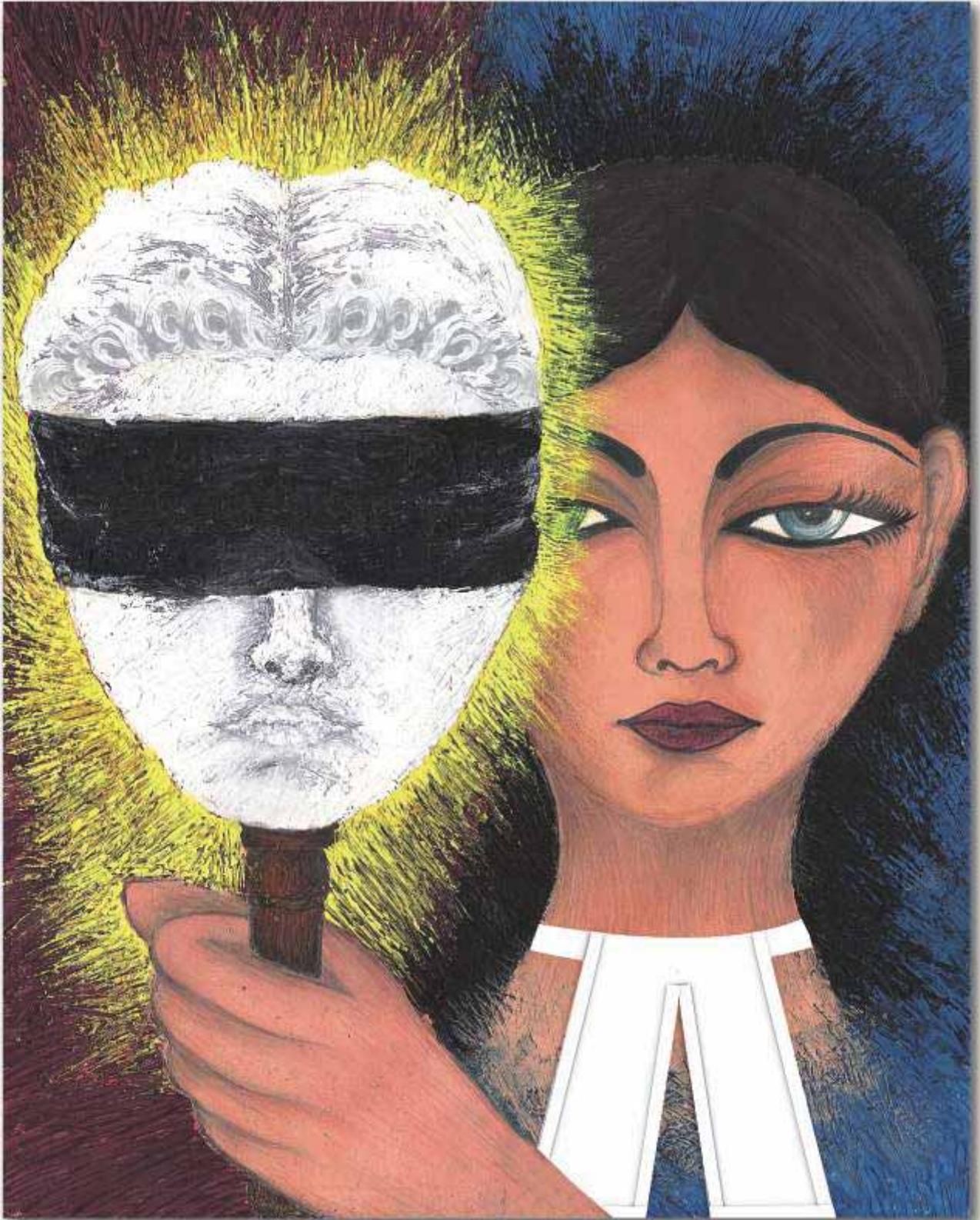


# méLAWnge

GOVERNMENT LAW COLLEGE  
2012-2013



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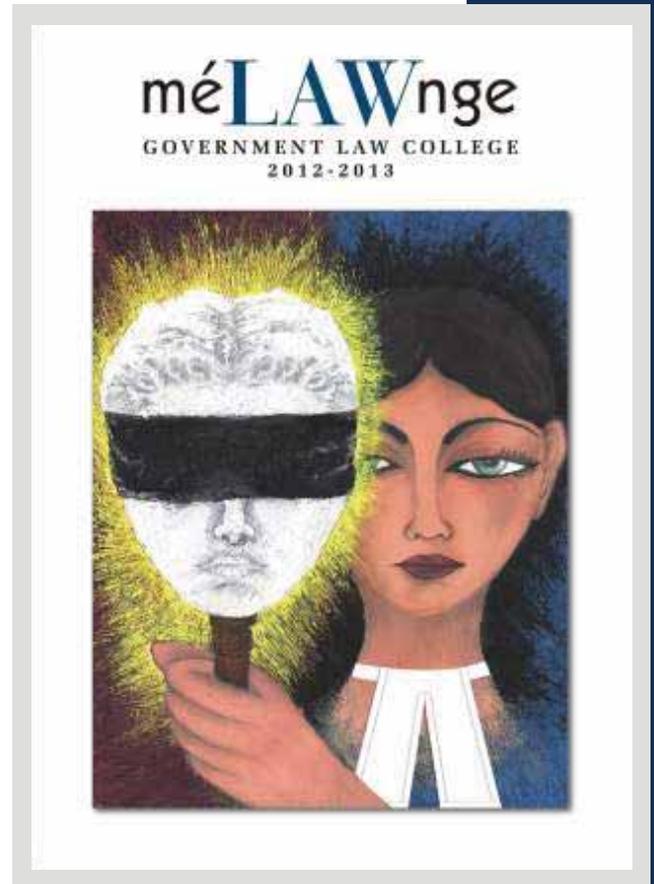
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In 65 years of its Independence, India has seen a distinct evolution of the role played by women in its society. The nation has witnessed the slow but steady rise of women in all fields and sectors. The legal profession is no different. The theme section of this edition of méLAWnge attempts to explore the presence and progress of women in the legal profession in India through the decades, in the form of articles by prominent representatives of the country's female jurists.

The cover design of méLAWnge 2012-13 is indicative of this theme. The artist has derived inspiration from Shakespeare's works, which reflect the world as a stage on which its many actors play varied roles. The work portrays a woman donning the role of Lady Justice, blind to any fear or favour, the strength of her inherent sense of righteousness and motherly compassion, glowing in an illuminating halo around her, restoring our faith in human values and justice.



Cover design: Shreyas Narla, V-I

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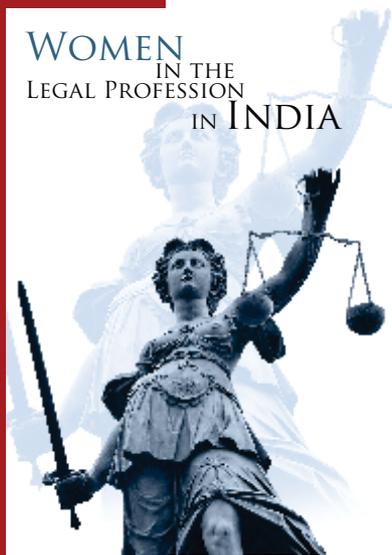
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is stepping on  
executive functioning

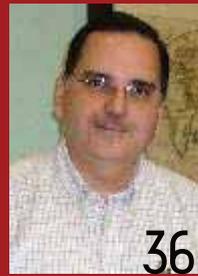
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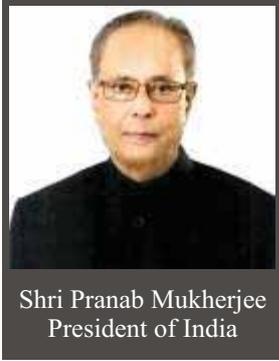
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Abhinav Bhushan & Meherzad Patel



Government Law College



Shri Pranab Mukherjee  
President of India



राष्ट्रपति सचिवालय,  
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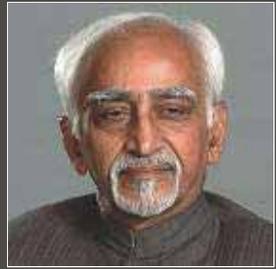
## MESSAGE

The President of India, Shri Pranab Mukherjee, is happy to know that the Government Law College, Mumbai is bringing out its Annual College Magazine, 'méLAWnge2012-13'.

The President extends his warm greetings and felicitations to the faculty, staff and the students of the College and sends his best wishes for the magazine.



(Press Secretary to the President)



Shri Mohammad  
Hamid Ansari  
Vice-President of India



उप-राष्ट्रपति सचिवालय  
VICE-PRESIDENT'S SECRETARIAT  
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## MESSAGE

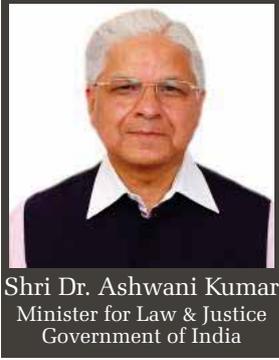
Hon'ble Vice President of India is happy to know that Government Law College, Mumbai is publishing its Annual College Magazine '*méLAWnge* 2012-13'.

The Vice President of India extends his greetings and good wishes to the students, teachers and the staff and wishes the event all success.

(Nagesh Singh)



Government Law College



Shri Dr. Ashwani Kumar  
Minister for Law & Justice  
Government of India



मंत्री

विधी एवं न्याय

भारत सरकार

Minister of Law and Justice  
Government of India

## MESSAGE

It gives me great pleasure to note that Government Law College, Mumbai is bringing out its Annual Magazine, *méLAWnge*, for the 83<sup>rd</sup> year in a row.

The Magazine, being a perfect blend of legalese and fiction, provides a great platform for its students to express themselves. It is commendable that every edition of '*méLAWnge*' lives up to the reputation of this prestigious institution, with its unparalleled list of alumni and great jurisprudential approach.

I extend my best wishes and felicitations to the Principal, staff and students of the College and congratulate them on the Launch of the Magazine.

(Shri Dr. Ashwani Kumar)



मुख्यमंत्री, महाराष्ट्र  
Chief Minister of Maharashtra

## MESSAGE

I am happy to know that Government Law College, Mumbai is bringing out its Annual magazine—*méLAWnge*

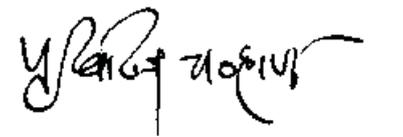
First of all, I would like to congratulate the students and academia, for completing 150 years of the journey of this illustrious institution with many proud moments.

Today you will find that due to changing circumstances, the judiciary is in a transition stage. Modernisation of judicial infrastructure, finding ways to give relief to the litigants and help the courts in reducing arrears, financial autonomy for the judiciary and many such issues are not only being discussed but also being implemented.

Litigation in the 21<sup>st</sup> century will need the active intervention of judges, mediators, conciliators and arbitrators to achieve speedy disposal of pending cases and reduce expenditure.

In future, the students of this esteemed institution will shoulder this responsibility of a healthy judicial system and will make our country proud.

I again wish you on this occasion



(Shri Prithviraj Chavan)



Government Law College



Shri Mohit S. Shah  
Chief Justice,  
High Court, Bombay



Chief Justice House  
14, Narayan Dabholkar Road,  
Malabar Hill,  
Mumbai - 400 006

## MESSAGE

I am glad to know that Government Law College, Mumbai is publishing the Annual Magazine '*méLAWnge* 2012-13'.

Government Law College is a pioneer institution in the field of law and has produced stalwarts not only for the legal profession but for various other walks of life too.

I extend my best wishes to the Principal, Teachers, Students and Staff on the occasion of the publication of the Magazine.

(Mohit S. Shah)

# From The Principal's Desk



It is a matter of great privilege and satisfaction for Government Law College to note that the year that is just about to conclude, has like several past years from 1855, been a saga of all-out success in all facets, including academics, extra-curricular activities and sports. The College has striven hard and achieved success in holding various events like moot courts, debates, essay competitions, workshops, guest lectures, etc. The distinguished faculty, both full-time as well as part-time and CHB, continued their dedication and hard work in teaching and extra-curricular activities.

The College committees organised a number of important events. The Placement Committee organised two Placement Weeks, one for associates and the other for internships, articulated-clerkships and final jobs. They were a success and saw 70 top law firms and corporate houses recruit students.

The Students for Promotion of International Law Committee organised its 1<sup>st</sup> Report Deliberation Competition, 2012, and the Government Law College International Summit, which included a key note address by Hon'ble Mr. Justice B. N. Srikrishna and seminars conducted by several legal stalwarts.

The Magazine Committee organised the Launch of the Annual College Magazine, *méLAWnge* 2011-12. The Chief Guests were Attorney General of India Mr. Goolam Vahanvati and best-selling author Mr. Ashwin Sanghi. It also held its flagship event, 'Knock-Out!' the annual debate, with practicing lawyers and students of the College participating. Further, it organised the annual essay writing competitions, the 12<sup>th</sup> Vyas Government Law College National Legal Essay Competition, the Belles-Lettres: J. E. Dastur Government Law College Short Fiction Essay Writing Competition and the Sir Dinshah Mulla Legal Essay Writing Competition.

The Moot Court Association organised the 14<sup>th</sup> D. M. Harish Memorial Government Law College International Moot Court Competition, the 9<sup>th</sup> Nani Palkhivala Memorial National Tax Moot Court Competition and the 19<sup>th</sup> M. C. Chagla Memorial Government Law College National Moot Court Competition.

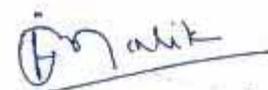
The Rotaract Club organised the Mock Indian Parliamentary Session in collaboration with NKP Salve Foundation and Hamlet to Globe and the 4<sup>th</sup> Annual Charity Sale as part of which 25 NGOs sold works made by children from difficult circumstances, raising donations of Rs. 85,332.

The Legal Aid Committee organised its pioneer project, the Prisons Project, conducted to provide legal aid to the inmates at the Arthur Road and Byculla Prisons and through the Legal Aid Cell (in association with the Human Rights Law Network), legal advice was given to people who could not afford legal help.

The MUN committee organised its annual Model United Nations with international participation.

All of us place on record our deep sense of gratitude to the State Government for providing all the help and assistance needed by us to renovate the building of this College, which is currently in progress. The completion of this in the near future will add to the stature of the building in consonance with the all-round growth of educational, curricular and extra-curricular activities.

I once again place on record my thanks to my esteemed colleagues, from whichever source they are drawn and to my dear students, for making my tenure memorable.



**Judge Mr. R. B. Malik**  
Principal



# Faculty Advisor Pens...



It gives us great pleasure to launch the 83<sup>rd</sup> edition of our popular College Magazine, *méLAWnge*.

The Magazine Committee is extremely proud of its theme section this year, namely, 'women in the legal profession in India.' The Section features articles by some of India's most eminent female lawyers, such as the first lady judge of an Indian High Court, Ms. Leila Seth, retired Supreme Court judge, Justice Sujata Manohar, Hon'ble Justice Dalvi of the Bombay High Court and Additional Solicitor General of India Ms. Indira Jaising, among others. The theme of *méLAWnge* 2012-13 is particularly relevant in the social backdrop of today and the articles by a host of leading lady jurists adds greatly to the value of our Magazine.

As always, the three essay competitions organised by the Magazine Committee—the Vyas GLC National Legal Essay Writing Competition, the Belles-Lettres: J. E. Dastur Memorial GLC Short Fiction Essay Writing Competition, and the Sir Dinshah Mulla Legal Essay Writing Competition—were a huge success, with students from various colleges across the country participating in them. The prestige of these Competitions increases manifold each year. The Committee is extremely grateful to the sponsors of these Competitions, Mr. Dinesh Vyas, Mr. Soli Dastur and Mr. Shardul Thacker, for their unstinting support and valuable contribution.

'Knock-Out!', the annual panel discussion organised by the Magazine Committee, saw GLC's finest battle it out on the topic 'Judicial activism in India is stepping on executive functioning. Is our higher judiciary increasingly invading the domain of the legislature and entering the realm of policy-making?' The debate was moderated by Senior Counsel J. P. Cama. The level and quality of the debate was evident from the strength of the members of the audience who also enthusiastically participated in the debate.

We are very grateful to our Principal Judge R. B. Malik, who has been supportive of all our endeavours through the year and without whom we would not have been able to achieve all that we wanted to with this publication.

Prof. Daphal has provided a great deal of encouragement and support to the Committee and has motivated the students to achieve all their goals.

Last but definitely not the least, we congratulate the members of the Magazine Committee 2012-13 for their tireless efforts towards publishing another invaluable edition of *méLAWnge*. Their hard work and commitment is truly commendable.

Prof. Mr. H. D. Pithawalla  
Faculty Advisor

# General Secretary's Message



*Men are mortal. So are ideas. An idea needs propagation as much as a plant needs watering. Otherwise both will wither and die.*

**Dr. B. R. Ambedkar**

Government Law College is indeed a place where ideas are provided with an appropriate platform for their propagation. Every year at Government Law College is an endeavor to pull the chariot of its legacy and glory towards the destiny set by its great alumni and it is in achieving this destiny that various student bodies, staff and administration have put in their heart and soul. I take pride in saying that this academic year has proved to be momentous in the historical journey of our College. There is an inherent culture in this College that moulds its students to become future leaders, which is the reason that our alumni consists of exceptional

legal experts, legal luminaries and national leaders.

This year started with welcoming our freshers at the Freshers' Party. The Freshers' Moot organised by the Moot Court Association, gave them an introduction to mooting. The Annual National Tax Moot Court Competition organised in memory of the late Mr. Nani Palkhivala provided a chance to law students to enhance their mooting potential. The Charity Sale and Shikhar gave our students the chance to put a smile on the faces of the underprivileged. The GLC MUN helped students to get acquainted with the functioning of the United Nations. The Government Law College International Law Summit organised by the Students for the Promotion of International Law (SPIL), Mumbai, featured seminars, workshops, and competitions based on Contemporary Issues in Arbitration and Mediation. The Sports Committee organized SHOWDOWN, keeping our sportsman's spirit alive. The D. M. Harish International Moot Court Competition facilitated participation from all over the globe. The Legal Aid Committee gave a platform to students for filing various PILs and also organised workshops on filing RTI. The Placement Committee organised two Placement Weeks in our College to assist students in internships and placements in good law firms. The Alumni Association successfully organised the Delhi Study Tour and the Pune Study Tour.

This year also witnessed the introduction of a Model Indian Parliamentary Session organised by the Rotaract Club of Government Law College and Hamlet to Globe which saw students from across the country participating in a simulated parliamentary session where they showcased their literary and parliamentary skills. In honour of the memory of Dr. Ambedkar, the father of our Constitution and a former principal of GLC, the Principal Dr. Ambedkar Memorial Lecture was organised. The Marathi Mandal, Hindi Parishad, Gujarati Mandal, Dramatics Committee have done a commendable job in organising cultural events in the College. This year Government Law College has indeed achieved new heights in academic and co-curricular activities. The achievements of our students in sports and cultural activities have added more feathers to our cap. *Bhoomigath*, a venture of our students towards forming a musical band, deserves a special mention. I take this opportunity to thank our Principal and our professors, for supporting all our students and being excellent guides in all our endeavors. *méLAWnge* has always been a blueprint of all College activities. I congratulate the Magazine Committee for coming out with another outstanding publication and I hope their success knows no limits.



**Mr. Pratik Kardak**  
General Secretary

# Magazine Committee



**Sitting (L-R):** Harshini Parikh (Assistant Treasurer), Harsheen Madan (Marketing Head), Sherna Doongaji (Chief Student Editor), Prof. Mr. H. D. Pithawalla, Principal Judge R. B. Malik, Prof. Mr. D. A. Shinde, Prof. Mr. P. B. Daphal, Vidhi Shah (Assistant Editor), Malvika Tiwari (Treasurer), Aishwarya Singh (Student Co-ordinator).

**Standing 1<sup>st</sup> Row (L-R):** Jui Patil, Hansa Bhargav, Maitihili Parekh, Malvika Amin, Sheryl Babu, Shilpa Singh, Anvita Mishra, Radhika Verma, Anushree Kacker, Sanjana Rao, Shloka Sonkamble, Pooja Natarajan, Priyanka Saraswat.

**Standing 2<sup>nd</sup> Row (L-R):** Shrey Sangani, Gopal Machiraju, Rohan Garg, Aanchal Gulati, Remya Raj, Saumya Kapoor, Kruti Bhavsar, Sagarika Ummikrishnan, Ekta Jhaveri, Vikrant Shetty, Shreyas Narla, Savio Tom.

# Editorial



As I begin to write this editorial, I cannot help but become conscious of the end that it signifies, to my journey of four years in the Magazine Committee of Government Law College, Mumbai—a journey that has helped me to grow, develop and achieve infinitely more than what I could have imagined, when I embarked on it.

Being the Editor of *méLAWnge*, teaches one not only how to execute the task at hand—putting together a publication which records an entire year at GLC and providing a platform for students to voice their opinions and feelings—but also endows one with a very different, yet useful, skill set. The average day as Editor involves dealing with a variety of people—faculty, administrative staff, partners of law firms, designers, printers and of course, a motley array of students. It also forces one to grapple with a wide range of issues, including marketing, accounting, designing and an enormous amount of coordination with all of the above people. I decided to welcome these lessons and experiences with open arms and have emerged feeling extremely rewarded.

*méLAWnge* 2012-13 is centered on the theme of women in the legal profession in India, featuring some of the most eminent women jurists contributing articles documenting their experiences in the profession. The articles of women such as Ms. Leila Seth, Justice Sujata Manohar, Hon'ble Justice Roshan Dalvi and Indira Jaising, to name a few, have greatly added to the value and credibility of this edition.

The Committee was very fortunate to be able to interview three incredibly accomplished individuals from three very different walks of life—Mr. Darius Khambata, Advocate General of Maharashtra, Mr. Mani Shankar Aiyar, member of the Rajya Sabha and Ms. Barkha Dutt, renowned journalist—all of whom were more than forthcoming and very candid in discussing with us, various social, economic and legal issues.

*méLAWnge* also features a number of articles by the students of Government Law College, on a variety of topics, both fictional and non-fictional—a true *mélangé*—making it a law college magazine with a difference.

The Committee began the year with another hugely successful edition of our annual debate, 'Knock-Out!', featuring two teams, each consisting of an ex-student of the College and a current student of the College, battling it out against each other on the topic 'Judicial activism in India is stepping on executive functioning. Is our higher judiciary increasingly invading the domain of the legislature and entering the realm of policy-making?' The debate was moderated by Senior Counsel Mr. J. P. Cama, who, along with our panelists, attributed to the event's grand success.

The three flagship competitions organised by the Magazine Committee—the 12<sup>th</sup> Vyas Government Law College National Legal Essay Writing Competition, the Belles-Lettres: J. E. Dastur Memorial Short Fiction Essay Writing Competition and the Sir Dinshah Mulla Legal Essay Writing Competition—were all noted and very well-received by students and the legal fraternity across the country, for the creativity and relevance of their topics. As always, a large number of students from different parts of the country participated in them.

We are very thankful to the sponsors of the three essay competitions—Mr. Dinesh Vyas, Mr. Soli Dastur and Mr. Shardul Thacker. Their vision, generosity and kindness, so typical of men of their standing, have helped to sustain these competitions, which add to our College's acclaim.

The constant support and patronage of our well-wishers and sponsors from the legal fraternity across India is what has ensured the high quality of our Magazine, year after year. We are indeed exceedingly grateful to them all.



I would also like to express my gratitude to Hon'ble Shri Justice J. P. Devadhar, Hon'ble Shri Justice R. M. Savant, Hon'ble Shri Justice A. A. Sayed and Hon'ble Shri Justice K. K. Tated, for judging the final rounds of the 12<sup>th</sup> Vyas Government Law College National Legal Essay Writing Competition.

Mr. Amish Tripathi, best-selling Indian author, was extremely gracious in judging the final rounds of the Belles-Lettres: J. E. Dastur Memorial Short Fiction Essay Writing Competition, for which we cannot thank him enough.

Our Principal, Judge R. B. Malik has never ceased to be a pillar of strength for the Committee, helping to pave the way for the success of our many endeavours.

I'd like to thank Prof. P. B. Daphal, our Chairman and Prof. H. D. Pithawalla, our faculty advisor for the boundless support and motivation required to release a publication like *méLAWnge*.

I mustn't proceed without expressing my gratitude for the immense amounts of advice, good counsel, encouragement and guidance provided by Prof. Kishu Daswani, who has been a continuous source of help and assistance, in the face of my constant and often miscellaneous demands and requests. He was also kind enough to contribute another edition of his crossword—Lexcryptic—to *méLAWnge* 2012-13.

Every member of GLC's faculty and administrative staff deserves to be thanked individually for their support and cooperation throughout the year.

It is difficult to thank Vidhi Shah, our Assistant Editor, in just a few words, for all the moral support, long hours, perseverance and hard work she has devoted to this Magazine. Vidhi and I started our journey in the Magazine Committee, as also in Government Law College, together and I cannot believe my good fortune in having had the chance to work so closely with one of my best friends, on a publication which means the world to both of us.

All four of my devoted post-holders—Harsheen Madan, Malvika Tiwari, Harshini Parikh and Aishwarya Singh—deserve a special mention, for their undying commitment to this publication, every step of the way. The camaraderie amongst the members of the Core Committee was heartening and I am indeed privileged to have had them working on *méLAWnge* this year.

I must also thank all my Committee members for making the publication of this Magazine possible with their hard work.

Shreyas Narla deserves special thanks for so thoughtfully creating the cover design of *méLAWnge* 2012-13.

My thanks would be incomplete if I didn't give Kanupriya Kejriwal, Chief Student Editor of *méLAWnge* 2010-11, a special mention. Kanu not only set the bar tremendously high with the standard of the Magazine she managed to produce in her year as Editor, but was also responsible for recognising and nurturing my potential as a future editor of *méLAWnge*. She has always been my friend, philosopher and guide throughout my time at GLC.

It is hard to be at the helm of a magazine of the quality and repute of *méLAWnge*, without the help and encouragement of one's family and I can't thank mine enough for putting up with my ceaseless whims, needs and difficult schedules during the course of the year and for always being there to provide a voice of reason and sanity when I seemed to have lost my own.

'It may not be career-defining, but it is most certainly character-defining,' is the counsel I once received, with regard to my membership of the Government Law College Magazine Committee. In fact, I believe that it is both. The leadership skills, friendships and self-confidence that the Committee has afforded me, have defined who I am and will remain with me forever. The Magazine Committee has accomplished a great deal with this particular edition. This publication has been a labour of love and is the perfect culmination of my journey in the Committee.

*méLAWnge* 2012-13 is truly representative and resultant of the inimitable spirit of GLC's students and I hope that it has earned itself the repute, greatness and eminence accorded to its predecessors.

Sherna Doongaji  
Chief Student Editor

# *Winds Of Change At The Government Law College...*

*From Old Mahogany And Teak Wood  
To Plastic And Plywood*

by Prof. Dr. Shakuntala Bharvani



#### **THE NEW LOOK OF THE COLLEGE:**

The last few months have seen dramatic changes in the look of the College. Priceless, old, carved, mahogany furniture, chairs and tables with beautifully carved legs have been replaced by plastic and plywood—a bullet shot in the eye for old-timers and alumni of the College who may come to visit their alma mater. The Professors' staff room is almost unrecognisable!

Fortunately, a lot still remains unchanged.

#### **THE COLLEGE MAGAZINE:**

It is noteworthy that the high standard of the Magazine remains the same. In 1996, when I was transferred to the Government Law College (from the Elphinstone College) as a full-time teacher of English and Professor-in-charge of the College Magazine, it consisted of a slim, nondescript volume. But within a year or two, my budding editorial team had broken all bounds and borders and come up with a respectable volume which boasted not only of legal essays, but also of excellent pieces of creative writing, poetry and literary criticism. Committee members, taking the lead, also approached generous alumni members to sponsor essay competitions on legal and literary topics.



There was even more progress. Within a period of three or four years, the next committee came up with an innovative title to give the Magazine its own character and identity—*méLAWnge*—from the French meaning ‘a medley of essays and articles on a wide variety of subjects.’ This very suitable title continues till today.

With its creative energy still in full swing, another enterprising Magazine Committee proposed the idea of a Law Journal. This was accepted by the then Principal and a separate committee was appointed to edit and publish the Law Review.

I am happy to see that *méLAWnge* maintains its high standards under the very able leadership of Ms. Sherna Doongaji and her editorial team. Congratulations! It is certainly a Magazine to be proud of.

#### **THE STUDENTS:**

The will, the ability, the tenacity that characterises the GLC-ite is what is commendable and praiseworthy. Teachers, good or bad, absent or present, prelim exams, conducted or not conducted, principals, appointed or not appointed, the GLC-ite, like the soaring kite, aims higher and higher and reaches heights and levels very few students in other colleges are able to achieve.

#### **THE COLLEGE ALUMNI:**

On the other hand, it is surprising to see the eminent alumni of the College, most of whom hold extremely prestigious and influential positions, both in the legal arena and in society, sitting back and taking so little interest in their alma mater. Universities and colleges all over the world are nurtured by their alumni, making them what they have become. Not so the alumni of the Government Law College, of who so many are legal luminaries who could play a more active role in the upliftment of the College’s standard. To them one can only say what the patriots of old said to the people of pre-Independent India: ‘One cannot survive on ancient glory.’ Therefore, ‘arise, awake, and do not stop till the goal is reached.’

Mr. Nani Palkhivala termed the judiciary the watchdog of the nation. It is not far-fetched to say that the alumni are the watchdogs of the college. Casualness in the governance of a college sets in very easily and leads to an all-round lackadaisical attitude, not only with reference to student indiscipline, but also to a lethargic teacher attitude. Thus it is of extreme importance that the Alumni Association assumes its role of watchdog with utmost seriousness. It is a task which needs a concerted and united effort from the Alumni Association, for strength lies in unity and helps even the dying phoenix to rise from its ashes.

#### **PRINCIPAL-IN-TRAINING:**

One suggestion which could be considered is to appoint a principal-in-training at least a year or six months prior to the retirement of the current principal. This will ensure that the new principal understands the job, the college, its administration and its students’ strengths. At present there is no such policy in place and a principal is picked at random, and made to sit in the principal’s chair, sometimes even a year or two after his predecessor retires. In the interim, the headless college has already suffered a severe hemorrhage! It is no wonder that the Tata Empire and similar successful institutions choose a successor well in advance. Deteriorating government departments could well learn a lesson from the administration of big corporate houses.

#### **GOVERNMENT COLLEGES:**

The Government, due to its intensely non-academic approach, has witnessed the fall of world-renowned educational institutions, of the likes of Elphinstone College and Sydenham College.

Please let this not happen to GLC. Otherwise, like plastic money and the plastic and plywood chairs which now adorn the College, we shall soon have a new breed of plastic students with immobile plastic faces and plastic brains! ■

# Laid to Rest by the Specter of Doubt

by Yash Srivastava, III-II

A child was once told by his mother, that every stranger is a ghost, who would try to trick him and take him to a faraway land, away from his parents, friends and family. This created a fear in the mind of the boy, causing him to be wary of strangers. One day, he was swimming in a river and the current carried him away. His parents, busy with his siblings, did not notice this. One of the other swimmers, seeing the boy in trouble, attempted to help him, but the boy would not hold the stranger's hand and thus drowned. Somewhat similar, is the case of India today. Our surroundings have conditioned us to believe that governmental machinery and the administration are our biggest foes. Some of our experiences corroborate this belief and gradually we have become unwilling to take their hands and fight together, even for causes such as social justice, social mobility and upliftment, among others, where we should ideally be on the same side of the battle lines, rather than opposing each other.

In 2010, a big movement against corruption took shape, with the nation wholeheartedly backing calls for cleaner governance, based on evidence of crony capitalism in the

allocation of 2G spectrum. Hundreds of thousands took up the cause as their very own and the administration was under pressure. Arrests were made, big-wigs disgraced and the wheels carrying the nation towards a cleaner tomorrow, which were creaking until then, seemed to be forced into motion by the people's power. However the issue was soon politicised, as it always is, and it became a triangular fight between the citizenry, the Government and the other political parties. Soon, words like negotiation went out the window and mudslinging became the norm.

Gradually, over the next two years, every issue, policy and action of the Government was painted with the same brush—that of malafide intention. Policy-making came to a halt, files got stuck and those in power felt that taking no decisions was a safer bet than taking decisions because everything was subject to the shadow of taint. In the first quarter of the fiscal year 2012, our growth rate was 5.3%, the slowest in eight years. Subsequently, feeding on popular sentiment, the media and certain





sections of the anti-corruption movement, started to play the role of allegation machines, blasting allegation after allegation, without respite, in order to wear out the Government.

Today, every single action by the administration is put under the scanner. This has led to a lot of time wasted in defence, counter-allegations and cross-questioning and has eaten into valuable time that could have been spent in constructing a solid edifice of policy and progress for the nation. Social welfare, economic policy, international relations, public safety, minority upliftment, education and job creation are things that the nation needs most, but our polity and citizenry are only engaged in a battle to discredit each other. This might culminate in a complete seizure of activity, which will result in failure to accomplish any of the social and economic goals that are necessary for the development of the nation.



This becomes clear from the occurrence of recent incidents. Fuel subsidy is 0.8% of our gross domestic product (GDP) at 1,60,000 crores. It is phenomenally higher than even the subsidy budgets of oil-rich countries. As subsidies were slashed, there was a furor and outcry against it. The administration was accused of being unconcerned about the common people. It must be understood that while certain sections of society would never be able to comprehend this policy as a grave necessity for the health of the nation's economy and would look at it only from their personal point of view, it is the job of the leaders and elected representatives to take a stand and try their best to further the country's interests. The situation degenerated into a brawl between the Government and the Opposition.

In the aftermath of the recent Delhi gang-rape case, there is a general consensus amongst the citizens that stronger enforcement is required. Lodging of complaints, evidence collection and trial procedures need to be streamlined for fair execution. This was what the peaceful protests at India Gate asked for. But as the nation boiled, it turned into a slugfest, where the politicians, the police, the administration and the system were condemned. From constructive feedback and helpful suggestions, it shifted gears, becoming a blame game, where accusations and counter-accusations took center stage. Gradually, even as positive steps were announced by the Government, we did not pause to take notice of them, but continued our barrage of doubt and anger.

This is where the problem lies. Anger towards the political system has existed for ages. That has not done much to clean the system. Hatred of the administration will do nothing to cure the many illnesses that the nation is suffering from. We need to protest peacefully and constructively, sometimes taking things into our own hands if our voices are not heard.

Not everyone in the government is corrupt. Not everyone in the administration is indifferent towards the nation and its citizens. There are sections in the police, government and administration that are at work. Rather than painting the whole system black and forcing its seizure and shutdown, we need to take up one issue at a time and take it to a logical conclusion, recognising elements within the administration that can help us to achieve the cause. We need to make the government a stakeholder in the progress and evolution of our democracy and use it to achieve our goals. It is easier to be on the same side and overcome the challenges.

This is in no way meant to detract from what the uproar in the public and the media has achieved in the last few years. We need to create this noise to bring about an awakening. Today, corruption is in the lexicon of even the least aware of people. Now is the right time to stop shrouding everything in the fabric of doubt. Now that awareness and agitation is something we have grown familiar with, we need to start acting rather than merely venting anger.

While it is fair to state that the police needs to be sensitive in registering cases regarding harassment of women and enforcement is weak, we need to realise that if given the right motivation and freedom to work, the police force can do wonders. We need to realise that if we do not appreciate even the good work of the police and question its motives in totality, then the incentive

is lost for those in the force who are upholding the dignity of the service. We need to realise that when a constable dies as a result of a clash between the protestors and the police at India Gate and we start to treat the post-mortem reports with suspicion, we have reached the abyss of doubt and no answer will be sufficient from there on.

There is a deficit of trust and credibility between the citizens and the administration and it is not without good reason. But it is in our interest that we use this pressure to constructively build on the citizen's movement, rather than engage only in harangue and create doubt and negativity. We need to give our leaders the space to work, without the constant strain of having to keep justifying their stand. We need to single out and punish only their bad decisions, through criticism and suggestions, like in a game of cricket where one singles out bad balls for special treatment.

Many nations have experienced protests in the past few years. Some have gotten nowhere. Those who will taste drastic change are those who, having expressed in very serious terms, their desire for change to their

elected representatives, expect a no-nonsense response from them and are ready to vote them out if they do not receive it. The citizens and the media must give the government the space to perform its functions, judging it at fair intervals and not at infinitesimally small intervals.

The changing fortunes of this country will especially benefit the youth, who have a lifetime to achieve and change things. We, as a nation, have great potential to achieve strong fundamentals like greater education, diverse demography etc. To exploit it we need to create an environment of chastisement but not doubt.

The summit has moved from somewhere near the horizon to a place within striking distance. The adrenaline is pumping and we are ready to bludgeon our way to the top. The only obstacle—and a severely disconcerting one at that—is our own team membership expressing fear about its leadership's incompetence and inability, which drags down morale. Let's be a slightly different national team, or else, be prepared to lay to rest, the great Indian dream. ■

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**A TRIBUTE TO NIVEDITA NATHANY**  
by Tehemt N. Daruwalla

(Former student and General Secretary, Students Wing of the Alumni Association of Government Law College, Bombay)

In 24 hours you persuaded me to attend the First General Body Meeting of the Students' Wing of Alumni Association on the auspicious day of 15<sup>th</sup> August, 2012. You wholeheartedly helped me and all the other speakers with little things like the microphone, arrangement of lights, presentation which made the day really happy for all of us! Little things mean a great deal to little men!

Having watched you light the candle, I recited the following lines to the audience:

"I will soon be dead,"  
The candle said,  
"I inch by inch decline,  
But I make light  
Of my sad plight  
For while I live,  
I SHINE!"



How was I to know that those words were not meant for me—but for you!

Questions asked to me few days later:

Q : How long did you know her?

TND : 48 hours

Q : Only that much?

TND : "One crowded hour of glorious life, is worth an age without a name!"

On 16<sup>th</sup> August, 2012, well before midnight—with the gentle benediction of the rain—God's finger touched sweet Nivedita and she slept!

*"What counts is not necessarily the size of the dog in the fight,  
it's the size of the fight in the dog."*

- Dwight D. Eisenhower, American President, 1958.  
(A great General and a perfect gentleman.)

*With Best Wishes to our Alma Mater*

**Jehangir Gulabbhai & Bilimoria &  
Daruwalla**

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# KNOCK OUT!



## Judicial activism in India is stepping on executive functioning.

Is our higher judiciary increasingly invading the domain of the legislature and entering the realm of policy-making?

'Knock Out!', the flagship event of the Magazine Committee is an annually organised debate in which the two participating teams, consisting of two speakers each, get a fair chance to engage in a verbal battle, aiming at nothing short of 'knocking' the other team down. The last team standing, as decided by the audience, which participates throughout the debate through questions and answers, is declared the winner. The heated debate, justifiably needs moderation and was thus moderated by Sr. Counsel J. P. Cama, who was instrumental in making 'Knock Out!' such an overwhelming success this year. To make it even more interesting, the two teams each consisted of a student and ex-student/advocate.

The topic for this year's edition of the debate was, 'Judicial activism in India is stepping on executive functioning. Is our higher judiciary increasingly invading the domain of the legislature and entering the realm of policy-making?' Battling it out this year for the Proposition were ex-student Advocate Ishan Handa and final year student Riva Shah, while ex-student Advocate Astad Randeria and final year student Tushad Kakalia valiantly defended the Opposition's stand.

The topic of judicial activism is very relevant to our present state of affairs. While we can all agree that judicial activism in the past few years has increasingly been stepping on executive functioning, the debate really is about whether

### Format

There Are **3** Rounds

**Make Your Point :**  
Each Panelist Is Given 7 Minutes  
To Introduce His/Her Points.

**Fight It Out :**  
In This Round, The Discussion Is Open  
To Everyone—the Moderator, The Panelists  
And The Members Of The Audience.

**Vote Of The House :**  
The Moderator Expresses His Own Views  
On The Topic And Puts It  
To The Vote Of The House

or not it is justified. On one hand, as was well argued, our Constitution provides for separation of powers and often the judiciary, especially the higher judiciary, transgresses its jurisdiction and enters into the field of policy-making. On the other hand, it is necessary in several situations, where fundamental rights have been infringed and it is an important component of judicial review, which is enshrined in the Constitution.

It is important, however, that a fine line be drawn to prevent 'judicial activism' from turning into 'judicial adventurism' or 'fundamentalism.' As correctly put by Mr. Cama, this '*lakshman rekha*' must be drawn

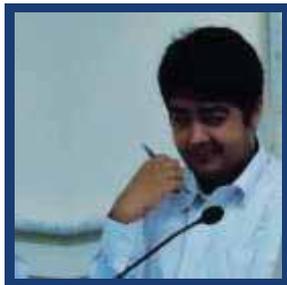
somewhere, and as Ishan rightly suggested, it should be drawn to prevent the judiciary from entering into policy decisions, a good example being the river linking case or the 2G case.

Having said that, this '*lakshman rekha*' is rather difficult to draw and although ours is certainly not an ideal parliamentary democracy, judicial activism may often be practically justified with regard to our current state, as the last resort.

After the debate, Mr. Cama concluded with a very pertinent question: 'If judicial activism was to be rolled back, would we be a better country?' We indeed would not! And as Mr. Cama rightly stated, 'This country is a democracy because of its courts, which have the courage to stand up for the law.'

**Ishan Handa (Ishan):** Before I really start on the topic, let me tell you something. When I came to my first year in GLC, young and starry-eyed, the thing that excited me most about this College was mooting and I started mooting right from my first year.

The best times that I had mooting were when I was arguing on behalf of the petitioner in a public interest litigation (PIL) under article 32 of the Constitution in the Supreme Court. I would read case laws and when I did so, I would quote extremely powerful words that, naive



as I was at the time, I thought would give the moot court judges goose bumps. Words such as those the bench said in *Keshavananda Bharati*: 'The Constitution was never intended to be an arena for the legal quibbling of men with

**The Supreme Court is trying to run our country by stepping into the shoes of the executive and the legislature. They are not only enforcing and interpreting the law, but are trying to prescribe it and implement it.**

**– Ishan**

character of social activism has slowly started infringing upon executive and legislative functioning and even leaning towards judicial fundamentalism.

We have something called the doctrine of separation of powers, which I'm sure everyone is aware of. While there are several arguments against a very strict and rigid application of the doctrine, its primary philosophy—that the legislature is the elected body and depicts the will of the people and therefore its powers and functioning must be respected—becomes of paramount importance when trying to apply it in a democratic system. Several of you, including my worthy opponents, might feel that the legislature does not imbibe the will of the people. However imperfectly it may do so, that is what our Constitution mandates and the judiciary must respect that. By co-relation and association, as a consequence of this, the executive, to whom powers have been delegated by the legislature, must be respected as well. The real question of judicial restraint becomes very important because while the judiciary has the power to denote the limitation on the powers of the executive and the legislature, the only control on judicial power, is one of self-imposed discipline and this great power, like Spiderman's uncle said, comes with great responsibility. It must be exercised not only with restraint and discipline but with humility.

**I think the best example of delivering justice and the best example of judicial activism is the public interest litigation. Because of public interest litigation, access to courts was thrown open to the poor, disadvantaged and indigent sections of society. The judiciary literally became their champion.**



long purses', or when the late Justice Y. V. Chandrachud said, 'The role of the reformer must be adopted by courts, because it is beyond the endurance of sensitive minds to tolerate injustice when it is so palpable.' Those were words that gave me hope; they gave me faith; they motivated me. They inspired me to believe that the judiciary would always aid the weak, defend the defenseless and help the oppressed.

I think the best example of delivering justice and the best example of judicial activism is the public interest litigation. Because of public interest litigation, access to courts was thrown open to the poor, disadvantaged and indigent sections of society. The judiciary literally became their champion. There are innumerable examples where the judiciary has intervened to deliver justice to the people, right from when Sunil Batra, a prisoner, wrote to Justice Krishna Iyer of the Supreme Court about the poor, horrific and quite sickening conditions of prisoners in jail cells and it was converted into a petition and the Supreme Court ordered humane conditions for them. It is when I think of these shining examples of judicial activism that I feel deeply saddened at what's happening today. It is a matter of grave concern that over the years, this beneficial

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**– Ishan**

Let's take examples of what's happening today. The Supreme Court is trying to run our country by stepping into the shoes of the executive and the legislature. They are not only enforcing and interpreting the law, but are trying to prescribe it and implement it. Right from the banning of black film on windows of cars or ordering the mandatory wearing of seat belts in cars or helmets on two wheelers, to ordering actions and controls that the government must take to control the monkey menace in Delhi, the list goes on. Let's take one particular example. The most recent, grave and shocking transgression of this judicial restraint is the case of networking of rivers.

In this case in 2012, Justice Patnaik and Justice Swatanter Kumar of the Supreme Court literally ordered the Government to implement a grand, extremely massive and hypothetically possible project, without really taking into consideration whether that project was actually feasible or not. Whether or not a project needs to be undertaken in our country, whether

# KNOCK-OUT!

it's linking of rivers or anything else, is a policy decision. That is not the decision of the Supreme Court of India.

Today, had I been given the option to decide which side I wanted to speak for, I would have chosen the other side. I would have wanted to tell you that everything is fine, everything is great and everything is peachy; that the judiciary continues to champion the cause of the poor and stand for the Constitution which it considers to be sacrosanct. I would like to make the extremely feeble excuse that the legislature is plagued and paralysed by the chaos caused by recent politics. I would like to tell you that the executive is unwilling and unenthusiastic. But those feeble excuses do not matter. What matters is that we have a Constitution and the judiciary is transgressing it.

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**Tushad Kakalia (Tushad):** I do believe a bit of historical perspective is necessary in order to understand judicial activism in the way it exists today. When one compares the role of the Indian courts today, first, to the role of the courts during British rule and thereafter in the functioning of our post-independence democracy, two things become abundantly clear: firstly, that judicial activism has been practiced not merely in the past decade, but has been practiced in some form or the other for the past 50 years and



**[T]he decision in Keshavananda Bharti, when it was first delivered, was thought of as being ridiculous. It was thought of as challenging the basic tenets of democracy. However that decision gained legitimacy, during the emergency, when the Indira Gandhi government sought to amend the Constitution beyond recognition by taking recourse to article 368 and whittling down the checks that were placed on the executive.**



secondly, that judicial activism has been responsible for developing and upholding democracy in several instances. Prior to independence, judges were brought up on the British tradition of legislative supremacy and they rarely questioned the validity of legislative action except in some instances, on the ground of ultra vires. However after independence, legislative supremacy was not thought of as being the only democratic value. In fact, judicial review of legislative

action was no longer looked at as being undemocratic. During the framing of the Constitution however, many Indian leaders did want to restrict the role of the courts to merely laying down the law and not making it. However this view was not unanimously accepted. Several of the minority leaders asked that where a party or an alliance of parties was able to secure a legislative majority because of the first-past-the-post

voting system, would it be fair for that legislative majority to tamper with the basic structure of the Constitution, assuming that the Constitution reflected a national consensus when it was framed? The legitimacy of their arguments was seen and the Constitution did eventually come to include Part III—a part of which is Article 13, which gives the courts the power to declare as invalid, any legislative action that is violative of Part III. This power of judicial review is therefore inherent in the written Constitution.

After independence the courts gradually evolved from a positivist attitude to a more activist attitude and this too came with a lot of stresses and strains, even then. For example, the decision in *Keshavananda Bharti*, when it was first delivered, was thought of as being ridiculous. It was thought of as challenging the basic tenets of democracy. However that decision gained legitimacy, during the emergency, when the Indira Gandhi Government sought to amend the Constitution beyond recognition by taking recourse to article 368 and whittling down the checks that were placed on the executive. It gained legitimacy particularly in the case of *Indira Gandhi v. Raj Narayan*, where clauses of the 39<sup>th</sup> Amendment were struck down because they violated the basic structure doctrine. This doctrine therefore played a pivotal role in the preservation and maintenance of democracy and has thereafter always acted as a counter-majoritarian check on the exercise of executive power. Post the emergency, judicial activism was inspired by the constitutional interpretation which dictated that the Constitution shouldn't merely be looked at as a catalogue of rules, but rather as principles of constitutional governance. Further, the Constitution of India was thought of as including several socio-economic rights. It was widely thought, and rightly so, that several of these were part of the directive principles and would therefore require legislative and executive action. However the courts took many of these rights that were included in the directive principles of state policy, such as the right to education, the right to work, the right to an adequate means of livelihood, and read them into article 21 of the Constitution. In terms of legal positivism, they clearly overstepped their limits in these instances. However, the net effect of these judicial

declarations was to create a greater awareness of these rights amongst the people and most importantly, these judicial declarations ensured that the executive and the legislature did not remain complacent in the delivery of these rights to the people and that is what I would submit legal activism continues to do even today.

**Riva Shah (Riva):** The first step towards rectifying any mistake is acknowledging it and I believe it is time we acknowledge that the higher judiciary has increasingly overstepped its jurisdiction and it is the need of the hour to put a check on this trend, flourishing under the garb of judicial activism.

In 2007 the Honourable Supreme Court strongly condemned this growing trend in the following words, 'We are compelled to make these observations because we are repeatedly coming across cases where judges are unjustifiably trying to perform



executive or legislative functions. In our opinion this is clearly unconstitutional. In the name of judicial activism judges cannot cross their limits and try to take over functions which belong to another organ of the State.'

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In spite of the acute directions given in the aforesaid judgment, the courts have increasingly and incessantly overstepped the fine line dividing activism from adventurism and wandered into purely legislative and executive domain. An example of this is the Jharkhand Legislative Assembly case. The court ordered that the Legislative Assembly must conduct a motion of confidence, the speaker must conduct proceedings in accordance with a prescribed agenda and further, that the proceedings must be recorded in order to be reported to the court. All these orders were in spite of article 212, which clearly accords complete immunity to legislative proceedings. The most recent addition to the so-called cases of judicial activism is the 2G scam judgment. Don't get me wrong, the judiciary must be applauded for coming down heavily on the Department of Telecommunications and for quashing

**We, as members of the legal fraternity need to realise that [the] fine balance between the judiciary, executive and legislature is the linchpin of any constitutional democracy and any transgression cannot be condoned no matter how noble the cause.**

– Riva

the 122 licenses, but unfortunately the judgment did not end there. One of the issues framed in the judgment was, and I quote, '[W]hether the Government has the right to alienate transfer or distribute natural resources or national assets otherwise than by following a fair and transparent method.' The Supreme Court ruled, and I quote again, 'While transferring or alienating natural resources, the State is duty-bound to adopt the method

**The justification then accorded for judicial overreach is that the other two organs are not performing their functions properly. Well, can the very same allegation not be levied against the judiciary itself, given the colossal list of cases pending in the courts for decades? Can the judiciary take up the functions of two other organs when the judiciary itself is continuously under the scanner for incessant delays?**

– Riva

of auction by giving right publicity so that all eligible persons can participate in the process.' It is pertinent to note that the issue framed did not even necessitate providing a particular method but still the courts have gone ahead and laid down auction to be the only method. What is even more appalling is that the judgment does not restrict itself to the subject matter, that is spectrums, but makes a wide, sweeping declaration covering all natural resources without even defining the term natural resources. The judgment is in contradiction to the recommendations of the Telecom Regulatory Authority, an expert in the field. So the Supreme Court has laid down a judgment which is nothing short of an executive policy and has disregarded the opinion of an expert body in doing so.

The justification then accorded for judicial overreach is that the other two organs are not performing their functions properly. Well, can the very same allegation not be levied against the judiciary itself, given the colossal list of cases pending in the courts for decades? Can the judiciary take up the functions of two other organs when the judiciary itself is continuously under the scanner for incessant delays? If the executive or the legislature is not functioning properly, it is for us to exercise our franchise properly and set the situation correct. We, as members of the legal fraternity need to realise that this fine balance between the judiciary, executive and legislature is the linchpin of any constitutional democracy and any transgression cannot be condoned no matter how noble the cause.

**Astad Randeria (Astad):** The question before us today is whether judicial activism has gone too far. Perhaps what is most important to remember is what judicial activism has achieved so far and what the consequences would be if we all agreed with the proposition. PILs today are not given a second

# KNOCK-OUT!

thought, almost as if they were a feature of the Constitution themselves. It is almost as if article 226 includes the right of disenfranchised people to have their say in court, without themselves being party to the proceedings. But it is not so. The relaxation of the rule of locus standi was first propagated by Justice Krishna Iyer and was later given its full expression and meaning by Justice Bhagwati in *S. P. Gupta's* case, which is the Judges' Transfer Case.



While criticising judicial activism or judicial overreach, let's not forget that the judiciary itself is a check on the judiciary. A recent example is the Supreme Court overruling its own ruling in

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*Bhatia International*, which made Part I of the Arbitration Act applicable even to foreign awards. Part I is no longer applicable to foreign arbitrations and foreign awards. *Bhatia International* has been prospectively overruled and it will not apply to proceedings already commenced under the frame of law as laid down in *Bhatia International*.

Where does this doctrine of prospective overruling come from? It is a lovely little piece of judicial fiction and it has come from the judgment in the *Kesavananda Bharati* case, which everybody knows is responsible for the other little piece of judicial fiction that today forms the edifice of a large portion of our constitutional law—the doctrine of basic structure. There is no doctrine of basic structure expounded in the Constitution. There is no doctrine of basic structure really expounded in *Kesavananda Bharati*. It is extremely tiresome reading, but if you read the views of all 13 judges, the doctrine of basic structure finds its full exposition only in one view. If you read Mr. Andhyarujina's book, it talks about how that one view was formulated into a list of propositions which the Supreme Court upheld in *Kesavananda Bharati* and has then become the touchstone of the interpretation of Part III of the Constitution. Equally important to remember, is that the Supreme Court, not much after *Kesavananda Bharati*, in *Minerva Mills*, struck down a very incongruous and seemingly beneficial amendment to article 31(c) of the Constitution. Article 31(c) provided certain legislations a blanket exception from being tested against the fundamental rights contained in Part III. Article 39 of the

Constitution provides directive principles. Article 31(c) as it was originally enacted only provided this blanket protection from violation of article 14 and other fundamental rights, to laws enacted in furtherance of the directive principles contained in 39(b) and (c). What the constitutional amendment sought to do was to delete the words 39(b) and (c) and give blanket protection to legislation enacted in furtherance of all directive principles. The Supreme Court held that that would violate the basic structure of the Constitution and it was struck down.

In the IX<sup>th</sup> Schedule Case, Parliament tried to do exactly what it tried to do way back in the seventies, that is, bring all sorts of legislation under the umbrella of article 31(c) and thus insulate those legislations from the touchstone of challenge on the basis of fundamental rights. What the Supreme Court did in this case is very interesting and it has brought the position back to what it was in *Minerva Mills*. Thus, if not for judicial activism or judicial overreach we would be facing a situation where we would have all sorts of unconstitutional laws which were immune to challenge.

**Mr. J. P. Cama:** Thank you very much. Let me ask both sides a few questions. First, Proposition: you talked about interlinking rivers as being a major excess of the Supreme Court. Yet when one talks about clearing air pollution in Delhi, the Supreme Court closed down a hundred industries in one day and thereby improved the climate in Delhi. Where do you say that it's acceptable and where do you draw the line?

**Ishan:** I completely agree that the environment is something that is very important. It is because of that that I think the Supreme Court should have considered the situation a bit more before asking the Government to go ahead and directly implement the project. The project could be environmentally catastrophic. Linking of all the major rivers in India is not really as simple as creating small little channels. There are several feasibility reports that have come out, that have majorly criticised it. I think in a case where the situation has reached a terrible position, I would agree that something needs to be done. But the judiciary must direct the government to do it. That is what the Constitution allows the judiciary to do.

**Mr. J. P. Cama:** You spoke about the 2G Scam. You said that interfering in the 2G Scam was good, but perhaps there was no rationale for directing people across the board to have open advertisements. How else do you ensure that there is no violation of article 14? If the Supreme Court lays down a uniform practice across the country, why is that, according to you, going too far?

**Riva:** I would just like to say that as far as the judgment is concerned, I applaud the Supreme Court for taking strict action against the arbitrary decision of the executive. The policy that was followed and the licenses that were issued were arbitrary and the Supreme Court came down strongly on the executive and quashed all 122 licenses. Having done that, can the Supreme Court then go a step further and say that from now on, the mandate of article 14 should be observed and whatever method you apply henceforth should be fair? Yes, the Supreme Court can certainly say that. Can it then go a step further and say that an auction is the only fair and non-arbitrary method? That is where I question the Supreme Court. As far as the adoption of a fair method is concerned, it is the duty of the Supreme Court to ensure that. But to decide what is the only method that can be employed, is going a bit too far.

**Mr. J. P. Cama:** Coming now to you gentleman in the Opposition, what is your answer to the fact that PILs are being misused and judges are permitting the misuse of PILs?

**Astad:** The answer to that is that judicial indiscipline, judicial laxity or judicial leniency cannot be an answer to whether or not the judiciary should be activist. The extent to which the judiciary should be activist depends directly on the extent to which parliament and the executive are inactive.

**Mr. J. P. Cama:** The Proposition agrees that the court has to be adventurous, but not beyond a point. The Opposition also agrees that the court has to restrict itself and not go beyond a certain point. The question today really is, what is that point? Is it possible for society or for the law to lay down a 'lakshman rekha'? That is the point before the house. I want people to come forth and speak.

**Megha Agarwal (audience):** My question is to the Proposition. Don't you think that the Supreme Court needs to step in, in cases like *Vishaka v. State of Rajasthan*, where they laid down much needed guidelines for the protection of women against sexual harassment at the workplace? Today in 2012, the Bill to implement these guidelines is being considered in Parliament. So in such cases, where the government is doing absolutely nothing and it is essential to protect women, shouldn't the courts lay down guidelines?

**Riva:** We would like to clarify that we are not against judgments like the one in *Vishakha's* case. In *Vishakha's* case there was a gross violation of fundamental rights and the courts did not take over the function of the legislature. The judgment clearly says that the court is laying down guidelines till the legislature comes up with a law which will take their place. Today we are talking about another kind of activism; an activism tending towards adventurism where the judges do not subscribe to such a temporary application. In *Vishakha*, the judiciary left the legislature with scope to perform its function. No matter how late, the Bill was passed and when the Bill was passed, the guidelines were overruled. That is the role of the judiciary—to fill in the gaps; but not permanently.

**Pooja Nandapurkar (audience):** My question is to the Proposition. We have been discussing the expertise of the legislature, the executive and the judiciary. We never question the expertise of the judiciary. What about the expertise of the legislature and the executive? After 65 years of Indian independence, we still have scams running into thousands and thousands of crores. The judiciary is seeing and acknowledging the problem and if the judiciary lays down a solution after the government has had sufficient time to formulate a policy, then why not accept what the judiciary is saying as a solution even though temporarily?

**Ishan:** It's an interesting and valid point that you've brought up. I will answer your question in three parts. Number one, I don't think we should be so incredibly cynical with respect to our legislature, as to think of them all as incompetent nincompoops. In fact, you elected a lot of those incompetent nincompoops, so I think we should have a little bit more faith in them.

Number two, with regard to your statement about how the legislature hasn't done anything for 65 years, and there are still scams, those two are separate things. Corruption is a topic that will probably go beyond this debate and we can talk about that for hours, but the blame for corruption cannot be put only on the legislature. It lies with us as citizens, it lies with the corporations, and it lies with the companies who got the 2G spectrum and coal blocks as well. So in that

**[J]udicial indiscipline, judicial laxity or judicial leniency cannot be an answer to whether or not the judiciary should be activist. The extent to which the judiciary should be activist depends directly on the extent to which parliament and the executive are inactive.**

**– Astad**

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**– Ishan**

# KNOCK

[W]e love judicial activism. We think it's a great thing. If it had a Facebook page, we would like it. We would retweet judicial activism all day long and it would be trending. But the point is that the judiciary is competent in the law. They must leave policy decisions to the government, because that is their job. Everyone has a job. Let's stick to ours.

- Ishan

I think the best example of delivering justice and the best example of judicial activism is the public interest litigation. Because of public interest litigation, access to courts was thrown open to the poor, disadvantaged and indigent sections of society. The judiciary literally became their champion.

- Riva



Today we have a upstanding people. But corrupt and useless people. It's an unfortunate fact of life that because we haven't exercised our franchise in the way we should have, and haven't put up candidates or stood for elections ourselves, we don't have a parliament which really represents us.

situation where we have a great country and we have great, honest and we also, unfortunately, like any other country in the world, have a lot of

- Mr. J. P. Cama

I want you to understand that when the judiciary acts, it acts in what it considers the best interests of the nation. It acts in a manner in which the parliamentarians, if we had elected them properly, would have acted. It doesn't act arbitrarily. It acts within the framework of the law.

– Mr. J. P. Cama

# OUT!

[W]hen Coalgate was being discussed in parliament, the Bill for prevention of sexual harassment at the workplace was passed in under three minutes. This is what Parliament does after 15 years, this is how much it discusses the temporary legal position that has existed and this is how quickly it passes it.

– Astad



The fact is, we're a fledgling democracy. Our legislature and executive do not function ideally. There is a massive governmental deficit. Should the judiciary be doing all of this? No it shouldn't. In an ideal world, it shouldn't.

– Tushad



# KNOCK-OUT!

respect I don't think that was a very fair statement to make. Number three, you said that the judiciary is extremely competent. We know that the judiciary is very competent. The judiciary is competent in the law. The point that we are trying to make is that we love judicial activism. We think it's a great thing. If it had a Facebook page, we would like it. We would retweet judicial

**[W]ould you think it's fair for parliament to say to the judiciary, "We don't think that the judiciary is doing its job because there are far too many cases pending; from now onwards we will take fifty thousand of those cases and we will hear them."? Is that allowed? That is my simple question.**

**- Ishan**

activism all day long and it would be trending. But the point is that the judiciary is competent in the law. They must leave policy decisions to the government, because that is their job. Everyone has a job. Let's stick to ours. Now, what happens when one of them does not do his job? For example, would you think it's fair for parliament to say to the judiciary, "We don't think that the judiciary is doing its job because there are far too many cases pending; from now onwards we will take fifty thousand of those cases and we will hear them."? Is that allowed? That is my simple question. I think as Mr. Cama said, it is important to recognise where to draw the line. I think the 2G and river linking cases are where you draw the line.

You can direct the government, you can ask them to consider what they do, but ultimately what the government does is their decision.

**Astad:** Just as an aside, when Coalgate was being discussed in parliament, the Bill for prevention of sexual harassment at the workplace was passed in under three minutes. This is what Parliament does after 15 years, this is how much it discusses the temporary legal position that has existed and this is how quickly it passes it. After seeing parliamentarians function like a bunch of hooligans time and time again on Lok Sabha TV, we are saying that they are best suited to perform this function. Whatever the Constitution says, we must accept the reality that today our legislators are there because we have no choice. It is either them or the other guys from the other regional parties or the other national parties. And they're each as bad as the other. While the judiciary also makes its mistakes,

**After seeing parliamentarians function like a bunch of hooligans time and time again on Lok Sabha TV, we are saying that they are best suited to perform this function. Whatever the Constitution says, we must accept the reality that today our legislators are there because we have no choice. It is either them or the other guys from the other regional parties or the other national parties. And they're each as bad as the other.**

**- Astad**

and there is no question that the judiciary made up of men is fallible, it corrects its mistakes far more often and makes those mistakes far less often than the legislature or the executive and I think that's where you realise that judicial activism is not only justified, but is the need of the hour in this country today.

**Yuvraj Choksy (audience):** My question is for the Proposition. In her opening statement, Riva spoke about an ideal situation between the legislature, the executive and the judiciary. On one hand you talk of judicial activism wherein the judiciary has taken on the role of being a watchdog and on the other hand you want them to keep within their limits. Do you believe that they can do both simultaneously?

**Riva:** Today, we hide under the garb of legislative incompetence or executive incompetence and therefore force ourselves to seek the refuge of the higher judiciary. We are ignoring the question of what is correct, because we think that recourse to the judicial system is the only option available to us. However impossible it may seem, we need to make sure that the other two organs of the State are also functioning, by doing whatever little we can with our one vote. We need to make a difference in that area. We are taking the easy way out by turning to the judiciary, without expecting the legislature and

**Today, we hide under the garb of legislative incompetence or executive incompetence and therefore force ourselves to seek the refuge of the higher judiciary. We are ignoring the question of what is correct, because we think that recourse to the judicial system is the only option available to us.**

**- Riva**

executive to function properly. But for how long will the judiciary be able to perform the functions of the other two organs? For how long will the judiciary be able to hold our respect, once it goes into decision-making and policy-making-areas in which it does not have any expertise? The reason we respect the judiciary today, is that we respect the judgments that are coming from the judiciary because they are operating within their area of expertise and within their field.

**Pranay Aggarwal (audience):** We've been talking about the incompetence and laxity of the executive and legislature. My question is slightly different. In an environment where there is a tussle between the three organs of the

state and where the legislature wants to overrule the Vodafone judgment with a 'clarification' in the Financial Bill, don't you think the interests of the people would be better protected by a more active, or as you call it, 'over-reaching', judiciary? When a judgment considered by none other than the Chief Justice of India himself is reconsidered by the people sitting in the House, shouldn't the judiciary then fight back and take back what is vested in them under the Constitution, by what you call 'judicial activism' or 'overreach'?

**Mr. J. P. Cama:** I don't think we should look at it from the point of view of revenge. It's not a question of, "If you do it, then I can also do it." That should not be the approach. Quite frankly, the government often does that. It insists that it wants a particular policy, almost challenging the judiciary to overrule it, and when the judiciary does that, it changes the law. That really shouldn't be the approach of either House. The courts have said that if parliament, by legislation, expressly overrules a judgment, it is unconstitutional and parliament for itself says that if the judiciary continues to say that, they will pass laws to overrule those judgments. So it does happen, but it should not.

**Juhi Mathur (audience):** I have two questions for the Opposition. The constitutional process mandates that the judiciary should stop at declaring a policy or a law as null and void. Wouldn't going beyond that amount to violating the process which is laid down?

**Tushad:** Firstly, I think that article 13 does mainly state that, but there are other parts of the Constitution which allow the courts to go beyond that, viz., articles 141 and 142, which allow the courts to do complete justice. In that sense, the Supreme Court and other courts may lay down policy in instances where there is a complete lack of the same, as they did in Vishakha, for example. Further, as far as the 'due process' part is concerned, after the emergency and the ADM Jabalpur case, we've learnt that that shouldn't be very strictly construed and that it should be understood in a wider sense and read with the other parts of the Constitution, viz., articles 14, 21, 19 etc, so as to include non-arbitrariness and fairness.

**[F]or how long will the judiciary be able to perform the functions of the other two organs? For how long will the judiciary be able to hold our respect, once it goes into decision-making and policy-making-areas in which it does not have any expertise?**

**- Riva**

Failing which, we would have the result that we had during the emergency, which was arbitrary jailing of people under the Maintenance of Internal Security Act, and so on. So I don't think the Constitution only allows the courts to declare legislative enactment null and void. It does go further. The Supreme Court does have wider powers under the Constitution.



**Mr. J. P. Cama:** What is your second question?

**Juhi:** Wouldn't it be better for the courts to instruct the executive to frame a policy or re-frame a particular policy, limit them to a reasonable time frame and then hold them in contempt of court if they don't respond to the court's instructions within that time frame, rather than laying

down the policy themselves?

**Tushad:** That is one way of looking at it, and I think the courts have done that in several instances. The problem is that there is a complete governmental deficit in certain instances where the executive has been given several chances to remedy a problem or to fill in a policy void and it just hasn't. That's when the judiciary has had to step in and fill in that void. While that is viable in a case where that matter hasn't been dealt with before at all, in instances where the executive just doesn't perform, the judiciary does have to step in and frame policy, at least in the interim.

**[A]s far as the 'due process' part is concerned , after the emergency and the ADM Jabalpur case, we've learnt that that shouldn't be very strictly construed and that it should be understood in a wider sense and read with the other parts of the Constitution, viz., articles 14, 21, 19 etc, so as to include non-arbitrariness and fairness. Failing which, we would have the result that we had during the emergency, which was arbitrary jailing of people under the Maintenance of Internal Security Act, and so on.**

**- Tushad**

# KNOCK-OUT!



**Today I can speak to you uninhibited, without worry, because I know the High Courts and the Supreme Court are there and that is where my freedoms lie. So make no mistake, with all the faults of the judiciary, it is the one institution which has kept this country a democracy.**

**– Mr. J. P. Cama**

**Astad:** Let me just add to that. Sometimes circumstantial expedience demands that action be taken at that point itself, because if you wait six months or a year, the action that you will take in accordance with a particular policy whether it is laid down by the judiciary or by the executive, will not have the same effect or will have no effect at all.

**Raunak Shah (audience):** My question is to the Opposition. We've talked about commenting on policy and filling in the lacuna in the law, but what about enforcement? Isn't that a function that is purely executive? To take the example of the Hassan Ali case, the Supreme Court appointed a Special Investigation Team (SIT) to look into the trade of black money. Isn't that something that is completely within the ambit of the CBI's jurisdiction? While I understand completely that if a policy is arbitrary or unconstitutional and if there is a lacuna in the law, a temporary policy may be framed, what about enforcement? Isn't that going a little too far?

**Tushad:** That's another example to show how the judiciary is stepping on executive functioning. The fact is, we're a fledgling democracy. Our legislature and executive do not function ideally. There is a massive governmental deficit. Should the judiciary be doing all of this? No it shouldn't. In an ideal world, it shouldn't. In the 2G scam case, an FIR was filed as far back as 2009, but nothing was done until the High Court expedited it. As far as appointing SITs is concerned, all of that came about as a result of the relaxation of locus standi and of

the adversarial system of functioning of courts. This was necessary because of how the legislature and the executive have been functioning.

**Mr. J. P. Cama:** You've heard both sides. The proposition before the house is that judicial activism is stepping on executive power. I'd like to add a caveat to that—is judicial activism stepping on executive power and is that justified? I'd like to add those three words to the proposition. I don't think anybody disputes that the judiciary is stepping on the shoes of the executive. The real question is—is it, in the present context, justified? I'd like to put it to the vote of the house. How many people say that it is justified? I think the house carries the vote that it is justified. Now, I also want you to have a quick vote as to which side argued better. How many for the proposition? How many for the opposition? The proposition carries. Well done.

I just want to end today's topic by encapsulating the real issue before us. Today we have a situation where we have a great country and we have great, honest



**The Supreme Court ironically says that the judge has a right to be wrong. This is because he acts in honesty and after the fullest consideration of what the law is or should be. So don't believe in the misconception that judicial activism means judicial arbitrariness.**

and upstanding people. But we also, unfortunately, like any other country in the world, have a lot of corrupt and useless people. It's an unfortunate fact of life that because we haven't exercised our franchise in the way we should have, and haven't put up candidates or stood

for elections ourselves, we don't have a parliament which really represents us. Therefore, in a situation like that, can the judiciary be permitted to say, 'We will realise that there is an error, we will see the injustice, but we will restrain ourselves because there is a separation of powers.'? I want you to understand that when the judiciary acts, it acts in what it considers the best interests of the nation. It acts in a manner in which the parliamentarians, if we had elected them properly, would have acted. It doesn't act arbitrarily. It acts within the framework of the law. There are times, like in any human endeavour, where the judge may be wrong. The Supreme Court ironically says that the judge has a right to be wrong. This is because he acts in honesty and after the fullest consideration of what the law is or should be. So don't believe in the misconception that judicial activism means judicial arbitrariness.

Sometimes the judiciary widens the meaning of a legislative word or a constitutional phrase. For example, the Supreme Court has read the Right to Education into the Right to Life, because it believes that nobody can live a decent life without an education. You may say that that is a parliamentary function. But if parliament doesn't do it and somebody moves the court within the judicial framework, what should the court do? The courts instigate the state to do what the state should be doing. When one organ of the state doesn't do what it is supposed to do, what is our option? The other organ which has the power must tell them to comply with the law as it stands. Thus judicial activism really does ensure enforcement of the law.

**I want you to ask yourselves one question—if judicial activism was rolled back, would we be a better country? Let me not forget to tell you my own personal belief. Today this country is a democracy not because of the legislature, or the executive or the Constitution of India. It is a democracy only because the courts of law have had the courage to stand up for the law**

**– Mr. J.P.Cama**

I do concede that there are times when it goes too far. But at the end of the day, I want you to ask yourselves one question—if judicial activism was rolled back, would we be a better country? Let me not forget to tell you my own personal belief. Today this country is a democracy not because of the legislature, or the executive or the Constitution of India. It is a democracy

only because the courts of law have had the courage to stand up for the law. An American legislator once famously said about another gentleman, 'I disapprove of what you say, but I will defend to the death, your right to say it.' If you were to say the same thing today, who would confirm this right to you? The Constitution lays down that it is only the courts. Today I can speak to you uninhibited, without worry, because I know the High Courts and the Supreme Court are there and that is



where my freedoms lie. So make no mistake, with all the faults of the judiciary, it is the one institution which has kept this country a democracy. And that is enough of a lecture for one day. ■

**[I]f parliament doesn't [perform its function] and somebody moves the court within the judicial framework, what should the court do? The courts instigate the state to do what the state should be doing. When one organ of the state doesn't do what it is supposed to do, what is our option? The other organ which has the power must tell them to comply with the law as it stands. Thus judicial activism really does ensure enforcement of the law.**

**– Mr. J. P.Cama**

*With Best Compliments From*

**DIXON**



# life AS WE know it

by Kavita Shetty, III-III

Today is the tomorrow we dreamed about yesterday,  
 Without realising what it may bring to light,  
 Yet we never let go of the perfect dream we hold so dear,  
 Because in not knowing is a sign,  
 To truly plan, reason and believe,  
 That at the end of the day,  
 We can make happen all that we deem as priority,  
 And all that we truly wish for ourselves.  
 When we have nothing to lose,  
 We only end up giving more than our best,  
 Standing to gain over and above all that is at stake.

Uncertainty and unpredictability have a way  
 Of gripping us,  
 Making life more interesting and enduring than it may seem.  
 Breaking the shackles of insecurity and menacing lows,  
 Calming the anxious nerves and strained muscles,  
 They can lift us up in unbelievable ways.  
 It's an endless, overwhelming adventure;  
 A journey sure to leave us intoxicated with all its trappings and highs,  
 Risky business, not for the faint hearted.  
 Immortality is an old world's myth; survival instinct it is,  
 It's called the unadulterated joys of living life as we know it.



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# A YEAR IN GLC

**1** FEBRUARY 3RD-5TH, 2012: SPIL GOVERNMENT LAW COLLEGE INTERNATIONAL LAW SUMMIT, 2012

FEBRUARY 19TH-25TH, 2012: DELHI STUDY TOUR

**2** WITH HER EXCELLENCY PRATIBHA PATIL AT RASHTRAPATI BHAVAN

**3** WITH HON'BLE JUSTICE RANJANA DESAI OF THE SUPREME COURT OF INDIA

**4** WITH THE THEN HOME MINISTER P. CHIDAMBARAM AND SUSHIL KUMAR SHINDE

**5** FEBRUARY 27TH-MARCH 3RD, 2012: SHIKHAR EXHIBITION CUM SALE

**6** MARCH 6, 2012: LEGAL AID QUIZ COMPETITION

**7** MARCH 5TH-16TH, 2012: M. C. CHAGLA LECTURE SERIES





**AUGUST 3RD-4TH, 2012:  
FRESHERS' MOOT COURT COMPETITION**



**SEPTEMBER 9, 2012: ANNUAL DAY AND CONVOCATION CEREMONY**



**SEPTEMBER 15TH, 2012:  
KNOCK-OUT! THE ANNUAL PANEL DISCUSSION**



**SEPTEMBER, 2012: PLACEMENT WEEK**



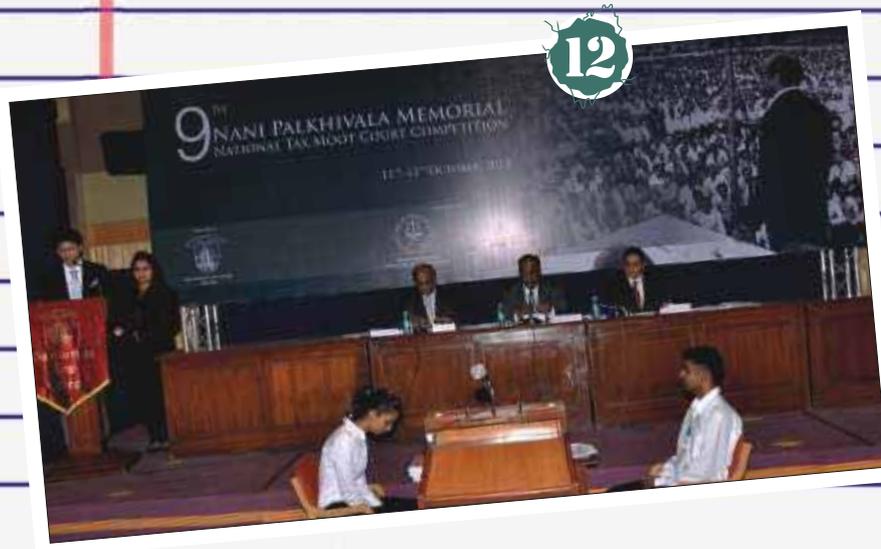
**OCTOBER 11TH-13TH, 2012:  
NANI PALKHIVALA TAX MOOT COURT COMPETITION**



**DECEMBER 28, 2012: LEO CLUB ORPHANAGE VISIT**



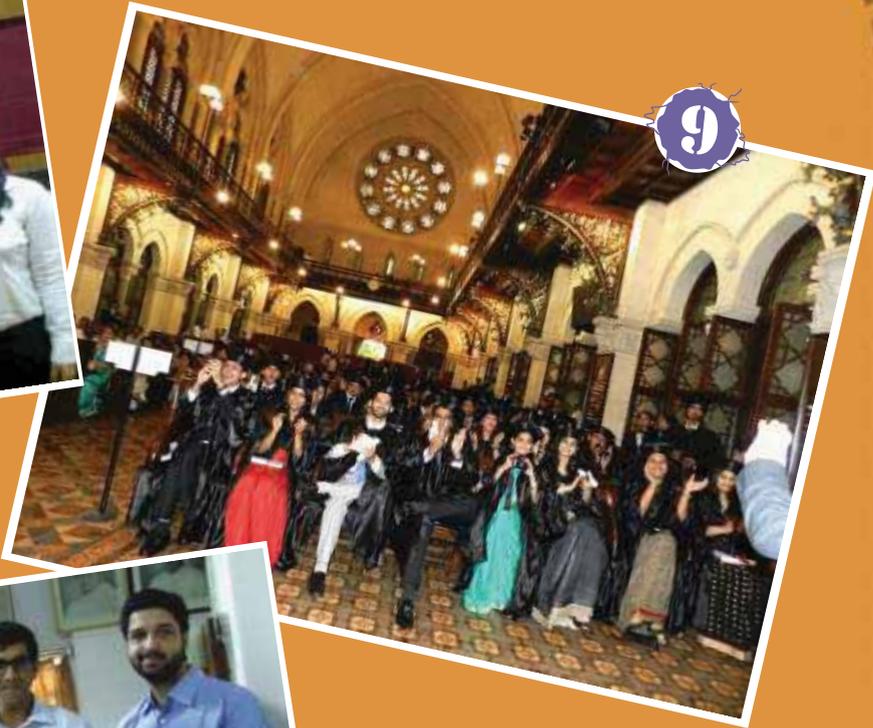
**JANUARY 18TH-20TH, 2012:  
MODEL INDIAN PARLIAMENTARY SESSION**



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# COURTROOM HUMOUR



## Justice Leila Seth

*First woman Chief Justice of a High Court in India and first woman Judge of the Delhi High Court*

Justice P. B. Mukharji was the presiding judge hearing tax matters. He was very intelligent and erudite and had a trenchant and sarcastic sense of humour so that even a dull subject like tax could be quite lively, especially if the barb was directed at someone else. As Devi Pal was a very busy lawyer and appeared not only in the High Court but in tribunals as well, I sometimes got the chance to start the argument if he was not there in time. Unfortunately, he never discussed either his general strategy or his specific arguments with his juniors, so one was left to one's own devices. I learnt that Justice P. B. Mukharji was impressed by references to English case law and texts, and therefore referred to one such book in my arguments. As I could not procure another copy of the book for the judge, I handed up my own copy to him. In it was a beautiful picture-postcard of a woman and child, which I generally used as a bookmark, and which I had forgotten to take out. The oversight could have proved dear. I learnt later that I had been in danger of being hauled up for contempt, for trying to influence a judge who was much improved by beauty. In the event, because of my total and expressed innocence in the matter, I was let off with a sarcastic comment and a smile.

*(The above is an excerpt from Justice Seth's autobiography published with the consent of Justice Seth and the publisher, Penguin Books).*



## Mr. Darius Khambata

*Advocate General, State of Maharashtra*

Years ago—it was in the early 1950s or the late 40s—C. K. Daphtary had to appear to defend the Bombay Prohibition Act and the Government of Bombay was headed at that time by Morarji Desai who was the Chief Minister. Daphtary appeared for the Government and H. M. Seervai appeared as his junior and whilst defending the Bombay Prohibition Act, Daphtary who enjoyed his evening drink, couldn't resist telling the court that when you take the 'pub' out of the 'republic', all you have left is a 'relic'. Of course that humour was much enjoyed in court, but not by the Chief Minister, who wasn't known to be very humorous and he immediately had Daphtary removed from conduct of the case and Seervai was put in charge. Sometimes humour can land you in a spot of trouble as well!

*The following anecdote was contributed to méLAWnge by a practicing counsel of the Bombay High Court who wishes to remain anonymous*

Several years ago, a judge who wore a hearing aid told a counsel that he was repeating himself and warned him to arguing. When the counsel did not stop, the counsel took off his hearing aid, threw it on his desk and said, "Now you may keep arguing, but your arguments will fall on deaf ears."

# 'IT'S A GIRL'

by Anjana Telang, V-II

She laboured in pain the entire night. After nightmarish pain of 3 hours she delivered the baby. It was a breach delivery. The baby's cry pierced the calmness of the night. The doctor then uttered the three deadliest words: 'It's a Girl.'

As you read this article, around a thousand girls have gone 'missing'. Our society, however 'developed' and 'enlightened', still considers the birth of a girl as a burden. The numbers speak for themselves. The child sex ratio in 2001 was 927 females against 1000 males and reduced to 914 females against 1000 males in the 2011 census. The sex ratio in 2001 was 933 females against 1000 males and in 2011 census it marginally increased to 940 females against 1000 males. This is the abysmal state of the women in our country. It is shocking that even doctors are hand in glove in perpetrating female infanticide.

The woman laughing in this photograph killed eight of her daughters in want of a son.



It is aptly said that a woman is harassed from the womb to the tomb. The '*chalta hai*' attitude has spread its tentacles to every sphere of life in India. It is permissible to kill a girl child since she is a burden to the family. It is acceptable if a woman is beaten up by her husband, because she deserved punishment for her 'mistake'; it is not wrong to abuse a woman, because she is born to bare torture by others.

Today, in spite of women occupying top positions in every possible field, be it the government, the corporate world or even science and innovation, the prejudice towards them has not yet been extinguished, which is

why very few women make it to the top. This has been observed not just in India, but abroad as well.

In the late 1980s, cases of dowry harassment and bride burning surfaced in the public arena. Young, married women from Delhi were found charred to death under the pretext of accidental deaths caused by kitchen fires, which later came to be known as 'stove burst cases'. It is at this late juncture that our nation woke up to this macabre treatment meted out to newly married girls. It was also the chief catalyst in passing the Domestic Violence Act 2005.

The legislature responded by adding a new provision in the Indian Penal Code (IPC), known as dowry death, which came to be included as section 304-B, which says:

'(1) Where the death of a woman is caused by any burns or bodily injury or occurs otherwise than under normal circumstances within seven years of her marriage and it is shown that soon before her death she was subjected to cruelty or harassment by her husband or any relative of her husband for, or in connection with, any demand for dowry, such death shall be called "dowry death", and such husband or relative shall be deemed to have caused her death.

(2) Whoever commits dowry death shall be punished with imprisonment for a term which shall not be less than seven years but which may extend to imprisonment for life.'

It also added a new section, i.e., section 498-A, which rendered cruelty to a woman in her matrimonial home a non-bailable and cognizable offence, which reads as follows:

'Whoever, being the husband or the relative of the husband of a woman, subjects such woman to cruelty shall be punished with imprisonment for a term which may extend to three years and shall also be liable to fine.'

The burden of proof was also shifted from the prosecution to the accused, in order to overcome the difficulties in proving a crime within the social confines of a home, as per the strict standards of evidence required in conviction of murder trials. It was a paradigm shift from the general rule of criminal law,



which would help the prosecution to secure convictions. Instead, the opposite was evidenced. According to the research conducted by the Centre for Social Research Delhi, it was found that:

1. Out of 100 cases which are ordered for investigations under section 498-A, only in two cases does the accused get convicted.
2. The only cases where the accused were convicted were those where the woman had died and the case was registered under section 498-A, along with section 304 B (dowry death) and section 302 (murder).
3. There were no convictions in any of the cases registered under section 498-A.

The chilling case of Vibha Shukla occurred in the late nineties. She was found burnt in the drawing room of her matrimonial home in the day time, while her husband was also present in the house. A large amount of dowry was paid at the time of the wedding and subsequent demands were made thereafter. Vibha's father-in-law was the Assistant Commissioner of Police in Bombay at the time.

Vibha's delivering a baby girl was unacceptable in her matrimonial home. After some negotiations it was concluded that Vibha's daughter would stay at her mother's natal place. She was only 3 years old when Vibha burnt herself to death.

The day she died, she called her mother to bring her daughter over. When the mother and sister reached, they found Vibha burning, her husband making no effort to douse the fire. When they pleaded with him to call the doctor, he went to a hospital and got himself admitted instead. By the time Vibha was admitted, she had breathed her last.

The trial court convicted the husband on charges of murder, dowry harassment and cruelty.

However on an appeal, the Bombay High Court set aside the conviction and acquitted the husband, citing the following reasons:

1. He had gone inside the bedroom for about two to three minutes only and therefore it was not probable that he could have burnt the deceased within that short time.
2. The evidence was more consistent with the hypothesis of suicide. If the respondent had tried to burn Vibha, she would have resisted and in that case there would have been a struggle or scuffle, shouting and screaming, or at least an audible exchange of words, but nothing of the sort was heard by the visitors.

3. The visitors had left the flat hurriedly after Vibha had appeared before them in flames. If Vibha was burnt by the respondent she would have asked for help herself from the two visitors and they would have certainly rendered it.

4. Moreover, Vibha was more agile than the respondent and therefore she could have run out of the flat.

In 1997 the Supreme Court upheld this decision.<sup>1</sup>

There are numerous cases like Vibha's, where the perpetrators have escaped by arm twisting the law. According to the National Crime Records Bureau (NCRB), on an average, one Indian woman commits suicide every four hours over a dowry dispute.

When the judge finds a minor aberration, or some of the facts leading to different inferences in establishing the guilt of the accused, it will be concluded that the guilt is not established beyond reasonable doubt and the benefit of doubt will be given to the accused. Rarely do factors necessary to establish the guilt of the accused succeed in establishing the guilt beyond reasonable doubt, in spite of incriminating evidence against the accused. This is one of the prime reasons why the conviction rate is low.<sup>2</sup>

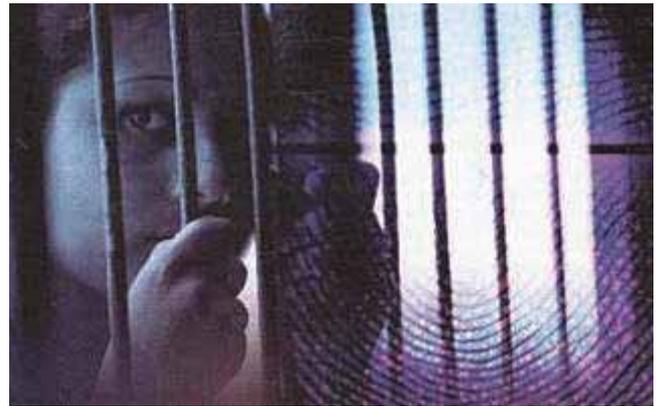


<sup>1</sup>State of Maharashtra v. Ashok Shukla, 1997 Cri.LJ 3761 SC

<sup>2</sup>Adv. Flavia Agnes 'Interrogating the "Consent" and "Agency" Across the Complex Terrain of Family Laws in India', 2011, Social Difference-Online Vol. 1, available at socialdifference.columbia.edu/files/Socialdiff/publications/SocDifOnline-Vol12012.pdf (last visited on February 17, 2013)

Long drawn out trials suck out the energy of these harassed women to carry on their fight for justice. In the majority of instances, the accused dies a natural death, bringing a closure to the case itself. In their battle for justice, they are socially ostracised. Where is the justice given to them? How long do they have to wait?

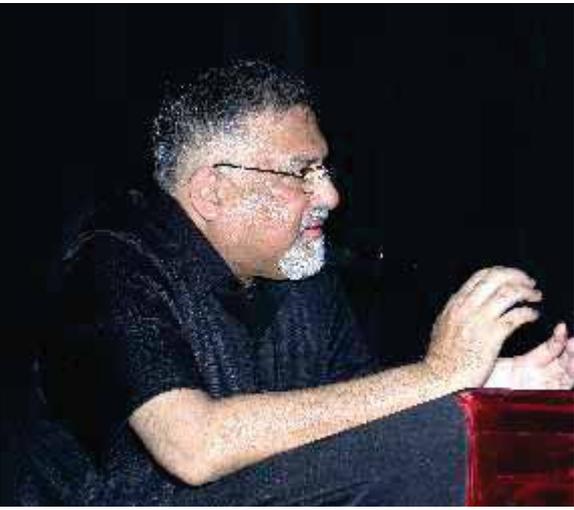
There is no deterrence by the law and female infanticide, dowry and other sex-related crimes towards women are carried out rampantly behind closed doors, as well as openly. It is shocking that such crimes are committed also by the 'highly educated classes of India'. The grotesque gang-rape committed in New Delhi on a medical student in a moving bus only goes to show that there is no fear of the law. This incident, which triggered angry protests in New Delhi, has galvanised the nation into action with people demanding the safety of our women. Why do the government and the police have to wait for such ugly incidents to occur before taking basic and necessary steps to protect the women of this country? The Government has taken an excruciatingly long period of time to pass stringent laws that affect more than half of our population.



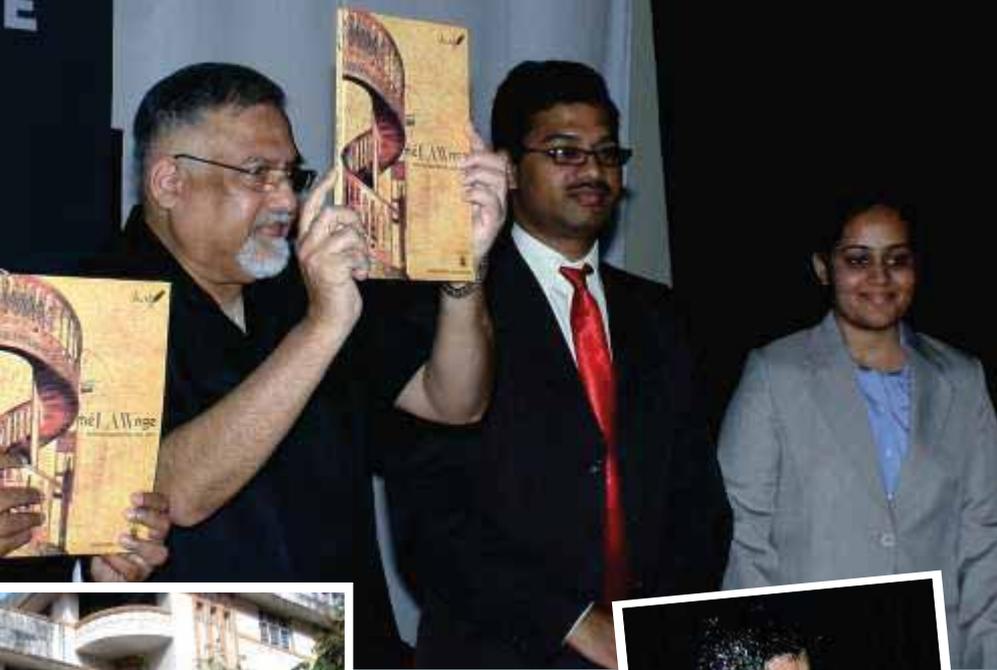
Day to day trials, appointment of female judges and establishment of fast track courts can help in meting out justice to these brutalised women. It is easy to suggest steps, but where is the implementation?

The victims have lost confidence in the system. The promise of justice to these women is almost a joke. I don't know how many such women are languishing in pain and anger due to our corrupt system. I can't say who is to blame—the system, or our mentality itself—but one question that we as citizens must ask is, 'Do we see a better India for the women of today and tomorrow?' ■

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# Launch of *méLAWnge* 2011-12



*méLAWnge* 2011-12 saw the light of day on March 3, 2012, at a most successful and well-attended function at Government Law College, Mumbai. The Magazine was launched by one of GLC's most renowned alumni who now holds the highest legal office in the country, Attorney General of India Mr. Goolam Vahanvati and best-selling Indian author Mr. Ashwin Sanghi. The event was also documented by members of the media. The acknowledgement of the high standard and credibility of the publication by such respected dignitaries was a source of great pride for both the faculty and the students of the College.



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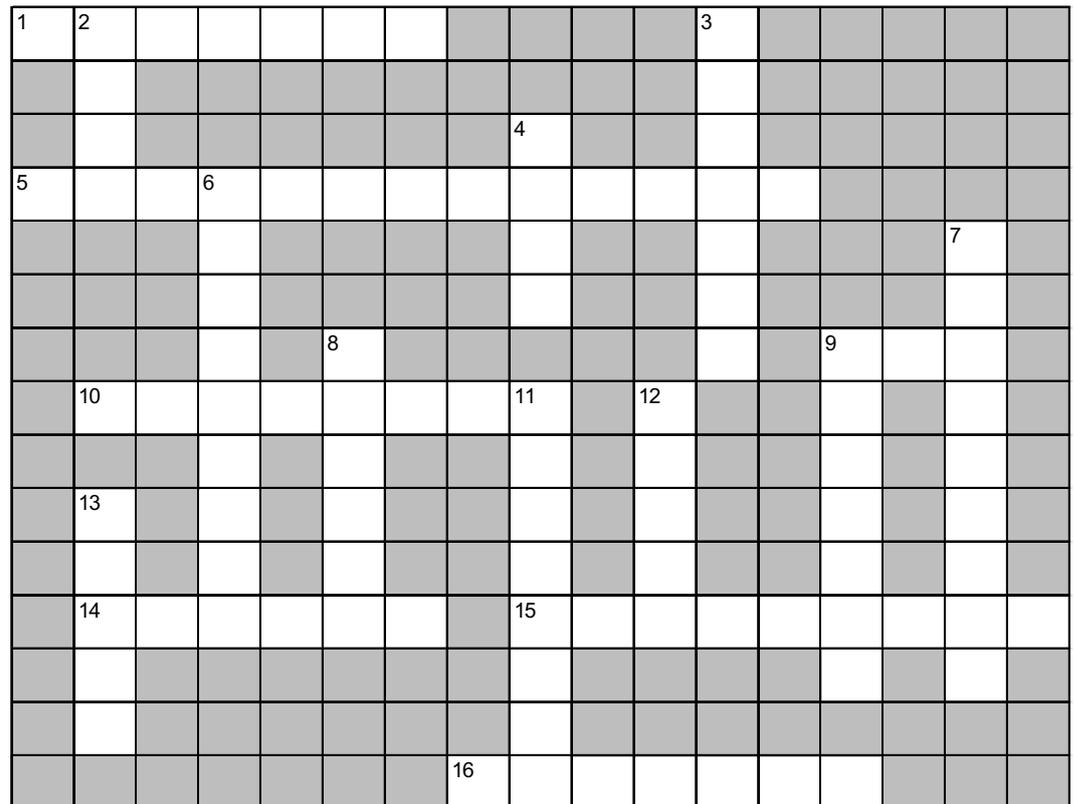
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CORPORATE EDITION – by Prof. Mr. K. L. Daswani

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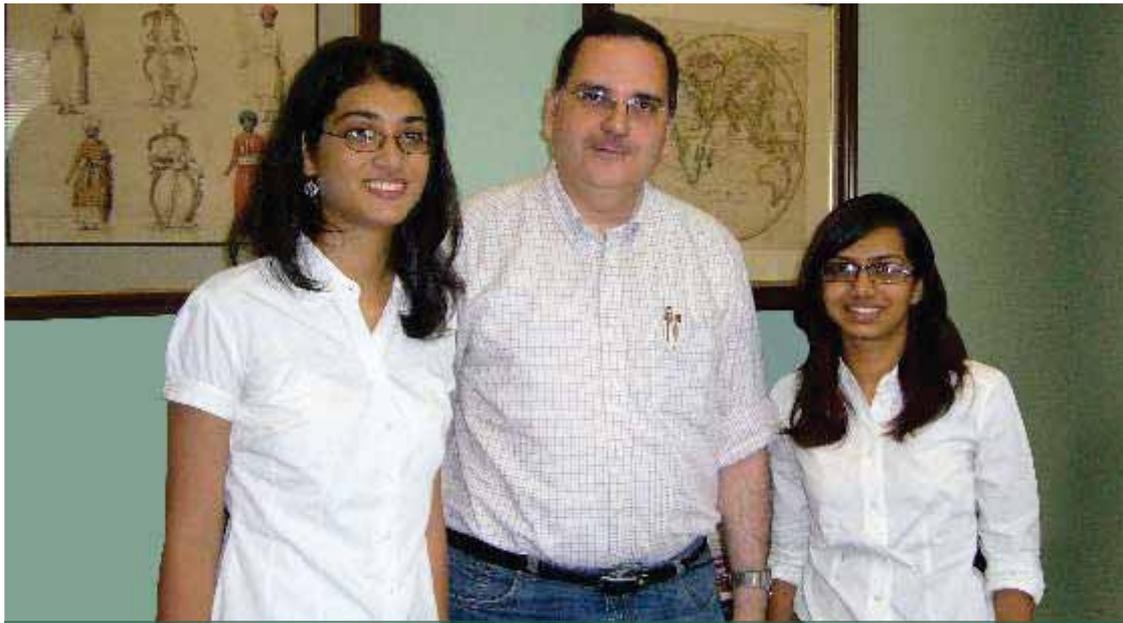
### ACROSS

1. They can be of love, business or foreign? (7)
5. Impulse to behave like a bunch of buffaloes (4, 9)
9. The country's number one Auditor (3)
10. European Royalty sitting within Air conditioners to be found in business books (8)
14. They are worth having in groups (6)
15. Mint in dye shaken to make good a loss (9)
16. A German when rattled might be the best man for the business (7)

### DOWN

2. Pay nothing to be liberated (4)
3. Trestle restructured for means of communications (7)
4. Financial Institute at the edge of the river (4)
6. They control the show in both, the film world and the corporate world (9)
7. I got a teen tortured for a way to strike a better deal (9)
8. Edible spread for a financial Guru (6)
9. Unsteady Scot takes on volatile gin to discover what might have to be paid (7)
11. Half a dozen confused US soldiers meet mother for means to eliminate defects (3,5)
12. Musical group takes in first Right for product identification (5)
13. Hears around for a bit of the Company (5)

*For the solution, turn to page 124*



## INTERVIEW WITH DARIUS KHAMBATA

*Advocate General Darius Khambata, in his conversation with members of the Magazine Committee, relates his journey from the corridors of GLC to the office of Advocate General of the State of Maharashtra. He also discusses the current state of the Indian judiciary and reveals the secret to becoming a successful legal practitioner.*

**Magazine Committee:** You have served as both an Additional Solicitor General of India as well as Advocate General for the State of Maharashtra, which means that you have acted as the legal advisor to both the Central Government as well the State Government of Maharashtra. What has been your experience of the two posts and of the transition from one to the other?

**Darius Khambata:** I think I rather enjoyed both the posts. You know, after having worked for 25 years or thereabouts in private practice, to suddenly appear for government—which I started doing about three years ago—was almost traumatic, because your whole approach has to change. Having said that, I must confess that I was very pleasantly surprised. We far too often disparage the way government works or doesn't work rather, but I found that there are a huge number of dedicated, committed, people in government, especially some of the bureaucrats and some of the officials, even at lower levels. They are extremely competent and talented people. It's really something. One has to admire them for taking up this work because they could command

the best salaries in the private sector and yet they prefer to work for government and make their careers in government. So I think interacting with those sorts of people really made it very worthwhile and makes it very worthwhile even today. That's not to say that you don't run into the problems we all would imagine government to have. Sometimes of course you run into corrupt bureaucrats and

**“ You know, after having worked for 25 years or thereabouts in private practice, to suddenly appear for government—which I started doing about three years ago—was almost traumatic, because your whole approach has to change.”**

politicians. What you really run into most often is a vast segment who just doesn't want to do anything. They don't want to take decisions, they don't want to move files, and they don't want to take any policy decisions or action. So that's very frustrating but it's made up for by all these dedicated people who you come across almost on a daily basis now.

**Magazine Committee:** One of the most reported matters during your tenure as Additional Solicitor General was the Adarsh Housing Society Scam. What was it like to represent the Army and Defence Ministry in a case which was constantly in the limelight, with

past. There have been corporate battles like for the Indian Express group or for Britannia. The ANZ Grindlays arbitration against National Housing Bank, that was years ago—almost fifteen years ago now—and which also dealt with aspects of the Special Court and

**“ By and large I think the judiciary has acquitted itself very honourably. Today in India, the citizen instinctively turns to the judiciary for most of his problems including when there is a lack of governance. ... I still think you need judicial reform because you do need some sort of a mechanism where the selection of judges and their transfer and promotions as chief justices of High Courts and to the Supreme Court need to be more transparent. And yes, there needs to be some sort of structure for accountability.”**

each day bringing with it new and scandalous revelations by the media?

**Darius Khambata:** Your question is going to be longer than my answer because I can't comment on that matter, having appeared in it. I am no longer appearing in it because having appeared for the Defence Ministry and the Ministry of External Affairs (MoEF), I don't think it is appropriate to appear for the State. But without regard to the merits of the matter, I would say that the conduct of the Defence Ministry and the MoEF was always professional and certainly honest.

**Magazine Committee:** In your career of so many years, what would you identify as your most challenging brief yet and why?

**Darius Khambata:** Wow! That's a very difficult question. There've been several actually, so I can't pinpoint any one but there've been very interesting matters. Certainly one of the most interesting was the battle we fought for the Bombay Environmental Action Group to save the ecology of Mahabaleshwar and Panchgani. That was dear to my heart and we faced a lot of issues and problems there which we had to keep on addressing and trying to surmount. That was a very interesting litigation. There've been several interesting matters while I've been a Law Officer because they've involved constitutional challenges, as for example challenges to various aspects of service tax, or challenges to a minority merit scholarship scheme which appeared, on the face of it, to be discriminatory and unconstitutional but which, on deeper investigation, was found to have a constitutional basis and was upheld by a division bench of our Court. There have been several very interesting arbitration matters that I have done in the

securities legislation, was again very interesting. So there are several such matters. I can't really pin point any one of them.

**Magazine Committee:** What are your views on the current state of India's judiciary? There are a number of allegations of judicial corruption, nepotism, favouritism and inefficiency against the higher judiciary? Do you think that despite these few blots on its reputation, the overall credibility of the judiciary has remained intact? Are judicial reforms in order?

**Darius Khambata:** I think the answer is yes to both. I think, yes, the general credibility has remained. There are dents now and then and we have to face up to the fact that ultimately judges are human beings and the selection process is not always perfect. So you could sometimes have someone being appointed as a judge who is not really fit to occupy that office, but that is, by and large, rare. Certainly in the higher judiciary that's very, very rare. By and large I think the judiciary has acquitted itself very honourably. Today in India, the citizen instinctively turns to the judiciary for most of his problems including when there is a lack of governance. So that's one yes; the second yes is yes, I still think you need judicial reform because you do need some sort of a mechanism where the selection of judges and their transfer and promotions as chief justices of High Courts and to the Supreme Court need to be more transparent. And yes, there needs to be some sort of structure for accountability. I am not sure that the Judicial Accountability Bill is the right way forward, but I think the direction is right, though the details may not be.



**Magazine Committee:** The recent case of the prosecution of the cartoonist Aseem Trivedi received a great amount of public attention. In the light of the fact that you yourself called the police action against Mr. Trivedi a 'bona fide, knee-jerk reaction', do you feel that as a people we have become grossly intolerant? As often as we are reminded of our right to free speech and expression, we see individuals being brought to task for remarks or comments which are usually innocuous and harmless in nature. Doesn't this kind of behaviour display a dangerous trend of bigotry and narrow mindedness which is harmful for the health of our society?

**Darius Khambata:** Well firstly, of course I can't say anything about the Aseem Trivedi case. Since it's sub judice, I don't want to talk about it. Yes, generally we do see a rising trend of intolerance in our society, but equally we see a very vociferous lobby for freedom of speech and freedom of expression and I think these forces, in any democracy, ultimately have to balance each other out. We will always have the courts to go to if we find freedom of speech and expression either being suppressed or indeed being misused. So I think any vibrant democracy has this balance. I don't look forward to a day when we don't have controversy. In fact, it's good to have controversy over these matters because it helps to set the balance, basically. Yes, there is rising bigotry but very often many of these incidents are overplayed in the media. They might be the result of innocent mistakes but each incident is, I think, given far more prominence than it should.

**Magazine Committee:** Many believe that judicial activism in India is stepping on executive functioning. In your opinion, is our higher judiciary increasingly invading the domain of the legislature and entering the realm of policy-making?

**Darius Khambata:** This is a vexed issue. It has vexed our constitutional law for the last thirty years atleast, if not longer. I don't believe in the hyper judicial activism that you sometimes see, which really amounts to quasi governance. I think there is no way a judge can seek to govern through orders. I don't think that is a healthy trend at all and I think many in the judiciary share this point of view. The usual question that is asked is that if

the government doesn't govern, or governs corruptly, then what choice is there but for a court to step in. I don't agree with that principal at all because if the government doesn't govern, or governs corruptly, the Constitution tells us that we have to change that government either at the polls or within parliament. There is no space for the judiciary taking over part of the executive's functions. Having said that, when I criticise judicial activism, I am criticising the activism where the judiciary transgresses into areas of governance. Judicial activism as a phrase is far wider. So there is activism in reading into our

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**Magazine Committee:** Could you share with us, any humorous or interesting anecdotes or experiences from the courtroom, that have occurred in the duration of your career in legal practice?

**Darius Khambata:** Well, there's a lot that's happened, but it's difficult to relate or recount any of these because it might expose some of my colleagues and some members on the bench. We used to have a judge, I remember years ago, who was deaf and used to wear a hearing aid and whenever he didn't like an argument, he'd threaten to pull out his hearing aid and he did sometimes, actually. The courtroom is full of humour. Of course the finest humour came years before my time. You must have heard of C. K. Daphtary. So let me



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recount one of his incidents when he was the Advocate General. Years ago—it was in the early 1950s or the late 40s—he had to appear to defend the Bombay Prohibition Act and the Government of Bombay was headed at that time by Morarji Desai who was the Chief Minister. Daphtary appeared for the Government and H. M. Seervai appeared as his junior and whilst defending the Bombay Prohibition Act, Daphtary who enjoyed his evening drink, couldn't resist telling the court that when you take the 'pub' out of the 'republic', all you have left is a 'relic'. Of course that humour was much enjoyed in court, but not by the Chief Minister, who wasn't known to be very humorous and he immediately had Daphtary removed from conduct of the case and Seervai was put in charge. Sometimes humour can land you in a spot of trouble as well!

**“** *But when I went to Harvard, that's really the time when my mind opened out as to what the law was and how you could in a profession actually exercise your mind and imagination in a manner that I never thought possible in what I believed was a fairly dry profession and that is when I really got passionate about the law.* **”**

**Magazine Committee:** You probably wouldn't expect to be asked such a question at this stage of your career, but I'm sure a lot of our students and readers would be very interested to know what made you decide to pursue law. With both your father and grandfather being highly accomplished and successful legal professionals, was law an obvious choice for you or did you ever play with the idea of pursuing a different career?

**Darius Khambata:** In fact, I must confess that I sort of drifted into law. Law was not my first choice and I wasn't quite decided what to do. So I decided to do law just to see what it was like and I must confess, whilst I was at Government Law College I didn't really think that law was going to be a great passion, though I was fairly active in mooting and things like that. But when I went to Harvard, that's really the time when my mind opened out as to what the law was and how you could in a profession actually exercise your mind and imagination in a manner that I never thought possible in what I believed was a fairly dry profession and that is when I really got passionate about the law.

**Magazine Committee:** How would you describe your journey from the classrooms of GLC to being Advocate General for the State of Maharashtra? What would you say are some of the special skills required in an individual to succeed as a legal practitioner and more

specifically as a counsel?

**Darius Khambata:** It's actually the easiest thing in the world—to advice. The answer is obvious: it's just hard work. There is nothing more you really need, as long as you are not under-intelligent. Even if you are averagely intelligent, if you are willing to put in a lot of hard work and burn the

midnight oil, I think this is a profession in which you can succeed.

**Magazine Committee:** You are one of GLC's most prominent and respected alumni. Can you tell us a little about your time and experiences at Government Law College? Were there any particular activities or events which you participated in or Committees or Associations which you were a part of?

**Darius Khambata:** Well, I am certainly not one of the most famous or the most famous alumnus, because GLC is full of tremendous alumni and not least of all, Nani Palkhivala, H. M. Seervai and the like. But yes, we had a lot of fun in GLC. I can't say that all the teaching was up to the mark. In retrospect, much of it was not. But I was quite active in mooting. I was General Secretary of the Moot Court Association and we took part in a lot of moots. We even represented India in the Philip Jessup Moot Court Competition and I think at that time Amit Hariani and I went and we came fifth or sixth, which up to then was the best an Indian team had done. I look on with amusement at the way that Jessup is conducted today and the paraphernalia that goes with it, where you even have research members. I remember Amit and I had nothing. In those days even the personal computer was a rarity. Only one senior lawyer had it and he very graciously allowed us the use of it. We had to type out our own memorials. We had just the one copy of Starke on International Law and an old copy of Brownlie in the GLC library. We did have international law journals in the GLC library so that helped, but apart from that there was no research material. We had to do everything on our own including stapling and numbering. We had to raise our own money to go, but we had a great time and individually I think I came third, so that was also good.



**Magazine Committee:** You obtained an LLM from one of the world's premiere institutions—Harvard Law School. Can you describe the experience of studying at Harvard for our readers?

**Darius Khambata:** As I said, it was fascinating. Harvard taught me one thing—that it's not actually so important what you learn as much as how you learn it; especially in law. So while the content is not that important, though of course it's very useful, it's the techniques and the powers of analysis that Harvard inculcates that are really the crucial thing. It teaches you how to question. It also tells you that in law, often you don't have only one right answer. I think that one, single element of my education was the most important. There is also the atmosphere in a great university; you have something going on every day—lectures, talks, movies, plays, music. So it's a fascinating experience.

**Magazine Committee:** After you did your Master's at Harvard, you returned to India to join the chambers of Mr. Iqbal Chagla. Can you describe for us some of your early experiences as a struggling advocate looking to prove yourself as a counsel?

**“ I find it very humorous how today's interns and juniors keep on using the word 'sir'. We were told when we joined the bar that one never uses the word 'sir'. You either referred to someone by his first name or his last name and that was it, regardless of whether you were junior and he was senior.”**

**Darius Khambata:** I had probably the greatest senior in Iqbal Chagla that one could hope for and he is still very much a mentor. His was a very open and democratic chambers and we were almost taught to be irreverent towards him. I find it very humorous how today's interns and juniors keep on using the word 'sir'. We were told when we joined the bar that one never uses the word 'sir'. You either referred to someone by his first name or his last name and that was it, regardless of whether you were junior and he was senior. Certainly in our Chambers we wouldn't have dreamt of calling Iqbal Chagla 'Sir'. It was a democratic set up, but in his own quiet way, I think he expected performance from us and though he never raised his voice or showed any signs of a temper, you could sense when he was not satisfied with something or when he expected better and that along with the immense support he gave us, is the reason for whatever little I have achieved today at the Bar.

**Magazine Committee:** Lastly, is there a message that you would like to convey to the students reading this interview, who look up to you as a source of inspiration, as they begin their respective journeys in the legal field, hoping to leave a mark on the history of the judicial system in India, just as you have?

**Darius Khambata:** I think in the field of law, apart from Iqbal Chagla whom I have mentioned, two people who I really have been inspired by and I think are not only great lawyers but also great human beings are H. M. Seervai and Fali Nariman. I got the absolutely rare and God-given opportunity to work with H. M. Seervai in his last appearance in the High Court in the public premises matter in which the bench comprised Justice Bharucha and Justice Srikrishna. I was a junior of about five years standing, but the way he delegated research to me and the way he discussed points of law with me, was extremely democratic. He never gave me the impression that I did not know anything about constitutional law or that he was the living authority on that. It was a fantastic experience. There was great humility in that man.

I cannot say how much I owe to Fali Nariman. I worked with him in several heavy matters in the 1990s and I always used to say that a half hour conference with him was far more exhausting than a full day in court because he has energy levels running at a very high octane. When I would come out and talk to people about this, they'd say, "That's nothing; you should have seen him ten years ago." He taught me one thing—to never stop thinking about your case. Think about it when you're on a walk, think about it when you're in the shower and you will find new ways of approaching it. Never stop revisiting what you have prepared for a case. Merely because you've made a list of dates once, don't think it's perfect and forget about it. Every time you think about the case, there is scope or reason for a change or for an improvement. I think that one aspect of his—his tenacity and never giving up—is something that one should learn from. ■

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Government Law College

# An Ode

by Kavita Shetty, III-III

*Bestowed with power and honour  
Worthy of the chair and chamber  
Upholding and raising its integrity and independence  
A symbol of all that justice and fairness must stand for  
Armed with the right proportions of compassion, natural instinct and fine legal acumen  
Palpable zest and positive energy  
Enduring patience coupled with sensitivity, selflessness and magnificent tolerance  
Bracing every storm and resolving disputes with an effortless ease*

*Passionate mind with a spotless soul  
Exulting a sense of strength, calmness and maturity that only the wise possess  
A way with words and charm personified  
Largehearted and truly unique and distinct in every way and every sense  
Qualities which easily places you above many men I would know  
Sitting on a throne which is the object of the Bar's envy and the Bench's pride  
Never again there will be  
Another of your kind.*



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**A**fter GLC is a section which sees ex-students of Government Law College, who have managed to carve a niche for themselves in the ultimate field of their choice, be it law or otherwise, writing briefly about their experiences in the world outside of GLC and their journey after graduating from GLC to their current positions. The Section often proves to be a source of inspiration for students of the institution who aspire to the same level of achievement and a source of pride for the faculty and administration of the College.

This year, the Section documents the journeys of two members of GLC's alumni, each of whom graduated from the College, but then proceeded to pursue careers in completely different fields. Abhinav Bhushan graduated from GLC and continued to obtain his Masters degree from Columbia Law School before settling into his current designation as Deputy Counsel at the International Court of Arbitration, International Chambers of Commerce (ICC) Paris. Meherzad Patel is a talented young man, who in his twenties has already made a name for himself in the world of theatre in Bombay. He attributes his entry into dramatics and playwriting to his experiences at GLC, which he claims made him realise his averseness to law and his love for theatre. In this Section, Abhinav and Meherzad relate their courses to where they are today and explain how GLC formed the cornerstone of their success.

# after GLC



# C'est la vie

by Abhinav Bhushan

Sitting in Café De Flore on the left bank in Paris, a city that epitomises rain-soaked streets, misty lamp-lights and romance, I can't help but think of my own romance with GLC. My love saga with the College began when I entered in 2003 and has only grown stronger with each passing year.

At GLC, I endured many embarrassing moments. An example of this was the Freshers' Moot Court Competition.

9:15 am: I enter Room No. 15, brimming with confidence, rehearsing the opening lines of my contentions in my head, feeling like Tom Cruise in *A Few Good Men* and wanting to take on the world. I give the respondent a menacing look, take my seat,



*Abhinav at the GLC Model United Nations, 2012*

and wait to be called upon to speak, by the moot court judge.

"May it please your Lordship, I am counsel for the Petitioner," I start in a confident and convincing manner and lay down my arguments succinctly (yes, I had revised them all night!).

Five minutes into my arguments, from the corner of my eye, I see the respondent struggling to suppress his laughter, hands clamped tightly over his mouth.

Puzzled, I continue nevertheless, only to be stopped by the judge. "Counsel, do you know the difference between a Petitioner and a Respondent?"

"Yes, Lordship. The person who initiates a case is the petitioner, whereas the person against whom the case is filed is the Respondent," I answer, perplexed by the nature of the question.

"And what are you in the current case?"

"Petitioner, your Lordship," I mutter weakly.

"Then why have you been presenting the Respondent's case for the last 10 minutes?" the judge shouted. The real respondent now burst out laughing, uncontrollably.

I couldn't believe my ears. For two weeks I had researched and prepared arguments for the wrong side! I shuffled my papers for what seemed like an eternity. Everyone waited.

Finally I looked up. "Lordship, having presented the Respondent's arguments, I will now try to show how they have no legal backing and should not be accepted by the Court."

Saved (or so I thought, until the results came out!).

I must also mention that I am more than a little humbled to be writing this piece for the GLC Magazine, run by the hardworking and talented Magazine Committee and the faculty. One sign of how seriously I took this assignment is that I submitted my piece well after the deadline. Thank you so much for bearing with me, Magazine Committee.



Nestled in the Café, I notice a host of chic and swanky people pass by me and I am compelled to think of my own life as a *mélange* of events. *méLAWnge*—that has such a nice ring to it. Adapted from the French word *mélange*, which means a fusion, or blend, it mirrors the diverse range of activities, from moot courts to social service programs, which are conducted at GLC every year. In a way, the word *mélange* also signifies the experience that GLC offers to its students with its plethora of opportunities at every corner.

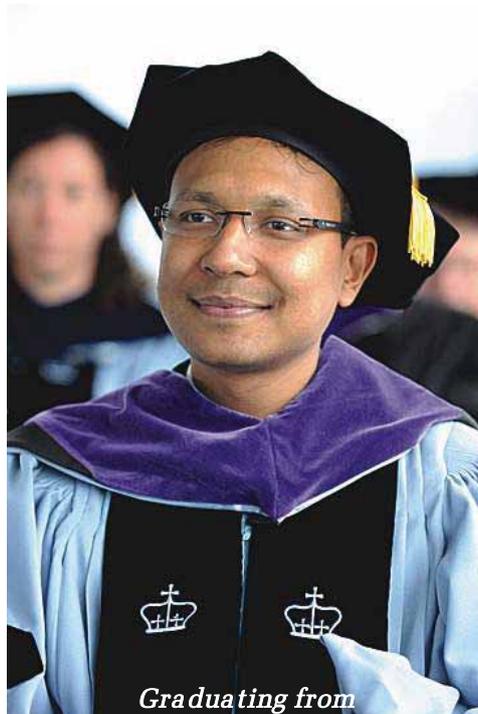
My mootng fiasco burns fresh in my mind every time a counsel presents a new case at the International Court of Arbitration, International Chambers of Commerce (ICC) Paris, where I now work as a Deputy Counsel for the commonwealth countries, which means that I administer international commercial arbitration cases which originate from the parties who live in the commonwealth region. I was presented with the opportunity of working with the ICC whilst I was pursuing my LLM. at Columbia Law School (CLS), New York. When I looked at my resume at the time of my LLM. application, it spoke of only one thing—my involvement (both academic and extra-curricular) at GLC—a factor which was instrumental in helping me secure admission in a top legal institution in the world and later, in finding employment at a leading global institutional arbitration centre i.e., the ICC.

My career path, so far, has followed an interesting trajectory—a job at a law firm accompanied by part-time teaching at GLC and KC Law College, followed by an LL.M. and then finally, becoming a member of an international organisation. If I were to be asked whether I had planned to be at the ICC, I would have to answer that question in the negative. I was just like any other student who gained admission in GLC, lived in room number 506 at Government Colleges Hostel on 'C' Road and enjoyed *bun muska* with a *cutting chai* in the hostel canteen. As a hostelite, lunch at *Jazz by the Bay* was a luxury.



*General Secretary of the Students' Council of Government Law College, 2007 with Principal Mrs. Parimala Rao*

For five years, my life revolved around GLC. I did not plan ahead much and tried to take things one at a time. Along with embarrassment came disappointment and dejection. I remember not being selected to be part of the Moot Court Association (MCA) in my first year and then losing two consecutive elections. These were small incidents, yet they could have made me apathetic towards GLC and its activities. I decided to stay and in my penultimate year, I was elected as the General Secretary of two apex student bodies—the Students' Council and the MCA. During my tenure, I visited many Law Schools in the United States and the United Kingdom to promote the D. M. Harish International Moot Court Competition—efforts which bore great success for the Competition and GLC and provided me with immense personal satisfaction as well.



*Graduating from Columbia Law School*

I have been fortunate to spend time working, living, interning or studying in some of the greatest cities in the world including New Delhi, Mumbai, Singapore, London, New York and Paris. In all my travels, I have tried to involve myself with the culture, the religion and the people. These experiences all relate back to my activities at GLC. What I did in my five years '*at GLC*', led me to where I am '*after GLC*' and perhaps will lead me to where I will be in the future.

As lawyers we aspire to grow and revel in the upper echelons of the legal world. I can now confidently say that at GLC, there is no single formula that will set you straight on your path to excellence. You have to engage in activities that you enjoy and allow yourself to explore every permutation and combination that holds your fancy. You may want to (a) pursue a public job—to become a judge or a government pleader; (b) work at a law firm—as a solicitor or otherwise, either dealing with corporate practice, litigation or both; (c) do a Master’s i.e., LLM—and get absorbed in a law firm abroad or come back to India and pursue a public job or work at a law firm; (d) start teaching after LLM; (e) work in the internal legal department of a Corporate—e.g., Reliance, Tata, bank etc.; (f) engage in Counsel practice; or (g) do an MBA or any other Master's programme. Until you let yourself free during your years at GLC, you will never know what the right fit for you is.

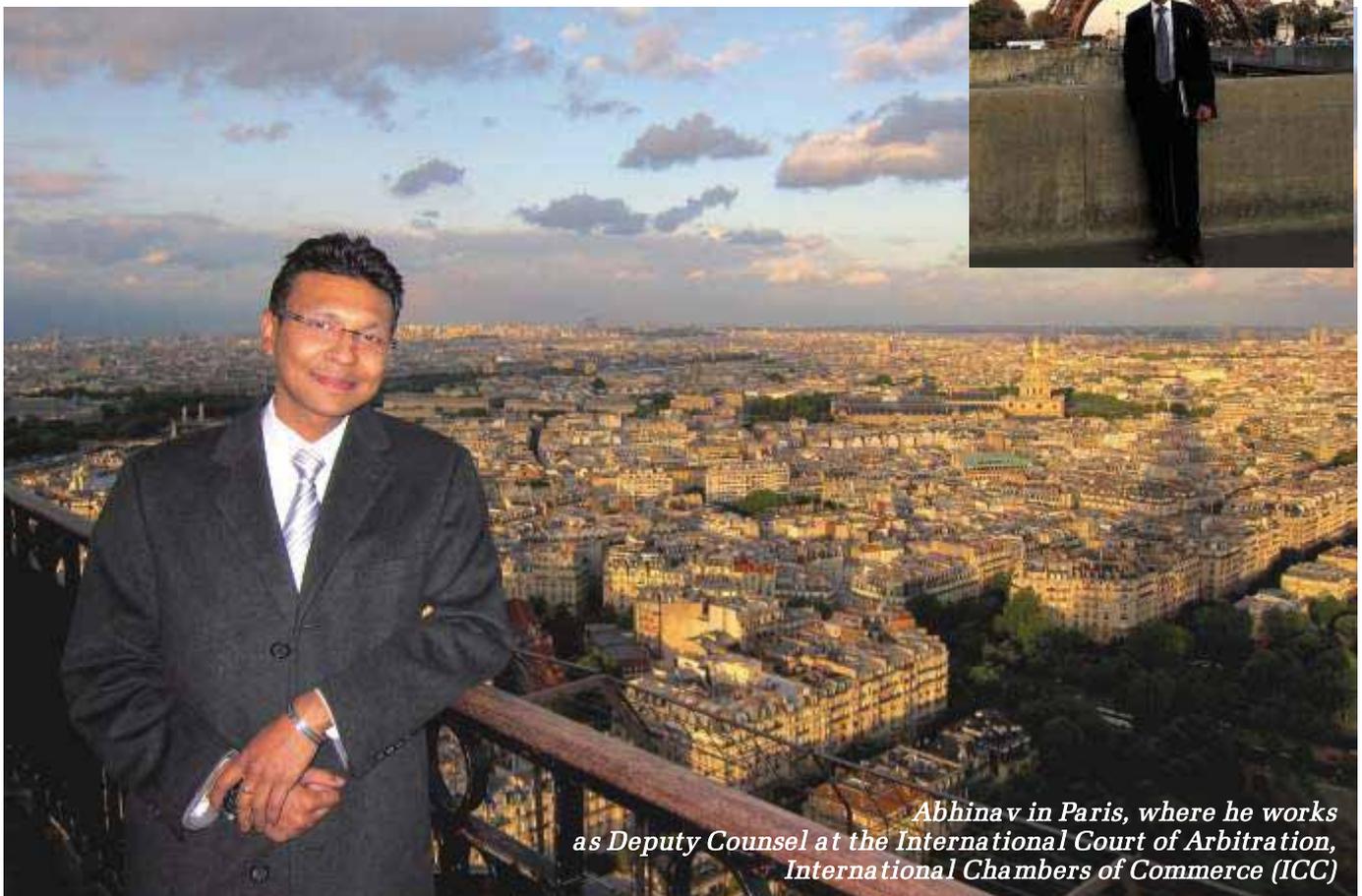
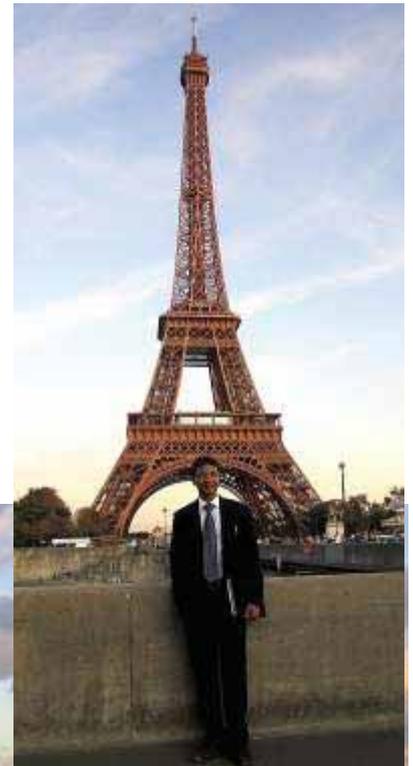
No institution is perfect and GLC being peculiar in many ways, provides a unique set of opportunities. I urge you all to involve yourself in college activities in order to discover these opportunities. For me, it was immersing and involving myself completely in the betterment of GLC. We must remember that within the legal regime you and I will always be identified as

GLCites. As Benjamin Franklin put it, ‘Tell me and I forget. Teach me and I remember. *Involve me and I learn.*’

My experiences tell me that it is important to be sincere (not serious) and I can safely state that being sincere ‘at GLC’ will increase your odds of being professionally successful ‘after GLC’.

Every single day you spend at GLC opens up the prospect of gaining a new piece of knowledge which will benefit you immeasurably in the future, in ways unknown to you right now. So seize these opportunities. Fall in love with GLC.

Merge with its idiosyncrasies. But most importantly, and I can’t stress this enough, always remember whether you are a Petitioner or a Respondent!



*Abhinav in Paris, where he works as Deputy Counsel at the International Court of Arbitration, International Chambers of Commerce (ICC)*



# The Lord of the Last Bench

by Meherzad Patel

For most students of Government Law College, Mumbai (GLC), their College is a source of pride. For others it's a prestige issue and for most, who are uninformed and behave like they are doing their parents a favour, it's an embarrassment. Like any other college, GLC has the works—a lack of professors, a non-existent attendance protocol, inadequate lavatories, rude and nasty representatives at the front desk and above all (at least during my time), no Principal. Imagine that—an organisation so powerful that it helped me become a lawyer, without a Principal. That's how much the entire College functions on autopilot.

Yes, I have that 'cool' identity card that says I am a lawyer. But unfortunately, today I only use it to get through *naaka bandis* and airport security. I do not practice law and probably never will, which makes me one of 24% of the graduates of the College right now.

I did this math on one of the six days that I ever attended College. You see, we never attended lectures; at all. The only time we ever saw each other was at the time of paying our fees, where we bonded; and how! For hours on end we sat in a very poorly ventilated classroom and waited, as one solitary lady took all our forms and barked at us in Marathi while we all bargained with her for change and argued with her over a lack of attested certificates, coming on the wrong day and the fact that we did indeed have somewhere else to go.

There stood, sat and sweated, 600 students, from 9 a.m. to 4 p.m., waiting to pay their fees, in alphabetical order. Oh wait, that's not it. In GLC, it's 'he who pays fees first is roll number 1'.

So there we stood—roll numbers 65 to 85—wondering if we could somehow manage to get through before the roughly estimated time of 2 p.m., before heading out to eat lunch.

It is at these lunch outings that I realised that 24% of students there did not want to become practicing lawyers. Imagine that—24%! That's one-fourth of the batch!

This 24% gave me inspiration and helped me to realise that my true potential was never to become a practicing lawyer. Yes, I know my Constitution better



than Ambedkar himself. But what people say when they talk about 'litigation', I am still to figure out. You see, I spent my childhood going to the Bombay City Civil Court with my father or mother to fight a case for our house. The opposing lawyer, who had cunningly taken information from the previous tenant, made up three fictitious clients and claimed possession of the house. So for twenty odd years we fought a case where the judge, the cunning lawyer, our lawyer, my family and the fictitious people who never existed, knew one thing: that this case, like any other case in a court in India, would only end with the demise of one of the two parties.

During the time I accompanied my parents, I realised a few things:

1. My parents funded our lawyer's son's entire education (you're welcome Suraj).
2. There are dogs that sleep INSIDE the courtroom at the City Civil Court.
3. Air conditioning is apparently only for cases that qualify for the High Court.
4. If there ever was an influential hierarchy, it is in the courts of Mumbai.

A lawyer who is 'senior' can do as he pleases. My parents had employed the Sachin Tendulkar of the City Civil Court. The man could dictate terms to the judge with regards to the date and adjournment of the hearings, like Moses could part the sea.

This alone made my blood boil. I took the advice of

***The cast of The Class Act, written and directed by Meherzad***



someone who once told me, "You have to be in the system to change the system" (somehow this dialogue entered Bollywood, but I heard it much before that). Taking matters into my own hands, I decided to study law for five years at GLC. I realised that the only way we could get out of this mess was if I decided to be the lawyer who represented my

family's case. Then the day I had my degree in my hand, I would go up to Mogambo and tell him, "Now I am the representing Counsel for this case. Do you still want to continue your fictitious trial?" It sounded very Sunny Deol in my head at the time. For five years I put this moment on hold, saying, 'Right now you cannot do anything about it, so just find something else to pass your time.'

And pass my time I did. I started my own theatre production house—Silly Point Productions. You see, when you do not attend lectures, and when you study

just two weeks prior to the examinations, you have all the time in the world to follow your dreams. So we made our first play—*Like Dat Only*—about teenagers wasting away their lives and doing nothing. It was an instant hit.

When I entered my third year of law, I thought, 'Let's bite the dust: learn the law.' So I took up an internship. I spent my second day on the job, writing my second script—*The Class Act*. At the time I had no clue it would run successfully for 25 shows. Even as I type this, I am backstage, waiting to go on for the 26<sup>th</sup> show.

From then on, there was no looking back. I stopped going to work, took up Silly Point full time and GLC was merely a place I went to, to pay my fees. After a while I found someone to pay my fees for me and the exams were in different centers, so there was a time I did not see even the face of the College for 12 months.

By the time I gave my bar exam in January 2012, I had four successful English plays—*Like Dat Only*, *The Class Act*, *Rusty Screws*, and *Four Square*—with a whole lot more waiting to happen in 2012. From one show every three months, we now have a minimum of three shows a month; sometimes eight. Silly Point Productions has now grown into a full-fledged theatre production house that conducts workshops for children, adults and corporates, manages events at a very high scale and above all, churns out quality theatre.

People said, "Oh, theatre has no money, law will give you a starting salary of 85." Take a trip around Azad Maidan and you will see a bunch of lawyers chasing you to make a will for you. I'm sure their starting salary isn't even 85 rupees.

Theatre, Events and Workshops are things that keep me up till five in the morning and wake me up again at 8 a.m. Sometimes I don't even sleep. And the best part is that it does not feel like work. I feel like I am constantly enjoying what I do. I don't wear a white shirt and black coat and people still take me seriously. One used to think that being a lawyer is prestigious and that people will start appreciating you. It's not the lawyer who is appreciated; it is any person who excels in their field.

However, don't read this the wrong way. My advice to any student reading this—law or otherwise—would be



NOT to discontinue their education. I am very pleased today that I completed my legal studies. The knowledge I have gained while preparing myself for examinations is something else. You learn discipline more than anything.

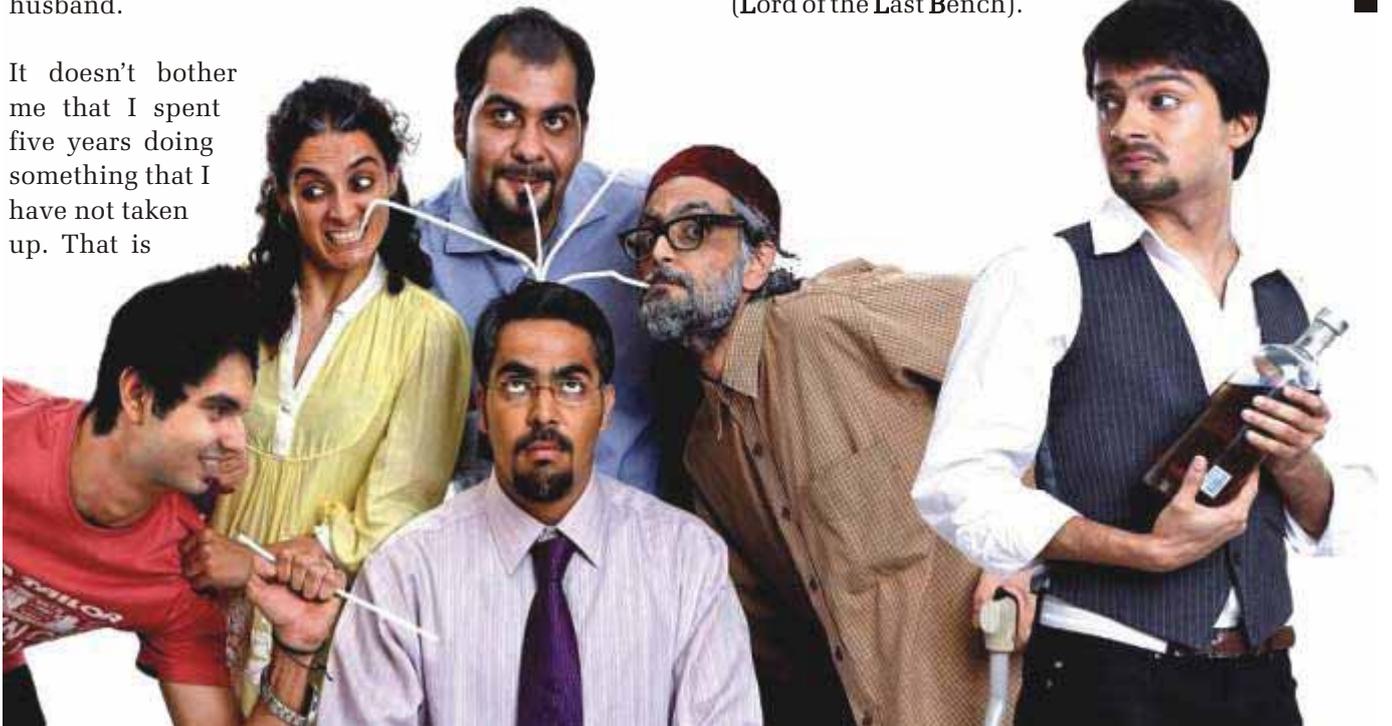
My career is my theatre company. It's not as glamorous as one would think. There are a few similarities between a theatre and a courtroom.

1. Here too we have dogs outside the gate.
2. Air-conditioning is only for you as an audience member. We get none of it during set up time.
3. The politics is as dirty as any courtroom in this city.

You see, the dirt is in any field—law, theatre or education. Be it in a classroom at GLC or at the theatre waiting to buy tickets for forty five minutes because there is only one laptop and a singular dysfunctional printer to give tickets to 400 people, you will find a crammed room with many people awaiting their turn. The administration is not going to change; not now, not when your children are in GLC. What can change is your attitude.

If you decide to become a lawyer, then so be it. But do not do it because your parents want you to become one or because you think it's a high paying job, or because you want to look 'cool'. Do it because you want to become a lawyer; not because you want to become a good son or a providing husband.

It doesn't bother me that I spent five years doing something that I have not taken up. That is



*The cast of Rusty Screws, a product of Silly Point Productions, Meherzad's own theatre production house*

a part of life. You do not crib about learning logarithms and Pythagoras' Theorem in school even though you never use it to calculate your restaurant bill. The idea is to think; to use your brain; to think logically and form a thought process. Engineering students become managers in multinational corporations. They do nothing engineering-related. The reason the corporations hire them is for their ability to think strategically. A corporation trusts an employee with a legal degree like a family trusts a nurse. A nurse might not be a doctor, but you still want her there because she knows so much more than even the doctor at times. This thought process is something you gain when you study law. You gain knowledge. If you know the law, then the law knows you.

Whatever happened to my moment of going up to that cunning lawyer with my degree in my hand? You see, there's a theatrical end to the story.

I got the results of my bar exam; I had cleared. A week later, our lawyer called, saying that Mr. Cunning Lawyer had passed away. Case closed. That was the end of that story. Ironically and theatrically, a month later, our lawyer too passed away. These are the facts of the case, not material for my next script.

So now my degree lies sealed in my locker and I roam around with my 'cool' lawyer card that says, "Meherzad Patel-LLB" (Lord of the Last Bench). ■

*With Best Compliments From*

Work is Man's Anthem

It is work that keeps man going.  
It is his work that makes him aspire,  
Work is man's legacy to the future.  
Work is his prayer



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# CONSTITUTIONALITY OF DELAY IN EXECUTION OF DEATH SENTENCES

by Gayatri Chadha & Amitabh Tewari, V-IV

*Nobody heard him, the dead man,  
But still he lay moaning:  
I was much further out than you thought  
And not waving but drowning.<sup>1</sup>*

## INTRODUCTION:

At the curtains of justice, stands the accused as a puppet, his strings being controlled by the hands of the guardians of the country and the judiciary. Will he be executed or given a new lease of life? Evidently, he is wedged between the devil and the deep sea.

In addition to the stop-over on the way to death, the amount of time a convict spends waiting for his execution is significant. Clearly, the issue involved here is not whether it was reasonable in the circumstances to delay the execution, but whether that inordinate delay, not attributable to the conduct of the condemned, is in clear violation of his fundamental rights guaranteed under the Constitution.

This unwarranted delay by the Government prolongs the period of anguish and suffering which in itself is an inevitable consequence of capital punishment. This is a complex combination of circumstances, wherein on one hand the Constitution claims to protect citizens from cruel and unusual punishment and on the other, the guardians of this Constitution lead the accused into an inhuman prolongation, causing unwarranted and ineradicable mental, emotional and physical trauma. The Supreme Court in the case of *Kadra Pahadiya v. State of Bihar*<sup>2</sup> has observed that the condemned person has to suffer a degree of mental torture even though there is no physical mistreatment and no primitive torture.

Ironically, the prolonged detention on death row, which in itself constitutes a violation of an individual's

human rights, is due to an effort to consider the commutation of death penalty.

In *Hussainara Khatun & Ors v. State Of Bihar*,<sup>3</sup> Justice Bhagwati observed that:

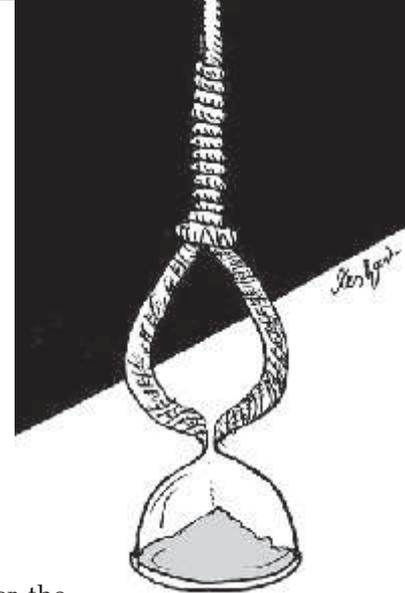
'If a person is deprived of his liberty under a procedure which is not reasonable, fair or just, such deprivation would be violative of his fundamental right under Article 21. Clearly, procedure prescribed by law for depriving a person of his liberty cannot be 'reasonable, fair or just' unless the procedure ensures a speedy trial for determination of the guilt of such a person.'

The right to speedy trial is an integral and essential part of the fundamental right to life and liberty enshrined in the Constitution, failing which the 'reasonable' procedure under Article 21 becomes arbitrary and unjust and hence such delays in the execution of a death penalty are unconstitutional.

## INDIA'S SCENARIO:

The Constitution of India bestows on the executive, the power to consider clemency in case of a death sentence. There are various grounds for deferment of such an execution, in case of an appeal. However, there exists no well established rule or guiding principle to govern mercy petitions, consequently leading to delays.

The Supreme Court in the case of *Vateeshwaran v. State of Tamil Nadu*<sup>4</sup> observed that delay of more than two years in execution of death sentence from the date of passing of the sentence is violative of Article 21 of the Constitution which was subsequently overruled in the case of *Sher Singh v. State of Punjab*,<sup>5</sup> wherein the



<sup>1</sup> Stevie Smith, 'Not Waving but Drowning' in Sternlicht, Sanford V. Stevie Smith, Twayne Publishers (1990) p. 63.

<sup>2</sup> (1981) 3 SCC 671

<sup>3</sup> (1979) 3 SCR 532

<sup>4</sup> AIR (1983) SC 361

<sup>5</sup> AIR (1983) SC 465

Supreme Court held that delay in execution of death sentence exceeding two years does not entitle a person under sentence of death to demand quashing of the sentence.

The controversy was finally settled in the case of *Smt. Triveniben v. State of Gujarat*<sup>6</sup> wherein the court held that undue long delay in execution will entitle the condemned person to approach the apex court under Article 32. The Court may consider the question of inordinate delay in light of all the circumstances of the case to decide whether the execution of the sentences should be carried to or should be altered into imprisonment for life, but this court will only examine the nature of the delay caused and circumstances ensued after sentences were finally confirmed. No fixed period of delay could be held to make the sentence of death inexecutable and to this extent the decision in *Vateeswaran's Case* cannot be set to lay down the correct law.

In other words, there is no well established rule which lays down a fixed period of delay for execution of a death sentence; however, this does not give the executive, the freedom to sit on the mercy petitions as per their wish and convenience.

#### HANGING IN LIMBO:

*I have always found that mercy bears richer fruits than strict justice.*<sup>7</sup>

An inordinate delay of 11 years occurred in considering the mercy pleas of the three death convicts in the Rajiv Gandhi assassination case: Murugan, Santhan and Perarivalan, which were ultimately rejected on August 11, 2011 by the President of India. This is only one instance amongst many, of the inhuman, unconscionable and arbitrary manner in which mercy pleas of convicts condemned to death are kept pending by the Government for years on end.

The latest report of the National Crime Records Bureau (NCRB) says that there are 402 convicts, including 10 women, in Indian jails who face the death penalty. *Prison Statistics India 2010* says there has been no execution in India since rapist Dhananjay

Chatterji was executed in 2004. The only execution after Chatterji's was that of Ajmal Kasab's in November 2012. Kasab was the lone survivor from the group of terrorists who executed the heinous 26/11 attack in Mumbai. The delay in deciding on such executions over the last six years and the slow wheels of justice mean that the count of persons on death row has increased from 273 in 2005 to 402 in 2010.<sup>8</sup>

In *Sher Singh v. State of Punjab*<sup>9</sup> the Supreme Court was of the opinion that Article 21 is as relevant at the stage of execution of death sentence as it is in the interregnum between the imposition of the sentence and its execution and in the case of *Sunil Batra v. Delhi Administration*<sup>10</sup> the Supreme Court was of the opinion that a prisoner is not a slave of the state and is not denuded of all fundamental rights.

The prolonged anguish of alternating between hope and despair and the agony of uncertainty, has a detrimental effect on the health of the convict as well as his family members. Hence, such a delay should not be allowed in any civilised society.

The Supreme Court while commuting the death sentence awarded to Gyasi Ram to life imprisonment observed in the case of *Madhu Mehta v. Union of India*,<sup>11</sup> that a delay of eight years in disposing his mercy petition had caused him to suffer the 'mental agony of living under a shadow of death for long, far too long.' Taking a compassionate view in *Adiga Annamma*,<sup>12</sup> the court added that the 'brooding horror of hanging' has an ameliorative impact and is a factor of humane significance in a sentencing context.

'The time and manner in which the mercy petition has been dealt with, makes sad reading and speaks of the deplorable lack of speed and promptitude, with which these matters should be dealt with.'<sup>13</sup> Punjab militant, Devinder Pal Singh Bhullar, whose mercy petition was kept pending for 10 years before being rejected, got mentally unhinged in Tihar jail. This mental impairment, succeeding the delay, is in itself a violation of his fundamental right to life under Article 21 of the Constitution. Hence, such delays which hamper the life of an individual should be declared unconstitutional and void.

<sup>6</sup> AIR (1989) SC 142

<sup>7</sup> Abraham Lincoln, 16th US President.

<sup>8</sup> National Crime Records Bureau, Ministry Of Home Affairs, 'Prison Statistics India 2010'.

<sup>9</sup> AIR (1983) SC 465

<sup>10</sup> (1979) SCR (1) 392

<sup>11</sup> (1989) 4 SCC 62

<sup>12</sup> *Adiga Annamma v. State of Andhra Pradesh*, (1974) 3 SCR 329

<sup>13</sup> *Madhu Mehta v. Union of India*, (1989) 4 SCC 62



**CONCLUSION:**

'Justice delayed is justice denied': a settled principle, but seldom looked at from the point of view of the convict. Is the intention to inflict punishment by sending him to the gallows or by making him await this journey? Clearly, the answer lies with the government, who takes unnecessary advantage of the mute voice and hapless condition of the convict sitting at their mercy.

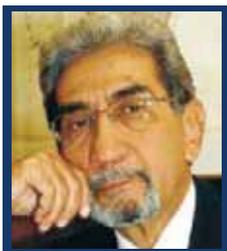
Academicians continue to express their sentiments through hard-hitting articles, but to no avail. The situation still stands as it did several years ago. Death sentences are pronounced, executions are delayed, convicts are made to wait, this wait leads to suicides

and medical impairment, but the decision is still awaited. This hope and despair, prolonged over several years, of waiting for the day of execution or commutation to life imprisonment, is in itself enough harassment to render it unconstitutional. The government seems to be totally indifferent to the pathetic plight of such convicts—the dead men are still walking.

The stand of the authors is not to set free the accused, but merely to commute his punishment to life imprisonment, in case of an unwarranted delay, which in itself is rigorous, or to speed up the execution. It is not the sentence of death that is being challenged, but the sentence of death after a torturous period of delay.<sup>14</sup> ■

<sup>14</sup>EJIL (2000), Vol. 11, No. 4, 833-856.

**COURTROOM HUMOUR**

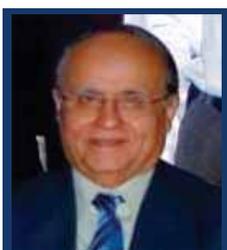


**Mr. Iqbal Chagla**  
*Senior Counsel*

A Division Bench of the Bombay High Court (Chief Justice Chagla presiding) was hearing a tax appeal. One of the leading practitioners of that branch of law, known for his erudition in tax law but not in literature, was arguing the appeal. He had a difficult case but like any good counsel he remained undeterred and argued with the usual gusto and fervour for which he was renowned.

Chief Justice Chagla thought a line from Hamlet was appropriate and remarked, "Mr X, 'The lady doth protest too much, methinks!'"

The counsel retorted, "I don't know which lady your Lordship is referring to. The assessee is a corporation and there is no lady in the case. I think your Lordship is mixing up the facts of this case with another," much to the amusement of the Bar, not to mention of their Lordships.



**Mr. Rafique Dada**  
*Senior Advocate*

Years back, I was appearing for two banks in two different suits. The suit filed by the first bank (which we shall call Bank X) was for recovery of Rs. 10 crores lent against a mortgage of property to the defendants who were a limited company and its directors. The second suit filed by the second bank (which we shall call Bank Y) was for recovery of an amount against the promissory note. Both suits were set for trail before a Learned Single Judge of the Bombay High Court. When the suit filed by Bank X was called out, I asked my Solicitor, who

was briefing me in both the suits, to call the witness to give his deposition.

"Did your bank loan Rs. 10 crores to the defendant?" I asked the witness.

"No," came the reply.

"Did the defendant execute a mortgage in favour of the bank?"

"No."

I was quite aghast at these answers and was convinced that there was no way I could retrieve the suit. I finally asked the witness, "Are the defendants a limited company and its directors?"

Once again the witness replied, "No."

The Judge asked me to pause and consider my position. Finally, it struck me that I should ask one more question.

"Do you work for Bank X as an Executive Officer?"

To everyone's surprise, the witness said "No sir, I am an accountant in Bank Y"

While all this was going on, the witness who had come for Bank X was anxiously telling the Solicitor that it should have been him in the witness box.

Fortunately, the Judge took the matter sportingly and allowed me to strike out the testimony of the witness.

# WOMEN IN THE LEGAL PROFESSION IN INDIA



# DISCARDING THE PARDAH, DONNING THE ROBE

'The law will not suffer women to be Attorneys ... they are unfit,' were the ideas held by eminent Jurists like Lord Coke, in England about 350 years ago. Female attorneys-at-law were unknown in England and never seen in court. However, the Sex Disqualification and Removal Act of 1919 brought an end to the prejudice in England and women practiced the profession of their choice which included the practice of law. A female attorney in England was allowed to practice in England as well as in India, however a woman who qualified even within India was not allowed to practice in her own country.

There were several instances where women who were educated in law were denied the right to practice. On August 29, 1916, the enrolment of Miss Regina Guha as pleader was denied by a Special Bench of the Calcutta High Court. Similarly, on November 28, 1921, the late Sri Madhusudan Dass, who was a patriot and social reformer, encouraged Miss Sudhanshu Bala Hazara to enter the legal field, however her application for enrolment as a pleader was denied by a full bench of the Patna High Court.

The word 'men' was used throughout Regulation VII of 1793, which created the pleading of causes, although it was later replaced by the word 'persons'. However the word 'persons' only referred to the masculine gender and did not include the feminine gender as women were never allowed to practice law in the Mughal or British era. With this furtive replacement, the Legislature had no intention of bringing about a change to include women in the legal field.

The Allahabad High Court brought about a change in spite of the two preceding decisions, by enrolling Miss Cornelia Sorabji as the first Indian lady vakil of the Allahabad High Court, on August 24, 1921 under Chief Justice Sir Grimwood Mears. She was also appointed to a senior office in the British Government to protect the right of property of women in *purdah*. Cornelia Sorabji was allowed to represent a client in a British Court,



where the Judge was interpreting a section of the Code of Criminal Procedure, which said that an accused could be represented by a 'person'. Through this case, it became clear that an Indian woman was a 'person' in public life.

The Legal Practitioners (Women) Act, 1923 was supported by a big majority, which prevailed upon the Assembly to pass the bill by which women were allowed to practice as lawyers. Thus began our journey of allowing the fairer sex to be a part of the legal field, the efforts of which are traceable to the toil and sweat of our pioneers. The pioneer generation of women lawyers was the first to encounter and grapple with various problems, as they had an uphill task in challenging the gender biases that existed. From that stage, women have come a long way to reach their present status. Women have entered the legal field in all states of India and have justified their legal competence, as they have not been found inferior to men in intelligence, integrity or professional competency.

Under the Constitution of India, discrimination on the basis of sex is prohibited and all avenues are now open to women. It is hoped that women will be appointed to the higher and lower judiciary in larger numbers. The women lawyers in India will always remember and respect the hard work of the pioneers—Miss Sudhansubala Hazra, Mr. Madhusudan Dass and Miss Cornelia Sorabji.

The Indian legal industry has witnessed an unprecedented growth in the number of women lawyers post independence. In the last decade, the legal sector has been transformed into an industry that is a meritocracy. The legal field has evolved with an emphasis on ranking, branding and with a large number of overseas clients. In spite of the growth of the legal industry, several studies have thrown light on the problems faced by Indian women legal professionals.

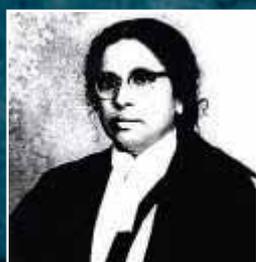
Like many working women, women lawyers also face many challenges during pregnancy and maternity. Most corporate organisations are unwilling to invest in women's talent as they view maternity leave and the benefits that go along with it as a drain of their resources. 75% of women working with law firms believe that a maternity break adversely affects their careers. A majority of women working in law firms felt that informing their employers about their pregnancies affected their bonuses and promotions and led to reallocation of their work. Along with maternity leave, childcare and family responsibilities are also considered personal pressures and they contribute to the challenges that are faced at work by women.

Women in the legal field have to confront gender bias at several levels. In spite of equality being preached at every level, interviews conducted with women lawyers across India highlight a lack of standard industrial policies and practices that would ensure and promote equality of the sexes. In most cases policies are not written. Professional equality is just a myth and gender biases and discriminatory practices are widespread. This includes women being forced to contend with lesser professional fees as compared to their male counterparts and denial of benefits and promotion in jobs.

According to other studies, work hours, structure of the work-day, lack of infrastructure and stereotypical perceptions also create problems for working women in the legal field. The challenges faced by women can be mitigated with the right facilities, education and a better understanding of the problems that they are facing.

In spite of the many challenges faced by women in the legal field, there are several women who have risen above them. They are the pioneers and the stalwarts of the field who have left their mark on the profession and served as an inspiration for numerous women across the country.

**Cornelia Sorabji**, India's pioneer woman lawyer, came to India in 1894. She procured special appointment by the government as a legal advisor with the Court of Wards to provide assistance to widows and children in North India in 1904. She worked to protect the interests of women living in purdah, trying to create a niche for women in Indian society. Her inability to enter pleas for these women was due to her lack of professional standing in the Indian legal system. To amend this, she stood for the LLB examination of Bombay University and yet could make no progress until the Legal Practitioners (Women) Act, 1923 was passed. Sorabji was enrolled as the first Indian lady vakil of the Allahabad High Court on August 24, 1921. She started practicing in the Calcutta High Court and in twenty years of service, she helped over six hundred women and orphans fight legal battles, sometimes at no charge. The world's oldest law society, Lincoln's Inn, has erected a memorial bust of Cornelia Sorabji in her honour, which was unveiled on May 25, 2012.



In the legal field in India, which was not fancied by most women at the time, **Anna Chandy**, proved to be an exception. She became the first woman judge of a High Court in 1959. She also became the first woman judge of a District Court in 1937. Succeeding her, there have been 52 women judges in 21 High Courts all over the country since Independence.

# Trailblazers

The first time a woman was appointed as a Chief Justice of an Indian High Court was in 1991. **Justice Leila Seth**, the first woman judge of the Delhi High Court and the first lady Chief Justice of a High Court in India, viz., the Himachal Pradesh High Court, was also the first woman to top the London Bar Exam. During her distinguished career, she has been a part of the 15<sup>th</sup> Law Commission of India and was also responsible for the amendment to the Hindu Succession Act 1956, which gave equal rights to daughters in joint family property.



Paving her way through this male-dominated profession, **Zia Mody**, managing partner of one of India's largest law firms—AZB & Partners—is an iconic lawyer in the profession today. Selected as one of the 25 most powerful women in Indian business by Business Today, she is a revered figure, who excels in various areas of practice. Surpassing several others in the field, Zia Mody has left her mark deeply engraved in the world of corporate law, exhibiting salience in the legal landscape.

Women are slowly but surely securing their position in the Indian legal community, with law no longer being a gendered profession, representing the best and brightest that society has to offer. Law in earlier times was a profession which was mostly chosen by a woman only if she had a father, brother or husband well ensconced in the legal fraternity. Considered to be a male dominant profession, most women were discouraged by their families from studying law. Thereafter, challenging male exclusivity in the legal profession was an uphill task. Women stood up to the challenge and gradually established themselves in the legal profession. Certainly, there have been some notable achievements, including the fact that equal numbers of men and women are law students. Women have been appointed judges of Subordinate Courts and High Courts and two women are sitting judges of the Supreme Court. Women are now partners in law firms and professors in law schools throughout the country. The basic impediment to the growth of the number of women in the profession is their obligation to balance their families and their careers. To overcome hindrances like this, a wider and more systematic change that offers more support to women is awaited.

There are already steps being taken to instill more security and confidence in women lawyers working in firms. For example, at Amarchand & Mangaldas, women lawyers are allowed to bring their children above six months of age to office. This crèche facility at their Delhi office has helped many women to breathe easy about their jobs after maternity leave. Despite their many responsibilities, there are women who have still shown admirable strength and courage to achieve great heights and reach the top, thereby setting an example for those who aspire to do the same. The difference they make is through their hard work and perseverance and most important of all, their ability to stand out. The bottom line is that what kind of work motivates and evokes passion in an individual is less gender-based and more merit-based. The same has been expressed by Indira Jaising, India's first woman Additional Solicitor General, in her letter to the Law Minister, where she reproached the Government for its decision to drop several competent women lawyers from the panel of advocates handling government litigation in the Supreme Court and also demanded crèche facilities in the Supreme Court for the toddlers of practicing women lawyers.

The percentage of women in the legal profession might be as low as 3%, but when we compare it to the figures of previous years, there can be no denial of progress. In 2009, there were only 45 female judges in the High Courts and no female judges in the Supreme Court. Now there are 52 female High Court Judges and 2 female Supreme Court judges. There has also been a terrific increase in the figures of women lawyers in the corporate world.

As the society's mindset is changing towards women taking up law as a profession, there are associations to safeguard the interests of these women lawyers. Associations such as the Society of Women Lawyers (SOWL) and the All India Federation of Women Lawyers (AIFWL) are working to support women lawyers and eradicate the hurdles faced by them at various stages. They work to help women overcome the challenges they face at the workplace and look into different areas such as the value of the girl child and the plight of women working in night shifts.

It is women speaking up for themselves with the help of these associations, who enable the female gender to establish a firm foothold in the legal profession. Gone are the days in India when this career was deemed unfit for women. Law has emerged as one of the professions entailing a glut of opportunities for both men and women. The immense talent, hard work and sensitivity with which women have already made inroads in the legal field will help them prove their mettle on the long road to success.

“She had the **Chance**.  
She made the **Choice**.”

Some of India’s foremost women jurists and lawyers relate their experiences in our legal profession and express their opinions on the position of women and the difficulties faced by them in the profession.



## On Balance

*by Ms. Leila Seth, first woman Chief Justice of a High Court in India, first woman Judge of the Delhi High Court and the first woman to top the Bar examinations in London*

*The following is a compilation of extracts from Ms. Seth’s autobiography On Balance, featuring incidents involving her husband Premo, her sons Vikram and Shantum and various other individuals she met and worked with during her legal career.*

When I first arrived in London, I had decided to do a six-month Montessori diploma course, hoping to start a small nursery school when I returned to India. But, encouraged by Premo, and prodded by my own desire to study something more challenging, I bought a book called Careers Encyclopaedia. This described different courses of study, their duration, their admission requirements, costs, future prospects and other information. Most important of all, it set out preferred aptitudes for any particular course. It said, ‘Of the many qualities that go to make a successful Barrister, the most important appear to be a sound constitution, quickness of thought and a certain nimbleness of wit.’ It added, ‘Patience and thoroughness are also important attributes.’

Of the five essential qualities mentioned I could claim the last two. I was influenced to apply for admission to the Bar not because of any love of or aptitude for Law, but because I would need to look after three-year-old Vikram, who was soon to arrive from India, and therefore needed a course where the attendance

requirements were not too strict. At the Bar in those days, for attendance one had to 'keep terms'. At the time, there were four terms, each of twenty-three days' duration. A person kept terms 'by dining in the Hall of one's Inn of Court on any six days in each term'. One had to keep a total of twelve terms, but could be exempt two. Most overseas students kept ten terms, as they were anxious to return home, for either personal or financial reasons. But attendance in Hall meant that one had to be present 'at the grace before dinner, during the whole of dinner, and until the concluding grace' had been said.

To be called to the Bar, it was not enough to eat dinners, as had been the case in earlier times, when you mingled with judges and senior lawyers who decided if you were a person fit to join the Bar. In 1954-57, when I was in England, one had to pass various written examinations; Part I consisted of five subjects, which a candidate could pass one at a time, if he or she so wished, and then there was a difficult Part II or Final Examination, also consisting of five papers, which one had to sit during the same week. Three examinations for Call to the Bar were held each year under the supervision and direction of the Council of Legal Education.

I was a member of Lincoln's Inn and had chosen it instead of the other three i.e. Middle Temple, Inner Temple and Gray's Inn, because it was the only one whose library was still intact as it had not been bombed. Further, it was located next to the Council of Legal Education in 7 Stone Buildings where most of the lectures were held. My reasons for joining the Bar were entirely practical; there was no emotion involved, as I had no relatives who had been engaged in law. But I enjoyed my law studies thoroughly, as the teaching was excellent and fun. We had stalwarts such as C.H.S. Fifoot, a born actor, who regaled us with stories that sent us into peals of laughter while he instilled in us the fundamentals of contract and tort, and R. E. Megarry, who explained with great lucidity the dull details of property law. I had heard from Lily, an Indian classmate, that Dimitry Tolstoy's lectures on Divorce Law were extremely illuminating and I thought I would listen in before deciding whether to take up the subject. This class was held between 5 p.m. to 6 p.m. and I stayed on and was enthralled. But when I came home, Premo was already there and in a foul mood, sullen and sarcastic, because he had had to actually switch on the lights himself after entering a dark and unwelcoming house. I promptly decided to drop my intention of studying divorce as a subject, out of fear of its occurrence at home.

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Shantum was born in mid-April and my Bar Final examinations were due about mid-September. With no domestic or family help, I was house-bound or at least babybound. Whatever preparation I had to do for the final examinations had to be done at home, without attending lectures or getting any guidance. I was naturally anxious and nervous.

We were frantically looking around for a baby-sitter, so that I could have at least a fortnight's respite before the final examinations. But as the days passed, it seemed that the only choice would be for Premo to take time off for the crucial few days of my actual examinations. The closeness of the exams, my lack of preparation and our not finding anyone to take care of Shantum were driving me to despair. Premo finally applied for a week's leave.

That very afternoon, the bell rang and a well-dressed, healthy-looking young woman with ruddy cheeks walked in. She had seen our notice seeking a baby-sitter in the neighbourhood shop and wondered whether we would be interested in a baby-minder instead. I didn't know what this meant, but quickly said yes, though a little apprehensively. When I discovered it meant leaving the baby in her house rather than

her coming to ours, I was a bit wary. I took her address and Premo and I walked there that evening, taking Shantum along in the pram. It was only a short distance away, and she had two small children of her own. She told me that she had seen our bright-eyed, black-haired baby in the pram near the shop and had been charmed. We could see that she was a kindly and gentle spirit who dearly loved children, and we decided to take her on.

Every morning, Premo would take Shantum in his pram to Mrs Shirley's house and bring him back in the evening on his way back from work. It worked out very well and the Shirley family became so fond of Shantum in that short time, that they used to visit him later and bring him clothes and gifts. The Shirleys' seven-year-old son and five-year-old daughter doted on 'the little Indian baby'. Mrs. Shirley even knitted him a blue and white striped suit. So eventually, I took my exams feeling comparatively relaxed, though I was not as well-prepared as I would have liked. But is one ever?

Premo pampered me and kept a hot meal ready for me when I returned home each day after doing the exams. The first evening he made grilled trout garnished with olives. He then served me strawberries and cream to cheer me up.

The Bar Final results were due to be published at midnight on 27 October 1957.

As we neared the Times office, a young man suddenly jumped onto the bonnet of our car. I recognized him as a student named I.I.I. Qazi, who had failed his Bar Final exams numerous times. We didn't know what he was trying to do. Commit suicide? He was gesticulating and shouting— 'Top! Top!' We thought he wanted us to stop our car, which we did. Qazi, generous soul, was deliriously happy that I had come first, despite the fact that he had failed his exams once again. I wouldn't believe him and so we slowly drove on to the Times office, where I saw the newspaper and my own name printed in black and white at the top of the list: Seth, Mrs Leila . . . Lincoln's Inn.

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I returned home to India in style, carrying my baby in my arms and my academic halo around my slightly swollen head. But I soon came face to face with the nitty-gritty of life and the tough world of practice at the Bar. My dream of starting a small nursery school had been totally dashed by the brilliance of my Bar Final results! Now everybody expected me to practise and perform. But this was not easy.

On our return, Premo immediately started work in the Bata factory at Batanagar, while I had to set up home. Vikram, who had

come back earlier with my mother, was already in a Nursery and Kindergarten school in Ballygunge in Calcutta. This meant transporting him daily from Batanagar to Calcutta. We had to buy a car and I had to find the courage to drive in the city. I also had to find some good domestic help to look after Shantum and our home. Apart from this, I had to find a senior barrister in whose chambers I could 'devil' as a pupil for twelve months.

We soon sorted out our settling-down problems in Batanagar. But finding a senior who would take me in his chambers as a pupil for twelve months took some doing. 'Pupillage' is an apprenticeship to a senior, enabling one to acquire a proper knowledge of the technique of the profession. It means following the senior around like his shadow and seeing and hearing the manner in which he addresses and handles the court. It entails learning professional usage—to get a 'Passover', for example, without mistaking it for a Jewish festival. If one makes good use of this training period, one can be invited to continue in the chambers. This means assisting a senior in routine and less-important work and giving opinions or appearing in court when he is unable to do so, thus providing the experience for one's own future practice.

I now set about looking for a good senior to get 'attached to'. I went to see Mr Ahmed, the Registrar of the Calcutta High Court on the 'Original' side, who maintained a list of about thirty names of those barristers who were entitled and willing to take pupils. I asked his advice as to whom I should join. In reply he asked me whom I knew. I told him I didn't know any of the gentlemen in the list, nor anyone else in the legal profession. He was astonished and asked me, 'Why then are you joining the profession?' I retorted that he should tell me who was the best and leave the rest to me. He hemmed and hawed, not wanting to express a final opinion, but when I insisted, he gave me two names, Sachin Chaudhuri and Elis Myers. I remembered a piece of advice which had been given to me as a child: if you want to taste the best fruit, you must climb the highest branches. The name Elis Myers sounded too English, so I decided that I should join the chambers of Sachin Chaudhuri. But that was easier said than done.

I thought that I would telephone Mr Chaudhuri and seek an appointment. But it was impossible to get him on the line. His calls were all filtered and he obviously didn't talk to strange women. I realized that I had to find someone who would speak to him about me before I could get an appointment. In India, tracing friends and relatives of a well-known man is not such a difficult job, but it is tedious and embarrassing to ask for a favour. Anyway, after a seemingly never-ending month filled with bouts of despondency, I was granted an interview with the great legal luminary.

I was full of fear and trepidation when I went to meet him but put on a brave and smiling expression. Despite the fact that he had some idea why I had come, he wanted to be clear about the matter and asked me, 'Why?' in his grave and gruff manner. After I told him, he said, 'Instead of joining the legal profession, young woman, go and get married.' I replied, 'But Sir, I am already married.' 'Then go and have a child,' he advised. I responded, 'I have a child.' 'Then go and have a second child.' 'It is not fair to the child to be alone, so, young lady, you should have a second child.' I replied: 'Mr Chaudhuri, I already have two children.' Taken aback for a third time, he said, 'Then come and join my chambers, you are a persistent young woman and will do well at the Bar.'

Though Mr Chaudhuri had been so reluctant to take me on, once he had agreed, he encouraged me and helped in numerous ways, extending a sincere hand of friendship.

It was a very quiet and sombre set of chambers. Apart from me, the only other lawyer was Pesi Ginwalla, who had plenty of work but hardly spoke a word to me or anyone else. He would pace about, thinking things out and communing with himself. The work in the chambers was mainly company law, income-tax

law, complicated contract cases and some constitutional matters—hardly the sort of thing that would immediately warm the cockles of the heart. The one great advantage of the chambers was their location, in 2 Old Post Office Street, just across the road from the Calcutta High Court. One could work during the day in the chambers if there was no matter on hand in court. Again, because the court was so close, conferences were usually fixed immediately after court hours, and one could pack up and go home in the evening. This was not the case in most other chambers, where one tended to waste time during court hours, as the offices were located in the senior's house, and conferences were held late in the evening, sometimes spilling over till midnight. Other juniors often referred disparagingly to our chambers as the English-style chambers and to my senior as the dry and dreary Lord Chow! But these chambers suited me fine, even though there was not much fun and laughter in them.

After chambers were closed in the evening, I drove to Sashi bhai's house in Ballygunge, picked up Vikram, who spent the hours after school at their place, and drove to Batanagar. We had bought a second-hand light-blue Plymouth. It was a large car for me to drive, and some young Bengali men found it a subject for comment: 'Bogal kata blouse porechhe, abaar gari chalachhe!', they said disparagingly— 'Not only is she wearing a sleeveless blouse, but she's also driving a car!' I ignored these remarks as Vikram and I drove back home together. I caught up with all his school activities and tried to be a good mother, reciting poetry or telling stories or teaching him his arithmetic tables on the way home, as I had done on the way to school in the morning. As soon as we got home, I transferred my attention to Shantum, who had been looked after by his ayah, with a lunchtime visit from Premo. The late evenings, dinner and the night belonged to Premo. Since school started early and chambers only opened at about 10 o'clock, I spent the time in between at the American Library, a source of relaxation after the early morning rush. But this state of affairs was not to last long.

In mid-1958, Premo was transferred from Batanagar to the Bata factory at Digha, near Patna. I didn't go with him immediately. For one thing, I had to complete my one year of pupillage before I would be entitled to practice, and for another, we were not sure how long he would remain in Patna. It was rumoured that he had gone there to help close down the factory.

When it became apparent that he was going to stay on, I joined him with the two children.

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I moved from Calcutta to Patna in 1958, a few months after Premo was transferred there, but I actually started practising law at the end of 1959. I was one of only two women advocates in the Patna High Court at that time. The other, Dharamshila Lal, was a veteran and a very successful criminal lawyer. She was from Bihar and her father, Professor K.P. Jaiswal, was a well-known historian. Both her personal and her matrimonial life had been difficult, and this had hardened her. She was unafraid. Everyone in Patna had heard of her, and the courts were used to her bold and forceful manner. Yet she did not hesitate to jangle her bangles if the judges appeared not to be listening. She was the sole female star.

Suddenly, I had arrived in the Patna High Court and Dharamshila wasn't particularly friendly or helpful. I suppose I had expected some automatic female solidarity. It was not as if I particularly wanted to join her chambers. In fact I wanted to do mainstream civil and constitutional work.

I would have liked to join the chambers of P.R. Das, who had been referred to by the famous D.N. Pritt as 'the best lawyer east of Suez.' He was brilliant, lucid and eloquent. He had a silvery voice and presented the

most difficult propositions of law in a manner that could be understood even by a simpleton. I had occasion to appear with him in a couple of cases and observed that when he was not making headway with the judges, he would repeat the proposition but in a different manner. He once told me, 'Repeat, repeat, and again repeat, but do it in such a way that the judge does not feel stupid, for then it will be a disaster.' He continued, 'Remember, judges don't always take things in the first time.' And he should have known, for he had been appointed a judge at a very young age. However, he didn't last on the bench for more than two years, and resigned. He realized that he liked playing the game much more than being the umpire. When faced with one of his own judgments, cited by the other side against him in a case, he told the court, 'That was the opinion of a foolish young judge but I am now expressing the view of a mature and experienced lawyer.'

I had, however, been warned in advance about the 'glad eye' he reportedly gave the girls. In the event, I joined the chambers of K.D. Chatterji, a well-respected senior lawyer who did civil, constitutional and company work.

When I joined the Patna High Court, I was the subject of much curiosity and discussion. There used to be a Barristers' Association and an Advocates' Association. The library of the former had few members and there was comfort and space and quiet to work in, while that of the latter was crowded, noisy and chaotic. I was a member of the Barristers' Association, while my senior, K.D. Chatterji, was a member of the Advocates' Association. As a result, I flitted between the two libraries. The advocates, in particular, were fascinated. They watched every move of mine, and one of them even asked me why I wore a particular type of blouse. This interest extended to the clerks. An advocate, Lalit Mohan Sharma, later to become the Chief Justice of India, had been away for many months in England for medical treatment. On his return, the first thing his clerk told him was that a young woman had started practising in the Patna High Court.

As my husband was the manager of the Bata Shoe factory, we lived in a beautiful old house that had once belonged to the Maharaja of Chainpur. People could not therefore understand why I was roaming around the hot and dusty corridors and courtrooms (there was no air-conditioning in the Patna High Court in those days) and spending my time with uncouth clients, arrogant company executives and inquisitive lawyers. The lawyers were unsure how to treat me, especially as I appeared confident and smart in my crisp white, black-bordered cotton tangail saris (starched with mica flecks) and Chinese-collared, three-quarter sleeved white poplin blouses, spoke English well, and arrived at the High Court in a chauffeur-driven black Plymouth Belvedere, allocated to the Factory Manager.

The few members of the Barristers' Association were getting on in years. Apart from me, who was in my late twenties, there were just two other young members, who were in their late thirties. It was a dying breed as very few Indians were now studying for the Bar in England. Yet the older members resisted changing the rules and admitting anyone other than a barrister. Some years later, however—and very selectively—some senior advocates were admitted. There was a strong sense of camaraderie as we all sat around the dining table during the lunch break, eating what we had brought, whether diet biscuits or paranthas and kebabs—and sharing the court gossip of the day.

There was, unfortunately, no proper women's toilet. A musty storeroom, a good distance away, had been allotted for this purpose. It was kept locked and the key was with Dharamshila Lal. After my arrival, it was decided that the key should be kept with the librarian, Khadim, a gentle and quiet man. However, Dharamshila, who was not used to this arrangement, sometimes forgot to return the key to him, and there was quite a crisis when she had to be sought out in court and the key retrieved from her handbag. The most awful part of it all was that this room was infested with bats. I was just terrified to go inside. Having heard stories that bats clung to your hair, I used to cover my head with the end of my sari, clinging to it

while using the toilet. The room was dark and full of old, discarded files and every time the door squeaked open, the bats started flying about in great agitation. I wondered how Dharamshila coped and if there was some magical way in which I could stop the bats from flitting about.

At first, I was too afraid to say anything to anybody, but as my terror increased, I complained to Dharamshila. She looked surprised and said shortly, 'How do you intend to practise and do well in Bihar if you are afraid of bats?' That certainly put me in my place. In due course, as my confidence increased, I somehow managed to tell the President and Secretary of the Bar Association about the matter and get all the files and bats removed.

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It made me unhappy when I realized that however hard I worked, the younger male lawyers kept spreading the rumour that I was not serious, and that, being a woman, I could not run around like them and get things done. Further, I was a fashionable and frivolous woman who, because she had no need for money, would quit a case without notice. None of this was true but it is difficult to counteract a canard. Luckily, the older lawyers, to whom I was no threat, and who saw how hard I was willing to work, were very helpful.

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When I started practising, I wanted to prove myself as a mainstream lawyer, not follow the stereotype of a woman lawyer. I took up company, tax, constitutional, civil and criminal matters. I consciously avoided 'women's work', such as divorce, custody, guardianship, adoption, and so on. After I retired as Chief Justice of Himachal Pradesh, I felt that perhaps I had leaned away too much in this regard. I felt a great urge to try and help women and to look into their problems.

Some time before retirement, I read that a National Commission for Women was being set up and that the functions of the commission were largely legal. I felt that I would be ideally suited to chair the commission; I telephoned my friend Sunanda in Delhi and asked her to find out more details. She came back to me in a few days and said, 'Sorry, Leila, it appears that the chair will be a political appointment.' So I left it at that.

A political appointment was made. When her three-year term expired, my name was suggested. But there was an age limit of sixty-five, and that was what I was going to be in about a year. However, three years later, after the next person's term had expired, I suddenly received a telephone call on 14 August 1998 in London, where I had gone for a short visit. The caller was a minister, Murli Manohar Joshi. He told me that he thought I would be ideally suited to chair the commission; he had consulted the Prime Minister, had his concurrence to my name, and wanted to make the announcement immediately, on Independence Day. I told him that I was a member of the Law Commission of India and over-age for the job. He said, 'We don't care about age—we want you to take on the assignment.' I said, 'There are statutory provisions about age. I know this from experience. Perhaps you should check up on this; we can talk when I return to India.' I sensed the disappointment and irritation in his voice as he put down the telephone. But quite apart from the rules regarding age, I was happy as a member of the Law Commission and no longer wanted the job of chair of the National Commission for Women. I thought of Proust's words, 'Everything comes about just as we desired but only when we no longer desire it.'

But in fact I did get the opportunity to involve myself through an NGO in issues involving women and the law—as well as education, another abiding interest.

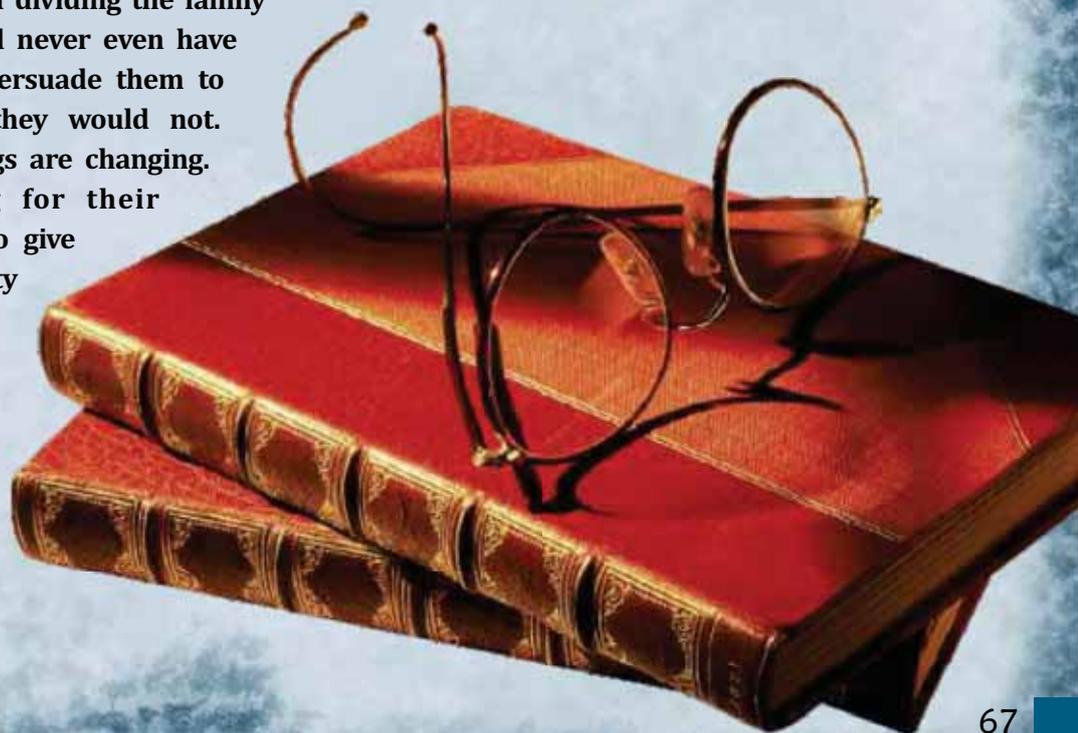
I wanted women to walk alongside men, not two steps behind or one step ahead. I wanted to help bring about legal literacy, so that women would become more aware of their rights. So when Dr Vasudha Dhagamwar, the founder and director of the Multiple Action Research Group (or MARG), invited me to become its chair, I was honoured and delighted. Through seminars, workshops, books and even a film serial, *Bol Basanto*, MARG has helped greatly to increase legal literacy among women. Vasudha, who is a practical, focused and very thorough person and an academic of repute, deserves enormous credit for what she and her organization are doing.

But despite legal literacy and the knowledge of their rights, women are often prevented from using them. Women—by law—now form at least a third of the membership of village councils or panchayats. But when we held a legal literacy workshop for women in panchayats in Haryana, we were told by them that the men often sprang a notice on them the very morning of a meeting, when it was too late for them to cook in advance or make other arrangements for their families. Naturally, they could not attend.

At other times, women are simply reluctant to assert their rights. When I was a judge in the Delhi High Court, I came across affidavits filed by three sisters, relinquishing all their property rights to their two brothers. I was thunderstruck. After all, it was at the time almost thirty years since the Hindu Succession Act 1956 had been enacted. In order to ensure that there was no fraud and to ascertain the reason why the girls were relinquishing their rights, I insisted that they come to court in person. After a great deal of protest by the brothers about distance and expense, they agreed to bring them to court.

When I questioned the young women, first in open court, and then in chambers, about whether they knew their legal rights, they nodded. When I asked them why they were not pressing for their inheritance and just signing it away, they replied that they wanted to preserve a good relationship with their brothers, because now, after their father's death, their brothers' homes would be the only place they could go to if they wanted a change or a refuge from their own. Their quality of life would be affected if they demanded the share they were entitled to.

Had there been five brothers, instead of three sisters and two brothers, the question of dividing the family property so unequally would never even have arisen. I tried my best to persuade them to withdraw their affidavits; they would not. But slowly, very slowly, things are changing. More women are asking for their rights. Men are beginning to give them, sometimes with alacrity or even without being asked; sometimes after a bitter fight. The chain of awareness, assertion, attitudinal change and action is beginning to come full circle. ■





## Women in the Legal Profession

*by Ms. Sujata Manohar, Former Judge, Supreme Court of India*

This is the 90<sup>th</sup> year since women have been allowed to practice as lawyers in our country. The presence of women as laws students and lawyers in significant numbers today, exposes the myth that women are unsuited to the profession because they cannot reason logically or are given to emotional outbursts. The number of women corporate lawyers in leading law firms destroys two myths: i) a woman is not suited to the legal profession ii) she is unsuited to advise on corporate laws with all their complexities, including financial arrangements and taxation-related problems. Law is clearly emerging as a viable profession for women. This is also the perception of lawyers themselves whose daughters are joining the profession in increasing numbers.

However, do women get a fair deal in the profession? There is a brilliant essay by Usha Ramanathan in a book of essays, *Engendering Law*, in honour of Lotika Sarkar, an eminent law teacher. It is titled *Reasonable Man, Reasonable Woman and Reasonable Expectations*. A reasonable woman, as per the 'judicial' pronouncement in A. P. Herbert's *Misleading Cases*, does not exist. So let us look instead at a reasonable man. A reasonable man has been described by Lord Bowen as the man on the Clapham omnibus. We may transplant him as a man riding the Delhi metro. He considers lawyering a dirty business and feels that Indian women, who epitomise virtue, should not sully their hands with it. I venture to suggest that he is not a model of reasonableness and has many misconceptions about the legal profession. A reasonable male lawyer, I like to believe, has by now become accepting of women lawyers. The seniors consider having a couple of young and preferably charming women juniors as a symbol of status and respectability.

A reasonable woman lawyer, and she exists (defying the 'judicial' dictum), expects in return some support in her professional career. Is this forthcoming? This is a vital issue for the present generation of young women lawyers. Can they expect the traditional support systems for young lawyers within the profession to work for them? I remember as a young lawyer working very hard for her senior, being told by the senior that he could not recommend me to any attorney for being briefed in a case because he may be misunderstood! We have come a long way since then. Women lawyers are beginning to get the traditional support within the system to further their careers, though not to the same extent as young men lawyers. Women lawyers also expect, as they grow in the profession, recognition of their abilities and respect for their professional performance. Is this forthcoming? The answer seems to be—yes, but slowly.

Let me bring a little historical perspective to this issue. In 1903, Grays Inn in London turned down the application of Berthe Cave to enroll as a lawyer. At the time, both in England and in the United States, it was believed that the word 'person' in any instrument or statute relating to enrollment of lawyers, did not include women! It was only after the Sex Disqualification Removal Act, 1919 that in UK women were able to enroll as lawyers. In the United States, the disabilities of women were partly removed by the 19<sup>th</sup> Amendment in 1920, giving women the right to vote.

It is interesting in this connection to recall that an Indian woman Cornelia Sorabji obtained her law degree from Oxford in 1894 after she graduated from Bombay University. When she had applied in 1888 to the Bombay University for enrollment, she was the first woman ever to have done so and the University had to make a special provision to enable her to enroll. After graduation she went to Oxford and obtained her law degree in 1894. But she could not be called to the bar from Lincoln's Inn till 1921 because of the sex-bar against enrollment of women in the legal profession which was lifted only in 1919. After being called to the Bar in 1921, at the same time as Lord Denning, she applied to the Allahabad High Court in the same year for enrollment. The Allahabad High Court, at an 'English' meeting of judges gave her a right to practice, but advised her to confine her practice to advising *paradanashin* ladies.

In India, the first woman who had applied for enrollment was Regina Guha who, in 1916 asked for enrollment in the District Court at Alipore after obtaining a law degree from the Calcutta University. A full bench of the Calcutta High Court was constituted to hear her unprecedented application. The Court gave various reasons why women were not entitled to be enrolled under the Indian Legal Practitioners Act. It said that there were no facilities for women lawyers in the court; that they could not act as officers of the court because they could not attend the court every day of the month. The Court examined the history of the legal profession and found women judges, women who had argued their own cases, but not women who argued cases of others. Obviously Shakespeare did not count. So the Calcutta High Court turned down Regina Guha's application. The Patna High Court in 1921 also turned down the application of Sudhanshu Bala Hazara who had applied for enrollment. It was only after the amendment of the Indian Legal Practitioners Act in 1923 that women could enroll as advocates. The first woman to so enroll was Mithan Tata (later Mithan Lam) who enrolled in the Bombay High Court in 1923. Cornelia Sorabji was enrolled in the Calcutta High Court in 1924. So, in a way, Indian women did not lag far behind women in the UK and the US in getting enrolled in the profession.

As relatively new entrants to the profession, women have had to overcome considerable prejudices in every part of the globe. I believe that we have now come to a stage where women lawyers have acquired a mass which is critical enough to generate a fair deal for them in the profession. We have started having many highly successful women in the mid-rungs of the profession. We have women lawyers with great ability who have been given the status of senior lawyers. We have women as corporate lawyers. There are a large number of women practicing family law; and senior and respected women lawyers who have tried to make the law sensitive to women's issues and have worked for changes in the entire legal structure. As a result, women's grievances are beginning to be recognised and redressed within the legal system. The recent clamour for changes in the Penal Code after the rape and death of a young woman in a Delhi bus has brought into focus the need of the society for competent women lawyers. The percentages of women in the legal profession are not very satisfactory. The percentage of women judges in the higher judiciary is between 1% and 5%. It is a little better in the lower judiciary though I do not have the statistics for that. By contrast, the percentage of women judges in western countries and even some African countries is around 30%. In the profession also, despite their increase in numbers, the percentage of women lawyers is still only about 5%. Therefore women still have a long way to go. In the meanwhile they need to struggle against tokenism—giving a woman a token seat on some bench or the other. Tokenism is an enemy of recognition of merit or ability. Women need to work for getting recognition or appointments on merit and getting rid of prejudices which come in the way of such appointments.

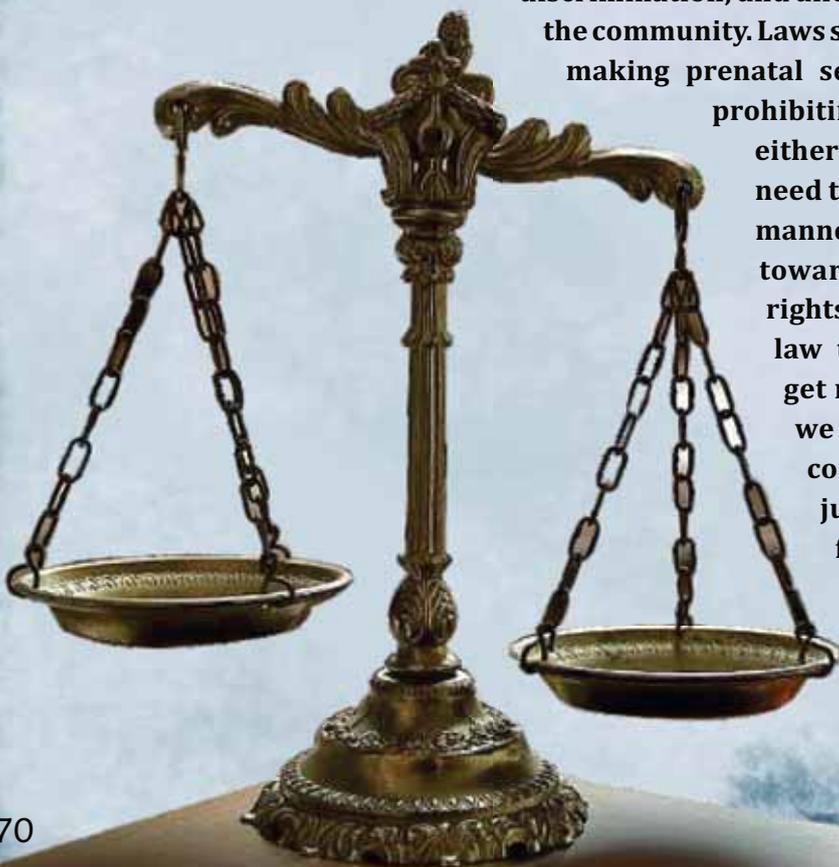
Justice Ruth Bader Ginsberg of the Supreme Court of the United States describes the position of women lawyers in the U.S. thus: "Judges and legislators in 1960s and at least at the start of 1970s regarded differential treatment of men and women not as malign but as operating benignly in women's favour. Legislators and judges in those years were overwhelmingly white, well heeled and

male. Men holding elected and appointed offices generally considered themselves good husbands and fathers. Women, they thought, had the best of all possible worlds. Women could work if they wished; they could stay home if they chose. ... Our mission was to educate, along with the public, decision-makers in the Nation's legislatures and courts. We tried to convey to them that something was wrong with their perception of the world. As Justice Brennan wrote in a 1973 Supreme Court opinion, a year and a half after the court had begun to listen: "Traditionally differential treatment on the basis of sex was rationalised by an attitude of 'romantic paternalism' which in practical effect, put women, not on a pedestal but in a cage."

According to Ginsberg the turning point in the U.S. Supreme Court came with *Reid v. Reid* in 1971, where finally the Supreme Court unanimously declared the state law giving the father preference for the custody of children, as a denial of the equal protection of the law clause. We still have in our Hindu Minority and Guardianship Act, male preference for the natural guardianship of children. Gita Hariharan's case could not dislodge this legal provision, despite the constitutional guarantee of equality.

We have had since the last at least 20 years, more than 50% of students in the law colleges around the country who are women. Not all of them have turned to legal practice after qualifying. Now that prejudices are slowly disappearing at differing paces in different High Courts and the Supreme Court, women are increasingly turning to the legal profession as a career. It is time the legal profession treated them fairly and gave them space, treating them with the respect which they deserve, depending upon their merit and performance. We need well-trained women lawyers as much as well-trained male lawyers, especially when we face the uphill task of bringing constitutional values of equality and non-discrimination to our socio-legal cultural setting.

Women lawyers have an additional responsibility—to work towards improving the legal status of women by working to change the laws. Women lawyers, as an informed body conversant with the legal framework, need to work for laws that can protect women against violence and discrimination, and allow women to function as full members of the community. Laws such as the Domestic Violence Act or those making prenatal sex determination tests illegal, or laws prohibiting child marriages or sexual harassment either need to be enacted, or when enacted, need to be enforced properly and in a balanced manner to re-orient our culture and values towards equality and respect for human rights. Unless men and women trained in the law take the lead and help the country to get rid of unequal laws for men and women, we will not be able to carry out the constitutional mandate of equality and justice, or establish in our society, respect for constitutional values and human rights. I hope the legal profession, especially women lawyers, will be equal to the challenge. ■





## The Legal Profession for Women: the Choice and the Chance

*by Hon'ble Smt. Justice Roshan Dalvi, Bombay High Court*

A CEO of a company proclaimed that there should be equal rights and equal opportunities for men and women. He followed this in articles, lectures and presentations. When he had to appoint a vice-president for his company, his secretary was asked to eliminate those candidates who were distinctly disqualified. About 10 candidates were seen to be qualified for the post. He asked his secretary to pick only the two best candidates so that he would choose one of them. Knowing his views, the secretary asked him whether he would want one male and one female candidate. "Forget all this crap about equal rights and equal opportunities," he yelled. "I just want the two best candidates."

They were brought in—complete in their suits, together with their skirts.

The scenario would be much the same for persons who really choose merit over quotas in most walks of life today, only if given an opportunity. And that opportunity is desired from the very beginning—at grassroots level—in homes, schools, play fields, higher education, employment, careers, the liberal arts and also the intense sciences. Scientists call this the principle of 'nature and nurture'.

The yesteryears saw the most disproportionate number of men gaining ground over women lawyers. When a lady barrister first appeared in the Bombay High Court decades ago, her solicitor was asked by wondrous colleagues why he would have selected a woman counsel when so many other men were available. He reportedly answered that that was because he had such a good case that it would not fail in Court even with a lady counsel.

Larry Summers, President of Harvard University, Mass., USA, discovered upon a study in 2005 that the mathematical aptitude needed for pure sciences, engineering or mathematics was innately rarer in women than in men. That may be the correct result of a study earlier undertaken. It may have proven incorrect if women, the subject of that study, were given the opportunities they needed, wanted and desired, but were denied. Summers spoke publicly about the hypothesis. This caused an uproar in the American society which believes in the fullest right of expression and which I believe should never have been curbed upon women being irate. The insistence upon an apology from the President who expressed his view may not stand the test of free thought in a free society but would demand ascertainment of the cause for thought and experiment.

The observation made by Larry Summers upon the subjects he studied cannot be derided as falsely made or incorrectly imputed. That could have been the position given the lack of nurturing of women in those fields. I have sympathies with the resignation of the President upon the demand of the society. True freedom of expression should not lend itself to any form of *Talibanisation* of thought, speech and expression. It must be the result of introspection for ascertaining the cause for the effect and meeting the situation to alter the effect.

The succession of Larry Summers by a lady President of Harvard University may not prove the scientific temper of women, but would certainly demonstrate the ability of women to stand up to all challenges.

There have been a number of studies undertaken earlier and later in the same light. In about 2010 scientists in Duke University, North Carolina published a paper in *Current Directions in Psychological Sciences* showing how boys and girls performed in the nation's top examinations which seek out the brightest talents in the country. They found that the IQ scores of the children were generally rising over the decades, called the 'Flynn Effect.'

The Flynn Effect has been hypothesised to have several potential causes—improved nutrition, a trend towards smaller families, better education, greater environmental complexity and heterosis. Another proposition is in the gradual spread of test-taking. This would also be a part of the 'nurture' principle. Hence when parents and teachers promote and support the children towards motivated learning or higher thinking, they generally do better and better. They also concluded that the difference between the performance of the boys and girls in those tests have much diminished or almost vanished. Yet the conclusion was that the boys do better in math and the girls in tests of verbal reasoning. The result was similar in the overall IQ scores. They, much like the discovery propounded by Larry Summers, concluded that the best mathematical brains belonged to the boys though the difference was far narrower than in the earlier decades—it dropped from 13 to 1 to 4 to 1 from the early 80s to early 90s which continued until their study. The results, however, did not show complete equality. Yet more girls entered the field of physics and mathematics when they were encouraged and supported; the 'nurture phenomenon'. The scientists concluded that that was because of the change in the attitude of the parents and teachers. Yet the disparity remained because of the difference between the ways boys and girls were brought up. If the mentality that girls want dolls and boys want balls is taken care of, the rest would follow.

It is no use crying foul at an experiment scientifically carried out, which has begotten much the same result, but to a lesser degree than what Larry Summers contemplated, discovered or pronounced.

This is precisely what happened in society in general and in the legal profession in particular. Upon the nurturing of women by their parents, teachers, society and their own determination to take up challenges, women have been able to show and have proved that they are second to none. The nurture has given way to nature in the later generations. Could we call it the result of 'heredity and environment'?

It would not be demeaning to accept that women may be better in particular fields and men may do better in others. This is almost on par with women selecting the specialisation of ophthalmology to



general medicine after their graduation in medicine; it would be easy on her family demands; the surgeries can be planned in advance. Yet that would be the exercise of choice upon being given a chance suited to her way of life. This is much like the portfolio of bureaucrats where it is commonly axiomatic that a woman in such an executive position would tilt more in favour of health and education and the men in favour of defence or industry. After a reversal of roles, the difference between the two would almost vanish. Can one explain why the world's best chefs and tailors are men? That too could be the result of nurture and nature, the result of total gender uniformity.

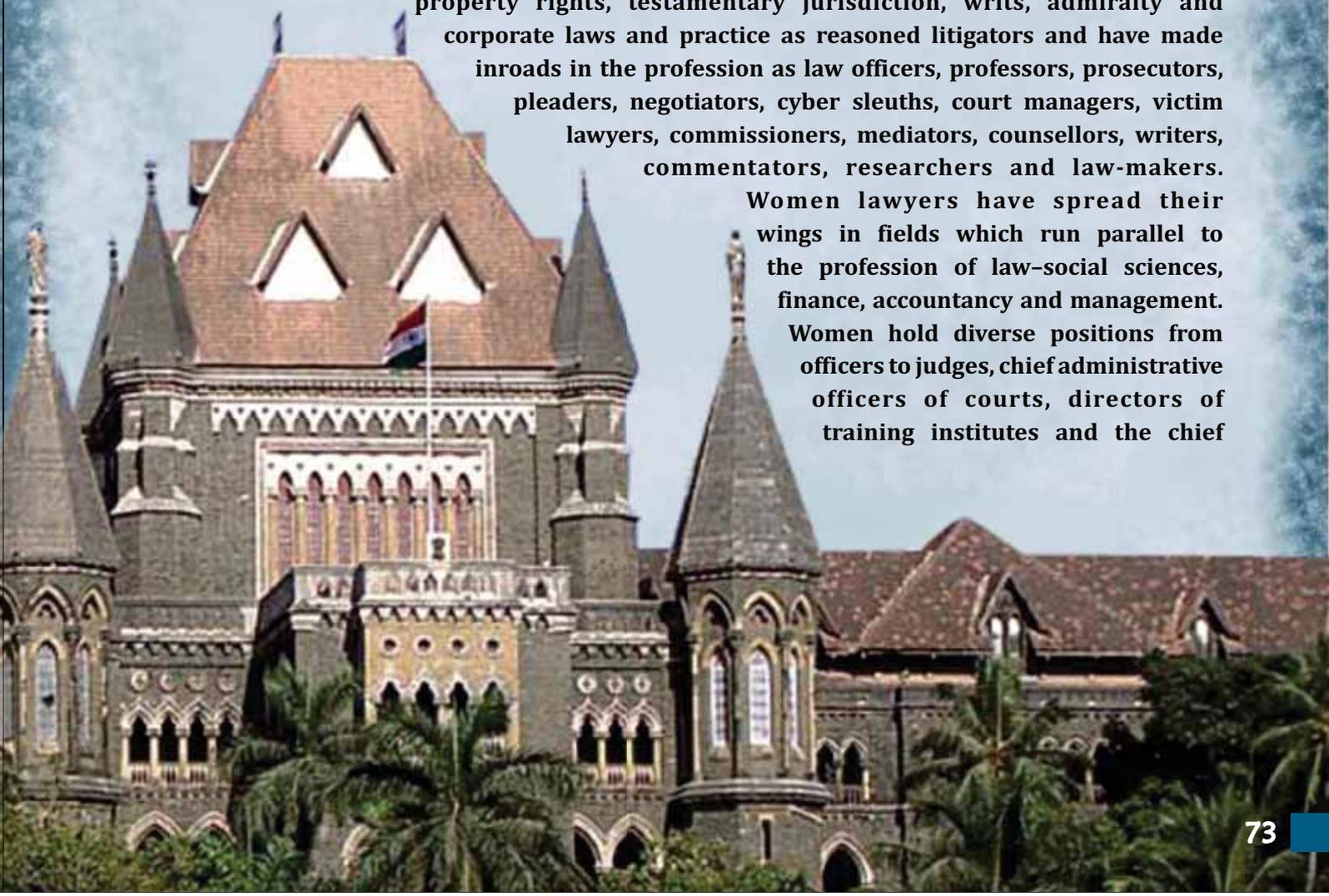
It is now vastly seen, against what was largely believed to be true in the past, that biologically women are suited and found fit for almost any profession, career or vocation. In fact, studies relating to work in space have concluded that women are biologically more suited than men to work in zero gravity. The latest admission results in the IIMs have shown girl students sweeping the seats. In the profession of law, which is a creative and liberal art and not an exact science, women, even by Summers' yardstick, would be expected to do well. Even in such a profession they were rarely encouraged and hardly supported. That phenomenon has changed in the recent decades.

Gone are the earliest days when a woman lawyer was not considered fit for the profession at all or the later era when the women in the legal profession were expected to delve into soft areas of matrimonial jurisdiction or monetary claims alone.

The freedom of choice that women had earlier has extended in its circumference. Even if a woman lawyer chooses a specialised field, for example trademarks or testamentary jurisdiction on account of her own family situation, it would demand that she wear two or more hats.

Today women have found a niche in such specialised fields as intellectual property rights, testamentary jurisdiction, writs, admiralty and corporate laws and practice as reasoned litigators and have made inroads in the profession as law officers, professors, prosecutors, pleaders, negotiators, cyber sleuths, court managers, victim lawyers, commissioners, mediators, counsellors, writers, commentators, researchers and law-makers.

Women lawyers have spread their wings in fields which run parallel to the profession of law—social sciences, finance, accountancy and management. Women hold diverse positions from officers to judges, chief administrative officers of courts, directors of training institutes and the chief



justices of High Courts. The data of today shows women in far more numbers than men in law colleges, in law courts and allied legal areas. Women today have more fields opening up, attuned to their special skills.

The metamorphosis of women in the last few decades has been the result of the altered attitude to see her innate aptitude.

The number of women in the legal profession speaks eloquently of the confidence litigants have in women, in the merits they possess and the challenges they seek to take on. Women are found to be in surprising numbers in varied areas of diverse careers, as much as in the legal profession; they are sought not to fulfill a quota, but to maintain the balance. This is true of women not only in the profession in general, but in its various outlets in particular. They contribute their inputs in workshops and panel discussions for considering the nuances of laws, their applicability and their import and in drafting legislations and rules that would impact society. Their contribution is as much sought in areas of social justice as in the domain of the country's economic upliftment and freedom.

Larry Summers could have been explained to that the fact that his pronouncement, begotten out of the reason of lack of opportunity, would have been incorrect if more women were given more opportunities into those fields where they did not make sufficient inroads. Summers should have given his women students a chance and allowed them a choice to see whether they stood the test, rather than blackball them. He may have concluded differently.

Choices have been made and chances have been taken in tune with various constraints and requirements by both men and women; it may be more pronounced and profound in case of women. The jurist Nani Palkhivala entered the legal profession when he was denied the position of being a professor of literature in the University of Bombay. He has poetically stated of his own freedom of choice: 'We are like a dog on a long leash; within that limited field of movement we have freedom of choice.'

A further choice available perhaps only to women is the right not to work. Such luck almost never favours men. The choice of leaving the profession for short or long periods afforded to most women, unlike most men, has also resulted in a fine future for their children. Indeed if you educate a boy you educate him, if you educate a girl you educate a family. The education for the betterment of the family is the pride of womanhood. The temporary absence from work, refusal to work or the choice not to work, aside from making way for a healthier society, would result in sound tax-planning, given that she is a professional lawyer and can earn slowly but steadily for a period of years when she does not even work.

Indeed, a woman plays many roles easily and successfully.

A homemaker decided to go to work. She applied for a job. She had to fill a form. In the column of experience she honestly wrote: NIL. She was refused the job. She applied for another. In her form again against the column of experience she honestly wrote: 8 years in human resources management. She got the job.

She had the chance. She made the choice. ■



## Discrimination Against Women Lawyers

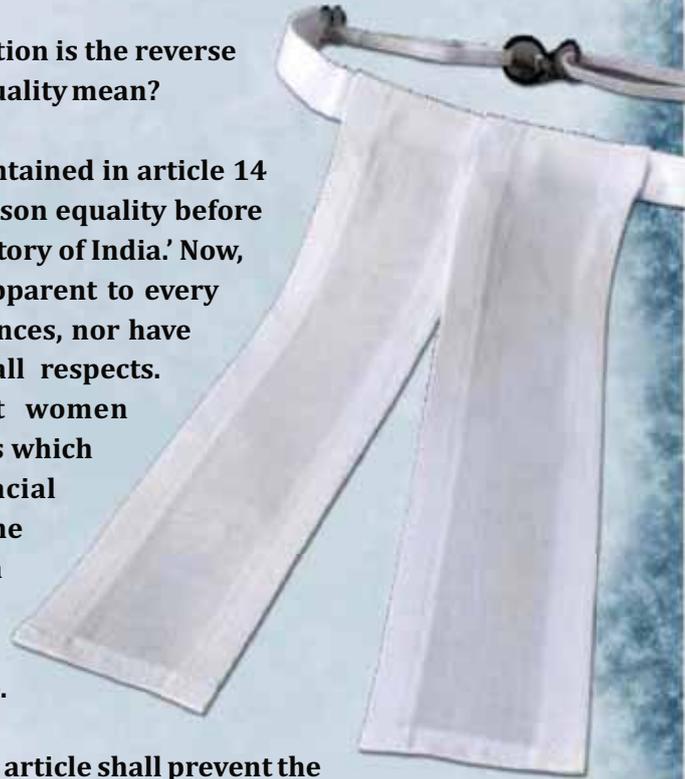
*by Ms. Indira Jaising, Additional Solicitor General of India*

To address the topic, we must understand that discrimination is the reverse of equality and that brings us to the question—what does equality mean?

Students of law know that the guarantee of equality is contained in article 14 which lays down that, 'The State shall not deny to any person equality before the law or the equal protection of the laws within the territory of India.' Now, this appears to be crystal clear. However, it should be apparent to every person that we are not all equal by birth or in circumstances, nor have women historically been treated as equal to men in all respects. Laws which themselves have discriminated against women historically have had to be removed, but we still have laws which do discriminate against women. Apart from the facial discrimination and the formal discrimination, there is the issue of substantive discrimination. Discrimination therefore has to be looked at from the point of view of the impact of the law or policies, to see whether a law which looks equal in all respects, actually has an unequal outcome.

This brings us to article 15(3) which states, 'Nothing in this article shall prevent the State from making any special provision for women and children.' The significance of this article is that it recognises the historical subordination of women and makes affirmative action possible for women and children. It brings to us another vision of equality that is substantive and not just formal. It is now time to talk about women lawyers. Tested on the touchstone of substantive equality, there is just no doubt that women lawyers are discriminated against. In law schools not less than 50% of students are women, which means that they qualify; but do you see them in the legal profession in equally large numbers? No. This is the 'outcome' test.

There are disincentives, which discourage them from being part of the profession. Women in the profession do not get the same respect and status that men do. Add to that the existence of sexual harassment at the work place in a predominantly male workspace, which makes women want to drop out of the profession. Look at the number of women judges and public prosecutors and compare it to the statistics relating to men; the women are conspicuous by their absence. A critical mass of women is missing from the legal profession or the bench. This is a sure indicator of denial of equality and we need to look for the causes of this drop-out rate. I am aware that there are women in law firms in larger number than in the courts, but that only proves the point that they are discouraged from being in active courtroom practice.



Hence I conclude that the mandate of equality requires the active removal of barriers against entering the profession and the active encouragement of women in different ways, thus making it possible for them to enter the profession. There is also a need to improve the working conditions of juniors at the law and their standards of payment; perhaps introduce a minimum payment. Given that the majority of senior lawyers are men, it must be ensured that they are sensitised to issues of sexual harassment and any demands for undue favours must be dealt with as misconduct. Such favours manifest themselves in subtle ways, such as late night conferences with women lawyers as part of the call of duty, later turning out to be a guise for unlawful demands. Many a young woman lawyer has told me that she has gotten the impression that she was only hired as part of a public relations exercise to impress clients and not in order to enlist their professional services. For my part, I do my bit by having only women juniors, to ensure that they get an equal opportunity to work in an otherwise male-dominated profession.

These are the issues you must address and resist as you step out into the world to become great women lawyers. ■



## Legal Profession for Women in India

*by Ms. Mona Bhide, Managing Partner, Dave and Girish and Co.*

It's an honour to be called upon to share my experience as a woman lawyer and I hope I will do full justice to this opportunity by sharing some of the information on how my career developed in this field over the years and I hope this information will be of help to budding lady lawyers.

Before I go on to narrate my experiences I must mention that if I survived in this profession it is solely because of the support of one woman who is the secret behind my success. She is my mother who toiled endlessly looking after my kids while I was at work.

The number of women in this profession has been rising day by day and most women who chose this profession seem satisfied with their choice. Every year my law firm chooses students for group discussions from several resumes on the basis of a cut-off percentage and out of the students that are shortlisted for group discussions on the basis of their marks, the ratio of girls always turns out to be higher than the boys. Also, the number of applicants has been constantly rising. I have observed that women lawyers are very dedicated and serious in their approach to work and are prepared to put in their best to achieve success in the profession.

Speaking of my own experience, while I did have challenges, I don't think any of them were because I was a woman. Most of the challenges that I faced in the initial years of my profession were what any young lawyer would face. It is possible that in the initial years when you are learning the law, you may earn a negligible salary, or even nothing. The secret to success is to keep up the hard work irrespective of whether you are achieving fame or money.

The challenge period as a women started when I got married and more so, three years after my marriage when I had my two sons at an interval of two and a half years. The period between 1987 and 1995 was the most challenging period for me, as during these years I was trying to cope between my duties at home as well as the demands of the profession, however this was also a very rewarding period. Growing babies need a lot of attention and care and this can only come by compromising on the time that you would otherwise have spent on your work. I was lucky to be able to buy a house very near my mother's house and I knew my babies were safe when I was at work. I would leave them at my mom's house every morning and take them back home in the night and despite many obstacles, I decided that I would not bring a halt to my career. During this phase I worked on some very interesting matters like sale of a bank as a going concern and working on India's largest arbitration, assisting leading senior counsel like Mr. Iqbal Chagla and Mr. K. K. Venugopal.

Ultimately my hard work at the law firm earned me a partnership at the firm in the year 1992. Though it was a family firm which I had joined in the year 1985 and even though I was the third generation in the family after my grandfather and father, I was made a partner only after having worked in the firm for seven years, i.e., in the year 1992. Young lawyers today are drawn towards higher salaries and change jobs for a few additional rupees. In the chase for money, often these lawyers lose out on continuity and client build-up which is possible if you remain in a single organisation. My advice to young lawyers is that they should chase knowledge and not chase money, because if you have knowledge money will definitely follow.

The legal profession demands long hours and I remember taking my kids home only for sleeping for a few hours and would have to rush them to school in the early mornings and then go to office after cooking food for the family. In an independent home, keeping all the things going as scheduled was a great achievement each day. However once the kids were grown up, the challenges reduced and I had time to take up an LLM Course in one of the world's top-most universities-Northwestern University School of Law-located in downtown Chicago. I then also chose to work in Chicago for a couple of years before I returned back to India. All this while my family was in India with the great support of Mom, Dad and my husband. In short, if you are a woman and have ambitions to grow in the legal industry as well as wish to have a family, support of family members would be of great help.

I returned from the United States in the year 2002 and the US experience brought an edge to my practice and expertise. We have diversified areas of practice in our law firm today that sets us apart from others. These practice areas include structured finance, project finance, derivatives and M&A.

Today I am the Managing Partner of Dave and Girish and Co. where there are several male lawyers working, but I have never experienced reluctance by any male lawyer because of the firm being headed by a women. I have never found any discrimination in the legal fraternity. People have always respected women and in fact I have found judges to be more courteous when speaking to women. I did not come across any discrimination either in the United States or in India for being a woman, either from my clients or from judges or any other people.

However, what I have noticed is that the Bombay High Court for some reason does not have many women counsel who get nominated as senior counsel. There are very few leading women counsel and this ratio needs to be set right.

So, young ladies in the legal profession, it's now time for you to take steps to conquer and take over the Courts with your passion and strength. ■



## For Women Contemplating the Legal Profession

*by Ms. Fereshte D. Sethna, Founder member of DUNMORR SETT and a founding partner of DMD, international law firms*

Shedding brazen ideological dogmas in the context of women entering the hallowed portals of the male bastion within the legal profession, has allowed, over the last three decades, for gradual evolution to a level where the continuing need for banishing gender inequalities, perceptibly constitutes a gaping incongruity.

Indeed, the justice system, carrying as it does, self-enshrined guarantees for delivery of constitutional safeguards across all bounds, ensuring equality, non-discrimination and protection of rights, renders per se such elements of bigotry as fundamentally irreconcilable at their fulcrum.

Challenges exist in every profession; however, women in law, with their repository of knowledge, coupled with a lawyer's inherent potential to endure, surmount and combat seismic situations, stand armed with an array of possibilities, since avenues, once armed with a legal degree, run aplenty, for all alike. The multitude of dimensions allows for electing from a slew of alternatives, including practicing as a litigator, to handling non-contentious transaction work, to acting as in-house counsel, or appointment as advisor to an NGO, or finding a fit within the ambit of legal process outsourcing, and the like. This series of choices available across the board, invariably enhances endeavours involved in grappling to achieve a perfect balance, albeit meanders along a pathway strewn with myriad diversions, notwithstanding which, women in law are increasingly effective contributories within the legal system; each in her own self-deserved right.

Amidst the glorious victories and shattering defeats that lie at the heart of the profession, lies the quintessential reality that eventually women and men are equals and approaching a professional pursuit in the law, boldly asserting such an ingrained belief, is bound to serve to nullify any din that may prevail to the contrary.

Barriers of our own creation are capable of swift disintegration, irrespective of the levels of cooperation at hand. The practice of law contains no exception to the cardinal requirement of eliminating the line that may previously have existed between women and men within the legal profession, with a view to foster a balanced society.

With the international world having recognised the invaluable contribution of women in all walks of society, it is only a matter of time before misconceived notions are substantially obliterated locally, thus paving the road for the role and number of women in the legal profession in India standing significantly augmented. So stay the course, knowing that the proverbial glass ceiling is actually non-existent in the practice of law! ■

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## Mr. Pradeep Sancheti Senior Counsel

The following transpired during the course of hearing of an appeal involving a claim for damages before the Supreme Court of India, in an attempt to prove his client's innocence:

**Appellant's Counsel:** There is no loss even as per Respondent's own Books of Accounts.

**Respondent's Counsel:** What happens if a property was purchased for Rs. 1 lakh, now valued at Rs. 3 lakhs, and is sold for Rs. 2 lakhs?

**Judge (intervenes):** There is a loss of Rs.1 lakh.

**Respondent's Counsel (continues):** Though Respondent's Books of Accounts show a profit of Rs. 1 lakh.

*The following anecdote was contributed to méLAWnge by a practicing counsel of the Bombay High Court who wishes to remain anonymous*

Once, a lawyer appearing for his client was not prepared before the single Judge and as expected, could not argue the case before the Judge in the best interests of his client. The result was that the judge passed an order which went against the client. However the advocate did not wish to make an impression on the client that he had fared badly and at the same time had his eye on earning more fees from the client on the pretext of preferring an appeal and so phrased the outcome as follows: "The single judge has said that your matter is so complicated that it is not possible for one judge to decide it, hence it has to be heard by two judges!"

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# Reviving old dreams

by Nithya Narayanan, Batch of 2011



Right from when she was out of the womb,  
She sought a life of which she could plume;  
Curious eyes peering, looking for more,  
Quite oblivious to the reality outdoors.

Sand castles she built in her days of yore,  
Read thousands of volumes of occult lore;  
Her dreams she had—set in place,  
Worried, she was not, of the rat race.

Sadly her fate refused to match her strides,  
Had different plans from what she thought right;  
Richness, wealth and luxury is what it designed,  
But it was nothing close to what her Dream Book defined.

Soon she rejoiced that was offered by destiny,  
A job, a life, that most would envy;  
She could buy her heart's desire,  
Bejewel herself for the world to admire.

Until a friend knocked into her some sense,  
Inveigled her to introspect life through a new lens;  
To open herself to new opportunities, new trysts,  
Review and reconsider her life's checklist.

Somewhere she had lost track of herself,  
Forgot what she penned in the Dream Book that lay inert on the shelf;  
Now was the time to pursue dreams that went astray,  
Letting go of drilled notions is never too late.

Knowing what one wants is not arrant,  
It is something that must not daunt;  
For dreams are nothing but a mélange of hues,  
Reviving and realising them is now what is due.



# INTERVIEW WITH MEMBER OF PARLIAMENT MANI SHANKAR AIYAR

*In a no holds barred interview with the Magazine Committee, Rajya Sabha MP and Congress Party veteran Mani Shankar Aiyar shares his views on a variety of topics, such as the future of the Congress Party, the politics of Arvind Kejriwal, India's relations with Pakistan, his communist tendencies and life at Cambridge and Trinity Hall.*

**Magazine Committee:** You were a member of the Indian Foreign Service (IFS) for 26 years, during which time you undertook various missions, some of which were in military regimes and dictatorships, such as Ho Chi Minh, Saddam Hussein and Zia-ul-Haq. Can you recount some of your experiences on these missions for us?

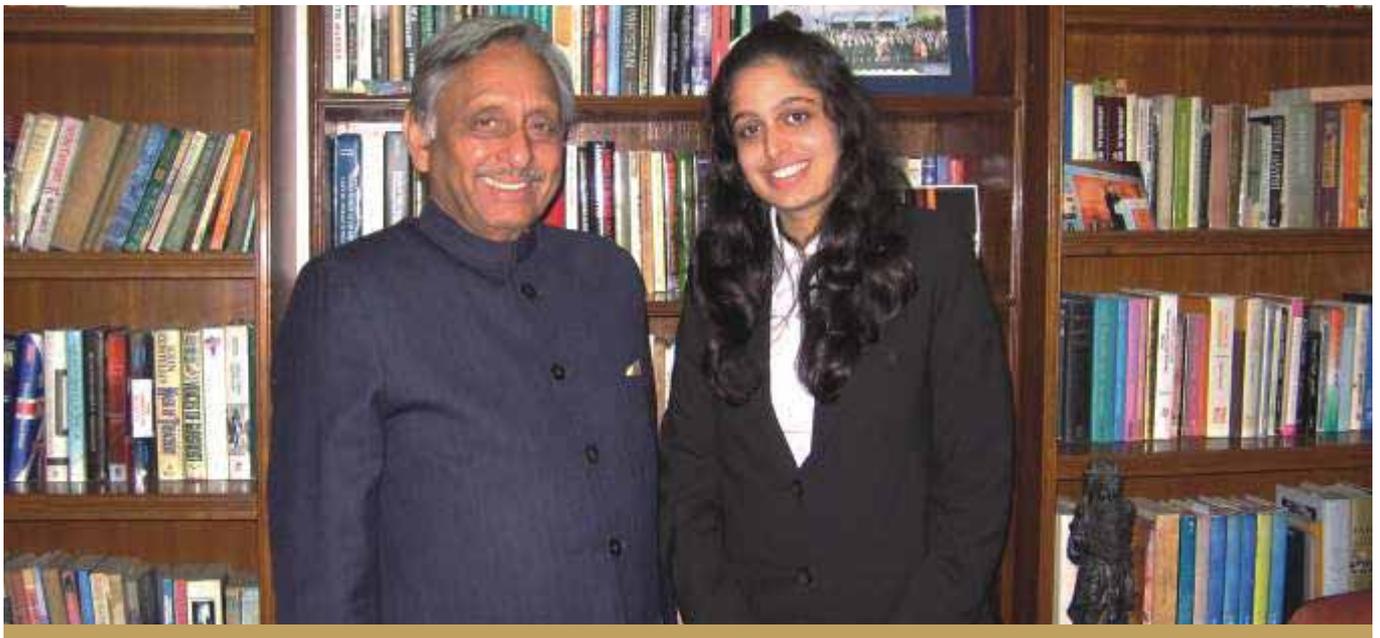
**Mani Shankar Aiyar:** I served one year in North Vietnam under the dictatorship of Ho Chi Minh, two years in Iraq under the dictatorship of Saddam Hussein and 3 years in Pakistan under the dictatorship of Zia-ul-Haq. It has made me a convinced democrat for life.

**Magazine Committee:** As a former member of the IFS, you served as India's first ever Consul General in Pakistan. What are your views on the most recent cause for the derailment of the peace process between the countries—the fracas over the beheading of Indian soldiers by their Pakistani counterparts? As someone who has had the opportunity to observe Pakistan, its politics and its relationship with India rather closely for a number of years, what is your take on the entire incident?

**Mani Shankar Aiyar:** I believe very strongly that dialogue between India and Pakistan is essential if we are to find solutions to our problems. There are those who believe that there are no solutions to the India-Pakistan relationship and that therefore we must assume Pakistani hostility as the bottom line in our relationship with that country. However, having lived in Pakistan for three years and having visited Pakistan thirty times in the last thirty years, I've ended up having more friends in Pakistan than I have enemies in India and that's a very large figure. I believe as someone

“ [H]aving lived in Pakistan for three years and having visited Pakistan thirty times in the last thirty years, I've ended up having more friends in Pakistan than I have enemies in India and that's a very large figure.”

who has been very closely observing Pakistan for about half of the last 65 years, that there is a massive mindset change taking place in Pakistan, which is not reflected in the mindset of India. This is because Pakistan is largely irrelevant to a very large number of Indians, whereas in Pakistan, the India question looms large over their entire thinking.



A second major reason is that where there is simply no doubt that Pakistan is the fount of world terror, there's equally no doubt that Pakistan is the single biggest victim of the terrorism that it promoted. Today an Indian Muslim can tell his wife to keep the biryani ready while he goes to the mosque to pray on a Friday. No Muslim Pakistani, whether he's a Shia or a Sunni or belongs to one of the other groupings, can say with confidence that he is going to come back for lunch. At the same time, there are such dangerous consequences

**“ Today an Indian Muslim can tell his wife to keep the biryani ready while he goes to the mosque to pray on a Friday. No Muslim Pakistani, whether he's a Shia or a Sunni or belongs to one of the other groupings, can say with confidence that he is going to come back for lunch.”**

of terrorism that even the establishment has been seriously adversely affected. In these circumstances the single biggest enemy of the Pakistani establishment is the Frankenstein's monster that they themselves have created. And this affects their minds and they would like to fight this terrorism, but it is very difficult for them to fight this terrorism if part of the terrorist network is directed against India.

A third thing is that the Pakistanis have discovered—they discovered it quite some time ago but the lesson is beginning to dawn on them—that the Pakistani army has conquered the only country it's capable of conquering, which is Pakistan. Unfortunately I think it's also true that our dialogue with Pakistan is a stop-go process. Rather, perhaps I should compare it to a snakes and ladders game, where every time we climb the ladder, somewhere along the way there's a snake which swallows us and we go back to the point from where we had started. Whereas if we had an uninterrupted and uninterruptible dialogue—a process that has been accepted by Hina Rabbani Khar but has not been accepted by the Indian side—then by insulating the dialogue from the inevitable ups and downs of our relationship, we will be able to perhaps arrive at a solution.

Much more to the point, there is a salience in many Indian minds between Pakistanis and Indian Muslims and the Indian Muslim does not feel secure and possibly cannot feel secure until the relationship between India and Pakistan becomes non-confrontational. Given that the Muslims of India constitute one of the largest Muslim communities in

the world, to the point where it is as inconceivable to think of India without Muslims as it is to think of the Islamic community in the world without India, secularism really does become the bonding adhesive of our nationhood.

**Magazine Committee:** You are known for an ideology which is strongly left of centre. Even while at Cambridge you were part of the Marxist Society. What is it that influenced you towards this ideology? Do you think that is part of the reason you believe yourself to be perceived as 'a dinosaur from Jurassic park' in the party today?

**Mani Shankar Aiyar:** Well, I still think that I remain strongly left of center. And I don't see how a thinking Indian cannot be left of center. For the reason that if you have an economy as we have today, where the GDP is growing at over 8% per annum and the poverty alleviation rate is under 0.8% per annum, then one really wonders what kind of equity there is in our society and for that equity to come into our society, we cannot take pleasure, as the Government of India appears to do, in the fact that whereas the poverty alleviation rate was 0.8% in the previous eleven years, in recent times it has grown to 1.2%.

Therefore, there is a huge discontent among the poorest people. Usually the poorest people are so caught up in the system that they dare not express themselves. But it is in the forest of Dandakaranya that the greatest revolt against our State is taking place. In the northeast we've still got insurgency going. And in urban India, among those who constitute what our hopeful Indians call the aspirational society, their aspirations are being so seriously thwarted that at the least excuse, they come out onto the streets. So if there is so much discontent in society, then it would appear to me that within this present growth model, India is certainly prospering, but Indians are not. In a highly democratised society, where everybody has discovered that in our polity, everyone has one vote and no one has more than one vote, and that you have an economic system where a few people have huge numbers of notes and many people don't even have a single note, you are creating a dilemma of democracy and development which we

**“ [T]he Pakistanis have discovered—they discovered it quite some time ago but the lesson is beginning to dawn on them—that the Pakistani army has conquered the only country it's capable of conquering, which is Pakistan.”**



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must resolve with an economic model which certainly privileges growth; but not at the expense of redistributive justice.

**Magazine Committee:** In the circumstances, what is your opinion on the Government’s recent decision to introduce 51% Foreign Direct Investment (FDI) in multi-brand retail?

**Mani Shankar Aiyar:** I’m afraid 51% FDI in multi-brand retail is a fact on the ground. And there is no point in arguing whether it should or should not have happened. It has happened. What we have to see is whether any FDI will come in under such circumstances into multi-brand retail. If it does, will it actually benefit any consumer other than the upper class consumer? If

the multi brand centers are going to be built on the edges of the town, and to get the really big discounts you have to buy large quantities which you then have to bring home in a car, is it really not going to adversely affect retail trade? I think all these are questions to be answered in the future, not today and I don’t want to guess what the answer is, because given the fait accompli, I would like to see what actually rolls out on the ground.

**Magazine Committee:** You have always strongly extolled the virtues and benefits of Panchayati Raj in India. Do you believe that in 21st century India, this form of governance assumes relevance anymore, especially in the light of rampant corruption and goonda-ism in the rural areas?

**Mani Shankar Aiyar:** I do not believe that India can attain inclusive growth without inclusive governance. And that was the perception behind Panchayati Raj in Mahatma Gandhi’s mind, in Jawaharlal Nehru’s mind after the Balwant Rai Mehta Committee or study group Report came out in 1957 and it is what animated much of Rajiv Gandhi’s domestic

policy. I am afraid while it was accepted that this was important at the start of the UPA, the political will to push the agenda has greatly gone down. But I am still hopeful. We have created nearly three hundred thousand institutions of local self government to which we have elected 32 lakh representatives of whom 12 lakh are women. And of these 12 lakh, 86,000 are women presidents or vice-presidents. And within the quotas for the Scheduled Castes (SCs) and the Scheduled Tribes (STs), we have brought up much more than 33% ST women and 33% SC women. Therefore these institutions and their political strength cannot now be ignored. The question is instead of fighting these forces that we ourselves have created, can we co-opt them? And if we do co-opt them then through effective devolution, which is a highly

**“ What we have to see is whether any FDI will come in under such circumstances into multi-brand retail. If it does, will it actually benefit any consumer other than the upper class consumer? If the multi brand centers are going to be built on the edges of the town, and to get the really big discounts you have to buy large quantities which you then have to bring home in a car, is it really not going to adversely affect retail trade?”**

technical process which I cannot overburden your readers with, will we be able to co-opt the poor of India who in India are the voters? In the west, the poor don’t go to vote, the rich do. In

India the poor go to vote and the rich don’t. So even if your economic policies please the rich, are you sure the girl with a Louis Vuitton bag is ever going to stand in a queue in the sun in order to vote? My answer is, probably not. And therefore if we have Panchayati Raj we will save democracy. We will also save development. If we don’t have effective Panchayati Raj, both are in serious danger.

**“ In the west, the poor don’t go to vote, the rich do. In India the poor go to vote and the rich don’t. So even if your economic policies please the rich, are you sure the girl with a Louis Vuitton bag is ever going to stand in a queue in the sun in order to vote? My answer is, probably not.”**

**Magazine Committee:** Time and again we see Parliament coming to a complete stand still and turning into a virtual circus instead of serving the purpose our forefathers envisaged it would serve when they created our parliamentary democracy. How

would you comment on the current state of parliamentary affairs in the country?

**Mani Shankar Aiyar:** I am afraid Parliament is the single most dysfunctional institution in our democracy. You have called it a virtual circus, but I think that it's not a virtual circus, it really is a circus, because again and again Parliament is being used as a

Vice-President of the party. Where do you see the Congress party headed in the run-up to the 2014 elections and beyond?

**Mani Shankar Aiyar:** I think it's very difficult to say where the Congress Party is headed in the run up to the 2014 elections. But I can say that until the Jaipur session, I could have answered your question by

**“I am afraid Parliament is the single most dysfunctional institution in our democracy. You have called it a virtual circus, but I think that it's not a virtual circus, it really is a circus, because again and again Parliament is being used as a forum for demonstration, not for debate and disruption is regarded by the opposition parties as their single greatest political achievement.”**

forum for demonstration, not for debate and disruption is regarded by the opposition parties as their single greatest political achievement. And it is, I think, largely because Parliament has got so discredited that educated young people of your generation are coming out onto the streets. I remember my first visit to Parliament as an eighteen year old boy. It was over the Congress Government of Jawaharlal Nehru having dismissed the Communist Government of Kerala and I sat in the galleries and watched Comrade S. A. Dange demolishing Jawaharlal Nehru and at the end of his speech he said, 'Till now your chariot like Yudhishtira's, was riding above the ground, but because you told a white lie in dismissing our government in Kerala, the wheels of your chariot have fallen like Yudhishtira's down to the ground.' And everyone listened! Then in a totally reasoned manner, Pandit Jawaharlal Nehru stood up and he answered the charges made by Comrade Dange. Although my memory is that Dange won that debate by a mile and a half, it did not stop me from being an avid admirer of Nehru's, which I remain till today. Now tell me, what do these boys and girls think, who come into our parliamentary galleries today and see the kind of behaviour which their elected representatives are indulging in downstairs? So we can neither stop corruption, without bringing governance closer to the governed, nor can we stop the erosion of faith in our democracy, until we at least get effective Panchayati Raj, so that it compensates for ineffective parliamentary democracy.

**Magazine Committee:** You have always valiantly defended the Congress party against its detractors who criticise it for what they call 'dynastic politics.' You also compared Rahul Gandhi to Obama after witnessing his acceptance speech on being appointed

saying that it was headed down-down into an abyss, plunging into the bottom of the valley. Now with the kind of reaction that the Congress party had to Rahul being appointed the Vice-President and then his acceptance speech, I think the downward momentum has been arrested. Will it be reversed? Will we go back to where we were? Will we climb the plateau once again? It's too early to say because you are asking me this question not even one week after Rahul's acceptance speech. We will have to see what happens.

**“I think it's very difficult to say where the Congress Party is headed in the run up to the 2014 elections. But I can say that until the Jaipur session, I could have answered your question by saying that it was headed down-down into an abyss, plunging into the bottom of the valley. Now with the kind of reaction that the Congress party had to Rahul being appointed the Vice-President and then his acceptance speech, I think the downward momentum has been arrested.”**

**Magazine Committee:** You are the first South Asian in over 50 years to be elected Honorary Fellow at Trinity Hall in recognition of your contribution to the diplomatic and political life of the world's greatest democracy. What role did Trinity Hall and Cambridge play in shaping your life and career? How did it feel to return to your alma mater after 47 years?

**Mani Shankar Aiyar:** Cambridge was a defining experience in my life, for two reasons. The first reason is that I had always had a relatively low level of self esteem, which is a strange thing for me to say today, but at school, I was never quite sure where I stood in the scheme of things. My academic performance was very nominal and my sports performance was rubbish and the one little place where I did slightly distinguish myself, was in English essays and in the debating society. So I went into St. Stephens, not very sure of



where I was headed, and it so happened that completely against the expectations of everybody including myself, I not only stood first in the College, I stood first in the University, twenty marks ahead of the number two. The teachers were so shocked, that Mr. N. C. Ray, my head of department, refused to congratulate me, saying, "You didn't deserve it, it was Arun Shourie who should have got it." My Indian economics teacher was Dr. Ghosh, who said, "Tumhe kaise first mila? Tum to kabhi class mein nahi aate the, ladkiyo ke peeche bhaagte the coffee house mein." (How did you come first? You never attended the classes and would chase girls in the coffee house.) That, of course, boosted my own self esteem.

“My Indian economics teacher was Dr. Ghosh, who said, “*Tumhe kaise first mila? Tum to kabhi class mein nahi aate the, ladkiyo ke peeche bhaagte the coffee house mein.*”

When I arrived at Cambridge, my focus was entirely on the Cambridge Union and I said, 'I'm going to go there and I'm going to try my luck in two years where almost everybody else has four years and several have almost five or six years.' I was told I couldn't get anywhere unless I became a member of the Pitt Club, and to become a member of the Pitt Club, you have to put out ten pounds and every meal cost ten pounds. I was living absolutely on the edge. My main memory of my student days is being terribly cold and terribly hungry. But I was on top of the world, because against what everybody else told me, I started my rise in the Cambridge Union and reached a very high level. I reached the level where I was defeated by only twelve votes in the election to the presidency, where I was two years and the other man I was contesting against, had been 4 years in the Union. That particular group—my peer group—whose photograph is lying somewhere here, was the group that eventually became the only generation in the history of Westminster, to make Cambridge beat Oxford. So I won my spurs in a very

“I actually found a girlfriend when I was at Cambridge, and you don't know how important a girlfriend is ... to your social standing and your own estimation of yourself.”

competitive environment and my self esteem also went up. Secondly, I actually found a girlfriend when I was at Cambridge, and you don't know how important a girlfriend is, not to one's sexual desires—that's very marginal—but to your social standing and your own estimation of yourself. So Trinity Hall and Cambridge played an absolutely critical role in telling me who I

was. Maybe that was an illusion, but I came out of Cambridge saying, 'Right! I can take on this world!'

How did I feel after returning to my alma mater after 47 years? I'd been there so often, that going again was not really a new experience. But I did sit at the High Table and I'd always been told that the High Table is where you get decent food. This is rubbish! I've now eaten at the High Table three times and I'd much rather go to an Indian restaurant around the corner. The wine which they keep boasting about, tasted to me like plonk. So I'm not sure that there are any particular benefits to being an Honorary Fellow, except the pride, as you kindly said at the start of your question, of being the first South Asian in half a century, to be elected to this position. Perhaps one of the reasons is, that not many South Asians, aspire to be elected to this position.

**Magazine Committee:** You have never minced words when expressing your views on people like Arvind Kejriwal and Anna Hazare and their ideals and methods. Do you concede, however, that they were

“I think they were successful in awakening a sleeping nation for fifteen minutes and then that nation has gone back to sleep. I just don't believe that the politics of Arvind Kejriwal and Anna Hazare can succeed because they are trying to succeed in the political sphere, without being politicians.”

successful in awakening a sleeping nation and galvanising its people into action against the perennial plague of corruption?

**Mani Shankar Aiyar:** I think they were successful in awakening a sleeping nation for fifteen minutes and then that nation has gone back to sleep. I just don't believe that the politics of Arvind Kejriwal and Anna Hazare can succeed, because they are trying to succeed in the political sphere, without being politicians.

**Magazine Committee:** Where do you see a party like the Aam Aadmi Party in the next year or more, and more specifically, what role do you see them playing in the 2014 election?

**Mani Shankar Aiyar:** I think the Aam Aadmi Party is going to flop next year and I don't think it will have a major impact on the elections. I don't know whether they will have the stamina to hold on to the course till about 2034, when if they do hold the course, they might get to where they wish to.

“ I think the Aam Aadmi Party is going to flop next year and I don’t think it will have a major impact on the elections. I don’t know whether they will have the stamina to hold on to the course till about 2034, when if they do hold the course, they might get to where they wish to.”

**Magazine Committee:** What message would you like to convey to the students reading this interview, who are on the cusp of beginning their journeys in the professional world, hoping to make a difference in public life just as you have?

**Mani Shankar Aiyar:** I would say that on the cusp of beginning their journey into the professional world, they should go into this professional world, but continue taking a deep interest in politics. I hope they make a lot of money between the ages of 20 and 40, so that they can get out of their professional lives—at least some of them—and go into politics. If they’ve got good financial backing, they won’t make, a commerce of politics. The disease of Indian politics is that too many successful politicians don’t have anything to fall back on, except their political careers, for ordinary livelihood, leaving them worrying whether they can afford a second egg at breakfast. If we can increase the number of people who are able to look upon politics as a public service rather than a means of livelihood, then I think we could clean up our politics in a major way. The last way of cleaning up our politics is to sit at a

“ The disease of Indian politics is that too many successful politicians don’t have anything to fall back on, except their political careers, for ordinary livelihood, leaving them worrying whether they can afford a second egg at breakfast.”

dhaba, put your right leg over your left, and say, “Yeh saala pradhān mantri kuch nahi jaanta, yeh desh chalaane ka” (This Prime Minister knows nothing about running the country). This armchair politics, which is the politics of our middle class, who are the biggest beneficiaries of our democracy, is damaging for the country. If you want to be in politics, you have to plunge into politics, and if good people don’t go into politics, well somebody has to and therefore the flotsam and the jetsam rise to the top of a stagnant pool.

So I’d say to your students, please come into politics, but not today, later. Those of

you who don’t want to come into politics—you’re not obliged to—can take an intelligent interest in politics and contribute through civil society to policy-making and then towards electoral outcomes. But if you say, “It’s too hot for me to go and vote”, “It’s too early for me to go and vote”, “It’s too late for me to go and vote”, “How can I go and stand with all these stinky guys in a queue?”, then I’m afraid you’re doing a deep disservice to yourselves as a class and to democracy and development in our country. ■

*With Best Compliments From*

**Rajesh Vaidya**

*In the following section, we dust the cobwebs and look back into our archives to republish articles written by legal stalwarts of today, who were aspiring law students of Government Law College back then.*

*H. M. Seervai's is a name that is synonymous with the history of constitutional law in India. His three volume work on the Constitution has almost single-handedly contributed to constitutional jurisprudence and is known to have played a great role in the judgment of Kesavananda Bharati v. State of Kerala. A doyen of the legal profession in India, he embodied all the qualities of a great lawyer, but above that, a great human being—honesty, integrity, a keen intellect. He turned down several offers of judgeship and even the post of Attorney General of India, citing as the reason for his refusal, his desire to contribute to the law in the form of his commentary on the Constitution. Having obtained his legal education from Government Law College, Mr. Seervai is indeed one of GLC's most inspiring alumni and a stalwart of the legal profession in India.*

*This article was written by him for The Elphinstonian as a young advocate and was re-published in the Government Law College Magazine of 1997-98. It gives us a glimpse into a day in his life as a struggling young advocate and reinforces the legal fraternity's image of him as a bibliophile, a scholar and a man of great learning.*



## On Nothing

by Homi M. Seervai



The courts had just broken up for the day as I sat in the Bar Library gazing dreamily on a fat, dirty volume of Mayne's Hindu Law. I was vaguely conscious of the busy gossip of legal luminaries, but today it had no charm for me. I continued to gaze at the volume before me, for in it was locked up a whole dreary month devoted to analysing and tabulating facts and fictions which belong to a world now buried and forgotten. And yet must we toil over it, and resist the allurements of genuine books which belong not to any time or age! And that, too, in the name of study! . . . How different will it be tonight! Yes, for tonight I shall read books—real books .... May the dust lie thick on Mayne!

I replaced Mayne on its dusty shelf, got a sympathetic nod from a 'senior' standing near by, returned a knowing smile, and walked out with a quick step and a light heart. As I went along I tried to think of the one great book I would prefer to any other. 'An impossible thing to decide off-hand', the reader will say, and so I found it to be. Don Quixote and Gulliver, Plutarch and Boswell, Tacitus and Gibbon, and a host of rival claimants overpowered me with a sense of my own impotence. And so it was that with a most confused mind I dropped into my favourite seat in the Opera House tram-car, a picture of misery fit to excite the laughter of the Lucretian gods. I can't say how long I had been vexing myself with this increasingly complicated problem when my attention was drawn to a violent disputation between the two passengers in front of me. Both of them were dressed in khaddar and spoke a language which was a quaint but happy mixture of English and Gujarati. They were discussing, so I gathered, the nature of free political institutions; and as 'freedom' to each meant freedom for his ideas and way of life, it was not surprising to hear the dire threats which each hurled at his opponent 'if only the government of the country were to be entrusted to him'. But this future exercise of possible power did not long satisfy either side, and each loudly proclaimed his instant readiness to box the other if he persisted in expressing his 'dangerous, reactionary, and unpatriotic views' (A dozen adjectives, spoken in racy Gujarati, are omitted as likely to offend sensitive ears). I had promised myself a really serious boxing match when more conscientious and law-abiding citizens intervened, for, said they, they were bound to preserve the peace of His Majesty. Their voluble arguments did not convince the two disputants who, nevertheless, agreed to keep His Majesty's peace, with suppressed references to a nice quiet spot at Chowpaty.

During the next few minutes I heard old men wondering what young men were coming to; and some practical young men, wondering what 'highbrow, educated men' were coming to; and almost everybody wondering what everyone else was coming to. But this wonder subsided as quickly as it was roused, and I was once more free to puzzle myself with the best book in literature.



I have got it, at last! Not absolutely the best, perhaps, but the best one for me tonight. My fellow-passengers made the choice inevitable. The poverty of their talk precipitated a long felt conviction that we had lost the art of good conversation, and this naturally made me turn to the great talkers of the past. But where can I get better talk than that which the genius of Boswell has made immortal? So, tonight, I shall sit at the Club and hear Johnson laying down the law. I shall love to see him worsted in an argument for then will he emerge the supreme dialectician that he was. 'There is no use arguing with Johnson; for when his pistol misses fire, he knocks you down with the butt-end of it'. Burke will be there, and will call forth all the powers of the Sage. And there I'll see the wistful face of Oliver Goldsmith whose attempts at fine conversation the Doctor will tenderly protect from everybody but himself. Of course Boswell will be there, acting the Socratic midwife to the rich, full mind of Johnson, and gathering those subtle observations which will delight untold generations. ... I have resolved to touch nothing but Boswell tonight.

A word from the tram-conductor told me that I would be carried back to the Flora Fountain if I continued my reverie. So I hastily got down, hurried along to my house, ran up to my room, changed, and had all but taken down a well worn copy of Boswell, when a monogram letter, lying about on the book-case, caught my eye. Now as monogram letters are rare with me, I scanned this one eagerly, tore it open, and found—

An invitation from the editor of the Magazine to write an article for his New Year Annual. Here it is :

'For the last fifty years, writers of distinction from almost all parts of the world have contributed to its columns.'

'May I request you on the present occasion to be good enough to contribute to its columns on any subject of human interest.'

Now I can't say that I was insensible to the double compliment of being fit enough to join the company of 'writers of distinction' and being ripe enough to write on 'any subject of human interest'.

But what with Boswell at my elbow and a disinclination to work—a month of Hindu Law will convert the most hardened sinner to the gospel of laziness—I dismissed the idea of accepting the invitation. I told myself that the company of ‘writers of distinction’ was too exalted for a person who had won no such thing, and that the attempt to bend so mighty a bow must end in dismal failure. I took up my Boswell, but could not let go the editor’s letter. Something within me cried out that my conduct would justify those grumpy, disillusioned old men who periodically tell an attentive world that modern youth has lost the spirit of enterprise and is suffering from a most acute ‘inferiority complex’. Besides, if the editor thought fit to place me alongside ‘writers of distinction’ he surely knew what he was about. Perhaps some hints of my budding genius had reached his ears and, with characteristic enterprise, he meant to secure so promising a contributor before his head was turned by success! Yes, I must reluctantly give up Boswell for a time and justify the editor’s estimate of me.

But what should I write on? A writer cannot be too careful choosing the subject of his first article especially if he means to awake one morning and find himself famous. Think of the pleasure it would give a malignant critic to point out that the first attempt of ‘so delightful an essayist as Mr.—, would do little credit to a boy in the fifth form.’

So I tried hard to find a subject my treatment of which would make the reader say ‘Ah! this is what I call a great article. Clearly this young man is the writer for me’. I held my pen in readiness for transcribing the inspiring thoughts which seemed to stir my very being. But the subject would not come. After half an hour’s illegible scribbling, varied by geometrical designs, a great light dawned on me. I saw at once that my fellow-passengers in the tram-car had again rendered me a signal service. They had talked of free political institutions; it was for me, now, to write about them. Here I can say the apt word which will be taken up in those numberless homes where now it is but silently felt. And here will I unfold a tale such as was never told, for it is the tale of man’s endeavour on earth.



I was gathering the thread of a thousand imposing associations which came crowding upon me when I realized that this subject would never do. For if I but uttered the word of wisdom quite a number of politicians would find their occupation gone. They would discover in their followers a sudden development of the historic sense which is fatal to shallow enthusiasms. Even the magic word liberty will avail them nothing with men who have learnt the outstanding lesson of History that freedom and order have very seldom been reconciled, and that 'most of those who have the word liberty on their lips are despots at heart'. I see politician after politician go down before audiences to whom I had brought home 'the desolating sentence of Gibbon' that 'history is indeed little more than the register of the crimes, follies and misfortunes of mankind'. No, the editor would never expose himself to the fury of unemployed politicians. 'Beware the awful avalanche,' I hear him mutter to himself as he consigns my cogent discourse to the dust-heap of rejected articles.

After the first feelings of bitterness at this unexpected rebuff had passed, I smiled. Why, I said, if I can't fight the politician out of the field I can laugh him out. He, poor man, has never known what laughter is, and will be taken unawares by this insidious onset. For what a fine comedy can be made of the brawls of the big-endians and the little-endians! And what respect can they hope to command once they have been held up as mere puppets, actors in a comic drama who take themselves too seriously? Yes, their audiences will dissolve in laughter, and they will awake one day better and humbler men.

But as this great comedy developed I saw clearly that it would be a tragedy in the end. For if my first impulse was to laugh at the blind presumptions of men, my second was to weep over them. Self-centredness is the source both of comedy and tragedy, and often we laugh only to conceal our tears. And here I could not help musing on the familiar problem of man's destiny on earth: how he comes into it, and how little he can make of it, and how he leaves it for he knows not what. I recalled a famous passage which compares the life of man to a shadow, the shadow not of a tree or

a tower that standeth but of a bird in its flight. 'Away flieth, the bird, and there is neither bird nor shadow.' We may admit this to be a superb crystalization of our inmost feelings but serving only to deepen the mystery of things. For what is the meaning of this flight? The literature of power and the literature of thought bewilder us by their conflicting answers. Which one shall we accept and act upon? But these queries carry me dangerously near philosophy, that searching of the head and the heart which mankind at large professes to treat with contempt. Besides, even the thoughtful reader may complain that he is in no humour for a searching of the heart in this season of joy and good cheer. Be it so; but as I gave up this congenial inquiry, I lingered for a while over those terrible landscapes of Hardy in which man is seen to be but an insignificant phantasm flitting across the unchanging face of nature. And Hardy's central faith may be right, after all. The early cheerfulness of man's childhood is gone beyond recall; his face is seamed with ages of strife, and pain, and defeat; and he looks through eyes dimmed by suffering and sorrow. But he has a beauty of his own, a haunting beauty. And there I may leave him.

. . . It now strikes two in the night. All is quiet except for the merry play of rats in the adjoining lane. A mass of writing lies before me, but the article remains unwritten. In my attempts to please the reader I find that there is no subject that will please him. But perhaps he will like to see the tangible record of such strenuous endeavours after his delight and so this mass of writing may as well go to the editor.

The writing has gone and now I am at the Club with Boswell for my companion. ■

*(Reprinted from The Elphinstonian - 1934)*





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# Good Governance

by Gopal Machiraju, V-I

Public audit, a vital instrument to ensure the enforcement of public accountability and help the legislature implement the power of the purse, has undergone myriad changes in the last century. The system of government accounting and auditing and the organisational structure of the Indian Audit and Accounts Department (IAAD) as it exists in our country today, is broadly patterned on the British model.<sup>1</sup>

The Comptroller & Auditor General (CAG), acts as the head of the IAAD. It has been created to ensure that the nation's various institutions and authorities act in accordance with the Constitution with regard to all financial matters. The CAG directs, controls and monitors the activities of the various offices of the IAAD and is responsible for development of organisational objectives and policies, auditing standards and systems, and laying down policies for management and final approval of the Audit report.<sup>2</sup> It aims at linking good accounting practices with better economic results, both of which affect all sections of society.

Government accounting practices are frequently characterised by lack of transparency, inconsistency and incompleteness, leading to poor quality accounts and inefficient use of public resources.<sup>3</sup> CAG, through its independent auditors, plays a pivotal role in bringing about transparency, by unearthing discrepancies and making the people involved accountable under the law.

Hence the public accounting and auditing carried out by the CAG can be seen as an important exercise, which facilitates the removal of mismanagement from the public delivery system. In spite of there being instances where it has been accused of treacherous behavior, the CAG, with its powers and functions, is one of the most important functionaries under the Constitution of India.

Recently, various CAG reports have played an important role in ongoing debates on bad governance and corruption in the country. The CAG's reports on 2G spectrum allocation and coal allocation among others, have lent much-needed substance, and quantitative basis to these debates.

The 2G Scam is an example of corruption at the highest levels. Times Magazine listed the 2G scam at number two on their *Top 10 Abuses of Power* list. India might be one of the fastest growing economies in the world, but it is plagued by corruption. The Scam involved politicians and government officials in India illegally undercharging mobile telephony companies for frequency allocation licenses, which they would then use to create 2G subscriptions for cell phones.<sup>4</sup> The Supreme Court declared allotment of spectrum to be 'unconstitutional and arbitrary' and quashed all the 122 licenses which had earlier been issued. According to the CAG, the shortfall between the money collected and the money which the law mandated to be collected is estimated to be 176,645 crores (US\$31.97 billion).<sup>5</sup>

The coal allocation scam or Coalgate, as it is referred to by the media, is a political scandal concerning the Indian Government's allocation of the nation's coal deposits to public sector entities and private companies. In a draft report issued in March 2012, the CAG office accused the Government of India of allocating coal blocks in an inefficient and unlawful manner during the period 2004-2009.<sup>6</sup> The draft report brought to light the estimated gain accruing to the beneficiaries of the coal block allotments—1,067,303 crores (US\$193.18 billion).

The CAG has, however, been on the receiving end of a considerable amount of flak, for the notional or presumptive loss declared by it in the two cases mentioned above. Several heavyweights in the government have tried to turn the presumptive loss on its head.

1. National Commission to review the working of the Constitution, 'Efficacy of Public Audit System in India: C & AG—Reforming the Institution'.

2. *Ibid.*

3. V.N. Kaul, 'Valedictory Address by Comptroller and Auditor General of India on the occasion of ICAI International Conference on "Role of Accountancy Profession in Anchoring Economic Growth"', 21 January 2006 available at [http://www.cag.gov.in/html/CAG\\_Valedictory\\_ICAI.pdf](http://www.cag.gov.in/html/CAG_Valedictory_ICAI.pdf).

4. 'What is the 2G spectrum scam?', 2012, [www.indiatoday.in](http://www.indiatoday.in), at <http://indiatoday.intoday.in/story/what-is-the-2g-scam-all-about/1/188832.html> (last visited 1 January 2013).

5. *Ibid.*

6. 'Top 10 scams of 2012', 2012, [www.dailybhaskar.com](http://www.dailybhaskar.com), at <http://daily.bhaskar.com/article/YE-top-ten-scams-of-2012-4120740-PHO.html> (last visited 1 January 2013).



Kamal Nath, the Minister for Urban Development, while underplaying the estimates of the CAG, stated, “[I]f I have a government car and don’t use it for one week, it is presumptive loss for the government ... that they paid for the car and never used it. Presumptive loss can start from here and go to any end. The question is what the right way of doing a thing is.”

According to Manish Tewari, the newly appointed Union Minister of State (independent charge) for Information and Broadcasting, “It has no constitutional mandate to make its own policy prescriptions and then utilise them to compute notional loss or gain.”<sup>7</sup>

The Supreme Court did not feel the need to comment on the CAG’s notional figures while quashing the 122 licenses.

Later, the findings of the CAG were disproved and the losses and gains were found to be exaggerated. Thus it is evident that the CAG too can make mistakes.

A CAG report, once prepared, is tabled in parliament, after which it is taken up by the Public Accounts Committee, which discusses it with the concerned ministry and then lays its own report on the same, before parliament. Instead of adhering to the above procedure, the Prime Minister directly made a statement on the floor of the House, regarding the findings in the CAG’s report.

Are the executive and the legislature authorised to ignore such reports? The above incidents seem to suggest so. There is frequent abuse of such power by the executive.

There were 23,956 issues dealt with by the CAG pending for consideration before the government, at the end of June 2011. Sources reveal that cases dating back to 1986 are yet to be studied by the government.

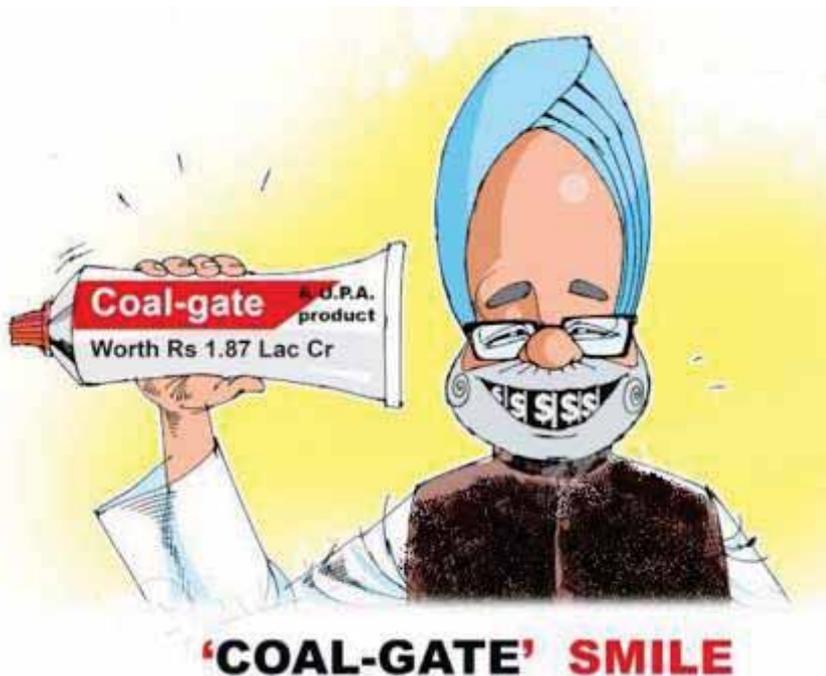
CAG plays a unique role in achieving the ideals of good governance. However has it been successful in fulfilling the objectives of such a unique role? Are the legal mechanisms relating to the CAG adequate to confront the challenges of good governance? The answer to such questions is a blatant ‘no’.

CAG is an independent auditing institution, getting its powers from the Constitution of India.

Its reports are merely advisory in nature. However this must not be so. Incidents such as the 2G spectrum Scam, Coalgate and others, question the credibility of the Government itself. Not considering the CAG’s reports judiciously, would be detrimental to society at large. If people in the Government question the functioning of the CAG, it creates an institutional crisis, thus causing confusion in the minds of the citizens.

Accountability, transparency and empowerment are essential pillars of good governance. It is the prerogative of the state to provide such basic necessities to its citizens. Article 38(1) of the Constitution of India directs the state to promote the welfare of its people. The welfare of people at large can only be achieved when there is transparency in public functioning and public money is utilised for the general good. CAG, through its accounting and auditing, facilitates such good governance. Its accounting practices bring out better economic results. Its audits uncover the discrepancies in the funds allotted and used and present these to the executive to be rectified, assuring public welfare.

Practically, it is very difficult for the CAG to obtain relevant records, as public sector corporations are very reluctant to share



7. Manish Tewari, ‘Why the CAG is Wrong’, 2012, www.indianexpress.com, at <http://www.indianexpress.com/news/why-the-cag-is-wrong/994038/0> (last visited 1 January 2013).

the same. The availability of information within a reasonable timeframe is very essential for timely intervention of CAG, in order to prevent malafide governance. In this context, the CAG's right to information is weaker than that of an ordinary citizen under the RTI Act.

While the Constitution has undergone more than a hundred amendments and several statutes have been completely overhauled, the law on accounting and auditing of public money has remained virtually stagnant for the last forty years or so.

There is an urgent need for clearly defining the mandate of the CAG, and its powers and limitations, in the light of issues like the 2G Scam

and Coalgate. The purpose of the CAG must not be defeated by a lack of clarity and precision in the laws dealing with it.



Although there have been instances where the CAG has been accused of being unethical, its success or failure in revealing errors in financial management, is of great significance from the viewpoint of good governance. It is time the CAG realises its responsibilities, contradicts the general impression of it being toothless and converts itself into a forceful auditing

institution, upholding the ideals of democracy and converting itself into an institution known for its integrity and honesty. ■

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## FIASCO ON THE PITCH BY AISHWARYA SINGH, V-II

The time has come when we are seeing our World Cup winners off the field, more often than on it. And when they're on the field, trust me, it's a piteous sight. As cricket-lovers, however, we continue to be glued to our television screens on match days, just like our team continues to give up fighting, time and again. Well, does it affect them? I don't think so. This way or that, they have their pockets full and what more does anyone in India want today?

The way our very own captain leads from the front, by blaming his defeat either on us (for having high expectations), or on the bowlers, batsmen, spinners or his favorite—the pitch—would be funny, if it wasn't so pathetic. He's even begun blaming his 'selfish' teammates now. He is almost conspicuous in his refusal to assume any responsibility himself. We'd probably win a few more games if he played cricket as well as he plays the blame game. Our leader also appears to have 'outraged the modesty' of the Chief Curator of Eden Gardens, who threatened to quit after he was asked to prepare a turning pitch for the forthcoming match, by Dhoni. One can't blame our upright captain, though. After all, it really is easier to fix the pitch than to improve one's game, isn't it?

Things just got better with the new coach taking over and training the team towards greater heights (correction: depths). In the face of the ongoing debate to appoint Ganguly as coach, I choose to reserve my judgement on Team India's future.

We mustn't forget to mention the man who just made his quiet exit (not quite the way a God should walk away from his worshippers) from one-day cricket. The little master, as he was fondly referred to (in days of yore), shall be sorely missed for his great cricket and of course, his centuries (or lack of them).

We cannot change much, but we do hope our cricketers spend a little more time on the field, rather than on shooting television ads and attending after-parties, so as to ensure that they are not left without any 'Sahara'. Cheers to our hopes!

# MAG

## 'UN'POLITICALLY SPEAKING BY HARSHEN MADAN, V-II

How much politicians do for us is a debatable topic. While there are several pessimists who hold the view that politicians do absolutely nothing, I, an eternal optimist and a person who always sees the glass as half full, beg to differ.

Now, before you get me wrong, I am not talking about zealous reforms, economic policies or even lofty goals set in the recurring five year plans, which conveniently and consistently get shifted to the next plan. I am talking of adding a smile to our faces, a joke to a conversation and a reason to laugh, in our otherwise monotonous lives.

Even politicians, every now and then, take a detour from the usual term of 'politically correct' and accord us a rare—or in the case of Indian Politics, not so rare—opportunity to crack up!

It wasn't too long ago that the then External Affairs minister, S. M. Krishna, so eloquently read out the speech of the Portuguese Foreign minister at the U.N. Well, one may excuse him for taking the concept of foreign trade far too seriously!

Talking of faux pas, Pakistan never leaves an opportunity to outdo India and so it was that Pakistani Foreign Minister, Hina Rabbani Khar, at a press conference addressed the audience as 'extinguished' instead of 'distinguished.' One can only gather that she does indeed consider herself, in accordance with popular belief, too hot to handle!

Then again, why talk of third world countries when even the 'divine' country of USA doesn't lag behind. Mr. President, Barack Obama, who is considered to be one with the words and endowed with the gift of the gab, seemed to make quite a blunder when he called Romney a 'bullshitter' (in the legal field, we prefer to call them 'worthy opponents', Mr. Prez, and it may have no relation to their worth or ability to stick to promises made during campaigns)!

Oh, and while we talk of Romney and bloopers, how can we forget his infamous trip to London, where in the midst of diplomatic talks and flowery speeches, he questioned their preparedness for the London Olympic Games. I'm sure he was looking to extend his friendship, but there happen to be many other ways to do that. I would stick with the conventional shaking-your-hand-and-zipping-your-mouth.

So you see, politics is not always boring and mundane, courtesy our politicians, to whom, by the way, I mean absolutely no offence. As they say, sticks and stones may break your bones but words will never hurt you!

## THE CLASH OF THE TITANS

BY APARNA BAGREE, V-IV

While on one hand you have Apple Inc., the company that takes out a newer, thinner, bigger, better version of its products in such quick succession (every week, maybe?) that you need to sell your house, car, body organs to afford them, on the other hand, there's Samsung, the typical Asian company, trying its best to 'innovate' and just ... sell products.

Not only is there a constant fight for market share (Apple users are just going to deny this and say that there's no competition), but Apple has gone all out and sued Samsung for patent and trade dress infringements in around nine countries. Amongst other things, patents that are claimed to have been infringed include the rounded rectangular design of the iPhone and iPad (what creativity, what genius; rounded corners; who would've thought?), the double tap to zoom in and the single finger scroll as opposed to the double finger use for other motions. Samsung countersued on other grounds (which are too insignificant to mention) and the stage—ahem, court—was set.

While countries like Great Britain, Germany and the Netherlands dismissed the claims or ruled that both companies copied each other, a US district court jury ruled in favour of Apple and awarded it 1.049 billion dollars as damages. The amount can be tripled by the judge (whistles). Fun fact—the presiding judge's Wikipedia page had to be locked because contributors kept editing the page and casting doubt on her impartiality. Ah, the wonders of free speech and expression. The credibility of the jury foreman was also questioned by Samsung and lovers of free innovation (read: ripping off), because he himself was a patent holder.

Not only is Samsung at the receiving end of Apple's ruthless litigation, but so is Google, for its Android operating system (the versions are named after desserts, the latest one being Jellybean; sweet!), which Samsung uses in its phones. Outside of the court, in the media, the latest Samsung ads take a jibe not only at Apple products, but at Apple users. So while these giants battle it out, appeal and try to overcome injunctions ... Windows phone anyone?

# REVIEW

## THE RIGHT TO SLEEP—A FUNDAMENTAL RIGHT

BY MALVIKA AMIN, III-II

The Supreme Court has ruled that unlawfully depriving a person of sleep is a violation of his or her fundamental rights. It came down hard against the Delhi police's midnight crackdown on yoga guru Baba Ramdev's supporters.

Personally, I can't think of why the right to sleep shouldn't be a fundamental right. As an avid sleeper and sleep enthusiast, there's nothing I look forward to more, than my soft feather pillows and squishy foam mattress, after a hard day's work. My personal bias aside, which of us doesn't wake up screaming for a cup of coffee if they haven't had enough sleep? I wouldn't want to live in a world with no sleep. With crazy, small-eyed, messy-haired, grumpy people stalking the streets every day, I'd rather take my chances in a dingy prison cell with an over-friendly cellmate named Olga.

Now, while you and I may understand and celebrate this newfound fundamental right of ours, many question the enforceability of such a provision. How is the legislature going to create provisions for this right? How is the administration going to enforce it?

I can already imagine the entire city of Mumbai completely blacked out at 10 pm, no fluorescent lights from the Saifee Hospital or the brightly lit Oberoi and people in their beds wondering whether they could sneak out without a permit for being awake. It's quite a bleak image, and although I may have exaggerated a little, how else is one to enforce this?

Many appreciate the right to sleep being a fundamental right as they can seek refuge in its warm, fluffy and incredibly comfortable arms. No longer will we have to cover our faces with a fort of books in class so we can catch a quick snooze, no longer will we have to pretend like we saw the entire documentary for our assignments, when we really only saw dragons and unicorns (in our dreams of course).

"To arouse a person suddenly brings about a feeling of shock and numbness. The pressure of a sudden awakening results in almost a void of sensation. Such an action, therefore, does affect the basic life of an individual," Justice Chauhan said. You can be sure that I will quote Justice Chauhan the next time my mother tries to wake me up early on a Sunday morning. But here I am, 8 a.m. on Sunday morning, doing my work. What the judges of the Supreme Court laid down, and what my mother lays down at home, are vastly different!



# Interview with journalist Barkha Dutt

*The face of broadcast journalism in India, Barkha Dutt opens up to the Magazine Committee about her experiences of on-the-ground reporting, the malaise of paid news, journalistic ethics, Twitter and media regulation.*

**Magazine Committee:** You are, in a sense, a pioneer of live, on-the-ground coverage and reportage in India. So far, in your career of 22 years, you have covered breaking news, terrorist attacks, a war, and civil unrest, *inter alia*. What is it that draws you towards live reporting, often in the most dangerous of circumstances?

**Barkha Dutt:** My heart has always been in the field—out there, where the story is actually unfolding. **Whenever possible, even today, I would abandon the sterile comfort of the studio for the tactile truths of being on the spot. In my opinion, the understanding that you get from being at the place of a conflagration—a riot, a war, militancy hot-spots—can never be obtained in the studio.** For instance, apart from the Kargil conflict, the militancy years in Kashmir, the fall of Saddam in Iraq and several trips to Pakistan, including to report on the killing and capture of Osama Bin Laden, last year I went to Egypt and Libya to report on the Arab uprisings and military conflict there. There is the challenge of a difficult situation that also keeps one alert and the adrenaline flowing!

**Magazine Committee:** You sprung to prominence in 1999 with your gritty coverage of the Kargil war from ground zero. How, if at all, did that experience change you as a person and as a journalist and what effect has it had on your subsequent career?

**Barkha Dutt:** There is no doubt that reporting from the frontline during the Kargil war in 1999 was the most groundbreaking and overwhelming experience of my life. For the first time, it gave me a real sense of both the valour and the vulnerability of young men who are sent into battle. My aim was to humanise their stories and go beyond the statistical narrative on the deaths of soldiers, to tell the stories of individuals and their families. This was literally the first near-death reporting experience of my life and it impacted me in ways that I am still coming to terms with. This was also a war that took place before mobile phones and satellite vans worked in Jammu and Kashmir. Getting tapes back to Delhi and getting the news from the battle front on air on TV, was almost as much of a challenge as anything else. **For two weeks, we ducked behind a rock or a tree as a substitute for a bathroom, slept in the car, took refuge in an underground bunker and often survived on biscuits and water. Initially, there was resistance to the idea of a woman reporting from the front. So while there, I was doubly conscious of not appearing**



soft or emotional in any way. The impact of what I had seen hit me months later. I will always remember that one of the first interviews I did with Vikram Batra, a young swashbuckling soldier, would also be the first obituary I would write. But he gave the country a national motto. 'Yeh dil maange more,' he told me, when I asked him about fear on the frontline.

**Magazine Committee:** The media is constantly accused of being 'sensationalist' and of being more concerned about gaining TRPs than about conveying the truth. Would you agree that today we often find fiction eclipsing fact in order to ensure an 'exclusive'?

**Barkha Dutt:** I don't think we can generalise for all media. Though it is true that the shape and form the industry is taking are not heartening for people like me who may not have joined TV journalism to take part in programs that are more about talking heads and less about the story itself. I don't think fact is replacing fiction, but I do worry that some TV debates needlessly polarise issues and often simplify them to the point of killing nuance completely. But viewers must remember that TRP is made up of viewers and to that extent there is a

strong opportunity for viewer pressure to change the content on TV.

**Magazine Committee:** Being an avid tweeter, you have had firsthand experience of internet hate and slander. How do you deal with the constant and often abusive barbs and hate speech that is flung at you daily?

**Barkha Dutt:** I enjoy the energy of Twitter and the fact that it provides a volley of instant feedback. I have made good friends on Twitter and discovered very bright voices on the forum as well. However, there is no doubt that there is a level of serious abuse and defamation that is perpetuated online. I used to deal with this by reacting, engaging and arguing. Now I am wiser and I just block and move on. However, sometimes I do feel that I should use libel laws when people say something especially defamatory. I haven't yet, but I feel this option should be open to people, just as it is in the West.

**Magazine Committee:** Do you therefore believe that section 66A of the IT Act is a definite requirement, but needs amendment to a less draconian form?

**Barkha Dutt:** I am totally against the entire section 66A. It must go. Its wording is ambiguous and it leaves itself open to the most draconian misuse. In any case, I feel the government has no space in regulation. In TV we self regulate, but at the same time we are open to the existing laws of the land. I feel that there are enough defamation laws that should take care of slander online. Section 66A is not necessary and should be scrapped.

**Magazine Committee:** What inspired you to pursue a career in the field of journalism? Was it an obvious choice for someone having an award-winning journalist as a mother?

**Barkha Dutt:** My mother was definitely a huge influence. We grew up with news being as organic to our daily lives as our glass of milk. She was a genuine path-breaker, an investigative reporter and war correspondent, at a time when there were hardly any women in journalism at all.

## EVENTS COVERED

Kargil War



Militancy years in Kashmir



Fall of Saddam Hussein in Iraq



Civil unrest in Pakistan



Capture and killing of Osama Bin Laden



Arab uprisings and military conflict in Egypt and Libya





**Magazine Committee:** What is your view on the role of women in the professional world today? Do you believe that women now compete on an absolutely equal footing with their male counterparts in most professions or are the age old stereotypes and gender biases still alive in the minds and attitudes of most? What was your experience as a young and emerging journalist at the start of your career?

**Barkha Dutt:** I believe women can do what they dream of and there are many more opportunities for them to do so. But **misogyny is deep-seated and a woman, no matter how talented, will always have to work harder than a man and will always be open to greater scrutiny than her male colleagues.**



**Magazine Committee:** Increasingly today we find the media—whether it’s print media or television—being charged of purveying ‘paid news’. Would you admit that this is definitely a prevalent malaise and to what extent do you think it has pervaded the various forms of media? In your opinion, is it a uniform malaise or one that is more often witnessed in the print media?

**Barkha Dutt:** Paid news is a very serious malaise and seems to inflict the print sector more than the electronic one. **I think the blurring of lines between advertorials and news content is responsible for this. This needs to be urgently addressed.**

**Magazine Committee:** What is the role that you believe the media plays in today’s India? In recent years we have witnessed what has come to be known as ‘trial by media’ in a number of cases. Does the media in India need to exercise more constraint and objectivity in its coverage or do you believe that in a country which finds most of institutions crumbling day by day, journalists are forced to report in a more aggressive, investigative, revelatory manner?

### AWARDS

2008 – Padma Shri

•  
2007 - Commonwealth Broadcasting Association award for Journalist of the Year

•  
2008 - Indian News Broadcasting Award for the Most Intelligent News Show Host

•  
2001, 2008 - Named on the list of 100 ‘Global Leaders of Tomorrow’ compiled by the World Economic Forum Society Magazine Young Achievers Award

•  
2010 - Appointed as a member of India’s National Integration Council

•  
2006 - Asia Society Fellow

•  
2012 - TV Personality of the year



**Barkha Dutt:** I think the media has played a huge role in reflecting the anger of ordinary people—whether in cases of injustice or endemic corruption. But **I do agree that the propensity of the media to declare people guilty before innocent, subverts constitutional principles and could come back to bite the media itself.**

**Magazine Committee:** The question of media ethics is one that is constantly raised nowadays, as every news channel or newspaper periodically comes out with its own exposé. You encountered the debate from close quarters when your name was dragged into the Nira Radia tapes controversy. In your view, are we witnessing a downward spiral in media ethics with journalists trying to outdo one another with each revelatory story?

**Barkha Dutt:** As I had mentioned at the time, **I found the tapes controversy in relation to me to be a manufactured campaign of slander by some people in my own profession, who know better**

**than anyone else, that a journalist will obtain information from all kinds of sources, good, bad and ugly. I think this was in fact an example of (sections) of the media trying to drag their own colleagues down.**

**Magazine Committee:** With the role and face of the media in the country changing rapidly, do you believe that self-regulation by each media agency or organ is sufficient to control the fourth pillar of our democracy or do you think that we need a separate and independent body to be formed, for its regulation?

**Barkha Dutt:** I think that since the News Broadcasters Association has given authority to a Justice Verma led body to regulate and monitor us, we have as an industry become much more responsible and accountable. For instance, for the most part, the coverage on TV of the gang rape of a 23 year old was more responsible than some newspapers, who gave away the girl's identity before her family had consented to do so. ■

## COURTROOM HUMOUR



**Mr. J. P. Cama**  
*Senior Counsel*

Years ago a counsel was arguing before a judge of the High Court. It was regarding a license to run a bar because of the music that was playing there. The judge asked the counsel what was wrong with the music, as it was played everywhere. The counsel retorted, "I bow to your larger knowledge on the subject."



In an appeal against the judgment of a single judge where the case was dismissed, the judge asked the lawyer why the case was dismissed. The counsel replied that he didn't have the brief. The judge said, "A counsel without a brief is like a barber without his scissors," thus likening him to a *hajaam*.

## Vivek Kantawala

*Solicitor & Advocate, Bombay High Court*

Around 2001 I had appeared in the High Court before Justice R.M. Lodha, in an appeal where my opponent was a senior advocate. There was a delay in filing the written statement in the said matter. The bench had allowed my client to file the written statement subject to cost. During the course of the arguments I mentioned that I am a 'starter in the profession', hoping to get some leverage in the Court, as I had a senior advocate opposite me. After succeeding, Justice Lodha remarked, "Sometimes starters are heavier than the main course", which is one of the most humorous and spontaneous remarks that I have heard from Justice Lodha.

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# 14<sup>th</sup> D. M. Harish Memorial Government Law College International Moot Court Competition, 2013

In the year 2000, the then General Secretary of the Moot Court Association (MCA), Mr. Sharan Jagtiani, with the support of the D. M. Harish Foundation, conceptualised the idea of having a moot court competition in memory of his late grandfather, Mr. D. M. Harish. Today, 14 years since its inception and 9 years since the Competition was taken international, the Moot has acquired the distinct stature of being the most coveted International Moot Court Competition in the country. This was amply reflected by the participation in the 14<sup>th</sup> edition of the Competition held from 7<sup>th</sup> to 10<sup>th</sup> February 2013, which included the likes of National University of Singapore from Singapore, New York University School of Law and Valparaiso University from USA, University of Southampton, University of Exeter and University of Sussex from U.K, Moscow State Law Academy from Russia, L'ecole for Advanced Studies from Pakistan and colleges from Africa, all tallying up to a participation of 14 international Universities, along with 16 of the best Indian Universities.

Many wonder what goes into organising a competition of this nature, where all the man-power, effort and time go in organizing DMH. It begins with the DMH Compromis which revolves around legal contemporary issues in International Law, drafted by experts in the field. The Compromis of the 14<sup>th</sup> DMH centred around two fictitious countries entering into a Joint Declaration to co-operate and support the development of the other. Following significant cross border investment, several differences arose between the two nations when propagation of religious beliefs in one nation led to unrest in the other and the introduction of a Tax Ordinance in one nation jeopardised all international commercial transactions, thus compelling the Prime Ministers of the nations to make a referral to the International Court of Justice.

Upon framing of the Compromis, we proceeded with the dispatch of invitation booklets to Universities around the globe. As the month of October approached, our Marketing and Public Relations team was in full swing along with the venue co-ordination, accommodation and the catering teams. The Memorial Team which handles the coding, verification and coordination of submitted memorials and the Scoring Team which handles the tallying, cross checking and printing of score sheets are our lifelines during the days of the Moot. The signature MCA Guard of Honour involves smartly dressed members welcoming judges, participants and guests at the entrance of every venue, whether under the sun or late evening, but always with a smile.

DMH participants are the ones that set the calibre of the competition. There is no doubt that every Indian Law School reserves its most talented mooter to shine at DMH, and every International University awaits the much heard of

'DMH Experience'. The organiser-participant interaction begins from the time of registration of teams in early November and lasts for years together. We try our best to ensure a smooth and enjoyable mooting experience at every step, ensuring a pick-up to every team where two members of the Committee provide every team with a pick-up, whether from the Airport or Station, at practically any time of the day or night.

The 'DMH Pride' includes our brilliant judges that graciously consent to judge the rounds of the Competition. One could easily notice that the entire Mumbai legal fraternity is represented at the Competition. We may well be boastful about the organisation and hospitality, but the soul of any moot court competition is undoubtedly and quite rightly, the mooting! The Preliminary Rounds of Argument of the 14<sup>th</sup> DMH saw judges which included associates, senior associates and advocates who shortlisted the first 16 teams, which made it through to the octo-final round. The policy of 'higher the level, tougher the fight', is followed to the word at DMH. The Octos saw partners of law firms and counsels of the Bombay High Court grill teams, to further enlist eight that



made it to the quarter-final round. If the presence of founding partners and senior partners was not enough to intimidate teams at the quarter-final level, arguing in front of the biggies of the legal fraternity, the likes of which included Mr. Iqbal Chagla, Mr. Janak Dwarkadas and Mr. J. P. Cama, definitely blew away the semi-finalists.

This year the DMH Panel Discussion took place at the Sahyadri State Guest House. The Panel Discussion topic was *Thought Control or Reasonable*

*Restraint: The Dividing Line on Social Media* which was tacitly moderated by Senior Counsel, Mr. Haresh Jagtiani and attended by an illustrious Panel living up to the standard displayed year on year.

One can rest assured that only the two most capable and deserving teams reach the final round of arguments after the rigorous seeding process that we put all teams through. On 10<sup>th</sup> February it all boiled down to witnessing brilliant advocacy and ultimately the adjudication of best team. This was done by five sitting judges of the glorious Bombay High Court at the Mumbai University Convocation Hall, which, with its majestic Victorian set up was truly a fitting way to culminate yet another edition of the Competition.

One of the key reasons to DMH being received with the euphoria that it is, is the sincerity with which each and every member of the Moot Court Association dedicate himself/herself to the Competition. The members work fervently all year round, with 'work-hours' rapidly increasing as 'the day' arrives. The MCA will always dedicate itself to the cause of raising the benchmark for India's most acclaimed event on International Law, continuing now with the next edition of the competition scheduled from 8<sup>th</sup> - 10<sup>th</sup> February, 2014. ■



# Minding My Language

by Kamakshi Ayyar,  
Batch of 2012



“Could you please tell me where I could find the loo?” I asked the elderly deli owner after a long day of reporting.

“The what?”

“The loo.”

“What is that?” he asked, his patience beginning to wear thin.

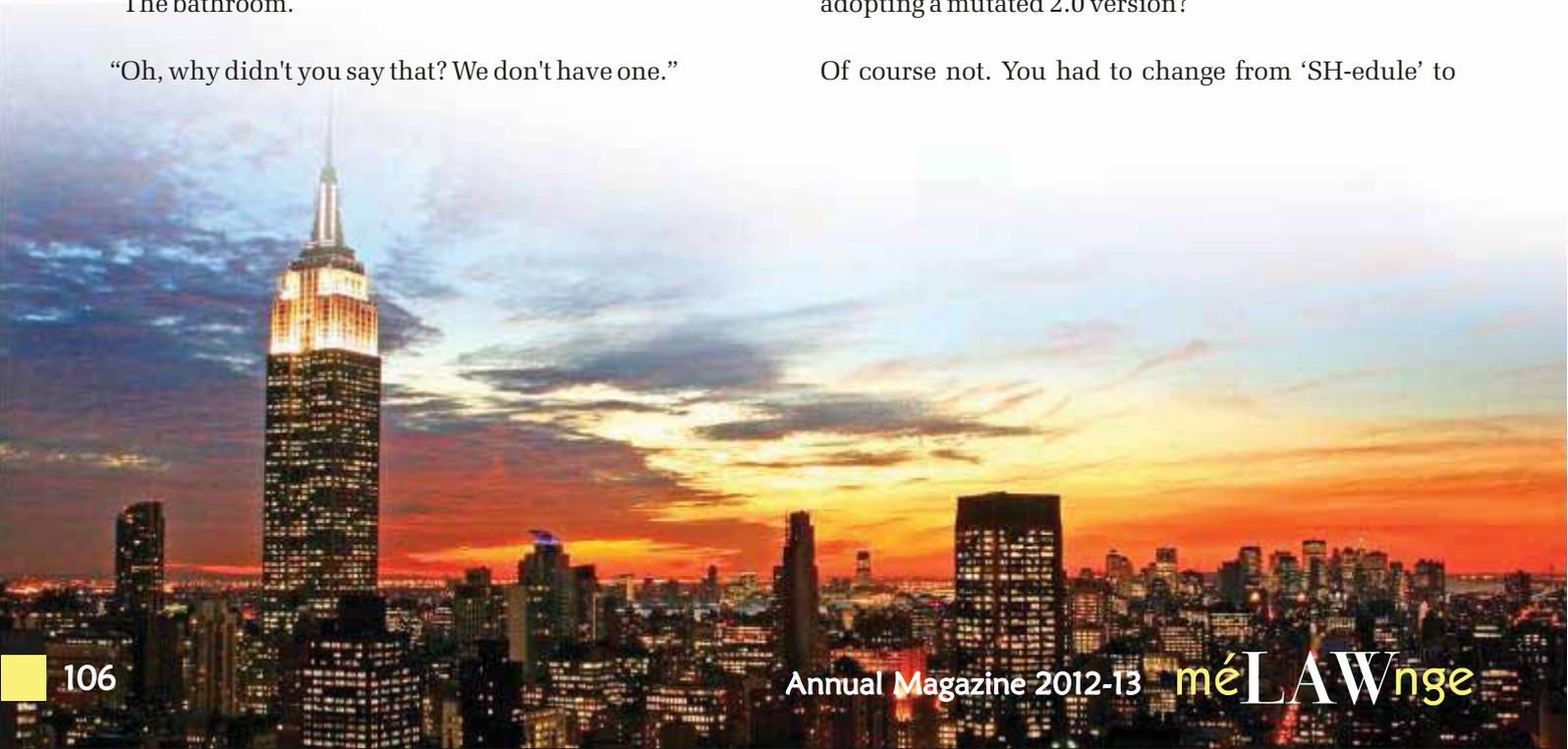
“The bathroom.”

“Oh, why didn't you say that? We don't have one.”

This wasn't the first time I'd had to explain what I meant to an American. As an international student, I've spent the better part of my time here decoding what is apparently 'ForeignSpeak' for Americans, just so I can answer the call of nature.

I don't know why you did it, America. Why did you have to go and be different? It's bad enough you disfigured cricket and called it baseball. Couldn't you just make like all the other British colonies and stick to the generally accepted version of English rather than adopting a mutated 2.0 version?

Of course not. You had to change from 'SH-edule' to



'SK-edule,' from 'VY-a' to 'VEE-a' and from 'car-A-mel' to 'CAR-mel.' Then you began calling a 'flat' an 'apartment' and 'football' became 'soccer'. Where does this madness end?

And there's more. When I used words like 'ginger' to describe someone with red hair or called rain boots 'gumboots', all I got were snorts of derision and peals of endless laughter. Okay, I might be exaggerating a bit, but there was some pointing and snickering.

In the midst of trying to make my American friends see sense, I noticed something. It wasn't just my colleagues from the Commonwealth and I who were bombarding American ears with Cool Britannica mots; the U.S. media was throwing in Britishisms in their daily coverage, too.

Late night talk show host Conan O'Brien, while lamenting the end of *Newsweek*, shared some of the lesser-known, quirkier magazines that outlived the legendary weekly, and included a few fake ones like 'American Ginger,' aimed at the redheads of the country. Then there was the *New York Post* headline about the David Petraeus-Paula Broadwell saga *Cloak and Shag Her*. Not to forget the *Keep Calm and Trust in Nate Silver* images, similar to the *Keep Calm and Carry On* wartime missive from the English Government, being forwarded 'VY-a' email before the presidential elections.

And it turns out I'm not the only one who noticed this trend. In February 2011, Ben Yagoda, an English professor at the University of Delaware, started a popular blog (at last count it had received a little over 477,000 hits) tracking and explaining all the British terms he came across in the media. Titled *Not One-Off*

*Britishisms* or NOOBS, the blog breaks down terms like 'go pear-shaped', 'shite' and 'fortnight'. In October this year, he asked his readers to vote for the NOOB most likely to be used in the U.S. and, not surprisingly, 'shag' won by a long shot.

Then there's the continuing British Invasion of American culture. Whether it's BBC's *Sherlock* or *Luther* or the *Downton Abbey* series or the newest boy band on the block—*One Direction*—people here go gaga over anything connected to Her Majesty's land. And after giving it some thought, I figured out why. It's all in the accent. It isn't just women who go weak in the knees at the sound of a Brit accent, it's the hipsters, the nerds and the socialites. Everyone just wants a piece of that English pie.

What are you getting at, America? That it's okay for 007 and Piers Morgan to say 'lift' instead of 'elevator' just because they have the accent to make it easier on the ears? That it's okay for Simon Cowell to call a faucet a 'tap'? It doesn't matter how I, with my Indian accent, pronounce the word or even the English colloquial term I use, it's just never good enough for you, is it?

Well, fine. Be that way. Since coming to New York City five months ago, I've learned a lot from you. I learned that it is politically incorrect to refer to Native Americans as 'red indians' and that here 'cracker' (the Indian term for 'fireworks') is a derogatory term for lower-income Caucasians. But I guess this cultural exchange isn't a two-way street and I've made my peace with that.

Now if you'll excuse me, I'm going to go find that damn loo. ■





# THE MAG DIARIES



Past Editors of *méLAWnge* reminisce about their time in the Committee...

## Sneha Oak – 2009-10

Retrospection has, the oft times dubious quality of making one forget the negative. But be at ease, for being aware of this quality I am better prepared to avoid the pitfalls. The Magazine Committee, to my mind, is like a jealous mistress, one can't leave, but at times one just doesn't want to stay. I didn't want to stay when faced with tireless follow-ups for sponsorship; the detailed organisation of competitions and panel discussions; the countless trips to the printers' office; the endless reading, re-reading and proof-reading; the assiduous follow up with other committees for their reports and photos; the mad race against time to get the Magazine published. But then I went back to do it all over again. I couldn't leave because the Committee offered so much: the passionate exchange of ideas, the once-in-a-lifetime chance to conduct interviews with some of the great minds of our profession, the opportunity to design the Magazine from cover to cover and the absolute exultation of seeing your hard work in the finished product! It is the Committee of ideas and free expression; of heated debate and sometimes, frustrations; a Committee that teaches you to work hard and in unison. My experience can be summarised in one line: 'It was the best of times, it was the worst of times.'



## Chintan Chandrachud – 2008-09

The printer's office transforms into the campsite of the members of the Magazine Committee in the weeks before the publication of *méLAWnge*. This tradition continued during my year as Chief Student Editor, as we shared ideas, *bhel puri* and conversation with the employees at Finesse Printers. A school student, who needed a history project compiled, was an occasional visitor. On an evening on which his regular assistant at Finesse was absent, he turned to me and asked (in Hindi, of course)–'could you help with my school project?' I replied–'I could try, though I should warn you that I don't work here!' The schoolboy was understandably embarrassed. But from my perspective, a sense of pride overcame all other emotions–the long hours spent at the printer's office had rendered our Committee members indistinguishable from the employees there. For once, I did not mind so much that someone thought that I would understand printing psychology better than constitutional jurisprudence.



## Abhishek Neotia – 2007-08

Being part of an editorial team implies being pressed for time–always. Time had always been a luxury we were deprived of on a consistent basis, more so during the crunch months when we would be readying ourselves for going in to print. But, during 2007, we found ourselves ahead of schedule–a rarity. It was not until the last moment that we realised that the entire Hindi section of the Magazine had remained undesigned, and that signaled the beginning of mad scramble. We were at our wits' end, but with the help of an ever-cooperative team & dedicated designers, we somehow managed to get the work done. The end result was good and in a way, a major disaster was averted!



## Gurbani Walia – 2011-12

The Core Committee of 2010-11 was blessed, if I may use my poetic license for the day, with the most creative of people. We had Suhani Dhanki who brought invaluable insight on Gujarati wedding cards that were being designing at the Printers' while Aparna Bagree would suggest photo frames that best suited wedding photographs (of the Gujarati weddings Suhani was designing cards for) to be used in the Annual Committee Reports Section. The last two weeks before the famous 'print command' is given is hectic to say the least. More often than not, the most important part of *méLAWnge*—its cover—is left for the absolute end. This year was no different. While Kanupriya and I had spent a good five hours working on an option for the cover page, we had no idea what Kamakshi had in mind. When we met the next day to discuss what Kanupriya and I had designed, Kamakshi told us what she thought would be an appropriate cover for 2000 copies of the Magazine. She wanted a picture of a beggar, with a can in his hand, saying 'I want change'. With 14 days left to meet our deadline, amidst much chaos, Kamakshi's spark of ingenuity provided some much needed comic relief.



## Kanupriya Kejriwal – 2010-11

During my year as Editor, I was 'blessed' with a core committee of six girls and we all had one common love. Every core committee meeting began and ended with the same agenda. No, it wasn't articles for the Magazine or marketing or launch preparations. We always began our day with deciding where we should order lunch from. It was the most debated topic, even more than the cover page. *Parmesha*, the gastronomic genius was one of our top choices for his delicious sandwiches. One post-holder always spent about half an hour placing the order over the phone, giving him all our specifications: 'Ek with onion but without tomato, then another with cheese and the third without *aloo*.' Without fail, *Parmesha* would get our orders wrong and we would crib, but nothing would stop us from stuffing our mouths with every last bite of the sandwiches.

Kamakshi (the Assistant Editor) had a 'cupcake lady' that she was very loyal to and by the end of the year all of us learnt to love this lady as our own. We didn't need big victories to warrant an order from her. Each post-holder would eat two cupcakes at a time and eye the third one, when finally someone would throw manners out the window and swallow the last one.

The food-tasting session for the launch lasted an entire day and it was one of the only core committee meetings with full attendance.

When the College canteen didn't have change, they paid us in Eclairs and Melodies and I am not exaggerating when I say that there have been times when I had to intervene in tussles between two post-holders for the last toffee.

One year and ten kilos later, we are all great friends and what unites us even today is a good sandwich.



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# ASTROLOGY: SCIENCE OR SUPERSTITION?

by Sindhura Polepalli, V-I

*Everything we hear is an opinion not a fact;  
Everything we see is a perspective not the truth.*

- Marcus Aurelius.

As human beings, we always try to establish contact with the future and the best of its relevance to the present and the experience of the past. There always existed a curiosity within us for understanding ourselves, as much as the things around us. As this curiosity rose, the human mind studied it deeply, to give birth to a whole new subject: astrology—the study of the positions and aspects of celestial bodies in the belief that they have an influence on the course of natural earthly occurrences and human affairs.<sup>1</sup>

From the third millennium BC, astrology has developed in varied forms. In India, as Vedic astrology or Hindu astrology, it has been a practice for the past 4000 years and is inclusive of Indian astronomy (*siddhanta*), mundane astrology (*samhitha*) and predictive astrology (*hora*). As modern science developed, it questioned the validity of astrological practices and a common notion developed among people that astrology had been disproven.

Developing opinions on astrology on the basis of sun sign columns in newspapers or occult practices in the

name of a better future would be akin to studying medicine by observing a physician who diagnoses illness by measuring a person's head or one who misguides people in the name of medicine. The terming of astrology as a pseudoscience or a superstition by scientists lacking theories to explain it is far from valid. Science is not based on theories but on observations, which more specifically, are based on a scientific method and so is astrology, in its pure sense. It encompasses many theories through indisputable observation, like any other science. For example, it was always a common and indisputable observation that an object dropped from a table (point mass) falls to the ground (Newton's Law of Gravity). The law of gravity improves our understanding of gravitational forces, under the influence of which each one of us lives. Similarly astrology studies the simultaneity of the events of our lives with the working of the cosmos. One such phenomenon is the cause of tides, which is due to the combined gravitational effect of the sun and the moon and the rotation of the earth.

Often astrological theories are thought to be absurd, but so are many of the theories of physics, including the idea that space is curved. Absurdity cannot eliminate a subject from the purview of science. Moreover, astronomy, which is highly revered by science, falls within the purview of astrology. When we proudly call

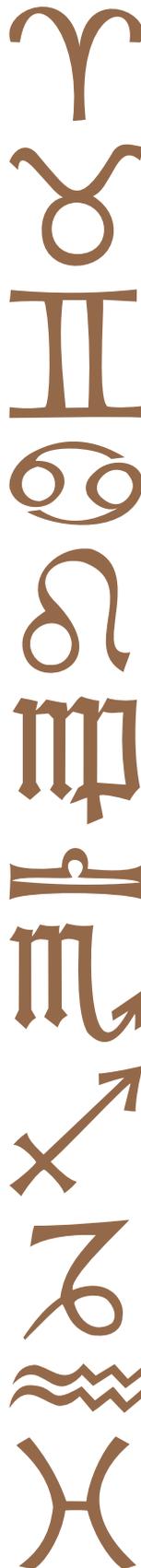
<sup>1</sup><http://heavenlybodiesastrology.com/>



Aryabhata a great Indian astronomer, we must not forget that he was also a knowledgeable astrologer. Many scientists like Tycho Brahe, Galileo Galilei, Johannes Kepler and Pierre Gassendi, who are better known for their contributions to modern physics and astronomy, had a high regard for astrology.<sup>2</sup> Isaac Newton was no different as he confided that his interest in science had first been roused in the summer of 1663, when, as a young student at Cambridge, he purchased a book on astrology and baffled by the incomprehensible astrological diagrams and calculations in this work, he then studied some books on geometry and calculus.<sup>3</sup>

Considering astrology to be a part of religion for establishing its scope over the planets, particularly the sun and the moon, which often manifests in worshipping idols of natural forces, could be fairly termed iniquitous, as the planets are practically a part of the universe, which as celestial bodies, are subject to complex researches even within the working of modern science. Astrology works on the lines of a weather forecast, which in most cases is considered to be perfectly valid. Hence casting aspersions on the validity of astrology due to its predictive nature, would question the definition of validity itself.

The British Vagrancy Act was enacted in England in the sixteenth century, making it illegal to perform any form of fortune telling using cards, tea leaves, crystal balls and, unfortunately, the movement of the heavenly bodies, when the people involved in such misguiding activities were gypsies, who had no real credentials or knowledge of horoscopes and who worked on the basis of pure guesswork. This is a clear example of a vague and flawed law, which lumped together various related and unrelated practices under the term 'fortune-telling'. A landmark case in 1914, saw the New York District Attorney's office pitted against Evangeline Adams. Adams was not only one of the most accomplished astrologers of that time, but also billionaire J. P. Morgan's personal astrologer (famous for telling him 'not to board the Titanic'). The defendant clearly stated before the court that astrology is a mathematical or exact science and also an applied science as it established principles of astronomy as its guide in



delineating human character, and that all its judgments are based on mathematic calculations. She stated that astrology was an empirical science which must not be classed with fortune-telling, or any of the many forms of demonology, as practiced in ancient and modern times. In the judgment passed in this case, the judge ruled that, by giving 'ample proof' and by not giving 'assurance that this or that would eventually take place', the defendant had not violated any law. The judge ruled, 'I am satisfied that the defendant has not pretended to tell fortunes, and she is accordingly acquitted.'

The legal status of astrology in India is seen to be much stronger after the Supreme Court held it to be a science in 2004 and the passing of a directive, following the Andhra Pradesh High Court's dismissal of the writ petition filed by Dr. Bhargava, challenging the University Grants Commission's (UGC) decision to introduce astrology as a course of study in Indian Universities in April, 2001. Moreover, in February, 2011, the Bombay High Court reaffirmed that astrology is indeed a science, when it dismissed a public interest litigation (PIL) that challenged astrology as a science.

Despite varying opinions, astrology continues to be popular, as it offers people what science does not—the psychological and meaningful link between the individual and the cosmos. It is not an occult science but a spiritual and an astral science which helps us navigate through the planets. As a Vedic science, astrology is the science of self-knowing, which aims at terminating any imposition of external authority on us as individuals.

Like many other professions and streams of knowledge, astrology too is caught up in the glamour of worldliness, ego and personality. However it is a subject which goes beyond predictions and concentrates on the understanding of the universe through astronomy and medicine, in terms of ayurveda and yoga. To dismiss astrology as a superstition shows a lack of understanding of the primordial psychological need for a meaningful relationship with the cosmos.<sup>4</sup> ■

<sup>2</sup> Robert H. van Gent, 'Isaac Newton: Witness for the defence or for the prosecution?', 2004, at <http://www.skepticreport.com/sr/?p=427> (last visited 4 January 2013).

<sup>3</sup> Ibid.

<sup>4</sup> 'Astrology is a time-tested science: High Court rules', 2011, at <http://www.examiner.com/article/astrology-is-a-time-tested-science-high-court-rules> (last visited 4 January 2013).

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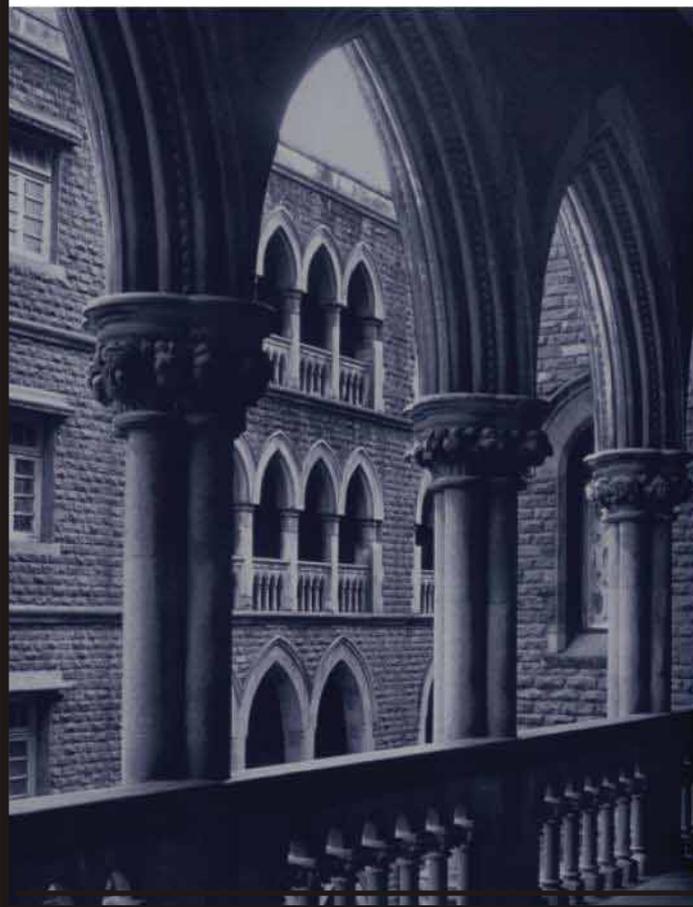
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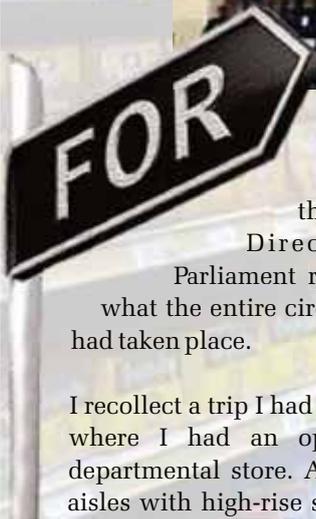
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# I Want It All, I Want It All, I Want It All Now!

by Shreyas Narla, V-I



All the cacophony having subsided with the defeat of the motion against Foreign Direct Investment (FDI) in Parliament recently, I began to muse on what the entire circus act was about and why it had taken place.

I recollect a trip I had taken a few years ago to USA, where I had an opportunity to visit a huge departmental store. As I walked through the long aisles with high-rise shelves and displays looming monstrosly on either side, I was overwhelmed by the sheer magnitude, volume and variety of products and the innumerable choices staring down at me. It was only when I peered at a few price tags that I was also astonished by the affordability of the products. That was my firsthand exposure to a Walmart store and what an incredible experience it was! So will such an experience soon be common back home too? Does it vindicate the stand of all the 'nays' that throated their position to victory? From the perspective of a customer prowling Walmart's aisles, armed with a shopping cart and a loaded credit card in his pocket, to naysay the motion against FDI in retail would be the obvious choice.

This recollection made me wonder if the entire fracas in Parliament—contesting a cause which otherwise seemed an obvious necessity—was really required. The prospect of organised retailing ushering in competition, lower prices, better quality and greater choices of goods and a technology boost to the back end logistics, with better remuneration to producers, seems very alluring; yet the cynics continue to bicker.

Most of India's retailing is based on the millions of local *kirana* merchants' shops, which are one-man or single family-run outlets, catering to the street and village clientele.

Based on an elementary trading mentality, they thrive on exploitative pricing, luring customers with the benefit of credit and thrusting on them a take-it-or-leave-it policy, leaving the customers with no choice of variety, quality or price. This localised monopoly leads to exploitation and peddling of unbranded and counterfeit merchandise in improper and unhygienic storage. Much of the sourcing and supply chain runs through a complex and hierarchical maze of distributors, sub-agents and agents, with unfair marking-up at every level and no value addition at any stage. This obviously results in abysmally low remuneration to the producers and high costs for the ultimate buyer. The arduous journey of goods through this chain exposes them to unorganised handling, storage and transportation, causing great loss, spillage, and exposure to unhygienic conditions. The brunt of the losses is only shared by the producers and eventual buyers, with much economic value retained only by the middlemen and sellers. Most of these commercial transactions have for ages been functioning in a hand-to-hand manner, with little or no exposure and without registration and government scrutiny, leading to huge amounts of unaccounted economic activity and transactions. In current times, it is unthinkable to keep the best practises and technology and good governance away from the most pervasive form of trade and economic activity, which affects the entire population. So why should there be an argument and debate to introduce organised activity?

The retail reforms taken up by the Indian Government will hopefully address these issues and pave the way for development of the sector. The share of organised retail has been on the rise, but the greater part of retail activity continues to go on in the unrecognised, unregistered and unaccounted sector. The first step towards this has been allowing 100% FDI in single brand retail. Detractors have been strongly criticising the move to allow FDI in the sector and have raised the rhetoric of it being tantamount to a dilution of our sovereignty. FDI cannot be seen in terms of financial inflows and management control alone, but what this investment brings along with it and in what form it takes place. Based on existing models and the experiences of other countries, analysts feel the investment will be in terms of technology, an efficient supply chain, logistics and better governance and management practices.

The focus must be on issues and areas which need immediate attention and improvement. Sceptics will have reason to see ghosts in every change and new initiative, but if the efforts are more focussed on addressing the existing problems by formulating balanced controls and checks, the initiative is bound to give positive results.

The most serious problems facing the Indian retail system are attributed to the poor and unscientific supply chain and logistics systems. Indian retail, especially in the food segment, has been stricken by losses due to poor storage, poor transportation, lack of efficient cold storage and advanced technologies in packaging and preservation, like irradiation etc, which have been leading to losses and wastages of over 15-20% across the entire spectrum of products. This percentage is one of the highest in the world.

Indian laws already allow foreign direct investment in cold-chain infrastructure, to the extent of 100 percent. Paradoxically, there has been no significant investment so far in cold storage infrastructure, due to poor demand which makes it economically unviable. The new initiative will certainly encourage demand and will invite fresh technology and investments in this sector. Similarly, new technologies in handling, automation, accounting and inventory control will soon follow and usher in a new era of efficiency and economy, reducing losses, increasing economic value and thus hopefully benefitting the customer's and producer's ends as well.

The Indian commodity chain is controlled by a string of intermediaries and middlemen who have an iron grip over the entire business structure. The existing systems operate through word-of-mouth agreements and transactions made by dubious auctions and bidding processes which do not

come under any regulation or government scrutiny, in spite of a plethora of market federation and cooperative initiatives. They are bereft of transparency and control in most cases. There is no value addition of any sort in this whole chain but only cost addition in the form of commissions and sub-commissions, through various layers of handling. They literally dictate the procurement price and the farmer or producer has no choice but to sell at that price. Even experiments like *raitu bazaar*, introduced by states like Andhra Pradesh to help the farmer take his produce directly to the buyer, have failed and are now back in the hands of this network of agents and sub-agents. Small Indian farmers realise only one-third or less of the total price paid by the final Indian consumer, as against two-thirds by farmers in nations with a higher share of organised retail. The 60% plus margins, thus remain in the hands of middlemen, who add no value at all.

Walmart, IKEA, KPMG and various other international retailers have been credited with creating large-scale employment opportunities and increasing the retail sector's contribution towards the economy. There is no scientific reason to doubt that the same can be predicted for the Indian retailing sector as well.

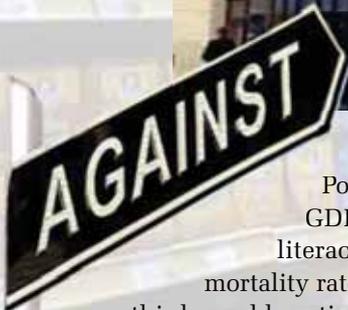
With the rapidly changing profile of customers, who are more aware, educated, have increasing incomes and are exposed to more choice and variety, the retailers can no longer take things for granted. Their survival depends on the quality of goods, the service they provide and the price they charge. While the customer will rule pricing and quality, the retail chains will be forced to stretch their money to buy the best, buy it first and present it in the best way possible. This will automatically ensure that the producers have the choice of selling to the chain which comes first and offers the best price and terms. No longer is he at the mercy of agents and sub-agents, dictating the prices to him.

The unorganised retailing sector suffers from human resource abuse, ranging from long working hours to unfair salaries and absence of legal protection. The advent of organised retailing, backed with FDI, shall reduce such exploitation. Good working conditions and better opportunities will only enhance the skills and capabilities of the workers and also their compensation and benefits. As Christopher Columbus rightly said, 'Following the light of the Sun, we left the Old World.' This new phase of reformation must be welcomed in full swing. Aspersion and doubts must be laid aside, for they never do any good on one's path to progress. FDI in multi-brand retail is the catalyst that holds promise in improving the lot of farmers and producers of domestic consumer durables and will add immense value to the Indian economy in the decades to come. ■



# Are we ready for FDI in multi-brand retailing?

by Malvika Tiwari, III-II



Population, average income, GDP, unemployment ratio, literacy rate, sex ratio, HDI, mortality rate—all these worries are of a third world nation; a developing country which is still on its way to becoming an economic power in a globalised world.

According to the 10<sup>th</sup> five year plan, India should have been rid of its poverty issues by 2005, but according to the World Bank, 32.7% of the population of India lives below the International Poverty Line and as per the Household Consumer Expenditure Survey for 2009-10, 29.9% of the population alone lives below the poverty line (BPL).

The first set of economic reforms in India was initiated by Dr. Manmohan Singh in 1991 (during his term as the Finance Minister). The second set of major reforms have been introduced now, ten years after the first set of economic reforms, by Dr. Manmohan Singh (now the Prime Minister), right before his term as Prime Minister is about to end. There has been no substantial improvement in the economy of our country in the past eight years. Economic reform and revenue allocation go hand in hand. Having been involved in three major scams, the Government has exhibited a near failure of administration in allocation of revenues and has lost its credibility as the representative of the people. The people

of India want change and development for the betterment of the country and do not want to be robbed by their own government. It is difficult to restore faith in the Government when it says that Foreign Direct Investment (FDI) is for the good of the country.

Direct Investment is of two types: Domestic Direct Investment (DDI) and FDI. DDI is done in domestic currency (rupees in India) and FDI brings in foreign exchange. The need for FDI is justified only in two situations: (i) when DDI is inadequate; or (ii) when foreign exchange is required. On the DDI front, the position as obtained in our country is fairly sound.<sup>1</sup>

Foreign exchange is either an asset or a liability, depending upon its repatriability. If the foreign exchange is repatriable (i.e. to be returned or repaid in the form of foreign exchange itself) then it is considered to be a liability. If it is non-repatriable, then it is considered to be an asset. In light of the foregoing, only three sources of foreign exchange qualify as assets: (i) exports of goods and services, (ii) NRO (non-resident overseas) accounts in banks; and (iii) Foreign Aid. The other kinds of foreign exchange are liabilities, viz., Foreign Currency Non-Resident (FCNR) and Non-Resident External (NRE) deposits of Non-Resident Indians (NRI), FDI, Foreign Institutional Investment (FII) and External Commercial Borrowings (ECB) from foreign governments and agencies.

<sup>1</sup> Professor Anupam Bhargava, 'FDI in retail? say a big NO', 2012, www.thehindu.com at <http://www.thehindu.com/todays-paper/tp-features/tp-openpage/fdi-in-retail-say-a-big-no/article4155369.ece> (last visited January 20, 2013).

FDI, if repatriable, is a debt inflow or liability because the profits or returns generated by it will have to be repatriated in foreign exchange. Secondly, all the men, material and merchandise imported in the years to come will have to be paid in foreign exchange. Finally, at the time of winding up/selling off, the proceeds will flow out of the country in foreign exchange, many times more than the initial inflow.<sup>2</sup>

The common man of India is probably looking at FDI from the point of view of development for the country but the larger picture is different. What we fail to realise is that this will lead to an even larger divide in the urban and rural population.

Any multi brand entity should have an investment of \$100 million (Rs. 500 crore) and the stores can be opened only where there is a minimum population of 10 million. At present, there are 53 cities in India that fit this description.<sup>3</sup> The paraphernalia of development attached with FDI in the cities mentioned in the rider by the Government, would stick to these cities only and not trickle down to rural India which consists of 60% of the country's population. This would increase the gap between rural and urban India.

It's true that FDI in multi-brand retailing will reduce middlemen, but the pricing of agricultural goods will be in the hands of uneducated farmers who are not aware of the market prices. The agricultural sector of our country is based mainly in rural India, which does not receive the proper implementation of the various policies of the Government of India, let alone the prospective benefits of FDI.

Basic amenities have not been provided to our population and the definition of BPL is itself very skewed. Proper education has not been implemented in spite of the 42<sup>nd</sup> Amendment which promises free education up to the age of 14 years. The problems of illiteracy, corruption and unemployment have not been solved and we are trying to take a leap in the form of FDI by looking only at the economic benefits on paper. Economic reform is a continuous process which should be carried out by the government simultaneously with its other functions. FDI is more than welcome, but is definitely not the need of the hour.

Another remarkable feature of FDI is that according to the study of FICCI, the total turnover of the organised and unorganised retail trade in India is less than the turnover of Walmart. Thus the competition from chains like Walmart could lead to a monopoly and force a shutdown

of *kirana* stores, endangering the livelihood of approximately 40 million people.<sup>4</sup>

Saving domestic industries is the duty of the policy-makers. It is in the hands of the government to provide a conducive environment for domestic industry to grow and sustain itself and to remain strong in the face of globalisation. For instance, American aircraft carriers are the largest in the American domestic aviation industry. Four of the top five carriers are American. Protective policies would help the industries run successfully and increase generation of healthy, in-house competition for other companies as well.

The Government amended the conditions in the policy on Foreign Direct Investment in single-brand product retail trading states that in respect of proposals involving FDI beyond 51%, 30% sourcing would mandatorily have to be done from small industries/village and cottage industries, artisans and craftsmen.

However, after India's liberalisation of trade and industrial policies in 1991, 887 items had been de-reserved from time to time. With the last deletion in 2010, the number of items in the reserved list has been brought down to 20, which covers only food and allied industries, wood and wood products, paper products, other chemicals and chemical products, glass and ceramics and mechanical engineering excluding transport equipment such as steel almirah, rolling shutters, padlocks, stainless steel utensils and domestic utensils-aluminium. This was stated by the Minister for Micro, Small & Medium Enterprises, K. H. Muniyappa in the Rajya Sabha on 10<sup>th</sup> December.<sup>5</sup>

With such few products on the shelf, Small and Medium Enterprises (SME) will find it difficult to meet the needs of multi-brand retail stores which will eventually lead these stores to reach out to the cheaper markets of China and Bangladesh, making it all the more cumbersome for SMEs to exist and function smoothly.

Thus I ask, are we ready for FDI in multi-brand retailing? I believe that in the current scenario we should make education our first priority. We should meet the goal of eradication of poverty. We should strictly implement the existing policies in all parts of the country and reduce the economic divide before we try to implement FDI in retail. Most importantly, we need to deal with the constant problem of corruption at every level in our society, to be able to use FDI in retail to our benefit, without becoming a part of the economically colonised world. ■

<sup>2</sup> *Ibid.*

<sup>3</sup> Nupur Anand, '53 cities qualify for retail FDI', 2012, www.dnaindia.com at [http://www.dnaindia.com/money/report\\_53-cities-qualify-for-retail-fdi\\_1741070](http://www.dnaindia.com/money/report_53-cities-qualify-for-retail-fdi_1741070) (last visited January 20, 2013).

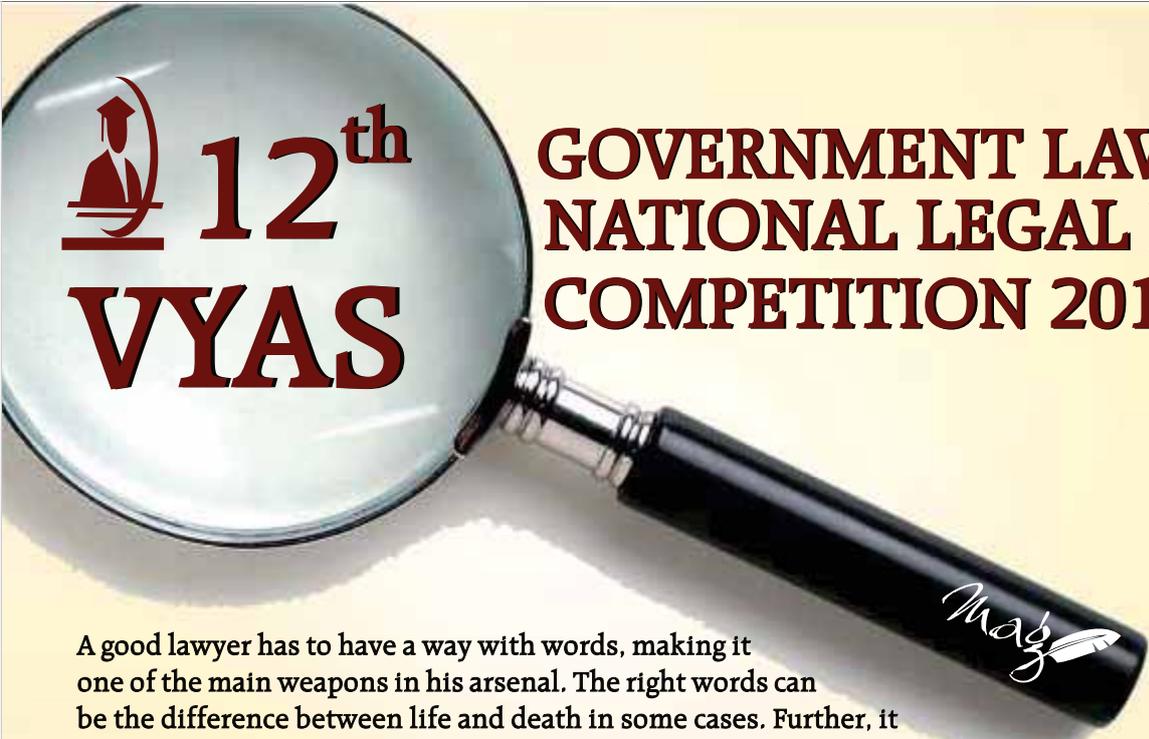
<sup>4</sup> 'The pros and cons of FDI in retailing', 2012, <http://businesstoday.intoday.in/> at <http://businesstoday.intoday.in/story/fdi-in-retail/1/20408.html> (last visited January 20, 2013).

<sup>5</sup> Professor Anupam Bhargava, 'FDI in retail? say a big NO', 2012, www.thehindu.com at <http://www.thehindu.com/todays-paper/tp-features/tp-openpage/fdi-in-retail-say-a-big-no/article4155369.ece> (last visited January 20, 2013).

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# 12<sup>th</sup> VYAS

## GOVERNMENT LAW COLLEGE NATIONAL LEGAL ESSAY COMPETITION 2012-13

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### TOPICS

- Discuss the role of the Higher Education Bill, 2011 in the growth, development and regulation of education in India.
- The Real Estate (Regulation & Development) Bill, 2011—a step toward greater transparency in the real estate sector?
- The GAAR effect—is India ready for the proposed General Anti-Avoidance Rules?
- Do we require faster and more efficient modes of adjudication of inter-state water disputes in India?
- Examine the impact of the judgment in *Natco v. Bayer* and its significance for developing countries in the field of compulsory licensing.

We would like to thank our judges for the preliminary round, Ms. Shaishavi Kadakia, Ms. Amanda Rebello and Ms. Nithya Narayanan.

We are extremely honoured to have the final rounds of this year's Competition judged by Hon'ble Shri Justice J. P. Devadhar, Hon'ble Shri Justice R. M. Savant, Hon'ble Shri Justice A. A. Sayed and Hon'ble Shri Justice K. K. Tated.

### WINNERS

**KATYAYINI SHARMA**, National Law Institute University, Bhopal  
1<sup>st</sup> Prize: ₹ 12,000

**SURITI**, Gujarat National Law University &  
**ABHINAV MATHUR**, Institute of Law, Nirma University  
2<sup>nd</sup> Prize: ₹ 9,000

**ASEEM DHAWAN**, Symbiosis Law School, Pune  
3<sup>rd</sup> Prize: ₹ 7,000

The following pages contain the essay that was awarded first place.





# THE GAAR EFFECT – IS INDIA READY FOR THE PROPOSED GENERAL ANTI-AVOIDANCE RULES

KATYAYINI SHARMA, National Law Institute University, Bhopal  
(This essay was awarded the 1<sup>st</sup> prize)

*Taxes are the price we pay for civilization.*

- Oliver Wendell Holmes, Jr.<sup>1</sup>

The observation made by Oliver Wendell Holmes J. signifies how sacrosanct payment of taxes are, more so for a developing country like ours. It is one of the major sources of revenue for the government and the money collected is used for infrastructure, education, health, defence and for various welfare schemes. However, countries all over the world face the problem of tax avoidance and tax evasion. Citizens, even while demanding state of the art infrastructure, generally believes that taxes are an evil and resort to various loopholes in law to evade taxes.

The issue of tax evasion by routing money through tax havens has been a major concern for almost all the countries. The European Commission has recently said that around one trillion Euros were lost to tax evasion and avoidance every year in the EU. Not only is this a scandalous loss of much-needed revenue, it is also a threat to fair taxation.<sup>2</sup> Therefore, to deal with such issues of tax avoidance and tax evasion, the concept of General Anti-Avoidance Rules (GAAR) has been codified in India through the Finance Act, 2012. The Finance Act, 2012, which was passed after the landmark Supreme Court judgment of *Vodafone*,<sup>3</sup> inserted new Chapter X-A consisting of new Sections 95 to 102 relating to GAAR. Several other countries have also either already codified GAAR in their tax statutes or are in the process of doing so.<sup>4</sup>

*Before addressing the question that do we actually need GAAR, it is important to understand whether it is an entirely new concept for which India needs to be prepared?*

No country can allow tax evasion by use of ingenious and complex arrangements and there have been mechanisms to deal with such issues even before GAAR was introduced in India. During the implementation of taxation laws, the question of substance over form has consistently arisen before the court. The same was observed in the famous *Vodafone*<sup>5</sup> case, wherein the Supreme Court has stated that GAAR is not a new concept in India as the country already has a judicial anti-avoidance history. Also, it is not as if the *Vodafone* case drove the government to come up with the concept of GAAR; the fact is that GAAR was already a part of the Direct Taxes Code Bill 2009 and then again in 2010 and would have been codified as law anyway. Further, Sections 92 to 92F<sup>6</sup> under Chapter X of the Income-tax Act

provide for 'Special provisions relating to avoidance of tax' (SAAR).

## JUDICIAL ANTI-AVOIDANCE RULES:

Whenever the matters of tax have come up before the Courts, they have consistently applied the doctrine of 'substance over form' or 'lifting the corporate veil'. Under the doctrine of substance over form, the Revenue authorities are authorized to disregard the 'form' of a transaction and look into its substance to ensure that the tax base of the country does not suffer unjust erosion.<sup>7</sup> However, the judicial decisions pertaining to tax avoidance have varied. While some courts in certain circumstances had held that legal form of transactions can be dispensed with and the real substance of transaction can be considered while applying the taxation laws, others have held that the form is to be given sanctity. However in *Vodafone*,<sup>8</sup> the Apex Court tried to resolve this issue by analysing two conflicting previous decisions of the Supreme Court,<sup>9</sup> as to the correct approach to the construction of taxation statutes when it comes to tax evasion.

In *McDowell*,<sup>10</sup> specifically with regard to the judgment delivered by the Justice Chinappa Reddy, the Court seemed ready to adopt the Ramsay principle, i.e. to ascertain the legal nature of the transaction and discarded the requirement based on the *Westminster* case which states that, "given that a document or transaction is genuine, the court cannot go behind it to some supposed underlying substance". Whereas in *Azadi Bachao Andolan*,<sup>11</sup> the members of the Court appeared to backtrack from that position, commenting that, in their view, the principle of the *Westminster* case was very much alive and kicking in the country of its birth and affirming the approach of Justice Shah in *A Raman & Co.*,<sup>12</sup> that a taxpayer is entitled to lawfully circumvent but may not violate expect on peril of penalty.

Ultimately the *Vodafone* judgment concluded by observing that there is no conflict between *McDowell* and *Azadi Bachao*. It was held that Ramsay did not discard *Westminster* but read it in the proper context by which 'device' which was colorable in nature had to be ignored as fiscal nullity. Thus, Ramsay lays down the principle of statutory interpretation rather than an over-arching anti-avoidance doctrine imposed upon tax laws.<sup>13</sup> The Apex Court relied upon the decision of Constitution Bench of five judges in *Mathuram Agarwal v. State of M.P.*<sup>14</sup> in which *Westminster* principle was approved.

Further, the Courts have also applied 'Lifting the corporate veil' doctrine in tax matters even in the absence of any statutory authorization to prevent evasion of taxes. Principle is also being applied in cases of holding company-subsidiary relationship-where in spite of being separate legal personalities, if the facts reveal that they indulge in dubious methods for tax evasion.<sup>15</sup>

#### **SPECIAL ANTI-AVOIDANCE RULES:**

There are many SAARs in the Income Tax Act, 1961 as well as Indian Double Tax Avoidance Agreements (DTAA), referred to as Limitation of Benefits (LoB) Article and each is a specific anti avoidance measure. SAARs are specific rules dealing with specific classes of transactions. For instance, there are rules to prevent unaccounted money being received as share capital or loans, interest, dividend and bonus stripping transactions, expenditure in cash, transfer pricing for international transactions, etc. Under the Income Tax Act, it is given under Chapter X, Sections 92 to 92F<sup>16</sup> as 'Special provisions relating to avoidance of tax'. SAAR normally covers a specific aspect or situation of tax avoidance and provides a specific rule to deal with specific tax avoidance schemes. There are certain instances, where the Indian judiciary has effectively applied the existing SAAR provisions to counter tax avoidance in absence of GAAR.<sup>17</sup>

*Before moving forward, we need to analyze the focus of the GAAR provision as given in the Finance Act, 2012.*

#### **GAAR:**

The Indian GAAR provisions introduced by Sections 92 to 92F of the Finance Act, 2012, codify the 'substance' over 'form' approach.<sup>18</sup> These provisions empower the revenue authorities, to declare any arrangement or transaction as 'impermissible avoidance agreement'.<sup>19</sup> The object of GAAR is not to discourage tax planning but to set a fair level of tax planning applying an important canon of taxation i.e. equity. Broadly speaking, GAAR empowers officials to deny the tax benefits on transactions or arrangements which do not have any commercial substance<sup>20</sup> or consideration other than achieving tax benefit.<sup>21</sup> Once arrangement(s) or transaction(s) have been declared as an 'impermissible avoidance arrangement',<sup>22</sup> the consequence as regard the tax liability would also be determined.

The term 'impermissible avoidance arrangements'<sup>23</sup> mentioned under section comprises two tests: the first one is the main purpose test and the second is the specified condition test. The main purpose test is to obtain 'tax benefit';<sup>24</sup> the term whose meaning connoted large significance in the Finance Act, 2012 compared to the DTC Bill, 2010.<sup>25</sup> In furtherance to the first condition, there is a specified condition test mentioned below, tax

authorities must satisfy any one or more of the following four conditions mentioned below to invoke the provisions of GAAR:

1. The transaction or agreement is at non-arms length.
2. There has been misuse or abuse of the provisions.
3. The transaction or agreement is not bona-fide.
4. The transaction or agreement lacks commercial substance.<sup>26</sup>

Section 98 of the Finance Act, 2012 provides consequences in relation to tax of an 'arrangement', after it is declared to be an impermissible avoidance arrangement.

#### **ADVANTAGE:**

##### **Checking abuse of Double Taxation Avoidance Agreement**

A treaty should be interpreted and must be performed by parties to it in 'good faith'.<sup>27</sup> However, in many cases treaties entered between two sovereign countries to avoid problems of double taxation, known as DTAA are misused. The DTAA between India and Mauritius is one such example. One of the abuse of DTAA is 'treaty shopping' as it breaches the reciprocity of a Tax treaty entered into between two sovereign nations and instead it extends the Treaty benefits meant for residents of Treaty partner countries to those of a third parties which is not signatory to the Treaty and may not reciprocate corresponding benefits. GAAR in such a scenario can play a very important role where there is no Limitation of Benefit article in a DTAA to prevent tax treaty abuse. Hence the importance of GAAR to protect the revenue interest of a nation is unquestionable.

##### **Creating certainty in Indian tax regime**

Taxpayers generally through genuine and legitimate actions, arrange their affairs in a way that gives them tax benefits. However, over the past few years it has been noticed that the Revenue Authorities have attempted to deny tax benefits, whether under the tax treaty or domestic law, by disregarding the form and looking through the transactions. This approach of Revenue Authorities and lack of proper regulatory laws leads to uncertainty and passing of inconsistent orders by Courts, Tribunals and other forums, putting Revenue and tax payers at risk. Therefore, introduction of GAAR will create certainty in Indian tax regime which will help the tax payers in planning their tax affairs in a fair manner.

Further, the GAAR provision entitles the tax-payers to determine their tax liability by an 'Advance Ruling', whereby taxpayers could check in advance with the revenue authorities whether GAAR applies to a particular transaction or not. This way a tax payer would know in advance the status of his tax liability thereby creating certainty.



The Supreme Court in Vodafone's case observed 'Certainty and stability form the basic foundation of any fiscal system. Tax policy certainty is crucial for taxpayers (including foreign investors) to make rational economic choices in the most efficient manner. Investors should know where they stand. It also helps the tax administration in enforcing the provisions of the taxing laws.'

#### **CONCERNS:**

##### **GAAR v. SAAR**

No doubt, Indian Judiciary has successfully applied SAAR in various tax matters. However, these rules, being specific, have a very limited scope of application and this may provide tax payers an opportunity to find loopholes in the provisions which could then be exploited by them for their own benefit. Further, it is impossible for the legislature to foresee every possible specific situation and codify Specific Anti-Avoidance Rule to deal with it. GAAR, on the other hand, can be interpreted in a more extensive manner and have a broader application.

In case of any contradiction between the two, like in cases where a transaction already meets the thresholds and specific rigor prescribed under existing SAAR. It is relevant to note that Chapter X-A of the Indian tax law that deals with GAAR starts with a non obstante clause, whereas most of the provisions dealing with SAAR do not. Thus, technically it can be argued by the revenue authorities that GAAR could be invoked in all situations. However, for effective working of the SAAR and GAAR, clear administrative guidelines need to be drafted as to when and how SAAR and GAAR can be implemented. Otherwise, the ambiguity would just lead to an increase in litigation.

##### **FDI and FII**

There has been hue and cry that GAAR will adversely affect FDI and FII in India. But it is to be noted that no sovereign country can allow erosion of its taxes by allowing the abuse of complex and sophisticated device. Further, genuine investors in search of returns that only an emerging market such as India's can provide will not be deterred by GAAR, especially if they are based in countries that have a bilateral tax treaty with India. It is more important for India to ensure that economic growth accelerates and the rupee stays stable because they are the twin magnets that attract foreign investment. If these two are taken care of, investors will be drawn to India, GAAR or not.<sup>28</sup> Further, certainty in law will only help as the investors would know where they stand. The Supreme Court in Vodafone's case observed that Foreign Direct Investment (FDI) 'flows towards location with a strong governance infrastructure which includes enactment of laws and how well the legal system works. Certainty is integral to rule of law. Certainty and stability form the basic foundation of any fiscal system. Tax policy certainty is crucial for taxpayers (including foreign investors) to make rational economic choices in the

most efficient manner. Investors should know where they stand. It also helps the tax administration in enforcing the provisions of the taxing laws'

FII are also given relief by the Shome committee as the GAAR provisions will not apply to non-resident investors who have invested in the FIIs provided such investment has an underlying asset in the form of investment in listed securities. And GAAR will not apply when a FII chooses to be governed by domestic law against the applicable treaty.

##### **Misuse of GAAR**

The basic criticism of statutory GAAR which is raised worldwide is that it provides a wide discretion and authority to the tax administration which at times is prone to be misused. For example, after the landmark Dawson<sup>29</sup> case in U.K, which empowered the Revenue to restructure the transaction in certain circumstances, the Revenue started rejecting every case of strategic investment/tax planning undertaken years before the event saying that the insertion of the entity was effected with the sole intention of tax avoidance.<sup>30</sup> This vital aspect, therefore, needs to be kept in mind while formulating any GAAR regime. It must be ensured that proper safeguards are in place to prevent such an abuse.

#### **ADDRESSING THE CONCERNS:**

##### **The Draft Guidelines:**

The Draft Guideline(s) issued by the Committee constituted under the Chairmanship of Director General of Income Tax (International Taxation) gave following recommendations to be included in the GAAR guidelines as per Section 101 of the Finance Act, 2012:

##### **1. Monetary Threshold**

In view to relieve small taxpayers from undue harassment by the taxation authorities, the committee recommended embedding of a monetary threshold to invoke GAAR against any arrangement or arrangements only where the tax benefit through the arrangement(s) in a year exceeds that threshold limit. But the committee did not mention any specific amount.

##### **2. Statutory Forms**

The committee also recommended that adequate safeguards should be provided to the assessee to ensure that principles of natural justice were not violated and there is transparency in the procedures of invoking GAAR. For that the committee is of the opinion to issue prescribed statutory forms for invoking GAAR by various authorities.<sup>31</sup>

##### **3. Time Limitation**

The committee also recommended time limits during which various actions under the GAAR provisions are to be completed. Some of these time lines have been prescribed under the act under sections 144BA(1) and 144BA(13).

**Shome Committee:**

The Prime Minister constituted an Expert Committee under the chairmanship of Dr. Parthasarathi Shome, on General Anti Avoidance Rules (GAAR) to undertake stakeholder consultations and finalise the guidelines for GAAR so as to ensure greater clarity on GAAR issues. The Shome committee has made the GAAR provisions friendly to taxpayers by suggesting various safeguarding measures, some of the important being mentioned:

- Postponing the implementation of GAAR by three years.
- GAAR would be invoked when tax benefit is the 'main purpose' as against 'one of the main purposes'.
- Assessing officers must give a detailed explanation for choosing a case for action.
- Negative list to exclude certain activities from the purview of GAAR. In order to further restrict the scope of the provision, the report suggests that certain activities which incorporate a specific tax benefit and therefore involve tax mitigation as against tax avoidance should be kept out of the purview of GAAR.
- The report suggests that there should be a threshold for applying GAAR. The suggested threshold is Rs 3 crore of potential tax liability.
- All existing investments made prior to the date of commencement of GAAR should be grandfathered so that, on exit, after the commencement of GAAR, the provisions is not applicable.
- Where specific anti-avoidance rules exist, GAAR should not apply.
- It has suggested the constitution of a five-member panel to approve, by majority, invocation of GAAR in any case, and for three of those five members to be from outside the tax department, one being a retired high court judge. It will ensure there is no arbitrariness by taxmen.

These suggestions by the Shome Committee are rational and have assuaged the fear of the investors. However the suggestion of postponing the implementation of GAAR by three years is not compelling. The committee's view that it is an advanced instrument for tax administration, which needs intensive training in the finer aspects of international taxation, is valid, but it does not make sense that the training will take more than four years. If GAAR is being implemented from 2013-14, which means the assessment year 2014-15, the time available for training is more than a year which is sufficient considering the same Revenue Authorities are considered capable and competent in dealing with SAAR such as complex international pricing and arriving at prior settlements. Moreover, timely and regular seminars and workshops can be held to make things clear to the assessing officers.<sup>32</sup>

The report if adopted by the government will facilitate in setting up a predictable tax regime. It will allow the government to curb tax avoidance without hurting the

country's image as an attractive destination for doing business.

**CONCLUSION:**

As India opens up its economy it has to make its tax administration internationally comparable, especially at a time when tax payers come up with complex and sophisticated device to evade taxes. Though we have Judicial Anti-avoidance Rule and Special Anti-avoidance Rule in place, they are not sufficient. Reliance on Indian Judiciary to deal with every matter of tax evasion, and application of domestic taxation laws in transactions made outside India, will not only create an uncertainty in taxation laws but will delay the fruit of justice to genuine tax payers. Also, it is unrealistic to expect the legislature to foresee every possible situation of tax evasion and codify Specific Anti-Avoidance Rule to deal with it. It is only reasonable to change the law or enact a new law as there is problem with the existing tax system. Therefore, the existence of GAAR is the need of the hour and both tax payers and tax authorities should accept this ground reality. Enactment of GAAR in harmony with the existing policies will help a capital deficit nation like ours by minimizing the tax evasion and exchequer also gains with the increase in investment and development in the country.

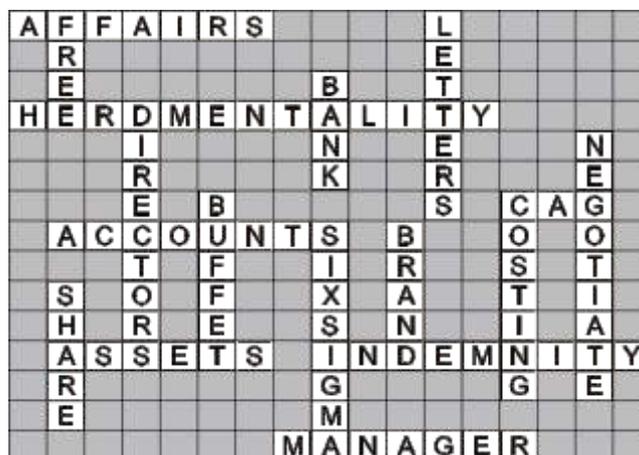
Further, the Government at its highest levels is trying to reassure everyone against indiscriminate invocation of GAAR. The recommendations given by the Shome committee are very reasonable and realistic in nature, which have been well received also by the stakeholders. If accepted and implemented properly, it will help in achieving the desired results. Enactment of a clear and viable GAAR will send a clear message to the investors and stakeholders of the intentions of India and it will put rest to all the speculations and thereby provide conducive business environment. Enough safeguards have been put in place and further suggestions to ensure that there is no abuse of the provisions. Unless the revenue authorities, consistently demonstrates its intent to abide by the provisions of GAAR in spirit. If GAAR has been thus freed of most kinks and whims, there is no reason why it cannot be implemented from 2013-14. India is ready for the implementation of the GAAR, it need not wait another 3-4 years. On considerations of economic efficiency and fiscal justice, a taxpayer should not be allowed to use legal constructions or transactions to violate the principle of equity. Taxes are as important as any other welfare law as they are an important part of nation building. It is a duty of every citizen to pay for the cost of development in the form of taxes. Therefore, I would conclude my essay with an observation by J. Chinnapa Reddy in McDowells case, 'we now live in a welfare state whose financial need if backed by law have to be respected and met. We must recognize that there is behind taxation laws as much moral sanction as behind any other welfare laws.'



ENDNOTES

- <sup>1</sup> In 1927 in the court case of *Compañía General de Tabacos de Filipinas v. Collector of Internal Revenue* a dissenting opinion was written by Oliver Wendell Holmes, Jr. that included the following phrase.
- <sup>2</sup> Deepshikha Sikarwar, GAAR: European Union wants member states to adopt common general anti-avoidance rules, *The Economic Times*, available at <http://economictimes.indiatimes.com/news/economy/policy/gaar-european-union-wants-member-states-to-adopt-common-general-anti-avoidance-rules/articleshow/17549951.cms>
- <sup>3</sup> *Vodafone International Holdings BV v. Union of India*, (2012) 6 SCC 757
- <sup>4</sup> GAAR has been a part of the tax code of Canada since 1988, Australia since 1981, South Africa from 2006 and China from 2008. See, Raghuvir Srinivasan, Sweating over GAAR, *The Hindu*, available at <http://www.thehindu.com/business/article3339961.ece>
- <sup>5</sup> Supra note 3
- <sup>6</sup> Substituted for Section 92 by the Finance Act, 2001, with effect from April 1, 2002.
- <sup>7</sup> *Swadeshi Cotton Mills Co. Ltd. v. CIT*, (1967) 63 ITR 57; *Madhowji Dharamshi Mfg. Co. Ltd. v. CIT*, (1970) 78 ITR 62; *J. K. Cotton Manufacturers Ltd. v. CIT*, (1975) 101 ITR 221 (SC).
- <sup>8</sup> S. Rajaratnam, “Vodafone case- A WELCOME DECISION”, [2012] 23 Corporate Professionals Today, 27.
- <sup>9</sup> *MC Dowell* (2012)6SCC613 and *Union of India v. Azadi Bachao Andolan and Anr.* (2004) 10 SCC 1
- <sup>10</sup> (2012)6SCC613
- <sup>11</sup> *Union of India v. Azadi Bachao Andolan and Anr.* (2004) 10 SCC 1
- <sup>12</sup> 1986 AIR 649, 1985 SCR (3) 791
- <sup>13</sup> Supra note 3. Para 61
- <sup>14</sup> (1999)8 SCC 667
- <sup>15</sup> See, *Commissioner of Income Tax v. Sri Meenakshi Mills Ltd.*, Madurai, AIR 1967 SC 819; *Life Insurance Corporation of India v. Escorts Limited and Ors.* (1986) 1 SCC 264; *Juggilal Kampalpat v. Commissioner of Income Tax*, U.P. AIR 1969 SC 932 : (1969) 1 SCR 988
- <sup>16</sup> substituted for Section 92 by the Finance Act, 2001, with effect from April 1, 2002.
- <sup>17</sup> *CIT v. R. K. Abubcker*, [2004] 135 Taxman 77 (Mad.); *Om Sindhoori Capital Investments Ltd. v. Jt. CIT* [2002], 80 ITD 514 (Chennai); *VVF Ltd. v. Dy. CIT* [IT Appeal No. 673 [Mum. Of 2006, dated 8-1-2010].
- <sup>18</sup> General Anti Avoidance Rule, the PRS Blog, available at <http://www.prsindia.org/theprsblog/2012/05/17/general-anti-avoidance-rule-gaar/>.
- <sup>19</sup> Section 96 of Income Tax Act, 1961
- <sup>20</sup> Section 97 of Income Tax Act, 1961 provides for circumstances under which arrangement(s) shall be deemed to lack commercial substance.
- <sup>21</sup> See general, General anti-avoidance Rule ('GAAR') in India KPMG, available at <http://www.kpmg.com/Global/en/IssuesAndInsights/ArticlesPublications/taxnewsflash/Documents/india-april24-2012no2.pdf>
- <sup>22</sup> Section 96 (1) of the Finance Act, 2012
- <sup>23</sup> Section 96 of Income Tax Act, 1961
- <sup>24</sup> GAAR in Direct Tax Code Bill, 2010 states “Impermissible avoidance arrangement means a step in, or a part or whole of, an arrangement, whose main purpose is to obtain a tax benefit”, whereas GAAR in Finance Act, 2012 states, “An impermissible avoidance arrangement means an arrangement, the main purpose or one of the main purposes of which is to obtain a tax benefit”.
- <sup>25</sup> ANNEXE 1. COMPARISON OF GAAR 2009-12, available at [http://www.finmin.nic.in/reports/annex1\\_report\\_gaar\\_itact1961.pdf](http://www.finmin.nic.in/reports/annex1_report_gaar_itact1961.pdf)
- <sup>26</sup> Section 97 of the Finance Act, 2012 provides for circumstances under which arrangement(s) shall be deemed to lack commercial substance
- <sup>27</sup> See general, Preamble of Vienna Convention, Article 18, Article 26, Article 27, Article 31, Article 46 Vienna Convention on the Law of Treaties, U.N. Doc. A/CONF.39/27, Art. 31(1), (1969).
- <sup>28</sup> [www.thehindu.com/business/article3339961.ece?homepage=true](http://www.thehindu.com/business/article3339961.ece?homepage=true)
- <sup>29</sup> *Furniss (Inspector of Taxes) v. Dawson* (1984) 1 All E.R. 530
- <sup>30</sup> Supra note 3. Para. 63
- <sup>31</sup> Shome Committee Report
- <sup>32</sup> [http://www.epw.in/system/files/pdf/2012\\_47/45/Lightening\\_the\\_Burden\\_of\\_GAAR.pdf](http://www.epw.in/system/files/pdf/2012_47/45/Lightening_the_Burden_of_GAAR.pdf)

# SOLUTION TO THE CROSSWORD



Crossword found on Page 35



Mag

MAGAZINE COMMITTEE  
GOVERNMENT LAW COLLEGE, MUMBAI



# BELLES-LETTRES

## J. E. Dastur Memorial Government Law College Short Fiction Essay Writing Competition 2012-13

The Magazine Committee had chosen creativity as its mascot as it first heralded the Belles-Lettres: J. E. Dastur Memorial Government Law College Short Fiction Essay Writing Competition. With every passing year we have been devoted to our muse—creativity—with increased vigour. The specialty of this Competition is that it aims at providing a platform for students from all faculties, both legal and non-legal, to let their creative juices flow. Short fiction is a genre which lets one's imagination run unbridled and for once students are not bound by rules and laws while penning their thoughts. This year's edition of the Competition was given its own special touch, by the creativity and ingenuity of the four topics, which comprised a variety of different characters, situations and objects. With such an array of appealing topics to write on, it is no surprise that students from across the country participated enthusiastically in this year's Competition.

The following were the topics:

**Incorporate The Following Sentence Anywhere**

**In Your Story:**

'He realised that the only thing that had changed was him.'

OR

**Build Your Story Around The Following Characters In The Given Situation:**

William Shakespeare, Princess Diana and Aurangzeb at the Olympics

OR

**Incorporate The Following Objects Into Your Story:**

Postcard | Wig | Clock

OR

**Build A Story Revolving Around The Following Image:**



The preliminary rounds of the Competition were judged by Mr. Mihir Balantrapu and Mr. Sidin Vadukut. Mr. Balantrapu is the Sub-Editor for The Hindu, one of the most reputed newspapers in India. Mr. Vadukut, on the other hand, is the Managing Editor of Livemint.com.

The final round of the Competition was judged by best-selling Indian author Mr. Amish Tripathi, who shot to fame with his debut novel *The Immortals of Meluha*, the first novel of *The Shiva Trilogy*. His second novel *The Secret of the Nagas* also earned him a great deal of critical acclaim. The third book of the trilogy, *The Oath of the Vayuputras*, also created waves upon being released. An alumnus of the Indian Institute of Management, Calcutta, Mr. Tripathi worked 14 years in the financial services industry, before beginning to pursue his career in writing.

**Rohan Sarkar, St. Xavier's College, Kolkata**  
**1<sup>st</sup> prize - ₹ 8,000**

**Shreya Bhattacharya, Lady Shri Ram College for Women**  
**2<sup>nd</sup> prize - ₹ 6,000**

**Priyam Goswami-Choudhury, Hindu College**  
**3<sup>rd</sup> prize - ₹ 4,000**

The following pages contain the essay that was awarded first place.



# *The Woman In Red*

**Rohan Sarkar**, St. Xavier's College, Kolkata  
(This story was awarded the 1<sup>st</sup> prize)

The police found his residence in the early hours of the morning. They knocked on the landlady's door and with the key she provided opened his door. The stench of death welcomed them. They had arrived a little too late. For there on the bed lay the elderly man as rigid as a dried log with a serene expression on his face.

"He seems almost happy", observed Godpoley the constable.

Mr. Sen saw her for the first time in the Academy of Fine Arts. There was something ethereal about her like the paintings that adorned the walls of the gallery. Was it the glow of her bronze skin or was it her face brimming with innocence and vulnerability which would make anyone want to care for her, Mr. Sen could not decide. But whatever it was, she was the most beautiful woman he had seen in his entire life. Her hair cascading down her waist reminded him of a waterfall. A few strands of her hair strayed onto her face, of which she took no notice. Her nose was adorned with a ring and her lips were painted a light shade of red. She reminded him of the Bengali actress Suchitra Sen.

On any normal day, he wouldn't have given her a second thought but that evening when he returned home the woman stayed at the back of her mind. Given enough time she might have faded into oblivion, but it was not to be. Fate had willed something different for him, that's what Mr. Sen told himself in retrospect.

Man is unique in the sense that he can appreciate beauty, something a creature of instinct cannot. And yet a thing of beauty for one may not be so for the other. A swordsman finds the way his blade curves beautiful whereas a poet may be partial to his words. Some people find beauty in our bountiful nature whereas others do so in a melodious voice. Mr. Sen found them in paintings. He admired not just the work of art but also the thinking and hard work that went behind it. And everyone knew that there was no better place in the whole of Kolkata than the Academy to indulge his passion. And so it was that a few days later while returning from the British Library his bus passed the Academy he felt a sudden urge to visit it and see the works of the masters. He had long contemplated buying a painting but the prices were too steep for an old man living

off his pensions and his meagre salary as a librarian. His visit to the Academy would have been uneventful had he not spotted her again. She was wearing the same red saree he remembered her wearing the last time. And for the second time Mr. Sen was struck by her beauty. Something stirred inside him and his heart fluttered but he did not know why. Suddenly he had this strange urge to talk to her. He imagined her voice to be sweet and melodious and soft too, such that you had to stand near her to hear what she said.

He shook his head. What was he thinking! He did not even know her. But then again you do not always need to be a friend or relative or an acquaintance to talk to someone, said a voice in his head. True, someone had to break the ice. Moreover if he did not talk to her how would they get acquainted? Such were the thoughts that swam in his mind as he stood there for a long time gazing at her making sure that he stayed out of her line of sight.

He heard someone speak to him. "What?" he asked. His reverie broken he turned to see the speaker was the diminutive doorman.

"Sir, the Academy's about to close", the doorman said. "So early?" asked Mr. Sen.

"It's 7:45, sir. The Academy closes at 8:00."

"What!" He consulted his watch. It was indeed so. He had spent close to an hour standing here and doing nothing. The doorman moved away to speak to some of the other stragglers like him. He looked back in the room to find her gone. 'That's strange. I never saw her leaving,' he thought. But then again, he had his back to the door and she could have easily walked past him without him noticing. He cursed himself for not being able to get her glimpse one last time. That night all he could think about was her.

The next day he confided about her to his friend, Mr. Ghosh.

"It's all those romantic novels you have been reading at that job of yours", he said knowingly, "they have addled your mind."

Mr. Sen did not say anything.

"Spend some time in prayers. You will find inner peace. Look at me."

"You know it very well that I don't believe in god, more so after everything that has happened to me."

"Well there you go. That's your problem. You have no one to turn to when you are in a moral turmoil."

"Oh please, you speak as if you telephone god when you are in a problem and have lengthy discussions with him over tea on the latest political development." Mr. Sen said sarcastically.

"You are too shallow, Sen", said Mr. Ghosh unfazed by the sarcasm.

"Yes, you have told me that before." The rest of the walk was completed in silence.

'He must think I am mad', thought Mr. Sen. 'Why even I think I am mad.' But his friends surrounded by their family could not have felt the anguish and pain that a lonely heart feels. Mr. Sen was confused by what he felt. Could it be love? He had loved his wife, loved her more than anyone else. Could someone else take her place? Could he fall in love again?

That evening he visited the academy again, hoping against hope to get lucky a third time. And he did. There she was draped in red.

'Maybe she is waiting for me,' he thought and then smiled to himself, 'that would be a little too much to expect.' But was this coincidence?

He knew what Sarkar would have said, "Someone above must be conspiring against you. What is the probability that the same thing happens to you thrice? This surely is a test. God wants to see if you can resist, rise above the mortal plane."

'To heck with that', he thought. Plucking up courage he moved forward and stood beside her putting up a big show of looking at the painting she had been admiring for the past few days. Minutes passed in silence, his mind didn't pick up one detail about the painting. Mr. Sen stood there unable to decide how to start a conversation. Finally-

"I have seen you before here... admiring this painting. Twice before, to be exact. Are you planning to buy it? It's beautiful."

He looked up to see her give a shake of her head.

No.

Close up her face looked even better, no blemishes, no spots. The kohl lining her eyes accentuated her beauty. There was a hint of a smile playing on her lips. Encouraged he said, "I frequent here a lot and I saw you a few days back..." and then impulsively blurted out, "I found you so beautiful." As soon as he said it, he saw her expression change. The smile was gone and so was the



serene expression. He cursed himself inwardly. Outside he felt embarrassed. Unable to look into her eyes he stammered, "I am..am sorry", and hurried away from there. Coming outside he took slow, deep breaths. 'what was I thinking?', he thought. 'Now she is going to think that I am some lecherous old fool.' He couldn't sleep that night. He tossed and turned on his bed. Probably she was having a laugh about it with her friends. She would have a grandfather his age. Oh! What he would have given to just be able to rewind the clock and unspoke what he had spoken.

As the clock struck five in the evening, the next day, he found himself debating whether to go to the Academy or not. In the end he decided to go and apologise to her if she was there. He saw her as soon as he entered, standing in front of a painting of a chimpanzee listening to a gramophone, wearing what she always wore. He went up to her. He was pleased to see that she did not move away.

"I must apologise for the way I behaved yesterday. That really was unbecoming of me", he said. She smiled back. "I hope you didn't think too badly of this old fool." There was an imperceptible nod of the head.

'So demure', he thought.

He felt a huge burden being lifted off his heart. He felt he could now talk freely. He found himself talking about the paintings, the artists, colours and various themes. He did most of the talking and she did the listening part. That evening when he returned home he felt elated. Everything seemed, felt different. The world seemed brighter, the people in his apartment happier. But then he realised that the only thing that had changed was him. He was happier. He felt young again.

And so it became his routine, his only routine in fact. His job at the library got over at 4:30pm and he would make a beeline for the Academy. She would always be there, waiting for him at the same place. For the first time in many years he found someone in whom he could confide. She provided a patient ear to all his problems. She wasn't judgemental. He had always known that it was his fault that his son turned out the way he did, he knew that he had been a soft father. But the last thing he wanted was to be reminded that, but people never understood. They made it a point to shove the point in his face. But she was different. He always felt good after talking to her. It was as if she absorbed all his negative energy and imbued him with positive energy. With her he found himself talking about the things long forgotten, things which were too painful for him to remember. He talked about his wife, her cancer. He told her about his loneliness. Theirs was a relation free and unbridled, unbound by the limitations of a name.

Mr. Ghosh was the last to be called in.

"How did he die?" was his first question to the Inspector. "Cerebral stroke, the doctor says. He has been off his meds for quite sometime now.", replied the Inspector. "Do you know why would he do that?"

"Really! I don't know why he would do that. Maybe he thought he was alright. I mean, he hadn't fallen ill for years now. So I guess he thought he was cured and didn't need his medicines."

"What can you tell us about your friend? Did you notice anything unusual, anything out of place these past few days?" asked the Inspector.

"Well he didn't come for our usual morning walk, the last three days. I would have called him up but he didn't have a phone. He said it would just be an extra burden on his pocket. I was thinking of coming to check up on him in a day or two."

"Anything else? Was he in debt of some kind? Had a fight with anyone?"

"No, he was very particular about his expenses. He wouldn't be in debt. He would starve to death rather than borrow from somebody. I don't know anything about a fight but the last time we went for the walk he said he had had a disagreement with this man."

"What man?"

"There was this girl he had been talking to for sometime. I think he liked her because he always used to talk about her during our walks. And he said he wanted to invite her over for dinner and her father didn't want any of that."

"Did you know the name of that girl? Where she was from?"

"No, come to think of it, I never asked him of her name. Actually I wasn't very happy with what he was doing. It wasn't right for a man of his age. Do you think this girl has anything to do with all these?"

"We don't know anything concrete as of now. Can you remember anything he told you about this girl? Even the minutest detail can be helpful."

"Not much. Only that she was beautiful and quiet and she always wore a red saree."

"A red saree, you say. That's interesting."

“Why, do you know of such a person?”

“Mr. Ghosh, please take a look at this.” Mr. Ghosh looked at the thing that he was being shown and as he slowly realised what the policeman was trying to imply he thought the policeman was mad, for sure.

The landlady was inconsolable. Mr. Sen had been a good tenant, she said. Always paid the dues on time, never picked a fight with anybody, always polite. She was pretty sure witchcraft was involved. It was pretty sure from the way he had died. No injury marks, nothing. A man didn't just drop dead. When asked if she had noticed anything out of the ordinary all she could offer was that Mr. Sen had not gone out for work at his usual time.

The police had interviewed the doorman first. He had been the one who had recognised the arsonist from the video footage. He couldn't stop talking.

“I knew from the beginning there was something wrong with this guy”, he said with the air of a man who knows just about everything.

“Why do you say that?”, the policeman asked.

“He used to hang around the room all the time. I always had to ask him to vacate the place before he did so. And he used to talk with himself. A few days back he even picked up a fight with one of the painters. And now that you tell me, I saw him snooping around the building these past couple of days. It's pretty clear now he was looking for an isolated spot to light the match. I recognised him at once when I saw the footage. I had seen him hurrying out with the other visitors when the alarm was set. If I had known he had done that, he could not have escaped. It was a pretty ingenious of him though. The fire drew everybody away and he could just slip away with it...”

The Inspector raised a hand asking him to stop. It was pretty clear the doorman wanted to say more.

At the house of the late Mr. Sen the inspector and his trusted constable stood talking. “It's pretty clear now, Godpoley”, the inspector said, “The poor man stopped taking his medicines, started hallucinating, lost his grip on reality and here we are.”

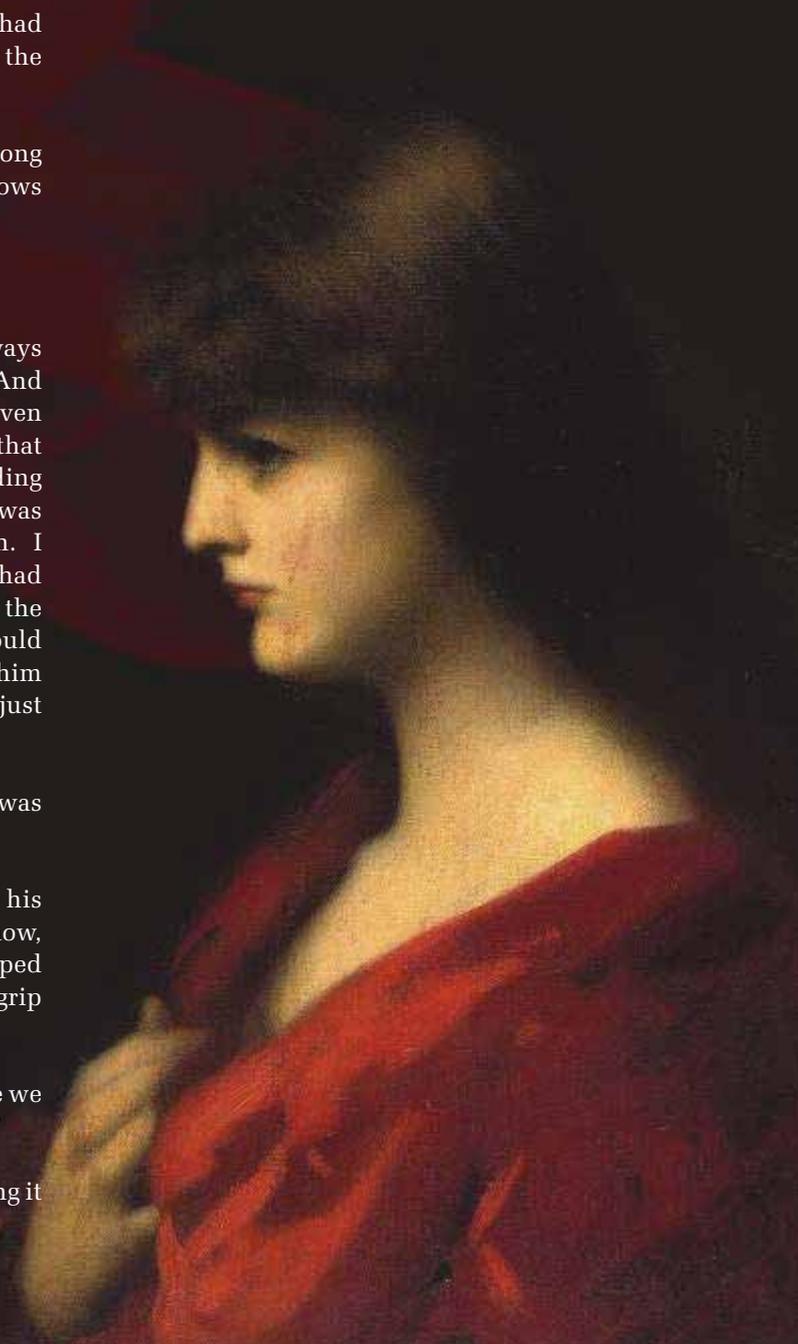
“It makes sense, sir”, the constable agreed. “What are we going to do with this now? Return it to the Academy?”

“Eventually. For now it's evidence. Roll it up and bring it along.”

“Yes, sir”, the constable said as the inspector went outside to have a smoke.

Godpoley looked at the evidence he had been asked to roll up. It was a painting, the source of all this hullabaloo. It was the painting of a woman, as beautiful as any apsara, a red saree draped around her body, her nose adorned with a ring. The kohl lined eyes seemed to be staring at him.

“No doubt the old man thought she was real”, Godpoley said to himself as he put the painting in the evidence bag. ■



**PATRON**

*With Best Compliments From*

**Mulla & Mulla  
& Craigie Blunt & Caroe**

**Advocates, Solicitors and Notaries**

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# Sir Dinshah Mulla Legal Essay Writing Competition

The Sir Dinshah Mulla Legal Essay Writing Competition is an intra-college legal essay competition and one of the oldest annual events in Government Law College. The Mulla and Mulla Trust, our sponsor for this event, wishes to encourage through this Competition, maximum participation from the students of GLC, allowing them to express their views on contemporary legal issues and providing them with a fine learning experience. The Competition gives a tremendous boost to young talent and increases their knowledge about legal topics and issues. This year saw a record number of entries for this Competition, proving that there is no dearth of talent in GLC.

## TOPICS

- 1) The Marriage Laws (Amendment) Bill, 2010—discuss its role and impact on the rights of women in relation to matrimonial laws in India.
- 2) FDI in retail—a necessity or a violation of fundamental rights?
- 3) The Copyright (Amendment) Act, 2012—a landmark in Indian Copyright legislation.
- 4) Analyse the new SEBI (Substantial Acquisition of Shares and Takeovers) Regulations, 2011.
- 5) The Rights of Persons with Disabilities Bill, 2011—is the proposed legislation adequate to protect the rights of disabled persons in India?

The entries were judged by  
Mr. Shardul Thacker, Senior Partner

## WINNERS

First Prize: ₹ 15,000

**AKANKSHA TIWARY, V-IV**

Second Prize: ₹ 8,000

**DIVYAM LILA, V-II**

Third Prize: ₹ 6,000

**SNEHA NAGVEKAR, V-V**

The following pages contain the essay that was awarded first place.



# The Copyright (Amendment) Act, 2012 – a landmark in Indian Copyright Legislation

by Akansha Tiwary, V-IV

*“Of all the creative work produced by humans anywhere, a tiny fraction has continuing commercial value. For that tiny fraction, the copyright is a crucially important legal device.” –Lawrence Lessig*

We live in a democracy, one of the most celebrated democracies of the modern civilized world. One might argue that this democracy is more of a reflection of the western world, aped by our forefathers consciously as a tool to foster development and maintain solidarity in our diversified society. Cynics may attribute our adoption of this form of government to natural inheritance from our colonial legacy. Whatever be the school of thought, democracy has been a successful form of government for this nation and the prominent reason for this success is one of the basic tenets of democracy—rule of law. We, as nation, have imbibed, inculcated and thoroughly pursued rule of law as the way of living in and as a catalyst for shaping our society. It is this rule of law that undermines the notion of unfettered power of the government and mandates popular consensus for passage of laws that govern the people.

It is in pursuance of this ideal that the government undertakes the exercise of inviting suggestions and recommendations from the general public as well as certain dedicated guilds and factions while introducing new laws or amending the existing ones. One of the most recent examples in this regard has been the Copyright (Amendment) Act, 2012 (hereinafter referred to as the ‘2012 Amendment’). Copyright is one of the oldest legal concepts within the gambit of intellectual property law. The genesis of copyright law can be traced back to the seventeenth century England, where it was merely used to counter unlicensed printing.<sup>1</sup> Over the centuries, the world has undergone several transformations transcending into the present day modern world and so have the laws to keep pace with this dynamic trend of our existence. For any country or society to be successful and progressive, it is imperative that the laws of such country or society are in tune with the ever changing social, economic, cultural and political scenarios. The 2012 Amendment is a step by the Government of India towards protecting the rights springing from the infinite sphere of ideas culminating into expressions which widely impact these scenarios.

The Indian Copyright Act, 1957 (hereinafter referred to as ‘the Act’) has been amended five times in the past to bring it in line with the changing times, the advent of World Wide Web and technology and to fine-tune it with the World Intellectual Property Organization Copyright Treaty (hereinafter referred to as ‘WCT’) WIPO Performances and Phonograms Treaty (hereinafter referred to as the ‘WPPT’). This essay intends to critically evaluate the most recent 2012 Amendment and its economic, technological and cultural ramifications in the light of new provisions, important amendments previously made to the Act and the socio-economic demands of our nation vis-à-vis intellectual property rights. The changes brought about by the 2012 Amendments will be briefly dealt with under following heads:

- I. Inclusion of new definitions and amendment in earlier definitions
- II. Rights in artistic works, cinematograph works and sound recordings
- III. Provisions relating to ‘Fair Use’
- IV. Provisions relating to Moral Rights and inclusion of “Performer’s Rights”
- V. Access to Disabled Persons
- VI. Protection of digital technology and provisions relating to Protection of Internet Intermediaries
- VII. Changes in provisions relating to licensing relating to copyright
- VIII. Other amendments
- IX. Conclusion

## I. INCLUSION OF NEW DEFINITIONS

### ‘Commercial Rental’

The 2012 Act introduces a new definition for the term ‘commercial rental’ in Section 2(fa); this term is used in Section 14 where it states that one of the exclusive rights of the owners of the copyright in computer programmes, films and sound recordings is ‘to sell or give on commercial rental or offer for sale or for such rental, any copy’ of these works.

<sup>1</sup> Copyright in Historical Perspective, Patterson, 1968, Vanderbilt University Press

**‘Communication to the Public’**

The definition of ‘communication to the public’ in Section 2(ff) has been expanded. It now includes both works and performances. Also, the definition now explicitly states that it does not matter whether the communication is ‘simultaneous or at places and times chosen individually’. As such, it appears to include multicasting, narrowcasting and unicasting.

**‘Cinematograph Film’**

The definition of a ‘cinematograph film’ has been amended and is now defined as any work of visual recording in any medium.

**‘Visual Recording’**

The new Section 2(xxa) defines a visual recording to mean: ‘the recording in any medium, by any method including the storing of it by any electronic means, of moving images or of the representations thereof, from which they can be perceived, reproduced or communicated by any method’.

**II. RIGHTS IN ARTISTIC WORKS, CINEMATOGRAPH WORKS AND SOUND RECORDINGS**

The breakthrough change brought about in 2012 Amendment has revolutionized the rights of the original authors of literary, musical, dramatic and artistic works. A new concept of the “First Owners of Copyright” has been introduced which states that the abovementioned categories of people should have the First Right in the said works. This concept abolishes the age-old practice of the “employer or commissioning party” being the first owner of copyright. The 2012 Amendment seeks to introduce royalties at 12% for authors who earlier worked on one-time fee basis. However, the authors of literary, musical, dramatic and artistic works shall not be entitled to royalty when a cinematograph film is communicated to the public in cinema halls. Further, these rights cannot be waived or assigned by the rights holders, except in favor of legal heirs and Copyright Societies. The amendment also introduces a proviso to Section 17(b), which states that no assignment of the copyright in any work to make a cinematograph film or sound recording shall affect the right of an author to claim royalties.

The amendment is predicted to have a sweeping effect on the Indian Film Industry and the Contracts with regards to the same will have to be structured in accordance with the amendments. In the words of the renowned writer, poet and lyricist Javed Akhtar, *“We sell our compositions to the production houses, who, in turn, re-sell it to music companies, cellphone companies as ring tones and*

*advertisers for multiple use, and they continue to make money on our creations. Even in the present law, we have a share but we are shortchanged by production houses and music companies. Now, we will sell the rights, instead of the production house. Now, these rights will lie with us, hopefully, our words, songs, stories and tunes will be ours and ours alone in the legal terms.”*

However, on an in depth analysis of the same, the practical difficulties in the implementation of these provisions are glaring. The procedures for allocation of royalties have not been defined and various questions with regards to the payment of royalties are unanswered. Further, the lack of effective enforcement by agencies like Indian Performing Rights Society (‘IPRS’), which have already been in-charge of collection of royalties, confine the efforts of introducing and enforcing a progressive amendment to paper only. The Human Resources Development Minister Mr. Kapil Sibal had recognized this concern and claimed that the bodies collecting royalties will be statutory bodies. However, till date the guidelines for such statutory bodies have not been laid down. This raises questions about the efficiency with which the executive is planning to put the amendment in practice. Another important demerit is that since the royalties have to be paid henceforth, the negotiation on the fee would be a hard bargain, especially for the new class of authors and lyricists who are trying to set foot in the Indian Film Industry.

The other significant change made by the 2012 Amendment with regards to the rights of authors in artistic works, cinematograph films and sound recordings is vide Section 13(4) of the Act, which states that the copyright in a cinematograph film or a sound recording shall not be affected by separate copyrights in any work in respect of which (or a substantial part of which), the film or sound recording is made. Further, Section 14(c)(i) provides for the rights to reproduce work of an author in any material form. This clause has been amended to provide that this right to reproduce the work in any material form also includes the “the storing of it in any medium by electronic or other means.” The effect of this amendment is the addition of the right of storing in electronic or any other forms. A similar amendment has been brought about in sub-clause (i) of clause (d) of Section 14, which deals with exclusive rights in a cinematograph film and sub-clause (i) of clause (e) of Section 14, which deals with rights in sound recordings. In case of literary, dramatic and musical works, the right to reproduce work was provided in Section 14(a)(i). This right has been extended to artistic works, cinematograph films and sound recordings by the present amendment.



The amendments to these provisions are expected to have far-reaching consequences especially in terms of storage in a digital medium for the purpose of transmission over the internet wherein copies get created at multiple locations.

### III. PROVISIONS RELATING TO “FAIR USE”

The Doctrine of Fair Use is an important concept in context of the present day developing India. The term “Fair Use” has not been defined in the Act but broadly refers to the reproduction or use of copyrighted work in such a manner which, but for the exception, would be considered an infringement. In the case of *Hubbard v. Vosper*, the issue of definition of Fair Dealings is dealt by Lord Denning in the following words – “*It is impossible to define what is “Fair dealing”. It must be a question of degree. You must consider first the number and extent of quotations and extracts...Then you must consider the use made of them...Next, you must consider the proportions.. Other considerations may come to mind also...But after all is said and done, it must be a matter of impression.*” Therefore, the Doctrine basically aims to balance user rights with the personal right of the owner for the larger benefit of the society. The Supreme Court, in the case of *Academy of General Education, Manipal and Anr. v. B. Manini Mallya*,<sup>2</sup> emphasizing on the importance of the Fair Use Doctrine in India, held that “*When a fair dealing is made, inter alia, of a literary or dramatic work for the purpose of private use including research and criticism or review, whether of that work or of any other work, the right in terms of the provisions of the said Act cannot be claimed.*”

The provision of Fair Use is enshrined in Article 13 of the TRIPS Agreement. Under the Act, this concept is dealt in Section 52 which provides for a number of activities which would come under the purview of “Fair Use”. The amendment to clause (1) (a) has extended the Doctrine of Fair Use to any work, except a computer programme, thereby resulting in the extension of Fair Use to cinematograph films and music works as well. Further, the Act has introduced two new clauses-52 (1) (w) and 52 (zc), which deal with converting a two dimensional work into a three dimensional object and importation of literary or artistic works such as labels, logos etc. that is incidental to goods being imported, not amounting to infringement.

The amendment of Section 52 dealing with Fair Use has been extended with intent to facilitate easy access for educational purposes. This provision has been amended in the larger interest of the citizens, keeping in mind the general welfare of the Society. It covers within its ambits

various educational materials like guides and solution sets as long as the intention is to provide bona fide help to students and in public interest. However, the major loophole in the present amended section is that it does not contain any list of factors for determining fair use.

### IV. PROVISIONS RELATING TO “COMMERCIAL RENTALS”, MORAL RIGHTS AND INCLUSION OF “PERFORMER’S RIGHTS”

It is one of our fundamental duties under the Constitution to protect and preserve the cultural heritage and in pursuance of the same the government from time provides legal safeguards to works of art, literature, music and cinematography. The Act provides for protection of such heritage through providing right to legal action to the author of the work even when he has parted away with the rights vested in the work. The concept of moral rights is enshrined in Section 57 of the Act whereby any distortion, mutilation or modification of the author's work can be treated as a violation of his integrity right and the author or his heirs may bring an action against the party committing distortion, mutilation or modification.

The Indian judiciary dealt with the issue of moral rights elaborately in the case of *Mannu Bhandhari v Kala Vikas Pictures*.<sup>3</sup> The case dealt with the rights of an author in a cinematographic film adaptation of her work. This was the first case to establish the Indian judicial ideal of strong protection for authors and artists against powerful organizations. This ideal of protection of authors was further strengthened in the case of *Amar Nath Sehgal v Union of India*.<sup>4</sup> This case dealt with negligent manhandling of the author's work. This case cemented the role of Indian judges as advocates for individual artists and, more generally, caretakers of Indian culture and established an approach to the legal interpretation of moral rights that is probably unique in the world.

The 2012 Amendment provides a perpetual cover of moral rights to authors and his heirs and successors by deleting the provision relating to the limitation of bringing a cause of action under Section 57 of the Act. The limitation was imposed by the Copyright (Amendment) Act, 1994 (hereinafter referred to as the ‘1994 Amendment’) stating that any act of infringing the integrity right of the author must be committed upon his work during the subsistence of his copyright in the work. Therefore, if the author had assigned his right or parted away from his right in the work, he would not be entitled to bring a successful action against the distortion, mutilation or modification of such work as it out not amount to violation of integrity right.

<sup>2</sup> 2009 (39) PTC 393

<sup>3</sup> AIR 1987 Delhi 13

<sup>4</sup> 2005 30 PTC 253 (DEL)

Thus, the limitation imposed by the 1994 Amendment has been removed.

While one perspective would be to accept this as a welcome amendment as a vigilante against negligent treatment to precious works, the other perspective could very well be the concern raised by the unfettered power to bring action against any party in perpetuity. This might trigger frivolous claims and objections by heirs and successors of the authors, long after the demise of the author. This might further delay the dissemination of rich literature in public domain.

#### Performer's Rights

The 2012 Amendment has brought the Act in line with Articles 6 to 10 of WPPT by introducing Section 38A and deleting sub-sections (3) and (4) of Section 38, thereby making it positive in its approach. The performer's rights granted vide this provision provide the exclusive right to do or authorize the doing of any acts namely the sound or visual recording of the performance, reproducing the performance in any material form including storing etc. without prejudice the rights conferred on the performer. This right also allows the performer to earn continuing royalty on his or her performance. The right of the performers to communicate their performance to the public has been extended through the 2012 Amendment. Earlier this right of communication was available only to authors.

#### V. ACCESS TO DISABLED PERSONS

One of the most positive and effective changes brought about by the Act is the introduction of provisions for better access to disabled persons. The legislature has adopted a two-pronged approach to provide assistance to the disabled. Section 31B has been introduced to provide Compulsory License to those working for the benefit of the disabled. The amendment provides that any organization working for the disabled on a profit basis or for business can apply for license and the Copyright Board has to dispose of the application within two months from the date of the receipt of the application. The application must specify the details of the work, like the means and format of publication, the duration etc. for which the license is to be acquired.

Further, the legislature has added a new clause (zb) to Section 52(1) providing for fair use of work by disabled persons. The Section facilitates the reproduction of any work or communication to public for the benefit of disabled, for private or personal use, or for education or research. As also provided in Section 31B, these rights are

available to any organization working for the disabled on a profit basis or for business.

These amendments, facilitating better access to disabled persons, bring the Indian Copyrights Act, 1957 on par with the most advanced and progressive legislations of the world. Further, these changes have been made to incorporate the provisions of TRIPS and WCT relating to the rights of disabled persons.

#### VI. PROTECTION OF DATA STORED IN DIGITAL TECHNOLOGY AND PROTECTION TO INTERNET INTERMEDIARIES

The world has gone through a rapid transformation since the advent of World Wide Web. At any given point of time hundreds of servers are engaged in cross-transmission of huge packets data through the continents. In the age of such rapid exchange of data, it become essential to protect the data stored in the transient line of communication channels, whether or not temporarily.

In pursuance of the same, two new provisions have been inserted by the 2012 Amendment—Section 52(1)(b) which allows for “the transient or incidental storage of a work or performance purely in the technical process of electronic transmission or communication to the public” making the section applicable to Internet Service Providers (ISPs), and Section 52(1)(c) which allows for “transient or incidental storage of a work or performance for the purpose of providing electronic links, access or integration, where such links, access or integration has not been expressly prohibited by the right holder, unless the person responsible is aware or has reasonable grounds for believing that such storage is of an infringing copy”, making this provision applicable to search engine and online archives.

However, on the flipside, the rights accorded to Internet Intermediaries has been nullified by the insertion of the proviso which mandates that if the person responsible for storing such transient or incidental data or work online receives a complaint in writing that such data or work infringes the copyright, the former shall remove the data or work immediately and disallow access to such data or work for 21 days. Therefore, it is incumbent upon Internet Intermediaries to remove the work or data on receipt of the complaint. However, this might trigger a spree of groundless complaints, which may lead to removal of essential works or data by the Internet Intermediaries. Further, there is no provision mandating the Internet Intermediaries to restore the data so removed.



## VII. CHANGES IN PROVISIONS RELATING TO LICENSING AND ASSIGNMENT RELATING TO COPYRIGHT

The compulsory licensing provisions under Section 31 (relating to published work) and Section 31A (relating to unpublished work or unknown author) which were earlier restricted only to Indian works, have now been made applicable to all works. Further, the concept of 'statutory license' has been introduced under the new amendments. These can be divided into two heads—for Cover Versions and for Broadcasters.

### **Cover Versions**

Cover Versions were initially dealt under Section 52(j) which provided Cover Version as an exception to infringement. However, the recent amendment has deleted this Section and added a new Section 31C which indicates the granting of Statutory License for Cover Versions. The section states that a Cover Version of any literary, dramatic or musical work can be made only after the expiry of 5 years as against 2 years under the old Section and the Cover Version should be made in the same medium as the original. Royalties must be paid in advance with a minimum of 50,000 copies (exception can be made for some less common languages).

Section 31C has provided legal approval to those who are interested in the business. However, very detailed guidelines have been provided to be followed in order to protect the rights of users and prevent them from infringement. The various sub-sections manifest the in-depth analysis by the legislature with a view to safeguard the provisions of the Act.

### **Broadcasters**

Any broadcaster who proposes to broadcast any unpublished/unknown work shall first make an application to the owners possessing such rights. Such notice must contain details of the duration and coverage of such a programme and royalties as fixed by the Board. The intention of the legislature has to be appreciated. Never the less, there are certain lacunae which require analysis. The section provides for the rate of royalties to be fixed by the Copyright Board. However, no grounds for fixing such a rate have been provided. Further, no mechanisms exist for challenging the rate fixed by the Board. In the absence of such guidelines, the broadcasters are subject to the arbitrary decision in the hands of the Copyright Board.

## VIII. OTHER AMENDMENTS

### **Relinquishment of Rights**

Section 21(1) has been amended to provide that the

author can relinquish his rights either by giving a public notice or by giving a notice to the Registrar of Copyrights. Section 21(2) has been amended to provide that where a Registrar has received such a notice, he shall, within 14 days of its publication in the Official Gazette, publish the notice on the Official website of Copyrights.

### **Copyright Societies**

Copyright Societies will be granted registration for a period of 5 years would have to re-register themselves within a period of one year from the date of commencement of the Copyright (Amendment) Act, 2012. Further, as per Section 33A, the Copyright Societies will also be required to publish their respective tariff Schemes.

### **Copyright Board**

Section 11 has been amended to provide a Copyright Board comprising of a Chairperson and two members as opposed to 14 members prior to the amendment of the Act.

### **Prevention of Piracy**

A new Section 65A has been introduced in the Act which provides for adequate safeguards against circumvention of secured technology.

### **Copyright on photographs**

The term of copyright for photographs has now increased from sixty years from publication to sixty years from the death of the photographer.

## IX. CONCLUSION

Our democracy gives us several rights, liberties and freedoms but with democracy comes the inherent lethargy of the executive and the all-pervasive vice of balancing the comfort of multiple blocs and factions. The 2012 Amendment is also a victim of this democratic vicissitude. There is no denying that the 2012 Amendment is amply progressive and bold in its approach. It addresses several lacunae and makes an ostensible effort to bring the Act in line with international conventions and the dynamic nature of technology. However, the Act lacks pragmatism and the tooth to implement certain amendments. The opportunity of introducing parallel importation vide the 2012 Amendment was lost although the same has been referred to a Commission and the report on parallel importation is expected by June–July 2013.

It is only through the passage of time and expert judicial interpretation that we shall know whether the 2012 Amendment is truly worth the accolades it is receiving. ■

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Oasis Counsel & Advisory



*In Association with  
Haresh Jagtiani & Associates*



### Examination Rank Holders for the Academic Year 2011-12

#### FIVE YEAR COURSE

##### V-I

Pooja Rambhia  
Kratika Chaturvedi  
Sulekha Agarwal

First  
Second  
Third

##### V-II

Uttara Srinivasan  
Ashana Mishra  
Sonal Lalwani

First  
Second  
Third

##### V-III

Sushree Sahani  
Pranav Arora  
Akanksha Tiwary

First  
Second  
Third

##### V-IV

Rubin Vakil  
Shaily Gupta  
Disha Gandhi

First  
Second  
Third

##### V-V

Richa Pathak  
Anupam Yadav  
Amit Desai

First  
Second  
Third

#### THREE YEAR COURSE

##### III-I

Revati Desal  
Khushnaaz Anklesaria  
Saloni Kothari

First  
Second  
Third

##### III-II

Shyamleme Siqueira  
Renu Ubale  
Hansa Bhargav

First  
Second  
Third

##### III-III

Mallika Noorani  
Shahiza Irani  
Gathi Prakash

First  
Second  
Third

### Sports Achievements

<b>Mumbai University Championship 2012-13 (Boxing)</b>	Samrat Ingle	Gold
<b>Maharashtra State Elite Boxing Championship 2012-13</b>	Samrat Ingle	Gold
<b>59<sup>th</sup> Elite Boxing Men's Championship</b>	Samrat Ingle	Silver
<b>Best Sportsperson-GLC</b>	Samrat Ingle	
<b>Mumbai University Tournament 2012 (Squash)</b>	Vishrutyi Sahni	Silver
<b>PDA Squash Championship(U19), Kuala Lumpur, Malaysia.</b>	Vishrutyi Sahni	7 <sup>th</sup> rank
<b>Senior National Squash Tournament (U19), Kolkata</b>	Vishrutyi Sahni	4 <sup>th</sup> Rank
<b>Delhi-UP State Championship,2012</b>	Vishrutyi Sahni	1 <sup>st</sup> Rank
<b>Sydenham College Centenary Inter-College Competition</b>		
<b>Carrom doubles</b>	Shri Ajit Khair/Shri K. J. Pathak	First
<b>Carrom singles</b>		
<b>Male</b>	Shri Ajit Khair	Third
<b>Female</b>	Smt. Sayli Khanvilkar Smt. Pallavi Pawar	First Third
<b>Chess</b>	Shri Bhushan Patil	Second

(This List has been provided by the Sports Committee)

## Inter-Collegiate Events

### I. Mood Indigo

#### **Battle of the Bands**

GLC Band: Bhoomigath  
Sarang Gosavi  
Prathmesh Kangalkar  
Vinit Patwari

11<sup>th</sup> in Asia

### II. Blaze, 2012, HR College Festival

#### **Monopoly**

Nandita Hemmady  
Srishti Mishra

Runners-Up

#### **Guilty as Charged**

Kunal Katariya

Winner

#### **Mr. BLAZE**

Kunal Katariya

Winner

#### **Best Contingent Leader**

Rupal Shah  
Awarded the Scholarship to  
King's College, London's Summer School, 2012

### III. 3<sup>rd</sup> Dada Nari Gurusahani Law College Festival, 2012

Dhrumi Gada  
Bhriugu Sharma

Winners

#### **Elocution speech on legal education**

Dhrumi Gada

Winner

#### **Best PPT Presenter on rain water harvesting**

Dhrumi Gada

### IV. Enigma, Podar College Festival, 2012

#### **Law Quiz, Attorney Inquisition**

Rupal Shah, Srishti Rani and Nikhita Pais

Runners-Up

### V. Kiran 2012 - The Rise

#### **Rise of the Poets**

Harsheen Madan  
Sulekha Agarwal

Second  
Third

*(This List has been provided by the Students' Council)*

## Special Mention

**The Shri Bhagwantrao Babubhai Dalvi Advocate Scholarship**

**The Judge Spencer Prize**

Shyamalene  
Siqueira

**The Inverarity Prize**

**The Shri Jamshedji B. Kanga Golden Jubilee Memorial Prize**

## List Of Moot Court Achievements

### 3<sup>rd</sup> All India Corporate Law

#### **Moot Court Competition, NLU-Delhi**

Speaker 1 : Kunal Katariya  
Speaker 2 : Dhvani Shah  
Researcher : Divya Kothari

Semi-Finalists

### 7<sup>th</sup> Prof. SP Sathe Memorial Annual Moot Court Competition, ILS, Pune

Winners

Best Team  
from Maharashtra

2<sup>nd</sup> Best Memorial

Speaker 1 : Aditya Deolekar  
(*Second Best Speaker*)  
Speaker 2 : Kunal Katariya  
(*Best Speaker*)  
Researcher : Manas Dowlani  
Additional : Sanil Sampat  
Researcher

### Philip C Jessup International Law Moot India Rounds(South), NUALS, Kochi

Speaker 1 : Amal Sethi  
Speaker 2 : Krishnendu Sayta  
Researcher : Utkarsh Srivastava  
Additional : Shreya Ramesh  
Researcher  
Additional : Shivaneer Srivastava  
Researcher

*(Qualified for the World Rounds of the Competition to be held in Washington D.C, United States of America)*

### NLIU Bhopal International Mediation Competition

Shreya Sharma  
Neha Pugalia  
*(5<sup>th</sup> Best Individual Attorney Client and Team Award)*

### Surana and Surana National Trial Advocacy Moot, NUALS, Kochi

2<sup>nd</sup> Best  
Team

Speaker 1 : Ankit Sharma  
Speaker 2 : Vipul Joshi  
Researcher : Riya Seth  
Additional : Surabhi Shekhawat  
Researcher

### 19<sup>th</sup> M. C Chagla Memorial National Moot Court Competition, GLC, Mumbai

Winners

Speaker 1 : Surabhi Shekhawat  
Speaker 2 : Almitra Gupta  
Researcher : Neha Pugalia

### National Trial Advocacy and Judgment Writing Competition, PGCL, Mumbai

Semi-Finalists

Speaker 1 : Aniesh Jadhav  
Speaker 2 : Shaziya Khan  
Researcher : Devashree Sanghvi  
Additional : Bhakti Mehta  
Researcher

*(This List has been provided by the Moot Court Association)*

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**Standing (L-R):** Prof. Dr. S. S. Ingale, Prof. Mr. P. B. Daphal, Prof. Mr. A. Kadam, Prof. Mr. V. Athawale, Prof. Mr. S. Patil, Prof. Mr. S. Y. Dhadge, Prof. Mr. K. Gowardhan, Prof. Ms. N. Bhopale, Prof. Ms. A. Desale, Prof. Mr. J. V. Ruparel, Prof. Mr. Kazi, Prof. Ms. D. Makwana, Prof. Mr. K. L. Daswani, Prof. Ms. M. Sakpal, Prof. Ms. R. Chabbria, Prof. Ms. G. Chhabria, Prof. Ms. S. Masani, Prof. Ms. P. S. Mehta, Prof. Mr. A. Surve, Prof. Mr. V. Yadav

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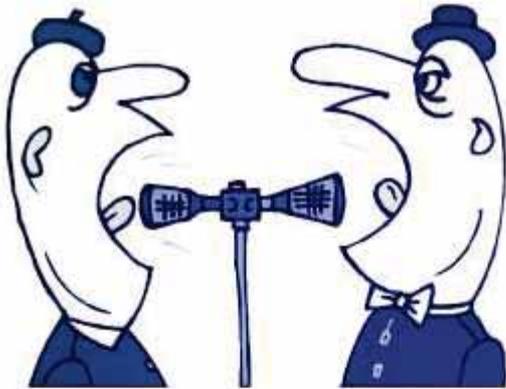
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**Sitting (L-R):** Ms. S. Sawant, Mr. S. Singh, Mr. B. P. Patil, Principal Judge R. B. Malik, Ms. S. S. Parab, Ms. S. Shetty

**Standing 1<sup>st</sup> Row (L-R):** Mr. D. Patil, Ms. A. Holkar, Ms. A. S. Sawant, Ms. P. Pawar, Mrs. A. A. Khair, Ms. P. More

**Standing 2<sup>nd</sup> Row (L-R):** Mr. Ghumare, Mr. Pathak, Mr. Bhabal, Mr. Ajit Khai, Mr. Shigvan



# ANNUAL COMMITTEE REPORTS 2012-13





## ALUMNI ASSOCIATION PARENT BODY



**Sitting (L-R):** Mr. Ashok Gupta, Principal Judge R. B. Malik, Sr. Counsel Mr. R. Dada, Prof. Mr. D. A. Shinde.

**Standing (L-R):** Mr. P. Mandhyan, Mr. C. Balsara, Mr. R. Morey.

## DELHI STUDY TOUR 2012-13



**Sitting (L-R):** Prof. Dr. S. S. Ingale, Prof. Mr. D. A. Shinde, Principal Judge R. B. Malik, Prof. Ms. G. Chhabria.

**Standing 1<sup>st</sup> Row (L-R):** Amitabh Tewari, Sakshee Kumar, Sweta Ananthanarayanan, Kratika Chaturvedi, Nupur Rustagi, Nikhita Pais, Akanksha Kalyanpur, Prakruti Joshi, Geet Sawhney.

**Standing 2<sup>nd</sup> Row (L-R):** Conrad Naronha, Tushar Mittal, Raghav Dev Garg, Sugyata Chaudhary, Devanshi Shah, Vikrant Shetty, Tanmay Singh, Garvit Gupta.

**Inset:** Prof. Ms. N. Rajani.

## ALUMNI ASSOCIATION (STUDENTS' WING)



**Sitting (L-R):** Shikhar Nath Rastogi, Nikhita Pais, Prof. Mr. D. A. Shinde, Principal Judge R. B. Malik, Nupur Rustagi, ChitvanSinghal.

**Standing 1<sup>st</sup> Row (L-R):** Geet Sawhney, Divakar Gupta, Vaishali Mohanty, Reyam Ritika, Piu Das, Shraddha Chavan, Kruti Bhavasar, Shridevi, Himalee Divekar, Kratika Chaturvedi, Akansha Agarwal, Rifa Mulla, Daniyal Khan, Vinayak Ojha.

**Standing 2<sup>nd</sup> Row (L-R):** Kaveri Varma, Anupriya, RadhikaVarma, Mudrika Choudhary, Aditi Mundhada, Dhvani Krishnan, Jyoti Kapoor, Shruti Kokate, Tanvi Kamble, Shilpa Singh, Rohan Garg.

The Alumni Association (Students' Wing) acts as a link between the College and its ex-students. The Alumni Association through its parent body aims to strive for the overall progress of the College. Keeping this in mind, the Committee started the academic year 2012-2013 with great enthusiasm, with the General Body Meeting and Independence Day celebration with Senior Counsel Mr. T. N. Daruwalla as the Chief Guest. The event started with the flag hoisting ceremony. The Principal Judge R. B. Malik and the members of the Parent Body including Prof. Mr. Dilip A. Shinde, Mr. Chirag Balsara, Prof. Ms. S. Masani and Mr. P. Mandhyan obliged us with their presence. The old members were felicitated with Certificates of Appreciation and the new members were welcomed to the Committee.

For the very first time in the history of GLC a Felicitation Ceremony was organised by the Alumni Association in collaboration with the Students' Council for the pass-outs of the Batch of 2012, in the month of September. The ceremony was presided over by Hon'ble Mr. Justice F. I. Rebello, Former Chief

Justice, Allahabad High Court as the Chief Guest and Sr. Counsel Fredun De Vitre as the Guest of Honour.

The Alumni Association offers students an opportunity to improve their oral advocacy and public speaking skills through its Effective Communication Skills Workshop. The workshop not only helped the students to add to their communication skills but also provided them with a platform where they could enhance their personality and develop confidence. The workshop was conducted by Adv. Rajeev Chavan, a prominent member of the Association. It comprised four sessions that were carried out in the month of August and September, 2012.

The Alumni Association organised the much awaited Delhi Study Tour in the month of February, 2013. The delegation was headed by Prof Dilip A. Shinde, Prof. Dr. Ingale, Prof. Ms. Neeta Rajani and Prof. Ms. Gauri Chhabria. The delegation visited the Rashtrapati Bhavan, the Supreme Court and Parliament. They also got a chance to meet and interact with various ministers, eminent dignitaries and legal luminaries of our country.



The next event was the Pune Study Tour which is an overnight trip to Pune featuring a visit to the historical Yerwada Jail followed by an adventurous trek to the Singhad Fort. The trip concluded with a visit to the National Defense Academy. It was conducted in the month of February, 2013.

All work and no play makes Jack a dull boy. Keeping this in mind, the Association organised a friendly cricket match between the Professors of GLC and students of the College at the Oval Maidan. The match was conducted in the month of March.

The Alumni Association wishes to thank the Principal Judge R. B. Malik and Professor-in-charge Prof. Mr. Dilip A. Shinde for their constant support and able guidance throughout the academic year. The report would be incomplete without mentioning the

active support, involvement and co-operation of the Parent Body, comprising the President of the Alumni Association, Mr. Rafique Dada, Treasurer, Prof. Dilip Shinde, Mr. Pradeep Mandhyan, Mr. Ashok Gupta, Mr. Rajesh Vardhan, Ms. Rajani Iyer, Sr. Counsel Mr. T. N. Daruwalla and Mr. Chirag Balsara who have been a constant source of inspiration.

Our members are the pillars on which we build our every initiative and we would like to thank them for their hard work and dedication throughout the year.

Nupur Rustagi  
General Secretary

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## BAZM-E-URDU

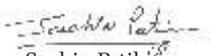


**Sitting (L-R):** Sachin Patil, Prof. Dr. S. S. Ingale, Prof. Mr. N. A. Ghatte, Principal Judge R. B. Malik, Prof. Mr. S. A. Panchbhai, Shoaib Sheikh, Shilpa Sonawane.

**Standing (L-R):** Reshma Mahadik, Harsha Pol, Dipika Raut, Jayesh Patil, Mayuresh Jagtap, Samrat Choudhari, Vishal Shinde, Pramod Kumbhar, Latesh Babade, Kiran Bhangre.

Urdu (originally Turkish) means camp, or the royal camp. It also stood for the city of Delhi which was the seat of the Mughals for centuries. Language was formulated by the interaction of foreign armies, merchants and immigrants to India. Urdu, which is a blend of culture, tradition and heritage, has immensely contributed to the field of poetic literature. Bazm-e-Urdu is one of the active committees in College since 1995. Though it doesn't have a mass base, after much effort there are about twenty-five students who are members of this Committee, while many others have registered to learn the language. Bazm-e-Urdu endeavours to organise *Mushaira* and *Kawali* event in this academic year. Bazm-e-Urdu has also

collaborated with the Hindi Parishad and Gujarati Mandal for the annual fest, *Shrishti* 2013. I sincerely express my gratitude to our Principal Judge R. B. Malik, the Chairperson Prof. Ghatte for his co-operation and the members, for their support. This is a humble attempt to revive and make students aware about the sanctity of the language and we hope the Committee will flourish and reach its zenith in the year to come.

  
Sachin Patil  
General Secretary

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**A Well-Wisher**



## DEBATING SOCIETY



**Sitting (L-R):** Raghav Dev Garg, Principal Judge R. B. Malik, Prof. Ms. A. Desale, Amal Sethi.

**Standing 1<sup>st</sup> Row (L-R):** Prakruti Joshi, Oindree Banerjee, Varsha Gaikwad, Vishruti Sawhney, Anagha Lokhande, Remya Raj, Kruti Bhavsar, Sraddha Chavan, Ruchika Patil, Sakshi Bhalla, Vaishali Mohanti.

**Standing 2<sup>nd</sup> Row (L-R):** Savio Tom, Rahul Kukreja, Preksha Kanungo, Chandni Tanna, Sraddha Bhawe, Priyanka Saraswat, Utkarsh Srivastava, Shreyas Narla.

**Inset:** Rubin Vakil.

'It is better to debate a question without settling it than to settle a question without debating it.'

These words of Joseph Joubert reflect in letter and spirit, the ethos of the Debating and Literary Society of Government Law College, Mumbai. The Debating and Literary Society of Government Law College has always worked towards enrichment of not only the debating and literary skills of the students, but also their overall development as responsible individuals of tomorrow with thinking minds.

The Debating and Literary Society gives students an opportunity to improve their oral advocacy and public speaking skills. It is an academic platform for budding lawyers to explore the many dimensions of a variety of subjects. It plays a great role in promoting social awareness among the student body. Further, the society also enables students to encompass and conquer various allied spheres, from current affairs to international relations to legal updates, thus preparing students for advanced mootings, oral championing and interviews, giving them a competitive advantage over the others. The Debating and Literary Society undertakes enterprises to break barriers between years and sections in order to ensure that everyone has an equal opportunity to bring forward his or her own opinions. Over the last year, the Society has held debates for its members, on issues that have resonated throughout the social and cultural turf. Also, there has been the introduction of the new 'literary' angle to this Society last year, whereby students have gotten an

opportunity to explore various enriching books on political philosophy, law, human rights, literature and such other enthralling spheres of erudite consciousness. Therefore this Committee has over the last year been engaged in various activities like the screening and critical analysis of movies and discussions about various issues. It has enabled students to exercise their own opinions and moreover, formulate them after pondering over the concerned contention.

The Society has also been responsible for conducting eliminations for various elocution and literary competitions and has periodically conducted internal eliminations for prestigious competitions.

The Society has been guided and mentored throughout by our Professors-in-charge, Ms. Anita Desale and Ms. Rooprekha Chabbria. We take this opportunity to express our sincere gratitude to them, for their constant inspiration and guidance.

I take this opportunity to place on record my gratitude to my colleagues in the Executive Council of the Society, Mr. Rubin Vakil, Ms. Shreya Ramesh, and the Secretary, Mr. Raghav Dev Garg

We shall strive to continue to carry forward the rich legacy of our Society and endeavour to scale greater heights in the future.

Amal Sethi  
Member, Executive Council

## GUJARATI MANDAL



**Sitting (L-R):** Sachin Patil, Prof. Ms. P. R. Raut, Prof. Ms. A. Desale, Prof. Ms. D. Makwana, Principal Judge R. B. Malik, Prof. Mr. S. A. Panchbhai, Prof. Mr. P. B. Daphal, Mr. Mahesh Dikate, Mayuresh Jagtap.

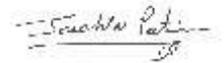
**Standing (L-R):** Dhanashree Telhure, Jayesh Patil, Reshma Mahadik, Harsha Pol, Poonam Shinde, Neha Maphaskar, Vishal Shinde, Samrat Choudhari, Shilpa Sonawane, Kiran Bhange, Latesh Babade, Pramod Kumbhar.

Gujarati is a modern Indo-Aryan language, evolved from Sanskrit. It is one of the twenty-two official languages and fourteen regional languages of India. With a vision to enhance and promote Gujarati culture and literature in our College, an idea to form a group came up and the Gujarati Mandal was formed by a few Gujarati speaking students and staff. This year too, the Mandal celebrated Makar Sankranti by flying kites (*patang mohatsav*) and by distributing tilgud and sankranti cards among college staff and students.

This academic year we also endeavoured to organise 'Ras Dandiya' for our students and staff, in the month of February. Last year the Mandal successfully hosted *Shrishti*, a cultural fest, in collaboration with the Hindi Parishad. This year also Bazm-e-Urdu will be joining the *Shrishti* fest, which will lead to a mega event of these three committees in GLC.

I sincerely express my gratitude to our Principal Judge R.B. Malik and Chairperson Mrs. Kavita Hedao for their co-operation throughout the year.

Last but not the least, the Gujarati Mandal would like to thank the post-holders for their leadership and all its members for their sincere and whole-hearted dedication towards the Committee.



Sachin Patil  
General Secretary



## HINDI PARISHAD



**Sitting (L-R):** Sachin Patil, Dhanashree Telhure, Prof. Ms. D. Makwana, Prof. Mr. A.N. Kalse, Principal Judge R. B. Malik, Prof. Mr. S. A. Panchbhai, Prof. Mr. S.S. Ingle, Tanvi Gupta.

**Standing (L-R):** Shilpa Sonawane, Reshma Mahadik, Harsha Pol, Dipika Raut, Latesh Babade, Pramod Kumbhar, Vishal Shinde, Mayuresh Jagtap, Jayesh Patil, Poonam Shinde, Samrat Choudhari, Kiran Bhange.

हिन्दी परिषद हमारे शासकीय विधी महाविद्यालय कि सांस्कृतिक एवं हिन्दी भाषा के विकास के लिए काम करने वाली एक महत्वपूर्ण समिती है। हिन्दी परिषद एक ऐसी समिती है जो हिन्दी भाषा के संबधित मुंबई शहर मे अलग अलग महाविद्यालय मे आयोजित किये गये सभी प्रकारो के स्पर्धाओ में हमेशा सहभागी होती है। हिन्दी परिषद के सभी सदस्य विविध स्पर्धाओ में सहभागी होते है।

साल 2011 में हिन्दी परिषद एवं बड्म-ई-उर्दु इन दोनो समिती ओने मिलकर शृष्टी के सांस्कृतिक कार्यक्रम का आयोजन किया था। इस साल भी हिन्दी परिषद शृष्टी कार्यक्रम में सहभाग हुई थी। इस कार्यक्रम में रोड्ड डे, गायन स्पर्धा, नृत्य स्पर्धा, फैशन शो, जैसे अलग अलग स्पर्धाओंका आयोजन किया गया था।

शृष्टी कार्यक्रम दि. 14 फरवरी 2013 को महाविद्यालय के सभागृह में संपन्न हुआ।

हमारे महाविद्यालय के प्राचार्या आर बी मलिक, प्रा. ए.एन कळसे, प्रा. श्री अ. पंचभाई इनके सहयोग और मार्गदर्शन से ही इस कार्यक्रम का आयोजन किया गया।

—  
—

Sachin Patil  
General Secretary

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**Standing (L-R):** Amrita Vyas, Amal Sethi, Sakshi Bhalla, Vikrant Shetty, Shreyas Narla.

The Government Law College Law Review, now in its 7<sup>th</sup> edition, was instituted under the aegis of the Late Shri Y. V. Chandrachud, former Chief Justice of India. The Law Review Committee has its own place amidst the myriad committees of GLC, giving students the opportunity to explore the world of legal research and writing, inculcating in them, a keen sense of analysis and urging them to examine legal topics with a critical eye.

This year the Committee inducted fresh talent in the form of eleven new members. On its way to publishing its 8<sup>th</sup> student edition, the Committee received abstracts from across the spectrum of the student body, which were then subjected to a rigorous process of scrutiny and analysis by its members. Under the guidance of its faculty advisor, Professor Kishu Daswani, the Committee directed the authors towards legally sound, well-researched and thought-provoking drafts of their respective articles.

We are grateful to all our editors, sponsors and well-wishers from the legal fraternity, who are ever-willing to extend their support to all our undertakings.

The hard work and labour involved in an endeavour such as this, proves to be rewarding for not only the members of the Committee, but also for the numerous authors who aspire to find a place for their articles in this prestigious publication. We hope to see it culminate in an edition that lives up to the reputation of its predecessors.

The Law Review Committee



## LEGAL AID



**Sitting (L-R):** Preksha Kanungo, Anagha Lokhande, Amal Sethi, Prakruti Joshi, Prof. Mr. D. A. Shinde, Prof. Ms. S. H. Chuganee, Principal Judge R. B. Malik, Prof. Ms. G. Chhabria, Prof. Ms. R. M. Dandekar, Varsha Gaikwad, Tanvi Gupta, Chandni Tanna, Shraddha Bhave.

**Standing 1<sup>st</sup> Row (L-R):** Sanjana Rao, Ananya Bhagat, Rabia Ahmed, Nidhi Choksi, Malvika Amin, Priyanka Saraswat, Shalini Bussa, Monica Mishra, Nishikhi Bhavnani, Ruchita Patil, Vishrutyi Sahni, Ayushi Sharma, Remya Raj, Ridhi Jangam, Shivani Vora, Shubhangi Gupta, Namrata Sonawane, Aarti Bamne, Sindhura Polepalli, Zeba Ibrahim, Sagarika Unnikrishnan, Sakshi Bhalla.

**Standing 2<sup>nd</sup> Row (L-R):** Shloka Sonkamble, Mikhala D'souza, Maithili Parikh, Kratika Chaturvedi, Nikhita Pais, Manisha Patawari, Annapriya Agarwal, Trisha Shetty, Aanchal Gulati, Rifa Mulla, Radhika Varma, Shilpa Singh, Trupti Katala, Jui Patil, Ekta Verma, Samrin Solanky, Soma Das, Pooja Natarajan, Aditi Sharma.

**Standing 3<sup>rd</sup> Row (L-R):** Conrad Noronha, Vikrant Shetty, Shrey Sangani, Naval Gamadia, Rohil Bandekar, Ananth Desikan, Pranav Tolani, Milan Hebbali, Kaustubh Patil, Jatan Mudgal, Utkarsh Srivastava, Raghav Dev Garg.

**Inset:** Ekta Jhaveri.

This academic year has been extremely successful and gratifying for the Legal Aid Committee.

The first event organised by the Committee was the Intra-Committee Presentation Competition for the freshers in the Committee, our edition of a fresher's party. The members were divided into teams at random and this aided interaction between the new members, fostering within them a sense of team play. Through innovative presentation techniques and comprehensive research, students not only understood such issues, but also formed an opinion, thus fulfilling our objective of legal awareness.

The next project undertaken by us was the Dongri Juvenile Remand Home visit. The essence of the Juvenile Justice Act is restorative justice and we endeavor to achieve this through dynamic educational workshops and sessions at the remand home. This year saw the maximum number of workshops and members participating, since the inception of the project. At the end of the term, the children put up a performance based on their history lessons. It was exhilarating to watch the children act, recite patriotic poetry and

dance, amidst the applause of their proud teachers. All this wouldn't have been possible without the dedication of our Dongri Project Head Tanvi Gupta and the undying support of Dr. Mamatha of VED foundation as well as the teachers at the Remand Home.

Next were the Right to Information workshops (in association with Public Concern for Governance Trust) through which we attempted to spread mass awareness about the Right to Information Act. This year, we made efforts to spread awareness at the grass root level and apart from Government Law College and PES Law College at Dadar, we held this interactive workshop at the Vyas foundation. We would also be conducting these workshops at various centers of the Smile Foundation (a Mumbai based NGO for the underprivileged), across Mumbai. Through these workshops, we help people realise the practical aspects of the RTI Act and how it can be used to combat the widespread corruption that is now deeply rooted in our system. We thank the Public Concern for Governance Trust for their kind support and Chandni Tanna, our RTI co-coordinator for her hard work and diligence.

Our pioneer project, the Prisons Project, conducted in furtherance of our goal of providing legal aid to the inmates at the Arthur Road and Byculla Prisons, was successfully implemented this year, with the constant support of our Chairperson Prof. Ms. Chuganee and our Principal Justice R. B Malik. We also organised (on a pilot basis) a workshop on Basic Criminal Procedure and Bail Application. This workshop was instrumental in providing budding lawyers an insight into the criminal procedure system. I thank our co-ordinators Prakriti Bhushan, Shraddha Bhave and Budhaditya Bhattacharya for all their help.

Through our Legal Aid Cell (in association with the Human Rights Law Network), we gave legal advice to people who cannot afford legal help. This included cases on divorce and matrimony, property and domestic violence. Currently the cell is handling Public Interest Litigations on environmental and social issues. We also plan on creating an online mode of providing legal assistance. The progress we made this year with the Cell was as a result of the perseverance of our Cell coordinators Anagha Lokhande and Preksha Kanungo.

A new addition to the existing list of projects is conducting visits to Dhamote, a village, situated in the Raigad district of Maharashtra. These visits are

conducted in association with the NGO, Each One Teach One. The purpose of these visits is to enlighten villagers about various laws. Currently we are striving to educate the villagers about the benefits of Adhaar-based transaction schemes and to assist them in procuring Adhaar cards.

The last event on the cards was the much awaited Legal Aid Quiz, conducted in the month of March. It is an intra-college event in which all students are encouraged to participate. The Quiz had unique rounds such as an audio visual question round and a Treasure Hunt which made both participation and organisation a memorable experience.

Our projects wouldn't have been successful without the inputs and support of our Chairperson Prof. Mrs.Chuganee and our Vice-Chairperson Prof. Mrs. Chhabaria. Last, but not the least I express gratitude to Varsha Gaikwad and Amal Sethi, for their invaluable contribution as Joint General Secretary and Head, Legal Aid Cell.



Prakruti Joshi  
General Secretary

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**M/S. CHITNIS VAITHY & CO.**

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MR. RAFIQUE DADA

President-Alumni Association  
Government Law College

## LEO CLUB



**Sitting (L-R):** Pramod Kumbhar, Prasad Jadhwar, Prakhar Karpe, Prof. Ms. N. Rajani, Principal Judge R. B. Malik, Prof. Ms. G. Chhabria, Satyanshu Mohan, Dakshata Pusalkar, Divyam Lila, Anushri Aditi, Siddharth Singh Tomar.

**Standing 1<sup>st</sup> Row (L-R):** Shraddha Rathod, Kopal Rastogi, Ishita Chawla, Remya Raj, Kanan Sarada, Zeba Ibrahim, Riddhi Rana, Chirantana Das, Devashree Sanghvi, Ambareen Mujhavar, Aanchal Singh Rathore, Kaveri Varma.

**Standing 2<sup>nd</sup> Row (L-R):** Sanket Tawde, Saurabh Deorukhkar, Anant Peshin, Tushar Upadhyay, Latesh Babade, Varun Loonkar, Utkarsh Singh, Nishant Patil, Abu Nasar, Vivek Dwivedi, Naresh Chintalwar.

As we begin the fifth year of the Leo Club of Government Law College, Mumbai, with me being the President of the Committee, I never knew we could achieve more than our goals, something Leo Club has done this year. This year, the motto of the Club was 'evolution through cooperation', the international motto being 'educate all'. The team for the year 2012–2013 was installed at Women's Graduate Union, Colaba, on July 25, 2012, where eminent Lion dignitaries and Professors from various colleges were present.

The very first project taken up by Leo Club was the Rakshabandhan Project, on August 2<sup>nd</sup>, which was celebrated by the Leos at a girls' orphanage school in Girgaum, under the guidance of the Lions Club of Dream City. The next project taken up by Leo Club was the Internship Seminar, on August 4<sup>th</sup>, which was attended by more than 80 people and was deemed to be a successful event. The speaker for the seminar was Ms. Aditi Awasthy, a former student of Government Law College, and currently an associate at Trilegal. The next project taken up by the Club was the Articleship Seminar—pros and cons—on August 10<sup>th</sup>, which was attended by approximately 70 people. The speaker was Mr. Kinshuk Kislaya, a former student of Government

Law College and currently an Articled Clerk at Wadia Ghandy & Co. Leo Club celebrated Independence Day on August 15<sup>th</sup>, at Women's Graduate Union, along with members of the Music Circle of Government Law College, where many patriotic songs were sung and games were played, for the entertainment of people over there, as well as the members. Leo Club of Government Law College also witnessed the formation of the Leo Club of K. C. Law College, on August 28<sup>th</sup>.

The Leo Club celebrated Teachers' Day in Maharashtra Commerce House and Women's Graduate Union, on September 5<sup>th</sup> and 6<sup>th</sup> respectively, where many renowned personalities were felicitated. This was attended by Leos in large numbers. The International Justice Mission (IJM), in association with the Club, conducted a seminar on September 11<sup>th</sup> wherein, the topic was 'sex trafficking and child abduction'. The speakers for the Seminar were Miss. Otillia D'souza and Ryan O' Calghan and they provided information along with a small film on the same. Leo Club conducted an Aksa beach cleanliness drive on September 17<sup>th</sup>, which was attended by 15 Leos, and was considered successful, despite the small number of members attending the same. After this, Leo Club involved itself in various blood donation drives, held



## Government Law College

at Churchgate Station, Dadar Station, and various other locations throughout Mumbai and managed to collect a total of 152 bottles of blood, the capacity of each bottle being 350 ML. We organised an October Service Week from October 3<sup>rd</sup> to October 8<sup>th</sup>, and we conducted and attended five projects in all. These projects include Blood Donation Drive at Churchgate Station, in association with Nair Hospital, on October 3<sup>rd</sup>, Cancer Detection Drive on 'D' Road, in association with the parent club on October 4<sup>th</sup>, free eye check-up drive along with the help of Eye Specialists from Nair Hospital and under the guidance of parent club, Sunday School for under-privileged kids on October 7<sup>th</sup> and finally the Grand Ending Ceremony of the October Service Week, which was held at Mumbai University Convocation Hall, on October 8<sup>th</sup>. We also donated toys and clothes to needy children in three different areas of the city, on Children's Day and along with the help of a few members of Music Circle, we were also able to make these kids laugh. On December 11<sup>th</sup>, Leos undertook an Old Age Home Visit, and had a gala time along with the members of the Old Age Home. On

December 28<sup>th</sup>, Leo Club celebrated Christmas Day with disabled and orphaned kids, at Ashadaan, an orphanage in Byculla and we spent quality time with the kids, so much so that we did not want to leave.

As our international motto is 'educate all', we introduced lectures on various topics such as Jurisprudence, Taxation, and many others, for the students of Government Law College, Mumbai, in association with the All India Law Students Association, which were carried out in the months of January and February, 2013, and which were the final closing events of the Club for the year 2012–2013. I, on behalf of my team, express my sincere gratitude to Prof. Gauri Chabbria for always being there to support us and encourage us, without whom, all these projects would not have been possible.

Satyanshu Mohan  
President

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## MARATHI MANDAL



**Sitting (L-R):** Samyak Mahendra Jhakday, Prof. Ms. Brinda Gurubakshani, Prof. A. Desle, Prof. Mr. U. S. Aswar, Principal Judge R. B. Malik, Prof. Mr. S. A. Panchbhai, Prof. Dr. S. S. Ingale, Prof. Mr. P. B. Daphal, Dhanashree Telhure, Shilpa Sonawane, Sachin Patil.

**Standing 1<sup>st</sup> Row (L-R):** Jayesh Patil, Samrat Choudhari, Ravi Jadhav, Siddesh Nade, Mahesh Pawade, Prashant Padavle, Vishal Shinde, Devyani Deshmukh, Harsha Pol, Dipika Raut, Neha Mhapsekar, Poonam Shinde, Manisha Godase, Reshma Mahadik, Pramod Kumbhar, Latesh Babade, Prasad Jadhavar, Kiran Bhange, Sanket Tawde.

**Standing 2<sup>nd</sup> Row (L-R):** Sagar Kelaskar, Akshay Holmuke, Yogesh Navgare, Chetan Patil, Nikhil Shinde, Rajesh Kini, Mayuresh Jagtap, Vaibhav Patil, Mangesh Misal, Sourabh Deolkar, Shiraj Manjrekar.

लाभले आम्हास भाग्य बोलतो मराठी !!

झाले खरेच धन्य एकती मराठी !!

धर्म, पंथ, जात, एक जाणतो मराठी !!

एवढ्या जगात माय मानतो मराठी !!

— कविवर्य सुरेश भट

शासकीय विधी महाविद्यालयात विविध मंडळे कार्यान्वित असून त्यापैकी सर्वात जुने व महत्वाचे म्हणजेच सन १९५५ साला पासून कार्यरत असलेले मराठी मंडळ. प्रस्तुत मराठी मंडळाने मराठी साहित्य व संस्कृतीच्या प्रचाराचा वसा घेतला असून तो यशस्वीरित्या पार पडण्यासाठी अविरत प्रयत्न करीत आहे.

त्या प्रयत्नांचा एक भाग म्हणून विविध कार्यक्रमांचे वर्षभरात आयोजन करणे. सालाबाद प्रमाणे यावर्षी मंडळाच्या कामकाजाची सुरुवात दिनांक १-११-२०१२ रोजीच्या उद्घाटन समारंभ सोहळ्याने झाले. मा. श्री. आर. बी. मलिक, महाविद्यालय प्राचार्य यांनी सोहळ्याचे अध्यक्ष पद भूषविले व प्रमुख अतिथी मा. श्रीमती लता दोंडे (तेल्हुरे), वरिष्ठ पोलिस निरीक्षक विशेष शाख २, गुन्हे अन्वेषण विभाग, मुंबई यांच्या शुभ हस्ते दीप प्रज्वलित करून प्रत्यक्ष कार्यक्रमाला सुरुवात झाली. तसेच व्यासपीठावरील मान्यवरांनी सर्व विद्यार्थ्यांना अतिशय संपर्कपणे मोघम शब्दात उद्‌भाषित केले.

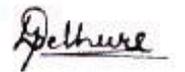
मानद सचिव कु. धनश्री तेल्हुरे यांनी मराठी मंडळाचे उद्दीष्टांन विषयी त्यांचे मनोगत व्यक्त केले तर मानद सहसचिव श्री. समयक झाकडे यांनी स्मित हास्याने प्रमुख

पाहुण्याचे व उपस्थित मानद सभासदांचे स्वागत केले. कार्यक्रमाची सांगता विर रसाने भरलेल्या व मराठी भाषेविषयीच्या आत्मीयता जागविणाऱ्या अस्सल मराठी घोवाड्याने करण्यात आली.

सालाबाद प्रमाणे यावर्षी देखील मंडळ दिनांक ११ ते १३ फेब्रुवारी २०१३ या कालावधीत सांस्कृतिक कार्यक्रम साजरा करीत असून त्यात कला, नृत्य, गायन नाट्य व मनोरंजन असे विविध कार्यक्रम आयोजित केलेले असून विविध विषयांवर व्याख्याने ठेवलेली आहेत.

प्राचार्य श्री. आर. बी. मलिक, मंडळाचे अध्यक्ष प्रा. श्री. अं. पंचभाई, इतर प्राध्यापक, शिक्षकेतर कर्मचारी आणि विशेषतः सर्व विद्यार्थी यांचे सहकार्य व मार्गदर्शन सालाबादप्रमाणे या वर्षी देखील आयोजित सोहळ्यास व त्यातील कार्यक्रमाचे तयारीस लाभत आहे.

मराठी मंडळाचे अध्यक्ष प्रा. श्री. अं. पंचभाई यांच्या उत्कृष्ट मार्गदर्शनामुळे आणि सदस्यांच्या व्यापक सहभागामुळे मंडळ यशस्वीरित्या आपले ध्येय पूर्ततेसाठी प्रगतीपथावर आहे.



Dhanashree Telhure  
General Secretary



## MODEL UNITED NATIONS SOCIETY



**Sitting (L-R):** Amrita Dubey, Aadya Bajpai, Principal Judge R. B. Malik, Prof. Mr. U. S. Aswar, Sarvpriya Mishra.

**Standing 1<sup>st</sup> Row (L-R):** Aditi Sharma, Ayushi Sharma, Aditi Mundhada, Shubhangi Shukla, Kopal Rastogi, Meher Mimbattiwala, Rifa Mulla, Yashoda Desai, Zeba Ibrahim, Sindhura Pollepali, Devashree Sanghavi.

**Standing 2<sup>nd</sup> Row (L-R):** Radhika Varma, Lishakha Gulati, Anushree Kacker, Shilpa Singh, Surabhi Katiyal, Ishita Chawla, Soumya Kapoor, Sakshi Bhalla, Vishrutyi Sahn, Sukriti Jaiswal, Oindree B., Shruti Kokate, Sukriti Sarwan.

**Standing 3<sup>rd</sup> Row (L-R):** Shreyas Narla, Abu Nafar, Akshay Aurora, Savio Tom, Yati Sharma, Rahul Kukreja, Mohit Nad, Geet Sawhney, Siddharth Bhise, Aman Choudhary, Veerdhawal Deshmukh.

Every year the GLC MUN Society conducts an orientation with full enthusiasm and welcomes the new students, enhancing their knowledge about international agendas and the objectives of the United Nations conference. Its goal is to familiarise the students with the concept of a model united nations conference. We bring together students from various colleges across the nation and stand true to our attempt of promoting an understanding of international affairs and the true spirit of debating.

With the onset of July, began the Committee's effort to educate the first year comrades regarding the prospects of MUN-ning and we conducted an intra-MUN to help the students understand the working of the Model United Nations Conference. The agenda of our intra-MUN was the Syrian crisis. All the delegates actively participated and the event turned out to be a successful one. The students developed a zeal to participate in conferences like the one at Thakur College of Engineering, Mumbai, conducted in the month of October, its agenda being the european debt crisis The next was the much awaited IIT Kanpur

MUN. The two days spent in IIT Kanpur were one of the best learning experiences where the delegates came up with their own working papers, drafted resolutions and also won the best delegate award. The upcoming MUNs are the renowned Harvard Model United Nations conference and the much awaited Government Law College Model United Nations Conference, Mumbai. This is the second time our Committee has opened its doors to international delegations and has received participation from delegates of countries across the world. We are looking forward to a successful event and an enthralling experience.

Aadya Bajpai  
General Secretary

## MOOT COURT ASSOCIATION



**Sitting (L-R):** Pranjal Krishna, Tushnika Dayal, Niyati Vakil, Bhagyashree Madhekar, Yuvraj Choksy, Ayushi Anandpara, Principal Judge R.B. Malik, Prof. Mr. S. V. Kadam, Madhavi Doshi, Rima Desai, Ayaan Patel, Saloni Mehta, Niyati Mahimtura, Shrey Sancheti.

**Standing 1<sup>st</sup> Row (L-R):** Shikha Rawal, Ananya Bhagat, Rabia Ahmed, Aanchal Gulati, Manisha Patawari, Meher Mimbattiwala, Nidhi Chokshi, Mythili Zatakia, Piu Das, Samrin Kadar Solanky, Anamika Sharma, Sagarika Unnikrishnan, Kritika Babbar, Pooja Natarajan, Sanjana Rao, Pooja Pangle, Devashree Sanghvi, Oindree Banerjee.

**Standing 2<sup>nd</sup> Row (L-R):** Feroze Patel, Gopal Machiraju, Anantha Desikan, Kanan Sarda, Shivani Vora, Shachi Jain, Saloni Jain, Kratika Chaturvedi, Nikhita Pais, Himalee Divekar, Maithili Parikh, Aishwarya Wagle, Malavika Amin, Sakshi Bhalla, Vishrutyi Sahni, Shilpa Singh, Radhika Varma, Veerdhawal Deshmukh, Vikram Singh Bishnoi, Shivam Dwivedi.

**Standing 3<sup>rd</sup> Row (L-R):** Vinayak Ojha, Rohan Garg, Rahul Kukreja, Daniyal Khan, Conrad Noronha, Amal Sethi, Jatan Mudgal, Savio Tom, Kaustubh Patil, Nishant Patil, Abu Nasar, Shrey Sangani, Kile D'souza, Abhishek Tanna, Akshay Aurora.

The Moot Court Association (MCA) is a vibrant body of 65 members with 12 core members who work throughout the year to promote and encourage mooting as a co-curricular activity. Year on year it hosts 5 of India's best moot court competitions as well as coordinates several workshops and activities within GLC, not only to enable students to excel in the numerous moot court competitions that GLC participates in, but also to train the first year entrants in the skills of mooting.

The following is a brief account of the activities and events, both intra and inter-college, conducted by the MCA through the academic year 2012-2013.

### INTRA-COLLEGE ACTIVITIES

#### ***Demonstration Moot, Mock Freshers' Moot & Mooting Workshops***

The MCA organised several mooting workshops, to acquaint the incoming batch, touching upon different aspects of moot courts, starting with a general understanding of a moot court and going on to the aspect of research for a moot court competition. This was followed by the Demonstration Moot, where senior, seasoned mooters argued before a bench of ex-students, to familiarise the first-year students with the style, etiquette and manner of mooting. This year, final year students Mr. Raunak Shah and Ms. Riva Shah argued before immediate pass-outs Mr. Pranay Aggarwal, Ms. Shanelle Irani and Ms. Uttara Mehta. The mock freshers' moot was conducted as a practice session for the first year students

before finally approaching the Freshers' Moot Court Competition, 2012.

#### ***Freshers' Moot Court Competition 2012***

The workshops and demonstration moot were followed by the Freshers' Moot Court Competition, which was held in August of 2012. The Freshers' Moot Court Competition is the first step that first-year law students take into the arena of mooting. The Competition received an overwhelming response, with over 150 students of the first year of the five year course participating in the event. The case study for the same was based on constitutional law, and involved interpretation of Articles 14, 19 and 21 of the Constitution.

#### ***Intro-Moot Court Competition for the Three Year Course***

Owing to the late admissions of the three-year course students, we conducted workshops that were followed by an introductory moot for the students of the three year course, in a manner similar to the Freshers' Moot Court Competition for the five-year law course students. The Competition received a commendable participation of over 70 students.

#### ***IL Grand Moot Court Competition, 2012***

Following the tradition that began in 2010, the International Law Grand Moot Court Competition was organised in the last week of July. Since international law has grown as a separate and distinct



discipline, this Competition serves as a suitable elimination round for selecting students for the most prestigious moot court competition based exclusively on international law in the country and abroad.

### ***Grand Moot Court Competition, 2012***

Since 1956, the Grand Moot Court Competition has been the most prestigious intra-college moot court competition at GLC, serving as a selection round for some of the most prestigious national and international moot court competitions. This year, the format of the Competition underwent a minor modification. Students from the three-year and five-year course were divided into two groups and were to argue on two different sets of problems with the top 10 ranks from each group qualifying for the final Ranking Round that was judged by an impressive bench comprising Prof. Kishu Daswani, Mr. Zubin Behramkamdin and Mr. Aditya Thakkar.

### ***Common Eliminations***

GLC has a very distinct and unique procedure for selecting students to represent College in the numerous moot court competitions that we participate in. Unlike other law schools, elimination rounds are conducted at frequent intervals around the year, for several city, state, national and international moot court competitions. This ensures that students get ample opportunity to participate in close to 70 moot court competitions around the country. It also provides exposure to students to different styles of mooting, thus enabling them to develop a distinct technique of their own.

### ***Legislation Drafting Competition, 2013***

In light of the current situation in our country and the urgent need to revisit and rethink the legislation already in place on security of women in India, the Moot Court Association organised the Legislation Drafting Competition on the topic of 'Amending and consolidating the laws related to security of women in India'. A moderated debate on the best 3 draft bills was also held in the third week of February.

### ***Sir Jamshedji Kanga Memorial Government Law College Moot Court Competition***

Instituted in the memory of the Late Sir Jamshedji Kanga, this Competition has had the distinction of being the oldest moot court competition in Maharashtra. Having been a city-level Competition since its inception, the Competition has been made an intra-college competition since its previous edition.

### **INTER-COLLEGE MOOTS HOSTED BY MCA, GLC**

#### ***14<sup>th</sup> D. M. Harish Memorial Government Law College International Moot Court Competition, 2011, February 7<sup>th</sup>-10<sup>th</sup>, 2013***

The year 2013 marks the fourteenth edition of DMH, which was held from February 7<sup>th</sup>-10<sup>th</sup>, 2013. The Competition has the distinction of being the ONLY Indian Moot Court Competition to be included in "Tier 2" of the Mooting Premier League (Legally India) amongst some of the most prestigious International Moots the likes of which include Stetsons World Round, ICC Trial, Red Cross and Oxford Media Moot.

In keeping with the trend of widespread and varied international participation, this edition of the Competition witnessed the unprecedented participation of 15 International Law Schools and Universities, which include National University of Singapore from Singapore, New York University School of Law

and Valparaiso University from USA, University of Southampton, University of Exeter and University of Sussex from UK, Aristotle University from Greece, Moscow State Law Academy from Russia, L'ecole for Advanced Studies from Pakistan amongst many others. The four-day mooting extravaganza witnessed 7 extremely challenging mooting rounds that were judged by the sharpest legal minds of the country, including Mr. Janak Dwarkadas, Mr. Haresh Jagtiani, Mr. Percy Pardiwalla, Senior Counsels, Bombay High Court; Mr. Cyril Shroff, Managing Partner, Amarchand & Mangaldas; Mr. Behram Vakil, Managing Partner, AZB & Partners; Mr. Sanjay Asher, Equity Partner, Crawford Bayley; Mr. Murali Neelakantan, Partner, Khaitan & Co amongst several others. The Preliminary, Octo - Final and Quarter - Final rounds all culminated in the final round of arguments judged by a bench of five sitting judges of the Bombay High Court at the opulent Mumbai University Convocation Hall and presided over by Hon'ble Dr. Justice D. Y. Chandrachud.

The Competition also comprised a thought-provoking Panel Discussion which was held at the Sahyadri State Guest House, Malabar Hill. The topic of the Panel Discussion revolved around the hotly-debated issue of social media, interference of Government in controlling social media and the laws on preserving privacy where panellists like Mr. Bharat Kumar Rout, Member of Parliament; Mr. Mahesh Jethmalani, Senior Advocate, Bombay High Court; Ms. Shaina NC, Member of Bhartiya Janta Party engaged in a heated exchange of opinions on the issue at hand.

### ***9<sup>th</sup> Nani Palkhivala Memorial National Tax Moot Court Competition, 2012 (October 11<sup>th</sup>-13<sup>th</sup>, 2012)***

This Competition which is the first and has long been the only competition to be based solely on taxation laws was organised by the MCA in association with the All India Federation of Tax Practitioners and the Income Tax Appellate Tribunal Bar Association from October 11<sup>th</sup>-13<sup>th</sup>, 2012. The competition is unique in as much as it is the only moot in the country where law students are provided with the opportunity to argue in the courtrooms of the Income Tax Appellate Tribunal (ITAT) itself. These rounds of argument are judged by the Hon'ble Members of the ITAT as well as professional advocates & chartered accountants from the field of tax culminating with the Final Round of Arguments.

This year, the Competition witnessed the participation of 26 of the finest Law Institutions from across India. The Inaugural Function of the Competition which was held on October 11<sup>th</sup>, 2012, was presided over by the Chief Guest, Hon'ble Mr. H. L. Karwa, President, Income Tax Appellate Tribunal.

Further, the final round of arguments were held on October 13<sup>th</sup>, 2012 at the Y. B. Chavan Auditorium and were presided over by Hon'ble Mr. Justice R. Y. Ganoo, Judge, Bombay High Court, Hon'ble Mr. Justice R. D. Dhanuka, Judge, Bombay High Court and Hon'ble Mr. Justice N. M. Jamdar, Judge, Bombay High Court. Gujarat National Law University, Gandhinagar and the West Bengal National University of Juridical Sciences were the finalists with GNLU, Gandhiagar emerging as the ultimate winners.

The Competition is also accompanied by the Nani Palkhivala Research Paper Competition. This year marked the 8<sup>th</sup> edition of the Competition and witnessed an unparalleled 90 entries from

law universities and colleges across the country. The paper submitted by Mr. Arnab Naskar and Ms. Shubhangi Gupta from Rajiv Gandhi National University of Law, Patiala was adjudged the winning research paper while the paper submitted by Mr. Pulkit Jain and Mr. Harpreet Kaur from the University Institute of Legal Studies, Punjab got the runners-up award.

**19<sup>th</sup> M.C. Chagla Memorial Government Law College National Moot Court Competition, 2013 (January 12<sup>th</sup>-13<sup>th</sup>, 2013)**

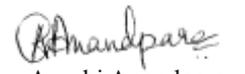
The Moot Court Association of Government Law College has been hosting the M. C. Chagla Memorial City-Level Moot Court Competition for several years which was made into a state level competition four years ago. Owing to the overwhelming response that the Competition has been receiving year on year, since its previous edition, it was made a national affair with 14 of India's Best Law Schools participating in this Constitutional Law Moot Court Competition. The challenging format of the Competition makes it interesting as teams are made to argue on two Moot Propositions through the preliminary, quarter-final, semi-final and final rounds of the Competition.

The final rounds of the Competition were held at the Indian Merchants' Chamber and were presided over by a bench comprising Hon'ble Smt. Justice R.S. Dalvi, Hon'ble Mr. Justice R. M. Savant & Hon'ble Mr. Justice R. D. Dhanuka, Judges, Bombay High Court. GLC, Mumbai emerged as the winning team with School of Law, Christ University, Bangalore coming a close second.

**N.B. Naik Memorial Government Law College State Marathi Moot Court Competition**

This Competition is the first and only moot in India that is conducted in a regional language—Marathi. This Competition is open to law colleges across the state, and is now in its fourteenth year. This year's edition was held on March 2<sup>nd</sup> and 3<sup>rd</sup>, 2013.

The success of the MCA 2012-2013 is attributed to the consistent efforts and support of a number of persons. I thank Prof. Sanjay V. Kadam, the Chairman of the association, for his unconditional support and Ms. Madhavi Doshi, the Assistant General Secretary who has been there at every stage, ensuring the success of all our efforts. None of our events would have been possible without the dedication and commitment of each and every member of the association. I must particularly thank the office bearers of the association—Yuvraj Choksy, Ayaan Patel, Rima Desai, Bhagyashree Madhekar, Niyati Vakil, Saloni Mehta, Tushnika Dayal, Niyati Mahimtura, Pranjal Krishna and Shrey Sancheti. Their camaraderie, perseverance and devotion to the Association were instrumental to the success of every endeavour of the association.

  
Ayushi Anandpara  
General Secretary



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## MUSIC CIRCLE



**Sitting (L-R):** Priyamavada Joshi, Bhriгу Sharma, Principal Judge R. B. Malik, Prof. Ms. G. Chhabria, Prof. Mr. P. B. Daphal, Harsh Sharma.  
**Standing (L-R):** Devashree Sanghvi, Chirantana Das, Devyani Deshmukh, Neesha Ambekar, Kritika V. Gaikwad, Abhineet Sharma, Siddesh Nade, Sayali Phansikar, Zeba Ibrahim, Gauri Rane, Kanan Sarda, Gazal Aggarwal.  
**Inset:** Prof. Ms. N. Rajani.

The Music Circle of Government Law College, Mumbai is an integral organ of GLC, concerned with bringing out the musical talent of lawyers-in-the-making and encouraging their interest and passion in music. To keep alive the entertainment and fun in GLC is the aim of the Committee.

The Music Circle not only appreciates the musical art of the students, but also welcomes the young personalities who wish to manage the events conducted by the Committee.

It provides opportunities for the students to participate in various prestigious inter-collegiate events, like Malhar, Mood Indigo, Sympulse, and various other college fests. Our members have won laurels in band events and solo competitions.

In the year 2012, the college band formed by highly talented musicians performed in Mood Indigo, an inter-college event. Also, the music circle in collaboration with Zee TV, organised a musical extravaganza where participants from Sa Re Ga Ma Pa, a renowned reality show aired on Zee TV, and students from our college put up stellar performances.

This year, the Committee shall open the doors of opportunity to the students who search for a break in their career as a musician. Recently music auditions were conducted by a music director (for a movie directed by Anurag Basu) for college students, the outcome of which was selection of two students from GLC, Mumbai.

The Committee provides support to those who have the urge to learn and gain more knowledge about music, by conducting

various classes such as Guitar classes, through which interested students shall be provided with tutorials by professional guitarists.

The Music Circle aims to introduce more activities and events for the benefit of all the students. The Committee looks forward to having various events like Intra-College Music Fest, Lyrics-Writing Competition and Battle of the Bands. Battle of the Bands shall be an inter-collegiate event, which shall witness tough and enthusiastic competition between well-known bands, while during Intra College Music Fest the College shall witness performances by various bands and musicians and also by the talented musicians in the College. Through the Lyrics-Writing-Competition, the Committee looks forward to encouraging students to showcase their skills in composition of lyrics. Also, to add to the fun and knowledge of music, the Committee shall provide the interested students an educational tour to Goa. The famous musical culture of Goa widely attracts music-lovers. This tour will be a welcome opportunity to interested pupils for such cultural interaction.

The members of Music Circle strive to keep the cultural activities of the College going and also to present the students of the College with a chance to be more active in extracurricular activities.



Harsh Sharma  
General Secretary



## NATIONAL SERVICE SCHEME



**Sitting (L-R):** Jayesh Patik, Samrat Chaudhari, Vaibhav Patil, Prof. Ms. A. Desale (Program Officer), Prof. Mr. P. K. Mokal, Principal Judge R. B. Malik, Prof. Mr. S. A. Panchbahai, Prof. Mr. P. B. Daphal(Program Officer), Mrs. S. S. Parab, Sachin Patil, Dhanashree Telhure, Mahesh Pawde.

**Standing 1<sup>st</sup> Row(L-R):** Harsha Pol, Monika Mehata, Satakshi Komal, Meherzeen Mimbattiwala, Punam Shinde, Dipika Raut, Devyani Deshmukh, Shalini Bussa, Neha Mhapsekar, Manisha Godase, Kratika Chaturvedi, Macchindra Pawar, Naresh Chintalwar, Meherzeen Avasia.

**Standing 2<sup>nd</sup> Row(L-R):** Chetan Patil, Shaib Sheikh, Tushar Upadhyay, Prashant Pawale, Vishal Shinde, Digant Sonkiya, Siddhesh Nade, Varsha Gaikwad, Kranti More, Shilpa Sonawane, Reshma Mahadik, Mayuresh Jagtap, Kiran Bhanghe, Mukur Lathar.

**Standing 3<sup>rd</sup> Row(L-R):** Yogesh Navgare, Samyak Jhakday, Mangesh Misal, Vikas Patole, Sahim Papdikar, Rajesh Kini, Shiraj Manjrekar, Nikhil Shinde.

**Inset:** Sanyogita Zadkar.

National Service Scheme (NSS) was started by the Government of India, Ministry of Education and Culture in collaboration with the State Governments in the year 1969, in selected Universities. Our University has been participating in the scheme right from its inception. The NSS cell has always undertaken various initiatives to streamline the NSS activities in college NSS units. All these activities were aimed at improving the overall personalities of our student community.

In the year 2010, the NSS unit was established in our College. I am very fortunate to be one of the founding members and first secretary of GLC NSS unit and now I take the privilege of writing this report as the secretary of our unit for the second year in a row, with the support and guidance of professors Mr. P. B. Daphal, Ms. Kavita Hedao and Ms. Anita Desale.

The educational goal of the NSS implies that besides gaining and understanding concepts like community, social structure and power conflicts occurring in real life, an individual shall also work and gain knowledge of how to find practical solutions to individual and community problems, acquire leadership qualities and the capacity to meet emergencies and natural disasters, as well as acquire competence in the field of programme-planning, shouldering responsibilities, participating in cooperative tasks and promotional work in the community. Its purpose is to help the community to recognise its needs and assist in mobilisation of resources to meet these needs.

This glorious second year of GLC NSS was started by the official inauguration programme held on September 24<sup>th</sup> in our College auditorium and the first ever community project of this year was a grand success. This was our project of beach-cleaning after the last day of the Ganapati festival (September 30<sup>th</sup>). In this project, we cleaned the Dadar Chowpatty area and collected tons of waste resulting from the Ganapati emersion. Next, were the projects conducted by University of Mumbai, namely, a rally on anti-addiction held on October 1<sup>st</sup> and *Bhajansandhya* held on the evening of October 2<sup>nd</sup>. I am proud to inform you that we have adopted a municipal school in Portuguese Church area of Mumbai for this year, where we have been carrying out various projects of social and legal awareness as well as other projects for better academic development of underprivileged children. Activities in College have been carried out throughout the year with a recent event held in

association with the Mumbai Police to promote measures against anti-terrorism.

Another piece of glory for our Unit comes with the completion of a seven day special winter camp held from January 7<sup>th</sup>, 2013 to January 14<sup>th</sup>, 2013. This year the camp was held at village Panhalekazi, Taluka Dapoli of Ratnagiri district. 40 students, 2 professors and 1 non-teaching staff member attended this camp held in the local Zilla Parishad School. This place has historical significance and our activities such as village cleaning, monument cleaning and public lectures contributed to the restoration of these historical places. The landmark project of this camp is the dam constructed by our own students on the River Kotjai with the help of the villagers. Our guest lecture series held for the benefit of villagers included speakers like P. I. Shivaji Pophale, Z. P. member Vinayakrao Gaikwad, Rajendra Phanase-Pawar, Nayab Tehsildar Varsing Visave and other esteemed dignitaries. To combine social awareness with entertainment, our students performed various plays and cultural events, aiming at spreading awareness on various contemporary issues. Our beloved professors, Prof. P. B. Daphal and Prof. Anita Desale were with us throughout the camp to guide us through everything. Prof. Kavita Hedao contributed to our camp by staying in constant touch with us. I take this opportunity to give my heartfelt and special thanks to our non-teaching staff Mr. Pradeep Jadhav without whom this camp would have been absolutely impossible. Thank you so much Jadhav Kaka!

Coming back to the College setup, as a secretary of the GLC NSS Unit, I thank the Chairperson of our Advisory Committee, Principal Judge R. B. Malik, Programme Officers Prof. Kavita Hedao, Prof. Anita Desale and Prof. P. B. Daphal as well as our staff members Mrs. Parab and Mr. Singh for their support and cooperation. Last but not the least, my thanks to all my NSS and non-NSS volunteers. All my members have been terrific! Thank you so much!

Sachin Patil  
General Secretary

## PLACEMENT COMMITTEE



**Sitting (L-R):** Vivek Dwedi, Satyanshu Mishra, Dhruv Joshi, Kritikia Mathur, Principal Judge R. B. Malik, Prof. Mr. H. D. Pithawalla, Pooja Hiray, Pratha Raj, Kshitija Vaidya, Raj Nalini Singh.

**Standing 1<sup>st</sup> Row(L-R):** Avani Kashyap, Additi Mundra, Nandini Gupta, Saloni Ajmera, Ishita Chawla, Kopal Rastogi, Surabhi Katiyal, Jyoti Kapoor, Ritika Singal, Saumya Kapoor, Sakshee Kumar, Remya Raj.

**Standing 2<sup>nd</sup> Row (L-R):** Rahul Kukreja, Aman Chaudhary, Daniyal Khan, Varun Loonkar, Utkarsh Singh, Siddharth Singh Tomar.

The Placement Committee was started in the academic year 1998-99. The Government Law College 'On-Campus Recruitment Programme' is the first recruitment programme organised by a law college in Mumbai. The Committee aims at exhausting all possible opportunities of recruitment with law firms, counsels, LPOs and corporate houses. It serves as a link between recruiters and students, thereby fulfilling the needs of both and enabling the students to get placed on campus. The members of the Placement Committee toil hard to ensure that maximum students from the College get placed, providing them with an opportunity to showcase their skills.

The Placement Committee organised two Placement Weeks, one in the month of September 2012, which was exclusively for associates and the other in the month of February which was the Annual On-Campus Recruitment Programme 2012-13, for internships, articled-clerkships as well as final jobs.

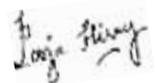
The Committee has facilitated an easier placement process by hosting a website and uploading the brochure of the Committee as well as the profiles of various firms on this site. This has helped students access the firm profiles, interview schedules and all notices at their convenience. It has also enabled the Placement Committee to maintain its efficiency.

The Placement Committee has been undertaking the recruitment process throughout the year and is functioning

as a year-round committee. This aspect of the Committee has widely benefited both students and potential recruiters. The On Campus Recruitment Programme in September 2012 turned out to be a bigger success than the Committee had anticipated. There was an overwhelming response from both law firms and corporate houses. Both were a grand success, as the Placement Committee, true to its motto, succeeded in having as many as 81 top law firms and corporate houses recruit our students.

This year, the Committee is a 40 member body. The response from the freshers' batch has been heartening and there are a lot of young and unique minds at work. We believe that no goal is as big and as satisfactory as the path on which our seniors walk and begin their careers in the professional field. The exhilarating feeling that arises out of this service is the incentive for each one of us and empowers us to contribute to the best of our abilities.

On this note, we look forward to a very successful and positive year, for both our students and our highly esteemed recruiters.



Pooja Hiray  
General Secretary



## ROTARACT CLUB



**Sitting (L-R):** Sukriti Sarwan, Akanksha Agarwal, Pratik Kardak, Prof. Mr. P. K. Mokal, Prof. Ms. S. H. Chuganee, Principal Judge R. B. Malik, Prof. Mr. S. A. Panchbhai, Prof. A. N. Kalse, Siddhi Parikh, Ankita Misra, Pratiksha Kabre, Riya Seth.

**Standing 1<sup>st</sup> Row (L-R):** Shreyas Narla, Tushar Upadhyay, Rupal Agarwal, Saloni Jain, Shachi Jain, Nishiki Bhavnani, Soumya Kapoor, Reyam Ritika, Nivrutti Agrawal, Meherzeen Avasia, Yati Sharma, Siddharth Bhise, Sakshi Bhalla, Amrita Dubey, Ruchita Patil, Vishrutyi Sahni, Riddhi Jangam, Rifa Mulla, Yashoda Desai, Kritika Babbar, Neha Mhapsekar, Shreya Devmane, Ritika Agarwal.

**Standing 2<sup>nd</sup> Row (L-R):** Ananth Desikan, Rahul Kukreja, Daniyal Khan, Divakar Gupta, Surabhi Katiyal, Jyoti Kapoor, Dhvani Krishnan, Garvit Gupta, Prabal Mishra, Rohan Garg, Varun Loonkar, Mohit Nad, Pranav Tolani, Nikhil Agrawal, Hitansh Sharma, Veerdhawal Deshmukh, Savio Tom, Aman Choudhary.

June 2012 marked the beginning of another academic session at GLC, and also the unfolding of a new chapter for the Rotaract Club of GLC. Led by our motto for the year, 'change starts from I', we Rotaractors treaded upon another cherishable journey, achieving some more milestones.

On the very first day of College, a JAM (Just A Minute) session was conducted for the new entrants who were asked to speak on various socio-political and legal topics, given to them on the spot. To enhance the bonds built at this event and make the new ones feel welcomed, RCGLC went a step ahead and held GLC's first Freshers' Party in its entire history of 157 years.

To maintain the fine balance between work and pleasure, the Club organised a CV (curriculum vitae) Workshop to acquaint the new entrants with the do's and don'ts concerning one's CV which were meticulously explained by Mr. Adil Ladha, associate at J. Sagar and Associates.

With a new year come the new members and following a round of interviews, membership was granted to a few talented and spirited freshers. With a new board and new members, a General Body Meeting was called for to discuss the course of the events and to bring familiarity within the RCGLC family.

Customarily, the Installation Ceremony was held, officially instating the able-bodied members to the position of Board of Directors through a mock court trial. Adding to the list of firsts was the Quizathon organised for the new members which turned out to be an instant hit with the members. In order to promote the cause of nurturing our bonds with the local Rotaract Clubs, we entered into an agreement with our sister clubs of RC Panvel, RC Vasco Da Gama and RC Shanivarwada and to promote international Rotaract fellowship, we joined hands with RC Kasthamandap, Nepal.

The members visited the exhibition organised by the Bombay High Court as part of its sesquicentennial celebrations, which was an educative and enthralling experience. Continuing its contribution to society, the Club held its 4<sup>th</sup> Charity Sale as part of which 25 NGOs sold works made by children from difficult circumstances, raising donations of Rs. 85,332. To settle the jitters that examination time creates, RCGLC's members compiled explanatory notes for V-I, V-II, V-III and III-I which were extremely beneficial for all concerned. A seven-member contingent named Scorpions represented RCGLC at the Zodiac Fest, where we stung our competitors and emerged victorious in the Mock Parliament and Zoadies and secured third place in the Fashion Show! Amidst all the organising and heavy work days, the members had their share of trips and parties, which were the most exhilarating moments the Club has had.

As the year came to an end, the Club created its niche by organising a Mock Indian Parliamentary Session in January. Organised in collaboration with the NKP Salve Foundation and Hamlet to Globe, this was the first one and we hope the saga continues for the years to come. 2012 kept the world busy, panicking over the ending of the world, but RCGLC continued its streak and achieved the unthinkable. The experience cannot be expressed in words and neither do we intend to, as we don't kiss and tell!

Siddhi Parikh  
President

## SOCIAL SERVICE LEAGUE



**Sitting (L-R):** Apoorva Yadav, Saumya Choubey, Prof. Ms. N. Rajani, Prof. Mr. V. Yadav, Principal Judge R. B. Malik, Prof. Mr. P. K. Mokal, Prof. Mr. Kazi, Anu Menon.

**Standing 1<sup>st</sup> Row (L-R):** Tushar Upadhyay, Poonam Shinde, Shloka Sonkamble, Kashmira Khedekar, Mittali Solanki, Hima Khuman, Reshma Kudalkar, Monika Mehta.

**Standing 2<sup>nd</sup> Row (L-R):** Tanwika Kumari, Ritika Singal, Dipika Chavarkar, Namrata Sonaware, Piu Das, Ruchira Singh, Avani Kashyap.

‘It is not what a lawyer tells me I may do; but what humanity, reason and justice tell me what I ought to do.’

Inspired by this excerpt from Edmund Burke's writings, the Social Service League (SSL) was launched in the year 1967. The SSL is one of the oldest and most prestigious organisations of Government Law College, initiated by the then Principal Prof P. K. Tope, in memory of his wife, late Vinitadevi Tope. Rooted in the pursuit of social justice, the SSL strategies are oriented towards making lives better. This is primarily achieved by tie-ups and associations with various institutions, apart from several initiatives individually taken up by the League. All its endeavours are directed towards understanding and executing, in part or whole, the objectives proposed by different institutions for uplifting the economically, physically and mentally challenged. Individual initiatives of the League include camps, symposiums, events, etc.

In the academic year 2012-2013, SSL has been committed towards its objectives. The first event of SSL started with the Clothes Donation Drive. Clothes were collected by active participation of members, students as well as from various hostels. The collected clothes were distributed in various NGOs in Mumbai.

SSL aims to strategise and executes projects for the well-being of economically and physically/mentally challenged. The aim was taken into consideration and a new initiative was taken up. Atmavishwas, an NGO, runs a school for mentally challenged people. Some people were autistic while some suffered from multiple disorders. For about a month, members of SSL took the initiative to teach these people. Teaching included educational activities like learning maps, playing with numbers and social awareness by teaching them the

National Anthem. Basic cooking like making a sandwich or lemon juice as well as artistic and creative stuff like flower making, greeting cards and bookmark were learnt enthusiastically by the people. Fun activities like dance, music, storytelling was most of the time followed.

A clean-up drive was organised after *Ganpati Visarjan* at Chowpatty, due to the initiative of the members. A Blood Donation Drive was also organised in College with the help of the Think Foundation.

In an attempt to illuminate the lives of others and in order to make their own lives worthwhile, the members of SSL have worked with various organisations like Anand Kendra, a home for destitute orphaned boys situated at Worli and Asha Daan, a home for abandoned handicapped children and the persons affected by AIDS.

Pratham is an organisation working for the repatriation and rehabilitation of working children, eradication of child labour, etc. Members of SSL organised various competitions like drawing, singing, dancing, etc for such kids according to their age group. Gifts were awarded to appreciate their performance and a day's meal was also provided to them.

The Social Service League would like to extend its heartfelt gratitude to our Principal and Prof. Mokal who have been a great source of support for us and without who the events would have been very difficult to accomplish. Prof. Anupam Surve also has helped us a lot in organising the events and the staff has been a great support to us.



Saumya Choubey  
General Secretary



## SPORTS COMMITTEE



**Sitting (L-R):** Anagha Lokhande, Prasad Jadhavar, Prof. Mr. V. Yadav, Prof. Mr. P. K. Mokal, Principal Judge R. B. Malik, Prof. Mr. D. A. Shinde, Prof. Mr. S. A. Panchbhai, Prof. Sapkal, Pratik Kardak, Arjun Savant.

**Standing 1<sup>st</sup> Row:** Harshavardhan Ranshevre, Pramod Kumbhar, Ojas Patil, Vishrutyi Sahni, Sakshi Bhalla, Ruchita Patil, Rashmi Supkal, Siddhi Parikh, Shadab Jan, Anant Peshin, Prakhar Karpe, Shantanu Phanse.

**Standing 2<sup>nd</sup> Row (L-R):** Nimish Bendekar, Tushar Upadhyay, Lutesh Babade, Vivek Dwivedi, Divyam Lila, Sagar Chougule, Udhav Waghmare, Saurabh Deorukhkar.

I take immense pleasure in announcing that the year 2012-2013 has proved to be the year of regularisation and reformation for the Sports Committee. The College, known for its intellectual achievements, is today also known for its sporting achievements. Just like a researcher whole-heartedly researching in his library, the sportsmen and sportswomen of the College were found practicing with their heart and soul on the field. This year the College participated in two national tournaments namely *Spiritus*, Bangalore and *Invicta*, Kolkata. Apart from these national tournaments we also participated in the Mumbai University tournaments. In both the tournaments, students of the College played with dedication and all the players demonstrated sportsman's spirit. Students of the College have made an unwavering effort to win laurels for the College. The experience of participating in the Bangalore and Kolkata tournaments has given a one-of-a-kind memory to all the students who had gone for the same. They got a chance to interact with law students from all over the country. These memories will always be in the hearts of all the participants.

The following are the names of the captains of the various teams of the college:

Football: Arjun Savant V-III

Cricket: Prasad Jhadvar V-III and Prakhar Karpe V-III

Volleyball (M): Lokesh Kumar Dixit V-III

Volleyball(W): Anagha Lokhande V-II

Apart from the team sports our students have won laurels for the College also in the individual sports. Samrat Ingle and Vishrutyi Sahni have performed commendably in boxing and squash respectively. Their achievements have been recorded in the Achievers' page of this Magazine.

This year the Sports Committee also organised SHOWDOWN, which is an inter-collegiate sports fest. I take great pride in reporting that SHOWDOWN 2012 was the biggest inter-collegiate sports festival of south Mumbai with an enormous participation of 389 sportsmen from all over the city. With the great support of Principal Judge R. B. Malik, Prof. Shinde (Chairman), Prof. Mokal (Vice-Chairman) and Prof. Panchbhai (Vice-Chairman), we intend to make SHOWDOWN a national level festival in the coming year and make our own contribution to the glory of this College.

The members of the Sports Committee have been staunchly working for improving the performance of the students of the GLC in the avenue of sports. I take the liberty of thanking them and congratulate them for successfully encouraging the sports fever in the College.

Pratik Kardak  
General Secretary

## STUDENTS' COUNCIL



**Sitting (L-R):** Hersh Desai, Hansa Bhargav, Pratik Kardak, Principal Judge R. B. Malik, Prof. Mr. S. A. Panchbhay, Siddhi Parikh, Pranav Arora, Kranti More.

**Standing (L-R):** Savio Tom, Sanyak Jhadkey, Revati Desai, Sagar Kelaskar.

**Inset:** Rubin Vakil, Sonal Lalwani.

The Students' Council of Government Law College for the academic year 2012-13, the apex student body that acts as a medium between the students and the administration of the College, was constituted on October 2012, with the objective of promoting the welfare of the students of the College and in order to organise several flagship events for the benefit of the students.

The Annual Day was another key event which the Students' Council organised in association with the Alumni Association of our College, to honour the academic and extra-curricular achievers and encourage them to strive forward. This was followed by the first ever Convocation Ceremony for the students passing out of College. The Council members had their work cut out for them, but the combination of hard work and perseverance ensured that they accomplished all their goals and came out with flying colours.

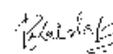
The academic year commenced on a bright note with the M. C. Chagla Memorial Lecture Series, which is organised in fond memory of former Chief Justice Mr. M. C. Chagla, which saw renowned legal luminaries address the students on contemporary legal issues. The lecture series commenced on February 25, 2012 with the Inaugural Ceremony followed by the first lecture. Dignitaries from the Supreme Court of India and the Bombay High Court who have left a distinct mark on the Indian legal system were invited for this lecture series, to impart their invaluable knowledge and discuss and share their points of view on some of the most contemporary legal issues faced by India. The Council takes this opportunity to express its gratitude to the trustees of the late Chief Justice M. C. Chagla Memorial Trust for assisting it in its endeavours.

The Council also hosted a Farewell Function for all the final year students graduating in the previous academic year and wished them good luck for the new journey which they will embark upon.

The Council also organised a seminar on "Internships during Law School" to give students an insight on how interning alongside studying in a law school helps their development.

The Council, being the liaison between the student body and the administrative staff, strives to resolve various issues. This year the Council was pleased to inform the students that the issue of internet facilities in College have been resolved and it is also pleased to have achieved the various priority goals set out, which include setting up a Sports Room, electronically cataloguing the library data, bringing about various reforms in the Library, putting mirrors in the washrooms etc. The College also underwent infrastructural renovation, involving installation of state-of-the-art facilities for lecture halls.

This achievement brings us one step closer to further development of our College, in a way adding essence to its 150 year legacy.



Pratik Kardak  
General Secretary



## STUDENTS FOR THE PROMOTION OF INTERNATIONAL LAW



**Sitting (L-R):** Amal Sethi, Krutika Chitre, Prof. Ms. S. Masani, Principal Judge R. B. Malik, Mr. Vikram Naik, Anjali Goklani, Tushar Mittal.

**Standing 1<sup>st</sup> Row (L-R):** (Core) Utkarsh Srivastava, Aayush Tandon, Sarrah Khambati, Sneha Nainan, Anvita Mishra, Shikhar Nath, Chinmay Sethi, Raghav Dev Garg.

**Standing 2<sup>nd</sup> Row (L-R):** Anupriya Agarwal, Sapna Mehta, Avani Kashyap, Reyam Ritika, Kruti Bhavsar, Shalini Laxmi, Piu Das, Aanchal Gulati, Nishiki Bhavnani, Akshata Limaye, Trisha Shetty, Riddhi Jangam, Anushree Kakker, Shalini Singh, Oindree Bandyopadhyay, Ankita Misra.

**Standing 3<sup>rd</sup> Row (L-R):** Ojas Patil, Tushar Upadhyay, Hitansh Sharma, Abu Nassr, Savio Tom, Pranav Tolani, Aayush Raman, Mukul Lather.

2012-13 has been an extraordinarily successful year for Students for the Promotion of International Law (SPIL), Mumbai. The year began with introductory lectures on various aspects of International Law, conducted by professors and experts for the benefit of newly enrolled students. Members of SPIL were presented with opportunities to enrich their understanding of international law through lectures, workshops and an intra-committee competition focusing on the trifles of drafting judgments and reports as well as writing research papers. We focused on enhancing research and analytical abilities by organising the 1<sup>st</sup> Report Deliberation Competition, 2012, where students, as commissioners of an independent international commission, deliberated on a report, which dealt with violation of International Space Laws.

As is customary, this year too, SPIL has maintained an unwavering focus on the dissemination of knowledge and promotion of International Law. The year culminated in our annual flagship event, the Government Law College International Summit. The theme for the 2013 Summit was 'Contemporary Issues in International Arbitration & Mediation', a vast subject with myriad consequences.

We explored the seemingly endless territory of international law, with a key note address by Hon'ble Mr. Justice B. N. Srikrishna, and seminars conducted by legal stalwarts such as Mr. Darius J. Khambata, Mr. Shardul Thacker, Mr. Promod Nair, Mr. Abhijit Joshi and Mr. Rajendra Barot, on international arbitration and mediation.

The Summit stimulated the minds of attendees through thought-provoking interactions with experts and doyens of the legal fraternity. The Summit also witnessed a mock arbitration session conducted by Economic Laws Practice, which gave the delegates a first-hand experience of the procedures and nuances of arbitration.

A prominent feature at the Summit was the Panel Discussion, which facilitated an inspiring discussion on a subject of great relevance, 'Alternative Dispute Resolution: Upholding the promises of Litigation'. The Panellists for the day were Mr. Ajay Thomas,

Registrar LCIA India, Ms. Sherina Petit, Partner, Norton Rose London, Mr. Vikram Nankani, Partner Economic Laws Practice, Ms. Bindi Dave, Partner, Wadia Ghandy & Co. and Prof. Anurag Agarwal, IIM-A.

The Summit, aside from the key note addresses, lectures, workshops and call for papers, comprised of two novel competitions, the Judgment Deliberation Competition and the Treaty Appreciation Competition, which were conceived within our institution. The only of their kind, these competitions offered students across the world a unique learning opportunity. The Judgment Deliberation Competition, brought a fresh approach to problem analysis and judgment-making, requiring participants to, upon analysis of facts presented and arguments advanced, arrive at a unique judgment that is infallible in law, rational in thought and innovative in its essence. The Treaty Appreciation Competition was modelled along the procedures of various international bodies entrusted with the task of evaluating and appraising the legality and rationality of treaties, codifications and other legislative documents. The competitions of the Summit offered a unique means of dispute settlement.

Only in the third year since its inception, the competitions received overwhelming interest and participation from colleges across the world, thus rendering it truly international!

Having concluded this academic year with the resounding success of the Summit, I hope and trust that the year 2013-14 will continue to celebrate the joyous exploration of the many nuances of International Law.

*Chitre*

Krutika Chitre  
President

*With Best Compliments From*



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# ABOUT THE MEMBERS



(L-R): Harshini Parikh (Assistant Treasurer), Harsheen Madan (Marketing Head), Sherna Doongaji (Chief Student Editor), Vidhi Shah (Assistant Editor), Malvika Tiwari (Treasurer), Aishwarya Singh (Student Co-ordinator)



Kind, compassionate and generous are just a few words to describe **SHERNA**, our Chief Student Editor. Her love for the Magazine knows no bounds. She is so passionate and committed to the Magazine that she had planned everything down to the last detail at the very beginning of her stint as editor. If only we had cooperated, her need to alter all these plans would not have turned into a daily routine! Her enthusiasm, random fits of laughter, anxiety attacks and compassion for anything that moves may fool you into underestimating her; but even with all her eccentricities she has managed to pull off the Magazine with immense elegance and finesse. I can vouch for the fact that her whole heart and soul has gone into this publication. Intelligent, talented and probably the nicest person I know,

Sherna is one of the best editors *méLAWnge* has ever had.



Where does one even begin to describe **VIDHI**? Funny, smart, bright, pretty are commonplace words that have been used in the past in this very section, none of which, however, do enough justice to the person that she really is. Vidhi is all of the above and more. Not only is she intelligent, committed and charming, but she also displays a keen sense of humour and the ability to think on her feet. Despite her best attempts to prove otherwise, she is truly a people person and can be relied upon to deal with incompetent administrative staff, watchmen, peons, decorators, caterers and photographers, among others. Her opinion on all matters is difficult to ignore (even if unsolicited) and her presence in the Committee is more than reassuring. As a senior member, the insight she brings to the table is invaluable. She wears her heart on her sleeve, making her extremely endearing and interesting to be around and she has succeeded in bringing much mirth and merriment to the Committee for the last four years. She really is her own little (and I mean tiny) person! Thank you for your support, love and commitment, Vidhi.



**MALVIKA** is a sweet-natured girl who is always willing to help her friends. Being the Committee Treasurer, she is usually seen pulling out bills and cheques from her beloved folder in every meeting. Never one to refuse work, she is a hardworking and conscientious girl. With her as our Treasurer, the Committee's accounts are always perfectly in order. She is a complete family girl and a total foodie. Having Malvika in the Committee has been a treat!



**HARSHEEN** is the sweetest person you'll ever meet. Even when she shouts at people (or at least claims to do so), she sounds extremely polite. She knows how to strike the right balance between mooting, Magazine Committee work and studying, without compromising on any of them. Despite all her work, she still has time to have fun and though she might seem soft-spoken at first, she can talk endlessly for hours together. She's a crazy package deal (with a number of stalkers) and is someone you'd definitely want to know. Considering she knows everyone in College, she's not giving anyone much of a choice!



If you're part of GLC and are reading this, you probably don't know **HARSHINI**; and there's no way in the world she knows you! But let me tell you what you're missing out on: Harshini is our cute Assistant treasurer whose help is always sought for figuring out ambiguous accounts. When she's not with her friends or doing Magazine Committee work, you can be sure to spot her dancing at the nearest Gujju wedding or sangeet. She is a smart and straightforward girl who's not afraid to speak her mind and has a knack of finding all the shortcuts she can, to do minimum work with maximum results (which explains all the free time she has to enjoy life). Her free-spirited nature and of course the awesome jokes she cracks, make her fun to be around and a great friend to have.



**AISHWARYA** is a sweet, fun-loving girl who adores food, maybe even more than her hometown Jamshedpur, for which she has only praise. This outgoing, friendly girl is very easy to get along with and hence it's no surprise that she has a number of friends in College. She is smart and very hardworking and is most often spotted sincerely engaged in committee work. Her enthusiasm for food is infectious and when spending hours at the printers, the first thing she'll think of is ordering things to eat! She can talk endlessly and is surprisingly also a sympathetic listener, which makes her an awesome friend to have.

## AANCHAL GULATI

A budding writer and travelista, Aanchal is a well-rounded lady who's studied all over the world (literally) from Kodaikanal International School to Grinnell College, Iowa, and now our very own Government Law College, Mumbai. Always chirpy, Aanchal is an active part of almost every committee at GLC. She has a quirky liking for antique object d'arts and is on the search to finding a beautiful grandfather clock!



## GOPAL MACHIRAJU

A tall figure in the Committee, you will always find Gopal engaged in his committees' work. Oh boy! He works assiduously for them. Besides being a dedicated law student, he is an immensely talented guitarist with impeccable taste in rock music. Conversing with him is a fun ride, as his effusive soul elicits unique opinions and ideas about anything and everything above the earth's surface.



## ANUSHREE KACKER

Anushree is a fun-loving girl. No matter how serious and reserved she looks, as the day progresses, one gets to see her crazy side, while at night she talks in her sleep (most entertaining roommate ever). She loves the idea of shopping, but ends up buying nothing. Going for walks and attending lectures is something that she plans for every day, which never materialises. One can always find her either reading a newspaper or whatsapp-ing.



## HANSA BHARGAV

Hansa is truly one of our most able and willing members. A marketing specialist, she can show experienced sales teams a trick or two about marketing! Always smiling and cheerful, Hansa has been a pleasure to work with throughout the year.



## JUI PATIL

Extremely quiet and unassuming in nature, it is not difficult to overlook Jui at meetings (this might also be due to her penchant to bunk meetings), but on closer inspection, she is a vocal girl, who knows her mind. Sweet-natured and kind, she is a pleasant member to have in the Committee.



## ANVITA MISHRA

Anvita is a sweet, sassy, smart kid with the cutest smile. She comes with her own set of quirky quips, 'bhak' and 'aww-able' being her signature remarks. She works hard and if she gets a chance, parties even harder. With her on board, it's always an interesting ride.



## EKTA JHAVERI

A loyal member of the Magazine Committee two years in a row, Ekta is a diligent worker. Always eager to please, she manages to juggle tuitions and Committee work with ease. One can always depend on her to get the job done.



## KRUTI BHAVSAR

Though she looks pretty demure, Kruti is a fun and outgoing girl who loves to laugh and paint. Extremely helpful, she loves music and is a good singer too. A karate enthusiast, Kruti is also a member of our volleyball team and makes for good company.



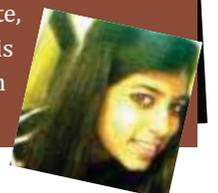
## GEET SAWHNEY

Right from intellectual topics to Bollywood gossip, Geet is one who will know it all. A very hardworking boy, he will take up a hundred things at once and then kill himself, trying to complete everything in time. His perennial willingness to help makes him the go-to guy for everything. In him, you will find the best of friends one could want and I hope he reaches great heights of success.



## MAITHILI PAREKH

Maithili is one of the nicest people I've ever met. If she's not out helping those in need, she's at home baking cookies for her friends. If you need a quote that's relevant to your life at any point in time, ask her! She's very open and honest and will learn your life history in a matter of minutes because that's how much she cares. If ever you find yourself sick or faint or just in dire need of chocolate, look for Maithili! Her gigantic handbag is equipped to fight anything from boredom to severe dehydration.





### MALVIKA AMIN

Malvika may seem quiet at first glance, but don't be fooled because if you get to know her even a little, you will come to realize how bubbly and affable she is. If she's ever cranky, get her a dessert, bribe her with chocolate or take her shopping and you'll get her to smile wide. She's an extremely dedicated member of the Committee and completes all the work assigned to her. If you are not fortunate enough to already know her, do so, because she's an amazing person to be around.



### RADHIKA VARMA

Radhika is a delight to be with. She is an absolute foodie who fails to put on weight. She enthusiastically works for all the committees, but greatly values her beauty sleep. An ardent Shahrukh Khan fan, her *tapori* dance sessions leave you in fits of laughter.



### REMYA RAJ

Petite she is, but you can still find Remya in a crowd, on hearing her boisterous laugh and on being blinded by her 'happy-dent-smile'! Traces of chauvinism, stupidity and a lot of other irksome things must be avoided in her presence, or else you will fall prey to her sarcastic jibes and intimidation of the Miranda Priestly kind. However, if you are lucky enough to be her chum, you would have every reason to sing *She's Me Pal* for her. She is Raj-Remya Raj—the most spirited and forthright person I have ever come across.



### NAVAL GAMADIA

Naval is one of the most fun people I've ever met. He has an odd sense of humour, but his stupid jokes never fail to make us smile. However, he is a very serious student and is the only reason many of us end up going to College. Definitely one of the best people I've ever known, his good nature makes him very easy to get along with.



### NAVRUZ VAKIL

Always out of town or otherwise occupied, Navruz is one of our most elusive members. While it's often hard to trace his whereabouts, once you pin him down, you realise that he's a sweet guy who will endeavour to please at the best of times.



### ROHAN GARG

Gregarious, sincere and soft-spoken, Rohan is a person who would never refuse, if asked for his assistance. He excels at cheering up all the people around him and makes for very pleasant company.



### POOJA NATARAJAN

Pooja is one girl you shouldn't mess with, as you may have the privilege of being featured in her latest Facebook post! A social networking freak, I don't think there's a single social networking website that she's not logged on to. She is an eloquent speaker and a very good mooter. Topper of her school, Pooja is also a classical dance enthusiast. This 'paneer girl' has all it takes to be an excellent lawyer, from the speaking skills to the personality.



### SAGARIKA UNNIKRIHNANA

Sagarika aka Saga is a great listener and advisor! She's always there to help and has a sense of humour which is weird and funny at the same time. She works very hard and does whatever she is told to do perfectly. She is a gem of a person who is practical and outgoing.



### PRIYANKA SARASWAT

Vivacious and out-spoken, like a typical Delhi-ite, Priyanka dresses in kurtis and patialas, and won't give in to the Bombay culture. Nothing can match her love for Delhi's street food, except her love for books. She is a voracious reader and will discuss books and authors and stories with you endlessly. She has an opinion on everything. Priyanka is our Miss Smarty Pants, who knows it all and enviously juggles her Delhi and Mumbai life.



### SALONI SHROFF

Born and bred in New York, Saloni's life took her on a different route in 2012 when she moved to India. She began this chapter of her life in our financial hub, Mumbai. Saloni graduated from Barnard College, Columbia University with a bachelor's degree in Art History. When she isn't learning about famous artists around the world or trying to fight for justice, she loves trying different cuisines and traveling around the world.





## SANJANA RAO

A towering personality, Sanjana's vivacity and affability are directly proportional to her height. This extremely warm-hearted 'burbie' has a way with the written word owing to her voracious reading habits and has a penchant for French and movies too! Riveting anecdotes are assured in the endless, fun-filled talks one can have with Sanjana, even before a moot court round or during the examination period.



## SHREYAS NARLA

Shreyas will always be remembered by his batch as the guy who unanimously won a first prize on the first day of College. If his three-paged resume (YES, three pages) isn't enough to intimidate you and make you aware of his brilliance, then participating in a national level debate with him, just might. If his presence of mind and intelligence doesn't impress you, then his incredible humility and superhuman capacity to work hard will definitely do the trick. To top it all, Narla makes it really hard for one to be jealous of him owing to his amazing ability to befriend anybody! This Hyderabad boy, is one success story that GLC can be sure of.

## SAUMYA KAPOOR

Saumya is the tiny cheerful girl with a smile always ready on her face. She loves taking part in MUNs as an excuse to take little breaks from the mundane college routine and travel to far-off cities. She has so many friends that you always see her with a different person. When she sets her mind to do something there is no one who can stop her. This army brat definitely knows how to win a heart!



## SHREY SANGANI

Shrey is a hardworking and charismatic boy who is known for both his friendly as well as his aggressive side. He is one who will go to any limit in order to help a friend in a time of need and is a real good sport within limits. He is one of the sweetest and probably the most genuine persons you will come across at GLC.



## SAVIO TOM

Savio stormed into GLC with 100% in his AISSCE examination. He is a very simple boy who actively participates in all competitions and brings accolades to the College. He never misses an opportunity to travel and explore places.



## SINDHURA POLEPALLI

One word that immediately strikes the mind about Sindhura is: vivacious. Warm and outgoing are a few other adjectives that describe this cheery girl's nature, who also happens to have a passion for fashion. Whether a moot or a casual conversation, interacting with this fiery girl leaves one wanting more!



## SHERYL BABU

Sheryl is a very sincere and hard working girl. At first you may find her very reserved but she is fun to be with and always there to help any of her friends. An aspiring chartered accountant, she is always smiling and happy.



## SHLOKA SONKAMBLE

Shloka is an extremely fun person to be friends with and enjoys meeting new people and discovering things. A hard worker, her laughter can be heard from miles away. This bubbly girl is a great friend to have.



## VIKRANT SHETTY

In the first instance, you will only be acquainted to the quiet and calm side of Vikrant. Get to know him better and you wouldn't deny that he is one of the sharpest minds on board. Possessing an exceptional writing talent, he is an extremely hardworking and reliable person. Soft-spoken yet very effective in making his point, Vikrant can also leave you in splits with his quick repartee.



## SHILPA SINGH

I wouldn't be lying if I told you that Shilpa is one of the best persons I've ever come across. Her Lucknowi warmth and geniality doesn't take long to make you see your closest friend in her. Intelligent, smart, witty, stubborn, pretty and a lot of other adjectives wouldn't suffice to describe her. She is a lot of fun to spend time with and there is never a dull moment around her.



## VINAYAK OJHA

Vinayak is extremely lazy! What amazes me about him is the amount of knowledge he has got about a variety of things. He is sharp-witted, clever and fun and has excellent taste in movies. He has his own sense of humour which is not at all humorous! You'd be lucky to know him.



**PATRON**

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# Assistant Editor's Message



As the 83<sup>rd</sup> edition of *méLAWnge* draws to a close, I can't help but feel nostalgic about the four years I have spent in the Magazine Committee of Government Law College. It has been a journey full of ups and downs; a fantastic one nonetheless.

Being the leading publication of one of the oldest institutions of our country, the Magazine Committee has been entrusted with the daunting task of recording and reporting the happenings within GLC with as much precision as possible and most importantly, giving voice to the opinions and thoughts of the students. It has not been an easy task trying to match up to the preceding editions, but I can confidently say that *méLAWnge* 2012-13 will live up to all your expectations.

Our flagship competitions—the Vyas National Legal Essay Writing Competition, the Belles-Lettres: J. E. Dastur Memorial Short Fiction Essay Writing Competition and the Sir Dinshah Mulla Legal Essay Writing Competition—received an overwhelming response and we saw an extraordinary rise in participation this year. This could not have been possible without the constant support and encouragement of our patrons, Senior Counsel Mr. Dinesh Vyas, Senior Counsel Mr. Soli Dastur and Senior Partner, Mulla & Mulla & Craigie Blunt & Caroe, Mr. Shardul Thacker. We thank them for their invaluable kindness & generosity.

Our annual panel discussion, 'Knock-Out!', witnessed opposing teams battling it out on the topic 'Judicial activism in India is stepping on executive functioning. Is our higher judiciary increasingly invading the domain of the legislature and entering the realm of policy-making?' Senior Counsel Mr. J. P. Cama was the moderator of the debate and from the massive turnout we saw this year, we can safely say that it was a huge success.

The Magazine's theme section—women in the legal profession in India—which forms its most important part, makes for a riveting read, thanks to the great legal personalities such as Ms. Leila Seth, Justice Sujata Manohar, Hon'ble Smt. Justice Roshan Dalvi and Additional Solicitor General of India, Ms. Indira Jaising, amongst others, who have penned their thoughts on such a topical matter.

This year we had the opportunity to interview three great personalities, as opposed to the norm of two that had been followed in previous years. Advocate General of Maharashtra, Mr. Darius Khambata, Member of Parliament, Mr. Mani Shankar Aiyar and Ms. Barkha Dutt graciously heeded our requests and managed to take time out from their extremely busy schedules to answer our never-ending questions! We thank them profusely for their contribution to *méLAWnge*.

Like every year, we received numerous articles, not only on legal subjects but also on various diverse topics, with students having written on subjects such as female feticide, religion, astrology, the RSBY scheme, the CAG scam and so on. Apart from the articles, we also received a remarkable number of poems this year. Keeping true to the name of our Magazine, '*méLAWnge*', we have managed to get a mix of everything in this edition.

*méLAWnge* 2012-13 is the result of the efforts of a number of individuals and thanking them even a million times would fall short.

Our Principal Judge R. B. Malik has been our biggest support throughout the year and we cannot thank him enough for cooperating with us every step of the way. We thank our Senior Faculty Advisor Prof. H. D. Pithawalla for his constant encouragement, which pushed us to reach our goals and come out with another successful publication. A special thank you to our Professor-in-charge Mr. Daphal, whose unceasing support and cooperation has truly helped us realise our seemingly impossible dreams. We extend our heartfelt gratitude to Prof. Kishu Daswani for providing us with invaluable advice at various junctures and also for consenting to prepare a different version of his crossword this year. We will eternally be grateful to the teaching & non-teaching staff for their assistance at various stages through the year.

Sherna Doongaji, our Chief Student Editor, without whose vision the Magazine would not have seen the light of day, has magnificently given direction to the Committee throughout this year. She has worked on this Magazine relentlessly and the publication we see today is the product of her hard work, dedication and brilliance. We might have had our fair share of disagreements, but it has been an absolute delight to work with someone who is so humble and kind. Her enthusiasm for even the tiny details is one of the main reasons why I have no qualms in admitting that she is by far one of the best editors this *méLAWnge* has had.

The Core Committee—Harsheen Madan, Malvika Tiwari, Harshini Parikh and Aishwarya Singh—deserve a special mention. Without their immense passion and commitment, *méLAWnge* 2012-13 would have been a distant dream.

A special thank you to Shreyas Narla, not only for providing us with the cover design, but also for showing a keen interest in every aspect of the Magazine. I also take this opportunity to thank all our members for their diligence and for helping us with their valuable inputs.

To end, I would just like to say that it has been an absolute honour to be a part of the Magazine Committee of GLC. This has been an exceptional year for us and we have worked tirelessly to create a Magazine which may live up to the grandeur of the previous editions. I truly hope it does.

Vidhi Shah  
Assistant Editor



## ACKNOWLEDGEMENTS

We express our heartfelt gratitude to the following people who have, in their own way, assisted the Magazine Committee in all its endeavours:

- Advocate General of Maharashtra **Mr. Darius Khambata**, member of the Rajya Sabha **Mr. Mani Shankar Aiyar** and journalist **Ms. Barkha Dutt** for sparing the time to oblige us with interviews.
- **Ms. Leila Seth, Justice Sujata Manohar, Hon'ble Smt. Justice R. A. Dalvi, Ms. Indira Jaising, Ms. Mona Bhide and Ms. Fereshte Sethna** for taking time out to write for the theme section of this edition of *méLAWnge*.
- **Mr. Soli Dastur, Mr. Dinesh Vyas** and the **Mulla and Mulla Trust** for their sustained support in helping us organise our flagship events.
- **Hon'ble Shri Justice J. P. Devadhar, Hon'ble Shri Justice R. M. Savant, Hon'ble Shri Justice A. A. Sayed and Hon'ble Shri Justice K. K. Tated** of the Bombay High Court for consenting to judge the 12<sup>th</sup> Vyas Government Law College National Legal Essay Writing Competition.
- **Ms. Shaishavi Kadakia, Ms. Amanda Rebello and Ms. Nithya Narayanan** for judging the preliminary rounds of the 12<sup>th</sup> Vyas Government Law College National Legal Essay Writing Competition.
- **Mr. Amish Tripathi** for judging the Belles-Lettres: J. E. Dastur Memorial Short Fiction Writing Competition.
- **Mr. Sidin Vadukut and Mr. Mihir Balantrapu** for judging the preliminary rounds of the Belles-Lettres: J. E. Dastur Memorial Short Fiction Writing Competition.
- **Mr. Shardul Thacker** for judging the Sir Dinshah Mulla Government Law College Legal Essay Writing Competition.
- **Ms. Leila Seth, Mr. Iqbal Chagla, Mr. Rafique Dada, Mr. Darius Khambata, Mr. J. P. Cama, Mr. Vivek Kantawala and Mr. Pradeep Sancheti** for narrating humorous courtroom experiences from their illustrious careers.
- **Mr. J. P. Cama, Mr. Astad Randeria, Mr. Ishan Handa, Mr. Tushad Kakalia and Ms. Riva Shah** for making 'Knock-Out!' such a success.
- **Prof. Mr. P. B. Daphal** for his continuous help and encouragement.
- **Prof. Mr. H. D. Pithawalla** for his support and guidance throughout the year.
- **Prof. Ms. Shakuntala Bharvani** for contributing an article to this edition of *méLAWnge*.
- **Prof. Mr. K. L. Daswani** for taking time out of his busy schedule to make Lexcryptic—a legal crossword—for the Magazine and for his unstinting advice and contribution to various other activities of the Committee.
- **Shreyas Narla**, our Committee member, to whom the cover design of *méLAWnge* 2012-13 can be attributed.
- **Mr. Rajesh Bhagat, Mr. Arputham Pillai, Mrs. Kruti Mehta and Ms. Pranita Kadam** of Finesse Graphics & Prints Pvt. Ltd.
- **Ms. Mona Mehta** for her help in the initial stages of designing of this Magazine.
- **Mr. Shabbar Lakdawala** for having made the committee photographs a success.
- **Mr. B. P. Patil, Mrs. S. S. Parab, Mr. S. Singh, Mr. A. A. Khair** and all other non-teaching staff for bearing with our constant demands.
- Finally, we would like to thank our patrons and benefactors.

## DISCLAIMER

All opinions expressed in this Magazine are the authors own and in no way reflect the views of the Editors or of the establishment. Articles on legal issues should not be construed as legal advice.

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I, Mr. P. B. Daphal, hereby declare that the particulars given above are true to the best of my knowledge and belief.

Sd/-

Mr. P. B. Daphal.  
Publishers

*“Unless a man undertakes more than he possibly can do, he will never do all that he can.”*

*– Henry Drummond*

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