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Volume 10

Issue 2 *Proceedings of the Conference on  
Gender and Sexuality Organized by the Law and  
Society Committee*

2014

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# **Socio-Legal Review**

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**Vol. 10**

**2014**

## **ARTICLES**

**The Language of Evidence in Rape Trials** *Saumya Maheshwari*

**Rape, Impunity and Justice in Kashmir** *Seema Kazi*

**The Good, the Bad, and the Adulterous:  
Criminal Law and Adultery in India** *Abhinav Sekhri*

**Proceedings of The Conference On  
Gender And Sexuality** *The Law And Society  
Committee, NLSIU*

# **SOCIO-LEGAL REVIEW**

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Vol. 10

2014

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## ABOUT THE JOURNAL

### Objective of the Journal

The *Socio-Legal Review* (SLR) is a student-edited, peer-reviewed interdisciplinary journal published by the Law and Society Committee. The Journal aims to be a forum that involves, promotes and engages students and scholars to express and share their ideas and opinions on themes and methodologies relating to the interface of law and society. SLR thus features guest articles by eminent scholars as well as student essays, providing an interface for the two communities to interact.

The Journal subscribes to an expansive view on the interpretation of “law and society” thereby keeping its basic criteria for contributions simply that of high academic merit, as long as there is a perceivable link. This would include not just writing about the role played by law in social change, or the role played by social dynamics in the formulation and implementation of law, but also writing that simply takes cognizance of legal institutions/ institutions of governance/ administration, power structures in social commentary and so on. Through this effort, the journal also hopes to fill the lacunae relating to academic debate on socio-legal matters among law students.

### The Editorial Board

The journal is edited by a seven member Board of Editors selected from amongst students of the National Law School of India University, Bangalore through a selection test conducted by the Law and Society Committee. Dr. Sarasu E. Thomas, Faculty, the National Law School of India University, is the Faculty Advisor for the Socio-Legal Review.

### Editorial and Peer Review Policy

All manuscripts have to undergo the peer review process. The practice of peer review is to ensure that work of quality and merit is published. All manuscripts received are evaluated by the Editor-in-Chief and another editor on the Board of Editors. Besides an assessment of whether they fit within the mandate and scope of the journal, the key parameters include content and analysis, originality, structure, style, clarity of expression and grammar. Authors of manuscripts rejected at this stage will be informed within approximately one month after receipt of their manuscript.

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### **Instructions for Contributors**

Manuscripts offered for publication in the *Socio-Legal Review* can only be submitted by e-mail. Email submissions should be sent preferably in Microsoft Word 2007 format to slr.nlsiu@gmail.com.

The manuscript should be on any theme exploring the interface between law and society. Each volume of the *Socio-Legal Review* consists of Articles and Notes from the Field. Additionally, Legislative Comments are also published some years. This year, a new section, Book Reviews, has been introduced.

Notes from the Field consists of shorter pieces designed to provide a glimpse into a new legal strategy, political initiative or advocacy technique applied in the field, a current problem or obstacle faced in legal reform or development work, or a new issue that has not yet received much attention and needs to be brought to light. This section is designed for the student researchers, legal practitioners, field staffers, and activists who often have the most significant insights to contribute, but the least time to write the longer, scholarly articles.

The *Socio-Legal Review* will not accept manuscripts that have already been published in either printed or electronic form. Contributors should include their name(s), contact address, professional affiliation, acknowledgments and other biographical information in a separate title page, to facilitate the anonymous review process.

The offer of a manuscript to the *Socio-Legal Review* by a contributor will, upon the manuscript being accepted by the board of editors, imply a transfer of the copyright to the Law and Society Committee of the National Law School of India University. The author retains his/her moral rights in the submission.

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## EDITORIAL

The relevance of the Socio-Legal perspective as a critical lens of law is one which is often understated or ignored in India. While day-to-day transactional and dispute resolution work may not be heavily influenced by the socio-legal, it is indubitable that its long term stability relies on the same. The aim of the Socio-Legal Review has been to consistently focus this lens with its inter-disciplinary methodology on current legal issues in order to expose the myopic view that the law sometimes takes and to study the limitations and consequences of legal intervention.

While every year throws up a new set of issues, this year the Editorial Board of 2013-2014 has chosen to come out with a decidedly different volume in collaboration with the Law and Society Committee of the National Law School of India University. We have witnessed significant public debate centered on the rape problem in India, which has thrown up questions of the status of women in India, the perception of Indian society on questions of consent and sexuality. We felt that in this backdrop, it is essential to have an issue which illustrates the assumptions that the law makes about women and its implications. Simultaneously, the Law and Society Committee also conducted a conference on Gender and Sexuality which ties in perfectly with our theme. As a result, the transcript of the conference forms a part of this volume.

In ‘The Language of Evidence in Rape Trials’, Saumya Maheshwari examines how language influences the outcomes of rape trials. She argues that due to the phallogocentric logic of the evidence that is adduced, the trial is often reduced into a pornographic spectacle with no consideration of the effect this may have for the accused. This has implications in addition to influencing the outcome of the trial i.e. in the detrimental impact it has on the reporting of the crime. Seema Kazi in ‘Rape, Impunity and Justice in Kashmir’ analyses how rape is used as an instrument by the state as retribution against rebels and to subjugate the entire population through

the humiliation of the women. In the context of the Armed Forces Special Powers Act, she examines how the military, police, judiciary and the media are either complicit in this show of dominance or powerless to prevent it.

Moving away from the crime of rape, the next article examines another offence that makes some problematic assumptions about women. Abhinav Sekhri in 'The Good, the Bad, and the Adulterous: Criminal Law and Adultery in India', calls for the decriminalisation of adultery. While touching upon issues of gender equality, this is predominantly done through the perspective of criminal law.

It is our belief that these articles highlight important issues and we hope that they are not only a valuable addition to the current literature on these issues but also trigger debates and are instrumental in finding solutions. To this end, the transcript of the Conference on Gender and Sexuality and the papers presented there are extremely insightful and serve as a useful supplement to our reviewed articles.

The publication of this issue has been a challenging one. We would like to thank our eminent advisory board and peer reviewers who have gone above and beyond what was required of them. We are immensely grateful for the time that our peer reviewers have devoted to the reviews, fully aware that they have multiple work and other commitments. Special thanks are also owed to the line editors of this issue- Vansh Gupta and Shreya Prakash, who line edited not only the journal articles but also the conference transcript. Additionally, Divij Joshi, Convenor of the Law and Society Committee, 2014-15 for making this collaboration so smooth. And lastly, to the institutional support we get from law school, in particular, Professor Sarasu E. Thomas, our faculty advisor, for her support and patience.

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2013-2014