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Editorial

The United Nations Climate Change Conference was held in Dubai, United Arab Emirates, from November 30 to December, 13 2023. COP provides an important opportunity to announce commitments and launch initiatives pertaining to the cause of environmental preservation and climate change. If these are carried out, it might significantly alter the course of greenhouse gas emissions worldwide and contribute to environmental sustainability. The COP 28 ended with a positive note with an agreement that signals the “beginning of the end” of the fossil fuel era by laying the ground for a swift, just and equitable transition away from fossil fuels, underpinned by deep emissions cuts and scaled-up finance. The term “transitioning” has been used in the final text, which was released, which implies the softening of the terminology that was used in the previous drafts which had demanded a real “phase-out” of fossil fuels. Another significant outcome of COP-28 was consideration of the ‘Global Stocktake’ (GST)– as it contains every element that was under negotiation and can now be used by nations to create more robust climate action plans due by 2025. The purpose of the ‘Global Stocktake’ is to assess the collective progress that has been made by all the nations towards the realization of the aims of the Paris Agreement. The stocktake urges Parties to move in the direction of tripling global renewable energy capacity and doubling gains in energy efficiency by 2030. The GST decision arrived at COP 28 acknowledged the significant progress developing countries have made in adaptation, planning and implementation through their National Adaptation Plans (NAP) processes. However, it also recognised that there are still issues, and that nations must act quickly to promote assistance and adaptation. The operationalization of the new Loss and Damage Fund is historic, and the initial contributions and pledges to it are important. Prime Minister Shri Narendra Modi participated in the COP-28 Presidency’s Session on “Transforming Climate Finance” on December 1, 2023, in Dubai, UAE. In his speech, the Prime Minister echoed the worries of the developing world and emphasised the need for developing nations to have access to implementation tools, especially climate finance, in order to fulfil their climate commitments and carry out their Nationally Determined Contributions (NDCs). Prime Minister Shri Narendra Modi and UAE President Sheikh Mohammed bin Zayed Al Nahyan co-hosted a high-level event on the “Green Credits Programme.” India has demonstrated a commitment to cooperative, creative, and locally relevant solutions by actively participating in COP-28, positioning the nation as a proactive and significant player in the global fight against climate change. Without a question, international cooperation is essential for tackling climate change in the framework of sustainable development and the eradication of poverty, especially for those who face severe capacity limits. It also plays a crucial role in promoting climate action among all societal actors, sectors, and geographical areas.

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ACTIVITIES AT THE INSTITUTE

Constitution Day Celebrations

Every year, India celebrates November 26 as Constitution Day to commemorate the adoption of the Constitution of India. The Indian Law Institute in collaboration with Ministry of Law and Justice, Government of India has organized a debate competition on “The Limits of Liberty: Rights and Duties in the Indian Constitution” on November 25, 2023 at ILI. Fifteen teams of various law Universities participated in the debate.



(L-R) Prof (Dr.) Manoj Kr. Sinha, Hon'ble Mr. Justice Amreshwar Pratap Sahi, Dr. Niten Chandra and Prof. (Dr.) Jyoti Dogra Sood.

The event was inaugurated by Hon'ble Mr. Justice Amreshwar Pratap Sahi, President, National Consumer Dispute Redressal Commission (NCDRC). Dr Niten Chandra, Law Secretary, Ministry of Law and Justice also graced the event. The inauguration ceremony commenced with the traditional lighting of the lamp and a ceremonial honour to the distinguished guests. Prof. (Dr.) Manoj Kumar Sinha, Director, Indian Law Institute welcomed the gathering. During his welcome address, he emphasised on the relevance of the topic and how it's important to have constant discussions on Liberty, Rights and Duties which serves as the cornerstone of Indian Constitution.

Prof. (Dr.) Jyoti Dogra Sood, Professor, ILI proposed the vote of thanks. The debate also had five technical sessions on different aspects of the Constitution. 20 teams from different National Law Universities across the country participated in the competition. Prof. (Dr.) Jyoti Dogra Sood, Professor, ILI coordinated the debate competition.



Participants of the Debate Competition along with dignitaries of the programme

In continuance of the celebrations, the Ministry of Law and Justice, in collaboration with Indian Law Institute organised Constitution Day on November 26, 2023 at Vigyan Bhavan, New Delhi in an impressive ceremony befitting the occasion. Shri Jagdeep Dhankhar, Vice President of India graced the occasion as the Chief Guest and delivered the keynote address. The other distinguished guests were Shri Arjun Ram Meghwal, Minister of State (I/C) for Law, Justice Ritu Raj Awasthi, Chairperson Law Commission, Mr. Tushar Mehta, Solicitor General of India, Justice Shri Arun Kumar Mishra, Chairperson NHRC, Hon'ble (Ms.) Justice Indira Banerjee, Former Judge, Supreme Court of India, and Dr. Niten Chandra, Law Secretary, Department of Legal Affairs, Government of India.



Snippets of the Inaugural Session of the Constitution Day Programme held at Vigyan Bhawan

The event began with the traditional lighting of the lamp by the dignitaries on the stage. This was followed by the release of two books jointly published by the Ministry of Law and Justice and Indian Law Institute titled ‘A Guide to Alternative Dispute Resolution’ and ‘Perspectives on Constitution and Development’ respectively. The book, ‘A Guide to Alternative Dispute Resolution’ is an endeavour by the Department of Legal Affairs to enable the common citizens of the country to understand the framework of arbitration and mediation existing in India. It is a publication which would be a ready reckoner for comprehending the benefits and advantages of these mechanisms for timely, cost effective and efficacious dispute resolution.



Release of the book “A Guide to Alternative Dispute Resolution” by the dignitaries

The second book ‘Perspectives on Constitution and Development’ is a compilation of articles and lectures delivered by eminent academicians and scholars as a part of lecture series organised to mark the 75th anniversary of India’s independence. The book contains insightful reflections of illustrious academicians and jurists about the constitutional democratic set up of India, its working over the years and the challenges and possibilities of reform.



Release of the book “Perspectives on Constitution and Development” by the dignitaries

Welcoming the gathering Dr. Niten Chandra, Secretary, Department of Legal Affairs, Government of India said that “today was a day of celebration, of commemorating a great achievement, an occasion to remind ourselves of the team spirit and dedication of our Constitution makers, who were faced with many challenges at that point of time. He said we had a legacy of foreign rule and our Constitution helped us to have an agenda of a free nation”. Shri Tushar Mehta, Solicitor General of India said that “any Constitution to fulfil its objectives has to have a long-term vision. He said that the resilience of the Indian Constitution can be appreciated from the fact that while many newly independent nations which got their Constitution almost at the same time as ours faced turmoil, ours has stood the test of time and emerged stronger as the makers of our Constitution could foresee all these challenges.

Justice Ritu Raj Awasthi, Chairperson Law Commission said that “Our Constitution did not manifest in one single day but is the result of a long struggle that dates back to centuries”. Hon’ble (Ms.) Justice Indira Banerjee, opined that “Our Constitution is people centric and is a testament of egalitarianism and gender empowerment. She spoke about the need to uphold the values and philosophies enshrined in our Constitution”. Addressing the gathering Justice Shri Arun Kumar Mishra, Chairperson NHRC said, “the Constitutional provisions operate to improve the life of an individual and aims at the collective wellbeing of all. It is a document against arbitrariness and ensures equality and dignified life for all”.

Speaking on the occasion Shri Arjun Ram Meghwal, Union Law Minister warmly conveyed his best wishes to the gathering on the momentous occasion of Constitution Day. He said that “since the Constitution enters the 75th year it was an even more significant day as Amrit Varsh”. He named various Constituent Assembly members, who were well known and distinguished, and said that we should remember and revere them on this day for their valuable contribution in the making of the Constitution. The minister also paid tributes to the far sightedness of Dr. B R Ambedkar for giving the right to franchise in the Constitution to women at its inception, while many developed countries took years to confer this right, after much struggle.

The Chief Guest, Shri Jagdeep Dhankhar Vice President of India, in his keynote address said that

“India’s growth story in the field of economy, science and technology and its pre-eminence in the comity of nations reflect our constitutional strength. Our Constitution has given us an ecosystem where everyone can develop and aspire to see the fruition of one’s talent. The affirmative actions provided in the Constitution have assured the transformation of India and now it is poised to be the third largest economy in the world. The Vice President also appreciated recent judicial reforms and modernisation, which has made the judiciary more accessible to all. He added that for the growth of the nation and successful running of the Constitution, all the three pillars – the Legislature, the Executive and the Judiciary must have a collaborative approach and convergence of attitude. The dignitaries also gave away awards to winners of the debate on the Theme ‘Limits to Liberty – Fundamental Rights v. Fundamental Duties’ organised by the Ministry for students of national law universities, in collaboration with the Indian Law Institute, on the eve of Constitution Day.

As part of the celebrations, a national level transformative Colloquium was also organised featuring five technical sessions. The objective of the Colloquium was to explore the crucial link between constitutional values, global aspirations, with the well-being of the planet and its inhabitants. The first technical session titled ‘Accelerating Progress through Constitutional Roadmap for Justice and Development’, was chaired by Hon’ble Mr. Justice Shri Arun Kumar Mishra, Chairperson NHRC. The other participants were senior officers from the Department of Justice, Revenue, Agriculture and Farmers welfare, and Ministry of Corporate affairs, as well as a member from the Law Commission of India.

The second technical session was on ‘Climate Change and Constitutional Response’. It was chaired by Hon’ble (Mr.) Justice Sudhir Agarwal, Judicial Member, National Green Tribunal. The other participants were senior officials from the Ministry of Environment, Forests and Climate Change, Drinking Water and Sanitation, Housing and Urban Affairs, New and Renewable Energy, and Power, as well as a member from the Law Commission of India. The third technical session was on ‘Law, Innovation and Technological Transformation’. It was chaired by Hon’ble (Mr.) Justice Vipin Sanghi, Former Chief Justice, High Court of Uttarakhand. The other participants were senior officers from the Ministry of

Home Affairs, Electronics and IT, Civil Aviation, Department of Administrative Reforms and Public Grievances, as well as Chairman, Railway Board.

The fourth technical session was titled ‘Gender Empowerment within the Constitutional Scheme’. It was chaired by Hon’ble (Ms.) Justice Indira Banerjee, Former Judge, Supreme Court of India. Senior officers from the Ministry of Women and Child Development, Panchayati Raj, Rural Development, Legislative Department and member of Law Commission of India. The fifth session was on ‘Law and Justice in a Globalised world’. It was chaired by Hon’ble (Mr.) Justice Dipak Mishra, Former Chief Justice of India, CEO Niti Aayog and senior officers from the Department Economic Affairs, Department of Commerce and Department for Promotion of Industry and Internal Trade.

I L I – NATIONAL HUMAN RIGHTS COMMISSION (NHRC) TRAINING PROGRAMME

Two Days Training Program for Prison Officials on Human Rights: Issues and Challenges on October 7-8, 2023

The Indian Law Institute in collaboration with National Human Rights Commission organised a Two Days Training Programme for Prison Officials on Human Rights: Issues and Challenges on October 07-08, 2023 at ILI.

Prisoners in India are facing complex and multifaceted problems. There are a range of concerns, including overcrowding, inadequate healthcare, substandard living conditions, and instances of abuse and violence against inmates. Prisoners often face violations of their basic rights, such as access to healthcare, sanitation, and a fair legal process. Overcrowding in prisons, largely due to a significant number of under-trial prisoners, can lead to deplorable living conditions and hinder access to essential services like legal representation and healthcare. Addressing the plight of under trial prisoners is essential to uphold their fundamental human rights. Additionally, issues related to the disproportionate incarceration of certain populations, raise questions about equity and discrimination within the criminal justice system. Ensuring the protection and promotion of human rights in prisons remains a significant challenge, necessitating ongoing efforts to reform policies, improve conditions, and raise awareness about the importance

of respecting the rights and dignity of all individuals behind bars.

The inaugural session of the training program was held on October 7, 2023 at the Plenary Hall, ILI. The Guest of Honour, Prof. (Dr.) Ranbir Singh, Former Vice Chancellor, National Law University, Delhi gave the inaugural address. He deliberated on various national and international documents concerning human rights and mentioned that human right is a natural instinct of every human being. In her special address, the Chief Guest of the inaugural session, Ms. Jyotika Kalra, former member, National Human Rights Commission, raised various concerns prevailing in the prisons in India that need to be worked upon. The issues regarding overcrowding, mental health, correctional measures for drug addicts, problems of female prisoners must be worked upon, especially in a society where prison laws are archaic and prisons are not the priority of the state.

Technical Session II on 'National Policy on Prison Reforms and Correctional Measures' was conducted by Mr. Sunil Kumar Gupta, former law officer, Tihar Jail. He discussed the recommendations of the Model Jail Manual and Model Prison Act and talked about the benefits of incorporating 'prisons' in concurrent list of the Constitution. Ms. Anju Mangla, Deputy Secretary, Delhi Secretariat, was the resource person for Technical Session III on 'Treatment of Women Prisoners and Treatment of their Accompanying Children *vis-a-vis* Human Rights.' She suggested various short term and long term vocational courses for prisoners and its impact on integrating them in the society. Technical Session IV on 'Support Persons of Undertrials within Family' was conducted by Mr. Vikram Srivastava and Shubham Verma from Independent Thought of India who stressed on the significance of family members and their role as a partner in criminal justice system.

Technical Session I held on October 8, 2023 on 'Protection of Human Rights of Juveniles in Remand Home, Correctional Home with special reference to new Juvenile Justice Act' conducted by Mr. Shashank Shekhar, Former Member, DCPCR raised awareness regarding rehabilitation and social reintegration of juveniles. The resource person for 'Gender Sensitization of Prison Officials' was Prof.(Dr.) Upma Gautam, Professor, School of Law, National Forensic Sciences University. She talked about the issues related to infrastructure, i.e., structure of prison, nature of criminality, etc. Dr. Nimesh G. Desai, Senior Psychiatrist and Former Director,

Institute of Human Behaviour and Allied Sciences, while speaking on 'Human Rights of Persons with Mental Illness (PMIs) across settings' discussed about mental health problems and how the importance and relevance of professional counseling has been unconsciously diluted. Technical Session IV on 'Rehabilitation and After Care Service of Juveniles and Youthful Offenders' conducted by Mr. Amod K. Kanth, Former DGP and Chairperson, DCPCR, stressed on the magnitude of providing after care for children who have left the homes. He also highlighted the importance of being well versed with the Juvenile Justice Act, 2015 for all the prison officials. The programme concluded with a group photograph with Prof. Manoj Kumar Sinha, Director, ILI and the distribution of certificates to all the participants.





Snippets from the NHRC training programme

Two Days Training Programme for Judicial Officers on Human Rights: Issues and Challenges on November 4-5, 2023

On November 4, 2023 the two days Training Programme for Judicial Officers on “Human Rights: Issues and Challenges” was inaugurated with the lightening of lamp by Chief Guest, Ms. Jyotika Kalra, Former Member, National Human Rights Commission. This programme was jointly organized by the Indian Law Institute, New Delhi and National Human Rights Commission (NHRC).



Inaugural session of the NHRC training programme

This was followed by the welcome address by Prof. (Dr.) Manoj Kumar Sinha, Director, Indian Law Institute, New Delhi. Prof. Sinha discussed Human rights across the settings. He deliberated on the role of judicial officers in the dispensation of justice which promotes the rule of law and human rights situation in society. Prof. Sinha warmly welcomed the participating judicial officers for the two-day training programme.

Ms. Jyotika Kalra, Former member, National Human Rights Commission delivered the inaugural address. She discussed the role of judges and lawyers in the society and criminal justice system. She made a critical observation that judges and lawyers should take their duty as a passion and not as a job. They need to get involved with their work. She described their role as a protector of the human rights of citizens. She described the role of technology in the timely delivery of justice in the criminal justice system. This was followed by the vote of thanks.

The first session of the programme was taken by, Ms. Jyotika Kalra on “Role of NHRC in promotion and protection of Human Rights”. She discussed the role of the National Human Rights Commission in promoting human rights across the country. She discussed the custodial torture and described it as and that custodial violation amounts to the worst kind of human rights violation. She also discussed the role of modern scientific techniques in criminal investigation. She discussed the rights of the arrested person provided in the Constitution of India and Criminal Procedure Code.

Prof (Dr.) Jyoti Dogra Sood took the second session on “Criminal Justice and Human Rights”. Prof. Dogra started her discourse by underlining the public law character of criminal law and explained that the individual needs protection from the might of the state. The Constitution embodies fundamental human rights in part III. She explained the constitutional foundations of criminal law and stressed the fact that justicing power is drawn from the Constitution. Prof. Dogra emphasized that all laws whether special laws or IPC have to necessarily pass the test of Article 13. She asserted that the procedure code is the guarantor of civil liberties and judges will have to interpret its provisions through the lens of part III of the Constitution. She deliberated upon Article 14, 19, 20, 21 and 22 of the Constitution *vis-a-vis* Cr. PC provisions. The presumption of innocence which the fundamental principle of criminal jurisprudence was also discussed she explained in detail the reverse burden of proof clauses in various legislations. Her critical argument was that the criminal justice administration must not be allowed to become the criminal administration of justice and for that the bridge between criminal laws and Constitution has to be strengthened.

Prof(Dr.) Upma Gautam took the third session on “Plea Bargaining”. She discussed the various types of plea bargaining in the criminal justice system worldwide. She specifically discussed the United States position and the role of public prosecutor in United States. She discussed that the Indian system adopted only sentence bargaining. She also discussed the reasons why plea bargaining has not become popular in India. She discussed the restorative and rehabilitative approaches of the criminal justice system.

Shri Rakesh Maheshwari, Former Scientist G. 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 impact of the social media in today’s world. He discussed about Section 69 A, the Information Technology Act. He discussed the Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules, 2021. He cited the *Shreya Singhal* Judgment and discussed the issues of misinformation, fake news and the government’s approach to curb them. He discussed about the right to be forgotten. He made participants aware about the cyber-crime portal and the due diligence guidelines by government of India.

Dr. Neeraj Kumar, Associate Professor, National Law University, Delhi took the fifth lecture on “Confession/ Investigation”. He discussed the due process model and procedure established by law model. He discussed the constitutional rights of the accused. He discussed about the *Selvi v. State of Karnataka*. He discussed that confession made before the police officer or in police custody is not admissible under law. He discussed about the presence of a lawyer during the police investigation in comparing with the American position. He discussed the truth serum and narco analysis techniques used during the criminal investigations.

Ms. Anju Mangla, Deputy Secretary, Delhi Secretariat, took the sixth lecture on “Judiciary and Prison Reforms”. She shared with the participant judicial officers her experience as a Prison Officer of Tihar Jails, Delhi. She discussed about the mulaqat and electronic mulaqat conducted by the jail authority, vocational training and other daily activities conducted by the prison authorities. She spoke about the furlough, parole, remission and scheme of premature release of prisoners. She discussed about the concept of open and semi open jail in India. She talked about the jail visits conducted by the judicial officers.

Prof. (Dr.) Anurag Deep, also Professor, Indian Law Institute, took the session on “Law of Sedition in India and Human Rights Concern”. Prof. Anurag Deep discussed freedom of speech and expression form a significant part of human rights under various international and national jurisdictions. He discussed about 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 that in 1962, the Constitution bench of the Supreme Court in *Kedar Nath Singh* case pronounced that section 124A is constitutionally valid only if the conduct in question contains a tendency of violence or disorder. In the Balwant Singh case the Supreme Court laid down “influencer test” or “impact test”. If the person making speech is a lay person whose expression hardly has any impact and is not able to influence anyone then he cannot be confined under section 124A. Recently in *S.G. Vombatkere* case the Supreme Court has placed in abeyance all court proceedings under section 124A and also sent the matter to a constitution bench to decide on the validity of section 124A afresh on the ground of article 14.



Participants of the training programme along with Director, Registrar, ILI

Mr. Amod Kanth, Former DGP and Founder General Secretary of Prayas Institute of Juvenile Justice took the session on “Rehabilitation and aftercare service of juvenile and youthful Offenders”. Mr. Amod Kanth discussed various aspects of the juvenile justice system and the coming of the new amended Act in the light of the Nirbhaya incident. He discussed the efforts of Prayas in juvenile care and rehabilitation. He discussed the importance of the Social Worker Report (in short as SAR), Child welfare police officer and special juvenile police unit. He discussed *Salil Bali v. Union of India* and *Subramanian Swamy v. Union of India*. Mr. Kanth discussed that Indian child offender has low recidivism. He discussed the importance of after care programmes, skill development training. He discussed importance of counselling, constant care, loans and subsidies in after care programs. With the distribution of the certificates and high tea, the programme came to an end.

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 in collaboration with National Human Rights Commission 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 event also celebrated Human rights day 2023. The dignitaries on the dais lit the ceremonial lamp and inaugurated the program. Prof. (Dr.) Manoj Kumar Sinha, Director, Indian Law Institute, formally welcomed the gathering.



Inaugural session of the training programme

Mr. Sudhanshu Ranjan, veteran journalist who've been associated with Doordarshan for more than 30 years addressed the gathering. His acclaimed works include “Justice, Judocracy and Democracy in India Boundaries and Breaches” which was published in 2012 offering an innovative approach to studying ‘judicial activism’ in the Indian context in tracing its history and relevance since 1773 and “Justice Versus Judiciary Justice Enthroned Or Entangled in India?” which advocated that judges must be made accountable not only in respect of their personal conduct and integrity, but also in respect of the judicial verdicts they deliver. His address delved into the relationship between media and human rights. He noted that media serves as a platform to uphold human rights, shed light on violations, and facilitate public discourse.

Mr. P.K. Malhotra also addressed the gathering. He has 40 years of legal experience and served over 25 years in the Ministry of Law and Justice, reaching the apex position of Union Law Secretary. He played a crucial role in shaping key legislations, including the Criminal Law (Amendment) Act, 2013, and the Insolvency and Bankruptcy Code, 2016. Holding positions such as Secretary-Ministry of Law and Justice and Member of the Law Commission of India, he contributed to election laws and international legal matters. Mr. Malhotra represented India in various global forums, addressing issues such as arbitration and bilateral investment agreements. Recognized for his academic excellence, he holds a master's degree in Political Science, an LLM Diploma in International Law, and has received accolades for leadership in ICT and Cyber Laws. In his address he noted the set of challenges faced by media, ranging from censorship to misinformation. He opined that understanding these dynamics is crucial for safeguarding human rights in the digital age.

Mr. Sanjay Parikh was the guest of honor of the event. He is a senior advocate at the Supreme Court of India. He has filed several PIL's on environment and human rights related issues bringing into the societal forefront some key challenges the community was collectively battling. He has also published in national as well as international journals of repute. He is also a member of the executive council of ISIL. In his keynote address he focused on the need for a detailed exploration of the nexus of media and human rights comprehensively as it sets the stage for a deeper

examination of the issues at hand and the pathways forward in navigating this critical intersection.

Hon'ble (Mr.) Justice Sudhir Agarwal, Judicial member of NGT addressed the gathering. He was a former Judge of the High Court of Judicature at Allahabad. During his tenure, he addressed diverse legal issues, including environmental concerns such as Ganga Pollution and illegal mining. Known for his diligence, Justice Agarwal decided over 1,40,000 cases spanning various jurisdictions, demonstrating expertise in civil, criminal, service, constitutional, tax, and environmental matters. His notable judgments include the Shankaracharya installation dispute, compelling government school attendance for state officers' wards, and directing government servant healthcare exclusively in state facilities. With 25 years of legal practice before his judicial role, he specialized in service and electricity matters. Appointed as a Senior Advocate in 2004, he served as Additional Advocate General for Uttar Pradesh. Retiring in 2020, he assumed the position of Judicial Member at the National Green Tribunal in 2021. In his speech, he focused on the crucial role played by media in safeguarding human rights. He opined that media, spanning a range of platforms from conventional newspapers to online social networks, acts as a potent instrument for championing the principles of human rights. By engaging in investigative reporting, narrative storytelling, and the elevation of marginalized perspectives, media not only uncovers instances of human rights abuses but also stimulates public discourse and mobilizes efforts toward achieving justice and parity.



Snippets from the programme

Ms. Jyotika Kalra, Managing Partner of Resolve Legal and former Member of the National Human Rights Commission and Dr. P. Puneeth, Associate

Professor of Law at the Centre for the Study of Law and Governance, Jawaharlal Nehru University, New Delhi also spoke at the event. It was highlighted that the connection between media and human rights is fundamental in democratic societies, with media acting as both a reflection of societal norms and a guide uncovering injustices. This complex interaction highlights the crucial function of media in shaping public conversations, ensuring accountability, and advocating for the basic rights and liberties of people.



Snippets from the NHRC training Programme

Five Days Training Programme on Law for IDES Officers and SDOs on December 11-15, 2023

A Five-Day Training Programme on Law for IDES Officers and SDOs was organized from December 11-15, 2023 at National Institute of Defence Estates Management, Ministry of Defence, Government of India. This programme was jointly organized by the Indian Law Institute, New Delhi and National Institute of Defence Estate Management (NIDEM). This programme was jointly organized by the Indian Law Institute, New Delhi and National Institute of Defense Estate Management (NIDEM). 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 Defence Estate Services.

The programme was inaugurated by the Hon'ble (Mr.) Justice Sudhir Agarwal Judicial Member, National Green Tribunal, New Delhi with the lightning 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. Mr. P.K. Malhotra, Former Law Secretary delivered the special address and Shri Rajendra Pawar, Director, NIDEM proposed the vote of thanks.



Photo from the inaugural session of the programme



View from the technical sessions of the programme

The speakers of the technical sessions included Dr. Shaiwal Satyarthi, Associate Professor of Law, Law Centre, Delhi University, Dr. Shivani Verma, Assistant Professor, Delhi University, Dr. Pramod Tiwari, Assistant Professor, Delhi University, Mr. Rajiv Shankar Dwivedi, Advocate, Supreme Court, Dr. Parveen, Assistant Professor, Delhi University, Ms. Nigar Fatima, Addl DG, DE, Dr. Ashutosh Nanachal, Advocate, Supreme Court, Dr. Anil Sain, Asst. Professor, Delhi University, Dr. Pramod Tiwari, Asst. Professor, Delhi University, Dr. Kislay Soni, Asst Professor, Delhi University, FCA Amit Sikri, Practitioner. Dr. M.C. Pandey, Former, Chief Editor, VSP(MoLJ), Ms. Rajul Jain, Advocate, SCI, Mr. Deepak Parashar, Advocate, DHC Dr. Swati Jindal Garg, Advocate, SCI. The topics covered during the training programme were "Understanding Judicial System and Process", "Law Relating to Land Acquisition", "Filing of Writ Appeals-first Appeal, Second Appeal, SLP etc" and "timelines as well as notice under section 80", "Contempt of Court as well as Execution of Decree and status-quo orders", "Principles of Natural Justice and Administrative e Law", "Handling of Court Cases for DE Organisation", "Limitation with regard to land matters i.e., title suits, possessions and acquired lands", "Municipal Tax and allied Taxation related issues," "Civil Procedure Code, Title Suits (TS) – filing and defending TSs. Filing of Writ Petitions including timelines, Principles of Natural Justice," "Constitutional Provisions in Chapter – III of the Constitution as well as Section 172 of the Government of India Act 1935", "Transfer of Property Act-Emphasis Sections 5,6,7,54 and Chapter V [Sections 105 and 111], Transfer and Mutation of Properties", " Central Agency Section

Supreme Court Drafting of Petitions, Defects in filing of SLPs curing of defects, timelines”, “PPE Act and amp; cases related to Encroachments of Lands”, “Handling Cases in Civil Court/High Court/ Supreme Court” and “Service and Disciplinary Matter”.



Participants of the programme along with distinguished invitees

STATE UNIT ACTIVITIES

Activities of Kerala State Unit of ILI Lecture by Hon’ble (Mr.) Justice Shripathi Ravindra Bhat, Former Judge, Supreme Court of India on December 6, 2023.

The Kerala State Unit of the Indian Law Institute jointly with the Kerala Judicial Academy organized a lecture by Hon’ble (Mr.) Justice Shripathi Ravindra Bhat, Former Judge, Supreme Court of India on the topic “Shedding the Colonial Hangover- Perspectives on Indianising the Legal System” on December 6, 2023, at the Kerala High Court Auditorium. Hon’ble (Mr.) Justice Ashish J. Desai, Chief Justice, High Court of Kerala/President, Indian Law Institute, Kerala State Unit and Patron-in-Chief, Kerala Judicial Academy presided over the meeting. Hon’ble (Dr.) Justice A.K. Jayasankaran Nambiar, Executive Chairman, Indian Law Institute, Kerala State Unit/President, Board of Governors, Kerala Judicial Academy gave the inaugural address.



Hon’ble (Dr.) Justice A.K. Jayasankaran Nambiar delivering the inaugural address

Hon’ble Justice S. Ravindra Bhat commenced his lecture by pointing out how the “Indian plurality and diversity came to be overridden with the British interest of having a homogenous law” and about how “the colonial project of law making delinked the people from their own laws” leading to the enactment of various land and feudal laws by ignoring the customary practices followed by various communities in India.



Hon’ble (Mr.) Justice S. Ravindra Bhat delivering the lecture

His Lordship pointed out that the criticism of the Indian Constitution and the questioning of the validity of the Constitution on the ground that the Indian Constitution is a mere modification of the Government of India Act, 1935 is not a well thought out argument and went on to point out various aspects of the Indian Constitution especially the socio-economic rights enshrined in Part III of the Constitution including reservation provided under Article 15, abolition of untouchability under Article 17 and enforcement of these rights via Article 32 to mention a few as completely Indian and one of a kind, which cannot be found in the laws of any other country other than the nascent Constitution of South Africa and which in itself is proof as to how the Indian Constitution is not merely a colonial document. He highlighted as to how the Indian Constitution is a living and evolving document and that decolonisation is a process and emphasised on the need to simplify access to justice by rendering shorter judgments and improving the procedural framework. He concluded his lecture by underlining as to how efforts should be made to homogenise the legal system keeping in mind the pluralistic nature of the Indian Society and as to how to let the systems to breathe instead of eliminating them. Shri. K.N.Sujith, District and

Session Judge, Director, Kerala Judicial Academy delivered the valedictory address.

A Conversation with Shri. Gautam Bhatia, Advocate, Supreme Court of India on “the article 370 verdict”

On December 11, 2023, the five Judge Constitutional Bench of the Supreme Court of India upheld the abrogation of Article 370 of the Constitution of India that granted special status to the State of Jammu and Kashmir. The Indian Law Institute, Kerala State Unit jointly with the Kerala Judicial Academy, organised a conversation with Shri. Gautam Bhatia, Advocate, Supreme Court of India on the “Article 370 Verdict” on January 12, 2024 at the Kerala High Court Auditorium, Hon’ble (Dr.) Justice A.K. Jayasankaran Nambiar, Judge, High Court, Kerala/Executive Chairman, Indian Law Institute, Kerala State Unit and President, Board of Governors, Kerala Judicial Academy gave the inaugural address.



Snippets from the programme

The Conversation with Shri Gautham Bhatia was moderated by Shri. Advocate Jacob P. Alex and Smt. Adv Ramola Nayanpally. The discussion began with Shri. Adv Jacob P. Alex who gave a brief introduction about the historical background of the State of Jammu and Kashmir, the political scenario in which Article 370 was incorporated in the Indian Constitution and the abrogation of Article 370 by the Parliament of India. Thereafter, Smt. Adv. Ramola Nayanpally took Shri Gautham Bhatia to the first issue of discussion, the power of reorganisation under Article 3 of the Constitution of India, especially with regard to the Jammu and Kashmir Reorganisation Act. Shri Bhatia dealt with the issue by explaining the power under Article 3 of the Constitution; and also, the intention of the Constituent Assembly while vesting such a power in the Parliament, rather than the legislature of the States. He also gave a brief of the argument put

forward before the Supreme Court of India as to whether power under Article 3 includes the power to degrade a State from the status of a State to a Union Territory. Moving forward, Shri Bhatia dealt with the issue of bringing irreversible changes by exercise of power under Article 356 of the Constitution. Shri Bhatia also took the audience not only to the arguments and findings of the Hon'ble Supreme Court, but also to the courtroom discussions and the approach of the Hon'ble Apex Court while interpreting the Constitution on issues involving political impact. Shri K.N. Sujith, District and Session Judge/Director, Kerala Judicial Academy delivered the concluding remarks.

VISITS TO THE INSTITUTE

- ❖ Students of LCIT College of Commerce and Science, Department of Legal Studies, Chhattisgarh visited the Indian Law Institute on November 1, 2023.
- ❖ Students of Bengal Law College, Kolkata visited the Indian Law Institute on November 22, 2023.
- ❖ Students of Amex Law College, Bardhaman, West Bengal, visited the Indian Law Institute on November 23, 2023.
- ❖ Students of Law College Durgapur, West Bengal, visited the Indian Law Institute on December 4, 2023.
- ❖ Students of Indian Institute of Legal Studies, Cooch, Bihar visited the Indian Law Institute on December 5, 2023.
- ❖ Students of Kingston Law College, West Bengal visited the Indian Law Institute on December 5, 2023.

RESEARCH PUBLICATIONS

Released Publications

- ❖ Journal of the Indian Law Institute Vol. 65(2) (April-June) 2023.
- ❖ ILI Newsletter Vol XXV Issue III (July-September) 2023.

Forthcoming Publications

- ❖ Journal of the Indian Law Institute Vol. 65(4) (October- December) 2023.
- ❖ ILI Newsletter Vol. XXVI, Issue I (January-March, 2024).

E –LEARNING COURSES

Online Certificate Courses on Cyber Law and Intellectual Property Rights Law

E Learning courses of three months duration on

“Cyber Law” (45th batch) and **“Intellectual Property Rights and IT in the Internet Age”** (56th batch) were completed on November 28, 2023.

LIBRARY

- The meeting of the Library Committee of the Indian Law Institute was held on November 03, 2023 at the Indian Law Institute, New Delhi under the Chairmanship of Hon'ble Mr. Justice Surya Kant, Judge, Supreme Court of India.
- Library added 39 Books on Contract Law, Arbitration and Mediation, 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 Theses of three Ph.D. Scholars were uploaded on the Shodhganga Portal.
- The Indian Law Institute (ILI, New Delhi) Library in collaboration/ partnership with Rishihood University, jointly organized a two-day International Library Conference titled, International Conference on AI-Driven Advancements in Research and Publications: Intellectual Property Rights, Knowledge Management, and Beyond, at Rishihood University, Sonapat, Haryana, India from December 1-2, 2023.
- The ILI Library started the subscription of AIR Online databases.

EXAMINATIONS

LL.M. Programme

- Examinations for LL.M. 1st Semester (1 year programme) for the Session 2023-2024 were held during December 8-12, 2023.
- The Dissertation Viva-Voce / Presentation of LL.M. 1 year (2nd Semester) for the Session 2022-23 was held on November 21, 2023.
- The LL.M. Supplementary Examination for the Session 2021-22 was held during November 28-29, 2023.
- The result LL.M. Supplementary Examination for the Session 2021-22 was declared on December 21, 2023.

PG Diploma Programmes

- Supplementary Examination for PG Diploma Courses for the Session 2022-23 was held from September 29, 2023 to October 6, 2023.
- Result of Supplementary Examination for PG

Diploma Courses for the Session 2022-23 was declared on November 1, 2023.

FORTHCOMING ACTIVITIES

- ❖ ILI Law Review (ILILR) Legal Research Workshop on “How to Review an Article for Law Journal” will be held on January 20, 2024.
- ❖ Inauguration of ILI- E Library will take place on January 29, 2023 at ILI.
- ❖ The Indian Law Institute in Collaboration with the Commonwealth Legal Education Association, London will organize a conference on “Attorney Generals and Solicitor General Conference – 2024 (CASGC’24)” at Vigyan Bhawan, New Delhi, from February 3-5, 2024.

LEGISLATIVE TRENDS

THE ADVOCATES (AMENDMENT) ACT, 2023 (Act No 33 of 2023)

The advocates (amendment) act, 2023 was enacted to alter the Advocates Act, of 1961 and to govern the legal profession exclusively through a single act. It was also enacted to abolish outdated portions of the Legal Practitioners Act, 1879 and to merge the provisions of Section 36 of the Legal Practitioners Act, 1879 into the Advocates Act, 1961 to decrease the amount of “superfluous enactments” on the statute books. Under the new act, section 45-A has been inserted relating to the power to frame and publish the list of touts. Any judge of high court, district judge, sessions judge, district magistrate and revenue officer, above the rank of collector of a district, can frame and publish the lists of proved touts by evidence of general repute or being a habitual tout. Any person will be included in this list only after being given an opportunity to show cause against such inclusion. Any authority who is eligible to frame and publish the list can send the name of any person alleged or suspected to be a tout to any subordinate court and on receiving such list, the subordinate will hold an inquiry into the conduct of that person. After giving an opportunity of showing cause, the subordinate court will submit its report to the Authority. The court or judge can remove any person's name from such list. Any person proved to be a tout and his name is on the list, will be punished with imprisonment which may extend to 3 months or with fine of Rs. 500 or both. On the date of enforcement of Section 45-A, the following Sections of the Legal Practitioners Act, 1879 will be repealed- Section 1- Short title Section 3- Interpretation- clause Section 36- Power to frame and publish lists of Touts.

THE CENTRAL UNIVERSITIES (AMENDMENT) ACT, 2023 (Act No 36 of 2023)

The Central Universities (Amendment) Act, 2023 was enacted to amend the Central Universities Act, 2009, which establishes central universities for teaching and research in various states. The new Act establishes a Central Tribal University in Telangana which will be named as the ‘Sammakka Sarakka Central Tribal University’. Its territorial jurisdiction will extend to Telangana. It will provide avenues of higher education and research facilities primarily for the tribal population of India. Note that the Andhra Pradesh Reorganisation Act, 2014 provides that the central government will establish a Tribal University in the state of Telangana.

THE TELECOMMUNICATIONS ACT, 2023 (Act No 44 of 2023)

The Telecommunications Act, 2023 was enacted to amend and consolidate the law relating to development, expansion and operation of telecommunication services and telecommunication networks; assignment of spectrum; and for matters connected therewith or incidental thereto. The new Act sought to repeal the Indian Telegraph Act, 1885, the Indian Wireless Telegraphy Act, 1933, and the Telegraph Wires (Unlawful Possession) Act, 1950. It also amends the Telecom Regulatory Authority of India (TRAI) Act, 1997.

THE PROVISIONAL COLLECTION OF TAXES ACT, 2023 (Act No 50 of 2023)

The Provisional Collection of Taxes Act, 2023 was enacted to provide for the immediate effect for a limited period of provisions in bills relating to the imposition or increase of duties of customs or excise. The Act allows for the immediate imposition or increase in customs or excise duty through a declaration. This declaration may be included in the government bill seeking to impose or increase such duties introduced in Parliament. The imposition or increase will come into effect from the day after the date of introduction of the Bill. It will cease to have effect once: (i) the Bill is enacted, (ii) the Central Government directs so in pursuance of a motion passed by Parliament, or (iii) after the 75th day after the date of the introduction of the Bill. The Bill retains these provisions. It also clarifies that these provisions will be applicable regardless of whether the tariff classification has changed. The Act requires that refunds be issued in certain cases. Refunds must be issued if the declaration was enacted in an

amended form, or it ceased to apply. Refunds will be made on the difference under the declaration and the enacted provision. If the declared provision is not enacted, duties and taxes collected will be refunded in entirety. The Bill retains these provisions.

THE PRESS AND REGISTRATION OF PERIODICALS ACT, 2023 (Act No 51 of 2023)

The Press and Registration of Periodicals Act, 2023 was enacted to provide for the registration of periodicals, which include any publication containing public news or comments on public news. Periodicals do not include books or scientific and academic journals printed in India only with the prior approval of the Central Government. The Act provides that a declaration specifying the printer/ publisher be made to the District Magistrate (DM). The DM sends the declaration to the Press Registrar, who then issues a certificate of registration. Making such declaration and authentication by the DM is necessary for the publication of the newspaper. The Act allows the publisher of a periodical to obtain a registration certificate by filing an online application with the Press Registrar General and specified local authority. A person who has been convicted of a terrorist act or unlawful activity or have acted against the security of the State will not be allowed to publish a periodical. The foreign periodical is an exact reproduction of a foreign periodical may be printed in India only with the prior approval of the central government. The manner of registration of such periodicals will be prescribed.

LEGAL JOTTINGS

Supreme Court rejects the plea for abortion

The petitioner had cited economic and emotional hardships and postpartum depression to seek the termination. However, the ask was an anomaly for several reasons. First, according to the Medical Termination of Pregnancy Act (amended 2021), abortion can be sought up to 24 weeks of the pregnancy. In the present case, the petitioner was already in her 26th week. Second, the petitioner insisted that the foetal heartbeat must not be stopped, which is a crucial step in the termination of pregnancies. Instead, she sought for the foetus to be medically removed and placed in an incubator till the gestation period was complete. In response to a court-ordered examination, All India Institute of Medical Sciences (AIIMS) stated that removing the baby preterm at “such low birth weight” could lead to “long-term physical and mental disability” forcing the court to choose between foetal rights and a woman’s autonomy.

On October 16, the bench rejected the plea for termination. They reasoned that there was no threat to the life of the mother. Further, there were no foetal abnormalities according to a report submitted by the AIIMS. The court ruled that though they are consistent on woman's autonomy, but they cannot ignore rights of the child.

X v. Union of India (October 2023) SCC Online 1338, decided on October 16, 2023

Plea for Marriage Equality

On November 14, 2022, two same-sex couples filed writ petitions in the Supreme Court seeking legal recognition of same-sex marriages in India. The petitions were centred on the constitutionality of the Special Marriage Act, 1954 (the Act). The first petition was filed by Supriyo Chakraborty and Abhay Dang. The second petition was by Parth Phiroze Merhotra and Uday Raj Anand.

The petitioners argue that section 4(c) of the Act recognises marriage only between a 'male' and a 'female'. This discriminates against same-sex couples by denying them matrimonial benefits such as adoption, surrogacy, employment and retirement benefits. The petitioners asked the court to declare section 4(c) of the Act unconstitutional. The plea has been tagged with a number of other petitions challenging other personal laws on similar grounds. The challenged enactments include the Hindu Marriage Act, 1955 and the Foreign Marriage Act, 1969.

The petitioners argue that the non-recognition of same-sex marriage violates the rights to equality, freedom of expression and dignity. They relied on *NALSA v. Union of India* (2014) and *Navtej Singh Johar v. Union of India* (2018) which recognised non-binary gender identities and guaranteed equal rights to homosexual persons.

On November 25, 2022, Supreme Court Bench comprising Chief Justice D.Y. Chandrachud and Justice Hima Kohli passed an order directing the Union to respond to the petitions. Similar petitions are pending before the Delhi and Kerala High Courts. On January 3, 2023, Senior Advocate Menaka Guruswamy and Advocate Karuna Nundy urged a two-Judge Bench comprising CJI Chandrachud and Justice P.S. Narasimha to transfer two similar petitions pending before the Delhi and Kerala High Courts to the Supreme Court. The Bench agreed to list the transfer petitions along with the main petition on January 6, 2023.

On January 6, 2023, a three-Judge Bench comprising

Chief Justice D.Y. Chandrachud with Justices P.S. Narasimha and J.B. Pardiwala transferred 9 pending petitions dealing with similar issues from the Delhi and Kerala High Courts to itself. On March 13, 2023, a three-Judge Bench led by CJI D.Y. Chandrachud referred the case to a 5-Judge Constitution Bench. This Bench began hearing the case on April 18, 2023.

On May 11, 2023, the five-Judge Bench reserved judgement after 10 days of hearings. On October 17, 2023, the five-Judge Bench pronounce its verdict on petitions seeking marriage equality for LGBTQIA+ persons. The Bench unanimously held that there was no fundamental right to marry and that the Court could not recognise LGBTQIA+ person's right to marry under the SMA.

Supriyo @ Supriya Chakraborty v. Union of India 2023 SCC OnLine SC 1348, decided on October 17, 2023

Abrogation of Article 370 is valid

The Supreme Court upheld the centre's decision to abrogate Article 370, which granted special status to the erstwhile state of Jammu and Kashmir. The Supreme Court also directed the Election Commission of India to hold Jammu and Kashmir assembly elections by September 30, 2024. The Hon'ble Chief Justice of India D.Y. Chandrachud, writing the judgment for himself and Justices Gavai and Surya Kant, said Article 370 of the Constitution was a temporary provision and the president has the power to revoke it. The Supreme Court was hearing petitions challenging a series of legislative and executive orders to scrap the special status of the erstwhile state of Jammu and Kashmir and split it into union territories, including Ladakh. Since then, the Jammu and Kashmir administration had restricted the movement of people, curbed internet connectivity and arrested local political leaders.

CJI Chandrachud reading out the judgment said every decision taken by the Centre on behalf of a state under proclamation can't be subject to a legal challenge and it will lead to the administration of the state to a standstill. The Supreme Court said it has held that Article 370 was a temporary provision. "The proclamation of Maharaja stated that the Constitution of India will supersede. With this, the para of Instrument of Accession ceases to exist....Article 370 was an interim arrangement due to war conditions in the State. Textual reading also indicates that Article 370 is a temporary provision," the court said.

The court also mentioned that the argument of petitioners that the Union Government cannot take

actions of irreversible consequences in the state during Presidential rule is not acceptable. It observed: "We have held that the state of Jammu and Kashmir did not retain an element of sovereignty when it joined the Union of India. We have arrived at this conclusion for the following reasons. First paragraph eight of the instrument of accession executed by Maharaja Hari Singh provided that nothing in the instrument would affect the continuance of the sovereignty of the Maharaja in and over the state," CJI Chandrachud said.

The Supreme Court said, "The declaration issued by the President exercises the power and clause 3 of Article 370 is a culmination of the process of integration. Thus, we do not find that the President's exercise of power under Clause 3 of Article 370 was mala fide. We hold the exercise of Presidential Power to be valid." The court also noted that Article 370 was meant for the Constitutional integration of Jammu and Kashmir with the Union and it was not for disintegration and the President can declare that Article 370 ceases to exist. "Concurrence of the State government was not required to apply all provisions of the Constitution using Article 370(1) (d). So, the President of India taking the concurrence of the Union government was not mala fide," the court noted.

On September 5, the top court had reserved its verdict after hearing the arguments for 16 days. The Centre had defended its decision to abrogate Article 370, saying there was no "constitutional fraud" in repealing the provision that accorded special status to the erstwhile state of Jammu and Kashmir. Senior advocate Kapil Sibal, appearing on behalf of the petitioners, had opened the arguments, saying Article 370 was no longer a "temporary provision" and had assumed permanence post the dissolution of the Constituent Assembly of Jammu and Kashmir.

Article 370 of the Constitution, 2023 SCC Online SC 1647, decided on December 11, 2023.

FACULTY NEWS

Professor (Dr.) Manoj Kumar Sinha, Director, ILI

- Invited to deliver a talk on "Competition Law and Human Rights" to the staff of the Competition Commission of India, New Delhi on December 29, 2023.
- Invited to deliver a lecture to the interns of the NHRC on "the International Human Rights Treaties Law" organised by the National Human Rights Commission of India on December 20, 2023.
- Invited to Chair a Session on " Courts and

Human Rights" in two day conference on International Human Rights, organised by the Indian Society of International Law during 9-10 December 2023 on December 9, 2023.

- Invited as the Guest of Honour in the Inaugural function of S.K. Puri Moot Court Competition, organised by Law Centre- II, Faculty of Law, University of Delhi on December 1, 2023.
- Invited as a Chief Guest to address in the Inaugural function of two day conference on Intellectual Property Rights, Knowledge Management, and Beyond, jointly organised by Rishi Hood University and ILI, 1-2 December 2023 on December 1, 2023.
- Invited as Distinguished Speaker to address participants on " Relationship between International Law and Municipal Law" Organised by Lloyd College, Greater Noida, on November 9, 2023.
- Invited to deliver special address during the Valedictory function of Symposium on "One Earth, One Family, One Future: Learning's from India's G20 Presidency" organised by Rajiv Gandhi School of Intellectual Property Law, IIT, Kharagpur, on November 5, 2023.
- Invited to deliver a talk on International Human Rights Law to the Participants of the Faculty Development Programme on "International Law" organised by Symbiosis Law School, Pune on October 27, 2023.
- Invited as a Guest of Honour in the inaugural function of 2 –Week online Refresher Course on Human Transformation Laws and Human Rights (Law and Social Sciences), organised by Malviya Mission Teacher Training Centre in collaboration with Institute of Law, Kurukshetra University, Kurukshetra, (16 – 28 October 2023) on October 16, 2023.
- Invited as a Guest of Honour in the inaugural function of 2nd Deo Mangal Memorial National Moot Court Competition, Organised by Narayan School of Law, Jamuhar, Rohtas on October 12, 2023.
- Invited as a Chief Guest in the inaugural function of 2nd International Conference on Emerging Trends in Law and Technology, ETLT-2023, organised by Guru Nanak Dev University Regional Campus, Jalandhar, Punjab on October 13, 2023.
- Invited to deliver a lecture to the interns of the NHRC on "the International Human Rights

Law” organised by the National Human Rights Commission of India, October 10, 2023.

- Invited as a Chief Guest in the inaugural function of 2nd International Conference on Human Rights and Gender Justice, organised by Knowledge Steez in collaboration with Sultan Idris Education University, Malaysia on October 8, 2023.
- Invited as a Chief Guest in the inaugural function of Two-Day National Seminar on Artificial Intelligence and Its Impact on Socio-Legal Aspects, organised by Durgapur Institute of Legal Studies in collaboration with Law Department Bankura University, Durgapur on October 7, 2023.
- Invited to deliver a lecture on ‘qualitative and quantitative methods of research’ to the Ph.D. scholars of the Department of Law, Savitri Bai Phule University, Pune on October 4, 2023.
- Invited to deliver a lecture on International Refugee Law to the students of Firodia Law College, Pune on October 4, 2023.

Professor (Dr.) Anurag Deep, Professor, ILI

- Chaired a session on the “Stakeholder Engagement on Administrative Tribunals in India” on October 21, 2023. It is a project of Prof (Dr.) Sarbjit Kaur, Professor of Law, University of Delhi funded by the Institute of Eminence, University of Delhi.
- Interacted in the Two Days Training Programme for Judicial Officers on November 4-5, 2023 on the topic “Law of Sedition and Human Rights Concern” and also conducted a small survey on the issue of bail in Sedition cases.
- Delivered lectures on the Indian Penal Code for Training of Administrative Officers on November 13, 2023 at Bihar Institute of Public Administration and Rural Development, Gaya).
- delivered two lectures on “Criminal Jurisprudence and Fundamental Concepts of Criminal Law” and “Legality of Sting Operations” respectively in the training programme jointly organised by Rajiv Gandhi National Cyber Law Centre, National Law Institute University, Bhopal and National Academy of Customs, Indirect Taxes and Narcotics (NACIN) Faridabad, Post Graduate Diploma in Cyber Laws and Cyber Forensics to the CBIC (Custom and Excise) Officers on November 21 and 25, 2023.
- Delivered a PhD coursework lecture on the topic

“Comparative Method of Legal Research” for the students of DNLU, Jabalpur on December 16, 2023.

- Participated in the Colloquium on “Shaping the Discourse and Scholarship in Criminology in celebration of 50 Years of the Indian Journal of Criminology” on December 23, 2023 wherein he was formally invited to comment on session 2.
- Published an article on “Membership Crimes in Counter Terror Legislations: A Criminological Inquiry”, in Indian Journal of Criminology, Special Edition, 2023 (On the Occasion of 50 Years of IJC), UGC CARE listed journal Pp-162-174.
- Published an article on “Enforcement of Human Rights through Duty Jurisprudence: A Perspective,” in Journal of the National Human Rights Commission, 2023 (vol. 22) Pp-211-232.
- Published an article on “Basic Structure Theory, Independence of Judiciary and the Threat Within,” in the book Perspectives on Indian Constitution and Development, Ed. Niten Chandra and Manoj K Sinha, (ILI-2023) Pp-133-142.

Prof (Dr.) Jyoti Dogra Sood, Professor, ILI

- Invited as a resource person in a Refresher Course on Human Transformation Laws and Human Rights on the theme “Human Rights vis a vis Juvenile Justice” organized by Institute of Law, Kurukshetra University on October 22, 2023.
- Invited for a special lecture on "Jurisprudence of Criminal Conspiracy and Joint Liability" organized by School of Law, Forensic Justice & Policy Studies, National Forensic Sciences University on October 26, 2023.
- Invited as a resource person in an Advanced Training Programme in Legislative Drafting on the theme: "Penal Act: Cr.PC and Evidence Act" organized jointly by Institute of Constitutional and Parliamentary Studies and PRIDE on October 30, 2023.
- Invited as a resource person in a Two Day Sensitization Programme for judicial officers on the theme: "Criminal Justice and Human Rights" organized by Indian Law Institute and NHRC on November 4, 2023.
- Invited as a resource person for panel discussion on Cr.PC to Bihar Officers organized by BIPARD, Gaya on November 28-29, 2023.
- Invited as a resource person in a NHRC organized Training of Trainers Course for

CAPFs and other investigating agencies on the theme: "Human Rights and Important Provisions of Cr PC, IPC and IEA" on December 12, 2023.

- Invited as a resource person in a Refresher Course in Political Science entitled Trends and Issues of Governance in India on the theme "Law, Gender and Governance" organized by Department of Political Science, University of Allahabad on December 15, 2023.
- Invited as a resource person in a Legal Methodology Workshop on the theme "Introduction to tools and techniques of research methodology and reporting of research findings" organized by DME School of Law on December 20, 2023.

Dr. Arya A Kumar, Asst Professor (SS)

- Published an article titled "Anti-terrorism laws in India: An Analysis" in YMER Vol.22 Issue 1, 2023 ISSN 0044-0477.
- Published an article titled "Contemporary Relevance of Nuremburg Tribunals: Issues and Challenges" in YMER Vol.22 Issue 8, 2023 ISSN 0044-0477.
- Published an article titled "Constitutional Perspectives of Gender Disparities: An Analysis" in the book Perspectives on Indian Constitution and Development, eds. Niten Chandra and Manoj Kumar Sinha, (ILI-2023).
- Completed in six-days Faculty Development Programme on "Innovative Teaching Learning Pedagogy in Higher Education" organized by Institute of Law and Legal Studies, SAGE University, Indore held From October, 3 to 8, 2023.

CASE COMMENTS

Balram Singh v. Union of India

(2023 SCC online SC 1386)

Decided on October 20, 2023

The petitioner approached the court under Article 32 of the Constitution, seeking direction to the Government of India for the implementation of the Employment of Manual Scavengers and Construction of Dry Latrines (Prohibition) Act, 1993 (the 1993 Act) and the Prohibition of Employment as Manual Scavengers and Their Rehabilitation Act, 2013 (the 2013 Act). In 1993, the Government of India established a Special Commission for Safai Karamchhari as per the provisions of the National Commission for Safai Karamchhari Act. Later, the Act of 2013 was passed by the Parliament, expanding the

previous Act's jurisdiction and making it clear that pits, ditches, and unsanitary latrines were included in its purview. The 2013 Act not only criminalizes manual scavenging but also provides for rehabilitation mechanisms to ensure that manual scavengers are emancipated. Regretfully, manual scavenging continues to be practised in several parts of the nation. The petitioners said that manual scavenging procedures blatantly show that the terms of both Acts have not been put into practise. In order to ensure that the Acts are implemented effectively and that persons who are currently involved in these practises have access to sufficient rehabilitation and employment possibilities, the petitioner asked the court to step in and intervene.

In the case of *Safai Karamchhari Andolan v. Union of India* (2014) 11 SCC 224, the court had the chance to discuss this issue. In this instance, the court had given the government a number of directives for the efficient execution of the Act. In spite of the court's specific directives to the administration, not much has changed on the ground. This makes it quite evident that the government must develop a comprehensive plan to put an end to the practise of manual scavenging and concurrently implement a robust programme for the rehabilitation of individuals who participated in it. The petitioner requested that the court give the government specific direction so that the Acts may be implemented efficiently. It is pertinent here to highlight that the court, on February 22, 2023, issued several directions for effective implementation of both Acts. Some important directions include the employment of Safai Karamchharis in Railways and Cantonments Boards, mechanising sewage cleaning, exploring the possibility of internet-based solutions for real-time tracking of sewage deaths, and taking action by concerned authorities towards the payment of compensation and rehabilitation of families. The amicus curiae in this case has correctly noted that both Acts were passed to advance the recognition of each person's right to dignity. The Act's identification, ban, prosecution, and rehabilitation provisions for manual scavengers further emphasised its emancipatory aspect. It was also argued that there is a legislative vacuum as far as rehabilitation for hazardous workers is concerned. The court, in its judgment in *Safai Karamchhari Andolan*, paved the way for rehabilitation of the victims and granted compensation of Rs. 10 lakhs to the family of a person who died in a sewer. In *People's Union for Democratic Rights v. Union of India* (1983), 1 SCR 456 the court ruled that, in accordance with Article 23 of the Constitution, hazardous cleaning is equivalent

to forced work. The counsel for the petitioner argued that the court should give purposive interpretation to explanation (b) of section 2(1)(g) as to give wide interpretation to the definition of manual scavenger. This interpretation would include anyone engaged in manual cleaning, whether in sewers or septic tanks, regardless of whether they use protective equipment since the cleaning process is manual. However, since the matter did not pertain to a constitutional challenge to the statute, the differentiation between manual scavenging and hazardous cleaning was not struck down by the court as violative of article 14.

In response to an unstarred question in the Rajya Sabha, the Minister of Social Justice and Empowerment stated that surveys carried out in compliance with the Act of 2013 had identified 58,098 manual scavengers in total. On December 8, 2021, the government also stated in the Parliament that no one was known to be manually scavenging in any part of the nation at the time, and no deaths were attributed to the practise. But the Minister said in Parliament that 321 people had died in incidents during the previous five years while performing dangerous septic tank and sewer cleaning. The court stressed that the survey should have been performed in accordance with the methodology specified in the Act and Rules and not otherwise, expressing dissatisfaction with the approach used by the government to carry out the survey as required by the 2013 Act. The court observed that the State and Central Governments had not even established the institutions necessary to carry out the Act, which was the primary cause of its non-implementation. The court looked into the mandate of the Act prescribed for all the institutions including the National Commission for Safai Karamcharis, State Commissions for Safai Karamcharis, the Central and State Monitoring Committees, Vigilance Committee, as well as the survey committee and found the state of affairs unsatisfactory.

The court also stated that the liberative nature of the statute, coupled with Articles 17 and 23 of the Constitution, suggests entitlements to be given to the families of those who died while working in sewers or septic tanks. The dignity of the individual, guaranteed by law under Article 21, must be ensured through rehabilitative processes. The court also pointed out that mere economic measures would not suffice for the upliftment of the family and pointed out that rehabilitation would require elements of long-term and short-term socio-economic measures. The court, after hearing the arguments of both sides and analysing both Acts gave fourteen detailed directions

to the government for ensuring effective implementation of both Acts and ending the practice of manual scavenging. These included: Issuance of directions to all statutory bodies for ensuring complete eradication of manual scavenging in phased manner, full rehabilitation measures for sewage workers, increased compensation in cases of sewer deaths, ensuring compliance by contractor agencies with the safety standards laid down by the 2013 Act, and their blacklisting in case of serious violations and mishaps, involvement of National Legal Service Authority in the policy framing and for model framing for compensatory schemes and other such directions. The court asserted that both the Union and the State governments are duty-bound to ensure the complete eradication of manual scavenging.

Though the court in its earlier decisions highlighted that the government should take all appropriate steps to end the practice of manual scavenging and ensure effective implementation of both Acts, but unfortunately, implementation of the Acts remains a big challenge because the executive has failed to take timely and appropriate steps to eradicate manual scavenging. Because of the apathy of the government, the petitioner approached the court for the implementation of a number of acts related to downtrodden sections of society. The court, while deciding this case, reiterated its commitment to protecting the rights of individuals and outlined important guidelines for ensuring effective implementation of the Acts. The court, in its part, took a serious note of the lapses of the government and located the gaps and ad hoc approaches that were adopted in the implementation of the Acts. The commitment of the court to ensure the protection of rights and dignity of the individual is once again strengthened by this decision. The interpretation of the constitutional provisions of the prohibition of untouchability; the outlawing of forced or involuntary labour and the freedom against exploitation - as guiding 'beacons of equality and fraternity' by the court, is reflective of the resolve of the judiciary to weed out hierarchies of caste and status from Indian society. There is hope that the executive will take this decision seriously, remove the ambiguities that existed in the implementation of the Acts in the past, and play an important role in protecting the fundamental rights of individuals.

Manoj Kumar Sinha

Selvaraj v. Revathi

(2023 SCC Online SC 1644)

Decided on December 6, 2023

In an appeal by a father challenging the order passed by High Court of Madras upholding the previous orders of dismissal wherein, the father sought revocation of an order which required handing over of custody of the child to his mother, the court after due consideration of the situation allowed continuation of the child's custody with his father but also allowed the mother to call the child and to have visitation rights.

The instant matter relates to a dispute pertaining to the custody of a child born to the couple who got married and Matrimonial dispute arose between the husband and wife which led the husband to file a divorce petition in 2014, while the wife filed a complaint to claim maintenance under Section 12 of the Protection of Women from Domestic Violence Act, 2005. In addition, it was prayed that the child's interim custody be granted to the wife, which was allowed and the husband was directed to hand over custody of the child to his wife. The husband applied for revocation of the said order handing over the child's custody to the mother, which was dismissed. Such dismissal was challenged before the district judge, which again got dismissed, and the revision petition before the high court also upheld the dismissal orders. Therefore, the child's father approached the court through the instant appeal.

The court foremost pointed out that while in fact there was no stay on the order directing the husband to hand over the child's custody to the mother, the same was not complied with. And that the proceedings for child custody were initiated in May 2014, and the husband was directed to hand over the child's custody to his wife when the child was three years and three months old, but all these years, the child's custody remained with the husband, *i.e.*, the child's father. Perusing the record regarding dispute, the court noted that for exploring the possibility of settlement of dispute, the matter was referred to the High Court's Mediation Centre and the Mediator's report reflected that the wife was not ready to mediate, and that the child then aged 9 years and 9 months was unwilling to go with his mother.

During the Bench's interaction with the child in the presence of both the parents in the court, the child

flatly refused not only to go with his mother but even talk to her. The court highlighted the fact that from the very beginning, the child was living with his father. It went on to express that "In any matrimonial dispute, it is always the child/children who bear the brunt. For proper growth of a child, love and affection of both the parents is necessary. In any matter of custody of child, his welfare is paramount consideration."

Keeping regard with the said aspect and the attitude of the child, the court further directed senior counsel to interact with the child and parents at different times, who also counselled them. The counsel's report revealed that several attempts were made to break the ice. Initially, the child was averse even to see his mother, and after Ms. Mohana apprised him regarding the importance of a mother, he reluctantly agreed to sit with his mother, but with minimal interaction. The court noted that he was stated to be an intelligent child. The child initially agreed to meet his mother twice a year, but later consented for a monthly meeting at a public place and allowed phone calls by his mother.

The court was of the view that "It is always good for the upbringing of the child that he has love and affection of both the parents", but in the instant case, the child remained deprived of the love and affection of his mother from the initial time. Though the child may continue to live with his father as he was residing since birth, he may also get his mother's affection.

It is this significant judgement it is to be appreciated that observation of the apex court that the love and affection of both parents necessary for child's growth; welfare of child is paramount consideration in child custody matters. The court also emphasized that it is beneficial for a child's upbringing to have the love and affection of both parents. However, in this case, the child has been deprived of the mother's love and affection from the beginning. The court also noted that there is hope that the child may now receive the affection of his mother, even though he continues to reside with his father, as he has been doing since birth.

Arya A. Kumar

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