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FOREWORD

- Dr Ranita Nagar

Editor-in-Chief

It gives me immense pleasure to present the second issue of the GNLU Journal of Law & Economics, published by the GNLU Centre for Law & Economics. The conception and the development of this journal has been a thorough academic exercise, directed towards increasing student inclination towards the profound subject of law and economics. The Journal also wished to remain accessible, which is why it is freely available online, staying committed to its key goal of spreading knowledge about law and economics.

The discipline of law and economics is increasingly attracting legal attention. It seeks to offer a new way of understanding law and legal systems, and measuring their efficiency. Ensuring efficiency and a positive social surplus are key to create better legal systems. The recent validation of experimental economics in law and policy recognized by The Nobel Prize in Economics opens exciting possibilities of designing scientific interventions to design the law with accuracy. Some of the best minds in the world are developing their expertise in this subject, owing to its massive scope and capability in improving the way we view laws and develop them. In fact, the Supreme Court of India has also been progressively increasing its dependence on principles of law and economics in its decisions.

To call the study of economics intertwined with law an important backbone to legal studies would be an understatement. This study can help lawyers make better arguments, and understand the economic ramifications of laws. To encourage this, the GNLU Centre for Law & Economics organised an Essay Competition on Law & Economics. It was incredibly heartening to see a number of students show their interest in the field, and come up with a large number of unique entries. The best entry of this year's competition has also been featured in this issue of the Journal. I wish the heartiest congratulations to the winners, as well as to all the participants for their interest in the subject.

To give a little bit of background into the growth of this journal, Gujarat National Law University has always been motivated to create an environment for research-based training and learning. All subjects are taught keeping in mind an inter-disciplinary approach to learning, and students are encouraged to develop a holistic outlook to equip them to serve the legal

community better. The GNLU Centre for Law & Economics plays a crucial part in furthering this aim. Since its inception, the Centre has been dedicated through its members in achieving value addition and capacity building in the expanding horizon of law & economics. The Centre has exemplified this by way of several ventures in both research projects as well as organising sessions with experts in the field, in person and by way of Skype lectures. The Centre also eases the transition into an economic way of thinking for first year students who are just joining college by way of creating a support program for students transitioning from different streams who have no experience in the study of economics. The focus on economic thinking is seen in the course outlines at Gujarat National Law University, wherein major economics subjects are taught over three semesters, the Ist, IInd and the VIth semesters. The Centre also promotes the ideas and ventures of its students, leading to several student run groups, working on Section 138 of the Negotiable Instruments Act, and the Consumer Protection Act 2019. These research ideas are fostered within the Centre, and mentored by Centre Professors who guide these research ideas and help students deliver high-quality work, with conclusions supported by empirical evidence. The programmes organised by the Centre are focused on relevant and important issues, and have attracted a large amount of participation, such as our most recent programme on the Insolvency and Bankruptcy Code.

In the ethos of adding to the existing academia of law & economics, the Centre created the GNLU Journal of Law & Economics. The inaugural issue received support from a greatly renowned advisory board including Hon'ble Justice Sikri, and Hon'ble Justice Dr. D Y Chandrachud and eminent professors in the field such as Prof. Tom Ginsberg and Dr. Hans Bernard Schafer. The issue featured articles from renowned authors like Dr. Nuno Garoupa, Dr. Thomas Ulen and Dr. Regis Lanneau.

CONTRIBUTIONS

This second issue contains six articles, from authors all around the world. These comprise of economic analyses of several key dimensions of law such as constitutionalism, jurisprudence and corporate law. To solve some of the world's problems, is the outlook that all these articles echo, and they apply law & economics to these complex issues to present unique solutions. In her article titled Economic Rights: Issues & Suggestions with Reference To Constitutionalization, Adjudication & Policy Making, Palak Jain gives an outlook into the acknowledgement of economic rights in different jurisdictions. She explains that while these rights are adopted and institutionalized, their application to policy making remains poor.

Enforcing these rights is a futile and tedious exercise, and the author goes over their judicial interpretation to explain the same. She examines that while such rights are in vogue, their simple recognition does not afford any adequate solution. She explains the barriers which arise in the implementation of economic policies and explains how policy makers often reduce public utility to ensure personal gain. She also gives a three-pronged approach to how better fulfillment of economic rights can be achieved.

Mark D. White presents a paper of jurisprudential importance as he focuses on The Neglect of Rights in Law & Economics. He refers to the utilitarian background of the growth of law & economics and how the same has resulted in a disregard for individual rights within the discipline. He explains how the understanding of the term efficiency in economics focuses on the bigger benefits, and disregards the minority who suffers to create these surpluses. He explains how an economic approach to law focuses on creating efficient levels of harm, rather than eliminating harm whatsoever, which ideally should be the aim of law. He puts an economic analysis of law on the backburner, stating that it must always yield to the protection of individual rights.

Lucas Bento examines the popular corporate structure of limited liability in his paper entitled Corporate Law & Economics of Limited Liability: A Perspective Overview and Some Open Questions? He gives a background to the reasons for the development of limited liability as a corporate structure. He also refers to how it is necessary to create a well-defined distinction between management and risk sharing in business enterprises, and also defined circumstances wherein courts have pierced the corporate veil to protect the interests of shareholders.

Frank Fagan explores an interesting drift between standardization and competition in his paper entitled Standardized Data Collection: Legal Requirements, Guidelines or Competition. He explains that while standardized data collection helps in ensuring economies of scale, it can have an adverse impact on competition and innovation. Once certain standards are set, it may be possible that they become outdated, and therefore, it may be difficult to ensure constant development. He describes the role of law in ensuring both a coordinated process for data collection in terms of both procedure and substance. With the rapid slowdown in the automobile sector in India, Soumya Hariharan, Nandita Sahai, Sakshi Agarwal, and Akrathi Reddy's paper titled Fuelling Compliance with Competition Law: Competition Law & the Automobile Sector describes the most recent trends in the competition market dealing with combinations and abuse of dominance in the automobile sector. By describing the most recent developments in the

sector, the authors suggest how enterprises in the automobile sector can develop competition compliant practices in order to protect themselves from dawn raids carried out by the Competition Commission of India.

Shubhangi Maheshwari discusses the possible ramifications of a contingency fee structure for lawyers in her paper titled Allowing Lawyers to Charge Contingency Fees: Impact on the Legal Services Market. The paper argues in favour of such fees and illustrates how the same could be beneficial to all stakeholders in the legal market. By applying a traditional market analysis to the legal profession, she explains how a situation of market failure arises in the legal market owing to improper allocation of risk between the lawyer and the client. She also explains how a system of contingency fees can substitute the current legal aid system.

It is truly heartening to such a diverse range of topics being explored from the point of view of law & economics. This truly goes a long way to show the pervasive nature of the discipline, and its impact on diverse spheres of law and life. We hope that the readers of this edition shall also enjoy having an economic outlook on so many different topics.

ACKNOWLEDGEMENT

Developing this journal from an idea to an actuality, and continuing it to its second edition has been an enthralling experience. I am grateful for the supported accorded to this venture by our institution Gujarat National Law University, and its Director, Prof. Dr. S Shanthakumar. I am also grateful to Prof. Dr. B. Patel, former Director, Gujarat National Law University, for his continued encouragement and support since the inaugural issue of this Journal.

My colleagues within the Centre have also worked tirelessly to constantly inspire this journal, on this note, I wish to thank Dr. Hitesh Thakkar, Assistant Professor of Economics and Dr. A. Marisport, Assistant Professor of Law. Our Board of Advisors have also shown tremendous support to this venture, and my sincere gratitude goes to them.

I also wish to thank all the Teaching and Research Assistants as well as the administrative staff who joined me on this journey. This was a journey for the benefit of my students, who have put in efforts to ensure that the highest quality standards of this journal are maintained. Therefore, a sincere thanks is also due to the student editorial team who has worked on this journal tirelessly.

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