



THE CANON

INSTITUTE OF LEGAL STUDIES
Ranchi University, Ranchi-834008



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Monthly ILS NewsLetter

JULY 2022



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**"Ethics is knowing the difference between
What you have a right to do & What is right to do".**

*~Potter Stewart
(1915-1985)*

Editorial

SEDITION : It's time to say goodbye.

The recent order of the Supreme Court of India in S.G. Vombatkere vs Union of India a three-judge Bench of the Supreme Court of India effectively suspended the 152 year old colonial-era penal provision of "Sedition" under section 124A of the Indian Penal Code (IPC). During the hearings in the matter, the Union of India, in its affidavit, averred that it had decided to re-examine and reconsider the provisions on sedition under section 124A of the IPC. It was further submitted by the Union of India that the Supreme Court may examine the constitutional validity of the law on sedition once the exercise of reconsideration has been undertaken by the government, but the Court think it is inappropriate to use the provisions on sedition till the re-examination by the Union of India is complete. So, the Supreme Court recommended that the governments (both at the level of the Union and the States) should restrain from registering any FIR in sedition cases till the matter is under consideration. The Court also directed governments, to keep "all pending trials, appeals and proceedings" arising out of a charge framed under Section 124 A "in abeyance".

Sedition laws were enacted in 17th century England when lawmakers believed that only good opinions of the government should survive, as bad opinions were detrimental to the government and monarchy. The law was originally drafted in 1837 by Thomas Macaulay, the British historian-politician, but was inexplicably omitted when the IPC was enacted in 1860. Section 124A was inserted in 1870 by an amendment when the Government felt that it was necessary to suppress the ideas which are arising against him. Section 124A defines sedition as an offence committed when "any person by words, either spoken or written, or by signs, or by visible representation, or otherwise, brings or attempts to bring into hatred or contempt, or excites or attempts to excite disaffection towards the government established by law in India". It is a non-bailable offence, punishable from imprisonment up to three years to a life term, to which a fine may be added

Several countries like Australia, Canada, and Ireland have either diluted or have completely done away with laws on sedition in the recent past. Even in the United Kingdom, which was the basis of Indian law, sedition has been abolished by the Coroners and Justice Act, 2009. In India, several private member bills have been introduced on sedition and a majority of them suggest reform and not repeal. Even the Law Commission in its report considers sedition essential to protect national integrity.

But in my view, Section 124A has been widely misused even after the clear-cut guidelines given by the Supreme Court in the case of Kedarnath Singh vs State of Bihar, 1962. So now the time has come that like England, this section should be abolished from India too and as far as the integrity of the nation is concerned the IPC and Unlawful Activities Prevention Act 2019 have provisions that penalize "disrupting the public order" or "overthrowing the government with violence and illegal means". These are sufficient for protecting national integrity. Now it will be interesting to see whether this step is taken by the Government or even here the Judiciary has to come forward.

Fact Files

The Institute of Legal Studies, Ranchi University, Ranchi was founded in 06th August 2018 in the heart of the Ranchi University Campus at Morabadi as a Centre of legal education as per Ranchi University decision. It was established as a result of the efforts of late Senior Advocate and Learned Jurist Mr. Devi Prasad and Dr. Ramesh Pandey (Ex-Vice Chancellor of Ranchi University). The courses of study, syllabus and set-up of institute is approved by the Government of Jharkhand and Bar Council of India.

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- *Prof. Dr. Jyoti Kumar (From 17-03-2019 To 26-08-2019)*
- *Dr. Rakesh Verma (From 27-08-2019 To 26-08-2020)*
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- *Dr. Anil Kumar (From 17-06-2019 To 07-02-2020)*
- *Dr. Smriti Singh (From 08-02-2020 To 16-01-2022)(*
- *Dr. Nitesh Raj (From 17-01-2022 To)*

Following clubs have been constituted at ILS to ensure growth and development of the students under the supervision of the mentors :-

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Activities & Achievements

Activities:

- *On 7th June 2022 Inspection for the setup of Free Legal Aid in the Institute by the Secretary of District Legal Services Authority (DLSA) Shri Rakesh Ranjan.*



- *On 10th June 2022 The Department of Investment and Public Asset Management (DIPAM) Ministry of Finance, Government of India organized a mega event on "Azadi Ka Amrit Mahotsav" at the ILS-Auditorium.*



- *On 15th June 2022 Kumar Yash (Semester 3, Session 2020-2025), released the inaugural issue of the monthly ILS Newsletter, The Cannon*



- *From 17th to 19th June 2022 3rd Intra State Moot Court Competition & Valedictory Session was organized by Chotanagpur Law College, Ranchi, and three Assistant Professors from the Institute of Legal Studies were invited as observers.*



- *On 21st June 2022, Yoga Day was celebrated in the Institute with great enthusiasm. Director, Faculties & Students promoted Yoga practice.*



- *On 21st June 2022, Dr. Ajit Kumar Sinha was appointed as the new Vice-Chancellor of Ranchi University.*



- *On 29th June 2022 Institute of Legal Studies was registered on the portal of National Youth Parliament for setting up Tarun Sabha in the Institute.*



Achievements:

Director's Achievements -

- On 14th June 2022, Appointed as a Member of the Jharkhand Academic Council.



- Served as Guest Editor in the May-June 2022 issue of the journal "The Indian Mining & Engineering Journal" and has also published his two papers, "Geothermal Technology Options for Surajkund Hot Springs in Jharkhand" and "Gemstone Mining: A Case Study of Gurabanda Emerald Deposits, District East Singhbhum, Jharkhand".

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May-June 2022 1 The Indian Mining & Engineering Journal

Guest Editor:
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News & Judgments

International Legal Updates:

- ***US Jury Holds Johnny Depp & Amber Heard Liable for Defamation Of Each Other; Awards \$15 Million Damages to Depp, \$2 Million To Heard: - (Johnny Depp vs Amber Heard)***

Hollywood Actor Johnny Depp won his defamation case against Amber Heard, his ex-wife and former costar, reported Associated Press. Following a six-week trial, a US jury found that Heard had defamed Depp in a 2018 op-ed she wrote for The Washington Post, describing herself as "a public figure representing domestic abuse." The jury awarded Depp \$10 million in compensatory damages and \$5 million in punitive damages in his defamation suit. The jury also found that Heard had been defamed by one of Depp's lawyers when he called her abuse allegations a hoax. Heard, 36, had filed a countersuit against Depp, 58, seeking \$100 million in damages and saying his legal team falsely accused her of fabricating claims against Depp. The jury awarded Heard \$2 million in damages in that countersuit.

- ***2. US Supreme Court Overturns Roe v. Wade Ending 50 Years of Federal Abortion Rights: - (Dobbs v. Jackson Women's Health Organization)***

The US Supreme Court on 24th June 2022 overturned Roe v. Wade, the landmark ruling that established the constitutional right to abortion in the U.S. in 1973. The Court in a 6-3 ruling powered by its conservative majority upheld a Republican-backed Mississippi law that bans abortion after 15 weeks. This landmark ruling is in favour of the state of Mississippi in a highly controversial case- Dobbs v. Jackson Women's Health Organization wherein the State of Mississippi sought to invalidate Roe v. Wade and outlaw nearly all abortions at and after 15 weeks gestation. The ruling also overturned the court's precedent in Planned Parenthood v. Casey, which was based on Roe and found in 1992 that states can't enact abortion restrictions that pose an "undue burden" on the person getting the abortion.

- **3. US Supreme Court Expands Gun Rights, Strikes Down New York Law Limiting Guns in Public**

The US Supreme Court struck down a New York law that placed strict restrictions on carrying concealed firearms in public for self-defense by opining that the century-old law requiring that applicants demonstrate "proper cause" and "good moral character" violates the Second Amendment. The 6-3 ruling with the conservative justices in the majority and liberal justices in dissent, found that the law enacted in 1913, violated a person's right to "keep and bear arms" under the U.S. Constitution's Second Amendment. The ruling also marks the widest expansion of gun rights since 2010, when the Court applied nationwide a 2008 ruling establishing an individual right of armed self-defense within the home.

- **4. Life Imprisonment Without Realistic Possibility of Parole Unconstitutional: Canada Supreme Court (R. v. Bissonette)**

The Canada Supreme Court held that a criminal law provision authorizing sentence of imprisonment for life without a realistic possibility of parole is unconstitutional. "By stipulating that a court may impose consecutive 25-year parole ineligibility periods, the impugned provision authorizes the infliction of a degrading punishment that is incompatible with human dignity", the Court unanimously observed. The court held that every inmate must have a realistic possibility of applying for parole, at the very least early than the expiration of an ineligibility period of 50 years.

Supreme Court Judgements:

IMPORTANT DECISIONS OF SUPREME COURT FOR THE MONTH OF JUNE 2022. [source: - live law]

1. Supreme Court Directs Jharkhand High Court to Decide First Maintainability Issue of PILs Seeking CBI/ED Probe Against CM Hemant Soren. (State of Jharkhand v. Shiv Shankar Sharma)

The Supreme Court directed the Jharkhand High Court to decide first the maintainability of three PILs seeking CBI/ED investigation against Jharkhand Chief Minister Hemant Soren in relation to grant of mining lease, allegations of MNREGA scam and transfer of money into shell companies. A vacation bench of Justices DY Chandrachud and Bela M Trivedi passed the order passed by the State of Jharkhand challenging the decision of the High Court to accept the documents produced by the Enforcement Directorate in sealed cover overruling the State's objections. "We direct that the issue as to maintainability should be dealt by the HC on the next date of listing. Based on the outcome of the objections to the maintainability of the proceedings, the HC may thereafter proceed in act with law".

2. Public Trust Doctrine Part of Law of Land; Role of State as Trustee Of Natural Resources More Relevant Today: Supreme Court. (T.N. Godavarman Thirumulpad v. Union of India and Ors.)

The Supreme Court observed that the Public Trust Doctrine is part of the law of land. The State also has to act as a trustee for the benefit of the general public in relation to the natural resources so that sustainable development can be achieved in the long term, the court observed. A bench comprising Justices L Nageswara Rao, BR Gavai and Aniruddha Bose observed thus while issuing the directions in applications filed in the TN Godavarman Thirumalpad case. The court directed that each protected forest should have an Eco Sensitive Zone (ESZ) of 1 kilometre.

3. Swaminathan Kunchu Acharya v. State of Gujarat.

The Supreme Court observed that income, age, bigger family cannot be the sole criteria to tilt balance in child- custody cases. The bench comprising Justices MR Shah and Aniruddha Bose observed thus while it granted custody of five year boy who lost his parents due to covid to his paternal grandfather. In this case, the paternal grandfather of the boy had approached the High Court by filing a writ petition (habeas corpus) alleging that the boy's maternal aunt is not allowing them to enter the house of his son and daughter in law and that he is not even permitted to meet the boy. While disposing of the petition, the High Court gave the custody to the maternal aunt. Aggrieved with this, the grandfather approached the High Court.

4. Zakia Ahsan Jafri v. State of Gujarat

Dismissing the appeal filed by Zakia Jafri challenging the clean chit given by the SIT to Narendra Modi and 63 other state functionaries in the Gujarat riots case, the Supreme Court observed that conspiracy cannot be inferred on the basis of mere failure or inaction of the state administration. "Conspiracy cannot be readily inferred merely on the basis of the inaction or failure of the State administration", the Court stated. It added that "inaction or failure of some officials of one section of the State administration cannot be the basis to infer a pre- planned criminal conspiracy by the authorities of the State Government or to term it as a State sponsored crime (violence) against the minority community".

High Court Judgements:

- ***Jharkhand HC directs money laundering probe against CM Hemant Soren, his brother. (State of Jharkhand versus Shiv Shankar Sharma)***

The Jharkhand High Court directed the Enforcement Directorate (ED) and Registrar of Companies (RoC) to probe money laundering allegations against Chief Minister Hemant Soren and his brother Basant Soren. The Soren brothers and their close associates have been accused of making disproportionate assets and money laundering through shell companies. The court has ordered a probe into the allegations and asked the agencies to submit report in two weeks. They are also accused of amassing disproportionate properties like hotels and malls against their known income. The direction from the court came on a plea filed by Shiv Shankar Sharma, an RTI activist. Sharma in his petition alleged that CM Soren, his brother Basant and his family made money through illegal ways and invested their ill-gotten money in about 30 companies to convert it into white.

- ***2. "Causing Financial Loss to Public": Delhi High Court Restrains Rogue Websites From Using "Amazon" Trademark (Amazon seller services private limited & anr. v. Amazonbuys.in & ors.)***

The Delhi High Court has granted ex parte ad interim injunction in favor of online marketplace Amazon by restraining various vogue websites from using its trademark 'AMAZON'. Justice Jyoti Singh restrained websites namely <https://amazonbuys.com>, its Facebook page by the name of 'Amazon Franchise' and <https://estoreamazon.in>. The Court was dealing with a suit filed by Amazon Sellers Services Private Limited and its affiliate arguing that its copyright subsisted in its Website and Domain Name i.e., amazon.in as well as in the overall 'look and feel' of the website 'www.amazon.in'.

- **3. Bombay High Court Orders Release of Pharmacy Student Held for Social Media Post Aimed Against NCP Supremo Sharad Pawar. (Mr. Nikhil Shyamrao Bhamare vs State of Maharashtra and another)**

The Bombay High Court granted bail to 21-year-old pharmacy student Nikhil Bhamre, who was arrested for defamatory posts allegedly aimed at NCP president Sharad Pawar. The division bench of Justices Nitin Jamdar and NR Borkar orally observed, "He is a student; he is in custody since a month. We will pass an order granting him bail." The Court further ordered that no coercive action be taken against him in cases he hasn't been arrested.

- **4. Denial Of Economic Support To Wife & Minor Son Amounts To 'Domestic Violence' Even If Parties Aren't Residing In Shared Household: Calcutta High Court. (Md. Safique Mallick v. The State of West Bengal & Anr)**

The Calcutta High Court observed that denial of economic support to the wife and the minor son constitutes 'domestic violence' under Section 3 of the Protection of Women from Domestic Violence Act, 2005 (DV Act, 2005) and that it is immaterial whether the parties are still residing in a shared household or not. Justice Ajoy Kumar Mukherjee was adjudicating upon a plea seeking quashing of criminal proceedings against the petitioner under Section 12 of the DV Act pending before the concerned Judicial Magistrate.

- **5. Kerala High Court Grants Anticipatory Bail to Actor-Producer Vijay Babu In Rape Case Subject To Conditions. (Vijay Babu v. State of Kerala & Anr.)**

The Kerala High Court granted pre-arrest bail subject to conditions to Malayalam actor-producer Vijay Babu's plea in the case where an actress accused him of sexually exploiting her. Justice Bechu Kurian Thomas allowed the anticipatory bail plea with a condition that limited custody of the actor shall be available to the investigating officer.

Students Corner

Is Indian Legal System Unbiased?

The three main organs, The Executive, The Legislation, and The Judiciary are the indispensable pillars through which our union government is composed of to administer the country in smooth and apposite manner. These bodies are independent of each other and enjoys their own supreme power guaranteed by the constitution of Indian. Now considering, The Indian legal system i.e Indian Judiciary, which is the most respectful, the gracious one and the most trusted organ amongst all of the others, is the watchdog of democracy and constitution, irrespective of any pressures from any one, it checks and punishes for the violation of constitutional provinces or any laws, rules or regulation, made according to the supreme book of law i.e Constitution, if found guilty. It is said that impartiality is the soul of judiciary and independence is its lifeblood and both are as essential to each other as deficient without.

But looking deeper upon the working of our legal system in a practical manner, some of the questions arise, whether these words impartiality and independence of judiciary really exist for everyone? Is our legal system really unbiased? Is the judicial system really made available for everyone? Can every individual seeking help from the institution afford to go through the whole judicial processes? will it be wrong to say that the availability of judiciary, nature of independence, and impartiality are just theoretical things, they do not completely exist in the practical and real world? the answers to all the above questions are very elementary and the same, and that is 'No'. There are several cases where the courts have proved their independent and impartial nature and have delivered justice but there are also many instances where partial orders have been passed, in some of the instances common people don't even file complaints or step back on account of litigation expense for long period of time. It is not just that always there is the fault of the court, judge or advocates, or any other officer or individual, sometimes it's all about the process which is very much partial in nature and needs serious attention to be upgraded as per the respect of time.

Moving toward next type of case where government or state itself violates constitutional provisions, makes rule and regulations which are unconstitutional in nature but even then court doesn't interfere or orders government to make correction in rules, until the complain of such act has not been lodged in court. If we just make a look upon all these processes then will find that, a circus is being played in our country where common people are used as means of entertainment. It has been closely observed that one of the pillars i.e the government itself, violets the supreme law and the other that is the Judiciary silently keeps on watching and when the complain is registered the same court declares the act or rule un-constitutional and orders government to rectify the same.

The whole process wastes the time and money of the common people. And in this whole process the innocent common people are crushed, their time and money are wasted. For example we can see the recent ungodly condition of Jharkhand government and Jharkhand High court, about JSSC new rules, these both bodies are playing a kind of game from approximately more than one year, due to which students futures are being disposed. Their huge amount of money has been wasted till now but the case remains pending, no one can imagine when the case will be fully resolved.

But the most interesting part is that even today, despite of several partial orders so made by the court, or it's silent behavior which seems sometimes unfavorable for common people , there is lies a sense of faith and belief upon the system amongst the common people is unexampled, beyond compare. The judges in the courts are considered as supreme one, at the level of god, in eyes of common people. The common statement so made that "I will sue you or I will see you in the court " itself signifies the credence of people upon the judicial system, they are quite sure that will get justice there.

So, as per my view, it's the job of the judiciary itself to maintain the faith of people. The judicial processes must be upgraded as per the demand of time and made easier, less expensive so that a common help seeking person can also afford the litigation process and hence, dare to ask help from the court. And also the court by using its power of making and checking laws must examine to every system complies with the Constitution of India. The system must be upgraded in such a way that the court itself take cognizance of matters whenever violation of laws takes place to secure ends of justice and to make sure that common people do not suffer due to the fault in the part of administrative bodies.

***~Ambesh Choubey
(Session 2021-2026)***

Success is Sweet , But its Secret is Sweat

It is rightly said - " No pain , No gain ". It means that if we want success in life , we need to get on the path which leads us to success. We should never think about the hardships or the pains, we are going to face. These all hardships are tests to examine our spirit and talent which make us worthy of attaining the success. Every person, a man or a woman, has to struggle through his / her life to success.

Talking about success, we must not forget about the dark side of it that is "failure". Everybody fears failure. No one wants to face it. No man is perfect. But if one practices hard, it may lead to excellence in the particular field. But this not at all easy. If we want to bloom into gold, we need to burn ourselves in the fire. We should remember that life is not a bed of roses. Everybody goes through the period of struggle and toil. If we face failure, we must not run away from it but turn to improve the faults we made and proceed further. In fact when you put an effort you do not fail instead you remain shorter of what you want. Again put more effort to reach to your milestone.

Before embarking on the road to the success, we must know our limitations and capacity. We should develop the habit of daily work. We may not succeed in the first attempt. It does not matter as long as you learn from your mistakes.

Thomas Alva Edison once said "Success is the outcome of the struggle one does with the beat of time".

Einstein said "Genius is the outcome of the ten tons of struggle and one gram of brilliance".

**~Shivani Singh
(Session 2019-2024)**

देश के युवा

ए मेरे देश के युवा
तू त्याग कर
अपनी धरती के खातिर
तू कुछ तो कर
पूर्वजों का शौर्य
तेरे रक्त में है
हुनर हर वक्त
तेरे रक्त में है
तूने अपने पूर्वजों की वीर गाथा
को बुलाया है
बड़ी शर्म की बात है
आज भारत के ऊपर पश्चिमी साया है
ए मेरे देश के युवा
अपने इतिहास को पढ़
पढ़ कि राणा ने
स्वाभिमान बचाया है
दिल्ली के तख्त पर चौहान का साया है
पढ़ क्यों हल्दीघाटी
आज भी लाल है
शिवाजी के रक्त में
क्यों इतना उबाल है

फिर भी हमारा भारत
क्यों इतना बेहाल है
झांसी की तख्त पर
चामुंडा स्वयं बैठी थी
काल वह दुश्मनों की
सीना तान बैठी थी
जब घमंड और अहंकार
मगध में छाया था
खोल अपनी शिखा
उसने संपूर्ण भारत को दर्शाया था
पलट दी थी तख्त उसने
साधारण युवा को तख्त पर बैठाया था
चंद्रगुप्त चाणक्य का साया था
किससे लाखों हैं
तुम्हें क्या क्या बतलाऊं मैं
जाग अपनी नींद से
मां भारती का ध्यान कर
मेरे भारत के युवा
तू त्याग कर ।

~ ऋतुराज शाहदेव
(सत्र 2020-2025)

Upcoming Events

1. *Become An Accredited Mediator By CMC, UK & Empanelled Mediator With CIADR: 40 Hours International Training Program On Mediation (2-10 July)*

ADR HOC

VIRTUAL INTERNATIONAL SUMMER TRAINING PROGRAMME ON MEDIATION 2022

WE OFFER

- Expert and Globally renowned faculties from countries like India, the USA, Singapore, Australia, Africa etc.
- Extensive learning of mediation with hands on practical learning
- Participation certificate
- Interesting workshops

40 hours of Live Training Sessions

DATES
2ND-10TH JULY 2022

REGISTER SOON!!!
Limited slots available
MODE - Online via Zoom

Accreditation by Civil Mediation Council, UK*
*Subject to passing the assessment

REGISTRATION FEES
Indian Students - Rs 15000/-
Indian Professionals - Rs 18000/-
International Students - USD 200/-
International Professionals - USD 250/-

EMANELMENT WITH
CENTRE FOR INTERNATIONAL
ALTERNATIVE DISPUTE RESOLUTION (CIADR)

SCAN TO REGISTER

*Payment link available in registration form

MORE INFORMATION:
Website: www.adrhoc.com
Phone No.: +91 81735 59999
+91 88607 84215
E-mail: adrdirect@adrhoc.com

SUPPORTING ORGANIZATIONS

CIADR CMC ILA

2. *LiveLaw Academy's Certificate Course On Constitution By Adv. Avani Bansal*

Live Law ACADEMY

Live Law Academy Presents

CERTIFICATE COURSE ON CONSTITUTION OF INDIA

An Online Comprehensive Course That Combines Theory + Practice of Constitutional Law With Landmark Judgments

Dates
16th July to 3rd December
(Every Saturday, 4 to 7 PM)

Registrations Open
1st July - 14th July 2022

Course Fee
₹6000 + GST

Certificate on course completion.
Open to All

SCAN TO REGISTER

By Avani Bansal:
Supreme Court Advocate,
Alumni of University of Oxford
(BCL and M.Phil. in Law)
and Harvard Law School (LLM)

- Semester long course - 21 weeks
- Early Bird Registration: 20% cashback for first 20 Students
- Scholarships available on need + merit basis: Apply with a cover letter for the scholarship to the course coordinator parvati@livelaw.in
- Will receive certificate upon successful completion of the course