

COMMONWEALTH INSTITUTE FOR JUSTICE EDUCATION AND RESEARCH

LLOYD LAW COLLEGE, GREATER NOIDA

[AN INITIATIVE OF COMMONWEALTH LEGAL EDUCATION ASSOCIATION (ASIA-INDIA CHAPTER)]

CALL FOR PAPERS FOR AN EDITED VOLUME

On

**70 YEARS OF INDEPENDENCE: JUDICIARY IN INDIA- RETROSPECT
AND PROSPECT**

The concept of justice is used in two senses – “faithful realization of the existing law against any arbitrary infraction and search for the ideal element in all law, i.e. the ‘idea’ which the law tends to sub serve.”¹ In a State, the nature of the works which are assigned to its judicial branch primarily determines their place in the scheme of things. As an upholder of justice, protector of rights and fundamental freedoms of citizens and others, the courts of law hold a unique position in the life of an individual and consequently, in the society as a whole. In a constitutional democracy the role of the judiciary is much higher and more relevant.

For the governance of independent India, the Indian Constituent Assembly drafted the Constitution, the supreme law of the land, with inter-alia, a four-fold objective of securing justice, liberty, equality and fraternity to its citizens. The Constitution was adopted and enacted by the Constituent Assembly on 26 November, 1949. The Constitution has allocated and expressly stated the different and unique powers and functions of the three organs of the state viz. legislature, executive and judiciary. Each of these organs plays an important role in the achievement of the said objective. As per the conventional understanding, the legislature makes the law, the executive implements them and the judiciary adjudicates and interprets the law. Even though there is no strict application of the theory of separation of powers in India, the Constitution has drawn certain limits and boundaries in respect of the legislative, executive and

¹George Gurvitch, “Justice,” in Encyclopedia of the Social Sciences, Vol.8. New York: Macmillan Company (1932).

the judicial powers. The Constitution of India provides the framework for the structure, functions and powers of the judiciary. It has introduced a hierarchical and unified system in all the States and Union Territories.

In post independent India, the judiciary performs various important roles like traditional jurisdiction of civil and criminal; prevention of violation of law; interpretation of constitutional questions; administrative functions; advisory function *etc.* The court conducts a delicate function in dispensing with their duties especially with regard to the cases involving the government. The judiciary in India, specially the higher judiciary has been assigned a vital role in various areas like upholding the federal principle, interpretation of the laws made by respective legislatures, testing the validity of such laws and more importantly in protecting the fundamental rights of the citizens.

In its exercise of its own power the Supreme Court of India has applied various doctrines like judicial review, judicial activism, judicial self-restraint, judicial traditionalism *etc.* to achieve the Constitutional objectives. However, it cannot be said the Indian judicial performance in an even and predictable. In the first two decades, the Supreme Court-led higher judiciary exercised restraint considering the development and demographical needs of a newly independent nation. Through 1960's to the 70's the judiciary struggled with the interpretation of the fundamental rights, especially the right to property (guaranteed under article 19(1)(f) at the time), in the context of the Directive Principles of State Policy. These issues at times had resulted in contradictory decisions and interpretations on land reforms or agrarian reforms. The Supreme Court faced certain difficulties to harmoniously interpret to realize the goals enshrined in Articles 38-39 of the Constitution directing the state to provide social and economic justice to the people. The period from 1980 to 2000 saw the Court achieving a balanced approach in the interpretation of law and these harmonious interpretations led to the rise of applied sociological jurisprudence in the country. The Indian judiciary has achieved an expansive judicial control in many areas of the constitutional law, by exercise of the power of judicial review and various other doctrines like judicial activism, judicial supremacy, judicial liberalism *etc.* However, the turn of the century has seen a visible shift in the scenario with the judiciary criticized for instances of judicial over reach.

India has completed 70 years of independence and the proposed volume tries to undertake a comprehensive review of judicial performance in the last seven decades and what are the prospects for the same in a globalised world.

The book shall be published with ISBN and the contributions should be under the following themes.

Broad Themes

1. Judicial Independence – Constitutional Framework and Contemporary Issues;
2. Judicial Activism in India;
3. Legitimacy and Legality of Judicial Activism;
4. Judicial Activism: Liberty and Good Governance;
5. Jurimetrics in adjudication process;
6. Judges and Judicial Accountability;
7. Public Interest Litigation;
8. Constitutional Morality and Judicial Articulation;
9. Access to Justice and Delay in Disposal of Cases.

Submission Guidelines

1. The research paper should address the following aspects under each topic:
 - a. A short background with introduction;
 - b. Constitutional provisions;
 - c. Comparative analysis with best practices;
 - d. Leading case laws
 - e. Conclusion and way forward.
2. The page limit is **10 pages** and each paper should have an abstract of not more than 200 words;
3. The paper shall be formatted according to the following guidelines:
 - a. It shall be in Microsoft word format, Times New Roman font, 12 pt. size and 1.5 line spacing for main text; Times New Roman font, 10 pt size and 1 line spacing for the footnotes;
 - b. The main text shall be divided under different sub-headings. Different level of headings shall be formatted as follows:

- Level one heading: It shall be numbered and in the centre.
- Level two heading: It shall be left aligned and in bold letters.
- Level three heading: It shall be left aligned and italicized.

c. All citations shall be placed in foot-notes;

d. The ILI pattern should be strictly followed in the footnoting and citation. The mode of citation to be followed is available at <http://www.ili.ac.in/footnoting.pdf>.

4. All papers should have a Cover sheet with the Theme, Title of the paper, Author details including name, designation and affiliation.

5. All papers (abstract and full paper) must be mailed to **researchcell@lloydlawcollege.edu.in** under the subject name: “**Judiciary in India- Retrospect and Prospect- Title of the Paper- Author’s Name**”.

6. Important Dates:

a. Date of announcement: December 1, 2017,

b. Date of submission of the abstract: December 28, 2017

c. Date of full paper submission: January 15, 2018.