



**INDORE INSTITUTE OF LAW**<sup>TM</sup>  
(Affiliated to DAVV & Bar Council of India, New Delhi)



## Kalakund Adventure Campaign

Indore Institute of Law organized a 3 day adventure cum trekking campaign for the students of first year of B. B. A. LL. B (Hons.), B. A. LL. B. (Hons.) & B. B. A. LL. B (With Global & Transnational Studies). A total of 23 students participant in the camp and were accompanied by male and female faculty members from the college. The adventure camp was conducted by Ozone Adventures Indore. The camp duration was of 2 nights and 3days.

**Day 1:** The tour began from Indore Institute of Law campus via bus and reached Kalakund via the lush green forest roads which filled the students with joy and happiness. The student stayed in tents which added to the flavor of the tour. After settling down following activities were undertaken by the students

1. Basic Training on Tracking Tools and Equipment.
2. Ladder Walk
3. Twin Rope Walk
4. Balance on Rope.
5. Enjoy in Running Water
6. Night Jungle Visit & Wood Collection
7. Camp Fire.

The day ended with camp fire.

**Day 2:** Began at 6 am with a beautiful view of the sun rise amidst the forest surroundings. after breakfast following activities were undertaken –

1. Valley Crossing
2. Rappelling
3. Zip Line
4. Shadow Walk
5. Star Gazing
6. Path Finding in Night
7. Wood Collection in Night
8. Camp Fire

The purpose of the activities was to introduce the students to the various adventure activities and make them familiar to certain lifesaving skills and survival skills. The day concluded with dinner & camp fire.

**Day 3:** Had following activities –

9. Tracking & Hiking 12km
10. Kushal Garh Visit

The tracking activity was very tiring but students learned to apply the basics of trekking which students leaned on the first day of camp. After trekking the entourage visited Kushalgarh fort too which showcased the remains of the days gone by. The day concluded with the group starting their return journey and reaching college campus by evening.



Students & Faculties boarding the bus for Kala kund Adventure Trip



Students Taking Part in Adventure & Fun Activities at Kalakund

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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 'Steady' 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.

# THE CONVERSION INTO ISLAM WILL NOT IPSO FACTO DISSOLVE THE MARRIAGE

The word 'Islam' means 'peace and submission' which in its religious connotation means 'submission to the will of Allah'. The Muslim law permits more than one marriage during the subsistence of one. The plurality of marriage in Muslim law is not unconditionally conferred upon the husband. The capacity to do justice between the co-wives is the condition precedent before subsisting another marriage. And, therefore, it would be injustice to Islamic law to urge that the convert is entitled to practice bigamy notwithstanding the continuance of his marriage under the law to which he belonged before the conversion. The Supreme Court in Lily Thomas v Union of India 2000 observed that the progressive outlook and wider approach of Islamic law cannot be permitted to be squeezed and narrowed by unscrupulous litigants apparently found to be guilty of the offence under the law to which they belonged before their alleged conversion.

The Supreme Court in answer to the question would second marriage without the first marriage being dissolved under law be valid marriage qua the first wife commits to be Hindu held that a marriage celebrated under a particular personal



law cannot be dissolved by the application of another personal law to which one of the spouses converts and the other refuses to do so. Where a marriage takes place under the law governing the Hindu marriage and of one of the parties is allowed to dissolve the marriage by adopting and enforcing the new personal law, it would then amount to destroy the existing rights of the other spouse who continues to be Hindu. The apex court therefore

Islamic Law

held that under the Hindu personal law as it existed prior to its codification in 1955, a Hindumarrriage continued to subsist even after one of the spouses converted to Islam. There is no automatic dissolution of marriage.



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## SUPREME COURT ON DELAY IN EXECUTION OF DEATH SENTENCE



It is settled law that executive action and the legal procedure adopted to deprive a person of his life or personal liberty must be fair, just and reasonable and the protection of Article 21 of the Constitution of India inheres in every person, even death row prisoners, till the very last breath of their lives. But there has been conflict of opinion on commutation of death sentence upon unexpected inordinate delay in execution of death sentence. In T.V. Vatheeswaran's Case a two Judge Bench of Supreme Court considered whether the accused, who was convicted for an offence of murder and sentenced to death, kept in solitary confinement for about 8 years was entitled to commutation of death sentence. It was held that delay exceeding two years in the execution of a sentence of death should be considered sufficient to entitle the person under sentence of death to invoke Article 21 and demand the quashing of the sentence of death. But a three judges Bench in Sher Singh v. State of Punjab it was held that though prolonged delay in the execution of death sentence is unquestionably an important consideration for determining whether the sentence should be allowed to be executed, no

hard and fast rule that "delay exceeding two years in the execution of a sentence of death should be considered sufficient to entitle the person under sentence of death to invoke Article 21 and demand the quashing of the sentence of death." Can be laid down as has been done in Vatheeswaran Case. Javed Ahmed v. State of Maharashtra, reiterated the proposition laid down in Vatheeswaran Case and doubted the competence of the three-judge bench to overrule Vatheeswaran Case. In Mohd. Arif Ashfaq v. The Reg. Supreme Court of India, where the Supreme Court held that time taken in Court proceeding cannot be taken into account to say that there is a delay which would convert a death sentence into one for life. Equally, spending 13 ½ years in jail does not mean that the Petitioner has undergone a sentence for life.

Finally, the case over the said question was settled in Shatrughan Chauhan v. Union of India, where the Supreme Court laid various guidelines so as to protect the legal right of the prisoner. However, in regard to the said question, it was held that "exercising of power under Article 72/161 by the President or the governor is a constitutional obligation and not a mere prerogative. Considering the high status of the office, the constitutional framers did not stipulate any outer time limit for disposing the mercy petitions under said Articles, which means it should be decided within reasonable time. However, when the delay caused in disposing the mercy petitions is seen to be unreasonable, unexplained and exorbitant, it is the

duty of this Court to step in and consider the aspect. Right to seek for mercy under Article 72/161 of the Constitution is a constitutional right and not at the discretion or whims of the executive. Every constitutional duty must be fulfilled with due care and diligence otherwise judicial interference is the command of the Constitution for upholding its values. Remember, retribution has no Constitutional value in our largest democratic country. In India, even an accused has a de facto protection under the Constitution and it is the Court's duty to shield and protect the same. Therefore, we make it clear that when the judiciary interferes in such matters, it does not really interfere with the power exercised under Article 72/161 but only to uphold the de facto protection provided by the Constitution to every convict including death convict. In V. Sriharan @ Murugan v. Union of India, the Supreme Court reiterated that the clemency procedure under Article 72/161 provides a ray of hope to the condemned prisoners and his family members for commutation of death sentence into life imprisonment and, therefore, the executive should step up and exercise its time-honoured tradition of clemency power of guaranteed in the constitution one way or the other within a reasonable time. Profuse deliberation on the nature of power under Article 72/161 of the Constitution has already been said in Shatrughan Chauhan.



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## MAJOR ISSUES OF RURAL DEVELOPMENT IN INDIA



Rural development is the process of improving quality of life and economic well-being of people living in rural area. However, the major source of rural income depends upon agricultural output and labour engagement.

Since, 88.84% of Indian population lives in villages according to the census of 2011, development of the nation and reaching the goal of \$ 5 trillion economy depends upon development of rural India but on the contrary 1/3rd of the rural India is still living below the poverty line which has become the biggest impediment to the all-round development of the economy.

Following are some of the major impediments to the rural development;

### a) Poverty Alleviation

Poverty remains a predominantly rural problem, with a majority of India's poor located in rural areas. The poverty, alone, is responsible for lack of sanitation, health, food and proper education. According to the latest report by World Bank, it is estimated that the poverty rate in India will increase by 12% due to COVID-19. Thus, widespread poverty is major issue of rural development.

The government initiative such as Prime Minister Shram Yogi Maan Dhan (PM-SYM) launched in 2019 by Ministry of Labour and Employment for old age protection and social security of unorganised workers and Pradhan Mantri Street Vendor's Atmanirbhar Nidhi- PM SVANidhi launched in 2020 by Ministry of Housing and Urban Affairs to provide micro credit facilities to the street vendors affected due to COVID-19 pandemic are commendable. Such programmes, if implemented properly, could ease out the anxiety in rural India created due to COVID-19 pandemic.

### b) Development of Healthcare Initiatives

Health infrastructure in rural India is still quite inadequate.

Access to healthcare services is critical to good health yet rural residents face a variety of access barrier. Absence of connectivity to the villages and inadequate number of health center and skilled health workers, still endangers the life of rural population in the country.

The Government of India has launched Ayushman Bharat Pradhan Mantri Jan Arogya Yojana (PM-JAY) in 2018, which is also the largest government funded health assurance scheme in the world to tackle health challenges in the rural India. Over 50 crores poor and vulnerable beneficiaries are eligible for these benefits. It provides a cover of ₹ 5 lakhs per family per year for secondary and tertiary care hospitals and across public and private empaneled hospitals in India.

### c) Development of productive resources

In the rural economy agricultural land are the most important productive resources for rural development and is the key in determining the livelihood strategies for rural population which is itself an impediment to the growth of rural economy. People shall be encouraged to involve in non-farm productive activities such as food processing, dairy farming, organic farming, fisheries, animal husbandry and cold storage unit for enabling them to better and affordable access to healthcare, sanitation facilities at workplace and home and education for all.

The Ministry of Rural Development has launched several programmes such as Mahatma Gandhi National Rural Employment Guarantee Act (MGNREGA) for providing wage employment, National Rural Livelihood Mission for Self-Employment and Skill Development, Pradhan Mantri Awas Yojana - Grameen (PMAY-G) for providing housing to BPL households, Pradhan Mantri Gram Sadak Yojana (PMGSY) for construction of quality roads, National Social Assistance Programme for Social Pension (NSAP), Shyama Prasad Mukherjee RURBAN Mission (SPMRM), and Integrated Watershed Management Program (IWMP) for

improving the productivity of land, to improvise and develop the productive resources of rural India.

### d) Development of infrastructure

Infrastructure age backbone of a country and the same is true for rural India. It not only plays a vital role in the development of infrastructure but also plays a significant role in generation of huge employment. For Aatm Nirbhar Bharat a decent infrastructure like electricity, irrigation, transport, construction of village road, schools and universities needs immediate attention in the rural area.

Under Rurban Mission government has envisioned to develop good quality and well maintained rural roads facilities, improved connectivity, safer and efficient access to livelihood and socio-economic opportunities for rural communities. Under Jal Jivan Mission, 100% of rural households to have functional household tap connection by 2024 and 100% of rural habitations to have full access to safe drinking water. All rural households to have access to toilets and 100% of villages to be Open Defection Free.

### e) Development of Human Resource

Development of human resource is important path for all other developmental activities. All form of development, that is, social, economic, technological, cultural, and agricultural are ultimately meant to serve the people in terms of improving their happiness through better standards of living. Development of human resource is also directly proportional to yielding efficiency in the government initiatives and programmes. However, in rural India, due to lack of school and colleges, literacy rate it's only 68.91%.

Dindayal Upadhyaya Grameen Kaushalya Yojana, launched in 2014, a part of National Livelihood Mission, is one such scheme by Prime Minister of India to fulfil the career aspirations of rural youth and adding diversity to the income of rural families. Around 690 projects are being implemented by 300 partners. As per the government reports, over 2.7 lakhs candidates have been trained till now and nearly 1.34 lakhs candidates have been placed in job.

### A way forward

Rural India is the backbone of Indian economy. Rural development is not merely development of rural areas, but rather it involves human development of varied nature including a well development of mental caliber of the rural people so as to transform India into Aatm Nirbhar Bharat with the modern facilities available to any developed community. Therefore, the initiative of transformation of rural India into 'Rurban' on the sustainable and equitable model would play a vital role in development of Indian economy and bringing close to its goal of \$ 5 trillion economy.



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## THE OFFENCES FOR WHICH POLICE HAS NO AUTHORITY TO ARREST WITHOUT WARRANT

Section 2 (1) of CrPC, 1973 defines a "non-cognizable offences" in respect whereof a police officer has no authority to arrest without warrant. The said definition defines the general rule since even under CrPC same offences, though non-cognizable" have been included in Part 1 of the first Schedule to CrPC as being non-cognizable. For example, section 194, 195, 466, 467, 477 and 505 deals with non-cognizable offences which are yet non-bailable. From Part 1 of the First Schedule to CrPC, it is clear that as a general rule all non-cognizable offences are bailable, except those indicated hereinafter. The said provisions, which are excluded from the normal rule related to grave offences which are likely to affect the safety and security of nation or lead to consequence which amount to be revoked.

One example of such a case would be the evidence of a witness on whose false evidence a person may be sent to gallows. The definition of non-cognizable offences in section 2 (1) CrPC makes it clear that a non-cognizable



offence is an offence for which a police officer has no authority to arrest without warrant. The expression 'cognizable offence' in section 2 (c) CrPC means an offence for which a police officer may, in accordance with the first schedule to CrPC or under any other law for the time being in force, arrest without warrant. In other words, on a

construction of definition of the different expression used in CrPC and also in connected enactment in respect of a non-cognizable offence, a police officer, and, in the instant case an Excise Officer, will have no authority to make an arrest without obtaining a warrant for the said purpose. The same provision is contained in section 41 CrPC, 1973 which specifies when a police officer may arrest without order from a Magistrate or without warrant. (Para 4)

Case Referred;  
Om Prakash v. Union of India, (2011) 14 SCC 1; (2012) 3 SCC (cri) 1249; AIR 2012 SC 545



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## THE POLICE CANNOT REFUSE TO REGISTER FIR

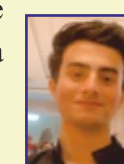
When anyone who has seen the occurrence of criminal activity or has even slight knowledge of it, the police on receiving the complaint have no option but to register it and thereafter start investigation. It has no discretion or authority to enquire about credibility of information before registering the case. Where the police refused to register FIR on the basis of a written report on the ground of false allegations as concluded in an ex parte preliminary enquiry, the High Court directed the registration of the FIR and fresh investigation treating the ex parte preliminary enquiry as non-est. It has been held that information disclosing cognizable offence is sine qua non for recording FIR and the police cannot refuse to register the case on the ground that it is either not reliable or credible.

The registration of FIR for the offence you know is your duty and that of the police to not to refuse to register the FIR. Refusal to record the FIR on the ground that the place of crime does not fall within the territorial jurisdiction of the police-station, amounts to dereliction of the duty. The police shall register the information as 'Zero FIR' and then pass it to the police station who has jurisdiction over it. 'Zero FIR' is a FIR that can be lodged in any police



station irrespective of its jurisdiction and later it can be forwarded to the respective police station. Mere delay in logging FIR is no ground of its refusal. However, the court can question the credibility of information but the police have no discretion to reject the same on the ground of delay. No duration of time can be fixed as reasonable for giving information to the police. In one case of rape, the brother of the victim submitted that after his return from the field he was informed that his sister had not returned home, he was informed by two co-villagers that she was seen with the accused, but did not lodge the report

as honour of the family involved. The Court held that the delay in lodging FIR was reasonably explained and it cannot be said that FIR was lodged after consultation and deliberation. Section 154 of CrPC leaves no discretion on the police to decide whether or not to register the FIR. It is mandatory in nature and the concerned officer is duty bound to register the case on the basis of the information disclosing a cognizable offence.



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## CURRENT AFFAIRS, FEBRUARY 2022

- SC commuted the death sentence to life imprisonment, with the rider that he shall not be entitled to "premature release or remission before undergoing actual imprisonment" for a period of 30 years. SC advised the trial judges that they should not be swayed in favour of death penalty merely because of the dreadful nature of the crime and its harmful impact on the society. They should equally consider the mitigating factors in favour of life imprisonment.
- The Supreme Court in a recent judgement highlighted the growing misuse of Section 498A IPC, with friction rising in marriages. The incorporation of section 498A was aimed at preventing cruelty committed upon a woman by her husband and her in-laws by facilitating rapid state intervention. The court held that there is an increased tendency to employ provisions such as Section 498A IPC as instruments to settle personal scores against the husband and his relatives.
- According to data compiled by the Amicus Curiae, a total of 4,984 criminal cases involving legislators were pending in various courts across the country as of 1st December, 2021. The Amicus

- Curiae was appointed by the Supreme Court for helping the court in setting up special courts to fast-track cases against MPs and MLAs.
- Recently, six students were banned from entering a college in Karnataka's Udupi district for wearing a hijab (a head covering worn in public by some Muslim women). The issue throws up legal questions on reading the freedom of religion and whether the right to wear a hijab is constitutionally protected.
- Recently, amendments to the Motion of Thanks to the President's Address were proposed (However, not passed). The amendment proposal mentioned the government's alleged use of Pegasus spyware and its handling of the Covid-19 pandemic.
- The Governor acts in 'Dual Capacity' as the Constitutional head of the state and as the representative of the Union government. In recent years, the bitterness between states and Governors has been largely about the selection of the party to form a government, deadline for proving majority, sitting on Bills, and passing negative remarks on the state administration.

- Recently, the Kerala government has proposed to amend the Kerala Lokayukta Act, 1999 with an ordinance, a move that has drawn criticism from the opposition. The proposed ordinance envisages limiting the powers of the anti-corruption watchdog.
- Recently, the University Grants Commission (UGC) has released a Draft National Higher Educational Qualification Framework (NHEQF) as a part of the National Education Policy (NEP) 2020 to assess students at different levels. The NEP 2020 aims at making "India a global knowledge superpower".
- Every year on February 27, people all over the world celebrate World NGO Day to honour the work and contributions of various NGOs. NGO stands for Non-Governmental Organization, and it is a type of organization that works to improve society. Overview: This day recognizes, honours, and celebrates non-profit and non-governmental organizations, as well as people..