

# JUDICIAL INTERFERENCE IN AN ARBITRATION PROCEEDING – INTERNATIONAL POSITION

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Abstract-Arbitration has played a major role in resolving the disputes of the commercial and technical in nature and plays a prominent role as an alternative to formal settlement mechanism. The courts are kept away by the UNCITRAL Model law, but still some states have incorporated provisions for involvement in the arbitration proceedings at different stages. The paper analyzes different Arbitration Act in the international perspective with reference to judicial interference to reach a conclusion on how the model law is implemented in these countries.

Key words: Arbitration, Judicial Interference, Arbitration agreement, UNCITRAL

## I. INTRODUCTION

The role of State Courts is critical as they provide essential support for the arbitral process. As Professor Jan Paulsson has noted, "the great paradox of arbitration is that it seeks the co-operation of the very public authorities from which it wants to free itself".<sup>1</sup> Global convergence and harmonisation in international commercial arbitration are particularly evident in the area of judicial control of a foreign arbitral award. In most countries, the possibility to bring before a court an action for annulment of an arbitral award rendered abroad is excluded. On the other hand, the Supreme Court of India has over the years adopted a very aggressive nationalistic posture in deciding international arbitration disputes, and is an outlier in this arena. In cases involving foreign arbitral disputes, the Supreme Court has consistently revealed an alarming propensity to exercise authority in a manner contrary to the expectations of the business community.

Arbitration is private in nature, however parties still need courts to enforce the arbitration agreement and also enforce arbitral awards. The starting point for any discussion of the role of courts in arbitration proceedings is under the UNCITRAL Model Law on International Commercial Arbitration ("MAL") which most of the member states have adopted while enacting laws relating to international commercial arbitration as in India. Article 5 of the Model Law clearly provides that the Courts shall not intervene in matters governed by this law unless provided in this Law. However, as to Article 5, the *UNCITRAL Analytical Commentary on the Draft Model Law* states<sup>2</sup>:

*"Although the provision, due to its categorical wording, may create the impression that court intervention is something negative and to be limited to the utmost, it does not itself take a stand on what is the proper role of the courts. It merely requires that any instance of court involvement be listed in the model law. Its effect would, thus, be to exclude any general or residual powers given to the courts in a domestic system which are not listed in the model law. The resulting certainty of the parties and the arbitrators about the instances in which court supervision is to be expected seems beneficial to international commercial arbitration."*

The Indian Law has also embraced the provision contained in Article 5 in the form of Section 5 of the Arbitration and Conciliation Act, 1996 which contains a non-obstante clause providing that "Notwithstanding anything contained in any other law for the time being in force, in matters governed by this Part, no judicial authority shall intervene except where so provided in this Part". Thus, the Indian Law has also recognized the principle of non-intervention by Courts in the arbitral process except where the Act allows the same.

The role of domestic courts, in particular the Indian national courts in international commercial arbitration can be studied based on the major concepts of international commercial arbitration contained in the various provisions of the Indian Act, without which the arbitral process cannot hold.

<sup>1</sup> J Paulsson, *Arbitration in Three Dimensions*, LSE Legal Studies Working Paper No. 1 2.2010 <<http://ssrn.com/abstract=1536093>> at 2

<sup>2</sup> *Analytical Commentary on the Draft Text of a Model Law on International Commercial Arbitration*, XVI UNCITRAL Y.B. 104, 112, Article 5, 2 (1985).

# GENESIS OF SECULARISM

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## INTRODUCTION

The genesis of secularism can not only be taken from the judicial pronouncements and the constitution of India, 1950 but also from very important sources these are freedom struggle and the constituent assembly debate. India is quite famous for its diverse culture, religion and socio-economic background. Here we see different types or diversity of religion prior to our independence, we regardless of our diversity were united and stood against the mighty British. This freedom struggle is actually the basis of our strong foundation of secularism. That means despite our diversity we struggled together and won independence together. During the struggle, the people of India fought with unity. This independence is a gift of people of India to the people of India.

After getting independence, all of us promised ourselves to share together a common faith i.e., we as a society could organize ourselves on a common faith.

The constitutional assembly debate, where all the members of the assembly were agreed, on the necessity of establishing a secular state. Most of them shared thoughts from history in which the "*drive for the departure of religion and state was irrevocably a part of the project for the democratization of the latter*"<sup>1</sup>. India after becoming republic established itself as democratic and secular polity. "*and for the smooth running of democratic setup, it is important to make arrangements to tackle communalism related issues which can put a dent of secular principles*"<sup>2</sup>. But the problem is a highly secular setup has to be pursued in a highly religious land. Here question arises that what does secularism mean? Strictly separating state and religion (what we

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<sup>1</sup>The Constituent Assembly Debates, 1946-1950.

<sup>2</sup> *Id.*,

# Models of secularism – Comparative Perspectives

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## Introduction

In the world, the concept of “secularism” is not objective in the sense that nation-state uses the word “secularism” in a modified manner to suit their socio-economic and geo-political conditions. Models hereby referred as the framework of which a country adheres. As, no two models are identical, most of them are covered in this research. The formulas used to identify two different models are taken in the sense under “protection of minorities”. Before, moving with the models it is important to discuss important concepts related to it.

Secularism (which is often translated as *dharma-nirapeksata*<sup>1</sup>) has its roots in west specifically in Europe. There “secularization”<sup>2</sup> stated to the handover of the properties of the church to the king. Likewise, transfer of church belongings to the state also considered. Later, it was used in England; “secularism” refers the project of Enlightenment and Progress through the replacement of the mythical and religious the world with the scientific and technological-industrial approach, Europe conveyed about a distinction or departure of political domain from the religious domain. Moreover to this notion of secularism – The separation of religion and politics, “secularism-secularization” also includes –

- The role of religion in state work in minimal or absent;
- The words like “sacred” and “mystical” are replaced by “rational” and “scientific”.<sup>3</sup>
- The idea that religion and its belief are human construct not created by divinely orders.<sup>4</sup>

<sup>1</sup> See S. K. Mitra, “Deseccularising the State: Religion and Politics in India after Independence,” *Comparative Studies in Society and History* (1991).

<sup>2</sup> Grover J. in *Kesavananda Bharati case* and Chandrachud J. in *Indira Nehru Gandhi case*.

<sup>3</sup> See supra note 2

<sup>4</sup> See supra note 2

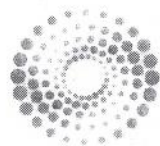
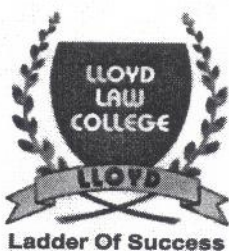
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## LEGAL EDUCATION REFORMS: FROM A CLASSROOM CENTRIC TEACHING TO SKILLED BASED PEDAGOGY

V.S. Gigimon\*

### Abstract

The status of legal education in the country is witnessed by the quality of the legal profession. The reason is only few legal education institutions cater to the objective and purpose of the legal education. The increasing number of institutions is only giving degree and sending the young lawyers to learn the tricks of trade from whatever means they can. What lacks is a machinery to keep a check on the functioning of legal education institutions and timely understanding the requirement of profession. A fully enriching skill-based curriculum will only be able to resolve this issue and be able achieve the objective of justice to needy. This paper will analyse the requirement of how and where the changes should begin for improving the standards of legal education. What roles the premier institutions should do to improve the standard of legal profession to cater the needs of rural litigants? What curriculum to adopt for making the students of law practice ready? Whether the subjects should be taught in practical perspective or theory centric? This paper will address these questions in the context of existing rules and pedagogy.

### I Introduction

LEGAL EDUCATION is considered as a professional course of study in India. N. R. Madhava Menon in one of his lectures on legal education<sup>1</sup> quoted

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<sup>1</sup> N. R. Madhava Menon, "To Go From Mediocrity to Excellence" *The Hindu*, Editorial, June 18, 2010.

# STATE SOVEREIGNTY AND PROTECTION OF HUMAN RIGHTS

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**ABSTRACT** Human Rights law are universal in nature and equally respected and protected by the States throughout the world. Sovereignty is a core of every nation; it's their right which is recognised and respected by the other nations. Every subject in a sovereign State has their fundamental human rights which if violated will be refurbished by the State mechanisms provided for protecting their rights. But what happens if there is a conflict between the State and the protection agency and rampant violations of human rights. It is the duty of the State to protect its subject from victims of these rights as a signatory to the rights guaranteed under the international covenants and treaties and also obligations as they have recognised them in their domestic legislations. In such circumstances there is an open conflict between the sovereignty and human rights protection. What needs to be done with States that refuse to accede to any of these treaties? Can they be fulfilled by enforcing it as a part of the international accepted principles or practices? Does this give any rights to the international community to intervene and if yes, how and how much intervention? Do we need to recognise state subjects or groups as subjects of international law and therefore intervene to protect their rights? The author tries to contemplate through these questions for finding an answer to the concept state sovereignty and human rights violations in an International regime considering the issues that aggravated the violations against the concept of rights of states. This paper also tries to look into the role of international non-state actors in controlling the situation by spreading education and awareness programs among the people of the State to understand and implement their rights through an impartial and independent agency. The author is trying to check his proposition that the common good of mankind and global security and governance is the model theory of rule based on which the human rights protection and the state security is grounded.

**Keywords:** Sovereignty, Human Rights, Global Governance, Security

## I. INTRODUCTION

The coercive power of the state in liberal democracies is justified largely by the claim that the state is the best mechanism for the protection of individual rights. Individual rights are, in turn, founded on assumptions about universal freedom and equality. But if this is the case, how can liberal states disavow the freedom and equality of people outside their borders? Most try not to, for example, by ratifying international instruments such as the *Universal Declaration of Human Rights*. Yet their pursuit of policies guided solely by concern for the so called 'national interest' can lead in effect to behaviour that undermines basic freedoms. Where this happens, a poisonous hypocrisy enters the bloodstream of the nation state, and infects the institutions established to protect the freedom and equality of its own citizens.

Human rights violations occur everywhere, from Saudi Arabia to Cuba and even the United States. The international community watches idly as sovereign states brutally execute their own people. In the twenty-first century filled with advanced technology and a continuously improving standard of living, the world witnesses' human rights violations daily, testaments that this century is not so different from the Middle Ages in such respects. Our reaction must be to take action. What action? What can be done? If we can make the decision to act rather than observe, we have drawn a line in the sand. We will not tolerate the violation of human rights. Within international law, the sovereign state must make this pledge of non toleration. The protection of human rights is a fundamental duty of a sovereign states.

## ENSURING CRIMINAL JUSTICE THROUGH LOK ADALAT

Dr. SAJI SIVAN . S , Assistant Professor, CSIIIS



"The administration of justice through cultures is an appropriation of culture that exploits indigenous knowledge and spirituality in order to meet the government's bureaucratic policy and goals."

"The greatest weakness of our judicial system is that it has become clogged and does not function in a fluent fashion resulting in prompt determination of guilt or innocence of those charged with crime."

Considering the delay in resolving the dispute Abraham Lincon has once said: "Discourage litigation. Persuade your neighbors to compromise whenever you can point out to them how the nominal winner is often a real loser, expenses, and waste of time".

After independence we altogether adopted alien philosophy and system of justice administration and still imitate Anglo-Saxon methods of dispute resolution. At this juncture we are in confused state of mind to choose either of the one, because common-law had its deep roots in India, undoing what happened in almost 400 hundreds of Indian history is myth. However adopting and blind appraisal of alien philosophy will take us from bad to worse. In light of these observations the author wishes to conduct research so as to arrive at appropriate reconciliatory solutions. While setting out the scope of the research author made it clear that this

paper is dealing with the three important dispute mechanism (i) common law courts (ii) Lok Adalats (iii) Indigenous modes of Dispute resolution.

## Access to Criminal Justice

Access to justice is a prime necessity of a civilized society. Access to justice from an independent and impartial agency is a recognized human right which is an essential requisite for the existence of the State. It is an established fact that a government founded upon anything except liberty and justice cannot survive. The right to access to justice is more important in a democratic set-up based on rule of law where safeguarding human rights and assuring dignity of individual is the responsibility of the State.

In this backdrop, it is gratifying to note that the architects of our Constitution emphasized to ensure justice to all even to the poorest of the poor through efficacious justice delivery mechanism. The framers of the Constitution prescribed the mandate for justice – social, economic and political, in its Preamble. The various provisions of the Constitution such as Articles 14, 20, 21, 38 and 40 also lay down stress upon the right to equal and effective justice. In order to achieve the goal of justice, Article 39A has been enshrined in the Constitution with the purpose to provide free legal aid and to strengthen the justice delivery system. Keeping in view, the philosophy of equality and justice embodied in Part III and Part IV of the National Charter, the Apex Court has also played a vital role through its catena of judgments for the betterment of administration of justice. The court declared in these cases the right of free legal services and speedy trial as the fundamental rights which are included within the broad matrix of the principle of right to life and personal liberty in Article 21 and right to equality under Article 14.



# LITERARY FINDINGS

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# LEGAL ENVIRONMENT OF CONSENT IN HEALTH CARE LAW

## AN OVERVIEW

- Jizamol.P.R\*

Consent is perhaps the only principle that runs through all aspects of health care provisions today. It represents the legal and ethical expression of the basic right to have one's autonomy and self-determination. The element of consent is one of the critical issues in the area of medical treatment today. In India in recent years there has been an increase in the number of malpractice suits that have arisen because of lack of consent or inadequate consent from the patients for various procedures. Many clinicians are unaware of the legal and ethical requirements and clinical aspects of consent in Medicine in India. Unlike many other countries, the Indian Statute Book does not contain separate legislation regarding age for consent to medical treatment. It is well known that the patient must give valid consent to medical treatment; and it is his prerogative to refuse treatment even if the said treatment will save his or her life.

Consent to treatment is the principle that a person must give their permission before they receive any type of medical treatment or examination. This must be done on the basis of a preliminary explanation by a clinician.<sup>1</sup> If the medical practitioner attempts to treat a person without valid consent then he will be liable under both tort and criminal law. Patients must give valid consent to medical treatment and it is his prerogative to refuse treatment even if the said treatment will save his or her life. So, consent should be obtained to safe guard oneself from future medical litigation, before examination of a patient for diagnosis, therapeutic intervention, treatment and surgery.

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1 [http://www.nhs.uk/coditions/consent to treatment/pages/introduction.aspx](http://www.nhs.uk/coditions/consent%20to%20treatment/pages/introduction.aspx). (visited on 03<sup>rd</sup> December, 2016)



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# PUBLIC OPINION AND SENTENCING

Dr. John P C\*

The fundamental laws<sup>1</sup> governing fixation of criminal responsibility and sentencing envisage both to be done by the judiciary. The Indian Evidence Act, 1872 declares in many words the power of the Court to take decisions as to the proof of things in the criminal justice system<sup>2</sup>.

As a fact there have been no guidelines for the Judges to appreciate facts nor had there been any guidelines for sentencing. This situation was eloquently projected by late Justice Krishna Iyer who lamented nearly half a century ago in *Balakrishnan v. State of Kerala*<sup>3</sup>, thus;

*Every criminal proceeding should be dichotomised into two stages, the pre-conviction and post-conviction phases. What is relevant in fixing the sentence may be irrelevant and even objectionably in the fixing of the guilt and all that is relevant at the conviction stage, pooled and presented to the Court, may be altogether inadequate for the sentencing process. That is why Judges, when they sentence offenders have too little knowledge of the real circumstances of the offender and of the factors which caused him to do what he did, the motivation for the crime and of the curative prescription that would protect the community and salvage the individual. If the discretion given to the Judge in the matter of personalising punishment is to be effectively exercised, additional fact finding processes have to be resorted to by the Judge either in the shape of a judicial hearing before sentencing for which there is no express provision in our code, or through the instrumentality of the Public Prosecutor and counsel for the defence who may be in a position to lay before the Court, after the prisoner's guilt has been fixed, such reliable information as would enable the Court to adjust and adapt its sentence to the needs of the case. The criminal law of India being largely offence oriented and very*

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<sup>1</sup> Indian Penal Code and Criminal Procedure Code.

<sup>2</sup> Section 165 of the Evidence Act lays down that the Judge may, in order to discover or to obtain proper proof of relevant facts, ask any question he pleases, in any form at any time, of any witness, or of the parties about any fact relevant or irrelevant...

<sup>3</sup> 1970 KLT 34

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# GENOME RESEARCH - MYRIAD DECISION RENDERS PATENT PARADOX MORE COMPLEX

Dr. E.R. Jayaram\*

Intellectual property rights have always been the most powerful tool to spur innovation. However the genomic science has always been a tough terrain for intellectual property rights to handle. As basic research on genome has a totally different nature when compared to other categories of biotechnology researches like biomedical research, diagnostic research, pharmaceutical sector etc. This becomes highly relevant in a world where right to health has emerged as one of the most important rights that are available to mankind. The recognition of right to health as a fundamental part of our human rights holds much relevance when innovation and IPR comes in conflict with access to affordable health care. The recent trends intellectual property rights to bring genome data under the preview of IP right triggered many controversies specifically when cases like *Myriad*<sup>1</sup> caught the attention of the world.

The right to health and access to health care is not a new concept. Right to health is one of the most important rights that are available to mankind and must be recognized over and above other property right. All human rights are interdependent, and right to health is no exception. Internationally, right to health was first articulated in 1946 during the constitution of the World Health Organization (WHO), whose preamble defines health as “a state of complete physical, mental and social well-being and not merely the absence of disease or infirmity”.<sup>2</sup> The 1948 Universal Declaration of Human Rights also mentioned health as part of the right to an adequate standard of living.<sup>3</sup>

\* LL.M., Ph.D, Associate Professor and Head of the Department, Centre for Post Graduate Studies and Research in Law, SDM Law College, Mangalore.

1 *Ass'n for Molecular Pathology v. Myriad Genetics, Inc.*, 133 S. Ct. 2107 (2013).

2 The preamble further states that “the enjoyment of the highest attainable standard of health is one of the fundamental rights of every human being without distinction of race, religion, political belief, economic or social condition.”

3 Art. 25. (1) Everyone has the right to a standard of living adequate for the health and well-being of himself and of his family, including food, clothing, housing and medical care and necessary social services, and the right to security in the event of unemployment, sickness, disability, widowhood, old age or other lack of livelihood in circumstances beyond his control. (2) Motherhood and childhood are entitled to

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# 3.3.2 EFFICACY OF CORPORATE SOCIAL RESPONSIBILITY IN CORPORATE GOVERNANCE STRUCTURES OF FAMILY OWNED BUSINESS GROUPS IN INDIA

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## Abstract

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The concept of 'Corporate Social Responsibility' (CSR) has often relied on firms thinking beyond their economic interest despite the larger debate of shareholder versus stakeholder interest. India gave legal recognition to CSR in the Companies Act, 2013. CSR in India is believed to be different for two reasons: the dominance of family business and the history of practice of social responsibility as a form of philanthropy (mainly among the family business). This paper problematises the actual structure of business houses in India and the role of CSR in a context where the law identifies each company as a separate business entity while the economics of institutions emphasizes the 'business group' consisting of a plethora of firms as the institutional organization of business where capital owned or controlled by the family group is spread across the firms through the interlocked holding structures. Within this framework, the largest family firms, which are part of family owned business groups, top the CSR expenditure list. The governance structure of family firms allows family owned business group to show mandatory compliance of CSR even when they actually spend much less than what is prescribed by law. This aspect of the family firms is not addressed by the CSR legislation in particular or corporate governance legislation in general in India. The paper illustrates this with an empirical study of one of the largest family owned business group in India Reliance Industries Limited (RIL), which is well acclaimed for its CSR activities. The paper demonstrates how the business group through these series of shareholding network reduces its legally mandated CSR liability. The paper thus indicates the inadequacy of CSR legislation in India because the unit of compliance is an individual firm and it assumes that each firm is independent and only connected to each other through market dealings. The law does not recognize the inter-connections of firms (through common ownership and control) in corporate governance structures of family owned business group and hence is inadequate in its design to effect the threshold level of CSR expenditure. This is the central argument of the paper.

**Keywords:** Business Group, Corporate Governance, CSR, Family Firm

## 1. INTRODUCTION

The corporate scandals and the financial crisis in the recent past have had serious repercussions on the

economy as well as on the society. Not just the business sector and shareholders but the public was also equally affected. It was in this context the need

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# Experimenting the Thematic and Notable Features of Symbolism and Alienation in *The Old Man and the Sea*

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## ABSTRACT

Masterly writers use literary devices and techniques in a noteworthy manner to exemplify their mastery in writing. In American literature, Hemingway's novel *The Old Man and the Sea* put forth the concept of symbolism and alienation in a masterly manner. The novel conveys the ability of the author to entwine the symbolism and alienation in a skillful way and it adds literary value to the text. This article examines Hemingway's treatment of symbolism and alienation in a divergent and unique manner. It also shows how symbols and alienation are interlinked to add grandeur to the artistic and aesthetic quality of the novel. The objective of this work is to explore the symbols used in the novel and to decode these symbols and identify the various interpretations that they stand for. *The Old Man and the Sea* revived flagging interest in Hemingway the artist. Critics were beguiled by its simplicity, its apparent heroism, and its brief and suggestive symbolism.

**Keywords:** Symbolism, Alienation, Heroism, Literary Devices

Ernest Miller Hemingway one of the most celebrated figures in English literature is a polymath in all aspects. He has been acclaimed as one of the foremost American novelist, short story writer, journalist, and as one of the greatest figures in the world fiction.

Hemingway's novel has a complexity and a depth of meaning far beyond the surface of the story. His stories and novels are the artistic expressions of his personal experience. *The Old Man and the Sea* expresses his outlook on life and his ideal of what man should be. The whole story is a symbolic representation of the general condition of man in the world. Man is in the grip of a fierce struggle with nature. He makes temporary gains, but in the end he does not win in the material sense. This parable of man's struggle with the natural world, of his noble courage and endurance, tells of the Cuban fisherman Santiago who for 84 luckless days has rowed his skiff into the Gulf stream in quest for his prize catch.

The Hemingway hero is defined by a set of static characteristics. These characteristics remain essentially the same throughout all of Hemingway's work. In *The Old man and the Sea*, the old man does not develop into a hero; Santiago begins as an old man who has already attained the heroic qualities that he will demonstrate intentionally throughout the rest of the story.

*The Old man and the Sea*, one of the Hemingway's masterpieces immortalized the concept of optimism, pride and honour through the old man Santiago. Through this work he proved his capability as an author and a symbolist writer. His real life experiences reflected in this work as well.

Alienation and symbolism are the common themes in literature from time immemorial. In this novel both are entwined in such a manner that they cannot be dissected, interpreted or analyzed at a stretch. This article aims to explore the mysterious aspect which showcases the symbolism and alienation in Hemingway's *The Old man the Sea*.

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**A STUDY ON HELICOPTER MONEY AS A TOOL FOR  
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VINOD M S<sup>1</sup>, HARIPRIYA U<sup>2</sup>

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**Keywords: Helicopter Money, Inflation, Quantitative Easing.**

**ABSTRACT**

In the present pandemic situation of the world, all countries whether economically sound or not are facing a drastic Economic state of affairs which may change the entire systems of the world. Every country is trying to develop its own ideas and packages for reviving from the downfall of the economy. As part of the economic reforms to be under taken the Hypothetical concept of Helicopter Money is gaining its stand in the discussions and penetrating to the minds of economists and experts to be a resort to start running the economy which is now at a standstill in many parts of the world. Helicopter money" is a term created by Milton Friedman in his work, 1969 "The Optimum Quantity of Money". It shows the money related reasons for having a circumstance of Inflation. In this concept Milton Friedman proposed a psychological study which comprised of dropping \$1000 to an economy from a helicopter, to delineate the expenses of holding cash just as to exhibit an easy path for the Central bank to create inflation. (Friedman, 1969). It's a tool as to be used for Quantitative Easing.

**Introduction**

Helicopter Money is a disputable theme that has been increasing a great deal of consideration in the most recent years. Over the most recent couple of years, national banks have discovered their conventional devices used to direct money related arrangement to be ineffective, since loan fees effectively arrived at the lower limits. From that point forward they have turned to progressively unpredictable devices like quantitative easing programs, expanding National banks, balance sheets, albeit for the most part with the open confirmation that the buys would in the end be turned around. Despite the fact that national banks utilized their greatest weapons, they are as yet battling in causing money related strategy to invigorate the

individuals to poke them to go through more cash and thus get monetary action in the country.

The immediate effect of Helicopter Money is ascended in expendable wages of individuals, expansion in cash supply with an aim to support interest and swelling in the economy.

### **Helicopter Money to its Alternatives**

#### **Quantitative Easing**

Quantitative Easing is the approach of giving base cash to back enormous scope buys of monetary resources. Quantitative Easing is intended to help the financial framework what's more, to decrease financing costs. Installments are commonly to monetary foundations what's more, not straightforwardly to individuals from the general population.

#### **Debt Monetization**

Debt Monetization happens when the Treasury gives a bond that it offers to the national bank, which thus pays for the bond with recently given base cash. The bond is then utilized by the Treasury to make installments in compatibility of government monetary approach destinations.

#### **Helicopter Money modus operandi**

1. Helicopter drop (Friedman's operation type)
2. Direct cash handouts to the public.
3. Sending Cheques to public.
4. Direct payment to bank accounts of public.
5. Cancellation of Taxes.

#### **Reviews**

Blyth and Lonergan (2014) contend that an immediate exchange to people in general is accepted to not only, increase spending yet in addition diminish disparity. Higher exchanges to the last 80% of pay circulation can lessen imbalance. Consequently, printing of cash will undoubtedly be viable.

(Blyth and Lonergan, 2014). The Berkeley Economist, Bradford DeLong (2016) states that an all-inclusive time of discouraged development should prompt the execution of helicopter cash and henceforth giving additional money to the general population. Despite the fact that the helicopter cash banter has drawn in numerous eyeballs, without a doubt, it accompanies its own arrangement of difficulties.

(2014) came up with the view, adding that the institutional separation among financial and money related policy<sup>6</sup> is one motivation behind why the economies can't discover an exit from the liquidity trap. Buitier (2014), in his examination explains that, collaboration and simulation between the Central Bank and the currency chest is needed for this present reality execution of helicopter cash. The political situations and the requirement for an institutional system hold up traffic of effective execution of helicopter cash.

Buitier (2014) upholds the execution of the helicopter drop of cash and fosters a scientific structure to demonstrate that financial and monetary approach

the economic structure whether it will undoubtedly influence utilization under any conditions. The "execution" of this financial arrangement apparatus helicopter money presents different difficulties. The coordination between the money related and the monetary strategy is a need for its execution while in reality the two specialists participate in a situation of "who gets the main overall advantage?" Accordingly, the execution becomes political and how these political economy setting is handled in executing the helicopter money decides if it creates the ideal impacts of higher ostensible interest, or it prompts wild expansion and damage the freedom of the money related position. As said, under the financial predominance of rule-based guidelines where public consumption pressure as opposed to burden lightness decides the financial combination way, a re-investigate the financing design (not only the levels of deficits) of monetary projects and a whimsical money related arrangement apparatus like helicopter cash is invigorating. Helicopter money ought to be viewed as a two-sided deal. From one viewpoint, it could – as every now and again underscored by 'Tom Mayer' - easily empower a turnaround from our present credit cash framework to another cash framework, in which cash is not, at this point made as private obligation however as a resource which is supported by the guarantor's standing. Then again, helicopter cash could cause a deficiency of trust in the current cash and accordingly, at long last, to a cash emergency, in the event that it is carried out by expansion focusing on national banks to push inflation higher. Helicopter money, as illustrated according to the concepts states the contribution, imposes a heavy price. More or less, it implies giving up on monetary policy forever. Future research could hence endeavor to recognize approaches that may convey a similar impact as helicopter cash, yet that would have the option to safeguard the customary division among financial and monetary strategy.

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## **ACCESS TO MEDICINES AND HUMAN RIGHTS – A CRITICAL REVIEW OF INTERNATIONAL TRADE RELATED IP BARRIERS AND ITS OPERATION DURING COVID-19**

*Sushma George Mathew<sup>1</sup> & Parvathi Balachandran<sup>2</sup>*

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*Abstract - The Covid-19 pandemic, an international health emergency has brought back into focus the debate on access to medicines. Unhindered access to medicines is an essential prerequisite for achieving public health indicators. Even though India's public spending of health is relatively low, access to cheap and effective medicines for a wide variety of needs is a hallmark of the Indian health system. India clinched the sobriquet 'pharmacy of the world', when pharmaceutical companies such as the Serum Institute of India, Biological E, Dr Reddy's etc manufactured and supplied lifesaving drugs at comparatively trifling prices. A conducive intellectual property environment which barred product patents for medicines till 2005 spurred the growth of this manufacturing industry. The implementation of TRIPS obligations post-2005 and the current global health crisis has opened a cavernous need for the manufacture and supply of therapeutic and diagnostic equipment in large volumes. As the world turns to India, Brazil and South Africa to meet its needs, the countries are mooted a waiver of TRIPS protection on medicines and medical equipment.*

*The first part of this paper is a study of the WTO/TRIPS regime's approach to public health and access to medicines. The paper will examine the impact of the TRIPS provisions on public health, particularly the possibilities of a 'waiver' of TRIPS obligations or else the exercise of 'flexibilities' provided for under the TRIPS regime. While the 'waiver' of TRIPS obligations is an inherent part of the WTO system as agreed to in the Marrakesh Agreement, the highlight on 'flexibilities' including compulsory licensing largely draws on the jurisprudence generated by Doha Declaration on TRIPS and Public Health. The second part of the paper will juxtapose the WTO's rules on access to medicines vis-à-vis the wider human rights jurisprudence on right to health, and the consequences of this interaction between the WTO norms and human rights norms.*

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*Keywords – TRIPS, Doha Declaration, Public health, access to medicines, right to health*

## I. INTRODUCTION

The Covid-19 pandemic, an international health emergency that stares in the face of the world rages on. As emergency responses from social vaccines to advanced innovations in science are spurred on vehemently, the world of medical science places its best bet on vaccine formulations and treatment protocols, if life is to return to 'normal' at some foreseeable future.

In a span of one year and a little more, vaccines to prevent the intensity of the pandemic have made market entries, authorized by emergency use protocols of World Health Organization (WHO) as well as domestic regulators. In India too, 2021 heralded itself with much promise on the vaccine front. On January 2, 2021, the Drugs Controller General of India issued licenses authorizing restricted emergency use for Covishield (developed by Oxford-AstraZeneca consortium) and Covaxin (indigenously developed by BharatBiotech in collaboration with ICMR).<sup>3</sup> Front line health workers, police personnel, and municipality workers were given priority during the first phase of vaccination in February, 2021. By March, 2021, vaccines became available for those above 60 years of age as well as those above 45 years with co-morbidities. All along the initial months, concerns about vaccine hesitancy absorbed the attention of policy makers and governments. There was little discussion about vaccine availability and vaccine shortages. Therefore, it was no wonder that by March 10, 2021, India had also sent abroad 58 million vaccine doses to almost 65 countries under its so called 'Vaccine Maitri' scheme.<sup>4</sup>

By April, 2021, when the second wave of the pandemic had clearly hit Maharashtra, and Delhi, vaccine availability became a serious issue of concern. Reasons on what went wrong were aplenty – the Indian government did not give sufficient consideration to the idea of placing advance orders on vaccines (as other developed countries had done as early as June 2020), the government had been clearly lax in scaling up manufacturing capabilities, international and national patent regimes stood in the way of vaccine equity etc

<sup>3</sup> Press Statement by the Drugs Controller General of India (DCGI) on Restricted Emergency approval of COVID-19 virus vaccine, PRESS INFORMATION BUREAU - GOVERNMENT OF INDIA (May 11, 2021) [https://www.icmr.gov.in/pdf/press\\_release\\_files/HFW\\_DCGI\\_emergency\\_use\\_authorisation\\_03012021\\_2.pdf](https://www.icmr.gov.in/pdf/press_release_files/HFW_DCGI_emergency_use_authorisation_03012021_2.pdf)

<sup>4</sup> Vaccine maitri: 5.8 crore Made-in-India Covid vaccine doses supplied to over 65 nations, INDIA TODAY (May 11, 2021) <https://www.indiatoday.in/coronavirus-outbreak/video/vaccine-maitri-5-8-crore-made-in-india-covid-vaccine-doses-supplied-to-over-65-nations-1777871-2021-03-10>

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Gandhinagar, 30 July, 2021

Dr. Devi Parvathy  
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Central University of Kerala

And

Dr. Gigimon V S  
Associate Professor,  
Mar Gregorios College of Law,  
Thiruvananthapuram

We are happy to inform you, after peer review and revised submission the manuscript entitled, "*Crisis Communication During Pandemic: A Study of the Role of Police in Kerala's Pathanamthitta District*" has been considered by the Editorial Committee of the Journal of Law, Development and Politics (ISSN-0975-0193) for publication.

We thank you for considering the Journal for publication of your article. The article shall appear in the forthcoming issue, Vol. 11 Issue 2, October 2021, scheduled to be published in November/December 2021 (tentatively).

Sincerely,

For Faculty Editor

William Nunes

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**CRISIS COMMUNICATION DURING PANDEMIC: A STUDY  
OF THE ROLE OF POLICE IN KERALA'S  
PATHANAMTHITTA DISTRICT**

**Dr. Devi Parvathy**

**&**

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# CRISIS COMMUNICATION DURING PANDEMIC: A STUDY OF THE ROLE OF POLICE IN KERALA'S PATHANAMTHITTA DISTRICT

## Abstract

*Covid 19 has created heightened levels of tension and panic in the society. The State through its public health care system responded to the pandemic professionally by adopting the standard protocols recommended by the WHO and other designated agencies. The Health Department acted in tandem with the Revenue, Police, Local Self Government and the NGOs so that the efficacy of the systemic response could be improved. The present paper tries to analyse the role played by the police department in the Pathanamthitta district of Kerala State. The District Police had been campaigning through print, visual as well as social media platforms regarding the significance of social distancing, sanitizing etc. The district had no precedents or models to emulate. The police had to formulate strategies and practises within the broad framework provided by the state. The role played by the police force in the district in enforcing the standard protocols and operating principles, media communication, humanitarian assistance, is commendable. The strategies and measures taken and implemented by the district were effective and later those measures are recognised and adopted by the State as a standard model of controlling COVID-19. The paper does an analytical study on the diverse methods used by the police department in the district Pathanamthitta for communicating with the local people about the pandemic during the second phase of virus spread in Kerala during March, 2020. The paper uses crisis communication and risk communication framework expounded by Brewer, Palencher and Covello.*

**Key words:** Communication, COVID-19, Crisis Communication, Risk Communication, Containment, Pandemic.

## I. INTRODUCTION

Crisis and Emergency Risk Communication (CERC) is an increasingly recognized part of the arsenal of disaster risk-reduction<sup>2</sup>. Effective risk communication helps inform and alert the public about an unfolding or potentially hazardous event and about how the hazard could be controlled or mitigated. Effective crisis communication focuses on how a hazardous event is being controlled or contained, on mitigation measures and whether or not the risk management strategy is proving effective<sup>3</sup>. A crisis is a sudden and unexpected event with catastrophic impacts demanding urgent response from a variety of actors. Risk communication in disasters aims to prevent and mitigate harm from disasters, prepare the population before a disaster, disseminate information during disasters and aid subsequent recovery. The aim of this systematic review is to identify, appraise and synthesise the findings of studies of the effects of risk communication interventions during four stages of the disaster cycle.<sup>4</sup>

The US Center for Disease Control's (CDC) has published a manual on Crisis and Emergency Risk Communication (CERC 2014)<sup>5</sup>. The term "emergency" describes any public health event or incident presenting risk to life, health, and infrastructure including natural, weather-related, and manmade destruction, infectious disease outbreaks, and exposure to harmful biological, radiological, and chemical agents. The term "emergency" encompasses "crises" and "disasters".

Understanding the pattern of a crisis can help communicators anticipate problems and appropriately respond. For communicators, it is vital to know that every emergency, disaster, or crisis evolves in phases. The communication, too, must evolve through these changes. By dividing the crisis into the following phases, the communicator can anticipate the information needs of the media, agencies, organizations, and the general public. For each of these phases, specific types of information need to be created and delivered to your audience. The CERC

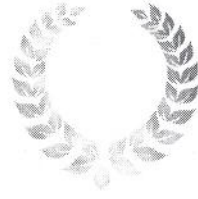
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<sup>5</sup> CERC: *Crisis Communication Plans* (U.S. Department of Health and Human Services, 2014).



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## Narratives of Contagion: A Post- Apocalyptic Reading of Jack London's The Scarlet Plague

POSTED ON: MAY 5, 2020 BY: ADMIN

Sherin M. Johnson

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### Abstract

Jack London's *The Scarlet Plague* published in 1912 emerged out to be one of the first in the genre of the apocalyptic fictions featuring a universal plague that nearly wipes out humanity. Stories about contagious diseases mainly existed from a long time back ranging from Thebes in *Oedipus Rex* to New York in *Angels in America*. Tracing the long tradition of the literary topos of plague in literature, the present paper envisages to

present a post- apocalyptic reading of Jack London's *The Scarlet Plague* which gains unprecedented relevance at a time when the world is battling with Covid-19 pandemic.

**Keywords:** post -apocalyptic, plague, contagious, pandemic

Jack London's *The Scarlet Plague* published in 1912 emerged out to be one of the first in the genre of the apocalyptic fictions featuring a universal plague that nearly wipes out humanity. Stories about contagious diseases mainly existed from a long time back ranging from Thebesin *Oedipus Rex* to New York in *Angels in America*. Mary Shelley's *The Last Man* (1826) is considered to be the prototype in apocalyptic literature, the first ever work to predict the extinction of the human race through a devastating pandemic. Mary Shelley was the first writer to foreshadow the extinction of the human race through a devastating pandemic. Shelley's powerful apocalyptic vision imagined the creation of a monster through combining body parts in *Frankenstein*; her *The Last Man* was her grand prophecy to the world where she imagined the depopulation and dismemberment of civilization itself. As the pestilence devastates almost the entire world and finally comes to Europe, there was nowhere left to go; there existed no refuge on earth devoid of this final terror. *The Scarlet Plague* is part of a long literary legacy of pandemic fiction wherein the literary topos of plague forms a consistent theme in literature. Boccaccio wrote *The Decameron* in the wake of the plague outbreak in Florence in 1348 to guide Italians on how to maintain mental well being in times of epidemics and isolation. In the Bible, the plague was depicted as one of God's punishments for sins. This causal relationship between plague and sin is seen also in Greek literary texts, such as Homer's *Iliad* and Sophocles' *Oedipus the King*. Later medieval writings such as *The Decameron* by Giovanni Boccaccio and *The Canterbury Tales* by Geoffrey Chaucer emphasized human behavior. The fear of contagion increased vices such as avarice, greed, and corruption, which paradoxically led to infection and thus to both moral and physical death.

Jack London was partly inspired by Edgar Allan Poe's short story *The Masque of the Red Death* published in 1842. *The Masque of the Red Death* is set in a medieval world plagued by a contagious disease that kills instantly. Poe's Red Death became the pandemic in Jack London's *The Scarlet Plague*, which on contraction caused the whole body to be turned scarlet within hours followed by death. The plague hit the world in 2073 and wiped out everyone disregarding any distinctions of nation class, gender or religion. One of the few survivors, James Howard Smith, tells his incredulous and near-savage grandsons how the pandemic spread in the world and about the reactions of the people to contagion and death. Even though it was published more than a century ago, *The Scarlet Plague* is unique in its power of contemporaneity as it allows modern readers to reflect on the global fear of pandemics, a fear that becomes so alive amidst the Corona virus outbreak of 2019. Contrary to other species of apocalyptic fiction, where the enemy can be alien invaders, chemical warfare or earthquakes, the enemy in contagion narratives is human beings itself, the touch and breath of fellow beings and in course of time the mere existence of other human beings proves out to be fatal .

A prolific writer of short stories and novels, Jack London was also the pioneer and innovator in the genre of science fiction whose classic works include *The Call of the Wild*, *White Fang* and *The Scarlet plague*. Being a passionate advocate of socialism and eugenics, his works often contain scathing critiques against capitalism and war like the dystopian novel *The Iron Heel*, *The People of the Abyss* and *The War of the Classes*. His concerns regarding Asian Immigration described as "the yellow peril" found expression in his short story *The Unparalleled Invasion* wherein a biological warfare is launched against China by western countries to control its population and protect European colonies in Asia from Chinese immigration.

London continues with the long tradition of pandemic novels in *The Scarlet Plague* yet significantly differs from them in its deep contemplation on the recent scientific discoveries by 20<sup>th</sup> century bacteriologists. In particular, the author focused his attention on behavioral responses to a pandemic, showing the emergence of fear, irrationality, and selfishness in a previously civilized and modern society. The popular misconceptions regarding epidemics as supernatural events occurring as a result of divine punishments were shattered.

Recent discoveries in the field had explained them as caused by germs that infect humans and epidemiologists and public health experts had shed light on the mechanisms of disease transmission, including suggestions of general preventive measures to limit pandemics. Despite these advancements in the scientific field, however, in London's time, the general public's fear of the invisible terror of contagions remained high.

When the novel begins in the year 2073, James Smith is one of the survivors of the scarlet plague who is now living as a shepherd dressed in primitive clothes "about his chest and shoulders hung a single, mangy garment of goat-skin" (London 1) and living like an animal. He narrates the story of the scarlet plague to his grandsons who "spoke in monosyllables and short jerky sentences that was more gibberish than a language" (1). Distressed by their primitivism, the former professor laments as he looks across the land that was once San Francisco "where four million people distorted themselves, the wild wolves roam today, and the savage of progeny of our loins, with prehistoric weapons defend themselves against the fanged despoilers. Think of it! And all because of the Scarlet Death" (4). James Smith echoes Jack London's argument on the decline and fall of humankind when he says "The human race is doomed to sink back farther and farther into the primitive night era again it begins its bloody climb upward to civilization." (6).

After the plague hit, civilization fell apart and the few survivors scattered in a primitive world had to fight for survival, echoing Darwinian theories: "Civilization was crumbling, and it was each for himself" (12). As had some earlier writers, London raised a harsh critique against the society that is seen as the ultimate cause of the world's destruction. In particular, in London's opinion, capitalism led to the rise in population and to overcrowding and overcrowding led to plague. Medicine and scientific progress were defeated by plague, as testified by the heroic death of bacteriologists who "were killed in their laboratories even as they studied the germ of the Scarlet Death. ... As fast as they perished, others stepped forth and took their places" (16).

As the human race in London's world was dying, the earth was being devastated by fires and conflagration. "The pandemic was perceived as the end of the world, the Apocalypse. Not only did the people fear their own death but they also had the terrible feeling of being at the end of the world, the cities were being destroyed by fire; the people were fleeing away in hysteria" (Riva 15). The stop in communication with the rest of the world was regarded by many as hopeless sign of death: "It was amazing, astounding, and this loss of communication with the world. It was exactly as if the world had ceased, been blotted out" (23). *The Scarlet Plague* published right before the World War gives also a warning about the cost of world war and the cost of living in a world. "Ten thousand years of culture and civilization passed in the twinkling of an eye" (12). James has decided it to be his life's mission to archive those ten thousand years, to store all the books he could find, even though he is the only man alive who knows how to read. The novel's final chapter expresses his optimism when he explains to his grandsons, who unfortunately cannot fathom any of this "In them is great wisdom... Someday men will read again"(52).

Through *The Scarlet Plague*, London shows how pandemics bring forth the deep rooted fears of humans and the modification of human behavior through that process. The pandemic breaks the social barriers and ultimately leads to the collapse of human civilization itself and the topos of plague is used to criticize the then contemporary social structure. Finally, London's novel reflects on the function of media during pandemics. "In London's novel, newspapers, wires, and phone calls were the only tools for obtaining information on epidemic spread. Today, the main sources of information on pandemics are widely available and include the mass media, such as television, radio, and print media such as magazines and newspapers; the Internet appears to be only partly used and mainly limited to younger age groups. The role of media seems to be positive but in modern times, the media are generally accused of exaggerating the risks of an epidemic and contributing to public misunderstandings of public health research evidence" (Riva 56).



The infectious motif becomes a critical element in understanding the significance of horror in human societies as horrible acts, whether natural or man made; produce a kind of cultural sickness that must be isolated, analyzed, and disarmed. It also serves as a metaphorical tool for writers and artists to come to terms with the dark forces and cataclysmic events pertaining to each age. The horrors of the two world wars followed by the first nuclear cataclysms have led to a realization that unpredictable events could triumph over technology and civilization and science and culture could contribute to man's decay. This is the critical point that infectious horror in the post-World War II tries to address. In the wake of Covid- 19 pandemic, Jack London's novel gains unprecedented relevance and authority in dealing with this profound crisis in a united and humanitarian way. We can hope that confronting our contagious fears in fiction will allow us to manage them better in real life.

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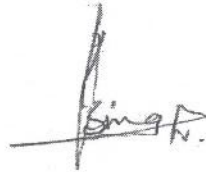
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**CERTIFICATE**  
**OF PAPER ACCEPTANCE**

This is to certify that the research paper submitted by Dr. Gigimon V S, Associate Professor, Dharmashastra National University, Jabalpur entitled, *“Incorporating of Indigenous values in Legal Education through Indic Narrative Literature”* is accepted for publication in MDU Law Journal, Vol. 24 January 2020, ISSN No – 2230 746X, Bi-Annual, Referred & Peer Reviewed Research Journal, published by Faculty of Law, Maharishi Dayanand University, Rohtak (Haryana).



**Dr. VED PAL SINGH**  
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Date: 10 April, 2020

# INCORPORATING INDIGENOUS VALUES IN LEGAL EDUCATION THROUGH INDIC NARRATIVE LITERATURE

Dr. Gigimon V.S. and Adithya Anil Variath \*

## Abstract:

The Government of India under the Ministry of Human Resources and Development (MHRD) came up with the Draft NEP 2019, which suggested reforming the legal education through culture and history to ascribe morality and ethics in the profession. There is no society without its legal history and civilizational indigenoussness. Any legal system which lacks the native and ethnic character of the society will ultimately fail the test of the time on the course of society's transformation. Modern legal education in India has largely been a baggage of colonial leftover, and there is an alacritous need not only to decolonise laws but also legal education. Reflection of Indic jurisprudence and civilizational values are pertinent for the sustenance of ethical legal education in India. However, the process of reflecting these ideas in the present education system is assorted with structural and procedural ambiguities due to uncoordinated and unstructured policy-making in Indian legal education. There is a great deal of hostility and academic dilemma amongst the principal protagonists – the BCI, UGC, and the Universities and Academic thinkers as to how these Indic principles can be reflected in the present system in its true spirit. The present paper is an attempt by the authors to contextually analyse the need to reflect conventional Indic jurisprudence in contemporary legal education.

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# Clinical Legal Education: A Virtual Mode of Access to Justice

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## Abstract

Legal education, all over the world uses a mix of practical and theoretical means to train students. For purposes of practical training, specialized legal clinics are established by legal education institutions to train the students to apply the classroom learnt law in live cases. These legal clinics serve dual purposes, first, of training students in the practical aspects of the law and second, providing access to justice to people in areas where it is difficult to get legal help and where reaching institutions of justice delivery is difficult. The pandemic situation prevailing world over now has had deep impacts in imparting legal education. The physical classrooms have turned into virtual classrooms, delivering only theoretical education and leaving doubts in the mind of students due to lack of practical training resulting from non-functioning of legal aid clinics in this situation. In order to ensure access to justice in India during the time of pandemic, the judiciary has taken recourse of virtual courts, whereby the listing and hearing of cases which require urgent hearing are done online. The same methodology has also been adopted by the National Legal Aid Service Authority by conducting virtual Lok Adalats where cases are entrusted to them. By studying the same mode of virtual courts and virtual Lok Adalats, the present paper aims to devise a working model to ensure that clinical legal education is continued in India during these times of pandemic, and that legal aid clinics work efficiently to ensure that people are not deprived of their right to legal assistance. The working model proposes a collaboration between the legal aid clinics of the universities and colleges and the justice delivery institutions to ensure dual purpose of legal aid clinics is met. The model will also be tested in the institution, and a pan India plan of action for implementing this model would be devised.

## CLINICAL LEGAL EDUCATION: A VIRTUAL MODE OF ACCESS TO JUSTICE

*Dr. Gigimon V.S. & Ms. Shruti Nandwana<sup>1</sup>*

### *Abstract*

Legal education, all over the world uses a mix of practical and theoretical means to train students. For purposes of practical training, specialized legal clinics are established by legal education institutions to train the students to apply the classroom learnt law in live cases. These legal clinics serve dual purposes, first, of training students in the practical aspects of the law and second, providing access to justice to people in areas where it is difficult to get legal help and where reaching institutions of justice delivery is difficult. The pandemic situation prevailing world over now has had deep impacts in imparting legal education. The physical classrooms have turned into virtual classrooms, delivering only theoretical education and leaving doubts in the mind of students due to lack of practical training resulting from non-functioning of legal aid clinics in this situation. In order to ensure access to justice in India during the time of pandemic, the judiciary has taken recourse of virtual courts, whereby the

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# Counter-Travel Narrative of Resistance: An Analysis of Jamaica Kincaid's *A Small Place* as a Counter –Travel Narrative

Sherin M. Johnson, Meenu. B

**Abstract:** This paper analyses Jamaica Kincaid's nonfiction travel work *A Small Place* from a postcolonial perspective in order to demonstrate it as a counter travel narrative against Western centric travelogues. A significant voice in Caribbean literature, Kincaid explores the tenuous relationship between mother and daughter as well as the themes of colonialism in her widely celebrated works of fiction and non-fiction. Her intensely personal, honest and provocative writings have earned her an appreciable place in the literary world. The publication of *A Small Place* in 1988 and *Lucy* in 1991 earned her bitter criticisms and reviewers were divided over the angry tone expressed in both works. In *A Small Place*, described as "an anti-travel narrative", Kincaid returns to her homeland after 20 years. She writes about post-colonial Antigua discussing problems that took place on the island during the 1980s, particularly addressing the issue of tourism. The article looks into how Kincaid inverts the idea of tourism as a normal and innocent activity by attacking the neo colonisers and revealing the point of view of the natives of Antigua.

**Keywords:** Postcolonial, counter travel, tourism, neocolonisers

## I. INTRODUCTION

A noteworthy voice in contemporary African American writing, Jamaica Kincaid was conceived in St. Johns, Antigua, when it was still under British pioneer rule. At seventeen years old in 1966, she moved to New York to function as a live in housekeeper. She didn't come back to Antigua until she was 36. By then Elaine Richardson had changed her name to Jamaica Kincaid and was an essayist for *The New Yorker*. Her first book, *At the Bottom of the River*, an accumulation of short fiction, was distributed in 1983, which made her a moment scholarly big name. Her first novel *Annie John* was pursued two years after the fact and furthermore ended up effective. *A Small Place*, distributed in 1988, got blended audits and was marked "an incensed article about prejudice and defilement in Antigua." Besides, *A Small Place* was the only one not recently distributed in *The New Yorker* in light of the fact that *The New Yorker* considered it to be excessively unforgiving and irate in tone. Thought about nonfictional and a life account, the book is a mix of social what's more, social analysis together with history of colonization to depict postcolonial Antigua. Her books and short stories are reminiscent depictions of family connections and her local Antigua wherein she investigates the repossession of oneself what's more, the attestation of individual autonomy notwithstanding dehumanizing history.

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*A Small Place* belongs to her non-fiction prose in which she records her angry response to her homeland when she visited there in 1986 for the first time in 20 years. This paper aims to analyze *A Small Place* from a post-colonial perspective in order to demonstrate it as a counter travel narrative against the dominant western travelogues. The book is divided into 4 chapters in two sections: In the first one, the narrator describes the usual experiences a tourist has in the island. In the second section, she recollects her memories and her experiences, portrays Antigua and its mesmerizing island. The book starts by informing the reader: "If you come to Antigua as a tourist this is what you will see" (Kincaid 1). The welcome tone soon changes to an accusatory one and the reader is compelled to occupy the position of the potential tourist. Even though the phrase "as a tourist" implies that the tourist gaze is the kind of gaze through which the narrative unfolds, the evolving narration soon makes us realize that the book is quite the opposite of a tourists guide; it is a sharp invective against tourism and neo-colonialism and a polemic against the tourist's gaze, especially the western tourist. She seeks disidentification and estrangement with her readers and their lived experiences in contrast to the typical travel narratives where the narrators place themselves in par with the readers and describe experiences which they can relate to and identify with. Kincaid's memoir opens up Antigua's long history of colonialism to negotiation, and provides a counter history from a decolonial perspective. The binary opposition of the colonizer and colonized is reversed at the emotional core of *A Small Place*'s attack on the white tourist are the same emotions historically directed at blacks by white racists" which are those "of disgust, contempt and anger. For Kincaid, the tourist constitutes a legacy of colonialism under the façade of tourism. She describes her homeland, Antigua, as an island in which exploitation, corruption and the mimicking of colonialism have become an unquestionable part of life. She says "As if, observing the event of tourism, they have absorbed it so completely that they have made the degradation and humiliation of their daily lives into their own." (Kincaid 43) Reversing the traditional roles of subject and object, the dominant and the dominated, she implores the American and European tourist to focalize the colonial discourse through the eyes of the oppressed and exploited subjects, rather than from that of the 'superior' colonizer west. She discusses the external forces that plagued the island and also points out the internal ones, namely corruption which exists today and are inherited from these external ones. Her effective use of repetition, anger and shame in *A Small Place* provoke her readers into recognizing past injustices that they have committed thus countering postcolonial ideologies of self and other. In her expedition towards

the colonial and neo-colonial legacy in Antigua, Kincaid's gaze adopts the perspective of different protagonists, Kincaid herself, the tourist and the native Antiguan. Her polyphonic narratorial voice employs the discourses of the Western tourist, the colonist, and the ex-colonized to convey the conflicting discourses on Antigua. In Kincaid's memoir, the tourists are a "collective Columbus, new colonists, brash cultural invaders" (Kincaid 25). She deconstructs the tourists gaze because according to her, the tourist is "an ugly human being, a piece of rubbish pausing here and there to gaze at this and taste that" (Kincaid 13). Her powerful strategy to counter the western gaze include addressing the reader as "you" with a bitter and sarcastic tone when she discusses Antigua's colonial history and tourism, and anger as the predominant mood of deployment (Moro 3). In the beginning of *A Small Place*, Kincaid addresses the reader directly with a sarcastic tone and says "And so you needn't let that slightly funny feeling you have from time to time about exploitation, oppression, domination develop into full-fledged unease, discomfort; you could ruin your holiday" (Kincaid 10). In *A Small Place*, whether she talks about the neocolonial present or the colonial past, the main feature of the narrator's voice is her anger. She seems too angry to leave her past: "But nothing can erase my rage-not an apology, not a large sum of money, not the death of the criminal-for this wrong can never be made right, and only the impossible can make me still: can a way be found to make what happened not have happened?" (Kincaid 32). Throughout the text, the repetitive use of the word 'you' is used perhaps as a means to confront the perpetrators and remind them of the heinous crimes and injustices they have inflicted on Antigua's past. You disembark from your plane. You go through customs. Since you are a tourist, a North American or European - to be frank, white - and not an Antiguan black returning to Antigua from Europe or North America with cardboard boxes of much needed cheap clothes and food for relatives, you move through customs swiftly, you move through customs with ease. Your bags are not searched. You emerge from customs into the hot, clean air: immediately you feel cleansed, immediately you feel blessed (which is to say special); you feel free. (Kincaid 4-5) Kincaid here seems to address a certain tourist, who has some awareness on Antigua's history of colonization and the exploitation that it undergoes at present in the name of tourism. The tourist that she implies is a "North American-to be frank, white" (Kincaid 4), who views Antigua and its people in terms of his own standards, desires and perspectives. Through repeating the word "you" many times in this passage, Kincaid is attacking and accusing the tourists but it is probably her way of writing about different perspectives in order to allow the readers to understand different sides of Antigua. By reversing the colonial gaze, she reduces the tourist to the level of humiliation and dehumanization. The same emotions of disgust, contempt and anger used to dehumanize the blacks are now directed against them, tourists are reduced to the level of humiliation and dehumanization, thus putting them in inferior position and rebuking them. During the narration, Kincaid describes the experiences of the tourist and compares it with that of an Antiguan. She also uses irony to mock his ignorance about various aspects of the island and its inhabitants. She uses this template to introduce and explain the various problems and scandals occurring in her country. The tourist in *A Small place* is turned to an "ugly

human being" (Kincaid 14. She says: "Every native would like to find a way out...But some natives cannot go anywhere. They are too poor to escape the reality of their lives." (Kincaid 18). Even after decolonization, the balance of power has not changed. Caribbean countries still suffer from poverty and inequality. Neocolonists under the façade of tourism has replaced colonists. "While they lay in private beaches and stay in luxurious hotels, Antiguan remain poor citizens whose government is least concerned about improving their living conditions" (Moro 47). Interesting to note is her attitude towards her own people when she finally turns against the Antiguan. She switches from the position of the oppressed insider to that of the privileged outsider. Consequently, the previous 'we' is now divided into 'I' and 'them'. She is capable of understanding the situation of the island and its people, a reality that the Antiguan are not able to comprehend still, because they have succumbed to a destiny from which she has escaped long ago. When she turns against the English colonialists, she places herself with the Antiguan and with the colonized in general: "But what I see is the millions of people, of whom I am just one, made orphans" (Kincaid 31). Kincaid presents a detailed description of the landscape with the sad and bitter narratives of the colonial past and the postcolonial present. "The picturesque sea that we perceive through the eyes of the tourist is transformed into a horrifying palimpsest carrying multiple narratives of its own land. She traces the incongruity of the dilapidated cars and the expensive car models running on them. Even the electric and telephone poles lining these roads and the cars running on them marked by power politics are shown to be perfect manifestations of corrupt postcolonial eco-political alliances" (Sethi 3), thus offering her readers a powerful and engaging critique of a debilitating colonial enterprise and an equally oppressive neo-imperial world politics and the inevitable linkages between them. She makes use of "tourism" as the template to carry this critique. The narrator addresses the figure of the modern tourist and takes him on a tour of Antigua on her terms. She juxtaposes the 'real' picture of the island with the romanticized façade built by tourist guides. The hospital building exposes the terrible and non-existent health system, the old library building stands for the decaying system of education, the long periods of drought that the natives must suffer lures behind the beauty of the sun and the sea. In sharp contrast to most travel narratives where the traveller exercises the power to perceive and reflect on, the narrator presents the psyche of a typical First World white male tourist as he explores Antigua, as well as her narrative, which constantly combats the tourist stereotypical gaze. In her endeavor to dehistoricize and decontextualize the tourist gaze, she mocks at the incongruity of the bad roads, the expensive Japanese car, and the latrine like hospital and school and urge the traveller to revisit his knowledge of history which is full of glorified narratives of West erasing a history of the colonial narrative of oppression.

## II. CONCLUSION:

Kincaid's critique of tourism in Antigua reverses traditional travel writing trends in which First world perceptions dominate over the Third world. In most

travel narratives, the traveller is the one possessing the power to see, while his presence remains invisible, in *A Small Place*, this gaze is inverted and the tourist and his gaze are made visible. Thus, the narrator simultaneously presents the psyche of a typical First World white male tourist as he explores the new space of Antigua, as well as her narrative, which is constantly in conflict with the tourist's superficial gaze. The two accounts, thus, seem to co-exist. She collapses binaries oppositions such as tourist/native and black/white to argue that tourism is implicated in this hegemonic process. Making use of the metaphor of a guided tour, she redirects the imperial gaze. Thus *A Small Place* can be considered as a "counter-travel" narrative as it sets itself against the dominant western centric form of the travelogue. Using the second person, she immediately puts herself in a position of superiority in relation to the tourist. It is the black woman who now takes the control and reverses the dominant cultural conceptions and the canon of travel literature and imposes herself above the white man. Kincaid reverses the colonial and racist discourses. She takes the language of the white man and uses it to attack him. Using his tools, she tries to show the tourist/reader how and why the presence of a person like him is not accepted by Antigua natives, and tries to make him feel ashamed, the shame colonized people like her had to suffer for not being white and European. The racism ideology that prevails in Western societies is inverted. In *A Small Place*, it is the white man who assumes negative features; it is the tourist who becomes the outsider. "An ugly thing, that is what you are when you become a tourist, an ugly, empty thing, a stupid thing, a piece of rubbish pausing here and there to gaze at this and taste at that...people who inhabit this place in which you have just paused cannot stand you...they laugh at your strangeness. They do not like you. (Kincaid 17). Her last chapter expresses her intense desire for her home as a small and simple place in all its ordinariness rather than an unreal and eroticized spectacle for the outsiders gaze.

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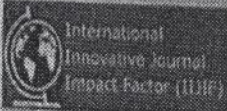
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## E-COMMERCE TREND AND ISSUES: SPECIAL REFERENCE TO LEGAL ISSUES INVOLVED IN E-COMMERCE

\*Sajisivan. S

### Abstract

21<sup>st</sup> Century in which we all are living technology has become a necessity and therefore, its application in business and commerce are not a matter of choice but a matter of compulsion. Today e-commerce has become an integral part of everyday life. Accessibility to e-commerce platforms are not a privilege but rather a necessity for most people, particularly in the urban areas. The use of commerce is conducted in this way, spurring and drawing on innovations in electronic funds transfer, supply chain management, internet marketing, online transaction processing, electronic data interchange, inventory management systems, and automated data collecting systems. Business to Business E-commerce has enabled various businesses to build new relationships with other businesses for efficiently managing several of their business functions. Privacy policies and procedures should be clearly explained to customers. Although respecting consumer privacy rights is a legal requirement, it also represents good business practice.

**Key words:-** E-Commerce, Business, Commerce, Technologies, Legal Issues, Legislative Dilemma. Business to Business

Approximately more than 100 countries now enjoy Internet access, and a recent survey reported that there are approximately 20 million Internet hosts worldwide. The number of Internet users is currently estimated to be in the region of 100 million people.<sup>12</sup> In 21<sup>st</sup> Century in which we all are living technology is become a necessity and therefore, its application in business and commerce are not a matter of choice but a matter of compulsion.<sup>3</sup> This is why the global competition could be faced with the five vital components namely quality, cost, convenience, communication and time could be attainable if we make transactions electronically. These five facets are also of paramount significance when we have to face stiff and throat cutting competition. E-commerce presents a world of opportunity for doing businesses, reaching global markets and purchasing without leaving the home or office.

Today e-commerce has become an integral part of everyday life. Accessibility to e-commerce platforms is not a privilege but rather a necessity for most people, particularly in the urban areas. There are alternative e-commerce platforms available (instead of the traditional physical platforms)

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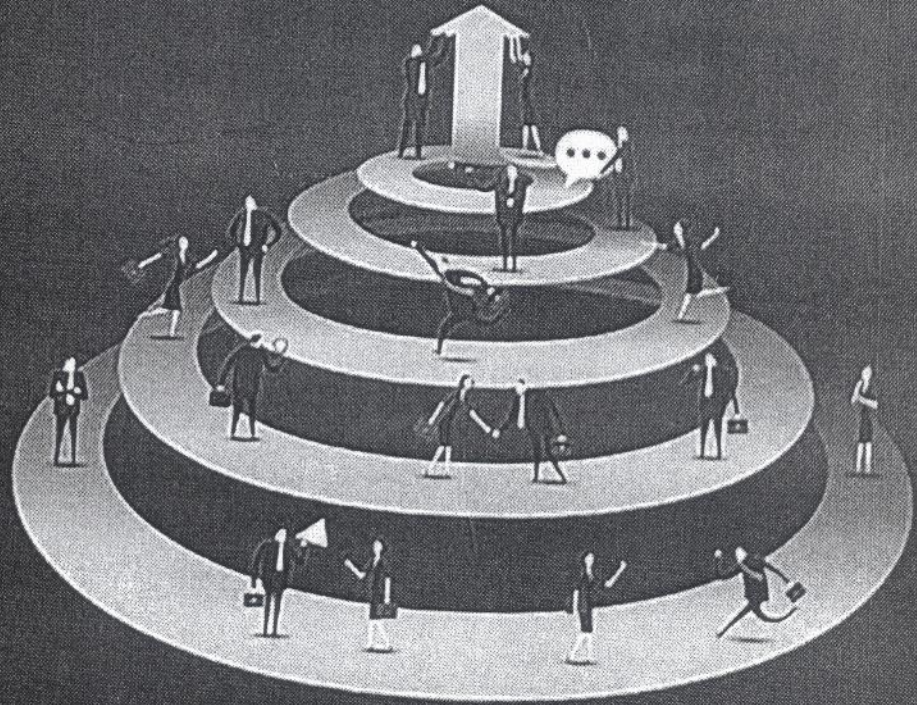
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