

CHAPTER 24

LAW

Doctoral Theses

191. AGGARWAL (Renu)
Aftermath of Divorce: A Comparative and Critical Study.
Supervisor : Dr. Poonam Saxena
Th 14250

Abstract

An effort is made to include every related aspect of life to understand how the concerned parties are affected socially and legally after divorce. The work has three-fold objectives. Firstly, to review the existing law of Hindus, Muslims, Christians and Parsis in India, with respect to the nature and extent of the reliefs available to the divorced spouses and their children. Secondly, to make a comparative and critical appraisal of the existing provisions with the objectives of judging their efficiency, identifying gaps, lacunae and other deficiencies in the prevalent law and suggest appropriate reforms. Thirdly, to demarcate areas of discrepancies and variations existing in the post-divorce laws of Hindus, Muslims, Christians and Parsis with the objective of exploring the feasibility of unification and regularisation of this branch of the divorce law in the Indian social context. It shows existence of number of major differences among the aftermath of divorce provisions under the personal laws. Although the judiciary has attempted to minimise such differences in their interpretation of such provisions, yet it would require a gigantic exercise of the legislator's will to unify such laws.

Contents

1. Introduction. 2. Alimony and Maintenance of Spouses After Divorce. 3. Maintenance and Education of Children After Divorce. 4. Custody, Guardianship and Adoption of Children After Divorce. 5. Settlement of Property After Divorce. 6. Remarriage of Divorced Spouses. 7. A Comparative Study of Aftermath of Divorce Under Personal Laws. 8. Conclusions and Suggestions. Bibliography.

192. ASHUTOSH
Rights of Accused in the Criminal Justice Administration.
 Supervisor : Prof. Harish Chander
 Th 14252

Abstract

Studies the Rights of Accused in the Criminal Justice Administration vis-a-vis people belonging to poverty class, who on account of their powerlessness and voicelessness are not in a position to exercise those rights, which makes them more vulnerable to insecurity in life and consequently they are not able to exploit the economic opportunities. Hence they are exposed to ill treatment by institution of the State and society. Unless and until, Democracy uses its mighty weapon of 'Rule of Law' and attempts to restore equality before law and balance of the economic structure, so as to remove the cause of economic tension from the body politic of the community, the problem of poverty, which is the world's greatest challenge, cannot be successfully met. Attempts to find out as to how, by making the judicial institution of the State, strong and more responsive to poor people, protection may be granted to the rights of the weaker section of the society and as to how in turn their overall growth may be stimulated by expanding their economic opportunities, strengthening their participation in political process and local decision making, and enhancing their security.

Contents

1. Introduction. 2. Rights of the Accused and the Code of Criminal Procedure 1973. 3. Rights of Accused in Jail. 4. Constitutional Guarantee of the Rights of the Accused. 5. Judicial Activism in Relation to Rights of Accused. 6. Protection of Human Rights. 7. Application of 'Rule of Law' to the Poverty Class. 8. Enforcement of Accused's Rights Through Social Litigation. 9. Conclusions and Suggestions. Bibliography.

193. SAIFUDDIN
Decentralization and Autonomy in Indonesia in the Light of Indian Experience: A Constitutional Approach.
 Supervisor : Prof. Mahendra P. Singh
 Th 14251

Abstract

Discusses the development and classification of government with special emphasis on the concept of unitary and federal

system. Outline the causes and objective of decentralization as well as its urgency for the process of democratization in Indonesian political system. Discusses the political and constitutional development in Indonesia including the origin and history of the national movement in Indonesia, its effort to draft its own constitution, the social-economic and political aspects of the Dutch occupation over the territory for more than three centuries. Elaborates the local government system in Indonesia, subsequent Acts and Regulation, particularly the Presidential Edicts 6 of 1959. Concludes by giving several reasons for the unsuccessful decentralization policy in Indonesia and by arguing on the reasons why the Indonesian policy makers, particularly the People's Consultative Assembly (MPR), could well learn from the Indian experience in this regard.

Contents

1. Introduction. 2. Political and Constitutional Development in Indonesia. 3. Local Government System in Indonesia: An Overview. 4. Constitutional and Legal Aspects of Decentralization Policy in Indonesia. 5. Distribution of Power and Local Autonomy Under the Indian Constitution. 6. Decentralization and Autonomy in Indonesia in the Light of Indian Experience: An Appraisal. 7. Conclusion and Suggestion. Bibliography and Appendix.

194. SRIVASTAVA (Ajendra)
Liability for Transnational Movement of Hazardous Wastes: A Study of the Evolution of International Legal Principles and Rules
 Supervisor : Prof. S.K. Verma
 Th 14333

Abstract

Transnational movement of hazardous wastes is no longer a bilateral issue between the exporting and importing States. It impacts the international community by creating serious health and environmental risks. It is now increasingly becoming obvious that risks associated with transboundary movement of hazardous wastes have far-reaching international ramifications justifying international legal interference. There arises, in particular, the issue of liability of States under international law for harm resulting from such movement which is examined. International customary law on transboundary environmental damage better accommodates liability concerns that arise in the context of transboundary movement of hazardous wastes than a regime set out by the Basel Protocol. Customary Law on

environmental protection, though not fully developed, is capable of encompassing within its scope of application activities associated with transboundary movement of hazardous wastes. The 2001 ILC's Draft Articles on State Responsibility also contribute to the further development of the law in this regard as they embody customary international law of general rules of State responsibility. In this sense, they supplement the international customary law on environmental protection. In India, interest in transboundary movement of hazardous wastes has recently grown. Initially, the Government of India seemed hesitant to check the influx of hazardous wastes especially recyclable waste into the country. But the constant vigil by the Supreme Court particularly, directions issued by the Court in *Research Foundation for Science Technology National Resource Policy v. Union of India* ("the Research Foundation Case") against concerned authorities led the Central Government to adopt stricter measures and to bring about legislations which are largely compatible with the international norms.

Contents

1. Introduction. 2. Customary Law of State Responsibility Concerning Transboundary Movement of Hazardous Wastes. 3. International Responsibility of States: General Rules. 4. The Basel Convention and Regional Waste Management Systems. 5. Principles of Civil Liability for Harm Resulting From Transboundary Movement of Hazardous Wastes. 6. The Regulation of Transboundary Movement of Hazardous Wastes of India. 7. Conclusion and Suggestions. Bibliography.

195. VARSHNEY (Neeraj)
Application of Antidumping Measures Under the WTO Regime
 Supervisor : Prof. Ashwani Kr. Bansal
 Th 14334

Abstract

Antidumping measures, as the name suggests, are taken against the practice of 'Dumping'. In brief, 'Dumping' takes place when an exporter sells the goods in the territory of another country at cheaper prices than his domestic market price or below costs. The practice of 'Dumping' has been known from medieval times, but has been documented by Adam Smith in 1776. First reference of present form of laws against 'Dumping' is traced to 1904 in Canada. The General Agreement on Tariffs and Trade (GATT 1947) was the first multilateral agreement

which formalised a stand on 'Dumping' and antidumping measures. It did not prohibit 'Dumping', but condemned injurious dumping and regulated the application of antidumping measures that could be taken by countries. The GATT permitted countries to take action against dumped goods only if it caused 'injury' to the domestic industry. This subject has assumed great importance and has lots of implications, as antidumping measures are becoming rampant and are important tools in the area of international trade. In the past 10 years, 2517 antidumping investigations were initiated and 1567 antidumping measures were taken. This contemporary area of foreign trade is the subject matter of the study. Introduces WTO in brief and thereafter antidumping measures are discussed.

Contents

1. Introduction. 2. Historical Background of Anti-dumping Measures. 3. The Concept of 'Dumping' & its Interpretation Under the WTO Framework. 4. Injury and Causation. 5. Investigation in Anti-dumping Cases. 6. Levy and Collection of Anti-dumping Measures. 7. Remedies Against the Anti-dumping Measures. 8. 'Circumvention' of Anti-dumping Measures. 9. Post Doha Negotiations and the Reform of the Anti-Dumping Agreement. 10. Conclusions and Suggestions. Bibliography and Appendices.

M.Phil Dissertations

196. KALE (Siddharth Prakash)
Autonomy of Domestic Arbitral Process from Courts in India.
197. MURTI (Ravi Shekhar Mangal)
WTO-Trips Agreement and its Implication on Indian Patent Regime with Reference to Indian Pharmaceutical Sector.
Supervisor : Dr. O.P. Sharma
198. SHARMA (Sunil Kumar)
Lokpal-The Indian Ombudsman: Will it Ever Become a Reality?
199. WUNGNARAR (George)
Care and Protection of Refugee Children.
Supervisor : Prof. Usha Razdan