

CURRENT AFFAIRS JULY 2021

Digital India initiative has completed its six years on 1 July 2021. Digital India is a government's flagship scheme to transform India into a digitally empowered society and knowledge economy. It was launched by Prime Minister Narendra Modi on 1 July 2015. In the past 6 years, the government has launched many digital initiatives like Direct Benet Transfer, Common Services Centres, DigiLocker and mobile-based UMANG services.

President Ram Nath Kovind laid the foundation stone for Ambedkar Memorial and Cultural Centre in Lucknow. The cultural centre will come up at 5493.52 sq meter nazool land in front of Aishbagh Eidgah in Lucknow and have a 25-ft high statue of Dr Ambedkar.

The Government of India has decided to bring Department of Public Enterprises (DPE) under the finance ministry. DPE was earlier under the Ministry of Heavy Industries and Public Enterprises.

Delhi University will have a 'Bangabandhu Chair' to foster a better understanding of developments in Bangladesh. An MoU was signed between the Indian Council for Cultural Relations (ICCR) and Delhi University in Dhaka to set up this Chair at Delhi University.

India and Nepal have signed a Letter of Exchange (LoE) to revise the 2004 India-Nepal Rail Services Agreement (RSA). The revised agreement allows all authorized cargo train

operators to utilize the Indian railway network to carry Nepal's container and other freight – both bilateral between Indian and Nepal or third countries from Indian ports to Nepal. Razorpay has partnered with Mastercard to launch 'MandateHQ'. It is a payment interface that will help card-issuing banks to enable recurring payments for their customers. It must be noted that the Reserve Bank of India had issued a framework for processing e-mandates on recurring online transactions. The product by Razorpay is a step in this direction.

Nepal has signed a USD 1.3 billion deal with India, to develop a 679-megawatt Lower Arun Hydropower project, located between Sankhuwasabha and Bhojpur districts in eastern Nepal. As per the deal, India's state-owned Satluj Jal Vidyut Nigam (SJVN), will develop the 679- megawatt hydropower project in the neighbouring Himalayan nation.

The 7th edition of the Indian Ocean Naval Symposium (IONS), concluded in France on July 01, 2021. The biennial event was hosted by the French Navy at La Réunion from 28 June to 01 July 2021. From India, Admiral Karambir Singh, Chief of the Naval Staff, Indian Navy, participated in the inaugural session of the event virtually. France is the current chair of the Symposium, which assumed the Chairmanship on 29 June 2021 for a two-year tenure.

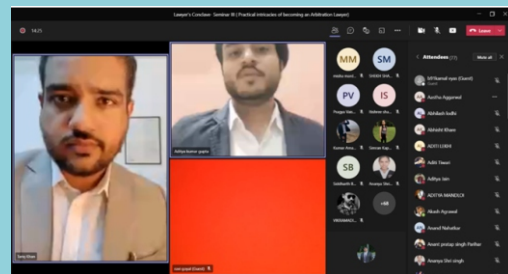
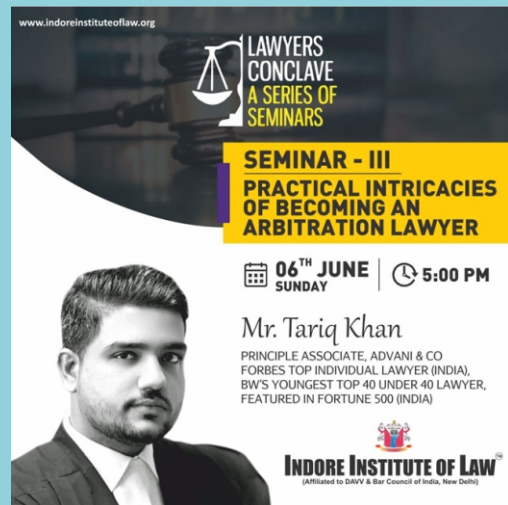
Andhra Pradesh Governor BiswaBhusanHarichandan inaugurated the two-day International Education e-Conference. The Conference held on the theme of Holistic Education for Excellence in Life.

“LAWYERS CONCLAVE” 2021 A Series of Seminars

SEMINAR III

Practical Intricacies of Becoming an Arbitration

IIL has come up with II Session of learning and it started with Lawyers Conclave Series.The 3rd seminar was conducted on 06/06/2021 with Mr. Tariq Khan as the resource person. Mr. Tariq Khan currently associated with Advani & Co. as Principle Associate and enlisted in the Forbes Legal Powerlist 2020-2021 as one of the top individual lawyer. Youngest BW (Business World) legal 40 under 40, 2020. He has vast experience in handling International and domestic Arbitrations, MSME disputes writs, commercial, employment, insolvency & bankruptcy laws. More than 120 students attended the seminar and gets the knowledge about Arbitration and its merits and demerits.He encouraged the students for becoming an Arbitration Lawyer and provided a guidance for the same. IP laws and Privacy Laws in India.



Lawyers Conclave Seminar – III on Practical Intricacies of Becoming an Arbitration Lawyer

Speaker of the Seminar Mr. Tariq Khan (Principle Associate, Advani & Co.) “One Line Story”

“LAWYERS CONCLAVE” 2021 A Series of Seminars

SEMINAR IV

“How to Make Career In JAG and Working as a JAG Officer” 29th April, 2021

IIL has come up with II Session of learning and it started with Lawyers Conclave Series.The 4th seminar was conducted on 29th/04/2021 with Mr. Sumeet Malik, Director at EBC Group of Companies, Publishers of SCC and SCC Online, Advocate, Supreme Court of India. 180 Students joined the session and graced by esteemed presence of the speaker. They got to learn from personal experiences of Mr. Malik in Publication and litigation.

Lawyers Conclave Series Seminar – IV on Legal Research & Publications Training Session for Law Students by Mr. Sumit Malik (Director at EBC Group of Companies)



WhatsApp - 94269 02858

WHATSAPP PRIVACY POLICY CONTROVERSY

Privacy is one of the biggest problems in this new electronic age.

It is a statement given by Andy Grove which is very rightly suited in this current controversial situation.

WhatsApp has been evolved our daily life completely around itself. It has emerged as one of the major sources of communication among people. Today billions of people are so connected with it that they can't even imagine a day without WhatsApp. It is just not a medium for communication but also plays a major role in sharing important information to others like photos, location, audios, videos, documents, etc.

Billions of people in over 180 countries use WhatsApp to connect with their family and friends at any time and from anywhere. It came up as an alternative to SMS that supports sending and receiving media like text, photos, videos, audios, documents, location, contacts, voice as well as video calls that are end to end encrypted. It was introduced by Jan Koum and Brian Acton in 2009. Later it joined Facebook in 2014 but it worked as a separate app with instant and reliable messaging in the world.

WhatsApp Privacy Policy

At the beginning of the year, WhatsApp took the apparently monotonous step of updating its terms of use and privacy policy that mostly focused on the business offerings of the application.

So according to this new policy whenever the users will chat with businesses which use hosting services to manage their communication with the customers, it can see everything and can make use of that information for its own marketing purposes, which might include advertising on Facebook. And in order to inform the users WhatsApp label all those conversations that use hosting services of Facebook

Basically, new privacy policy can be categorized as-

- Using Facebook tools how the businesses can manage their chats.



- More information about the working of WhatsApp including the processing of data.
- Illustrating about the data ties with larger Facebook ecosystem requirements which are known by "how we work with Facebook".

Now, if the users grant permission, then WhatsApp would be able to share user account information with Facebook like phone number, logs of duration and frequency of using WhatsApp, device identifiers, IP addresses, and also details about the device. Along with this WhatsApp can also share transaction and payment data, cookies, etc.

Looking at the bigger picture it comes to an individual

choice to accept the new policy or not, but it will not change much if users will not engage with the business accounts using the hosting services of Facebook. The new policy is not that unsafe as your chats and calls will be end-to-end encrypted as earlier, which means the messages and photos and other media will only be viewed by those the users are chatting with. If users will be well aware then their privacy and data aren't hampered. So, the users have a choice to decide whether they want to use WhatsApp or switch to any other platform and they can't be forced to choose any option



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DELIMITATION EXERCISE KICKS OFF IN JAMMU & KASHMIR



It is too early to conclude whether all party meeting held at Prime Minister Narendra Modi's residence to reduce the trust deficit between New Delhi and the leaders of Jammu and Kashmir will succeed in building the foundations of a 'NEW JAMMU & KASHMIR'. That the meeting was held, remarkably without rancor, does signal a new beginning after the momentous events of August 2019, which included the dilution of Article 370 and the preventive detention of many of the leaders who attended the all-party meeting.

There are also signals that a new minimal consensus could be forged between the mainstream of political leaders in Jammu and Kashmir and the central leadership that could lead to an early return of democratic governance and full Statehood.

- **Clever politics move.**

Organizing the all-party meeting was a clever political move by the BJP government for a variety of reason. For one, the narrative will now shift to how and when the centre will (or not) concede to at least some of the demands made the Kashmiri politicians from the more critical question of whether the decision of 2019 has delivered on any of its declared objectives. Consider this. The two justification made by the BJP government for the decision of 2019 ushering the new era of development and prosperity in J&K, and rooting out terrorism from Kashmir – seem to have disappeared from public memory today. There has been little development in the now Union Territory since 2019; if anything, the security lockdown post-2019 and the subsequent COVID-19 lockdown have only worsened

economic conditions in the Union Territory. What about terrorism and extremism? Until the India-Pakistan ceasefire of February this year, the security situation in Kashmir valley saw no significant improvement despite the double lockdown nor was there a major let-up in infiltration from access the Line of Control (LOC). As for home-grown insurgency, there is no way to measure anti-India sentiments in the Union Territory given the strict security clampdown and the subsequent double lockdown. In any case, brandishing the absence of violent protests during a double lockdown as a measure of success of the 2019 decision in methodologically erroneous, at the least.

- **Use the bedrock of the young.**

Twenty-first century governance and empowerment requires a federal solution that is contemporary and built on the best practices globally. The challenge before Jammu and Kashmir's leaders, old and new, is to arrive at a compelling blueprint for good governance within a framework of healthy federal relation that will be rooted in a vision for peace, prosperity and real empowerment. The bedrock of such a vision must be extraordinarily talented and gifted young people of the state, who have, despite the troubles, been able to carve out a niche for themselves across the world.



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Icon Education Society (I.E.S.), as a first step to achieve its objectives, decided to set up an exclusive and independent college to provide specialized, high quality Law education for professionals, coupled with all basic infrastructure facilities.

Indore Institute of Law is the first independent & exclusive College of Law in Indore, Affiliated to the Bar Council of India & Devi Ahilya Vishwavidyalaya (DAVV), Indore. The Study/ Course/ Admission/ Examination and Degree shall be strictly in terms of regulations of DAVV, Indore. Indore Institute of Law is only Private College in Madhya Pradesh where all the law courses are under one roof.

NEW INDIAN E-COMMERCE RULES

A BIG STEP FORWARD TO FAIR MARKET PRACTICES IN ONLINE SHOPPING



Indian ecommerce market has seen a steep growth in last few years. Deep penetration of smartphones and launch of 4G network has made it a popular trend. In a pandemic period it grew at the rate of more than 30%. Earlier it was seeing high trends in fashion, electronics products only but now the spectrum has widened to include almost every common man's need including grocery also.

Initially the market was monopolized by some US based big Tech Giants like Amazon, Flipkart, Snapdeal etc., who played very freely in the market and set up their own business practices. There were no specific regulatory provisions to control these ecommerce entities. Only available laws were like IT Act 2000 and Consumer Protection Act. Consumers were facing problem in getting redressal for their issues.

New proposed amendments in Consumer Protection (E-

commerce) Rules-2020, focus more on the interest of consumers. It safeguards the privacy of consumers by restricting ecommerce entities from sharing their customers' personal data with any third party without the consent of customer. The consent cannot be recorded with pre-ticked checkbox. Rules lay down the provision that, customers will be provided with domestic alternatives for imported goods. The concept of 'fall back liability' which holds ecommerce firms also liable for seller's negligence which has caused loss to the customer.

Over a period of time very aptly big ecommerce entities have developed certain unfair trade practices which apparently were very lucrative for customers, but were meant for serving specific sellers interest. New rules proposes for ban on 'specific flash sales' or 'back-to-back sales' which limit customer choice, increase prices and prevents a level playing field. The rules also propose to restrict e-commerce companies from "manipulating search results or search indexes",

In order to have proper regulatory control, it has been made mandatory for an ecommerce firm to register itself with the Department of Promotion for Industry and Internal Trade (DPIIT). Further, to ensure 'fair deal' equally for all sellers, e-commerce companies will not be allowed to enlist related parties and associated enterprises as sellers on their platform.

The Consumer Affairs Ministry has proposed to mandate e-commerce companies appoint a grievance officer, a chief compliance officer and a nodal contact person for 24x7 coordination with law enforcement agencies. For the prevention, detection, investigation, or prosecution, of offences under any law for the time being in force, or for cyber security incidents, e-commerce companies are required to share information with a government agency which is lawfully authorized for the purpose. The information sought by the government agency will have to be produced by the e-commerce company within 72 hours of the receipt of an order from the said authority.

New rules proposed by Union Consumer Affairs Ministry to check mis-selling and fraudulent discounts strategy are widely in consumers' interest. In addition to that, there is not a single point that can cause damage to sellers or ecommerce firms in any way, if they intend to follow fair and ethical trade practices with transparency. Putting a check on arbitrary and unfettered business practices in online market has become the need of the hour. Despite some media propagating unsolicited arguments against these proposed rules, with an agenda of benefiting big ecommerce firms, the union government seems to be desperate to uphold the consumer interest.



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FREEDOM OF PRESS IN INDIA : WITH REFERENCE TO CURRENT COVID-19 PANDEMIC SITUATION

"Freedom of Press is an Article of Faith with us, sanctioned by our Constitution, validated by four decades of freedom and indispensable for our future as a Nation." -Former Prime Minister Rajiv Gandhi. An independent press is essential to the effective functioning of democracy. An independent press has also been called the oxygen of democracy. One cannot live without the other. Our real experience since independence, and especially the last decade or so, shows that a free and vigilant press can at least reduce corruption and injustice. To prevent this, public opinion must be not suppressed at any cost. The press works as a powerful antidote to the misuse of power by government officials and to hold officials elected to work accountable to the public. Today, the democratic credentials of a state are measured by the extent to which it has achieved freedom of the press. And today it is important to keep in mind that we have to strength freedom of the press, which is considered the fourth pillar of democracy.

In today's scenario, the responsibility of the press and media has increased rapidly due to the spread of COVID-19. Citizens are completely dependent on the media and the press because they have no other means of gathering information due to the implementation of lockdown to prevent the effects of the deadly corona virus. In a recent interview with print media journalists, our esteemed Prime Minister Narendra Modi told the media that they would act as a link between the government and the people at the national and international level regarding COVID-19 and give constant feedback. This article focuses on freedom of the press, the critical role of the press and media in times of global crisis, and the need to control the press in the case of infidelity to reduce the social unrest caused by the spread of misinformation about COVID-19 can be done.

Justice Hidayatullah said, "Freedom of speech and expression is that cherished right on which our democracy rests and is mean for the expression of free opinions." Freedom of press and media directly flows for Article 19 (1) (a) of the Constitution of India as it is implicit in freedom of speech and expression. Press and media are a medium of social, public and political intercourse. It is a platform for expression of opinion, a means of communication of facts and circumstances of public affairs. As the fourth pillar of State, it is an educator of the people. The Constitution of India does not expressly mention in Article 19 about freedom of the press but it has been held to flow from the general freedom of speech and expression guaranteed to all citizens. As constructed by the judiciary, this freedom now includes not merely the freedom to write and publish, what the writer considers proper, but also the freedom to carry on the business, so that information may be disseminated and excessive and prohibitive burden restricting circulation may be avoided. Thus, freedom of the press includes: Freedom of access to all sources of information (one's own views borrowed from someone else or printed under the direction of person), Freedom of publication, Freedom of circulation. The press plays an educational and dynamic role in shaping public opinion and can be a tool for social change, as

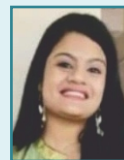
freedom of the press is considered the mother of all other freedoms in a democratic society. The press serves as a powerful solution to the power of government officials and to hold elected officials accountable to those for whom they were elected. An independent press is the best spokesman between the government and the people. Therefore, the freedom of the press must be protected and at the same time, the freedom of the individual must be protected and any attempt to encircle the freedom of the press must be stopped. The media and the press play a vital role in society because of the fact that citizens rely heavily on the press to discuss what is happening around the world. The Assistant Director-General for Communications and Information, UNESCO, acknowledged that freedom of the press has become more important than ever and called on all member states to ensure that journalists report on COVID-19 without interference. Report: "In times of health crisis, the importance of accurate and credible journalism cannot be underestimated," he said. Journalists there are doing a commendable job in educating people about the negative effects of the COVID-19 epidemic. They are even bringing this process to fruition. The Prime Minister said in an interview with journalists and stakeholders of print media on March 20, 2020 that the media has played a commendable role in disseminating information to every corner of the nation. The media network is pan-Indian and is spread across cities and villages. This makes the media the most prominent in tackling this challenge and disseminating accurate information about it at the micro level.

The fundamental right to freedom of the press is also subject to certain reasonable restrictions. In this digital age, due to technological advances, misinformation spreads within a fraction of a second. It is therefore imperative that citizens be freed under Article 19 (1) (a), in some cases, to deal with the spread of false information about COVID-19. In the current context, it is important for people to filter out reliable sources, because relying on false information can lead to panic and worsen the situation. Before relying on a piece of information about COVID-19. Media and press has also convoluted public understanding of COVID-19 by spreading unrealistic and fallacious information regarding the pandemic, thereby making the situation more perplex and panicky. Due to this, even the Geneva-based World Health Organization (WHO) and the Atlanta-based Centres for Disease Control (CDC) which remain pre-eminently credible sources of epidemics and pandemics, found itself battling at the global level because of the infodemic, creating a havoc among the citizens. Tedros Adhanom Ghebreyesus, Director-General of the World Health Organization (WHO), referring to fake news spreading faster and more easily than the virus said.

Media is a powerful tool to provide information to the general public and to promote positive environment during COVID pandemic, but it may additionally spread bamboozling information. India, with an astronomically immense population of about 136.64 crores, is having a high utilization of convivial media platforms. At present, it is the

most powerful media in India. Taking it as an advantage public can be incentivized through gregarious media to follow safe practices to contain the spread. It becomes the joint responsibility of the media and the individuals not to forward any misleading information without verifying the facts and the source of information. There is an imperative need to develop the expedient of verification of any COVID-cognate information to evade perplexities. Although it is difficult to show COVID-related reports on 24 x 7 h basis by any media, analysis of the COVID-related key information shall be done at least once a day on preferred media channels. The mass media shall be promoted, but the misleading and erroneous information shall be verified/checked afore dissemination in the sizably voluminous public interest.

Analysing the recent scenarios, latest issues and developments of Freedom of the Press, it can be concluded that although the press is considered the guardian of democracy, it is unfortunate that this character is not respected in this country (India). Democracy is the largest country in the world. With the statement that freedom of expression is a "fundamental foundation of a democratic society", the court has clearly stated that freedom of the press is a priority. Finally, it must be reiterated that freedom of the press and information are fundamental to the healthy functioning of democracy, so freedom of expression and expression must coexist. Freedom of the press is known as a blot against the secret government. It is important for the development of a democratic country like India and is often called the oxygen of democracy, without which a democratic society cannot survive. The press and media have an indispensable role to play during the COVID-19 epidemic, and they have a responsibility to guide and assist people in tackling this global health crisis. Also, the Union Ministry of Information and Broadcasting has directed all states and central and central regions to seal the operational continuity of print and electronic media during the COVID-19 outbreak, and to ensure that newspapers are printed in all cities and there are no restrictions on distribution. However, in the current era, freedom of the press needs regulation because misleading information about COVID-19 is spreading at the speed of light all over the world, and it is causing havoc. In this way, the burden of reliable media sources is multiplied, as now, these information sources have a responsibility not only to spread accurate information but also to combat misleading information. Therefore, it is important for people to disseminate information about COVID-19 through reliable and trustworthy media sources instead of turning a blind eye and spreading any kind of information.



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CONFLICT OF OPINION BETWEEN SUPREME COURT AND GOVT. IN COMMUTATION OF PUNISHMENT



Section 54 and 55 IPC deals respectively with death sentence and imprisonment for life vests the power to commute the sentence with the appropriate Government.

Parallel provisions also occur in Article 72, and 161 of the constitution of India.

Article 72 in The Constitution Of India 1949

72. Power of President to grant pardons, etc. and to suspend, remit or commute sentences in certain cases

- (1) The President shall have the power to grant pardons, reprieves, respites or remissions of punishment or to suspend, remit or commute the sentence of any person convicted of any offence.
 - (a) In all cases where the punishment or sentence is by a court Martial;
 - (b) In all cases where the punishment or sentence is for an offence against any law relating to a matter to which the executive power of the Union extends;
 - (c) In all cases where the sentence is a sentence of death
- (2) Noting in sub clause (a) of Clause (1) shall affect the power to suspend, remit or commute a sentence of death exercisable by the Governor of a State under any law for the time being in force.

Article 161 in The Constitution Of India 1949

161. Power of Governor to grant pardons, etc. and to suspend, remit or commute sentences in certain cases The Governor of a State shall have the power to grant pardons, reprieves, respites or remissions of punishment or to suspend, remit or commute the sentence of any person convicted of any offence against any law relating to a matter to which the executive power of the State extends

Section 432 in The Code Of Criminal Procedure, 1973

432. Power to suspend or remit sentences.

(1) When any person has been sentenced to punishment for an offence, the appropriate Government may, at any time, without Conditions or upon any conditions which the person sentenced accepts, suspend the execution of his sentence or remit the whole or any part of the punishment to which he has been sentenced.

(2) Whenever an application is made to the appropriate Government for the suspension or remission of a sentence, the appropriate Government may require the presiding Judge of the Court before or by which the conviction was had or confirmed, to state his opinion as to whether the application should be granted or refused, together with his reasons for such opinion and also to forward with the statement of such opinion a certified copy of the record of the trial or of such record thereof as exists.

(3) If any condition on which a sentence has been suspended or remitted is, In the opinion of the appropriate Government, not fulfilled, the appropriate Government may cancel the suspension or remission, and thereupon the person in whose favour the sentence has been suspended or remitted may, if at large, be arrested by any police officer, without warrant and remanded to undergo the unexpired portion of the sentence.

(4) The condition on which a sentence is suspended or remitted under this section may be one to be fulfilled by the person in whose favour the sentence is suspended or remitted, or one independent of his will.

(5) The appropriate Government may, by general rules or special orders give directions as to the suspension of sentences and the conditions on which petitions should be presented and dealt with: Provided that in the case of any sentence (other than a sentence of fine) passed on a male person above the age of eighteen years, no such petition by the person sentenced or by any other person on his behalf shall be entertained, unless the person sentenced is in jail, and-

- (a) where such petition is made by the person sentenced, it is presented through the officer in charge of the jail; or

(b) where such petition is made by any other person, it contains a declaration that the person sentenced is in jail.

(6) The provisions of the above sub- sections shall also apply to any order passed by a Criminal Court under any

section of this Code or of any other law which restricts the liberty of any person or imposes any liability upon him or his property.

(7) In this section and in section 433, the expression" appropriate Government" means,-

- (a) in cases where the sentence is for an offence against, or the order referred to in sub- section (6) is passed under, any law relating to a matter to which the executive power of the Union extends, the Central Government;
- (b) in other cases, the Government of the State within which the offender is sentenced or the said order is passed.

Explaining the scope of the different provisions Supreme Court held that the powers of pardon and clemency under Article 72 and 161 of the Constitution of India and so also under Section 432 CrPC, 1973 are to be exercised in a completely different field whereas the power of the Supreme Court, under Article 142 of the Constitution and those of the court of appeal under the CrPC operate in a completely different field. In order to give harmonious construction to the provision of article 142 of the Constitution on the one hand and Article 72 and 161 of the constitution on the other, and section 432 of CrPC, 1973 on one side and section 389 of the CrPC. These sections shall be construed that during the period the matter is sub judice before the Court either under Article 142 of the Constitution or under section 389 of the CrPC, 1973, the field of operation of the powers under Article 72 and 161 of the Constitution and under Section 432 of the CrPC, 1973 will remain suspended and the court will have the final say in the matter of remission of the sentence. But where there is no matter pending before the court in reference to the above mentioned provisions, the field of operation regarding the remission etc. of the sentence properly vests in the authorities mentioned under Article 72 and 161 of the Constitution and under section 432 of the CrPC. The power to grant reprieve or commutation of sentence under Article 161 of the Constitution of India lies with the Governor and under Article 72 the power of remission lies with the President of India and not with the Court.



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WHETHER INTENTION TO CREATE LEGAL RELATION IS AN ESSENTIAL TO CREATE A CONTRACT?

"Contracts must not be the sports of an idle hour, mere matters of pleasantry and bandinage, never intended by the parties to have any serious effect whatever."

The intention of the contracting parties that their agreement should have serious effect has emerged as a requirement for the formation of a valid contract. The 'intention to create legal relation' was not necessary initially at common law for a binding contract to emerge. The doctrine made its way into the common law in the nineteenth century as an answer to the question as to whether gratuitous promises are enforceable. However, merely offer and aspiration to fulfil promises creates a moral obligation to perform it. The question before us is, whether it creates legal obligation? If the promise so made is non-gratuitous i.e., involving the return benefits to the promisor, it will be enforceable in nature due to presence of consideration.

Another question rises before us, whether a gratuitous promise not involving a return benefit to the promisor, actionable?

Sir William Markby in his paper 'Elements of Law Considered with reference to the principles of General Jurisprudence' insisted;

"There are agreements which will be considered not to be contracts because this legal relation is not contemplated is, I think, abundantly clear. Suppose, for example, that two friends A & B agrees to walk together at a definite time and in a definite direction, no one would say that there is a contract, and yet, it is clearly an agreement, and there is also a consideration for the promise of each. The reason and the only reason why it is not a contract is, as far as I am aware, that the parties presumably, do not contemplate a legal relation."

Pothier another renowned jurist notes the possibility of the promises being made, 'without any intention of giving the person to whom they are made, a right of demanding their performance', can not construed as a valid contract. It may be though enforceable in their personal capacity but such promises cannot be framed into contract unless it welcomes the legal consequences.

Influenced by Pothier's translated treatise on the law of obligations, it has now become an established principle of common law that in spite of an offer and its acceptance, there is still no binding contract unless it is made in the contemplation of legal consequences. Thus, is can be construed that an agreement in order to become a contract must be one in which the parties contemplate the creation of a legal relation between themselves.

Following postulates emerged from the decision in Banwari Lal and Ors v Sukhdarshan Dayal 1973 on question, whether intention to create legal relation is essential to create a contract?

• An intention to create a legal relationship is a requisite for the enforcement of an agreement.

• An agreement stipulating that it is entered into with the intention of entering into a legal relationship, is no doubt, a contract.

• An express stipulation to that effect is, however, not necessary. Every agreement is generally, presumed to have been entered into with such an intention.

The postulates of exclusion from the contract pointed out in Rajabu Fathima Buhari and anr v SV Ramakrishna Mudaliar and ors 1973 the attention were drawn to the paper of Roy Milner Stonham in Law of Vendor and Purchaser that mere

agreement, or promises, intended to create mere social, political or family obligation or obligations, or understood by both parties as a jest, do not create a contract. There must be an intention to create obligation enforceable between the parties by legal sanctions. In other word, it must be intended to create jural relations. This intention is sometimes referred to as an animus contrahendi. mere statements of intention, hope, anticipation, or expectation do not create enforceable obligations. An agreement intended to create moral obligations only, and not legal rights or obligations, does not create a contract. Also, the agreement may be subjected to a third person's consent, or any other conditions precedent to it becoming operative as an enforceable agreement. An agreement, though purporting to be made by one party, without prejudice to his rights, will operate according to its tenor and affect the right of the party accordingly. A stipulation whose enforcement against the party concerned rests upon his mere will, has no contractual effect."

The silent feature pointed in Rajabu Fathima case are;

- Parties may exclude intention to create legal relationship by expressly declaring so in the agreement.

- The words inserted in the agreement to exclude legal relations must be specific and not ambiguous.

- Any ambiguity in expression of the exclusion of intention will result in presumption of intention and not exclusion.



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