



ISSN - 2455-7242

# ILI Newsletter

Quarterly Newsletter published by the Indian Law Institute  
(Deemed University)

Accredited with 'A' Grade by NAAC  
Granted Graded Autonomy (Grade II) by UGC

July-September 2023

Volume  
XXV  
Issue-III

## Editorial

The 18<sup>th</sup> G20 summit, which took place in New Delhi on September 9 and 10, 2023, came to an end with a positive note for each and every member state on September 9, 2023, with the unanimous adoption of the Delhi Declaration. A number of experts, scholars, and diplomats have expressed worry that it would be difficult to come to a consensus, in part because of the current hostilities between Russia and Ukraine. There were indications both before and during the G20 meeting that the delegates of the US and Western Europe would insist on certain sections of the final statement criticising Russia invasion of Ukraine. Undoubtedly, navigating the Russian-Ukrainian confrontation and making a safe exit was a significant difficulty for the representatives of the Indian Government. The Delhi Declaration's unanimous ratification shows how far Indian diplomacy has advanced and how adept it has become at handling complex circumstances. The G20, which serves as the principal forum for global economic cooperation, is based on the principles of multilateralism, promoting consensus and fair participation for all members in all of its activities, including summits. There was some doubt about the Declaration's consensus approval because Chinese President Xi Jinping and Russian President Vladimir Putin were not present at the G20 summit. Everyone was taken aback by the 34-page Delhi Declaration of the G20, which contained 112 conclusions. Not only did it arrive one day early, but it also showed that the G20 members were in accord, despite initial concerns that issues like climate change and the situation in Russia and Ukraine would not be negotiable. The addition of the African Union, a group of 55 states, as a permanent member of the G20 was the major announcement that kicked off the summit. The Indian administration deserves praise for bringing greater inclusivity to the G20 and elevating the Global South voice. In addition to the aforementioned, the Declaration supported the use of the common framework to expedite debt resolution in low and middle-income nations. Another achievement was the endorsement of the G20 Framework for Systems of Digital Public Infrastructure and the plan to build and maintain a Global Digital Public Infrastructure Repository, a virtual repository of DPI voluntarily shared by G20 members and beyond. The G20 member states reaffirmed their commitment to expediting the comprehensive and efficient execution of the 2030 Agenda for Sustainable Development. The Declaration also addresses the Russian-Ukraine crisis by referring to the different national positions of the various G-20 members on the war in Ukraine and highlighting the United Nations Charter principle that all states must refrain from the threat or use of force against the territorial integrity and political independence of a sovereign state. We will have to wait and see how well the G20 member nations execute the Delhi Declaration by taking the required actions.

### Editorial Committee

Editor  
Manoj Kumar Sinha

Member  
Arya A. Kumar

Secretary  
Shreenibas Chandra Prusty

**Manoj Kumar Sinha**

### Inside

Activities at the Institute.....	2	Forthcoming Events.....	14
Academic Activities .....	14	Legislative Trends.....	15
Library.....	14	Legal Jottings.....	16
Research Publications.....	14	Faculty News .....	23
E-Learning Courses.....	14	Case Comments.....	25

### SUBSCRIPTION RATES

Single Copy	: Rs. 20.00
Annual	: Rs. 70.00

The payment may be made by  
D.D./ Cheque in favour of the  
"Indian Law Institute, New Delhi"  
(For outstation cheques add  
Rs. 20.00 extra) and send to :

The Editor, ILI Newsletter, The Indian Law Institute, Bhagwan Dass Road, New Delhi- 110001,  
Ph: 23073295, 23387526, 23386321, E-mail : ili@ili.ac.in, Website : www.ili.ac.in

## ACTIVITIES AT THE INSTITUTE

### Workshop on “Constitutional Governance in India: Assessing Implementation, Measuring Impact” on July 20-21, 2023

The Indian Law Institute, New Delhi, and the University of Portsmouth, United Kingdom, collaboratively orchestrated a groundbreaking workshop titled “Constitutional Governance in India: Assessing Implementation, Measuring Impact”. The visionary minds behind this intellectual congregation were Prof. Shubhankar Dam, University of Portsmouth, who played the lead role and Prof. Anurag Deep, the Indian Law Institute. The workshop was themed around the functioning of constitutional institutions, acknowledging the Constitution's limited guidance on their operation. It recognized the intricate interplay of law and politics shaping these institutions and emphasized the norm-guiding role of court decisions. The distinguished Director of the Indian Law Institute, Prof. (Dr.) Manoj Kumar Sinha, inaugurated the programme, setting the stage for two days of scholarly exploration and collaborative discourse.

The first day commenced with a discussion on the title “A Legal Probe into the Leader of Opposition: A Drifted Constitutional Practice in India” presented by Ashok Kumar Sharma, Meerut College, Chaudhary Charan Singh University. Following this, Ashit Kumar Srivastava, Dharmashastra National Law University, Jabalpur, MP presented a paper titled “Questioning Master of Roster on the Tenets of Basic Structure”. The discussion was enriched by the contributions of Dr. Niraj Kumar, Associate Professor, National Law University Delhi. The day continued with presentation on title “the Supreme Court and the Prisons: Institutionalizing “Access to Justice” through Structural Reforms by Utkarsh K. Mishra and Abhishek Negi, Dharmashastra National Law University, Jabalpur. Prof. Anju Vali Tikoo, Head and Dean of the Faculty of Law at the University of Delhi provided valuable insights as the discussant. Anamika Singh from Symbiosis Law School, Hyderabad presented her paper on “Guardian of Human Rights under Distress: An Analysis of Workings of NHRC”. The first day concluded with a presentation by Athena Solomon K. from the National Law University Odisha on title “Judicial Outreach upon the Ambit of the Legislature: An Analysis from

the Vantage Point of Writ of Mandamus” with Prof. Anurag Deep serving as the discussant. Day two saw a profound panel discussion on the principles of good legal scholarship, expertly discussed by Prof. Shubhankar Dam. Avinash Paswan, Ph.D. Scholar, ILI played a pivotal role by introducing the panel and providing crucial technical support throughout the program.



Group photograph of the participants along with Prof. Shubhankar Dam and Prof. (Dr.) Anurag Deep

### Workshop on “Use of Artificial Intelligence in Legal Teaching and Research” on July 26, 2023

The Indian Law Institute (ILI), New Delhi and Kamkus College of Law (KCL), Ghaziabad jointly organized a one-day workshop on “Use of Artificial Intelligence in Legal Teaching and Research” on July 26, 2023, at the Indian Law Institute (ILI), New Delhi.

The workshop was sought to acquaint law teachers and researchers from diverse institutions with the concept of AI and its application in legal academia. The primary objective was to explore and deliberate on the potential utilization of AI tools in legal teaching and research.



Inaugural session of the workshop



The Workshop was inaugurated with the lamp lighting ceremony by the dignitaries. Thereafter Prof. (Dr.) Anurag Deep, the Faculty In charge of the Workshop introduced the Workshop and explained the structure and outline of the Workshop to all. Prof. (Dr.) Manoj Kumar Sinha, Director, Indian Law Institute, delivered the welcome address. He deliberated upon the importance of the Workshop and welcomed all the guests and attendees to the same. Subsequently, The Coordinators invited the Keynote Speaker of the inaugural session Prof. (Dr.) Shubhankar Dam, Chair Professor of Public Law and Governance, University of Portsmouth, England, to enlighten the participants on the topic ‘AI in Legal Education: Trends in British Law Schools’. Professor Dam, while discussing the contours of AI and its applicability and utilization in legal research and teaching in India and Europe, deliberated upon the tools and technologies, which facilitate the use of AI in law research, teaching and even courtroom litigation. Lastly, Mr. Karunakar Shukla, Chief Mentor, Kamkus College of Law, delivered the formal vote of thanks.



Snippets from the workshop

The Workshop was divided into three sessions, which started after the Inaugural Ceremony. These three sessions had various experts in their respective fields, enlightening about the use of AI in three different, but closely related domains. All the three sessions were conducted for 90 minutes each, including the topic specific deliberation by the experts for about 30 minutes, followed by a hands-on exercise for 45 minutes, which included the practical activities such as use of the AI-enabled tools for the participants, and ended with a Question and Answer session.

The first session, titled “Introduction to Artificial Intelligence and its use in Academia”, was led by Dr. Sachin Kumar, Assistant Professor, Artificial Intelligence, Cluster Innovation Centre, University of Delhi. Starting with the nuances of AI, and its

development, application, and challenges, he touched various aspects of digitalization, including its effect on human society. Subsequently, he addressed specific topics such as the development of AI as a tool, the Socio-ethical issues related to it, the challenges, and opportunities this tool offers in teaching in general, the role it plays in enhancing the research experience in academia in various disciplines, and the goal towards a responsible AI. It was followed by a practical activity and a feedback session at the end.

The second session titled as “Use of artificial Intelligence in Law Teaching” was taken by Mr. Abhinav K. Mishra (AI Policy Research Fellow, Center for AI and Digital Policy, Washington, United States and Research Fellow, Institute of Intellectual Property, Foundation for Intellectual Property, Tokyo) delivering his insights on the intersection of law teaching and technological advancements, also highlighting its potential benefits and challenges. He introduced participants to the fundamental concepts of AI, ML, LLM, and Generative AI in the context of the legal field, and got the participants acquainted with various AI tools designed for law teaching, including Chat GPT, Merlin, Insight Genie, *etc.*, and their uses in Microsoft office and Google Docs. The session was followed by an exercise and a feedback round.

The final session was taken by Dr. Kshitij Gupta, Ph.D., M.S., B.S. Stanford University, California, United States of America. He, in furtherance to what have already been deliberated upon by the previous experts, discussed the use of AI in legal research to revolutionize the legal industry through legal data analysis, Information Retrieval systems for legal documents, argumentation and reasoning systems for legal problems, decision support systems for legal outcomes and generative systems for legal content. He also taught the participants to use tools of Artificial Intelligence in Academic Research. The session ended with the usual practical exercise for the attendees and a question and answer session.



Participants of the programme along with Director, ILI

After all the sessions were successfully conducted, the workshop reached to the conclusion with all the participants being felicitated with certificates. Prof (Dr.) Anurag Deep was the coordinator of the workshop and the Student Coordinators were Ujjval Gupta and Vijay Tyagi.

### **Training Programme for Presiding Officers of Debts Recovery Tribunals on August 10-13, 2023**



Inaugural session of the training programme with lighting of lamp by the Chief Guest

The Indian Law Institute organized a four-day National Seminar for Presiding Officers of the Debt Recovery Tribunal (DRT) from August 10-13, 2023. The Seminar discussed and comprehended the legal framework and jurisdictional issues of DRT in terms of the relevant legislative provisions in the inaugural session director, Prof (Dr.) Manoj Kumar Sinha welcomed the august gathering to the programme. The speaker for the first session was Shri Narinder Nath Khanna, Ex-Presiding Officer, DRT who deliberated on salient features of the Recovery of Debts and Bankruptcy Act, 1993 (RDB). The speaker pointed out that the RDB Act has created toothless tigers whereby the presiding officers have to merely adjudicate a due debt whereas, execution of decree goes through the ROs. It was highlighted that those implementing law should be specifically trained in that law more so due to the multiplicity of laws or parallel adjudication that are available to recover a simple debt. The speaker also deliberated upon "Understanding the RDB Act, 1993 and its practical application", "Its overview", "Role and Function of DRT", "Role and Function of DRAT", "Jurisdiction charter of DRT Territorial Jurisdiction Pecuniary Jurisdiction Bar of Jurisdiction", "Proceedings before DRT Original Application Procedure under Section 19", "Appeal against the order of RO before PO, DRT, Delhi" etc. In the post lunch session, the speaker

continued with the topics of "RDB Act, 1993 most important judgements of Supreme Court and High Court". The session then proceeded with inputs from the participants regarding the challenges faced by them to address the shortcoming in the DRT regime. The last session was taken by Shri Sanjay Bhatt, Advocate, Supreme Court of India who discussed "Landmark Judgements of Hon'ble Supreme Court of India and High Courts in respect of RDB Act, 1993 and SARFAESI Act, 1993".

In the second day of the programme the speakers discussed "Role and Responsibilities of DRT post SARFAESI". Speakers included Shri Mohan Ganesh Kininge, Retired Banker and author of a book on SARFAESI Act. The session initiated by highlighting *Pandurang Ganpati Chaugule v. Vishwasrao Patil Murgud Sahakari Bank Ltd.*, (2020) 9 SCC 215. The Supreme Court in the said case held that, cooperative banks under the State legislation and multi-state cooperative banks are 'banks' under section 2(1)(c) of SARFAESI. Speakers for the third day of programme included "Sh. Sajeve Bhushan Deora", Insolvency Professional and "Dr. M.K. Pandey", Advocate, Supreme Court of India, Shri R.B. Trivedi, Ex Presiding Officer, DRT- 3, Kolkata and Shri Manoj Tuli, DDG, NIC, CGO Complex, New Delhi. The session covered topics like "Resolving issues emanating out of related Acts, Limitation Act, Tenancy Act, Transfer of Property Act, Contract Act and Benami Transactions (Prohibition) Act, Banker's Books Evidence Act, Stamp Duty Act," "Procedural Issues and Challenges faced by Debt Recovery Tribunals".



Views from the technical sessions of the programme

The fourth day of the programme covered topics like "Improving Efficiency & Efficacy of DRT", "Appropriate strategies for expeditious adjudication", "Prioritization of cases", "Identifying



best practices and effective disposal of cases”, “Courtroom Management”, “Timely disposal of AI Applications” and “Disposal of objections” etc. Speakers included Hon’ble Mr. Justice Tarun Kumar Kaushal, Ex Chairperson, DRAT, Chennai and Shri PSN Prasad, Judicial Member, National Company Law Tribunal, New Delhi. The session ended with the speakers elaborating upon diversity of opinion in judgment writing as the strength of the common law judicial tradition. It provides never ending stream of ideas and ways of communicating them. The experimental variety helps to develop the law. It is the privilege of each succeeding generation of judges to nurture the proud heritage and advance this precious legacy.



Snippets from the training programme

### **Five Days Training Programme on Law for IDES Officers and SDOs August 28-September1, 2023**

A Five-Day Training Programme on Law for IDES Officers and SDOs was organized at ILI from August 28-September1, 2023. This programme was jointly organized by the Indian Law Institute, New Delhi and National Institute of Defense Estate Management (NIDEM).



Hon'ble Mr. Justice Swatanter Kumar is being felicitated at the inaugural session of the programme

This programme aimed to enhance the officer's understanding on the practical as well as theoretical aspects on law which would help them in their services officers serving in the Indian Defense Estate Services. The programme was inaugurated by the Hon'ble Mr. Justice Swatanter Kumar Former Judge, Supreme Court of India and Former Chairperson, National Green Tribunal, New Delhi with the lighting of lamp along with other dignitaries. The Chief Guest and Guest of Honour were welcomed by the Prof. Dr. Manoj Kumar Sinha, Director, Indian Law Institute with the bouquets of flowers which was followed by the welcome address delivered by Prof. Sinha, Director, ILI.



Snippets from the training programme

## ILI –NATIONAL HUMAN RIGHTS COMMISSION (NHRC) TRAINING PROGRAMME

### Two days training program for First Class Judicial Magistrate on Human Rights: Issues and Challenges on July 1-2, 2023

The Indian Law Institute in collaboration with National Human Rights Commission (NHRC) organized a two days Training Programme for the First Class Judicial Magistrate on “Human Rights: Issues and Challenges”. The programme was inaugurated by Hon’ble Mr. Justice Ashok Bhushan, Chairperson, National Company Law Appellate Tribunal, New Delhi with the lightening of the lamp.



Hon’ble Mr. Justice Ashok Bhushan lighting the lamp in the presence of Prof. (Dr.) Ranbir Singh and Prof. (Dr.) Manoj Kumar Sinha

This was followed by welcome Address by Prof. (Dr.) Manoj Kumar Sinha, Director, Indian Law Institute, New Delhi. Prof. Sinha warmly welcomed the Chief Guest, Guest of Honour and all the participants for the two days training programme. Prof. Sinha, briefly deliberated on human rights and its definition and highlighted various issues and challenges in contemporary times. This was followed by the address by Guest of Honour, Prof. (Dr.) Ranbir Singh, Former Vice Chancellor, National Law University Delhi. Prof. Singh discussed some important aspects of the human rights and remedial measures provided by the courts. He discussed role of judicial systems for the betterment and promotion of the human rights. Then the Chief Guest Hon’ble Mr. Justice Ashok Bhushan addressed the participating judicial officers. He discussed the nature of human rights and their importance in our society. He discussed how judicial officers act in a prudent manner and serve justice to the common man while guarding their human rights.

Thereafter, Mr. S.C. Prusty, Registrar, Indian Law Institute proposed the vote of thanks. Prof. B.T. Kaul, Former Chairman, Delhi Judicial Academy took the next session on “Criminal Justice and Human Rights of Accused”. He discussed the fundamental rights *vis a vis* human rights provided by our constitution in relation to the accused. Where he discussed the presumption of innocence and rights provided under Article 20, 22 of the Constitution of India, 1950. Prof. Kaul discussed the fair trial, speedy bail jurisprudence, purpose and aim of criminal law and the emerging areas of Victimology. He discussed a series of landmark cases like *Lalitha Kumari*, *Aarushi Talwar murder case*, *D.K. Basu*, *Sunil Batra*, *Maneka Gandhi*, *Hussainara Khatton*, *Nandini Sathapathy* and others. He discussed the power of remand of a magistrate. He discussed that a magistrate must be innovative and sensitive towards human rights.

Dr. Upma Gautam, Associate Professor, USLLS, GGSIPU, Delhi took the next session on “Complaints to Magistrate- Analyzing the Procedures”. She discussed about the cognizance taking power of Magistrates. She then discussed about the complaint cases. Dr. Upma discussed about the power of ordering further investigation. She discussed the protest petition. She discussed sections 156, 173, 200, 202, 210, and other provisions of Cr. PC. She has also discussed the committal of cases and various practical aspects of a criminal trial where magistrates have an important role to play in imparting justice.

Prof. (Dr.) Jyoti Dogra Sood, Professor, Indian Law Institute took the session on the topic “Rights of the Juveniles: Issues and Challenges”. Prof. Dogra dealt with the rights of Juvenile: Issues and Challenges. She did a hand-holding exercise to flag the issues and Challenges within the Juvenile Justice Act, 2015. She emphasized that the legislation is having certain conceptual problems. Every child in conflict with the law is inherently a child in need of care and protection but the Act does not recognize that. The best interest of the child is pitted against the best interest of society in the principle of diversion which according to her is very problematic.

Furthermore, she engaged with the preliminary assessment in detail and the timelines to be adhered to. She reminded the magistrates that they could do wonders with section 18 orders and use that



innovatively. Only in hard cases, the case should be put to an adult system. She took the example of the *Bholu* case and discussed that, preliminary assessments are done arbitrarily, precious time is lost, and it becomes impossible to gauge the physical and mental capacity of a child. The speaker also engaged with the academic writings to point out the issues and challenges which the courts must be alive to.

Prof. (Dr.) Anurag Deep, Professor, Indian Law Institute, took the session on “Law of Sedition in India and Human Rights Concern”. Prof. Anurag Deep discussed the Freedom of Press, Freedom of speech and its role in democracy. He discussed constitutional restrictions of free speech under Article 19 (2), Constitution of India, 1950. Thereafter, he discussed about Sedition and how it is related to the state. Prof. Anurag Deep discussed the Law commission report. He discussed about the punishment and other controversies related to sedition law in India. He discussed landmark cases like *Kedarnath v. State of Bihar*, 1962 AIR 955, *Balwant Singh* and other important cases in detail. Prof. Anurag Deep shared with the participants the text of the Speech of *Kedar Nath*. He then took the questions of the participants.

Dr. Neeraj, Associate Professor, NLU Delhi took the fifth lecture on “Constitutional rights of Accused persons”. He discussed the due process model and procedure established by law model. He further discussed the liberty approach and crime control model. He discussed right to life and other constitutional rights available to accused persons. He discussed *ADM Jabalpur*, *Maneka Gandhi* and various other relevant cases. He discussed the concept of double jeopardy, self-incrimination, polygraphy or narco analysis.

Mr. Sunil Batra, Former Law Officer, Tihar Jail took the next lecture on “Judiciary and police reforms”. He discussed the types of prisons. He discussed the prisoners’ rights during incarceration. He discussed the visit of the system of visit of judges to prisons and the improvement of conditions of the prisons. He discussed, various issues and challenges in the prison system. He discussed a series of legal cases which shaped the prison-related jurisprudence in India like *Sunil Batra v. Delhi Administration*, *Charles Shobraj v. Superintendent Central Jail*, *Bhagirath v. Delhi Administration*, *Sheela Barse v. State of Maharashtra*,

*Sanjay Suri v. Delhi Administration* and various other cases.

Sh. H. S Randhawa, ACP, Cyber Crime Unit, Delhi Police took the session on “Cyber Security: Issues and Challenges”. He discussed various cyber crimes, cyber threats, malware, hacking etc. He discussed the importance of firewalls, antiviruses and other protection required to be taken to stay safe in cyber activities. He discussed various major events of cyber-attacks in India in recent years.

Dr. Nimesh G. Desai, Senior Psychiatrist and Former Direct, Institute of Human Behaviour and Allied Sciences, Delhi took the session on “Human Rights of persons with Mental Illness across settings”. He discussed about the reasons for mental illness and its increasing cases in modern society. He discussed the curability of many of the mental diseases. He deliberated on the human rights violations on the persons with mental illness. He focused on the rehabilitation aspects and respect for the human rights of persons with mental illness.

The valedictory programme started with the lightening of lamps by the Chief Guest and other dignitaries. Then the Chief Guest and Guest of Honour were welcomed by the Director, Prof. Dr. Manoj Kumar Sinha with the bouquet of flowers. Then the welcome address was delivered by Prof. Dr. Manoj Kumar Sinha where he highlighted the various aspects covered in the two days training programme and warmly welcomed the Chief Guest and Guest of Honour.

Then the Guest of Honour, Prof. Dr. G.S Bajpai, Vice Chancellor, National Law University Delhi addressed the participants. He discussed various jurisprudential aspects of human rights. He highlighted the role of the Indian judicial system in promoting the cause of justice and human rights.

Then the Guest of Honour, Dr. Niten Chadra, Secretary, Ministry of Law and Justice addressed the participants judicial officers. He called, Indian judicial system as vibrant and dynamic. He discussed that the power which law vested in the hands of judicial officers has to be carefully exercised. He discussed the role of digitalization of courts in reducing pendency which makes better the justice delivery system.

Then Chief Guest, Mr. Justice Rajendra Menon, Chairperson, Armed Forces Tribunal, New Delhi

delivered the valedictory address. He discussed the importance of human rights in society. He then discussed the role and duty of judges and how their decisions make impact on the lives of the common man. He discussed that a judge should give a well-reasoned order and ensure justice.



Hon'ble Mr. Justice Rajendra Menon distributing the certificates to the participants of the programme

With the distribution of the certificates and High Tea, the programme came to an end.

### **Two days training program for Police Personnel on Police and Human Rights: Issues and Challenges on July 29-30, 2023**

The Indian Law Institute in collaboration with National Human Rights Commission (NHRC) organized a two days Training Programme for police Personnel on “Police and Human Rights: Issues and Challenges” on July 29-30, 2023 at the ILI. The programme was inaugurated with the lightening of lamp. This was followed by the Address by the Guest of Honour, Shri Devendra Kumar Nim, Joint Secretary, Establishment and General Administration, IP and TAFS, NHRC. He motivated the young trainee officers as the first line of defense of the Human Rights of the Common Man. He told police officers to show sensitivity and due concern when anyone approaches with a complaint. It is the police officer who sets the wheel of the criminal justice system in motion. He said that it is the police where a person in distress or vulnerable will go first and seek protection for his human rights. In many cases, the Supreme Court and High Court are approached later.



Inaugural session of the training programme

Next, he talked about the police reforms and the Prakash Singh Committee report and deliberated on the need for it. He talked about Hon'ble Supreme Court Guidelines in *D.K Basu v. State of West Bengal* 1997 1 SCC 416 and Section 41, Cr. PC. He stressed the point that an accused is not a convict. Police must protect the human rights of an accused and not resort to custodial violence in any sense. He suggested to police training officers not to act beyond the law in any matter and do their work diligently. He reiterated them as “protectors of human rights”.

Then Guest of Honour, Ambassador Narender Singh, Former Chairman, International Law Commission and Secretary General, the Indian Society of International Law addressed the participants. He talked about the importance of Human rights and discussed the United Nations Charter. He mentioned that the United Nations Charter mentions, the equal rights of man and woman. UN Charter is attached to Human rights and ECO-SOC works to promote human rights across the world. He discussed the adoption of the Universal Declaration of Human Rights (UDHR). He stressed that all are equal before the law and equal protection of laws has to be there for everyone. It is the police officers who are the protectors of the human rights of everyone.



He discussed that people must have an effective remedy. An accused person must be treated with humanness and he is not the culprit until he is proven guilty by the court of law. He discussed that under Criminal Law the changes can not be applied retrospectively. If the act is not a criminal offence on that day then that person can not be punished by making a retrospective application of the amended law. He then discussed the European Court of Human Rights. He stressed that better policing has an important role to play and it creates ramifications at the international level. The other countries observe us at the international level. A good law and order situation creates a better track record for our country.

Chief Guest, Sh. Manoj Yadava (IPS), DG Investigation, National Human Rights Commission



Inaugural session of the training programme

and Former, DGP, Haryana delivered the Inaugural address. He briefly talked about the National Human Rights Commission and the State Human Rights Commission. He talked about the role of the Police in the investigation of crime and what care and precautions a police officer needs to take. He mentioned that police officers should carry out their duty honestly and no one is above the law. If the police officer carries atrocity and custodial violence on the accused or his family then he will have to face the rigor of the law. He cautioned the trainee officers not to act in over-enthusiasm and to act within the domain of law.

He told to police officers to always remain disciplined soldiers of law and cautioned that violence is the recourse of the weak. He talked about following the scientific ways of investigation by using modern technologies. A good investigator is one who does not use violence and skillfully does his work. He talked about the police officers facing the court trials after the Punjab Sikh militancy period. He said that police

deal with the life and liberty of the people and should act sensitively respecting the human rights of the accused as well as the victim. Adherence to the law and criminal procedure is the most important thing.

Prof. (Dr.) Jyoti Dogra Sood, Professor, Indian Law Institute, took the first session on the topic “Role and responsibility of the police in the protection of women and children”. Professor Dogra started by stressing the fact that police know their role, but it is also important for them to know their responsibility towards women and children. She located this in Article 14 of the Constitution and argued that special provisions mentioned in Cr. P.C. and Juvenile Justice are not to be seen through the prism of Article 15(3). She discussed in detail the provisions regarding arrest and investigation in Cr. P.C. *vis-à-vis* women. Talking about children, she specifically discussed the *Bholu* case as most of the participants were from the CBI. She argued that since the CBI does not have a special juvenile protection unit kind of wing, Bholu’s case was not investigated in a child-friendly manner. She walked the participants through the provisions of the UN, Convention on the Rights of Child and Juvenile Justice Act, 2015 to sensitize them towards the fact that the whole idea is to reclaim and rehabilitate the child.

Professor B.T Kaul, Former Chairman, Delhi Judicial Academy took the next session on “Criminal Justice Administration and Human Rights: Role of the Police”. He discussed the components of an offense. Then he discussed the constitutional protection available to an accused. In this light, he discussed articles 14, 20, 21 and 22. He discussed that the legislature has the power to make law but criminal law has no retrospective application and the punishment can be enhanced retrospectively. He discussed the constitutional journey from the *AK Gopalan* case to the *Maneka Gandhi* case. He discussed that article 21 has had a lot of changes in the last two decades. The Criminal Code has to be read together with article 21. He discussed *Nandini Satpathy v. P.L Dani*, 1978 SC Supreme Court held that “The refusal to incriminating questions can be done during an investigation”. However, Miranda Principles are not applicable in India.

He then discussed that article 22, Constitution of India talks about legal representation which is part of a fair trial. He talked about the presumption of innocence under criminal law which is very

fundamental. He then talked about the production of the arrested person within 24 hours of arrest before the judicial magistrate. He then discussed the landmark cases of *Hussainara Khatoon v. State of Bihar*, *Sunil Batra v. Delhi Administration*, *D.K. Basu v. State of West Bengal*. He discussed, the right to access to justice. He discussed *Lalitha Kumari v. State of UP* on registration of FIR in the matter of cognizable offenses. Further, he discussed that bail is a matter of right in bailable offences and Bail is a matter of discretion of the court in non-bailable offenses.

Prof. Dr. Anurag Deep, Professor, Indian Law Institute took the session on “Recent Judgments on Special Criminal Enactments: Lessons for the Police”. He discussed the special Enactment and discussed that Prevention of Corruption Act, NDPS Act these are the special enactments. There are designated special court to try cases of these special enactments. He then discussed the reason of low conviction in Prevention of Corruption Act cases. He discussed that the ‘demand for bribe’ is very crucial. It has to be from the accused. The reason for low conviction is that in some cases complainant becomes hostile, sometimes the evidence of demand of bribe is not there.

He discussed the *Satyender Kumar Antil* case. He then discussed *Mohan Lal v. Union of India* (2016 SC). He discussed that reason to believe is different from reason to suspect. He discussed Sections 42, 43 of the NDPS, Act. He discussed the *A.S Krishnan v. State of Kerala*, 2004 SC where reason to believe and reason to suspect has been discussed. He then discussed the latest case, *Toffan Singh v. State of TN* (2021 SC). where it was held that NDPS are police officer and confession before them is not admissible.

In the last session of the first day, Mr. Sudhanshu Ranjan, Senior Journalist, took the session on “Impact of Media during Police Investigation”. He discussed that media creates sensationalism which adversely impact investigation. It creates undue pressure on the investigating officer. It goes adverse to the fair investigation and fair trial. He then observed that in media houses there is competition or race to give breaking news without testing the credibility of the news. He then discussed that for a police officer, it is necessary to do his duty properly without any fear or favor. He discussed that the police should be people’s

friends. He said that no excessive force should be applied in any situation.

Sh. H. S Randhawa, ACP, Cyber Crime Unit, Delhi Police took the session on “Cyber Security: Issues and Challenges”. He discussed about the Cyber Security and its importance. He discussed about the AIIMS hacking attack and other instances of cyber-attacks. He discussed about steps to make office devices better protected from a potential cyber-attack. He discussed about role of firewall and anti-virus in protecting a device. He discussed the international cyber security trends.

Dr. Upma Gautam, Associate Professor, USLLS, GGSIPU, Delhi took next session on “Investigating Crime within Indian Legal Framework: Emerging theoretical and Functional Challenges”. She talked about the aim of investigation as finding out the truth and not only to ensure a conviction. She discussed that crime is wrong against society. She discussed about the registration of FIR, quashing of FIR. She discussed about the serious and heinous offences. She discussed about functional challenges before the police. She discussed various issues and challenges with the arrest and seizure power of the police.

Dr. Nimesh G. Desai, Senior Psychiatrist and Former Director Institute of Human Behaviour and Allied Sciences, Delhi took the session on “Human Rights of persons with Mental Illness across settings”. He discussed about the mental illness and mental disability. He discussed about the difference between the mental illness and mental retardation. He discussed about the Mental Health Care Act, 2017. He discussed about role of police in dealing with person with mental illness. He discussed about the human rights violation of the persons with mental illness. He discussed about the stigma and vulnerability of the persons with mental illness. He discussed about the problems of depression, fratricidal killing in police and armed forces.

Shri Rakesh Maheshwari, Former Scientist and group Coordinator, MEITY, Government of India, took the session on “Social Media Regulation and Removal of Wrongful/Unlawful information in internet”. He talked about the impact of the social media in today’s world. He discussed that internet shut down is not the solution. Wrongful or unlawful content has to be



monitored and removed from the social media. He discussed about the various provisions of the IT Act. He discussed the role of MEITY in regulating the content of social media. He discussed various rule of “The Information Technology (Intermediary Guidelines) and Digital Media Ethics Rules, 2021”.

In the Welcome address, Prof. Dr. Manoj Kumar Sinha, Director, Indian Law Institute, Delhi welcomed the chief guest and congratulated the participants for the successful completion of the two days training program.



Prof. Ranbir Singh distributing certificates of the training programme

In the Valedictory Session, Prof. Ranbir Singh, Former Vice Chancellor, National Law University Delhi delivered the Chief Guest Address. He discussed Human rights and Fundamental rights. He discussed the definition of Human rights. He discussed the protection of human rights. He discussed the parallel making of UDHR and the drafting of Indian Constitution. He discussed that handcuffing and degrading treatment of arrested persons should not be there. He discussed *Sunil Batra* case. He stressed the need for people’s police. He

discussed various challenges before the police and investigating officers. He discussed the Soli Sorabjee Committee and the Model Police Act. with the distribution of the Certificates and High Tea, the programme came to an end.

### Visit of NAAC Peer Team on July 17-19, 2023

The Institute submitted an application for second cycle NAAC accreditation in March 2023. The NAAC Peer Team visited the institute on July 17-19, 2023 to review the facilities available for teaching and research in the Institute.



Visit of NAAC Peer Team at ILI

## **The Indian Law Institute (ILI) celebrated and commemorated the Independence Day in collaboration with Union Ministry of Law and Justice**

On the eve of India's 76<sup>th</sup> Independence Day, the Indian Law Institute, in collaboration with the Union Ministry of Law and Justice, orchestrated a grand and patriotic celebration on August 14, 2023 under the banner of "Meri Maati, Mera Desh" at the ILI Campus.

The celebrations witnessed Institute students, faculty, and administrative staff being organising a series of captivating and meaningful events to commemorate this auspicious occasion. It commenced with a solemn pledge taken by all attendees, reaffirming their commitment to safeguard the sovereignty and integrity of the nation and upholding the spirit of unity and patriotism. Following this, the national flag was



Independence day celebration held at ILI

hoisted with utmost pride, symbolising the spirit of India freedom to the tune of the National Anthem.

A vibrant mass procession, led by the Institute members, traversed through the street outside the campus resounding with the jubilant chants of "Vande

Mataram" and "Bharat Mata Ki Jai," as the participants carried the national flag with reverence. The group marched with the tricolour flag held high, reciting patriotic slogans, and celebrating the glorious victory of India.

The heart of the celebration was a cultural program that enthralled the audience. A mesmerizing performance by 'Ms. Isha Verma' the daughter of our esteemed administrative staff member, Dr. A.K. Verma, left spectators in awe as she performed a spellbinding dance to the beats of the Shiv Tandav Stotra. Besides this, another performance Mr. Sanjeev Ambasta was displayed which captured the attention of the audience.

In the same trail, the institute's staff member also showcased his talent with deep-rooted patriotic fervour. His soul-stirring patriotic song, paying homage to the valor and sacrifices of India's soldiers, was sung with heartfelt emotions.

In another soulful performance, Mr. Himanshu Dixit, an LLM Scholar, stirred the audience emotions with a solo rendition of 'Aye Mere Watan Ke Logo.' His performance paid tribute to the freedom fighters and all those who laid down their lives for the soil of India, evoking a deep sense of patriotism and respect. At the last, the Hon'ble Director, ILI gave a brief speech about his vision for the Independence Day and congratulated the gathering for the successful completion of the occasion.

The celebration on the eve of Independence Day at the Institute was a momentous occasion, steeped in patriotism, unity, and a deep sense of national pride and served as a reminder of the sacrifices made by countless individuals to secure India freedom and emphasised the importance of protecting the nation's sovereignty.

### **Realse of the Books**

**“Islamic Law of Divorce: Remediying release ot the books the Malady and Misconceptions” by Dr. Furqan Ahmad and “An Appraisal of Environmental Law: Evolution and Development” by Dr. Furqan Ahmad andPriya Singh on September 29, 2023.**

The Indian Law Institute, New Delhi, organised a Launching Ceremony of Prof. (Dr.) Furqan Ahmad's two books “Islamic Law of Divorce: Remediying the Malady and the Misconceptions” and “An Appraisal of Environmental Laws: Evolution and



Development” on September 29, 2023. The event was organised to celebrate the publication of significant contributions to the fields of Islamic law and environmental law and to provide a platform for discussions on the critical legal issues surrounding Islamic law of Divorce and environmental protection and sustainability.



Snippets from the programme.

The event commenced with a warm welcome by Prof. (Dr.) Manoj Kumar Sinha, Director, the Indian Law Institute, who expressed gratitude to the attendees, highlighted the importance of the books and set the tone for the evening.

Mr. Abhishek, Assistant Professor, Jamia Hamdard, Delhi, took to the stage to present an overview of the key themes and chapters covered in “Islamic Law of Divorce: Remediating the Malady and the Misconceptions.” The second book “An Appraisal of Environmental Laws: Evolution and Development” was introduced by the co-author of the Book Ms Priya Singh, PhD. Research Scholar, Centre for the Study of Law and Governance, Jawaharlal Nehru University, New Delhi.

The author of the books, Prof. Ahmad provided a comprehensive overview of the key themes covered in the two books. He provided insights into the research process, challenges faced, and the relevance of the book “An Appraisal of Environmental Laws: Evolution and Development” in the contemporary legal landscape. He delved into the research methodology, highlighted key findings, and underscored the importance of understanding the complexities and nuances of Islamic divorce law in contemporary society.

Following the author's address, the Guest of Honour

Prof. (Dr.) Upendra Baxi, Emeritus Professor of Law, University of Delhi and University of Warwick, UK, engaged in a lively discussion on the environmental law book themes. He explored the implications of current environmental laws, shared his perspectives on emerging challenges, and discussed potential legal innovations to address pressing environmental issues.



After releasing the Books, Hon’ble Shri Justice Badar Durrez Ahmed, Former Chief Justice of Jammu and Kashmir High Court, delivered the presidential address engaging in a thought-provoking discussion on the book themes. He shared his perspectives on the historical evolution of Islamic divorce jurisprudence, its interpretation in different cultural contexts, and the implications for Muslim communities globally.

The author Prof. Furqan Ahmad delivered the vote of thanks. The book launch was a resounding success, bringing together legal scholars, practitioners, and enthusiasts to discuss and reflect on the complexities of the Islamic Law of Divorce and Environmental Sustainability. The event not only celebrated the publication of an important work but also served as a platform for fostering a community dedicated to advancing environmental legal scholarship and practice.

The books themselves stand as a valuable resource for legal professionals, policy makers, and academics seeking a deeper understanding of this crucial aspect of Islamic jurisprudence and grappling with the challenges of environmental protection. The event successfully created a platform for dialogue and collaboration, contributing significantly to the ongoing discourse on the Islamic law of Divorce and Environmental sustainability.

The event concluded with a networking reception, providing attendees with the chance to connect with

like-minded individuals, legal professionals, and experts in the field. The informal setting facilitated the exchange of ideas and potential collaborations among participants.



Dignitaries at the book release function

## ACADEMIC ACTIVITIES

### Admission for Ph.D., LL.M. and Post Graduate Diploma Courses for the Academic Session- 2023-24

The admission process for Ph.D., LL.M. (one Year) and Post Graduate Diploma courses started on March 15, 2023, as per the schedule approved by the Academic Council. The details regarding total number of admissions made for academic year 2023-24 is as under:

Course	No. of Students Admitted
Ph.D.	05 Students
LL.M. (One Year)	46 Students
Post Graduate Diploma Courses	266 Students
Total number of students admitted	317 Students

The classes of Ph.D. Course were commenced from July 18, 2023, LL.M. (One Year) Course were commenced from August 1, 2023 and Post Graduate Diploma programmes were commenced from August 2, 2023.

## LIBRARY

- Library Added 21 Books on Contract Law, Human Rights, International Law, Intellectual Property Rights, Media law, Cyber Law, Criminal Law, Administrative Law, Constitutional Law and Research Methodology to enrich the library collection.
- The Hands-on Training session of Hein Online and SCC Online for ILI Students was organized by the Library on August 3, 2023.

## RESEARCH PUBLICATIONS

### Released Publications

- ❖ Journal of the Indian Law Institute Vol. 64(4) (October-December) 2022.
- ❖ ILI Newsletter Vol XXV Issue I & II (January-March/April-June) 2023.

### Forthcoming Publications

- ❖ Journal of the Indian Law Institute Vol. 65(1) (January-March) 2023.
- ❖ ILI Newsletter Vol. XXV, Issue IV (October-December, 2023).

## E-LEARNING COURSES

### Online Certificate Courses on Cyber Law & Intellectual Property Rights Law

E Learning courses of three months duration on “Cyber Law” (45<sup>th</sup> batch) and “Intellectual Property Rights and IT in the Internet Age” (56<sup>th</sup> batch) were started on August 28, 2023.

## FORTHCOMING EVENTS

- The Indian Law Institute in collaboration with National Human Rights Commission will organise a Two Days Training Programme for Prison Officials on Human Rights : Issues and Challenges on October 07-08, 2023
- The Indian Law Institute in collaboration with National Human Rights Commission will organise a Two Days Training Programme for Judicial Officers on Human Rights : Issues and Challenges on November 04-05, 2023



- The Ministry of Law and Justice, in collaboration with Indian Law Institute will celebrate Constitution Day on November 26, 2023 at Vigyan Bhavan, New Delhi.
- The Indian Law Institute in collaboration with National Human Rights Commission will organise a One Day Training Programme for Media Personnel and Government Public Relations Officers on Media and Human Rights: Issues and Challenges on December 10, 2023
- The Indian law Institute will organise a Five Days Training Programme on Law for IDES Officers and SDOs on December 11-15, 2023.

## LEGISLATIVE TRENDS

### THE BIOLOGICAL DIVERSITY AMENDMENT) ACT, 2023

(Act No 10 of 2023)

The Biological Diversity Amendment Act, 2023 was enacted to provide for conservation, sustainable utilisation, fair and equitable sharing of the benefits arising out of the utilisation of biological resources and also to give effect to the Nagoya Protocol on access to genetic resources and the fair and equitable sharing of benefits arising from their utilisation to the Convention on Biological Diversity which was adopted on October 29, 2010, in Nagoya, Japan to which India is also a party. The new Act has brought forth many substantial changes to the Biological Diversity Act, 2002.

### THE MULTI-STATE CO-OPERATIVE SOCIETIES (AMENDMENT) ACT, 2023

(Act No 11 of 2023)

The Multi-State Co-operative Societies (Amendment) Act, 2023 aims to strengthen governance, increase transparency and accountability, and improve the election process for multi-state cooperatives. The Act and its rules were notified on August 3, 2023 and August 4, 2023, respectively. The Act aims to plug loopholes in the current two-decade-old policy. One of the key features included the act was that any cooperative society can decide to merge into an existing multi-state cooperative society by a resolution passed by a majority of at least two-thirds of the members present and voting at a general meeting.

### THE CINEMATOGGRAPH (AMENDMENT) ACT, 2023

(Act No 12 of 2023)

The Cinematograph (Amendment) Act, 2023 has been passed after numerous versions and revisions of the draft bill, bringing long sought respite to film producers in the country. The primary objective to amend the Act is to tackle the long-standing issue of film piracy. In addition to this, certain other provisions relating to age ratings for movies, perpetual film certifications, and the revisional powers of the central government have been introduced by way of the Amendment Act.

### THE CONSTITUTION (SCHEDULED TRIBES) ORDER (AMENDMENT) ACT, 2023

(Act No 13 of 2023)

The Constitution (Scheduled Tribes) Order (Second Amendment) Act, 2023 amended the Constitution (Scheduled Tribes) Order, 1950. The amendment includes certain communities in the list of Scheduled Tribes in relation to Himachal Pradesh. The amendment also includes: The Bhuinya, Bhuiyan, and Bhuyan communities as synonyms of the BhariaBhumia community; Three Devanagari versions of the name of the Pando community in Chhattisgarh; Kurumans synonyms names such as “Kuruma, Kuruman, Kurumba, Kurmbagounder, Kurumban, Kurumbar tribes”. The act also includes amendment, insertion, and omission of certain existing provisions in Acts administered by Central Ministries/Departments. Scheduled Tribes are distinguished from other communities by their primitiveness, geographical isolation, shyness, and social, educational, and economic backwardness. The amendment sought to provide social justice and affirmative actions.

### THE FOREST (CONSERVATION) AMENDMENT ACT, 2023

(Act No 15 of 2023)

The Forest (Conservation) Amendment Act, 2023 was passed to conserve forest land and includes certain amendments. The Act covers specific forest lands, including: land declared as a forest under the Indian Forest Act, 1927 or other laws, land recorded as a forest in a government record on or after October 25, 1980. The Act also exempts certain types of land from its purview. It also allows certain activities, such as zoos and safaris, to be carried out inside forests. The Act also provides that the following activities require prior permission from the Central

Government: De-reservation of reserved forests, Use of forest land for non-forest purposes, Assigning forest land to private entities. Clearing of naturally grown trees for reforestation. The Act also states that surveys and investigations in forest areas will not be considered non-forestry activities.

**THE MINES AND  
MINERALS(DEVELOPMENT AND  
REGULATION) AMENDMENT ACT, 2023**  
(Act No 16 of 2023)

The Mines and Minerals (Development and Regulation) Amendment Act, 2023, amended the Mines and Minerals (Development and Regulation) Act, 1957, with the aim of strengthening the exploration and extraction of critical minerals essential for India's economic development and national security.

**THE OFFSHORE AREAS MINERAL  
(DEVELOPMENT AND REGULATION)  
AMENDMENT ACT, 2023**  
(Act No 17 of 2023)

The Offshore Areas Mineral (Development and Regulation) Amendment Act, 2023 was passed by the President of India on August 10, 2023. The Act amended the Offshore Areas Mineral (Development and Regulation) Act, 2002, which regulates mining in India's maritime zones.

**JAN VISHWAS (AMENDMENT OF  
PROVISIONS) ACT, 2023**  
(Act No 18 of 2023)

The Jan Vishwas (Amendment of Provisions) Act, 2023 was enacted to amend certain enactments for decriminalising and rationalising offences to further enhance trust-based governance for ease of living and doing business.

**THE GOVERNMENT OF NATIONAL  
CAPITAL TERRITORY OF DELHI  
(AMENDMENT) ACT, 2023**  
(Act No 19 of 2023)

The Government of National Capital Territory of Delhi (Amendment) Act, 2023, also known as the Delhi Services Act, came into effect on May 19, 2023. The Act gives the Lieutenant Governor of Delhi more power over the city's elected government and extends the Central Government's control of services. The

Act also establishes the National Capital Civil Services Authority (NCCSA). The NCCSA is made up of the Chief Minister, Chief Secretary, and Principal Home Secretary of Delhi. The NCCSA can make recommendations to the Lieutenant Governor regarding the transfer and posting of officials, disciplinary matters, and vigilance and non-vigilance matters. The Act gives the final authority to the Lieutenant Governor. The Act replaces an ordinance that overrides a Supreme Court directive that gave the government of Delhi control over most services.

**THE REGISTRATIONS OF BIRTHS AND  
DEATHS(AMENDMENT) ACT, 2023**  
(Act No 20 of 2023)

The Registration of Births and Deaths (Amendment) Act, 2023 aims to modernize administrative processes in India. It amended the 1969 Act to regulate the registration of births and deaths. The Act makes registration of births and deaths mandatory and requires states to register births and deaths on the Centre's Civil Registration System (CRS) portal. The data will be shared with the Registrar General of India, which functions under the Union Home Ministry.

**LEGAL JOTTINGS**

**Supreme Decodes Section 304 IPC Maze:**

In this significant ruling Supreme Court addressed the question when can conviction under Part I be Converted to Part II? While summarising the principles for altering conviction under Section 304 Part I of the IPC to Section 304 Part II of the IPC, the Supreme Court highlighted the difference between 'guilty intention' and 'guilty knowledge'. Explaining the difference between the two parts of Section 304 IPC, the court further observed that under the first part, the crime of murder is first established and the accused is then given the benefit of one of the exceptions to Section 300 of the IPC, while under the second part, the crime of murder is never established at all. Therefore, for the purpose of holding an accused guilty of the offence punishable under the second part of Section 304 of the IPC, the accused need not bring his case within one of the exceptions to Section 300 of the IPC. Principles for altering conviction under Section 304 Part I of the IPC to Section 304 Part II of the IPC (1) The intention or knowledge of the accused in committing an act



determines the offence committed, according to Section 300 of the IPC. If the intention or knowledge falls under Clauses (1) to (4) of Section 300, even a single injury resulting in death can be considered murder. To illustrate: 'A' is bound hand and foot. 'B' comes and placing his revolver against the head of 'A', shoots 'A' in his head killing him instantaneously. Here, there will be no difficulty in holding that the intention of 'B' in shooting 'A' was to kill him, though only single injury was caused. The case would, therefore, be of murder falling within Clause (1) of Section 300 of the IPC. Taking another instance, 'B' sneaks into the bed room of his enemy 'A' while the latter is asleep on his bed. Taking aim at the left chest of 'A', 'B' forcibly plunges a sword in the left chest of 'A' and runs away. 'A' dies shortly thereafter. The injury to 'A' was found to be sufficient in ordinary course of nature to cause death. There may be no difficulty in holding that 'B' intentionally inflicted the particular injury found to be caused and that the said injury was objectively sufficient in the ordinary course of nature to cause death. This would bring the act of 'B' within Clause (3) of Section 300 of the IPC and render him guilty of the offence of murder although only single injury was caused. (2) Even when the intention or knowledge of the accused may fall within Clauses (1) to (4) of Section 300 of the IPC, the act of the accused which would otherwise be murder, will be taken out of the purview of murder, if the accused's case attracts any one of the five exceptions enumerated in that section. In the event of the case falling within any of those exceptions, the offence would be culpable homicide not amounting to murder, falling within Part 1 of Section 304 of the IPC, if the case of the accused is such as to fall within Clauses (1) to (3) of Section 300 of the IPC. It would be offence under Part II of Section 304 if the case is such as to fall within Clause (4) of Section 300 of the IPC. Again, the intention or knowledge of the accused may be such that only 2nd or 3rd part of Section 299 of the IPC, may be attracted but not any of the clauses of Section 300 of the IPC. In that situation also, the offence would be culpable homicide not amounting to murder under Section 304 of 50 the IPC. It would be an offence under Part I of that section, if the case fall within 2nd part of Section 299, while it would be an offence under Part II of Section 304 if the case fall

within 3rd part of Section 299 of the IPC. (3) If the act of an accused person falls within the first two clauses of cases of culpable homicide as described in Section 299 of the IPC it is punishable under the first part of Section 304. If, however, it falls within the third clause, it is punishable under the second part of Section 304. In effect, therefore, the first part of this section would apply when there is 'guilty intention,' whereas the second part would apply when there is no such intention, but there is 'guilty knowledge'. (4) Even if single injury is inflicted, if that particular injury was intended, and objectively that injury was sufficient in the ordinary course of nature to cause death, the requirements of Clause thirdly to Section 300 of the IPC, are fulfilled and the offence would be murder. (5) Section 304 of the IPC will apply to the following classes of cases: (i) when the case falls under one or the other of the clauses of Section 300, but it is covered by one of the exceptions to that Section, (ii) when the injury caused is not of the higher degree of likelihood which is covered by the expression 'sufficient in the ordinary course of nature to cause death' but is of a lower degree of likelihood which is generally spoken of as an injury 'likely to cause death' and the case does not fall under Clause (2) of Section 300 of the IPC, (iii) when the act is done with the knowledge that death is likely to ensue but without intention to cause death or an injury likely to cause death. (6) The word 'likely' means probably and it is distinguished from more 'possibly'. When chances of happening are even or greater than it's not happening, it can be said that the thing will 'probably happen'. In reaching the conclusion, the court has to place itself in the situation of the accused and then judge whether the accused had the knowledge that by the act he was likely to cause death. (7) The distinction between culpable homicide (Section 299 of the IPC) and murder (Section 300 of the IPC) has always to be carefully borne in mind while dealing with a charge under Section 302 of the IPC. Under the category of unlawful homicides, both, the cases of culpable homicide amounting to murder and those not amounting to murder would fall. Culpable homicide is not murder when the case is brought within the five exceptions to Section 300 of the IPC. But, even though none of the said five exceptions are pleaded or prima facie established on the evidence on record, the

prosecution must still be required under the law to bring the case under any of the four clauses of Section 300 of the IPC to sustain the charge of murder. If the prosecution fails to discharge this onus in establishing any one of the four clauses of Section 300 of the IPC, namely, firstly to fourthly, the charge of murder would not be made out and the case may be one of culpable homicide not amounting to murder as described under Section 299 of the IPC. (8) The court must address itself to the question of mensrea. If Clause thirdly of Section 300 is to be applied, the assailant must intend the particular injury inflicted on the deceased. This ingredient could rarely be proved by direct evidence. Inevitably, it is a matter of inference to be drawn from the proved circumstances of the case. The court must necessarily have regard to the nature of the weapon used, part of the body injured, and extent of the injury, degree of force used in causing the injury, the manner of attack, the circumstances preceding and attendant on the attack. (9) Intention to kill is not the only intention that makes a culpable homicide a murder. The intention to cause injury or injuries sufficient in the ordinary course of nature to cause death also makes a culpable homicide a murder if death has actually been caused and intention to cause such injury or injuries is to be inferred from the act or acts resulting in the injury or injuries. (10) When single injury inflicted by the accused results in the death of the victim, no inference, as a general principle, can be drawn that the accused did not have the intention to cause the death or that particular injury which resulted in the death of the victim. Whether an accused had the required guilty intention or not, is a question of fact which has to be determined on the facts of each case. (11) Where the prosecution proves that the accused had the intention to cause death of any person or to cause bodily injury to him and the intended injury is sufficient in the ordinary course of nature to cause death, then, even if he inflicts a single injury which results in the death of the victim, the offence squarely falls under Clause thirdly of Section 300 of the IPC unless one of the exceptions applies. (12) In determining the question, whether an accused had guilty intention or guilty knowledge in a case where only a single injury is inflicted by him and that injury is sufficient in the ordinary course of nature to cause death, the fact that the act is done without

premeditation in a sudden fight or quarrel, or that the circumstances justify that the injury was accidental or unintentional, or that he only intended a simple injury, would lead to the inference of guilty knowledge, and the offence would be one under Section 304 Part II of the IPC. Ruling on facts In the case at hand, a father-son duo was working in their agricultural field early in the morning. They wanted to transport the crop, they had harvested and for that purpose they had called for a lorry. The lorry arrived, however, the deceased did not allow the driver of the lorry to use the disputed pathway. This led to a verbal altercation between the appellant and the deceased. After quite some time of the verbal altercation, the appellant hit a blow on the head of the deceased with the weapon of offence (weed axe) resulting in his death in the hospital. Applying the aforesaid principles to the facts of the case and looking at the overall evidence on record, the court refused to conclude that when the appellant struck the deceased with the weapon of offence, he intended to cause such bodily injury as was sufficient in the ordinary course of nature to cause death. “The weapon of offence in the present case is a common agriculture tool. If a man is hit with a weed axe on the head with sufficient force, it is bound to cause, as here, death. It is true that the injuries shown in the post mortem report are fracture of the parietal bone as well as the temporal bone. The deceased died on account of the cerebral compression i.e. internal head injuries.” In such circumstances, the appellant could only be attributed with the “guilty knowledge” that it was likely to cause an injury which was likely to cause the death. Hence, the court held that the case on hand does not fall within clause thirdly of Section 300 of the IPC and altered the conviction of the appellant under Section 304 Part I of the IPC to one under Section 304 Part II of the IPC. Resultantly, the appellant was sentenced to undergo rigorous imprisonment for a period of five years.

**[Anbazhagan v. State, 2023 SCC Online SC 857, decided on July 20, 2023].**

**“Such custody” under Section 167(2), Cr PC., includes not only police custody but also of other investigating agencies.**

In a petition filed Tamil Nadu Electricity Minister Senthil Balaji and his wife, challenging the High



Court of Madras judgment, wherein the court held that the Directorate of Enforcement ('ED') was entitled to take Senthil Balaji into police custody, the division bench has dismissed the said plea challenging ED custody in the money laundering case and allowed ED to have his custody till August 12, 2023 in connection with the cash-for-jobs scam. The court held the following: When an arrestee is forwarded to the jurisdictional Magistrate under Section 19(3) PMLA, 2002 no writ of *Habeas Corpus* would lie. Any plea of illegal arrest is to be made before such Magistrate, since custody becomes judicial. Thus, a writ of *Habeas Corpus* is not maintainable as the arrest and custody have already been upheld by way of rejection of the bail application. Any non-compliance of the mandate of Section 19 of the PMLA, 2002 would ensure to the benefit of the person arrested. For such non-compliance, the competent court shall have the power to initiate action under Section 62 of the PMLA, 2002. An order of remand has to be challenged only before a higher forum as provided under the Cr PC, 1973 when it depicts a due application of mind both on merit and compliance of Section 167(2) of the Cr PC, 1973 read with Section 19 of the PMLA 2002. Section 41-A of the Cr PC, 1973 has got no application to an arrest made under the PMLA 2002. The maximum period of 15 days of police custody is meant to be applied to the entire period of investigation, 60 or 90 days, as a whole. The court directed the Registry to place the matter before the Chief Justice of India for appropriate orders to decide the larger issue of the actual import of Section 167(2) Cr PC, 1973 as to whether the 15 days period of custody in favour of the police should be only within the first 15 days of remand or spanning over the entire period of investigation 60 or 90 days, as the case may be, as a whole. The words "such custody" occurring in Section 167(2) of the Cr PC, 1973 would include not only police custody but also that of other investigating agencies. The word "custody" under Section 167(2) of the Cr PC, 1973 shall mean actual custody. Curtailment of 15 days of police custody by any extraneous circumstances, act of God, an order of Court not being the handy work of investigating agency would not act as a restriction. Section 167 of

the Cr PC, 1973 is a bridge between liberty and investigation performing a fine balancing act. Background A case was registered in the Enforcement Case Information Report by the *State v. Senthil Balaji* in connection with the cash-for-jobs scam. It was followed by a summons requiring his attendance. A search was conducted by the Authorised Officer invoking Section 17 of the Prevention of Money Laundering Act, 2002 at Senthil Balaji premises on 13, June 2023. Finding that Senthil Balaji was not extending adequate cooperation, the Authority had invoked Section 19 of the PMLA, 2002 by way of an arrest on 14, June 2023. An arrest memo was also prepared. Though grounds of arrest were furnished, Senthil Balaji declined to acknowledge them. The information pertaining to the arrest was also intimated to his brother, sister-in-law and wife. Senthil Balaji was taken to the Tamil Nadu Government Multi Super Speciality Hospital, as he complained of chest pain. His wife rushed to the high court and filed a *Habeas Corpus* petition on the very same day. In the meanwhile, the State filed an application before the Principal Sessions Judge seeking judicial custody for 15 days. An order of remand was passed sending him to judicial custody till 28, June 2023. Thereafter, Senthil Balaji filed an application for bail which was dismissed. Further, the State filed an application seeking custody for further investigation. and was granted custody for a period of eight days. In the meanwhile, in the pending *Habeas Corpus* petition additional grounds were raised questioning the orders of the Principal Sessions Judge granting both judicial and police remand. Further, the State filed an application to exclude the period of hospitalisation for the purpose of counting custody period as no actual custody was taken. Thereafter, the division bench of J Nisha Banu and Justice Bharatha Chakravarthy, JJ. delivered a split verdict in the *habeas corpus* plea filed by wife of V Senthil Balaji, Minister for Electricity, Prohibition and Excise, Tamil Nadu against his arrest by the Directorate of Enforcement ('ED') for money laundering in cash for job scam case. Further, placed the matter before the Chief Justice for further orders. Also read: Chief Justice of Madras High Court assigns Senthil Balaji habeas corpus plea to Justice CV Karthikeyan to

break the split verdict tie or Madras High Court split verdict in *habeas corpus* plea filed by Senthil Balaji's wife against his arrest by ED: Decoding Justice Nisha Banu's opinion or Madras High Court split verdict in *Habeas Corpus* plea filed by Senthil Balaji's wife against his arrest by ED: Decoding Justice D. Bharatha Chakravarthy's opinion or Madras High Court delivers split verdict in *Habeas Corpus* plea filed by TN Minister Senthil Balaji's wife against his arrest by ED The Madras High Court in its tie breaker judgment held that ED has the power to seek custody of a person arrested. Further, the court excluded the time spent by Senthil Balaji in the Hospital from the initial 15 days' time for grant of custody to ED. It was also held that the *habeas corpus* petition would be maintainable in exceptional circumstances, but this case does not attract any exceptional circumstance and consequently since an order of remand had been passed by a court of competent jurisdiction, the relief sought in the petition cannot be granted. Also read: Explained Madras High Court tie breaker verdict in *Senthil Balaji habeas corpus* petition analysis the court said that a writ of *habeas corpus* shall only be issued when the detention is illegal. As a matter of rule, an order of remand by a judicial officer, culminating into a judicial function cannot be challenged by way of a writ of *habeas corpus*, while it is open to the person aggrieved to seek other statutory remedies. When there is a non-compliance of the mandatory provisions along with a total non-application of mind, there may be a case for entertaining a writ of *habeas corpus* and that too by way of a challenge. As per the court in a case where the mandate of Section 167 of the Code of Criminal Procedure, 1973 ('Cr PC'), and Section 19 of the PMLA, 2002 are totally ignored by a cryptic order, a writ of *habeas corpus* may be entertained, provided a challenge is specifically made. However, an order passed by a Magistrate giving reasons for a remand can only be tested in the manner provided under the statute and not by invoking Article 226 of the Constitution of India. There is a difference between detention becoming illegal for not following the statutory mandate and wrong or inadequate reasons provided in a judicial order. A challenge to an order of remand on merit has to be made in tune with the

statute, while noncompliance of a provision may entitle a party to invoke the extraordinary jurisdiction. Thus, in an arrest under Section 19 of the PMLA, 2002 a writ would lie only when a person is not produced before the court as mandated under subsection (3), since it becomes a judicial custody thereafter and the court would be in a better position to consider due compliance. Further, while interpreting Section 41-A CrPC, the court said that this provision cannot be termed as a supplement to Section 19 PMLA, 2002. The PMLA, 2002 being a *sui generis* legislation, has its own mechanism in dealing with arrest in the light of its objectives. The concern of the PMLA is to prevent money laundering, make adequate recovery and punish the offender. That is the reason why a comprehensive procedure for summons, searches, and seizures *etc.*, has been clearly stipulated under Chapter V of the PMLA, 2002. An arrest shall only be made after due compliance of the relevant provisions including Section 19 PMLA. Therefore, there is no need to follow and adopt Section 41-A Cr PC, especially in the teeth of Section 65 PMLA, 2002. The Bench said that in the absence of any mandate, one cannot force the authorized officer to ensure due compliance of Section 41-A Cr PC, especially when a clear, different and distinct methodology is available under the PMLA, 2002. Following Section 41-A Cr PC, 1973 for an arrest under the PMLA would only defeat and destroy the very inquiry/investigation under the PMLA. Till summons are issued to a person, he is not expected to be in the know-how. Any prior intimation, other than what is mandated under the PMLA, 1973 might seriously impair the ongoing investigation. The court took note of relevant provisions of Prevention of Money Laundering Act and said that the Legislature in its wisdom has consciously created the necessary safeguards for an arrestee, keeping in mind his liberty, and the need for an external approval and supervision. This provision is in compliance with Article 21 and 22(2) of the Constitution of India. Further, the court said that Section 62 is a reiteration of the mandatory compliance of Section 19 of the PMLA, 2002. It is a warning to an officer concerned to strictly comply with the mandate of Section 19 of the PMLA, 2002 in letter and spirit, failing which he would be visited



with the consequences. It is his bounden duty to record the reasons for his belief in coming to the conclusion that a person has been guilty and therefore, to be arrested. Such a safeguard is meant to facilitate an element of fairness and accountability. The court noted that section 65 provides for the application of the CrPC with respect to arrest, search and seizure, etc., and said that the provisions of CrPC are expected to be supplementary to the provisions of the PMLA, 2002. Further Section 4 CrPC amplifies the fact that any inquiry or investigation, along with their process, over an offence should necessarily be only under that statute and not under the CrPC. The aforesaid position has been reiterated under Section 5 CrPC, whereby a distinct clarification has been given that the CrPC will not stand in the way of the operation of special law. Thus, a conjoint reading of Section 65 of the PMLA, 2002 along with Sections 4 and 5 of the CrPC, 1973 states that PMLA has precedence over CrPC, when it comes to investigation. The court noted that under proviso (a) of Section 167(2) of the CrPC, a Magistrate may authorize the detention beyond a period of 15 days, other than in the custody of the police. This period of 15 days has to be reckoned, qua either a police custody or a custody in favour of the investigating officer, spanning over the entire period of investigation. The Bench said that a proviso has to be understood from the language used in the main provision and not *vice versa*. Thus, the period of 15 days being the maximum period that can be granted in favour of the police would span from time to time with the total period of 60 or 90 days. Any other interpretation would seriously impair the power of investigation. It is to protect the interest of an accused person by restricting the period of investigation, a failure of which would entitle an arrestee to be released. This again is yet another facet of Article 21 of the Constitution of India. After taking note of Section 167(3) Cr PC, 1973 that warrants a Magistrate to record reasons by speaking, reasoned order while granting authorisation, said that in a judicial order, touching upon the rights of an accused, adequate reasons are expected to be recorded. Any such order passed is amenable to challenge before the higher judicial forum, though not by way of a *habeas corpus* petition. Thus, the Bench held that the word

“such custody” under 167(2) Cr PC would include not only police but other such custody. Further, it held that the *habeas corpus* petition was not maintainable, as the order of remand cannot be challenged in a *habeas corpus* petition. The Bench also rejected their plea that the ED’s arrest was illegal. The court further said that in case of any violation of the procedure for arrest prescribed in Section 19 of the Prevention of Money Laundering Act, 2002 (‘PMLA’), then action can be taken against the officer concerned in terms of Section 62 PMLA. The Bench referred the judgment in *CBI v. Anupam J. Kulkarni*, (1992) 3 SCC 141, wherein it was held that police custody is not permissible beyond the first 15 days of remand, to a larger bench for reconsideration.

**[*Senthil Balaji v. The State represented by Deputy Director*, 2023 INSC 677, decided on August 7, 2023].**

### **Right to education not only includes free and compulsory, but also quality education**

In a batch of appeals filed against the judgment passed by the Rajasthan High Court, wherein the court has quashed the Notification dated June 28, 2018 holding B.Ed. candidates to be unqualified for the posts of primary school teachers (Level-1), the division bench of Aniruddha Bose and Sudhanshu Dhulia, JJ. while upholding the impugned judgment, and setting aside the notification dated June 28, 2018, held that the decision of the NCTE to include B.Ed. as a qualification for teachers in a primary school seems arbitrary, unreasonable and has no nexus with the object sought to be achieved by the Right to Education Act, 2009 (‘RTE Act’), which is to give to children not only free and compulsory but also ‘quality’ education. Background: A notification dated June 28, 2018 was issued by the National Council for Teacher Education (‘NCTE’), wherein B.Ed. degree holders were made eligible for appointment to the post of primary school teachers (classes I to V). The Board of Secondary Education, State of Rajasthan, issued an advertisement on January 11, 2021, for Rajasthan Teacher Eligibility Test (RTET Level-1), and excluded B.Ed. degree holders from the list of eligible candidates. The petitioner/appellant has a B.Ed. degree, and as per the Notification dated June 28, 2018, he was eligible, like many other similar

candidates. Consequently, he filed a petition before the Rajasthan High Court, praying that the advertisement dated January 11, 2021 to be quashed, as it was in violation of the notification dated June 28, 2018 issued by the NCTE. Apart from the above batch of petitioners, there was another set of petitioners, with their own grievance. These are the candidates who are diploma holders in elementary education, which was the only teaching qualification required for teachers at primary level, and who are aggrieved by the inclusion of B.Ed. qualified candidates. These petitioners filed Writ Petitions before the Rajasthan High Court challenging the legality of the notification dated June 28, 2018. Issue: Whether NCTE was right in including B.Ed. qualification as an equivalent and essential qualification for appointment to the post of primary school teacher (Level-1)? Analysis: The Court after examining the RTE Act said that the purpose behind bringing this pathbreaking legislation was not to complete the formality of ‘free and compulsory’ elementary education for children, but to make a qualitative difference in elementary education and to impart it in a meaningful manner. The Act sets down certain norms and standards which have to be followed in elementary schools, and this is with the purpose of providing a meaningful and ‘quality’ education. The court said that a good teacher is the first assurance of ‘quality’ education in a school. Any compromise on the qualification of teachers would necessarily mean a compromise on the ‘quality’ of education. After perusing Section 23(1) of the RTE Act, the court said that it is the provision where the ‘academic authority’ has been empowered to prescribe qualifications for teachers in elementary schools. Further, Section 23(2) empowers the Central Government to relax the minimum ‘qualifications’ prescribed by the ‘academic authority’, under certain circumstances and for a limited period. The court noted that the ‘Academic Authority’ under Section 23(1) of the RTE Act is NCTE, which brought a notification on August 23, 2010, laying down the necessary qualifications for teachers, both at primary, as well as upper primary level. This notification did not provide B.Ed. as a qualification for appointment to the post of primary school teacher. Later this notification was amended, but B.Ed. was never

included as an essential qualification for teachers of primary school, till the impugned notification dated June 28, 2018. The court noted that a candidate for the post of a teacher in a primary school requires three qualifications. He must have passed higher secondary level. He must have a diploma in elementary education. He should then pass an examination to be conducted by the State known as Teachers Eligibility Test. The court emphasised that the pedagogical approach required from a teacher at primary level is in some manner unique. These are the initial formative years where a student has just stepped inside a classroom, and therefore needs to be handled with care and sensitivity. A candidate who has a diploma in elementary education is trained to handle students at this level, as he has undergone a pedagogical course specifically designed for this purpose. A person who has a B.Ed. qualification has been trained to impart teaching to secondary and higher secondary level students. He is not expected to impart training to primary level students. Thus, a B.Ed. course is not designed for teaching at primary level. The court said that the inclusion of B.Ed. as a qualification amounts to lowering the ‘quality’ of education at Primary level. The court noted that the inherent pedagogical weakness in B.Ed. courses for primary classes is well recognised, thus the impugned notification itself provides that B.Ed. trained teachers will have to undergo a six-month training in elementary classes, within the first two years of their appointment. Further, the court said that in primary education, any compromise on ‘quality’ of education would mean going against the very mandate of Article 21-A of the Constitution of India and the RTE Act. The court further noted that the decision to include B.Ed. as a qualification was apparently triggered by a letter of the Commissioner of Kendriya Vidyalaya Sangathan (‘KVS’), who requested that since in the Primary classes of Central Schools enough trained Diploma holders are not available, they may be permitted to appoint B.Ed. qualified teachers, who are readily available. Thus, the Ministry directed NCTE to appoint B.Ed. trained teachers not just in central schools but in primary schools throughout the country, which would include State run schools. Thus, the court held that the decision of the NCTE to include



B.Ed. as a qualification for teachers in a primary school seems arbitrary, unreasonable and has no nexus with the object sought to be achieved by the RTE Act, which is to give to children not only free and compulsory but also ‘quality’ education. The court opined that NCTE was not justified in including B.Ed. as a qualification for appointment to the post of primary school teacher, a qualification so far kept out of the eligibility requirement. Thus, the court upheld the Rajasthan High Court Judgment. Moreover, the court said that the policy decisions of the Government should normally not be interfered with by a constitutional court in exercise of its powers of judicial review. However, if the policy decision itself is contrary to the law and is arbitrary and irrational, powers of judicial review must be exercised. By including B.Ed. as a qualification for teachers for primary school, the Central Government has acted against the provisions of the Constitution and the laws. Therefore, the direction of the Central Government dated May 30, 2018 culminating in the notification dated June 28, 2018 of NCTE are violative of the principles as laid down in RTE Act. However, the court also opined that the State of Rajasthan was in error in not calling for applications from B.Ed. qualified candidates, for the reasons that till that time when such an advertisement was issued by the Rajasthan Government, B.Ed. candidates were included as eligible candidates as per the statutory notification of NCTE, which was binding on the Rajasthan Government, till it was declared illegal or unconstitutional by the court.

**[Devesh Sharma v. Union of India, 2023 SCC OnLine SC 985, decided on 11-08-2023]**

## FACULTY NEWS

### **Professor Dr. Manoj Kumar Sinha, Director, ILI**

- Invited to deliver a talk to LL.M. and Ph.D. scholars of the NFSU, Ahmedabad, on Cosmopolitanism, on September 29, 2023.
- Invited as Guest of Honour to address the participants in the inaugural function of one day Conference on, “Justice and Legal Literacy: Exploring the symbiotic relationship between Pro Bono work and Justice to the Needy,” Organised by Faculty of Law, Jakran Lake University, Bhopal on September 27, 2023.

- Invited to deliver Valedictory Address in Two-Day National Seminar on Exploring the Impact of Mental Health in the Modern Era: A Symbiosis of Society, Science, Law and Management, organised by Law College Durgapur and Institute of Management Durgapur on September 23-24, 2023.
- Invited to deliver a talk to the participants of One-Week Inter-disciplinary Faculty Development Programme on “Enhancing Teaching, Learning and Research Skills” organised by HNLU, Raipur on September 16, 2023
- Invited to deliver a talk to the participants of Legislative Drafting Training Programme on “Regulations and By-Laws- Real Laws in the Real World” organised by Institute of Constitutional and Parliamentary Studies (ICPS) on September 14, 2023.
- Invited to address the newly admitted Ph.D. scholar of the National Law University, Assam on September 14, 2023.
- Invited to address the first-year law students in the orientation programme, organised by VIT Law School, Amravati on September 14, 2023.
- Invited as a Guest of Honour to address the participants during introductory session on “Women, Children and Law: Concerns, Challenges and Future” organised by Law Mantra and HPNLU, Shimla on September 01, 2023
- Invited as a Chief Guest to address the participants of the One month Interdisciplinary Faculty Development Programme on “Emerging Trends in Administration of Criminal Justice and Forensic Science”, organised by Faculty of Law, Integral University, Lucknow on September 01, 2023.
- Invited to deliver a talk to LL.M. students on, “Conceptualising the Importance of Research Methodology in Legal Research”, organised by Faculty of Law, GLS University, Ahmedabad on August 29, 2023.
- Invited to deliver a talk to the participants of the Faculty Development Programme on

“Exploring Alternate Models and Opportunities in the Field of Legal Research” organised by Christ University, Bangalore on August 27, 2023.

- Invited as a Chief Guest to address the newly inducted undergraduate students in the field of Law, organised by Sandeep University, Nashik on August 19, 2023.
- Delivered a talk on “Blended mode of teachings” to the participants of Faculty Development Programme (FDP) organised by Raffles University, Neemrana on August 14, 2023.
- Invited to deliver a talk to the participants of Legislative Drafting Training Programme on “Regulations and By-Laws- Real Laws in the Real World” organised by Institute of Constitutional and Parliamentary Studies (ICPS) on August 14, 2023.
- Invited to deliver a talk to Ph.D. students on “Open Access Data Bases & Publication” organised by Seedling School of Law and Governance, Jaipur, National Law University, Jaipur on July 31, 2023.
- Invited to deliver a talk to the Faculty members of the School of Law on, “Navigating the Path to Successful Publication: Techniques of Writing and Publishing in Reputed Journals” organised by Karnavati University, Ahmadabad on July 30, 2023.
- Invited to deliver a talk to the participants of the Faculty Development Programme on “Blended and Experiential Learning”, organised by IILM University, Gurugram, on July 27, 2023.
- Invited to deliver a talk to the participants of the Faculty Development (FDP) programme on “Use of Technology in Reducing the Pendency: Issues and Challenges”, organised by Amity University, Kolkata on July 25, 2023.
- Invited to deliver a talk to Ph.D. students on “Impact of Technology and Social Transformation” organised by Rashtrasant Tukadoji Maharaj Nagpur on July 24, 2023.
- Invited to deliver a talk to LL.M. students on “International Humanitarian Law” organised by India International University of Legal Education and Research, Goa on July 20, 2023.

- Invited to deliver a talk to the participants of Legislative Drafting Training Programme on “Regulations and By-Laws- Real Laws in the Real World” organised by Institute of Constitutional and Parliamentary Studies (ICPS), New Delhi on July 11, 2023.
- Invited to deliver Presidential address in the Conference on, “Global Sustainability Summit (GSS) 2023, on “Role of Judiciary in Environmental Governance in India” Organised by Indian Institute of Sustainable Development (IISD) and Carbon Minus India (CMI), New Delhi on July 11, 2023.]
- Invited to deliver an inaugural lecture to LL.M students on “Research Methodology” organised by GLS University, Ahmadabad on July 07 2023.
- Invited to deliver a talk in the inaugural address, “The Importance and Relevance of Legal Research Methods in Contemporary Period” to participants of the Faculty Development Programme (FDP), organised by School of Law, Sharda University, Greater Noida on July 03, 2023

#### **Professor (Dr.) Jyoti Dogra Sood, Professor, ILI**

- Invited as a resource person for the fourth training program on “Basic Rules of Legislative Drafting” on September 12, 2023 by the Institute of Constitutional and Parliamentary Studies (ICPS) in collaboration with Parliamentary Research and Training Institute for Democracy (PRIDE) for officials of various ministries (Centre- and State), Lok Sabha, Rajya Sabha and Legislative Assemblies.
- Invited as a resource person for IAS (AGMUT 2021) officer training on “Major Acts: The Indian Evidence Act and Cr PC” on August 3, 2023 by the Directorate for Institutional Training.
- Invited as a resource person for the third training program on “Basic Rules of Legislative Drafting” on August 7, 2023 organised by Institute of Constitutional and Parliamentary Studies (ICPS) in collaboration with Parliamentary Research and Training Institute for Democracy (PRIDE).



- Invited as a resource person for a two-day training program for Police Personnel on July 29, 2023 on the topic “Roles and Responsibilities of Police for Protection of Women and Children” organised by Indian Law Institute in collaboration with National Human Rights Commission.
- Invited as a resource person in a training program for First Class Judicial Magistrates on Human Rights Issues and Challenges on the topic “Rights of the Juveniles: Issues and Challenges” on July 1, 2023 organised by Indian Law Institute in collaboration with National Human Rights Commission.

### CASE COMMENTS

#### ***Rajo Rajwa Rajendra Mandal v. The State of Bihar***

2023 Live law SC 717

Decided on August 25, 2023

In this case, the petitioner has invoked Article 32 of the Constitution to approach the court for his premature release from a life imprisonment verdict where he was found guilty in a triple murder case. The petitioner has already completed his 24-year prison term and is requesting that his sentence be remitted. The petitioner was convicted of killing three people at a village celebration, including two police officers.

In the instance, the petitioner filed a writ petition to be released.

from a life sentence after being found guilty of three counts of triple murder, a conviction for which he had already served 24 years. In this case, the trial court pronounced a life imprisonment sentence, which was subsequently held by the high court. The petitioner could not approach the Supreme Court of India to challenge the decision of the high court, thus the decision reached its finality. The petitioner’s case for remission was considered by the Remission Board on May 19, 2021, according to the prescribed rules. The request of the petitioner was considered by the Board

and finally rejected by the Remission Board- despite a favourable report by the Probation Officer and Superintendent of Police. The petitioner filed a writ petition before the high court and sought relief from the court, which was

dismissed for non-prosecution. The request of the petitioner was once again placed before the Remission Board, and again, his request was rejected in light of adverse reports from the Superintendent of Police and the Presiding Officer of the convicting court. Section 432(1) of the Cr. PC, 1973 empowers the appropriate government to suspend or remit sentences. However, this statutory power to grant remission is limited by Section 433A in the case of those who were convicted of an offence where death is one of the punishments. Sentencing is a judicial exercise of power. However, executing the sentence awarded is an executive power, which includes the grant of remission, commutation, pardon, reprieves, or suspension of sentence. In the Constitution, the President of India and the Governor of the State have been given executive power under Articles 72 and 161 of the Constitution of India. Under these articles, the President of India and Governor of the State are empowered to grant pardons and to suspend, remit, or commute sentences in certain cases. In the 2010 decision of *State of Haryana v. Jagdish* (2010) 3SCR 716, the Indian Supreme Court provided a clear explanation of the proper exercise of executive power. In *Union of India v. Sriharan* (2015), 14 SCR 613, the court decided that the Presiding Officer of the relevant court’s view should serve as guidance for the final suspension order. In its most recent ruling, *Ram Chander v. Chattisgarh* (2022), 4 SCR 1103, the court cited this decision. In this instance, the Court noted that the Presiding Officer neglected to consider the five factors highlighted in *Laxman Naskar v. Union of*

*India* (2000) 2 SCC595, while assessing the remission of the sentence. These five factors are as follows: (i) if the offence impacts society as a whole; (ii) the likelihood that the crime will be repeated; (iii) the potential of the convict to commit crimes in the future; (iv) if any fruitful purpose is being served by keeping the convict in prison; and (v) the socio-economic condition of the convict's family.

The court directed the presiding officer to provide an opinion on the petitioner's application for premature release by examining the judicial record and following the five factors laid down in *Laxman Naskar* within a month from the date of the judgment. The court, in its various judgments, emphasised that the ultimate goal of imprisonment, even in the most serious crime, is reformatory after the offender undergoes a sufficiently long spell of punishment through imprisonment. The decision of the court made it abundantly evident that the executive authority must treat each issue with due diligence and adhere to the guidelines established by this court in its previous rulings. The court further declared that the executive branch has the authority to grant or deny premature release under remission; but, this authority must be used in accordance with the relevant rules. If the administration appropriately complies with the court's ruling, it will undoubtedly contribute to the defence of the accused's rights and allow them a chance to turn their life around and reintegrate into society.

**Manoj Kumar Sinha**

***Dinganglung Gangmei v. Mutum Churamani Meetei***

2023 SCC Online SC 965

Decided on August 7, 2023

In this significant ruling, the apex court observed that "using women as instruments for perpetrating violence is simply unacceptable in a constitutional

democracy." The court called for reports indicating the steps taken by the government (i) to hold the perpetrators accountable; and (ii) ensure that such incidents are not repeated. The Supreme Court constituted an all-women three-member committee to examine the probe being conducted by Manipur police and the Central Bureau of Investigation ('CBI') respecting the incidents of violence in Manipur, specifically to be looked into by the former Maharashtra DGP and NIA officer Dattatray Padsalgikar. The Bench comprising of Dr. D.Y. Chandrachud, CJI, J.B. Pardiwala and Manoj Misra, JJ. further refused to transfer the trial of Manipur violence cases outside the State. The court expressed distress over the State of Manipur being besieged by sectarian strife since the first week of May and also mentioned the Manipur High Court's judgment that triggered violence in Manipur over inclusion of Meitei Community in the Scheduled Tribe list in the case of *Mutum Churamani Meetei v. State of Manipur*, 2023 SCC Online Mani 156, which was challenged before the Supreme Court by invoking Article 136 of the Constitution mainly highlighting that 'Manipur is burning after the impugned order'. On the contrary, the Union conveyed that the State government was taking appropriate steps to recall the high court order dated March 27, 2023 by moving the competent forum, and also laid a list of actions taken regarding violence in Manipur. The court recalled all that was directed by the court, assured by Union and State governments and several other petitions apprehending the threat to safety. The court also pointed out when the Supreme Court took *suo moto* cognizance after Manipur women video parades went viral indicating gross constitutional violations and infractions of human rights. The State later confirmed registration of 6523 FIRs, 150 deaths and 502 injured persons, 5101 cases



of arson, 252 arrests, 12740 preventive arrests, 11 FIRs involving cases of violence against women and children. Regarding horrific visuals that depicted sexual violence against women, State was reportedly willing to refer all 11 FIRs to Central Bureau of Investigation ('CBI'), while the court expressed dissatisfaction with the tardy pace of investigation and inadequacy of material disclosed. Status report was accordingly filed by the State regarding nature of crimes and their respective numbers. The court expressed that "the importance of a speedy and fair justice system should need no reiteration but the magnitude of the offences that we are dealing with prompts this court to reiterate their importance" and listed the procedure to be followed: When a bodily or sexual offence is complained of; Statements under Sections 161 and 164 Cr PC to be recorded as soon as possible; Importance of statements under Sections 161 and 164 Cr PC coupled with the medical examination of the victim Police to identify and arrest the accused person expeditiously; Importance of identifying, arresting, prosecuting, and convicting the person responsible for offence; Importance of speedy investigation for securing a just and proper outcome in a trial and to instill and maintain confidence in the administration of criminal justice. It further said that "This Court must express its anguish of the manner in which women have been subjected to grave acts of sexual violence in the course of the sectarian strife in Manipur. Subjecting women to sexual crimes and violence is completely unacceptable and constitutes a grave violation of the constitutional values of dignity, personal liberty and autonomy all of which are protected as core fundamental rights under Part III of the Constitution. Mobs commonly resort to violence against women for multiple reasons, including the fact that they may escape punishment for their crimes

if they are a member of a larger group. In time of sectarian violence, mobs use sexual violence to send a message of subordination to the community that the victims or survivors hail from. Such visceral violence against women during conflict is nothing but an atrocity. It is the bounden duty of the state – its foremost duty, even – to prevent people from committing such reprehensible violence and to protect those whom the violence targets." Hinting towards the sectarian strife which led to large scale destruction of residential property and places of worship, the court found itself duty bound to step in while performing its constitutional obligations and opined that it will be a step to guarantee non-repetition that victims of such crimes are entitled to. The court found it crucial for the matter to conduct an objective fact-finding to bring to account those who were responsible for breach of public duty regardless of their rank/position/post. It commented that "Every officer of the state or other employee of the state who is guilty not only of the dereliction of their constitutional and official duties but of colluding with perpetrators to become offenders themselves, must be held accountable without fail. This is the promise of justice that the Constitution demands from this court and from all branches of the state." The court firstly targeted the need to cease violence, punishment of perpetrators of violence, restoration of confidence in justice system and secondly, the need to ensure restoration of rule of law and public confidence in the process of investigation and prosecution. Therefore, the court constituted a 3-members Committee: Justice Gita Mittal, former Chief Justice of the High Court of Jammu and Kashmir; Justice Shalini Phansalkar Joshi, former Judge of the High Court of Judicature at Bombay; and Justice Asha Menon, former Judge of the High Court of Delhi. The said committee was

tasked to enquire into nature of violence, submit a report on steps required for meeting the needs of survivors, ensure of providing free and comprehensive medical aid and psychological care to victims of survivors, ensure dignified conditions in relief camps set up for displaced persons, ensure compensation and restitution of victims, issue directions for appointing nodal officers at relief camps, *etc.* While aiming at fairness in investigation, the court further assured the same to be monitored by itself and appointed Dattatray Padsalgikar, former Director General of Police, Maharashtra to supervise the investigation by CBI and State machinery. It further directed the Union Ministry of Home Affairs to place 5 officers of the rank of Deputy Superintendent of Police at the disposal of CBI drawn from States of Rajasthan, Madhya Pradesh, Jharkhand, Odisha and NCT of Delhi, one of them being a woman. The Court further asked Dattatray Padsalgikar to investigate into allegations of certain police officers colluding with perpetrators of violence during Manipur conflict. The court further directed Union Ministry of Home Affairs to avail one officer of the rank of Police Inspector on deputation drawn from the States of Rajasthan, Madhya Pradesh, Odisha,

Jharkhand, Maharashtra and NCT of Delhi to ensure proper monitoring and supervision of investigation by police authorities, and nomination of at least 14 officers not below the rank of Superintendent of Police to be in charge of the respective SITs formed by Manipur State government which was to be monitored and supervised by Dattatray Padsalgikar and issued additional directions for the SIT, officers nominated and the governments of Union and State. Regarding transfer of trials outside the State, the court assured of taking up the decision after submission of reports after directions through instant matter.

The Supreme Court's directives in response to the Manipur unrest underscore its dedication to ensuring the well-being of affected individuals while avoiding unwarranted intrusion into administrative matters. By advocating cooperation with government authorities and emphasizing the role of committees and nodal officers, the court seeks to facilitate the resolution of the issues in Manipur without assuming direct administrative control. The apex court intends to eliminate the ethnic violence and humanitarian crisis.

**Arya A. Kumar**

*Edited, printed and published by Prof.(Dr.)Manoj Kumar Sinha, Director, ILI on behalf  
of the Indian Law Institute, Bhagwan Dass Road, New Delhi.*

*Printed at M/s Sudhir Printers, New Delhi. Phone No.9810334493*

*Reg.No. DELENG / 200/2234 dated 26th October 2000.*