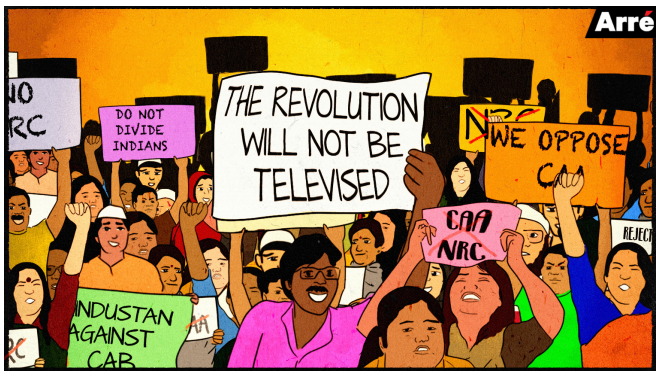
CAA- NRC

CAA-NRC and Criminal Law by Pratyush Jena & Shreya :

The citizenship act of 1955, which mainly governs the citizenship facet in India, prohibits illegal immigrants from acquiring Indian citizenship. Illegal immigrants are the ones who enter India without valid documents. The 2019 legislation amends the act and grants citizenship to Hindus, Sikhs, Christians, Buddhists, Jains, and Parsis - from Afghanistan, Pakistan, and Bangladesh, who arrived in India before December 31, 2014. This act paves the way for Indian citizenship to the immigrants who identify themselves with any of the given religion, even if they lack any document to prove their residency. It also relaxes the provisions for "Citizenship by naturalization" by reducing the duration of residency from 11 years to just five years
The act comes with one exception that the provisions on citizenship for illegal migrants will not apply to the tribal areas included in the Sixth Schedule to the Constitution. It will also not apply to the areas under the "Inner Line Permit" under the Bengal Eastern Frontier Regulation, 1873.

Issues with respect to the CAA:

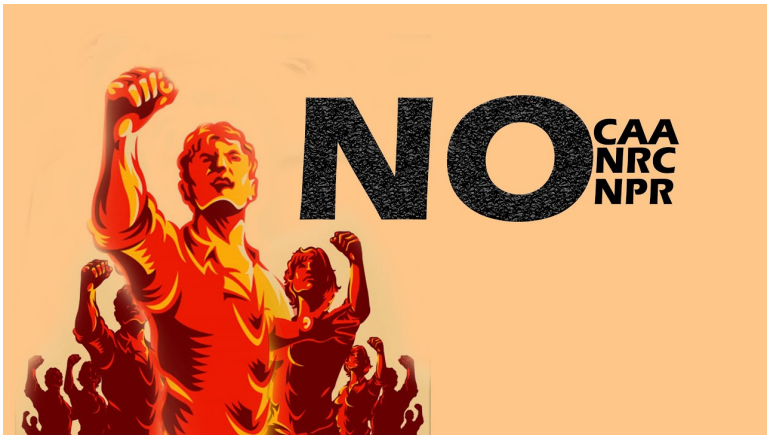
One of the many issues associated with the act is whether it violates Art.14 of the Indian Constitution or not. Art.14 guarantees all persons, residing within the territory of India, equality before the law irrespective of their religion, race, caste, sex or place of birth. It permits laws to differentiate only if the rationale for doing so serves a reasonable purpose. Now there are various contrasting opinions subsisting among the people criticizing and defending the act. The critiques of the act say that there is an absence of just objective, and the classification is arbitrary. While the contention of the government is that the classification made with respect to the religion of the immigrants is reasonable and does not defeat the purpose of Art14. Another argument against this act is that it exerts prejudice and leaves out many persecuted minorities like the Rohingyas, Srilankan Tamils, Ahmediyas, etc. A significant part of the populace from Northeast India is also discontented with the act. They believe that the kind of influx that will result from the implementation of the act will be really problematic and will adversely affect their economic circs and cultural identity. Even though the act leaves out regions included in the sixth schedule and ILP, approximately 70% of the concerned area will still be under the ambit of this act, which is a major issue of concern for these people. They claim that this act is against the ethos laid down after the Assam struggle in the 1970s and 80s and defeats the purpose of the Assam accord. But the biggest dissension against the act is that it will work in concert with the proposed National registrar of citizens (NRC) to bring to bear pernicious changes. It is argued that the diabolical amalgamation of the CAA and NRC will curate unpleasant situation for people hailing from certain communities and will act against the secular values associated with India



CAA – NRC Protests

All the issues associated with CAA, mentioned above, catalyzed a pan-India resistance, which was witnessed in the form of protests by political parties, activists, and students. The partakers of those protests asserted that the act is communally polarising and discriminatory against the Muslim community. They demanded the revocation of the act and deemed it essential to protect the secular character of the Constitution. On the other hand, the government clarified that there would be no retraction, "even by an inch," as the amendment act seeks to protect the persecuted minorities in the said countries.

Rallies and dharnas erupted in almost all cities like Delhi, Mumbai, Kolkata, Kerala, Lucknow, and others. Unique protests such as the one at Shaheen Bagh, where women staged dharnas for more than months and blocked roads, were also witnessed, and even Supreme Court's attempt to pacify and clear the blockades could not bear results. The situation worsened when the protests became violent and took the form of riots in Delhi, which saw many people being injured, vehicles torched, and shops looted. In response to the violence, police used brutal force on the students of Jamia University, which was seen as an alleged attempt to suppress the protesting students.



Post the Jamia incident, student protests in solidarity with the injured students as well as against police brutality intensified across the country. Not only that but the anti- CAA protests across the country also gained momentum with increased student participation. Even though 'leaderless,' the protests witnessed participation of all kinds of people, from celebrities to politicians to housewives.

However, taking cognizance of the riots and damage done, police has now booked several students under the charges which have been severely criticized. Shafoora Zargar and Meeran Haider, members of the Jamia Coordination Committee (JCC), have been booked under the Unlawful Activities Prevention Act (UAPA) and for sedition under IPC for promoting enmity between communities and instigating riots. Some people affirm that these actions are nothing but misuse of provisions of law to suppress dissent and freedom of expression. However, the law enforcement officials asseverate that appropriate charges have been framed against people who provoked violence.

The recent turn of events has been highly emotive and contentious. There has been a tussle between citizens' right to free speech and expression and the government's prerogative to maintain law and order. It is important that a balance between the right to protest and public order is achieved in order to ensure the democratic welfare of the nation.

Hyderabad Gang Rape case

Hyderabad Rape and Encounter Killing Case by Mrunal Mhetras

Facts

The gang rape and murder of a vet in Hyderabad had evoked a massive public backlash against the police for their failure to help the victim when she could have been saved. She had called her family and informed them of the situation which made her feel unsafe. The family then contacted the police where they were met with indifference. The officers were suspended after the ensuing outrage. The government officials engaged in different levels of victim-blaming. Telangana's home minister commented that despite being an educated woman, she did not call 100, which is the police helpline number. The state's Chief Minister took this opportunity to argue that female government employees shouldn't work after dark. This issue was debated by Parliamentarians and one past celebrity even called for their lynching. In response, three police officers were suspended and four people arrested. There were protests all over the country in support of the victim.

The suspects were taken to the crime scene early morning. They were shot when they tried to escape, threw stones and tried to steal an officer's gun. The police maintained that they had asked the suspects to surrender for about 15 minutes but they continued to attack the police with sticks and stones. Several human rights organisations have demanded investigations to determine if they were extrajudicial killings. As a result, thousands of people celebrated this on social media and on the streets with firecrackers causing traffic jams. They even showered flowers on the police officers involved. The police were hailed as heroes and compared to Movie heroes.

VC Sajjanar who is the commissioner of the police division which was hailed as a hero previously in a strikingly similar incident. He had taken suspects in an acid attack case to the crime scene where they were shot while trying to escape.

The public outrage generated by this incident led to the Legislative Assembly of Andhra Pradesh passing two bills to bolster women's safety in the State. The Andhra Pradesh Disha Bill - Criminal law amendment Act 2019, expanded certain provisons of the Criminal procedure Code as well as the Indian Penal Code and added a provision relating to harrasment of women in IPC and sexual assault on children. It also provides for completion of investigation in seven days in cases of heinous offences where conclusive evidence is available. The Andhra Pradesh Disha Act- Andhra Pradesh Special Courts for Specified Offences against Women and Children Act, 2019, provided for the constitution of special courts to ensure the speedy trial of certain offences against women and children.

Criminal justice system from a victim's perspective

The conviction rate in India is 27.2% for reported rapes. So, a vast majority of the cases are not even reported in India, As per the 6% of women have exoerinced sexual violence in Inida. Out of that only 3.3 % of women who experience sexual violence even try to get help from the police. The infamous Nirbhaya gangrape case which made headlines, caused massive public outrage and led to enactment of tougher laws is the biggest example of how excruciatingly slow the judicial system India actually is. This was a case of extremely high public outrage and massive public support. So, it had to go through a lot fewer hurdles than most cases due to factors such as prompt police investigation and arrests; and support to Nirbhaya's family. Despite all this, the rapists were hanged in March 2020 when the Rape took place in December 2012. When the Hyderabad incident happened in November 2019, Nirbhaya still had not received justice after about seven years. Slow trials may erode public confidence in the judiciary. This led to speculation that the victim's parents would have to run from pillar to post for a chance to get justice.

Rights of the suspect

A suspect of a crime enjoys several rights under the Indian Law. Article 21 of the Constitution of India provides that "No person shall be deprived of his life or personal liberty except according to procedure established by law". It was held by the Supreme Court in various cases that a suspect cannot be denied the right to life in police custody. In the case of Nilabati Behera where the petitioner successfully sued the state for compensation for a custodial death, the Supreme Court held that the state has an obligation to ensure that no infringement of the right to life of a citizen takes place in its custody, except according to the law. The rights under Article 21 were held to apply to people in police custody.

Right to a fair trial: The Right of the accused to a fair trial is one of the paramount principles in criminal law. Right to fair trial is recognised by our domestic courts as well as internationally through instruments such as International Covenant on Civil and Political Rights and the Universal Declaration of Human Rights which provide for fair and public hearing by an independent and competent legally established tribunal. It was held by the Supreme court in the case of Rattiram v. State of Madhya Pradesh that the Right to a fair trial from a competent court is a fundamental part of India's Criminal jurisprudence and flows from the right to life and personal liberty enshrined under Article 21. It was also upheld in the case of Mohd. Hussain Julfikar Ali vs The State where a person was sentenced to death without legal representation.The right to a fair trial not just protects the rights of the accused but it also protects the rights of the victim and the society in general. The victim in the Hyderabad case also deserved a fair trial to ascertain the identities of the perpetrators of the offence.

Presumption of innocence: Article 11 of the Universal Declaration of Human Rights also provides for the right of the accused to be presumed to be innocent until proven to be guilty of the crime as per the law through a public trial. The supreme court held in the case of the State of U.P. v. Naresh that the principle of presumption of innocence is the basis of Indian criminal jurisprudence and that it is a human right (with exceptions).

The situation with police encounters is that the legal principles such as the right to life, right to a fair trial and presumption of innocence are thrown out of the window for what seems in the public opinion, the right thing to do. However, we must recognise that these things are not just legal

dogma but are there to ensure fairness and justice. If the principle of the rule of law is ignored it leads us to a situation where the enforcers of the law are the ones breaking it potentially leading to a serious law and order crisis and police impunity. If the presumption of innocence of the accused until proven otherwise and fair trial are ignored it leads to a disproportionate burden being put on the accused which may lead to innocent people being punished. And lastly, if the right to life of the accused is ignored, it exacerbates all the problems presented to a monumental level. The only thing that decides the guilt of a person in the case of a police encounter is the opinion of the police.

Police brutality

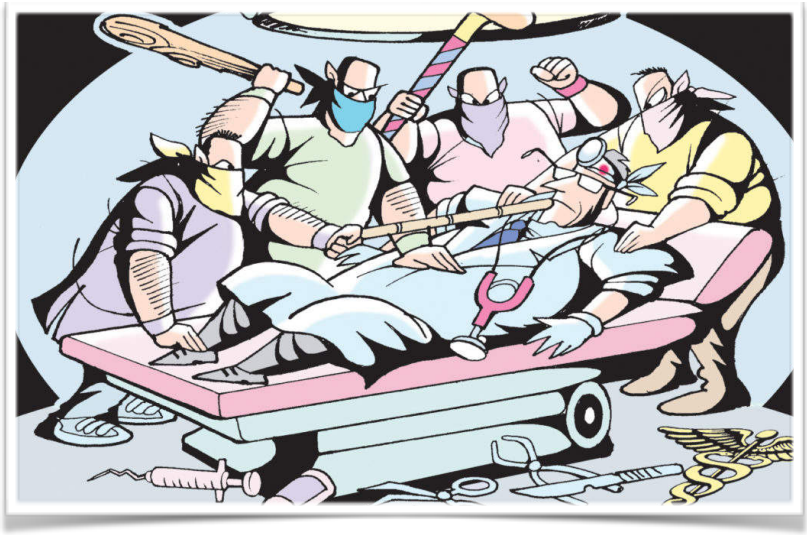
Police brutality is not something new in India, and neither are police encounters.This year too, there have been several instances of police brutality including during the Anti CAA NRC protests and the Covid 19 pandemic. So, with the current discussion on police power in India and the west, it becomes imperative to analyse the legal framework in India for the same. There are several reports which talk about the systematic issue of fake encounter killings in the Indian Police. Criminal prosecution may also be a solution, however there is ample scope for the police to retaliate against those who rise up against them.Such police encounters where the police end up shooting a suspect during a visit are not uncommon. The factum of only having police shots at the site is justified by claiming that the suspect snatched a fireman from the police and turned it on them.

There are several legal and social barriers to successful prosecution of the police in cases of encounter killing.Effective prosecution and investigation in matters such as the hyderabad case are further hampered by the public opinion which celebrates them as heroes and the impact this has on the political will. Governmental approval is required before prosecuting any public servant as per The Criminal Procedure Code. Often, Police officers may be the only eyewitness in the case which was the situation in the Hyderabad case. When investigation is directed by the National Human Rights Commission it is conducted by the Central Bureau of Investigation or effectively the local police. The NHRC in most cases only provides recommendations for compensation of victims. In those rare vases where action is taken against the police, it is merely a slap on the wrist such as temporary suspension or transfer. Effectively, in the present situation, the police are well aware that they can get away with impunity. The code also provides for the police to use all means necessary to arrest a person when such a person resists or attempts to evade arrest. Where the person is not accused of an offence punishable with imprisonment for life or death, the provision does not give the authority to cause the death of a person.

Conclusion

In the Hyderabad case, the police was hailed as a hero because the people thought that the police had served justice. The police faced massive pressure due to their previous inaction and the public outrage. The narrative put forth pointed to a possible situation where the people were hailing the police because they did not believe the official accounts. The crime statistics, the conviction rate as well as the very infamous Nirbhaya case which was still going on after seven years created a situation where some people might think that encounters were perhaps the only way the victim could get justice. Instead of faulting people for this, the better solution might be to push for systemic reforms to ensure: women's safety, better experience for the victim, ensure speedy trial, higher reporting of cases and better conviction rates.

Covid and Criminal Law



Protecting the Frontline Workers: Epidemic Diseases (Amendment) Ordinance, 2020 by Anshum Agrawal

The world faced an immense challenge this year, which uprooted and devastated millions of human lives throughout the world. Unprecedented tangible changes were brought around the world to fight head-on with an invisible enemy, the Coronavirus. In tandem with every other country on the globe, India too prepared itself to fight the looming threat, made much more strenuous due to the vast population base. The day-to-day groundwork to achieve this end was aided by scores of frontline workers who offered their exemplary and selfless service to fight the common enemy. However, these efforts were not enough to dissuade unscrupulous elements from harassing, threatening and even attacking the frontline workers. These instances gave an account of the injustices and threats being meted out to the frontline workers across the country. Most of the incidents occurred when teams of medical personnel went to collect test samples or to ensure quarantine measures. For example, Indore saw a team of doctors getting pelted upon by stones who were on their way to trace contacts and collect samples for testing. Similarly, medical staff faced a violent mob attack at Moradabad in UP, whilst they had gone to quarantine a family whose members had lost their lives to COVID-19.Moreover, healthcare workers also faced excesses from family members of deceased patients. In Chennai, apart from attacking, the mob went a step ahead and prevented a surgeon.;s body from having a dignified burial. Apart from these overtly violent attacks, healthcare workers also faced targeted harassment from housing societies and landlords who denied them residence due to fears of getting others exposed to the virus.

The medical fraternity distressed and demoralised from these violent attacks and hardships faced by their peers gave a call of action to the government. The call was in form an ultimatum calling upon the government to ensure the safety of healthcare workers. As a response, the President promulgated an ordinance, approved by the Union Cabinet, to amend the provisions of the Epidemic Diseases Act of 1897. The two-page colonial-era law brought in force to fight the pandemic underwent a six-page amendment. With the amendment, the government cleared its stand and reiterated that they would make no comprises with the safety and security of the frontline workers. The ordinance aimed to protect the frontline workers brought in sweeping penal provisions and echoed the government zero-tolerance policy. The ordinance makes any act of violence towards healthcare personnel or property damage a non-bailable and cognisable offence. A cognisable offence simply means that any person accused of committing an act prohibited under this legislation can be arrested without a warrant and making it non-bailable ensures that bail is not granted to the accused person as a right. The provisions of the ordinance are widely drafted (deliberately so) and include both an attack on the; and any property. The act mandates imprisonment ranging between 3 months and five years coupled with a minimum fine of fifty

thousand rupees, extendable up to two-lakhs for both commission as well as abetment of the act.To ensure more strictness and harshness, the act mandates that if the attack results in a grievous injury (as defined under S.320 of the Indian Penal Code), imprisonment up to seven years, coupled with a fine up to five lakhs, can be made applicable. The act aims to cover healthcare workers such as doctors, nurses, paramedics, community health workers, ASHA workers, and any such person who is empowered under this act to take outbreak prevention measures. In addition to the imprisonment and fine levied, the act also makes an accused person liable to pay compensation to the affected party for any damage to property, such compensation being twice the amount of property destroyed. The substantive portion of the ordinance is clear and unambiguous and is drafted to serve as an effective deterrent. The punishment prescribed is significantly harsher than the penal provisions prescribed for similar acts under the IPC. The act has a wide ambit, and ;attacks;, as defined, includes any harassment meted out to the healthcare workers by the public, landlords and neighbours. This provision places the act on a higher pedestal than the individual state legislation, which was focussed only on the physical ; component of the violent acts. Moreover, the central legislations attract much severe penal liability than the state legislations. The coming in of an expeditiously drafted central government legislation with a clear policy statement helped assuage fears in the mind of frontline workers and can be said to have worked as an effective deterrent.However, in addition to the harsh penal provisions the act carries, it also takes upon the task to incorporate some procedural changes, prima-facie aimed to drive home the government's stand on such acts of violence. The act mandates that all necessary investigation should be concluded within 30 days of the filing of an FIR and the court should deliver its final decision within a year.

These provisions are incorporated to ensure that justice is delivered expeditiously and such morally corrupt acts are penalised as strictly as possible. The most controversial aspect of this legislation is contained in Clauses 3D and 3C. Clause 3C makes a striking departure from the usual criminal law practice of treating accused as innocent until proven guilty. The clause empowers the courts to raise a presumption in cases of grievous hurt that the accused has committed the act unless the contrary is proved. Further, Clause 3D provides that the existence of a culpable state of mind, as required for the crime of grievous hurt, should also be presumed by the courts to be present with the accused. The provision burdens the accused to rebut such a presumption of culpability by proving the fact of his innocence. However, in a further sub-clause, it is mandated that such a fact of innocence will be said to be proved only when a court is satisfied beyond a reasonable doubt on not on a mere preponderance of probability. The combined effect of both the clauses makes this legislation heavily skewed against any person accused of committing the prohibited acts. Having such a provision raises alarms on its constitutionality as they seem to violate the basic principles of criminal law and are prima-facie unreasonable and unfair to any accused person.

Hopefully, the short term and temporary legislation serve its intended purpose and bolster the spirits of our & corona warriors; and deters criminal activity against them. Taking a lesson from these incidents, the government should resolve to have permanent legislation to ensure the protection of healthcare workers in a post-pandemic world. Moreover, the present ordinance is short term and will be inoperative when the epidemic has been dealt with. So continued protection of our medical workforce should be ensured by enacting a comprehensive and meticulously drafted policy which deters any kind of criminal activity against the medical fraternity.

Economic Offences

Economic Offences and Criminal Law by Deepanshu Agrawal

The term economic offences in simpler sense point towards an offence committed in respect of economy, thereby meaning a criminal wrong which harms the financial state of the nation. This concept delves into inter-relation between Commercial Jurisprudence and the Criminal Jurisprudence. Economic offences besides victimising individuals (a feature of normal crime) with a pecuniary loss also have some serious implications on the overall state of the country's economy. The past year saw news related to financial frauds, money laundering, economic fugitives, white-collar crimes get place in the headlines of newspapers as well as Prime Time Debates of the News Channels and this makes us duty-bound to discuss more regarding this category of crime.

The year, on the one hand witnessed the provisions of the Prevention of Money Laundering Act 2002 (PMLA) being significantly amended in an attempt to make it better armoured to detect suspicious transactions and target terror financing, on the other hand it had seen the Yes Bank Financial scam of more than Rs. 5,000 crores. The Rs. 11,000 crores PNB Scam case as well as Rs. 9,000 crore Vijay Mallya Case also saw new updates with India awaiting their extradition from the United Kingdom, the country to which they have fled.

As the Criminal Justice System, which in this case, besides the police and the courts comprises of the investigating agencies such as Enforcement Directorate, Anti-Corruption Bureau, the CBI, fights to combat economic offences and money laundering, the 73.8 percent increase in the amount involved in the banking fraud cases as per the Annual Report for the Financial Year 2018-19 points towards a lot of problems. It also explains the imminent need for much stricter government regulations and stringent enforcement of the money laundering laws.

If we see in this light, the amendment carried out in the 2002 PMLA Act seems sensible. However, it is far from being not debatable. The act undoubtedly introduces greater and more nuanced reporting obligations for the reporting entities, who will now have to do a detailed authentication with regard to transactions that look suspicious or carry a high risk of money laundering or terror financing; however , on the other hand, critiques are pointing out that the bail provisions of PMLA and a presumption against the innocence of accused violate several fundamental rights attributed to citizens by the Constitution. There has also been debates regarding decriminalisation of minor economic offences like Cheque Bouncing with the Government claiming that it would provide

Economic Crimes - A Class Apart - Praneeta Tiwari

The Supreme Court set aside the bail application of Bhushan Steel's ex-CFO, Nittin Johari. Johari was arrested by Serious Fraud Investigation Office for alleged embezzlement and fraud. The Court expounded the seriousness of economic offences by stating " Economic offences constitute a class apart and need to be visited with a different approach in the matter of bail. The economic offences having deep-rooted conspiracies and involving huge loss of public funds need to be viewed seriously and considered as grave offences affecting the economy as a whole and thereby posing serious threat to the financial health of the country" and thus, rejected his bail grant.

VVIP Chopper Money Laundering Case - Praneeta Tiwari

Delhi High Court with respect to the VVIP Chopper case denied bail to Shivani Saxena, the director of two Dubai based firms, accused for the same. Saxena was caught in Chennai and chargesheeted under various sections of PMLA by ED for siphoning of funds and other ancillary economic offences.

The Delhi High court rejecting the bail, agreed with the apex court in this matter and thereby stating that Economic offences need to be dealt with a heavy hand.

relief to Small scale businesses and would boost India's ranking of ease of Doing Business, some stakeholders question this approach by saying that the move will dilute legal remedies available to the lender to recover their legitimate dues.

These debates bring us back to the core clash of the Criminal Justice System, i.e. preserving interests of a state or upholding the interests of the citizens. Through this topical piece, which provides a glimpse of all major events which took place in the area of Economic Offences and Criminal Law, we invite our readers to develop an own opinion regarding the issues, contribute towards academic discourse in this arena and try to reach a conclusion as we attempt settle this debate. It is hoped that the discourse contributed in the area of criminal law and economic offences through blog pieces, articles and opinion editorials would provide an opportunity for all of us to delve more into the core issues which seriously has the potential to undeniably harm the state of the Indian economy and thus the public welfare.

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Anticipatory Bail Provisions Re-inserted in U.P - Nitin Kr. Verma

The provisions relating to Anticipatory Bail have been reincorporated in the State of Uttar Pradesh. It is relevant to mention here that the provisions of anticipatory bail as envisaged under Section 438 of the Code of Criminal Procedure was withdrawn by the UP Government at the time of emergency by the Criminal Procedure Code (Uttar Pradesh Amendment) Act,1976.

Gauhati High Court Grants Bail to Mohammed Sanaullah- Nitin Kr. Verma

The Gauhati High Court granted interim bail to Mohammed Sanaullah, the Kargil war veteran who was declared a foreigner by a tribunal in Assam last month and sent to a detention camp. A division bench passed the orders against bail bonds of Rs 20,000 and two sureties, but asked the retired soldier not to leave the territorial jurisdiction of Kamrup district without informing the Superintendent of Police(Border). The bench also issued notices to all the respondents of the case.

The Muslim Women (Protection of Rights on Marriage) Act, 2019: The Criminalisation of Triple Talaq by Simran Upadhyaya

On 21st June 2019, the Minister of Law and Justice, Mr Ravi Shankar Prasad introduced The Muslim Women (Protection of Rights on Marriage) Bill in the Lok Sabha. Consequently, the bill became an Act as it passed both Lok Sabha and Rajya Sabha, and received President's assent.

The Act declares pronouncement of talaq by Muslim Husband upon his wife by word, spoken or written or in any electronic form, to be void and illegal. It explicitly define talaq to include talaq–e–biddat or any other similar form of talaq that provides scope for instantaneous and irrevocable divorce on being pronounced by the husband. The Act provides for three years of imprisonment along with a fine for any Muslim man who divorces his wife through Triple Talaq. The Act makes the offence cognizable, but the right of registration of the complaint lies with the woman or any person related to her by blood or marriage. The Act declares the offence to be non-bailable unless the wife assures the court to grant bail to her husband. It also authorises the Magistrate with the power to

declare the offence compoundable, under certain terms and conditions, and upon a request made by the wife against whom the talaq is pronounced. Furthermore, the act stipulates that a divorced Muslim woman has the right to receive subsistence allowance from her husband and has the right to custody of her minor child. The passage of the Muslim Women (Protection of Rights on Marriage) Act, 2019 repealed the Muslim Women (Protection of Rights on Marriage) Second Ordinance promulgated on 21 st February 2019.

Kathua Case Verdict: Court convicts 6 of 7 Accused, Sentences 3 to Life by Nitin Kr. Verma

A special court in Pathankot on June 10 convicted six out of the seven accused in the rape-and-murder case of an eight-year-old nomadic girl in Jammu and Kashmir's Kathua.Reports suggest that three of the main accused – Sanjhi Ram, Deepak Khajuria, and Parvesh Kumar have been awarded life imprisonment. The three policemen convicted for destroying evidence in the case – Anand Dutta, Tilak Raj, and Surender Verma – have been awarded a sentence of 5 years' imprisonment. The case involved the abduction, rape and murder of an eight-year-old child in Kathua, Jammu & Kashmir back in January 2018. The verdict was passed by District and Sessions Judge Tejwinder Singh, who had reserved judgment on June 3. On January 17, 2018, the dead body of the victim was found in Kathua by the police, days after her father had reported her missing. The girl was drugged and raped over several days before she was throttled to death. The criminal investigation culminated in the arrest of seven persons. They were charged with rape, kidnapping, attempt to destroy evidence, and criminal conspiracy under Jammu & Kashmir's Ranbir Penal Code. The arrested men included a Hindu temple priest, his son, his nephew, as well as four policemen.

The case assumed communal undertones after a narrative emerged that the crime had been committed in an attempt to drive out the Muslim nomadic community to which child belonged to. Further controversy erupted after several sections of the public came out in open support of the accused, decrying their arrest as an attempt to victimise Hindus. The lawyers appearing for the victim's family, including Advocate Deepika Rajawat, had also approached the Supreme Court contending that they were being threatened against appearing in the matter by the Jammu and Kashmir Bar Association. The trial in the case initially commenced at Kathua in April last year. However, the volatile circumstances surrounding the case eventually prompted the Supreme Court to transfer the trial outside Jammu & Kashmir to the District and Sessions Court of Pathankot, Punjab.

First ever Life Imprisonment under the Hijacking Act,2016 by Nitin Kr. Verma

First-ever NIA special court in Ahmedabad recently pronounced the judgment Jet Hijacking Case, making the accused Birju Kishor Salla the first convict under the Anti Hijacking Act, 2016. He prepared a hijack note in English or Urdu in Mumbai to Delhi flight. He boarded on October 30, 2017, a Jet Airways flight from Bombay to Delhi and stuck this note in the tissue box of front toilet shortly after take-off: in the note, this Flight No. 9W 339 is covered by Hijackers and aircraft should not be land. And don't take it as a joke. Cargo area contains explosives bomb and we blast if you land Delhi and take it straight to Pakistan…And Allah is great.' But pilot and co-pilot immediately inform to air trafficking system and take emergency landing in Ahmedabad. Birju

was arrested on suspicion and soon confessed to having thought up this scheme in an attempt to defame the airline and force its closure.

Thus, he became the first person to be prosecuted under the stringent new Anti – Hijacking Act 2016. Further the Special Judge (NIA) also noted that, under section 16(b), the Designated Court shall presume, unless the contrary is proved, that the accused had committed such offence, if there is evidence of use of force, threat of force or any other form of intimidation caused to the crew or passengers in connection with the commission of such offence. In the present case, the recovery of the threatening note was enough for the court to presume that the accused has committed an offence under section 3." And he was punishable under sections3(1), 3(2) (a) and 4(b) anti-hijacking act. And section 3 said that 'whoever unlawfully and intentionally seizes or exercises control of an aircraft in service by force or threat thereof, or by coercion, or by any other form of intimidation, or by any technological means, commits the offence of hijacking. Sec 3(2)(a) makes a threat to commit such offence or unlawfully and intentionally causes any person to receive such threat under circumstances which indicate that the threat is credible; or an sec 4(b) with imprisonment for life which shall mean imprisonment for life which shall mean imprisonment for the remainder of that person's natural life and with fine . In the city session court of Ahmedabad NIA special case No 1 2018 State of Gujarat Vs. Birju Salla xv

NIA Court Rejects Pragya Thakur's Plea to waive presence in the Malegaon Blast case by Nitin Kr. Verma

A Special National Investigation Agency (NIA) Court has rejected a plea by BJP Member of Parliament, Pragya Thakur, seeking a permanent exemption from attending court in connection with the 2008 Malegaon blasts case. As per reports, Thakur's request was premised on the fact that she was now a Member of Lok Sabha and had to attend the Parliament on a daily basis. She had also cited security issues, ill- health and distance as grounds for the exemption. The NIA Court rejected the plea while observing that these grounds were not reasonable enough to grant a permanent exemption from appearance before Court. On June 3, the NIA Court has had directed Thakur along with other accused persons to appear before it once a week to attend the proceedings which are otherwise proceeding on a day-to-day basis.

Pragya Thakur is the prime accused in the 2008 Malegaon blasts, which claimed the lives of ten people and injured over 80 others. The hearings in the case are progressing before the NIA Court on a daily basis. As of today, 116 witnesses have been examined by the court. Counsel for one of the intervenors in the case, Advocate Shahid Nadeem Ansari told Bar & Bench that 300 witnesses are yet to be examined. In April, the NIA Court had rejected an application filed by the father of one of the victims of the blasts seeking to restrain Thakur from contesting the 2019 Lok Sabha Elections. The Court dismissed the application paving the way for the BJP candidate to win the election from the Bhopal constituency.

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Definition of Rape not to be altered? - Nitin Kr. Verma

Stating that, women are the predominantly the victim of Rape, centre has told the Delhi High court that the Rape laws can't be made gender neutral. Opposing a PIL , the central govt has emphasised that sections 375 and 356 of Indian Penal Code were enacted to " protect and keep a check on the rising level of sexual offences against women in India". It also pointed out that there are already separate laws like POCSO Act and section 377 of IPC to deal with sexual offences against minors and unnatural sex.

Coal Mining Fine - 100 Cr.! - Apoorv Shukla

A bench comprising of Justices Ashok Bhushan and KM Joseph has directed the state of Meghalaya to deposit a fine of Rs 100 crore. An appeal was filed in the Supreme Court against the order of the National Green Tribunal (NGT) dated January 4, 2019. The NGT had imposed a fine of Rs 100 crore upon the State for failing to stop the illegal coal mining in the state. The top court has directed the state to deposit the amount of fine with the CPCB thereby directed the state administration to hand over the illegally mined coal to the Coal India Ltd for auction.

National Investigation Agency (Amendment) Bill 2019 passed by the Parliament by Apoorv Shukla

The Parliament passed the National Investigation Agency (Amendment) Bill, 2019. It is an amendment to the National Investigation Agency (NIA) Act, 2008. The Act had setup a national-level investigation agency to probe and prosecute the offences listed in a schedule (scheduled offences). To try the scheduled offences, it provides for necessary establishment of Special courts. The amendment was passed in order to grant more powers to the investigation agency.

The offences to be probed and prosecuted by the said agency are enlisted in the schedule to the Act. It includes offences under Acts like Atomic Energy Act (AEA), 1962 and Unlawful Activities Prevention Act (UAPA), 1967. In addition to these offences, the Act also provides the NIA power to investigate the offences pertaining to Explosive Substances Act (1908), fake currency or counterfeit notes, cyber terrorism, human-trafficking and manufacturing or sale of prohibited arms.

The Act provides the NIA officers with the same powers as that of the police officers with respect to the investigation of the scheduled offences across India. The Act grants the power to the NIA officers to investigate the offences committed against the Indians and Indian interests outside the country. NIA holds can investigate such offences as if they had been committed within the country on the orders of the Union government. The Union government holds the power to direct the agency to investigate such cases, as if they had been committed in India. The jurisdiction over such cases has been granted to the Special Court in New Delhi. For the trial of the scheduled offences, the Union government could establish Special courts with the powers granted to it by the Act. The Bill changes it and states that Sessions Courts can be designated as Special Courts by the Union government for the same purpose.

However, before according such designation, there is a need to consult the Chief Justice of the High Court under which the Sessions Courts function. The senior-most judge will hold the power to allot the cases among the courts if more than one Special Courts are designated for an area. State governments may also accord the designation of Special Courts to the Sessions Courts for the trial of scheduled offences.

ICJ pronounces its Verdict in Kulbhushan J. Case-Nitin Kr. Verma

The International Court of Justice, Hague has given its verdict in the famous Kulbhushan Jadhav Case. ICJ has ordered Pakistan to review the decision of death penalty Kulbhushan Jadhav announced by a Pakistani Military Court on the charges of "espionage and terrorism". ICJ further ruled that Pak has clearly violated the international laws, as it has denied India consular access to the ex- navy officer Jadhav.

Marital Rape, A ground for Divorce, Delhi HC - Nitin Kr. Verma

A plea was filed in the high court of Delhi seeking directions to the centre for framing guidelines for registration of FIR in cases of Marital Rape and to form laws to make this a ground for divorce. The plea was first filed in the Supreme court which refused to entertain it and directed the petitioner, advocate Anuja Kapur to approach the High Court for relief.The bench consisting Chief Justice D.N Patel and Justice C. Hari Shankar ruled that the court cannot direct the government to frame the laws hence, this issue of marital rape should be dealt by the legislature.

Centre re-defines Child Porn, Proposes Stiff Penalty by Nitin Kr. Verma

The Cabinet has amended the POSCO Act to include a new definition of child pornography. According to the new definition, "Any visual depiction of sexually explicit conduct involving a child which include photographs, video, digital or computer-generated image indistinguishable from an actual child and an image created, adapted or modified but appear to depict a child." is child pornography. According to the spokesperson of the Women and Child Development Ministry, the law will also apply to pornographic content where adults or young adults pretend to be children. As per the initiative taken by the Ministry of Women and Child Development, from now there will be zero tolerance for child pornography and for that reason this new definition of child pornography was essential as definition leads to setting the context of the crime.The Cabinet has also enhanced the fine for possessing child porn to ₹5,000 from ₹1,000.

SC takes the note of an 'Alarming Rise' in Child Rape Cases by Nitin Kr. Verma

The Supreme Court has taken note of the alarming rise in the number of rape incidents against children and said it will pass directions to ensure a concerted and clear national response against such acts. A Bench led by Chief Justice Ranjan Gogoi said the Supreme Court had prepared a list of child rape cases in the past six months, from January to June 2019, and found that out of the 24,000 cases lodged in this period, only 900 had completed trial and disposed of. The bench has decided to take Suo motu cognisance of various reports of newspapers and portals on rising incidents of child rape. It appointed senior advocate V Giri as amicus curiae and asked him to assist it in framing guidelines on the kind of directions that can be issued to states on infrastructure and video-recording of the proceedings. It made clear that no third party except Giri and Solicitor General Tushar Mehta would be allowed to intervene in the matter.

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Jair Bolsonaro - Crimes against Humanity by Sharique Uddin

As the deforestation of the Brazilian Amazon hit the highest level since the current monitoring system began in 2015, a group of lawyers prepared to file a complaint against the president of Brazil, Jair Bolsonaro, for crimes against humanity and ecocide at the ICC.

Since Bolsonaro took office in January 2019, deforestation in the Amazon has increased significantly and widespread fires raged in the region in August. Ecocide is the criminal destruction of the environment and it includes causing loss, damage to or destruction of ecosystems.

The ICC widened its remit in 2016 to prioritise crimes that result in the "destruction of the environment", "exploitation of natural resources" and the "illegal dispossession" of land.

Judicial Magistrates Allowed to Compulsorily Direct Accused's to Record Voice Samples by Sri Hari Mangalam

The Supreme court in a landmark judgement on 2 nd August 2019, repealed the long- standing provision available with the criminally accused to deny the recording of any of their voice samples, despite valid investigative requirements. The apex court held that Judicial Magistrates are empowered to direct respondents facing criminal charges to record their voice samples with the respective investigative agencies to better facilitate their working. The move is a substantial shift from the earlier provision of deniability provided to the accused; a factor which no longer is available. In Ritesh Sinha v. State of Uttar Pradesh, 1 the court held that a compulsion to record voice samples does not infringe upon any of the individual's rights. The voice samples form a substantive part of various investigations, and the requirement to record and document such notes is a basic requirement for multiple investigative agencies.

Alternatively, the Code of Criminal Procedure, as pointed by then Chief Justice Ranjan Gogoi, does not hold any provisions which empowers the Judicial magistrates to direct the accused to co-operate and provide their voice samples. 2 There is no legal provision which makes it compulsory for the criminally charged to necessarily record his/ her voice. Nevertheless, the three-judge bench passed a differing rule, exercising the courts extraordinary constitutional powers under article 142 of the constitution. Justice Deepak Gupta and Anirudhha Bose, said that it was within the court's

powers to confer the right to judicial magistrates mandating the necessary recording of voice notes, and to compulsorily make the accused give a sample of their voice to enforcement agencies for easier investigations. The power was conferred to Judicial Magistrates via the apex's court's exercise of its extraordinary powers guaranteed by the constitution.

The court also held that necessarily mandating respondents to give samples in an ongoing criminal case does not infringe upon any of their rights. Moreover, a specific provision dealing with issues of the same will allow a reasonable application of legal provisions and also subscribe a particular extent to which the ambit of the existing laws can be held in-exploitative. There will be a certain extent to which now the principles of applications can be extended, a particular ruling dealing with the subject matter of voice samples will not only delegate newer powers to the magistrate but also situate a position of necessary control where the limits of these constitutional guarantees are defined. To deal with the particular aspect of the violation of the fundamental rights of privacy. The court held the right of privacy, as earlier denounced in the Aadhar ruling, is not a fundamental one and reasonable restrictions can be imposed on this provision of the constitution. The necessary recording of the accused voice samples to further probe agencies forms an important provision of both the executive as well as legislative tenets, and the fundamental right of privacy must bow down to such a provision of public interest.

Protection of Children from Sexual Offences (Amendment) Bill, 2019 passed by the Parliament by Apoorv Shukla

With an aim to provide more stringent punishments for child sex abuse, the Parliament passed Protection of Children from Sexual Offences (Amendment) Act, 2019. It is an amendment to the Protection of Children from Sexual Offences Act (POCSO), 2012. It furnishes the legal mechanism to safeguard children from the offences involving sexual harassment, sexual assault and pornography. The Bill got the clearance from the Upper House on July 24, 2019 and the Lower House passed it on August 1, 2019. The Bill increases the punishment for penetrative sexual assault from 7 years to 10 years. If the perpetrator commits the same offence on a child below 16 years of age then the offender will be sentenced to an imprisonment for 20 years to life with fine.

The Bill makes an addition of two more grounds to the definition of aggravated sexual assault. First one being, assault resulting in death of the child and the second one being the assault committed during any situation of violence or a natural calamity. It increases the minimum punishment for the offence from 10 years to 20 years and maximum punishment to death penalty.

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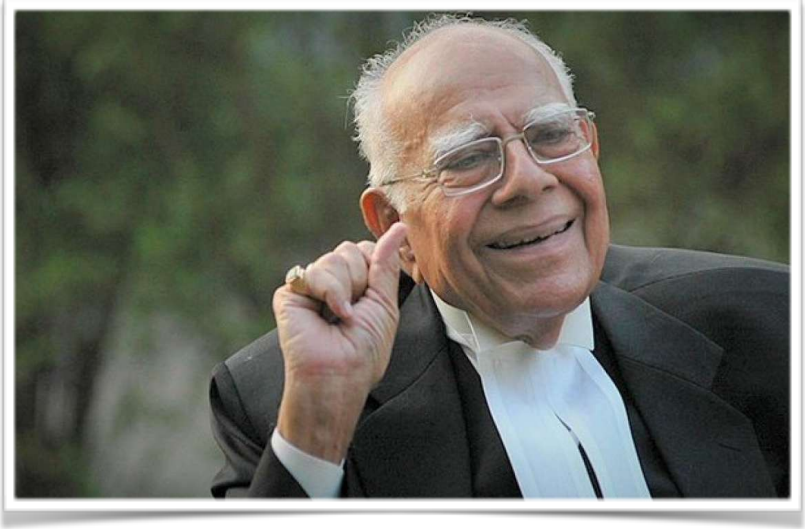
Jharkhand HC on Acid Attack - Akanksha Vashishta

Jharkhand High Court has ordered the state government to file an affidavit in compliance with the Supreme Court guidelines on how the heinous crime of acid-attack is treated in the state. The urgency of Jharkhand HC seems a result of another infamous acid attack case in the state Sonali Mukherjee v. Union of India.

Minor Detention in J&K - Akanksha Vashishta

The Jammu and Kashmir Public Safety Act, 1978 once again came into limelight when two minors aged 14 and 16 were detained under its provisions. A ruckus developed demanding the release of the minor detainees after the Central Government has scrapped Article 370. The demand was justified by citing the amendment to the Public Safety Act in 2012. Section 8 of the Act now mandates that it would be illegal to hold minors i.e. those below 18 under detention. In this regard, the relatives of the minors had filed a habeas corpus petition for their release. The Supreme Court of India has asked the J&K Juvenile Justice Committee to submit new reports pertaining the detention of minors in the Union Territory.



Virtuoso of Criminal Law, Jethmalani Passes away by Sri Hari Mangalam

Eminent Jurist and one of India's finest criminal lawyers, on September 8 2019 passed away after suffering from prolonged illness. He breathed his last on a Sunday morning, at his New Delhi residence after his health had shown significant deterioration over the past two weeks.

Mr. Jethmalani, born in the Sikhapaur of Sindh Province in September of 1923, and is remembered for his various criminal litigants and court proceedings. He fought many high-profile cases and emerged victorious in quite a few, at the Supreme Court, High Court and Lower courts. One of the most popular judgements, in which he played the prosecutor was K.M Nanavati v. State of Maharastra.

1. The ruling set the parameters for the fourth exception of section 300 of the Indian Penal Code-Grave and Sudden provocation.

2. He also fought the incredibly controversial Nalini v. State of Tamil Nadu;

3. The criminal litigation for conspiracy in Rajeev Gandhi's 2001 assassination, judged at the Madras High Court. He defended Harshad Mehta in the Securities scam of 1992 and represented Manu Sharma in the Jessica Lal murder case.

His most controversial representation has probably been of Afzal guru, for his defense against the life sentence granted to him by Indian courts; calling the judgement a result of media trials. Jethmalani served as the president of the Supreme Court Bar Association in 2010 and was elected as a Bharatiya Janata Party's Member of parliament for two successive stints in the Lokh Sabha. He had the Urban Development portfolio in Atal Bihari Vajpayee's prime minister ship. Mr. Jethmalini's demise is a huge loss to all of the legal fraternity and was extensively mourned by Indian practitioners. His death marks a great gap in the practice of criminal law and its related elements. The man was not only a very successful lawyer and but also an equally prominent and effective politician.

Case Judgment Priti Kumari vs State of Bihar: SC in a landmark verdict opines that wife can file a complaint under IPC Section 498-A even from her place of residence. Reiterates its earlier Judgment of Rupali vs State of UP by Prashasti Mishra

The Supreme Court of India in this case with the bench comprising of CJI Ranjan Gogoi, Justice Sanjay Kishan Kaul, and Justice L.Nageshwar Rao gave verdict related to the issue of Jurisdiction in cases under Section 498 A of the Indian Penal Code which is harmonious to the provision of the Hindu Marriage Act and Domestic Violence Act where the wife has the right to file case at the place of her residence during the time of petition.

In appeal by the petitioner the issue before the court was that whether in the case where cruelty has been committed against a woman in her matrimonial home in the hands of her husband or his relatives and she is forced to leave her matrimonial residence and take shelter in parental home located at a different place. Further there has been no overt act of cruelty or harassment committed by the husband at the residence of her parents where she had taken shelter. Will in such instances the court at the parental home of the woman have the jurisdiction to entertain the complaint submitted under Section 498A of IPC. For deciding the case the provisions of Section 177,178 and 179 of Code of Criminal Procedure 1973 (Cr.P.C) were required.

The Section 177 of Cr.P.C engrafts the ordinary rule that the court under whose local jurisdiction an offence is committed it will have the power and authority to ordinarily take up cognizance of the offence which is in question. The exception to this rule in enshrined in Section 178 which permits the courts of a different local area where the offence has been partly committed to take the cognizance of the matter. The said section also states that in case an offence which has been committed in one local area continues to be committed in another local area the court of the latter place shall be able to take up the matter to give its decision. Further under section 179 of the Cr.P.C. if by the reason of the consequence originating from a criminal act an offence is occasioned in any other jurisdiction, the court in other jurisdiction will also be competent to take cognizance of the matter. These two sections led to the conclusion that in case an offence is committed in one place and partly in another or if the offence in question is a continuing offence or where the consequence of criminal act result in an offence to be committed at any other place then the exceptions to the ordinary rule will be adopted and the courts will cease to have the exclusive jurisdiction to take up the trial of the said offence.

Another point that the court took into consideration was the question of continuing offence. The court observed from the case of State of Bihar v. Deokaran Nenshi that a continuing offence is one

that is susceptible of being continued and is different from the offence which is committed for once and for all. There exists an ingredient of continuance of offence which is committed every time a failure to obey a rule is made.

The court discussed about the ambits of cruelty under Section 498A IPC and stated that cruelty can be both physical and mental to the wife. The court held that the emotional or psychological distress caused to the wife by overt acts of her husband or his relatives; being driven away from the matrimonial home along with her inability to come back to the same residence because of the fear of being ill-treated at her matrimonial home have to be included within the domain of 498 A.The court also laid emphasis on the point that the even if physical cruelty which has been suffered by the wife in her matrimonial home ceases to have been committed on wife at her matrimonial home the mental trauma of the said act including verbal abuses by husband continue to sustain even at the parental home. These sufferings will be attributed to be consequences of the acts that have taken place at the matrimonial home. The court held that these consequences are ones which are contemplated to be part of Section 179 and thereby the courts taking account of the facts of the case in place where the wife has taken shelter after leaving or being driven away from her matrimonial home will also have the jurisdiction to entertain the complaints filed under Section 498A of IPC.

Divergent Dying Declaration by Akanksha Vashistha

The concept of dying declaration is inscribed in the Indian law in the form of Section 32(1) of the Indian Evidence Act. Any written or verbal declaration made by a person as to the cause of his death or any of the circumstances of that event which resulted in the death can be treated as a dying declaration. The very idea that a person is not in the capacity to lie while facing death makes this declaration an effective tool to incriminate the accused.

However, it is a possibility that the deceased person makes multiple dying declarations which have different effects on the case concerned. While one dying declaration may make the victim's contention stronger, the other one can make the accused's side gain more weight. Such a case recently came before the Supreme Court of India regarding which declaration to be considered in case of such multiple dying declarations. The case was named Jagbir Singh v. State [(2019) 8 SCC 779] where the accused, a CRPF personnel had allegedly murdered his wife by burning her alive. The deceased had given three dying declarations out of which the last one incriminated the accused but others did not. In this light, the Supreme Court has held that in case of such "divergent dying declarations" the Court need not consider the law but critically access the facts of the case. The Court need not go by the convention of incriminating the accused on the basis of only that declaration which ropes in the accused as a convict. If the circumstances point at the guilt of the accused, then the court can approve of the dying declaration of the victim that has weight against the accused.

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Germany charges two Syrian secret service officers with Crimes against Humanity - Sharique Uddin

German prosecutors have charged two alleged members of Syria's secret service with crimes against humanity that include torture, murder and multiple sexual assaults against opposition activists. It is alleged that the men were members of Syrias General Intelligence Directorate. Raslan, who according to German prosecutors led the branch's investigative team, is charged with the torture of at least 4,000 people during 2011-2012, resulting in 58 deaths.

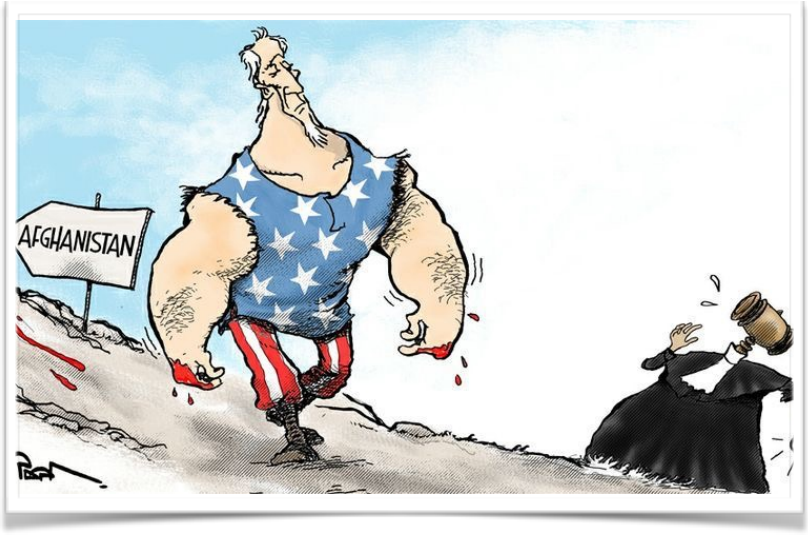
CIA backed Afghan forces accused of committing war crimes - Sharique Uddin

According to Human Rights Watch report published in October, Afghan strike forces backed by the CIA have committed abuses amounting to atrocities and possible war crimes. The report documents 14 cases in which CIA-backed Afghan strike forces committed serious abuses, between late 2017 and mid-2019, which HRW say are illustrative of a wider pattern of serious violations.

Case Analysis of Vinubhai Haribhai Malviya vs. State of Gujarat by Aanish Aggarwal

This case arises from the dispute between two parties regarding the ownership of a piece of agricultural land located near Surat, a city in the state of Gujarat. During the proceedings, the district magistrate, on appeal by the accused persons, ordered further investigation on account of the new facts that had come to light which would then incriminate the complainant. The investigation was ordered under Section 173(8) of the Code of Criminal Procedure,1973 (herewith referred to as CrPc). The matter then went on to the High Court which held that investigation ordered by the Magistrate post-cognizance was ultra-vires the CrPc and thus the appeal made by the accused was rejected. The matter then goes on to the Supreme Court which thus stands to decide whether the investigations ordered by the magistrate were intra-vires and permissible or the adduced evidence stands impermissible.

The Apex Court in its judgement quoted Article 21 and significant judgements made in the regard where the state is under obligation to provide fair and speedy trial to the parties. It then went on to say that the magistrate must use all the tools available to him to ensure that the trial remains fair. It then went on to explain that the magistrate may order further investigation under 173(8) and went on to interpret section 156 of the CrPc. It also overturned the decision



given by the Supreme Court in Devarapalli Lakshminarayana v. V. Narayana Reddy, 1 where the Court declared that a judge may not order any investigation under 156(3) post-cognizance stage since the word investigation read under 156 should be read in consonance with 2(h) of the CrPc. It said that the judge has got wide powers under 156(3) where he may order any investigation in the interest of the case under section 173. The order given out by the judge under 156(3) would not be contrary to any provision of CrPc and would rather be in the interest of the complainant and the accused in the long run. The Court also said that "the criticism that a further investigation sby the police would trench upon the proceeding before the Court is not of a great substance as the final discretion to do so lies with the magistrate." The Court also illustrated that the CrPc is a procedural document and thus must be construed as such that justice and legislative objectives are achieved by the Court. It also said that the power of the police to seek permission for further investigation under 173(8) would not be affected in any way by the current judgement.

The aforesaid judgement gives power to the parties to put forward their appeals in front of the magistrate in later stages of a trial. This allows the judges to rectify mistakes that could be made during the course of police investigation but also gives an option to the parties to unnecessarily delay the trial. The Supreme Court has relied on the word investigation in accordance with 2(h) of CrPc. The Apex Court did not say anything about the language of 156(3) which might point to the fact that the word investigation should have been construed in accordance with 156(1) in accordance with the principle of ejusdem generis. Ranbir Penal Code no longer operational after abrogation of Article 370 in Jammu and Kashmir:- In a historic development after the centre scrapped the special status granted to Jammu and Kashmir under Article 370 of the Constitution, the Ranbir Penal Code, the primary criminal legislation applicable in J&K ceased to operate. The Ranbir Penal Code, came into force during the reign of the Dogra dynasty in 1932, and was framed on the lines of the IPC. It got its name from Ranbir Singh, who was the ruler of the Dogra dynasty at the time. The erstwhile state of Jammu and Kashmir was bifurcated into two union territories, one called Ladakh and the other bearing its original name after the central govt passed the Jammu and Kashmir Re-organisation Bill in the parliament through a presidential order on August 6, 2019.It was on 31st October, 2019 when last case was registered under the RPC as the state got officially bifurcated from 1st November onwards. Interestingly just 3 days before speciastaus was abolished, the Supreme Court had stuck down Section 497 of the Ranbir Penal Code. This section just like its national counterpart dealt with adultery. With this change, whole of Indian Territory has now come under the operation of the Indian Penal Code.

Bosnian court jails ex-soldier for war crimes by Sharique Uddin

A Bosnian court has sentenced Radomir Susnjar, a former Serbian solider, to 20 years in prison for committing war crimes against Bosniak civilians during the Bosnian War. Susnjar along with his accomplices, Milan Lukic (who received life imprisonment) and Sredoje Lukic (who was sentenced to 27 years in prison) raided a house where Bosniak civilians were held prisoners, and set it on fire. A total of 57 people, including children, burned alive in the raided house. Susnjar was extradited to Bosnia and Herzegovina in June 2018 after he was arrested in France in 2014.

Saudi crown Prince MBS - crimes against humanity - Sharique Uddin

Two US attorneys have petitioned to the ICC for an investigation into Saudi Crown Prince Mohammed bin Salman for the alleged kidnapping, torture and assassination of journalist Jamal Khashoggi in October 2018, as well as for other crimes against humanity.The CIA concluded bin Salman ordered Khashoggi's assassination, and a UN report said Saudi Arabia was responsible for the "deliberate, premeditated execution", despite the Saudi government's denial of his involvement.

Hong Kong formally Scraps The Fugitive Offenders and Mutual Legal Assistance in Criminal Matters Legislation Bill 2019 - Sharique Uddin

The controversial extradition bill that sparked months of violent protests has formally been withdrawn. This follows one of the most violent days on 1 October 2019, when an 18 year old protester was shot and injured with a live bullet and the police made a total of 269 arrests. Hong Kong also released the murder suspect who sparked the protests after 18 months in prison.

Release of the NCRB report of 2017 by Akanksha Vashistha

On October 21, 2019 the National Crime Records Bureau released the crime report for the year 2017 after a great delay. While the officials blame delayed submission of their data to the Bureau, opposition parties had alleged the report to be against the central government and thus the delay in its release. Nonetheless, as the report has been published, it must be noted that there has been a 6% rise in crimes against women as compared to the cases in 2016. The category of "crimes against women" comprises all types of criminal wrongs committed against women ranging from cruelty by husband, rape to kidnapping and abduction. Meanwhile, Uttar Pradesh has once again ranked first in crimes against women, followed by Maharashtra.

The NCRB report has also presented us with newly added categories of Fake News under Section 505 of IPC and Crimes by Anti- National elements. A total of 1450 crimes have been committed under the latter. Further, the report tends to divide anti-national elements into various sub-heads including Terrorists, Naxalites/left wing insurgents and North East Insurgents. Most crimes, according to the report have been committed by the Naxalites followed by terrorists including maximum attacks on army personnel and civilians. In this regard. Manipur has witnessed maximum terror attacks followed by Jammu and Kashmir. Another category that was highly expected to get a column in the report pertained to the frequent instances of Mob Lynching and communal violence in the country in recent times. The moot questions regarding the data on such incidents not being published despite their data having been collected, still persists. The release of this data was expected to aid the government in formulating policies to curb the rising incidents of religious intolerance and other organised crimes. However, despite considering the reality of a rise in these crimes, the NCRB has stated that it lacks possession of any reliable data on these wrongs and has asserted that these categories would be prone to any misinterpretation. The Ministry of Home Affairs has justified the action by citing the same vagueness in the data and has stated that similar criminal wrongs have been mentioned in the report under the head of motives of murder that contains a sub head named communal/ religious.

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Match Fixing Criminalized in Sri Lanka - Deepanshu Agarwal

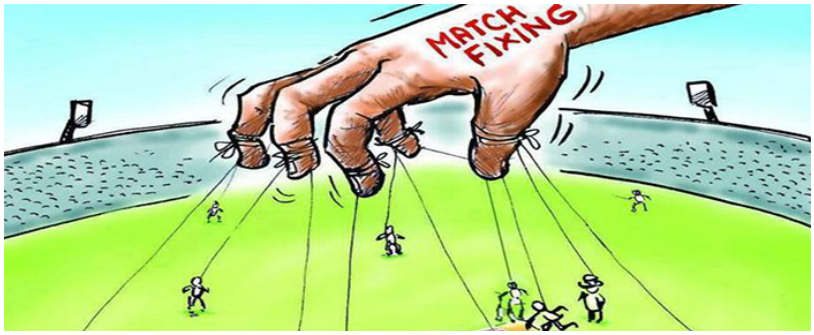
Sri Lanka has become the first South Asian nation to criminalise several offences related to match-fixing as its parliament passed all three readings of a bill labelled &Prevention of Offences Related to Sports;. If a person is found guilty of committing an offence related to corruption in sports, then he may find himself jailed for a term up to 10 years and he will also be required to pay various fines. The newest legislation covers all sports and it is believed that the recent investigation by Anti-Corruption Unit which resulted in former National Team Cricket captain Sanath Jayasuriya being charged prompted this bill to be drafted.

The bill also criminalises acts of omission which includes failure to report corrupt approaches. This means that Sri Lankan cricketers who are approached by corruptors now have to report these approaches not only to the ICCs ACU, but also to a Special Investigation Unit appointed by Sri Lanka's government.

Criminal Law amendments which are beneficial to the accused can be applied to earlier or pending cases by Samarth Sansar

The Supreme Court recently in "Trilok Chand v. State of Himachal Pradesh" Criminal Appeal No.1831 OF 2010 held that if an amendment in criminal law is in favour of the accused then it could be applied to both earlier and pending cases in order to grant relief to the accused. In the above mentioned case, the Appellant Trilok Chand was convicted and sentenced for three months along with fine of Rs. 5000 under Sec16 (1) (a) (i) read with Section 7 of the Prevention of the Food Adulteration Act, 1954.After dismissal of his revision petition, he filed an appeal before the Apex Court, where the only submission was that under Section 51 and 52 of the Food Safety and Standard (Amendment) Act 2006, the maximum penalty for sub-standard food and branding is fine only and not sentence.

The Court in this case referred to the judgment in T. Barai vs. Henry Ah Hoe and Another. [(1983) 1 SCC 177] where it was opined that the amendments are applicable to earlier cases where such amendment is in favour of the accused person and thus scrapped the order of sentence given to the appellant. The said judgment observed that it is only retroactive criminal legislation that is prohibited under Article 20(1) of the Constitution. Article 20(1) says that "no person shall be subjected to a penalty greater than that which might have been inflicted under the law in force at the time of commission of offence." It is clear from the assertion that insofar as the amendment act creates new offence or enhances punishment, neither a person can be convicted by such ex post facto law nor can the enhanced punishment will be applicable. In case where the



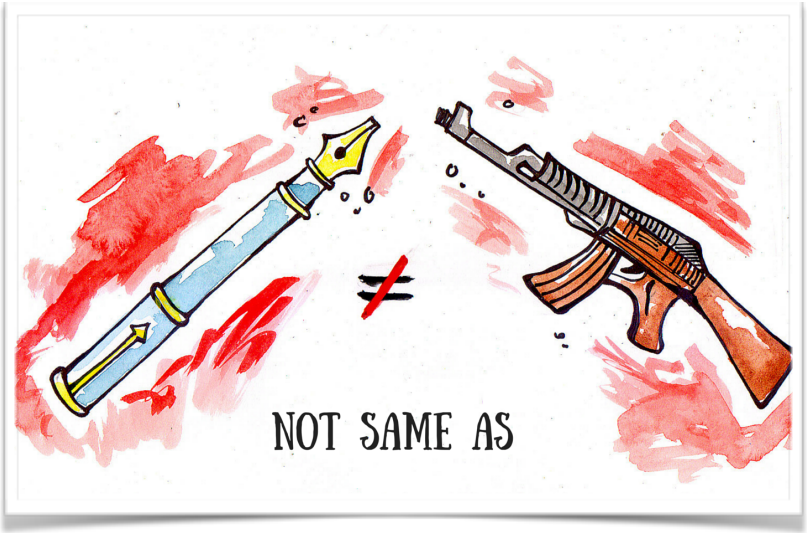
amendment reduces the punishment, there is no reason why an accused cannot avail the benefits of such reduced punishment.

It is based on the Principle of Beneficial Construction which requires that even ex post facto law of such a type should be applied to mitigate the rigour of the law. In an American case Calder v. Bull, Chase J. stated that, As a general rule, a law should have no retrospect, except in cases where the law is for the benefit of the community and also of individuals related to 'a time antecedent to the commencement of such as statutes' especially of oblivion or of forgiveness.

Criminal laws as a matter of principle have always been inclined towards the accused considering the implications. Further, while there is a shift towards reformative justice instead of retributive, the judgement and its application paves a way for the same. The judgement is a reiteration of the above said principle and it must be ensured that the benefit of this be extended to every class regardless of the capability to access justice.

Arms Amendment Act 2019: Stringent actions against handlers of Illegal Weapon by Shreya

Union Cabinet approved the amendment of the Arms Act, 1959 prohibiting individuals, with few exceptions, from possessing more than one gun, reducing from the existing leverage of 3. The Arms (Amendment) Act seeks to introduce four different categories of offences into the six-decade old Arms Act prescribing jail term of 10 years besides a fine where in specific cases like possession of weapons looted from armed forces or police, engagement in organized crime syndicate or illicit trafficking, rash and negligent use of firearms, the jail term can go up to life imprisonment. It also said that if anyone uses firearms for celebratory gunfire or in a rash and negligent manner, the person shall be punished with two-year imprisonment and a fine up to Rs.1 lakh. The Act ensues that if any person possesses more than one firearm at the commencement of the Arms (Amendment) Act, 2019 should retain one with him and shall deposit the remaining firearms with the officer in charge of the nearest police station within one year from such commencement. Also the Act made it clear that if anyone carries any prohibited arms or prohibited ammunition will be punished with imprisonment for a term which shall not be less than seven years. It might extend up to fourteen years.



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Anti Maritime Bill 2019- Apoorv Shukla

On December 9, 2019, the Anti-Maritime Piracy Bill, 2019 was introduced in the Lok Sabha. It was introduced by the Minister of External Affairs, Dr Subrahmanyam Jaishankar. The Bill aims at ensuring security and safety of India's maritime trade and the crew members. It provides for prevention of maritime piracy and prosecution of persons for such piracy related crimes. The Bill is framed in accordance with the UNCLOS (United Nations Convention on the Law of the Sea). It provides capital punishment to those involved in piracy at sea.The Bill will apply to all parts of the sea adjacent to and beyond the limits of the Exclusive Economic Zone of India.

Interoperable Criminal Justice System - Shreya

The Interoperable Criminal Justice System (ICJS) has been launched by Telangana High Court to facilitate speedy justice through data-exchange between the courts, police/ prosecution, jails and the forensic labs. It has been developed by National Innovation Foundation of India for the District Courts, prisons and police stations, namely Case Information System, e-Prisons and Kanoon Vyavastha, respectively.

The Parliament passes Prohibition of Electronics Cigarettes Bill by Apoorv Shukla

The Prohibition of Electronic Cigarettes (Production, Manufacture, Import, Export, Transport, Sale, Distribution, Storage, and Advertisement) Bill, 2019 was passed by the Parliament on December 3, 2019. The Bill was introduced by the Union Minister of Health and Family Welfare, Dr Harsh Vardhan.It seeks to prohibit production, storage, trade and advertisement of electronic cigarettes.

The Bill defines the electronic cigarette as an electronic device that heats a substance which may contain nicotine or other chemicals to create vapour for inhalation with different flavours. Anyone not abiding by the provisions of the Bill prohibiting various activities with relation to e-cigarettes will be punishable with a fine of up to Rs 1 lakh rupees, or imprisonment up to 1 year, or both. For any subsequent offence the person will be liable to be punished with an imprisonment up to 3 years, along with a fine of up to Rs 5 lakh rupees.The Bill prohibits the storage of e-cigarettes. The convict can be imprisoned up to a period of 6 months, or can be fined up to Rs 50,000 rupees, or both. After the enforcement of the Bill, the owners of the stock of the e-cigarettes would have to declare the same.

Disha Act: A New Justice Delivery Mechanism by Shreya

The Andhra Pradesh Legislative assembly has passed the Andhra Pradesh DISHA Bill, now known as Andhra Pradesh Criminal Law (Amendment) Act 2019. Disha is the name given to the veterinarian doctor who was raped and brutally put to death in Hyderabad and sparked outrage in the entire country. The act seeks to bring down the existing total judgment time of 4 months to 21 days and envisages the completion of investigation in 7 days and trial in 14 working days where there are adequate conclusive evidences. The Act constitutes the provision of death penalty in presence of conclusive evidences in cases of rape crimes, given by amending Section 376 of the Indian Penal Code (IPC) 1860.

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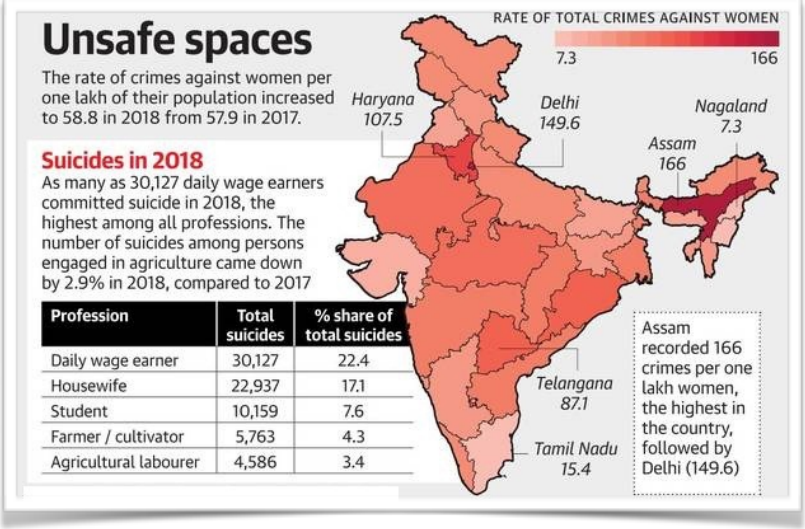
Rape and Murder Tops Death Penalty - Project 39 - Praneeta Tiwari

According to NLU-Delhi's Project 39 report, the highest number of death sentences were awarded to the perpetrators of sexual assault namely the crime of 'Rape and Murder'. Moreover, the report also mentions that the highest number of conviction in the span of 4 years was in 2019.

Cyber Ashwasth - Shreya

The country's first cyber-crime prevention unit was launched by the Home Minister Amit Shah in Gandhinagar, Gujarat along with video Integration and State Wide Advance Security Project called "VISWAS". The Cyber AASHVAST is a unit that has been generated for the solidification of preventive measures against the burgeoning cyber-crimes with the help of VISWAS. It will monitor, prevent and control cyber-crimes in the state.There will also be an online portal exclusively owned by AASWAST with dedicated service helpline for victims of cyber-crime. Along with these two units, project NETRANG was also launched under which command rooms will be established in 33 districts. Gujarat.



NCRB publishes Crime in India Report 2018 by Samarth Sansar and Vishal Chowdhury

The National Crime Records Bureau (NCRB) published the annual crime in India report 2018 in January. However, the published data was provisional as some states such as West Bengal, Assam, Arunanchal Pradesh, Sikkim etc. did not submit their clarifications sought by NCRB despite reminders. The report comes with a two-year delay, similar to the 2017 report which was published in October last year.

In 2018, the report states that an average of 80 murders, 289 kidnappings and 91 rapes were reported from across the country each day. Crime increased by 1.8% from 2017. About 50.74 lakh crimes were recorded in 2018, an increase from 2017. But crime per lakh population witnessed a decline from 388 in 2017 to 383 in 2018. The NCRB report further states that a total of 1.05 lakh cases of kidnapping and abduction were reported in the country in 2018, a 10 per cent increase from 95,893 in 2017. The number of murder cases reported across India that year also witnessed a 1.3 per cent increase in 2018 with 29,017 cases of murder.

According to the report, there was significant rise in crimes against women as compared to the previous year. The list was topped by Uttar Pradesh followed by Maharashtra and

West Bengal. Cruelty by husband or relatives (31.9%) and assault to outrage the modest (27.6%) were the major constituents of crime against women. Further, while the rate of charge sheet in rape- related cases stood at 85%, conviction rate even after slight increase stood at 27.3%. On average, one woman reported a rape every 15 minutes. About 34,000 rapes were reported in 2018.

As per the report out of 1, 34,516 number of suicide cases in 2018, 22.4% victims were daily wage earners, while 7.7% from people working in farm sector. Further, instances of crime against SC's and ST's declined in 2018 as compared to 2017. The report further pointed increase in murder crimes as well as incidents of rioting. One of major concerns among all was significant increase in cybercrimes which has remained a consistent threat in the digital era.

In suicide cases, what is interesting to note is that more self-employed persons killed themselves on average each day (36) than unemployed (35). Unemployed persons (12,936) were slightly lesser than self-employed (13,149) who took their own lives, while both categories outnumbered the suicide figures of those working in the farming sector — 10,349 — in 2018. Out of female victims, housewives recorded more than half of total suicides and 17% overall.

It is desirable that the delay in publication of these reports be taken into consideration and prompt attempt towards timely publication is ensured.

Conviction Cannot Be Solely Based On The Evidence Of Hand-Writing Expert: SC by Rupanwita De

In the case of Padum Kumar v State of UP, the Hon'ble Supreme Court of India held that a person cannot be convicted solely based on the evidence of a handwriting expert. The appellant was working as a postman and supposedly delivered a registered envelope containing cash to the complainant but the letter did not reach the complainant. On complaining it was found that someone named after the son of the complainant had already received the envelope. A case was registered under S.420, 467,468 of the IPC. The investigating officer sent the disputed sign in the delivery slip along with the son of the complainant to the forensic lab. The handwriting expert opined that the sign on the delivery slip was different from that of the son and was not made by the son of the complainant. The investigation further revealed that the appellant had forged the signature and charges were filed against him under sections 420, 467 and 468. He was awarded an imprisonment of four years.

The court ordered that it is wrong to convict a person solely on the evidence of a handwriting expert without any substantial corroboration. It also referred to the case of Murari Lal v State of Madhya Pradesh which held that human opinion may be fallible and that even an expert may go wrong because of some observational defect. The Hon'ble court finally laid down that there is no hard and fast rule to implement an expert's opinion and that it may be rejected based on non-

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corroboration with direct and circumstantial evidence.

The KLE Sedition case by Praneeta Tiwari

The Karnataka Sedition case or alternatively the KLE sedition case brought about pages upon pages of discussions regarding the extent and validity of sedition in India, to light. 3 engineering students hailing from Jammu and Kashmir recorded a Pro- Pakistani video in their hostel room to mark a year of the Pulwama attack. The song contained the words “Pakistan Zindabad”.Subsequently, all of the three students were booked for sedition and promoting enmity under Section 124(A), 153(A & B) of the Indian Penal Code. They were arrested and kept under Judicial remand for three days after which they were released under Section 169 of Cr.P.C (Lack of Evidence).However, due to severe protests staged upon their release followed by several notices for re-arrest, the police authorities re-arrested the students. They were produced in front of the Karnataka High Court , their Phones and laptops were confiscated and sent to the Forensic Science Laboratory. Moreover, Hubballi Bar Association passed a resolution to refrain from providing the students with legal aid. Upon the courts interference the accused were given legal representation and the trail began. The court observed that “safety and security of this Country gets priority over all” and thus rejected their bail application. It also noted that ““must allow the investigation agency to do its job without anybody’s intervention” and thus, pronounced a sentence till the investigative services pronounced their verdict. In the legal fraternity, this case sparked a debate, for it was the denial of legal representation, bail and hearing as opposed to the issue of national security and the extent of sedition as a law in India.The debate continues to rage on.

SC on Sec.482 CrPC: Use of inherent powers by HCs relying on Statements under Sec.161 CrPC Statements is not justified by Shreya

SC in its judgment in “Rajeev Kourav v. Baisahab & Ors.”, held that statements recorded before Police in terms of S. 161 CrPC, which is Examination of witnesses by police, cannot be made the basis to quash criminal proceeding. The Appellants alleged that the wife of Respondent committed suicide along with her two minor children due the harassment of her by Respondent. After the completion of investigations, the Respondents filed a petition before the High Court under S. 482 CrPC for quashing of criminal proceedings. The High Court held that there was no record to show that the cause of the suicide was the harassment by Respondent. The High Court, placing reliance on statements made under S. 1621 CrPC, made a case of criminal intimidation and quashed the criminal proceedings against the Respondents.The Supreme Court, after allowing appeal, held that the statements recorded in terms of S. 161 were wholly inadmissible evidence. The Court also noted that if a prima facie case is made by disclosing the ingredients of alleged offence, then criminal proceeding cannot be quashed by the High Courts as in a petition under S. 482 CrPC, the appreciation of evidence is a matter of exceptional circumstances.

March | 2020 | Criminal Law

Convicts of the Nirbhaya Case Hanged - Apoorv Shukla

All the four convicts who had committed the gang rape and murder of a 23-year old medical student on December 16, 2012 were hanged to death on March 20, 2020. The bodies of all the four convicts were brought down to the gallows after 30 minutes of hanging. The medical officers confirmed their death after the bodies of the convicts were being brought down.

Prisoners and Right to vote - Rupanwita De.

In Praveen Kumar Chaudhary &Ors. v Election Commissioner of India and Ors., the Delhi High Court reaffirmed the constitutional validity of S.62(5) of the Representation of People Act, 1951, which disqualifies prisoners from voting in an election. The Section states - "No person shall vote at any election if he is confined in a prison, whether under a sentence of imprisonment or transportation or otherwise, or is in the lawful custody of the police:" The Delhi High Court reinstated that Right to Vote is neither a fundamental nor a constitutional right but is instead conferred by a statute. The court thereby dismissed the writ petition.

Draft "Criminal Rules of Practice" Submitted before Supreme Court by Samarth Sansar

Supreme Court while hearing the case "In re to Issue Certain Guidelines Regarding Inadequacies and Deficiencies in Criminal Trial v. State of Andhra Pradesh & Ors.", noted that throughout the country, certain inadequacies are there in the procedure followed during criminal trial. Vide an order dated 03/03/2017, the Supreme Court, through the bench of Justice Nageshwar Rao and Justice Bobde, issued a notice to all the state governments and their respective High Courts as to whether a consensus could be arrived at in order to amend the criminal rules of practice/criminal manuals to bring about uniformity of practice. By an order dated 07/11/2017, the Supreme Court appointed, Shri. R. Basant, Shri Sidharth Luthra And Shri K Parameshwar, as amici curiae to assist the court. The state governments and the High Courts were then asked to submit their response to the amici curiae by another order dated 20/02/2018.A consultation paper was prepared by the amici curiae based on the response of 21 High Courts and 15 states/union territories, which also contained the draft rules, which was circulated to all the parties and stakeholders and a final written feedback was invited from them. Thereafter, on 30 March, 2020, a colloquium was convened at international centre which was attended by the parties concerned. After taking into account the feedbacks and suggestions, on 07 March, 2020, a Draft Rules of Criminal Practice, 2020 were submitted to Supreme Court for consideration.

April | 2020 | Criminal Law

Impunity from prosecution if employers leave child labourers voluntarily? - Deepanshu Agarwal

Indian activist and Nobel Peace prize laureate Kailash Satyarthi in an extraordinary move urged Prime Minister Narendra Modi to give three months.; impunity from prosecution or other punitive action to all employers of child labourers if they voluntarily release children confined inside factories and other workplaces during the period of the nation-wide lockdown due to COVID-19.

Domestic Violence during lockdown - Praneeta Tiwari

There has been a spike in domestic violence cases ,especially since the lockdown, as a matter of criminal legislation. In order to do away with this ineffectiveness and the lacunae the pandemic renders, the Karnataka High Court, having taken cognisance of the matter, has directed the state government to come up with a pandemic- friendly and viable situation to solve the matter and punish the perpetrators.

Spitting, An Offence - Apoorv Shukla

The Ministry of Home Affairs has made the act of spitting in public an offence under Section 51 of the National Disaster Management Act. The refusal to abide by the order shall lead to imprisonment of one year.

A Win for Women's Rights Movements by Vatsala Parashar

In a landmark victory for women in Sudan and womens' rights movement worldwide, the Sudanese government has outlawed the archaic practice of Female Gential Mutilation ("FGM"). FGM comprises of any and all procedures involving the removal of external female genitalia in parts or whole, for non medical purpose.It can lead to infertility, infection,excessive bleeding, swelling and inflammation in the genital area, infection, urinary problems and sometimes even death. The ritual, practised mainly by some sects in Islam, Judaism and Christianity, more often than not, involves the cutting of the clitoris(clitoridectomy). However, it comes in varying forms, viz, excision, which is the partial or total removal of the clitoris and labia minora; infibulation, which is the narrowing of the vaginal orifice with a covering seal formed by cutting and displacing the labia minora or labia majora. Contrary to popular belief, FGM is not a religious practise.It has no founding in the religious texts of the communities which practise it. The principle objective behind the inhumane practice of FGM is to control the sexuality of girls and women. Sexual desires entertained by girls are seen as something which need to be nipped in the bud for they might bring shame to the family. This reinforces the notions of gender inequality which are deeply entrenched in societies. Women and girls are robbed of their bodily autonomy and an opportunity to make an informed decision regarding their bodies by instilling fear

MHA speculates amendments in IPC, IEA and CrPC- Mehul Jain

The Justice Delivery System of India has been extremely slow owing to several provisions in IPC, IEA and CrPC. It has therefore led to several suggestions in order to absolve the lacunae in the system. Suggestions include that those accused of causing heinous crimes on women should be stripped off their right to file appeals and adoption of some features of inquisitorial system to increase convictions.

Attack on Doctors - Apoorv Shukla

The Central government has passed an ordinance making attacks on doctors and health care workers punishable up to 7 years. The ordinance declares such attack a non-bailable and cognisable

in them, perpetuated by myths related to FGM. One of the myths being that uncontrolled growth of clitoris will lead to it growing to the size of a penis. The procedure is not only painful and performed without administering anaesthesia, it also leads to feeling fear, anxiety, shame, anger, depression, low-self-esteem. It undoubtedly affects the social and psychological development of females.While the criminalisation of FGM in Sudan is being hailed as a major victory for womens' rights, there are many countries in the world (atleast 27 in Africa alone) where it is practised, including India. The need of the hour is to legislate a law criminalising FGM in India. In India, it is mainly practiced by the Bohra community. While complaints can be made under IPC, POCSO and other acts, there is no specific law which recognises the existence of FGM in India and as a result of it, criminalises it. This dismissive attitude impedes the society's movement to move away from the clutches of patriarchal practices.

Sarfoora by Pratyush Jena and Vishal Choudhury

The arrest of the student activist Safoora Zargar has created a stir in the media. This has been exacerbated by the fact that Safoora is pregnant. She was arrested by the special cell of the Delhi Police for alleged connections with the Anti-CAA Delhi riots. The police believe that she was a part of a much larger conspiracy to disturb peace in North-East Delhi, and also has links to the much dreaded PFI. She has been charged with the Unlawful Activities Prevention Act, which makes it nearly impossible for her to get bail. The relevant sections are 13, 16, 17 and 18. These sections pertain to the offences of 'unlawful activity', the commission of a terrorist act, collecting funds for a terrorist act and conspiracy for committing a terrorist act. Some of these charges can lead to life imprisonment if proven to be true.CrPC Section 438, pertaining to anticipatory bail, cannot play a role in her case due to Section 43(4) of the UAPA, which specifically prohibits the same. According to Section 43 D (5) of the UAPA, a person arrested under the UAPA can get bail if the public prosecutor makes such a case. But even then, if there are reasonable grounds for believing that the charges against her are true, then the magistrate has the power to deny the bail. This provision is in consonance with Section 437 of the CrPC, which states that a person accused of any offence for which life imprisonment is the stipulated punishment cannot get bail if there is a reasonable possibility that the charges are true. But it also states that the court may grant the person bail if he/she is a woman, an infirm or a child under the age of 16 years.The prosecutor can make the argument that Safoora is a pregnant woman, and this might lead to her release on bail pursuant to Section 437 of the CrPC. But the pre-condition that the charges must not be reasonable true has to be fulfilled first.Recently, the Supreme Court amended its ruled to allow single judges to hear SLPs on bail orders where maximum punishment is seven years. Quite evidently, the amendment will not aide Safoora, who has been charged with the UAPA.

Policy Response: Surge in Cases of Racially Motivated Assaults and Hate Crimes During COVID'19 by Kashmita Mewal

The communal virus enshrouding COVID has exposed the ugliness of racism and xenophobia in the world. The use of racial rhetoric and allegations that target specific ethnic groups has significantly impacted the Asian communities. President Donald Trump quite unsuitably used the term "China virus" in his speech, similarly Secretary of State Mike Pompeo chose to describe the health crisis as "Wuhan virus". Brazil's education minister derided Chinese nationals in a tweet suggesting that the Chinese government implanted the pandemic to execute their plan of dominating the world. The use of such identity based labels has perpetrated communal violence in many parts of the world, media accounts of verbal and physical abuse including racial slurs and violent bullying has been reported by human rights groups in Italy, France, Russia, Australia, and the US. In the UK, people of Asian descent have been physically assaulted and ridiculed, accused for spreading the virus. Recently, some Chinese students were brutally beaten up in Australia and were told to go back to their country. In Spain, two men attacked a Chinese person with such ferocity that he was in a coma for 2 days. The growing incidents of such assaults raise the fear that the post corona world might witness emergence and development of more anti-Asian movements or worse, a global remigration program.There are also occurrences of racial crime within the Asian continent, the Malaysian government started detaining migrant workers and Rohingya refugees during the lockdown in May, impliedly holding them responsible for spreading coronavirus. The communal virus has surfaced the deep rooted notions of Islamophobia in India and Sri Lanka, where cases of racial attacks against the Muslim community have been overtly ignored by the political figureheads. The Mongoloid looking people in India were constantly targeted during the pandemic, they were spat on and called "coronavirus", made to leave public places and even faced eviction threats because of their looks.

The Ministry of Home Affairs issued an advisory to all states to act against these cases. However, the recommendations were insufficient as there are no law against racism or ethnic discrimination in the country.The Chinese government forcibly conducted tests in Guangdong province in the southern city of Guangzhou, which is home to the largest African community. They were quarantined in separate buildings but soon the landlords began evicting the African residents from their settings as a result many of members of the African group were impelled to seek refuge on streets and subways.The present situation has carved out a demand for separate laws on racism and xenophobia along with effective implementation of the existing remedies. The escalation in the number of cases of discrimination has highlighted the importance of differentiating between "extreme speech" and "hate speech". Both the forms of speech are capable of causing serious social damage to the society, but the former can be termed as more dangerous as it is vitriolic in its true sense and yet resists the label of "hate speech". And consequently, it becomes a part of the accepted speech, hence the offender remains unpunished. It can be conclusively said that any form of expression which intends to reflector is so designed that it fosters discriminatory sentiment should be encompassed within the definition of racism. The practice can lead to a domino effect on the entire population. Efficiency of the public health system largely depends on the public order in the state which in turn demands a healthy social system. Epidemic response requires planned utilisation of scarce resources which inordinately burdens the economic and social structure of the country. The power to withstand this stress comes from wide-ranging cooperation from the denizens and discriminatory practices break this chain of agreement.Thus, when it comes to longstanding policy implementation, inclusivity becomes a matter of paramount concern.

May | 2020 | Criminal Law

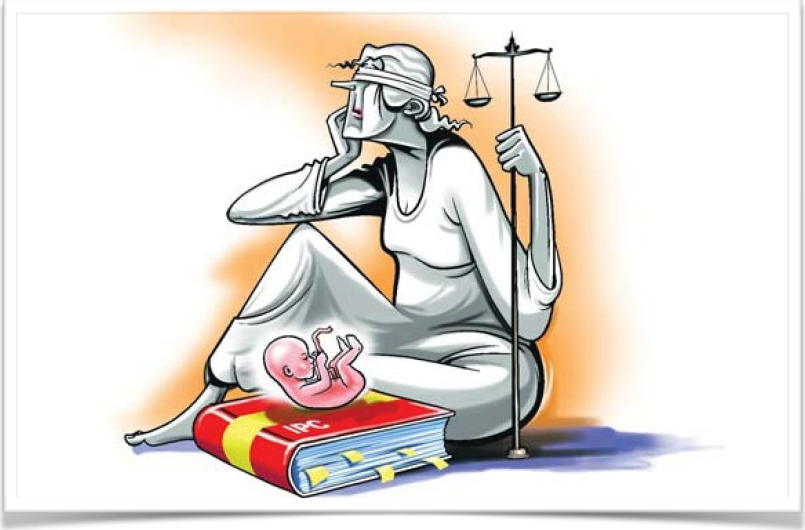
Criminal Reforms Committee Constituted - Samarth Sansar

The Union Ministry of Home Affairs recently constituted as 5-member committee to recommend Criminal Law Reforms in India. The committee will be headed by Vice Chancellor of National Law University, Delhi Prof. (Dr) Ranbir Singh.

Death Penalty sentencing in High Courts - Samarth Sansar

Project 39A, an initiative under the aegis of National Law University, Delhi which seeks to promote equal justice and equal opportunities released a report recently which shows huge inconsistencies in death penalty sentencing by the lower courts. The report while analysing 215 judgement from Delhi, Madhya Pradesh and Maharashtra demonstrated procedural gaps in death penalty sentencing due to numerous inconsistencies in Supreme Court judgements itself.

The reports points towards a serious problem in dispensation of justice due to confusion created by multiple Supreme Court judgements. Hence, it is highly required that the report be taken into account and relevant action in this regard be taken.



Reform in Abortion Laws: India has come a long way, a long way to go by Navya Bhayana

Through the course of legalising abortion with The Medical Termination of Pregnancy Act, 1971 to reforming regressive laws with the recent Medical Termination of Pregnancy (Amendment) Bill 2020, reproductive autonomy rights have seen stark changes in this country. Though the 2020 Bill serves as an essential development towards safe abortions while guaranteeing privacy and dignity to women, the extent to which it walks away from the restrictive societal perception stands to be determined.

The provisions of the Bill direct at making abortions accessible in response to the constant refusal of the courts to allow abortion for minor rape survivors, women having severe foetus abnormalities and other victims. The proposed Bill seeks to achieve its objectives by extending the gestation period from the present 12 weeks as provided under Section 3 of the MTPA to a 20-week limit upon affirmation by a registered medical practitioner. The provision further extends the limit to 24 weeks for the category of vulnerable women which cover the purview of differently-abled women and sexual assault survivors. Though this might appear as a major reform for victims of sexual abuse, it pervades deeper into the system to create an unnecessary distinction where medicine allows the safe termination of pregnancy within such a time frame.There is also a lack of provisions mentioning the safe methods of

Assault Style Weapons banned in Canada - Vatsala Parashar

The Trudeau government, through a cabinet order, banned military style assault weapons with immediate effect. This would lead to an immediate ban in selling, buying, transporting or importing 1,500 varieties of military style assault weapons. Trudeau, by doing so, fulfilled his promise of introducing measures for gun control. While there is no parliament approved legislation on this matter, the same would be approved after the parliament convenes post the pandemic. The current Firearms regulations do not define what would come under the ambit of military style assault weapons but one could proceed on the assumption that the same would be introduced post the pandemic.

The swift action of the Trudeau government after the deaths of 22 people in a mass shooting in Nova Scotia, is in stark contrast to that of the US, which in spite of multiple mass shootings, refuses to reinforce the now lapsed gun control measures.

People who already are owners of weapons which would fall in this category would be given a two year amnesty period. They would then be allowed to either sell back or keep the weapons through a grandfathering process.

proceeding with abortions which are considered as recommended methods by the World Health Organisation and other reliable health administrations. Though there should be a considerable discretion provided to the medical professionals carrying out the process according to the proper analysis on a case-to-case basis, such mention in the Bill could make abortions safer, hence more accessible.

Furthermore, the Bill institutionalises the violations of rights of the LGBTQIA+ community by disregarding transpersons and intersex people, thereby perpetuating the patriarchy presented and preserved by MTPA. This comes in direct contravention to the rights guaranteed by the apex court under its landmark judgement NALSA v. Union of India, thereby, forming a major shortcoming of the Bill. The Amendment Bill further provides the specification for the protection of privacy of the woman who chooses to terminate her pregnancy. The provision of not revealing the identity of the woman in question could help safeguard women's interests by providing a shield from social stigma and other pressure that women continue to face in society. However, the limitation of this specification comes when the practitioner is mandated to reveal the identity to a person authorised by law. The Bill fails to provide for any further clarifications as to the necessary circumstances under which the particulars would be disclosed, henceforth, leaving the clause open for misuse.

Despite its setbacks, the Bill upholds the rights to maintain bodily integrity, reproductive and sexual autonomy while guarding privacy as guaranteed under the Puttaswamy judgement. It permits the termination of pregnancy caused due to failure of contraception devices while including live-in and other sexual relationships in the ambit. This marks a major leap towards a progressive law as it recognises the legality granted to live-in relations under S. Khushboo v. Kanniammal, in contrast to the MTPA which does not govern abortion arising out of such failure outside matrimony. The Amendment Bill further proposes to eliminate the provision that puts a limit on the gestation period in cases of being diagnosed with substantial foetal abnormalities by a specifically constituted Medical Board. This takes into account the demanding nature of pregnancy and further allows such necessary termination in later stages.Additionally, the Medical Board constituted to diagnose such cases comprises a set of qualified practitioners requisite for the process, the composition of which has been mandated for every state in the country. The 2020 Amendment Bill has been framed with an intention of furtherance of

Sudan bans Female Genital Mutilation- Sushant Gajula

The Saleema Initiative, launched in 2008 by the National Council of Child Welfare and UNICEF Sudan, banned Female Genital Mutilation ('FGM') on May 1st , 2020. Sudan accounted for the highest number of FGM cases in the world. It practices FGM on 95 percent of its female populace.The United Nations had passed a resolution on 20th December, 2012 to ban Female Genital Mutilation which was passed with a 2/3 rd majority with agreement of all nations of UN in this regard.

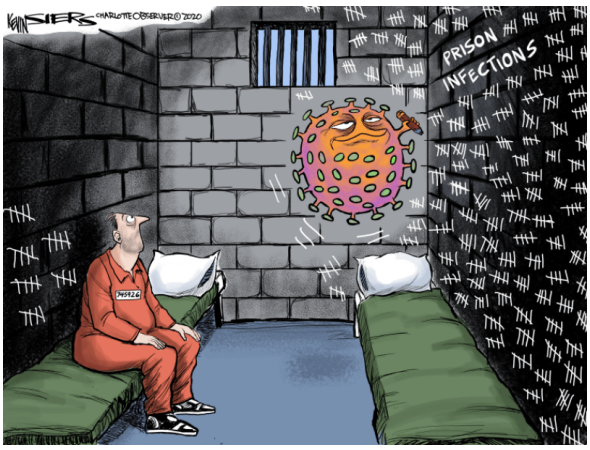
This resolution actively suggested nations to formulate laws to ban FGMs on their soil.Today in the 21st century, people are becoming aware of their rights and have in the process, started respecting each other's rights. It is very important, then, for the world to eliminate those practices which deprive people from enjoying their human rights. Several movements have recognised that certain cruelties which women are subjected to constitute various manipulations of a woman's sexuality. This manipulation of sexuality is a means of denying women social rights and privileges in a patriarchal social setting.This Step is thus largely positive with respect to not only women rights but also human rights as a construct and a a reality.

abortion laws in the country, however, comes disguised with societal shortcomings that perpetuate the stigmatisation accompanying the subject. While the provisions extend the gestation period for termination of pregnancy, the Bill reflects abortion to be an exemption that is granted by the conditions set by the State, instead of regarding them as inherent reproductive rights. However, the replacement of the restrictive MTPA would imply a rightful abortion for women in the country with considerably fewer barriers, henceforth providing access to safer abortions.The Amendment Bill has been progressive and reformative in its own ways, and with the rights granted today in the country we have come a long way, but there is a long way to go.

The doctrine of Strict Liability Evoked: The Vizag Gas Leak by Simran Upadhyaya

A tragic gas leak from a chemical plant situated in the outskirts of Vishakhapatnam, Andhra Pradesh on the 8th of May took away 12 lives and affected over 2000 people from the nearby villages. The management of the chemical plant, LG Polymers India were booked under Section 304 of the Indian Penal Code (Culpable Homicide not amounting to murder), Section 337 (causing hurt by act endangering life and personal safety of others) and 338 (causing grievous hurt) by the local police.Later that day, the National Green Tribunal took suo moto cognizance of the accident to look into the issue at hand. The Tribunal ordered LG polymers to deposit 50 crores to the Vizag District Magistrate due to its damage to life, public health and environment. Furthermore, the Tribunal's order stated that the present scenarios called for the application of principles of strict liability.\The Doctrine of Strict Liability finds its application both in civil and criminal law. The doctrine originated in the famous case of Rylands v Fletcher, where the House of Lords laid down that if a person brings something onto his land, then he is prima facie liable for all the damages which is the natural consequences of its escape from the land. Similarly, the Tribunal in this case, applied the doctrine of Strict Liability as styrene gas containers overheated and escaped from the factory LG Polymers endangering human life and environment.

Increasing cases of Corona Virus outbreaks in India's prisons exposes a faulty prison administration and Criminal Justice System along with the looming threat of an unforeseen Human Rights Crisis by Sushovan Patnaik



On May 7, 2020, Arthur Road Jail in Mumbai became a testimony to not only a mostly failing healthcare system but also a terrifyingly inept criminal justice administration system in the country. Of 270 tested for the novel coronavirus, 77 inmates and 26 prison officials tested positive, contributing 103 new cases to a state already marred by the worst infection statistics in the country. This was not the first case of the virus infecting people within India's prison structures. In April, 19 inmates and guards at Indore's Central Jail had tested positive as well. The Arthur Road Jail incident however provides unmatched numbers and exposes several long-standing and oft ignored issues with respect to prison administration in the country.Overcrowding and lack of basic healthcare facilities in prisons is a global issue in the context of underdeveloped nations. In Argentina, for example, prisoners and citizens alike have held organised protests demanding temporary release of non-violent prisoners and have complained of insufficient water supply, making it difficult to maintain hygiene standards for the prevention of the virus as recommended by WHO. However different nations have taken commendable steps to contain the outbreak of COVID-19 within prisons. The United States, Iran, Afghanistan and Turkey have acted progressively towards the early release of a certain class of prisoners.

In India, the way the entire question relating to prisoner's safety in times of the pandemic has been dealt with exposes not only a dearth of smart criminal justice policymaking but also a growing authoritarian hold of the present government regime. In a suo motu writ petition presented before the Coram of Hon'ble Chief Justice S.A Bobde and Hon'ble Mr. Justice L Nageswara Rao in the early days of the pandemic, it was stated that as per NCRB, occupancy rate in Indian prisons stood at 117% with the rates standing at 176.5% in Uttar Pradesh and 157.3% in Sikkim, which is some of the highest numbers in the world. It also noted that large scale inward and outward movement of people in prisons magnifies the threat of contagion. According to the Human Rights Watch, most Indian prisons have poor sanitation facilities. 70% of India's prison population is just under-trial prisoners.

Following the petition, a high-powered committee set up under the SC's order that met on March 24 recommended the release of "under trial prisoners who have been booked/charged for such offences for which maximum punishment is 7 years or less". It gave the power to respective state governments to decide on the class of prisoners who may be granted bail and only provided the above criteria as a favourable consideration. However, most states have implemented the recommendation blindly with little novel input.The problem with dealing with the Supreme Court recommendation as a be-all-end-all policy is that it doesn't really address the issue at its core. Theoretically, it would help contain infection rates by reducing overcrowding but simultaneously,

since it does not differentiate between a 'vulnerable' and 'non-vulnerable' class of prisoners, it does not provide promise of containing coronavirus related deaths within prisons.As Shivkrit Rai and Nipun Arora rightly explain in The Caravan, "a 70-year-old prisoner under trial for forgery who is highly vulnerable to the infectious disease would not be eligible for interim bail, while a 25-year-old under trial for theft would be". Moreover, the policy of granting bail to less serious offenders has proved to be practically unsound as was noticed in Maharashtra's context, where compared to 11,000 promised emergency bails or paroles, only 7000 had been granted bail over the course of a month and a half, which constitutes a very long duration for the implementation of emergency measures during a pandemic.

Internationally, temporary release of vulnerable prisoners has been given greater attention. The Turkish Parliament for example has taken up the responsibility of early release of women prisoners with children under the age of six, elderly prisoners and sick prisoners. Michelle Bachelet had called for an international coordination for the release of vulnerable prisoners in state prisons as well as a loosened leasehold over political prisoners.The issue of vulnerable prisoners and political prisoners, it should be understood, is deeply entangled. A majority of under-trail political prisoners are in for alleged offences that are non-bailable which means that according to the nationally followed policy, they would be ineligible to avail interim bail, but a number of these political prisoners are especially vulnerable to the disease.In late April, activists Anand Teltumbde and Gautam Navlekha surrendered to charges under the Unlawful Activities (Prevention) Act. The men are aged 70 and 67 years respectively. Poet and activist Varavara Rao, 80, was also denied bail. During the time this article is being written, an online campaign continues to flare for the release of JMI student activist Safoora Zargar, arrested for her political mobilisation during the anti-CAA protests, taken in during the third trimester of her pregnancy. It has been alleged by her lawyer that Zargar has been kept in solitary confinement in the name of quarantining and is not being sufficiently nutritiously provided for keeping in mind her health requirements. A number of activists such as the ones mentioned fall under the excessively vulnerable category.

A number of state committees have recommended that cases under the ED or the NIA or the UAPA should not be considered in these times considering the popularly understood political motivations behind such investigations. While the Supreme Court has failed in proposing a policy to protect those prisoners who truly require protection, the lax prison administration structures within the country have worsened the situation by an utter inability to provide sufficient bails. Additionally, the increasing clampdown over political prisoners in the country in the post-lockdown period aside from exposing a growing menace of authoritarian state oppression provides path for a major human rights crisis that can create a mockery of the criminal justice system within the country.

As Rai and Arora noted, imprisoning vulnerable political prisoners in these times is akin to sentencing them to capital punishment. The continued imprisonment and rejection of bail pleas of elderly people and pregnant women is testamentary of just how seriously the government takes the health of its incarcerated population. Repeats of the Arthur Road Jail incident in worse numbers and more fatal consequences in the near future should be of no surprise then.

BEYOND INDIA

International | 2019-2020 | Criminal News

Bhutan and Homosexuality - Nitin Kr. Verma

The National Assembly of Bhutan's parliament has repealed on Friday two articles of the country's Criminal Code that criminalised homosexual relations, although the decision must still be submitted to a vote in the upper chamber. The Lower House scrapped Section 213 and 214 which had criminalized homosexual acts as unnatural sex ; The amendment is yet to be ratified by the upper house of Parliament, the National Council.

Botswana and Homosexuality - Nitin Kr. Verma

The Botswana High Court, in a landmark judgement, has decriminalised homosexuality and declared Section 164 of Botswana's Penal Code, which criminalises same-sex sexual conduct, as unconstitutional. The court cited the Indian Supreme Court's judgement in Navtej Singh Johar & Ors. Versus Union of India to upholds the privacy, dignity and equality of homosexuals in the country

Examining the culpability of Child Soldiers under International Criminal Law: Victims or Perpetrators? by Astha Madan Grover

The lines between victims and perpetrators are often porous. The child soldier dilemma illustrates this tension. The ICC confant and the Lubanga case that recruiting children under 15 into forces or armed groups is a war crime, but tried soldiers often also commit terrific atrocities. Their victims find little comfort in the fact that tried soldiers are merely victims. One of the key examples is former child soldier Dominique Ongwen. Dominic Ongwen was abducted by the Lord's Resistance Army. He had to punish civilians who refused to help the LRA. Fight the Ugandan soldiers and abduct more youths to fill the ranks. He faces twice the ICC as an adult for some of the crimes that he suffered as a child, such as enslavement as a crime against humanity. This is a complex phenomemenon that has been seen in many cases brought forth to the International Criminal Court, most recently, the war crimes in Ntaganda.Some children enter conflicts voluntarily driven by ambition, patriotism or the promise of opportunity. Other children are recruited through violence

Slavery is not a crime? - Sharique Uddin

In 94 countries, a person cannot be prosecuted for enslaving another human being, research by University of Nottingham has revealed. On February 12th 2020 they launched one of its kind database the Antislavery in Domestic Legislation Database.

Brazil and Homophobia - Nitin Kr. Verma

Brazil's Supreme Court officially made homophobia and transphobia crimes similar to racism, with the final justices casting their votes. Racism was made a crime in Brazil in 1989 with prison sentences of up to five years. The court's judges have said the ruling was to address an omission that had left the LGBT community legally unprotected.

The tiff between Sri Lanka and UN - Sharique Uddin

The U.N. Department of Peace Operations has suspended Sri Lankan troops from all international peacekeeping duties in response to the appointment of Major General Shavendra Silva as the head of the country's armed forces. The appointment drew concern from a number of Western nations, including the UK, because of the Major General's record of being accused of war crimes in the course of the Sri Lankan separatist conflict.

or threats. There are many reasons why they are used in conflict. Often, shortage of troops is used as an argument by commanders but there are Other factors. Children are attractive fighters since they.;re obedient, easy to manipulate and open to dangerous assignments. Some of them have strong incentives since membership in armed groups gives them power and prestige. The phenomenon cuts across sexes about 40% of child soldiers worldwide are girls. Some of them serve as combatants or leaders, but many of them are used as sex slaves. The role of children typically varies according to the child.;s age, gender and abilities. Some children fight alongside adults in hostilities or serve as guards. Others play support roles in conflicts by maintaining camps or providing any other support required by combatants.

The Criminal Process takes into account these distinctions in the following ways, children have a special status under international law. Article three of the conventions on the rights of the child, states that the best interests of the child shall be in primary consideration in all actions concerning children. The principles and guidelines on children associated with armed forces or armed groups state expressly that child soldiers who commit crimes should be considered primarily as victims of offenses of international law not only as perpetrators.

This reading is confirmed by the ICC Statue. Article 26 states that the court shall have no jurisdiction over any person who was under the age of 18 at the time of the alleged commission of the crime. This provides a strong signpost against the prosecution of crimes committed by child soldiers under the age of 18 by international courts and tribunals. The Special Court for Sierra Leone had jurisdiction to prosecute children of 15 years and older, but it did not use this prerogative.To date, no child has been charged in international tribunal for war crimes or atrocities. The arguments in support of this approach are as follows. Recruitment, enlistment and use of children in hostilities is per se against the best interest of the child. Both the Special Court for Sierra Leone and the ICC in Lubanga have made it clear that the perpetrator cannot rely on the consent of the child as an affirmative defense to child soldier charges. The main responsibility from participation and conflict lies typically with the armed forces or groups who enlist, recruit or accept children rather than with the children themselves.Child soldiers often suffer from specific psychological and mental health conditions. The experience of acts of violence and the continued and group structures can hamper the children.;s development, and their ability to

function as children. It is in particular doubtful to what extent they can appreciate the contextual elements of international crimes and form the intent necessary for complex offenses. It is also difficult to determine a clear cut age limit in relation to criminal responsibility. The minimum age of criminal responsibility varies from country tocountry. International criminal law lacks a differentiated juvenile justice system that is typically applied in domestic settings. Formal prosecution might not be the best way to deal with accountability. Certain alternatives to criminal proceedings, such as restorative justice mechanisms and social rehabilitation might be better suited to the needs than traditional means of punishment.Treating child soldiers per se as infants that are incapable of making responsible choice oversimplifies their complex identities. Not all child soldiers have been abducted. Some fight for what they see as a legitimate political cause. Certain children between 15 and 18 might be able to appreciate the wrongfulness of their acts. Many legal systems allow differentiations in the treatments of responsibility according to age. For instance, the convention on the rights of the child doesn.;t expressly exclude criminal prosecution of children. In many countries, this responsibility is determined on an individual basis based on the psychological development of the child. Moreover, the accountability may serve the interest of both the child and the long-term peace. Child soldiers might not be accepted back in their community without some sense of justice by victims.

If child soldiers are prosecuted, it is difficult to determine culpability. The criminal justice system typically offers two avenues to accommodate their dual status as victimizer and as victim child soldiers can, first of all, invoke certain defenses. Defenses may exclude criminal responsibility, but the threshold is high. For instance, at the ICC, Dominic Ongwen claimed that he should be excluded from criminal responsibility since he was brainwashed and lived most of his life under duress. The chamber rejected this crime. It held that the law doesn.;t recognize such a type of institution less duress. Threats must be eminent and eliminate choice. The second approach is the law regarding sentencing. It is more flexible, it allows for a mitigation of the sentence. Judges must take into account the individual circumstances of the convicted person. In this way, the traumatic childhood and the conditions of child soldiers can be invoked to reduce the sentence, but they do not preclude responsibility of prospects of reparation by victims. Broadly the two narratives are, a victim-oriented narrative and an accountability narrative. Prosecuting child soldiers can be both a tragedy and a necessary evil.

The criminal trial is a measure of last resort. It tends to reason in binary categories. Guilt and innocence, capacity and incapacity, adult or child or victim and perpetrator. The child soldier dilemma does not fit neatly into these categories. There.;s an emergent consensus that children below the age of 18 should not be prosecuted for war crimes and crimes against humanity by international courts, but this does not mean that there are no options for accountability. One approach is to hold child soldiers accountable in ways other than criminal prosecutions. For instance, by using transitional justice mechanisms, such as truth and reconciliation commissions. This approach is in line with a convention on the right of the child, which encourages states to pursue alternatives to judicial proceedings for children.A second approach is to try child charges before certain domestic court, but subject to international standards of juvenile justice. Such prosecutions may not present the best way to ensure the interest of the child and should thus, be a last resort. A soft approach is to hold child soldiers accountable internationally for crimes that were committed by them as adults, normally after the age of 18.

ACTIVITIES BY SACJ

Events | 2019-2020 | SACJ

Talk by Mr. Sushil Tekriwal (29th August, 2019)

The Society for advancement of Criminal Justice hosted an engaging session with Mr. Sushil Tekriwal, eminent supreme court lawyer and TV panelist on 29th August, 2019. The topic of the session was "Criminal Justice System: Encounter and fallacies". The session was conducted under the supervision of its faculty advisor Prof. Faisal Fasih and was moderated by Ankit Pal. Mr. Tekriwal is best known as a counsel of victim's family in the infamous Ryan International School/ Pradyumn murder case of 2017.

Mr. Tekriwal shared the insights of criminal law and shared his experience of being the counsel of the victim's family. He put some light on the challenges in criminal litigation. He also guided the students about the work approach as a lawyer. The session was attended by the faculty members and the students of WBNUJS.

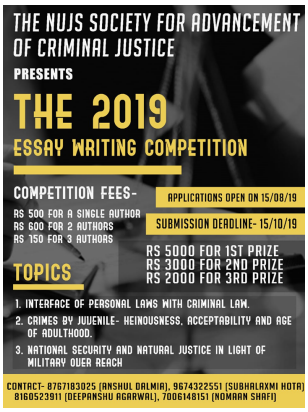
Talk by Merri Hanson (19th September, 2019)

The Society for Advancement of Criminal Justice hosted a talk by Ms Merri Hanson, the Director of Peninsula Mediation & ADR on 19th of September 2019. The theme of the lecture was "Victimology, Gender and Mediation".

She enlightened the students on the benefits of mediation services, which makes it the most viable form of dispute resolution in family, workplace and commercial disputes. Ms Merri's experience in the field of mediation across various recognised institutions of the U.S. made this session extremely engaging and insightful.

Essay Competition 2019

The Society for Advancement of Criminal Justice hosted its 6th NUJS SACJ National Criminal Law Essay Writing Competition on the month of October, which open to all law students belonging to the LLB and LLM programmes. The participants were given about a month's time to submit their essay on any one of the three themes selected by the society. These essays were then judged by renowned luminaries Harish Salve, Siddharth Luthra and Dr. Pinky Anand, who marked the students based on the content, research and analysis of the paper. Finally, after putting in two months of preparation by the organisers of the society, the event turned out to be a success due to enormous participations of students from across the country.



Workshop on "Prison Administration and Prisoner's Rights (13th - 15th December 2019)

The Society for advancement of Criminal Justice (SACJ) organised a 3-day workshop on "Prison Administration and Prisoner's Rights" from 13th to 15th December,2019.

Workshop on the 13th –The chief guests for the day were Shri Naparajit Mukherjee, member of W.B. Human rights Commission and Shri Arun Kumar Gupta, DG and IG, Correctional Services, Government of West Bengal. The workshop for the day began with the welcome address by Prof. (Dr.) N.K. Chakrabarti, Hon'ble Vice Chancellor of WBNUJS. The eminent guests enlightened the participants about their personal experiences working in their respective fields.

Workshop on the 14th - Hon'ble Justice Joymala Bagchi, a sitting judge at Calcutta High Court was the chief guest for the day.

Justice Bagchi put some light on the role of judiciary in safeguarding prisoner's rights and the requirement of police officials and prison department to work hand in hand to ensure protection of rights of under-trials.

Workshop on 15th, 2019 –The day-3 of workshop was graced by Dr. Satyajit Mohanty, DGP (Intelligence) Odisha. He addressed about the problems faced by authorities while dealing with prisoners. Mr. Mohanty also apprised about the steps which the officials need to undertake to implement the recommendations of different governmental committees and judiciary. The workshop was attended by Police Officers, Prison Authorities, Resource Persons, Faculty Members, Members of SACJ

Workshop on Combatting Trafficking Through Technology : Modern Methods of Crime Detection in collaboration with the International Justice Mission (16th December 2019)

The Society for Advancement of Criminal Justice at NUJS organised and hosted a One-Day workshop on .;Combatting Trafficking Through Technology: Modern Methods of Crime Detection in collaboration with the International Justice Mission.

Mr. Mayank Kejriwal, Research Assistant Professor in the University of South California presented his work on MEMEX.;s DIG SOFTWARE, a software to detect online crimes against women and children. The software was highly praised by the esteemed guests and the audience. The session also saw presence of other panelists like Mr. Mathew Joji, Shri Indra Chakraborty IPS (CID), West Bengal, Mr. Anupam Agarwal and Professor Pabitra Mitra from IIT Kharagpur.

All the esteemed guests were felicitated by hon'ble Vice Chancellor of NUJS Prof. (Dr.) N.K. Chakraborty. All the panelists discussed the issue of digital trafficking and technological advancements to prevent Crime in the Society. Interesting questions were raised up by the audience which led to a fruitful discourse. The session was attended by students of WBNUJS and other members of legal fraternity.

INBA Conference (23rd December, 2019)

The Society for Advancement Criminal Justice hosted a one-day conference on .;Indian Criminal Justice System- Delivery and Role of Courts.; in collaboration with Indian National Bar Association. The theme of the conference was- "Has the Indian Criminal Justice System has completely been dismantled or is still there a hope left?" The eminent guests who had come for the conference and shared their views on the subject included Shri K Hari Rajan, an IPS officer, Mr. Indrajeet Dey, an advocate at Calcutta High Court, Inspector Manishankar, Inspector Ghosh and

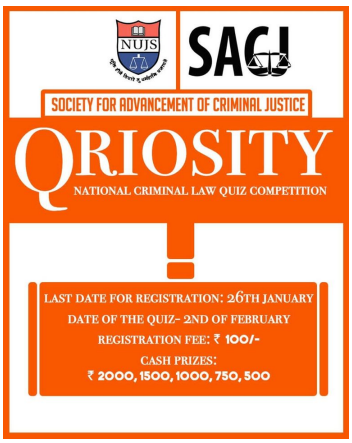
Inspector Abhijeet Chowdhury from Swami Vivekanand State Police Academy, Advocate Soumyajeet De, Mr. Aryan Goshal, an eminent Artist and Occultist, Advocate Sudeep Moitra and some faculty members and students from different law colleges.

The conference was conducted under the supervision of mentor Prof. (Dr.) Kavita Singh and its faculty advisors Prof. Faisal Fasih, Prof. Surja Kanta Baladhikari and Senior Inspector Hari Rajan rightly began his address with the words- .;Criminal Justice System has been faltering and staggering but has still not entirely fallen.;. The subsequent speeches paid emphasis on reasons for loss of faith in Justice Delivery System, which was clearly visible when people celebrated the recent Hyderabad Encounter Killing. The panelists discussed about ever-increasing problem of backlog of cases, problems with Prosecution System, and problems with Crime Investigation Agencies. Issue of reforms required in police system was also discussed at large. The conference tried to address the basic problems of all the pillars of Criminal Justice System in India which includes police, prosecution, prisons and courts.

IJM (16th January, 2020)

The Society for Advancement of Criminal Justice hosted an International certificate workshop in collaboration with International Justice Mission on the 16th of January 2020. The theme of the workshop was "Combating Human Trafficking: Issues and Challenges Towards Achieving United Nations Sustainable Development Goals."The workshop was presided over by several dignitaries from the United Nations, IONA College of New York, International Justice Mission and UNICEF that preached the audience on the ground reality of human trafficking and encouraged a discourse to curb the menace. Furthermore, several students, faculty members from outside and within the college, attended the workshop, making it a successful event.

QRIOSITY 2020



The Society for Advancement of Criminal Justice hosted its 4th NUJS SACJ online quiz competition, 'Qriosity' on the 2nd February, 2020. The theme of the quiz was based on national criminal law that required participants to answer a set of multiple-choice questions within a prescribed time limit. The quiz tested them on their knowledge of criminal lawand landmark judgements. Due to the ease of online competition, the quiz saw an enormous number of participants from various law schools and universities across the country, making it a successful event.

Talk by Mr. Shams Tahir Khan

The Society for advancement of Criminal Justice hosted the inaugural session of the two-day Conclave on Criminal Law and Justice Administration with Mr. Shams Tahir Khan, Senior executive Editor and Crime Head at Aaj Tak on March 13, 2020. Mr. Khan is credited for revolutionising Criminal Reporting in this country. He was the only TV media journalist to interview Afzal Guru after his conviction. The theme of the session was Media-trials. The session was moderated by Ms. Aditi Singh, a second-year member of the society. The vote of thanks was presented by Mr. Deepanshu Agrawal, co-convenor of the society. The conclave was conducted under the supervision of its faculty advisors Prof. Faisal Fasih, Prof. Surja kanta Baladhikari and mentor Prof. (Dr.) Kavita Singh.In order to promote the discourse in vernacular language in law school, the session was conducted in Hindi.

Mr. Khan addressed the audience about the ideals of Natural Justice and the status of Criminal Justice system in India including lower courts and government. He put some light on the recent developments in Nirbhaya case and role of media trial in Hyderabad Rape and Encounter case. He enlightened the audience about his personal experiences in this field and also about the current deplorable state of News Media. He also shared his experience of reporting in Mosul amidst the ISIS threat.The Session was around one and a half hour long and the audience comprised of students of different law schools and the members of legal fraternity.

Conclave on Contemporary Issues surrounding Criminal Law and Justice Administration (13th-14th March 2020)

The Society for advancement of Criminal Justice hosted the two-day Conclave on Criminal Law and Justice Administration on 13th -14th March, 2020. The first part of the conclave began with Mr. Shams Tahir Khan's Session.

The theme of the second day and second session of the conclave was "Rising Crimes against women and failure of criminal justice system: A social-legal perspective".

The conclave was conducted under the supervision of its faculty advisors Prof. Faisal

Fasih, Prof. Surja kanta Baladhikari and mentor Prof. (Dr.) Kavita Singh. This session had an all women panel comprising of Dr. Payel Rai Chowdhary Dutt, Co- ordinator of Human Rights Department at Rabindra Bharti University, Ms. Ankita Chakravarti, Assistant Professor of sociology at WBNUJS, Ms. Aparajita Rai, IPS officer currently posted as DCP, Special Task Force in Kolkata Police and Mrs. Sampa Karmakar, Assistant Professor at NUJS from the School of Criminal Justice Administration.The discussion revolved around the steady rise of crimes against women post Nirbhaya case. The panellists also put some light on the idea of Justice in the eyes of the victim and her family. Ms. Rai in her address tried to paint the difference between the idea of social justice and legal justice from the police personnel's point of view. The discourse also revolved around the concept of gender targeted crimes and identity-based discrimination.The audience comprised of students of different law schools and the members of legal fraternity.

The theme of the second day-third session of the conclave was "The debate around the amendments in the medical termination of Pregnancy Act, 1971". The panellists for the session comprised of Advocate Kallol Basu, Learned Advocate of Calcutta High Court and former counsel of WBPCB, Dr. Sujata Datta, a reputed gynaecologist and Laparoscopic Surgeon at Fortis Hospital, Renowned Advocate Apalak Basu and Mr. Surja Kanta Baladhikari, Guest Faculty of Law at WBNUJS. The panellists majorly discussed about the amendment proposed to increase the gestation limit for abortion to 24 weeks.

The vote of thanks was delivered by Mr. Deepanshu Agrawal, Co-convenor of the society. The session was attended by Advocate Abhishek Kusari and advocate Pritha Bhaumik Basu, students of different law schools and members of legal fraternity.

FROM THE CHAMBERS OF

Geeta Luthra
LL.M. M.PHIL (CAMBRIDGE)
SENIOR ADVOCATE

22nd September 2018

One of the greatest Challenges to preserve human rights is the balance between preservation of human liberty on one hand and to secure law and order and ensure the security of the public on the other hand.

Criminal law and the criminal justice system has to deal with the dynamics of this interesting dilemma.

You are promising young law students and will have to grapple with maintaining this legal balance in a vibrant democracy.

Wishing you all success for the future.

Regards.

geeta luthra

Geeta Luthra

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The NUJS SACJ | 2020-21

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