



**7th GNLU International Conference on Economic Analysis of Law, Governance & Public Policy**

**20 - 21 January, 2024**

**Abstract Compilation**

**Organized by**

**GNLU Centre for Law and Economics**



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## **THE REGULATORY CHALLENGES OF CROSS-BORDER FINANCIAL SERVICES TRADE WITHIN THE WTO FRAMEWORK**

*Tarjani Singh, Harsh Gupta*

The World Trade Organization which is better known as WTO is a financial regulatory body that regulated and monitors trades that go on between different nations, but modern times have presented the rather old WTO with various challenges when it comes to dealing with cross-border financial services, but to understand these regulatory challenges concerning cross-border financial services trade within the WTO framework, it's essential to firstly understand it's historical context. The WTO was established in 1995, it succeeded the General Agreement on Tariffs and Trade (GATT), which dates back to the aftermath of World War II. The GATT had one major drawback it limited itself to trade in goods and laid no emphasis whatsoever on the services and regulations cross-border trade required. WTO however tried to learn from the mistakes of its predecessors and aimed at providing and ensuring that trade is provided with services to ensure efficiency, the WTO in the Uruguay Round also introduced the General Agreement on Trade in Services (GATS) after recognizing the growing importance of services, the WTO then became the pioneer in its effort to regulate the international trade of services, including financial services. In addition to the WTO, there several of other international organizations that are working to address the regulatory challenges of cross-border financial services trade. For example, the Financial Stability Board (FSB) is a group of central banks and financial regulators that is working to develop and promote international standards for financial regulation. The FSB is also working to promote cooperation between regulators and to address the risk of financial instability.

However, the challenges that are faced during cross-border financial services and trade are very intricate and complicated, making it even for the best of bodies to regulate and administer. However, the WTO and other international organizations are working to develop solutions to these challenges. As cross-border financial services trade continues to grow, it is important to find ways to address these challenges in a way that promotes economic growth and financial stability.

GATS helps WTO in doing exactly that by forming an integral part of the WTO framework, it works closely with the most critical parts of cross-border financial services and trade. It offers

provisions related to market access and national treatment for foreign financial service providers. The GATS includes provisions that allow WTO member countries to take prudential measures aimed at safeguarding their financial stability. But with the ever-evolving digital world the pre-existing WTO provisions do provide a sense as of being outdated, the addition of highly complex and technical financial bodies such as Fintech, Blockchain, and cryptocurrencies. To ensure smooth cross-border financial services continue the WTO must evolve its provisions and consider doing so its priority. The regulatory challenges associated with cross-border financial services trade within the WTO framework are of paramount importance for the future. In an increasingly interconnected world, the stability and growth of the global economy depend on a well-regulated financial services sector. The issues outlined above are relevant because they impact economic growth, financial stability, and the ability of nations to harness the benefits of financial globalization.

Furthermore, as technology continues to advance, and economic and financial dynamics evolve, addressing these challenges will be critical for ensuring that the WTO remains effective in facilitating trade and providing a platform for resolving disputes in the financial services sector. A robust understanding of these issues is essential for policymakers, legal professionals, and academics alike as they work to shape the future of international trade in financial services.

***Keywords:*** *GATS, WTO, Cross-Border Financial Services, International Trade, Bilateral Agreement, World Economy.*

## **USE OF CURRENCIES OTHER THAN THE DOLLAR FOR INTERNATIONAL TRADE AND ITS IMPACT ON WORLD ECONOMY IN THE CONTEXT OF THE RUSSIA-UKRAINE WAR**

*Vinayak Malhotra and Anushree Shrivastava*

This article examines the impact of the use of alternate currencies to the dollar in international trade and its impact on a world economy dominated by the dollar and trade patterns of different countries in context of the ongoing Russia-Ukraine war. The paper looks at Russia as well as other related countries and their use of alternate currencies for conducting trade. The effectiveness of the sanctions in place on Russia, placed by the EU and the US, are also looked. In the literary review, we give a background about the current dominance of the dollar as an international currency and theoretical argument about the impact of dollar's absence from world trade. For the analysis, secondary data from news sources and international reports was collected and it is used to perform a descriptive analysis to answer the questions asked in the paper. The paper also looks at the recent trends that may present challenge to the dominant status of the dollar in the long run. It also provides for future areas using statical models to gain further insight into the topic.

## THE COST ON SPEECH AND THE ECONOMICS OF CENSORSHIP

*Malhar Roy*

Free speech and Censorship are at the core of the governance in any regime. The degree of the freedom of speech and the degree of censorship often determines the kind of society and government a nation acquires. By analysing free speech and censorship through an economic framework we can attempt to derive a clearer picture of the consequences of various policy decisions on free speech and censorship. In this paper the consequences of absolute free speech and liability on speech are explored through the mediums of economic concepts and it is argued that it is more beneficial to apply liability to speech. The various tools of regulation in a marketplace of ideas have been explored in an economic capacity. Censorship has been given special focus due to the many contentions that surround it and the role it plays in the success of many authoritarian regimes. During this research censorship has been found to be a tool too risky and ineffective to be used in public policy.

**Keywords:** *Marketplace of ideas, Informational asymmetry, Adverse selection, Free Speech, Censorship*



## A PERCEPTION OF CONSTITUTIONAL VISION OF SOCIO-ECONOMIC DEVELOPMENT IN INDIA

*Dr Shweta Mohan*

Initially, development was considered to be an invention and classification effecting the society and nations in a constructive manner. The contemporary belief follows that the concept of development predicates socio-economic growth and development with respect to individuals. Moreover, this approach has extended its branches to the multidimensional aspect of poverty and inequality. It defines development as a tool enabling people to reach the highest level of their ability, through granting freedom of action, i.e., freedom of economic, social, and family actions. The present paper is an attempt to analyse the constitutional vision of socio-economic development of our country. The paper is divided into four sections. The first section is a primer of interdisciplinary approach of development facet. The second section delves on to what examines the constitutional revelation of economic development in India. The third section attempts to scrutinize the extent to which the constitutional vision of development is chance in reality. The fourth section provides conclusive recommendations.

**Keywords:** *Development, Socio-economic, Directive principle of State Policy*

## **TESTING THE COST-EFFECTIVENESS OF THE PROPOSED TRADE UNION REGIME UNDER THE INDUSTRIAL RELATIONS CODE, 2020**

*Mohammad Zayaan Ravouf Asimi*

The Government of India proposed various changes in the trade union regime in India as part of the Industrial Relations Code, 2020. Amongst various other changes, there are two important ones that could change the entire landscape of labour rights in India- centralization of rule-making powers vis-à-vis trade unions and restriction of number of trade unions in an establishment to one. This study examines the trade-offs between trade union rule-making authority centralization and decentralization, as well as the effects of limiting the number of unions inside an organization, using a framework based on law and economics. It takes into account both economic and legal aspects, including the likelihood of collusion, the distribution of negotiating power, and the effect on labour market competition. It also assesses the legislative and regulatory instruments at play in order to achieve a balance between fostering efficiency and guaranteeing ethical labour practices. The intricate interactions between trade union centralization and the limitation of the number of unions inside an establishment are explored in depth by this paper. In an effort to achieve a delicate balance between the efficiency gains and potential anti-competitive effects of centralization and consolidation in trade unions, it provides policymakers and stakeholders with a vital perspective when tackling labour market regulation.

## **AFFIRMATIVE ACTION FOR WOMEN IN INDIA: AN ECONOMIC ANALYSIS OF NEW LANDSCAPE OF ELECTIONS**

*Anay Naik*

The Government of India on September 20<sup>th</sup>, 2023 introduced the “Nari Sakti Vandan Adhiniyam” for reserving thirty-three percent of seats for women in the Parliament of India. This is seen as a historic step in empowering the women population in India, both in the fronts of development and social life. The Introduction of the Women Reservation Bill fulfils the aspirations of the millions of women, but its impact on the changing scenarios of the Indian Electoral Politics and Elections cannot be neglected. That is why in this paper, the author tries to analyse the new landscape of the elections with respect to the Women Reservation Bill, economically. For this, we first understand the history of affirmative action in India in general and for women in specific. Then we move on to the economic analysis, where we start by analysing the selection of candidates, the voter preferences and the electoral composition to reach to the conclusion that the Women Reservation Bill will not only help and affect women socially but also economically.

**Keywords:** *Women, Affirmative Action, Public Spending, Ability, Utility*

## **FRAMEWORK ANALYSIS OF PUBLIC POLICY: INEQUALITY, HEALTHCARE, AND CLIMATE CHANGE.**

*Tia Sikka, Mihir N Singh and Ashish Mathaly*

Public policy plays a crucial role in addressing societal challenges, and a few of the most pressing issues of our times are inequality, health and climate change. In this paper, the focus is on the use of macroeconomic tools to analyse public policies on the aforementioned topics. This paper provides an overview of the roles and limitations of these tools in policy analysis, explores key indicators and variables to attain favourable responses for the economic development of the society. The paper is formulated by the adoption of a doctrinal method of study. Through the usage of fiscal and monetary policies, this paper delves into the decisions and contributions made by policymakers and researchers for a more equitable future. The results provide a comprehensive view of the trade-offs and potential solutions for policymakers seeking to reduce inequality, promote health and mitigate the risks of climate change while maintaining economic growth.

## **ECONOMIC ANALYSIS OF SWAMIH (SPECIAL WINDOW FOR AFFORDABLE AND MID-INCOME HOUSING) INVESTMENT FUNDS INTRODUCED BY THE CENTRAL GOVERNMENT**

*Jaineesh V Maharajwala*

Real estate is a booming sector in India. Indian population tend to invest their money either in real estate sector or in gold. Real estate sector had a lot of issues and lacunas but after the enactment of the Real Estate Regulatory Authority of India in 2016, the era of fraud, distrust, scams reduced to a great extent. Huge funds are needed to finish off the construction projects and hence it was observed that despite taking advance money either fully or partially from the homebuyers, the builders were unable to complete the projects and deliver the property on time. There were various reasons for the projects getting stalled, such as, miscalculation from the side of builders, inefficiency, inflation, etc. In order to safeguard the rights of the homebuyers, the Central Government introduced SWAMIH (Special Window for Affordable and Mid-Income Housing Scheme) in September 2019<sup>1</sup>. Under this scheme, the government used to fund the last mile projects which are yet to be completed due to exhaustion of funds. This paper aims to analyse the scheme through an economic perspective and the pros and cons of the scheme. Suggestions are also provided to make the scheme much more effective and efficient.

**Keywords:** *SWAMIH (Special Window for Affordable and Mid-Income Housing) Scheme, RERA, economic perspective.*

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<sup>1</sup> <https://sbicapventures.com/funds-managed/swamih-investment-fund/>

## **ECONOMIC ANALYSIS OF COMMUNITY-BASED INTERVENTIONS IN INDIA'S MENTAL HEALTH LAWS AND POLICY FRAMEWORKS: RESOURCE ALLOCATION AND THE EFFICIENCY.**

*Sarah*

Although there has been an increase in the provision of funds for mental health in India, the prevalence of suicide and mental disease remains a significant burden. This study utilizes a law and economic analysis to evaluate the effectiveness of community-based interventions in the mental health ecosystem. The study aims to harmonize laws and policies with community-based viewpoints, bridge existing gaps, and optimize the allocation of resources for efficient interventions. The objective is to provide information for the purpose of implementing policy changes, empowering communities, and improving economic efficiency within the legal and economic systems of India. Significant inquiries are made concerning the capacity of community-based interventions to provide efficient interventions for suicide prevention, and resource allocation for the same.

## A CRITICAL ANALYSIS OF ANTI-DEFECTION LAW THROUGH AN ECONOMIC LENS

*Manasa Murali & Rutu Muppidi*

*“If men were angels, no government would be necessary. If angels were to govern men, neither external nor internal controls on government would be necessary. In framing a government which is to be administered by men over men, the great difficulty lies in this: you must first enable the government to control the governed; and in the next place oblige it to control itself.”*

----James Madison, The Federalist Papers

Defection is not an unfamiliar term for parliamentary democracies like India. Though the evil practice was present since the pre-independence era, the advent of the multi-party system resulting in coalition governments increased floor crossing. The instabilities in the weak regimes followed by the political turmoil leading to the rise and fall of governments raised the demand for a law on regulating defection. Addressing popular demand, the 52<sup>nd</sup> Amendment Act of 1985<sup>2</sup> was brought into the picture which added, the 10<sup>th</sup> schedule to the constitution<sup>3</sup>. The law was drafted with due care and attention to retain political preferences and the public's choice. This legislation provided for the disqualification of members in case of defection except for a split or a merger. Subsequently, the law was judicially challenged and judgments were interpreted, where the deterrence effect of the law is highly doubtful. This paper makes an attempt to understand the development of anti-defection law, through judicial interpretations and pointing out the drawbacks of the legislation with the help of economic analysis. To determine the efficiency of the law, economic theories like game theory and public choice theory were applied.

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<sup>2</sup> INDIA CONST., AMENDED BY THE CONSTITUTION (FIFTY-SECOND AMENDMENT) ACT, 1985.

<sup>3</sup> INDIA CONST. SCH.10.

## THE ECONOMIC IMPACT OF A LAW AND ECONOMICS ANALYSIS

## DISPUTE RESOLUTION COST:

*Kavya Prakash & Jithin Jagadanandan*

An efficient dispute-resolution mechanism is one of the most significant characteristics that affect the economy of a country. The paper explores how an expensive legal proceeding hinders business as well as state governance, impeding economic growth and obstructing access to justice. The theory of transaction costs and its relation with the cost of dispute resolution has also been analysed. The paper also examines how the cost of a dispute resolution/litigation could be reduced by adopting cost-efficient mechanisms like Third-Party Funding (TPF), Contingency Fee Arrangement (CFA), Online Dispute Resolution and other mechanisms. It explores how these practices, followed in certain countries, can contribute positively to the Indian scenario, aligning with the objectives of economic growth and access to justice. For the purpose of this paper, the term dispute resolution includes all forms of mechanisms that are used to resolve disputes, including resolution through a formal tribunal setting, arbitral proceedings, to traditional court processes.

**Keywords:** *Cost of litigation, Access to justice, Economic growth, MSMEs, Efficient dispute-resolution mechanism.*



## **NAVIGATING JUSTICE: A CONVICTION RATES AND ECONOMIC GROWTH IN THE EVOLVING LEGAL LANDSCAPE OF BHARAT**

*Roini Gowdar and Shrinath Prakash*

Introduction of the new bills in the Parliament, namely, the Bhartiya Nyaya Sanhita Bill, 2023, The Bhartiya Nagarik Suraksha Sanhita Bill, 2023 and the Bhartiya Sakshya Bill, 2023, has laid emphasis on the conviction rate. Shri Amit Shah, in the Press Release of the New Bills, has mentioned that the target rate of conviction that Bharat is aiming for is 90 per cent. This is an inspiration for this paper to inquire into the relationship between the conviction rate and the economic growth in a country. The questions addressed in this paper are whether there lies a relationship between conviction rate and economic growth and whether the conviction rate influences the economic growth of the country. This descriptive and analytical paper makes a comparative analysis between countries with the aid of GDP as an indicator of economic growth and relates it to conviction rate. Lastly, the new bills are being introduced with a purpose to provide a conducive environment for economic growth.

## AN ECONOMIC ANALYSIS OF WHITE-COLLAR CRIMES IN INDIA: A CASE STUDY

*Chinmayee Hegde & Anuradha S. Pai*

The basis of the entire legal system, since time immemorial, is shrouded in the ideals of justice. Crime attracts Punishment. When a wrongdoer or a criminal is punished, the balance of society is restored. Justice prevails and society reverts to the civil course of functioning. This is the major principle that criminal law is based on.

There are multiple theories of punishment in Jurisprudence proposed by different jurists. Most societies across the world today follow a punishment model that is a mixture of reformative theory and deterrent theory. The reformative model includes rehabilitation and community service. These activities help the wrongdoer in analysing their mistakes and becoming a much better person. While, prisons, the death penalty and penalties or fines imposed on the wrongdoer deter them from committing the crime again and also deter other members of society from committing such an act. In some cases, the guilty are sentenced to a particular prison time and also asked to pay penalties or fines to the court or compensation to the victim. This is where the economic approach to particular crime factors in.

This paper will be divided into three parts. The first part shall deal with theories of punishments and how specific punishments are decided for specific crimes. The second part will discuss the economic perspectives of penalties, fines, and compensations by applying Becker's economic model to certain examples in India. In furtherance, the third part of this paper will attempt to analyse the data available on white-collar crimes in India, applying Becker's economic model to corruption data in India in particular, and how monetary deterrents can be used to contain the crimes.

**Keywords:** *Compensation, Crime, Economics, India, Penalty, Punishment, White-Collar Crime*

## ECONOMIC DYNAMICS OF FAMILY LAW IN INDIA: AN ANALYSIS

Debjani Chowdhury

“The integrity of the home is the source of a nation’s strength.”

..... Confucius

Strong and healthy families are essential to help kids grow well which contributes in their overall development and ultimately benefits the economy. Economic analysis can be used to assess the changing family law structure in terms of marriage, divorce, custody, guardianship, inheritance and succession. Moreover, it is also noted that there has been a changing trend in terms of increase in divorces, unstable family structures, and individuals opting not to marry and instead opting for singular living arrangements. The object of the paper is to view family as one economic unit, acting like a single person and to establish a connection between unstable families on economies and their contribution towards economic development and socialisation of children.

**Keywords:** *Family Law, Economics, Property and Unstable family structure.*

## **LAYERED UNDERSTANDING OF THE NESTED REALITY OF NATURE AND SOCIETY ALONG THE GLOBAL VALUE CHAINS: THE RESILIENCY AND SUSTAINABILITY IN BUSINESS SPACES FOR A REGENERATIVE ECONOMY**

*V Muthu Krishna*

The globe is today sustainability hungry. It needs huge potential to work out the sustainability transition and drive multi decade long development cycles. The needs are huge and the associated risks and to take up responsibility are larger. Regulating the growing interests and diversified aspirations of states and markets and to support sustainable development goals and align them in line with resiliency and sustainability along the varying unimaginable varieties of growth across sectors develop many new purposes for the markets and business and the baseline of the economic development is placed with the reality about the nested nature and society along the lengths of global value chains with specific sustainable and contributory business models. The debate over asset creation, distribution, fairness, welfare and wellbeing are long standing and taking them along with the questions of resiliency and sustainability and the growth of sophistications in support structures in this transition make them as core concerns of market, society and natural environment today and have been searching for increasingly sought after best practices to regenerate and heal the past damages and to provide for attractive growth potential and to create a business and legal environment to manage the demands of the many changing trends in global trade and economic practices which again are expected to be truly durable and remunerative in a regenerative economy aligning economic systems with life and natural systems in principle.

**Keywords:** *resiliency, sustainability, welfare, wellbeing, regenerative economics, policy management, adaptive strategies*

## UNIVERSAL SERVICE OBLIGATIONS: A CRITICAL ANALYSIS

*Shashank Mishra, Shantanu Mathur, Parv Kaushik*

Universal service is a concept aimed at providing access to telecommunication services to everyone. It is a globally recognized concept, and is sometimes used interchangeably with universal access . It has three elements :

- (i) Availability: there should be same level of service for all users, regardless of geographical differences;
- (ii) Affordability: price of service should not limit access to service; and
- (iii) Accessibility: there should be no discrimination in access to service, and its price and quality, based on race, sex, religion, etc.

Given the importance of information and communication technologies in the development, particularly socio-economic, of any society, universal service is extremely relevant. Since delivery of telecom services is capital intensive and undertaken by the private sector, governments impose universal service obligations on them to meet developmental objectives, along with other measures such as subsidies, market-based reforms, public-private partnerships and universal service funds.

## **HUMAN CAPITAL INNOVATION: HR'S ROLE IN FOSTERING ENTREPRENEURSHIP AND START-UP SUCCESS**

*Dr. Padmapani Bhagwan Sawai*

In today's dynamic entrepreneurial landscape, the significance of Human Resources (HR) transcends traditional administrative functions, emerging as a vital catalyst in shaping the trajectory of start-ups. This paper undertakes a comprehensive exploration into HR's multifaceted involvement within the start-up realm. Central to our discussion is the concept of 'human capital,' which encompasses the collective skills, knowledge, and potential of a startup's workforce. We delve into HR strategies specifically tailored for the unique challenges faced by startups, emphasizing the role of innovative talent acquisition methods, bespoke training modules, and retention initiatives designed to mitigate the high turnover rates commonly observed in nascent ventures. By interlinking these HR functions with the overarching goals of innovation and sustainable growth, our research posits that a proactive and strategic HR approach can significantly amplify the chances of start-up success. Through this synthesis, we illuminate HR's transformative potential, highlighting its capacity to nurture innovation and drive long-term viability in entrepreneurial settings.

**Keywords:** *HR, Startups, Entrepreneurship, Innovation, Human Capital, Talent Acquisition, Retention*

## CROSS-BORDER MERGER AND ACQUISITIONS IN INDIA AND USA: A COMPARATIVE STUDY

Ayush Rastog  
Jainendra Kumar Sharma

*Cross-border mergers and acquisitions (M&A) have evolved as consequential instruments in the global corporate landscape. This comparative study elucidates the intricacies of cross-border M&A activities in India and the United States, both pivotal participants in this transformative phenomenon. By scrutinising the multifaceted aspects encompassing legal regulations, cultural disparities, economic ramifications, and strategic motivations, this research investigates the determinants influencing the outcomes of cross-border M&A in these distinct contexts. In India, the legal framework is significantly influenced by the Companies Act, 2013, the Competition Act, 2002, FEMA, and SEBI regulations. Conversely, the United States relies on the HSR Act, Antitrust laws, and federal and state regulations to govern M&A. Cultural dynamics in India emphasise relationship-building and trust, while the United States prioritises professionalism and transactional efficacy. The economic implications of cross-border M&A hinge on India's burgeoning economy and its expanding middle class, and the United States' mature and competitive market. Strategic considerations are pivotal for M&A success, spanning market entry, talent acquisition, and intellectual property in India, while the United States emphasises market consolidation, diversification, and innovation. This research underscores the necessity of comprehensive understanding and meticulous planning, customised to each nation's distinct features, to navigate the intricate landscape of cross-border M&A effectively.*

**Keywords:** Cross-border Mergers and Acquisitions, Legal Framework, Cultural Differences, Strategic Considerations, Economic Implications.

## ALGORITHMIC TRADING IN INDIA'S SECURITIES MARKET: ECONOMIC IMPLICATIONS, REGULATORY LANDSCAPE AND MARKET DYNAMICS

*Arihant Sethia*

*Pankti Rupani*

Algorithmic trading, also known as algo trading, stands as an automated mechanism that executes securities transactions based on pre-programmed rules and instructions. Its rising popularity stems from its remarkable speed and precision and reduced trading costs, alluring investors seeking efficient trading methods.

This research paper delves into the present state of algo trading in India and its implications for market efficiency and capital allocation. Algo trading can create informational gaps which challenges traditional notions of market efficiency. Algo trading has changed the market dynamics significantly. It reduces gains of fundamental analysts thus disincentivizing informed traders' role in price discovery and governance.

It also critically assesses the need for regulatory measures to foster a fair and transparent market environment. It undertakes a comprehensive analysis of the advantages and disadvantages associated with algo trading, its influence on the Indian financial landscape and thereby identifies key areas for improvement. To address these issues, this paper proposes a set of comprehensive regulations tailored specifically to algo trading in India. These measures encompass compulsory pre-trade risk assessments, stipulated minimum resting time for orders, and well-defined order-to-trade ratios which will ultimately help in improving efficiency of capital markets.

The rampant adoption of algo trading in Indian financial markets also demands the implementation of robust regulations to create a level playing field for all participants. With the implementation of proper regulations, Indian financial markets can effectively leverage the advantages of algo trading while mitigating its associated risks.

***Keywords:*** *Algorithmic Trading, Efficiency, Regulations, Market, SEBI*



## **ECONOMICS AND ANTITRUST – AN ECONOMIC ANALYSIS OF PENALTIES ON RELEVANT AND TOTAL TURNOVERS**

*Rhea L Vinay  
Reesha R Kamath*

With an increase in the number and diversification of markets, it becomes imperative to understand and analyse, from an economic perspective, legislations like the Competition Act, 2002, and its later amendments. Under the umbrella of anti-trust laws, a confluence between law and economics can be studied with respect to an economic analysis of ‘penalties’ under the said regulations and Acts. Courts have adjudicated upon such matters wherein penalties of different natures have been awarded, the two most common being a penalty on companies’ relevant and total turnover and such penalties for infringement have inconsistently been upheld and enforced. The objective of the paper is to draw an economic analysis of the aforementioned penalties in order to analyse the economically viable option by conducting an economic analysis while applying theories like ‘the economic theory of criminal law’ (inclusive of ‘the rational choice model’) by Gary S Becker, ‘the theory of cost-benefit analysis, and ‘the economic theory of criminal law’ by Richard A Posner. The paper primarily begins by necessitating the inter-disciplinary confluence of competition laws which determines the longevity of any market. The paper seeks to conduct a comparative economic analysis of penalties on companies’ relevant and total turnover with an aim to determine the economically viable one. Penalties under competition law are awarded with the similar objective of acting as a deterrent to prevent undesirable and economically harmful behaviour by persons (as defined u/s. 2 of the Act). Thus, the paper analyses if such deterrents are economically justified. Further, the paper conducts an economic analysis of anti-competitive behaviour of the firms and examines if the penalties levied economically suffice as deterrents preventing economically harmful behaviour. Punishment under Indian competition laws is mostly civil in nature and does not attract criminal punishment. Thus, in furtherance of this concept, the paper also partly delves into the criminal law arena of competition law regulations to draw an economic analysis of repercussions resultant from such predatory practices. It also holistically examines the severity and objective of such punishments by the

employment of economic tools like cost-benefit analysis, multi-criteria analysis, and relevant economic models.

***Keywords:*** *Competition Laws, Penalty, Total Turnover, Relevant Turnover, Economics, Deterrent*

## RETAIL INVESTOR PARTICIPATION IN AIF MARKETS: A PROPOSAL FOR LIQUIDITY AND INCLUSIVE GROWTH

Ananaya Shetty  
Mukund Arora

The AIF market in India remains largely untapped as an instrument for economic growth. SEBI's regulatory measures have aimed to limit retail investor engagement in AIFs. This research argues for an inclusive model for AIF participation driven to enhance market liquidity, capital circulation, and overall economic growth. It explores the multifaceted benefits

of retail participation for investors and institutions. Additionally, it examines successful retail-centric AIF models implemented in different jurisdictions. This research paper takes a step

further by providing recommendations for a retail investor-friendly tax regime by analyzing successful schemes in international markets. To this end, it presents taxation as a method to incentivize market growth. This research also investigates the possibility of increasing the exposure of pension funds to AIF markets to stimulate market liquidity. Lastly, this research seeks to act as a broad model for the implementation of retail engagement by proposing the tokenization of AIF units using blockchain technology in India. By doing so, this prototype offers a practical solution to resolve inherent challenges associated with the AIF market.

**Keywords:** *Alternative Investment Funds, Retail Participation, Liquidity, Taxation, Blockchain*

## NAVIGATING THROUGH THE IPO VALUATION DILEMMA: WHERE DOES THE REGULATOR FIND EQUILIBRIUM?

*Shaurya Singh*

Corporate valuations constitute a complex domain in the financial world. The metrics used for valuing companies are continually evolving and have rapidly developed, diminishing the relevance of traditional methods of evaluating a company. This trend is particularly noticeable in the case of ‘New-Age Companies’ operating in fields with promising growth potential. Such companies often command substantially higher valuations compared to those with similar earnings in other sectors. The catalyst for these premiums is typically perceived growth potential. However, quantifying this potential remains challenging, as it can vary significantly based on individual analyst estimates. This ambiguity presents a challenge for the Securities and Exchange Board of India (SEBI) as some recent Initial Public Offerings (IPOs) have quoted very high valuations, only to experience significant price depreciation in the secondary market after listing, resulting in losses for investors. Therefore, it is imperative for SEBI to address this issue sensitively without disrupting the delicate balance between its two core objectives: the development of India’s securities markets and investor protection. Excessive regulation can impede the ease of raising capital, while insufficient regulation can leave investors vulnerable. Both scenarios can lead to serious economic complications for the country. Hence, this article aims to examine the gravity of the economic consequences associated with this issue; point out the SEBI’s dilemma behind inefficient measures to curtail it; and propose a viable approach to strike the equilibrium between SEBI’s twin objectives, which can be achieved through mandating ‘Hard Underwriting’ on such public offerings.

**Keywords:** *Corporate Valuations, Capital Markets, Initial Public Offerings, Securities Regulation*

## INFLATION AFFECTING THE REAL ESTATE MARKET: A COMPARATIVE ANALYSIS BETWEEN USA AND INDIA

*Anuskha Jha*

*Madhumita L*

*Sumukh Chetan*

Real Estate projects in India are regulated under the Real Estate (Regulation and Development) Act, 2016 and hold an integral part in a country's economy. The rise in the increase of prices of goods and services in an economy has a proportional effect on its real estate activities. Inflation is known to be a boon to the real estate sector as the prices of the properties rise considerably with the rise in price overall. This is known to be disadvantageous to the homebuyers as they have to spend more out of their pockets for the same property had there been no inflation in the economy. Therefore, the authors have tried to find out the key issues related to such high prices leading to lower purchasing power for the homebuyers in India and the US.

**Keywords:** *Economy, Homebuyers, Inflation, Proportional effect, Purchasing power*

## THE IMPACT OF UNBUNDLING SERVICES AND FEES BY SCHEDULED AIRLINES ON CONSUMER WELFARE IN INDIA

*Dr. Anu Singh*

The Indian aviation industry has undergone significant changes since the 1990s when liberalization policies led to a shift from monopoly to oligopoly. With the expansion of routes and fleets of private airlines, the Indian aviation landscape has gradually transformed, creating a more competitive environment in the sector. Despite the sector being more competitive, there are still challenges, such as pricing wars and profitability issues. The transition from monopoly to oligopoly has brought benefits to consumers, including increased choice, improved services, and more affordable air travel options in India.

The study focuses on the economic implications of unbundling services and fees by the Directorate General of Civil Aviation (DGCA), particularly in meal services and preferential seat pricing. While unbundling meal services enhances efficiency and prevents monopolistic power, concerns arise regarding potential hidden monopolies and asymmetric information in preferential seat pricing that may diminish consumer surplus and make the market inefficient. The paper presents observations and findings of a pilot study, shedding light on consumer awareness and behavior related to unbundling practices. The findings reveal noteworthy trends, emphasizing a communication gap between airlines and passengers, the impact of fear-induced purchases, and the influence of awareness on consumer choices. The paper concludes by offering recommendations for enhancing transparency, communication, and ethical considerations within the unbundling framework.

**Keywords:** *Market Power, welfare cost, asymmetric information, privatization, aviation sector, DGCA, Consumer satisfaction*

## **CORPORATE FRAUD AND MISMANAGEMENT: LEGAL REMEDIES AND FINANCIAL IMPLICATIONS UNDER THE INSOLVENCY AND BANKRUPTCY CODE**

*Parineeta Goswami*

Corporate fraud and mismanagement have long been a concern in the business world, with severe implications for investors, creditors, and the overall financial stability of a company. To address these issues, countries worldwide have implemented legal remedies and financial mechanisms, and one such prominent framework is the Insolvency and Bankruptcy Code (IBC).

The IBC, introduced in India in 2016, aims to consolidate and streamline the insolvency resolution process for corporations. It provides a comprehensive mechanism to address corporate distress and default, rooted in the objective of maximising value for creditors and promoting the revival of viable businesses.

The IBC establishes the National Company Law Tribunal (NCLT) and the National Company Law Appellate Tribunal (NCLAT) as specialized forums to adjudicate corporate insolvency matters. Under this framework, creditors can initiate the insolvency process against a defaulting company, thereby holding the management accountable for their actions, particularly in cases of fraud or mismanagement.

The financial implications of the IBC are significant. It allows for the sale of a distressed company's assets to repay creditors, potentially resulting in losses for shareholders and management. Moreover, the legal provisions within the IBC hold company directors personally liable in cases of fraudulent activities.

Corporate fraud and mismanagement pose grave threats to the financial well-being of companies and stakeholders. Legal remedies and financial implications under the IBC offer a structured framework to tackle these issues, ensuring that distressed companies are efficiently resolved, and justice is served.

## THE 1991 ECONOMIC REFORMS AND THE TRANSFORMATION OF RATIONALE DETERMINING CRIMINALIZABLE HARM RELATED TO CORPORATE ENTITIES

*T.H. Vishnu*

With the recent passing of the Jan Vishwas (Amendment of Provisions) Bill, 2023, it is clear that the nature of criminalizable harms relating to corporate entities is undergoing a significant transformation. The bill proposes to amend and decriminalize various provisions in 42 laws, including environmental, pharmaceutical, intellectual property, media laws, etc., to promote 'ease of doing business' and 'ease of living' in the country.<sup>1</sup> This bill can be situated in two contexts. In the narrow context, the bill is consistent with the recent measures taken by the government to decriminalize various laws to boost ease of doing business. In the broader context, it is consistent with the larger agenda of 1991 economic reforms, commonly called the L.P.G. reforms, which aimed to liberalize, privatize and globalize the Indian economy. Since the agenda of the L.P.G. reforms was to promote private capital and create a business-friendly atmosphere, decriminalizing offences was seen as a necessary measure to boost ease of doing business.

The focus of the study is decriminalization of offences related to corporate entities. The study aims to analyze an underlying significant phenomenon in this process: the transformation of the rationale determining criminalizable harm relating to corporate entities. For instance, in environmental laws, the rationale behind criminalizing most of the harms committed by various businesses, such as pollution, was to protect the public interest. Essentially, public interest was employed as the rationale to determine whether harm should be criminalized. However, post economic reforms of 1991, various such offences were decriminalized to boost the ease of doing business in the country. The rationale of public interest now gave way to the rationale of ease of doing business to determine whether harm committed by corporate entities should

constitute or remain criminalizable harm. This study aims to critically analyze this significant transformation of rationale from the pre-economic reforms to the post-economic reforms era.



The first section of the paper deals with the rationality of criminalizable harm relating to corporate entities in the pre-1991 economic reforms era. The second section elaborates on the nature of the 1991 economic reforms and the conceptual shift from a socialist framework to a neoliberal framework in the larger global context. The third section deals with the transformation of rationale determining criminalizable harm related to corporate entities in the post-economic reforms era. The Fourth section attempts to critically analyze this transformation and its consequences. Thereafter, I conclude.

## **WELCOMING THE ERA OF ECONOMIC NATIONALISM, OR NOT? ANALYSIS OF THE DISJUNCTION IN INDIAN TRADE AND ECONOMIC POLICY**

*Diya Mittal*

Are we a nation which still only believes in *swadeshi* or are we a nation which is to be recognised as a key global player? This is the most important question in the post-Covid era which is constantly haunting the majority government. It was way back in the year 1991 that India stepped into the global market with the adoption of the liberal trade policy and this continued for decades until recently where the country has taken a sharp U-turn in the favor of post-independence economic nationalism. However, the post-independence economic nationalism differs to a great extent from the contemporary neo-mercantilist economic nationalism. Moreover, the Indian trade policy has a different story to tell. This paper attempts to critically evaluate the disjunction in India's trade policy on one hand and the domestic policy making on the other.

The paper is divided into five major sections. The first section traces the evolution of economic nationalism and critically analyzes the various meanings attached to the term. The term economic nationalism is often used interchangeably with protectionism and mercantilism. This section attempts to break certain myths and enable the reader to understand the common thread running through all these terms. The second part of the paper shifts the focus on the economic nationalist policies of some major economies around the globe. The United States and the European which have been forerunners of the liberal ideology are gradually closing their economies through nationalist policies. The third section of the paper brings attention to Indian-style economic nationalism. Over the past few years the Indian government has enacted a number of economic policies and regulations which show nationalist tendencies, the most significant being the 'Atmanirbhar Bharat' initiative. The fourth part of this paper critically analyzes India's FTA regime along with the attempts to invite foreign investment flows into the country. This is significant as the government was on an FTA signing and negotiating spree unless the recent slowing down. Moreover, the Modi-led government also enacted the Make in India initiative to invite foreign investment into the country while at the same time charging the domestic regulations. This leads us to the most significant part of this paper which deals

with the disjunct between India's FTA policy on one hand and the domestic regulation on the other. Introduction of CAROTAR, 2020 and the new licensing requirements are attacks on the market accessibility of its trading partners. This has resulted in confusion-whether the government wants to open the economy or wants to tread on the path of economic nationalism?

## **TAXATION OF CRYPTOCURRENCY: THE INDIAN FAUX PAS**

*Vasushrava Mahipal*

*Vedika Chawla*

The exponential growth that the cryptocurrency market has seen in the past decade has caused much discomfort among governments across the globe, owing to the unregulated nature of transactions and what some may argue is a disproportionate impact of the crypto market on domestic economies. The natural response of most jurisdictions has been to tax cryptocurrency transactions so as to discourage them while also gaining revenue out of them. However, taxation policies face complex questions of determining the true nature of crypto transactions, a question that is yet to be answered with clarity.

The knee-jerk reaction that the industry has attracted from the Indian government in particular has materialised in the form of imposition of a virtual digital assets tax on cryptocurrencies. The authors argue that this policy failed to effectively address its objective and only resulted in a sudden downfall of the crypto market in India, creating negative repercussions for the domestic economy. The authors then employ a game theoretical analysis to propose an alternative taxation framework that recognises the significance of the crypto market and better balances the need for its regulation. Further, they discuss frameworks from a range of external jurisdictions to analyse the expected implications of similar policies in the Indian economy.

## **"INDIA'S TRADE DISPUTES AND THE WORLD TRADE ORGANIZATION: AN INTERDISCIPLINARY ANALYSIS FROM LEGAL AND ECONOMIC PERSPECTIVES"**

*Jagteshwar Singh*

*Gauransh Choudhary*

The Agriculture Agreement (the “Agreement”) went into effect on January 1st, 1995. The agreement's preamble acknowledges that creating a just and market-based agriculture trade system is the long-term goal of the reform process launched by the Uruguay Round reform programme. Specific commitments to reduce support and protection in the areas of domestic support, export subsidies, and market access are included in the reform programme. These commitments will be made possible by the adoption of enhanced and more operationally effective GATT norms and standards. The Agreement also addresses issues that are not related to trade, such as the need to protect the environment and ensure food security, and it accords developing nations preferential consideration by improving access to markets for agricultural products of particular export interest.