

## OBOR – ONE BORDER ONE ROAD



India now a days is siege with so many diplomatic and foreign policies that allow the country to think out of the box and take actions against these strategies. One such strategy that India should work on is the One Belt One Road (OBOR) project that is the cause behind the China Pakistan Economic Corridor (CPEC). What does this policy mean? How it's going to affect the India's security? What is the aim of the project? From where do they get funds? All these questions would be answered but for this we have to go back to the original silk route that has been revived under the OBOR project. This project is the philosophy of China's President who introduced Belt and Road Initiative by quoting a

phrase, “yi de fu ren” that refers to the use of one's abilities in a benevolent way to benefit the community worldwide which comprises of, silk route economic belt and the maritime silk road initiative. The aim behind the policy is, first, to revive the traditional silk route. Second, to encourage the economic and political cooperation between the OBOR states and third, to gain power in the international platform and become a superpower which was all-together a different contention to that of the philosophy. All these trade activities are taking place through various railways and sea ports. It also involves the pipelines for the exchange of gases. All these activities are supported from the funds

provided by China's Development Bank, Import-Export Bank of China, The Silk-Road Fund which is officially launched in 2015 with the initial capital of \$40 billion, Asia Infrastructure Investment Bank (AIIB) that has a registered capital of \$100 billion that is owned by China and based in Beijing, New Development Bank based in Shanghai with a registered capital of \$50 billion and is also a China owned bank. The countries covered are also the victims of the of the China's trade trap. The first on the count is Sri Lanka, which has to lease the most important strategic port of Hambantota to China for 99 years then comes the Kra Canal or Thai canal which is an essential part of China's Maritime Silk Road, a constituent element of its ambitious Belt and Road Initiative (BRI) that aims to connect China via road and sea with the markets of Africa, West Asia, and Europe. Singapore play a crucial role as a 'financial hub' for the BRI because 33% of the total outward investment and 85% of the total inward investments related to the BRI make its way to China through Singapore. Poland can act as a production and distribution hub to various other European destinations. China would get benefitted by investing under the gas projects and linking the Gazprom and CNPC, by providing Silk Road Fund Investments to Sirpu that will provide gas to China from Serbia. Turkey is the link for trade between Europe and China. The railway connection between Istanbul and Ankara will provide free flow of goods and services as well as create employment opportunities. There are other countries that are linked in this project but the difficulty that it creates for India is that it creates a string of pearls, i.e., the China's appearance in the Indian ocean through the economic development of various ports like, Gwadar port in Pakistan, port of Hambantota in south of Sri Lanka, Port Blair in Andaman and Nicobar island, etc. will politically and strategically weaken India's position to combat with China at the time of war. So, India needs to look after this problem as the initiative ultimately creating an international pressure that it cannot afford to have at such a crucial period when there is nothing good between the two countries.



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## IT IS HIGH TIME: NOT A WAR, BUT AN ECONOMIC ATTACK

India's revenge will not be short but a long term devastating attack on Pakistan's economy Our patience and tolerance level must not be checked every time and considered as our compulsion to stay silent and idol, India is not a country where any Tom, Dick and Harry can come and do anything they want.

Unlike the surgical strike after the Uri attack nothing will be sufficient to avenge any other attack. We all understand the kind of aggression we currently possess to take revenge of our brave martyrs but it does not mean that our army just go for a war, army personnel are humans and not machines. Like us they have their family too. This time the war must not be done at the cost of Indian soldiers but at the cost of Pakistani economy.

Although India took strict diplomatic actions against Pakistan to isolate them globally but it is not possible when the countries like China, UAE and Turkey are providing aid to the Terroristan. Its high time now when India must go for a long term attack on Pakistan instead of reacting after every single terrorist attack to stop them from spreading terror and treason. We can do this only by attacking on their weak economy which is in very bad phase having a low Forex Reserve which will not even last for more than three months.

Although India withdrew the Most Favored Nation (MFN) status given to Pakistan and increased the custom duty to two hundred percent on importing goods from Pakistan, we must continuously harm their economy in the most possible way. This economic attack on their economy will not impact us in major as our trade with them is not so high but it will definitely impact them. Also India stopped its share of Indus river water flowing towards Pakistan which will lead to reduce in the Pakistan's water supply and harm them economically. India and its supporting countries must diplomatically and strategically make sure that Pakistan must not get out of the grey list of Financial Action Task Force (FATF) and ensure its name under the black list. This will lead Pakistan to lose their overall global economy ranking in each and every area which will result in high inflation, low Foreign Direct Investments (FDI) and their own citizens will turn against them out of hunger and unemployment as the Multi National Companies (MNCs) will fold up their business from the country and move out of it.

This will not only put pressure on Pakistan to stop spreading, financing, and defending terrorism but they will be doing it in actual sense. Terrorism cannot be eliminated through peace talks and attacks, it must be root up economically because after every single terrorist attack Pakistan says the same thing that give us the evidence and we will take action but do nothing upon it so it seems to me like a stale khichdi that cannot be eaten anymore that's why we must change our economic policy towards Pakistan. India being in the most developing phase in all sense must avenge through its development in all sense.



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## PROTECTION OF CREDITORS

Corporate Insolvency is a ground for liquidation which is a matter of serious concern. Effective Insolvency Procedures needs to be established for protecting the interest of the creditors efficiently. India does not have a separate Insolvency Act like United States of America and United Kingdom. The kingfisher trouble highlighted the need of effective insolvency procedures for safeguarding the future availability of credit in India. Without effective procedures creditors may not be able to collect their claims which may have an adverse effect on the credit availability. The provisions of the Indian Companies Act have somewhere failed to address the interest of the creditors at the time when a company becomes insolvent.

Under the Insolvency and Bankruptcy Code, 2016 (“IBC”), different classes of creditors have different rights, privileges, and roles in the corporate insolvency resolution process (“CIRP”) and in the liquidation process. This classification of creditors is a key element in the process of resolution or liquidation of a corporate debtor.

Who is a creditor? - A “creditor” could be any person to whom a debt is owed. A “debt” is a liability or obligation in respect of a claim, due from any person. An essential part of the term “claim” is a right to payment, or a right to remedy for breach of contract, which gives rise to a right to payment. To be considered a creditor of the corporate debtor, therefore, a right to payment is essential. Someone seeking a remedy of specific performance, injunction, or any other remedy, which does not give rise to a payment, would not be considered a creditor.

Who is a financial creditor? - Financial debt has been defined in the IBC a debt, which is disbursed against the consideration for the “time value of money”. The expression “time value of money” is an established concept in finance and is based on the idea that money available at the present time is worth more than the same amount in the future due to its potential earning capacity. Thus, for example, if Rs. 100 is deposited today into a fixed deposit or savings account, it would earn interest, and three years later, may increase to, say, Rs. 110. Similarly, when a lender lends to a borrower, it does so only because later in time, it will get back that amount together with interest or some other return. The lender's earning by way of interest is the consideration for making the loan in the first place. The essential idea that the expression “time value of money” captures is that of a “borrower-lender relationship”, where a loan that has been provided, has to be returned with interest or return of some kind.

In ascertaining whether a transaction is financial debt, it is the underlying nature of the transaction, which needs to be looked at. In Nikhil Mehta v. AMR Infrastructure, the applicant creditor had paid the defendant real estate developer the full price of under-construction commercial premises, with the understanding that until possession of the completed premises were handed over to him, the defendant would pay him a fixed sum every month. Overturning the decision of the Delhi NCLT, the NCLAT looked at the underlying nature of the transaction and held that this was not simply a contract to buy and sell commercial premises, but was in effect a transaction whereby one party had advanced monies against the consideration of an assured return, thereby giving it the character of financial debt.



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# THE COMMON SCHOOL SYSTEM FROM: “RIGHT TO EDUCATION” TO “RIGHT TO EQUALITY IN EDUCATION”

**Both class and race survive education, and neither should. What is education then? If it doesn't help a human being to recognize that humanity is humanity, what is it for? So you can make a bigger salary than other people?**

**-Beah Richard**

The genesis of the Common School Movement took place in United States, pioneered by a dedicated educationist, Horace Mann. Education in those times was begotten in local and religious private schools and only those who could afford to pay for their children's education reserved the exclusive right to send their children to these 'schools'.

Mann strenuously advocated the absolute necessity for common schools called 'Public Schools', funded by taxation and run by the Government, which both the privileged and the disadvantaged exclusionary groups would attend together and receive free and equal educational opportunities.

The argument that the private schools did not cater to the bulk of the population and therefore did not ensure “real” democracy was one of the reasons for the Movement. But the idea took root from a more fundamental objective, the necessity for a united sovereign. The movement gained forced after the Civil War as it was believed that Public

Schools were necessary to bring people of all denomination, even excluded groups like black and immigrants, as also the rest of the advantaged group, together, in common schools and educate them in certain core common American values, common knowledge of the political system, respect for institution and respect for property. These school would thus ensure national integration and be “the balance wheel of the social machinery”. Somehow, this conceptual understanding gives one the impression that though superficially advocating equality, it actually maintains the balance by maintaining the divide through inculcating conservative privilege American values in the excluded groups. It therefore serves as another way to perpetuate the dominance and reinforce the power and ideas of advantaged groups rather than to empower the disadvantaged.

The concept of Common Schools, in India was first mooted by the Kothari Commission as far back as 1966 and subsequently endorsed by various other educational bodies.



The movement in India is fundamentally premised on different grounds in that the primary objective of the Movement has always been to bring equality by the empowering the disadvantaged and giving their values and practices equal importance. The thrust is on providing formal schooling and quality education for each and every child. Thus, while in U.S., the demand for common schooling was mostly about providing free common education for all with the goal of preventing internal strife and protecting the country's integrity on the whole, in India emphasis is more on providing equal quality of education free, for all, so as to bridge the social and educational divide that exists in society. For the Americans, it has always been about the image projected by their country, while in India, the stress is on ,the dignity of each individuals.



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# ARTIFICIAL INTELLIGENCE: IN SPORTS FIELD RELATION WITH INTELLECTUAL PROPERTY RIGHTS

Intellectual Property (IP) refers to the protection of rights of developer for his/her creation of ideas. These creations include inventions, literary and artistic work, designs and other technological development. Intellectual property consists of creations of human intelligence. Meaning of intellectual property right is the protection and it also encourages the human intellect for creations of varieties of product which is an intellectual property of creator. Intellectual property rights include Copyrights, Trademarks, Patents, Industrial Design Rights, Geographical Indication, and Trade Secrets also. Intellectual Property provides people recognition to their work of creation and innovation and provides financial benefits and investment into their creations and innovation as well. Intellectual property rights provide the availability of original products in market. This emerging era, sports acknowledgment, innovations and new creation of products are very necessary in sports world to grow. Inventors and creators of new products and technologies play a key role in providing better facilities for enjoyment, and for athletes to inspect and increase their performance. Sports have a very crucial segment of Intellectual Property. Protection of rights of creator in sports industry is very crucial. A sports product protected by several intellectual rights like patents which protect the technological use of development, trademarks protects the products, differentiate from similar products for its reputation. Copyrights protect the artwork and creation of that product. The most frauds and creations of similar products created in sports industries which actually affect the rights and reputation of creator, their products and inventions. Intellectual property protects the sports organization rights and its reputation and save their income generation potentials. Since, daily innovations and creation of goods and services or products, distinguishing original work of the creator from copied or modified works of fake creators is very difficult for intellectual property institutions. The globalization and advancement of technology around the world has played an important role in protection



and encouraging the new products to be created. Among all these technologies, Artificial Intelligence has played a vital role in protecting the intellectual property rights. It searches the huge database and provides the accurate, improved results for better experiences. Industries of intellectual property are another market for utilization artificial intelligence. Traditionally paper and manual searches and lengthy decision-making process artificial intelligence simply the day to day work and provide better and more accurate data.



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# CONSEQUENCES OF IMPROPER INVESTIGATION

The criminal justice system is a system, which comprises organizational arrangement, consisting of different components working jointly or individually towards a specific goal; the legislature, the police, the prosecution, the Court and the correctional organization. The legislative arena is of great importance in criminal justice system of any state. They produce the laws that tell us what behavior is forbidden and provide penalties for engaging in prohibited behavior. These laws enable the courts to decide guilt or innocence, and the correctional sub-systems to punish or attempt to rehabilitate the convict. So the functioning of our criminal justice system begins with the enactments of legislature. However, the legislature does not constitute an operational component of the system, except to highlight that the entire system's rationale depends upon the laws, which they make and whose violations are required to be controlled or reduced.

Next component of criminal justice system is police or the law enforcement sub-system. To keep peace, law and order, to prevent crime, to apprehend the law violator, these tasks are assigned to police. Without law enforcement sub-system, the rest of criminal justice system sub- systems cannot perform their functions. Legislatures can enact thousands of laws, but if the police fail to act, the law can be violated with impunity. If citizens are unable to go about their daily work in a safe and predictable manner, one would be forced to say that the government has ceased to operate effectively. The overriding problem of the future is that of the protection of police from political attacks. According to law, the activities are not only focus only on the enforcement of various laws; their functioning is also governed by the process of law. In this area of accountability to the law of the land, the police activities come under very close scrutiny of the judiciary. It can also be said that, the accountability to the law is ensured by judicial review at several stages. To sum up there are three fold accountability of the police, to the people, to the law and to the organization.

Another component of criminal justice system is Prosecution. The prosecutor is the person, who determines whether an alleged violator



will be processed by the judicial subsystem. If the prosecution feels that the case is appropriate, then formal charges are framed. But he has no power to interfere in the investigation. The next most important component of criminal justice system is the function Judiciary. The role of court in criminal justice system is more vital and significant than that of the police. The prime function of the court is to impart free, fair, speedy and impartial justice. The judges have to discharge their functions with utmost care and caution so that the public confidence in judicial process is not shattered. The presiding judge must be aware that his verdict in the case is going to make a lasting impression on the accused and victim about justice or injustice, depending upon rightful or wrongful acquittal or conviction of the accused. An independent, unbiased and able judiciary is the first requirement of justice. The judiciary shall decide the matters before it, impartially, on the basis of facts and in accordance with law, without any restrictions, improper influences, inducements, pressures, threats, or interferences, direct or indirect, from any quarter or for any reason.

Viewing the criminal justice system in its various operational stages, it is difficult to perceive it as a unitary system. On the contrary, it emerges as a loosely knit with diverse institutions, the police, the prosecution, the judiciary and correction, striving for the goal of effective crime control. Either of the components fails or does not function in the manner expected of it, the total system get disorganized and discontented. Thus these subsystems of criminal justice system are by no means exclusive of one another. If one of the gets affected then it will affect the whole criminal justice process.



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# INTERVIEW



## Mr. Nilesh Kumar

Ex- Vice President, Bar Council of India  
Senior Advocate, Jharkhand High Court

**Q. How would you like to introduce yourself to our readers?**

**A.** lawyer driven by passion for his work and still eagerly learning each day in order to be a better version oneself everyday.

**Q. What is your opinion on failure? Is it acceptable to you?**

**A.** In my opinion there is no alternative to hard work and yes performing well can sometimes be stressful. However, I personally feel it is very important, whether as a student or as a professional, you are passionate and enjoy what you do. We stress ourselves so much for what we don't have that we forget to appreciate what we have at present.

We have to understand that success and failure are part of life. Basically, what is important here is how you see things. It's all about perspective. Life is neither constant nor should you want it to be because if it is then you will never experience something new and learn from it.

Therefore, I think it is important to experience failure sometimes because such instances can only make you stronger and wiser. The main thing is to be resilient and not give up. One only fails when one gives up trying. If you want to grow, you should not only have the courage to fail but also have the courage to look at it positively and learn from your mistakes. It is then called an experience!

**Q. What were the struggles that you faced in building your career?**

**A.** Any lawyer would tell you that there are no shortcuts to success or developing a practice. If you stay sincere people starts coming to you with cases and which is very important for High Court practice. There is any scope for laxity in a profession at any stage.

**Q. There is lot of debate on "National Law School" and "Traditional Law School". What is your take on it?**

National Law Schools have definitely brought about professionalism in the manner law education is imparted. However Traditional Law Schools always had a good environment and their students too are doing very well.

**Q. As you were a member of Bar Council of India, what were your roles and responsibilities?**

We as the members of the various committees of the Bar Council are expected to discharge all the duties & functions of Bar Council of India which includes looking after the law colleges and disciplinary proceedings assigned.

**Q. You have many landmarks judgements to your credit. One which I recall is about Arms Act, how does it feel to have a landmark judgement to your credit?**

Landmark judgements do not do much for the judge and parties involved except immortalize their names. Most of the landmark judgements result in a loss for the petitioner.

The one you referred to is Md Isteyaque vs The State of Jharkhand. It was for the first time in the state that the high court asked the state government to constitute a fire arms bureau for the destruction of seized weapons in the state as contemplated under 104 of the arms act rule 2016.

Interviewed by **Ayush Kumar Verma**  
(B.A.LL.B., IV Semester)

## CURRENT EVENTS

### DECEMBER 2018

#### INTERNATIONAL-

1. The World Economic Forum (WEF) released the Global Gender Gap Report 2018. Out of the review of 149 countries, Iceland topped the index while India ranked at 108.
2. The former senior Indian diplomat, Preeti Saran was elected unopposed to an Asia Pacific seat on the United Nation's Committee on Economic, Social and Cultural Rights (CESCR).
3. The UN member voted in favour of the Global Compact on Refugees, affirming international solidarity and cooperation for refugee protection and host community development.
4. Qatar's Energy Minister Saad Sherida al-Kaabi announced that the country will withdraw from the Organization of the Petroleum Exporting Countries (OPEC).

#### NATIONAL-

1. Lok Sabha passes the Muslim Women (Protection of Rights on Marriage) Bill, 2018 also known as 'Triple Talaq Bill' with two-hundred forty five members voting in favor while eleven members voting against the bill.
2. The union cabinet chaired by Prime Minister Narendra Modi approves the 'Gaganyaan Programme' which is the first Indian Human Spaceflight initiative of the Indian Space Research Organization (ISRO).
3. PM Narendra Modi inaugurates the Bogibeel Bridge in Assam.
4. India's first locomotive-less train 'Train 18' crossed the 180 kmph speed limit during a test run in the Kota-Sawai Madhopur section.
5. The Lok Sabha passed the Surrogacy (Regulation) Bill, 2016 which is aimed at prohibiting commercial surrogacy and unethical practices relating to it.



The Annual Management Fest - **Magisterium Gala 2018** was hosted by Indore Institute of Law between the dates 13th December to 21st December 2018 to celebrate the versatility of the management students. The 9 day fest had various different activities organized by all 9 clubs namely the Cultural club, HR club, IT club, Scholarly club, Sports club, E club, Finance club, Production club and Marketing club. The fest ended with a bang, celebrating the birthday of Mr. Akshay Kanti Bam, Chairman Indore Institute of Law.



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