

**MESSAGE  
FROM  
PROFESSOR-IN-CHARGE**

Sometimes, things go slow. During the times of COVID-19 pandemic, our journal got much delayed. When you are left behind, it becomes very difficult to catch up. But that difficulty can be overcome if you have confidence in yourself and you have desire to move ahead. These feelings come to me when I am able to present to all our dear readers the 21st issue of our flagship journal titled National Capital Law Journal ('NCLJ' in short), published by Law Centre-II in a quick succession of hardly a fortnight. Throughout its publication journey, this journal has been widely acclaimed by the readers, mostly scholars, practitioners, and students of law in our country. At the time when this journal was first published in 1996, it was second only to Delhi Law Review, a publication from the Faculty of Law, University of Delhi. At that time, there was a dearth of quality journals in the national capital region.

So much water has flown down after that time and there is abundance of many journals and law reports in this region. However, the NCLJ has remained as the trusted source of reference for the members of academia and practitioners of law all over the country and abroad even today. Research articles submitted for publication in this journal are blindly peer-reviewed and matched with its aims and scope. The editor-in-Chief and the entire Editorial Board of this journal are very experienced and driven by the motto of excellence. The journal is published both in online and print formats.

The present volume has selected fifteen articles on contemporary topics, such as sustainable agriculture, good governance, trade in medicines, gender-related laws, food security and IPR, digital era and copyright protection, law on aviation liability, prisons and caste discrimination, fishing community rights, protecting personal data of children, and the new addition of community service as punishment, disability and National Education Policy of 2020, working conditions in bar and bench, law on dowry, and POCSO. At a first glance itself, the contents reveal a wide array of articles written by the authors in different fields of law, which makes the issue more interesting.

I take this opportunity to congratulate the entire editorial team for selecting the best articles and bringing out this issue with strict adherence to the highest standards of scholarly editing. I wish Professor Pinki Sharma, the editor of this volume, and her editorial team a huge success in broadening the base of readers of this flagship journal by sharing and tagging the journal to their social media profile and by such other electronic means. Last but not the least, the advisory board of this journal deserves kudos for their support and blessings for the journal.

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## MESSAGE FROM EDITOR

We are pleased to present the latest volume of the National Capital Law Journal, Vol. XXI. This edition reflects our ongoing commitment to promoting careful academic examination and lively discussions on modern legal issues. It features a notable range of contributions from leading scholars, emerging researchers, and experienced practitioners, offering thorough analyses and diverse views from different fields.

Scholarly journals play a key role in advancing knowledge. Each research article acts as a thoughtful addition to our understanding. These pieces help create connections across different academic areas, providing strong evidence, new insights, and critical analyses that encourage ongoing conversations. By publishing their work, authors not only share their findings but also showcase their expertise and influence common understanding in their fields. As research methods improve and academic discussions evolve, journal articles remain an essential way to share new results, evaluate ideas, and move research ahead. In this process, careful peer review ensures that published findings are credible, relevant, and strong. This provides the academic community with reliable foundations for further exploration.

The National Capital Law Journal (NCLJ), established in 1996 and published annually by Law Centre II, University of Delhi, is managed by faculty and follows a blind peer review process. Its main goal is to promote thorough legal research and create a space for critical engagement with important legal and policy issues, both nationally and internationally. Over time, NCLJ has become a respected platform for scholarly exchange, attracting contributions from academics, jurists, practitioners, researchers, and thought leaders. This issue reflects that commitment, showing how legal scholarship informs ideas, shapes policy, and enhances the pursuit of justice.

In this issue of NCLJ:

**Rakesh Kumar Singh and Apoorva Bhardwaj**, in their article titled, "Transforming Governance in the Digital Age: The Role and Impact of E-Governance on Public Administration in India", discuss how e-governance has changed India's public administration by enhancing efficiency, transparency, and accessibility. They emphasize that while digital technologies have changed government services and citizen interactions, legal frameworks need urgent updates to address issues like data privacy, cybersecurity, and accountability. They call for legal reforms that protect constitutional rights such as privacy and freedom of expression while promoting innovation. The paper also highlights the necessity of international cooperation to address cross-border digital governance issues and share best practices. Ultimately, authors conclude that e-governance has great potential to create a more transparent, inclusive, and efficient public administration in India, as long as legal and institutional frameworks adapt to the fast pace of technological change.

**Vandana Singh and Mehak Rai Sethi**, in the article titled, "Propelling Towards Sustainable Agriculture in India: Stakeholders' Perspectives in the States of Punjab, Haryana, and Uttar Pradesh", explore sustainability challenges in key agricultural states. They assess how policies have influenced farm productivity, labour conditions, and the environment. The authors highlight gaps in policy enforcement and the socioeconomic impacts of changing agricultural practices. They emphasize the need

for sustainable methods that balance economic growth with environmental care. Key recommendations include strengthening regulations, offering better financial support to farmers, and promoting eco-friendly farming techniques. The article advocates for integrated policymaking that involves incentives for sustainable practices, biofuel funding, and public-private partnerships. This research provides valuable insights for advancing fair and resilient agriculture in India's important farming regions.

**Liji Samuel**, in the article titled, "Medicine-Related Adverse Events: Global Trends and Indian Approaches in Post-Marketing Surveillance and Compensatory Jurisprudence", tackles the serious issue of adverse drug events (MRAEs) and their underreporting worldwide, especially in India. Samuel notes that despite MRAEs causing significant harm and death, reporting rates remain very low, which undermines efforts to monitor drug safety. The article emphasizes the need for stronger post-marketing surveillance, mandatory reporting, and more patient awareness to enhance drug safety. It also points out the lack of comprehensive compensation laws in India compared to some European countries that have no-fault schemes. Samuel advocates for legal reforms, standardized terminology, institutional reporting systems, no-fault compensation, and the use of emerging technologies like AI to improve monitoring. These actions are crucial for protecting patient rights and improving healthcare outcomes in India.

**Zigisha Pujari and Syed Faraz Akhtar**, in the article titled, "Cultural Norms and Gender-Based Violence in India: The Interplay of Patriarchy, Tradition, and Resistance in Sustaining Violence Against Women", delve into the deeply ingrained issue of gender-based violence (GBV) in India. The authors investigate how patriarchy and cultural norms normalize violence against women beyond domestic abuse, including practices like eve teasing, female feticide, and workplace harassment. They highlight the role of legal reforms, such as the Protection of Women from Domestic Violence Act (2005) and the criminalization of triple Talaq (2019), in promoting gender equality. The paper underscores the ongoing prevalence of GBV due to cultural complicity and legal loopholes, such as the exemption of marital rape. Case studies like the Kathua gang rape and Shaheen Bagh protests illustrate the vulnerabilities of marginalized women. The article also highlights grassroots resistance, including Dalit feminist movements, showcasing women's agency in challenging oppressive systems. Using feminist and intersectional frameworks, the study critically examines the social and cultural factors that sustain GBV in India.

**Ronaldo Das**, in the article titled, "The Seeds of Monopoly: Sovereignty, Intellectual Property, and Food Security Under Indian Law", explores the complex relationship between seed sovereignty, intellectual property rights, and food security in India. Das critiques how intellectual property laws, especially patents, have commercialized seeds, which are essential for life and agriculture, shifting control from farmers to corporate agribusinesses. The paper analyses India's legal framework, including the Protection of Plant Varieties and Farmers' Rights Act and international obligations under TRIPS, highlighting the tensions between protecting farmers' rights and complying with global IP standards. Das questions whether farmers can truly be free if access to seeds is determined by patent holders, raising concerns about corporate monopolies that threaten food security and biodiversity. Grounded in human rights perspectives, particularly the right to food, the study examines statutes and judicial developments to show how seed patents may undermine farmers' self-sufficiency and rural livelihoods. Ultimately, the article challenges the balance between protecting corporate interests and ensuring the fundamental rights of farmers and citizens.

**Sadaf Fahim**, in the article titled, "Technological Protection Measures in the Digital Era: Legal Issues Under WIPO Copyright Treaty and Indian Copyright Regime", explores key legal challenges surrounding Technological Protection Measures (TPMs) in copyright law. Dr. Fahim discusses how digital technologies like encryption, watermarking, and copy restrictions manage access to copyrighted works. These TPMs, covered under World Intellectual Property Organization (WIPO) treaties, prevent unauthorized circumvention, even in cases where exemptions under copyright law might apply. The paper addresses the global impact of anti-circumvention rules that have changed copyright enforcement by putting technological barriers before user rights. By focusing on India's copyright regime and international commitments, the study examines how to balance protecting creators' rights while ensuring fair use in a digital space. Dr. Fahim points out the complexities caused by TPMs that limit competition and user freedoms, raising important questions about the future of copyright law in a world that is becoming more digital.

**Anusha C Koti**, in the article titled, "From Runway to Courtroom: Rethinking Aviation Liability for Unseen Victims After the Ahmedabad AI-171 Plane Crash", critically reviews India's aviation liability framework, particularly focusing on third-party ground victims. While passengers benefit from strict liability under the Carriage by Air Act, 1972, and the Montreal Convention, ground victims face challenges due to outdated negligence-based laws like the Fatal Accidents Act, 1855. The 2025 Air India Flight AI-171 crash exposed these legal shortcomings and the misuse of insurance exclusions like 'force majeure.' Anusha compares India's approach with more victim-friendly models from the United States' absolute liability doctrine and the European Union's mandatory third-party insurance rules. The paper calls for legal reforms to establish strict or absolute liability, raise insurance coverage thresholds, and develop centralized compensation systems that better protect ground victims while aligning India's aviation liability laws with global standards.

**Krishna Murari Yadav**, in the article titled, "Institutional Caste Discrimination Inside Indian Prisons: A Legal Study Of 'Sukanya Shantha Case' (2024)", investigates caste-based discrimination within Indian prisons, centring on the landmark Sukanya Shanta case. The Supreme Court declared numerous prison regulations unconstitutional, requiring reforms to eliminate caste-based segregation and discriminatory work assignments, including manual scavenging. Krishna emphasizes the Court's directives to update prison manuals and laws to comply with constitutional equality. He advocates for a fair, exam-based assignment of menial tasks, focusing on prisoners convicted of serious offenses. The paper outlines needed changes to the Model Prison Manual (2016), Model Prisons and Correctional Services Act (2023), and various State Prison Manuals to ban discrimination based on caste and religion in prison duties. Yadav's study stresses the importance of institutional reforms to eliminate caste discrimination, enforce legal protections, and uphold prisoners' dignity, making strides towards constitutional compliance and social justice in prison administration.

**Amrendra Kumar and Taniya Ahuja**, in the article titled, "Seeding Blue Justice in Aquatic Spaces: Legal Pathways for Protecting the Rights of Traditional Fishing Communities in India", explore the new concept of 'Blue Justice' in managing ocean and aquatic resources. The authors stress the fair distribution of benefits and burdens related to aquatic spaces, ensuring the rights and participation of traditional fishing communities. The paper analyses international frameworks like UNCLOS and FAO's guidelines alongside Indian laws such as the Environmental Protection Act (1986), Coastal Regulation Zone notifications, and the Fisheries Act. The authors highlight the

socio-legal risks faced by fishing communities, such as exclusion and displacement due to changing blue economy policies. Through case studies, the article evaluates the effectiveness of current legal protections and recommends reforms to strengthen Blue Justice in India. The study argues for inclusive policies and institutional changes to protect livelihoods and foster sustainable, equitable ocean management that respects traditional fishing rights.

**Anjay Kumar and Kaushik Katyayan**, in the article titled, "Community Service in Indian Criminal Law: An Examination of Legal and Practical Dimensions", explore the role of community service as an alternative to imprisonment in India. They focus on the introduction of community service under the Bharatiya Nyaya Sanhita (BNS), 2023, marking a forward step towards rehabilitation and non-custodial sentencing. While the legislation aligns with international standards, the authors point out gaps concerning the definition, scope, duration, and monitoring of community service orders. They observe that Indian courts have previously utilized community service at their discretion with some success. The paper reviews the challenges in implementation and suggests expanding community service to minor offenses. The authors advocate for clearer legal frameworks and effective mechanisms to incorporate community service into India's criminal justice system, promoting reintegration of offenders and reducing overcrowding in prisons.

**Ajay B. Sonawane and Tanya Tyagi**, in the article titled, "The National Education Policy 2020: A Potential Future for Disability Inclusive Education", discuss the promise of inclusive education under India's National Education Policy (NEP) 2020. The authors underline that inclusive education ensures all children, regardless of their abilities, have the right to learn together in shared spaces with appropriate support. Grounded in constitutional rights like Article 21A and reinforced by international commitments such as the UN Convention on the Rights of Persons with Disabilities (2006), inclusive education aims for more than just physical inclusion. It calls for systemic changes in curricula, institutions, and assessments to promote genuine equality. The authors stress that fostering inclusion is vital for breaking cycles of poverty and stigma, advancing social justice and democratic citizenship. The NEP 2020 offers a transformative route toward equitable, disability-inclusive education in India, aligning constitutional, judicial, and policy frameworks to build a fairer and more cohesive society.

**Deepika Nandagudi Srinivasa and Jupi Gogoi**, in the article titled, "Protection of Personal Data of Children in India: Challenges, Global Lessons, and the Way Forward", examine the safeguarding of children's personal data under India's Digital Personal Data Protection Act, 2023. The authors analyse the Act's provisions regarding the processing of children's data, pointing out challenges related to consent and the idea of verifiable parental consent. They emphasize the need to consider children's digital literacy and comprehension in designing policies. The paper compares India's legal framework with international standards to identify gaps and best practices. In conclusion, the authors call for strengthening the legal system to better protect children's privacy rights in an era of increasing digital exposure. Their study offers essential insights for balancing technology advancements with child data protection in India.

**S. Gopinath and Mansee Chaurasia**, in the article titled, "Bar and Bench: How Working Conditions Impact On Court Delays and Justice", investigate how poor working conditions negatively affect the relationship between lawyers and judges, leading to significant delays in court proceedings and compromised justice. The

authors identify factors such as inadequate infrastructure, heavy workloads, staff shortages, outdated technology, frequent judicial transfers, and weak Bar Council regulations as major contributors to inefficiency. Using doctrinal research and case analysis, the study shows that these issues lower morale, increase stress, and encourage the emergence of kangaroo courts, undermining public confidence in the justice system. The authors recommend improvements in infrastructure, workload management, and communication to strengthen teamwork between lawyers and judges. Enhancing these working conditions is presented as crucial for timely justice delivery and maintaining the integrity of the legal system.

**Surender Sinha**, in the article titled, "Cross-Border Dispute Resolution: Navigating the Labyrinth of International Commerce Through Arbitration and Mediation", examines the challenges of resolving disputes in today's interconnected global economy. The author points out the drawbacks of traditional court litigation in cross-border commercial conflicts. These drawbacks include complicated jurisdiction issues, inconsistent enforcement of judgments, unpredictable procedures, lack of confidentiality, and high costs. The paper suggests that international arbitration and mediation are better options. They provide benefits like party autonomy, neutrality, confidentiality, and enforceability, particularly with agreements like the New York Convention and the Singapore Convention on Mediation. Surinder also mentions the growing trend toward technology-driven and hybrid models. Emerging jurisdictions, including India, are investing in international arbitration center and making legal reforms. The article concludes by emphasizing the need for unified international frameworks, innovation in technology, and strong institutional capacity to ensure quick, fair, and dependable resolution of global commercial disputes.

**Pankaj Kaushish, Lakshya Kaushish**, in the article titled, "From Penal Provisions To Policy Failure: Rethinking Anti-Dowry Jurisprudence In India", critically examine the ineffectiveness of India's anti-dowry laws. This includes existing legislation like the Dowry Prohibition Act, 1961, and Sections 498A and 304B of the Bharatiya Nyaya Sanhita, 2023. The authors argue that dowry is not just a criminal offense; it is a form of economic violence deeply embedded in social and legal systems. The paper combines doctrinal research, court judgment analysis, empirical data, and feminist legal theory. It highlights enforcement challenges, judicial hesitancy, and evolving dowry practices, including digital extortion. The study questions legal defences like the "wilful gift" and critiques narratives that silence victims. Advocating for a socio-legal and feminist constitutional approach, it calls for systemic reforms. These include fast-track courts with counselling, pre-marital financial disclosures, and civil remedies for dowry recovery. The authors argue for justice that is systemic and transformative rather than just symbolic and punitive.

**Vaishali Verma**, in the article titled, "The Doctrine Of Proportionality In Sentencing Under The Protection Of Children From Sexual Offences Act, 2012", examines the challenges posed by the strict age of consent under POCSO, 2012. While the Act was a landmark effort to protect children from sexual abuse, its total criminalization of any sexual act involving persons under eighteen, even consensual adolescent relationships, raises significant legal and ethical concerns. Vaishali argues that this strict liability approach confuses normal adolescent sexual behaviour with abuse. This undermines the doctrine of proportionality in sentencing. Through doctrinal and comparative legal analysis, supported by psychological and sociological research, the paper highlights POCSO's failure to consider adolescents' evolving capacities and contexts. It advocates for a more nuanced legal approach that balances protection with

recognition of adolescent development while reflecting best international practices and judicial trends toward contextualized sentencing.

**Irwin Lalmuanpuii Hnamte** in the article titled, “Building Equitable Justice: The Role of Community in the Administration of Justice in Mizoram and The North East” analyse the administration of justice in the state of Mizoram and Northeast India. The role of the community is paramount in delivering justice in these areas with the establishment of robust justice delivery systems in the form of informal laws or customary laws. The key takeaway of this article is the importance of having an inclusive participation of stakeholders to achieve equitable justice system.

**Ashutosh Raj Anand & Kislay Soni** in the article titled ‘Disaster Governance in West Asia: Comparative Perspectives on Legal and Institutional Frameworks’ explores the legal paradigm and the disaster governance as prevalent in the West Asia. Disaster Management framework in this region reveals a complex landscape of political instability and frequent bout of civic unrest. Authors have examined how the legal landscape in this part of the world is able to countervail the recurring episodes of disaster in the region. Authors have examined country specific disaster governance and the overall institutional frameworks which have been constituted to respond to the disasters.

**Nitesh Saraswat & Shivani Pundir** in the article titled ‘The Panacea For Homebuyers In India: Navigating the Interplay Between RERA, IBC & CPA’ addresses the difficulties faced by home buyers before the implementation of RERA, the IBC, and the Consumer Protection Act. It then provided a critical comparative analysis of the objectives, differing structures, and key judgments under these laws. The final section also focussed on necessary reforms to harmonize the statutes and create a single, transparent, efficient, and accountable legal forum for the real estate sector.

**Rupinder Kaur & Taniya Ahuja** in the case comment analyses Google LLC v. Competition Commission of India (2023), a landmark judgment on abuse of dominance in digital markets. It examines how Google’s contractual restrictions in the Android ecosystem violated Section 4 of the Competition Act, 2002. The comment evaluates the CCI and NCLAT’s effects-based approach, proportional remedies, and the implications for India’s emerging digital competition jurisprudence.

This edition of the Journal explores various themes. It provides useful inspiration for ongoing research and a better understanding of the urgent challenges facing society today.

On behalf of the editorial team, I want to express our heartfelt thanks to our Professor-in-Charge, Prof. (Dr.) Anupam Jha, whose steady guidance, encouragement, and helpful feedback have played a key role in making this volume possible.

I also extend our appreciation to Ph.D. Scholar Hritwik Ravi (ILI) for his valuable assistance in the editing process, which greatly contributed to the refinement of this volume.

I appreciate the talented authors whose work enhances these pages for their valuable insights, the advisory board for their wise advice, the reviewers for their honest and thorough evaluations, and the editorial team for their strong commitment to maintaining the Journal’s standards. Most importantly, I am deeply grateful to our readers for their ongoing support and engagement; it is the foundation of this journal's mission. I wish all the best to our authors who have shared their views on various

contemporary issues by submitting well-researched papers to the National Capital Law Journal, Volume XXI Issue 2023.

**PROF. DR. PINKI SHARMA (Editor)**  
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**MESSAGE  
FROM  
CO-EDITOR**

The rapidly changing laws and outcomes in society, have been an enriching experience to read and edit the works of those, who have written about the facts, the laws, and the judgements under the Indian legal systems. I am immensely grateful to be a part of the process, of giving shape to this journal, which provides an insight and a multi-dimensional experience, whereby works of the academic community are put forth, for enlightening those requiring the knowledge. This journal provides examples of insightful works, applied to differential subjects acknowledged through the lens of expertise in those subjects. This journal covers several aspects of different laws, where those reading it would catalyze, to integrate the information from the papers along with their personal knowledge. I am hopeful that this will be another feather in the cap for our faculty, to carry forward the legacy of good academics and knowledge creation system previously done by our predecessors. I feel privileged to be a part of the process of achieving the publication of this journal and would like to thank all team members and others whose efforts have helped us achieve this.

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