

March 2024 Vol XV - 5

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- Food Safety and Standards Act Overrides Indian Penal Code; Simultaneous Prosecution Under Both Acts Not Possible: Supreme Court. [Read More](#)
- Women can't be denied government jobs because of pregnancy: Uttarakhand High Court. [Read More](#)
- State to provide Compensation in case of Delays in solving the Cases: Madras HC. [Read More](#)



S.K. SINGHI  
Founder & Managing  
Partner

#### Message from Managing Partner

I am delighted to hand you the March edition of The Exhibit.

Core values and ethics are related concepts but refer to different behaviour and belief systems aspects. Core values are the fundamental beliefs and principles that guide an organisation's behaviour and decision-making processes. These values are essential to an organisation and serve as a foundation for its actions and attitudes.

Core values include integrity, honesty, accountability, respect, innovation, teamwork and diversity. They are deeply ingrained and typically remain relatively stable over time, reflecting the essence of the organisation.

Ethics refers to moral principles that govern individual or group behaviour. Ethics provide a framework for determining right or wrong, fair or unfair, just or unjust in various situations. Ethical principles often guide decision-making processes, especially when choices involve moral dilemmas. Ethical standards can be influenced by cultural, religious, philosophical, and legal factors, and they may vary across different societies and professions.

At S.K.Singhi & Partners, core values represent the foundational beliefs and principles that guide behaviour and decision-making; ethics provide a framework for determining right and wrong within a particular context or situation.

We believe in under-committing and over-performing to bring in customer delight.

I urge my team members to observe the highest form of ethics in their conduct and enhance their confidence in the legal profession by pursuing the core values of our firm.

Best wishes





## Restructured Debt May Impede India's March to a \$5.0 Trillion Economy.

-By Hargovind Sachdev

“Restructured Debt is a form of bondage for the economy. It is a financial termite.”

Banking is the lifeline of the nation. People hold it in high esteem as an arterial part of the economy due to the integrity and purity of data and compliance. For explicit transparency, RBI has made it mandatory to identify NPAs through a straight-through process (STP) without manual intervention. The step ensures a regular assessment of asset quality.

Historically, high-value corporate loans attract hand-holding due to size, but now, banks restructure even small MSME loans. The trend pushes the NPAs below the carpet. Over 3% of banks' loan books have been restructured in the last three years, with the refurbished loans crossing Rs.5.0 lac crores and rising. Banks have Rs. 8.50 lac crores of NPAs despite a Rs.10.52 lac crores write-off, according to the RBI's Financial Stability Report released on June 28, 2023.

Sudden NPAs disrupt development activities, devouring fresh capital to meet Basel Capital Adequacy norms. The fiscal deficit in the budget leaves little additional money for the banks. Fresh NPAs are the last straw on the camel's back of the economy. As per the RBI reports, NPAs stood at 3.9% in FY 2023, down from a high of 11.5% in 2018. The gross advances grew from Rs 83.6 lakh crore in 2018 to Rs 135 lakh crore in 2023. Therefore, the decrease in the percentage of Gross NPAs due to the increased base of advances tells part of the story.

The NPA follow-up is consuming the HRD bandwidth and valuable time for Banks; the additional Rs.5.0 lac crore restructured loans further vilify the lending landscape and squander the gains of credit growth of the last twelve months. The situation has been deteriorating by the hour clock due to the withdrawal of Quantitative easing and increased borrowing costs. The repeated Repo rate hikes have increased the EMIs without matching income growth, resulting in defaults. In the MSME segment, supply chain disruptions have increased input costs, pushing the units to search for alternate component sources at higher prices, eating out the working capital funds, and affecting repayments. The scenario requires mature credit decisions. NPAs threaten to divert banks' resources to recovery mechanisms, leaving little time to finance new assets. Growing the loan

portfolio without defaults is challenging but indispensable with proper gatekeeping as the \$5.0 trillion economy can not tread a carpet laden with Non-performing Assets.

SBI Chairman said banks must incrementally lend another \$1.0 trillion to take the GDP to \$5.0 trillion by 2027. Being such essential contributors to the GDP, banks must control NPAs. Here are a few steps to check the NPAs:-

**1. Introduction of Udhaar Card: National Loan Identity Card** There is a need to introduce an Udhaar Card on the lines of the Aadhar Card to build a debt profile for each Indian. Bankers dig deep into complex and costly CIBIL reports to disseminate loan defaults. An Udhaar Card shall carry a unique codified number containing state, city, business/profession, photograph, and details of all bank accounts. Lenders can pull borrowers' latest credit history from bank operating systems through the Udhaar Card. The Card shall empower Indians with borrowing muscle and firewall banks from impaired creditors to shun NPAs.

**2. Three Visit Policy** Bankers' main job is the sale of credit. Borrowers make multiple visits for loans beyond the TAT guidelines. RBI should mandate banks with a three-visit policy for credit dispensations. After submitting the loan application, the borrower should visit the bank only two more times: one to negotiate terms

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and the second to avail the loan. Repayment should be online. The more a borrower chases a loan, the more the banker has to pursue the borrower to recover the EMI. A borrower should visit the bank only three times for a credit dispensation.

### **3. Loan Repayment as per Indian Cultural Ethos and practices**

The NPA norms are imposed in India from the US and European financial models without customisation. Indians have a single source of income with no social security. EMI defaults are frequent during accidents, hospitalisation, weddings and school admissions. At the time of disbursement of the loan, a borrower may opt to pay ten EMIs instead of twelve per year and use the surplus cash for family commitments without default risk.

### **4. Restrict "Anywhere Clearing Payment Mechanism" for loans**

One of the customer service reforms that escalated NPAs is the payment of clearing cheques of loan accounts anywhere in India. The Service branches must pay the cheques with due diligence on diverting funds. The loan cheques should be passed at the home branch to avoid the siphoning of funds accumulating in NPAs.

### **5. Netoff the collateral value from the loan's NPA value**

As per BASEL III guidelines, each loan carries a specified risk weight. The capital for each loan is as per its risk weight. In default, lenders make loan loss provisions netting off the underlying security. Continuing this practice, there is no need to declare the total loan amount as NPA. Only the defaulted amount should be NPA.

### **6. Debt Dispute Courts Under Retired CMDs/ EDs of Banks.**

Bank litigations are under the purview of NCLTs, headed by a presiding judge supported by a technical expert who is not a banker. India has a vast banking talent pool of Executive Directors/ Managing Directors/ Chairpersons. Like Germany, let us harness the wisdom of retired senior bankers as judges for quick settlement to ensure liquidity and cyclicity of funds.

**Banks' duty and moral obligation is to break from routine debt restructuring. We must rise above short-term considerations and recover debts on time, without which the economy will not scale to \$5.0 trillion within the timelines.**



## The Curious Case of Internet Shutdown

-By Adv Anika Bajpai

Internet Shutdown is an intentional disruption of Internet-based communication rendering them inaccessible or affectively unavailable for a specific geographic area, population or mode of access. The shutdown can happen at both national and/or sub-national levels.

It is argued by the government that Internet Shutdowns are used to curb disinformation, to stop spreading of rumors through digital platforms to stop anarchy and are seen as a preventive measure to be used by the law and administration as a resort to address mass protests and civil unrest as is happening in the case of the Farmers Protest along the borders of Haryana, Delhi, and Punjab.

Whereas activists arguing against the Internet Shut down cite them to be Human Rights Violations as was held by the High Court of Kerala in the judgment of *Faheema Shirin vs State of Kerala* and that it resulted in social panic and chaos in the affected area.

Prior to 2017, there were no laws in India to regulate the Internet Shutdowns. That is when Temporary Suspension of Telecom Services (Public Emergency and Public Safety) Rules, 2017 were formulated under the Indian Telegraph Act, 1885 to include the provision that the Internet shutdowns could only be ordered by a state government when deemed “necessary” or “unavoidable” in public emergencies or in the interest of public safety.

In the year 2020, the Supreme Court of India in the landmark judgment of *Anuradha Bhasin vs Union of India* provided detailed guidelines to regulate Internet Shutdowns.

The issue began with the security advisory issued by the Civil Secretariat, Home Department, Government of Jammu and Kashmir stating that visitors cut short their stay and make their safe arrangements to go back. Subsequently, educational institutions and offices were also shut down until further orders by the government. On August 4, 2019 an order was issued for shutdown of internet services, mobile connectivity and landline were also shut down until further orders.

On August 5, 2019, Constitutional Order No. 272 was passed by the President of India applying all provisions of the Constitution of India to Jammu and Kashmir and stripped it from special status enjoyed since 1954.

On the same day, due to prevailing circumstances, the District Magistrate passed the order restricting the movement and public gathering, apprehending breach of peace and tranquility under Section 144 of CrPC. Due to such steps, the journalist movements were restricted and this was challenged under Article 19 of the Constitution which guarantees freedom of speech and expression and freedom to carry any trade or occupation. In the light of such circumstances, the Supreme Court, dealt with the legality of internet shutdown and movement restrictions are challenged under Article 32 of the Constitution.

The following issues were raised:

1. Whether the government could claim privilege to escape producing administrative orders issued under Section 144 before the Court?
2. Whether the freedom to carry on any trade, occupation or profession through the medium of internet comes within the domain of Article 19(1)(g)?

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3. Whether the government was justified in prohibiting access to internet services?
4. Whether the orders issued by the Magistrate under Section 144 of the CrPC were lawful.
5. Whether the restrictions imposed by the government had violated the fundamental rights of Ms. Anuradha Bhasin. (petitioner).

The Hon'ble Apex Court reasoned that the government shall publish all orders concerning the restrictions; including the restrictions over the internet. So, that people could duly challenge it before the appropriate forum.

The freedom of speech and expression and freedom to practice any profession, or to carry on any occupation, trade or business over the Internet is protected by Article 19(1)(a) and Article 19(1)(g) of the constitution and that if, they are restricted, it should be done according to the proportionality test.

Although the government can rightfully suspend internet access, it needs to do it temporarily; which it failed to do in this case. Hence, the government was asked to review its suspension orders and lift those that were not temporary.

Restrictions under sec. 144 CrPC cannot be applied to suppress the genuine expression of discontentment and are subject to judicial inquiry. Thus, the state was ordered to review its decisions.

It was held by the Hon'ble Apex Court that though the Government was empowered to order an Internet shutdown, any order imposing such restrictions had to be made public and was subject to judicial review. Following the judgment, the Temporary Suspension of Telecom Services (Public Emergency and Public Safety) Rules, 2017 were revised making that any suspension order issued must not remain in effect for more than 15 days.

Looking at the bigger picture, it keeps us pondering whether India really does have effective laws governing the Internet as whole. Isn't it the need of the hour to formulate stronger laws and yet stronger punishments for those with vindictive mindsets misusing fundamental rights? The balance of convenience needs to be maintained.

## SKS Legal QUIZ March 2024

We welcome young college students of Law Colleges to participate in the following Quiz. The winners shall be offered priority Apprenticeship at any of our offices at Kolkata, Mumbai and New Delhi. Please email your replies to : [info@innovacadvisors.com](mailto:info@innovacadvisors.com)

1. The Hon'ble Supreme Court in its recent Judgment in the matter of *Rajive Raturi Vs. Union of India* directed the Centre for Disability Studies at NALSAR to prepare a report. What does this report pertain to?
  - a) Statistical report on the employment rate of persons with Disabilities in Public Sector Undertakings.
  - b) Report for formulation of a an easily accessible and quick redressal mechanism scheme for disabled employees of Public Sector Undertakings.
  - c) Report for steps to be taken so that all public buildings in the country be made accessible to disabled persons.
  - d) Report on changes to be made for reservations of persons with disabilities in Public Universities.
  
2. An arbitration clause providing the manner for appointment of the Arbitrator, unilaterally by one of the parties is bad in law as observed by the Hon'ble Supreme Court in:
  - a) SMS Tea Estates (P) Ltd. Vs. Chandmari Tea Company (P) Ltd.
  - b) Perkins Eastman Architects DPC & Anr. Vs. HSCC (India) Limited.
  - c) Duro Felguera, S.A., Vs. Gangavaram Port Limited.
  - d) N.N. Global Mercantile (P) Ltd. Vs. Indo Unique Flame Ltd.
  
3. In its attempt to reach globalized standards of rectifications of accused and/or convicted persons, the Bharatiya Nyaya Sanhita Bill, 2023, has introduced a new form of punishment which is:
  - a) Solitary Detention.
  - b) Community Service.
  - c) Home imprisonment.
  - d) Rigorous Industrial Labor.
  
4. The Digital Personal Data Protection Act 2023 has coined a term for persons and/or organizations who receive the personal data of consumers. They have been termed as:
  - a) Data Principal
  - b) Consent Agent
  - c) Data Fiduciary
  - d) Data Board.
  
5. Under which provision of the Code of Civil Procedure, 1908, is a judgment-debtor entitled to move an application to set aside a decree passed on the basis of terms of settlement filed jointly by the parties?
  - a) Order LXI Rule 5
  - b) Order XXIII Rule 3
  - c) Order VI Rule 17
  - d) Section 151.

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6. Company Y and Company Z enter into a hire purchase agreement containing an arbitration clause. Disputes arise between the parties and Company Z demands money due by Company Y. Upon non-payment of demands, Company Z files a commercial suit against Company Y for recovery of such dues. As the advocate for Company Y, which provision of law will you rely on to dismiss such dispute and refer the disputes to Arbitration?
- Order VII Rule 11, of the Code of Civil Procedure, 1908.
  - Application to the concerned High Court under Article 226 of the Constitution of India.
  - Application to the Hon'ble Supreme Court under Article 136 of the Constitution of India.
  - Application under Section 8 of the Arbitration & Conciliation Act, 1996.
7. The Bombay High Court in Popatlal Umedmaji Jain Vs. The Income Tax Officer, Ward 1 (5) and Ors., laid down the rule of interpretation of statutes vis-à-vis the Penal Statutes, which is:
- Literal Rule of interpretation.
  - Mischief Rule of interpretation.
  - Golden Rule of interpretation.
  - Harmonious Rule of interpretation.
8. The purposes and structure of the organization is governed by the Agreement Establishing the World Trade Organization, also known as the ----- . It does not specify the actual rules that govern international trade in specific areas.
- Marrakesh Agreement.
  - General Agreement on Trade and Tariff
  - North American Free Trade Agreement.
  - The World Trade Organization Trade-Related Aspects of Intellectual Property Rights
9. Export value' in relation to export by way of lease or hire-purchase or under any other similar arrangement, includes the -----, by whatever name called, payable in respect of such lease or hire-purchase or any other similar arrangement.
- Deficits
  - Loans
  - Charges
  - Premium
10. The Supreme Court recently in Dilip B. Jiwrajka Vs. Union of India upheld the following sections of the Insolvency and Bankruptcy Code , 2016, to be intra vires the Constitution of India:
- Sections 7 & 9.
  - Section 14.
  - Section 60 (5).
  - Sections 95-100.

The upcoming Brain Boost Lounge Webinar on  
**THE LAWS OF A GREEN WORLD**



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**PRESENTS**

**BRAIN BOOST LOUNGE WEBINAR**  
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*Climate Risk, ESG & Sustainability*



*"Let's keep the Mother Earth safe by protecting the environment"*

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**HARGOVIND SACHDEV**

Former GM (SBI)/ Ex CVO UCO Bank & United Bank of India  
DIRECTOR- INNOVACE ADVISORS PRIVATE LIMITED  
ADVISOR - S.K. Singhi & Partners LLP  
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**March 23, 2024**  
**Saturday Virtually-**  
**on Zoom 11 a.m. to**  
**1 p.m.**



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# Social Events



Anniversary Celebration of the Jt. Managing Partner at Kolkata Office



Birthday Celebration at Kolkata Office



Birthday Celebration at Kolkata Office



Birthday Celebration at Mumbai Office



Birthday Celebration at Mumbai Office

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