R&W

RIGHTS & WRONGS

LAW FOR ALL!
STANDING TALL!

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LET'S DO
RIGHT WITH RIGHTS...

"Rights and Wrongs" (R&W) magazine is an exhaustive resource for all individuals. In a world where legal issues affect every aspect of our lives, it is crucial that we comprehend our rights and obligations.

The central concept of R&W magazine is Knowledge of Law for Everyone, which raises awareness that ignorance of the law is not an acceptable excuse. Our mission is to equip our readers with the knowledge and tools required to navigate the complex landscape of legal rights and wrongs, as we anticipate that ignorance of the law may have significant consequences.

In today's society, where information is readily available, ignorance of the laws that govern us is inexcusable. Whether it is understanding our rights as citizens, comprehending the complexities of contracts, or being familiar with any state law, the information contained within these pages will serve as a compass to guide you in making conversant decisions.

R&W magazine seeks to demystify the murky domain of law and make it accessible to all. Through insightful articles and engaging features, the publication will delve into legal concepts, cast light on significant cases and laws, and offer practical advice on how to behave ethically. Our mission is to bridge the gap between legal professionals and the general public, ensuring that no one is in the dark about the law.

R&W magazine is privileged to have a team of distinguished legal scholars, practitioners, and professionals who have contributed to this publication. Their collective knowledge and experience will inundate you with invaluable insights, empowering you to defend yourself, make intelligent decisions and contribute to a just society.

We expect that R&W magazine will become your go-to legal resource. By absorbing the information contained on these pages, you will not only improve your understanding of legal principles, but you will also actively participate in creating a more impartial and equitable community.

We invite you to delve into our first volume and embark on a journey of enlightenment. Expand your understanding of legal principles, gain invaluable insights and learn how to make informed decisions that impact your life and the world around you.

Remember that knowledge is power and it is our responsibility to be informed of our rights and act lawfully. Together, let's embrace the power of knowledge and strive for a society where rights are respected, wrongs are corrected and justice prevails.

Stay informed, stay empowered with "Rights and Wrongs!"

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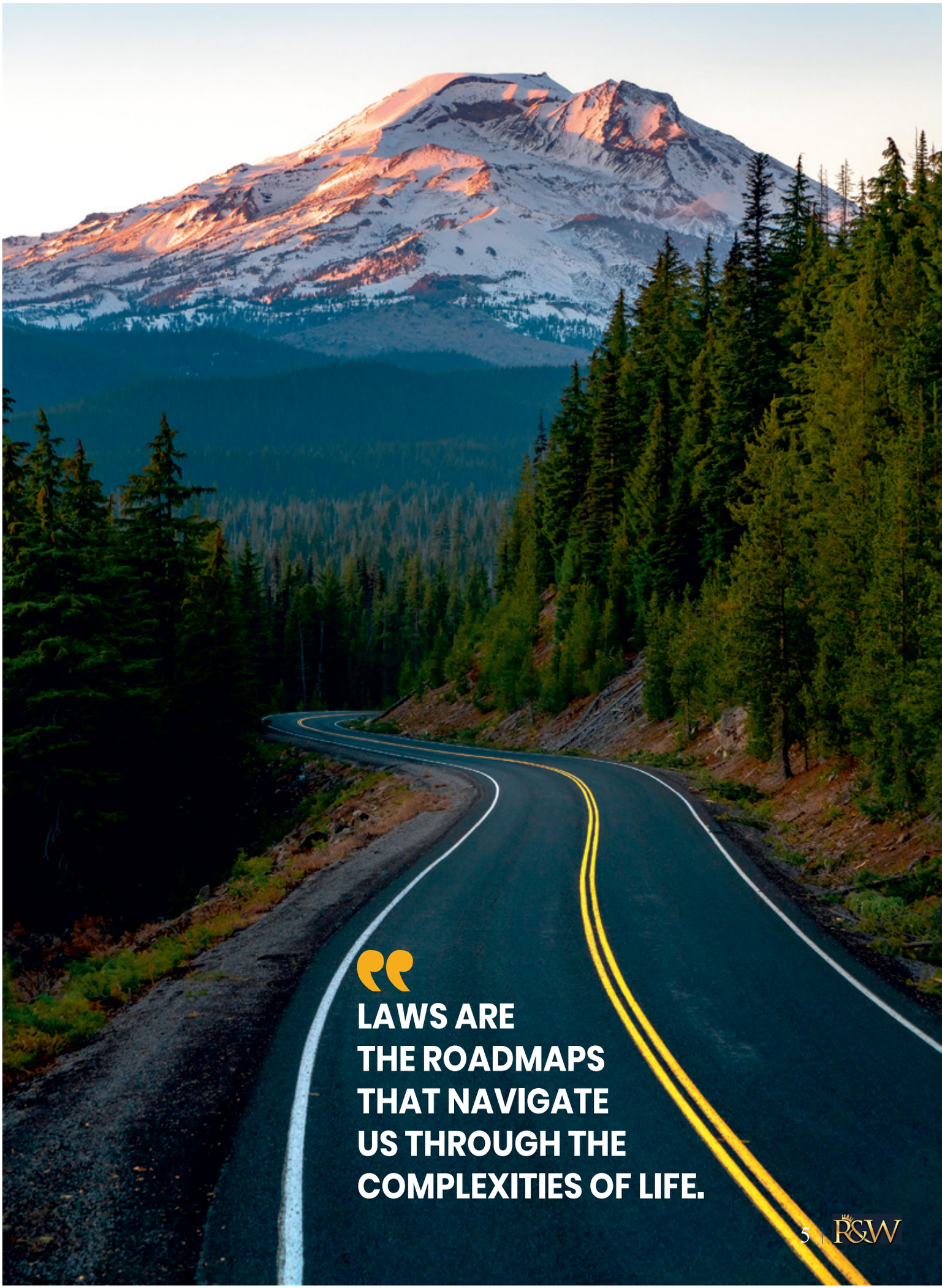
LAWS ARE
THE ROADMAPS
THAT NAVIGATE
US THROUGH THE
COMPLEXITIES OF LIFE.

> As the gateway to the Indian subcontinent, SL sees numerous ships passing through annually, carrying two-thirds of the world's oil and half of all container shipments. However, the growth in sea- rail transportation has resulted in the occurrence of certain incidents, causing environmental hazards and damage to fisheries/marine life.

AN OVERVIEW OF THE MARITIME LAW IN SRILANKA

National Maritime Legislation

- Merchant Shipping Act No 52 of 1971, as amended;
- Carriage of Goods by Sea Act, 21 of 1982;
- Admiralty Jurisdiction Act, 40 of 1983 ("AJA");
- Arbitration Act, 11 of 1995;
- The Marine Pollution Prevention Act ("MPA");
- Code of Civil Procedure, 2 of 1889 ("CPC");

International Conventions/Treaties on Maritime Legislation applicable in SL

- UNCITRAL Arbitration Rules
- The New York Convention - being a member of the convention, Sri Lanka (SL) has ratified and given effect to its provisions through its current Arbitration law.
- Hague/Visby Rules of 1968 ("HVR") –were given statutory force in SL by the Carriage of Goods by Sea Act.
- Conventions regulating pollution. E.g.: The international convention for the prevention of pollution from ships ("MARPOL"), which was given statutory force in SL by the MPA;

- The United Nations Convention on the Law of the Sea.
- The International Convention for the Safety of Life at Sea

ADMIRALTY JURISDICTION IN SL

Section 2 (1) of the AJA lists 'maritime claims" (any claim arising in respect of possession/ownership/ ownership of any share of a ship, a mortgage of or charge on a ship/any share therein, for damage done by a ship, for loss of life/personal injury sustained, any question arising between the co-owners of a ship as to possession/ employment/earnings, etc.) and the AJA read together with Section 13 (1) of the Judicature Act No 2 of 1978 confers admiralty jurisdiction in the High Court of SL.

Apart from the determination of maritime disputes, AJA also provides for the institution of action in relation to collisions of a vessel within the territorial waters of SL; in either case, the carrier should be either the owner/ charterer in possession or in control of the ship, whilst also being the beneficial owner/demise charterer of the vessel at the time the action is brought ("establishment of the personam link")

PROCEDURE APPLICABLE TO MARITIME CLAIMS

Sri Lankan Courts follow an adversarial process and Maritime Claims may be brought by way of;

(I) Regular proceedings before national Courts
(II) in rem proceedings under the AJA

Regular maritime action governed by the CPC - Procedure	***in rem* proceedings, where arrest orders are sought upon filing of action under the AJA**
Institution of action by filing of a plaint by the plaintiff/claimant, followed by an Answer by the party defendant.	Service of the writ of summons on the defendant vessel.
If the party defendant pleads a counter/cross claim against the Plaintiff, the Plaintiff will be given the opportunity to file a replication addressing the said counter claim	The process of arrest and release made either on the payment of the claimed sum into court, or on the provision of security is affected by following the 'regular trial procedure'.
Commencement of the trial process by way of leading evidence.	In certain circumstances, interim applications by the owners of the defendant vessel challenging the maintainability of the action is allowed by Court.
Filing of written submissions by both parties and provision of oral submissions. All matters of law and legal arguments will be made at this stage	
Conclusion of trial	
Limitation period for maritime claims : ➢ Depends on the terms of the contract/Bill of Lading and type of the claim. ➢ In situations where HVR apply, action is required to be brought within one year from the date of which the cause of action has arisen. ➢ As per the Prescription Ordinance, the general limitation period for damages arising out of cargo claims is two years.	

ENVIRONMENTAL REGULATION

As the gateway to the Indian subcontinent, SL sees numerous ships passing through annually, carrying two- thirds of the world's oil and half of all container shipments. However, the growth in sea- rail transportation has resulted in the occurrence of certain incidents, causing environmental hazards and damage to fisheries/marine life.

E.g.:-

(I) The incident on oil spillage of MT "LMS Laxapana";

(II) The case involving MT "New Diamond" (carrying crude oil) where a fire erupted 38 nautical miles away from the Sri Lankan shore;

(III) The incident involving the MV "X-Press Pearl" where the vessel caught fire in the Outer Port Limits off the Port of Colombo

The prevention and control of pollution in Sri Lankan waters is governed by the Marine Pollution Prevention Act ("MPA") and the "Marine Environment Protection Authority" (statutory authority).

Although the jurisdiction of the MPA was invoked in the above cases and SL is a signatory to several International Maritime Organisation ("IMO") Conventions, hardly any of them have been incorporated into domestic law. Therefore there is still room for further improvement in this regard.

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Instead of punishment Buddhist philosophy discuss about repercussions of bad karma

BUDDHIST ASPECTS ABOUT OFFENCE AND PUNISHMENT UNDER THE COMMON LAW OF SRI LANKA

The Law defined as, set of rules which a community is governed by. Just and peaceful society can not be existed without Rule of law.[1] In the Just and civilized Society, Law defined the offences and punishments for the particular offences. In the western jurisprudence and systems of the Law try to detach law from any moral or ethical factors and set apart the law from the neutral state.

Apart from that, in the Buddhist Jurisprudence, rules are imposed for the conduct of monks and laymen, society and the state. The Vinaya rules were being imposed to the monks and the precepts were being imposed to the laymen. Usually both in the Buddhist jurisprudence and the common law, Law is mainly laid down for the conduct of the members of the society.[2] Due process of the law is a well recognized principle in both systems. If somebody dealing with violations of the rule, he or she has to face a trial, leading evidence of both sides, judgment and penalty. It also gives a high value to the independence and impartiality of judges.

The Sri Lanka common Law system also adopted this due process to its legal System. Article 13(3) of the Constitution of the Democratic Socialist Republic of Sri Lanka clearly says that,

"Any person charged with an offence shall be entitle be heard in person or by an Attorney-at-Law, at a fair trial by a competent court."[3]

In Buddhist philosophy, mind governs the action of man.It is a well recognized principle, "chethanaham Bhikkhave kamman vadami." In the prevailing law, a offence has two elements called actus reus (Wrongful act) and mens rea (Wrongful mind). Apart from

that, a few salient aspects can be identified in Sri Lankan common law which are fused with Buddhist philosophy. In the second reading of the Maintenance act No 37 of 1999,[5] the Hon professor GL Peiris quoted like this,

The Buddha in the Singalowada sutra ,dealt with the mutual rights and obligations of members of a nuclear family. The duty of support figures prominently in the Singalowada sutra. The obligation of the husband towards the wife, the reciprocity of those obligations, the duty devolving upon a parent in respect of a child, these are all matters which are dealt with persuasively and comprehensively in the Singalowada sutra.[6] Protection of the rights of Elders act No 09 of 2000[7] was introduced based on this principle.

According to the Buddhist jurisprudence, conduct of monks is governed by the Vinaya. There are three types of offences (Eveth,Apaththi) that can be recognized in the Vinaya. Those are,

1. Chejjagamini eveth – If a monk is found guilty of this offence, he or she has to be disrobed (Alienation from Sasana.)

2. Wuttanagamini eveth – No need to be alienated from the sasana, but disciplinary rules seek to reform the offender.

3. Desanagamini eveth – Confess the offence to the senior monk and to promise not to do that offence again.[8]

Most pivotal elements of punishment in Buddhist jurisprudence are reformative, rehabilitative, humanitarian and transparent penalties which follow the principle of proportionality. The offender is considered innocent until proven to be guilty, avoid corporal punishments, implement due process of the law and enusre independence and impartiality of judges.

All these main characteristics can be found in the current legal system. Corporal punishments are prohibited in Sri Lanka since 2006.One of the more widely accepted rationales for prisons is the rehabilitation of the offender. There is a hierarchy of penal institutions ranging from very "rigid prisons" which hold those who have committed the most grave crimes, to work camps without boundary walls for short term offenders. Those penalties follow the rule of the principle of proportionality. In the amendment act of the No 47 of 1999 of the Code of criminal procedure[9] , facilitates to give suspended sentences based on mitigatory factors. And it has also introduced the concept that the suspended sentence is not a reason for disqualification, or loss of office or forfeiture or suspension of pensions or other benefits. Apart from that superior courts were looked up to develop and uphold the intention of the legislature by delivering judgments such as Kumara v The attorney general decided on 17.06.2002.[10]

According to the Buddhist philosophy punishments are considered as rehabilitative and re-educative efforts to get the offender to the right path. The concepts of Buddhist jurisprudence are now being fused with many legal systems all over the world.

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[2]See E.P.Wickramasekera ,AAL., Aspects Of Buddhist Jurisprudence,(2008) Conference book ,Commonwealth Legal Education Association South Asia Regional Conference Colombo, Sri Lanka.

[3]See Constitution of The Democratic Socialist Republic of Sri Lanka, Article 13(5)

[4]Offences under the control of prices act No 29 of 1950.

[5]Maintenance act No 37 of 1999

[6]See. Law of Maintenance , D.A.P.Weeratna, (AAL) ,P 272

[7] Protection of the rights of Elders act No 09 of 2000

[8]Buddhist Vinaya pitaka.

[9]Code of Criminal Procedure (Amendment) Act No 47 of 1999

[10](2002) Sri L.R. 139

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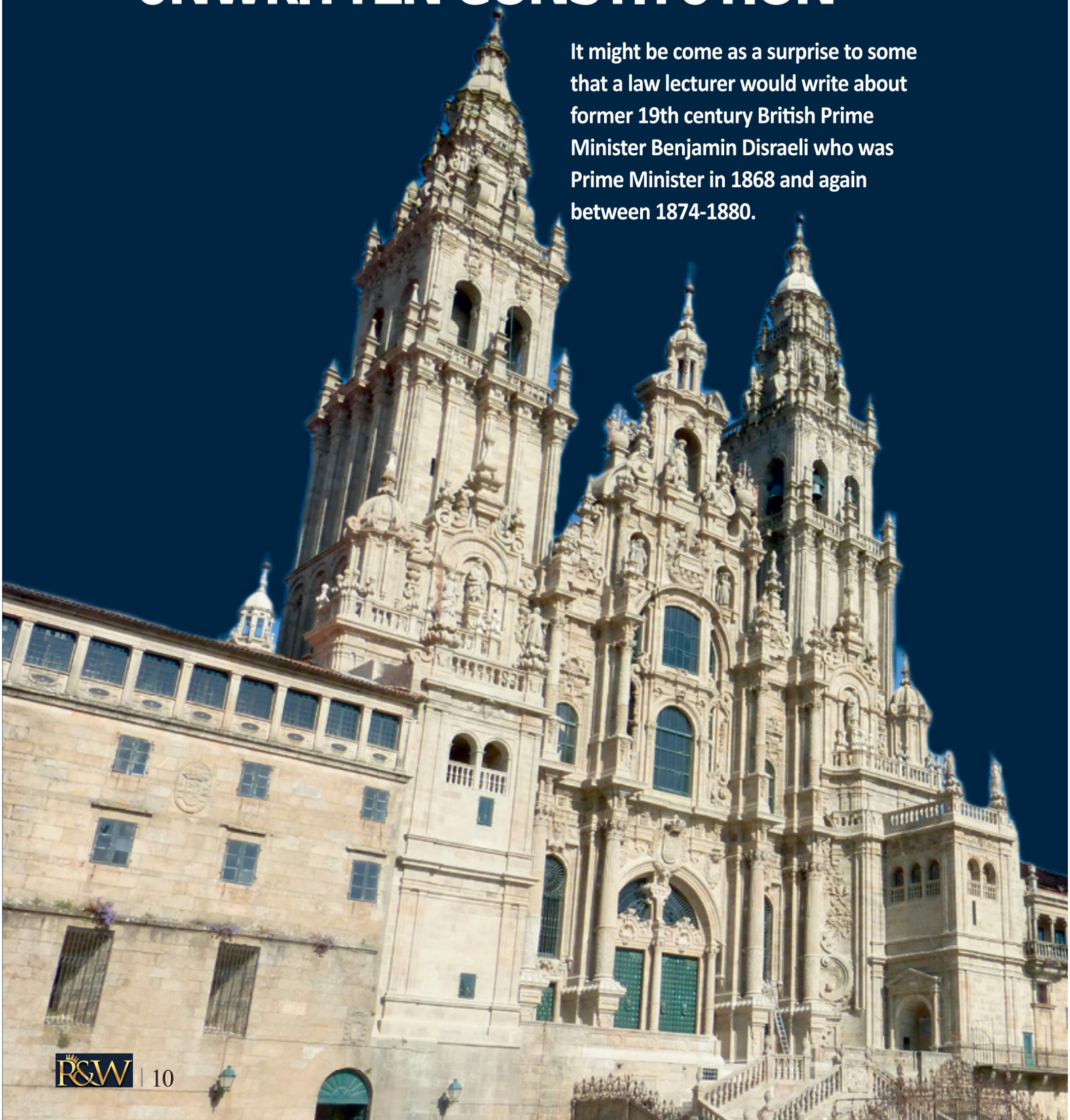
BENJAMIN DISRAELI AND THE UNITED KINGDOM'S UNWRITTEN CONSTITUTION

It might be come as a surprise to some that a law lecturer would write about former 19th century British Prime Minister Benjamin Disraeli who was Prime Minister in 1868 and again between 1874-1880.



It was after all Disraeli whilst working as an articled clerk at a law firm in London who wrote: "that to be a great lawyer I must give up my chance of being a great man.[1]" Nevertheless, I have been interested in Disraeli for a long time, not only because he was the first Prime Minister from a minority background, but because his former country home, Hughenden Manor is situated less than three miles away from Buckinghamshire New University's main campus in High Wycombe and which I have visited on several occasions.

Disraeli's "climb to the top of the greasy pole[2]"was extraordinary. He did not go to university, did not come from an aristocratic background which was the norm for Prime Ministers in the 19th century, suffered tremendous antisemitism throughout his lifedue to his Jewish heritage and was considered a 'foreigner' even by members of his own Cabinet. He was eccentric and was in debt for most his life due to a reckless business adventure at the start of his career in his early twenties.

It is also his influence on Britain's unwritten constitution that is of interest to me as someone who teaches public law. The United Kingdom, unlike Sri Lanka does not have a written constitution or to be more precise, the United Kingdom constitution is not codified in one document. Indeed, the United Kingdom is one of the few countries in the world that does not have a written constitution. The United Kingdom constitution is based on numerous sources, such as statute, case law and constitutional conventions. Constitutional conventions are "rules of good political behaviour usually developed from good constitutional practice, but sometimes are deliberately created. They are non-legal rules and are not legally enforceable.[3]"

It is also his influence on Britain's unwritten constitution that is of interest to me as someone who teaches public law. The United Kingdom, unlike Sri Lanka does not have a written constitution or to be more precise, the United Kingdom constitution is not codified in one document.

Benjamin Disraeli

An example of a constitutional convention is that the Leader of the political party that can command the support of most of the MPs in the House of Commons will become Prime Minister. After the last General Election, Boris Johnson was asked to form the government by the late Queen because he could command the support of the majority of MPs in the House of Commons and only last year Rishi Sunak had an audience with the King after he was elected as Leader of the Conservative Party. The King then promptly asked him to form a government. It should be remembered that the official title of the government is His Majesty's Government and Rishi Sunak is His Majesty's Prime Minister.

This convention was created by Benjamin Disraeli when he first became Prime Minister in 1868, because up until Disraeli's premiership, the convention had been that the Leader who could command the support of the majority of MPs in the House of Commons would attend a meeting of the House of Commons first before having an audience with the Monarch. It was the House of Commons who would appoint the Prime Minister, not the Monarch. Disraeli short circuited this. He knew that he could command the support of most of the MPs in the House of Commons at the time and so he simply presented himself before Queen Victoria. and she asked him to form a government. And so from this time onwards, the constitutional convention changed from the House of Commons appointing the Prime Minister to the Monarch.

Another constitutional convention progenerated under Disraeli was the Ten- minute Rule Bill. MPs can present Bills today in the House of Commons in which they have ten minutes to speak on and then another MP can speak against the Bill for ten minutes. The origins of the Ten-Minute Rule Bill were the 1867 Reform Act which was called the Ten Minutes Rule Bill because Disraeli as Chancellor brought the Bill to the floor of the House of Commons after a mere ten minutes discussion in Cabinet.

Perhaps, his biggest influence was in the field of international diplomacy. Disraeli as has been noted above did not go to university and so was only proficient in his own language English and had only very basic French. The language of international diplomacy at the time was French and so when he attended the international conference, the Congress of Berlin in 1878 there was a real dilemma about the delivery of his speech at the congress. It was expected that he would have to muddle through it in basic French. To circumvent this difficulty it was suggested by the British Ambassador to Germany at the time, Lord Odo Russell that Disraeli should deliver his speech in English as the other delegates at the Congress of Berlin would marvel at his oratory and so he did exactly that and this started the process whereby English became the language of international diplomacy.

The spirit of Benjamin Disraeli

This convention was created by Benjamin Disraeli when he first became Prime Minister in 1868, because up until Disraeli's premiership, the convention had been that the Leader who could command the support of the majority of MPs in the House of Commons would attend a meeting of the House of Commons first before having an audience with the Monarch.

lives on today through his numerous sayings. There are millions of people in the world today who quote Disraeli without realising who was the progenitor of the quote. There are such gems as "fear makes us feel our humanity[4]" or "there are three kinds of lies, lies, damned lies and statistics[5]" or that wonderful quote written on the wall of the staircase at Buckinghamshire New University that "a university should be a place of light, of liberty and of learning.[6]" The legacy of Disraeli, Dizzy as he was affectionately known lives on today.

Footnotes

[1] Douglas Hurd, Edward Young, Disraeli or Two lives, (Weidenfeld & Nicholson, 2014) p.39

[2] Robert Blake, The Sayings of Benjamin Disraeli, (Duckworth books, 2019) p19

[3] The Constitution Unit, University College London, 'What are Constitutional Conventions' https://www.ucl.ac.uk/constitution-unit/explainers/what-are-constitutional-conventions accessed 13th June 2023

[4] David Graham, 'The Philosophy of Benjamin Disraeli' (David Graham, 2014), p32.

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DEMYSTIFYING PUBLIC LAW: THE IMPORTANCE OF LEGAL KNOWLEDGE FOR ALL

Understanding the laws that bind us and the rights we hold is vital for a healthy society. Public law, which governs nations and safeguards fundamental rights, is no exception. An essential aspect of the rule of law is that people must know the law in order to be guided by it, as emphasised by Lord Bingham. It is important for individuals to have a basic understanding of public law and their legal rights, as ignorance of the law is not an excuse for noncompliance. Not having a basic knowledge of public law can lead to various consequences, including violating individual rights, failing to protect oneself from abuse of power, and not being able to effectively exercise legal rights.

Public law includes laws that regulate the government's powers, as well as laws that protect the rights of individuals. In the United Kingdom, for example, the Human Rights Act 1998 is a critical piece of legislation that safeguards individuals' fundamental rights and freedoms. Section 6 of the Act makes it illegal for public authorities to act in a manner that is incompatible with the European Convention on Human Rights. This means that if a public authority violates a person's human rights, the person can sue. For example, if a police officer violates someone's right to free expression during a protest, that person can sue the police for damages.

Similarly, Chapter III of the Sri Lankan Constitution guarantees all citizens fundamental rights. Article 12 of the Constitution states that all people are equal before the law and are entitled to equal protection under the law. Article 10 of the Constitution also guarantees freedom of thought, conscience, and religion, while Article 14 guarantees freedom of peaceful assembly and association. Citizens must be aware of their constitutional rights and protections, as well as the legal avenues available to them if those rights are violated.

A lack of legal knowledge can have serious implications in everyday life. For example, a low-wage worker who is unaware of their legal rights may be underpaid. They may feel powerless to assert their rights and seek just compensation, resulting in financial difficulties and anxiety. On the other hand, they could report the violation and ensure fair treatment in the workplace if they had basic legal knowledge. Knowing your legal rights can keep you safe from exploitation and help you live a better life.

In addition, a lack of legal knowledge can impede an individual's ability to fully participate in democratic processes and access the justice system. For example, if you are unfamiliar with voting laws, you may be unable to register or vote. This can prevent you from having your say on important issues, ultimately influencing policy decisions that affect your daily life. Similarly, a lack of legal knowledge can prevent you from seeking legal redress for wrongs, perpetuating inequality. Understanding the law is thus essential for meaningful participation in society and the upholding of justice.

Therefore, it is essential for individuals to take an active interest in learning about their legal rights and the laws that govern them, particularly in relation to public law. By understanding public law, individuals can better understand their rights and responsibilities under the law, and they can also better understand the role of the government in their lives. This can help prevent legal problems, protect individuals from exploitation, ensure access to justice, and promote full participation in democratic processes.

"Promoting legal awareness through media can contribute to social justice and accountability, empowering the public to hold authorities and institutions responsible while demanding transparency. Nonetheless, it remains uncertain to what extent the public is motivated to acquire legal knowledge, posing a question that necessitates honest self-assessment."

The media can play a vital role in raising legal awareness among the general public, particularly in relation to public law. The media can act as a bridge between the legal system and the public, by reporting on legal issues and cases, explaining legal concepts in simple language, and promoting legal literacy.

For instance, in the UK, the Channel 4 runs a programme called "Know your rights," which provides legal information and advice to the general public. Similarly, in Sri Lanka, several media outlets, such as the Daily News, regularly report on legal developments and cases, thereby promoting legal awareness and education. However, it is important to note that the current coverage may not reach vulnerable sections of society and those who are not proficient in English. Therefore, extending the reach of legal reporting to local languages such as Sinhala and Tamil would be of immense assistance in promoting legal literacy among all segments of society.

Thus, it is arguable that promoting legal awareness through media can lead to social justice and accountability, as it enables the public to hold authorities and institutions accountable and demand transparency. Nevertheless, it remains uncertain to what extent the public is motivated to gain legal knowledge, and this is a question that requires an honest self-assessment.

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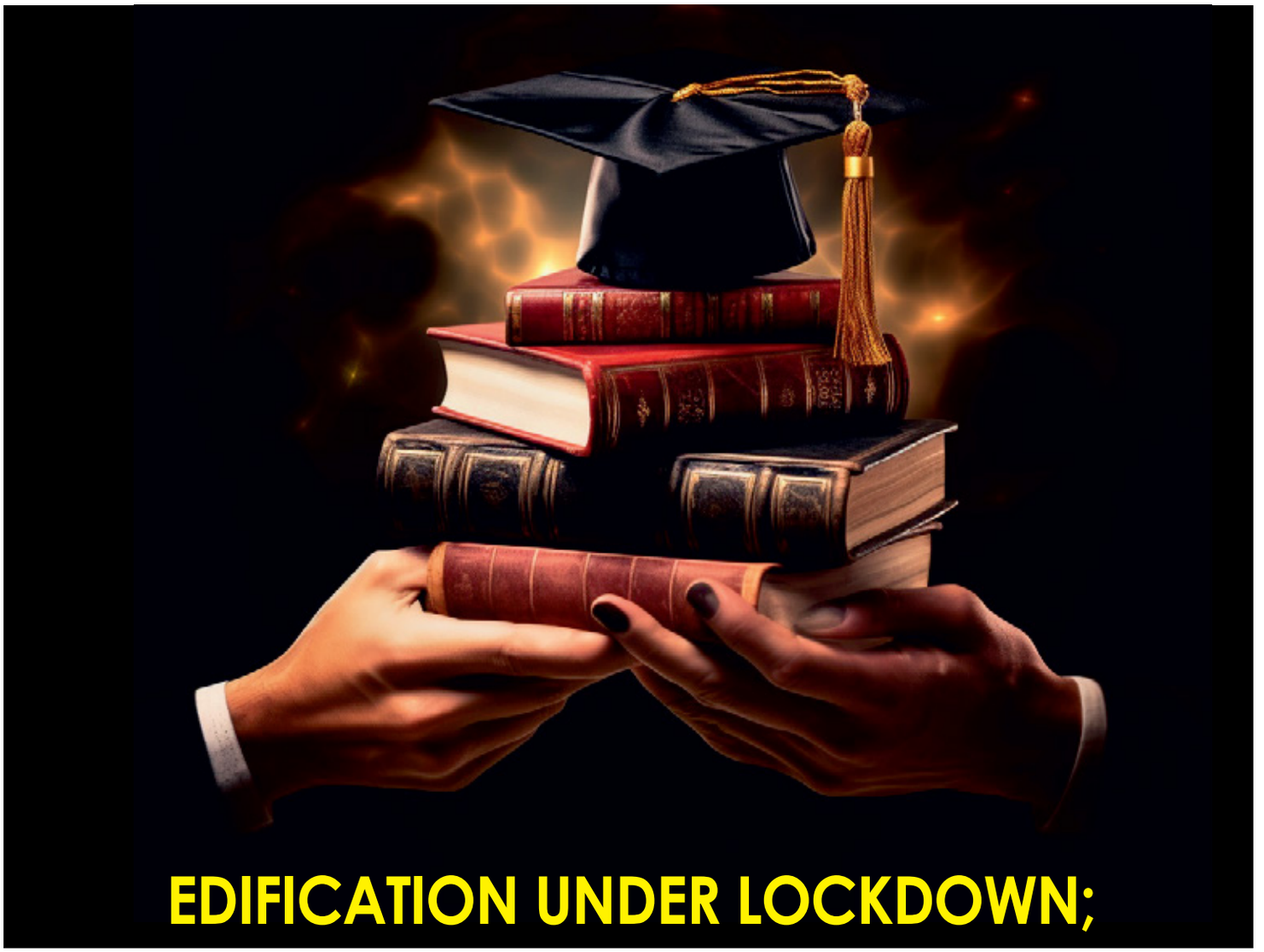


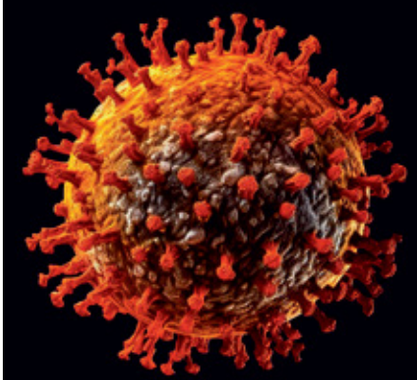
EDIFICATION UNDER LOCKDOWN;

THE AFTERMATH OF THE COVID-19 PANDEMIC ON HIGHER EDUCATION

Having navigated the uncertainty of the Covid-19 pandemic, it is fair to say that many of us experienced the most unprecedented moment of our lifetime, ranging from lockdowns and limitations to travel, to constraints on daily activities and working and studying from home; it is hard to fathom that life was so different only a short while ago.

Now that we are 'back to normal', this extraordinary period of time seems even more remarkable to look back upon, given that life as we knew it had essentially come to a standstill. Every aspect of our existence was affected and unfortunately in some instances, impacted our lives in a detrimental manner, particularly with how the United Kingdom sought to combat and contain the spread of the virus. The Government's reaction to the pandemic has been heavily criticised, from the dallying response to the outbreak, inconsistency and at times, largely incoherent lockdown and travel rules imposed, to the unpredictable opening and closing of schools and universities.

Arguably, it was education and students who experienced some of the most damaging consequences of the pandemic, with every establishment closing and transitioning to home and online learning. Commentators have expressed that the shutting-down of institutions and facilities during the height of the pandemic will have generational ramifications that cannot fully be comprehended presently, as almost every school and university had to hastily adapt their methods of teaching and learning to



The after-effects of Covid-19 have seen an increased appetite for knowledge and learning amongst new law undergraduates and the general public alike.

that of an online system, which brought about its own unique challenges.

Despite online teaching having some obvious advantages, including accessibility, flexibility and convenience, many students encountered negative and difficult experiences, from struggling to access online content, especially those from underprivileged backgrounds and courses whereby students needed to utilise school and university resources, but were unable to do so.

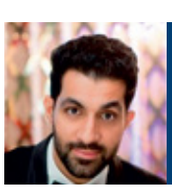
In July 2020, a House of Commons report (The impact of Covid-19 on university students) revealed that thousands of students were dissatisfied with the manner that courses were delivered online. Courses were deemed not to represent value for the tuition fees paid, which resulted in several domestic petitions seeking refunds, garnering over a million signatures in total. However, it can be contended that the more pressing issues were the complaints from students; they were not receiving the quality of education that they should be entitled to.

Although these disgruntlements were a common sentiment shared by many students at the time, the transition out of the pandemic has been interesting to witness. Regardless of returning to the classroom, some institutions have continued to offer online teaching and even hybrid versions of courses, allowing students to attend face-to-face classes, as well as continuing to study virtually. The steady improvements in technology and online platforms, convenience and easiness and in some instances, the newly founded reluctance to socially interact as freely as once before, an adverse result of social distancing and lockdowns, has seen an upward trend in electronic learning within Higher Education, with law being an extremely admired degree selection amongst new applicants.

But with Covid-19 restrictions easing and normality returning, the 2021/22 academic year saw a record number of students applying for law courses, with over forty thousand applications made, according to Law Society statistics. Given the unpredictable nature of the pandemic, there was genuine concern amongst Higher Education providers that the more popular degrees, including law, may struggle to recruit students, however this has not been the case.

It is evident that the after-effects of Covid-19 have seen an increased appetite for knowledge and learning amongst new law undergraduates and the general public alike. As highlighted earlier, the unique and exceptional circumstances of the pandemic and particularly the United Kingdom's legal response to the situation, namely with the Coronavirus Act 2020, saw more people than ever questioning the legality and lawfulness of the Government's response to the situation through its constructed legislation, demonstrating that understanding law and how it influences our lives have debatably become a prerequisite of surviving in today's world.

Finally, within the ambit of law, it is commonly accepted that not knowing the law or pleading ignorance will not amount to a defence, nor will it be accepted as an excuse. Law has and always will remain an integral part of society and given that studying and learning about law has become so much more accessible and manageable than ever before, it is apparent that the knowledge of law is indeed for everyone.



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ENSURING CYBER SECURITY AND PROTECTING HUMAN RIGHTS – A FOCUS ON POLICIES AND LEGISLATION

Cybersecurity and human rights are interrelated.

There is no definition of cybersecurity without the role of policies and legislation. Countries are increasingly implementing initiatives and strategies setting out principles and actions to be taken to curb cyber threats and promote cyber security, however such efforts can also bear human rights implications. The relationship between human rights and cyberspace is a two-way traffic. Cyberspace has enhanced the realisation and enjoyment of human rights; however, the exercise of these rights is also dependent on the protection and safeguarding of the internet. Cyberspace has allowed cyber-dependent crimes thus creating opportunities for the abuse of fundamental human rights.

Governments are therefore creating several laws and policies with the intention of promoting cybersecurity, but many times, these policies are broad, ill-defined, and lack clear checks and balances or other democratic accountability mechanisms. This can lead to human rights abuses, for example, extreme cybersecurity laws can be used for censorship, invasion of privacy, illegal surveillance, monitoring communications, and persecuting citizens for expressing their views online. The UN Human Rights Council has confirmed that "the same rights that people have offline must also be protected online" ,[1] thus making extant human rights framework applicable in cyberspace. Thus, states efforts to promote cybersecurity must go hand-in-hand with respect for human rights and fundamental freedoms set forth in international human rights instruments.

Duty to uphold fundamental rights in cyberspace

One of the key underlying principles for any cybersecurity legislation is that it should have as a fundamental objective the protection of human rights. Whether offline or online, states have the primary duty and obligation to protect human rights. Although the state is on the one hand reckoned with as the indispensable guarantor of human rights, yet historical experience has also made it clear that the state may use its sovereign powers at its disposal to curtail and commit violations of human rights.[2]

In determining whether an interference with human rights is to be justifiable, cybersecurity policies and legislations must stipulate when there would be interference; the interference must be in pursuance of a legitimate aim; must be in accordance with the law; and must be necessary in a democratic society.[3] If a state cannot satisfy any of these conditions and especially on a balance of necessity and proportionality, that will be a violation of human rights. It is necessary that cybersecurity laws contain provisions concerning the precise circumstances under which rights may be breached, and for what purpose. A general power to take steps necessary for ensuring cybersecurity should never be a sufficient basis to infringe on human rights. Such measures must have a sufficiently clear basis in the national cybersecurity law.

Ensuring an Appropriate Balance

Governments have played the primary role of developing policies and laws that regulate and determine cybersecurity measures domestically, mainly without non-governmental input. It is important to consult technical experts, tech companies, and civil society for recommendations on how to improve laws and policies. Tech companies are crucial because of their role in creating and maintaining the technologies on which cybersecurity issues arise and they tend to profit from human rights infringing cybersecurity policies. The technical community has expertise and understanding of the internet and is often cited by governments when developing cybersecurity policies. Civil society is uniquely positioned to advocate for cybersecurity policies based on a human rights approach and can play an important role by monitoring and documenting government and business practices, identifying implementation gaps, and providing analysis to inform policies and relevant discussions.

By developing partnership, and ultimately enhancing collaboration and dialogue between multi-stakeholders, governments can develop better and more effective cybersecurity policies that safeguard human rights. 'Not knowing law is not an excuse' therefore to promote trust and security in the cyber environment, states must focus on cybersecurity through compliance to the Norms of Responsible State Behaviour.[4] Human rights are held and exercised principally in relation to states. Without the State, human rights would never be guaranteed. States should create the conditions and the institutions by which fundamental rights can be legally guaranteed, as well as draw the necessary legal boundaries that will ensure the compatibility of human rights even in shifting and unstable circumstances.

To promote trust and security in the cyber environment, states must focus on ensuring cyber security with compliance to the UN Norms of Responsible State Behaviour in Cyberspace.

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FOETUS FIRST MENTALITY
AND RELATED DEVELOPMENTS IN LAW

'Human Foetus' has now earned the epithet as one of the crucial and debatable topics in the field of Medical Law and Ethics. In the past, foetus was a recluse whose existence was dependent on the life of the mother. When mother's existence was ceased, the foetus's survival reached an automatic end.

The past few decades marked a rapid advancement in the field of foetal medicine, which facilitated the visualization of the foetus. There are different types of sophisticated diagnostic methods in modern medicine to detect foetal abnormalities. Doctors become familiar with the foetal anatomy and physiology through ultrasound techniques. The focal point of this article is not to elaborate on the medicinal aspects of the foetus, but on the legal concern about the human foetus.

The technological advancements in the field of foetal medicine have now proved that, the human foetus is not just a recluse but an entity attracting legal rights. 'Foetus First Mentality' concerns about the prioritization of interests of the foetus which compels women to alter or modify their decisions to protect the unborn child. The recent development in law is the Foetal Heartbeat and termination of pregnancy. Foetal Heartbeat Laws enacted in USA, overturned the landmark decision *Roe v Wade*. The decision was pronounced in 1973 and upheld the reproductive freedom and autonomy of women to make decisions pertaining to the termination of pregnancies. The freedom to terminate pregnancies has been curtailed by the recognition of foetal heartbeat. Physicians are barred from performing abortions if the heartbeat of the unborn child is detected. In this point, beginning of the heartbeat is the commencement of the life of the foetus. Generally, women are restricted from terminating their pregnancies after six weeks of gestation as the period of six weeks marks the beginning of the foetal heartbeat. However, obstetricians' views are contrary to that of law makers. Obstetricians are of the view that, the recognition of the concept 'foetal heartbeat' is misleading as a foetus at such a tender stage has no entitlement to a functional cardiac activity.

The medical duty of care to the foetus signifies the concept 'legal personhood' or the 'legal personality.'As all lawyers are aware, the medical duty of care is professional in nature. Such a professional duty of care converts the foetus to a patient. In the context of English Law, the foetal personhood has not been recognized. The personhood is granted only after the birth of a human being. Contrarily, the field of medicine is frequently inventing different reproductive technologies and medical procedures which identify the unborn child as a

The physician, today, has obligations of beneficence to the foetus and autonomy to the mother. This demonstrates that the foetus now possesses legal rights and is entitled to medical care, contrasting with historical practices.

special entity. Now, the Artificial Womb Technology (AWT) is developed by introducing the scientific process of ectogestation. The technology enables the gestation of a foetus ex utero (outside the womb of the mother). The significance of AWT is that, it has the potential to replace the pregnancy. The technology consists of two processes, namely the *complete ectogenesis and partial ectogenesis.* 'Complete Ectogenesis' is a process where the human being is created by in vitro fertilization and transferred to an artificial womb for gestation. In 'Partial Ectogenesis,' the human being is created in the womb of the mother and transferred to an artificial womb for further gestation.

In addition to the ex utero gestation of a foetus, the field of foetal medicine now facilitates the treatment of the foetus in utero. Surgeries are performed as lifesaving medical procedures for the benefit of the foetus. This converts the foetus to a patient by placing it in a unique position. The uniqueness is that, foetus is an entity existing within the body of the mother and there is a dependency. Whatever a treatment administered to the foetus must respect the bodily integrity of the mother. Performance of a surgery to a foetus in utero compels the physicians to deal with both the mother and foetus as patients. In this instance, the physician owes beneficence based obligations to the foetus and autonomy based obligations to the mother who bears the foetus. Identification of beneficence (a moral duty on the part of physicians to promote best interests of the patient) towards the foetus is of proof of the fact that, unlike in history, the foetus is granted with legal rights and medical duty of care for its existence.

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The personhood is granted only after the birth of a human being. Contrarily, the field of medicine is frequently inventing different reproductive technologies and medical procedures which identify the unborn child as a special entity. Now, the Artificial Womb Technology (AWT) is developed by introducing the scientific process of ectogestation.

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RECOGNIZE, RESPECT, AND SAFEGUARD THE INHERENT WORTH OF EVERY PERSON WITH THE LAW.

IGNORANCE OF THE LAW IS NO EXCUSE

Given that law is premised on morality which is founded on conscience and religion, it is inherent for humans to have an instinct for the law. Hence the maxim ' ignorantia juris non excusat' has been formulated to the extent that ignorance of the law is no excuse, which is adopted in many legal systems. In that context, a person from the public cannot argue that he was unaware of the law, as an excuse to evade his culpability or obligations under the law.[1]

The UK Case of *R v Esop*[2] stands as an authority for the fact that ignorance of the criminal law is no excuse. Even if a person is a foreigner the assumption that he is aware of the law of that country applies. Therefore, if you are travelling to another country, it is best to be aware of at least the basic laws of that country.

In an era where the crime rate associated with Sexual Offences is on the rise in Sri Lanka, it must be mentioned that there is a necessity for the young generation to be made aware that even consensual sexual intercourse with a person below the age of 16 years can constitute a Statutory Rape, as they do not have the relevant capacity to consent and thereby result in liability.[3]

In most instances, young defendants are held liable due to ignorance of the existence of such a law.

Conversely, the more people are aware of the law, the more they are aware of fighting for their rights. For example, many consumers may be unaware of their rights to the extent that they fail to take action against such defendants as violations of their rights are normalized in a society where they might just accept it without instituting legal action. Hence, knowing the law not only enables you to be aware of your obligations and responsibilities but also makes you aware of your rights. The more people are equipped with the knowledge of the law, the more confidence they will have to face society without any fear, which may also be one driving factor for some to study law, irrespective of whether or not it directly relates to their profession.

In order to ensure that the knowledge of the law vests with everyone in the public, several steps can be taken such as creating awareness programmes among the schoolchildren or village communities. It would be highly beneficial if steps will be taken by the relevant authorities to include the law as a subject to the school curriculum and also popularize it with the aid of electronic media, which is being conducted to an extent but does not meet the desired expectations, to create awareness of current developments of the law.

"Awareness of the law is better than pleading ignorance of the law as an excuse"

In a day and age where internet facilities are available to most of the public, where information can be obtained with the touch of a button and social media platforms have developed to an advanced state, hence the use of these platforms by a majority, these platforms can be utilized to create awareness of the law among everyone in society. This will be very fruitful in every way as a citizen who is well versed with the law can impose a higher burden even on the State under the social contract theory so that the State is obliged to establish the necessary laws in place to protect the citizen.

In conclusion, it can be stated that the law is an essential tool which creates awareness among those in society and it is a necessity for everyone to be knowledgeable of the law. Hence rather than arguing that you are ignorant of the law you can fight for your rights and know your liabilities by being aware of the law. 'Awareness of the law is better than pleading ignorance of the law as an excuse.'

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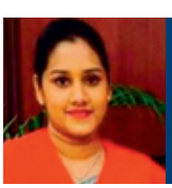

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IMPACT OF TECHNOLOGY ON LEGAL PROFESSION

The twenty first century has brought indelible technological advancements that permeates all aspects our lives. TECHNOLOGY- is human innovation in action that involves the generation of knowledge and processes to develop systems that solve problems and extend human capabilities. It could be transformations or modifications of the natural environment to satisfy human needs and wants.

Today, Technology is on an exponential growth touching practically on everyone's daily routines and it's advances are inevitable and permanent. The increasing convergence of technology in an era of new digital transformations, has brought computer applications, Internet, Internet of Things, Smart phones, drones and host of electronic devices and Apps like WhatsApp, Facebook, LinkedIn, etc. as part of our daily activities.

In digital transformations, Digitization refers to process of transferring analog data and information to digital format. Digitalization involves the use of tools and technology to change an organization's business model.

The legal field, though slow in the adoption of the technology, is beginning to pick up the phase. In a tech- driven world legal professionals must strive to stay relevant and technologically competent.

CHALLENGE:

The legal profession is undergoing a rapid transformation as emerging technologies and trends reshape the lawyers work and interact with their clients. Artificial Intelligence (AI), block chain, cloud computing and cyber security are just a few of the technologies that are driving this change. To stay competitive in this rapidly evolving landscape, lawyers must be willing to embrace these technologies and adapt their practices accordingly. By doing so, they can provide better value to their clients, work more efficiently and position themselves for success in the future of lawyering.

The legal field, though slow in the adoption of the technology, is beginning to pick up the phase. In a tech- driven world legal professionals must strive to stay relevant and technologically competent.

Soon, we will see a turning point for Artificial Intelligence (AI) adoption. Algorithms supporting law fraternity equipped with the tools to automate daily repetitive tasks enabling them to focus more on specialized assignments that require their creativity and intelligence. However, cybersecurity and data privacy concerns will need vigilance by law firms securing their systems to protect data passing into unauthorized hands.

Legal professionals need to obtain a broad understanding of the tech advancements since law simply cannot keep phase with the rate of emerging technologies. This challenge will create demand for new competencies and stimulate the need for legal education training, retraining and re- skilling or up- skilling, while it calls for more cross-professional collaboration. However, AI cannot emulate essential lawyer skills such as strategic and creative thinking, conflict resolutions and negotiations, emotional intelligence and empathy, that makes a robust lawyer. Lawyers will always be needed in the practice of Law, despite the continued growth digitalization.

Covid-19 impact on access to justice:

Some of the excepts expressed at the CHOGM RUWANDA 2022- on the theme:

Delivering a Common Future: "Connecting, Innovating, Transforming" on the Subject: "COVID- 19 has spurred changes to justice System" could be relevant to the topic:

Commonwealth countries are using innovation and ingenuity to counter threats of injustice and inequality from Covid-19.

Access to justice has been impacted in various ways, especially for vulnerable people, from courts being closed and case backlogs building up, to the passing of rights-restricting emergency legislation that will possibly have long-term adverse effects.

A Global Access to Justice Project report collected data from 51 countries, a third of them Commonwealth members, and found only eight per cent of justice systems have continued to work normally.

NEW APPROACHES:

"It has also required all actors in our justice systems to move away from the idea that justice can be delivered only in courthouses."… "In many cases changes are here to stay, and there is need for increased use of technology.

Amid the turmoil, some member countries have adapted quickly and found smart new approaches to overcoming the challenges. During the seminar the Commonwealth Secretary-General noted there have been "innovations and mini-revolutions" taking place in justice systems.

Speaking during one of a series of Rule of Law webinars organised by the Commonwealth Secretariat, he said Covid-19 has accelerated digitalisation and "courts have gone almost completely virtual". This has led to justice being speedier and less costly for many people, thanks to measures such as video hearings and the electronic servicing of documents.

In Scotland in the UK, jury trials have switched to a mix of physical and remote settings. Judges, lawyers, accused and witnesses are in socially-distanced courtrooms, while jurors are in jury centres away from the building and appear in the courtroom via a video wall.

"The closure of courts in some countries has necessitated the rapid adoption of new technology…"It has also required all actors in our justice systems to move away from the idea that justice can be delivered only in courthouses."… "In many cases changes are here to stay, and there is need for increased use of technology. There is no going back to how we did business before."

As a conclusion, the legal industry has been slow to adopt digital technologies, in part because of its traditional and conservative nature. However, as technology continues to advance, the legal industry is facing increasing pressure to digitize its processes in order to remain competitive and efficient. One major challenge in the digital transformation of the legal industry is the need to integrate new technologies with existing systems and processes. This can be a difficult and time-consuming task, especially for larger law firms that have a large number of legacy systems in place. Additionally, many legal professionals are not well-versed in technology and may be hesitant to adopt new tools and processes. This presents a significant challenge for firms looking to implement digital solutions, as they must not only invest in the technology itself, but also in training and education for their staff. Another challenge is the data security and privacy concerns that come with the use of digital tools and the storage of sensitive information in the cloud. The legal industry must also navigate the complex and ever-changing regulatory landscape to ensure that their use of digital technologies is compliant with all applicable laws and regulations. Despite these challenges, the legal industry is beginning to embrace digital transformation and many firms are now investing in technology solutions to improve efficiency, reduce costs, and better serve their clients.

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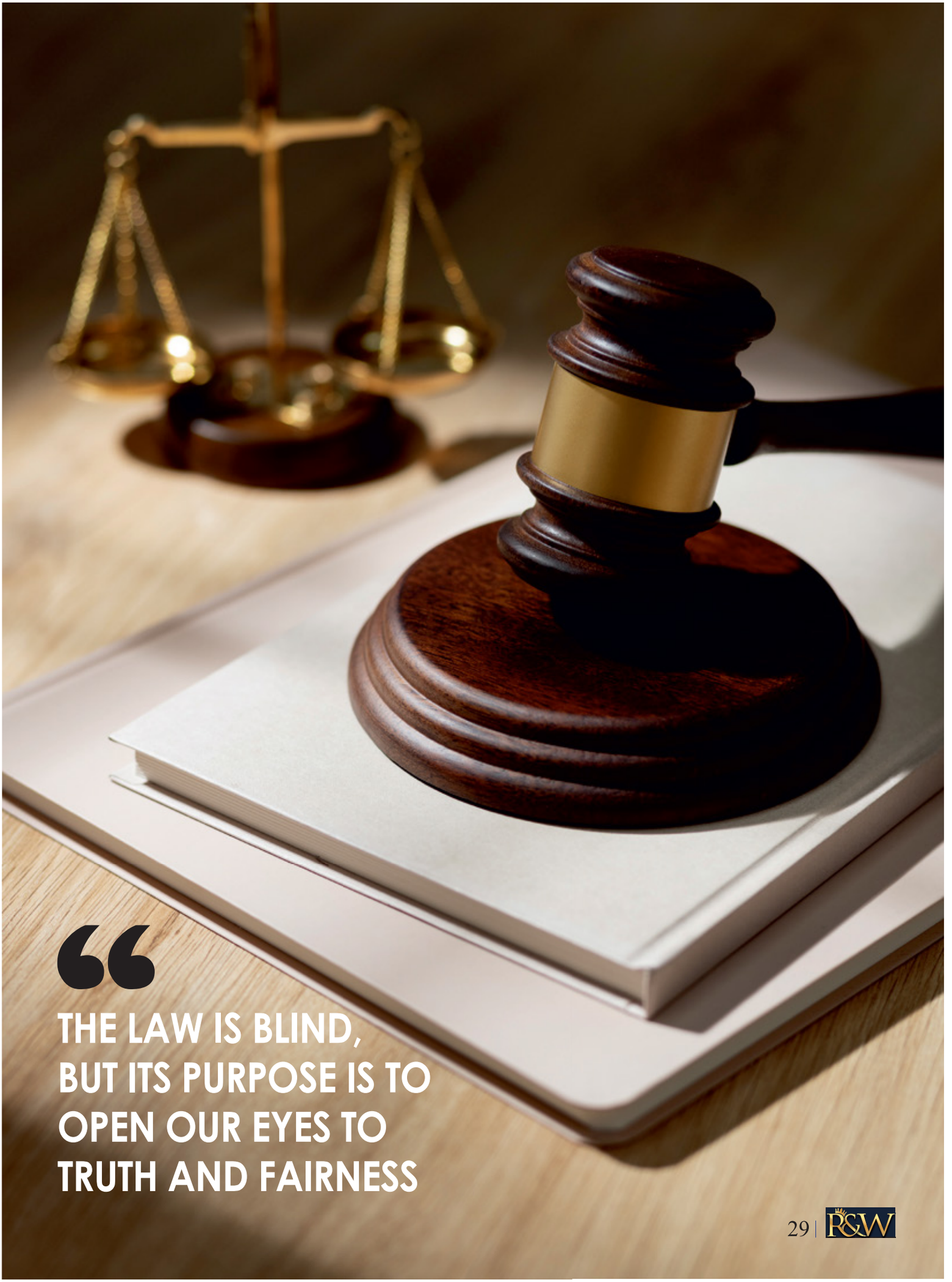
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THE LAW IS BLIND,
BUT ITS PURPOSE IS TO
OPEN OUR EYES TO
TRUTH AND FAIRNESS

IMPORTANCE OF INTELLECTUAL PROPERTY RIGHTS FOR YOUR BUSINESS: A SRI LANKAN CONTEXT

Intellectual property ("IP") rights are intangible rights which enable the owners to protect their innovative and creative novelties from unauthorized use for a certain time period. Consequently, the most competitive global players such as Apple, Samsung, Tesla etc. are highly concerned on their IP rights.

In this digital era, technology is changing at a faster pace. The technological developments introduced today, will expire within a very short period with the invention of new technologies which are more advanced & creative. Exploitation and unauthorized usage of IP rights are becoming uncomplicated due to highly advanced technologies and increased use of social media. Within a second, exploitation can spread among millions and millions of people via internet. Therefore, as entrepreneurs it is your responsibility to apply the most relevant IP right to make a competitive edge. In Sri Lanka, the governing law is Intellectual Property Act, No.36 of 2003.

IP RIGHTS IN SRI LANKA

PATENTS

A patent is an IP right which gives the patentee a monopoly right up to 20 years from the date of filing the registration for the invention. Invention may come under product or process. However, it should be a solution that can practically apply for a matter in the sphere of technology. At present, mobile devices and biotech companies make use of patents for a greater extent. Moreover, patents play a vital role in encouraging research and development by incentivizing innovation with relatively higher rewards with its strong monopolistic protection. The patent owner can either use or commercialize the patented invention and enjoy financial benefits over a period of 20 years based upon the renewal of the patent. Therefore, this is a highly useful IP right for your business.

COPYRIGHT

Copyright provides protection to the original creators of literary and artistic works (examples: books, films, paintings, computer programs, photographs etc.) through economic and moral rights. Economic rights cover the right to sell, rent, distribute and reproduce etc. whereas moral rights include the right to claim ownership, stand against distortion or mutilation. The original creator is entitled

for this protection from the day the work is made public or published. In copyrights, evidential difficulties may arise due to lack of formalities.

This lasts during the life of the author and 70 years after the author's death.

TRADEMARKS

Trademark is a visible sign used to identify and differentiate the goods of one manufacturer from another. Trademarks are connected with goods and service marks are connected with services. Therefore, the entrepreneurs can design an identical mark to distinguish and highlight their products over the competitive products/ services. Based upon the IP right owner's discretion, trademark can be maintained as a registered trademark or as an unregistered trademark.

A trademark which is registered at the National Intellectual Property Office is entitled for a better protection under the IP Act, No.36 of 2003 whereas unregistered trademark is protected under unfair competition law or common law action for passing off. Validity period of a registered trademark is 10 years from the date of application and renewal can be done after the end of 10 years.

Trade names that are used in business can be protected under the IP Act of Sri Lanka if it is registered as a mark.

INDUSTRIAL DESIGNS

Industrial designs of ornamental or aesthetic nature are protected by registration under industrial designs if it complies with morality and public interest. In registering the design, "new" means, it should not be in public all over the world as at the date of application for registration. The National IP office undertakes an extensive search in this regard. The validity of an industrial design lasts for 5 years from the date of the receipt of the application for registration and can be renewed for two successive periods of five years each.

As a result of this exclusive right, the creator can earn a better return for the business through its unique creativity and is encouraged to make more investments.

*Further, geographical indications and integrated circuits come under the purview of IP Act, No.36 of 2003.

CONCLUSION

IP rights are imperative to any business which is operated in this information based digital economy. Therefore, entrepreneurs have to be more concerned about IP laws as they have the potential of generating the most of their cash flows by way of owning intellectual properties.

In general, business owners seek more protection, when the technology changes at a rapid rate when compared to the past. Furthermore, technological developments are continuous and it changes the way the businesses operate in this digital era. Therefore, the need of obtaining the ownership rights by the true owners of intellectual property is essential for the betterment of the world at large.

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KNOWLEDGE IN LAW - AN ARMOUR FOR PROTECTION, AND A WEAPON TO CONQUER

"Injustice anywhere is a threat to justice everywhere" - Martin Luther King, Jr.

A wider community is convinced that it is just the legal officials who should acquire legal knowledge, while being ignorant on how vital it is to ascertain the primary legal education such as fundamental human rights to laws relating to consumer protection, employer/employee protection etc.

The rudimentary downside of perceiving the knowledge of law as not "my cup of tea" is the risk of facing injustice while not knowing that you are, as an individual or as a community.

As a Licensed Immigration Adviser, I deal with various forms of laws, rules and regulations pertaining to Immigration Law. With globalization and developments in movement between one country to another, I can proclaim that the fundamental need at any point of instigation is to acknowledge, understand and abide by the laws set out by your country as well as the country you hope to step into.

Purpose of movement between countries include educational purpose, employment, investment, leisure, migration etc. It is evident that every step that one takes from the point of deciding their movement, until their establishment in the desired destination, is outright entirely ruled by law and order.

As someone working with clients of all industries, all ages with diverse social and ethnic backgrounds I can affirm the gravity of how basic knowledge in law and order could be used in a point of any decision, that decision could be even weighed between life and death, gaining and losing, peace and war.

A simple unanswerable question such as "What would you do if or when somebody stops you from entering a public place?" could be a reason behind someone denying you your opportunity without a valid reason and your rights are infringed. But the real question is "Do you know which right is infringed?". Therefore, as a matter of fact, most people are unaware of their fundamental rights laid out by the respective constitution. As a result, individuals lose tremendous opportunities, their voice, chances of a break-through etc.

I am a strong believer that exposure to a country's legal framework or rather the constitution should be an integral part of early education, as early as secondary education or at least tertiary level. A child graduates from high school, with the hope to take on the world with millions of opportunities in front of them, and the unforeseen truth is that the same million opportunities are governed by laws, rules and regulations.

Three gratifying aspects of being literate in law would be, #1 Social Benefits it brings to an individual at any age to take on opportunities paving the way to change their lives/change the world. #2 Legal Awareness, which provides everyone with a standard guideline for survival and a handbook for justice and injustice. #3 Self Confidence, which is elevated resulting in self-esteem due to being the right person in the right place with the right amount of knowledge to vanquish failure and achieve success.

I am a strong believer that exposure to a country's legal framework or rather the constitution should be an integral part of early education, as early as secondary education or at least tertiary level.

As an independent woman in business, my journey from the beginning till to date hasn't been entirely a bed of roses. I have faced severe difficulties and adversities dealing with various stakeholders of multiple different industries, age groups, ethnicities, nationalities, genders, social statuses etc., but I possessed one weapon, one tool, one armor, which was my thirst for learning, abiding and thriving through law and order. Discrimination is sometimes inevitable when you are alone, when you are a woman, when you are young and the list goes on, but you can subdue these challenges with the right amount of awareness together with adequate knowledge in law.

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KNOWLEDGE OF LAW TO EVERYONE

The phrase "ignorance of the law is no excuse" implies that just not understanding a law does not absolve someone of responsibility if they break it (Palfreyman, 2003). In other words, even if an individual was unaware that what they were doing was unlawful, the individual can still be held accountable (Palfreyman, 2003).The Latin phrase "Ignorantia juris non excusat" refers to the legal concept that ignorance of the law is not an excuse (Matthews, 1983). This implies that individuals are expected to know and respect the law, and they cannot avoid legal consequences by claiming ignorance of the law (Kumaralingam Amirthalingam, 2002). This notion is widely recognised in most legal systems across the world, and it is based on the premise that the law applies to everyone, whether or not they are aware of it.

There are various exceptions to this rule, such as when the law is extremely complicated or incomprehensible, or when someone was uninformed of a specific regulation for a legitimate cause (Kahan, 1997) . In ***Martindale v Falkncr***, Maule J observed that if there were no such thing as a problematic issue of law, there would be no need for courts of appeal, which exist to illustrate that judges may be ignorant of the law. As a result, judges and others have derided the idea that everyone should know the law at all times. For example, under the Criminal Taxation legislation, as held in ***Cheeks v US*** , judges do not look for wilfulness to correspond to a voluntary, purposeful breach of a recognised legal duty in which a genuine good faith belief is based on a misunderstanding induced by the complexity of the tax legislation. This is seen as a viable defence or excuse to avoid prosecution for tax evasion.

Most persons who come to court seeking relief have no idea what the law is. As a result, it is evident from the start that the litigants' requested reliefs are improper. They have no understanding on what the judges may and cannot grant. When the opposing party raises preliminary objections and the case is ***dismissed in limine*** on the basis of the Preliminary Objection, the opposing party will invoke the bias of the judges. Most cases are rejected not because a violation did not occur, but rather due to technical deficiencies. Some litigants fall asleep off on their rights simply because they are unaware of them, and then show up in court. However, the matter had prescribed by that time, and even though the victimised party's rights had been violated, the court cannot hear the case because the court lacks jurisdiction to hear the matter going forward. In such cases, unless there is a very strong rationale to justify to the court that unforeseen circumstances caused the delay, the mere argument that the party was unaware of the rights or the applicable legislation would not be an acceptable answer to escape the undue delay caused. It shall amount to a negligent delay.

It is widely debated whether Law should be included in the school curriculum. As the demand for it has grown in recent years, it has been raised to a dubious standard. Because of the rising rates of crime and civil crimes, it is more vital than ever to educate future generations about the law that now exists (Costa, Machin and Bell, 2018). The world is rapidly evolving towards a rights-based approach in which the quality of human existence is improved by focusing and defending one's own rights. Even though globalisation is a positive, the growing evidence of a decline in human life quality suggests that there is a flaw somewhere along the line (Fedotov, 2019). As a result, it is vital that all children in school acquire a basic grasp of the principles of law (Fedotov, 2019). Furthermore, including law into school curriculum can be a valuable addition to students' education.

It may be included into the educational curriculum in several ways. Law is an essential component of the social sciences, and incorporating legal concepts and principles into the social studies curriculum is an excellent approach to introduce students to legal concepts (Gutmann, 1995). Furthermore, by providing optional law-related courses , law can be included into educational programmes. Law-related optional courses may be offered by schools to students who want to pursue a legal career or learn more about legal concepts. Mock trials are an engaging and entertaining approach for students to learn about the legal system (White, 1976). Students can take part in mock trials, act as attorneys, judges, or witnesses, and learn about the legal system (White, 1976). Inviting legal experts to speak with students about their experiences may be a terrific approach to expose them to the legal profession (Li and Sun, 2022). Field tours to courthouses, law offices and other legal institutions provide students with direct understanding of the legal system (Li and Sun, 2022).

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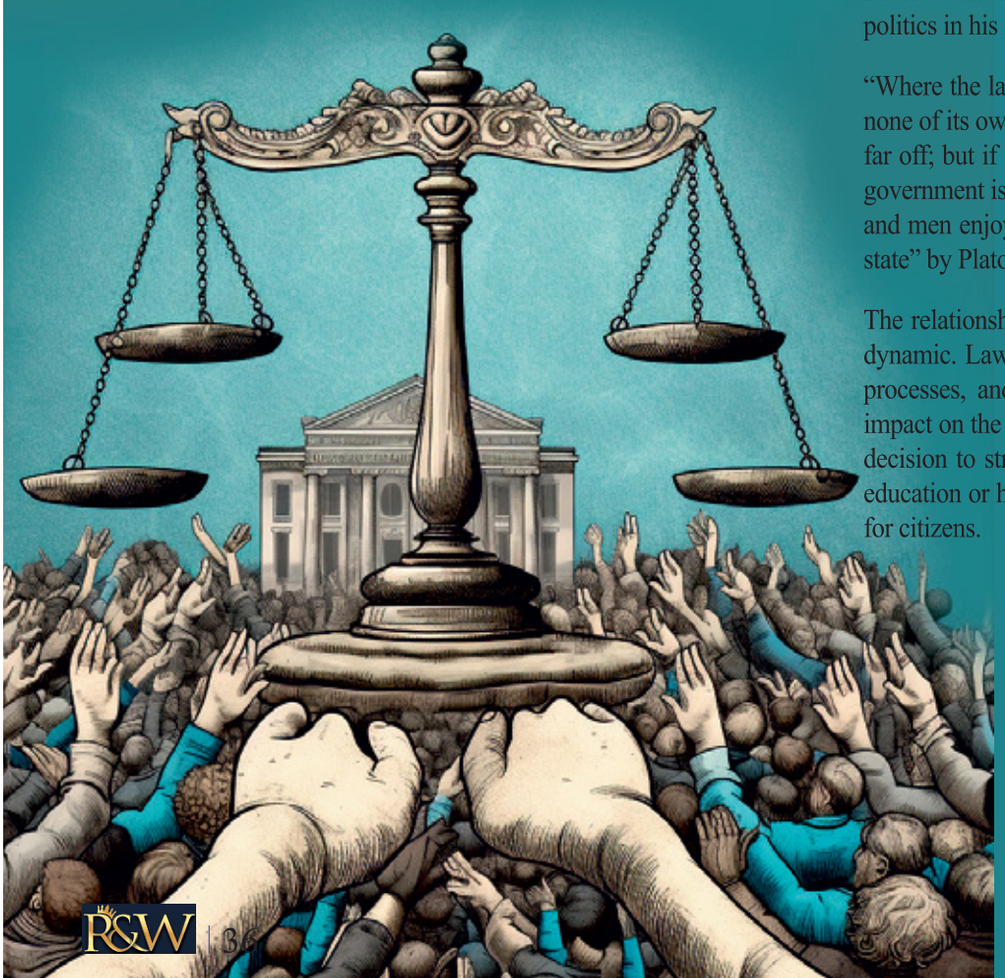
LAW & POLITICS

CONTEMPORARY GLOBAL ANALYSIS

Law and politics are two intertwined fields that play a significant role in the functioning of any modern society. Politics refers to the struggle for power and control over resources, while law deals with the rules and regulations that govern behavior and actions within a society. In essence, law and politics shape the way we live, work, and interact with one another.



Father of politics ,ancient Greek philosopher “Plato” stressed the importance of law & it’s connectivity with politics in his longest last manuscript “The Laws”

“Where the law is subject to some other authority and has none of its own, the collapse of the state, in my view, is not far off; but if law is the master of the government and the government is its slave, then the situation is full of promise and men enjoy all the blessings that the gods shower on a state” by Plato; Taylor, A. E. (Alfred Edward), 1869-1945.

The relationship between law and politics is complex and dynamic. Laws are created and enforced through political processes, and political decisions can have a significant impact on the legal system. For example, the government's decision to strengthen or weaken public services, such as education or healthcare, can have clear legal repercussions for citizens.

Additionally, political views frequently influence the judicial system of the nation. For example, more authoritarian systems prioritise the power of the state over individual liberties, whereas liberal democracies typically have a legal framework that emphasises individual freedoms and human rights,while more authoritarian systems prioritize the power of the state over individual liberties.

The importance of law and politics cannot be overstated. They are the bedrock of any functioning society and help to ensure social order and stability. Politics and the law play a significant role in influencing change and forming policy. In order to ensure that all opinions are heard and that laws are in place to protect citizens' rights and welfare, a vibrant political environment built on a solid legal foundation is essential.

Law and politics are inseparable, and they play a crucial role in shaping societies. A dynamic legal and political framework ensures that citizens' voices are heard, and that political decisions are made with consideration of their impact on society. A mutual understanding between the two fields based on mutual respect and a shared goal of serving and improving society is the foundation of a healthy democracy and an informed citizenry.

In today's world, political involvement has a significant impact on how laws are enforced and how justice is administered. Political leaders can influence the legal system through appointments to the judiciary, changes to laws, and funding decisions, among other things.

For example, in some countries, politicians may try to pressure judges to make decisions in their favor or may withhold funding from law enforcement agencies that do not align with their political ideology. In other instances, politicians may work to weaken the power of certain legal bodies, such as regulatory agencies or independent watchdogs, to better serve their interests and those of their political supporters.

This kind of political participation can reduce public confidence in the justice system and make it more difficult for people to trust in the impartiality and fairness of their institutions. It can also contribute to the unfair distribution of justice among various societal groups, including those with various socioeconomic levels or political allegiances.

However, the relatively recent idea of tech-enabled privatisation of law enforcement and politics of informal justice is what is causing the phenomena of modern-day legal enforcement melting. This melting is taking place in part as a result of issues with how state-led justice systems are structured and run, favouring non-state actors who are frequently community-based, non-profit organisations or individuals that use cutting-edge technologies for law enforcement and accountability. This change is crucial because it affects public criminal trials and punitive measures may lose out against the private and informal means of resolving legal disputes and human rights violations.

In conclusion, political involvement and modern-day legal enforcement have major impacts on the legal system, how laws are enforced, and what it means to administer justice in society. It is essential that measures are taken to preserve the fairness and neutrality of justice systems through strong legal frameworks, ethical leadership, and the enforcement of checks and balances. Additionally, practical guidelines and principles are essential to avoid the challenges associated with modern-day legal enforcement dilution, such as bias, unequal distribution of justice and the exploitation of power out of political ambitions.

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NAVIGATING THE ERA OF DATA PROTECTION

INTRODUCTION

In today's technologically advanced and interconnected world, protecting our privacy online has taken on increased significance. It is essential that we comprehend the laws and regulations that regulate digital privacy as we traverse the enormous online realm. By exploring the major themes, obstacles, and the necessity of strong legal frameworks to secure our online privacy, this article seeks to demystify the world of data protection.

THE ERA OF DIGITAL PRIVACY

Recent high-profile data breaches have highlighted the importance of protecting sensitive information held online. No organisation, from huge banks to our favourite social media sites, is safe from hackers. The rising prevalence of identity theft, fraud, and unauthorised access to personal data online necessitates strict digital privacy legislation.

CYBERSECURITY: THE GUARDIAN OF YOUR DATA

The constant reports of data breaches in the media have everyone questioning if their private information is truly secure. But have no dread! Organisations are being forced by law to strengthen their cybersecurity defences and notify victims of data breaches as soon as possible. In

In today's digital era, data is the lifeblood of a company's operations and business models

addition to making businesses answerable to you, these rules ensure that they protect the sensitive information you entrust to them.

BIG BROTHER VS. INDIVIDUAL PRIVACY

We all cherish our privacy, but governments have a duty to ensure national security. Balancing these two fundamental aspects can be a tricky task. That's why the legal framework surrounding government surveillance is crucial. It ensures that surveillance programs are subject to oversight and operate within the bounds of legality and proportionality, preventing undue encroachments on our individual privacy and preserving our civil liberties.

YOUR DATA, YOUR CHOICE: CONSENT AND TRANSPARENCY

In today's digital era, data is the lifeblood of a company's operations and business models. However, new laws are being passed to curb abusive data gathering methods, give consumers more say over their personal data, and force businesses to be more open and honest. To comply with these regulations, businesses must gain your explicit permission before collecting, storing, or using personal information, and provide you the chance to decline participation in data-sharing or other intrusive forms of marketing.

DIGITAL RIGHTS AND THE BATTLE FOR FREEDOM

The Internet and its many social media have become hotbeds of conflict over free speech. Freedom of expression must be protected at all costs while we work to counteract hate speech, false information, and unlawful actions. Fostering a fair and inclusive digital environment requires laws managing online content moderation, fighting online censorship, and clarifying the rights and obligations of both internet users and platform providers.

DATA ON THE MOVE: CROSS-BORDER TRANSFERS

We live in a globalised society where information readily crosses borders, yet where different countries have different privacy laws. The purpose of the rules that regulate foreign data transfers is to prevent your data from being abused or stolen while in transit. You may rest easy knowing that your data is receiving proper protection while it is transmitted to foreign countries thanks to the agreements and contractual terms in place.

EMERGING TECHNOLOGIES: BALANCING INNOVATION AND PRIVACY

Exciting new opportunities have arisen as a result of the rapid development of AI, facial recognition, and biometrics. However, it does cause certain ethical issues. Potential biases must be addressed, transparency must be maintained, and accountability must be enforced if these technologies are to be used effectively. Responsible development and deployment require finding a happy medium between open innovation and user privacy.

CONCLUSION

In this day of 24/7 online surveillance, it is more important than ever to be familiar with the laws and guidelines that protect our digital privacy. We can safeguard our privacy by doing everything from fighting data breaches to navigating government monitoring, learning about consent and openness, and adopting new technology in a responsible manner. Collectively, we can design a future where our online actions are protected from unauthorised access if we stay aware and participate in issues surrounding digital privacy. Let's unlock the secrets of digital privacy and Navigating the Era of Data Protection.

Let's unlock the secrets of digital privacy and Navigating the Era of Data Protection.

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PATH TO A LAND, OR PATH TO THE COURTS: IMPORTANCE OF KNOWLEDGE ON "66 CASES"

Knowledge on law of the land is a crucial component to survive from many a predicament, confidently and wisely, whilst safeguarding one's own rights and upholding justice. Lack of understanding on the legal aspect of day-to-day occurrences and issues, continuously results in a large number of people being deprived of properties and claim for rights and ownerships, etc., being blocked. In Sri Lanka, people in general pay much importance on lands in their possession, thus, they insist clear, true and duly registered land deeds in order to avoid losses of property and humiliation. But only a few realise that some issues, apparently of a trivial nature, such as boundary issues, allowing foot paths across one's land, allowing cultivation in a piece of land, etc., could result in inprolong legal cases and loss of property and/or rights over a property at the end. Therefore, it is evident that there is a serious necessity for acquainting and making aware among the common people on rules and regulations with regard to land matters in order to prevent, not only property losses but also the disruption of families, relationships and even loss of lives as well.

"A little neglect may breed great mischief"

- Benjamin Franklin -

The Roman-Dutch Law, the category of law applicable for land issues in Sri Lanka for centuries, provides due legal procedure for land related issues. Even though this procedure has been repealed with time, it has however been enforced under Section 66 in Part VII of Primary Courts Procedure Act No 44 of 1979 for land-related issues where a breach of the peace is either imminent or impending; "66 cases" in colloquial terms.

Following circumstances are the ambit of 66 cases.

- Land boundary issues.
- The right of possession to a land or a piece of the land.
- The right of possession of a building.
- Servient right of claiming a path.
- The right to cultivation in a land or piece of a land.
- The right to claim crop or harvest in some land.

Following instances reflect further the type of issues on which legal actions could be instituted under Section 66.

- Denying an access to a land by constructing an obstacle on the path to the land which has been used and allowed for a considerable time.
- Creditor forcibly dispossessing the debtor's possession vested in his land, on the ground that debtor failed to settle the interest of the particular deal that both had entered into.

Disputes under Section 66 could be brought before the court by two (02) methods.

a. A police report consequent to one of the parties makes a complaint to the police. First party respondent will be the complainant and the other party will be the second party respondent.

b. A petition before the Primary Court by a party as a petitioner through an affidavit under Section 66, the other party will be the respondent.

According to the Primary Courts Procedure Act No.44 of 1979, there are three remedies offered for the parties involved in the '66 cases'.

a. Interim order can be claimed under Section 67.
Eg:- Interim order to remove or cease the construction of a wall, fence or a gate.

b. Possession order can be claimed under Section 68.
Eg:- When someone forcibly dispossessed the landlord's possession vested on him, the Primary Court Judge will determine possession order to direct the possession of the property to its true legal owner.

c. Order relating to any other right, except the right of possession, can be claimed under Section 69.

Eg:- One intends to claim a path across someone else's land to get access to his land. In such circumstances, that claimant has to prove that he/she has a servient right of claiming a path.

The most important fact in '66 cases' is that, there must be a dispute affecting land where a breach of the peace is threatened or likely to be threatened. If the Magistrate / Primary Court Judge determined at the end of the case that there was no breach of peace occurred or threatened, the case will be dismissed.

English Law also has provisions to deal with such circumstances where disputes arose due to the lacuna of knowledge on law in everyone. The concept of law called 'Easement'[1] in the United Kingdom allowed a unique agreement between two parties, which can be defined as a chance of a non-possessory property interest that permits the easement holder to utilize another person's land in exchange for a fee.

There are three common types of easements available,

- Utility easements - Formulated between, property owner and the utility company to construct power/ pipe line, or other utilities across their property.
- Private easements – Eg:- One getting access to the agricultural needs, to run a small pipe line through a neighboring property.
- Easement by necessity – Eg:- One has to use neighbor's driveway to get access to his home.

Since not knowing law will not be an excuse, when encapsulating all the above facts, it is apparent that there is a great necessity in making aware and educating people on laws that are relevant to day-to-day activities and for existence of peaceful societies in order to mitigate the conflicts between individuals and also within the society.

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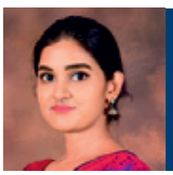

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STRIKE VS LOCKOUT:
TWO SIDES OF A COIN

Since the 18th century, with the world speedily becoming an industrialized colony and mass media too started to evolve and gradually spread to all corners of the globe, probably not a day passed without hearing of an incident of agitation between employees and employers in the world. True to the form of a Capital Market economy, labours/employees started claiming higher remunerations, more facilities, more benefits and voiced against compressed working environment etc. It gradually led to exercising their rights to call strikes in order to keep pressurizing the employers till their demands are met. The employers on the other hand have the right to call lockouts in order to circumvent the situation to their advantage and to counter the impact of a strike. That checkmate situation compelled both to compromise to collective bargaining for survival.

Section 235 (5) of the Employment Right Act in the UK 1996 specifies 'strikes' as,

"a strike is either action when undertaken to compel the employer or any employed person or body of employed persons to accept or not accept terms or conditions of, or affecting employment:

- The cessation of work by a body of employed persons acting in combination.
- A concerted refusal, or a refusal under a common understanding, of any number of employed persons to continue to work for an employer in consequence of a dispute.

This definition is almost identical to the Sec. 2 Trade Union Ordinance in 1935 in Sri Lanka.

> **"If you can't outplay them, outwork them"**
>
> **-Ben Hogan-**

Section 235(4) of the Employment Rights Act in the UK, 1996 defines 'lockout' as,"action when undertaken to compel persons employed by the employer to accept terms or conditions of, or affecting, employment by closing of a place of employment, suspending work, refusing, in consequence of a dispute, to continue to employ any number of persons." Trade Union Ordinance of Sri Lanka furthered the same, by adding that, lockout is imposed on employment of the employees by their employer until certain terms are agreed to.

There is no authentic statutory right being awarded to individuals to call a strike, neither under the legal framework of the UK nor Sri Lanka. However, there is a right to be a member of a trade union, and trade unions can legally, under certain conditions, call their members to strike.

The right to strike has not been interpreted clearly by International Labour Organization (ILO) or any other legislation. Article 11 of the European Convention on Human Rights emphasized the right to freedom of association, assembly and to form and join trade unions to protect their interests. Aligned with the European convention, the constitution of the UK guaranteed the right to form associations and freedom of speech and expression through Articles 19(1) (c) and 19(1) (a) respectively, though the right to strike doesn't derive through it.

In the constitution of Sri Lanka 1978, Articles 12 and 14 expressed the right to form a trade union (only in the government sector) and fundamental rights such as freedom of speech, assembly and association. Section 2(d) of the Trade Union Ordinance acknowledged strikes and lockouts as acts that, respectively, trade unions and employers are allowed to resort to. However, Section 18(b) of the Trade Union Ordinance denies the right to strike if not registered as a trade union. Also, Section 32 (2) of the Industrial Dispute Act states that no workman shall take part in the strike in any essential industry which is declared by the Minister of Labour unless notified at least twenty-one days before the date of the commencement of the strike.

According to the law of the UK legal reforms Police officers, nurses, and prison officers are banned from taking strike action. Nevertheless, a strike called in response to an illegal lockout is not illegal. Also, if the dispute has not been referred for conciliation proceedings within the period between 14 days after the issue of the strike notice and before the expiry of six weeks from that date, a legal strike can be conducted.

As a response to a strike, a lockout can be initiated by the employer despite its negative implications for him/her. But a lockout has greater repercussions on trade unions than a strike has on employers. Despite its financial repercussions, enforcing a lockout by an employer dilutes the impact of the union as an organization and reflects the employer's bargaining power, which leads to creating suspicion in the minds of employees about their bond with the trade union and uncertainty on the job security.

Thus, it appears to strike as a collective action that is not legal and can be carried out formally subject to legal provisions. But employers' discretion for a lockout and to mitigate the impact of the strike also cannot be ruled out. It is appeared therefore, strike and lockout are two sides of a coin, used by employees and employers respectively, to retain their bargaining power over a dispute.

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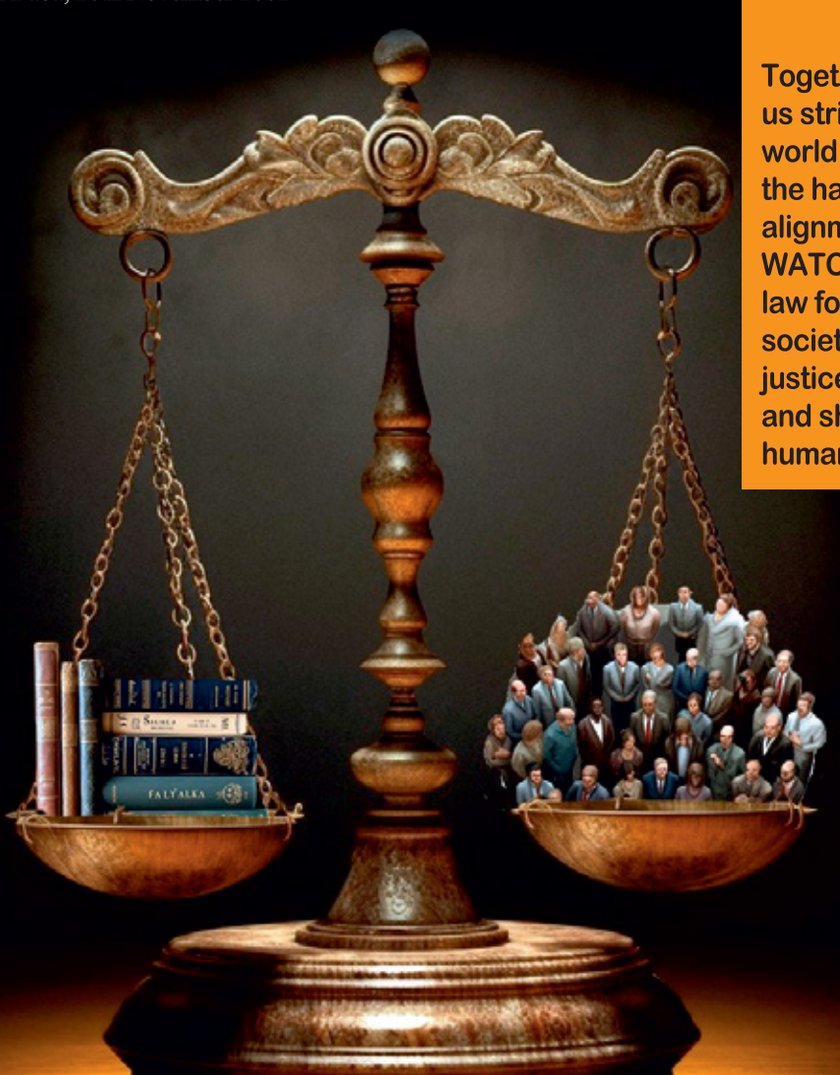
THE ART OF ALIGNING WATCH WITH LAW

THE INTERPLAY OF LAW AND MORALITY

The real watch is when you keep a watch on your Words, Actions, Thoughts, Character and Heart; not the one you tie to your wrist. The wrist-watch may go for repair, but the word 'watch' will never get spoiled. "

- Sri Sathya Sai Baba, 20th November 2002 -



Together, let us strive for a world where the harmonious alignment of WATCH with the law fosters a society rooted in justice, equality and shared humanity.

In our cultural milieu, the law functions as a fundamental framework, governing human behaviours and ensuring social order: law establishes a set of standards that should be followed to maintain harmony and safeguard individual rights. However, the law is barely enough on its own to build a just and moral society. The interplay between law and morality is paramount to genuinely align Words, Actions, Thoughts, Character and Heart **(WATCH).** Accordingly, this piece of article delves into the complex link between law and morality, examining how they shape and influence one another.

WATCH YOUR WORDS

"And, yes, words matter. They may reflect reality, but they also have the power to change reality - the power to uplift and to abase."

- William Raspberry

Words have enormous power, capable of bridging gaps or creating irreversible harm. They have the power to inspire, uplift and unify, or to divide, humiliate and provoke hatred. The law comprehends the importance of free expression and speech in ensuring a fair and just society. The right to free expression is particularly protected under Article 10 of the Human Rights Act, 1998. This clause recognises our right to have personal ideas, voice our opinions, and engage in open debate as long as it does not infringe on the rights and freedoms of others. While laws safeguard free expression, they also recognise its boundaries. Defamation laws, for instance, protect individuals against false remarks that damage their reputation. Society, through legislative provisions, attempts to strike a balance between free expression and the obligation to use words wisely, promoting respect, empathy and ethical communication. As humans, we are gifted with the potentiality to influence societal change through our words; and aligning our speech with the values of justice and equality helps form a better society. Hence, **speech has the power to both heal and harm; pick your words wisely.**

WATCH YOUR ACTIONS

While words hold power, our actions are what actually convey our values, and influence the world around us. "Actions speak louder than words," as John Milton expressively indicated reinforces the worldview even more. Legal regulations not only regulate our conduct but encourage ethical action that is consistent with moral values and societal norms. Environmental laws, for example, emphasise the need of preserving the planet for future generations. By adhering to these rules and implementing environmentally conscious actions, we demonstrate our commitment to being responsible stewards of the Earth and living in harmony with nature.

Modern Slavery Act of 2015 addresses on the moral necessity of combating human trafficking, forced labour and slavery. By enacting the aforementioned offences, the legal system recognises the need to safeguard most vulnerable members of the society, and uphold the values of human dignity and freedom. Additionally, Sexual Offences Act of 2003 incorporates the moral ideals of consent and respect in sexual relationships. This legislation recognises the significance of preventing sexual exploitation, and ensuring that sexual interactions are founded on mutual consent and respect.

How can I ensure that my actions contribute to a fair and equitable society? Aligning our activities with the law entails treating individuals fairly and with respect, regardless of their circumstances or vulnerabilities. **Actions have the potential to create profound change; choose to be a force for good. Remember that our acts indicate our commitment to the values of equality and fairness, ultimately leading to the moral concept of oneness.**

WATCH YOUR THOUGHTS & CHARACTER

Our thoughts shape our character traits, and our character determines who we are as human beings. Legal provisions not only regulate our external behaviour but recognise the importance of internal disposition and character. Through norms dealing to hate crimes, discrimination and other sorts of wrongdoings, the law has a role in monitoring and controlling our thoughts and character. The Equality Act 2010 , for instance, forbids discrimination based on protected characteristics such as race, religion or belief, sex, etc. This Act recognises the significance of treating every individual equally, and building a culture that embraces diversity and inclusion.

The Mental Capacity Act 2005 embodies the moral principle that safeguards the autonomy and dignity of those who lack mental ability to make their own decisions. It establishes a legal framework for making choices on behalf of persons who lack capacity, ensuring that their best interests are protected, and that they are as fully involved in decision-making as feasible. Meanwhile, Criminal Justice Act 2003 emphasises offender rehabilitation, with a focus

on reforming persons and fostering positive character development. By promoting education, counselling and rehabilitation programmes, the law recognises the possibility for personal growth and redemption, asserting that a just community strives to nurture virtuous character, and encourage moral transformation.

While it seems intrusive for the law to monitor our thoughts and character, it acts as a precaution against the potential harm imposed by prejudice, hatred and discrimination. **Character is not defined by words alone but by consistent thoughts and actions.** By integrating our thinking with the guiding principles of justice, equality and respect, we establish constructive characters that contribute to a healthy and ethically grounded society.

WATCH YOUR HEART

"The only tyrant I accept in this world is the still voice within."

-Mahatma Gandhi

Am I listening to the voice of my conscience when making decisions, even if they may not be legally required? **The sphere of the heart -our innermost moral compass- exists outside the bounds of the law.** While the law provides a minimum standard of acceptable behaviour, it is our own conscience that drives us to seek justice, exhibit compassion, and act ethically even when the law fails us. Our heart, working in tandem with our conscience, guides us to act in ways that promote empathy, understanding and equity. While there is no direct English legislation addressing the idea of conscience, legal principles recognise its significance indirectly. Article 9 of the Human Rights Act of 1998, for example, enshrines the right to freedom of thought, conscience and religion. This part emphasises the individual's right to have personal opinions, and to manifest them in practice. While the law monitors our words, actions, thoughts and character, it is our heart and conscience that push us to go beyond legal requirements, and strive for a more compassionate community.

To wind up with, the art of aligning WATCH - Words, Actions, Thoughts, Character and Heart - with the law, derives from the delicate balance between law and morality. English legislations provide evidence of the interplay between law and morality. By incorporating the principles of justice, equality, empathy and respect into our daily lives, we bridge the gap between the legal framework and our moral conscience. The connection of law and morality motivates us to be responsible stewards of our words, mindful performers in the society, vigilant observers of our thoughts and character, and compassionate beings driven by the voice within. Therefore, **together, let us strive for a world where the harmonious alignment of WATCH with the law fosters a society rooted in justice, equality and shared humanity.**

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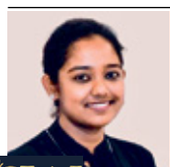
iii Part 2 of the Equality Act 2010 focuses on protected characteristics: age, disability, gender reassignment, race, marriage, religion, sex, sexual orientation; prohibited conducts namely discrimination, adjustments for disabled persons, etc.

iv Parts 1,2,4,5 of the Mental Capacity Act 2015

v Chapter 4 of Criminal Justice Act 2003



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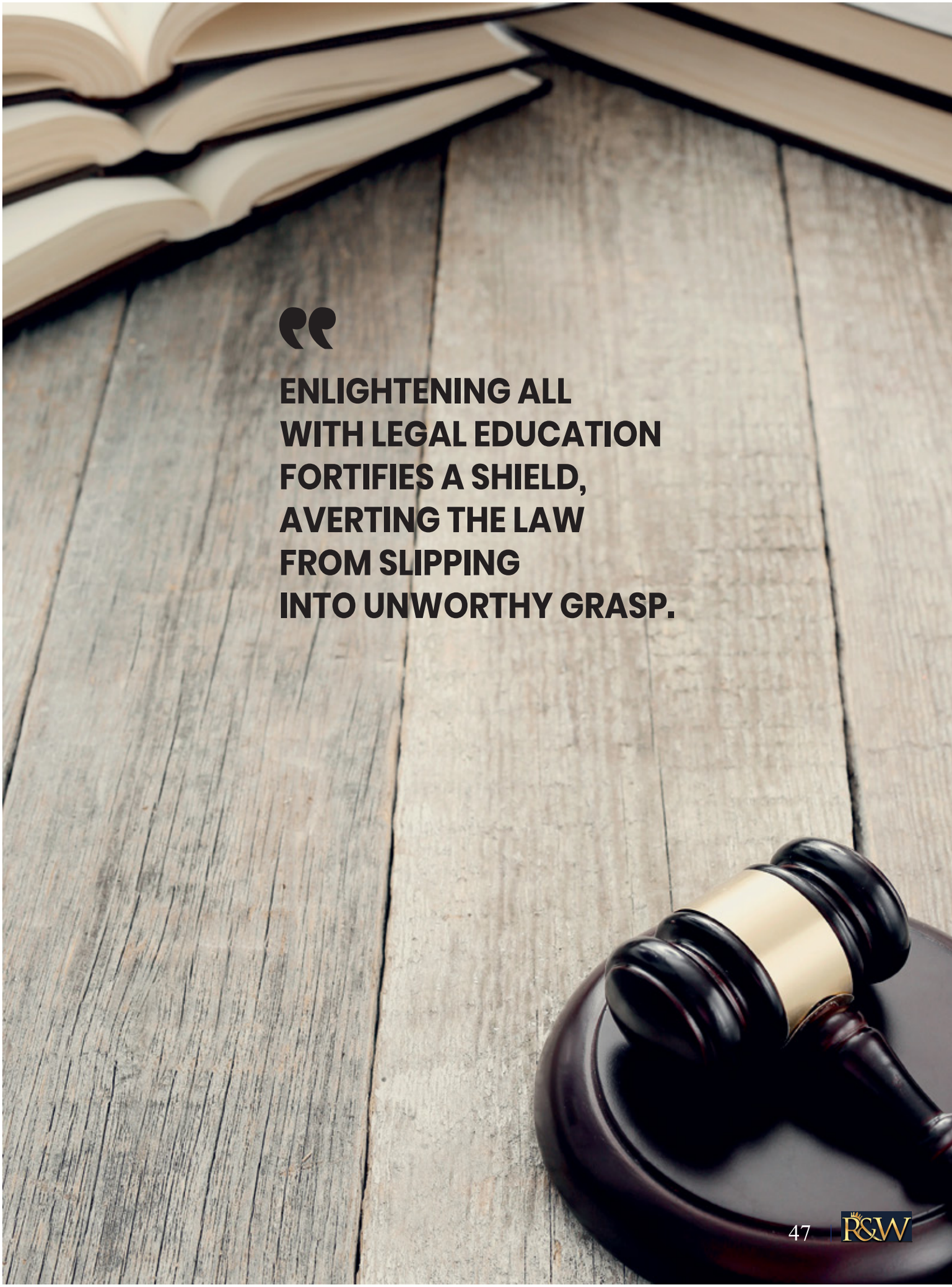
ENLIGHTENING ALL
WITH LEGAL EDUCATION
FORTIFIES A SHIELD,
AVERTING THE LAW
FROM SLIPPING
INTO UNWORTHY GRASP.

THE CHANGING LEGAL EDUCATION LANDSCAPE

The phrase 'ignorance of the law is no excuse' – or to use the original Latin expression 'ignorantia legis nulla excusiato est' – has now passed so much into common usage that it has almost become a cliche. Clearly, the dictum must be treated with some caution. Not everyone can be expected to know everything about the law, for law can be, and often is, quite complex.

But there is nevertheless an expectation in most societies that the average citizen should be familiar with at least the basics of the legal system under which they live. Also, there are certain fundamental rules of behaviour which almost every legal system, however underdeveloped or advanced, will enforce even if they are not explicitly enshrined in codes or legislation. Those rules of behaviour are premised on morality and canons of civilised behaviour.

However, as societies get more and more complex, the trend towards formalisation of legal rules accelerates. With the growth of commerce, industrialisation and technological innovation, a huge body of law – some of a very sophisticated nature – has grown in most countries, and this has led to strong compulsions for ordinary people, as well as those aspiring to be specialists, to understand and internalise legal concepts, principles and rules. Consequently, there has been an explosion in the provision of formal legal education in recent decades.

Another maxim, potent with meaning, which people encounter from time to time is 'information is power'. The idea behind this maxim is a strong one, suggesting as it does that those who have access to relevant and meaningful information in a given situation are more likely to enjoy a strategic advantage over their less informed rivals. There is, of course, a distinction to be made between information, knowledge and wisdom – a distinction which is sometimes lost sight of.

At a purely practical level, the importance of legal education – or education about the law – cannot be overemphasised. There have been very significant changes in the way law is taught formally in the various corners of the

world. Only a few decades ago, it was not uncommon for lawyers and judges – even in advanced countries like the United Kingdom – to have successful careers without ever having to go to law school. Reliance was placed, instead, on vocational education and training through a well-established system of apprenticeship. That system is, of course, now a relic of the past (although apprenticeship, in the form of 'pupillage', is still practised, but as a supplement to formal legal education). Further, more radical, changes are on their way, and this requires those wishing to take up law as a profession in the future to prepare themselves with great care and foresight. It has even been suggested, by authors like Richard Susskind, that we will soon see the 'end of lawyers',[1] though many believe that such a prediction is probably far-fetched.

Even so, it is reasonable to foresee certain trends in legal education in the near future. Firstly, technology will play a big role in the manner in which law courses are designed and delivered: there will, for example, be increasing use of artificial intelligence and data analytics, which will leave those who do not make the effort of understanding and mastering these techniques behind; also, greater use will be made of distance education and hybrid methods of knowledge transfer. Secondly, the practice of law is likely to become increasingly specialised, and this will lead to a move away from the broad-based model of legal education which has prevailed for the past several decades. Thirdly, the trend towards multi-disciplinarity in the study of law is likely to accelerate, with a proliferation of courses which will combine legal education with studies in areas such as business, management, information technology etc. Fourthly, it is quite possible that the practical content of law courses – through, for example, clinics and simulations – will increase substantially, with the result that classroom, lecture-based, learning will no longer occupy the predominant position that it currently does. There are also indications that the average length of undergraduate courses in law might shrink to as little as two years.

The demand for legal knowledge will not disappear because, as was noted at the start of this article, ignorance of the law will not be accepted as an excuse in any part of the world.

These projected changes are bound to have a profound effect on legal education providers. Unless they are nimble enough to prepare for, and meet, the challenges thrown by the various forces at work, they will face an uphill task in continuing to be relevant within the new landscape. The one thing that everyone can be sure about is that the demand for legal knowledge will not disappear because, as was noted at the start of this article, ignorance of the law will not be accepted as an excuse in any part of the world.

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THE CONCEPT OF A FAIR TRIAL
IS IT REAL OR IS IT LIMITED TO STATUTORY PROVISION?

Article 13(3) of the Constitution of Sri Lanka declares that, 'Any Person charged with an offence shall be entitled to be heard, in person or by an Attorney-at-Law, at a fair trial by a competent court'.Right to a fair trial was defined widely in the case of *Attorney General V Segulebbe Latheef and Another.*[1] Article 12(1) of the Constitution of Sri Lanka[2] clearly states that all persons are equal before the law and are entitled to the equal protection of the law irrespective of race, religion, language, caste, sex, political opinion and place of birth.[3] Every criminal must be heard in a similar manner in accordance with the Criminal procedure in Sri Lanka and the procedure mustn't be differentiated based on the gravity of the crime which the accused has committed.

When the proceedings are instituted in the Magistrate Court, the Administration of Justice Law has provided two ways to file the complaint which is either by way of a Private Plaint or as a Police Plaint[4] *and the Magistrate's perception towards any case of a certain accused shouldn't be ascendant due to the difference between a private plaint and a police plaint.*[5]

In Criminal Law, the internationally recognized standard is the presumption of innocence which means that every man should be presumed innocent until he is found guilty.[6] The arrest must take place by a police officer with a reasonable suspicion.[7] An arrest of a suspect shall be on a reasonable suspicion when the

The meaning of the right to a fair trial doesn't compact in to only right to a fair hearing, in fact it is considered as one of the arms under the Umbrella Concept of Natural Justice.

facts disclosed were found by the police officer's own knowledge and that the police officer's knowledge must be parallel with the arrest of the suspect.[8] Further, at the time of the arrest, the suspect must be informed of the reason for his arrest.

However, in Sri Lanka, it's been observed that, police officers who are arresting a suspect don't inform the reason of the arrest to the suspect, thereby curtailing this right of the suspect. Moreover, when a suspect is arrested under a warrant, the suspect must have the right to obtain a copy of the warrant and copy of the report, complaint or any other document which supported to institute proceedings against the suspect.[9] Suspect shall not be subjected to an increased restraint other than is allocated or necessary[10] because it's been observed in many situations, police officers tend to inflict restraint on the suspect unnecessarily. Even when the suspects are brought to the police station, it's been observed that the suspects were treated in a worst manner which will again become a violation of right to a fair hearing. In the recent past, in Sri Lanka, many suspects were found dead when the suspects were in police custody without any reason been publicized which will in return be a negative image in the eyes of the international community of the legal system in Sri Lanka.

The right of the suspect to have a Counsel and to communicate with him or her and the right of an accused to be tried in his presence and to defend himself or through Counsel are the rights which are important. It is stated that, even a worst Criminal shall have the right to be represented by an Attorney-at-Law and defend himself in court.[11]

One of the main points for a charge to be valid is that when the charge is read to the accused in a language which the Accused understands.[12] This is a right which has been granted to the accused during court proceedings and during recording statements by the police officer in the process of investigation. The accused must be present in courts and the accused must request for an interpretation of evidence if the accused cannot understand the language in which the evidence has been recorded.[13] However, the discretion must be left to the accused in this regard.[14] The accused having been granted this right according to the law indirectly upholds the right to a fair trial.

Nonetheless, there are gaps yet to be filled and addressed by the authorities who are responsible in this regard in the Legal system of Sri Lanka.

The above discussion encapsulates the relationship between the right to a fair trial and the implementation and application of the concept in the current legal system of Sri Lanka.

As explained and elaborated in the article, the meaning of the right to a fair trial doesn't compact in to only the right to a fair hearing, in fact it is considered as one of the arms under the Umbrella concept of Natural Justice. What matters is the actual practical implementation of the law towards the public, justice without further delay and prevention of wastage of their money and the resources in the country.

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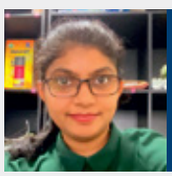

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THE LAW RELATING TO ALIMONY PENDENTE LITE AND PERMANENT ALIMONY IN DIVORCE ACTIONS

This right can be executed equally. by the husband as well as the wife in Divorce Actions. According to the civil Procedure code in Sri Lanka, an application has to be made by Petition and affidavit under the Summary procedure. After examining the facts stated in the petition the court on being satisfied makes order for the husband or wife to pay a reasonable amount during the pendency of the case. That amount should not be less than 1/5th of the average net income for the three years. next preceding the date of the order. When such an order is made it is lasting until the decree absolute is made. Section 614 of the Civil Procedure code describes the procedure of Alimony Pendente Lite. When any party made a claim, such claim is payable from the date of the application. That principle was decided in Menika vs Dissanayaka (7 NLR page 8) Asserappa v Asserappa 37 NLR- Page 372) In Ramanadan us Thambimutthu (1994-SLR- Vol 3 Page No: 367) The Justice Ananda Kumaraswami followed the same principle.

The only Matters at issue in an application for alimony pendente lite are the need for financial support on the part of the applicant spouse.

The relevant provision in section 615 of the Civil Procedure Code". Is that "the court may on any decree absolute declaring a marriage to be dissolved make an order for alimony"

When the court ordered to pay alimony pendente lite and the party who was subjected to that order did not comply, then it amounts to contempt of Court and in such a case the court may in its discretion stay proceeding until the alimony due is paid. It was decided by Justice Keuneman in Asilinnona vs Peter Perera (46 NLR page 109)

When any party claims permanent alimony, then question arises at what stage an order to pay permanent alimony should be made. That was decided by chief Justice H.N.G. Fernando in Ranie Wellala vs D.R. Wellala (78 NLR page 505). He held "the relevant provision in section 615 of the Civil Procedure Code". Is that "the court may on any decree absolute declaring a marriage to be dissolved make an order for alimony". It is understood that the permanent alimony becomes exercisable only at the stage when the court determine that a decree for divorce is to be made absolute. Hence it is no doubt that the liability to pay alimony pendente lite continues until the decree is made absolute.

When pronouncing the decree of divorce, the court can order the payment of alimony either to pay monthly or as a lump sum or any other order for the wellbeing of the children of the marriage or any spouse. The liability to pay alimony and the nature and quantum of the payment are investigated at an earlier stage of the case. That practice was decided in the case of Karunanayaka vs Karunanayaka (39 NLR page 275) In the aforesaid case, fixing the amount of permanent alimony Judge further held "order for permanent alimony should properly be made only when a divorce decree is made absolute".

Justice S. N. Silva made his view in Edirippuli vs Wicramasinghe (SLR. 1995 Vol 2 page 22) "The merits of the action and the question of matrimonial fault are gone into an inquiry into an application for alimony. Further stated that "The only Matters at issue in an application for alimony pendente lite are the need for financial support on the part of the applicant spouse, that stems from the lack of his or her income and income of the respondent Spouse. Any order made regarding the alimony the court may at any stage discharge, modify, temporarily suspend and review or enhance, according to the provisions stated In section 615 (2) of civil procedure code.

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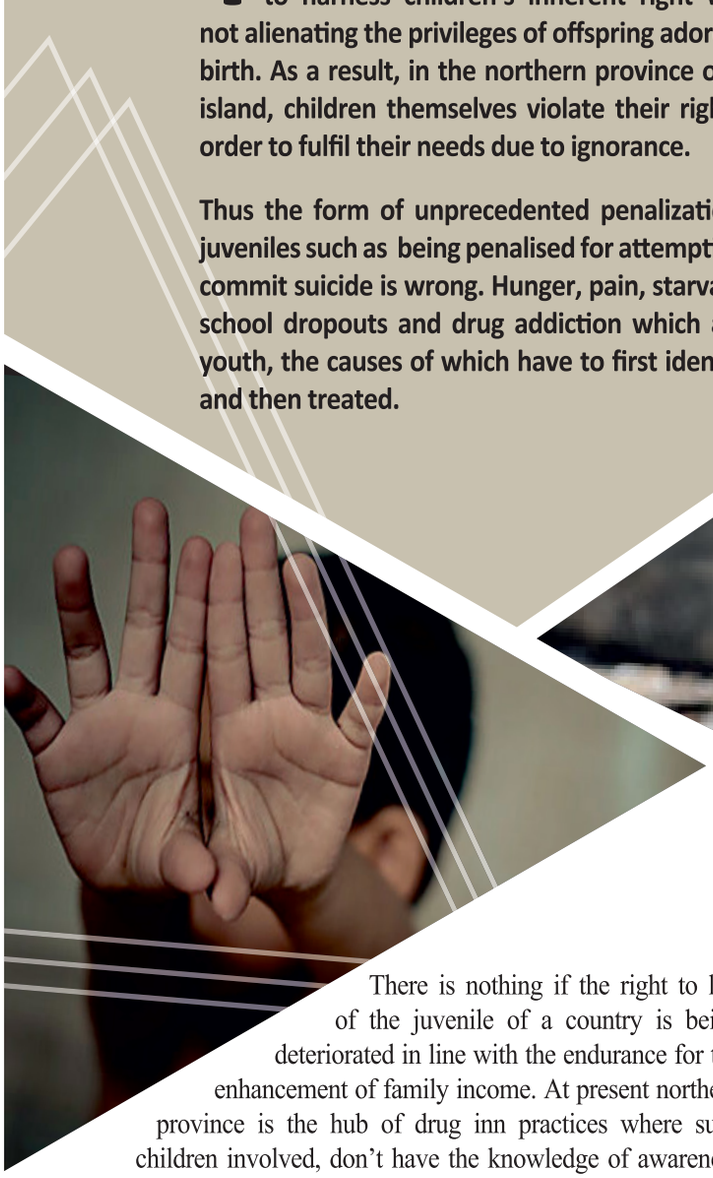
THE TENDENCY OF VIOLATION IN ADOPTING CHILDREN'S RIGHT WITH RESPECT TO WAR TORN AREAS OF SRI LANKA

This is drawn within the framework of preventive diplomacy and child education to harness children's inherent right whilst not alienating the privileges of offspring adored by birth. As a result, in the northern province of this island, children themselves violate their rights in order to fulfil their needs due to ignorance.

Thus the form of unprecedented penalization of juveniles such as being penalised for attempting to commit suicide is wrong. Hunger, pain, starvation, school dropouts and drug addiction which afflict youth, the causes of which have to first identified and then treated.



There is nothing if the right to life of the juvenile of a country is being deteriorated in line with the endurance for the enhancement of family income. At present northern province is the hub of drug inn practices where such children involved, don't have the knowledge of awareness on narcotics and trapped on encumbrances of the traders. The so-called trade practitioners are tricky for abundance of income generation. Some of these naïve school going children are scapegoat of some trade practioners. Where as these school going children were diverted into the addiction of drugs devoid of any knowledge wherever the culpability constitutes the capital punishment in the court of law. Henceforth, hitherto a few considerable lives of offspring have been spoiled on this nature as suicide committers. This how the alienation over the children rights have been amalgamated into a vicious circle.

The law has no room for prostitution, obscene publications indecent exhibition and illegal marriages in Sri Lanka. Even though there are a few inviolabilities, nonetheless due to unawareness and lack of legal education at school level there is abuse. Thus, these shortcomings impact society's socio cultural activities negatively.

Education is a basic right of children. but where the tendency of dropping out of schooling is increasing, that affects the development index of the country.

Though education is compulsory under the law, for all practical purposes, students may be handicapped in pursuing their studies due to circumstances beyond their control. This is particularly so in the conflict affected areas of the country where society is disorganised, leading to depression among children.

The law has no room for prostitution, obscene publications, indecent exhibition and illegal marriages in Sri Lanka.

Even though there are inviolabilities safeguarding minors, nonetheless, due to unawareness and lack of legal education at school level, these rights are violated.

The recent gang rape of schoolgirl Sivaloganathan Vidiya at Punkuduthivu is an example of crimes against children being committed by a member of the same community.

It should be noted that the penal code was amended in 1995 with the evolving development of the law relating to children and protecting women and children from criminal offences. It is alleged that a draft parliamentary act was submitted by the National Child Protection Authority to formulate national policy on the prevention of child abuse and to coordinate action against all form of child abuse. Nonetheless, both the lives of parentless children and children with parents, including jobless parents' children, mentally unstable parents' children, single parents' children, separated parents' children, disabled parents' children and uneducated parents' children are at the mercy of predators.

Currently, the judical position is that corporal punishment inflicted on children is illegal. It was held in the case of *Y v United Kingdom* that the caning of a fifteen-year-old boy by the headmaster of private school violated the article 3 and 13 of the European Convention on Human Rights. Apart from this, it was adjudicated in the case of *Warwick v United Kingdom* that children have separate personalities to that of their parents and which case was the threshold for the implementation of the international convention on the right of child in the present form.

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UNDERSTANDING FLAWED ASSET ARRANGEMENTS

The following is an exploration of the concept of Flawed Asset Arrangements (FAA) in relation to the anti-deprivation principle (ADP) in insolvency law. FAAs are conditional payment obligations that are bound to the occurrence of pre-defined events.[1] In the event of insolvency on the part of the obligee, the obligor shall have a preferential claim to the asset over other creditors.

FAA is often used in the banking industry, where banks include these clauses to safeguard their interests in the event of a borrower's failure to repay a loan. The validity of FAA as a security arrangement has been hotly contested, especially in the context of the anti-deprivation principle (ADP).

The ADP is a common law concept rooted in public policy, which entails that parties must not contract to defeat the applicability of statutory insolvency laws.[2] It prohibits an insolvent from entering into agreements to deplete and/or distribute property in a manner other than in accordance with the statutory mechanism. The aim of ADP, which was earlier referred to as the 'fraud against bankruptcy principle', is to prevent the exclusion of assets of an insolvent estate that would diminish the value of the said estate, which in turn would be prejudicial to the interests of the creditors of the said estate.

Apart from the ADP, another principle that arises from the same public policy is the pari passu principle which dictates that assets of an insolvent must be distributed equally or proportionately among the creditors.[3] For the first time, the United Kingdom Supreme Court recognised the existence of these two principles; the ADP and the pari passu, in Belmont Park Investments PTY Ltd v BNY Corporate Trustee Services Ltd (Belmont Park case)[4]. As such, it is evident that FAAs stand prima facie in contravention to the ADP. As such, this research seeks to compare the validity of FAAs in the context of the ADP.

FAAs as payment obligations, when fulfilled, create an asset for the obligee. However, the obligee is unable to claim this obligation until the completion of the pre-defined events, which makes the payment obligation technically reflected as a liability.[5] In the event of insolvency on the part of the obligee, the obligor shall have a preferential claim to the asset over other creditors, and other agreed-upon entitlements. The use of FAA clauses can either be bipartite or tripartite, depending on the nature of the transaction.

FAA clauses often formulate a "triple cocktail" of security[6], which includes a charge-back provision, a contractual set-off right, and a FAA[7]. The intention of the triple cocktail is that if one of these three fails, there would still be adequate security. The validity of charge-backs was a point of contention until the same was settled by the House of Lords in Re BCCI (No 8)[8], where it was held that there is no conceptual barrier for a bank to take a charge-backed security over its own indebtedness. In Re Lehman Brothers International (Europe) (In Administration)[9], it was held that an agreement could be given effect as a flawed asset provided the same did not amount to a charge, once again drawing a distinction between a FAA and a charge-backed security.

Lord Hoffman in his obiter in Re BCCI (No 8)[10] recognised that a bank can enter into a FAA with a depositor and create a security that is as good as any.[11] In Canada, the Supreme Court held that a charge- backed security and a FAA is deemed to conform to the requirements of a "security interest" within the meaning of the Income Tax Act 1985.[12] In Australia, the legislature has recognised FAA as valid security interests.[13] The same is true in accordance with the laws of New Zealand.[14] Therein it is evident that across multiple jurisdictions, both the Courts of Law as well as the legislatures have defined FAA as security interests and valid, despite the ADP and the pari passu principle.

In conclusion, FAAs have become increasingly popular in the financial industry as they provide a security interest against a credit obligation without being subjected to typical state regulations. Courts have cautiously constructed FAA clauses with respect to the ADP and have established that a FAA created in good faith with a commercially viable justification and without fraudulent intention to prevent the application of statutory insolvency laws are valid contractual instruments. The legitimacy and efficacy of a FAA depend on the manner in which it is drafted and the intention of the parties. A correctly executed FAA provides a strong security interest to lenders subject to public policy caveats.

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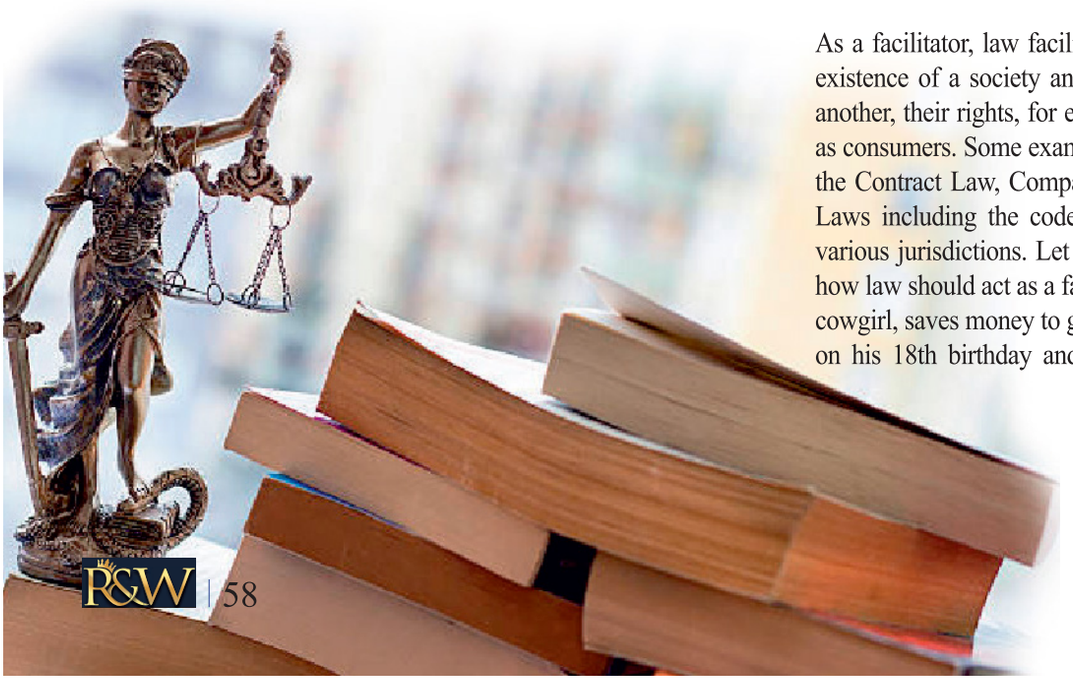
WHAT LAW IS AND WHAT IT OUGHT TO BE !

BEING A PROFESSOR OF LAW HAS SOMETHING TO DO WITH WHAT I AM WRITING HERE. ON THE OTHER HAND, ONE DOES NOT HAVE TO BE A LAW PROFESSOR TO WRITE THIS. ABOUT LAW, WHICH WE SEEK TO EXPLORE IN THIS SERIES, I SHALL WRITE BOTH AS A COMMONER AND A LAW PROFESSOR. FOR ME, AS FOR EVERYONE, LAW IS A BINDING FORCE WHICH HOLDS THE SOCIETY TOGETHER.

I WILL NOT REITERATE THAT LAW IS A SET OF RULES WHICH GOVERNS SOCIETY. EVERYONE KNOWS THIS. **I WOULD RATHER CALL IT AND WANT IT TO BE A FACILITATOR, AN INSTRUMENT, PEACEMAKER, A GUARDIAN, A CREATOR, A PROTECTOR, A DESTROYER, A CONNECTOR, A PRE-SUPPOSITION AND A CHANGE MAKER.**



As a facilitator, law facilitates and should facilitate the existence of a society and people's contracts with one another, their rights, for example, in sales of goods and as consumers. Some examples of law as a facilitator are the Contract Law, Company Law, Property Law, Torts Laws including the code for Consumer Protection of various jurisdictions. Let me provoke your thinking on how law should act as a facilitator. Imagine, little Alia, a cowgirl, saves money to gift her brother a mobile phone on his 18th birthday and to her dismay, she receives

the phone from an online portal with a defect. Imagine there is no court in her village and she has no money to reach bigger towns. How would law facilitate her rights as a consumer? Okay, I leave it to the reader of this article to think.

As an instrument, it gives power to the State machinery to declare what is right and what is wrong. It declares fundamental rights of the peoples of the world. It defines what is accepted and what is not accepted in a society populated with right thinking people, and also for people who cannot think. Yes, it guards the mentally disabled too. The Constitutional texts of different countries, the portion related to fundamental rights, and the charter of rights in France, and USA, the Magna Carta in England, and Hindu Vedic texts are some examples of law as an instrument. It defines how much any State can interfere in the liberty of a citizen who habitually or permanently resides in a territory, or even a non-citizen who has visited as a tourist or is employed in a different territory. It also defines the role of the State in protecting the vulnerable peoples including children, mentally ill and tribals. As an instrument, law therefore takes pride in acting as a parent (the concept of parens patriae).

The Law of the States has a role to play as a guardian of most fundamental rights of human person. Not only as guardian, but also as a peace maker, it connects countries together and avoids conflict. As a creator, it creates and should be able to create just, fair and equitable conditions of human existence. It creates rules and institutions responsible for administering the society keeping everyone's interest in mind. Law, thus can be equated with the Hindu God Brahma. As a protector, it protects everyone's rights and is the guardian of the society much like the Hindu God Vishnu. As a destroyer, it destroys all evil and punishes those who harm others like the Hindu God Shiva.

Law is also a presupposition that rules need to be obeyed because the society can only prosper without chaos and anarchy. Now imagine a society without any rule of law. Imagine no government, no police and anarchy everywhere. Since there are many stakeholder to law, a society without law would give huge powers to all those stakeholders who are mightier than others. For example, a rich man can snub the poor, the mightier person can grab all resources, the forceful can have all their say and so on. So law is important and all encompassing peace maker for a organized society. Also, as a change maker, law should be written to bring about equal rights to all and sundry. An example of law as change maker is when new laws are brought in parliament for meeting the housing needs of the economically weak sections of a society. Or law facilitating more special schools for the disabled.

Now, how many of us like the law in the forms discussed above. Let us ask a question to ourselves. Which form of law is our calling? Law as an instrument, or a facilitator, or a protector? What did we internalize to become the law as it ought to be. Let me tell you which form of law I like. As a professor of law, I decide to become the law of the bright and equal tomorrow which I wish to see. What do you want to become?

“

Law, thus can be equated with the Hindu God Brahma. As a protector, it protects everyone's rights and is the guardian of the society much like the Hindu God Vishnu. As a destroyer, it destroys all evil and punishes those who harm others like the Hindu God Shiva.

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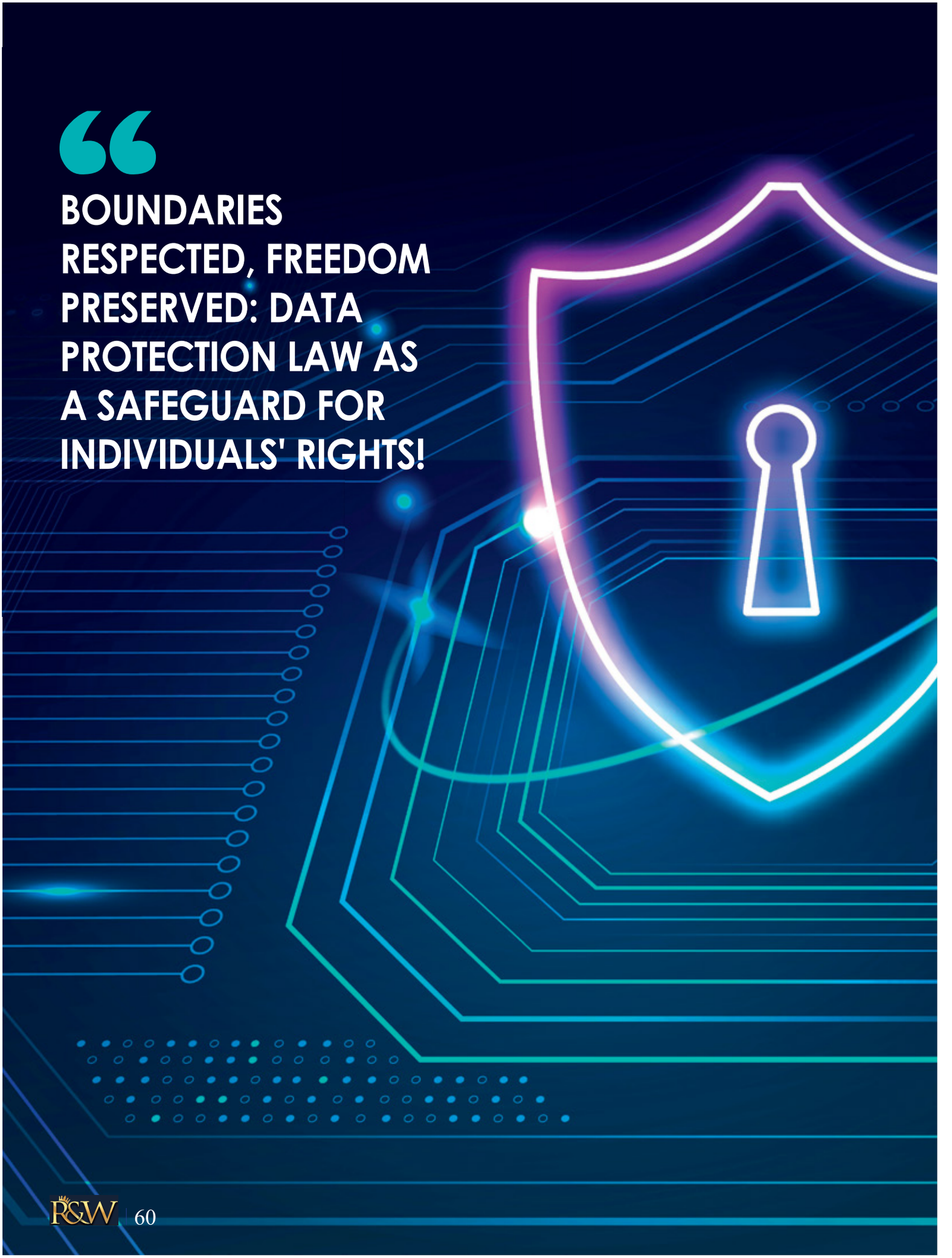
BOUNDARIES RESPECTED, FREEDOM PRESERVED: DATA PROTECTION LAW AS A SAFEGUARD FOR INDIVIDUALS' RIGHTS!



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