

DME

Law@DME

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Seasons Greetings

Delhi Metropolitan Education would like to wish all of its readers a very Merry Christmas and a Happy New Year.

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LETTER FROM THE EDITORIAL BOARD



Welcome to the December edition of Law@DME. Now that classes are over for the semester and students are preparing for their end term examinations, we are going on hiatus. We are thrilled to have brought you the latest news and legal updates all semester, and hope you will join us again for the February edition.

At Delhi Metropolitan Education, we have done the utmost to ensure that our students do not feel pigeonholed during their law school careers and have the resources to pursue other interests. To this end, we have expanded our list of societies and are inviting applications to create more such havens of like minded people. For those who only wish to curl up with a good book in their free time, the library has acquired an excellent collection of fiction and nonfiction books and will continue adding to it. With the New Year just round the corner, there is no better time to take up a new hobby.

As always, we are committed to enhancing your experience and look forward to hearing from you at law.newsletter@dme.ac.in. In the mean time, we wish everyone a safe and happy holiday, and to our students, all the best for your exams!

Editorial Board: Ms Poonam Tyagi, Dr Anjali Sharma, Dr Jaya M Prosad, Ms Charvi Kumar, Ms Tulika Narbar, Ms Navjot Suri

UPCOMING EVENTS

Department of Management's National Conference on 'Emerging Trends in Management Practices' – 24 January 2017

DME Annual College Fest, 'ALOHA!' – 24-25 February 2017

Scholars Examine Legal Aspects of Environmental Protection at National Conference

-- Ishika Mishra and Marina Wheeler, BA LLB, Fourth Year

We held our 'National Conference on Environmental Jurisprudence in India' on 12 November 2016. The event served as a platform for discussion on contemporary environmental laws, drawing over 50 papers from scholars representing universities such as Galgotias, Lovely Professional, Amity, and UPES Dehradun, among others. The opening ceremony saw Prof. Afzal Wani (University School of Law and Legal Studies) weave poetry with aphorisms in his beautiful speech. The members of the audience then got a chance to hear and interact with the legendary environment crusader, Padma Shri MC Mehta.

The conference was divided into four sessions, of which two ran concurrently in the Nelson Mandela Auditorium and the Moot Court Hall. Participants were allotted four minutes for their presentations, following which they fielded questions from the co-chairs, other participants, and observers. Dr Seema Singh (Assistant Professor, Faculty of Law) and Dr Rakesh Sharma (IFS officer) were invited as co-chairs of the first session, which revolved around India's laws and policies aimed at improving the environment. The second session, chaired by Dr Md Salim (Dean, Lloyd Law College) and Dr Asad Malik (Assistant Professor, Jamia Millia Islamia), invited discourse on the contribution of non-governmental organisations, corporations, and communities towards the protection of the environment. The third and fourth sessions were held post-lunch. Chaired by Prof. (Dr) Meenu Gupta (Amity Law School, Noida) and Mr Aftab Ali (Advocate on Record, Supreme Court), the third session evaluated the judiciary's role as a champion of the environment. The fourth and final session broadened its scope to analyse regional and global laws. Chaired by the Dean of University School of Law and Legal Studies, Prof. (Dr) Kanwal DP Singh, and Assistant Professor (Sr) at Amity Law School, Delhi, Dr Bhavish Gupta, the session served to assess India's pledge to honour its dual international duties towards development and the environment.

At the valedictory session, the audience was treated to an address by Mr Ranjan Chatterjee, retired IAS officer and expert member of the National Green Tribunal of India. Finally, the event concluded with the long-awaited announcement of the best paper of each session. These, and other selected papers, shall be published in the inaugural edition of the DME Journal of Contemporary Indian Laws.



The lighting of the lamp (from left to right): Hon'ble Mr Justice Bhanwar Singh, Dr Rakesh Sharma, Padma Shri MC Mehta, Mr Aman Sahni, and Prof. Afzal Wani



Student welcomes Mr Ranjan Chatterjee with tilak

Delhi Metropolitan Education Successfully Organises Its First Model United Nations

-- *Hardik Saluja, BALLB, First Year*

The maiden edition of DME MUN was unveiled on the morning of 5 November 2016. The occasion was graced by our Vice Chairman, Mr Aman Sahni, Director General, Hon'ble Mr Justice Bhanwar Singh, Principal Academics, Prof. (Dr) Vikram Dutt, and Advisor, Dr Rakesh Sharma. Ms Youdon Aukatsang, elected member of the Tibetan Parliament in Exile and Senior Programme Officer with the Tibetan Centre for Human Rights and Democracy, was invited to be the guest of honour. Ashok Sajjanhar, former ambassador to Sweden, Kazakhstan, and Latvia, honoured us with his presence as the chief guest.

Following the felicitation of the distinguished members of the dais, Hon'ble Mr Justice Bhanwar Singh addressed the delegates and impressed upon them the need for an international organisation like the United Nations. Both Ms Youdon Aukatsang and Ambassador Ashok Sajjanhar emphasised on the significance of productive dialogue in resolving disputes between nations.



Ms Youdon Aukatsang and Ambassador Ashok Sajjanhar

The Model United Nations was divided into five sub-committees, each of which held separate sessions on specified topics of contemporary relevance throughout the two-day event. Additionally, the International Press was tasked with observing, and reporting on, the proceedings of both days.

The United Nations General Assembly Committee on Disarmament and International Security engaged in heated discourse on humanitarian intervention. Delegates attempted to strike a balance between state sovereignty and the UN's responsibility to protect those in need. The UN's inaction during times of crises, wars and genocide was soundly criticised.

The UN Human Rights Council, meanwhile, was grappling with the issue of protecting privacy in the digital age. Mentions of autocratic states, where freedom of speech is restricted and access to information is heavily regulated, abounded. However, the new found penchant for mass surveillance in advanced democracies like France and the UK caused even greater concern. The talks concluded on the second day with an emphasis on globally monitoring states' foray into the people's private lives.

The UN Commission on the Status of Women deliberated upon the sensitive topic of the gratuitous objectification of women by the media and its impact on the mind-set of society. It discussed the ramifications of the fourth pillar of democracy perpetuating and reinforcing ideas that women are nothing but empty, sexual shells. The second day saw delegates relying upon third wave

feminist ideologies to urge people to see the benefits of women's sexualisation. No longer the chaste, meek puppets of patriarchy, women could exercise and flaunt their sexuality at will. The debate never did reach resolution, but both sides agreed that the media needed to be purged of gender stereotyping.

Finally, the All India Political Party Meet gathered to examine the pros and cons of Article 370 of the Indian Constitution, which confers a special status upon the state of Jammu and Kashmir. Taking turns to call the state 'pampered' and 'oppressed', the AIPPM was unable to reach consensus on the issue.



Mr Salman Khurshid addressing the delegates

On 6 November 2016, the closing ceremony for the DME MUN was held in the Nelson Mandela Auditorium. We were joined by our Chairman, Shri Vipin Sahni, Chairperson, Mrs Kiran Sahni, and other dignitaries. The former IFS officer, Mr Anwar Haleem, and MLA Mr Anil Bajpai graced us with their esteemed presence. The chief guest of the event was Mr Salman Khurshid, former Minister of External Affairs, advocate of the Supreme Court, and our esteemed Adjunct Professor. He began his speech by praising the role of the UN in maintaining international peace. However, he advocated for a change in its structure, calling out the inherent inequality in a system that allowed five permanent members of the Security Council to throw a spanner in the works with a cavalier veto. His speech admired the efforts of Indian peacekeeping forces and the skill of diplomats such as Krishna Menon. He then moved on to highlight the challenges faced by India in its international relations. He concluded his speech by prophesying that the torch of our imperfect generation would be passed on to a wiser future generation.



Our student volunteers with DME dignitaries and guests of honour (from left to right): Prof. (Dr) Vikram Dutt, Mr Anil Bajpai, Mr Aman Sahni, Mr Salman Khurshid, Mr Vipin Sahni, Mr Anwar Halim, and Mrs Kiran Sahni

Human Rights and Environmental Protection: the Way Forward?

-- Charvi Kumar, Assistant Professor (Law), DME

'Thank God men cannot fly, and lay waste the sky as well as the earth.'

Henry David Thoreau could scarcely have imagined that his nonchalant remark would end up being a prophecy of the bleak times to come. The past couple of centuries have witnessed a spectacular revolution in humankind's ability to harness nature's powers and put them to good use. They have, unfortunately, also witnessed the wanton destruction of the very same nature in the pursuit of 'development'. As SpaceX prepares to colonise Mars and ensure our species leaves its mark on the universe, it has become imperative to look at how we are treating our present planet. Enough has been said about environmental degradation in the recent past. Our minds are saturated with images of children starving due to famines brought about by climate change, entire cities giving way to rising sea levels, and the lone polar bear stranded atop a fragmented glacier. I will instead focus on the reasons for the protection of the environment, reasons that transcend contemporary notions of international human rights and constitutional laws.

The right to environment is a universal human right – this is incontestable. Civil and political rights, the so-called 'first generation' human rights, can ensure that people are adequately informed on, and are able to participate in, decisions relating to the environment. This will in turn foster governmental accountability and ensure minimum standards of protection for life and property from environmental harm. The environment can also be considered a cornerstone for other economic, social and cultural rights, or the 'second generation' human rights – be they the right to health, nutrition, or even the exploitation of natural resources for economic gain. And finally, the environment has been explicitly recognised under 'third generation' human rights, which deal with collective rights of communities as a whole, rather than those of any particular individual.

While third generation human rights continue to be hotly debated, the first two schools of thought, at least, have significant support in international as well as domestic courts. The Inter American Court of Human Rights, for example, has interpreted the right to property as a right of indigenous people to their land. In *Maya Indigenous Community of the Toledo District v the Belize*, the court held that logging led to soil erosion and in turn destroyed the ability of the indigenous community to practise agriculture. Meanwhile, the far newer African Charter on Human and Peoples' Rights explicitly mentions the right to a 'general satisfactory environment' in Article 24. The African Commission, in the famous *Ogoniland* case, has expanded this right to place obligations upon the member states to take measures to protect the environment, by means of impact assessments, scientific studies, effective monitoring, and enhanced participation of the affected people. At the domestic level, India has pushed the boundaries of judicial activism in the sphere of environmental jurisprudence farther than any other country. Varying judgments such as *MC Mehta v Union of India* and *Rural Litigation and Entitlement Kendra v State of UP* have expanded the right to life to include the right to a clean, safe, and healthy environment.

If the right to environment is a well-established human right, then this begs the question: why have we allowed rampant environmental degradation to continue? Fingers can be pointed at powerful transnational lobbies, the needs of developing nations, or the hubris of developed ones, but I propose, at the risk of oversimplifying a complex issue, that it stems from one thing alone – anthropocentrism. When we say that we need to protect the environment to protect our own health, life, property, or livelihood, we are painting existing human rights with a green coat, not recognising a new right. When discourse around environmental destruction focuses more on its adverse impact on humankind, it creates a crucial loophole. The right to environment can, in essence, be 'traded off' against other rights. Thus, when entire forests are cut down, we allow ourselves to be

consoled by the thought that the housing projects and farmlands that replaced those forests satisfied other human rights. And while it is easy for courts to make sweeping statements about the importance of the environment, they cannot always serve as champions of nature. The situation is further muddled by the concept of 'sustainable development', a magic potion that seeks to harmonise economic progress with environmental protection and yet has seen little support from states beyond a handful of hollow declarations and toothless protocols.

It has therefore become important to revisit our reasons to protect the environment. Focus on the ecocentric, not the anthropocentric. The surprisingly vulnerable planet that sustains our life also sustains that of others. These living beings, big or small, sentient or insentient, deserve protection simply because they possess 'intrinsic value', and not because they enhance the enjoyment of our existing rights.

Sustainable Development and the Protection of the Environment

-- Akshay Tyagi, BA LLB, Fourth Year

The World Commission on Environment and Development (WCED), in its popular Brundtland report, first defined the concept of sustainable development as 'development that meets the needs of the present without compromising the ability of the future generations to meet their own needs'. Just development must attempt to meet the needs of posterity and preserve the health of the planet, not just cater to immediate needs. Hence it is essential that natural resources be utilised wisely. Growth at the cost of non-renewable resources is artificial, a form of 'borrowing from the future'. The legacy of environmental debt that it creates, coupled with the 'environmental inflation' that will surely follow, cannot be written off.

Some of the salient principles of sustainable development are inter-generation equity, use and conservation of natural resources, environment protection, precautionary principle, polluter pays principle, obligation to assist and co-operate, eradication of poverty, and financial assistance to the developing countries. India has done its part to incorporate the principles of sustainable development into its domestic laws, mostly through vigorous judicial intervention.

The doctrine of 'Public Trust', for example, was first mentioned in *MC Mehta v Kamal Nath and others*. The Hon'ble Supreme Court stated that the doctrine primarily rests on the principle that certain resources like air, water and forests have such great importance to the people as a whole that it would be unjustified to make them a subject of private ownership. The other salient principles of sustainable development, the 'Precautionary Principle' and the 'Polluter Pays Principle', both have tremendous support internationally as well as domestically. They were first coined in the Stockholm Declaration of 1972, but have consistently found their way into the wording of subsequent treaties.

In *Vellore Citizens Welfare Forum v Union of India* (Tamil Nadu Tanneries Case), Justice Kuldeep Singh declared, 'once these principles are accepted as part of the customary International Law, there would be no difficulty in accepting them as part of the domestic law'. With this statement, for the first time, the courts began to incorporate principles of international environmental law within the domestic regime. They have, since then, used these very principles to help protect the environment from harm at the hands of humans. In *Indian Council for Enviro Legal Action v Union of India*, a number of chemical companies were dumping hazardous wastes in the soil, damaging the health and property of nearby villagers. Slapping heavy fines on the polluters, and tasking the state with utilising those fines to reverse the damage, the court observed that the principles applied needed to be 'simple, practical and suited to the conditions obtaining in this country'.

Now that the judiciary has incorporated these essential principles into our domestic laws, it is no longer possible for polluters to hide behind the excuses of development and scientific progress to justify destroying the environment.

- Our School of Law was honoured to be one of the intellectual supporters of the two-day International Conference on Cyber Law, Cyber Crimes and Cyber Security, organised by the prestigious Pawan Duggal Associates on 17 and 18 November 2016. The 120 law students who participated as volunteers and delegates mingled with speakers and attendees from all over the world. The event's dignitaries included the Hon'ble Mr Justice Deepak Mishra, Hon'ble Mr Justice Kurian Joseph, Mr Balwinder Singh (Former Special Director, CBI), and Dr Indrajit Banerjee (Director, UNESCO).
- On 30 November 2016, our FLY initiative organised an afternoon filled with fun, food, and lots of balloons to continue its tradition of celebrating birthdays that fell in the past month. The event saw humorous speeches by Hon'ble Mr Justice Bhanwar Singh, our Director General, and Prof. (Dr) Vikram Dutt, our Principal Academics, alongside musical and dance performances from the DME family.
- We are proud of Ms Navjot Suri, Assistant Professor of Law, for winning a gold medal in her LLM in Human Rights at Amity University. In doing so, she has continued her winning streak, having previously earned a gold medal for her Bachelor of Laws from the same university.



Our students with guest speakers at the conference, Dr Anibal Villalba (left) and Mr Ricardo Mor Sola (right)



The DME family comes together for its November birthday stars



Ms Navjot Suri on graduation day

Toddlers Move the Apex Court to Curb Pollution

Proving that heroes can be found in the unlikeliest of places, three toddlers have managed to move the highest court of the land and make a serious dent in the fireworks business in the capital.

The words 'air quality' and 'Delhi', when used together, almost never bode well for readers. Experts have blamed the presence of pollutants in Delhi's air for an alarming number of health risks – from minor headaches and sore throats to irreversible lung damage and even early death. Indeed, the World Health Organisation reports that the average lifespan of its residents has been cut short by 6.3 years owing to its poor air quality.

Things undeniably reached breaking point with the most recent Diwali celebrations, when a blanket of smog shrouded the city and proceeded to slowly smother it. At this stage, concerned parents filed a PIL before the Supreme Court, alleging that their toddlers could not handle the elevated levels of pollution. The court agreed and banned the manufacture and stockpile of all fireworks, going as far as cancelling pre-existing licenses of persons engaged in the business. Additionally, it imposed restrictions on the use of fireworks in large-scale public events. It also asked the Central Pollution Control Board to report on the hazards of fireworks, in order to take further steps in three months' time.

Delhi's residents will now certainly breathe sighs of relief, but the group that will undoubtedly benefit the most will be its nonhuman population. The innumerable stray dogs and cats that are stressed, injured, and sometimes even killed by humans' careless use of fireworks can now look forward to far safer Diwalis in the future.

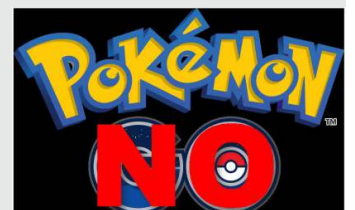
Legal Update

Pokémon a No Go in Greece

People's hunt for rare Pokémon has made them climb mountains and ford rivers, but the one place that shall remain off bounds is Greece. It began with a nationwide scandal in 2002, when a member of the ruling party was caught gambling in an Internet café. In what will forever go down in the history of gaming as the biggest overreaction to a problem ever, the Parliament controversially decided to not just ban cyber gambling, but also all electronic games.

The scandal was quickly forgotten as the public realised it could now no longer play solitaire at the local Internet café, and Gameboys became prohibited goods. Pressure from the European Commission made the Parliament cave slightly and issue minor clarifications, but the bulk of Internet gaming remains illegal in the country.

Now that technology has enabled everyone to own a smartphone, it remains to be seen whether the world's first democracy will be able to effectively implement the ban without turning into an outright police state. Readers are nevertheless advised to pretend they were taking a nature walk if ever stopped and questioned during their hunt to 'catch 'em all'.



LEGAL HUMOUR

