Editorial

In a world where the balance between economic globalization and national sovereignty is constantly evolving, the state's right to regulate becomes a crucial aspect of ensuring sustainable and inclusive development.

In this issue, Divya Kesar considers the complex dynamics of protecting the state's right to regulate within the framework of international trade and investment agreements. She examines the intricate interplay between trade liberalization and regulatory autonomy and provides a nuanced understanding of how nations can effectively navigate the complex terrain of global governance while safeguarding their ability to enact and enforce domestic regulations.

Divya Kesar explores the concepts of state sovereignty and the right to regulate. She examines the inherent limitations imposed on state sovereignty and the consequential emergence of the right to regulate.

Through a multidisciplinary approach, encompassing legal analysis, policy evaluation, and socio-economic considerations, Divya Kesar discusses the ongoing discourse on striking a delicate balance between economic integration and the preservation of national regulatory autonomy, ultimately providing policymakers, scholars, and stakeholders with valuable insights and recommendations to navigate the complex landscape of international trade and investment agreements.

What could be the solution? In recent times, states have increasingly incorporated the right to regulate in their international investment agreements, employing various approaches, often in combination. These approaches include the incorporation of exceptions clauses, the insertion of the right to regulate in a treaty's preamble, the drafting of standalone clauses that expressly refer to the right to regulate, and clauses that preserve state police powers. Divya Kesar takes the view that while a treaty that fails to incorporate the right to regulate may be insufficient, a treaty that goes to the extreme of attempting to protect every conceivable type of state measure from constituting a treaty violation may prove equally inadequate. A balanced approach may therefore be necessary to strike the right balance.

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Associate Editor
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