



### 3rd SOLL National Legal Fiction Writing Competition, Fiction Juridique by UPES School of Law: Submit Dec 31

*Fiction Juridique* is writing about legal scenario that you can think of, in the form of short fictional stories. The fiction should be related to Law. The piece must be written in short storytelling style and woven around legal scenario/plot/subject.

1st Prize: 10,000 INR, 2nd Prize: 7,000 INR, 3rd Prize: 5,000 INR. All participants get certificate of Merit or certificate of participation.

<https://www.lawctopus.com/upes-school-of-law-fiction-writing-competition/>

### 8th Dastur Essay Competition 2019 by Chamber of Tax Consultants [Prizes Worth Rs. 22,500]: No Fee; Register by Jan 25

Topics that have been selected for the Eighth Dastur Essay Competition are: 1. Feminism, a misunderstood concept today. 2. Trade wars or Territorial wars, the next global battle. 3. Right to privacy, its sanctity in India.

<https://www.lawctopus.com/dastur-essay-competition-2019/>

### Adv. Vijayaraghavan Memorial National Essay Competition by CUSAT, Kochi [Prizes Worth Rs. 22K]: Submit by Jan 15

The First Adv. Vijayaraghavan Memorial National Essay Competition, 2019 is being organised by School of Legal Studies, Cochin University of Science and Technology, Kerala. The topics are 1. Reintroduction of „Adultery“ into the Indian Penal Code, 1860 – A Step in the Right Direction? 2.

Constitutional Validity of Section 377 of IPC – A Debatable Issue 3. Section 376(2) of IPC: A Draconian Provision? <https://www.lawctopus.com/cusat-kochi-adv-vijayaraghavan-essay-competition-2019/>

### GLC Thiruvananthapuram 8th All India ADR Competition [4th-5th Jan]

Justice V.R. Krishna Iyer Chair on ADR of Government Law College, Thiruvananthapuram, is organizing the 8th All India ADR Competition for KLSA Ever Rolling Trophy.

<https://www.livelaw.in/glc-thiruvananthapuram-8th-all-india-adr-competition-4th-5th-jan/>

### Criminal cases slapped on two mineral water manufacturers in Kochi

The Legal Metrology Department is tightening its grip over the mineral water manufacturing companies which resort to dual pricing for their packaged potable water. The Legal Metrology Central Zone carried out inspections at various malls, theatres and gaming centres in the city where mineral water bottles were found to be sold for different MRP. Criminal cases have been registered against two mineral water

manufacturing companies - Bailey and Green Valley. The case was registered under Rule 18(2A) of Legal Metrology (Packaged Commodity) Rules.

“The amendment to the rule abolishes dual pricing. The manufacturers will be fined initially, but if same offence is repeated, stringent legal action will be taken,”

<http://www.newindianexpress.com/cities/kochi/2018/dec/07/criminal-cases-slapped-on-two-mineral-water-manufacturers-1908286.html>

### Woman Charged With Fake Witchcraft, Days Before Canada Scraps Old Law

Last week, Canada repealed a number of so-called "zombie laws" that remained on the book after they were found to be unconstitutional, redundant, or just too old and weird. One law that was scrubbed was Section 365 of the Canadian Criminal Code – that's the law that made it illegal to practice fake witchcraft... Despite the federal government's labelling that law as archaic and slated for erasure, an Ontario woman was charged *last week* with fraudulent witchcraft – fortunetelling, specifically – just two days before the law was eliminated

<https://www.npr.org/2018/12/19/678381891/ontario-woman-charged-with-fake-witchcraft-2-days-before-canada-scrapped-that-la>

### Lok Sabha passes Surrogacy (Regulation) Bill 2016 which bans commercial surrogacy

The Lok Sabha has passed the Surrogacy (Regulation) Bill 2016, aimed at banning commercial surrogacy to protect women from exploitation. The bill allows women within the age group of 23 years to 50 years and men aged between 26 and 55 years to go for surrogacy. The couple also has to be legally married for at least five years and possess a certificate from a doctor stating that they are medically unfit to produce a child. The child, thus born, will be deemed to be the legal offspring of the intended couple. Notably, singles, homosexuals and live-in couples cannot apply for surrogacy. Besides, couples who already have children will not be allowed to surrogacy. The House also proposed to allow only altruistic surrogacy by infertile Indian couples only from a close relative.

<https://timesofindia.indiatimes.com/india/lok-sabha-passes-surrogacy-regulation-bill-2016-which-bans-commercial-surrogacy/articleshow/67165408.cms>

### Kerala Church Dispute Case: Police Bound To Enforce Court Orders, Says Kerala HC

Lawful order passed by a competent court, whether it be by a court of lowest court or the highest court, the police is bound to enforce it in accordance with law. “The Kerala High Court observed thus while considering a petition related to church case involving Jacobite and Malankara Orthodox factions. The court observed no discretion is vested in any of officers of the Police department, however high he may be, to decide as to which court order shall be enforced or not.

<https://www.livelaw.in/kerala-church-dispute-case-police-bound-to-enforce-court-orders-says-kerala-hc-read-judgment/>

### Sajjan Kumar's Conviction: Even Symbolic Justice Matters, Says HS Phoolka

Lawyer HS Phoolka's fight for justice for 1984 anti-Sikh riot victims landed him a major conviction today. The Delhi High Court [sentenced four people](#), including Congress leader and former Parliamentarian Sajjan Kumar, to life imprisonment. Yet, he doesn't think that can be called justice. Justice has not been done at all. It is symbolic justice. But even symbolic justice is a lot... It's a great victory for the nation and the judicial system,” he said. The reason the court took so long to pronounce its verdict was because the political system did not allow the judiciary to function, said the lawyer who has been fighting the case pro bono for more than three decades.

<https://www.bloombergquint.com/politics/sajjan-kumars-conviction-even-symbolic-justice-matters-says-hs-phoolka#gs.u4JfuPs>

### Police Continue To Make Arrests Using Section 66A Of IT Act, Struck Down By Supreme Court Three Years Ago

Was the use of Section 66A by the police an outcome of ignorance of the law, or was the police knowingly challenging the legitimacy of the Supreme Court ruling that overturned it? The answer is a bit of both, according to a new paper ‘Section 66A and other legal zombies’ by lawyers Abhinav Sekhri and Apar Gupta. There is no system in place to give proper effect to the decisions of the Supreme Court of such significant import... There exists a lack of mutual respect between the judiciary and executive, and the power balance skewed in favour of the executive allows it to get away with the abuse of law.”

<https://www.bloombergquint.com/law-and-policy/police-continue-to-make-arrests-using-section-66a-of-it-act-struck-down-by-supreme-court-three-years-ago#gs.w1dFbqs>

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## WHAT IS ZERO FIR

Commonly FIR's are registered in the police station which has jurisdiction of the place where the crime occurs. With Zero FIR, the FIR may be registered in any police station. The police station which registers the FIR puts the FIR serial no. as "zero" and transmits the FIR to the police station having jurisdiction of the crime. ... The most famous example for Zero FIR is AasaramBapu rape case. In this case, the place of occurrence falls under Jodhpur jurisdiction, but the case was registered at police station Kamla Market, Delhi. The case was transferred from Khan Market to Jodhpur for further proceedings.

However, Zero FIRs suffers lacunae in that the FIR is registered without proper preliminary inquiry. In **BimlaRawal and Ors. v State (NCT of Delhi) and Anr.**, the FIR was lodged in Delhi, despite the fact that all incidents occurred in Mumbai. A writ petition was filed in Supreme Court regarding the mala fide intentions of police succumbing under the pressure of opposite party. The Supreme Court quashed the FIR filed at Delhi and ordered to file a fresh FIR in Mumbai. In this case the police misused the power of filing a Zero FIR at the behest of the opposite party.

## LEGAL MAXIM EXPLAINED

### Ignorantia Juris Non Excusant

"Ignorantia juris non excusant" means "ignorance of the law is not an excuse". A person may not escape liability for violating that law merely because he/she was unaware of the law or its content. If ignorance were an excuse, a person charged with criminal offenses or a subject of a civil lawsuit would merely claim that one was unaware of the law in question to avoid liability.... But is such a rule just to begin with, considering it would be impossible, even for someone with substantial legal training, to be aware of every law in operation in every aspect of a state's activities? The underlying rationale is that this is the price paid to ensure that wilful blindness cannot become the basis of exculpation.... The maxim originated in Greeks and Roman philosophy, cultures heavily influenced by customary legal systems. Within such a system, law is learned as a person participates in the culture and customs of the community, and it is unreasonable to believe a person could have avoided learning them. These rules and customs were also interwoven with ethical and religious dialog so that laws expressed what is right and good and deviation that which is not.... In modern times, the doctrine assumes that the law in question has been properly promulgated—published and distributed, for example, by being printed in a government gazette, made available over the internet, or printed in volumes available for sale to the public at affordable prices....

## Call for paper: Int. Conference on E-commerce and Its Linkages with Services and Investment by Centre for WTO Studies [March 7-8, Delhi]: Submit by Jan 15

The Centre for WTO Studies, Centre for Research in International Trade, Indian Institute of Foreign Trade, Delhi is conducting the International Conference on E-commerce and Its Linkages with Services and Investment on March 07-08, 2019. The paper may examine growth and trend in e-commerce in India and globally, FDI in e-commerce, regulation of e-commerce activities, e-commerce and trade agreements including WTO and FTAs, e-commerce and logistics, payments systems, Fintech and Block Chain Technology, Cryptocurrencies etc. Make submissions to [servicesconference@iift.edu](mailto:servicesconference@iift.edu). Accommodation and Full/partial travel grant will be available for the authors selected for presenting papers <https://www.noticebard.com/iift-delhi-conference-e-commerce-linkage-with-services-investment/>

## Right to Food

The right to food guarantees freedom from hunger and access to safe and nutritious food. This is included in Article 25(1) of the Universal Declaration of Human Rights (UDHR), 1948, and also under various legislations in India. The following are the various provisions and schemes in India which further right to food for the citizens:

### # Public Distribution System

A network of more than 4 lakh Fair Price Shops (FPS) distributes commodities worth more than Rs 15,000 crore to about 16 crore families every year

### # National Food Security Act

The National Food Security Act, 2013 aims to provide for food and nutritional security by ensuring access to adequate quantity of quality food at affordable prices to people to live a life with dignity.... The Act provides

\* Subsidized foodgrains under Targeted Public Distribution System (TPDS),. The eligible persons will be entitled to receive 5 Kgs of food grains per person per month at subsidised prices of Rs. 3/2/1 per Kg for rice/wheat/coarse grains.

\* Meals for pregnant women and lactating mothers, and maternity benefit of min Rs. 6,000.

\* Meals as per prescribed nutritional standards for children up to 14 years of age. In case of non-supply of foodgrains or meals, the beneficiaries will receive food security allowance.

### # Antyodaya Anna Yojana

The Antyodaya Anna Yojana (AAY) households, which constitute one crore of the poorest of the poor families, receive 35 Kgs of foodgrains per household per month at a subsidized rate of Rs.2/ per kg. for wheat and Rs. 3/ per kg for rice.

### # Mahatma Gandhi National Rural Employment Guarantee Act

Under the MNREGA 2005, any adult willing to do casual labour at the minimum wage is entitled to employment on local public works within 15 days, subject to a limit of 100 days per household per year.

### # MidDay Meal Programme

Mid day Meal scheme serve primary and upper primary school children studying in Government, Local Body and Government-aided primary and upper primary schools and the Centres run under Education Guarantee Scheme and some other category of schools.

## INTERESTING CASE

### Leonard v PepsiCo (USA)

In 1999, Pepsi ran an advertisement in the USA about a points scheme in which a teenager shows up in a Harrier jump jet, with the text: "HARRIER FIGHTER 7,000,000 PEPSI POINTS". An enterprising 21-year-old saw that points could be bought for 10c each, and sent in a cheque for \$700,008.50 to gain the required 7,000,000 points. When Pepsi refused to let him claim a jet worth roughly \$23 million, he took them to court for breach of contract... Leonard's claim was rejected on the basis that no one could reasonably take the advert's offer seriously.

## Internship Opportunity: Student Contributors @ Ungender Insights Blog: Applications Open

Ungender Advisory focus is constantly exploring the dimension of gender, laws, its impact and its manifestation on the world around us. Ungender Insights aim to generate educational content through articles, podcasts, videos, campaigns etc. Contributions are invited and accepted from students, beyond age and gender, geography and profession. Special search is on for law students to contribute towards the legal aspects pertaining to gender. People who are interested can click and fill the Google Form [here](#). Since it is going to be a continuing internship for students, stipend may be mutually discussed post initial writing assignments are executed by the interested students. <https://www.lawctopus.com/ungender-blog-writing-internship/>

## Internship Opportunity at Ministry of Labour and Employment – Stipend 8,000/month

The interns shall have opportunity to know about government functioning and department policy issues in Government of India... through empirical analysis, briefing reports, policy papers, etc. The duration of the internship can be anywhere between 2-6 months. Applications (online) the upcoming year are invited in January and July. <https://labour.gov.in/sites/default/files/scan0001.pdf>



**“When I give food to the poor, they call me a saint. When I ask why the poor have no food, they call me a communist.” —Dom Helder Camara**

### **It Is Constitutionally Imperative For Govt To Take Care Of Those In Penury”, Kerala HC Observes While Staying SARFAESI Proceedings**

Expressing deep empathy with a borrower who got entangled in SARFAESI proceedings upon default of loan availed to meet medical expenses of his children, the High Court of Kerala sought to know from the Government about its schemes to provide relief to persons in distress....“I am of the opinion that where people are pushed into deep distress and pathos on account of unbearable medical expenses for members of family, including children, the State Machinery should involve and give humanistic support to the citizens so that they will be in a position to live with at least minimum required human dignity and respect”, observed Justice DevanRamachandran, while staying the recovery proceedings against the borrower.

The Government was also directed to file an affidavit explaining the welfare schemes available for persons situated in similar state of penury.

<https://www.livewlaw.in/it-is-constitutionally-imperative-for-govt-to-take-care-of-those-in-penury-kerala-hc-observes-while-staying-sarfaesi-proceedings-read-judgment/>

### **How inclusive are social security and welfare in India?**

\*Article 41 of Directive Principles asks the state to “within the limits of its economic capacity and development,” make effective provision for securing the right to work, to education and to public assistance in cases of unemployment, old age, sickness and disablement, and in other cases of deserved want.”

\*Article 42 says the state shall make provisions for securing just and humane conditions of work and for maternity benefits.

India does have a host of social security legislation such as Provident Fund, Employee State Insurance, etc, but not a national minimum social security cover..... Only 8% of India’s workforce, mostly in the formal sector, enjoys social security. Over 91% of workers, over 39.5 crore workers, are in the informal sector, and outside the coverage of most social security legislations. This is when there has been almost no growth in formal employment since early 1990s and almost all growth in employment has been in the unorganised sector. About 70% of workers in the unorganised sector live on an income of less than Rs. 20 a day making it evident that the gains of growth is bypassing the majority of the working population – *Source: National Commission for Enterprises in the Unorganised Sector (NCEUS 2004)*

<https://www.thehindu.com/news/national/how-effective-are-social-security-and-welfare-in-india/article6823320.ece>

### **Is Begging a Crime?**

In India, there is no central law which penalises begging, but most states have their anti-begging laws. The Act which functions as the derivative figure for all the state anti-begging law is Bombay Prevention of Begging Act, 1959. In Kerala, The Madras Prevention of Begging Act, 1945, the Travancore Prevention of Begging Act, 1120 and the Cochin Vagrancy Act, 1120 are still in force in different areas of the State....All these laws basically criminalise begging and provides for the incarceration of people found to be begging.... Under the provisions of the Bombay Act, beggars caught begging are tried in special courts called ‘beggar courts’ and if convicted are sent to certified institutions called ‘beggar homes’ for detention, training and employment. The court may also release the beggar on his assurance of abstinence from begging and being of good behavior. However, in Ram Lakhan v State (2018), the Delhi High Court moved away from blindly castigating begging and upheld the legitimacy of begging under the common law doctrines of necessity and duress, as well as on the principles of equality and liberty. A blanket ban or unreasonable prohibition on begging may deprive the beggar of two fundamental rights: Article 19(1)(a) and Article 21 of Constitution <https://blog.ipleaders.in/anti-begging/>

***Chameli Singh vs State of UP (1996) “In any organised society, right to live as a human being is not ensured by meeting only the animal needs of man... Right to live guaranteed in any civilised society implies the right to food, water, decent environment education, medical care and shelter. These are basic human rights known to any civilised society.” – Supreme Court***

### **Hunger grows as corruption eats into welfare schemes**

The government is spending billions of dollars on welfare schemes... In theory, there is no end to welfare schemes. There is a midday school meal scheme, a pre-school scheme as well as the rural employment scheme, and several more. But few are felt on the ground. These programmes have not been successful at targeting those that need it most...Some schemes work well in states like Tamil Nadu which has a tradition of better governance... But in most cases, these schemes are ridden by graft and often ill-conceived... For instance, in Madhoun, a village in Rajasthan, inhabitants said they had not received government aid for months (in 2010). A health worker appeared once a week, signed attendance papers, and left.... doctors asked for a Rs1,000 (\$22) bribe for treatment -- a charge echoed across several villagers. “I cannot afford to eat. How can I afford that?” Poona, a villager asked.

<https://www.livemint.com/Politics/9Nm5G2FSBqGiFkQLX6NmVN/Hunger-grows-as-corruption-eats-into-welfare-schemes.html>

### **Do the States Have Enough to Spend on Welfare?**

Since 2015-16, the share of central taxes meant for states was raised from 32% to 42% on the basis of the recommendations of the 14th Finance Commission. But this was accompanied by other less publicised changes, which negated this increase to a considerable extent. The Centre for Budget and Governance Accountability (CBGA) points out in its analysis of 2015-16 Budget, at the same time as this increase, the overall magnitude of central assistance to states for plan spending fell sharply from Rs 3.3 lakh crore in 2014-15 to Rs 1.96 lakh crore in the budget estimate for 2015-16. “What is most important to note is that starting from 2015-16, the Centre would reduce its commitments on salaries of staff incurred at the State level in the different Centrally Sponsored Schemes, implementation of some of which may be crucially dependent on human resources, such as the National Health Mission, Integrated Child Development Services, RashtriyaKrishiVikasYojana, Rashtriya MadhyamikShikshaAbhiyan, National Rural Drinking Program, Swachh Bharat Abhiyan, Indira AwasYojana and National Rural Livelihoods Mission.” .... The net increase in the spending capacity of states in 2015-16 was projected in this document to be only 0.33% of GDP, which means that social sector spending was expected to remain much the same. At the same time, the Union Budget registered a decline in social sector allocation, from 1.92% of GDP in 2013-14 (actual) to 1.68% of GDP in the budget estimate for 2015-16 – a decline of 0.24%. CBGA found social sector allocations to be shrinking rather than increasing, while the publicity blitz was that the states have got much more for priority sectors directly related to the welfare of people.... A recent paper titled ‘Recent Changes in India’s Fiscal Architecture’ by Subrat Das, Amar Chanchal and Jawed Alam Khan has argued that while allocations for some politically-favoured programmes may have been protected, allocations for other programmes critical for welfare may have suffered.

<https://thewire.in/government/budget-welfare-programmes-states>

**India spends 1.4 % of its GDP on social protection, among the lowest in Asia, far lower than China, Sri Lanka, Thailand, and even Nepal.**