

VOLUME VI

ISSUE –II (April-June 2020)



IILS QUEST

A Quarterly Journal authored by IILS Students
Published in the IILS Website

INDIAN INSTITUTE OF LEGAL STUDIES

Recognised under Section 2(f) & 12B of the UGC Act, 1956

UG 7 Post Graduate Advanced Research Studies in Law

Accredited by NAAC

Affiliated to the University of North Bengal

Approved by the University Grants Commission, New Delhi

Recognized by the Bar Council of India, New Delhi

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**THE STUDENT JOURNAL
(2020)**

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MESSAGE

FROM THE PRINCIPAL'S DESK



The ILS Quest is a place for students to explore their interest in law outside their course. It provides an opportunity for students to showcase their enthusiasm for law by writing and publishing articles.

The journal is published quarterly and reflects the wide variety of interests of student members. The inclusive ethos behind ILS Quest is to provide students with the opportunity to engage academically with the law, to further develop an area of interest and over the years it has become a platform for students to share their perspectives on topical legal and social issues.

IILS Quest, a Students Journal unleashes a wide spectrum of creative skills ranging from writing to editing. I congratulate the students and

the editorial team for their hard work and dedication that has resulted in the publication of this issue of the College journal.



Prof. (Dr.) Ganesh Ji Tiwari

Principal,

Indian Institute of Legal Studies

MESSAGE

FROM THE REGISTRAR'S DESK



The joy of creation is the finest form of expression which we find through the finality of 'IILS QUEST ', a students' Journal - which acts as the vehicle of thought and means of manifestation of talent. The sincere efforts and concerted action of the students of our Institute will surely reach the destination of the desired goal in search of knowledge. I congratulate all the students who have nurtured the entire process to bring out this valuable edition at this point of time.

A handwritten signature in black ink, appearing to be 'SJB', with a horizontal line underneath it.

Shri Sanjay Bhattacharjee

Registrar,

Indian Institute of Legal Studies

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ARTICLES



THE CONCEPT OF MERGER UNDER COMPANIES ACT 2013



By Aditi Agarwal
B.B.A. LL.B Semester VIII

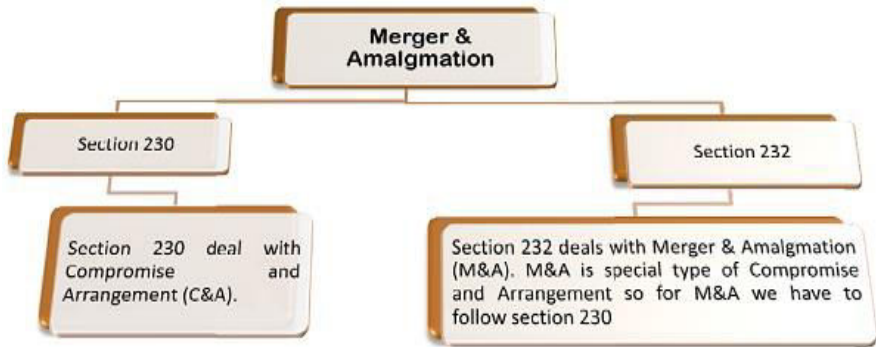
ABSTRACT

Merger means combining of two or more entities into one, which results in merger of all the assets, liabilities of the entities under one business. The dissolution of company/companies involved in a merger takes place without winding up. The possible objectives of mergers are manifold- economies of scale, acquisition of technologies, access to sectors / markets etc. This paper aims to present a comprehensive concept of ‘Merger’ under Companies Act 2013 and discuss its various aspects.

INTRODUCTION

The term ‘merger’ is not defined under the Companies Act, 1956 (“CA 1956”), and under Income Tax Act, 1961 (“ITA”). However, the

Companies Act, 2013 (“CA 2013”) without strictly defining the term explains the concept.



A ‘merger’ is a combination of two or more entities into one; the desired effect being not just the accumulation of assets and liabilities of the distinct entities, but organization of such entity into one business. A merger is an agreement that unites two existing companies into one new company. There are several types of mergers and also several reasons why companies complete mergers.

Merger or amalgamation is defined as a combination of two or more companies into a single company result in which one survives and the other loses their corporate existence. The survivor company acquires both the assets and liabilities of the merged company or companies. In other words it is simply a combination of two or more businesses into one business. Amalgamation is another legal term for merger which is used in India. It usually involves two companies of the same size and stature joining hands¹. Amalgamation is a situation when two or more

¹ Avatar Singh, Company Law, 16th edition (2015)

existing companies amalgamate or merge together to form a new company, result of both the existing companies lose their existence called as amalgamating company and a new company comes into existence called as purchasing company. There are different types of merger in which merging of companies takes place. They are Horizontal merger, Vertical Merger, Reverse merger and Conglomerate merger.



An application for Merger & Amalgamation can be file with Tribunal (NCLT). Both the *transferor and the transferee company* shall make an application in the form of petition to the Tribunal under section 230-232 of the Companies Act, 2013 for the purpose of sanctioning the scheme of amalgamation.

Mergers are commonly done to expand a company's reach, expand into new segments, or gain market share. All of these are done to increase shareholder value. Often, during a merger, companies have a no-shop clause to prevent purchases or mergers by additional companies. A merger is the voluntary fusion of two companies on

broadly equal terms into one new legal entity. The firms that agree to merge are roughly equal in terms of size, customers, scale of operations, etc. For this reason, the term "merger of equals" is sometimes used. Acquisitions, unlike mergers, are generally not voluntary and involve one company actively purchasing another.

Mergers are most commonly done to gain market share, reduce costs of operations, expand to new territories, unite common products, grow revenues, and increase profits—all of which should benefit the firms' shareholders. After a merger, shares of the new company are distributed to existing shareholders of both original businesses.

PROCEDURE

SECTION 232- PROCEDURE

The memorandum of association of the companies seeking to merge, should give power to companies to amalgamate. Also, the creditors of the companies must approve the merger scheme. Notice of merger along with merger proposal and valuation report etc. needs to be served upon creditors, shareholders, and various regulators (MCA, RBI, CCI, Stock exchanges of listed companies, IT authorities and other sector authority likely to be affected by merger.) Shareholders and creditors are given option to cast their vote through postal ballot. Tribunal can order meeting of creditors if application is made to the Tribunal under section 230 for the sanctioning of a compromise or an arrangement for merger or amalgamation. Objections can be raised by shareholders who

hold 10% or more equity or creditors whose outstanding debt is 5 % or more of the total debt as per last audited balance sheet. Prior certification from auditors saying accounting treatment is in consonance with accounting standards needs to be filed with stock exchanges (for both listed and unlisted companies).

Board of Directors need to approve the draft proposal after which application will be made to respective High Court (State where registered office is located) in Form no. 36. After the approval mentioned above, the scheme will have to be filed with the Official Liquidator, RoC and the Central Government. In the event of there being “no objection,” this will be deemed as approve. The 2013 Act has established National Company Law Tribunal which will handle all the matters related to company law and replace the HCs. After the Court order, its certified true copies will be filed with the Registrar of Companies.

The assets and liabilities of the acquired company will be transferred to the acquiring company in accordance with the approved scheme, with effect from the specified date. As per the proposal, the acquiring company will exchange shares and debentures and/or cash for the shares and debentures of the acquired company. These securities will be listed on the stock exchange.

JOINT APPLICATION:

Where more than one company is involved in a scheme, such application may, at the discretion of such companies, be filed as a joint-application. However, where the registered office of the Companies are in different states, there will be two Tribunals having the jurisdiction over those, companies, hence separate petition will have to be filed².

In the case of *Mohan Exports Ltd. V/s Tarun Overseas Pvt. Ltd.*³, it was held that if both the Companies are under the jurisdiction of the same High Court, Joint petition may be made.

An application for Merger & Amalgamation can be file with Tribunal (NCLT). Both the *transferor and the transferee company* shall make an application in the form of petition to the Tribunal under section 230-232 of the Companies Act, 2013 for the purpose of sanctioning the scheme of amalgamation.

In the case of *Kirloskar Electricals Co. Ltd.*⁴, the Court held that various clauses of Section 394(1) of the Companies Act suggest that both the transferor and the transfer company shall make an application to the Court and under section 391-394 of the Companies Act, 1956 for sanction of the scheme of Compromise or arrangement involving amalgamation of the Companies.

²CHRISTINA MAJASKI What are the Differences Between Mergers and Acquisitions?, (25th April 2020 6:00 p.m.), www.investopedia.com

³54 (1994) DLT 513, 1994 (29) DRJ 312

⁴2003 (1) KarLJ 556

TYPES OF MERGERS

HORIZONTAL MERGER

Horizontal merger is also known as Horizontal integration. In this kind of merger, merger takes place between two companies which are in direct competition at the same stage of industrial process and these two companies share the same product line and market. A horizontal merger takes a company a step closer towards monopoly by eliminating a competitor and establishing a stronger presence in the market⁵. The some other benefits of horizontal merger are the economies of scale and scope. Merger of Tata Oil Mills Company Ltd. With Hindustan Lever Ltd. and Volkswagen and Rolls Royce are some of the examples of Horizontal merger.

MERGING OF LISTED CO. WITH UNLISTED CO.

If a listed company merges with an unlisted company under the Act, then unlisted will by default not become listed. The option is given to the transferee company to remain unlisted till it is listed or applies for listing, provided the shareholders of the merged listed company are given an exit opportunity. It also provides that provision should be made by the NCLT for an exit route for the shareholders of a transferor

⁵ Deepak Verma, A Study of Merger and Acquisitions with Provisions under Companies Act 2013 in India, 2015.

company who decide to opt out of the transferee company by making payment amounting to the value of the shares and other benefits.

VERTICAL MERGER

A Vertical Merger is a combination of two or more companies which are operating in the same industry but at different stages of production. The acquirer organization picks up a solid position because of the blemished market of its mediator items and furthermore through control over item determinations. It might bring about working and monetary financial aspects. Case for vertical merger is a merger of Reliance Petrochemicals Ltd with Reliance Industries Ltd.

CONGLOMERATE MERGER

Conglomerate Merger is an amalgamation of two companies that engaged in unrelated industries. Like horizontal merger, conglomerate merger do not reduce the number of competitors in an industry. It is an expansion of a company. Example of conglomerate merger is merger of **Mohana steel Industry Ltd. and Vardhaman Spinning Mills Ltd.** This type of merger is called conglomerate merger since the companies being merged are engaged in activities which are complementary to each other but not competitive. This kind merger may lead to changes in the structure and behaviour of acquired industries since it opens up new possibilities.

REVERSE MERGER

Reverse merger is a merging of a profit making company with a loss making company, which is generally a sick company. If a merging company is a sick company under the Sick Industries Companies Act, then such merger should take place through the Board of Industrial and Financial Re- construction (BIFR). The reverse merger automatically makes the transferee company entitled for the concession and rebates under the Income Tax Act, 1961.⁶ In the form of resource sharing and diversification, the acquiring company will obtain benefits.

FAST TRACK MERGERS

The Act provides for Fast track mergers in cases of merger between:

1. two or more small companies or
2. between a holding company and its wholly-owned subsidiary company or
3. such other class or classes of companies as may be prescribed;

Under the procedure for fast track mergers, the notice of the proposal to the Registrar, official regulators and persons affected by the merger has to be sent within thirty days. They can provide their objections and suggestions. The merger proposal has to be approved by member holders of 90% shares at the general meeting and majority representing nine-tenths in value of the creditors at the meeting convened by giving

⁶ Jyoti Rawat, Merger and Amalgamation under CA, 2013 (2017)

21 days notice. The notice to the meeting to members and creditors has to be accompanied by merger scheme and declaration of solvency.

The transferee company has to file merger scheme (within 7 days of meeting) and declaration of solvency with ROC. Objections of ROC or official liquidator have to be communicated to Central Government within 30 days in writing. Central government has time period of 60 days after receiving merger proposal to file objections before tribunal which will consider whether the scheme is appropriate for fast track merger or not.

CROSS BORDER MERGERS

The Act also permits ‘Cross border mergers’ between Indian and foreign company located in a jurisdiction notified by Central government in consultation with RBI. The consideration of a merger, which will also be subject to the approval of the RBI, could either be in cash or depository receipts, or partly in cash and partly in depository receipts.

DEMERGER

Demerger includes transfers, pursuant to the scheme of arrangement by a “demerged company” of one or more undertakings to any resulting company in such a manner as provided in section 2(19AA) of the Income Tax Act, 1961. The rules prescribe that the difference in the value of assets and liabilities in the books of a demerged company will

be credited to its capital reserve or debited to its goodwill. Moreover, the difference in the net assets taken over and shares issued as consideration will be credited to the capital reserve (excess) or debited to goodwill (deficit) in the books of the resulting company.

A certificate from a Chartered Accountant will also be required to be submitted to the NCLT to the effect that the accounting treatment is in compliance with the conditions so prescribed⁷.

REASONS FOR MERGER

REASON FOR MERGER AND AMALGAMATION

- Expansion and Diversification
- Optimum Economic Benefits
- Risk Strategy
- Scaling up operations for competitive advantages
- Tax Benefits
- Increasing the efficiencies of operations
- Reducing overheads for cost reduction
- Access Foreign Markets
- A merger of a privately held organisation into a publicly held organisation permits the target company investors to get a public company's stock, regardless (Research Scholar

⁷ Deepak Verma, A Study of Merger and Acquisitions with Provisions under Companies Act 2013 in India, 2015, (15th April 2020 7:00 p.m.), <https://www.lawyerservices.in/DEEPAK-VERMA--0704764>

(commerce) Singhinia University and Patel 2011) of the liquidity

- Merger enables the investors smaller entities to possess a smaller bit of a bigger pie, expanding their general total assets⁸.

Before applying for merger the following is essential

- It must be ensure that the companies under amalgamation should have the power in the object clause of their Memorandum of Association to undergo amalgamation though the absence may not be an impediment, but this will make matters smooth.
- A draft scheme of amalgamation shall be prepared for getting it approved in Board meeting of each company.

-

TOP MERGER AND AMALGAMATION DEALS IN INDIA MERGING

TATA STEEL-CORUS

Tata Steel is one of the greatest ever Indian's steel organisation and the Corus is Europe's second biggest steel organisation. In 2007, Tata

⁸ International Journal of Pure and Applied Mathematics Volume 120 No. 5 2018, 195-205 ISSN: 1314-3395 (on-line version) url: <http://www.acadpubl.eu/hub/> Special Issue

Steel's takeover Europeans steel major Corus at the cost of \$12.02 billion, making the Indian organisation, the world's fifth biggest steel maker. Tata Sponge iron, which was a minimal effort steel maker (Mueller 1986) in the quick creating locale of the world and Corus, which was a high-esteem item producer in the area of the world requesting esteem items (S. S. Tripathi 2012). The obtaining was expected to give Tata steel access to the European markets and to accomplish potential cooperative energies in the regions of assembling, acquisition, R&D, co-ordinations, and back office activities.

RIL- RPL MERGER

Reliance Industries Limited is an Indian Conglomerate holding organisation headquartered in Mumbai, India. Reliance is the most beneficial organisation in India. It is the second biggest traded company in India. Reliance Petroleum Limited (Douma, George, and Kabir 2006) was set by Reliance Industries Limited, one of the India's biggest private sector company situated in Ahmedabad (Saha 2009). Right now, Reliance Industries (Mantravadi and Reddy 2008) is assuming control Reliance Petroleum Limited at the cost of 8500 crores or \$1.6 billion.

MAHINDRA & MAHINDRA- SCHONEWEISS

Mahindra and Mahindra Limited is an Indian multinational car fabricating company home office in Mumbai, India. It is one of the

biggest vehicles manufacturers operating for generations in India. Mahindra and Mahindra obtained 90 percent of Schoneweiss, a main company in the producing area in Germany. The arrangement occurred in 2007, and consolidated Mahindra's situation in the worldwide market (Jindal 2015).

TATA MOTORS-JAGUAR LAND ROVER

Tata Motors Limited (TELCO) is an Indian multinational car producing company home office in Mumbai, India and a backup of the Tata Group and the Jaguar Land Rover Automotive PLC is a British multinational car company base camp in Whitley, Coventry, United Kingdom, and now an auxiliary of Indian automaker Tata Motors. Tata Motors acquisition of extravagance car creator Jaguar Land Rover was at the cost of \$2.3 billion (Pathak 2016). This could likely be the most driven arrangement after the Ranbaxy won. It unquestionably landed Tata Motors in a ton of inconveniences⁹.

CONCLUSION

New provisions of merger and amalgamation have been included which would make mergers and amalgamation easier to understand also which shall ease out the procedural mazes and difficulties. Merger and

⁹ International Journal of Pure and Applied Mathematics Volume 120 No. 5 2018, 195-205 ISSN: 1314-3395 (on-line version) url: <http://www.acadpubl.eu/hub/> Special Issue

amalgamation generally help to make the business environment more investor-friendly in the market and increases the scope of growth and greater market share.

Indian companies have regularly outperformed their foreign partners in corporate rebuilding both inside and past the national wildernesses. Mergers and amalgamation are effective pointers of a powerful and developing economy. The lawful system for such corporate rebuilding must be simple and facilitative and not prohibitive and buried in bureaucratic and administrative obstacles. The greatest snag in the method for finishing a merger or an amalgamation remains the frequently protracted court strategy required to authorize a scheme of arrangement. While a few critical changes have been proposed, partnerships could see the need to get various endorsements from various controllers as difficult. In any case, the thirty days time constrain forced on the controllers will, ideally, guarantee that they react in a period bound way. On its substance, the 2013 Act offers extensive and better straightforwardness guaranteeing assurance of shareholders interest, while all the while maintaining a strategic distance from trivial protests. The correct time period that the whole merger process would include will be known once it is tried and which will occur after the Tribunal is constituted and the rules actualised. It is reasonable for say that the 2013 Act looks to streamline and make M&A more smooth and straightforward. The new provisions should make it less demanding for enterprises proposing mergers as it lances to

have a good arrangement of checks and parities to prevent abuse of these arrangements.

Merger can happen in various ways as mentioned in the research project. Although a systematic way of procedure has to be followed by the companies to undergo merger and amalgamation.

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CHANGE IN EDUCATION SYSTEM AFTER COVID-19 PANDEMIC



By Neha Mittal
B.Com. LL.B Semester VIII

ABSTRACT

“Change is the ultimate constant in one’s life.”

This phrase has become all the more acceptable and applicable with the crisis caused due to the Covid-19 Pandemic, infamously known as the Coronavirus which has affected the life of each and every individual across the globe. The pandemic has disrupted the economy of the Nations, leading to lockdowns for months in an attempt to stop the spread of the disease because of which the economy has suffered lot more than expected. The Governments have adopted measures to work online so that the Economy does not suffer any more and most of the sectors have also adhered to this. One of the several fields which has faced huge crisis because of the pandemic is the Education Sector as the Schools and Colleges all over the Nation was shut down during the third week of March, 2020 and imparting of Education nearly came to a

standstill. But, considering the fact that the children are the future of tomorrow, the Education system understood the necessity of continuing the education and thereby online-mode of education was adopted by the Schools and Colleges to facilitate learning at home, sitting safe from the spread of Covid-19.

Keywords: Covid-19 Pandemic, Lockdowns, Economy, Education system.

INTRODUCTION

For a student, the knowledge is and should be always more valuable than the way in which it is imparted. It is necessary in this present generation to pay respect to the ones imparting knowledge to us, the way it was ages back. One of the greatest examples of paying respect to “Guru” is when Eklavya gave away his thumb as Gurudakshina on being asked for it by his Guru Dronacharya. This generation has somehow, lost the importance of paying respect to the teachers, which ultimately affect not only the relation between the teacher and student but also disrupts the way in which education is imparted. Changes are necessary and inevitable for the proper growth of any individual, society, nation or the entire globe, but it should not be at the cost of losing basic values of a dignified life. Education, which has been an inseparable part of students’ life, came to a standstill after the schools and colleges were shut down globally to stop the spread of Covid-19. This was a big realization on part of both the students and the teachers

on the importance of learning and with the Education department taking enormous steps to continue the learning of students, the respect for the knowledge providers have increased tremendously. The Covid-19 pandemic has affected each and every corner of the world, but the efforts taken by the educational institutions for the betterment of the students' life is not just praiseworthy but also deserves huge respect.

The pandemic due to Covid-19 has completely disrupted the process of education in mid-way and thus, proper ways to continue the education was very much needed. This led almost all the schools and Institutions to adopt the online mode and thus, the entire method of teaching and learning has shifted from classroom learning to technological learning. The field of Education is one, where the need to change the ways of imparting knowledge became very evident from the initial stages of lockdown, the only appropriate method being the mode of online education which could not only help in giving proper guidance to the students but also ensuring the security and safety of the students. There are various different aspects which need a discussion on the online mode of teaching and learning, the first being the usefulness or the extent to which this method is appropriate or successful in imparting knowledge to the students.

ISSUES DETRIMENTAL TO EDUCATION IN COVID-19

The structure of schooling and learning, including teaching and

assessment methodologies, was the first to be affected by the closures or the lockdowns to stop the spread of Covid-19. Only a handful of private schools could adopt an alternative- online teaching method. The low-income private and government school, on the other hand, have completely shut down for not having access to e-learning solutions. The students, in addition to the missed opportunities for learning, no longer have access to healthy meals during this time and are subject to economic and social stress.¹

It is a general fact that moving to a new place requires adapting to its environment and the people around, and also adopting the lifestyle of that particular place. This is also true in almost all the aspects of human life. One needs to adapt to the changes and adopt a new lifestyle to be able to survive. The pandemic of Covid-19 has surely taught every individual the importance of this, including the educational institutions. A common problem faced by the entire educational fraternity is adopting and adapting the online method of learning. Adoption of online method costs huge sum of money which is not affordable for all the educational institutions, and thus, is an important problem which needs to be addressed. Secondly, adapting to a completely new way of teaching for the teachers and learning for the students is not as easy as

¹ Richa Choudhary, Niti Aayog, *COVID-19 Pandemic: Impact and strategies for education sector in India*, (Accessed on July 4, 2020, 9:54 Hrs), <https://government.economictimes.indiatimes.com/news/education/covid-19-pandemic-impact-and-strategies-for-education-sector-in-india/75173099>

it may seem from outside. Practically taking classes with the board and chalk for the teachers is an age-old method that suited both the teachers and the students for imparting knowledge. A live lecture given by a teacher, with all the students sitting in front of him/her stands out to be a very acceptable experience for all teachers as it also gives room for instant live discussions on topics being taught, unlike the online mode of teaching. Unquestionably, classroom teaching cannot be compared by any means with the newly adopted online mode of teaching, but the new method has its own merits.

Further, India, as known by all, is a developing country, wherein the poverty rate is still high and not all have the access to internet. In fact, many people do not have phones as well which makes it difficult for them to continue their studies if it is through the online mode which requires, to the least, an android set with a good network connection. Also, people living in rural areas, who may fortunately have an android set, most of the times, do not have a good network connection in their area. This again becomes a big issue for not being able to be a part of online education for those students.

These are a few basic problems which the country is currently facing due to the recent shift in the pattern of education from classroom learning to e-learning. Apart from these, there have been a number of case of suicides by the students for being unable to attend online classes due to financial issues and not having possession of a smart phone or television. The headlines of the newspapers reading as “Unable to

attend online classes, 14-year-old student in Kerala's Malappuram district ends life,”² and “West Bengal: Unable to attend online classes, Howrah girl kills herself,”³ are not only a matter of grief but also an alarm for all of us to take steps to ensure that education should not be a reason for committing suicides. Poverty due to any reason should not be a hurdle for getting education or learning. It is not a new thing that education, more specifically, higher education and quality education, in today’s world costs huge sum of money, which ultimately is not feasible to major sections of the society in India. The Constitution of India provides Right to Education as a part of Article 21⁴ and also under Sections 45⁵ and 46⁶ of the Directive Principles of State Policy, the State Governments are required to provide free education to all up to the age of 14 years. But this is not a mandatory provision but a guideline or a aim to be achieved slowly and steadily. Also,

²Press Trust of India, *Unable to attend online classes, 14-year-old student in Kerala's Malappuram district ends life*, (Accessed on July 7, 2020, 10:04 Hrs), <https://www.firstpost.com/india/unable-to-attend-online-classes-14-year-old-student-in-keralas-malappuram-district-ends-life-8440401.html>.

³Rupak Banerjee, *West Bengal: Unable to attend online classes, Howrah girl kills herself*, (Accessed on July 7, 2020, 10:07 Hrs), The Times of India, TNN, http://timesofindia.indiatimes.com/articleshow/76473056.cms?utm_source=contentofinterest&utm_medium=text&utm_campaign=cppst.

⁴21. No person shall be deprived of his life or personal liberty except according to procedure established by law.

⁵45. The State shall endeavour to provide, within a period of ten years from the commencement of this Constitution, for free and compulsory education for all children until they complete the age of fourteen years.

⁶46. The State shall promote with special care the educational and economic interests of the weaker sections of the people, and, in particular, of the Scheduled Castes and the Scheduled Tribes, and shall protect them from social injustice and all forms of exploitation.

government schools and colleges usually are unable to afford the online mode of teaching and if they manage to do so, the students do not have sufficient source to attend the classes.

But, if taken positively, these setbacks of the Nation can be considered as a challenge or an opportunity to become digitalized completely. The strength lies in the faculty and institute nurture. Faculty need to change their all-time age-old teaching methods and adapt to evolving technology-centric teaching, which undoubtedly has been now adopted by many. The faculty should establish themselves as “competent” individuals who can deliver what the students expect, in order to ensure full-fledged imparting of knowledge. There should be extensive research and research publications by both the faculty and the students which can prove beneficial to gain experience /skills in online teaching. In a way, the learning institutes will then become virtual institutes. Every student’s home will become his institute. This will reduce the demand for the infrastructure of the institute. However, research labs should function as usual to support research. Research collaboration can go online and can be internationalized.⁷

⁷D Chandrasekharam, *Post Covid-19 education system*, Times of India, (Accessed on July 4, 2020, 9:30 Hrs), <https://timesofindia.indiatimes.com/blogs/dornadula-c/post-covid-19-education-system/>.

CHANGES IMPERTINENT TO EDUCATION IN COVID-19

The effect of the pandemic in the field of education is not something which can be ignored. But, needless to say, the pandemic has transformed the age-old, chalk–talk teaching model to one driven by technology. This disruption in the delivery of education is pushing policymakers to figure out how to ensure the proper imparting of knowledge to every individual possible seamlessly and accordingly adapt to the digital method of technology. A multi-pronged strategy is necessary to manage the crisis and build a resilient Indian education system in the long term.

Firstly, immediate measures are essential to ensure continuity of learning in government schools and universities. Open-source digital learning solutions and Learning Management Software should be adopted so teachers can conduct teaching online, which has already been a measure taken by many schools and Universities but has not been feasible for all.

Further, inclusive learning solutions, especially for the most vulnerable and marginalized, need to be developed. With a rapid increase of mobile internet users in India, which is expected to reach 85% households by 2024, technology is enabling ubiquitous access and personalization of education even in the remotest parts of the country.

This can change the schooling system and increase the effectiveness of learning and teaching, giving students and teachers multiple options to choose from. Many aspirational districts have initiated innovative, mobile-based learning models for effective delivery of education, which can be adopted by others.

Also, strategies are required to prepare the higher education sector for the evolving demand–supply trends across the globe, particularly those related to the global mobility of students and faculty and improving the quality of and demand for higher studies in India. This is essential because large number of students have to shift from one place to another for the purpose of education. Further, immediate measures are required to mitigate the effects of the pandemic on job offers, internship programs, and research projects as the job opportunities, and internship programs done by the students from different fields all over the year has been greatly affected. Most of these now require technological skills and the need to work online, which is the only way to work left during the pandemic. Thus, it becomes all the more necessary to take proper steps to develop technological skills to work online and do the internship programs or research projects and so on.

It is also important to reconsider the current delivery and pedagogical methods in school and higher education by seamlessly integrating classroom learning with e-learning modes to build a unified learning system. The major challenge in EdTech reforms at the national level is

the seamless integration of technology in the present Indian education system, which is the most diverse and largest in the world with more than 15 lakh schools and 50,000 higher education institutions. The language used, the method of teaching, the process of learning and everything differs from school to school and India being such a diverse country, it is a substantial matter to change the entire process of learning. Many e-learning players offer multiple courses on the same subjects with different levels of certifications, methodology and assessment parameters. So, the quality of courses may differ across different e-learning platforms.

It is also important to note Indian traditional knowledge is well known across the globe for its scientific innovations, values, and benefits to develop sustainable technologies and medicines. The courses on Indian traditional knowledge systems in the fields of yoga, Indian medicines, architecture, hydraulics, ethno-botany, metallurgy and agriculture should be integrated with a present-day mainstream university education to serve the larger cause of humanity. This will help in becoming self-sufficient in these fields and also be an appropriate measure to provide our traditional knowledge to the global world.

In this time of crisis, a well-rounded and effective educational practice is what is needed for the capacity-building of young minds. It will develop skills that will drive their employability, productivity, health, and well-being in the decades to come, and ensure the overall progress

of India.⁸

CONCLUSION

The importance of education has never been denied the ways to impart the education has been changing since ages. According to mythology and historical records too, the students used to go to the place of their teachers, which was known as “Gurukul” and stayed there until the completion of their education. At the end, the teachers would ask for a gift which is known as “Gurudakshina” and that was considered as the payment of the education. Then, with the drift of time, education became a form of business to earn money, and people started charging for implementing education. But, the importance of teacher does not change with the change in the way of education. The recent method known by all is the chalk and talk method of teaching, but the pandemic due to Covid-19 brought us to the more sophisticated and technological way of learning. The aspects of the online teaching and learning process, as has been discussed, are many. There are many good as well as bad points about the technological learning, which has been discussed in the paper. But a notable point which is important to understand is the importance of learning and not just the methodology used in it.

⁸Richa Choudhary, Niti Aayog, COVID-19 Pandemic: Impact and strategies for education sector in India, (Accessed on July 4, 2020, 9:54 Hrs), <https://government.economictimes.indiatimes.com/news/education/covid-19-pandemic-impact-and-strategies-for-education-sector-in-india/75173099>.

Present generations are defined by their use of technology; it has become an extension of their consciousness and they do not know a world without it. The future of education will find no room to ignore the utilization of technology since it may very well be the best platform to empower learning in an age that is integrating technology as a way of life.

These generations could influence the evolution of education, as they themselves are the ones majorly impacted by the pandemic and are in the best position to learn and grow from it.⁹

With the changes in the education sector being undeniable, it is far better to accept these changes and accordingly adapt to the same, with all the best possible ways, for this will be an ultimate solution to benefit the students without putting an unnecessary break into their education. Enormous steps have been taken by the Educational Institutions for incorporating EdTech methods and continuing the process of imparting knowledge to the future generations of the nation. But, a long way is left to ensure that the knowledge and the process reaches to every corner of the world and there are no cases of people committing suicides for being unable to afford the technological ways of learning. This is not an easy process, but definitely not an impossible one. It requires both the system as well as the public to work together for the welfare of all and

⁹D Chandrasekharam, *Post Covid-19 education system*, Times of India, (Accessed on July 4, 2020, 9:30 Hrs), <https://timesofindia.indiatimes.com/blogs/dornadula-c/post-covid-19-education-system/>

thus, if the nation wants to become completely digitalized and welcome the new ways of learning with open hearts, it is necessary for all to support the educational institutions to help them provided quality education through online mode. Also, it is important for educational institutions to support and help the ones who cannot afford the expenses for such methodology because it is not a one-sided process; the support should be from both the sides to ensure the proper implementation of education. Thus, to conclude, it is asserted that the pandemic has brought unexpected changes in the field of education, but the future is unforeseen and thus, it is necessary to incorporate and adapt to the required changes and thus, take the pandemic as an opportunity to develop a technological based education system globally, which will not only reduce the requirement of infrastructure, thus reducing deforestation; but also help in Institutions to become active globally and therefore, spreading education in a uniform manner worldwide.

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MEDIA TRIAL: A STUMBLING BLOCK TO FAIR TRIAL



By Ananya Saha
B.A. LL.B Semester IV

ABSTRACT

Media is the fourth pillar of democracy. It acts as a facilitator along with being an expediter on many matters including those affecting the collective conscience of society. The role of the media is to broadcast information to the nationwide population but it has gone far from its objective and has taken a veil to transmit assumptions committing a breach of peace at a large. There are many instances where media has adversely effected and almost ruined the life of the person involved. Media plays a vital role in moulding the opinion of the society and is capable of changing the whole viewpoint through which people perceive various events. The media in no way has the right to usurp the functions of the Judiciary and cripple the independent working that the Judiciary professes till or after its verdict. Political agendas have accelerated its involvement in almost all the arenas and media

undoubtedly has been grabbed by the same. Judicial activism and its discretion to ascertain the truth and provide the victims with justice and remove the false allegations (if any) from the accused; is something which is to be dealt fully by the Judiciary and media has in no case the right to circulate false and unnecessary presumptions worsening the circumstances.

It is obvious that to run the democracy smoothly, a free and healthy media functionary is essential. But most of the time the freedom of expression is engrossed into controversy by sub-clause (2), article 19 of the Constitution of India. In the current scenario Media significantly involves when justice is totally denied or delayed but it is also seen frequently that media involves into the money making business.

INTRODUCTION TO MEDIA TRIAL

British Member of Parliament, Lord Macaulay, had years ago, called the media “the fourth pillar of democracy”¹. **Trial by media** is a phrase popular in the late 20th and early 21th century to describe the impact of television and newspaper coverage on a person’s reputation by providing with their assumptions and creating a widespread perception of guilt or innocence before, or after, a verdict in a court of law An independent media is necessary to keep a check on the government and

¹ShakshiShivpuri, Media Trial- How big is this problem, available at: <https://www.legalbites.in/media-trial-big-problem>

its organs. But the Media today isn't what it was then. Modernity has shown its boon and this could be clearly understood by the accountability of the media but we can never deny to the fact that 'we see what we are shown'; it acts like the fun house of mirrors that one finds in carnivals, it interprets things according to its own understanding². Media has now reincarnated itself into a 'public court' (Janta Adalat) and has started interfering into court proceedings. It completely overlooks the vital gap between an accused and a convict keeping at stake the golden principles of 'presumption of innocence until proven guilty' and 'guilty beyond reasonable doubt'.

INTRODUCTION TO FAIR TRIAL

The main aim of the Criminal Justice-System of India is to ensure fair and impartial trial of each and every accused, put behind the bars in the Indian Territory. Our country follows the adversary system for conducting the trial of an accused. The Criminal Justice-System of India follows some principles to ensure fair trial but still, India lags behind in the Rule of Law Index³. Harry Browne has said "A fair trial is one in which the rules of evidence are honored, the accused has competent counsel, and the judge enforces the proper courtroom procedures - a trial in which every assumption can be challenged."⁴The

²<https://www.rtd.nic.in/MassMediaIndia2009.pdf> (last visited on 02/06/2020)

³Amandeep kaur-ipladers.in.fair-trial-adversary-system-principles-of-fair-trial

⁴Media trial-an-impediment-on-fair-trial: journal on contemporary issues on law: Vol IV: Issue 10: pg 63

Judiciary follows the principle that each and every accused is presumed to be innocent unless proven guilty of a crime beyond reasonable doubts. This principle is based on the underlying fact that there must not be a wrongful conviction of an innocent person as this will decrease and shake the confidence of the people in the Indian Judicial System. It has been held by the Hon'ble Supreme Court in the case of State of U.P vs. Naresh And Ors⁵, Chandrappa and ors v. State of Karnataka⁶ that the presumption of innocence is available to the accused under the fundamental principle of criminal jurisprudence that every person should be presumed to be innocent unless proven guilty by the competent court of law in a criminal trial. Therefore, the Criminal Justice-System of India is embodied with all the necessary provisions required for a fair trial of an accused. The concept of fair trial prevails with a wider scope where the individuals involved in a case; no matter victim or accused; are examined to ascertain the truth and provide them with justice.

INTERNATIONAL CONVENTIONS ON FAIR TRIAL

The right to a fair and public criminal trial or a fair and public hearing in civil proceedings is one of the guarantees in relation to legal proceedings. Fair trial and fair hearing rights include:
that all persons are equal before courts and tribunals,

⁵(2011) 4 SCC 324

⁶(2007) 4 SCC 415.

the right to a fair and public hearing before a competent, independent and impartial court or tribunal established by law.⁷

Although the detailed and specific parameter of the right of fair trial was never recorded until the formation of the ICCPR, most of the essential rights embedded in the doctrine of fair trial rights have always been recognized to be the principles that are fundamental to the protection of human dignity in general.⁸

In the International context the UN Basic Principles on the Independence of the Judiciary, at Article 6, which states the Judiciary is entitled and required “to ensure that judicial proceedings are conducted fairly and that the rights of the parties are respected.”⁹The principles enunciated in this Article are also stated in similar language in the International Covenant on Civil and Political Rights (ICCPR)¹⁰, which provides that “ everyone shall be entitled to a fair and public hearing by a competent, independent and impartial tribunal” in the determination

⁷<https://www.ag.gov.au/rights-and-protections/human-rights-and-anti-discrimination/human-rights-scrutiny/public-sector-guidance-sheets/fair-trial-and-fair-hearing-rights>

⁸Clayton, R., and Tomlinson, H., Fair Trial Rights, Oxford University Press (2001) at pg 3.

⁹UN Basic Principles on the Independence of the Judiciary, G.A. Res.146, U.N. GAOR, 40thSess.(1985) art.6.

¹⁰Adopted and opened for signature, ratification and accession by General Assembly Resolution 2200 A (XXI) of 16 December 1966. Entered into force on 23 March 1976 in accordance with article 49.

of any criminal charge or in a suit at law¹¹.

Under Article 10 of the European Convention on Human Rights, to which the UK and its other signatories are morally committed, the freedom of the press is paramount. Exceptions to that freedom may be made only such as are “necessary in a democratic society”, permissible only to the extent that they correspond to “a pressing social need”, and are proportionate to the end to be achieved.¹² Basic Principles on the Independence of the Judiciary states: “The principle of the independence of the judiciary entitles and requires the judiciary to ensure that judicial proceedings are conducted fairly and that the rights of the parties are respected.”¹³

In order to ensure fair trial and provide with justice it is also entitled “Everyone is entitled to a fair and public hearing within a reasonable period of time by ... [a] tribunal previously established by law.”¹⁴ Therefore, the right to a fair trial is something to which every person is entitled. Hence, Judiciary has to act independently without any interference. The history of this right and the practice of courts show that the right to a fair trial has acquired universal recognition and acceptance.

¹¹Art. 14(1), ICCPR, (1966) 999 UNTS 171, 1976 Can. T.S. No. 47, in force, including Canada, 1976.

¹²As well as Article 10 of the European Convention on Human Rights (ECHR).

¹³Paragraph 6 of the 1985 Basic Principles on the Independence of the Judiciary.

¹⁴Article 47 of the 2000 EU Charter of Fundamental Rights

MEDIA: THE WATCHDOG OF DEMOCRACY

Media has undoubtedly played a tremendous role in bringing justice to the disadvantaged group of people. An independent media is necessary to keep a check on the working of the government and its organ. and carry every report of the action of administration thereby keeping the people informed about the day to day happenings taking place around them. Without an active media, the cries of the victims of brutal killings would have gone unheard. One cannot gag the press due to the heroic role it played in cases which are commonly known as ‘Billa Ranga case’, Priyadarshini Mattoo case, Bijal Joshi rape case etc. The media has helped to make the democratic society by giving emphasis on issues that at one point of time would have been considered strictly private such as child birth, child care, domestic violence, and sexual harassment etc. Thus media has been accountable in its position to provide the public with proper updates of every area in the world. It also helps in ascertaining the true facts by pressurising the Police and the Judiciary to provide the deserving person with justice like as that of ‘Nirbhaya Rape case’.

ADVERSE EFFECTS OF MEDIA ON FAIR TRIAL

We live in such a world where everything depends on one another and works in a cycle, but if any of this accelerates itself, the balance between them gets ruined. So is the balance between fair trial, Judiciary and media, they are independent. Media do not only mean Newspaper

or News channels, it also include Social media which acts as a source of information and leisure, a way to connect with other people and a means to express views about a range of subjects even those which promote social disgust and instability. It is often seen that legal experts are warning social media users to be careful about what they post online and also media functionaries from broadcasting news especially when relates to pending criminal investigations and prosecutions, as uninformed and unfairly prejudicial posts and remarks can adversely affect a defendant's right to a fair and impartial trial.

The media unlike the Judiciary, in no way believes in the principle that each and every accused is innocent unless proven guilty of a crime beyond reasonable ground. They will often express the view that those who are charged must be guilty, despite the fact that the law in our state merely requires police to have a 'reasonable suspicion' to criminally prosecute a suspect. According to their self made Janta Adalat the first work of police is to press charges and then attempt to gather whatever admissible evidence they may be able to find.¹⁵ Due to this the over enthusiastic media often puts a lot more pressure than required on the police to speed up the investigation. Speedy investigation under pressure can lead to arrest of innocent persons and the following phrase explains the same; Justice hurried is Justice buried.

¹⁵<https://www.sydneycriminallawyers.com.au/blog/the-impact-of-social-media-on-a-fair-trial/> (last visited on 03/06/2020), also refer. The-impact- of- social-media-on-fair-trial by Sonia Hickey and Ugur Nedim on 29/06/2018

Freedom of Press is not specifically mentioned in Part III of Indian Constitution, however the Hon'ble Supreme Court in a number of judgments has recognised that freedom of speech and expression also includes freedom of press¹⁶. There is no doubt that media trial has exposed many criminals of the high profile cases like Jessica Lal Murder and Nitish Katara case but then as we know things does not go well always, so the fact that it sometimes becomes biased too can't be ignored at all. Though Media has dejected common man in getting justice but at the same time the pre-decision given by the media is not praiseworthy just like the one which happened in the Aarushi Murder case. Though things were unclear in the case but the media circulated information according to its own perspective and proclaimed Aarushi's parents as her murderers, thus, viewing their negative character which might not have been true. Media is something which is run by the people itself and not God with his superpowers so in no way they have the right to broadcast things which are not proved in the Court of law, meanwhile affecting collective conscience of the people.

Media acts as a bridge between the people and the government and also a very powerful tool with the ability to make and break the opinion of the people. It has the capacity to swing perceptions or evoke emotions. This is why it has gained faith of the public. But nowadays the common people are much more manipulated by the media then making them informed for political agendas have stretched their hands into this.

¹⁶Indian Express Newspapers v. Union of India 1985 SCR (2) 287

Corporate world, film industry and even media person are deeply involved in some forms of corrupt practices. We all know that public confidence in the Criminal Justice System is critical for the effective functioning of justice¹⁷. Public attitudes on crime and punishment are shaped by the media.¹⁸ Misconceptions of crime and punishment generated by the media create a lack of confidence in the Criminal Justice System. Consequently, the public demand harsher punishment for offenders¹⁹ Therefore, media moulds the opinion of the public in whatsoever way they will to and it ultimately interferes with the liberal interpretation power of the Judiciary.

LAW COMMISSION'S 200TH REPORT ON 'TRIAL BY MEDIA'

The most reckoning research on the positive and negative aspects of media trial has been elaborated in 200th report of the Law Commission entitled- Trial by Media: Free Speech vs. Fair Trial Under Criminal Procedure (Amendments to the Contempt of Court Act, 1971) that has made recommendations to address the damaging effect of sensationalized news reports on the administration of justice. The

¹⁷Beckett K, Sasson T (2000) The politics of injustice. Thousand Oaks, CA: Pine Forge Press.

¹⁸Bennett J (2006) The Good, The Bad and The Ugly: The media in prison films. Journal of Criminal Justice 45: 97-115.

¹⁹Besley T, Burgess R (2001) Political Agency, Government Responsiveness and the Role of the Media, European Economic Review 45: 629-640.

Commission has recommended prohibiting publication of anything that is prejudicial towards the accused- a restriction that shall operate from the time of arrest. It also recommends that the High Court be must empowered to direct postponement of publication or telecast in criminal cases.²⁰

The commission has said, "Today there is feeling that in view of the extensive use of the television and cable services, the whole pattern of publication of news has changed and several such publications are likely to have a prejudicial impact on the suspects, accused, witnesses and even judges and in general on the administration of justice".²¹ It has suggested an amendment to Section 3(2) of the Contempt of Court.²²

The Law Commission of India categorizes ten type of publications in the media as prejudicial to a suspect or accused: (1) Publications concerning the character of accused or previous conclusions; (2) Publication of Confessions; (3) Publications which comment or reflect upon the merits of the case; (4) Photographs; (5) Police activities; (6) Imputation of innocence; (7) Creating an atmosphere of prejudice; (8)

²⁰www.lawcommissionofindia.nic.in Also refer, DEPARTMENT OF JUSTICE STATUS OF LAW COMMISSION REPORTS

²¹<https://m.timesofindia.com/edit-page/Media-on-trial/articleshow/1460248.cms>

²²**Section 3: Innocent publication and distribution of matter not contempt-(2)**

Notwithstanding anything to the contrary contained in this Act or any other law for the time

being in force, the publication of any such matter as is mentioned in sub-section (1) in connection

with any civil or criminal proceeding which is not pending at the time of publication shall not be deemed to constitute contempt of court.

Criticism of witnesses; (9) Premature publication of evidence; (10) Publication of interviews with witnesses.²³

CONCLUSION

Media in role of gatekeeper has done commendable job since ages. But over few decades it has started crossing its boundaries and is becoming an agenda setter and a law enforcer instead. The way investigative journalism is used to acquire information is a worrying aspect as ethics of journalism and norms set by government are kept aside in doing so. Not just this, sting operations and issue of fake news is also playing havoc in many lives. Every time once in a while we come across news where anchor says that ‘we do not have the information to be able to comment on the full background of any of these crimes at present’, but that does not stop the anchor from predicting the future outcomes and possible theories related to the case, and following the same the media with the help of their Janta Adalat continue to circulate their assumptions to the people at large.

In a nascent democracy like ours, the judiciary and the press have a pivotal and a crucial role to play. Both have to uphold the constitutional philosophy and the rule of law. The judiciary and the press have to supplement and not supplant each other. While the people have a right to be informed, the individual has the right to be protected and

²³2014 Indian Streams Research Journal

defended in a criminal case.. In a conflict between fair trial and freedom of speech, fair trial has to necessarily prevail because any compromise of fair trial for an accused will cause immense harm and defeat justice delivery system. Although it is said that the right of an individual should give way to the right of the community, but in criminal justice system, it is the right of the accused, which is paramount. His presumption of innocence cannot be sacrificed at the altar of freedom of speech and expression. Therefore, media has to maintain its boundaries and inform the common people about whatever information it has been allowed to circulate and not to broadcast assumptions.

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BLOGS



LOCKDOWN-TRIGGERED VIOLENCE AND ABUSE AGAINST WOMEN



By Deepshikha Paul
B.A. LL.B Semester IV

While the world is relentlessly battling the Covid-19 pandemic, the nether evil of domestic violence and abuse shows no sign of abating; rather, it is on an unprecedented rise. The situation in India is no better. Even in this situation, India is struggling to provide safety to its women and children. The widely acknowledged and oft accepted adage about the 'home' being a safe space is vigorously questioned in the rhetoric of domestic violence and abuse. This has become far more problematic and complicated in the contemporary times of the Corona virus. The living situation of family members being confined together in close quarters has become a bane for many. There is an increased rate of women facing domestic violence, sexual abuse, dowry deaths, etc. and unfortunately, the children are also at the receiving end of it all. The National Commission for Women (NCW) has raised an urgent alert about the increasing number of cases of violence against women since the nation-wide Lockdown began. It registered a spike of at least 2.5

times of complaints: 1,477 cases per day have been registered all around the country, and this is only a statistical data of the heinous crimes against women and children which were reported.

Some of the relevant laws of IPC which could be used in the subsequent penal procedure to combat domestic abuse and violence are as follows:

Section 498A – Husband or relatives of the husband of a woman subjecting her to cruelty shall be punished with imprisonment for a term which may be extended up to three years and shall also be liable to fine. Domestic violence involves a pattern of physiological, physical, sexual, financial, and emotional abuse.

Section 304B – If a woman dies within seven years of marriage by any burns or bodily injury, and it is revealed that she had been subjected to cruelty by her husband or his relatives, then it will be considered as Dowry Death. The resulting conviction, if found guilty, could be a minimum punishment of imprisonment of seven years and a maximum of life imprisonment.

Sexual abuse, rape, gang rape, etc. are all such instances that have seen a rise in this lockdown. Women have always been believed to be the “VULNERABLE GENDER”, and been oppressed by our patriarchal society. At a time when a person needs one's family's support, here there are only few options to help the victims. Disconnection from social support system is one of the key reasons why women and girls are dying by suicide. 86% of the cases are not even reported for the

fear of social stigma, and favourable opportunities to women; for a woman with children it becomes all the more difficult to lodge a complaint against the torment she is facing. Instead, they choose to keep it under wraps, and silently endure the violence. A time when most households are plagued with financial crisis, stress, anxiety, worsening mental health, etc. some women have to withstand abuse almost every day. Women Empowerment movements have led to opening up of dialogues where we talk about incidents now and then, however the number of women speaking up about their experience and against their abusers is quite less.

YE GHAR KI BAAT NAHI HAI! (IT IS NOT A PERSONAL ISSUE!)

For when the violence becomes outrageous the whole community needs to take a stand against it, and make sure that the guilty is penalised for his actions.

At this moment, where we all are confined in our houses, the victims could at least talk about these abuses with a trustworthy friend, relative or acquaintance. Helpline numbers provided by various NGOs, NCW are to be contacted immediately if anything is being suspected. If this too fails to work, police complaints should be made and a proper legal proceeding has to be undertaken against the abuser in order to stop this. It is high time that we talked about these issues and help each other in need. The laws that are provided to us have to be implemented correctly for a swifter, smoother, and more transparent road to justice.

NEPOTISM IN BOLLYWOOD



By Prachi Singh Rajput
B.A. LL.B Semester IV

Nepotism can be defined as the practice of making employment decisions on the basis of favouritism and personal relationship (familial or friendly). Nepotism describes a variety of practices related to favouritism: it can mean simply hiring one's own family members, or it can mean hiring and advancing unqualified family members based on their familial relationship. For years, now here in India, Bollywood has been dominated by those who come from within. Young outsiders who are often more talented than most 'star kids', hardly get a fair chance and are treated as pariahs, just because they lack the tag of being some famous celebrity's relative or children. Is it fair to not give them chance on the basis of their family tag? No. The most pertinent question is how can someone, who is perhaps more deserving and more talented, not get a chance to make it big in the film industry. At the same time, someone who is at a much lower rung of the talent scale is getting all the chances relatively easily on the basis of familial tag and celebrity connections.

How do we raise our voices against this culture when our political parties, the integral organs of the policy making mechanism, are also partakers of this toxic culture. Nepotism has always been there and it is here to stay even in the near future, but it has taken a problematic dimension by causing detriment to individuals who are striving hard to claim a space for themselves in different fields by dint of sheer hard work and talent; the so called 'star-kids' in Bollywood often have the privilege of evading the basic struggle of attaining recognition or garnering a loyal fan-following. However, a commoner has to go through all the hoops (necessary and unnecessary) to achieve everything that are easily available to the Bollywood royalty. It would be wrong to tag all 'star-kids' as undeserving, and lacking of talent. Over the years, we have seen a multitude of professionals in Bollywood, with connections to industry insiders, who have done tremendously well, and furthered the cause of Indian Cinema. However, the problem heightens and festers when talented individuals with no patronage from within the industry are restricted in their dream-run because of vested interest and loyalty. We all can hope that like most major changes taking place in the country, this also becomes an issue that is strongly protested against by everyone. Everyone has the right to stand a fair chance in all professional fields, and any possible hurdle in the way of achieving this right should be removed. It is only possible when the hurdles are removed and we get to see talented and deserving people who can take the country to new heights.

CHILD ABUSE



By Priyanka Thakur
B.A. LL.B Semester IV

“What happened to you that made you stronger?”

I was a child. I didn't need to be stronger, I needed to feel safe. I think that there is something about people who were abused as kids that makes them embrace things that others consider monstrous. Child abuse isn't just about bulged eyes and sexual assaults; it is much more than that. It induces trauma that lasts forever. They leave an everlasting scar, damaging a child's sense of self, justice and their future relationships. There are many types of child abuse but above all the consequence is a serious emotional trauma. Psychological abuse such as neglect, being put in dangerous situations, physical torture, and sexual abuse that usually happen in our society all come under the ambit of child abuse. Child abuse often leaves a huge impact on the kid while they grow up. Not every parent, guardian, or an older child with an adverse or unfavourable background intentionally harm the children to whom they have access, and not all destitute kids go through child abuse. Children from well-educated families are also subjected to

abuse. It is universal: it is not limited to any particular caste, race, economic strata, religion, or culture.

Child labour can also be classified as a form of abuse. Causes of child abuse can be various, such as domestic violence, alcohol and drug abuse, mentally unsound parents or relatives, rearing of children without proper parenting skills, etc. The highest risk of child abuse is to children who are five years or below. Parents who are dependent indulge in substance abuse often end up ill-treating their children over a period of time. Kids growing up with these abuses usually tend to imbibe the characteristic harassment which they went through. After growing up there remains a high chance of them doing the same thing with their partners and children. Kids who experience abuse usually feel a sense of constant fear and crippling helplessness as they go through immense emotional trauma.

Children according to me, are not always able to talk about the abuse either because they are too young to strengthen themselves in order to divulge everything about the abuse and people related to it, or because they don't feel comfortable sharing it. People, who are closely related to children, should always look for signs while interacting with them. There are ample hints: a child subjected to abuse suffer behavioural changes, they tend to become quieter, distant, and indifferent, some become violent and inflict injury to self and others, there is often a drop in academic performance, they become nervous and insecure, lose confidence, lose bladder control, have night terrors, etc. People should

be made aware of child abuse and its many repercussions. The most important thing is to make children learn about good touch and bad touch. Educating people would surely solve this cycle of abuse.

THE SCOPE OF THE TRANSGENDER LIVES IN INDIA



By Samiksha Singh
B.B.A. LL.B Semester IV

“A girl is always compared to an angel.....
A boy is always compared to a bold character
Then why not a transgender can be called as a angelic bold person.”
-Thasleem Rayeesha

Transgender people are individuals whose gender identity does not confirm to socially accepted and acknowledged normative gender roles, thus they differ from the stereotype of how men and women normally are believed to be.

In India, transgender people include hijras/ kinnars, shivshaktis,

jogappas, etc.

A very shameful albeit truthful fact of our society is that till now we have not accepted these people. We treat them differently and think that they are different from the normal people. They face a lot of difficulty in our society as they are not treated at par with the rest of the populace. Transgender individuals are shunned by family and society alike. They have restricted access to education, health services, and public spaces. Until very recently, they were excluded from effectively participating in social and cultural arena of society. Political agency and decision-making are out of their reach. Transgender people have difficulty in exercising their basic civil rights. Reports of harassment, violence, denial of services, and unfair treatment against transgender people have time and again come to light.

“I was a normal child but it’s the world that made me feel different.”

Even in the 21st century these people are facing inequality problems in the society; we have not accepted till now that they are as human as we are. They are not given the rights which they deserve and they are rightfully entitled to. When they are born in any family, they are often thrown out of the family, and after that they are systematically ostracized by the society; their rights are snatched away from them.

With this kind of bias and prejudice awaiting them everywhere, they are not able to get proper education, nor do they get a fair chance to do honest socially-accepted and recognized ‘respectable’ work. Right from their childhood they face huge difficulties, and are sequestered from the

society.

“WE ARE AS NORMAL AS ANYONE ELSE.”

No person should suffer injustice on the basis of their gender. It is high time the society accepted the people belonging to the transgender community, and treated them as equals. It is society's collective responsibility to make the social place conducive to free living; so that the transgender individuals can seamlessly assimilate with the rest of the populace and live without bearing the brunt of stigma.

We all are human and we are no one to judge or to do injustice with anyone. They are a part of our society and hence, we must accept them as they are from their origin. Establishing a dialogue in our daily life, wherein the unfounded insecurities and insensitivities pertaining to the transgender community are dispelled, would be the most effective way to normalize their situation.

LABOUR LAWS' LOCKDOWN



By Sujit Swami
B.A. LL.B Semester IV

People are encountering several problems owing to the COVID-19 pandemic situation. In India, the most affected people are easily the daily wage earners, because due to the lockdown regulations more or less all factories, industries, and enterprises experiences temporary or sporadic suspension of work. Large number of migrant workers were rendered unemployed, and they were compelled to go back to their respective native states. In India people from different states migrate to other states in search of jobs. These labourers and their families were the worst hit in the pandemic crisis. Now some of the states are making changes in labour laws to keep the economy buoyant which has been affected by the Corona virus pandemic.

Labour law relaxation in different states within the country has changed the pattern of Labor laws in India. The most-noticeable states in this regard are Uttar Pradesh, Gujarat, Madhya Pradesh, etc. A number of laws have been struck down in these states. All these were done by the ordinance “Uttar Pradesh temporary exemption from certain labor laws

Ordinance, 2020". All the specified laws shall be suspended for three years in Uttar Pradesh under this ordinance.

The laws which are suspended are related to labor Unions, Settling work disputes, Regulation for working condition, contracts, etc. Some of them are the Minimum Wage Act, the Maternity Benefit Act, the Equal Remuneration Act, the Trade Union Act, the Industrial Dispute Act, the Industrial Employment Act, the Factories Act, etc.

But some laws are exempted, like Bonded labor system (Abolition) Act, 1976, Employee Compensation Act, 1923, Building and other construction Workers Act,1996, and Section 5 of payment of wage Act,1936.

Government is arguing that all these reforms were done due to current covid-19 situation which has slowed down our economy, and all the industries where labourers are required are affected. Migrant labourers, those who used to work outside their home states, are back to their own states, and this is why we need to give them job opportunities by changing such laws where both the parties (labourers and industries) are in profit.

We cannot ignore the rights of workers. If we look at the plight of the inter-state workers, they have been badly affected by covid-19 situation and the subsequent lockdown, and the labour law relaxation is also challenging them. There is a law which protects the migrant labours: "Inter-state migrant workmen (regulation of employment and condition of service) Act, 1979". It is applicable to every establishment that

employs five or more migrant workers from other states. It is also applicable to contractors who employ a similar number of inter-state workmen. Now this law has become very much important for the migrant labourers to secure their rights, but again we can see how MSMEs are worst hit by the COVID-19 situation just owing to the lack of proper implementation of laws.

There is a discernible trend coming up wherein multinational companies are looking to shift their industries and production process from China to India, and the relaxation in Labour laws can provide better options to invest in states like Uttar Pradesh, Bihar, Gujarat, Madhya Pradesh, etc.

So this step by the states will give a boost to the economy. It will also give job opportunities to the labourers who came back to their home states.



POEMS



MIZZLE OF REMEMBRANCE



By Akash Dey
B.A. LL.B Semester IV

Each drop is chilling the soul of lovers

The tears of huff are shed by the sky

The leash on emotions are trickling out in the world of no shy

Like a queen, like a tired traveller, like the soldier's consort

the line of hope is still dark and intact.

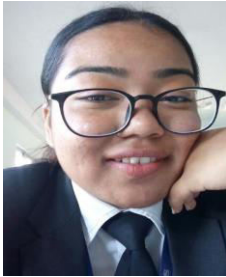
The mizzle of remembrance is sprinkling hope in the despair

The mizzle falling in the pool of hunches are uncovering the

scummy pool by fragmenting

Love from the hunch.

ENLIGHTENMENT



By Ambika Biswakarma
B.A. LL.B Semester IV

6'o clock in the morning, sunlight around my body and my mom yelling into my room, forcing me to get ready;

That's how my morning used to be when I was a school kid.

Waking up, going to school, coming back home, tuition, homework and school activities- that was my life: simple and plain as it used to be.

After ten years when I was a college student nothing changed it was as plain and simple as it was before.

I wonder what education is, and why is it treated like a medium to earn money or to gauge ability?

Have you ever heard, someone saying if you get a particular percentage (98 or 99) you are eligible for this or that job and even could get paid high?

Why education is directly proportional to money / income and not to personal upliftment?

Every people has their own skill, aptitude in their particular interests and should never be measured in terms of grade or

percentage.

If we bring Doctors here and ask them about the law and order will he/she be able to speak? NO! Rather we ask them about health care or health disorder.

They are only skilled for one field. Every individual has their own flair; we cannot compare lawyers with doctors and doctors with engineers.

If you see axe and blade, axe can slash wood into two pieces but it is incapable to shave your hair. Similarly blade can shave your hair but cannot function like axe.

Likewise, we humans have different aptitude and cannot be compared with each other, and one's ability cannot be measured with any artifact.

EDUCATION is something for your upliftment, and your wisdom and not a medium to gain money

SHARE THE HEARTS



By Priyanka Thakur
B.A. LL.B Semester IV

Must the shard
Bleed lives born different
To share the planet
Yet forced into oblivion,
Their words
Attached to the spirit detested
Can be hidden behind
The veil of conservative consensus
Tucked along the vulnerable path.
Ye
Must the disappointed heart yield venom.

Your sacredness needs fear
To sanction the purity of HALAHALA
Down the throat

Of the Blue Lord
But refuse the acknowledgement
Of brethren
Living without an identity
That's nothing but fused with vulgarity
That's nothing but forget with hate
Those sharing the land
But with the orientation that's dissimilar
To a belief of approval
That neither finds utterance
From the deities
Nor their casteist equivalent
The priest, Bhrahmans
Those tracing their past
From the creator himself.
Ye
The Avatars blessed
The chariot against invincible Led for Dharma to lead'
Must their mainstream co existence
Still be subjected to denial.
In times modern
The supreme upholder of Constitution
Left no question be skipped
Against their acceptance

And yet,
Must the changing times
Face the brunt of negligence
Dormant debunking of the Godmen
And their claims of tendency.

Ye
Must the judiciary of the streets triumph.

The month strives with hope
Marching for the mercy of muddled heads
The race of acceptance won
By the LGBTQ community

Indeed needs a greater social acceptance
That knives logic at a worse
With Homophobia settled long
As wreaths on corpses
With the brain borne to nothingness.

Ye.
Must times change for million,
The challenge of looking for thronged roads.



CARICATURE





SRIMAYEE BHADRA
LLB SEMESTER II

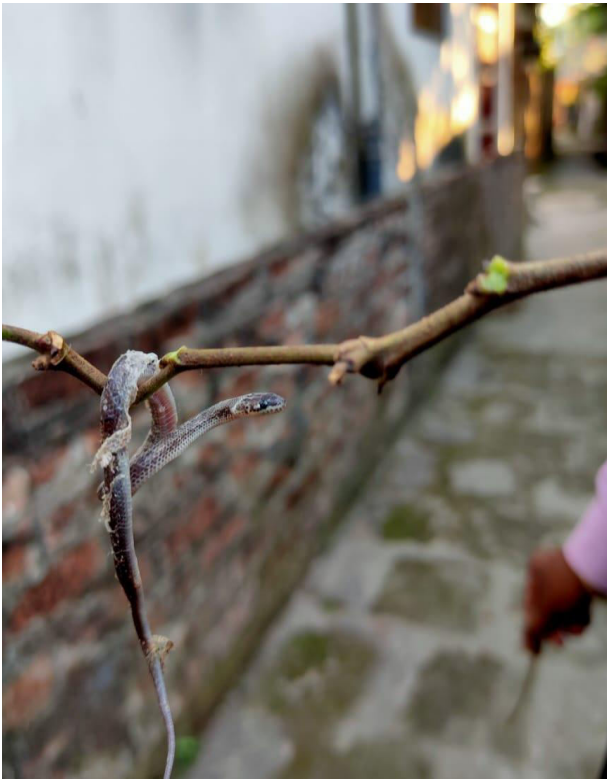


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