

LEGAL ARTICLES

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EDITION 1



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PUBLISHED BY : YOURLAWARTICLE

ISBN : 978-81-968536-4-8

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About the eBook

[“From Pages to Pixels: A Modern Article Compilation”](#)

"From Pages to Pixels: A Modern Article Compilation" is a comprehensive anthology that brings together a diverse collection of legal articles authored by experts in the field. This thought-provoking compilation navigates the intersection of traditional legal discourse and the contemporary digital landscape, providing readers with a nuanced exploration of legal concepts, challenges, and advancements in an era dominated by technology.

Key Features:

- **Diverse Authorship:** The book showcases a multitude of perspectives by featuring articles penned by different legal scholars. This diversity of authorship enriches the compilation, presenting a mosaic of insights and viewpoints on various legal subjects.
- **The compilation covers a wide range of legal themes, ensuring a comprehensive exploration of the legal domain. Whether it's constitutional law, intellectual property, corporate governance, or criminal justice, readers will find a rich tapestry of articles addressing diverse legal subjects.**
- **As readers embark on this intellectual journey through "From Pages to Pixels," they will gain a deeper understanding of the multifaceted dimensions of law in our digitized world. The compilation stands as a testament to the adaptability of legal scholarship, seamlessly transitioning from the traditional written form to a modern, pixelated expression that mirrors the evolving nature of our legal discourse.**





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Chapter 1

HUMAN RIGHTS AND AUTONOMOUS CARS

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The normal norms or principles for a certain standard of behaviour which is protected by Law are called human rights. Undoubtedly, technology has been impacting many aspects of human life, including road vehicles.

An autonomous vehicle is usually defined as a road vehicle which is capable of sensing the surroundings and can control movements without a driver[1]. The vehicle is an attempt towards replacing the human driver with artificial intelligence. Innumerable technological advancements have been made in auto car manufacturing primarily for increasing the efficiency of vehicles with an emphasis on safety. Research and Development in this area from the beginning was directed towards making these advancements driver friendly. Air Bags, GPS System are some of the systems which has made driving easier and convenient. Similarly, the Crab-Like system introduced by Hyundai has made car parking easier. However, are these advancements really beneficial? Does replacement of the human driver lead to a compromise on the human rights? Are AI vehicles safe in reality? The writer attempts to explain how the autonomous cars could violate human rights.

1. Advantages of Autonomous Vehicles

Development of autonomous cars have the following advantages for human beings:

- **Disability Rights:** The self-driven car ensures greater mobility to the people having disabilities. The vehicle provides and enhances their contribution in society.
- **Right to Life:** Self-Driven cars have significant potential to reduce traffic congestions thereby protecting the Right to Life. It attempts to minimise the possibility of accidents due to human errors.
- **Economic Opportunities:** The development of self-driven vehicles creates new job opportunities in industries related to design, manufacturing, maintenance, and oversight of self-driving systems. This helps to protect their right to work for financial well-being.

- **Benefit to the Environment:** Autonomous vehicles can significantly reduce pollution due to fuel consumption and emission. This supports the right to a clean and healthy environment, by contributing to efforts for combating climate change. Several other advantages include contribution to better mental health and wellbeing. Also, in the event of an accident, autonomous vehicles helps in spontaneous interaction with emergency services, for reducing the time to react in saving lives, thereby defending the right to life and safety[2]. The information gathered will be useful, particularly in the event of an accident (the information on speed, position, commuters, and driver behaviour will be useful in establishing potential liability and the size of the insurance claim).

2. Violation of Human Rights by Autonomous Vehicles

There is a general feeling that the advantages of autonomous vehicles are likely to have a boomeranging effect on human rights.

- **Right to Safety:** Public safety due to autonomous driving in the preliminary stages is currently suspect since a certain level of safety must be attained before placing such vehicles on public roads. "Safety" requirement, at the very least, involves diligent management of vehicle-level activities, such as adhering to local traffic laws and addressing the dangers posed by rash driving on the roads.
- In order to maintain a high level of safety, it will also be necessary to address unusual traffic accidents, to which artificial intelligence could have remedies. It will be possible to programme autonomous vehicles to behave in a certain way for normal driving, but what will happen when the situation unexpectedly changes? There is a high possibility of wrong data being transmitted which will make it complicated for the AI system to detect and react to the car behaviour either adjacent or coming from the opposite side. While artificial intelligence is created to carry out tasks that are advantageous for humans, it is capable of making unanticipated decisions if it develops a risky strategy to accomplish its objectives. Although an autonomous car can be programmed to follow human commands, such as getting someone to their destination as quickly as possible, it may still break traffic laws and cause accidents.
- **Cybersecurity:** Ensuring the security of self-driving car systems is essential to protect individuals from cyber threats and unauthorized surveillance. There are high chances that the data stored in the autonomous vehicles is vulnerable to hacking and cyber manipulation as they are connected to other vehicles. They are also morally and ethically dubious due to the absence of a human driver to make rational judgements in challenging and tough circumstances. If the system is hacked, there is a possibility of the vehicles vision getting misled by false images of the road. There are possibilities that the vehicle is tricked to encounter a surrounding which it cannot deal with.
 - **Right to Privacy:** Large volumes of information about the locations, pursuits, and preferences of passengers are frequently gathered by self-driven automobiles. The right to privacy of individuals is likely to be violated, if the data is not protected.

People's movements and the sharing of data would be under the management of autonomous cars. So, choosing a driverless car or not falls under the category of personal autonomy. It is linked to people's capacity for self-determination and self-determined decision-making. But more critically, the deployment of autonomous vehicles will make it more difficult to monitor information about a person's present and future whereabouts, time of departure, and manner of travel. The majority of important decisions still rest in the hands of people; a vehicle can only regulate its speed or the manner it travels from place to place. Malfunctions or restrictions on self-driving cars operation could impede an individual's free mobility. Passengers in autonomous cars may feel their privacy is compromised, especially if the vehicle's interior is equipped with cameras or other sensors. Passengers may want assurance that their conversations and actions within the vehicle are not being recorded or monitored without their consent.

- **Right to Equality and Various Basic Human Rights**

The widespread adoption of autonomous vehicles could lead to job displacement in industries like transportation and delivery, impacting individuals' employment rights and livelihoods. Autonomous vehicles have the potential to disrupt industries like trucking and taxi services.

Algorithm Bias: Autonomous car systems rely heavily on algorithms, and these algorithms can carry biases. If these biases lead to discriminatory results[3], then it would lead to a violation of human rights. For example, autonomous cars are more likely to recognize and respond to pedestrians of one race over another, leading to a human rights concern.

Accessibility: If self-driving technology is not made accessible to all, it could exacerbate inequality by limiting access to convenient and safe transportation, particularly for those who cannot afford it.

3. Conclusion

Technological advancement is definitely beneficial. The attempt by manufacturers towards making autonomous cars is a huge step towards development of an ecofriendly environment and an advanced and efficient AI which will bring a drastic change in the lives of people. While enjoying the fruits of mental labour, it is essential to remember that the "man makes the machine" he should not allow the machine to control him. It is crucial to emphasise that these potential human rights violations are not intrinsic to self-driving technology but may happen if proper rules, moral standards, and safety precautions are not introduced and implemented. Human rights and societal welfare should be pivotal in the development and deployment of self-driving automobiles in a responsible manner. [4]

Addressing these issues involves a delicate balance between technological advancement and safeguarding human rights, requiring legal and ethical frameworks to be developed and enforced without compromising the rights of an individuals. Last but not the least, if the autonomous vehicle meets with an accident then who bears the liability?

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Chapter 2

An analysis of right to freedom of speech and expression

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ABSTRACT:

Freedom of speech says that an individual freely communicate the thoughts ideas without government interference. Typically the feature of numerous majority rule governments, habitually seen within the constitutions and lawful frameworks. Distinctive countries have diverse laws ensuring free discourse and distinctive limitations on it. It to participate actively in their country's social and political life. The meaning, extent, source, and importance of [1] the right to freedom of speech and expression as guaranteed by Article 19(1)(a) of the Indian constitution. [2]. Also, this consider emphasizes the resistance of free discourse and numerous highlights of the proper to free discourse and expression [3] It addresses grounds of restriction. Forced in understanding with Sacred Article 19(2).

KEY WORDS: freedom of speech and expression [4], Article 19, democracy [5], freedom of press, [6] UDHR [7], ICCPR [8]

LITERATURE REVIEW:

“Originally released on Friday, November 29, 2002”- Stanford Encyclopaedia of Philosophy

The concept of free speech [9] is examined in this entry. It begins with a broad overview of speech freedom and then examines one of the earliest and most effective arguments of free speech—the damage principle. After discussing the damage principle, the debate turns to the claim that speech should be restricted if it offends people rather than causing them physical harm. then they look at claims that argue for speech restrictions in the interest of democratic equality. They concluded by reviewing arguments against speech protection that are moralistic and paternalistic and by reevaluating the concept.

RESEARCH GAP: This article discusses the right of free speech [10].

INTRODUCTION:

Each equitable society is based on the basic rule of opportunity of discourse and expression. The elemental components of the free discourse are the capacity to transparently communicate and to memorize from another people groups. It is the thought to be the prerequisite of freedom. Look at the forebear of all the opportunities. Well, it is the foremost critical essential opportunities ensured from legislative hushing or governing. The opportunity of discourse and expression could be a essential right that's secured by the Article 19(1)(a) of the Constitution. It is recognized that the correct to free discourse could be a human one, in agreement with the All-inclusive Announcement of Human Rights (UDHR) Article 19 is recognized within The Universal Pledge on Respectful and Political Rights (ICCPR) contains universal human rights law. The opportunity of discourse and expression could be a essential right that's secured by the Article 19(1)(a) of the Constitution. It is recognized that the correct to free discourse could be a human one, in agreement with the All-inclusive Announcement of Human Rights (UDHR) Article 19 is recognized within The Universal Pledge on Respectful and Political Rights (ICCPR) contains universal human rights law. Article 19(1)(a) of the Indian Structure may be an uncommon arrangement which guarantees people's freedom of discourse and expression.

It could be a vital component of Indian majority rule government and an essential right secured by the Indian Structure. Clause 19(1)(a) announces:

"Article 19(1)(a): All citizens shall have the right to [11]freedom of speech and expression."[12]

The Indian citizens are granted the flexibility to unreservedly communicate their possess contemplations, thoughts, and conclusions without any confinements or without any impedances with government. Usually known as their principal right. This fundamental right allows people to hold their government responsible and engage in public conversation.

Essential to Democracy:

adaptability to wholeheartedly communicate their have thoughts, contemplations, and conclusions without any restrictions or without any impedances with government. More often than not known as their central right. Media Freedom: The media is covered under Article 19(1)(a), which guarantees that news organizations and journalists can cover public interest stories on government actions as well as other topics without concern for retaliation or censorship. Limitations: The Indian Constitution's Article 19(2) [13]lays forth reasonable constraints on the freedom of speech and expression[14], even though Article 19(1)(a) protects it. The assurance of open arrange, security, ethical quality, respectability, and other noteworthy interface is the objective of these restrictions. For occasion, these limitations may apply to discourse that prompts savagery or is derisive. Legal Safety Net: Within the occasion that their right to free discourse is mishandled, Indian individuals may seek after legitimate plan of action and security. Any government enactment or action that damages their right to free expression may be challenged in court.

There are four main special purposes that freedom of expression can serve:

(1) helping a person find their own fulfilment; and

(2) helping a person uncover the truth.

(3) it increases a person's the capacity to influence decisions; and

(4) It offers a means via which a logical equilibrium could be established between social change and stability.

Everybody in society ought to be able to create their claim judgments and unreservedly express them. The essential concept at stake the open have the correct to know. As a result, everybody who accepts that individuals ought to be able to take an interest in administration ought to liberally support free discourse and expression. Since of society's specific intrigued in free discourse and expression, the government's approach to exacting charges on things pertinent to the daily paper segment ought to be more cautious than when exacting charges on other points. Open showings, whether political, devout, or social, or other appearances that cause open unsettling influences or act as annoyances, are not ensured beneath article 19(1)(a).

Commercial and inventive talk are not explicitly illegal beneath Indian law. In any case, Indian law is changing, and the Incomparable Court has ruled that 'commercial speech' cannot be denied the security of Article 19(1)(a).

It was chosen that 'commercial speech' may be a component of the flexibility of expression. The correct to free discourse and expression is ensured beneath the Joined together States Structure. The proper of Indian citizens to acknowledge, studied, and listen to commercial discourse exists. The correct to paint, sign, dance, type in, and examined verse writing is additionally included within the right to free expression.

It is worth specifying that the definition of free expression in Article 19(1)(a) of the structure has been extended to incorporate the capacity to get and transmit data. In State of Uttar Pradesh v. Raj Narain, the Incomparable Court ruled that [15]Article 19(1)(a) of the Structure ensures flexibility of discourse and expression to all citizens and people, in expansion to protecting citizens' rights to know and get data tending to issues of open intrigued. It was chosen in Secretary, Service of Data and Broadcasting,

Government of India v. Cricket Affiliation of Bengal that Article 19(1)(a) wraps the right to get and communicate information. For any citizen, the print media may be a strong gadget for information dispersal and receipt. The right to free expression has extended. It has been related with a free society and a thriving prevalent government. It was thought to be as vital and unbreakable for a even-handed country. It is the fourth column of fair government Vote based framework for the people, by the people, to the people. Thus, vote based framework is inside the hands of the people, as is the proper to adaptability of expression. Talk and expression are essential to the compelling working of the state. Adaptability of expression may well be a device given to the people in order for them to live with respectability rather than revealed survival. It has been contended that lion's share rule government is nothing without free expression and talk. There's moreover a need to secure alter since there are undermined individuals who do not work out such rights suitably.

The Essential Amendment to the Joined together States Structure Free talk securities are indistinguishably associated to well-known government. European Union Convention on Human Rights set up adaptability of expression as a central human right.

It is called the cornerstone of democracy because it allows individuals to express their opinions freely.

Therefore, it is considered a fundamental aspect of democracy.

Chief Justice Patanjali Shastri pronounced in *Romesh Thapar v. State of Madras*: "... (Flexibility lay at the foundation of all larger part run the show organizations, for without free political talk, no open instruction, so essential for the proper working of predominant government shapes, is conceivable." "An opportunity of this greatness may be powerless to misuse. [16] In any case, the journalists of the Structure would have concurred with Madison, who was the driving force behind the advancement of the Primary Alteration to the Government Constitution, that it is It is best to let a couple of of its harmful branches to their lush improvement instead of prune them. Absent, to hurt the essentialness of those bearing the right natural products." K.K. Mathew, the Chief Equity, said "As flexibility of expression in open undertakings is fundamental," it was watched.

It may be a fundamental suggestion of the arrangements of to the operation of the law-based framework. The Structure that set up it. " Opportunity of expression could be a crucial human right that's recognized and secured beneath worldwide law. A few worldwide arrangements and traditions explicitly specify this right.

Here are a few of the imperative universal apparatuses that protect free expression:

The Joined together Countries Announcement of Human Rights (UDHR):

The All-inclusive Statement of Human Rights (UDHR), which was embraced by the Joined together Countries Common Get together in 1948, states in Article 19 that "everybody has the proper to flexibility of thought, inner voice, and expression; this right incorporates the flexibility to hold suppositions without impedances and to seek, receive, and confer data and concepts through any media and notwithstanding of wildernesses."

Convention on Civil and Political Rights (ICCPR):

The Worldwide Contract on Respectful and Political Rights (ICCPR), which was sanctioned in 1966, forces legitimately authoritative obligations on states parties to protect flexibility of expression. Article 19 of the ICCPR repeats the standards built up within the UDHR, emphasizing that limitations on opportunity of expression may be vital and proportionate, and must serve indicated genuine closes such as national security or open arrange.

Instruments for Regional Human Rights: Diverse parts of the world have their possess human rights components to defend free expression. The European Tradition on Human Rights and the American Tradition on Human Rights, for illustration, both incorporate rules concerning opportunity of expression.

United Nations Special Rapporteur on Freedom of speech:

It is crucial to remember that, while international law preserves the right to free expression, it also provides for certain limitations on this right.

These limitations are normally subject to the criteria of necessity, proportionality, and legality, and should serve specific, justifiable reasons such as defending national security, public order, or others' rights and reputation. Besides, abhor discourse, prompting to savagery, and maligning is regularly subject to lawful limitations. Worldwide law is as it were one component of guaranteeing free discourse and expression. National lawful frameworks, social standards, and rising innovation all play critical parts in impacting how this right is worked out in practice.

The correct of writers, media organizations, and people to assemble, distribute, and transmit data and news without censorship or undue government obstructions is alluded to as press opportunity. It may be a essential component of a free and autonomous media. The values of press flexibility and opportunity of expression are inseparably connected and are similarly ensured beneath universal human rights enactment, especially the UDHR and the ICCPR.

A free and differentiated press is respected as a column of vote-based system and responsibility. It is basic the significance of free expression and its security. and the press shifts by nation, based on national laws, controls, and social standards. Many countries allow strong securities for these rights, while others may genuinely limit them, affecting the free circulation of data and ideas interior a society.

The internet has changed how people work out their right to free talk and expression. It has made unused channels for communication, information sharing, and open conversation approximately, but it has additionally displayed advanced obstacles and issues.

The internet and free speech are linked in the following ways:

People and organizations can quickly get to a around the world gathering of people. Individuals utilize social media stages, blogs, gatherings, and other online places to communicate their considerations, thoughts, and data, extending the breadth and reach of free discourse. The web has made it less difficult for underrepresented or beneath favoured populaces to be listened. It has brought down the section obstacles for people who may not have get to to customary healthcare media or who experience separation within the physical world. Hate speech, harassment, disinformation, and the dissemination of harmful content are all concerns that online platforms frequently face.

The following are the most important features of the right to information:

The pressure between free expression and the need to channel and control such data may be a complicated and troublesome subject. Social media businesses, in particular, are continuously being charged with making substance control and control choices. Some governments endeavour to oblige or screen web utilization in organize to control confinement and free expression. Web censorship, perception, and the control of online secrecy can all anticipate people's capacity to transparently express themselves. Securing free expression on the net besides includes guaranteeing users' security and security. Cyberattacks and the conceivable open disclosure of people' web conduct can chill free expression. The "correct to data" could be a principal human right that permits individuals to urge get to to data kept by open specialists, government substances, and other organizations.

It is interlaced with the thoughts of openness, responsibility, and great government. Different worldwide and state lawful systems recognize and defend the proper to data. The correct to data is basic to the working of equitable social orders since it permits citizens to effectively take part in their governments, make educated choices, and contribute to government openness and responsibility. Get to to data is respected as an basic instrument for advancing and defending human rights and viable government.

The proper to data may be a component of the flexibility of "discourse and expression" as ensured by article 19(1)(a) of the Indian structure, concurring to the People's Union for Respectful Liberties v. Union of India choice. In this way, without a question, the proper to information exists. principal. The Incomparable Court rules in Govt. of India v. The Cricket Affiliation of Bengal "the proper to get information and expression may be a part of the flexibility of discourse and Talk almost it. Individuals can take part within the talk of ethical and social concerns. Yes, Opportunity of discourse and expression entails the correct to information, amusement, and instruction the proper to data, excitement, and instruction. Hence, the correct to transmit falls inside the segment 19 (1) (a)."

In spite of the truth that the proper to flexibility of discourse and expression could be a principal one, worldwide and national laws allow certain restrictions or limitations beneath certain conditions in arrange to strike a adjust between the rights of the person and other critical interface and values. Most of the time, these confinements on the proper to free discourse and expression are backed by set up hypotheses.

Common justifications for limiting these rights are as follows:

Homeland Security: When there's a genuine and quick danger to the country, governments have the specialist to place constraints on the proper to free discourse and expression. This can involve stopping the sharing of sensitive information, encouraging acts of terrorism or violence, or engaging in any other actions that could jeopardize the stability of the government.

Public Order: Speech or communication that is likely to provoke violence, public disturbance, or other acts that disturb public order may be subject to restrictions. Nonetheless, these limitations need to be appropriate and essential.

Defamation and Libel: Legislation prohibiting these acts shields people's reputations from untrue and hurtful remarks. Speech that is malevolent or knowingly untrue regarding the reputation or character of another person is not protected by the First Amendment.

Incitement to Violence: In general, speech that promptly and explicitly calls for violence against others is not protected speech. This includes hate speech that calls for the use of force against specific communities.

Hate Speech: To stop harm and discrimination, hate speech that targets people or groups because of their gender, colour, religion, or ethnicity may be banned. It can be challenging to achieve a balance between preventing hate speech and defending the right to free speech, and this can differ depending on the jurisdiction.

Pornography and obscenity: Limits on these sorts of substance are regularly put in place to protect open tolerability and ethics, particularly in circumstances where minors may be exposed to them. There are numerous diverse measures and definitions of what is considered vulgarity.

Privacy: Restrictions may be applied when someone's right to privacy is violated by unapproved revelation of personal information or by prying into their personal affairs.

Intellectual property: In order to safeguard the rights of authors and copyright holders, laws may prohibit the unapproved use or duplication of works protected by copyright, such as songs, movies, or novels.

Commercial Speech: Although there is some protection for commercial speech, laws may prohibit misleading marketing techniques, fraudulent advertising, and other communication that hurts consumers or competitors.

National Laws and Regulations: To enforce national laws and regulations, limits on the freedom of expression and free speech may be put in place. This can include, despite the more general ideals of free speech, information that breaks certain regulations, including obscenity, hate speech, or incitement.

Security and Public Safety: To save lives and preserve order, governments may temporarily restrict communication in circumstances about public safety, such as during emergencies.

It's crucial to remember that any limitations on the right to free speech and expression must adhere to specific legal requirements, including being properly defined by the law, required to accomplish a valid goal, appropriate for that goal, and applied without discrimination. The preservation of these rights is a topic of continuous discussion and legal interpretation, and the meaning and implementation of these limitations can differ significantly throughout nations and legal systems.

It is conceivable to contend that the esteem of free discourse and expression is characterized by the degree to which citizens can appreciate such opportunity. Flexibility of expression and discourse may be a crucial human right. It is the establishment of equitable administration. It is additionally necessary for the equitable handle to operate appropriately. Article 19 characterizes "within the intrigue of open arrange" as "articulations that are specifically expecting to lead to clutter as well as those that have the potential to lead to clutter." There must be a sensible and suitable association or relationship between the confinement and the accomplishment of open arrange. Everybody has the correct to free expression and discourse. Discourse is vital since it permits a individual to communicate his or her contemplations, suppositions, and sentiments to others. As a result, it may be a characteristic right since a human being gets it at birth. As a result, it may be a crucial right that ought to not be denied to citizens.

SOME RELATED CASES

1) Hamdard Davakhana vs Union of India[17]

This case included the advancement of unlawful opiates and commodities. The petitioners' item was implied to have self-medicating properties, which were too publicized to the common open. The solicitors within the case claimed that they were having issues promoting their item since of various complaints held up against their commercials. In this case, the Incomparable Court ruled that an repulsive promotion does not drop beneath the domain of Article 19(1)(a). It contended that a publicizing, as a "commercial discourse," must bear two components in intellect:

• Publicizing may be a commerce exchange is essentially the dispersal of item data.

•It is invaluable to the open on the off chance that data is made accessible to them through promoting.

2)Prabha Dutt vs. Government of India[18]

The solicitor, Smt Prabha Dutt, Chief Correspondent of the Hindustan Times, recorded an appeal beneath Article 32 of the Indian Structure, asking a summons coordinating the respondent, the administrator of Tihar Imprison, to permit her to meet the two convicts named Billa and Ranga, who are charged with passing sentence for an offense beneath Segment 302 of the Indian Correctional Code, and their petitions to the President of India for communication of the sentence are In this case, the Preeminent Court coordinated the Director of the Tihar Imprison to permit agents of many media to meet two death-row inmates beneath Article 19(1) (a), stating that "the correct beneath Article 19(1)(a) isn't an outright right, nor does it bestow any other rights." 3)The Indian Express Newspaper vs the Union of India[19].

Newsprint has already been exempting from traditions charges. The applicants challenged the Traditions Duty Act 1975 moment charge on newsprint and the Back Act 1981 assistant obligation, as revised by a notice forced beneath the Traditions Act 1962 on Walk 1, 1981.

They claimed that the costs and circulations had been extremely affected as a result of this notice, which it had moreover had a obliterating impact on flexibility of expression beneath Article 19(1)(a) of the Indian Structure and opportunity to perform any exchange or livelihood beneath Article 19(1)(g). In this case, the Incomparable Court of India ruled that whereas Article 19 of the Indian Structure does not utilize the express "opportunity of press", it is included in Article 19(1) (a). There must be no impedances with press flexibility within the preteens of open intrigued. The objective of the press is to extend open intrigued by distributing data and opinions, which are fundamental for a majority rule voters to create educated choices. As a result, it is the essential duty of the courts to secure journalistic opportunity and to discredit any laws or authoritative measures that meddled with it in infringement of the sacred necessity.

4)Emmanuel vs. Kerala State[20]

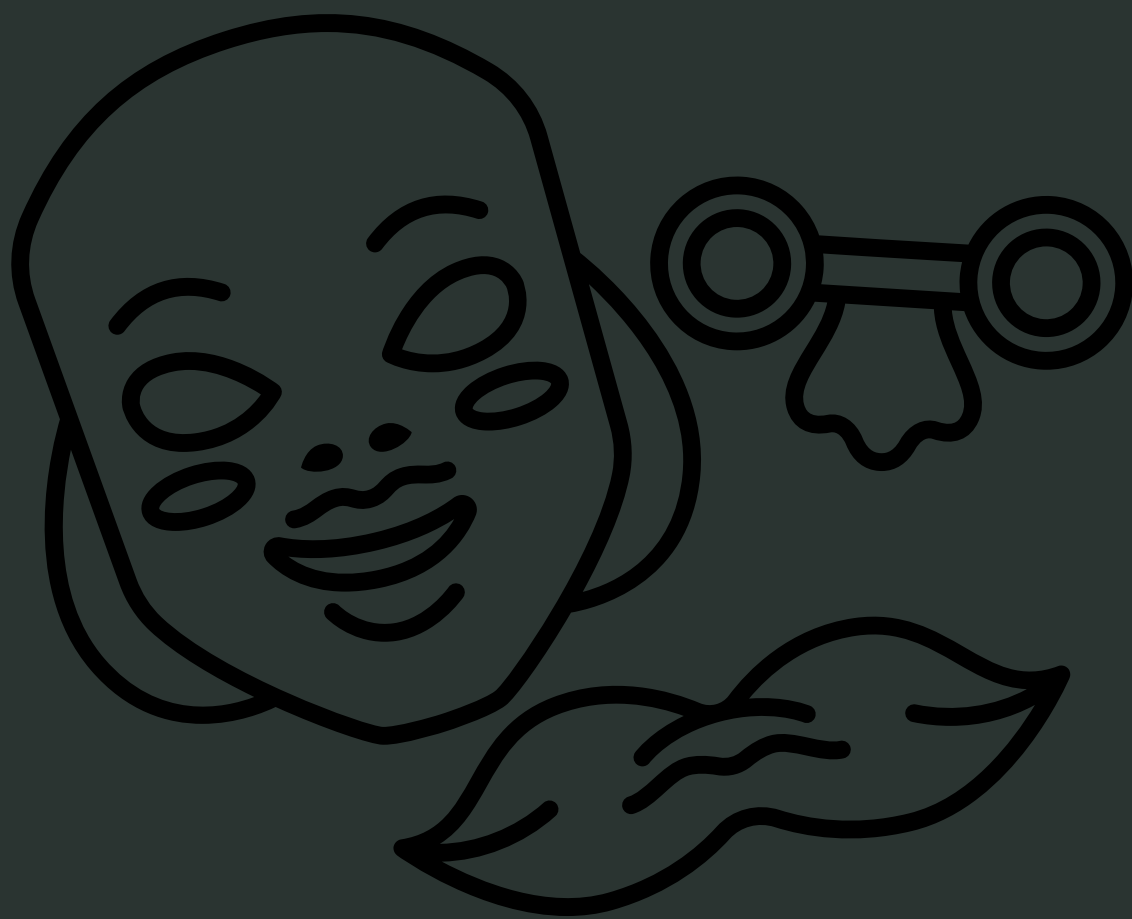
In 1985, three understudies were removed from their school for coming up short to sing India's national melody. They essentially stood quietly amid India's national song of devotion amid the school's morning get together since they were Jehovah's Witnesses. Taking after their ejection from school, their father recorded a summons suit within the Tall Court of Kerala, charging that the removal was a clear encroachment of their essential right to free discourse and expression., as well as opportunity of religion, as ensured by Articles 19 and 25 of the Indian Structure. The case was expelled by the court, which concluded that "no words or contemplations within the national song of devotion were competent of insulting devout feelings". The Supreme Court ruled that removal of schoolchildren for coming up short to sing the national song of devotion constituted a clear infringement of their right to free expression. There were no lawful limitations that required the three understudies or any other person were required to sing the national song of devotion, and the Kerala state office of instruction needed statutory purview to compel schoolchildren to take part.

Conclusion:

Able to hence conclude that the degree to which people are able to work out their right to free discourse and expression decides the worth of that opportunity. Discourse and expression opportunity is a basic human right. It is the foundation of agent popular government. It is additionally fundamental for the majority rule handle to run easily. Concurring to Article 19, the state "within the intrigued of open arrange" alludes to both explanations that have the potential to cause chaos as well as those that are particularly implied to do so. The foundation of open arrange and its control ought to be appropriately and reasonably related. Everybody is entitled to the flexibility of expression and discourse. Discourse is imperative since it empowers individuals to share their thoughts, attitudes, and sentiments to one another. Since a human being is born with it, it could be a common right. As a result, it is a basic right that the individuals ought to not be denied.

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Chapter 3

THE ART AND ETHICS OF DEEFAKE TECHNOLOGY

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Abstract:

Deepfakes allow for the automatic generation and creation of (fake) video content, e.g. through generative adversarial networks. Deepfake technology is a controversial technology with many wide reaching issues impacting society, e.g. election biasing. Much research has been devoted to developing detection methods to reduce the potential negative impact of deepfakes. Application of neural networks and deep learning is one approach. In this paper, we consider the deepfake detection technologies Xception and MobileNet as two approaches for classification tasks to automatically detect deepfake videos. We utilise training and evaluation datasets from FaceForensics++ comprising four datasets generated using four different and popular deepfake technologies. The results show high accuracy over all datasets with an accuracy varying between 91-98% depending on the deepfake technologies applied. We also developed a voting mechanism that can detect fake videos using the aggregation of all four methods instead of only one.

Research Methodology:

Begin by reviewing existing literature on deepfake laws in India. Explore academic journals, legal databases, and relevant government publications to understand the historical context and current status. Examine the Indian Penal Code, The Information Technology act, 2000 and other relevant legislation. Analyze amendments and court decisions that may have impacted deepfake laws. Investigate specific legal cases related to deepfake in India. Understand the judgments, legal arguments, and implications of these cases on the interpretation and enforcement of deepfake laws. Compare India's deepfake laws with those of other countries.

Statement of Problem:

The statement of the problem regarding deepfake laws in India could address issues such as the need for comprehensive and uniform regulations, ensuring privacy of every individual, Deepfakes allow for the automatic generation and creation of (fake) video content, e.g. through generative adversarial networks.

Deepfake technology is a controversial technology with many wide reaching issues impacting society, e.g. election biasing. Much research has been devoted to developing detection methods to reduce the potential negative impact of deepfakes. Application of neural networks and deep learning is one approach. In this paper, we consider the deepfake detection technologies Xception and MobileNet as two approaches for classification tasks to automatically detect deepfake videos. We utilise training and evaluation datasets from FaceForensics++ comprising four datasets generated using four different and popular deepfake technologies. The results show high accuracy over all datasets with an accuracy varying between 91-98% depending on the deepfake technologies applied. We also developed a voting mechanism that can detect fake videos using the aggregation of all four methods instead of only one.

Research Aim and objectives

AIM: To analyze and understand the current state of deepfake law in India, exploring its legal framework, historical context, and implications for individuals' privacy rights.

OBJECTIVES:-

1. Examine the legal provisions surrounding deepfake in India, including relevant statutes and regulations.
2. Investigate the historical evolution of abortion laws in the country and the factors influencing their development.
3. Assess the impact of deepfake laws on the life of every individual
4. Explore societal attitudes and cultural influences that shape perceptions of deepfake in India.
5. Evaluate the effectiveness of existing legal provisions in safeguarding individual's privacy, their rights.
6. Examine any recent amendments or proposed changes to deepfake laws and their potential implications.
7. Provide recommendations for potential improvements or reforms in the deepfake law to better align with every individual's health and rights.

Hypothesis:

Deepfake technology has raised concerns about its potential misuse, including the creation of convincing fake videos or audios. Some hypotheses revolve around its impact on misinformation, privacy breaches, identity theft, and its potential use in various industries like entertainment or even politics. There's also speculation on how advancements in deepfake detection might evolve to counter these issues.

Introduction:

In the ever-evolving landscape of technology, artificial intelligence has introduced us to numerous groundbreaking applications. One such innovation is the creation of deepfakes, a blend of “deep learning” and “fake,” which enables us to manipulate digital content, particularly faces, in unprecedented ways. This article delves into the captivating world of face swapping using deepfakes and ROOP (Reality Object Oriented Programming), exploring both the artistic possibilities and the ethical concerns that arise from these technologies. Deepfakes are produced by manipulating existing videos and images to produce realistic looking but wholly fake content. The rise of advanced artificial intelligence-based tools and software that require no technical expertise has made deepfake creation easier. With the unprecedented exponential advancement, the world is currently witnessing in generative artificial intelligence, the research community is in dire need of keeping informed on the most recent developments in deepfake generation and detection technologies to not fall behind in this critical arms race.

1:- Introduction to deepfake

Introduction to deepfake
Deepfake is a type of artificial intelligence-based technology that uses machine learning algorithms, particularly generative adversarial networks (GANs), to generate synthetic media such as images, videos, and audios.

The goal of deepfake technology is to create highly realistic synthetic media that resembles real people, but with some aspect of the content manipulated.

1.1:- Creation of Deepfakes

Deepfakes are created using a machine learning technique known as generative adversarial networks (GANs). A GAN consists of two neural networks, a generator, and a discriminator, that are trained on a large dataset of real images, videos, or audio. The generator network creates synthetic data, such as a synthetic image, that resembles the real data in the training set. The discriminator network then assesses the authenticity of the synthetic data and provides feedback to the generator on how to improve its output. This process is repeated multiple times, with the generator and discriminator learning from each other, until the generator produces synthetic data that is highly realistic and difficult to distinguish from the real data. This training data is used to create deepfakes which may be applied in various ways for video and image deepfakes: (a) face swap: transfer the face of one person for that of the person in the video; (b) attribute editing: change characteristics of the person in the video e.g. style or colour of the hair; (c) face re-enactment: transferring the facial expressions from the face of one person on to the person in the target video; and (d) fully synthetic material: Real material is used to train what people look like, but the resulting picture is entirely made up.

1.2:- Detection of Deepfake

It is important to note that deepfake technology is constantly evolving and improving, so deepfake detection techniques need to be regularly updated to keep up with the latest developments. Currently, the best way to determine if a piece of media is a deepfake is to use a combination of multiple detection techniques and to be cautious of any content that seems too good to be true. Here are some of the most common techniques used to detect deepfakes: Visual artifacts. — Some deepfakes have noticeable visual artifacts³, such as unnatural facial movements or blinking, that can be a giveaway that the content is fake.

Visual artifacts in deepfakes can arise due to several factors, such as limitations in the training data, limitations in the deep learning algorithms, or the need to compromise between realism and computational efficiency. Some common examples of visual artifacts in deepfakes include unnatural facial movements or expressions, unnatural or inconsistent eye blinking, and mismatched or missing details in the background. Audio-visual mismatches. – In some deepfakes, the audio and visual content may not match perfectly, which can indicate that the content has been manipulated. For example, the lip movements of a person in a deepfake video may not match the audio perfectly, or the audio may contain background noise or echoes that are not present in the video⁴. These types of audio-visual mismatches can be a sign that the content has been manipulated. Deep learning-based detection. – Deep learning algorithms, such as deep neural networks, can be used to detect deepfakes by training the algorithms on a large dataset of real and fake images, videos, or audios. The algorithm learns the patterns and artifacts that are typical of fake content, such as unnatural facial movements, inconsistent eye blinking, and audio-visual mismatches. Once the deep learning algorithm has been trained, it can be used to detect deepfakes by analysing new, unseen media.

If the algorithm detects that a piece of media is fake, it can flag it for manual inspection or flag it for further analysis.

2:- Deepfake and reality manipulation

2.1:- Unveiling the Magic of Deepfakes and ROOP:

Deepfakes, powered by neural networks and machine learning algorithms, can convincingly replace one person's face with another in videos or images. On the other hand, Reality Object Oriented Programming (ROOP) provides a powerful framework for creating interactive and immersive digital experiences that can alter reality in real-time. The fusion of these two technologies opens the door to a new realm of creative expression, enabling artists and developers to reimagine storytelling, entertainment, and even education.

2.2:- The Artistic Marvels of Face Swapping: Imagine a world where actors can effortlessly slip into historical roles or portray characters in ways previously deemed impossible. Deepfake and ROOP technologies offer artists the tools to transform performances, turning ordinary scenes into extraordinary spectacles. A filmmaker, for instance, can use these techniques to showcase an actor's versatility by seamlessly swapping faces, thus providing an entirely fresh perspective on storytelling.

2.3:- Pushing the Boundaries of Reality: ROOP takes the concept of digital art to the next level by allowing users to actively participate in, modify, and reshape virtual environments. For instance, a gaming experience could become intensely immersive as players personalize their avatars with their own faces or those of their favorite celebrities. This interconnectedness between digital and real-world elements illustrates the potential of technology to redefine how we interact with our surroundings.

2.4:- The Ethical Quandaries: However, this brave new world is not without its ethical concerns. The ease with which deepfakes can be created has raised alarms about the potential misuse of this technology for malicious purposes, including spreading misinformation, identity theft, or compromising personal privacy. As artists and developers push the boundaries of creativity, society must grapple with the implications of blurring the lines between reality and digital fabrication.

2.5:-Navigating the Moral Compass:

The responsible use of deepfakes and ROOP lies in the hands of creators, consumers, and policymakers alike. Implementing safeguards to ensure proper attribution, consent, and transparency becomes crucial to maintaining the integrity of digital content. Striking a balance between artistic freedom and ethical considerations will define how these technologies shape our future.

3:- Offences Committed by using Deepfakes

There is a plethora of possibility of commission of crimes using the technology of deepfake. The technology itself does not pose a threat, however it can be used as a tool to commit crimes against individuals and society. The following crimes can be committed using deepfake: Identity theft and virtual forgery.

3.1:- Identity theft and virtual forgery using deepfakes can be serious offences and can have significant consequences for individuals and society as a whole. The use of deepfakes to steal someone's identity, create false representations of individuals, or manipulate public opinion can cause harm to an individual's reputation and credibility, and can spread misinformation. Under Section 668 (computer-related offences) and Section 66-C9 (punishment for identity theft) of the Information Technology Act, 2000 these crimes can be prosecuted. Also, Sections 420¹⁰ and 468¹¹ of the Penal Code, 1860 could be invoked in this regard. Misinformation against Governments.

3.2:- The use of deepfakes to spread misinformation, subvert the Government, or incite hatred and disaffection against the Government is a serious issue and can have far-reaching consequences for society. The spread of false or misleading information can create confusion and undermine public trust and can be used to manipulate public opinion or influence political outcomes. Under Section 66-F¹² (cyber terrorism) and the Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Amendment Rules, 2022¹³ of the Information Technology Act, 2000¹⁴ these crimes can be prosecuted. Also, Section 121¹⁵ (waging war against the Government of India) and Section 124-A¹⁶ of the Penal Code, 1860 could be invoked in this regard. Hate speech and online defamation.

3.3:- Hate speech and online defamation using deepfakes can be serious issues that can harm individuals and society as a whole. The use of deepfakes to spread hate speech or defamatory content can cause significant harm to the reputation and well-being of individuals and can contribute to a toxic online environment. Under the Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Amendment Rules, 2022 of the Information Technology Act, 2000 these crimes can be prosecuted. Also, Sections 153-A¹⁷ and 153-B¹⁸ (Speech affecting public tranquility) Section 499¹⁹ (defamation) of the Penal Code, 1860 could be invoked in this regard. Practices affection elections.

3.4:- The use of deepfakes in elections can have significant consequences and can undermine the integrity of the democratic process. Deepfakes can be used to spread false or misleading information about political candidates and can be used to manipulate public opinion and influence the outcome of an election. The impact of deepfakes on elections is a growing concern, and many Governments and organisations are taking steps to address this issue. Under Section 66-D²⁰ (punishment for cheating by personation by using computer resource) and Section 66-F²¹ (cyber terrorism) of the Information Technology Act, 2000 these crimes can be prosecuted.

Also, Sections 123(3-A)22, 123 and 12523 of the Representation of the People Act, 1951 and Social Media Platforms and Internet and Mobile Association of India (IAMAI), today presented a “Voluntary Code of Ethics for the General Election, 2019 could be invoked to tackle the menace affecting elections in India. Violation of privacy/obscenity and pornography.

3.5:- This technology can be used to create fake images or videos that depict people doing or saying things that never actually happened, potentially damaging the reputation of individuals, or spreading false information. It is also possible for deepfakes to be used for malicious purposes such as non-consensual pornography, or for political propaganda or misinformation campaigns. This can have serious implications for individuals whose images or likenesses are used without their consent, as well as for society at large when deepfakes are used to spread false information or manipulate public opinion. Under Section 66-E24 (punishment for violation of privacy), Section 6725 (punishment for publishing or transmitting obscene material in electronic form), Section 67-A26 (punishment for publishing or transmitting of material containing sexually explicit act, etc.in electronic form), Section 67-B27 (punishment for publishing or transmitting of material depicting children sexually explicit act/pornography in electronic form) of the Information Technology Act, 2000 these crimes can be prosecuted.

Also, Sections 29228 and 29429 (Punishment for sale etc. of obscene material) of the Penal Code, 1860 and Sections 1330, 1431 and 1532 of the Protection of Children from Sexual Offences Act, 2012 (POCSO) could be invoked in this regard to protect the rights of women and children.

4. The Ethical Implications of Deepfake Technology

Deepfake technology while remarkable from a standpoint raises ethical concerns:

4.1:- Misrepresentation & Deception: The primary concern with deepfakes lies in their ability to convincingly portray individuals saying or doing things they never actually did. This can greatly infringe on an individual's right to their image and reputation.

4.2:- Privacy Violation: The technology often utilizes images and videos without obtaining consent, from the individuals involved. This unauthorized use of data raises privacy issues.

4.3:- Spread of Misinformation: Deepfakes have the potential to be used for spreading information generating news and fueling disinformation campaigns. The potential consequences of this are quite concerning, in the realm of politics. Deepfakes have the ability to sway opinion. Even influence election outcomes, which is alarming.

4.4:- Cybersecurity Threats: One area where deepfakes pose a cybersecurity threat is in phishing scams. These scams could involve using a fabricated video of someone to deceive victims into sharing information.

4.5:- Legal Challenges: Another challenge lies in the legal domain. Current laws may not adequately address the issues brought about by deepfakes leaving accountability for those who misuse this technology.

To sum it up while deepfake technology can have applications like entertainment or historical reenactments it is crucial to establish regulations and sophisticated detection methods. Failing to do so could result in reaching ethical implications that can cause harm. It's essential for lawmakers, tech companies, and society, as a whole to fully grasp these implications and take measures to manage them appropriately.

5:- The Risks Associated with Deepfake Technology

The risks associated with deepfake technology are multi-faceted and have serious implications across various sectors. At the core, these dangers emerge from the realistic and convincing artificial videos or images that deepfakes generate, often misleading viewers into believing in the authenticity of such content.

5.1:- Authenticity Breach: As artificial intelligence is employed to create deepfakes it poses a challenge, to the traditional notion of authenticity. The belief in what we see is no longer reliable as deepfakes have the ability to convincingly fabricate individuals engaging in actions they never actually performed, leading to an erosion in trust when it comes to content.

5.2:- Violations of Privacy: Deepfakes bring forth concerns regarding privacy. With a handful of available images or videos, deepfake technology can recreate and manipulate someone's appearance or voice opening the door for potential misuse and intrusion into their private lives.

5.3:- Political Disruption: The political landscape is particularly susceptible to the impacts of deepfakes. These advancements can generate fabricated speeches or actions that have the potential to sway opinion create unrest and even influence election results.

5.4:- Legal Challenges: One of the obstacles in combating deepfakes lies in the absence of legislation specifically addressing this technology.

The lack of framework means that individuals who maliciously create or utilize deepfakes often face legal consequences.

Given these risks, it becomes crucial to develop defence mechanisms against deepfakes. This could manifest through detection algorithms, strict regulations, or public awareness campaigns highlighting the dangers associated with deepfake technology. Without measures in place, the widespread availability and increasing sophistication of this technology could pose threats to individual security as well as our society and nation, as a whole.

6:- Combating Risks and Misuse

To combat the risks and potential misuse of deepfake technology there are strategies that can be implemented;

6.1:- Raising Awareness: It is crucial to educate the public about the existence and potential dangers of deepfakes. By providing people with knowledge, about deepfakes, we can cultivate a discerning audience who are less likely to fall victim to deceptive content.

6.2:- Detection Technology: Investing in algorithms for detection is a countermeasure. By utilizing machine learning and AI we can develop technologies for identifying deepfakes by analyzing cues such as lighting, shadows, or inconsistencies in facial movements that often go unnoticed by humans.

6.3:- Regulation: Implementing frameworks can help prevent the misuse of deepfake technology. This could involve enacting laws that specifically criminalize the use or mandating the disclosure of manipulated content created through deepfake technology.

6.4:- Authentication: Another promising solution involves utilizing media authentication techniques. Having a system in place that verifies and certifies the authenticity of content at its creation establishes a chain of custody making it more difficult for deepfakes to go undetected.

6.5:- Collaboration: Fostering collaboration plays a role, in combating deepfakes effectively. By working across countries and industries we can combine resources, exchange insights, and coordinate responses to effectively address this challenge.

7:-Different Acts and laws on deepfake in India

India lacks specific laws to address deepfakes and AI-related crimes, but provisions under a plethora of legislations could offer both civil and criminal relief. For instance, Section 66E of the Information Technology Act, 2000 (IT Act) is applicable in cases of deepfake crimes that involve the capture, publication, or transmission of a person's images in mass media thereby violating their privacy. Such an offence is punishable with up to three years of imprisonment or a fine of ₹2 lakh. Similarly, Section 66D of the IT Act punishes individuals who use communication devices or computer resources with malicious intent, leading to impersonation or cheating. An offence under this provision carries a penalty of up to three years imprisonment and/or a fine of ₹1 lakh.

Further, Sections 67, 67A, and 67B of the IT Act can be used to prosecute individuals for publishing or transmitting deepfakes that are obscene or contain any sexually explicit acts. The IT Rules, also prohibit hosting 'any content that impersonates another person' and require social media platforms to quickly take down 'artificially morphed images' of individuals when alerted. In case they fail to take down such content, they risk losing the 'safe harbour' protection – a provision that protects social media companies from regulatory liability for third-party content shared by users on their platforms.

Provisions of the Indian Penal Code, 1860, (IPC) can also be resorted to for cybercrimes associated with deepfakes – Sections 509 (words, gestures, or acts intended to insult the modesty of a woman), 499 (criminal defamation), and 153 (a) and (b) (spreading hate on communal lines) among others. The Delhi Police Special Cell has reportedly registered an FIR against unknown persons by invoking Sections 465 (forgery) and 469 (forgery to harm the reputation of a party) in the Mandanna case. Apart from this, the Copyright Act of 1957 can be used if any copyrighted image or video has been used to create deepfakes. Section 51 prohibits the unauthorised use of any property belonging to another person and on which the latter enjoys an exclusive right.

In conclusion, it is important to acknowledge the risks associated with the misuse of deepfake technology. However, by taking an approach that includes raising awareness implementing detection technology enacting regulations establishing authentication measures, and fostering collaboration we can effectively combat these threats and create a safer digital environment.

In closing the emergence of deepfake technology brings both possibilities and concerns. On one hand, it has the potential to revolutionize fields, like entertainment and personalized advertising. On the other hand, it also poses risks to personal privacy, security, and democratic processes.

Awareness: Increasing awareness about deepfakes within society is crucial in protecting ourselves from these risks. By enhancing people's understanding of deepfakes existence and implications we empower individuals to question and critically evaluate content.

Technology: Furthermore leveraging advancements in machine learning and artificial intelligence plays a role in this fight against deepfakes. Developing technologies that can detect cues often overlooked by humans will enable us to differentiate between deepfakes and authentic content.

Regulations: Implementing regulations that govern the usage of deepfake technology is another aspect of addressing this issue. These regulations should encompass aspects such as creation guidelines, distribution restrictions, and penalties, for use. We should strongly.

advocate for regulations to address the misuse of deepfake technology. Enacting laws that criminalize the use of deepfakes and mandate the disclosure of manipulated content can offer legal remedies.

Proof of Authenticity:

Implementing media authentication techniques can help verify and certify the genuineness of content, from its creation point establishing a traceable digital chain of custody that makes it more difficult for deepfakes to go undetected.

Collaborative Efforts: International cooperation plays a role in combating the threat posed by deepfakes. By pooling resources sharing insights and coordinating responses we can effectively tackle this challenge.

In summary, countering the risks associated with deepfake technology necessitates a multifaceted approach. It is, through raising awareness, technological advancements, regulatory frameworks, authentication techniques, and international collaboration that we can aspire to mitigate the dangers posed by deepfakes and promote an environment. The current legislation in India regarding cyber offences caused using deepfakes is not adequate to fully address the issue. The lack of specific provisions in the IT Act, 2000 regarding artificial intelligence, machine learning, and deepfakes makes it difficult to effectively regulate the use of these technologies.

In order to better regulate offences caused using deepfakes, it may be necessary to update the IT Act, 2000 to include provisions that specifically address the use of deepfakes and the penalties for their misuse. This could include increased penalties for those who create or distribute deepfakes for malicious purposes, as well as stronger legal protections for individuals whose images or likenesses are used without their consent. It is also important to note that the development and use of deepfakes is a global issue, and it will likely require international cooperation and collaboration to effectively regulate their use and prevent privacy violations. In the meantime, it is important for individuals and organisations to be aware of the potential risks associated with deepfakes and to be vigilant in verifying the authenticity of information encountered online. In the meantime, the Governments can do the following: (a) First, is the censorship approach of blocking public access to misinformation by issuing orders to intermediaries and publishers. (b) Second approach is the punitive approach which imposes liability on individuals or organisations originating or disseminating misinformation. (c) The third approach is the intermediary regulation approach, which imposes obligations upon online intermediaries to expeditiously remove misinformation from their platforms, failing which they could incur liability as stipulated under Sections 69-A33 and 7934 of Information Technology Act, 2000.

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Chapter 4

The Revamp of Colonial-Era Laws

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As we know most of the Indian laws were formulated at the time of British rule when the colonials used to rule over India. On 15 August 1947, India became free from British rule and formulated its own Indian Constitution which came into existence on 26th January 1950. After the formulation of the Indian Constitution, criminal laws were also taken into consideration during the year 1950 and with the aim of consolidating and modernizing the Indian Legal system, significant changes were made to the Indian Criminal Laws. These laws were extensively revised in 1950 with an aim to reflect the social, cultural, and political changes that have occurred in India and to align the law with the country's newly adopted Constitution.

The changes included redefining and reclassifying various offences, eliminating outdated or discriminatory provisions, harmonizing the various legal principles, promoting a system that would uphold the rule of law and protect individual rights, as well as introducing new provisions to address emerging legal issues. With this, I would like to draw attention towards the recent news highlights i.e., the Union Home Minister Amit Shah introduced three bills to repeal and replace the Indian Penal Code, 1860 with the **Bharatiya Nyaya Sanhita Bill**, the Criminal Procedure Code, 1973 with **Bharatiya Nagarik Suraksha Bill**, and the Indian Evidence Act, 1872 with **Bharatiya Sakshya Bill**.

During the presentation of Bills in the Lok Sabha, the Union Minister stated the reason for repealing and replacing the laws i.e., **removing the references to the British Monarchy and other 'signs of Slavery' and these laws were made to strengthen the colonial rule, to protect the colonial rulers, and the intention was to give punishment and not to give justice.**

Was the reasoning given by the Union Minister up to the mark? In my opinion, the reasoning is not valid enough because, As I mentioned above as well that after the formulation of the Indian Constitution, the criminal laws were extensively revised and the changes took place on the ground of addressing the emerging legal issues. Though changes are required to be made in the laws as per the needs of society, the given reasoning for the same is not up to the mark.

Therefore, the phrases 'sign of slavery' and 'British Monarchy' used as the reasoning are not justifiable.

While considering the changes proposed in the new legislatures, a total of 313 changes have been proposed by Union Minister Amit Shah. Does all the changes are up to the mark? Let us see.

As everybody knows the Indian Criminal Justice System favours the accused because it states the fixed standard of proof for conviction i.e., until and unless the alleged charges are not proven "Beyond the reasonable doubt" against the accused, he cannot be held liable for any offence as '1000 culprits can escape, but, one innocent should not be punished'. But, in the Bharatiya Sahita Bill, this fixed standard of proof has been changed to 'clear and convincing evidence' which is not even defined under the respective Act or anywhere else.

The ambiguous phrase has been added which will create a lot of problems while examining the accused. Apart from this, in the Bharatiya Nagrik Suraksha Bill, a category of offence is added i.e., 'Social welfare offence'. By the name, one can understand that social welfare means the growth or development of the society but, what kind of offences will fall into the same? It is not defined. This is also showing the full-fledged ambiguity.

We are aware of the fact that 'anything confessed before the police officials or authorities does not fall into the ambit of Confession' because it can be a reason or give birth to new crimes custodial death, forceful or false confession or will be the violation of the maxim 'innocent until proven guilty.' But Section 27A of the Bharatiya Sakshya Bill allows the confession made before the police officials or authorities which will save the criminals from the punishments and harm the poor innocent.

If we read Section 69 of the Bharatiya Nyaya Sanhita Bill, states about **sexual intercourse with women by making false promises of marriage employment or promotion**. Now, referring to the IPC 1860 was framed as per the situation and condition of the 19th century as during those days, crimes were used to committed by men against women, the vice-versa was not the situation. Therefore, those gender-biased laws are understandable but this is the 21st century, where the vice-versa situation has also existed. For instance, on 4th December 2022, a newspaper headline was 'Four women rape a man in Jalandhar: Gender neutral laws are crying need of the hour'. Still, these new proposed laws are gender biased and show an outdated nature and procedure.

These are not enough yet. The Bhartiya Nagrik Suraksha Bill expanded the authorities and powers of police officials with regard to arrests, seizures, detentions etc. In the case of D.K Basu v State of West Bengal, the Supreme Court had given 11 guidelines with respect to arrest and detention but the commission didn't consider the same while drafting the new bill.

The guidelines of the Supreme Court are ignored by the commission while granting wide powers to police officials.

So, here, if we see the conclusion then out of 313 proposed changes, some of the changes are acceptable in nature but most of the changes are ambiguous, outdated, lacking consistency and violative of Human Rights because these bills are drafted by the Criminal Law Reform Commission, 2023 which is made up of a 5-member committee headed by Prof. Ranbir Singh.

This commission does not include any representative of the Bar Council of India, Judges of the Supreme Court or any retired or former judges of the Supreme Court who have the experience.

Even the committee did not take any suggestions from the public. When in the formation of UCC (Uniform Civil Code) the suggestion of the public is asked by the legislature but not in these laws just because UCC is based on religious issues and these bills are General in nature but both are governing the people only so, 'Does it show any intelligible differentia?'. We have a concept of green paper and white paper for the sake of public opinion but the same was ignored by the commission. If we consider the Indian Constitution, 1950 then when the draft was prepared by Dr B.R Ambedkar, a total of 8 months were given to the public for giving their suggestion, advice or proposed any amendment into the Indian Constitution. When the drafter of Grundnorm can consider the opinion of the public, why can't this bill require the opinion of the public? Apart from this, why there is a need for new laws only? They can bring a new amendment and make as many changes as required. Even the 42nd Amendment of the Indian Constitution, of 1976 brought a lot of changes and therefore, it is also known as the Mini Constitution. Hence, a good reform can be welcomed by society but those reforms are actually ambiguous, not as per the needs of society should not be taken into consideration.



Chapter 5

UNIFORM CIVIL CODE

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The Indian Constitution's Article 44 covers the Uniform Civil Code, which is included in Directive Principles of State Policy. These are not legally enforceable but have been planned to guide the state in policy implementation. This aims for the implementation of one law for all religions in India in affairs pertaining to marriage, divorce, inheritance and adoption. It has been encouraged by some people as a strategy to elevate national integrity and end gender discrimination between men and women prevailing in the country. On the other hand, some people are against the enforcement of the Uniform Civil Code as it is a violation of the right to freedom of religion and would be a hindrance to religious diversity in the country.

Goa is the only Indian state that has a Uniform Civil Code, maintaining its common civil law known as the Goa Civil Code after its liberation from the Portuguese rule in 1961. The rest of the Indian states follow different personal laws that have been established on their religious or personal identity.

PERSONAL LAWS IN INDIA

Laws that are applicable to a specific group of people pertaining to their faith, belief, caste and religion are made after deliberately considering religious texts and customs. The source and authority of the Hindu and Muslim personal laws are embodied in their religious ancient texts. In Hindus, legal issues concerning marriage, divorce, adoption, inheritance, succession, co-parenting, duties of sons to compensate their fathers' debts, guardianship, the division of family property, maintenance and donations made by charity are governed by personal laws. In Muslims, matters concerning succession, dowry, inheritance, guardianship, wills, marriage, legacies, wakfs, gifts, divorce and pre-emption established by Quran.

Presently, all the religious communities in India, such as Hindus, Muslims, Jews, Parsis, Christians, Buddhists, Jains and Sikhs are being administered as per the rules of their laws.

Personal laws are set based on religious identity. Hindu personal laws that have been reformed still embody certain traditional practices. Special Marriage Act, 1954 allows people from different religious communities to marry without changing their religious identities. Discrepancies arise between Hindus and Muslims when they marry under the Special Marriage Act because Hindus continue to be governed by their own personal laws whereas Muslims are not governed by their own personal laws.[1]

CHALLENGES FACED IN THE IMPLEMENTATION OF UNIFORM CIVIL CODE

1. India is a secular country which is represented by its diverse cultures, traditions and religious groups. Implementation of the Uniform Civil Code is looked upon as a violation of their right to freedom of religion, which is guaranteed under Article 25 of the Indian Constitution and a hindrance towards their cultural independence by various religious and minority groups.

2. A common law for all religions will disregard different religious groups' distinctive identities and practices.

3. It can bring communal tensions and conflicts in the country as political will and consensus are absent among the legislature, the judiciary and the government for its enforcement.

4. Implementation of Uniform Civil Code requires a large scale harmonization, drafting, codifying and rationalising the variety of personal laws and practices that are prevalent in India.

5. In addition, it will require active participation of various stakeholders which include legal experts, religious leaders and women organizations.

SIGNIFICANCE OF UNIFORM CIVIL CODE

1. Personal laws have numerous complications and inconsistencies in the legal system which would be simplified after implementing the Uniform Civil Code.

2. It will modernize the society by bringing an end to obsolete and orthodox religious practices such as child marriage, triple talaq, polygamy, etc., that are violating the fundamental rights of women and values of the Indian Constitution.

3. Women would be granted equal rights in matters pertaining to maintenance, divorce, adoption, marriage and inheritance. This will promote gender equality and exterminate the oppression and discrimination faced by women under different personal laws.

4. It will bring a feeling of secularism and national integrity among the citizens of India. It will endorse the constitutional values and bring an end to communal tension and conflicts arising out of various personal laws.

5. In addition, it will be a broad-minded approach for meeting the needs of the changing society and aspirations of the public.[2]

CASE LAWS

1. Shayara Bano vs. Union of India (2017)

This case is commonly known as the "Triple-Talaq case". The decision was given in favour of Shayara Bano and others by the Supreme Court. The practice of triple talaq was declared unconstitutional by a 3:2 majority.

It was a violation of the dignity and equality of Muslim women. The legislature was directed by the Supreme Court to take measures against triple talaq and protect the Muslim women from being oppressed. A law must be enacted by the parliament to regulate marriage and divorce in Muslims. This landmark decision is undoubtedly an initiative for the upliftment of the status of Muslim women.[3]

2. Shah Bano Begum vs. Mohammad Ahmed Khan (1985)

The Supreme Court declared that Muslim women can claim maintenance from her husband even after divorce. If she is incapable of supporting herself and her children after divorce, then she is entitled to get maintenance from her husband. It was held that as per section 125 of the Code of Criminal Procedure, a Muslim woman is entitled to claim maintenance from her husband even after the expiry of the Iddat period. It is often considered that these traditional religious beliefs and principles will come to an end after implementation of the Uniform Civil Code.

3. Sarla Mugdal vs. Union of India (1995)

Indian constitution has granted the right to freedom of religion. It gives freedom to an individual to convert to any religion of his choice in which he was not born. Sometimes this provision is also being used fraudulently due to the diversity of religions and personal laws.

The Supreme Court gave its decision that the right to freedom of religion does not grant a right to an individual to overthrow the provisions of law and practice bigamy. A Hindu husband has to dissolve his first marriage if he wishes to convert to Islam. He cannot practice bigamy and convert to Islam without dissolving his first marriage. The implementation of the Uniform Civil Code will be a step towards bringing an end to fraudulent conversion of religion and bigamous marriages.

CONCLUSION

India is a diverse country with a unique combination of religions which include Hindus, Muslims, Jews, Christians, Parsis, Sikhs, Jains and Buddhists. Implementing the Uniform Civil Code would be an ideal approach for bringing national integrity to the country. It will help in bringing an end to the regressive practices prevalent in various personal laws. A common law for all religions will safeguard the rights of the citizens of the country. The majority opposes of the Indian population are opposing the implementation of the Uniform Civil Code because they fear that it will violate their religious freedom. They want to preserve the distinct identity of their religions.[4]

It is a matter of question that whether a country like India which has a variety of cultures, religions and tradition can execute a Uniform Civil Code without any unintended consequences. A Uniform Civil Code will bring unity in the country and help in eliminating gender discrimination. This will also be a step towards upliftment of the status of women. Its not a matter of minority protection or national unity but equal treatment of all citizens with dignity. Most of the personal laws have failed to safeguard the fundamental rights of citizens and bring gender equality in the country. [5]

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Chapter 6

THE ROLE AND STATUS OF WOMEN IN RELATION TO DHARMA

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According to Indian Jurisprudence, Dharma in a very basic sense means duty as it explains the duty of every individual like a duty of a King is to look after and protect its kingdom. These duties include religious, spiritual, social and legal duty which may change from person to person. Dharma was, for the first time, discussed in Rig Veda which means the foundation of the universe. These scriptures believe that life was created by God, infusing the principles of Dharma in all the living beings and that every individual must follow his Dharma and receiving salvation is the eternal Dharma in Hinduism. During the Rig Vedic period, true Dharma was followed where both men and women enjoyed equal status in society. The Vedas declare the shakti as the supreme, the essence of all, the omega and alpha and the one who generates everything. The status and role of women has been described well in Rig Veda.

The book of Mahabharata states that "Wife is the sacred soil in which the husband is born again, even the Rishis cannot create men without women"[1].

During Vedic period, they were given good education to make them independent. Women like Gosha, Apala, Lopamudra and Saci are one of the many intellectuals who became prominent figures for writing hymns. There was the culture of organizing Swamyar, where the daughter had the opportunity to choose the best groom for herself, they even used to attend public gatherings to meet and socialize with potential grooms and also there was no practice of child marriage. Hindus have always believed in worshipping the God and Goddess together, Rama with Sita, Shiva and Shakti, Vishnu and Laxmi, even the Ardhnariswara avatar depicts that Shiva and Shakti reside in the single body with Shiva on the right side and Shakti on the left and this avatar is the source of creation.

During the Vedic period, women were economically independent; they used to help their husband in agricultural activities or work as cloth spinners, weavers, etc.

During the Vedic period, women were economically independent; they used to help their husband in agricultural activities or work as cloth spinners, weavers, etc.

Their role in religious activities was very dominant. They had the liberty to perform religious tasks as per their ability and choice and were also encouraged to participate in religious debates[2]. Women like Gargi and Maitreyi were known for their deep knowledge. Visvavara acted as a priest in sacrifices, Romasha and Loopamudra are some of those several women that revealed hymns[3]. Apala, Ghosa, Aditi, are those that shared their wisdom and they instructed even the divine beings like Indra. These women were known as Brahmavadinis and they lived their life spiritually and were called as revealers of Brahman. It was believed that rituals performed by women were the most powerful because it provides salvation to her whole family. Scriptures mention that a woman, after marriage, is meant to rule over the family with her husband like a queen[4].

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During this Vedic era, women enjoyed excellent status concerning education[6]. Girls used to pursue several subjects while observing celibacy. Philosophy and logic were the areas where they showed exceptional prowess. They were quiet familiar with the verses and sholakas of Rig Veda and used to sing it. Some of these pandits were Urvashi, Appala and Ghosha. There were Acharyas also like Khema and Subhadra who were famous for their teachings and lectures[7]. In the story of Mahabharata, Kunti had a deep knowledge of the Atharvaveda. In Ramayana, we can see the mentions of women that remained unmarried and pursued the lifelong learning. Atreyi received her education in the ashram of Valmiki with Luv and Kush, Amba and Shekhawat attended the same school, this shows that there was the culture of co-ed education also.

In the Vedic civilization, women held an important place in politics. As per Atharvaveda, women were considered as crucial members of society, they received military training just like men[8]. Vedic women actively participated in political matters, like Vispala aiding in battles and even being healed by the Asvins with an iron leg after losing one in combat. Women like Rajasuya, Vajapeya, Asvamedha, Purusamedha, and Sarvamedha were greatly associated with social and political life. This evidence strongly suggests that women had actively maintained their political roles during the Vedic era.

Beside these, bearing and raising children was an important role for women. Despite some descriptions in the Smritis painting a negative picture, women's status was not terrible. They were supposed to be well taken care of, provided with all necessities according to their husband's wealth. It was believed that mistreating or abusing wives was unacceptable to the Gods, and offerings from such men would not be accepted. In that era, women were seen as ideal homemakers, capable of managing even the toughest situations due to their remarkable calmness of mind. They were taught and guided in the names of revered goddesses such as Saraswati, Durga, Parvati and Kali.

Over the period of time, significant changes occurred in the status of women. Initially, during the Smriti age, a decline in women's social status was noticeable. This deterioration continued over a thousand years. Practices like child marriage and Sati emerged during this period, contributing to the worsening conditions for Hindu women. Subsequent Muslim invasions further deteriorated the social, political, economic, and cultural lives of Hindu women, introducing practices like pardah pratha, Sati, and polygamy. Today even though many legislations have been made to restore the status of women however, the crimes like rape, sexual harassment, dowry, etc still present in this patriarchal society because somewhere people have not yet accepted the fact that men and women are equal. Today, society has degraded the status of women from a divine being to a mere object of gratification. The Vedic era indeed has much to teach to this generation.

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Chapter 7

HATE CRIMES IN INDIA

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Abstract[1]

In the past five years, hate crimes against minority populations have sharply increased in India. Muslims and Dalits made up a sizable portion of the victims of religiously motivated crimes. The answers from the state apparatus are at odds with these constitutional protections since we live in a secular, democratic republic. In addition, officials of the ruling political party and the groups they are linked with have been instrumental in polarising the nation and escalating hatred and bloodshed. Due to the state apparatus's later partial participation in cases involving hate crimes, questions about its justice and reliability have been raised.

HATE CRIMES IN INDIA

What is a hate crime?[2]

Hate crime is a criminal act motivated by bias against an individual or social group due to their religious practices and customs. It is an attack on a person's rights, affecting not only them, but the social structure as a whole, making it more heinous than many other Criminal Offences.

Need for hate crime law in India[3]

The brutal murder of tailor Kanhaiya Lal in Udaipur and consequent threats against Prime Minister Narendra Modi, which were all caught on camera and broadcast online, should motivate efforts to create legislation that will include hate crimes. Mohammad Riyaz Akhtari and Gaus Mohammad, the two people charged in this case, may have been found, but the entire state has been affected by restrictions and an internet blackout.

India does not have stand-alone hate crime legislation. A few sections of the Indian Penal Code (153A, 295, 298 etc.) are used to deal with what would be widely considered hate crimes. Hate crimes are distinguished by the underlying motive behind the crime and not the crime itself.

Indian Laws Against Hate Crimes: [4]

Hate crime is neither well defined in the Indian legal framework nor can it be easily reduced to a standard definition

The Indian Constitution guarantees equality and prohibits discrimination on the grounds of religion, race, caste, sex, or place of birth, (Article 14) but despite this, hate crimes remain a persistent problem in the country. However, Hate speeches are dealt with IPC under Sections 153A, 153B, 295A, 298, 505(1) and 505(2) which declares that word, spoken or written, that promotes disharmony, hatred, or insults on basis of religion, ethnicity, culture, language, region, caste, community, race etc., is punishable under law.

Major Factors Responsible for Hate Crime[5]

- **Religious and Ethnic Tensions**
- **Caste-based Discrimination**
- **Lack of Political Will**
- **Social Media and Misinformation**

Types of Hate Crime

Hate crime can be of three main types: physical assault, verbal abuse and incitement to hatred.

I. Physical Assault: It occurs when a person uses physical violence and causes injury to another person's body.[6] If someone is a victim of physical assault he/she must report it

II. Verbal Abuse[7]: Verbal abuse, threats or name-calling can be a common and extremely unpleasant experience for minority groups.

Victims of verbal abuse are often unclear whether an offence has been committed or believe there is little they can do. However, there are laws in place to protect you from verbal abuse. If someone has been the victim of verbal abuse, talk to the police or one of our partner organisations about what has happened. Even if you don't know who verbally abused you, the information could still help us to improve how we police the area where the abuse took place.

III. Incitement to Hatred:[8] this offence occurs when someone acts in a way that is threatening and intended to stir up hatred. It could be in words, pictures, videos, music etc.

Hate content may include:

- messages calling for violence against a specific person or group
- web pages that show pictures, videos or descriptions of violence against anyone due to their perceived differences
- chat forums where people ask other people to commit hate crimes against a specific person or group

Ways to deal with hate crimes[9]

- **Awareness Campaigns:** one must raise awareness about hate crime many people even don't the meaning of hate crime and how harmfully it can affect individuals and society as a whole.
- **Mass media campaigns** can be done to educate people about the consequences of hate crimes and encourage them to report such incidents.
- **Forming of communities:** communities can play an important role in addressing hate crimes. They can together create a space where people can come together and have an open discussion about what divides them
- **Use of Technology:** Technology can be used to improve reporting and tracking of hate crimes. This can include developing online reporting systems and using data analytics to identify trends and hotspots for hate crimes.
- **Stiffer Penalties:** Another way to deal with hate crime is to impose stiffer penalties on those who engage in such behaviour. This can serve as a deterrent to others who may be considering committing hate crimes.

3. Conclusion[10]

India hasn't even begun to establish a law to fight these crimes. A strong law will go a long way in enabling the judiciary to examine crimes from the perspective of the victim's caste, religion, etc., and effectively drive down crime rates. Social reform and sensitization are indeed needed to exterminate hate crimes.

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