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CONTENTS

S. No.		Page No.
Articles	**Editorial**	
1	Evergreening of Patents of Drugs and Right to Health: A Conflicting Interest **Imran Ahad** **Fareed Ahmad Rafiqi**	01-12
2	Right to Healthy Environment Under National and International Regime: An Appraisal **Mohd Rafiq Dar**	13-34
3	Triple Talaq: A Critical Appraisal of Its Roots in Theological, Legal and Social Fabric and a way forward **Syed Shahid Rashid**	35-52
4	Education as a Consumer Service: National and International Perspective **Uzma Qadri**	53-70
5	An Appraisal of Magnitude of Surrogacy under Islamic Law **Unanza Gulzar**	71-86
6	Applicability of AFSPA in India: A Humanitarian Perspective **Shazia Ahad Bhat**	87-114

Evergreening of Patents of Drugs and Right to Health: A Conflicting Interest

Imran Ahad*
Fareed Ahmad Rafiqi**

Abstract

Evergreening of patents, the most common practice associated with the pharmaceuticals industries, refers to the strategy adopted by these industries to obtain benefits of patenting by camouflaging the improvement in drugs as a new product, typically by obtaining patents on improved versions of the existing products. "The ever greening refers to attempts by owners of pharmaceutical product patents to effectively extend the term of those patents on modified forms of the same drug, new delivery systems for the drug, new uses of the drug, and the like."The ever greened patents can cover every thing from aspects of the manufacturing process to colour, or even a chemical produced by the body when the drug is ingested and metabolized by the patent. Ever greening of patents is not a formal concept of law; rather it is an idea referring to the innumerable ways in which the pharmaceutical companies uses the law and related regulatory processes to extend their high rent earning intellectual property rights, otherwise known as "intellectual monopoly privileges."In this paper a n attempt has been made to highlight the nuances of this practice adopted by pharmaceutical companies to surreptitiously extend the life of the product patent beyond the statutory period to dupe the public in terms of denying access to medicine by resorting to an unfair trade practice.

***Keywords:* Ever-greening, public health, generic drugs, life-saving drugs, product patents, Novartis ruling**

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Right to Healthy Environment Under National and International Regime: An Appraisal

Mohd Rafiq Dar*

Abstract

Environment is a sine qua non for the existence of life on this planet. Amongst the basic rights the environment is a basis for all other rights. Since the beginning of human life on the earth man has been fulfilling his needs from the environment for sustaining his life. With the passage of time the need of the man changed into greed, and he started exploiting the environment to the extent of devastation forgetting altogether to nurture this valuable resource. The nation states are blindly following the rat-race and mad-race of development at the cost of lives of hundreds of thousands of people which is a clear violation of human rights enshrined in international covenants and the constitution.In the United Nations Conference on the Human Environment held in Stockholm the international community declared that 'Man has the fundamental right to freedom, equality and adequate conditions of life, in an environment of a quality that permits a life of dignity and well-being, and he bears a solemn responsibility to protect and improve the environment for present and future generations.'[1] The human rights are cherished as basic and essential rights, and have gained much importance in international legal arena in the present era. The right to healthy environment is more important since it forms the basis for the existence of humankind itself. The present paper attempts to highlight the development and current status of right to healthy environment in International law and Indian law.

Keywords:Environment, Human Rights, International Law, United Nations, Equality.

Introduction

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1. Principle 1, Stockholm Declaration on the Human Environment, *Report of the United Nations Conference on the Human Environment* (New York, 1973), UN Doc. A/CONF.48/14/Rev.1.

Environmental pollution is a problem not of a region, nation, community of the states but of the world community. The Chernobyl to Bhopal Mass Disaster has left many irrepairable and uncompensated losses for the present and future generations as well. Since right to a healthy environment is important to the healthy living of a person,it is necessary that the right must be interpreted in the widest amplitude.The interpretations of Article 21 by the Supreme Court have over the years become the bedrock of environmental jurisprudence, and have served the cause of protection of India's environment (and to a lesser extent, of livelihoods based on the natural environment). In addition to this, there are a large number of laws relating to environment, enacted over the last few decades. The Constitution does not explicitly provide for the citizen's right to a clean and safe environment, a number of amendments to the Constitution, for ensuring environment protection and nature conservation is sine qua non. A separate right to healthy environment should be carved out from the article 21 itself to prevent any more harm to the already deteriorated environment and the environment protection should be included as one of the obligatory component in corporate social responsibility.

Triple Talaq: A critical appraisal of its Roots in Theological, Legal and Social Fabric and a way forward

Syed Shahid Rashid*

Abstract

There is a general perception regarding Islamic law of divorce that it is discriminatory so far as woman is concerned and has given unlimited powers to Muslim husband to repudiate marriage ties as and when he deems fit and thus the laws are considered to be patriarchal in mode. The concept of Triple Talaq dissolving the marriage instantly has added to this perception. On the contrary, there should be every possibility for marriage stability to subsist and at the same time it should provide for dissolution of a marriage where spouses legitimately feel that they cannot live together for whatever reasons. In this context this paper is a humble attempt to explore triple talaq and its roots and scope in theological, legal and social fabric.

Keywords: **Triple Talaq Bill, Imam Abu Hanifa, Ibn Tayimah, Supreme Court, *Uniform Civil Code.***

Introduction

In a famous judgment of the Supreme Court of India, the then Chief Justice of India, Chandrachud J. observed:[1]

"Undoubtedly, the Muslim husband enjoys the privilege of being able to discard his wife, whenever he chooses to do so, for reason good, bad or indifferent. Indeed for no reason at all."

However, an in-depth study and analysis of the law of Divorce in Islam reflects the picture contrary to the observation quoted above. Natural justice and civilized sense demands that system of divorce should not be such as to make marriage itself into an oppressive bond. Nor should it make divorce so easy that one can get out of the marriage bond with ease. Traditionally divorce laws in different religious

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1 Muhammad Ahmad Khan v Shah Bano Begum, AIR 1985 SC 974

The Muslim Women in India is shown as the victimized constituency vis-à-vis triple talak, polygamy, maintenance etc.

Education as a Consumer Service: National and International Perspective

UzmaQadri*

Abstract

Education is fundamental to the progress and unity of nations and an indispensable state responsibility. Education is necessary first to enable each human being to know his or her human rights.The United Nations has proclaimed the existence of a human right to development. This right refers not only to economic growth but also to human welfare, including health, education,employment,social security, and a wide range of other human needs.It is the obligation of states and intergovernmental organizations to work within the scope of their authority to combat poverty and misery in disadvantaged countries.An alert consumer is an asset to the nation. We dedicate ourselves to be more proactive in spreading consumer movement for a wide so that each one of us knows our rights and responsibilities for our own welfare and development of a vibrant and stable economy. This Paper highlights the right to education at international level in detail under various conventions, protocols and agreements. The measures adopted in India have also been discussed. The constitutional and legal measures adopted by the Indian government to change right to education from statutory right to fundamental right has been focused upon including education as a consumer service under Consumer Protection Act, 1986 in India.

Keywords: ***Educational Rights, Consumer Services, Globalisation, Children, Constitutional Rights.***

Introduction

Etymologically, education has been derived from the Latin word 'educare'[1] which mean to train or to mould. Children are the nation's assets and future resource of man-power for the country. They constitute the core of human society. It is their development which sustains the society, their development with dignity is a matter of great concern

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1 Seetharamu.A.S. 'Philosophies of Education, APH Publishing, NewDelhi(1978),P.11.

under obligation to implement such provisions.Multifarious judicial decisions in respect of the classifiability of different kinds of educational activities performed by educational institutes as services, as defined in the 1986 Act, has ascertained the current position in law, in respect of the amenability of educational institutes and their activities to the provisions of the 1986 Act, and to the extent thatsuch ascertainment is capable, perused and analysed. Educational institutes are classifiable as marketable services. Educational institutes performing educational activities can be christened as service providers. Likewise, in respect of the inquiry, i.e. whether the student, in respect of whom the educational activities are performed, or his parents or sponsors as the case may be, can be regarded as consumers of such services, too, the answer is without a doubt, in the affirmative. When the goal of education is service to humanity it elevates the student to view life from a higher panorama.

An Appraisal of Magnitude of Surrogacy under Islamic Law

Unanza Gulzar*

Abstract

Human reproductive system is complex biological machinery responsible for the procreation of the children. In our society where having a child is considered to be the greatest blessing of the Almighty, as the need for bearing children, feeding them, playing with them, shaping their future and sharing their dreams is immense; it is therefore a basic human need. But this blessing is not guaranteed to all and there are many who are deprived of the same due to one reason or the other. With an eye on the strong human desire to have an off-spring, much scientific advancement has been made to tackle the problem of barrenness in the couples. For such couples, Assisted Reproductive Technology (ART) came one such a response to their prayers and diminishing hopes. At one end such technological advancements are a great relief for the infertile couples and on the other hand they have brought forth the questions of ethics and legality. Surrogacy being the most popular of them is constantly under the radar of discussion and debate. India, the land of plethora of cultures and religions has become the epicenter of the Surrogacy. It will not be wrong to say that India is the world capital of surrogacy. Assessing it from the view point of the personal laws is therefore very important as most of the family matters are governed by the personal laws of the person concerned. Therefore, through the instant academic venture a humble effort has been made to analyze the concept of surrogacy under the Islamic law which forms the personal law of the second largest population of the country.

Keywords: ART, Islamic law, Marriage, Surrogacy.

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certain limits exist to it, which cannot be disregarded. The Islamic principles that identify these limits are 1) a valid marriage contract; 2) preservation of lineage including adopted offspring; 3) surrogacy is prohibited and the "birth mother" is the mother; and 4) gametes are not to be donated. The stand of the Islamic law with regard to the concept of Surrogacy will again bring the personal laws within the range of the cannon shots from the supporters of the Uniform Civil Code (which in itself is a distant dream at present) like it has been in the past.

Applicabilityof AFSPA in India: A Humanitarian Perspective

ShaziaAhadBhat*

Abstract

Humanitarian law may truly claim to be a universal body of law. Serious violations of humanitarian law are committed on a daily basis in the dozens of conflicts now taking place around the world. Violations nevertheless do occur, and will continue to do so until an end is put to impunity. The humanitarian law applies in areas where AFSPA operates depending on the intensity of violence in areas designated as 'disturbed' The AFSPA has been very controversial since its inception due to an alleged illegality and contravention of International Law. The prolonged application of this Act has not only institutionalized militarism and a climate of impunity but has also alienated the public and fuelled a cycle of violence, increasing insurgency rather than dampening it. It is time we realize that the issue of human rights is not trivialized as a mere domestic issue isolated from the rest of the world. It has assumed an international dimension, and concerns the international community as a whole in the emerging new world order in which violation of human rights in any remote corner of the globe is viewed as a challenge before humanity. In the present research paper an attempt has been made by the author to deeply analyze the provisions of AFSPA in the light of humanitarian law so as to perceive the true nature of the Actand its impact in humanitarian perspective, when implemented practically.

Keywords: ***Humanitarian law, AFSPA, Violence, Insurgency, International law, Human Rights.***

I. Introduction

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waived the immunity of security officers alleged to have been responsible for violations. This runs counter to the Vienna Declaration and Programme of Action adopted at the seminal World Conference on Human Rights, which urged all states to:

Abrogate legislation leading to impunity for those responsible for grave violations of human rights such as torture and prosecute such violations, thereby providing a firm basis for the rule of law.

There have been numerous violations of treaties, resulting in suffering and death which might have been avoided had humanitarian law been better respected. Humanitarian law has always had ambitious goals to protect the victims of armed conflicts, and to limit the means and methods of warfare. It comes into play at precisely that point when the rules and structures are breaking down; when countries and communities are struggling for their very existence; when humanitarian standards are in jeopardy. And yet, by many of the criteria of international standard-setting, humanitarian law has been a remarkable success story. Its rules are enshrined in numerous treaties and conventions; spread over hundreds of pages and treaty articles, they are among the most detailed and extensive in international law. Moreover, humanitarian law may truly claim to be a universal body of law. Serious violations of humanitarian law are committed on a daily basis in the dozens of conflicts now taking place around the world. Violations nevertheless do occur, and will continue to do so until an end is put to impunity. The imperative need for the government to abide by the International bill of human rights arises out of constitutional requirements, general customary International law, common law background, state practices and above all, the Union Government's signature and ratification of the two covenants.