

PRO BONO CLUB

SYMBIOSIS LAW SCHOOL, NOIDA

NEWSLETTER



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PRO BONO ACTIVITIES

NOVEMBER TO DECEMBER 2024

MONTHLY MEETING - 04 DECEMBER 2024 (ONLINE MODE)

During November and December 2024, the Pro Bono Club (PBC) of Symbiosis Law School, Noida, engaged in numerous impactful activities, reflecting its commitment to promoting legal awareness and providing community support.

A significant milestone was achieved with the circulation of the first issue of the PBC newsletter via email and for its publication on the SLS Noida website. This effort not only showcased the Club's initiatives but also marked its expansion into digital outreach.

The Club made considerable progress in organizing awareness camps, focusing on diverse social issues. Updates were shared regarding ongoing and proposed camps, including the Right to Education (RTE) Camp, which will replicate the success of the Lucknow event. The Sakhi Camp on women empowerment is planned for January 2025, while the Street Vendor Camp is currently in the discussion phase. New proposals were introduced, including camps addressing blue-collar workers, child labor and rights, acid attack survivors, and other pertinent issues. Collaborations with NGOs for these initiatives are also being explored. These efforts highlight PBC's dedication to addressing a broad spectrum of social challenges through targeted interventions. In addition to community outreach, the Club has enhanced its digital and social media presence. The PBC is also actively contributing to the case law posts on the SLS Noida social media pages.

Lastly, a dedicated team has been finalized to revamp the PBC webpage on the SLS Noida website, ensuring a more engaging and informative platform for showcasing the Club's initiatives. These activities, spanning community engagement, digital outreach, and innovative awareness strategies, illustrate the Pro Bono Club's unwavering commitment to creating meaningful social impact and advancing its mission of legal empowerment.

UNDER THE NYAYA BANDHU PROGRAMME, DEPARTMENT OF JUSTICE, MINISTRY OF LAW & JUSTICE, GOVERNMENT OF INDIA

PRO BONO ACTIVITIES - NOVEMBER TO DECEMBER 2024

Right to Education: Legal Awareness Camp - 22 October 2024



PBC organized a Legal Awareness Camp for raising awareness on importance of education, especially amongst underprivileged children. The camp was organized in Lucknow on 22 October 2024. It was conducted by Pro Bono Associates (PBAs) Aishnai Singh, Radhika Chugh, Isha Arora. The camp aimed to educate residents, including parents, guardians, and children, on the fundamental Right to Education (RTE) and the resources provided by the Samagra Shiksha Abhiyan. With an overview of the RTE Act, it emphasized the role of the Act ensuring every child's right to free and compulsory education. Pamphlets in Hindi and English were distributed to maximize accessibility and meaningful discussions about educational access were conducted. Parents and guardians expressed significant interest, asking about enrolment procedures, necessary documentation, and the nearest schools. The Samagra Shiksha Abhiyan's bridge courses, which support out-of-school children in integrating into mainstream education were the main highlight as this initiative saw a positive response, with many attendees motivated to enroll their children in local schools, thus enhancing community engagement with educational rights.



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PRO BONO ACTIVITIES - NOVEMBER TO DECEMBER 2024

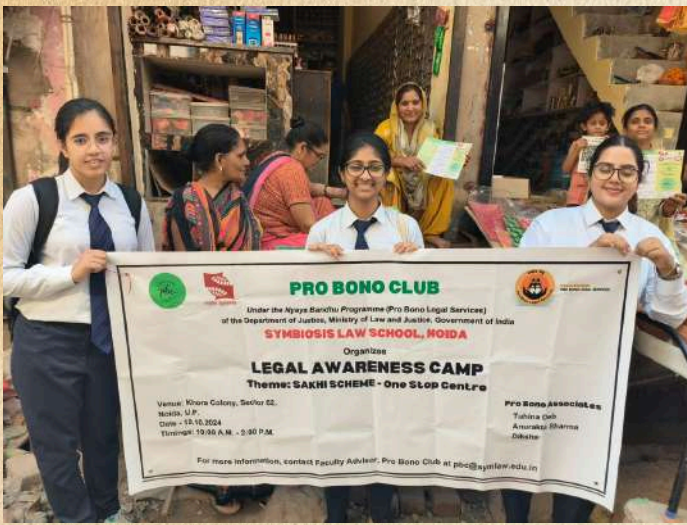
Sakhi - One Stop Centre: Legal Awareness Camp



Noida, Uttar Pradesh, India
J9C7+F89, Near Balika sudhar grah CWC, Block B, Industrial Area, Sector 62,
Noida, Uttar Pradesh 201309, India
Lat 28.621238°
Long 77.363456°

To promote women empowerment in the domestic and rural settings, the PBC further restated its planning for the Sakhi Camp for January 2025, by the Pro Bono Associates, namely Anurakta Sharma, Diksha, Tuhina Deb.

The Sakhi Scheme: One Stop Centre, is a government initiative aimed at providing comprehensive support to women affected by violence in private and public spaces. Previously, legal awareness camp was conducted with the external partner Rajni, a Counsellor at the OSC, Sector 62 and sought to educate the community about the scheme's services, including legal assistance, medical support, counselling, temporary shelter, and crisis intervention.



Adopting a door-to-door approach, the PBC provided a detailed guidance on accessing the services offered by the OSC and successfully disseminated crucial information and encouraged community members to utilize the scheme's support. This initiative aligns with the Pro Bono Club's commitment to empower vulnerable communities, addressing gender-based violence and focuses on fostering a sense of security and justice especially among the women in domestic settings in various locations.



Noida, Uttar Pradesh, India
201, near Rahul Public School, Deepak Vihar Khor Colony, Azad Vihar, Block D,
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LEGAL NEWS

WHATSAPP MESSAGES EXPRESSING OPINIONS ON CASTE RESERVATION ARE NO OFFENCE UNDER THE SC/ST ACT

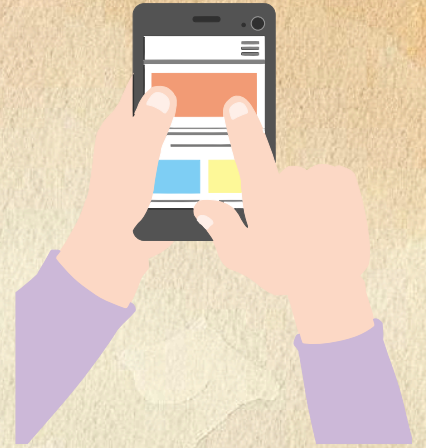
Parth Vinayak Ghare

The Bombay High Court recently ruled on a breakthrough judgment fortifying the reaches of personal expression and the law; people disapproving in private communications in WhatsApp about caste reservations do not attract an offence as per the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (SC/ST Act).

The judgment upholds the constitutional guarantee of free speech under Article 19(1)(a) of the Indian Constitution. By ruling that private communications expressing dissent do not constitute an offence under the SC/ST Act, the court reaffirms the right to voice personal opinions without fear of criminal liability.[1]

The court mentioned that hostile opinions concerning policies like caste reservation in such a private negative setting are not considered an offence under the SC/ST Act.[2] This judgment underscores the right to privacy as a cornerstone of individual liberty, protected under Article 21 of the Constitution. By classifying private WhatsApp messages as non-public acts, the court highlighted the sanctity of private spaces in digital communication. This judgement has come at a time when the debates on caste-based reservations have reached a fever pitch. It reiterates that although the person may feel dubious about the lack of mouth for casting dissenting views on the policy, it does not fall outside one's rights provided it is in private space and without malice. The decision is significant for the body of jurisprudence on privacy, digital communication, and freedom of expression.[3] It warns against the misuse of protective legislation to criminalize dissent and reminds that the digital space, though quite huge, must respect the boundary of personal liberty.

This verdict reminds one that while India's legislation works to protect the marginalized from oppression, it also guarantees the right of private discussion and critical thought. As issues over digital communication and shifting social norms continue to face India, this judgment is sure to influence future discussion about privacy and accountability in the legal space.



[1] BarAndBench (2024, November 30). WhatsApp messages expressing opinion on caste reservation no offence under SC/ST Act: Bombay High Court.

[2] Verdictum (2024, December 02). Whatsapp Message Expressing Feelings Towards Caste Reservation System Not An Offence Under SC-ST Act: Bombay HC.

[3] ABPNews (2024, December 01). Bombay High Court: Giving opinion on caste reservation is not a crime, case under SC-ST is wrong: Bombay High Court.

**AN INTEGRATION OF MINORITY RIGHTS AND QUALITY EDUCATION –
SUPREME COURT’S VALIDATION OF THE U.P. MADARSA ACT, 2004**

Poorvi

Recently, the Hon’ble Supreme Court, in its ruling in the matter of Anjum Kadari v. Union of India 2024 [1], upheld the constitutionality of the Uttar Pradesh Madarsa Act, 2004. It has emphasized the balance that must be maintained between the State’s duty to provide high-quality education and the fundamental rights of minorities. The Act has been passed with the aim to raise educational standards in Madarasas and empower students. The Supreme Court overturned the Allahabad High Court’s ruling in March 2024 that the Act was unconstitutional due to violation of secularism, Articles 14, 21, and 21-A of the Indian Constitution, and Section 22 of the University Grants Commission Act, 1956. Moreover, the Supreme Court has vividly stated that any legislation’s constitutionality cannot be challenged for violating undefined aspects of the Constitution, such as secularism in this case.[2]

These measures are intended to support the constitutional principle of equality before the law and bring back public faith in the justice system by ensuring that legal aid is timely and effective.

Key Observations:

1. Legislative Competence: The Court’s reasoning is grounded in Entry 25 of List III of the Constitution, which pertains to education. Although Madarasas offers religious teaching, the main objective is education, consistent with Entry 25’s more general definition. Therefore, the Act does not violate any primary legislation and that legislative entry should be read broadly and interpreted to encompass supplementary matters.

2. Regulation of Minority Educational Institutions: The Court has talked about the inevitability of maintaining a balance when it comes to education in schools for minority groups. There should be an integration of secularism, minority rights, and the government’s job to ensure everyone gets equal opportunities.[3]

3. Doctrine of Severability: The Court stressed that if a portion of a legislation is unconstitutional, the entire statute does not have to be declared unconstitutional.[4]

This approach by the Hon’ble Supreme Court further demonstrates the intention of preserving the Constitution’s basic structure and fundamental rights. Moreover, this implies the role of the State to regulate minority institutions and ensure quality education without giving up on the dignity and integrity of the minority community. The judgment is an instance of the essence of judicial review that it can meet legislative challenges without transcending the limits specified in the Constitution.

1. Anjum Kadari v. Union of India, 2024 SCC OnLine SC 3129.

2. 2 SCC Online Times, Article 30 does not give power to the State Government to establish Educational Boards; Allahabad High Court holds UP Madarsa Education Act unconstitutional, <https://www.sconline.com/blog/post/2024/03/27/up-madarsa-act-unconstitutive-of-constitution/>.

3. SCC Online Times, UP Madarsa Education Act valid with exception to provisions regulating higher education degrees: Supreme Court, <https://www.sconline.com/blog/post/2024/11/05/up-madarsa-act-vaild-with-exception-to-provisions-higher-degrees-sc>

SUPREME COURT'S DECISION ON LEGAL AID AND CRIMINAL TRIALS

Pihoo Agarwal

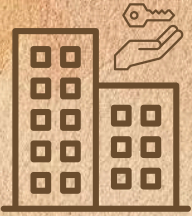
The Supreme Court of India recently released extensive recommendations highlighting the necessity of strong legal aid services and procedural integrity in criminal proceedings, marking a significant step towards fortifying the country's criminal justice system.[1]

These guidelines seek to guarantee a fair judicial process and safeguard the rights of people who are accused, particularly those who cannot afford legal counsel. The Supreme Court reaffirmed that the right to free legal aid is an integral part of Article 21 (Right to Life and Personal Liberty) of the Indian Constitution. It emphasized that every accused person, irrespective of financial status, is entitled to competent legal representation at all stages of the criminal trial process.

The Court directed state authorities to ensure that legal aid lawyers are adequately trained and competent to handle complex criminal matters. It highlighted that ineffective assistance from legal aid counsel undermines the fairness of the trial and the integrity of the judicial process. Recognizing the existing challenges in providing effective legal aid, the Court directed governments to allocate adequate resources to state legal services authorities.[2] The guidelines also include establishing a directory of competent legal aid lawyers specializing in criminal law. To address delays and ensure trials move faster, the Court highlighted the importance of better case management. It recommended regular reviews of pending cases, giving special attention to those that have been slow on for years, particularly where undertrial prisoners are involved. The Court also highlighted the role of technology in improving legal aid services. It encouraged the use of digital tools to simplify tasks like assigning cases, monitoring the performance of legal aid lawyers, and sharing important information with those who need it. The guidelines ensure that economically disadvantaged individuals have equitable access to legal resources, bridging the gap between marginalized communities and the judicial process.

The Supreme Court's directions mark a pivotal shift in ensuring fairness and inclusivity in India's criminal justice system. By reinforcing legal aid mechanisms and safeguarding the rights of the accused, the judgment recaps the judiciary's commitment to upholding the rule of law and constitutional values. However, the path to implementation demands collective responsibility and sustained efforts from all stakeholders.

1. Mittal, Y. (2024, December 3). 'legal aid must be effective; prosecutors must ensure fair trial': Supreme Court Issues Guidelines to Legal Aid Lawyers, prosecutors. Live Law. <https://www.livelaw.in/supreme-court/legal-aid-must-be-effective-prosecutors-must-ensure-fair-trial-supreme-court-issues-guidelines-to-legal-aid-lawyers-prosecutors-277034>
2. Sucheta, & Ridhi. (2024, October 31). Supreme Court issues detailed directions to legal services authorities over access to free legal aid for prison inmates. SCC Times. <https://www.sconline.com/blog/post/2024/10/24/directions-issued-legal-services-authorities-access-to-free->



IRAC ANALYSIS

SOCIETY FOR ENLIGHTENMENT AND VOLUNTARY ACTION & ANR VERSUS UNION OF INDIA & OR. 2024 INSC 790

Anmol Kothari



FACTS

The petitioner Society for enlightenment and voluntary Action is an NGO working against child marriage, approached Supreme Court under Article 32 of the Constitution that despite enactment of the Prohibition of Child Marriage Act 2006 (hereinafter referred to as 'PCMA') [1] it is at higher rate and still prevalent. The Court issued notice on 13 April 2018, further in 2023 directing Ministry of Women and Child Development to file a status report, after which on 10 July 2024 court granted liberty to make submissions and give suggestions on effective enforcement of PCMA.

ISSUE

1. Whether there exists a constitutional guarantee against child marriage for protection of minor children?
2. Whether personal laws permitting child marriage can override the prohibition of Child Marriage Act, 2006?

RULES

1. Prohibition of Child Marriage Act, 2006 (PCMA)
2. Juvenile Justice (Care and Protection of Children) Act, 2015 (JJ Act)
3. Constitution of India - Articles 21, 21-A, 14, 15 & 19

ANALYSIS

I. Personal Laws vs. PCMA: The Question of Supremacy

The case raised a significant legal issue on whether personal laws that permit child marriage override the Prohibition of Child Marriage Act, 2006 (PCMA), a law enacted specifically to ban the practice. India's legal framework provides for both religious law and statutory law, which at times can result in an overlap between individual rights and community practices. This case specifically pointed to the issue of balancing the two. The Court highlighted the ongoing legislative process aimed at addressing the issue and held that Parliament is the right body to decide on how personal laws and statutory laws such as PCMA should interact.

At the same time, the Court did not leave any ambiguity concerning the legal position of child marriage. It established categorically that no religious law or customary law can legalize an act which breaches the basic rights of children. Pending a legislative solution, the Court reaffirmed that child marriage is unconstitutional despite any religious or cultural support.

II. Effectiveness of PCMA and the Need for Stronger Enforcement

Even though the Prohibition of Child Marriage Act is in place, child marriages still occur, usually without being checked. The Court observed that loopholes in enforcement and societal acceptance enable the practice to continue. It highlighted the need of effective enforcement and monitoring. As the verdict said, "Legislation without enforcement is meaningless."

To overcome these deficiencies, the Court ordered a few new measures of enforcement. It ordered that Child Marriage Prohibition Officers (CMPOs) be posted with the very specific responsibility of preventing child marriages. In contrast to earlier times, these officers must not be given other tasks so that they can concentrate exclusively on enforcement.

Second, CMPOs had to provide quarterly reports regarding investigations conducted and action taken, providing increased transparency and accountability.

Since certain areas are identified to have a greater risk of child marriages, the Court also directed the establishment of Special Child Marriage Prohibition Units in these regions. The units would organize awareness campaigns, monitor cases, and act proactively prior to marriages. The judgment also underscored the active role of District Collectors and Superintendents of Police so that enforcement does not become a low-priority item in the administrative setup.

III. Constitutional guarantee against child marriage

As also observed by the Supreme Court, child marriage is considered to be a forced marriage when one or both the parties do not with free will consent^[1] and also reflects a broader issue which questions one's autonomy, children are subjected to pressure from family which undermines ability to give free consent. Every human being has right to free choice and autonomy but forced marriage is an evil and violates individuals right to freely choose a partner.

Girls who are married at an early age are not only denied their childhood rights but also forced to societal obligations, whereas boys are forced to take up responsibilities and pressured to be a provider.

They are forced to make conjugal relations leading to physical and psychological changes. The ***Court in X v. Principal Secretary***^[2] held that right under Article 21 also include right to reproductive freedom under right to choice.

[1] 205 Joint general recommendation No. 31 of the Committee on the Elimination of Discrimination against

Women /General comment No. 18 of the Committee on the Rights of the Child on harmful practices", UN Doc CEDAW/C/GC/31-CRC/C/GC18 (2014), para 20.

[2] (2023) 9SCC 433.

Further protecting them through enriching right to health under Article 21 making it an inalienable right. Women who are married at an early age are forced to bear child early leading to health complications such as fistula, pregnancy complication and death.

The Court in *Independent Thought v. Union of India*[3] noted that:

“Without good health there cannot be a good life. In the case of a minor girl child good health would mean her right to develop as a healthy woman. This not only requires good physical health but also good mental health. The girl child must be encouraged to bloom into a healthy woman. The girl child must not be deprived of her right of choice. ”

Right to childhood also includes right to access education as it allows a person to develop and learn, the right to primary education is a right under Article 21-A of the Constitution. The Court in *Sheela Barse II v. Union of India*[4] held that it is the duty of the state to ensure full development of a child and puts this obligation onto state to provide necessary condition and recourses for child development. This duty of state comes from Articles 14, 19(1)(a), 21 and 15.

CONCLUSION

The Supreme Court reiterated that child marriage is unconstitutional and cannot be defended on the basis of personal laws, holding that mere enactment is not enough without robust enforcement and consciousness. Acknowledging that child marriage is against fundamental rights, such as education, autonomy, and health, the Court laid down guidelines stating that the aim of enforcement agencies will be to prosecute the one who violets the law but also to prevent and prohibit child marriage.

Court directed appointment and accountability of CMPO, establishment of a specialized police unit, establishment of a special child marriage prohibition unit. Further also laying down judicial measures that is powering magistrate to take Suo moto action on such issues, establishment of fast track courts to handle child marriage cases.

The court also guided to have an annual action plan, involving initiatives in villages to make it child marriage free, to conduct campaigns led by CMPOs in School, religious institution and panchayats.

[3] (2017) 10 SCC 800

[4] (1983) AIR 378

FUN WITH WORDS

Across (Riddles)

2. I govern the process of your votes. Democracy thrives when I take note. What am I?

3. I am your shield, your rightful pride, Protecting freedoms far and wide. What am I?

4. I aim to balance society's scales, Helping those whose privilege pales. What policy am I?

5. I'm a friend in need, a court's wise guide, Offering help from the outside. What am I?

6. I make the rules; I'm part of the state. Without me, laws wouldn't regulate. What branch am I?

7. I have two houses; my chambers are grand. Together, we legislate and command. What am I?

8. I'm a plea to a judge, formal and true. Asking for justice, I'm what you do. What am I?

9. When judges step in to ensure fairness, I shape governance and reduce carelessness. What phenomenon am I?

10. I revolve around justice, fair and pure. I'm the heart of the courts, that's for sure. What adjective describes me?

Down (Riddles)

1. I begin the text of a nation's will. I set the tone for principles to fulfil. What am I?

2. I'm the assembly where laws are made. I uphold democracy, never fade. What body am I?

3. I modify or add to the supreme law. I refine it when I find a flaw. What process am I?

4. I keep the divine and the state apart. I'm secularism's defining start. What am I?

5. I am what you deserve, a right innate, Ensuring justice without debate. What am I?

6. I'm not binding but show the way. I guide the government every day. What principles am I?

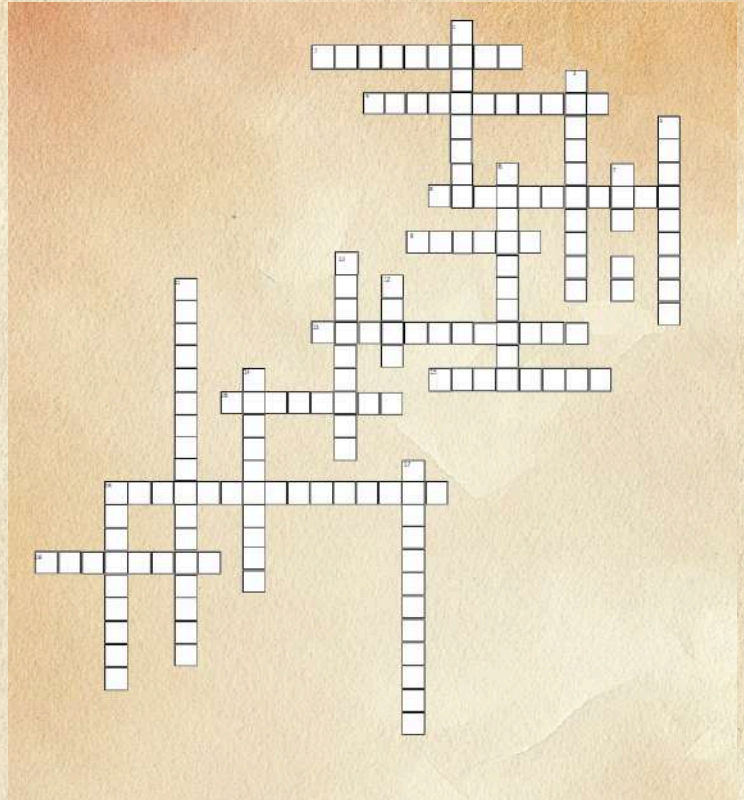
7. I ensure loyalty to the Constitution's will. I'm the word for following it still. What am I?

8. I'm a command, a judge's decree. You must obey and act on me. What am I?

9. I divide powers, as balance is key, Between central and state authorities. What am I?

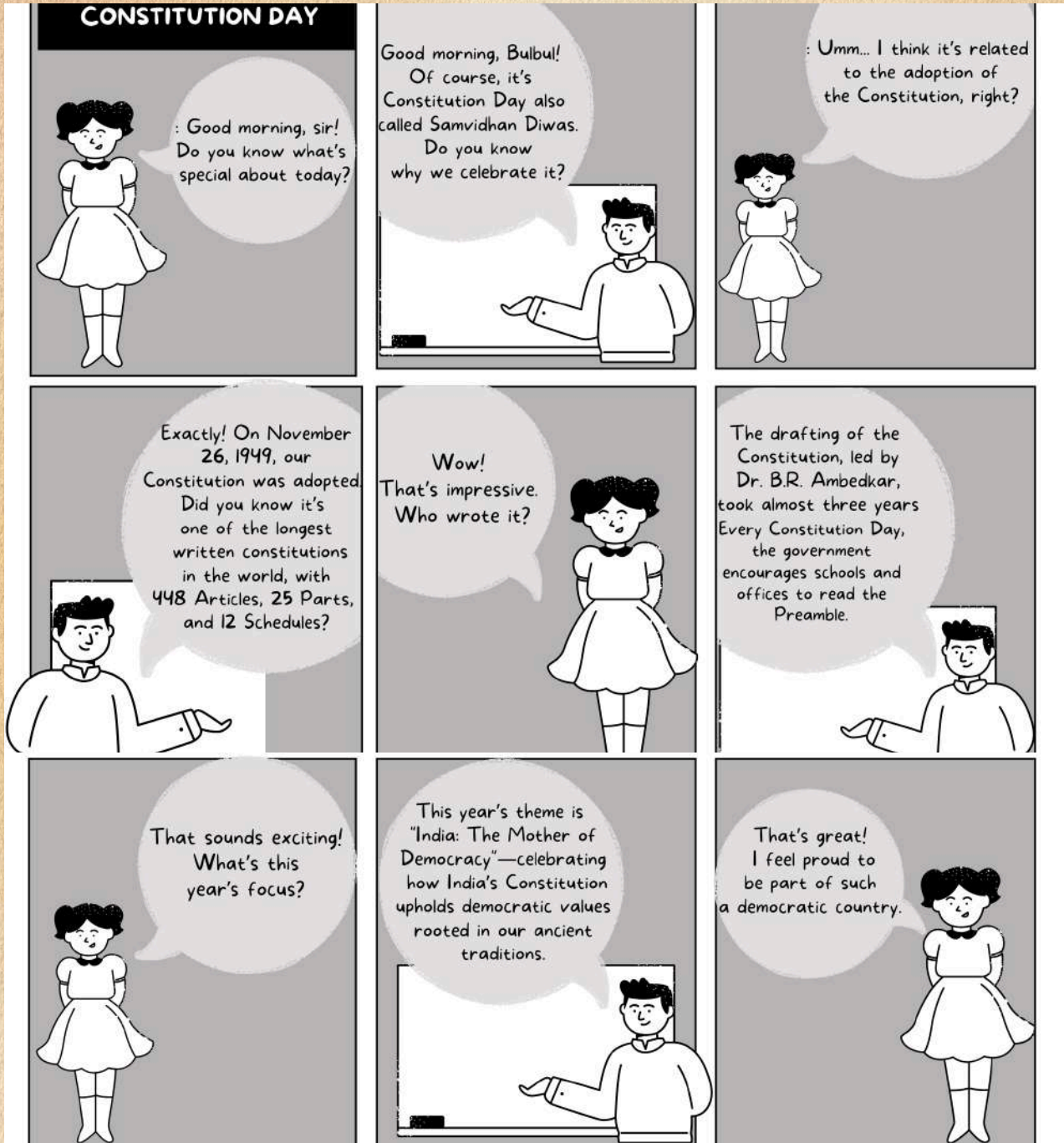
10. I'm the highest law in the land. Without me, no rules would stand. What am I?

11. I'm the system that interprets laws. Courts use me to address flaws. What am I?



**Crossword Designed By: Radhika Chugh
& Isha Arora**

Learning with Bulbul



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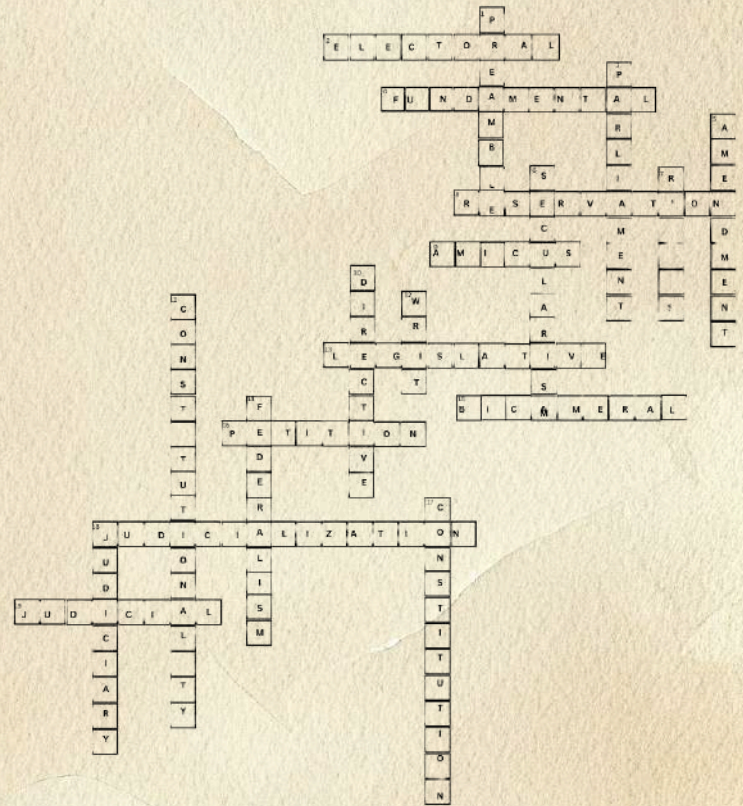
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Solutions for the Puzzle



The Pro Bono Club, SLS NOIDA, with sheer commitment in their hearts promises to work with utmost dedication to serve and stand for the good.