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FOREWORD

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I am delighted to write a Foreword for the Journal of Indian Law and Society (JILS), which is a platform where the rich tapestry of Indian legal and societal landscapes unfolds. This journal represents more than just a collection of scholarly articles and research papers; it embodies a commitment to understanding and shaping the legal and social landscape of India. It is a testament to the diverse and dynamic nature of India's legal framework, a framework that mirrors the ever-evolving character of the Indian society. The Journal of Indian Law and Society provides a unique space for academics, practitioners, and thought leaders to converge and explore the intricacies of this vital relationship.

The journal's dedication to engaging with social facts and allied social sciences immediately piqued my interest when the Editorial Board approached me to write a Foreword for this volume. In my view, this cross-disciplinary intellectual endeavour not only deepens our comprehension of social issues but also enriches our understanding of the legal challenges stemming from these societal complexities. As a law professional, it is imperative that we promote such scholarship, as it offers multifaceted perspectives on both legal and social dilemmas. Within the pages of this journal volume, you'll discover a collection of articles that delve into a variety of legal questions, offering a rich insights and viewpoints, much like the ever-shifting patterns in a kaleidoscope.

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This issue of the journal presents numerous articles that provide diverse and multifaceted perspectives on a range of legal topics. In the article “Fantasy Sports and Responsible Gaming Practices: An Indian Perspective”, the authors Prof. Aman Gupta and Ms. Carmel Sharma have conducted a comprehensive analysis of the oversight of fantasy sports platforms in India, with a particular focus on the associated issues, notably concerning advertising and mental health. The researchers have delved into the evolution of fantasy sports within the Indian context and the corresponding legal regulations governing them. Furthermore, they have extensively investigated the psychological and behavioural consequences arising from fantasy sports engagement, such as gambling disorders and internet addiction, drawing on empirical studies conducted in various other jurisdictions. The authors assert that regulatory authorities should enhance protective measures to address the mental health concerns arising from fantasy sports. Additionally, the authors have examined the effectiveness of the existing regulatory framework and scrutinized advertising-related worries linked to fantasy sports, while also proposing methods to improve the current regulatory structure with a view toward promoting responsible gaming practices.

In their article titled “*Some Elephants are More Equal than Others: Problematising the Legal Categorisation of Elephants*,” the authors Deeksha Viswanathan and Alok Hisarwala Gupta, advocate for the rights of the elephants to live freely in the wild without being constrained by arbitrary legal categorizations that ultimately enable their exploitation for human purposes. By delving into the legislative history of elephant protection in India, the authors contend that the classification of animals into wild and non-wild categories stems from an unscientific yet deeply ingrained confusion between captivity and presumed domesticity, often driven by human affinities. The authors highlight how this misconception of domesticity has been misused to justify the arbitrary exemption of elephants from the prohibition on private ownership under the Wild Life (Protection) Act (‘WPA’), thereby undermining the very purpose of protective legislation. Furthermore, the article scrutinizes the ‘performing animals’ exception under the Prevention of Cruelty to Animals Act, 1960 (‘PCA’), which allows for the commercial exploitation of elephants. This examination is informed by an analysis of differing judicial perspectives as evidenced in the cases of *N. R. Nair v. Union of India* and *V.K. Venkitachalam v. State of Kerala*. In summary, the authors call for a shift from a welfare-focused approach to a rights-based model that revolves around the dignified existence of all animals. Grounded in their central argument about the arbitrary and artificial nature of legal classifications, they propose the elimination of the elephant ownership exception in the WPA and the removal of elephants from the ‘performing animals’ category in the PCA. This, in turn, encourages the acknowledgment of the intrinsic value of elephants as beings.

In the article “Litigating Reasonable Accommodation in Indian Courts: A Comment on the Transformative Ability of Judicial Review”, the author Dhruva Gandhi explores the application of the ‘reasonable accommodation’ principle for individuals with disabilities in India. The paper primarily focuses on judicial rulings related to employment, education, and government policies. The author examines cases where courts have ordered the implementation of accommodating measures that do not require substantial financial resources or policy changes, emphasizing the absence of external interests. The paper also delves into the challenges that courts face when attempting to balance conflicting third-party interests, which sometimes results in a more cautious approach. Furthermore, the author analyses instances in which the judiciary has intervened in government policies, issuing directives to ensure accessibility in public spaces. However, the paper underscores the limited effectiveness of these interventions and the constraints of judicial involvement in such matters. Drawing parallels with the legal concept of specific performance in contracts, the author broadens the scope of their argument and suggests that courts may encounter inherent difficulties in micromanaging the implementation of accommodating measures, casting doubt on the efficacy of judicial review in enforcing ‘reasonable accommodation’. Despite some instances of success, this article implies that the potential of judicial review to fully enforce ‘reasonable accommodation’ may have been largely realized within the Indian context.

Ms. Gunjan Chawla Arora in her article “Intellectual Property Creation, Protection & Infringement in Metaverse” endeavours to reconcile the challenges surrounding the determination of ownership of Intellectual Property (IP) within the Metaverse, a platform known for its communal resource sharing. Ms. Arora suggests that the Metaverse should adapt and incorporate existing IP laws and regulations. One of the primary concerns in the Metaverse is the difficulty in establishing authorship and ownership rights due to the intangible nature of digital creations and their susceptibility to easy replication. This challenge poses a significant hurdle in upholding the fundamental principles of IP, which is traditionally rooted in the Labour Theory of Reward and Personhood Theory. Ms. Arora illustrates this difficulty with the example of Non-Fungible Tokens (NFTs), which enable the tokenization of digital assets, making it challenging to preserve the originality and the connection between the creator and the work by manipulating Blockchain data. Furthermore, Ms. Arora emphasizes the existence of a legal gap in addressing issues related to the lack of boundaries, normative laws, intangibility, and the fleeting nature of creations in the Metaverse. This lack of clarity presents a formidable challenge in establishing a monopoly over IP. To tackle these concerns, Ms. Arora suggests incorporating regulations that pertain to cross-licensing agreements and interoperability rights for users in the Metaverse. Additionally, she discusses jurisdictional problems such as registration issues in

determining IP. Ms. Arora posits that theories related to IP infringement and copyright protection, combined with agreements that prohibit unauthorized commercial use, could play a pivotal role in addressing infringement concerns within the Metaverse. Finally, she emphasizes the importance of users adhering to the rules that govern the relationship between users and IP, both within the Metaverse and in the real world, within the confines of the law.

In the article titled “Lessons Learnt from the New Development Bank’s Strategic Partnerships” the author S Nanwanidiscusses the New Development Bank (NDB) and its mission to support infrastructure development and sustainable growth in emerging economies, emphasizing innovation and environmental responsibility. Initially, NDB had an unclear partnership strategy compared to other development banks. However, it recognized the importance of partnerships for resource mobilization and sustainable development, focusing on collaboration with various stakeholders. NDB has established lasting Memoranda of Understanding with various Multilateral Development Banks (MDBs) and unique partnerships with less-known MDBs like IIB, EDB, and BSTDB, which serve as both borrowers and implementing agencies in specific projects. This article emphasizes the need for clear co-financing arrangements, particularly in projects involving India, and mentions criticisms of NDB’s limited effectiveness in partnering with other MDBs. Overall, this article calls for improved transparency, timely disclosure, and enhanced collaboration mechanisms to promote sustainable development and align NDB’s partnership strategies with global development banks.

In their article, “ChatGPT: A New Era in Legal Research and Its Sustainable Impact on Judicial Decision Making,” Dr. Garima Tiwari and Ms. Swarnim Swasti examine the utilization of ChatGPT, an AI language model, within the legal domain and its implications for judicial decision-making. The authors commence by exploring the significance, scope, and advantages of AI-based models in the legal system. They spotlight two instances where judges, one from the Punjab and Haryana High Court in India and another from a Colombian court, employed ChatGPT in their decision-making processes, doing so cautiously to primarily expedite basic research tasks. The paper subsequently delves into the specific prompts provided to ChatGPT to assess the extent to which it can be relied upon. The authors also recognize the limitations and challenges associated with ChatGPT, including the potential for inaccuracies due to issues with the training data. They stress the importance of the right to contestability when integrating AI language models into the justice system. The legal framework surrounding such applications is still evolving, and the question of authorship for the generated answers remains uncertain. The authors propose evaluating ChatGPT’s credibility in legal research based on factors like accuracy,

consistency, transparency, and user feedback. They recommend collecting feedback from users who have utilized ChatGPT in their legal research to gain valuable insights into its strengths and weaknesses. The article concludes by addressing the challenges of implementing the right to contestability in AI-driven judicial decision-making. While the European Union and the United Kingdom have established regulatory systems to incorporate AI contestability, the absence of a data protection regime in India has meant a lack of solid AI algorithm regulation. However, the Indian government has recently expressed interest in developing a regulatory framework for ChatGPT, making the findings and arguments in this paper particularly pertinent and forward-looking.

As we delve into the diverse and thought-provoking articles, I encourage you to appreciate the depth and breadth of the subjects explored. The Journal of Indian Law and Society is more than a publication; it is a testament to the intellectual curiosity and dedication of those who contribute to its pages. It serves as a compass for navigating the complex terrain of Indian law and society, providing insights that can shape policies, legal practice, and societal change. May the Journal of Indian Law and Society serve as an invaluable resource and an inspiration for those who seek to understand, influence, and navigate the intricate relationship between law and society in the diverse and vibrant tapestry of India.

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