

SCHOOL OF LAW



**CHRIST**  
UNIVERSITY  
BANGALORE, INDIA

Declared as Deemed to be University under Section 3 of UGC Act 1956

LEX SCRIPTA  
*PENNING THE CHANGE*

ÉDITION II  
(E – Magazine)

An Initiative by the Students of SLCU

## DISCLAIMER PAGE

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## Director's Note



**Father Benny Thomas**

Law is a profession that requires a mastery over the art of writing. To be a good lawyer, one must be well versed in one's mannerism and speech, but to be a great lawyer, one must be skilled in writing. Lex Scripta provides a platform for the students to write and I hope that the students utilise this opportunity to the greatest possible extent. The themes include a variety of topics which have drawn a lot of attention in recent times. After witnessing the success of the First Edition of the magazine, I am confident that the Second Edition will be received with enthusiasm. I hope that this success continues to grow with every issue. I wish you all the very best!

## Associate Dean & Head of Department's Note



**Dr. Somu C. S**

The interest taken by the students and the teachers in the publication of the Second Edition of Lex Scripta is commendable. I thank the teachers for their guidance and the students for their support in the publication of the magazine. Writing is an important and vital skill that has to be inculcated in the students and this can be done through practice and perseverance. The magazine provides a platform for students to be heard and also to read about and discuss the various important issues in society today. The central theme of the magazine is based on the predicaments that the developing world is faced with. I hope that the students utilize the platform provided to them and that the magazine continues to prosper.





# The Resonance of Litigation

The attention a student of law, receives today, when compared to that of yesteryears, is quite different. There has been a meteoric rise in the acclaim and prestige attached to the legal profession. Having said that, most students from the legal background opt to pursue their careers in the corporate sphere. Although the Indian judiciary has proven itself time and again with quality world famous judgments, the notice it gets from students, as a viable career option is far less than what it deserves. Agreed that there is a lot of effort and time that requires to be invested by a student to reach some stature in this line of work, but that little effort will lead him or her to stand on his or her own two feet and truly unleash the potential of law.

The thrill of studying law for a student who truly loves the law can be seen in their usage of the very thing they love to stir a courtroom to life, leaving its walls echoing with the sounds of their passionate clarity. Such students bring to reality on life's canvass what their aspirations and dreams are; their dreams being to use the tools of law to further the ends of the people they represent.

As many scholars feel, it is the work of the lawyers that stimulate and awaken the minds of the Judges, who eventually actualize the ends of justice. The journey that law has taken through the ages has proven to effectively meet the needs of the people it governs. This can be sought only through constant evolution and change to meet the needs of each new day, and to serve this purpose, we as lawyers have a huge role to play.

Litigation is a field that has a versatility that other branches of law do not have. It is a field that puts great emphasis on each individual's ability to convey or put across eloquently propositions of law and reason, in a manner that is understandable and acceptable in a Court of law. Each lawyer's contribution has to be felt such that there is a removal of all obstacles to development. Only law can quell problems like corruption and injustice. Only law can truly give protection and recognition to our developmental issues. Therefore as the instruments of law, we lawyers should give voice to all those who seek justice.

As Mahatma Gandhi remarked: “*Be the change you wish to see in the world.*” We, as the agents of change, have to bring to life what the society needs. India is one of the largest democracies in the world and we have to show that the law is the best and most powerful tool to achieve democratic principles amidst an atmosphere of diversity. Therefore dear friends, let us rise to challenges that exist in the field of litigation, improve the quality of the profession and ultimately ensure that justice reaches all corners of our society.

- Krishma Nedungadi  
Convenor



## A Perfectionist's Eye for Detail

*“The difference between a successful person and others is not a lack of strength, not a lack of knowledge, but rather a lack in will.”*

— Vince Lombardi

A lawyer without the ability to articulate and communicate is merely a common man. ‘*Lex Scripta – Penning the Change*’ was brought to life through the enterprise of the Litigation Committee in 2013-2014. The words Lex and Scripta have Latin origins which literally mean Legal Writings. The aim and purpose behind the E-Magazine has been to inculcate and develop skills such as writing concise articles and developing the ability to pick out the important aspects of the issue.

Edition I of the E-Magazine focused on Contemporary Legal Issues that were prevailing in the country. Diverse issues such as Food security Bill, Mental Health Care Bill, the Violence of Rape after the Delhi Rape case and several other pertinent themes were the highlight. A



special and exclusive corner had been devoted to the Alumni & the Faculty at School of Law to show our appreciation.

Edition II brought with it a slew of new topics that ranged from matters relating to rationality of providing patent over lifesaving drugs, whether Media Trials are justified, if the need for sports law is validated, Raghuram Rajan's attempts to stabilize the value of rupee, whether Julian Assange is a hero or criminal, case commentary and creative legal writing. This Edition has focused on the reminiscences of our faculty either from their experience as a student or as a teacher in the law school and a new section brought to you by the committee to keep you abreast with the current events.

To give your grey cells a prod, puzzles, riddles and jokes and bizarre laws have been featured in both the editions.

The two branches of the Committee [Editorial & Design Teams] have worked diligently and meticulously to ensure that the contributions made not only highlight a vital aspect of law but also acknowledge the opinion/ thought that the authors wish to express in the Magazine.

Long hours, heated arguments and bucketful of patience has laid the foundation to this Magazine. Helen Keller once said, 'Alone we can do so little; together we can do so much and as a Committee we have strived to put in our best efforts and produce an E-Magazine that has not only quality and content but has also kept room for creativity. It is our earnest hope that you relish and appreciate the E-Magazine as much as we have enjoyed compiling it.

- Aashita Sood  
Convenor



# The Litigation Team

When the frontline strikes trouble,  
Constables ambushed in the  
crossfire,  
A Commander will grab for the  
phone,  
To work a way out of the mire.  
The enemy's weapon of preference  
A thing called a statement of  
claim,  
A guided heat seeking war head,  
Designed to wound and maim.  
However the litigation team  
Will put up one 'helluva' fight,  
In the defence of the Police  
Service  
They'll make sure all is right.  
A crack team of lawyers t'is true,  
One can trust in their integrity,  
considering a weighty issue,  
Over a solitary cup of tea.  
So when the troops call out  
'contact'  
And the enemy lobs writs so large,  
The report from the frontline says,  
"Call the Litigation team, Sarge!"

By

Bryan Michael Doyle



# OUR TWO BESTS



## A Note On Julian Assange

**-Sumnima Kataruka**



Over the past few weeks, Julian Assange has been seen as everything, from a hero to a traitor. The question whether Julian Assange, whose organization has been credited with releasing thousands of classified information to the public, is a hero or a criminal is based on political opinions which are subjective. Ones who believe in having a transparent and an accountable government and freedom of speech and expression would consider Assange a hero whereas; people who believe that governments must have some secrecy from citizens would call him a villain.

In history, there are two theories: one is that events create great people and the other is that great people shape the events. From a given perspective, he could be the person who happened to be in the right place at the right hour to embody the collective frustration with the ambiguity of our governments. The fact that the Iraq war started in 2003 based on flawed interpretations of the available intelligence led to the creation of slow groundswell of

envisioning the mechanics of diplomacy and international relations. The international notoriety of WikiLeaks has created a huge step-jump in terms of creating a journalistic product by which insiders who are driven by their conscience can disclose information about injustices to the people of the world.

I don't necessarily believe that either label would be correct for him but his actions would not have been necessary had it not been for the failure of journalism. He is merely exercising his right to freedom of speech and expression, and making people fully aware of current events and issues to bring a transparent government. He is fighting to keep an average citizen informed of corruption, existing within the government. His idea is against the mainstream press which is to stop supporting the government's views on everything. He is fighting to introduce the power of technology into a political system that has become outdated and corrupt. He has not disclosed anything that has threatened a single American soldier's life or given radical terrorists any more of



target than we as the aggressors have not already done for themselves.

The first amendment of the American Constitution says that, no laws shall be made in respect of establishment of religion or prohibiting the free exercise or abridging the freedom of speech or the press. This primary amendment was made in order to protect and assure the people of the United States (when their government goes too far). In the past, media was newspapers and the leaking of information to the people was limited to a single country. A lot has been said about the capability of the Internet to spread knowledge across borders and link the people of the world.

Wikileaks is the first such *Internet product* to have used this technology to provide true journalistic service to an audience that is no less than all the people of the world. Assange has definitely made it easier to have a well-informed public. He isn't a hero but he is instead someone who stands for truth and freedom and thinks that everyone deserves the right to access such truth and freedom. The releasing of private and government documents has not only exposed many companies and their corrupt activities but also revealed things that shouldn't be kept from the public eye. He resulted in creating a new type of journalism that doesn't sugar coat facts but puts them in plain view for the people to see.

## Should pharmaceutical companies be allowed to patent life – saving drugs?

–Swathi Nair

**P**atents are an exclusive right given to a person for inventing a new and useful article, or a new process of making an article. This is to encourage the invention of a new technology, and research. It also induces an inventor to reveal his trade secrets. If a person is not given his due

credit then he would never reveal his trade secrets. He would always work on it secretly. Most of the drugs patented are generally not invented by a single person because a lot of resources and research work is required, and the working hours spent on it must be rewarded. Nowadays most of these drugs have been patented by transnational companies which would not

do it for a noble cause, as the aim of these companies is to gain profits. Hence keeping this in mind pharmaceutical companies should be allowed to patent life saving drugs.

In India, if a person is given a patent over a drug or an article, he is given 3 years time to start manufacturing it and start making full use of it, otherwise the government can take an initiative and give compulsory licensing which gives the patent holder certain profits. The use of it is licensed to an outsider who may manufacture and enjoy the rights attached to the patented product. So at the end of the day, we feel that compulsory licenses are the way to save lives. And so we push for laws that enable their existence in the global health front. These are often called “Access to Medicine Regimes” and a few countries already have them in place. In many respects, they are examples of innovation themselves, since there are two challenging criteria they are required to meet, namely, that cheaper life saving drugs are made available to poorer countries and that the pharmaceutical industry can still keep their status quo in richer countries.

Medicines should benefit the sick and not pharmaceutical companies. In the last 50 years, we have seen incredible progress in the development of medicines. The drugs

that people have created can eradicate entire diseases, prevent debilitating illnesses, save lives and enhance wellbeing. But when it comes to justice, we are failing; not everyone who needs them has access to these lifesaving drugs. Poverty is often the cause of preventable illness such as diarrhoea, while it also prevents people from being able to pay for vital medicines. Most of the articles written about this topic emphasize that the poor nations and the economically backward classes in the society do not have access to these life-saving drugs, and though there are drugs to cure their illness it is not made available to them because the drugs are highly priced and only the rich can afford to buy them. The solution to this is to give patents to the pharmaceutical companies while the government also takes an initiative. The drugs should be given in a subsidized rate to the poor and should be highly priced for the others, or the government must license it from the patent holder and manufacture the product at a lesser cost and make it available in the market.

Thus, the government after the 2005 amendment in India allowed the patent of drugs. This is justified because if we don't allow patents of life saving drugs many of these drugs will not come into India or the people will never reveal their trade secrets,




or work on the development of the drug as they would not be given a reward. Thus, in order to be given credit for inventing the drug pharmaceutical companies should be allowed to patent life-saving drugs.

Sources : Shamand bhasheer ,pg6, 2005 article, the Indian journal of law and technology , Rena hydra , pg 12, 2007 article, health and poverty action campaign

## Media Trial In India: An Unending Conundrum

–Shivam Dubey

*“I would rather have a completely free press with all the dangers involved in the wrong use of that freedom than a suppressed or regulated press.”*  
–Pandit Jawaharlal Nehru

he media in India has a large amount of freedom as compared to the other countries in the world, in the terms of legal constraints. The freedom of expression, incorporated in the Indian Constitution, is an important facilitator for the widespread engagement within the democratic atmosphere. Indian media has been provided with freedoms and immunities so as to ensure that the fourth pillar of democracy stands tall and strong. But what Lord Atkin relates with power is also well placed with the notion of liberty. Liberty

may lead to corruption and is prone to abuse. Every institution is liable to be abused, and every liberty, if left unbridled, has the tendency to become a license which would lead to disorder and anarchy.

Media has now reincarnated itself into a ‘public court’ (Janta Adalat) and has started interfering with the court proceedings. It completely overlooks the vital gap between an accused and a convict keeping at stake the golden principles of ‘presumption of innocence until proven guilty’ and ‘guilt proved beyond reasonable doubt’. Now, what we observe is a media trial where the media itself does a separate investigation, builds a public opinion against the accused even before the court takes cognizance of the *Jessica Lal case & Aarushi Talwar case* are good examples of media trial. This way, it

prejudices the public and sometimes even judges and as a result the accused, that should be assumed innocent, is presumed as a criminal leaving all his rights and liberty unredressed. If excessive publicity in the media about a suspect or an accused before trial prejudices a fair trial or results in characterizing him as a person who had indeed committed the crime, it amounts to undue interference with the “administration of justice”, calling for proceedings for contempt of court against the media. Unfortunately, rules designed to regulate journalistic conduct are inadequate to prevent the encroachment of civil rights.

Right to a fair trial is a right of every individual within the territorial limits of India vide articles 14 and 20, 21 and 22 of the Constitution. Needless to say right to a fair trial is more important as it is a right which flows from Article 21 of the constitution to be read with Article 14. Freedom of speech and expression incorporated under Article 19 (1)(a) is subject to ‘reasonable restriction’ under Article 19 (2) and Section 2 (c) of the Contempt of Court Act. One’s right to life with dignity is always given more priority over one’s right to freedom of speech and expression. Media should also ponder upon these facts. Fair trial is not a purely private benefit for an accused – the

public's confidence in the integrity of the justice system is crucial. The right to a fair trial is at the heart of the Indian criminal justice system. It encompasses several other rights including the right to be presumed innocent until proven guilty, the right to not be compelled to be a witness against oneself, the right to a public trial, the right to legal representation, the right to speedy trial, the right to be present during trial and examine witnesses, etc.

Any institution, be it legislature, executive, judiciary or bureaucracy, is liable to be abused if it exceeds its legitimate jurisdiction and functions. But sometimes these ultra vires activities are a blessing in disguise as is the case of judicial activism. Media trial is also an appreciable effort along with the revolutionary sting operations as it keeps a close watch over the investigations and activities of police administration and the executive. But there must be a reasonable self-restriction over its arena and due emphasis should be given to fair trial and the court procedures must be respected with an adequate sense of responsibility. Media should acknowledge the fact that whatever they publish has a great impact over the spectator. Therefore, it is the moral duty of the media to show the truth at the right time.

While the print media has reached a saturation stage where it is aware of the legal guidelines and the ethical limits, the electronic media is experimenting and relying upon a 'trial and error' method for what to show and more importantly what not to. The time will come when electronic media will also be well regulated by self-

censored guidelines and we shall retain a 'completely free press', the dream of our first Prime Minister and that too without any danger involved.

Sources : <http://www.jstor.org/stable/29760103> , *Gisborne Herald Co. Ltd. V. Solicitor General*, 1995 (3) NZLR 563 (CA) ,*Express Newspapers v. U.O.I.*, (1997) 1 SCC 133

## Ain't No Chance If You Don't Take It

—Sarthak Roy



There is no single universally accepted definition of the term 'sport'. Defining the term has proved to be perhaps as difficult as excelling in any particular sport. But the term has, over the years, acquired various definitions- some restrictive, some wide and some illustrative. The term 'sport' derives its origin from a French determined Middle English verb '*sporten*' which literally means 'to divert', and also the Latin term '*desport*' which means 'to carry away'. Basically sport, like religion, defies definition. In a manner, it goes beyond the definitive terminology neither of which has the substance which can be identified. In a sense, both sport and religion are abstract concepts.

The most important facet of sports is related to the essential purpose it serves in terms of an individual's empowerment, development, psychological wellbeing, and the potential to build and sustain relationships. Now, let us take a look at the title "Ain't no chance if you don't take it" and how it can be appropriately used in the sphere of Sports Litigation. 'Sports-based' activity is likely to have financial, commercial and legal benefits. For example, exemption from entertainment tax, protection from criminal proceedings, patronage, and state-aid, apart from publicity are available along with other advantages.



Human beings are involved in sports activities since time immemorial. From the earliest days of human civilization till date, sports have developed from a mere source of personal entertainment to a global industry comprising of more than 3% of the world trade. In the United Kingdom, sports provide employment to more than 420,000 people. It is one of the largest revenue generating industries in the world and with the proliferation of the Internet and other forms of media, the sports industry is set to grow at a faster pace in the future. An industry of billions of dollars with a pervasive global presence is bound to breed its own disputes and this resulted in the growth and development of sports law as a separate discipline in its own right.

Sports law is no longer an applied law or an amalgam of laws in some jurisdictions, which have taken the lead and enacted separate legislations concerning sports. For instance, in India sports figures in the Concurrent list of the Seventh Schedule (Entry 33) of the Constitution on which both the union and state legislatures are competent to make laws. There are already 3 States; Rajasthan, Himachal Pradesh and Uttar Pradesh, which have enacted laws regulating sports activity including the registration, regulation and recognition of

the Sports Associations (Uttar Pradesh has since repealed the Act).

The Society of Indian Law Firm's (SILF) president Lalit Bhasin criticised the government for having an inadequate sports law in the country and said that the Sports Authority of India (SAI) was doing very little to help the cause. He also laid emphasis on the need for a statutory body to regulate sports in the country.

"There has to be some sort of mechanism in place, even if it is a self-regulatory body. We have seen that a government body alone cannot keep a check nor can a private body. We need a statutory body which is autonomous and can keep the sports federations in check," Bhasin said.

Due to India's economic growth, it has been chosen to host Formula One Championships, tennis championships. It has also been given the hosting rights to the 2017 under 17 FIFA World Cup. These opportunities will certainly act as a catalyst for sustainable development as the regional governments seek to further diversify their economies. With so much at stake, it is not surprising that the sports industry requires dedicated laws to govern it from an economic, commercial and reputational perspective. These are

exciting times in the sports industry and there “Ain’t no chance if you don’t take it.”


Sources : Mukul Mudgal, Law and Sports In India: Development, Issues and Challenges, 2011, Webster’s New Collegiate Dictionary, New York, Webster’s, 1995 , S Gardiner et al, Sports law, Second Edition, Cavendish, London, 2001 , Howard Slusher, Men, Sport and Existence; A Critical Analysis, Philadelphia: Lea and Febiger, 1967 , <http://www.lexuniverse.com/sports-law/index.html>

## Has Raghuram Been successful In Stabilizing The Value of the Rupee?

— Disha Adhikary

*“Our task today is to build a bridge to the future, over the stormy waves produced by global financial markets.”*

*- Raghuram Rajan, Governor,  
Reserve Bank of India*

he RBI Governor, Dr. Rajan has certainly visualized a bold, reformist vision, which would require immense hard work, to become a reality during his tenure in the Central Bank. He declares with his head held high that he would “preserve the value of currency”, and also optimistically refers to India as a country with a sound economy with a bright future. He opines, “Our task today is to build a bridge to the future, over the stormy waves produced by global financial markets.” To materialize these words, his plan of action is to deepen security markets, support and push the rupee as an international currency and

create a warning for corporate defaulters of loans. Dr. Rajan said that a panel of experts under Deputy Governor, Urjit Patel, is working on suggestions on what needs to be done to revise and strengthen the monetary policy framework. Highlighting the importance of inflation targeting, he said that the primary role of the central bank is ensuring monetary stability by sustaining confidence in the value of the country’s money.

For preservation of the purchasing power of the rupee, Rajan said that the RBI had two important mandates – inclusive growth and development as well as financial stability. It is a known fact that access to finance is still hard for the poor and for rural small and medium industries and therefore “We need faster, broad based, inclusive growth leading to a rapid fall in poverty.”

To facilitate this he said the RBI would shortly free bank branching completely for domestic scheduled commercial banks in every part of the country. “No longer will a well-run scheduled domestic commercial bank have to approach the RBI for permission to open a branch. We will, of course require banks to fulfill certain inclusion criteria in underserved areas in proportion to their expansion in urban areas, and we will restrain improperly managed banks from expanding until they convince supervisors of their stability.” Dr. Rajan said the RBI will give out new banking licenses latest by January 2014. “We will not stop with these licenses,” he said referring to the possibility of continuous or “on-tap” licensing and converting large urban cooperative banks into commercial banks. He also said that

RBI would encourage qualifying foreign banks to move to a wholly owned subsidiary structure, where they will enjoy near national treatment on a reciprocal basis.

The action plan drawn out as of yet seems to be well thought out and if well executed, stabilization of rupee will not be a distant dream. Dr. Rajan has put in a lot of creativity in the same; while he admits that some of his actions will not be popular, he said “the governorship of the Central Bank is not meant to win one votes or Facebook ‘likes’. I hope to do the right thing no matter what the criticism is, even while looking to learn from the criticism.”

Source :  
<http://www.thehindu.com/business/Economy/raghuram-rajan-starts-with-a-bang/article5093241.ece>

## Should Pharmaceuticals be granted Patent over Life Saving Drugs?

– **Ankita Rithuraj**

**P**atents are one of the strongest forms of intellectual property giving monopoly rights to an individual in relation to a product or process generated by novelty. The patent system provides an indispensable incentive

for creative and inventive work and is crucial for establishing and maintaining an attractive commercial environment. It stimulates domestic innovation which is very important from the economic point of view as well as helping in the economic growth.



Under the Indian Patents Act, 1970, patent is defined as a patent granted for any invention. Invention means any product or process involving an inventive step and capable of industrial application. Indian Patent Act, 1970 also mentions some guidelines for the working of patents which explicitly mentions that the patents which have been granted that do not impede the protection of public health and nutrition. It further clarifies that the patents granted do not in any way prohibit the central government from taking measures to protect public health.

Consider the case of Novartis in India. Novartis filed for patenting gleevec, a drug used in the treatment of multiple cancers. It was not granted a patent, one of the reasons being that it demanded exclusive marketing rights, and the patent office and the court considered it to be only a modification of the basic raw drug, imatinib which the generic manufacturers were already selling in India. Had Novartis won the case and got gleevec patented, it would have either meant that the generic sale of the medicine had to be stopped or the generic manufacturers had to pay royalty to Novartis due to which the price of even the generic version of this medicine would have risen.

The prospect of whether to provide patents on life saving drugs is extremely important for a developing country like India. The

status of health care in India is highly defective and the easy availability of even common medicines is still a distant dream for large chunk of the masses especially in rural areas. The socio economic background of India is not very impressive and it does not allow an average citizen to afford drugs which are highly expensive. In such a scenario, the entire idea of giving patents on life saving drugs does not seem very reasonable and proper.

In a country where people find it difficult to buy even those medicines which are not patented, it is hard to imagine a situation where lifesaving drugs are patented. But on the other side, it is the exclusive right of the inventors which also need to be protected, since the inventions are kind of an extension of the self and a person's right over his own creation needs to be acknowledged. Also, extensive research, capital and labor go into making an invention and if the person is not given the monopoly to protect his creation, then it is capable of being exploited by others, which reduces the incentive to research and develop further. This problem of striking a proper balance between the societal welfare and upholding an individual's right becomes even more complex. However, the logic of compulsory licensing can be used here. After the expiration of three years from the date of grant of a patent, any interested person may

apply for grant of compulsory licensing on the ground that the invention is not available to the public at reasonably affordable prices. In fact, the government should make it compulsory for those pharmaceuticals that get a patent on life saving drugs to compulsorily license out their products and only then should they be granted a patent. This would help in striking a balance between the two up to a certain extent.

Patents are compulsory. Individuals who come up with new products and processes

have a right to claim monopoly over their invention for the certain time period. But the issue becomes sensitive when it comes to the sphere of public health and nutrition. In such cases, patents should still be granted but on the condition that pharmaceuticals necessarily need to license out the drugs since they are lifesaving drugs and it is extremely important that public can get access to them at reasonably affordable prices because the sole purpose of granting patents is that the society can be benefitted at large.

## Trail by Media: Free Speech v. Fair Trial

– **Kratika Singhal**



The media in India is considered as one of the pillars of democracy and has wide ranging roles to play in the society. Article 19(1) of the Constitution of India talks about freedom of speech and expression and acts as the most important tool in facilitating freedom of press. Media plays a vital role in moulding the opinion of the society, that is, it is capable of changing the whole viewpoint of the people. It can be commended for starting a trend where it plays an active role in bringing the accused

to book, and at the same time it involves elements of danger in respect to the ‘administration of justice’ which is the very essence of the natural justice and the rule of law.

Several publications made by the media on ongoing cases are likely to have prejudicial impact on the suspects, witnesses, accused, and even Judges. According to our criminal law, a suspect/accused is entitled to a fair procedure and is presumed to be innocent till proved guilty in a Court of



law and nothing can prejudice or prejudice his case by the time it goes to trial. Such freedom of press practiced by the media is something which is beyond its limit and ethics.

Media now has presumed its power to such an extent where it has started working as 'public court' like a Janta Adalat, thereby interfering into court proceedings. The media in doing so, has gone against the basic golden principles of 'presumption of innocence until proven guilty' and 'guilt beyond reasonable doubt' and it has overlooked the vital gap between an accused and a convict. By taking up media trials, the media itself conducts a separate investigation and builds a public opinion against the accused even before the court takes cognizance of the case. By this way, it not only puts undue influence on the public at large but also prejudices the working of the judges and as a result the accused, who should be presumed to be innocent, is considered as a criminal leaving all his rights and liberty unredressed.

In the Jessica Lal murder case, which took place on April 29, 1999, Jessica Lal was shot dead for the sole reason that she had refused to serve a drink as the bar had been closed. Earlier the case had not been taken

up by the police as Manu Sharma the accused, was the son of a politician in Haryana and thus was an influential person. Here the role played by the media is worth praising as the momentum uplifted the case and lead to the delivery of justice for Jessica. There were protests in every part of the country and the media acted like the most indispensable mouth piece which changed the waves of injustice which was corroding the Jessica Lal case. The movie 'No One Killed Jessica' directed by Raj Kumar Gupta, dramatized, the complete scenario of the night and its aftermath. This all immensely helped in highlighting the case and leading to justice.

But as we all know, the power of media is un-regulated. No doubt that it was successful in getting justice in this case but what about the hundreds of other cases where it effects the fair trial. Parties have a constitutional right to have a fair trial, that is, the trial should be by an impartial tribunal, uninfluenced by newspaper or any popular clamour. The question raised here is, what would happen to this right if the press uses such language so as to influence and control the judicial process? It is to be kept in mind that democracy demands fair play and transparency, but if these are curtailed then the very concept of democracy fails. Also, the right given

under Article 19(1) of the Constitution is not an absolute one, it has certain restrictions given under clause (2) of the same section.

In Aarushi Talwar's case, also known as the biggest murder mystery saw heavy media coverage. Earlier there were lot of allegations put on various people. There were questions raised about Aarushi's character. Also before Hemraj's body (domestic servant) was found by the police he too was suspected to be the murderer. Further there were talks about an extra marital affair of her father, etc. All these events resulted in delaying the case for almost 6 years. The things showed by the

media definitely steered the minds of the public.

Thus, we can conclude by saying that there is no doubt that media creates unwanted pressure on the juror, as jurors know that they are being watched by the whole world and their judgement will affect the society in a big way. They know that they are not only giving a judgement, but also making a statement which is will affect their family, co-workers, community and the society as a whole. This sometimes elevates their verdict to a level beyond the evidence. Hence, trial by media is not justified.

## Justify the need for a specialized Sports Law in India

– Deepika Dixit

**S**ports Law is one that applies law in sports, physical education and its related field. It is a pure law as opposed to theoretical law and is concerned with how law in general interacts with the activity known as sports. Human beings are drawn towards sports since time immemorial. From the initial days of human

civilization, sports has evolved from being a source of personal entertainment to a global industry encompassing more than 3% of world trade. In the UK, sport provide employment to more than 420,000 people. It is one of the main revenue generating industries of the world and with the propagation of the Internet and other forms of media, the sports industry is growing at a faster rate.



It is also a blend of laws in a number of jurisdictions. Several jurisdictions have passed separate legislation relating to sports. For example in India sports falls in the concurrent list of the seventh schedule of the constitution on which both the Union and State legislatures are proficient to make laws. There are three states Rajasthan, Himachal Pradesh and Uttar Pradesh, which have enacted laws on regulating sports activity including registration and regulation of Sports. An industry of billions dollars and an all-encompassing worldwide presence is bound to raise its own disputes. This has resulted in the growth and development of sports laws. In India, there is no national or state legislation for regulation of sports.

The Ministry of Youth Affairs & Sports was set up by the Government of India to create the infrastructure and promote capacity building for broad-basing sports as well as for achieving excellence in various competitive events at the national and international levels. Sports promotion is primarily the responsibility of the various National Sports Federations (NSFs) which are autonomous in nature. The Ministry of Sports and Youth Affairs issues notifications and guidelines from time to time for the purpose of regulating the NSFs. Sports Law in India is governed

and regulated by various bodies and policies such as National Sports Policy, Sports law and welfare association , Sports Authority of India, The Sports Broadcasting Law in India.

We need sports law in India, to curb crime in sports such as spot fixing, which is becoming very frequent in India. We have recently seen, in IPL matches, how spot fixing has taken place and how renowned players like Sreesanth, Chandila and Chavan were found guilty. We need to curb spot fixing and also need sports laws in case of doping. Nowadays, as the competition is increasing, sportsmen are becoming insecure and in order to stay ahead of each other, they take supplements such as drugs and alcohol to keep themselves energetic and fit. Sporting institutions thrive on the success of sportspersons, but often ignore the interest of professionals, who are helpless against the mighty sports bodies. We rarely think that they may be victims of a very powerful sports industry and are in need of protection. So we need laws for the protection of such players.

We also need it in cases of discrimination, which can be of different types. In case of professional sports, it can come from the manager's side or from owner's side who treat certain players unfavorably and do

not choose them in the team at the time of selection. Discrimination can also happen within the team. For instance, members favoring a few and disfavoring the others, which is called co- worker discrimination. It can also come from the external sources such as the public and the fans. This ‘customer prejudice’ can lead to racist incidents. In some cases, referees and club officials also take part in discriminatory and racist practices. The most common discriminatory practice is for equal work on the grounds of race or sex.

"Positional segregation" is also a type of discrimination which refers to under representation of people from ethnic backgrounds, different race or color or because they are non-nationals, in designated positions both in sports teams

and in sports organization. We also need it so that we can make the sports bodies liable for their conduct and unfair practices in case of selection, harassment, conflict of interests, recruitment and awards, etc.

We need to review the laws and policies of fair sex in sports, ensure that equality rights for fair sex are applied, check on internal investigations and inquiries in cases of harassment and check whether humanitarian and constitutional law is present for the prevention of racial and gender harassment. It is also necessary in case of injuries to the sportsmen, where they can claim compensation for themselves, risk assessment insurance provisions and for regulation of violence between players in contact sports.

## Julian Assange – Hero or Criminal? Discuss in light of the invasion of privacy by the US.

– Aditya Mitra

**H**eroes and criminals” are the two most contextualized set of correlatives that modernity exemplifies. In the 1930’s, during the depression years, in the United States, gangsters like Al Capone and John Dillinger were seen as public heroes,

embraced as outlaws. Their acts were never legally right so to speak but nonetheless seen as a rallying point for all those who did not approve of the existing situations. Fast forward to 80 odd years and they are viewed as criminals, who violated the law and their names are treated with the same banal but profuse set

of synonyms eg; criminals, thieves, robbers - all negative connotations. So what changes and what becomes the rational metric through which we judge both the varsity and validity of one's actions or an even more fundamental question "can we even judge them?"

Enter Julian Assange, a man who has redefined the boundaries of journalism in his quest to find the truth, whatever the cost may be. His revolutionary "wiki leaks" has ensured that we never fail to associate the concept of "whistleblowers" with anyone but his site. His recent endeavors have made him a global icon or as we'd like to say a "hero." But for any hero to exist there needs to be a villain; a role that seems to have been fulfilled to a great extent by the United States of America or more specifically by their national security agencies. These agencies have always played the roles of pantomime villains that violate people's privacy, coerce their conformity, antagonize, profiled minorities and in totality lead to a form of implicit disintegration of society through their acts while crippling the relation between the state and its people.

At least this is what the hero would have you believe so to speak. In the James Bond movie Skyfall "M" a.k.a Judi Dench is asked a question about whether we even need secret service agencies in a world that

is so open and transparent, where there are no warring countries. She replies "I'm frightened because our enemies are no longer known to us. They do not exist on a map. They're not nations, they're individuals. And look around you. Who do you fear? Can you see a face, a uniform, a flag? No! Our world is no longer transparent now, it's more opaque! It's in the shadows."

The truth is that these agencies serve a goal which is equally important and that is "security". The picture of the twin towers crashing down is still an image that haunts the world.

This in turn forms the crux of the paradox our world faces. Jean Jacques Rosseau is right when he says "a state that dissuades its citizens from public participation and coerces their liberties has failed in its primary duty altogether" yet so is Niccolo Machiavelli who says that the state's primary duty is to ensure the safety and security of its people.

The national security agencies would see Assange, as a criminal who through his acts has accessed top - secret information and leaked it to the public, crippling the security of a country as well as covert operations by the military. The disclosure of information on informants in terrorist cells lead to execution of several informants by these groups, a fact that is



both true and needs to be accepted if we are to gain a true perspective into what Julian Assange has done. His portrayal as a hero or criminal is something which is based on what the world wants him to be, however, the impact he has created is undisputed. The human psyche always tries to characterize conflicts like the one Assange is in, into a “David and Goliath battle” where the former is always likely to gain more support and seem more heroic in terms of appeal. One man fighting a system seems to generate a lot more euphoria and acceptance from people, but in doing so it is easy to forget the core issue at hand.

All said and done, it boils down to whether people value their individual rights and

privacy so much that they are ready to forsake heavy security measures for their protection. This is not a question that can be answered by people nor can it be answered in one attempt. It must be analysed in the true context of why it is asked. Perhaps today, Julian Assange is truly a hero but there is nothing to say that his acts, universally condoned or condemned, are right. Some may even call it a necessary evil. In truth we may never know for what and how Assange will be remembered but we do know this, whether we condemn or condone him, his impact is undisputed. It highlights the dilemma that the new globalized world faces, how the world solves this dilemma, is what will determine his role in history as a criminal or a hero.

## Is the Lady Justice still blindfolded?

– Alphonsa Neethu Alex

*“To know things as they are is better than  
to believe things as they seem”*

– Tom Wicker

**I**n this modern era, where we believe what we see, and we see what the media

shows us, it is unsurprising that media has influenced our lives so much so that even the “blind Lady Justice” now sees through the eye of the media. The recent history of judgments rendered in the famous Jessica Lal murder case and Aarushi-Hemraj double murder case are clear examples for

the impressions that the media leaves on the judicial system in the contemporary world. But then has the media been flawless enough to portray the reality of circumstances? Or has it shown us things as “how they seem” to them rather than “how they really are”?

William Blackstone once said "It is better that ten guilty persons escape than that one innocent suffer". But has it been so? Had it not been for the trial by media, the accused in Jessica Lal and Aarushi Talwar cases would have been exonerated. Witnessing a huge outcry for the accused from the public, these cases were hyped by the media, right from the pendency of court proceedings till the pronouncement of the verdicts. On a perusal of these cases, one can find two common factors- the media played a very influential part during the trial by sensationalising it and the “accused” were convicted by the court in both the cases. Though in the former case the conviction of the accused was widely accepted throughout the nation, it was not so in the latter.

The conviction of the Talwars even in the absence of cogent evidence, that too in a nation following ‘pro-accused’ principles of criminal jurisprudence was criticized by many legal experts as “a rape to justice”. It is undisputed that the media trial which seemed to convert the “accused” into

“convicts” has had its impact on the judgments of both these cases. However the real problem lies when a person who has been “wrongly accused” is tried by the media and labelled as a convict even before his case is adjudged in the court. In both Jessica Lal case and Aarushi Talwar case the judge, who is supposed to be impartial, seems to have been swayed by the media politics. The media trial has led to the pronouncement of a prejudiced judgment defying the very principles of natural justice.

Hence, *trial by media is unjustified* as the media shouldn’t take up the responsibility of the judiciary in conducting a trial and deciding the cases before them. To be a powerful tool to check transparency of the legal system in our country, “*Media should be unbiased and objective in its reporting*” as the Chairman of Press Council of India Shri Markandey Katju opined. A fair reporting is, however, justified as it neither compromises the dignity of our nation’s judicial process nor does it intrude into the minds of its readers. When the media carries out the trial on its own, it is actually hampering the credibility of the official investigation and trial processes, thereby victimising the accused irrespective of him being given a chance to prove his innocence. The media often forgets the difference between an “accused” and a

“convict” as it often tends to allege the indicted undoubtedly to be the offender, thus, leading its viewers and readers to draw similar conclusions. The result being the conviction of the suspect, which extinguishes his hopes of exculpation.

To conclude, agreeing with Sydney Harris *“News, like substances, ought to be divided into solids, fluids and gases- and appropriately labelled as such for*

*publication”* given the persuasive power of media on the minds of the public as well as the judiciary. Let the media be a fair tool to ensure uprightness of our system, keen on presenting the truth to the world so that the blindfolded lady justice remains so forever unperturbed by external influences.

Source:<http://www.firstpost.com/india/why-the-aarushi-talwar-case-is-a-rape-of-justice-1251193.html> ,  
<http://goelashish.blogspot.in/2012/03/trial-by-media-is-justified-give-points.html>





## Julian Assange – Hero or Criminal?

-Shuhul Dhar

**J**ulian Paul Assange, born on 3 July

1971 is an Australian editor, activist, publisher and journalist. He is the editor-in-chief and founder of wiki leaks. Wiki-leaks publishes secret information from anonymous sources known as whistle blowers. Wiki leaks was started in the year 2006 and it became famous in the year 2010, when it started publishing information about the U.S. military and diplomatic documents.

In 2010 wiki leaks published some 251,000 American diplomatic Cables which were in their possession which were widely known as *Cablegate* out of which 53% was listed as “unclassified”, 40% as “confidential” and over 6% as “secret”. The United States Department of Justice launched a criminal investigation. For its investigation, the United States Department of Justice asked Twitter for information about the account of Julian Assange. Some of the commentators think that the release of the Diplomatic Cable has been a major factor in sparking the

Tunisian Revolution because the leak has revealed the degree of corruption in the ruling government. There were allegations of possible extraditions to the United States. There were declassified diplomatic cables which confirm the existence of secret indictment. The Australian Government verified that there was a possibility of extradition to the US.

The Australian Prime Minister Julia Gillard, came into light with her statement calling leaks an illegal act and suggesting to cancel Assange’s Australian passport. After this statement of the Australian Prime Minister many lawyers, academicians and journalists came forward to support Assange. They were not able to explain how Assange broke any Australian law or how he broke any American law. The Prime Minister was accused of being clumsy with her words.

Recently Julian Assange is seen as a hero, a criminal and a traitor, who according to many residents should be hanged. It is very sad to see Assange and his ideals behind doing what he has been doing, has

been misunderstood. The author's idea behind supporting him is that he never revealed information which put an American soldier's life into any kind of danger nor created any kind of danger for the nation.

Enemy is a person who is antagonistic to another, especially one seeking to injure, overthrow, or confound an opponent. The question here is, does Julian Assange fit the criterion in the definition of an enemy. The Constitution of America says that the Congress should not make any rules which deprive ones right of freedom of speech or press. There has been a debate that the government should not protect a person speaking against a government but they do not get the point that the government is not always right so who will give the voice to the people if their government goes too far.

Julian Assange never made any illegal statement but only placed the real face of the government in front of the people. His work only helped the people in Afghanistan and also stopped the US government from misusing its power.

The founding fathers of the Constitution understood the need for Freedom of Speech and Freedom of Press. Even though Julian Assange is not a citizen of United States of America his work should not be declared illegal or be banned in US.

The author here would like to raise the question that if a government is wrong then does the citizen have a right to speak against the government? If he tries to go against the government, should he face trial for being a traitor?

Sources : *Herald Sun* (Melbourne). AAP. 7 December 2010, Jesse Mathewson, Julian Assange hero or criminal

## Should Pharmaceuticals be granted Patent over Life Saving Drugs?

**-Ryan Albert Mendonca**

**I**magine you are an inventor and you have invented something that many people want. You have spent a significant amount of time, money and effort. It's only fair

that you want to make sure you protect your innovation. You want to make sure that you are not only compensated for your work, but that you are rewarded accordingly, handsomely even. This is



where government can step in and protect you. They can do this by setting rules on intellectual property. They grant patents, which allow you to control your invention, and control how others can or cannot use it.

This is how the pharmaceutical industry works in a nutshell. They are inventors, and their inventions are medicines. Research and development costs are significant, both in terms of money and time. This is usually because many of the things they invent do not work out in the end. They get patents, and are compensated and rewarded accordingly; the pharmaceutical industry is rewarded very handsomely. As things are so obviously working in their favour, the pharmaceutical industry has a vested interest in maintaining the status quo. This generates funding towards future research and development which consists of discovering, testing and bringing to the market, new drugs.

Now, this process of drug discovery (evaluating thousands of chemical compounds), testing, clinical trials (on rats, other animals, and finally humans), Food and Drug Administration (FDA) approvals are extremely time consuming, costly and over-run the risk of failure. Normally it takes more than 15 years and

costs more than a billion dollars, just to get an approval to sell a single drug. The pharmaceutical companies do not want to lose any semblance of control, even if, lives are on the line. They are very good at protecting this control through their strong lobbying influence on the Congress, and they do this with zeal and sometimes by misrepresenting facts.

This is because there is a market for such things: whether we are talking about antiretroviral drugs for HIV or Viagra for life style needs, in the developed world, people want these drugs and are willing to pay for them. The supply and demand exists, and the pharmaceutical industry knows how to play the game. However, these handsome rewards do not continue for long as there is a constant fight for compulsory licenses. Compulsory licencing is where the government can step in and forcibly change the patent, because in every case, there is an element of morality involved and guess what, governments can do this and they do!

Many people have suggested that a way to get around this challenge of access to medicine is to set up ways to produce generic drugs. This is essentially why outside companies can be granted the right to copy the drug and produce it at a much lower cost. Just to clarify, the cost of drug

production is generally a very small fraction of the final price. These rights, however, would be very specific and generics can only be sold under strict circumstances such that the status quo is unaffected in wealthy markets. A good example of this is to simply say that generics can only go to developing markets, to places like Sub-Sahara Africa, since they already do not factor into the industry's bottom line. Furthermore, the inventors can stipulate royalties, so that they still get compensated for opening up these markets.

For many reasons, the pharmaceutical industry has not been keen on this idea, and has done much to make generic production as laborious as slow as possible. Ideally, they would be a willing

participant in the discussions with generic producers, and they can bargain fair terms so that these cheaper drugs can be made. Unfortunately, this rarely happens and when it does, it tends to be on an older palette of medicines which may be less effective along with side effects. Since the pharmaceutical industry generally does not want to play, the notion of "compulsory licenses" has been pushed to the forefront. In the end, it boils down to the following: Do you think access to life saving medicine is a human right? Or at least, if you think that the previous statement is too overreaching, do you think it is something that is worth more than the pharmaceutical industry's perceived fear of loss. I sincerely hope so.

## Trail by Media and its Impact on Public Opinion

– **Rajeev Rambhatla**



he media as we all know is considered to be one of the pillars of democracy. The reason being, the key to having an effective democracy is information. Information is the primary weapon available to the population of the

world and many scholars have said that the outburst of certain information can change the world as we know it. The power that is possessed by he who has information is something that cannot be explained in words. An informed society can be more dangerous than an army itself. We can say that the transmission or non transmission

of certain information can make or break a society. Having said that, it's important to make sure that the citizens are well informed in a democratic setup.

The right of people to be informed and to know has already been established under various constitutions of the world and the right to know is also a human right recognised under the Universal Declaration of Human Rights (UDHR), 1948. Several countries already have right to information legislations in place and the freedom of the press is also a basic concept that is recognised and accepted by most countries of the world today. Since information is key to any democracy, the media invariably plays a vital role simply because the media is like a middleman between the public and the government. The media is the provider of information to the public. The role of the media is to inform the public about current happenings. However, there are instances where the media uses this position to its advantage.

The media is influential, in the sense that it has the authority to impose certain views on the public or even make the public think in a certain way. More often than not, the people don't even know that they've been played. This is where public opinion comes in. The media has a very interesting way of swaying public opinion.

This has its own advantages and disadvantages. There are certain instances where some cases do not require attention, but the media for its own selfish reasons has the ability to blow things out of proportion just to popularize and sensationalize certain news items. In such cases, there is unnecessary public furore and debate over redundant topics which do not deserve anyone's attention. But then again, there are also instances where the media has been able to bring justice in situations where the public thought justice has been compromised with.

As was seen in the *Jessica Lal's case*, Manu Sharma, the man who was accused of murdering Jessica Lal was initially acquitted by the trial court due to lack of evidence. This caused tremendous public outcry and Manu Sharma was ostracized by the media. The media went a step ahead by urging the public to boycott all establishments owned by Sharma. The case was then re-admitted in the High Court on appeal this time on a fast track basis. This time Manu Sharma was convicted by the high court of Delhi and sentenced to life imprisonment. Manu Sharma appealed to the Supreme Court but it was a futile attempt as the honourable Supreme Court upheld the order of the Delhi High Court. There are several cases



in which the media has played an important role in the conviction of the offenders some of the other notable cases being the *Priyadarshini Matoo case*, the *Delhi rape case* and several other high profile cases.

There are also instances wherein the media has been criticised for its ability to reach a pre mature verdict in cases which are still pending before a Court of law. One such instance is the *Aarushi Talwar murder case*. The media was criticised for reaching premature conclusions, having preconceived notions and trying to influence public opinion. The media needs to be merely a presenter of information to the public, and not an influential authority that can sway their minds. The media should help the public in making informed decisions and not imposing on them what

the media wants. A trial is a judicial process that needs to be carried out by a Court of law. The media cannot usurp the functions of the judiciary but they can indeed help make the process easier by simply doing their job that is, keeping the public informed. In the Aarushi case, the media was criticised was for prematurely commenting on the involvement of Aarushi's parents in the murder, however, eventually both her parents were convicted of her murder.

The media needs to be able to distinguish cases or news on the basis of their importance and contemporary relevance. The media, I firmly believe, is an important and inalienable tool for mankind which if properly regulated can definitely cause ripples, if not waves.

## Julian Assange – Hero or Criminal? Discuss in light of the invasion of privacy by the US.

**-Prerana Saraf**



here have been people who have made significant contributions to the modern world but have been considered as

criminals by a few and heroes by others; Julian Assange being one of them. The WikiLeaks founder seems to have a deep understanding of how certain people can abuse their power only as long as they are

hidden in the shadows and of the fact that there is an urgency to bring them in the open in order to prevent the monstrosity.

Nothing that Julian Assange has disclosed has threatened any civilian or any American soldier or hauled any person under the threat of terrorists. Moreover, the First Amendment to the US Constitution says, "Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances." One could gather from this that the intent of the founding fathers was to ensure that people have a right to express their opinion when their Government goes wrong. The quest of liberty and freedom is possible only when people who are corrupt are forced to realize the gravity of their sins and are displayed in public for all to see.

US President Barack Obama has defended his Government's telephone and internet spying programs on the grounds that 'minor encroachments on privacy are necessary in the name of security.' They have also mentioned that the Government is engaging in these activities to prevent things like Wikileaks. However, this is a very insignificant argument since leaking of documents does not amount to war nor

does it amount to a catastrophe that could justify Government's invasion into people's privacy.

United States has absolutely no rationale behind their surveillance over people. The Government has also gone ahead to say that since it is unfeasible to keep everyone under watch, they are going to monitor only major network providers which are completely absurd. This would imply that extremists use only established means of communication or providers. In fact, more often than not they use non-conventional means of communication. This clearly is an outright violation of democracy.

In the light of the above facts, I think it is absolutely unfair to opine that Julian Assange is doing the world a great injustice by just disclosing the facts, something for which he is risking his life in the interest of truth. Furthermore, it has been held in Landmark Commc'ns. v. Virginia, that the publication of truthful information enjoys considerable First Amendment Protection. It was also held in Pentagons Paper Case that unless national security interest outweighs the First Amendment principles, one's right of pure speech cannot be restrained. None of the documents revealed by WikiLeaks has ever threatened the national security of the United States; therefore, I do not perceive

anything unlawful in what Julian Assange has done.

With regard to the rape accusations, I feel, media is hyping things out of proportion to divert people's attention to the self-styled crimes committed by Assange from what WikiLeaks has managed to reveal which should actually be the substantial issue in question. It is not rocket science to understand, how getting Assange into custody, would be beneficial to innumerable parties who feel WikiLeaks

activities are dangerous to them. However, if the rape accusations are true, he should stand for trial and be convicted.

With respect to the activities carried out by WikiLeaks, I am of the firm opinion that Julian Assange is definitely not a criminal. Instead he can be considered as a hero for his undying efforts to bring important information to the public along with original source so readers could have evidence as well.

## Should Pharmaceuticals be granted Patent over Life Saving Drugs?

–Suneel Anand

**I**n today's world, there are numerous life threatening diseases that are emerging and there are some, already prevalent that are endangering our life. But every problem has a solution, and the solution to this problem is the creation of a lifesaving drug that is present to combat these diseases and save the lives of people. There are some shortcomings to this issue though. Millions of people in the world do not have access to these medicines for the plain reason that they cannot afford it. Reason for this is the exorbitant prices of

these drugs. One of the contributing factors to this high pricing of drugs is patents. Patents are a form of Intellectual Property Rights that are granted to a holder for a period of 20 years to protect the interest of the inventor of a product and to prevent others from using the same product without the inventor's permission. Patents prevent the competition that could drive prices down to lower and affordable levels. One of the best examples is the AIDS drug, which is so highly priced that not all of the patients can afford it.

In cases where pharmaceutical companies are allowed to patent lifesaving drugs, they

create a monopoly in the market. No other company is authorized to sell that particular drug which has been patented. 20 years is a long period for a patent holder, the patent holding company can boldly charge high prices without other companies undercutting them. The most effective and sustainable way to reduce the price of a drug is competition, but patents block other producers from even entering the market. Patents on medicines are supposed to encourage the research and development of new drugs and medicines but research have shown that it is the profits that are on rise and not the Research & Development.

The initial theory of awarding patents was for the purpose of promoting innovations which were to benefit the public. As of today, it has become a scheme which is to curb competition and only concentrate on making maximum profits out of the public by charging exorbitant prices with no one to oppose it. I do not say that patents are the only barrier to accessing lifesaving medicines, but they do play a significant role. Challenging invalid patents are therefore of prime importance to prevent companies with unwarranted patents and

make treatment available to people who need it. Challenging patents is a very good scheme to protect the interest of the public. It can help address problems such as low quality patents and monopoly extension.

The concept of ever greening is a fast emerging trend. Pharmaceutical companies can extend their monopolies by adding a new compound or even by changing their product from a powder to a pill. These minor variations help them to get an additional extension of 20 years and hence continue their reign of profit making. Thus again, it prevents new entry into the market for 20 more years. Instead of new innovations and better research and development, its back to square one, which is profit maximization.

In conclusion, pharmaceutical companies being allowed to patent drugs would only discourage the competitors or other companies wanting to enter the 'monopolized market' 'monopoly' from introducing new lifesaving drugs which may cost way cheaper and may be much more affordable.



## Media Activism – A Critical Analysis

– Pooja Agarwal

**T**he media is considered as one of the pillars of a democratic country. It plays a significant role in moulding people's opinion. Its main responsibility is to keep all the citizen's updated about the political, social, economic and cultural scenario of the country. Therefore, freedom of media is the freedom of people and the Constitution of India itself recognizes this right in Article 19(1) (a). However this freedom is not absolute as it is bound by reasonable restrictions and it also does not empower media to commit contempt of court.

Media trial or activism is a popular phrase used in 21<sup>st</sup> century to signify the impact of media's coverage of any occurrence and declaring the accused as guilty or innocent even before the verdict of court of law. Pandit Jawaharlal Nehru once said - "*I would rather have a completely free press with all the dangers involved in the wrong use of that freedom than a suppressed or regulated press.*" But surely he could not foresee the danger involved in the

'administration of justice' which is the very essence of natural justice and rule of law or rather he would not have expected the press to get involved into something which is beyond its limit and ethics too.

Media has now assumed the role of Court of law and has formed a Janta Adalat of its own. It conveniently overlooks the wide gap between an accused and a convict. It also undermines the golden principles of '*presumption of innocence until proven guilty*' and '*proved guilty beyond reasonable doubt*'. Nowadays, we observe that media does its own investigation and builds a strong opinion against the accused even before the court takes cognizance of the case. It prejudices the public and sometimes even judges and as a result the accused, who should be assumed innocent, is presumed as a criminal. It is needless to say that media trial violates the principle of right to a fair trial guaranteed to every accused.

The media drew serious criticism while reporting Aarushi Talwar case, when it preempted the court and reported that her

own father Dr. Rajesh Talwar, and mother Nupur Talwar were involved in her murder. Despite all the criticism, media has also highlighted few criminal cases that would have gone unpunished but for the intervention of media. Such cases being Jessica Lal murder case, Bijal Joshi rape case and Nitish Katara murder case.

Any institution is liable to be abused if it exceeds its legitimate jurisdiction and functions. But sometimes these activities are blessing in disguise as is the case of judicial activism. Media trial an appreciable effort as it keeps a close watch

over the investigations and activities of government. But there should be a reasonable restriction over its arena. Due emphasis should be given to fair trial and court procedures should be respected. Media should acknowledge that whatever they publish has a great impact over the spectator. Therefore, it is its moral duty to show the truth and that to at the right time.

Sources: Laura R. Handman and Adam Liptak, Media Coverage of Trials of the Century, <http://www.jstor.org/stable/29760103> , last accessed on 09/01/2014 06:50, *Express Newspapers v. U.O.I.*, (1997) 1 SCC 133  
*Gisborne Herald Co. Ltd. V. Solicitor General*, 1995 (3) NZLR 563 (CA)

## Julian Assange – The Heroic Whistleblower

-Sarthak Mohanty

**J**ulian Paul Assange born on 3<sup>rd</sup> July, 1971 is an Australian editor, activist, publisher and journalist. He is known as the editor-in-chief and founder of WikiLeaks. He has been burdened with charges of disclosing secret documents related to USA, violating Espionage Act, 1917 etc. however, the author takes a stand that Julian Assange is a true hero. WikiLeaks tells the public about the wrong doings, the injustice that happened in

Afghanistan and Iraq. It is not that people don't want the government to use its power; but they want the government to make wise decisions.

According to Julian Assange "transparency leads to a just government". People can trust their own government but sometimes they can turn the propaganda on their own people, manipulate the media, parliament can be weak and freedom of information can also be insufficient<sup>1</sup> . WikiLeaks are

the journalists, and when there is abuse of government powers, journalism is vital. If USA wants to prosecute Julian Assange then the state should also prosecute the other journalists in the state. Barry J. Pollack, a Washington attorney for Assange said “They have declined to do so. They have not informed us in any way that they are closing the investigation or have made a decision not to bring charges against Mr. Assange. While we would certainly welcome development, it should not have taken the Department of Justice several years to come to the conclusion that it should not be investigating journalists for publishing truthful information”.<sup>2</sup> Whatever was revealed didn’t hurt the sentiments of USA, WikiLeaks didn’t conspire to get the documents. The papers which they got, they are free to publish, as it is in favour of public interest. If USA states that it was a conspiracy to steal secret US documents, then it is the state’s responsibility to take proper care of the confidential documents and WikiLeaks didn’t leak the documents, they published them.

Julian Assange cannot be accounted as a criminal because he didn’t directly break into the USA’s security files, the information was provided to him by USA’s former National Security Agency

contractor Edward Snowden and former Army intelligence analyst Bradley Manning. WikiLeaks is accountable to the court of public opinion, but they didn’t break any law. They just did their job as journalists. There is no proof that WikiLeaks broke any law. So it is ruthless to drag Julian Assange to the court. In fact WikiLeaks was careful enough by not revealing the number of casualties in Afghanistan and Iraq because it would have created a world with chaos. They knew their limits. Maybe Julian Assange cannot formally claim protection under the first amendment of the US Constitution, but certainly that First Amendment principles will cause the government to hesitate before prosecuting Julian Assange. The First Amendment is a very broad and strong right, and WikiLeaks has the better argument that gathering information (even raw information) and reporting it (disclosing it) is the classic definition of protected freedom of the press activity. There is a government to have a check on the public activities, but there should be someone to have a check on the government activities too.

Sources : Espionage act, 1917 (USA) ,  
[http://www.washingtonpost.com/world/national-security/julian-assange-unlikely-to-face-us-charges-over-publishing-classified-documents/2013/11/25/dd27decc-55f1-11e3-8304-caf30787c0a9\\_story.html](http://www.washingtonpost.com/world/national-security/julian-assange-unlikely-to-face-us-charges-over-publishing-classified-documents/2013/11/25/dd27decc-55f1-11e3-8304-caf30787c0a9_story.html) ,  
[http://www.nbcnews.com/id/40653249/ns/us\\_news-wikileaks\\_in\\_security/t/us-v-wikileaks-espionage-first-amendment/#.UsB-SfQW1zU](http://www.nbcnews.com/id/40653249/ns/us_news-wikileaks_in_security/t/us-v-wikileaks-espionage-first-amendment/#.UsB-SfQW1zU)

## Media Trial: A Term Dillusion

– Prabhat Ranjan



Media plays a vital role in moulding the opinion of the society and it is capable of changing the whole viewpoint through which people perceive various events. The term trial by media has evolved since the late 20<sup>th</sup> century. The general meaning of the term is considered to be the creation of a person's reputation by the media or creation of the perception of guilt regardless of the verdict of the court of law. Media is often accused of provoking an atmosphere of public hysteria akin to a lynch mob.

The term media trial creates an image that the judicial decisions are made on the basis of what is published and broadcasted. Media is unfairly targeted for interference in the judicial process. The media is simply presenting what is available. In the Aarushi Talwar case, the media presented the CBI investigation reports, whereas in the Jessica Lal murder case, the media pointed out the systemic failure of India's criminal justice system. So blaming the

media for the mistake of the agencies is incorrect. The term "media trial" is fake. The media focus on a particular case is, termed as media trial. None of the judgments are based on the reports in media. The term media trial points a finger on the accountability of the judges. In the Rail Gate case it was clearly proclaimed by the judges that the trial was based on the examination of the evidence presented in the court and not outside the court and judges are not affected by the public opinion as presented by the media.

In the Jessica Lal case, after the acquittal of all the suspects, the media created a public outcry by claiming the order as unjust. The media provoked the masses to send sms, emails and to make calls to support the injustice. The middle finger group protest and the NDTV campaigns created an environment of chaos in the city. Sting operations conducted by Tehelka showed that the lower level administration was controlled by power and money and showed that the evidence was manipulated.



Delhi High Court admitted the police appeal and held Manu Sharma and others guilty on the basis of the evidences present in the court. The judgment was not on the basis of any programs of the media. The judiciary was totally unaffected by the media.

During this period, the then Chief Justice of India asked the judges to -“not feel pressured by the disturbing trend of the media creating public perceptions while a case was pending before the court”

In the Arushi Talwar case, the media did not manufacturing anything. It is just presenting the report of Central Bureau of Investigation [CBI]. There is no point in blaming the media as the judges have their own discretion to state the judgment. The judgment can be criticized but the blame on media is totally pointless. Insinuating that the media has impacted the justice or that the media corroborated with the CBI is hogwash. Irrespective of what the media says, the final judgment is based on the evidence presented in court.

Making the media accountable for any judicial decision raises one question, namely whether the agencies of the nation

are as reactive to the media's opinion as the people of India. Media merely performs the role of giving a platform to the public for forming an opinion. The courts and agencies of the nation are not run by the opinion of the media and public, there are some rules and guidelines according to which these agencies function.

The media can be held guilty only for their work and not for the failure of the judiciary or of any other agency. In such cases, the media can be held liable for running a one sided campaign and creating a desired opinion among the public. Media is guilty only because it covers the case only for the following two reasons, crime itself is in some way sensational by being horrific and it involves a celebrity, either as the victim or the accused.

Media misuses its power and influences public opinion. Media can't be held guilty for manipulating any judicial decision. The term media trial should be erased from literature as it creates a wrong impression of the involvement of media in the work of the judiciary.

Sources : Giddens, introduction to sociology.

## Should Pharmaceuticals be granted Patent over Life Saving Drugs?

– **-Gayathri Dinesh**



We live in a day and age where corporate profits come before hundreds of thousands of human lives. The production of cheap life-saving medication is not allowed by international laws which uphold the interests of pharmaceuticals. Patents are awarded to pharmaceutical companies when they develop a new drug. This gives them a monopoly over the right to make, use and sell that drug for a period of 20 years. To meet the costs of R&D and the other costs incurred while developing the drug, pharmaceuticals charge high prices on the medicines developed by them. High pricing of patented medicines makes it inaccessible to the poor. In India, the government encourages local drug companies to develop alternative medication with chemical composition similar to that of the medicines developed abroad. Novartis, a Switzerland based drug company had spent nearly 15 years in India seeking a patent for Glivec, a medicine for chronic myeloid leukaemia.

The Supreme Court rejected the patent application on the ground that Glivec was

merely a new form of an older drug marketed in 1993 and did not constitute a patentable invention. Novartis declared that the ruling was an impediment to future innovations in India.

Our patent regime, in place since 2005, is still young and puts public interest before the pharmaceuticals interest of making profit. In another case which preceded Novartis, an Indian appeals board upheld a decision to let Natco, a generic drug maker to produce copies of Bayer's patented kidney cancer drug Nexavar. Bayer had not made the drug available to Indians at a sufficiently low price. By allowing generic versions of the drugs to flood its markets, India seems to be sending a strong message that, pharmaceutical manufacturers outside its borders will not have unlimited pricing power over its market of 1.2 billion people.

This will make pharmaceutical companies rethink its overseas strategies. India, being the second most populous country in the world, is an attractive market to pharmaceuticals, which may shift its focus from profit maximization to sales

maximization. Foreign multinationals adopt policies such as differential pricing in countries like India where drugs are given to a section of the population at very low rates or for free. This could be for both compassionate and commercial reasons. The primary purpose of granting patent is to foster innovation and to incentivize inventors. However, the link between patent protection and invention has never been definitely proven. The onus is to prove that patent protection matters should be on the drug industry. Drug industries contend that if it wasn't for patent protection there wouldn't be as many

inventions. It costs enormous amounts to get a drug in the market. Developing a drug is a long drawn out process based on trial and error incurring expenses on drugs that do not work.

Therefore, it is only fair to grant patents to pharmaceuticals for acknowledging the effort and resources that go into the research and development. The need of the hour is to strike a balance between providing everyone with access to life saving medicines and encouraging pharmaceutical companies to develop new medicines.

## Trial By Media: Guilty Until 'Printed Innocent

--- Nikita Swamy



Article 19 of the Universal Declaration

of Human Rights speaks about the freedom of opinion and expression, which includes the freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media regardless of frontiers. An extremely sacred right, it is an essential basis for the democratic functioning of a

society. It also implies freedom of speech and expression of the media.

In the United States of America (US), freedom of the press is expressly protected as an absolute right; and such freedom is not subject to *reasonable restrictions* as in Article 19(2) of the Indian Constitution. Therefore in the US, interference with the media's freedom to access, report and complain upon any ongoing trials is *prima facie* unlawful. But in cases like *OJ*

*Simpson*, courts have evolved procedural devices aimed at reducing prejudicial publicity like change of venue, reversal of conviction of appeal, ordering re-trial, etc. It may be noted that even today there is no prior restraint or any preventive restriction imposed on the media.

In England, a common law country, the freedom of the media with respect to ongoing judicial proceedings was limited. However, after the judgment of European Convention on Human Rights [ECHR] in the case *Sunday Times v. United Kingdom*[(1979) 2 EHRR 245], in the light of which the English Contempt of Courts Act, 1981 stood enacted, a balance is sought between fair trial rights and free media rights vide Section 4(2). Under this section courts are expressly empowered to postpone publication of any report of the proceedings or any part of the proceedings for such period as the court thinks fit for avoiding substantial risk of prejudice to the administration of justice in those proceedings.

In the Indian Constitution Article 19(2) guarantees freedom of speech and expression, subject to reasonable restrictions. This right also extends to the media in print and electronic form. They have the freedom to report and comment on the ongoing trial proceedings. This

emanates from the citizens right to know, to educate and be educated about the truth.

In the case *Romesh Thapar v. State of Madras* the Supreme Court in its judgment said, '*very narrow and stringent limits have been set to permissible legislative abridgement of the right of free speech and of the press lay at the foundation of all democratic organizations, for without free political discussion and no public education, so essential for the proper functioning of the processes of proper government is possible.*'

The media has great influence in manipulating the minds of the people and it is not above doing this to promote its own agendas. Regarding ongoing trials they pronounce their judgment long before the court decides the case thereby causing prejudice against them such that it affects the courts' decision making.

In the recently decided controversial Noida double murder case (*Aarushi Talwar case*) the media ignored the interim order of the Supreme Court on July 22, 2008 asking the media to practice caution in reporting a crime still under investigation. However it did not restrict the Media from publishing any article that does not tarnish the reputation of the accused or the victim. But in this case the media published invalid information thereby, creating prejudice in



the minds of the public. This was severely criticized by the bench who asked two English dailies to “*explain the definite assertions made, attributed to sources who are not disclosed,*” and also said “*Nobody is gagging the Press, but there is no harm in gagging irresponsible Press.*”

Another case dubbed as a trial by media was the *Jessica Lal* murder case. Though the lawyer for the defence claimed that his client was specifically targeted and maligned by the media, the Supreme Court ruled that though there were several news items appearing in the media affecting the accused it did not tantamount to a prejudice which should weigh with the court.

Thus different cases present opposing views but the crux of the matter is that the

media needs to be careful while publishing its news regarding ongoing trial proceedings that may prejudice the public and the courts. There should be a complete ban on publishing information regarding ongoing trials and this prior restraint must be through a legislation passed by the Parliament. What is also to be addressed is the protection of the anonymity of the victim to protect his/her reputation and also the identity of the witnesses. The media should also refrain from conducting their own trial and declaring a person guilty or innocent.

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## Should Pharmaceuticals be granted Patent over Life Saving Drugs?

–Somashish



The debate about the necessity of patents and their impact on access to crucial medicines has expanded in the last decade with the development of the global pharmaceutical industry. On one hand there are NGOs and advocacy groups

arguing against grant of any form of Intellectual Property Rights to pharmaceutical companies on their life-saving products, and firms and more sceptical commentators on the other who defend patents or contend that they are necessary to incentivise continuous supply

of life-saving inventions and the research required thereof.

Patent refers to an Intellectual Property law protection granted to an inventor for an invention which confers upon the grantee the exclusive right to manufacture, sell and use the invention and also includes the right to license others to make, use or sell the same, for a definite period of time. Generally the time-period of such protection is twenty years. The Trade Related Aspects of Intellectual Property (TRIPS) Agreement of the World Trade Organisation lays down the broad guidelines and rules that all signatory states should abide by in the grant of patents and matters thereof. The rules in the TRIPS Agreement, however, are in no way rigidly defined and leave ample room for member states to define patentability criteria in a manner that suits their interests.

Patents, like any form of intellectual property protection, grant the beneficiary with exceptional control over the invention with the power to set a desired price for the same in the market and to exclude any competing individual or firm from deriving any benefit from an invention if it's similar to the one that has been patented by the beneficiary in the first place. Patents are necessary to ensure, as the United States' Constitution, states: "*to*

*promote the progress of science and useful arts, by securing for limited times to...inventors the exclusive right to their respective writings and discoveries.*" The crux of the case for patents lies in the rationale that they make research in innovative and creative activities rewarding and profitable, and therefore give incentive to inventors to be involved in such research activity, whose results are uncertain and have no definite gestation period, that may result in the supply of crucial additions to the storehouse of knowledge and means available in a given area of human life.

Patents are divided into various categories: industrial patents, design patents, utility patents etc. The category in question when dealing with the issue of patenting life-saving drugs is "utility patents". Being the most common form of patents it is meant to provide protection to "any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof" that is functional in nature as opposed to being primarily aesthetic.

The additional revenues that the inventor derives from being the patent-holder are the reward for the work undertaken under uncertain circumstances and immense costs to obtain the invention. However, the

“definite time-period” of say, twenty years, attached to the patent grant also means that the policy concerned with the granting of patents remains. Once the inventor has been sufficiently remunerated for his efforts the invention must become fully available to public domain without any firm gaining the right to produce and sell the invention.

Far from being a perpetual privilege of only the rich, the patent law is primarily meant to ensure the progress of scientific pursuits by promising rewards for the inventor in the short term and the general public in the long term. In case of lifesaving drugs the crucial interest is of public health. Patents have an important role to play in this regard by not just ensuring that inventions occur in the field of pharmacology but also that these inventions are fully accessible at competitive & fair prices, right after the inventor has been sufficiently rewarded in the period till the expiry of the patent.

The debate about granting patents for medicines came up in the case of *Novartis AG vs Union of India & Ors.* in which the Supreme Court of India denied Novartis patent protection for its anti-cancer drug Glivec. It upheld the constitutionality of Section 3(d) of the Patents Act 1970 which laid down strict criteria of novelty and

enhanced efficacy in the grant of patents. As the economist Swaminathan Aiyar has commented, the judgment lays bare the superiority of the Indian Patent regime that sets high standards for grant of patents and does not seek any form of compromise on the same.

This is a contrast to the situation in United States of America where companies have abused the very spirit of the intellectual property law in general and patent law in specific by obtaining multiple overlapping protections in copyrights, and patents, thus tilting the balance to compromise the interest of public access.

Patents are a reality of law and economy that needs to be given its fair share of consideration when examining whether they should be granted for life-saving drugs. It is in the interest of scientific progress and public welfare to grant patents for genuine inventions and incremental improvements thereof. At the same time it should be kept in mind that the time period of such patent should be prescribed in a manner that while rewarding the inventor ensures greater public access to greater supply of the medicinal invention and does not further delay or restrict it. India needs new inventions to be available to the masses at affordable prices to be able to meet the

public health challenges that stare at it every day. Therefore faltering on the crucial balancing of interests can be fatal for the true stakeholders in the debate: the patients.

Sources : Patents Act, 1970, Comments to § 2(m) ,Stan Liebowitz, Intellectual Property , <http://econlib.org/library/Enc/IntellectualProperty.html> , Shamnad Basheer & Prashant Reddy, *DUCKING TRIPS IN*

*INDIA: A SAGA INVOLVING NOVARTIS AND THE LEGALITY OF SECTION 3(D)*, 25 *National Law School of India Review* 78, 94-95 (2013) , Liebowitz, supra note 2 , U.S. CONST. art.1, § 8, cl. 8. ,Andrew Beckerman-Rodau, *THE PROBLEM WITH INTELLECTUAL PROPERTY RIGHTS: SUBJECT MATTER EXPANSION*, 13 *Yale Journal of Law and Technology* 35, 46 (2011) , Civil appeal nos. 2706-2716 OF 2013 (Supreme Court of India) , Swaminathan Ankalesariya Aiyar, *West should learn from India's high patent standards*, *The Times of India*, Apr. 7, 2013, at A1. ,Beckerman-Rodau, supra note 6 at 88.

## Media Trials and its Influence on the Administration of Criminal Justice

-Dipti Janardhana

*“The biases the media has are much bigger than conservative or liberal. They are about getting ratings, making money, about doing stories that are easy to cover.” – Al Franken.*

**T**he media initially began as a porthole through which the layman could gain access to the information covered and protected by the higher authorities. But over the years, it seems that the media has changed its objectives. What previously was merely a dictation of facts, has now become fully formed opinions being thrust down the throats of the public and that of the judiciary.

The two cases that have brought this scenario to limelight are Jessica Lal's and the more recently Aarushi Talwar's.

Based on the restricted facts that are available, the media constructs its own course of events and finally arrives at its own sensational theory of what actually happened, which is portrayed to the world as the truth. This practice of the media can be ignored as mere stunts to get their ratings, if it did not happen to obstruct the actual judicial process.

It is a matter of fact that the judicial process in India is painfully slow, whereas the media can get its story and verdict out

in just a couple of hours. While it is the duty of the judge to remain unbiased while



hearing a case, the flashy headlines and the numerous debates held by news channels tend to affect their judgement.

In the case of Jessica Lal's murder, while the media certainly did help speed up the process of passing of the judgement, their captions such as 'Justice for Jessica' gave rise to unnecessary controversies that hindered the administration of criminal justice.

What happened with the Aarushi Talwar's murder case was a lot worse. The media reconstructed what had allegedly happened in the Talwar household on the night of the double murder of Aarushi Talwar and the servant, Hemraj, without any substantial proof. Accordingly, in the much criticised judgement that was later passed, the CBI court convicted Rajesh and Nupur Talwar for the double murder stating that as there

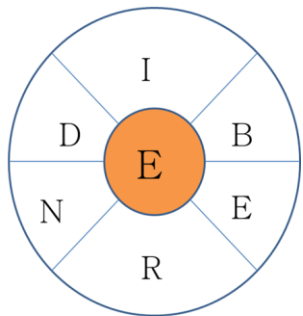
were only 4 people in the house at the night of the murder and two of them were murdered, the only plausible explanation is that the other two did it. Not denying the fact that the convicted are likely suspects in the case, this argument does not prove them to be guilty beyond reasonable doubt. Hence, the role played by the media in arriving at this judgement can hardly be refuted.

Therefore, the question is whether the trial carried out by media is justified. How much can media trial be tolerated if it is going to hamper the administration of criminal justice? Is it time for the media to respect the judicial process and take a step back? Should the media revert to its original purpose of establishing facts for the information of the public rather than spreading alleged rumours as ascertained statements.

# Decode I

## BULLSEYE

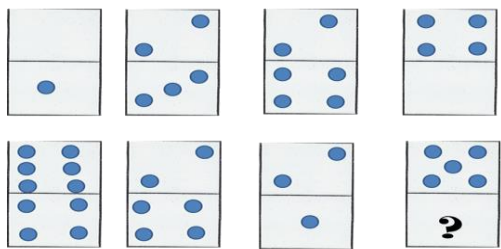
How many words of four or more letters can you make from the letters shown? Each word can use a letter only once and must contain the central letter. There should be at least one 7-letter word. British English dictionary is used as reference.



Ratings:  
22 average; 24 good; 26 outstanding

## PUZZLE IT OUT

What is required to complete the puzzle?




## MENSAPUZZLE:

Which number replaces the question mark and completes the question mark?

7	3	2	6
9	2	4	3
1	5	7	5
0	6	5	?

## A case of Domain Name dispute, not contested – Times Internet Ltd. vs M/s Belize Domain Whois Service.

-Gokul Y.P

he Plaintiff herein is a company to whom a portal named “indiatimes” was assigned by M/s Bennett Coleman & Co. under a registered agreement. Thereafter the Plaintiff created another portal called “travel.indiatimes.com” wherein the same is registered in its name with effect from 07-06-2000. It was discovered by the Plaintiff, that Defendant No.1 has been operating another portal called “indiatimestravel.com”, which is deceptively similar. The said site carries sponsored links, where clicks on the link earns revenue to the domain owners without offering any service of real value to the users and as such is merely setup to cash in on the business made by the Plaintiff’s portal. A Substantial amount of money was invested by the Plaintiff into marketing, advertisements including development, designing and maintenance. An account of investments made by the Plaintiff for the years 2004-05, 2005-06 and 2006-07, respectively are ₹151,314,105/-260,355,373/- and ₹246,236,506/-.

The Logo “indiatimes” is written in a unique layout, having a distinctive colour pattern and font which constitutes an original artistic work under section 2 (c) of the Copyright Act, 1957. The products marketed by this unique name are well known for the product quality, reliability and the best offers. The trademark has also been offering extensive travel services on clicking “http://travel.indiatimes.com” on the internet. The same page can also be accessed by clicking on various links on the home page of “indiatimes.com” and, this service is immensely popular which has a huge customer base.

Although the judgment is rendered in favour of the Plaintiff, who made out a case for an injunction, the Defendant has not contested the case, who has also registered a domain name owned by it, for making appropriate counter arguments. The said judgment is just as any other case, where an action is brought by the Plaintiff against the Defendant, and due to the case being rendered ex-parte the judgement is eventually held in favour of

the Plaintiff. Further, the judgment does not speak of appreciating evidence by way of notice sent by the Plaintiff to the Defendant, warning of an appropriate action and to cease and desist from using the said domain name. For a case of injunction, the first and the foremost step is to issue a legal notice. Further it cannot be denied that no person should be permitted to enrich himself at the cost of another. *Per contra*, it also cannot be denied that the Constitution guarantees to

every citizen the right to carry on business as one wishes to do legitimately. In other words it is argued that any prudent person can distinguish the domain name “indiatimestravel.com” from travel.indiatimes.com. Hence the judgment does not appreciate the right of a common man to carry on business. There is an implied responsibility on the part of the court to mould the relief. The reasons for not granting injunction are silent

## Cybersquatting Case: Times Internet Ltd. V. M/s Belize Domain Whois Service [2011(45) PTC 96 (Del)]

– Darshana Gupta

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*“No good case exists for the inequality of real and intellectual property, because no good case can exist for treating with special disfavour the work of the spirit and the mind”.*

### Introduction



With the dynamic and ever growing computer technology, internet and information technology through computer databases, cyberspace and information technology, the laws relating to Patents, Designs, Trade Marks, Copyrights,

Confidential Information, Industrial and Trade Secrets have undergone significant changes. With the passage of time, new challenges continue to bring further areas of creative activity under the protection of intellectual property laws.

One such area has been brought up in the case of Times Internet Limited vs. Belize Domain Whois Service, the case being a classic instance of cyber squatting. Cyber squatting (also known as domain squatting) is the act of *mala fide* registering, trafficking in, or using a domain name with the intent to profit from the goodwill of a trademark belonging to

someone else. With the increasing commercial activities on the internet, the domain name has acquired significant importance. It is frequently being used by commercial organizations and has become a prominent source of promoting their products and services. Along with the growing significance of domain names, the disputes surrounding them have also increased, especially with respect to registration and trafficking. The High Court of Delhi (“DHC”) in the Times Internet Ltd. vs. M/s Belize Domain Whois Services Ltd. & Ors has re-affirmed the passing off principle for domain names.

#### An analysis of the Judgement

In the present case, the Delhi High Court observed that the plaintiff has acquired a trademark over the domain name “indiatimes.com” through its continuous usage and the reputation it holds amongst its clientele along with its registration and Belize created the trade mark “indiatimestravel.com”. The essential component of the domain name was “indiatimes”, which was used by Belize without any reasonable explanation. This gives rise to a certain ambiguity in the minds of ordinary ‘netizens’ as they would end up associating Belize’s portal with that of the Plaintiff Company resulting in Belize being a free rider on the good repo

and wide consumer base that the plaintiff company has, along with risking its image if the products and services which are advertised through Belize lacked quality.

In the recent times, among the numerous channels through which products and services are offered to the consumers, the internet has emerged as a primary one thus making domain name of the firms of significant importance and also a valuable asset. The Supreme Court (“SC”) in Satyam Infoway Ltd vs. Sifynet Solutions Pvt. Ltd held that a domain name can have all the characteristics of a trade mark. Accordingly, domain names can be protected under the Trademarks Act, 1999. The same was reiterated by the court in Cadila Helath care Ltd. vs. Cadila Pharmaceuticals. The judgement of the Delhi High Court in the instant case is just a follow up of these cases, with the court declaring the act of Belize as passing off and directed Belize to transfer “indiatimestravel.com” to the Plaintiff.

It is a positive and a kind of decision which will definitely influence the development of IPR laws in the country in accordance with the changing times and need. The decision has a soothing effect and gives relief for we have had Courts in the recent times giving judgements, such as those in the Naz Foundation case, opposed by the whole country and posing




an abrupt halt in the growth of the nation. Courts, being the temple of law and justice of a nation, it becomes imperative for them to function in a manner and create an environment where laws related to all the sectors can always grow or bend along with the time. In terms of IPR, this matters more, as here firms and companies are always at their toes for discovering means to enhance their profits, thereby constantly posing challenges to the legal field so as to tackle the disputes related to the same.

Thus, the author through this case comment expresses her views regarding the pragmatic approach adopted by the Delhi High Court in adjudicating this case and the positive implications of the same.

Sources: 2004 (28) PTC 566 (SC) , (2001) 5 SCC 57

## Short Story In A Courtroom

– Ayushee Goshal

s I walked into the Courtroom, many eyes turned to me, as if to ask, ‘Why?’ ‘Why?’ ‘Why?’ You’ll ask me “Why?” and yet, I won’t have an answer. I felt a shiver run up my spine and my stomach drop. Everything around me resembled a white noise. Perhaps, for the first time I felt the pinch of guilt gagging my throat.

I was being dragged up the stairs of the Sessions Court of West Bengal. For the fear of my life, I played along. I could hear the crowd calling me names; some shouted “Pelt stones at him. Let’s kill him here.” The media was blinding me with their flashlights. None of it bothered me as much as the cry of the woman who placed five cold slaps on my face and tried to strangle me to death. Somewhere, I deserved it. “What did she do to you? You will burn in the fire of hell.” She spat on my face as her husband and a lady constable pulled her aside.

Two months and seven days since I gave in to my inner demon, for the first time, the guilt was overpowering my senses. Her mother’s cry was by far the most painful

cry I had ever heard. It was somehow more painful than her daughter’s. Rekha was fourteen and when I raped her that evening, I didn’t realize or fathom that I would end up killing her. Not that I was guilty about it, I just feared death. Every eye that stared at me inside the court hall, wanted me dead.

She used to call me “*Dhana Dada*”. But I despised it. My hormones raged every time she smiled at me. I was a lift operator at her apartment. After running away from Bankura, I had taken refuge at Kolkata’s railway platforms. That was a different story altogether. This addiction started when I was twenty three. I raped a mentally disabled beggar and burnt her body. No one cared about it because there was no one to report the crime, no one to throw away her dead body. After I raped the beggar, it turned into an addiction. It became my life. My sick, torturous and gruesome life style. It was like a drug. Once I had tasted the forbidden, it was never easy to hold back.

I tried getting her the easy way. I asked her out for a movie, trying to play on her

innocence. She reported it to her mother and I ended up losing my job. That was when I decided that I would seek revenge.

Her mother would go to the Lakshmi temple between 5pm-6pm and that was the time I chose for breaking into their apartment. That evening, I sneaked a knife from the butcher's shop. As I walked inside the society, the new lift operator asked me where I wanted to go and other details. He knew that I worked there before him. "I have to make a call from Apartment number 3A." I said, trying my best to sound normal. I didn't want to attract any attention. He was too lazy to make a note so he let me enter the lift. I knocked on the door and as I had expected, Rekha answered the door. But her face went pale out of fear.

I immediately gagged her throat and threatened her with a knife. Once I had secured my entry, I stuffed her mouth with a cloth soaked in kerosene oil. She struggled like a fish as I took my revenge. Once I was done, I didn't know what to do with her. I tied a rope around her neck and smothered her to her death. The autopsy report stated "Dislocation and fracture of hyoid bone on its greater cornu of left side". I then used a matchstick to set the cloth inside her mouth on fire. Once I had satiated the devil inside me, I rushed out of

the house and encountered the security guard officer outside the society gate.

"What are you doing here?" he questioned as he used a toothpick to remove the stain of pan on his yellow teeth. "Some personal problem, *Dada*. I have to visit my brother. I will resume my work from next Monday." And without waiting for his reply, I left.

On my way back I promised myself that I would never do such a despicable thing again. As I bought a cup of tea and a *Bidi* from a nearby shop, I stashed away the cash I had stolen from Rekha's house in my Kurta's pocket. All I cared about that time was not getting caught.

When I was arrested, I was not shocked but I kept denying everything. But the circumstantial evidence clearly said that I was the rapist, the murderer. They recovered a bronze chain and a cream colored button from the house and the lift operator gave corroboration to the fact that I was wearing a cream coloured Kurta. They recovered the Kurta from my house. I had no defense.

In the cross examination that followed, the lawyer asked me where I was when the crime took place. I coldly denied my presence and said I was preparing for my brother's sacred thread ceremony.

I was pronounced guilty under section 302, 376 and 380 of Indian Penal Code. My brother moved the High court for an appeal. It was rejected. Death was nearing, and the only thing I could do was delay it. The High Court dismissed our appeal, so we moved the Supreme Court and the review petition was dismissed twice. We presented a mercy petition before the President without any luck. It was rejected twice.

After fourteen years of delay, death finally came and all I could do was embrace it like an old friend. In these fourteen years, every night and every day I repented my deeds. But my sins were too dark to be forgiven. The society hated me, I was a brutal murderer. I still remember how every eye turned towards me each time I walked inside the trial court. And now as I walk towards my death, the hangman prepares himself to pull the handle, I close

my eyes and say a last prayer and before I realize I break into tears. The hangman softens and asks for forgiveness.

“I am just doing my job.” He says as he places a black sack on my face. I can see nothing now. As I step on the trap door and he puts the rope on my neck, I mumble “You do your job, *Bondhu*. God bless you.” He tightens the rope. I close my eyes and wait for it to end. I wait to encounter what lies on the other side. There is no one around me and yet the question is as loud as the thumping of my heart. It all fades to a white sound as the end draws near.

I remember stepping into the court hall and the question in everyone’s eyes, the spiteful look that everyone threw at me, as if to ask “Why Dhanajay Chatterjee, Why? Why did you kill her? Why?” And I find myself asking the same question as I stand at the doorsteps of death. “Why Dhana. Why?”

## The Other Side

- Apoorva Uday Shankar

“Life is a climb, but the view’s great.”

The quote from a movie I watched recently seemed extremely motivational at the time. Now, looking at my reflection in the mirror as I gathered my hair into a careless

ponytail, I knew for a fact that I certainly did not like the view. Fifteen minutes later, having given the directions to my driver, I answered a few calls from work. The midday traffic gnawed sheepishly on my

patience, but I knew that I needed the time to prepare myself.

Staring at the wallpaper on the screen of my phone, I sighed remembering how blissfully happy we were; so happy that I couldn't bear to look at it any longer. Choosing the delete option gave me a strange sense of relief. Only then did the thought occur to me that this was probably just the beginning of the downward spiral. I leaned in on the rolled up backseat window and took a deep breath. The window felt soothingly cool against my forehead as I stared aimlessly at the traffic; my thoughts drifting to the time when I thought that my life was nothing short of Utopia and no one could convince me otherwise.

His words and ways, his charms and tales had amazed me six years ago. A mutual friend had introduced him as the jovial and easy going sorts and he seemed to fit perfectly into the panel of speakers at the two week long management workshop. "Life is too short. Seize the opportunity when you can", he had said. He had seized the opportunity, alright. I had believed everything he had said as if it were all written in stone. A glint of the diamond on my engagement ring caught my eye. I toyed with the ring as regret filled me to the brim. How did I let myself get into this bog? I couldn't decide if finding that

insurance policy document in our cupboard was one of the worst moments of my life or one that I ought to thank my stars for.

Shock, denial, depression and vengeance came in stages, or so I had heard. It was utter rubbish. There are no stages, just waves of negative feelings recurring in immeasurable intervals. All I wanted to do was curl up in the little biosphere of the home that he had gifted to me on our engagement day. It has been a month since I found out, but the anxiety still grips me when I wake up every morning.

It took me quite some time to bounce back to reality and think rationally. There was a child involved now and that only complicated things. Feeling violated, I couldn't decide if I was the victim or the perpetrator. The driver pulled up in front of the entrance and I stumbled out of the car. I took the stairs two at a time and my breath stuck in my throat when I spotted his wife with their seven year old girl just outside the courtroom.

They are getting a divorce. Three lives right down the drain. I have been summoned to court for my statement. There were people everywhere. I looked firmly at the floor as the chatter rose around me. As I walked into the



courtroom, I felt all their eyes on me as if to ask, “Why...why...why?”

A silent tear slipped down my cheek when it hit me that I would never find the answer.

## The Diary of a Sinner

- Pranay Goenka

**NOTE :** The following extract is a work of fiction inspired by real life events and is not meant to hurt or harm any individual feelings. Any relation to any person living or dead is purely co-incidental.

“As I walked into the Courtroom, many eyes turned to me, as if to ask, ‘Why! Why! Why! Why did you kill her? How can you kill your own daughter?’”

“Ruthless...”

“Heartless...”

Their eyes were blazing red and were full of hatred. They had formed their conjectures against me, all of them. But they are not to be blamed, for they don’t know the truth, no one knows the truth. The media made sure of that. Even I have started doubting myself. Is it possible?

“No...no...” someone shouted at me.

“Don’t stand here, move forward” I was dragged to the corner of the courtroom near the judge’s bench. The trial began.

Witnesses were presented, evidences verified, arguments made against me.

But I was elsewhere, my mind kept racing back to the memories of that night- how happy she looked; innocent and full of life; blissful and exultant. We had dinner together, our last dinner. We even took pictures and she was so excited for her birthday! Finally I bid her goodbye...but only if had known that it would be the last adieu.

The next thing I remember is her blood soaked body and the police storming into my house, the media hounding me with their allegations and accusations. My life crumbled and fell apart in less than twenty-four hours. I lost everything, my family, my friends, even my dignity; all I was left with was my wife’s support, our life had become a public spectacle.

In the beginning, people were supportive and they sympathized with us (or at least tried to) but gradually that accord turned into discord. First were the neighbours, they stopped talking to us as if we never existed. Some of them even changed their house. Apparently they did not want to live near a “killer”. Second were the so-called “friends”, the ones who considered their public image more important than standing by their peers. As the time passed by, we were excluded from social gatherings and even family functions; after all, reputation matters to everyone! Wherever we went we were seen with enmity and repugnance.

“It was an affair, your honour”, shouted the prosecutor.

The word echoed in my head. An affair! How pathetic! She was 14 for God’s sake. And then I heard it all- police’s bottomless theories and distorted witness accounts, all of their arguments which were baseless and unfounded. There was pressure on police from everywhere- the media, the government and the people. The authorities were lethargic in their duties. All they wanted was a scapegoat, and I fitted their profile perfectly. What a sensational headline it will make, they must have thought-“Enraged father kills his only daughter in cold blood”. A headline which was both false and untrue. But somehow it

happened, fiction became the reality. They had held a trial, one conducted by the media, where me and my wife, were already held guilty.

Suddenly I heard my name being called, my mind went numb. But I knew I had to keep a brave front. I can’t lose myself now, not after all we have been through. I held myself together and went for my testimony. “*Mene nahi kiya sahab*”, I almost choked.

I answered all of their atrocious and cheap questions and explained to them repeatedly about how much I loved her and how much she adored me. I explained to them that she was daddy’s little girl and there was no rift whatsoever between us. I explained to them how this was a big mistake. But no one understood. I was banging my head against a brick wall. As I looked through the courtroom, I could only see deadpan faces with resentment in their eyes, as if without any human emotion. How could this happen? How could anyone not see the truth? But I guess I was too late to ask these questions.

When we started, we had full faith in the judiciary. We wanted justice for our child, we knew it would be difficult and strenuous but it was the least we could have done for her. But now after all we had been through, the word ‘justice’ and ‘law’ had no

meaning in our lives. It was all just a formality now.

The environment of the courtroom suddenly changed. I felt energy draining out of my body; my mental strength had come to an end. The trial was in its final stage.

As the closing arguments were being presented I went into an unusual calmness. In that moment I realized the truth- I had lost. It was a defeat not just for me but for every father who asks for justice for his child. It was a defeat for every citizen who believed in the Constitution of the largest democracy of the world. It was a defeat for the nation's judiciary, by the greedy media who in order to increase their TRPs can decapitate any innocent being.

But there was a part inside me which was not ready to give up. Something inside me believed that justice will be delivered and truth will prevail as it always does. I did not want to live with this burden for the rest of my life. Paying for the vices which I never committed and, not just me but also my wife whose only fault was that she stood by her husband at all times. The Judge was ready with the decision. I prayed to God (for the last time). The next thing I remember was loud noises of the people, my wife breaking down into tears and me being handcuffed by the Inspector.

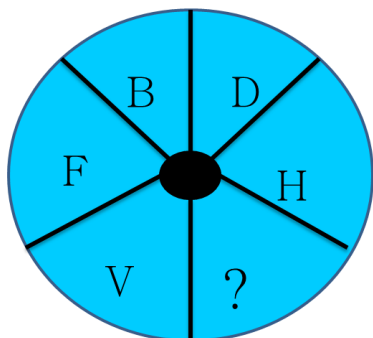
"Section 302, life imprisonment" someone shouted, "He deserved it, after all, how can someone be so cruel and inhuman!"

As I was being dragged outside the courtroom, tears fell. Now I was convinced, I was guilty, guilty for expecting justice and having faith in humanity. I wanted to shout to the whole world- "Yes I did this, yes I am a *sinner*."

## Decode II

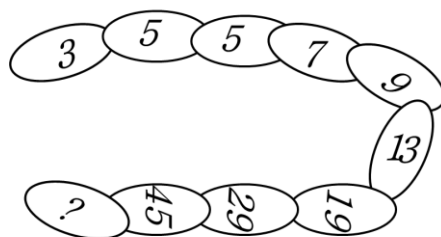
### SOLVE:

What is missing from the last segment?



### Chain Reaction:

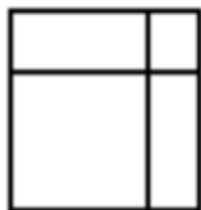
Which number replaces the question mark and completes the chain?



### Easy Draw

Which shape can be drawn on paper without lifting the pencil?

You can start and end at any vertex, but you cannot draw the same line more than once.



A



B



C

# MENTORS' MEMOIR



### Memorable experiences in law school.

Life as a student of law, in itself, is a kaleidoscope of extremely fulfilling, engaging and gratifying emotions. However, the one experience that stands apart from the rest in fact, my most memorable one as a student of law- is the meeting I had with the most celebrated lawyer – statesman, Mr. Nani A. Palkivala in Mumbai, in 1994, in his sprawling charm. Bars in tata house nothing could be most satisfying for a law student than an opportunity to meet one of the finest constitutional jurists that India has ever produced. An epitome of humility and the Mount Everest of legal scholarship, he inspired instant confidence. Mr. Nani A. Palkivala simply stunned me by his magnanimity, affability and alacrity- me, a final year student who had just written the exam! I was indeed overall by his simplicity, punctuality (he met me on the dot at 4pm as promised), and affinity towards a young lawyer –in-the-making I wouldn't believe my eyes and ears that the doyen of Indian legal profession chose to spend 15minutes with a legal greenhorn like me. All in all, it was an electrifying moment of my life and I have actually preserved and still cherish his book “We The Nation”, presented by him, with his signature on it.

- Dr. Sandeep Desai

### Memorable experiences in law school.

Moot Courts, the thrill of arguing before a bench of judges, the efforts that went into researching and unravelling the mystery of the problem, although tiresome and exhausting, provided me with the zeal and enthusiasm, to persevere to be a great law student. Another aspect of life at law school, which I would cherish for the years to come are the wide spectrum of people, students and eminent personalities from the legal fraternity, with whom I got the chance to interact with and learn from. The immense inspiration they provided helped me through the intense five years of law school, which kept me hopeful of a bright future in law. The Jail visit was another memorable experience of mine, where I was given the opportunity to interact with the inmates, and learn about their experiences and the hardships they faced. All in all, law school provided me with experiences which I would cherish for all the years to come.

Vidya Ann Jacob

### Memorable experiences in law school.

On my first day in Law College, as I walked through the gates behind which I would spend the most memorable five years, is the experience I would cherish the most. The first day in college, engaged all the juniors and seniors in an impromptu ice breaker session. This experience was memorable, as this was the best way to get to know our seniors better, from whom we could ask for guidance and help without any hesitation. As a part of the Moot Court Organising Committee, we hosted the Surana and Surana Trial moot for a consecutive period of four years. I was the witness, and got to play several roles for the other teams to examine. This was a memorable experience for me, as I was given an opportunity to channel my creative and witty skills. I played an expert witness, who was a doctor experienced in analysing finger prints, and this was an immensely memorable experience. The Journals Committee and the experiences that went with being a part of the committee, is also an experience I would cherish.

- Sharmila R



### Memorable experiences as a teacher in Christ.

I joined SLCU in June 2013. I enjoy teaching, as all the students make this experience of, extremely enjoyable. The students at Christ are disciplined, hard-working and possess research oriented ideas. They are focussed towards their goals, and treat every step towards achieving this goal seriously. SLCU is an ideal institution for imparting good education which works in consonance with its vision and mission, and gives timely updates.

Dr. AM Krishna

As a teacher for the past 13 years, I feel that the greatest impact in a class room is the teacher's own personality. It is , true to reflect on "Practice what you preach". At times there have been situations which conflict, contradict on the above mentioned quote. But a noble teacher will always abide by the truth and what a teacher does in the class room and outside the classroom has an impact with the students. As such I find my role very demanding and challenging in terms of profession and balancing myself with a blend of human aspect. Only time would comment if I had been successful in my noble career.

- V.M Ruben

### A memorable day as a law student

Life is full of events and experiences. But there are some memorable days they remain unforgettable in our heart.

It was 3rd May, 2007. We all LL.M 2<sup>ND</sup> year students went for study tour to an open prison. We spent the whole day by interacting with the inmates. Inmates of the Biju Patnaik open air jail at Bhubaneswar was set up with the intention to provide some freedom to life convicts .It was the day as law students we all realized the essence of the quote of Gandhi ji, " hate the sin not the sinner.

- Golda Sahoo

### Memorable experiences as a teacher in Christ.

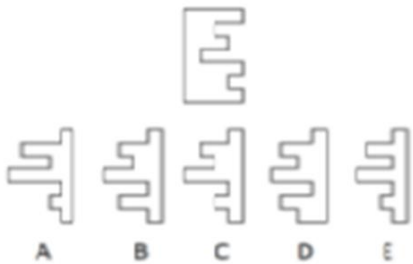
My journey with SLCU has just begun. I came here without any expectations and started with what I knew. I have loved exploring the role of the teacher these past few months over here. I have learnt a lot of things about the School and the amount of work the teachers need to do in order to carry out a successful class and now I rightly do understand that- **“Experience is the best Teacher”**.

- Anubha Srivastava

# Decode III

## Correct Key

Which key fits perfectly?



## MENSAPUZZLE

Which letter completes the puzzle?

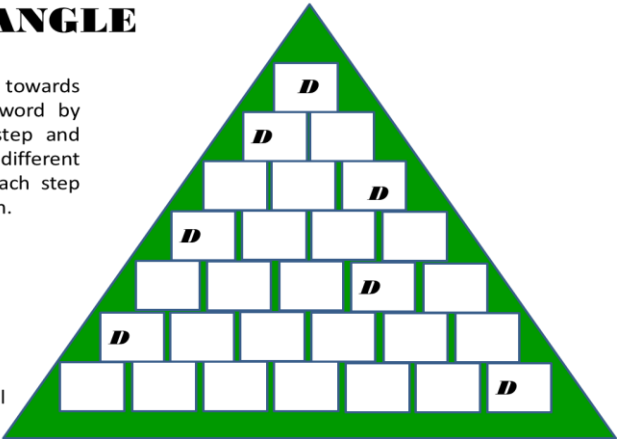
- A
- B
- D
- F
- ?

## ALPHATRIANGLE

Beginning at the top move towards the bottom seven letter word by adding a letter at each step and rearranging. A correct and different word must be made at each step answering to the clues given.

Clues :

- 1. Fourth letter
- 2. Physician's title
- 3. Cardinal color
- 4. Childish challenge
- 5. Dalal street transaction
- 6. Relieve from paying local taxes
- 7. Oxgenated



The Committee brings  
to you...

# NEWS FLASH!!



## **Introducing the Right to Food Legislation.**

Access to food is a basic human right. In fact it is the very first of the rights after air and water. As of today the National Food Security Act, 2013 is the most ambitious programme of Indian Republic. Granting a legal right to food to nearly 60% of its citizens, numbering more than 70 crores of people is as good as a nearly impossible task. Apart from South Africa, India is the only other nation on earth to grant such a right to its citizens. The socialistic nature of our constitution warrants such a fundamental right to its people. Naturally questions arise about the practicality of such herculean task. What is really needed is not a debate on the economic impact of such a programme on the nation's development agendas, but on the political willingness of the nation, first and foremost, to ensure that hunger is wiped out of its face. Hunger is a crime against humanity in the same manner as poverty is violence. Empowerment of women, special preference given to pregnant and lactating women; looking after needy children and ensuring that they have minimum nutritious food for their survival etc. are revolutionary progress for any nation.

### **Special Features of the National Food Security Act, 2013**

#### **A. Object of the Act:**

The 2013 Act "is to provide food and nutritional security in human life cycle approach, by ensuring access to adequate quantity of quality food at affordable prices to people to live a life with dignity"

#### **B. Priority Households:**

Under the Act, every person belonging to priority households shall be entitled to receive five kilograms of food grains per person per month at subsidized prices from the State Government. Schedule I to the Act lays down the subsidized prices under the Targeted Public Distribution System. The households covered under Antyodaya Anna Yojana will be entitled to 35 kilograms of food grains per household per month at prices stated in Schedule I. The entitlement of subsidized food to the eligible household shall extend up to 75% in rural areas and 50% in urban areas.

#### **C. Support to Pregnant women & Lactating mothers:**

There is also a special provision in the Act for support to pregnant women and lactating mothers. Under Section 4, it is provided that every pregnant woman and lactating mother shall be entitled to meal, free of charge, during pregnancy and six months after the child birth. This is to be done through the local anganwadi under schemes as framed by the central Government.

#### **D. Needy Children:**

The Food Act includes needy children too into its ambitious objective. Every child up to the age of 14 years shall have his or her nutritional needs met through the local anganwadis. It is provided that in the case of children in the age group of six months to six years age, are entitled to appropriate meal, free of charge as to

meet the nutritional standards set by the Act (Schedule II).. Children below the age of six months are excluded from this as the Act aims at promoting exclusive breast feeding for such infants.

In the case of children up to the class VIII or within the age group of six to fourteen years, one mid-day meal, free of charge, everyday, except on school holidays, shall be provided in all schools run by the local bodies, government and government aided schools, so as to meet the nutritional standards set by the Act (Schedule II)

Apart from the infants and school going children, the Act aims at prevention and management of child malnutrition by ensuring meals, free of charge, through Anganwadis, to children suffering from malnutrition.

#### E. Food Security Allowance:

There is also a provision of food security allowance under the Act. When food grains or meals may not be available to the eligible persons, then, such persons shall be entitled to receive such food security allowance to be paid to each person, from the concerned State Governments within a time framework as may be prescribed.

Under Chapter IV of the Act, provisions are made for the identification of the eligible households. State Governments are to prepare guidelines and identify priority households and determine the coverage of population under Targeted Public Distribution System. The names of such identified households shall be made available in public domain.

#### F. Public Distribution System:

The Public Distribution System or the Ration Shops are also in for an overhauling. The Act calls for the State and Central governments to progressively undertake necessary reforms in the Targeted Public Distribution System (TPDS) to be in consonance with its role under the Act. Some of the reforms envisaged include:

- (a) doorstep delivery of food grains to the TPDS outlets;
- (b) application of information and communication technology tools including end-to-end computerization in order to ensure transparent recording of transactions at all levels, and to prevent diversion;
- (c) leveraging “aadhaar” for unique identification, with biometric information of entitled beneficiaries for proper targeting of benefits;
- (d) full transparency of records;
- (e) preference to public institutions or public bodies such as Panchayats, self-help groups, co-operatives in licensing of fair price shops and management of such shops by women or their collectives;
- (f) diversification of commodities distributed under the Public Distribution System over a period of time;
- (g) support to local public distribution models and grain banks; and

(h) introducing schemes, such as, cash transfer, food coupons, or other schemes, to the targeted beneficiaries in order to ensure their foodgrain entitlements under the Act..

#### G. Women Empowerment:

There is a distinct shift in the power structure within families when the Act accords the eldest woman (who is above 18 years of age) to be the head of the eligible household. Where such woman is not available, then only the eldest male member can be the head of the family, that too till one of the female members attain the age of eighteen.

#### H. Provisions for advancing Food Security:

Schedule III under Section 31 of the Act provides for provisions for advancing food security. The way forward for the same is understood as revitalization of agriculture. Agrarian reforms through measures for securing interests of small and marginal farmers, increase in investments in agriculture, including research and development, micro and minor irrigation and power to increase productivity and production, ensuring livelihood security to farmers by way of remunerative prices, access to inputs, credit, irrigation, power, crop insurance etc., and prohibiting unwarranted diversion of land and water from food production are some of the safety guards proposed by the Act. Provisions under Indian Constitution in the Directive Principles of State Policy call for modernization of agriculture and animal husbandry in scientific lines.

The Food Security Act also provides for means to put food in every plate. Revitalization of agriculture as mandated by the Constitution of the nation is the solution to the vexing problem. The latest Land Reform laws are also in line with the needs for the farmers and for increasing food production in the country to feed its hungry millions. The Mahatma Gandhi National Rural Employment Guarantee Act, 2005 and Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2014 (or the Land Acquisition Act, 2014) are also complimentary and supportive of the efforts of the state to eliminate hunger from the nation.

-George K Jose

Faculty-In-Charge



## **The Law catches up to our Governors.**

The *Lily Thomas v. Union of India* case brought to the fore the need to for sound politics, and some modicum of ethical behaviour from the people who govern us. On 10 July 2013, the Supreme Court of India in this judgement (and their decision in *Lok Prahari v. Union of India*) decided to disqualify any Member of Parliament (MP), Member of Legislative Assembly (MLA) or Member of a Legislative Council (MLC) who has been convicted of a crime to act an elected representative on the date of conviction. Justices A. K. Patnaik and S. J. Mukhopadhaya, through their judgement ruled that Section 8(4) of the Representation of the People Act was unconstitutional. This section had allowed elected representatives, three months to appeal their conviction. Though this now has grave implications for some of the MPs, MLAs and MLCs, it means that a greater sense of accountability is introduced into the system; a much needed reformatory measure in our Governance system today.

- Shambhavi Ravishankar

## **Arvind Kejriwal's Stand On Khap Panchayats**

Arvind Kejriwal, the chief minister of Delhi, has said he does not see the need for banning khap panchayats, unelected all-male village councils that often endorse harsh treatment of women because they serve a "cultural purpose." "No, it is not a question of banning these panchayats," Kejriwal told Thomson Reuters Foundation late on Monday 3/02/2014. "Khap Panchayats are a group of people who come together. There is no bar on people to assemble in this country... (But) whenever they take a wrong decision, whenever they take an illegal decision, they ought to be punished."

-Sadhvi Himatsingka

## **Supreme Court's judgment on death penalty: a humane approach**

Recent times have seen the strong re-emergence of the popularity of the death penalty in the public consciousness. The recent decision of the Supreme Court of India in *Shatrughan Chauhan v. Union of India* is a remarkable example of how innovative judicial craftsmanship can lead to the upholding of constitutional values, while humanising capital punishment. Prior to this judgment, it was well settled that once the courts have awarded the death sentence in the "rarest of rare" cases, the process surrounding the execution of the sentence is entirely in the domain of the executive, with any reform of this process on humanitarian grounds being left to the wisdom of Parliament. But the status quo has been challenged quite effectively in this landmark judgment. In this case, the Court held that inordinate delay by the President in the rejection of mercy petitions of death row convicts amounted to torture and that it is a sufficient basis, in itself, to commute a sentence of death to life imprisonment. The guidelines issued in the judgment will hopefully prove to be a crucial step towards ensuring that India adopts a more humane process committed to the rule of law until the very end in carrying out death sentences.

- Paridhi Bajoria

## **A Note on the contentious *Suresh Kumar Koushal and another v NAZ Foundation and others*. Case:**

In an appalling and regressive verdict, the Supreme Court of India upheld Section 377 of the Indian Penal Code and overturned the landmark judgment of the Delhi High Court in 2009, which had decriminalized adult consensual same sex conduct. The division bench of Justice G.S. Singhvi and Justice S.J. Mukhopadhyay has let down the constitutional vision of an equal and inclusive society and has violated the fundamental tenets of the Constitution. Filed in 2001 by the Lawyers Collective, Naz Foundation challenged the constitutional

validity of Section 377 on the ground that it violated the right to privacy, dignity and health (Article 21), right to equality and non-discrimination (Articles 14 and 15), and right to freedom of expression [Article 19 (1) (a)]. On 2<sup>nd</sup> July, 2009, the Delhi High Court held Section 377 violated Articles 21, 14 and 15 of the Constitution, insofar as it criminalized consensual sexual acts of adults in private.

- Vidit D. Kumat

### **Supreme Court's National Law University preference in judicial clerkships unconstitutional!**

The Delhi high court in a recent judgment held that the policy of the Supreme Court of allowing only National Law University graduates and graduates from universities “approved” by the Supreme Court to apply for the annual law-clerk openings in the court is unconstitutional. Justice Rajiv Shakhder has also directed the Supreme Court’s registrar to consider afresh AIL Mohali graduate Phalguni Nilesh Lal’s application for the clerkship and allow her to clerk at the Supreme Court for the remaining term of clerkships the year i.e. until May 2014. Phalguni Lal had petitioned the Delhi HC in January challenging the validity of the selection procedure as violating her constitutional right to equality under Article 14.

- Priya Kale

### **NOTA decision of Supreme Court**

The Supreme Court recognised the right to negative vote, available to the citizens of the country, exercising their franchise. The Supreme Court in PUCCL v UOI held, that the EVMs must now include the NOTA (None Of The Above) button as an extension of secrecy for an eligible voter’s right not to vote. The Court held that although Right to vote is a statutory right, the decision taken by the voter is a facet of Freedom of Expression under Art. 19(1)(a). The Apex court directed the Election Commission to have a "None Of The Above" button on electronic voting machines and ballot papers which can be used by the voters to reject all the candidates contesting elections in a constituency. According to the Supreme Court order, negative voting would foster purity and vibrancy in elections as at the end of the list of candidates in EVMs and ballot papers, the electorate will have the option of "none of the above" which will give them an option to reject all those contesting polls

- Aishwarya Prasad

### **The Unpredictable Prediction**

It was the year 2001 when a Kerala based astrologer, Unnikrishna Panicker came into the limelight when he made a prediction which was considered to be outrageous by a few. The prediction made was that J Jayalalithaa would become the Tamil Nadu Chief Minister. Though the AIDMK chief could not contest as she was debarred due to criminal cases pending against her, the AIDMK won the assembly elections and she was made the CM as a non-elected member of the assembly. The prediction was not given a blind side by the supporters of the CM. He was given Rs 10lakhs for correctly telling the ‘future’ of the AIDMK supremo. The money which was seen as a gift by Panicker landed him within the spectrum of the Income Tax Department. He claimed that the money he received did not fall under the definition of business income and hence should be exempted from the tax imposed on the Rs 10lakhs. The income tax appellate tribunal estimated the tax liability to be around Rs 3lakhs and ordered him to pay the amount. He moved to the Kerala High Court against the tribunals order. Last month the HC rejected his claim and accepted the fact that the money he received was a part of his business and he has to pay taxes for that.

- Dhananjay Suri

## **Microsoft Corporation v. Kurapati Venkata Jagdeesh Babu**

This was a case that was filed recently for permanent injunction, restraining infringement and dilution of trademarks, passing off and damages against the Defendant and relief sought on 3<sup>rd</sup> February 2014.

The case of Microsoft was that the Defendant had made a trademark application for “MICROSOFT MULTIMEDIA” which was later withdrawn when Microsoft filed an opposition. Subsequently, Microsoft discovered that the Defendant had also wrongly registered a domain name “www.microsoftmultimedia.com”.

It was Microsoft’s contention that its goodwill and reputation had been adversely affected by the illegal infringing activities of the Defendant. It had claimed that since its highly distinctive trademark had been used extensively over a long period of time and spanned a wide geographical area, it had acquired the status of a ‘*well-known*’ trademark.

Alleging that the illegal use of the trademark by the Defendant had caused pecuniary loss and damage to its reputation and goodwill, Microsoft had prayed for a declaration of the trademark MICROSOFT as ‘*well known*’ and had also sought damages of Rs. 20 lakh.

The Court held that relief can be claimed under Section 29(4) of the Trademark Act, 1999 if the registered trademark is used as part of the corporate name even though the business of the infringer is in goods or services other than those for which the mark is registered. Applying it to the instant case the Court in an ex parte order awarded Rs. 2 lakh to Microsoft as compensatory damages and Rs.3 lakh as punitive/exemplary damages as well as damages on account of loss of its reputation and goodwill.

- Anujit Mookherji

# ANSWER KEY

**PUZZLE IT OUT:** *Answer = 5.* Take each half of the dominoes separately, add together the spots shown on the first two pieces to get the third domino, and then add together the spot from second and third to get the fourth etc. Return to zero whenever the spot total exceeds six

**BULLS EYE:** Been, Beer, Bend, Bender, Bide, Bier, Binder, Bred, Breed, Bride, Brie, Brine, Deer, Denier, Dine, Diner, Dire, Eider, Inbred, Inbreed, Need, Reed, Rein, Reined, Rend, Ride

**MENSA PUZZLE:** *ANSWER = 7.* The number in each row of the diagram add up to 18.

**SOLVE:** *Answer = N.* Starting with B and moving clockwise, letters advance through the alphabets in steps of 2, then 4, 6, 8 and 10.

**CHAIN REACTION:** *Answer = 71.* As you move clockwise around the diagram, add the previous 2 numbers together and subtract 3 to give the next number in the chain

**EASY DRAW:** The correct answer for the example grid is B.

**CORRECT KEY:** The correct answer for the example grid is C.

**MENSA PUZZLE:** *Answer = J.* Adding 1 to the numerical values of each letter gives the sequence of prime numbers.

**ALPHA TRIANGLE:** D, Dr, Red, Dare, Trade, Derate, Aerated



# A Psalm of Life

~ H. W. Longfellow



Tell me not, in mournful numbers,  
Life is but an empty dream!  
For the soul is dead that slumbers,  
And things are not what they seem.

Life is real! Life is earnest!  
And the grave is not its goal;  
Dust thou art, to dust returnest,  
Was not spoken of the soul.

Not enjoyment, and not sorrow,  
Is our destined end or way;  
But to act, that each to-morrow  
Find us farther than to-day.

Art is long, and Time is fleeting,  
And our hearts, though stout and brave,  
Still, like muffled drums, are beating  
Funeral marches to the grave.



In the world's broad field of battle,  
In the bivouac of Life,  
Be not like dumb, driven cattle!  
Be a hero in the strife!

Trust no Future, howe'er pleasant!  
Let the dead Past bury its dead!  
Act,— act in the living Present!  
Heart within, and God o'erhead!

Lives of great men all remind us  
We can make our lives sublime,  
And, departing, leave behind us  
Footprints on the sands of time;

Footprints, that perhaps another,  
Sailing o'er life's solemn main,  
A forlorn and shipwrecked brother,  
Seeing, shall take heart again.

Let us, then, be up and doing,  
With a heart for any fate;  
Still achieving, still pursuing,  
Learn to labor and to wait.