

Editorial

The Journal and Publication Society, School of Law, Christ University, takes pride in placing on record the seventh issue of the Christ University Law Journal. This issue of the journal comprises articles, legislative note, book review and an edited talk. The academic writings are being authored by legal practitioners, academicians and students, both from the national and international spheres. The journal narrates inter-state river water disputes in India in a well nuanced manner, from a practitioner's perspective. The status of the United Nations Peacekeeping Forces as combatants under the International Humanitarian Law is also elaborated upon in the journal. The emergence of islamic banking in India *vis-à-vis* its acceptance has been studied by means of an empirical survey. The theoretical underpinnings of statutory intendment of affixing corporate criminal liability in India have been discerned. Articles on the evolving dimensions of judiciary in India and the conjugal visitation rights of prisoners in India have also been incorporated, taking into account their existing social implications. Treading the path of innovation by exploring the possibility of amalgamating the patent and competition law regimes in India has also found place in this edition of the CULJ. The journal has also incorporated interesting research done on the French legal system in Puducherry *vis-à-vis* Hindu Law in India as well as the embedded gender discrimination under the Hindu Succession Act, 1956. The deconstruction of the Chinese capital markets and the issues surrounding its legitimacy has also been discussed. This issue also includes a legislative note on Regulation 5(9) of the Combinations Regulations, 2012 under the Competition Act, 2002 and a book review on *India's Constitution - Origins and Evolution* authored by Samaraditya Pal.

Articles

Islamic Banking and its Legal Validity in India authored by Arushi Dikshit and Gayatri Pradhan seeks to understand the utility of islamic banking in India and its benefits to the masses. Further, the paper analyses several provisions of the Constitution of India, the Reserve Bank of India Act, 1934, the Banking Regulation Act, 1949 etc. in realising an interest free banking system based on the islamic model with inferences from foreign jurisdictions. The paper gauges public

opinion on the same, through an empirical study. The paper concludes with an emphasis on the need to avoid prejudices and increase awareness on the islamic banking system in order to facilitate its beneficial implementation.

Attacks on United Nations Peacekeeping Forces: Violation of International Humanitarian Law by Tania Gicela Bolaños Enriquez seeks to analyse the issue regarding the status of UN Peace Forces as civilians during an armed conflict in which they are deployed. The paper identifies an asymmetry in the legal protection accorded to these forces, which they claim through civilian status under the International Humanitarian law, despite direct participation in hostilities.

The article on *Evolving Dimensions of Judiciary in India* authored by Meera Mathew deals with the various steps adopted by the Parliament and the Supreme Court of India towards granting fundamental rights to the citizens. The article dwells upon the different means and modes for the dispensation of justice through tribunals, public interest litigation, alternative dispute resolutions, legal aid, National Legal Service Authority and Lok Adalats. The author ends on the note that the need of the hour is to drive towards better quality of governance and enhanced administration.

In the article, *Deeming Fiction: The Statutory Intendment of Affixing Corporate Criminal Liability in India*, the authors Mishika Bajpai and Anish Vohra have analyzed the various principles followed by the judiciary pertaining to corporate criminal liability. The authors in particular advocate the principle of 'deeming fiction' as it covers the favourable features of other universally used principles such as the principle of identification, attribution and lifting of corporate veil. However, the paper concludes by suggesting a combination of principles to be implemented by the judiciary, in order to ensure positive intendment of the statutory provisions in this regard.

Anamica Singh and Anupal Dasgupta in their article *Prisoners' Conjugal Visitation Rights in India: Changing Perspectives* seeks to support the right to conjugal visitation in the light of the reformatory theory. This matter was taken up by the Punjab and Haryana High Court which upheld the right of prisoners to procreation. The contrary view states that the prisoners shall not be accorded such a right. However, the reformatory theory is accepted in view of the stand taken by United Nations Human Rights Council and various jurisdictions. It is for the Parliament to consider whether supervised conjugal

visitation should be recognised in the light of Article 21 of the Indian Constitution.

The article titled *The Path to Innovation: An Amalgamation of Patent Law and the Dynamic Competition Regime in India* authored by Ketana Krishna and Sushma Sosha Philip delves into the conflict between competition and intellectual property laws in India and attempts to analyse how a balance could be achieved between the two. The paper employs different economic theories of development in examining the current legal framework and suggests the need to shift from the traditional perspective to a finer understanding of the nuances of the conflict which would foster a greater innovation culture. The authors conclude with suggestions for an amendment of the existing legal framework to facilitate the necessary reconciliation between competition and intellectual property that would benefit the Indian innovators and the market.

Analysing from a critical and feminist perspective, Vayuna Gupta in *French Legal System in Puducherry vis-à-vis the Hindu Law in India: Impact on Women and Children*, examines the conflict in the co-existence of separate legal systems that govern family law, in the same territory. The paper identifies the reasons for the prevalence of the French legal system in Puducherry. The provisions of French law that are beneficial or adverse to women *vis-à-vis* Hindu law are also appreciated.

In *Deciphering Chinese Capital Markets: Current Scenario, Challenges and Potential*, Enakshi Jha sheds light on the aspect of vigorous control of the Chinese government in the entry and exit of firms, especially foreign firms. The author has focused primarily on the securities market in China and various tools of capital markets like bonds and sovereign funds. The author concludes by giving her opinion on the aspect of China not being able to become a global player due to the massive governmental control and regulation.

Female Intestate Succession under the Hindu Succession Act, 1956: An Epitome of Inequality and Irrationality by Ayushi Singhal critiques the Hindu Succession Act, 1956 stating that it fosters discrimination based on the source of property and gender. The unfair differentiation prevalent in the succession to the self acquired property of females forms the crux of the article. The author analyses judicial decisions regarding the constitutionality of the law governing succession. She concludes by giving recommendations for the equality of both

genders, arguing in favour of the unconstitutionality declared by the lower court in *Mamta Dinesh Vakil v. Bansi S. Wadhwa*.

The lecture on *Water Disputes over Inter-State Rivers: The Indian Experience* delivered by Sharad S. Javali at the occasion of the Faculty Development Programme organized at School of Law, Christ University forms part of this issue of the journal. The edited talk is an incisive depiction of the state of river water disputes in India. It narrates the brief history, the legislative framework and the pronouncements of the tribunals over inter-state water disputes with the sagacity of a senior counsel who has been part of the process for a considerable span of time. It looks into the overarching powers vested upon the Supreme Court under Article 136 of the Constitution and concludes that there is a need for the centre and the states to join hands in national interest to resolve the issues surrounding inter-state water disputes.

The *Legislative Note: Regulation 5(9) of the Combination Regulations under the Competition Act, 2002* by Krishna Deo Singh Chauhan deals with the complexities involved in determining the asset base when an enterprise acquires a part of another enterprise. This is analyzed with respect to Section 5 of the Competition Act, 2002 and Regulation 5(9) of the Competition Commission of India (Procedure in Regard to the Transaction of Business Relating to Combinations), 2012.

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Editorial Board