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2nd JUSTICE HR KHANNA MEMORIAL NATIONAL SYMPOSIUM

JULY 3rd 2022



Dr. Ram Manohar Lohia
National Law University
Lucknow



National Law University
Odisha, Cuttack



ITINERARY

First Session

**Fundamental Duties vis-à-vis
Fundamental Rights under
Our Constitution**

Mr. Justice Vikram Nath
Judge, Supreme Court of India
Chief Guest

- Sr. Adv. Neeraj Kishan Kaul
- Sr. Adv. Sidharth Luthra

Second Session

**Vox Populi vs. Rule of Law:
Supreme Court of India**

Mr. Justice J.B. Pardiwala
Judge, Supreme Court of India
Presiding Guest

- Sr. Adv. Nidhesh Gupta
- Sr. Adv. Siddharth Bhatnagar

SPEAKERS

THE TEAM *behind the* SYMPOSIUM ALUMNI

- | | | |
|---------------------|--------------------|--------------------|
| ● Siddharth R Gupta | ● Aditya Khandekar | ● Manu Maheshwari |
| ● Sriram Parakkat | ● Bhavana Chandak | ● Harshdeep S Bedi |

(All EC Members)

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Late Mr. Justice
Hans Raj Khanna

Former Judge
Supreme Court of India



"Justice Khanna was a gentle person, true in every respect to Cardinal Newman's classic definition of gentleman. He was an erudite judge, a daring dissenter to sustain people's life and liberty, gracious brother on the bench whose ambition for promotion as Chief Justice gave little purchase over his diamond-hard judicial conviction."

- Justice V.R. Krishna Iyer, A Courageous Voice of Dissent

Born on July 3rd, 1912, Justice Khanna was a judge of impeccable values, who preserved the rightful tenets of the Constitution of India through his judgments by faithfully and selflessly discharging the duties vested in him. His courage and virtues are venerated even today and he is treated as an example for all judges that followed him in the Constitutional Courts. His brave dissent in the face of great personal loss cemented his reputation as a prophet of the rule of law, human rights, and constitutionalism. As a tribute to his visions, we at CAN Foundation are taking a step further in trying to keep his legacy of values alive, by bringing the second edition of our Annual symposium.

The First edition of the Symposium saw the august presence of Hon'ble Mr. Justice U U Lalit as the Chief Guest, Hon'ble Mr. Justice V. Ramasubramanian as the Presiding Guest, Hon'ble Mr. Justice P S Narasimha (then Sr. Adv.) and Hon'ble Dr. Justice S. Muralidhar as the Guests of Honour. It also witnessed the presence of Mr. Neeraj Kishan Kaul and Mr. Shyam Divan as the esteemed panelists.

The Symposium this year will be divided into two sessions, with the 1st session on *"Fundamental Duties vis-à-vis Fundamental Rights under Our Constitution"* and 2nd session on *"Vox Populi vs. Rule of Law: Supreme Court of India"*.

As we know, the wisest of lessons and the greatest of truths can be discovered, inscribed and passed on by using an extremely prized tool of humankind, history, which indeed is the recorded endeavour of our human existence. Often though, we forget the importance of this tool in the age we are present. The best way to hold on to the lessons from the past, learn from them, and honour them is by truly understanding and applying them in the age we live in and by revising these accounts of history. Thus, we believe that the Symposium will kindle much-required discussion among the young scholars & the veterans of the legal fraternity. There can be no greater tribute to Justice Khanna's legacy than discussion and deliberation on the principles of harmonising the duties and rights under the constitution.

"The role of Mr. Justice Khanna, and his contributions in shaping model thoughts about judicial ethos, is so immense and multi-faceted that it is impossible to fathom everything about him. The more you know about him, the more you feel inadequate, that perhaps you know nothing about this man." - Justice U U Lalit at 1st Justice HR Khanna National Symposium





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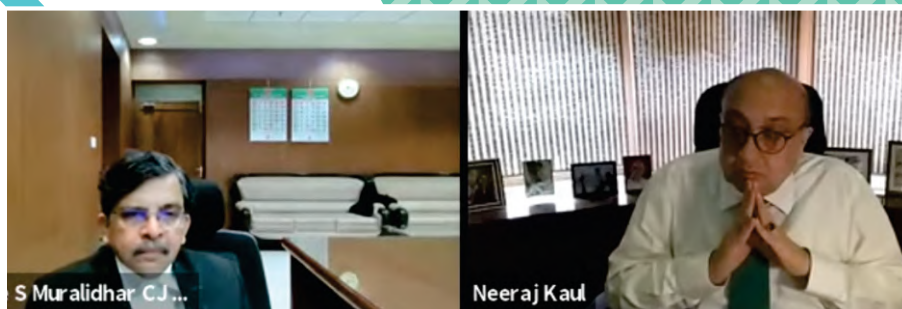
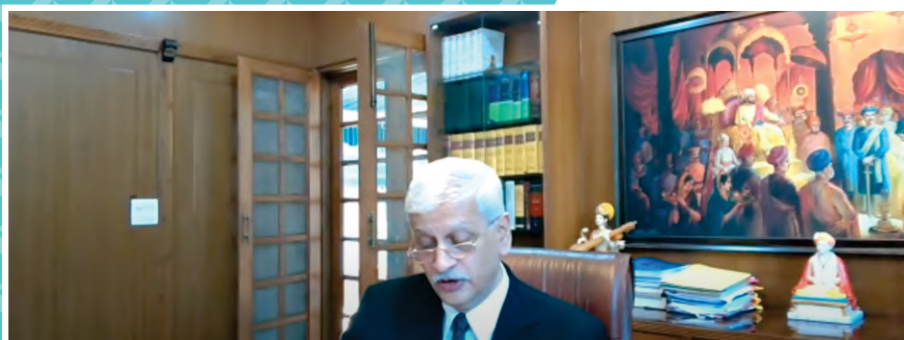
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from the 1st Justice
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Named after Dr. Ram Manohar Lohiya, a true revolutionary socialist thinker of our Nation and a champion of the cause of the common man, Dr. Ram Manohar Lohiya National Law University is one of the premier law institutions in our country. The university was established by an Act of the U.P. government (the Doctor Ram Manohar Lohiya National Law University Act, 2005; U.P. Act No.28 of 2005).

Presently, the University has amassed a number of feathers in its cap as one of the leading legal education institutions. The faculty and students have successfully fostered an active, dynamic educational standard and environment and their students have left their marks on a multitude of activities including moot courts, debates, publications, sports etc.

The University's core objective is to impart comprehensive legal education and, at the same time, inculcate professional dynamism and legal acumen, whilst also recognizing the importance of all round development - both mental and physical, and therefore, it ensures that sufficient infrastructure and opportunities are available for the students in this regard.



Professor
Subir K Bhatnagar,
Vice Chancellor, RMLNLU

Professor Subir K Bhatnagar has a long and rich experience in teaching & administration. He completed his LLM from Kurukshetra University and Ph.D. in Law from Rohtak University, Haryana. He was one of the members of the First Academic Council of the National Law School, Bangalore in 1987. He was nominated by the Chief Justice of India as a member of the Executive Council of the Indian Law Institute in 2006. He has a specific interest in the field of legal aid and legal literacy programmes.

Prof. Bhatnagar has published numerous papers in reputed journals. He has also edited books and has been a member of Editorial and Advisory Boards of renowned Law Journals of the country. He has been invited by the All India Radio to deliver several talks on legal and other issues.

"Justice HR Khanna's enunciation of the unique doctrine of the basic structure of the Constitution is a sterling contribution to our Constitutional jurisprudence."

- Justice UU Lalit at 1st Justice HR Khanna National Symposium



NATIONAL LAW UNIVERSITY ODISHA



National Law University, Odisha was established by the Govt. of Orissa Act (IV of 2008), called the National Law University Orissa Act, 2008. With its motto - "Excellence, Equity, Integrity and Social Justice", the University has adopted clinical learning as its priority pedagogy. The theoretical knowledge gained in the classroom is combined with internship training, field visits, project work, clinical observations and empirical research.

The university focuses not just on ensuring quality education and opportunities for its students, but also on other vital human elements like mental health and wellbeing.

The faculty research output has always been of a very high standard, yielding among others several top-tier international publications. The student community's engagement with co-curricular activities has yielded remarkable results, including consistently high performances in moot court competitions and active participation in prestigious national and international conferences and seminars.



Professor
Ved Kumari
Vice Chancellor, NLUO

Professor Ved Kumari has vast experience and expertise as a teacher and an academician. She has formerly served as the Dean and Head at the Faculty of Law, University of Delhi. She started her teaching career in 1983 and has taught various courses at the undergraduate, and postgraduate level at the University of Delhi, Jammu University in India, and Vanderbilt University (USA). She has also supervised LL.M. dissertations and PhD theses. Her contribution to pedagogy in legal education has been no less fascinating and inspirational. She introduced participatory learning with a range of innovative participatory teaching methods in judicial training and organised two Training of Teachers Workshops to train judicial officers in the art of teaching. She also conceived & successfully directed the first and so far the only '**E-course on Judicial Ethics and Conduct for judicial officers**' in collaboration with the Commonwealth Judicial Education Institute, Canada.

As an academician, she has worked in multiple spheres with a primary interest in juvenile justice, criminal law, gender discrimination, clinical education and judicial training. She has authored several other important legal research works, in the form of books and articles published in national and international journals.

"There are many such principles that have come in from Justice Khanna's interpretation. These eventually were taken up by this Court in the last 40 years, which has led to laying down of the substantive principle." - Justice PS Narasimha at 1st Justice HR Khanna National Symposium



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TOPIC FOR FIRST SESSION

“ **FUNDAMENTAL DUTIES *vis-à-vis*
FUNDAMENTAL RIGHTS
UNDER OUR CONSTITUTION** ”
- A Brief Insight

According to Rusell Kirk, ‘Every right is married to a duty, every freedom owes a corresponding responsibility.’ The building blocks of a society are the rights and duties given by society to its members. For a functioning democracy, these two need to exist in harmony. However, over time, an imbalance has emerged between them, primarily because a ‘rights-centric’ approach has been adopted recently whilst the importance of duties has been downplayed.

The rights are not absolute and the freedoms that an individual enjoys are subject to certain restrictions which include respecting the rights of others. These restrictions are further justified by way of the duty of one individual to respect and acknowledge the rights and freedoms of others and to not practice his/her individual rights in a manner which prejudices the rights and freedoms of others. It is only with the practice of one’s duties that a balance in society can be brought about. Democracy cannot establish deep roots in society unless fundamental rights are complemented by fundamental duties. We are privileged to host **Hon’ble Mr. Justice Vikram Nath, Mr. N.K. Kaul and Mr. Sidharth Luthra** (Senior Advocates) on this topic and we look forward to their thoughts on how rights and the corresponding duties may be balanced.

“It required a pandemic for us to explore the opportunity of making courts virtual”
- Justice V Ramasubramanian at 1st Justice HR Khanna National Symposium



TOPIC FOR SECOND SESSION

“ **VOX POPULI vs. RULE OF LAW:
SUPREME COURT OF INDIA** ”
- A Brief Insight

The conflict between Vox Populi and the Rule of Law is not a recent phenomenon. The role of the majority opinion in a democracy has long been discussed and deliberated. A number of jurists have given their opinion on whether Vox Populi should have a role in a constitutional democracy. Some have argued that it has no role in a democracy and the rule of law must remain supreme. Others such as Justice Cardozo of the US Supreme Court have opined that it would be impractical to say that Judges are not affected by external happenings, but they must strive to reduce it to the greatest extent practicable.

The judiciary in its wisdom has however been extremely cautious of the fact that the public morality and popular opinion must not override constitutional morality. The issue is much more relevant today because of the access and reach that social media enjoys. A narrative is created by the aggrieved section to influence judges and to intimidate them to deliver a judgement in favour of theirs. To counter this phenomenon, there have been numerous discussions which have led to brilliant recommendations. We are proud to host **Hon'ble Mr. Justice J.B. Pardiwala, Mr. Nidhesh Gupta and Mr. Siddharth Bhatnagar (Senior Advocates)** on this topic which has recently come to the fore owing to a variety of socio-legal challenges that confront this dispute.

“Today technology has enabled courts and litigants to remain wherever they are and without any physical movement of any stakeholders, it is possible to administer justice.”- *Justice V Ramasubramanian at 1st Justice HR Khanna National Symposium*



Hon'ble Mr. Justice
Vikram Nath

Judge, Supreme Court of India

Chief Guest



"I would just like to say that our institution is based on upholding the trust and as guardians of this institution. I would only like to conclude by saying, truth is the highest Dharma."

These were the words of Hon'ble Mr. Justice Vikram Nath, while he was addressing the full court and lawyers of the Gujarat High Court, highlighting why it is important for the judiciary to uphold the trust of people, as he bid farewell to the High Court after his appointment to the Supreme Court in August 2021. He was born on 24th September 1962 in the Kaushambi district of Uttar Pradesh and followed the footsteps of his paternal ancestry by pursuing law. He graduated from the University of Lucknow and enrolled as an advocate in March 1987 and primarily practised before the Allahabad High Court.

He was elevated as an Additional Judge of the Allahabad High Court on September 24th, 2004. He took oath as Permanent Judge on February 27th, 2006, and was appointed as Chief Justice of the Gujarat High Court on September 10th, 2019. During his tenure as a Chief Justice of the High Court of Gujarat, he dealt with several matters of immense public importance. Justice Vikram Nath had taken up suo moto cognizance of the Government's response to COVID 19 and passed a slew of directions to ensure equitable distribution of resources to deal with the COVID crisis. Further while hearing a challenge to a preventive detention order in the case of **Haidarsha Abdulsha Pir v. State of Gujarat (2020)**, Justice Nath made some crucial observations on personal liberty vis-a-vis preventive detention by stating that, *"the Courts should always lean in favour of upholding personal liberty, for it is one of the essential pillars of democracy."* In yet another important ruling in his tenure, in the context of the Right to Education, he directed the State Government to ensure that a parent's inability to pay the fees should not be any hindrance in the education of the child.

His colossal persona and his work reflect his immense experience as an integral part of the institution. Being a firm believer in the accountability of all organs of a working democracy, he holds the distinction of being the first Chief Justice of a High Court in India to live-stream the proceedings of his Courtroom. His steps taken to ensure the common person's belief in the judiciary is reinforced, are truly remarkable and we look forward to learning from such a virtuous leader.

"The interpretative choices adopted by Mr. Justice HR Khanna while writing his judgments and the choices by virtue of his courage, conviction, and confidence, have led to finding the greatest values, which are still followed by the Courts."

- Justice PS Narasimha at 1st Justice HR Khanna National Symposium



Hon'ble Mr. Justice
J.B. Pardiwala
Judge, Supreme Court of India

Presiding Guest



Justice Jamshed Burjor Pardiwala, was born in Mumbai on August 12th, 1965 to a family of lawyers rooted in South Gujarat's Valsad. He obtained his degree of law from K.M.Law College, Valsad in 1988 and began his legal practice at Valsad in 1989. He shifted his practice to the Gujarat High Court in September 1990. In 2002, he was appointed as Standing Counsel for the High Court of Gujarat and subordinate courts. He was well regarded for his legal prowess as a lawyer. On February 17th, 2011, he was appointed as an Additional Judge of the Gujarat High Court. On January 28th, 2013 he was elevated as a Permanent Judge. During his tenure as a judge at the Gujarat High Court, he presided over numerous criminal, civil, taxation, commercial and environmental matters of national importance. On May 9th, 2022, he assumed office as a Judge of the Supreme Court. He is also in-line to be the Chief Justice of India in May 2028.

He is well regarded for having authored various judgments that have been instrumental for the constitutional progress of the rights of the citizenry during his tenure at the Gujarat High Court. Justice Pardiwala has been a champion of the marginalised and downtrodden and this has been reflected in his judgments. In a suo moto case relating to the pandemic in 2020 and response of the government, he held the Gujarat government accountable and took cognizance for its poor management of the crisis.

In the case of **Nimeshbhai Bharatbhai Desai v State Of Gujarat** decided in 2018, he opined that reform must be brought to the law and marital rape *"ought to be a crime and not a concept. It has long been overdue to jettison the notion of "implied consent" in marriage. The law must uphold the bodily autonomy of all women, irrespective of their marital status."* We are honoured to host such a luminary at our Symposium.

"We can't replicate every step of the process. Perhaps, we shouldn't. We should use technology in the best possible manner, but we can't replace what we do physically with what we do digitally. Indeed, some aspects should remain physical while some should go digital."
- Dr. Justice S Muralidhar at 1st Justice HR Khanna National Symposium





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Mr.

Neeraj Kishan Kaul

Sr. Adv., Supreme Court of India

Panelist



A well-known and highly respected Senior Advocate, Mr. Neeraj Kishan Kaul, was born on November 23rd, 1963. He holds an LL.B. degree from Campus Law Centre, University of Delhi and an LL.M. degree from the prestigious University of Cambridge. He regularly appears before the Supreme Court of India as well as the Delhi High Court. He has a wide area of practice and specialises in Civil and Constitutional Law cases.

Mr. Kaul began his career in the year 1988 and joined the chambers of the late Justice Arun Kumar. Later, he also worked with his brother, Hon'ble Mr. Justice Sanjay Kishan Kaul (then Advocate). He was designated as a Standing Counsel for the Union Government in 1998 for the Delhi High Court. He was appointed as a Senior Advocate in 2002 which was an astonishingly youthful age of 38. He holds the distinction of being one of the youngest designated Senior Advocates in the country. As an *amicus curiae*, he has assisted the Courts on a wide range of issues, including the rehabilitation of orphaned minor girls and free medical care for the underprivileged in hospitals.

For his remarkable mastery in constitutional and commercial law, coupled with the ability to address the audience extempore, he is a welcome figure at national and international conferences. Mr. Kaul is also one of the patrons of the CAN Foundation who has always assisted the Foundation in all of its endeavours, and the Foundation hopes for his continued blessings as we strive to meet our goals.

"It is important not to restrict virtual courts from the perspective of just video screens, a larger perspective of sweeping technological changes should be taken into consideration. For e.g., the use of robotics in prestigious medical schools all across the globe."
- Sr. Adv. Shyam Divan at 1st Justice HR Khanna National Symposium



Mr.

Sidharth Luthra

Sr. Adv., Supreme Court of India

Panelist



Mr. Sidharth Luthra is a Senior Advocate with an illuminating career spanning almost three decades and stands as one of the top criminal lawyers in the country. Mr. Luthra was born on February 16th, 1966 and is a well known and highly regarded Senior Counsel at the Supreme Court. He holds an LL.B. Degree from the Campus Law Centre, University of Delhi and M.Phil in Criminology from the University of Cambridge, UK. He was conferred an Honorary Doctorate of Law by Amity University, Noida, India in 2015. He joined the bar in 1991 and started working at Bhasin & Co where he practised civil law. Later, under the mentorship of late Senior Advocate P R Vakil, he expanded his practice into criminal law.

He is also a member of the Delhi State Legal Services Authority and the Vice-President of the Indian Criminal Justice Society. Being a renowned member of the legal community, he is frequently invited to teach at Universities in India and abroad. In the past, he has represented the Government of India in the High Court of Delhi from 2004 to 2007 as a Senior Panel Counsel. He was designated as a senior advocate in 2007. Thereafter, in 2010, he was appointed as the Additional Solicitor General (ASG) for a term of two years, during which he represented the Government in a variety of matters including criminal, constitutional, human rights and environmental. He has also assisted the Supreme Court of India as amicus curiae in the matter of increased criminalisation of politics before a Constitutional Bench. Mr. Luthra's association with the CAN Foundation has been extremely significant as he serves as one of the Patrons of the Foundation. The Foundation is indebted to him for his constant support and unparalleled contribution to the Foundation.

"The fast-track adoption of technology has been a blessing in disguise for the justice delivery system. Now more than ever before, courts need to invest heavily in technological facilities and infrastructure. Access to justice needs to be reimagined."
- Sr. Adv. Neeraj Kishan Kaul at 1st Justice HR Khanna National Symposium





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Mr.

Nidhesh Gupta

Sr. Adv., Supreme Court of India

Panelist



Mr. Nidhesh Gupta is one of the most distinguished Senior Counsels practising before the Supreme Court of India. He specialises in matters involving civil, commercial and criminal law. He received his Bachelor of Commerce degree from Punjab University. He is also a gold medalist in his LL.B. course at Punjab University.

In the course of his career as a legal practitioner, he has acted as a Senior Counsel for the Union of India before the Supreme Court of India. Additionally, he has also represented a number of state governments and statutory authorities. As an amicus curiae, he has participated in a number of cases before the Hon'ble Supreme Court of India as well as the Delhi High Court. In 2021, in a case pertaining to deteriorating medical conditions in Uttar Pradesh, he was appointed as amicus curiae by the Supreme Court. Mr. Gupta has a varied clientele as a result of his extensive knowledge and vast experience. He has acted as counsel for well-known industries and business houses in high-profile cases.

CAN considers it a great honour that Mr. Gupta, being one of our patrons, has lent a helping hand to the various endeavours of the Foundation. The Foundation shall make efforts to learn from his immense experience to further its objectives.

"The thought of virtual courts in India dispensing justice no longer feels farfetched, the pandemic has forced us to fast-track the adoption of technology in courts."
- Sr. Adv. Neeraj Kishan Kaul at 1st Justice HR Khanna National Symposium



Mr.

Siddharth Bhatnagar

Sr. Adv., Supreme Court of India

Panelist



Mr. Siddharth Bhatnagar is a well regarded Senior Advocate in the Supreme Court of India. Having graduated from the prestigious University of Cambridge in 1996, he immediately thereafter started his practice in Delhi. He regularly appears before the Supreme Court of India along with a number of High Courts. He also appears before a number of tribunals including the National Company Law Appellate Tribunal, the National Consumer Disputes Redressal Commission, and the National Green Tribunal amongst others.

Mr. Bhatnagar is widely recognised as an expert in constitutional law having argued before the highest court of the country on matters of major constitutional significance pertaining to fundamental rights. He has contested matters addressing the rights of minority educational institutions, the freedom of speech and expression in the context of electronic media, religious rights and cases challenging reservations. He has been a speaker at the International Conference organised by the Associated Chambers of Commerce and Industry of India. His writings have appeared in prominent journals and newspapers such as Commonwealth Judicial Journal, the Sunday Guardian, and the Economic Times.

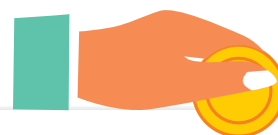
Mr. Bhatnagar is also on the Board of Patrons assisting the CAN Foundation in its activities. The Foundation expresses its gratitude to Mr. Siddharth Bhatnagar, who is ever willing to aid the Foundation not only through financial means but also through invaluable guidance.

"While it is important to intake and move forward with technology, it is also pertinent to note our core values of the justice systems. As robotic courts may be good for access of justice, robotic justice is something which we must be careful about."

- Sr. Adv. Shyam Divan at 1st Justice HR Khanna National Symposium



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For a philanthropic organisation like the CAN Foundation, donations are the sole means of sustenance. We are immensely indebted to our Patrons and Donors who generously assist the Foundation in undertaking its regular activities through their magnanimous donations. **Please note that we have received exemptions under section 80G and section 12AA of the IT Act, 1961 making all donations to us tax-free.** If you wish to aid the Foundation, please consider donating.

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