

# UPES LAW REVIEW

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with Reference to Stewardship Codes

*Mr. Abhishek Sinha*

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**“AZADI KA AMRIT MAHOTSAV –  
TRANSFORMATION OF LAW AND JUSTICE IN THE  
LAST 75 YEARS”**

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### FOREWORD

It is my pleasure and enthusiasm to write this foreword for UPES Law Review, a law journal which has recently been included in the coveted list of UGC-CARE. I sincerely believe that this law journal will undoubtedly help in shaping the legal landscape and serve as an indispensable resource for research scholars, legal practitioners, academicians, and students alike.

UPES Law Review encapsulates an impressive culmination of scholarly and well researched articles, exploring a wide range of topics that are of utmost importance to our contemporary legal system.

In an era marked by rapid changes and complex legal challenges, this year's theme for UPES Law Review is "*Azadi Ka Amrit Mahotsav — Transformation of Law and Justice in the Last 75 Years*".

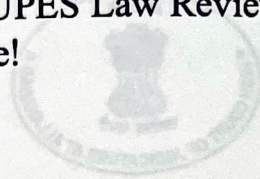
I have no doubt that UPES Law Review will serve as a valuable resource in legal libraries, law firms, and academic institutions, not only in India but other jurisdictions as well. Its meticulously researched content, thoughtful analysis, and relevance to modern legal discourse will undoubtedly contribute to the development and refinement of legal scholarship.

I extend my heartfelt congratulations to School of Law, UPES for their outstanding contribution to the field of legal education.

In conclusion, it is my privilege to endorse UPES Law Review. May this foreword serve as a testament to its significance and impact and may it inspire all the readers to engage with the material and contribute to the ongoing evolution of our legal system.



I congratulate and wish UPES Law Review and School of Law; UPES much success into the future!



Justice Deepak Verma  
Judge, High Court of Judicature at Allahabad

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## EDITORIAL NOTE

It is our immense privilege to provide you with a brief overview of the VII Volume of UPES Law Review (2022). We began our journey in 2013, when the first volume was released and over the years we have received a tremendous response from academicians, industry experts, law experts and scholars from various fields. Our previous six editions and the excellent contributions we have received have helped us in becoming a leading academic journal, embracing legal scholarship. This has ensured our place in the coveted UGC-CARE List. We have always ensured maintaining high standards of publication, of integrity, transparency and consistency and towards creating a landscape to promote qualitative and scholarly research.

The Journal received an overall mentorship of our Editor-in-Chief, Mr. Abhishek Sinha, who has also written a *Prologue: Institutional Investors and Corporate Governance: A critical analysis with reference to stewardship codes* to this Volume, highlighting the major contemporary legal issues and challenges requiring attention of law researchers.

The present volume aims at promoting interest and encouraging academic research, deliberations and writing on the theme of *Azadi Ka Amrit Mahotsav – Transformation of Law and Justice in the past 75 years*. The Editorial Board had a tough time choosing the articles for this volume and could finalize the 11 articles based on their quality of content and analysis. Idea was to include discussions on important contemporary issues in law. Articles were reviewed by an independent peer review board and authors were diligent in incorporating suggestions and changes from the editors. We sincerely acknowledge the efforts put in by our authors and reviewers of this Volume.

This year's edition starts with an article by Dr. K.N. Chaturvedi, former member- secretary of the Law Commission of India. It sets the tone for this year's volume on the evolution of law; with an internal perspective. Laden with personal experiences as a member secretary of the central law commission which took him to corners in India and abroad. He argues for a permanent law commission at the centre, born out of a statute to promote law transformation as opposed to India's current system of forming law commissions.

The second article by Dr. Ashok Patil, discusses not just the evolution of law but also how activities such as smoking have transformed over



the years. With different forms of E-Cigarettes capturing the market, the article could not have come at a better time. The article talks about the harmful effects of e-cigarettes as well as the legal frameworks developed by various countries. While discussing the Prohibition of Electronic Cigarettes Act, the author talks about the prevalence of e-cigarettes in India, as well as the concerns and corrections that would ensure better implementation and protection for consumers.

The next paper by Dr. Ajar Rab and Namrata Rawat examines the arbitration landscape in India since the passage of the Arbitration and Conciliation Act in 1996, highlighting the disparities between the envisioned arbitration regime and the ground realities. It traces the inconsistency between the current arbitration approach and the Act's objectives, and proposes solutions to address gaps and constraints in the hope that the Act will turn the chimaera of an arbitration hub into reality.

Dr. NikolaIlićin his piece investigates whether intellectual property rights (IPRs) can be qualified as investments under Indian investment laws, bilateral investment treaties (BITs), and other treaties currently in force. It concludes that holders of IPRs may be entitled to additional legal protection and a dispute resolution mechanism known as investment arbitration, however on the flip side the host state may also face a greater risk of being declared liable for violations of statutory requirements and ordered to pay compensation for damages.

Innovation, inventions and discovery are the focus of all budding economies. This next article by Ms. Kanika Dhingra and Mr. Siddharth Balani explore the patent regime that had lasted till the WTO TRIPs Agreement which came into force in 1995. The agreement put the onus on member states to meet the basic minimum standards of intellectual property protection. The paper further describes the necessary changes made to the Indian patent regime following TRIPs and discusses how India has showed up at a balanced position in this regard.

The next paper by Dr. Sumit Kumar investigates the intervention of the revisionist school of historiography in providing a different understanding of the Medieval State and Justice System. It compiles studies by Marxist and Revisionist Historiographers and attempts to examine the debate that has existed for the past 70 years about the nature of state and justice in medieval India. The significance of this study lies in the fact that it aids in understanding the different dimensions of state and justice, thereby departing from previous historical understanding. Legal scholars and



students will be able to understand how patterns of justice shifted in colonial India, as well as locate changing patterns of state nature.

The next article explores the subject of responsible policing by keeping 'measurements' for investigation at the centre. Ms. Kriti Parashar juxtaposes the Identification of Prisoners Act, 1920 and Criminal Procedure (Identification) Act, 2022 to discern whether the legal developments have led to increase in reasonability in criminal procedure. The paper sheds light on whether elements of proportionality and relevance in police investigation can have pitfalls of police brutality.

The next paper by Dr. Bharat and Harmandeep Kaur examines the evolution of justice administration in protecting and safeguarding the employability options of disabled people, as provided by the Constitution and related legislations. They theorise that the concept of disability rights should be based on social-model as opposed medical-model that they are currently based on. They argue that this may help in reducing stigmatisation and bring about greater inclusivity and better protection of rights and interests.

The next paper examines the changes in Indian tax laws over the past 75 years, highlighting the length and breadth of the transformation as well as the salient features of such transformation. *Tarun Jain* dives deep on to an aspect that impacts academia and the common man equally, Taxation! The author traces the changing economic realities, changing discourses, and national priorities that have impacted the tax policy and implementation. Direct and Indirect taxes both have been the subject of inquiry here and compares it with international standards as well.

Climate change has been in the dominant discourse for the few last decades. In this last paper by Dr. Hardik Dagand Latika Choudhary, the impact of climate change on international trade has been explored. The paper sheds light on the impact of this climate change on world economy while keeping focus on markers such as regional production and consumption and in consequence on international trade and investments. The author cautions that sustainable steps are in order to cushion against this inevitability along with recommendations on the same.



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