

“You Can’t Have A Million Dollar Dream with a Minimum Wage Work Ethic”**INTERNATIONAL AND BILATERAL****REPATRIATION OF INDIAN NATIONALS**

Two cases of repatriation of Indian nationals, the first being 52-year-old Ismail Samma of Gujarat, and the second, of a sick 21-year-old, Jetendaera Arjanwara of Madhya Pradesh, highlights the tribulations of being imprisoned in a foreign prison

The right to return to one’s home country is assured under Article 12(4) of the International Covenant on Civil and Political Rights

The Vienna Convention on Consular Relations, 1963, provides for information to consulate, consular protection and consultation upon arrest, detention and during trial in a foreign country including entitlement to travel documents

Similarly, the UN Model Agreement on the Transfer of Foreign Prisoners and Recommendations on the Treatment of Foreign Prisoners 1985, lays emphasis on the social rehabilitation of foreign prisoners through early repatriation to their home countries to serve their remaining sentence

The legacy of transfer of sentenced prisoners lies in the post-war humanitarian exchange of prisoners of war and in two UN Conventions of 2004 (against transnational organized crime and against corruption) which have laid emphasis on the issue of inter-country transfer of prisoners

Both anticipate, under Articles 17 and 45, respectively, that state parties may consider entering into bilateral or multilateral agreements for transfer to their territory of persons sentenced to imprisonment or other forms of deprivation of liberty for completion of their sentences

In consonance with these international humanitarian commitments, most countries have legislated on a Repatriation of Prisoners Act.

The transfer framework under the Act is premised on the principles that an offence committed abroad is also an offence in the home country and the sentence implemented upon transfer shall not be aggravated.

India legislated its Repatriation of Prisoners Act in 2003, which came into force on January 1, 2004.

The first part deals with the transfer of sentenced foreign national prisoners from India, while the second deals with the transfer of sentenced Indian nationals into India.

It explains the eligibility for transfer, the transfer process and obligations upon the transferring and receiving states with regard to consent, communication and custody of a prisoner.

Every sentenced foreign prisoner in an Indian prison and every Indian national in a prison abroad is technically eligible for repatriation to a prison in their home country.

The Act is significant for India which sees considerable outflow and inflow annually by blue- and white-collar workers, fishermen, students, stateless persons and other groups.

India has taken steps for reciprocal transfers under the Act. It has developed a Standard Draft Agreement and signed 30 bilateral transfer agreements.

It also entered into transfer arrangements with signatories of the Inter-American Convention on Serving Criminal Sentences Abroad and the Council of Europe’s Convention on the Transfer of Sentenced Persons.

Between 2003 and March 2018, only 63 of 171 prisoner applicants abroad have been transferred to India.

Way Forward

Effecting transfers under the Repatriation of Prisoners Act presents a win-win situation for India as it need not spend unduly on the housing of foreign national prisoners.

It can also save the cost of providing consular services abroad by bringing back Indian prisoners.

It can simultaneously satisfy the public expectation of bringing nationals home and the meeting of international humanitarian commitments.

PROPOSED DNA BANK WILL NOT STORE DATA PERMANENTLY

India's proposed DNA databank, to be used during an investigation into crimes or to find missing persons, will not permanently store details of people.

The DNA details will be removed, subject to judicial orders.

The DNA Profiling Board, according to the proposed legislation, is supposed to be the regulatory authority that will grant accreditation to DNA laboratories.

The Board, in consultation with members of the judiciary, will frame rules on how long the DNA details of an entrant on a crime index would be maintained.

The rules will come after Parliament approves the DNA Technology (Use and Application) Regulation Bill, 2018, framed by the Department of Biotechnology in 2015.

The aim of that draft legislation was to establish an institutional mechanism to collect and deploy DNA technologies to identify persons based on samples collected from crime scenes or to identify missing persons.

The Bill envisages a DNA Profiling Board and a DNA Data Bank.

To help in investigations, there would be a central databank as well as regional ones, and these would store DNA profiles under various heads, such as a 'crime scene index' or 'suspects index' or 'offenders index.'

It necessitated a Law Commission analysis — whether the databanks were secure enough to protect the privacy of those from whom DNA details were collected.

It also deliberated on how, and who were authorized, to collect such information.

An important thing that the Bill achieves is to ensure that private laboratories don't proliferate and work without scientific validation.

In France, for instance, the profiles of convicted persons are kept for 40 years after conviction. Crime scene stains are deleted forty years after they have been analyzed.

In the United Kingdom, the profiles of convicted persons and suspects are retained indefinitely, and crime scene stains are kept until they have been identified.

DNA Based Technology (Use and Regulation) Bill, 2017:

DNA technology is being increasingly relied upon in investigations of crime, identification of unidentified bodies, or in determining parentage.

It seeks to establish regulatory institutions and standards for DNA testing, and supervise the activities of all laboratories authorized to carry out such tests.

It prohibits the collection of any "bodily substance" from an arrested individual (for the purposes of a DNA test) without his/her consent, except if the individual is arrested for certain specific offences.

The penalty for misuse of data remains a prison term of up to three years and a fine up to Rs 1 lakh, a reference to a minimum prison term of one month has been removed.

The Bill seeks to set up two new institutions — a DNA Profiling Board and a DNA Data Bank.

The Board, with 11 members, is supposed to be the regulatory authority that will grant accreditation to DNA laboratories and lay down guidelines, standards and procedures for their functioning.

A national databank of DNA profiles is proposed to be set up, along with regional databanks in every state.

NGT TO HEAR PLEAS VIA VIDEOCONFERENCE

Due to non-availability of the members, petitioners from across the country with

environmental concerns have been forced to approach the principal Bench in Delhi.

With no recent appointments to the regional Benches in Kolkata, Chennai, Pune and Bhopal, the NGT has been functioning with less than one-third of its sanctioned strength of 20 judicial and expert members.

In a bid to tackle vacancies at the regional Benches of the National Green Tribunal (NGT), the green panel is set to start hearing matters of the other Benches via video conferencing.

Once hearing through video conferencing begins, the disposal rates will hopefully improve.

Travelling to Delhi for every hearing is not a feasible solution and leads to huge financial loss.

However, petitioners who are in a desperate situation have no other option but to approach the Principal Bench. This is an outright denial of justice.

Even though video conferencing has its own limitations, through this people can probably get access to justice, even if for an interim period.

National Green Tribunal:

The National Green Tribunal has been established in 2010 under the National Green Tribunal Act 2010.

It draws inspiration from India's constitutional provision of Article 21, which assures the citizens of India the right to a healthy environment.

It aims for effective and expeditious disposal of cases relating to environmental protection and conservation of forests and other natural resources including enforcement of any legal right relating to the environment and giving relief and compensation for damages to persons and property and for matters connected therewith or incidental thereto.

It has Original Jurisdiction on matters of "substantial question relating to environment" and "damage to the environment due to specific activity" (such as pollution).

It follows principles of Natural Justice.

MINISTRY OF DRINKING WATER AND SANITATION LAUNCHES SWACHH SURVEKSHAN GRAMEEN 2018

An independent survey agency will conduct the survey in all districts and the results will be announced in the form of a ranking of all districts and states on the basis of quantitative and qualitative sanitation (Swachhata) parameters.

The top-performing states and districts are expected to be awarded on 2nd October 2018.

As part of Swachh Survekshan Grameen 6,980 villages in 698 districts across India will be covered.

Total 34,000 public places namely schools, anganwadis, public health centres, haat/bazaars/religious places in these villages will be visited for the survey.

Citizens' feedback will be collected from over 50 lakh citizens on SBM related issues through direct interaction as well as online feedback.

During the process, 65% weightage has been assigned to the findings and outcome from the survey and 35% to the service level parameters to be obtained from the IMIS of the Ministry of Drinking Water and Sanitation.

Over 7.7 crore toilets have been built in rural India under the Swachh Bharat Mission (Grameen) since its launch in October 2014, with a usage of 93% as per an independent third-party survey conducted in 2017-18 across all States/UTs.

Nearly 4 lakh villages, over 400 districts and 19 States and Union Territories have declared themselves free from open defecation.

CLIMATE CHANGE IS THREATENING THE NILGIRI TAHR

As per the latest studies, climate change is threatening the Nilgiri tahr. It is estimated that the endangered wild goat could lose approximately 60% of its habitat, starting from the 2030s.

There are only around 2,500 tahrs left in the wild and their population — "small and isolated, making them vulnerable to local

extinction” — shows a “decreasing” trend, as per the International Union for Conservation of Nature.

IUCN status-

It is listed in Schedule I of the Indian Wildlife (Protection) Act 1972.

Endemic to the Nilgiri Hills and the southern portion of the Western Ghats in the states of Tamil Nadu and Kerala in Southern India.

It is the State animal of Tamil Nadu.

Currently, the only populations with more than 300 individuals are in Eravikulam National Park and in the Grass Hills in Anamalai.

JUSTICE MALHOTRA MAKES A CASE AGAINST SEC. 377

According to the Supreme Court, consensual gay sex may once again be decriminalized.

The Constitutional Bench of the Supreme Court hearing the fight against section 377 of IPC, made a strong case against criminalization of homosexuality.

Justice Indu Malhota, lone woman judge on the Bench made following observations:

Justice Malhotra, said homosexuality is only a variation and not an aberration.

The prejudice and stigma piled on the LGBTQ (lesbian, gay, bisexual, transgender and queer) community don't get proper medical aid because of the “prejudices” against them.

Justice Malhotra spoke of the pressure on homosexual people from within the home. They succumb to marry the opposite sex, leading to life of mental trauma and bisexuality.

The judge spoke of how homosexuality is not against the order of nature and nature itself.

She also said ancient texts say “prakriti and vikriti go together”. Chief Justice Misra said stigma is the root cause of suffering for the community.

Justice D.Y. Chandrachud expressed the hope that social stigma vanish if Section 377 is struck down by the court.

The Judge said Section 377 creates an environment which is conducive for discrimination of individuals on the ground of their sexuality.

Arguments in favour for decriminalization of Section 377:

Right to privacy and the protection of sexual orientation lie at the core of the fundamental rights guaranteed by Article 14, 15 and 21 of the Constitution.

'PROTECTION OF SEXUAL ORIENTATION A FUNDAMENTAL RIGHT'	
<ul style="list-style-type: none"> ➤ Based on day's proceedings in SC, clear signals emerge in favour of decriminalising Section 377 ➤ But court says it won't give 'advanced ruling' on rights/disputes relating to gay rights now ➤ Centre must present its stand on validity of Section 377 in a day or two 	<p>“ The right to privacy and protection of sexual orientation lies at the core of fundamental rights guaranteed by Articles 14, 15 and 21 of the Constitution</p> <p style="text-align: right;">—JUSTICE CHANDRACHUD</p> <p>“ (LGBTQ community) don't consider their orientation to be unnatural because it is nature which has given them the particular orientation</p> <p style="text-align: right;">—MUKUL ROHATGI Appearing for petitioners</p>

Article 14(Equality before law) The State shall not deny to any person equality before the law or the equal protection of the laws within the territory of India Prohibition of discrimination on grounds of religion, race, caste, sex or place of birt

Article 15- The Constitution of India deals with Prohibition of discrimination on grounds of religion, race, caste, sex or place of birth.

Article 21: (Protection of life and personal liberty): No person shall be deprived of his life or personal liberty except according to procedure established by law. The Article prohibits the deprivation of the above rights except according to a procedure established by law.

The court said that “By treating it as illegal, there are several ramifications for society”.

It may lead to demands to legalize same sex marriages and inheritance by survivorship among gay partners.
