



BHU LAW SCHOOL Newsletter

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Banaras Hindu University
Varanasi – 221005, India
email: dean.lawschool.bhu@gmail.com
Telefax : +91-542-2369018
http://www.bhu.ac.in/lawfaculty



The Geneva II peace talks reached an impasse as the two sides- President Asad's regime and the Syrian National Coalition opposition were not ready to backtrack from their long-standing positions. However, hopes to find a political solution to Syrian civil war have not been shattered. There is a silver lining. The option of pursuing a deal between the Government and the rebel forces is still open. Blaming on the opposition for failure of the talks; the Syrian Government accused it for coming up with "an unrealistic agenda." However, the real issue is not who is to blame for the stalemate. What needs

to be realized, is that reaching a political solution is the only way out for ending the carnage. The Syrian civil war has so far claimed 130,000 lives, displaced millions, and destroyed whole country. What is most remarkable about the recently held a peace talks is that the two sides had engaged in dialogues over an issue which seems unending. The month long Geneva Peace Talks have witnessed the two sides softening their approach. During negotiations, the opposition side submitted a paper to Lakhdar Brahimi, the UN- Arab League mediator with its vision for a post-war Syria that did not stick to its long-held demand that the Assad dynasty must end. While a more active role is to be played by the United States and Russia in clearing the clouds, India should play more meaningful active role in getting to an end to the three-yearlong civil conflict.

Recently, commutation of death sentences into life imprisonments in the Rajiv Gandhi assassination case, by the Supreme Court on the ground of inordinate delay in deciding the convicts' mercy petitions, has once again highlighted the need to revisit the policy of retaining the death penalty in the statute book.

With the publication of this Issue, the BHU LAW SCHOOL Newsletter has completed successfully two years of its existence that has reaffirmed our belief that the Newsletter "shall prove to be a useful information resource for the legal fraternity and all those who fight for justice." In the last two years, we have achieved much in promoting research and learning at this pioneer institution of legal education. Law School is launching new Education Programmes- Five Year BA, LLB (Hons); One Year LL.M. and several Post Graduate (Part Time) Diploma Courses from the coming academic session. We are thankful to Prof. B. C. Nirmal, Former Head & Dean (currently VC, NUSRL Ranchi), who took a bold step to introduce these new programmes. We are thankful to the members of Board of Studies and Faculty Board for taking momentous and historic decision in support of the introduction of new programmes and immensely grateful to our Hon'ble Vice-Chancellor for giving his moral support in approving all the programmes. We are obliged to the Chairman and Secretary of the Bar Council of India for accepting our request to send a team in the next month to inspect the Faculty for the recognition and approval to run Five Year integrated BA, LLB (Hons) degree course and to renew the recognition of Three Year LL.B. (Hons) course. I would like to wish all the members of Editorial Team for their efforts in putting together a wonderful and informative Newsletter despite many constraints and limitations, especially to our research scholars who have assisted to the Editorial team.

B. N. Pandey

Faculty Updates



Dr. B.C. Nirmal, Professor, Law School, Banaras Hindu University joined the National University of Study and Research in Law (NUSRL), Ranchi as Vice-Chancellor on February 18, 2014. Before joining this new assignment, Prof. Nirmal has been Head and Dean of the Faculty of Law, BHU from 2012-14. He has presented a paper on “*New Dimensions of the Recognition of Revolutionary Government in the Middle East; Traditional Concepts and New Ones*” in the “Indian Conference of International and Comparative Law” jointly organized by Faculty of Law, Banaras Hindu University, Soochow University School of Law, Taipei and Chinese Society of Comparative Law on January 22, 2014.



Dr. B. N. Pandey, Professor, Law School, Banaras Hindu University assumed the office of Head & Dean , Faculty of Law in February, 2014. Prof. Pandey (an alumnus, Law School) has a long teaching experience of 38 years. He has been associated with various educational bodies of different Universities and Institutions in various capacities and has discharged many administrative responsibilities in the past. He specializes in the area of Intellectual Property Rights Law and Administrative Law.

Prof. A. K. Pandey, Law School, Banaras Hindu University presented paper titled “New Dimensions of Comparative Public Law In India” in the “Indian Conference of International and Comparative Law” jointly organized by the Faculty of Law, Banaras Hindu University, Soochow University School of Law, Taipei and Chinese Society of Comparative Law on January 22, 2014.

Dr. Rajnish Kumar Singh, Assistant Professor, Law School, Banaras Hindu University presented a paper titled “Law of International Commercial Arbitration in India: Party Autonomy and Enforcement of Foreign Awards” in the “Indian Conference of International and Comparative Law” jointly organized by the Faculty of Law, Banaras Hindu University, Soochow University School of Law, Taipei and Chinese Society of Comparative Law on January 22, 2014.

Dr. Golak Prasad Sahoo presented a paper titled “Cyber Law in South Asian Countries with Special Reference to Cyber Crime” in the “Indian Conference of International and Comparative Law” jointly organized by the Faculty of Law, Banaras Hindu University, Soochow University School of Law, Taipei and Chinese Society of Comparative Law on January 22, 2014.

Prof. Ajendra Srivastava, Managing Editor of the BHU Law School Newsletter presented a paper titled “Recognition of Belligerency: New Trends and Principles” in the “Indian Conference of International and Comparative Law” jointly organized by the Faculty of Law, Banaras Hindu University, Soochow University School of Law, Taipei and Chinese Society of Comparative Law on January 22, 2014.

Prof. Sibaram Tripathy, delivered key note address on Human Rights, Constitution and Judiciary in UGC sponsored National Seminar organized by Saket P.G. College, Ayodhya, Faizabad on 1-2 March, 2014.

Dr. Raju Majhi, Assistant Professor, Co-chaired a session in the National Seminar on “Human Rights and Indian Constitution with Special Reference to Judiciary” organized by K. S. Saket P.G. College, Ayodhya, Uttar Pradesh on 1-2 March, 2014. He also presented a paper entitled “Protection of Human Rights in India: Judicial Response” in the National Seminar on “Human Rights and Indian Constitution with Special Reference to Judiciary” organized by K. S. Saket P.G. College, Ayodhya, Uttar Pradesh on 1-2 March, 2014. He presented another papers entitled “Applicability of Consumers Protection Act to the Banking Sector: Issues and Challenges” in the National Seminar on “Legal Protection of Consumers in a Global Economy-Recent Approaches and the Way Forward” organized by Law School, Banaras Hindu University, Varanasi on 29-30 March, 2014; “Impact of Mass Media and Cultural Identity” in the National Seminar on “Challenges and Prospectus of Indian Cultures in the Present Time” organised by Department of Sociology, Banaras Hindu University, Varanasi on 30 March, 2014 and published a paper “Social Justice and Human Rights Under the Indian Constitution” in the book “Human Rights and Social Justice” Edited by Dr. Ajay Kumar, published in V L Media Solutions, New Delhi, 2014, pp.55-64. He also delivered two lectures on “Legal Education in India and Career and Opportunities in Law” at Jamshedpur Co-operative Law College, Jamshedpur, Kolhan University, Jharkhand on 19-20 June, 2014.

Forthcoming Events

- One-day Workshop on Clinical Legal Education to be organized on April 05, 2014.
- Second Mahamana Madan Mohan Malviya Ji National Moot Court Competition to be organized on 29-30, April 2014.
- Release of proceedings containing selected papers of National Seminar on Science, Technology and Law Reform organized on 3-4 November 2012.
- Release of proceedings containing selected papers of International Conference on International Environmental Law, Trade Law, Information Technology Law and Legal Education organized on 2-3 March 2013.
- Summer Internship on Legal aid and Public Advocacy 2014 to be organized from May 30, to June 28, 2014.
- Introduction of New Academic Programmes from Academic Session July 2014-2015-
 - i. One Year (Two-Semester) LL.M. Degree Course;
 - ii. Five Year BA LLB (Hons) Integrated Degree Course;
 - iii. P. G. Diploma Courses (Part Time):-
Environmental Law; Mass Communication and Media Law; Forensic Science and Medical Jurisprudence; Corporate Governance; Tax Management; Information Technology Law; Environmental Law Policy and Management; Human Resource Management, Service and Industrial Law and Intellectual Property Rights.
- Visit of the team of Bar Council of India

Activities at Law School



Indian Conference of International and Comparative Law, January 22, 2014

The Faculty of Law, Banaras Hindu University, Soochow University School of Law, Taipei and Chinese Society of Comparative Law jointly organized a Conference on International Law and Comparative Law on January 22, 2014. Prof B.C. Nirmal, Head & Dean, Faculty of Law, BHU gave the welcome address in the inaugural session and highlighted the need

for more collaboration between the Soochow University and Law School, BHU. Prof. Chia-Jui Cheng, Secretary-General of the Curatorium, Asian Academy of International Law and President, Chinese Society of Comparative Law, the Chief Guest of the Function said that India and China have deep historical, cultural and economic relations and there has been long history of exchange of culture through Buddhism. Prof. Chia-Yin Hung, Dean, School of Law, Soochow University, the Guest of Honour was of the view that there should be more such conferences where Asian countries like India and China should come together and talk over the contemporary challenges of International Law which are more relevant to the Asian countries. Mr. Abhay Kumar Thakur, (IRS), Finance Officer, Banaras Hindu University, presided over the Inaugural Session. Dr. Raju Majhi, Student Advisor, Law School offered the Vote of



Prof. M.P. Singh, Former Head & Dean, Law School, BHU chaired the 1st technical-session on "The Recognition of Revolutionary Government, Belligerency and Insurgency in International Law" and Prof. D. P. Verma, Former Head & Dean, Law School, BHU chaired the 2nd technical-session on "New Dimensions of Comparative Law".

Prof. B.C. Nirmal, Head & Dean, Law School, BHU; Prof. Chia-Yin Hung, Dean, School of Law, Soochow University; Prof. Chia-Jui Cheng, Secretary-General of the Curatorium, Asian Academy of International Law and President, Chinese Society of Comparative Law; Prof. A. K. Pandey, Prof. Ajendra Srivastava, Dr. Rajnish Kumar Singh, Dr. Golak Prasad Sahoo, Law School, Banaras Hindu University; Prof Hong-Yi Hsiao, and Prof. Shin Yi. Serena Hung, Soochow University, presented papers in the Conference.

National Seminar on "Legal Protection of Consumers in a Global Economy -Recent Approaches and the Way Forward, 29-30, March 2014



A National Seminar was organized on 29-30, March, 2014 in the Faculty of Law on "Legal Protection of Consumers in a Global Economy -Recent Approaches and the Way Forward". Near about 500 participants from different parts of the country participated in the Seminar. The Seminar was inaugurated on 29th March 2014 at 10.00 AM in the newly constructed Seminar Hall of the Faculty of Law, BHU. Hon'ble Mr. Justice J. Chelameswar, Judge, Supreme Court of India was the Chief Guest of the inaugural session. Hon'ble Mr. Justice Giridhar Malviya, Former Judge of the Allahabad High Court, Sri Vibhawa Bhushan Upadhyay, Former Advocate General, U.P. and Prof. B. C. Nirmal, Vice-Chancellor, National University of Study and Research in Law, Ranchi were the guests of honour. The inaugural function was presided over by Prof. R. K. Misra, Former Vice-Chancellor, DDU University Gorakhpur. The dignitaries on the dais released the Souvenir of the National Seminar, Banaras Law Journal, News Letter and the Proceedings of the National Seminar (Nov. 2012) and International Conference (2013). Prof. B. N. Pandey, the Dean Faculty of Law, BHU while presenting his welcome address introduced the guests and outlined the importance of the consumer and consumer protection laws in the global economy. The guest of Honour Hon'ble Mr. Justice Giridhar Malviya, Mr. Vibhawa Bhushan Upadhyay and Prof. B. C. Nirmal, also addressed the gathering and raised many important issues regarding the subject matter of the Seminar. Prof. B. C. Nirmal expressed the view that the rights of consumers should be understood and interpreted in terms of human rights perspective.

Hon'ble Mr. Justice J. Chelameswar, Judge,

Supreme Court of India said that due to the advancement of technology and the communication technique the consumers can purchase anything from anywhere by referring the online purchasing and cross border trading and due to this the trade have increased enormous proportion. In this scenario, there is always possibility of deficiency in quality of goods and services rendered by the providers. Prof. R. K. Misra delivered the presidential address and at the end Dr. G. P. Sahoo, Assistant Professor, Faculty of Law, BHU proposed the Vote of Thanks.



Prof R K Misra, Former Vice – Chancellor, DDU Gorakhpur University, Former Head& Dean, Law School, BHU, the eldest Faculty at the Function



Prof B. N. Pandey, Head & Dean , Law School, BHU with Faculty Members



Prof M P Singh, Former Head & Dean, Law School, BHU & S. Shiv Kumar, Former Director, ILI, NewDelhi

Prof. M.P.Singh, Former Dean and Senior Professor, Faculty of Law, BHU chaired the 1st technical session and Prof. Jaidev Pati, Director, SOA National Institute of Law, Bhubaneswar was the Co-chairman. Prof. S. Shivakumar, Former Director, Indian Law institute, New Delhi was the key note speaker of this technical session. The theme of this technical session was Globalization, Indian Market and the Consumers.



Prof B C Nirmal, Vice-Chancellor, NUSRL, Ranchi & Mrs S K Verma, Former Director, ILI , New Delhi



The theme of the second session was “E-commerce, Consumer Protection on Online Media, IPR and Advertising Issues”. Prof. (Mrs.) S. K. Verma, Former Director, Indian Law Institute, New Delhi was the Chairperson and Prof. Ali Mehdi, Professor, Law School, BHU was the Co-chairperson. The theme of third technical session was “Legal Protection of Consumers including Rural Consumers, Consumer Protection Legislations and the Problems of their Implementation and Food and Safety Standards”. Prof D. K. Sharma, Professor, Faculty of Law, BHU acted as Chairperson and Prof. M. K. Chatruvedi, Ex-Vice President, Income Tax Appellate Tribunal and Member, Central Administrative Tribunal acted as Co-chairperson of this technical session. The theme of the second session of the second day was “Consumer Protection and The Service Sector, Media, Consumer Awareness and the Role of NGOs”. Prof. R. P. Rai, and Prof R. K. Murali, Faculty of Law, BHU acted as Chairperson and the Co-chairperson respectively.

The valedictory session which held at 3.00 PM on 30, March, 2014. The Chief Guest of the function was Hon'ble Mr. Justice A. N. Mittal, Judge, Allahabad High Court. Dr. Sapna Chaddha, Assistant Professor, IIPA, New Delhi was the guest of honour and Prof. B. C. Nirmal, Vice-Chancellor, National University of Study and Research in Law, Ranchi presided over the function. The Head & Dean, Faculty of Law BHU, Prof. B. N. Pandey presented the welcome address and read the Seminar Report. Dr. S. K. Gupta, Associate Professor, Faculty of Law BHU and the Joint Director of the National Seminar introduced the guests. Speaking on the occasion the Chief guest of the function honorable Mr. Justice A. N. Mittal, Judge Allahabad High Court said that consumer rights includes the right to bargain, right to consumer education, right to fulfillment of basic needs and right to health. He further added that it becomes

important to raise the standard of living of consumer and to be careful about the well being of consumer. For this purpose it is essential to increase awareness. At the end, Dr. Manoj Kumar Padhy, Associate Professor and the Organizing Secretary of the Seminar proposed the Vote of Thanks.

Inauguration of Moot Court Hall by Hon'ble Vice-Chancellor



Dr. Lalji Singh (Padma Shri) Hon'ble Vice-Chancellor, Banaras Hindu University inaugurated the newly constructed Moot Court Hall of the Law School on February 15, 2014. Addressing the students and teachers during the inaugural ceremony of the moot court hall, Dr. Lalji Singh said that the University would soon introduce a postgraduate course in forensic science. According to him, introduction of forensic science study in the university would benefit law students. He also said that study and research in forensic science at the university would incorporate experts from all the fields including teachers of law.

Special Lecture on Wildlife Conservation by Hon'ble Vice-Chancellor



Dr. Lalji Singh (Padma Shri), Hon'ble Vice-Chancellor, Banaras Hindu University delivered a special lecture on “Conservation of Wildlife in India” on February 15, 2014 at the inaugural ceremony of the moot court hall. He talked in detail about the use of DNA technology for the conservation of wildlife in the country. Dr. Singh shared with the audience several case studies about the use of DNA technology in solving wildlife related mysteries and crimes as well protecting endangered species.

Annual Convocation (Degree Distribution)



The 96th Convocation of the University was organised on 27th March, 2014. Padma Vibhushan Dr. Jayant Vishnu Narlikar (noted Scientist) was the Chief Guest. A degree distribution ceremony was organised in the Faculty of Law as part of the Convocation on 26th March, 2014. Nineteen Scholars were awarded Ph. D. Degree, 46 students were awarded LL. M. Degree, 15 students got LL. M. (HRDE) degree and 330 students got LL. B. degree. Law College Old Boys Medal was awarded to Km. Rupa Mishra for standing first at the LL.B. Examination 2013. Thakur Jagannath Singh Gold Medal was awarded to Km. Ganga Sharma for securing highest marks with first division in the LL.M. (final) Examination 2013. Devendra Nath Dwivedi Memorial Gold Medal was awarded to Km. Rupa Mishra for securing highest marks in LL.B. (final) Examination, 2013, Prof. B. N. Sampath Memorial Gold Medal was awarded to Km. Devyani Shekhar for securing highest marks in paper Hindu Law at LL.B.(Hons.) Examination, 2013. BHU Medals were awarded to Km. Rupa Mishra, Km. Ganga Sharma and Km. Ekta Dubey for standing first at the LL.B., LL.M. and LL.M. (HRDE) Examinations 2013 respectively.

Spandan-2014 (Inter-Faculty Youth Festival)



Spandan-2014, the five-days Inter-Faculty Youth Festival of Banaras Hindu University (12-16th February, 2014) commenced with various activities like short play, on-spot photography and painting, debate, quiz,

mono acting, solo vocal and group song.

The Youth Festival, Spandan-2014 was inaugurated by renowned playback singer Mr. Suresh Wadekar. About 2000 students were participated in 40 events. The students from the Law Faculty were also participated. 93 students were represented the Faculty of Law in different events of Spandan-2014. The team comprises of Mr.

Anoop Kumar, Research Scholar and Mr. Ajeet Gupta, (LL.B. I Year student secured 1st position in Debate (Hindi). Mr. Shambhu Devacharya (LL.B. Final Year) secured 1st position. Mr. Praveen Kumar Choubey (LL.B. Final Year) won the 2nd prize in Essay Writing (Hindi) competition. Mr. Dhawal Shanker Srivastava (LL.B. Final Year) secured the 2nd position in Poetry Recitation (English). The team comprises of Mr. Sevanand Upadhyay (LL.B. II year), Mr. Prabhat Kumar Ranjan (LL.B. Final year) and Mr. Ankit Kumar Singh (LL.B. Final year) won 3rd Prize in Quiz. Mr. Shivam (LL.B. Final Year) and Mr. Manish Chandra (LL.B. II year) were the Students Leader and Co-Leader respectively. The Spandan-2014 was ended with the valedictory function. The Bollywood actor Mr. Anupam Kher was the Chief Guest of the valedictory function.

Legislative Trends



NARCOTIC DRUGS AND SYCHOTROPIC SUBSTANCES (AMENDMENT) ACT, 2014 (NO. 16 OF 2014)

It is an Act to amend the NDPS Act, 1985 paving the path for medical access to narcotic drugs, and attempt to improve treatment and care of people dependent on drugs which significantly increases their health and rights. The Act authorizes the Government to recognize and approve treatment center, which currently operate without license or accreditation and allows for instituting evidence based on human rights compliant standards for drugs treatment facilities, whether public or

private.

Through this Amendment Act Parliament has adopted a new category of 'essential narcotic drugs' under the Act in which central government can notify a list on the basis of expediency in medical practice and drugs identified as essential will be subject to central rules that will apply throughout the country bringing to an end, the unwieldy and inept practice of obtaining multiple State licenses for possession, transportation, distribution, purchase, sale, use and consumption.

THE STREET VENDORS (PROTECTION OF LIVELIHOOD AND REGULATION OF STREET VENDING) ACT, 2014 (NO. 7 OF 2014)

It is an Act to regulate the street vendors. The Act provides for constitution of Town Vending Authority in each local authority for implementation of this law. There is also a provision for establishment of an independent dispute redressal mechanism under the chairmanship of retired judicial officers to maintain impartiality towards grievances redressal of street vendors. In addition, the Act provides provision for Town Vending Committee (TVC) in which representation of officials and non-officials and street

vendors, including woman for proportional participation is mandatory. Thus, the Act laid down 'participatory decision making' doctrine.

In order to avoid arbitrariness of authority, the Act provides provisions for a survey of all existing street vendors and subsequent survey at least once in every five years and issue a certificate to the vendors identified in the survey with reference to SC, ST, OBC, PWD, women and minorities. In case numbers of vendors are identified more than the holding capacity of the vending zone, the TVC has power to carry out a draw of lots for issuing the certificate of vending for that vending zone.

The Act provides that no street vender will evicted until the survey has been completed and talks about shifting of vending certificate, in case of death, illness and disabilities of vendors. In addition, the local authority is required to make out a plan once in every five years to promote a supportive environment and adequate

space for urban street vendors to carry out their vocation. Thus, the Act provides enough safeguard to protect the vendor's interest.

THE LOKPAL AND LOKAYUKTAS ACT, 2013 (NO. 1 OF 2014)

It is a landmark development to defeat the corruption that finally Lokpal and Lokayuktas Act, 2011, was passed by Parliament and it received the assent of the President on the 1st January, 2014. The Bill seeks to establish an ombudsman to fight against corruption in public offices and ensure accountability on the part of public officials including the office of Prime Minister. According to the Act, Lokpal will consist of a chairperson and a maximum of eight members, of which 50 per cent shall be judicial members however not less than 50 percent of the Members, shall be from amongst the persons belonging to the SC, ST, OBC, minority and women. The Chairperson and Members shall be appointed by the President after obtaining the recommendations of a Selection Committee consisting of Prime Minister, Speaker of Lok-Sabha, Leader of Opposition in the Lok-Sabha, Chief Justice of India or a sitting Supreme Court judge nominated by CJI, eminent jurist to be nominated by the President of India on the basis of recommendations of the first four members of the selection committee. Lokpal will have power of superintendence and direction over any investigation agency including CBI for cases referred to them by Lokpal. For Independence of the CBI, in the new bill a directorate of prosecution will be formed. Appointment of the director of prosecution will be on the recommendation of the Central Vigilance Commissioner. Transfer of officers of CBI investigating cases referred by Lokpal will be only with the approval of Lokpal who will also have superintendence over CBI in relation to Lokpal referred cases. The Bill thoroughly incorporates provisions for attachment and confiscation of property acquired by corrupt means, even while prosecution is pending. The Bill also lays down clear time lines for preliminary enquiry, investigation, and trial and towards this end, the bill provides for setting up of special courts. A mandate for

setting up of the institution of Lokayukta through enactment of a law by the State Legislature within a period of 365 days from the date of commencement of the Act.

International Legal News and Events



Argentina ratifies the Domestic Workers Convention

On 24 March 2014, Argentina deposited with the International Labour Office the instrument of ratification of the Domestic Workers Convention, 2011 (No. 189). Now, Argentina has become the thirteenth ILO Member State and the seventh Latin American Member State to ratify the Domestic Workers Convention. The Convention (No. 189) seeks to improve the working and living conditions of tens of millions of domestic workers worldwide.

Somalia ratifies three fundamental ILO Conventions

On 20 March 2014, the Government of Somalia deposited with the International Labour Office the instruments of ratification of the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87), the Right to Organise and Collective Bargaining Convention, 1949 (No. 98) and the Worst Forms of Child Labour Convention, 1999 (No. 182). These international instruments recognize the importance of freedom of association and collective bargaining as well as the effective elimination of the worst forms child labour.

Slovenia ratifies the Promotional Framework for Occupational Safety and Health Convention, 2006 (No. 187) and the Night Work Convention, 1990 (No. 171)

On 12 February 2014, Slovenia deposited with the International Labour Office the instruments of ratification of the Promotional Framework for Occupational Safety and Health Convention, 2006 (No. 187) and the Night Work Convention, 1990 (No. 171). By ratifying Convention No.187, Slovenia joins 28 other member States that

have shown their commitment towards achieving sustained and continuous improvement of occupational safety and health to prevent occupational injuries, diseases and deaths, in consultation with the social partners. By ratifying Convention No. 171, Slovenia has undertaken an obligation to put in place protective rules for improving the quality of working life of all night workers, both men and women, in all branches and occupations." It may be noted that Convention No. 171 abandons the gender-specific approach adopted by previous instruments on night work in industry, and reflects the changing perceptions as to the hazards of night work and a new flexible approach to the problems of shift work organization.

Finland ratifies the Chemicals Convention, 1990 (No. 170)

On January 22, 2014 Finland deposited the instrument of ratification of the Chemicals Convention, 1990 (No. 170) with the International Labour Office. With this, Finland has become thereby becoming the 18th Member State to ratify the Convention. The Convention No.170 calls for the adoption and implementation of a coherent policy on safety in the use of chemicals at work. It also requires the establishment of national systems for the classification of chemicals, and the provision of safety and health information to users through labels and chemical safety data sheets to be ensured by

suppliers. It provides for specific preventive measures to be taken by employers and the obligation for workers to cooperate with employers and comply with procedures relating to safety in the use of chemicals at work. It allocates a specific responsibility to exporting States.

Republic of Korea and Seychelles ratify the ILO Maritime Labour Convention, 2006 (MLC, 2006)

On 7 January 2014, the Government of the Republic of Seychelles and on 9 January 2014, the Government of the Republic of Korea deposited with the International Labour Office the instruments of ratification of the **Maritime Labour Convention, 2006 (MLC, 2006)**. The Republic of Seychelles is the 55th ILO Member State to ratify the Convention, and

the Republic of Korea is the 56th ILO Member State, and the 14th country from the Asia-Pacific region, to ratify the Convention. With these ratifications, the world gross tonnage of ships registered in States parties to the MLC, 2006 now exceeds 80 per cent.

65th session of the Committee on the Rights of the Child held at Geneva

The sixty-fifth session of the Committee on the Rights of the Child associated with Convention on the Rights of the Child, 1989 held at the United Nations Office at Geneva from 13 to 31 January 2014. The Committee thoroughly discussed on how its cooperation with various relevant bodies could be further strengthened to enhance the promotion and protection of the rights of the child.

Syrian Crisis: A Challenge of International Peace

On 12 March 2014, U.N. chief Ban Ki-moon appealed to the United States and Russia to “reenergize” talks aimed at resolving the ongoing civil war in Syria as it enters its fourth year. The U.N.-led peace talks, dubbed Geneva II, broke down on February 15 when a second round ended with no new date set for them to reconvene. Syria's government and opposition began talks on January 22, with the participation of dozens of nations, including Russia, and the United States. “The Secretary General appeals to the region and the international community and in particular to the Russian Federation and the United States, as the initiating states of the Geneva Conference on Syria, to take clear steps to reenergize the Geneva process,” Mr. Ban said in a statement issued through his spokesman. U.N.-Arab League Syria envoy Lakhdar Brahimi, who acted as a mediator. With more than 140,000 lives lost since an uprising against Mr. Assad's regime began in March 2011, Mr. Ban called the situation in Syria “the biggest humanitarian and peace and security crisis facing the world.”

Recent Judicial Decisions



V. K. Verma v. C. B. I., (2014) 3 SCC 485

Criminal Appeal No. 404 of 2014, February 14, 2014.

Long delay in taking decision regarding guilt in a case relating to bribery is a mitigating factor.

A division bench of the Supreme Court, consisting of Sudhansu Jyoti Mukhopadhyaya and Kurian Joseph, JJ in case of V. K. Verma v. C B I, has held that a long delay, (pending for 3 decades before the courts) in taking a final decision with regard to the guilt of the accused, is one mitigating factor for the superior courts. In deciding on the question of quantum of punishment for offences under Section 161 of the Indian Penal Code, 1860 and Ss 5(1)(d) read with 5(2) of the Prevention of Corruption Act, 1947, the apex court has decided that long delay should be taken into account, while deciding the quantum of sentence. In the present case, CBI registered an FIR in 1984 and matter came before the Sessions Court in 1994, which took almost ten years to be concluding the trial and to pronounce the judgment. Before the High Court, it also took another ten years. Thus, it is a litigation of almost three decades in a simple trap case involving a petty amount of Rs. 265. The apex court further stated that it would be economically wasteful to the State to keep the appellant in prison at the age of 76 years. The facts of the case would certainly be special reason for reducing the substantive sentence.

DHARMENDRA KUMAR MISHRA
Professor, Law School, BHU

Shabnam Hashmi v. Union of India

Supreme Court rules that Section 41 of the JJ Act enabling any person, irrespective of the religion he professes, to adopt a child is a secular law.

A three – judges bench of the Supreme Court consisting of Hon'ble Chief Justice P. Sathasivam, Hon'ble Justice Ranjan Gogoi and Hon'ble Justice Shiva Kirti Singh in *Shabnam Hashmi v. Union of India* decided on February 19, 2014 had rightly held that Juvenile Justice (Care and Protection of Children) Act, 2000 as amended in 2006 and the Juvenile Justice (Care and Protection of Children) Rules, 2007 are secular laws enabling any person, irrespective of the

religion he professes, to adopt a child. The decision was given in a writ petition filed under Art. 32 of the Constitution by the petitioner to recognise the right to adopt and to be adopted, as a fundamental right under Part-III of the Constitution. The petitioner stated that guidelines to enable and facilitate adoption of children by persons irrespective of religion, caste, creed etc. stands satisfactorily answered by the aforesaid Act and that a direction be made by this Court to all States, Union Territories and authorities under the Act to implement the provisions of Section 41 of the Act and to follow the CARA (Central Adoption Resource Agency, a regulatory body which lays down norms both substantive and procedural, in the matter of inter as well as in country adoptions) guidelines as notified.

The Union of India also informed the Court through affidavit that prospective parents, irrespective of their religious background, are free to access the provisions of the Act for adoption of children after following the procedure prescribed.

The All India Muslim Personal Law Board, however, contended that Islamic Law does not recognize an adopted child to be at par with a biological child. According to the Board, Islamic Law professes what is known as the “Kafala” system under which the child is placed under a 'Kafil' who provides for the

well being of the child including financial support and thus is legally allowed to take care of the child though the child remains the true descendant of his biological parents and not that of the “adoptive” parents. The Board contended that under the Act adoption is only one of the methods contemplated for taking care of a child in need of care and protection and that Section 41 explicitly recognizes foster care, sponsorship and being look after by after-care organizations as other/ alternative modes of taking care of an abandoned/surrendered child. Therefore, a direction should be issued to all the Child Welfare Committees to keep in mind and follow the principles of Islamic Law before declaring a Muslim child available for adoption under Section 41(5) of the Act.

The apex Court without recognising right to adopt and to be adopted, as a fundamental right, held that the Act as amended, is an enabling legislation that gives a prospective parent the option of adopting an eligible child by following the procedure prescribed by the Act, Rules and the CARA guidelines. The Act does not mandate any compulsive action by any prospective parent leaving such person with the liberty of accessing the provisions of the Act, if he so desires. Such a person is always free to adopt or choose not to do so and, instead, follow what he comprehends to be the dictates of the personal law applicable to him. Personal beliefs and faiths, though must be honoured, cannot dictate the operation of the provisions of an enabling statute. An optional legislation that does not contain an unavoidable imperative cannot be stultified by principles of personal law, the Court held.

DINESH KUMAR SRIVASTAVA
Professor, Law School, BHU

Safai Karamchari Andolan and others v. Union of India and others

2014 Indlaw SC 188

Supreme Court on the practice of manual scavenging

In a significant case on the prohibition of the practice of manual scavenging, the Supreme Court on 27 March 2014 while decrying this evil practice directed that persons included in the final list of manual scavengers u/ss. 11 and 12 of the Prohibition of Employment as Manual Scavengers and their Rehabilitation Act, 2013, (the 2013 Act) should be rehabilitated and rehabilitation should be on the principles of justice and transformation; and that State Governments and the Union Territories should fully implement the Employment of Manual Scavengers and Construction of Dry Latrines (Prohibition) Act, 1993 (the Act) and the 2013 Act and take appropriate action for non-implementation as well as violation of the provisions contained in the 2013 Act. A Division Bench of the Supreme Court comprising Justices P. Sathasivam, N. V. Ramana, and Ranjan Gogoi observed that “The enactment of the aforesaid Act [2013 Act], in no way, neither dilutes the Constitutional mandate of Art. 17 nor does it condone the inaction on the part of Union

and State Governments under the 1993 Act. What the 2013 Act does in addition is to expressly acknowledge Article 17 and Article 21 rights of the persons engaged in sewage cleaning and cleaning tanks as well persons cleaning human excreta on railway tracks.

The case arose out of a writ petition filed by the petitioners as a Public Interest Litigation u/art. 32 of the Constitution of India praying for issuance of a writ of mandamus to the respondent-Union of India, State Governments and Union Territories to strictly enforce the implementation of the 1993 Act, inter alia, seeking for a declaration to the effect that the practice of manual scavenging and the operation of

Dry Latrines is violative of Articles 14, 17, 21 and 23 of the Constitution and the 1993 Act; and the direction to the concerned governments and authorizes regarding the strict compliance of the provisions of the 1993 Act and the initiation of prosecution against the violators.

The Court observed that Article 17 of the Constitution and the Protection of the Civil Rights Act, 1955 “were path breaking in themselves, they were found to be inadequate in addressing the continuation of the obnoxious practice of manual scavenging across the country, a practice squarely rooted in the concept of the caste-system and untouchability”. Referring to the relevant provisions of certain international instruments, namely the Universal Declaration of Human Rights (UDHR), Convention on Elimination of Racial Discrimination (CERD) and the Convention for Elimination of all Forms of Discrimination Against Women (CEDAW), it further observed that the provisions are binding to the extent they are not inconsistent with the provisions of the domestic law. The Court took note of the 'Survey of Manual Scavengers' 2013 which showed “remarkably little progress” regarding the prohibition of the employment of the manual scavengers. According to the Court, The relevant data made “it abundantly clear that the practice of manual scavenging continues unabated. Dry latrines continue to exist notwithstanding the fact that the 1993 Act

was in force for nearly two decades. States have acted in denial of the 1993 Act and the Constitutional mandate to abolish untouchability.”

The Supreme Court while disposing of the writ petition reiterated that the duty is cast on all the States and the Union Territories to fully implement the Act and to take action against the violators. The Court permitted the persons aggrieved to approach the authorities concerned at the first instance and thereafter the High Court having jurisdiction.

AJENDRA SRIVASTAVA
Professor, Law School, BHU

“Laws are spider webs through which the big flies pass and the little ones get caught”.

-Honore de Balzac

“If the machine of government is of such a nature that it requires you to be the agent of injustice to another, then, I say, break the law.”

-Henry David Thoreau

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