



ILS Law College, Pune

CENTRE FOR PUBLIC LAW'S

# PUBLIC LAW BULLETIN

VOL. XI

TUESDAY

JANUARY 28, 2020



# PUBLIC LAW BULLETIN

CENTRE FOR PUBLIC LAW AT ILS LAW COLLEGE, PUNE

## EDITORIAL BOARD

**MS. VAIJAYANTI JOSHI**

PRINCIPAL

ILS LAW COLLEGE PUNE

**DR. SANJAY JAIN**

ASSOCIATE PROFESSOR & FACULTY CO-ORDINATOR

CENTRE FOR PUBLIC LAW

ILS LAW COLLEGE, PUNE

**MR. D.P. KENDRE**

ASSISTANT PROFESSOR & FACULTY CO-ORDINATOR

CENTRE FOR PUBLIC LAW

ILS LAW COLLEGE, PUNE

## STUDENT EDITORS

**VARAD S. KOLHE**

V<sup>TH</sup> B.A. LL.B.

**RAJMOHAN C.V.**

V<sup>TH</sup> B.A. LL.B.



## CONTENTS

---

<b>A. MESSAGE FROM THE EDITOR</b> .....	<b>4</b>
<b>B. RECAP THROUGH CARTOONS</b> .....	<b>5</b>
<b>C. PUBLIC LAW IN THE NEWS</b> .....	<b>7</b>
<b>D. CASES ACROSS THE POND</b> .....	<b>16</b>
<b>E. SHORT PIECES: PRIVACY &amp; SURVEILLANCE</b> .....	<b>19</b>
<b>F. SHORT PIECES: CONSTITUTIONAL NATIONALISM</b> .....	<b>21</b>
<b>G. VITAL CONSTITUTIONAL LAW QUESTION</b> .....	<b>23</b>
<b>H. INTERSECTION OF PUBLIC LAW</b> .....	<b>26</b>
<b>I. APPURTENANT SCHOLARSHIP</b> .....	<b>30</b>
<b>J. PUBLIC LAW ON OTHER BLOGS</b> .....	<b>32</b>
<b>K. MESMERIZING QUOTES</b> .....	<b>34</b>
<b>L. CONTACT US</b> .....	<b>35</b>



## A. MESSAGE FROM THE EDITOR

Date: January 28, 2019

Tuesday

Dear All,

We are very happy to present to you Volume XI of the Public Law Bulletin. We dedicate this volume to our beloved and revered Principal Ms. Vaijayanti Joshi, who is set to retire on 31<sup>st</sup> January, 2020. We thank her for her continued support, encouragement and for giving us this extraordinary platform which led to the genesis of this bulletin.

This volume is coming at a turbulent time with horizontal and vertical pressure on public law around the world. The same is testified by the landmark judgment of the United Kingdom's Supreme Court in the Miller's Case; initiation of impeachment proceedings against the U.S. President Mr. Donald Trump; and mass protests in India against the contentious Citizenship Amendment Act, 2019 enacted by the Parliament of India.

To add fuel to the fire, the ghost of sexual harassment allegations against the former Chief Justice of India, has come again to haunt with some real baffling questions after the re-instatement of the former staff of the Supreme Court who had made the allegations. Supreme Court has not come out with any earnest explanation about this whole episode. Similarly, presenting a serious juxtaposition, if at one hand Supreme Court dismissed the review petition filed against the Ayodhya judgment, it has decided to review the Sabarimala judgment by tagging it with other issues like entry of excluded women into Parsi fire temples etc. among others by constituting a nine-judge bench, none of whom were party to the Sabarimala judgment. This procedure of review has come under sharp criticism by a number of prominent scholars. Arguments are also going in the Supreme Court against the controversial decision of the government of India to modify Article 370 of the Indian Constitution and to liquidate the statehood of J&K.

India has also slipped down in EIU's Global Democracy Index by 10 positions, to be precise, reaching the 51<sup>st</sup> rank. All in all, these are testing times for the resilience of public law in general and judiciary in particular.

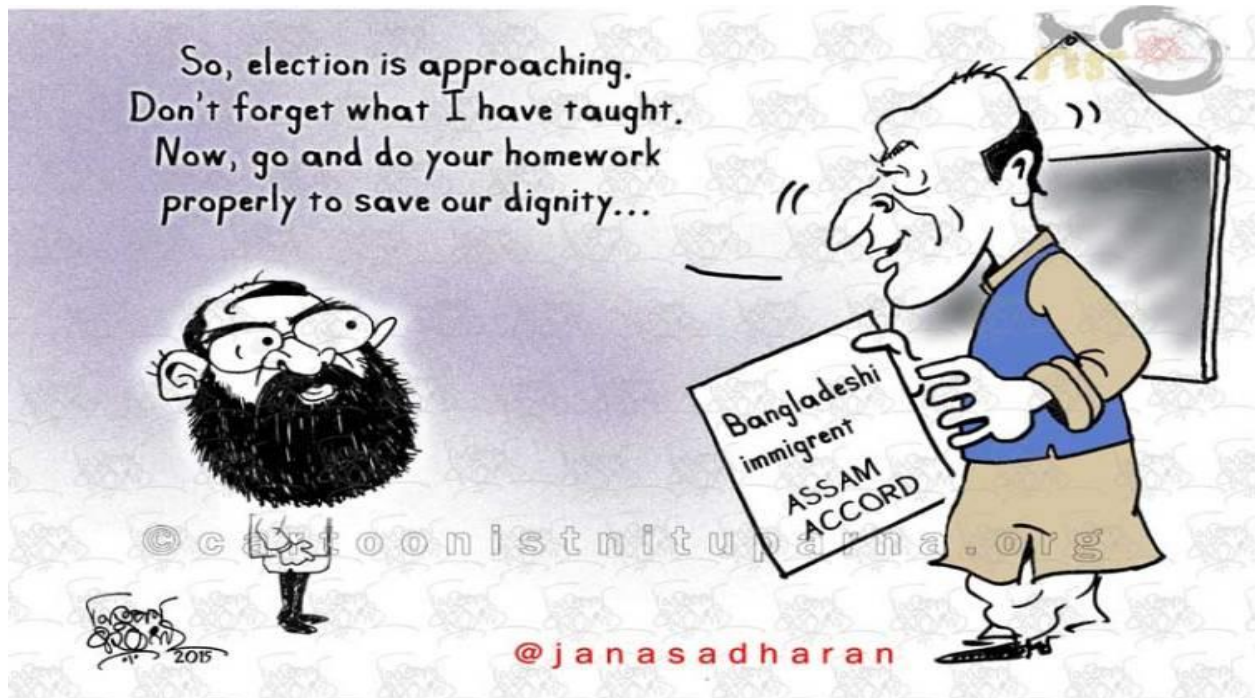
We congratulate all the contributors for their pieces. Especially we place on record our appreciation to Dr. Nitish Nawsagaray for having accepted our request on a very short to contribute a piece in the column "Intersection of Public Law".

**Ms. Vaijayanti Joshi**  
Principal  
ILS Law College Pune  
(Editor in Chief)

**Dr. Sanjay Jain**  
Associate Professor & Faculty  
Co-ordinator  
Centre for Public Law  
ILS Law College, Pune  
(Faculty Editor)

**Mr. D.P. Kendre**  
Assistant Professor & Faculty  
Co-ordinator  
Centre for Public Law  
ILS Law College, Pune  
(Faculty Editor)

## B. RECAP THROUGH CARTOONS









## C. PUBLIC LAW IN THE NEWS

~ Compiled by:  
Rashmi Raghavan, IV B.A. LL.B.

---

### FROM THE SUPREME COURT

#### A. Female succession to Mutawalliship

*Md. Abrar v. Meghalaya Board of Wakf*

The Supreme Court held that there is no legal bar on cognatic heirs of the waqif from succeeding to mutawalliship. The three Judge Bench reiterated that in order to establish a claim of hereditary succession to mutawalli-ship, the intention of the waqif, as manifested either through the directions given in the waqf deed or the creation of a custom, is of paramount importance. However if the deed specifically intends to exclude them, then women cannot be waqifs.

#### B. Police powers during investigation

*Nevada Properties Private Limited v. State Of Maharashtra And Anr*

The Supreme Court held that police does not have the inherent power to attach immovable property during investigation under Section 102 of the Code of Criminal Procedure. However, the bench clarified that the police does have authority to freeze moveable properties of the accused.

#### C. Deserted wife's Right to Maintenance

*Dr. Swapan Kumar Banerjee v. State of WB*

The Supreme Court observed that a wife, who has been divorced by the husband, on the ground of desertion, is entitled to claim maintenance under Section 125 of the Code of Criminal Procedure. The bench comprising Justice Deepak Gupta and Justice Aniruddha Bose, refusing the plea to refer this issue to a larger bench, observed that this view has been consistently taken by the Supreme Court and is in line with both the letter and spirit of the Criminal Procedure Code.

#### D. Inherent power of the SC in a divorce case

*R. Srinivas Kumar v. R. Shametha*

The Supreme Court observed that it can exercise its inherent powers under Article 142 of the Constitution of India for dissolution of a marriage where it finds that



the marriage is totally unworkable, emotionally dead, beyond salvage and has broken down irretrievably, even if the facts of the case do not provide a ground in law on which the divorce could be granted.

#### **E. Candidates' disclosure during elections**

##### *Satish Ukey v. Devendra Gangadharrao Fadnavis*

The Supreme Court observed that a contesting candidate must mandatorily disclose not only case(s) in which charges have been framed against him but also case(s) in which cognizance has been taken by the Competent Court. The bench of CJI Ranjan Gogoi, Justices Deepak Gupta and Aniruddha Bose held so while setting aside the clean chit given to Maharashtra CM Devendra Fadnavis by the Bombay High Court in a case alleging furnishing false information in the election affidavit submitted during 2014 assembly polls.

#### **F. Section 9A of CPC**

##### *Nusli Neville Wadia v. Ivory Properties*

The Supreme Court observed that, under Section 9A of the Code of Civil Procedure applicable in the state of Maharashtra, question of limitation cannot be decided as a preliminary issue. The Bench observed that under the provisions of Section 9A and Order XIV Rule 2, it is open to decide preliminary issues if it is purely a question of law and not a mixed question of law and fact by recording evidence.

#### **G. SC grants bail to P Chidambaram**

##### *P. Chidambaram v. Directorate of Enforcement*

In the judgment granting bail to P Chidambaram in the INX Media case, the Supreme Court made certain pertinent observations regarding the practice of courts relying on sealed cover documents produced by prosecution during bail hearings. The SC observed that recording of findings based on the sealed cover documents submitted by the prosecution as if the offence has been committed, and using of such findings to deny bail would be against the concept of fair trial.

#### **H. Rafale case crashes in SC**

##### *Yashwant Sinha & Ors. v. Central Bureau Of Investigation*

The Supreme Court dismissed the review petitions filed against the December 14, 2018 judgment which declined to order probe into the corruption allegations





regarding the deal to procure 36 Rafale jets by Indian Government from French company Dassault Aviation as it lacked in merits. However, Justice K M Joseph has pronounced that this judgment will not preclude the CBI from conducting its investigation and taking lawful action.

#### **I. The Karnataka Assembly debacle**

##### *Shrimanth Balasaheb Patil v. Hon'ble Speaker, Karnataka Legislative Assembly*

The Supreme Court on Tuesday upheld the former Karnataka Speaker's decision to disqualify 17 rebel MLAs on the ground of defection. However, in partial relief to the MLAs, the apex court held that the duration of disqualification cannot be till the end of the term of the house. This means that they can re-contest in the upcoming by polls scheduled to take place in December.

#### **J. Essar Insolvency and upholding the letter of the law**

##### *Committee of Creditors of Essar Steel India Ltd v. Satish Kumar Gupta & Ors.*

In a landmark decision having wide impact on the IBC regime, the Supreme Court allowed the appeal by Committee of Creditors (CoC) in Essar Steel insolvency to set aside the order of the National Company Law Appellate Tribunal. The judgment pronounced by Justice R F Nariman held that there was no equality between financial creditors and operational creditors and that the Adjudicating Authority cannot substitute the commercial wisdom of the CoC.

#### **K. SC Is amenable to RTI**

##### *Central Public Information Officer, Supreme Court Of India v. Subhash Chandra Agarwal*

In a historic judgment, the Supreme Court held that the office of Chief Justice of India is a public authority under the Right to Information Act. The Constitution Bench upheld the 2010 judgment of Delhi HC which had held that RTI Act was applicable to CJI's office.

#### **L. SC graces the Ram Temple**

##### *M Siddiq v. Mahant Suresh Das & Ors.*

The Five judge bench of the Supreme Court pronounced a unanimous verdict in the Ayodhya case. The court has held that the entire disputed land of 2.77 acres in Ayodhya must be handed over for the construction of a Ram Mandir. At the same time, the Court also held that an alternate plot of 5 acres must be allotted to the



Sunni Waqf Board for construction of a mosque. The Court observed that the destruction of Babri mosque in 1992 was a violation of law. The Central Government has been directed to formulate a scheme in this regard within three months. A Board of Trustees of the temple must be set up for construction of temple. It also clarified that the judgment shall not be a precedent to undo historical wrongs done by one community against the other.

#### **M. Rahul Gandhi warned for contempt**

##### *Yashwant Sinha v. CBI*

The Supreme Court closed contempt proceedings against Congress leader Rahul Gandhi with 'a word of caution for the contemnor to be more careful in the future.' The Bench said that the persons holding such important positions in the political spectrum must be more careful and that a Court should not be dragged into political discourse.

#### **N. Challenge to the Arbitration and Conciliation Amendment Act, 2019**

##### *Hindustan Construction Company Ltd v. Union of India*

In a significant judgment, the Supreme Court struck down Section 87 of the Arbitration and Conciliation Act 1996, which was inserted through the 2019 Amendment Act passed by the Parliament last monsoon session. The section sought to bring about a retrospective resurrection of an automatic stay. The judgment also criticized the 2019 Act for being unfriendly towards the goal of making India a hub for arbitral proceedings.

#### **O. HC can intervene in an NCLT order**

##### *M/s Embassy Property Developments Pvt. Ltd. v. State of Karnataka & Ors.*

Supreme Court held that the High Court can exercise its powers under Article 226 of the Constitution, if NCLT has passed an order pertaining to a matter falling under the realm of public law. The Division Bench held that wherever the corporate debtor has to exercise a right that falls outside the purview of the IBC, 2016, especially in the realm of the public law, they cannot, through the resolution professional, take a bypass and go before NCLT for the enforcement of such a right.

#### **P. Justice hurried is justice buried**

##### *Anokhilal v. State of Madhyapradesh*



The Supreme Court observed that expeditious disposal of criminal cases must never result in burying the cause of justice. The bench comprising Justice Uday Umesh Lalit, Justice Indu Malhotra and Justice Krishna Murari set aside a death penalty awarded to a rape and murder accused in a trial that finished within thirteen days.

**Q. Speaker does not have unconditional power to decide on defection**

*Keisham Meghachandra Singh v. The Hon'ble Speaker Manipur Legislative Assembly and others*

In a notable judgment, the Supreme Court has held that the Speaker of the Legislative Assembly should decide on a petition seeking disqualification of a member under Tenth Schedule of the Constitution within a period of three months, in the absence of exceptional reasons. The bench also acknowledged the problem of Speakers acting in a partisan manner due to their political loyalties. Therefore, the bench suggested that the Parliament should amend the Constitution to provide for an independent mechanism, such as a Permanent Tribunal headed by retired judges, to decide disputes under Tenth Schedule.

**R. Repetitive orders under S.144 Cr.P.C threaten Freedom of Speech**

*Anuradha Bhasin v. Union of India & Ors.*

In its judgment in Kashmir Lock Down case, the Supreme Court observed that the power under Section 144 of the Criminal Procedure cannot be used as a tool to prevent the legitimate expression of opinion or grievance or exercise of any democratic rights. The Court said that provisions of Section 144, Cr.P.C. will only be applicable in a situation of emergency or when there is apprehension of danger and for the purpose of preventing obstruction and annoyance or injury to any person lawfully employed. The judgment is significant as it recognized the right to access the internet as a fundamental right.



## BILLS AND LEGISLATIONS

### **THE TRANSGENDER PERSONS (PROTECTION OF RIGHTS) BILL, 2019: PASSED ON 5<sup>TH</sup> AUGUST 2019.**

To provide for protection of rights of transgender persons and their welfare and for matters connected therewith and incidental thereto.<sup>1</sup> Following are the major heads under the Bill –

- Prohibition against Discrimination
- Recognition of identity of transgender person
- Welfare measures by Government
- Obligations of establishments and other persons
- Education, Social Security and Health of Transgender Persons
- National Council for Transgender Persons

### **THE DADRA AND NAGAR HAVELI AND DAMAN AND DIU (MERGER OF UNION TERRITORIES) BILL, 2019: PASSED ON 27<sup>TH</sup> NOVEMBER 2019.**

To provide for merger of Union territories of Dadra and Nagar Haveli and Daman and Diu and for matters connected therewith.<sup>2</sup>

The Major heads under the bill are:

- Formation of Union territory of Dadra and Nagar Haveli and Daman and Diu
- Amendment of Article 240 of Constitution
- Amendment of the First Schedule to Constitution
- Allocation of seats in House of People
- Provisions as to sitting members
- Extension of jurisdiction of High Court of Bombay
- Assets and Liabilities
- Provisions as to Service

<sup>1</sup> [http://164.100.47.4/BillsTexts/LSBillTexts/PassedLoksabha/169-C\\_2019\\_LS\\_Eng.pdf](http://164.100.47.4/BillsTexts/LSBillTexts/PassedLoksabha/169-C_2019_LS_Eng.pdf) accessed on 25th January 2020 at 23:04 hrs.

<sup>2</sup> [http://164.100.47.4/BillsTexts/LSBillTexts/Asintroduced/366\\_2019\\_LS\\_Eng.pdf](http://164.100.47.4/BillsTexts/LSBillTexts/Asintroduced/366_2019_LS_Eng.pdf) accessed on 25th January 2020 at 23:11 hrs.



**TAXATION LAWS (AMENDMENT) ACT, 2019: PRESIDENTIAL ASSENT RECEIVED ON 13<sup>TH</sup> DECEMBER 2019.<sup>3</sup>**

Corporate Tax Rates slashed to 22% for domestic companies and 15% for new domestic manufacturing companies, according to the said Act.

List of amendments:

- Section 92 BA
- Section 115 BA
- Insertion of Sections 115 BAA [Tax on income of certain domestic companies] & Sections 115 BAB [Tax on income of certain new domestic manufacturing companies]
- Section 115 JB
- Section 115 QA
- Amendment of Act No. 23 of 2019
- Amendment of Part II of First Schedule

**THE SPECIAL PROTECTION GROUP (AMENDMENT) BILL, 2019: PASSED ON 27<sup>TH</sup> NOVEMBER 2019.<sup>4</sup>**

The proposed Bill provides for the following, namely:

- (a) to substitute sub-section (1) of section 4 so as to provide that the Special Protection Group shall provide proximate security to the Prime Minister and members of his immediate family residing with him at his official residence and to any former Prime Minister and such members of his immediate family as are residing with him at the residence allotted to him, for a period of five years from the date he ceases to hold the office of Prime Minister;
- (b) to substitute clause (b) of sub-section (1A) of section 4 so as to provide that where the proximate security is withdrawn from a former Prime Minister, such proximate security shall also stand withdrawn from members of immediate family of such former Prime Minister.

<sup>3</sup> <http://egazette.nic.in/WriteReadData/2019/214648.pdf> accessed on 25<sup>th</sup> January 2020 at 23:26 hrs.

<sup>4</sup> [http://164.100.47.4/BillsTexts/LSBillTexts/Asintroduced/365\\_2019\\_LS\\_Eng.pdf](http://164.100.47.4/BillsTexts/LSBillTexts/Asintroduced/365_2019_LS_Eng.pdf) accessed on 25<sup>th</sup> January 2020 at 23:35 hrs.





**CITIZENSHIP (AMENDMENT) ACT, 2019: PRESIDENTIAL ASSENT RECEIVED ON 12<sup>TH</sup> DECEMBER 2019.<sup>5</sup>**

In the Citizenship Act, 1955 (hereinafter referred to as the principal Act), in section 2, in sub-section (1), in clause (b), the following proviso shall be inserted, namely: –

“Provided that any person belonging to Hindu, Sikh, Buddhist, Jain, Parsi or Christian community from Afghanistan, Bangladesh or Pakistan, who entered into India on or before the 31st day of December, 2014 and who has been exempted by the Central Government by or under clause (c) of sub-section (2) of section 3 of the Passport (Entry into India) Act, 1920 or from the application of the provisions of the Foreigners Act, 1946 or any rule or order made there under, shall not be treated as illegal migrant for the purposes of this Act.”

Special provisions as to the citizenship of person covered by the proviso to clause (b) of sub-section (1) of Section 2.

In section 7D of the principal Act, –

(i) after clause (d), the following clause shall be inserted, namely: –

“(da) the Overseas Citizen of India Cardholder has violated any of the provisions of this Act or provisions of any other law for time being in force as may be specified by the Central Government in the notification published in the Official Gazette; or”.

(ii) After clause (f), the following proviso shall be inserted, namely: –

“Provided that no order under this section shall be passed unless the Overseas Citizen of India Cardholder has been given a reasonable opportunity of being heard.”

In section 18 of the principal Act, in sub-section (2), after clause (ee), the following clause shall be inserted, namely: –

“(eei) the conditions, restrictions and manner for granting certificate of registration or certificate of naturalisation under sub-section (1) of section 6B;”

In the Third Schedule to the principal Act, in clause (d), the following proviso shall be inserted, namely: –

‘Provided that for the person belonging to Hindu, Sikh, Buddhist, Jain, Parsi or Christian community in Afghanistan, Bangladesh or Pakistan, the aggregate period of residence or service of Government in India as required under this clause shall be read as “not less than five years” in place of “not less than eleven years”.

<sup>5</sup> <http://egazette.nic.in/WriteReadData/2019/214646.pdf> accessed on 26th January 2020 at 10:51 hrs.



**THE CONSTITUTION (ONE HUNDRED AND FOURTH AMENDMENT) ACT, 2019: PRESIDENTIAL ASSENT RECEIVED ON 21<sup>st</sup> January 2020.<sup>6</sup>**

The Constitution (One Hundred and Fourth Amendment) Act, 2019 received presidential assent after having been ratified by the legislatures of not less than one – half of the States by resolutions to that effect. It came into effect on 25<sup>th</sup> January 2020. The act amended article 334 of the Constitution. In Article 334 of the Constitution, –

(a) for the marginal heading, the following marginal heading shall be substituted, namely: –

**“Reservation of seats and special representation to cease after certain period”;**

(b) in the long line, after clauses (a) and (b), for the words “seventy years”, the words “eighty years in respect of clause (a) and seventy years in respect of clause (b)” shall be substituted.

**ARMS (AMENDMENT) ACT, 2019: PRESIDENTIAL ASSENT RECEIVED ON 13<sup>TH</sup> JANUARY 2019.<sup>7</sup>**

The act seeks to further enhance the punishment for existing offences such as illegal manufacture, sale, transfer, etc.; illegal acquiring, possessing or carrying prohibited arms or prohibited ammunition; and illegal manufacture, sale, transfer, conversion, import, export, etc., of firearms.

Moreover, the Bill proposes to define new offences and prescribes punishment for them, such as for taking away firearms from police or armed forces, involvement in organized crime syndicate, illicit trafficking including smuggled firearms of foreign make or prohibited arms and prohibited ammunition, use of firearms in rash and negligent manner in celebratory gunfire endangering human life, etc. The Bill also seeks to enhance the period of arms license from three years to five years and also to issue arms license in its electronic form to prevent forgery.

<sup>6</sup> <http://egazette.nic.in/WriteReadData/2020/215637.pdf> accessed on 26th January 2020 at 11:03 hrs.

<sup>7</sup> <http://egazette.nic.in/WriteReadData/2019/214662.pdf> accessed on 26th January 2020 at 11:11 hrs.



## D. CASES ACROSS THE POND

~ Compiled by: Nihar Chitre , IV B.A. LL.B.

DATE	NAME OF THE CASE AND COURT	JUDGMENT
11-01-2019	Gillian Frank v. Canada Attorney General <sup>8</sup> (Supreme Court of Canada)	<p>The Constitutionality of Sections 11(d), 222 and other related provisions of Canada Elections Act was challenged. The combined effect of this section denied Canadian citizens who have resided abroad for five years or more, the right to vote in a federal election unless and until they resume residence in Canada.</p> <p>The above sections were challenged on the ground that it violated Section 3 of the Canadian Charter of Rights and Freedom and the impugned provisions were unconstitutional.</p> <p>The concerned provisions of the Canada Election Act were declared unconstitutional.</p>
14-11-2019	Rickynathanson v. Faraimteliso <sup>9</sup> (Zimbabwe High Court)	<p>The plaintiff, a transgender woman was illegally detained and maliciously prosecuted by six members of the police reaction group called by the defendant, on the ground that she resembled a man and used a women's washroom. In the police station, she was subjected to constant mocking and jeering and was forced to undress so that the police can determine if she was a man or a woman. All</p>

<sup>8</sup> 2019 SCC OnLine Can SC 1

<sup>9</sup> <https://www.sconline.com/blog/post/2019/12/24/zimbabwe-hc-navtej-singh-johar-case-relied-on-with-regard-to-reaffirming-of-transgender-rights-compensation-granted-to-illegally-detained-transgender/> accessed on 24<sup>th</sup> January 2020 at 16:15 hrs.



		<p>these events resulted in post-traumatic disorder to the plaintiff.</p> <p>It was held that transgender citizens are a part of the Zimbabwean society. Their rights should be recognised as other citizens and the Zimbabwean constitution prohibits their discrimination and it would be delusional to waive off their rights. The court concluded its judgment by recommending that unisex toilets should be built to avoid recurrence of such events.</p> <p>In the end, the High Court reaffirmed that illegal detention and malicious prosecution had taken place against the plaintiff and awarded her compensation of 400000 Zimbabwean Dollars.</p>
02-10-2019	<p>Pakistan v. India<sup>10</sup></p> <p>The High Court of Justice (United Kingdom)</p>	<p>The main question before the Court was whether it was Pakistan or the late Nizam VII of Hyderabad who was entitled to a fund the Nizam had deposited with the Pakistan High Commission?</p> <p>The court held that India was correct in asserting that the question of illegality was “analytically irrelevant” to its claim to the Fund. Even if the question of illegality were relevant to India’s claims, the Settlement between the Princes and India had rendered the issue irrelevant because the rival claims to the Fund of the Princes and India had validly been compromised. There was no illegality alleged that would be sufficient to prevent the Princes and India from asserting their claim to the Fund.</p>

<sup>10</sup> [2019] EWHC 2551 (Ch)



19-11-2019	Obote  v.  Russia <sup>11</sup>  (European Court of Human Rights ECHR)	<p>The applicant, Andrey Obote, and six other people had gathered around the Office of the Russian Government in 2009 for a 'flash mob'. They had their lips covered with adhesive tape and they all held a blank sheet of paper. When the police ordered the group to disperse, the applicant asked the reason for the said order and for the same was taken to the police station. He was charged under the Code of Administrative Offences for failing to give prior notification of a public gathering, as required by the Public Events Act. A court subsequently fined him 1,000 Russian roubles and held that he had taken part in a static demonstration and that he had breached the procedure for public events. It rejected his argument that the flash mob could not be counted as involvement in a public event.</p> <p>The ECHR held that the respondent State, Russia, for the above mentioned conduct, was in violation of Article 11 (freedom of assembly) of the European Convention on Human Rights.</p>
------------	---	---

<sup>11</sup> <https://www.sconline.com/blog/post/2019/11/22/echr-flash-mobs-are-peaceful-assembly-of-people-staging-demonstration-without-prior-authorisation-does-not-necessarily-justify-interfering-with-a-persons-right-to-freedom/>, accessed on 24<sup>th</sup> January 2020 at 16:30 hrs.





## E. SHORT PIECES: PRIVACY & SURVEILLANCE

~ Authored by: Rakshita Sangh

### Privacy and Surveillance<sup>12</sup>

#### Introduction

The Central Government introduced the Personal Data Protection Bill 2019<sup>13</sup> (The Bill), in the lower house of the Indian Parliament on 11<sup>th</sup> of December 2019. While many clauses of the bill raise concerns regarding independence of the Data Protection Authority, cumbersome data localisation requirements and acquisition of non-personal data by the government; the deepest concerns are raised by clause 35 of the Bill which provides for exemptions for the state from data protection principles and obligations. In a catena of judgments, the Supreme Court of India has established a progressive jurisprudence by expanding civil rights in the event of state surveillance.<sup>14</sup> However, clause 35 of the Bill goes against established jurisprudence and infringes upon the fundamental right to privacy.

#### Puttaswamy

The Supreme Court, in a landmark judgment in the case *Justice K.S. Puttaswamy (Retd.) v. Union of India*<sup>15</sup> (Puttaswamy) reaffirmed that the 'Right to Privacy' is a fundamental right under the Constitution. The impact of this reaffirmation is that any law passed by the Parliament or any executive action which infringes upon this right will be *ultra vires* unless they can pass the constitutionality test.<sup>16</sup>

A three-fold test applicable to all restraints placed on privacy and, thereby on individual liberty, was laid down in Puttaswamy. It emanates from the procedural and content-based mandate of Article 21.<sup>17</sup> Accordingly, an encroachment upon privacy will have to withstand the three-fold requirement of-

- (i) legality, which postulates the existence of law;
- (ii) need, defined in terms of a legitimate state aim; and

<sup>12</sup>By Sangh Rakshita, Lawyer and Analyst with the Centre for Communication Governance, National Law University Delhi.

<sup>13</sup>Ministry of Electronics and Information Technology, The Personal Data Protection Bill 2019 (Bill No. 373 of 2019), <[http://164.100.47.4/BillsTexts/LSBillTexts/Asintroduced/373\\_2019\\_LS\\_Eng.pdf](http://164.100.47.4/BillsTexts/LSBillTexts/Asintroduced/373_2019_LS_Eng.pdf)> accessed 23 January 2020.

<sup>14</sup>See, *Mr. X v. Hospital Z*, (1998) 8 SCC 296; *PUCL v. Union of India*, (1997) 1 SCC 30; and *Kharak Singh v. State of Uttar Pradesh*, AIR 1963 SC 1295.

<sup>15</sup>(2017) 10 SCC 1.

<sup>16</sup>Art. 13, The Constitution of India, 1950.

<sup>17</sup>*Puttaswamy* (n 15).



- (iii) proportionality which ensures a rational nexus between the objects and the means adopted to achieve them.<sup>18</sup>

### Clause 35

Clause 35 in the Bill envisages *carte blanche* authorisation by the government to its agencies to collect and process personal data in the form of blanket exemptions from the applicability of the Act, when the government is satisfied that it is necessary or expedient to do so-

- (i) in the interest of sovereignty and integrity of India, the security of the State, friendly relations with foreign States, public order; or
- (ii) for preventing incitement to the commission of any cognizable offence relating to sovereignty and integrity of India, the security of the State, friendly relations with foreign States, public order.

The executive functioning in India suffers from problems of opacity and unfettered discretion at times, which requires a robust system of checks and balances to avoid abuse. Legislative and judicial oversight becomes a necessity in such cases. The requirement of sanction of a law passed by the Parliament along with tests of proportionality and necessity are essential to put in place an effective system of checks and balances.

The three-fold requirement for a valid law arises out of the mutual inter-dependence between the fundamental guarantees against arbitrariness on the one hand and the protection of life and personal liberty, on the other.<sup>19</sup> The absence of the above mentioned safeguards in clause 35 of the Bill, grants unbridled powers in the hands of the executive to trample upon civil liberties. If implemented, it will lead to increased legal surveillance and erosion of individual autonomy.

<sup>18</sup>(2017) 10 SCC 1, Chandrachud, J.'s opinion, conclusion para 3.

<sup>19</sup> Ibid.



## F. SHORT PIECES: CONSTITUTIONAL NATIONALISM

*Authored by:* Sharanya Shivaraman  
Former Student Coordinator, Centre for Public Law

---

### An Education in Constitutional Nationalism

This 26<sup>th</sup> January, India will celebrate its 71<sup>st</sup> anniversary as a Constitutional Republic. Every year, around this time, Constitutional theorists and advocates set out to postulate the role of the Constitution in a Constitutional Republic nation. We wonder and question how best to use the document, its commitment, its vision for a more just, more equal society in a rapidly changing and progressively divided world.

The enactment of the Citizenship Amendment Act (CAA) and debates on citizenship, have raised significant questions about nationality, patriotism and what it means to be Indian. In this light, the wide-spread pro-democracy protests have rejected the CAA. This outright rejection is not merely a proclamation for restoring the secular balance as espoused in the Indian Constitution for it comes in the context of aggressively cultivated ethno-nationalism. Assertion of the Constitutional commitment to justice in this movement puts nationalism as being linked to one's geographical nationhood alone in stark contrast with patriotism emerging from the belief in Constitutional justice and equality. The concept of '*Constitutional patriotism*' is most closely linked with Jürgen Habermas, a German philosopher in post-national Germany. It is the Constitution where we locate our identity and our relationship with the nation, and hence According to Habermas, Constitutional patriotism promises a form of solidarity distinct from nationalism.

In that sense, Constitution being the bedrock of patriotism or nationalism liberates the love for one's nation from its geographical limitations and allows us to look at nations as communities with distinct priorities and aspirations, not seen from the prism of geographical alliance or discord but through a prism of solidarity.

As the Republic Day draws close this 71<sup>st</sup> year, we find ourselves at the cusp of an anniversary like no other. For the first time in the history of independent India, there is a movement (the civil -political society movement against the CAA-NRC) which is speaking directly to our Constitution and the values it espouses. With preamble reading exercises being conducted, its words resounding in cities, towns and villages, the



struggle for justice and equality is finding purpose and resolve in this seven decade old document defining our relationship with our nation.



## G. VITAL CONSTITUTIONAL LAW QUESTION

~ Authored by: Varad S. Kolhe, V B.A. LL.B.

### Much Needed Answers to Much Needed Questions<sup>20</sup>

An independent, impartial and fair judiciary forms the edifice of a democracy. This is even more so in India, where the common citizen's trust in the judicial mechanisms and delivery of justice has been paramount since the country attained independence from colonial rule in 1947.

More than half a decade later, this paramount trust seems to be now venturing into minimal trust. Much of this decline in trust is owed to sometimes a lackadaisical or otherwise, simply an ignorant approach of the Supreme Court towards cases requiring urgent intervention involving citizens' fundamental rights. The icing on the cake, however, after the last three most controversial terms of the Chief Justice of India, still persists to be the peculiar and uncanny case of the sexual harassment allegations leveled by an employee of the Supreme Court itself against the master of the roster. Months before he took charge as CJI, Justice Gogoi vehemently put forth that he owes a duty to the nation and instead of selling his soul, he might as well address the nation in an unprecedented press conference. However, much of what he stood for in the conference was in-fact diluted by his own conduct in the aftermath of the leveling of sexual harassment allegations against him. Now that the very complainant has been reinstated back into the Supreme Court, Gautam Bhatia<sup>21</sup> very clearly outlines five questions which the Supreme Court owes a duty to the nation to answer. His questions may be summarized thus:

**Question 1:** Was the original dismissal of the employee wrongful? If so, who is responsible for such unlawful dismissal? And if so, what happens now to the "disgruntled employee" narrative and who will take the responsibility for the same. Alternatively, if the original dismissal was not wrongful, then why is the employee being reinstated?

**Question 2:** Wasn't the allegations made by the employee without merit? If so, why would the Supreme Court reinstate a person who tried to malign the institution by

<sup>20</sup> The schism of this piece is inspired from Gautam Bhatia's short piece on his blog titled The Sexual Harassment Complaint: Five Questions, available at:

<https://indconlawphil.wordpress.com/2020/01/23/the-sexual-harassment-complaint-five-questions/>

<sup>21</sup> <https://indconlawphil.wordpress.com/2020/01/23/the-sexual-harassment-complaint-five-questions/>, accessed on 24<sup>th</sup> January 2020 at 16:30 hrs.





making unmerited allegations against the Chief Justice? How can the present Chief Justice, who was a part of the ad-hoc committee which found the allegations unmerited, allow the reinstatement without contradicting the earlier stand of the ad-hoc committee?

**Question 3:** If the employee, as reported by Hindustan Times, agreed not to pursue the allegations (presumably by way of an appeal or through similar means), in return for reinstatement, what is the character of this agreement? How did this agreement come to be and was the Supreme Court involved in any way in reaching this agreement? If the Supreme Court was involved, how was it involved?

**Question 4:** If, as reported by the Hindustan Times, the agreement as above was facilitated by a 'top government functionary', then, why are 'top government functionaries' involved in facilitating such agreements? If such a functionary is involved in order to settle the matter quietly without tarnishing the image of the country, what does this mean for the principle of separation of powers and the relationship between the Judiciary and the Executive?

**Question 5:** "This 'top government functionary' is reported to have said that *"everything would be sorted out and they should not tarnish the image of the country by focussing attention on the case."* Does the Supreme Court agree with this deeply patriarchal logic of sweeping troublesome sexual harassment complaints under the carpet because what matters is not the rights of survivors and the question of truth, but that allegations "tarnish the image of the country" - and that therefore, the imperative that of silence and burial, instead of justice?"

With Justice Bobde (as he then was), the man who led the inquiry into the sexual harassment allegations, at the helm of affairs as CJI, it is imperative that the highest court of this country comes out with clean hands, as it expects of all its litigants. Because some things are indeed not worth getting over and this particular incident followed by its consequent treatment necessitates the victory of fairness over and above power.

If this grim scenario persists, it would not be too long before we find a Dahlia Lithwick<sup>22</sup> in India echoing sentiments similar to the following:

*"I haven't been inside the Supreme Court since Brett Kavanaugh was confirmed. I've been waiting, chiefly in the hope that at some point I would get over it, as I am meant to do for the good of the courts, and the team, and the ineffable someday fifth vote which may occasionally come in exchange for enough bonhomie and good grace. There isn't a lot of power in my failing to*

---

<sup>22</sup> <https://slate.com/news-and-politics/2019/10/year-after-kavanaugh-cant-go-back-to-scotus.html>, accessed on 24<sup>th</sup> January 2020 at 16:30 hrs.



*show up to do my job, but there is a teaspoon of power in refusing to normalize that which was simply wrong, and which continues to be wrong. I don't judge other reporters for continuing to go, and I understand the ways in which justices, judges, law professors, and clerks must operate in a world where this case is closed. Sometimes I tell myself that my new beat is justice, as opposed to the Supreme Court. And my new beat now seems to make it impossible to cover the old one."*



## H. INTERSECTION OF PUBLIC LAW

~ Authored by: Dr. Nitish Nawsgaray  
Assistant Professor,  
ILS Law College, Pune

---

### Some Thoughts on CAA, NRC and India's Refugee Policy.

#### Introduction

The Parliament of India recently passed an amendment to the Citizenship Act 1955 to grant citizenship to persons belonging to Buddhist, Sikh, Hindu, Christian, Parsi and Jain religious communities coming from three countries, namely, Afghanistan, Pakistan and Bangladesh, provided that these persons entered India before 31<sup>st</sup> December 2014 (hereinafter referred to as '**included categories of migrants**'). In India, Citizenship of an individual is determined by the Citizenship Act of 1955 and is equally influenced by the provisions of The Foreigners Act of 1946 and the Passport (Entry into India) Act of 1920. According to the 1955 Act, there are different modes of acquiring citizenship including by birth and by registration. In order to be registered as a citizen of India under Section 6 of the 1955 Act, a person must have resided in India (or been in the service of the Central Government) for at least 11 years. The amended Act reduces this period to five years for the included categories of migrants. It also affects the operation of Section 3 relating to Citizenship by birth.

As claimed by the Home Minister, this Amendment has been brought to grant citizenship to the persecuted minorities fleeing religious persecution in the three specified countries. The reason for excluding Muslims from the purview of the Act, as stated by the Home Minister, is that the likelihood of Muslims facing persecution in these Muslim-majority countries is low. But critics point out that religious-sects like the Ahmediyas and Bahais do face religious persecution in Pakistan.

Since it is claimed that the Citizenship Amendment Act 2019 (CAA) deals with persecuted minorities fleeing religious persecution i.e. refugees, its international legal dimension needs to be comprehended. At the outset it should also be mentioned that the text of the CAA does not even once use the word "refugee". Nor does it make any reference to persecution on any ground, except in the Statement of Objects and Reasons that was appended to the Bill. The Act provides that the included categories of migrants may seek citizenship if they have been exempted under the applicable provisions of the Passport (Entry into India) Act, 1920 and the Foreigners' Act 1946, without explicitly mentioning the grounds for granting them this exemption.



## **India's credentials in granting protection to Refugees**

India has mixed credentials as regards protection of refugees. It's both good and bad. It has handled the post-partition migration of refugees from Pakistan to India with great responsibility. It has welcomed the Tibetans who continue to run a government in exile in Dharamsala. India had absorbed the Tamil refugees from Sri Lanka and the refugees from Bangladesh post-1971 war. Thus, India's record on mass refugee's crisis has been creditable.

But on the other hand India's refugee policy is also opportunist to a certain extent. Afraid of China's reaction, India has denied succour to the Muslim Uighurs. Even its Tibetan policy has softened in China's favour. In October 2018, India deported a group of Rohingya refugees to Myanmar where they are facing not just persecution but also alleged genocide.

## **International Legal Framework for protection of Refugees**

The problem of mass inter-State influx of refugees is as ancient as human civilisation. For the protection of the Human Rights of the Refugees, under the aegis of the United Nations, countries adopted the Convention relating to the status of refugees in 1952, which was later amended by the 1967 Protocol. These two global legal instruments, now ratified by 145 countries, constitute the major international legal framework on the treatment of refugee's world over.

As per the 1951 United Nations Refugee Convention and its 1967 Protocol, refugee means any person who owing to well-founded fear of persecution for reasons of race, religion, nationality, membership of a particular social group or political opinion, flees his country seeking protection in another. Thus, the scope of the term "persecution" in international law is wide and is not restricted to religious persecution.

India is not a party to either the Refugee Convention of 1951 or the 1967 Protocol. Nevertheless India is bound by customary international law not to repatriate a single refugee against their will. It's known as the non-refoulement principle, meaning no forcible repatriation. Laid out in Article 33(1) of the Refugee Convention, this principle prohibits a country from returning refugees to countries where they face a clear threat of persecution on account of race, religion, nationality, political opinion, among others. According to the United Nations High Commissioner of Refugees (UNHCR), the principle of non-refoulement has attained the status of customary international law. Customary international Law is binding on all countries, unless a country has persistently objected to the customary norm. India, in any case, is bound by this principle because it is contained in the 1984 Convention against torture, to which India is a signatory. However, India does not have any specific domestic legislation for protection of Refugees.



Refugees in India, whatever their cause of persecution and wherever they came from, is entitled to equality before the law and equal protection of the law. The CAA by restricting its benefits only to the included categories of migrants who are also refugees denies to the excluded categories the solemn right to equality granted under Article 14 of the Indian Constitution.

### **The CAA and the NRC**

The Amendment of 2019 adds a proviso to the definition of illegal migrants and consequently grants citizenship to the included categories of migrants. The CAA and the National Register of Citizens (NRC), in their current form, originate from the previous Citizenship (Amendment) Acts. They are rooted in the category of “illegal migrants,” which prior amendments inserted to restrict avenues of attaining citizenship. It constrains citizenship by birth, for instance, in case of persons born in India after the commencement of the 2003 Amendment, by confining it to only those whose parents were Indian citizens or one of whose parents was an Indian citizen and the other was not an illegal migrant at the time of the person’s birth. Similarly, Section 6 of the 1955 Act as it originally stood has also been amended to prevent illegal migrants from gaining citizenship by naturalisation as well. This division was taken further by the Citizenship Rules (2003) which put in place bureaucratic procedures for creating the NRC and issuing national identity cards to citizens.

The CAA, NRC and the National Population Register (NPR), to be compiled in 2020 with a revised questionnaire that includes parentage, constitute a filter through which undocumented persons of particular faiths could be saved from a limbo of statelessness. The NRC and the CAA are manifestly conjoined in their objectives. The first paves the way to statelessness and detention centres for many poor and vulnerable people only on the basis of their faith. The second offers a smooth path to citizenship for groups of migrants who are deemed acceptable only on grounds of their faith.

### **The Illustrative Case of Rohingya Muslims**

Rohingya Muslims from Myanmar, who fled their country because of religious persecution will continue to be treated as illegal migrants even after the 2019 amendment of the Citizenship Act. India will attempt to deport them despite the high risk of persecution they face in Myanmar. The political rhetoric of promising to throw out all illegal migrants is a clear pointer to this. It hardly matters for the ruling class if it contravenes the non-refoulement principle. The Rohingya Muslims are the victims of genocide. Many of them live in a miserable condition in India. If India deports Rohingya’s will Myanmar take them? Either Myanmar will not take them, or if they do, they will not guarantee them protection from persecution.



Similarly, complications will arise if Bangladesh refuses to take back individuals branded by the Indian government as non-Indian and a 'special regime' is to be created.

### Conclusion

If government of India is seriously interested in countering persecution, it needs to have a comprehensive policy to protect all refugees who have come to India because they have been persecuted in the countries from which they have come irrespective of religion, race, caste, sex, place of birth or any of them. Such policy must treat all equally placed refugees equally.

The Citizenship Amendment Bill and the Pan-Indian National Register of Citizens mark a foundational shift in the Indian conception of citizenship, providing paths to citizenship for some and driving others on to paths to statelessness. The biggest humanitarian threat that India currently faces is of a large number of genuine citizens becoming stateless through the CAA-NRC process and others by virtue of being in the included categories of migrants gaining citizenship on the basis of their faith.

Over the years, we can identify a shift in the basis on which Indian Citizenship has been granted. The step by step shift from *Jus Soli* to *Jus Sanguinis* as the basis of citizenship cannot be ignored. One should note that in the Constituent Assembly, members had deliberated this question as to what conception of citizenship the new Indian State should adopt - citizenship on the basis of *Jus Soli* or *Jus Sanguinis*. After much deliberation, the Assembly adopted the '*jus soli*' approach, which according to Sardar Patel, carried a more "enlightened modern civilized" character that all progressive nations were taking. Moreover, the founding fathers argued that ethnicity-based citizenship was outdated, and could provoke communal divisions in the Country. The CAA carries on with the progressive shift to *Jus Sanguinis* that our founding fathers had expressly rejected.



## I. APPURTENANT SCHOLARSHIP

~ *Compiled by:* Varad S. Kolhe, V B.A. LL.B.

---

### 1. Constitution Making under UN Auspices: Fostering Dependency in Sovereign Lands

*Vijayshri Shripati*

Covers constitutional assistance offered by the United Nation's predecessor: the League of Nations and its Permanent Mandates Commission; and rids the international law discourse of long-standing conceptual confusions.

### 2. The First Amendment in the Trump Era

*Timothy Zick*

Examines the growing number of First Amendment controversies in the Trump Era. Relates recent First Amendment controversies to the concept of dissent. Connects present concerns to episodes throughout American history. Written with minimal legal jargon or extensive discussions of cases or doctrines

### 3. European Constitutional Courts and Transitions to Democracy

*Francesco Biagi*

This book brings together research on democratization processes and constitutional justice by examining the role of three generations of European constitutional courts in the transitions to democracy that took place in Europe in the twentieth century. Using a comparative perspective, the author examines how the constitutional courts during that period managed to ensure an initial full implementation of the constitutional provisions, thus contributing - together with other actors and factors - to the positive outcome of the democratization processes. *European Constitutional Courts and Transitions to Democracy* provides a better understanding of the relationship between transitions to democracy and constitutionalism from the perspective of constitutional courts.

### 4. The Cases that India Forgot

*Chintan Chandrachud*

Can a state Legislature imprison a critic and summon a high Court judge to appear before it? Are religion-based personal laws above fundamental Rights? Why did the Punjab police organize a band to celebrate the defeat of the state in a case of sexual harassment? Is it legal for the government to arm untrained private citizens to





participate in counter-insurgency operations? How did Parliament come to pass the first Amendment to the Constitution allowing for caste-based reservations? And why did the Supreme Court acquit a rape accused on the basis of the victims sexual history? In this book, constitutional expert Chintan Chandrachud takes us behind the scenes and tells us the stories of ten extraordinary and dramatic legal cases from the 1950s to the present day that have all but faded from public memory. Written in a lively, riveting style, this book has a cast of characters that includes the who's who of the Indian legal system. It also paints an unexpected picture of the Indian judiciary: the Courts are not always on the right side of history or justice, and they don't always have the last word on the matters before them. This entertaining book is an incisive look into the functioning of Indian institutions.



## J. PUBLIC LAW ON OTHER BLOGS

~ Compiled by: Rajmohan C.V., V B.A. LL.B.

### 1. On the Citizenship Amendment Act:

- [https://prsindia.org/theprsblog/explainer-citizenship-amendment-bill-2019?fbclid=IwAR0NGpisL-65KYQ2a9ChgoLHKoTqYYKo0Jbp\\_h6LfE-zve\\_0Nk3sdsld7Wc](https://prsindia.org/theprsblog/explainer-citizenship-amendment-bill-2019?fbclid=IwAR0NGpisL-65KYQ2a9ChgoLHKoTqYYKo0Jbp_h6LfE-zve_0Nk3sdsld7Wc)
- <https://indconlawphil.wordpress.com/2019/12/05/guest-post-the-citizenship-amendment-bill-is-unconstitutional/>
- <https://indconlawphil.wordpress.com/2019/12/26/the-constitutionality-of-the-citizenship-amendment-act-a-response/>
- <https://indconlawphil.wordpress.com/2020/01/03/guest-post-the-constitutionality-of-the-citizenship-amendment-act-a-rejoinder/>
- [https://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=3513828](https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3513828)
- <https://indconlawphil.wordpress.com/2020/01/21/the-citizenship-amendment-act-challenge-three-ideas/>
- <https://www.livelaw.in/lawschool/articles/analysing-the-narratives-against-the-citizenship-amendment-act-151106?fbclid=IwAR2YqdSEd-PU9A7ljIKoeawUZC0bEQY-3Pmg0FvC7K4hhgGktYeg2d4FIU>
- [https://www.barandbench.com/amp/story/columns%2Fcitizenship-amendment-act-a-free-pass-to-a-select-few?fbclid=IwAR2yTOt4q9Ik6Ib5X\\_J5PBTCGJ1h7nRwy3X7WQuVSJnnK0JYbuZfb19YiRI](https://www.barandbench.com/amp/story/columns%2Fcitizenship-amendment-act-a-free-pass-to-a-select-few?fbclid=IwAR2yTOt4q9Ik6Ib5X_J5PBTCGJ1h7nRwy3X7WQuVSJnnK0JYbuZfb19YiRI)
- [https://www.thehindu.com/opinion/op-ed/what-are-the-amendments-that-the-caa-needs/article30405445.ece/amp/?fbclid=IwAR29i4qNMQY\\_kJSSb2tMwo7gOadfLp6D4JcHt30RnOGXPYod05ayzGr8xAY](https://www.thehindu.com/opinion/op-ed/what-are-the-amendments-that-the-caa-needs/article30405445.ece/amp/?fbclid=IwAR29i4qNMQY_kJSSb2tMwo7gOadfLp6D4JcHt30RnOGXPYod05ayzGr8xAY)
- [https://frontline.thehindu.com/cover-story/article30327902.ece/amp/?fbclid=IwAR1bs9gpLycw6\\_p6EUjibtJ\\_QgFzpl2BIXz74bmRjCeUCzuUcDXh6FbgQOY](https://frontline.thehindu.com/cover-story/article30327902.ece/amp/?fbclid=IwAR1bs9gpLycw6_p6EUjibtJ_QgFzpl2BIXz74bmRjCeUCzuUcDXh6FbgQOY)

### 2. Internet Shutdowns:

- <https://www.barandbench.com/news/government-rules-internet-shutdowns>



- <https://www.livelaw.in/videos/internet-shut-down-explainer-video-150998>
- <https://indconlawphil.wordpress.com/2019/09/18/the-16th-september-order-and-the-supreme-court-of-convenience-or-why-separation-of-powers-is-like-love/>
- <https://www.barandbench.com/news/kashmir-centre-suppressed-orders-and-notifications-on-communications-internet-shutdown-kashmir-times-editor>
- <https://indconlawphil.wordpress.com/2019/10/17/kashmir-fundamental-rights-and-sealed-covers/>
- <https://indconlawphil.wordpress.com/2019/12/25/guest-post-the-kashmir-internet-ban-whats-at-stake/>
- <https://indconlawphil.wordpress.com/2020/01/10/the-devils-in-the-future-detail-the-supreme-courts-internet-shut-down-judgment/>
- <https://www.bloombergquint.com/opinion/kashmir-section-144-supreme-court-on-internet-shutdowns-a-missed-opportunity>
- <https://indianexpress.com/article/opinion/columns/abdication-not-deferral-jammu-kashmir-communication-lockdown-6218567/>
- <https://mumbaimirror.indiatimes.com/opinion/columnists/dushyant/this-cant-be-the-new-normal/articleshow/73308551.cms>
- <https://www.livelaw.in/videos/analysis-of-supreme-court-judgment-on-kashmir-lockdown-apar-gupta-video-151559>
- <https://www.barandbench.com/news/litigation/internet-shutdowns-should-be-declared-unconstitutional-pil-in-supreme-court>

### 3. On the Supreme Court of India and the Role of Courts:

- <https://indconlawphil.wordpress.com/2019/12/24/on-the-role-of-courts-and-why-the-supreme-court-is-playing-the-waiting-game/>
- <https://indconlawphil.wordpress.com/2019/11/23/constitutional-functionaries-constitutional-standards-and-the-role-of-courts-lessons-from-the-miller/>
- <https://indconlawphil.wordpress.com/2019/11/14/what-is-a-review/>
- <https://indconlawphil.wordpress.com/2019/12/14/the-supreme-court-convenient-emotions-and-the-hecklers-veto/>
- <https://indconlawphil.wordpress.com/2020/01/14/the-curious-continuing-afterlife-of-the-sabarimala-review/>



## K. MESMERIZING QUOTES

~ Compiled by: Rajmohan C.V., V B.A. LL.B.

---

*"We cannot say that the republican tradition is foreign to the genius of this country. We have had it from the beginning of our history. When a few merchants from the north went down to the south, one of the Princes of the Deccan asked the question. "Who is your King?" The answer was, "Some of us are governed by assemblies, some of us by kings."*

- Dr. S. Radhakrishnan

*"India is bound to be sovereign, it is bound to be independent and it is bound to be a republic. I will not go into the arguments about monarchy and the rest, but obviously we cannot produce monarchy in India out of nothing. It is not there. If it is to be an independent and sovereign State, we are not going to have an external monarchy and we cannot have a research for some local monarchies. It must inevitably be a republic."*

- Jawaharlal Nehru

*"It is necessary, therefore, that we should proclaim to the world our determination to carry out our undertaking and frame a constitution for an Independent Sovereign Republic –a Republic in which the ultimate power is vested in the people and all power and authority are derived from the people."*

- Dr. P. K. Sen

*"It is the prime responsibility of every citizen to feel that his country is free and to defend it freedom is his duty. Every Indian should now forget that he is a Rajput, a Sikh or a Jat. He must remember that he is an Indian and he has every right in his country but with certain duties."*

- Sardar Vallabhbhai Patel

*"I do not want that our loyalty as Indians should be in the slightest way affected by any competitive loyalty whether that loyalty arises out of our religion, out of our culture or out of our language. I want all people to be Indians first, Indian last and nothing else but Indians."*

- Dr. B.R. Ambedkar

*"Today, for the first time in our long and chequered history, we find the whole of this vast land... brought together under the jurisdiction of one constitution and one union which takes over responsibility for the welfare of more than 320 million men and women who inhabit it."*

- Dr. Rajendra Prasad



## L. CONTACT US

---

# PUBLIC LAW BULLETIN

---

CENTRE FOR PUBLIC LAW AT ILS LAW COLLEGE, PUNE

## CONTACT US

For any queries, insights, feedback, contributions, suggestions and advice, kindly write to us at [publiclawbulletin@gmail.com](mailto:publiclawbulletin@gmail.com). We eagerly look forward to hear from you.

Feel free to reach out to our Editors at:

**VARAD S. KOLHE**

V<sup>TH</sup> B.A. LL.B.

[kolhevarad27@gmail.com](mailto:kolhevarad27@gmail.com)

**RAJMOHAN C.V.**

V<sup>TH</sup> B.A. LL.B.

[cv.rajmohan.ils@gmail.com](mailto:cv.rajmohan.ils@gmail.com)