

The Student

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Guest Lectures

Guest Lecture by Prof. Y. Prathap Reddy, Professor, Department of Law, Osmania University on November 21st 2014 on '**Jurisprudence**'.



Lecture by Prof. T.S.N. Sastry, Professor, Department of Law, University of Pune on 24th and 25th November 2014 on '**Public International Law**'.



Faculty Seminars

Mrs. Sanu Rani Paul, Faculty Associate, has given Faculty seminar on '**Rethinking the limits of Article 12 in the Era of Neo-liberalization**' on November 27th, 2014.



Academics

End-Term Examinations of Semester I, III, V, VII and IX commenced from 1st December 2014 upto 6th December 2014.

Summer Internship Program

Summer Internship Program started for the Students of Semester IX from 8th December 2014 upto 8th January 2015.

Sports

Sports competition held on November 8th, 2014.



Indian Foreign Policy in South Asia

The Government of Sri Lanka's decision to release five Indian fishermen on 19th November 2014 is heralded as a positive development, which will further strengthen the multi faceted relations between Sri Lanka and India. Newspapers called it an immense diplomatic coup for the new Modi Government. But was it really a great victory or merely an instance of an act of bullying and arm-twisting politics, the kind United States of America is generally accused of.

The five Tamil Nadu fishermen were arrested in 2011, on drug trafficking charges and were sentenced to death by the Colombo High Court on October 30th, 2014, after a long trial. The fishermen were released by Sri Lankan President Mahinda Rajapaksa, using the powers vested in him through the Constitution after the conviction of the fishermen triggered furious protests and sporadic violence in Tamil Nadu.

Initially, the Ministry of External Affairs, India, filed an appeal in Supreme Court of Sri Lanka against the verdict and maintained that the Tamil Nadu fishermen were not guilty and it would pursue all legal processes to prove their innocence. However, due to the sensitivities involved in this matter, the Government of India placed high priority to the issue and used all avenues to ensure the release of fishermen. Accordingly, the Indian High Commission in Colombo withdrew the case from the Supreme Court, finally paving the way for Sri Lankan Presidential pardon.

It should now be considered that irrespective of what the Government of India says, the Sri Lankan High Court found the fishermen guilty, beyond reasonable doubt. It would be hilarious to claim that the Sri Lankan court just decided to hold those people guilty just because they were Indians. There was clear evidence that those people were smugglers. Considering the facts;

1. Under the Convention of the Law of Seas, the Sri Lankan High Court does have jurisdiction on matters of smuggling, piracy etc. [Due to the proximity of the Sri Lankan and India coast lines, there is no 'High Sea' as such]

Written By



*Mr. Sourya Banerjee
Semester VIII, BBA.LLB.(Hons.)*

2. Sri Lankan Criminal Code provides for Death Penalty as the maximum punishment for a wide range of offences among them being smuggling, rape, drug trafficking etc.

Hence the Sri Lankan High Court was perfectly right to have sentenced those fishermen to death, once they were found guilty beyond reasonable doubt, irrespective of which country or ethnicity background they were of.

Now, the most important, aspect to be noted in this episode is that, even though Sri Lankan Criminal Code provides for death sentence, there have been no executions since June 23rd, 1976!!! That is even though both the Sri Lankan High and Supreme Court have been regularly handing out death sentences, none of them have been carried out for the last 38 years! All death sentences were automatically commuted to life imprisonments. Hence, even if the Indian Government had not interfered, the 5 Indian fishermen would never have been executed. But due to the socio-political situation of Tamil Nadu, where the regional political parties were pulling out all stops to woo voters back from the BJP, the BJP had its hand forced. Through intense diplomatic negotiation, India managed to convince the Sri Lankan President that it would be best for their interest if they let the fisherman go free, irrespective of what their High Court thinks.

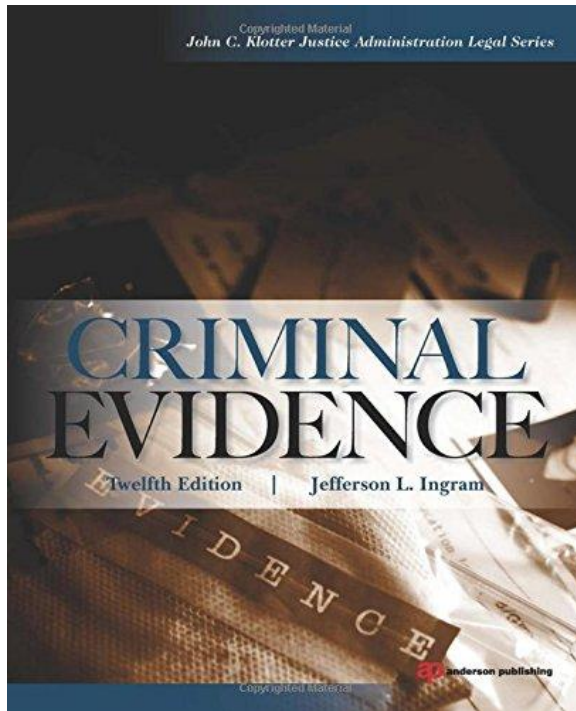
The issue has to be looked at in the context of domestic political developments within Sri Lanka and India, and the external environment, which promoted the Government of Sri Lanka to take a calculated decision. The domestic political situation within Sri Lanka is charging up for the upcoming presidential elections. In a situation where opposition parties are trying to put up a common candidate to defeat President Rajapaksa, the ruling United People's Freedom Alliance (UPFA) needs the support of minority parties to win the elections, particularly in the Northern Province. This is the only minority dominated province not ruled by the ruling UPFA. The Tamil National Alliance (TNA), has been consistently raising the issue of minority rights, resettlement and rebuilding of war affected population and discrimination towards Tamil minority by the Rajapaksa government. Since it is also an emotional issue based on ethnicity, the government took a pragmatic decision to release the fishermen, because the prosecution would have resulted in more resentment towards the ruling coalition. The fact that the ruling alliance partner, the Jathika Hela Urumaya (JHU) broke ranks with the government recently, the ruling alliance is cautious about maintaining its alliance partners as well as getting new support. Opposition parties are also questioning the constitutional validity of President Rajapaksa's wish to contest for a third term. The United

Nations (UN) and opposition parties raised concerns over the 18th Amendment to the Sri Lankan Constitution, which empowers the President to dismiss or appoint members of the Judiciary and other independent bodies. Opposition parties alleged that since the judiciary in Sri Lanka is controlled by the government, the death penalty was a move to target the Tamil minority. Sri Lankan Government's willingness to maintain cordial bilateral relationship with the new government in India was evident on various occasions. Immediate acceptance of the invitation extended by the Prime Minister of India to attend the swearing-in ceremony in May this year, and release of all the Tamil Nadu fishermen in custody in Sri Lanka on this occasion as well as on India's Independence Day as a "good will gesture" are some of the examples. Slowly but surely, India's standing in South Asia is becoming akin to USA's position is most of the world. Countries like Sri Lanka, Bangladesh, Nepal, Bhutan and Maldives mostly are forced to accept what India wants as India being the economically and politically superior nation has made huge investments in the Governments and militaries of each of these countries. Hence, when India asked Sri Lanka to release the fishermen, for President Rajapaksa, it was nothing sort of a final ultimatum. There is no way he could overcome constitutional and moral objection to his third term and continue to be the President of Sri Lanka, without the blessing of Delhi.

The regional politics of Tamil Nadu, the internal strife in Sri Lanka and the eagerness of a new Government to leave a mark with its foreign policy may have led India and Modi to make an error so grave that its consequences would be felt by future generations. People may say that this is an extremely small matter, that the fishermen might have just been innocent. If they were innocent, justice should have been allowed to run its course. The Supreme Court of Sri Lanka would have settled the matter once and for all. But the current fact remains that the Sri Lankan High Court found them guilty and the least we could do is respect its ruling. In the eyes of the world, what India managed to do was strong arm an economically weaker sovereign state to release 5 people who were given a fair trial and had been proved beyond reasonable doubt to be smugglers. Such easily overlooked 'minor acts' were how once upon a time even USA and USSR (now Russia) had begun. It might be such a small instance today, but tomorrow India might actually end up behaving like the new "Big Brother" in South Asia. As much as any patriotic Indian would love the idea of a strong India ruling over and commending smaller nations nearby, that is exactly what India should avoid being. A leader among men does not mean a ruler. India and South Asia as a whole can only reach their full potential and live in harmony, when there is mutual respect of each other's sovereignty and interests.

Criminal Evidence

Authored by: Jefferson L. Ingram

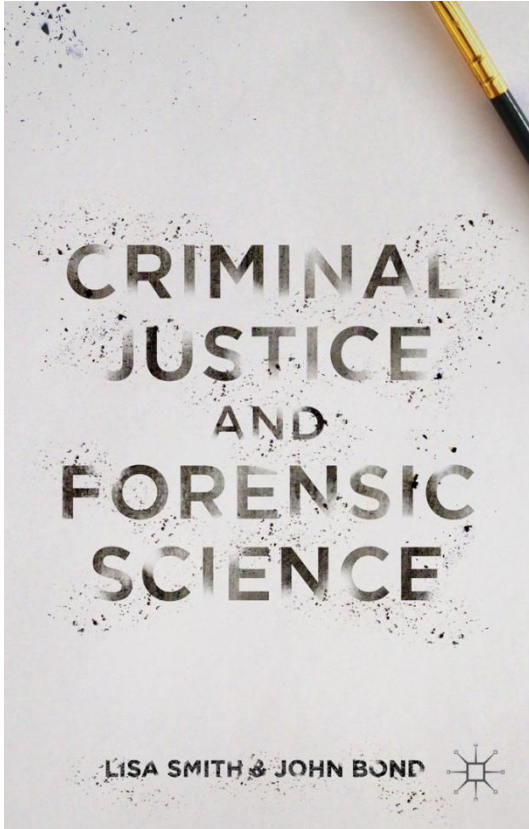


In addition to covering the basics of collecting, preserving and presenting evidence, *Criminal Evidence*, 12th edition, presents the latest developments in the law of evidence that are of interest to criminal justice personnel. Highlights include: chapter outlines, lists of key terms and concepts for each chapter, a glossary, and new, up-to-date cases in Part II.

- Thoroughly revised, updated, and streamlined to include recent case law on evidence
 - Each chapter includes outlines, key terms and concepts, and review questions to aid understanding
- Appendices include a helpful glossary; Federal Rules of Evidence as amended and effective through December 1, 2013; Table of Jurisdictions That Have Adopted Some System of Uniform Rules for Regulating the Admission and Exclusion of Evidence through 2014; and Table of Contents of the Uniform Rules of Evidence with 2005 Amendments

Criminal Justice and Forensic Science: A Multidisciplinary Introduction

Authored by: Lisa Smith, John Bond



Bridging the gap between the study of criminal justice and forensic science, Lisa Smith and John Bond provide a straightforward but comprehensive introduction to the theory and practice of forensic science in its wider criminal justice context.

This much-needed text:

- takes students through the different types of evidence, technologies and methods used in criminal investigations, both at the crime scene and in a court of law;
- analyses real-life forensic examples, drawn from a range of international contexts; and
- encourages a critical perspective, through its examination of popular media representations and of contemporary issues and debates, including

technological advances, the need for standardisation in forensic laboratories and the ethics of biometric databases.

Engaging and easy to follow, this multidisciplinary overview contextualises the operation of science in the criminal justice system, offering crucial insight for social and natural science students alike.

Hon'ble Mr. Justice Sarosh Homi Kapadia



Kapadia started his career as a class IV employee. He later became a law clerk with a lawyer's office in Mumbai. Kapadia joined Gagrat & Co, a law firm, as a clerk and later went on to work with Feroze Damania who was a highly respected "firebrand" labour lawyer. However his zeal to achieve inspired him to join the legal profession and he became an advocate. He joined as an advocate in the Bombay High Court on 10 September 1974. He was appointed as an additional judge of the Bombay High Court on 8 October 1991 and on 23 March 1993 he was

appointed as a permanent judge. On 5 August 2003 he became the Chief Justice of the Uttaranchal High Court. On 18 December 2003 he was appointed as a judge of the Supreme Court. On 12 May 2010 he was sworn in as the Chief Justice of India by the President Pratibha Patil. He retired on September 29, 2012. During his tenure as Chief Justice he was the Chairman of the General Council of the Gujarat National Law University and the Visitor of the National Law School of India University.

"Balancing", a word he uses often, sums up his judicial temperament. Like every great judge he knows how to balance the questions of law in the tug of war between the people and the establishment. And the rule of thumb is his aversion for corruption. Known for his sparkling integrity, he manages to be dreaded and lauded at the same time. He gives a patient hearing and does not intervene unnecessarily. A workaholic, he is the first to come and the last to leave. He is unusually involved with the everyday running of the court.

Eye View: "The court is now focused on rule of law", say lawyers. As a serious constructionist of Constitutional matters, the buzz is, he is planning to create a permanent Constitutional Bench. A wizard on financial matters, his court is also called the "financial court".

Career in Law

Introduction

Ambrose Bierce in his Devil's dictionary describes a lawyer as someone who is skilled in the 'circumvention of the law'. The notion of a lawyer who is adept at finding 'loopholes' in the system is a popular one in our country too but we cannot deny that to one up the law one must know the law. From writers to politicians to freedom fighters, lawyers have donned many hats. Mahatma Gandhi, Dr Rajendra Prasad, Franz Kafka and Abraham Lincoln – all these were lawyers.

Law is one of the popular career choices in our country for a long time. Those whose families have been into the profession for generations in India usually opt to study law too. However, to become a lawyer it is not mandatory to have a family background in law neither is it necessary that you belong to an affluent family. Anyone can choose to study law as long as one has the passion for it.

Traditionally, students could specialise in either civil or criminal laws. However, this concept has changed and now students can opt to specialise in any of the various options offered like patent laws, corporate laws, etc. A degree in law not only lets you practice as a lawyer in the courts in the company but also opens up career options in sectors like corporate management, legal services and administrative services.

Step-by-Step

Students interested in making a career in law can either do a three-year law course after graduation in any discipline or a 5 years' course after 12th class. In fact, the 3 years' course is now giving way to the 5 years' one which is seen as a better option. In most cases, colleges run the 3 years' course only for those whose main discipline in graduation is something other than law, or working professionals who want to do an LLB as an additional qualification. The five year course is meant for those who want to take up law as a career – be it as a litigator, or any other kind of legal professional.

The LLB course is regulated by the Bar Council of India which sets rules and regulations regarding legal practice in the country. Any specialisation is done at masters, MPhil or PhD stage. A higher degree helps candidates get jobs in academics.

Start Early

A candidate can start preparing for law entrance exam conducted at national level for 5 years' BA LLB at various National Law Schools soon after completing the senior secondary exam. The national law entrance exam, CLAT (Combined Law Admission Test) basically tests the student's general english, legal aptitude, general awareness, logical skills, etc.

Some universities which offer the three years' LLB conduct entrance exam which have a syllabus on the same lines.

Is It the Right Career for Me?

Law is a career which requires loads of patience and logical skills. It takes loads of hard work and dedication to become a successful lawyer. First generation lawyers particularly face numerous problems in their profession as is true of every other profession. It becomes easier if one trains under a Senior Counsel in the beginning of their career. This is not to say that newbies cannot make it own their own. Anything is possible with determination and of course, hard work. Great communication skills and a faculty for critical analysis and articulation are pre-requisites for lawyers. Therefore, one should analyze these points before opting for law as a career.

What would it Cost Me?

Three years' LLB course usually involves lesser expenses in the range of Rs 20,000 to Rs 30,000 for three years. The 5 years' BA LLB comparatively costs a little more in the lieu of about Rs 3,00,000 for five years. Hostel expenses are exclusive of the tuition fees.

Funding and Scholarship

Not many law schools offer financial help on the basis of entrance exam. The student must talk to the authorities and find out the specific policies on scholarship from respective universities. Students can also opt to take a bank loan or apply for various scholarships that are offered from time to time.

Job Prospects

There are a plethora of opportunities for a law graduate. One can either practice as an advocate in a court of law or work with corporate firms. By clearing exams conducted by Public Service Commissions, a law graduate can become a judge. After gaining experience, a law graduate can hope to become Solicitor General, a Public Prosecutor or offer services to

government departments and ministries. One can also work as a legal adviser for various organisations. Teaching in colleges, working with NGOs and working as a reporter for newspapers and television channels are other attractive options.

Pay Packet

Whereas a lawyer who wishes to start practicing in a court can get a stipend of Rs 5000 to Rs 40,000 depending upon the advocate he is associated with, a law graduate working with Legal Process Outsourcing receives can earn attractive salary in the range of Rs 20,000 and Rs 50,000. It is a very high paying profession, but depends largely on the calibre, popularity and success of the candidate. The college you graduate from is another factor.

Demand and Supply

An acute shortage of qualified lawyers has been a major problem in India. The Bar Council of India has often expressed its concern that young lawyers do not join the Bar. There are nearly ten lakh lawyers in India but according to law experts only 20 per cent of them can be considered fit enough to practice law in courts. Several law schools like NLSU, NALSAR were established to increase the level of legal education and produce skilled lawyers to meet the requirement.

However, India is a country with one of the highest litigation rates among its population and Sir Ivor Jennings termed the Indian Constitution “a lawyer’s paradise.” Talented lawyers will never have to worry about their income.

Market Watch

Talks are on to expand the scope for legal practice in India and open the gates for law firms from outside India. Law graduates can expect better job opportunities when foreign law firms start their operations in India. LPOs have started to recruit young law graduates for their processes dealing in US laws or UK laws. Legal education has been liberalised and for that reason professionals from various other disciplines too are interested to do short term courses in law which ultimately will help to raise the standard of legal awareness.

International Focus

Legal education in India is similar to the one in Britain. Whereas several universities in UK offer legal education to Indian students, Indian students quite enjoy working in the UK wherein they receive attractive salary packages. A recent trend has been that students from

India study in law colleges in the USA and receive attractive jobs after completion of the course. Harvard Law School, Yale University, Australia National University, etc. are some attractive options for Indian law students these days.

Positives/Negatives

Lawyers like other professionals such as doctors and chartered accountants require experience to polish their skills and become valuable for their clients. Therefore, it is time which helps a lawyer become effective. Candidates determined to succeed in the profession have to be patient in the initial phase of their career. However, there is no limit to success and money as well as power for a lawyer. Lawyers are not only respected but also help people in their battle for justice.

Different Roles, Different Names

- **Criminal Lawyer:** Specialises in criminal laws CrPC, IPC, Evidence Act and various other penal laws.
- **Civil Litigation Lawyer:** Specializes in civil laws e.g. taxation laws, excise laws.
- **Legal Analyst:** Works for corporate firms or law firms and analyses laws pertaining to the sphere of the company and its operation.
- **Document Drafting Lawyer:** Specialises in drafting various documents containing agreements, terms and conditions, case material, etc.
- **Legal Journalist:** Covers crime beats, legal proceedings in courts, arbitration courts, international courts and arbitration events.
- **Legal Advisor:** Offers consultancy to corporate firms regarding their legal obligations, duties, legal relations with other firms.
- **Government Lawyer:** Works for the government and in close coordination with the police.
- **Judge:** Offers judgment after conducting the court proceedings and hearing all the concerned parties.

Tips for Getting Hired

Candidates who do five years BA LLB from top law schools like NLSUI Bangalore, NALSAR Hyderabad get attractive job offers from law firms and ITES firms. Many also opt

Colloquium

to start their own practice. All law graduates who wish to practice in the courts have to register themselves in the Bar Council of India (BCI) and practice in courts under senior lawyers.

Practical training in court can enhance your chances of getting hired by law firms and with senior lawyers. Though most of the law colleges impart practical legal education to final year law students, it is students who should take initiative and start visiting court proceedings in the final year to understand the day-to-day affair.

Maxims

Actori incumbit onus probandi - The burden of proof lies on the plaintiff.

Actus nemini facit injuriam - The act of the law does no one wrong.

Actus non facit reum nisi mens sit rea - The act does not make one guilty unless there be a criminal intent.

Cepi corpus et est languidum - I have taken the body and the prisoner is sick.

Cepi corpus et paratum habeo - I have taken the body and have it ready.

De die in diem - From day to day.

De integro - As regards the whole.

Ex nihilo nil fit - From nothing nothing comes.

Ex nudo pacto actio non oritur - No action arises on a contract without a consideration.

Fides servanda est - Good faith is to be preserved.

Id quod commune est, nostrum esse dicitur - That which is common is said to be ours.

Jus - A right that is recognised in law.

Jus accrescendi praefertur oneribus - The right of survivorship is preferred to incumbrances.

Mala prohibita - Crimes prohibited.

Malo animo - With evil intent.

Non est arctius vinculum inter homines quam jusjurandum - There is no stronger link among men than an oath.

Non est informatus - He is not informed.

Res - Matter, affair, thing, circumstance.

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1.25 crore cases settled through the National Lok Adalat; Pendency reduced by 9 per cent across all States

Approximately, 1.25 crore cases have been settled through the 2nd National Lok Adalat organised yesterday. These figures are as per the press release by the National Legal Services Authority (NALSA).

5 years experience a must to be a Supreme Court lawyer: BCI

The Bar Council of India has specified that “5 years experience a must to be a Supreme Court lawyer”

Bombay HC dismisses writ against levy of service tax on advocates; Addresses changing role of lawyer in today’s age

The Bombay High Court on Monday refused to entertain a writ filed by an advocate challenging the imposition of service tax on advocates. As a consequence, business clients of individual lawyers and law firms will continue to pay service tax as mandated by the Finance Act.

Reimbursement of Supreme Court judges’ medical bills exempt from RTI, rules Delhi High Court; Sidharth Luthra appears for SC

The Delhi High Court on Friday held that information regarding the reimbursement of Supreme Court Judges’ medical bills need not be disclosed under the Right to Information (RTI) Act. The single-Judge Bench of Justice Vibhu Bakhru set aside a 2012 Central Information Commission (CIC) order directing that records of such bills of judges of the Supreme Court (whether serving or retired) should be maintained separately for each judge.

5th M. K. Nambyar Memorial National Moot Court Competition 2015 Raja Lakhamgouda Law College from 13th to 15th March, 2015.

Registration Last Date: 30th January 2015

Note: The first 28 teams duly registered will be considered.

Interrobang, the second edition of the NALSAR Quiz Festival on the 17th and 18th of January, 2015

Registration can be done at

<https://docs.google.com/a/nalsar.ac.in/forms/d/11-331yMuq-qjm1b4QnoQRZJDFk7W9hdQrrGQ3AXlhAc/edit>

W.B. National University of Juridical Sciences (NUJS), Kolkata is pleased to invite you to the 9th edition of its Annual Sports Festival 'INVICTA' to be held between February 6th – 8th 2015 (Opening ceremony being held on 5th February).

January 11th: Last Date for Confirmation of Participation by sending back duly filled Confirmation Form and Participants' Details Form to sports@nujs.edu

January 16th: Last Date for Wire Transfer of Registration Amount @ Rs. 2000/- per participant to the account of "Sports Committee WBNUJS"