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Editorial



One of the accepted human rights and assurance of civilised world is to protect the life and liberty of individual irrespective of the political acceptance and recognition by the sovereign country. The refugee law and the philosophy behind it is the touch stone of United Nations assurance and Universal Declaration of Human Rights. The recent trend of globalised economy and moving of the goods and services with the human resources along with capital is the most valuable aspect of Global citizenry nurtured over the half of the century by natural evolution

and protected by UN institutions with the support of Sovereign countries. But the present decade is looking at the neglected aspect of refugees over the years as neo- invasion. Unfortunately, the refugee issue was looked as Afro Asian habitual migrations. Now when USA and EU faced the situation they feel the brunt and cry for isolation and protectionism.

"Think it aloud in different forum" is the noise of this modern world of globalised economy. It shows and reflects the duality of rights and duties of sovereign countries. The policy makers deliberately brush aside the International Law on refugees and plea for protectionism as the democratic demand of the geographically divided sovereign countries by adding fences and closing harbours and visa obligations.

One has to loudly think how it becomes a necessity and compulsory for every right thinking people and policy makers to deliberate at the regional, and International institutional forums and find out the solutions. One side climatic changes because of over exploitation of natural resources pushes the population to move and migrate to better locations and on the other hand simple basic need for individual to get legitimate day to day needs of food, water, health care and habitat is eluding from their extended hands to make them as Internally Displaced People in their own country because of State extravagance and richness of capitalists way of life. In addition to this, non state actors and states go for pushing the civilians as the shield to pursue their unguided ambitions in the name of religion and ethnic in fights.

All sovereign countries in this twenty first century opening decades have to solemnly accept the "two world" purely man-made while applying the most accepted globalised economy as eighteenth century National capitalism enlarge its old dirty hand into the Multi National Corporations in the Global arena with out looking at their shadow - may lead to world disaster and calamity.

The international law and regulations have not been synchronised with the domestic law and policy making as main weakness of sovereign states facing tremor under their feet by agitated ignored population by rulers through out the world. It is the time to sit across the Global Round Table to see the Sustainable Global Development Agenda declared in the high table of United Nations happens to protect the humanity from self destruction.

Dr. E. M. Sudarsana Natchiappan

RECENT ACTIVITIES

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Sixth Winter Course on Settlement of Disputes in International Law

The ISIL organized its Sixth Winter Course on Settlement of Disputes from 26 December 2016 to 30 December 2016. Dr. E. M. S. Natchiappan, President, ISIL welcomed the participants and Inaugural lecture of the Course was delivered by Prof. S. K. Verma, Secretary General, ISIL, New Delhi. The Winter Course was intended to provide indepth understanding on dispute settlement system stipulated in the various branches of international law and highlight related contemporary issues to the participants. The Course witnessed lively interactions and discussions among the participants. The Course received a good response with 200 participants from all parts of the country. Dr. V. D. Sharma, Joint Secretary, Legal & Treaties Division, MEA gave the valedictory address and distributed certificate to the participants.

Human Rights Day Seminar

ISIL organized a Human Rights Day Seminar on 9 December 2016 at its premises. The seminar was held in



response to the narrative given by UN "Orange the World" and requesting the world community to organize events from 25 November through 10 December, Human Rights Day. The 16 Days of Activism against Gender-Based Violence aims to raise public awareness and mobilize people everywhere to bring about change.

The Seminar marks and recalls the narrative "everyone to stand up for someone's rights!". The Seminar began with the reading of UN Secretary General message by Shri Rajiv Chandran, Officer-in-Charge, UNIC. Eminent human rights scholars Prof. Upendra Baxi, Professor Emeritus, Delhi



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University, Delhi, Prof. Manoj Kumar Sinha, Director, Indian Law Institute, New Delhi and Prof. Y. S. R. Murthy, Registrar, O. P. Jindal Global University, Sonapat made their presentations. On this occasion, Dr. E. M. S.

Natchiappan, President, ISIL welcomed the panelists and participants and Prof. S. K. Verma, Secretary General, ISIL gave the vote of thanks.

Round Table Discussion in the Memory of Judge Nagendra Singh

A Round Table in the memory of Judge Nagendra Singh has been organized by the ISIL on 25 November 2016. The Round Table was presided by Hon'ble Justice Dalveer Bhandari, Judge, International Court of Justice, The Hague. The eminent life members of the ISIL spoke on the very occasion; Shri P. P. Rao, Senior Advocate, Supreme Court of India, Shri Narinder Singh, Former Member, ILC and Former Additional Secretary, MEA, Shri S. K. Dhokalia, Senior Advocate, Supreme Court of India and Dr. V. G. Hegde, Treasurer, ISIL. Dr. E. M. S. Natchiappan, President, ISIL, New



Delhi welcomed the guests and the participants.

Judge Nagendra Singh was associated with the International Court of Justice (ICJ) from 1972 till his death in 1988, first as a Judge and then from 1985 as its President. In 1966, 1969, and 1975, he was appointed as a representative of India in the United Nations Assembly and served on the United Nations International Law Commission on a part-time basis from 1967 to 1972. He was the Founder Member of the ISIL and its Vice President (1959-74) and President (1974-88).

A Special Lecture on "Contribution of Space Law and Policy to Space Governance and Space Security in the 21st Century"

ISIL organized a Special Lecture on "Contribution of Space Law and Policy to Space Governance and Space Security in the 21st Century" on 17 November 2016 at its premises. The lecture was delivered by Mr. Niklas Hedman, Chief of the

Committee, Policy and Legal Affairs Section of the United Nations Office for Outer Space Affairs (UNOOSA). Prof. S. K. Verma, Secretary General, ISIL welcomed the speaker and also gave the vote of thanks. The lecture witnessed lively interactions and discussions by the participants.

Two-day Training Programme for Awareness/Sensitization on IPR for MSMEs

Two-day Training Programme for Awareness/Sensitization on Intellectual Property Right for Micro, Small and Medium Enterprises (MSMEs) was organized by the ISIL and sponsored by the Ministry of MSMEs held on 4-5 November 2016. ISIL undertook various themes of IPR and their usefulness for MSMEs in the Programme; International and National Patent Laws; Copyrights; Trade Marks; Geographical Indications; Trade Secrets etc. There were lectures and presentations, group discussion on the above mentioned themes. The faculty of the training course consisted of eminent intellectual property practitioners. Dr. Manisha Shridhar, WHO Representative gave the inaugural address and Prof. S. K.

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Verma, Secretary General, ISIL welcomed the participants. 55 SMEs professionals and research scholars engaged in MSMEs related topics participated in the Training Programme.

Two-day Workshop on Corporate Law: International and National Perspective

ISIL organized the Two-day Workshop on Corporate Law: International and National Perspective on 15-16 October 2016 at its premises. The faculty of the training course consisted of eminent corporate law experts. Dr. P. K. Malhotra, Former Law Secretary, Government of India gave the valedictory address and distributed certificate to the participants. 80 law students and research scholars engaged in corporate law participated in the workshop.

Monthly Discussion Forum

"The Permanent Court of Arbitration and South Asia", by Ms. Ashwita Ambast, Assistant Legal Counsel, Permanent Court of Arbitration, The Hague, 2 December 2016

"Legality of Surgical Strikes by India", by Dr. Sanoj Rajan, Dean and

Head, Ansal Law School, Ansal University, Gurgaon, 4 November 2016

"Domestic Content Requirements under the WTO: India's Solar Dispute", Ms. R. V. Anuradha, Founder Partner Clarus Law Associates, New Delhi, 7 October 2016.

RECENT DEVELOPMENTS

India abstains at UN vote on LGBT

On 30 June 2016, India has abstained from voting at the UN Human Rights Council in Geneva to appoint an independent expert to look into cases of violence and discrimination based on sexual orientation and gender identity, a resolution which was passed by a narrow margin. In a 23-18 vote with six abstentions, the 47-member Human Rights Council on 30 June 2016 called for the creation of a three-year position for an independent expert to look into wrongdoing against gays, lesbians and transgender people. The move to create this special office in support for the LGBT community follows the June 12, 2016 mass killing at an Orlando night club in Florida. The resolution which was backed by the Latin American member states was opposed by Russia and the Islamic countries as India, Philippines and

South Africa abstained. The official for the newly created post of Independent Expert was expected shortly to be appointed for a three-year period and would serve to fight challenges faced by LGBT persons across the world. The debate on the resolution brought out sharp differences among member countries of the Human Rights Council (HRC) as several countries cited cultural traditions against supporting the move. However, the move to have the office of the Independent Expert was supported by 628 NGOs from 151 countries, informed The International Lesbian, Gay, and Trans and Intersex Association.

António Guterres is Sworn in as the New Secretary-General-Designate of the United Nations

Sworn in on 12 December 2016 as the ninth and next United Nations Secretary-General, António Guterres pledged to reposition development at the centre of the Organization's work and ensure that the UN can change to effectively meet the myriad challenges facing the international community. Mr. Guterres, a former Prime Minister of Portugal (1995 to 2002) and former UN High Commissioner for

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Refugees (2005-2015) replaces Ban Ki-moon, who steps down at the end of the month after leading the global Organization for the past 10 years.

Earlier on 11 October 2016, the General Assembly appointed by acclamation António Guterres, as the next United Nations Secretary-General, to succeed Ban Ki-moon when he steps down on 31 December 2016. Adopting a consensus resolution put forward by its President, Peter Thomson, the Assembly acted on the recommendation on the UN Security Council, which on 6 October 2016 forwarded Mr. Guterres' name to the 193-member body as its nominee for UN Secretary-General for a five-year period, ending 31 December 2021.

ECCC Supreme Court Upholds Life Sentences in Two Cases

The Supreme Court of the Extraordinary Chambers in the Courts of Cambodia (ECCC) was set up to bring to trial those most responsible for crimes committed during Cambodia's brutal Khmer Rouge regime has upheld life sentences for two top former Khmer Rouge leaders for crimes against humanity. On 23 November 2016,

the Supreme Court of the ECCC upheld its judgment on appeals against the trial judgement regarding Nuon Chea, former Deputy Secretary of the Communist Party of Kampuchea, and Khieu Samphan, former Head of State of Democratic Kampuchea. The two, who are the most senior surviving members of the regime, were sentenced in August 2014. In a lengthy decision, the Court also reversed the convictions entered by the Trial Chamber for the crime against humanity of extermination in relation to the evacuation of Phnom Penh and the second phase of population transfers. It was found that the evidence before the Trial Chamber in relation to the population movements did not establish beyond reasonable doubt the requisite killings on a large scale "committed with direct intent."

In April 1975, during the first phase of the movement of the population, at least two million people were forcibly transferred from Phnom Penh by Khmer Rouge soldiers often at gunpoint, and in terrifying and violent circumstances. The population was forced to march to rural areas during the hottest time of the year and without adequate food, water or medical care. According to the Tribunal, there were numerous

instances of Khmer Rouge soldiers shooting and killing civilians during the course of the evacuation, while many others died of exhaustion, malnutrition or disease. There was another phase of the movement of the population between September 1975 and December 1977, where more scores were displaced. The ECCC, which is currently handing four cases, was created by Cambodia and the United Nations, but is independent of them, and is a Cambodian court with international participation that will apply international standards.

ICJ ruled that France must Protect the Premises Presented as Housing the Diplomatic Mission of Equatorial Guinea in France

On 7 December 2016, the International Court of Justice has ruled that France must guarantee protection of the premises presented as housing the diplomatic mission of Equatorial Guinea in France. In an order granting the request for an indication of provisional measures, the ICJ noted that Equatorial Guinea had filed suit against France in June 2016 with regards to a dispute concerning immunity from criminal

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prosecution of the Vice President of the Republic of Equatorial Guinea, Teodoro Nguema Obiang Mangue, and the legal status of the building that houses the Embassy of Equatorial Guinea at 42 avenue Foch in Paris. At the end of September 2016, Equatorial Guinea asked the ICJ for the indication of provisional measures, asking specifically that France suspend all criminal proceedings against the Vice President of Equatorial Guinea, and that France treat the building at 42 avenue Foch in Paris as the diplomatic mission of Equatorial Guinea in France. The ICJ also, unanimously, denied France's request to remove the case from the list of active cases.

The ILO Forced Labour Protocol Enters Into Force for Nine Countries; Additional Ratifications Sought for Treaty to End Modern Slavery

An international protocol on forced labour has entered into force on 14 November 2016, a major milestone in the fight to end the practice, which the United Nations labour agency estimates victimizes 21 million people worldwide. The International Labour Organization Forced Labour Protocol “requires

countries to take effective measures to prevent and eliminate forced labour, and to protect and provide access to justice for victims. The Protocol, adopted by the International Labour Conference in 2014, entered into force a year after it gained its second ratification. It means that all countries that have ratified – Niger, Norway, United Kingdom, Mauritania, Mali, France, Czech Republic, Panama and Argentina – now have to meet the obligations outlined in the Protocol. Argentina signified their commitment for ending modern slavery by becoming the ninth country to ratify the Protocol. Argentina will also host the upcoming IV Global Conference on child labour and forced labour in November 2017 in Buenos Aires.

Russia Loses its Seat on the UN Human Rights Council

On 28 October 2016, the United Nations General Assembly elected, by secret ballot, 14 Member States to serve on the Human Rights Council. As a result of this election, Russia, and 13 other States lost their seat. Of the 14 Members leaving the Human Rights Council, only Maldives was ineligible for another term because it had already served two consecutive terms.

Because of the role the Human Rights Council is purported to play, most individuals believe that States represented at the Council should conduct themselves in accordance with human rights. Human rights organizations believe that countries sitting on the Human Rights Council, like Russia, China, Rwanda, and Saudi Arabia, undermine the Council's credibility and prevent the Council from acting effectively. Russia and Saudi Arabia are among two States that have been accused of war crimes due to actions in Syria. Because of this, groups such as Human Rights Watch and others (including more than 80 human rights and international aid organizations) attempted to block Russia's election to the Council. For Eastern European States, two seats were open. Russia lost to Hungary and Croatia. For the Asia-Pacific States, however, four seats were open. China, Japan, Iraq, and Saudi Arabia were elected over Malaysia, Fiji, and Iran.

For the past year, Russia has carried out airstrikes in support of the Syrian government. These airstrikes are not confined to military installations, and wound and kill civilians. Furthermore,

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Russia uses internationally banned cluster munitions and incendiary weapons in populated areas of Syria. Russia also sought a veto to a cease-fire after the siege in Aleppo, Syria. Paragraph 9 of the UN General Assembly Resolution 60/251 Human Rights Council states "that members elected to the Council shall uphold the highest standards in the promotion and protection of human rights, [and] shall fully cooperate with the Council."

International Criminal Court

Three African nations announced their intentions to leave the International Criminal Court. Burundi announced its withdrawal from the court after the ICC Prosecutor announced an investigation into murders of anti-government protestors. The Gambia, the smallest country in Africa, and known for crushing political dissent, reportedly denounced the court on state television as the "International Caucasian Court." South Africa announced its intention to withdraw following criticism that it failed to execute an ICC arrest warrant for Omar al-Bashir of Sudan. South Africa has been urged to reconsider its announcement.

U.S. Abstains in U.N. General Assembly Vote Condemning the Embargo against Cuba

The United States and Israel both abstained from the United Nations General Assembly vote condemning the U.S. embargo against Cuba. Previously both countries were the only ones to vote no on the annual resolution. The move is an important shift at the United Nations for the United States. Despite recent improvements in relations between the United States and Cuba, the U.S. embargo against Cuba remains in place and can only be lifted by the U.S. Congress. While the reconciliation began two years ago when President Obama abandoned the policy of his predecessors to isolate the Castro government in Cuba and moved to restore diplomatic ties with the island nation of 11 million. The United States and Cuba formally re-established embassies in each other's capitals in July 2015. A General Assembly resolution condemning the embargo, proposed every year since 1991, had become something of a ritualized event at the United Nations, used by Cuba and many others to castigate the United States. The lone American ally on this issue, Israel, also changed its vote on Wednesday to abstain. The vote for the resolution, taken on 26

October 2017 was 191 in favour, none opposed and the two abstentions.

India Ratifies the Paris Agreement on Climate Change Bringing the Treaty's into Force

The Paris Agreement was adopted on 12 December 2015 at the Twenty-First Session of the Conference of the Parties to the UN Framework Convention on Climate Change (UNFCCC) held in Paris from 30 November to 13 December 2015. The Agreement entered into force on 4 November 2016. As of December 2016, 132 Parties have ratified the Agreement including India. India became the 62nd country to ratify the Agreement on 2nd October 2016.

India and Japan Sign an Agreement on Civil Nuclear Power

A landmark civil nuclear energy agreement between Japan and India was signed on 11 November 2016 in Tokyo. The Agreement marked the first time Japan agreed to such a deal with a country that is not a member of the Nuclear Non-Proliferation Treaty. The Treaty bans nations other than five permanent members of UN Security

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Council from developing and possessing nuclear weapons. The Agreement allows India to reprocess fuel and enrich uranium, though highly enriched uranium that can be used to make nuclear weapons is not permitted without written agreement by Japan. It further, sets a legal framework to assure that India acts responsibly for the peaceful uses of nuclear energy. The deal also has separate “nullification clause” that sought automatic cancellation of agreement if India resorts to nuclear testing in future.

India hosted 8th BRICS Summit

The 8th BRICS Summit was held in Goa from 15-16 October. The theme for the Summit was “Building Responsive, Inclusive and Collective Solutions.” The Summit ends with the adoption of 109 point communiqué known as Goa Declaration. The Declaration called upon all the Nations to adopt a comprehensive approach in combating terrorism, violent extremism, radicalization, and recruitment, movement of terrorists including foreign terrorists and blocking sources of financing terrorism. BRICS Nation reaffirmed the commitment to increase

effectiveness of UN counter terrorism framework and mentioned the need for adopting the Comprehensive Convention on International Terrorism, further enhancing their collective efforts to strengthen their solidarity and cooperation founded on common interest . They also pledged their strong support for scientific and research cooperation as strategic imperative.

International Court of Justice Rejects Marshall Islands Case on Nuclear Disarmament against India, Pakistan, UK

The Republic of Marshall Islands filed application on 24 April 2014 in the International Court of Justice (ICJ) to hold the nine nuclear armed States accountable for violations of International Law with respect to their nuclear disarmament obligations under the 1968 Nuclear Non-Proliferation Treaty and customary International law. The Marshall Islands had sued United States, United Kingdom, France, Russia, China as well as India, Pakistan, Israel and North Korea for failing to “pursue in good faith and bring to a conclusion, negotiations leading to nuclear disarmament.” However, ICJ only accepted cases against India, Pakistan and the UK as the other six

countries had never acceded to the compulsory decision of the World Court. The ICJ, on 5 October 2016, has rejected Marshall Islands case against India for allegedly failing to halt the nuclear arms race. Ruling 9-7, the ICJ upholds the objection to jurisdiction raised by India that it had no jurisdiction to deliberate on the suit brought by the Pacific nation of Marshall Islands. The ICJ ruled that there being no case legal dispute between Marshall Islands and India on the issue of nuclear disarmament the Court had no *locus standi* to proceed. Ruling in parallel cases the Court also declined to proceed with the Marshall Islands case against Pakistan and the UK.

Forthcoming Events

Book Release Function and Panel Discussion: Presided by Hon'ble Justice S.Ravindra Bhat, Judge, Delhi High Court, 1 March 2017

One Day Training Programme for Awareness/Sensitization on IPRs for MSMEs, 4 March 2017

46th Annual Conference of the ISIL, 29-30 April 2017