

**JUNE 2017**

## National Moot Court Competition

The most awaited event of Kirit P. Mehta School of Law, NMIMS, for the academic year 2016-2017, was the National Moot Court Competition. The three-day event started on 24th of March and came to a close on 26th March after three rounds of challenging competition and a host of ingenious arguments contended by the participants.

The participants of the event came from 30 colleges across India, and were judged by renowned luminaries from judge of Supreme Court, Senior Advocate from Supreme Court and High Court, Partners and Associates from firms like Khaitan & Co, Nishith Desai Associates, Economic Law Practices, ALMT Legal, Lakshmikumaran & Sridharan etc.

The opening ceremony began at 4:30 p.m. on 24th March, with a welcome speech by Chairperson of the Organising Committee, Ms. Isha Kakkad. The dignitaries including Dr. Rajan Saxena (Vice Chancellor, NMIMS University), Dr. Rishikesh Dave (Dean, Kirit. P Mehta School of Law) and Dr. Rahul Nikam (Faculty Co-ordinator, NMCC) welcomed and emboldened the participants with their words. The Chief Guest of the event, Mr. Abhishek Rastogi, Partner, Khaitan & Co. emphasised the benefits of mooting and shared his mooting experience, which provided the participants a boost of motivation.



*Mr. Abhishek Rastogi's address*



*Dr. Rishikesh Dave's address*



*Lighting of the lamp by Dr. Rajan Saxena, Vice-Chancellor, NMIMS University*

Post-registration, exchange of memorials, and briefing of the participants, a gala dinner was organised, along with cake-cutting ceremony to celebrate the very first National level Moot Court Competition hosted by Kirit P. Mehta School of Law, NMIMS. The sweetness of the cake and a scrumptious dinner brought day-one to a delightful close.

Day two began early next morning, with a tight schedule in store for all. Judges and participants arrived at the venue at 8:00 a.m. After breakfast, the judges were all set in their chair of judgement and the participants were set as councils, in the defence of their stance. Following the moot-rounds, the participants got a good opportunity to engage in some salubrious interactions with the opponent teams as well as the other participating

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# NMCC 2017



*Dr. Rahul Nikam, Faculty Co-ordinator of the event with his team*

*“Mooting can give you skills of representation and presentation, along with the ability to conquer interruption and to work in teams. As a mooter you learn to disguise the most detailed examination of the most technical material in the most persuasive way. The skills of research and presentation are absolutely interdependent.”- Justice R.K Agarwal (in his address at NMCC, 2016)*

The quarter- final rounds began after high-tea, late in the evening. While the eight teams battled in their respective courtrooms during the quarters, the volunteers and committee members were on their toes preparing for the final day.

With two preliminary rounds and one quarter-final round the second day was challenging and tiring for one and all. However it was not fatigue that marked the close of the day, rather it was the zeal for the big day to unfold.

The final day began in a suspenseful and tense manner as the day flagged off with the semi-final rounds in Juhu Jagruti Hall and Mithibai Seminar Hall, where four teams that had qualified in the quarters tried hard to secure a place in the finals. After some challenging arguments, the teams of ILS- Pune, and HNLU- Raipur qualified for the finals.

The final round started at 2:05 p.m., with a panel of esteemed judges including; **Honourable Justice R.K Agarwal** (Sitting Judge of Supreme Court), **Mr. Pravin Parekh** (Senior Advocate Supreme Court), **Mr. T.P Otswal** (Chartered Accountant), **Mr.**

**Beni Chaterjee** (Senior Advocate Bombay High Court) and **Ms. Daksha Baxi**, (Executive Director- Khaitan & Co.).

The judges sought a number of clarifications from the councils, to which the councils responded with utmost courtesy in their humble disposition, yet with the sharpest of answers. The final round ended with the participants having presented some of the most brilliant arguments.

The valedictory ceremony and result declaration started half-an-hour after the finals. Dr. Rajan Saxena, Vice Chancellor, NMIMS University expressed his gratitude to the judges for being a part of the event.

All the judges commended the hard work and wit of the participants, and also highlighted the growing significance of international taxation laws in the present day scenario.

Lastly, Justice R.K Agarwal spoke about the importance of mooting in the life of an aspiring lawyer and advised the students to make the best out of moots. The result declaration brought in glory for the winners:

**Winner of the of National Moot Court Competition-** Hidayatullah National Law University, Raipur

**Runner-up team-** Indian Law Society, Pune.

**Best Memorial Award-** Symbiosis Law College, Hyderabad.

**Best Speaker Award-** Ms.Shreya, ILS Pune.



*Hon'ble Justice R.K Agarwal felicitating the winners, HNLU Raipur*

The National Moot Court Competition was judged by experts in law and taxation. Take a look on what the Judges had to say on tax laws and mooting.



## On the importance of mooting for a law student...

**Mr. Subhrarag Mukherjee:** I was a mooter in my college days so I can vouch for it. It is one of the best ways for someone to feel the practice of law in terms of analytical skills, research skills, argumentation, and the level of moot court today where you have judges and lawyers coming, and it really challenges you as a lawyer to develop your argument and research skills. It is very important that you should be excited. It builds your C.V too.

**Ms. Aditi Sharma:** Mooting is a very important part most of the law graduates today ensure that they do at least three or four moots. It not only helps strengthen your research skills but it helps you apply the law and of course, if you are a speaker it helps you get more confident. Most often what happens is that in law school you read the provision, you read the commentaries but when you apply these to a factual scenario, which is what happens when you practice law, you have to think out of the box, you have to look at all aspects, join all dots. So I think mooting is a must and should be made mandatory.

**Mr. Ranit Basu :** On a personal note, I have been an active mooter in my college, so that has helped me in understanding how to go about a case and also strategize for this thing, because in the initial years of practicing what is necessary is to assist your seniors in a way that they can present the case in an effective way, so by doing a moot we are able to establish a mindset with respect to how to go about the matter and especially Taxation Moots are very important because other than taxation moot in Constitution Moot and IPR Moots you are restricted to the legislation itself whereas in Taxation Moot you have to have an overall view and the manner in which the court considers the various cases and how it interprets you develop through moots. Only then you used to get to know that apart from Income Tax, there are circulars and notifications, which play a pivotal role so that you only get to know by doing the moot.

## On the understanding of tax legislations...

**Mr. Subhrarag Mukherjee:** I think as lawyers it is very important no matter what you are doing, whether you are practicing tax law or you are working in a company, I think you need to have a good understanding of tax law. For example, I am a lawyer with Hewlett Packard, we sell various kinds of IT product services to our clients both in India and abroad so we need to understand the tax implication when you importing things what is the tax law because it has a commercial implication. Tax law changes many times with time, for example, a country has double tax avoidance agreement, so whether they applied a tax or not to a particular item. All these things are there.

**Mr. Shripad Jagdale:** You study law and you practice law, these are two different things, so moot is the only bridge which gets you connected to the actual practice. The day you go out passing your law school, people expect that a law student or a lawyer that you are supposed to know every section, which is not the way, so mooting helps you answer these people and to stand boldly too.

Talking of cases I think one case which comes to my mind is the Vodafone tax case which is a classic example of how countries try to do tax avoidance, tax planning through overseas transactions and how the government tries to catch up with that and force them to pay taxes. So I think it is very important to understand these nitty-grittes as we are becoming a more globalized world.





**Mr. Ranit Basu:** First of all, now I think the way the legislations are changing it provides room for foreign entities to come and invest here. But as far as the income tax authorities are concerned, now the duty is upon them to ascertain whether or not the layer of investment that is undertaken by those international entities is that layer of investment actually necessary. I think that is the bulwark of your moot court competition as well with respect to that. Secondly, as of now, there are very few judicial precedents which establish on what basis a reassessment order can or a notice can be issued for a scrutiny assessment to a foreign entity with respect to this. So, even now there is some ambiguity, with respect to what extent should the disclosures be and to what extent can those be scot free without any operation as such because now in the current scheme of things what we see is that in spite of no new data in the hands of the authority, they are still reopening because of the political pressure and that need to be cut down to an extent and it is not just the duty of the judiciary to provide a clarity with respect to this but it is for the legislation to have a water tight provision in the law to ensure it doesn't happen.

## On India's position in international taxation...

**Mr. Kunal Katariya:** India is day by day becoming a global economy, basically if you see on the Asian roadmap which is a developing block all over the world, India is emerging as the most important player because China is also witnessing a slow down as of now. In the international taxation rules and their regime which is going to be in India is going to be a part of a decisive policy in terms of global integration. We have already taken large steps and we are very much in line with the international standards, but there are a few more things which are left, but I am sure with the current scenario as to how the government is working we are going to see those changes coming.

**Mr. Arjun Bhagi:** I think we are doing pretty well, the focus right now is on DTAs and how we are able to better negotiate it because we have been facing a lot of shortage of money. All the money that goes out has substantial effects on India and that is something we need to look forward to and how we can better negotiate the avoidance of payment.

# #DEBSOC

## LOQUITUR'17

NMIMS Kirit P. Mehta School of Law's second national debating event, LOQUITUR'17, kick-started on the 10th of March. It was a 3-day event wherein participants from colleges all around the country came together to showcase their debating skills in a series of Asian Parliamentary debates. The event was graced by exceptional core adjudicators, Vanshaj Jain and Vignesh H. Ram, who shared their expertise and guidance with the participants at every step and added humour and wit to the tedious schedules.



*Core-Adjudicators, Vanshaj Jain and Vignesh Ram*

The participants of the event came from popular colleges of Mumbai as well as other areas like Delhi and Pune- with the likes of the Government Law College (GLC, Mumbai), Jindal Global Law School (JGLS, Sonipat) and Indian Law Society's Law School (ILS, Pune) among others. The participants were not limited only to law students, but also students from tech, commerce, and other undergraduate backgrounds.

Day 1 saw 11 simultaneous debates going on, with the commencement of Round 1. Each debate saw the teams battling to win the prelims and make a lasting impression on the adjudicators. All teams engaged in four rounds each, in the preliminary stage, one of which was held on the first day and the other three on the second.

Day 2, one of the most hectic of the days, had 3 rounds back to back, at the end of which the tabs were released announcing the top 6 teams and 10 adjudicators that broke in for the pre-semifinals.

Finally, Day 3- the final day, came up with a charged up OC and an equally excited group of volunteers gearing for the deciding rounds, nerve wrecking debates and a fantastic ending to a successful event. At the start of the semi-final rounds, four teams – ILS Law School (Pune), PEP'A (cross team from IIT Bombay

and DJ Sanghvi College of Engineering), Old Man Logan (a NMIMS School of Commerce- MISB Bocconi cross) and Jindal Global Law School (Sonipat) were competing for a spot in the finals.



*Speech by Dr. Rhishikesh Dave, Dean, KPMSoL*

The final round was between two cross teams - PEP'A (DJ Sanghvi and IIT Bombay) as the opposition side and Old Man Logan (NMIMS Cross) at the government side. The motion was one of a kind, with a twist of fantasy attached to it. The finale was graced by the faculty in-charge of LOQUITUR'17, Professor Ravi Saxena, and the Dean, Dr. Rhishikesh Dave, along with other faculties of School of Law.



*Winners- Team Old Man Logan*



# #DEBSOC



*Runners Up - Team PEP'A*



*Best Adjudicator - Vedika Waliya (ILS Pune)*

The hall was full of eager ears and faces as the debate started and a gradual sense of awe filled the air as Old Man Logan won the crowd's applause as well as the tournament with their well-played strategies and quick humour. PEP'A too played their part of a worthy and tough opponent. As the day and the tournament rounded up, the prizes were distributed, with the **Best Speaker for the final round** going to Akash Date (Old Man Logan), **Best Speaker of the Tournament** to Abhishek Nevatia (Jindal Global Law School), and the **Best Adjudicator** to Vedika Waliya (ILS Pune).



*Music performance by the students marking the conclusion of the event*



*The Organising Committee for Loquitur'17*



*The Volunteers who made the event a success*

All in all, the Organising Committee (Debsoc) of NMIMS School of Law took a breath of relief as the event came to an end and not just that, but a fantastic end, inspiring many new faces and old ones too.

## From SoL to KPMSoL



*School Renaming Ceremony*

On 29<sup>th</sup> March 2017, School of Law, NMIMS was renamed as **Kirit P. Mehta School of Law**, after its patron Shri Kirit P. Mehta. The renaming ceremony commenced at 4:00 p.m., at B.J Hall. The occasion was graced with the presence of Shri Amrish Patel Chancellor, NMIMS University, Dr. Rajan Saxena, Vice-Chancellor, NMIMS University, Dr. Meena Chintamaneni, Registrar, NMIMS University, Patron of the School Shri Kirit P. Mehta, Dr Rishikesh Dave, Dean School of Law, and the Chief Guest, Shri Bhagwatacharya Pujya Rameshbhai Oza.

The ceremony began with the address of the esteemed dignitaries who extended their gratitude to the Patron Shri Kirit P. Mehta. The program came to a close with a vote of thanks by Dr. Meena Chintamaneni.



# ACHIEVERS OF KPMSoL

## Nerves of Steel

Proving their metal, the students of K.P.M School of Law have indeed raised the college banner high. From moot competitions to photographic feats, the law students have left no stone unturned.

### Scroll of Honour

*Leading the way, the seniors have sure set out an excellent example for their juniors. Mohak Rana, Arshia Saraf, and Mansi Jain have brought glory to our college by securing the first ever moot court win in NMIMS School of Law. Winning the moot trophy as well as the best memorial prize at the 7th Paras Diwan Memorial International Energy Law Moot Court Competition, this fourth-year team was definitely in a win-win situation.*



*Another team from Fourth Year B.B.A. LL.B. comprising Harshita Choudhary, Niyati Shah & Prajakta Joshi have won the "13th Nani Palkhivala Memorial National 'Tax' Moot Court Competition". Harishita Choudhary also won the "Best Speaker Award", along with the trophies they bagged the cash prize of Rs. 50,000 for winners and Rs. 5000 for best Speaker. They also received free subscription from Taxman Law Database for 1 year.*



# ACHIEVERS OF KPMSoL

## Scroll of Honour

*Following the footsteps of their seniors, the spirited first year students left no road unexplored when it came to making their mark. First year students, Nidhi Agrawal and Bhoomi Shah received a Certificate of Merit for qualifying to the quarter-finals a.k.a breaking as a team at the*

*2nd Government Law College British Parliamentary Debate in the open category. Competing against 64 teams from all over the country, these first years have surely made the college and specifically the debate committee proud.*

*In the same competition, Nivedita Dalal from second year, received a Certificate of Merit for breaking as an Adjudicator. In her words, "The finals were one of the toughest rounds I'd ever witnessed."*

*Mohak Rana along with his colleague, also secured the best team prize at the 2nd Mumbai Judicial Deliberation Competition, wherein the participants were required to write judgements as judges of a particular court, and do so by keeping in mind probable arguments instead of actually hearing arguments and then deciding.*



# ACHIEVERS OF KPMSoL

## Scroll of Honour

*Making his mark on the call for papers competition, Harsh Malpani's papers on the 'The Surrogacy (Regulation) Bill, 2016' and 'Right To Die - Whether Corollary To Right To Life?' were published in Law and Society: A New Challenge (International Journal of Law & Social Science) (ISSN: 2348-4861) and Journal of Contemporary Legal Affairs (ISSN: 2518-8798) respectively. This first year sure has a way with his words.*



*Reaching international heights, Abhishek Bissa received Honourable mention and was ranked 5th in the whole world under the youth category in the German Photography circuit. Organised worldwide by FIAP, the Photography competition was judged in Germany.*

*Anshee Bhatia, a first year student from BALLB, secured the third position in Indian Folk Art Drawing Competition, at the annual cultural fest Malhar'16 hosted by St. Xavier College, Mumbai.*

# KPMSoL Success Story

## KPMSoL student helps woman separated by mental illness to reunite with her child

SOLink Bureau

**Mental illness has been a reason for a rupture in many families and those who survive it are still not accepted readily by society.**

Similar is the case with Ms. Asha (name withheld), whose struggle is heart rendering. After she was found howling and shouting at Nagpur railway station by the Child Line Staff and railway police, they took her to a magistrate and was subsequently declared unsound, to be admitted to Nagpur Regional Mental Hospital. She was admitted to the acute ward from where she was shifted to the stable patient department after one week. There she met Ms. Ritu Jagwani, a first year B.A. LL.B. (Hons.) intern from Kirit P Mehta School of Law (KPMSoL - NMIMS).

Ritu describes Asha's case as a curious one. "After a week of being admitted, Asha approached me and started telling her story, the way she was talking was absolutely normal. I felt no instance of mental illness in her. She accepted that she behaved abnormally a few days back. She wanted me to bring her 6-month child to her, though she was not aware of where the child is."

For Asha, Ritu had to cross a lot of impediments. Ritu, initially managed to convince the medical officer to prepare a discharge from the hospital. The Tata Trusts' staff helped Ritu with the location of the orphanage where the child was kept in a safe condition from the time of Asha's admission.

The orphanage was ready to give the child but there was one last problem – will Asha's family and husband accept her and the child? If not, where will she go?

The Social worker said "If the brother and husband are not ready to accept her, then the hospital will direct them to do so, by directly sending Asha and her child there with two policemen and a female guard." However Ritu felt, this move may be counter-productive, so she suggested that Asha should call her husband. Ritu's idea worked and the husband agreed to take her back. Both Ritu and the Social worker convinced Asha's family members to take her and the child back home.

"We were informed that she left the Hospital, however I was unable to meet her one last time and see the smile on her face of being with her family," Ritu said.

Ritu's sensitivity and quick thinking helped a child from being an orphan. Ritu fortunately opted to be an intern as part of a collaboration between her institution and Tata Trust for providing legal aid to mental health inmates in Regional Mental Hospital, Nagpur. Her formative learning in Kirit P Mehta School of Law tremendously helped her set a heroic example for her peers and the society.

## From the Achievers

This April, I got a chance to participate in my 8th moot court competition during my time at law school. The 7th Dr. Paras Diwan Memorial International Energy Law Moot Court Competition 2017 will always be a special one for me, as this time all that hard work which I and my team had put in for last five months paid off and we won the moot as well as bagged the best memorial award.

For me, moot court has always been a special activity. In these four year I have worked with lot of different people, gone to different law colleges and made a lot of friends not only in India but abroad as well and that's the advantage of moot court. Law is a profession which requires contacts and networking, and mooting is the best way to achieve this.

Mooting not only boosts your confidence for public speaking but also helps you in legal research and acquiring court etiquette.

One thing which I have noticed that a lot of students relate moot court with litigation practice and feels that it is not important for people who are interested in corporate but this is not the case. In all this time I have met and personally, know students as well as judges who are practicing in different law firms and have had a phenomenal mooting career. Mooting makes sure that you can make quick decisions, work in team environment, work under pressure and face high-level dignitaries at a very early stage of law life.

This recent win in the Paras Diwan Moot provided a complete sense of achievement as it was the last moot I was participating in with all of this experience and knowledge which ended on a great note.

In the end, I wish all the best to all the juniors for their mooting endeavours and also request them to participate in this kind of activities as marks are not the only thing which matters in law school life.

**- By Mohak Rana**  
(B.B.A.,LL.B., Fourth year)



# GET INSP RED

## Interview with Mr. Julio Ribeiro

SOLink Bureau

Also known as the 'Super-cop' Mr. Julio Ribeiro is a retired Indian police officer and civil servant. Some of the noteworthy positions held by him have been as the Commissioner of Police, Mumbai; Special Secretary to Government of India, Ministry of Home Affairs; Director General of Police, Punjab; Adviser to the Governor of Punjab and Ambassador of India to Romania. In 1987, he was awarded the Padma Bhushan for his services. Post-retirement, he has served on corporate boards of directors and performed social work. He continues to fight a battle for the people at the grassroots level, against the social evils of corruption and communalism. Mr. Ribeiro titled his autobiography "Bullet for Bullet: My Life as a Police Officer".



**Question 1.** What are the factors that have motivated you to start NGOs?

**Mr. Julio Ribeiro:** I have started two NGOs, first being Mohalla Ekta Committee Movement and second is Public Concern for Governance Trust. I will start with Mohalla Ekta Committee because I returned from Romania, after finishing my stint as Ambassador in December 1993 and in January or February 1994 i.e. within a month or two of my return, I met one gentleman called Fakrudin Kurakhiwalla, and he said that he was the sheriff of Bombay during the riots of 1992-1993 and he had started a Mohalla Movement based on what one police officer had done in Bhiwandi and he said that he couldn't sustain the movement anymore and asked if I could take over, I thought that it was a good idea to do something and return to the society what society had given me for 40 years, 36 years in the police and 4 years as ambassador. So I agreed. The very next day, I got a call from one of my friends asking if I could come and meet one lady called Shusobha Barve and I went and she was interested in taking forward this Mohalla Ekta Committee Movement because during the riots, she was a Maharashtrian lady who went and stayed in the slums particularly with the Muslims to see that they

were not attacked. She told me that we had to do something to bring these communities together. So we formed a plan, the first thing we did was to go and meet the Police Commissioner because it is not only the Hindus and the Muslims, but also the police, so unless the Police would join us we wouldn't be able to get this together. At that time, the police commissioner happened to be Mr. Satish Sahney, who was an excellent officer and he immediately agreed to do it, and that is how we started the Mohalla Committee Movement to see that there is communal harmony.

The other NGO that we started was Public Concern for Governance Trust. What happened was that once there was one Minister in Mumbai and he was very fond of corrupt people and anyone who was not corrupt, he would fire them. So once he decided to get rid of the DGP and the Commissioner of Police, both of them who were straight-forward people, and replaced them with his own people. Dr. Anand asked if I wanted to establish an organization to fight these corrupt people. Dr. Anand and I then went and met Mr. B.G. Deshmukh who at that time was a director of Tata Sons, who also agreed to join us. He also was the one to give the name 'Public Concern for Governance Trust' to ensure that, good officers are not threatened by the political corrupt people. We said that we would try and fight corruption.

I haven't formed any other NGO, however, I am involved in some charitable organizations such as Happy Home And for the School for the Blind, etc.

**Question 2.** As the chairman of these NGOs, what are some the challenges that you have faced?

**Mr. Julio Ribeiro:** You see, the main challenge I would say is how do you evaluate your success because we work, we are just working and doing things for the people but you also have to check and see if it has helped others, otherwise, it is fruitless. We are trying to find out ways to evaluate our success. A lot of people tell us that our work has been successful because, since the foundation of Mohalla Committee, there has been a very less communal disruption. However, I don't think that it is because of us, of course, we are able to help people because we have ties with the Police officers. As regards with PCGT, we are still trying to figure out as how to measure our success.

**Question 3.** As the Ex Director General of Police forces, what are your views on the need for police reforms in the present scenario? What are a few reforms you would like to see in the functioning of Police forces in the city of Mumbai?

**Mr. Julio Ribeiro:** The main crux of Police Reforms is to ensure that the Police is depoliticised. Today you have a politicised Police Force, it is a very crucial matter because due to politicised police forces you don't get justice and Law and order is maintained on the basis of political preferences. The Police are

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supposed to be impartial and enforce the law, so if they enforce it selectively, then you are not doing your duty and they are making it possible for others to break the law easily.

**Question 4.** How would you describe the inter-dependence of Police and Judiciary?

**Mr. Julio Ribeiro:** Police have their own work to do and Judiciary has its own work to do. Judiciary has to decide whether what the Police have brought before it is correct or not, and to try the case. Basically Police is the first stop in the judicial process system, the second stop is the lawyers of both sides the prosecution and the defense, third stop is the judges, and fourth stop is the jailors. Each one has to do their jobs properly. Before the prosecutors were reporting to the police but now they're under the Directorate of prosecution and do not report to the police. Therefore there is hassle between the police and the prosecutors, blaming each other. The separation of investigating agency from the prosecuting agency has led to the figures of conviction coming down drastically, at least in Maharashtra.

**Question 5.** As budding lawyers what role do you think that the law students play in the development of law and enforcement in India?

**Mr. Julio Ribeiro:** You have a big stake, but I think there should be much more professionalism demanded by the Bar Council and the university because there is no emphasis on the practical aspect nowadays. I feel there is a lot of scope. Lawyers need to be much more professional.

**Question 6.** The media in any form can be an influential instrument in forming the opinion of the masses, so up to what extent do you think it influences the law and enforcement in India?

**Mr. Julio Ribeiro:** Media is going to affect everybody, what you read in the papers sticks in your memory and lot of people believe whatever is given which may or may not be true. You must understand newspapers and journalists want to sell their papers, after all, they are commercial and so the story you think is important may not be important to them due to the interest of their readers.

**Question 7.** What advice would you give to the college students who aspire to major in criminal justice as well as for the students who are preparing for Public Services examination?

**Mr. Julio Ribeiro:** First of all your knowledge should be very vast particularly for Public Services examination, also you should have a great interest in whatever goes around in the country. You should have clear views and ideas about what is happening, and be determined and serious. Students nowadays want to become rich very quickly without much effort! It is not wrong to become rich but the students should work hard and earn because otherwise their character changes for the worse.

## Guest Interview: A Talk with Professor Bharat Desai

SOLink Bureau

Professor Bharat H. Desai, faculty at Centre for International Legal Studies, Jawaharlal Nehru University, visited Kirit P.Mehta School of Law as the esteemed speaker for a two day talk on International Law for third year students from 26th -27th April, which was organized by Assistant Professor Ravi Saxena. From the origin of international Law to the current challenges in the field of International Law, Professor Desai spoke on different facets of the topic, which provided the students an in-depth understanding of the topic.



The SOLink team had the privilege to discuss some of the current trending issues with regard to India's role in International Law and we received a few enlightening opinions from Professor Desai.

**Q.** What were the instances of your childhood that influenced you to choose law?

**Professor Desai:** Although, I did not have a very comfortable or a very wealthy background, my father was a practicing lawyer, he did not practice law in a commercial way, and he was more of a social worker. So I always had a very sound support system, he was always my motivator and encourager. He was the one who motivated me to pursue law and that too he wanted me to go for a Ph.D. and he did not encourage me to go for practice, he wanted me to pursue Doctorate in Law and emerge as a scholar, so that was the main motivating force.

**Q.** Taking the current scenario into consideration and keeping in view the state of environment protection laws in India and even abroad, what are your views regarding India's role in international environmental laws and how does India represents itself in the international legal arena?

**Professor Desai:** Well, on one level we have to find a way to strike a balance in terms of our developmental requirements and environmental imperatives. We need development because we



# IN CONVERSATION WITH...

want to uplift the people, as India's consideration for the sustainable development goals 2030 of the UN, under which one of the important goals is to take people out of extreme poverty. If you see the latest World Bank report of 2017, in 1990s India had 330 million people under extreme poverty who cannot be even called poor and after thirteen years, 2013, we still have 218 million people. So you need to go for a developmental model which could be less harmful, less polluting, less resource consuming and that is the choice we have to make. Cottage industries, village industries and decentralized power centres, these things could be revolutionizing, employment generating and will not put a strain on resources so that way you have to make a choice. The Prime Minister made a suggestion in Dadra & Nagar Haveli recently, this is one of the ideas my father had mooted on the removal of poverty like decentralising the power generation centres for energy generation like Gobar Gas plant, solar energy plant, which would cater to the needs of the cluster of villages. There are more than 400 million people who have no access to electricity, so the need is enormous so you need to do it and then you need to do it in a manner which puts the least burden so far as your resources are concerned.

Pollution is a different thing, how many people die because of pollution, here we have not put the cost benefit of it. For anything you want, there is a cost but the question is that the cost that we are paying is it really worth it?

The second aspect is India's role so far as the global negotiations are concerned, India has to play the leadership role, as it did in 1972 in the Stockholm Conference, the then Indian Prime Minister she led it from the front. You need to be a part of the solution, and for that, we need to have the ideas because to come up with solutions we need to have the ideas. People look to India, as we represent 1/6th of the humanity, and country of India's size, India's might, India's strategic location, and the resources, we cannot be a sleeping partner. For ideas, we need to bank upon the scholarships, worldwide as in the USA and the European countries, they always bank upon the scholarly centres because the governmental system does not have the ideas so we need to invest in those scholarly institutions, law schools who work towards providing solutions.

**Q.** What are your views on Kulbhushan Jadhav's arrest and the allegations levied on him?

**Professor Desai :** India has dismissed the allegation. No spy or secret service agent will be carrying the official passport of the country concerned. So one that is a lie. And the circumstances in which they say that the Iranian Ambassador, and the German Ambassador have always disputed these versions saying he was actually in Iran, doing business, he was abducted and handed over to Pakistan. So, these are very suspicious circumstances in

which a person has been trapped and in a suspicious manner, he has been sent there. The main question is you cannot avoid providing consular access to the person accused. Whatever is the crime which you think he has committed on your soil, this is one of the requirements of human rights and due process of law. No system of law can deny access to a lawyer and you can't have a very surreptitious, opaque and hidden process. That means you have something to hide and this is why India has taken this matter very seriously. I am sure Pakistan will not be able to sustain this pressure.

**Q.** As you know, since 1947 the relations between India and Pakistan has always been a sensitive issue. So what do you think would be the repercussions of Kulbhushan Jadhav's episode on India-Pakistan relations?

**Professor Desai:** I think this is one more irritant in India-Pakistan relations. India's role is different, and its expectations are different, there is no competition with Pakistan. Pakistan is like your estranged kin or relation, you have to manage it, you can't wish it away. Pakistan's presence is very much there. You have to try to tame Pakistan. You have to play the role where it has to be defended against. It's the nuisance that has to be contained. You have to live with it like a relative who is a troublemaker. I'm sure things will change sometime in future. Often there are countries with whom you have troubled relationships so it will ensure that there is a minimal amount of harm. Today, it is Kulbhushan Yadav's arrest, tomorrow it could be something else, It could be the issues relating to Indus- Water Treaty where Pakistan often takes us to arbitration or like on Kishan Ganga. So, this is not something which is going to end unless and until there is some kind of a thought, finding that we have to manage it.

It's not the question of Kashmir Issue, the question is of Pakistan issue. Probably, we need to reach out over the head of Pakistani government to the Pakistani people which could provide people-to-people contact and these kinds of things can probably help.

This is what I had spoken to the Pakistani High Commissioner, I said "*Bada dil chaiye aur badi soch chaiye*" and he was looking down, he had no answer. I said "Do you have it? What Ambassador Abdul Basit would leave behind once you leave at the end of the day from here?" and I gave the example of good chemistry between Muhammad Ali Jinnah and Mahatma Gandhi. They had an excellent chemistry. So you need that kind of chemistry to resolve the issue.

**Q.** Ultimately, do we have to be optimistic about the relation between India and Pakistan?

**Professor Desai:** It is a systematic difference. We are democratic system and they have a largely military-dominated feudal

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system. So, it is going to be problematic for us to address it. We know how to address and I'm sure India is capable enough to address it and that is a kind of a taste of India's leadership and its credentials to be one of the global players.

**Q.** What do you think are the avenues available in the field of International Law for the budding lawyers of various law schools in India?

**Professor Desai:** From my perspective, one of the best options of course apart from going for Legal Practise, joining law firms, joining some of those companies where you can be a legal officers, etc., depending upon one's own interest; my take will be that choosing an academic option like teaching and research in the field of law, and more particularly I would say in the field of International law because there is huge vacuum and that would require some amount of hard work, perseverance, and effort. I would say, it depends upon your inclination if you want to do for

long term perspective I'm sure that holds a lot of value there is a lot of room for scholarship. I would say, it would be the contribution to the generation of knowledge in the field of law. How you do it? That has to be chosen. The best way is to be a teacher in the field of law.

**Q.** What is your message for the students of Kirit P.Mehta School of Law?

**Professor Desai:** I think the college has excellent infrastructure and the school has a lot of potential and you have excellent leadership with Dr. Dave the Dean. So, it has to stand apart compared to the rest of the law schools whether they are state funded or privately managed. I would say, the faculty has the role cut-out for it and it will strengthen the research base. That will make the law school to stand up and contribute to the simmering legal challenges that we face here in India. I'm sure in turn it would really benefit the students here.

## Thinking Education: Rethinking Tagore

On May 7, 2017, in a ceremonious way, we celebrated Tagore's birthday. I made no exception, and took a booklet titled *The Centre of Indian Culture* and started 'surfing' for something that could be 'eye-catching'. Tagore lived from 1861-1941 and was unfortunate to not see India independent. He won the Nobel Prize for Literature for *Gitanjali* (A Collection of Poems) in 1913 and was recognised as a polymath. Perhaps, this had led Mahatma Gandhi into calling Mr. Tagore 'Great Sentinel'. He has globally been acclaimed as a socio-political and cultural thinker. He had profound views on education, just like on any other issue important in human life.

*The Centre of Indian Culture* is a published form of his lecture that he delivered in Madras (now Chennai) on February 9, 1919. The uniqueness of this lecture has been that it was the Tagore's first lecture delivered in English in India. In his seminal essay, Tagore started with the question 'what ought to be the ideal education system in India?' Reflecting on this question he insists that *each race has this duty to keep alight its own lamp of mind as its part in illumination of the world. But, if a race fails to keep this duty unfulfilled it is doomed. This way, India has proved that it has its own mind.* Education, to Tagore, remains the evidence of this excellent survival of India. Education in India has been central to the quest to find out the truth and to make this truth its own and give this truth an Indian expression.

For Tagore, the key purpose of education is to make the receiver '*self-conscious*' and to use one's own '*creative-power*'.

Therefore, he emphasises that *our education should be in full touch with our complete life, economical, intellectual, aesthetic, social and spiritual sense.* True education should guarantee that our training and knowledge have an undisputed and integrated connect with our environment, and with our surroundings (*our imagination dare not soar beyond its limits*). But, being self-critical, he feels that *the only wrong in our education is that it is not in our absolute control.* Here he points out the protracted debate in political discourse on 'education-as a colonialism-baggage'. For Tagore, our education system could not ensure that it is free from external material constraints and is 'colonized' from within. This leads that the decision-making is not free and fails to relate to the extensive civilizational path of India. Modern education, if we try to put Tagore's lens of analysis, lacks the 'inner quotient' that guarantees education as a 'free' human endeavour to be self-conscious. If our thought process fails to recognize the timeless modernity, in Indian tradition, we would miss the experience of the desired fruits of education. The need is to give our education a direction that entails our shared experiences and collective historical wisdom. In the absence of it, our education system would function adrift from human consciousness in India. Tagore seems to be right when he claims this [education] system as a *machine-made university*.

As the essay advances, Tagore gives the example that whenever the idea of university comes to our mind, the idea of Oxford or Cambridge universities follow it instantly. Here we should remind ourselves that the Western universities are the 'living



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organic parts' of the life in Europe. Comparing it with India, we find that the same does not qualify here. There has been a direct connection between the nature of nation and the nature of university in Europe. But in India, our university and our education came to a halt and disconnected the continuum of past, this to Tagore paralyses Indian education system. In other words, modern education hardly tries to connect to its cherished past and a nation that disconnects with its civilizational past, lives in a dangerous way. In the words of Tagore-

*'Most things in the civilized world, such as eating and merry-making, education and culture, administration and litigation, occupy more than their legitimate space. Much of their burden is needless; and in bearing it civilized man may be showing great strength, but little skills.'* (Tagore: 2003. P.11).

One may argue that Tagore's ideas are now far from reality or may question his eulogising of poverty as 'out of proportion'. But, the question remains, to what extent we may miss his argument in regards with rejuvenating and revitalizing our education system by making it as a system that transforms not only the externalities but make the internalities more profound? Rather our education should create a fine balance which would help us to coordinate between the material and spiritual, in a harmonious way where our creativity reaches to its pinnacle and society gains enormously in sustaining an 'integrated' life.

Tagore probably questions the subject-matter and methodology of our education system when he says;

*'...like our present Indian students, have to rely upon books, not truly for their mental sustenance, but for some external advantage, are sure to become anaemic in their intellects, like babies solely fed with artificial food... they not only borrow a foreign culture, but also a foreign standard of judgement...we boast of up-to-dateness of our education; we forget that the mission of all education is to lead us beyond the present date.'*

Perhaps, this would have led Tagore to convey to us:

*'The Highest education is that which does not merely give us information but makes our lives in harmony with all existence.'*

**Reference:** Tagore, Rabindranath. 2003. *The Centre of Indian Culture*. N. Delhi; Rupa and Co.

**- By Mr. Ravi Saxena**

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## Judicial Dissent

A dissent with reference to a judicial opinion is described as “a disagreement with a majority opinion, esp. among judges<sup>1</sup>. Dissent in judicial opinion has been described by some of the well-known and renowned judges of the US Federal Supreme Court, as follows:

- Justice Cardozo (1925) puts it as “the spokesman of the court is cautious, timid, fearful of the vivid word . . . The dissenter speaks to the future, and his voice is pitched to a key that will carry throughout the years.”
- Chief Justice Hughes (1936) wrote that a dissent is “an appeal to the brooding spirit of the law, to the intelligence of the future day, when a later decision may possibly correct the error into which the dissenting judge believes the court to have been betrayed.”
- Justice Douglas (1960) expresses it as “It is the right of dissent, not the right of duty to confirm, which gives dignity, worth and individuality to man. The right to dissent is the only thing that makes life tolerable for a judge of an appellate court... The affairs of government could not be conducted by democratic standards without it.”

In the history of United States Federal Supreme Court many of the dissents were in fact principles of political thought displaying a spirit of republicanism, the concept of limited government and public weal, ingrained in the words of the judge.

Dissenting judges, have also expressed their dislike for the judicial department encroaching in the domain of law making. To prevent an open confrontation with the other two arms of the government i.e. the legislature (U.S. Congress) and the executive (President). The dissent of Justice Harlan Friske Stone in the *US v. Butler*<sup>2</sup> was in fact a disapproval of the court striking down the Agricultural Adjustment Act (AAA), 1933 as unconstitutional. Elucidating the function of the judicial department the dissenting opinion insisted that the judicial function was 'to test the constitutionality of a statute and not the wisdom thereof'. The majority decision of the Court had so angered President Franklin Roosevelt that he devised a court packing plan, to put the old conservatives, upholding *laissez faire* as a constitutional doctrine in the minority. However the landslide victory of Roosevelt in the second term made the Conservative majority in the US Federal Supreme Court realise that a popular President with huge mass appeal can inflict great damage to the judiciary as an institution. Later, statues in line with the AAA (1933) were upheld by the courts as constitutional. This was lapped up by the press with cheeky headlines – *A switch in time saves nine*.<sup>3</sup>

In independent India, the first notable dissent, widely commented was that of Justice Fazal Ali in *A.K. Gopalan v. State of Madras*.<sup>4</sup> The majority opinion did not accept the petitioner A K Gopalan's contention that law ought to be fair, i.e. 'natural law' and that due process of law ought to be read into Article 21. The court's majority then held that the meaning of Art. 21 should only

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be read in its literal meaning i.e. life and liberty can be taken away by the state by a procedure established by law. However, Justice Fazal Ali had agreed with the petitioner and his dissenting judgment of 1950 went on to become the majority in *Maneka Gandhi v. UOI*.<sup>5</sup>

In the annals of Indian judiciary, no dissenting judgment could become as well-known as *ADM Jabalpur v. Shivkant Shukla*,<sup>6</sup> by the lone dissenter, Justice H. R. Khanna, notorious known as the habeas corpus case. Due to his dissent he was overlooked for the post of the Chief Justice of India. However, his firm stand on the spirit of the rule of law made his dissent immortal, delivered in the darkest hour of India since independence in judicial history. The Parliament thereby amended the constitution i.e. 44<sup>th</sup> amendment to ensure that the executive or future Parliaments could not with brute majority trample on the rights and liberty of the Indian citizens during any subsequent emergencies declared by Presidential proclamation.

Ironically, the majority opinion written by the other four judges now finds a place 'in the dustbins of history'. It was opined and written by many about the four majority judges that they were *more loyal to the throne than the King*. However, I wish to restrict myself to such judicial dissents which deal with constitutional law and constitutionalism. It would be unfair to not mention the dissent of Justice Chelameshwar in *NJAC* case.<sup>7</sup> Again, he was a lone dissenting voice among the five judges who questioned the propriety of the closely guarded but opaque collegium system. The dissent questioned the 'we know best' attitude of the majority and that judges can become 'judges of their own cause'. However the Justice Karnan episode has exposed the weakness and the integrity of the collegium system. A system espoused by the judiciary in the guise and garb of judicial independence. The philosophy of separation of powers is well crafted in the Indian constitution which prevents the Parliament and the State Assemblies from criticizing the court,<sup>8</sup> unlike in the United States.

To sum-up, a judicial dissent written is an opinion of any conscience stricken judge, who is well ahead of his time in judicial thinking and who lays down a new jurisprudential principle for posterity.

## References

1. Black's Law Dictionary. 9<sup>th</sup> Ed. Bryan Garner
2. 297 U.S. 1 (1936)
3. Note: The US Federal Supreme Court has nine judges.
4. AIR 1950 SC 27
5. AIR 1978 SC 597
6. 1976 AIR SC 1207
7. S.C. Advocates on Record v. UOI W.P. (Civil) No. 13 of 2015
8. Art. 121 & Art. 211

**-By Mr. Shrikant Aithal**

(Assistant Professor (Law) in Kirit P. Mehta School of Law, NMIMS (Deemed-to-be-University), Mumbai)

## Book Review

### *Vyapar Shashtra: The Practice of Business in India* by Vishal Shivhare

**Readers:** Management students (esp. Entrepreneurship, Family Business, Indologists)

**Areas / Keywords:** Vyapar, *Vyapari*, Demand / Buyer, Product / Service, Agreement, Transaction, Mutual Satisfaction, Family & Business

This book is a delightful and lucid historicization of *vyapar* from the ancient Indian cultural practice till the present transnational global business practices in India. The ancient Indian concept of *vyapar* is business as a cultural practice, and Shivhare conceptualises its five components: Demand/ Buyer, Product/ Service, Agreement between Buyer and Seller, Transaction and Mutual Satisfaction. But Shivhare propounds that it is transaction, conducted cyclically, that keeps the other four components together. A *vyapari* should be aware that lack of demand may deflate transactions, thus supply of product/service will be a surplus for loss. Shivhare's text is freshly replete with many narratives to reinforce the already known economic transactional process. A *vyapari*, Shivhare posits, will sustain a transaction to satisfy the market at all cost.

*Vyapar* is a *vyapari*'s religion, the shop is his temple, profit is his *prasad* and the customer is God, as one seller said, "Hum *vyapari* hai, toh ek *grahak* ki *sewa* karna hi hamara *dharma* hai" (44). The confessional anecdotes by Indian *vyapari*'s to Shivhare proves "vyapar as a *dharma*" code right from a local shawl seller to the rich business community. The cultural intersections of *Vyapar* and *Parivar* is divided into four categories: Business Family and Family Business (each a result of, an inherited ancestral legacy running amongst the family members, or established by the astute skill of a *vyapari* to be later sustained by the family members) and Non-family Business (started by entrepreneurs) and Non-business Family (professional employees). Shivhare's text is an eye-opener for economists who are disconnected from the ground realities of India and its glorious past. The book weaves a beautiful message: a *vyapari* who cannot connect with the market, will be disconnected by the market. A must read of the market, by the market and for the market: from barter systems to global start-ups. 2017 (Jaico Publishers) available in NMIMS KPMSoL library

**- Review by Mr. Rakesh Nambiar**

\*Mr. Rakesh Nambiar is an Assistant Professor (English) in Kirit P. Mehta School of Law, NMIMS (Deemed-to-be-University), Mumbai.



# STUDENT CORNER

## Is Exiting The EU, A Smart Move By England?

Recently, the hot potato in the world media was European Union and "BREXIT". After a historic referendum, Britain decided to leave European Union. The pound has slumped to a seven-year low against the dollar after David Cameron fired the starting gun on a four-month fight to determine the UK's future in Europe. The investors were worried about the UK's economic prospects and that is why they were reluctant to hold sterling-denominated assets. Businesses do not like uncertainty and so exports, investment and overall growth have all been hampered. This has shown its impact on prices in the UK as the cost of anything that is imported rises when sterling falls. So, if the fall in the pound persists, it could be reflected in pricier petrol and in a rise in the cost of some food items as well as electronic goods. British expats will also suffer from a weaker pound. The hundreds of thousands of Britons living in Spain and France who depend on salaries or pensions paid in sterling will see their purchasing power fall in their adopted nations. For exporters, the drop in Sterling makes their goods cheaper overseas and could help lift flagging demand. On the other hand, a weaker pound is bad news for those importing raw materials such as metals. Their costs go up when sterling falls.

Economic growth, bureaucratic formality, corporate autonomy, the EU budget, fiscal policies and EU membership fees are

contentious issues. For example, in EU to be and remain a member of it, member states must pay some annual fees. Britain pays annual fees of € 12.9 billion per year and which in return receives €4.5 billion per year in form of subsidies and grants from the EU. This is one of the issues that have been raised for leaving EU. Brexit supporters say leaving would get rid of job-killing regulation and free Britain to decide its own laws and trading partners. One of the founding principles of EU is free movement for European citizens between EU member States. Record level of EU immigration to the UK is also an important issue to vote.

The implications of Brexit will undoubtedly affect that European politics, trade and the global economy. Though the short term effects have been predicted, it's very hard to predict the long-term effect and things continue to remain uncertain. But when we go through some facts it seems to be a bad decision as the economic benefits or impacts were too large and complex for the masses to understand in lieu of the fact that people started googling "What is EU"? Only after the Brexit vote. It is worthwhile noting that mass mobilization is easier when you are up against something that when you stand for something irrespective of the strength of the argument on both sides.



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Brexit has also raised a challenge of reunifying the country because it has divided the country as England and Wales voted to leave and Scotland and Northern Ireland voted to remain in EU. Scottish leader Nicola Sturgeon said, "Brexit means Brexit" does not apply to Scotland. It will be a challenge for May to tackle this problem peacefully and Scotland and Northern Ireland view need to be respected? As we have already seen Scottish referendum in 2014.

As economist argue that this decision to leave EU will diminish the economies of both Britain and Europe, As it happened, it roiled the stock market and sent the pound to a 31 year low. This decision of the referendum should be given another opportunity where people need to comprehend this issue in the first place, and then decide. This decision is not limited to Europe or Britain and it has a global impact and needs to be negotiated well so that best decision can be made. Congress leader Jairam Ramesh in his interview to Hindustan times termed "Brexit" as a "suicide" committed by Europe.

The impact of an exit on the EU is even more difficult to assess. On the one hand, the absence of the UK, which has repeatedly slowed down further integration in the past, may result in closer integration among the remaining countries. On the other hand, Brexit could set a sign for other countries to pursue a more sceptical policy towards integration or even decide to leave themselves. The EU is also likely to feel some negative effects following a UK departure from the economic area. The countries that have the closest trade relations with the UK, for instance, Germany, France, Netherlands, and Belgium, would probably suffer most from Brexit. Now it is left to see, how the Prime Minister of England Theresa May tackles this issue

## References:

- Alex Hunt & Brian, Brexit: All you need to know about the UK leaving the EU, Wheeler, <http://www.bbc.com/news/uk-politics-32810887>
- Possible Impact of the Brexit Referendum on the UK, the EU and Switzerland, KOF Bulletin. <https://www.kof.ethz.ch/en/news-and-events/news/kof-bulletin/kof-bulletin/2016/06/possible-impact-of-the-brexit-referendum-on-the-uk-the-eu-and-switzerland.html>
- Katie Allen, Why is the pound falling and what are the implications for Britain? <https://www.theguardian.com/politics/2016/feb/22/why-is-the-pound-falling-britain-sterling-dollar-uk-credit-vote-eu>

- By Vinayak Puri  
(B.B.A., LL.B., First year)

## Kashmir - A Case of Supressed Dissent In India

A democracy can only function if it allows dissenting opinions to exist within itself. Any country which claims to be democratic in nature, cannot also be dictatorial in certain cases, be it for security or any other reasons. Unfortunately, this is the present case with India, a country that is the largest democracy in the world, but no more than a police state in Kashmir. The reasons for the Kashmiri conflict, undoubtedly, are historical in nature. However, it is believed that if India took the correct measures, the present state of affairs could have been avoided.

In April 2017, the voter turnout of the Srinagar by-polls had reached its lowest in 25 years, at 7%. Though many have attributed the low turnout to the prevalent violence in the Kashmir valley, and it is to some extent, true, this can be seen as a rejection of India and Indian politics in Kashmir. The government instated through these elections can in no way be called a 'popular government' or a 'democratic government'.

This is not the only instance of protest by Kashmiris in the recent times. Burhan Wani's death in 2016 instigated massive protests in the Kashmiri Valley. These protests have taken a new form now, with stone pelting. Even school students have participated in these dissents against the Indian military. Major Gogoi, an Indian soldier, tied a civilian alleged to be a stone-pelter to his jeep to save himself from an ongoing demonstration. He was awarded by the Army for this act. Such tactics by the security forces have only aggravated the problem.

The base of the Kashmiri dissent is the fact that the people are being governed by a system they do not identify with. Their life and livelihood is precarious under an overbearing conflict they did not choose for themselves. Kashmiri students have been denied visas for their studies abroad, Media and free speech is heavily controlled in the region. Not only this, in the other regions of India, exclusionary nationalism is being practised against Kashmiris. They are being treated as less-Indian than the rest of the citizens of our country. This only worsens the problem.

If the present situation continues to exist in Kashmir, it will be the biggest failure of the Indian democracy. The Indian government needs to find a way to allow and dilute the dissent that exists in Kashmir presently, instead of trying to quash it altogether.

## References:

- Prof. Dibyesh Anand ,Democracy and Dissent in China/ India,. <https://chinaindiabibetkashmir.wordpress.com/>
- Kashmir: Why India and Pakistan fight over it. <http://www.bbc.com/news/10537286>
- The changing face of Kashmiri dissent. <http://login.stream.aljazeera.com/story/kashmiri-protest-culture>

- By Bhoomi Shah  
(B.A., LL.B., First year)



# STUDENT CORNER

## Tribute to Shrikant Aithal

The original idea of my poem was to offer it as a gift to celebrate Shrikant Sir's Golden Jubilee, but in the process of writing I realised that I can contribute and achieve better by doing it for a more meaningful purpose- a tribute. Shrikant Aithal is by far one of the very few professors whose pedagogy has been capable of captivating students even while professing dull procedure laws or any subject or topic for that matter which is an extremely difficult task. Also in my 'personal opinion', he is one of those, who is 'unanimously' respected by every single person who comes across him, which is a huge accomplishment in any field. My words might seem a little shy of flattery or for some cross all boundaries of it, but I cannot help it for the simple reason being that it is the truth. Writing about such a larger than life persona I came across some creative difficulties. I then solicited help from my like-minded friend Devarsh Shah who wrote the prelude to my poem. This poem is a tribute to Mr. Shrikant Aithal which more or less sums up his eccentric personality, his achievements as a teacher and a mentor.

He walked in and our minds were never the same  
He walked in with knowledge on case laws that put Manupatra to shame  
You might mistake him for Google, but Shrikant Aithal is his name.

Right from law to policy to particle physics to information that leave you stunned  
Our Shriku knows anything and everything under the sun

I would not do him justice by just saying he is very skilled  
For his wit is unmatched and his knowledge unparalleled

His teachings and ideas have made us better informed citizens  
Credit to him we might get inspired and someday cross new horizons

With such mature knowledge, he remains scintillating  
Seems ethereal as to how he always keeps our brains stimulating

We consider ourselves extremely blessed and fortunate  
To have witnessed and experienced his intellect

When others admonish us we may shun them with disrespect  
But when we receive them from Mr. Aithal, we judiciously listen and gracefully accept

On our lives, a lot of people in our lives have had an effect  
But Shrikant Aithal is out of all the chosen few, who no matter what we pursue, we would always unabashedly genuflect

To the person who makes interesting a subject that seems dull  
To the person who transplants information into our thick skull  
To the person who seems unrealistically infallible  
Here's to the one and only, Shrikant Aithal!

- By Akshay Nandakumar  
(B.B.A.,LL.B., Second year)

# #TRENDING NEWS SNIPPETS

## May

- **GST Council finalizes tax rates on 80-90% goods, services**  
On May 18, 2017, the Goods and Services Tax (GST) Council headed by Union Finance Minister Arun Jaitley and comprising representatives of all states has finalized tax rates on 80-90% of goods and services under four brackets (5%, 12%, 18% and 28%). Essential items of daily use have been kept in the lowest bracket of 5%. The GST Council also approved 7 set of rules for the Goods and Services Tax (GST) regime that will be rolled out from July 1, 2017.

- **India to be first in world to run all government ports on green energy**

All 12 major domestic ports in India will soon switch to renewable energy to meet their entire power requirements. Thus India will become first in the world to run all government ports on green energy.

- **PM Modi inaugurates India's longest bridge Dholasadiya Bridge in Assam**

On May 26, 2017, Prime Minister Narendra Modi inaugurated India's longest river bridge, the Dholasadiya bridge. This bridge has been named after late legendary singer Bhupen Hazarika. Sadiya was the birth place of Bhupen Hazarika. 15 km long Dholasadiya Bridge is longer than the Bandra-Worli Sea Link (5.6 km) in Mumbai. It has been built at a cost of about Rs 2,056 crore over river Lohit, a tributary of the Brahmaputra. The bridge will reduce the distance from Rupai in Assam to Meka/Roing in Arunachal Pradesh by 165 km.

- **Indore is India's cleanest city, UP's Gonda dirtiest: Swachh Bharat survey**

On May 4, 2017 Urban Development Minister M Venkaiah Naidu released 3rd edition of the Swachh Survekshan which ranked 434 Indian cities on various cleanliness parameters. Indore in Madhya Pradesh emerged as the cleanest city and Gonda in Uttar Pradesh ranked at the bottom as the dirtiest city. Data for compiling the rankings were provided by municipal corporations and independent assessors. Quality Council of India deployed 421 assessors for on the spot assessment of 17,500 locations in 434 cities and towns.

- **Lionel Messi wins fourth Golden Shoe, ties record with Cristiano Ronaldo**

Professional football player Lionel Messi has won the European Golden Shoe for a fourth time. Playing for FC Barcelona, Lionel Messi scored 37 goals this season. With the fourth Golden shoe to his name, Messi has equalled Real Madrid's Cristiano Ronaldo's record. Lionel Messi topped the Golden Shoe table by scoring 37 goals and securing 74 points, and was ahead of Bas Dost of Sporting Lisbon by six points.

- **Baahubali 2' becomes first Indian movie to cross Rs 1000 cr at box office**

Baahubali 2 is the first Indian movie to cross Rs 1000 crore

mark with its worldwide collections.

- **Sweden created World's Fastest Camera, Shoots 5 Trillion Frames Per Second**

Researchers at a university in Sweden have developed world's fastest camera called FRAME (Frequency Recognition Algorithm for Multiple Exposures). This camera can capture five trillion frames per second.

- **'WannaCry' ransomware cyber attack causing havoc worldwide**

On May 12, 2017, a massive ransomware cyber attack dubbed 'WannaCry' hit hospitals, major companies and government offices in 99 countries. Majority of the attacks targeted entities in Russia, Ukraine and Taiwan. Several hospitals in UK, universities in China and reputed global firms have also come under this cyber attack. However, as per initial calculations, around 5% of all computers affected in the attack were located in India.

- **Arsenal beat Chelsea 2-1 to win FA Cup for 13th time**

Arsenal won its 13th FA Cup with a 2-1 victory over Chelsea the Premier League champion on 27 May 2017. The match was held at Wembley Stadium in London, England. Arsenal maintained its 1-0 lead well into the second half.

## April

- **Government bans red beacons on all VIP vehicles including PM's from May**

The Union Cabinet has decided to impose a ban on the use of red beacons atop vehicles of government officials and VIPs. This rule will be effective from May 1, 2017.

Beacons will be allowed only for emergency vehicles viz. ambulances and fire brigades as well as for police and army vehicles.

- **Supreme Court sets alimony benchmark: 25% of ex-husband's net salary**

The Supreme Court (SC) of India in April 2017 set a benchmark for maintenance to be paid by a husband to his former wife. The court mentioned that 25% of his net salary to be given to his ex-wife for maintenance. Amount of maintenance or permanent alimony must be sufficient to ensure that a woman lived with dignity after separating from her husband. Though the amount of alimony was later changed, this was the first of its kind observation made by the apex court.

- **A First in Indian Law: Court Orders Summons on Whatsapp**

A court of the financial commissioner headed by Ashok Khemka IAS officer has ordered summons in a property dispute case on WhatsApp to one of the respondents who shifted to Kathmandu. The respondent who involves in a property partition dispute was got a writ on Whatsapp messenger Service. In such cases summons are usually sent by registered post to the respondent address.



# #TRENDING NEWS SNIPPETS

- **New types of blood cells "Dendritic cells" discovered**

Team of scientists, including Indian origin researchers Rahul Satija from New York University and Karthik Shekhar from Broad Institute of MIT and Harvard in the US, have identified new types of blood cells in the human immune system. The cells are new types of white blood cells called dendritic cells and monocytes. They have also discovered a new dendritic cell progenitor. Dendritic cells display molecules called antigens on their surfaces. These molecules are recognized by T cells which then mount an immune response. Monocytes are the largest type of white blood cell and can develop into macrophages that digest debris in our cells.

- **India rises to 101 in FIFA rankings, best-ever in two decades**

After two decades, the Indian football team has risen to 101st from 132nd in the latest FIFA rankings which was released on April 6, 2017. Brazil retained its top position. Indian team also ranked 11th in Asia and the list is topped by Iran which has placed 28th position in overall ranking. It was achieved after the team has had 11 victories in 13 matches.

## March

- **Rajya Sabha Passes Enemy Property Amendment Bill**

Rajya Sabha passed a bill on March 10, 2017 by voice vote to amend a 49-year-old law regarding claims of succession or transfer of properties left by people who migrated to Pakistan and China in the 1960s or later. The Enemy Property (Amendment and Validation) Bill, 2016, which amends the Enemy Property Act, 1968, was passed in the Rajya Sabha to vest all rights, titles and interests over enemy property in the Custodian.

- **Government Set to Launch India's First Sign Language Dictionary Soon**

The government has planned to soon launch India's state of the art dictionary depicting the sign languages used by hearing and speech impaired people across the nation to bring uniformity and bridge the communication gap. The Indian Sign Language (ISL) dictionary is being developed by the Indian Sign Research and Training Centre (ISLRTC) in both print and video format.

- **Supreme Court Instruct High Courts to Install CCTV in Courtroom**

In a first of its kind move, the Supreme Court has directed the High Courts of all the states and union territories to install close circuit (CCTV) cameras without audio recording to increase transparency in court proceedings. A bench of Justices Adarsh K Goel and Uday U Lalit, on March 28, 2017, directed the lower courts to ensure that district and session courts in a minimum of two districts in every state and union territories have CCTV cameras installed inside courtrooms as well as in the court precincts within a period of three months.

- **Supreme Court Bans Sale/Registration of Non-BS-IV Compliant Vehicles**

The Supreme Court of India has also ruled out on March 29, 2017 that no vehicles which are Bharat Stage-IV emission non-compliant will be registered or sold in the country after April 1, 2017.

- **Most Spacewalks by a Woman - US Astronaut Peggy Whitson Breaks Sunita Williams Record**

American Astronaut Peggy Whitson floated outside the International Space Station (ISS), which makes the eighth career Space-Walk by her on March 31, 2017. By this walk, Peggy Whitson broke the record of seven Space-Walks which was previously held by American Astronaut Sunita Williams.

- **Uttarakhand HC recognises Ganga as India's 1st living entity**

A trans-boundary river of Asia Ganga along with river Yamuna has recognised as the 'first living entity of India' by the Uttarakhand High Court on March 20, 2017. Now, both the rivers will have same legal rights as a human being as per the constitution. If someone pollutes river Ganga, the law will see it equal to harming a human being.

## February

- **PM Narendra Modi Inaugurates 112-foot Shiva Statue in Coimbatore**

On the occasion of Mahashivratri, Prime Minister Narendra Modi unveiled a 112-feet-tall Lord Shiva statue at Isha Foundation in Coimbatore, Tamil Nadu on February 24, 2017. The statue is dedicated to "Adiyogi", an incarnation of Lord Shiva who is considered to be the first of yogis.

- **Online payment of court fees introduced in Goa**

The High Court of Bombay has joined hands with Goa Government and National Informatics Centre (NIC) has launched online payment of court fees through e-payment gateway in Goa. An e-payment of court fees would be available for District and Sessions Courts as well as all subordinate Courts in the coastal state.

- **Kuwait Suspends Visa for 5 Muslim-majority Countries**

Kuwait has banned the Visas for five Muslim majority countries on February 1, 2017 over security issues. The five countries include Syria, Iraq, Iran, Pakistan and Afghanistan. The suspension of the Visas was taken to stop illegal entry of Islamic terrorists in the country.

- **Qatar Airways Launches World's Longest Flight**

The Qatar Airways has launched the World's longest scheduled commercial service to ply between Doha to Auckland. The inaugural service of Flight QR920 took off on February 5, 2017 from Doha and will take 16 hours and 20 minutes to travel 14,535 kilometers to reach Auckland in New Zealand.

# #TRENDING NEWS SNIPPETS

- **Scientists Find Evidence of Lost-Continent Mauritia Submerged Under Indian Ocean**

Scientists from University of the Witwatersrand, South Africa have found a small continent submerged deep under the Indian Ocean that was once located between India and Madagascar. The team of scientist lead by Lewis Ashwal noticed strong gravitational fields in some parts of the Indian Ocean than others due to thicker crusts in some areas of the ocean especially in Mauritius.

- **2020 Tokyo Olympic Games medals to be made from recycled mobile phones**

Olympic game medals will be made from recycled mobile phones for the year 2022 to promote sustainability said by 2020 Olympic Games organizers, Japan. For this, the Japan government asked public to donate unwanted mobile phones and other electronic items to help make 5,000 medals.

#### SOURCES:

- [www.affairsccloud.com](http://www.affairsccloud.com)
- [www.jagranjosh.com](http://www.jagranjosh.com)
- [www.indiatoday.in](http://www.indiatoday.in)

## Landmark Judgments

### **PIL Against President Of India: Supreme Court Bars Petitioners From Filing Any PIL in Any Court**

January, 2017

The Supreme Court debarred two PIL petitioners from filing any public interest litigations in any constitutional courts in India. Such an action stemmed from the instance when a bench comprising Justices Dipak Misra and R Banumathi dismissed the PIL in which President Pranab Mukherjee was arraigned as the first respondent.

“The Constitution Bench of this Court in *Rameshwar Prasad & Ors. vs. Union of India & Ors.* [(2006) 2 SCC 1] has clearly held that the President of India cannot be arrayed as a party to the litigation. Despite the said pronouncement, the petitioners being emboldened by some kind of imaginative faculty have described the President as Respondent No.1,” it said.

The bench observed in *Ms Anindita and Anr. vs. Pranab Kumar Mukherjee and Ors.*, that in future, the petitioners shall be debarred from filing any kind of public interest litigation in any constitutional court and none of their petition under Article 226 or Article 32 of the Constitution shall be entertained unless they are personally aggrieved.

The court noted that the petitioners, who are litigants, had approached the court in certain special leave petitions and could

not meet with success. Their individual grievances do not confer any right on them to file a writ petition of the present nature. Moreso, it was observed to be an assault on the integrity of the Constitution and in order maintain public confidence in the delivery of justice.

### **Only Wakf Tribunal Can Decide Whether A Property Is Wakf Or Not: SC**

May, 2017

In the instant case, the Wakf Tribunal, on a plea by Wakf Board, had granted a permanent injunction with respect to the property in question and declared the sale deed executed in favour of the other party 'null and void'. The high court set aside this order holding that the Tribunal has no jurisdiction in the matter and on the ground that since no order was made by any authority under the said Act, the applicant before the Wakf Tribunal could not be said to be the person aggrieved also as contemplated in Section 83(2), which elaborates the constitution of Wakf Tribunals, of the said Act and hence the tribunal would have no jurisdiction to determine the issue involved in the suit.

Wakf means the permanent dedication by a person professing Islam of any movable or immovable property, for any purpose recognised by the Muslim Law auspicious, religious or charitable and such wakf are under categories specified by the Muslim Law. For the better administration of the wakf institutions, the Govt. of India through Parliament enacted Wakf Act 1954 and directed to all the states to implement the Act for administering the wakf institutions like *Mosque, Dargah, Ashoorkhanas, Graveyards, Takhiyas, Iddgahs, Imambara, Anjumans* and various religious and charitable institutions.

When the main question involved in the suit is whether the suit land is a Wakf property or not, it can be decided only by the Wakf Tribunal, and not by the civil court, the Supreme Court has held in *Rajasthan Wakf Board vs Devki Nandan Pathak*.

Relying on an apex court judgment, the high court observed that in so far as the relief of cancellation of sale deed is concerned, it is to be tried by the civil court for the reason that it is not covered by Section 6 or 7 of the Wakf Act, which talks about disputes regarding Wakfs and power of tribunal to determine disputes regarding Wakfs, respectively.

### **'Seniority' Will Have To Give Way To 'Eligibility', If Rules Mandate So: SC**

April, 2017

The Supreme Court, in *Palure Bhaskar Rao vs P Ramaseshaiah*, has held that a senior will have to give way to eligible juniors if s/he is not otherwise eligible for consideration as per the rules for promotion.



# #TRENDING NEWS SNIPPETS

In the present case, the court had to consider whether a reserve sub-inspector of police, who was transferred on selection as sub-inspector of police (civil) in the Andhra Pradesh Police Subordinate Service, when recruited by transfer to Andhra Pradesh Police Service and appointed as inspector, should have had six years of completed service as sub-inspector of police (civil) or a total service of six years including the service as reserve sub-inspector?

A bench comprising Justice Kurian Joseph and Justice R Banumathi observed that though the reserve sub-inspector selected and appointed on transfer as sub-inspector (civil) may be senior most in the category of sub-inspector of police, but still he will be ineligible for consideration of appointment as inspector in case he does not have six years of service as sub-inspector of police (civil).

“All his juniors who have 6 years of service as Sub-Inspector of Police and having been recruited to that post from different categories are entitled to steal a march over him as the rule now stands. The rule-making authority in its wisdom has provided such a classification and we do not find any material on record to upset the said wisdom,” the bench said.

The court clarified that if on the date of occurrence of a vacancy in the post of inspector of police, in case a reserve sub-inspector selected and appointed on transfer as sub-inspector of police has completed six years as sub-inspector of police (civil), he is entitled to be considered in preference to his juniors in the seniority list of sub-inspectors of police. This is a first of its kind where a governmental post gives preference to eligibility before seniority.

## **Supreme Court Provides Guidelines Regarding Benefits of Beneficial Legislations on Child/Juvenile Care & Protection**

May, 2017

The Supreme Court on May 4, 2017, ruled that benefits of beneficial legislations made for the protection and care of children and juveniles shall extend to all categories of children. It also stated that “child in need of care and protection under Section 2(14) of the Juvenile Justice Act, should not be interpreted as an exhaustive definition.

The matter was taken up by the Court *suo moto* on the basis of a letter by one A.S Chaudhary, highlighting on sexual abuse faced by children in state-run as well as non-governmental orphanages in Mahabalipuram, Tamil Nadu in 2007. Many children were forced to provide sex services to tourists, both Indian and foreign. The current judgment delivered by a bench comprising of Justice Madan B. Lokur and Justice

## **Supreme Court Upholds Death Penalty of 2012 Gang-Rape Convicts**

May, 2017

A three-judge bench of the Supreme Court headed by Justice Dipak Misra on May 5, 2017 upheld the death penalty of the convicts in the 2012 rape and murder of a 23-year-old medical student in Delhi. The final verdict upholding the death penalty came after the case had been under review post the submissions by Senior Advocates Raju Ramachandran and Sanjay Hegde, who had been appointed amicus curiae in this matter suggested that proper procedure had not been followed while adjudging the matter.

The perpetrators had previously been convicted by a Sessions Court in New Delhi. One accused committed suicide while being held in Tihar Jail while the rest, with the exception of one of the offenders who was a minor at the time, were awarded death penalty by the Court. The Juvenile Board convicted the minor to the maximum punishment of 3 years as prescribed by the law. The Delhi High Court upheld this verdict till it was put under review by the Supreme Court based on the submissions from the aforementioned amicus curiae.

## **Justice Karnan Found Guilty Of Contempt Of Court by Supreme Court**

May, 2017

Calcutta High Court judge Justice C S Karnan on May 9, 2017 was found guilty of contempt of court by a Supreme Court bench comprising of 7 judges, headed by Chief Justice J S Khehar. He has been awarded a 6 month jail term by the bench.

Justice Karnan was charged with contempt of court owing to allegations of corruption made by him against sitting and retired judges of the Supreme Court, which have been labelled as “scandalous”.

The judgement came a day after he passed a bizarre order sentencing Justice Khehar and six other judges to 5 years imprisonment for offences under the Protection of SC/ST (Prevention of Atrocities) Act. He had earlier alleged that he was being targeted as he was a Dalit.

Deepak Gupta comes after guidelines issued previously in 2007 and 2013 proved ineffective. The guidelines provided deal with several issues such as audits, training of personnel, utilising grants, rehabilitation, etc.

## **SOURCES:**

- <http://www.livelaw.in/>
- <http://www.aponline.gov.in/Quick%20Links/Departments/Minorities%20Welfare/A%20P%20State%20Wak%20Board/About/index.html>

# Developments in KPMSoL

## MoU with TATA TRUST for Legal Aid and Mental Health

An MoU was signed between NMIMS KPMSoL and Tata Trust in TATA TRUST office, World Trade Centre, Mumbai on 17th April 2017. As part of the MoU, KPMSoL will provide legal aid to Nagpur Regional Mental Hospital, Nagpur.



*Inset from left: Dr. Rhishikesh Dave (Dean, KPMSoL), Mr. HSD Shrinivas (Head-Health, Tata Trust) and Ms. Tasneem Raja (Tata Trust)*

Before the MoU, a visit to Nagpur Mental Hospital was initiated on 4<sup>th</sup> Jan 2017 by members of Interdisciplinary Research Centre for Law and Humanities to identify prospective areas of legal awareness workshop on Mental Health Act, in collaboration with the Tata Trust. Through this MoU, KPMSoL students will get an opportunity to engage in internships with Tata Trust. This MoU has turned a new leaf of success as Ms. Ritu Jagwani (FYBA LLB Hons.) during her internship helped a stable patient rehabilitate with her family, with the help of Tata Trust.

### Research Achievements

Kirit P Mehta School of Law has topped the Database Utilization for the month of April 2017. It leads all SVKM and NMIMS Institutions with *overall hits of 101466*. In the year 2016 -2017, KPMSoL's Database Utilization is 395067.

### Infrastructural Developments

*English Digital Language Lab* by Words Worth is set-up in NMAT Lab 1 (9<sup>th</sup> floor). A training for Language facilitators was conducted on 1<sup>st</sup> & 2<sup>nd</sup> of March 2016 by Words Worth. The third year B.A. LL.B. (Hons.) and third year B.B.A. LL.B. (Hons.) became the first batch to receive listening skills training.

### Guest Speakers (2016-2017)

In the year 2016 – 2017, KPMSoL has been visited by expert speakers from all fields including *international speakers*, law firm associates and partners, minister (one), judge (one), noted professors, social activists and media person (one). In total 51 guest sessions have been conducted in Kirit P Mehta School of Law.



# Guest Lectures @SOL

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## On Political Obligation by Professor Aruna Pendse

A guest lecture was conducted for first-year B.A., LL.B students on the topic of Political Obligation, on 6th May. The guest speaker, Mrs. Aruna Pendse, retired professor, University of Mumbai, who dealt with the vast topic in a concise manner by taking the students through the origin, meaning, and significance of the topic.

The speaker also put forward the key-ideas of various theories related to the topic in a neutral manner. Towards the end, the guest speaker clarified the student's queries and helped them understand the topic in a more concrete manner.



## Understanding The Corporate World by Ms. Anisha Patnaik

Ms. Anisha Patnaik (Co-founder, LexStart) visited NMIMS Kirit P Mehta School of Law on 28th April 2017 to give a talk on the topic; "Understanding the Corporate World" for the subject on Personality Development and Communication Skills. The session was for third year B.B.A. LL.B. (Hons.) and B.A. LL.B. (Hons.) students in Mithibai Seminar Hall between 12:00 pm to 1:30 pm.



She gave an impromptu session of her personal journey in law and early workplace environment. The skills needed to get noticed during interviews, and while interning in a corporate law firm was impressively highlighted by the speaker. She elaborated upon the two basic areas of focus among the corporates: Presentability and Knowledge; that provides a competing edge over other interns during selection process. On the question of the size of the firm and the weightage in the CV, she advised to begin with small law firms, as there is more probability among small law firms to assign more work to new interns as opposed to big law firms. The speaker took many questions from the audience and provided an insider perspective that is generally held by corporate recruiters. Lastly, she guided the students to be open minded and nonjudgmental, in terms of the quantity and nature of work assigned in firms, as they all can enrich the basics of an intern. Overall, the session was highly interactive and humorous. The students displayed their satisfaction and are looking forward to more such interactions in the future.

## Goods And Services Tax By Mr. Abhishek A. Rastogi, Senior Partner, Khaitan & Co.

On 18th April 2017, the fourth year students attended an enriching session on Goods and Services Tax (GST) conducted by Mr. Abhishek A. Rastogi, Senior Partner at Khaitan & Co. Mr. Rastogi is a qualified Chartered Accountant and a renowned lawyer practicing in Indirect Taxation matters. In the two hours session, Mr. Rastogi gave a detailed insight into the constitutionality and legal viability of the GST regime.

The session began with a general discussion about the GST regime, its characteristics, nature of the tax, taxable events, etc. The guest ensured to keep the session lively and interactive by readily inviting the students' opinions and understanding of the subject matter. The students were also given an overview of various concepts under the GST such as 'anti-profiteering', 'zero rated tax,' etc. The difference between deceptively similar terms: 'Exempted' and 'Zero rated' goods and services was also pointed out. Concepts of Tax Credit Pool and Tax Credit Chain were also discussed. Section 4A of the Central Excise Act, 1944 was also discussed.

Additionally, Mr. Rastogi addressed the peculiarities of GST by addressing some fundamental ambiguities under the GST Bill. The students were challenged to find legally reasonable answers to the following; (i) Whether Article 366 (29A) ought to be amended in light of the Schedule to the Central GST legislation? (ii) Whether the Composite Scheme under the GST is ultra vires the Constitution to the extent of the unavailability of the benefit therein to other service providers? Mr. Rastogi assured an internship opportunity to the student who is able to answer the

# Guest Lectures @SOL

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above-mentioned questions logically with appropriate legal reasoning. Thus, the session ended on a high note leaving the students motivated to analyse the GST Law in order to reason the ambiguities highlighted by the guest.

## **Goods And Services Tax by Mr Santosh Dalvi, Senior Partner KPMG**

On 15 April 2017, the fourth year students attended an enlightening session on Goods and Services Tax (GST) conducted by Mr. Santosh Dalvi, Senior Partner at KPMG. Mr. Dalvi is an internationally renowned practitioner in Indirect Taxation matters. In the two hours session, Mr. Dalvi gave a detailed insight into the intricacies and legal viability of the GST regime.

The lecture began with a briefing and background of GST. It was pointed out how 17 Indirect taxes would be subsumed under the GST regime. A brief about GSTN (GST Network) was also given. The pressure on the Parliament for passing the GST was also discussed. The aspects of GST like its Valuation, Time of supply, Supply of goods and services and Place of Supply were discussed elaborately. This was followed by a sector-wise discussion of the impact of GST. Questions on Input Tax Credit and other concepts were raised by the students. The factor of Excise Tax exemption given to different States was also discussed. And this discussion was coupled with the changes which GST would bring in. Government's scheme of Tax refund to the States was also discussed. The impact on different Sectors of GST was highlighted with reasons. For example-Banking and Retail sector would be the biggest beneficiary under GST. Thus, the Guest gave the students an overview of the current regime and relevant examples to make us understand the concepts.

## **Labour & Industrial Law-II Guest Lecture by Advocate Saumen Vidyarthi**

On 15<sup>th</sup> April 2017 Mr. Saumen Vidyarthi, Senior Advocate - Bombay High Court, delivered a lecture on Employee Compensation Act. He was able to render both theoretical as well as practical knowledge to the students. Initially Mr. Vidyarthi explained the basic concepts, and then he focused on particular sections and schedules. Also, after the legal analysis and explanation of the concepts, students were given a practical view of the act and various questions were answered pertaining to the same such as:

How is the compensation to be given?

What are the calculation methods?

The lecture was very enriching and all the students developed a better understanding of both the law and its practical applications after the lecture.

## **Guest Lecture On Law Of Contracts by Mr. Mario Sequeria**

A guest lecture on Law of Contracts was organized on the topic Basics of Contracts, for the 1st year B.B.A LL.B and B.A LL.B students in the Mithibai seminar hall on 8th April. The speaker for the guest lecture was Mr. Mario Sequeria, Legal Counsel for Cleartrip. Assistant Professor Aart Tolia welcomed and introduced the speaker, and the topic of the lecture to the students.

In his lecture Mr. Mario covered the basic concepts of contract law with exclusive real life examples to clarify each of the concepts. He explained the meaning of contract and illustrated it with day-to-day life situations. He also explained the communication of offer and acceptance through electronic medium like WhatsApp. He took the views of all the students on the example of communication through WhatsApp. In the end he also explained the main components of a contract agreement, and the incorporation of necessary details in commercial contracts while drafting.

The guest lecture familiarised the students with the application of the provisions of Contract act to new means of communication and to evolving forms of commercial activities.



## **Guest Lecture On General Principles Of Insurance Law by Advocate Asim Vidyarthi**

A Guest Lecture was conducted on General Principles of Insurance Law, by Adv. Asim Vidyarthi, a practicing advocate on the 18th March, 2017 which provided insights to the students on concepts like Insurance being a Contract of utmost Good faith and how part disclosure or non disclosures can put an insurance contract to an end. He also dealt at length on the principle of Subrogation under Insurance Law. Advocate Asim Vidyarthi also spoke about the role of IRDA as a regulator of Insurance business where it tries to safeguard and protect the interests of various stakeholders. He also emphasized on the growth of Insurance as a career option and the various kinds of Insurance.



# Guest Lectures @SOL

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## Guest Lecture On Offences Relating To Women

A Guest Lecture was conducted on Offences relating to Women with special reference to Cruelty by Husband & Relatives, Dowry Death and Domestic Violence, and Sexual Harassment at Workplace by Adv. Nausheen Yusuf from Majlis, an NGO fighting for the rights of women, on 18th March, 2017. Advocate Nausheen dealt at length as to what constituted Sexual Harassment at Workplace and also apprised the students about the laws and procedures in force that provide redressal to the problem.

Students were also given insights about the practical problems faced in lodging complaints to cross –examination of witnesses which could sometimes affect the outcome of a particular case. She also tried to throw light on the plight of Muslim women and how it was a fact that it was ignorance rather than lack of laws for their protection that was the biggest hurdle in protection and implementation of their rights. The lecture was an interactive session where the students constantly interacted with the speaker who promptly clarified their doubts.

## Felicitated Achievers with Dr. Rhishikesh Dave (Dean, KPMSol)





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# #MUN-SOC @SOL

## Intra MUN-2017

The MUN Society (MUN-SOC) of Kirit P. Mehta School of Law organized Intra MUN in April 2017, to help the students familiarize themselves with the procedures and dynamics of a MUN, and thereby boost their confidence to take part in national and international MUNs. The MUN started on 12th April and ended on 13th April. MUNSOC had received 130 participant registrations and this overwhelming response was well catered to by MUN-SOC. This event was administered by the faculty in-charge Ravi Sir, MUN-SOC head Zaineb Ali and vice Chairperson Pratham Ajmera. The event was marked by the presence of our Dean, Dr. Rishikesh dave and many faculty members like Rahul sir and Sunil sir.

The different committees that MUNSOC organized were:

- DISEC - Curbing the Rise of Organisations like ISIS in the Middle East
- UNHRC - Discussing the plight of Rohingya Muslims in Myanmar
- Lok Sabha - Uniform Civil Code



## DISEC

The agenda of this committee was “Curbing the Rise of Organisations like ISIS in the Middle East”. The committee was chaired by Aman Johri. According to him it was an amazing committee to work though the people are not that experienced. The best delegate was won by Puneet Pathak.

On the first day the committee discussed how ISIS was born from the systematic marginalization of Sunnis by the Shia-led government of Al- Maliki. Islamic State is a terrorist group en masse that consists 30,000 -45,000 men, a third of whom are highly skilled fighters. Today, they control large swathes of territory in Syria and Iraq but have connections all over the Middle East. Members of the council discussed and debated the viability of current solutions such as airstrikes and come up with better solutions to combat the rise of Islamic State.



The first Moderated Caucus was on the agenda “A background of events leading up to the formation of ISIS along with current scenario” put forth by the delegate of Syria. While some of the delegates did contribute to the discussion, others expressed their concerns about the intervention of other nation states in attempting to curb the events that transpired in the Assad led Syria. However, the committee failed to address the issue of curbing the rise of other extremist organizations in the Middle East

A second Moderated Caucus discussed measures to sabotage recruitment of ISIS members and their training. The nations suggested that education was one of the main ways to combat this recruitment. They also suggested that their funding as well as supply of arms and ammunition should be cut at the source. The issue of ISIS presence on social media was discussed after which radical ideology being spread was put in the limelight. There was ambiguity over whether the pertaining issue should be combated by states individually or collectively.

The Co-Chairperson of the Committee tried to motivate the delegates to participate and one such enticement put forward by him was an internship opportunity in AZB.



# #MUN-SOC @SOL

## Loksabha

One of the most exciting committee according to all the students as the participants can use any of the two languages- Hindi or English, to express their views. The agenda of the committee was UCC - Uniform Civil Code. The committee was chaired by Shivam Jain Kapadia and vice-chaired by Sparsh Shah. Gyanendra Pratap Singh won the best delegate award. He mesmerized everybody with his hindi poems and quotes.

Article 44 of the Constitution of India requires the State to strive to secure for its citizens a Common Civil Code throughout India. This was discussed by the members and the house witnessed several rounds of witty responses exchanged between the opposition and government. Issue relating to uniformity and heterogeneity, safeguards of minorities and conflict between human rights and personal laws were discussed by this committee.



## UNHRC

The agenda of this committee was “discussing the plight of Rohingya Muslims in Myanmar”. The Committee was chaired by Shivendra Singh and vice-chaired by Abhishek Patil. Arlyn George won the best delegate award in this committee.

The Rohingyas primarily represent the small Muslim minority of Myanmar (Burma)- a little under 4percent of the total population of Muslims- in the western part of the country regarded as the Rakhine State. However, these people were not exempt from the increasingly prominent cultural and racial criteria identifying one's identity during the nineteenth and twentieth century. The exact origins of the Rohingyas as an ethnic representative group residing in the Rakhine State, remains a controversial issue and has consequently, given rise to the ongoing battle quest for identity and recognition of the Rohingya people in and around the Rakhine State and larger areas of Myanmar.

A Motion was proposed in UNHRC for a moderated caucus on the “Policies of Myanmar”. All countries took this opportunity to criticize Myanmar's policy of persecution and banishment of Rohingya Muslims. Myanmar however averted the blame by stating that its policies applied to the protection and betterment of its own citizens and not for the welfare of 'foreigners'.

Following this a Motion for a Moderated Caucus was initiated on the topic “Responsibility of Member Nations in Protecting the Rohingya Muslims”, the majority of the countries declared that they were already offering asylum to a large number of Rohingya Muslims and that they could not accommodate any more until financial assistance was provided.

A general sense of apathy prevailed as members looked to one another and urged their neighbor and regional block members to pool their resources in a coordinated effort to protect the refugees. No country, save India who demanded solutions, and Jordan who offered a few ambiguous ones, actually took a proactive approach to solving the problem.

In the 3rd Moderated Caucus, the long ignored sub-agenda of “Legal Status Of Rohingya Muslims” was finally discussed alongside Myanmar's Nationality law of distinctively coloured citizenship cards.



# COMMITTEE Events @SOL

## International Press (IP)

The editor for International press was Anmol Rattan and under his guidance the committee prepared well drafted reports. The winners in this committee were Karishma Singh and Ritika Saluja.

The two-day event thus ended on a happy note with students being well-founded with the concept of MUNnig and participating enthusiastically in upcoming MUNs.

- By MUN Society



All participants enjoyed the experience and gave a positive feedback.



The Centre congratulates the winners:

GROUP A (1<sup>st</sup> year)

1. Nidhi Agrawal - B.B.A. LL.B (Hons.) - 1<sup>st</sup> year
2. Sanchita Pujari - B.A. LL.B (Hons.) - 1<sup>st</sup> year

GROUP B (2<sup>nd</sup>, 3<sup>rd</sup> & 4<sup>th</sup> year)

1. Samarth Jaidev - B.B.A. LL.B (Hons.) - 2<sup>nd</sup> year
2. Kathan Shukla - B.B.A. LL.B (Hons.) - 2<sup>nd</sup> year

## Centre for Criminal Justice

The end of the academic year 2016-2017, marked the conclusion of the **Centre for Criminal Justice's** first year of operating as a centre and organising events for the students of School of Law. This term too, the Centre looked to organise events that looked to invite participation from the students and ensure that they enjoy as well as take home an experience they won't forget anytime soon.

The **Centre for Criminal Justice** came up with the Second edition of Criminal Minds with the event **"12 ANGRY MEN"** on 8<sup>th</sup> of April 2017. The event gave an insight into the Jury System, a legacy of the British, abolished in India after the K.M. Nanavati case, which is still in existence in the west. It gave the participants a unique opportunity to be a juror and pronounce the judgment and test their logic and reasoning skills. It received an overwhelming number of registrations and was a huge success with students participating with immense zeal and enthusiasm.



This marks the final event conducted by the current team of the Centre, as several members are set to retire and new members are expected to come in.

For the next academic year, the Centre has planned to organise:

1. An essay writing competition;
2. The Centre plans to start publishing a journal, entries for which will be invited not just from School of Law but outside as well;
3. Finally, the Centre is looking to organise a seminar in the month of July.

Details regarding all of the above will be out soon.



Winners of 12 Angry Men - (from left) Nidhi Agrawal, F.Y.B.B.A., LL.B. (Hons.); Samarth Jaidev, S.Y.B.B.A., LL.B (Hons.); Kathan Shukla S.Y.B.B.A., LL.B (Hons.); Sanchita Pujari, F.Y.B.A., LL.B (Hons.).

- By Centre for Criminal Justice



# COMMITTEE Events @SOL

## SOLYMPICS

SOLYMPICS' the Sports event of Kirit P. Mehta School of Law, was held on 1st of April, 2017. It turned out to be an enjoyable event with the efforts, enthusiasm and hard work of the sports committee. The event was held at CNMS sports ground. Cricket, Football, and Basketball were the three sports competitions that were organized. The following rule was followed in the competition i.e. participation of at least one female player in the Cricket and the Basketball team.

The following are the names of the best players for all the sports events held in SOLYMPICS:

### 1) Basketball :

Kritika Kataria (2<sup>nd</sup> year B.B.ALL.B.) - Best female player.  
Dhananjai Shekhawat (1<sup>st</sup> year B.A., LL.B.), Best male player.



### 2) Cricket:

Anushka Sachan (3<sup>rd</sup> year BBALLB), Best female player.  
Aditya Gulati (3<sup>rd</sup> year BBALLB), Best male player.



### 3) Football:

Sagar Shrivastava (4<sup>th</sup> year B.B.ALL.B.) and Devesh Mohan (3<sup>rd</sup> year B.B.ALL.B.) shared the Best player title.



Special thanks to the students of K.P.M SOL for helping the sports committee with volunteering and the management of the sports event. The event was a success because of the large participation by the students, and the sports committee look forward to such enthusiasm from students in the upcoming college sports event.

- By Sports Committee

## Intra Moot

The Moot Court Committee of Kirit P. Mehta School of Law, organised an intra-moot in the month of April 2017, to brush up the mooting skills of students and to facilitate smooth allocation of international and national moots to the enthusiastic mooters of the School of Law, in the coming academic year. From preparing a challenging and crisp moot problem to planning for each round in the most meticulous manner the Committee members put in their best efforts to ensure that the students enjoy as well as learn all they can from the intra-moot.





# Upcoming Event...



With the memorial submission on 25th April and oral rounds on 29th April, the students were seen engaged in research and moot preparation, which saw students from first years to fourth years neck deep in their law books and never ending case laws, amidst their ongoing assignments. The moot problem was based on Constitutional law related to election matters. With expert judges presiding over the competition the students got the best of guidance and advice on how to enhance their arguments. Even with a tight-packed schedule, the Moot Court Committee was successful in conducting the competition in a just, fair and smooth manner.

## A Brief Insight into Meraki 17 Logo

There was a lot of thought behind the Meraki17 logo. Discussions and deliberations lasted over many days and sleepless nights. We finally had something that moved us at the ends of the soul-stirring process.

The logo is a symphony of contradictions. A true tale of character and colour. With neoclassical Indo-Islamic architecture inspired minaret shaped borders bursting with life, and our festival name nestled deep within, it is both lucid and complex. It is both opulence and grace, symmetry and chaos, all open to interpretations.



Meraki17 logo is the exquisite union of bohemian individuality and chic timeless class. Ensnaring every connoisseur's dream, it combines both the elegance of a tranquil white background and the rustic earthiness of the diverse and distinctive colours embossed upon it.

If a wanderer were to observe it closely, she or he may see the lights between the patterns dancing through vibrant orange spangled leaves transcending into melancholic hues of purple and blue. The Meraki17 logo, thus, is not a rigid creation born out of technology but rather a storm of shades weaving a breathtaking story as it travels across the span of spectacular white sand in the desert of noir that is NMIMS School of Law.

- By Teesta Sen  
(B.A.LL.B. Third Year)

# Chancellor's Challenge

## Challenging young innovators: An Initiative to promote innovation and entrepreneurship



Does the silo mentality in the world bother you? Do you dream of doing something innovative and different? Do you often get ideas which keep you awake at night and you couldn't bring them to action afterwards? Do challenges excite you? Then, 'The Chancellor's Challenge' is a platform which shall help you in making this difference.

The core objective of Chancellor's Challenge is to support innovation and build an entrepreneurial community on campus. In furtherance of these objectives, we are building an effective ecosystem to support innovation on campus.

The diverse community of over 40000 members in the SVKM family from Engineering, Business, Law, Economics, Science, Liberal Arts, Architecture, Journalism and Pharmacy background from 27 colleges is a breeding ground for the intermingling of various skillsets to produce effective and innovative solutions to the problems in the market.

Innovative solutions have often proved to be disruptive for the industry. Ideas need execution to become potential change-makers in the world. We understand that intelligent ideas need assistance to grow into functional businesses. While start-ups are sprouting in every nook and corner of the country, bringing a big idea to life is certainly not an easy task. The journey from idea to execution is a roller coaster ride, full of ups and downs. From product and idea development to building a reliable team, from logistics to finances, everything needs your dedicated attention.

The Chancellor's Challenge provides you innumerable opportunities to get resources for your idea to transform into reality. With eminent guests from the industry coming for mentoring, interactive sessions, judging and personally guiding you through the process, an idea is expected to get nurtured very efficiently within the campus itself. In the first edition of Chancellor's Challenge (2016-17) we had eminent personalities like Nishith Desai, Ronnie Screwvala, Sanjiv Shah, Nilesh Mehta, Annurag Batra, Rajesh Jain, Parth Gandhi, Vimal Kumar, Sujata Bhogawat, Amit Mehra, Niraj Bhukanwala to help students understand various fields like financial markets, technology based innovation, making proposal, structuring effective business, disruptive innovation, social entrepreneurship and many other such topics.



Winner of the first edition of Chancellor's Challenge: Rakesh Patel, awarded a cash prize of Rs. 5 Lakhs.

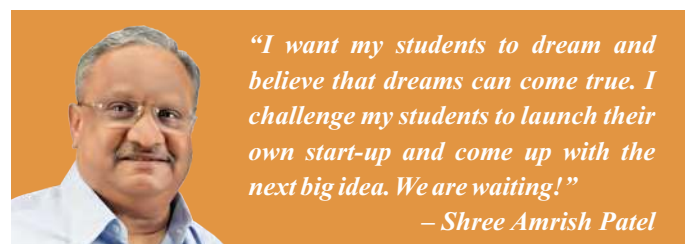


First Runner up: Chintan Shah and Rahil Thakur, awarded a cash prize of Rs. 3 Lakhs.



Second Runner up: Vraj Shah, awarded a cash prize of Rs. 2 Lakhs

With this year round schedule of activities to be a part of and resources to efficiently utilize to scale up your idea into reality, we urge the students at SVKM to accept the Challenge and dare to dream; and believe that dreams can transform into potential start-ups. The only exception to this challenge is that we support you to accept the challenge and win it in your best capacity. Game changers – the top 3 teams get prize money worth Rs.10 Lakhs and one year incubation facility at NMIMS. We look forward to your participation in our dynamic entrepreneurial community. *For any further queries visit [ideas.nmims.edu](http://ideas.nmims.edu)*



– Shree Amrish Patel





# UPCOMING EVENTS CALENDER

## UPCOMING APPELLATE ADVOCACY (MOOT COURT) COMPETITIONS

1. 17th Henry Dunant Memorial Moot Court Competition 2017 [Sept 21 – 24, Delhi]: Submit by Sept 19.
2. 2nd National Moot on Constitutional Law [October 6-8, Dehradun]: Register by Aug 7.
3. Pre-Invite: NLU Delhi's 1st International Moot on Insolvency in India [28-29 October]: Moot Problem Releases on June 1.
4. Pre-Invite: VS Mani Memorial International Law Moot on Racial Discrimination [22 – 24 Sept, Jaipur]: Prizes Worth Rs. 50k
5. 5th KIIT National Moot Court Competition 2017 [Sept 8 – 10, Bhubaneswar]: Prizes Worth Rs. 2 Lakhs, Register by July 10.
6. NLUDEL-INSOL International Insolvency Law Moot Court Competition [26 – 29 Oct, Delhi]: Register by Sept 1
7. 3rd GNLU Moot on Securities and Investment Law 2017 [Sep 8-10, Gandhinagar]: First Prize Rs 50K, Register by July 15.
8. 7th FYLC-Ranka National Moot Court Competition 2017 [July 29-31, Jaipur]: Register by June 15.
9. 17th Henry Dunant Memorial Moot Competition-2017 on International Humanitarian Law, Delhi.
10. 19th DM Harish Memorial GLC International Moot 2018 [9 – 11 Feb, Mumbai]: Register by Oct 5.

## UPCOMING DEBATE COMPETITIONS

1. 5th GNLU Debate 2017 [Aug 25-27]: Register Now
2. 7th RGNUL Parliamentary Debate Competition, Agahi 2017 [Oct 6-8, Patiala]: Prizes Worth Rs. 62,000: Register by August 31.

## CALL FOR PAPERS

1. Kashmir University's National Seminar on Role of Universities in Social Transformation [Sep 12-13]: Submit by Aug 5.
2. Call for Papers: 3rd UPES Conference on Road ahead in Data Protection [Sept 1 – 2, Dehradun]: Submit by July 1
3. Call for Papers: Amity Law School's Conference on Postcolonialism Transformation [Aug 22 – 23, Noida]: Submit by June 30
4. Call for Papers: Indian Journal of Natural Resources, Energy & Environmental Law [No Publication Fee]: Submit by Aug 10
5. Call for Papers: 3rd National Conference on Economics of Competition Law [Delhi, April 5-6, 2018]: Submit by August 15
6. Call for Papers: International Journal of IP Law and Economic Growth [No Publication Fee]: Submit by July 21
7. Call for Papers: NLSIU, Legal Aid Watch [Prizes Worth Rs. 9000]: Submit by June 30
8. Call for Papers: NLU Jodhpur's Journal on Corporate Law & Governance, Volume 2 Issue 3: Submit by Aug 25
9. Call for Papers: SLC's Conference on Rights and Dignity of Women in Digital Era [July 29, Bangalore]: Submit by July 10
10. Call for Papers: Conference on Contemporary Directions in Rural Management, Xavier School, Bhubneshwar [Oct 26-28]: Submit by August 31
11. Call for Papers: IIT Guwahati's Symposium on Retrtransforming Bhartiya Education, Science and Technology [Oct 6-8]: Submit by July 1

## Editorial Team

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\*THIS ISSUE PERTAINS TO THE PREVIOUS TRIMESTER.