

**MARATHWADA MITRA MANDAL'S  
SHANKARRAO CHAVAN LAW COLLEGE, PUNE**

**List of Proposals for the AY 2022-23**

Sr. No.	Year	Name of Teacher	Name of Conference/ Workshop Attended for Which Financial Support Provided	Name of The Professional Body for Which Membership Fee Is Provided	Amount of Support
1.	AY2022-23	Dr. Kranti Deshmukh Dr. Sourabh Ubale Dr. Bhagwan Gawali Dr. Ashwini Ingole	Dr. Successfully Completed 11 Days International Faculty Exchange Program at University of Colombo, Sri Lanka	University of Colombo, Sri Lanka	Rs. 1,50,000
2.	AY2022-23	Dr. Kranti Deshmukh	Successfully Completed 10 days Industry Academia Visit to Poland and Germany organized by Indo European Education Foundation in Collaboration with Savitribai Phule Pune University	Indo European Education Foundation	Rs. 1,50,000
3.	AY2022-23	Dr. Ravati Naik	Successfully Completed 10 days Industry Academia Visit to Poland and Germany organized by Indo European Education Foundation in Collaboration with Savitribai Phule Pune University	Indo European Education Foundation	Rs. 1,50,000
4.	AY2022-23	Dr. Pradip Tambe	International Virtual Conference on Law and Ethics organized by Christ Academy Institute of Law	Christ Academy Institute of Law, Bengaluru.	Rs. 500
			Participated in One Week Faculty Development Program on "Outcome Oriented Learning	Sharda School of Law, Sharda University, Greater	Rs. 750



			Practices & Research: A Multi-Dimensional Approach"	Noida	
			Participated in Faculty Development Program on "Emerging Contours of Constitutional Law and Human Rights"	Amity University Lucknow Campus, Uttar Pradesh.	Rs.700
			Publication	Chhattisgarh International Law Journal	Rs. 1100
			Publication	Asia Pacific Law & Policy Review	Rs. 1230
1.	AY2022-23	Dr. Revati Naik	Attended Conference of Vedic Knowledge organized by National Law University, Nagpur.	National Law University, Nagpur.	Rs. 800
	AY2022-23	Dr. Gajendra Dhamal	Successfully completed Refresher Course on "New Trend in Law" organized by University of Delhi.	University of Delhi, Delhi.	Rs. 1450
			Successfully completed Ten Days online certificate course on "Basics of Legal Research Methodology" organized by Shankarrao Chavan Law College Pune.	Shankarrao Chavan Law College Pune.	Rs. 200
2.	AY2022-23	Dr. Ashwini Ingole	Attended Conference on "Constitutional Amendments: A Global Need or Greed?" organized by Amity Law School, Noida.	Amity Law School, Noida.	Rs. 1185
3.			Two Days online Certificate Course on Consumer Law and Practice organized by chair on	National Law University Delhi.	Rs. 2002



			Consumer Law at National Law University Delhi.		
4.	AY2022-23	Dr.Sourabh Ubale	Attended the International Conference on "Vedic Jurisprudence & Its Impact on Contemporary World" organized by Centre for Vedic Sciences Banaras Hindu University, Kashi, Bharatvarsh.	Centre for Vedic Sciences Banaras Hindu University, Kashi, Bharatvarsh.	Rs. 800
5.	AY2022-23	Dr. Nalini Ambad	Successfully completed one-week Faculty Development Programme on "Law and Economics" organized by Rajiv Gandhi University of Law Punjab.	University of Law Punjab.	Rs. 590
			Participated in International Conference on "Changing Contours of Human Rights and Social Security" organized by Aisan Law School, Noida	Aisan Law School, Noida	Rs. 1000
			Successfully completed one-week Faculty Development Programme on "Law and Social Sciences" organized by National University of Law, Punjab.	National University of Law, Punjab.	Rs. 590
			Attended International Conference on "Changing Dimension of Law in the era of Digital Technology" organized	Department of Law Aligarh Muslim University Centre,	Rs. 750



			by Department of Law Aligarh Muslim University Centre, Malappuram.	Malappuram.	
6.	AY2022-23	Ms.Rutuja Purohit	Successfully completed one-week National Level Workshop on Literature Review	Essgee Digi Skills, Pune.	Rs. 900
			Attended International Symposium on "Remaking Criminology: Contemporary Insights from the criminal Justice System "organized by DME Law School Noida.	DME Law School Noida	Rs. 700
			Attended National Level Workshop on National Education Policy 2020. Organized by ILS Law College Pune	ILS Law College Pune	Rs. 500
			Participated in National Conference organized by MES Garware College of Commerce Pune.	MES Garware College of Commerce Pune.	Rs. 550
			Successfully Completed Two Weeks National Level Workshop on How to write and publish research paper	Essgee Digi Skills, Pune.	Rs.900
7.	AY2022-23	Dr. Manisha Shine	Attended online International Conference on Women's Studies 2023	The International Institute of Knowledge Management, Bangkok,	Rs. 8280



				Thailand.	
8.	AY2022-23	Mr.Chandramani Bhalerao	Attended National Level Workshop on National Education Policy 2020. Organized by ILS Law College Pune	ILS Law College Pune	Rs. 500
9.	AY2022-23	Dr.NamitaD'Souza	Participated in Workshop on "Law and Economics: Theories and application "organized by Gujrat National Law University, Gandhi Nagar	Gujrat National Law University, Gandhi Nagar	Rs. 1500
			Successfully completed one- week Faculty Development Programe on "Law and Economics" organized by Rajiv Ganghi University of Law Punjab.	University of Law Punjab.	Rs. 590
<b>Total Amount</b>					<b>Rs. 478067</b>

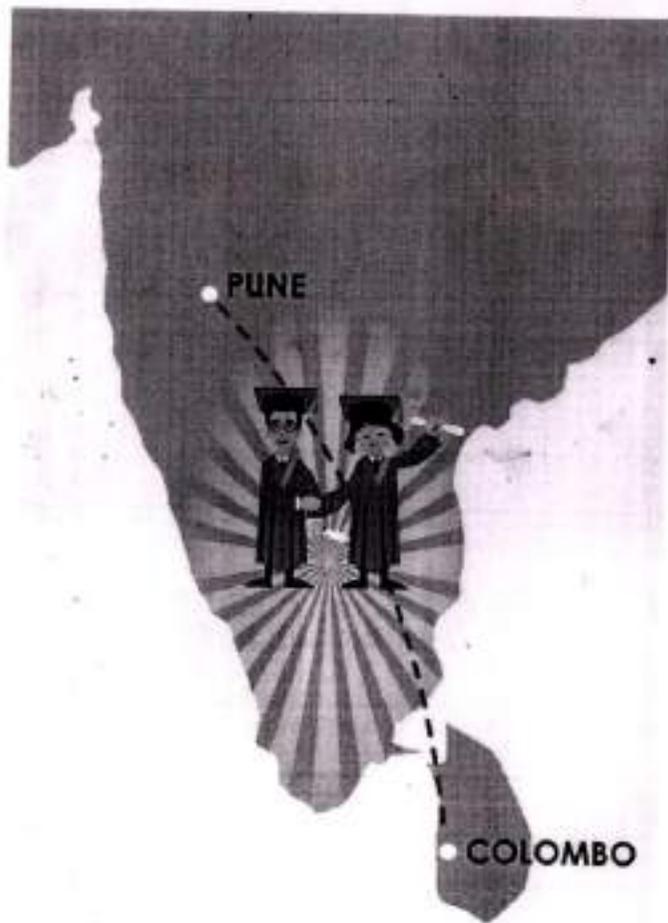
*Ashwini*

Faculty in Charge

Dr. Ashwini Ingole



*[Signature]*  
Principal



FACULTY OF LAW,  
UNIVERSITY OF COLOMBO,  
SRI LANKA

*heroby confers this Certificate of*

# COMPLETION & APPRECIATION

*To, Dr. Sourabh V. C. Ubale*

(International Relations Officer)

of Marathwada Mitra Mandal's Shankarrao Chavan Law College, Pune INDIA

*for successfully completing*

## The International Faculty Exchange Program

(10th March, 2023 to 20th March, 2023)

DEAN  
FACULTY OF LAW  
UNIVERSITY OF COLOMBO

*Sourabh V. C. Ubale*  
Dean

*[Signature]*  
Vice Chancellor

Vice Chancellor  
University of Colombo



FACULTY OF LAW,  
UNIVERSITY OF COLOMBO,  
SRI LANKA

*hereby confers this Certificate of*

**COMPLETION & APPRECIATION**

*To, Dr. Ashwini V. Ingole*  
(Coordinator)

of Marathwada Mitra Mandal's Shankarrao Chavan Law College, Pune INDIA

*for successfully completing*

**The International Faculty Exchange Program**

(10th March, 2023 to 20th March, 2023)

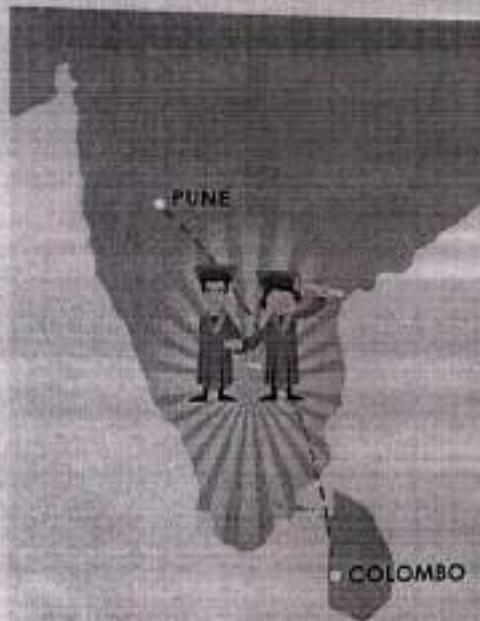
DEAN  
FACULTY OF LAW

*Ashwini V. Ingole*  
Dean

*[Signature]*  
Vice Chancellor

Vice Chancellor  
University of Colombo





FACULTY OF LAW,  
UNIVERSITY OF COLOMBO,  
SRI LANKA

*hereby confers this Certificate of*  
**COMPLETION & APPRECIATION**

*To. Dr. Bhagwan Gawali*

of Marathwada Mitra Mandal's Shankarrao Chavan Law College, Pune INDIA

*for successfully completing*

**The International Faculty Exchange Program**

(10th March, 2023 to 20th March, 2023)

ISSUED  
FACULTY OF LAW

*mishra*  
Dean

*[Signature]*  
Vice Chancellor

Vice Chancellor  
University of Colombo



**FACULTY OF LAW**  
**UNIVERSITY OF COLOMBO, SRI LANKA**  
P.O Box. 1490, Cumaratunge Munidasa Mawatha. Colombo 3 Sri Lanka.  
Telephone No: 2500942, Fax No: 2502001, Dean's Direct Tele. No: 2502001

20<sup>th</sup> March 2023

Dr. Ashwini Vinod Ingole,  
Marathwada Mitra Mandal's Shankarrao Chavan Law College,  
202/A, MMCC Campus, Deccan Gymkhana, Pune 411004, Maharashtra, India

Dear Dr. Ingole,

**Letter of Appreciation**

I am writing with reference to the Student-Faculty Exchange Programme between the Faculty of Law, University of Colombo, Sri Lanka and Marathwada Mitra Mandal's Shankarrao Chavan Law College, India.

I would like to extend my sincerest gratitude towards you for actively participating in the aforesaid Exchange Programme, held in the Faculty of Law, University of Colombo, Sri Lanka from 10<sup>th</sup> -20<sup>th</sup> March 2023. I deeply appreciate your dedication and commitment to the success of this collaborative activity.

Furthermore, I thank you for having served as a Resource Person in the '**Workshop on General Principles of Contract Law & Drafting**' on 12th March 2023 conducted as a part of this Programme. Thank you for sharing your expertise and engaging in fruitful and constructive dialogues with our students and colleagues.

I look forward to our future cooperation.

Thanking you.

Yours Sincerely,

Professor (Dr.) Sampath Punchihewa  
Dean - Faculty of Law,  
University of Colombo  
Sri Lanka

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**FACULTY OF LAW**  
**UNIVERSITY OF COLOMBO**



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20<sup>th</sup> March 2023

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Marathwada Mitra Mandal's Shankarrao Chavan Law College,  
202/A, MMCC Campus, Deccan Gymkhana, Pune 411004, Maharashtra, India

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Furthermore, I thank you for having served as a Resource Person in the Session on '**Golden Rule of Interpretation of Statute**' on the 11<sup>th</sup> March 2023 conducted as a part of this Programme. Thank you for sharing your expertise and engaging in fruitful and constructive dialogues with our students and colleagues.

I look forward to our future cooperation.

Thanking you.

Yours Sincerely,

Professor (Dr.) Sampath Punchihewa  
Dean - Faculty of Law,  
University of Colombo  
Sri Lanka



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20<sup>th</sup> March 2023

Dr. Ashwini Vinod Ingole,  
Marathwada Mitra Mandal's Shankarrao Chavan Law College,  
202/A, MMCC Campus, Deccan Gymkhana, Pune 411004,  
Maharashtra, India

Dear Dr. Ingole,

**Letter of Appreciation**

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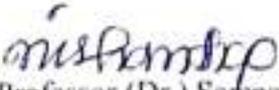
Furthermore, I thank you for the active participation and your input in the following visits conducted as part of the Programme.

- 1) Visit to the Human Rights Commission of Sri Lanka on the 14<sup>th</sup> March 2023;
- 2) Visit to the Supreme Court of Sri Lanka on the 15<sup>th</sup> March, 2023;
- 3) Visit to the BAR association of Sri Lanka on the 15<sup>th</sup> March 2023; and
- 4) The Field visit to Wanathawilluwa, Puttalam Distict, Sri Lanka on the 16<sup>th</sup> March 2023.

I look forward to our future cooperation.

Thanking you.

Yours Sincerely,

  
Professor (Dr.) Sampath Punchihewa  
Dean - Faculty of Law,  
University of Colombo  
Sri Lanka

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20<sup>th</sup> March 2023

Dr. Bhagwan Ramchandra Gawali,  
Marathwada Mitra Mandal's Shankarrao Chavan Law College,  
202/A, MMCC Campus, Deccan Gymkhana, Pune 411004, Maharashtra, India

Dear Dr. Gawali,

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I would like to extend my sincerest gratitude towards you for actively participating in the aforesaid Exchange Programme, held in the Faculty of Law, University of Colombo, Sri Lanka from 10<sup>th</sup> - 20<sup>th</sup> March 2023. I deeply appreciate your dedication and commitment to the success of this collaborative activity.

Furthermore, I thank you for having served as a Resource Person in the Session on 'Co-teaching and forum discussion on Constitutional Law' conducted as part of this Programme on the 12<sup>th</sup> March 2023. Thank you for sharing your expertise and engaging in fruitful and constructive dialogues with our students and colleagues.

I look forward to our future cooperation.

Thanking you.

Yours Sincerely,

Professor (Dr.) Sampath Punchihewa  
Dean - Faculty of Law,  
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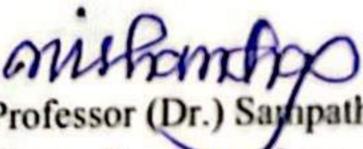
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Furthermore, I thank you for having served as a Resource Person in the '**Roundtable Discussion on Constitutional Law – Indian and Sri Lankan Perspective**' conducted as part of this Programme on the 12<sup>th</sup> March 2023. Thank you for sharing your expertise and engaging in fruitful and constructive dialogues with our students and colleagues.

I look forward to our future cooperation.

Thanking you.

Yours Sincerely,

  
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Furthermore, I thank you for the active participation and your input in the following visits conducted as part of the Programme.

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I look forward to our future cooperation.

Thanking you.

Yours Sincerely,

  
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Dean - Faculty of Law,  
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0111  
FACULTY OF LAW  
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20<sup>th</sup> March 2023

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International Relations Officer,  
Marathwada Mitra Mandal's Shankarrao Chavan Law College,  
202/A, MMCC Campus, Deccan Gymkhana, Pune 411004, Maharashtra, India

Dear Dr. Ubale,

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Furthermore, I thank you for having served as a Resource Person in the session on '**Interpretation of Constitutional Law**' conducted as part of this Programme on the 11<sup>th</sup> March 2023. Thank you for sharing your expertise and engaging in fruitful and constructive dialogues with our students and colleagues.

I look forward to our future cooperation.

Thanking you.

Yours Sincerely,

Professor (Dr.) Sampath Punchihewa  
Dean - Faculty of Law,  
University of Colombo  
Sri Lanka

DEAN

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20<sup>th</sup> March 2023

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International Relations Officer,  
Marathwada Mitra Mandal's Shankarrao Chavan Law College,  
202/A, MMCC Campus, Deccan Gymkhana, Pune 411004, Maharashtra, India

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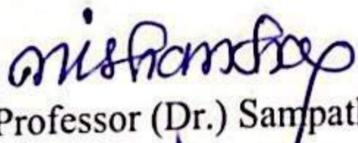
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Furthermore, I thank you for having served as a Resource Person in the workshop on '**Socio-legal research methods: International perspective**' conducted as part of this Programme on the 18<sup>th</sup> March 2023. Thank you for sharing your expertise and engaging in fruitful and constructive dialogues with our students and colleagues.

I look forward to our future cooperation.

Thanking you.

Yours Sincerely,

  
Professor (Dr.) Sampath Punchihewa  
Dean - Faculty of Law,  
University of Colombo  
Sri Lanka

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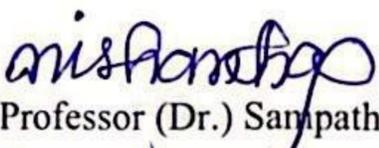
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Furthermore, I thank you for having served as a Resource Person in the session on '**Sociological School of Jurisprudence & Roscoe Pound**' conducted as part of this Programme on the 11<sup>th</sup> March 2023. Thank you for sharing your expertise and engaging in fruitful and constructive dialogues with our students and colleagues.

I look forward to our future cooperation.

Thanking you.

Yours Sincerely,

  
Professor (Dr.) Sampath Punchihewa  
Dean - Faculty of Law,  
University of Colombo  
Sri Lanka

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International Relations Officer,  
Marathwada Mitra Mandal's Shankarrao Chavan Law College,  
202/A, MMCC Campus, Deccan Gymkhana, Pune 411004, Maharashtra, India

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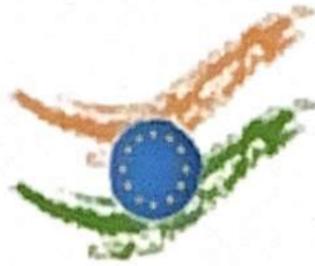
Thanking you.

Yours Sincerely,

A handwritten signature in blue ink, appearing to read 'Sampath Punchihewa'.

Professor (Dr.) Sampath Punchihewa  
Dean - Faculty of Law,  
University of Colombo  
Sri Lanka

FACULTY OF LAW  
UNIVERSITY OF COLOMBO



Ref. 1/ 2300049 AIEEU/04-05/2023.

Warsaw, 03.05.2023

## THIS CERTIFICATE CONFIRMS THAT

*Prof. (Dr.) Kranti D. Deshmukh*

*Principal, Marathwada Mitra Mandal-Sankarrao Chavan Law College, Pune, India, has delivered a successful lecture on*

*"Witness Protection under Criminal Justice System: International & Indian Perspective" during BTP (Blended Intensive Program) on 26th April 2023, at the University of Applied Sciences in Nysa, Poland.*

*BTP was conducted by the University of Applied Sciences in Nysa, Poland in cooperation with*

*Hochschule Mittweida, University of Applied Sciences, Germany  
University of Dunaujvaros, Hungary*

*Her visit was organised under the program "Academia Industry Experience in the European Union- AIEEU", a short visit under Academia-cum-Industrial Experience-EU 27, organised and conducted by Indo-European Education Foundation, Poland, April 23- May 04, 2023.*

**PRESIDENT**  
*Dr Pradeep Kumar*



INDO-EUROPEAN  
EDUCATION FOUNDATION  
ul. Przylesie 21A/204  
03-153 Warszawa  
Mobile: +48 785 267 536  
NIP: 5242764123, REGON: 146939729

# CERTIFICATE OF COMPLETION

*This certifies that*

*Prof. (Dr.) Kranti D. Deshmukh*

*has successfully completed the Academia-cum-Industrial Experience in Poland, Czech Republic, and Germany under the required program of AIEEU, during April 24- May 04, 2023.*

## ACADEMIA-INDUSTRY EXPERIENCE IN THE EUROPEAN UNION-AIEEU

*Participated Universities*

*University of Applied Sciences in Nysa, Poland  
Hochschule Mittweida, University of Applied Sciences,  
Germany*

*8 May 2023*

DATE



Indo-European Education Foundation  
*A Bridge between India, Poland and EU*



*Participated Companies*

*Wiatkowice Sp. z o.o., głuchołazy, Poland  
B.MSP Factory, Top-209, Germany*

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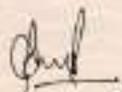
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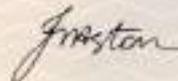
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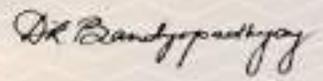
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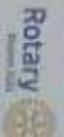
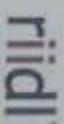
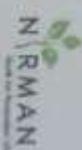
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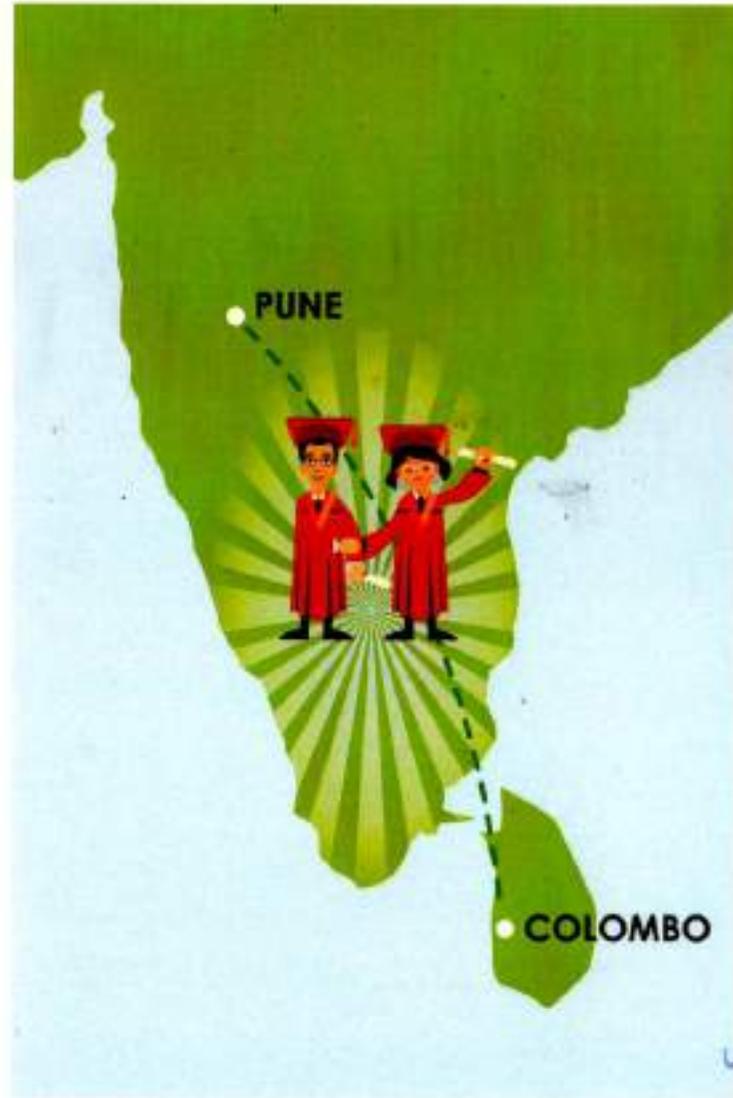
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1.	Epistemology of Restorative Justice System in India in relation to offence against Women, <i>Anita Ghosh &amp; Mrs. Shival Datta</i>		(1-5)
2.	Application of The Doctrine of Ultra Vires : Its Implications And Impact Under Indian <i>Dr. Mohammadi Tarannum</i>	Company Law (6-9)	
3.	Women Empowerment And Laws <i>Mr Vivek kumar</i>		(10-12)
4.	Legal Framework of Banking system in India <i>Raamak Tiwari &amp; Dr. Aryendu Dwivedi</i>		(13-16)
5.	The Issue of Insurgency in India: Causes, Instances And the Role of Judiciary <i>Himanshi Babbar</i>		(17-21)
6.	Judicial Approach To Medical Negligence In India - Problems And Solutions <i>Dr. Priyanshvi Tiwari</i>		(22-27)
7.	Traditional Knowledge And Biopiracy <i>Jitendra Yadav</i>		(28-33)
8.	Legal Control of Human Trafficking in Women and Children for Commercial Sexual Exploitation: An Indian and Nepalese Perspective <i>Dr. Suresh Kumar Dhungana</i>		(34-42)
9.	Application of the concepts of Authority and Consent in the Transplantation of Human Organs and Tissues 1994: An analytical Study <i>Dr. Pradipkumar Tambe</i>		(43-47)
10.	Dispute Redressal Problems in International Investment: New Challenges <i>Sunil Pandey</i>		(48-50)
11.	Effect of Bhujangasan on Human Body <i>Khashbu Dhakad &amp; Ritu Haripalani</i>		(51-53)
12.	Jurisprudential Dimensions of Access to Justice in India <i>Dr. Bindu Sangra</i>		(54-60)
13.	Domestic Violence Against Working Women <i>Sudheer Kumar Baghel &amp; r. Dharendra Singh</i>		(61-62)
14.	Reform and Privatization of State-Owned Enterprises in India <i>Ankit Sharma &amp; Mrs. Ananksha Sharma</i>		(64-66)
15.	Committee of Creditors Under Insolvency bankruptcy code 2016 <i>Dr. Arvind Kumar</i>		(67-69)
16.	Right to health: A consumer protection perspective <i>Dr. Ajay Bhupendra Jaiswal &amp; Ashutosh Paragwal</i>		(70-71)
17.	An analytical overview of NEP 2020 <i>Dr. Neelam Sharma &amp; Aditi Vashishtha</i>		(72-80)
18.	Tradition or Modernism in Grammar Teaching: Deductive v. Inductive Approaches <i>Prashant Kumar Dixit</i>		(81-82)
19.	संघटित अस्पष्ट एक विधि भारतीय विवेक	<i>डॉ. अरुण कुमार शर्मा</i>	( 84-85)
20.	राष्ट्रीय शिक्षा नीति : एक विश्लेषण	<i>डॉ. युवा शर्मा एवं अरुण कुमार</i>	( 87-88)
21.	आधुनिक भारत में अल्प बहुसंख्यकों से संबंधित संवैधानिक अधिकार: एक विधिक विश्लेषण	<i>डॉ. राशमी शर्मा एवं देवशरण शर्मा</i>	( 89 - 94)
22.	भारतीय संविधान द्वारा प्रत्याभूत धार्मिक स्वतंत्रता का अधिकार	<i>अरुण शर्मा</i>	(95-96)
23.	स्वतंत्रता और धार्मिक स्वतंत्रता का विवेचनात्मक अध्ययन	<i>Dhara Garg &amp; Pushpadeep Prajapati</i>	(97-100)
24.	कठोर धार्मिक से आधुनिक रूप का सामंजस्य अध्ययन-	<i>श्री. राशमी शर्मा</i>	(100-101)



Afterwards, particularly, after the establishment of legal system across globe and progression in medical science, transplantation movement extended rapidly. Continued growth in organ transplantation led to the numerous ethical and legal issues. Human Body was considered as property. The assumption that there was 'no property in a dead body' was merely 'a gift of flesh for the worms', dated back to the 17th century. This view was upheld in *Willow v Willow* in which it was held that, as there is no property in a dead body, any direction made by the deceased during his lifetime binding upon his executors. Consent to autopsy was regarded as a professional courtesy, not a solemnity. This interpretation had been reinforced in the 20th century by the decision in *Doodeward v Spence* (1908). Because the body was of itself worthless, the court held that any human material became the property of the person who gave it added value by preserving it.<sup>9</sup> After the recognition, several scandals appeared on record such as Alder Hey Children's Hospital in Liverpool and at Bristol Royal Infirmary<sup>10</sup> which ultimately forced law makers to address these issues and laid down the legal procedure for it. Accordingly, in India, The Transplantation of Human Organs and Tissues Act, 1994 was passed by Parliament of India. The legal procedure is based on the two fundamental concepts 'Authority and Consent'. This paper intends to study the application of the concept of 'authority and consent' in the legal procedure mentioned under Act, lacunas exists in the Act and the concrete solution to redress the identified issues.

### III. Need of Transplant Donation:

There is a relentlessly increasing need for organs for patients with life threatening organ failures that requires the timely and timely intervention to obtain the donated organs in the best possible transplantable condition.<sup>11</sup> People donate organs because an organ that they need to continue living is failing to function. Many diseases and conditions can lead to end-stage organ failure.<sup>12</sup> Right to life is at stake due to the failure of an organ which can be easily transplanted. Estimated around 1.8 lakh persons suffer from renal failure every year, however the number of renal transplants done annually in India is around 6000 only. An estimated 2 lac patients die of liver failure or liver cancer annually in India, about 10-15% of them can be saved with a timely liver transplant. Hence about 25-30 thousand liver transplants are needed annually in India, only about one thousand five hundred are being performed. Similarly, about 50000 persons suffer from Heart failure annually but only about 10 to 15 heart transplants are performed every year in India. In case of Cornea, about 25 transplants are done every year against a requirement of 1 lakh.<sup>13</sup> Shortage of Organs, critical and compromised procedure, awareness among the people, religious misunderstanding etc. are the foremost reasons for this issue.

IV. **Concept of Organ Transplantation:** Organ Donation is the process of retrieving or procuring an organ from a deceased person and transplanted into the recipient who requires that organ.<sup>14</sup> It becomes necessary due to the failure of the functioning of such organs to live life healthy.

V. **Kinds of Human Organ Transplantation:** Human Organ Transplantation are classified into the following ways

- Living Donor Organ Donation:** "Living organ donors" are the persons who can donate certain organs while they are still living.<sup>15</sup> An organ is taken from a live person and given to another. A popular example is kidney.<sup>16</sup> Living Organ Donation Means a person during his life can donate one kidney (one kidney is capable for maintaining body functions), a portion of pancreas (half of the pancreas is adequate for sustaining pancreatic functions) or part of the liver (the segments of liver will regenerate after a period of time).<sup>17</sup>
- Cadaver Organ Donation:** Cadaver Organs are the organs which are retrieved from brain dead declared deceased individual and transplanted into the body of a living recipient who requires it.<sup>18</sup>
- Xeno Transplantation:** An organ is taken from another animal and used as a human.<sup>19</sup>
- Genetically Created Organ:** Scientists are presently working on this technology. The hope is that at some point in time an organ can be created in a laboratory, from a person's own genetic material, that can be used to be put into a person.

9 Dealing with Death: a handbook of practices, procedures and law, Jennifer Green and Michael Green, Jessica Kingsley Publishers, London, First Publication, 2006. ISBN: 10-1-84110-381-8P 122

10 Alder Hey Children's Hospital in Liverpool and at Bristol came into limelight after the allegations made for the preserving of human body parts in the hospital. After inquires it was found that thousands of human body parts and samples of tissues were preserved in the hospital without the parents or relatives consent. And this was continuously operated against the name of research by the college administration.

11 Institute, of Medicine, et al. Non-donor-Bearing Organ Transplantation: Medical and Ethical Issues in Procurement, National Academic Press, 1998. ProQuest Ebook Central, <http://ebookcentral.proquest.com/lib/india-hoet-ebooks/detail.action?docID=3376365>. Created from infotrac-ebooks on 2021-08-31 09:14:14. Pg. 8

12 Understanding Organ Donation Applied Behavioral Science Perspectives, Edited by Jason T. Siegel and Eusebio M. Alvarez. Wiley Blackwell Publishing Ltd., Chichester, UK, 2010, First Publication, Pg. No 14.

13 [https://dghs.gov.in/cornea/1333\\_3\\_NationalOrganTransplantProgramme.aspx](https://dghs.gov.in/cornea/1333_3_NationalOrganTransplantProgramme.aspx) (Last accessed on 09th May, 2022 at 10:15am)

14 Srivastava A. Mani. A Deceased organ transplantation in India: Promises and Challenges, Neural India.

15 Organ donation in India and Nurses as a change to lead in organ donation: scoping review of organ donation, Maheshwari, Kamalika et al., Asian J. Nursing Education and Research 2021;11(3): 321-325. 2021 Pg. 322

16 Medical Law and Ethics, Jonathan Herring, Oxford University Press, 2012, Fourth Edition ISBN 978-0-19-966640-1. Pg. 431

17 <https://netto.gov.in/faqe.htm>

18 Srivastava A. Mani A. Deceased organ donation and transplantation in India: Promises and challenges. Neural India [serial online] 2020 [cited 2020 Aug 25]; 46: 316-22. Available from: <https://www.neurologyindia.com/text.asp?2018/66/2/316/227259>

19 Medical Law and Ethics, Jonathan Herring, Oxford University Press, 2012, Fourth Edition ISBN 978-0-19-966640-1. Pg. 432

e) Artificial Organs: Some work is being done to create robotic/mechanical organs for transplant, with some success.<sup>20</sup>

### Legal Framework for the Organ Transplantation:

In India, The Transplantation of Human Organs and Tissues Act, 1994 (herein after Act) is enacted with an object to regulate the removal, storage and transplantation of human organs and tissues for therapeutic purposes and for the prevention of commercial dealing in human organs and tissues.<sup>21</sup> The object of the Act is to regulate removal and transplantation of human organs with a view to prohibit commercial dealings in such transactions. A legislation of this nature was necessitated on account of the exploitation of humans for financial benefits in the dealings of organs.<sup>22</sup> Selling and purchasing of human organ is absolutely prohibited and only method adopted for human organ transplantation is donation. To achieve this objective, the Act constituted several authorities for the regulation of the organ transplantation in India. India is the second largest transplanting country in the world.<sup>23</sup> Several attempts have been made by the Government, NGO's to promote people to donate their organs still demand and supply ratio could not be achieved after the enforcement of the legislation. 'Authorization and consent' are essential factors for living organ donation as well as the deceased organ donation.

The central idea behind the regulation of the human organ is authority or transfer of power from the donor. Authority is the key concept applied in The Transplantation of Organs and Tissues Act, 1994. The bedrock of the Act is the 'Authority and Consent'. Authority means the moral or legal right or ability to control.<sup>24</sup> Authority is a specific justification for accepting a prescription precisely when the prescription does not follow with inferential clarity from other prescriptions we already accept.<sup>25</sup> Subsumptive, Institutional Authority and Personal Authority are the well-known categories of authority.<sup>26</sup> Personal authority means individual transferred power upon the others. In simple words, authority means to confer power. Under this Act, donor is vested a power and right to donate human organ or tissues to the recipient. The current legal procedure involves several fundamental issues which are discussed below:

#### 1. Authority for removal of human organs or tissues:

##### • Living Organ Donation:

Sec. 3 of the Act, legalizes the living organ donation and provides procedure for the removal before his death of any human organ or tissue or both of his body for therapeutic purpose.<sup>27</sup> The donor and recipient shall make jointly an application to grant approval for removal and transplantation of a human organ to the competent authority if authorization committee as specified in Form No. 11 with requisites documents in case of 'near relatives donation'.

##### • Deceased Organ Donation:

In the absence of such authority granted by the donor, the person lawfully having possession of the dead body, may authorize for the human organs, tissues or both donation for therapeutic purposes.<sup>28</sup> Sub-section (4) of section 3 states that the authority given under sub-section (1) or sub-section (2) would be sufficient warrant for the removal of any human organ or tissues for therapeutic purposes. The detailed procedure is laid down under Rule 3 of the Transplantation of Human Organs and Tissues Rules, 2014 and Form No. 1, 2 and 3. Form No. 1 contains the authority and consent for donation of organ or tissue to near relatives and added further declaration that the living donor is understood about the nature of criminal offences, non-transaction of payment, free will for removal of donor, explanation of medical procedure and risks involved etc. It is also mentioned that Form No. 1, should be notarized. Registered Medical Practitioner is duty bound merely to verify the unequivocal and unrevoked authorization by the donor.<sup>29</sup> Further, Rule 7 deals with the powers and functions of authorization committee. Express obligation is imposed upon the Authorization Committee to evaluate and verify that any commercial transaction or transfer of payment made between the donor and recipient also to examine the reasons why the donor wishes to donate the organs or tissues.<sup>30</sup> But, there is no mention about the duty to verify the validity of authority given by the donor which is rather very crucial unaddressed issue.

#### 2. Non-application of the Core concept of Consent in the procedure and conditions laid down in the Form No. 1, 2 and 3:

Consent is an essential element in the entire procedure of human organ donation. Donor authorizes with his/her consent for organ donation for therapeutic purposes. Section 2, 9 and 19 of the Act as well as Form No. 1, 2 and 3 of the Transplantation of Human Organs and Tissues Rules, 2014 provides legal procedure to delegate the powers from donor to recipient.

<sup>20</sup> Medical Law and Ethics, Jonathan Herring, Oxford University Press, 2012, Fourth Edition ISBN 978-0-19-963603-1, Pg. 432

<sup>21</sup> The Transplantation of Human Organs and Tissues Act, 1994-Object of the Act

<sup>22</sup> Shauel K. M. v. State of Kerala, 2018 AIR CC 1916 (KER) : (2017) 3 Ker LJ 876

<sup>23</sup> <http://www.transplant-observatory.org> , OODT

<sup>24</sup> <https://dictionary.cambridge.org/dictionary/english/authority>

<sup>25</sup> Harris, J. W. "Kelsen's Concept of Authority." The Cambridge Law Journal, vol. 36, no. 2, 1977, pp. 353-63, Pg. 358

<sup>26</sup> <http://www.jstor.org/stable/4506020>. Accessed 16 May 2022.

<sup>27</sup> Harris, J. W. "Kelsen's Concept of Authority." The Cambridge Law Journal, vol. 36, no. 2, 1977, pp. 353-63, Pg. 360

<sup>28</sup> <http://www.jstor.org/stable/4506020>. Accessed 16 May 2022.

<sup>29</sup> Sec. 3 of the Act.

<sup>30</sup> Sec. 3(3) of the Act

<sup>31</sup> The Transplantation of Human Organs and Tissues Rules, 2014 Rule 5

<sup>32</sup> The Transplantation of Human Organs and Tissues Rules, 2014 Rule 7(3)

'Authority and consent' are the essence of the whole legal procedure. The legal procedure laid down under Transplantation of Human Organs and Tissues Act, 1994 emphasizes on written form of authority. Surprisingly, especially in case of 'near relatives' it is presumed that 'written authority on paper' would be sufficient evidence for the transplantation of human organ.

The major concern for the consideration is the validity of the authority and consent which is the most crucial and categorically ignored aspect in the Act. Form No. 1, 2 and 3 states the delegation of written authority from the donor to recipient and medical practitioner.

Unfortunately, careful study of the Transplantation of Human Organs and Tissues Act, 1994 and 2014 Rules thereunder, indicates the inappropriate attention is accorded towards this issue. Hence, whole of the process of granting authority by donor is in question and major loophole is still exists.

The essentials of consent are understanding of the subject matter, adequate information to be provided to the donor, voluntariness and competency of the donor. The phrase consent is used especially in the Form No. 1, 2 and 3. In order to understand the application of concept of consent, major alarming question remain unanswered is the verification and validity of the consent. In order to accord consent, Form No. 1 is to be attested by Notary Public.<sup>31</sup> Form No. 1 contains affirmation and declaration to be given by the prospective donor in respect of non-receipt of payment, giving consent to authority for the removal of human organ, understanding the nature of medical procedure and risks and consent etc.<sup>32</sup> Form No. 2 and Form No. 3 covers the authority and consent given by the prospective donor with address proof.

The Act has laid down a procedure for the validity of authority and consent. A Notary is obligatory to verify and authenticate the authority and consent given by the prospective donor at his office. Unfortunately, adequate procedure is not laid down regarding how the verification of authority and consent to be done. Merely signature of the prospective donor on the forms is sufficient to indicate that the prospective donor has given an authority and consent for the removal of human organ. In case of *Kuranjit Kaur v. State of Punjab*<sup>33</sup> Punjab and Haryana High Court has raised a doubt about the validity of authority and consent in case of 'near relatives' procedure for organ transplantation and passed direction to validate the authority of wife.

Further, notary is not a god who has a detailed knowledge about all illness as well as pros and cons of organ donation. In such situation, if medical practitioner has given wrong or inadequate information to the donor about the risk or loss involved in the donation and eventually, based on the information provided by the medical practitioner, if donor has given an authority and consent for the donation. Still, is it a valid authority or consent or just a legal formality?

Application of essentials of the concept of consent provides additional effective support to the above discussed issue. Surprisingly, definition of consent is not laid down under the Act. The roots of the consent are found in the right of individual autonomy.<sup>34</sup> For the valid consent, adequate information regarding the medical risk involved in the procedure, probable impact upon the health and demerits of the removal organs etc must be provided by the competent medical practitioner to the prospective donor.

Also, understanding of the information, voluntariness as well as competency of the prospective donor are the most prominent aspects of consent. The Act has not defined the procedure to get the consent after the observation of the core conceptual aspects of consent in the entire procedure. Signature on the Forms is just a formality and evidence for the authority and consent. However, Notary is bound to take signature on the Forms and entry into the register. Though express duty is imposed on the Notaries Act, 1952 but unanswered questions appears in the mind such as how notary verifies the consent when his duty exists only to take signature and make entry in the register. It seems most inappropriate and irrational when notary is supposed to verify the competency of the prospective donor at the time of taking signature on Forms. Regarding voluntariness of the consent, how notary would verify and ascertain that the prospective donor is well informed about the probable consequences of the human organ donation and how such person with free consent is ready to accord consent.

Additionally, majority of the Indian societal members are not fully literate to understand the meaning of the word 'authority' used in the Act. Moreover, the practice usually observed in the real life is just to put the signature on the forms without reading the terms and conditions or contents of the form. Several instances happened in the medical history which prove this fact as well. Giving an authority to transfer living organ or deceased organ to another is very crucial and emotional issue.

31 Sec. 8 deals with the Functions of the Notaries. Sec. (1)(k) provides that a notary may verify, authenticate, certify or at least the execution of any instrument.

32 Sec. 8 deals with the Functions of the Notaries. Sec. (1)(k) provides that a notary may verify, authenticate, certify or at least the execution of any instrument.

33 2010 (4) RCR (Civil) 760. Punjab and Haryana High Court directed that Where the proposed transplant is between a married couple in marriage and ensure that documents such as marriage certificate, marriage photograph etc. are kept for records along with the information on the number and age of children and a family photograph depicting the entire family, birth certificate of children containing the particular of parents and issue a certificate in Form 4 (for spouse donor).

34 Autonomy is the concept understood in the reference with 'to think, decide and act'. It means individual persons particular kind of decision or action based on rationality.

which is related with the donors' right to health.<sup>35</sup> Hence, considering this issue, there could be several possibilities where donors' authority or consent could be affected due to the presence of coercion, undue influence, misrepresentation etc. Common person or uneducated person could be trapped easily in this phenomenon.

Even, the most structured and determined process to get the authority for organ donation could be based on wrong or misleading information. Donor may be convinced or authority could be based on wrong information provided by the recipient or medical practitioners. In these cases, whether it is legally appropriate to say that the authority was legal or consent given is legally valid? Without any express power granted under the Act, who is validating the authority? Without validating it, any authority granted is it legally correct and valid.

Hence, taking into consideration the practical aspects of the societal structure, behavioral pattern and common understanding of the layman, it is always indispensable and advantageous to protect the interest of the common people by the law. Therefore, wise expectation from the legislature is to respect the prospective donor's right to take autonomous decision to donate organs and it is the legitimate sphere of decision making process of the donor.

Therefore, the entire procedure laid down under the Act of giving authority and consent is vague and the purpose of transferring an authority and consent is frustrated.

The defined procedure is just a legal formality and documentary evidence creation to comply the conditions laid down under the Transplantation of Human Organs and Tissues Act, 1994. Authority and Consent which are the essence of the entire legal procedure is in a big question.

## VII. Conclusion:

To conclude the discussion, the Act has laid down the detailed procedure for human organ donation in living and cadaver form. The object of the Act is to regulate, storage and transplantation of human organs and tissues for therapeutic purposes. To achieve this objectives and prevent commercial transactions, human donation is the only resort adopted by the Parliament. The Act has considered 'authority and consent' as a foundation of the entire legal procedure for human organ donation. The individual autonomy is to take appropriate decision for human organ donation which is used as manner totally.

For the purpose of legally valid and binding 'authority and consent' under the Act, following suggestions would be appropriate to resolve ambiguities and the real object of the Act could be achieved.

**Duty upon Authorization Committee:** Researcher suggests that express duty must be imposed upon the Authorization Committee to verify the validity of authority and consent as well. Such committee should ensure that prospective donor is well informed about his authority to donate human organ. During the entire procedure, focus should be on understanding of the entire medical procedure to be used for organ transplantation, validating the competency of the donor, detailed and adequate procedure to be observed in the organ donation, without any undue influences or any coercion free and voluntary consent as well as pros and cons of the granting authority upon the donor's interest etc. Such committee is responsible to record the entire granting of authority in audio and video system.

**Duty upon the Medical Practitioner:** To establish the legally valid system in the organ donation under the Act, it is further suggested that the medical practitioner under whose supervision and control or authority, human organ donation will take place should be duty bound to inform the prospective donor about the detailed medical procedure to remove the human organ from his body as well as after the removal what will be the impact upon his body in the future as well. This entire procedure should be happened before the authorization committee. After the intimation of detailed information, sufficient time should be given to the prospective donor to take appropriate decision regarding human organ donation. Further, the entire procedure should be recorded in audio-video format. Afterwards, authorization committee will verify the authority and consent.

In any case, it is found that, authorization committee or medical practitioner fail to perform their duties, stringent penal action should be initiated against them and Act should prescribe imprisonment upto seven years in such cases.

In nutshell, merely prescribing granting of authority and consent is not sufficient also to avoid the issues discussed above it is essential to fix the responsibility upon the medical practitioner as well as authorization committee to accord the real legal meaning to the concept of authority and consent in human organ donation.

<sup>35</sup> As per WHO Constitution (1946) health means 'the enjoyment of the highest attainable standard of health is one of the fundamental rights of every human being. . . Also the preamble of the Constitution defines health as "a state of complete physical, mental and social well-being and not merely the absence of disease or infirmity"



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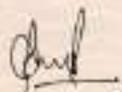
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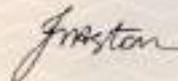
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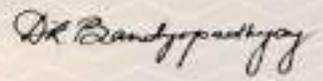
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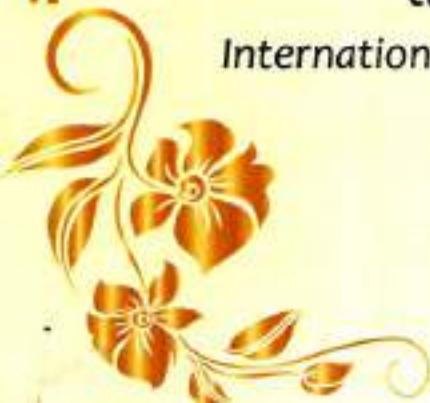
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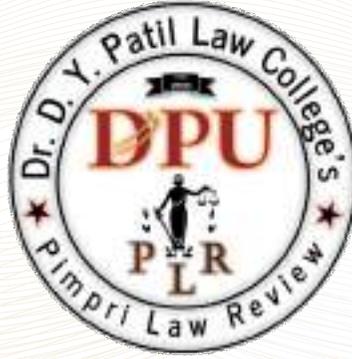
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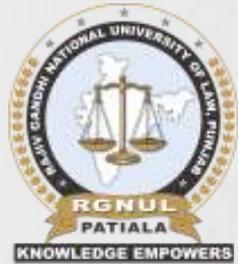


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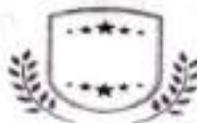
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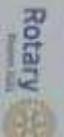
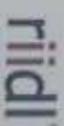
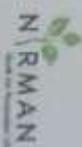
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कार्यक्रम / प्रशिक्षणचे आयोजन महाराष्ट्र राज्य अध्यापक विकास संस्था, पुणे आणि

In collaboration with Gondwana University, Gadchiroli  
यांच्या सहकार्याने करण्यात आले होते

*Saugandhkar*  
General Manager, MSFDA

OUR KNOWLEDGE PARTNERS / आमचे ज्ञान भागीदार





ILS LAW COLLEGE, PUNE  
IN COLLABORATION WITH  
SAVITRIBAI PHULE PUNE UNIVERSITY



**Certificate**

Mr. CHANDRAMANI BHAL ERAO

For Your Valuable Contribution As A Participant To The Event of National Level Workshop  
On National Education Policy 2020 Held At ILS LAW COLLEGE, PUNE

On 11-12 Of February 2023.

MS. VINODHNA GUPTA  
ASSISTANT PROFESSOR  
ILS LAW COLLEGE, PUNE

MR. DIVANESHWAR HENDRE  
ASSISTANT PROFESSOR  
ILS LAW COLLEGE, PUNE

DR. DEEPA PATIL  
PRINCIPAL  
ILS LAW COLLEGE PUNE

No.: G/29/0922/38



# Gujarat National Law University

Attalika Avenue, Knowledge Corridor, Koba, Gandhinagar, Gujarat

## Certificate of Participation

This is to certify that Mr./Ms./Dr. Namita George Dsouza, Assistant Professor of Economics from **Shankarrao Chavan Law College, Pune** has participated in the “**3<sup>rd</sup> GNLU Workshop on Law and Economics: Theories and Applications**” organized by the GNLU Centre for Law and Economics from 12<sup>th</sup> September to 18<sup>th</sup> September 2022.

Ranita Nagar  
Head of Centre

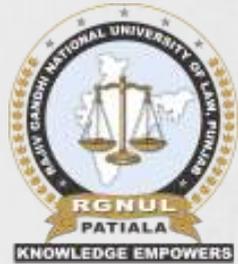
Hiteshkumar Thakkar  
Convener

Jagadeesh Chandra T.G.  
Registrar (I/c)

# RAJIV GANDHI NATIONAL UNIVERSITY OF LAW, PUNJAB

in collaboration with

SCHOOL OF LAW, PONDICHERRY UNIVERSITY  
PUDUCHERRY



## CERTIFICATE OF PARTICIPATION

THIS CERTIFICATE IS PRESENTED TO

**DR. NAMITA D'SOUZA**

for attending *One Week Faculty Development Programme on "Law and Economics"* organised by Rajiv Gandhi National University of Law, Punjab in collaboration with School of Law, Pondicherry University, Puducherry, from 10th - 16th March 2023.

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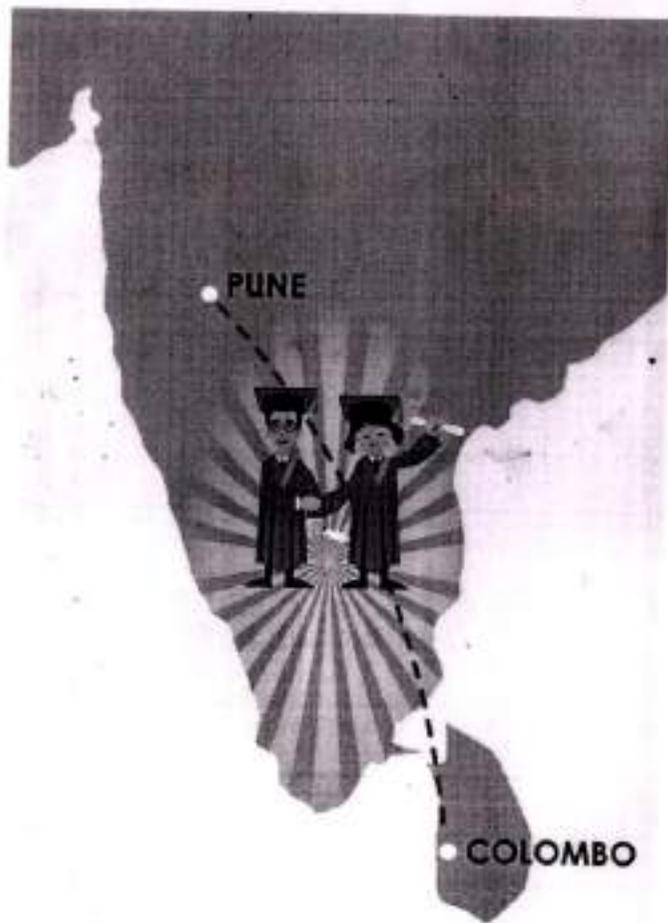
**Ms. Jasmine Kaur**  
Coordinator, FDP  
Assistant Professor of  
Economics  
RGNUL Punjab

---

**Dr. Gurmanpreet Kaur**  
Coordinator, FDP  
Associate Professor of Law  
RGNUL Punjab

---

**Dr. Gurminder Kaur**  
Coordinator, FDP  
Head (i/c) School of Law  
PU, Puducherry



FACULTY OF LAW,  
UNIVERSITY OF COLOMBO,  
SRI LANKA

*heroby confers this Certificate of*

# COMPLETION & APPRECIATION

*To, Dr. Sourabh V. C. Ubale*

(International Relations Officer)

of Marathwada Mitra Mandal's Shankarrao Chavan Law College, Pune INDIA

*for successfully completing*

## The International Faculty Exchange Program

(10th March, 2023 to 20th March, 2023)

DEAN  
FACULTY OF LAW  
UNIVERSITY OF COLOMBO

*Sourabh V. C. Ubale*  
Dean

*[Signature]*  
Vice Chancellor

Vice Chancellor  
University of Colombo



FACULTY OF LAW,  
UNIVERSITY OF COLOMBO,  
SRI LANKA

*hereby confers this Certificate of*

**COMPLETION & APPRECIATION**

*To, Dr. Ashwini V. Ingole*  
(Coordinator)

of Marathwada Mitra Mandal's Shankarrao Chavan Law College, Pune INDIA

*for successfully completing*

**The International Faculty Exchange Program**

(10th March, 2023 to 20th March, 2023)

DEAN  
FACULTY OF LAW

*Ashwini V. Ingole*  
Dean

*[Signature]*  
Vice Chancellor

Vice Chancellor  
University of Colombo

PUNE



COLOMBO



FACULTY OF LAW,  
UNIVERSITY OF COLOMBO,  
SRI LANKA

*hereby confers this Certificate of*

**COMPLETION & APPRECIATION**

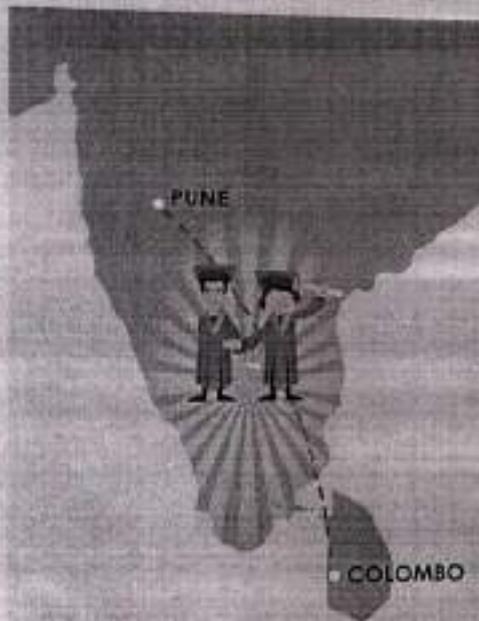
*To. Dr. Bhagwan Gawali*

of Marathwada Mitra Mandal's Shankarrao Chavan Law College, Pune INDIA

*for successfully completing*

**The International Faculty Exchange Program**

(10th March, 2023 to 20th March, 2023)



ISSUED  
FACULTY OF LAW

*mishra*  
Dean

*[Signature]*  
Vice Chancellor

Vice Chancellor  
University of Colombo



**FACULTY OF LAW**  
**UNIVERSITY OF COLOMBO, SRI LANKA**  
P.O Box. 1490, Cumaratunge Munidasa Mawatha. Colombo 3 Sri Lanka.  
Telephone No: 2500942, Fax No: 2502001, Dean's Direct Tele. No: 2502001

20<sup>th</sup> March 2023

Dr. Ashwini Vinod Ingole,  
Marathwada Mitra Mandal's Shankarrao Chavan Law College,  
202/A, MMCC Campus, Deccan Gymkhana, Pune 411004, Maharashtra, India

Dear Dr. Ingole,

**Letter of Appreciation**

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I would like to extend my sincerest gratitude towards you for actively participating in the aforesaid Exchange Programme, held in the Faculty of Law, University of Colombo, Sri Lanka from 10<sup>th</sup> -20<sup>th</sup> March 2023. I deeply appreciate your dedication and commitment to the success of this collaborative activity.

Furthermore, I thank you for having served as a Resource Person in the '**Workshop on General Principles of Contract Law & Drafting**' on 12th March 2023 conducted as a part of this Programme. Thank you for sharing your expertise and engaging in fruitful and constructive dialogues with our students and colleagues.

I look forward to our future cooperation.

Thanking you.

Yours Sincerely,

Professor (Dr.) Sampath Punchihewa  
Dean - Faculty of Law,  
University of Colombo  
Sri Lanka

**DEAN**  
**FACULTY OF LAW**  
**UNIVERSITY OF COLOMBO**



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20<sup>th</sup> March 2023

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202/A, MMCC Campus, Deccan Gymkhana, Pune 411004, Maharashtra, India

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Furthermore, I thank you for having served as a Resource Person in the Session on '**Golden Rule of Interpretation of Statute**' on the 11<sup>th</sup> March 2023 conducted as a part of this Programme. Thank you for sharing your expertise and engaging in fruitful and constructive dialogues with our students and colleagues.

I look forward to our future cooperation.

Thanking you.

Yours Sincerely,

Professor (Dr.) Sampath Punchihewa  
Dean - Faculty of Law,  
University of Colombo  
Sri Lanka



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**UNIVERSITY OF COLOMBO, SRI LANKA**  
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20<sup>th</sup> March 2023

Dr. Ashwini Vinod Ingole,  
Marathwada Mitra Mandal's Shankarrao Chavan Law College,  
202/A, MMCC Campus, Deccan Gymkhana, Pune 411004,  
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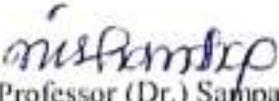
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- 1) Visit to the Human Rights Commission of Sri Lanka on the 14<sup>th</sup> March 2023;
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- 3) Visit to the BAR association of Sri Lanka on the 15<sup>th</sup> March 2023; and
- 4) The Field visit to Wanathawilluwa, Puttalam Distict, Sri Lanka on the 16<sup>th</sup> March 2023.

I look forward to our future cooperation.

Thanking you.

Yours Sincerely,

  
Professor (Dr.) Sampath Punchihewa  
Dean - Faculty of Law,  
University of Colombo  
Sri Lanka

DEAN  
FACULTY OF LAW  
UNIVERSITY OF COLOMBO



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20<sup>th</sup> March 2023

Dr. Bhagwan Ramchandra Gawali,  
Marathwada Mitra Mandal's Shankarrao Chavan Law College,  
202/A, MMCC Campus, Deccan Gymkhana, Pune 411004, Maharashtra, India

Dear Dr. Gawali,

**Letter of Appreciation**

I am writing with reference to the Student-Faculty Exchange Programme between the Faculty of Law, University of Colombo, Sri Lanka and Marathwada Mitra Mandal's Shankarrao Chavan Law College, India.

I would like to extend my sincerest gratitude towards you for actively participating in the aforesaid Exchange Programme, held in the Faculty of Law, University of Colombo, Sri Lanka from 10<sup>th</sup> - 20<sup>th</sup> March 2023. I deeply appreciate your dedication and commitment to the success of this collaborative activity.

Furthermore, I thank you for having served as a Resource Person in the Session on 'Co-teaching and forum discussion on Constitutional Law' conducted as part of this Programme on the 12<sup>th</sup> March 2023. Thank you for sharing your expertise and engaging in fruitful and constructive dialogues with our students and colleagues.

I look forward to our future cooperation.

Thanking you.

Yours Sincerely,

Professor (Dr.) Sampath Punchihewa  
Dean - Faculty of Law,  
University of Colombo  
Sri Lanka

**DEAN**  
**FACULTY OF LAW**  
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20<sup>th</sup> March 2023

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202/A, MMCC Campus, Deccan Gymkhana, Pune 411004, Maharashtra, India

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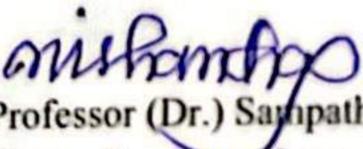
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Furthermore, I thank you for having served as a Resource Person in the '**Roundtable Discussion on Constitutional Law – Indian and Sri Lankan Perspective**' conducted as part of this Programme on the 12<sup>th</sup> March 2023. Thank you for sharing your expertise and engaging in fruitful and constructive dialogues with our students and colleagues.

I look forward to our future cooperation.

Thanking you.

Yours Sincerely,

  
Professor (Dr.) Sampath Punchihewa  
Dean - Faculty of Law,  
University of Colombo  
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20<sup>th</sup> March 2023

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I look forward to our future cooperation.

Thanking you.

Yours Sincerely,

  
Professor (Dr.) Sanjath Punchihewa  
Dean - Faculty of Law,  
University of Colombo  
Sri Lanka

0111  
FACULTY OF LAW  
UNIVERSITY OF COLOMBO



**FACULTY OF LAW  
UNIVERSITY OF COLOMBO, SRI LANKA**

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Telephone No: 2500942, Fax No: 2502001, Dean's Direct Tele. No: 2502001

20<sup>th</sup> March 2023

Dr. Sourabh Vasant Ubale,  
International Relations Officer,  
Marathwada Mitra Mandal's Shankarrao Chavan Law College,  
202/A, MMCC Campus, Deccan Gymkhana, Pune 411004, Maharashtra, India

Dear Dr. Ubale,

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Furthermore, I thank you for having served as a Resource Person in the session on '**Interpretation of Constitutional Law**' conducted as part of this Programme on the 11<sup>th</sup> March 2023. Thank you for sharing your expertise and engaging in fruitful and constructive dialogues with our students and colleagues.

I look forward to our future cooperation.

Thanking you.

Yours Sincerely,

Professor (Dr.) Sampath Punchihewa  
Dean - Faculty of Law,  
University of Colombo  
Sri Lanka

DEAN

FACULTY OF LAW

UNIVERSITY OF COLOMBO



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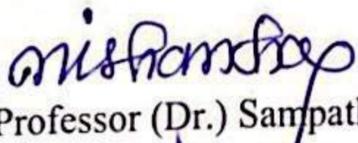
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Furthermore, I thank you for having served as a Resource Person in the workshop on '**Socio-legal research methods: International perspective**' conducted as part of this Programme on the 18<sup>th</sup> March 2023. Thank you for sharing your expertise and engaging in fruitful and constructive dialogues with our students and colleagues.

I look forward to our future cooperation.

Thanking you.

Yours Sincerely,

  
Professor (Dr.) Sampath Punchihewa  
Dean - Faculty of Law,  
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Sri Lanka

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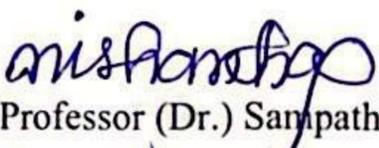
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I look forward to our future cooperation.

Thanking you.

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Professor (Dr.) Sampath Punchihewa  
Dean - Faculty of Law,  
University of Colombo  
Sri Lanka

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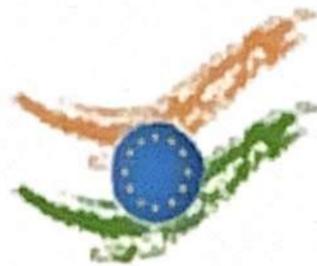
Thanking you.

Yours Sincerely,

A handwritten signature in blue ink, appearing to read 'Sampath Punchihewa'.

Professor (Dr.) Sampath Punchihewa  
Dean - Faculty of Law,  
University of Colombo  
Sri Lanka

FACULTY OF LAW  
UNIVERSITY OF COLOMBO



## THIS CERTIFICATE CONFIRMS THAT

*Prof. (Dr.) Kranti D. Deshmukh*

*Principal, Marathwada Mitra Mandal-Sankarrao Chavan Law College, Pune, India, has delivered a successful lecture on*

*"Witness Protection under Criminal Justice System: International & Indian Perspective" during BIP (Blended Intensive Program) on 26th April 2023, at the University of Applied Sciences in Nysa, Poland.*

*BIP was conducted by the University of Applied Sciences in Nysa, Poland in cooperation with*

*Hochschule Mittweida, University of Applied Sciences, Germany  
University of Dunaujvaros, Hungary*

*Her visit was organised under the program "Academia Industry Experience in the European Union- AIEEU", a short visit under Academia-cum-Industrial Experience-EU 27, organised and conducted by Indo-European Education Foundation, Poland, April 23- May 04, 2023.*

**PRESIDENT**  
*Dr Pradeep Kumar*



INDO-EUROPEAN  
EDUCATION FOUNDATION  
ul. Przylesie 21A/204  
03-153 Warszawa  
Mobile: +48 785 267 536  
NIP: 5242764123, REGON: 146939729

# CERTIFICATE OF COMPLETION

*This certifies that*

*Prof. (Dr.) Kranti D. Deshmukh*

*has successfully completed the Academia-cum-Industrial Experience in Poland, Czech Republic, and Germany under the required program of AIEEU, during April 24- May 04, 2023.*

## ACADEMIA-INDUSTRY EXPERIENCE IN THE EUROPEAN UNION-AIEEU

*Participated Universities*

*University of Applied Sciences in Nysa, Poland  
Hochschule Mittweida, University of Applied Sciences,  
Germany*

*8 May 2023*

DATE



Indo-European Education Foundation  
*A Bridge between India, Poland and EU*



*Participated Companies*

*Wiatłocor Sp. z o.o., głuchołazy, Poland  
B.MSP Factory, Topzig, Germany*

**PRESIDENT**

*Dr. Pinky Kumar*

ORGANIZER

# CERTIFICATE OF COMPLETION

*This certifies that*

*Dr. Revati S. Naik*

*has successfully completed the Academia-cum-Industrial Experience in Poland, Czech Republic, and Germany under the required program of AIEEU, during April 24- May 01, 2023.*

## ACADEMIA-INDUSTRY EXPERIENCE IN THE EUROPEAN UNION-AIEEU

*Participated Universities*

*University of Applied Sciences in Silesia, Poland  
Hochschule Mittelhessen, University of Applied Sciences,  
Germany*

*8 May 2023*

DATE



Indo-European Education Foundation  
A Bridge between India, Poland and EU



*Participated Companies*

*Schott AG, P. 200, Juchaczka, Poland  
B. W. Factory, Leipzig, Germany*

**PRESIDENT**

*Dr. Pradeep Kumar*

ORGANIZER



MAHARASHTRA NATIONAL LAW  
UNIVERSITY, NAGPUR



CENTRE FOR SHAASTRIC STUDIES AND RESEARCH IN LAW

JusManthan Meemamsa - A National Seminar on  
"Indic Ideas and Ideals of Justice"

CERTIFICATE OF PRESENTATION

This is to certify that

Asst. Prof. Revati Naik,

Shankaras Chauhan Law College, Pune.

has presented a Research Paper titled,

Danda Niti in Ancient India its Relevance in  
Contemporary Times

in JusManthan Meemamsa - A National Seminar on "Indic Ideas and Ideals of Justice",  
organized by Maharashtra National Law University, Nagpur under a 'Research Project  
on Centre for Shaastric Studies and Research in Law' funded by Indian Knowledge  
Systems (IKS) Division through All India Council for Technical Education of Ministry of  
Education, Government of India,

on August 6, 2022, at Maharashtra National Law University, Nagpur

PROF. (DR.) HIMANSHU PANDEY  
PRINCIPAL INVESTIGATOR,  
IKS RESEARCH PROJECT



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ON

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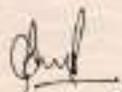
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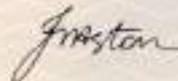
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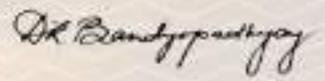
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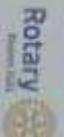
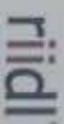
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*Organized by Sharda School of Law, Sharda University, Greater Noida*

*from Monday, 11<sup>th</sup> July to Saturday, 16<sup>th</sup> July 2022*



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Convener

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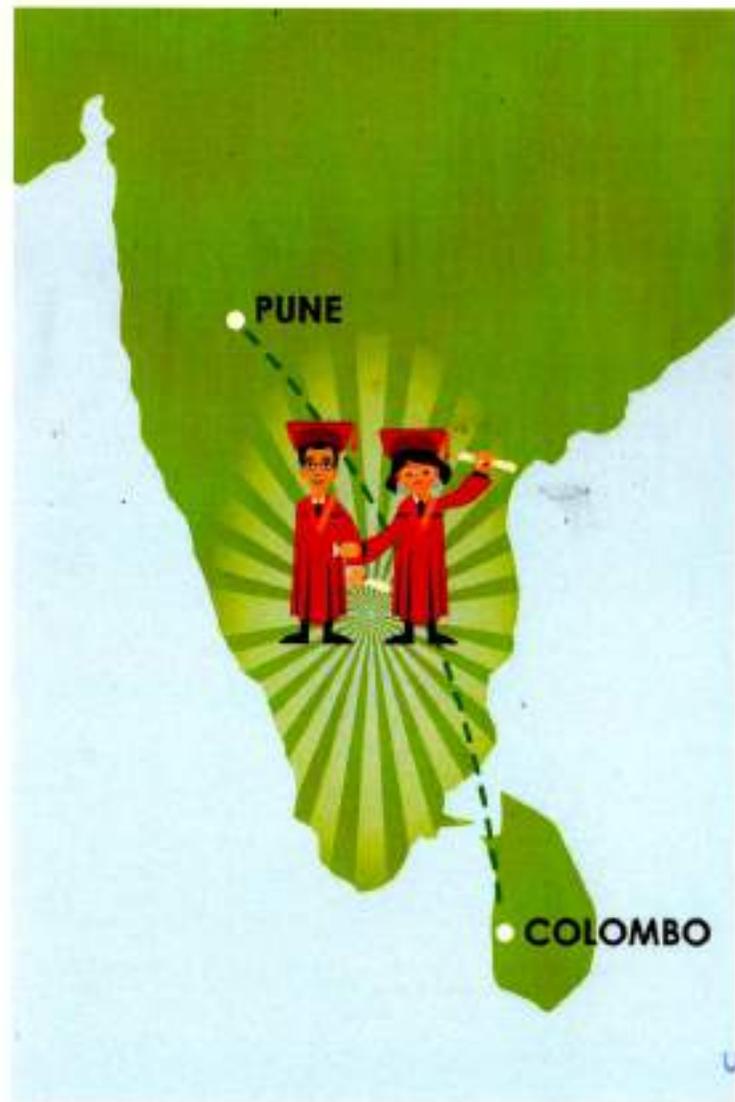
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*for successfully completing*

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(10th March, 2023 to 20th March, 2023)

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1.	Epistemology of Restorative Justice System in India in relation to offence against Women, <i>Anita Ghosh &amp; Mrs. Shimal Datta</i>	(1-5)
2	Application of The Doctrine of Ultra Vires : Its Implications And Impact Under Indian <i>Dr. Mohammadi Tarannum</i>	Company Law (6-9)
3	Women Empowerment And Laws <i>Mr Vivek kumar</i>	(10-12)
4	Legal Framework of Banking system in India <i>Raunak Tiwari &amp; Dr. Aryendu Dwivedi</i>	(13-16)
5	The Issue of Insurgency in India: Causes, Instances And the Role of Judiciary <i>Himanshi Babbar</i>	(17-21)
6	Judicial Approach To Medical Negligence In India - Problems And Solutions <i>Dr. Priyanshvi Tiwari</i>	(22-27)
7	Traditional Knowledge And Biopiracy <i>Jitendra Yadav</i>	(28-33)
8	Legal Control of Human Trafficking in Women and Children for Commercial Sexual Exploitation: An Indian and Nepalese Perspective <i>Dr. Suresh Kumar Dhungana</i>	(34-42)
9	Application of the concepts of Authority and Consent in the Transplantation of Human Organs and Tissues 1994: An analytical Study <i>Dr. Pradipkumar Tambe</i>	(43-47)
10	Dispute Redressal Problems in International Investment: New Challenges <i>Sunil Pandey</i>	(48-50)
11	Effect of Bhujangasan on Human Body <i>Khushbu Dhakad &amp; Ritu Harjpalani</i>	(51-53)
12	Jurisprudential Dimensions of Access to Justice in India <i>Dr. Bindu Sangra</i>	(54-60)
13	Domestic Violence Against Working Women <i>Sudheer Kumar Baghel &amp; r. Dharendra Singh</i>	(61-62)
14	Reform and Privatization of State-Owned Enterprises in India <i>Ankita Sharma &amp; Mrs. Ananksha Sharma</i>	(64-66)
15	Committee of Creditors Under Insolvency bankruptcy code 2016 <i>Dr. Arvind Kumar</i>	(67-69)
16	Right to health: A consumer protection perspective <i>Dr. Ajay Bhupendra Jaiswal &amp; Ashutosh Paragwal</i>	(70-71)
17	An analytical overview of NEP 2020 <i>Dr. Neelam Sharma &amp; Aditi Vashishtha</i>	(72-80)
18	Tradition or Modernism in Grammar Teaching: Deductive v. Inductive Approaches <i>Prashant Kumar Dixit</i>	(81-82)
19	संघटित अस्पष्ट एक विधि भारतीय विवेक	(83-84)
20	राष्ट्रीय शिक्षा नीति : एक विश्लेषण	(85-86)
21	आधुनिक भारत में अस्पष्ट प्रतिस्पर्धी से संघटित राष्ट्रीय विवेक: एक विधिक विश्लेषण	(87-88)
22	भारतीय संविधान द्वारा प्रत्याभूत धार्मिक स्वतंत्रता का अधिकार	(89-90)
23	स्वतंत्रता और धार्मिक स्वतंत्रता का विवेकानात्मक अध्ययन	(91-92)
24	कठोर धार्मिक से आधुनिक रूप का राष्ट्रीयता का अध्ययन-	(93-94)



Afterwards, particularly, after the establishment of legal system across globe and progression in medical science, transplantation movement extended rapidly. Continued growth in organ transplantation led to the numerous ethical and legal issues. Human Body was considered as property. The assumption that there was 'no property in a dead body' was merely 'a gift of flesh for the worms', dated back to the 17th century. This view was upheld in *Willow v Willow* in which it was held that, as there is no property in a dead body, any direction made by the deceased during his lifetime is binding upon his executors. Consent to autopsy was regarded as a professional courtesy, not a necessity. This interpretation had been reinforced in the 20th century by the decision in *Doodeward v Spence* (1908). Because the body was of itself worthless, the court held that any human material became the property of the person who gave it added value by preserving it.<sup>9</sup> After the recognition, several scandals appeared on record such as Alder Hey Children's Hospital in Liverpool and at Bristol Royal Infirmary<sup>10</sup> which ultimately forced law makers to address these issues and laid down the legal procedure for it. Accordingly, in India, The Transplantation of Human Organs and Tissues Act, 1994 was passed by Parliament of India. The legal procedure is based on the two fundamental concepts 'Authority and Consent'. This paper intends to study the application of the concept of 'authority and consent' in the legal procedure mentioned under Act, lacunas exists in the Act and the concrete solution to redress the identified issues.

### III. Need of Transplant Donation:

There is a relentlessly increasing need for organs for patients with life threatening organ failures that requires the removal of donors and timely intervention to obtain the donated organs in the best possible transplantable condition.<sup>11</sup> People need transplants because an organ that they need to continue living is failing to function. Many diseases and conditions can lead to end-stage organ failure.<sup>12</sup> Right to life is at stake due to the failure of an organ which can be easily transplanted. It is estimated around 1.8 lakh persons suffer from renal failure every year, however the number of renal transplants done annually in India is around 6000 only. An estimated 2 lac patients die of liver failure or liver cancer annually in India, about 10-15% of them can be saved with a timely liver transplant. Hence about 25-30 thousand liver transplants are needed annually in India, only about one thousand five hundred are being performed. Similarly, about 50000 persons suffer from Heart failure annually but only about 10 to 15 heart transplants are performed every year in India. In case of Cornea, about 25 thousand transplants are done every year against a requirement of 1 lakh.<sup>13</sup> Shortage of Organs, critical and compromised procedure, awareness among the people, religious misunderstanding etc. are the foremost reasons for this issue.

IV. **Concept of Organ Transplantation:** Organ Donation is the process of retrieving or procuring an organ from a deceased person and transplanted into the recipient who requires that organ.<sup>14</sup> It becomes necessary due to the failure of the functioning of such organs to live life healthy.

V. **Kinds of Human Organ Transplantation:** Human Organ Transplantation are classified into the following ways:

- Living Donor Organ Donation:** "Living organ donors" are the persons who can donate certain organs while they are still living.<sup>15</sup> An organ is taken from a live person and given to another. A popular example is kidney.<sup>16</sup> Living Organ Donation Means a person during his life can donate one kidney (one kidney is capable for maintaining body functions), a portion of pancreas (half of the pancreas is adequate for sustaining pancreatic functions) or part of the liver (the segments of liver will regenerate after a period of time).<sup>17</sup>
- Cadaver Organ Donation:** Cadaver Organs are the organs which are retrieved from brain dead declared deceased individual and transplanted into the body of a living recipient who requires it.<sup>18</sup>
- Xeno Transplantation:** An organ is taken from another animal and used as a human.<sup>19</sup>
- Genetically Created Organ:** Scientists are presently working on this technology. The hope is that at some point in time an organ can be created in a laboratory, from a person's own genetic material, that can be used to be put into a person.

9 Dealing with Death: a handbook of practices, procedures and law, Jennifer Green and Michael Green, Jessica Kingsley Publishers, London, First Publication, 2006. ISBN: 10-1-84110-381-8P 122

10 Alder Hey Children's Hospital in Liverpool and at Bristol came into limelight after the allegations made for the preserving of children's body parts in the hospital. After inquires it was found that thousands of human body parts and samples of tissues were preserved in the hospital without the parents or relatives consent. And this was continuously operated against the name of research by the college administration.

11 Institute, of Medicine, et al. Non-Donor-Bearing Organ Transplantation: Medical and Ethical Issues in Procurement, National Academic Press, 1998. ProQuest Ebook Central, <http://ebookcentral.proquest.com/lib/india-hoet-ebooks/detail.action?docID=3376365>. Created from infotrac-ebooks on 2021-08-31 09:14:14. Pg. 8

12 Understanding Organ Donation Applied Behavioral Science Perspectives, Edited by Jason T. Siegel and Eusebio M. Alvarez. Wiley Blackwell Publishing Ltd., Chichester, UK, 2010, First Publication, Pg. No 14.

13 [https://dghs.gov.in/cornea/1333\\_3\\_NationalOrganTransplantProgramme.aspx](https://dghs.gov.in/cornea/1333_3_NationalOrganTransplantProgramme.aspx) (Last accessed on 09th May, 2022 at 10:15am)

14 Srivastava A. Mani. A Deceased organ transplantation in India: Promises and Challenges, Neural India.

15 Organ donation in India and Nurses as a change to lead in organ donation: scoping review of organ donation, Maheshwari, Kamalini et al., Asian J. Nursing Education and Research 2021;11(3): 321-325. 2021 Pg. 322

16 Medical Law and Ethics, Jonathan Herring, Oxford University Press, 2012, Fourth Edition ISBN 978-0-19-966640-1. Pg. 431

17 <https://netto.gov.in/faqe.htm>

18 Srivastava A. Mani A. Deceased organ donation and transplantation in India: Promises and challenges. Neural India [serial online] 2020 [cited 2020 Aug 25]; 46: 316-22. Available from: <https://www.neurologyindia.com/text.asp?2018/66/2/316/227259>

19 Medical Law and Ethics, Jonathan Herring, Oxford University Press, 2012, Fourth Edition ISBN 978-0-19-966640-1. Pg. 432

e) Artificial Organs: Some work is being done to create robotic/mechanical organs for transplant, with some success.<sup>20</sup>

### Legal Framework for the Organ Transplantation:

In India, The Transplantation of Human Organs and Tissues Act, 1994 (herein after Act) is enacted with an object to regulate the removal, storage and transplantation of human organs and tissues for therapeutic purposes and for the prevention of commercial dealing in human organs and tissues.<sup>21</sup> The object of the Act is to regulate removal and transplantation of human organs with a view to prohibit commercial dealings in such transactions. A legislation of this nature was necessitated on account of the exploitation of humans for financial benefits in the dealings of organs.<sup>22</sup> Selling and purchasing of human organ is absolutely prohibited and only method adopted for human organ transplantation is donation. To achieve this objective, the Act constituted several authorities for the regulation of the organ transplantation in India. India is the second largest transplanting country in the world.<sup>23</sup> Several attempts have been made by the Government, NGO's to promote people to donate their organs still demand and supply ratio could not be achieved after the enforcement of the legislation. 'Authorization and consent' are essential factors for living organ donation as well as the deceased organ donation.

The central idea behind the regulation of the human organ is authority or transfer of power from the donor. Authority is the key concept applied in The Transplantation of Organs and Tissues Act, 1994. The bedrock of the Act is the 'Authority and Consent'. Authority means the moral or legal right or ability to control.<sup>24</sup> Authority is a specific justification for accepting a prescription precisely when the prescription does not follow with inferential clarity from other prescriptions we already accept.<sup>25</sup> Subsumptive, Institutional Authority and Personal Authority are the well-known categories of authority.<sup>26</sup> Personal authority means individual transferred power upon the others. In simple words, authority means to confer power. Under this Act, donor is vested a power and right to donate human organ or tissues to the recipient. The current legal procedure involves several fundamental issues which are discussed below:

#### 1. Authority for removal of human organs or tissues:

##### • Living Organ Donation:

Sec. 3 of the Act, legalizes the living organ donation and provides procedure for the removal before his death of any human organ or tissue or both of his body for therapeutic purpose.<sup>27</sup> The donor and recipient shall make jointly an application to grant approval for removal and transplantation of a human organ to the competent authority if authorization committee as specified in Form No. 11 with requisites documents in case of 'near relatives donation'.

##### • Deceased Organ Donation:

In the absence of such authority granted by the donor, the person lawfully having possession of the dead body, may authorize for the human organs, tissues or both donation for therapeutic purposes.<sup>28</sup> Sub-section (4) of section 3 states that the authority given under sub-section (1) or sub-section (2) would be sufficient warrant for the removal of any human organ or tissues for therapeutic purposes. The detailed procedure is laid down under Rule 3 of the Transplantation of Human Organs and Tissues Rules, 2014 and Form No. 1, 2 and 3. Form No. 1 contains the authority and consent for donation of organ or tissue to near relatives and added further declaration that the living donor is understood about the nature of criminal offences, non-transaction of payment, free will for removal of donor, explanation of medical procedure and risks involved etc. It is also mentioned that Form No. 1, should be notarized. Registered Medical Practitioner is duty bound merely to verify the unequivocal and unrevoked authorization by the donor.<sup>29</sup> Further, Rule 7 deals with the powers and functions of authorization committee. Express obligation is imposed upon the Authorization Committee to evaluate and verify that any commercial transaction or transfer of payment made between the donor and recipient also to examine the reasons why the donor wishes to donate the organs or tissues.<sup>30</sup> But, there is no mention about the duty to verify the validity of authority given by the donor which is rather very crucial unaddressed issue.

#### 2. Non-application of the Core concept of Consent in the procedure and conditions laid down in the Form No. 1, 2 and 3:

Consent is an essential element in the entire procedure of human organ donation. Donor authorizes with his/her consent for organ donation for therapeutic purposes. Section 2, 9 and 19 of the Act as well as Form No. 1, 2 and 3 of the Transplantation of Human Organs and Tissues Rules, 2014 provides legal procedure to delegate the powers from donor to recipient.

20 Medical Law and Ethics, Jonathan Herring, Oxford University Press, 2012, Fourth Edition ISBN 978-0-19-963603-1, Pg. 432

21 The Transplantation of Human Organs and Tissues Act, 1994-Object of the Act

22 Shafiq K. M. v. State of Kerala, 2018 AIR CC 1916 (KER) : (2017) 3 Ker LJ 876

23 <http://www.transplant-observatory.org> , OODT

24 <https://dictionary.cambridge.org/dictionary/english/authority>

25 Harris, J. W. "Kelsen's Concept of Authority." The Cambridge Law Journal, vol. 36, no. 2, 1977, pp. 353-63, Pg. 358

26 <http://www.jstor.org/stable/4506020>. Accessed 16 May 2022.

27 Harris, J. W. "Kelsen's Concept of Authority." The Cambridge Law Journal, vol. 36, no. 2, 1977, pp. 353-63, Pg. 360

28 <http://www.jstor.org/stable/4506020>. Accessed 16 May 2022.

29 Sec. 3 of the Act.

30 Sec. 3(3) of the Act

31 The Transplantation of Human Organs and Tissues Rules, 2014 Rule 5

32 The Transplantation of Human Organs and Tissues Rules, 2014 Rule 7(3)

'Authority and consent' are the essence of the whole legal procedure. The legal procedure laid down under Transplantation of Human Organs and Tissues Act, 1994 emphasizes on written form of authority. Surprisingly, especially in case of 'near relatives' it is presumed that 'written authority on paper' would be sufficient evidence for the transplantation of human organ.

The major concern for the consideration is the validity of the authority and consent which is the most crucial and categorically ignored aspect in the Act. Form No. 1, 2 and 3 states the delegation of written authority from the donor to recipient and medical practitioner.

Unfortunately, careful study of the Transplantation of Human Organs and Tissues Act, 1994 and 2014 Rules thereunder, indicates the inappropriate attention is accorded towards this issue. Hence, whole of the process of granting authority by donor is in question and major loophole is still exists.

The essentials of consent are understanding of the subject matter, adequate information to be provided to the donor, voluntariness and competency of the donor. The phrase consent is used especially in the Form No. 1, 2 and 3. In order to understand the application of concept of consent, major alarming question remain unanswered is the verification and validity of the consent. In order to accord consent, Form No. 1 is to be attested by Notary Public.<sup>31</sup> Form No. 1 contains affirmation and declaration to be given by the prospective donor in respect of non-receipt of payment, giving consent to authority for the removal of human organ, understanding the nature of medical procedure and risks and consent etc.<sup>32</sup> Form No. 2 and Form No. 3 covers the authority and consent given by the prospective donor with address proof.

The Act has laid down a procedure for the validity of authority and consent. A Notary is obligatory to verify and authenticate the authority and consent given by the prospective donor at his office. Unfortunately, adequate procedure is not laid down regarding how the verification of authority and consent to be done. Merely signature of the prospective donor on the forms is sufficient to indicate that the prospective donor has given an authority and consent for the removal of human organ. In case of *Kuranjit Kaur v. State of Punjab*<sup>33</sup> Punjab and Haryana High Court has raised a doubt about the validity of authority and consent in case of 'near relatives' procedure for organ transplantation and passed direction to validate the authority of wife.

Further, notary is not a god who has a detailed knowledge about all illness as well as pros and cons of organ donation. In such situation, if medical practitioner has given wrong or inadequate information to the donor about the risk or loss involved in the donation and eventually, based on the information provided by the medical practitioner, if donor has given an authority and consent for the donation. Still, is it a valid authority or consent or just a legal formality?

Application of essentials of the concept of consent provides additional effective support to the above discussed issue. Surprisingly, definition of consent is not laid down under the Act. The roots of the consent are found in the right of individual autonomy.<sup>34</sup> For the valid consent, adequate information regarding the medical risk involved in the procedure, probable impact upon the health and demerits of the removal organs etc must be provided by the competent medical practitioner to the prospective donor.

Also, understanding of the information, voluntariness as well as competency of the prospective donor are the most prominent aspects of consent. The Act has not defined the procedure to get the consent after the observation of the core conceptual aspects of consent in the entire procedure. Signature on the Forms is just a formality and evidence for the authority and consent. However, Notary is bound to take signature on the Forms and entry into the register. Though express duty is imposed on the Notaries Act, 1952 but unanswered questions appears in the mind such as how notary verifies the consent when his duty exists only to take signature and make entry in the register. It seems most inappropriate and irrational when notary is supposed to verify the competency of the prospective donor at the time of taking signature on Forms. Regarding voluntariness of the consent, how notary would verify and ascertain that the prospective donor is well informed about the probable consequences of the human organ donation and how such person with free consent is ready to accord consent.

Additionally, majority of the Indian societal members are not fully literate to understand the meaning of the word 'authority' used in the Act. Moreover, the practice usually observed in the real life is just to put the signature on the forms without reading the terms and conditions or contents of the form. Several instances happened in the medical history which prove this fact as well. Giving an authority to transfer living organ or deceased organ to another is very crucial and emotional issue.

31 Sec. 8 deals with the Functions of the Notaries. Sec. (1)(k) provides that a notary may verify, authenticate, certify or at least the execution of any instrument.

32 Sec. 8 deals with the Functions of the Notaries. Sec. (1)(k) provides that a notary may verify, authenticate, certify or at least the execution of any instrument.

33 2010 (4) RCR (Civil) 760. Punjab and Haryana High Court directed that Where the proposed transplant is between a married couple in marriage and ensure that documents such as marriage certificate, marriage photograph etc. are kept for records along with the information on the number and age of children and a family photograph depicting the entire family, birth certificate of children containing the particulars of parents and issue a certificate in Form 4 (for spouse donor).

34 Autonomy is the concept understood in the reference with 'to think, decide and act'. It means individual persons particular kind of decision or action based on rationality.

which is related with the donors' right to health.<sup>35</sup> Hence, considering this issue, there could be several possibilities where donors' authority or consent could be affected due to the presence of coercion, undue influence, misrepresentation etc. Common person or uneducated person could be trapped easily in this phenomenon.

Even, the most structured and determined process to get the authority for organ donation could be based on wrong or misleading information. Donor may be convinced or authority could be based on wrong information provided by the recipient or medical practitioners. In these cases, whether it is legally appropriate to say that the authority was legal or consent given is legally valid? Without any express power granted under the Act, who is validating the authority? Without validating it, any authority granted is it legally correct and valid.

Hence, taking into consideration the practical aspects of the societal structure, behavioral pattern and common understanding of the layman, it is always indispensable and advantageous to protect the interest of the common people by the law. Therefore, wise expectation from the legislature is to respect the prospective donor's right to take autonomous decision to donate organs and it is the legitimate sphere of decision making process of the donor.

Therefore, the entire procedure laid down under the Act of giving authority and consent is vague and the purpose of transferring an authority and consent is frustrated.

The defined procedure is just a legal formality and documentary evidence creation to comply the conditions laid down under the Transplantation of Human Organs and Tissues Act, 1994. Authority and Consent which are the essence of the entire legal procedure is in a big question.

## VII. Conclusion:

To conclude the discussion, the Act has laid down the detailed procedure for human organ donation in living and cadaver form. The object of the Act is to regulate, storage and transplantation of human organs and tissues for therapeutic purposes. To achieve this objectives and prevent commercial transactions, human donation is the only route adopted by the Parliament. The Act has considered 'authority and consent' as a foundation of the entire legal procedure for human organ donation. The individual autonomy is to take appropriate decision for human organ donation which is used as manner totally.

For the purpose of legally valid and binding 'authority and consent' under the Act, following suggestions would be appropriate to resolve ambiguities and the real object of the Act could be achieved.

**Duty upon Authorization Committee:** Researcher suggests that express duty must be imposed upon the Authorization Committee to verify the validity of authority and consent as well. Such committee should ensure that prospective donor is well informed about his authority to donate human organ. During the entire procedure, focus should be on understanding of the entire medical procedure to be used for organ transplantation, validating the competency of the donor, detailed and adequate procedure to be observed in the organ donation, without any undue influences or any coercion free and voluntary consent as well as pros and cons of the granting authority upon the donor's interest etc. Such committee is responsible to record the entire granting of authority in audio and video system.

**Duty upon the Medical Practitioner:** To establish the legally valid system in the organ donation under the Act, it is further suggested that the medical practitioner under whose supervision and control or authority, human organ donation will take place should be duty bound to inform the prospective donor about the detailed medical procedure to remove the human organ from his body as well as after the removal what will be the impact upon his body in the future as well. This entire procedure should be happened before the authorization committee. After the intimation of detailed information, sufficient time should be given to the prospective donor to take appropriate decision regarding human organ donation. Further, the entire procedure should be recorded in audio-video format. Afterwards, authorization committee will verify the authority and consent.

In any case, if it is found that, authorization committee or medical practitioner fail to perform their duties, stringent penal action should be initiated against them and Act should prescribe imprisonment upto seven years in such cases.

In nutshell, merely prescribing granting of authority and consent is not sufficient also to avoid the issues discussed above it is essential to fix the responsibility upon the medical practitioner as well as authorization committee to accord the real legal meaning to the concept of authority and consent in human organ donation.

<sup>35</sup> As per WHO Constitution (1946) health means 'the enjoyment of the highest attainable standard of health is one of the fundamental rights of every human being. . . Also the preamble of the Constitution defines health as "a state of complete physical, mental and social well-being and not merely the absence of disease or infirmity"



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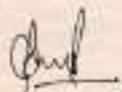
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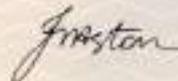
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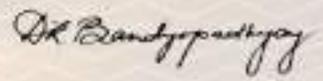
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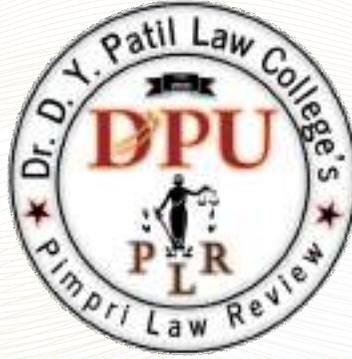
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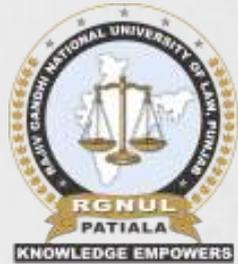


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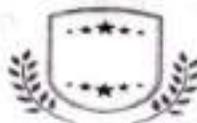
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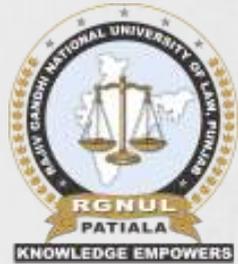
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