

*Prof. V. S. Mallar Memorial
Symposium
on
Constitutional Law*



*Marking the Golden Jubilee of his dedicated
service to legal academia*

Date: July 7th 2021

Acknowledgement

The Centre for Environmental Law, Education, Research and Advocacy, National Law School of India University, Bengaluru would like to express its heartfelt gratitude to all the participants, dignitaries, speakers and distinguished guests for sharing their insights and making the symposium a memorable event. We are especially thankful to **Dr. P Ishwara Bhat** and **Dr. K C Sunny** for their thought-provoking presentations. We are also grateful to **Dr. T. V. Subba Rao**, **Dr. H K Nagaraja**, **Dr. M. K. Ramesh** and **Dr. Anuja S** for taking us down memory lane replete with thoughtful memories of the late Prof. Mallar.

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We also express our sincere thanks to **Dr. Sudhir Krishnaswamy**, Vice-Chancellor, NLSIU, for his constant support in all our endeavours.

Lastly, we would like express our whole-hearted gratitude to **Mrs. Shanthi Mallar**, **Ms. Maya Mallar** and **Ms. Divya Mallar** for gracing the occasion with their kind presence.

- **Prof. (Dr.) Sairam Bhat**
Coordinator & Professor of Law,
CEERA, NLSIU

Prof. Mallar as a Teacher: Thoughts from his Peers

“A walking encyclopaedia of constitutional law”

– Prof. Sairam Bhat

“One of the greatest teachers of Constitutional Law with a profound knowledge in the subject”

– Prof. P. Ishwara Bhat

“A professor who taught constitutional law having left no stone unturned”

– Prof. K. C. Sunny

“An excellent teacher, nay, a perfectionist personified”

– Prof. T. V. Subba Rao

“A teacher with an unparallel level of imagination and magnetic memory”

– Prof. M. K. Ramesh



“The idea is not to live forever, but to create something that will”

– Andy Warhol

A Tribute to the Constitutional Law Guru



As we celebrate five long and assiduous decades of Prof. V. S. Mallar's fervent service to legal academia, there is no better occasion than the present one to cherish and reflect on his impactful life and indelible legacy.

A man of incredible character, Prof. V S Mallar is fondly remembered for one too many admirable attributes. His intellectual prowess, his impromptu sense of humour, his inimitable and infectious laugh and above all, his humility. The list goes on! But words will always fall short of describing the magnanimity of this legend.

Prof. Mallar was known to all and sundry in many ways. A loving father, supportive husband, gracious colleague, formidable comrade, charismatic leader - he donned many a hat. But one can say he is most beloved as a teacher.

As a teacher, Prof. Mallar was a force known to be spontaneous and audacious yet deeply compassionate. He was a tireless and tenacious champion of academic excellence. Come age, come retirement, he kept at it like a well-oiled machine. As Prof. Subbar Rao recalls Prof. Mallar's passion for teaching and legal research in general, "though his body was not willing, his mind never gave up on him." In a way, Prof. Mallar was a self-lit candle who never failed to ignite the intellectual wick of his peers and students. A lover of the law himself, Prof. Mallar inspired many a student with his vast experience, ocean of knowledge and of course, his unique sense of humour. Any student who has had the good fortune of being taught by this formidable educationist will vouch for the fact that his trademark - contrary to popular belief - was his wit and latent sense of humour. What he lacked in

pedagogic dexterity – albeit very rarely, he made up in humorous anecdotes and nonchalant aphorisms.

When it came to teaching constitutional law, Prof. Mallar was every bit of a rhetoric scholar as one might expect. His legal acumen, oratory eloquence and grasp of subject matter was stirring enough to keep most, if not all, audiences wanting more. As Prof. K C Sunny appreciatively puts it, “his passionately aggressive style of teaching would erase every mind that was muddled with doubts.” His traditional, yet unique style of teaching would capture even the most insouciant minds in class. This style was probably a reflection of his adoration and reverence for the constitution of India.

The constitution was to Prof. Mallar what religious manuscripts are to the faithful. It was a sign of hope, a source of discipline (particularly professional discipline). He would have case laws complete with citations on the tip of his tongue, narrating them like chants etched in even the remote corners of his mind. One could easily notice his deepened sense of appreciation for the constitution when he would step into the shoes of the litigants when explaining case laws or even when vociferously discussing newspaper clippings on constitutional matters. Constitutional law was therefore more than just a subject of teaching form him.

All things said and done; Prof. Mallar was more than just a teacher. He was a pillar of strength to his family, a comforting comrade

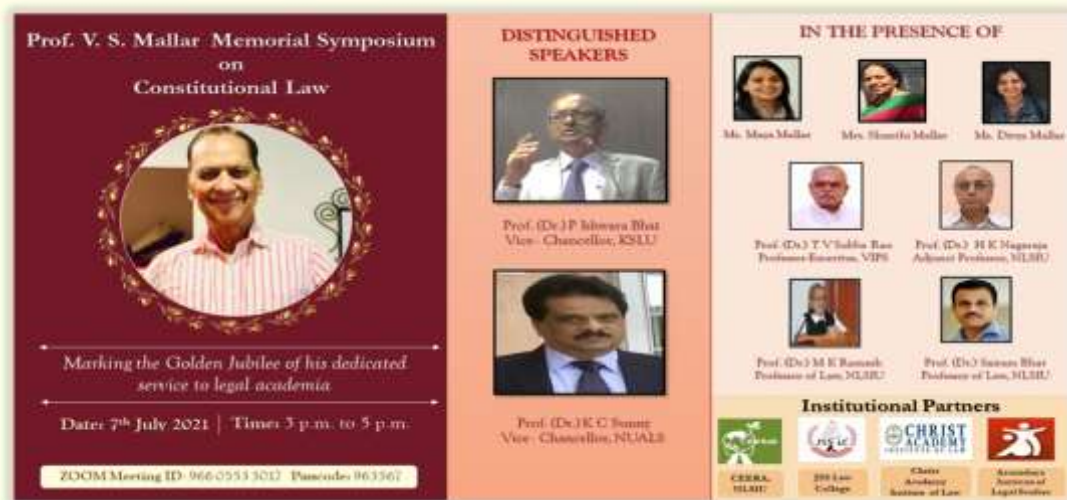
to his friends, an inspirational mentor and quite simply, a great human being.

As the days lengthen the shadow of his passing, the loss of this great human being will be deeply felt by those who had the privilege of knowing him or having a chance encounter with him. The world may be a lesser place in his absence. True. But it is not without remnants of his unfailing service. If one thing is sure, it’s that the legacy of Prof. Mallar and the ripple effect it will have on the legal fraternity can never be adequately measured. His generosity and greatness will live on for ages.

“Lives of great men all
remind us
We can make our lives
sublime,
And, departing, leave
behind us,
Footprints on the sands of
time.”

– H W Longfellow

Celebrating 50 years of Dedicated Service



To some, an academic institution is merely a step in the ladder. They grow, learn and then move on to the next step. Climbing the ladder is a strenuous task in itself, however, building the ladder and laying down its rungs is a far more daunting task that only a few undertake. This task requires forbearance, endurance and the belief that the ladder could be galvanised, strengthened and perhaps even be replaced with a better one as times change. Professor V. S. Mallar was a pioneer who envisioned this for NLSIU in his capacity of a professor, administrator, leader and above all, a guide. His unwavering spirit to build an institution of great calibre and repute had driven NLSIU for decades and it continues to live on with Prof. Mallar's legacy.

To commemorate this spirit of the late legal luminary, the “**Prof. V. S. Mallar Symposium on Constitutional Law**” was organised by CEERA, NLSIU on 7th July, 2021. The symposium was held to mark

Professor V S Mallar's committed service of 50 years in legal academia. It was a tribute to his dedicated service to the legal field and a celebration of his decades-worth of contributions as a legal academician

The Symposium was a gathering of 300+ individuals including his family members, colleagues and well-wishers. The Symposium was moderated by Dr. Sairam Bhatt, NLSIU and coordinated by Ms. Susheela Suresh and other dedicated members of the CEERA team. The keynote speakers during the Symposium were **Prof. K. C. Sunny**, Ice Chancellor, NUALS; **Prof. Ishwara Bhat**, Vice Chancellor of Karnataka State Law University, **Prof. M.K Ramesh**, Professor of Law, NLSIU, **Prof. T. V. Subba Rao**, Professor-Emeritus, VIPS and **Prof. H. K. Nagaraja**, Adjunct Professor of Law, NLSIU. These intellectual talks elegantly overlapped with the heart wrenching anecdotes about Prof. Mallar delivered by his family members.

Summary of Proceedings

Prof. Dr. Sairam Bhat commenced the symposium by recalling his experiences with Professor V S Mallar and described him as a professor with a drive and energy to teach, a witty academic stalwart who possessed an encyclopedic memory and an incomparable sense of humour.

This was followed by Prof. M. K. Ramesh's sentimental and heartfelt anecdotal expression of his professional relationship of 30 years with Prof. V. S. Mallar in the Undergraduate Councils and as a professor at NLSIU, as well as his deeply cherished friendship with him. "Professor Mallar was like a boy-scout who took his responsibilities seriously. He was an institutional man and a family man. He was honestly the Rock of Gibraltar, because he was a trustworthy confidante and the only line of defence NLSIU and his department in specific had. But what truly distinguishes him is that when it was time for glory and celebration, he never came centre-stage; forget centre-stage, he was not to be seen even in the side-wings." These words succinctly speak volumes about Prof. Mallar.

Prof. M K Ramesh's address was followed by Mrs. Shanti Mallar, Ms. Maya Mallar and Ms. Divya Mallar who paid their tribute to their husband and father respectively and took the opportunity to share anecdotes about Prof. Mallar. Ms. Maya Mallar mentioned that her father truly enjoyed quotes and therefore, she ended her short talk with a quote that embodied the spirit of her father - "The idea

is not to live forever, instead, it is to create something that would live forever."

Therefore, to celebrate Prof. Mallar's legacy, 'the idea' of constitutionalism was celebrated and focused upon. On that note, the Symposium commenced with Prof. Ishwara Bhat's presentation and lecture on the topic - "Consequentialist Construction of the Constitution." As Prof. Ishwara Bhat explained, consequentialism is a method adopted to evaluate the meaning that might be attributed to a particular word/phrase in the Constitution and analysing the consequence of such interpretation on the underlying values upholding the Constitution. He emphasised on the word 'construction' as a meaning or interpretation is usually constructed or in other words, built with bricks and mortar which determines the structural build of the Constitution. If it is too rigid or too flexible, the consequences of the same would shadow future judgments. Therefore, as Prof. Bhat highlighted using Justice Khanna's words in the case *State of Kerala v. N M Thomas, 1975*, 'while construing the provisions of the Constitution, one should foresee not only the impact of such construction on the case at hand, but also all the other future cases that might arise through such a provision.' Prof. Bhat further explained the critical and fundamental relation between the purpose and consequence of the constructed interpretation of the *living Constitution* and the *aspirational Constitution*. Both are equally impacted by consequentialism and

therefore it could be deduced that consequentialist construction is a value-based rule of interpretation which is aligned with a purposive, progressive and eclectic method. Consequentialism is therefore closely related to the growth of the legal domain and society as a whole. The quality of interpretation is therefore fundamental and significant towards the constitutional law being laid down for the future generations. It has the potential to spur social reformations and transformations backed by sound reasoning and methodology.

Owing this progressive spirit of constitutionalism and consequentialism, Prof. K. C. Sunny commenced his topic of discussion - The Golden Triangle of the Constitution: An Abstract Concept or an Activist Tool for a judge? The theory of the Golden Triangle was first introduced and implemented by Justice Y V Chandrachud in the case *Minerva Mills v. Union of India*, and the three points of the golden triangle are article 14, 19, and 21. This trinity closely resembles that of liberty, equality and fraternity as highlighted in and borrowed from the French Constitution. The golden triangle primarily analyses and understands the relationship between the fundamental rights laid down in the Constitution and the Directive Principles of State Policy. Essentially, Article 31(c) of the Indian Constitution gives the state government the authority to implement the DPSP's without being questioned even if such implementation contravenes with the fundamental rights of its citizens as mentioned under Articles 14 and 19 of the Constitution. With this contextual

understanding of the Golden Triangle theory, Prof. K. C. Sunny was trying to explain whether the theory could be woven into legal decision making and applied practically through the mechanism of judicial activism, or would it merely remain a theorised and abstract concept?

To further analyse the golden triangle and its relationship with Article 31(B) of the Constitution, Prof. K. C. Sunny also quoted the case of *I.R.Coelho v. State of Tamil Nadu*. This case looked into Article 31 (B) through the lens of the Ninth Schedule of the Indian Constitution. The Supreme Court in this case stated that legislative actions incorporated under the ninth schedule of the Constitution cannot be subject to judicial review as they are part of the Constitution itself. The court further went on to state that the Ninth Schedule cannot infringe upon the fundamental rights of our citizens as they form the basic framework of the Constitution.

While concluding his talk, Prof. K. C. Sunny stated that the golden triangle as it stands today is an abstract concept. He drew analogous links between the golden triangle and an actual mathematical triangle with three sides. The commonality between the two is that the 3 points of intersection were definite - Article 14, Article 19 and Article 21 in the golden triangle and the three coordinates of the mathematical triangle. However, the positive analogy ends here because in the mathematical triangle, calculating the area is straightforward as we know the components included to calculate the area. However, the 'area' of the golden triangle cannot be calculated easily as the

rights and components that can be included within it are ambiguous. Recently, right of privacy along with 14 other rights were included within Article 21 by Justice D Y Chandrachud in the case *Justice K.S. Puttaswamy v. Union of India & Ors, 2017*. However, there is scope for change in the form of additions and deletion and this makes the analysis of the golden triangle more abstract. Similarly, Article 14 and 19 have many complexities and overlaps amongst each other that problematise the Constitutional golden triangle. Therefore, without a clear strategy to measure the 'area' and 'purview' of the golden triangle and the arbitrariness attached to its implementation, it remains abstract.

Concluding Remarks

On a concluding note, the dear friends and peers of Prof. Mallar shared a few thoughts and experiences of their association with him. If their description of Prof. Mallar can be put in a nutshell, it can be stated as follows: Prof. V S Mallar was a loving and proud husband, a doting and extremely affable father, a nurturing and selfless grandfather with a passionate sense of humour, a dedicated professor who employed catchy phrases and narrated anecdotes and interesting stories to paint the blank black and white canvas of a law school class to a colourful scenery with different splashes of hues, a disciplinarian as an administrator and lastly, a kind and benevolent human being.