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Ram Jethmalani

Legal Legend **Mr. Ram Jethmalani**

CLAT 2018

A hand book on Legal GK for last minute prep

Special Feature

- Justice Indu Malhotra & contribution of Women in legal profession
- Process of removal of SC & HC judges

No Law aspirant can afford to miss this one

- Important Judgments - 2017-18
- Landmark Judgments of Supreme Court
- Important amendments and new enactments -2017-18
- International Legal Developments 2017-18
- Constitution of India - At a Glance
- Important Committees & Commissions 2018
- Important Latin Maxims
- Key Legal Concept
- Important books & authors

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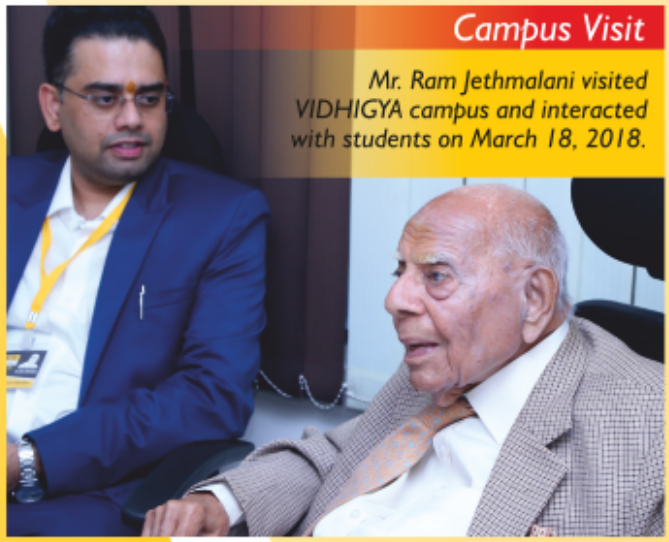
VIDHIGYA is a venture by a team of National Law University Alumni, Educationists and Jurists striving for excellence in legal education. It was inaugurated by Prof. (Dr.) R. Venkata Rao Vice Chancellor - NLSIU, Bengaluru. Legal Luminaries including stalwarts like Mr. Ram Jethmalani (Sr. Advocate) had written words of praise for the institute. Academicians and Law professionals are regular visitors at VIDHIGYA, which help law aspirants in exploring more facets of law and understanding the trends which are reshaping the legal industry. With phenomenal results, best faculty team, conducive learning environment and effective teaching pedagogy, VIDHIGYA is Central India's fastest growing CLAT training institute. It has always been our constant endeavor to impart excellence in Law Entrance Exam preps.

Website Launch

Our new website www.clattutorials.com launched by Mr. Jethmalani at VIDHIGYA Office.

Campus Visit



Mr. Ram Jethmalani visited VIDHIGYA campus and interacted with students on March 18, 2018.

Inception

VIDHIGYA was Inaugurated by Prof. (Dr.) R. Venkata Rao (Vice Chancellor, National Law School of India University, Bengaluru).

Visits by Legal Luminaries

Mr. R. Venkatramani (Sr. Adv. Supreme Court) Ex-Member Law Commission of India, visited VIDHIGYA for a class room interaction with law aspirants.

Stalwarts Praise

Mr. G. Bala Subramanian, Former-Director Academics CBSE appreciates efforts of VIDHIGYA in facilitating the young learners to design their futuristic dreams.

Visits by Legal Luminaries

Prof. (Dr.) Indranath Gupta Professor of Intellectual Property and Technology Law, LL.M. (East Anglia,UK), Ph.D. (Brunel, London) interacted with Law aspirants about 'Data Privacy and Cyber Laws' at VIDHIGYA

Visits by Legal Luminaries

Mr. Sakshat Bansal (Professor of Law, NLSIU Bengaluru) interacted with students at VIDHIGYA campus about contemporary challenges in Legal Profession.

Law Day Celebrations

At VIDHIGYA, as a part of our socio -legal initiative, we commemorate Law Day every year with a view to impart legal awareness among school students. This is to further our vision of "Leading Legally Aware India".

VIDHIGYA – HANDBOOK ON LEGAL GK

No Law Aspirant could afford to miss this one

Index

Sl.	Topic	Page
1	***VIDHIGYA EXCLUSIVE*** – About Justice Indu Malhotra and Contribution of Women in Legal Profession	01
2	***VIDHIGYA EXCLUSIVE*** – Procedure of removal of judges of Supreme Court and High Court : At a Glance	02-03
3	Most relevant Judgments of 2017-18	04-10
4	Important Enactments, amendments and Ordinances	11-13
5	International Legal Developments	14-17
6	Landmark Judgments in the history of Indian Judiciary	18-25
7	Important Committees and Commission 2017-2018	26-27
8	Constitution : At A Glance Sources of the Indian Constitution About Executive and Legislature List of Must Know Articles Twelve Schedules and related information Important Offices, Oaths and Resignation	28 - 33
9	Important Latin Maxims	33-35
10	Key Legal Concepts	35-37
11	Legal Literature – Important Books and Authors	38

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Mentors Advice

For Students appearing in various Law Entrance Exams

"With realization of one's own potential and self-confidence in one's ability, one can achieve all aspirations"

Dear Budding Lawyer,

Brevity is soul of wit, more fully in the profession of Law. Thus a small bit of advice for students who are taking up various Law Entrance Exams.

Remember, the time has come for your hard work to pay off. So give your 100% in the paper. You need to trust yourself, your preparation and your test taking abilities. Allow nothing to disturb or surprise you during the exam. Go and deliver your personal best. Stay confident and don't stress upon things that you don't know. Trust yourself, your preps.

Nothing Great Was Ever Achieved Without Enthusiasm. - Ralph Waldo Emerson

You have a long way to go in Life. Take it as just another exam. Take it as a game. You Play Your game and Never allow the game to play with you during exam. You'll Rock……

"Be Calm at mind and Aggressive in Approach"

Stay Blessed,
Kriti Shastri
School Of Skills – Vidhigya
Exclusive – CLAT Tutorials

खुदी को कर बुलन्द इतना कि हर तकदीर से पहले . खुदा बंदे से खुद पूछे बता तेरी रजा क्या है

-अलेमा इकबाल

All the Best

Be LAWgical !!!!

Hon'ble Justice Indu Malhotra

- She is the **First Woman Judge** of Supreme Court to be elevated directly from the Bar.
- She was appointed as Judge of Supreme Court on 27th April, 2018.
- Prior to her elevation as a Judge, she was a senior counsel practicing in the same Court for the past 30 years.
- She is the **second woman to be designated as Senior Advocate by the Supreme Court**. The first woman to be designated as Senior Advocate by SC was **Jus. Leila Seth.**

VIDHIGYA EXCLUSIVE

Our Tribute To Women Making Remarkable Contribution in the arena of 'Law'

LAWgical Points : 'Must Know' for Law Aspirants

- **Ms. Cornelia Sorabji** (1866 –1954): She was an Indian woman to be graduate from Bombay University, the first woman to study law at Oxford University, (the first Indian national to study at any British university), **the first female advocate in India**, and the first woman to practice law in India and Britain. A **Google Doodle celebrated her 151st birthday on 15 November 2017.**
- **Ms. Omana Kunjamma: She was the First Lady Magistrate in India. She hailed from Tamil Nadu.**
- **Justice Anna Chandy** (1905 - 1996): She was **the first female judge in India** and also **the first woman in India to become a High Court Judge (Kerala High Court).** Her autobiography is **'Atmakatha'.**
- **Justice Leila Seth** (1930 - 2017). She was the **first woman judge on the Delhi High Court** and she became the **first woman to become Chief Justice of a state High Court (Himanchal Pradesh**). She was the **first women to be designated as Senior Advocate** by Supreme Court in 1977. **'On Balance'** is her autobiography
- **Justice Meera Sahib Fathima Beevi** (born 30 April 1927) : She became the **first woman to be a judge at the Supreme court of India**. After her retirement from the court, she served as a member of the National Human Rights Commission and later as the Governor of the Indian state of Tamil Nadu from 1997 to 2001.
- Till date **seven women** had been appointed as judge of Supreme Court. They are:
  1. Justice Meera Sahib Fathima Beevi (Kerala) : Appointed on Oct 06, 1989.
     Present Status : **Retired from Supreme Court of India**
  2. Justice Sujata V Manohar (Maharastra) : Appointed on Nov 08, 1994.
     Present Status : **Retired from Supreme Court of India**
  3. Justice Ruma Pal (West Bengal) : Appointed on January 28, 2000.
     Present Status : **Retired from Supreme Court of India**
  4. Justice Gyan Sudha Misra (Bihar) : Appointed on April 30, 2010.
     Present Status : **Retired from Supreme Court of India**
  5. Justice Ranjana Prakash Desai (Maharastra) : Appointed on September 13, 2011.
     Present Status : **Retired from Supreme Court of India**
  6. Justice R Banumathi (Tamil Nadu) : Appointed on August 13, 2014.
     Present Status : **Incumbent (Sitting Judge at Supreme Court of India)**
  7. Justice Indu Malhotra (New Delhi) : Appointed on April 27, 2018.
     Present Status : **Incumbent (Sitting Judge at Supreme Court of India)**

Hence presently there are two women judges at Supreme Court of India

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LAWGICAL Point :Women playing pivotal role in the drafting of Indian Constitution.

- Women had made a significant contribution in drafting of Indian Constitution. There were fifteen women members in the Constituent Assembly of India that drafted the Indian Constitution. They were – 1. Durgabai Deshmukh 2. Rajkumari Amrit Kaur 3. Hansa Mehta 4. Begum Aizaz Rasul 5. Ammu Swaminathan 6. Sucheta Kriplani 7. Dakshayani Velayudhan 8. Renuka Ray 9. Purnima Banerjee 10. Annie Mascarene 11. Kamla Chaudhri 12. Leela (Nag) Roy 13. Malati Choudhury **14. Sarojini Naidu and 15. Vijaya Lakshmi Pandit.**

- Women of Indian Origin holding Indian flag high abroad.
  1. **Judge Dr. Neeru Chadha, the First Indian origin woman** to become a **Member Judge of International Tribunal for the Law of the Sea (ITLOS)** for a nine-year term from 1st October 2017 to 2026.
  2. **Judge Parbinder Kaur Shergill**, has become the first turbaned Sikh woman to be appointed as Canada's Supreme Court judge in June 2017.
  3. **Judge Anuja Ravindra Dhir**, an Indian-origin woman has become the first non-white judge to sit at the Old Bailey Court of London in April 2017.

With 'Impeachment of Judges' becoming a buzz word in the corridors of legal fraternity in the recent past, we bring for the CLAT Aspirants:

Our two Cents on Constitutional Procedure for the Removal Of Judges Of SC & HC

{Please note that the Constitution of India mentions word **'removal'** not '**impeachment'** for the procedure of removing Judges of Supreme Court or High Court. Usage is word impeachment is legally correct only with reference to the removal procedure of the President (under Art- 61).}

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- The law governing the removal of Judges can be found in **Articles 124 (4), 124 (5)** (Supreme Court Judge), **217, and 218 (High Court Judge)** of the Constitution of India, and the provisions of the **Judges (Inquiry) Act, 1968** and corresponding rules.
- These provisions of above mentioned laws allow for removal of a Supreme Court or High Court judge on *grounds of proved misbehaviour or incapacity.*
- A judge of the Supreme Court or High Court can be removed from his office by an order of the President. The President can issue the removal order after an address by the Parliament, supported by a special majority of each House of Parliament, has been presented to the President in the same session of Parliament for such a removal.
- Step wise procedure for removal of judges of Supreme Court / High Court.:

Step 1- A removal motion signed by *100 members (in case of Lok Sabha) or 50 members (in case of Rajya Sabha)* is to be given to the Speaker/Chairman. (The removal motion can be introduced in any of the two Houses of Parliament).
Step 2- The Speaker/Chairman may **admit and reject** the motion.
Step 3- If such motion is admitted, then the Speaker/Chairman is to constitute **a three-member Committee** to investigate into the charges. The Committee should consist of the Chief Justice or a Judge of the Supreme Court, a Chief Justice of a High Court and a distinguished jurist.
Step 4- If the Committee finds the judge to be guilty of the charges (misbehaviour or incapacity), the House in which the motion was introduced, can take up the consideration of the motion.
Step 5- Once, the House in which removal motion was introduced passes it with **special majority**, it goes to the second House which also has to pass it with special majority.
Meaning of Special Majority in this context – *"a majority of the total membership of that House and a majority of not less than two thirds of the members of that house present and voting"*
Step 6- After the motion is passed by each House of the Parliament by special majority, an address is presented to the President for removal of the judge.
Step 7- Finally, the President passes an order removing the judge.

History of Removal of Judges in by such procedure (Popularly known as Impeachment)

Till date no Judge had been removed by invoking the above mentioned constitutional process in independent India. The Past instances of attempted removal are as under :

1. **1991- Justice V Ramaswami**, the then Chief Justice of the Punjab and Haryana High Court, has the dubious honour of being the first judge to have impeachment proceedings initiated against him in 1991. Although the Inquiry Committee had found Justice Ramaswami guilty on 11 out of 14 charges, *the impeachment motion failed on account of insufficient votes.*
2. **2011- Justice P.D Dinakaran,** the then Judge of Sikkim High Court- Against him the proceedings were initiated, in 2011, for alleged judicial misconduct met with success up to the point of the constitution of an Inquiry Committee. However, *the removal was halted following Justice Dinakaran's resignation, on grounds of lack of faith and confidence in the impartiality of the Inquiry Committee.*
3. **2011- Justice Soumitra Sen, the then Judge of Calcutta High Court-** Against him the impeachment proceedings have been taken forward for cited misappropriation of public funds. Following the Inquiry Committee's finding *that Justice Sen was guilty, the impeachment motion found overwhelming support in the Rajya Sabha. However, in September 2011, Justice Sen resigned before the motion could be voted on in the Lok Sabha.*
4. **2015- Justice JB Pardiwala** of the Gujarat High Court ran into trouble after he made certain 'casteist' remarks against reservation in a judgment. *However, the motion for impeachment lost steam after the judge removed the controversial remarks from the judgment.*
5. **2015- Justice SK Gangele** The impeachment proceedings were initiated the named judge of the Madhya Pradesh High Court on **allegations of sexual misconduct**. However, the Inquiry Committee set up by the Rajya Sabha ended up **giving a clean chit to the judge, after finding that the allegations were unfounded.**
6. **2016- 17 Justice CV Nagarjuna Reddy** – Two attempts had been made for his removal as a judge of the Andhra Pradesh and Telangana High Court in 2016 and 2017 but it failed to materialise. **The impeachment motion initiated on alleged grounds of casteist acts, saw loss of support before an Inquiry Committee could be constituted.**
7. **2018- Controversies had been hovering around the name of incumbent CJI – Justice Dipak Mishra (45th CJI) to be removed by such process. However in the present geo political scenerio his removal seems highly improbable. But it is for the first time in the Indian history the office of CJI is brought to such askance.**

Though CJI's removal seems unlikely but it has tainted the image of the office of CJI to an extent. In this context the lines of Shakespeare's fictional character **Iago** in his play **Othello** becomes relevant. *"He who steals my purse, steals trash. But he that filches from me my good name Robs me of that which not enriches him, But makes me poor indeed."* **Hence India has no histroy of successful impeachment till date.It's a good sign for Indian Judiciary.**

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Points to ponder : "Supreme Court of India"

Established on	: 28th January 1950
Motto	: **Yato Dharmastato Jayaḥ** (*'where there is Dharma there is victory'*, from -Bhagavad Gita)
Number of Judges	: Sanctioned Strength - Presently 30 judges and one CJI / In 1950 - 07 judges and one CJI
Appointment Process	: Judges to be appointed by President on the advise of Collegeium
Retirement Age	: 65 Years for the Judges of SC. (High Court 62 Years)
Qualifications of judge	: Citizen of India, to have been a judge of High Court for min. 5 yrs or an advocate of High Court for min.10 yrs minimum or in President's view, a distinguished jurist of the country
About Chief Justice	: 1st CJI – Jus. H.J.Kania | 2nd CJI – Jus. M. Patanjali Sastri | Present (45th) Jus. Dipak Misra CJI – Sering the Longest term – Jus. Yeshwant Vishnu Chandrachud (2696 days) CJI- Serving the Shortest term - Jus. K.N. Singh (17days)

About its predecessor – The Federal Court

The Federal Court of India was a judicial body, established in India in 1937 under the provisions of the Government of India Act 1935, with original, appellate and advisory jurisdiction. It functioned until the supreme courts were established in India (1950) and in Pakistan (1956) were established. The seat of the Federal Court was at Delhi till partition. There was a right of appeal to the Judicial Committee of the Privy Council in London from the Federal Court of India. **Sir Maurice Gwyer was the first Chief Justice of Federal Court of India.**

CLAT RELEVANT

MOST IMPORTANT JUDGMENTS 2017-2018

Right to privacy as a Fundamental Right

Case Law: Justice K S Puttaswamy vs. Union of India

- **Date of Judgment:** 24th August, 2017
- **Bench: 9 Judge Bench:** CJI Jagdish Singh Khehar, Justice J Chelameswar, S A Bobde, R K Agrawal, Rohinton Fali Nariman, Abhay Manohar Sapre, Dr D Y Chandrachud, Sanjay Kishan Kaul, and S Abdul Nazeer.
- **Held:** Privacy includes at its core the preservation of personal intimacies, the sanctity of family life, marriage, procreation, the home and sexual orientation. Privacy also connotes a right to be left alone. Privacy is a constitutionally protected right which emerges primarily from the guarantee of life and personal liberty in Article 21 of the Constitution.

Supreme Court dismisses petition seeking SIT probe in Judge Loya's death

Case Law: Tehseen Poonawalla vs. Union of India

- **Date of Judgment:** 19th April, 2018
- **Bench:** CJI Dipak Misra, Justice D. Y. Chandrachud and Justice A. M. Khanwilkar.
- **Held:** Supreme Court of India has dismissed the petitions seeking independent probe into Judge Loya's death. The court held that the documentary material on the record indicates that the death of Judge Loya was due to natural causes. In the opinion of the court there is no ground for the court to hold that there was a reasonable suspicion about the cause or circumstances of death which would merit a further inquiry.

Directions to prevent the misuse of provisions of Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act 1989 (SC/ST Act).

Case Law: Dr. Subhash Kashinath Mahajan vs State Of Maharastra And Anothers

- **Date of Judgment:** 20th March, 2018
- **Bench: 2 Judge Bench :** Justices AK Goel and UU Lalit
- **Held:** The court issued directions to ensure procedural safeguards so that provisions of Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) (SC/ST) Act 1989 are not abused for extraneous considerations. No arrest is to be made before permission of the senior Superintendent of Police of the district, if an accused is a public servant. Before registering an FIR, preliminary enquiry may be made to know whether the case falls under the scope and ambit of the said Act.

Right to marry is a Fundamental Right

Case Law: Shakti Vahini vs Union of India

- **Date of Judgment:** 27th March, 2018
- **Bench:** 3 Judge Bench: Dipak Misra(CBI) and Justices A.M.Khanwilkar and D.Y. Chandrachud.
- **Held:** Right to choose life partner among two adults, is a manifestation of their choice which is recognized under Articles 19 and 21 of the Constitution. Khap Panchayats have no authority to order honour killings; their activities are to be stopped in entirety. The consent of the family or the community or the clan is not necessary once the two adult individuals agree to enter into a wedlock. Shakti Vahini, an NGO, had approached the Apex Court, seeking directions to the State Governments and the Central Government to take preventive steps to combat honour crimes. Court gave directions that the criminal cases pertaining to honour killing or violence to the couple shall be tried before the

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designated Court/Fast Track Court earmarked for that purpose. These Special Cells shall create a 24 hour helpline to receive and register complaints and to provide necessary assistance & protection to the couple.

Kathua Rape Case : Supreme Court Takes Suo Motu Cognizance

Case Law: In Re Kathua Rape Case

- **Date of Judgment:** 13th April, 2018
- **Bench: 3 Judge Bench :** Chief Justice Dipak Misra, D Y Chandrachud and A M Khanwilkar
- **Held:** The court had asked the lawyers to bring some material before the court which was done in the form of a two page description of the incident. Jammu and Kashmir and Kathua Bar lawyers had prevented the Crime Branch from filing chargesheet against 7 accused in the gangrape and murder case. In the petition it was averred that the source of information to this petition is based on the media reports pertaining to the Kathua Rape Case, wherein eight year old girl child has been brutally raped and murdered in Rasana Village in District Kathua in Jammu and Kashmir.

Kathua Rape-Murder case: Provide protection to victim's family and lawyer

Case Law: Mohd. Akhtar vs. State of Jammu and Kashmir

- **Date of Judgment:** 16th April, 2018
- **Bench:** Chief Justice Dipak Misra, , D Y Chandrachud and A M Khanwilkar
- **Held:** Court asked Jammu and Kashmir government to provide adequate security to the family member's of the victim and lawyer.

Selection Process Conducted By State Selection Boards And PSCs Be Videographed

Case Law: The State Of Meghalaya & Anr. Etc. Petitioner vs Phikirbha Khariah & Ors.

- **Date of Judgment**: 6th April, 2018
- **Bench:** 2 Judge Bench : Adarsh Kumar Goel, Rohinton Fali Nariman
- **Held:** The Supreme Court has mooted a suggestion to videograph selection process conducted by the selection bodies. Selection process conducted by state selection boards and PSCs be videographed. It is desirable that at examination centres as well as interview centres CCTV cameras are installed to the extent viable.

Foreign Law Firms/lawyers can't 'practice' in India

Case Law: Bar Council of India vs. A.K. Balaji

- **Date of Judgment:** 13th March, 2018
- **Bench: 2 Judge Bench :** Adarsh Kumar Goel, Uday Umesh Lalit
- **Held:** The court held that there was no bar for the foreign law firms or foreign lawyers to visit India for a temporary period on a "fly in and fly out" basis for the purpose of giving legal advice to their clients in India regarding foreign law or their own system of law and on diverse international legal issues. The court took the view that foreign law firms/companies or foreign lawyers cannot practice profession of law in India either in the litigation or in non-litigation side.

Legalised Passive Euthanasia By 'Living Will'

Case Law: Common Cause (A registered Society) vs Union of India

- **Date of Judgment:** 9th March 2018
- **Bench: 5 Judge Bench :** Dipak Misra(CJI) ,Jus.(s) -AK Sikri, AM Khanwilkar, D.Y. Chandrachud & Ashok Bhushan
- **Held:** The bench said that advance directive by a person in the form of 'living will' can even be approved by a magistrate. The difference between 'active' and passive' euthanasia is that in active euthanasia something is done to end the patient's life while in passive euthanasia, something is not done that would have preserved the patient's life. The court gave extensive guidelines for recording and preservation of living will. The judgment overruled Gian Kaur case. In Gian Kaur vs State of Punjab in 1994 had held that both assisted suicide and euthanasia were unlawful. The bench stated that right to life did not include the right to die, hence overruling the two-judge bench decision in P. Rathinam vs Union of India which struck down section 309 of Indian Penal Code (attempt to suicide) as unconstitutional. However, later in Aruna Ramchandra Shanbaug vs Union of India, the Supreme Court in March 2011 held that passive euthanasia could be given a nod in case of exceptional circumstances and under strict monitoring of the apex court.

Section 377 of IPC Referred To A Larger Bench

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Case Law: Navtej Singh Johar vs Union of India Ministry Of Law And Justice, Secretary

- **Date of Judgment**: 8th January, 2018
- **Bench:** Chief Justice Dipak Misra, Justice DY Chandrachud and Justice AM Khanwilkar .
- **Held:** The Supreme Court ordered that the Suresh Koushal decision which upheld the constitutionality of S.377 requires reconsideration. The court has observed that the right of an adult to choose their sexual partner as is intrinsic in their fundamental right to life under Article 21. This came after the observations made in K.S Puttaswamy case.

CJI is the first among equals *(Primus Inter Pares);* **there can't be presumption of mistrust**

Case Law: Asok Pande vs. Supreme Court of India

- **Date of Judgment: 11th April, 2018**
- **Bench:** CJI Dipak Misra, Justice DY Chandrachud and Justice AM Khanwilkar
- **Held:** In the allocation of cases and the constitution of benches the Chief Justice has an exclusive prerogative. As a repository of constitutional trust, the Chief Justice is an institution in himself. The authority which is conferred upon the Chief Justice, it must be remembered, is vested in a high constitutional functionary. The authority is entrusted to the Chief Justice because such an entrustment of functions is necessary for the efficient transaction of the administrative and judicial work of the Court.

Supreme Court sets aside Kerala High Court Judgment annulling marriage between Hadiya and Shafin Jahan

Case Law: Shafin Jahan vs Asokan K.M. & Ors.

- **Date of Judgment: 8th March, 2018**
- **Bench:** Chief Justice Dipak Misra, Justice D. Y. Chandrachud and Justice A. M. Khanwilkar.
- **Held:** The Supreme Court held that the High Court should not have annulled the marriage between Shafin Jahan and Hadiya alias Akhila Asokan, in a Habeas Corpus petition under Article 226 of the Constitution of India. The Court had directed the personal presence of Hadiya alias Akhila Asokan; and she appeared before this Court on 27th November, 2017, and admitted her marriage with appellant No. 1. Hadiya alias Akhila Asokan is at liberty to pursue her future endeavours according to law. The Court clarified that the investigations by the NIA (National Investigation Authority) in respect of any matter of criminality may continue in accordance with law.

Triple Talaq is not fundamental to Islam

Case Law: Shayara Bano vs. Union of India

- **Date of Judgment:** 22nd August, 2017
- **Bench:** 5 Judge Bench: CJI J.S. Khehar, Abdul Nazeer J., Rohinton Nariman J., U.U. Lalit J., and Kurien Joseph J. It was decided by 3:2 majority. JS Khehar, CJ and SA Nazeer gave the dissenting opinion.
- **Held: The Court** pronounced its decision in the Triple Talaq Case, declaring that the practice was unconstitutional and gave India's parliament six months "to consider legislation" for handling triple talaq. Triple Talaq is instant and irrevocable, it is obvious that any attempt at reconciliation between the husband and wife by two arbiters from their families, which is essential to save the marital tie, cannot ever take place. This form of Talaq must, therefore, be held to be violative of the fundamental right contained under Article 14 of the Constitution of India.

S C stayed criminal proceedings against Priya Prakash Varrier

Case Law: Priya Prakash Varrier & Ors. vs The State Of Telangana & Anr

- **Date of Judgment**: 21 February, 2018
- **Bench:** Dipak Mishra, Justice A.M. Khanwilkar, Justice D.Y. Chandrachud.
- **Held:** The Supreme Court today came to actress Priya Prakash Varrier's rescue by staying criminal proceedings initiated against her in various states on grounds that the video of a song from her film allegedly hurt religious sentiments of the Muslim community. The Court held that solely on the basis of the promotional video of the song "Manikya Malaraya Poovi" in the movie titled "Oru Addar Love", shall remain stayed and no further criminal action shall be initiated against the actor either by way of F.I.R. or private complaint on the basis of their participation in the song in the aforesaid movie.

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SC dismissed plea seeking SIT probe for Medical scam

Case Law: Campaign for Judicial Accountability and Reforms vs. Union of India

- **Date of Judgment**: 10th November,2017
- **Bench:** The 7-judge bench excluded Chelameswar, J, the senior most judge of the Supreme Court. Sikri and Bhushan, JJ also recused themselves from the bench and hence, the matter was then heard by a 5-judge bench of CJI along with RK Agrawal, Arun Mishra, Amitava Roy and AM Khanwilkar, JJ.
- **Held:** The Supreme Court dismissed the plea filed by the Campaign for Judicial Accountability and Reforms seeking SIT probe into the alleged Medical Council of India (MCI) bribery case and imposed costs of Rs 25 lakhs .

Re-promulgation of ordinances is a fraud on the Constitution

Case Law: Krishna Kumar Singh vs. State of Bihar

- **Date of Judgment**: 2nd January,2017
- **Bench:** 7 Judge Bench:
- **Held:** Re-promulgation of ordinances is a fraud on the Constitution and a subversion of democratic legislative processes. The court also held that the satisfaction of the President under Article 123 and of the Governor under Article 213 while issuing ordinances is not immune from judicial review.

Linking Aadhaar with PAN is not violative of Constitution.

Case Law: Binoy Viswam vs. Union of India

- **Date of Judgment:** 9th June, 2017
- **Bench:** A.K. Sikri and Ashok Bhushan
- **Held:** The Supreme Court said that the Section 139AA of Income Tax Act is not in violation of Article 14 of the Constitution because it fulfils the twin test of Article 14 i.e. the reasonable classification and nexus to be achieved by the classification. . The court also observed that the provision in question is also not violative of Article 19(1)(g) of the Constitution.

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Sexual intercourse with minor wife is rape

Case Law: Independent Thought vs. Union of India

- **Date of Judgment:** 11th October,2017
- **Bench:** Justice Madan B. Lokur and Deepak Gupta
- **Held:** The Court declared the Exception 2 of Section 375, Indian Penal Code, 1860 unconstitutional. The Bench opined that while the husband of a married girl child might not have committed rape for the purpose of the IPC but he would nevertheless have committed aggravated penetrative sexual assault for the purposes of the POSCO Act. The husband is not given the immunity in any other penal provisions except in Exception 2 to Section 375 IPC.

High Court judge C.S.Karnan jailed for contempt

Case Law: In Re, Hon'ble Shri Justice C.S. Karnan

- **Date of Judgment**: 9th May, 2017
- **Bench:** CJI Jagdish Singh Khehar, J. Dipak Misra, J. Madan B. Lokur, J. Pinaki Chandra Ghose, J. Kurian Joseph
- **Held:** The present case involved the issue of contempt against the High Court judge C.S. Karnan for his improper behaviour in making allegations of corruption, bias etc. The present case involved the issue of contempt against the High Court judge C.S. Karnan for his improper behaviour in making allegations of corruption, bias etc.

Seeking votes in the name of religion, caste or community amounted to corrupt practice.

Case Law: Abhiram Singh vs. C.D. Commachen

- **Date of Judgment**: 2nd January, 2017
- **Bench:** 7 Judge Bench: Chief Justice T.S. Thakur passed the ruling by a 4:3 majority.(CJI. T.S. Thakur,Madan B. Lokur, S.A. Bobde. ,Adarsh Kumar Goel, Uday Umesh Lalit,D Y Chandrachud,L. Nageswara Rao)
- **Held:** Seeking vote in the name of religion/caste is corrupt practice delivering a landmark ruling. . The constitutional issue in the case deals with the interpretation of word 'his' in Section 123(3). The majority view ruled in favour of a purposive interpretation, stating that "his" would mean religion of candidate, his agents, voters as well as any other

person who, with the candidate's consent, brings up religion in an appeal for the furtherance of the prospects of the election. The Judgment is significant not only because it strengthens the constitutional ethos in terms of secularism and democracy but also it reflects the right social context and intention of parliament.

Playing of the National Anthem prior to the screening of feature films in cinema halls is not mandatory

Case Law :Shyam Narayan Chouksey vs Union of India

- **Date of Judgment**: 9th January, 2018
- **Bench:** CJI Dipak Misra A.M. Khanwilkar Dr. D.Y. Chandrachud
- **Held:** The extent that playing of the National Anthem prior to the screening of feature films in cinema halls is not mandatory, but optional or directory. The court disposed the writ petition and took appropriate steps for inculcating in the public a proper sense for paying due respect to the National Anthem. The court asked the Committee appointed by the Union government shall submit its recommendations to the competent authority on the issue.

Ban on entry of women in Sabrimala Temple: Matter referred to Constitution bench

Case Law: Young Lawyers Association vs. State of Kerala

- **Date of Judgment**: 13th October,2017
- **Bench**: CJI (Dipak Misra)(R. Banumathi)(Ashok Bhushan)
- **Held**: IYLA filed writ petition under Article 32 of the Constitution seeking issue of writ or any direction to Government of Kerala, Dewasom Board of Travancore, Chief Thanthri of Sabarimala Temple to ensure entry of female devotees between the age group of 10 to 50 at the Lord Ayappa Temple at Sabarimala (Kerala) which has been denied to them on the basis of certain custom and usage.

SC rejects the idea of Video Conferencing in Marital Disputes

Case Law : Santhini vs Vijaya Venketesh

- **Date of Judgment**: 9th October, 2017
- **Bench**: CJI Dipak Misra and Justice A.M. Khanwilkar delivered majority opinion. Minority opinion was delivered by Justice D Y Chandrachud.
- **Held**: SC emphasised on the physical presence of the parties in matrimonial disputes. Both the judges emphasised on the physical presence of the parties as an indispensable factor to make the conciliation proceedings successful.

Landmark direction in prison reforms.

Case Law : Re-Inhuman Conditions in 1382 Prisons

- **Date of Judgment**: 15th September, 2017
- **Bench**: Justice Madan B. Lokur and Deepak Gupta
- **Held**: The Supreme Court said that there is necessity of having counselors and support persons in prisons; visits to prison by the family of a prisoner should be encouraged, the time or frequency of such meetings should be extended; performance audit of the prisons should be done regularly, medical assistance should be provided to all prisoners and establishment of 'open jails' or 'open prisons' is certainly worth considering.

Menace of eve teasing is highly deprecated. Women have a right to reject.

Case Law: Pawan Kumar vs. State of H.P

- **Date of Judgment:** 28th April, 2017
- **Bench** : Dipak Misra, A.M. Khanwilkar, Mohan M. Shantanagoudar
- **Held:** Eve teasing affects the fundamental concept of gender sensitivity and justice and the rights of a woman under Article 14, 15 and 21 of the Constitution. A woman has her own space as a man has. It has to be kept in mind that she has a right to life and entitled to love according to her choice. She has an individual choice which has been legally recognized. It has to be socially respected. No one can compel a woman to love. She has the absolute right to reject.

Guidelines on senior designation of advocates

Case Law : Ms. Indira Jaising vs. Supreme Court of India through Secretary General

- **Date of Judgment**: 12th October, 2017
- **Bench**: Ranjan Gogoi, R.F. Nariman and Navin Sinha

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- **Held**: A petition was filed claiming that the present system of designation of Senior Advocates in the Supreme Court of India is flawed and to issue necessary directions to designate the senior advocates. The designation of Senior Advocates in the Supreme Court of India and in all the High Courts of the country shall be dealt with by a Permanent Committee to be known as "Committee for Designation of Senior Advocates".

Guidelines for speedy disposal of bail pleas

Case Law: Hussain and Another vs. Union of India

- **Date of Judgment**: 9th March, 2017
- **Bench** : A. K. Goel and U.U. Lalit
- **Held**: Supreme Court gave guidelines to High Courts to issue directions to subordinate Courts providing timelines for speedy disposal of trials. The High Courts are requested to ensure that bail applications filed before them are decided as far as possible within one month and criminal appeals where accused are in custody for more than five years are concluded at the earliest.

Conviction of Ansal in Uphaar Cinema hall case

Case Law: Association of Victims of Uphaar Tragedy vs Sushil Ansal and others

- **Date of Judgment:** 9th February,2017
- **Bench** : Adarsh Kumar Goel, Kurian Joseph
- **Held:** The Supreme Court sentenced Uphaar cinema co-owner 69-year-old Gopal Ansal to one year imprisonment in the 1997 Uphaar cinema tragedy which killed 59 cine-goers. Sending Gopal Ansal to jail, the Court opined that the fine of Rs. 30 crore was not sufficient in view of the irreparable loss of lives. It then ruled that the gravity of the offence and the illegal means employed by him to make gains called for an enhancement of punishment.

No firecracker sale in Delhi- NCR this Diwali

Case Law : Arjun Gopal vs. Union of India

- **Date of Judgment:** 9th October, 2017
- **Bench** : A.K. Sikri, Abhay Manohar Sapre and Ashok Bhushan
- **Held**: The SC ruled against the sale of firecracker in Delhi-NCR this Diwali. Arjun Gopal and others had filed PIL under Article 32 of the Constitution seeking reliefs against the use of fireworks (including fire crackers), prevention of harmful crop burning, dumping of malba and other further steps towards environmental purity.

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Death Penalty for Nirbhaya convicts

Case Law : Mukesh vs. State of NCT of Delhi

- **Date of Judgment**: 5th May,2017
- **Bench** : Justice Dipak Misra, Justice R. Banumathi and Justice Ashok Bhushan
- **Held**: The Court opined that the attitude of the offenders amounted to "beastial proclivity" and that the incident "sounds like a story from a different world where humanity is treated with irreverence".

Cooling off period under section 13(2)B of Hindu Marriage Act is not mandatory.

Case Law : Amardeep Singh vs. Harveen Kaur

- **Date of Judgment**: 12th September, 2017
- **Bench** : A. K. Goel and U.U. Lalit
- **Held:** The Court held that cooling off period of **6 months** under Section 13B(2) is not mandatory. It is a directory provision and after following the procedure, the court may waive off this period for granting the decree of divorce.

Fundamental rights to express ideas and thoughts freely.

Case Law: K.L.N.V. Veeranjaneyulu vs. Union of India

- **Date of Judgment:** 13 October, 2017
- **Bench** : Dipak Mishra (CJI), A.M. Khanwilkar, D.Y. Chandrachud
- **Held:** A three-Judge Supreme Court Bench headed by the Chief Justice in this case was hearing a plea filed by the Petitioner to issue a writ of mandamus to ban the book "Samajika Smugglurlu Komatollu" written by Professor

Kancha Ilaiah and also to ban Chapter 9 of a book titled "Post Hindu India" and Chapter 9 of "Hindutva Mukt Bharat". **The court held that it is inappropriate for the court to ban the book/books.**

States not empowered to create offices of parliamentary secretary

Case Law: Bimolangshu Roy (dead) through LR's vs. State of Assam

- **Date of Judgment:** 26th July, 2017
- **Bench** : Justice J. Chelameswar, Justice R.K. Agrawal and Justice A.M. Sapre
- **Held:** The Supreme Court declared as unconstitutional the Assam Parliamentary Secretaries (Appointment, Salaries, Allowances and Miscellaneous Provisions) Act, 2004. The Bench comprising Justice J. Chelameswar, Justice R.K. Agrawal and Justice A.M. Sapre held that Article 194 of the Constitution of India does not expressly authorize the State Legislature to create the office of Parliamentary Secretary.

To investigate the alleged extra judicial killings in Manipur.

Case Law : Extra Judicial Execution Victim Families Assn. vs. Union of India

- **Date of Judgment**: 14 July, 2017
- **Bench** : Madan B Lokur and Deepak Gupta
- **Held:** The Court directed the CBI to constitute a Special Investigation Team and to investigate the alleged extra judicial killings in Manipur. Fake Encounters/use of excessive or retaliatory force by police personnel and personnel of Armed Forces in State of Manipur: It was alleged that 1528 persons were killed in fake encounters. CBI directed to constitute a Special Investigation Team to investigate the alleged extra judicial killings in Manipur.

Deadlines to make public place accessible to visually disabled

Case Law: Rajive Raturi vs. Union of India

- **Date of Judgment**: 15th December, 2017
- **Bench** : A.K. Sikri and Justice Ashok Bhushan
- **Held:** The court directed that 50% of all Government buildings of the national capital and all State capitals be made fully accessible by December, 2018. The Court held that there should be proper and adequate access for visually disabled persons to public places.

Court took *suo motu* Cognizance of sexual abuse of children in child care institution

Case Law: Re: Exploitation of Children in Orphanages in the State of Tamil Nadu vs. Union of India and Others

- **Date of Judgment:** 5th May, 2017
- **Bench** : Justice Madan B. Lokur and Deepak Gupta
- **Held:** The Court emphasized on the implementation aspect of the ideal provisions of the law. The court also highlighted the issue of training of personnel. The need of the day is de-institutionalization rather institutionalization of the children in need of care and protection. The social auditing of the child care institutions was suggested to bring transparency and efficiency in the functioning of these institutions. It will also include the children victim of sexual abuse in child care institutions.

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Legal Developments in 2017-18 : Amendments in the existing Statutes

Payment of Gratuity (Amendment) Act, 2018

It amends the provisions of The Payment of Gratuity Act, 1972.

The Act has been brought in force on 29th March, 2018.The Act received the assent of the President on 28th March, 2018. The Payment of Gratuity Act, 1972 applies to establishments employing 10 or more persons. The main purpose for enacting this Act is to provide social security to workman after retirement, whether retirement is a result of superannuation, or physical disablement or impairment of vital part of the body.

Maternity Benefit (Amendment) Act 2017

It amends the provisions of Maternity Benefit Act, 1961.

1st April 2017 is the date on which the Maternity Benefit (Amendment) Act 2017 has come into force. However, the relevant provision on the "work from home" option will come into effect from 1 July 2017. The Maternity Benefit Amendment Act had received **Presidential assent on 27 March 2017** and was published in the Official Gazette on 28 March 2017. It increased the duration of paid maternity leave: The Act has increased the duration of paid maternity leave available for women employees from the existing 12 weeks to 26 weeks. Under the Act, this benefit could be availed by women for a period extending up to 8 weeks before the expected delivery date and remaining 18 weeks can be availed post childbirth. For women who are expecting after having 2 children, the duration of paid maternity leave shall be 12 weeks (i.e., 6 weeks pre and 6 weeks post expected date of delivery). Other significant provisions relate to maternity leave for adoptive & commissioning mothers, the work from home option, creche facility & employee awareness programs.

Payment of Wages (Amendment) Act, 2017

It amends the provisions of The Payment of Wages Act, 1936

Parliament received the assent of the **President on the 15th February, 2017**. It shall be deemed to have come into force on the 28th day of December, 2016. Under the Payment of Wages Act 1936, employers can use cheque or bank transfers to pay wages only with a written authorization from the employee. After the amendment in the Act, employers can pay in cash, cheque or credit the amount directly to a bank account, even without a worker's approval. It replaced the Payment of Wages (Amendment) Ordinance 2016, which was promulgated on 28th December to effect cashless transactions as several industries like textiles and apparel had said their production had taken a hit due to cash crunch in the country.

The Right of Children to Free and Compulsory Education (Amendment) Act, 2017

It amends the provisions of Right of Children to Free and Compulsory Education Act, 2009.

Parliament received the assent of the President on the **9th August, 2017.** It shall be deemed to have come into force on the 1st day of April, 2015. It amends by extending the deadline for teachers to acquire the prescribed minimum qualifications for appointment. Under the Act, if a state does not have adequate teacher training institutions or sufficient number of qualified teachers, the provision to possess minimum qualifications is relaxed for a period not exceeding five years i.e. till March 31, 2015.The Act further adds to this provision by stating that those teachers who do not possess the minimum qualifications as on March 31,2015 will acquire the minimum qualifications within a period of 4 years (by March 31, 2019)

Insolvency and Bankruptcy Code (Amendment) Act, 2017

It amends the provisions of Insolvency and Bankruptcy Code, 2016.

It shall be deemed to have come into force on the 23rd day of November, 2017. It amends the Insolvency and Bankruptcy Code, 2016, and replaces an Ordinance promulgated in November 2017. The Act prohibits certain persons from submitting a resolution plan in case of defaults. These include: (i) wilful defaulters, (ii) promoters or management of the company if it has an outstanding non-performing debt for over a year, and (iii) disqualified directors, among others. Further, it bars the sale of property of a defaulter to such persons during liquidation. The Act prohibits certain persons from submitting resolution plans or participating in the liquidation process.

The High Court and the Supreme Court Judges (Salaries and Conditions of Service) Amendment Act, 2017

It amends the provisions of (i) the High Court Judges (Salaries and Conditions of Service) Act, 1954; and (ii) the Supreme Court Judges (Salaries and Conditions of Service) Act, 1958.

The High Court and Supreme Court Judges (Salaries and Conditions of Service) Amendment Act, 2017.These Acts regulate the salaries and conditions of service of the judges of the High Courts and the Supreme Court.

Salary: The two Acts specify the salaries of judges of the Supreme Court and High Courts. The Act seeks to revise their salaries with effect from January 1, 2016:

Table 1: Salary of judges (per month)

Designation	Previous (Rs)	Amended (Rs)
Chief Justice of India	1,00,000	2,80,000
Other Judges of the Supreme Court	90,000	2,50,000
Chief Justice of High Court	90,000	2,50,000
Other Judges of High Court	80,000	2,25,000

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The Indian Institutes of Information Technology (Amendment) Act, 2017

It amends the provision of the Indian Institutes of Information Technology Act, 2014.The Act declares certain Institutes of Technology as institutions of national importance. Further, it seeks to (i) develop new knowledge in information technology; and (ii) provide manpower of global standards for the information technology industry.

Banking Regulation (Amendment) Act, 2017

It amends the provision of The Banking Regulation Act, 1949.

The Act makes provisions for handling cases related to stressed assets. Stressed assets are loans where the borrower has defaulted in repayment or where the loan has been restructured (such as by changing the repayment schedule. It will replace the Banking Regulation (Amendment) Ordinance, 2017.

Legal Developments in 2017-18 : Recent Enactments

The Real Estate (Regulation and Development) Act, 2016

The Real Estate (Regulation and Development) Act, 2016 is an Act of the Parliament of India which seeks to protect home-buyers as well as help boost investments in the real estate industry. The Act establishes Real Estate Regulatory Authority (RERA) in each state for regulation of the real estate sector and also acts as an adjudicating body for speedy dispute redressal. The Act came into force on 1st May 2016 with 59 of 92 sections notified. Remaining provisions came into force on 1 May 2017. The Act demands a mandatory registration by builders, developing a project of land exceeding 500 square meters and that too before any promotional and advertising practices. Failure of which will result in a maximum imprisonment of 3 years or fine of up to 10% of the total cost of the project.

The Footwear Design and Development Institute Act , 2017

The Act received the assent of the President on the 4th August, 2017 The Act seeks to establish the Footwear Design and Development Institute as an institution of national importance. Currently, there are 12 campuses under the Institute. Tribunal of Arbitration: Disputes regarding a contract between the Institute and any of its employees can be referred to a Tribunal of Arbitration.The Tribunal will consist of: (i) one member appointed by the Institute; (ii) one member appointed by the employ ee; and (iii) an umpire, appointed by the President of India who is the Visitor of the Institute. The decision taken by the Tribunal will be final and cannot be questioned in any court.

Goods and Services Tax (Compensation to States) Act, 2017.

The Goods and Services Tax (Compensation to States) Amendment Act, 2017.The Act amends the Goods and Services Tax (Compensation to States) Act, 2017 and replaces an Ordinance promulgated in September 2017. The objective of the Act to provide for compensation to the States for the loss of revenue arising on account of implementation of the goods and services tax in pursuance of the provisions of the Constitution (One Hundred and First Amendment) Act, 2016.The Act allows the central government to notify the rate of the Goods and Services Tax (GST) Compensation Cess on items such as pan masala, coal, aerated drinks, and tobacco, subject to certain caps. The amount received by levying the GST Compensation Cess is used to compensate states for any loss in revenue following the implementation of GST.The Act amends the 2017 Act to increase the cap on the GST Compensation Cess levied on motor vehicles from 15% to 25%.

The Central Goods and Services Tax Act, 2017

The Act received the assent of the President on the 12th April, 2017. The Act provides for the levy of the Central Goods and Services Tax (CGST). Levy of CGST: The centre will levy CGST on the supply of goods and services within the boundary of a state. Supply includes sale, transfer and lease made for a consideration to further a business. Tax rates: The tax rates of CGST will be recommended by the GST Council. This rate will not exceed 20%. In addition, the Act allows certain taxpayers whose turnover is less than Rs 50 lakh to pay GST at a flat rate on turnover (known as composition levy), instead on the value of supply of goods and services. This rate will be capped at 2.5%. For Registration every person who make supply of goods and services and whose turnover exceeds Rs 20 lakh will have to register in every state where he conducts business. The turnover threshold is Rs 10 lakh for special category states.

The Mental Healthcare Act, 2017

It received the assent of the President on the 7th April, 2017. It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint; or on the date of completion of the period of nine months from the date on which the Mental Healthcare Act, 2017 receives the assent of the President. A person with mental illness shall have the right to make an advance directive that states how he/she wants to be treated for the illness and who his/her nominated representative shall be. The advance directive should be certified by a medical practitioner or registered with the Mental Health Board. The Act ensures every person shall have a right to access mental health care and treatment from mental health services run or funded by the appropriate government. The Act also assures free treatment for such persons if they are homeless or belong to Below Poverty Line, even if they do not possess a BPL card.

- A person who attempts suicide shall be presumed to be suffering from mental illness at that time and will not be punished under the Indian Penal Code**. Under section 115 of the Act** there is a presumption of severe stress in case of attempt to commit suicide. It reads as under "Notwithstanding anything contained in section 309 of the Indian Penal

Code any person who attempts to commit suicide shall be presumed, unless proved otherwise, to have severe stress and shall not be tried and punished under the said Code".

- **The Specified Bank Notes (Cessation Of Liabilities) Act, 2017**

The Act received the assent of the President on the 27th February, 2017. The objective of the Act is to provide in the public interest for the cessation of liabilities on the specified bank notes and for matters connected therewith or incidental thereto. It shall be deemed to have come into force on the 31st day of December, 2016.

- It ends the liability of the Reserve Bank of India (RBI) and the government on the demonetised Rs.500 and Rs. 1000 currency notes. It prohibits the holding, transferring or receiving of demonitised notes from 31 December, 2016 and confers power on the court of a First Class Magistrate to impose the penalty. Possessing more than 10 pieces of old notes by individuals and more than 25 pieces for study, research or numismatics purposes will attract a fine of Rs. 10,000 or five times the value of cash held, whichever is higher.
- Fine of a minimum of Rs, 50,000 will be imposed for a false declaration by persons for being abroad during the demonetisation period (9 November-30 December, 2016)

ORDINANCES PROMULGATED IN 2018-2017

- Under **Article 123 & 213 of the Constitution,** President & Governor respectively may promulgate ordinance.

The most important ordinances promulgated between 2017 -18 are as under for your ready reference :

- **Fugitive Economic Offenders Ordinance, 2018**, to provide for measures to deter fugitive economic offenders from evading the process of law in India by staying outside the jurisdiction of Indian court, was promulgated by the President on 21.04.2018.Section 2(f) "fugitive economic offender" means any individual against whom a warrant for arrest in relation to a Scheduled Offence has been issued by any Court in India, who – (i) has left India so as to avoid criminal prosecution; or(ii) being abroad, refuses to return to India to face criminal prosecution.
- **The Criminal law Amendment Ordinance was promulgated on 21st March 2018**, *to provide death penalty for rapists of girls below the age of twelve years of age.* The ordinance seeks to amend Indian Penal Code 1860, Indian Evidence Act 1872, the Code of Criminal Procedure 1973 and Protection of Children from Sexual Offences Act, 2012. Minimum Punishment for Rape made Ten Years Minimum punishment of twenty years to a person committing rape on a woman aged below 16. Minimum Punishment of 20 years rigorous imprisonment and maximum Death penalty/Life Imprisonment for committing rape on a woman aged below 16 years. Minimum Punishment of 20 years rigorous imprisonment and maximum Death penalty/Life Imprisonment for committing rape on a girl aged below 12 years. Fine imposed shall be just and reasonable to meet the medical expenses and rehabilitation of the victim Police officer committing rape anywhere shall be awarded rigorous imprisonment of minimum ten years. Investigation in rape cases to be completed within two months. No Anticipatory bail can be granted to a person accused accused of rape of girls of age less than sixteen years. Appeals in rape cases to be disposed within six months. A new Section 376AB has been inserted which prescribes the minimum punishment of twenty years rigorous imprisonment to a person committing rape on a woman less than twelve years of Age. Such a person can be awarded capital sentence as well.
- President Ram Nath Kovind has promulgated an ordinance on 23rd November 2017, under Article 123 of Constitute to **amend Indian Forest Act, 1927 to encourage bamboo plantation by farmers in private lands**. The ordinance omits bamboo (taxonomically a grass) grown in non-forest areas from definition of trees. The omission, thereby exempts it from requiring permits for felling or transportation of bamboo grown in non-forest areas. The word "bamboos" is omitted from section 2(7) of Indian Forests Act 1927.
- **The Insolvency and Bankruptcy Code, 2017 was promulgated by President on 23rd November, 2017**. The amendments seeks to strengthen IBC by explicitly preventing certain persons – including wilful defaulters, those who have indulged in fraudulent transactions, disqualified directors as well as promoters whose account is classified as non-performing assets (NPA) beyond prescribed duration from regaining control of defaulting company through backdoor in the garb of a resolution applicant.
- **The Banking Regulation (Amendment) Ordinance, 2017** was passed on 4th May, 2017.The ordinance was to address the reportedly high levels of stress faced by the banking sector at the time. The Bill basically empowers the Reserve Bank of India (RBI) to give directions to banks to act against loan defaulters. The Bill seeks to amend the Banking Regulation Act, 1949 by inserting provisions for handling cases related to stressed assets. Stressed assets are loans on which the borrower has defaulted or it has been restructured. The RBI may, from time to time, issue directions to banks for resolution of stressed assets. The Central Government can authorise the RBI to issue directions to banks for initiating proceedings in case of a default in loan repayment.

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International Legal Developments 2018-17

Newly elected: ICJ President and Vice President

The International Court of Justice (ICJ), elected **Mr. Abdulqawi Ahmed Yusuf** on 6th February, 2018 as its new President and **Ms. Xue Hanqin** as its Vice-President. Both of them will serve a term of three years.

- On February 6, 2009, Mr. Abdulqawi Ahmed Yusuf was appointed as a judge at the International Court of Justice. On February 6, 2015 he was elected Vice-president of the court.
- Mr. Abdulqawi Ahmed Yusuf is the 25th President of ICJ.
- **Till date four Indians had served at ICJ, they are namely (in order of chronology)**
  1. **Mr. Benegal Narsing Rau (First Indian to become Member of ICJ)**
  2. **Justice Nagendra Singh (First and till date the only Indian to become President at ICJ)**
  3. **Justice Raghunandan Swarup Pathak (As a Member of ICJ)**
  4. **Justice Dalveer Bhandari (Served as Member of ICJ, reelected from India for a second term)**

Facebook's failure to protect data for its users

A class-action complaint has been filed by Lauren Price, a resident of Maryland, before the U.S. District Court in San Jose, California seeking unspecified damages for Facebook's failure to protect data of its users and the exploitation of the data by Cambridge Analytica in the 2016 US election campaign. The complaint alleges violation of California unfair competition law. It is only recently that the news of Cambridge Analytics – Facebook data misuse came into light. This happened when Facebook admitted the role of Cambridge Analytica in using user data without consent to achieve commercial gains. Cambridge Analytica has been suspended since then from accessing its platform.

☞ The Indian government on 25th April, 2018 served second set of notices to Cambridge Analytica and Facebook over the recent data breach after finding discrepancies between the earlier responses given by the two companies, sources said. The companies have been asked to reply to the additional queries by May 10. Flagging the "cryptic and evasive" reply given by Cambridge Analytica to the first notice, the government has sought responses for five more posers from the company. While Facebook had admitted that nearly 5.62 lakh people in India were "potentially affected" by the data breach incident, Cambridge Analytica had claimed that it does not have any Facebook data on Indian citizens.

Pakistani Human Rights Activist and Senior lawyer, Asma Jahangir passed away on 11 February 2018. Asma Jilani Jahangir was a Pakistani human rights lawyer and social activist who co-founded and chaired the **Human Rights Commission of Pakistan.** In 1983, she was put under house arrest and later imprisoned when she campaigned for women's rights and democracy during the rule of Gen. Muhammad Zia-ul-Haq.

- She was instrumental in forming the Human Rights Commission of Pakistan in 1987 and became its Secretary General until 1993 when she was elevated as commission's chairperson. She served as the United Nations Special Rapporteur on Freedom of Religion or Belief from 2016 to the time of death.
- She is the recipient of several awards like UNESCO/Bilbao Prize for the Promotion of a Culture of Human Rights, Officier de la Légion d'honneur by France, and **Nishan-e-Imtiaz** (The highest degree of service to the state of Pakistan, and for services to international diplomacy),medal on 23 March 2018, to name a few.

CJI of Bangladesh : Surendra Kumar Sinha Resigned

The Chief Justice of Bangladesh Justice Surendra Kumar Sinha, the first Hindu to be appointed as Chief Justice of the Muslim majority nation, resigned. He had assumed office on 17 January 2015.

- He resigned on 11th November 2017 due to the Supreme Court statement which was released citing 11 charges against him including money laundering, financial irregularities, corruption and moral turpitude.

Mr. Dalveer Bhandari re elected for second term as Judge of ICJ

India's nominee to the International Court of Justice (ICJ) Dalveer Bhandari was re-elected to the fifth and the last seat of the world court after Britain withdrew its candidate from the election. Mr. Bhandari received 183-193 votes in the General Assembly and secured all the 15 votes in the Security Council after separate and simultaneous elections were held at the UN headquarters in New York.

- He was re-elected for a second term on 20 November 2017 after UK's nominee Christopher Greenwood withdrew his nomination.
- Justice Bhandari was a member of the bench that stayed the execution of former Indian Navy Officer Kulbhushan Jadhav, who was sentenced to death by a Pakistani Military Court on espionage charges.

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- **Facebook Faces Action in US Court On Alleged Privacy Violation By Face Recognition Feature.** Judgment Date: 16th April, 2018. Judgment Delivered by: James Donato, United States District Judge. The case concerns an Illinois law that prohibits collection of biometric information, including facial recognition data, in the way that Facebook has done for years as part of its photo-tagging systems.
  - A class action suit was filed against Facebook by a group of Facebook users in Illinois over usage of its facial recognition feature. This feature was introduced by Facebook in 2011 and allows it to scan pictures uploaded by users and suggest tagging. The judgment dated 16th April, 2018. The judgment was delivered by James Donato, United States District Judge.
- **UK Court ruled no need for judicial consent to end care of patients in Permanent Vegetative State.** Landmark ruling means legal permission no longer needed in England and Wales before withdrawing treatment from patients with severe illnesses.
  - The landmark ruling by Mr Justice Peter Jackson in the court of protection marks a significant change in how end-of-life cases may be handled in future by hospitals and families in England and Wales. A judge for the UK's Court of Protection ruled on 20th September 2017, that there is no obligation for judicial consent to end care of patients in a permanent vegetative state. Justice Peter Jackson of the High Court Family Division oversaw proceedings on patient M, a woman who had been on an End of Life Care Plan since July 2016 & had been unresponsive for about 18 months.
- **ICJ Rules on Maritime and Land Boundaries Between Nicaragua and Costa Rica**

  On February 2, 2018, the International Court of Justice (ICJ) ruled in joined cases Maritime Delimitation in the Caribbean Sea and the Pacific Ocean and Land Boundary in the Northern Part of Isla Portillos to set the maritime boundaries between Costa Rica and Nicaragua in the Caribbean Sea and Pacific Ocean, as well as a land boundary in a sandbar between the countries.
  - The Court held that Costa Rica has sovereignty over the whole northern part of Isla Portillos, including its coast, except for Harbor Head Lagoon and the sandbar separating it from the Caribbean Sea; that Nicaragua violated Costa Rica's sovereignty by establishing a military camp on Costa Rican territory and that it must remove the military camp; and it set the maritime boundaries in the Caribbean Sea and Pacific Ocean,
  - The ICJ also ruled on the same day on the matter of compensation stemming from a 2015 judgment, deciding that Nicaragua owed Costa Rica $378,890.59 for damage Nicaragua caused with its unlawful construction work near the mouth of the San Juan River.
  - Costa Rica took the dispute to the ICJ in 2014, asking the court to determine its borders with Nicaragua in the Pacific Ocean and the Caribbean after a series of disputes dating back to 1979 when the first talks were held between the two countries to reach an agreement on their border which broadly follows the San Juan River.
- **The Catalan independence referendum of 2017:** It is also known by the numeronym 1-O (for "1 October") in Spanish media, was an independence referendum held on 1 October 2017 in the Spanish autonomous community of Catalonia, passed by the Parliament of Catalonia as the Law on the Referendum on Self-determination of Catalonia.
  - The question of referendum was "Do you want Catalonia to become an independent state in the form of a republic". The "Yes" side won, with 2,044,038 (92.01%) voting for independence and 177,547 (7.99%) voting against.
  - It was declared illegal on 7 September 2017 and suspended by the Constitutional Court of Spain after a request from the Spanish government, who declared it a breach of the Spanish Constitution of 1978. The world is now waiting to see if Catalan officials will unilaterally declare independence.
  - Authorities had earlier threatened to make the declaration within 48 hours of the vote if secession won. But, the Catalan President, Carles Puigdemont stopped short of such a declaration, calling for international mediation instead.
  - A referendum is a direct vote in which an entire electorate is invited to vote on a particular proposal.
- **Venezuela becomes first country to launch virtual currency 'Petro'**. Venezuela become first sovereign to launch its own cryptocurrency called 'Petro' backed by oil, gas, gold and diamond reserves to circumvent US-led financial sanctions. Venezuelan President Nicolas Maduro has claimed that the pre-mined cryptocurrency Petro has raised US $735 million on the first day of its pre-sale.
- **Venezuela and Libya were suspended from voting** in United Nations General Assembly (UNGA) in 2018-19 session for not paying dues to 193-member world body. It was for third time in three years these countries have been suspended from voting for unpaid dues.

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- **Bermuda has become the first jurisdiction to legalise and then repeal same-sex marriage.** Bermuda has become the first country to repeal same sex marriage in British oversea. The decision of the Governor is a shift from the entire western trend, where same sex marriage is legalised. Critics called it "unprecedented rollback of civil rights.
- **Cuba's new President, Miguel Mario Díaz-Canel, 1st non Castro Cuban President**. Miguel Mario Díaz-Canel is a Cuban politician serving as the 19th and current President of Cuba and assumed office 19th April 2018. He was previously First Vice President from 2013 to 2018. Since the 1959 revolution, when **Fidel Castro** seized power, Cubans have only known one handover of power when the iconic leader, stricken by illness, passed the baton to **Raul Castro** in 2006. Raul Castro was the 18th President of Cuba from 24 February 2008 --19 April 2018.
- **US President Donald Trump formally announced the United States recognition of Jerusalem.** On December 6, 2017, as the capital of Israel, reversing nearly seven decades of American foreign policy, and ordered the planning of the relocation of the US embassy from Tel Aviv to Jerusalem.
  - Israel's economy and technology center is Tel Aviv, while its seat of government and proclaimed capital is Jerusalem.
  - Both Palestine and Israel claims Jerusalem as their capital city. The history of the Israeli–Palestinian conflict began with the establishment of the state of Israel in 1948. This conflict came from the intercommunal violence in Mandatory Palestine between Israelis and Arabs from 1920 and erupted into full-scale hostilities in the 1947–48 civil war.
- **United Nations General Assembly (UNGA) adopts resolution rejecting US declaration of Jerusalem as Israel's capital.** The United Nations General Assembly (UNGA) has overwhelmingly adopted resolution declaring United States of America (USA) recognition of Jerusalem as Israel's capital as 'null and void'. The resolution was moved by Turkey and Yemen and was adopted with 128 countries voting in favour including major political powers such as India, Japan, Britain, France, Germany and 9 against it, while 35 abstained from voting. The 193-member UN General Assembly held the rare emergency special session at the request of Arab and Muslim states,who condemned Mr Trump's decision to reverse decades of US policy.
- **Indian descent Judge appointed.** Mr. Pheroze Jagose, a Wellington Barrister of Parsi Indian descent, has been appointed as a Judge of the New Zealand. Wellington barrister Pheroze Jagose has been appointed a Judge of the High Court. He will sit in Auckland and will be sworn in on 27 July 2017.
- **Pakistan Court Holds Suspension of Mobile Services By Federal Govt on Ground of National Security Illegal**. The Islamabad High Court has declared that the Federal government has no authority to direct the suspension of mobile phone services on the ground of national security. It was held that such power can be exercised only after the proclamation of emergency by the President. The declaration was made while allowing an appeal filed by a telecom company, CM Pak Limited, against the shutdown of cellular network ordered by Pakistan Telecom Authority.
- **The Supreme Court of Pakistan ordered the removal of Nawaz Sharif as the President of Pakistan Muslim League.** The court also declared that all decisions are taken and orders issued by Nawaz Sharif as the head of Pakistan Muslim League after he was disqualified by the Supreme Court on 28.07.2017 will have no legal effect. It may be recalled that on July 28th 2017, the Pakistan Supreme Court had disqualified Nawaz Sharif as the Member of Parliament on the ground that he had failed to disclose his position as director of a foreign company in election nomination papers. The case was filed following the revelations in 'Panama Paper Leak', which revealed that Nawaz Sharif and family had held undisclosed off-shore assets. As a consequence of disqualification, he had to step down as the Prime Minister.
- **China's National Congress party voted unanimously to end the limits on Presidential and Vice-Presidential terms provided for by the Chinese Constitution**

  China's Communist Party (CCP) has proposed amending the country's constitution to allow. The proposed amendment was ratified by China's rubber-stamp parliament, the National People's Congress (NPC) in March. Mr Xi, 64, is currently required by the country's constitution to step down as president after two five-year terms. **China's President Xi Jinping to serve a third term in office.** In an uncalled for move, China's National Congress party voted unanimously to end the limits on Presidential and Vice-Presidential terms provided for by the Chinese Constitution. One of the main purposes of this amendment as is evident is to allow the Communist Party to lead for indefinite time.
- **Execution of Kulbhushan Jadhav stayed by ICJ.**

  The International Court of Justice on 18th of May 2017 effectively stayed the execution of former Indian Navy officer Kulbhushan Jadhav, who has been sentenced to death in Pakistan on espionage charges.
  - **Judge Ronny Abraham**, President of the Court, said that till the final decision by the Court the matter is sub judice. The Court said that India should have been granted consular access to its national Kulbhushan Jadhav as per the

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Vienna Convention. The ICJ asserted its jurisdiction over the case of Mr. Jadhav, who has been sentenced to death by Pakistan on charges of espionage and subversive activities.

- The circumstances of Mr. Jadhav's arrest remain disputed, ICJ president Ronny Abraham said while reading out his verdict. It was senior advocate **Harish Salve,** who has been arguing the case in favour of Jadhav at the International Court of Justice.

- **Brenda Hale has been appointed as the first female President of the UK Supreme Court.** She is sworn in as President of UK Supreme Court on 2nd October, 2017. Brenda Marjorie Hale, Baroness Hale of Richmond, (born 31 January 1945) is a British judge and the current President of the Supreme Court of the United Kingdom. She served as Deputy President of the Supreme Court from 2013 to 2017.
- **Beverley McLachlin**, was the 17th Chief Justice of Canada. McLachlin, 74, was the first female Chief Justice of any top court in the British Commonwealth., the first woman to hold the position of Chief Justice of Canada, and the longest serving Chief Justice of Canada. She retired from the position on 15th December 2017, nine months before reaching the mandatory retirement age of 75.
- **Preet Kaur Gill** is a British Labour Co-operative politician**.** She is the first female British Sikh MP. She is holding the post Shadow Secretary of State for International Development. On 12 January 2018, she was appointed to the shadow cabinet as International Development Minister.

LEGAL AGE OF SEXUAL CONSENT

The age of consent for marriage of girls is 18 years in India. The second exception of Section 375 IPC had created dichotomy over age of consent as it says intercourse or sexual act by a man with his wife above 15 years of age is not rape. The second exception of Section 375 IPC is read as "Sexual intercourse by a man with his own wife, the wife not being under fifteen years of age, is not rape." The Supreme Court has recently criminalised sex between man and his underage wife below 18 years provided the woman files a complaint within a year. The landmark judgment fixes the age of consent at 18 for all girls. The Supreme Court held that age of marriage was 18 in all laws and exception given in rape law under clause (2) of Section 375 of IPC was arbitrary and was violates the rights of a girl child. It is violates Article 14, 15 and 21 of the Constitution. In *Independent Thought vs. Union of India* Supreme court on 11th October, 2017 held that sexual intercourse with minor wife is rape. The Court declared the Exception 2 of Section 375, Indian Penal Code, 1860 unconstitutional. The Bench opined that while the husband of a married girl child might not have committed rape for the purpose of the IPC but he would nevertheless have committed aggravated penetrative sexual assault for the purposes of the POSCO Act.

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France to set age of sexual consent at 15

It would be a first for France, which does not currently have an age of consent. France, current laws criminalize sex with children under the age of 15 years but prosecutors must prove that the sexual act was forced.

- The French government has proposed making 15 the age of consent for sex after two high-profile cases in which men escaped rape convictions despite having intercourse with 11-year-old girls. The French government has proposed making 15 the age of consent for sex after two high-profile cases in which men escaped rape convictions despite having intercourse with 11-year-old girls.
- Earlier in France sexual intercourse with child below 15 years of age was not considered a crime." In France, as long as 'violence, coercion, threat or surprise' is not proven, sexual intercourse with a minor even one under 15 years of age is considered an atteinte sexuelle, which is an infraction and not a crime. While the punishment for rape when a victim is younger than 15 carries a heftier penalty under French law (20 years), prosecutors must prove that the sex was forced.

Legislation varies across Europe, with countries setting different legal ages of consent for sex :

- 14 years old: Austria, Germany, Hungary, Italy, Portugal
- 15 years old: Greece, Poland, Sweden
- 16years old : Belgium, the Netherlands, Spain, Russia and UK
- 17 years old : Cyprus

LANDMARK JUDGMENTS

A list of most important Judgments in the history of administration of Indian Judicial System.

Parliament cannot amend Basic Structure of the Constitution

Case Law: Kesavananda Bharati vs. State of Kerala

- **Date of Judgment:** 24th April,1973
- **Bench** : 13 Judge Bench. Majority opinion: Sikri C. J. Hegde and Mukherjea, JJ. Shelat and Gover, JJ.; Jaganmohan Reddy, J.; Khanna, J. Dissenting opinion: Ray J; Palekar J.; Mathew J.; Beg J.; Dwivedi J.; Chandrachud J.
- **Held:** The issue was whether the Parliament amend any part of the Constitution. The Supreme Court held that the Parliament could amend any part of the Constitution as long as it did not alter the basic structure or framework of the Constitution. The SC held that basic structure would be decided from case to case. Thus, the Judiciary somehow managed to save our Constitution with this shield of Basic Structure Doctrine. The most landmark case in the history of Indian Constitutional law.

Fundamental rights of a person is suspended during period of emergency

Case Law: Additional district Magistrate, Jabalpur vs. Shiv Kant Shukla (Habeas Corpus case)

- **Date of Judgment:** 28th April,1976
- **Bench** : Majority opinion : Ray, A.N. CJI, Hans Raj, Beg, M. Hameedullah, Chandrachud, Y.V., Bhagwati, P.N. Dissenting opinion: H.R. Khanna
- **Held:** The Presidential Order referred to was the one issued during Emergency declaring that the right of any person to move any Court for any enforcement of the rights conferred by Articles 14, 21 and 22 of the Constitution and all proceedings pending in any Court for the enforcement of the above mentioned rights shall remain suspended for the period during which the Proclamation of Emergency are in force.

In this case, a five judge bench ruled in favour of the State's power of detention during emergency. Thousands of leaders of the opposition were detained overnight during emergency. The court held "In view of the Presidential Order dated 27th June 1975 no person has any locus to move any writ petition under Art. 226 before a High Court for habeas corpus or any other writ or order or direction to challenge the legality of an order of detention on the ground that the order is not under or in compliance with the Act or is illegal or is vitiated by mala fides factual or legal or is based on extraneous considerations.

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Right to life and personal liberty is guaranteed under Article 21 of the Constitution

Case Law: Maneka Gandhi vs. Union of India

- **Date of Judgment:** 25th January , 1978
- **Bench** : **Majority opinion** :M.H. Beg, C.J., P.N. Bhagwati. Y.V. Chandrachud. V.R. Krishna Iyer. N.L. Untwalia, P.S. Kailasam. Dissenting opinion: S. Murtaza Fazal Ali.
- **Held:** This case was decided by a 7-judge bench of the Supreme Court in 1978. **The Supreme Court in the present case had adopted the widest possible interpretation of the right to life and personal liberty, guaranteed under Article 21 of the Constitution.** Bhagwati, J. observed: "The expression 'personal liberty' in Article 21 is of widest amplitude and it covers a variety of rights which go to constitute the personal liberty of man and some of them have raised to the status of distinct fundamental rights and given additional protection under Article 19." The court held that: To the extent to which section 10(3)(c) of the Passport Act, 1967 authorises the passport authority to impound a passport "in the interest of the general public", it is violative of Article 14 of the Constitution since it confers vague and undefined power on the passport authority.

The Judgment marked the end of Jury Trial system in India

Case Law: KM Nanavati vs State of Maharashtra (last Jury Trial Case)

- **Date of Judgment**: 24th November, 1961
- **Bench** : Subbarao.K, Das. S.K. , Dayal Raghubar.
- **Held:** This case involved Kawas Manekshaw Nanavati, a Naval Commander who was tried for committing the murder of his wife's lover, Mr.Prem Ahuja. This was the last case to be heard as a jury trial in India because as the result of this case, the government abolished the jury trials in India. It was held by the court that the conduct of the accused clearly showed that the murder committed by him was a deliberate one and the facts of the case do not attract

the provision of Exception I of section 300 of IPC as the accused by adducing evidence failed to bring the case under General Exception of IPC. Therefore, as a result, the court convicted Nanavati under section 302 of IPC and sentenced him of Imprisonment for Life.

Constitutional amendment under Article 368 of the Constitution was an ordinary 'law' within the meaning of Article 13(2) of the Constitution

Case Law: IC Golaknath vs State of Punjab

- **Date of Judgment:** 27th February, 1967
- **Bench** : Majority opinion: Rao, K. Subba, M. Hidayatullah, J.C. Shah, S.M. Sikri, & , J.M. Shelat, , C.A. Vaidyialingam J. Minority opinion: K.N. Wanchoo, R.S. Bachawat, V. Ramaswami, Vishishtha Bhargava and G.K. Mitter J.
- **Held:** The Supreme Court, by thin majority of 6:5, held that a constitutional amendment under Article 368 of the Constitution was an ordinary 'law' within the meaning of Article 13(2) of the Constitution. The doubts of the minority judges in Sajjan Singh's case as to the correctness of the decision in Shankari Prasad's case were raised before a bench of eleven judges of the Supreme Court in this case, in which the validity of the First and Seventeenth Amendments to the Constitution in so far as they affected fundamental rights was again challenged. The Fourth Amendment was also challenged. This time a majority of six judges to five decided that Parliament had no power to amend any of the provisions of Part III, so as to take away or abridge the fundamental rights enshrined therein. To get over the decision of the Supreme Court in Golaknath's case the Constitution 24th Amendment Act was passed in 1971. The Twenty-fourth Amendment made changes to Articles of the Constitution. However this was later overruled by Keshvanand Bharti case.

The Supreme Court held clause (4) of the Constitution 39th Amendment Act, 1975 as unconstitutional

Case Law: Indira Gandhi vs Raj Narain

- **Date of Judgment:** 19th December, 1975
- **Bench** : A.N. Ray, H.R. Khanna, M.H. Beg, K.K. Mathew
- **Held:** In this landmark case regarding election disputes, the primary issue was the validity of clause 4 of the 39th Amendment Act. The Supreme Court held clause 4 as unconstitutional and void on the ground that it was outright denial of the right to equality enshrined in Article 14. In this case, an appeal was filed by the appellant against the decision of the Allahabad High Court invalidating Smt. Indira Gandhi's election on the ground of corrupt practices. In the meantime, the Parliament passed the 39th Constitutional Amendment, which introduced and added a new Article 392A to the Constitution of India. It was stated by this Article 392A that the election of the Prime Minster and the Speaker cannot be challenged in any court in the country. It can be rather challenged before a Committee formed by the Parliament itself. The clause of struck down by the Court on the ground that it violated free and fair elections which was an essential feature that formed the Basic Structure of the Indian Constitution. The exclusion of judicial review in election disputes in this manner resulted in damaging the Basic Structure. The Supreme Court held clause (4) of the Constitution 39th Amendment Act, 1975 as unconstitutional and void on the ground that it was outright denial of the Right to Equality enshrined in Article 14.

The Supreme Court by majority by 4 to 1 majority struck down clauses (4) and (5) of the article 368 inserted by 42nd Amendment

Case Law: Minerva Mills vs Union of India

- **Date of Judgment:** 31st July 1980
- **Bench** : Majority opinion: Chandrachud Y.V. (CJI); Gupta, A.C.; Untwalia, N.L.; Kailasam, P.S., Bhagwati, P.N.
- **Held:** The Supreme Court of India, strengthened the doctrine of the basic structure which was propounded earlier in the Keshavananda Bharti Case and held social welfare laws should not infringe fundamental rights. In this case of Minerva Mill Vs. Union of India, the validity of 42nd amendment Act was challenged on the ground that they are destructive of the 'basic structure' of the Constitution. The Supreme Court by majority by 4 to 1 majority struck down clauses (4) and (5) of the article 368 inserted by 42nd Amendment, on the ground that these clauses destroyed the essential feature of the basic structure of the constitution. It was ruled by court that a limited amending power itself is a basic feature of the Constitution.

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SC ruled that Parliament had transgressed its power of constitutional amendment

Case Law: Waman Rao vs Union of India

- **Date of Judgment:** 13th November, 1980
- **Bench** : Majority opinion: : Y Chandrachud, A Sen, , V Tulzapurkar, V K Iyer Minority opinion: P. Bhagwati
- **Held:** SC ruled that Parliament had transgressed its power of constitutional amendment. The judgment is split in a ratio of 4:1. The Court said that the 1st amendment was aimed in removing the glaring social and economic disparities in the agricultural sector. But while removing wide disparities, the Court said, it may possible that certain marginal and incidental inequalities may arise and it is impossible for any government to remove all the disparities without causing certain hardship to a class of people who are also entitled to equal treatment under the law. Thus the Court opined that the 1st amendment of the constitution does not jeopardize any basic structure of the constitution. The Court said that as far as the validity of the Ninth Schedule is concerned, the Acts and regulations included in the Ninth Schedule prior to the date of Keshavananda Bharati, will receive the full protection of this Article.

Supreme Court gave birth to the "rarest of the rare cases" doctrine

Case Law: Bachan Singh vs State of Punjab

- **Date of Judgment:** 9th May, 1980
- **Bench**:Majority opinion: Y.V.Chandrachud, C.J., R.S.Sarkaria, A.C.Gupta, and N.L.Untwalia JJ. Minority opinion: P.N.Bhagwati
- **Held:** The case brought up the question of validity of capital punishment. This was the case that gave birth to the "rarest of the rare cases" doctrine and still remains one of the most important cases in this subject. The majority were of the view that neither Article 19 nor 21 is violated by capital punishment. The fact that our Constitution makers were fully cognizant of the fact that death sentence may be given in certain extreme crimes is proven by the existence of provisions for appeal (Article 134) and Pardoning power of the President (Article 72). It was also laid down that for ascertaining the existence or absence of "special reasons" in a case, the Court must pay due regard to both the criminal and the crime equally.

Primacy is given to recommendation given by CJI in selection of Judges

Case Law: S P Gupta v. Union of India

- **Date of Judgment:** 30th December, 1981
- **Bench** : Majority opinion: A Gupta, D Desai, E Venkataramiah, , R Pathak, S M Ali, V Tulzapurkar. Minority opinion: P Bhagawati.
- **Held:** The S P Gupta case is also called the First Judges Case. It declared that the primacy of the CJI's recommendation to the President can be refused for cogent reasons. It was overruled by Supreme Court Advocates-on Record Association v. Union of India. In this case Supreme Court held that the consultation with each of the three constitutional functionaries, the Chief Justice of the High Court, the Governor of the State and the Chief Justice of India means a full and effective consultation, which has the same meaning as under Article 222(1) namely obtaining opinion after due deliberation, placing full and identical facts and material before the person being consulted.

Court held that employment of the children in any industry or in a hazardous industry, is violative of Article 24 of the Constitution.

Case Law: Bandhua Mukti Morcha vs Union of India & Others

- **Date of Judgment:** 16 December, 1983
- **Bench** : Bhagwati, P.N., Pathak, R.S. Sen, Amarendra Nath
- **Held:** The main contention of the petitioner group is that employment of the children in any industry or in a hazardous industry, is violative of Article 24 of the Constitution and derogatory to the mandates contained in articles 39(e) and (f) and 45 of the constitution read with the Preamble. The main issue was to release the bonded labourers from bondage who were languishing for about 10 years in stone quarries. The court appointed two commissioners to visit stone quarries and make a report. The court held that Article 21 includes within its ambit right to live with human dignity. In this case a letter addressed to only Chief Justice by person acting pro bono was treated as writ petition.

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Supreme Court ruled that the mandatory death penalty is unconstitutional. Court struck down Sec-303 of Indian Penal Code, 1860.

Case Law: Mithu vs State of Punjab Etc

- **Date of Judgment:** 7th April,1983
- **Bench** : Chandrachud, Y.V. (CJI), Fazalali, Syed Murtaza, Tulzapurkar, V.D., Reddy, O. Chinnappa , Varadarajan, A.
- **Held:** The Supreme Court ruled that the mandatory death penalty is unconstitutional. It struck down Section 303 in the IPC, which entailed a mandatory death sentence for a person who commits murder while serving a life term in another case. The Supreme Court ruled Section 303 violated Articles 14 (right to equality) and 21 (right to life) since an unreasonable distinction was sought to be made between two classes of murderer's. It said all murders would come under the ambit of Section 302, where a court would have the discretion to award life term or death sentence.

Muslim women right to Maintenance

Case Law: Mohd Ahmed Khan v Shah Bano Begum

- **Date of Judgment:** 23rd April, 1985
- **Bench** : Chandrachud, Y.V.,Misra Rangnath, Desai, D.A., Reddy, O. Chinnappa (J), Venkataramiah, E.S. (J)
- **Held:** This is a landmark Judgment in securing the rights of muslim women on the maintenance field. A provision was applied in terms of uniform civil code. An application was made under Sec 125 Criminal Procedure Code in regards to maintenance granted to a wife who is unable to maintain herself. Wife includes a women who has been divorced or has obtained divorce and not remarried. The court held that neglect by a person of sufficient means to not give maintenance to any dependents leads to invoking of 125.The rights conferred by sec125 can be exercised irrespective of Personal Law of the Parties. In this case Husband Liabilities to provide maintenance doesn't get limited into the boundation of time period of Iddat but as long as the wife is unable to maintain herself or remarried even though Iddat period is over.

Supreme Court incorporated the principle of absolute liability.

Case Law: M.C. Mehta And Anr vs Union Of India & Ors

- **Date of Judgment:** 20 December, 1986
- **Bench** : Bhagwati, P.N. (CJI),Misra Rangnath, Oza, G.L., Dutt, M.M. , Singh, K.N.
- **Held:** More popularly known as the Olium gas leak case, this is a Public Interest Litigation regarding the establishment of enterprises involved in hazardous works in thickly populated areas in the light of the Olium gas leak. The Oleum gas leak had occurred in the work premises of Shriram Mills. It was not possible to establish negligence of the mill owners and Res Ipsa Loquitur was applied to shift the burden of proof on the mill owners to show that they were not negligent. In the PIL it was pleaded that any industry involved in cases of injuries/damage due to the hazardous activities it undertakes then the onus must be on them prima facie to establish that they were not negligent.

Supreme Court upheld Union's decision to reserve 27% Government jobs for SEBCs (Socially and Economically Backward)

Case Law: Indra Sawhney vs Union of India and Others, Etc.

- **Date of Judgment:** 16 November, 1992
- **Bench** : : M Kania, M Venkatachaliah, S R Pandian, . T Ahmadi, K Singh, P Sawant, R Sahai, B J Reddy, T.K. Thommen
- **Held:** The Nine Judge Constitution Bench of the Supreme Court held by the 6:3 majority that the decision of the Union Government to reserve 27% Government jobs for SEBCs provided them Creamy layer among them eliminated is constitutionally valid. The court while giving the judgment mentioned that the reservation should not exceed 50 percent and reservation can't be made in promotions. The court also overruled the decision of the Devdason v. Union of India, and held that carried forward rule is valid provided that it should not result in breach of 50 percent rule. The 50% limit can only be exceeded in extra ordinary situations prevailing in far-flung states like Nagaland, Tripura etc

Supreme Court laid down guidelines in regard to use of Article 356.

Case Law: S.R.Bommai vs. Union of India

- **Date of Judgment:** 11th March, 1994

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- **Bench**: **Majority opinion**: Kuldeep Singh, B.Sawant, ,C. Agarwal, Yogeshwar Dayal, P.Jeevan Reddy, Minority opinion: R.Pandian, M.Ahmadi, S.Verma, Katikithala Ramaswamy.
- **Held:** In this historic Judgment the Supreme Court has laid down various guidelines in regard to the use of Art. 356, which, it is hoped, would put a check on arbitrary dismissal of State Governments in future and strengthen the federal structure of Indian polity. The court held that 'secularism' is a basic feature of the Constitution and any State Government which acts against that ideal can be dismissed by the President. In matters of State, religion has no place. No political party can simultaneously be a religious party, and, politics and religion cannot be mixed.The Proclamation of emergency u/ Art 356 is subject to Judicial Review. The relevancy and the need of such proclamation shall be struck down by the concerned court if found malafide. 1. The Power of President under 356 is subject to restrictions. The opinion is formed is based on the report of the Governor and not sole satisfaction. 2. The Supreme Court can struck down the proclamation if both the houses of Parliament passes the same on malafide grounds.

Court observed to secure for its citizens a uniform civil code Art 44.

Case Law: Sarla Mudgal, & others. v. Union of India

- **Date of Judgment:** 10 May 1995
- **Bench** : Kuldip Singh, R.M Sahai
- **Held:** The main issues before the court was whether Hindu husband, married under Hindu law , embracing Islam is allowed to embrace second marriage. Another issue was whether the first marriage would be valid marriage. The court held that under doctrine of indissolubility of marriage the conversion did not have the effect of dissolving the first marriage. The earlier marriage is not dissolved by the conversion. Accordingly, the accused is convicted under 494 of IPC for bigamy. The Court observed the obiter "The State shall endeavour to secure for the citizens a uniform civil code through-out the territory of India" is an unequivocal mandate under Article 44 of the Constitution of India which seeks to introduce a uniform personal law - a decisive step towards national consolidation.

Supreme Court gave guidelines for protection of women against sexual harassment at workplace.

Case Law: Vishaka & Ors vs State of Rajasthan & Ors

- **Date of Judgment:** 13 August, 1997
- **Bench** : Sujata V. Manohar(CJI), B. N. Kirpal
- **Held:** A Landmark Case on the protection of women against sexual harassments faced at workplace. The Court analysed the case through the lens of gender equality, recognising sexual harassment in the workplace as a "social problem of considerable magnitude" and discriminatory form of violence against women (VAW). "Gender equality…" the Court noted, "includes protection from sexual harassment and the right to work with dignity, which is a universally recognised basic human right."The Court referred to India's ratification of the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), which has prohibits discrimination in the workplace and outlines specific state obligations to end it. The Court provided a set of guidelines for employers – as well as other responsible persons or institutions – to immediately ensure the prevention of sexual harassment.

SC held that second marriage after conversion can be held liable for Bigamy

Case Law: Lily Thomas, Etc. Etc. Vs Union of India & Ors.

- **Date of Judgment:** 5 April, 2000
- **Bench** : S Ahmed, R Sethi
- **Held:** It was held that making a convert Hindu who has taken the second wife after conversion liable for prosecution under 494 IPC is not against Islam, the religion adopted by such person after conversion. The violaters of law who contracted the second marriage cannot be permitted to urge that such marriage should not be made subject matter of prosecution under the penal law.

The right to establish and maintain educational institutions is a profession within the meaning of Article 19(1)(g).

Case Law: T.M.A. Pai Foundation v. State of Karnataka

- **Date of Judgment:** 31 October, 2002
- **Bench**: Majority opinion: Kripal (CJI) , Quadri, S.S.M., Balakrishnan, K.G. Reddi, P.V., Bhan, Ashok Pasayat, Arijit , V.N Khare. Minority opinion: Pal, Ruma, Variava, S.N.

SCHOOL OF SKILLS VIDHIGYA CLAT Tutorials

- **Held:** In T.M.A. Pai Foundation v. State of Karnataka it was held that "the right to establish and maintain educational institutions may also be sourced to Article 26 (a), which grants, in positive terms, the right to every religious denomination or any section thereof to establish and maintain institutions for religious and charitable purposes, subject to public order, morality and health. In Unni Krishnan, J.P. & Ors. Vs. State of Andhra Pradesh & Ors. (1993 (1) SCC 645), it was held that right to establish educational institutions can neither be a trade or business nor can it be a profession within the meaning of Article 19(1)(g). This was overruled in T.M.A. Pai Foundation. Of the eleven judges constituting the Bench, Kripal C.J. delivered Judgment for 6 of the Judgments. There were three concurring and two dissenting Judgments on the issue. The majority view was that language being the basis for the establishment of different States, for the purpose of Art 30, a "linguistic minority" will have to be determined in relation to the State in which the educational institution is sought to be established. The term 'minority' in Article 30(1) covers linguistic and religious minorities.

Court unanimously held that Clause (4A) of Art. 16 is an enabling provision. It applies only to SCs and STs.

Case Law: M. Nagaraj v Union of India

- **Date of Judgment:** 19 October, 2006
- **Bench** : Y.K.Sabharwal (CJI) & K.G.Balakrishnan & S.H.Kapadia & C.K.Thakker & P.K. Balasubramanyan
- **Held:** The validity of 77th, 81st and 82nd constitutional amendment was challenged on the ground that these sought to alter basic structure of the constitution. A five-judge Bench unanimously held that Clause (4A) of Art. 16 is an enabling provision. It applies only to SCs and STs. The said clause is carved out of Art. 16(4). Therefore, clause (4A) will be governed by the two compelling reasons "backwardness" and "inadequacy of representation" as mentioned in Art. 16(4)in matter of public employment. Held, constitutional provision must not be construed in narrow and constricted sense.

Court held that Ninth Schedule is the part and the parcel of the Indian Constitution

Case Law: I.R.Coelho (Dead) By Lrs vs State Of Tamil Nadu & Ors

- **Date of Judgment:** 11 January, 2007
- **Bench** : Sabharwal, Y.K. (CJI), Bhan, Ashok (J) Pasayat, Arijit , Singh, B.P. Kapadia, S.H., Thakker, C.K. & P.K.I.(J), Altamas Kabir, Jain D.K..
- **Held:** It has been held that secularism is a matter of conclusion to be drawn from various Articles conferring Fundamental Rights. "If the secular character is not to be found in Part III", the Court ruled, "it cannot be found anywhere else in the Constitution, because every fundamental right in Part III stands either for a principle or a matter of detail". Ninth Schedule is the part and the parcel of the Indian Constitution, no additions or alterations can be made therein without complying with the restrictive provisions governing the amendments of the Constitution. The Basic Feature phenomenon cannot be altered with the wish of the Legislature under Article 368 of the Constitution. Basic Structure test would include Judicial Review of Ninth Schedule laws on the touchstone of the Fundamental Rights. Basic Structure is the very basic and also the most important organ of the Constitution.

Supreme Court upheld the 93rd Constitutional Amendment

Case Law: Ashok Kumar Thakur v UOI

- **Date of Judgment:** 10th April, 2008
- **Bench** : Arijit Pasayat, C.K.Thakker
- **Held:** The Supreme Court upheld the 93rd Constitutional Amendment and The Central Educational Institution (Reservation On Admission) Act 2006.The reservation of 27% seats for OBCs in specified State-aided Central Universities under the Central Educational Institutions (Reservation in Admission) Act, 2006 was in issue. The Constitution (93rd Amendment) Act, 2005, by which Art. 15(5) was inserted in the Constitution.

The Right To Education Act, 2009 was held to be constitutionally valid

Case Law: Society for Unaided Private Schools of Rajasthan v. Union of India

- **Date of Judgment: 12 April, 2012**
- **Bench** : S.H. Kapadia, K.S. Radhakrishnan, Swatanter Kumar
- **Held:** The constitutional validity of RTE was challenged in this case and was upheld by a majority verdict of 2:1. The RTE act was held to be constitutionally valid. The court is concerned with applicability of RTE Act, 2009. Every school

SCHOOL OF SKILLS VIDHIGYA CLAT Tutorials

at the level of standard I has to reserve 25% seat for the economically poorer children. The judgment declared that Article 15(5) of the constitution is valid.

A tax dispute involving the Vodafone Group with the Indian Tax Authorities

Case Law: Vodafone International Holdings Vs Union Of India & Anr

- **Date of Judgment:** 20 January, 2012
- **Bench** : S.H. Kapadia, K.S. Radhakrishnan, Swatanter Kumar
- **Held:** The Bench consisting of Chief Justice S.H Kapadia, K. S. Radha Krishnan and Swatanter Kumar quashed the order of High Court of demand of Rs 12000 crores as capital gain tax and absolved VIH from liability of payment of Rs 12000 crores as capital gain tax in the transaction dated 11.2.2007 between VIH and Hutchinson Telecommunication International Limited or HTIL (non-resident company for tax purposes).The court held that in Indian revenue authorities do not have jurisdiction to impose tax on an offshore transaction between two non-residents companies where in controlling interest in a (Indian) resident company is acquired by the non-resident company in the transaction.

Supreme Court refused to grant a patent to a drug of Novartis AG

Case Law: Novartis Ag Vs Union of India & Ors

- **Date of Judgment:** 1 April, 2013
- **Bench** : Aftab Alam, Ranjana Prakash Desai
- **Held:** Novartis v. Union of India & Others is a landmark decision by a two-judge bench of the Indian Supreme Court on the issue of whether Novartis could patent Gleevec in India, and was the culmination of a seven-year-long litigation fought by Novartis. The court held Imatinib Mesylate does not qualify to be an invention under section 2(i)(j) and section 3(d) of Patents Act,1970.The decision came as a relief for millions of people around the world to have access to medicines at a low cost, thus preventing the pharmaceutical industries from "evergreening" their patents. While the Judgment is seen as a means to ensure the availability of life-saving drugs at an affordable price to people in India and elsewhere, at the same time the decision defined the scope of Section 3(d) of the Indian Patents (Amendment) Act, 2005. In the said matter, the Supreme Court refused to grant a patent to a drug of Novartis AG on the basis that the said drug did not involve an invention which is capable of being patentable under Indian law.

The option of "None of the Above" was introduced in the General elections of 2014.

Case Law: People's Union for Civil Liberties v Union of India & Anr

- **Date of Judgment:** 27 September, 2013
- **Bench** : P Sathasivam, Ranjana Prakash Desai, Ranjan Gogoi
- **Held:** The Supreme Court of India in the case of PUCL vs. Union of India first time recognized the principle of right to reject. This was the case which brought about the option of "None of the Above" in the General elections of 2014 and many state elections that have been held since the passing of this judgment. It upheld the constitutional right of citizens to cast a negative vote in elections. Rules 41(2) & (3) and 49-O of the Rules, of the Conduct of Election Rules, 1961 are ultra vires Section 128 of the Representation Act and Article 19(1)(a) of the Constitution to the extent they violate secrecy of voting. The Court directed Election Commission to provide necessary provision in the ballot papers/EVMs and another button called "None of the Above" (NOTA) may be provided in EVMs so that the voters, who come to the polling booth and decide not to vote for any of the candidates in the fray, are able to exercise their right not to vote while maintaining their right of secrecy.

Supreme Court held that section 377 of Indian Penal Code is not unconstitutional

Case Law: Suresh Kumar Koushal & Anr vs Naz Foundation & Ors

- **Date of Judgment:** 11 December, 2013
- **Bench** : G.S. Singhvi, Sudhansu Jyoti Mukhopadhaya
- **Held:** The court held that Section 377 IPC does not suffer from the vice of unconstitutionality and the declaration made by the Division Bench of the High court is legally unsustainable. Notwithstanding this verdict, the competent legislature shall be free to consider the desirability and propriety of deleting Section 377 IPC from the statute book or amend the same as per the suggestion made by the Attorney General. The Delhi High Court judgment in Naz Foundation v Government of NCT of Delhi, held that treating consensual homosexual sex between adults as a crime is

VIDHIGYA SCHOOL OF SKILLS CLAT Tutorials

a violation of fundamental rights protected by India's Constitution. The verdict resulted in the decriminalization of homosexual acts involving consenting adults throughout India. Chief Justice of Delhi High Court , Ajit Prakash Shah and Justice S. Muralidhar, and the judgment was delivered on 2 July 2009 which held that criminalization of consensual gay sex violated the rights under Article 14 of the Constitution.

Supreme Court declared transgender people to be the third gender and gave them right to self- identification of their gender

Case Law: National Legal Services Authority v Union of India & Ors

- **Date of Judgment:** 15 April, 2014
- **Bench** : K.S. Radhakrishnan, A.K. Sikri
- **Held:** The Supreme Court directed the Centre and the State Governments to recognise transgender as the third sex and also to provide the benefits of socially and economically backward class.

National Judicial Appointments Commission was declared unconstitutional

Case Law: Supreme Court Advocates-on-Record -Association and another V Union of India

- **Date of Judgment:** 16 October, 2015
- **Bench** : Jagdish Singh Khehar, , Madan B. Lokur, Kurian Joseph, Adarsh Kumar Goel Minority opinion: J. Chelameswar
- **Held:** National Judicial Appointment Commission Act was held unconstitutional. It is apt to give a brief timeline of NJAC Bill. National Judicial Appointments Commission (NJAC) Bill and the Constitutional (121st Amendment) Bill, 2014, which establishes the NJAC, was introduced in August 2014 in Lok Sabha. Within three days, both the Houses of Parliament passed it. On 1st January, 2015, it became a Law as President gave his assent to the Bill. The NJAC Act got challenged in Supreme Court. Finally on October 16th 2015, i.e. within 11 months of its enactment, the Constitutional Bench of Apex Court held it is Unconstitutional. It is for the first time that a Law was held unconstitutional by the Apex Court in the same year it was enacted by the Parliament. The court held that the Article 124A as introduced in the Constitution by the Constitution (Ninety-ninth Amendment) Act, 2014 impinges on the independence of the judiciary and in the matter of appointment of judges (which is a foundational and integral part of the independence of the judiciary) and alters the basic structure of the Constitution. It is accordingly declared unconstitutional. The other provisions of the Constitution (Ninety-ninth Amendment) Act, 2014 cannot stand by themselves and are therefore also declared unconstitutional. Similarly, the National Judicial Appointments Commission Act, 2014 confers arbitrary and unchartered powers on various authorities under the statute and it violates Article 14 of the Constitution and is declared unconstitutional.

SCHOOL OF SKILLS VIDHIGYA CLAT Tutorials

Supreme Court struck down section 66A of Information Technology Act,2000

Case Law: Shreya Singhal vs Union of India

- **Date of Judgment:** 24 March, 2015
- **Bench** : : J. Chelameswar, Rohinton Fali Nariman
- **Held:** The Court held that the provision of section 66A of the IT Act is derogative to the Article 19(1)(a) and as such it is an arbitrary provision which breaches the right of citizen to have freedom of speech and expression of their views on internet. As such the provision concerned is constitutionally invalid and as such struck down in its entirety. Section 66A held that any person who sends, by means of a computer resource or a communication device offensive messages,-"shall be punishable with imprisonment for a term which may extend to three years and with fine". The judgment is of immense significance in protecting online free speech against arbitrary restrictions, Section 66A, which was declared unconstitutional, has continued to be used as a punitive measure against online speech in several case.

IMPORTANT COMMITTEES AND COMMISSION 2017-2018

Justice H N Nagmohan Das Committee

Purpose- To suggest 'religious minority' status for Lingayat community. A seven-member expert Committee constituted by Karnataka Government to examine the demand for a separate religion tag for Lingayats, on March 2, 2018 submitted a report recommending "Religious Minority" status for Lingayat community. However, the implementation of the recommendations of the Committee depend on an ongoing case in the High Court of Karnataka related to Lingayat community. The Committee, headed by former Karnataka high court judge HN Nagamohan Das, went through about 5000 pages of documents related to religious dogma, literature, rituals and practices before arriving at the decision. The report concluded that there is enough evidence to show that Lingayat religion is different from Hindu religion. Lingayats constitute 20 to 25 per cent of the total population in Karnataka.

Dinesh Sharma Committee

Purpose- To propose new regulations related to digital currencies or virtual currencies.

Mr. Ashok Dalwai Committee

Purpose- To establish a regulated wholesale agri- market at a distance of every 80 km. Agricultural Produce Market

Subhash Chandra Garg Committee

Purpose- To regulate fintech sector. It will examine means of using data available with Goods and Services Tax Network (GSTN) and information utilities such as credit information companies. To make applications for financing of MSMEs.

Justice Krishna Committee

Purpose- Expert Committee constituted by MeitY (Ministry of Electronics and IT) for data protection. The Committee will also suggest a draft Data Protection Bill. Protection of Data is expected to provide big boost to Digital economy of the country. Justice B N Srikrishna, Former Judge, Supreme Court.

Shri T.K. Viswanathan Committee

Purpose - SEBI has set up a Committee on fair market conduct chairmanship of Shri T.K. Viswanathan, Ex- Secretary General, Lok Sabha and Ex Law Secretary.

Umesh Sinha Committee

Purpose- It will study the impact of new media and social media during the "silence period", the 48 hours period prior to elections and its implication in view of Section 126 of the RP Act. After a thorough study, it will suggest modifications to the election law and model code of conduct. Election Commission constitutes. Umesh Sinha Committee to suggest changes to RP Act, 1951

N K Singh Committee

Purpose – to check on Fiscal Responsibility and Budget Management (FRBM) act to the Union Government.15th Finance Commission constituted under the chairmanship of NK Singh.

K Kasturirangan Committee

Purpose- to prepare National Education Policy. The Committee will prepare final draft of National Education Policy under the Chairmanship of eminent Scientist Padma Vibhushan K Kasturirangan.

Chitale Committee

Purpose- To recommends several measures for Desiltation of Ganga. Chitale Committee has recommended that a technical institute may be entrusted with the conduct of the sediment budget, morphological and flood routeing studies that would examine and confirm the necessity of the de-silting. The draft Ganga Act addresses the critical issues pertaining to National River Gaga on its Cleanliness (Nirmalta) and uninterrupted e-flow (Aviral).

Rajeev Shukla Committee

Purpose- a Committee recently constituted by BCCI to analyse Lodha panel reforms.

Anandi Subramanian Committee

Purpose- A report recommending replacing the National Tiger Conservation Authority (NTCA) with National Wildlife Conservation Authority (NWCA) by 2020 is being discussed by the ministry. The Committee which submitted the report was headed by Anandi Subramanian.

Injeti Srinivas Committee

Purpose- To suggest improvements in the National Sports Development Code functioning of sports federations.

Timothy Gonsalves Committee

Purpose-Suggested to create 20 percent reservation seats for the girl students in IITs.

N.S. Kang Committee

Purpose-To frame uniform rules for the states to avoid delay in proper implementation of the Rights of Persons with Disabilities (RPD) Act across the country.

Amitabh Chaudhry Committee

Purpose-To analyse the existing framework of IRDA-linked and non-linked insurance product regulations.

Kadiyam Srihari Committee

SCHOOL OF SKILLS VIDHIGYA CLAT Tutorials

Purpose- To look into issues related to girls education

- **Dr. Pritam Singh Committee**

Purpose- To set up Defence Procurement Organisation (DPO) to ease the process of defence acquisitions.

- **Uday Kotak Committee**

Purpose- To improve the standards of corporate governance of listed companies.

- **Renuka Chowdhury Committee**

Purpose- To assess Genetically Modified (GM)crop to be introduced only after biosafety, socio- economic evaluation

- **B C Khanduri Committee**

Purpose- to provide 100% pension to widow of deceased soldiers

- **Dr. V. Kamakoti Committee**

Purpose-To build up Task Force on Artificial Intelligence. Artificial Intelligence (AI) for India's Economic Transformation.

- **K RajeswaraRao Committee**

Purpose- To review the National Mineral Policy, 2008, and for submission of a report for a new National Mineral Policy.

- **T K Viswanathan Committee**

Purpose- The Committee will suggest short term and medium term measures for improved surveillance of the markets.

- **T.K.Viswanathan Committee**

Purpose- To control hate speech on internet (cyber crimes).The Committee has suggested that section 78 of the IT Act needs to be substituted and Section 153 & 505A of the Indian Penal.

- **Dr. Rajiv Kumar Committee**

Purpose- To provide a major thrust to job creation by enhancing India's exports. NITI Aayog Expert Task Force on Employment & Exports.

- **Dr. Rajiv Kumar Committee**

Purpose-A high-level Committee for proper management of the water resources in the North Eastern Region (NER).

- **G Rohini Committee**

Purpose- To examine sub categorization of Other Backward Classes (OBCs) under Article 340 of the Constitution. Sub Categorization of OBCs

- **Arumughaswamy Committee**

Purpose- The Commission would complete its inquiry into J.Jayalalithaa's death and submit its report to the Tamil Nadu Government within three months of its constitution.

- **Rina Mitra Committee**

Purpose – To study problems of people along IB, LOC in J&K. Members of the study group will prepare a detailed report of the issues being faced by the public living near IB and LOC.

- **Afzal Amanullah Committee**

Purpose – To improve Indian Government's current Haj policy and also to look into issue of Haj subsidy in light of 2012 Supreme Court order on gradually reducing and abolishing it by 2022.

- **P V Reddi Committee**

Purpose – to formulate new salary structure for judges of lower courts in India.

- **P.D. Siwal Committee**

Purpose – To probe on NTPC's Unchahar plant accident . A boiler blast accident occurred at NTPC's Unchahar plant in Raebareli, Uttar Pradesh in which 36 people lost their lives.

Sushil Chandra Committee

Purpose – Investigations related to the Paradise Papers. Central Board of Direct Taxes (CBDT) has reconstituted a multi-agency group to monitor investigations related to the Paradise Papers.

- **CK Mishra Committee**

Purpose – to review Delhi's air pollution level and to continuously monitor and implement a Graded Response Action Plan (GRAP) that would include control of road and construction of dust garbage burning, control of power plants and industrial emissions, entry of vehicles and several other related factors.

- **Chandan Sinha Committee**

Purpose – RBI Panel on Hedging commodities in global markets .It has recommended a list of commodities (which includes gold, silver, zinc, tin, crude oil and its derivatives, coal, natural gas, tea, coffee, sugar and cocoa) which can be hedged in the overseas markets by all residents i.e. by both domestic users and exporters/importers.

- **Arbind Modi Committee**

Purpose –Task force to simplify income tax laws. Arbind Modi, Member, Central Board of Direct Taxes (CBDT), will lead a six- member panel. Chief Economic Advisor Arvind Subramanian will be a permanent special invitee on the panel.

SCHOOL OF SKILLS VIDHIGYA CLAT Tutorials

CONSTITUTION : AT A GLANCE

Sources of Indian Constitution – At Glance

The framers of the Indian Constitution referred to various provisions of the existing Constitutions of the world, weighed their merits, and applied them according to their suitability to our country. The major sources of the Constitution of India are as under:

- The Government of India Act, 1935, the Centre / State List System, Federal Set-up, centre-state autonomies.
- The British Constitution: Parliamentary Privileges, Unitary Citizenship, and the Rule of Law.
- The Irish Constitution: The Directive Principles, Nominations to Rajya Sabha (The Council of States).
- The Russian Constitution: The Fundamental Duties.
- The Canadian Constitution: The Federal structure.
- The German Constitution: The Emergency Provisions.
- The Australian Constitution: Preamble, Concurrent List, Freedom of trade and commerce.
- The American Constitution: Fundamental Rights, Judicial Review, and Impeachment of the President.
- The Japanese Constitution: The Procedure established by the Law.
- The South African Constitution: The Amendment clauses.

The President -- At Glance

The President is the first citizen of India, and heads the Union. He is an integral part of the Parliament along with the Lok Sabha and the Rajya Sabha (Parliament = President + LS +RS). In order to be elected as the President of India, a person must: (a) Be an Indian citizen; (b) Have completed 35 years of age; (c) Be qualified for election as a member of the Lok Sabha; and (d) Must not hold any office of profit under the Government of India / State Govt./ Local Govt.)

The President is indirectly elected by the people of India, by an electoral college comprising of elected members of the Lok Sabha and the Rajya Sabha, and the elected members of the Legislative Assemblies of the States and those from Delhi and Pondicherry (UT)

The duration of his office is for a period of 5 years. He may seek re-election.

The President can be removed from office if he (a) dies, (b) resigns, (c) is removed through the process of impeachment, or (d) on the expiry of his tenure.

The Constitution has vested wide powers in the President, such as:

- **Administrative Powers:** He can appoint the Prime Minister, the other Union Ministers, the Attorney General, the Comptroller and Auditor General, the Judges of the Supreme Court and the High Courts, the Governors of the States, the members of the Finance Commission, the members of the Union Public Service Commission and joint commissions for two or more States, the Chief Election Commissioner and the Election Commissioners, officers for official languages and linguistic minorities, and for the welfare of the Scheduled Castes / Schedules Tribes.
- **Legislative Powers:** He exercises these powers on ministerial advice. He can summon, prorogue and dissolve the Lok Sabha and joint parliamentary sessions. He can nominate 2 Anglo-Indians to the Lok Sabha and 12 persons to the Rajya Sabha.
- **Judicial Powers:** He has powers to grant pardons, reprieves, respite, suspensions, remissions or commutations in respect of sentences of courts martial, punishment for an offence against the law or in even in cases of death sentence. Pardoning powers of the President are set out in Article 72 of the Constitution.
- **Military Powers:** He is the supreme commander of our Armed Forces, but these functions are to be carried out according to the law. He can declare war or peace, with the consultation of Council of Minister.
- **Diplomatic Powers:** He represents India internationally as the Head of State. He can appoint Indian representatives in foreign countries and receives foreign diplomatic representatives.
- **Other Powers:** He has a mixture of absolute, suspensive and pocket vetoes.

The Vice President – At Glance

- The Vice President acts as the ex officio Chairman of the Rajya Sabha.
- He is elected by the elected members of the Lok Sabha and the Rajya Sabha only.
- He is elected through the same system as applies to the President.

SCHOOL OF SKILLS VIDHIGYA CLAT Tutorials

- Requisite qualifications for appointment as Vice President are the same as apply to the office of the President, except for his qualification for election to the Rajya Sabha.
- The term of office of the Vice President is for 5 years or less. He is eligible for re-election.
- The Vice President can be removed either by resignation addressed to the President or may be removed by resolution of the Rajya Sabha passed by a majority, and agreed to by the Lok Sabha.
- The Supreme Court is competent to deal with disputes over the election of the President and Vice President.

The Lok Sabha – At Glance

The Lok Sabha (Lower house of the Parliament) is presided over by a Speaker. He certifies a bill as a Money Bill (Article 110). He also presides over the joint Sessions.

Strength: 552 members of which-

- Not more than 530 are representatives from the States; Not more than 20 representatives of Union Territories and Not more than 2 nominated Anglo Indians

Term: Normally for 5 years, but can be dissolved earlier also and can be extended during Emergency.

Election: Directly elected by the people, through universal adult franchise (the voting age has been reduced from 21 to 18 years by the 61st Amendment to the Constitution in 1989.)

Qualification: For membership

- He / She must be a citizen of India. | He / She must be not less than 25 years of age.

Additional qualifications:

- He/She should not hold any office of profit under the government. | He / She should not be of unsound mind.
- He / She should not be declared insolvent. | He / She should not be disqualified under any law.

The Rajya Sabha - At Glance

The Rajya Sabha (Upper house of the Parliament) is presided over by a chairman (Vice President acts as ex-officio chairman). Rajya Sabha also known as **Council of the States cannot be dissolved.**

Strength: not more than 250 members of which-

- Not more than 238 States and Union Territories representatives.
- 12 nominated by the president.

Term: 6 years. It is not subject to dissolution. One-third of its members retire every second year.

Election: By the elected Members of the State Legislatures.

Qualification: for membership-

- He / She must be a citizen of India. | He / She must be not less than 30 years of age.

Additional qualifications:

- He/ She should not hold any office of profit under the government. | He / She should not be of unsound mind.
- He / She should not be declared insolvent. | He / She should not be disqualified under any law.

SCHOOL OF SKILLS VIDHIGYA CLAT Tutorials

LIST OF IMPORTANT ARTICLES OF THE INDIAN CONSTITUTION

- Article 1- Name and territory of-the union
- Article 2 - Admission or establishment of new States
- Article 3 - Formation of new states and alteration of areas, boundaries or names of existing States
- Article 5 - Citizenship at the commencement of the Constitution
- Article 9 - Persons voluntarily acquiring citizenship of a foreign State not to be citizens
- Article 13 - Laws inconsistent with or in derogation of the fundamental rights
- Article 14 - Equality before law
- Article 17 - Abolition of untouchability
- Article 19 - Protection of certain rights regarding freedom of speech, etc.
- Article 20 - Protection in respect of conviction for offences
- Article 21- Protection of life and personal liberty
- **Article 21A - Right to education**
- Article 22 - Protection against arrest and detention in certain cases.
- Article 23 - Prohibition of traffic in human beings and forced labour

- Article 24 - Prohibition of employment of children in factories, etc.
- Article 25-28 – Freedom to practice, propagate and promote religion of choice.
- Article 30 - Right of minorities to establish and administer educational institutions
- Article 32 - Remedies for enforcement of right conferred by this part
- **Article 35A - empowers the Jammu and Kashmir state's legislature to define "permanent residents" of the state and provide special rights and privileges to those permanent residents.**
- **Article 39A - Equal justice and free legal aid**
- Article 40 - Organization of village panchayats
- **Article 44 - Uniform Civil Code for the citizens**
- Article 45 - Provision for early childhood care and education to children below the age of six years
- Article 51A - Fundamental duties
- Article 52 -The President of India
- **Article 61 – Impeachment of President**
- Article 63 - The Vice-President of India
- Article 64 - The Vice-President to be ex-officio Chairman of the Council of States
- Article 74 - Council of Ministers to aid and advise President
- Article 75 - Other Provisions as to Ministers (this Article deals with appointment of Prime Minister)
- Article 76 - Attorney-General for India
- Article 79 - Constitution of Parliament (Lok Sabha + Rajya Sabha)
- Article 105 - Powers, privileges, etc. of the Houses of parliament and of the members and Committees.
- Article 108 - Joint sitting of both Houses in certain cases
- Article 110 - Definition of "Money Bills"
- Article 112 - Annual Financial Statement (casually known as Union Budget)
- Article 123 - Power of President to promulgate Ordinances during recess of Parliament
- Article 124 - Establishment and Constitution of Supreme Court
- Article 129 - Supreme Court to be a court of record
- Article 131 - Original Jurisdiction of the Supreme Court
- Article 136 - Special leave to appeal by the Supreme Court
- Article 141 - Law declared by Supreme Court to be binding on all courts
- Article 143 – Power of president to consult Supreme Court. (Advisory Jurisdiction)
- Article 148 -. Comptroller and Auditor-General of India
- Article 153 – Governor of States
- Article 163 - Council of Ministers to aid and advise Governor
- Article 165 - Advocate-General for the State
- Article 168 — Constitution of Legislatures in States
- Article 194 - Powers, privileges, etc., of the House of Legislatures and of the members and Committees
- Article 213 - Power of Governor to promulgate Ordinances during recess of Legislature
- Article 214 - High Courts for States
- Article 215 - High Courts to be courts of record
- Article 226 - Power of High Courts to issue certain writs
- Article 233 - Appointment of District Judges
- Article 266 - Consolidated Funds and Public Accounts of India and of the States
- Article 267 - Contingency Fund of India
- Article 280 – Finance Commission
- Article 300A - Persons not to be deprived of property save by authority of law
- Article 315 – Union Public Service Commission
- Article 324 – Election Commission
- Article 326 – Universal Adult Franchise
- Article 338 – National Commission for Scheduled Caste

SCHOOL OF SKILLS VIDHIGYA CLAT Tutorials

- Article 338A – National Commission for Scheduled Tribes
- Article 340 – Appointment of Commission to investigate into the matter of Backward Classes
- Article 341 – Scheduled Caste
- Article 342 – Scheduled Tribes
- Article 343 - Official language of the Union
- Article 348 - Language to be used in the Supreme Court and in the High Courts and for Acts, Bills, etc.
- Artcile 351 – Directive for development of Hindi Language.
- Article 352 - Proclamation of Emergency
- Article 356 - Provisions in case of failure of constitutional machinery in States (President Rule)
- Article 358 – Suspension of provisions of Article 19 during Emergencies
- Article 359 - Suspension of the enforcement of the rights conferred by Part III during emergencies
- Article 360 - Provisions as to financial emergency.
- Article 368 - Power of parliament to amend the Constitution and procedure therefore
- Article 370 - Temporary provisions with respect to the State of Jammu and Kashmir

SCHEDULES OF THE INDIAN CONSTITUTION

- FIRST SCHEDULE - List of States & Union Territories which comprise the Indian union.
- SECOND SCHEDULE - Salary, Allowances etc. of constitutional Authorities
- THIRD SCHEDULE - Forms of oaths or affirmations
- FOURTH SCHEDULE - Allocation of seats to State and Union Territories in Rajya Sabha
- FIFTH SCHEDULE - Provisions as to the Administration and control of Scheduled Areas and Schedule Tribes.
- SIXTH SCHEDULE - Provisions for administration of Tribal Area in State of Assam, Meghalaya, Tripura, Mizoram & Arunachal Pradesh.
- SEVENTH SCHEDULE - It contains 3 lists. Gives allocation of powers and functions between Union & States
- EIGHTH SCHEDULE - List of 22 languages of India recognized by Constitution
- NINTH SCHEDULE - **Added by 1st amendment** in 1951, which provided, that by incorporating any law into it, the state would make it immune from Judicial Scrutiny **(i.e it cant be challenged in the court)**
- TENTH SCHEDULE - **Added by 52nd amendment** in 1985. Contains provisions of disqualification of the Legislators on grounds of defection. It is also known as Anti-Defection Law.
- ELEVENTH SCHEDULE - **Added by 73rd amendment** in 1992. Specifies the powers, authorities and the responsibilities of Panchayati Raj institutions.
- TWELFTH SCHEDULE - **Added by 74th amendment** in 1992. Specifies the powers, authorities and the responsibilities of Municipal Corporation.

LIST OF IMPORTANT CONSTITUTIONAL AMENDMENTS : AT A GLANCE

- **FIRST AMENDMENT 1951** – Added Ninth Schedule
- **SEVENTH AMENDMENT 1956** –Reorganization of States on a linguistic basis.
- **TWENTY SIXTH AMENDMENT 1971** – Abolished the titles and special privileges of former rulers
- **THIRTY NINTH AMENDMENT 1976** – Placed beyond challenge in courts, the election to Parliament of a person holding the office of PM or Speaker and election of the President and Prime Minister.
- **FORTY SECOND AMENDMENT 1976** – Provided supremacy of Parliament and gave primacy to Directive Principles over Fundamental Rights; It also added 10 Fundamental Duties; New words – Socialist, Secular and Unity and Integrity of the Nation, were added in the preamble.
- **FORTY FOURTH AMENDMENT 1978** – The Right to Property was deleted from Part II; Article 352 was amended to provide Armed Rebellion as one of the circumstances for declaration of emergency.
- **FIFTY SECOND AMENDMENT 1985 –** Added Tenth Schedule (Anti-Defection law)
- **SIXTY FIRST AMENDMENT 1989** – Reduced the voting age from 21 to 18 years for the Lok Sabha as well as Assemblies election.
- **SEVENTY FIRST AMENDMENT 1992** – Konkani, Manipuri and Nepali were included in the VIII Schedule.

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- **SEVENTY THIRD AMENDMENT 1993** – Statutory provisions for Panchayati Raj as third level of administration in urban areas such as towns and cities
- **SEVENTY FOURTH AMENDMENT 1993** – Constitution of Municipalities.
- **EIGHTY SECOND AMENDMENT 2000** – Provided for the provision of reservation of SCs and STs in matters related to promotion & their qualifying marks for passing an examination have also been lowered.
- **EIGHTY SIXTH AMENDMENT 2002** – Made education a fundamental right for children in the age group of 6 – 14 years.
- **NINTY FIRST AMENDMENT 2003** – Limited the number of ministers in the Central & State Govts. To 15% of the strength of Lok Sabha & Vidhan Sabha.
- **NINTY SECOND AMENDMENT 2003** – Bodo, Maithali, Santhali and Dogri added into the VII Schedule.
- **NINETY THIRD AMENDMENT 2005** – To reserve seats for socially and educationally backward classes, in private unaided institutions other than those run by minorities.
- **NINETY SEVENTH AMENDMENT 2012** - Added the words "or co-operative societies" after the word "or unions" in Article 19(1)(c) and insertion of article 43B i.e., Promotion of Co-operative Societies and added Part-IXB i.e., The Co-operative Societies.
- **NINETY NINTH AMENDMENT 2015** -The amendment provides for the formation of a National Judicial Appointments Commission. The amendment is in toto quashed by Supreme Court on 16 October 2015.
- **HUNDREDTH AMENDMENT 2015** - Exchange of certain enclave territories with Bangladesh and conferment of citizenship rights to residents of enclaves consequent to signing of Land Boundary Agreement (LBA) Treaty between India and Bangladesh
- **HUNDRED AND FIRST (101st) AMENDMENT 2016** - Contains the provisions which are necessary for the implementation of **GST Regime**. The alterations (in articles of the Constitution) were made in Article 246 A, Article 269A, Article 279-A. Also the 7th Schedule (Union List & State List) was altered.

SCHOOL OF SKILLS VIDHIGYA

IMPORTANT CONSTITUTIONAL OFFICES

Office	Oaths and Resignations
The President Incumbent : Shri Ram Nath Kovind	Oath - Chief Justice of India or in his absence the senior most Judge of Supreme Court. Resignation submitted to - Vice-President
Vice-President Incumbent : M Venkaiah Naidu	Oath - President or some person appointed in that behalf by the President. Resignation submitted to - President
Prime Minister Incumbent : Shri Narendra Modi	Oath - President Resignation submitted to - President
Lok Sabha Speaker Incumbent : Smt. Sumitra Mahajan	Oath - President Resignation submitted to - Deputy Speaker of Lok Sabha
Deputy Speaker of Lok Sabha Incumbent : Dr. M. Thambidurai	Oath - President Resignation submitted to - Lok Sabha Speaker
Chief Election Commissioner Incumbent : Mr. Omprakash Rawat First : Mr. Sukumar Sen	Oath - President Resignation submitted to - President
Attorney General Incumbent : Mr. K.K. Venugopal (15th) First : Mr. M.C. Seetalvad	Oath - President Resignation submitted to - President
Comptroller and Auditor General Incumbent : Shri Rajiv Mehershi First – V Narhari Rao	Oath - President or some person appointed in that behalf him Resignation submitted to - President
Judges of Supreme Court & CJI	Oath – President | Resignation submitted to - President

Chairman, Public Service Commission Incumbent : Shri Vinay Mittal	Oath – President Resignation submitted to - President
Governor, RBI Incumbent : Shri Urjit Patel First – Osborne Smith	Oath - President Resignation submitted to - President
Chief Minister	Oath – Governor | Resignation submitted to - Governor
Chief Justice of High Court	Oath – Governor | Resignation submitted to - President
Other Judges of High Court	Oath – Governor | Resignation submitted to - President
Advocate General	Oath – Governor | Resignation submitted to - Governor

LATIN MAXIMS

- ***A priori*** – From the antecedent to the consequent
- ***Ab initio*** - From the beginning.
- ***Actori incumbit onus probandi*** - The burden of proof lies on the plaintiff.
- **Actiones legis** - Law suits.
- ***Action mixta*** – Mixed action
- ***Actus reus*** - A guilty deed or act.
- ***Actus nemini facit injuriam*** - The act of the law does no one wrong.
- ***Actus non facit reum nisi mens sit rea*** - The act does not make one guilty unless there be a criminal intent.
- ***Ad hoc*** - For this purpose.
- ***Ad infinitum*** - Forever, without limit, to infinity.
- ***Alibi*** - At another place, elsewhere.
- ***Assentio mentium*** - The meeting of minds, i.e. mutual assent.
- ***Audi alteram partem*** - Hear the other side.
- ***Actio personalis moritur cum persona*** - A personal action dies with the person.
- ***Amicus Curiae*** – A friend of court or member of the Bar who is appointed to assist the court.
- ***Ad litem*** – Referring the case at law.
- ***Actus curiae neminem gravabit*** – Act of the Court shall prejudice no one.
- ***A fortiori*** – For a strong reason.
- ***Autrefois acquit*** – Previously acquitten.
- ***Animo attestandi*** – The intention of attesting
- ***Animo deserendi*** – The intention of deserting
- ***Animo testandi*** - With an intention of making a will.
- ***Ante*** - Before.
- ***Bona fide*** - In good faith, genuine.
- ***Bona vacatia*** – Property with no owner or which does not have an obvious owner and which usually passes to the crown.
- ***Caveat*** – A caution registered with the public court to indicate to the officials that they are not to act in the matter mentioned in the caveat without first giving notice to the caveator.
- ***Causa proxima, non remota spectatur*** - The immediate, and not the remote cause is to be considered.
- ***Caveat emptor*** - Let the purchaser beware.
- ***Consensus ad idem*** - Agreement as to the same things.
- **Corpus** - Body.
- ***Corpus delicti*** - The body, i.e. the gist of crime.
- ***Cy pres*** – As nearly as may be practical / possible.
- **Corpus legis** – Body of law.
- ***Damnum sine injuria*** - Damage without legal injury.

SCHOOL OF SKILLS VIDHIGYA CLAT Tutorials

- **De facto** - In fact.
- ***De jure*** – By law, right
- ***De minimis lex non curat*** - The law does not notice trifling matters.
- ***De novo*** - Starting afresh.
- ***Doli incapax*** - Incapable of crime (minor)
- ***Delegates non potest delegare*** – A delegate cannot further delegate.
- ***Detinue*** – Tort of wrongfully holding goods which belongs to someone else.
- **Denatio mortis causa** – Gift because of death.
- **Ejusdem generis**- Of the same kind.
- ***Estoppel*** – Prevented from denying.
- ***Ex gratia*** - Out of kindness, voluntary.
- ***Ex parte*** - Proceeding brought by one person in the absence of another.
- ***Ex post facto*** - By reason of a subsequent act.
- ***Ex officio*** – Because of an office held.
- ***Fait accompli*** – Things done and no longer worth arguing against; an accomplished act.
- ***Factum probanda*** – Fact in issue, which is to be proved.
- ***Force majeure*** – Circumstances beyond ones control, irresistible force or compulsion.
- ***Functus officio*** – No longer having power or jurisdiction.
- ***Habeas corpus*** – Produce the body.
- ***Ignorantia facti excusat, ignorantia juris non excusat*** - Ignorance of fact can be excused, but ignorance of law cannot be excused.
- **In delicto** - At fault.
- **Injuria sine damno** – Injury without damage.
- ***Interest reipublicae ut sit finis litium*** – State or public interest requires that there should be a limit to litigation.
- ***In limine*** - At the outset, on the threshold.
- **In lieu of** – Instead of.
- ***In personam*** - Against the person.
- ***In rem***- Against the whole world
- ***Inter alia*** - Amongst other things.
- ***Interim*** - Temporary, in the meanwhile.
- ***Ipso facto*** - By that very fact.
- ***Inter vivos***- Between living persons.
- ***Intra vires*** – Within the powers.
- ***Id or idem*** – The same thing or the same person.
- ***Innuendo*** – Spoken words which are defamatory because they have a double meaning.
- ***In status quo*** – In the present state.
- ***Intestate*** – To die without making a will.
- ***Jus*** - A right that is recognised in law.
- ***Jus in personam*** – Right against a specific person.
- ***Jus in rem*** – Right against the world at large.
- ***Lis pendens***- A pending suit.
- ***Locus standi***- A right to be heard.
- ***Lex fori*** – Law of the place where the cases been heard.
- ***Lex loci actus*** – Law of the place where the act took place.
- ***Mala fide*** - In bad faith.
- ***Mala in se*** - Bad in themselves.
- ***Mandamus*** - We command.
- ***Mens rea*** - Guilty state of mind.
- ***Mesne profits*** – The rents and profits which a trespasser has received/ made during his occupation of premises, which are lost to the actual owner.

SCHOOL OF SKILLS VIDHIGYA CLAT Tutorials

- **Modus operandi** – Way of working.
- **Nemo debet esse judex in propria causa** - No one can be judge in his own case.
- ***Novation*** – Transaction in which a new contract is agreed by all parties to replace an existing contract.
- ***Obiter dictum*** – A saying by the way. An incidental opinion expressed by a judge, which is not binding.
- **Onus Probandi** – Burden of proof.
- ***Obiter dicta*** – Things which are said in passing.
- ***Per incurieam*** – Because of lack of care.
- ***Prima facie*** - On the face of it.
- ***Pro rata*** - In proportion.
- ***Pro bono public*** – For the public good.
- ***Privity of Contract*** – Relationship between the parties to a contract make it valid.
- ***Qui facit per alium, facit per se*** - He who act through another acts himself.
- ***Quid pro quo*** – Consideration something for something.
- ***Quo Warranto*** – By what authority. A writ calling upon one to show under what authority he holds public office.
- ***Res gestae*** – Facts surrounding or relevant to a case and admissible as evidence.
- ***Res judicata*** - A thing adjudged is accepted for the truth.
- ***Respondeat superior*** - Let the principal answer.
- ***Res ipsa loquitur*** – The thing speaks for itself.
- ***Res Subjudice*** – Matter in course of trial.
- ***Stare decisis*** - To stand by decisions (precedents).
- ***Status quo*** – State of things as they are now.
- ***Suo Motu*** – On its own motion.
- ***Sine die***– "With no day" (indefinitely).
- ***Ultravires***-Outside the powers.
- ***Uberrimae fide*** – Of utmost good faith; of the fullest confidence.
- ***Ubi jus ibi remedium*** - Where there is a right there is a remedy.
- ***Vis major*** – Act of God; irresistible forces.
- ***Volenti non fit injuria*** - An injury is not done to a person consenting to it.
- ***Void*** – of no legal effect

SCHOOL OF SKILLS VIDHIGYA CLAT Tutorials

KEY LEGAL CONCEPTS

- **Anticipatory Bail**
  - It is a pre-arrest order passed by a court that says that in the event a person is arrested, he is to be granted bail.The provisions concerning anticipatory bail are to be found in section 438 of the Criminal Procedure Code (CrPC), 1973.
- **Arrest**
  - Arrest means apprehension of a person by legal authority so as to cause deprivation of his liberty. Cr P C contemplates two types of arrests - an arrest that is made for the execution of a warrant issued by a magistrate and an arrest that is made without any warrant but in accordance with some legal provision that permits arrest.
- **Bail**
  - Bail means to procure the release of a person from legal custody, by undertaking that he/she shall appear at the time and place designated and submit him/herself the jurisdiction and judgment of court.
- **Bailable Offence**
  - In bailable offences, the accused has the right of get bail. The court has no discretion and bail must be granted. For instance, bribery. The punishment given in such offences is less, generally imprisonment for less than 3 years and/or fine.
- **Charge**
  - It is a clear and precise notice describing the nature of the accusation, allegation of facts constituting the offence, for which the accused is called upon to meet in the course of trial.
- **Cognizable Offence**
  - Cognizable offence is an offence for which the arrest can be made without warrant. As per First Schedule the minimum punishment for cognizable office is imprisonment for 3 years or more.
- **Compoundable Offence**

- Compoundable offences are those in which the complainant can enterinto a compromise with the accused, and agrees to drop the chargesagainst him/her. This compromise must be "bonafide". For instance,assault or criminal force to woman with intent to outrage her modestyand dishonest misappropriation of property.

- **Capital Punishment**
  - It is the sense of death penalty imposed as the punishment for murder in rarest of rare cases.
- **Complaint**
  - Any oral or written allegation (generally made to the Magistrate) with a view to his taking action under the Code that somebody has committed offence.
- **Discharge Order**
  - It means no prima facie evidence against the accused to suggest further inquiry for the charge, but fresh trial due to new fact or evidence can effect re-arrest of the accused. However, the discharge order does not establish anything towards guilt of the accused.
- **First Information Report (FIR)**
  - It commonly refers to the first information that is given to the police about the occurrence of any crime. It is filed under Section 154 of the Criminal Procedure Code.
- **Investigation**
  - It includes proceedings under the Code for collection of evidence and can never be judicial.
- **Inquiry**
  - It includes every inquiry made by Court and relates to all the proceedings held by the Court. It may be judicial or non-judicial and may include asking questions and studying evidences.
- **Trial**
  - It is conclusion of an inquiry or investigation. It is of judicial nature and results in either conviction or acquittal.
- **Summon**
  - A summon is a court order to an individual to appear in court at a specified time and place. A summon may be issued in both criminal and in civil cases.
- **Non-bailable Offence**
  - Bail in non-bailable offences is guaranteed at the discretion of the court, depending on the circumstances of the case. For instance, murder, kidnapping and rape. The punishment for these is severe.
- **Non-cognizable Offence**
  - Non-cognizable offence means police officer cannot take cognizance without permission or order from the magistrate.
- **Non compoundable Offence**
  - Non-compoundable offences cannot be compounded. They can only be quashed by the court.
- **Probation**
  - Probation is the suspension of a jail sentence that allows a person convicted of a crime a chance to remain in the community, instead of going to jail. Probation requires that you follow certain court-ordered rules and conditions under the supervision of a probation officer. Typical conditions may include performing community service, meeting with your probation officer, refraining from using illegal drugs or excessive alcohol, avoiding certain people and places, and appearing in court during requested times.
- **Parole**
  - Parole is the provisional release of a prisoner who agrees to certain conditions prior to the completion of the maximum sentence period.
- **Adjournment**
  - It means putting off till another time. It is either adjournment of the debate or adjournment of the House. Adjournment of the debate means postponement of the debate on a Motion/Resolution/Bill on which the House is then engaged. Adjournment of the House means termination of the sitting of the House till the time appointed for the next sitting. It should be differentiated from *Prorogation* (termination of session), *Recess* (period between prorogation of Parliament and its re-assembly), and, *Dissolution* (end of the present House). Session is the period of time between the first meeting of a Parliament and its prorogation or dissolution.
- **Adjournment Motion**
  - It interrupts the normal business of the Houses and draws attention to a matter of grave public importance.
- **Adjournment sine die**
  - It terminates a sitting of the House without any definite date being fixed for the next sitting. Usually the Speaker adjourns the House *sine die* on the last day of its session.
- **No Confidence Motion**

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- When the members of Lok Sabha seeks the no-confidence in Council of Ministers, then after passing of such motion, the Council of Ministers could not continue. The notice on such motion is to be given before the commencement of the sitting of the day. The Speaker reads the motion in the House. When the minimum 50 members of Lok Sabha support the motion, then Speaker admits no-confidence motion. The time for discussion on motion requires 10 days.

- **Censure Motion**
- A Censure Motion can be moved against the Council of Ministers or an individual Minister for failing to act or for some policy. The Speaker decides whether or not the motion is in order, and no leave of the House is required for moving it. It differs from a no-confidence motion in that the latter does not specify any ground on which it is based.

- **Privilege Motion**
- It is a motion moved by a Member of Parliament if he feels that a Minister has committed a breach of privileges of the House.

- **Closure Motion**
- In order to bring a debate to a close, a Member may rise and move that the question be now put. The acceptance of a closure motion lies within the sole discretion of the Speaker of the House.

- **Plebiscite**
- It is a direct vote of the qualified voters in regard to some important public question.

- **Quorum**
- It is the minimum number of members of a Legislature that must be present to make the proceedings valid. This is equal to *one-tenth* of the total number of members.

- **Question Hour**
- The *first* hour (11 a.m.-12 noon) of every sitting in the Lok Sabha/Rajya Sabha is meant for questions, which relate to matters of administration, problems of country, etc. In this way, the matter is brought to the notice of the ministers by M.P.s. The questions include starred questions, un-starred questions and short notice questions.

- **Zero Hour**
- The Zero Hour (12 noon-1 p.m.) follows the Question Hour in the Houses. In it, various issues are discussed. This hour leads loss of time of Parliament because the subject matter is raised without prior permission.

- **Adult Franchise**
- Franchise refers to the right or privilege of voting. Adult franchise is a voting right of an adult without distinction of gender, caste, color or religion.

- **Bicameral**
- Legislature functioning with two chambers (House)–lower and upper houses, e.g., the Lok Sabha and the Rajya Sabha or Legislative Assembly and Legislative Council.

- **Floor Crossing**
- Also called defection, the term which is used when a member of the legislature leaves his party on whose ticket he was elected to join the ruling party or the opposition.

- **Impeachment**
- Procedure by which the legislature prosecutes and judges a person, usually a high officer of State (such as the President or Chief Justice) for alleged offences that would otherwise be beyond the reach of the normal process of law.

- **Referendum**
- A means of putting a controversial issue directly to the public for decision by popular vote.For example, the Russian Referendum of 1992 which approved the new democratic Constitution.

- **Snap Poll**
- When a sudden election to a legislature is held before the expiry of its full term, it is called a snap poll or a mid-term poll.

LEGAL LITERATURE : IMPORTANT BOOKS AND AUTHORS

The framing of India's Constitution	B. Shiva Rao
We the Nation	N. A. Palkhiwala
We the People	N.A. Palkhiwala
Law & Literature	M.K.Gandhi
Roses in December	M.C. Chagla
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The Province and Function of Law	Julius Stone
International Law	Oppenheim
The Law of Nations	Brierly
The Introduction to the principles of morals	Bentham and Legislation
The Province of Jurisprudence Determined	Austin
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Constitution of India–Defaced and Defied	N.A. Paikhivala
Candid Corner	Abhishek Singhvi
India China War	Nevill Maxwell
India From Curzon to Nehru and After	Durgadas
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Freedom at Midnight	Larry Collins / Dominique Lafiene
The Judgment	Kuldip Nayar
Men who killed Gandhi	Manohar Malgonkar
Mother India	Katherine Mayo
My Truth	Indira Gandhi
My Experiments with Truth	Mahatma Gandhi
Non–Violence in Peace and War	Mahatma Gandhi
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The Republic	Plato
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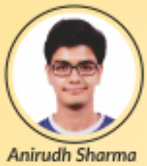

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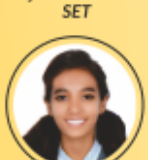

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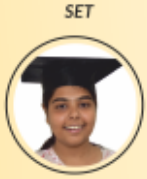

Ahna Agrawal
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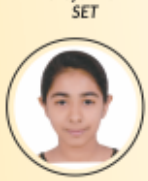

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KARTHIK CHAUHAN
WBNUJS, KOLKATA

I think you have been the most instrumental people in my success. The freshness in approach towards legal education coupled with Bahul Sir's profound skills is sure to help budding lawyers out there.

AVANI MISHRA
NLIU, BHOPAL

Vidhigya is an excellent place to be at. My journey with 'Vidhigya' have been a memorable as well as an experience or the knowledge i've got from here is remarkable, Baahul sir has been a great mentor. The strategies the techniques & the knowledge part he discuss prove to be very helpful.

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Best Place to study , best people to live with. Vidhigya is just like a family and I feel privileged to be a part of it.. Bahul Sir, You are the Most respected teacher, best motivator talking to you was always a privilege.

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212, 214 Tulsi Tower, Geeta Bhawan Square, Indore - 452001
www.clattutorials.com
0731-4201800 9039707800 9039799000
info@clattutorials.com