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Editorial

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Editorial

The *Socio-Legal Review* is a student-run publication by the National Law School of India University, Bengaluru that is devoted to publishing writings from a socio-legal perspective, specifically on issues pertaining to South Asia. Over the past few years, our journal has been grappling with what we mean by 'socio-legal'. Volume 18 of the journal, which was published last year, experimented with expanded meanings of socio-legality. This year, in Volume 19(1), we have sought to expand our horizons of methodologies used in socio-legal studies. Each article in this Issue employs a different methodology to draw its conclusions, and most of them are rooted outside traditional legal doctrine. They offer insight into the many ways in which one can view, analyse, understand, and engage with the law. As lawyers-in-the-making, these diverse ways of thinking about the law are especially significant as they bring out facets of the law that are beyond the reach of traditional legal analysis.

Through this Issue, we have also attempted to seek out different ways of writing about the law. While we are familiar with a certain template of legal academic writing that centres the law, as a journal committed to a socio-legal, interdisciplinary approach, we have attempted to challenge this prism in this Issue. The first three writings of this Issue are long-form articles. The authors of these articles use the law, in its various forms (judgments, statutes, and the life of the law), as a way to interrogate, understand, critique, and theorise the politics of state institutions.

In our first article *Jurimetrics and Detention: Understanding the Supreme Court Through Detention Cases During the 1975 National Emergency*, Mr. Nitish Rai Parwani uses jurimetrical tools to statistically study reported and unreported judgments by the Supreme Court of India on arrests, bails, and preventive detentions during the 1975 National Emergency. He explores various reasons, especially administrative ones such as listing of cases and censorship of judgments, to make sense of a decline in the number of decisions during the Emergency, despite an increase in detentions. He also analyses the infamous judgment in the *Habeas Corpus* case[1] to show that the groundwork for this decision had been laid even prior to the Emergency, in seemingly innocuous cases. His conclusions highlight the need to more closely study the politics and working of the judicial institution.

In our second article *A Tribal Chief and a Colonial Legislation: The Excluded Areas Act of 1846*, Dr. Amrita Tulika uses governmental and legislative archival sources on the making of an exceptional/emergency legislation to understand the nature of colonial sovereignty as authoritarian and paternalistic. By studying 'official' records on the life of a Bhil tribal chief, whose rebellion motivated the making of a special law to govern tribal areas, she theorises the colonial state's use of the law as a tool to maintain 'order',

[1] *ADM, Jabalpur v Shivkant Shukla* (1976) 2 SCC 521.

and to consolidate and preserve state power. This understanding of colonial law-making counters civilisational justifications and liberal understandings of the law as a guarantor of rights, freedom, and due process. It rather brings to the forefront the legalisation of state violence through the exercise of executive power and discretionary authority.

Our third article by Ms. Nikita Sonavane is *Deconstructing Police Discretion as Brahmanism*. She explores the violence of executive authority, specifically by deconstructing the Brahmanical nature of police discretion. Her paper traces the continuities between colonial and post-colonial methods of police governance by historically demonstrating how narratives of criminality are informed and justified by caste. She studies the entrenched effects of the now-repealed Criminal Tribes Act, 1871 that institutionalised policing through caste, in juxtaposition with policing in postcolonial India. Specifically, through empirical data on FIRs filed under the Madhya Pradesh Excise Act, 1915, she highlights not only the disproportionate impact of the law on oppressed caste communities, but also shows how the exercise of police discretion is rooted in casteist underpinnings. The article significantly shifts focus away from a graphic and evident spectacle of police power to more subtle, pervasive, and systemic forms of state violence against oppressed caste communities.

Mr. Dhruva Gandhi, in *Janhit Abhiyan: Where Does It Lead Us?* comments on the judgment of the Supreme Court of India upholding the constitutionality of the 103rd Constitutional Amendment, which introduced reservations for economically weaker sections.[2] He generatively reads the judgment to put forth its implications in laying the groundwork for recognising 'poverty' or 'economic class' as a protected marker in discrimination law. He also argues how the judgment brings out the need to clarify certain aspects of equality and discrimination law. *First*, whether Article 15(1) is an absolute prohibition against classification on the grounds listed in it, and *second*, the conflicting judicial decisions on whether the 50% ceiling on reservations can be circumvented in any situation. In doing so, he locates the judgment within the broader contours of anti-discrimination and affirmative action theory and jurisprudence.

The final piece is a book review of *Pamela Cox and Sandra Walklate (eds), Victims' Access to Justice: Historical and Comparative Perspectives (Routledge: 2022)* by Prof. Radhika Chitkara. Through a thematic review of this edited collection of essays on the place of victims in criminal justice systems across countries, she highlights the contributions of the book and underscores the need for a deeper scrutiny into the relationship between the state, victims, and the accused, particularly in the South Asian context.

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2 *Janhit Abhiyan v Union of India* (2023) 5 SCC 1.

Along with the articles in this Issue, it is essential to also include the significant scholarship produced by the *Review* through its online *Forum*. In our online series *Queering the (Court)Room: SLR Special Series on the Marriage Equality Debate in India*, the editorial board put together five interviews to explore the implications of the widely-publicised courtroom hearings in the marriage equality case,[3] beyond the law and constitutional rhetoric. The interviews are by queer activists and academicians, located both within and outside India, and each of them brings out a different perspective on queerness as identity and activism, the law, and the state.

I would like to extend my sincere and heartfelt gratitude to all our authors, who were extremely patient and kind while working and engaging with our editorial board. As student editors, we have learnt a great deal on various methodologies of socio-legal writing through the editorial process for this Issue. I would also like to thank all our peer-reviewers for their immense intellectual and emotional labour in reviewing these articles. I must also thank Ms. Nishtha V, and our faculty advisor and Vice-Chancellor Prof. (Dr.) Sudhir Krishnaswamy, for their support and guidance. Lastly, I acknowledge all the work put in by the Editorial Board of 2022-23, and thank them for their sustained efforts. I hope that this Issue generates thought, discussion, and further writing in the socio-legal space in India, and look forward to feedback on and responses to these articles in upcoming volumes of our journal and on the online forum.

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Editor-in-Chief,
Socio-Legal Review,
New Delhi, May 2024.

[3] *Supriyo v Union of India* 2023 SCC OnLine 1348.