

Editorial Note

The world of legal domain remains in a continual state of multifaceted metamorphosis. Legal scholars have been contributing in valuable ways towards the changing facets of global laws through exhibition of nuanced opinions and critical argumentations. The processes of raising questions about the law and discovering answers to pertinent legal concerns is transpiring seamlessly within the framework of legal academia. As a constituent operating within the estate of legal minds, the NUJS Law Review seeks to bring forth an assortment of notions embedded within the law, conceptualised so as to reflect the impressions that they leave on the societies within which they operate. It is with this aim in mind, that the Law Review presents the fourth issue of Volume 11.

The issue comprises of five legal articles and one book review. The pieces that follow, witness authors exploring diverse legal aspects, delineating issues and exploring viable solutions to some perplexing problems. Guided by meticulous legal analyses, the authors in the succeeding articles strive to set the path for an informed deliberation on some intricate aspects within legal frameworks and seek to aid the process of recognising the challenges that may come with the same.

Constitutionalism in the Indian Comparative Perspective, embodies an academic lecture delivered in the memory of the legendary Dr. D.D. Basu, hosted by WBNUJS, Kolkata. In his address, Professor (Dr.) M.P. Singh, delves into the depths of ‘constitutionalism’, acquainting readers with the manifold nuances of the concept. Great thinkers have often laboured to contain the idea of constitutionalism within the inelastic walls of lexicons. Yet Prof. (Dr.) Singh employs these resources towards tracing the evolution of very notion in itself. He outlines the gradual transition in constitutional legal thought, from constitutionalism being viewed as a restraint on the State’s power, to a tool for furthering welfare and positive support. He also draws attention to the unintended development of “authoritarian constitutionalism”. Thereafter, Prof. Singh moves on to discuss the concept as has been conceived by Dr. D.D. Basu himself. He further accentuates the same with a brief portrayal of the birth of constitutionalism within the subcontinent, and its operation as well as conceptualisation ever since.

In *The Legislative Vacuum on the Honorary Position of a Chairman Emeritus: Assessing the Need to Introduce Statutory Regulations*, Priya Garg and Vishal Hablani embark upon a detailed scrutiny of the position of a ‘Chairman Emeritus’ that often features within Indian companies. They highlight, in detail, the multifarious business strategies that the creation of the position entails, and the advantages that accompany it. However, while recognising the existence of a Chairman Emeritus may entail benefits for companies, the authors highlight the dearth of a regulatory framework, to govern such a position holder. Their study reveals that under the considered legal framework, there is substantial scope for a Chairman Emeritus to evade liability, in situations where regular directors would face certain culpability. In recognition of this legal lacuna, the authors make detailed recommendations that are aimed at significantly counteracting the problem.

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Authors Aashesh Singh and Swarna Sengupta undertake a nuanced analysis of the feasibility of appellate arbitration mechanisms in their article *Second Bite at the Arbitration Apple: Analysing the Applicability and the Utility of the Internal Appeal Mechanisms in Commercial Arbitrations in India*. Recognising the growing resistance to the stoical understanding of arbitral finality and the rising support for incorporation of internal appeal mechanisms within legal systems, the author analyse the application of such mechanisms in the Indian context. After undertaking a thorough review of extant institutional appellate review practices, the authors proceed to evaluate normative and theoretical arguments for and against the institution of appellate arbitration mechanisms. Finally, the authors address possible public policy and arbitral efficiency concerns and conclude by recommending certain legislative amendments to facilitate the establishment of appellate arbitration mechanisms.

In *Arbitrability of Oppression, Mismanagement and Prejudice Claims in India: Law Review, Need for Re-think?*, Shreyas Jayasimha and Rohan Tigadi explore the issue of arbitrability of oppression, mismanagement, and prejudice claims in India. Primarily inspired by relevant developments in the United Kingdom and Singapore, the authors investigate the possibility of making the aforementioned claims arbitrable in India. The authors undertake a detailed study of the current legal framework governing oppression and mismanagement, and arbitration in India. They further elaborate upon the corresponding frameworks prevalent in the United Kingdom and Singapore, thereby facilitating a comparative exercise. Through a detailed analysis of the aforementioned laws, the authors examine the proposition of enforcing arbitrability of oppression, mismanagement, and prejudice claims in India, deftly distinguishing fundamental factors that differentiate Indian and the foreign legal jurisdictions under study.

The article *All India Judicial Services: Problems and Prospects*, evidences authors Shivam Kaushik and Anushri Singh making a definitive case in favour of implementation of an All India Judicial Service ('AIJS'). The authors begin with a discussion on the historical and modern perspectives on the creation of the AIJS. Thereafter, they highlight the two major points of opposition that the AIJS has persistently faced, before engaging in a systematic refutation of the same. Through this paper, the authors not only propose a comprehensive overhaul of the current system of recruitment followed for the lower judiciary, but also lay down a detailed structure of the proposed AIJS – synergising the same with dictums of the Apex Court.

Finally, Dr. Lovely Dasgupta embarks upon a comprehensive review of the book, *Carter's Breach of Contract*. She contextualises the objectives of the book, underlining the existence of myriad debates on the breach of contractual terms. Dr. Dasgupta proceeds to evaluate the book on the basis of several parameters while employing a chapter-wise analysis. In the process, she not only highlights the key portions that readers should consider focusing on, but also informs them of the utility gained from each segment, thereby creating a thorough issue-wise reference for the reader.

The current issue proceeds with a determined emphasis on innovative legal thinking and conscientious research. We expect that the discussions so contained shall unlock

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more avenues for the consideration of legal thinkers, and assist stakeholders in engaging in meaningful dialogue on the issues so highlighted. We hope that the contributions of the authors, through the NUJS Law Review, will play a part in shaping the reformations within legal frameworks. We extend our heartiest congratulations, and express our gratitude to each of the contributing authors for their informative engagement. We further convey our appreciation for all members of the NUJS Law Review team, who have worked towards ensuring publication of this issue.

Truly,

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