

## CHAPTER 27

### LAW

#### Doctoral Theses

01. ABRAHAM (Sangeeta)  
**Right to Development of Persons with Mental Disabilities in India: A Human Rights Perspective.**  
Supervisor: Prof. Rajan K.E. Varghese  
Th 23743

#### *Contents*

1. Introduction 2. Disability management and approaches in India 3. The International legal framework vis-a vis mentally disabled persons 4. Legislative framework on the mentally challenged in India 5. Education for the mentally challenged in India 6. Employment for the mentally challenged in India 7. The response of government and civil society vis a vis rehabilitation of mentally disabled 8. Conclusions and suggestions. Bibliography. Annexures.

02. MISHRA (Amit)  
**Nuclear Non-Proliferation in South Asia: Problems & Prospects Under International Law.**  
Supervisor : Prof. J. L. Kaul  
Th 23694

#### *Abstract (Not Verified)*

The Thesis has evolved some contentious Research Questions like Why we build nuclear weapons when we know that they are synonymous with death & destruction? Whether the invention of nuclear energy is a boon or curse for mankind? Does the Nation have any right to acquire the nuclear weapons by deteriorating the environment? What will be the strategic developments of these nuclear developments? Why billions of dollars are spending and thousands of manpower are engaged in acquiring, maintenance & modernization of nuclear weapons instead of using the same in elimination of global evils like terrorism, poverty, hunger, diseases, food and water scarcity, gender inequality and climate change etc. Doesn't the threat or use of nuclear weapons or continuous testing of nuclear weapons by the countries affect the basic and natural right of the human being i.e right of live peacefully without any threat, fear or apprehension? The Thesis brings out the fact that South Asia has become a hub of nuclear arsenals and Pakistan-an epicenter of nuclear proliferation. The proliferation of nuclear weapons is a harbinger for various other problems like Nuclear Terrorism, Nuclear Safety, Environment Degradation & Destabilization of the Global Order. The Thesis brings out the fact that the Legal Regulations taken by the International Community have become ineffective in curbing the Nuclear Proliferation from South Asia. The Non-Proliferation Treaty (NPT) though has attained some success in curbing the horizontal nuclear proliferation but failed in vertical nuclear proliferation. The Thesis finally concludes that the root cause of all the problems is "Nuclear Weapons". Thus, the solution lies in the "complete nuclear disarmament" by all the states that will bring peace and stability in the South Asia and Article VI of the NPT is the manifestation of the same.

*Contents*

1. Introduction 2. Evolution of nuclear proliferation 3. South Asia: A hub of nuclear proliferation 4. Legal Regulations to promote nuclear non-proliferation 5. Problems & challenges in south asia to non-proliferation regime (npr). 6. Suggestions & conclusions. Bibliography.

03. SINGH (Atul)

**Protection of Personal Data: Challenges Posed in the Information Age.**

Supervisor :Prof. Bushan Tilak Kaul

Th 23695

*Abstract*  
*(Not Verified)*

identity is composed of the individual's biological characteristics which are collectively referred to as biometric identifiers. Characteristics such as date of birth and name are his attributed identifiers and with the passage of time and routine social interactions, he acquires further biographical identifiers. These constitute the 'personal information' of a natural person which is unique to him. In the 20th century., information can be exploited through techniques for manipulation and interpretation of personal information with ever rising levels of sophistication since the dawn of the 'information age'. It becomes necessary to place limits on quality collection and defined use of data. Unauthorized access and misuse of personal data for committing economic crimes has perhaps attracted maximum attention towards protection of personal data in this day and age of electronic commerce and cashless economies. Within Europe, varying national data protection rules restricted movement of personal data across borders. This led to formulation of supranational data protection schemes in the form of guidelines of the OECD, convention of the Council of Europe and the directives and regulations of the Europe Union. India is witnessing perhaps the next defining moment in its economy since the 'green revolution'. A good deal of India's 'information revolution' can be attributed to the spurt in telecommunication infrastructure and to computers, networking and offshoring at an international level. Thus one of the mainstay of data protection in India has been the Information Technology Act, 2000. Besides the Information Technology Act, law answering the demands of personal data protection in India is generally sought to be located in intellectual property laws and law of contracts. The objective of this study was therefore to evaluate the scope and extent of data protection assured under laws which facilitate activities in specific spheres; the 'sectoral protection' akin to the United States.

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1. Introduction 2. Data protection and criminal 3. Intellectual property laws 4. Information technology law 5. Statutory protection of personal data 6. Contractual protection and self-regulation 7. Data protection and competing claims 8. Conclusions and suggestions. Bibliography

04. SOOD (Rita Sanghavi)

**A Critical Appraisal of Transplantation of Human Organs and Tissues Act – a Comparative Study from Patient's Perspective.**

Supervisor :Prof. Anju Vali Tikoo

Th 23693

*Abstract*  
*(Not Verified)*

Preservation of human life is of paramount importance. International documents have witnessed importance to 'health'. WHO Constitution defines 'health' in its preamble. Judicial activism in India on 'Right to life' under Art. 21 of the Indian Constitution has construed it as not mere physical existence but also includes in it the quality of life in its widest amplitude. Patient suffering from end-stage organ failure had no ray of hope till the transplant technology came as a marvel of medical technology. Immunosuppressive drugs have enhanced the life of end-stage organ patients after the transplant. The Transplant of Human Organs and Tissues Act 1994 established a legal framework and has potential to ameliorate the plight of such people by regulating organ transplants. It is argued that even after more than two decades of its implementation the law failed to achieve its two laudable purposes: (i) promotion of cadaver donations (ii) prevention of commercial dealings in human organs. The laws provided for 'consent' as criterion for the organ donation. The restrictive definition of 'near relatives' in Sec. 9 is a prohibition for patients who do not have 'near relatives' or 'altruistic' donors. Different countries chose different forms of consent e.g. 'Opt-in consent' or 'presumed consent' for cadaver organ donation. In India laws and policies made to facilitate transplants fell short to meet the demand of the organs for transplantation because families refrained from giving consent for organ donation. Making aware the masses about organ donation through transplant coordinators, respecting brain-dead's autonomy for donation, incorporating ways of honoring living donors with governmental control, increasing health-budget and more numbers of hospitals participating in the network provided by National Organ and Tissues Transplant Organisation, we will be able to achieve the avowed purpose of saving lives of lakhs of patients.

*Contents*

1. Introduction 2. Right to health – origin and evolution 3. Right to health – international and national regime 4. Organ transplantation: towards achieving human health 5. Transplantation of human organs and tissues act 1994- A critical study 6. Organ transplantation laws in different countries: A comparative study 7. THOTA in action: The way forward from patient's perspective 8. Conclusion and suggestions. Bibliography. Annexure. A,B,C.