

CHAPTER 24

LAW

Doctoral Theses

260. GROVER (Sunita Singal)
Legal Control of Global Warming.
Supervisor : Prof. Gurdip Singh
Th 15331

Abstract

Environmental law embraces a wide spectrum. The domain of environmental law extends to the relationship between natural resources and other living creatures. In the absence of environmental law and policy the exploitation of the renewable resources stock and the dumping of waste will drive nature beyond the limits of its assimilative and re-generative capacity and will enhance the greenhouse gas emissions leading to global warming. The work will inject much more certainly into the global warming debate and provide further evidence that is intended to encourage the world community to respond to one of the world's major challenges before it is too late.

Contents

1. Introduction. 2. Historical perspective. 3. Controls measures. 4. State responsibility for greenhouse gas emissions. 5. Kyoto mechanisms and sustainable development. 6. Financial mechanism. 7. Indian perspective. 8. Conclusions. Bibliography and appendices.

261. GUPTA (Gunjan)
Law Relating to Dishonour of Cheques Including Electronic Cheques : A Socio-Legal Study.
Supervisor : Shri O. B. Lal
Th 15332

Abstract

Litigation pertaining to dishonour of cheques is seen to have

mushrooming growth since the incorporation of section 138 of the Negotiable Instruments Act, 1881 in the year 1988. However, the initial tempo of litigants was going down for the reason of witnessing delay in even summoning of accused persons what to talk of conducting trial, and also for various other loopholes that were left out in the substantive part of law on the subject. Legislature in its bid, amended the provisions of section 138 of the Act in the year 2002 (vide Act No. 55 of 2002) inserting section 143 to 147 anew, besides making some other amendments to the existing provisions, thereby making law of dishonour of cheques computer friendly when it includes in its ambit 'electronic cheques' on the one hand and on the other hand it provided for speedy trial on day-to-day basis knowing fully well that it may not be possible for the courts to implement them without there being metamorphosis in the judicial infrastructure. This strict criminal liability as provided for under section 138 of the Act is peculiar to India alone and none of other common law countries have made any such provisions at par with this law. The reason being, their ordinary remedy for dishonour of cheques itself is sufficient and they do not require any such special law to combat this menace. It is this reason alone that this specialized study is made basically with regard to Indian Law. Some necessary and meaningful comparative analysis has also been done in this work.

Contents

1. Introduction. 2. Legislative, policy and its constitutional implications. 3. Concept of 'cheques' and related definition. 4. Electronic cheques. 5. Grounds for the offence. 6. Statutory notice for dishonour of cheques. 7. Procedural difficulties in pursuing the remedy. 8. Alternate remedies. 9. Sociological impact of law-Statistical analysis. 10. Summary of conclusions and suggestions.

262. JHA (Anupam)
Combating International Crimes : Response of International Criminal Law with Special Reference to International Criminal Court.
 Supervisor : Prof. J. L. Kaul
 Th 15333

Abstract

Highlights the gravity of the international crimes and also the functional mechanism that is operating in the international field to control it. The need to study certain particulars of the

international criminal justice process has been highlighted by lawyers and non-lawyers working for inter-governmental organizations and academic institutions. That is not simply in the human rights field, but also in diverse fields, such as commerce (e.g. safety of international maritime navigation) and energy (theft of nuclear materials). Furthermore, the science has conquered time and space both now-a-days. This has facilitated the operation of organized crimes. The growth in transnational crime and the increased mobility of suspects and witnesses is resulting in international criminal law assuming critical importance for domestic lawyers and law enforcement agencies. The study examines the actual application of international criminal law and its effectiveness.

Contents

1. International crime and international criminal law. 2. Combating international crimes without any international court/tribunals. 3. Combating international crimes with the help of international tribunals : Earlier experiences. 4. International criminal court : Law, procedure and enforcement. 5. Can the ICC combat international crimes? some issues. 6. Conclusions, suggestions. Bibliography.

263. KAUL (Bushan Tilak)
Judicial Activism in the Area of Industrial Relations Law in India.
 Supervisor : Prof. K. Ponnuswami
 Th 15334

Abstract

Developes a better understanding of the factors which have worked as bottlenecks in framing comprehensive legislations in the area of industrial relations law. The study concludes that it is because of lack of political will that successive governments at the centre have failed to fulfill the promises made in the constitution to create a welfare state and that the higher judiciary in India has played a commendable activist role to evolve workable rules/norms in consonance with the constitutional goals, while at the same time bringing to focus the limitations of its approach.

Contents

1. Introduction. 2. Trade union law and judicial activism. 3.

Standing orders, industrial discipline and judicial activism. 4. Industry, industrial dispute and workman : Conceptual framework and judicial activism. 5. Employer's right to carry on business, declare lay-off, retrenchment or closure and judicial activism. 6. Law of strikes and lockouts : The industrial disputes act, 1947 perspective and the judicial activism. 7. Wage adjudication and judicial activism. 8. Growth of public interest litigation, judicial activism and enforcement of worker's rights. 9. Conclusion and suggestions. Bibliography.

264. RATHORE (Tej Pal Singh)
Competition Policy and Law in India.
 Supervisor : Dr. Poonam Saxena
 Th 15335

Abstract

Critically analyzes the Competition Policy and Law in India and also discusses the creation of competitive environment for the enterprises and industries to become competitive internationally. The study also examines the comparative position of Competition Act in UK, the anti trust legislation in US and the concept of public interest and particularly the consumer interests in the wake of technological innovations and the increasing phenomena of globalization, liberalization and privatization and also the growing consumer protection movement in India.

Contents

1. Introduction. 2. Need for competition policy in India. 3. Pre-requisites of competition policy. 4. Contours of competition policy. 5. Anti-competition practices under WTO regime and its various agreements. 6. Relevance of professional services in competition policy. 7. Existing law - relevance of MRTP ACT in competitive milieu. 8. Control mechanism. 9. Conclusion and suggestions. Bibliography and Appendix.

265. SANGROULA (Yubaraj)
Criminal Justice System of Nepal with Special Reference to Legal Framework and Practices of Interrogation, Extrajudicial Confession and State of Fair Trial.
 Supervisor : Prof. Nomita Aggarwal
 Th 15336

Abstract

Attempts to empirically analyze the prevailing situation, stan-

dards and development trends in the criminal justice system of Nepal, with special reference to law and practices of police interrogation, use of confession as evidence and fair trial. Human rights issue are thus intrinsically imbibed in the study. Attempts to analyze performance realities of the Nepalese criminal justice system in the light of minimum international standards of fair trial on the one hand, and the comparative overview of its institutional standards of fair trial on the other hand, and the comparative overview of its institutional and structural issues and development in the lights of criminal justice systems of India, UK, USA, Sri Lanka, Germany and Japan. Such a comparative analysis was considered essential in view of a very brief history of the common law-modeled adversarial criminal justice system in Nepal.

Contents

1. Introduction. 2. Historical perspective of the nepalese criminal justice system. 3. Legal and institutional framework of the criminal justice system in Nepal with special reference to international conventions and treaties. 4. An analysis of the criminal justice system : Theoretical concepts and contexts. 5. Inter agency coordination, supervision, monitoring and oversight of the interrogation of suspects in the police custody. 6. Methods used in interrogation and their impacts on procedural rights of suspects. 7. Admissibility and frequency of use of confession as evidence in conviction in Nepal. 8. Judicial approach to the process of interrogation in Nepal. 9. Redress mechanisms for violation of fair trial and its impact. 10. Conclusions, suggestions. Bibliography.

266. SEKHON (Geeta)
Child Sexual Abuse and its Various Forms : A Comparative Study of the Law and Legal Procedures in India and Western Countries.
 Supervisor : Prof. Nomita Aggarwal
 Th 15337

Abstract

Articulates what many have chosen to deny minimize or rationalize; that there is a convincing case for critically re-examining the laws, policies and practices that have allowed child sexual abuse to persist virtually unchecked in India. This study explores why the current laws on child sexual abuse in India are not sufficient by analyzing their inadequacies or rather their

inadequacies; the reasons why laws aiming at preventing harm to children are ineffective and what procedures can lead to better co-ordination of law and social practice in the elimination of the phenomenon of child sexual abuse. The study seeks to recommend a holistic, inter-disciplinary approach and a range of actions to help tackle the problem of child sexual abuse and commercial sexual exploitation of children in India. Therefore, starting with status quo, and examining its causes, this work seeks to present proposals for solutions.

Contents

1. Introduction. 2. Meaning and types of child sexual abuse. 3. Sexual abuse of the child at home. 4. Sexual abuse of the child at the place of work. 5. Institutional sexual abuse; sexual abuse within the context of religious and cultural practices and sexual abuse of street children. 6. Child sexual abuse - Laws in India. 7. Commercial sexual exploitation of children. 8. Child sexual abuse -Laws in western countries. 9. Child victim and the criminal justice system. 10. Conclusions and recommendations. Bibliography.