

In This Issue:

- Page 1** • VR Krishna Iyer Lecture on the Rule of Law
- Page 2-3** • Theme of the Month: The Right to Choose
- Page 4** • Cyber Workshop at School
• PadMan Challenge

From the Editor's Desk



Respected colleagues and my dear students, it is my pleasure to welcome you to the March 2018 edition of Law@DME. The last of the biting cold has finally gone, and spring is in the air. I hope you are all rejuvenated after our brief Holi break, and ready to recommence the immense hard work which is propelling our fine institution to great heights. If you have participated in any event, and would like us to feature you, please do write to us at law.newsletter@dme.ac.in. We also encourage general feedback and editorial submissions on the upcoming theme of the month.

Now that the gruelling internals week is behind us, we can wholeheartedly look forward to our annual fest, 'Aloha'. It will present us all with the opportunity to let our hair down and celebrate with each other. Additionally, we have a lot of interesting guest lectures lined up, on areas of the law that have hitherto been left unexplored in your traditional legal curriculum. Without further ado, I encourage you to explore the newsletter and catch up on the things you've missed this month!

Prof. (Dr) Bhavish Gupta
Director (Officiating)

Upcoming Theme of the Month (for March): Alternative Dispute Resolution

UPCOMING EVENTS

Special Lecture by Shreya Singhal	5 Mar
Guest Lecture by Prof. Manjula Batra	7 Mar
DME's Annual Fest, 'Aloha'	16 Mar
Law, Gender and Sexuality Lecture Series: Mr Amit Bindal	23 Mar

Editorial Board:

Prof. (Dr) Bhavish Gupta, Ms Charvi Kumar, Ms Avantika Tiwari

Student Editorial Team:

Ahad Ahmad Khan, Chaitanya Kumar, Ashi Gupta, Uday Sharma



Justice V.R. Krishna Iyer

Memorial Lecture series

'Rule of Law' Redefined: Prof. Lingle on Liberty and Democracy

One 6 February, the college auditorium was abuzz with excitement at the prospect of the latest guest lecture under our VR Krishna Iyer lecture series. The distinguished speaker was Prof. (Dr) Christopher Lingle, an expert of public policy, working in association with the Center for Civil Society and South Asia Students for Liberty.

The lecture, titled, 'Legislation and Public Policy versus the Rule of Law', combined the study of economics with principles of democracy and the rule of law. Prof. Lingle began by stating that he felt connected with the youth, who would be the future of the world. He believed that they would be crucial, as future judges and lawmakers, in guiding rulings and statutes 'efficiently'.



Our Director (Officiating) felicitates Prof. Lingle



Prof. Lingle addresses the crowd

He then moved on to discuss the rule of law, explaining that it is a rule of 'just conduct' evolved from human actions. There ought to be no privileges in a state that adheres to the rule of law, as any privileges for an individual or a class would violate the same. Prof. Lingle, here, meant 'human rights' when talking about privileges. He emphasized that the only three laws that a state must protect are the rights to life, to liberty, and to property, which is not limited just to land. He, thus, presented a very libertarian perspective of rights, deeming all socioeconomic rights to be privileges conferred upon the unworthy, and asserting that all affirmative action should be destroyed from the very roots.

He brought up the idea that most legislations are based on majoritarian passions, which are often transient. He suggested that perhaps our Constitution would have differed greatly had India achieved independence in the nineties. For one, he believed, 'Socialism' would not have been inserted into the Preamble.

Moving on in this thread, he continued his tirade against socialist measures of the state, stressing that 'democracy' is an instrument to create justice, not an instrument to create privileges. The more political power expands, the more it loses its credibility. In Prof. Lingle's vocabulary, there exists no difference between legitimate state action and the autocratic exercise of arbitrary powers, especially when the state action relates to the conferring of socioeconomic rights. Quoting the infamous Tory politician, Winston Churchill, he alleged that democracy as it exists today is conferring privileges upon one section of the society, ensuring large groups gain and smaller groups lose.

Never before were our students exposed to such an impassioned defence of the 'one percent', or the notion that equality should be strictly formal, not affirmative or substantive in the least. While his ideas may seem to directly contradict Justice VR Krishna Iyer's own philosophy, Prof. Lingle certainly proved that there are two sides to every coin, and numerous ways of dealing with an issue.

International Perspective on The Right to Choose

Navjot Suri
Assistant Professor (Law)

The right to choose includes or can be defined to include 'the moral or legal entitlement of an individual to make the full and final decision for choosing his or her life partner.' My article specifically attempts to engage with this right as provided in foreign countries' legislations, constitutions, or general international documents. The world has started vigorously discussing the scope of parental authority over adults' personal choices and the extent of judicial control that may be exercised over the personal liberty of an adult person of sound mind when it comes to choosing a spouse of his or her own choice.

The modern international norms of human rights can be traced back to the consequence of World War II and the establishment of the United Nations. The rights and duties incorporated in the UN Charter are composed in the International Bill of Human Rights which includes the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights.

A family is the primary and natural component of the society and requires full protection from the state. Human rights law upholds the view that right to choose is a positive right of all people to marry and found a family. It upholds the principle of equal and accepting marriage and tries to safeguard against abuses which undermine these principles.

The United Nations General Assembly adopted the Universal Declaration of Human Rights (UDHR) in 1948. The UDHR urges member states to protect and promote a number of human, civil, economic and social rights, asserting these to be a part of the 'establishment of freedom, justice and peace in the world.' The Declaration was the first international legal effort to limit the actions of states and requires them to abide and perform their duties following the concept of the rights-duty duality.

The International matrimonial law or the right to choose is the part of private international law. This area chiefly deals with the relations between spouses and former spouses on issues of marriage, divorce, adoption and child custody. In the last 50 years, the member states of the Hague Conference on Private International Law have attempted to bring into line domestic matrimonial laws and judicial rulings across international borders in these areas, but with respect to right to choose spouse of one's own choice, still there is no development on this front.

The right to family life and the right to choose a spouse is the right of all persons which includes having their established family life respected, and maintaining family relationships. Right to marriage is recognized in a variety of international human rights instruments, including Article 16 of the Universal Declaration of Human Rights, Article 23 of the International Covenant on Civil and

Political Rights, and Article 8 of the European Convention on Human Rights, that too under the heading of the 'right to have family'. In case of the constitutions of different countries, the situation is same, wherein the right to have a family is recognized, but not explicitly. The right to marry is subject to national laws regulating marriage, including laws that prohibit marriage between certain types of people, for example marriage between close relatives.

Although the government is able to restrict the right to marry, it must not impose limitations which impair the very essence of the right.

Right To Choose and State Laws

Gunjan Agrarahi
Assistant Professor (Law)

Though in Indian laws there is no express provision regarding the recognition and protection of right to choose, the apex court has on various occasions considered this right to be an integral part of right to life. But before understanding what led the Apex court to use the term 'Right to Choose', we must explore the concepts of marriage, including arranged marriage, forced marriage, and love marriage. Thereafter, shall explore the legal provisions for safeguarding this right to choose.

Marriage

There can be no greater event in a family than a wedding, the dramatic combination of social posturing, cultural values, traditional bonds, elated sentiments, and overt displays of economic wealth. Being central to society, marriage is revered, while celibacy is largely frowned upon, relegated to spiritual leaders or persons who have crossed a certain age and 'done their duty' by producing the obligatory amount of offspring. Deemed essential for every Indian, it marks the great watershed moment in life. For many, it is symbolic of the transition to adulthood. Meanwhile, marrying off children is one of the primary duties of parents and even extended family. Perhaps due to its importance, the rules and traditions of marriage have remained unyielding and rigid.

Arranged Marriage

In India, arranged marriages get the whole family (parents, guardians, and even extended family members) of both sides involved in the matchmaking process. Socioeconomic criteria play a very important role. Traditionally, this marriage is has the greatest social sanction backing it. Unfortunately, in countries outside India, particularly the West, there is a confusion between this kind of union and 'forced marriages'.

Forced Marriage

Similar to arranged marriage, but with the element of consent removed for one or both spouses, forced marriages are an infamous feature of India's socio-cultural milieu. Reports of child marriage abound. Despite the fact that there are criminally sanctions against a girl under 18, or a boy under 21, marrying, the marriages themselves are valid under law. Other means of forcing a party into

History of marriage and the exercise of right to choose

Avantika Tiwari and Chetna Anjum
Assistant Professors (Law)

marriage could be through the employment of 'guilt-trips', coercion, blackmail, threats, harassment, or downright fraud and trickery. An outright violation of human rights, as well as a form of gender-based violence, forced marriages are a scourge of society. The condition of the spouses cannot be considered to improve upon the marriage, and the psychological and physical abuse often continues for the coerced party.

Love Marriage

The concept of love marriage is not new to India. Mythological and historical texts abound with tales of romantic unions of couples - both divine and kingly. It is reported that 73% of the profiles on the popular matrimonial site, Shaadi.com, have been put up by persons seeking life partners for themselves, and not on behalf of a brother or child. The rise of literacy rates, increasing urbanization, the advent of the nuclear family, and the impact of the media can all be cited as reasons for couples deciding to choose their own spouses. Despite the notion that these marriages are more likely to break (a view parroted by even the Bombay High Court in a 2012 case), the right to choose should still be recognized and protected.

Your Rights Under The Law: Know Your Rights

In our country, arranged marriages are the norm. The bride and groom are introduced to each other and provided some degree of authority in the decision to marry each other. Where formalities are strictly followed, the true right to choose in marriage is very limited. In the more traditional families, the parties are not allowed to meet before the actual ceremony, and the bride's consent is assumed from her silence, or even a forcible moving of her head. Women remain unaware that their express consent is a must under the law for their marriage to be valid.

My learned colleague has, in a previous article, already touched upon important international laws relating to the subject. It is relevant to reproduce their pertinent provisions. Article 23(c) of the International Covenant on Civil and Political Rights 1966, says, 'No marriage shall be entered into without the free and full consent of the intending spouses. 'Additionally, Article 16 Universal Declaration of Human Right States provides that' [p]arties shall take all appropriate measures to eliminate discrimination against women in all matters relating to marriage and family relations and in particular shall ensure, on a basis of equality of men and women:

- (a) The same right to enter into marriage;
- (b) The same right freely to choose a spouse and to enter into marriage only with their free and full consent;

Recently, the Delhi High Court has said that the right to choose one's life partner is a fundamental right. Speaking through Justices Gita Mittal and JR Midha, it said, 'The right to choose your life partner or whom you associate with is a fundamental right, it is an integral part of the right to life.' It further asserted that the individual's privacy of marriage and dignity are essential components of the right to life enshrined in Article 21 of the Constitution of India. In conclusion, men and women have an incontrovertible right to freely enter into marriage with a partner of their choice.

In the early *Rig Vedic* age, girls usually got married after puberty. We find mention of the term 'Ghosha', which connotes unmarried girls, who grew up in their parents' house. During that time also the girls and boys of the *Rig Vedic* society had freedom to choose their partners in life.

The *Rig Veda* gives account of the extent of liberty enjoyed by the people at that time, especially women. Women enjoyed freedom to visit markets, fairs and festivals and could move around with their family and friends. They attended *Sabhas* or assemblies along with their husbands and families. In the family, women enjoyed equal rights. The Aryans believed that '...the wife and the husband being the equal halves of one substance were regarded equal in every respect and both took equal part in all duties, religious and social.'

With the advent of caste system in the post-Vedic period, the status started degrading making women more vulnerable. This converted them into objects in the hands of their male counterparts, which consequently adversely affected the right to choose their partner.

Kautilya's Arthashastra represented women as chattel. The society transformed into a patriarchal one and consequently women were marginalized. The expectation of a submissive subject further led to the seclusion of women. The freedom enjoyed by them was diminished, and by 200 BC, prepubescent marriages became prevalent in society. *Smriti* writers like *Kautilya*, *Manu* and *Yajnavalkya* started favoring the seclusion of women. It is believed that Mughals were the ones who introduced seclusion of women in India but on the contrary this practice can be traced back during the time of *Ashoka*. The earliest reference to it, is in *Panini III, 2, 36*, which yields '*Asuryampashya Raja-darah*', referring to 'those who do not see the sun', i.e., the wives of a king, relegated to a life of anonymity.

The *Smritis* and customs form the most important sources of present laws in India. These social customs and traditions, reinforced by contemporary lawgivers to a large extent, degraded the position of women and the status of Indian society.

Rig-Veda 6-64-6 suitably mentions that woman should preferably choose a man who likes her the most and is pleased to see her. Parents should give freedom to the young girl to choose her life partner through the institution of *Svayamvara*, which literally means the independent choosing of a husband. This kind of marriage is also known as *Brahma Vivah*, i.e., marriage blessed by God. *Swayamvara*, is a practice in which the groom has to win his bride by fulfilling certain conditions of expertise, strength, power, knowledge, wisdom, etc. to get married to her.

Cyber Workshop for Schoolchildren is a Resounding Success

On 6 February, the Cyber Cell of Delhi Metropolitan Education conducted a workshop at Yash Memorial School, Noida. The Cyber Cell worked hard to tweak their workshop to appeal to the middle school students. As an icebreaker, they discussed students' social media usage. The schoolchildren were extremely interactive and answered every question posed to them. Having built a rapport, the Cyber Cell commenced with the task of delivering knowledge to these children in an interesting manner.

Our students were armed with a short film, which depicted a young schoolgirl being bullied. However, the protagonist of the film received her happy ending when the bullies realised the error of their ways and transformed into better classmates and friends. It was an interesting idea, glorifying reform rather than punishment, and one which resounded deeply with the starry eyed young children.

The film was followed by presentations by the student members of the Cyber Cell, familiarising the audience with cyber-bullying as well as cyber-stalking. Anecdotes of real-life incidents were woven into the rich tapestry of information, ensuring the audience's complete and utter focus. The ugly world of the 'Blue Whale' game, an infamous trend that has

caused many teenagers to inflict self-harm and even commit suicide, was exposed and denounced. Finally, the Cell brought up the issue of maintaining security and privacy on social media, and avoiding impersonation. Given the fact that the latest generation is increasingly keyed into various sites, this talk proved crucial in helping educate and arm them.

Perhaps sensing that too much talk would be counterproductive before their young audience, the student-members of the Cyber Cell then performed a short skit on cyber-bullying. The fun skit entailed a list of dos and don'ts for young students foraying into the exciting but dangerous world of the Internet.

Realising the fact that children are more vulnerable to social media threats than adults, the Cell encouraged them to keep their parents and teachers in the loop, always. Understanding that the process of learning is an ongoing one, and that the schoolchildren might have follow up questions, our student-members handed out contact information. The Cell aims to be there for those who are unable to seek help from their parents and teachers.

With that, the educative and interactive workshop by DME's Cyber Cell came to an end, to loud applause and cheerful grins. We hope to see the message spread to many more schools in the future.



The smiling faces of Yash Memorial School pose with our Cyber Cell



Our students explain the dangers of social media to the audience

Making Feminism Fun: The PadMan Challenge

On 7 February 2018, our social-minded law students tackled the stigma surrounding menstruation the way students tackle most things – through the power of the Internet. The 'PadMan Challenge', currently making waves on social media all over the country, seeks to destigmatise and normalise feminine hygiene products, spurred on by a popular contemporary film on the subject.

Realising that this taboo is not just limited to the illiterate sections of society, our students made a bold effort to break stereotypes by having everyone pose in the open, sanitary pad in hand. While there were murmurs of an initial resistance, the students' unbounded, infectious enthusiasm proved to be too powerful of a juggernaut to be stopped. Men and women of all ages participated in the challenge, posing proudly for the cameras. We are especially grateful to our Director General, Hon'ble Mr Justice Bhanwar Singh, Vice Chairman, Mr Aman Sahni, and Director (Officiating), Prof. (Dr) Bhavish Gupta, for encouraging our students' efforts and dropping by to have a picture taken themselves.



Our Management and Faculty pose proudly for the PadMan Challenge