CHAPTER 26

LAW

Doctoral Theses

01. AHUJA (Sumiti)
Criminal Justice Administration and Forensic Expert Evidence: A Study of Issues and Challenges with Regard to Indian Jurisdiction.
Supervisor: Prof. (Dr.) Anju Vali Tikoo
Th 26729

Abstract

Conviction rate2 provides a better picture of not only the number of cases registered in an area, but also the efforts made by the police and prosecution to solve them and get the wrongdoer punish HM and Minister of Cooperation, Shri Amit Shah, if we have to improve the law-and-order situation in our country, the conviction rate needs to increase. The overall goal of the criminal justice system of any country is not to achieve high conviction rates; nonetheless, conviction rate is one of the most important indicators of its effectiveness3 . As per the current data released by NCRB, the all-India conviction rate for IPC crime cases is about 57%4 . It is clear from the above statement that we are lagging behind other countries. The conviction rate of Canada is 62%, Israel 93%, England 80% and, America is at 90%, as highlighted by the 1 These words are fro inauguration of National Forensic Science Centre at Dharwad, Karnataka. He laid the foundation stone for the ninth off-campus facility of the NFSU on January 28, 2023 [Hubballi The Times of India, Jan. 29, 2023, available at: https://timesofindia.indiatimes.com/city/hubballi/centreintegrating-forensic-probeswith-justiceamitshah/articleshow/97410364.cms#:~:text=%E2%80%9CThe%20criminal%20world%20is%20 changing,moved%20far%20ahead%20of%20police (last visited on March 15, 2023)]. 2 percentage of the total number of prosecutions undertaken within a given area or for a given available at: https://definitions.uslegal.com/c/convictionrate/ (last visited on March 15, 2023)]. 35(108thavailableat:https://www.unafei.or.jp/publications/pdf/RS_No54/No54_10VE_Sharma .pdf (last visited on March 16, 2023). 4 (Ministry of Home Affairs, 2021), available at: https://ncrb.gov.in/sites/default/files/CII2021/CII_2021Volume%203.pdf (last visited on March 16, 2023). 339 Minister in his address5 . In order to increase the conviction rate of our country, the criminal justice system will need to be integrated with forensic sciencebased investigation. As an important, though a small step towards this goal, Delhi6 followed by Karnataka7 have already implemented the recommendation8 of MHA, GoI, making it mandatory for a forensic science expert to be present at the SoC in urban areas, in all the crimes punishable with imprisonment of more than six years9. It is important to have a better and steady coordination between the police, prosecution, and forensic expert, because all of them have similar objective, viz., to get the wrongdoer punished and the innocent exonerated. Playing blame-games against each other is certainly not going to work out. The respondents10 in the empirical study of the researcher had highlighted that there was a lack of proper coordination between the investigation, forensic and prosecution teams, and that is one of the issues in relation to forensic expert evidence. It is important to understand that reliance on forensic

evidence is like a necessary evil11 now; it is both a boon as well as a bane. With advancement in science and technology, advent of new-age crimes, has taken place. For instance, the famous reality-based series on Netflix India, which goes by the name of Jamtara: Sabka Number Ayega12, narrates the city of Jamtara, Jharkhand. These dropouts managed to con even the tech-savvy people of the Indian metro cities. How do we manage to curb such kind of crimes? For this forensic science has to play a significant role13

Contents

Introduction. 2. Forensic evidence: concept, origin and evolution. 3. Relevancy of forensic expert evidence in criminal justice administration.4. Forensic expert testimony: ethico-legal issues. 5. Role of forensic evidence; an empirical study of issues and challenges. 6. Conclusions and suggestions. Bibliography.

02. BISHNOI (Aneeza)
Cyber Terrorism Vis Cyber Crimes: Alegal Analysis.
Supervisor: Dr. Poonam Dass
Th 26730

Abstract

In conclusion, the inference can be drawn that the old and traditional notions and methods of spreading terrorism have taken all together new magnitudes, which can be termed as more devastating and lethal in description. First and foremost of all we have reach on a consensus to lay down a universal definition of cyber terrorism. The ambiguity which lies in the ways in which the term can be defined is one of the major loopholes where the legal system is lacking. In order to legislate future course of combating the cyber terrorism, we have to first define and make the world understand that as to against what we are fighting. In the present age of new heights of information technology, the terrorists have developed new proficiency to attack with the deadliest pattern of weapons and technology to achieve their propaganda, which if not controlled and tackled properly by the authorities on time, then it will bring devastating effects in the society. The damage and loss caused by cyber-attacks will be so catastrophic in nature that loss caused by it cannot be undone. In brief, it can be said that world is 253 Supra note 153 Page | 108 confronting the evilest method of terrorism, which is known as cyber terrorism. All the nations are doing their level best to combat with cyber terrorist activities and India is also one of them. The next chapter discusses the legal steps taken at international level to combat the menace of cyber terrorism.

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1. Introduction. 2. Cyber terrorism, a cyber crime: Historical development, concept and evolution. 3. International legal position on cyber terrorism. 4. Legal position in India on crime of cyber terrorism. 5. Analysis of legal position for protection of critical information infrastructure. 6. Analysis of legal position on personal jurisdiction in cyberspace. 7. Legal analysis of cyber forensics and electronic evidence in crime of cyber terrorism. 8. Conclusion and suggestions. Bibliography. Annexures.

03. CHAUDHARY (Paras)
Conflict Between Executive and Judiciary in India on appointment of Judges in Highr Judiciary: An Analysis.
Supervisor: Dr. Narender Kumar Bishnoi and Prof. (Dr.) Mahavir Singh Kalon
Th 26731

Abstract

This thesis attempts (in the initial chapters) to give a glimpse of the rhyme and reason given in the Constituent Assembly for the appointment process after putting in a lifetime of experience and expertise, combined with unmatched amplitudes of hard work. After intense deliberations and careful considerations, the Constituent Assembly of India had reached a significant conclusion regarding the issue of judicial appointments. The debate centred around the need to strike a harmonious balance between preserving the independence of the judiciary and ensuring accountability and transparency in the appointment process. The Constituent Assembly acknowledges that an independent judiciary is the corner stone of a democratic society, upholding the rule of law and safeguarding the rights and freedoms of citizens. It recognizes the importance of insulating the judiciary from external influences and undue interference, allowing it to dispense justice impartially and without bias. It understands that a fair and merit-based selection process is crucial to inspire public confidence, prevent favoritism or nepotism, and maintain the integrity of the judiciary. In conclusion, the Constituent Assembly"s deliberations on judicial appointments reflect a comprehensive and thoughtful approach. The aim was to uphold the principles of an independent judiciary while ensuring the highest standards of fairness, competence, and integrity in the selection and appointment of judges. Hence the researcher concludes his research by adopting the mechanism proposed to be adopted by the Constituent assembly for judicial appointment in our country and moreover no one can deny the fact that the Constitution is suprema lex and the law of the land shall prevail over anything else. Moreover, until it is amended the Constitution will govern the judicial appointment process. The Constitutional makers after much debate and analysis concluded that the ideal process for appointment of judges in the Supreme Court should be governed in accordance with law.

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04. CHAUDHARY (Savitri)
Auditing of Dowry Laws a Socio-Legal Study.
Supervisor: Prof. (Dr.) Usha Tandon and Dr. Narendra Kumar Bishnoi
Th 26732

Abstract

With this chapter, the research shall be complete. On the basis of the entire research, the conclusions have been drawn and the measures have been suggested, to deal with the social evil of dowry and also to address the issue of misuse of antidowry provisions. The conclusion that emerges from this study is that anti-dowry laws are double edged weapon in the hands of female which was intended to be used in defence only by a married woman who has been a victim of dowry related violence. But now a days this

weapon of defence is used as weapon of offence by some women. There is a tendency to settle scores over petty domestic matters. Many females, the majority of them being highly educated females who are financially independent; don't want to adjust in their matrimonial home. They want to have everything on their own terms. When this is not possible, they try to compel the husband and in laws by misusing the coercive machinery of law. So, when there is mutual incompatibility between the spouses and also in cases where the family of the girl makes undue interference in the family matters of their daughter, situation versions due to ego clash between family as well as immature behaviour by the spouses in such circumstances, there starts an abuse of legal machinery. The true purpose behind the same as intended by law framers is forgotten and for selfish motives, false complaints are lodged. The Supreme Court and High Courts have also expressed, from time to time, deep anguish on the issue of abuse. They, therefore, have issued certain guidelines to mitigate this malady, in various matters dealt by them. Some of these have been discussed in detail in previous chapters. There should be the effective implementation of the guidelines issued by the Apex Court and High Courts to mitigate misuse of Section 498Aof IPC and related dowry provisions.

Contents

05. DHAR DUBEY (Surya Kant)
Sentencing in criminal justice system in India: A Critical Study.
Supervisor: Dr. Shaiwal Satyarthi
Th 26733

Abstract

Grasp of sentencing in criminal justice necessitates an introspection of the complete stretch of crimes criminal law and criminal justice procedure and administration. It is a complex phenomenon has an impact on by way of unique social and political structures and the values underlying them. In recent years there has been an increased focus on sentencing in India. This is largely due to the fact that sentencing in India is predominately dominated by discretion and individualization of punishment. The judges in India enjoy considerable discretion in choosing sentences in the given choice. The Indian penal code 1860 vests considerable discretion in the hands of the judges. The Indian penal code 1860 prescribes only five types of punishments death being the highest and fine being the lowest. Whereas death penalty and life imprisonment are in controversial conundrum for being imposed freakishly and arbitrarily term imprisonments have attracted the attention of penologist for hardening the criminals rather than brining a sense of reformation. Fines are criticised for being too low and unrepresentative of harms and losses. Trial proceedings guilt ascertainment and sentence ascertainment proceeding are guided and taken care by code of criminal procedure 1973.

Contents

06. GUPTA (Ankeeta)
A Study of the Impact of Insolvency and Bankruptcy Code, 2016 on Credit Delivery and Credit Resolution Mechanism in India.
Supervisor: Prof. (Dr.) Gunjan Gupta
Th 26734

Abstract

The Enterprise Bankruptcy Law deals with the application process for the insolvency proceedings. As per the law both the debtor and creditor have the right to file an application in case the corporate debtor is faced with the situation of assets being unable to fund the debts. The application may be made for reorganisation of debts or for liquidation of the corporate debtor, which may be withdrawn by the respective parties before the application is accepted by the People's Court.44 The Enterprise Insolvency Law follows a very strict time schedule wherein the Court is required to respond to the insolvency application made by the creditor with a period of 5 days informing the debtor of such application and seeking objections against such an application being made. The debtor has only been permitted 7 days within which he can file the objections to creditor's application for insolvency. In case the above process is not being adhered to on account of a joint application or in principle acceptance by a debtor of his insolvency or a case of existing dissolution, the People's Court must decide to either accept or reject the application within a period of 15 days from the date of filing of the application.

Contents

07. JAISWAL (Sumit)
Genocide: A Critical Appraisal of India's Existing Legal Regime.
Supervisor: Prof. Anju Vali Tikoo
Th 27066

Abstract

Genocide is a subset of various atrocities perpetrated with an intention to exterminate the existence of a national ethnical racial or religious group. The mentality of destruction makes genocide the crime of crime and a serious threat to the entire humanity. That is why its prohibition is regarded as a jus covens' norm and an obligation of erga omnes nature in international law. India led the movement for genocide prohibition as one of the first countries that have approached the United Nations General Assembly in 1946 to declare genocide as a crime and to create universal jurisdiction to combat it. Later on India ratified the genocide convention 1948 on August 27 1959.So being a state party to the convention. India is under an obligation to enact a law on genocide yet there is no specific law to prevent and punish genocide. Due to this legal vacuum Indian courts are unable to prosecute the criminals responsible for genocide. Due to this legal vacuum Indian courts are unable to prosecute the criminals responsible for genocidal violence. In consequence the perpetrators manage to evade prosecution and punishment as seen in various gruesome episodes of violence.

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1. Genocide: an Introduction. 2. Genocide: meaning typology and stages. 3. Combating genocide: international legal framework. 4. International law on genocide: application and implementation in India. 5. Genocide: the Indian legal regime. 6. Genocide violence in India: case studies. 7. Conclusion and suggestion. Bibliography. Appendix1.

08. JAMIL (Saema)
Need for Matrimonial Property law in India: a Critical Anlysis .
Supervisor: Prof. Ashutosh Mishra
Th 27067

Abstract

Both the hypotheses have been proved to be correct. The laws enacted in countries must be made after taking into cognizance the ground realities and problems specific to it. The researcher is arguing for a matrimonial property law that is a hybrid between the English law and the law in New Zealand a law based on community property of law but that allows wide discretion to the courts to alter the rules in order to do justice. Such a matrimonial property law would give women economic considerations. It would reduce the burden on courts as women would not file parallel cases in order to get economic bargains. Parties who have decided to end the marriage may opt for divorce by mutual consent thereby reducing long drawn litigations. In conclusion it is argued that the enactment of a matrimonial property law would empower women in the true sense. The law mush allow the courts to have discretion while deciding the question of division of property. Each case is bound to be different with distinct peculiar facts and no law can cater to all circumstances. The law must give the general rules and principles and also specify guidelines that the courts must keep in mind while dividing the property between the parties but no straight jacket formulae can be provided in the law.

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1. Introduction. 2. Origin and historical development. 3. Indian position on matrimonial property law. 4. Comparitive analysis of matrimonial property laws in UK, USA and New Zealand. 5. Empirical study on the relationship between financial insecurity and increasing litigations by women. 6. Conclusion and suggestions. Annexure. Bibliography.

09. KALON (Jatin)
Human Rights in Military Laws of India: A Critical Analysis.
Supervisor: Prof. (Dr.) Anupam Jha
Th 27227

Abstract

Our enquiry so far has revealed that despite being of a distinct character military law is jurisprudentially a positive law related to important subjects like discipline amongst the armed force personnel and duty towards to important subjects like discipline amongst the armed force personnel law related to important subjects like discipline amongst the armed force personnel and duty towards national security. However the scholarship of military law has now come under the scrutiny of the evolving characteristics of military operations growing utilization of multinational military tasks and international developments in military justice. Historically military laws have

predominantly focused on the maintenance of discipline establishment of order and the efficient conduct of warfare. Frequently these statutes conferred substantial authority upon military officials and occasionally overlooked individual liberties under the pretext of military exigency. The historical viewpoint presented by Jan Arno Hessbruegge in his publication titled human rights and personal self-defences in international law effectively encapsulates the notion that military laws have been historically influenced by the principles of the just war theory. This theory frequently prioritised the overarching objectives of warfare over individual rights. This thesis proposes a thorough analysis and reassessment of gender and military legislation in India as it has been flagged as an utmost imperative with a specific focus on promoting inclusivity within the armed forces. The examination of gender and military legislation in India has unveiled a multifaceted landscape characterised by evolving perspectives, historical legacies and contemporary challenges. The observations outlined in this chapter illustrate the intricate interplay among gender militarism and legal frameworks. In the concluding section of this chapter we examined the consequences and necessities that emerge from the aforementioned observations.

Contents

10. KHAN (Abroo)
Rape Victims a Critical Study of Protective and Rehabilitative Provisions in Law and Judicial Approach in India.
Supervisor: Dr. Siddhartha Misra
Th 26735

Abstract

To sum up after discussion in preceding chapters, researcher concludes his research study and states some recommendations on the concerned problem. The researcher humbly submits that the thesis is concerned on the implicit assumption that the problem of rape lies in our criminal justice system therefore it must find its full answer in the society. It may be stated that the solution to the problem of the crime of rape does not resides in adopting a more harsh and criminal justice system. Rape does not have its origin in failures of the criminal justice system, and the answer to it does not lie in designing a perfect criminal justice system. The rape problem lies in the society initially, and criminal law is only a partial response of society to it. Most of the response to crime has to come from social, political and administrative measures. No doubt, all segments of society must make profound changes before sexual violence against women and small children will be eliminated. But once there is violence or threat of violence, the criminal justice system is the only sector of society that has the power and authority to step in and stop the violence, to enforce the laws against such violence, to carry out a criminal investigation, to arrest and detain a perpetrator, and to provide justice to victims. It is true that criminal justice system is permeated with abuses. And it is also a fact that these abuses can easily endanger and re-victimize victims, but this is all the more reason for the urgent need to confront this system head on, and to remake the current justice system into a system that responds adequately, equitably, and even handily to the victims of rape. The criminal justice system is far from satisfactory in its task of protecting the rights of the rape victims and the society, who merely fails to accommodate and support the victim of rape. The study explores many problems associated with almost every aspect of the service and

legal systems responses to the victims of rape and has discussed how these problems result in disservice to victims. However, it is admitted that it is easy to be cynical and find fault with the system; what is difficult is to come out with radical and workable solutions. The solution does not lie in the stringency of the law but in its applicability. The scope of the law has to be widened, conviction rates have to improve, and the police have to inspire confidence so that victims feel emboldened to report crimes. However, as the problem of rape is multidimensional, it 262 has to be tackled from all direction so as to ensure a secure and safe environment to every female and child. It is submitted that general conclusions if drawn about the place and behaviour accorded to victims or rape by the criminal justice system that would undermine the real problem. However, in order to bring brevity in the work done few generalized conclusions as an outcome of the study are discussed below. The conclusions are followed by few suggestions simultaneously and relatively. The researcher, with due respect chooses this opportunity to produce the conclusion and suggestions together with reasons. The prime reason is the well knows fact that Indian criminal justice system is too complicated and comprehensive. The fact becomes more complexes when it deals with a victim of a socio-legal problem like rape offence.

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11. KHUSHBOO ANAND
Trafficking of women under the guise of Marriage: A Socio Legal Study with Special Reference to Haryana.
Supervisor: Prof. (Dr.) Usha Tandon
Th 26736

Abstract

Imagine there is poor girl awaiting a better life through some marriage offers or other offers made to her or her parents by her own relative or some neighbourhood friends. With the hope of improving her life and that of her family she takes risk to move and leave her native place. On reaching the destination she realizes that she has been sold of for some meagre sum of money. In some instances, the girl also learns that her parents were also involved in such a monetary transaction. Her purported husband then exploits her bodily sovereignty every day. There is no point of protesting as it has all been arranged by her own people most of the time. She is so young to turn for help especially in place where everyone else is like them and there is no hope to bring any change in their life. No this not a story of some foreign land this is the story of several girls who are being trafficked under the name and pretext of marriage. There are varied reasons as to why such wrongs happen. The first and foremost reason being preference for a male child more than the girl. In a state where the girl child is not welcomed even at birth one can only imagine her fate when she grows up.

Contents

12. NANDA (Gaurav)
Legal Provisions for the Protection of Whistleblowers a Critical Study.
Supervisor: Prof. (Dr.) Kiran Gupta
Th 26737

Abstract

The Whistle Blowers Protection Act of 20141 (hereinafter WPA, 2014) was thought to be an important piece of legislation in India that was supposed to protect those who speak up about wrongdoings and prevent their victimisation. Unfortunately, the law is not notified, and even if it is notified in future, still there are number of flaws in this law and therefore it will not be very useful in protecting whistleblowers. The thesis in its preceding chapters has also inquired into the plight of the whistleblowers, that they are harassed and victimised at the work placed, intimidated, assaulted and sometimes even killed. Now after such a detailed analysis done in preceding chapters with the ultimate purpose of devising an effective dedicated law for whistleblowers' protection for India, it is high time that in present concluding chapter of this thesis, first the conclusions or the findings of this study are summed up and then concrete suggestions are provided as possible solutions, and all of this is done in coming paragraphs. One of the early findings of the present study (emerging from chapter I) is that there are severe risks and repercussions associated with blowing the whistle. It is a universal truth that whistleblowers and their families experience extreme pressure around the world, especially in developing countries. This pressure typically takes the form of direct and indirect threats of attack, or actual attacks, workplace harassment, and actual killings. In case of India, several brave Indian whistleblowers who revealed fraud and corruption at the highest levels of authority have been brutally killed in the past.2 Some have suffered victimisation in the form of workplace harassment.3 On the other hand, the concept of 'whistleblowing' is becoming more recognised as a powerful tool in the fight against corruption and other forms of wrongdoings around 1 The Whistle Blowers Protection Act, 2014 (Act 17 of 2014). 2 Arshi Pal Kaur, Whistleblowers Protection in India: An Analytical Study 249-254 (Swaranjali Publications, Ghaziabad, 2019). 3 Id. at Ch-3. 287 the world. Therefore, it appears that there is consensus on the notion that whistleblowers will continue to be vulnerable and prone to various victimisations unless protective and enforceable dedicated law (special law) is enacted for whistleblower's protection. In fact, it is generally agreed that a dedicated legislation is the best legislative strategy for whistleblowers' protection. This is due to the fact that all issues connected to whistleblowers' protection are handled by a single statute.

Contents

13. NAZIM AKBAR
Pharmaceutical Patents in India: a Critical Analysis of Public and Private Interests.
Supervisor: Prof. (Dr.) Alka Chawla
Th 26738

Abstract

Intellectual Property Rights (IPR) are legal entitlements granted by governments within their respective sovereignties that provide patent, trademark, and copyright owners the exclusive right to exploit their intellectual property (IP) for a certain period. The basic rationale for IPR protection is to provide an incentive for innovation by granting IP owners an opportunity to recover their costs of research and development. While many countries have some form of IPR protection, the degree to which IPR is protected varies, as has been witnessed throughout this chapter. While China and India are actively globalizing their patent systems through compliance with the international standards of TRIPS, however, with China's relatively short patent law history and fractured judicial system, the risk of counterfeiting and the difficulty with patent enforcement remain decisive factors in companies' considerations as to whether to make and sell patented pharmaceuticals in China. In India, it remains to be seen how the newly-created patent protection for pharmaceuticals will be enforced in a country that until now has thrived on the generic pharmaceutical industry. This Chapter delved into a comparable analysis between patent rights, right to health and accessibility to medicines in India and other countries; namely the United States, South Africa, and China. These countries were primarily chosen because of their differences in governance as well as economy; data was assayed to observe how these factors would affect patent regime and healthcare. A thorough observation and analysis was also taken on the effect that international frameworks and bodies like the WHO had on the constitutions and fundamental rights of the above countries. It was noted that patents created monopolies, which would lead to exorbitant prices in an already capitalistic country like the USA, while also massively affecting developing countries like South Africa and India. Furthermore, developing countries do not have a strong R&D program in place, thus making them rely on developed countries with 113 patent monopolies, leading to exploitation. Creation of a body like TRIPS certainly helped in globalising intellectual property rights, but it also portrayed a disadvantage to the right to health. South Africa has a three-pronged approach in its constitution to tackle the same, with emphasis on equal and affordable healthcare along with complete individual bodily autonomy. This is a strong move, considering that it has to rely on international markets for almost 70% of its drugs. China, on the other hand became a member of the TRIPS only in 2011; primarily in the hopes to achieve globalised healthcare as well as a desire to improve its R&D; to further fulfil the tag of national resource and a ‗Made in China' agenda. This provides a unique perspective of how these countries, with different governance and laws, ensure the needs of their citizens, be it intellectual property or fundamental rights. All three have their pitfalls and bright spots, and the tables show us clearly how every individual country differs from India in these aspects. It has been made increasingly clear that powerful and affordable medical care has to be made easily accessible to people while also ensuring patent holders' rights.

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14. RANA (Saurabh)
Mediation in Criminal Justice Administration System with Special Reference to Heinus Ofences National and International Perspectives.
Supervisor: Dr. Siddhartha Mishra
Th 27229

Abstract

On the basis of present study it can be positively stated that mediation has potential to produce more satisfactory result in the context of heinous offences for all stakeholders viz. victims offenders and the society when compared with that produced by our contemporary criminal justice system. Umbria noted while having an overview of 40 years of her research in this field that the stakeholders derive more benefits though not necessarily distributed uniformly over the array of cases through mediation laden criminal procedure as victims are more likely to receive expressions of remorse from offenders and re-instatement from the society offenders are less likely to recidivist and the whole process is financially less burdensome for the state society. After mediation in heinous offences victims feel better as they feel that something happened in their case which took them also in the loop. It also noticed that greater demand for participation in mediation came they were not much interested in any further involvement citing reasons that they were busy in some other important thing or simply that the offence was too trivial. UN handbook 2020 noted that research in the context of mediation in heinous offences sufficiently show that mediation can not only be blended with rational criminal justice responses but it can also take care of the gaps left by the later. Certainly in the last 50 years of so there has been substantial progress from does mediation work to how would it work best it has also been cited with approval that mediation is too intensive to be used in lighter offences bench unlike its starting phase when it was considered fit only for lighter offences today mediation is increasingly being used for heinous offences like attempt to murder murder sexual assaults.

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15. SHARMA (Deepak)
Public Participation in the criminal Justice System for Prevention and Control of Crime: A Comparative Study
Supervisor: Dr. Siddhartha Misra
Th 28739

Abstract

There is clear evidence that well planned crime prevention techniques not only prevent crime and victimization but also promote community safety and contributed to the sustainable development of countries. Effective and responsible crime prevention enhances the quality of life of all citizens. It has long term benefits in terms of reducing the costs associated with the formal criminal justice system as well as other social costs that result from occurrences of crime. Crime prevention others opportunities for a humane and more cost-effective approach to solve the problems of crime. All the criminologists are of the opinion that no person is a born criminal a person becomes a criminal due to several factors and processes that run parallel within the society wherein society plays crucial role in labelling a person as a criminal.

It is also an undeniable fact that crime is a naturally occurring phenomenon in the society and it is utopian to imagine crime free society. Since society is attributed the major role in making a person criminal a question naturally arises as what role the society and people can play in prevention and control of crime.

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16. SHARMA (Karuna)
A Socio Legal Study of Human Rights of Development Induced Displaced persons with Special Reference to the Forced Evictions of Slum Dwellers in Delhi.
Supervisor: Prof. (Dr.) Manju Arora Relan
Th26740

Abstract

The act of compelling internally displaced persons (IDPs) to relocate may be perceived as a transgression of their fundamental human rights. Forced eviction refers to the situation where individuals, families, or entire communities are compelled to vacate their residences or properties without sufficient legal or other safeguards to protect their rights. According to international law, forced eviction is prohibited if it is carried out without due process and in the absence of appropriate safeguards such as legal and other protections, adequate compensation, suitable alternative housing, and replacement productive land for affected individuals.80 In particular, when individuals are compelled to vacate their residences, they are stripped of their fundamental human entitlements, such as the entitlement to suitable housing. The relocation of individuals affected by natural calamities has, at times, led to the deprivation of their fundamental human rights, including but not limited to access to sustenance, potable water, medical care, and educational and occupational prospects. Ineffectiveness is a problem with the current rehabilitation policies. When a conflict arises between a legislation and a policy, the latter usually gives way to the former. Displacement is unavoidable, and no one can argue with that, but this inevitable displacement must also account for the rehabilitation of the displaced people. Displaced people should be provided with food, shelter, and accommodation in a state-run relief camp when the reason of their displacement is not human-induced81. There has been an ad hoc and incoherent approach to the issue of internal 80 Kothari, Miloon, Sabrina Karmali, and Shivani Chaudhry. "The human right to adequate housing and land." New Delhi: National Human Rights Commission 56 (2006). 81Global Protection Cluster Working Group. Handbook for the protection of internally displaced persons. Global Protection Cluster Working Group, 2007. 75 | P a g e displacement, rehabilitation, and relocation. Basic necessities are lacking in the relief camps, making life even more difficult for the residents. Poor people's urban slums are the result of such factors as migration, poverty, natural catastrophes, and development initiatives, according to the United Nations Committee on Economic, Social, and Cultural Rights. United Nations General Comment 4 of the Resolution against forced evictions stated that "...shelter should be viewed as the right to live somewhere in security, peace, and dignity.... Everyone should have access to a home, "no matter how much money they have." Due to India's ratification of the United Nations Covenant on Economic, Social, and Cultural Rights, this covenant is incorporated into Article 21 and is consequently enforceable in Indian courts.

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1. Introduction. 2. Defending the human rights of development-induced displaced persons: perspectives at the national and international levels. 3. Rights of slum dwellers and role of judiciary 4. Exploring development inducted displacements of slum dwellers in Delhi: a study of policy initiative. 5. Empirical observations from study with respect to plight of slum dwellers in Delhi due to forced eviction. 6. Conclusion and recommendations. Bibliography. Annexures.

17. SHARMA (Saket)
Interface Between Competition law and intellectual property rights: A Comparative Study with Reference to India, Eu and US.
Supervisor: Prof. (Dr.) Raman Mittal
Th 26741

Abstract

The chapter mapped the legal framework which governs the IP licensing and competition law interface in US, EU and India. From the chapter discussion, it can be concluded that the jurisprudential approach over the years has shifted from immunising IPR based restraints from competition law to subjecting the abuse of IPRs to the general rules of competition law. Key conclusion can be drawn from the discussion is that although the intellectual property as a species of the property has different characteristics, yet the general framework for evaluating restraints under Competition law can be applied. A Page | 93 more economics based approach to analysis and interpretation of the law has evolved over a period of time which is encapsulated in the _rule of reason' and thus case by case approach has to be used. This conclusion posits from the experience of the developed jurisdictions framework where now the aim is to infuse innovation by giving the right dose of IP through regulation from IP law and competition law framework. As discussed above, it seems clearly that Indian Competition Act has also taken cue from EU and US framework. But, in regard to regulate IP licensing through competition law, the Indian framework is too sketchy and does not provide any guideline. It is no doubt that this interface between competition law and IP licensing is amorphous and volatile. Yet a guiding framework is needed to bring in certainty in applying the legal standards to a given IP licensing case. There is no doubt that the precedents and practices in the developed jurisdictions can act as an important benchmark to devise a legal framework for regulating the anticompetitive IP licensing practices. The developing countries should look critically at the legal framework of developed jurisdictions, consider it in historical context, and select cautiously from modern doctrines rather than attempting any wholesale transplant of law.115 As would be analysed in the later Chapters also, it is very important to take caution in applying the legal standards followed in other jurisdictions. Further, the chapter deliberated upon the norms which evolved in India.

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1. Introduction. 2. Examining the nature of intellectual property and its regulatory jurisprudence to control abusive and anticompetitive practices. 3. Intellectual property and competition law interface: discerning the standards of analysis and examining the jurisdictional conundrum. 4. Anticompetitive agreements and intellectual property licensing: determining the reason ability of the restraints. 5. Controlling abuse of intellectual property by a dominant enterprise: looking for the standards for establishing abuse. 6. Regulating anticompetitive effects of combinations involving IPRs. 7. Conclusions and suggestions: expounding competition baselines for regulation of intellectual property in India. Bibliography.

18. SHIVAM
Global Constitutionalism: Rhetoric or Reality?
Supervisor: Prof. (Dr.) Sarbjit Kaur
Th 26742

Abstract

This research has overwhelmingly supported the premise that theorising constitutionalism has become a prominent concern among public international lawyers and scholars of the twenty-first century given the significant increase in the reach, scope and potential of global governance in the globalising world order. While the idea itself goes back to the late eighteenth century, the constitutionalisation debate in its current form is largely the result of scholarly reconstructions in the beginning of the twentyfirst century. In general, it has been observed that the scholarship is dominated by academics from North America and Europe and there is a dearth of uniquely 'Southern' voices. Though the field is quite diverse in terms of disciplinary orientation and does not necessarily lack critical perspectives, the scholarly exercise can hardly be said to be in its stage of infancy even if claims to be free from any sort of methodological or doctrinal bias in favour Eurocentric values and visions. In any event, this research work may be treated as an invitation to engage with the Global South on its own terms. The epilogue of this undertaking merits a summation of the key features of its preceding chapters before proposing the way forward and this scheme has been followed in the course of this chapter.

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19. SIDDIQUI (Shazia)
Humnanitarian Intervention as a Tool for Enforcing Human Rights: Critical Analysis .
Supervisor: Prof. (Dr.) Gunjan Gupta
Th 26743

Abstract

There are few questions in the whole range of international law more difficult than those connected with the legality of intervention and few have been treated in a more unsatisfactory manner by the bulk of writers in the subject we can generally deduce the rules of international law from the practice of states but in this case it is impossible t do anything of the king. Not only have different states acted on different principles but the action the same state at one time has been irreconcilable with its action at another. War was not merely a feature of life in the twentieth century. It grew into a major issue. The use of mass murder as a primary method of resolving political disputes become increasingly common and at the same time morally repugnant. So far the twenty first century has not been spared from similar scenes in various parts of the world. However the international political scenes has under gone a transformation where the community of states under the auspices of the UN has been evolving into an international community which places human rights as a higher value. This development has occurred concurrently with the growing concerns about human security.

Contents

1. Introduction. 2. Human rights, the United Nations and humanitarian intervention. 3. Humanitarian intervention and its impact on state sovereignty. 4. Humanitarian intervention and the responsibility to protect. 5. Humanitarian intervention: state practice. 6. Conclusion. Bibliography.

20. SINGH (Indu Bhushan)
A Critical Analysis of Trends in Grant and Enforcement of Patents in View of National Interest.
Supervisor: Prof. (Dr.) Raman Mittal
Th 27228

Abstract

As far as medicine patent is concerned the drug or medicine may be imported by the state or central government for the purpose merely of their own use as well as for distribution to government dispensaries hospitals and medical institutions and similar institutions by notifying the central government. If the state or central government uses the patented product in such a manner there is no need to pay myelitis to the patentee. The central health scheme has also been formulated to facilitate the use of a patented product or patented process for the benefit of in and out patients of hospitals or dispensaries maintained by the government or hospitals. Chapter third proves through the explanation of bolar exception that the most paramount factor for a legislature is innovation which should not be undermined even by the broad and humorous spectrum of patent act. There are several essential products like drugs medical equipment's diagnostic support and other articles that are not made readily available even after the xpiry of the patent to the public as it requires further examination to meet the adequate standards. The judicial interpretation of section 107A in the case bayer union of India is in favour of national interest. The bolar exception has also found support from bodies like TRIPS agreement world trade organisation dispute settlement body panel and patent regime of various countries enabling research development and gathering information in numerous ways and relieving a non patentee involved is such activities off from the charges of patent infringement.

Contents

1. Introduction. 2. Research exemption. 3. Bolar exception: an exception to patent monopoly. 4. Grant of patents: non inventions and oppositions. 5. Compulsory licensing: maintaining national interest. 6. Striking a balance between interests of public and patentee. 7. Conclusion and suggestions.

21. SINGH (Saloni)
Child Sexual Abuse in India-a Critical Analysis of the Pocso ACT, 2012.
Supervisor: Prof. (Dr.) Kiran Gupta
Th 26744

Abstract

In summary, the varied innovations and enhancements implemented by diverse nations serve as significant references, having contributed substantially to augmenting the standing of victims within the criminal justice system while concurrently mitigating the phenomenon of secondary victimisation. The examination of the comparative laws across different jurisdictions is of considerable relevance as it

aids in the evolution of our domestic legal apparatus pertaining to child sexual abuse. Despite our nation's ratification of International Covenants and Treaties, we have fallen short of actualising their full effect. Accompanying the advancements and amendments incorporated into the substantive Laws, these nations have crafted numerous procedural provisions intended to render the investigative and judicial process more amicable and conducive to the interests of the child-victim. We have endeavoured to emulate this approach through the incorporation of these substantive provisions within the Act on Protection of Children from Sexual Offences (POCSO Act). As the menace of child sexual abuse reaches alarming proportions, failure to enact timely measures risks the degradation of the very fabric of our society. While the 145 commemoration of children's day may symbolise the nation's compassionate disposition, it is far from sufficient. The ultimate resolution to this issue involves alleviating the underlying affliction itself. The rights accorded to children by international Covenants/Declarations, which have been ratified by us, face the risk of fading into oblivion if not ardently and effectively safeguarded. The formulation of appropriate laws and their rigorous enforcement is the sole viable strategy for the robust defence of children's rights.

Contents

1. Introduction. 2. The underlying causes of child sexual abuse and its consequential effects on victims. 3. International legal framework and standards for the protection of children from sexual exploitation. 4. Indian laws and policies on the protection of children from sexual abuse with special reference to the pocso ACT, 2012 5. Role of Indian judiciary in protection of children from sexual offences. 6. Conclusions.

22. TANWAR (Navditya)
Impact of Regulations Related to Human Protection in Clinical Trial of Pharmaceuticals .
Supervisor: Prof. (Dr.) Anju Vali Tikoo
Th 26745

Abstract

The clinical trials have burgeoned in the last few decades. Great importance is assigned to the clinical health research and their outcomes. New diseases high rising aged population poor health conditions and failure of the existing medical treatment and medicines to cure the new morbidities are the factors that have fuelied the clinical research globally. The ever growing importance of health related quality of life and its recognition in global settings has led to a persistent demand for the meaningful clinical trials protection of the subject humans participating for the meaningful. While answering the fundamental question on the clinical trial one is faced with pressuring issues like safety of patients efficacy of treatment benefit risk ratio and alternative treatment. The clinical trials as discussed assign meaning to the result of a research. Meaning here can be understood in two ways.

Contents

1. Introduction. 2. Clinical trials of pharmaceuticals: process. Process, prospects and challenges. International legal framework: bioethics and human rights interface. Legal framework for clinical trials in China, United States of America and Japan. 5. Legal framework in India. 6. Conclusion and suggestions. Bibliography. Appendices.

23. TIWARI (Pramod)
Crime and Climate in India: a Socio-Legal Study with Special reference to Delhi.
Supervisor: Prof. (Dr.) Pinki Sharma
Th 26746

Abstract

It can be said that in each season of each and every individual year, offences against body are more and offences against property are less. It may therefore be summarized that there is no definite relationship between temperature and the crime. At the same time in consolidated study for years 2017 to 2021 together, one uniformity has been seen, that the offences against body are higher in warm season and lesser in winter season and offences against property are higher in winter season and lesser in warm seasons. The possible explanation for higher number of offences against property during winters may be the opportunity and the availability of the subject matter of offence and similarly, the probable reason for more offences against body during summer may be that the targeting of victims might be easier due to harvest etc. Thus, what argued by the scholars like Adolf Quetlet and A.M Guerrey5 of France, Anderson and Anderson6 of U.S.A. and Prince Kropotkin7 of Russia has been seen by and large similar in our consolidated study of effect of weather on crime for the year 2017 to 2021 under twenty Indian States. It may therefore, be said that the climate is a factor which affect the crime rate in India, although it may not be the sole one.

Contents

24. THAKUR (Mridula)
Efficiency of Tribal Laws in Resolution of Conflicts: An Empirical Study with Special Reference to Odisha.
Supervisor: Prof. (Dr.) Rajni Abbi
Th 27070

Abstract

Indigenous peoples are social and cultural groups with common ancestry links to the lands and natural resources they occupy live on or have been displaced from. Their identities traditions means of subsistence and state of physical and spiritual health are all inextricably related to the land and other natural resources that they depend on. When they want representation that is unique or different from that of mainstream society or culture they typically follow their traditional leaders and groups. However may languages have been lost or are in danger of going extinct as a result of eviction from their lands and or migration to other locations. Many indigenous peoples still speak a language that is distinct form the official language or languages of the nation or region in which they live. The native tribes of India are not always comparable to those of Australia or Africa. Even though their socioeconomic circumstances are very similar they engage with the outside world in very different ways. The greater sociocultural environment in which Indian tribes are contextualized and contrasted with caste or non tribes must be considered while talking about them. Tribes in India consider their members to be related to other tribes by blood. They think they have a common ancestor whether it was genuine or imagined. They have a separate sociocultural institution. Beliefs in witchcraft magic and other supernatural forces are part of tribal mechanical life.

Contents

1. Introduction. 2. Analysis of the laws related to tribal rights in Odisha 3. Analysis of customary practices for dispute resolutions in Odisha. 4. Analysing the important judicial pronouncements related to tribes in Odisha.

25. VIKAS KUMAR
Transfer of Technology and Climate Change Mitigation in International Legal Regime Exploring Gaps in Theory and Practice.
Supervisor: (Dr.) Shabnam Mahlawat
Th 27069

Abstract

Climate change is one of the biggest and greatest problems of mankind in the 21st century. Climate change is happening globally and every country irrespective of its size or worth is facing the impacts of global climate change in one or another form. Before the industrial revolution there was no such problem of climate change ever noticed by man. It is in the pursuit of economic interest that the global community has triggered a race globally to establish more and more industries and employ more and more machines in those industries for increasing their production. It is also releasing green house gases like carbon and heat into the atmosphere without caring for their natural environment which has resulted in climate change. Because of the release of carbon into the atmosphere the scenario has completely changed as environmental degradation is occurring at a very fast and continuous rate everywhere in the world. It is responsible for climate change whose effects are noticeable in our environment and its impact is witnessed globally.

Contents

1. Introduction. 2. International legal framework for mitigating climate change. 3. International legal framework for transfer of environmentally sound technologies from developed to developing countries. 4. Understanding institutional framework, climate financing and mechanism of technology transfer for climate changes mitigation. 5. Barriers to technology transfer under the climate change regime. 6. Indian response to technology transfer and climate change mitigation. 7. Conclusions and suggestions. Bibliography. Annexures.

26. VERMA (Akshay)
From Sole-Arbitration to Hybrid-Arbitration: A Legal Study of its Evolution and Development.
Supervisor: Prof. (Mrs.) Alok Sharma
Th 27068

Abstract

Justice delayed is justice denied and yet the wheels of traditional litigation turn slowly. Many people are priced out of the justice system and are thus disabled to claim what rightfully belongs to them. Those who manage to get their cases before courts. Find themselves alienated from the entire process because of its complexities and fell voiceless in a battle which bears their names. They are at the mercy of third parties who shall declare them as the winner or loser. Their case may be over but the resentments and acrimony still remain. They have no control over their destinies and thus have to abide by the decrees passed down. This is the grim picture of the conventional justice system we are all familiar with. But fortunately this is not the only way path to justice. Most of the alternative dispute resolution mechanisms provide alternative forums wherein parties can resolve their disputes in an amicable

manner which allows more control to the parties involved in the process to mould the final outcome in a way wherein both parties achieve a win outcome.

Contents

1. Introduction. 2. Evolution and development of arbitration. 3. Jurisprudential and constitutional perspective of hybrid-arbitration. 4. Sole arbitration hybrid arbitration. 5. The consent award. 6. Drafting a hybrid arbitration clause. 7. Conclusion and suggestions. Bibliography. Annexure.

27. YADAV (Darvesh)
Protection of Rights fo HIV/AIDS Infected Persons: a Comparative Study of the Legal Framework of South Africa, Vietnam and India.
Supervisors: Prof. (Dr.) V.K. Ahuja and Dr. Ashutosh Mishra
Th 26747

Abstract

From the study, we can see that while India has taken various measures by enacting legislation, policies etc. and judiciary has also taken some action, a lot still is to be done as far as India‟s approach is concerned with regard to HIV/AIDS. The policies should be human rights centric and must balance the efficacy of a proposed intervention with its impact on human rights. Human Rights principles are binding on the State legally, morally, politically and internationally. A policy interfering with human rights must be adopted only as a compelling public health measure. Even then the burden should be minimal and least restrictive. Non-coercive public health strategies must be considered as the first alternative. These are education, counseling, voluntary testing and support services. Mandatory measures should be the last option only if the non-coercive measures are found inadequate to meet the challenge. Public pressures for adopting coercive measures in the first instance must be resisted in formulation of the policy. Procedural safeguards such as „due process‟ or „natural justice‟ are necessary, if coercive strategies need to be adopted. The decision then should be by an impartial tribunal, with no institutional bias and the restriction imposed ought to be the minimum needed to achieve the objective. A part from NACO policies and scattered provisions here and there, recently, in 2017 a specific legislation on HIV/AIDS has been made by the parliament. It is one of the way which can halt mass hysteria against HIV/AIDS victims and prevent HIV/AIDS from going underground and thus becoming even more deadly. More than Law, the answer lies in creating awareness among the public about the issues. The harsh experience of many persons living with HIV/AIDS from the Doctors and the Hospital authorities show that awareness is more necessary in the case of Doctors and Hospital authorities. This problem will be more pertinent in the case of sex workers. In fact, since they are having sexual relationship with many, thereby becomes a chief source of spreading this disease. So, the sex work should be regulated by making HIV/AIDS testing and use of condoms mandatory among them otherwise every effort taken to eradicate and cure this disease will be in vain.

Contents

1. Introduction 2. Problems faced by HIV/AIDS infected persons. 3. International legal regime on the issues of HIV/AIDS infected persons 4. Legal regime in South Africa and Vietnam for HIV/AIDS infected persons. 5. Human Right of HIV/AIDS infected persons. 6. Legal regime in India for HIV/AIDS infected persons. 7. Conclusion & Recommendations. Annexures.

28. YOSHIHIDE HIGA

Enforcing Gratuitous Contracts Under Section 25 of the Indian Contract Act, 1872: An Analysis of the Legislative Process and Case Law.

Supervisor: Prof. (Dr.) Gunjan Gupta

Th 27065

Abstract

This study has analysed the legislation process of the Indian contract act 1872 and case law which has been developed by the courts of India on section 25 and other relevant provisions regarding the doctrine of consideration. An is stated in the first chapter this study examined two hypotheses the contract law of India under the requirements of Indian contract act 1872 requires consideration more strictly than English law of contract contrary to the intention of the original drafters of the act courts of India have tried to develop the case law which can implement provisions under section 25 flexibly not formally.

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