THE HUMAN RIGHTS COMMUNIQUÉ

YOUR QUARTERLY DOSE ON HUMAN RIGHTS

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#HumanRights

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KULBHUSHAN JADHAV: SAVE OR SLAY?

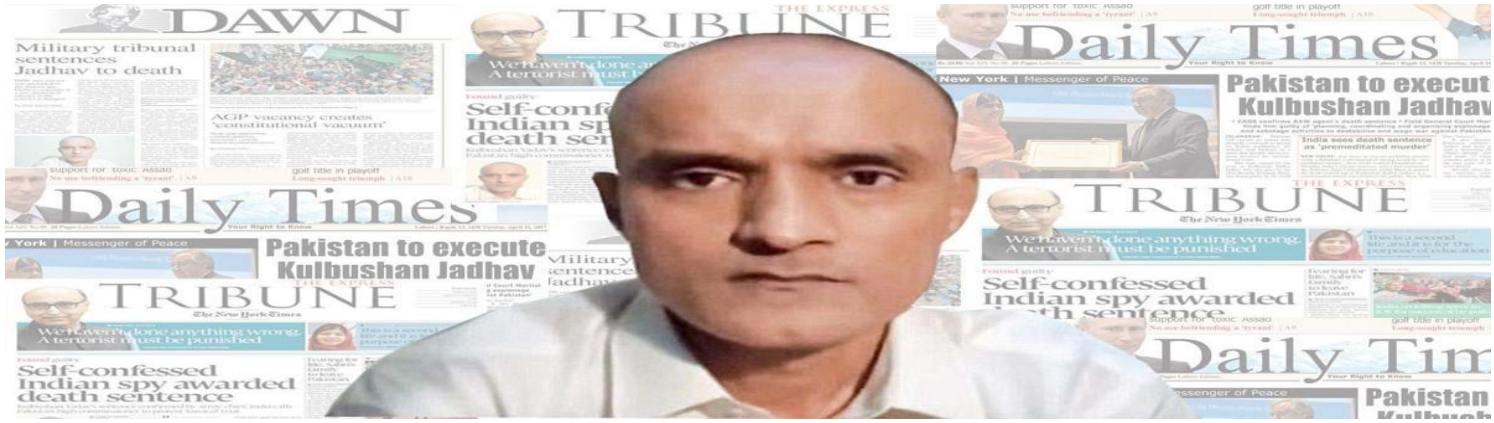
The Field General Court Martial of Pakistan on 10 April 2017 sentenced a retired Indian naval officer Kulbhushan Jadhav to death. For many it is just an order of execution of an Indian defence officer claimed to be a spy, but for India and Pakistan the implementation of this order can lead to serious consequences, especially when the political relationship has gone sour over the last few years. It could act as yet another impediment in ensuring smooth bilateral ties between India and Pakistan.

BACKGROUND

Kulbhushan Sudhir Jadhav is a 47 year old retired Indian naval officer who was arrested by Pakistan in the Balochistan area on the charges of alleged terrorism and spying for the Research and Analysis Wing (R&AW) of India. The Government of Pakistan alleges that he is still serving as an Indian naval officer and is responsible for the terrorist activities in Balochistan on behalf of the Indian government. But the Indian government denies any association with any terrorist activities and claims Jhadav to be only an Indian naval officer who retired in 2003 and was abducted from Iran where he had established a small business.

ARREST & CONFESSION

According to Pakistan, Jadhav was arrested in March, 2016 during a counter-intelligence raid by the security forces in Balochistan and was found near the Afghan-Pakistan border in Chaman. He was alleged to have made an illegal entry in Pakistan via Iran with forged documents stating his identity as Hussain Mubarak Patel. The Pakistan government also states that Jadhav during his interrogation has confessed to being a spy for the R&AW, the external intelligence agency of India and has admitted to have a part in the terrorist activities in Balochistan and its financial funding. The Pakistan government made the confession video of Jadhav public in which Jadhav acknowledges being involved in terrorist activities in Pakistan under the instructions of R&AW. The Pakistan government claims this to be state sponsored terrorism and considers it as its duty to try and punish Jadhav for terrorism under its domestic laws.



ABDUCTION

The Indian government asserts that Jadhav was abducted from the Iran-Pakistan border by Pakistan's forces and that Pakistan has fabricated the documents to appear as evidence. It also rejects the confession video of Jadhav and declares it to be doctored and edited. Even the Iranian government states that, *"It appears that he strayed into Pakistani waters. But there is also a possibility that he was lured into Pakistan sometime back and fake documents were created on him by the ISI."*The Indian High Commissioner has also tried to seek consular access to Jadhav but the Pakistan government has not agreed to it.

DEATH SENTENCE

Jadhav was sentenced to death by the Field General Court Martial in Pakistan on 10 April, 2017, following a confession before the magistrate and court. His trial lasted three and a half months and the charges he was convicted for included; spying for India, waging war against Pakistan, sponsoring terrorism, and destabilizing the state. He was tried in a military court due to his naval background and the sensitive nature of his case, involving espionage and sabotage. Following the sentencing, the government of India summoned Pakistani High Commissioner to India, and issued a demarche stating that the proceedings that led to Jadhav's sentencing were farcical and that India would regard Jadhav's execution as murder in the first degree.

CONSEQUENCES

The situation regarding Jadhav's pending execution is a matter of grave importance as this would tremendously affect the bilateral ties between both the countries. The Indian government has already warned Pakistan that if this execution is carried out, it would have to take some serious steps against Pakistan and would have to go to the extent of severing all potential ties with Pakistan.

What is absurd about this situation is that the Pakistan's government is denying any consular access to Jadhav and the amount of secrecy revolving around the trial of Jadhav by a military court than a civil court. Many officials feel that the death sentence of Jadhav is a bargaining chip for Pakistan against India as, if Pakistan wanted to execute Jadhav that urgently, it would have done so without any interference from the world community. It has also been questioned that Jadhav's speedy trial was in contrast to the endless postponements of that of the Mumbai attackers. What is also uncertain and unclear is the confession video of Jadhav, where one cannot clearly discern whether the confession was voluntary or was fabricated.

The options that the Indian government can consider, while it seeks to free Jadhav include severing economic and trade relations with Pakistan by stopping the movement of goods across borders or even go to the extent of blocking visas of Pakistani nationals in addition to gathering support from international groups against Islamabad's human rights abuses in Balochistan; call for a fresh, free and fair trial of Jadhav; and offer to swap spies like the USSR and US did during the Cold War era.

The only action that can save Jadhav's life is, if the Supreme Court of Pakistan is moved against the decision of the military court, but if the Supreme Court upholds the decision of the military court, then the only thing left would be a pardon by the President of Pakistan. As Jadhav does not have many days to appeal against the ruling before the Supreme Court and as Pakistan has barred its lawyers from defending him, this seems a forlorn hope.

The Indian community is outraged by this death sentence especially after what happened to Sarabjit Singh in 2013. The implementation of this death sentence would also generate and aggravate the already deep seated emotions of the Indian community against Pakistan. This could also create problems at the India-Pakistan border and lead to further complications.

One can only pray that the situation gets resolved and both the governments come to an agreement as a human being's life is dependent on it and probably the future of India and Pakistan's international relations which are already strained and hanging by a thin thread.

Military tribunal sentences Jadhav to death

ISPR says lawyer was provided to the Indian spy; Delhi to consider it a pre-meditated murder if the convict is hanged

By Baqir Sajjad Syed

ISLAMABAD: Described as the biggest proof of Indian interference in Pakistan, Indian spy Kulbhushan Jadhav has been court-martialled and sentenced to death by a military tribunal for espionage and fomenting terrorism in Pakistan.

"Indian RAW Agent / Naval officer 41558Z Commander Kulbhushan Sudhir Jadhav alias Hussein Mubarak Patel was arrested on March 3, 2016 through a Counter Intelligence Operation from Mashkel, Balochistan, for his involvement in espionage and sabotage activities against Pakistan.

"The spy has been tried through Field General Court Martial (FGCM) under Pakistan Army Act (PAA) and awarded death sentence," the military's public affairs wing, ISPR, announced on Monday.

The FGCM is the military equivalent of a civilian criminal trial and is conducted by a military tribunal.

The sensational spy story that began in March last year and witnessed several twists climaxed with the sentencing and analysts feel it would not be the end of the tale and rather it would be sometime before it reaches a closure.

KULBHUSHAN Jadhav in a recorded statement released last year confessed to 'directing various activities in Balochistan and Karachi at the behest of RAW'.—INP

The ISPR announcement did not say when the trial commenced, how long it continued and when the verdict was handed down. It only mentioned that the sentencing had been ratified by Chief of the Army Staff Gen Qamar Javed Bajwa on Monday.

Bilawal terms Jadhav issue controversial: Page 5

Adviser on Foreign Affairs Sartaj Aziz had last month told the Senate that a criminal case against Jadhav was being registered for prosecuting him for his involvement in terrorism.

Earlier in January, Pakistan's envoy at the United Nations Dr Maleeha Lodhi had submitted a dossier to Secretary General Antonio Guterres containing proof of Jadhav's subversive activities.

The confession and trial

Jadhav was tried under Section 59 of the Pakistan Army Act (PAA) 1952 and Section 3 of the Official Secret Act (OSA) 1923 and found guilty of all charges, the Inter-Services Public Relations said.

Section 59 of the PAA provides for the trial of those accused of civilian offences. Section 3 of the OSA, meanwhile, is a wide-ranging law

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RECORDING OF COURT PROCEEDINGS: A STEP FURTHER TOWARDS FAIR JUSTICE

The Indian Judicial System is one of finest systems in the world which performs the act of interpreting of the constitution. It also ensures that no person is deprived by his or her rights which have been given to him by the virtue of the constitution. Having a glance at the court system established in our country,we have a plethora of judges, litigants, advocates, witnesses appearing on daily basis and hence we can deduce that they are expected to carry out their functions effectively and also be well acquainted with the rules and regulations of the courtroom.

But at the same time it also create the question of fair justice being granted and rights being ensured of all. This gives birth to the idea of the video recording of the court proceedings. This concept plays a crucial role in creating awareness among everyone, and in turn regulates the behaviour of the masses in the profession. Majorly, we can say that video recording of the proceedings undoubtedly benefit in increasing the transparency of the judicial system. Live recording of the entire scenario of the court-room proceedings curtail the risk of disputes occurring on the various grounds like consideration of some contentions or facts which might not have been taken into proper consideration by the judge while hearing the matter in the absence of the parties and the order had been passed or the advocates would have represented the case in an inappropriate manner. This process makes sure that the advocates are under a constant pressure to be truthful and honest while addressing the court. It then, becomes a compulsion for the advocates to make full , fair, true and complete disclosure of all the relevant facts with regard to their case, before the judge . Also, video recording of the court proceedings plays an indispensable role in governing the conduct of everyone present in the court- room be it the advocates, judges, litigant parties, witnesses etc. on the account of, the threat of being captured in the camera eye. It also serves as a helping hand in eliminating the risk of any sort of allegation which might be imposed on the judge or the advocate on the ground of not being able to carry out their functions efficiently. The judges also bear in mind that they follow a certain code of conduct being in the fraternity, due to the fear of loss of dignity and respect, and also to escape the risk of being humiliated by the public , to avoid any jeopardy in the near future , and lastly to prevent any unnecessary speculations and media interference with the system . The advocates nor the judges are willing tolerate anyone pointing a finger at them and holding them liable for not discharging their duties in an orderly manner. The other benefit of this is that no allegations would be raised on the judges, of that being partial or biased to any of the parties appearing before them.

In furtherance of same, the Supreme Court recently showed its inclination towards installation of CCTV Cameras in the court after numerous PILs and other cases filed with regard to same. The recent taken was taken by bench of Justice U ULalit and Justice Adarsh Kumar Goelafter the innocuous matrimonial case where the husband had petitioned the apex court seeking a direction for "audio-video recording of proceedings by the trial court to ensure fair trial to the petitioner, may be at the cost of the petitioner". The hon'ble bench took this decision after considering various directions by center and the recommendations by the Law Commission of India. Initially, the first court to get updated with CCTV is Gurgaon District Court, for which a proper guideline has been laid by the hon'ble court.

This can definitely be considered as a positive initiative by the court in furtherance of fair justice to all as the step of recording the trial is definitely going to ensure better working of courts when they will be under constant and continuous vigilance of someone. This will also ensure that the parties are given a fair trial by giving equal opportunity of being heard or opportunity of being represented in court. It would also help in supervising the conduct of the legal practitioners, which would reduce the allegations imposed on the ground of contempt of court. It would also play a leading role in maintaining a certain sense of, uniformity and order in the courts. It would make way for enhancing the level of discipline in the court rooms. Judges also, would be extremely vigilant and alert while passing a judgement or a decree being aware of the fact that their actions are under constant supervision and a single wrong move could place them in dilemma, and drive their reputation at stake, which they might have attained in the course of practice. Opportunity, may not be given for rectification of their mistakes as the profession holds high amount of dignity and honour. This technique would also help to increase and improve the standards of practice.

But at the same time arise a question of regulation of these camera recording and what not. Hence, it is very important for the court to decide who can obtain the recording of these proceedings and what framework will exist for such request. In the above said decision though, the hon'ble court has asked additional solicitor general Maninder Singh and senior advocate R Venkatramanito act as amicus curie in the present case and submit its report with regard to installed CCTV in the Gurgaon District Court. The court hence, with time need to provide a detailed guidelines as the process of installation and the criterion for obtaining or ensuring the safety of the said recordings. And going through the history of Indian Justice System, this definitely looks a step forward in long lasting goal of Fair Justice to all by Indian Judiciary.

DONALD TRUMP'S TRAVEL BAN

President Donald J. Trump signed a revised executive order on the 6th of March 2017 barring immigrants from six Muslim-majority countries from entering the US, setting the stage for another battle pitting executive power against judicial authority in America. His first executive order on immigration in January was thwarted by a three-judge panel of the U.S. Ninth Circuit Court of Appeals, which unanimously ruled that the said order offered "no evidence that any alien from any of the countries named in the Order has perpetrated a terrorist attack in the United States."

This new order, often referred to as the Muslim Ban 2.0, was halted by a federal judge in Hawaii who issued a nationwide ruling blocking President Trump's ban. A second federal judge in Maryland also ruled in a similar fashion, with a separate order forbidding the core provision of the travel ban from going into effect. The Hawaii ruling is broader than the Maryland one. It blocks the most significant parts of the order, which seeks to prevent citizens of six majority-Muslim countries — Iran, Libya, Somalia, Sudan, Syria and Yemen — from entering the U.S. for 90 days and stop all new refugee resettlement for 120 days. The Maryland ruling halted only the ban on travel into the U.S.

The main purpose of the new order was to modify the original order in ways that would make it acceptable to the courts – notably by exempting holders of green cards and valid visas and by removing the original priority given to "religious minorities." There was also what might be called a policy purpose, at least in one respect: Iraq was dropped from the list of targeted countries this time because it is a U.S. ally, Iraqis who had helped in the war effort (e.g., interpreters) were being prevented entry to the country, and important figures in the U.S. government did not want Iraq on the targeted list.

THE DIFFERENCES

A temporary restraining order on the original ban was allowed to stay in effect because the ban extended to visa and green card holders, in violation of procedural due process. This has been corrected. Also, courts were justifiably skeptical of the idea that legitimate national security considerations, as opposed to religious biases or political motives, drove the first version of the travel ban. The new version makes more of an attempt to justify the country-based exclusions on national security grounds, first stating that these countries "present heightened threats" because "each of these countries is a state sponsor of terrorism, has been significantly compromised by terrorist organizations, or contains active conflict zones." It summarizes conditions in these countries, based on a 2016 State Department report, and then attempts to show that some people who have entered the United States have threatened security.

Another point of difference is that the standing and due process rights of persons who do not already have a visa or refugee admission document are different from those of the persons who brought the challenges to the first executive order. At the same time, those challenging the revised executive order will still be able to focus on the anti-Islamic, discriminatory motivations underlying the new order. A key legal question will be whether the challengers can prove that the order was intended to discriminate against Muslims. On the facts, there is good evidence of discriminatory intent. Courts are not limited to considering whether the terms of a policy are explicitly discriminatory. They can also look to the historical background of a policy, the sequence of events preceding its adoption, and the statements of drafters. It's not difficult to draw the connections between the recurrent anti-Muslim rhetoric of candidate Trump, his campaign promise to ban Muslim immigration, the first executive order (which Trump adviser Rudy Guiliani described as an attempt to deliver a legally viable version of the promised ban), and the new executive order prompted by the courts' intervention.

SOUND INTENTIONS?

The criticism that the travel ban affirmatively harms US national security continues to apply to the new version. A number of prominent ex-national security officials argued to the Ninth Circuit Court of Appeals last month that discriminatory orders appearing to target Muslims harm U.S. interests by alienating partners, diminishing international trust in the United States and feeding extremist narratives that the United States is at war with Islam. While the new version of the ban has some exceptions and waiver provisions that will partly mitigate its human impact, it remains to be seen whether international public opinion views this ban as any different in message from the first one.

The federal government argues that the order should not be evaluated as a "Muslim ban" because it does not target all Muslim-majority nations but only six. But, looked at another way, the idiosyncrasy of the list may actually hurt rather than help the orders defenders when it comes time for a different judicial test: an assessment of whether the order is appropriately tailored to achieve its ends. For while the Constitution's language tends toward the absolute, courts decide how closely the means chosen relate to the government's desired end along with an assessment of how vital the government goal is. These standards vary, with government actions that make distinctions based on religion or race usually meriting the highest standard. In those cases, courts will demand a closely tailored fit to a compelling governmental purpose. In the context of immigration, however, the court might embrace a slightly lesser standard, in which Congress and the executive branch generally receives some deference. The most deferential standard requires only a "reasonable" relationship to a legitimate government interest.

Further, judges may still question whether this factual record justifies presumptively barring all nationals of these countries (even with the exceptions for permanent residence holders and current visa holders in the order). The executive order does not identify new evidence that would support replacing a system of individual screening with one imposing presumptive group-based exclusions.

Whatever the standard, the place to start with this analysis is the text of the order. This order rehearses its own rationale as preventing another terrorist attack like the one that occurred on September 11, 2001. That is an undoubtedly a vital goal. The problem arises, as it so often does, when considering the means chosen to accomplish this. The order singles out six (previously seven) specific nations — none of which were implicated in the 9/11 attacks. What's more, the executive order fails to cover nations from which those attackers and subsequent attackers did originate, arguably suggesting that the order is only loosely connected to its goals.

If there is a point at which the bias charge can no longer be pinned on a revised executive order, it is yet to be reached. The executive process that produced the ban continues to reflect hostility to Muslims. For example, the executive order still includes provisions that play on anti-Muslim prejudices, such as the requirement that government officials publicize "honor killings" by foreign nationals in the United States – a form of gender-based violence that candidate Trump falsely connected exclusively to Muslims.

MORE LITIGATION

If the courts are persuaded on the facts, they will still face questions over the scope of executive power over immigration. A doctrine established by the Supreme Court over a century ago sharply reduces judicial scrutiny over decisions to restrict the entry of foreign nationals. Over the course of the last century, the court has moved away from such views and recognized some constitutional limits on immigration power, in addition to developing the right to equal protection of the law in other contexts. But it hasn't explicitly overturned the old cases. So courts may now have to decide whether they are finally ready to deem the religious or racial exclusion of immigrants unconstitutional.

The Department of Justice's appeal the aforementioned Hawaii court order means the federal government is now fighting to implement it in two federal appeals courts on opposite ends of the country: the 9th Circuit in San Francisco and the 4th Circuit in Richmond, Va.

If the courts issue rulings that conflict with each other, there is a high chance of the Supreme Court taking up the case. Timing could be on Trump's side here as his nominee for the Court's sole vacant seat, Neil Gorsuch is expected to be confirmed and sworn in by April, tipping the ideologically divided court to lean conservative.

EXTRA JUDICIAL EXECUTION VICTIM FAMILIES ASSOCIATION & ANR. v. UNION OF INDIA & ANR., WRIT PETITION (CRIMINAL) NO. 129 OF 2012

INTRODUCTION

India is considered the largest democracy in the world. There has been a steady increase in the crime rates along with the social, political and economic developments in the country. It becomes the responsibility of the state to curb these rising crime rates with the help of judiciary and the police. The task of getting the criminals to the court and keep them from fleeing after being captured lies with the police. Many a times the police department fails to arrest the criminal; this ultimately results in criminals being free from the punishment imposed on them. Because of this the whole judicial process that took place to convict the person will be undermined. To deal with such possibilities, the police forces began to resort to retributive measures, thereby giving rise to "extra judicial killings" or popularly known in India as "encounters".

Before the 90's era encounters were rare, they were only used as means devised to deal with complex situation and as a means of self defence. In the 90's it became very frequent and there was a rampant rise in extrajudicial killings by police, created grave doubts regarding the authenticity and purpose or intention behind the encounters. India used encounter killings to cripple the underworld in the city and break down rampant extortion rackets. Police officers, who were known as "Encounter Specialists", believed that these killings delivered speedy justice.[1]

The police department since the very beginning in firm support of encounters. However, many NGO's, institutions working on social issues, human rights organisations and activists and also the family of the deceased opposed to such extra judicial killings. They base this opposition on the fact that it violated the right to life of such deceased as provided for under Article 21 of the Constitution.

In the case of Extra Judicial Execution Victim Families Association and Anr. v. Union of India and Anr. A different approach to this issue was given. A person who is believed to threaten public order is killed by an encounter. However, consideration was barely given to the family or next of kin who become the actual victims of these encounters.

There is also a belief that most of these extra judicial killings are usually done with an ulterior motive or to settle personal feuds. This varies from case to case. It is the obligation of the state not only to ensure that the police force is deterred from committing such act, but also make sure of the fact that the convict is not set free too.

FACTS

A writ petition was filed under Article 32 with allegations stating that there have been fake encounters or extra judicial killings by the Manipur Police and the armed forces of the Union, including the army. The police and the security forces on the other hand state that, all the encounters were genuine and the deceased were militants, insurgents or terrorists.

The Petition was filed by the Extra Judicial Execution Victim Families Association with its members who are mothers or wives of individuals who have been extra judicially executed by the Manipur police and security forces. The second petitioner was Human rights alets who went on to point out the human rights violations happening through these encounters or extra judicial killings. The petitioners allege that these killing have been carried out by the police in cold blood while the victims were in custody and after torturing them.

On one hand, it was claimed that not a single FIR was registered by the police even though several complaints were made. Usually the deceased are those individuals with no criminal record, but a conveniently labeled as militants. The Manipur State Human Rights Commission has become defunct due to the non appointment of members. There was also an order of the Gawhati High court to set up a special investigation team to investigation into these extrajudicial killings.

On the other hand, the attorney general stated that the security of the state is of paramount importance. The militant crisis was since they wanted separation from the country and resorted to killing civilians for this. This is the reasons for many extra judicial killings. With respect to the human rights issues, it was stated that the HR division of the Army, ensures that all the Do's and Don'ts' are adhered to by its personnel.

ISSUES

- Whether the writ petition is maintainable, since there was a prayer to order a police investigation?
- Whether the excessive force or retaliatory force by the Manipur Police or security forces is permissible?
- Do the next of kin of deceased victims have any rights at all, other than receipt of monetary compensation?

ANALYSIS

The present case raises very imperative questions as to where the rights of the state end and where do the rights of the citizens begin and how they coexist in a disturbed atmosphere like that prevalent in Manipur. According to the police and security forces, the encounters are genuine and the victims were militants or terrorists or insurgents killed in counter insurgency or anti terrorist operations. The need to know the truth has gained impetus over the years that have been filled with violence and countless deaths. Out of the 1528 deaths, only 62 cases emerged from a registered FIR. Rest of the cases were the ones in which no FIRs were filed with the police. The bench evaluated the stands of both the parties. A reference was made to Section 4(a) of the AFSPA. There was a contention that in view of Section 4(a) of the AFSPA a person can be killed without any reason by the armed forces. This was categorically denied by the court. Instead, it was provided that there are several safeguards and pre-requisite conditions that need to be fulfilled under AFSPA before a person might be killed by the armed forces. it is concluded that it is absolutely wrong to suggest that the armed forces personnel can kill any person without any reason, as alleged.

The court adopted a very humanitarian approach in evaluating the loss of life and alleged human rights violation in Manipur over the course of years. On the human rights issue, it was pointed out that a Human Rights Division in the Army Headquarters ensures that prescribed 'Dos' and Don'ts' (while dealing with militants and insurgents) are adhered to. Additionally, the Chief of Army Staff has also issued 'Ten Commandments' and this indicates that the armed forces consistently (and constantly) keep a watch on issues of human rights.

The bench also drew a distinction between an armed rebellion that threatens the security of the country or a part thereof and an internal disturbance. The former comes within the purview of Article 352 and Article 356 of the Constitution while the latter comes within the purview only of Article 356 of the Constitution and not Article 352 of the Constitution. It was provided that an internal disturbance is not a ground for a proclamation of emergency under Article 352 of the Constitution.[1]

It was therefore concluded that the President cannot, in the event of the latter situation, issue a proclamation of emergency except by using the drastic power under Article 356 of the Constitution which has in-built checks and balances so that no rights are violated. In providing protection to the States in the event of an internal disturbance, the armed forces of the Union may be deployed "in aid of the civil power".

It was contended that War-like conditions prevail in Manipur and thus the state has the duty to interfere and take action o ensure peace in such area. It was provided by the Hon'ble court that no such declaration has been made by the Union of India – explicitly or even implicitly - and nothing has been shown that would warrant a conclusion that there is a war or an external aggression or an armed rebellion in Manipur.

CONCLUSION

There is no denying that Manipur is facing the grave threat of insurgency. It is also clear that a number of the insurgent groups are operating there, some of which are heavily armed. However, it would be a gross violation of Human Rights to attack the entire population of Manipur to exterminate the elements of disturbance. The court appointed a committee to look into the alleged killings of 1528 people that would bring to light the correct facts regarding the killings alleged by the petitioner.

[1] Naga People's Movement of Human Rights v. Union of India (1998) 2 SCC 109

"E-WASTE MANAGEMENT RULES 2016": AN ANALYSIS

INTRODUCTION

What is E-Waste?

The concept of e-waste is the ingenuity of the 21th century, never has our predecessor heard about it neither our forefather who developed this great nation. However, with all the technological advancement around us, the repercussion of it had to show up, especially at the rate at which technology is being consumed: washing machines, cell phones, tube lights and bulbs, all and other are the main constituent of the e-waste. The concept of e-waste is popularly known by the acronym of WEEE, which stands for Waste from Electrical and Electronic Equipments. The main reason for the e-waste is not the appliances itself but the toxic used in the appliances like mercury, lead, cadmium, chromium which make it harmful for the human beings and the ecology.[1]

Among the other socio-economic issues which have been haunting India for decades, the problem of e-waste is relatively a new one, but surely holds a potential threat to the Indian ecosystem. Initially India, among other countries, did not pay much heed to the problem; however, the cognizance was drawn to the issue firstly after the enactment of the **Resource Conservation and Recovery Act (RCRA) 1976** in the United States, which provided for the dumping of e-waste in the less developed countries, out of which the first incident was that of the **Khain Sea Waste Disposal Case[1],** under which an U.S ship carrying 14,000 Tonnes of toxic waste bounded for Jersey, dumped the waste in parts of Indian and Atlantic Ocean respectively.

This incident drew great public outcry and reprimand for the laxity on the part of the U.S government. This incident led to the Basel Convention 1989- a treaty to reduce the movement of toxic waste among the countries. However, off lately, among others, India too has realized the potential of the toxic waste generated from the e-waste and therefore, has been developing several recycling plant to overcome the menace generated from them.

From the radiation generating from the tube light to the mercury in the flat screen television these can easily impair the nervous system and kidneys. India has been ranked 5th in a report of United Nation pertaining to countries producing galore of e-waste.[1] As if now India is producing more than 800,000 tonnes of e-waste annually, one of the main attribute of which has to be given to the Information Technology Sector, which constitutes a major sector of the Indian GDP, the overall growth of which was about 42 percent during the period between 1995-2000 and this can be regarded as of the main the reason behind the boom in the consumption level of the people of India.[1]

Therefore, it becomes of utmost importance that not only mechanism for recycling are undertaken but also steps are taken to regulate the over production of appliances and safety measures are undertaken for that purpose. At the same time it is necessary India implement some mechanism to overcome the abundance of waste being generated annually in India.

However, in 2011 India did implement the E-Waste Management Rules 2011 to regulate the e-waste, but the provisions were found to be insufficient, regarding which in length has been discussed in the coming chapter. We too also have to gauge the population density and the recycling culture subsisting in the society which plays an exemplary role in the creation of e-waste.[1]

However, in the eastern countries, apart from the legislation for regulating the e-waste, new forum are being searched to extend the liability of the manufacturers; one of these forum is the system known as the EPR (Extended Producer Responsibility) under which the liability of the producer extends to the entire lifecycle of the product. This not only creates pressure on the produce to produce products which are environmental friendly but also to restore for any damages caused to the environment or the human health. The doctrine is pretty much the extension of the doctrine of strict liability, but surely provides a safeguard against the use of harmful predicaments in the appliances.

E-WASTE MANAGEMENT RULES 2016: AN OVERVIEW

The new rules of 2016 regarding E-Waste (Management) which replaced the previous E-Waste (Management and Handling) Rules of 2011 exercised more stringent provisions than earlier. These rules will affect the current system manifold.

Firstly, the rules of 2016 introduced-

A) Responsibility of new stake holders in the E-waste Management Mechanism. The following members of Sale and Purchase chains of a product are now a part of Waste management chain as well. So that the full life of a product can be covered in order to prevent leakages to the informal sectors-

- Manufacturers – to collect any e-waste generated or used during the manufacturing of any electrical or electronic goods and further recycling or disposal of the same.
- Producers – by taking producers under the ambit of EPR, they are made liable for the collection and exchange of e-waste with the respective target. The targets being 30% from 1st year to 70% in the 7th year.
- Dealers- the inclusion of dealers was important in case the producers want to delegate the responsibility.
- Consumers- An economic facilitator of Deposit Refund Scheme has been added which helps the produce to charge a little extra and return the same to the consumers at the end of product's life.
- Refurbishers- Collect e-waste generated during the process of refurbishing and channelizes the waste to authorized dismantler.

B) The inclusion of CFL (Compact Fluorescent Lamp) and other mercury lamps within the purview of rules of 2016, in order to deal with the lack of management of toxic elements contained in the same.

Secondly, there has been some significant simplification in the Procedure of Grant of Authorization of

Management of e-waste. The former rules provided for

a separate permission taken for authorization of collection centre, for Dismantler and recyclers and separate EPR authorization for all the states. But now, there is no need for separate authorization of collection centre which are the part of EPR. Further, there is no need to take Authorization and registration for dismantling and recycling. Thus, this simplification will avoid unnecessary delays.

Thirdly, in the EPR, the producers only need authorization from CPCB (Centre Pollution Control Board) and no authorization is needed from the SPCB (State Pollution Control Board), thus an authorization from the central authority will avoid the significant delays caused by wasting time in taking permission from the State Authorities separately. Also, a new target based approach has been adopted in the rules of 2016 which were not in existence earlier and are based on the already established international practices. Thus, the process of collection is divided in different phases starting from 30% in the first year to 70% in the seventh year.

Fourthly, the accountability of state government has been increased manifold in the collection of E-waste and supervision of the movement of the same comparatively. The earlier set of rules did not mention provisions regarding the inclusion of State Government in the process of e-waste management. The involvement of state government shall lead to better implementation of rules. Also, the department of labour in the state and other authorities for the same purpose shall ensure the welfare and safety of the workers.

CONCLUSION

The apotheosis and the force of these rules can be summed up by accessing the impact of the same on the informal sectors who are generally unaware of the problems of mishandling of the waste or do not see the necessity to act upon the same. While the formal recyclers & dismantlers are aware of the problems and their role, the lack of the same approach in the informal one result in spread of health hazards which are being borne by the hoi polloi and also leads to the deterioration of the environment. Apart from a strong political will to deal with the e-waste management crisis, an increased public awareness is also required to solve this matter. In addition to this, it is also to be seen that the ones given the arduous task of going by the rules, and who didn't play their part till date, respond to the same. The result of the implementation of E-Waste (management) Rules, 2016 has still to come.

IN CONVERSATION WITH LAL DED

You are the heaven and You are the earth,
You are the day and You are the night,
You are all pervading air,
You are the sacred offering of rice and flowers and of water;
You are Yourself all in all,
What can I offer you?
-Lal Ded (Translated from Kashmiri by R.C. Temple)

The ongoing turmoil in the valley of Kashmir has not only resulted in violence and death in the region, but also the often less talked about-loss of livelihood. Bearing the brunt of both political strife and unrest, women have always been at the receiving end across cultures. They are the silent sufferers and mute witnesses of the injustice of the human race. However, there cannot be any holistic progress until everyone is given their fair share. Very recently, the United Nations released the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), for youth. It spoke about the role of young women, young men and youth-led organizations, networks and movements in holding their governments accountable for respecting and protecting human rights for all women and girls. It said that it is critical that all youth understand their human rights, and are empowered to claim them. It also stressed on the need to empower all women to enable them to achieve equality, in every respect, which is their fundamental right.

We spoke to an NGO called *Lal Ded*, based in Srinagar, working towards uplifting the women in the valley and showing a ray of hope to the inflicted people. The NGO is named after a famous mystical poetess of Kashmir, Lal Ded (or Lalleshwari), born in the 14th century; a legendary figure whom all Kashmiris revere and consider a saint in the valley.

Following is the conversation we had with *Eiliya Anees*, the founder of the NGO, a young Kashmiri herself, and a recent post graduate from University of Edinburgh with a degree in Human Rights:

1. Could you please tell us something about your organisation, Lal Ded?

   It is not unknown that women around the world have been subjected to oppression and violence. A major reason of this is their economic dependence on others for their livelihood and survival. In a place like Kashmir, where there's always an uncertainty regarding work and life, women are even more subservient and hence at a greater loss. This organization was formed with the view to provide economic independence to these resilient women, so that they can acquire the basic necessities of life for themselves and their families in Srinagar. The organisation seeks to help underprivileged women by providing them with financial aid and employment opportunities so that they can later become self-sustaining and improve their life and the society. This will be done by offering them with small jobs such as, taking care of the house, house chores, etc. We also try to help find and apply for jobs for women who are qualified but do not have the right guidance or means to do so. In short, *Lal Ded* aims at being a catalyst in the economic development of women in Srinagar.

2. Tell us about your modus operandi, or how does your centre work to achieve its objectives.

   We are a fairly new organization, so there's a lot of zeal to achieve what we aim for. We mostly work independently, as a close knit centre, for the female folk of the valley. We are dedicated towards providing them with employment opportunities; therefore we work hard towards making contacts and talking to interested parties on their behalf and landing them jobs such as house jobs, care-taking, etc. Lal Ded also works alongside qualified women as a guide to enable them to secure a job for themselves. We help the deprived sections in financial terms, wherever we feel there's a need, as well.

3. What are the main difficulties you face in running this Organization? Further, how do you manage funds for your initiatives? Do governmental aids play any role here?

There are various difficulties that the organisation faces in its day to day work. The main difficulty we face is regarding the lack of physical reach to those women who are in dire need of help. Since Kashmir is an immensely tensed region; there are everyday cases of clashes which lead to a grave and troubled situation for both the party we want to help and us in the area. The uncertainty in the valley is, undoubtedly, a great impediment to the smooth functioning of the organization. Further, when the organisation tries to offer help, they demand government security as well which is not possible for a small organisation like ours. The institution has no government support in its functioning as well which further makes the work a tough task. There is also not a lot of scope of private sectors in a place like Kashmir as both the prevailing situation and the people are reluctant in their approach.

4. Tell us about your future plans and endeavours regarding your organization.

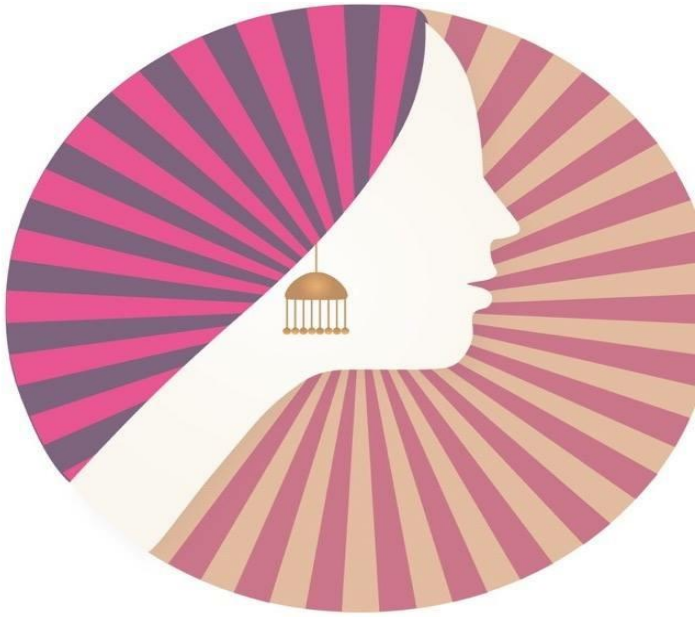
   Since the organization is in its nascent stage, there's still a lot of progress to be made and a long way ahead. We have plans to expand the establishment of the centre throughout the state. For that, we need the support and faith of the local people. There's a trust deficit amongst the masses of the valley, and therefore there's a need to gain their trust in order to work with them or for them. Our initial plan is to form a credible name for ourselves in the state, based on good will and faith. Besides that, we also have planned on opening up more schemes so that more and more people are engaged in the development process and come forward to help.

5. In a place like Kashmir, where unemployment and conflict go side by side, what policy changes would you recommend, if any?

   The political situation and the resultant human rights violations in the valley have made it very hard for most sectors to flourish or develop. There's a stagnation of the economy as well as loss of livelihood for the existing working class. While the world is opting for new-age employment opportunities, there's a slow progress in that regard in the state, although it is not altogether amiss. There is a lot of scope for privatisation and start-ups in the valley but being a conflict zone it is hard to find people who are willing to work for private organisations etc. Even now, most sections rely on government jobs especially the lower middle class who are the worst hit by the prevailing situation.

6. Do you believe that student mobilization plays a role in today's society? How do you think institutions like ours can help you augment your cause?

   There's no doubt that youth is the future of the country. In the valley, mobilisation of youth towards these causes is even more fruitful since it helps to focus on livelihood matters amidst the chaos and the unrest. Students from reputed institution like yours can help spread awareness about the hardships faced and can also be beneficial in chalking out a strategy for the future while collaborating with centres like ours. If young people come together, pledging to make a change, then there's nothing that isn't possible.



Lal Ded
Women's Welfare

AROUND THE GLOBE...

UK PUTS UN HUMAN RIGHTS COUNCIL 'ON NOTICE' OVER 'ANTI-ISRAEL BIAS'

The United Kingdom has put the United Nations Human Rights Council "on notice" over what it called its "disproportionate focus on Israel". On the final day of the council's 34th session, the UK mission to the UN said it would vote against all resolutions about Israel's conduct in the occupied Syrian and Palestinian territories if things did not change. While it made clear its "serious concerns about the growth in illegal demolitions and settlement activity" and said that UK stood "shoulder to shoulder with the international community" in support of a two-state solution, it added the council's "unacceptable pattern of bias" would only make the goal harder to achieve. The mission also questioned why Israel was still a standing agenda item while "Syria's regime butchers and murders its people on a daily basis".

DONALD TRUMP ADMINISTRATION TO DROP HUMAN RIGHTS CONDITIONS BEFORE SELLING F-16 FIGHTER JETS TO BAHRAIN

The Donald Trump administration has told Congress that it plans to approve a multibillion-dollar sale of F-16 fighter jets to Bahrain without the human rights conditions imposed by the Obama administration. If finalised, the approval would allow the Gulf Island to purchase 19 of the jets from Maryland-based Lockheed Martin, plus improvements to other jets in Bahrain's fleet. Though Congress has opportunities to block the sale, it is unlikely it will act to do so, given the Republican majority's strong support for the sale. The decision is the latest signal that the Trump administration is prioritizing support for Sunni-led countries seen as critical to opposing Iran's influence in the region over human rights issues that President Barack Obama had elevated.

EGYPT: 10-YEAR PRISON TERM FOR INSULTING PRESIDENT AN OUTRAGEOUS ASSAULT ON FREEDOM OF EXPRESSION

The sentencing of a lawyer to 10 years in prison for a Facebook post exposes the abuse of Egypt's new counterterrorism law to silence government critics, said Amnesty International. On 12 April, a court in Alexandria sentenced lawyer Mohamed Ramadan to 10 years in prison, followed by five years under house arrest and a five year ban on using the internet. He was convicted on a series of vaguely worded national security charges including insulting the President, misusing social media platforms and incitement to violence under the country's draconian counterterrorism law.

USA: ARKANSAS MUST URGENTLY HALT 'CONVEYOR BELT' OF EXECUTIONS

The US state of Arkansas must halt the execution of eight death row prisoners, seven of whom are due to be killed in an 11-day period this month, Amnesty International said, highlighting legal concerns and the fact that two of the men facing death have serious mental disabilities. Arkansas has not put anyone to death for more than a decade, but plans to execute two men per day on 17, 20 and 24 April, and one man on 27 April, because its supply of the controversial execution drug midazolam will expire at the end of April. "It is not too late for Arkansas to halt these executions. The conveyor belt of death which it is about to set in motion proves how out of step it is with the rest of the world when it comes to state-sanctioned killing, which is on the decline globally as more and more governments, and more US states, recognize it for the cruel anachronism it is."

DEATH PENALTY: WORLD'S BIGGEST EXECUTIONER CHINA MUST COME CLEAN ABOUT 'GROTESQUE' LEVEL OF CAPITAL PUNISHMENT

China's horrifying use of the death penalty remains one of the country's deadly secrets, as the authorities continue to execute thousands of people each year, Amnesty International said in its 2016 global review of the death penalty. A new in-depth investigation by Amnesty International shows that the Chinese authorities enforce an elaborate secrecy system to obscure the shocking scale of executions in the country, despite repeated claims it is making progress towards judicial transparency. Excluding China, states around the world executed 1,032 people in 2016. China executed more than all other countries in the world put together, while the USA reached a historic low in its use of the death penalty in 2016.

NATIONAL NEWS…

US GOVERNMENT REPORT PANS INDIA OVER HUMAN RIGHTS VIOLATIONS

A US State Department report has severely criticized the Indian government over alleged human rights violations, citing the police case against activist Teesta Setalvad and encounter killing of eight suspected SIMI activists in Madhya Pradesh. The report on 'Human Rights Practices in India for 2016' also referred to restrictions on foreign funding of NGOs, including some whose views the government believed were not in the "national or public interest", female genital mutilation and dowry-related deaths as human rights problems in India.

EXTRA-JUDICIAL KILLING IN MANIPUR: SC ASKS CENTRE TO SEGREGATE CASES

The Supreme Court asked the Centre to segregate the cases related to the armed forces from the list of 265 incidents of extra-judicial killings in Manipur, which it would deal with first on a plea seeking probe into such alleged fake encounter killings. The apex court, which said that 265 matters listed under four categories would be heard by it first, also asked the Manipur government to distinguish among these the cases related to the state police. The court is hearing a PIL seeking probe and compensation in alleged 1,528 extra-judicial killings in Manipur from 2000 to 2012 by security forces and police.

BANGLADESH AND INDIA MUST IMPROVE HUMAN RIGHTS SITUATION ALONGSIDE BILATERAL RELATIONS

During Bangladeshi Prime Minister Sheikh Hasina's four-day state visit to India, Amnesty International India said that as Indian Prime Minister Narendra Modi and Bangladeshi Prime Minister begin a summit meeting in New Delhi to bolster bilateral relations, the leaders should also look to address the human rights challenges in both countries. "While Bangladesh and India take immense pride in being stable democracies, both countries need to do much more to protect human rights. For starters, India and Bangladesh must stop using abusive colonial-era laws to crack down on free speech. Both India and Bangladesh are also home to large numbers of Rohingya people, many of whom have fled persecution and human rights violations in Myanmar.

INDEPENDENT INVESTIGATION NEEDED INTO ALLEGED GANG-RAPES OF ADIVASI WOMEN BY MADHYA PRADESH POLICE

The Madhya Pradesh government must ensure an independent and impartial investigation into the alleged gang-rape and sexual assault of four Adivasi women by police personnel in Dhar, Madhya Pradesh, in January. Allegations of looting by police must also be investigated. On 25 January, over 200 policemen from 13 police stations across Dhar district conducted a raid in the villages of Holibayda and Bhuthiya, purportedly to arrest men suspected of involvement in thefts. Most of the residents of the villages are from the Bhil Adivasi community, officially recognized as a Scheduled Tribe. Besides the allegations of gang-rape and sexual assault, the women also claimed that the police had looted their homes, and taken money, animals, harvested crops and household utensils. "The Adivasi women have clearly alleged the involvement of the police in their complaint, so the government's priority should be to ensure that the investigation is unbiased.

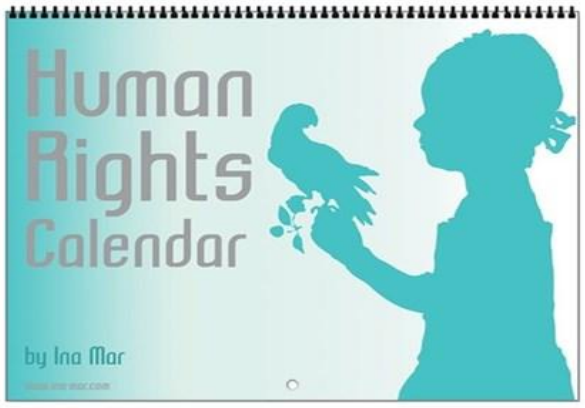
NIOS AND AMNESTY INTERNATIONAL INDIA LAUNCH HUMAN RIGHTS COURSE FOR BIHAR COMMUNITY HEALTH WORKERS

Over 4,000 community health workers in Bihar will receive training in human rights over the next three months as part of a new certificate course launched by the National Institute of Open Schooling (NIOS) and Amnesty International India. The 'Self-Learning Human Rights Certificate Course' aims to promote human rights values and principles of equality, dignity, inclusion, non-discrimination and participation in the public through community health workers. The three-month course is designed for community workers working in the fields of health and education - including Accredited Social Health Activists or ASHAs, Anganwadi workers, MAMTA government health workers and private health workers - in rural and urban Bihar. The course aims to help participants learn about various human rights issues and violations.

CREATIVE CORNER…

IMPORTANT DATES RELATED TO HUMAN RIGHTS

8 March	International Women's Day
21 March	International Day for the Elimination of Racial Discrimination
30 April	Holocaust Memorial Day
1 May	International Workers Day
15 May	International Day of Families



USA HAS A LONG HISTORY OF RESTRICTING IMMIGRANTS

The U.S. Constitution, which went into effect in 1789, gave Congress "**absolute authority**" over immigration law. For about the first 100 years of American history, Congress did not place any federal limits on immigration. During those years, Irish and German immigrants came to the U.S. in large numbers. But some members of the American public disapproved of these groups. They did not like the Catholic religion that many Irish and Germans immigrants practiced. And they did not like Asian immigrants, whom they viewed as convicts, prostitutes, or competition for jobs. So, in the late 1800s, Congress moved for the first time to limit the number of immigrants. By the turn of the 20th century, the U.S. federal government had increased its role in immigration. And it oversaw a dramatic increase in the number of immigrants, especially from Italy and Eastern Europe. Once again, some people opposed the number and kind of immigrants entering the country. A group called the Immigration Restriction League was formed. They **petitioned** Congress to require immigrants to show that they could at least read. Both Presidents Grover Cleveland and Woodrow Wilson opposed the requirement. But in 1917, Congress approved the measure over Wilson's objections. People who wished to settle in the U.S. now had to pass a literacy test.

In the 1920s, restrictions on immigration increased. The Immigration Act of 1924 was the most severe: it limited the overall number of immigrants and established **quotas** based on nationality. Among other things, the act sharply reduced immigrants from Eastern Europe and Africa. And it completely restricted immigrants from Asia, except for Japan and the Philippines.

Then, in 1965, a major change happened. Under pressure in part from the civil rights movement, Congress passed the Immigration and Nationality Act. President Lyndon Johnson signed it. The act **eliminated** the quota system based on nationality. Instead, it prioritized immigrants who already had family members in the U.S. It also sought to offer protection to refugees from areas with violence and conflict.

INTERESTING FACTS ABOUT BUDGET ----

- The word Budget was derived from the Middle English baguette, which came from Middle French bougette, which in turn is a diminutive of bouge, meaning a leather bag.

- The Budget process has its roots in the Bombay Plan of 1944. Bombay Plan was authored by John Mathai, GD Birla & JRD Tata.

- On November 26, 1947 R.K. Shanmukham Chetty had presented the first budget of Independent India. But actually it was a review of the economy and no new taxes were proposed as the budget day for 1948-49 was just 95 days away.
- Morarji Desai was the only Finance Minister to have had the opportunity to present two budgets on his birthday – in 1964 and 1968.

- Former Prime Minister of India and then Finance Minister Morarji Desai has presented the maximum number of Budgets - 10 - and an interim budget between 1959 and 1964.

- First woman Prime Minister of India Indira Gandhi was also the only woman finance minister in the history of India. She presented a Budget while serving as the Prime Minister.

- Current President of India Pranab Mukherjee has presented seven Budgets in his career while serving as the finance minister with different governments.

- The Budget of fiscal year 1973-74 is known as the "Black Budget" as the nation had a deficit of Rs 550 crore.

- The Union Budget of India for the year 1997-98, presented by the then Finance Minister P Chidambaram was called the "Dream Budget" by media, possibly because the highlight of the budget was a road map for economic reforms.

Contributions are invited for the August issue of the CASIHR newsletter. The last date of submission is 30th July and it can be mailed on casihr@rgnul.ac.in

FACTS ABOUT BUDGET 2017-18

- The Annual financial statement in the Article 112 of the Constitution of India is commonly known as the Union Budget of India.

- The President of India fixes the date of the Budget presentation by the finance minister.

- From this year, the Union Budget will be presented by the Finance Minister of India in the Parliament on the first working day of February unlike how it was presented on the last working day of February.

- For the first time in 92 years, the Rail Budget, usually presented separately, will be merged with the Union Budget of 2017

- The Budget presentation is preceded by a Halwa ceremony wherein a sweet dish is served to the officers and staff involved in the printing of the budget documents.

- The printing of the Budget documents starts roughly a week before the date of the Budget presentation. The employees involved in the process are kept in complete isolation (quarantine) in the Finance Ministry during this time till the Budget is presented.

FACTS ABOUT E-WASTE ---

- 20 to 50 million metric tons of e-waste are disposed worldwide every year.
- Only 12.5% of e-waste is currently recycled.
- For an estimate, India churns out 18.5 lakh tonnes of e-waste annually.
- The extreme amount of lead in electronics alone causes damage in the central and peripheral nervous systems, the blood and the kidneys.
- Only 15% recycle their computers, which means the other 85% end up in landfills
- About 50 millions cell phones are replaced worldwide a month, and only 10% are recycled. If we recycled just a million cell phones, it would reduce greenhouse gas emissions equal to taking 1,368 cars off the road for a year.
- Large amounts of e-waste have been sent to countries such as China, India and Kenya, where lower environmental standards and working conditions make processing e-waste more profitable.