CHAPTER 24

LAW

Doctoral Theses

01. AKASH ANAND
Evolution and Development of Precautionary Principle in furtherance of Environment Protection.
Supervisor: Dr. Manju Arora Relan
Th 25701

Abstract

world recognized that there existed a problem of environmental degradation. Many principles of environment protection were introduced among which precautionary principle, based on finiteness of the environment, achieved academic popularity, in the 1990s after its recognition internationally, because of its applications and also because of the problems in the principle itself. It was claimed that the principle if applied can lead to overprotection because of the ambiguities in the definition as provided in the Principle 15 of the Rio Declaration of the United Nations Conference on Environment and Development of 1992. It was four years later that the Indian Supreme Court in *Vellore Case* observed that the principle can be taken as binding in national disputes relating to environment as it can be taken as a customary international law. Again, after four years, in *A. P. Pollution Case* the Indian Supreme Court held that the precautionary principle is a customary international law. The fact that there were problems in the definitional aspect of the principle itself and the recognition of the principle by the Supreme Court of India needed to be reconciled. The thesis is the effort taken to find whether the two claims can stand together and moves in the direction to test its hypothesis. The aims and objectives designed for the research on the above includes among other things the study of the origin of the principle, the areas in which the principle is applied, further developments that have been made for the principle and the legal status of the principle in India and in international forum. For the above aspect the thesis, with doctrinal research methodology, is divided into various chapters starting with an introduction and ending with a conclusion chapter. The introductory chapter tries to put upfront the aspects and issues with the precautionary principle with the statement of the problem, research methodology, aims and objectives of the research, significance of the research together with limitations and the outline of the thesis. The second and third chapter trace the origin of the principle from individual countries and the recognition of the principle in international instruments respectively. The former while tracing the origin of the principle refers to developments in Britain in 1900s relating to arsenic poisoning, Landmark Book, Silent Spring, of 1960s spreading awareness about environmental degradation, German principle of foresight i.e. "*vorsorgeprinzip"* among other areas of origin such as the ancient literatures of India such as *Arthshashtra* and the *Code of Gentoo Laws*. The latter traces the recognition of the principle from the time of the very first international conference of 1972, UNCHE, to the international conference of the 1992, UNCED, and explains the concept of the paradigm shift, scientific uncertainty and the assimilative capacity principle referring to scholars and international legal documents. The fourth chapter, providing the divergent views of scholars as to the recognition and status of the principle in America, tries to locate the principle in United States of America by referring to the decisions of the United States Supreme Court and also the United States Court of Appeals which include the popular cases like the *Snail Darter Case*, *Reserve Mining Case*, *Ethyl Corporation Case, Whitman Case and the Michigan Case*. The fifth chapter tries to restate and locate the principle in the European Union, as a whole, and refers to the treaties which have established it and those which contain the functioning of the Union. It also refers to the decisions of the European Court of Justice where it has referred to and have applied the precautionary principle. It refers the *Spongiform Encephalitis Case* which laid down the use of the precautionary principle in the areas of public health and also the Communication of the year 2000 of the European Union which details

the application of the precautionary principle and depicts the effect of the Communication on the later decisions of the court. The sixth chapter tries to locate the principle in the statutes of India and also refers to the various decisions of the Supreme Court of India and also the National Green Tribunal. More importantly it presents a detailed analysis of how the Indian Supreme Court in *A. P. Pollution Case* has accepted the principle as a customary international law by interpreting the *Vellore Case* and referring to academic literature relating to the precautionary principle and also finds whether any definition of the principle has been recognized by the statutes of India or not. The seventh chapter tries to place the developments of the law relating to the customary international law and then tries to find whether any international dispute resolution authorities have held whether the precautionary principle is a customary international law or not. For the former purpose it discusses the famous cases of *SS Lotus, North Sea Continental Shelf, Anglo-Norwegian Fisheries Case and the Nicaragua case*. For the latter purpose it refers to the decisions of the International Court of Justice, International Tribunal for the Law of the Sea and the World Trade Organization Dispute Settlement Body. The cases are such as the *Pulp Mills case, Nuclear Tests Case, Gabcikovo - Nagymaros Project Case, Bluefin Tuna Case, MOX Plant Case, Beef and Biotech Cases*. The concluding chapter summarizes the thesis and puts forward the test of the hypothesis and proves the hypothesis to be in the affirmative. It also puts in place some other areas of research while discussing some recent developments regarding the precautionary principle, change of view of India and an International Institution, and also the report of the International Law Commission on Customary International Laws.

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1. Introduction 2. Origins 3. The Paradigm Shift 4. Status of the Principle in United States of America 5. Status of the Principle in European Union 6. Status of the Principle in India 7. Customary International Law 8. Conclusion and Suggestions. Bibliography.

02. BARUAH (Hrishikesh)
Competition Law, Evolution and Approach; A Need for Unified International Policy.
Supervisor: Dr. Rajni Abbi
Th 25687

Abstract

Competition law and Policy has been the focus of the world agenda for sometime. They seek to essentially address anti-competitive practices, which have the tendency of frustrating development and hampering the welfare of the people at large. The importance and standing of competition law and policy is now accepted across borders. At present, around 130 countries have distinct competition law regimes in their countries. Competition law and Policy seeks to regulate and also prohibit arrangements, which seeks to fix prices, allocate jurisdictions and abuse their dominant position. These practices affect the welfare of the consumers, the qualitative development of the economy and also create barriers to trade. Therefore, Competition law and Policy has become a central theme in all issues of Economic Law (both national and international). Competition law is founded on certain good governance principles such as transparency and non-discrimination. These principles address issues in a multifarious manner and forms the foundation of most legal structures. Therefore, there is a wide-spread acceptance of the founding principles of competition law. Nevertheless, every nation has its own aspirations. National Legislations are made to redress the national issues and problems. Mostly, Competition law and Policy are intertwined with the industrial policy of a country and the development of the economy. In a given case, an instance of anti-competitive behavior may lead to efficiencies in the domestic economy and may be preferred by the competition law regime of that country. As a matter of illustration, Japan encourages export cartels as it addresses the issues of supply. However, from a wholistic point of view, creation of a cartel may lead to concentration of wealth and this is detrimental to the economy at large. It might not per se affect the economy (in this case Japan) in which the said cartel is created. Therefore, there are several grey areas or gaps in a competition law regime. The fall of the Soviet Union and the dominance of GATT has resulted in a position whereby trade between nations has become seamless. This has led to the breaking down of

trade barriers and trade restrictions. The interconnection of trade and melting away of the borders led countries to enact competition law regimes and incorporate policy, which prohibits anti-competition practices. This was done with the intention of reducing trade barriers. However, the adoption of disparate standards and regulatory mechanism led to a different set of problems. Certain sections suggested that due to the difference in the standards adopted by different countries, there are serious issues. It is asserted that due to such differences, it has led to a position wherein enforcement of competition law and investigation of competition law has suffered. It is further asserted that enterprises are finding it difficult to operate in a situation where due to multitude of jurisdiction, there are huge costs and time overruns.

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1. Introduction 2. Evolution & Origins of Indian Competition Law 3. International Perspective: Evolution and approach 4. Need for Unification of Competition Law Regime 5. The March towards Unification of Competition Law 6. Models and Principles of Unification 7. Conclusion and Recommendations. Bibliography.

03. BATRA (Aarushi)
Gender Discrimination and other Conundrums in the Area of Sports Law: A Study in India and USA.
Supervisor: Dr. P.B. Pankaja
Th 25696

Abstract

Modern life as characterized by sedentariness, automation, and computerization has created a new class of human beings who just sit for hours each day. The 21st century is an age of space and technological gigantism, charged by speed, noise and other tension producing factors. The stress created by the demands of our social and economic systems and our devotion to intellectualism is tremendous.1 Urban lifestyle has caused many tensions and it will inevitably grow worse for mankind. Environmental pollution, cultural degradation, social disintegration, religious turmoil etc. have led to ecological and social imbalances and various psychological and physiological strains. Sports and physical education play an important role in relieving the stress caused by societal factors. Sports, by its very nature is about participation. It is about inclusion and citizenship. Sports bring individuals and communities together, highlighting commonalities and bridging cultural or ethnic divides. It provides a forum to inculcate values such as discipline, confidence and leadership and also teaches core principles like tolerance, co-operation and respect. Sports teaches the value of persistent effort as well as, how to manage not only victory, but also defeat.2 These positive aspects of sports make it a powerful vehicle through which individuals can attain fulfilment and the nation can prosper. Sports with its recreational and leisure aspect represents fundamental human values such as respect for the opponent, acceptance of rules, fair play and teamwork. It is universal in the sense that its rules are simple, easy to comprehend and the same everywhere. More than any other activity, it can bring people together regardless of their cultural differences. From the legal perspective, the importance of sports can be highlighted from the fact that it is considered as a human right. With respect to human rights, issues which first come to our mind are participating in a political system, being free from torture, having access to safe and clean drinking water and so on. Sport and physical activity, allow us to be fully human, just as art or music does, by enhancing the individual"s standard of living.4 In addition, sport and physical activity helps to promote healthy living as well as equality and social inclusion. Similarly, sports can also be used as a tool to facilitate human rights. This would involve use of sport to draw attention to societal issues.

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1. Introduction 2. Facts of Gender Discrimination in Sports 3. International and National Safeguards against Discrimination in sports 4. Comparative Study of Indian Sports Policy and U.S. Laws on Sports 5. Case Analysis of Gender Verification and Other Discriminatory Practices 6. Summary, Suggestions and Conclusion. Bibliography and Annexures.

04. BHATIA (Archna)
Role of Competition Law in Consumer Welfare.
Supervisor: Dr. Pinki Sharma
Th 25697

Abstract

Every nation state in the world constantly drives its energy to achieve the ultimate goals of welfare state not only to carve out a respectable position at the international for a but also to satisfy to its inner conscience of being an ideal state for its citizens. Welfarism constitutes of multidimensional approach of development whether its political, social, cultural, economic etc. in the present scenarios of endless race of every country to become economic superpower by continuous striving to increase numeric value of GDP, the people of such nation state who acquire the status of consumer in economic terminology are lost in oblivion. It is the consumer and its welfare which is the sole criteria to judge the performance of economic organ of the state in its true spirit. Therefore, every state needs to channelize its resources in such a manner where a consumer attains the status of epicenter for every economic institution, infrastructure and in broader terms economic policy. Here it becomes relevant to elucidate the concept of „consumer" which has acquired a diverse understanding from the different perspective of economic institution and statutes framed by the political bodies. In general parlance, consumer is described as the end user of any product which he acquires for any consideration. However, its definition gets widened by incorporating multidimensional criteria of payment of consideration like full or partial consideration, instant or deferred consideration etc. and nature of products like tangible goods and service etc. Besides it, the consumer has its diverse conception from the perspective of the purpose for which the product is used i.e., whether the product was ultimately consumed by the purchaser or it was used for gainful purposes by trading it in the market. Moreover, diversity in the description of consumer is also noticed in different statutes having their diverse aims to fulfill.

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1. Introduction 2. Comprehending the Concept of Consumer Welfare 3. Ante-Competitive Practices and Consumer Protection 4. Consumer Welfare as a Goal of Competition Law 5. Consumer Protection: International Perspective 6. Conclusion and Suggestions. Bibliography.

05. DEEPA
Pardoning Power of the President VIS-À-VIS its Judicial Review: A Critical Appraisal.
Supervisor: Dr. Mahavir Singh Kalon
Th 25689

Abstract

Every civilized country recognizes and has therefore provided for the discretionary power of pardon to be exercised as an act of grace and humanity in proper cases. The prominence of administrative discretion had created a jurisprudence of non interference by the judiciary in the exercise of such discretion. Prof. SA de Smith remarked that- ―*Judicial review of administrative action is inevitably sporadic and peripheral. The administrative process has not , and cannot be, a succession of justifiable controversies, public authorities are set up to govern and administer, and if their every act and decision were to be reviewable on unrestricted grounds by an independent judicial body the business of administration could be brought to a standstill. The prospect of judicial relief cannot be held out to every person whose interest may be adversely affected by administrative action.*‖1 the sentence of any person convicted of any offence in all cases where the sentence is a death sentence. The origin of the pardoning power of the President under Article 72, owes its allegiance to the power inherent in the King or Queen of the United Kingdom where it is known as *mercy power.* In the United States of America under Article II, Section 2 of the Constitution of U.S.A deals with the pardoning power. The special feature of the Indian Constitution provides the similar powers to the Governors of each State in India as such power has not been conferred on the heads of each province neither in U.K. nor in U.S.A. In India, the pardoning power is to be exercised by the President of India with the aid and advice rendered by the Cabinet of Ministers as per the scheme laid down by Article 74 of the Constitution of India.2 The President cannot take any decision without aid & advice of the Council of Ministers. Further, clause 2 of Article 74 makes it evidently clear that, the above mentioned aid & advice of the Council of Ministers should not be enquired into any Court of law judiciary so far has neither ventured to define the scope nor the ambit of the power conferred under Article 72 of the Constitution of India. It has also exercised restraint by not laying down the considerations for the exercise of this power. Before *Maru Ram's* case,4 there was no scope for judicial review to examine into the exercise of pardoning power. With acknowledgment of human dignity and the importance of human rights, interference of judiciary in the exercise of administrative discretion increased and it opened new horizons for judicial review overall. Article 21 of the Constitution of India which guarantees the fundamental right to life and personal liberty was interpreted in its widest amplitude in *Menaka Gandhi* v. *Union of India.*5 The Court given liberal interpretation to the term *procedure established by law* in same vein as the U.S. Supreme Court has interpreted the term *due process* under their constitution. of the after this judgment, the State cannot deprive any person of his fundamental right of life and personal liberty *except according to the procedure established by law* and such procedure must be fair, just, non-arbitrary and reasonable.

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06. DSOUZA (June Lewelyn)
Critical Study of the Law of Belligerent occupation, From the Humanitarian Perspective.
Supervisor: Dr. Pinki Sharma
Th 25693

Abstract

This research work, from the outset, sought to look into the existing protocols, regulations, rules, by laws, etc. that have a bearing upon occupied territory, irrespective of region, religion, political alignment, etc.The work has, consequently, taken into account mainly primary data which comprises of international

declarations and conventions relative to occupied territory The precursors to the Fourth Geneva Convention, of 1949, did a remarkable job in evolving the law in the sphere. If I may be so bold, it may be worth mentioning that the Brussels Declaration acted as the mother of this convention in a very real sense. Many experts have also opined that there were quite a few aspects of the previous conventions that were perhaps more humane and bestowed greater rights upon the common person, effected during the scourge of war – especially non-combatants – but those aspects made it hard in some cases to attain ratification for the said documents. It goes without saying that the developed world for the most part does not relinquish control easily, if at all. Most of the powerful nations (who play a decisive role in the turn of events with respect to situations that pose a threat to world peace – even when not categorized as war scenarios) find it difficult to ratify a convention that does not allow for the better part of control to be in the hands of the contracting parties.

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07. FAUSTINA SARAN

Socio-Legal Implications of Genetically Modified Crops.

Supervisor: Dr. L. Pushpa Kumar

Th 25686

Abstract

Climate change and world population are the most significant challenges of today's world. The massive population on earth causes the exploitation of renewable and non-renewable resources. The pollution causes a rise in greenhouse gas emissions1 and an increase in world temperature. Global warming impacted our planet adversely and induced unpredictable rainfall, melting of glaciers, extreme weather conditions, increased heatwave, droughts, floods, new pests, and diseases severely impacted our agriculture sector and threatens food security. Food production affected by yield declines, especially in tropical and subtropical areas, due to increases in average global temperature, increases soil evaporation rate, soil erosion and frequent droughts, decreases crop productivity, increases food price, and decreases nutrient content. To eradicate hunger and strengthen food security, the current agricultural approaches need to be modified, and innovation agriculture techniques needed for efficiently producing more food for the growing population in extreme / stressed conditions. Biotechnology in the agriculture sector reduces the efforts and time involved in the production of the desired trait in the concern crops and increases the production of food, feed, and fibre. The crops/seeds are developed by application of modern biotechnology where genetic material (DNA) has been altered by using genetic engineering (GE) or recombinant techniques, known as GM crops or biotech crops or transgenic crops. The new traits introduced to the conventional crops to make them pest resistance, disease resistance, herbicide-tolerant, saline, drought resistant and to produce an improved quality of crops2 and could contribute to more stable and sustainable-green agriculture.

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1. Introduction. 2. Socio-Legal Aspects of Genetically Modified Crops. 3. International Regulations on Genetically Modified Crops. 4. Regulatory Framework of Genetically Modified Crops in Various Countries. 5. Regulatory Framework of Genetically Modified Crops: An Indian Perspective. 6. Conclusion and Recommendations. Bibliography and Appendices.

08. GASPARYAN (Anush)
Issues Related to Working Women in Organised Sector: A Comparative study of Laws and Practice in India and Armenia.
Supervisor: Prof. Ved Kumari
Th 25679

Abstract

The studies reveal that in India and Armenia there are a lesser number of women in comparison with men working at the public organized sector and those who work are facing number of challenges in their day-to-day life.1 The sexual harassment at the work place, discrimination on the ground of gender, deprivation of opportunities and endangering the health due to maternity are among the main reasons keeping women away from success at work in the public sector. Protection of rights of working women has been considered as one of the main tasks by the international community, at the higher human rights organizations level and at the country level. States undertook responsibilities for promotion of women rights, for women empowerment, for elimination of discrimination against women. With their international commitments India and Armenia came up with a number of laws, plans and policies for providing women better position in the public sector. Both, India and Armenia long before their international commitments, in many ways, in different periods of their history tried and broke many chains holding women back from development.3 With their independence, together with other issues India and Armenia prioritised the issues faced by women, with their international commitments on women empowerment. They enacted national laws with focus on eliminating challenges faced by women. However, the studies indicate that irrespective of the laws and policies women continue to face number of issues at work in the public organized sector

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09. GOLLAMUDI (Bhavana Rao)
Women's Entrepreneurship in International Trade: An Analytical study with Special Reference to the Provisions of WTO Treaties and Cedaw.
Supervisor: Dr. Raman Mittal
Th 25691

Abstract

Women venturing into businesses has given societal repercussions. For one, it enhances the position of the women as a group, and two, the impact it has on societal well-being is marked. Trade has always been one aspect of entrepreneurship and more so in letting the entrepreneur choose a vocation of choice. It specifically becomes easy for women to choose a vocation if childhood opportunities were amiss during the developmental years of women. Female enterprises have also been subjected to discrimination in the name of culture, stereotypes and even their biology. As regards culture, it is known that women have been faring bad for centuries both in eastern and in western part of the world. Stereotyping has resulted from the cultural underpinnings of various nations. The strength of women is adjudged because of her biological making, and keeping the male physique as a norm. Running a business and exporting the products and services then proves to be proves to be extremely tedious. Literature available in this field points to the fact that it is possible that women are not participating in the economy as entrepreneurs and more particularly as exporters in international trade. Women as entrepreneurs are under-represented and in underdeveloped nations this gender division is stronger. Only 20% of the businesses in India are women owned, generating 22 to 27 million people with direct employment. In the context of women as a segment,

there is a need to ask the question of why some portions of the law behave differently than what was desired of them. It also means that examining participation of women to bring-forth the true health, both economic and otherwise, of the whole population. Participation of women in international trade is therefore important and trade should not be understood only from a gender neutral perspective. To understand the relationship between trade and gender, a cross sectional study of societal, cultural and economic norms becomes essential.

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1. Introduction. 2. Relating Trade and Gender: Exploring the Rights of Women Entrepreneurs in International Trade. 3. Assessment of National and International Legal Regime with Respect to Promotion of Women in Inclusion of women in Economy and Trade. 4. Judicial Intervention (National and International) on Women's Economic Issues. 5. Economics Position of Women in Relation to Funding for their Business and Getting Access to International Markets: A Qualitative Study of a Section of Women Owned Micro Small and Medium Enterprises. 6. Impact of Pandemic on Business Run by Women. 7. Conclusion and Suggestions. Bibliography and Appendices.

10. GURU PRAKASH
Socio-Legal Dimensions of Special Constitutional Status to the State of Jammu and Kashmir.
Supervisor: Prof. V.K. Ahuja
Th 25682

Abstract

The Indian Constitution is one of the lengthiest Constitutions in the world. It is graciously accepted, considering the diversity it caters to. It lays the foundation for the governance of the Earth"s largest democracy. The men and woman who drafted it were persons of great vision and foresight. Some say that it is the best Constitution of the world both in terms of quality and quantity. It deals with the fundamental governance of our country. It contains many contentious provisions on which academia and policy makers have constantly deliberated upon since its inception. Impartial arguments and dispassionate debates have always helped in acclimatizing our constitution. The Indian public has also largely displayed full faith in the functioning of our Constitutional democracy. There have also been instances where the public has registered its disapproval on the question of rights and social justice and various other issues in a highly legitimate manner. Seeds of the Constitution were sown in a volatile environment of possibility of dividing the nation on religious lines. Constitution was drafted in times of greatest migration in human history. These constraints are visible in provisions of Constitution which stood tall in tested times. The provision of solidarity and fraternity thus became the backbone of Indian Constitution.

In this context the present study has attempted to examine one of the contentious and the much-discussed provisions of our Constitution on the Special status to Jammu and Kashmir. On the eve of independence, we were clustered with a number of princely states who were provided with three alternatives in the cabinet plan; they had options to either join India or Pakistan or go independent.

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11. KALWANI (Mukesh)
Green Justice- Emerging Trends in India With Special Reference to Models Adopted in Australia and New Zealand.
Supervisor: Dr. Shabnam Mahlawat
Th 25694

Abstract

Environmental law is undoubtedly a pillar of environmental protection, but after many decades it is still suffering in most of the world due to poor implementation. As a result, the organization of the courts and their environmental sensibility, as well as the national systems of access to justice, has become crucial issues in the implementation of both environmental law and the principle of sustainable development. Many communities around the world face growing pressures from resource security and rising levels of pollution, posing risks to lives and livelihoods and exacerbating often long-standing systems of structural inequality. In the absence of effective means to enforce their rights, the poor lack effective access to and benefits from the natural resources they host, or to challenge the impacts of pollution on their health and welfare, and that of future generations. The 2011 Human Development Report highlighted the costs of ignoring social environmental interdependencies: chronic and structural poverty and income inequality, disempowerment and exclusion from decision-making, and a lack of agency among citizens and communities1. In particular, it raised attention to various multidimensional aspects of poverty, and how multiple forms of deprivation are closely connected to the nature of ecosystem services, natural resource access and benefit-sharing, and pollution impacts on health and welfare. Vulnerabilities that exist among the poor often express themselves in specific ways based on gender, age, ethnicity, livelihood, rural/urban contexts, among others. Poverty and environmental degradation are the result of market failures as well as public policy failures. Lack of access to justice and rule of law is a key barrier to transformative change.

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1. Introduction. 2. Origin of Green Courts in India. 3. Emerging Trends in the Working of Green Court in India 4. Practise of the special Environment Court of New south Wales, Australia 5. Practise of the Environment Court of New Zealand 6. Comparative Analysis of the working of Green Courts of Australia, New Zealand and India. 6. Comparative Analysis of the Working of Green Courts of Australia, New Zealand and India 7. Empirical Research on the Functioning of Green Court in India. 7. Conclusion. Bibliography.

12. GURPREET KAUR
Ushering Human Right Philosophy in IPRS: Problems and Prospects.
Supervisor: Prof. L. Pushpa Kumar
Th25692

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1. Introduction 2. Intellectual property right and human rights: a jurisprudential approach 3. Approaching patents therough right to health: insights from India 4. Copyright and access to knowledge: a curious case of conflict of interest 5. Traditional knowledge, farmers' rights and intellectual propertu rights 6. Conclusion And suggestion and Bibliography.

13. KAUSHIK (Deepak)
Applicability of International Trade Law Principles and Commitments Over E-Commerce: Critical Analysis of a Cross Border Trade.
Supervisor: Dr. Poonam Dass
Th 25728

Abstract

The emergence of internet and online trading system brought a new era to borderless cross-border trade. World Trade Organization (WTO) realized this and made its 1st attempt by setting up a “Comprehensive Work Programme” in 1998, with an aim to analyze every connected trade problem arising in international electronic commerce from the perspective of legal, economy and development necessities. The progress led to bringin into existence and allocation of various issues raised amongst four councils i.e. Council for Trade in Goods (GATT Council), Council for Trade in Services (GATS Council), Council on TRIPS (TRIPS Council), Committee of Trade and Development (CTD). Till now with more than 2 decades of efforts by the e-commerce work committee, its 4 subsidiary councils, General Council of WTO and other branches at work still failed to produce a single substantial regulation or guideline to regulate cross-border trade activities of electronic products. Thus, this research has tried to analyse the progress made so far on various highlighted issue of e-commerce, especially in relation to digital products, ranging from categorisation of digital products as goods or services to classification of these products in existing commitment schedule and from tariff imposition over such product category to applicability of international trade principles. On the issue of categorisation, due to the inherent nature of digital products in the form of data transmission, the research has analysed the conundrum of extending GATT treating them as goods or GATS treating them as services. As the definition of goods or services under GATT and GATS respectively does not provide a clear solution, the research has critically analysed Physical Attribute Theory vs Content Based Theory along with 4 different perspectives to clarify the ambit of digital products i.e. based on location, based on channel or medium of transfer, based on market entity or based on transaction itself. As GATT is more restricted to physical dimensions of the goods, GATS has been furthered as a more suitable agreement to accommodate digital products. Further, a hybrid solution has also been suggested, by treating digital products under GATS but with GATT like treatment, which seems like the best possible alternative at this moment, serving both the need of practical application and a strong enforcement mechanism. However, as a long term concrete solution creation of a new category of products under the nomenclature of ‘E-Products” or ‘Digital Products’ with proper classification based on Page | their individual defining features and a completely new multilateral trade agreement has been suggested.

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14. KIRTI BIKRAM
Analysis of Counterfeiting of Goods and its Relationship with intellectual Property and Commercial Laws.
Supervisor: Dr. Raman Mittal
Th 25683

Abstract

Intellectual Property deals with the creations of the human intellect, and it protects the nventions & designs, artistic and literary work, symbols, names, and images used in business1. To protect intellectual

property, monopoly rights are granted to the owners for a period of time to reap the benefits of their labour, efforts invested in that creation. We can say that these rights restrict others from using the IP for commercial purposes without the consent and authorization of IP owners. These IP rights include Patents, Copyright, Trade Marks, Designs, and Geographical Indications et al. It not only fosters innovations but also strikes a balance between the interests of IP owners and consumers. IPR is a vital tool that spurs a country's economic growth by promoting innovations, research and development, healthy competition, and facilitating technology transfer through Foreign Direct Investment, licensing, and other means. IPR plays a vital role in global commercial practices and livelihood in the current scenario. The IP regime fosters a creative environment by providing financial gains to the IPowners /innovators for their labour efforts. Still, the understanding of IPR and efficient implementation is needed strongly. India has various laws which directly or indirectly protect intellectual property, but in Indian Constitution, its recognition is vague and ambiguous. Unlike the Constitution of India, the Constitution of the USA2 specifically mention the IP, which grants exclusive rights over their property for a limited period of time, giving equal protection to copyright, patents, and trademarks under the trade clause. The Constitution of India3 does not expressly recognize the IP, but it recognizes the property. Property is a broader concept that includes tangible and intangible property, i.e., intellectual property. As we know, India has a mixed economy system, and the preamble of the Constitution itself mentioned liberties wherein economic liberty is the most important one. Economic liberty could be achieved through property rights.

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15. LEPCHA (Tashi Palzor)
Implementation Crisis of Pre-Merger Laws of Sikkim Protected Under Article 371F of the Indian Constitution: A Critical Analysis.
Supervisor: Prof. K. Ratnabali
Th 25725

Abstract

Law has to be dynamic in order to adapt to the changing needs of the society. The same is true about the pre-merger laws of Sikkim that are protected under clause (k) of Article 371F of the Constitution of India. However, changes in the law should not dilute or run counter to the very reason for which such a law exists. It is therefore necessary to ponder over whether the amendments or changes brought about in law are in consonance with the very spirit of that law despite the changing needs of the society. To understand the scope and significance of Sikkim‟s special status under Article 371F of the Indian Constitution with a special focus on the pre-merger laws, it is essential to be aware of Sikkim‟s historical past, its relationship with British India, and essentially, to understand why, how, and under what circumstances, Sikkim became an integral part of India in 1975. Due to the absence of any literature on Sikkim's special constitutional status, a clear and correct interpretation of Article 371F of the Indian Constitution, a topic of hot political debate in the national and international arena since its incorporation still eludes the Sikkimese society. Therefore, the present study was conceptualized, firstly, to lay down the Sikkimese's narrative about the merger. Secondly, to offer clarity on the interpretation of Article 371F and finally, to critically analyze the pre-merger laws protected under Article 371F vis-à-vis the contemporary socio-legal issues selected for this study. The research methodology adopted for this socio-legal research is a mixture of both doctrinal and empirical research wherein the nature of the data collected empirically are both quantitative and

qualitative. Conclusive findings and a wide range of suggestions and solutions for the deep and complex problems affecting the Sikkimese society have been presented in this research.

Contents

1. Introduction. 2. Research Methodology. 3. Sikkim's Transition from Distinct International Identity to Distinct Regional Identity with in the Union of India: A Sikkimese Perspective on the Merger. 4. Dilution of the Distinct Identity of the Sikkimese People History, Evolution and its Changing Dimensions in the Post –Merger era. 5. Loss of Rights and Opportunities of Sikkimese Women Married to Non – Sikkimese Men 6. Understanding Challenges of Buddhist Monks of Sikkim in Their Struggle to Preserve and Promote the Buddhist Culture and Traditions in the Post-Merger Era. 7. Summation and Suggestions. Bibliography and Appendices.

16. MALIK (Khushboo)
Emerging Trends of telemedicine in India and Right to Privacy: A Ctitical Appraisal.
Supervisor: Dr. Poonam Dass
Th 25699

Abstract

The „Good Health" has always been recognized as one of the biggest boons of life. It is not only the balanced diet, exercise and a healthy atmosphere which confers a good health but quality healthcare services also contribute in equal proportion. According to World Health Organisation (hereinafter referred to as WHO) the biggest challenge which the human race has been facing is to provide good quality healthcare to people across the world. It is the vision of „WHO" to provide quality healthcare services to all in 21st century irrespective of geographical, social or financial or any other constraints. Realizing this vision is somewhat difficult, due to increasing world population on one hand by and burden imposed by old and new diseases on other hand. Due to corruption and poverty disparities in health status between and within countries is very wide. Traditionally, part of the difficulty in achieving equitable access to health care has been that the provider and the recipient must be present in the same place and at the same time. Recent advancement in "Information and Communication Technologies", however, have created unique opportunities for overcoming this by increasing the number of ways that health care can be provided. This applies both to developing countries as well as developed ones.1 The potential for using Information and Communication Technologies to improve health-care delivery („telemedicine") are increasingly being accepted.2 The WHO recommends for its health-for-all strategy that the WHO and its member States should: "integrate the appropriate use of health telemedicine in the overall policy and strategy for the attainment of health for all in the 21st century", thus, realising the vision of a world in which the benefits of science, technology and public health development are made equitably available to all people everywhere.

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17. MRITUNJAY KUMAR
Access to Justice in The Displaced Indigenous Legal Systems: An Investigation upon the Ramifications of the Reception of common Law system in India.
Supervisor: Prof. Raman Mittal
Th 25690

Abstract

Access to Justice is the most popular concept used by lawyers, judges, and activists, but its significance has lost its realistic touch in a fashionable culture of neologism, often adopted by the people responsible for the administration of justice. The concept has been trivialized since it has been in popular use since long time across the legal systems throughout the world, even though its realization and progressive articulation, particularly in India, suffers from the grievous malaise of the "great men's burden".1 Access is key in a democratic society for the realization of good life for all its members. It is an important facet of justice and equity. Justice itself is an elusive concept which requires an objective understanding by the person who desires to achieve it, though it is one of the most arduous tasks to achieve by any social or political scientist to reach upon an agreement about the meaning and significance of justice. Its meaning changes in context of individuals, groups, societies as well as time or space. It has different meaning in relation to social practices which perpetuate gender or caste based inequality. In context of political economy, it is used in different sense. In discursive sense, episteme of justice is constructed strategically by philosophers, jurists, and political theorists in a sense it is theorised or justified to prefer certain kinds of political institutions, policies and frameworks, over others, however, the principles in abstraction are quite different from the ideas in action. All the attempts appear to be futile to circumscribe the contours of justice. Since the ideas of justice are as complex as human behaviours. Dias rightly elucidates that "the quest of justice has been as challenging as the quest for the Holy Grail, and as elusive. To some this is because justice is a will-o'-the-wisp, to others because it is too vast to be encompassed by one mind".2 Justice is not a static thing, which can be captured in a formula forever. It is a complex process or ever growing end, which is never given once for all like a gift, rather it is always a means or task yet to be achieved. Aristotle believed, and rightly so, that justice is the greatest of all virtues, and the person concerned who is supposed to be just requires to forget his self-interest.

Contents

1. Introduction. 2. Epistemic Foundations of Justice: From Greek to Post-Modernism 3. Aspects of Justice in Pre-Colonial India 4. Institutional Framework for Access to Justice in Pre-colonial India 5. Procedural Aspects of Access to Justice in pre-colonial India 6. Imposition of British Common law Legal Systems in India its Impacts on access to Justice 7. Conclusions and Suggestions. Bibliography.

18. NYODU (Mizum)
Comparative Study of Formal Criminal Justice System and Customary Criminal Justice System of North East States: A Soico-Legal Study of Selected Tribes in North East.
Supervisor: Dr. Vageshwari Deshwal
Th 25695

Abstract

The topic of research broadly is "A comparative study on Formal and Customary Criminal Justice system in the North East. The study is narrowed down to few selected tribes in these states". The researcher

intended to find out the existing criminal justice system which is operational and largely seeking to investigate the working of Customary Justice System as is chief justice dispenser till date and the Customary Criminal Justice System seems to have not been studied much from the legal perspective. Most of the studies done are by anthropologist, European travelers, administrative and political officers posted in the northeast by both earlier British and later the Indian government. Further, the works done are majorly on substantial law and no proper research has gone into the Institution of justice system. There seems to be have been some inaccurate depiction of the justice system and the legal positions/prepositions on customary institutions by some non-legal researchers as disclosed by some judicial officers, legal experts and lawyers of that area. However, many such instances the researcher came across is not directly related to the criminal justice system and therefore they are not been highlighted in the research. The study of Criminal justice is important and relevant to find out the efficacy of both the system, as the formal justice system in many a state is taking center stage which seems to effect and intrude into the fabric of age old cohesive tribal society. The researcher had tried to examine the working of past (mostly customary) and existing criminal justice system presuming the existence of the same. Therefore, no attempts have been made to define criminal justice system which stands defined by many jurists of great intellect and caliber. The focus is on the working and on the operational part of both the system.

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1. Introduction. 2. Evolution of Judicial Administration in Indian Sub-Continent with Special Reference to North East at a Glance 3. Development of Administrative and formal Justice System in the North-East India 4. Formal and Customary Justice System Through special Laws Post British Era 5. Customary Law Practices of the Selected Tribes 6. Conflicts, Challenges and Co-Existence of Formal and Customary Laws 7. Summations and Suggestions. Selected Bibliography.

19. PARUL LAKHAN
Irretrievable Breakdown of Marriage as a Ground for Divorce: A Comparative Study with Special Reference to India, UK and Australia.
Supervisor: Dr. Pinki Sharma
Th 25681

Abstract

The breakdown of marriage is considered to have occurred when the marriage loses its essence and the couples find themselves entangled in a lifeless relationship. It denotes a situation in which the parties to the marriage cannot be reconciled. It's in everyone's best interest to break up such a union. However, marriage serves as the cornerstone for the family structure. The family is the foundation of the entire society and the stability of the social institutions that are built on it. The foundation of a strong family system is surely a happy marriage. On the other hand, a dysfunctional marriage has a negative impact on both the couples and their children. It could lead to social issues because of its impact on society. In our contemporary culture, divorce is a major aspect of every community's personal laws. Marriage is no longer an unbreakable bond between any communities in any country. The only question is how abundant it is and how much of it is used. When it comes to society, a stable marriage is essential, but don't confuse stability with indissolubility. A marriage that has irretrievably broken down is not a stable marriage, and marriage stability necessitates that it should be dissolved with maximum fairness and minimal bitterness, misery, and humiliation. The discussion in India, however, has been long concerning the inclusion of irretrievable breakdown of marriage as a specific ground of divorce under the Hindu Marriage Act, 1955 and the Special Marriage Act, 1954. Nonetheless, the matter remains unresolved to this day. However, whenever the issue of irretrievable

breakdown of marriage is raised, opponents contend that The Hindu Marriage Act in 1976 "divorce by mutual consent" provision adequately handles the circumstance. It is critical to notice that "mutual consent" involves the cooperation or consent of both parties; if one fails to cooperate, the claimed premise is unavailable. On the other hand, 'irretrievable breakdown of marriage' is a ground that the court can consider, and if the court determines, based on the circumstances of the case, that the marriage cannot be repaired/saved, divorce can be granted. Divorce is not contingent on the parties' will, but on the court deciding, based on the facts pleaded, that the marriage has irretrievably broken down. As a result, this research critically examines Irretrievable Breakdown of Marriage as a Ground for Divorce, comparing the laws of India, the United Kingdom, and Australia.

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1. Introductory Reflection 2. Concept of Marriage and Divorce with Reference to Irretrievable Breakdown of Marriage 3. Legislative Framework Related to Irretrievable Breakdown of Marriage in U.K. 4. Legislative Framework Related to Irretrievable Breakdown of Marriage in Australia 5. Legislative Framework Related to Irretrievable Breakdown of Marriage in India 6. Comparative Study with special Reference to India, U.K. and Australia 7. Conclusion and Suggestions. Bibliography and Appendices.

20. PRABHAT KUMAR
Land Laws in India- A Critical Analysis.
Supervisor: Prof. Sarnjit Kaur
Th 25684

Abstract

The land is so essential to the existence of all human beings that every system of law recognizes and protects a formidable list of rights connected with it. For every country, the land is important and people use the land as a source for food, a place to live, a place to work, *etc*. India is an agrarian country, wherein land has always been an important source of income and authority but ownership rights of land have remained very complex and ambiguous. During the ancient and medieval periods, we find individual, community and State ownership of land. However, during British rule, this was changed. The first piece of legislation in India in respect of the acquisition of property was the Bengal Regulation 1 of 1824. It was applied throughout the provinces immediately, subject to the Presidency of Fort William. It provides rules for enabling the officers of the government to obtain land at a fair valuation or other immovable property required for roads, canals, or other public purposes. Some lands were acquired in Calcutta for public purposes, even though there was no proper legislation to that effect. To remove the legal complications, Act 1 of 1850 was enacted to confirm the title to the land acquired for public purpose. In the middle of the nineteenth century, when the railway was being developed, it was felt that legislation was needed for land acquisition. Act XLII of 1850 declared that railways were public works within the meaning of the regulation and thus enabled the provisions of regulation 1 of 1824 to be used for acquiring lands for the construction of railways.

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1. Introduction 2. Historical Development of Land Laws in India 3. Right to Property under the Indian Constitution 4. Concept of Public Purpose and Social Impact Assessment 5. Procedure for Acquisition of Land 6. Land Acquisition and Right to Fair compensation 7. Land Acquisition Rehabilitation and Resettlement 8. Conclusion and Suggestion. Annexures and Bibliography.

21. RAJESH KUMAR
Evolution of Federalism in India With Special Reference to Financial Relations.
Supervisor: Dr. Alka Chawla
Th 25685

Abstract

From the very initiation of civilization, humanity has been searching for a system where the individual and the societal interest can find some synchronization. In this search, first came the community life then societal structure, and after that, it gave rise to the State's system. Which later on found to be governed by various types of government systems such as Monarchic, Oligarchic, Totalitarian, and Democratic, etc. Whatever may have been the type of government system, there has always been a community of interests. So, it can be observed that the federal idea is not confined to the political sphere of the state but provides the very basis to the human organisation.1 Further here the question arises that in what circumstances would it be appropriate to adopt a federal system?2 However, it is very difficult to give a universal answer to this question but in order to reach an acceptable answer, we can look at the reasons for shared space for the individual and collective interests. Among these reasons, some essential factors can comprise the causal force behind the evolution of the concept of federalism. Some of these significant factors can be summarised as: common defence, collective economic benefits, common cultural traits, prosperity, common linguistic bond, expected natural advantages or risks, etc. However, it is not necessary that all the above-mentioned factors must be present for the existence of the desired kind of system. But some of them have always been there in initiating the progress in that direction. The expression of these shared interests gave rise to the given structure of the State system. In ancient and medieval history, the unitary state system had opted for a decentralized administration that put the regional units as the agents of the central authority. The chapter has briefly discussed all the findings of each of the previous chapters. It investigates the research findings and their correlation with the research objectives and research questions. It has also provided the way forward for general and fiscal challenges to bring the required synergy into the evolution of centre-state relations.

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1. Introduction and Theoretical foundations 2. Analysis of the Pre-Independence Period Mechanism 3. Constituent and Legal Framework 3. Constituent and Legal Framework 4. Comparative Appraisal 5. Challenges and Emerging Trends 6. Suggestions and Conclusion. Bibliography.

22. SANTOSH KUMAR
Standards of Investment Protection and Host State's Right to Regulate In India's model BIT, 2016: A Critical Deconstruction.
Supervisor: Dr. Pinki Sharma
Th 25698

Abstract

Since the end of World War II, the countries have been negotiating investment treaties to establish a global regime for investment. Investment treaties, often referred to as 'international investment agreements' (IIAs), are essentially instruments of international law by which states (1) make the commitments to other states with respect to the treatment they will accord to investors and investments from those other states, and (2) agree to some mechanism for enforcement of those commitments. As their names suggest, one of the primary goals of investment treaties is to promote and protect investment. There are three types of international investment treaties. These are (1) bilateral investment treaties, commonly known as 'BITs; (2) bilateral economic agreements with investment provisions; and (3) other investment-related

agreements involving more than two states. Bilateral Investment Treaties (BITs) are basically agreements/treaties between two countries which seek to protect investments made by investors of both countries2. BITs protect investments by putting restrictions on the host state's regulatory behavior, preventing undue interference with the foreign investor's rights3. These conditions include prohibiting host states from expropriating investments unless they are in the public interest, with adequate compensation and due process; requiring host states to provide fair and equitable treatment (FET) to foreign investment and not to discriminate against it; and allowing profits to be repatriated subject to conditions agreed upon by the two countries. In addition, Bilateral Investment Treaties define what constitutes a _investment‘ and who qualifies as a _investor‘4. This suggests that BITs only protect those investors and their investments which fall under the definitions of a particular BIT. Today, bilateral investment treaties (BITs) constitute the most significant source of international investment law.

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1. Introduction 2. Global Debates on bilateral Investment Treaties and Regulatory Power 3. Fair and Equitable Treatment Standard 4. Non-Discrimination Standards 5. Monetary Transfer Provision 6. Expropriation 7. Conclusions and Suggestions. Bibliography.

23. SINGH (Raj Kumar)
Protection of Consumers' Interests and Economic Development under Competition Laws: A Comparative Study.
Supervisor: Dr. Rajni Abbi
Th 25688

Abstract

Competition law has witnessed enormous growth in recent years, especially since the early 1990s. The growth has been both in terms of geographical regions that have adopted competition law, as well as in the range of economic activities now subject to competition law. As an increasing number of countries have undertaken economic reforms and embraced the market economy, many of them have also introduced competition law to maintain competition in their markets. Also, many economic activities that were earlier state monopolies or natural monopolies and were shielded from competition are now subject to competition law. The principal objective is to make the market economy work better by stopping private power from obstructing markets. In this way, the objective is to maintain and protect the competitive process since competition promotes efficiency including dynamic efficiency, increases consumer welfare, and contributes to the progress of the economy as a whole. On the other hand, firms tend to restrict competition through means such as collusive agreements to fix prices and outputs, and exploitative and exclusionary measures, and seek mergers and other forms of combinations to gain or augment market power. Such market failures undermine the benefits of free and fair competition in the economy and, therefore, need to be prohibited through legal devices provided by the competition law.

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1. Introduction. 2. Evolution of Competition Laws: A Global Overview 3. Consumer Protection under Competition Laws: A Comparative Study of Selected Jurisdiction 4. Benefits of Competition Law on Economic Development 5. Critical Analysis of the role of CCI in Protection of Consumers (With Special Reference to Decided Cases) 6. Summation & Conclusion. 7. Bibliography.

24. VEHOTOLI SEMA
Critical Analysis of Mergers and Acquisitions in India.
Supervisor: Dr. P.B. Pankaja
Th25680

Abstract

With increasing globalization and technological innovation, competition in the market has become more acute. Growth is the key objective of any business entity and they have been doing it organically. However, in today's corporate world, mergers and acquisitions (M&A) have become the driving force for corporate restructuring. Companies are growing faster inorganically through mergers and acquisitions as it is cost effective and takes less time. Companies acquire latest technologies and skilled people to maintain a competitive edge in the market. In some cases, companies facing stiff competition get merged as they cannot survive alone. M&A is intrinsically connected with economic growth and development of India. Therefore, mergers and acquisitions have increasingly become a perfect economic strategy to cope up with the fast-growing global economy and India is no exception to this. India is one of the fastest growing major economies of the world with attractive opportunities for mergers and acquisitions. A constantly evolving Indian legal and regulatory framework is also contributing to increased M&A activity. After liberalisation, India has witnessed the value of M&A deals reaching an all-time high of USD 129.4 billion in 2018. The record growth of M&A activities in 2018 is attributed to the improvement of India's ranking in *Ease of Doing Business* occupying 77th position among 190 countries. The legal and regulatory framework of a country significantly determines the Ease of Doing Business ranking. Based on the reliable data, M&A deal numbers is plotted against the corresponding year starting from 1996 to 2019 and is shown in the graph here in below to give a glimpse of the increasing mergers and acquisition numbers. India has become the fifth largest economy in the world in 2019 and is currently aspiring to be the third largest by the year 2025. In order to fulfil its vision, the government has to provide a conducive legal and regulatory environment along with financial and political stability. The liberalisation era policies has opened the country for international trade and investment thus allowing the investors across the globe to enter the Indian market. The last decade has seen a flux of mergers and acquisitions activities which have more heated up and growing at an incredible pace in last 5 years. For instance, the booming rise of Patanjali Ayurved has shaken the Indian markets. Recently in December 2019, Patanjali Ayurved has acquired soya food brand Nutrela for Rs. 4,350 crore. It has been introducing more products into the market giving a tough competition for other players. In this type of scenario, the bigger companies thrive well but small industries not able to cope up with the stiff competition end up in losses. So, as a sole remedy they merge with other bigger companies to remain profitable. Some recent mergers and acquisition deals like *Arcelor Mittal acquiring Essar Steel India Limited* in December 2019 for Rs. 42,000 crore is going to be a gamechanger not just because of the company's financial muscle, but also because of the innovations that it has brought in the steel sector, particularly for luxury cars 5 and other premium metal products where the margins are bigger. Another important deal during 2019 was the acquisition of *Reliance Jio Infratel unit of RIL by Canada's Brookfield Infrastructure Partners* for USD 3.66 billion. This important deal has boosted the Indian telecom sector was possible because of the notification of Section 234 of the Companies Act, 2013 in April 2018 by the Ministry of Corporate Affairs which was delayed for more than five years. Further in 2018, *Walmart acquired Indian e-commerce giant Flipkart* for USD 16 billion which became the India's largest acquisition and world's biggest purchase of an e-commerce company. With this, both Walmart and Flipkart achieve synergy that has started contributing to the economic growth of India and benefitsto many online customers.

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1. Introduction. 2. Conceptual Analysis of Mergers and Acquisitions 3. Evolution of Legal Framework of Mergers and Acquisitions in India 4. India Legal Framework on mergers and acquisitions 5. Judicial Response on Mergers and Acquisition in India 6. Summary, Suggestion and Conclusion. Annexures and Bibliography.

25. VINTEE
Contemporary Development in the Field of Trade Marks and Designs: A Critical Analysis.
Supervisor: Dr. Sunanda Bharti
Th 25726

Abstract

A trademark is a merchandising short cut which induces a consumer what he wants, or what he has been induced to believe he wants. The proprietor of a mark exploits this human propensity by making every effort to impregnate the atmosphere of the market with the drawing power of a congenial symbol. Once the trademarks get proper recognition and popularity, they create more revenue and growth in trade and commerce. Following table provides growth of trademark registrations in India: Source: Annual report 2018-2019 provided by the office of the controller general of patent, designs, trademarks and geographical indications Protection of trademarks at international level is very important as a result India acceded the Madrid Protocol in April 2013, which provides a centralized filing system in member states where trademark proprietors have not to file different applications in different jurisdictions. It proves to be very beneficial in export markets, cost effective, user friendly, speedy process, this international treaty provides a smart route to protect your trademark up to 122 countries around the world. The number of international applications of Indian entrepreneurs received and transmitted to the WIPO by Indian office and their registrations with the WIPO under the Madrid System for last 4 years

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1. Introduction 2. International Registration of Trademarks in India through Madrid protocol 3. Non- Conventional Trademarks 4. Well Known Trademarks 5. Overlapping of Provisions of Trademarks, Designs and Copyright 6. Conclusion and Suggestions. Bibliography and Annexures.

26. YADAV (Pooja)
Legal and Ethical Issues of Surrogacy: A Comparative Study of Indian, United States of America and United Kingdom.
Supervisor: Dr. Sunanda Bharti
Th 25727

Abstract

The progress of the scientific methods and technology has changed the mankind totally. Though with this change, it has come up with difficulties which were never heard of. The scientific knowledge has helped people to originate sex-determination1 techniques which are now punishable by law in India and development in Science like DNA testing, fingerprinting etc. The notion of motherhood has been converted into biological mother, social mother and surrogate mother. Surrogacy is mostly considered as a substitute for adoption, though adoption becomes a part of surrogacy procedure. It is when a female gives her free consent to carry a child for intended parents and

then gives the child to them terminating her rights upon the infant. Surrogate Motherhood is defined as a bond shared with a child and the intended parents by a woman who agrees to get pregnant with their child (intended parents) and then the couple adopts and become legal parents of the child by taking custody and this concept is also known as proxy mothering.

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1. Introduction 2. Legal Issues of Surrogate Motherhood in India, United Kingdom and United States of America 3. Ethical Issues in Context of Surrogacy in India, United Kingdom and United States of America 4. Comparative Analysis of Surrogate Motherhood in India, United States of America 5. Data Analysis 6. Conclusion & Suggestions. Bibliography and Appendices