



PANJAB UNIVERSITY LAW REVIEW



LEGAL PROTECTION TO WHISTLE BLOWERS IN INDIA

EXECUTIVE LEGISLATIONS VIS-À-VIS PARLIAMENTARY
LEGISLATIONS IN INDIA: AN ANALYSIS

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LEGAL PROTECTION TO WHISTLE BLOWERS IN INDIA

Dr. Gurpreet Pannu

Abstract

Whistle-blower is the individual who without any authorisation reveals private or classified information about the corrupt practices and misconduct in an organisation. Although the term was first used to refer to the public servants who revealed governmental mismanagement, waste or corruption, it now covers the activities of any employee or officer of the organisation who alerts people about fraud, corruption or favouritism or individual profit seeking. The persons who are involved in the acts of fraud, corruption or misconduct are politically well connected and they can go to any extent to save their skin, even they kill the whistle blowers or their family members. Though Law Commission has recommended to provide protection to whistle blowers but till the date there is no such legislation

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EXECUTIVE LEGISLATIONS VIS-À-VIS PARLIAMENTARY LEGISLATIONS IN INDIA: AN ANALYSIS

Prof. (Dr.) Vandana Arora & Dr. Reena Kansal

Abstract

The law-making function is generally performed by the legislature but when our Parliament is not in session and the circumstances requires an immediate action then the Executive viz. the President and the Governor is vested with legislative power to promulgate Ordinances under Articles 123 and 213 respectively under our Constitution. This provision is meant to complement the role of Parliament when it is not in a position to enact a law. The Executive (both at the Centre and the State) has abused this power with alarming uniformity for political gains and to circumvent the Parliamentary process. A deeper examination of the manner of Ordinance making power exercised by the Executive demonstrates a casual disregard for the norms of democratic principles. The mechanism of Ordinances has in course of 75 years has become another preferred legislative arrangement. Covid-19 pandemic has added fuel to it and the Executive is using it as a cover to pass laws without debate and discussion. This research presents an overview of Parliamentary legislations vis-à-vis Presidential legislations offering a frame to assess the Executives' legislative power in Parliamentary system of governance and to create harmonious relations between two wings of Parliamentary democracy.

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PROTECTIVE DISCRIMINATION AND PRINCIPLE OF EQUALITY - BALANCING THE COMPETING INTERESTS

Prof. (Dr.) Richa

Abstract

Every democratic society faces the challenge of harmonizing two essentially contradictory political concepts - one, equality before the law (irrespective of religion, caste, creed, race, and gender), and other, social justice. Even a developed democracy like the United States is no exception to the rule and has taken recourse to ensure justice for the less privileged sections of the society. In India large number of people have experienced social discrimination through centuries on account of its peculiar institution called the caste system, efforts have been made to provide redress for these under-privileged sections, through the policy of reservations or quotas for them in jobs, seats in educational institutions and legislatures, and in governmental aid, loans, and other developmental assistance. The debate over positive discrimination in India is bitter and is increasingly finding expression in violence. But a democracy which is essentially a social contraption is neither dictated by logic nor by ethics. Social engineering is the root of democratic success which is affected through political bargaining. In India the process is on and only the future would tell whether its experiments were in the right direction or not. Social categories are neither static nor monolithic. But in India the hierarchical stratifications have by and large survived for centuries, and they continue to be politically relevant. In the given situation the policy of reservation seems to continue for an indefinite period, at least for the SC/STs. The real challenge for the State is to make the disadvantaged groups competitive by raising their standards at par with the traditionally successful upper classes.

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FARM LAWS: A BOON OR A BANE FOR INDIAN FARMERS- A CRITICAL ANALYSIS

Dr. Babita Devi Pathania & Yudh Veer Singh

Abstract

Since the hour of three disputable new landowners' notices got approved absent a lot of discussion in Parliament, individuals all around the nation are challenging these. Despite substantial battles by farmers and resistance ideological clusters the nation over, President Ram Nath Kovind gave his consent for these three agriculture bill. The new farmers' bill licenses the farmers to sell their things straightforwardly to private purchasers breaking the controlling establishment of man is regulated by the public power. Individuals get engaged to get into a lawful arrangement with organizations and produce agro-items for them. The farmers' bill India additionally permits loading of food articles by the Agri-organizations eliminating the capacity of the public authority to force self-assertively. This article has been talked about through like introduction, agriculture bills, benefits bills, critical analysis, and conclusion.

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LEGISLATIVE IMPACT ASSESSMENT

Dr. Vijay Saigal & Ishwin Kaur & Mini Gupta

Abstract

Parliament debates, reviews, and enacts Legislation. Apart from law-making, Parliament monitors the implementation of Legislation, and it evaluates whether the laws passed by it have achieved the intended outcomes or not. However, in many countries, Parliament and elected representatives have little information on what happens after a law is adopted. Their focus is often on getting the legislation passed, and only to a limited extent on checking how well it is being implemented or if it is being implemented at all. Legislative Impact Assessment thus can be used as an instrument for accountability and oversight over the executive. Further, it will help improve the quality of new legislation and policies. The present paper highlights the need and the importance of legislative impact assessment. It additionally provides the framework that can be adopted as best practices for evaluation that other countries have adopted.

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NATIONAL EDUCATION POLICY, 2020: MORE THAN EXPECTATIONS, LESS THAN REQUIREMENTS

Dr. Aditi Sharma & Mr. Ashutosh Kumar

Abstract

National Education Policy 2020 has remained the most acclaimed topic amongst educationists, students and other stake holders for its multi-dimensional coverage and focus on equitable, accessible and sustainable education for all. New Education Policy is also important because after 34 years it was felt by our Policy makers that the current Policy is not able to meet its demand and objective of international obligation under Sustainable Development Goals. To improve quality and making it more accessible, Dr. K. Kasturirangan was made Chairman of the Committee which was entrusted with responsibility to draft a comprehensive education policy with an objective to facilitate complete change in Indian Education system by 2040. It added various new things like primary education in mother language, new curriculum with importance of Anganwadi for children between age group 3-5 years old and with a policy of academic bank of credit, adding on concept in Higher Education. It has covered every aspect like importance of education in mother tongue at primary stage, concept of multilanguage and multi-disciplinary learning, research and setting up of super regulator for Higher Education. There is growing concern about how it will be helpful in terms of a meaningful career and achieving the goal envisioned in the Constitution of India as National Education Policy, 1986 emphasized on Engineering education resulting in which we had more human resources than required. This article emphasizes upon importance of other aspects like environment & legal education at primary level, gender equality, career after career and more importantly achievement of a meaningful career after getting education.

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ACCESS TO JUSTICE TO DISABLED PERSON (VISUAL IMPAIRMENT) - A SOCIO LEGAL STUDY

Dr. Nisha Dhanraj Dewani & Dr. Mamta Sharma

Abstract

A visual impairment is a global public health challenge. It has become everyday subject in the context of fundamental rights violation. In that sense, talking about these rights seems simple but implementing them in practice has been much more difficult as the people suffering from visual impairment find themselves marginalized by the society. The constitution of India provides many laws for disability in part III and IV but legal protections and the social status of persons with disability especially visual impairment fall short in three major areas i.e., achievement, access, and services. Undoubtedly, the Central Government and several state Governments have made some efforts in response to the functionality of the “Rights of Persons with Disabilities Act, 2016”, but much more need to be done. In 2017 judgement, the Supreme Court clearly defined the legislation governing accessibility and established specific standards and deadlines to meet the needs of visually disabled persons. This article deals with a just and equitable legal system that adequately protects the rights of people with disabilities, in particular to visual impairment either as victim or accused or in any other form. Additionally, it strives to promote dialogue between transnational and national legislations about initiatives taken to increase access to justice for disabled people.

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RTI AND CORRUPTION CONTROL

Dr. Balwinder Kaur & Harsimran Kaur

Abstract

It was commonly observed that when elections were on the head, the ruling party started utilizing the money of the taxpayers for their welfare i.e., they started upbrining Infrastructural advancements. Henceforth, it became necessary to make the government answerable to the citizens for their money by curbing the corrupt practices which led to the introduction of the Right to Information (Hereby known as 'RTI') Act in 2005, to make the government accountable and transparent.

Before the introduction of RTI, a culture of secrecy pertained nationwide. Therefore, a vicious or dubious deal could never be prevented though it could be criticized afterward if discovered; the passing of this Act has introduced the concept of Good Governance and has actedas a source of Empowerment of the people.

On mere submission of a fee of 10 rupees, an application can be made by an individual wherein he can ask for checks and balances of any accounts of the government. From every thin and minute information like the accounts of the cement purchased in road construction to broad and detailed information like the revenue generated from road-tax can be sought, but the requisite information must qualify as an 'information'. Further, a public information officer can't refuse to provide the information asked and is bound to reply in the specified time.

Several state information commissions have been formed under this act along with a central information commission, the members of which have powers similar to that of members of the election commission i.e., fixed tenure and salary to maintain its independence and autocracy. It was in 2019 when several amendments were made to the Act which has been well analyzed through this paper.

Hereby, the paper provides an overall analysis of how the RTI helps in combating corruption taking into its purview historical background, the filing procedure, its correlation with the right to privacy, the latest amendments along the recent case laws. In the end, the paper also presents various suggestions to prevent misuse and improve the use of the Act.

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RIGHT TO INFORMATION AND DEMOCRACY: COMPLEMENTARY TO EACH OTHER

Rajesh Kumar

Abstract

Free exchange of ideas and free debate is the symbol of democracy, which is possible only where citizens have freedom of information as a fundamental right under the supreme law of the land. Transparency in the functioning of administration is the key feature of good governance and the foundation of true democracy. Transparency opposes all types of corruption in the administration behind the curtain. RTI makes citizens capable to criticize their government for its wrong policies. Rule of Law is an important aspect of Democracy and the right to information is necessary for the proper working of the rule of law in a democratic country. Right to Information is a ground-breaking Statute in India that aims to promote transparency in the governance system. The Right to Information has developed a new legal dimension for transparency in administration. This paper highlights the relation between the Right to Information and Democracy.

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ADHERENCE TO THE PRINCIPLES OF NATURAL JUSTICE UNDER ARTICLES 14, 21 AND 22 OF THE INDIAN CONSTITUTION

Karan Godara

Abstract

Since time immemorial, natural justice has played a pivotal role in dispensing justice in civilized societies. Natural justice implies in itself the minimum fair procedure which must necessarily be followed before arriving at a decision. Rules of natural justice have grown organically since the dawn of civilization. An oft quoted example which throws light upon the antiquity of the principle of natural justice is the celebrated case of Cooper v. Wandsworth Board of Works in which it was stated that even god did not punish Adam before allowing him to set up his defence. Although it is true that the Constitution does not specifically use the term “natural justice”, it is indeed the judicial interpretation of the Constitution from which we gain insights into how the golden thread of natural justice runs through articles 14, 21 and 22 of the Indian Constitution. In this paper, an attempt has been made to analyse articles 14, 21 and 22 of the Constitution and the judicial pronouncements thereto from the standpoint of determining how far these provisions adhere to the principles of natural justice.

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A CRITICAL ANALYSIS OF ‘STATUTORY PRESUMPTION’ UNDER SECTION 20 OF PREVENTION OF CORRUPTION ACT, 1988

Isha Mehta

Abstract

The objective of the Prevention of Corruption Act, 1988 is to strengthen and enhance the laws in order to prevent corruption and the matters connected with it. The Prevention of Corruption Act, 1988 stipulates that the accused must make a ‘demand’ for illegal gratification in order to fall within the purview of the offence. It is necessary to have proof of demand of illicit gratification to form the offence under the provision in order to demonstrate the guilt of the accused. Therefore, the research study focuses on the legal question of whether the ‘demand’ for illicit gratification is a sine qua non for convicting the accused under the Prevention of Corruption Act, 1988. It also tries to determine whether the simple recovery of currency notes would result in a presumption of the accused person’s commission of an offence under Section 20 of the Prevention of Corruption Act, 1988, and thus conviction. In view of this, it is crucial that the term ‘demand’ be added to Section 20 of the Act. In order to achieve at this conclusion catena of Supreme Court judgments have been analysed and elaborated in this research paper.

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