

JOURNAL OF INDIAN LAW AND SOCIETY

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FOREWORD

The Journal of Indian Law and Society was initiated with the aim of creating a space for the discussion of law in relation to contemporary social, political and economic issues. Recent events have convinced us about the continuing need for an India-centric study on law and society. The debate regarding the Commerce Ministry's initiative to try and push for Foreign Direct Investment in Retail, the Bar Council of India's countywide agitation to retain control of legal education with it and the recent cartoon controversies that engulfed the nation – a study of all of these issues would be incomplete by a mere legal analysis, without contextualizing them through the prism of greater societal considerations. These events also are proof of the fact that there is a need to carve out a space to examine such issues from an Indian societal perspective. With the launch of another issue of the Journal of Indian Law and Society, we believe that we are moving towards our goal of being a hub of such India-focused law and society debate and writing. The papers chosen for this issue bear testimony to this.

Three of the papers in this issue analyze the rhetoric used in judgments to understand the wider public discourse they contribute to. Like Justice Richard Posner has argued in his latest work, *How Judges Think*, that socio-economic background and personal beliefs exercise great influence on the way US Supreme Court judges adjudicate cases, similarly a case comment in this issue brings out the patriarchal mindset of the judges in a recent verdict of the Karnataka High Court. The comment written by Kalyani Ramnath analyzes judicial pronouncements tracing the skewed development of right of choice in a marriage, with different standards being set for men and women. The judges' archaic belief of women in need of greater

protection serves as a crucial factor in pronouncing judgments. She emphasizes that the audience of a judgment comprises not only legal scholars, and points out how these judgments are legitimate commentary on the socio-political situation of the country, and have become instrumental in the shaping of public discourse. Jagdish John Menezes' note on the death penalty similarly highlights the legal and moral considerations of the Supreme Court as the final arbiter on life and death of the death row convicts. The paper points out how these considerations are often shaped by the personal views of the judges leading to an acquired fluidity in the application of the set doctrine. Though subjectivity is an accepted part of the judicial process but some standard of objective criteria is essential where the matter is one of life and death.

Apart from these three papers which study judicial reasoning, the other papers touch on important facets of Indian law and society as well. Saurabh Bhattacharjee *et al* critiques the recent Land Acquisition, Rehabilitation and Resettlement Bill 2011 saying that though the Bill has rightly linked acquisition with rehabilitation, yet it places it suffers from mere rhetoric at the expense of adequate details, thus not doing complete justice to its main objective of providing a consultative and transparent process of land acquisition. Shouvik Kumar Guha and Roopali Adlakha's paper seeks to analyze the shift in the disability laws from a regime based on welfare to one based on rights. They attempt to give a comprehensive overview of the international and Indian legal framework and conclude by arguing that the recent 2011 bill has made an attempt to bring in the human rights angle in disability laws in India. Gazala Peer has reviewed the Prevention of Communal and Targeted Violence (Access to Justice and Reparations) Bill, 2011 in her legislative report. She writes that despite certain uncertainties in few provisions, the bill creates opportunities to address the long standing demands of the minorities and civil society in India. In the book review section, Arpita Sarkar has reviewed Abhinav Chandrachud's book *Due Process of Law* and has stated with regret that the book is a mere store house of information and has little to offer the readers in terms of novelty.

The printing of this issue sees with it not only the institution of a new student editorial board, but also the appointment of a new Editor-in-Chief in Prof. (Dr.) P. Ishwara Bhat. We take this opportunity to welcome him. We look forward to a long and fruitful association with him. We express our heartfelt gratitude to Prof. (Dr.) M.P. Singh who had been with us as our Editor-in-Chief since the journal re-oriented its scope to focus on law and society, and continues even now, to be source of constant support to us. As always, we are perennially indebted to our Faculty Advisors and to our past editors for helping us with innumerable issues time and again. Special mention must be made of two alumni from NUJS – Saptarshi Mandal and Moiz Tundawala – for their tremendous help in review and solicitation of papers. We sincerely thank our readers for their continued interest and hope that with this issue we have been able to do justice to the trust reposed in us.

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