

PROFESSOR INCHARGE'S PAGE

I feel great pleasure in presenting the first volume of the *National Capital Law Journal* to law teachers, advocates, Judges, law students and others who are called upon to grapple with nitty-gritty of law. At the outset, I take this opportunity to thank and congratulate my learned colleague, Professor Balbir Singh who conceived the idea to publish a Journal of Law Centre-II. It was only on account of change of events with the passage of time that I took over as Incharge of Law Centre-II and got an opportunity to write this page.

It hardly needs to be emphasised that a Law Journal is a vehicle to carry to the readers, the new ideas, techniques, pursuits, innovations and research undertaken by law scholars in law schools and other spheres of law. Legal research is necessary concomitant of law teaching and as such it is necessary duty of law teachers to undertake serious and meaningful research. Legislature makes the law, executive implements the law and judiciary interprets the law and thus the Court has the last word to say on any point of law. Ours is a Constitution of checks and balances. If the legislature or the executive makes a mistake, the judiciary sets them right through the interpretation of law. So the law is not exactly that what we find in the statute book. Law is the last word of the last judge. Meaning thereby, the final position about any law emerges on account of interpretation given to it by the Supreme Court in India. An example in sight is Article 14 of the Constitution of India which appears to have guaranteed absolute equality to all. Our Supreme Court as a result of true interpretation of Article 14 read within the doctrine of reasonable classification on the ground that the equality can be only among equals. In a country like India which is socially and economically imbalanced society, absolute equality is neither possible nor desirable. Article 14 does not specifically provide for reasonable classification which however has become a part of Article 14 as a result of its interpretation by the Indian Supreme Court.

To err is humane, so goes the saying. What if the Court, especially the Supreme Court makes a mistake in interpreting the law. For other Courts, the remedy is an appeal to the higher Court. It is one situation, among others, where law professors should conduct sincere and serious research to highlight the errors committed by the Supreme Court in interpretation

of law. There are several instances available to show the mistakes committed by the Supreme Court. In case titled *Golak Nath v. State of Punjab*, AIR 1967 SC 1643, the Supreme Court held that there is no difference between a law and an amendment of the Constitution and because of the statutory injunction contained in Article 13 of the Constitution to the effect that the state shall not make a law to take away or abridge the fundamental rights guaranteed by part III of the Constitution, the Parliament cannot change the fundamental rights even by an amendment of the Constitution. Professor P.K. Tripathi, a professor of law of Delhi University immediately rose to occasion and produced an article criticising the judgement of the Supreme Court in *Golak Nath* case, clearly bringing out a difference between an ordinary law made by the legislature in exercise of legislative power and amendment of the Constitution on the ground of 'Criterion for Validity'.

It is heartening to note that the Supreme Court in its judgement in *Keshva Nanda Bharti v. State of Kerala*, AIR 1973 SC 1461, while overruling its judgement in *Golak Nath* adopted the same principle of 'Criterion for Validity' as propounded by Prof. P.K. Tripathi, even though without referring to the research work done by Prof. P.K. Tripathi. I am writing all this with a view to stress the paramount need for law professors to produce research work which may operate as guide for the judiciary and give the judges an opportunity to correct their own mistakes, if any, in future judgements.

One formidable difficulty in the way of law teachers undertaking worthwhile research, had been that they remained divorced from law in action as they were not allowed to practice law in Courts. Justice V.R. Krishna Iyer, former judge of Indian Supreme Court in his foreword to a report prepared by Prof. Upendra Baxi, former Vice-Chancellor of Delhi University on Social-Legal Research in India, in 1975, quoting from the situation as obtaining in United States advocated the need for permission to law teachers to appear in Courts. According to Justice Krishna Iyer, the practising teachers can champion various legal causes and produce meaningful sociol-legal research. The legal academicians must get a practical exposure in Courts, through legal aid cases and social action cases in order to equip themselves better to produce legal research. Justice P.N. Bhagwati, former Chief Justice of Indian Supreme Court realising the potentials of law teachers recommended to the Government of India to take steps for enrolment of law teachers as advocates on my request. Accordingly, the Central Government made a rule in 1979 enabling law teachers to get themselves enrolled as advocates. University Grants Commission which controls the Indian Universities, passed a resolution to the effect that law teachers can be allowed to appear in Courts in Legal aid cases and social

action cases. The Delhi University in the meeting of its executive council also resolved to allow law teachers to appear in Courts in legal aid cases and social action cases. Since this development, the quality of teaching and research in Law Faculty of Delhi University got a new filip. It is common knowledge that Prof. Upendra Baxi achieved academic excellence because he used to appear in Supreme Court like Agra Home case.

This is the maiden attempt of Law Centre-II to publish the journal. I am pretty sure that the journal shall meet the aspiration of its readers. It will, certainly illumine the intuition and inspire the intellect of the members of the legal fraternity. The editorial committee of the journal and especially Prof. A.K. Koul, Prof. Balbir Singh and Mr. V.K. Ahuja have done commendable work in producing the *Journal*. In the fond hope that this *Journal* will not compare ill with any of the best Journals in the World, I thank all the members of the editorial committee and wish the *Journal* a grand success. I thank the printer M/s Shivam Offset Press, New Delhi for doing good job of producing this volume with quality print on good paper and presentable cover and design.

*Law Centre II,
Dhaura Kuan,
New Delhi 110 021*

Professor S.S. Vats
Professor-in-Charge

EDITORIAL

We have immense pleasure to place the first volume of the *National Capital Law Journal* published by the Law Centre-II in the hands of readers. This is our maiden endeavour and we are hopeful that the contents of the *Journal* cover diverse and topical subjects and have great academic and practical utility.

The Law Centre-II is one of the premier institution of the country imparting legal education and has the talented faculty and absorbing students and as such a great need to publish a legal journal was felt over the years. That need has been fulfilled by publishing the present volume of this *Journal*. We are fortunate enough to receive very good articles from across the country. However, we could publish only selected few.

Being the founder editors, we have tried our best to publish the *Journal* in the best traditions of international standards. We are hopeful that the readers would be greatly proffered by the quality and contents of the *Journal*. We hope that if any mistakes or printers devil have remained in spite of our best efforts to edit this issue, the readers will not mind.

We hope that the *Journal* would prove excellent and invite you to contribute your articles, notes and comments for favour of publication in the future volumes of the *Journal*. Any comments, suggestions and advice for improving the quality of the *Journal* are welcome.

We express our sincere thanks to the Printers M/s Shivam Offset Press, New Delhi for publishing the *Journal* in an effective manner.

A.K. Koul
V.K. Ahuja