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Horror Story

National Litigation  
Policy: Better Late...



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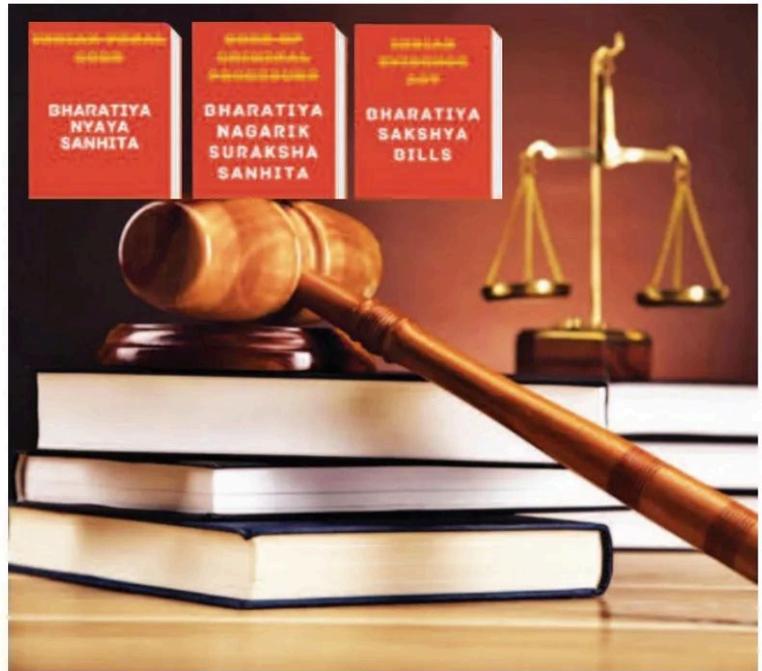
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## WORTH REMEMBERING



"From your confessor, lawyer and physician, hide not your case on no condition."

—John Harington, an English courtier, translator, author and wit who also invented the flush toilet

"Collecting more taxes than is absolutely necessary is legalized robbery."

—Calvin Coolidge, an American attorney and politician who served as the 30th president of the United States

"Ignorance of the law excuses no man from practicing it."

—Addison Mizner, one of the most famous architects in America

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## Gurpatwant Singh Pannun assassination plot: Nikhil Gupta pleads not guilty in US Court

Indian national Nikhil Gupta (far right), accused of being involved in a murder-for-hire plot against a Sikh extremist on American soil, pleaded not guilty as he was arraigned in federal court in the USA. Gupta was extradited to the USA from the Czech Republic on June 14, which court records show as the day of his arrest in the US.



He made his first appearance in Manhattan federal court before Magistrate Judge James Cott on June 17 afternoon for his arraignment and pleaded not guilty. Gupta's attorney Jeffrey Chabrowe entered the "not guilty" plea on his behalf. Gupta is being held in a Brooklyn detention facility. If convicted, Gupta faces a maximum sentence of 10 years in prison for each charge. The next court hearing in the case is on June 28.

Gupta was arrested in the Czech Republic last year at the request of the US government on charges of being involved in a plot to

assassinate Khalistani separatist Gurpatwant Singh Pannun (above left) in New York. Pannun, who holds dual American and Canadian citizenship, was designated a terrorist by India.

Last month, the Czech Constitutional Court rejected a petition by Gupta against his extradition to the US to face the charges.

US federal prosecutors alleged that Gupta had been working according to the directions of an unnamed Indian government official. India has, however, denied its involvement in the case and has instituted a high-level investigation into the allegations.

## Prajwal Revanna sent to judicial custody by Bengaluru Court

A special court in Bengaluru sent suspended JD(S) leader Prajwal Revanna (right) to 14-day judicial custody in a sexual assault and rape case. He was earlier in the custody of the special investigation team probing the case.

The 33-year-old former JD(S) MP was arrested by a team of Karnataka Police after he landed at Bengaluru's Kempegowda International Airport on May 31 after he returned to India. He had left for Germany on April 27, a day after Hassan went to the polls. A "Blue Corner Notice" seeking information on his whereabouts had earlier been issued by Interpol, following a request by the SIT via the CBI. A Special Court for Elected Representatives had issued an arrest warrant against Revanna on May 18, following an application moved by the SIT.

The grandson of JD(S) patriarch and former prime minister HD Deve Gowda, Revanna



was the NDA's candidate from the Hassan Lok Sabha seat and lost the elections. He has been booked in three cases of sexual assault. There are also charges of rape against him. The cases of sexual abuse came to light after pen-drives containing explicit videos allegedly involving Revanna were reportedly circulated in Hassan, ahead of Lok Sabha polls there on April 26.

Meanwhile, the Karnataka High Court granted anticipatory bail to Revanna's mother

Bhavani Revanna (above) in the case of alleged abduction of one of the victims of her son's sexual assaults. The High Court said that there should not be any media trial in the case and unnecessary arrests of women should be avoided.

## State is working on drafting anti-conversion law, Rajasthan government tells Supreme Court

The Rajasthan government recently told the Supreme Court that it was in the process of bringing in legislation against carrying out religious conversion through illegal means in the state.

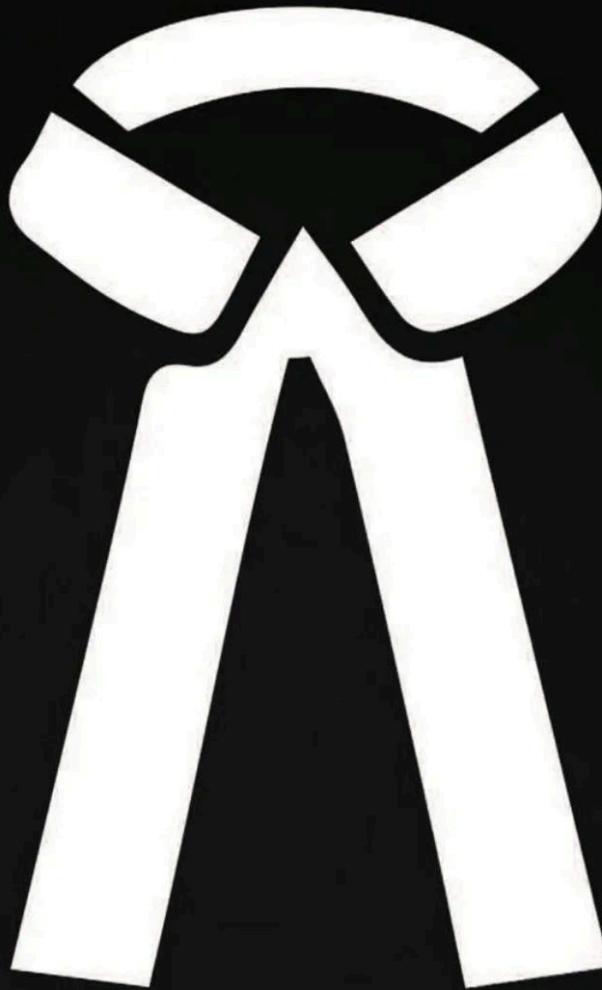
"The state of Rajasthan is in the process of bringing its own legislation and till such time, it will



strictly abide by the law on the subject, guidelines or the directions passed by this Hon'ble court," the state government said in its affidavit filed in the top court.

Lawyer Ashwini Upadhyay, through advocate Ashwani Dubey, had filed a PIL seeking directions to the Centre and the state governments to take "stringent steps to control fraudulent religious conversion and religious conversion by intimidation, threatening, deceivingly luring through gifts and monetary benefits".

The top court had said that forcible religious conversions, if true, were a "serious issue" which could affect the security of the nation and had sought the response of the Centre.



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## Calcutta High Court asks West Bengal government to ensure reservation for transgenders in public employment

The Calcutta High Court (right) directed the West Bengal government to ensure one per cent reservation for transgender persons in all public employment in the state. The Court took note of the fact that the state government despite adopting a policy of equal treatment in employment to transgenders had failed to provide reservation to them.

A petition was filed by a transgender petitioner, who had succeeded in the Teachers' Eligibility Test 2014 and also in the TET 2022, but was not called for counselling or interview by the state government.

The High Court also noted in its order that the Supreme Court had declared in a 2014 case that *hijras* and eunuchs, apart from binary genders, be treated as "third gender" for the purpose of safeguarding their rights under Part III of the Constitution. The



Court also observed that the apex court had directed the centre and the states take steps to treat them as socially and educationally backward classes of citizens, and "extend all kinds of reservation in cases of admission in educational institutions and for public appointments".

The West Bengal chief secretary informed the High Court that the state's Department of Women and Child Development and Social Welfare on November 30, 2022 made a notification that

transgender persons were entitled to equal opportunity of employment without any discrimination whatsoever.

The Court also directed the secretary of the West Bengal Board of Primary Education to arrange for interview and counselling of the petitioner as a special case.

## Patna High Court strikes down Bihar government's laws on reservation

The Patna High Court (right) scrapped the Bihar government's decision to increase the reservation for backward classes from 50 percent to 65 percent. The Bihar Reservation of Vacancies in Posts and Services (For SC, ST, EBC, and OBC) Amendment Bill and the Bihar (In Admission In Educational, Institutions) Reservation Amendment Bill, 2023, were passed by the Bihar government through gazette notification.

In response to a batch of writ petitions challenging the state government's decision on the issue, a division bench of the Court struck down the amendments passed by the Bihar assembly on the grounds that the Bills violates the Constitutional rights guaranteed under Articles 14, 15 and 16. Earlier, the High Court had reserved its verdict in March, this year. The petitioners had argued in Court that the



state government had no legislative powers to increase the reservations. They also contended that the move by the state government was against the Supreme Court verdict in the case of *Indira Sawhney vs Union of India* whereby a maximum ceiling

of 50 percent on quotas was laid down.

With the enactments, Bihar held the highest reservation percentage among larger states, reaching a total of 75 percent after adding 10 percent to the economic and weaker sections.

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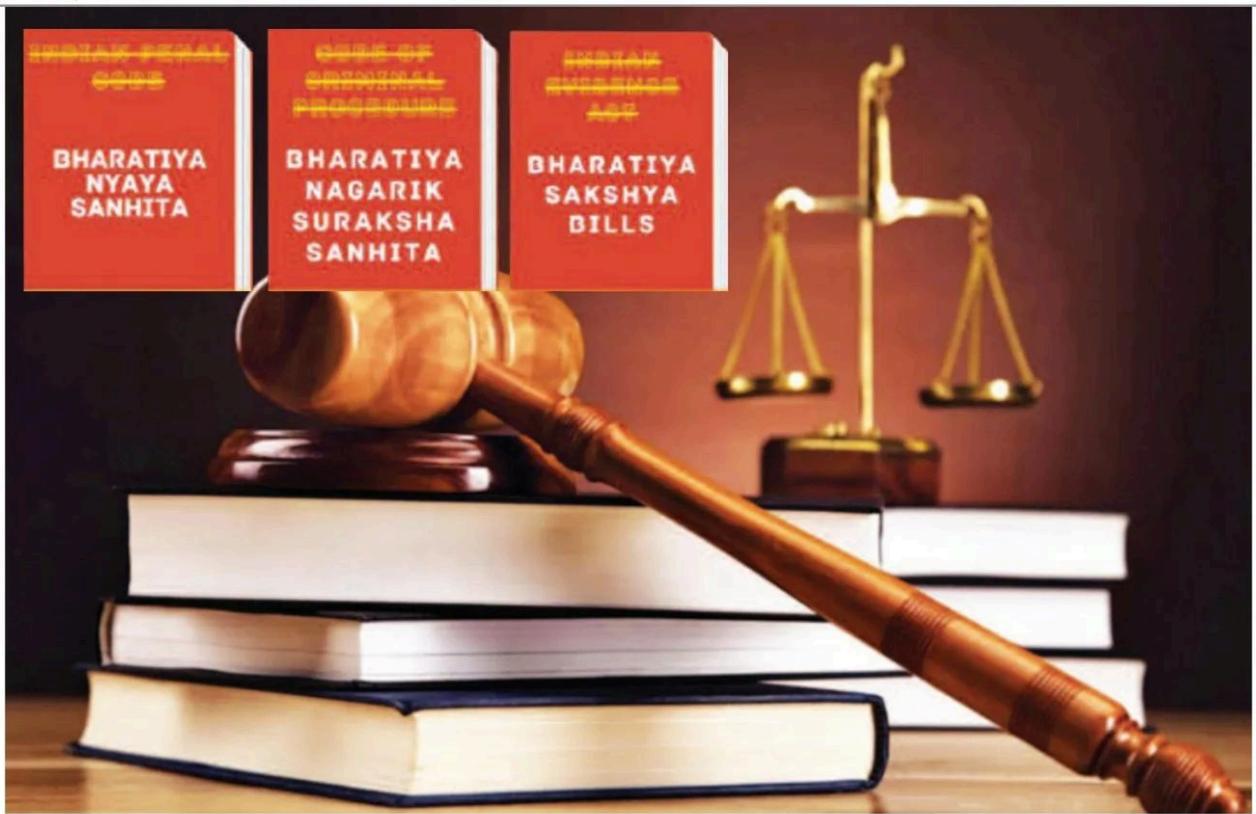


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# CRACKING THE CODE

As the laws come into force on July 1, the legal fraternity is facing a challenging situation. Various bar associations and law organisations are providing lawyers free texts and legal material to keep them updated

**By Sanjay Raman Sinha**

**C**OME July and the legal landscape is all set to change. From July 1, the modified set of criminal laws is going to come into force. The Bharatiya Nyaya Sanhita, the Bharatiya Nagarik Suraksha Sanhita and the Bharatiya Sakshya Adhinyam will be the new template for the Indian Penal Code (IPC), the Criminal Procedure Code (CrPC)

and the Indian Evidence Act of 1872, respectively.

The modified set of laws will be in tune with modern times so that the colonial hangover is shrugged off. The new system is meant to ensure a swifter, transparent and more equitable justice delivery system.

However, the modified laws have put the legal fraternity in a challenging situation. Lawyers and judges will have to keep up



The modified laws have put the legal fraternity in a challenging situation. Lawyers and judges will have to keep up with the updated criminal laws. Lawyers will have to adjust to the new terminology and provisions. This exercise will be necessary to minimise problems in navigating the legal system. They will have to be conversant with both the new and old laws.

with the updated criminal laws. Various bar associations and law organisations are working to upgrade the knowledge of lawyers. Free texts and legal materials are being circulated so that they have time to absorb and internalise the new code and make the litigation process post July smooth.

Lawyers will have to adjust to the new terminology and provisions. This exercise will be necessary to minimise problems in navigating the legal system. Siddharth Luthra, senior advocate, Supreme Court, and a noted criminal lawyer, told *India Legal*: “The new laws are primarily a reorganisation of provisions which will enable us to rely on existing jurisprudence. There are some notable changes which will require study and interpretation by lawyers and courts. Lawyers are used to reading new laws and amendments which are routinely introduced by Parliament and state legislatures, as also rules and regulations framed by the Executive. In my chambers, my colleagues and I have studied and analysed these changes. I have lectured on them twice earlier this month and am doing so again at a state judicial academy to demystify them and make them easy to understand. Fortunately, most law publishers have made comparative tables of the old and new in their publications which makes lawyers’ task easier.”

Notably, the new laws will apply to fresh

cases, while sub judice cases will be dealt under the old laws. Naturally, lawyers will have to be conversant with both the old and the new. The sections have also been changed in some provisions. This will need resetting of the memoryscape as well. It will be *déjà vu* for many as they will be revisiting law school days when learning the bare act was an essential cerebral exertion.

Large portions of the old laws have not changed. Key segments and provisions have been modified; some chapters and sections have been added. There are 33 offences in the new laws where the period of imprison- ▶



“The new laws are primarily a reorganisation of provisions which will enable us to rely on existing jurisprudence. There are some notable changes which will require study and interpretation by lawyers and courts. Lawyers are used to reading new laws and amendments.”

—Siddharth Luthra, senior advocate, Supreme Court, and a noted criminal lawyer

“The new set of laws have been brought out just for the sake of it. The IPC is a self-sufficient law. The CrPC was revamped in 1974, so what was the need to change it? The Evidence Act of 1857 is a work of art. Colonial law stressed rule of law.”

—Justice Anjana Prakash, former judge of the Patna High Court and a practicing advocate



ment has increased. In 83, fines have increased and in 23, punishment has been made mandatory.

**T**he Department of Personnel and Training has instructed ministries to streamline and recast their training programmes to ensure that personnel are sufficiently reoriented for the new laws. However, the new laws have raised serious concerns about the augmented powers given to the police and other law enforcement agencies and the potential for misuse. (see box )

Justice Anjana Prakash, former judge of

“The changes brought in by the new criminal laws are positive and much needed.

Witness protection is necessary and the new laws have brought provisions for it. There is no use criticising the laws. We will know their effects when they get implemented.”

—Aruneshwar Gupta, senior advocate, Supreme Court



the Patna High Court and a practicing advocate who has written books on the IPC, told *India Legal*: “The new set of laws have been brought out just for the sake of it. There are some things which are objectionable. The duration of police custody has been increased. This has potential for custodial violence. Actually, the IPC is a self-sufficient law. It took 100 years to make it. The British wanted to implement it in England, but couldn’t. They got an opportunity to enact it in colonial India. The IPC is based on rule of law. The CrPC was revamped in 1974, so what was the need to change it? The Evidence Act of 1857 is a work of art. Colonial law stressed rule of law. Police powers were under control. The police couldn’t take evidence under duress. Changes in primary and secondary evidences happened naturally over a period of time and photographs, etc., have been brought in the evidence domain. So what was the need for new laws?”

On the flip side, the new laws enhance support to victim rights. Timelines for judicial process ensure faster justice delivery. The new laws aim to increase judicial efficiency by reducing case backlog and streamlining the trial process. Clarity in the definitions of offenses has been ensured and there are tight norms for probes and trials. The new laws aim to increase accountability within the criminal justice system. Law enforcement agencies and judicial officers

## Potential for misuse?

- The period of police remand has been enlarged from 15 days to 90/60. This gives leeway to investigative agencies to harass and commit atrocities. The remand period under the old CrPC was restricted to 15 days to avoid harassment and expeditious investigation by the police and to check arbitrary functioning of investigating agencies. Extension of the remand period will deprive grant of bail.

- Handcuffing of accused: Under Section 43(3) of the new Code, handcuffing of an accused has been permitted in certain class of cases. Handcuffing was held to be inhuman, unreasonable and against the Constitution in the case of *Sunil Batra and Prem Shankar Shukla* (1980). Giving powers to handcuff without the permission of the court will be detrimental.

- Solitary confinement in jail: Under the old Code, solitary confinement of a prisoner was held to be barbaric by the

apex court. However, in Section 11 of the new Code, this has been provided, which is unconstitutional and excessive.

- Community service as a form of punishment: Under Section 4(f) of the new Code, community service has been introduced as one of the punishments, such as theft of low value goods of Rs 5,000 (under Section 303), defamation (under Section 356(2)) and public misconduct (under Section 355). Community service as a form punishment is arbitrary, unregulated and unspecific, apart from being impracticable.

- Organised crime: This is an offence under MACOCA. It has been introduced in the new Code under Section 111. In the face of an existing law, there was no need for a new one. The punishment includes death penalty and can be misused.

- Terrorist act: Originally, TADA and POTA were the special laws to combat

terrorism, but had to be repealed. The punishment for a terrorist act, now introduced in Section 113, is life imprisonment, and gives arbitrary powers to the police to implicate persons.

- Endangering sovereignty, unity and integrity of India: The new Section 152 has much wider and enlarged implications. Its scope and area of offensive activities compared to Section 124A (sedition) under the earlier Code has been widened. It includes electronic communication as evidence. The punishment is seven years. This provision will also give the police unbridled and unregulated powers. This is an enlarged revised version of Section 124A IPC.

- Admissibility of documentary evidence: If a document is fake, forged and not genuine, it has to be proved, to arrive at the truth. Under the present amendment, all digital and electronic communications have been included in the definition of document and made admissible in court, without adequate measures to prove it being genuine. It has been made the primary evidence.



The new laws enhance support to victim rights. Timelines for judicial process ensure faster justice delivery. The new laws aim to increase judicial efficiency by reducing case backlog (left) and streamlining the trial process. Clarity in the definitions of offenses has been ensured.

will have to be more accountable.

**A**runeshwar Gupta, senior advocate, Supreme Court, told *India Legal*: “The changes brought in by the new criminal laws are positive and much needed. Witness protection is necessary and the new laws have brought provisions for it. Many such examples abound. There is no use criticising the laws. We will know their effects when they get implemented. In fact, laws are made by courts and codified by the legisla-

ture. Indigenisation of laws was necessary. If sections are changed, it won't create confusion. Judges and lawyers are well versed in law and they can handle the changes well. Such changes were practically required.”

The new laws will make lawyers and judicial officers put on their thinking caps to adapt to the legal regime. It will entail much circumspection and awareness among the legal community about the pitfalls of the new laws and they will make a conscious effort to negate its potential misuse. ■



The National Litigation Policy should address the three stages of a dispute: pre-litigation, litigation and post-litigation. It will help government agencies resolve issues more methodically. When this occurs, the case backlog will be substantially less. It will reduce government-related litigation and offer a logical way to handle government concerns and legal disputes.

# BETTER LATE THAN NEVER

The Policy was part of the BJP manifesto and was hanging fire for a long time. It is expected to reduce pendency of lawsuits in courts, where the government is often a party

**A**FTER assuming charge for the second time, Law Minister Arjun Ram Meghwal signed a document on the National Litigation Policy, which will be sent to the cabinet for deliberation. The Policy, focused on transforming the government into an efficient and responsible liti-

gant, is part of the 100-day agenda of the Modi 3.0 government.

The policy would address high legal costs and is focused on reducing the pendency of lawsuits in courts. The BJP had promised the National Litigation Policy to decrease the number of cases in which the government is a party and the consequent load on courts. The long-pending policy was a part of the



The National Litigation Policy document was recently approved by Law Minister Arjun Ram Meghwal. This was his first action after taking charge as the minister. Meghwal said that there have been programmes undertaken to raise awareness of the laws and implementing them is a priority.

BJP's manifesto.

Talking about the three new criminal laws that will be implemented from July 1, Meghwal said that there have been programmes undertaken to raise awareness of the laws and implementing them is a priority. He said that the government is heading towards making India a hub of arbitration and mediation. He said for ease of living, they have brought the mediation act.

As per the National Judicial Data Grid, 4,44,37,465 cases are pending before district and taluka courts, 60,80,318 before the High Courts and 80,568 before the Supreme Court, totalling a massive 5.05 crore cases.

**U**necessary litigation involving the government has been an age-old problem in India, increasing the load on the judicial system and the exchequer. As far back as 1974, noted Supreme Court judge Justice Krishna Iyer in the *Dilbag Rai* case emphasised the need for government departments and agencies to avoid filing frivolous or avoidable legal cases. In the verdict, Justice Iyer commented on a "callous" resistance by the railways against an action by its own employee, which was pursued right up to the summit court and negated in the judgement.

In 2009, the Supreme Court in the *Urban Improvement Trust, Bikaner vs*

*Mohan Lal* case noted that unwarranted litigation by governments and statutory authorities is attributable to some officers who are responsible for making decisions and/or officers in charge of litigation.

There is a reluctance to make decisions, or a tendency to challenge all orders against the government. "Their reluctance arises from an instinctive tendency to protect themselves against any future accusations of wrong decision making, or worse, of ▶



Unnecessary litigation involving the government has been a problem in India. In 1974, Supreme Court judge Justice Krishna Iyer in *Dilbag Rai* emphasised the need for government departments and agencies to avoid filing frivolous or avoidable cases. Justice Iyer commented on a "callous" resistance by the railways against an action by its own employee, which was pursued right up to the summit court and negated in the judgement.

The Supreme Court and High Courts have routinely pulled up the government over its proclivity to engage in frivolous litigation. In 2009, the Supreme Court in *Urban Improvement Trust, Bikaner vs Mohan Lal* noted that unwarranted litigation by governments and statutory authorities is attributable to some officers who are responsible for making decisions and/or officers in charge of litigation.



improper motives for any decision making,” the top court had said.

**I**n October 2009, the Ministry of Law and Justice convened a national consultation specifically aimed at mitigating judicial delay and reducing the backlog of cases. This led to the formulation of the National Litigation Policy, 2010, with the underlying purpose of reducing government litigation in courts so that valuable time would be spent in resolving other pending cases. It was brought by former law minister Veerappa Moily in the UPA government.

It included the formation of empowered committees that would review the execution of the Policy and induce accountability in litigation and steering committees that would vet the empanelment of lawyers. The Policy was never properly implemented and failed to make a substantial difference to the conduct of government litigation. Despite being in power for almost a decade, the Narendra Modi government has not really paid much heed to putting in place its own National Litigation Policy.

The Supreme Court had observed in the 2003 case of *Chief Conservator of Forests vs Collector*: “The State/Union of India must evolve a mechanism to set at rest all interde-

partmental controversies at the level of the government and such matters should not be carried to a court of law for resolution of the controversy.”

This is despite the fact that the Supreme Court and High Courts routinely pull up the government over its proclivity to engage in frivolous litigation. Many of these cases end with a direction to the government to implement the long pending national litigation policy in a time-bound manner.

Similarly, parliamentary committees have consistently criticised the government’s handling of government litigation. In the recent past, the Parliamentary Standing Committee for Law and Justice and the Parliamentary Standing Committee on Railways hauled up various ministries over litigation management and criticised the lack of set criteria for empanelling advocates.

The government, on its part, seems to be dragging its feet on devising a solution to this seemingly intractable problem. For almost a decade since it was first introduced, the government, when questioned in Parliament during Question Hour about the status of the Policy, assured that such a policy was indeed under consideration and it would soon be implemented.

In recent years, ministries and depart-



On September 23, 2023, the Delhi High Court (left) bench of Chief Justice Satish Chandra Sharma and Justice Sanjeev Narula ordered the government to prepare a “time-bound action plan for implementation of the National Litigation Policy or the guidelines that are under contemplation”.

ments like the railways and revenue, involved in a high number of litigations, have been taking several measures to reduce the number of court cases. In 2018, the Ministry of Railways issued instructions for effective monitoring of court cases at all levels. In 2019, the Central Board of Direct Taxes raised the monetary limit from Rs 20 lakh to Rs 50 lakh for the I-T department to appeal disputes before the Income Tax Appellate Tribunal.

On September 23, 2023, the Delhi High Court bench of Chief Justice Satish Chandra Sharma and Justice Sanjeev Narula ordered the government to prepare a “time-bound action plan for implementation of the National Litigation Policy or the guidelines that are under contemplation”. “The government, as the largest litigant in the country, bears an intrinsic responsibility—a duty that goes beyond traditional roles. It is expected to be a beacon of propriety, setting precedents in litigation ethics, fairness, and judicious use of resources,” the High Court remarked.

It is pertinent to note that the National Litigation Policy should address the three stages of a dispute: pre-litigation, litigation and post-litigation. It will help government

agencies resolve issues more methodically. When this occurs, the case backlog will be substantially less. It will reduce government-related litigation and offer a logical way to handle government concerns and legal disputes.

The National Litigation Policy should support the design and implementation of Alternative Dispute Resolution by the government, reducing the inclination of the federal government to utilise the courts in every dispute.

The government must actively work towards reducing the workload of the courts and ensure that the judicial system functions efficiently so that justice can be served to citizens. Government litigation constitutes nearly half of all litigation in the Indian judiciary, which might interfere with the work of the courts. Creating dispute resolution facilitated through speed court mechanisms like tribunals might help in reducing the number of active cases.

Implementation of the National Litigation Policy as soon as possible will assist the executive and the judiciary in working smoothly. ■

—By Abhilash Kumar Singh and  
India Legal Bureau

**DEMANDING ANSWERS**

Students from several parts of India have staged protests over the alleged irregularities in the NEET (UG) 2024 exam. Even rival student outfits, the ABVP and the NSUI, were among the protesters who seemed to come together against the secretive manner in which the grace marks were announced



# THE NEET MESS

Hush-hush granting of grace marks has seen 67 students scoring the perfect 720 and skewing ranks in the make-or-break MBBS entrance exam. Then there was a paper leak with a few impersonators thrown in

**By Vikram Kilpady**

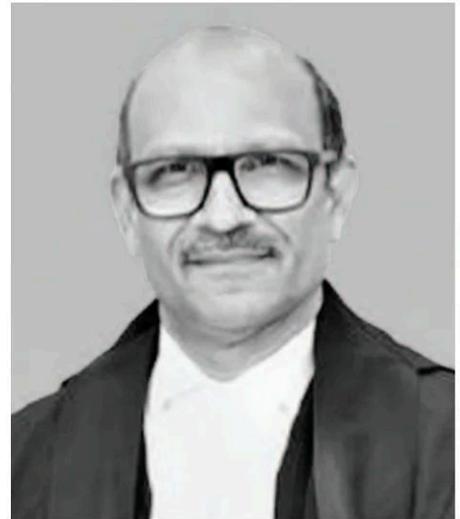


**T**HE high-decibel controversy surrounding the alleged leak of the National Eligibility cum Entrance Test (NEET) Under Graduate 2024 paper held on May 5 and the petitions in the Supreme Court seeking a CBI probe, cancellation of the test and a re-test has stirred the proverbial hornet's nest. The vacation bench of the Supreme Court, comprising Justices Vikram Nath and Sandeep Mehta, issued notice to the National Testing Agency (NTA), which has been holding the test since 2016 without too much fuss. During the hearing, the judges had to contend with lawyers demanding a CBI probe.

The Court maintained that it cannot pass an *ex parte* order for a CBI probe without hearing the NTA and their objections, if any. When a counsel tried to ratchet up the emotional pressure, saying students in Kota were committing suicide due to the NEET bungling, the judges refused to buy the unnecessary emotional arguments.

NEET is the primary test to secure admission in medical colleges in the country, run by the state and central governments and private institutions. Over 23 lakh aspirants wrote it this year at 4,500 centres. It is a tough test, and, as with other tests in India, the candidates are many and seats few. So, call it what you will, it functions ►

The vacation bench of the Supreme Court, comprising Justices Vikram Nath (right) and Sandeep Mehta, issued notice to the National Testing Agency. The Court told the NTA, "If there is 0.001 percent negligence on the part of anyone it should be thoroughly dealt with." The Court said the NTA should admit if there was any mistake in the conduct of NEET 2024.



like a sieve or a trapdoor.

The 2024 test has a few firsts to its case. Normally the top ranks are held by either 1 or 2 or 3 aspirants, but this time some 67 students of the top 100 ranks scored the full marks of 720. Of the 67, six were from one centre in Haryana. The test comprises 180 questions of four marks each. In 2016 to 2019, there was one top ranker in all four years. In 2020, the test saw two toppers who got full marks; the next year, the toppers

were three. Further in 2022 and 2023, the full-scoring toppers were 1 and 2.

Imagine the situation when 67 students got full marks. The further suspense into the already nerve-wracking experience that all medical students and their families have to endure was introduced when 1,563 candidates were given grace marks for loss of time. They had apparently got the backup question paper deposited with a nationalised bank when they were to get the ones deposited with another nationalised bank. These students at some six centres got the grace marks. How many grace marks were given and how it was decided to award them to those students is protected by bureaucratic *omerta*. Most candidates are able to mark themselves at the end of the test since they know what they had answered and if it was correct or not. Those who marked themselves were finding their ranks not enough to get seats in colleges they wanted. Many found that the Optical Mark Recognition (OMR) system scores read by a computer were different from what they had written and approximately calculated and were, in fact, way off.

When the results were announced on June 4, public interest litigations were filed in the Supreme Court for a probe into the murky goings-on. Most of them sought an investigation by a committee headed by a retired Supreme Court judge or a retired



NEET is the primary test to secure admission in medical colleges in India, run by the state and central governments and private institutions. Over 23 lakh aspirants wrote it this year at 4,500 centres. It is a tough test, and, as with other tests in India, the candidates are many and seats few.

High Court judge or an investigating agency such as the CBI. The main issues were the granting of grace marks, the rationale for granting grace marks and the possibility of hanky-panky by the six centres where aspirants received the grace marks. The NTA then decided to itself probe the issues raised on its own, but the aspirants and their parents were left incensed at the prospect of the erring agency investigating its own goof-up and getting a chance to set things right.

As the case progressed amid protests by rival student outfits, both the ABVP and the NSUI were among the protesters at Jantar Mantar, who seemed to come together against the secretive manner in which the grace marks were announced. With media coverage adding to the drama surrounding the case, the NTA on June 13 offered to cancel the grace marks granted to the 1,563 students and offered them a re-test if they were unsatisfied. That offer has irked more candidates and parents who have been demanding a re-test for all aspirants ever since the results were announced.

**G**iven the fact that the test is a single window for admission into government medical colleges, which have some 60,000 MBBS seats, the issue is a fraught one for low-income parents. The five-year course here costs approximately Rs 10 lakh. Private medical colleges have some 50,000 seats, but their fees are astronomical. This year, over 13 lakh students have qualified for the total 1.10 lakh seats in the country. Some of the parents who had pinned their hopes on their wards are daily wagers who had invested in their child's education by taking loans and selling land. Seeing all their efforts turning to dust in this bureaucratic pulverizing, many are dreading worse things ahead.

The DMK, which currently rules Tamil Nadu, has been against NEET since its 2016 inception since it objected to the inbuilt bias in the test for the well-to-do, who can afford



expensive coaching. Several suicides had been reported in the state, which prompted the DMK to toughen its stance against NEET. The party had clearly campaigned and won the 2021 assembly polls, saying it would do away with NEET. But this is more than a story of the haves and the have-nots. Several students in Kota have ended their lives as well after being disappointed with their results, having not made the mark in the test for which their parents had spent a fortune.

Reports said the NTA was also caught out by parents over the grace marks on another front. The testing agency had claimed in a press conference that it had awarded grace marks only on the basis of a 2018 verdict in a case involving the Common Law Admission Test (CLAT). The problem here, as one parent pointed out clearly, is that CLAT is an online test where the candidates are awarded grace marks for tech glitches that prevented them from answering. NEET, on the other hand, is an entirely offline test where the aspirants could have been given more time to finish the test.

In the midst of all this are coaching centres which moved the apex court against the NTA over the preponderance of high scores after analysing historical data. They claim credit for getting the NTA to concede the ▶

Given the fact that NEET is a single window for admission into government medical colleges, which have some 60,000 MBBS seats, the issue is a fraught one for low-income parents. The five-year course here costs approximately Rs 10 lakh. Private medical colleges have some 50,000 seats, but their fees are astronomical. Poor parents, who have spent a fortune for their child's education, are now dreading worse things ahead.

NTA claimed that it had awarded grace marks only on the basis of a 2018 verdict in a case involving the Common Law Admission Test. The problem here, as one parent pointed out, is that CLAT is an online test where the candidates are awarded grace marks for tech glitches, but NEET is an offline test where the aspirants could have been given more time to finish the test.

The DMK led by MK Stalin (right), which currently rules Tamil Nadu, has been against NEET since its 2016 inception and objected to the inbuilt bias in the test for the well-to-do, who can afford expensive coaching. Several suicides had been reported in the state, which prompted the DMK to toughen its stance against NEET.



goof-up with the grace marks. The aggrieved who have moved Court have also been struck by the domicile of students who chose a particular centre far away from their homes. If such heartbreak and despondency over grace marks were not enough, the possibility of a paper leak started doing the rounds when the Bihar Police said they found a leaked NEET question paper and recovered it. Since the NTA was not quick to respond to the police claim that it was indeed the controversial question paper, the apex court has issued notice to the NTA to come clean in two weeks.

There is yet another angle to this year's

Education Minister Dharmendra Pradhan told the media recently that if anyone from the NTA is involved in grace marks or in any of the many scams that have come to light, they will pay for it. Let us assume everything goes as per procedure from now on, and the much-wanted and trending #reNEET is held and the deserving get their chance to hold an MBBS degree.



sordid NEET saga. Every year there have been reports of women students being told to take off *burkas*, and in some cases, inner wear to hold fair exams. This year, the NTA used Aadhaar biometric scans for candidates, which is how they caught two impersonators. They turned out to be poor medical students writing the test for some other candidate for some easy money in the range of Rs 10-12 lakh. The middlemen they were in touch with told police that they had been running the impersonation racket for some time.

**E**ducation Minister Dharmendra Pradhan, fresh into his second term in the ministry, has a crisis on his hands. He told the media recently that if anyone from the NTA is involved in grace marks or in any of the many scams that have come to light, they will pay for it. The very next day, the Supreme Court told the NTA, “If there is 0.001 percent negligence on the part of anyone it should be thoroughly dealt with.” The Court said the NTA should admit if there was any mistake in the conduct of NEET 2024. “As an agency conducting the examination, you must act fair. If there is a mistake, say yes, this is a mistake, and this is the action we are going to take. At least that inspires confidence in your performance,” the Court said.

Let us assume everything goes as per procedure from now on, and the much-wanted and trending #reNEET is held and the deserving get their chance to hold an MBBS degree. The question raised by the All India Medical Association and Indian Medical Association junior doctors on too many candidates scoring the top score cannot be wished away by the NTA saying the test was easier this year. The more disconcerting thing is this: Someone who got into an MBBS course in, say, 2016 through an impersonator's efforts *a la Munna Bhai MBBS*, the 2003 Sanjay Dutt film, must have passed by now, by hook or yet more crook. And, is waiting in a hospital as the next emergency patient is wheeled into the Casualty Ward. Add to this, the recent Supreme Court order on medical negligence, where the Court said a higher threshold was needed to hold a doctor liable for it. Patient heal thyself? ■

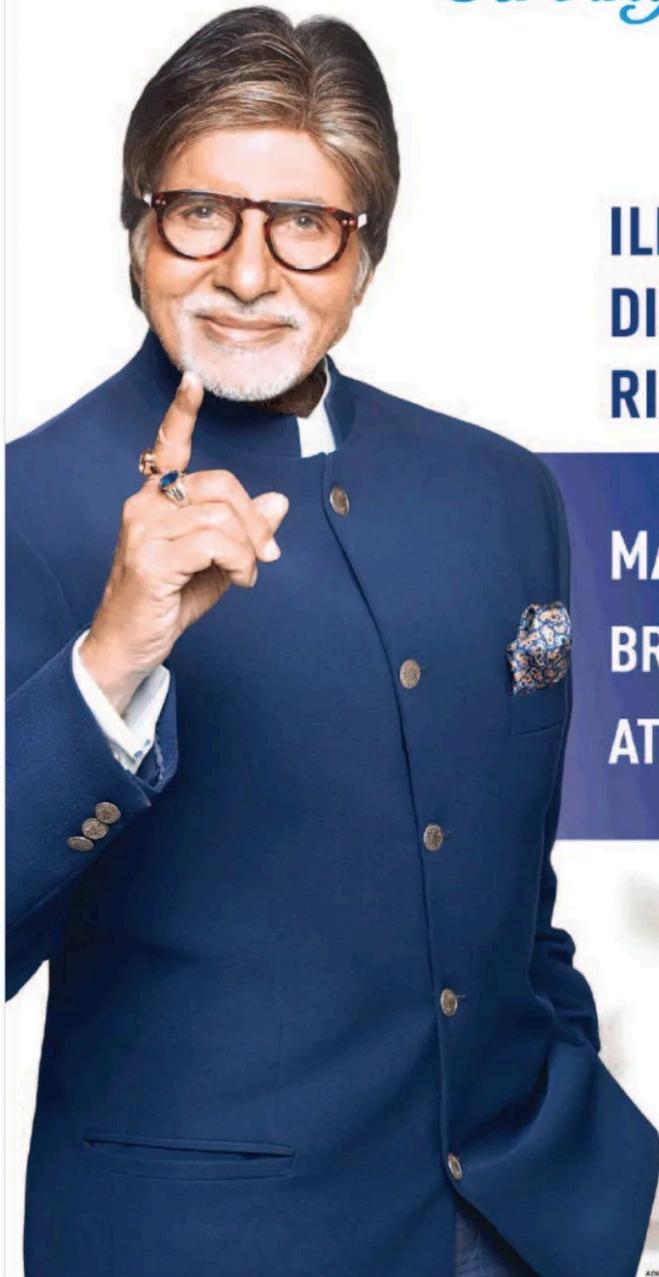


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# GO FORTH AND MULTIPLY...

Courts have been empathetic to prisoners' rights to progeny and allowed parole for this purpose. Various judgments have said that convicts cannot be denied their rights under Article 21, including conjugal rights

**By Dr Swati Jindal Garg**

**P**ROVING yet again that the rights enshrined in Article 21 of the Constitution are not completely obliterated by a person's incarceration, the Karnataka High Court granted 30-day parole to a murder convict after his wife filed an appeal to conceive a child.

The parole was granted to a 28-year-old convict who was lodged in Central Prison, Bengaluru, after a hearing of his 31-year-old wife's petition that said that she wanted to have children with him. Justice SR Krishna Kumar granted parole on the condition that the convict mark his attendance in the jurisdictional police station once a week. "It will be the responsibility of police to take him to

gaol if the convict evades going back after parole,” he said.

The convict, Anand, a resident of Kolar, was arrested in 2019. The Kolar sessions court had awarded him lifetime imprisonment, whereafter he approached the Karnataka High Court. In 2023, the Court reduced the sentence to 10 years. Anand had been in a relationship with a woman and it continued even when he went to prison. The woman approached the Karnataka High Court seeking parole so that the two could get married. The Court granted it. The marriage certificate thus obtained was submitted before the Court, after which the woman again approached it seeking permission to spend some time with her husband. The Court had at that time extended the parole to 60 days.

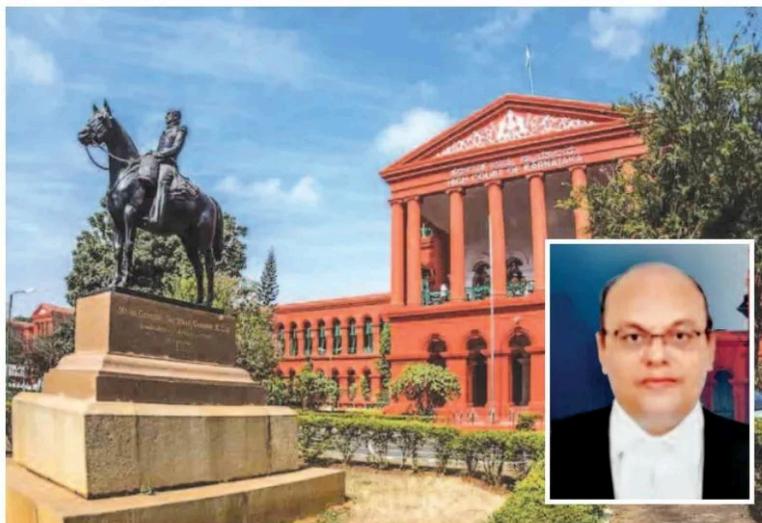
The woman now approached the Court stating that she wanted to conceive a baby with her husband and sought a 90-day parole for him. She said she was deprived of her right to progeny and furthermore, her mother-in-law suffered from various ailments and wished to spend some time with her grandchildren.

Noting that the authorities can stipulate strict conditions to ensure the return of the convict who shall not commit any other offence during the period, the Court also reserved the liberty to seek extension of the parole, which would be considered based on his conduct while he was out.

**T**he right to progeny or to procreate is inseparably linked to the conjugal rights of prisoners. This is an inherent right of a married couple and encompasses within itself their right to associate together, build a home and enjoy all the privileges of an interpersonal relationship, including the right to have “sex” and “procreate”.

Those who advocate this concept say that this would help in solving the problem of homosexuality among prisoners and mould their behaviour, but critics stress factors like custody and security problems, single parenting, smuggling of contraband goods from outside, etc.

In India, jurisprudence on the concept of conjugal rights is still in its infancy. As



there is no statutory law that confers conjugal rights to prisoners, they knock on the doors of courts under Article 21 of the Constitution.

Those who advocate the right to progeny argue that humanism requires that prisoners should be allowed to spend some time with their families in privacy. They also advance the argument of the “innocent” spouse and his/her emotional and sexual frustration due to the severance of marital ties by incarceration.

The main rebuttal to this argument is that society holds no moral obligation to grant inmates the privilege of sexual license and it is due to an explicit consequence of incarceration that prisoners should not have the opportunity to enjoy conjugal rights or beget children.

Further, allowing parole for the purpose of progeny is a double-edged sword as it would mean a one-parent family for years before the prisoner is released. This is aggravated when both spouses are in prison and conjugal association is allowed. In such cases, the vital issue that rises is the “best interest of the unborn child”.

However, with changing times and increasing sensitisation, a need is being felt to change the attitude towards prisoners. A society which is debating gay rights, third gender rights and same sex marriages should also deliberate on a prisoner’s right to progeny. ▶

The Karnataka High Court granted 30-day parole to a murder convict after his wife filed an appeal to conceive a child. Justice SR Krishna Kumar (inset) granted parole on the condition that the convict mark his attendance in the jurisdictional police station once a week. The Court also reserved the liberty to seek extension of the parole, which would be considered based on his conduct while he was out.

The right to progeny or to procreate is inseparably linked to the conjugal rights of prisoners. As there is no statutory law that confers conjugal rights to prisoners, they knock on the doors of courts under Article 21 of the Constitution. However, with changing times and increasing sensitisation, a need is being felt to change the attitude towards prisoners.



Parole is a popular mode for enjoying conjugal rights by prisoners wherein they are released for a temporary period from jail and get time with their spouses or family. Almost all states have framed rules for the release of prisoners on parole. During parole, the prisoner visits his home and the environment is more conducive, warm and friendly than a jail for establishing family ties as compared to conjugal visitation allowed in prisons. Jail authorities cannot create such an environment in jail. However, there is always the inherent risk of the pris-

oner absconding. Moreover, many of the prisoners who do not satisfy the conditions for parole (because of length of sentence or non-fulfillment of other conditions like bail bond) may lose the right of conjugal enjoyment also.

**A**rticle 21 guarantees that no person shall be deprived of his life and personal liberty except according to the procedure established by law. It includes the rights of prisoners too. The Supreme Court in *D Bhuvan Mohan Patnaik and Others vs State of Andhra Pradesh and Others* declared that convicts cannot be denied the protection of fundamental rights, which they otherwise possess, merely because of their conviction. It said that a convict whom the law bids to live in confinement stands denuded of some of the fundamental rights like the right to move freely or the right to practice a profession. But he shall continue to enjoy other constitutional guarantees, including the right guaranteed by Article 21.

This is not the first time that courts have recognised the right to progeny of a prisoner, thereby granting him parole. The Rajasthan High Court too had reiterated that parole for want of progeny for a prisoner or his spouse squarely falls under Article 21 and within the ambit of his conjugal rights.

In *Nand Lal vs State*, a writ petition was filed by a convict through his wife on the



The SC in *D Bhuvan Mohan Patnaik and Others vs State of Andhra Pradesh and Others* declared that convicts cannot be denied the protection of fundamental rights, which they otherwise possess, merely because of their conviction.



The Rajasthan High Court had reiterated that parole for want of progeny for a prisoner or his spouse squarely falls under Article 21 and within the ambit of his conjugal rights. After considering the multi-dimensional aspects on progeny in conjunction with the fundamental rights of prisoners under the Constitution, the High Court gave a new perspective to the prisoner's conjugal rights jurisprudence.

grounds of wanting a progeny. The petitioner's husband was serving life imprisonment for around six years in Central Jail, Ajmer, while the petitioner was residing in her matrimonial house with her in-laws. She moved an application before the District Collector, District Parole Committee, for 15 days parole for him. Following pendency of the application, a writ petition was filed before the High Court. The main issue was whether parole can be granted on the ground of progeny.

**T**he Division Bench presided by Justices Sandeep Mehta and Farjand Ali said that the "right to procreation survives during incarceration" and "is traceable and falls within the ambit of Article 21 of the Constitution". The Court had also ruled that progeny helps the convicts to normalise themselves and positively affects their behaviour, thereby fulfilling the main purpose of granting parole. The Court mentioned the religious aspect of *Garbhadhan*, preservation of lineage in Islam, Christianity, Judaism and other Abrahamic religions and the sociological aspect of the right of a prisoner to perform the four *Purusharthas* of life (*Dharma, Artha, Kama* and *Moksha*), and their inter-connection with the fundamental rights of prisoners under Article 21. Emphasising the rights of the petitioner wife, the Court stated that the marital and sexual life of the petitioner was associated with the

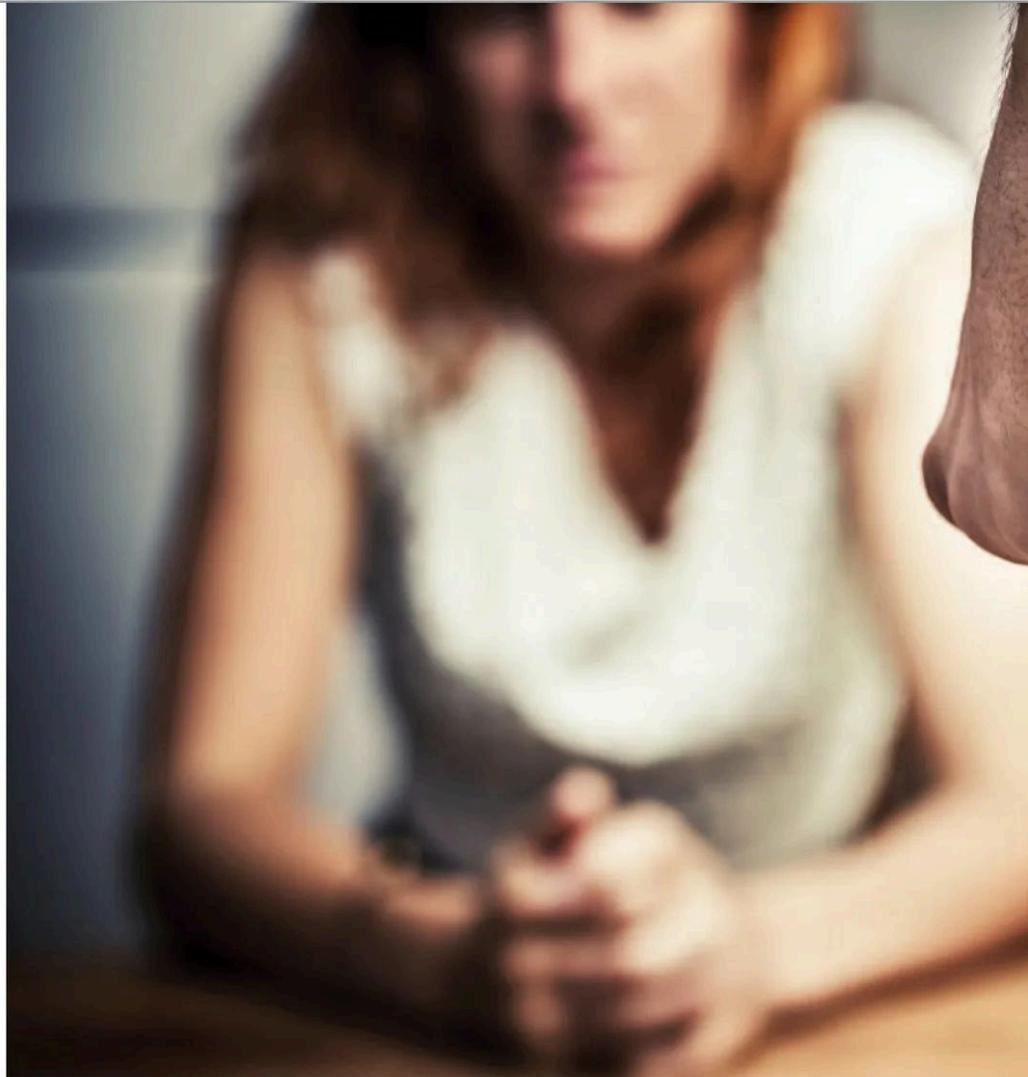
convict-prisoner and individual religious and social expectations can't be hampered.

After considering the multi-dimensional aspects on progeny in conjunction with the fundamental rights of prisoners under the Constitution, the Rajasthan High Court gave a new perspective to the prisoner's conjugal rights jurisprudence. It even cited religious texts, observing that "for a married woman, completion of womanhood requires giving birth to a child".

While jurisprudence on the concept of the right to progeny is still developing, constitutional courts have ruled multiple times that this right is a component of the right to live with dignity and thus ingrained in the right to life and liberty guaranteed under Article 21.

Reformative principles hold that the provisions of parole should be used liberally by the State so as to ensure that prisoners can establish relations with their families. It is high time that the judiciary delves into research in this issue to see the effectiveness of parole on the behaviour of prisoners. The right to procreate through artificial insemination should also be viewed as an alternative. ■

*—The writer is an Advocate-on-Record practicing in the Supreme Court, Delhi High Court and all district courts and tribunals in Delhi*



# VIOLENT MINDS

Domestic violence is the scourge of every civilised society and it is not restricted to the less educated or less privileged. There is no way a court can quantify a woman's suffering, but at least it can set kind parameters on what maintenance needs to be paid by the husband

**By Sujit Bhar**



The National Family Health Survey of 2019-2021 found that “29.3 percent of married Indian women between the ages of 18 and 49 have experienced domestic/sexual violence; 3.1 percent of pregnant women aged 18 to 49 have suffered physical violence during their pregnancy.”

tic violence, perpetrated by her pathetic human sample of a husband, but the High Court restricted itself to the appeal, which talked about the reduction of monthly maintenance payable to the wife from Rs 1,20,000 to a mere Rs 25,000.

It is pertinent to mention here that the interim “maintenance” was to fund the medical expenses of the woman. The initial trial court order was for Rs 1.2 lakh per month, an order issued during proceedings initiated by the wife under the Protection of Women from Domestic Violence Act. Interestingly, when the case went into appeal, the sessions court reduced the amount to just Rs 25,000 per month. The High Court saw that this was done despite the appellate court refusing to stay the trial court order and also having shown no reason for the change.

When the challenge to this order came before Justice Sharmila U Deshmukh of the Bombay High Court, she not only set aside this order, restoring the trial court’s Rs 1.2 lakh per month maintenance order, but also maintained that the appellate court could not have reduced the maintenance amount without giving any reasons to support such a move.

The Court said: “The order of the appellate court is completely bereft of any findings or reasoning on the basis of which reduction has been directed, apart from the fact that the appellate court could not have reduced the amount of maintenance once having rejected the application for stay.”

There were more glaring errors. The High Court found that even as the appellate court found out that the petitioner (the wife) desperately needed the money for her treatment, and despite not a single paisa having been deposited by the husband towards this, the appellate court, nevertheless, reduced the amount. In another forum, this probably would have been called an inhumane act.

The High Court made this clear in its order, saying: “The observations that there is not a single paisa deposited towards the ▶

**C**ERTAIN court cases and orders of judges often bring out from society’s dark underbelly the pathetic biases that exist among even the so-called educated Indians. Such a case came to light when the Bombay High Court was forced to quash an appellate (sessions) court’s order, which had drastically reduced the interim maintenance due from a man to his wife who is now in a vegetative state.

While the High Court was strict in issuing its order, it is sad that the original reason for the wife descending into a vegetative state was not taken into consideration, because that was not part of this appeal. It is proven that the wife was a victim of domes-



The Bombay High Court (above) recently quashed an appellate (sessions) court order, which had drastically reduced the interim maintenance due from a man to his wife who is now in a vegetative state. While the High Court was strict in issuing its order, it is sad that the original reason for the wife descending into a vegetative state was not taken into consideration, because that was not part of this appeal.

interim maintenance and considering the overall facts and circumstances, the observations do not appear to be in consonance with the order which has been passed reducing the amount of maintenance.”

#### THE BACK STORY

The story of the marriage remains somewhat in a mist, though it is clear that the man, who works in the UK, got married in India and took his wife back to the UK. This could have been a good marriage, except that the person concerned (the husband) was found to be one with a perverted sense of being. In 2016, as they moved to the UK, the wife became the victim of domestic violence and the husband was the person causing this.

It is not clear yet if the violence itself led to the woman descending into this vegetative state, but the family of the woman finally took the decision of bringing her back to India for treatment and better care. The husband accompanied his wife back to India.

At that point, as per the wife’s family’s claim, the husband had promised to send Rs 1,50,000 every month towards the wife’s medical expenses. That was where it ended, and the wife’s family has claimed that not a single paisa has been deposited by the husband towards the treatment.

That was when the wife’s family moved the court, and in an application under the Protection of Women from Domestic Violence Act, claimed maintenance under this law. The trial court studied the case and

in 2022 passed an order, amending the amount to be paid by the husband to Rs 1,20,000 per month, and also Rs 1,00,000 per month towards arrears.

The husband challenged the trial court order before a sessions court (appellate court), seeking a stay of the trial court order. The appellate court rejected the stay on order plea, but slashed the interim maintenance amount to just Rs 25,000 per month from the original Rs 1.2 lakh.

The High Court found no substance in the appellate court’s order and set it aside, ordering that the domestic violence case trial be concluded within three weeks from June 18.

#### DOMESTIC VIOLENCE

Domestic violence is common in India, and the National Family Health Survey (NFHS) of 2019-2021 found that “29.3 per cent of married Indian women between the ages of 18 and 49 have experienced domestic/sexual violence; 3.1 per cent of pregnant women aged 18 to 49 have suffered physical violence during their pregnancy.”

One has to remember that this is the number of cases reported by women. The numbers that go unreported are way higher. To get a handle on the issue, the NFHS showed that in 2021, a mere 507 cases were registered across India under the Protection of Women from Domestic Violence Act, 2005. At the same time, 1,36,000 complaints were registered under Indian Penal Code Section 498A (cruelty by husband or his relatives).

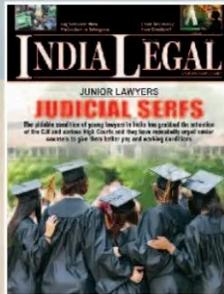
The NFHS found that 87 percent of married women who are victims of marital violence do not seek help.

More than the numbers, it is the nature of torture, physical and mental, that has to be studied. Mental torture can lead to physical disabilities, and this has been proved by medical science. The physical condition of a woman who is being tortured can deteriorate.

When this is the case, any court slashing the payments due from the husband to the wife who is a vegetative state, could not be justified, especially so when the domestic violence case is yet to be satisfactorily completed. ■

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# IN DEPTH NEWS AND VIEWS BURNING POLITICO-LEGAL ISSUES



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# DEADLY GAMES

The Gujarat High Court, while hearing the case related to the blaze that killed nearly 30 people, said it has lost “faith in the state machinery” after it was found that the gaming zone had not applied to the authorities for requisite permission. Since then, strict rules have been enforced for such gaming zones, but are they enough?



The massive fire that broke out at the gaming zone in Rajkot (left) claimed 27 lives. CCTV camera footage showed the fire started after sparks fell on a pile of thermocol sheets during welding work on the ground floor. The facility had a single gate for entry and exit and stored large quantities of diesel and petrol, making it highly susceptible to fire hazards.

Rajkot's Town Planning Officer MD Sagathia, assistant TPOs Mukesh Makwana and Gautam Joshi, and former station officer of Kalavad Road Fire Station Rohit Vigora. During the probe, it was confirmed that one of the co-owners, Prakash Hiran, who was named in the FIR and was missing since the tragedy, had died in the deadly fire as he was inside the facility when it was gutted.

The CCTV camera footage showed the fire started after sparks fell on a pile of thermocol (polystyrene) sheets during welding work on the ground floor. Though the workers present there tried to douse the fire with fire extinguishers, it spread quickly and eventually engulfed the gaming zone. The facility had a single gate for entry and exit and stored large quantities of diesel and petrol, making it highly susceptible to fire hazards.

According to officials, the facility contained 1,500-2,000 litres of diesel for generators and 1,000-1,500 litres of petrol for go-karting. According to the police, the gaming zone was being operated without any no-objection certificate from the fire department of the Rajkot Municipal Corporation. Several gaming zones and other recreation hubs were sealed across the state after the Rajkot incident and FIRs were also filed against the owners for running such facilities without any permission.

Gaming zones, which include facilities like amusement parks, arcades and gaming centres, are subject to various legal and regulatory frameworks. These regulations ensure the safety, security and proper management of such establishments.

In India, the legal and regulatory status of gaming zones involves compliance with multiple laws and standards which are: entertainment tax, business licensing, local ▶

**T**EN people, including the co-owner of the Rajkot gaming zone where a combination of highly inflammable materials led to the fire and claimed 27 lives last month, have been arrested so far. Ashoksinh Jadeja, one of the six owners of the TRP game zone, surrendered before the police after initially evading arrest. The facility was set up in 2021.

Jadeja had been absconding after a fire devastated the recreation facility on May 25 in Gujarat's Rajkot city. Earlier, police had arrested five co-owners and a manager of the gaming zone. The police also took into custody four government officials, including



Following the fire tragedy, the Gujarat government published a set of draft rules to regulate Gujarat Amusement Rides and Gaming Zone Activities (Safety) Rules, 2024. Senior minister Rushikesh Patel stated that the draft rules have been published on the state home department website for suggestions or objections.

municipal regulations, consumer protection laws, fire safety regulations, intellectual property rights, environmental regulations, and labour laws. Additionally, if the gaming zone includes any form of betting or gambling activities, it must comply with the Public Gambling Act, 1867, and other state-specific gambling laws.

Following the Rajkot gaming zone fire tragedy, the Gujarat government published a set of draft rules to regulate Gujarat Amusement Rides and Gaming Zone Activities (Safety) Rules-2024. The Gujarat government's spokesperson and senior minister Rushikesh Patel stated that the draft rules have been published on the state home department website so that people can submit suggestions or objections. The aim behind the proposed Gujarat Amusement Rides and Gaming Zone Activities (Safety) Rules-2024 is to ensure that such tragedies do not take place again.

Under the Gujarat Police Act, 1951, the commissioner of police or the district magistrate make the rules to provide for the safety

of the public. That includes:

- No person shall start any gaming zone and other indoor activities unless he has a valid license from the commissioner of police or the district magistrate in the areas as the case may be.
- The person who desires to start a gaming zone under sub rule (1) shall make an application for license in Form D along with such fees as prescribed in Schedule 5.
- The licensing authority may, on receipt of such application, forward it for obtaining no-objection certificate from the authorities concerned with fire safety, building use, structural stability, health, sanitation and electrical installations, and the City Ride Safety and Inspection Committee or the District Ride Safety and Inspection Committee.
- Any license issued under these rules shall remain in force for the period not less than two years.
- Inspection of gaming zone for grant or renewal of operating license: the qualified person inspecting and certifying gaming zone with reference to the structural stability, fire safety, electrical safety, material used in gaming zone shall be fire retardant and in accordance with Indians Standard of Fire Safety of Buildings (General).
- The City Ride Safety & Inspection Committee or District Ride Safety and Inspection Committee of the concerned city or district as the case may be, shall inspect the gaming zones and prepare detailed inspection report and submit it to licensing authority on quarterly basis.
- Any kind of modification in a gaming zone is not allowed.

These are just some of the multiple rules under the original Act, many of which were brazenly flouted by the owners and staff at the Rajkot gaming zone. Equally to blame are the district officials who ignored their responsibilities, leading to multiple deaths, including women and children. The state government has set up a special investigating team to probe the incident even as Opposition parties use the tragedy as a political football. Or fireball, as the incident proved. ■

—By Adarsh Kumar and  
India Legal Bureau

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# EASY COME, EASY GO

Introducing a slew of reforms, the Insurance Regulatory and Development Authority of India has said policyholders can cancel insurance policies any time and get a refund for the remaining period

**O**N June 11, the Insurance Regulatory and Development Authority of India (IRDAI) gave strict instructions to insurance companies regarding claims. The IRDAI said general insurance companies cannot reject claims due to lack of documents. It has issued a comprehensive Master Circular repealing 13 circulars.

This is part of reforms in the general insurance business, especially post de-notification of all the tariffs and policy wordings. It hopes to usher in a new era of measures for simplified and customer-centric insurance solutions towards seamless customer

experience and ease of operations for the insurers.

A provision of easy-to-understand insurance products customised to meet individual needs, providing customers with adequate choices and enhancing their insurance experience has now been enabled. The shift from rule-based to principle-based regulatory framework facilitates ease of doing business and encourages innovation, enabling reduction in the response time for emerging market needs.

The key highlights of the Master Circular are as follows:

- **Customer centric measures:** These include availability of wider choices of prod-



The Insurance Regulatory and Development Authority of India has issued a comprehensive Master Circular repealing 13 circulars. This is part of reforms in the general insurance business, especially post de-notification of all the tariffs and policy wordings. The Circular is an important step in reforms taken up by the insurance regulator with the interests of the policyholders at the core.

ucts/add-ons covering assets, risks, properties, liabilities against various perils, exposures and lines of business. Also included is the provision for customisation of products and flexibility to choose them as per need.

Also introduced is a Customer Information Sheet to provide clear and concise policy details, including scope of coverage, exclusions, warranties and claim settlement processes. No claim shall be rejected for want of documents. The required documents are to be called at the time of underwriting the proposal. The customer may be asked to submit only those documents necessary and related to claim settlement (if cashless is not available).

The retail customer can cancel the policy anytime by informing the insurer. The insurer can cancel the policy only on grounds of established fraud. The insurer shall refund the proportionate premium for the unexpired policy period on cancellation.

There are strict timelines for settlement of claims, including TATs for appointment of surveyors and submission of their reports. It will be the duty of the insurer to obtain timely survey reports. No contribution clause will be applied in case of multiple policies.

In motor insurance, additional options of “pay as you drive”/“pay as you go” are to be given as the first choice to the customer. There will be no burden on the customer for disposal of salvage. The policyholder will be paid the claim amount. Collection of salvage from the customer is the insurer’s

responsibility.

Homeowners’ “fire” policy will have an option to choose add-on covers such as flood, cyclone, earthquake, landslide, rockslide, terrorism or to opt out from comprehensive fire and allied peril policy.

● **Calibration and governance measures:**

In an environment which enables innovation, speed of delivery and flexibility of operations, it is imperative that the policyholders’ interest is safeguarded at all times. Broad principles for compliance by the insurers include: Board’s oversight and governance mechanism to be strengthened for various ▶



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stages of insurance contract from product development, sales and servicing of the policies.

The suitability and affordability of customers will be considered in product development, avoiding unnecessary and superfluous coverages. The pricing of products to factor risk exposure, experience and expenses will be such that the premium rates are not excessive or inadequate or unfairly discriminatory.

Efforts are to be made to incorporate in the product design proper management of underlying risks towards prevention and mitigation in the product design. Steps to ensure no unprincipled rate cutting and improper underwriting practices should be followed.

Tech-enabled processes should be there providing end-to-end technology solutions to ensure seamless onboarding, policy servicing, renewal, claim settlement, and grievance redressal. To ensure equitable and fair opportunities to the surveyors and loss assessors, work allocation will be done on a random basis in an automated manner without human intervention through a tech based solution to be developed by General Insurance Council in association with IIISLA.

The Master Circular is an important step

in reforms taken up by the insurance regulator with the interests of the policyholders at the core. The Boards of Insurers are now enabled to decide on various business aspects to quickly align their strategies to the changing market requirements. Product governance framework has been strengthened whereby the Product Management Committee of the insurers oversees product development, pricing and design.

Additional features/options to the policyholders include:

- The facility of policy loan is now mandatory in all life insurance savings products enabling policyholders to meet liquidity requirements, if need be.
- Health riders for covering health-related contingencies/emergencies without recourse to surrendering the policies are possible.
- The facility of partial withdrawal under pension products is now allowed, enabling policyholders to meet their specific financial needs for important life events like higher education or marriage of children; purchase/construction of residence; medical expenses, treatment of critical illness.
- In case of surrenders, reasonableness and value for money is to be ensured.
- To facilitate financial planning and enhancing flexibility in premium payments,



Recently, the National Consumer Disputes Redressal Commission (left) ruled that an insurer cannot dismiss an insurance claim by quoting non-disclosure of pre-existing medical conditions if the policy was issued after checking the insured's health status. The NCDRC observed that insurers have a duty to seek complete details about the insured's medical condition and calculate risks before issuing a policy.

insurers are permitted to offer products with a range of premium payment terms.

- A variety of products and product features are now possible like annuity products.
- Free look period which provides time to review the policy terms and conditions is enhanced to 30 days from 15 days.
- Robust systems are to be in place for grievance redressal. The complainant is to be informed about the escalation mechanism in place to the insurance ombudsman if the grievance is not redressed satisfactorily. In case the insurer does not appeal against the award of the ombudsman and does not implement the same within 30 days, a penalty of Rs 5,000 per day shall be payable to the complainant.

Measures to strengthen governance include mechanisms to improve persistency, curb mis-selling and avoid financial loss to the policyholders and also enhancing long term benefits to them. Periodic training is to be provided to the intermediaries, distribution channels and employees of the insurers on their products (existing and new), TATs in policy servicing and changes in the regulations, etc.

**R**ecently, the National Consumer Disputes Redressal Commission (NCDRC) ruled that an insurer cannot dismiss an insurance claim by quoting non-disclosure of pre-existing medical con-

ditions if the policy was issued after checking the insured's health status. The NCDRC observed that insurers have a duty to seek complete details about the insured's medical condition and calculate risks before issuing a policy.

Recently, a senior citizen had purchased an international medical health insurance policy from Care Health Insurance. While in Australia, he experienced chest pain and underwent a stent procedure followed by further treatment. Citing non-disclosure of pre-existing conditions, specifically Coronary Artery Disease and Dyslipidemia, the insurer dismissed the cashless benefits and subsequent reimbursement claim. The District Commission rejected the complainant's plea, directing him to file an appeal in the State Commission. The State Commission allowed the appeal, directing the insurer to pay the entire claim amount with an interest rate of 9% along with compensation and litigation costs. The insurer filed a petition before the National Commission, seeking relief, but the Commission held that the insurer has a duty to find complete details about the insured's medical condition and calculate risks before issuing the insurance policy.

Hopefully, these measures will act as a balm for the customers. ■

—By Shivam Sharma and  
India Legal Bureau



A new Gallup poll suggests that a high percentage of voters in the US will determine their vote on the abortion rights issue. “Nearly three-quarters of those single-issue voters are pro-choice,” says Gallup. In state and local elections in red states, pro-abortion forces have won consistently since 2022, despite conservative majorities.

# ABORTION AND ELECTIONS

The US Supreme Court and other lower courts have been lately focused on issues relating to the upcoming election, including sex, drugs, pregnancy, murder, and gun rights—in combination and separately.

Of these, the abortion issue could prove the most decisive

By Kenneth Tiven

**A** new Gallup poll suggests that a high percentage of voters will determine their vote on the abortion rights issue. “Nearly three-quarters of those single-issue voters are pro-choice,” says Gallup. In multiple state and local elections in red (Republican party) states, pro-abortion forces have won consistently since 2022, despite conservative majorities.

When the conservative judges in the US Supreme Court overturned the national right to abortions, they misread the mood of the electorate. Two of the justices most invested in opposing abortion are Samuel Alito and Clarence Thomas. Their political and social behaviour continues to make news with respect to impartiality rules. Ideological differences regarding democracy and citizen rights that divide the nation have sharpened issues surrounding judicial behaviour. And yes, the Court still has not spoken on the expedited appeal for presidential immunity for non-political acts while in or out of office. This decision might help former US President Donald Trump avoid trial and punishment in multiple criminal cases for which he has been indicted.

The radical conservative movement exemplified by the MAGA faction of Republicans wants the judicial system to severely restrict the regulatory authority of the entire federal government in multiple areas of life and law. That is what underpinned the 2022 decision of the Supreme court, which wiped out the federal law in *Roe vs Wade*, guaranteeing a woman’s right to bodily autonomy. Conservative judges in the Court struck down that law, allowing several US states to immediately ban or severely restrict abortion rights.

In reaction, the Federal Drug Administration sought to expand the use of mifepristone, a drug that induces abortion in the first ten weeks of pregnancy. An anti-abortion group went to a specific judge in the Fifth Circuit Federal Court in Texas who has strong religious convictions and routinely rules against the government. He issued an order stopping the FDA rule change. On appeal, however, in a 9-0 decision, the Supreme Court ducked the abortion issue by ruling that the plaintiffs lacked legal standing



**When the conservative judges in the US Supreme Court overturned the national right to abortions, they misread the electorate’s mood. Two of the justices most invested in opposing abortion are Samuel Alito (top) and Clarence Thomas. Their political and social behaviour still make news with respect to impartiality rules.**

because the activists who brought the case did not prescribe the drug or treat patients who used it. No loss, no case. The Court observers were baffled by a Court that now defined “standing” opposite to how it handled several previous civil rights cases. Justice Brett M Kavanaugh’s opinion contained language that could expand protec- ▶

The radical conservative movement exemplified by the MAGA faction of Republicans wants the judicial system to severely restrict the regulatory authority of the entire federal government in multiple areas of life and law. That is what underpinned the 2022 decision of the US Supreme Court, which wiped out the federal law in *Roe vs Wade*, guaranteeing a woman's right to bodily autonomy.



tions for physicians who refuse to provide emergency abortions.

Dismissing the lawsuit on the “standing” issue does not affect pro-choice advocates because the status quo remains. Abortion-inducing medications are still illegal in states that criminalize abortion and banned as a “controlled substance” in Louisiana. Red states that prohibit reproductive healthcare are unaffected: citizens living there still have no right to bodily autonomy. Nothing has changed for people in a blue state. Will unelected federal judges pose a

continuing problem on these rights issues? Most likely, yes.

Most people opposed to abortion see it as a religious issue, not a family or civil rights issue. Many oppose contraception in any form. With no apparent sense of irony, Republicans in Congress voted against protection for IVF treatment (in-vitro fertilization), the use of medicine and technology to help solve fertility problems for people who want to have children. The Southern Baptist Convention, a large Protestant religious group, also condemned IVF on the basis of fetal personhood theories because unused

Firearm issues that continue to kill children and adults in a nation awash in lethal weapons do not concern the US Supreme Court as did the abortion issue. One reason is that the conservative majority in the Court wants to reduce government regulation on business, civil rights and climate matters. So, the government ban on so-called “bump stocks” was overturned.



embryos are being discarded.

Contradictory beliefs are common in humans: people aggressively argue against certain drugs, but may also be big consumers of salt and sugar, both of which are habit-forming and dangerous in excessive quantities. Firearm issues that continue to kill children and adults in a nation awash in lethal weapons do not concern the Supreme Court as did the abortion issue. One reason is that the conservative majority in the Court wants to reduce government regulation on business, civil rights and climate matters, whenever possible. So, the government ban on so-called “bump stocks” was overturned. This “add-on” device turns a semi-automatic rifle into a virtual machine gun capable of firing hundreds of rounds of ammunition with minimal trigger pulls. Its use in several horrific crimes led the federal government to outlaw their sale and use under legislation dating to the 1930s war against criminal gangs.

**T**he conservative Heritage Foundation has a 900-page plan called Project 2025, which dismantles the federal government and will need the Court to help it accomplish this goal. It calls for gutting the civil service and replacing it with MAGA believers, “restricting contraception, dismantling the department of education, eliminating labour and environmental protections.” Trump celebrated his 78th birthday at the Capitol this past week at a reception with Republicans in Congress who will be vital to any implementation of Project 2025 if he wins.

Another meeting with CEOs of big business did not go well. Several told reporters they found Trump uninformed and unfocused. This group in general likes Trump’s promise to slash regulations and cut taxes, so they went into the meeting hoping to support him. One CEO left the meeting with the takeaway that “Trump doesn’t know what he’s talking about,” and several told journalists that Trump “was remarkably meandering, could not keep a straight thought [and] was all over the map”. He could not explain how he planned to accomplish any of the policies he was proposing. When asked why he had chosen a policy of bringing the corpo-



The conservative Heritage Foundation has a plan called Project 2025, which dismantles the federal government and will need the Court to help it accomplish this goal. Donald Trump celebrated his 78th birthday recently at a reception with Republicans in Congress who will be vital to implementing the Project, if he wins.

rate tax rate down to 20 percent, he allegedly answered: “Well, it’s a round number.”

No one applauded Trump, attendees reported, in striking contrast to reports of the enthusiasm of Republican politicians at their meeting. Trump intended a political message that Republican members of Congress support him despite his criminal convictions, while the lawmakers themselves were trying to show party unity at a time when they are bitterly divided.

Coming up is a debate between Trump and Joe Biden on CNN under unique conditions, including no audience and a strict time limit on speaking. It may answer some of the questions about age, mental fitness and policy concepts of the candidates. ■

*—The writer has worked in senior positions at The Washington Post, NBC, ABC and CNN and also consults for several Indian channels*

## Putin Bonds With Kim Jong Un

**W**hen leaders of the two most isolated countries in the world stage an official meeting, the rest of the world needs to be concerned. Russian President Vladimir Putin's flower-bedecked reception by his North Korean counterpart Kim Jong Un, who was present to greet his guest despite the late-night arrival, was a clear signal about how desperately Pyongyang needs a powerful friend and the mutual benefits that both can derive.

This was Putin's second visit and came after a gap of 24 years, at a time when Russia's war in Ukraine has only unified Western powers in sanctioning Moscow in various critical areas, mostly economic and military hardware to fuel its operations in Ukraine, now in its third year.



Russian President Vladimir Putin with his North Korean counterpart Kim Jong Un. This was Putin's second visit to North Korea and came at a time when Russia's war in Ukraine has only unified Western powers in sanctioning Moscow in various critical areas

North Korean state media said Kim's government was hoping the meetings would lead to "deepening economic and trade relations" with Russia. The US State Department has said North Korea has shipped dozens of ballistic missiles and more than 11,000 containers of ammuni-

tions to Russia for use in its war against Ukraine. US officials said it was likely that Putin would ask for further military aid while in Pyongyang.

North Korea has been under UN sanctions for its ballistic missile and nuclear programmes since 2006, and those meas-

## Taking A Right Turn

**O**ver 400 million people voted last week in the European Parliamentary elections to elect 720 MEPs. They decide who represents EU citizens in the European Parliament. What resulted was a significant shift in European politics with far-right candidates and parties winning seats across the continent.

Belgium was the centre of the political upheaval with its prime minister having resigned after his party suffered a mauling in the general election. The election results revealed a dramatic rise in support for the right-wing New Flemish Alliance, which emerged victorious, and the far-right Vlaams Belang, which secured second place with 17.5 percent of the votes. This amounts to a profound transformation in Belgium's political landscape and is reflected in



Over 400 million people voted last week in the European Parliamentary elections to elect 720 MEPs. They decide who represents EU citizens in the European Parliament (above)

similar trends across Europe. Countries like Italy, France and Germany have also seen a notable rise in support for far-right factions. The major factors behind

the trend are economic discontent, immigration concerns, a resurgence in national identity and populist campaigns by far-right leaders.



The US State Department has said North Korea has shipped dozens of ballistic missiles (above) and more than 11,000 containers of ammunitions to Russia for use in its war against Ukraine. US officials said it was likely that Putin would ask for further military aid while in Pyongyang

ures have been strengthened over the years. Russia has no regard for such sanctions and a close ally in south Asia, along with enhanced ties with China, is something he badly needs.

Defence experts say that Putin's unprovoked war has depleted its supply of armaments apart from the military equip-

ment that Russia has lost in Ukraine. North Korea has the ability to furnish Moscow with long-range missiles, a technology it seems to have perfected with frequent test launches, meant to unnerve rival South Korea and its American ally.

Russia will also probably offer other

aid that Pyongyang desperately needs, finance and food being top of the agenda. In return, Kim wants Russian help in its space ambitions: its recent space rocket exploded on take-off, and he wants Moscow to provide help in space technology. North Korea is in desperate need of Russia's help to upgrade its ambitious space programme. Pyongyang failed to launch its second reconnaissance satellite, and the satellite that is currently in space has also performed poorly according to reports.

In fact, the kind of deals that are likely to be signed is evident in the officials who accompanied Putin: the heads of space, railways and energy. Russia has promised cooperation with North Korea on a range of humanitarian, economic, trade, and military areas and has blocked efforts at the United Nations Security Council to monitor and impose new sanctions on Pyongyang.

Many diplomats see the growing bonds between Pyongyang and Moscow, with China as the third wheel, as a serious security threat to the west, and the utopian dream of world peace.

Immigration remains a contentious issue, with increasing concerns over integration and the cultural impact of newcomers driving voters towards parties advocating stricter immigration controls. In Italy, the far-right Lega Nord has seen a resurgence under Matteo Salvini's leadership, using anti-immigration rhetoric and Euroscepticism to gain substantial support. In France, Marine Le Pen's National Rally has benefited from economic discontent and anti-immigration sentiments, making significant strides in regional elections. Germany's Alternative for Germany continues to maintain its relevance through persistent anti-immigration and anti-EU rhetoric.

The only good news was that the gains by the far right were less than predicted, but it still leaves the future of European politics in an uncertain limbo. What the results imply, however, are significant policy shifts within the European



Most of the far-right gains were concentrated in countries that elect large numbers of seats: France, Italy and Germany. Germany's Alternative for Germany (above) continues to maintain its relevance through persistent anti-immigration and anti-EU rhetoric

Union. These are likely to include stricter immigration controls, economic reforms, and a push for greater national sovereignty and insularity, challenging the

established order and potentially redefining Europe's relationship with the US. It could also affect the EU's support for Ukraine.



With temperatures crossing 50 degrees Celsius (118 degrees Fahrenheit) in Mecca, pilgrims attending the annual Hajj during the Islamic holy month of Dhul-Hijjah have never faced such extreme weather conditions

## Prayers For The Dead

**W**ith temperatures crossing 50 degrees Celsius (118 degrees Fahrenheit) in Mecca, pilgrims attending the annual Hajj during the Islamic holy month of *Dhul-Hijjah* have never faced such extreme weather conditions. When the pilgrimage ended last week, an estimated 550 pilgrims had died under the scorching sun, despite measures put in place by Saudi Arabian authorities. Among the deceased, 323 were Egyptians, succumbing to heat-related illnesses, while 60 Jordanians were reported dead, also from extreme heat conditions. Sixty eight Indian pilgrims are reported to have lost their lives due to heat. The cumulative death toll from multiple countries, according to some news reports, could even be more than 900.

The Hajj is one of the biggest religious gatherings in the world and the largest annual event in Saudi Arabia. Around 1.8 million pilgrims participated this year, with 1.6 million coming

from abroad.

Hajj officials asked pilgrims to carry umbrellas and stay hydrated amid the harsh conditions, the spokesman for the



The cumulative death toll from multiple countries, according to some news reports, could even be more than 900

ministry of health Muhammad Al-Abdulaali said, according to the state news agency SPA. The Saudi army also deployed more than 1,600 personnel with medical units specifically for heatstroke and 30 rapid response teams. Another 5,000 health and first-aid volunteers were also taking part.

The Hajj, a mandatory pilgrimage for all Muslims with the means, is increasingly impacted by climate change. A recent Saudi study noted that temperatures in the ritual areas are rising by 0.4 degrees Celsius (0.72 degrees Fahrenheit) per decade. During the pilgrimage, the temperature at Mecca's Grand Mosque reached 51.8 degrees Celsius according to the Saudi national meteorology centre. Saudi authorities have treated over 2,000 pilgrims for heat stress, but have not updated this figure or provided a fatality count. Hajj rituals require extended outdoor activities, exacerbating the risk. Many pilgrims are unregistered and often lack access to food, water or air conditioning, leading to the unprecedented heat-related deaths.

## Thailand Goes Gay

**T**hailand is now the first nation in Southeast Asia to legalize same-sex marriage after the kingdom's Senate approved a marriage equality bill. The Senate voted overwhelmingly in favour of passing the bill, with 130 senators voting for it. Only four members opposed the bill.

Leading the call for equal rights was Thailand's Prime Minister Srettha Thavisin. Activists celebrated in the streets of Bangkok, declaring it a "monumental step forward for LGBTQ+ rights."

The bill grants LGBTQ+ couples the same legal rights and recognition as heterosexual couples, including rights related to inheritance, adoption and

healthcare decision-making.

The marriage equality bill was supported by all the major parties and marks a significant step in cementing the country's reputation as one of the

friendliest in the region towards gay, lesbian and transgender people.

Thailand's Prime Minister Srettha Thavisin, of the Pheu Thai Party, had promised to bring the marriage equality

bill to parliament. Dressed in a rainbow shirt, Srettha had attended Pride Month celebrations in Bangkok last month, joining a massive parade through the capital's streets. "It is a basic right to choose who to love," he said in a post on X. Srettha has been keen to showcase Thailand, which earns a major share of its revenue from tourism, as a welcoming destination for LGBTQ+ people, including a bid to host World Pride in 2030.

The bill will take 120 days to be signed into law, but with it, Thailand will become only the third place in Asia to allow for marriage equality after Taiwan legalized same-sex marriage in 2019 and Nepal in 2023.



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Catherine, Princess of Wales (second from left) with other British royals on the balcony of the Buckingham Palace for King Charles's official birthday. She made her first public appearance since Christmas Day, weeks before her cancer diagnosis

### The Princess Show

**I**t may have been King Charles's birthday celebrations, but it was his daughter-in-law Princess Kate who stole the show. The British adore their royal family and the sight of Catherine, Princess of Wales, who has been absent from public view since her diagnosis for cancer some months ago, sent them into raptures.

Catherine, who revealed last March that she had been diagnosed with cancer, said in a statement that she has experienced "good days and bad days" while undergoing chemotherapy, and expects her treatment to continue "for a few more months." She was seen in a carriage on the Mall, driving to Buckingham Palace and waving

to the thousands who had braved the driving rain to line the roads, and then appeared on the Buckingham Palace balcony with the royal family and her three children at the Trooping the Colour, King Charles III's birthday parade.

Her note added: "On those bad days

you feel weak, tired and you have to give in to your body resting. But on the good days, when you feel stronger, you want to make the most of feeling well." She said she is hoping to join some more engagements over the summer, but acknowledged she is "not out of the woods yet."

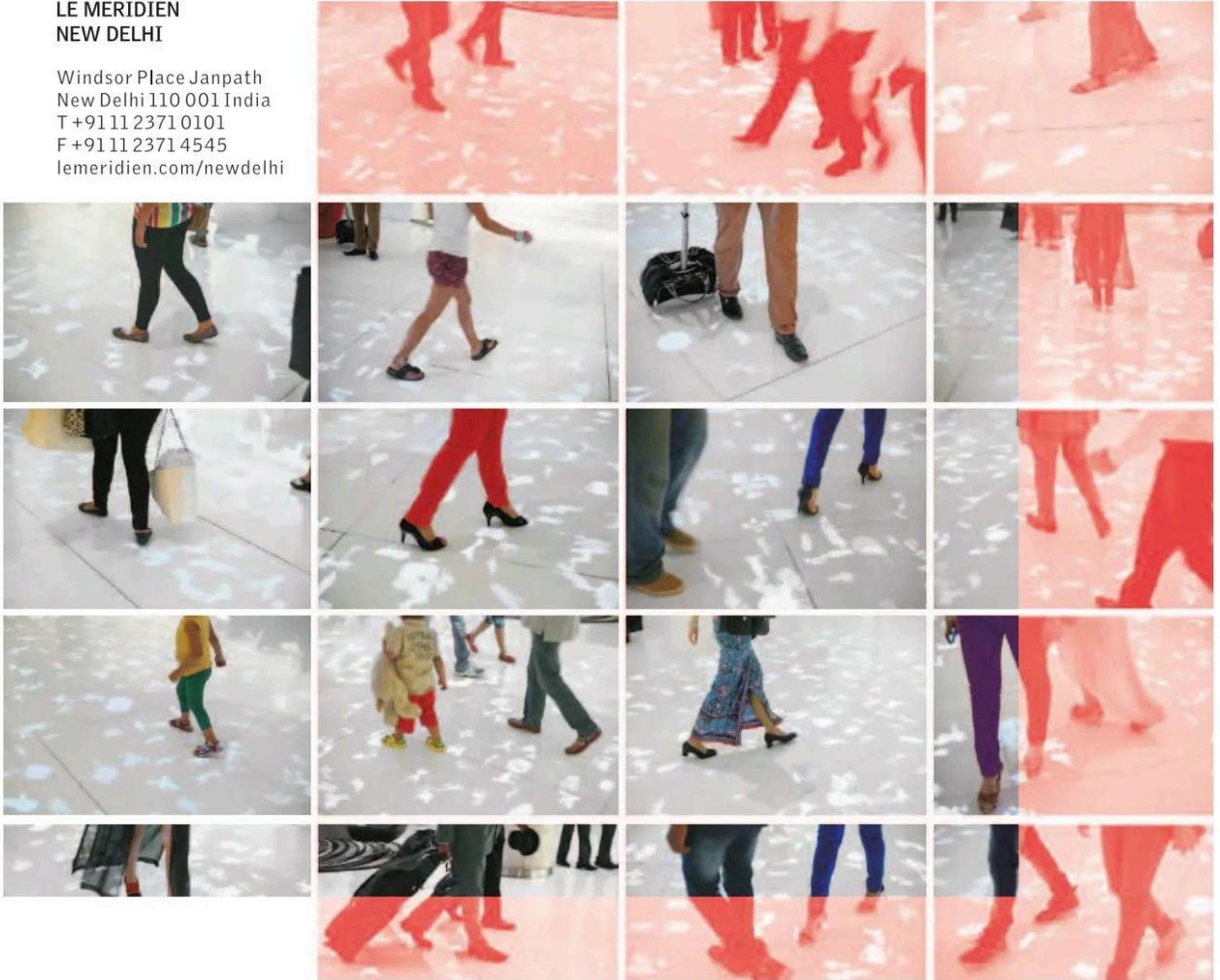


Kate, the princess of Wales, travels along the Mall to the Buckingham Palace

It represents a significant moment in the Princess's recovery, marking her first public appearance since Christmas Day—weeks before her cancer diagnosis. William, her husband and now heir to the British throne, was by her side. Her appearance, along with the King, was a poignant moment in the chequered history of the British monarchy. Her diagnosis stunned the country, especially as it came soon after Charles announced that he had been diagnosed with cancer.

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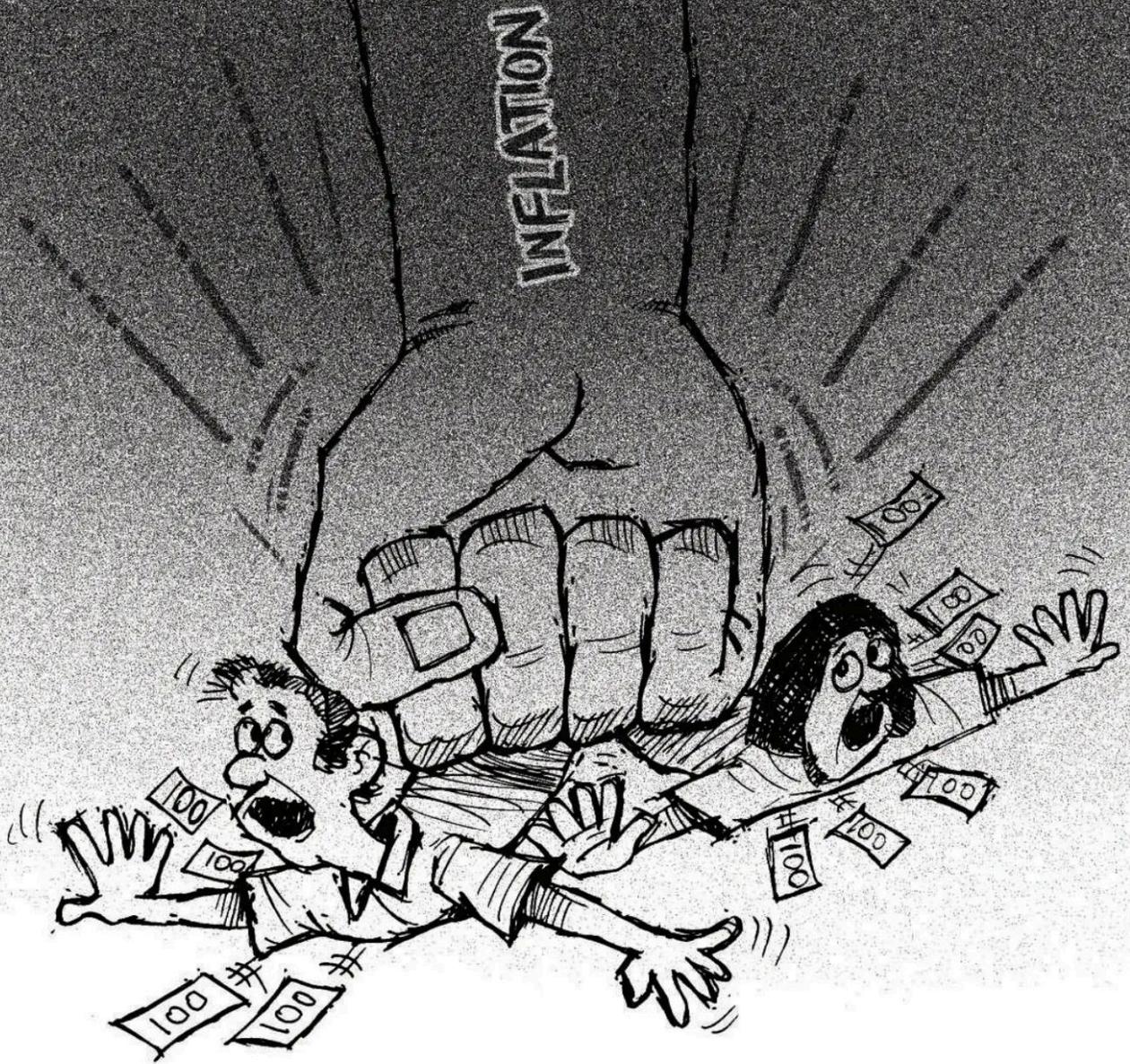
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