

VICTOR DANTAS CHARITABLE AND EDUCATIONAL FOUNDATION'S

LEX-ET-JUSTITIA



Victor Dantas Law College, Kudal



About us:

Victor Dantas Charitable And Educational Foundation's Victor Dantas Law College, Kudal has been established in the year 2008. College is approved by Government of Maharashtra, Bar Council Of India and University Of Mumbai. It is a prestigious college providing high quality legal education to students . College provides both 3 year LLB degree as well as 5 years course .

The college is situated on a spacious land area at Kudal Sindhudurg district of Maharashtra, in a multi storeyed building amidst scenic beauty providing disciplined and friendly environment for learning . Over the years college have conducted and participated for various National Level Moot Court Competitions , Mock Trials , Debate Competitions , Paper Presentations , PowerPoint Presentations and have participated for International Conferences , Arbitration and Mediation Competitions and is involved in publication of law journal and conducts Legal Aid programs . Over the past years it has succeeded in its endeavour to provide quality legal education to our students. It has well equipped library and also E-library , Moot Court society and Legal Aid Clinic.



Victor Dantas Law College



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With Hon. Adv. Ujwal Nikam sir



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Supreme Court Visit



*Hon. Supriyatai Sule Madam
Member of parliament*



Convocation Ceremony



"SUN UP" Cultural Event

Message by

Mr. Victor Dantas

Patron-in-chief

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After the successful publication of 5 law journals of our college titled Horizon in past 5 years, it is a pleasure to publish first e-Journal of our college. Our college is the first college in Sindhudurg district to publish a Law Journal and an e-Journal. I appreciate the efforts taken by my staff, Principal and editors in bringing Out the first e-Journal. Wish all readers happy reading of our first e-Journal Lex-et-Justitia.

Message by

Prin. Shilpa Margaj

Patron

Victor Dantas Law College, Kudal

I would like to congratulate the editor for bringing out the first e-Journal. I would like to thank all eminent authors from esteemed Law Colleges for their valuable contribution to our e-Journal this year. And I hope in the forth coming years more colleges would be interested in contributing articles in our e-Journal and our readership increases enjoy reading this e-Journal.

Mrs. Samruddhi Chetan Mhadgut

Editor

Asst Prof. Victor Dantas Law College

FROM THE DESK OF EDITOR

With immense sense of pleasure I present before you first e-journal of Victor Dantas Law college kudal. Journal has provided opportunity to academicians, judicial officers and lawyers to present their views on given topics on socio legal issues. I thank the Editorial board for selecting the finest articles for publication in our journal. I am thankful to authors who contributed articles for our e-journal. Finally I thank each and every person who assisted me to make this e-journal, thank you for all your support and cooperation.

Ms. Shambhavi Yashwant Tendolkar

Co-Editor

Asst. Prof. Victor Dantas Law College

It is a great initiative taken by this law college in publishing an e-Law Journal. Articles on various legal topics drafted by skilled faculty of various colleges and institution will definitely prove as a treat to the readers. These articles will overall contribute to having an enriching and enlightening experience. The thorough research and efforts taken by these authors are worth appreciating.

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The opinions expressed in this journal are those of authors.

Will Alternate Dispute Resolutions be the solution for decreasing the burden on Indian Courts?

By KAMNI S. AHUJA
Advocate & Solicitor

Differences we shall always have but we must settle them all, whether religious or other, by arbitration.” Mahatma Gandhi.

Alternate Dispute Resolution mechanisms have evidently received significant impetus over the years through the Enactment of various legislations and by the efforts of various judges of the Supreme Court and the balance is Impliedly tilted in favour of these mechanisms, which suggests that the burden on Indian Courts would soon decline. The Indian judiciary, particularly the judges of the Supreme Court have contributed to a large extent in promoting Alternate dispute resolution mechanisms. In a recent case, a three judge bench, headed by the Chief Justice of India, Mr. D. Y. Chandrachud noted that the Respondent had filed several petitions to stall an international arbitration proceeding pending in Singapore International Arbitration Centre (SIAC) since October, 2020 and remarked to the counsel for the respondent that, “You cannot keep stultifying the proceedings before the arbitral tribunal and this is just a ploy to delay the Proceedings.....As a Chief Justice of this court I am concerned.....We will not let the arbitration process be stultified,”

1 In 1995 – 1996, the Supreme Court of India under the leadership of the then Chief Justice, Mr. A. M. Ahmadi, Undertook a joint study with the delegates of the Institute for Study and Development of Legal Systems, a San Francisco based institution, for finding solutions to the problem of delays in the Indian Civil Justice System. After Analysing the information received from the various States, the study team made some concrete suggestions and presented a proposal for introducing amendments relating to case management to the Civil Procedure Code, 1908, with special reference to the Indian scenario 2 . Consequently, with effect from 1st July, 2002, an amendment was made to the Civil Procedure Code, 1908 emphasizing on the alternate dispute resolution mechanisms, arbitration, conciliation, mediation, judicial settlement including settlement through Lok Adalat (a settlement court). The said amendment was challenged by a group of lawyers, following which the Supreme Court issued a historic judgment, 3 holding that mediation, conciliation, and arbitration must be used in court cases. Although mediation, conciliation and arbitration have the same purpose, the process differs in the level of formality, responsibility and improvisation. In each case, a third party is involved

in the dispute resolution process between the parties. The parties often resolve to these alternate dispute resolution mechanisms due to the long-drawn pendency of litigation. The most commonly used form of alternate dispute resolution, particularly for commercial contracts, is arbitration, primarily due to speed, party autonomy, flexibility of proceedings and enforceability of the award. Arbitration being an adjudicatory process, always ends in a decision, which is enforceable in law.

2 According to the Halsbury's Law of England, "arbitration" is defined as "reference of a dispute or difference between not less than two parties for determination, after hearing both sides in a judicial manner, by a person or persons other than a court of competent jurisdiction". Arbitration, as a dispute resolution mechanism, has been in existence for the last several decades. According to certain theories, in the era of King Solomon, a dispute between two females claiming right to a baby was settled through arbitration. So also, arbitration was commonly used to settle territorial and commercial disputes. In India, the first statutory recognition of arbitration, as a form of dispute resolution was the Indian Arbitration Act, 1899, with limited applicability to the presidency towns of Bombay, Calcutta and Madras. Arbitration was further codified in Section 89 and Schedule II of the Code of Civil Procedure, 1908 and extended to the other regions of British India. Also, references to arbitration were found inter alia in the Indian Contract Act, 1872 and the Specific Relief Act, 1877. In order to provide speedy and efficacious dispute resolution and consolidate the law governing arbitration, the Britishers enacted a comprehensive legislation, the Arbitration Act, 1940. This 1940 Act repealed the 1899 Act as well as the relevant provisions of the Code of Civil Procedure, 1908. The 1940 Act was however criticized on several occasions, as it was slow, complex, expensive, hyper-technical and fraught with judicial interference and as such it provided only for domestic arbitration. This led to the growth of mistrust on the institution of arbitration in India as the 1940 Act was seen to be fraught with delays and expenses. In the case of Guru Nanak Foundation ⁴ the Supreme Court had succinctly remarked that, "Interminable, time consuming, complex and expensive Court procedures impelled jurists to search for an alternative Forum, less formal, more effective and speedy for resolution of disputes, avoiding procedural claptrap and this led them to Arbitration Act, 1940 ("Act" for short). However, the way in which the proceedings under the Act are conducted and without exception challenged in Courts, has made Lawyers laugh and legal philosophers weep".

Thereafter, globalization, inflow of foreign investment into India and the need for ease of doing business, prompted the introduction of the Arbitration and Conciliation Act, 1996, which repealed the 1940 Act. This Act of 1996 was based on UNCITRAL Model Law on International Commercial Arbitration, 1985 and the UNCITRAL Conciliation Rules, 1980 and

covered both domestic and international arbitration. The main reason for introducing the 1996 Act was to curb inordinate delays in arbitration and to provide a speedy resolution to disputes, limit judicial intervention, cover international and domestic commercial arbitration and conciliation, provide a reasoned award and enable parties to enforce the award as a decree of the court. Despite the introduction of the 1996 Act, the burden on the courts remained unaffected.

In the case of *Bhatia International*,⁵ the Supreme Court held that Part I of the 1996 Act would also apply to arbitrations seated outside India, unless it was expressly or impliedly excluded. This once again led to a lot of criticism, which was finally settled by the Supreme Court in the case of *Bharat Aluminium Company*,⁶ wherein it was held that Part I of the Act does not apply to Part II of the Act and that Indian Courts would not be permitted to entertain interim applications in foreign.

3 seated arbitrations, governed by Part II of the Act. Thus, the 1996 Act faced several hurdles including exorbitant costs and increased intervention of courts, particularly since an application filed for setting aside the award resulted in stalling the execution of the award. Further, the 1996 Act did not provide time limits for making an award, certain arbitral proceedings continued for years. In 2015, the following amendments were made to the 1996 Act, with inter alia with the objective of minimizing the burden on the court by limiting judicial interference, expediting the arbitration proceedings and improving the overall governance of arbitration:

- (a) Section 9 of the 1996 Act [interim relief] was made applicable even to international commercial arbitrations;
- (b) No interim relief application would be entertained by the court, upon constitution of the arbitral tribunal, unless demanded by circumstances;
- (c) Arbitral tribunals were conferred all powers of a court;
- (d) An award was to be passed within twelve months after the arbitral tribunal was constituted (extendable by further six months), failing which parties would have to approach the court for extension and possibly face penal consequences;
- (e) An application to set aside the award would not automatically stay enforcement of the award, unless the stay has been expressly granted by the court. Vide the said 2015 amendment, a conscious effort was made to reduce interference by courts, with emphasis on challenge of an award, based on public policy of India. The recent amendments and judicial precedents, resulted in growth of arbitration as an efficacious alternate dispute resolution mechanism, thereby reducing the burden on Indian Courts.

In 2010, the Supreme Court held that all disputes are not suitable for being decided by the alternate dispute resolution process. ⁷ Later, in 2011, the Supreme Court noted that a right 'in rem' cannot be arbitrable but a right 'in personam' is capable of a settlement in private fora ⁸ and held that a plain allegation of fraud 'simpliciter' is not a satisfactory ground to invalidate the effect of an arbitration agreement between the parties and that some disputes including criminal offences, matrimonial disputes, disputes of guardianship, insolvency and winding up, testamentary matters, matters relating to unlawful consideration, tenancy and eviction disputes, disputes between trust, trustees, and beneficiaries are not arbitrable. Given the state of courts in India and with a view to avoid lengthy and expensive litigation including multiple levels of appeal that tend to exhaust both parties, in case of disputes which are not arbitrable, the parties often prefer to resort to other methods of alternate dispute resolution, such as mediation, conciliation or judicial settlement.

Mediation is a non-adjudicatory process wherein the parties meet with a mutually selected impartial and neutral person who assists them in negotiation of their differences. In addition to dispute resolution, mediation functions as a ⁴ means of dispute prevention, by facilitating contract negotiation. Unlike arbitration, the mediator does not decide the dispute. The mediator only helps the parties to communicate and settle the dispute amongst themselves. Mediation agreements may be oral or written, and the content may vary with the type of mediation. Also, most mediation agreements are considered enforceable contracts. In some court-ordered mediations, the judgement is passed in terms of the mediation agreement. If an agreement is not reached by mediation, the parties are entitled to pursue their claims in any other forum.

As compared to litigation, mediation is more prompt, inexpensive, informal, flexible, procedurally simple and a fairly satisfactory mode of resolving disputes, since in a mediated case there is no appeal or revision and all disputes get finally settled. In cases pertaining to family matters such as divorce, custody, maintenance and alimony, workplace matters such as wrongful terminations, harassment and labour management, motor accident claims, tenancy matters, environmental and land use matters, mediation is a preferred mode of alternate dispute resolution. While an offence punishable under Section 498-A of the Indian Penal Code, 1860 is not compoundable, the Supreme Court has held that in appropriate circumstances, if the parties are willing and the criminal court believes there are elements of resolution, it should order the parties to explore the possibility of settlement by mediation. ⁹ Typically, mediation is a voluntary process, although sometimes statutes, rules, or court orders may require participation in mediation. Recently, by an amendment to the Commercial Courts Act, 2015, ¹⁰ pre-institution mediation has been made mandatory, before initiating a suit, which does not contemplate any urgent interim relief.

Such compulsory pre-litigation mediation has been introduced primarily with a view to avoid clogging of the court docket, decongest the regular courts and aid in speedy and effective disposal of commercial suits. 11 In a recent case, the Supreme Court has further held that, “The speed with which the justice delivery system in any country responds to the problem of docket explosion, particularly in the realm of commercial disputes can be regarded as a safe index of the ease of doing business in that country”. 12 Resultantly, an emerging pro-mediation environment may uplift India on the ease of doing business index and tackle the challenge of docket explosion in commercial suits. Mediation therefore is proving to be an effective alternate dispute resolution mechanism which assists in reducing the burden on courts. Conciliation is yet another non-adjudicatory alternate dispute resolution mechanism, often used in industrial, civil, matrimonial and family disputes. Conciliation is governed by the provisions of Arbitration and Conciliation Act, 1996. The objective of conciliation is to reach settlement of the dispute upon mutual terms, in a speedy and cost- effective manner. Conciliation is a voluntary and informal process, in which a professional facilitator assists parties to resolve disputes when their own unassisted efforts have not succeeded. The process can be described as a rational and orderly discussion of differences between the parties to a dispute and a facilitated search for agreement between disputing 5 parties, under the guidance of a conciliator. The conciliator is free to use his own method to resolve the dispute. The conciliator typically plays an advisory role and may intervene in order to offer feasible solutions to both parties and help settle their disputes. Unlike arbitration, there is no requirement of an agreement however, acceptance by both parties is necessary. There can be a valid reference to conciliation only if both parties to the dispute agree to have negotiations with the help of a third party, either by an agreement or by the process of invitation and acceptance. If the parties do not agree, there can be no conciliation and in a pending litigation, in the absence of consent by all parties, the court cannot refer the parties to conciliation. Even after a matter is referred to conciliation, the court continues to retain its control and jurisdiction over the matter and if there is no settlement, the matter is restored and the court proceeds with framing issues and conducting trial. If a matter is settled through conciliation, the settlement agreement is enforceable, like an arbitral award, as if it is a decree of the court.

As the courts are faced with mounting arrears of pending cases, there is a serious need of speedy disposal, for which amicable settlement through conciliation is being perceived as a preferred alternative. Another reason for preference being given to conciliation is that it enjoys statutory recognition, by being included in the Arbitration & Conciliation Act, 1996, which is based on the UNCITRAL Model. Many High Courts in India, including the Bombay High Court, have been referring the parties to attempt a conciliation, for settlement of their dispute, with directions to approach the court only if conciliation fails. Another mode of

alternate dispute resolution which aims to provide informal, cheap and expeditious justice to the common people and reduce the burden on the Indian Courts, is judicial settlement including settlement through Lok Adalats. In case of judicial settlement, the court refers the dispute to the Lok Adalat or to suitable institution or person and such institution or person is deemed to be a Lok Adalat and the dispute is resolved in accordance with the provisions of the Legal Services Authority Act, 1987. Lok Adalat is a forum where disputes, either pending in the court or at pre-litigation stage are settled amicably except that a Lok Adalat does not have the jurisdiction with respect to matters relating to any non-compoundable offences. The matters that may be admitted to Lok Adalat include cases pending in the court or matters which are proposed to be filed in the court, pertaining to criminal offences which are compoundable, cases under Section 138 of Negotiable Instruments Act, 1881, consumer cases, bank recovery cases or labour disputes. Besides Lok Adalats, there are Permanent Lok Adalats which have the pecuniary jurisdiction to decide cases valued up to ₹10 lakhs. These Permanent Lok Adalats provide compulsory pre-litigative mechanism for conciliation and settlement of cases particularly relating to public utility services including transport, postal, telegraph, insurance, etc. In such cases, even if the parties fail to arrive at a settlement, these Permanent Lok Adalat has the jurisdiction to decide the case. 6 The object of the Lok Adalats is to provide free and competent legal services, particularly to the weaker sections of the society, to ensure that opportunities for securing justice are not denied to any citizen, by reason of economic or other disabilities, and to promote justice on the basis of equal opportunity. Lok Adalat has been accorded statutory status under the Legal Services Authorities Act, 1987 however, the persons deciding cases in Lok Adalats only act as statutory conciliators and do not have any judicial authority. These persons are permitted to only persuade the parties to come to a conclusion for settling the dispute, without exerting any pressure or force. An award of the Lok Adalat may either be made on merits or in terms of a settlement agreement between the parties. The award made by the Lok Adalat is deemed to be a decree of a civil court and is final and binding on all parties and no appeal against such an award lies before any court of law. The Lok Adalat is however, entitled to transmit its award to a civil court having local jurisdiction for execution of the award, as if it were a decree made by that court. As the award is not appealable, the parties dissatisfied with the award of the Lok Adalat are entitled to initiate litigation in a competent court. With passage of time, Lok Adalats have emerged as one of the most efficacious alternative dispute resolution mechanisms. This is evident from the outcome of the recent proceedings held before the Lok Adalat, on 12 th November, 2022, in Mumbai, wherein over 10.25 lakh cases were disposed of, of which approximately 8.74 lakh cases were pre-litigation matters and approximately 1.51 lakh cases were post-litigation matters, pending in the various courts, in Maharashtra. 13 The surmounting backlog of court cases and increased number of

new filings, has prompted the judiciary as well as the legislature to encourage and promote the alternate dispute resolution mechanisms. Some of the recent amendments to the legal provisions, such as restrictive timelines for arriving at a decision and penal consequences for delay, conferring additional powers upon the deciding authority, making the award/settlement agreement final and binding are some of the conscious efforts to reduce the burden on the courts. Further, incentives such as full refund of court fees¹⁴ in cases where disputes referred by the courts are settled through any of the alternate dispute resolution mechanisms referred to in Section 89 of the Code of Civil Procedure, 1908, have been provided to encourage parties to explore these alternate dispute resolution mechanisms, thereby reducing the burden on the Indian Courts. “Alternative dispute resolution (ADR) mechanisms could go a long way in reducing the burden of pending cases on the courts, and also present a win-win situation for the two parties”. Chief Justice Dilip B. Bhosale (Retd.)

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8 Booz Allen & Hamilton Inc. v. SBI Home Finance Limited & Others, (2011) 5 SCC 532

9 Ram Gopal v. State of M.P., 2010 SCALE 711

10 Section 12A of Chapter III A of the Commercial Courts Act, 2015, w.e.f. 3 rd May, 2018 and the Commercial Courts

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“Will Alternate Dispute Resolutions be the Solution for Decreasing the Burden on Indian Court?”

“Observation of Working of Lok Adalat in Session Court on dated 12th Nov.2022”

Dr. Shelar Shivani S.

Introduction: - Lok Adalat is one of the alternative dispute redressal mechanisms, it is a forum where disputes/cases pending in the court of law or at pre-litigation stage are settled/compromised amicably. Lok Adalats have been given statutory status under the Legal Services Authorities Act, 1987. Under the said Act, the award (decision) made by the Lok Adalats is deemed to be a decree of a civil court and is final and binding on all parties and no appeal against such an award lies before any court of law. If the parties are not satisfied with the award of the Lok Adalat though there is no provision for an appeal against such an award, but they are free to initiate litigation by approaching the court of appropriate jurisdiction by filing a case by following the required procedure, in exercise of their right to litigate.

There is no court fee payable when a matter is filed in a Lok Adalat. If a matter pending in the court of law is referred to the Lok Adalat and is settled subsequently, the court fee originally paid in the court on the complaints/petition is also refunded back to the parties. The persons deciding the cases in the Lok Adalats are called the Members of the Lok Adalats, they have the role of statutory conciliators only and do not have any judicial role; therefore, they can only persuade the parties to come to a conclusion for settling the dispute outside the court in the Lok Adalat and shall not pressurize or coerce any of the parties to compromise or settle cases or matters either directly or indirectly. The Lok Adalat shall not decide the matter so referred at its own instance, instead the same would be decided on the basis of the compromise or settlement between the parties. The members shall assist the parties in an independent and impartial manner in their attempt to reach amicable settlement of their dispute.

On 12th November 2022 the District Legal Aid and Advice Committee organised Lok Adalat in the premises of City Civil and Session Court, Mumbai. I was consented one of the Panel Member as a Conciliator. There were different panels for different pending and trial cases. I was selected for the Panel No. 2, Court Room No. 63. In our Panel head was H.H.J. Shri V.M. Pathade, Adv. Chandraprakash Shukla and myself Dr. Shelar Shivani were assigned a role as conciliator for the pending cases of Court Room No. 23 and Court Room No. 58. We were assigned to solve the dispute amicably relating to electricity department. The cases which were filed under section 135 and 136 of The Electricity Act, 2003.

The relevant provisions provides that- Section 135. (Theft of Electricity): ---

1[(1) Whoever, dishonestly, --

(a) taps, makes or causes to be made any connection with overhead, underground or under water lines or cables, or service wires, or service facilities of a licensee or supplier as the case may be; or

(b) tampers a meter, installs or uses a tampered meter, current reversing transformer, loop connection or any other device or method which interferes with accurate or proper registration, calibration or metering of electric current or otherwise results in a manner whereby electricity is stolen or wasted; or

(c) damages or destroys an electric meter, apparatus, equipment, or wire or causes or allows any of them to be so damaged or destroyed as to interfere with the proper or accurate metering of electricity,

(d) uses electricity through a tampered meter; or

(e) Uses electricity for the purpose other than for which the usage of electricity was authorised, so as to abstract or consume or use electricity

shall be punishable with imprisonment for a term which may extend to three years or with fine or with both:

Provided that in a case where the load abstracted, consumed, or used or attempted abstraction or attempted consumption or attempted use –

(i) does not exceed 10 kilowatts, the fine imposed on first conviction shall not be less than three times the financial gain on account of such theft of electricity and in the event of second or subsequent conviction the fine imposed shall not be less than six times the financial gain on account of such theft of electricity;

(ii) exceeds 10 kilowatts, the fine imposed on first conviction shall not be less than three times the financial gain on account of such theft of electricity and in the event of second or subsequent conviction, the sentence shall be imprisonment for a term not less than six months, but which may extend to five years and with fine not less than six times the financial gain on account of such theft of electricity:

Provided further that in the event of second and subsequent conviction of a person where the load abstracted, consumed, or used or attempted abstraction or attempted consumption or attempted use exceeds 10 kilowatt, such person shall also be debarred from getting any supply of electricity for a period which shall not be less than three months but may extend to two years and shall also be debarred from getting supply of electricity for that period from any other source or generating station: Provided also that if it is proved that any artificial means or means not authorized by the Board or licensee or supplier, as the case may be, exist for the abstraction, consumption or use of electricity by the consumer, it shall be presumed, until the contrary is proved, that any abstraction, consumption or use of electricity has been dishonestly caused by such consumer. (1A) Without prejudice to the provisions of this Act, the licensee or supplier, as the case may be, may, upon detection of such theft of electricity, immediately

disconnect the supply of electricity: Provided that only such officer of the licensee or supplier, as authorized for the purpose by the Appropriate Commission or any other officer of the licensee or supplier, as the case may be, of the rank higher than the rank so authorised shall disconnect the supply line of electricity: Provided further that such officer of the licensee or supplier, as the case may be, shall lodge a complaint in writing relating to the commission of such offence in police station having jurisdiction within twenty four hours from the time of such disconnection: Provided also that the licensee or supplier, as the case may be, on deposit or payment of the assessed amount or electricity charges in accordance with the provisions of this Act, shall, without prejudice to the obligation to lodge the complaint as referred to in the second proviso to this clause, restore the supply line of electricity within forty-eight hours of such deposit or payment.]

(2) 1[Any officer of the licensee or supplier as the case may be,] authorized in this behalf by the State Government may –

(a) enter, inspect, break open and search any place or premises in which he has reason to believe that electricity 2[has been or is being,] used unauthorisedly;

(b) search, seize and remove all such devices, instruments, wires and any other facilitator or article which has been, or is being, used for unauthorized use of electricity;

(c) examine or seize any books of account or documents which in his opinion shall be useful for or relevant to, any proceedings in respect of the offence under sub-section (1) and allow the person from whose custody such books of account or documents are seized to make copies thereof or take extracts therefrom in his presence.

(3) The occupant of the place of search or any person on his behalf shall remain present during the search and a list of all things seized in the course of such search shall be prepared and delivered to such occupant or person who shall sign the list:

Provided that no inspection, search and seizure of any domestic places or domestic premises shall be carried out between sunset and sunrise except in the presence of an adult male member occupying such premises.

(4) The provisions of the Code of Criminal Procedure, 1973, relating to search and seizure shall apply, as far as may be, to searches and seizure under this Act.

Section 136. (Theft of electric lines and materials): ---

(1) Whoever, dishonestly –

(a) cuts or removes or takes away or transfers any electric line, material or meter from a tower, pole, any other installation or place of installation or any other place, or site where it may be rightfully or lawfully stored, deposited, kept, stocked, situated or located including during transportation, without the consent of the licensee or the owner, as the case may be, whether or not the act is done for profit or gain; or

(b) stores, possesses or otherwise keeps in his premises, custody or control, any electric line, material or meter without the consent of the owner, whether or not the act is committed for profit or gain; or

(c) loads, carries, or moves from one place to another any electric line, material or meter without the consent of its owner, whether or not the act is done for profit or gain, is said to have committed an offence of theft of electric lines and materials, and shall be punishable with imprisonment for a term which may extend to three years or with fine or with both.

(2) If a person, having been convicted of an offence punishable under subsection (1) is again guilty of an offence punishable under that sub-section, he shall be punishable for the second or subsequent offence for a term of imprisonment which shall not be less than six months but which may extend to five years and shall also be liable to fine which shall not be less than ten thousand rupees.

Section 137. (Punishment for receiving stolen property): Whoever, dishonestly receives any stolen electric line or material knowing or having reasons to believe the same to be stolen property, shall be punishable with imprisonment of either description for a term which may extend to three years or with fine or with both.

Section 151. (Cognizance of offences): No court shall take cognizance of an offence punishable under this Act except upon a complaint in writing made by Appropriate Government or Appropriate Commission or any of their officer authorized by them or a Chief Electrical Inspector or an Electrical Inspector or licensee or the generating company, as the case may be, for this purpose. 1 [Provided that the court may also take cognizance of an offence punishable under this Act upon a report of a police officer filed under section 173 of the Code of Criminal Procedure, 1973:

Provided further that a special court constituted under section 153 shall be competent to take cognizance of an offence without the accused being committed to it for trial.] 2[151A. For the purposes of investigation of an offence punishable under this Act, the police officer shall have all the powers as provided in Chapter XII of the Code of Criminal Procedure, 1973. 151B. Notwithstanding anything contained in the Code of Criminal Procedure, 1973, an offence punishable under sections 135 to 140 or section 150 shall be cognizable and non-bailable.

Section 152. (Compounding of offences): --- (1) Notwithstanding anything contained in the Code of Criminal Procedure 1973, the Appropriate Government or any officer authorized by it in this behalf may accept from any consumer or person who committed or who is reasonably suspected of having committed an offence of theft of electricity punishable under this Act, a sum of money by way of compounding of the offence.

(2) On payment of the sum of money in accordance with sub-section (1), any person in custody in connection with that offence shall be set at liberty and no proceedings shall be instituted or continued against such consumer or person in any criminal court.

(3) The acceptance of the sum of money for compounding an offence in accordance with sub-section (1) by the Appropriate Government or an officer empowered in this behalf empowered in this behalf shall be deemed to amount to an acquittal within the meaning of section 300 of the Code of Criminal Procedure, 1973.

(4) The Compounding of an offence under sub-section (1) shall be allowed only once for any person or consumer.

Observation/ Experience of Lok Adalat: - The experience of working of Lok Adalat was very good and effective for me. I learn practically that how the Lok Adalat is functioning. We got the cases relating to stolen of electricity BEST department. Five officers and clerk were present before us. But most of the accused were absent on that day. The cases were registered in different Police station and therefore Police Hawaldar of different Police Station were also appeared before us. There were 67 cases put before us for amicable settlement. Out of which only 20 cases were solved and closed by the panel. Following are my observations-

1. Maximum accused were absent. Those who were present out of them some accused were not ready to settled the matter, because they did not carried a sufficient amount with them. So, we gave a next date to them for proceed their case before the regular court.
2. Less Fine amount were compromised. It means, if the obligation on accused have to pay Rs. 1Lack or 1.2 Lack, he/she is ready to pay only 25000/- to 30000/- with given different reasons like: - “मेरा आदमी मर गया है! मैं इतने पैसे कहासे लाऊ”, “ मैं बरतान मांजकर कमाती हू “, “मैं पैसे नहीं भर सकता.” Etc.
3. These cases are pending from last 3 to 4 years. And therefore, the BEST has no other option to close the matter with refund of less Fine amount.
4. All accused were from the slum areas like Sion Koliwada, Matunga Labour Camp and Dharavi. Most of them were Muslims. Most of them were illiterate, poor and illegally occupied slum area for stay.
5. Most of them habitual offender of charged u/sec. 135 of Indian Electricity Act, 2003. (Stolen Electricity).
6. Advocates had appeared in few cases only.
7. Most of the accused were confused about settlement. They were taking much time of the panel for their settlement.
8. In spite of these all observations, when I enquire about over all response for amicable settlement and withdrawn different cases were more than three hundred cases were solved.

Therefore, my opinion is that, yes, the Alternate Dispute Resolution is a good solution for decreasing the burden on Indian Courts.

Suggestions: -

1. Before submitting the case in front of panel required that both the parties settled their matter or at least they should know that for what purpose they are appearing before the

panel. Only need to do formality before the panel. It will save the time of panel, advocate and client. Then and then only the purpose of Lok Adalat will be fulfilled.

2. Some accused are habitual offender. It is required to understand by the Electricity department to find out their modus operand of stealing the electricity.
3. Under the concept of 'Welfare State' government can supply electricity in slum area either free of charge or with certain subscription. Because of which such type of cases will be reduce in future.

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POLITICS AND ITS IMPACT ON INDIAN LEGISLATIONS

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Introduction

Politics deals with getting or using the power within a particular group or organization. Politics also denotes the views or beliefs of people within society. In short, politics is a system of ideas and a state of political affairs. To understand politics and its impact on Indian Legislation, let's go by etymology and understand the meaning of the terms politics and Legislation. English politics has its roots in the name of Aristotle's classified work 'Politika,' which introduced the Greek term politika -meaning 'affairs of the cities.' In the mid of 15th Century, Aristotle's Composition was rendered as 'Polettique,' which would become politics in modern English. If we refer to Wikipedia, 'politics' is the activities associated with making decisions in groups or other forms of power relations among individuals, such as distributing resources or status. Political science is the branch of social science that studies politics and government. Oxford Learners Dictionary defines politics as the activities involved in getting and using power in public life and being able to influence decisions that affect a country or a society.

Legislation is derived from two Latin words – 'legis' meaning Law, and 'latum' meaning to make, put, or to set. Legislation means making or setting Laws. Salmond defines Legislation as "That source of Law, which consists of the Declaration of Legal rules by a competent authority" when used in the broader sense, the term includes all methods of law-making. Still, when used in a strict sense – Legislation is the laying down legal rules by a sovereign or subordinate legislator. According to Gray, Legislation means "the formal utterance of the legislative organs of the society."

Legislation can be:

1. Law itself, and
2. Process of Law making

To understand politics and its impact on Indian Legislation, we need to understand the second aspect of Legislation, the 'process of law making.' Legislatures do the Process of law-making in India, that is, Parliament and State Assemblies/ Council. The Process of law-making is broadly divided into five steps. In 1st step identifies the need for a law or an amendment of a particular Law. The said identification is made by the Government or citizen groups who can raise awareness. In 2nd step, a Drafting of the proposed law is done, which is called a 'Bill '. The Bill is circulated among other ministries for input, and even comments from the public may be sought. Then the Bill is checked by the Law Ministry and presented to the Cabinet for approval. In 3rd step, the Bill goes under three readings. Once it gets Cabinet approval, it is introduced in Parliament. After 3rd reading and the Bill undergoing the scrutiny of various Parliamentary Committees (Standing /Joint), the Bill is discussed on the floor. Then the house votes on the Bill. In 4th step, once both houses of Parliament pass the Bill, it is presented to the President for assent. In the 5th step, after President gives acceptance, the Bill is notified as an "Act ". Subsequently, the Bill is brought into force, and rules and regulations to implement the Act/Statute are the framework by the concerned ministry and tabled in Parliament.

If we see this law-making process carefully, we can understand that the significant part of an executive responsible for the implementation/execution of Acts/Statutes made by the Parliament itself is the crucial part of the Legislature (Parliament/State Assemblies/Councils). The separation of powers is opaque here. For the free and fair working of democracy, three pillars of it (Executive, Legislature, and Judiciary) shall be independent, irreplaceable, and

interfered with. However, there could be limited means of checks and balances to keep control and put one another in their domain. Here we need to make a watertight compartment for the Executive and Legislature.

The research author has assessed ten different legislations and the impact of politics on them in this research paper.

1. Politics and unfulfilled dream of Uniform Civil Code:

The UCC refers to a standard set of laws governing personal matters such as marriage, divorce, adoption, inheritance, and succession for all citizens, irrespective of religion. Implementing a uniform civil code across the nation is one of the contentious promises pursued by the BJP. Currently, the personal laws of various communities are governed by their religious scriptures. It is a crucial issue that remains disputed by India's political left wing, Muslim groups, and other conservative religious groups and sects. Article 44 of the Constitution says, "The State shall endeavour to secure for the citizens a uniform civil code throughout the territory of India." Many political leaders have backed the UCC, saying it will bring equality to the country. However, some parties, including the All-India Muslim Personal Law Board, have termed it "an unconstitutional and anti-minorities move." There are different laws of different religions. Following India's independence, Hindu code bills were introduced, which essentially codified and reformed personal laws in various sects among Indian religions like Buddhists, Hindus, Jains, and Sikhs while exempting Christians, Jews, Muslims, and Parsis, being identified as distinct communities from Hindus.

In 1947, UCC was sought to be enshrined in the Constitution of India as a fundamental right by Minoo Masani, Hansa Mehta, Amrit Kaur, and Dr. B.R. Ambedkar. The Constitution Assembly debated UCC in 1948. Article 44 was placed in Part four of the Indian Constitution, i.e., Directive Principles of State Policy, due to politics and pressure

of Hindu orthodox and Muslim conservatives. Since then, UCC has remained very sensitive and controversial. From Constituent Assembly debates to date, UCC has fallen prey to politics.

2. Politics and anti-defection law: No entry!

Indian Politics has always witnessed multi-party national and regional cultures bejeweled by various ideologies. It has also seen several political defections and major and minor political turmoil. How could the politicians stay behind by not enforcing laws to control such political uncertainties? They brought the Legislation to deal with the situation. In 1967, an MLA from Haryana, Gaya Lal, changed his party thrice on the same day. "Aaya Ram Gaya Ram" became a famous phrase in Indian Politics after this. It became a common practice to switch political parties across States which brought down state governments from their power. This raised concerns in the Lok Sabha, and a committee was set up under Y B Chavan to assess the problem. The Chavan Committee recommended that if a legislator changes party for monetary gains, they should be excluded from the Parliament and be barred from contesting elections for some time. The anti-defection law was introduced to prevent such floor choosing and was therefore inaugurated under Rajiv Gandhi's rule through the 52nd Amendment. In 1992, the Tenth Schedule was brought to the Constitution. In 2003, through the 91st Amendment, the anti-defection law was made more effective in dealing with regular defection. It deleted the provisions that protected legislators in case of a split in the party. It also stated that any legislator disqualified under Tenth Schedule would also be disqualified from the executive or ministerial post. In this way, Legislation is placed to control politics.

3. Politics over NJAC (National Judicial Appointment Commission) – Yes, My Lord!

In August 2014, Parliament passed the Constitution (99th Amendment) Act, 2014, along with the National Judicial Appointments Commission (NJAC) Act, 2014, providing for the creation of an independent commission to appoint judges to the Supreme Court and high courts to replace the collegium system. The two Bills were ratified by the required number of State Legislatures and got the President's assent on December 31st, 2014. The composition of NJAC was such that it gave place for the Government's voice in appointing Judges from the higher judiciary. The Act empowered any two members of the NJAC to veto a recommendation if they disagreed with it. In the collegium system, on the other hand, a group of the senior-most judges makes appointments to the higher judiciary. This system has been operational for nearly three decades. Before this, the President's seal appointed judges in consultation with other judges if they deemed fit. The collegium system was born out of years of friction between the judiciary and the executive. This hostility was exceeded by court-packing (the practice of changing the composition of judges in a court), mass transfer of high court judges, and two supersessions to the office of the CJI in the 1970s. This led to the politics of supremacy – who is mightier than the other 'Judiciary' or 'Legislature-Parliament'? In early 2015, the Supreme Court Advocates-on-Record Association (SCAORA) filed a plea challenging the Act and contended that the Act was "unconstitutional" and "invalid." It stated that the Amendment "severely" damaged the basic structure of the Constitution, of which the independence of the judiciary in appointing judges of the higher judiciary was an integral part. In 2015, the five-judge bench ruled, with a 4:1 majority, that the NJAC was "unconstitutional" and violated the "basic structure of the constitution." To conclude, there was politics behind NJAC Legislation.

4. Politics, Corporate Funding and Electoral Bonds; Sale!

Electoral Bonds would have a life of only 15 days, during which they can be used for donating only to the political parties registered under section 29A of the Representation of the Peoples Act, 1951, and which secured not less than one percent of the votes polled in the last general election. The Electoral Bond Scheme (EBS), announced in the 2017 Union Budget, was notified by the Central Government in 2018. These bonds can be purchased from select SBI branches by any Indian person or corporation incorporated in India under the scheme. Electoral bonds introduced a new form of anonymity to thousands of crores of donations by reducing public and legislative oversight: For example, only the ruling party via the SBI has a complete account of all donations being made via electoral bonds. The impact of anonymity is that it dilutes the one voter-one vote principle because electoral bonds give political power to companies, wealthy individual donors, and foreign entities to influence public policies. This is the worst example of how politics can profoundly impact legislation to mould it for monetary gain.

5. Politics and Triple Talaq – Three Cheers!

The Muslim Women (Protection of Rights on Marriage) Act 2019 declares the instant divorce granted by the pronouncement of talaq three times as void and illegal. It provides imprisonment for up to 3 years and a fine to the husband who practiced instant Triple Talaq. The said legislation might have taken place in pursuit of SC Judgement in Shayra Banu Vs. UOI has been treated as BJP's masterstroke by placing politics underneath. The BJP got a significant political and ideological victory over forces that the party had dubbed as 'pseudo-secular' and which it has accused of practicing appeasement politics. The opposition to the triple talaq legislation has been couched in technical issues, the main argument being that it brings under criminal law a marital problem, which has otherwise been dealt with in civil law. If the opposition parties opposed the triple talaq bill, they would be branded anti-women and, more importantly, be accused of indulging

in Muslim appeasement. If they backed the law, the opposition would only end up playing into the hands of the government and taking forward the ruling party's ideological agenda. These opposition leaders say that it is also meant to convey the BJP's commitment to bringing in a uniform civil code as the legislative step has implications for the personal laws of the Muslim community. Thus, the landmark triple-talaq legislation certainly has profound political implications.

6. Politics and Shah Bano Judgement – hardliners ki jay ho!

The Supreme Court upheld the right to alimony to Muslim Women in the case of Shah Bano Vs. Khan, the judgment ignited a political controversy regarding the claim of judicial overreach in the circumstances attached to Muslim personal law. The historic decision did not go well within the Muslim community. Rajiv Gandhi, the then PM of India, succumbed to the pressure of Muslim hardliners. The Muslim hardliners pushed the then Rajiv Gandhi government, elected in 1984, to pass the Muslim Women (Protection on Divorce Act), 1986. This law overturned the Supreme Court's verdict in the Shah Bano case. The Act diluted the Supreme Court judgment and allowed maintenance to a divorced Muslim woman only during iddat or till 90 days after the divorce. The said Act virtually pitted women's rights against the rights of a religious group, and the latter, with their street veto power, was capable of enforcing the law will over a weak, minority-appeasing government led by Rajiv Gandhi. This is the way politics can have a profound impact on legislation.

7. Politics and Women's Reservation: awaited pink Resolution...

Women's Reservation Bill, awaiting passage for 26 years, must be a joint venture by all political parties to ensure the same. The 108th Constitution Amendment Bill, popularly known as the Women's Reservation Bill, was first introduced in 1996. The Bill pushed

for 33% reservation in all Lok Sabha and stated legislative assemblies for women. – So far, the Bill has managed only to get the assent of the Rajya Sabha while it remains pending in the Lok Sabha. It is pointed out that mandatory reservations for women in Panchayats and Local Bodies facilitated the entry of lakhs of women into the political arena of cities and villages. This positive experience needs to be strengthened and extended further. Opponents argue that it would perpetuate the unequal status of women since they would not be perceived to be competing on merit. They also contend that this policy diverts attention from the more significant issues of electoral reform, such as the criminalization of politics and internal party democracy. One of the convincing arguments placed by the critics is that the Bill if passed as Law, would cause pseudo-women's political representation as the husbands, the pretext that wives would hold ultimate power in politics. Due to politics, there have been four unsuccessful attempts to bring a women's reservation Bill in Parliament; twice the copies of the Bill were snatched and torn in the House. Though the current Central Government has been in the full majority since 2014, no sign of the passing of the Bill is visible, and it shows a lack of political willingness to cause gender equality.

8. Farm Bills, 2020 and Politics – protests ruined profits!

In September 2020, the President of India gave his assent to the three 'Agriculture Bills' earlier passed by the Indian Parliament. These Farm Acts are as follows:

- A. Farmers' Produce Trade and Commerce (Promotion and Facilitation) Act, 2020,
 - B. Farmers (Empowerment and Protection) Agreement on Price Assurance and Farm Services Act, 2020;
 - C. Essential Commodities (Amendment) Act, 2020
- Farm Bill 2020 provides an alternative platform for farmers to sell their produce in the open market.

They can earn profit from the sale of crop at a higher price. There will be no APMC market fee or cess on transactions for such business areas. APMC will continue its functioning. The Bill empowers farmers to sell their goods directly from the farm to the corporate or exporters in bulk. The MSP-based procurement system will restart, and farmers can sell their crop products in the mandi at the existing MSP. The government has introduced these agricultural bills for structural reforms in the farming sector to boost the farm sector and double the farmers' income. The farmer fears ending the currently running MSP system for his produce as the New Farm Bill 2020 opens the way for farmers to sell their produce in the open market and fix prices based on their understanding between corporate and farmer. Farmers also fear large retail traders and corporate money may dominate the agricultural sector. Thousands of farmers from Punjab, Haryana, and various states had blocked roads to Delhi as their protest against contentious farm laws and agitated for repeal of Farm Laws. Several rounds of talks between farmer unions and the government were in vain. It was alleged by Kisan Morcha more than 400 farmers died during the protests. The Central Government has withdrawn the Farm Laws, but politics ruined farmers' profits.

9. Maratha Reservation and Politics in Maharashtra.

Marathas are 32% in the state population. To please them and to rule on the Vote bank, almost every government in Maharashtra promised Maratha reservation in the educational and employment sector. In 2017, the state government established the Maharashtra State Backward Class Commission, chaired by Justice Gaikwad, which recommended 12% and 13% reservation for Marathas; accordingly, the state passed the Socially and Educationally Backward Classes Act (SEBC Act, 2018). The Act exceeds the recommended quotas, granting 16% reservation for Marathas. The constitutional validity of the Act was challenged. The Bombay High Court upheld the validity of the

Act and held that the Act should not prescribe reservations exceeding the Commission's recommended 12% and 13%. The matter was appealed in SC, and it was held that the 50% limit laid by Indra Sawny on reservations should not be reconsidered. The Gaikwad Commission, the Bombay HC judgment, and the SEBC Act all fail to lay out an 'extraordinary situation' to fall within the exception to this limit. So, the SEBC Act is struck down insofar as it identifies and grants reservations to Marathas. Hence a decisive judgment came from SC to answer the politics and reservations!

10. Politics and Citizenship Amendment Act of 2019

The CAA amended the Citizenship Act 1955 by providing a pathway to Indian citizenship for persecuted religious minorities from Afghanistan, Bangladesh, and Pakistan who are Hindus, Buddhists, Sikhs, Parsis, Jains, and Jews, arrived in India before the end of December 2014. The law does not grant such eligibility to Muslims from these countries. The act was the first time religion had been overtly used as a criterion for citizenship under Indian Law and attracted global criticism. The amendment has been criticized as discriminating based on religion, notably excluding Muslims. Critics express concerns that the bill would be used, along with the (NRC), to render many Muslim citizens stateless, as they may be unable to meet stringent birth or identity proof requirements. The Indian government said that since Pakistan, Afghanistan, and Bangladesh have Islam as their state religion, it is therefore "unlikely" that Muslims would "face religious persecution." This is highly politicized legislation to date in India.

Conclusion and Suggestions:

This research paper explores the profound impact of Politics on Legislation in India. The effect could be divided into positive and negative, permanent and temporary, significant and detrimental, constructive and destructive, progressive and regressive, etc. Various Indian

Legislations have been tested and verified on the litmus test of their respective inception, ideological base, religious philosophy, nationalism, and changing societal needs by this research author. While conclusion, it can be stated that the political majority decides the 'Legislations' in a given time and set up of Society. So through all times, societies, and polities, Politics has profoundly impacted Legislation and shaped and reshaped it constantly.

This research author would like to make following suggestions,

- It's a myth or illusion to say that the largest elected ruling party in power holds a public mandate and reflects the people's will if we compare the total number of voters and the actual number of people who do cast a vote and even the percentage of votes the winning candidate gets. So, we cannot say that majority in power knows the best public policy and can make the best Laws. The legislation does carry the impact of political ideologies of the political party in the majority.
- We are exercising zero evidence-based legislation method; we need to explore a robust way to avoid the misuse of hastily drafted legislation for political gains.
- It is suggested that the PM and CM and their Council of Ministers are very much executive branches though belonging to a vital part of the Legislature. This could be addressed to get a lesser impact of politics over Legislation.
- We are suffering from the inadequacy of 'pre-legislative thought', we have to institutionalize a uniform framework to assess the impact of laws both before and after their enactment.

- The much-needed framework of Legislative impact assessment shall be placed to look for both desired and ancillary impacts to reduce the political impact on the Legislation in India.

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EFFECTS OF AUTOMOBILES ON ENVIRONMENT

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Introduction

Human beings need environment. Environment does not need us. They are not dependent on us for their existence. But our existence is totally dependent on our environment. We can only pollute, degrade and damage environment but we can not keep our environment in the same degraded manner in future time because earth has the capacity to regenerate itself. Long centuries back different kinds of animals were living on this planet before that asteroid falling on this earth. We all are aware about this theory that life was completely extinct because of that incident. Later on different kinds of species came into existence through evolution and adaptation. We must learn one lesson from that incident that no matter what happen to this planet it will regenerate itself in few thousands years. But we can not do the same. So when we are polluting, degrading and damaging our environment we are in reality damaging ourselves and creating dangerous situations for our future generations. Human beings can not live without natural environment but not vice versa.

There are two types of activities which affects environment weather, and climate. They are natural activities and man made activities. Man made activities are also known as anthropogenic activities. Transportation or automobile sector comes under the anthropogenic activities which is negatively affecting the climate and results in global warming. We should plan a comprehensive programme for the prevention and control of air pollution through automobiles. We should lay down new standards for emission of air pollutants into the atmosphere from automobiles.

Life forms emerged on this earth so many lakhs of years ago because of atmospheric oxygen O₂ and stratospheric ozone O₃. Oxygen was essential condition for breathing of different beings and ozone was necessary for the protection against solar ultraviolet rays. But now a days we are polluting oxygen which we breath as well as we are also damaging ozone layer which protects us from UV rays by production of carbon dioxide from different anthropogenic activities specially automobile sector and transportation which results in air pollution, ozone depletion, global warming, climate change, green house gas effect, melting of glaciers, rise of sea water level etc. Man made activities like industrialization, transportation, technological

advancement, agriculture, mining etc. have disturbed the natural balance of our environment. Desire to have a better living standards in terms of material comforts leads to various types of problems like rise in temperature, low agricultural productivity, loss of ecosystem & biodiversity, deforestation, rise in sea level uncontrolled exploitation of natural resources and various adverse effects on human health.

Environmental Degradation

Man is surrounded by biotic and abiotic components together known as environment. Environment degradation means damaging, demolition or deterioration of natural environment through depletion of natural resources such as air, water and soil. The term also includes destruction of ecosystem and extinction of animal life. An automobile is a self-propelled motor vehicle intended for passenger transportation on land. It usually has four wheels and an internal combustion engine fueled most often by gasoline, a liquid petroleum product. Economic development is need of the hour because human beings wants better standard of living. Better materialistic life style resulted in multiplication of needs and wants and these have accelerated the pace of development to the extent of depletion of natural resources. In the name of development humans have damage the life supporting system of human biology and nature's ecology. The limited natural resources and unlimited human wants have disturb the natural balance between the environment and development. Using automobiles and transportation is also result of human wants. For some people use it for their basic needs, some use it for economic gain and some use it for status symbol. Uncontrollable and irrational use of automobiles and transportation adversely affects our natural environment. Effects of automobiles on environment is the main topic of the present research work. Environmental problems since last four decades have become a matter of not only national concern but of international importance. Conservation and protection of environment is essential for survival of human beings on this planet.

We can not deny the fact that developed countries are mainly responsible for most of the environmental degradation. They are industrially and technologically are advanced as compared to third world countries and therefore they negatively contributed more in various kinds of environmental pollutions. Now developed countries show their concern for environment conservation and protection. They want and try to limits the progress and development of developing countries because development by various anthropogenic activities are main cause of various environmental problems which each and every country in the world is facing right now. Their intentions are good for solving environmental issues but the ways developed countries are trying to control different environmental crisis are not proper. Developing countries need development and developed countries should help them in such a

way that development of developing countries must be sustainable. Development should not affect the needs of future generations and such development is known as sustainable development. We must fulfill the needs of the present generation without compromising the needs of the future generations. We have some obligations towards our future generations therefore we should not pollute and degrade our natural environment so that future generations can also enjoy their life happily in the same manner we are enjoying and using different natural resources like clean air, pure water, fertile soil, favorable climate, healthy food etc.

Climate Change, Global Warming and Green House Gasses

Climate is the general average pattern of weather in a place over a period of years. Changes in environment are either natural or man made. Natural changes have very low impact on environment but man made changes have greater and more serious impact on the climate. Anthropogenic activities are leading to an unprecedented acceleration in climatic changes. It is predicted that earth's temperature will rise 1.5 - 4.5⁰ C. There are so many reasons for these accelerated changes. Some gasses are continuously increasing in atmosphere due to human activities such as fossil fuel burning, automobiles, deforestation etc. If these emissions rise continuously in the atmosphere then definitely there will be substantial changes in the climate. Because of climate change global warming is increasing. Global warming is dependent upon the amount of different gasses present in our atmosphere. Now a days because of anthropogenic activities green house gasses (CO₂, SO_x, NO_x, CO, CFC_s) are releasing in atmosphere in very huge quantity. All these gasses are responsible for continuous rise in temperature. This phenomena of gradual increase in the temperature of earth's atmosphere is termed as global warming. Green house gasses such as CO, CO₂ and SO_x are responsible for climate change and these gasses release from vehicular emission or transportations or automobiles.

Today the word global warming is known to all. It is effect of anthropogenic activities. Anthropogenic activities means man made or human activities. Automobiles or transport industry is one of the main man made activities which is responsible for global warming. Global warming means increase in normal temperature of earth's surface and atmosphere is continuously increasing year by year specially after industrial revolution. Global warming results in melting of ice glaciers. Melting of glacier ice is the main cause of high sea water levels. Low altitude regions of earth get more rains and there is a danger that territorial land of some countries specially those are located in ocean in low altitude like Maldives get submerged in water after few years due to rise in sea water level. Due to high intensity of rains flash floods will also increase. Due to rise in earth's temperature those regions having low moisture in soil are not able to produce effectively and there is decrease and low agricultural

crop productivity. Because of global warming there is a change in atmospheric phenomena like changes in wind pattern, changes in weather and tornadoes, hurricanes and storms are increasing and their intensity is also increasing.

Carbon monoxide, carbon dioxide, and methane together known as greenhouse gasses. These three above green house gasses and water vapors are primarily responsible for green house gas effect. Some amount of solar radiation is released in space but due to the presence of these gasses in the atmosphere some amount of solar radiation come back to earth's land surface. Green house is a kind of phenomena that results when solar radiation is trapped in the earth surface and atmosphere due to these powerful greenhouse gasses and consequently it leads to increase in earth's temperature that ultimately results in global temperature rise, global warming, changing in weather conditions, melting of glaciers and finally rise in ocean water level that creates threat for some countries like Maldives.

Atmosphere and Air Pollution

Atmosphere is the layer of mixture of gasses that covers our entire earth. In atmosphere clean air contains approximately 78% nitrogen, 21% oxygen and remaining 1% consists mixture of gasses like carbon dioxide, argon, helium, nitrous oxide etc. Without the atmosphere, there would be no clouds, winds or storms and hence no weather. Without the atmosphere life would be impossible because it is the source of oxygen and carbon dioxide. It helps in maintaining habitat temperature on the earth. Water vapours is also present in the lower atmosphere. Its amount is very small in the atmosphere but its importance is very great because without water vapours there would be no water on this earth. If air gets polluted by automobiles and if we live and breath in that polluted air then we will suffer from various problems specially respiratory issues. Air pollution means undesirable changes in the air due to addition of something which is hazardous and detrimental. The degradation of air quality of natural atmospheric condition due to pollutants is known as air pollution. In India, almost about 65-70% of air pollution is resulting from vehicular emissions.

Clean and pure air in our atmosphere is very essential because of two main reasons. Firstly, all living beings breath air for respiration so we cannot imagine healthy life without clean and pure air. Secondly, air is directly related to water or precipitation or condensation. We know about water cycle that water evaporates and become gaseous and then density of huge amount of gases results in raining or water. So if air is polluted water which we will get from precipitation will also be polluted as in the case with acid rain. We also can not imagine our life without pure water. Be it a life on land or life below water both of the life forms requires normal pure water. We humans, other terrestrial animals, plants and birds almost all living

beings consume water in some way or another. In this way air and water is related. But those anthropogenic activities specially automobiles are affecting air and water very badly.

Air Pollutants and Its Effects

Pollutants are those gasses or substances which are directly or indirectly responsible of different kinds of pollution because they mix and adds with other natural gasses or substances and disturb the original balance of air, water, soil etc. The air we breath all are polluted. Environmental destruction and pollution has seriously threatened the human life, health and livelihood. Automobile sectors or transport industry is responsible for release of various types of harmful gases in the atmosphere in very abundant quantity. Some of the main gasses and elements which are responsible for environmental degradation particularly pollution of air are lead Pb, carbon monoxide CO, carbon dioxide CO₂, methane CH₄, nitrogen oxides NO_x, nitrous oxide N₂O, chlorofluorocarbons CFCs, per fluorocarbons PFCs, heavy metals like zinc, chrome, copper and cadmium and particulate matters such as dust, ash etc. Among the above mentioned gasses nitrous oxide is mainly responsible for the depletion of stratospheric ozone layer which protects animal beings including us and natural vegetation from harmful effects of ultraviolet rays of the sun. Gasses like carbon monoxide, nitrogen dioxide NO₂, sulphur dioxide SO₂ and nitrogen oxides and few other chemicals are cause of acid rain. Acid rain adversely affects on agricultural crop production, forest decline, marine life, construction. We all are aware about effects of acid rain on Taj Mahal. It damaged white marbles of Taj. Acid rain is came to be called as cancer for white Taj marbles. Due to acid rain white marbles looks yellowish.

Smog is one of the pollutants which is a mixture of smoke and fog. Photochemical or Los Angeles smog is one of the types of smog which is due to the presence of oxides of nitrogen in the atmosphere, formed as a result of vehicular exhaust. It is the result of chemical reactions involving ozone, nitrogen oxide, hydrocarbons and peroxyacetyl nitrate PAN in the presence of sunlight. It irritates eyes and lings, causes cracking of rubber and extensive damage to vegetation or plant life. Tropospheric or ground level ozone is another phenomena related to air pollution. It is formed by photochemical reaction between volatile organic compounds VOCs and nitrogen oxides. Stratospheric ozone is beneficial and important for the existence of life forms on earth. But tropospheric ozone is a kind of air pollution and man made activities are responsible for this. Acid rain is another dangerous phenomena which is caused by chemical reaction among sulphur dioxide, nitrogen oxides, water and oxygen. Acid rain has many harmful effects but it greatly damages lakes, streams, wetlands and other aquatic environments. Acid rain makes water more acidic makes it not suitable for drinking and creatures and organisms living in water bodies also find difficult to survive when it becomes acidic due to acid rain. Acid rain also harm and damages natural vegetation, forests especially those at

higher elevations. It decreases essential nutrients from the soil and increases aluminium in soil which creates difficulty for plants and trees to get water from soil.

If take a look at what are the different effects of automobiles on human health then we find that ground level ozone, lead and carbon monoxide are main pollutants which are responsible for various health issues in humans. Main source of ground level ozone is vehicular exhaust and it negatively affects on lung functions leading to asthma, chronic bronchitis etc. Lead is used as anti-knocking in petrol which adversely affects on central nervous system CNS and RBCs development. Due to incomplete combustion of fossil fuels carbon monoxide is produced as a air pollutant which causes breathing problems and it also reduces oxygen carrying capacity of blood.

Environment and Law

Environment means conditions that surround someone or something. It also means the conditions and influences that affect the growth, health, progress, etc., of someone or something. Now it has been said that human beings are natural environments' worst enemy. The environment proves that all human activities are interconnected with the nature. In India The Air (Prevention and Control of Pollution) Act, 1981 controls and regulates emissions from automobiles and industrial plants. It is important to note that the term prevention in the above act refers to new sources of pollution and the term control refers to the existing sources of pollution. Law is regarded as a means of controlling human conduct. The first obligation of legal system is to eliminate the sources of pollution and secondly is to improve appropriate sanction against polluters. The problem of environmental pollution is now arriving at a dangerous proportion throughout the world and global concern is discernible to protect environment. Environmental degradation is adversely affecting on human health. Environment Protection Act 1986 is one of the most important law which come into existence after Bhopal Gas Tragedy 1984 for environment conservation and protection and to avoid industrial accidents in future.

Now environmental pollution is a global concern. In Millennium Development Goals to ensure environmental sustainability was one of the goal out of eight goals. In Sustainable Development Goals main emphasis was given to environmental related issues like to take urgent action to combat climate change and its impacts, conserve and sustainably use of the oceans, seas and marine resources for sustainable development, protect, restore and promote sustainable use of terrestrial ecosystems.

Some initiatives are taken by the authorities in last few years for reducing the negative effects of automobiles on environment like reduction of sulphur in diesel, use of clear fuel in such as

CNG compressed natural gas, implementation of Bharat Stage IV and VI also known as BS IV & VI in 2017 and 2020 respectively. In 2015 Delhi High Court declared Delhi as gas chamber because of severe condition of air. In order to bring down air pollution in Delhi state government started odd even formula in 2016 for vehicle in which on even date vehicle with even numbers are allowed on road and on odd date vehicle having odd numbers can run on the roads. In order to reduce vehicular pollution government decided jump from BS IV to VI directly. The main aim behind implementing the BS VI by Union Ministry of Transport is reducing sulphur level in air. BS VI is most advanced emission standard for automobiles. Now on board diagnostic OBD are mandatory for all vehicles. The OBD unit can find out areas of malfunction by means of default code stored on computer. Now a days electronic vehicle EV is a very good option if we want to reduce transportation's impact on climate change, air pollution, and other environmental issues. Concerned authority department can set the standards for emission of air pollutants from automobiles.

In *M.C. Mehta v Union of India (CNG Vehicle Case AIR 2002 SC 1696)* the Supreme Court observed that there is a need to maintain balance between the needs of transport and the need to protect the environment and we should try to reverse the large scale degradation that has resulted over the years. Court also recommend that we must give priority to environment over economic issues. The court also observed that “the emission norms stipulated by the Government have failed to check air pollution, which has grown to dangerous levels across the the country.”

Stockholm Declaration of 1972 was perhaps the first major attempt to conserve and protect the human environment at the international level. As a consequence of this declaration Indian Parliament inserted two articles i.e., 48A and 51A accordingly in the Constitution. In Indian constitution there are two important articles related to environment conservation and protection. Firstly, Part IV of Indian Constitution that is directive principles of state policy DPSP and it's Article 48-A goes like this that The State shall endeavor to protect and improve the environment and to safeguard the forests and wildlife of the country. Secondly, Part IV-A that is Fundamental Duties FDs and Indian citizens' seventh duty (g) goes like this that It is a duty of all citizens to protect and improve the natural environment including forests, lakes, rivers and wild life, and to have compassion for living creatures. The Auto Fuel Policy suggested by the expert committee headed by Dr. R.A. Mashelkar includes recommendations on auto fuel's quality, vehicular emission norms and its related issues for the country as a whole. It also recommended the introduction of low sulphur diesel, unleaded petrol and low-benzene gasoline in a phased manner along with the promotion of alternative fuel such as compressed natural gas. Indian government launched National Action Plan on Climate Change

NAPCC in 2008 for tackling climate change. Climate change is the result of anthropogenic activities and automobiles or transportation are one of the man made activities so in this way automobiles are also responsible for climate change phenomena along with other anthropogenic activities.

In India, Vehicular emission is controlled by the Motor Vehicle Act, 1988. The Central Government has the power to regulate the construction, equipment and maintenance of motor vehicles and trailers with respect to several matters, including emission of smoke, visible vapour, sparks, ashes, grit or oil and provisions for transportation of goods of dangerous or hazardous nature to human life , and standards for the emission of air pollution. In 1989, the Central Motor Vehicles Rules introduced nation wide emission levels for the petrol and diesel engine vehicles.

Solutions

We should promote and use alternative fuels such as CNG/LPG and electric vehicles, hybrid and battery based E-rickshaw and buses. Apart from these, we must also promote non-motorised transport like cycle rickshaw, cycle and walking. We can also use odd even formula for long time. Public transport system should be encouraged like metro, bus, local train, etc. because it reduces our dependency on private vehicles. Good quality urban roads and flyover projects should be made because dedicated bus lanes reduce congestion and hence emission can be reduced. Tree plantation should be encouraged and practiced by everybody because it reduces carbon dioxide and other harmful pollutants. Public awareness should be spread and people should be educated regarding pollution by automobiles so that it can be reduced to a significant level. Strict laws should be made related to automobiles and must be implemented effectively as well.

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PROBLEMS FACED BY REFUGEES IN INDIA

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A refugee is a person who is compelled to leave their country due to violence, conflict or persecution. A refugee fears that they will be persecuted because of their ethnicity, religion, nationality, political views or participation in a particular social group. They are not able to return their home or are afraid to return home. Refugee influx in India started during partition of India in 1947.

There are many Pakistani refugees in India since 1947. In 1959 many refugees from Tibet came to India when Dalai Lama and his 100,000 followers were being persecuted by Chinese authorities. India also gave shelter to Chakma and Hajong in 1960. They were relocated in Arunachal Pradesh between 1964 and 1969. Many Bangladeshi Refugees have settled in Kolkata. In 1980 many Tamil Refugees from Sri Lanka settled in Tamil Nadu. In 2022 Rohingya refugees from Myanmar settled in India. India has been providing shelter to many refugees although without having any strategy for Refugees. India is not a signatory to the 1951 Refugee Convention nor its 1967 Protocol on the Status of Refugees. Since refugee law does not exist in India there is no uniformity in the treatment of refugees in the country. Then how do we handle refugees in India under legislative framework? All foreigners, illegal immigrants, refugees/ asylum seekers or those who overstay with visa permits are treated under Foreigners Act of 1946. Under section 3, the central government can detect, detain and deport illegal foreign Nationals. Under section 5 of Passport (Entry into India) Act 1920, authorities can remove an illegal foreigner by force under Article 258(1) of Constitution of India. There is also Registration of Foreigners Act of 1939, under this there is mandatory requirement under which all foreign nationals (excluding overseas citizens of India) visiting India on a long term visa (more than 180 days) is required to register themselves with a Registration officer within 14 days of arriving in India. Citizenship Act 1955, provides for renunciation, termination and deprivation of citizenship.

Citizenship Amendment Act 2019 (CAA), provides citizenship only to Hindu, Christian, Jain, Parsi, Sikh and Buddhist immigrants persecuted in Bangladesh, Pakistan and Afghanistan. India has also issued a Standard Operating Procedure to be followed by all concerned agencies while dealing with foreign nationals who claim to be refugees. The Constitution of India also respects the life, liberty, and dignity of human beings. India is very reluctant to sign 1951 Refugee Convention as refugees are defined as people who have been deprived of their civil

and political Rights but not their economic rights. Many countries feel that if economic rights are given to refugee's government of country will be burdened economically.

India also feels that 1951 convention is mostly Eurocentric and does not bother about South Asian Countries. Also it will affect India's safety and home laws. The constitution of India also confers on them Right to life, liberty, Dignity of human beings. Most of the times various nations try to protect their own citizens and much importance is not given to refugees. Local residents refuse to treat them well and they are afraid and feel insecure. There is physical and emotional exploitation by the local residents since they are not citizens of India. Basic necessities of life such as food, shelter and employment are not provided to them and privileges are also not conferred. Policy that India has adopted for protecting refugees is an ad-hoc administrative policy on refugees. Many times refugees are not aware about their rights. Since there are better economic opportunities in India, many people from neighbouring countries have immigrated to India illegally.

Refugees also face lots of difficulties while obtaining refugee card . Refugee card is issued to refugees by United Nations High Commissioner for refugees . Process involved in this is that of refugee status determination process. This process takes at least 20 months for evaluation .During this period refugee is arrested , detained and deported without access to UNHCR.

What then are the solutions to the problems faced by refugees in India. We should include refugees as a part of our community and provide them emotional support. We must understand that they are refugees because they are victims of Human Rights violations. Political, Economic, social rights are not conferred to them. If any women or child refugee faces violence and harassment by authorities or local residents, they should be protected by the courts of our country under the provisions of Fundamental Duties enshrined in our constitution. Temporary livelihood and shelter should be provided to them. Orders should be given to the authorities that they should not be shot at sight. Health facilities should be provided to them. Education should be provided to them. Refugees with special needs also need to be looked after. Procedures for determining status of Refugees should be made easy and equitable and effective. We also need to enact special legislation meant to protect specifically refugees.

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THE EFFECTS OF AUTOMOBILE ON THE ENVIRONMENT

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Cars are essentials to everyone's life, but they cause so much damage to the environment. Car pollutants cause immediate & long-term effects on the environment. Car exhausts emit a wide range of gases and solid matter causing global warming, acid rain and harming the environment and human health.

Air pollution may be described as contamination of the atmosphere by gaseous, liquid and solid wastes or by-products that can danger human health and welfare of plants and animals, attacks materials, reduce visibility and produce undesirable orders. Although some pollutants are released by natural sources like volcanoes, coniferous forests and hot springs, the effect of this pollution is very less as compared to that caused by emission from industrial sources power and heat generations. waste disposal the operation of internal combustion engines .Fuel combustion is the largest contributor to air pollutant emissions, caused by man, with stationary and mobile sources.

Automobiles affect the environment in many ways. Impacts begin when a vehicle is manufactured the production of all the parts and materials that go into and end with its scarp page in a junkyard can recycle many parts but as involves the disposal of over the life of an average motor vehicle, however, much of the environment damage occurs during driving and is greatly associated with fuel consumption .Over the dozen or so years of the vehicles life nearly 90% of life cycle (Cradle to grave)greenhouse gas production for a typical automobile is due to fuel consumption.

Most of the environment impact associated with motor vehicles occurs when they are used due to pollution in their exhaust and pollution associated with supplying the fuel. In some areas, various alternative fuels are being introduced but these are not widely available for the most drivers when gasoline, diesel or no other fuels are burned in car engines, combustion is never perfect and so mix of hazardous pollutants comes out the tailpipe.

Automobile in 21st century –

Automobiles have become a primary and major foundation of mass transportation in the 21st century. Everything about our society and culture has developed around this essential form of transportation. The automobile has a significant impact on different aspects of life with the increased production of automobiles people demand improvements in the roads should be paved for the purpose of creating better condition of driving. The local and state government also formulated regulation to protect citizens and control traffic. In fact a huge development occurred in cities with the increased use of automobile.

Effect of Automobiles On Common People –

In the later half of 21st century, both sexes male and female have become more similar in their usage and access to cars. One of the major elements influencing the increasing demand of automobiles, particularly cars is income. Although income is not the only influence that shapes the norms of modern society it seems that it is their dominant factor.

Toxic substances such as carbon dioxide and carbon monoxide are emitted when fuels such as gasoline and diesel oil are burned in automobiles. These substances cause a variety of environmental problems such as air pollution and global warming.

1) Air , Soil & Water –

The effects of car pollution are widespread, affecting air, soil and water quality. Nitrous oxide contributes to the depletion of the ozone layer, which shields earth from harmful ultraviolet radiation from the sun. Sulphur dioxide and nitrogen dioxide mix with rainwater to create acid rain, which damages crops, forests and other vegetation and buildings. Oil and fuel spills from cars and trucks seep into the soil near highways and discarded fuel and particulates from vehicle emissions contaminate lakes, rivers.

2) Human Health –

Particulate matter hydrocarbons, carbon monoxide other car pollutants harm human health, Diesel engines emit high levels of particulate matter, which is airborne particles of soot and metal. These cause skin and eye irritation and allergies and very fine particles lodge deep in lungs, where they cause respiratory problems. Ozone inflames lungs, causing chest pains and coughing and making it difficult to breathe. Carbon monoxide, another exhaust gas, is particularly

dangerous to infants and people suffering from heart disease because it interferes with the blood's ability to transport oxygen. Noise from cars is also harmful, hearing and causing psychological ill health.

❖ Reducing Car Pollution –

There are several ways that car and truck owners can reduce the effects of car pollutants on the environment. Old and poorly maintained vehicles cause most pollution from cars, but electric hybrid and other clean fuel efficient cars have a reduced impact. When buying a new car, check the fuel economy and environment label. High ratings mean low pollution levels. Maximize fuel economy by removing all unneeded items such as roof racks, driving steadily rather than accelerating quickly and breaking hard. Keep your vehicle well maintained with regular tune-ups and tyre checks and leave the car at home whenever you can walk, bike and use public transportation when possible.

◆ Leaving Green-

Leaving Green is a life style requiring a combined individual and community effort to promote a healthy natural environment that can sustain future generations. By using energy star efficient appliances, planting trees, buying local organic products, creating community gardens and parks, reusing materials, participating in recycling programs and using green energy such as hydro-solar and wind power, pollution can be significantly reduced.

Individual action such as properly insulating a home, walking and riding a bike, car pooling and turning off lights in rooms that aren't in use will also reduce air pollution.

Cyber Crime: Threat to Society

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Introduction:

India has always been referred to as a developing nation but as the technological advancements are taking hype our country is nowhere behind in the race. Internet access has become anybody's cup of tea so also anything that human wishes to fetch can look for on the internet.

Where there is human there definitely is crime present. But are there really any crimes related to the cyber web. Can a knowledge providing handle be this risky or scary when it comes to the safety and protection of the users?

In the early 90's the resources were not at that strength that it would lead to a direct commission of any particular crime, but as this web have gotten a massive spread, the range of commission of the crimes has also raised.

There are no any gender oriented victims, males females at a particular strain are all getting affected by the cyber-crimes. Also the flow chart if created any will always have an extra column to add a new cyber-crime to the list. Human brain really can't be challenged when it comes to having a new and improved version of anything that also includes crimes and offences for those matter cyber-crimes. Every other minute a person is getting fished, bugged, hacked or being a victim of such a cyber-threat new to that person and new to the whole cyber system itself.

Where there is a problem there is a solution. But are these solutions enough to deal with the current situation? Is what the matter to be scrutinized. Being sceptical about this issue I personally feel that the ratio of the crimes is increasing day by day and it's high time to consider this newly emerged threat and try to curb the issue as early as possible.

The following points will help to understand the point in detail.

What do you mean by cybercrime?

An offence committed by the means of computer or cell phone or any device device, technologically advanced, fully equipped and also having internet support. But is it only the basic requirement to commit the offence? No!! It's not any basic device is also useful and can be used to commit an equally grave of an offence.

Cyber-crime-an expanded definition.

Any such activity or an act that leads to sexual assault, phishing, hacking, virus, bugs, including threats to people any other devices via any single or multiple devices is all covered under the cyber-crime.

Sharing, sending, broadcasting any illicit, obscene image, videography, photograph, recording without the consent of the receiving party, with pure men's rea, which further leads to not just degrading the modesty of women but all the genders available and to the society at large?

Bugging, phishing is associated with the type of hacking like money or account of the device holder or account holder. Mostly these bugs are designed to act as viruses and corrupt the data of the other device to which it is transmitted. N number of styles can be formulated to develop such viruses and bugs to create a chaotic situation.

It's not safe to say that highly secured data and devices don't get bugged, it's a technological advancement and any particular system can get destroyed within seconds by accessing such corrupt data or bugs.

Our nation is getting highly digitalized in every other minute on the clock to be literal. After demonetization as an up gradation new improved and high-tech systems of money transfers were introduced to the public for safe any easy transfer of money referred to with the popular name "cashless transaction". It's again not any secured and safe method compared to our old-school pattern of hard cash dealings. Also, the banking servers are not always a good friend and that leads to chaotic situation sometimes, which you never know can turn into offence.

Other kinds of offences that are associated with the cyber crime are copying of any data which is uncensored or on permitted. Causing a threat to the government and nation by utilizing all the available methods to put the highly important data into unsecured and share with all mode that can lead to big of a dangerous situation for nation as whole.

Who can be referred to as offenders or cyber-criminals?

The answer is really very easy. Any person who commits any of the acts from the above provided list can be called a cybercriminal. Widely this term is referred to a person who is

efficient at using his tech skills to do all malicious and illegal activities. Not any particular individual joint-offenders, collective criminal intention holders are all incorporated under the scope.

Trading illegal content online or scammers, drug dealers are all a part of cyber-criminals.

Some cyber-criminals are

1. Black hat hackers
2. Cyber-stalkers
3. Cyber terrorists
4. Scammers etc.....¹

How are cyber-crimes actually committed?

These offenders target the vulnerable areas in the tech region. Mostly low-quality data protection un secured transactions are the major reason for falling prey to such cyber-attacks. Easy to hack and destroy is the key to such offences.

Sexual assaults like sexting, trolling, pornographic data sharing and more such acts are also increasing due to the ease of technological advancements to reach the society at large.

In reality if we be skeptical to seek the reason behind commission of such offences the intention and criminal mind has just got a new platform. To put it in much easier way the thought hasn't changed just the mode and method got "updated".

Why do these cyber-crimes happen?

To be precise the reason is not much different from the regular commission of crimes, those same regular ways of thinking and reasons can be associated with this field of offences. A little to add, power or pleasure of having skills that can be destructfull can be an addition.

When do such acts become offence?

All the acts done in the circumscribing limits of law are legal. So also, hacking or related activities are non-offenceful if are done with legal validification or if fall under exceptions.

¹ <https://cybertalents.com/blog/what-is-cyber-crime-types-examples-and-prevention>

Oftenly to find the real offender or to fetch what is illegal, illegal becomes legal. But then again, all the information data, received is to kept secret or shall not be used for personal or any other purpose but legal.

Are cyber-crimes such a big threat to society?

Oh yes!! Because the rate of speed at which the nation or even the whole world Is getting digitalized is so high, we definitely need to work on protection and safety from such cyber threats. As the necessary information is saved in the form of soft data it is not much of a task to convert, delete or consume such data. Why and how this data if received can be used is really not though to think about but unimaginable.

All the government related information; data related to forces, security of nation and all the citizens of course needs to be secured.

Unfortunately, this kind of threat is invisible and preplan or backups are the only option. Not falling prey to such crimes is only in the hands of users.

Denying the access to unknown sites, messages, or contacts also not sharing personal and important information, being smart and careful enough to understand the threat are some of the ways to save yourself from getting victimized at the hands of the cyber-criminals.

What are the legal resources available for such cyber-crimes?

1. The Information and Technology Act, 2000 does provide a wide range of options and provisions as to protect the people from such crimes and give them justice. Multiple sections talk on various strains of the crime and what exactly the Act is in favor of is all clear in the name itself.
2. The Indian Penal Code also has made various provisions for such activities. The 2013 amendment Act introduced some this generation crimes making to list of crime against women which are a part of cyber-crimes. Penalties are also made severe to teach such criminals a good lesson and try to reduce and stop such offences from getting repeated.
3. Cyber cells are established as one stop service providers for all the victims of all types of cyber-crimes. It's really a smart move to have a separate cell as skilled people can easily find a hack against such hacks and crimes, which also will reduce the burden from the other bodies like police stations.
4. Various advertisements are also displayed and broadcasted for the regular public awareness.

List of various Cyber offences.

1. Money laundering
2. Hacking
3. Phishing
4. Scams
5. Identity theft crisis
6. Ransomware attacks
7. Internet fraud²

The above list is all related to data scams, fake accounts, messages, fraud by using personal information, non-encryption and other such activities.

Other cyber-crimes

1. Trolling
2. Stalking
3. Cyber bullying
4. Piracy
5. Social media scams
6. General recruitment frauds
7. Extortion
8. Drugs and other related scams etc.

Safety measures to prevent cyber-crimes.

- a. Be sure with an up-to-date security like antivirus.
- b. Never trust or browse the unsolicited and unknown sites.
- c. Do not download any unknown files, attachments, etc.
- d. Utilizing suitable and safe passcodes/ passwords.
- e. Always protecting the data in any way possible from such threats.

Cyber-crimes are absolutely not unknown now. The speed of the tech popularity is somewhere directly proportional to defaming the same for all the various crimes attached.

² <https://cybertalents.com/blog/what-is-cyber-crime-types-examples-and-prevention>

NEED OF INTELLECTUAL PROPERTY LAW IN TODAY'S ERA.

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Synopsis-1. Conceptual Discussion

- 2. Different kinds and regulating laws**
- 3. Benefits of Intellectual Property Right**
- 4. Positive Impact of Intellectual Property Rights in Economy**
- 5. Misuse of IPR on Indian Economy**

1. Conceptual Discussion

With the advent of the information revolution—or the third industrial revolution, skills and knowledge have become the only source of sustainable long-term competitive advantage. Intellectual property lies at the centre of the modern company's economic success or failure. From waking up on a Sleepwell mattress, having a cup of milk and Britannia bread for breakfast while watching a Samsung T.V, having a bath using Pears soap, wearing Peter England clothes, Bata shoes and a Titan watch, driving a Tata car to the office, ordering lunch from Zomato, working on a Lenovo laptop and having a Nescafe coffee in the evening, a person is engulfed with intellectual properties from dawn to dusk which he can't deny.

Intellectual property can be defined as a group of intangible assets that are owned by any individual person or an institution. The World Intellectual Property Organisation (WIPO) defines Intellectual Property Rights as “creations of the mind, inventions, literary and artistic works and symbols, names and images used in commerce”. In ancient times, a person's intellectual property was a common property that was unprotected. Anybody could copy and use the intellectual properties of a person. Even, in today's web-based environment, there is a very high risk of creative ideas getting stolen without the consent of the author. To protect, provide security and enhance the intrinsic value of such intangible properties, intellectual property rights (IPR) laws were enacted.

2. Different Kinds of Intellectual Property

2.1 Patent

A patent is an exclusive right granted to an inventor for his/her invention, which may be a product or a process that provides a new way of doing something, or offers a new technical solution to a problem. In India, the term of protection for a Patent is 20 years from the date of filing of the application and is primarily governed by the Patent Act of 1970. The primary office for patents in India is the Indian Intellectual Property Office (IPO).

2.2 Trademark

A trademark is a sign, symbol, word, or words that are legally registered or established by use as representing a company or product that is capable of distinguishing the goods or services of one enterprise from those of other enterprises. The benefits of registering a trademark include the owner being the sole and exclusive owner of the trademark, builds goodwill for the enterprise and trust among customers, helps customers to differentiate and recognize the quality of the product.

Revenue can be earned by commercially exploiting the trademark in the form of assignment, license, franchising or merchandising. In a trademark assignment complete transfer of ownership from the owner to the other party takes place. In the case of a trademark license, partial ownership is transferred to the other party while the owner enjoys ownership rights along with revenue. Franchising is when a party who is the owner, gives another party the right to market a product or service using the trademark and logo of their business. Examples of Franchising are Burger King and McDonald's. Trademark Merchandising is when a well-known trademark is allowed to be printed or used on goods that are different from its primary identification, for example, t-shirts with Coca-Cola print on them. In India, the term of protection for a trademark is 10 years from the date of application, renewable every 10 years on payment of the requisite fee and is primarily governed by the Trademarks Act, 1999.

2.3 Industrial Design

A design simply means the features of shape, pattern, ornament, configuration, the composition of lines or colours applied to a particular article whether it is in a two-dimensional or three-dimensional form or both, by any industrial process or means, whether it may be mechanical, chemical, manual, separate or combined, which in its finished article appeal to and are judged only by the eye. In India, the term of protection of

design is 10 years from the date of the application and can be extended for a further five years on payment of an extension fee and is governed by the Designs Act, 2000.

2.4 Copyright

Copyright is also known as the author's right. It is a legal term used to describe the rights that creators have over their own literary and artistic works. Works like books, music, paintings, sculptures, films, computer programs, databases, advertisements, maps and technical drawings are all covered under copyright. When an artist intentionally uses a copyrighted work of another artist and creates something new and unique by changing, building, or modifying it, it is known as appropriation art. It is considered as fair use which is an exception to copyright. The best example of appropriation art is news reporting, in which part of the original work is repeated. In India, the term of protection in the case of original literary, dramatic, musical and artistic works is the lifetime of the Author plus 60 years period is counted from the year following the death of the author and is governed by the Copyright Act, 1957.

3. Benefits of Intellectual Property Rights

- i. To protect unique ideas and creations
- ii. Accelerates business growth
- iii. Increases the market value of your business
- iv. Converts innovative ideas into profit making assets
- v. Beneficial for raising finance for your business
- vi. Strong IP protects consumers and families

4. Positive Impact of Intellectual Property Rights in Economy

A country like India which is one of the most developing economies in the world must focus on raising productivity in the market. India has always been known for outstanding services to the rest of the world. One can increase productivity by improving technology and methods. We can see and learn from developed countries like the USA and Japan in which the rate of development increased by 5 times after the implementation of Intellectual property laws. Now there are various theories that suggest that IPR has an adverse effect on the economy. In China in the 1980s, trademark infringement negatively affected Chinese innovative enterprises. The local companies started exploiting the well-established company by making counterfeited products and by launching them in the market.

In countries where copyright laws are weak pirate firms start exploiting the law and the market. Though low-quality copies or pirated copies would be available in the market the technological development would be hampered which will directly affect the economy. IPR laws should provide incentives for both the producers and consumers to invest in the market. This also assures quality, which is important for safeguarding the interests of the customers. The counterfeit or fake products of beverages, food products, cosmetics, and medicines can be hazardous to customers. After the introduction of Trade-Related Intellectual Property Rights (“TRIPS”) the market started changing. The act started to provide space for operation and opportunities to the companies for innovations. The private sector has started investing in Research and development. After the implementation of TRIPS, the number of patents filled in India has gradually increased.

5. Misuse of IPR on Economic Development

The biggest drawback of IPR is it sometimes it restricts the technology to be used in the best suitable way. The person who is holding rights sometimes misuses their rights. They can charge according to their will and because of protection under IPR that innovation cannot be used by the competitors. Competition is the most important factor for the development of an economy. The law is made for society, not vice versa. All the laws are made for the benefit and betterment of society. Every law has its positive as well as negative effects on society.

To conclude Intellectual Property Law is emerging yet the need of present day businesses and entrepreneurs to safeguard their different kinds of intellectual property.

ROLE OF UNITED NATIONS IN INTERNATIONAL WAR

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Synopsis -

- *Historical background & Establishment Of UN
- *Purpose & Principles of UN
- *Critical Analysis of Role played by UN
- *Recent case of Ukraine
- *What needs to be done -Suggestions
- *Conclusion-

Historical Background & Establishment Of UN –

The United Nations Organisation (UNO) is the global international organisation of sovereign independent states. The destruction caused by the Second World War compelled the people to establish an international organisation for keeping the world away from war and in favour of friendship and cooperation among all the nations. The UNO was designed to save the future generations from the scourge of war by promoting International peace and security.

The name “United Nations” was coined by US President Franklin Roosevelt. It was first used in the Declaration of the United Nations made on January 1, 1942. At San Francisco Conference, it was unanimously adopted as the name of the new international organization as a tribute to the late President of the United States. India had not achieved its independence by then and yet it became one of the founder members of the United Nations.

The United Nations officially came into existence on 24 October 1945, when the Charter had been ratified by China, France, the Soviet Union, the United Kingdom, the United States and by a majority of other signatories. United Nations Day is celebrated on 24 October each year.

Purpose :

The purpose of the UN are defined in Article 1 of the UN Charter as-

1. To maintain international peace and security and to take adequate steps to avert wars.
2. To develop friendly relations among nations on the basis of equality
3. To achieve international co-operation in solving international problems of an economic, social, cultural or humanitarian character.
4. To be a centre for harmonizing the actions of nations in the attainment of these common ends.

Principles of the UN:

Article 2 contains the principles.

1. All the member states are equal.
2. The member states shall fulfil their obligations to the UN honestly.
3. The member states shall settle their international disputes by peaceful means.
4. The member states shall refrain in their international relations from the threat or use of force against any other state.
5. The member states shall give to the UN every assistance in any action it takes in accordance with the UN Charter.
6. The states which are not members of the UN, should also act in accordance with these principles for the maintenance of international peace and security.
7. No member state shall interfere in the internal affairs of any other state.

Critical Analysis of Role played by United Nations:

The Second World War proved to be a devastating tragedy for all countries involved. The UN was formed with the purpose that, if further conflict arises between nations, a solution could be debated upon without the need of a war. It maintains world-wide peace and fosters, sometimes tries to forge, relationships between countries. The main reason for the creation of the UN is to maintain and to save the younger generation from war. The UN initiate war elimination through various method:

- 1) It tries to resolve issues between countries to prevent conflicts.
- 2) Its tries to maintain food and water securities to countries gripping with hunger and thirst in

the form of food aids.

- 3) Its initiate equal wealth distribution as much as possible.
- 4) Maintain human rights and raising standard of living.
- 5) Fund several organizations (part of the UN) to serve its objectives.

Whenever a problem arises, the UN tries to resolve it peacefully. In order to accomplish this, UN can:-

- Call for more people and resources.
 - Reinforce their decisions.
 - Orders for sanctions which may include an arms embargo, trade and finance restrictions.
 - The main motive to have peacekeeping is help countries torn by conflict.
 - Peacemakers were never allowed to fight. They were supposed to enact in case of ceasefire.
 - In order to have peacekeeping, the council had a common pattern. This included drafting guidelines for a specific operation but exercised little actual direction over the operation.
 - The United Nations does a number of things to try to maintain peace in the world. They can generally be categorised into three categories-
- 1) UN does what is called peacekeeping. In instances like this, it sends armed forces under its control (contributed by member nations) to separate the two sides in a conflict. The UN troops are there to prevent the sides from attacking one another while peace is negotiated.
 - 2) UN can provide or threaten collective security. In some cases, the UN will threaten military action or economic sanctions. The UN will do this to try to keep a particular country from continuing to take actions that might lead to war.
 - 3) UN does many less direct things to keep the peace. It has many agencies that are meant to promote economic and social development. These agencies try to reduce poverty and other causes of conflict. The UN also provides a forum for countries to interact with one another in hopes that the constant contacts will help encourage the countries to solve their differences peacefully.

However, the UN has several weaknesses and limitations:

- 1) It lacks adequate funds to meet all its objectives.

2) The veto power of the five permanent members of the Security Council has virtually left this powerful UN organ at the mercy of “Big-Five” i.e. USA, UK, Russia, France and China. Hence, the need is to reform the UN system from within and outside.

3) A body that was supposed to maintain cohesion among world nations so as to achieve common goals for frictionless functioning among them but failed miserably due to veto power given to five giants in UNSC (or Security Council) that impeded most of the resolutions by using the aforesaid veto.

4) Power corrupts & absolute power corrupts absolutely.

Power has its own dynamics. Power corrupts & absolute power corrupts absolutely. UNO was formed at the end of World War II by the victorious nations who kept veto power for five so called big powers.

5) The economic greed is so deeper & shameless that killing or suffering or migration or destruction of human beings or territories are just normal & part of the plan. UN is subservient to the benefits of big powers

6) The main responsibility for maintaining international peace and security is given to UN Security Council. It can take the following binding steps for international peace and security-

A. To ask the invaders to stop the war or ceasefire.

B. Impose sanctions against the countries responsible for breach of peace.

C. It may send armed forces against a nation to repel the aggression

But all these decisions can be taken by the UN Security Council only if all the five permanent members agree to it. This happens in all conflicts where all five permanent member do not agree on the binding actions. The UN has failed in preventing many such conflicts Thus, UN is what its five permanent members want to make. If one of the five permanent members uses veto in any conflict, the UN becomes useless.

7) The nations which enjoy Veto power can at anytime disobey UN. Some nations even trade their veto power to help their allies. Many of the Member States routinely flout the United Nations Charter without fear of reprisal.

8) The UN process takes considerable time to do or agree on anything, and is largely limited to diplomatic action.

9) We have to understand that UN was created by the winners of World War 2. So only they have any true stake in it. Now UN was created to restore balance to stop conflicts which it hasn't achieved to a good enough extent. So from time to time it does intervene in conflicts like in many African nations. But it also remains a silent guardian which protects the interests of its founders.

10) NATO on the other hand is a purely defensive alliance that is only allowed to defend NATO members.

It has failed to maintain peace many times. Few instances -

1. Protection to Kuwait in 1991 but poor help to Rwanda in 1997
2. Bangladesh Liberation War and the 1971 Bangladesh genocide committed by the Pakistan Army on Bangladeshis.
3. Serbian troops committed genocide against Bosnian Muslims in the largest case of mass murder on the European continent since World War II.
4. War in Darfur, in which Arab Janjaweed militias, supported by the Sudanese government, committed, repeated acts of ethnic cleansing and genocide against the indigenous population.
5. UN's inaction on Syria, more than two years after the Syrian Civil War began.
7. Handling of the Cold War.
8. Allegations of anti-Zionism and antisemitism.
9. Alleged support for Palestinian militancy
10. Sri Lanka civil war failure
11. State sponsored terrorism by Pakistan who continuously disrupting INDIA and it's neighbouring country
12. US War against Talibans & Al Queda in Afghanistan and the US-War in Iraq

Recent Ukraine Crisis –

In the ongoing Ukraine conflict, the UNSC failed to pass any of the binding resolution due to Veto used by Russia. The UN has merely passed non-binding resolutions, which Russia has not cared and UN has remained a mute spectator in the Ukraine conflict. What we are witnessing is

a war by proxy. Someone else is at war with an enemy, so, instead of sending our own people to die, we send weapons, supplies and money to give the underdog the ability to bite the big dog. The world is using Ukraine without taking any personal risk. Even if Ukraine loses, Russia has already been weakened and will be weakened even more by the time the war is over. The fact that Russia occupies a permanent seat on the UN Security Council and has veto power substantially limits the UN's ability to do anything to prevent war .

What needs to be done - Suggestions-

- 1) The need is to reform the UN system from within and outside.
- 2) The urgent need is to democratize the UN. Democracy and transparency must characterize the working of all the organs of the UN.
- 3) There has been a big increase in the members of the UN. As such, the UN Security Council needs an expansion for giving due representation to all continents and major powers of the world.
- 4) The issue of Veto Power needs to be debated and amended.
- 5) The General Assembly should be made stronger. It should be turned into a forum for consensus on important global issues.
- 6) The voice of the smaller nations should carry equal weight in all UN decisions.
- 7) The rules and practices of the UN institutions need reform in the light of past experience.
- 8) The organisation and the functioning of the Economic and Social Council and the Secretariat demand a complete over-hauling.
- 9) The UN peacekeeping role needs to be restructured technically and financially.
- 10) There is need to strengthen all the organs of UN for its better functioning.

Conclusion-

In the words of Winston Churchill, "To jaw-jaw is always better than to war-war."

It is true that powerful nations have much greater influence over the UN than smaller countries. The powerful ones twist the system to their benefit, sometimes through blatant bullying, bribery or intimidation. Often, it can seem grossly unfair. Without the UN, powerful countries would just do whatever they want. They would have to come to terms with their larger rivals, but smaller countries would simply be trampled. For all its flaws, the UN does put a brake on this.

In addition UN is focused on maintaining peace and security, other important objectives include developing friendly relations among countries based on respect for the principles of

equal rights and self-determination of peoples; achieving worldwide cooperation to solve international economic, social, cultural, and humanitarian problems; respecting and promoting human rights; and serving as a centre where countries can coordinate their actions and activities toward these various ends.

UN can't stop wars. However, that is the only forum which gives poor nations a glimpse of hope. Something is better than nothing. Till the intentions are not changed, till the respect for humanity doesn't dominate the economic benefits, till the equity, justice & fair play humanity doesn't dominate the economic benefits, till the equity, justice & fair play are not adopted as inseparable human qualities, the wars will continue & UN will continue to serve the purposes of big powers.

It isn't a broken system. Of course, it doesn't do what people hope it would do, and which they think it was set up to do. It is, and always has been, a talking shop. It provides a forum in which those open to agreement can negotiate. But it can never be the magic wand for peace that some people hope for. The UN will not be able to stop war in this world. It is up to every human being on this planet to denounce & condemn war.

Summing up, there is an urgent need for more membership in the United Nations .UN is playing an important role in the world peace and it is quite successful too because it has been able to prevent world war 3. UN has peace keeping force by which it launches the peace establishment process. UN has many humanitarian agencies such as Red Cross, WHO, UNICEF etc. With the help of these agencies UN provides help in many countries which are affected by some disturbances. There are some lacunae or deficiencies in the working of UN but this does not mean that the UN has failed to serve the international community. It has played an effective role in keeping several wars limited.

India & other deserving nations have a strong case for getting permanent memberships in the UN Security Council. UN has been contributing to the cause of preservation of world peace, security and development. The need of the hour is to introduce some reforms in the UN so that it may become more effective and fully capable of ensuring a stable, healthy and secure world order.

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