

*School of Law*



# Lex Scripta

Penning the Change

## Edition VI

An initiative by the students of SLCU

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## *Message from The Director*

**Fr. Benny Thomas.**

Words, either spoken or written are a lawyer's greatest tool. It is highly imperative for both legal aspirants and lawyers akin to keep pace with the contemporary affairs of the society and to be able to articulate upon same. In furtherance of this, *Lex Scripta* aims to provide the School of Law community with a well- rounded platform to showcase their writing skills. Being an initiative taken by students of School of Law, *Lex Scripta* has proven to be highly effective through its several editions published in the past. This edition focuses on the contemporary issues- that have affected the global community at large as well as the Indian community in particular- which trigger's one to deliberate upon the same. Hence, I am certain that this edition too will receive a great response. I hope that Lex Scrpita grows with a souring spirit, fervour and zeal. I wish you all the very best.





## Message from The Associate Dean & Head Of Department

Dr. Somu C.S.

*Lex Scripta*, providing a golden platform for the School of Law community, is a great success. The vigour and conviction with which the students have produced the present edition of *Lex Scripta* must be commended. It is pertinent to note that this could not have been achieved had it not been for the valuable contributions of students and teachers. I take this opportunity to convey my gratitude to the teachers for their care and guidance and the students for their perseverance towards this publication.

It is essential for a lawyer to be able to articulate one's thoughts effectively through a medium of writing. Such an ability is a fundamental aspect of being a good lawyer. Pursuant to this object, *Lex Scripta* provides a nurturing platform to help the School of Law community to develop this fundamental skill. It give the students and teachers alike, an opportunity to voice their opinions through the strongest mode of articulation i.e. writing. I urge the students to make the best of this opportunity and to reach new heights.



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*I know why the caged bird sings -  
Poem by Maya Angelou*

*A free bird leaps on the back  
Of the wind and floats downstream  
Till the current ends and dips his wing  
In the orange suns rays  
And dares to claim the sky.*

*But a bird that stalks down his narrow  
cage  
Can seldom see through his bars of rage  
His wings are clipped and his feet are tied  
So he opens his throat to sing.*

*The caged bird sings with a fearful trill  
Of things unknown but longed for still  
And his tune is heard on the distant hill for  
The caged bird sings of freedom.*



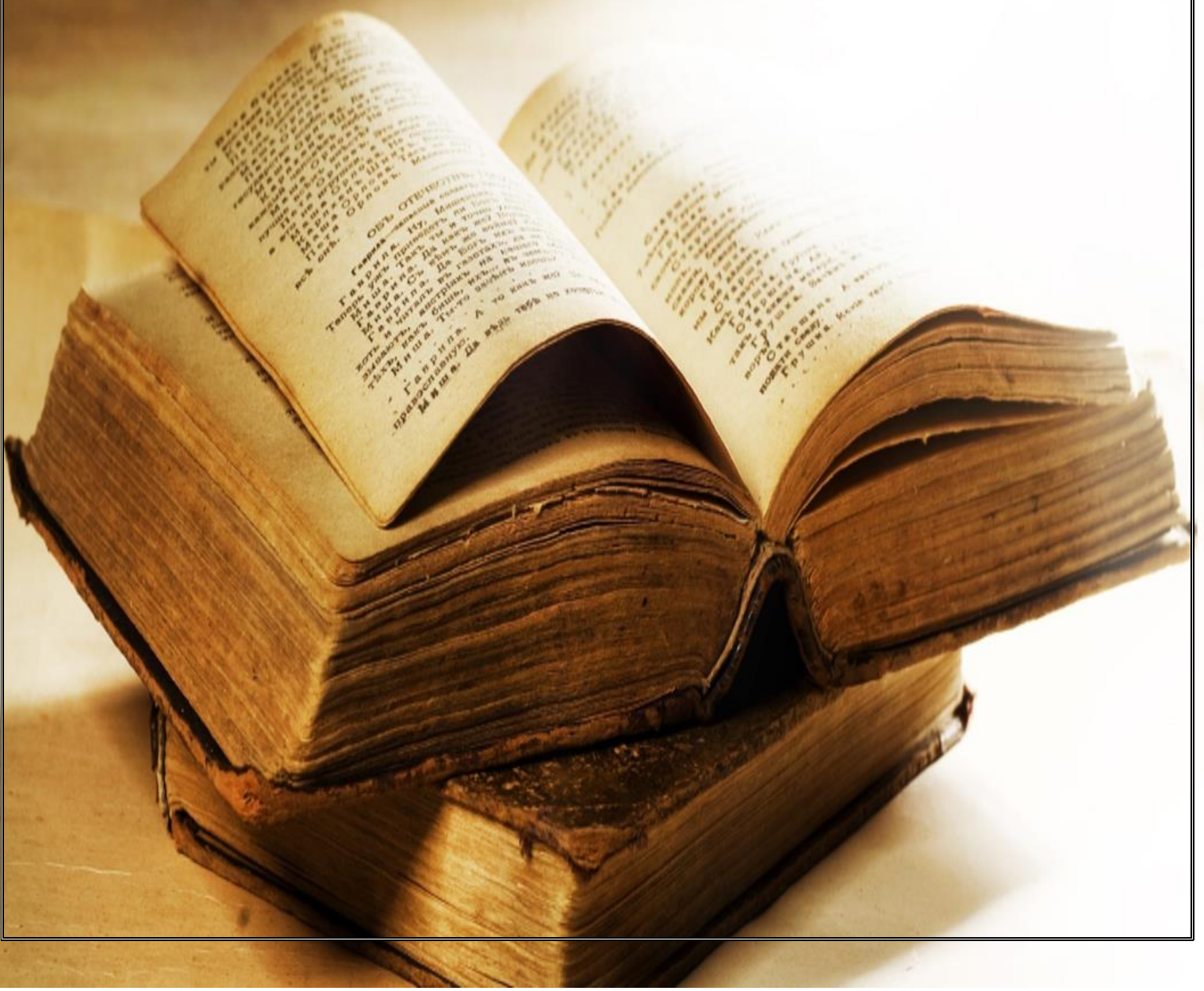


*But a caged BIRD stands on the  
grave of dreams  
His shadow shouts on a nightmare  
scream  
His wings are clipped and his feet  
are tied  
So he opens his throat to sing.*

*The caged bird sings with  
A fearful trill of things unknown  
But longed for still and his  
Tune is heard on the distant hill  
For the caged bird sings of freedom*



# ARTICLE WRITING





I will make you an Amendment, you can't refuse!

-Colin Cherian Shaji

Two things are common in most Hollywood zombie movies. Firstly, the outbreak epicentres round a major American city and secondly, the protagonist finds a stash of ammunition with which he defends himself from hordes of the undead. As a child, I was inquisitive on the question that on event of such an outbreak in my home-state; where can I get supplies of ammunition from? Since I lived in a country with strict gun-laws, I have to admit, at that point of time, I did prefer living in a pro-gun rights society where ammunition is in abundance and by such means, I could defend myself when a horde pays me a visit through my front door!

The law that helps the protagonist to find ammunition in the "World's greatest Nation" is the Second Amendment of the Constitution of the United States of America. Passed by the Congress on September 25, 1789, it is one of the components of the 'Bill of Rights.' The Amendment reads;

"A well-regulated Militia, being necessary to the security of a Free State, the right of the people to keep and bear Arms, shall not be infringed."

The peculiar construction of the amendment has led to speculations as to what were the true intentions of the founding fathers when adding this provision. Over time, two theories have risen. One group asserts that the Amendment's phrase "the right of the people to keep and bear Arms" provides individual rights to a citizen to carry Arms and the state shall not legislate any law to obstruct such a right. Another group establishes that the phrase "a well-regulated Militia" means such bearing of Arms should be for the protection of the state against tyranny. In a time where duels were legal and carrying a concealed weapon was permissible such much as carrying your cell phone today, whether the amendment meant the former or the latter is hard to remark upon.



The Court's instance on its interpretation varied over time. In *United States v. Miller* (1939), the Supreme Court took to the latter's view. For seven decades, the view of the Supreme Court remained unchallenged. In 2008 and since then, with the judgement of *District of Columbia v. Heller*, the Supreme Court altered its instance to the former's theory. However, both the theories agree that the purpose of the Amendment is to protect the 'civic liberties' of the citizens. However over time, this purpose became forgotten. Pro-gun supporters in America argue that today their right to bear arms doesn't only constitute in defending themselves but also for leisure purposes such as hunting, target practise and others. However, that is just one side of the coin.

Since its existence, two centuries ago, it has done more harm than good. From assassination attempts on President's to high profile killings, gang-wars, massacres and rising homicide rates due to gun violence, the debate on the 'Second Amendment Rights' existed much even before the recent headlines of the Orlando shootings and the Sandy elementary school tragedy!

One will be curious; since the American history is plagued with such instances then why is such an amendment even in existence? Though many reasons may be given, we will stick to the argument of the many pro-gun rights groups; erasing the Amendment, is waiving off a civil liberty.!

Contrary to the belief that pro-gun rights groups seek to repeal the right to bear arms, they seek to place stricter rules and cover loopholes in the law or as (the soon-to-be former) President Barack Obama put it; "keep guns out of the hands of potentially dangerous people who shouldn't be allowed to own a deadly weapon"

Presently, in the United States, guns can be bought from stores, government agencies, online/ live shows or auditions or through private individuals. Anyone not disqualified by the provisions of the Brady Handgun Violence Prevention Act (1993) and by a background check, can own a gun. The armed violence in the United States is not as bad as it is in the fictional state of 'Wadiya' or Sao Paulo but the citizens want to live in a 'Shangri-La.'



It is no secret that people don't feel safe anymore in America. When was the last time you heard about someone defending himself with a gun? In contrast newspapers are filled with stories of muggers robbing couples by holding them at gun-point or gunmen executing a massacre or other gun related violence.

In the 21<sup>th</sup> century, the second Amendment has lost its true quintessence which the United States' Constitution tried to accomplish. Today the Amendment is used widely to distort the provisions of law and to forcibly take away another's civic liberties, contrary to its purpose. The pro-gun supporters don't argue that by suppressing or waiving off the rights, the crimes will decrease, instead their emphasis on the fatality and severance of such crimes will be far less than the present situation.

In the April of 1996, a lone gunman killed 35 people and injured many others in the Commonwealth of Australia. This pressured the government to enact the National Agreement on Firearms Act that prohibited automatic and semi-automatic rifles, strengthened the licensing procedure-system and stringent ownership rules. Many supporters of the pro-gun control in America see this as a Model policy for the United States because as a consequence of the Act, there has been a decline in gun-related deaths and an absence of any gun-related mass killings in Australia since 1996.

Two decades ago, the United States government enacted the Federal Assault Weapons Ban (1994). The ban for a period of 10 years, forbade the manufacture of assault weapons for civilians. During this period, crimes carried out by the use of assault weapons declined. However, the ban was not extended nor was similar bans implemented in the country for the reason of it challenging the Second Amendment. The Amendment stood to hinder even the rules and regulations to curb armed violence.

Is the Second Amendment a bane or boon for the United States? From the above passage it is quite clear, though once upon a time it sought to be a guard against tyranny and despotism; it has evolved into a failure today. Guns are deeply imbedded into the American culture. Whether it's George Washington or a gun-



slinger from the west or a Republican, all of the above professed their right to 'bear arms.' Uncle Sam's amendment is hard for America to part with. The Northeast region of the United States has the least number of gun owners, three regions; the Midwest, the South and the North have the largest concentration of gun owners in the country. Unless North, South, East and the West come together to undo the writings of their ancestors, the Second Amendment is likely to stay. However polls by Gallup and Pew-research indicate a change in public-opinion after the recent armed violence and shootings.

Unless of course there is a zombie apocalypse in the 21<sup>th</sup> century, the Second Amendment has been a boon to the American Society..... What will change the tide of the majority opinion is not known, however waiting for such a catastrophe to change it, is unwise.



## GAME CHANGER IN THE INDIRECT TAX REGIME: GST

Tushar Gupta

The Goods and Services Tax that has been recently passed by both the Houses of Parliament is considered to be the biggest game changer in the indirect tax regime. It is considered to be the biggest tax reform in India since 1947. GST Bill that was pending in the Rajya Sabha was finally passed on August 3, 2016, with the consent of all the members of the Rajya Sabha. France was the first country to have introduced GST in 1954. Presently there are 165 countries who have already introduced GST indirect taxing system. India is the 166<sup>th</sup> country to have introduced GST by way of the 122<sup>nd</sup> Amendment to the Constitution of India.

Before we proceed further, it is important for us to understand the concept of the Goods and Services Tax. There was long pending issue to streamline the different types of indirect taxes in India and introduce a single taxation regime. The purpose of introducing GST in India was that earlier our indirect taxation regime was full of uncertainties due to multiple tax rates. Due to multiple tax rates for various purposes there were various forms for the same and in turn it led to cumbersome circumstances. The introduction of GST will improve taxation compliance.

GST is a consumer based tax which is levied when the consumer buys goods and services. The main expectation from this system is to abolish all indirect taxes such as service tax, Central Excise Duty and only GST would be levied. As the name corresponds, the GST will be levied both on Goods and Services. GST is an indirect tax that means it is passed on till the last stage where the customer of the goods and services bears the tax. This is the case with most of the indirect taxes but the difference with the introduction of GST is that with streamlining of multiple taxes in India there will be an elimination of double charging in the system.

In most of the countries there is a single taxation structure while in India we have a dual tax structure. In order to bring about uniformity in the taxation regime there was a need to introduce GST.

The taxes which will be replaced by the Central Goods and Services Tax include Central Excise Duty, Additional excise duty, Service tax, Contravening duty, Additional duty of customs, Surcharge, education and secondary, higher education cess. These taxes will be replaced at the central level. In the states, taxes such as Value Added Tax, Purchase tax, Entertainment tax, Luxury tax, Lottery tax, State surcharge and cesses shall be replaced. However, there are some taxes which will still not be replaced by GST. These include Customs, Stamp duty, Petroleum, Electricity tax, Petroleum to name a few.

Since all these taxes are applied on the consumption side and not on the manufacturing side, therefore there will be few manufacturing states such as Tamil Nadu, Gujarat, Maharashtra which will incur losses once the GST bill gets implemented. Therefore, the central government will pay compensation to all those states for losses for a period of 5 years.

Administration of GST will be the responsibility of GST council which will be the apex policy making body for GST, members of GST council will comprise of central and state ministers.

The levy of GST will be administered by Union finance minister as chairman, Union minister of state in charge of revenue or finance, Minister in charge of finance or taxation. Any other minister nominated by each state would constitute the council.

The rate at which GST shall be levied has still not been decided. It has been proposed that the rate of GST to be levied would 18%. The most important benefit of GST is that it would lead to the integration of the economy. This will also boost the GDP of the country by at least 2%. It will lead to greater cost competitiveness as your competitor will not get any sort of benefit based on the location and product basis.

It is also important for us to examine who will benefit the most by the introduction of GST. Consumption that the two-wheelers, small cars, commercial vehicles would witness tax outgo of 27 percent. With the introduction of GST, a standard of 18 percent



would be levied, resulting in a 9 percent reduction which could then be utilised in reducing vehicle prices and stimulate demand. The sector dealing with house building sector is another which is expected to benefit from the introduction of GST. The reason being that currently this unorganized sector benefits from tax evasion and imposition of lower rate of tax at 18% as compared to current duty at 25-27% can be considered to be beneficial.

Cement industry is another sector which is expected to benefit. The reason for the same is that though 18% tax rate will be lower than what the companies are paying now, we believe that the companies will pass on the benefits to the consumer as demand still remains weak. This sector will benefit only when the pricing power is strong in the hands of the manufacturers.

Consumer durable is a yet another sector which is expected to benefit from the introduction of GST. The unorganized segment of the consumer durable segment have been evading the indirect taxes for many years now. The introduction of GST will bring them within the ambit of indirect taxes and would most likely impact their competitive advantage in terms of pricing. The narrowing of the price differential between the organized and unorganized players would help the organized players increase their market share. There are other sectors too which will benefit from the introduction of GST.

To conclude, we can state that this can be considered as the biggest tax reform in India which almost took 16 years to be passed by the government. The major reason for delay in its implementation was that many states didn't agree as under this particular taxation system, as they were going to incur losses. Therefore government came up with the proposal that all the losses will be compensated for the first 5 years. It took a long time to be introduced in India and it is expected that it will bring about great benefits to various economic sectors and also reduce the cascading effects of multiple taxation system which was prevailing earlier, thus GST will remove all the taxation compliances in the indirect taxation regime.

## GST: WHO WILL IT BENEFIT THE MOST?

-JYOTSNA GABRIEL

“An example of bold policy in an otherwise difficult global economic scenario”.

This is how The US President Mr. Barak Obama praised Prime Minister Narendra Modi for enacting the Goods and Services Tax<sup>1</sup>.

The introduction of Goods and Services (CGST) would be a very significant step in the introduction of indirect tax reforms in India. Only by amalgamating various Centre and State taxes into one tax, would it mitigate various cascading effects in a major way and thus pave the way for a more “Common national Market”-which will eradicate the issue of Double Taxation (i.e. Tax on tax) or multiple tax!<sup>2</sup>. From the consumer point of view, the biggest advantage will be: the reduction in the overall tax burden on goods, which is currently estimated to be at 25%-30%<sup>3</sup>. Other benefits of introducing GST would make our products more competitive in both National as well as International Markets and would thus instantly spur economic growth. GST would no doubt be a transparent tax and would thus be easier to administer.

India is a federal country where taxation powers of Centre and State are clearly defined in the Constitution<sup>4</sup>. The idea of moving towards the GST was for the very first time mooted by the then Union Finance Minister Shri. P. Chidambaram. The further roadmap of the GST was brought about by the Empowered Committee of State Finance. It was only that the EC in its First Discussion Paper (FDP) implemented GST in November, 2009<sup>5</sup>.

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<sup>1</sup> <http://www.gstms.in/topic/2933>

<sup>2</sup> See more at: <http://business.mapsofindia.com/india-tax/double-taxation-india.html#sthash.AAyJLjq9.dpuf> last seen at 01/09/2016

<sup>3</sup> Sumit Dutt Majumder, GST in India, Pg .577 , (CENTEX Publications Pvt. Ltd., 2014 1<sup>st</sup> ed, 2014)

<sup>4</sup> Ibid 3 , 43

<sup>5</sup> Ibid 3 , 578



With The “Imperfect Model” failure and series of aborted steps taken up with the implementation of VAT has led to a more comprehensive tax regime being brought up in the budget. If the VAT is considered to be a major improvement over the pre-existing Central excise Duty at the National level and the sales tax system at the State level , then the GST will be further significant breakthrough-the next logical step-towards a comprehensive indirect tax reform in the country. Previously, the Constitution of India empowered Centre and State Government to impose various types of direct taxes (e.g. Income Tax) as well as indirect taxes (Excise Duty, Central Sales Tax, Service Tax<sup>6</sup>, Security Transaction Tax –STT ). With the introduction of Goods and Services Tax Bill or GST Bill, officially known as The Constitution (One Hundred and Twenty-Second Amendment) Bill, 2014, a proposed national VAT will be now implemented in India.

What does single GST entail? According to a study by the National Council Economic Research (NCAER), full implementation of the GST could expand India’s growth of GDP by 0.9-1.7%<sup>7</sup> by merging Central Excise Duty, Service Tax and Sales Tax into one, thereby increasing the total revenue and creating a common market. By removing the system of multiple Central and State taxes, the GST can help in reducing taxation and filing costs and expand business profitability, thereby attracting investments and promoting GDP growth. Simplification of Tax norms can help in improving tax compliance and increasing tax revenues, hence reducing the burden on common man and setting a limit to price rise.

Taxation is fundamentally ‘Economic’ or ‘Development related’ undertaking by which policy makers generate revenue for socio-economic development. It is estimated that introduction of GST will increase the wealth of India to \$ 15 Billion<sup>8</sup> as it would boost growth, raise employment, and increase exports. Boost in the growth will finally boost the Revenue of the country.

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<sup>6</sup> Jagdish Ganu Sutri, A Human Rights approach to Goods and Services Tax, 1 , available at file:///C:/Users/Acer%20pc/Desktop/6D9DB6D8-6E0F-420B-BB55-86667AFFA884%20(1).pdf

<sup>7</sup> Business Standard, [http://www.business-standard.com/article/economy-policy/gst-bill-who-will-it-benefit-the-most-116080100301\\_1.html](http://www.business-standard.com/article/economy-policy/gst-bill-who-will-it-benefit-the-most-116080100301_1.html) last seen on 11/09/2016

<sup>8</sup> Ibid 6 , 3

Before the advent of GST policy, a system of Double Taxation has been working when an individual is required to pay two or more taxes for the same income, asset, or financial transaction in different countries, thereby constituting a significant concern for the Tax payers.<sup>9</sup> The following are the most benefited from GST.

- Trade , Agriculture and Industry:

The comprehensive Tax regime will help lowering the tax burden on an average dealer in industry, trade and agriculture which will result in widening of the tax base and better tax compliance<sup>10</sup> .

- Exporters :

The entire Compliance cost gets reduced by the introduction of uniformity in tax regimes across the country, by the reduction in the cost of locally manufactured goods and services. This will, thereby increase the competitiveness of Indian goods and services in the International Market thereby giving a boost to the Indian Exports.

- Small Entrepreneurs and Small traders:

Once GST is rolled out, thousands of Startups and small business currently having an annual sales turnover of Rs 5Lakh – 10Lakh will be out of the tax net providing relief to them from collecting and filing GST returns.

- Companies:

Under GST, companies in a chain will have to pay tax only on the value-addition and not on entire underlying value of product/service. So, the actual tax paid will likely be small and reduce the incentive for evasion hence bringing more transparency.

- Common Consumers:

With the introduction of GST all the cascading effects of CENVAT and service tax will be more comprehensively removed. Thus GST will be levied in at the final destination of consumption based on VAT principle and not at various points (from manufacturing to retail outlets), thereby reducing and removing the economic distortions. Other things remaining the same, the burden of tax on goods would, in general fall under GST and that would benefit the consumers.

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<sup>9</sup> Double Taxation System in India, available at <http://business.mapsofindia.com/india-tax/double-taxation-india.html>, last seen on 07/09/2016

<sup>10</sup> GSTseva.com, available at [http://www.business-standard.com/article/opinion/how-gst-will-benefit-traders-and-manufacturers-115011100797\\_1.html](http://www.business-standard.com/article/opinion/how-gst-will-benefit-traders-and-manufacturers-115011100797_1.html) last seen on 08/09/2016



- IT infrastructure:

The issues of IT industry will now be addressed expeditiously and in a time bound manner by tying up State Infrastructure facilities with those of Centre<sup>11</sup>.

- GST will improve ease of doing business in India:

Making compliance easy by removing the distinction between goods and services, and making invoicing easier for business by adopting one rate<sup>12</sup>

GST is no doubt one step towards simplifying the muddled up tax system in India <sup>13</sup>. Despite the various impediments to the proposed transition, once implemented, GST is likely to usher in a more taxpayer friendly regime that could help make various business decisions 'tax neutral'. It will help making the economy stronger and even more powerful by integrating it to an undivided Indian market. It is thus time to move up, and raise a big step forward in bringing up single tax rate in the country. Therefore, the said GST will definitely be a “Good GST” to start with, while aspiring for the “Best GST” in the near future.

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<sup>11</sup> Ibid 3 , pg. 539

<sup>12</sup> Gstbharat.co.in, also available at <http://www.gstindia.com/gst-advantages-for-startups-and-small-businesses/> last seen on 09/09/2016.

1. <sup>13</sup> Rumani Saikia Phukan, GST-How will it affect India, also available at <http://www.mapsofindia.com/my-india/government/gst-one-step-towards-simplifying-the-muddled-up-tax-system> last seen on 07/09/2016

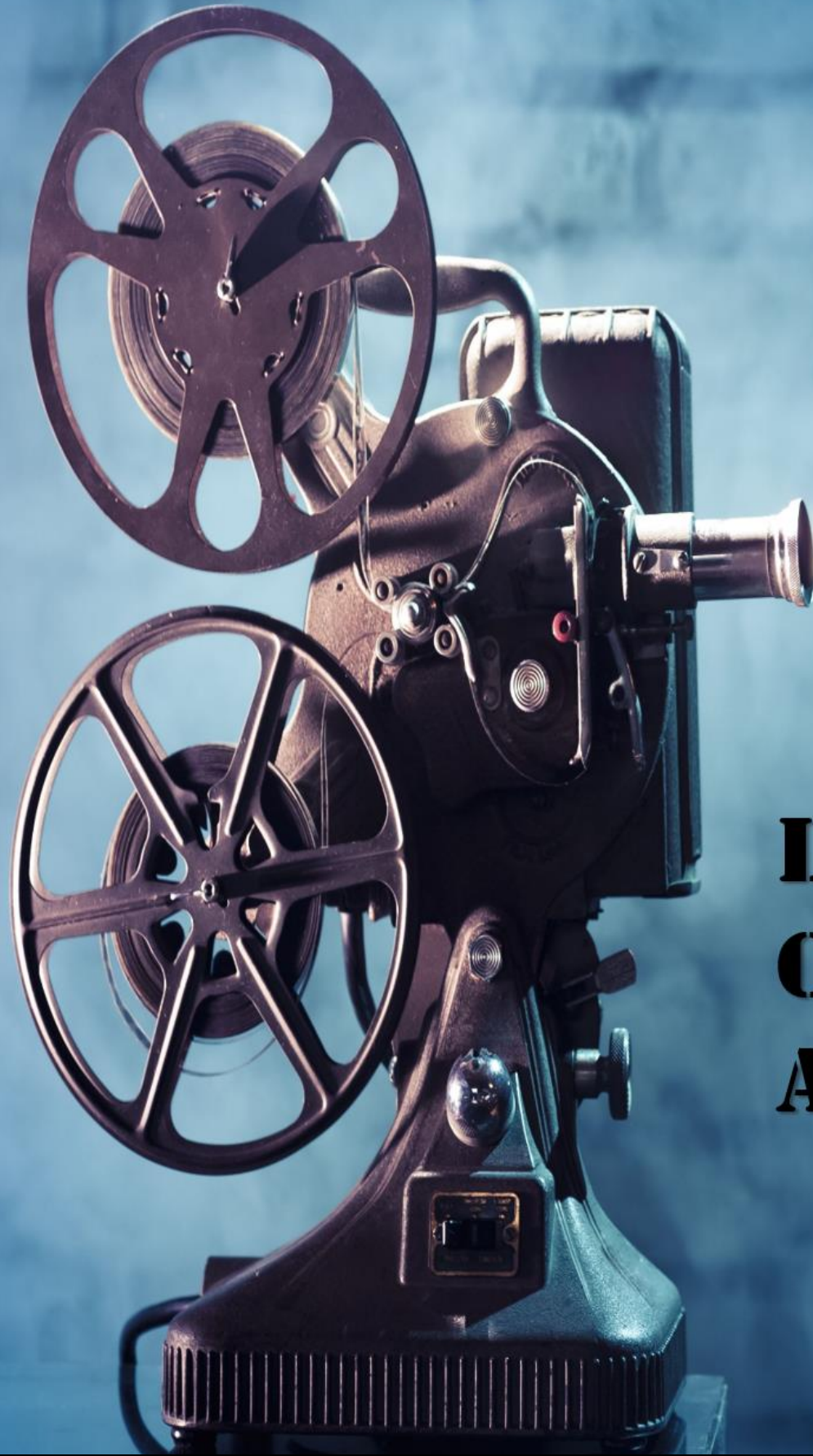
## Britain's departure from the European Union

Meenakshi

The UK leaving the European Union was a decision that gave mixed reviews worldwide. While on one side the UK is now completely independent to make its own decisions regarding the intake of immigrants on the other hand it also had to face the harsh consequence of the value of the Pound falling down and the cascading effect of the values of other currencies worldwide to fall down drastically. Now the question remains as to why when being aware of such an impending doom did England opt to get out of the European Union. The answer is widely debated globally. So let's try and approach the problem substantively. The 51.9% of England's population that voted to leave the EU belonged to the old age category which is more concerned about preserving the culture and heritage of England and thus opted to leave the EU in order to maintain the authentic traditions of England by avoiding any kind of interference from the EU. While the 48.1% population consisting of the young generation of England which is much more liberal in its thinking voted to stay in the European Union. They believed that Britain should be integrated with the rest of the European countries. It will always remain a doubt in everyone's minds as to whether the outcome of the referendum was just or not. One of the main reasons for this doubt is the mere fact that the electorate simply doesn't know enough about the complex economic, political and legal ties that bind Britain to the EU – or the consequences that will follow if they are severed. Though England is now free to take its own decisions regarding various reasons such as the intake of immigrants or listening to the EU in matters involving its own internal concerns. Britain would now be keen on enjoying its new found freedom. In a way the situation proves advantageous for Indians as earlier under the EU, England had to keep a certain number of seats in schools, colleges and other places reserved for the students or members of countries belonging to the European Union. Now with disintegration from the European Union, England will give an equal and fair opportunity to its own students as well as students from other non European Union countries which in spite of being talented could never secure a seat due to the reservation. This will also benefit the

Indian students immensely who have talent and capabilities in abundance. Britain was actually tired of people from the EU countries coming and taking up its jobs and its own people facing unemployment in their own country. The unemployment rate of Brits will actually go down following the referendum. It is widely seen that the people who had voted to move from the EU are now regretting in large numbers as England's economy collapses. With Britain's exit other super powers of the world like France, Germany and Mexico also want to follow Britain's steps. If this were to be happen god forbids we'll have another great depression and recovery from this one will be impossible. The Brits are now signing petitions in large numbers for holding the referendum another time. With David Cameron resigning from his post and large number of people also believing in rejoining the EU even the Tories for that matter which includes Boris Johnson, it is wondered if the new prime minister might be tempted to go back to Brussels and strike a better deal with the EU. Even for those who voted to opt out in the first place are now reconsidering following the harsh economic realities. With Ms Angela Merkel also warning that quote England will never get a good market outside EU unquote, there got to be some sense in what the majority is saying. It is high time that the Brits realise their priorities and effectively opt for a second referendum and vote for what they actually need.





# **LAW CAMERA ACTION**

## THE NEAR PERFECT LAWYER- A REVIEW OF ABC'S TV SERIES, SUITS

- VARUN SABHARWAL

“ I know that Louis, but I’m not abandoning Leonard Bailey to some corporate power struggle.”

- Jessica Pearson, Suits Season 6, Episode 10

I know that sometimes, when it comes to a television show that most people prefer to have an overview of the show rather than of each individual episode. They assign meaning and general affinity for the show based on it being seen in it’s entirety, from the pilot all the way to the series finale. However, when it comes to a show like ABC’s Suits, a legal drama like Ally McBeale and unlike Boston Legal, it’s the impact that each individual character has on you, not just as the lawyer that they try to be but also as the human being hiding under expensive suits and the power struggle in the world of corporate law. Everyone likes Harvey Spectre because he imbibes the epitome of what a lawyer could be. However, the character that deserves the greatest admiration is that of Jessica Pearson, played beautifully by Gina Torres.

Jessica Pearson is, in so far as a character is concerned the most rounded in the show and the only one who seems to grow through the six seasons that have been released. She’s also the most interesting, not just for the superficial like the fact that she’s a black woman, she heads a major corporate law firm or that she has ambition and aim unlike

any other character in the show. It's because, hers is the most grounded in the legal world out of all the primary characters. She survives because she's a brilliant lawyer, and she thrives because she's mentor and kingmaker and she doesn't let the race or gender card affect how she does her business. She's inspiring, because she's a damn good lawyer and she knows it, and through the sixth season, shows it when she offers to take up an Innocence Project case, pro bono but good publicity. All throughout the first five seasons, Jessica's main aim is to keep the firm she took over ruthlessly. When she lost her firm at the end of the fifth season, she focused on rebuilding it. When she agreed to take on the sure-shot failure of a case such as Leonard Bailey's where the man was a month from being executed, she did it because the publicity would've helped her firm. However, as the case and the season progresses, she's more in tuned to fighting because she realizes that at the end of the day, she became a lawyer to help people and not help herself. She's spent her lifetime building her firm, running it, ruining her relationships for it. She's fought tooth and nail to keep it going and once she realizes that she may lose her firm, she chooses to forsake it for Leonard Bailey. It's a decision very few of us would ever be able to understand. Here's a woman, who's legacy, who's child is her law firm. She's what she is because of it. But she's willing to let it go, because she knows that being a lawyer is just not about the self serving, as it has been for her. It's about helping other people. It's that motivation that made her stand up to her father when he said that he wanted her to be a surgeon. "Because you help people", he said. "You're not a bottom feeding, self serving lawyer."

Suits is a great show in the sense that it doesn't really always rely on the law to have to figure it's way out, even though it is a legal drama. But very rarely do we see that the practice of law involves actual knowledge of the how the law works. It's what makes a show that could have been boring rather relatable, and even though fiction persists, the humanity of the characters outweighs the legal dramedy. Jessica Pearson has grown throughout the six seasons, and it's beautiful to watch if you're as taken aback by her as I was when I first saw the show. She commands respect, she's valued and she's intelligent. If she were a man, these qualities would've rarely stood out (at the risk of being sexist). The unique thing, is that she never allows her womanhood to affect her ability to



negotiate or do the ruthless things she could do. That's not to say that she's devoid of a softer more human side. When she fears at the end of the fifth season that she would lose her managing partnership, she breaks down and she asks for her partners to stand by her. She's not cold, as her character could've been made to be. She's perfectly relatable, as is often the case where women in films and television shows are typecast. If you're a woman in power, you have to be self serving and benign. If you lose your power, you try to get it back, and you're applauded because you tried and people don't expect a lot from a woman in power. Sometimes, as men, we delude ourselves into believing that it's our version of what a woman should be is the truth of what she is. It's easy to do that. It's harder to believe that isn't what she really is and this is why this show works on so many levels. Even the practice of the law, it isn't always for the betterment of our fellow man. Most of the time it's for ourselves. Jessica Pearson shows you it can be for both, but when the time comes, you follow your gut and you be alright with it.

Special praise goes to Gina Torres for her interpretation, especially in a show where every character seems to have witty retorts and emotional motivation. She allows Jessica to have a softer side, but she is what she essentially is. That's a leader who is also a mentor, a guide and a friend. It's harder to be all these things and hold your own especially when you've got gunslingers like Harvey Spectre and Mike Ross. However, when you do, the result is alluring and wonderful and, as the risk of sounding repetitive, the most admirable thing on television today.

## TV SHOW REVIEW: SUITS

-VISHAKA A NIKKAM

The USA based television drama series, "Suits", has become one of the most well-known shows, and has also influenced teenagers to look into taking up law as a career option and emerge to be as successful as the protagonist in this show.

The extravagant aura that the main characters bring out, is something worth watching the show for. Harvey Spectre, the “best closer”, has something about him. The manner in which his thought process takes place is unbelievable, and he has a lot of experience in this field and knows how to deal with all sorts of people. The other protagonist, Michael Ross, was initially just a person dealing in drugs and other activities that were illegal, but then circumstances led to him being a practicing lawyer under Harvey Spectre, in one of the best firms, Pearson Hardman. Without even possessing a law degree, he gets the title of being just like Harvey, and to the world he is a graduate from Harvard law school, which is the best there is. Harvey Spectre, the protagonist of the show, is a genius with very low value for emotions due to lessons learnt by him at a very young age, who happens to meet Mike Ross, a person with a photographic memory, an exceptional person who didn't need the absence of a law degree to prevent him from becoming one of the greatest attorneys at Person Hardman.

Louis Litt is another great attorney of the firm and his love-hate relationship with Harvey never seems to end. The people there live like family. Not to forget Donna, who is Harvey's assistant and so quick in her work. She has been with Harvey throughout her career and she knows everything about him, even the things he doesn't really say out loud. She's also brilliant at reading people's minds.

Harvey and Mike deal with cases with such ease. People watch suits also because of the content of drama and romance in it. The beautiful story of how Mike and Rachel fall in love is also shown alongside.

The show gives the viewers a lot of cases to look at, and the way the two main characters solve them with the application of their brilliant mastery.

Harvey Spectre has never lost a case in his career. There are many out there who want to be like Harvey Spectre, his lifestyle, his confidence, his charisma in the court room and the fear he brings in the other person's eye. Although Mike Ross always wanted to be like Harvey, he doesn't want to learn human values from him because he's someone who is emotionless from the outside, yet, deep down, he is seen to hold sentiments for the people who matter, which is very hard to find, and he believes that this position he holds right now is only because of his nature and he deems it necessary to be this way. In contrast, Mike Ross is a person always poured with emotions, and even though he faces tough times in his career, due to this nature, he would never want to become the way Harvey is.

Harvey along his career path, has built up both good but mostly bad relations with people and these later seem to get back at him. There are also many people out there trying to break him and his firm apart but these people always have each other's backs during the toughest of times.

This television drama series has seen to be a huge inspiration for today's youth. It isn't just an ordinary show dealing only with drama or romance or skills but is an overall package of the three. The show helps you uncover the kind of person you want to be and is a show which inspires one to become a great lawyer in the near future.



## ROLE OF FILMS IN CHOOSING A CAREER

-VARTIKA RUNGTA

Now-a-days people see society's image through movies. Being a source of entertainment, sometimes it is lot more than what we feel. It is a sense of having witnessed something, that touches a deep chord. This happens when a movie leaves a lasting impact on the audience. Some movies even manage to change an individual's life. Law related movies, sometimes help to speed up pending justice and sometimes give the present working system a new look and a new direction. Movies have a huge impact on people, the actors being the biggest influence.

We get inspired by them and want to become like them in life. This sometimes becomes the career path for many people. Students of professional courses generally watch those films which could give them inspiration and knowledge. Courts and lawyers have always been a part of Indian cinema since time immemorial. Court proceedings are always considered a juicy part of Bollywood movies. Many of the movies are made around the court proceedings. The twists and turns are always thrilling, leaving the audience to ask for more. These types of movies, create interest amongst people from all age groups. The law based movies are worth watching for the students and can help them to make up their mind, to choose law as a career option. There are many law based movies like 'Damani', 'Jolly llb', 'Rustom'. The one I will be talking about is 'Ek Ruka Hua Faisla'.

Ek Ruka Hua Faisla is one of the best, law based Hindi movie, directed by Basu Chatterji. This movie is a remake of an English movie, '12 Angry Men'. The movie is about taking a unanimous verdict, about a young boy who was accused of stabbing his father to death. The judge asked the Jury of 12 men, to decide whether the boy was guilty or not. The jury goes to a small room where all arguments take place. The members were not interested in arguments, as the case was clear, the verdict being 'guilty'. But one jury member was against the decision. His decision was 'not guilty'. As jury no. 7 has movie tickets and was in a hurry. After a hot discussion, Juror 8 suggests to vote this time by secret ballot. He suggests that he himself will not participate in the voting. If all the juries participate in the voting, and vote for guilty, he will go with their

decision. One juror changed to 'not guilty'. The juror 8 again starts analyzing the evidences minutely, and one by one all Jurors started changing their verdict. All had their personal issues, which made them stubborn. Only juror 3 was not in favor and said he was 'guilty'. After a long discussion it became clear that his own relationship with his son is not good, so he was of the view that the boy is 'guilty'. At the end, he breaks out and tears his son's photo and verdict is 'not guilty'. All the jurors are facing their own problems and hence not interested. It tells that every small thing is very important in deciding the judgment. Every step creates curiosity, as to what will happen next.

These movies help a student in choosing his or her career. One may have never been to a court room, but might feel familiar with the system, after watching such movies. They become acquainted with legal vocabulary, and the way the proceedings are conducted. This may interest many, and they would want to experience this. It leaves a long lasting impression in the minds of people. They too hear them uttering 'my lord' or like a judge with a hammer in his hand saying 'order-order'. This also teaches that law is same for all whether rich or poor. Such movies raise the standard of legal profession and glorified it. It changes the mindset of people and they may think of choosing law as a career. They can serve the countrymen and can lead the path to make a better India.

**TAKE  
STAND**



## ENTRY OF WOMEN INTO THE SANCTUM SANCTORUM OF TEMPLES MUST BE PERMITTED

YASHI SHRIVASTAVA

India is a nation consisting of people of different races, religions and ethnicities. All these religious groups follow their own cultures and religious practices. Despite India being very diverse and progressive, the position of women in cultural and religious practices is negligible. The recent case of Sabarimala, where women were not allowed inside the sanctum sanctorum brings one to question discrimination against women in a new light. Our constitution, under Articles 14, 19, and 21 provide for the right to equality and non-discrimination, freedom of speech and expression, and the right to life respectively. These articles are constitutional and fundamental perspectives that guarantee certain religious rights to its citizens, and are also considered to be the natural rights of every human being. The method of worship and the decision as to who all are allowed to worship are in its entirety, a discriminatory norm of society. Depriving women from entering the temple and not allowing to profess their devotion is labeled to question the practice of a custom which is male centric. History has witnessed great women devotees like Meera Bai and Akka Mahadevi who have devoted their entire life and soul to God. In being such great devotees there was no deliberation on their faith and their purity just because they menstruate.

In the Sabarimala case, they took the same argument questioning the purity of women, which eventually looked into the authority behind women restrictions in Puranas, which the defense failed to counter. Even considering it as a custom because of its practice since its ages, reformations are to be brought about to the unethical practices before adopting them to the modern world. Man has always tried to dominate women for a long period of time, but the times have changed, and people should change their orthodox beliefs. Women in the modern era are not lesser than men, and restricting them on the basis of their menstrual cycle is equivalent to regarding them as objects just useful for household work and child birth.

Several orthodox beliefs and practices underwent social reforms for example, upon a husband's death the wife was not allowed to remarry whereas on a women's death the husband had the right to remarry and another example of reform is the scrapping of sati system. This was all a result of the patriarchal society which made rules for women. From time immemorial, women have always contributed for the betterment of the society. Whether it was Rani Laxmi Bai or Kiran Mazumdar Shaw, women are contributing in every field, but in spite of proving to be equal to men, they still hold a weaker position due to the patriarchal influence of society. Upliftment and equality of women cannot be taken away from them just because of skewed historical beliefs considered as custom. Thus, women should be given the freedom to enjoy their rights of granting entry into the sanctum sanctorum and worship God as equals with men. There is a need to change the society keeping in mind a modern perspective of rights and liberties. Gender quality is not a women's issue; it is a human issue. It affects us all.

## WHETHER ENTRY OF WOMEN INTO THE SANCTUM SANCTORUM OF TEMPLES MUST BE PERMITTED

KRUTHIKA V

A woman essentially, by virtue of Article 14 (Equality before the law) and Article 25 and 26 (Freedom of Religion), enjoys the same rights conferred upon any male member in society. Now although these rights have been enshrined in the constitution, the real question now stands as to whether entry of women into the sanctum sanctorum of temples must be permitted. If we are to address this question, there always arises a conflict of interest and a divided opinion. There is a section of the community severely fighting for women's rights, stating that women should without a shadow of a doubt, be allowed to enter into temples' sanctum sanctorum and certain temples itself. But there also exists another section in the community that is entirely silent on this subject, either because of ignorance that entails such interest in daily affairs or because they regard it as absolutely unnecessary that rendering such importance to it would be absolutely worthless.

The recent issues that have captivated the general public primarily include the entry of women into the temples of Sabrimala and Shani Shignapur. In the case of the Sabrimala temple, women aged between 10 to 50 years were not allowed to enter this temple. It was finally held that no temple or governing body can bar a woman from entering such a holy place, thereby disallowing the infringement of women's constitutional rights. The Haji Ali case is still pending before the Bombay High Court, where Muslim women would be granted entry into places of worship based on the outcome of the Sabrimala case. Even in the case of the Shani Shiganpur temple, although women were allowed to enter the temple, they were finally permitted to enter the sanctum sanctorum of the temple, by putting an end to the 400-year-old custom that was earlier existent. When these cases are deeply introspected, the question begs, where is the idea of feminism in the present world going? Women around the country are demanding entry into places of worship by believing that it would ensure positive affirmative action but would it lead to absolute justice? These women believe that by fighting for such a cause, they are truly

being placed on same level to that of men. What they don't realise is that such an issue of women being denied entry into temples is a mere problem in contrast to the other several issues being encountered by women. Yes, it is discriminatory and yes, women should be given a personal choice to enter into such holy places but the bigger issue here lies in that fact that a certain temple disallowing women from entering that particular temple does not necessarily mean she cannot enter another temple. Hinduism is about idol worship but it doesn't mean that one needs to be allowed into a particular temple to show their devotion towards that particular god. It is further argued that not permitting women into temples is anti- Hindu but what amazes me is the manner in which people are belittling the religion by implying that it is a worship that can only be pursued in front of an idol. Hinduism is a practice and a way of life. It is a religion that can be practiced through penance, even without the presence of a significant idol.

The women who are fighting for such a cause only tells me that it is feminism at its worst, by denuding the idea at its very roots. Even after successfully being allowed upon post such a persistent fight, whether this has truly uplifted women to the status of men? Whether it has lead to any economic development in pursuance of such activism? Whether by falsifying a custom that has been practised since time immemorial, have the women finally achieved something concrete? Finally, what are women truly going to gain by enjoying the right of entry into a few temples when we have so many temples of similar idols around us? In that sense, are we not disregarding the worth of other temples around us? When pondering over such questions, it seems all that women have done in the name of feminism and of upholding woman's rights, is create further chaos and disturbance in society. Gaining the right to enter into a few temples isn't really going to change the overall situation of women. We are still going to live and play by the rules patriarchy has designed for us. This so-called revolution that has sparked off will cease to be effective in that manner. The only thing we can do to improve the state of affairs in the current scenario is to not give importance to matters such as demanding entry into the sanctum sanctorum of the holy temples, rather we must strive to achieve gender justice and equality on some concrete grounds.



## WHETHER DEFAMATION CAN BE DECRIMINALIZED?

HARDIK SACHDEVA

Freedom of Speech and expression is a cherished value granted by a state and it is a tool to influence the masses and also to have autonomy to share one's thoughts. In the contemporaneous situation, freedom of speech is an elegant gift of the state and one of the principles of democracy where the people can say or express whatever they want because individuals can express as they wish and to whom they wish, for the benefit of the populous or for himself. But at the same time if any individual is given ascendancy to say anything then can he cross a demarcated line which might affect other person or his reputation?

The concept of defamation is the freedom given to an individual in the form of a right to say anything about anyone, whether he believes it to be true or not. It may be a mere opinion about anyone which harms somebody's reputation and leads into various conflicts in the society. It can also be seen as an intentional act where one wants to harm others' reputation by having the right to say whatever he wants to say. The current situation is that the state grants freedom of speech and expression, but at the same time there are restrictions and regulations to it and if anyone goes beyond them, then he suffers various repercussions. For example, Article 19 of Constitution of India provides freedom of speech as a fundamental right to the citizens and also considers some restrictions under it and simultaneously, the Indian Penal Code (45 of 1860) u/s 500 provides punishment for defamation which goes parallel to each other.

The need of decriminalizing defamation arises whenever the provisions of defamation impede with the right of free speech and while giving individual liberty to say what he wants to say for the public good. Consider an example of an individual commenting on any religious practice for public good, but the comment is considered to be as blasphemous and he is charged u/s 294 of Indian Penal Code. He has been criminalized for an insult to religion. It shows the very idea of freedom of speech fails where

individuals can't say anything for the public good. Another example of it can be when a newspaper agency publishes the decision of any Court which is to be given and after looking at the explicit facts and analysing the newspaper decides the matter and publish it and the party to the case charges the agency under defamation but the Court also announces the same. Here the agency was exercising its right of freedom of speech and they are sued under defamation.

But dubiousness and controversies arise when a person makes a false statement about any person which harms the reputation of the other person in the society and when a person indirectly refers to any person to harm his reputation in the society. The conflict can also arise when two persons are having a heated argument and suddenly one of them addresses something which harms the reputation of the person in the presence of the other people.

This shows that there are some limits to freedom of speech, but if the right is given comprehensively then there will be several problems in the society and freedom of speech will be used as an alibi to harm anybody's reputation. Taking a hypothetical situation where defamation is decriminalized, then there will be so many issues out of it hurting the sentiments of the people and easily harming the reputation of the people.

The above cost benefit analysis shows that the benefits of criminalizing defamation overweighs decriminalizing it and hence for a greater good it shouldn't be decriminalized. It does not imply that individuals loses their right to say what they want, but it has to be in a manner where it shouldn't harm anyone's reputation and also restraining from conflicts by exercising this right.

## CENSOR BOARD OR CERTIFICATION BOARD?

Shubhi Pandey

The question that has been in the news recently is whether the Central Bureau of Film Certification or the CBFC, as it is commonly known, is a censor board or just a certification board for Indian Bollywood movies. But before we answer that question, let us first understand the statutory position of the CBFC. CBFC is a statutory body under the Ministry of Information and Broadcasting. The purpose of this body is to regulate the exhibition of various movies in India. It is governed by the Cinematograph Act, 1952. The mission statement of CBFC states that it aims to “ensure healthy entertainment, recreation and education to the public” through its activities. The CBFC derives all its powers from the Cinematograph Act, 1952. All the movies are first screened by the CBFC before they are sanctioned for public display. They might ask the film makers to make certain modifications or alterations as it may deem fit for a healthy environment in the society. There are several panels in the CBFC which look after the certification of all the Bollywood movies.

Now coming back to the pertinent question here as to whether the CBFC is a censor board or a certification board? Firstly, it is important to note here that ‘C’ in CBFC stands for certification not censor. Secondly, CBFC is supposed to be a non-biased statutory certifying authority rather than being the moral police by ordering several cuts in movies which take a lot of effort to be produced.

On the contrary, we have to understand the reason why the CBFC can make so many cuts to a film, and try to justify them, is because when the Cinematograph Act was passed in 1952, the body that was constituted under the Act was then called the “Board of Film Censors”. The power of film certification was added later on by an amendment in 1959. The Act clearly mentions that cuts may be made in a movie if the CBFC finds that parts of the movie are “against the interests of the sovereignty and integrity of India the security of the state, friendly relations with foreign states, public order, decency or

morality, or involves defamation or contempt of court or is likely to incite the commission of any offence”.

The intentions with which the Cinematograph Act was enacted clearly had censorship and content regulation in mind. With society progressing in leaps and bounds, this particular function of the CBFC is probably outdated. The guidelines under which “cuts” are made to films are severely outdated and have not been amended since the Cinematograph Rules were enacted in 1983. The Supreme Court has upheld the censorship powers of the CBFC in *KA Abbas v. Union of India* (AIR 1971 SC 481) stating that, censorship of films was within the permissive framework of the constitution as was required to protect the integrity of India. In the absence of any self-regulatory framework, the Supreme Court ruled that the CBFC must act as the regulatory authority for public exhibition of films in India. The Court did not look into other issues that were raised in this case such as the vague frameworks and guidelines for censorship as well as the wide amount of discretionary powers that the CBFC wields in censoring films that are made with great effort and costs on part of the directors and producers.

The CBFC has been involved in various controversies regarding the censoring role that it has taken up, the recent one being the *Uda Punjab* controversy where the CBFC had ordered 89 cuts. The case was taken up by the Bombay High Court right before the release of the movie. The Bombay High Court passed its order and cleared the movie with a minor cut and an ‘A’ certificate. In the order, it was also stated that the CBFC should not act arbitrarily and should stick to its power of certifying films rather than censoring it on unreasonable and arbitrary grounds. However, it failed to lay down any firm guidelines that could be utilized by the CBFC in future.

So we can see how even the courts are not clear as to what are the exact powers that should be exercised by the CBFC - whether mere certifying or censoring? We hope that in the near future more clarity is given in this regard.



## WHAT IS THE ROLE OF THE CBFC: CENSORSHIP V. CERTIFICATION?

AKRATHI SHETTY

*'I disapprove of what you say, but I will defend to the death your right to say it.'* –  
Voltaire

Cinema is one of the most powerful mediums of communication and artistic expression, especially in a country like India, which produces more motion pictures than any other country, making it the world's largest film industry. In this regard, it is significant to recognise the role the Central Board of Film Certification (CBFC) plays, and the extent to which it can exercise its powers. In India, the exhibition of films is governed by the Cinematograph Act, 1952, which provides for the constitution of the CBFC. Section 4 of the Act, requires all films to be submitted to the CBFC for certification, and therefore, uncertified films essentially cannot be legally released in India. However, much like the very name of the Board suggests, its purpose should be merely to certify, not censor.

It can easily be seen through past instances that as long as one makes cliché, commercially viable movies with songs and dance sequences – there is no harm; but the moment one dares to speak out the truth against the State articulating his or her opinion on any sensitive or serious matter through his films or documentaries, he is subject to the scissors of censorship. This systematic trend in India can be seen in several films like '*Bandit Queen*', '*Firaaq*' and more recently '*Udta Punjab*', that was another casualty of the CBFC's partisan approach.

In actuality, the Board has no power to cut/censor scenes of a movie, however by refusing to grant the film a certificate, they put indirect pressure on the filmmakers to do so.

Films in India have been censored on the grounds of obscenity, sex and violence; while

in actuality, it's going against certain political interests. Some movies have to fight political censorship even after Censor Board's approval. Films have been banned or targeted in the name of maintaining public order, respecting beliefs, sentiments and traditions, or for criticizing the State on certain issues.

Censoring movies in the name of maintaining public peace, respecting emotions of people and similar reasons is simply preposterous. Not only would it lead to the creation of a pseudo-sensitive society, but there is a much deeper aspect involved – that of subjugation of freedom of speech and expression. Films are a significant medium for artistic expression, and is often regarded as an integral concept in modern liberal democracies. Thereby, curbing this right in any way defeats its very purpose, as censorship represents denial of freedom of speech, expression and information.

Viewers must themselves watch movies and form their own opinion, as although the general public in a country, may be devoid of proper education but not always of common sense. It is groups with tampered prejudices who deliberately distort the subject matter and mislead other people to serve their own purposes. The rationale behind having a Censor Board becomes highly debatable. If at all we need to have such a body, it needs to be more autonomous rather than being a puppet at the hands of the Government, as they are always highly susceptible to political agendas. Besides, scrapping movies regardless of clearance from the Censor Board is not only an arbitrary act but a dangerous trend of heightened intolerance. The extent of censoring power should be very limited. The most important criteria regarding such body should be that, Government can forward its suggestions/recommendations but the decision must be taken by it independently. The power to impose restrictions is not the power which is available for exercise in an arbitrary manner or for the purpose of promoting the interest of those in power or suppressing dissent. If at all, any limiting line is to be drawn in the extreme cases, it shall be left to the judiciary on which the country has reposed enormous faith since inception. On a whole, the test for allowing restrictions upon free speech should strive to be somewhat more stringent. Legal restraints upon individual freedom of speech should only be tolerated, where they are absolutely necessary to prevent infliction of actual harm.

Therefore, it can be aptly concluded, if democracy has to evolve, that screening of films and documentaries can never be denied for reasons based on mere speculation because banning motion pictures is equivalent to banning the right of freedom of speech and expression.

We live in a country where several millions of people are passionate about cinema. Added to this, many evils ail India. If Indian filmmakers are allowed to discuss these evils boldly, they can surely help cure some of them—and earn a little extra on the side.

### BIBLIOGRAPHY

- 1.) Arpan Banerjee, *Political Censorship And Indian Cinematographic Laws: A Functionalist Liberal Analysis*, Drexel University, (2010).
- 2.) *K. A Abbas V. Union Of India*, A.I.R 1970 2 S.C.C 780.
- 3.) Central Board of Film Certification Home Page, <http://www.cbfcindia.tn.nic.in/> (last visited Sept 14, 2016)

## DEFAMATION MUST BE DECRIMINALISED

ROHAN JACOB

The law of defamation has been a thorn in providing an avenue for people to freely air their opinions and displeasures against politicians, businessmen and the like. The criminal offence of Defamation is found in Sections- 499 and 500 of the Indian Penal Code, 1860. Section 499 proceeds to define the acts that constitute defamation, while Section 500 provides the punishment to be decreed for any person convicted of defamation. This has allowed celebrities and big corporations to initiate legal recourse meant to intimidate and harass the people who make statements unfavourable towards them. Strategic Lawsuits Against Public Participation or SLAPP for short is the term that is often used to classify lawsuits of such nature.

This dark side of the law of defamation has recently found the spotlight when an article by The Hindustan Times pointed out the rise in defamation, as well as sedition, especially pertaining to cases in Tamil Nadu, mainly initiated by the Jayalalitha government against its political rivals. She had filed as many as 80 criminal defamation cases against various media outlets and rival politicians. Parodies, caricatures, opinions on blogs and other forms of publishing one's opinion have all been stifled and brought under the purview of defamation to such an extent that the only ones able to make such opinions were the higher ups in big media houses that had the power and financial clout to be able to deter the "victims" from initiating a lawsuit.

A famous instance of this dark side of defamation is quite obviously, Mr. Arindam Chaudhari of the Indian Institute of Planning and Management. His famous quote, "Call me ugly and I will damage your business, I will sue you" has inspired a lot of people to tuck their tails and run away, the reason being that he has successfully utilised geography to his advantage. A number of his defamation cases are filed in the courts of Silchar, Assam, creating a major grievance for those who annoy him as they would be forced to make the arduous journey to appear in court.

The foundation of criminal law is that the offences enumerated under it are against the society and social order. Where does defamation fit into this? How is society affected



negatively when I am criticising someone else? The IPC, being an English law, had probably founded this belief on the concept of every individual's 'Code of Honour' and the need to participate in this duel to restore such honour. However, in modern times, when criticism actually allows a society to get both sides of the story and therefore make a more informed decision regarding the party they wish to support, the company they wish to invest in, etc., one cannot justify defamation being a criminal law when its decriminalisation clearly works for the benefit of the society.

Subramaniam Swamy recently filed a petition asking the Supreme Court to decriminalise Sections 499 and 500 of the IPC, which Rahul Gandhi and Arvind Kejriwal have recently chosen to support. A bold step by the class that often exploits this provision; however the author feels that this is a good move albeit shrouded by dark intentions. It would effectively allow these politicians to be able to make derogatory remarks about their rivals without any criminal violation.

The only possible way forward in keeping with interests of both sides is not only to decriminalise defamation, but also giving it stronger provisions with regards to civil suits. Criminal defamation cases cost nothing when filing the lawsuit, but civil defamation suits require the complainant to deposit a certain percentage of the damages claimed with the court. This would prevent the filing of frivolous cases, thereby keeping big financial houses at bay.

A pair of scales of justice, rendered in a dark, textured, almost metallic style. The scales are positioned centrally, with the left pan hanging lower than the right, suggesting it is heavier. The background is a warm, out-of-focus bokeh of orange, yellow, and green light spots. The word "Experience" is written in a bold, black, sans-serif font on the left side of the image, partially overlapping the scales and the background.

**Experience**

## Internship Experience at Mulla & Mulla & Craige Blunt & Caroe, Mumbai, India

Tanya Mohta

Internships are an integral part of every law student's life. Before you complete one you're already planning an application for the next place you wish to intern at. Getting an internship at the place you wish to intern at is not always a piece of cake. One needs to work really hard to bag it. This is what happened with me, when I first applied to the HR of Mulla & Mulla, Mumbai. When applying to an A-tier firm, always be confident that your CV is good enough to be considered and will not be thrown as trash before its even opened. Like any other A-tier Firm, even Mulla & Mulla was not very prompt to replying to my mails, however when I was finally accepted, I was extremely happy and proud of myself.

Mulla & Mulla & Craige Blunt & Caroe is one of the top law firms in India, and specializes in various areas of law. The firm has 13 partners and each partner has a team of associates. I worked under a partner, D.J Kakalia and his team of 7 associates. Each associate is assigned a different client or area of law, thus initially I was shadowed by the advocates to the various courts. The best part about the office was, it was right opposite the High Court, Sessions and the Magistrate court was a mere 5-minute walk from the office.

In the later stages of my internship, I was given research work to do, to assist the associates in various ongoing cases. The clients we dealt with were mostly corporates and not individuals, such as Reliance Power Ltd. Etc. Thus any case filed against Reliance, be it a defamation case or a criminal case would have been handled by the team I was working with. This seemed like a dream come true, to be working on cases worth 100 crores.

Work aside, this internship was the best experience because of the atmosphere of the office, the friendly staff and co-workers who are extremely warm, and made it easy to adapt to the work culture. The timings of the office are from 10.30am to 6.30 pm, and

Saturdays were a half-day. Thus giving enough time to enjoy the city as well. The location of the office is an added bonus as it is surrounded by numerous restaurants and is well connected by public transport.

The duration of my internship was for a month and no stipend was offered, if given a chance I would definitely go back.



## THE DAILY INTERN

Kush Agarwal

“Why do you want to become a lawyer?”, asked Mr. Shantanu Bhatt, who takes much delight in being referred to as Shantanu Da rather than Advocate Shantanu Bhatt. That question pierced my heart like a bullet shot at me by a highly trained German sniper. He looked at me as if he was an apex predator and I, his puny and fragile prey. “I like law, Sir”, I replied. “Law is not some mistress who can be wooed to like you lad. You see I have been practising in district court for 40 years and have forgotten more than you will ever know. Is your life as grey as my hair, for you to choose law? Had your father not being my friend, I would have charged you even for this conversation.” said the legal actor. In that brief moment I became more melancholic than Touchstone or Antonio could ever be and started asking myself if this was a right choice for my very first internship. “You children want to step up against us in the court? During my times lawyers were considered to be the backbone of the society and one successful case made me enough money to feed my family for a month, but because of wannabe Jethmalanis, like yourself, the market is keenly contested and life at Sachein glacier is far better than a life of a lawyer in court who lines up like many others every morning, to seduce his clients and get cases like a promiscuous lady.” The Advocate who has been in the bar for 40 years just compared lawyers to prostitutes. So much for the noble profession of law and justice.

“Lad, law is like maths. You understand it or you don’t and by the looks of you I don’t think you even liked owing a calculator. Do something worthwhile. Do CA or CS, become a DJ or an event manager. You will end up earning more than you could have ever earned being a lawyer and shouting your lungs out in those stingy courtrooms.” I have had my share of bruises and cuts. He knocked me out even before the referee signalled for the bell. I picked up my bag and asked him for his permission to leave. He smiled and said, “You came to my office all charged up for learning and interning. In a span of 5 minutes I convinced you to drop out of law and you had no option but to believe me.

This is the power of Advocacy. This is the might of a lawyer. We are ordinary people with extraordinary persuasive power. I can even convince Lord Rama that he was of questionable character and not his wife. Come to my chamber at 7 am tomorrow and for the next 30 days you are legally my property.”, and the rest is history.

## PUCL, Jaipur – An Unforgettable Internship

Prateek Virmani

First internship of the law career is something that no one forgets. During our first internship, we have no clue about anything, but we still try to do things at our best because of the simple fact that no one would like to have bad memories of their first internship.

But my internship in PUCL, Jaipur, was kind of the funniest one. It was a roller coaster ride of 28 days – hectic schedules, knowledgeable moments, arranging press conference and many more. So here it starts, on my first day, I got a call from our President saying “Listen you are leaving with us to Alwar, reach office by 8:30 am”, and I just woke up at 8:00 am because the reporting time is 10 am. After reaching office, my co-interns and I thought that it would be a sprawling corporate house, because PUCL Jaipur has an enormous name in the field of human rights. But what we saw was a green coloured house at the corner of the road and my co-intern said, “This is the place”.

When we entered the room, we saw an old room, dated back to 18<sup>th</sup> century. After some time, we left for the Alwar, where we reported two cases of police atrocities. After finishing all our tasks we returned at 4 am in the morning and this is how my first day ended.

Some of my friends told me in advance, that working hours are hectic but flexible enough and after my first day, I observed that the timing are flexible, they made it from 10 am to 9 pm. After that, things always went high leading me to meet various bureaucrats, high- profiled politicians, well known authors, social activists and many more. The most knowledgeable memories that I will cherish till my last breathe is the seminar by Pavah (leading group of youngsters in Jaipur), Vice –President of PUCL, Senior Advocate of Rajasthan High Court, on different social issues. And the best part, getting threats of termination of my internship at frequent intervals but eventually this thing didn’t happen.

But all in all, it was a fruitful internship, it taught me how to complete work before deadline, how to do effective research, etc. The most important thing which I learned was that, “If a lawyer does not have anything about the topic and he is standing in front of the magistrate, he still needs to show full confidence, as if, he knows everything”. This is not the only thing that I learned from the PUCL President Ms. Kavita Srivastava, but there are million things which I learned from her. The most important quality which I learned from her is to always put your work first and rest things at last.



## GET READY...THREE, TWO. MUN!

JENNIFER MARIA DSILVA

The college bell woke me to a sudden realisation. I was in my formal attire and a strange tension lingered in the air as this was my first MUN (Model United Nations) experience. Getting nervous as seconds passed, a simple 'hi' from a certain someone (who had helped me sign up for this) made me feel a little at ease. But unfortunately that feeling did not last long as he informed me that he was in another committee. Now this time around his words of comfort and encouragement seemed futile in comparison to the apprehensive feeling harboured inside me, And suddenly it dawned upon me that the inauguration had begun.

Soon after, the chief guest arrived and gave an encouraging speech. The most enriching part was when she mentioned that when she was attending her first MUN she too had a severe case of stage fright and MUN helped her to speak the way she was addressing us at the time, full of confidence. This was extremely encouraging as I too have slight problem with public speaking. I though began to see this as an opportunity to grow and took it as a challenge to significantly contribute to my committee- United Nations High Commission for Refugees (UNHCR).

We all went to our allotted committee rooms all took our seats. Looking at the placard in front of me made me feel excited about what was ahead for me. Almost a minute after that moment of excitement, the chair of our committee entered the room with a serious look. I tried to keep my nerves under control as she examined the room; we all looked at the awaited chair to say something. She then gave a soft smile and asked 'how many of you are first timers?' The show of hands came to a surprise to me as well, as the majority in the room were first timers. The pleasant chair was kind enough to explain the procedures and assured us that she would not be too hard on us first timers. As the experienced delegates began, I watched and observed the procedure for a while. The

topics were mainly broad, and although at first glimpse the topics seemed simple, the knowledge my fellow delegates exhibited made me think otherwise. In the end we passed a communique which was extremely challenging, yet was the most fun part of the whole experience. Making new friends along the way and also receiving some very pertinent advice- my first MUN was truly a memorable experience. So after three intense days I can happily say that this was definitely something worth remembering, and as the closing ceremony came to an end I breathed a sigh of relief. I looked at my friend who got me into this, he gave me a bright smile and said happily: "this won't be the last time your here."

## SRM MUN 2016: A LEGACY WORTH EXPERIENCING

Shubhika Saluja

First university-level MUN and double delegation in the United Nation Security Council (UNSC) seemed difficult at first, but it turned out to be a wonderful learning experience and an opportunity to make friends in the MUN circuit.

It was held from 19<sup>th</sup> to 21<sup>st</sup> February and we were the delegation of Hellenic Republic (Greece) in the UNSC Counter Terrorism Committee (CTC) with a historic agenda of proposing a legal framework to combat terrorism especially in the wake of 9/11. So we were back in 2001, deliberating over the formulation of a framework to tackle the rising global threat posed by terrorism.

On the first day, the committee started with an analysis of the problems caused by terrorism and the solutions to it. But this was redundant as the Committee was not in consensus on defining terrorism as a whole. Only the delegations of U.K. and Russian Federation were keen on defining terrorism as - Criminal acts intended to provoke a sense of terror in the general public, a group of persons or particular persons for political, philosophical, ideological, racial, ethnic, religious or any other purpose. But this topic was not discussed in the committee on the first day.

After the adjournment of the first day of committee, the Executive Board (EB) of CTC gave the committee some direction as to what should be done in the following sessions and how the committee had directly jumped to solutions without deliberating over the reasons for terrorism. Thus, on the second day the committee started with a discussion on the circumstances which led to the 9/11 Attacks and then came the updates which hinted that U.S.A. had conspired these attacks so that it could take military actions against the Taliban in Afghanistan. The Committee then deliberated on these issues, but it hardly affected U.S.A.'s stand on its fight against terrorism.

As the delegation of Greece, we stated what Greece had done in order to curb terrorism at the International level. Also Greece had good relations with all the countries in the committee, so our role as the delegates was mostly to put forth the same as SC is a committee wherein the foreign policy is given the edge over all other activities of the country. Finally, on the third day, the committee came up with two draft resolutions related to the mandate of CTC, one of which was accepted in the committee for discussion, though it didn't get the required 2/3<sup>rd</sup> majority to be passed.

The most exciting and novel part of this MUN was the well-thought concept of CHER AMI ("Dear Friend" in French), a digitalized communication system created by Project42 for - communication between the delegates and the EB in each committee, creation of blocks among the countries, updates from the EB and much more. It was easy to use and saved a lot of time and paper.

The one thing I learnt at this MUN which I'd like to carry forward to my future MUNs is that -diplomacy is that skill where you tell the other person to go to hell and he looks forward to his journey.

POETS ARE THE  
UNACKNOWLEDGED  
LEGISLATORS  
OF THE WORLD



## Seditious Senselessness

Jaiman Sodeshi

We live in a world,  
Shrouded in terror;  
Protected by men,  
Of unwavering valour.  
They ask for nothing,  
Yet we somehow do less;  
How mighty of us,  
To betray their trust.

Speak out against the government,  
Criticize till you cry shrill;  
But please learn the difference,  
Between politics and nation.  
We elect mortal men,  
Though our nation a wonder immortal;  
Throw the unworthy away,  
But speak no ill of our mother.

Brave blood gushed in rivers,  
To shape this land of ours;  
No doubts or arguments,  
Over their sacrifices for this just cause.  
The ashes of our founders,  
Ashamed and in pain;  
Lives laid down for the country,  
Not for the men running it.

Every act of sedition,  
a slap on their faces;  
Tainting their achievements,  
Rubbishing their claims.  
Every act of sedition,  
Must be answered in kind;  
We owe them our freedom,  
How can we turn blind eyes?

Democracy demands accountability,  
It even craves for dissent;  
But what it can never condone,  
Is disrespecting the nation.  
Sedition seduces spineless men to sin,  
Though flippant use its equally thoughtless twin.  
It's said freedom to be truly felt,  
Can never be unrestrictedly unlimited.

If there are no boundaries,  
How will we ever comprehend,  
The concrete certainty in our actions,  
Or the morbid morality in just sanctions?  
We will never know the power,  
That great liberty bestows;  
Fight over meanings and nuances,  
Not over the mother in whom you grew.

Sedition a matricidal snare,  
Spits on the graves of our noble dead;  
Remember who fought for this nation,  
Every selfless soldier in unappreciated creation.  
Never a shield to be used,  
Against any tiny trivial act;  
But a necessary sword,  
Restrictively used to just jab.

We must be united,  
Do not be led astray;  
How dare you break the hearts,  
Of all those who died for this day?  
Turn away from seditious senselessness,  
Do not stand with the wilfully wrong;  
This ungrateful insurgency is unforgivable,  
These martyrs demand a greater due.

Sedition is not a lowly crime,  
Wretched and utterly vile.  
A myriad of fallen souls didn't die,  
For this blatant abuse of our God-given rights.  
Be proud of your country,  
Bask bold in its glorious history;  
Protect till your last breath,  
Our mother's sacred dignity.

## Silenced by the gun...

Arindam Baruah.

I live by fear; dare not speak what the truth is  
For I am guarded by the gun, who claims to protect my mother,  
The same mother to who I like every other child is born  
The mother to a billion who we pledge our blood by birthright.  
The mother I love but the hypocrisy I detest, for it is nothing but a veil on her eyes.  
A veil of perfection and happiness against a blatant nakedness of a failed system  
A nakedness that shames us all, a nakedness we wish to hide  
But nakedness we need to realize  
My mother stands for truth, for perseverance, for self reflection  
Those letters inscribed below the national emblem shouting “Satyameva Jayate”  
Loud and clear, and yet I’m deafened by the sham shouts of patriotism,  
badly beaten up by the bloc of the powerful who claim to be protecting your integrity.  
‘How?’ is the question I ask but they would just simply shut me up!  
They call me unpatriotic! For raising a voice of dissent  
But isn’t this voice necessary to make you happy! To make you stronger, to rise taller?  
I thought I could dream a better country; for my people, for the future  
Walk hand in hand in progress and in failure, to support and to criticize  
But why does it seem like a parody, when own people hit back at me when  
trying to make a point they disagree, why can’t I disagree for your good!

Trying to make a point, speaking out against a wrong committed  
That puts you to shame! Don't I have a right to protect you from being disgraced?  
I see the same reassuring smile on your face. I know I do.  
As I rise from the gloom that pervades, I resolve to stand up for you,  
For the values I have inherited, and to make 'truth alone triumph'  
You will hold your head high up.  
I promise not to be silenced by the gun, though it may cost my life.  
You know I am a patriot and I am going to create 'tomorrow'.



# BRAVE NEW WORLD

Rebekah Eve Daniel

Here begins the prelude to the 'right' history,  
Where shepherds lead us down the paths of policy,  
Like sheep... nay, cows to slaughter,  
For you see blood only in the refrigerator.

Hanging from trees are the tillers of our fields.  
The seeds you sold them were modified to bleed.  
Our lands are barren,  
Parched without the water that flows through the hearts of men,  
But through dams and judgments,  
Thank you for that and more.

Meanwhile, here on the other side of the gun,  
It isn't our blood they suck, but the air in our lungs.  
What right have you to blame the cow for the grass in its cigs,  
for the obscenity in her downloads and meat in his fridge?

Sovereign, Socialist, Secular, Democratic, Republic,

Your wolf-concocted counterfeit freedom makes us sick.

So lead us astray, you souls gasping for a rebellion,

Against the saffron raise your flaming vermillion,

And with our will unleashed and flags unfurled,

We will march as comrades to the seditious pastures, to our brave new world

## FREE BUT HANDCUFFED

Sholab Arora

Thomas Macaulay's law: draconian,

Right to free speech's restriction.

Insurrection against the Union,

Is life conviction.

The law of the British Raj,

To suppress Gandhi and Tilak.

Vicious trap beneath a camouflage,

The society evolved, still stuck.

Since its inception; no reformation,

With Indians sighing in frustration.

Restricted to non-citizens in the Great Britain,

Indian legal system still has the British stain!

Section 124-A of the Indian Penal Code,

Allows free spirit of democracy to erode.

Right under Article 19 is not absolute,

Still free speech cannot dilute.

The Supreme Court distinguished sedition and dissent,  
In *Kedarnath v. State of Bihar*,  
Said one can merely criticize and comment,  
Still Kanhaiya Kumar went to jail of Tihar.  
*Balwant Singh* case: mere sloganeering does not amount to sedition,  
Amnesty International was slapped with the charge,  
Arundhati Roy was a victim to this tradition,  
Implies the scope of sedition is too large.

Free speech is the *sine qua non* of Democracy,  
But Section 124-A shows the State's hypocrisy.  
Cartoonists like Aseem Trivedi live with fear,  
And Kashmiri students cannot even cheer  
for Pakistan cricket team fearing sedition,  
Violating Article 19 (1) (A) of the Indian Constitution,  
Restriction is not in the 'interest of public order',  
In the 'interest of the government',  
makes the restriction unreasonably broader.

Gandhi Ji called sedition the Prince of the IPC,  
'Designed to suppress the liberty of the citizens'.  
Even after independence, people are not free,  
The 'chilling effect' reduces freedom to the minimum.  
'Governance is by open discussion of idea',  
In the Rangarajan case, the Supreme Court held.  
Sedition laws are justified in North Korea,  
Why our government cannot melt?

Impossible to fight the government through attrition,  
Only choice left is submission,  
Or we will be charged with sedition,  
Who knows? I might be booked for writing this edition!







# CYBERWARFARE: A NEW DILEMMA IN THE APPLICABILITY OF GENEVA CONVENTIONS 1949 AND INTERNATIONAL BILL OF RIGHTS

SANJAY SHENOI P

In 2007, Estonia saw a rampant Distributed Denial of Service (DDOS) which brought into halt the government services, banking, telecommunications, hospitals and media thus shutting all relations of the most wired Country with the rest of the world. The incident brought into limelight the development of the most sophisticated means of warfare that man has made ever. The technological advances are used as the modern means to achieve the military aims and to overcome the opponents through targeting the government offices, communication links, banking facilities and the transportation unlike the traditional means of warfare where the parties ought to follow the differentiation between the military and civilian objects.

Cyberspace has opened up a potentially new war-fighting domain, a man-made theatre of war additional to the natural theatres of land, air, sea and outer space and is interlinked with all of them. Unlike the traditional means and methods of warfare to which specific principles under Geneva Conventions apply, Cyber warfare is complicated and raises several issues in international law. Geneva Conventions uphold the core principles of Proportionality, distinction and necessity and humanity in both international and non-international armed conflicts with special protection to sick and the wounded, civilians, and prisoners of war.

Cyber warfare has opened a wide arena of questions to be mooted. Whether the Geneva Conventions apply to this new method. For the same another set of questions require answers- Do cyber activities ever constitute a use of force? Do they constitute an armed attack? Whether the principles of proportionality and distinction apply to it? If all these are technical issues, the most important issue is how the civilians affected by these attacks are protected and what the rules are under international humanitarian law and international human rights law is applicable in such a situation since every armed attack or war deprives the world community the basic human rights and how the states are to be held responsible for such an attack in case of state sponsored attacks?

It is proposed that there should be a research on the applicability of Geneva Conventions and International Bill of Rights for the protection of civilians affected by this novel means of warfare. The responsibility of States for human rights violations in case of cyber-attack will also be looked into. Such

research should also include a study on how the principle of customary international law on warfare, the principles of Jus ad bellum and Jus in Bello is applicable in this case so as to make the concerned states responsible to the victims.

As a conclusion, the author would like to point out that there is a need for amendment to the existing Geneva Conventions to include provisions for enhancement of protection available to the civilians since the technological advancements will definitely boost up new means of warfare in future too. The provisions for human rights protections should be extended to this case too since due to the cyber-attacks, many services like essential medical services, banking and other services are denied to the normal civilians in the peace time for which there is no remedy yet. The States sponsoring such attacks should be held responsible in international law for the violation of human rights to civilians of other affected states. The international bill of rights too should be enlarged to include protection to those civilians and to hold such states responsible.

# Be The Best Of Whatever You Are

Douglas Malloch

If you can't be a pine on the top of the hill,  
Be a scrub in the valley...but be  
The best little scrub by the side of the rill;  
Be a bush if you can't be a tree.

If you can't be a bush, be a bit of the grass,  
And some highway happier make;  
If you can't be a muskie, then just be a bass...  
But the liveliest bass in the lake!

We can't all be captains, we've got to be crew.  
There's something for all of us here,  
There's big work to do, and there's lesser to do,  
And the task you must do is near.

If you can't be a highway, then just be a trail,  
If you can't be a sun, be a star;  
It isn't by size that you win or you fail...  
Be the best of whatever you are!

