The Student

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Contents

Magazine Committee

Students Achievements and Participations

Ms. Roshini Peeti of II Semester and Ms. Sahojit Dutta of VI Semester have participated and secured Runner up position in the Judgment Deliberation Competition at 6th Government Law College International Law Summit, Jan 30th-1 February, 2015.

Mr. Shourya Banerjee of VIII Semester has participated as Adjudicator in the Third Justice V.M Tarkunde National Parliamentary National Debate competition held at ILS Law College, Pune during 17th-19th January, 2015.

Faculty Achievements and Participations

Mrs. Annapurna Devi Munaganti, Faculty Associate, has participated in "World Congress on International Law: Contemporary Issues" held at Vigyan Bhavan and Indian Habitat Centre in New Delhi from 9th to 11th January, 2015 organised by Indian Society for International Law (ISIL) and Ministry of External Affairs, and got a chance to interact with President of ICJ Justice Peter Tomka.

Mrs. Annapurna Devi Munaganti, Faculty Associate, went as a Resource Person and held Session II on topic" Sexual Harassment of Women at Workplace Act 2013" at the Workshop Programme on Sexual Harassment of Women at Workplace, organized by Employee State Insurance Corporation of India on 20th January 2015, at RO Auditorium, ESCI, Hyderabad.

Examinations

End-Term Examinations for Semester I, III, V, VII, IX held from 2nd December 2014 to 8th December 2014.

SIP

Summer Internship Program commenced from 14th December 2014 to 14th January 2015 for Semester X.

Insurance

Written By

Mr. Abhishek Gupta
Semester VIII, BBA.LLB.(Hons.)

Introduction

Insurance contracts are the special class of contracts which are guided by certain basic principles like utmost good faith, proximate cause, insurable interest, indemnity, subrogation and contribution. As such, a contract of insurance is generally a combination of more than one of these principles and no single principle can be used at one point of time. The rest is dependent upon the parties to the contract. These principles are mostly guided by common law principle from which they are developed. They have also been modified by principles of contract and by statutes as in the case of the Marine Insurance Act, 1963 which has to a certain extent relaxed the basic principles of insurance law. Utmost good faith is a common law principle (also called as *Uberrimae Fidei).* The principle means that every person entering into contract of insurance has a legal obligation and duty to act with utmost good faith towards the company offering insurance. A person must, therefore, always be honest and accurate in the information they give to the insurance company. The insurance company must act with good faith in dealing with the insured.

General principle of Utmost Good Faith

Out of all the above mentioned principle, the principle of utmost of good faith stands as one of the most important doctrines underlying the law of insurance. In the case, Banque Finaciere de la Cite v. Westgate Insurance[1] Co. Ltd., it was held that " the duty of disclosure is neither contractual nor tortuous, fiduciary or statutory in character but it is found on the jurisdiction originally excercised by the courts of equity to prevent impositions.

The term "good faith" has been mentioned in the Indian Penal Code and it signifies good intention and due care and caution. Whatsoever, this doctrine has to be examined in the contractual context. In every contract, generally, both parties owe no positive duty toward each other beyond showing ordinary good faith. This emanates from the right of every person

[1] (1989) 2 All ER 982

to know about every material fact associated with the subject of the contract and there is no scope of escape to this. This follows the maxim "Caveat Emptor or buyer beware as under the Sale of Goods Act." It means that each party should be given a reasonable opportunity to make every possible enquiries about any subject matter in question or are interested so that they can make independent decision on their own. Thus all the information must be disclosed to the customers so that they get the opportunity to enquire about it properly about thee same. This again puts on a duty on the party making the subject matter accessible to the person enquiring, not to play any fraud or misrepresent the same else the direct conclusion of such act would lead to section 19 of Indian Contract Act making the particular contract voidable at the option of the innocent aggrieved party, however the same section clarifies that misrepresentations or even silence amounting fraud will not entitle a party to avoid the contract if he had the means to discover the truth with ordinary diligence and did not do so. Thus, there must be free consent and consensus ad idem that is matching of mind, which means both the parties must understand the same thing at same sense.

A breach of duty of good faith in relation to lodging a claim can arise in the following manner:

- When a claim is lodged when an item has not been lost or damaged or an event has not occurred.
- When a false statement is made relating to situations leading to loss itself, or relating to events occurred after loss.

However, the values of the items claimed falsely related to the whole claim obviously cannot save the insured who acts with the intention to defraud, where a "false statement" is one made with the knowledge that the particular statement is untrue, or it is made recklessly without any due care, without even concerning it is true or not. If such false statement is made by the insured, it entitles the insurer to decline the claim. It hardly matters if the insurer finds the truth subsequently either by its own investigation or by admission of the insured at later stage. Making any kind of untruthful statement is a situation which in any case excludes the liability under the insurance policy. However, the burden of proof to show any kind of misrepresentation or fraud or non-disclosure is on the insurer, i.e., insurance company and the onus is a heavy one. The duty of utmost good faith is of a continuing nature, which means no alteration can be made to the terms of contract without mutual consent.

In the case, Brownlie vs. Campbell[2] the court held, "if any party or individual knows any kind of situation at all which may influence the underwriters' opinion as to the risk he is incurring, there is a legal obligation to disclose any concealment of any material situation."

In the case, Rozanes vs. Bowen[3], the principle of "utmost good faith" was laid down. It was said that since it has to be presumed that the underwriter knows nothing and the assured knows all, the assured (insured) must disclose the same of all what he has knowledge of about the material fact of the subject matter. Thus, an insurance contract is said to be the contract of *uberrima fides*.

Now, the question is how utmost good faith is applied in practice. In practice, the facts that need not to be disclosed by the insured or insurer are like:

- Facts of law
- Facts that the insurer by common means should know, like common knowledge, current affairs
- Any facts that lessens the risk like security fittings, sprinklers, alarms
- Facts related to insurer's survey
- Facts that the insurer should have noticed from the other information given by the insured like if the proposer has referred to other records.
- Facts relating to policy conditions.
- Any convictions which has been covered or spent under the "rehabilitation of offender's act 1974".

However, there are facts which has to be disclosed like:

- The facts which increases the risk level than usual
- Any facts that increases the probability of loss
- Any kind of previous claims or loss
- Any facts that reduce the subrogation rights of the insurer
- Facts of any existence of other policies

[2] (1880), 5 App Cas 925
[3] (1928) 32 L.I.L.R 98

- Any facts relating to description of the subject matter of the insurance.

Moreover good faith is expected from both the parties. Good faith is, however, expected from both insurer or insured. It is basically the buyers' duty to disclose all the facts related to the risk that has to be covered. On the other hand, it becomes the obligation on the insurer's part to inform the insured about all the terms and conditions of the contract. But the insured has more responsibility to disclose all the material facts as often the insurer has to dependent on the information and details the insured has provided them with in the form. If the insured has given any wrong information or details or the details of the goods which are actually non-existent, the insurer may end up paying the false claims in future. Mr. Milind Chalisgaonkar, CEO of Bharati AXA Insurance Company said that the insurer has to face a lot of problems trying to verify all the details even though the rising technology has made the task of verification comparatively easy. Giving any kind of wrong information not only adversely effects the insurer but also all other people involved in the pool of insurance whose premiums may be wrongly utilized to satisfy a false claim. Therefore, it is implied for the assured or insurer to give all material facts to the insurer about any risks he has the knowledge about. Moreover, considering about the increase in new business in which insurance has been taken, it becomes compulsory for the insured to inform the insurer if there are any alterations or any kind of changes to the business that increases the risk during the validity of the policy and if no such disclosure is made then the insurer has every right to ignore the contract.

The basis of this rule can be found in the case Carter vs. Bohem[4], where L. Masnfeild stated that the insurance is a contract of speculation. The facts upon which the contingent chance is to be computed lie most commonly in the knowledge of the insured only. The special facts upon which the contingent chance is to be computed lie most commonly in the knowledge of the assured only; the representation and proceeds are trusted by the underwriter upon the confidence that he does not keep any situation which is within his knowledge concealed in order to mislead the underwriter into a belief that the situation does not exist. The concealment of any such situation is fraud, and thus therefore the policy is or becomes void. Although the suppression should happen by mistake, without any intention to defraud, yet still the underwriter is deceived and the policy becomes void; because the agreement run is really different from the agreement understood, hence no "consensus ad idem" and intended to be run at the time of agreement. The policy would be equally void against the underwriter if he

[4] (1766) 3 Burr 1905

concealed. The doctrine of Good faith forbids and prevents either of the party, by concealing or suppressing what ever information privately he knows about the subject matter and draw the other party into a bargain from his ignorance of the fact, and his believe on the contrary. Thus, L. Mansfield in this case clearly said about the legal obligation of the insured towards the insurer at the time of making or rather entering into the contract. This statement however fails to cover such disclosure as are ought to be made by the insured after the completion of the particular contract and or during the validity of the particular policy. The facts of this case were that a policy was made against the loss of Fort Marlborough on its being captured by a foreign enemy. The policy was for the benefit of George Carter, the Governor of the Fort. It was alleged by the insurer that weaknesses in the fort and possibility of attack by the French must have been disclosed. The jury decided in favour of the plaintiff and held that as it may be presumed that the underwriter knows nothing about the subject matter in question, it is the duty of the insured to disclose all material circumstances which may greater the risk involved.

In the case, United India Insurance Co. Ltd. vs. MKJ Corpn.[5], the Court said that just as the insured has the duty to disclose, it is also the duty of the insurers and its agents to disclose all the material facts within their knowledge as the duty of good faith applies to both the parties.

In the case, Banque Finaciere da le Cite vs. Westgate Insurance Co. Ltd.[6] Where the plaintiff bank had agreed to lend some 30 million pounds securities in the form of some gemstone and credit the insurance policy. The gemstones when valued did not prove to be worth much. So, the bank sought to rely on the insurance policies. The policies had been brokered by a major firm of brokers who resorted to a series of false covers due to inability to obtain full cover. On making claims under the policies, the bank discovered severe shortage in cover. It was held that the insurers were under an obligation to disclose the same. It was also held that the only remedy available to the insured is to rescind the policy and claim the premium. No other damages may be awarded.

As discussed till now that all the material facts have to be disclosed. Now the question lies, what are material facts because every person is different from one another, thus the definition of material fact also may be different for different person. So, what is material for me may not

[5] (1998) 92 Comp Cases 331 (333)
[6] (1989) 2 All ER 982

be material fact for you and vice-versa. But generally speaking a material fact is one which effects the capacity of being judgmental od a particular person.

In different cases different theories have been evolved by the judges. For example, in the case Marine Life Insurance Co. vs. Ontario Metal Products[7] the court said that the test of materiality is the judgment of the prudent insurer and it is not what is material in the opinion of reasonable assured.[8]

In the case, Reynolds vs. Phonenix Assurance Co.[9], the court held that the test is whether the situation in question would influence the prudent insurer and not weather it might influence him.

In the case, St. Paul Fire and Marine Insurance Co. (UK) Ltd. v. Mc Connell Dowell Constructors Ltd[10], two major issues were decided in this case. The first test was the test of materiality basing upon which the fact in question must have been of the interest to a prudent insurer. And Secondly, as regard to the presumption of inducement, it was held the particular test would be satisfied if the insurer could show that he was basically influenced partially or wholly by the insured's misleading presentation of the risk.[11] Another important issue which arose was duty of utmost good faith continue even after the contract is made? Here, the landmark case of Black King Shipping Corp. v. Massie (The "*Litsion Pride*") was reffered. In this particular case, the insured ship owners failed to disclose to the underwriters that the vessel was about to enter a dangerous part of gulf of Persia in order to avoid paying higher premium. The ship or vessel was struck my missile of Iraq and then the owners or rather insured presented a fraudulent claim to the insurer about the ship's position at the time of the attack and casualty. The court held that the insurer had the right and was entitled either to avoid the policy or deny the particular claim.

In Manifest Shipping Co. Ltd. v. UniPolaris Insurance Co. Ltd. (The "Star Sea"), ten Greek ship owners sued the insurers under a marine policy following the constructive total loss of their ships as a result of fire. The insurers raised two defends. First, they relied on Section 39(5) of the Marine Insurance Act, which provides a defence to liability where, "with the privity of the assured, the ship is sent to sea in an leaky or rather unseaworthy state, that is the ship was exposed to leakages." The insurers or rather underwriters challenged stating that the

[7] 94 LJPC 60
[8] Handbook on Opening of Insurance Sector - Policy, Regulations, Guidelines and List of Foreign Companies, by Centre of Publications
[99] (1978) 2 Lloyds Rep 440
[10] 45 Con LR 89
[11] Insurance - Law and Practice, by C.L.Tyagi & Madhu Tyagi

owners that is the insured had "blind-eye knowledge" of the leaky condition of the ship namely, defective funnel dampers which meant that the engine room could not be sealed, and the fact that the fire extinguishing system had been poorly maintained and was not properly working. Second, they relied on section 17 of the same act, alleging that the owners were in breach of the duty of utmost good faith by failing to disclose the facts relating to an earlier fire incident occurred in another vessel Kastora at the time when the insurer's solicitors were investigating about the Star Sea claim. It was held that utmost good faith is a principle of fair dealing which does not come to an end when the contract has been made. Also, it is the duty of the insured to keep the insurer informed about such history and duty to take relevant and reasonable protective measures. Lord Hobhouse made a move and proceeded to differentiate among a the legal duty imposed by section 17 to the parties and the contractual legal obligation of good faith and legal duty of disclosure in the performance of contract, where the primary remedy for the breach of such duty was damages. According to him, as he said that the right to avoid the policy under section 17 operates retrospectively and allows a party to cancel contract *ab initio.* Thus, where a fully enforceable contract has been entered into insuring the insured, but later, towards the end of the period of the contract the insured somehow fails fully in some respect to discharge his legal obligation and duty of complete good faith, the insurer is not only to treat himself as discharged from further liability but can also undo all that has perfectly gone before. Thus, there is a duty to disclose on the insured even after the contract is completed.

The law relating to utmost good faith stands as follows now-

1. The common law imposes a reciprocal duty of good faith on the parties to insurance and reinsurance contracts (i) at the time the contract is made (pre-contractual duty) and (ii) following the making the contract (post-contractual duty). The nature and extent of the pre-contractual duty and the post-contractual duties are, however different.

2. At the pre-contractual stage, there is a positive obligation on the parties" to disclose all facts material to the risk and to refrain from material misrepresentation. The only remedy the common law allows for breach of the duty of good faith is avoidance of the contract of insurance or reinsurance. Damages for breach of the duty of good faith are not available.

3. There does not appear to be a general duty that the parties perform the contract of insurance or reinsurance in good faith. Thus there is no basis under English law for awarding damages against an insurer or a reinsurer for "bad faith" in relation to the handling of claims.

4. However, there does appear to be a continuing duty on the parties not to be materially fraudulent in relation to the performance of the contract. After the contract has been made, the duty of good faith includes but is not confined to (i) cases analogous to the pre-contractual context, such as variation of the risk, and (ii) a requirement that the assured refrain from making fraudulent claims.

5. In a post-contractual case, the underwriter is entitled only to avoid the contract with retrospective effect if he can show (i) that the fraudulent conduct of the assured was relevant to the underwriter's ultimate liability under the contract and (ii) was such that it would entitle him to terminate the contract for breach.

6. When a claim is made, the assured is, as a matter of principle, under an obligation to disclose all material facts to the underwriter's agents investigating the claim. However the failure to make full disclosure, unless it was materially fraudulent, does not entitle the underwriter to deny an otherwise valid claim. Once a writ is issued, the obligation of disclosure is governed by the relevant procedural rules and the consequences of a failure to disclose relevant documents are also determined by reference to those rules.

Never the less, S.20(1) of Marine Insurance Act,1963 says that the duty to disclose continues till the time the contract is concluded.

The Marine Insurance Act, 1963 is somewhat relaxed in application when it comes to the principle of utmost good faith. This is mainly because of the problems of access to the vessel, cargo, etc. as well as the jurisdictional problems associated with international waters. If at any point of time, the vessel or cargo is destroyed on high seas, the time when the same came to the knowledge of the parties needs to be considered rather than the general principles of insurance contract. Ss. 19-23 of the act talk about the principle of utmost good faith by using the terms disclosure and representation. S.19 lays down the general principle and says that in absence of utmost good faith, the contract may be avoided by the parties. S.20(1) says that the assured must disclose every material circumstance he knows. Thus, the knowledge of the insured is more important than the actual happening of the event. S.22(1) says that the representation made by the insured must be true, which is again dependent on the capacity of the insured to know the truth and is hence subjective. Finally, S.22 also says that whether the assured failed to disclose intentionally or innocently or inadvertently is immaterial.

Thus, this principle forms an integral part of insurance law. It gives a fair chance of risk assessment to the insurer and also ensures that the assured fully understands all the terms and conditions of the contract. But, this principle is more favourable to the insurer as it is the assured who has to generally make all the disclosures. This is primarily because when this doctrine was evolved in the 18th century, the insurance market was in its infancy and thus required protection. However, the enactment of the English Unfair Contract Terms Act, 1977 has considerably alleviated the position of the assured who is now protected against unfair contractual terms. Further, the Insurance Act lays down that an insurance policy cannot be called in question two years after it has been in force. This was done to obviate the hardships of the insured when the insurance company tried to avoid a policy, which has been in force for a long time, on the ground of misrepresentation. However, this provision is not applicable when the statement was made fraudulently. Never the less, technological advancements have further made it possible for both parties to see to it that their interest is taken care of. But, there are several other grey areas to this doctrine as well. There is still no clear cut distinction between as to what is material or immaterial and the same is largely dependent on the whims of the insurers and the terms of the contract. It is still very easy for an insurer to repudiate the contract on the slightest point of non-disclosure by treating them as warranties, thereby putting the assured in an even more difficult position. Another problem is with regards to as to what duration does the disclosure(s) need to be made. Common law cases may somewhat seem to have settled this point but the Indian Marine Insurance Act still shows a confusion regards the same as it says that duty of disclosure shall end with the conclusion of the contract. Thus, all these problems need to be taken care of and an effective solution must be provided considering the principle of utmost good faith is one of the most fundamental principles associated with insurance law.

Economical Analysis in Child Labour in World Economy

Written By

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Semester IV, BBA.LLB.(Hons.)

The term child labour is often used as a synonym for 'employed child or 'working child Although a precise definition of child labour is very difficult. It may be defined as that segment of the child population which participates in work, either paid or unpaid, working with the parents either inside family occupation or outside. Any work done by children that interferes with their full physical development, the opportunities for a desirable level of education and needed recreation are called child labour. On the basis of this definition we can say that two types of child labour are prevalent.

1. Those children who assist their parents and family members in their work

And

2. Thosewho work outside their family for recursion either in real terms or in real cash, which help them to level up or supplement their family income.

On the supply side, child labour is often viewed as being driven by the needs of basic survival in developing nations, where children need to work to sustain themselves or their families,

Even though adults dislike child labour, they may endure it for survival.

On the other hand, if the endownment/income level of family is much high, then these same households will not supply child labour.

In other words there are at least two reasonable condconditions of equilibrium , one where children work and the other they do not.Therefore children working in developing nations not because of a lack of potential conconsciences but rather because sheer economic necessity.

Parents enduring child labour because of poverty or imperfect capital markets.Higher family incomes , improved educational opportunities and a general increase in the liliving standards of poor through liberalized trade and improved access to world are expected to reduce child labour.

The theory of child labour supply explains that the household or family supplies child labour, for jobs in order to maximize their employment in future after the schooling of its children.ln fact many of the developing country decide to maximize their current income rather than future one.

The economy is divided into rural and urban subsectors.The adult worker.not only supplies his own labour , but also sends his children out to work.The effect of imposition of trade restrictive policy in the export sector where child labour brings about child labour supply and urban unemployment.

The stringent trade restrictions by the rest of the world on exported product of the small open economy.

PROBLEM NO.1

Due to imposition of trade restriction on the exported product of the small open economy only labourers (both adult and child) will be worse off.However, there , there will be no change in other factors.

PROBlEM NO.2

Imposition of trade restriction on exported product of small open economy, product of the small open economy,produced by child labour, aggravates the unemployment.Problem in the adult labour market.

PROBLEM NO.3

Due to imposition of trade restriction on exported product of the small economy, output of the export sector will contract on the other hand, there will be no change in output of urban subsectors.

EFFECT OF CHILD LABOUR:

A. Adult wage rate -Higher is the income of adult workers engaged in rural sector , lower will be their incentive to send their children to job market.

B. Number of adult workers engaged in rural sector -as rural workers send their children to job market, higher is the number of adult workers engaged in rural sector, and higher is the supply of child labour.

PROBLEM NO.4

Due to imposition of trade restriction on exported product of the small open economy which uses child labour, impact on child labour supply becomes ambiguous.

As adult wage rate will decline, adult workers in rural sector will decline , adult workers in rural sector will become worse off and they will send more children to work to compensate their income loss on the other hand as the number of the number of adult labourers engaged in rural sector goes down.it will lower child labour supply .Hence the impact on aggregate supply of child labour becomes ambiguous.

Conclusion:

Trade restriction has been imposed on the exported product as the it's employs child labour in its production.Unfortunately the policy seems to be ineffective for eradication of child labour incidence.

Trade sanctions, import tariffs and product labelling(the rug mark initiative in the carpet industry) are often implemented to reduce the extent of child labour.

Example:

Trade sanctions raise child labour in the rice sector in Vietnam using data from 1993 to 1998.

The issue of imposing trade sanctions on products using child labour is related to the agitation for minimal.

International labour standards and social clauses as a precise requisition for trade.The issue has been widely debated in forum like TO, which exert pressure on developing countries.

As fulfill minimal labour standards use of child labour standards, use of child labour in production is seem as one way of violating labour standards and imposing sanctions on the import of goods produced by child labour is on such social clause.

The argument in favour of the clause is that the use of child labour gives the developing countries a trading advantage in labour intensive goods and this advantage is illegitimate because child labour is socially unacceptable.

Those people who oppose inclusion of the clause argue that trade sanctions will encourage protectionism which will hurt not only workers but also consumers in developing countries.

However the debate has been a lively one concerning not only international policies and economic relations but also the subject of trade and development

Trade restrictions are a particularly inappropriate tool for dealing with the challenge of child labour.It is a well known fact that dysfunctional financial markets are on important cause of child labour.The latter would be dramatically reduced if parents could finance their children's exit from the labour force and entry into schooling from the child.

Unfortunately, extremely well functioning credit markets are required to make this kind of transactional feasible.

The lag between investment in Child education and the return to that investment in adult labour market is measured in decades not months.

There is immediate prospect for improvements in financial markets.acess to the poor in developing countries of the magnitude required for such long term transactions

International pressure through the boycott of product produced by child labour may have a limited impact. Again children pushed out of one industry can often readily move to another. However, to the extent that individual manufacturers are persuaded that their products will not be sold abroad unless they can demonstrate that they do not employ child labour, international market pressure can have an impact.

A ban by importers of goods produced by children even if there were an effective way of labelling goods, would have only a marginal impact on the total employment of children.still international pressure should not be dismissed.

The moral as well as the legal sanctions implied by a ban may deter some employers for hiring children, but those who choose to ignore them will find it easy to evade enfofcement. As a practical matter,the staff required minimally to enforce a ban on child labour households employing children ,So long as the number children in the labour force is as high as it is, a legal ban on child labourforce is as high as it is likely to have only a limited impact on child labour.

How then to reduce the incidence of child labour use?

One effective way to draw children out of damaging work is to encourage school attendence.For this to happen ,compulsory primary education heads to be introduced simultaneously.

With large scale improvements in the education system.This is perhaps the single most effective tool in keeping children away from labour force.

Without compulsory education ,governments would not be able to enforce child labour laws.

Weiner (1996) economist shown that in most countries (developed and under developed) which have successfully adapted the principle of comlulsory education. And acheived high literacy rates and higher education standards ,a education but also assits in identifying and monitoring units where child labour is used and helping to establish community -based parent teacher association to promote school attendence,and reduce school dropouts.Child labour should be understood as the consequence of people coping with extreme circumstances,It is a result of current poverty and cause of continued poverty for the children who sacrifice their education in order to work .The ultimate instrument for the elimination of excess child labour is the alleviation of poverty.While this is a sure solution, nobody is willing to wait.

The obvious response is an outright ban of the practise of child labour.

The obvious response is an outright ban of the practise of child labour.

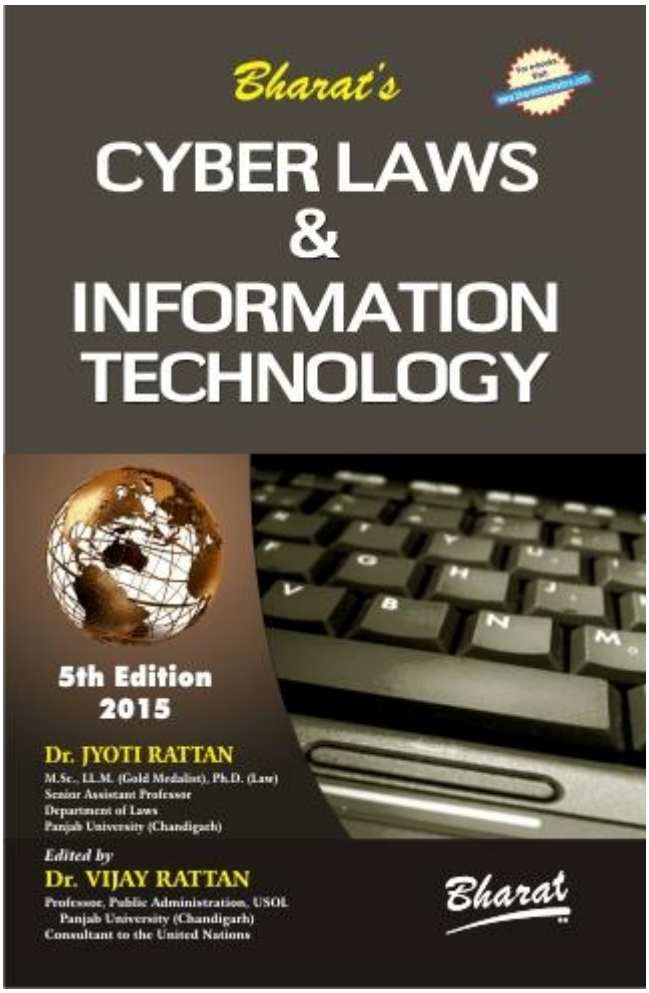
The difficulty is that it is by no means clear that developing country governments have a tools available to enforce such ban.Even if governments could effectively ban child labour ,the consequences could be dire for those poor households which resort to child labour outvof desperation.

Their children work to help households make both the end meet.

An effective ban on child labour would make the children of these households worse off.

Cyber Laws & Information Technology

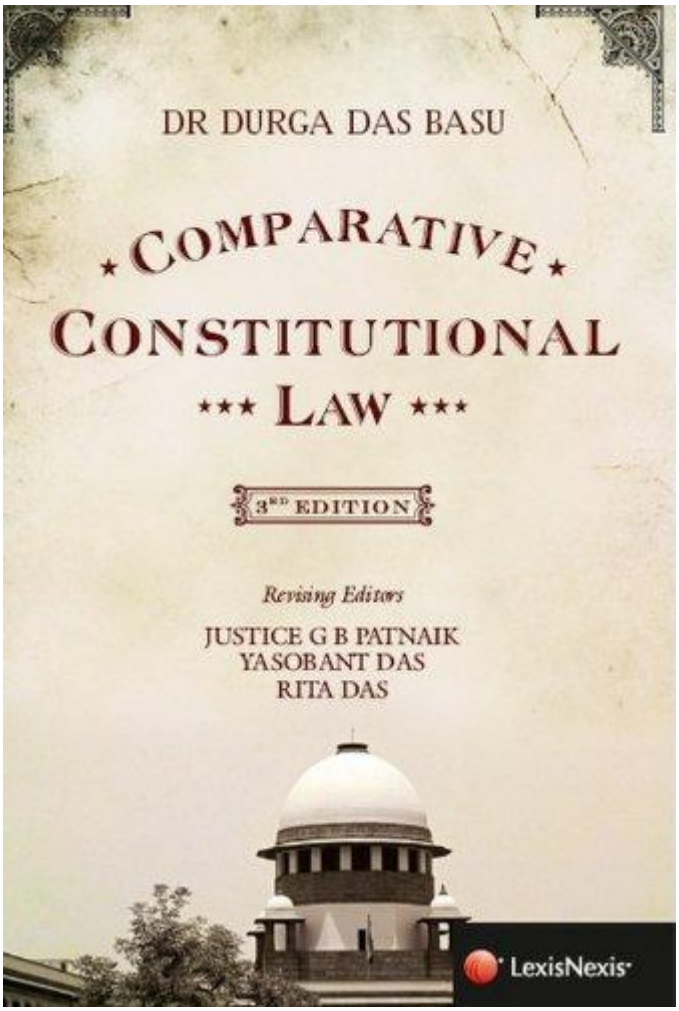
Authored by: Dr. Jyoti Rattan



This book gives a simplified insight into the various technical and legal issues of cyber aw in an easily understandable form.

Comparative Constitutional Law

Authored by: D.D. Basu



Dr Durga Das Basu's Comparative Constitutional Law has its beginning from the law lectures in B.H.U. A work of good research has been immensely improved by the author. Lucid, readable and of great value to students of politics, law and to the legal profession. The topics have been detailed in a manner that makes it most intelligible and fluent. The first edition incorporated precedents till 1983. This revised edition has brought in precedents till the early part of 2014. The basic chapters remaining the same, substantial value has been added keeping in view the latest developments on the subject over these years.

Hon'ble Mr. Justice H.L. Dattu

CHIEF JUSTICE OF INDIA

PROFILE

- Born on 03.12.1950. Enrolled as Advocate on 23.10.1975. Practised at Bangalore in Civil, Criminal, Constitutional and Taxation matter. Worked as High Court Government Pleader for Sales Tax Department from 1983 to 1990, Government Advocate from 1990 to 1993, Standing Counsel for Income Tax Department from 1992 to 1993 and Senior Standing Counsel for Income Tax Department from 1993 to 1995.
- Was appointed as Judge of the High Court of Karnataka on 18.12.1995.
- Was appointed as Chief Justice of the High Court of Chattisgarh on 12.02.2007.
- Transferred to the High Court of Kerala and assumed charge of the Office on 18.05.2007.
- Appointed as Judge, Supreme Court of India on 17.12.2008.

Hon'ble Mr. Justice T.S. Thakur

Born on 04th January, 1952. He was enrolled as a Pleader in October, 1972 and joined the Chamber of his father Late Shri D.D. Thakur, a leading Advocate and later, a Judge of High Court of J & K. He practised in Civil, Criminal, Constitutional, Taxation and Service matters in the High Court of Jammu & Kashmir. Was designated as a Senior Advocate in the year 1990. Was appointed as an Additional Judge of the High Court of J & K on 16th February, 1994 and transferred as Judge of the High Court of Karnataka in March, 1994. He was appointed as a permanent Judge in September, 1995. Was transferred as a Judge of the High Court of Delhi in July 2004. Was appointed as Acting Chief Justice of Delhi High Court on 09.04.2008 and took over as Chief Justice of the High Court of Punjab and Haryana on August 11, 2008. Elevated as Judge of Supreme Court and assumed charge on 17.11.2009.

Maxims

Ad ea quae frequentius acciduunt jura adaptantur: The laws are adapted to those cases which occur more frequently.

Alibi: At another place, elsewhere.

Alienatio rei praefertur juri accrescendi: Alienation is preferred by law rather than accumulation.

Aliunde: From elsewhere, or, from a different source

Cadit quaestio: The matter admits of no further argument.

Cassetur billa (breve): Let the writ be quashed.

Debile fundamentum fallit opus: Where there is a weak foundation, the work fails.

Debita sequuntur personam debitoria: Debts follow the person of the debtor.

Ex post facto: By reason of a subsequent act.

Ex praecedentibus et consequentibus optima fit interpretatio: The best interpretation is made from things preceding and following.

Generale nihil certum implicat: A general expression implies nothing certain.

Generalia praecedunt, specialia sequuntur: Things general precede, things special follow.

In criminalibus probationes debent esse luce clariores: In criminal cases the proofs ought to be cleared than the light.

In curia domini regis, ipse in propria persona jura discernit: In the King s Court, the King himself in his own person dispenses justice.

Jus naturale est quod apud omnes homines eandem habet potentiam: Natural right is that which has the same force among all men.

Jus scriptum aut non scriptum: The written law or the unwritten law.

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Husband and Wife must file affidavits detailing income, assets, and expenditures during divorce proceedings: The Delhi High Court has ruled that during divorce proceedings, both the husband and the wife need to submit detailed affidavits of their earnings, assets, and expenses at the time of filing divorce or maintenance petitions.

Supreme Court appoints New Bench for Tax and Criminal cases: The Supreme Court of India has formed a new special bench to hear taxation cases from March 9, 2015 onwards. The move has been taken in a bid to deal with a massive backlog of around 10,843 cases. The apex court's initiative has already drawn favorable response from various concerned circles including investors who had been worried about the slow progress of tax cases in the country. It is worth mentioning here that tax cases alone amounts to nearly one-fifth of all cases in the Supreme Court.

Ordinance to Amend Arbitration Act: To make India more investor friendly, the Union Cabinet along with the recommendation of the Federation of Indian Chambers of Commerce and Industry (FICCI) to introduce ordinance to amend the existing Arbitration and Conciliation Act of 1996, which has not yet received the president's assent.

Ordinance passed on Land Acquisition Act: On 29 December 2014, the Union Cabinet approved the ordinance to amend the existing Land Acquisition Act to remove barriers which were slowing down the development projects of the government, and various states had complained of the difficulties in acquiring land for manufacturing purposes etc. for the boost of the economy.

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