

**In This Issue:**

- Page 1** • The Judicial Training Academy Programme
- Page 2** • V.R. Krishna Iyer Lecture Series
- Page 3** • Theme of the Month: Changing Landscapes of Law

**From the Editor's Desk**

Dear Colleagues and Students,

Let us congratulate ourselves to have braved the month of September with strength and panache. As the hysteric mania of the internals rose in ebbs and flows DME seemed to have internalized the iconic song of the band Green Day-Wake me up when September ends! We managed to sail quite smoothly across those rough waters however, instead of falling into a catatonic stupor we now have the festive season ringing upon us. With Intra Moot Court Competition, MUN and other activities rounding up the corner, the next month shall be as exciting as the previous.

We shall be looking forward to your feedbacks and suggestions at newsletterlaw@dme.ac.in. A very happy Durga Puja and Dussehra to all!

**Ms. Shambhavi Mishra**  
Assistant Professor,  
DME Law School

**Editorial Board:**

Ms Shambhavi Mishra, Ms Shabeeh Rahat, Dr. Mahalingam, Mr. Amir Wagey, Dr. Aparajita Ray Sukul

## The Judicial Training Academy Orientation Programme



*Release of first Question bank credit card by the dignitaries*

On 12th September an orientation program was conducted for the students of 9th and 7th semester students to make them acquainted with the Judicial Training Academy set up by Delhi Metropolitan Education College. The judicial services exam is one of the most coveted career options for any law student. What could be better than a homegrown institute to help the students of DME to fulfill that dream! Instead of draining their pockets to the consumer driven coaching institutes where young law students are merely treated as a live cheque or cash only, JTA presents itself as a pro bono effort to help aspiring students successfully cross the finish line. It is a much more personal and genuine effort on the part of DME to help students to crack examinations, where the students are not merely cash vending machines but candidates with brimming potential.

The vision of the academy is to ensure that the students aspiring for judicial career are prepared beforehand while graduating from DME and at the same time they are not burdened with extra expenses to achieve this goal. JTA will help students achieve their highest professional dreams and motivates them to serve the nation to the best of their ability.

The Director of JTA Prof (Dr.) N.K. Bahl addressed the students to formulize what idea JTA actually is. He made a humble submission that Mr Aman saini Vice chairman is the brain child behind the establishment of Judicial Training Academy. He also submitted that J.T.A encompasses an all-round and multidimensional approach to prepare students for future challenges. Class room training, flow charts and field work are some of the essential components of this academy. The curriculum also focuses on the analysis of recent case laws and case commentaries. Judgment writing also constituted an integral part of this training. Sir requested the students to give hundred percent attendances and to cooperate in all programs so that fertile minds are utilized and promoted at right places.



*Lighting of the lamp*



*Faculty members of DME Law school*



## Justice V.R. Krishna Iyer

### Memorial Lecture series

Delhi Metropolitan Education organised an interactive session on “Women, Law and Society”, on 28th September 2018 at Nelson Mandela auditorium. The day saw the gracious presence of Professor Renuka Singh as the speaker of the guest lecture to enlighten the students about the status of women in the society along with its relevance with law and how it limits or broadens the freedom and equality of women.



*Prof. Singh interacting with the students*

The lecture began with Professor Singh discussing about law and its relation with the individuals living in a society, law as an evolutionary & revolutionary change for reconstructing society, its role which also follows its way between the regulation of relationships of an individual with her/his family members, religion, oneself and the State.

She informed about how law has to keep pace with the conditions prevailing within the society and that the law is for the society and it's not the other way around. She pointed about the gender inequalities not on the basis of biological differences but societal discrimination, being deep rooted, but now once this has been realised there has been a lot of pressure to install systems and rules to forge in equality. She tried to address the dilemma that whether law constraints a woman's behaviour or not.

The lecture soon advanced with the discussion on to the historic development of women's status in the society with time. As stated by Prof. Singh, during the Vedic period, women enjoyed complete power and respect in the society. They had access to regular education and had the freedom to express themselves in the matters of marriage and otherwise. Their dignity and religious responsibilities were of great importance. The famous thread ceremony was also performed for them. Widows could remarry but within the family. But with time, as the Aryans migrated to the Indian Subcontinent, though

their status remained high but their religious importance faded and more rights and functions were given to men. Women were also discouraged to visit different education institutions and was preferred to train at home. As the time of war came, presence of women at home soon changed to women being confined at homes. This was the beginning of patriarchy. Though Buddhism placed them at an honourable position. Women's status deteriorated during the 700 AD - 800 AD. As the reign of Muhammad Ghori began in India, constant political and social issues arose. Education was among some of the rights which women suffered to gain. Practices like Sati, female foeticide and child marriage evoked. Gradually, women's legal rights were restored in the Legislature but the socio-economic rights still were to be worked upon. Ironically, it was the men who provided women with liberation. Divorce was permitted, political power given to women along with property and educational rights. In 1975, Government of India reported the major rising in migration rates of village women, decrease in sex ratio of women to men, decrease in child mortality and increase in female foeticide, disparities caused by class divisions etc.

After several struggles and sacrifices, women started removing the shroud of male dominance within the society. The feminist wave was identified and supported by the world and 1980's was declared as Women's Decade by the United Nations. In India the role of females was well recognised in the freedom struggle by Mahatma Gandhi and Congress party. Soon feminism branched out in many industries and spheres like Journalism, Trade Unions, Politics, and Law etc. The differentiation between Personal law and Secular law and a need for a Uniform Civil Court, came to light with the Shah Bano Case. Several laws



*Questions leading to solutions, Students actively participating in the lecture*

passed to bring equality for women in various sectors like Equal Remuneration Act, 1976, Commission of Sati prohibition, 1987, Human trafficking of women and children, 1956, Domestic Violence Act, 2005.

Professor Singh, after highlighting the victory of women in gaining their legal recognition also stated the difference between the presence of laws and their implementation. The lecture also constituted of how it is important to spread awareness regarding the daily struggles of women in our society by mass media which is a very active platform to connect with the mass population efficiently. Illiteracy also acts as a factor to constrain women to visit courts and raise their issues. Sadly, the conditions of women are also classified hierarchically. The upper class and the middle class women have been focused on and an entire section of women belonging to the inferior class have been victimised to ignorance.

Therefore, it is important to understand that degrading conditions of women is an issue overall and is not to be compartmentalised.



*Dr. Mahalingam delivering vote of thanks*

### **“Making Law Students Practice Ready”:**

**Guest Lecture by Dr. Aman Hingorani**

On the 10th of September, 2018, the ADR Cell of the DME organized a guest lecture on the topic “Making Law Students Practice Ready” by Dr. Aman Hingorani at the Nelson Mandela Auditorium. Dr. Hingorani began his talk by alluding to the fact that the legal education system of India produced law graduates without teaching them to inculcate the skills for practicing and thus it is the real clients who become experimental scapegoat for the new inexperienced advocates. He stated that although the syllabi of an Indian law school incorporate subjects such as Drafting, Pleading, Client Counselling, Legal Ethics, there is hardly any law school that imparts knowledge

about how to actually apply these techniques.

Dr. Hingorani then explained certain immutable skills necessary for a law graduate to master the art of advocacy. He emphasized that a good sense of communication is one of such skills. However, as he pointed out, more than being an adept speaker it is the art of listening that distinguishes a good advocate from the rest. He asserted that one should be able to handle the clients and build a rapport with them as well. He said that it is only by listening patiently to the client that an advocate can respect and understand her position.

Dr. Hingorani further opined that an advocate needs to develop mastery over the facts in the context of the law so as to understand the legal perspective of the case. He advised the students that to gain command over any case it is necessary to learn how to cull out legal elements from the pell-mell of the facts. In order to sift the facts from law, he maintained that there was a need to bring in ethical advocacy. He stated that where the facts become coloured by the evaluative biases of the advocate, it marks the end of ethical advocacy, thereby condemning the practice of distorting facts of a case by a number of advocates.

Dr. Hingorani then went on to discuss many tools of advocacy such as drafting, examination of witness. He asserted that the most pertinent skill of advocacy is to simplify the case and to prevent it from becoming legal jargon. To achieve this he stated that the only requirements are reasonableness, common sense and ethics. This, according to him, is possible only by adopting the qualities of reasonableness, common sense and ethics.

Dr. Hingorani then progressed to discuss the growing field of ADR in the Indian legal system and the various avenues offered by it to the budding legal practitioners. He especially referred to the practice of mediation and its benefits to both the overburdened formal legal system and the individuals.

Dr. Hingorani concluded the lecture by emphasizing on the need to include the art of advocacy in the legal education. He maintained that mere conducting of moot courts and such other similar exercises would not make the law graduates practice ready. He asserted that to revamp the nature of our Indian legal education system there is a need for induction of different forms of experiential learning into the syllabus of the law schools.

## Transformative Constitutionalism: An Effective Remedy to the Un-transforming Social Spheres?

An Analysis of the Concurring Judgment of  
D.Y. Chandrachud J. in  
Navtej Singh Johar v. Union of India.

- Shambhavi Mishra  
Asst. Professor

The striking down of section 377 of Indian Penal Code, 1860 as unconstitutional indeed is a soothing balm to the years of a colonial legacy that our legal system is still grappling with. The Judeo-Christian idea of “against the ordinary course of nature” and “unnatural” are at last being tested on the whet of the living, ever transforming Constitution. The judgment of Chandrachud J. highlights the need for a transforming constitutionalism that adapts and adjusts itself with the constant dynamisms of the society. One has to appreciate Chandrachud J. to make an attempt to recognize and weed out the colonial relics that happen to daunt our statutes, legislative and even judicial processes. He questions the idea of “ordinary” that has been ingrained in our minds, that the right of intimacy of the LGBTQs is understood in the binary of unnatural and extraordinary. He criticizes the rationale held in the Naz Foundation Case where the court fell back to the narrow perspective of right to equality as envisaged in the Anwar Ali Sarkar case, where violation of equality was looked at only through the lens of reasonable classification. Chandrachud J. questions as to what constitutes the reasonableness in the classification.

Despite being one of the well crafted judgments in recent years, one cannot resist from critiquing it. A transformative constitutionalism shall be fruitful only if it is at par with the dynamic social realities. Whether certification of naturalness by the Supreme Court enough to remove the stigma and averseness associated with LGBTI? Surprisingly enough, section 377 does not mention the term homosexuals rather it had criminalized only certain sexual acts deeming them to be unnatural. It had criminalized homosexual acts and not homosexuality per se. The Apex Court thus, in this regards has not veered far away from Naz Foundation. The Court in the current judgment moves with the presumption that all non peno-vaginal sexual intercourse are indicators of a homosexual identity. All non peno-vaginal sexual acts are equated with the identity of homosexuality. However, a reading down of the section 377 makes it quite clear that it is the “unnatural acts” that are deemed criminal and not the identity per se. Striking down section 377 then merely decriminalizes the non peno-vaginal intercourses, the distinct identity of LGBTI remains unrecognized and invalid.

Chandrachud J. begins his judgment with a short yet powerful statement-“The lethargy of law is manifest yet again”. He points out to the inability of law to catch up

to the changed landscapes of the society. Yet he fails to take into account the stagnant social processes that should also move hand in hand with the transformative nature of law. An identity which has no recognition in the society cannot be made acceptable allopathically through a Supreme Court Judgment alone. Parallel social movements are necessary to create a leveled ground for the dynamism of law to function judiciously. Otherwise the law which was once hailed as beneficial would in fact become exclusionary and futile.

### Is Indian Patriarchy under assault in the light of decriminalization of adultery?

- Dr. M. Mahalingam  
Asst. Professor

Indian society is patriarchal by nature like any other World societies. The customs, laws and cultural practices perpetrate patriarchy and subsequent limitations of their status and freedom beside discrimination. Interestingly, democratization of gender based laws favouring gender justice are reality today in the light of decriminalization of the law of adultery by the Supreme Court of India in its recent judgment. On 27th September, 2018, it pronounced a landmark judgment by striking down the section 497 of Indian Penal Code, 1860 along with section 198 of Cr.P.C. According to Section 497 of the Indian Penal Code,

*“Whoever has sexual intercourse with a person who is and whom he knows, or has reason to believe to be the wife of another man, without the consent or connivance of that man, such sexual intercourse not amounting to the offence of rape, is guilty of the offence of adultery, and shall be punished with imprisonment of either description for a term which may extend to five years, or with fine, or with both. In such case the wife shall not be punishable as an abettor.”*

The above provision of the law in relation to adultery was a gender discriminatory and it denied any agency to women for seeking justice if adultery committed by men. While passing the judgment by citing the article 21 of the Indian constitution which guarantees protection of life and personal liberty, the five member bench being headed by Chief Justice Dipak Misra said, “Mere adultery can't be a criminal offense. It is a matter of privacy. Husband is not the master of wife. Women should be treated with equality along with men,” The judgment received mixed reactions from the various strata of the society by arguing that it would endanger the sanctity of the institution of marriage and so on. Whatever the implications may be, no doubts, the judgment reflects gender justice in keeping with the ideals of the Indian constitution and is an attack on Indian patriarchy.