

CHAPTER 27

LAW

Doctoral Theses

01. CHATURVEDI (Princy)
Multidimensional Study of Acid Attacks and Measures to Regulate It.
Supervisor: Dr. Vageshwari Deswal
Th 24541

Abstract
(Verified)

Acid attack is one of the most horrifying form of violence against women. Though there are multiple usage of acids but their misuse is very hazardous. Cases of acid attacks are increasing day by day not only in India but worldwide. It is a global phenomenon. Researcher has conducted a doctrinal as well as empirical study of acid attack cases. Empirical study pointed out that though acid attack is a gender-neutral offence as acid can be thrown both on men as well as women but it has a specific gender-based dimension in India as majority of the acid attacks are committed against women only. After 2013, there has been some improvement in the amount of compensation awarded to the victims of acid attacks but that is still inadequate for rehabilitation. There is a dire need to make legislative changes and provide more stringent punishment to those accused of acid attacks. Judiciary should also play a pro-active role in providing stringent punishment to such offenders. Death penalty should be awarded in cases resulting in total disfigurement. Regulations on sales of acid should also be redrafted, taking in to consideration, the roadblocks which are there, in its implementation at grass root level so that they can be implemented properly and unregulated production, possession and sales of acid can be controlled. Researcher has conducted a thorough study of acid attack cases including usages and misuse of acids; causes of acid attacks; effect of acid injuries on victims, their families and its impact on society; legislative provisions in India as well as in other countries; judicial trends in India; various compensation schemes launched by Central and State Governments; and the ground situation of the victims of acid violence. Suggestions and recommendations have also been given to counter acid violence and alleviate the sufferings of acid victims.

Contents

1. Introduction of the study 2. Study of acids and bases as a weapon of crime 3. Causes of acid attacks 4. Effects of acid attacks on victims, their families and impact on society 5. Legislative provisions in India and other countries 6. Judicial trends in India 7. Relief and rehabilitation schemes for the acid attack victims 8. An analysis of empirical study 9. Findings and suggestions. Bibliography. Annexure.

02. DHUNGANA (Suresh Kumar)
Nepal and its New Constitution 2015: Problems and Prospects.
Supervisor: Dr. Alka Chawla
Th 24538

Contents

1. Introduction 2. Constitutional history of Nepal 3. The new constitution in the making: The 7th constitution of Nepal 4. Analysis of leading Nepalese constitutional cases 5. Salient features of the new seventh constitution 2015 6. Problems of the new seven constitution of Nepal 2015. Conclusion and suggestions. Bibliography.

03. MALIK (Taniya)

Water Security in India: Key to India's Development.

Supervisor: Dr. Gunjan Gupta

Th 24536

Abstract
(Not Verified)

Availability of fresh water is a basic condition for the survival of humans, flora and fauna. Water is critical also for sustainable development in a country. Water scenario in India is plagued by various problems such as lack of access to safe drinking water & poor water quality, groundwater over-exploitation and contamination, water pollution, adverse impact of climate change etc. What we have with respect to water law in this country is a patchwork of laws of diverse origins, including ancient local customs, common law principles and colonial legislations, and various national and state level legislations covering various aspects of water. 'Water' being a 'State' subject under Indian Constitution, there is a lot of disparity in states' legislations governing various aspects of water with some important water issues remaining totally neglected in these statues. There is a need to build consensus on various aspect of water law for integrated water resource management in the country. To this end, this thesis has developed a National Water Security Legal Framework and also determined its key dimensions viz. household water security, economic water security, groundwater security, prevention and control of water pollution and climate change water security. It critically analyses legislative and constitutional framework along with case laws of the key dimensions of national water security, including the extent of protection of right to water as a fundamental right under the Indian Legal regime. Based upon this analysis, the thesis also suggests law and policy reform to augment India's water security and build consensus on water law.

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1. Introduction 2. Law related to household water security 3. Law related to economic water security 4. Law related to prevention of ground-water over exploitation and contamination 5. Law related to environment water security 6. Law related to climate change water security. Conclusion and suggestions: A water law reform. Bibliography. Annexure.

04. MAUSAM

Deterring Anti-Competitive Agreements: National and International Perspectives.

Supervisor: Dr. Rajni Abbi

Th 24537

Abstract
(Not Verified)

In the era of free trade, countries rely more on market forces, therefore, the question of ensuring competition and thus efficient functioning of the market assumes critical importance. One of the main if not the only purpose of business is to maximize profits, which sometimes results in a situation where enterprises indulge in various kinds of anti-competitive practices, including anti-competitive agreements. Such agreements tend to undermine the benefits of the economic liberalization for the public at large and thus needs to be checked. Modern regulation of these agreements started with the enactment of the Sherman Act 1890 in the United State followed by the European Union laws contained in Article 101 of TFEU. In the United Kingdom doctrine of restraint of trade was the main tool to regulate these agreements, but now the Competition Act 1998 and the Enterprise Act 2002 provide a main legal framework. Indian law is mainly inspired by Article 101 of TFEU and the UK's Competition Act. Section 3 of the Indian Competition Act 2002 divides these agreements into two categories. One is subject to 'shall presume' rule which includes cartels, price fixing, controlling output and supply, market sharing and bid-rigging. The second category includes exclusive supply, resale price maintenance, refusal to deal, exclusive dealing, which is subject to the rule of reason. But this Section has some weak points which are used as escape gates by the erring enterprise. Further, the Act also establishes a Commission i.e., CCI to regulates such market participant's behaviour. But in spite of efforts done by the CCI, various sectors and industries in India, are witnessing cartelisation, which argues to give more teeth to the CCI.

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1. Introduction 2. Understanding of anti-competitive agreements 3. Deterring anti-competitive agreements in the united kingdom 4. Regulation of anti-competitive agreements in the united states 5. European union response to anti-competitive agreements 6. Legal framework for anti-competitive agreements in India 7. Administrative processed in regulation of anti-competitive agreements in India 8. An inquiry into possibility to criminalize cartel in India. Conclusion and suggestion. Bibliography .

05. SHARMA (Prakash)
Critical Analysis of Privatization of Police and Prisons: Prospects for Crime Free Society.
 Supervisor: Kiran Gupta
Th 24543

Abstract
(Not Verified)

The early part of 19th century, when the nations were in their final stage of formation none would have thought that policing will be provided by a private operator and not by the government. This gets settled to a large extend in 20th century and the argument re-emerges in a manner one would not have thought of. The world owing to technological, structural, cultural, societal and economical advancement has moved beyond the traditional notion for state. Profit making process enters every aspects of life, be it food, leisure, health, and now with the security. So far limited to local but there is a possibility that it will rise to the country level as well. The thesis analyzes the criminal justice system of various nations, and conveys message in a clear and in a much obvious manner that we need public forces to maintain law and order. Maintenance of law and order, protection of people are primary two important core functions and it is availed by every citizen of the country irrespective of any distinction based on caste, religion, region, wealth, sex, education, nationality. The service availed do not advance mandate of market and relies upon constitutional principles of justice, fairness and accountability. highlights the interplay between government action and role of market while emphasizing upon security industry and the citizenry. The idea is, as long as people can be frightened, they can be ruled. The intrinsic aim of this thesis is to concoct the extent to which there have been the internationalization of ideas, practices, strategies of businesses towards crime

prevention. They are influencing policies by explaining how their idea of community safety has been adopted elsewhere. The ideas so advertised explain transnational diffusion or receptiveness of particular policies.

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1. Introduction 2. Prison and police system in India 3. Imprisonment and its economic relation 4. Privatization and human rights 5. Constitutional limits to privatization 6. A comparative study of privatization in United Kingdom, United States of America and Australia 7. Analyzing public procurement, social impact and market triumphalism through empirical study. Conclusion. Bibliography. Appendices.

06. SINGH (Chanchal Kumar)
Historical & Philosophical perspectives of Property: A Critical Study on State Formative Practices and Law in India.
 Supervisor: Dr. Saranjit Kaur
Th 24540

Contents

1. Introduction 2. Property and state: Tracing the basic terms of social life in pre-modern India 3. Philosophical foundations of property and the state: The western perspectives 4. Philosophical foundations of property and state: Constructing a perspective from the south 5. Transformations of property and the state: Suring british rule and in the constituent assembly 6. Formative practices in the constituent assembly & after: Creation of the constitutional social order 7. Conclusion: Constructing alternative practical principles 8. Annexure I 9. Annexure II 10. Bibliography

07. SINGH (Surender Mohit)
Legal Framework of International Adoptions and Rights of the Child: A Critique
 Supervisor: Kiran Gupta
Th 24539

Abstract
(Not Verified)

Adoption” is the act of affiliation by which the relation of parentage is legally and permanently established between persons not so related by nature. Since ancient times adoptions have been recognised as a way to create legal kinship when there were no family ties based on blood. The ancient idea of adoption was influenced and shaped by the interest of the adoptive parents tending to maintain the family line and pass on property and the practice remained territorially and culturally limited. International adoption is a new concept, it has come a long way from patria potestas to child’s welfare paramountcy. International adoption involves the transfer of children for parenting purposes from one nation to another. It is the practice in which children in a position of need and in the absence of their biological parents are sent from their country of origin to an awaiting adopting family usually in the developed world. This form of adoption engages children of all ages. It is interconnected with broader notion of human right to live and specifically to the notions of global inequity, developmental aid, displaced persons in times of armed conflict, etc. The “Cultural Revolution” triggered the need for adoption of children in developed countries leading to a great extent in reducing abandonment rates. This structural demand of adoption in developed countries has been satiated with the structural supply of children available for adoption abroad in developing countries. This growing demand pushed developing countries to proceed hastily, regardless of the necessary infrastructure and administrative mechanisms, ultimately leading to development of illegal acts and malpractices. Due to conflict of laws, lack of coordination and control in the international adoption procedure, there developed a room for abuses by criminal networks and intermediaries. In the process of international adoption the “decision making” of biological parents/.....

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1. Introduction 2. Concept, origin and development of adoption and international adoptions 3. The international normative framework for adoption 4. Adoption under personal laws in India 5. Legal framework of international adoptions in India: Juvenile justice act 6. Legal framework of international adoption in the United Kingdom and United States of America. Conclusion and suggestions. Bibliography.

08. VEDI (Puranjay K.)

Comparative analysis of Secularism and State Intervention in Religious Affairs: Russia and India

Supervisor: Alka Chawla

Th 24542

*Abstract
(Verified)*

If we try to understand secularism in constitutional sense, it appears that it has following essential characteristics, viz: (a) State should not be influenced by religious ideologies; (b) State should treat all religions equally; and (c) State should neither establish nor promote any religion. Therefore, if the Constitution of a State has, inter alia, these three essential characteristics it may be called a secular State. Besides this, for secularism to survive, a secular State would also require secular subjects who support secularism and adhere to its essential characteristics. However, to produce secular subjects, State intervention in religious affairs (SIRA) may become necessary, essentially, to dilute and decircumscribe the limits of religious orthodoxy. The necessity of SIRA can be appreciated e.g. when a religious ideology is such that it seeks to establish a hierarchical order and/or a status quo, whereby a particular class is subjected to discrimination. It is, however, pertinent to note that orthodoxy, contrary to popular belief, is not limited to religion, in its neutral sense orthodoxy is a state of mind which makes the orthodox functionally fixed to certain ideologies, therefore, orthodoxy can also be in form of a political ideology, such as atheistic ideology. Therefore, if a religious ideology is not such which seeks to establish a hierarchical order and/or a status quo, whereby a particular class is discriminated, but SIRA is still carried out, either mistakenly or on the pretext of eliminating class-divide, then it could be said that the SIRA was unjustified. This short paragraph brings out the whole idea of this research, i.e. (a) to explain that SIRA has become an essential part of secularism; (b) to determine the limits of SIRA beyond which it becomes unjustified; and (c) also to appreciate such circumstances when a State may refrain from SIRA.

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1. Introduction 2. Secularism: Its origin and transformation 3. Secularism and state intervention in religious affairs: India 4. Secularism and state intervention in religious affairs: Russia 5. Comparative analysis: Russia and India. Suggestions and conclusion. Appendix. Bibliography.

09. YEPTHO (Jemima K.)

Study of International and National Legal Framework on Hazardous Substances and Wastes.

Supervisor: Dr. P. B. Pankaja

Th 24535

*Abstract
(Not Verified)*

Chemicals are naturally present everywhere, however, these naturally occurring chemicals are not the only ones that are present in our environment today but there are innumerable chemicals which are synthetically made. It is logical that with increase of production and use of chemicals, there will

be an upswing of its wastes as well. Accordingly, hazardous wastes are produced right from the stage of extraction of raw materials of chemicals, during the process of refining extracted substances, down streaming these refined chemicals for manufacturing intermediate products, passing down the manufactures for producing various products, uses of chemicals for agricultural purposes and finally for disposal. However, chemical industry is not the only sector that generates hazardous wastes. It includes many more industries i.e., leather industries, electronic manufacturing industries, textiles industries, health care industry and wastes disposal operations etc. These hazardous substances and wastes can prove to be extremely harmful to human environment in all stages of its life cycle during production, manufacture, transport, use and disposal because toxic concentrations can bioaccumulate and biomagnify. In this background, the present study is undertaken as a legal research to evaluate the efficacy of the regulatory framework existing at the international and national level to mitigate hazardous substances and wastes. Accordingly, at the international level various regulatory framework i.e., the Basel Convention on the Control of Transboundary Movement of Hazardous Wastes and their Disposal, 1989, the Stockholm Convention on Persistent Organic Pollutants, 2000, the Minamata Convention on Mercury, 2013, etc and at the national level i.e., the Environment (Protection) Act, 1986, the Insecticides Act, 1968, the National Green Tribunal Act, 2010, the Public Liability Act, 1991, etc have been evaluated and examined in the present study.

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1. Introduction 2. Evolution of legal regime on hazardous substances and wastes 3. International regulations on hazardous substances 4. International regulations on hazardous wastes 5. Indian legal framework on hazardous substances 6. Indian legal framework on hazardous wastes 7. Issues of liability and compensation at international and national level 8. Judicial responses to cases of hazardous substances and wastes in India. Summary, suggestions and conclusion. Appendix. Bibliography.

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