RSRR successfully conducted Orientation for Batch of 2027

Board collaborates with Ikigai Law firm

Cinejuris Competition rolled out

Carpe Quartam

A Quarterly Newsletter by RSRR

RGNUL STUDENT RESEARCH REVIEW

Issue 1, September 2022

rslr@rgnul.ac.in
www.rsrr.in

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Carpe Quartam

A QUARTERLY NEWSLETTER BY RSRR

SEPTEMBER 2022 || EDITION #1

PREFACE

Carpe Quartam, a quarterly newsletter published by RSRR, is committed to democratising legal research, making it more accessible to students and professionals alike while putting a spotlight on the activities undertaken by the RSRR Board in furthering its mission.

In this quarterly issue, read about our Panel Discussion, co-hosted by Common Cause India, revolving around the worsened interactions between the police and citizens during the lockdown. The discussion allowed the audience to appreciate myriad perspectives on police interactions and further the discourse on an acceptable policing framework in complicated sociolegal scenarios.

In other news, the Editorial Board of RSRR held an orientation session for the Batch of 2027. Filled with excitement and a willingness to explore, the students enthusiastically participated in discussions revolving around the mandate of RSRR, its various focus areas, and research assistantship programs which provide members with first-hand experience in legal research.

In our Editor's Column Series, Ridhi Gupta and B.D. Rao Kundan, Editors at RSRR, critically examine the 2022 Taxation Scheme of India and its influence on the cryptocurrency industry. Additionally, they help outline myriad suggestions to regulate virtual assets in India while allowing for faster technological innovation and adoption.

In light of the International Literacy Day celebrated around the world on the 8th of September, it becomes imperative to ensure quality, equitable, and inclusive education for all. Authored by Ms. Swati Singh Parmar, Assistant Professor at DNLU Jabalpur, the article from RSRR's Excerpts from Experts series, titled Academic Imperialism and Universal Academic Accessibility: Echoes from the Global South emphasizes how the International Law discourses are marked by a glaring absence of contribution by Global South academics, raising questions about the lack of representation and spaces.

We hope this edition is an insightful read!

RSRR Editorial Board

ABOUT RSRR

The RGNUL Student Research Review (RSRR) Journal (formerly RGNUL Student Law Review) is a bi-annual, student-run, blind peer-reviewed journal based at Rajiv Gandhi National University of Law, Punjab. It is a flagship law journal of RGNUL managed by the students of the University. It was founded with the objective of facilitating novel ideas and a research conducive environment. RSRR regularly engages the student community, as well as legal practitioners, to contribute to the legal discourse on various topics. Additionally, RSRR also runs its Blog Series, which deals with specific contemporary issues of law. The RSRR Blog Series was named as one of the top Constitutional Law Blogs internationally by Feedspot in 2022.

The journal encompasses myriad fields of law and proliferates novel legal discourse through opinions, suggestions and extensive analysis of contemporary issues from numerous areas of law, covering widely discussed topics like Tech law and antitrust law to more nascent areas like energy law, space law, Et al.

Initiatives of RSRR Law Journal

Each year, the RSRR Editorial Board selects a contemporary theme for its journal and invites research papers in the form of short articles, long articles, case comments and normative law articles, from academicians, industry stakeholders as well as law students. The Editorial Board also constitutes the Peer Review Board for the journal, comprising of distinguished experts and jurists in the field of the selected theme. The previous volumes of the RSRR Journal can be accessed here. The past Peer Review Boards and Guest Author roster can be viewed here and here respectively. No article submission or processing charge is required to be paid for the publication of any article in the journal.

Blogs

Themed Blog Series RSRR began running the 'RSRR Blog Series' in the year 2017. Periodically and typically for a month, RSRR releases a 'Call for Blogs' on contemporary and relevant themes. The Editorial Board also invites guest authors, who are distinguished experts in the selected field of law, to contribute to the Blog Series. Submissions are invited from academicians, scholars, as well as law students. A blog is typically 1500-2100 words, which are published on the RSRR website.

Editor's Column

This category constitutes blogs authored by the Editors of the RSRR Editorial Board. These blogs are written on current and relevant issues, which may be themed or open for the editors to choose.

Excerpts from Experts

Excerpts From Experts is a novel initiative by RSRR, started in 2020, initiated to bring forth discussion by experts on contemporary legal issues, belonging to their field of expertise. The aim is to provide our readers with well-researched and quality legal content written by the Guest Authors.

Research Assistantship Program

RSRR became the first Editorial Board at RGNUL, Punjab to offer Research Assistantship to its Editors and students of RGNUL. This is an opportunity to work with Guest Authors invited to contribute to RSRR's Journals and Blog Series. RSRR took this initiative to increase hands-on knowledge and to promote a culture of academic research and writing at RGNUL. With various Guest Authors invited to write for RSRR's Journals and Blog Series', RSRR is providing students with an opportunity to learn from and work under the guidance of various academicians and lawyers, pioneers in their fields. A Research Assistant (RA) works under the guidance of the Guest Author to assist with their research. An RA carries out supplementary research for them and assists in the overall research, in the instances required.

Notable Collaborations of RSRR

RSRR has occasionally collaborated with varied organisations for issues of the Journal or Blog Series. RSRR has had notable collaborations for projects with the following organisations:

- Collaboration with Ikigai Law for the Blog Series on the theme: "Regulating E-Sports: Paving the Road Ahead" and "Emerging Technologies: Addressing Issues of Law and Policy".
- Collaboration with Arogya Legal and Medical Students Association of India for RSRR Journal Volume 6.1 on the theme: "Healthcare in India: Tracing the Contours of a Transitioning Regime".
- Collaboration with Nishith Desai Associates for the Blog Series on the theme: "Digital Healthcare in India".
- Collaboration with Mishi Choudhary and Associates for the Blog Series on the theme: "Addressing Legal Concerns of AI: A Clarion Call".
- Collaboration with Mishi Choudhary and Associates for the webinar series on Artificial Intelligence.
- Collaboration with Common Cause India for panel discussion on "Citizen-Police Interaction and Policing in the Pandemic".

NOTABLE CONTRIBUTIONS

The journal has received notable contributions from eminent authors and contributors to the Journal and the Blog like the following:

1. Hon'ble Dr. Justice D.Y. Chandrachud- Foreword (Volume 7, Issue 2)
2. Hon'ble Dr. Justice MK Sharma- Foreword (Volume 8, Issue 2)
3. Hon'ble Justice Anish Dayal- Reviewer (Volume 8, Issue 2).
4. Prof. Upendra Baxi, Emeritus Professor of Law at University of Warwick and University of Delhi- Guest Author Blog
5. Prof. (Dr.) Ranbir Singh, Former and Founder Vice-Chancellor of NLUD- Guest Author (Volume 1, Issue 1) and Peer Reviewer (Volume 1, Issue 2)
6. Prof. (Dr.) Faizan Mustafa, Vice-Chancellor, NALSAR- Peer Reviewer (Volume 1, Issue 2)
7. Prof. (Dr.) Ruhi Paul, Professor of Law, NLU Delhi - Peer Reviewer (Volume 8, Issue 1)
8. Prof. Charu Sharma, Associate Dean, Student Affairs, JGLS- Peer Reviewer (Volume 7, Issue 2)
9. Prof. T.V. Subba Rao, Visiting Professor, NLSIU- Peer Reviewer (Volume 6, Issue 1)
10. Dr. Milind Altani, Lead (Healthcare) at Nishith Desai Associates- Guest Author (Volume 6, Issue 1)
11. Mr. Darren Punnen, Leader (Pharma and Life Sciences) at Nishith Desai Associates- Guest Author (Volume 7, Issue 1)
12. Mr. Sumeet Khurana, Director Tax at Lakshmikumaran & Sridharan- Peer Reviewer (Volume 2, Issue 2)
13. Mr. Safir Anand, Senior Partner and Head of Department (Trademark, Contractual and Commercial IP) at Anand & Anand- Peer Reviewer (Volume 8, Issue 2)
14. Mr. Arshad Khan, Executive Director, Khaitan & Co. - Peer Reviewer (Volume 1, Issue 2)
15. Ms. Shalaka Patil, Partner at Cyril Amarchand Mangaldas - Guest Author Blog
16. Mr. Naresh Thacker, Partner at Economic Law Partners - Guest Author Blog
17. Mr. Ajar Rab, Partner at Rab & Rab Associates - Guest Author Blog
18. Ms. Radhika Dubey, Partner at Cyril Amarchand Mangaldas - Guest Author Blog
19. Ms. Chandrima Mitra, Partner at DSK Legal - Guest Author Blog
20. Mr. Pankaj Agarwal, Partner at Amarchand Mangaldas & Suresh A. Shroff Co- Peer Reviewer (Volume 1, Issue 2)
21. Mr. Rajesh Vellakkat, Partner (Technology and IP) at Fox Mandal- Peer Reviewer (Volume 8, Issue 1)
22. Mr. Abir Lal Dey, Partner at Saraf and Partners - Guest Author Blog
23. Mr. Apar Gupta, Executive Director at Internet Freedom Foundation- Peer Reviewer (Volume 1, Issue 2)
24. Mr. Tariq Khan, Registrar of International Arbitration and Mediation Centre - Guest Author Blog
25. Mr. Ameen Jauhar, Senior Resident Fellow at Vidhi Centre for Legal Policy - Guest Author Blog

The Journal has also been cited at several eminent places in the legal publications. Some of the places where the Journal and the blog have been cited are:

1. Cambridge University Press- Reconceptualizing World Trade Organization Law for the Artificial Intelligence Economy (Part II) - Artificial Intelligence and International Economic Law (cambridge.org)
2. Springer Book- Healthcare Perspectives of Panic Buying | SpringerLink
3. European Journal of Molecular & Clinical Medicine- pdf_3572_7095264745dbfb9e5039649ab85f96b0.html (ejmcm.com)
4. Journal of Chinese Tax and Policy- https://openjournals.library.sydney.edu.au/index.php/JCTP/article/view/15275/13439
5. Global Antitrust Review (Queen Mary University of London)- GAR 2018 (1).pdf (qmul.ac.uk)

Further, the Journal is indexed at Manupatra and SCC Online, India's premier online legal research services.

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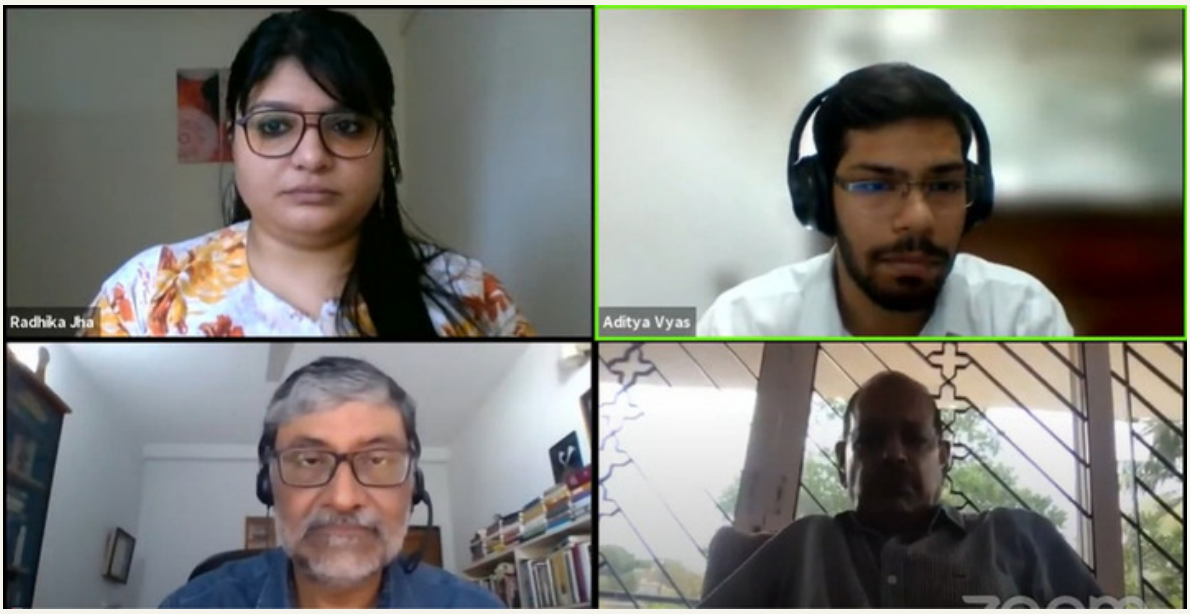
PANEL DISCUSSION: CITIZEN POLICE INTERACTIONS AND POLICING IN THE PANDEMIC



A discussion on "Citizen-Police Interaction and Policing in the Pandemic" was organized by the Editorial Board of RGNUL Student Research Review in collaboration with Common Cause India. Mr. N. Ramachandran, President and Founder, Indian Police Foundation ; Dr. Ruchi Sinha, Associate Professor, Tata Institute of Social Sciences and Dr. Vipul Mudgal, Director & Chief Executive, Common Cause & IM4 Change were the distinguished panelists.

Through this initiative, the board intended to further discourse on the nature of interactions between the police and citizens. The discussion attempted to shed light on the potential short and long-term effects of the pandemic and public health emergencies on the policing organizations and their officers.

During the lockdown, the police became the gatekeepers of not just the law & order as per usual but of the entire public management. The motivation behind selecting this theme for discussion, therefore, was to discuss the institutional response of the police during the pandemic. The format of the panel discussion was as follows: each panelist was given 15-20 minutes to speak, followed by a question-and-answer session with questions picked by the organisers as well as those submitted by the audience.

The session was insightful as the participants were able to understand the dual perspective of the citizens and the police. The session proved to be fruitful in terms of providing meaningful discourse on the citizen police Interactions and Policing in the Pandemic which would in turn improve the efficiency of the police force in the country.

The YouTube stream link to the panel discussion can be accessed here.

TOO TAXING TO REGULATE BUT NOT TO TAX?: ANALYSING THE FATE OF CRYPTOCURRENCIES IN INDIA

This article has been authored by Ridhi Gupta, Junior Editor and B.D. Rao Kundan, Online Content Editor at RSRR. This blog is a part of the RSRR Editor's Column Series.

Introduction

Recently, Dubai passed a Virtual Asset Regulation Law ("VAL") to regulate the digital assets industry. With this legislation Dubai joins regions like the United States ("US"), Singapore, United Kingdom ("UK") which have laws to govern cryptocurrencies. The VAL has set up an independent regulatory body i.e. the Virtual Asset Regulation Authority ("VARA") to regulate the cryptocurrency sector. VARA will have financial and administrative autonomy and perform functions[2] including issuing permits, protecting the beneficiaries' personal data, making rules to curb illegal activities, proposing any required legislation etc. With the VAL in place, any person wishing to engage in virtual assets related activities, that are listed out in the aforementioned law, in Dubai would mandatorily require a permit from VARA. VAL also provides penal and grievance redressal provisions. According to the data compiled by Chainalysis, UAE already holds the position of the third largest market of cryptocurrencies in the Middle-East and with the enactment of Dubai's VAL, there is a strong likelihood of it becoming a more popular destination for companies and investors dealing with virtual currencies. Cryptocurrency exchanges like Buybit have already started shifting their headquarters to Dubai.

Earlier in 2021, Germany had enacted the Fund Location Act to allow fund holders to invest upto 20% of their assets in cryptocurrency. This law has the potential to make Germany an attractive fund location for investors as it is expected to bring US$ 415 billion through cryptocurrency investments in Germany. Unlike Dubai and Germany, India, due to the present legal void and dubious stance over the regulation of the Virtual Digital Assets ("VDAs") industry, is witnessing the departure of some of the biggest cryptocurrency players out of India. Recently, the Indian Government ("Government") passed the Finance Bill, 2022 which has introduced a 30% tax on all exchanges in VDAs.

This article analyses the present situation of cryptocurrencies in India and the recent tax levied by the Government on them, and proposes suggestions for the regulation and taxation of cryptocurrencies.

The Present Situation of Cryptocurrencies in India

As per the 2021 Global Crypto Adoption Index, India stands second in the world in terms of cryptocurrency adoption. The cryptocurrency market in the country has grown exponentially by 641%. Recently, even some broking platforms have seen a dramatic rise

in the number of users and one of the platforms involved in cryptocurrency exchanges in India has registered a 3,500% rise in transaction volumes in 2021. Cryptocurrencies have become popular among the youth and a huge number of people from tier 2 and 3 cities are also investing in crypto-assets.

It is estimated that more than 15-20 million Indian investors hold crypto-assets of worth 400 billion rupees ($ 5.37 billion).

While countries across the globe are becoming attractive spots for cryptocurrency exchanges, India with its recent tax levy on VDAs and still no law to regulate the cryptocurrency sector is not only creating confusion with respect to the legality of VDAs, in the minds of traders and investors, but also hindering investments and growth in the industry.

Investors, traders and virtual assets' platforms have been eyeing the Cryptocurrency and Regulation of Official Digital Currency Bill, 2021 ("Proposed Bill") which has been in talks for a long time now but is yet to be released in the public domain. The said objective of the Proposed Bill shall be the facilitation of a framework for creation of digital currency by the Reserve Bank of India ("RBI") and prohibition of private cryptocurrencies in India, barring certain exceptions.In 2021, the Ministry of Electronics ("MoE") had released a draft strategy paper titled National Strategy on Blockchain which highlighted certain hurdles to mass adoption of cryptocurrencies including the ambiguous nature of tokens and provisions for data protection such as right to be forgotten and localisation norms.It is expected that the Proposed Bill will address these issues.

A committee formed by the Ministry of Finance recommended that all private virtual currencies should be banned as cryptocurrencies are decentralised and the risk of market fluctuation makes their regulation a daunting task. Further, the committee said that consumers were at high risk of fraud with no remedy available and that virtual currencies could be used for criminal funding.

While presenting the Budget for 2022, it was announced by the Government that RBI would issue the Central Bank Digital Currency ("CBDC") i.e. the Digital Rupee or digital fiat currency of India in the years 2022-23. The trials for CBDC were to start in December 2021, however, they have not yet taken place. As per recent reports, RBI is planning to adopt a step-by-step approach to launch CBDC. Central Banks of different nations are pushing to adopt national digital currencies at the earliest. Nine countries have already launched their digital currencies while countries including Russia, Sweden, China, Jamaica, Canada, U.S., U.K are at different stages of launching their digital currencies. For instance, in Nigeria e-Naira, the digital currency of Nigeria, holds the same value as the fiat currency, Naira. At present this digital currency can be used only by the bank account holders in Nigeria. UK on the other hand is currently on the research and exploration stage for the development of its digital currency. India's steps towards the trial and adoption of its digital currency are still awaited. Vidhi Centre for Legal Policy ("Vidhi") in its Working Paper titled, Blueprint of a Law for Regulating Assets has provided detailed suggestions as to how India can regulate cryptocurrencies.

The Paper first lists the twofold concerns in completely banning cryptocurrencies which are, firstly, since these assets occur virtually without any geographical boundaries and anonymous identities of key players, the implementation of the ban is very difficult, and secondly, the ban may result into illegal trade in cryptocurrencies. The Paper then suggests a standalone law to regulate cryptocurrencies with significant provisions, such as definition for different crypto assets and a clear distinction between fiat crypto assets and other crypto assets, requirement of regulatory authorisation from bodies like SEBI and independent regulatory organisation of crypto asset service providers to prescribe standards on specific issues.

With no law in place for regulating the VDA industry, the recent tax levy can further result in complicating the understanding of VDAs and confusing the investors,

traders and digital asset platform holders regarding the legality/ illegality of VDAs.

The 2022 Taxation Scheme

At present, the Government continues to not recognise VDAs as legal tender, except digital rupee, despite introducing the taxation of VDAs through the 2022 Budget. As per the taxation scheme, VDAs will be recognised as a separate class under the head 'capital assets' and gains out of VDAs would be taxed as capital gains. Therefore, any gains arising out of the transfers of VDAs, after April 01, 2023, will be taxed at the rate of 30% under Section 115BBH and a withholding tax at the rate of 1% will be applicable on the payment of sale consideration exceeding Rs. 10,000 for VDAs.

A VDA has been defined under Section 47A as *"any information, code, numbers, or tokens, created with blockchain/cryptographic means or otherwise, by whatever name called, providing a digital representation of value exchanged with or without consideration, with the promise or representation of having inherent value, or functions as a store of value or a unit of account including its use in any financial transaction or investment, but not limited to investment scheme; and can be transferred, stored or traded electronically"*, for the purpose of taxation.

A Non-Fungible Token ("NFT") or any other token of similar nature or any other digital asset specified by the Government official gazette, will be considered as VDA. The taxation scheme does not differentiate between cryptocurrencies and other VDAs. For instance, it considers both NFTs and cryptocurrencies in the same category, despite the differences between them. While both cryptocurrencies and NFTs are built from blockchain technology,

Cryptocurrencies are fungible or interchangeable, which means while two same cryptocurrencies will have the same value, NFTs are non-fungible and thus not equal in value. Some NFTs are still developing and there is a possibility of further classification of NFTs and thus, different taxation schemes for both cryptocurrencies and NFTs are required to avoid any tax controversy.

Cryptocurrency mining, which is the process of adding new transactions to the blockchain and creating new cryptocurrency in circulation, is one of the major aspects of this industry. Cryptocurrencies created through mining are self-generated capital assets and further sale of such cryptocurrencies would give rise to capital gains.

The cost of acquisition of a cryptocurrency generated through mining cannot be determined, as infrastructure costs incurred in such minings are not mentioned under Section 55 of Income Tax Act, 1961, which defines the cost of acquisition of self-generated assets. Many countries that have laws to regulate cryptocurrencies have made crypto mining legal. However, in India it is neither banned nor regulated. This is another issue to be addressed by the regulators.

Though the Government has introduced tax on VDAs, it is yet to address various tax related concerns.

At present a person needs to report his/her cryptocurrency transactions only in two circumstances, (i) income arising out of VDAs transactions for the purpose of taxation, and (ii) disclosure of profit or loss by the companies involving cryptocurrencies, as required by the Companies Act[10]. However, only companies involved in investment advisory or wealth management are obligated to such disclosure of their holdings and ownership of VDAs and not individual advisors and fund managers. Further, the taxation regime provides no provision for deduction or allowance of any expenditure except the cost of acquisition on income from VDAs. The set off and carry forward rule shall not be applicable in case of VDAs.

While some people may think that the imposition of tax on VDAs makes them legal, the jurisprudence on direct taxation suggests the contrary as under the Income Tax law even the income arising out of unlawful businesses is subject to taxation.

In the case of *CIT v. Thangamani*, the Hon'ble Madras High Court observed that income tax authorities are only concerned about the income and not about the mode and means of acquiring it. Similarly, the Hon'ble Gujarat High Court had allowed deductions from the income generated from a smuggler's confiscated gold, as it accounted for loss in his business. The Court also took note that for the purpose of taxation, no profit or loss can be excluded if it is carried out in a commercial manner, irrespective of its legality. However, it is to be noted that the guiding principles in these decisions do not sanctify illegal activities.

The recent judgement of Hon'ble Supreme Court in the case of *Internet & Mobile Association of India v. RBI*, which set aside the RBI circular banning the virtual currencies, suggested that cryptocurrencies are not prohibited. Further, in the absence of any law penalising any activities related to VDAs, it is difficult to determine whether holding, transferring or managing VDAs are legal or not. Despite the conundrum, the move of taxation of VDAs has given some sense of relief to the investors as the Government has changed its stance of imposing blanket ban on cryptocurrencies and has opted to come up with taxation scheme for it. However, at the same time imposition of a flat 30% rate shows the Government's inclination to deter the promotion of cryptocurrencies or any other VDAs.

Vidhi also released a Working Paper ("the Paper") titled, Taxing of Cryptocurrencies highlighting, among other things, the negative implications of the 30% tax levied by the Central Government on virtual assets.

Firstly, the Paper provides that a standard tax rate on all transactions involving crypto assets would be disruptive to the crypto industry due to the heavy tax cost it would result in. Secondly, it criticizes the provision of 'withholding of tax' at the rate of 1% on cryptocurrency transactions as this would drastically hinder the growth and innovation in this industry and suggest removing the withholding obligation altogether. Thirdly, it terms this levy of tax as violative of the 'tax neutrality' which is a key principle followed in taxation. This principle suggests that tax decisions should strive to be neutral so that the decisions of individuals depend on economic merits and not the amount of tax liability associated with a transaction. .The heavy tax levied on cryptocurrencies is likely to discourage individuals from dealing in cryptocurrencies. The Paper further suggests that cryptocurrencies should be taxed as either capital assets or stock in trade as is done in many jurisdictions. While the consideration from the transfer of a capital asset is taxed at a 'fixed rate' depending on the type of the asset and period of holding, the consideration from transfer of stock-in trade is taxed at ordinary slab rates. The Central Board of Direct taxes ("CBDT") had in a 2007 circular held that while classifying shares as capital assets or stock-in trade, factors such the nature of transactions, the manner of maintaining books of accounts, the magnitude of purchases and sales and the ratio between purchases and sales and the holding would furnish a good guide to determine the nature of transactions. Since both shares and cryptocurrencies are intangible assets, this approach may suit the latter as well.

The Way Forward

In this era of cutting-edge technology, countries, including third world nations, are adopting advanced technologies and becoming self-reliant with positive effects on their economies. In the recent past, the world has witnessed a dramatic rise in the popularity and use of virtual
currencies by the people which has led many countries to enact laws to regulate them. However, the Government has, so far, maintained an adverse stance on the legalisation and regulation of virtual currencies in India. Moreover, after numerous failed attempts to put a blanket ban over virtual currencies in the country, the Government has decided to impose a heavy tax on transfer of VDAs (which includes cryptocurrencies) and to come up with its own virtual currency. Considering the popularity of virtual currencies in the country and their role in economic growth, the authors

propose the following suggestions for .the regulation of virtual assets in India:
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- third world nations, are adopting advanced technologies and becoming self-reliant with positive effects on their economies. In the recent past, the world has witnessed a dramatic rise in the popularity and use of virtual currencies by the people which has led many countries to enact laws to regulate them. However, the Government has, so far, maintained an adverse stance on the legalisation and regulation of virtual currencies in India. Moreover, after numerous failed attempts to put a blanket ban over virtual currencies in the country, the Government has decided to impose a heavy tax on transfer of VDAs (which includes cryptocurrencies) and to come up with its own virtual currency. Considering the popularity of virtual currencies in the country and their role in economic growth, the authors propose the following suggestions for the regulation of virtual assets in India:

- It is suggested that the Government enacts the Proposed Bill. The Proposed Bill should provide clear and inclusive definition for the term 'virtual digital assets', definitions for all key terms related to them, differentiate

- between fiat cryptocurrency and other cryptocurrency and address the issues raised by the draft strategy paper released by MoE. The Proposed Bill can be made

- on the lines of regulations enacted by Dubai and New York wherein to trade in cryptocurrencies, a license is mandatory. Further, as suggested by
- Vidhi, the Government may declare certain crypto assets as prohibited' based on grounds such as public interest and morality. The Proposed Bill may set up an independent regulatory authority to oversee the transactions involving crypto assets or authorise the existing regulatory authorities like RBI to regulate the industry.

- For the purposes of taxation both virtual currencies and NFTs are considered the same but in reality, they are not and hence, there is a need for different taxation schemes for virtual currencies and NFTs. The Government must rethink its 30% tax levy on VDAs in light of aforesaid issues and do away with the 1% withholding obligation in order to promote them and encourage more people to invest in them.

- Further, the Government should take into consideration untouched areas such as implications of the tax on crypto miners. Recently, it was clarified that no deductions would

- be allowed on infrastructure cost incurred in mining of virtual currencies. Since, the infrastructure cost in mining is too high, the Government should consider framing laws or rules to allow such deductions as is done in countries like Canada, where business expenses incurred in generating virtual currencies are deductible The trials for CBDC should be started and India should prioritise adopting its digital currency. India can take inspiration from countries like Nigeria which have introduced digital currencies and observe how countries like UK, US are moving towards adoption of their digital currencies.

Given India's position as the second largest cryptocurrency users' hub in the world, it only seems imperative that the country soon comes with a law to regulate this industry.

Government must reconsider its adverse stand on legalising private virtual currencies and should frame laws for its regulation. Looking at its popularity and adoption by the masses, a regulatory authority must be established to deal with any and every issue related to virtual currencies, be it issuing license or suspending it in case of violation of rules regulating it. Since the digital universe does not have any boundaries, regulation of the activities related to virtual currencies would require global cooperation especially from companies involved in this industry to make it more transparent and safe for the people to invest and to reduce any threat of terror financing.

ACADEMIC IMPERIALISM AND UNIVERSAL ACADEMIC ACCESSIBILITY: ECHOES FROM THE GLOBAL SOUTH

International Literacy Day is celebrated around the world on the 8th of September to remind the public of the importance of literacy as a matter of dignity and human rights, and to advance the literacy agenda towards a more literate and sustainable society. This year's International Literacy Day was celebrated worldwide under the theme, "Transforming Literacy Learning Spaces" and was an opportunity to rethink the fundamental importance of literacy learning spaces to build resilience and ensure quality, equitable, and inclusive education for all.

Access to equitable quality education and the dearth of recognition of global south academic scholars has been an issue for a long time. International Law discourses are marked by a glaring absence of contribution by Global South academics, raising questions about the lack of representation and spaces. In this article from RSRR's Excerpts from Experts series, Ms. Swati Singh Parmar, Assistant Professor at DNLU, Jabalpur argues that to achieve an egalitarian International Law discourse, proportionate representation and recognition of contribution by the global south is necessary.

Of Contextuality and Association

Geographical specificity plays a pivotal role in shaping our understanding. Seasons have different meanings for people from different geographies. Words, phrases, folklores, and images have their meanings known to the region of the people they belong to. These words, folklores and pictures have their relevance- geographical and others- without which they mean nothing. These are reference points that help in constructing concepts. Picture association, word association, story association and other such forms are significant directions- givers of our understanding of concepts. Understanding a concept or a process, the constituent elements of which are foreign, is difficult. What winters mean to a State situated near the (snow-laden) Antarctica, would be very different to the winters for the State situated on the equatorial belt. Summer would mean sunlight, a ray of hope, and warmth for a winter-dominated state, but the same would mean harsh, scorchy and scathy heat for a summer-dominated state. The months of June and December have different relevance for different people. Still, the popularity of writing 'warm regards' in months of harsh summer is unimaginably high in the global South.

This subjectivity in relevance and references, though pivotal in developing an understanding of concepts, has been relegated to the periphery. In the case of shaping the understanding of disciplines of study, the disciplines dominated by alien references create a dissociated and blurred understanding.

International Law, one such discipline, has primarily been the creation of Europe. Throughout the textbooks of Public International Law, Europe (and scholars from Europe) has projected itself as the cradle of intellect. Those books have told the rest of the world that international law has been a product of Europe, with its principles and praxis evolving either in European cities like Westphalia, Rome, and Paris or in the works of European scholars like Francisco de Vitoria, Francisco Suarez, and Hugo Grotius. The popularity of Vitoria and Suarez is such that they have even been regarded as the "founders of the philosophy underlying all laws".

Professor James Thuo Gathii, an erudite TWAIL scholar, argues that Geneva, Strasbourg, New York and Washington DC are the places that "our discipline celebrates as producers of the type of international law which in turn becomes the benchmark for the efficacy of international law produced elsewhere".

European consciousness carefully crafted 'imperialism' and 'colonialism' as a cultural reference for the rest of the world. Though many would argue that colonialism has ended, it would be wrong to not acknowledge the different forms of imperialism that continue to daunt the colonies even today. Most such issues are unprobed and unaddressed. Professor Antony Anghie's academic vehemence shows international law's attempt to "establish a universal system of order among entities characterised as belonging to different cultural systems". S. Grovogui argues that international law has engendered colonialism.

Scholars from the global South do not question the colonial past of the word 'civilised' in 'general principles of law recognised by civilised nations' from Article 38(1) of the Statute of the International Court of Justice.This also was highlighted by Judge Fouad Ammoun in his separate opinion in the North Sea Continental shelf case.

Scholars reveal the cosmetic adjustments made to the interpretation of the word 'civilised' to reassure us that we have been decolonised.

Of Eurocentricism and Epistemic Injustice

The field of international law fancies European authors and European references. Eurocentric references are alien to people outside Europe. For the people in locations far-off from Europe, the Eurocentric references fade even more, rendering the discipline of International Law more alien. The Law of Nations has been told to us as International Law by European writers. It endures to be dominated by European writers and the epistemic injustice created for years now remains unaddressed. There are not enough studies and writings from beyond Europe even today. To answer why this happens, it is pertinent for us to answer many other questions. Colonialism traverses beyond political and economic processes. A pervasive form of colonialism exists in the academic publishing world, which renders the academic work produced in the global south marginalised. Regrettably, 'Who writes from where?' has been a pertinent question for the publishers. The quality of the academic work is not always the sole relevant concern- the geographical, economic, or gender positioning of authors, also has bearing on the opportunities for publications for the authors.

Professor Gathii in an extremely intriguing empirical study reveals the "international law's historical and continuing complicity in producing racial inequality and hierarchy, including slavery, as well as the subjugation". He relies on the vast content published by American Journal of International Law (AJIL) and sister publication AJIL Unbound from when it was first published in 1907 to 2021. Do works from TWAIL (Third World Approaches to International Law) undergo a stringent and minute critical lens? Is there an equitable and fair weightage in footnotes and references to the works from the global South? These questions remain an area of enquiry. In the available works, do the works from global north and those from the

global south have equal possibility of being cited, remains another question of empirical research. In the metamorphosis that the international legal scholarship is undergoing, these unsettling questions are critical. The adoption of social science methods of research in international legal research has been significant in attributing thrust to the voices from the South. The international law has been transforming owing to the realisation of race question in the international law framework by the Critical race theory, the history-aware approach questioning Eurocentricism by TWAIL, sexual violence as a war crime by Feminist Approaches to International Law and other debates influenced by the post-colonial thought.

The global (and therefore renowned) publishers located in the geographical north bear the global north's message clear: What we write, you will read; what you write, we may read. The global north controls the knowledge production and its standardization, and the global south is forced to the perils of this imbalanced system and the race it creates for the global south scholars to conform to. The scholars of the global south are subjected to multilayered academic imperialism including researching amid, and defying the known struggles of the third world, being forced to conform to a prescribed standardization and the western indexing system (like SCOPUS, Web of Science, ABDC), compelled to write in a European language and struggles for publication in an academic colonial world. There exists pervasive academic imperialism preluding equal opportunities for the academic existence of scholars from the South. Scholars from the South witness degrees of bias in the political economy of legal knowledge. Not only the fallacies of neutrality and fairness of international law but also of international legal scholarship seem exposed.

Books from the Global North scholars like J G Starke, L Oppenheim, Ian Brownlie, Malcolm N Shaw, Malcolm Evans, Michael Akehurst, and David Harris are the 'universal' reference books for Public International Law, while seminal works from the global south scholars like Antony Anghie, B. S. Chimni, R. P. Anand, James Thuo Gathii, remain undervalued as compared to the pivotal and critical debates that these works have instilled in international law discourse. European scholars regard the early European scholars as the epitomes of intellect and founders of international law. Unfortunately, these works remain under-read even by the students in the global south. Scholars from the global south subconsciously fancy and eulogise the western scholars' works as they have been trained to refer to and rely on such works through their early studenthood. The European works that Scholars from the South read and engage with stays as rhetoric, and when they encounter conflicting debates like reparations for coloniality, return of colonial loot, or neo-imperialism, they find themselves in a place of discomfort. They have no answers for legitimate (but not legal) claims arising out of coloniality in the existing Eurocentric international law- the gap between what they study, and what they encounter is huge.

Academic imperialism has a deep-rooted omnipresence. It persists beyond colonialism which has been nurtured through the global north's control of knowledge production, unaffordability of journal access, academic performance indices, celebrated indexing culture (and the resulting increase in predatory journals), the dominance of the European language, and others. This epistemic injustice in international legal academia tends to the "exclusion and silencing" and "invisibility and inaudibility" of voices from the global South scholars.

The right to access the knowledge that is produced in the north and the one that is produced by the South but published in the north is robbed from the scholars of the global south. An egalitarian international law discourse depends on proportional voices from the global south in the universalized north voice. The need for universal academic accessibility has been felt but not demanded by the Global South scholars. Spiralling publishing service charges create economic

inequality and act as deterrence for the libraries, Universities and scholars from the global south. The need for open access journals is important even for the academic dissemination in the South of the global south, but the same has not been highlighted enough. Unfortunately, even to raise such pertinent concerns, north dominated journal and publishers are the suitable platforms for the reasons of visibility and authenticity of voice. The global south has witnessed such paradoxical situations often.

Conclusion

Given the strong threshold of debates that critical legal frameworks- like Critical Race Theory (CRT), TWAIL, Fourth World Approaches to International Law (FWAIL), and Feminist Approaches to International Law, Marxist Approaches to International Law- have, there is a hope and lessons to learn for the global south scholars. For instance, African TWAIL scholars have set an example for the Asian and other TWAIL scholars to use their geographical and cultural potential of research. Afronomics Law including African Sovereign Debt Justice Network and African Journal of International Economic Law, is an interesting and exemplary initiative by scholars like Professor Gathii, Professor Olabisi D. Akinkugbe and other African scholars. Asian TWAIL scholars from India, though have produced interesting arguments revealing anti-colonial and tools of coloniality perspectives in the recent years, but the voices have yet not be noticed enough in comparison to the enormity of debates they have instilled. Their voices are scattered, unlike the collective voices from Africa.

In the academic imperial world, the rhetoric of universality of international law is exaggerated. The promise of international law for a just, fair, egalitarian international legal society is aspirational. Though raw data from the global South may be processed and concluded by the authors and publishers in the north, but academic spaces for global south thinkers are less and at times even hostile. Seminal scholarly debates by scholars from the global South published by local publishers, like those by Prof. R. P. Anand, appear to be lost. Though such works hold a strong semiotic potential of value, they are detached from the geographical North publishers. Decolonisation of intellectual space is an ignored concern. There have not been enough questions of the epistemic injustice it has created. The quest for universal academic accessibility is not even aspirational, but absent in the mainstream international legal scholarship.

ORIENTATION-BATCH OF 2027

On August 18, 2022, the Editorial Board of the RGNUL Student Research Review (RSRR) successfully held an orientation session for the Batch of 2027. The session gave the students an overview of how RSRR operates, the work of an editor ,the nuances of the reviewing process and the nitty gritty of writing novel legal articles . The session was led by Senior editors at RSRR, and the attendees were informed of the board's various initiatives, including a peer-reviewed journal with a contemporary focus, the Excerpts from Experts series, the Research Assistantship programme, which gives students the chance to collaborate with prestigious Guest Authors, Short Notes, which aims to give readers precise, accurate factual and legal information, Cinejuris which explores a fascinating confluence of cinema and law by analysing the legal aspect of a film or television show. Throughout the orientation session, the batch of 2027 was interactive and participated enthusiastically in the session .Overall, the session was insightful as a result of the students' questions on the board's many different facets. At the end, the students expressed their willingness to partake in the coveted platform that law journals offer.

CINEJURIS COMPETITION 2022

RSRR continuously endeavours to engage with the audience through various notable initiatives. Cinejuris is one such initiative of RSRR that caters to various genres of viewers and seeks to encourage critical thinking in the minds of the readers. It aims to find the intersection between law and cinema, spread awareness of the laws and encourage the practical application of legal principles in a specific fictional setting. The Editorial Board of RSRR invited Cinejuris entries from the Batch of 2027 and the top three entries were finalized after a rigorous evaluation process.

FIRST POSITION: GANGUBAI KATHIAWADI BY PRANAV AGGARWAL

In a series of socially motivated movies like Padman and Shubh Mangal Savdhaan, another movie has proved to be an unconventional chartbuster. From Vidya Balan's Begum Jaan to Kareena Kapoor's Chameli, the status and reality of Prostitutes has either been exaggerated or dramatized but this is where Gangubai Kathiawadi stands apart. Sanjay Leela Bansali's direction along with Alia Bhatt's acting portrayed the streets of Kamatipura in a way that neither overshadowed the story nor overpowered the subject. The movie revolves around Gangubai who was deceived by her lover and sold to a brothel where she goes through a lot of physical and emotional trauma but ultimately, makes sure that the next generation doesn't have to face the same.

While looking deep into the subject, the legality of prostitution in India has remained an issue of contention. India falls under the bracket of those countries which neither declare it illegal nor provide public acceptance to the profession.
The Immoral Traffic (suppression) Act, 1956 kept prostitution from being declared illegal but at the same time barred its public solicitation of customers. The same pushed prostitutes to work within the darkness of private premises. However, with progressive guidelines in cases like *Budhadev Karmaskar v. State of West Bengal* [(2011) 10 SCC 354], where the SC gave directives to ensure conducive conditions for sex workers to live with dignity, the profession is finally getting its due. Not only this, in the aforementioned case, the SC allowed the distribution of dry ration to sex workers, as identified by National AIDS Control Organization (NACO), without insisting on ration cards as the Right to food has been recognized as a human right under Art. 21 of the Constitution of India irrespective of the person's profession.

The film makes for relevant social commentary on otherwise taboo themes. There is, however, a need for concrete action in sex work to bring about substantial change.

SECOND POSITION: THE ALIENIST BY SARAKSHI KAPILA

The Alienist is a Netflix serial killer drama that opens up with a series of haunting murders of boy prostitutes in New York City. The brilliant Dr. Kreizler is known as an alienist – one who studies the mental pathologies of those who are alienated from themselves and the society, is called upon to investigate. Two learned counterparts: Sara and John Moore aid him through the investigation. The dramatic turn of events and the wondrous cinematic are commendable. Moreover, it deals with very provocative issues like corruption, murders, etc.

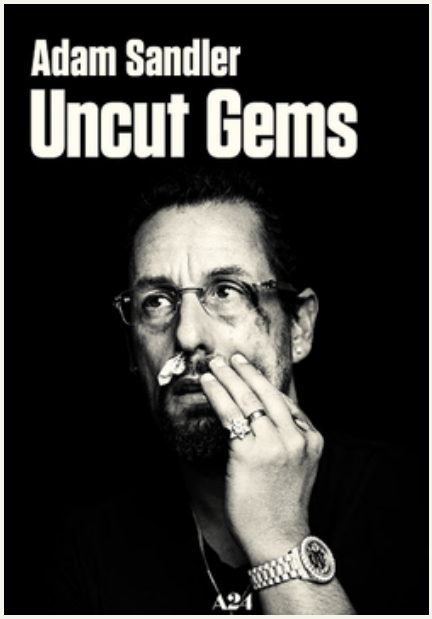
The first murder is of a 13-year-old boy whose face was mutilated and left facing the ground. The cases are dealt with by the penal codes applicable in New York City. However, if the same had happened in India, the Indian Penal Code, 1860 would have been applied. S. 320 i.e. grievous hurt, S. 340 i.e. wrongful confinement, S. 354 A i.e. sexual harassment, S. 354 D i.e. stalking, S. 299 i.e. culpable homicide and S. 300 i.e. murder would be applicable on the serial killer. All the essentials of murder have been satisfied i.e. intention, bodily injury, and knowledge in the manner that the killer of the series carries on with his acts, like the mutilation of a human body, with full knowledge of its consequences.

An interesting fact to note is the exception of insanity. To prove insanity, the person should be suffering from a mental issue, which resulted in the loss of basic reasoning abilities. To declare a person legally insane, tests like the delusion test are conducted. If the killer of the series was put through the test of delusion - he can be said to be insane, as deduced by the trauma he went through throughout his life; however, this conclusion can be subjective.

If proven guilty, the punishment would then depend upon the severity of the killing. Serial killers in India are generally given life imprisonment as seen in *Surendra Koli v. State of Uttar Pradesh* [(2014) 16 SCC 718].

The ritualistic murders beautifully illustrate some very disturbing facts about the society depicting how easy it is for people to portray a different reality. It teaches us to be kind yet very aware of our surroundings.

THIRD POSITION: UNCUT GEMS BY SHIWANSH SINGH



Uncut Gems is a 2019 critically acclaimed American crime thriller film directed by the Safdie brothers. The film is helmed for its chaos-induced atmosphere and pitch-perfect acting by Adam Sandler in the lead. The film offers an experience of both sensationalism and realism oscillating in tandem at breakneck velocities. The movie is emotionally charged with a direct and exacerbating method of storytelling.

Gambling being a major theme of the movie, plot is set in 2012 New York where gambling rules have particularly restricted gambling in casinos while permitting betting on horse racing. The promotion of gambling is a codified crime under various sections of the New York penal law.

Betting and gambling are included in Schedule 7th, Part II of the State list and hence a state subject in India, and each state has the right to enact laws governing gambling operations inside their borders. Further, the Public Gambling Act 1857 governs gambling in India. It mainly forbids public gambling but makes an exception for games of skill.

The SC has formulated a differentiation between games of skill and that of chance. For instance, in the case of *Dr. KR Lakshmanan v. State of Tamil Nadu* [(1996) 2 SCC 226], The Supreme Court ruled that in a game of skill, the element of skill takes precedence over the element of chance and vice versa for game of chance. Games of chance are governed by state gambling laws and are largely forbidden. Some governments, such as Goa and Sikkim, have made exceptions in their gambling laws to allow for regulated gaming. As a result, licenses are provided to casinos in Goa and Sikkim for games of chance.

When it comes to online gambling, in one of the most influential and well-known cases in recent times, *Gurdeep Singh Sachar v. Union of India and Ors* (2019) [3 AIR Bom R (Cri) 467], the Bombay high court noted and determined that a fantasy game is a game of skill as it does not include elements of gambling, wagering or betting but rather the skill of the person playing.

However, the last decade has witnessed an exponential growth in digital gaming which makes it difficult for courts to decide the nature of games thereby creating grey area in its regulation.

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