

The Role of Consent in Civil Obligation: A Comparative Study Under Indian Laws and Global Trends

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Introduction

The civil obligation is the process to maintain legal relationships where an individual has to be liable towards another individual, which comes under the 'Sanction of state coercion' (Kociolek-Pęksa and Pęksa, 2016). This obligation can occur when an individual intentionally performs all legal works without any disruption or affecting another person's rights. In any independent country, an individual has the right to speak and live their own life without hurting other people's rights to live or get any democratic rights that the concerned country has given to all its citizens. For example, Indian Laws have given its citizens the right to live freely and 'Freedom of expression'. Thus, 'Consent' is a very important aspect of Indian Law and it is a very significant aspect as well, which has become a global trend (White, 2018). Thus, a detailed discussion will be provided in this study with a proper analysis of the role of 'Consent' in 'Civil Obligation'.

Discussion

As an overview of 'Civil Obligation' has been given above, thus, the definition of 'consent' has to be analysed successfully to discuss its role in the obligation process for civils. As per the '13 of ICA' of the Indian law, it has been understood that if two or more two people are said to consent, which happens when

both people agree to a certain thing in a paired sense. Therefore, it has been understood that 'Consent' is necessary when two or more people are likely to make any decision to work together. This helps to get the best results by following the rules and it helps to mitigate any problematic situation where both parties are not been able to get a conclusion over a subject. In a simple way the definition of 'Consent' can be given that says 'Consent' is a confirmation process of acknowledgement or notice, which reflects the liability of civil. In addition, it can be said that the 'Breach of liability' inflicts the duty on the levanter who has assessed his or her consent, which reflects that the person is well aware of the acceptance of his or her 'Consent' (Drozdzie et al., 2016). 'Civil Obligation' can be applied to many aspects such as transferring any money or property, rendering any service, evading any specific action, performing any specific work and other aspects. In all these aspects, 'Civil Obligation' is applied and a person can

take help from the court by casing any breaching of the 'Consent'.

Therefore, it has been analysed that 'Civil Obligation' has been made to help people apply their human rights in a positive manner, which helps people to prevent getting fraud and if anyone does the 'Breach of liability' in a contract, the other person can ask help by doing a court case.⁴

For example, In India, there are high courts, which are situated in every state and a 'Supreme Court', which is situated in Delhi is the highest court in India. A case study from India can be given for a better understanding of the role of 'Consent' in the 'Civil Obligation' of India. In the '**Samira Kohli vs Dr Prabha Manchanda**,' the 'Supreme Court of India has stated that the concept of 'Consent' in a doctor and patient relationship has to be granted by the patient to provide permission to be carried out by the doctor to proceed with further treatment (Sareen, 2019). However, 'Consent' has to be taken from the patient before proceeding with treatment. As per Indian law, a doctor always has to take 'Consent' from the patient or the family of the patient before applying any medicine to the patient. In addition, the 'Consent' has to be valid and voluntary as well.

This has been analysed further that 'Consent' is applied in any aspect of life as it is a very vital decision of a person, which determines the person's life and the person's human rights as well. Therefore, in an independent country like India, 'Consent' in 'Civil Obligation' is a crucial factor. Moreover, globally the concept of 'Consent' has to be analysed to get a brief understanding of it, which will help to understand how people around the world think about 'Consent'. Henceforth, it has been observed that the word 'Consent' has become a trend, which is applied in every aspect of life and it has given some people the advantage to accuse someone by filing a false case as well. Therefore, it can be said that though 'Consent' has been made to provide people with their rights more definitely, some people use it for their gain. In the global aspect, 'Rape' has been a major concern worldwide and as per findings, it has been found that in India the number of rape cases in the year 2018 was approximately 33,356 but the reliability of the cases needs to be inspected well (Statista, 2018). In addition, in the USA the filled rape case number was about 143,756 in the year 2018, which was huge.

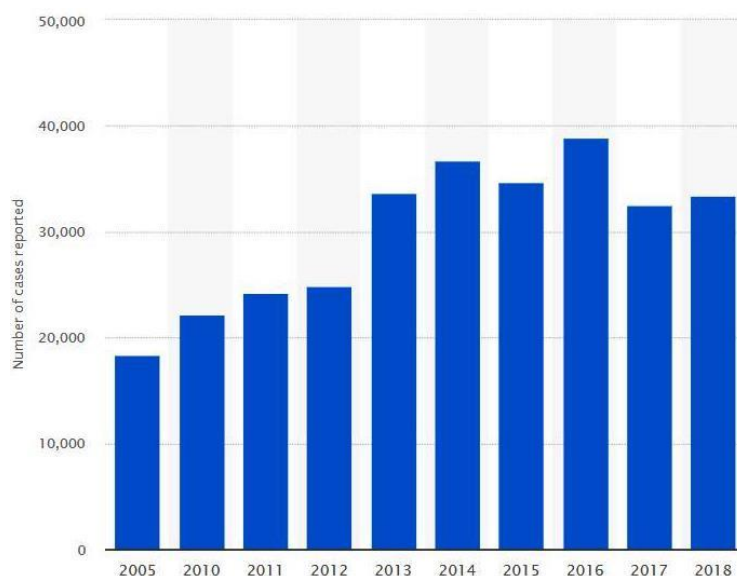


Figure 1: Rape cases in India

(Source: Statista, 2018)

Thus, in this context, the concept of 'Consent' is highly applied and it can be said that in this delicate matter 'Consent' works as the determining factor of one's whole life. Therefore, in India, the 'Consent' taking age is 18 for girls and 21 for boys. The word 'Statutory rape' highlights the fact that 'No means no' no matter what the societal, physical or behavioural characteristics of a person. In addition, 'Consent' taking and giving is very important for sex workers and marital relations are equally important. Thus, the trend of 'Consent' in India and in globally aspect seems the same when it comes to providing people with the strength to live their life in the best ways.

Conclusion

From the above discussion, it has been understood that the word 'Consent' may look small but it is a subject that has many aspects, which need to be identified by people to be aware of this matter and avoid any disruptive or insulting activities, which may affect individuals and other people's lives negatively.

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