

Editorial Note

The publication of the 12th Volume of the NUJS Law Review represents the dedication and hard work of the different generations of students, professors, and practitioners. From this year onwards, the Editorial Board and other members of the journal shall work under the leadership of the new Editor-in-Chief – Professor N. K. Chakrabarti, the new vice chancellor of the West Bengal National University of Juridical Sciences. Professor Chakrabarti has published seven books and authored more than seventy articles and research papers in national and international journals. Moreover, he had also been the director of the Kalinga Institute of Industrial Technology (KIIT) University's School of Law in Bhubaneswar for nearly one decade. The newly selected Editorial Board and the other members of the journal look forward to working under his mentorship.

We would also like to thank Professor M. P. Singh, the founder of the NUJS Law Review, for his continued guidance and motivation to the Editorial Board till date, as well as his contribution to the journal. The Law Review has been at the forefront of legal scholarship for more than a decade now, attempting to shape discussions on the most topical and relevant topics. In this regard, we are happy to share with you that the NUJS Law Review recently appeared in the top position in the initiative undertaken by SCC Online of ranking the top ten law journals based on the number of times they are accessed on SCC Online in a calendar month, in the first month of this initiative.

Apart from printing the journal onto paper, the student editors and members have been running the entire process, including soliciting and selecting and editing articles for publication and formatting them as per the NUJS Law Review Citation Standard. Their untiring efforts and commitment to the journal has led to the journal being able to maintain its quarterly nature while providing exceptional articles in its twelfth year of publication. This issue as well presents some ground-breaking scholarship by established authors and emerging voices in the legal academia on issues of national significance.

Professor Dipika Jain's article titled '*Time to rethink Criminalisation of Abortion? Towards a Gender Justice Approach*' argues for the decriminalisation of abortions in order to entitle complete autonomy to women over their health. She draws these rights from the fundamental rights of bodily autonomy and integrity, further illustrating the inclusion of the right to reproductive and decisional autonomy under such fundamental rights. This article scrutinises the two primary impediments of access to safe abortion services – *first*, third-party authorisation requirements; and *second*, the law against sex-determination of foetuses. The author demonstrates how these barriers create an undesirable delay in accessing abortions and cause a chilling effect on the medical practitioners. After outlining the inadequacy in the legal dimensions with respect to abortions, the author argues for an urgent need to decriminalise abortions and reform the laws after consulting all the relevant stakeholders.

In '*Determination of Environmental Compensation: The Art of Living Case*', authors Professor Rosencranz and Raghuvver Nath exhibit critical argumentation over the absence of an effective framework to determine compensation in environmental matters. The authors explore the various reasons that inhibit the National Green Tribunal ('NGT') from doing so – *first*, NGT's erroneous trend of imposing compensation at five percent of the

project cost or at INR five crore; *second*, the failure in establishing an environmental baseline condition before damage is caused; and *third*; the omission in holding the respective government authorities accountable in this regard. To demonstrate this, the authors specifically rely on the case of *Manoj Mishra v. Delhi Development Authority*, also known as the ‘the Art of Living Case’. In this process, they highlight the NGT’s inability to quantify damages correctly due to its failure in determining the baseline condition and critique their practice of basing it on mere visual evaluation.

Authors Mihika Poddar and Alex Koshy in their article titled ‘*Legislating for Domestic ‘Care’ Workers in India: An Alternative Understanding*’ argue for legislative interference in the regulation of domestic work. They highlight the major lacunae in the protection of such workers and the neglect on the part of the State to confer any protective benefits, before illustrating domestic work as being productive and ‘caring’ labour, with the home as the workplace. They explore and argue against two aspects in this regard – *first*, the notion of such work as acts of ‘love and care’ leading to disconnect with the general marketplace; and *second*, the barriers in regulating it, given that the work happens within private spaces. The authors argue that assessing the familial workplace through the eyes of care ethics and accounting for the peculiarities of this industry can help in tackling the aforementioned issues. Their extensive analysis shows the significance of having a comprehensive framework while incorporating the relational understanding of workers who are employed to be family members.

The article titled ‘*Children no more? A Feminist Critique of the Juvenile Justice Transfer System in India*’ evinces author Megha Mehta offer a feminist perspective of the transfer system in India, as embodied under the Juvenile Justice Act, 2015. The author demonstrates the potential pitfalls of this inadequacy including the possibility of the formal offender committing a more serious crime in the future. Subsequently, the author argues that the current framework focusses merely on rehabilitation measures as per masculine norms, dealing with crimes at the phase of ‘heniousness’, instead of attempting to reduce the overall pervasiveness of crimes against women. She shows how relying on such methods including their socialisation with adult prisoners can increase the likelihood of recidivism. In light of the aforementioned arguments, the author proposes restorative justice as a suitable alternative as a post-conviction strategy, to address the juvenile offenders’ dearth of psychosocial maturity and victims’ absence/lack of agency in previous criminal trials. Although such an approach may require extensive research into the different nuances involved, the author illustrates how it may be more instrumental than the current carceral criminal justice strategies.

Lastly, Mitali Agarwal in ‘*Beyond the Prison Bars: Contemplating Community Sentencing in India*’ examines the possibility of introducing community sentencing in India, as an alternative to custodial sentencing. The author first highlights the deplorable state of the criminal justice administration system, particularly the human right violations inside the prisons due to excessive violence and the inordinate overcrowding in the jails. Drawing from this, the author shows how community sentencing can aid in mitigating the burden on the incarceration system and channelise the otherwise extortionate expenditure in more productive ways. She does a comparative analysis with multiple jurisdictions including Australia, Spain, South Africa, United Kingdom, and the United States of America, where it has effectively assisted in reducing the issues concerning the prison system. The author also shows that such a system can benefit in reducing recidivism, and establish within the prisoners an optimistic attitude towards work and sense of belongingness in the society.

In conclusion, the author argues for a comprehensive legislation for the execution of community service based sentences in India.

As a whole, this issue raises contemporary questions on different aspects of legal frameworks and attempts to provide meticulous legal analysis on them. The topics in these articles, which include unsafe abortions, protection of domestic workers, aspects related to the rights of prisoners, and the prevalence of crimes against women, are imperative human rights issues that need immediate attention of the legislature, the executive and the judiciary. We sincerely thank the authors for writing such thought-provoking articles on these relevant issues concerning the society, and hope that their arguments are considered by the respective authorities. We would also like to thank all the members of the Law review for their constant commitment to the journal, to ensure the publication of these high quality articles. We hope that this issue serves as an effective research tool for the concerned students, practitioners, professors, judges, and other readers, and helps in the evolution of meaningful legal scholarship.

Truly,

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