

## EDITORIAL

In recent times, there have been unforeseen developments in various disciplines such as science, technology, social norms and economic policy. These developments present new challenges to the legal system. They have to be addressed within the broader legal framework through continuous research. Law schools can contribute significantly in this direction through legal research and scholarly writing. Keeping this context in mind, the Journals and Publications Society was formed at the School of Law, Christ University. The society through the blind peer reviewed *Christ University Law Journal* provides a forum for the members of the legal community and others interested in legal studies to debate legal issues. The rationale behind having a journal sans theme is to encourage divergent perspectives on a wide range of issues in law. The articles relate to various themes like environmental law, Constitutional law, corporate governance, human rights, international law and good governance.

### Articles

The article, *Rethinking Human Rights through the Language of Capabilities: An Introduction to Capabilities Approach*, by Latika Vashist seeks to contrast the language of human rights with the capabilities approach, conceptualized by Amartya Sen and Martha Nussbaum. The article explores the new idea of justice which requires human rights enshrined in the Constitution to be interpreted as capabilities. There exists a wide gap between the embodiment of law and realities of existence. This gap can only be bridged by adopting a new approach to implementation of human rights which will take cognizance of the need to give due recognition to people's capabilities.

Right to life and liberty is a basic human right. It is also the source of other inalienable rights. Although more importance is attached to life and liberty in the discourse on human rights, this right is not inviolable. Under international law, states often take action against persons found guilty of violating criminal law. Trials are conducted in absentia in several cases. This raises crucial questions about the norms of fair procedure which need to be adopted in these trials. *The Concept of Trials in Absentia in International Criminal Law and the Special Tribunal for Lebanon: An Overview* by Shouvik Kumar Guha aims to portray the range and acceptability of the arguments that are advanced by the proponents and detractors of the notion of accepting "trials in absentia," in the light of the Special Tribunal for Lebanon. This tribunal was constituted to try those suspected of assassinating former Lebanese Prime Minister Rafik Hariri.

Overpopulation is one of the issues for our economy. The ever-increasing population creates more demand for food. The government is under a duty to provide adequate food security and this duty has to be discharged by the government efficiently as right to food has been held to be a fundamental right under the Constitution. The article *Starving Millions and Right to Food* written by Sai Teja Vangala and Anshuman Singh critically examines the programmes and policies initiated by the government for ensuring adequate food supply including The Right to Food Bill 2010. This article recommends the adoption of certain measures which would promote food security. These include making fundamental shifts in priority issues such as land use, public investment and also making cultivation viable to farmers.

The article *Right to Environment and Right to Development: A Judicial Conundrum* by Uday Shankar and Saurabh Bindal talks about the role played by the Supreme Court in accelerating the pace of environmental jurisprudence in India. In its judicial creativity, the court has accorded the right to live in a pollution-free environment the status of a fundamental right. The creative role played by the judiciary has been widely acknowledged by legal scholars. However, a divergent view holds that the Supreme Court in its writ jurisdiction has been unreasonably interfering in the field reserved for the executive. Through a discussion of case laws, it argues that the Supreme Court in its writ jurisdiction has interfered in decisions which fall within the ambit of the executive. It contends that this interference of the judiciary into the domain of the executive disturbs the harmony between the two organs of the government. The article calls for maintenance of harmony between the two organs as it is the basic scheme of the Constitution.

The article *Judicial Accountability: The Eternal Dilemma* written by Udai Singh and Apoorva Tapas examines the ills present in the judiciary. The article analyses the current regulatory mechanism relating to judicial accountability and independence. It exposes the inadequacy of the existing legislative mechanism to check irregularities in the judiciary. In the light of the debate surrounding the need for ensuring greater transparency in administration, it suggests measures which can be adopted to ensure greater judicial transparency and accountability.

The article *Personal Laws and the Rights of Women* by P Lakshmi makes an examination of the provisions of personal laws which are discriminatory against women. This article calls for the unification of personal laws in the form of a uniform civil code. The uniform civil code would go a long way in improving the status of women in India.

The article titled *Right to Education under the European Convention for the Protection of Human Rights and Fundamental Freedoms, 1950* authored by Sheeba Pillai analyses the right to education as laid down under the European Convention for Human Rights 1950. It emphasizes the need for compulsory education and the duty of the states to secure this right to its citizens. This article examines the crucial role played by the European Court and The European Commission for Human Rights in giving adequate recognition to compulsory education under the European Convention on Human Rights 1950.

Kaumudhi Challa's article *Contentious Issues in Surrogacy: Legal and Ethical Perspectives in India*, deals with various issues relating to surrogacy in India. These include surrogacy tourism and commoditization of children. This article brings out the inadequacy of the legal framework to regulate surrogacy in India. It recommends the adoption of certain measures to protect the interest of the child in contracts of surrogacy. It further analyses the effects of the Assisted Reproductive Technology Bill 2010.

In recent times, corporate governance has assumed a lot of importance because of the financial irregularities taking place at a large scale in the corporate sector. The article *Impact of Clause 49 of Listing Agreement on Corporate Governance* by Kumudha Rathna examines Clause 49 of Listing Agreement on Corporate Governance formulated by the Securities and Exchange Board of India. This article contends that the active participation of people from all sections of the society along with legislative intervention is necessary for ensuring efficient corporate governance.

The Journals and Publications Society expresses its gratitude to all the scholars and reviewers who have contributed to this journal and solicit their continued patronage and cooperation. It places on record its gratitude to the Christ University management, the Centre for Publications, the Librarian at the Knowledge Centre, and National Printing Press for extending all support to this initiative.

*Editorial Board*