AMITY LAW WATCH

Institute of Advanced Legal Studies, Amity University

Founder-Editor
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Issue No. 34 **2020**

Contents

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Editorial

Tahir Mahmood
Professor of Eminence & Chairman, AIALS

The current academic year at Amity started in January 2020 with the usual enthusiasm and fanfare. The destiny however willed otherwise. Due to the dreaded Covid-19 pandemic the campus was closed in mid-March and remains closed till date. The usual academic and administrative activities of the university were however not allowed to suffer. The university with its high technical expertise devised means to carry on all its normal work online. AIALS conducted LLM classes, PhD students' ODCs, SRC and DRC meetings, student-teacher personal contacts, etc. -- all online.

The Founder-President Dr Ashok K. Chauhan has been regularly in touch with me to inquire about our needs and providing full support. He even appeared in one of our academic programs online, took a special interest in the progress of ALW, and has sent his blessings for this issue.

A grave tragedy of the year has been the sad demise of our former Vice-Chancellor Major General K. Jay Singh. It was deeply mourned by the entire Amity fraternity.

I have been virtually under house arrest imposed by Covid-19 and have not stepped out of the gate of my house since mid-March. Despite this I have been working as usual, online of course, and have in fact done more work than in normal days – both for Amity and regarding my own academic pursuits. Happily, I have been able to prepare this latest digital issue of ALW and am offering it to all its readers with profound gratitude to the Founder-President, thanks to other university authorities, and best wishes for my colleagues, students and alumni.

My Lamented Friend Ram Jethmalani

[*Indian Express*, 10 September 2019]

Tahir Mahmood
Professor of Eminence & Chairman, AIALS

My nonagenarian friend Ram Jethmalani has passed into life hereafter. We had known each other for over four decades and had very different views on many matters of national importance. At academic seminars, meetings and workshops we differed — always in a highly civilized manner — on nuances of legal issues, especially those with political overtones. These interactions usually ended with an agreement to disagree.

I had my first academic encounter with Ram in 1977 at a family law conference I was compering. Zealously supporting the demand for implementing the constitutional provision relating to the uniform civil code, he concluded his presentation with the argument that minorities should accept the demand "as a price for living in this country." Before inviting the next presenter, I confronted him by asserting that minorities were not just "living" in this country, they were its equal citizens, entitled to all the fundamental rights enshrined in the Constitution. Realizing his impropriety, Ram returned to the podium to explain that he wanted to say minorities should accept the uniform civil code as part of their duty to respect constitutional ideals. Seven years later in October 1985, he and I had a dialogue in the columns of *The Indian Express*, on the issue of uniform civil code.

In 1999, when I was Chairman of the National Minorities Commission, Prime Minister Atal Bihari Vajpayee named him as the law minister. Ram soon picked up a bone with Chief Justice AS Anand -- my old friend and years ago my classmate in LLB course at Lucknow University -- and quit his job. Unable to decide who to support, I kept mum.

Ram had begun his legal practice in Karachi with the city's leading lawyer Allah Baksh Brohi who, like him, was destined to be his country's law minister. After moving to India, he taught law at a Bombay college. Later, he

shifted to Delhi and served four times as the Chair of the Bar Council of India. During the dark days of Emergency, Ram shot into fame for his criticism of the mighty PM of the day, Jawaharlal Nehru's daughter Indira Gandhi. He entered politics soon thereafter. In 2004, Ram contested the parliamentary election from Lucknow to oppose Prime Minister Atal Bihari Vajpayee, and lost.

In the legal profession, Ram had earned fame for defending all sorts of people — politicians, scamsters, alleged criminals and many others. His clients included BJP stalwart L K Advani, yoga guru Baba Ramdev, Andhra Pradesh's Y S Jaganmohan Reddy, Bihar's Lalu Prasad, stockbrokers Harshad Mehta and Ketan Parekh, mafia leader Haji Mastan, Kashmiri separatist Afzal Guru, and even former Prime Minister Rajiv Gandhi's killers. Ram had once said "I decide according to my conscience who to defend. A lawyer who refuses to defend a person on the ground that people believe him to be guilty is himself guilty of professional misconduct." I have often advised students seeking admission to the PhD program under my guidance to take up research on his briefs, but they were overawed both by his legal acumen and the nature of cases he handled.

In 2013 my university conferred on Ram an LLD degree *honoris causa*. The university's Founder-President Dr Ashok Chauhan concluded the valedictory speech with the words: "We pray that he lives for another hundred years." Ram instantly retorted, "God listens only to reasonable prayers."

For those interested in hearing from the horse's mouth the story of Ram's successes and failures, he has left behind two books which are partly in the nature of memoirs. The first of these, curiously titled *Conscience of a Maverick*, was published in 2007. Seven years later, to counter criticism, he wrote another book, *Maverick Unchanged*, Unrepentant. Its blurb spoke of an undeniable truth about the author's personality: "Ram Jethmalani, respected and feared for his candour in matters political, remains an enigma to many. Controversy neither leaves him nor intimidates him."

Ram indeed remained enigmatic till the last breath of his life. May his soul rest in peace.

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Data Protection Regime in India

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Introduction

Data is all around us. We use and share data in many of our daily activities with lot of people around us. Data protection has become one of the major challenges in the present technology - oriented world. It is imperative to safeguard the data in as much as the quantum of data created and stored continues to grow at unprecedented rate. Data has to be protected due to sudden surge in user generated data and because of the high utility that data has for the industry in particular and country in general. The personal data of the individual must be protected by the government and the collection, usage, transfer and disclosure of the same must also be regulated effectively.

Legal Framework

India at present, has no dedicated law on data protection. Nevertheless, data protection can be regarded as a fundamental right in terms of Article 21 of the Constitution of India as a right to privacy. This viewpoint was endorsed by the Apex Court in *Justice K.S. Puttaswamy vs Union of India* [2017 10 SCC 1] case. The bench highlighted the need for a regulation to protect the privacy of data, especially in the age of 'big data', when state as well as non-state actors have so much information about people. Justice Chandrachud suggested that the state put together a data protection regime after drawing a careful and sensitive balance between individual interests and legitimate concerns of the state. Justice Kaul observed that there is an unprecedented need for regulation regarding the extent to which such information can be stored, processed and used by non-state actors.

Besides, under Information Technology Act 2000, Section 43 A and Section 72 A also deals with data protection in India. These sections were added to the parent Act by the Amendment Act of 2009. Section 43A of the Act imposes penalty upon a body corporate which possesses, deals or handles any sensitive personal data or information in a computer resource that it owns,

controls or operates, by making it liable to pay damages by way of compensation to the person affected, if there is any wrongful loss or wrongful gain to any person caused because of the negligence in implementing and maintaining reasonable security practices and procedures to protect the information of the person affected. Section 72 A of the IT Act states that any person (including an intermediary) who, while providing services under the terms of a lawful contract, has secured access to any material containing personal information about another person, with the intent of causing or knowing that he is likely to cause wrongful loss or wrongful gain discloses, without the consent of the person concerned, or in breach of a lawful contract, such material to any other person, shall be punished with imprisonment for a term which may extend to three years, or with fine which may extend to five lakh rupees, or with both.

In 2011, the Government of India issued the Information Technology (Reasonable Security Practices and Procedures and Sensitive Personal Data or Information) Rules, 2011 ('SPDI Rules'). The SPDI Rules provide the right to individuals with regards to their sensitive personal information and make it mandatory for any corporate body to publish an online privacy policy. It also provides individuals with the right to access and rectify their information and makes it mandatory for a corporate body to obtain consent before disclosing sensitive personal information except in the case of law enforcement, which provides individuals the ability to withdraw consent. These Rules apply only to entities located in India which also includes Indian entities that process sensitive or personal information or data of individuals situated outside India.

The term 'processing' is a broad term which includes collecting, receiving, possessing, storing, dealing, or handling personal data. The Export of sensitive personal data or information within or outside India is allowed in terms of Rules. The SPDI Rules also authorise the provider of data with an option to opt out of providing the data or information that is being sought by bodies corporate. The Rules prescribe that collectors of information should not retain information for longer than required without specifying any time frame for it. A Grievance Officer shall be appointed by the body corporate, who shall redress the grievances that providers of information may have. Any grievances that information providers may have with respect to the processing of information are

to be addressed by bodies corporate in a time-bound manner within a month from the date of the receipt of the grievance.

Expert Committee

A Privacy Bill was drafted in 2005. Subsequently, the Planning Commission constituted a "Group of Experts on Privacy" under the chairmanship of Justice A.P. Shah. The group submitted its report in October, 2012. However, no action was taken on the report of the expert group. Thereafter, the government of India constituted a nine-members Committee of Experts under the chairmanship of Justice B N Srikrishna to study various issues related to data protection and develop a Data Protection Framework for India. A White Paper on Data Protection Framework was released by Ministry of Electronics and Information Technology (MeitY) for public comments. Subsequently, the committee conducted several consultation meetings with stakeholders and solicited inputs on the whitepaper. The final draft of Personal Data Protection Bill, 2018 alongside the Expert Committee Report was submitted to the government on 27 July 2018. A revised version of this Draft, namely, the Personal Data Protection Bill, 2019, was subsequently introduced in Lok Sabha in December 2019, and is presently under the scrutiny of a Joint Parliamentary Committee. The Bill is modelled on European Union's General Data Protection Regulation (GDPR).

The Ministry of Electronics and Information Technology (MeitY) constituted another Committee of experts in September 2019 under the chairmanship of Kris Gopalakrishnan (Co-Founder, Infosys) with the mandate of studying various issues relating to Non-Personal Data NPD) and to make specific suggestions for consideration of the central government on regulation of Non-Personal Data. The Committee released its report on 12 July 2020 for public feedback, and has set a deadline of 13 August 2020 for comments from the public.

The Committee has proposed the introduction of legislation governing NPD, to be enforced by an NPD Authority and lays down key principles to be incorporated in the NPD Legislation. The NPD Legislation upon its passage,

would be one of the first to govern the collection and processing of NPD within a jurisdiction.

Salient Features of Personal Data Protection Bill 2019

(a) The Bill defines personal data as data about or relating to a natural person who is directly or indirectly identifiable, having regard to any characteristic, trait, attribute or any other feature of the identity of such natural person, whether online or offline, or any combination of such features with any other information, and shall include inference drawn from such data for the purpose of profiling.

(b) For the purposes of the Bill, data is broadly classified into two types: personal and non-personal data. Personal data pertains to characteristics, traits or attributes of identity, which can be used to identify an individual. Non-personal data includes aggregated data through which individuals cannot be identified.

(c) Data protection refers to policies and procedures seeking to minimise intrusion into the privacy of an individual caused by collection and usage of their personal data.

(d) The Bill regulates personal data related to individuals, and the processing, collection and storage of such data. Under the Bill, a data principal is an individual whose personal data is being processed. The entity or individual who decides the means and purposes of data processing is known as data fiduciary.

(e) The Bill governs the processing of personal data by both government and companies incorporated in India. It also governs foreign companies, if they deal with personal data of individuals in India.

(f) The Bill provides the data principal with certain rights with respect to their personal data such as seeking confirmation on whether their personal data has been processed, seeking correction, completion or erasure of their data, seeking transfer of data to other fiduciaries, and restricting continuing disclosure of their personal data, if it is no longer necessary or if consent is withdrawn. Any processing of personal data can be done only on the basis of consent given by data principal.

(g) The Bill also provides for certain obligations of Data Fiduciaries with respect to processing of personal data. All Data Fiduciaries must observe complete transparency and accountability measures such as implementing security safeguards and instituting grievance redressal mechanisms to address complaints of individuals. The Significant Data Fiduciaries must undertake additional accountability measures

such as conducting a data protection impact assessment before conducting any processing of large scale sensitive personal data.

(h) The Bill sets up a Data Protection Authority. The Authority will be comprised of members with expertise in fields such as data protection and information technology. Any individual, who is not satisfied with the grievance redressal by the Data Fiduciary can file a complaint to the Authority. Orders of the Authority can be appealed to an Appellate Tribunal. Appeals from the Tribunal will go to the Supreme Court.

(i) Processing of personal data is exempt from the provisions of the Bill in some cases. For example, the central government can exempt any of its agencies in the interest of security of state, public order, sovereignty and integrity of India, and friendly relations with foreign states. Processing of personal data is also exempted from provisions of the Bill for certain other purposes such as prevention, investigation, or prosecution of any offence, or research and journalistic purposes. Further, personal data of individuals can be processed without their consent in certain circumstances such as: if required by the State for providing benefits to the individual, legal proceedings, to respond to a medical emergency.

(j) The offences which are proposed under the Bill include:

(a) processing or transferring personal data in violation of the Bill, punishable with a fine of Rs 15 crore or 4% of the annual turnover of the Fiduciary, whichever is higher, and

(b) failure to conduct a data audit, punishable with a fine of five crore rupees or 2% of the annual turnover of the fiduciary, whichever is higher. Re-identification and processing of de-identified personal data without consent is punishable with imprisonment of up to three years, or fine, or both.

(c) consent is punishable with imprisonment of up to three years, or fine, or both.

Apprehensions

(i) The proposed law, as cleared by the Union cabinet, allows the government to access personal data. The provision has attracted much controversy, for being in

sharp contrast to what was proposed by the expert group headed by Justice B.N. Srikrishna in its first draft in July 2018.

(ii) The draft Bill creates a regulatory structure that is not sufficiently independent: the central government has significant control over the regulatory regime. The draft Bill gives the central government the power to appoint members of the data protection authority upon the recommendation of an outside committee. The Authority's Chairperson and six whole-time members will be appointed on the recommendation of a Committee comprising of Cabinet Secretary, IT Secretary and Law Secretary. The appointment is for a term of five years, which seems much too short to give a new institution sufficient time to learn the ropes and gain the independence it needs to be an effective regulator. The central government can remove members of the Authority for reasons specified in the law.

(iii) There is a blanket power of exemption from all provisions of the law including access to personal data without consent, citing national security, investigation and prosecution of any offence, public order in favour of a government agency.

(iv) There is an apprehension regarding an attempt to control social media by reserving a right of access without consent of non-personal data or anonymous data.

Conclusion

Despite many flaws present in the proposed law, it may be regarded as first major step for addressing the core area of data protection. Hitherto, no dedicated laws are in place for effective regulation of this matter. One can definitely hope that since the Bill is referred to the Joint Parliamentary Committee, all concerns will be adequately examined by it and the revised draft when tabled in Parliament for debate would be more balanced and progressive .in nature and final law would cater to the requirements of all sections of the society.

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Elder Care Laws and Policies in India

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Duties towards one's parents are considered as a moral obligation in life. This has been emphasized by several ancient religious texts. The Hindu Jurisprudence focuses on fulfilling three *rinas* (debts) in life -- *dev rina, rishi rina, pitra rina*. *Pitra rina* means performing the responsibilities pertaining to parents and ancestors. But the situation is quite different from what we read in mythological stories. In March 2018, a daughter was arrested in Kannur, Kerala after a video got viral where was beating her mother very badly We read such incidents very frequently in the newspapers. India is undergoing a demographic transition. While 8 percent of its population was recorded 60 years and above in 2011 Census, it is expected to increase its share to 12.5 percent and 20 percent by 2026 and 2050 respectively. A report published in 2014 stated that half of the elderly people reportedly experiencing abuse. The most common form of abuse they experienced was Disrespect (56%), Verbal Abuse (49%) and Neglect (33%). India is traditionally a patriarchal society, and sons are expected to take care of the elders within the family. Seventy-five percent of the elderly live with sons and only 3 percent live with daughters. India is a leading Asian country in terms of elder exploitation and abuse. The National Mental Health Survey mentions abuse as an important risk factor for suicide, and the overall risk of death by suicide in the elderly is double that of the younger population. It is to be noted that even the most influential and educated class of senior citizens also become the victims of elderly abuse. In *Lotika Sarkar v. Preeti Dhoundial*-- (2010) 167 DLT 1 -- the plaintiff, a victim of elderly abuse, was a known legal luminary and the first Indian woman to earn her doctorate from the Cambridge University.

During the lockdown period in Covid-19, the UN Secretary-General warned that measures to restrict movement may trigger greater incidence of violence against older persons and all types of abuse – physical, emotional, financial and sexual as well as neglect. He also claimed that the lack of adequate legislation at national level to protect the rights of older persons and the absence of a dedicated internationally agreed legal framework, contribute to the

vulnerability of older persons and may have contributed to the inadequate responses to the Covid-19 crisis and that these gaps must be filled. "It is well settled that ageing has become a major social challenge and there is a need to give more attention to the care and protection for the elder persons. Old age is incurable, increase of disease, you do not heal old age, you protect it, you promote it, you extend it". In *Re: Letter submitted by the Member Secretary, Telangana State Legal Service Authority, Hyderabad v. State of Telangana*, it was observed that the fundamental rights of elderly inmates residing at old age homes, is violated both by Managers and State Government.

The elderly people face economic, physical, psychological and Psycho-social problems. Most elderly do not have health insurance and do not receive pensions – about 90% of the Indian elderly lack a formal pension scheme or social security arrangements. During Covid-19 pandemic in *Ashwani Kumar v. Union of India* – 2020 SCC Online 620 SC -- the apex court in India had directed the State governments and Union Territories to disburse pension on time; provide medicines, face masks, etc. to elderly people. The judiciary has always upheld the dignity and human rights of the elderly population from time to time. Very strict and critical remarks were given by the Supreme Court of India *in Rajani B. Somkuwar v. Sarita Somkuwa*r -- 2020 SCC Online Bom 696 -- that if children cannot take care of their parents and allow them to live in peace, they at least ought not to make their life a living hell. The Court sternly warns daughter to not harass mother physically & mentally.

International Instruments

June 15 marks the World Elder Abuse Awareness Day every year. The UN has done elaborate work for the protection and security of the old by adopting conventions, declarations, resolutions, policies, programs and plans. All these international instruments recognized adequate standard of living, social security, protection of health, shelter, life and dignity of older. In 1992, the U.N. General Assembly adopted the proclamation to observe the year 1999 as he International Year of the Older Persons. The U.N. General Assembly has declared —1st October as the International Day for the Elderly, later rechristened as the International Day of the Older Persons. The U.N. General Assembly on 16th December, 1991 basing on 'International Plan of Action on ageing' the General Assembly of the United Nations adopted the UN Principles for Older Persons for

better existence of aged persons which are organized into 5 clusters: independence, participation, care, self-fulfillment, and dignity of the older persons.

The United Nations in 1977 adopted convention on ageing recognizing the right to live with dignity and security and freedom from exploitation and abuse of aged. Under the aegis of the UN various international conventions are adopted which consists provisions for the betterment of the aged. Apart from the United Nations Charter 1945, UDHR 1948, ICCPR 1966 and ICESCR 1966, there are many International Human Rights Instruments which recognized rights of older persons like Declaration on the Rights of Disabled Persons 1975, Madrid International Plan of Action on Ageing 2002, the UN General Comment 6 on The Rights of Older Persons adopted by Committee on Economic, Social and Cultural Rights, 1955, the General Comment 14 on the Right to the enjoyment of Physical and Mental Health 2000 etc. The European Human Rights System, the Inter-American Human Rights System and the African Human Rights System are the regional Human Rights to take care of the elderly concerns.

Constitutional Provisions

Article 41 provides that "the state shall, within the limits of its economic capacity and development, make effective provision for securing the right to work, to education and to public assistance in cases of unemployment, old age, sickness and disablement and in other cases of undeserved want. Article 47 provides that the state shall regard the raising of the level of nutrition and the standard of living of its people and improvement of public health as among its primary duties. Entry 24 in list III of schedule VII of the Constitution of India deals with the welfare of labour, including conditions of work, provident funds, liability for workmen's compensation, invalidity and old age pension and maternity benefits. Item 9 of the State list and item 20, 23 and 24 of Concurrent list relates to old age pension, social security and social insurance, and economic and social planning.

Judicial Verdicts

Very recently, in *Pramod Pandey v. State of Maharashtra* -- 2020 SCC Online Bom 846 -- the Bombay High Court quashed the absolute prohibition from being present at the site of shooting over persons above age of 65 years who earn livelihood from film/television industry in light of being discriminatory. It was

held that a physically fit person of 65 years age or above is expected to live a dignified life, only if he is allowed to go out and earn livelihood. In *Hira lal v. State of Bihar* -- (2020) 4 SCC 346 -- is another case where the apex court has held that the right to pension cannot be taken away by executive or administrative instruction since pension and gratuity are not mere bounties, or given out of generosity of employer. In *GS Manju v. KN Gopi* -- 2020 (1) KHC 10. -- it has been stated that the legislation intended to formalize duties and obligations based on relationship sustain in society.

Personal Laws

A Hindu is bound during his or her life-time, to maintain his or her legitimate/illegitimate children and his or her aged or infirm parents. It is an obligation of a person to maintain his or her aged infirm parent or a daughter who is unmarried extends in so far as the parent or the unmarried daughter, as the case may be, is unable to maintain himself or herself out of his or her own earnings or others property. To safeguard the interests of the elderly people it was held in *Uttar Kumar Bhoi v. Surekha Bhoi* -- 2020 (1) KHC 10 -- that the stepson is duty bound to maintain his step-mother under the Maintenance and Welfare of Parents and Senior Citizens Act 2007.

As per Muslim law children in easy circumstances are bound to maintain their poor parents, although the latter may be able to earn something for themselves. A son though in strained circumstances is bound to maintain his mother, if the mother is poor, though she may not be infirm. A son, who though poor, is earning something, is bound to support his father who earns nothing. According to Tyabji, parents and grandparents in indigent circumstances are entitled, under Hanafi law, to maintenance from their children and grandchildren who have the means, even if they are able to earn their livelihood. Both sons and daughters have a duty to maintain their parents under the Muslim law. Although there is no specific provision in the Christian and Parsi law to protect the interests of people above 60 years, but they can claim protection under Section 125 of Code of Criminal Procedure 1973.

NGOs

Help-Age India: Spread across 29 states with 130 project offices in India, Help Age is a leading charity in India working with and for disadvantaged elderly.

This NGO advocates for their needs such as for universal pension, quality healthcare, action against elder abuse and many more at a national, state and societal level with Central and State governments. The aim is to serve elder needs in a holistic manner, enabling them to live active, dignified and healthier lives. It provides elderly relief through various age care interventions like the largest mobile healthcare programs through its Mobile Healthcare Units spanning the country providing free healthcare services to destitute elders, it looks after their basic needs though its Support-a-Gran program, runs Elder Help lines across the country, provides relief & rehabilitation for elders post disasters and provides active-ageing opportunities.

Age-Well Foundation: This foundation has been granted Special Consultative Status by United Nations by ECOSOC. It is associated with Department of Public Information, United Nations. Age well has also been member of various Working Groups and Steering Committees on Social Sector. A recent study by the Foundation conducted between June 1st to June 12, 2020 concluded that the elderly respondents were facing abuse and mistreatment in old age mostly due to financial reasons. The study indicated that the Covid-19 crisis and lockdown related rules have forced most senior citizens to live in isolation. A very high 69% of elderly respondents said their lives have been affected by the situation arising out of the pandemic.

Government Schemes

Central Sector Scheme of Integrated Program for Older Persons 1992: The main objectives of the program is to improve the quality of life of senior citizens by providing basic amenities like food, shelter, medical care and entertainment opportunities and by encouraging productive and active ageing. Under this scheme financial assistance up to 90 percent of the project cost is provided to those Non-Governmental Organizations which have been set up for running and maintenance of old age homes.

National Old Age Pension Scheme 1994: The scheme is implemented in the State and Union Territories through Panchayats and Municipalities. The assistance was available on fulfillment of the certain criteria. The National Policy for Older Persons 1999: This policy included steps in order to accelerate welfare measures and empowering the old age in ways beneficial for them: -- setting up of a pension fund for ensuring security for those persons who have been serving

in the unorganized sector; construction of old age homes and day care centers for every 3-4 districts; establishment of resource centers and re-employment bureaus for people above 60 years; concessional rail/air fares for travel within and between cities, i.e., 30% discount in train and 50% in Indian Airlines, and enacting legislation for ensuring compulsory geriatric care in all the public hospitals.

National Council for Older Persons 1999: --The basic purpose of this council is to advise the Government on policies and programs for older persons to represent the collective opinion of elderly persons to the government, suggest steps to make old age productive and interesting, suggest measures to enhance the quality of inter-generational relationships; and work as a nodal point at the national level for redressing the grievances of elderly people. National Policy for Senior Citizens 2011: -- The main focus of the policy is to promote the concept of 'Ageing in Place' or ageing in own home, housing, income security and homecare services, old age pension and access to healthcare insurance schemes and other programs and services to facilitate and sustain dignity in old age. It believes in the development of a formal and informal social support system, so that the capacity to the family to take care of senior citizens is strengthened and they continue to live in the family.

Legislation

The Maintenance and Welfare of Parents and Senior Citizens Act 2007: -- The main objective of the Act is to provide effective provision for maintenance and welfare of parents and senior citizens. It makes it a legal obligation for children and heirs to provide maintenance to senior citizens and parents, by monthly allowance. It also provides simple, speedy and inexpensive mechanism for the protection of life and property of the older persons. There are provisions for the establishment of old age homes, medical care and protection of life and property of senior citizens. Provisions have also been made to punish those who abandon a senior citizen wholly. Despite having an Act for their protection, still elderly people do not have any information/knowledge about the Act.

Recognizing the fact that there is a low awareness about Maintenance and Welfare of Parents and Senior Citizens Act 2007, the Bombay High Court issued order for State to create awareness about the same in *Shabeen Martin v. Muriel :* 2016 (5) KHC 603. Moreover, in *Raja Ram v. Jai Prakash Singh* – (2019) 7

SCC 603 -- where the sibling fought for the property for five decades the Bombay High Court had held that there is bound to be more affinity between elder members of the family & those who look after them day-to-day & if property is transferred to a caring person then inference of undue influence cannot be drawn. Such an implication could deter people from caring for their elders. The Maintenance and Welfare of Parents and Senior Citizens Act, 2007 has been widely criticized by policymakers for its vague and unclear provisions. To settle the issues arose in the Act, a new bill has been passed to have more stringent legislation to safeguard the rights and interests of senior citizens in India. Many new definitions have been added to the new bill like step-children, adoptive children, children-in-laws, legal guardian of minor children, parent-in-laws and grandparents. The major provisions included are:

(a) Maintenance: to include the provision of healthcare, safety, and security for parents and senior citizens to lead a life of dignity.
(b) Welfare: to included housing, clothing, safety, and other amenities necessary for the physical and mental well-being of a senior citizen or parent.
(c) The Tribunals must consider: (i) standard of living and earnings of the parent or senior citizen, and (ii) the earnings of the children, while deciding the maintenance amount.
(d) Abandonment of senior citizen or parent: Punishable with imprisonment between three and six months, or a fine of up to Rs 10,000, or both and in case of abuse, punishable with imprisonment between three and six months, or fine of up to Rs 10,000 or both.
(e) Senior citizen care homes may be set up by the government or private organizations. The central government will set minimum standards for these homes, such as infrastructure, and medical facilities.
(f) All hospitals, including private organizations, to provide these facilities for senior citizens.

Despite a few positive measures, the law presently falls short of interpreting the social 'needs' of belongingness, retaining authority and a position of importance in the family, a set of needs that often remain unspoken and are therefore disregarded by the law.

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Covid-19 : Invoking Force Majeure Clause

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Corona virus pandemic also referred as COVID-19 has caused worldwide unprecedented disruptions to business operations; and the commercial mayhem continues. As the spread of the Corona pandemic casts a large shadow over commerce and industry, contracts have become difficult or even impossible to perform. The pandemic has impacted the ability of companies around the globe to maintain steady operations and perform their respective contractual obligations. Logistical issues, health and safety risks and governmental decreed 'lock-downs' for extended periods of time have up-ended life and commercial activity on an unparalleled scale. A post-Covid world is beset by delays, payment defaults and a failure or refusal to perform contractual promises and stipulations. Contracts have to be reconsidered, contractual rights and obligations must be reassessed and the way in which performance can be completed has to be examined. Parties to a contract are anxious to understand what their rights and remedies are in the prevalent circumstances. The magnitude of uncertainty surrounding supply chains owing to the COVID-19 has shifted the focus back on the historical expression known as *force majeure.* Parties who seek to save themselves from consequences over which they have no control will need to revisit the force majeure clauses in their contracts or shield themselves under the statutory bulwark, if at all.

Force Majeure

In commercial usage, force majeure describes those uncontrollable events that are not the fault of any party and that make it difficult or impossible to carry out normal business. As per the Black's Law Dictionary, force majeure is, 'an event or effect that can be neither anticipated nor controlled.' The term includes both acts of nature, such as floods and hurricanes and acts of people, such as riots, strikes, and wars. The Supreme Court of India has observed that the expression force majeure is not a mere French version of the Latin expression *'vis major'*. It is a term of wider import. It is acknowledged that strikes, breakdown of machinery, which, though normally not included in *vis major* are included in force majeure. An extraordinary event or circumstance beyond human control

such as event described as an act of God such as natural calamity, government restrictions or other extraordinary circumstances which prevent fulfillment of contractual obligations would qualify as a force majeure event. Force majeure clauses are contractual clauses which alter parties' obligations and/or liabilities under a contract when an extraordinary event or circumstance beyond their control prevents one or all of them from fulfilling those obligations.

A company may insert a force majeure clause into a contract to absolve itself from liability in the event it cannot fulfill the terms of a contract for reasons beyond its control. Force majeure clauses in commercial contracts generally set forth limited circumstances under which a party may terminate or be excused of performance without liability due to the occurrence of an unforeseen event. The companies in order to mitigate the impact related to delayed operation and non-performance of the contracts inter alia take recourse to force majeure clause contained in their contracts. Force majeure is a contractual stipulation, as opposed to the doctrine of frustration that operates by law. Force majeure will require parties, lawyers and ultimately courts to construe contracts to ascertain whether there is an exclusion clause that covers the consequences of an epidemic such as COVID-19.

Force Majeure and Indian Contract Act

In India, the law on force majeure is embodied under sections 32 and 56 of the Indian Contract Act, 1872. Section 32 of the Contract Act provides that 'contingent contracts to do or not to do anything if an uncertain future event happens, cannot be enforced by law unless and until that event has happened. If the event becomes impossible, such contracts become void.' Section 56 of the Contract Act enshrines the 'doctrine of impossibility', which provides that 'a contract to do an act which, after the contract is made, becomes impossible or unlawful or, by reason of some event which the promisor could not prevent, becomes void when the act becomes impossible or unlawful.' Under the aforesaid provisions, contracting parties can plead impossibility of performance and consequently frustration of a contract on account of a particular event, unforeseen previously and beyond the control of the parties.

The law on the 'doctrine of frustration' has been laid down in India by the Supreme Court in *Satyabrata Ghose v. Mugneeram Bangur & Co*. [1954 SCR 310] The word "impossible" has not been used in the sense of a physical or literal

impossibility. The performance of an act may not be literally impossible, but it may be impracticable and useless from the point of view of the object and purpose of the parties. If an untoward event or change of circumstance totally upsets the very basis upon which the parties entered their agreement, it can be said that the promisor finds it impossible to do the act which he had promised to do. It was further held that where the court finds that the contract itself either impliedly or expressly contains a term, according to which performance would stand discharged under certain circumstances, the dissolution of the contract would take place under the terms of the contract itself and such cases would be dealt with under section 32 of the Contract Act. If, however, frustration is to take place *de hors* the contract, it will be governed by Section 56 of the Contract Act.

Before considering the realm of operation of force majeure, it is important to highlight two fundamental principles which should be kept in mind while dealing with principles of contract. First is the Latin maxim *Pacta Sunt Servanda*. This speaks of purpose of the contract in accordance with the terms of the contract. The other principle is *Rebus Sic Stantibus*. This speaks of discharge of contractual obligations owing to events which had occurred, destroying the basic assumption which the parties had made at the time of entering into the contract.

The above principles significantly aid in understanding the applicability of force majeure. There may however be an inverse situation. This is so, where parties do contemplate the possibility of an intervening circumstance which might affect the performance of the contract but expressly stipulate that the contract would stand despite such circumstance. In such a scenario, there can be no case of frustration because the basis of the contract being to demand performance despite the happening of a particular event, it cannot disappear when that event happens.

When Force majeure can be invoked

Commercial contracts almost always include a force majeure clause. The circumstances in which the provision may be invoked are generally limited to common events which may be construed to be ‘Acts of God’ and are usually not negotiated vigorously, except for specific situations such as ‘strikes, lock outs, shortage of material, etc’, which the parties anticipate as likely to occur and have a direct bearing on the performance of the contract.

In certain instances, the provision may be triggered by an 'Act of God' and may not specifically enumerate the specific situations, such as the current pandemic. Most commercial contracts nevertheless include certain catch-all provisions having language such as – 'any other cause whatsoever beyond the control of the respective party'. If the definition of force majeure specifically includes an 'epidemic', 'pandemic', 'disease outbreak', or even 'public health crisis', the current situation relating to COVID-19 may fit within that clause. The provision may also still include a reference to government action as a force majeure event, including 'acts, orders, regulations, or laws of any government', or 'government order or regulation'. Where such clauses are present, regulations and executive orders regulating, among other things, the size of gatherings or mandating the closure of certain establishments issued by the local government or the authorities, may qualify as force majeure events. Although Indian Courts have not directly ruled on whether an epidemic/ pandemic like Covid-19 is an 'Act of God', an argument to that effect can derive support from the decision of the Supreme Court in *The Divisional Controller, KSRTC v. Mahadava Shetty* – 2003 7 SCC 197--which holds that the expression 'Act of God' signifies the operation of natural forces free from human intervention with the caveat that every unexpected natural event does not operate as an excuse from liability if there is a reasonable possibility of anticipating their happening.

If the contract does not have specific language detailing the specific force majeure scenarios mentioned above, but has general catch all language referring to events outside the control of the performing party, the courts generally interpret force majeure clauses narrowly and typically do not interpret a general catch-all provision to cover specific circumstances, which upon analysis may be construed to be beyond the agreed scope of the contract agreed between the parties. In such an event, if litigated, a party may have to prove that the clause, when drafted, was intended to cover a similar situation.

The Ministry of Finance recently issued an office memorandum dated February 19, 2020 which states that the force majeure clause can be invoked in Government contracts under the Manual for Procurement of Goods, 2017 if there is a "disruption in supply chain due to spread of corona virus in China or any other country". The office memorandum further states that it should be considered as a case of 'natural calamity'. In case of a litigation, where the contractual provisions are not specific or have general language, such as 'events

beyond the control of the performing party', the above-mentioned Government memorandums may help in supporting the interpretation that the situation amounts to a force majeure event. Further, it could be covered under 'natural calamity', if the clause does not use the words 'epidemic' or 'pandemic'.

Invoking the doctrine of frustration

Where a contract does not include a force majeure clause or where it cannot be construed to cover Covid-19, a party unable to perform its obligations may have recourse to section 56 of the Act, which codifies the common law doctrine of frustration. The doctrine may be invoked provided that three conditions exist: -- there is a valid and subsisting contract between the parties; there is some part of the contract yet to be performed, and impossibility of performance after it is entered into for reasons beyond the party's control.

Accordingly, it may be contended that contracts, even those not containing a force majeure clause are considered frustrated by virtue of section 56 of the Act, due to the spread of Covid-19. Where a contract is held to be frustrated, it shall be considered void and therefore unenforceable. The party claiming frustration must prove that COVID-19 rendered performance of the contract impossible. As frustration results in termination of the contract, the supervening event must continue for a substantial part of the contractual period. The contract will not be regarded as frustrated if the supervening event merely renders its performance impossible for a short duration. Mere delay caused by any event is not sufficient to frustrate a contract. The delay must be such that it upsets the whole commercial basis of the contract. As the lock-downs due to COVID-19 are of a temporary character, parties seeking to contend that their contracts are frustrated will have to demonstrate the time sensitive nature of their obligations.

Whether COVID-19 can be construed as a force majeure event?

Whether COVID-19 can be construed as a force majeure event depends on the wording of the clause and the surrounding circumstances i.e. the way force majeure clause has been worded in the contract or what all contingencies have been captured either explicitly or impliedly, in force majeure clause occurrence of which would qualify as a force majeure event. The burden of proof rests on the party invoking the force majeure clause. The said burden can be effortlessly discharged where force majeure clause in the contract explicitly provides for events like epidemics, pandemics or government restriction. However, the

situation may become complicated where a force majeure clause is not explicitly worded and simply uses the term "act of God" or "event beyond the reasonable control of parties".

Majority of contracts would require the party invoking a force majeure clause to adequately apprise the counterparty, within a stipulated time, regarding the event which prompted invocation of force majeure clause. Further, the invoking party would be expected to outline an estimation of the impact and duration of effects resulting from the said event. The party claiming force majeure must establish that it used reasonable efforts to mitigate the effects of the excluded event. The burden is cast on the party seeking to be relieved to establish that the excluded event actually and fully prevented it from performing its obligations under the contract. If alternative modes of performance were available (though strictly not as per the contract), this would be a factor the court would take into account when deciding whether to uphold that party's reliance on the force majeure clause.

The party claiming the benefit of the exemption must give sufficient and prompt notice to the other party regarding the circumstances causing the impossibility or difficulties in performing the contract. A failure to give notice has been held to deny the party's claim to invoke the force majeure clause. Much will depend on how the court regards the conduct of the party who is seeking to rely on COVID-19 as a force majeure event and whether COVID-19 genuinely prevented such performance or is being used as an excuse to resile from a contract. The following principles emerge from past cases:

(i) mere difficulty in performance of the contract will not suffice to satisfy the requirement of an impossibility to perform. Therefore, difficulty in conducting business during COVID-19 may not be sufficient to invoke force majeure;

(ii) increase in cost of performing the contract does not amount to impossibility or prevention of performance. Clearly, the cost of doing business has increased during times of COVID-19. However, that by and of itself may not justify the invocation of force majeure;

(iii) Parties must demonstrate that an uncontemplated supervening event, is the sole cause for the default of performance. Courts will not relieve parties of their bargain, if there existed other causes that would have led to the default. This is also

known as the 'but for' test. The court will need to be satisfied that but for the supervening event, parties would have performed their obligations; and

(iv) The supervening event rendering performance impossible must have occurred without the fault of the party This is relevant to essential industries such as shipping, which may be allowed to operate (subject to restrictions) by procuring certain government clearances. If a party fails to procure such a clearance, the court may not relieve the party of its contractual obligations, as the supervening event occurred due to the party's default.

In a landmark judgement in *Energy Watchdog v. Central Electricity Regulatory Commission*-- (2017) 14 SCC 80 -- Justice R.F. Nariman of the Supreme Court opined that the event leading to frustration which is relatable to an express or implied clause in a contract, is governed by Section 32 of the Act and if it occurs *de hors* the contract, it is dealt with by a rule of positive law under Section 56 of the Act.

It is imperative to mention that the Indian Courts are according relief on account of subsequent impossibility when it is found that the whole purpose or the basis of the contract has been frustrated by the intrusion or occurrence of an unexpected event or change in circumstances, which was not contemplated by the parties during execution of the contract or the performance of the contract becomes impracticable or useless having regard to the object and purpose the parties had in view. The Bombay High Court, in the case of *Standard Retail Pvt. Ltd. v. M/s G.S. Global Corp*. refused to grant an ad interim-injunction in favour of the petitioner observing that the commodity in question was an essential item and lockdown is only for a limited period. Consequently, Petitioner cannot resile from its contractual obligation of making payments to the Respondents.

In *Halliburton Offshore Services Inc. v. Vedanta Limited* [decided on 29 Mat 2020] the matter before the court was to restrain the invocation of bank guarantees. While granting interim relief on the invocation of bank guarantees, the Delhi High Court observed that the country wide lockdown was prima facie, in the nature of force majeure. Therefore, it could be said that special equities do exist, as would justify grant of the prayer, to injunct invocation of the bank guarantees.

In *Rural Fairprice Wholesale Ltd. & Anr. v. IDBI Trusteeship Services Ltd.* [decided on 3 April 2020] the Bombay High Court recognized the market

situation pursuant to the COVID-19 and observed that the share market had collapsed due to COVID-19, therefore, it was a fit case to restrain the bank from acting upon the sale notices and a direction to withdraw any pending sale orders for the pledged shares.

Conclusion

The concept of 'one size fits all' would be abomination in the invocation of the force majeure provision under Indian law of contract. The local practices, usage, orders by the statutory bodies, the specific language of the contract, facts in relation to the pandemic affecting the parties, etc. have a bearing on the analysis of applicability and enforceability of the provisions of the contract. The issues identified above provide an overview of the ingredients of the law on force majeure and the doctrine of frustration and provide a flavour of what can arise under a range of commercial contracts.

Invocation of force majeure and cancellation of a contract due to frustration, will seldom be straight-forward. Market volatility will be the underlying motive for triggering these provisions, entailing considerable litigation. Parties must be vigilant and should carefully consider the declaration of a force majeure or termination of contract, as a wrong invocation will almost certainly invite legal action. In the event of any doubt, seek prompt legal advice.

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DNA Profiling and Right to Privacy

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The science behind DNA profiling has emerged over the last three decades. In its bare connotation DNA profiling is a method of recording the almost unique characteristics that are present in every individual's DNA. DNA – Deoxyribonucleic Acid – is the building block of our basic genetic information that is stored in all the cells in our bodies. DNA molecules are made of sequences of nucleotides, and the different sequences act like codes which are interpreted to produce chemicals that determine the characteristics of a particular individual. A DNA profile is a small set of variations in a person's DNA that is almost unique to that person. Thus a DNA profile is like a fingerprint, and hence the technique is also called DNA fingerprinting. DNA profiling is most commonly used as a forensic technique in criminal investigations to identify an unidentified person or whose identity needs to be confirmed, or to place a person at a crime scene or to eliminate a person from consideration. DNA profiling has also been used to help clarify paternity, in immigration disputes, in parentage testing and in genealogical research or medical research. With this new technological development Right to Life has been unarguably contended to be falling in the bracket of endangered liberty, on the pretext that if such intervention is authorized by a seal of law then even DNA profiles of those who are mot convicted of a crime can be collected without informed consent.

In July 2015, when the Human DNA Profiling Bill was supposed to be tabled in Parliament for the first time, debates about its reliability, efficacy, adherence to privacy and costs forced the Centre to postpone introducing the Bill in the House. Since that time, however, the debate around Aadhar and its biometrics-based central database has brought to fore many aspects of privacy and data (in) security. Moreover, the demand to claim privacy as a fundamental right has gained ground to the extent that a nine-judge Supreme Court bench is finally hearing the matter since last week. Exactly as the privacy case is being heard in the top court, and legal and constitutional rebuttals are being given to the Centre's claim in June this year that "citizens don't have absolute rights over their own bodies," that "bodily autonomy isn't absolute", we might have the potential introduction of the Human DNA Profiling Bill into Parliament once again. Centre

tried to indicate to the Supreme Court that it's ready to table the DNA Profiling Bill, even though Indians are still without a strong privacy framework, without a privacy law and without a fundamental right to privacy. The 2015 draft version of the Human DNA Profiling Bill laid out its goals, which were ostensibly in the interest of quickening and expanding the criminal justice delivery system. Drafted by the department of biotechnology in the ministry of science and technology, the DNA Profiling Bill intends to use DNA identification to ID the unclaimed dead, to track down missing persons, and to maintain a central database of DNA profiles of those with criminal records, whether convicted or under trials.

It had been proposed that there would be a DNA Profiling Board, which would allow/disallow profiling of DNA in criminal cases, but the question remains who would watch the Board itself and its huge discretionary powers to include or exclude DNA profiles of people. DNA profiling is the most accurate so far in forensic techniques, but is by no means infallible, the DNA Profiling Bill's inherent assumption of its inviolability is therefore at the root of the concerns over this draft legislation. This is a similar assumption that drives the Aadhar project of the Unique Identity Authority of India (UIDAI), in which a priori infallibility of a programme informs each and every aspect of how it's legislated and administered, with rules tweaked every now and then to suit the regime, while the rights of citizens become increasingly compromised and eventually dispensable. In addition, the Centre for DNA Fingerprinting and Diagnostics (CDFD) would need to deal with cases of evidence tampering, which, even while being punishable under law, would not deter those with vested interests to interfere with and influence the outcome of the so-called infallible DNA analysis.

In a landmark decision, the Lok Sabha passed the DNA Technology (Use and Application) Regulation Bill 2019. The Bill has been formulated recognizing the need for regulation of the use and application of Deoxyribonucleic Acid (DNA) technology, for establishing identity of missing persons, victims, offenders, under trials and unknown deceased persons. The purpose of this Bill is to expand the application of DNA-based forensic technologies to support and strengthen the justice delivery system of the country. The utility of DNA based technologies for solving crimes, and to identify missing persons, is well recognized across the world. By providing for the mandatory accreditation and regulation of DNA

laboratories, the Bill seeks to ensure that with the proposed expanded use of this technology in this country, there is also the assurance that the DNA test results are reliable, and furthermore that the data remain protected from misuse or abuse in terms of the privacy rights of our citizens. The 'right to privacy' judgment, or *Puttaswamy vs Union of India* – (2017) 10 SCC 1 -- which came out in August 2017 and held that all Indians enjoy a fundamental right to privacy. The judgement – which overruled verdicts given in the *M.P. Sharma* case [1954 SCR 1077] and the *Kharak Singh* case [1964 SCR 332] ruled that the right to privacy is intrinsic to life and liberty and thus comes under Article 21 of the Constitution.

DNA profiling laws have been enacted in countries like the USA, UK and Canada, but here the laws are supplemented with the enshrined right to privacy. Data protection is sacrosanct and the citizens' digital and bodily integrity isn't left at the mercy of a beneficent board that would oversee the collection of DNA profiles from criminals, the dead and the missing. In England and Wales, anyone arrested on suspicion of a recordable offence must submit a DNA sample, the profile of which is then stored in the DNA database as a permanent record. In Scotland, the law requires the DNA profiles of most people who are acquitted to be removed from the database. In Sweden, only the DNA profiles of criminals who have spent more than two years in prison are stored. In Norway and Germany, court orders are required, and are only available, respectively, for serious offenders and for those convicted of certain offences and who are likely to reoffend. Forty-nine states in the USA, all apart from Idaho, store DNA profiles of violent offenders, and many also store profiles of suspects. In 2005 the incoming Portuguese government proposed to introduce a DNA database of the entire population of Portugal. However, after an informed debate including the opinion from the Portuguese Ethics Council the database to be introduced was revised only to include criminals.

The United States maintains the largest DNA database in the world, with the CODIS holding over 9 million records as of 2011.The United Kingdom maintains the National DNA Database (NDNAD), which is of similar size. The size of this database and its rate of growth, is giving concern to civil liberties and political groups in the UK, where police have wide-ranging powers to take samples and retain them even in the event of acquittal. Missing person identification also is an invaluable module for investigating certain crimes. When a match is made from a national DNA database to link a crime scene to an

offender who has provided a DNA sample to a database that link is often referred to as a cold hit. A cold hit is of value in referring the police agency to a specific suspect but is of less evidential value than a DNA match made from outside the DNA database. As of March 2011, 361,176 forensic profiles and 9,404,747 offender profiles have been accumulated, making it the largest DNA database in the world. As of the same date, CODIS has produced over 138,700 matches to request, assisting in more than 133,400 investigations. The United Kingdom National DNA Database consisted of an estimated number of 5,512,776 profiles of individuals as of March 2011.

Citizens have some worries of privacy and confidentiality issues. The retention of DNA and fingerprints from an individual on a database therefore allows a form of biological tagging or 'bio-surveillance', which can be used to attempt to establish where they have been. This means that DNA databases can be used to track individuals who have not committed a crime, or whose 'crime' is an act of peaceful protest or dispute. For example, in a state where freedom of speech or political rights are restricted, the police or secret services could attempt to take DNA samples from the scene of a political meeting to establish whether or not particular individuals had been present. DNA databases link searchable computer records of personal demographic information, such as name and ethnic appearance, with the ability to biologically tag an individual and track their whereabouts using their DNA profile. An individual's relatives may also be identified through partial matching with their DNA. Thus, DNA databases significantly shift the balance of power from the individual to the state.

These concerns do not relate solely to the collection, retention, access and the use of DNA sample that are the basic of DNA profile, but also to the other information that may be kept. For example, if DNA is collected on arrest and retained indefinitely, there is additional information kept in the police records of arrest and in the samples which may be stored in the laboratories which analysed them. People are concerned about potential employers, other government entities or even insurance companies getting access to their genetic information. Insurance companies would have a huge interest in confirming the genetic health of people requesting to be covered by health insurance; employers might also have interest in gaining information about potential employee's physical health or even ethnicity and ancestry. Access to private information could affect the employability of the person applying for a job.

Concerns about 'bio surveillance' extend beyond the state to anyone who can invade the system and obtain access to an individual's DNA profile. This might include organized criminal or terrorist groups, or anyone seeking to track down an individual. For example, individuals on witness protection schemes may have their appearance altered but cannot change their DNA. If someone becomes suspicious about them and collects their DNA, their identity could be revealed by matching this to a stored DNA profile on a database, if this is accessible and linked to their old identity. Their relatives might also be found through 'familial searching' (looking for partial matches with the DNA profiles of other people on the database). Children who have been separated from an adult for their own protection could also be tracked down by someone with access to a DNA database if the adult has a sample of their DNA (taken from an old toothbrush, for example), or who shares part of their DNA profile because they are related to them.

In the case of DNA technology, the laws of the nations and the question of the fundamental human rights have mostly been at lock horns. The right to privacy has been enunciated as a basic human right in many international documents. The Universal Declaration of Human Rights, 1948 states that 'no one shall be subjected to arbitrary interference with his privacy, family, home or correspondence, attacks upon his honour or reputation. Everyone has a right to protection by law against such interference or attacks'. Further, the ICCPR, under its 'minimum guarantees' in Article 14 (3) (g) mandates that everyone has a right not to be compelled to testify against himself or confess guilt. Moreover, the creation of DNA database has ample ethical and legal concerns which need to be tackled efficiently to eliminate the possibility of fundamental human rights violation.

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AIALS Update

R. P. Singh
Academic Programme Officer, AIALS

- Since mid-March 2020 AIALS has been functioning online due to the Covid-19 pandemic across the country. All its courses are being regularly taught, and meetings held on time when due, online.

- Five PhD students of AIALS have completed their research work during 2020 and will be getting their degrees at the next university convocation.

- Due to paucity of teaching faculty and overlap between the courses for LLM (Business Law) and LLM (IPR), the latter program has been handed over this year to Amity Law School. Despite this, the admission intake for the remaining five specializations has been 255 (as against 234 for six programs last year). The break-up of intake this year is Criminal Law 96, Business Law 83, Constitutional Law 43, Human Rights 20, and Family Law 13.

- A Festschrift book titled *Religion-State Relations and Family Rights* has been prepared for AIALS Chairman Professor Tahir Mahmood. Edited by former Delhi High Court judge Justice Jaspal Singh, it begins with a goodwill message from the former Vice-President of India Janab Hamid Ansari and has a foreword by the former Chief Justice of Jammu and Kashmir High Court Justice Badar Durrez Ahmed. A large number of foreign and Indian scholars and professionals have written articles on the theme of the book and celebratory pieces about Professor Mahmood. The book is in press and is likely to be out soon.

- The Yogita Mehta Scholarship instituted at AIALS by former judge of Assam and Madhya Pradesh High Courts Justice Dr. T. N. Singh, has been awarded this year to PhD student Trisha Kadyan.

- AIALS lost this year one of its very loyal and efficient staff members, Suresh Rawat, who had been with it since its establishment in 2003. The Chairman, faculty, office, students and alumni of the Institute deeply mourned the irreparable loss.

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