

**APRIL
2024**

LAW Gid

(a monthly Legal compendium)



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LAWYER MOVES SUPREME COURT SEEKING EXAMINATION OF COVISHIELD VACCINE SIDE EFFECTS, COMPENSATION FOR THOSE WHO SUFFERED ADVERSE EFFECTS

“ CONTEXT

A lawyer has filed a plea in the Supreme Court after pharmaceutical company AstraZeneca acknowledged that its Covishield vaccine could potentially cause rare side effects. The plea requests the formation of a Medical Expert Panel to scrutinize the vaccine's side effects and risk factors, and seeks compensation for those severely affected or deceased due to these side effects.

LEGAL OUTLOOK

The petition calls for the creation of a Medical Expert Panel comprising experts from the All India Institute of Medical Sciences, led by its Director and supervised by a retired Supreme Court Justice.

It urges the establishment of a Vaccine Damage Payment System in India similar to that of the UK, to support citizens



severely disabled from the vaccine.

It seeks compensation for those who have died or been severely disabled due to the Covishield vaccine side effects.

HINDU MARRIAGE AS SACRED TRADITION: SUPREME COURT CRITIQUES COMMERCIALIZATION OF MATRIMONIAL CEREMONIES



LEGAL OUTLOOK

The Court stressed that a Hindu marriage is a 'samskara' and a sacrament, critical to Indian social fabric, and should not be trivialized.

It criticized the practices of marriages for convenience, particularly those registered for practical reasons such as visa applications without the actual solemnization of the marriage.

“ CONTEXT

The Supreme Court of India highlighted the sacred nature of Hindu marriage, denouncing its reduction to mere celebratory events like song, dance, and commercial transactions. The court emphasized that marriage is a solemn institution, central to the structure of Indian society, and should be approached with the reverence it deserves.

The Court pointed out that the registration of a marriage without the requisite ceremonies does not confer a valid marital status, reinforcing the importance of following traditional rites and ceremonies.

SUPREME COURT QUERIES WEST BENGAL GOVERNMENT'S INTERVENTION ON BEHALF OF INDIVIDUAL IN CBI PROBE

LEGAL OUTLOOK

The Supreme Court adjourned the hearing until July 2024, granting the State of West Bengal's request for a delay.

The court emphasized the need for an impartial investigation into the allegations, instructing the state to support the CBI.

The court took judicial notice of the state's efforts to set up a commission to return lands to rightful owners and emphasized the state's duty to compensate victims.

“ CONTEXT

The Supreme Court questioned the State of West Bengal's decision to file a Special Leave Petition against the Calcutta High Court's order directing the CBI to investigate allegations of land-grabbing and sexual assault in Sandeshkhali. The state's intervention raised concerns about why it would protect private interests in legal matters involving criminal accusations.

SUPREME COURT CALLS FOR IMMEDIATE ACTION AGAINST RAJASTHAN POLICE OFFICERS FOR WITNESS TORTURE

“ CONTEXT

The Supreme Court expressed dissatisfaction with the Rajasthan Police's handling of officers accused of torturing a prosecution witness. The witness, a minor, alleged that police compelled her to confess to shooting her mother under duress and physical assault. This issue came to light during a hearing of a bail decline by the Rajasthan High Court, where the witness's serious allegations were not dismissed, and she was not declared hostile.

The Supreme Court noted a lack of satisfactory action from the Rajasthan DGP regarding the accused officers and directed an immediate inquiry. An FIR has been registered against the officers involved,

and departmental proceedings have been initiated. The court indicated potential personal appearance requirements for the DGP via video conference to address the matter seriously.



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SUPREME COURT RULES NON-COMMUNICATION OF RESIGNATION ACCEPTANCE IRRELEVANT TO EMPLOYMENT TERMINATION

“ CONTEXT

The Supreme Court addressed a case involving a teacher whose resignation was accepted by a school committee without formal notification to him. The teacher had attempted to withdraw the resignation shortly after submitting it, arguing that his termination was invalid due to lack of formal acceptance communication. The court decided based on existing legal precedents that the lack of communication does not affect the validity of the resignation acceptance and consequent termination.

LEGAL OUTLOOK

The Supreme Court confirmed that employment is terminated from the date the resignation is accepted by the appropriate authority, regardless of whether the acceptance is communicated to the employee. It dismissed the teacher's appeal, upholding the school

committee's authority to accept the resignation under the governing rules, which do not require formal communication of acceptance.

The court emphasized that procedural guidelines under the relevant employment regulations do not mandate notifying the employee of the resignation's acceptance.

SUPREME COURT DISCUSSES LEGISLATIVE DUTIES IN DELETING STRUCK-DOWN PROVISIONS

“ CONTEXT

The Supreme Court of India deliberated on whether the legislature is obligated to formally remove provisions from the statute books that have been declared unconstitutional by the judiciary. This discussion arose during the interpretation of Article 39(b), which relates to the distribution of resources to subserve the common good. The court examined the legislative and judicial roles in ensuring the clarity and validity of laws.

LEGAL OUTLOOK

The court noted that struck-down provisions often remain in the statute books, which can lead to confusion among the general public. It highlighted the separation of powers, stating that while the judiciary can declare a law unconstitutional, it is up to the legislature to amend or delete these provisions.

The court discussed the impact of legislative inaction, which can lead to legal ambiguities and affect the clarity of the law as understood by the common man.



SUPREME COURT LAUNCHES WHATSAPP SERVICE FOR CASE UPDATES, HOPES FOR SIGNIFICANT JUDICIAL TRANSPARENCY

“ CONTEXT

Chief Justice DY Chandrachud announced a new Supreme Court initiative to integrate WhatsApp messaging services with the court's IT services. This integration aims to send updates about case statuses, electronic filings, causers, and judgments directly to Advocates on Record and Parties in Person via WhatsApp. This move is intended to enhance access to justice and increase transparency within the judicial system.

The Supreme Court has introduced a system where court-related updates will be sent through WhatsApp, directly to the involved parties' mobile numbers.

Automated notifications will cover various aspects of the judicial process including

electronic filings, publication of causers, and the availability of orders and judgments.

This service will use a one-way communication system from the Supreme Court's official WhatsApp number to ensure security and control over the information distributed.

SUPREME COURT ADVOCATES VIRTUAL APPEARANCE FOR GOVERNMENT OFFICERS IN INITIAL INSTANCES IF DEEMED NECESSARY

“ CONTEXT

The Supreme Court criticized the practice of High Courts mandating the personal appearance of government officers and upheld the preference for virtual appearances initially, unless exceptional circumstances demand otherwise. This decision was influenced by past procedures and aims to reduce unnecessary burdens on public officers, allowing them to focus on their essential duties.

Virtual appearance for government officers is to be the first course of action unless specific, exceptional circumstances are documented. The ruling sets aside a portion of the Calcutta High Court's order that demanded the personal appearance of

a superintendent without proper justification.

The Supreme Court emphasized the importance of recording reasons for requiring personal appearances, to ensure that such demands are justified and necessary.



SUPREME COURT CLARIFIES EFFECTS OF REPEALED AND SUBSTITUTED PROVISIONS ON LEGAL PENALTIES

“ CONTEXT

The Supreme Court addressed the operational effects of statutory amendments concerning penalties under the Madhya Pradesh Excise Act. The case involved **PERNOD RICARD INDIA (P) LTD.** facing a penalty under the old Rule 19, which prescribed a higher penalty rate for losses in liquor transit. This penalty rate was reduced through an amendment after the incident but before the penalty was enforced. The court examined whether the old or new penalty provisions should apply.

LEGAL OUTLOOK

The Supreme Court ruled that a repealed provision ceases to operate from the date of its repeal, and a new provision begins from its substitution, subject to any specific statutory directions. The court held that the amended Rule 19, which re-

duced the penalty, should apply retroactively to the case because the demand notice was issued after the amendment.

The judgment emphasized the principle that legal amendments aimed at reducing penalties should reflect the intention of better administration and should not be ignored.

SUPREME COURT SETS PRINCIPLES FOR CONDONATION OF DELAY, HIGHLIGHTS NON-REQUIREMENT OF CASE MERITS

LEGAL OUTLOOK

The court affirmed that the law of limitation is based on the policy of ending litigation after a fixed period, prioritizing timely pursuit of legal remedies.

It stated that while Section 3 of the Limitation Act should be strictly construed, Section 5 allows for a liberal approach to condone delays if sufficient cause is shown.

However, discretion in condoning delays is not absolute and should not override the fundamental law of limitation, particularly in cases of inordinate delay or lack of due diligence.

“ CONTEXT

The Supreme Court refused to condone a significant delay of 5659 days in filing an appeal, outlining eight principles related to the condonation of delays under the Limitation Act, 1963. This decision emphasizes the need for due diligence and timely action in legal processes, stating that the merits of the case should not influence the decision to condone delays.

SUPREME COURT ESTABLISHES RIGHT AGAINST CLIMATE CHANGE IMPACTS

“ CONTEXT

The Supreme Court of India recognized the right to be free from the adverse effects of climate change as a distinct right under Articles 14 and 21 of the Constitution. This landmark decision came as part of a ruling involving the protection of the Great Indian Bustard (GIB) from collisions with power lines, emphasizing the need to balance environmental protection with developmental needs. The Court also highlighted India's responsibilities under international environmental agreements, like the Paris Agreement.

LEGAL OUTLOOK

Recognition of the right to be free from adverse effects of climate change as a distinct constitutional right. Formation of an expert committee to examine the balance between wildlife conservation and energy infrastructure development.

Emphasis on the obligations of the state under both national and international law to mitigate the impacts of climate change and protect environmental rights.



SUPREME COURT INITIATES SENSITIZATION FOR JUDICIARY AND POLICE ON POC SO PRIVACY BREACHES



LEGAL OUTLOOK

The Supreme Court mandates the sensitization of judicial and police officers to ensure the identity of POC SO victims is never disclosed during investigations or trials.

Emphasizes the need for strict adherence to Section 33(7) of the POC SO Act and Section 228A of the IPC, which prohibit revealing the identity of sexual offence victims.

“ CONTEXT

The Supreme Court called for the sensitization of judicial and police officers in West Bengal after concerns were raised about the improper disclosure of a POC SO victim's identity during legal proceedings. The court stressed strict compliance with the laws protecting the anonymity of victims to prevent their future discrimination and harassment.

Affirms that the identity of victims can only be disclosed under special circumstances if it serves the best interests of the child, and such decisions must be documented by the court.



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SUPREME COURT EXAMINES KERALA HC'S DECISION ON UNCONDITIONAL KHULA RIGHT FOR MUSLIM WOMEN

“ CONTEXT

The Supreme Court issued notice on a plea challenging the Kerala High Court judgment that recognized the unconditional right of Muslim women to resort to khula—a form of divorce under Muslim personal law. This plea was against the High Court's decision that a Muslim wife can terminate her marriage without her husband's consent, effectively overruling a 49-year-old judgment that previously required judicial or husband's approval.

LEGAL OUTLOOK

The Supreme Court's notice reopens discussion on the unconditional right of Muslim women to invoke khula without needing their husband's consent. The High Court had affirmed that khula should be valid under specific conditions: a declaration from the wife, an

offer to return the dowry, and an attempted reconciliation before the declaration. The review petition arguing for the necessity of judicial or qazi intervention in khula was dismissed, reinforcing the High Court's stance that a woman's right to khula should not be contingent upon her husband's will.

SUPREME COURT TO EXAMINE COMPENSATION CRITERIA IN DOMESTIC VIOLENCE CASES

“ CONTEXT

The Supreme Court is set to decide on the criteria for awarding compensation in domestic violence cases, questioning whether it should reflect the severity of the offense or the financial status of the offender. This issue arises from a case where a woman filed under the Protection of Women from Domestic Violence Act, claiming she had suffered physical and emotional abuse, leading to a compensation award of Rs. 3 crores based on the husband's U.S. income and standard of living.

LEGAL OUTLOOK

The Supreme Court has issued a notice to examine whether compensation in domestic violence cases should correlate with the degree of violence or the financial capability of the offender.

It has stayed the execution of the compensation payment pending further review, requiring the husband to deposit half of the awarded amount. The court continues to enforce the maintenance amount set previously, emphasizing the ongoing financial responsibilities of the offender.

SUPREME COURT HIGHLIGHTS IMPORTANCE OF CEREMONIAL OBSERVANCE IN HINDU MARRIAGES

“ CONTEXT

The Supreme Court of India ruled that for Hindu marriages to be valid under the Hindu Marriage Act, 1955, they must be conducted with essential rites and ceremonies, specifically emphasizing the 'saptapadi' (seven steps around the sacred fire). The court declared that registration alone cannot confer legitimacy on a marriage if the required ceremonies are not performed, addressing a case where a marriage certificate was issued despite the absence of these ceremonies.

LEGAL OUTLOOK

A Hindu marriage is considered invalid if the essential ceremonies, like the saptapadi, are not performed. The mere registration of a marriage does not confer legal legitimacy if the requisite ceremonies are not conducted

as per Section 7 of the Hindu Marriage Act. The court decried marriages of convenience aimed at securing legal status without following traditional customs, emphasizing the sanctity and spiritual significance of Hindu marriage ceremonies.

SUPREME COURT AFFIRMS STRIDHAN AS WIFE'S ABSOLUTE PROPERTY IN LEGAL DISPUTE

“ CONTEXT

The Supreme Court reiterated the absolute ownership rights of a wife over her stridhan, in a case involving matrimonial dispute and alleged misappropriation of stridhan by the husband. The court emphasized that stridhan remains a woman's exclusive property and is not subject to the control or claim by the husband. The case surfaced from a matrimonial conflict where the wife accused her husband and his family of misappropriating her stridhan, including a significant amount of gold jewelry and cash given by her father.

LEGAL OUTLOOK

The Supreme Court upheld the wife's claim to her stridhan as her absolute property, reinforcing that the husband has no legal title or control over it. The court highlighted the incorrect application of the evidentiary standard by the High Court, stating that civil matters should

be judged on the preponderance of probabilities rather than beyond a reasonable doubt. The Supreme Court reversed the High Court's decision and directed the husband to pay compensation, considering the evidence presented, including the admission of receiving stridhan and the wedding photos showing the wife wearing the jewelry.



SUPREME COURT REVISES MEDICAL NEGLIGENCE COMPENSATION, CLARIFIES APPLICATION OF 'EGG SHELL SKULL' RULE

“ CONTEXT

The Supreme Court enhanced the compensation awarded to a patient for medical negligence from Rs. 2 Lakhs to Rs. 5 Lakhs, critiquing the lower courts' application of the 'Egg Shell Skull' rule. The patient had experienced continuous pain post-surgery, and later it was discovered that a 2.5 cm needle was left near the surgical site, necessitating further medical intervention. The legal dispute focused on whether the 'Egg Shell Skull' rule was applicable given the patient did not have a pre-existing condition that fit the specific criteria for applying this rule.

LEGAL OUTLOOK

The Supreme Court overturned lower court decisions that had reduced the compensation based on the 'Egg Shell Skull' rule, which is only applicable when a patient has specific pre-existing conditions that would amplify the injury. The court clarified the correct application of the 'Egg Shell

Skull' rule, emphasizing that it should be applied only when a pre-existing condition of the patient falls into certain specified categories.

The court restored the original compensation amount awarded by the District Forum to Rs. 5 Lakhs, asserting the need for just compensation for the patient's suffering due to medical negligence.

SUPREME COURT URGES HIMACHAL PRADESH TO PROVIDE CHILD CARE LEAVE, HIGHLIGHTING ITS IMPORTANCE FOR WORKING MOTHERS

“ CONTEXT

The Supreme Court has directed the Himachal Pradesh government to revise its Child Care Leave (CCL) policies, particularly for mothers of children with special needs. This came after the state lacked a policy providing CCL for mothers of differently abled children, prompting the Court to call for a committee to evaluate potential solutions. The case arose when a petition filed by an assistant professor was dismissed by the Himachal Pradesh High Court due to the state not adopting specific CCL provisions.

The Supreme Court emphasized the necessity of CCL to ensure working mothers do not have to leave their jobs, particularly those with special needs children.

A committee, led by the State Commissioner under the Rights of Persons With Disability Act 2016, is to be formed to assess and possibly revise CCL policies.

The Court pointed out the importance of aligning state

policies with constitutional protections that safeguard women's rights to work and equality under Article 15 of the Constitution.



SUPREME COURT ENDS DECADE-LONG CUSTODY WITHOUT TRIAL, GRANTS BAIL TO ACCUSED

“ CONTEXT

The Supreme Court granted bail to a man who had been in custody for over 10 years without trial completion, highlighting severe delays in the judicial process. The man, involved in a criminal case since 2014, faced prolonged incarceration as the trial progressed slowly with numerous witnesses yet to be examined. His bail applications had previously been rejected by lower courts despite the extended period of custody.

The Supreme Court granted bail to the appellant, recognizing the undue length of his incarceration without trial completion. The Court critiqued the slow progress of the trial and the high court's advisory approach rather than a substantive decision on bail.

The Court ordered the appellant's release on terms to be set by the Trial Court and emphasized the necessity for the appellant's cooperation in expediting the trial, with a warning that bail could be revoked if cooperation was not evident.

SUPREME COURT SETS PRECEDENT ON WRIT PETITION DELAYS, REJECTS CASE DUE TO LACHES

“ CONTEXT

The Supreme Court ruled against accepting a writ petition under Article 226 due to significant delay and laches. The case involved a petitioner who challenged a decision years after being aware of it, concerning the allotment of a distributorship initially granted in 2014 but only contested in 2017 after alternate land was offered for a godown and showroom. The Court emphasized that such delays undermine equity, and petitioners who sleep on their rights cannot seek extraordinary relief from writ courts.

The Supreme Court reversed the High Court's decision which had allowed the writ petition despite the delay. It was established that delay and laches should be a primary consideration for High Courts when exercising their

discretionary powers under Article 226.

The Court dismissed the writ petition on the basis of the petitioner's excessive delay in filing the petition and tacit acceptance of earlier developments.



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SUPREME COURT DISMISSES PETITION FOR 3-YEAR LL.B COURSE POST-SCHOOL, CITES NEED FOR MATURE LEGAL PROFESSIONALS

“ CONTEXT

The Supreme Court refused to entertain a petition that proposed reducing the duration of the law degree (LL.B) to three years immediately after high school. The petition argued that the current five-year course duration post-high school negatively impacts students, especially those from economically weaker backgrounds, and is not aligned with international standards like in the UK. The Court emphasized the importance of a mature and well-prepared legal profession, advocating for the existing five-year integrated law course.

LEGAL OUTLOOK

The Supreme Court did not entertain the petition and did not allow it to be presented as a representation to the Bar Council of India. The Court stressed the necessity of the five-year inte-

grated LL.B course for developing mature and competent legal professionals. The petition was withdrawn without the liberty to approach the Bar Council, indicating the Court's firm stance on the issue.

SUPREME COURT ORDERS REINSTATEMENT OF COLLEGE REGISTRAR AFTER UNJUST TERMINATION

“ CONTEXT

The Supreme Court reinstated the Registrar of GB Pant Institute of Engineering and Technology, Ghurdauri, after finding that his termination without a disciplinary inquiry violated the principles of natural justice. The appellant's services were terminated without an opportunity for a disciplinary hearing or a chance to respond to allegations, based merely on the decision of respondent No. 2, who claimed the appellant did not meet the job qualifications and had suppressed information about his previous suspension.

The Supreme Court found the termination without a disciplinary inquiry to be unjustified and against the principles of natural justice. The appellant was reinstated to his position as Registrar with all consequential benefits, emphasizing that the termination was not preceded

by any disciplinary proceedings or a chance to respond to the charges. The Court noted that the appellant had satisfactorily completed his probation period, undermining the respondent's grounds for termination without due process.

SUPREME COURT PENALIZES MISUSE OF SECTION 498A IPC WITH SUBSTANTIAL FINE

“ CONTEXT

The Supreme Court imposed a fine of Rs. 5 lakh on a wife's father for filing duplicate and false cases under Section 498A of the Indian Penal Code (IPC) in different locations to harass his daughter's husband. The case involved the lodging of complaints with similar allegations in Hisar and Udaipur, resulting in multiple trials for the husband based on the same set of facts. The Court criticized the misuse of state machinery for personal grievances and targeted harassment.

LEGAL OUTLOOK

The Supreme Court awarded Rs. 5 lakh in costs against the wife's father for filing redundant and malicious complaints in different jurisdictions. Rs. 2.5 lakh of the total costs were to be paid directly to the husband as compensation,

and the remaining amount was allocated to the Supreme Court Legal Services Committee. The FIR registered in Udaipur was quashed, acknowledging that the authorities were aware of the previous complaint in Hisar, which had already resulted in an acquittal.

SUPREME COURT CHALLENGES SURROGACY RESTRICTIONS FOR PARENTS WITH ONE CHILD

“ CONTEXT

The Supreme Court has issued a notice to the Union government regarding a plea that challenges the constitutional validity of a provision in the Surrogacy (Regulation) Act, 2021, which bars couples with a healthy biological child from having a second child through surrogacy. The petitioners, a married couple, argue that this provision unjustly interferes with their reproductive rights and discriminates against those suffering from secondary infertility, where natural conception poses significant health risks.

LEGAL OUTLOOK

The Supreme Court sought the Union government's response on the petition challenging the Surrogacy Act's provision. The provision in question denies surrogacy for couples who already have a healthy child, except in cases where

the child has severe health issues. The petitioners request that the provision be read down or made less restrictive, asserting that their situation warrants an exception for the well-being of their existing child and the wife's health.



PATANJALI'S TOP EXECUTIVES MAKE COURTROOM APOLOGIES OVER MISLEADING ADVERTISEMENTS

CONTEXT

Baba Ramdev and Acharya Balkrishna of Patanjali Ayurved Ltd personally apologized in the Supreme Court for their misleading advertisements and disparaging comments against allopathic medicine. This apology was part of a contempt case hearing, where they were accused of breaching a prior court undertaking to not mislead the public with their advertisements.

LEGAL OUTLOOK

Baba Ramdev and Acharya Balkrishna expressed their regret directly to the court, acknowledging their breach of the court's trust. Patanjali Ayurved Ltd agreed to publish a public apology to demonstrate their contrition and comply with the court's directives.

The Supreme Court gave the executives until April 23 to provide further details on how they plan to rectify their actions and prevent future breaches.

The court had previously warned of a potential Rs. 1 crore fine for each misleading advertisement if the practice continued.

SUPREME COURT CLARIFIES SCOPE OF ARTICLE 226 WRITS DESPITE STATUTORY REMEDIES

LEGAL OUTLOOK

The Supreme Court set aside the High Court's order that had wrongly interfered in auction proceedings completed by a bank, emphasizing the established statutory remedies under the SARFAESI Act.

The Court delineated exceptions where High Courts can intervene under Article 226, such as when statutory authorities act outside their legal bounds, violate principles of natural justice, or when there is a total absence of procedures.

A fine of Rs. 1 Lakh was imposed on the borrower for misuse of judicial processes

CONTEXT

The Supreme Court outlined specific exceptions where High Courts can entertain writ petitions under Article 226 of the Constitution, even when statutory remedies are available. This directive came while addressing a case where the High Court had inappropriately interfered in bank auction proceedings under the SARFAESI Act, which already has a comprehensive statutory remedy framework.

and causing unnecessary interference in the statutory procedure.

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Important Questions



1. Does the state owe a duty to compensate individuals harmed by mandatory health interventions?
2. Is the establishment of a specialized medical panel to examine vaccine side effects a judicial matter or within the executive's domain?
3. Can a marriage be considered legally valid if it lacks the customary rites and ceremonies specific to the Hindu tradition?
4. Does the registration of a marriage equate to the solemnization of a marriage under Hindu law?
5. Is it appropriate for a state government to intervene in legal proceedings on behalf of a private individual accused of criminal activities?
6. What is the role of the state in ensuring impartial investigations into criminal allegations involving influential political figures?
7. What legal responsibilities do police departments have when officers within their ranks are accused of misconduct?
8. How should judicial bodies address the continuation of service by police officers under investigation for serious crimes?
9. Does the failure to communicate the acceptance of a resignation to the employee render the resignation invalid?
10. What are the legal requirements for the valid acceptance of a resignation under employment law?
11. Is the legislature required to amend or delete provisions that have been struck down by the judiciary to avoid legal confusion?
12. What are the consequences of legislative inaction on provisions declared unconstitutional by the courts?
13. Does the implementation of a WhatsApp communication service by the Supreme Court conform to the principles of judicial transparency and accessibility?
14. What legal frameworks govern the use of digital tools like WhatsApp for official judicial communication?
15. Under what conditions can a court demand the personal appearance of government officers?
16. What is the legal basis for preferring virtual appearances of government officers in judicial proceedings?
17. When does a repealed statutory provision cease to have effect?
18. Can a substituted statutory provision have retroactive application?
19. What is the significance of the merits of the case in the condonation of delays?
20. How should courts balance the strictness of law of limitation with the flexibility provided under Section 5?
21. Does the recognition of a right against the adverse effects of climate change under the Constitution obligate the state to take specific actions?
22. How does the recognition of such a right affect India's policies on environmental conservation and energy infrastructure?
23. What are the legal requirements for maintaining the confidentiality of POCSO victims' identities?
24. Under what circumstances can the identity of a POCSO victim be legally disclosed?
25. Is a Muslim woman's right to khula absolute, independent of her husband's consent?
26. What judicial role, if any, is required in the process of khula as per Indian legal standards?
27. Does the registration of a marriage alone establish its legitimacy under Hindu law?
28. What is the significance of performing traditional ceremonies in Hindu marriages?



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| <p>29. Should compensation in domestic violence cases primarily reflect the severity of the offense or the financial status of the offender?</p> <p>30. How should courts balance considerations of fairness and punitive measures in determining compensation in domestic violence cases?</p> <p>31. Does stridhan become a joint property of the husband and wife upon marriage?</p> <p>32. What is the required standard of proof for claims regarding stridhan in civil matrimonial disputes?</p> <p>33. When is the 'Egg Shell Skull' rule applicable in cases of medical negligence?</p> <p>34. What are the criteria for applying the 'Egg Shell Skull' rule in determining compensation for medical negligence?</p> <p>35. Is the provision of Child Care Leave a constitutional right under Article 15 for working mothers?</p> <p>36. Does the absence of Child Care Leave policies for mothers of children with special needs violate constitutional protections and rights?</p> <p>37. Is the duration of the legal education program a matter for judicial review or is it a policy decision better suited for educational authorities?</p> <p>38. Does the length of the legal education curriculum violate constitutional rights under Articles 14 and 21 as argued by the petitioner?</p> <p>39. Does extended pre-trial detention violate the right to a speedy trial?</p> <p>40. Can the Supreme Court intervene in lower court procedures to rectify delays in trial processes?</p> | <p>41. Does delay and laches on the part of a petitioner justify the dismissal of a writ petition under Article 226?</p> <p>42. How should courts balance the urgency of relief sought against the timeliness of the petition?</p> <p>43. Does filing multiple cases with identical allegations in different jurisdictions constitute abuse of judicial process under Indian law?</p> <p>44. What legal recourse is available against individuals who misuse legal provisions for personal harassment?</p> <p>45. Is the restriction on having a second child through surrogacy for parents with a healthy biological child constitutionally valid?</p> <p>46. Does this provision of the Surrogacy (Regulation) Act, 2021 violate the reproductive rights protected under Article 21 of the Constitution?</p> <p>47. Does the termination of an employee without a disciplinary inquiry violate the principles of natural justice?</p> <p>48. Is it lawful to terminate an employee based on allegations without providing an opportunity for a disciplinary hearing or to contest the allegations?</p> <p>49. Is a personal apology by corporate executives in court sufficient to mitigate contempt of court proceedings?</p> <p>50. Does the commitment to publish a public apology adequately address the breach of an earlier court undertaking?</p> |
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ANSWERS

1. Compensation may be deemed a state responsibility under tort or public health law, especially when interventions are mandated or strongly recommended by the government.
2. The constitution of a medical panel could be ordered by the judiciary as a form of judicial oversight in matters impacting public health, especially when there are significant concerns about safety.
3. No, under Hindu law, a marriage is not legally valid unless it includes the customary rites and ceremonies, as these are essential elements that constitute the marriage.
4. Merely registering a marriage does not amount to its solemnization; traditional rituals and ceremonies are required to legally establish a marital union under Hindu law.
5. Generally, it is unusual for state governments to intervene on behalf of private individuals in criminal matters, unless there are broader implications for state policy or public welfare.
6. The state is expected to facilitate and ensure impartial investigations, especially when the accusations involve individuals with significant political influence, to maintain public trust in the legal and political systems.
7. Police departments are legally required to conduct immediate and thorough investigations into misconduct allegations and to take appropriate disciplinary actions, which may include suspension or termination, to maintain public trust and law enforcement integrity.
8. Judicial bodies typically expect suspension or removal of officers from duty when under investigation for serious offenses, especially when the allegations involve abuse of power or harm to civilians, to prevent further misconduct and uphold justice.
9. No, the failure to communicate the acceptance of a resignation does not render the resignation invalid if it has been formally accepted by the appropriate authority.
10. The legal requirement for the valid acceptance of a resignation hinges on the acceptance by the authorized body as stipulated by the governing employment regulations, without a necessity for communication to the employee.
11. While not legally bound, it is advisable for the legislature to amend or delete unconstitutional provisions to maintain clear and effective legal governance.
12. Legislative inaction can lead to confusion and undermine public confidence in the legal system, as outdated or unconstitutional provisions may mistakenly be considered active or valid.
13. Yes, the implementation of WhatsApp for distributing judicial updates aligns with enhancing judicial transparency and accessibility, making court proceedings more open and accessible to relevant parties.
14. The use of digital tools like WhatsApp for judicial communication must comply with existing legal frameworks concerning digital communication and data privacy, ensuring that all procedural and privacy standards are met.
15. Courts can demand the personal appearance of government officers only under exceptional circumstances, which must be specifically justified and recorded in the court's order.
16. The legal basis for preferring virtual appearances lies in optimizing public officers' efficiency and minimizing disruptions to their duties, as well as in established procedural precedents that endorse such practices unless exceptional conditions apply.
17. A repealed statutory provision ceases to have effect from the date of its repeal, unless specified otherwise by statute.
18. Yes, a substituted statutory provision can have retroactive application if such application is intended to achieve administrative efficiency and is specifically prescribed by the statute.
19. The merits of the case are irrelevant when considering the condonation of delays, focusing solely on the reasons for the delay and adherence to procedural timelines.
20. Courts must balance the strictness required by Section 3 of the Limitation Act with the liberal interpretation of Section 5, ensuring that substantial justice is served without compromising the law's intent to limit prolonged litigation.



21. Yes, the recognition of this right obligates the state to enact and enforce policies that prevent and mitigate the adverse effects of climate change, aligning with constitutional guarantees and international commitments.
22. This recognition likely compels a review and potential adjustment of policies, ensuring they protect environmental rights while supporting sustainable development, balancing ecological concerns with the demands of energy infrastructure.
23. Legal requirements include non-disclosure of the victim's identity during any stage of the investigation or trial, as mandated by Section 33(7) of the POCSO Act and reinforced by IPC Section 228A.
24. The identity of a POCSO victim can only be disclosed if a special court, after thorough consideration and documentation, concludes that such disclosure is in the best interest of the child.
25. According to the Kerala High Court's judgment, a Muslim woman's right to khula is absolute and does not depend on her husband's consent, provided the established conditions are met.
26. The current legal challenge seeks clarity on whether judicial oversight is necessary for khula, contrasting with the High Court's position that it can proceed without such intervention if the conditions are met.
27. No, the registration of a marriage alone does not establish its legitimacy under Hindu law; traditional ceremonies must be performed as per the requirements of Section 7 of the Hindu Marriage Act.
28. Traditional ceremonies are crucial in Hindu marriages as they not only fulfill legal requirements but also hold spiritual significance, marking the marriage as a sacred union.
29. The question remains open for the Supreme Court's decision, focusing on whether compensation should be proportional to the severity of the offense or the financial status of the offender.
30. In balancing fairness and punitive measures, courts may need to consider both the impact of the offense on the victim and the financial capability of the offender to ensure just compensation that serves both compensatory and deterrent purposes.
31. No, stridhan does not become joint property upon marriage and remains the absolute property of the wife, with the husband having no title or independent dominion over it.
32. In civil matrimonial disputes concerning stridhan, the standard of proof is 'preponderance of probabilities' rather than 'beyond reasonable doubt', focusing on the likelihood rather than certainty of claims.
33. The 'Egg Shell Skull' rule is applicable only when the patient had pre-existing conditions that fall into specific categories, such as a latent condition unearthed by the incident, reactivation of a previously subsided condition, aggravation of an untreated pre-existing condition, or acceleration of an inevitable condition due to the incident.
34. The criteria for applying the 'Egg Shell Skull' rule include evidence of the patient's pre-existing conditions that make them more susceptible to harm from medical interventions. The rule does not apply if the patient does not meet these specific pre-existing conditions, and compensation should not be reduced based on the assumption of unusual vulnerability without proper justification.
35. The Court suggested that the provision of Child Care Leave is crucial for supporting working mothers, aligning with constitutional entitlements under Article 15 that ensure equality and non-discrimination in employment.
36. The absence of specific Child Care Leave policies for mothers of children with special needs can be seen as a failure to align state employment policies with constitutional rights, potentially violating the protections intended to ensure equal work opportunities for women.
37. The duration of legal education programs is predominantly a policy decision, falling under the purview of educational authorities and professional bodies like the Bar Council of India, rather than subject to judicial review.
38. The Supreme Court did not find the duration of the legal education curriculum to be a violation of constitutional rights under Articles 14 and 21, emphasizing the importance of thorough legal training and maturity in the profession.
39. Yes, extended pre-trial detention can infringe on the constitutional right to a speedy trial, as undue delays in the judicial process prevent the accused from securing a timely and fair hearing.

**APRIL, 2024**

a monthly Legal compendium

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| <p>40. Yes, the Supreme Court can intervene in lower court proceedings if it finds excessive delays that compromise the rights of the accused, ensuring justice is both swift and fair.</p> <p>41. Yes, delay and laches can justify the dismissal of a writ petition under Article 226, as courts must consider whether the petitioner acted within a reasonable time frame to preserve the principle of equity.</p> <p>42. Courts should evaluate the urgency of the relief sought in the context of the petitioner's promptness. A significant delay can undermine the cause of action, leading to dismissal unless the relief sought addresses a fundamental ongoing harm or rights violation.</p> <p>43. Yes, filing multiple cases on the same set of allegations in different jurisdictions is considered an abuse of the judicial process and can result in penalties or dismissal of the cases.</p> <p>44. Legal recourse against such misuse includes the imposition of fines and quashing of frivolous or malicious proceedings to deter similar future actions and to compensate the affected party.</p> <p>45. The validity of this restriction is currently under scrutiny by the Supreme Court, which will deter-</p> | <p>mine whether it is justifiable under the Constitution.</p> <p>46. The court is considering whether the restriction infringes on the reproductive rights of individuals, particularly in light of the rights to personal liberty and life, which include the right to make choices about one's reproductive health.</p> <p>47. Yes, terminating an employee without a disciplinary inquiry does violate the principles of natural justice, as everyone has the right to a fair hearing and to defend themselves against any allegations.</p> <p>48. No, it is not lawful to terminate an employee based solely on allegations without providing an opportunity for a disciplinary hearing or a chance to respond, as this breaches fundamental principles of fairness and due process under the law.</p> <p>49. A personal apology can be part of addressing contempt of court, but it must be sincere and accompanied by actions that correct the breach to fully mitigate legal consequences.</p> <p>50. Publishing a public apology is a step towards rectifying the situation, but it must be coupled with tangible measures to prevent future violations and ensure compliance with court orders.</p> |
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