

PRO BONO CLUB

SYMBIOSIS LAW SCHOOL, NOIDA

NEWSLETTER



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Under the Nyaya Bandhu Programme, Department of Justice, Ministry of Law & Justice, Government of India



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Newsletter Team
Dr. Megha Nagpal
(Editor-in-Chief)

Student Editors
1. Radhika Chugh
2. Anmol Kothari

Designed by:
Anurakta Sharma



Under the *Nyaya Bandhu Programme*, Department of Justice, Ministry of Law & Justice, Government of India

Pro Bono Club Activities - September to October 2024

Monthly Meeting

September PBC Meeting - The PBC Monthly Meeting for September 2024 was held on September 26, 2024. The meeting covered updates on September activities, plans for October, the introduction of a point system for PBAs, and the finalization of the July-August newsletter. Volunteers for administrative roles were introduced, and formats for banners and reports were shared.

October PBC Meeting - The PBC Monthly Meeting covered updates on Newsletter Issue 24.1, with plans for its circulation and the upcoming Constitution Day edition. Successful Nukkad Natak performances and awareness camps were discussed, along with the Sakhi Camp. Proposals for an intra-college competition, NGO collaboration, and a transgender rights survey were reviewed, and a Microsoft Teams platform will be created for future communications.

FIR: Report & Resolve - Legal Awareness Camp

The Pro Bono Club, Symbiosis Law School, Noida established under the Nyaya Bandhu (Pro Bono Legal Services) Programme, Department of Justice, Ministry of Law & Justice, Government of India, took an initiative to conduct a Legal Awareness Camp on the topic "FIR: Report & Resolve" in the two adopted villages of PBC. The camp had a wide reach with students, namely Suchitra Menon, Aditi Chauhan and Advika Devanshi, conducting a door-to-door campaign in Khora Colony and Rasoolpur Nawada, Noida. The team also took awareness sessions in primary schools in these villages engaging both students as well as teachers in informing them on legal and procedural aspects of First Information Report under the new criminal law: the Bharatiya Nagarik Suraksha Sanhita 2023. The camps were conducted on September 21, 2024, September 24, 2024, October 5, 2024 and October 19, 2024. The camp received immensely positive feedback and has been PBC's most successful camp till date with audience learning about FIR registration process and gaining confidence on newly enacted law.



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Pro Bono Club Activities - September to October 2024

Panch Pran – Women Empowerment - Nukkad Natak



The Prime Minister introduced "PANCH PRAN" to strengthen India over the next 25 years. Under the Nyaya Bandhu Scheme of the Department of Justice, Pro Bono Club organized a Nukkad Natak based on the theme of "Panch Pran". The play aimed to shed light on the struggles faced by women, emphasizing their equal opportunities and the need to bridge the gender divide. Our Nukkad addressed issues such as inequality, female infanticide, child marriage, stalking, voyeurism, and rape, and introduced the concept of Zero F.I.R., a statutory provision introduced under section 173 of the Bharatiya Nagarik Suraksha Sanhita 2023 to the audience. The Pro Bono Club conducted the Nukkad Natak in two adopted villages, Khora Colony and Rasoolpur Nawada, Uttar Pradesh, under the guidance of Dr. Megha Nagpal, Faculty Advisor of Pro Bono Club. The performance attracted an audience of all age groups and was highly successful, with many women and girls expressing their appreciation for the concept.

Pro Bono Associates, who participated in the activity:

- 1.Tuhina Deb
- 2.Parth Ghare
- 3.Aishnai Singh
- 4.Anmol Kothari
- 5.Anurakta Sharma
- 6.Diksha
- 7.Isha Arora
- 8.Karunesh Jain
- 9.Radhika Chugh
- 10.Sanvi Mathur
- 11.Shatakshi Dwivedi



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Pro Bono Club Activities - September to October 2024

Prevention of Domestic Violence - Legal Awareness Camp

PBC students Harsh Deep Garg, Drishti Bansal, and Pihoo Agrawal conducted a legal awareness camp in Khora Colony, on October 15, 2024 with a view to spread awareness on issues of domestic violence and associated legal remedies. The camp was based on explaining residents legal aspects of domestic violence, legal rights available to women under the Protection of Women from Domestic Violence Act, 2005, and the procedure to get help if they or someone they knew were confronted with incidents of domestic violence. Small group discussions were conducted to encourage villagers to share their thoughts, experiences, and concerns about domestic violence. The aim was to foster an open dialogue where both men and women feel comfortable discussing the issue. The facilitator took note of common concerns, misconceptions, or barriers to seeking help. This helped us understand the community's mindset and the challenges they face in addressing domestic violence. Feedback on our initiative was taken from 21 women from Khora Village and our team's notes on group discussions and feedback reflected understanding of women on the law and remedies for prevention of domestic violence.



LEGAL NEWS

AN OVERHAUL FOR SCHEMES CONCERNING SC/STS, MINORITIES AND VULNERABLE GROUPS IS IN THE PIPELINE: NITI AAYOG

Sanvi Mathur

NITI Aayog's Development Monitoring and Evaluation Office (DMEO) is undertaking a major revamp of several Centrally Sponsored Schemes (CSSs) aimed at improving the social and economic welfare of vulnerable groups such as Scheduled Castes (SCs), Scheduled Tribes (STs), minorities, and other marginalized communities. These schemes include key programmes like the Post Matric Scholarship for SCs, Pradhan Mantri Anusuchit Jaati Abhyuday Yojana (PM AJAY), and PM Young Achievers Scholarship Award Scheme (PM YASASVI) for OBCs, EBCs, and Denotified Tribes (DNTs)[1].

The goal of this revamp is to evaluate and assess the effectiveness, relevance, and sustainability of these schemes. This is to ensure that government resources are being used efficiently, without unnecessarily increasing financial burdens. [2] The evaluation will help determine whether these programmes should be continued, modified, scaled up or down, or even discontinued, based on their performance and impact.

To conduct this evaluation, the DMEO has invited consultancy firms to submit proposals for supporting the review process. These firms will be responsible for analyzing the schemes, gathering primary and secondary data, and making recommendations.[3] The evaluation will focus on several key factors such as the relevance of the schemes, their effectiveness, efficiency, equity, sustainability, and overall impact. Recommendations leading to increased financial commitments will only be made if backed by strong evidence of necessity.

Consultancy firms have until October 17 to submit their proposals to assist in the evaluation. The timeline for completion of the evaluations has not been specified, but the overhaul is part of ongoing efforts to refine and optimize CSSs.[4]

The evaluation will cover various CSSs across India that cater to vulnerable groups. These include nationwide schemes for SCs, STs, OBCs, minorities, and women.[5] Additionally, law and order schemes like the Modernization of Police Forces, Fast-track Special Courts, and the Safe City Project for Women's Safety will also be evaluated.

This initiative reflects the government's focus on improving social welfare programmes by ensuring that resources are used judiciously and that the schemes are effective in addressing the needs of vulnerable populations.[6] By involving consultancy firms to provide in-depth analyses and recommendations, NITI Aayog aims to enhance the efficiency of these programmes and make necessary modifications for better outcomes in the future.

[1] Prateek Shukla, "NITI Aayog to Overhaul Schemes for SC/STs, Minorities & Vulnerable Groups," Business Standard, September 30, 2024, 11:49 AM, https://www.business-standard.com/economy/news/niti-aayog-to-overhaul-schemes-for-sc-sts-minorities-vulnerable-groups-124093000315_1.html.

[2] Business Standard, "What Are Centrally Sponsored Schemes (CSS)?", <https://www.business-standard.com/about/what-is-centrally-sponsored-schemes>.

[3] Press Trust of India, "NITI Aayog Seeks Proposals to Evaluate Centrally Sponsored Schemes," Business Standard, August 13, 2024, 10:53 PM, https://www.business-standard.com/pti-stories/national/niti-aayog-seeks-proposals-to-evaluate-centrally-sponsored-schemes-124081301403_1.html.

[4] Supra, note 2.

[5] Supra, note 1.

[6] FE Bureau, "Centre to Revamp Schemes for SC/STs and Minorities," The Financial Express, September 30, 2024, 03:15 IST, <https://www.financialexpress.com/policy/economy-centre-to-revamp-schemes-for-scsts-and-minorities-3625563/>.

Under the *Nyaya Bandhu Programme*, Department of Justice, Ministry of Law & Justice, Government of India

SUPREME COURT OUTLAWS CASTE-BASED DISCRIMINATION IN INDIAN PRISONS, MANDATES REFORMS

Aishnai Singh

In a historic judgment delivered on October 3, 2024, in the matter of Sukanya Shantha v. Union of India^[1] the Supreme Court of India (CJI Dr. D.Y. Chandrachud, J. B Pardiwala, J. Manoj Misra) struck down caste-based discriminative provisions of prison manuals across several states, including Uttar Pradesh, Odisha, Jharkhand, Kerala, West Bengal, Madhya Pradesh, Andhra Pradesh, Maharashtra, Telangana, Punjab, and Tamil Nadu. The Court banned the caste-based division of labour, segregation of inmates in barracks, and the practice of labelling certain communities as “born criminals” and “habitual offenders” which re-affirm colonial caste-based discrimination, even after 77 years of Independence.^[2]

This landmark verdict finds its genesis in a public interest litigation (PIL) filed by journalist Sukanya Shantha, who exposed caste-based discrimination prevalent in Indian prisons. Through her PIL, it was revealed that manual labour inside prisons was often assigned based on the caste of the prisoners, perpetuating social hierarchies even within jail walls. Highlighting Article 17 of the Constitution of India, which abolishes untouchability, the Court observed, “Everyone is born equal, and there cannot be any stigma attached to the existence, touch, or presence of any person.” The bench was particularly critical of rules that assigned work based on caste, especially from Madhya Pradesh, Delhi, and Tamil Nadu, which stated that sweepers shall be chosen from the Mehtar or Hari caste while cooking shall be allocated to the Brahmin castes.

The judgment also pointed to the Model Prison Manual of 2016 and the Model Prisons and Correctional Services Act of 2023, both of which contained discriminatory provisions related to the treatment of so-called habitual offenders, disproportionately targeting marginalized communities.^[3] These rules, according to the Court, violated Articles 14 (Right to Equality), 15 (Prohibition of Discrimination), 17 (Abolition of Untouchability), 21 (Right to Life with Dignity), and 23 (Prohibition of Forced Labor) of the Constitution of India.

In its comprehensive 148-page judgment, the Supreme Court issued clear directions for the Centre and State governments, aimed at eradicating caste-based discrimination within prisons. The Court mandated that all prison manuals containing caste-based discriminatory provisions be amended within three months, with compliance reports required to be submitted to the Court. While ordering the removal of any references to the caste of prisoners, including undertrials and convicts, from official registers, the Court also deemed the practice of labelling individuals as “habitual offenders” based solely on their caste or community unconstitutional, directing that any such designation must adhere to legislative standards and be subject to future constitutional challenges.^[4]

Emphasis has also been laid on the need for protection of de-notified tribes, instructing police and prison authorities to ensure that members of these tribes are not subjected to arbitrary arrest or mistreatment due to their tribal identity. To facilitate ongoing monitoring and compliance, the Court directed District Legal Services Authorities (DLSAs) and Boards of Visitors under the Model Prison Manual to conduct regular inspections. The findings from these inspections are to be compiled by State Legal Services Authorities (SLSAs) and forwarded to the National Legal Services Authority (NALSA), which will ultimately report back to the Court. This ruling is a monumental step toward reforming India’s criminal justice system and ensuring that its prisons reflect the values of the Constitution rather than outdated colonial and caste-based hierarchies. The Supreme Court’s decision to outlaw caste-based discrimination inside prisons sends a powerful message about the need for equality and dignity for all individuals, irrespective of their social background or incarceration status.

[1] Sukanya Shantha v. Union of India, Writ Petition (C) No. 1404 of 2023.

[2] “Right To Live With Dignity...” Supreme Court Bans Caste-Based Discrimination In Prisons, NDTV (Oct. 08, 2024, 09:40 AM), <https://www.ndtv.com/india-news/right-to-live-with-dignity-supreme-court-bans-caste-based-discrimination-in-prisons-6708470>.

[3] Bhaumik, Arunima, Why Did the Supreme Court Strike Down ‘Casteist’ Provisions in India’s Prison Manuals? | Explained, The Hindu (Oct. 8, 2024), <https://www.thehindu.com/news/national/supreme-court-verdict-casteist-provisions-indias-prison-manuals-explained/article68704711.ece>.

[4] The Supreme Court judgment on ‘casteist’ prison manuals and Rules, The Leaflet (Oct. 8, 2024), <https://theleaflet.in/explained-the-supreme-court-judgment-on-casteist-prison-manuals-an-rules/#:~:text=Rule%20158%20begins%20with%20the%20words:%20%E2%80%9CRemission%20to%20convicts%20on>.

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SUPREME COURT QUESTIONS LEGALITY OF PROPERTY DEMOLITIONS AS PUBLIC RETRIBUTION

Parth Vinayak Ghare



On 2 September 2024, the Supreme Court of India expressed its views about the razing of residences and privately owned assets of persons who have been accused of crimes, including their family members. The Bench also sought clarification on whether this was in a way orchestrated by the state of Uttar Pradesh as a form of public revenge as opposed to law enforcement. The State justifying the demolitions pointed to the U.P. Municipal Corporation Act of 1959 and The U.P. Urban Planning and Development Act of 1973, which allow for the removal of such unapproved edifices. Even so, the Court did not seem convinced and asked if that was the case or whether these laws were only being enforced against those persons who had been accused of crimes and the demolitions were not aimed at the more general issue of illegal buildings.[1]

In this respect, we see that the emphasis placed in the Court's intervention to the executive powers granted in the Constitution was to highlight the constitutional safeguards, particularly Article 21, which states the right to life and personal liberty of any individual, extending to right to shelter. That is, the law does not allow the state to bulldoze privately owned houses, even offenders, into rubbles without due process of the law. Here, we see that this line of questioning supports the view that the absence of due process before the executive implements punitive measures like demolitions could be tantamount to an exercise of power by the executive, which is otherwise an overreach.

The Supreme Court observed[2] that the established positions of law in *Olga Tellis v. Bombay Municipal Corporation* (1985) also aid this proposition in stating that even pavement dwellers should be afforded an opportunity to be heard before being evicted. A crucial strand within Article 21 is the relationship between livelihood and shelter.[3]

To begin with, all persons, even those against whom a charge has been levied, enjoy constitutional protections, which means that the State cannot willfully take away people's homes and belongings. The Court also observed that if it is suggested that politically motivated targeting is at play, then at least selective demolition of certain houses, would contravene Article 14, chartering equality to all. It was also observed that statutes like the U.P. Municipal Corporation Act and U.P. Urban Planning and Development Act, although are good laws in place, require adherence to just and equitable enforcement. The court remarked that in any and all administrative measures carried out concerning these laws, there should be a available legal recourse to avert misuse of discretion.

The Court's examination depicts the struggle between the claims of state power and the rights and freedoms entrenched in the Constitution, which may lead to the possibility of abuse of specific provisions of law for punishing offenders. No person, even in the face of accusations, should be subject to infringement of rights without the due procedure of law. The protection of the Constitution from executive excesses by the judiciary is very crucial in the maintenance of the rule of law.[4]

[1]The Hindu. (2024, September 2). Supreme Court says it proposes to lay down pan-India guidelines on issue of demolition action.

[2] LiveLaw. (2024, September 2). Supreme Court Questions Bulldozer Action Against Houses Of Persons Accused Of Crime; Seeks Response From UP, MP, Gujarat & Other States.

[3] The Hindu. (2024, September 3). Demolition squad: On the Supreme Court and 'bulldozer justice'. The Hindu.^[5]

[4] India Today. (2024, September 18). Why Supreme Court stay on bulldozer justice by states is a crucial intervention.

IRAC Analysis
JUST RIGHTS FOR CHILDREN ALLIANCE V. S. HARISH, 2024
SCC OnLine SC 2611

Radhika Chugh & Shatakshi Dwivedi

Facts:

The Appellant had filed this appeal arising out of a judgement passed by Madras High Court[1] under Section 482 of Cr.P.C. by which HC quashed the chargesheet dated 19.09.2023 for the offence under Section 67B of the Information Technology Act, 2000 (for short, the “IT Act”) and Section 15 (1) of the Protection of Children from Sexual Offences Act, 2012 (for short, the “POCSO”).

On January 29, 2020, the All-Women’s Police Station in Ambattur, Chennai, received a Cyber Tipline Report from the NCRB. The report indicated that Respondent No. 1 regularly consumed pornographic material involving children. An FIR was registered and Respondent No. 1's mobile phone was seized for forensic analysis. The forensic report revealed two videos depicting child pornography and over a hundred other pornographic videos. Respondent No. 1 admitted to watching pornography but denied transmitting or publishing any content. Based on this evidence, a chargesheet was filed on September 19, 2023, against Respondent No. 1 under Section 67B of the IT Act and Section 15(1) of the POCSO Act, though the FIR initially cited Section 14(1) of POCSO.

The High Court vide its judgment dated 11.01.2024 allowed petition and thereby quashed criminal proceedings on the ground that no offence was made out against the Respondent No. 1 either under Section 14(1) of the POCSO or Section 67B of the IT Act. The appeal to this decision was then heard by the Supreme Court.

Issue:

Whether possession and storage of child pornographic material, without intent to share or transmit, constitutes as an offense under Section 15 of the POCSO Act and Section 67B of the IT Act?

Rule:

- Section 15 of the POCSO Act, 2012: This section prohibits anyone from storing or possessing child pornography, especially for the purpose of sharing or transmitting it.[2]
- Section 67B of the IT Act, 2000: This provision criminalizes publishing, transmitting, browsing, downloading, or facilitating access to child pornographic content.[3]

Analysis:

On 23 September, 2024, the Supreme Court decided whether the High Court was right in its decision to quash the charges against the accused under Section 15 of the POCSO Act and Section 67B of the IT Act. The High Court held that because the accused had not ‘shared’ or ‘transmitted’ the material, no offense had been committed. The accused had downloaded and stored the videos stating that it was only for his personal viewing and not for distribution.

However, the Supreme Court adopted a different perspective. The Court looked into the legislative intent behind both legislations. The POCSO Act, in particular, is for protection of children from sexual abuse and exploitation—this means that even the act of downloading and keeping child pornographic material, without actively sharing it, is seen as a threat to child safety and well-being.[4]

By making mere possession of child pornography an offense, Section 15 aims to discourage any kind of involvement with such content. The provision aims to curb not just distribution of child pornography, but also about sends a strong message that even passive consumption is unacceptable.

Moreover, the Court highlighted the statutory presumption of culpable mental state under Section 30 of the POCSO Act. Meaning that if someone is found with child porn, the law will assume they had a wrongful intent—like wanting to share or distribute it—unless they can prove otherwise.[5]

The nature of child pornography is so lasting on the victims that it would, indirectly, perpetuate the exploitation without seriously holding the act of possession to be severe.[6] The Court, therefore, viewed the High Court's interpretation as undermining the entire purpose of the POCSO Act, which was specifically designed to deter not only the production and distribution of child pornography but also its consumption.

Conclusion:

The Supreme Court concluded that the High Court made a serious error in quashing the charges. Mere possession of child pornographic content, and with the failure to delete it, should be seen as enough to be punishable under Section 15 of the POCSO Act. The High Court's view was found to be inconsistent with the objectives of POCSO. The presumption of culpable mental state under Section 30 also needed to be considered, even at the stage of a quashing petition. Thus, the Supreme Court reinstated the charges, emphasizing that the law must be strictly enforced to protect children from such exploitation and abuse.

This precedent reversed a 2014 judgment of the Madras High Court that there was no offence in downloading and viewing child sexual abuse material. The Supreme Court stressed that even keeping child pornographic material is criminalizable, stressing the said court on the need to enhance the measures against child abuse. The High Court had opined that to attract Section 67-B of the Information Technology Act, there should be evidence of the publication or transmission of the material, which the Supreme Court has dismissed as incorrect. This ruling carries significant implications for the protection of children in India and is expected to influence international perspectives on child exploitation laws.[7]

In essence, the Supreme Court's decision not only clarifies the legal position on child pornography but also demonstrates India's commitment to combating child exploitation in all its forms. As the legal landscape evolves, it is imperative to remain vigilant and proactive in protecting the most vulnerable members of society.

[1]Criminal Original Petition (Crl. O.P.) No. 37 of 2024

[2] Protection of Children from Sexual Offences Act (POCSO Act), 2012, § 15.

[3]Information Technology Act, 2000, § 67B.

[4]Independent Thought v. Union of India & Anr., (2017) INSC 1030.

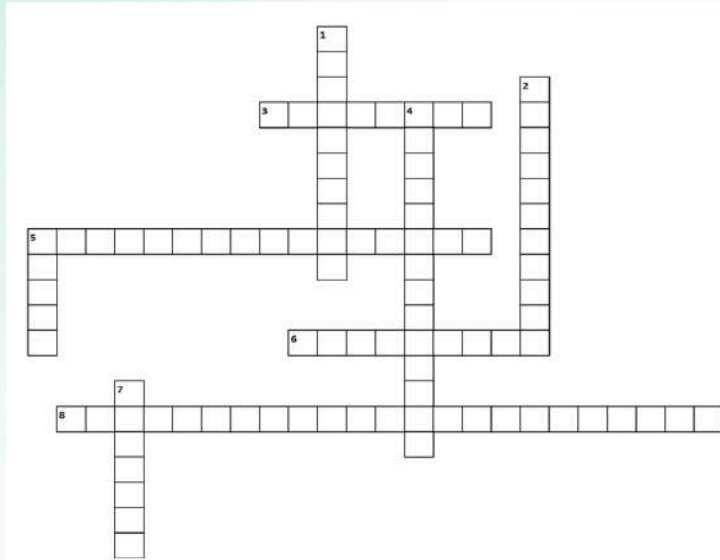
[5]Attorney General for India v. Satish, (2021) INSC 762.

[6]Eera through Dr. Manjula Krippendorf v. State (Govt. of NCT of Delhi) & Anr., (2017) INSC 658.

[7] Deevanshu Shrivastava, Child protection: The Just Right for Children Alliance case, November 17, 2024, The Sunday Guardian, <https://sundayguardianlive.com/legally-speaking/child-protection-the-just-right-for-children-alliance-case> .

Under the Nyaya Bandhu Programme, Department of Justice, Ministry of Law & Justice, Government of India

FUN WITH WORDS



Crossword Designed by: Diksha and Vrinda

Across

3. In the legal realm, a powerful tool offers defendants a chance at freedom while ensuring they return to court. This instrument involves pledging a certain sum of money as a guarantee for their appearance. If the defendant complies, the money is returned; if not, it's forfeited. This delicate dance of risk and responsibility upholds justice while safeguarding the rights of the accused. What is this vital mechanism that balances liberty and accountability?

5. Individuals can find themselves swapping traditional punishment for a hands-on approach. Instead of serving time behind bars, they're sentenced to work unpaid for the benefit of the community. Whether cleaning parks or helping at local shelters, this creative form of punishment turns missteps into meaningful contributions. What is this innovative method that allows individuals to give back while learning from their actions?

6. In a flash, a swift hand strikes, suddenly seizing what belongs to another, leaving them in shock and disbelief. With no time to react, the victim is left gasping, their possessions taken without remorse. This audacious act, executed with force or surprise, transforms a moment of normalcy into one of alarm. It embodies a thief's wicked art, breaking the trust and security of everyday life. What is this brazen act that leaves hearts racing and belongings lost?

8. In a world where words travel and images come alive, I am the force that connects people through electronic devices. I encompass the transmission of written, verbal, pictorial, and video content, allowing communication to flow seamlessly from phones to computers. What am I, the essential medium that brings us all together?

Down

1. I am a tool that combines sound and vision, vital in the courtroom for capturing every word and scene. I ensure evidence is clear and communication precise, bringing truth to light through technology. What am I, aiding justice with both sight and sound?

2. I am an act of fury unleashed, where a crowd becomes judge, jury, and executioner. Whispers and rumour's light the spark, tensions rise, and suddenly, the rule of law is swept aside. There's no courtroom, no trial—only the chaos of a mob fueled by emotion, taking justice into their own hands. What am I, when order is abandoned, and a group delivers punishment without waiting for the truth?

4. I am a crime syndicate, an enterprise where greed and power drive my operations. Utilizing tools such as kidnapping, extortion, and trafficking, I instil fear and violence to achieve my goals. My ruthless pursuit of profit transcends law and morality, weaving a web of illegal activities and manipulation for financial gain.

5. I am someone who hasn't yet seen eighteen years, standing on the edge of youth and adulthood. The law views me as not fully grown, with special protections and considerations guiding my way. My actions, rights, and responsibilities are weighed with care, acknowledging that I am still learning, still growing. What am I?

7. I am a special type of FIR, designed for urgency and accessibility, allowing individuals to report a crime at any police station, no matter where the offense occurred. My purpose is to break down barriers and ensure swift action is taken to address the reported crime, prioritizing the safety and security of the community. What am I, facilitating immediate responses to protect against injustice, regardless of jurisdiction?

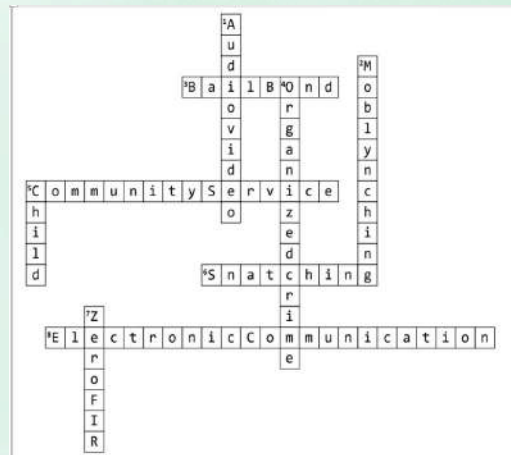
(Answers to the crossword on the final page)

Under the Nyaya Bandhu Programme, Department of Justice, Ministry of Law & Justice, Government of India

Learning with Bulbul



Dialogues & Illustration by: Isha Arora and Tuhina Deb



Conceived and Conceptualized by Dr. Megha Nagpal, Assistant Professor - SLS Noida
Newsletter Designed by Newsletter Team for Pro Bono Club, SLS Noida

Pro Bono Associates

Academic Year 2024 - 25

Faculty Advisor and Administrator: Dr. Megha Nagpal

1. **Suchitra S Menon**
2. **Aditi Chauhan**
3. **Advika Devanshi**
4. **Vrinda**
5. **Poorvi**
6. **Shatakshi Dwivedi**
7. **Anurakta Sharma**
8. **Isha Arora**
9. **Aishnai Singh**
10. **Radhika Chugh**
11. **Parth Vinayak Ghare**
12. **Tuhina Deb**
13. **Pihoo Agrawal**
14. **Sanvi Mathur**
15. **Diksha**
16. **Druti Dutta**
17. **Harsh Deep Garg**
18. **Anmol Kothari**
19. **Shruti Mehta**
20. **Shivam Singh**
21. **Drishti Bansal**
22. **Karunesh Jain**

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.