

ILS CENTRE FOR PUBLIC LAW

Introduction: The Centre for Public Law (CPL) intends to promote research in Public Law and its interface with other laws and to further this endeavor the Centre frequently organizes discussions on policy and developments in Indian Constitutional Law and Jurisprudence.

Right since the beginning, the Centre has been very keen on stressing the importance of research and publication in constitutional law. As part of the same the Centre runs a Public Law Bulletin. The Centre for Public Law also publishes blog posts with a view to provide a conducive learning environment to the students of ILS.

Faculty Coordinator: Dr. Dnyaneshwar Kendre

Student Coordinator: Chirayu Rushiya (V BA LLB)

Student Members: Manthan Palsande, Aditya Kawade (both III LLB), Ojas Date, Tanisha Kedari, Chetan Charitra, Samrudhi Darakh, Aishwarya Tripathi (all IV BA LLB), Yashaswini Joshi, Vrunda Nabira, Gaurisha Khot, Tanishq Mishra (all III BA LLB), Anish Padhye, Samhita Yadati, Megha Shree (all II BA LLB)

Details of the activities conducted:

SEMINARS

- **Student Seminar I**

Title of Session: General Orientation with discussion on “Decoding the Challenge to the Abrogation of Article 370”

Date: September 11, 2023

Mode: Offline

Resource Person: Chirayu Rushiya (V BA LLB), Tanishq Mishra (IV BA LLB), and Gaurisha Khot (III BA LLB)

No. of Participants: 55

Report: This session served as an introductory session of CPL for the Batch of 2028. This session was conducted when the constitutionality of the abrogation of Article 370 was sub-judice in the case of In Re: Article 370 of the Constitution.

The session began with the history and evolution of the contentious Article 370 of Indian Constitution. Thereafter, the audience was provided with a detailed analysis of the procedure involved in the abrogation of the said article, followed by the Constitutional challenges it attracted. Legal concepts involved in these challenges like 'colourable legislation' were explained in simple language for the benefit of the newly admitted batch.

Lastly, the audience were given the chance to engage in a discussion and ask questions about the subject-matter of the session to inculcate active participation of the fresh batch with Constitutional Law.

- **Student Seminar II**

Title of Session: One Nation One Election

Date: September 18, 2023

Mode: Offline

Resource Person: Vrunda Nabira (III BA LLB), Chirayu Rushiya (V BA LLB)

No. of Participants: 25

Report: The election "season" that surrounded every national and state election in India was described as a festival of democracy. People across every strata of society, from every walk of life, stepped out in the lakhs to cast their votes and select a government that would meet their goals. However, questions arose about the frequency of these elections. The suggestion was made: wouldn't it be better if every major election could run parallelly! The session intended to explore the answers to these questions and explore proposed changes to conduction of elections.

- **Student Seminar III**

Title of Session: Identifying the Role of Court in Adjudicating Electoral disputes.

Date: September 25, 2023

Resource Person: Anish Padhye (II BA LLB), Ojas Date (IV BA LLB)

Mode: Offline

No. of Participants: 17

Report: The session was dedicated to the much deliberated topic of electoral disputes. The speakers covered landmark cases such as - Raj Narian to Shiv Sena, to elaborate on the role of courts in adjudicating electoral disputes.

The speakers delved into the intricacies of the Raj Narian case, highlighting the fact that the Allahabad High Court had initially found Indira Gandhi guilty of electoral malpractices and consequently disqualified her from holding public office for six years. However, the said decision was later stayed by the Supreme Court.

The said case was pivotal in underscoring the role of the judiciary in upholding the sanctity of the electoral process and ensuring that no individual, regardless of their position or stature is above the law. The speakers emphasized that the Raj Narain case set a precedent for the courts to intervene and adjudicate on electoral disputes, even when they involve high-ranking public officials.

Moving on, the speakers discussed the judgment in Subhash Desai vs Principal Secretary, Governor of Maharashtra & Ors., which arose from the political crisis in Maharashtra in 2022. The case centered around various questions relating to the actions of the then Speaker and Governor of Maharashtra along with the validity of appointment of chief whip, notices of disqualification of MLAs by both rival groups etc.

The speakers highlighted that the decision of the Supreme Court ended up not removing Eknath Shinde from the post of Chief Minister as well as referring the decision in Nabam Rebia (2016) to a larger bench.

- **Student Seminar IV**

Title of the Session: Sedition: A Void in Constitutionalism

Date: October 17, 2023

Resource Person: Chirayu Rushiya (V BA LLB), Tanishq Mishra (III BA LLB)

Mode: Online

No. of Participants: 46

Report: The session was aimed at discussing the Jurisprudence of penalizing dissent along with the evolution of both, the offense and its critique.

This session delved into the oft debated constitutionality of Sedition as an offense. This session delved into the evolution of the Sedition laws in India from its introduction to the Indian Sub-Continent in 1870 to its position in Bharatiya Nyay Sanhita Bill as then it was.

The session dealt with the matter both positively and normatively to discuss the position of sedition in the scheme of our constitution.

Further, recent instances such as the Law Commission's recommendation of retaining the offense of sedition and its place in the proposed Bharatiya Nyaya Samhita Bill were also discussed in the session.

- **Student Seminar VI**

Title of the Session: Marriage Equality: A judgment Analysis

Date: October 22, 2023

Name of the Resource Person: Chirayu Rushiya (V BA LLB), Rajyawardhan Singh, Megha Shree (II BA LLB)

Mode: Online

No. of Participants: 108

Report: The session was conducted in collaboration with the Gender Studies Cell and was dedicated to analyzing the much awaited judgment of the apex court in the matter of Supriyo Vs. Union of India aka the Marriage Equality Petition which was pronounced by the Constitution Bench. The session succinctly summarized the 366 page judgment followed by a moderated discussion on the same.

The session highlighted the need for comprehensive legislation and administrative reforms to ensure that same-sex couples could exercise their newly granted rights without facing discrimination or bureaucratic hurdles.

The discussion also touched upon the potential backlash from conservative and religious groups, who might view the judgment as a threat to traditional values and societal norms. The participants emphasized the importance of sensitization campaigns and inclusive dialogue to facilitate a smooth transition and foster a more accepting and inclusive society.

Lastly, the session concluded with the participants expressing their views and insights in light of the judgments discussed.

- **Student Seminar VII**

Title of the Session: Dignity Jurisprudence

Date: October 31st, 2023

Name of the Resource Person: Tanisha Kedari (IV BA LLB), Anish Padhye (II BA LLB)

Mode: Online

No. of participants: 15

Report: The Centre For Public Law conducted a session on Dignity Jurisprudence- Philosophy and Law. It was conducted in front of a discussion to acquaint the attendees about the intersection of dignity with Article 21. The session commenced with an introduction of what is dignity, providing attendees with a contextual understanding. A chronological overview of the academic origin of dignity in John Locke's Natural Rights theory, the concept of inalienability and the Hart vs Fuller debate were also outlined, aiding participants in grasping the background of transformative jurisprudence.

Subsequently, the comprehensive and detailed ambit of Article 21 of the Indian Constitution was discussed in detail. The speakers elucidated how the Court has expanded the scope of the right to life and personal liberty enshrined in Article 21 to encompass dignity, while highlighting the adverse impact of the violation of that dignity and autonomy.

Further exploration and thorough discussion were conducted on the right to die and the right to privacy as facets of dignity. Following this discussion, another essential argument regarding the obligation of the State towards protecting dignity was taken. Finally various privacy and constitutional morality tests proposed by the Supreme Court in Maneka Gandhi vs Union of India, K.S Puttaswamy vs Union of India, Indian Young Lawyers Association vs Union of India and Navtej Singh Johar vs Union of India were discussed. Lastly, the session was concluded with a quick recap about the abortion rights judgment in X vs GNCTD and its nexus with dignity jurisprudence.

- **Student Seminar VIII**

Title of the Session: Curative petitions before the Supreme Court

Date: November 5, 2023

Resource Person: Chirayu Rushiya (V BA LLB), Samruddhi Darakh

Mode: Online

No. of participants: 19

Report: The session aimed at making the participants understand the nuances of curative petition of the Supreme Courts, procedures involved, its evolution, precedents, grounds for rejection.

The session went on further discussing the perceived reluctance of the Supreme Court to entertain curative petitions, even in cases where there might be compelling grounds for review. They debated the need to strike a balance between upholding the finality of judgments and ensuring that genuine cases of miscarriage of justice are addressed.

The session also touched upon the potential for abuse of the curative petition mechanism and the need for robust safeguards to prevent its misuse for frivolous or vexatious purposes.

Throughout the discussion, the session emphasized the importance of adhering to the established legal principles and procedures while considering curative petitions, ensuring that the integrity and credibility of the judicial process are maintained.

The session concluded with a call for continued discourse and academic engagement on the subject, as well as a commitment to upholding the principles of fairness, justice, and the rule of law in the country's legal system. Lastly, the session concluded with the participants expressing their views and insights in light of the judgments discussed.

- **Student Seminar IX**

Title of the Session: Challenges to the Current System of Electoral Bonds

Date: November 20, 2023

Resource Person: Chirayu Rushiya (V BA LLB), Samhita Srikrishna

Mode: Online

No. of Participants: 19

Report: The session delved into the amendments that enabled the current avatar of electoral bonds and focused on the arguments advanced by the petitioners and the defense advocates.

The discussion provided a detailed account of the amendments that enabled the current avatar of electoral bonds. The discussion also focused how the scheme allows individuals and corporate entities to purchase electoral bonds from designated branches of the State Bank of India and donate them to political parties of their choice, without revealing their identities. Lastly, the session concluded with the participants expressing their views and insights in light of the judgments discussed.

- **Student Seminar X**

Title of the Session: Abrogation of Article 370 judgment

Date: December 14, 2023

Resource Person: Anish Padhye (II BA LLB), Chirayu Rushiya (V BA LLB)

Mode: Online

No. of Participants: 51

Report: The session analyzed and summarized the Supreme Court's verdict on the batch of petitions challenging the abrogation of Article 370. The session also scrutinized all three concurring opinions of the 476 page long judgment.

- **Student Seminar XI**

Title of the Session: A tryst with Sedition

Date: February 5,2024

Resource Person: Chirayu Rushiya (V BA LLB), Tanisha Kedari (IV BA LLB)

No. of Participants: 11

Report: The session delved into the captivating evolution of India's colonial-era sedition law to its modern day transformation under the new criminal laws. It discussed the history, pivotal incidents post- independence and unraveled the intricate tapestry of legal reform and social change.

- **Student Seminar XII**

Title of the Session: Electoral Bonds: A Judgment Analysis

Date: February 26, 2024

Name of the Resource Person: Ojas Date (IV BA LLB), Anish Padhye (II BA LLB) and Samhita Yadati (II BA LLB)

Mode: Offline

No. of the Participants: 26

Report: In this session, the judgment in Association of Democratic Reforms v. Union of India, was analyzed by the speakers. The session commenced with an introduction to electoral bonds, providing attendees with a contextual understanding of the subject-matter. A chronological overview of the petitions filed in the Supreme Court and a summary of arguments presented by both the petitioner (ADR) and the defendant (Union of India) were also outlined, aiding participants in grasping the background of the Electoral Bonds Scheme.

Subsequently, some of the major arguments of the petitioner were covered in detail. The speakers elucidated how the Court expanded the scope of the right to information enshrined in Article 19(1)(a) of the Constitution to encompass disclosure serving the public interest, while highlighting the adverse impact of non-disclosure on the free dissemination of information.

Furthermore, exploration and thorough discussion were conducted on the challenges posed by amendments to the Companies Act, 2013, in reference to the implications of unlimited corporate funding and its detrimental effects on the integrity of the electoral process. Following this discussion, another essential argument regarding the Double Proportionality test was dealt with wherein, the proportionality doctrine and the clash between two fundamental rights (privacy and information) was discussed. Lastly, the session was concluded with a quick recap about the judgment with participants sharing their individual insights and reflections on the implications of the verdict.

- **Student Seminar XIII**

Title of the Session: Analysing the validity of Sub-classification within the Reserved Category

Date: March 4, 2024

Resource Person: Tanishq Mishra (III BA LLB) and Yashasvini Joshi

Mode: Offline

No. of Participants: 27

Report: This session dealt with the question, ‘Whether it is constitutionally permissible for states to create sub-classifications within reserved categories?’. The session dealt with the previous position of the court with respect to sub-classification in the cases of M.R Balaji, Indra Sawhney and E.V.Chinnaiah. This was followed by an adversarial form of presentation where Tanishq Mishra argued for the constitutional permissibility of Sub-classification while Yashaswini Joshi argued in opposition. Lastly, the session was concluded with a quick recap about the judgment with participants sharing their individual insights and reflections on the implications of the verdict.

- **Student Seminar XIV**

Title of the Session: Self-Incrimination in the Digital Age

Date: April 9, 2024

Resource Person: Chirayu Rushiya (V BA LLB) and Aishwarya Tripathi (IV BA LLB)

Mode: Online

No. of Participants: 37

Report: The session began with an introduction to the Right against self-incrimination with a discussion on the key aspects of Article 20(3) and how this right has further been incorporated in the criminal legal system by virtue of the provisions like Section 161(2) of the Code of the Criminal procedure. The scope and limitations of the said Right were also discussed. This was followed by a discussion on the jurisprudence that has developed on the said Right by way of important Supreme Court judgments in State of Bombay v. Kali Kathu Oghad and Selvi & Ors. v. State of Karnataka, etc.

The session then progressed with the issue of whether an accused could refuse giving passwords and biometrics claiming the same as a violation of their right against self-incrimination under Article 20(3) and whether passwords and biometrics would constitute documentary evidence or testimonial evidence. In an attempt to find an answer to this question, the fairly recent judgments of Virendra Khanna v. State of Karnataka and CBI v. Mahesh Kumar Sharma were discussed. It was pointed out that these judgement were not able to settle the position of law on the subject. Lastly, the session was concluded with the participants expressing their views and insights in light of the judgments discussed.

- **Student Seminar XV**

Title of the Session: Unpacking PMLA: Opposition Arrests, Bail and the ED

Date: April 15, 2024

Resource Person: Chetan Charitra (IV BA LLB) and Vrunda Nabira (III BA LLB)

Mode: Offline

No. of Participants: 23

Report: The session began with an Introduction to Section 19 of PMLA with key focus on grounds of arrest and informing of grounds of arrest to the accused. The discussion focused on the recent judgements such as Pankaj Bansal v Union of India, 2023 where non-adherence with the safeguards under section 19 was discussed. Further, the decision in Ram Kishor Arora v Directorate of Enforcement was also discussed which focused on timeline to inform grounds of arrest to the accused.

The session progressed with a discussion on the Bail provisions given under PMLA. The session proceeded with explanation of Section 45 of PMLA pre and post amendment. Furthermore, the decision in Nikesh Tarachand Shah v Union of India which struck down section 45 of PMLA as being unconstitutional was also discussed. An amendment post this judgment was also discussed. Further, the case of Vijay Madanlal Choudhary v Union of India was also discussed which overruled the Nikesh Tarachand Shah judgment and held that Section 45 post amendment is constitutional. Cases of arrests of opposition party leaders like Arvind Kejariwal, Sanjay Singh and Hemant Soren were also discussed, Lastly, the session was concluded with the participants expressing their views and insights in light of the judgments discussed.

Student Seminar XVI

Title of the Session: Uniform Civil Code

Date: April 22, 2024

Resource Person: Manthan Palsande (III LLB) and Gaurisha Khot (III BA LLB)

Mode: Offline

No. of Participants: 23

Report: The historical background, explanation, pros and cons of the said policy were explained during the session.

In the first half of the session, the history of UCC in India was decoded. The implementation of a singular system to govern all people since the Mughal period was looked upon. The situation during the British Period and Post Independence period was highlighted as article 44 was added as a part of the constitution by the constituent assembly. The latter half of the session focused on the constitutionality, and the arguments that were made in favor of and against the said code in the parliament. Steps taken by the center such as the Hindu code bills and Special marriage act, etc were mentioned and the Supreme court's view on UCC through various landmark judgments was talked upon. Steps taken by states like Goa and Uttarakhand were also mentioned and the challenges in implementation for UCC in a diverse country like India was discussed by all at the end.

The session ended with a group discussion where the attendees talked about UCC, asked questions and gave their personal inputs about the way forward for implementation of UCC in India.

- **Student Seminar XVII**

Title of the Session: Article 39(b) Vis-a-Vis private properties as 'Material Resources of community'

Date: April 29, 2024

Resource Person: Chirayu Rushiya (V BA LLB)

Mode: Online

No. of Participants: 7

Report: In this session we discussed the ongoing reference before the 9 Judge bench, over the remark of Justice VR Krishna Iyer in the Ranganath Reddy case. The Property Owners Association case which was last heard in the year 2002, which was referred by the 5 Judge bench to a 9 Judge bench wherein Justice Iyer had remarked that even the private property is a material resource of the community. The session covered the outline of Mafatlal Case, Ranganath Reddy, and the first Property Owners association case. Further the participants discussed the possible meanings and outcomes of the remark made by Justice Iyer. Since the Reference is partly heard by the Hon'ble Supreme Court, all participants were in anticipation of varied opinions coming out in the judgment.

COMPETITIONS ORGANIZED:

Moot Court Competition on Constitutional Law

Title of the Competition: 4th CPL Constitutional Law Moot Court Competition.

Date: March 7, 2024 (Preliminary Round) & March 17, 2024 (Final Round)

Level: Intra-college

No. of Participants: 48

Judges: The preliminary round was judged by Amol Gupta, Anish Kikle, Anvi Londhe, Dattaram Bile, Pratyusha Susarla, Samiksha Patni, Shaunak Parulekar, Tejas Vatsa & Vedant Lathi (all V BA LLB), Kashish Chadha, Manthan Palsande & Shubham Kenekar (III LLB).

The judges for the final round were judged by Adv. Raghav Puranik and Adv. Yash Joshi

Report: The 4th CPL Constitutional Law Moot Court Competition, 2024 was held March 7, 2024.

The Constitutional Moot Court Competition was held with the purpose of encouraging students in Public Law, specifically Constitutional Law. The Extempore Moot has been conducted for four consecutive years now. The success of the competition lies in the increased understanding relating to the nuances and application of Public Law in the practical domain amongst the students. The format of the competition is such that it molds the participant to act quickly and decisively. The moot problem is released a week before the competition. The Participants have to then prepare their arguments on the basis of available resources and present the oral submissions before a bench consisting of two judges. The Judges for the Preliminary Rounds were the Final Year Students from BA LLB and LLB namely Amol Gupta, Anish Prasad Kikle, Anvi Londhe, Dattaram Bile, Kashish Chadha, Manthan Palsande, Pratyusha, Samiksha Patni, Shaunak Parulekar, Shubham Somnath Kenekar, Tejas Vatsa, Vedant Lathi. In the Preliminary rounds 48 participants competed in 6 courtrooms. After the Preliminary Rounds, two participants from each courtroom were selected for the Final Round. The Moot Propositions were also prepared by the Final Year Students. The Preliminary proposition was contributed by Mr. Chirayu Rushiya and Mr. Ojas Date. The Final Proposition made by Mr. Nishant Bajoria.

Winners:

First Place: Arya Mitkari

1st Runner-up: Varadraj Patil

2nd Runner-up: Akshata Kolte

OTHER ACTIVITIES

Title of the Activity: Guest Lecture

Topic: Recent developments in constitutional law vis a vis The ruling Dispensation and the jurisprudence of our courts

Date: December 19, 2023

Resource Person: Gautam Bhatia

No. of Participants: 51

Report: Mr. Bhatia spoke on the topic recent developments in constitutional law with a special focus on the jurisprudence developed in the last 10 years to acquaint the attendees about his recent path breaking book; Unsealed Covers- A Decade of Constitutionalism, State and the Courts. The speaker introduction was done by Mr. Anish Padhye, Core Committee Member Centre for Public Law. The session commenced with the speaker giving a brief yet insightful synopsis of his book. A chronological overview of the relation between the concentration of power witnessed since 2014 and the Supreme Court's jurisprudence was also outlined, aiding participants in grasping the background of how public law has developed in recent years.

Subsequently, the comprehensive and detailed outline of each and every section of the book was discussed by the speaker. The participants were elucidated on whether the Court has been counter-majoritarian in these 10 years with respect to various aspects like personal liberty, socio-economic rights, Centre-State relations, administrative functioning of courts etc.

Thereafter the session was opened for interactions and discussions which received a great response from the attendees. Questions revolving around the centrality vs heterogeneity debate in the recent

10 years of jurisprudence, role of press, efficacy of the collegium system, judicial accountability all of which are addressed in the book were answered with additional insights by Mr. Bhatia. The Vote of Thanks was presented by Ms. Srikrishna Samhita, Core Committee Member, Centre for Public Law.

Title of the Activity: Lecture Series

Topic 1: Resilience of the Constitution- Importance of the Preamble

Date: February 12, 2024

Resource Person: Professor Dr. Sanjay Jain

No of participants: 31

Report: The session focused on the question, whether the Indian constitution survives the challenges it is facing. It talked about how the Indian Constitution has already proven its resilience during various instances. It went on to discuss the number of challenges faced by the ethos of the Indian Constitution. It also focused on the reluctance of the party during days to attach importance to the DPSPs.

The session also delved into the intricacies of Kesavananda Bharati judgment where it was stated that the preamble is the part of the constitution. It further focused on the present scenario, and discussed various principles mentioned in the Preamble.

Topic 2: Resilience of the Constitution- Freedom of Speech and Expression

Date- February 14 ,2024

Resource Person: Mr. Amit Pai

No of participants: 51

Report: The second session of the Resilience of the Indian Constitution series revolved around the freedom of speech and expression as the hallmark of democracy. The absoluteness of this

fundamental right was discussed with reference to real life examples. The session further went on to emphasize on the importance of maintaining a balance between the rights and the reasonable restrictions in light of contemporary scenarios.

Topic 3: Resilience of the Constitution- Article 21 and Unenumerated Rights

Date: February 17, 2024

Resource Person: Ms Mallika Jain

No. of participants: 66

Report: The theme for the session was Article 21 and its unenumerated rights. The ambit of article 21 has been enlarged by the Supreme Court by exercising its judicial creativity to carve different rights from Article 21 in order to suit growing societal needs through various historic verdicts from A.K Gopalan to Maneka Gandhi to Puttaswamy. The session revolved around this subject matter.