

FOREWORD

NUJS Law Review is the sprouting of a seed long embedded in my heart. Ever since the early years of my entry into law, when I came across some of the law school reviews from abroad, especially the United States, I have longed for similar reviews from our law schools. Some of the law schools such as Lucknow, Delhi, Jaipur; some organizations such as the All India Law Teachers' Association and some enterprising law teachers took the initiative of bringing out law reviews but could not proceed beyond a few and sporadic issues. The *Journal of the Indian Law Institute* is perhaps the only academic law review, which has survived since its inception. Some of the professional journals primarily devoted to the reporting of judicial decisions of the superior courts such as the *All India Reporter*, *Madras Law Journal*, *Bombay Law Reporter*, *Calcutta Weekly Notes*, *Kerala Law Times* and others occasionally published a few academic writings. The Bar Council of India also initiated a journal soon after its establishment in the early sixties, which was later renamed as the *Indian Bar Review*. Some of the writings in these journals could undoubtedly be compared with any good writings in the law journals abroad but they did not create a system of legal research and writing assuring continuity, quality and frequency.

Later at Columbia Law School I learnt that the *Columbia Law Review*, and other journals at Columbia, and all journals in all law schools in the United States were managed and produced by the students of those schools. With initial disbelief, I tried to know something about the operations of this remarkable activity. I could see its omnipresence, importance and dominance in the life of the School. To get entry into the *Review* was the highest achievement a student could aspire for at the School, though the apparent immediate gain of it was only extra hard work, devotion, commitment, and demonstrable ability to conduct quality research and writing. Often the members of the *Review* team could be seen staying and working overnight at the School. Ignoring any differences that may have existed between the legal education and training and the working conditions and infrastructural facilities back at home, the working of the *Review* deeply fascinated me and I strongly sought its replication in Delhi Law Faculty on my return.

On getting associated with the *Delhi Law Review*, which had just started a year or so before, I realized that apart from lack of funds, infra-structural facilities and organization, the most serious malady that afflicted the *Review* was non-availability of quality material for publication. The reasons for such apathy towards research and writing were complex and caused a vicious circle. Besides inadequate research facilities, disincentives such as scarcity and uncertainty of publication avenues, limited circulation, indifferent readers and absence of any response from anyone, no rewards and apprehension of backlash of any critical writing, were many. It was difficult, almost impossible, to get quality writings on time from colleagues even in such a large and distinguished faculty as the then Delhi Law Faculty, which among several others, also included Professors P.K Tripathi, M.P. Jain and Upendra Baxi who had earned a reputation as serious researchers and scholarly writers. While some of them were unsure of the quality and continuity of

the *Review* the others were not enthusiastic about publishing anything, or even about the very idea of publication. An overall environment of disinterestedness, despondency and defeatism prevailed in which people did not see any future for research but rather thought of either doing nothing or of engaging themselves in other gainful activities. Even those who had acquired unique distinction in scholarship were unsure of the worth of their achievement. Even Professor Tripathi, who had an unflinching faith in and commitment to serious scholarship and always inspired and guided others to engage in serious research and writing, was often overtaken by negative feeling towards scholarship in law. In such weak moments he would say: “*Singh Saab, kaun poochata hai ki main kya likhta hoon. Aur jo main likhta hoon, use kaun padhta hani. Aksar apni patni ko padhne ke liye majboor karta hoon. Padhna likhna to iss desh mein samay or saadhan ki barbadi hani. Zyada se zyada ise swantah sukhay kah kar sabar kar lijiye.*” (Mr Singh, who cares for my writings – nobody asks anything about them nor does anybody read them. Often I force my wife to read them. Research and writing is a waste of time and resources in this country. At most, I console myself by considering it an exercise for self pleasure). Occasionally he would add: “I was born at a wrong time and place”.

Professor Tripathi’s occasional disappointment and frustration could be exaggerated, excessive or disproportionate but was not misplaced. The life in the law faculties then, was not very conducive, much less inspiring for any serious academic exercise. With the expansion of education in general and limited entry opportunities in job or career oriented education, the enrolment in law faculties was expanding, as is still the case, at a very fast pace. But unlike now, when several new avenues have opened up for the law graduates, then the law graduates hardly had any options but to join the Bar or the Bench. Unlike in the pre-independence era when legal education and legal profession were resorted to by a few privileged ones, within a decade of independence they became the last resort for every university graduate. With such an expansion, the kind of law teachers from the Bar who were available until now, were no more available. In an effort to reform legal education, universities were also required to engage almost exclusively, full time law teachers. In view of the vast disparities between the earnings at the Bar and in law school teaching, as well as very few promotional avenues and little recognition in the latter, the law schools could not attract or retain the best of their graduates for teaching positions. Our education system also showed least concern for legal education and gave it step-motherly treatment with minimum of infra-structural facilities, no research grants, poor teacher-student ratio, etc. Thus, the law teacher carried a very poor image in the eyes of the legal profession as well as in academia and consequently in the society in general. Therefore, even the best among the law teachers such as the ones mentioned above, who would have got the highest recognition and rewards amongst peer groups of scholars as well as among legal professionals anywhere else, suffered frustration and could not inspire others as much as they would have wished to do. With minor exceptions, classroom teaching was also not very demanding and stimulating. Most of the students were interested in having a degree with which they could test their luck in the profession which carried the impression of having little to do with studies at the law school. Albeit

many of the students were brilliant, and could be compared with the best anywhere in any discipline, the overall environment of serious studies, research and writing was lacking in the law schools.

This explains the difficulty faced in getting enough papers, irrespective of their quality, even for one issue a year of the *Delhi Law Review*. Even though the *Review* was expected to be the reflection of research and scholarship of the faculty, often we had to seek contributions from visiting scholars so as to ensure its continuity and minimum respectability. In that scenario my Columbia impressions often reminded me of involving the students in the *Review*, but my senior colleagues on the editorial board, who were equally, if not more, informed about the law school reviews in the United States, did not think that we could replicate that model in our law school. Later when I tried to involve students during my Deanship in the mid-nineties I realized that my senior colleagues' reservations were not baseless. In a law school of approximately five thousand students, it was difficult to conduct a fair and scientific selection for something, which was yet untested and uncoveted. But even those who came forward, were concerned more in personal gain or recognition rather than taking it as an opportunity to learn and promote the *Review* as an institutional activity. Even then, their association contributed to the quality and the size of the *Review*. The students also started their own publication of *Law Fact* at LL.B. and the *Delhi University Law Journal* at the LL.M. levels. While the former was a sort of law magazine in its form and substance, the latter was truly a law journal in every respect. But again for lack of sufficiently conducive environment they did not survive beyond my deanship. I understand that now for some time the *Review* is again having the involvement of students. It is a big consolation that as law school journal it has survived since its inception and has reached its silver jubilee a few years back.

On coming to NUJS, I found that while the *Indian Juridical Review* (*IJR*) managed exclusively by the students was appearing regularly once a year, the *Indian Journal of Juridical Sciences* (*IJJS*), which also expected student participation, but was not exclusively in their hands, could not proceed beyond its first issue. It was planned to be a thematic journal to appear at least once a year. The first issue, which was devoted to ancient Indian legal thought, made an excellent beginning but the second one planned on media law never appeared. The keenness to continue with the journal was expressed to me by my colleagues and associated students, soon after my joining the university but the theme had been changed from media law to criminal law. The available contributions, however, did not match the standards set by the first issue. In view of my passion and desire for the law school journals, I took it as an opportunity to translate it into reality. But I have always entertained doubts if a journal could be sustained on the lines of the first issue of the *IJJS*, which had all but one contribution from outside the university. I also doubt if a law school journal should be a forum for the publication of research and writings of others. I believe that a law school journal must be the mouthpiece and the forum for the expression of views and ideas of the law school on any issue of concern. It must inspire and train the faculty and students to undertake serious research and writing that will make a difference to them and to the society. It

should not close the possibility and opportunity of expression of views to anyone, but it should also not depend upon or wait for the views of others for its appearance. The journal can serve its purpose only if it appears at regular and reasonably frequent intervals. If it fails to do so, it will also fail in inspiring desired research and writing. Occasional appearance of a journal may be defended against non-appearance at all but it cannot generate the stimulus required for sustained research and writing. Therefore, it must appear at least once in three months even if slim. Otherwise it ceases to be a journal.

In view of my proposal for a quarterly, I was unsure if the university could sustain two journals. Therefore I proposed the merger of the two journals into one. However, in view of the continuity and consistency of *IJR* and uncertainty of the proposed new venture we agreed not to disturb the *IJR* and move ahead with the realization of the new idea. Agreeing that the new venture will also be the students' initiative, we moved ahead and tried all possible alternatives including publication of the journal through professional agencies that could ensure success in our plans. Out of all the alternatives, we decided to undertake the entire responsibility, ranging from publication to distribution in our hands and proceeded to get the journals registered with the Registrar of Newspapers. In the process of registration the two journals lost the claim to the use of "Indian" and accordingly *IJR* became *JR* and the *IJJS* acquired the alternative title: *NUJS Law Review*. Both are, however, equally students' journals except that the *JR* is funded from the budget of the Students Juridical Association while the *Review* is expected to generate its own resources for its operations. The latter has drawn up its constitution in which the Vice-Chancellor and the faculty have only a ceremonial role. Its periodicity is quarterly, which its editors have undertaken to maintain through self-research and writing irrespective of contributions from others. In view of its new structure and periodicity the *Review* has modified the policy of its predecessor, the *IJJS*, of bringing out only thematic issues, which could suitably be developed into books. The *Review* will publish papers on any number of themes in every issue but occasionally it also will bring out thematic issues.

Openness of the *Review* to any theme should not, however, be construed as freedom to publish anything and everything irrespective of its consequences and relevance to the society. Although the search for truth should not be subjected to any subjective restrictions and dogmas, the objective facts and circumstances should not be ignored. Any number of issues could be picked up at any time for research. But not all of them may be of relevance to us either now or in the foreseeable future. Similarly we may have a vision and goal of our society which others may not have for their societies. While the *Review* need not dwell upon or magnify such differences and must avoid any rigid or parochial policy, it should also not give up its basic responsibility of being a source of required information and guidance to society, on issues facing it. The universities do not operate in vacuum. They have and must have a social purpose. Special importance is assigned to law in that regard insofar as law has been one of the three founding faculties of all modern universities in the world. NUJS and for that matter all other similar universities which are exclusively law faculties, owe a special responsibility of

assigning to law its role in society and to ensure the best performance of that role. Their failure to do so amounts to failure in their very objective. It is another matter that so far our law universities and faculties have not truly undertaken this responsibility but if we have to have a society based upon Rule of Law, and a constitutional state, we will have to understand and undertake our role in the right earnest. I wish and expect NUJS to make the beginning in that direction through the *Review*.

I am conscious of not being the first to state the goals of a law school and its mouthpiece like what the *Review* is expected to be. The founder Vice-Chancellor of this University and founder organizer of this system of legal education Professor Madhava Menon had expressed similar views and hopes while introducing the *IJJS*. However, as we have noted above, *IJJS* could not proceed beyond its first issue. In the meantime I see many law school journals coming up. I am not sure of their policies and goals as well as of their quality and continuity. But I generally notice very little representation of the publishing law school. A trend towards more in-house research publications may be in the offing but it is not yet clearly visible. The *NUJS Law Review* must make the difference. It has undertaken the responsibility of conducting and publishing its own research. Definitely in that venture its editors will set their goals and work towards their realization. Of course the road to that realization will not be very smooth, but I am sure they will overcome all its roughness and pave the path for others too.

Often I ask myself how the goal, which I have been unsuccessfully aspiring for, ever since my introduction to law, is going to be achieved this time. On careful analysis I pin my hopes on the fact that apart from the difference which globalization and liberalization of the economy has made to the place of law and legal education in the country, and irrespective of the quality of the faculty, the quality of students seeking legal education has changed beyond resemblance. They are all highly talented, focused and capable of organizing and performing teamwork. They have a proven record of having achieved many goals without or with very little support from the faculty. They have also developed a proven ability to do independent research and writing. These and several other qualities distinguish them from students in traditional colleges, including the ones in the Delhi faculty, where I always had the privilege of having very brilliant and mature students. Owing to all these qualities of theirs I feel confident that the students of NUJS who have undertaken the grand responsibility of producing the *NUJS Law Review*, as a model of law school review will discharge it with success. They will see to it that in due course the legal community not only in India, but everywhere will be waiting eagerly and anxiously to see every next issue of the *Review*- for its reaction and guidance on all major legal issues and policies of concern to the society. Nothing great is, however, achieved without commitment, sacrifice, hard work and constant long effort. They must emulate with native refinement the culture of law reviews which I had seen long ago at Columbia. I have every hope in my students, to see the seed sprouting in the shape of the *Review*, growing into a big tree with strong branches bearing desired fruits like the legendary *kalpataru*.

Mahendra P. Singh

Editor-in-Chief