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Editorial

Global warming indicates an increase in the earth's temperature, causing changes in climate that lead to a wide range of adverse impacts on plants, wildlife, rising sea levels and on human beings. There is broad consensus that global warming is caused due to increase in concentrations of greenhouse gases in the atmosphere as a result of human activity. The harmful impacts of climate change are disproportionately affecting those who are already in a disadvantageous position owing to geography, poverty, gender, age, disability and ethnic backgrounds. These phenomena directly and indirectly threaten the full and effective enjoyment of a range of human rights by people throughout the world, including the rights to life, food, health, housing, water and sanitation, and development. The State has an obligation under international human rights law to ensure that environmental threats do not adversely affect the enjoyment of individual human rights. Although, the core international human rights treaties do not recognize an independent right to a clean environment, it is accepted that inadequate environmental conditions can undermine the effective enjoyment of human rights. Two key events at the international level sparked the debate at the beginning of the 21st century to find out whether there is any relationship between climate change and human rights. The first incident was the decision of Inuit People to file a petition on 7 December 2005 to the Inter American Commission on Human Rights seeking relief from violations resulting from global warming caused by acts and omissions of the United States. The Commission declined to hear the case on the ground that the alleged violations in the petition failed to establish a violation of the rights mentioned in the American Declaration. At the time, the request seemed to be a little romantic; however, the Inuit petition was the first harbinger of a sea-change in how the international community thinks about climate change. This development led to adoption of the Male Declaration in the year 2007, by a group of small island states. It recognized that "climate change has clear and immediate implications for the full enjoyment of human rights." These small island states convinced the United Nations Human Rights Council to take necessary step to link impacts of climate change to human rights. The State Parties to the UN Framework Convention on Climate Change agreed in Cancun that the "Parties should, in all climate change related actions, fully respect human rights." Accurate and transparent measurements of greenhouse gas emissions, climate change and its impacts, including human rights impacts, will be essential for successful rights-based climate change mitigation and adaptation efforts. Climate change will have a profound effect on the enjoyment of human rights for individuals and communities across the globe. States must effectively address climate change in order to fulfil their commitment to respect, protect and safeguard human rights for all.

Manoj Kumar Sinha

Editorial Committee

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Manoj Kumar Sinha

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ACTIVITIES AT THE INSTITUTE

INTERNATIONAL HUMAN RIGHTS COMMISSION (NHRC) TRAINING PROGRAMMES

1. One Day Training Programme for Officials working in Juvenile Homes, Old Age Homes & Health Sector on “Human Rights: Issues and Challenges” (August 10, 2019)

The Indian Law Institute in collaboration with the National Human Rights Commission organised a One Day Training Programme for officials working in Juvenile Homes, Old Age Homes & Health Sector on “Human Rights: Issues and Challenges” on August 10, 2019 at the Plenary Hall of the Institute. Shri Ramesh Negi, Chairperson, DCPCR inaugurated the training programme and presided over the function. While delivering the inaugural address he emphasised on the role of NHRC in protecting human rights violations of the vulnerable groups. Welcome address was delivered by Dr. Jyoti Dogra Sood, Associate Professor, ILI. Dr. Sanjay Dubey, Director (Admn. & Policy Research, NHRC) delivered the Special address and Shri Shreenibas Chandra Prusty, Registrar, ILI proposed the vote of thanks.



Shri Ramesh Negi inaugurating the training programme by lighting the lamp

The programme consisted of four technical sessions on different themes on Human Rights. Dr. Sanjay Dubey, Director (Admn. & Policy Research, NHRC)

deliberated on 'Role of NHRC in protecting Human Rights violations of vulnerable groups' in the first technical session of the training programme. Dr. Jyoti Dogra Sood, Associate Professor, ILI spoke on 'Rights of the Juveniles: Issues and Challenges' and Ms. Razia Ismail, India Alliance for Child Rights spoke on 'Securing the Rights of Children in need of care and protection' in the second and third technical sessions respectively. Ms. Anupama Datta, Director, Help Age India, New Delhi addressed the audience in the last session of the programme on 'Role of functionaries & health officials in protecting Human Rights of old age persons'. Certificate of participation were distributed to forty eight participants of the programme.



View from the technical sessions of the training programme

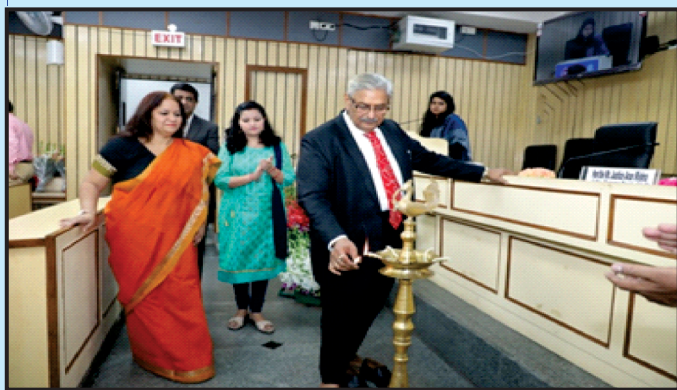


Participants of the training programme with Director and Registrar, ILI

1. Two Days Training Programme for First Class Judicial Magistrates on “Human Rights: Issues and Challenges”(September 21-22, 2019)

The Indian Law Institute in collaboration with the

National Human Rights Commission organised Two Days Training Programme for First Class Judicial Magistrates on “Human Rights: Issues and Challenges” on September 21-22, 2019 at the Plenary Hall of the Institute. Hon'ble Mr. Justice Arun Mishra Judge, Supreme Court of India inaugurated the training programme and presided over the function. While delivering the inaugural address His Lordship emphasised on the important issues and challenges of the Human Rights.



Hon'ble Mr. Justice Arun Mishra inaugurating the training programme

Professor (Dr.) Manoj Kumar Sinha, Director, ILI delivered the welcome address and emphasised the role of judicial officers in the realisation of Human Rights. Special address was delivered by the guest of Honour, Smt. Jyotika Kalra, Member, National Human Rights Commission. Shri Shreenibas Chandra Prusty, Registrar, ILI proposed the vote of thanks.



Professor (Dr.) Manoj Kumar Sinha delivering the welcome address

First day of the training programme consisted of four technical sessions on various themes of Human Rights. Dr. Sanjay Dubey, Director (Admn. & Policy Research, NHRC) deliberated on 'Role of NHRC in protecting human rights violations of vulnerable groups' and Ms. Geeta Luthra, Advocate, Supreme Court of India spoke on 'Exercising discretion in bail cases and Human Rights of victim and accused' in the first and second sessions of the training programme. Mr. Prashant Padmanabhan, Advocate-on-Record, Supreme Court of India deliberated on 'appreciation of evidence' and Dr. Anurag Deep, Associate Professor, ILI spoke on 'Criminal Justice & Human Rights with special reference to burden and standard of proof' in the third and fourth sessions of the training programme.

Dr. Jyoti Dogra Sood, Associate Professor, Indian Law Institute, New Delhi delivered a lecture on 'Protection of Human Rights of the juveniles *vis-a-vis* the Juvenile Justice (Care and Protection of Children) Act, 2015 on the second day of the training programme. Mr. Sunil Gupta, Former Law Officer, Tihar Jail deliberated on 'Indian Judiciary and Prison Reforms' and Professor (Dr.) G.S. Bajpai, Professor and Registrar, National Law University Delhi addressed the participants on 'Right of Victims' in the sixth and seventh sessions of the training programme. Mr. Amod K. Kanth, Former DGP and Chairperson, DCPCR, General Secretary, Prayas Juvenile Aid Centre Society, Delhi spoke on 'Application of different laws and enforcement agencies' in last session of the programme.

Valedictory address was delivered by Mr. P.K. Malhotra, Former Secretary, Department of Legal Affairs, Ministry of Law & Justice. Mr. Vikramjit Banerjee, Additional Solicitor General, Supreme Court of India also addressed the participants of the training programme. Welcome address was delivered by Professor (Dr.) Manoj Kumar Sinha, Director, ILI and Shri Shreenibas Chandra Prusty, Registrar, ILI proposed the vote of thanks. Thirty six judicial officers participated in the training programme and certificates of participation were distributed to them.



Participants of the training programme with Director and Registrar, ILI

Intensive Course on 'Business and Human Rights' (July 8-12, 2019)

The Indian Law Institute, in collaboration with Human Rights Business Academy (HURBA) and Oxfam India conducted a week-long intensive course on "Business and Human Rights" from July 8-12, 2019 at the Institute. Eminent persons from all around the globe renowned for their work in Business and Human Rights (BHR) were the resource persons of the course. The course intended to expose law/business/management students, lawyers, civil society representatives, policy makers and corporate executives to international and comparative perspectives in the field of business and human rights with the objective of developing an informed understanding of the issues and challenges involved.

The course was inaugurated by Professor (Dr.) Manoj Kumar Sinha, Director, Indian Law Institute, Dr. Surya Deva, Associate Professor, the School of Law of City University of Hong Kong/ Member of the UN Working Group on Business and Human Rights, Dr. Tara Van Ho, Director, Human Rights Clinic, University of Essex, Mr. Namit Aggarwal and Mr. Triranjana Radhakrishnan from Oxfam India.

On the first day, Dr. Surya Deva deliberated on 'basics of BHR, understanding business and human rights' and in the post lunch session, Mr. Namit Agarwal, lead specialist in the private sector engagement at Oxfam India spoke about 'BHR and sustainable development goals'. In the final session Professor (Dr.) Manoj Kumar Sinha, Director, Indian Law

Institute deliberated on BHR/ CSR developments in India.

During the course, Dr. Tara Van Ho spoke on the 'UN Guiding Principles on Business and Human Rights' which was followed by an interactive session by Dr. Surya Deva on one of the most riveting agendas, gender dimension of BHR. The other speakers were Lara Jesani, Independent Law Practitioner at Bombay High Court, Justine Nolan, faculty of law at UNSW Sydney, Professor Leila Choukroune, Professor of International law and director of the University of Portsmouth, Dr. Usha Ramanathan and Mr. Ranjit Singh, Joint Secretary, NHRC.



Inaugural session of the conference on 'Business and Human Rights'

After the intensive course, there was the conference on "Promoting responsible business conduct: Analyzing regulatory tools employed by states" witnessed by several legal luminaries.



Dr. Surya Deva addressing the participants

Dr. Jyoti Dogra Sood, Associate Professor, the Indian Law Institute and Dr. Surya Deva, Associate Professor, University of Hong Kong inaugurated the session with their welcome address. Speakers were Ranjit Singh, Joint secretary NHRC, Amitabh Behar, CEO Oxfam India, Shankar Venkateswaran, operating partner and head ESG EQ investment advisors Pvt. Ltd., Friederike Tschampa, head of political affairs with delegations of European Union to India and Bhutan, Viraf Mehta, adjunct faculty, Indian Institute of Corporate Affairs and Leila Choukroune, professor of International Law University of Portsmouth. The certificates of participation were distributed to all the participants.



Participants of the certificate course on Business and Human Rights

The course provided an exhaustive introduction to the nature and extent of the human rights responsibilities of business enterprises, how companies could discharge their human rights responsibilities and resolve dilemmas in their day-to-day operations, and various remedial tools available to the victims to seek access to justice in cases involving human rights abuses by business. The seminar-style interactive course was taught, on a *pro bono* basis, by a team of leading scholars and practitioners.

Observation visit of the officers of the Attorney General of Nepal (August 25-28, 2019)

The Indian Law Institute organised a programme for the officials from office of the Attorney General of

Nepal to India from August, 25-28, 2019 for upgrading their knowledge on Attorney System in Indian Legal System. Twelve officials from the office of the Attorney visited the Institute. The visit was designed to cover wider aspects relating to:

- Relationship between the Attorney General at the union level and the Advocate General at the state level in India;
- To observe the functioning of the Attorney General and Advocates General including the handling of lawsuits concerning the government;
- To observe the case hearing mechanism in trial courts and High Courts and to study conviction and sentencing under the criminal justice system in India.

The Programme was comprised of talks and interaction with senior advocates and Constitutional experts to provide an overview of the Indian Legal System. The speakers included Professor (Dr.) G. Mohan Gopal, Former Director, National Judicial Academy, Bhopal & NLSIU, Bangalore, Shri Rakesh Munjal, Senior Advocate, Supreme Court of India, Dr. Rajeev Mani, Joint Secretary & Legal Adviser, Ministry of Law & Justice and Mr. Ved Prakash Sharma, Chairman, Bar Council of India.



Prof. (Dr.) G. Mohan Gopal addressing the participants



Prof. (Dr.) Manoj Kumar Sinha addressing the participants



Group photograph of the Delegation with Director, ILI

State Consultation-Strengthening Legal and Institutional Mechanism to end Child Marriages in Delhi (September 19, 2019)

The Indian Law Institute and Delhi Commission for Protection of Child Rights (DCPCR) along with the Independent Thought(i-Thought) organised a one day State Consultation on “Strengthening Legal and Institutional Mechanism to end Child Marriages in Delhi” on September 19, 2019 at the Institute.

The consultation programme was inaugurated by Shri. Ramesh Negi, Chairperson, DCPCR. Professor (Dr.) Manoj Kumar Sinha, Director, ILI addressed the audience and Shri Shreenibas Chandra Prusty, Registrar, ILI proposed the vote of thanks. The inaugural session of the programme was based on 'issues around law on child marriage and its implementation' and the speakers included Shri Chander Jit Singh, Secretary, DSLSA, Dr. Nisha Aggarwal, Deputy Director, Women and Child

Development, Ms. Rita Singh, Member, DCPCR, Dr. Jyoti Dogra Sood, Associate Professor, ILI and Advocate Vikram Srivastava, Founder, Independent Thought.



Professor (Dr.) Manoj Kumar Sinha delivering the welcome address



Dr. Jyoti D Sood, Associate Professor, ILI addressing the audience

The consultation programme provided a platform for experts to discuss the various issues on strengthening legal and institutional mechanism to end Child Marriages in Delhi. Dr. Jyoti Dogra Sood, Associate Professor, Indian Law Institute coordinated the Consultation programme.



Participants of the consultation programme on child rights

National Seminar on 'Exploring Disability Rights Paradigm' (September 28, 2019)

The Indian Law Institute organized a National Seminar on 'Exploring Disability Rights Paradigm' on September 28, 2019 in the Plenary Hall of the Indian Law Institute.



Hon'ble (Ms.) Justice Indira Banerjee lighting the lamp at the inaugural session in the presence of Prof (Dr.) Manoj Kumar Sinha, Prof.(Dr.) Amita Dhanda and Mr. Muralidharan



Dignitaries on the dias at the Inaugural session of the National Seminar

The seminar was inaugurated by Hon'ble (Ms.) Justice Indira Banerjee, Judge, Supreme Court of India. Professor (Dr.) Manoj Kumar Sinha, Director, ILI welcomed the participants. Professor (Dr.) Amita Dhanda, Professor, NALSAR and Dr. Jyoti Dogra Sood, Associate Professor, ILI addressed the gathering in the inaugural session.



Hon'ble (Ms.) Justice Indira Banerjee addressing the participants



Dr. Jyoti Dogra Sood delivering the welcome address

The first technical session on 'Multiple Axes of Vulnerability, Inequality and Disability' was chaired by Professor (Dr.) Manoj Kumar Sinha, Director, Indian Law Institute and had a very engaging discussion on different facets of disability by the panel that included Professor (Dr.) Amita Dhanda, Professor, NALSAR; Professor (Dr.) Anita Ghai, Professor, Ambedkar University and Mr.

Muralidharan Vishwanath, General Secretary of National Platform for the Rights of the Disabled.

The second session titled 'Access to Rights of Disabled in India' was chaired by Professor (Dr.) Amita Dhanda and the panel included Professor (Dr.) Nilika Mehrotra, Professor, JNU; Dr. Nimesh G. Desai, Director, IHBAS and Mr. Rajive Raturi, heads Law and Policy at National Centre for Promotion of Employment for Disabled Persons.

Mr. Suresh Chandra, Information Commissioner, CIC delivered the valedictory address and Shri. Shreenibas Chandra Prusty, Registrar, ILI presented the vote of thanks. The seminar was coordinated by Dr. Jyoti Dogra Sood, Associate Professor, Indian Law Institute.

Swachhata Campus Ranking- 2019

As part of the Swachhata drive of the Government, the Swachhata Rankings of Higher Educational Institutions was conducted by the Ministry of Human Resource Development. The University Grants Commission was entrusted with the responsibility of physical verification of Higher Educational Institutions and as part of this programme, the UGC Inspection team visited the Institute on September 2, 2019 examined and verified the infrastructural facilities and the hygiene parameters of the Institute.



UGC Inspection team inspecting the various departments of ILI

The UGC Inspection team consists of Professor Satyaketu, Department of Hindi, Dr. Ambedkar University, Kashmere Gate, Delhi, Professor K.K.Saxena and Dr. Kishore Singh, Assistant Head Operation (Medical), Institute of Liver and Biliary Sciences, Vasant Kunj, Delhi. The team inspected the overall cleanliness and the general upkeep of the ILI campus.



UGC Inspection team interacting with the ILI students

As part of the Swachhata Ranking programme, a committee consisting Dr. Ajay Kumar Verma, Deputy Registrar, ILI, Mr. Deepak Parashar, LLM Student, Mr. Nitin Bansal, Library Assistant, Mr. Pradeep Sharma, UDC, Mr. Gopal, Mr. Tilak Ram, MTS, ILI visited the village Sirsa in District, Greater Noida on September 16, 2019. They met the local members of the village *i.e.* Choudhary Prakash Bhati in respect of cleanliness, literacy and infrastructure and health facilities, drinking water, roads, gender issues,

environmental issues etc. Shri Pradhan Mr. Choudhary Prakash welcomed the team in his residence where fruitful discussions was held.



The committee along with the villagers

COMMITTEE MEETINGS

BOS & IQAC Committee

BOS (Board of Studies) and IQAC (Internal Quality Assurance Cell) Committee meetings were held on August 9, 2019 under the chairmanship of Professor (Dr.) Manoj Kumar Sinha, Director, ILI.

Academic Council Committee

Academic Council Committee meeting was held on August 26, 2019 under the chairmanship of Hon'ble Mr. Justice Sharad Arvind Bobde, Judge, Supreme Court of India.

Membership Committee

Membership Committee meeting was held on September 14, 2019 under the chairmanship of Hon'ble Mr. Justice A.M. Khanwilkar Judge, Supreme Court of India.

EXAMINATIONS

Common Admission Test-2019 for LL.M. 1 year programme

The *viva-voce* for admission to LL.M. 1 year programme (2019-20) was held on July 3, 4 and 5, 2019. Out of 164 candidates, total 115 numbers of candidates were presented. The result as per merit was declared on July 9, 2019.

LL.M. 1 year (2nd Semester) Examinations

The presentation/*viva-voce* for LL.M. Semester End Examinations (2nd Sem) was held during July 30-31, 2019 and the result of the same was declared on August 8, 2019.

Ph.D. Entrance-2019

The interview/ presentation for Ph.D. admission-2019 for exempted & non-exempted category candidates were held on September 2-3, 2019. Total 68 candidates of exempted category & 9 candidates (as per merit) of non-exempted category were called for the interview. The result for Ph.D. Admission-2019 was declared on September 25, 2019.

PG Diploma Supplementary Examination-2019

The supplementary examinations for post graduate diploma courses were held during September 27, 2019 to October 7, 2019.

LL.M. 1 year supplementary examinations

The LL.M. Supplementary Examinations was held during October 7-14, 2019.

Ph.D. Course work examination-2019

The course work examination for Ph.D.-2019 for the remaining student was held on September 27, 2019.

Admission for the academic session: 2019 – 20

As per the schedule, the admission process for LL.M. (One Year) and Post Graduate Diploma programmes started on May 1, 2019. The Common Admission Test (CAT) for admission to the LL.M. Programme was conducted June 8, 2019 at Indian Law Institute and the result was declared on June 28, 2019. The details regarding total number of admission made for academic year: 2019-20 are as under:

- LL.M. (One Year): 36 students
- Post Graduate Diploma courses: 267 Students
- Total number of students admitted: 303 Students

The classes for LL.M. (1Yr.) and post graduate diploma courses were commenced from August 5, 2019.

LIBRARY

- The Indian Law Institute periodicals *ILI Law Review* and *Annual Survey of Indian Law* are listed in the UGC-CARE list.
- Library Added 48 books on the subjects of 'Democracy, Intellectual Property Rights, Human Rights, Criminal Law, Animal Law, Civil Law, Constitution Law and Corporate Law'.
- Library Orientation was provided to the LL.M students (2019-2020 batch) on August 5, 2019. A presentation was given by the Assistant Librarian to the students about the library, resources and services followed by the library tour. The training/interactive sessions were also organized for various subscribed e-Resources such as Manupatra, Westlaw, Lexis-Nexis and SCC online.

STAFF MATTERS

Gunjan Jain, Assistant Librarian, ILI represented the Institute in a National Workshop on “Academic Integrity Awareness” by University Grants Commission (Ministry of HRD), New Delhi at Jawaharlal Nehru University on August 22, 2019; and in a One day "Northern Region Training Programme on Plagiarism Detection Software, PDS (URKUND) under the aegis of MHRD" jointly organised by MHRD, Govt. of India and INFLIBNET Gandhinagar on August 19, 2019. She has also presented a paper titled " MOOCs and Libraries" in the "International Conference on Knowledge Organisation in Academic Library (i-KOAL 2019)" held on September 12-13, 2019 at Sardar Patel University, Vallabh Vidyanagar, Anand (Gujarat), India.

Bhoopendra Singh, Computer System Administrator, ILI participated in a “Regional Orientation Session on IIC 2.0 and ARIIA 2020” organized by MHRD's Innovation Cell held at Amity Institute of Technology, Pune on July 26, 2019. He also participated in a One day “Northern Region Training Programme on Plagiarism Detection Software, PDS (URKUND) under the aegis of MHRD” jointly organised by MHRD ,Govt of India and INFLIBNET Gandhinagar on August 19, 2019.

Sonam Singh, Library Superintendent, ILI presented a paper titled “Scaling Bots in Libraries: Trending Aptness of Artificial Intelligence in Information System” in an International Conference on Digital Transformation (ICDT) 2019 held at Rajiv Gandhi National University of Law, Patiala during September 6-8, 2019. She was also awarded “Emerging Law Library Professional Award -2019” instituted by the association of Indian Law Libraries in the said conference.

Usha Chauhan and Sanjeev Kumar, Library Assistants, ILI participated and presented papers in

the International Conference on I-KOAL 2019 from Library Professional Association (LPA) at M.P. Patel Auditorium, Sardar Patel University, Vallabh Vidyanagar, Anand (Gujarat) on September 12-13, 2019.

E - LEARNING COURSES

Online Certificate Courses on Cyber Law & Intellectual Property Rights Law

E Learning courses of three months duration on “Cyber Law” (33rd batch) and “Intellectual Property Rights and IT in the Internet Age” (44th batch) was completed on August 21, 2019. 96 students were enrolled for the 34th batch of online certificate course in Cyber Law and 53 students were enrolled for the 45th batch of online certificate course in IPR.

VISITS TO THE INSTITUTE

- Students of George School of Law, Kolkata, visited the Institute on July 18, 2019.
- Civil Judges (Jr. Division) 2016 batch Uttarakhand visited the institute on August 7, 2019.
- Students of Modern College, Mohan Nagar, Ghaziabad visited the institute on September 25, 2019.
- Students of Mody University of Science and Technology, Rajasthan visited the institute on September 25, 2019.
- 47 Foreign Parliamentary Officials from 20 countries along with officers from Bureau of Parliamentary Studies and Training, Lok Sabha Secretariat visited the Indian Law Institute on September 30, 2019.

FORTHCOMING EVENTS

- Indian Law Institute in collaboration of National Trust (Ministry of Social Justice & Empowerment Govt. of India) will organise a National Seminar on “Legal Capacity Building/ Capacity Building of persons with Intellectual and Developmental Disabilities (PwIDDs)” on October 23, 2019 at the ILI.
- Indian Law Institute in collaboration with Menon Institute of Legal Advocacy & Training (MILAT), Commonwealth Legal Education Association (CLEA) and Lloyd Law College, Greater Noida will organise a Workshop on “Teaching Techniques and Research’ for young law teachers and research scholars” from November 6-12, 2019 at ILI and Lloyd Law College.
- Indian Law Institute in collaboration with Cyber laws Net will organise an International Conference on “Cyber Law, Cyber Crime & Cyber Security” on November 20-22, 2019.
- Indian Law Institute in collaboration with NHRC will organise Two Days Training Programme for Police Personnel on “Police and Human Rights: Issues and Challenges” on November 23-24, 2019 at the ILI.
- Indian Law Institute in collaboration with MAADHYAM (Council for Conflict Resolution) & SAARC LAW (India Chapter) will conduct an Integrated Certificate Course in Mediation on November 22-24, 2019 (Phase -I) & December 06-08, 2019 at the ILI.

FACULTY NEWS

Manoj Kumar Sinha, Director, ILI was invited as a chief guest to inaugurate the training programme of Judicial and Police officers organised by LNIN

National Institute of Criminology and Forensic Sciences, New Delhi on July 15, 2019.

Invited as a Chief Guest to deliver valedictory address to the participants of Faculty Development Programme, organised by Sharda University on July 20, 2019.

Invited as a Guest of Honour to address in the inaugural function of new academic session of the Department of Law, Karnavati University, Ahmadabad on July 29, 2019.

Invited as a Guest of Honour in the inaugural function of 3rd World Conference on Human Rights and IPR organised by Knowledge steez on August 4, 2019.

Invited as a Guest of Honour to deliver a talk on 'Abrogation of Article 370: Issues and Challenges' organised by Nawada Vidhi Mahavidyalaya, Nawada on September 7, 2019.

Invited as a Guest of Honour in the valedictory function of 2nd Moot Court Competition organised by the Noida International University, Greater Noida on September 13, 2019.

Invited as the Guest of Honour to deliver a talk on "Water Wisdom: Issues and Challenges" organised by Rule of Law Society, New Delhi on September 14, 2019.

Anurag Deep, Associate Professor, ILI delivered two lectures on the topics 'Law of Sedition in India and Free Speech' and 'Law of Sedition and Comparative Common Law Jurisdiction' on July 16, 2019 and July 22, 2019 at the Centre for Professional Development in Higher Education (CPDHE), UGC-HRDC, University of Delhi. He also delivered a lecture on 'Criminal Justice & Human Rights with special reference to burden and standard of proof' in the Two Days Training Programme jointly organized by ILI and NHRC for First Class Judicial Magistrates on "Human Rights: Issues and Challenges" on September 22, 2019.

Jyoti Dogra Sood, Associate Professor, ILI, delivered a lecture on 'Overview of the functioning of

NDPS Act, 1985 in Two day Seminar on 'Narcotic Drugs and Psychotropic Substances Act, 1985' in the Bihar Judicial Academy, Patna on September 7, 2019.

She also delivered a lecture on 'Rights of the Juveniles: Issues and Challenges' in the One Day Training Programme for officials working in Juvenile Homes, Old Age Homes & Health Sector on "Human Rights: Issues and Challenges" jointly organized by ILI and NHRC on August 10, 2019. She has also delivered a lecture on 'Protection of Human Rights of the juveniles *vis-a-vis* the Juvenile Justice (Care and Protection of Children) Act, 2015 in the Two Days Training Programme jointly organized by ILI and NHRC for First Class Judicial Magistrates on "Human Rights: Issues and Challenges" on September 22, 2019.

She coordinated two programmes namely 'State Consultation -Strengthening Legal and Institutional Mechanism to end Child Marriages in Delhi on September 19, 2019 and a National Seminar on 'Exploring Disability Rights Paradigm' on September 28, 2019 at ILI.

LEGISLATIVE TRENDS

INDIAN MEDICAL COUNCIL (AMENDMENT) ACT, 2019

(Act No. 12 of 2019)

The Act was enacted to amend the Indian Medical Council Act, 1956. The Amendment Act aimed at ensuring transparency, accountability and quality in the governance of medical education in the country.

THE AADHAAR AND OTHER LAWS (AMENDMENT), ACT 2019

(Act No 14 of 2019)

The Act was enacted to amend the Aadhaar (Targeted Delivery of Financial and Other Subsidies, Benefits and Services) Act, 2016 and further to amend the Indian Telegraph Act, 1885 and the Prevention of Money-laundering Act, 2002. The amended Act puts

onus on offline verification of Aadhaar number holders where the individual will be verified through offline modes without submission of biometric or demographic information to data servers of the Unique Identification Authority of India (UIDAI).

THE CENTRAL UNIVERSITIES (AMENDMENT) ACT, 2019

(Act No 15 of 2019)

The Act provides for the establishment of two central universities in Andhra Pradesh to be known as the Central University of Andhra Pradesh and the Central Tribal University of Andhra Pradesh.

NATIONAL INVESTIGATION AGENCY (AMENDMENT) ACT, 2019

(Act No 16 of 2019)

The Amendment Act was enacted to amend the National Investigation Agency Act, 2008. Under the new Act, NIA is allowed to probe terrorist activities against Indians and Indian interests abroad, cyber crimes and cases of human trafficking.

THE PROTECTION OF HUMAN RIGHTS (AMENDMENT) ACT, 2019

(Act No 19 of 2019)

The Protection of Human Rights (Amendment) Act was enacted to amend the Protection of Human Rights Act, 1993 and to accelerate the process of appointment of chairperson and members of the National Human Rights Commission (NHRC).

THE MUSLIM WOMEN (PROTECTION OF RIGHTS ON MARRIAGE) ACT, 2019

(Act No 20 of 2019)

The Muslim Women (Protection of Rights on Marriage) Act, 2019 was enacted to protect the rights of married Muslim women and ensure gender equality and gender justice to Muslim women by declaring practice of triple talaq as void and illegal *i.e.* not enforceable in law and to prevent divorce by practice of 'talaq-e-biddat' by their husbands.

THE BANNING OF UNREGULATED DEPOSITS SCHEMES ACT, 2019

(Act No 21 of 2019)

The Act was enacted to provide for a comprehensive mechanism to ban the unregulated deposit schemes, other than deposits taken in the ordinary course of business, and to protect the interest of depositors.

THE COMPANIES (AMENDMENT) ACT, 2019

(Act No 22 of 2019)

The Companies (Amendment) Act, 2019 amended the Companies Act, 2013 by amending a total of 40 sections of the Companies Act, 2013 and added two new sections 10A and section 454A to the new Act. .

THE RIGHT TO INFORMATION (AMENDMENT) ACT 2019

(Act No 23 of 2019)

The Right to Information (Amendment) Act, 2019 amended sections 13, 16 and 27 of the parent act.

PROTECTION OF CHILDREN FROM SEXUAL OFFENCES (AMENDMENT) ACT, 2019

(Act No 25 of 2019)

The Act was enacted to further amend the Protection of Children from Sexual Offences Act, 2012 with an objective to protect children from offences such as sexual assault, sexual harassment, and pornography.

THE INSOLVENCY AND BANKRUPTCY CODE (AMENDMENT) ACT, 2019

(Act No 26 of 2019)

By amending the Insolvency and Bankruptcy Code 2016, the Insolvency and Bankruptcy Code (Amendment) Act, 2019 seeks to address critical gaps and inconsistencies in insolvency resolution timelines, payments received by operational creditors under a resolution plan and manner of voting by an

authorised representative on behalf of the class of financial creditors.

THE UNLAWFUL ACTIVITIES (PREVENTION) AMENDMENT ACT, 2019

(Act No 28 of 2019)

The Unlawful Activities (Prevention) Amendment Act, 2019 was enacted to amend the Unlawful Activities (Prevention) Act, 1967. The objective of the new amendments is to facilitate speedy investigation and prosecution in terror-related offences. The most important part of it is allowing an individual to be designated as a terrorist, a measure that is in line with the global practices. The Act is aimed at effectively preventing unlawful activities in India. It basically seeks to empower the government to deal more effectively with activities directed against India's sovereignty.

THE MOTOR VEHICLES (AMENDMENT) ACT, 2019

(Act No 32 of 2019)

The Act further to amended the Motor Vehicles Act, 1988 and as per the new Motor Vehicles (Amendment) Act, 2019, an individual can apply for renewal of driving licence any time between one year before its expiry and up to one after its expiry.

THE JAMMU AND KASHMIR REORGANISATION ACT, 2019

(Act No 34 of 2019)

The Act was enacted provide for the reorganisation of the existing State of Jammu and Kashmir and for matters connected therewith or incidental thereto.

LEGAL JOTTINGS

Directions to establish POSCO Courts

The Court has directed the Centre to fund and set up exclusive courts in every district where 100 or more cases under the Protection of Children from Sexual

Offences (POCSO) Act are pending. The bench comprising of Hon'ble Chief Justice, Ranjan Gogoi, and Hon'ble Mr. Justice, Deepak Gupta ordered that the special courts for the trial of cases of sexual offences against children should start functioning with 60 days.

The Court added that the fund will not only take care of the appointment of presiding officers but also court staff, support staff, besides the infrastructure for vulnerable court complexes. The bench also directed the chief secretaries of all states to ensure the effective functioning of the forensic science laboratories (FSL). The order came after amicus curiae and senior advocate V Giri submitted his report on the directions of the court. Giri said there is a lack of proper judicial infrastructure for the trial of POCSO cases.

Earlier, the Supreme Court had asked its registry to collate district-wise data from the registrars of all the high courts on the total number of child rape cases and how long these have been pending. Centre has to file a progress report within 4 weeks.

In re: alarming rise in the number of reported child rape incidents, (2019) 8 SCC 300, decided on July 25, 2019.

Mere existence of alternative remedy does not create a bar on High Court's writ Jurisdiction

The issue in the present case was whether the existence of an alternate remedy would create a bar on High Court's writ jurisdiction? The bench consisting of Hon'ble (Dr.) Justice D.Y Chandrachud and Hon'ble Justice Indira Banerjee held that,

“The existence of an alternate remedy, whether adequate or not, does not alter the fundamentally discretionary nature of the High Court's writ jurisdiction and therefore does not create an absolute legal bar on the exercise of the writ jurisdiction by a High Court.”

Explaining further the court added that courts had themselves imposed certain constraints on the

exercise of their writ jurisdiction to ensure that the jurisdiction did not become an appellate mechanism for all disputes within a High Court's territorial jurisdiction, the bench further added,

“The intention behind this self-imposed rule is clear. If High Courts were to exercise their writ jurisdiction so widely as to regularly override statutory appellate procedures, they would themselves become inundated with a vast number of cases to the detriment of the litigants in those cases.”

This would also defeat the legislature's intention in enacting statutory appeal mechanisms to ensure the speedy disposal of cases.

On the argument that if, by the self-imposed rule, the writ jurisdiction of High Courts is circumscribed by the existence of a suitable alternate remedy, whether constitutional, statutory, or contractual, then a High Court should not exercise its writ jurisdiction where such an alternate remedy exists, the bench said that it is a misconceived argument and that,

“The mere existence of alternate forums where the aggrieved party may secure relief does not create a legal bar on a High Court to exercise its writ jurisdiction. It is a factor to be taken into consideration by the High Court amongst several factors.”

Maharashtra Chess Association v. Union of India, 2019 (12) SCALE 167, decided on July 29, 2019.

NGOs substantially financed by Government fall within the ambit of 'public authority' under RTI Act

Holding that nongovernmental organisations substantially financed by the appropriate government fall within the ambit of 'public authority' under section 2(h) of the Right to Information Act, 2005. The court held that:

“If NGOs or other bodies get substantial finance from the Government, we find no reason why any

citizen cannot ask for information to find out whether his/her money which has been given to an NGO or any other body is being used for the requisite purpose or not.”

Noticing that the RTI Act was enacted with the purpose of bringing transparency in public dealings and probity in public life, the court said that while interpreting the provisions of the RTI Act and while deciding what is substantial finance one has to keep in mind the provisions of the Act.

On the issue relating to what constitutes 'substantial finance', the court said 'substantial' means a large portion. It does not necessarily have to mean a major portion or more than 50%. No hard and fast rule can be laid down in this regard. Whether an NGO or body is substantially financed by the government is a question of fact which has to be determined on the facts of each case. There may be cases where the finance is more than 50% but still may not be called substantially financed'.

“Supposing a small NGO which has a total capital of Rs.10,000/ gets a grant of Rs.5,000/ from the Government, though this grant may be 50%, it cannot be termed to be substantial contribution. On the other hand, if a body or an NGO gets hundreds of crores of rupees as grant but that amount is less than 50%, the same can still be termed to be substantially financed.”

Another aspect for determining substantial finance is whether the body, authority or NGO can carry on its activities effectively without getting finance from the Government. If its functioning is dependent on the finances of the Government then there can be no manner of doubt that it has to be termed as substantially financed.

DAV College Trust and Management Society v. Director of Public Instructors, (2019) 9 SCC 185, decided on September 17, 2019.

CASE COMMENTS

Dr. Ashwani Kumar v. Union of India and another

(2019) 7 MLJ 81

Decided on September 5, 2019

This writ petition was filed under Article 32 of the Constitution by Dr. Ashwani Kumar, a Senior Advocate, former Law Minister and a Member of Parliament seeking directions to Parliament to enact suitable standalone comprehensive legislation based on the UN Convention Against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (UNCAT). The UNCAT was adopted by the United Nations General Assembly on 10 December 1984 and entered into force on 26th June 1987, after getting 20 ratifications. The Government of India signed the UNCAT on 14th October 1987, but has not ratified it to date. The petitioner emphasised that the practice of custodial torture violates the right to life and liberty of the individual, thus the court should invoke and exercise jurisdiction under Articles 141 and 142 of the Constitution for the protection and advancement of human dignity, a core and non-negotiable constitutional right. To strengthen its argument, petitioner cited Article 5 of the Universal Declaration of Human Rights (UDHR) and Article 7 of the International Covenant on Civil and Political Rights (ICCPR), both provisions prohibit the practice of torture in all forms and in absolute terms. It was highlighted by the petitioner that in the case of *Romila Thapar and Others v. Union of India and Others* (2018) 10 SCC 753, that despite prevailing laws and

series of judicial decisions, cases of custodial torture keeps on appearing from time to time. It pointed out that the statutory laws are not in harmony and fall short on several accounts, both procedurally and substantially with the UNCAT and thus there is an urgent need for adoption of a standalone enactment based on the UNCAT. Article 51(c) and 253 of the Constitution underscore the 'constitutional imperative' of aligning domestic laws with the international law obligations of the Government of India. The petitioner argued that the directions are necessary in view of the delay and inaction in enacting the law, notwithstanding the recommendations made by the National Human Rights Commission, report of the Law Commission of India in October 2017, and report of the Select Committee of Parliament dated 2th December 2010 and repeated commitments made by the Indian Government. The Court confined its order simply to the prayer of the applicant that this court should direct Parliament to enact a standalone and comprehensive legislation against custodial torture based on the UNCAT. The Court elaborately discussed the doctrinal basis of separation of powers and mutual interaction between the three organs of the State in the democratic set-up and stressed the importance of drawing a clear distinction between interpretation and adjudication by the courts on one hand and the power to enact legislation by the legislature on the other. A three Judge Bench headed by Chief Justice Ranjan Gogoi rejected the writ petition seeking directions to Parliament to enact a suitable standalone comprehensive legislation based on the UNCAT. However, the judgment clarified that notwithstanding rejection of the

prayer, it would not in any way affect the Courts to deal with individual cases of alleged custodial torture and pass appropriate orders. In recent times there is an increasing concern of the international community about the practice of torture of prisoners. The Government of India should take necessary steps to ratify the UNCAT which is pending for almost two decades and also adopt a standalone comprehensive legislation at the earliest. Adoption of a domestic law prohibiting torture will certainly enhance the reputation of the Government globally in respecting human rights.

Manoj Kumar Sinha

Manoharan v. State

2019 (10) SCALE

Decided on August 1, 2019

'Rape' is recognized as the most heinous and violent crime against humanity affecting the dignity and decency of women. Rape is not only an offence against the person of a woman, rather a crime against the entire society. In Indian society 'rape' is always viewed as an act of sexualized power for the establishment of male domination. Sexual offences against children are rampant in different parts of the Country.

The Supreme Court in the present case, upheld the conviction of the accused but gave 2:1 verdict on quantum of punishment by confirming the death sentence imposed on the appellant. The factual matrix of the case was that the accused Mohanakrishnan & Manoharan kidnapped a 10-year-old girl & her 7-year-old brother while they were preparing to leave for school. The children

were taken to a remote area and rape was committed on the girl. Attempt was made to kill both the children by feeding them poisonous cow dung powder mixed in milk. However, the children took only a small amount of the milk and didn't die. The children were then thrown away alive in a canal. Both the accused were arrested but Mohanakrishnan was later shot dead in an encounter.

The court observed that 'that there is no doubt that aggravated penetrative sexual assault was committed on the 10 year old girl by more than one person. The 10 year old girl child (who was below 12 years of age) would fall within Section 5 (m) of the POCSO 48 Act'. It further added,

“There can be no doubt that today's judgment is in keeping with the legislature's realisation that such crimes are on the rise and must be dealt with severely.”

It was noticed that the crime in the case at hand was extremely shocking as a young 10 year old girl has first been horribly gang raped after which she and her brother aged 7 years were done away with while they were conscious by throwing them into a canal which caused their death by drowning. The Court also noticed that no remorse has been shown by the Appellant at all and given the nature of the crime it is unlikely that the Appellant, if set free, would not be capable of committing such a crime yet again.

In the minority decision, Hon'ble Justice Khanna, J ruled that the 'the case was not fit for a death penalty and would, hence, commute it to imprisonment for life *i.e.* till his natural life with a

stipulation that the appellant would not be entitled to remission under Sections 432 and 433 of the Code of Criminal Procedure, 1973. The Court held that:

“the present case does not fall under the category of 'rarest of rare' case *i.e.* there is no alternative but to impose death sentence. It would fall within the special category of cases, where the appellant should be directed to suffer sentence for life *i.e.* till his natural

death, without remission/commutation under sections 432 and 433 Cr.PC.”

It is to be appreciated that the court upholds the death penalty of the accused for committing such a grave offence against children which shocked the conscience of the court and of society by ruling it as the 'rarest of the rare' case.

Arya A.Kumar

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