



**CENTRE FOR
LAW & POLICY
RESEARCH**

Annual Report 2016-17

1stApril 2016 to 31stMarch 2017

Introduction

CLPR has broadly 6 different Units. They are: The Constitution and Governance, Disability Law, Public Health, Gender and Sexuality, Open Access and Technology, and Miscellaneous. 2016-17 has been an exciting year for CLPR as we have had the opportunity to do cutting edge work on many of our focus areas through support from a number of different donors. A brief outline of the work done this year in each of our focus areas is outlined below.

Unit: Constitution and Governance

CLPR strongly believes in understanding the origins of the constitution and tracing its evolution through research and civic education. CLPR also studies systems of governance at its various levels and its intersection with constitutional law. One of our core areas of research and strategic litigation is also around constitutional law and governance.

Projects:

1. The Constitutional and Civic Citizenship Project

There has been continued support from the Friedrich Naumann Foundation for Freedom, South Asia Office, from 2015 onwards to CLPR for a project on the Constitutional and Civic Citizenship. A grant was provided from January 2016 to December 2016 and continued from January 2017 to December 2017. The aim of this project is to enhance public awareness and critical engagement with India's constitutional tradition. The four different facets of the project that CLPR has been working on in 2016-17 are:

a. CAD India:

Creation of the CADIndia website: cadindia.clpr.org.in is designed to make the debates of the Constituent Assembly Debates instantly accessible in a user friendly manner. It contains curated and edited content to increase readability; editorial tagging of the content which enables advanced search; powerful search engine which locates the desired content precisely. In this period, the following were achieved:

- The website has covered the entire Constituent Assembly Debates.

- 10 Historical Constitutions were added to capture the constitutional thinking prior to beginning of the formal drafting of Indian Constitution.
- The website was revamped to improve design and functionality.
- 10 workshops were conducted on the CADIndia website to build engagement amongst students. The workshops were conducted at School of Law Christ University Bangalore; KIIT Law School Bhubaneswar; NLU Orissa, Symbiosis Law School, Pune; ILS Law College, Pune; NLU, Mumbai; Jindal Global Law School, Sonapat; NLSIU, Bangalore; Ashoka University, Sonapat; RMNLU, Patiala.

b. Conquest Quiz:

CLPR designed and launched “ConQuest”, India’s first quiz on the Indian Constitution, History and Politics. The first edition of ConQuest was conducted between July to August of 2016. It was open to undergraduate and postgraduate university students. There were 4 regional rounds (North, South, East, West) and 196 teams from the best Universities and schools in India participated. The top 2 teams from each regional round competed in the National Finals that took place in Indian Law Institute, Delhi. Two teams from NLSIU occupied first and second places with a team from JNU winning third prize.

c. The Supreme Court Observer (“SCO”):

CLPR has launched a new website: scobserver.org.in. This aims to make the work of Supreme Court accessible and easily readable to any person who is interested in public affairs. The SCO is a non-partisan, journalistic effort and strives to build public engagement by simplifying the proceedings and working of Supreme Court and reporting on highly impactful cases from its first hearing day till judgment is pronounced. The SC Observer website has till dated tracked 14 cases including the right to privacy, triple talaq among other cases.

d. Transgender Rights and the Constitution

On 14th and 15th of December 2016, CLPR held a conference titled ‘TransForm: Transgender Rights and Law’ at the Indian Institute for Human Settlements, Bangalore. The

conference addressed several issues of marginality and exclusion within the transgender movement. Activists, advocates, academics, researchers, writers and students gathered to re-imagine and explore the understanding of gender and held panel discussions on various themes and issues relevant to the transgender movement. As part of the conference, there was also an essay competition for students to build active student engagement around the issues of transgender rights by bringing it to the centre of public discourse.

Publications:

1. Jayna Kothari and Aparna Ravi, "A battle of rights: the right to education of children versus rights of minority schools", *Oxford University Commonwealth Law Journal*, 14 February 2017.
2. Sudhir Krishnaswamy, "Judicial Appointments: A Breakthrough?", *India Today*, 10 February 2017.
3. Vineeth Krishna and Mathew Idiculla, "Saving the Date: January 26th and the Constituent Assembly", *Law and Other Things*, 4 February 2017.
4. Apoorva Sharma, "Using Devanagari Numerals on New Currency Dishonours a Historic Compromise", *The Wire*, 25 November 2016.
5. Sudhir Krishnaswamy, "The People's Court", *India Today*, 24 November 2016.
6. Mathew Idiculla, 'Multiple faces of Akrama Sakrama argument', *Citizen Matters Bengaluru*, 15 November 2017.
7. Sudhir Krishnaswamy, Diksha Sanyal, and Andreas Walter, "Soft judicial review, conflicts with other rights, and other problems in the Draft Equality Bill", *My Law Blog*, 3 August 2016.

Events:

1. Vineeth Krishna was invited to be a panelist on the topic 'Censorship v. Freedom of Speech and Expression' at the Constitution Orientation Program conducted by School of Law Christ University on 28th February 2017.
2. Sudhir Krishnaswamy was invited to be a panelist at Asia Liberty Forum, 2017 on 'Property Rights as a Human Right', conducted on 10th and 11th February 2017 in Mumbai.

3. CLPR supported the Humane Society's International Animal Protection PIL Competition, organised by NLSIU from 20th to 22nd January, 2017. This competition aimed at building culture of public discourse in animal welfare law and constitutional law. Jayna Kothari judged the final rounds of the competition. CLPR will assist the winning team to file a PIL in Supreme Court or High Court.
4. Sudhir Krishnaswamy, was a panelist and presented his paper 'Settlement, Deferral and Silence: Originalist Traps in Indian Constitutionalism' in LASSnet International Conference on 'Thinking with Evidence, Seeking Certainty, Making Truth', 10th to 12th December 2016, New Delhi.
5. Vineeth Krishna, was a panelist and presented his paper 'Evidence of Intent: Originalism in India' in LASSnet International Conference on 'Thinking with Evidence, Seeking Certainty, Making Truth', 10th to 12th December 2016, New Delhi.
6. Vineeth Krishna was invited to speak about CADIndia website in Promoting Liberty Digitally Workshop, 14th to 18th October 2016 in Colombo, Sri Lanka.
7. Sudhir Krishnaswamy was invited to speak on session titled 'Constitutional Challenges and Concerns', of 9th Annual NLSIR Symposium on 'Goods and Services Tax: The Changing Face of Fiscal Federalism in India' on 14th May 2016 conducted by NLSIU Bangalore.

Unit: Disability Law

CLPR has been shaping the discourse of disability law in India through its research and litigation. Though there is no project supporting any work on disability law, CLPR continues to take up litigation to represent persons with disabilities.

Events:

1. Jayna Kothari was invited as a speaker at a National Seminar on Disability and Higher Education on March 22-23, 2017, organized by Delhi University at Dyal Singh College, New Delhi.

2. Jayna Kothari was invited to speak as a resource person on the new Rights of Persons with Disabilities Act 2016 on February 20-21, 2017 by Caritas India CBR Forum, Bangalore.

Litigation

1. *Karnataka Rajya Vikalachethanara Rakshana Samithi v. Bangalore Development Authority & Ors.* : CLPR filed a PIL against the BDA and State of Karnataka for failing to provide for 3 % preferential allotment of sites and the grant of sites at concessional rates to persons with disabilities. After this petition was filed, the BDA amended its Notification and reserved 3% of sites for persons with disabilities. The PIL is still pending.
2. *Nagaraj C Hiremath v. State of Karnataka*: A petition has been filed before the Karnataka Administrative Tribunal on behalf of the applicant who is a person with disability challenging the order regularizing his employment as it was not done from the date of appointment but from a later date.
3. *Sateesha v. State of Karnataka*: A petition has been filed in the Karnataka High Court on behalf of the petitioner who is a person with disability, against the order of Karnataka Administrative Tribunal under which the Petitioner's seniority was set aside.
4. *Mujahid Ali & Ors v. State of Karnataka*: A petition has been filed challenging the allotment of sites by the Deputy Commissioner, Bangalore. The Respondents rather than allotting the sites in Bylakere Village to the Petitioners who are blind as per Karnataka High Court order, allotted the same to leprosy cured persons. The case challenges this allotment as arbitrary and unreasonable and seeks to quash the same and prays for the Court to direct the State to establish clear guidelines of eligibility for allotment of the said sites.

Gender and Sexuality

CLPR has extensively worked for policy reform around reproductive rights, domestic violence, sexual harassment at the workplace, sexual violence and transgender rights.

Projects:

1. Strengthening Access to Justice and Accountability for Child Marriage

CLPR with support of Center for Reproductive Rights (CRR) has undertaken this project, which aims to strengthen accountability and access to justice for child marriage and for better implementation of the Prevention of Child Marriage Act 2006 in Karnataka. In the first phase (January-June 30, 2017), CLPR conducted a Regional Consultation on the implementation of the Prohibition of Child Marriage Act 2006 on 19th May 2017 and prepared a Legal and Policy Brief on 17th July 2017. This Brief is currently being finalized.

2. Constitutional and Civic Citizenship Project

Under this project, a significant component is centered around transgender rights and the constitution. Details of the activities done on transgender rights are given under the previous section of this Report.

Publications:

1. Diksha Sanyal, 'Act up call for hospitals on trans health rights', *Varta*, March 2017.
2. Jayna Kothari and Diksha Sanyal, 'Courts Recognizing Transgender Rights', *Oxford Human Rights Hub*, 28 February 2017.
3. Jayna Kothari, "Violence that's not gender-neutral", *The Hindu*, 17 November 2016.
4. Jayna Kothari, 'ಲಿಂಗನಿರಪೇಕ್ಷ ಬಣ್ಣ ನೀಡುವ ಪ್ರಯತ್ನ', *Prajaavaani*, 17 October 2016.

Submissions:

1. CLPR submitted comments on the draft Trafficking of Persons (Prevention, Protection and Rehabilitation) Bill, 2016 to Ministry of Women and Child Development.

2. CLPR submitted comments on the draft Transgender Persons (Protection of Rights) Bill, 2016 to the Ministry of Social Justice and Empowerment.

Events:

1. Brototi Dutta attended 'UPR Info Pre Session on India's 3rd Universal Periodical Review' on Child Marriage at United Nations Human Rights Committee, in Geneva, on 3rd and 4th April 2017.
2. Jayna Kothari was invited as a speaker to speak on 'Women's Empowerment through Law' on Women's Day, March 8th 2017 by BMS College of Law.
3. Jayna Kothari was invited to be a panelist to speak on 'Use and Misuse of 498A' in the National Consultation on 498A on February 21st 2017 by Vimochana – Forum for Women's Rights.
4. Surrogacy Law in India by Sonali Kusum: As a part of CLPR's monthly talk series, on 24th June 2016, Sonali Kusum presented her work on ethical dilemmas around surrogacy, competing rights of surrogate mothers, of children born through surrogacy and of surrogate parents and an analysis of the Draft Assisted Reproductive Technology Bill.
5. Panel Discussion on Diversity, Identity and the Law: On 14th May 2016, CLPR along with Ondede organised a panel discussion on 'Diversity, Identity and Law'. The discussion was moderated by Ms. Akkai Padmashali, transgender activist and founder of Ondede and the panelists were Siddharth Narrain from the Centre for the Study of Developing Societies, Saranya Francis, child rights activist and co-founder of Ondede, Suma, a sexual minorities activist and Jayna Kothari.

Litigation:

1. *Dr. Akkai Padmashali & Ors. v. Union of India*: CLPR represented the petitioners who challenged before the Supreme Court, Section 377 of the Indian Penal Code as unconstitutional and being violative of their fundamental rights under Articles 14, 19, 15 and 21 of the Constitution. CLPR argued that rights of transgender persons recognized by the NALSA judgement are irreconcilable with Section 377. The Court has directed this petition to be listed with the other curative petitions.

2. *Karnataka Sexual Minorities Forum v. State of Karnataka & Ors.*: CLPR intervened on behalf of Akkai Padmashali and Jeeva in a petition constitutionally challenging 36A of the Karnataka Police Act as being violative of Articles 14, 15, 19, and 21 of the Indian Constitution. During the course of hearings, the Government recorded that they will amend the provision. The amendment was brought into force from 6th of February 2017 and hence the petition was closed.
3. *Rajkumar & Anr v. The Director*: In the case CLPR had represented Anita Ravindra G R, a woman with multiple disabilities who had been facing sexual harassment at the workplace and orders were passed directing the local Committee to consider her complaint. Since this was not complied with, this contempt petition was passed, and thereafter her complaint was heard and decided in her favour.

Public Health

CLPR has worked extensively around tobacco and public health, access to health care for persons with disabilities and reproductive rights, amongst others. CLPR has represented a variety of organisations in conducting strategic impact litigation on public health issues in the country.

Projects:

1. Campaign for Tobacco Free Kids ('CTFK')

In 2015, CLPR received a grant from the Tobacco Free Kids International to develop policy initiatives for better implementation of tobacco laws and the Framework Convention on Tobacco Control (FCTC) in India. Under this Project, CLPR had a Consultation on Tobacco Subsidies and Public Health on 23rd May, 2016. CLPR developed Two Policy Briefs and a Fact Sheet for advocacy purposes.

Publications:

1. CLPR drafted a Policy Brief titled 'Ending Tobacco subsidies: The Need for Repeal of the Tobacco Board Act 1975 for Effective Tobacco Control'.

2. CLPR drafted a Policy Brief titled 'Unpacking Public Health: The Way Forward in Health Warnings and Tobacco Packing Law in India'.
3. CLPR drafted a fact sheet titled 'Tobacco Board Act: An Obstacle to Tobacco Control'.
4. Jayna Kothari, "What's in a Pack? Sickness, Death and the Power of a Lethal Lobby", *The Wire*, 31st May 2016.

Events:

1. CLPR participated in the two meetings of Consortium for a Tobacco Free Karnataka that were held on 30th June 2016 and 4th August 2016. These meetings aimed at progressing towards building a community of tobacco advocates and policymakers in Karnataka
2. On May 31st, 2016, Jayna Kothari participated in a Consortium by the Department of Public Health, State of Karnataka, 'Plain Packaging, Plain Talk – Tobacco Control Measures in the State'.

Litigation

1. *W.P. 4470/2015*: 43 petitions have been filed challenging the constitutional validity of Cigarettes and other Tobacco Products (Packaging and Labelling) Amendment Rules, 2014, mandating 85% coverage of the cigarette and tobacco packs with health warnings. Some of these have been filed before the Supreme Court and various High Courts. The Supreme Court transferred to Karnataka High Court. CLPR appeared in this litigation for an Intervenor being the Consortium for Tobacco Free Karnataka and Citizen's Forum for Justice in the interest of public health. This petition is still pending.

Open Access and Technology

CLPR is a strong proponent of openness. This principle finds its place in our work relating to internet access, intellectual property and biodiversity. In addition, we believe that technology and access to technology has a vital role to play in furthering effective governance and this is reflected in our work in this field.

Publications:

1. Sudhir Krishnaswamy and Anchal Prabhala, “Mr. Modi, Don't Patent Cow Urine”, *New York Times*, 16 June 2016.
2. Sudhir Krishnaswamy, “Patently a missed opportunity”, *The Hindu*, 25 May 2016.

Submissions

1. CLPR authored ‘Submissions on the Pre-Consultation Paper on Net Neutrality’ and submitted it to the Telecom Regulatory Authority of India.

Miscellaneous

Under this miscellaneous section, a variety of projects and strategic litigation is carried out, which does not fit neatly into the other units.

Projects

1. Understanding Bail at the Pre-trial Stage

Azim Premji Philanthropic Initiatives CLPR with the support of Azim Premji Philanthropic Initiatives (“APPI”) is currently conducting research in first productions in criminal courts in Bangalore, Dharwad, and Tumkur. The grant was sanctioned by APPI from March 2017 to October 2017. This involves observation of first productions and review of relevant court records to analyse the legal framework and practice of bail adjudication.

Submissions

1. CLPR was invited to appear before a Joint Parliamentary Committee formed to discuss the Enforcement of Security Interest and Recovery of Debts Laws and Miscellaneous Provisions (Amendment) Bill 2016. Jayna Kothari presented CLPR's submissions before the Committee on June 16th 2016.

Litigation:

1. *Wildlife Conservation Action Team & Ors v. The State of Karnataka & Ors*: CLPR has filed a PIL on behalf of the petitioner to address the issue of encroachment in Basur Amruth

Mahal Kaval Black Buck Conservation Reserve which is declared as a conservation reserve under the Wildlife Protection Act, 1972. The petition seeks to preserve the ecology and biodiversity of the conservation reserve.

2. *Steel Authority of India v. Wildlife Conservation Action Team & Ors.*: CLPR is representing the Respondent in an appeal before the Karnataka High Court. The Petitioner is challenging the judgment of the District Court of Chikkamangaluru wherein the disputed property was declared as part of eco sensitive Western Ghats and restrained anyone from indulging in any mining or related operation.