

# Yale



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## YALE-JINDAL CONVERSATIONS ON GLOBALISATION



**CENTRE FOR GLOBAL GOVERNANCE AND POLICY**



Jindal School of International Affairs  
India's First Global Policy School



**JINDAL GLOBAL  
BUSINESS SCHOOL**  
INDIA'S FIRST MULTI-DISCIPLINARY GLOBAL BUSINESS SCHOOL



Jindal Global Law School  
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*Professor Richard C. Levin, President of Yale University, delivering the keynote address at JGU's campus on 29 October 2010 at the 'International Conference on Globalisation in India and the USA: Law, Governance and Business', organised by JGU and Yale University*

***“This conference, which came on the eve of U.S. President Barack Obama’s anticipated state visit to India, explored some of the most perplexing issues that globalization poses for the world’s two largest democratic nations. How our legal, commercial, and governance structures address these questions will serve as models for other nations. I am pleased that Yale University and the O.P. Jindal Global University could come together to stage the conference at this critical moment in the strategic relationship between the United States and India.”***

*Professor Richard C. Levin  
President  
Yale University*

## FOREWORD

I have great pleasure in introducing you to this report on “Yale-Jindal Conversations on Globalisation”. Yale University and O.P. Jindal Global University came together in organising an international conference on “Globalisation in India and USA: Law, Governance and Business”, during 29th-30th October 2010. The conference was the first of its kind in which one of the world’s most reputed universities based in the USA collaborated with a new Indian university in promoting an academic and intellectual engagement on an issue of global significance. Globalisation has been a subject matter of numerous conferences, workshops, scholarly writings and policy initiatives. Indeed, this phenomenon has always generated strong views from both its defenders and critics alike. However, due to the profound impact that globalisation has had on societies and people around the world, the need for its deeper study and analysis from an inter-disciplinary standpoint is imperative.

The Yale-Jindal conference precisely achieved that purpose by recognizing that globalisation needs to be examined from legal, regulatory, business and governance perspectives. The conference attracted scholars and practitioners from the USA and India, acknowledging that both countries have a shared commitment to democracy and pluralism, while they are differently situated as far as social and economic development are concerned. The success of the Yale-Jindal conference could be attributed to the diversity of intellectual discourse that it promoted. It had a number of panels that brought together lawyers, political scientists, experts in management, finance, environment and climate change, civil society activists and media representatives.

The publication of the Yale-Jindal Conversations on Globalisation is an important step that culminates the dialogues and discussions that took place during the conference into an organized set of ideas and perspectives. I would like to compliment the efforts of Dr. Sreeram Sundar Chaulia, Vice Dean of the Jindal School of International Affairs (JSIA), and the Executive Director for the Centre for Global Governance and Policy (CGGP) for his leadership in both organising the conference as well as in producing this report. I also appreciate the effort of Professor Jonathan Burton-MacLeod, Assistant Professor at the Jindal Global Law School (JGLS) and Assistant Director of CGGP for his contribution in publishing this report.

I am grateful to a number of people who supported the conference and indeed participated in it actively. I appreciate the encouragement and support of Professor Richard Levin, President of Yale University; Mr. Bhupinder Singh Hooda, Chief Minister of Haryana, Mr. Veerappa Moily, Union Minister for Law and Justice, Government of India; and Mr. Salman Khurshid, Minister of Water Resources and Minority Affairs and Mr. Naveen Jindal, Chancellor, JGU. I would like to thank and appreciate the contribution of Dean Robert C. Post and Professor Peter Schuck of Yale Law School for providing leadership and support in developing our collaboration with Yale University.

I would like to acknowledge the contribution of LexisNexis Butterworths Wadhwa, India for their sponsorship and support to the conference. The report on ‘Yale-Jindal Conversations on Globalisation’ would not have seen the light of the day, but for the contribution of our outstanding Research Associates, particularly Mr. Suvrajyoti Gupta, Ms. Sulbha Rai and Ms. Bhawna Gulati. I would also like to thank Mrs. Usha Rani Damerla for producing an apt cover design to capture the essence of this report.

Professor C. Raj Kumar  
Vice Chancellor  
O.P. Jindal Global University

## PREFACE

This report is intended to highlight the unique academic exchanges that took place during a joint conference between Yale University (New Haven, CT) and O.P. Jindal Global University (Sonipat, Haryana) on 29<sup>th</sup> & 30<sup>th</sup> October, 2010. Yale University's President, Richard C. Levin was present in person at the opening of the conference, entitled *Globalization in India and the USA: Law, Governance, and Business*. As one of the organisers of the Yale-Jindal conference, the Centre for Global Governance & Policy (CGGP) at the Jindal School of International Affairs (JSIA) and the Jindal Global Law School (JGLS) would like to acknowledge the administrative contributions of JGLS' Research Associates, Suvrajyoti Gupta and Sulbha Rai. CGGP wishes to thank JGLS' other Research Associates, Arpita Gupta, Arun Khatri, Bhawna Gulati, Chakravarti Patil, Latika Vashist, and Ruchira Goel for performing the roles of rapporteurs for the conference panels. Special thanks to Ms. Bhawna Gulati for assistance in the compilation of this Report.

The Jindal School of International Affairs (JSIA) is unique in its emphasis on interdisciplinary approaches to knowledge. CGGP, jointly held between JGLS and JSIA, reflects that approach. JSIA has received a very positive response to its Master's degree in Law, Diplomacy, and Business (M.A. DLB), which will further this approach in years to come. Embedded in O.P. Jindal Global University (JGU), the Master's programme relies on interdisciplinary breadth in International Relations, International Law and International Business to encourage problem-solving and knowledge creation. The Yale-Jindal conference was a valuable exercise in formulating interdisciplinary and inter-jurisdictional approaches to transnational issues of mutual concern. It is hoped that the conversations developed in this report will continue, both amongst, and beyond, the original conference participants.

Too often, the intellectual exchanges at conferences do not reach the wider public, as academics and policymakers move on to the next event and institutions fail to disseminate proceedings that have valuable public policy import. CGGP's effort in bringing out this report is to keep the fascinating insights about globalisation at the Yale-Jindal conference in the public domain so as to invite critical thinking and action from a wider cross-section of concerned readers and researchers.

Dr. Sreeram Chaulia  
Vice Dean, Jindal School of  
International Affairs (JSIA) &  
Executive Director  
Centre for Global Governance and  
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## TABLE OF CONTENTS

<b>Introduction</b>	1
<b>Inaugural Session</b>	5
<b>First Session</b>	8
Rule of Law: Institutions and Practices	
<b>Second Session</b>	12
Business and Economy: Corporate Governance Competition and Regulation	
<b>Third Session</b>	15
Globalisation: Trade, Development and Migration	
<b>Fourth Session</b>	21
Security and Liberty: Striking the Right Balance	
<b>Fifth Session</b>	26
Inequality and Exclusion: Identity, Discrimination and Participation	
<b>Sixth Session</b>	30
Environmental Protection: Sustainability and Technology	
<b>Special Address</b>	35
<b>Appendices</b>	
Appendix-I : Invitation to Yale-Jindal Conference	36
Appendix-II : International Collaborations of JGU	40
Appendix-III : Journals of JGU	41
Appendix-IV : Research Reports of JGU	42
Appendix-V : Faculty Members and Research Associates of JGU	
i) JSIA	43
ii) JGBS	44
iii) JGLS	45
Appendix-VI : Governing Body, Board of Management and Academic Council, JGU	47



## INTRODUCTION

*'Globalisation in India and the USA: Law, Governance and Business'*, a conference jointly organised by Yale University, USA, and O.P. Jindal Global University (JGU), India, witnessed deliberations on shared U.S.-Indian perspectives on globalisation, bringing together scholars from academia, corporations, civil society bodies and public institutions.

The plenary event provided a unique opportunity to bring together on one stage two senior Indian politicians and central government ministers who are themselves scholars in their own right, along with the President of Yale University who is a well-known American economist, and the Chief Minister of JGU's home state, Haryana. This collection of public figures set a tone for the conference by acknowledging that very little in today's world, and in the story of India's economic and geopolitical rise, can and should be conceptualised without a global lens.

Over the following two days, October 29<sup>th</sup> and 30<sup>th</sup> 2010, a series of panels considered a range of themes in the transnational context, from corporate governance to security to environmental regulation. In the absence of a world government, pressing problems like environmental pollution, immigration and involuntary population movements, water sharing, proliferation of weapons, genetically engineered foods, drug smuggling and crime, deforestation, war, terrorism, struggles for democracy etc. can only be resolved through increased coordination across nation-state borders. Global problems or "transnational issues" now transcend states and societies by overflowing and cutting across territorial jurisdictions.

The Yale-Jindal conference generated discussions on transnational issues of mutual concern common to the U.S.-India relationship. The conference was conducted as a prelude to the November 6-8, 2010 visit of President Barack Obama to India, in which he signed millions of dollars' worth of business deals and expressed support for India's bid for a permanent seat on the United Nations Security Council. The U.S.-India relationship may be at times complex, but their interests are inextricably intertwined—geopolitically, in terms of international trade and investment, and by means of soft power. The conference sought to explore these connections, initiating conversations between faculty members of O.P. Jindal Global University and Yale University. Faculty from the Yale Faculties of Law, Political Science, and Business were joined by faculty from Harvard, Chapman University and Ohio State University along with industry representatives and public policy makers from the Indian context.

The event consisted of six sessions over two days at JGU campus in Sonipat and India Habitat Centre, Delhi. Over 30 professionals from all parts of the globe shared their intellect and practical experiences on various sub-themes, namely, *Rule of Law: Institutions and Practices; Business and Economy: Corporate*

*Governance, Competition and Regulation; Globalisation: Trade, Development and Migration; Security and Liberty: Striking the Right Balance; Inequality and Exclusion: Identity, Discrimination and Participation; and Environmental Protection: Sustainability and Technology.*

The conference was conducted with the involvement of the Center for Global Governance and Policy (CGGP), jointly held between Jindal Global Law School (JGLS) and the Jindal School of International Affairs (JSIA). CGGP is committed to combining insights from International Relations and Law into fresh thinking on global governance, as well as to offering solutions to various Global problems and “transnational issues” that are now transcending states and societies across territorial jurisdictions. The Centre combines insights from International Relations and Law to generate new ideas about global governance, transnational institutions, and multilateral transactions.

CGGP’s ambitious research agenda involves JGU’s faculty members, Research Associates and students who study issues including environmental pollution, immigration and involuntary population movements, water sharing, proliferation of weapons, deforestation, war, terrorism and struggles of democracy, among others. CGGP’s first Research Report, entitled ‘Rethinking International Institutions: A Global South Agenda’, helped to strengthen cooperation among developing countries in addressing these transnational global policy issues.

With economic and cultural globalisation permeating almost all, developed and developing economies around the world, understanding the interplay between ‘globalisation’ and ‘good governance’ becomes more critical than ever. Globalisation demands and facilitates active dialogue on developing new strategies for ensuring good governance in not only developing countries but also in the advanced economies. Some scholars of political economy and officials representing international financial institutions are optimistic about the effects of globalisation on socioeconomic indices and quality of governance in developing countries. They argue that globalisation offers immense opportunities that, if capitalised by the Global South, can become beneficial for public policy making and enhancing state capability.<sup>1</sup>

The new challenges of good governance posed by the evolving concepts of globalisation require practical reforms in policy making. Globalisation is indeed a double edged sword that engenders improved life chances and security for people, but also increases unequal access and opportunities that could perpetuate existing hierarchies. As some panelists at the Yale-Jindal conference highlighted, globalisation is ensuring greater interdependence among nations but also exacerbating marginalization and distributive injustices.

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1. Jain, R.B.2005. *Globalization and Good Governance : Pressures for Constructive Reform*, (New Delhi: Deep & Deep)

Though some deregulation seems necessary for globalisation, globalisation also requires complex regulation and governance at the multilateral and transnational levels to ensure equal or at least relatively fairer distribution of opportunities and gains to all nations. Globalisation and its negative effects, particularly in the arena of international finance, have enhanced the need for international cooperation and regulatory coordination.

We are now at a juncture of history where the appropriate roles of governments, international institutions, and the private sector are undergoing a tremendous churning process. Such a period of transition and uncertainty places greater obligations on policymakers who are responsible for the operation of the international economic and security systems, and also on academicians who can help mould the discourse on globalisation by determining ideal or optimal pathways.<sup>2</sup>

The Yale-Jindal conference was organised with this higher aspiration of finding viable solutions to many of the pressing problems of our time. This report reflects upon the wide thematic and geographical scope of the much-used term 'globalisation'. It seeks to keep the debates flowing on many contentious issues and, hopefully, to encourage consensus-building of the sort developed in the domestic politics of the world's two largest democracies- India and the United States of America.

The conference was conceptualised by O.P. Jindal Global University and Yale University with the explicit intent of "furthering knowledge exchange between the two liberal and democratic societies" of the US and India. This knowledge exchange is an important initiative between one of the greatest higher educational institutions of the world- Yale- and India's most internationally oriented university- JGU. It is a coming together of the finest minds to offer solutions in the larger global interest. In this concise report, CGGP hopes to seed new ideas and expert knowledge on the multi-faceted phenomenon of globalisation, a controversial but undeniable fact of contemporary life.

The event was structured into six sessions, stretched over a period of two days which took place in the JGU campus in Sonipat and in India Habitat Centre, Delhi. The first session addressed the evolution of the Rule of Law (ROL) concept in the US and India. Professor Peter Schuck of Yale University, while realising the importance of ROL clarified that it's only the content and not the existence of ROL that has been criticised. Professor M.P Singh remarked that though the ROL is deeply rooted in India's legal system, it still needs to be translated into reality which requires an overhauling of the conception of law in Indian society.

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2. Fischer, Stanley. 2003. 'Globalization and its Challenges', Ely Lecture at the American Economic Association, Washington, D.C.

The second session explored the halting progress of global financial and economic regulation. The panelists proffered their opinion on issues as diverse as, the emergence and future of G-20 in light of new storms of trade and currency wars and the complacency that has crept into the financial sector, the emergence of Competition Law in India and discussed recent cases related to competition law decided by Supreme Court of India and Competition Appellate Tribunal.

‘Globalisation: Trade, Development and Migration’, was the sub-theme of the third session where panelists discussed the challenges posed by globalisation and cross-border relations between countries, multinational companies and different regional and multilateral organisations. One of the speakers at the session exposed the negative conception of outsourcing underscored by the current financial crisis leading to social discontent and protectionist demands. The increasing economic activity between the US and India in recent years and the recent increase in merger & acquisition deal value in India were also discussed at length.

The fourth session was based on striking the right balance between security and liberty. The assorted notions of prioritizing one over the other led to the debate whether liberty can be outmaneuvered to meet the larger objective of security. The panelists discussed at length about the need to strike a balance between the civil liberty rights and right to have a secure environment.

The panelists of the fifth session dealt with the various debates pertaining to inequality & exclusion. The panelists deliberated on sensitive issues which have been of concern not only in developing but also developed economies. Very interestingly it was examined why democracies are not downwardly redistributive in the ways that were anticipated by nineteenth and twentieth century political economists. Another panelist gave an eye-opening contrast of how inclusion happened for other excluded communities with how inclusion needs to take place for people with disabilities.

The last panel encountered interesting deliberations on environment protection and global climate change negotiations. It was widely felt that the increasing environmental impacts of globalisation calls for a healthy dialogue on issues like climate change and global warming and requires a shift towards a greener world order and adoption of alternative energy sources.

## INAUGURAL SESSION



**Professor Richard C. Levin**

President  
Yale University, USA

Economist and Yale University President, **Professor Richard C. Levin**, observed that globalisation poses perplexing issues for the two of the world's largest democracies: India and the USA. The high rate of economic growth in India, China and Singapore has led to a West-to-East shift of economic and geopolitical power. It is now a norm rather than an exception for companies from Asia and Middle East to acquire companies across Europe and America. To sustain the momentum of their rising economies, he suggested, leaders in both Asia and Middle East have come to recognize that the advantages that have propelled their rise, e.g. low cost labour in Asia and abundant energy resources in the Middle East, will not persist forever. Eventually, India and China will have to compete in a different arena—in the knowledge economy. He said that the shift to more widely distributed knowledge creation will propel the rise of excellence in institutions of higher education, which in turn will strengthen competition and will generate new opportunities.

Union Minister of Law and Justice, **Dr. M. Veerappa Moily**, lauded JGU for maintaining international standards and hoped that many such institutions would arise in India, enhancing India's global reputation. He emphasized that changes in India's governance and legal systems will happen "only if we focus on the power of youth and empower them with world-class education." He described the research partnership between Yale University, one of the world's leading research institutions, and the newly established O.P. Jindal Global University (JGU) as commendable and illustrative of the very theme of this Conference. Praising the initiative taken by JGU in organizing this international conference, the Law Minister stated that such scholarly efforts provide fertile grounds for development of innovative ideas that can help to positively direct India's high stakes experience with globalisation. The "positive manner" implies the welfare of all regions of the world, eradication of inequality and discrimination. The Law Minister stated that the "success" of globalisation is to a large extent dependent upon the fulfilment of the Millennium Development Goals as envisaged by the United Nations. Innovations towards the fulfillment of these goals, however, cannot be met without profound innovation by policy-makers and academics.



**Mr. M. Veerappa Moily**  
Union Minister of  
Law & Justice  
Government of India



**Mr. Salman Khursheed**

Minister of State of  
Water Resources  
and Minority Affairs  
Government of India

**Mr. Salman Khursheed** offered insights on globalization: now pervasive in its reach, yet complex in its realization. Mr. Khursheed stated that knowledge creation through international standard conferences can go a long way in striking a balance between conflicting interests as “such conferences help bridge the gap between concepts and their expressions, further leading to a truly globalized approach towards making policy and implementing it.” Mr. Khursheed explained that intellectual globalization requires openness to different ideas that have been nurtured in different jurisdictions, with diverse histories. Globalisation can help these variegated ideas to become accessible to larger groups of people. Though perceptions of people and civilizations sometimes conflict, sometimes converge, sometimes confront each other and sometimes

agree to disagree, Mr. Khursheed intimated that the globalised world is here to stay, and that there are as yet unrealized advantages the present global context. Despite its complexities and challenges, a globalized world changes the terms of our human endeavor; not just in terms of working rules but also in our understanding of morals, sociological and political concepts.

The Chief Minister of the state of Haryana, **Bhupinder Singh Hooda** commended JGU for the “collaborative efforts with global institutions of educational excellence which have already put Haryana on the global map.” He rightly observed that globalisation should not be perceived solely in terms of economic factors. Political and cultural globalization has the potential to correct the ills of poverty, illiteracy, bigotry and ignorance that have plagued the deeply fractured world. Globalisation, according to Mr. Hooda, has brought in a new wave of enthusiasm, noticeable in states like Haryana, which has undergone substantial development in the last decade. However, globalisation is not without its pitfalls. He cautioned that the enhanced generation of wealth as a result of globalization has given rise to greater inequalities and conspicuous consumption; and rapid industrialization has harmed the environment. It is feared that the new anxieties and a sense of ennui can spill into debilitating conflicts on ideological, political or communal lines. He concluded his talk by stating that one of the principal ways to deal with the challenges of globalisation is to build institutions and enhance capabilities. Institution building should encompass institutions of governance, institutions of corporate organization, institutions that promote equity and environmental protection. Commending the evolving Indo-US alliance as one of the greatest complementarities in the present Century, he remarked that this growing cooperation has the potential of transforming the world. India can greatly benefit from the United States’ long experience in administering Centers of Excellence, and the US, on the other hand, can benefit from India’s skilled and abundant intellectual manpower.



**Ch. Bhupinder Singh Hooda**

Chief Minister of Haryana



**Mr. Naveen Jindal**  
Chancellor, O.P. Jindal  
Global University (JGU)

JGU's Chancellor, Mr. Naveen Jindal, reiterated that JGU is committed to maintaining and enhancing the quality of higher education by providing the best faculty, facilities and global exposure to its students. Commenting to the conference theme, Mr. Jindal stated that societies across the world today seem to be in a transitional period where on one hand, we see a growing disillusionment with law, legal institutions as well as economic regimes; on the other hand, there is still a hope and an ongoing vigil for justice. Globalization has had, and continues to have, a tremendous impact on not only the legal system, but in an indiscriminate fashion across the disciplines of social, political, and economic systems. Chancellor Jindal

identified that the themes of the conference, ranging as they do from the rule of law, to identity politics, to concerns of security state and the emerging field of environmental regulation, are indeed path breaking as they directly address the issues that affect the lives of millions of people, some of whom continue to be excluded from globalisation's promise of "development" and "progress". He congratulated Prof. C. Raj Kumar, Vice Chancellor of JGU, for recognizing the direct relationship amongst these seemingly divergent issues and bringing together distinguished speakers from across the globe in a bid to understand comparative standpoints and acquire critical perspectives on globalisation.

## FIRST SESSION: 'RULE OF LAW: INSTITUTIONS AND PRACTICES'



**Professor Peter H. Schuck**

Simeon E. Baldwin

Professor Emeritus of Law  
Yale Law School

Stating that the question of whether Rule of Law (ROL) exists does not depend on agreement over what the content of the law should be, **Professor Peter H. Schuck** pointed out that the ROL is civilisation's most precious heritage as it channels the violent propensities of human beings into a peaceful regime, seeks formal equality, due process and justice, and is a necessary precondition for all of life's blessings. He further pointed out that there is a fundamental difference between the existence of the ROL and agreement on the law's substance. The real issue, in his opinion, is actually about the legitimacy of law as such and not agreement on its content.

Although the ROL is universally accepted as an ideal, it is not universally practised. Professor Schuck laid out many reasons to doubt the ROL's actual dominion in India: violent insurgencies, severely limited access to justice, Dickensian court delays, pervasive corruption, and the lawlessness that can be anticipated in the future when, as a result of growing uneven sex ratios in many states, young men are far more numerous than young women. In the U.S., in contrast, many public and private institutions and norms support the ROL. Even the poor have some access to courts; the judiciary is independent; law is generally attentive to the interests of the poor and consumers; and the popular culture venerates the constitution. Yet, despite these advantages, the ROL in the U.S. suffers from many deficiencies. Litigation is costly and legal aid for the poor is limited. Officials often violate the law. Professor Schuck concluded by saying that although Americans disagree strongly about whether capital punishment is justified, how the laws of war should be interpreted, and whether suspected terrorists should be tried according to the usual forms and standards of the criminal law, these disagreements do not threaten the existence in the U.S. of the ROL.



**Professor M.P Singh**

Vice Chancellor of West Bengal National University of Juridical Sciences (WBNUJS), Kolkata

**Professor M.P. Singh** presented his view that the idea of law as an idea of governing is most neutral and that is why people, despite cultural diversity, can adhere to a single law. Thus, the idea of law is the best idea for creation and realization of globalisation. There is a clear difference between the idea of law and the idea of rule of law. The idea of rule of law is about the exercise of public power (i.e. public power exercised by a state or ‘global state’ in a globalised society). It is essentially about fairness of exercise of public power.

Professor Singh stated that the idea of ROL was conceived with the rise of natural law. In the 15th and 16th centuries, the conception of natural rights gained ground, whereby every individual was said to be born with certain inalienable rights. These natural rights of the individuals could be violated by the state, leading to the adoption of the principle of separation of powers (SOP) between different organs of the government.

Professor Singh submitted that the ROL was initially Dicey’s conception, i.e. an idea against arbitrariness of the law, but the American Constitution developed an additional constraint on power in the form of the Bill of Rights. However, soon it was realized that the mere recognition of SOP and individual rights was not enough for ensuring good life to every person. This led to the emergence of “welfare state”, which ensured not only civil and political rights but also a basic minimum standard of life for people. The Constitution of India also incorporated similar ROL principles in Part II and Part IV.

Other instrumentalities in the Indian Constitution that entrench ROL are parliamentary democracy, universal adult franchise, separation of powers, supremacy of the Constitution, recognition of ROL as the basic structure of the Constitution etc. The courts have also evolved principles for the realization of ROL, viz. principles of reasonableness and proportionality.

Thus, ROL is deeply entrenched in India’s legal system. But it has not been adequately translated into reality. There are many legal provisions that are inconsistent with ROL, such as preventive detention, suspension of rights during emergency, supersession of democratic governments in states, judicial delays, draconian laws like the Armed Forces Special Powers Act, police atrocities, fake encounters and subsisting inequalities. Professor Singh concluded by saying that India’s failure to ensure ROL requires us to re-think the conception of law in Indian society.



**Professor B.S. Chimni**

Professor Centre for  
Legal Studies, School of  
International Studies  
Jawaharlal Nehru  
University

**Professor B.S. Chimni** addressed the issue of international rule of law (“ROL”), discussing two sets of alternative conceptions of law which could frame the discourse of ROL on the international plane. The first alternative, according to Prof. Chimni, would be between a positivist conception of ROL and a deliberative conception of ROL. For the positivist conception of ROL, as long as rules are prescribed through proper procedures, they would possess legitimacy within the legal system. On the other hand, for the deliberative conception of ROL, only those rules of law or norms which have been adopted through ‘good arguments’ would deserve the label of ‘law’. Therefore, according to the deliberative conception of ROL, mere majoritarianism cannot confer legitimacy to any rule or norm, if the arguments underlying the adoption of such norms are not ‘good’ enough.

The second alternative put forth by Prof. Chimni, is between a formal conception of ROL and a substantive conception of ROL. The substantive conception of rule of law would examine the character of the legal system, which is sustained through the idea of ROL itself. Professor Chimni observed that ROL should be an acultural notion, yet, as stated by Werner Menski, what we have adopted in the international sphere is a ROL that assumes the automatic superiority of the West. Thus, according to Prof. Chimni, we must interrogate very closely the very basis of ROL, since it leaves no place for the contribution of non-Western ideas of ROL.

**Professor Amy J. Cohen** provided a brief intellectual history of the relationship between Alternative Dispute Resolution (ADR) and the rule of law in the United States. She described the U.S. ADR movement as an example of a legal reform project that attempted to address some of the failures of the rule of law and the American legal profession, as well as an example of a reform project that captured the imagination of many critical scholars. She contrasted the scholarly discourse surrounding ADR in the 1970s and 1980s—when both proponents and critics argued that the choice between ADR and adjudication could change our political possibilities in fundamental ways—with the discourse today—when ADR has become an integral part of mainstream legal practice and elite and popular legal consciousness. She proposed that even if ADR has not answered longstanding criticisms



**Professor Amy J. Cohen**

Associate Professor  
Moritz College of Law, The  
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Fulbright Scholar India  
(2010-11)

of American legal institutions, it has been remarkably successful at continually drawing on the institutional power of being a set of forms that is widely understood to function in response legal-bureaucratic problems, even as it has simultaneously remained deeply linked to conventional practice. She concluded by asking what possibilities and promises ADR holds for other contexts and historical trajectories.



**Dr. Kamala Sankaran**

Associate Professor of Law  
Faculty of Law, University  
of Delhi

**Professor Kamala Sankaran** elucidated certain challenges that globalisation poses to the rule of law. Though globalisation promises enhanced livelihood opportunities and better jobs, economic development has been accompanied by a rise in the informality of employment relationships. Rule of law, as traditionally conceptualised, is the thin conception which deals only with procedures or means. What is required is a thick conception, which is also concerned with “fair outcomes” of rule of law.

Professor Sankaran directed attention to various studies and reports to highlight the impact of globalisation on employment and labour standards. A Commission of Experts at the UN has revealed that globalisation has led to increasing levels of inequality and rapid depletion of natural resources.

In India, the Arjun Sengupta Commission also revealed that between the period 1993 and 2004-05, there was a decline in the growth rate of employment. It also highlighted that the number of workers in formal sector jobs has declined from 10% to 7%. Thus, the period of globalisation is accompanied by a great degree of informalisation in employment relationships. There is a gradual privatisation of the regulatory regime in labour standards in India and the state’s role has gradually declined.

Professor Sankaran concluded by saying that the ROL institutions and the regulatory framework ought to play a bigger role in ensuring fairer outcomes of the globalisation process.

## SECOND SESSION: 'BUSINESS AND ECONOMY: CORPORATE GOVERNANCE, COMPETITION AND REGULATION'



**Dr. Sreeram S. Chaulia**  
Vice Dean, Jindal School of  
International Affairs (JSIA)

**Dr. Sreeram Sundar Chaulia** emphasised how the old maxim, 'necessity is the mother of invention', explained the emergence of the G-20 heads of states summit. The elevation of G-20, comprising members that cut across North-South dichotomies, into a heads-of-state global economic governance mechanism, was triggered by the global financial crisis since 2008.

Professor Chaulia discussed the long and short views of G-20's formation and purpose. The short view states that multilateralism in the form of G-20 will not be needed or will disappear as soon as we recover from the financial crisis, because the coordinated effort will not be required anymore. This view is pessimistic about the efforts G-20 will play in correcting global economic imbalances, currency and trade wars etc. and spreads doubts about whether this institution can succeed in effecting genuine global financial regulation, which has thus far been patchy and not as multilaterally coordinated as was expected.

The long view states that G-20 will continue to be the most important institution even after the world slowly climbs out of the depths of the financial crisis. Professor Chaulia also pointed out that the success of G-20 depends on coordinated economic stabilization by all members. Explaining the benefits of having a G-20, he elucidated how the capitalist world-system was saved because of coordinated stimulus spending by G-20 members.

Professor Chaulia's presentation focused on what the G-20 has achieved so far and whether it has a future as a relevant international institution of governance in light of new storms of trade and currency wars and the complacency that has crept into the financial sector that it is back to 'business as usual' after the tight scrutiny and demands for stricter regulation during the immediate crisis environment of 2008-09. He summed up the presentation by using an investors' phrase, "I'm not shorting the G-20, because it reflects the changed global economic structural shift in power from the West to the rest and is here to stay as long as the structure stays this way."



**Dr. Vinod Dhall**

Former Chairman  
Competition Commission  
of India

**Dr. Vinod Dhall**, founder of Dhall Law Chambers, explained the role and position of Competition law in India today by emphasising why the old Monopolies and Restrictive Trade Practices (MRTP) Act was replaced by the Competition Act. The concept of economic liberalization made it pertinent to change the contours of economic legislations in India and it was realised that mere tinkering with MRTP will not bring about the kind of competition required.

Therefore, in 2003, the Competition Act was introduced, marking the movement towards a market-based economy.

He explained the importance of competition in the changing world order today and stated that it was important to have, firstly, a ‘pro-competitive policy’, and, secondly to buttress it with a ‘competition law’. He then elucidated that the role of the new competition law is to ensure that enterprises (market participants) do not indulge in any such exercises that can adversely affect market norms or hurt consumers.

**Professor Anand Mishra’s** talk centered on the role of corporate boards of directors (whose actions in the past have resulted in corporate governance disasters like the collapse of Enron in the USA and Satyam in India) as human beings. He used Milgram’s experiment on obedience to authority figures, in order to explain how authority compels obedience even when such obedience would conflict with one’s inner conscience. Prof. Mishra highlighted how experimental work in social science seems to suggest that while human beings have an innate “predisposition to obey authority”, such human predispositions can be subverted by the presence of dissenting peers, conflicting authorities, and distant authorities within small groups. He raised the question of whether the presence of such dissenting peers in corporate boards of directors can play any effective role in mitigating corporate governance disasters. Since current empirical evidence on this issue is scant, he suggested this as an area of further research.



**Professor Anand Mishra**

Assistant Professor &  
Assistant Dean (Student  
Initiatives) JGBS

He summed up his presentation by quoting Samuel Goldwyn:

*“I don’t want any yes-men around me. I want everybody to tell me the truth even if it costs them their jobs.”*



**Mr. Rahul Srivastava**

Former Chairman &  
CEO, LexisNexis-India

**Mr. Rahul Srivastava**, Former Chairman & CEO, LexisNexis-India, in an enlightening session, talked about the emergence of regulatory states across the globe. He explained how transparency, which was ensured by rule of law in the historical times, is presently being safeguarded by way of international competition, local governance and corporate regulation. He suggested that in a situation where both the market and state have equally important roles to play, the ideas of “access to information” and “effective enforcement” both of which must be promoted. While praising the simplicity and utility of the Indian Right to Information (RTI) Act, Mr. Srivastava stated that the Indian RTI

experiment has proved that right to information is a powerful tool that serves to bridge the democratic deficit created by increasing inequality and differences in access to opportunities. He concluded by saying that ‘transparency’ possesses within it the potential to intertwine the three pillars of government in the fabric of trust, and can be achieved via targeted legislation and a dedicated executive. This synthesis of trust must underscore governance, regulation and competition.

**Professor Rahul Singh**, the then Associate Director, Directorate of Legal Education, Bar Council of India, began his presentation by stating the need for competition law in India today by emphasising various push and pull factors. The push factors include multilateral organizations like WTO and the World Bank, while the pull factors include market power after India’s 1991 economic reforms and consumer welfare. With a few cases already landing up in the Supreme Court of India it will be interesting to analyse the unravelling jurisprudence of Indian competition law and economics. Professor Singh discussed the latest Supreme Court cases—*Competition Commission of India versus SAIL* and *Jet Airways versus Kingfisher*—and elucidated that the Supreme Court has chosen the deferential standard of review and not the *de novo*. Professor Rahul concluded by throwing out a question for further thoughts, ‘Does the CCI deserve deferential standards?’



**Professor Rahul Singh**

Assistant Professor  
National Law School of  
India University, Bangalore  
(on leave) & Senior  
Associate, Trilegal

## THIRD SESSION: 'GLOBALISATION: TRADE, DEVELOPMENT AND MIGRATION'



**Mr. Nayan Chanda**

Director of Publications & Editor, Yale Global Online, Yale Center for the Study of Globalization  
Yale University

**Mr. Nayan Chanda's** presentation was concerned about globalisation through outsourcing from the USA to India. He began by remarking that just as England and United States are divided by the English language, India and the United States are divided by outsourcing.

Mr. Chanda set up his argument by explaining how the term 'outsourcing' connoted different things for Indians and Americans. While for Indians, it brings the hope of increased job opportunities in the BPO sector; for Americans, it represents the nightmare of unemployment and the loss of jobs. He also noted that "outsourcing" should not be confused with "off-shoring"—the former denoting a mere delegation of non-core area jobs to other firms (could be within same city and same country); the latter meaning the hiring of services from outside the country.

Mr. Chanda also demonstrated how outsourcing was not a new phenomenon, pointing to historical evidence of Arab traders sending ivory to India for being carved and then reimporting the same for domestic sale. However, he went to explain that outsourcing in its present avatar, is a result of the cumulative impact of several factors such as: the theory Comparative Advantage (as formulated by David Ricardo); innovations in production that now allow different parts of products to be made by specialised manufacturers in different places; the opening up of the economies of developing countries, which have highly skilled labour available at much lower costs than developed countries; the low cost of transportation due to a revolution in means of communication; and the spread of digitisation technologies. Thus he explained that companies outsource because outsourcing lowers the cost of production and thus increases companies' profit margins.

While Mr. Chanda accepted the fact of outsourcing being unstoppable, he also pointed to how opposition in the Western world to off-shoring due to job loss has led to enactment of legislations like Trade Labour Adjustment Act (USA). Thus, in the current backdrop of economic recession, he cautioned net job recipient countries to be prepared to face a backlash from the countries which outsource business.



**Professor James Nedumpara**

Assistant Professor &  
Executive Director, Centre  
for International Trade &  
Economic Laws, JGLS

**Professor James Nedumpara** argued that the issue of subsidies--both industrial and agricultural—is one of the key unresolved issues from the point of view of multilateral trading system. The continuing deadlock in the Doha Round of Trade Negotiations demonstrate to an extent the difficulty in finding a lasting and mutually acceptable framework for curbing different categories of trade distorting subsidies and especially agricultural subsidies. The concern, however, was not just agricultural subsidies; the industrial subsidies which have been regulated under the erstwhile GATT and now the WTO continue to be significant concern taking into account their sheer size and trade distorting effects.

The basic purpose of GATT and its successor, the WTO, is to facilitate market access, reduce tariff barriers and eliminate quantitative restrictions. Yet, countries continue to give subsidies to various sectors of their economy to enhance their competitiveness. A vital breakthrough was arrived at the Tokyo Round in curbing highly trade distorting industrial subsidies including export subsidies. The Tokyo Round succeeded in banning export subsidies on industrial goods, but in the case of domestic subsidies, the framework was incomplete. Again, during the GATT days, it was extremely difficult to reach a binding decision to implement an adverse dispute settlement ruling in view of the requirement of unanimity in decision making and some of the GATT panel rulings involving complex subsidy disputes remained unimplemented. This issue was resolved to an extent with the establishment of the WTO.

Countervailing duty (CVD) investigations—often employed to target trade distorting subsidies in specific sectors—have identified and targeted a few forms of subsidies, but the bulk of the domestic subsidies, especially in the industrial sectors, go unnoticed or unchallenged. Furthermore, CVD actions can only be selectively used and represent, at best, a patchwork solution to the issue of subsidies. The recent disputes on US- Upland Cotton and the Boeing/Airbus disputes have brought to the limelight the need to focus on actionable subsidies which cause serious prejudice to commercial interests of trading nations. In fact, prior to the Boeing-Airbus dispute under the WTO, the EU and the U.S had formed an agreement in 1992 which ensured that the government support provided to these companies would remain unchallenged. It required several years for this issue to be brought before the WTO dispute settlement body and now the panels have affirmatively ruled against them. The same was the situation with the DISC/FSC disputes as well. These disputes typify individual initiatives to address a problem that is significantly more complex than it appears. There are many other sectors

which have seen intermittent infusion of governmental support. For instance, sectors such as fisheries, ship building, cotton, steel, textiles and garments etc., have traditionally received significant government support, both direct and indirect. These sectors have considerable potential for growth and expansion in international trade, but huge amounts of domestic subsidies still being given by a few countries continue to distort international trade to an appreciable degree.

The efforts to conclude plurilateral agreements outside the GATT/WTO have also not been very successful. The fate of the proposed OECD steel subsidies agreement is an interesting case study. Again, subsidies in the field of services have not received the attention it requires and continues to be unregulated.

In the above backdrop, Professor Nedumpara presented an urgent need for major trading countries like USA, India and European nations to sit together and ensure that trade distorting domestic subsidies—mainly government support in the industrial sector-- are phased out over a definite period of time. Professor Nedumpara also highlighted that leading players such as India should not focus on availing the benefit under Annex VII of the Agreement on Subsidies and Countervailing Measures to extend export incentives, but instead should take up the leadership by reforming its export incentive schemes to leverage other trading countries and blocs such as the U.S and EU to eliminate their government support to key industries to provide a level playing field for all.



**Amit K. Kanodia**

Founder & Managing

Partner, Lincoln Ventures  
LLC, Boston, USA

**Mr. Amit Kanodia** centred his talk around the idea that investment is similar to trade, as both move towards areas which are cheaper, better and faster at garnering profits. He observed that there has been a change in investment patterns. Earlier, the USA and EU were net givers of investment. But since the 1990s, they have become net recipients (especially of Chinese investments). Today, more and more Indian companies are buying US assets. This trend is remarkable because it is actually medium sized Indian companies which are ruling this trend.

There are various criteria which determine investment directions. The main one is profit percentage (both in short term and long term) and the extent to which a market can be manipulated. Most Western investors in the past have lost money in their investments in China and India. This is because they invested during boom times but the return was not

equivalent to the investment made due to lack of knowledge about peculiar market conditions of these countries.

Mr. Kanodia stated that the factor which has the potential to boost India's development and make its complete transition into the modern economy is enhancement of governance standards. This lesson ought to be learnt from various economic meltdowns in the history of USA, where there was complete failure in governance standards. If governance standards are enhanced, India would progress fast and, in few years, might start outsourcing to countries like Philippines. Mr. Kanodia concluded by insisting that the growing prosperity of India would not be a threat for USA. In fact, India's economic progress would add to maintain global security.



**Dr. Rupa Chanda**

Professor of Economics &  
Chairperson, Economics &  
Social Sciences Area  
Indian Institute of  
Management, Bangalore

**Professor Rupa Chanda** built upon the notion that the globalised era is characterised by an unprecedented rise in cross-border relations between countries, MNCs and different regional and multilateral organizations. She started by highlighting a common misperception among many that globalisation is synonymous with laissez faire and thus a lesser role for governments, international institutions, and regulatory bodies. Instead, she emphasised that with the growing role of markets due to globalisation, there was even greater interdependence among economies on multiple fronts, making intergovernmental cooperation and collective action all the more important. Such cooperation was necessitated by the need to address interoperability and compatibility requirements across countries, the trans-boundary effects of one country's actions on others and the problem of global commons and free riding, and to address the issue of core values and principles across countries.

Professor Chanda called for a rethink on issues of domestic regulation, the role of governments, regulatory bodies, and multilateral institutions. She noted the need for coordination and more intergovernmental discussion on issues as diverse as labour standards, environmental protection, banking supervision, consumer health and safety, competition policy, taxes, and intellectual property rights.

In the area of global trade, Professor Chanda pointed to various challenges that have arisen with the integration of goods and services markets. In particular, she noted the rise of murky protectionism in today's world with more and more countries shifting from transparent and traditional forms of protection to new and shadowy forms of protectionism. She outlined several such measures, such as product standards, technical standards, data protection and privacy related regulations,

recognition of professionals, environmental norms, government procurement related restrictions or preferences, labour mobility restrictions, and subsidies. She called for greater international coordination and dialogue at various levels, such as the harmonization of product standards, mutual recognition of qualifications and degrees, trade facilitation, and use of bilateral and regional agreements to resolve trickier issues of visas, investment rules, etc. She also discussed the recent discussions about exchange rate coordination to address trade imbalances among the G-20 countries.

In the area of global migration, Professor Chanda again highlighted numerous challenges such as issues of ensuring return, reintegration of migrants into their home countries, remittance management, recognition and accreditation issues, welfare and protection of workers' rights, national security, displacement of workers in receiving countries, institutional capacity to handle migration inflows and outflows, and brain drain. She pointed out that although most countries manage migration through national policy frameworks, increasingly, there has been a shift towards managing migration through bilateral, regional, and global dialogue among source and host countries and that the ambit of such discussions has been widened to cover more issues. Today, several regional fora and bilateral and regional agreements cover the issue of migration and mobility of service providers indicating the willingness and need for intergovernmental cooperation in this area. Professor Chanda highlighted the various issues, ranging from preventing irregular migration and capacity building to visa facilitation and totalization agreements that are being discussed under such cooperation frameworks and bilateral/regional labour agreements.

Briefly, Professor Chanda also discussed the contentious issues that have arisen in the trade and migration areas between India and the US. She noted the recent ban on government outsourcing to other countries in the state of Ohio and fee hikes on H1B visas which have raised an outcry in India's IT sector. Once again, she noted the need for the Indian and US governments and also the Indian IT industry to enter into dialogue and to rethink their engagement strategies.

In her concluding remarks, Professor Chanda stated that international cooperation and regulatory coordination will pose major difficulties as basic questions such as how these regulations are to be coordinated, whether such coordination can be possible given existing power asymmetries in the world today, the determination of the content of international regulations and frameworks, the enforcement of these regulations, and the evolving role of international, governmental and nongovernmental organizations would need to be worked out.

She concluded with some thoughts on what possible approaches could be taken in this regard. In her view international cooperation and regulatory coordination

would require public-private partnership within and across countries to define and shape the agenda and to ensure effective enforcement. This would require a more proactive role for industry bodies, inter-country industry forums and councils, and engagement with a wider range of stakeholders both within and across countries. She also suggested that given the complex nature of many issues, a plurilateral approach among like minded or similar placed economies may be more appropriate as this could be used for confidence building and learning, which could be gradually expanded over time to include more and more countries.



**Ms. Shahana Basu Kanodia**

Partner & Chair of The South Asian Practice Group, Edwards Angell Palmer & Dodge, LLP USA & Member, Executive Board, Yale Law School Association

**Ms. Shahana Basu Kanodia** expressed in her talk that the relationship between India and USA is evolving fast. Due to the IT revolution and the role of Indians in it (large presence of Indians in Silicon Valley), the Indian Diaspora has become more active and powerful in the US economy and politics than before. Now, due to an increase in economic growth of India, a reverse trend can be observed. Many non-resident Indians (NRIs) are coming back to India (brain gain). Indian companies are recruiting in USA, both from NRIs and Americans. From January till July 2010, 23 US companies have been acquired by Indian companies. Publically listed Indian companies are acquiring sick companies of USA. This is being increasingly done by mid-sized Indian companies.

There are a large number of M&A deals involving Indian companies overseas, such as the Bharti-Zain deal. Indian companies are looking for investments abroad, while India is also receiving higher amount of FDI than before. Now, separate funds are being set up by companies for investment in India. In light of these developments, there is a major need for expansion of the venture capital industry in India.

Yet, certain economic and cultural peculiarities have a great influence on dealings between Indian companies and foreign companies. These include the trends of family owned firms in India, greater time required in conclusion of deals, different professional standards, belief in astrology for conducting business, unique cultural challenges like restriction on removal of religious structures, and land acquisition procedures. Foreign companies need to be acquainted with these and conduct business by keeping these factors in consideration.

## FOURTH SESSION: ‘SECURITY AND LIBERTY: STRIKING THE RIGHT BALANCE’



**Professor Jonathan A. Burton-MacLeod**

Assistant Professor  
Jindal Global Law School  
(JGLS) & Assistant  
Director, Centre for  
Global Governance and  
Policy (CGGP)

**Professor Jonathan Burton-MacLeod** spoke on striking the ‘right balance’ in regional security, from a US-Indo relations perspective. Unlike much of the world, India underwent a cooling of relations with the advent of the Obama administration, in which India feared it would lose the privileged status it developed under the George W. Bush Administration (most notably demonstrated by the US-Indo Nuclear Deal). Neoconservatives (particularly) in the Bush Administration advocated alliance with India as a balance of power approach to China’s ascendancy. By contrast, the first two years of Obama’s foreign policy have yielded a clearly different approach to foreign policy, if it one that remains as yet difficult to define.

Professor Burton Macleod termed Obama’s foreign policy approach “multilateral pragmatism”. Professor Burton Macleod suggested that the first component signals an ongoing commitment to the ‘dehyphenation’

that characterized the Bush years. Particularly in the context of India-Pakistan, dehyphenation means that the powers will be engaged according to its own merits and in congruence with the interests of the US on a particular issue.

The pragmatic portion of Obama’s foreign policy conjures up images of Obama the Professor, and of his vaunted ‘team of rivals’. However, when applied to the questions of security in the South Asian region, ‘pragmatism’, sounds a lot like regional re-hyphenation. Professor Burton Macleod observed that this can lead to a situation where the US ends up “mollifying the relatives” i.e. assuaging egos on both sides of the border.

In Afghanistan, the US is trying to address a situation that it sees as its most pressing security concern by coordinating with a host of players like Russia, China, India and Pakistan, who have a history of conflict between themselves, and any effort to make them work together is Herculean. Professor Macleod ended on a cautionary note that it is still very early to decide whether the policy of multilateral pragmatism will result in a solution or a stalemate in the ‘Af-Pak’ conflict theatre. However, returning to the Indo-US relationship as key to the region, Professor Burton Macleod held out the possibility that through enhanced civil engagement, the US and India might move beyond a strategic partnership, and into situations where the US could be a trusted interlocutor—be it in Kashmir or in Afghanistan, mediated as both are through India’s relationship with Pakistan and the resulting delicate regional strategic calculus.



**Professor Sanjoy  
Hazarika**

Saifuddin Kitchew Chair &  
Professor, Centre for North  
East Studies, Academy of  
Third World Studies  
Jamia Millia Islamia

**Professor Sanjoy Hazarika spoke** on ‘impunity of the state’, with special reference to the Armed Forces Special Powers Act (AFSPA). It’s most controversial sections permit the security forces to shoot on suspicion without victims or their relatives having recourse to any judicial proceeding for the minimum of justice, except with the permission of the Indian central government. In the last sixty years, not a single clearance has been granted for such prosecution.

In 2004, there was a major outcry against the Act when paramilitary troops in Manipur allegedly killed a young woman, Manorama Devi, allegedly a member of an underground militant organization. The Prime Minister set up a committee, including Professor Hazarika as a member, to look into the issue. But the far-reaching proposals of this committee have been stonewalled by India’s Defence Ministry.

The reluctance of the Indian Government to repeal the Act is not understandable since most insurgencies in North-east India are in retreat. The Indian Home Ministry identifies the North-east as lower than Jammu and Kashmir and the Maoist challenge in its grading of risks to internal security. The Nagas are at the negotiation table and most of the Assamese insurgent leaders are in jail along with a key figure from the Manipuri movement. There seems to be a democratic deficit at play, whereby civil authority bows to military priorities with regard to security issues and policy in the North-east.

Solution lies in greater democracy, not less, and inclusive governance, not exclusivity, and serious negotiations. War and conflict create consequences that fall heavily and disproportionately on women. Professor Hazarika narrated stories of his researchers breaking down in the process of a study on the impact of conflict on women. The psychological damage and post-traumatic stress which are unhealed make resolution of such complex issues more difficult. This has to be seen in addition to the “sting” and “hiss” of mainstream Indian prejudice that is still felt by the people of the Northeast.

Professor Hazarika said that the democratic ethos of India, however flawed, gives hope. He cited the example of the graves and memorials honouring Naga separatist fighters which remain unmolested in villages. Their existence stands testimony to the strength of Indian federalism and democracy.



**Mr. N. Ravi**  
Editor, *The Hindu*

**Mr. N. Ravi's** talk revolved around the balance between security and liberty, arguing that liberty should be trumped only when it is absolutely necessary for the protection of security. He gave the example of the famous ticking time bomb scenario where the question is often posed whether it is legitimate to put to torture a suspect who is reasonably believed to have information of the bomb.

According to Mr. Ravi, such an example is inconceivable and unrealistic and extreme situations cannot be invoked to justify curbs on liberty in normal times. The burden on the state in justifying any curb is very heavy, as was pointed out by the United States Supreme Court in the case of the Pentagon Papers where an injunction was refused against the publication in the New York Times and the Washington Post of the U.S. Defence Department's own history of the Indo-China war. Security should not be used as a cover to avoid embarrassment to the government.

Mr. N. Ravi spoke particularly in terms of curtailment of the freedom of speech. The threat justifying the curtailment of liberty must be an imminent threat and not something already on record or widely known. The curbs must be narrow in scope and application. He gave the example of the spy catcher case as an instance of how restrictions ought not to be imposed.

'Spy Catcher' was a book written by a former British secret service agent who later moved to Australia. It revealed a great deal of embarrassing information about the MI-5, including the fact that one of its ex- Directors was a KGB mole and that it had contemplated assassinating Nasser in Egypt. The book was published in Australia. In England, although the authorities obtained an injunction against publication, it did not apply in Scotland where the book was freely available and could be easily brought into England. The House of Lords upheld the injunction in England in the first instance, though it was found to be flawed by the European Court of Human Rights. It took some years for 'The House of Lords' to realise the futility of the injunction against a book that was so freely available all over the world, including in Scotland, and to revoke it.

In a somewhat similar incident involving Iftikhar Gilani, New Delhi correspondent of the Kashmir Times, a five year old article on the situation and army deployment in Kashmir that had appeared in an Indian defence journal was said to be the "incriminating evidence". The absurdity of this charge and the lack of any other evidence led to the case being dropped, but not before he had spent seven months in prison.

While the abuses in the name of security were widespread, Mr. Ravi did not take a fundamentalist position that governments should hold no secrets at all. Crucial defence and security secrets such as the sailing dates of warships and troop positions in times of conflict can be legitimately protected. In the case of the leaks of U.S. Defence Department logs relating to Iraq and Afghanistan, the website Wikileaks took a fundamentalist position and posted on its website all the logs it was able to obtain unmindful of the consequences and irrespective of whom they put in peril. On the other hand, responsible media organizations such as the New York Times and the Guardian examined them with care to ensure that human lives are not exposed to risk before the publication.



**Professor Ashwani Kumar**

Associate Professor  
Jindal Global Business  
School and Former  
Director, Central Bureau  
of Investigation (CBI)

**Professor Ashwani Kumar**, the then Director of India’s Central Bureau of Investigation (CBI), stressed that it is high time to bring harmonious relations between security and liberty. After explaining these two terms, he argued that in order to protect fundamental rights, liberty is important, but for the protection of life, security is important.

He also shared points of difference in the American and Indian definitions of liberty. In America, liberty relates to just liberty whereas in India, liberty in Article 21 of the Constitution relates to “personal liberty”. Along with this, there is a fundamental difference in American administrative law and Indian administrative law. In India, the position is dealt with “procedure established by law”, whereas in America it is “due process of law”. Mr. Kumar asked whether security and liberty “are opposite to each other” and contended that mathematical values cannot be assigned to both concepts because they are relative words. He concluded that while the status quo amounts to stagnation, India’s armed forces are “walking on a cliff” in fighting insurgencies, rendering it difficult to strike a balance between liberty and security.



**Mr. Ravi Nair**

Executive Director of the  
South Asia Human Rights  
Documentation Centre  
New Delhi

**Mr. Ravi Nair** at the outset stated that liberty could not be sacrificed at the altar of security, as Thomas Jefferson, one of the founding fathers of the United States had opined.

Mr. Nair said that any state could certainly enact emergency or special legislation to deal with situations like terrorism or insurgency. However, he cautioned that any such legislation must be emergency legislation which is subject to periodic review by Parliament and must contain sunset clauses. He also said that all aspects of special legislation should be subject to judicial scrutiny at all points of their application.

Mr. Nair provided specific instances of how such special legislation had been misused by law enforcement officials and security officials. He mentioned the Armed Forces Special Powers Act in this context and arrests under Terrorist and Disruptive Activities (Prevention) Act (TADA), Prevention of Terrorism Act (POTA) and the Unlawful Activities Prevention Act (UAPA).

He said that there was a climate of impunity in India and that there was very little accountability unless Section 197 of the Code of Criminal Procedure, 1973, was repealed which required permission from the executive before security or law enforcement or public officials could be prosecuted. He emphasized that India was one of the few democratic countries which had an inflated sense of sovereign immunity which was a colonial construct.

Mr. Nair also drew attention to the fact that India's Intelligence Bureau and its external spy agency, Research and Analysis Wing (RAW), were not subject to any parliamentary scrutiny and that in the case of the intelligence bureau it was not even governed by a formal statute. This was completely against democratic norms that should be the hallmark of any democratic country. Mr. Nair focused attention on the fact that in spite of both Houses of Parliament unanimously passing the amendments in the 44th amendment to the constitution in 1978, the changes relating to safeguards on preventive detention had not yet been gazetted and brought into force by the executive in complete violation of Parliamentary and democratic norms.

In conclusion, Mr. Nair said that given the large number of special legislations available and their wide spread application, large parts of India were under a decentralized emergency in complete violation of Article 4 (1) of the UN Convention of Civil and Political rights to which India is a party.

## FIFTH SESSION: 'INEQUALITY & EXCLUSION: IDENTITY, DISCRIMINATION & PARTICIPATION



**Professor Ian Shapiro**

Sterling Professor of Political Science & Henry R. Luce Director of Macmillan Center For International & Area Studies, Yale University

**Professor Ian Shapiro** pointed out that there is no single answer as to why democracies are not downwardly redistributive. In developed countries, democracy has existed for long without eliminating inequalities. This is because there are various other dimensions to politics other than redistribution—religion, ethnicity etc. If these dimensions matter more than the dimension of redistribution, then voters might actually vote against redistribution in a democratic set up. Professor Shapiro illustrated this point by taking examples from the US such as the repeal of estate tax, provision of universal healthcare, affirmative action etc. He affirmed that distributive coalitions cannot be held together solely by economic interests. He concluded by stating that redistributive politics varies with the intensity with which people believe in things, i.e. whether they are moved by

non-economic considerations more than the economic considerations, and also the manner through which distributive coalitions can be assembled and broken.

**Professor Amita Dhanda**, whilst presenting her paper on “the Pluralizing of inclusion with Disability Rights”, pointed out that there was a close connection between the session deliberating on security and liberty and this session which was concerned with questions of identity and discrimination. Whilst the morning session was examining the processes by which exclusion happened in a society, she wished to present a procedure by which inclusion could be undertaken. She contended that Disability Rights was one such route of plural inclusion.

In setting up her argument, Dr. Dhanda contrasted how inclusion happened for other excluded communities with how inclusion would need to take place for people with disabilities. People have been excluded on grounds of exclusion such as race, gender, caste, colour, region or religion. The inclusion of disability, on the other hand, cannot happen without altering the prototype on the basis of which the



**Dr. Amita Dhanda**

Professor of Law  
NALSAR University of Law  
Hyderabad

world has been constructed. The recent enforcement of the Convention on the Rights of Persons with Disabilities demonstrates that there has been an agreement to include persons with disabilities in the social fabric. This agreement flows from an acceptance of disability not as aberration but as an integral part of the human condition. This process of inclusion will require a deconstruction of existing social structures and insofar as the existence of disability cuts across class, caste, region, religion, age and gender, the recognition of disability rights offers an opportunity to make a more inclusive world.



**Professor David Grewal**  
Harvard Society of Fellows  
Harvard University  
(Joining Yale Law School  
Faculty in July 2011)

**Professor David Grewal** first looked at the relationship between inequality and globalisation. His presentation consisted of three parts. In the first, he argued that to begin asking about the relationship between globalisation and inequality requires that we acknowledge the inescapably normative grounding to all measures of well being, as Amartya Sen and others have forcefully and persuasively discussed. Deciding what to measure requires a prior decision about what (and how) to value—and that will affect how we understand and assess ‘inequality’ or ‘exclusion’ in circumstances of ‘globalisation.’

In the second part, Grewal deepened the discussion of inequality by moving from definitions of inequality dependent on a conception of individual interests to those dependent on a conception of inter-subjective recognition. Recognizing the normative basis of inequality measures in this way opens up a broader debate from contemporary political philosophy concerning the distinction between “redistribution” and “recognition” as motivations for social struggle and contest. This difference has come to the forefront of a great deal of academic work in recent decades because a number of contemporary social movements seem motivated by complex inter-subjective demands that do not fit neatly into a redistributive framework. One convenience of using money metrics—the income measures of inequality that Grewal criticized in the first part of his talk—is that they are based on a good that is susceptible of redistribution among multiple parties, all of whom are assumed to want more of the same thing. But he considered too what is being demanded in many important social movements today, whether it be women’s rights, multicultural movements, minority rights, dalit empowerment, and so on. In these movements, the demand is not just for redistribution, it is often crucially a demand for recognition. Indeed, the demand for redistribution often comes as a proxy for or is asked as proof of a demand of equal recognition.

Demands for recognition matter a great deal to our assessment of globalisation for, as Grewal argued in the final section, the form that globalisation takes is a matter that not only impacts our interests understood in a distributive framework, but which crucially reorganizes the grounds of inter-subjective recognition. In this final section, he turned to the other part of the interrelationship, to the idea of 'globalisation,' using concepts developed in his book *Network Power: The Social Dynamics of Globalization* (Oxford University Press India, 2009). The normative evaluation of globalisation, he argued, requires as a preliminary a coherent concept of the phenomenon under discussion.



**Dr. N.R. Madhava Menon**

Former Director, National  
Law School of India  
University, Bangalore &  
Former Director, National  
Judicial Academy, Bhopal

**Professor N.R. Madhava Menon** argued that despite India's constitutional promise of growth with social justice and legislative measures to enliven affirmative action, there is denial of equal opportunities and a large segment of population are excluded from the fruits of growth. In the light of the constitutional obligation entrenched in article 38(2) of ensuring equality of income, status, facilities and opportunities, an Equal Opportunity Commission (EOC) is moot to respond to the questions of denial of equal opportunities. EOC would be different in its working from India's National Human Rights Commission or the National Commission for Women, as it would act on the basis of empirical evidence and have its own investigating agencies. The remedies suggested by EOC would be enforceable even against the private sector. Thus, the EOC would be able to realize the constitutional obligation of equality to all.



**Dr. A. Francis Julian**

Senior Advocate, Supreme  
Court of India

**Dr. A. Francis Julian** focussed on how globalisation has resulted in a reduction in the protection that was afforded to small farmers in India, who find themselves pushed to the margins of acute poverty, indebtedness and suicides. Dr. Julian focused on law and policy measures in three areas to substantiate his point, viz. land, credit and seed. He pointed out that on the land policy, the Indian government has failed to assure security to farmers who are caught in the web of “eminent domain”, insufficient compensation, and emergency acquisitions of land. He also drew attention to the existing land acquisition law in India which is more than a century old that affords

no protection to farmers whose lands which are their only means of livelihood are acquired without adequate resettlement and rehabilitation policy to provide alternate means of livelihood.

He further pointed out that the existing laws on seeds and seed rights are outdated and do not adequately safeguard the traditional breeding rights of the farmers. The genetically modified seeds have slowly taken away the farmers breeding rights. On the agricultural credit, he pointed out that in spite of the agricultural credit policy, the farmers suffer from indebtedness and suicides are continuing. He also stated that the legislative reform initiatives in all these three areas are belated adding to the sad plight of the farmers. He finally underlined the fact that because of the plethora of policies and legislations in these three areas which are also inadequate and inconsistent, it is urgent that the government come up with a single and harmonious policy to deal with the farmers’ problems backed by appropriate legislation so that the poor and marginal farmers can tide over the negative impact of globalisation.

## SIXTH SESSION: 'ENVIRONMENTAL PROTECTION: SUSTAINABILITY AND TECHNOLOGY'



**Dr. Bharat K. Desai**  
Professor & Chair, Centre  
for International Legal  
Studies, Jawaharlal Nehru  
University, New Delhi

**Professor Bharat Desai** stressed the larger law making process in international environmental policy, trying to understand the different kinds of factors that drive this multilateral process. He brought to light certain common factors we find in the international environmental lawmaking process, such as:

- (1) There has been a proliferation of issues and subjects in the field that has led to more emphasis being paid to lawmaking
- (2) These issues are transnational in nature. For example, the migration of birds and turtles; movement of hazardous waste across borders etc. It is the transnational character of these issues that has given rise to international regulation.
- (3) The lawmaking process remains largely state-centric, although other actors like civil society (in, for example, the case of hazardous waste regulation—the Basel Convention), and scientists (in for example, the movement for ozone protection—the Montreal Convention), are important.
- (4) There is no central law-making institution, and the international regulatory mechanism in the field of environmental protection thus remains need-based and ad hoc in nature.

Because the process is state-centric, conflicting national interests (which vary according to the particular issue being discussed) lead to:

- (1) Finding the lowest common denominator which all states can agree to, which in turn leads to most of the instruments being “soft” in terms of the obligations they impose
- (2) Since the national interest is different in each issue/subject, we find that states employ different negotiating tools and techniques to deal with different subject matters. Thus, each treaty regime is sui generis in character. This, coupled with the fact that there is no central law making institution in the field of international environmental regulation, makes it difficult to find common threads of an international environment protection regulatory system.



**Dr. Deepa Badrinarayana**

Assistant Professor  
Chapman University School  
of Law, USA

**Dr. Deepa Badrinarayana** focused on how globalisation and the economic relationship between India and USA have affected the movement to deal with climate change. She argued that, in the area of climate change, we have not yet achieved what the topic of this session aims at—i.e the use of technology to achieve sustainability and environmental protection. Thus, we need to seriously think about developing a normative framework to deal with the problems posed by global climate change. In a lucid presentation, Dr. Badrinarayana stressed on two main points—the “globalisation of climate change” is the reason we have not yet managed to achieve a coherent treaty on climate change; and the specific relationship between India and US (in terms of the nuclear agreement)

can end up, instead of helping the climate change problems, actually posing serious governance challenges.

The basic premise of Dr. Badrinarayana’s first argument is that because of global competition, no country is willing to take the first step to reduce greenhouse gas (GHG) emissions. For example, China and India refuse to reduce GHG emissions because developed countries like US refuse to do so, which in turn refuses to reduce GHG emissions because countries like India and China, being the major new emitters, refuse. Thus, this becomes a vicious cycle, and according to Dr. Badrinarayana, climate change, which started as an environmental issue, has become a quintessentially economic issue precisely because of globalisation and global competition.

With respect to nuclear energy being a viable alternative to energy that increases GHG emissions, Dr. Badrinarayana concedes that this may be true, but only in the long term, since any reduction in GHG emissions that will occur due to the use of nuclear energy will only happen by the year 2050, by which time the global climate change problem will have gone out of hand. (The current estimates are that by 2050, there will be an increase of 2 degrees Celsius in temperature, which will have disastrous consequences for the world). Secondly, and more importantly, this nuclear deal poses serious other environmental, regional, security and governance challenges.

Since India has no uranium necessary to use nuclear energy, it has started entering into agreements with countries like Mongolia, and African countries for the mining of uranium. Mining itself poses serious environmental hazards. The use of nuclear energy requires large amounts of water, and India has a huge water deficit. Even if the nuclear plants are based in coastal areas, water shortage can be a serious issue. Related to this is the issue of information, since most plants will presumably be in areas where the populace may not be aware of the consequences. Thus, India will need to have proper dissemination of information and disaster management. Since

the US is supplying India with nuclear material, China plans to do the same for Pakistan. Now, that poses a serious security threat since China does not recognize or consider itself bound by the global safeguards on the safe use of nuclear energy. Thus, it is plausible that any China-Pakistan nuclear deal will not contain the safeguards that the India-US deal does. Such technology in the hands of an already unstable state like Pakistan is very problematic.

Dr. Badrinarayana concluded by stating that globalisation has created more challenges for climate change instead of helping solve the problem.



**Mr. Sanjay Parikh**  
Advocate, Supreme Court  
of India

**Mr. Sanjay Parikh** focused on how words like “sustainable” or “green economics” in the field of environmental protection are misnomers and are used as a prefix to cover up patently unsustainable policies. He argued that there is nothing ‘green’ about business ventures. Thus, his suggestion was that we must stop playing with mere words and starts focusing more on what states actually do, instead of what they just say. Globalization, and the resulting ‘growth’ it spawns, he argued, leads to the concentration of wealth in the hands of a few. Using statistics, he pointed out that we cannot say that the reality of growth and globalisation is ‘sustainable’.

The economic growth determined by Gross Domestic Product (GDP) does not account for environment and human welfare measures; such growth cannot therefore, necessarily contribute to the improvement in quality of life. Another problem with such economic growth is that it has a serious impact on available natural resources resulting in the problems which we face today in climate change. He referred to the Stockholm Declaration, Earth Summit at Rio and the Convention on Climate Change to emphasize the responsibility of the developed nations based on “common but differentiated responsibility”

Referring to several studies he pointed out that maximum contribution in present global emissions of Green House Gases (GHG) is by the developed nations. It is only if the mitigation measures are adopted by the developed countries that the concerns expressed in climate change could be really addressed.

Lastly, he cautioned that the present paradigm of development may result in irreversible damage to the environment as well as to global food security.



**Mr. Amol Sharma**  
India Correspondent  
*The Wall Street Journal*

**Mr. Amol Sharma** highlighted three issues that are at the forefront of the India-US strategic relationship, ahead of President Obama's visit to India.

Firstly, he spoke about the Nuclear Energy. Mr. Sharma stated that although it will be downplayed during Obama's visit, this issue forms the cornerstone of the strategic partnership between India and US. The main debate right now is the issue of the Indian Nuclear Civil Liability Bill, which, as opposed to one of the main requirements of the 123 Agreement, does not exclude liability for US nuclear energy suppliers like GE. Thus, companies in US like GE are now being advised by their lawyers that it may be too risky to supply nuclear energy to India. Therefore, in light of this possibility of such companies not supplying nuclear energy to India, we must question whether India and US have a deal in the first place. Mr. Sharma wondered whether India can actually make any amendments to the Liability Bill, given the political climate in the country and the difficulty the government had in even getting the original Bill (without the liability exclusion clause) passed by Parliament.

Mr. Sharma, then referring to alternate energy sources, focused on solar energy, commending the fact that India's solar initiative is one of the largest in the world, and arguing that this area is a viable area for US businesses to be involved in. This is because the setting by the Government of Rs.18 per unit of solar energy, as the economic price point, is a huge leap forward. However, the challenge is how to create a Central Government-run subsidy programme without having bureaucratic hang-ups and delays factored into it. Secondly, there is the issue of who to give this project to. The idea has already attracted more than 400 businesses. Thus, the government needs to create a plan for the giving of subsidy and decide the basis on which to do it—through a tender, to the lowest bidder etc. Thus, while solar energy may be a viable area for India to attract US investment, it first needs to address these two challenges in order to actually get the foreign investment.

Lastly, Mr. Sharma elucidated the environmental regulation in India and stated that the Vedanta controversy has started to scare away foreign investors from India. What we are seeing is the government struggling with the question of how to attract large investments and yet keep with the larger goal of inclusive growth. In this regard, the problem is the changeability of the Indian environmental regulatory system. The regime is confusing to investors—one moment the government may say something, and then the next, something else. The solution, according to Mr. Sharma, is that what foreign investors want is a consistent government

response, a guarantee that once they invest in a project, the rules will not change half-way through. Therefore for Mr. Sharma, it's alright if the regime is not completely investor friendly and has protections in place for the people of the country. That will not deter investment. However, what is needed is a consistent and a certain regulatory system. Only then will India be able to attract foreign investment while keeping to its goal of inclusive growth.

## SPECIAL ADDRESS



**Mr. N. Ravi**  
Editor, *The Hindu*

**Mr. N. Ravi** said that collective security should be prioritized over liberty in general but liberty should be trumped only in cases of absolute necessity. He said that compromising liberty for security “must not be applied to absurd or improbable situations.”

Due to innovations in modes of communication, society has become closely networked. This function of the communication revolution has proved to be of utmost utility by rendering transfer of a considerable amount of data easy through means like telephone, electronic mail, social networking sites etc. A major cause for concern in wake of this free flow of information is security risk against misuse of information networks by terrorists for planning and executing attacks.

But, the flip side of the proliferation of these means of communication reveals a major threat to the constitutionally enshrined right to life, from which ensues the right to privacy. This is specially so in cases of unauthorized telephone tapping, use of intrusive techniques like narco-analysis for extracting confession, use of details collected by biometric systems etc.

In light of this negative side of fast transfer and flow of data, measures need to be taken which prevents the right to privacy of individuals from being invaded. Safeguards by means of legal enactments need to be established to ensure safety from leakage of personal data.

# Appendix-I



**O.P. Jindal Global University**  
A Private University Promoting Public Service

# Yale

Cordially invite you to attend the

## **INTERNATIONAL CONFERENCE ON GLOBALIZATION IN INDIA AND THE USA: LAW, GOVERNANCE AND BUSINESS**

On

**29-30 October 2010**

*In the Distinguished Presence of*

**Mr. Naveen Jindal**

*Chancellor of O.P. Jindal Global University*

**Mr. Bhupinder Singh Hooda**

*Hon'ble Chief Minister of Haryana*

**Dr. M. Veerappa Moily**

*Hon'ble Union Minister of Law & Justice*

**Mr. Salman Khursheed**

*Hon'ble Minister of State for Corporate Affairs*

**Professor Richard C. Levin**

*President of Yale University*

**Friday, 29 October 2010**

*O.P. Jindal Global University, Sonipat  
Haryana, NCR of Delhi, India*

**Venue:**

**Saturday, 30 October 2010**

*India Habitat Centre  
Lodhi Road, New Delhi, India*

**Corporate Partner**

 **LexisNexis**  
Butterworths Wadhwa  
Nagpur



**O.P. Jindal Global University**  
A Private University Promoting Public Service

# Yale

## PROGRAMME

**Friday 29 October 2010**  
**Venue: University Campus, Sonipat**

(All guests are requested to be seated by 10:45 am)

**Inaugural Session: 11:00 am – 12:30 pm**

### Welcoming Remarks

11:00 am – 11:10 am Professor C. Raj Kumar, Professor and Vice Chancellor, O.P. Jindal Global University (JGU)

### Introducing the Themes of the Conference

11:10 am – 11:20 am Professor Peter H. Schuck, Simeon E. Baldwin Professor Emeritus of Law, Yale Law School

### Chancellor's Remarks

11:20 am – 11:30 am Mr. Naveen Jindal, Chancellor, O.P. Jindal Global University

### Presidential Address

11:30 am – 11:40 am Dr. M. Veerappa Moily, Hon'ble Union Minister of Law & Justice, Government of India

### Inaugural Address

11:40 am – 11:50 am Mr. Salman Khurshid, Hon'ble Minister of State for Corporate Affairs, Government of India

### Chief Guest's Address

11:50 am – 12:00 noon Mr. Bhupinder Singh Hooda, Hon'ble Chief Minister of Haryana

### Keynote Address

12:00 noon – 12:20 pm Professor Richard C. Levin, President, Yale University, USA

### Concluding Remarks

12:20 pm – 12:25 pm Dr. Sanjeev P. Sahni, Head, Education, Jindal Steel and Power Limited

### Vote of Thanks

12:25 pm – 12:30 pm Professor D.K. Srivastava, Pro Vice Chancellor (Academic), JGU  
12:30 pm – 1:30 pm Lunch

**First Session: 1:30 pm – 3:45 pm**

### RULE OF LAW: INSTITUTIONS AND PRACTICES

**Chair: Professor C. Raj Kumar, Professor and Vice Chancellor,  
O.P. Jindal Global University and Dean, Jindal Global Law School (JGLS)**

1:30 pm – 1:45 pm Professor Peter H. Schuck, Simeon Baldwin Professor Emeritus of Law, Yale Law School, USA

1:45 pm – 2:00 pm Professor M.P. Singh, Vice Chancellor, National University of Juridical Sciences, Kolkata

2:00 pm – 2:15 pm Professor B.S. Chimni, Professor, Centre for International Legal Studies, School of International Studies, Jawaharlal Nehru University, New Delhi

2:15 pm – 2:30 pm Professor Amy J. Cohen, Associate Professor, Moritz College of Law, The Ohio State University, USA & Fulbright Scholar, India (2010-11)

2:30 pm – 2:45 pm Professor Kamala Sankaran, Associate Professor of Law, Faculty of Law, University of Delhi

2:45 pm – 3:45 pm Discussion

3:45 pm – 4:00 pm Tea



**O.P. Jindal Global University**  
A Private University Promoting Public Service

# Yale

## Second Session: 4:00 pm – 6:15 pm

### **BUSINESS AND ECONOMY: CORPORATE GOVERNANCE, COMPETITION AND REGULATION**

**Chair: Dr. Michael Barnes, Professor and Vice Dean,  
Jindal Global Business School (JGBS)**

4:00 pm – 4:15 pm	Dr. Sreeram Sundar Chaulia, Vice Dean, Jindal School of International Affairs (JSIA)
4:15 pm – 4:30 pm	Dr. Vinod Dhall, Former Chairman, Competition Commission of India
4:30 pm – 4:45 pm	Professor Anand Mishra, Assistant Professor & Assistant Dean (Student Initiatives), JGBS
4:45 pm – 5:00 pm	Mr. Rahul Srivastava, Chairman & CEO, LexisNexis-India
5:00 pm – 5:15 pm	Professor Rahul Singh, Associate Director, Directorate of Legal Education, Bar Council of India & Member, Advisory Committee on Regulation, Competition Commission of India
5:15 pm – 6:15 pm	Discussion
6:15 pm – 6:30 pm	Tea
6:30 pm – 7:00 pm	Cultural performance by JGU students

## Special Address: 7:00 pm – 7:30 pm

Mr. N. Ravi, Editor, *The Hindu*

7:30 pm – 8:30 pm      Dinner

**Saturday 30 October 2010**  
**Venue: India Habitat Centre, New Delhi**

## Third Session: 9:00 am – 11:00 am

### **GLOBALISATION: TRADE, DEVELOPMENT AND MIGRATION**

**Chair: Dr. Sunanda Sangwan, Professor and Assistant Dean (Research), JGBS**

9:00 am – 9:15 am	Mr. Nayan Chanda, Director of Publications & Editor of YaleGlobal Online, Yale Center for the Study of Globalization, Yale University
9:15 am – 9:30 am	Professor James Nedumpara, Assistant Professor & Executive Director, Centre for International Trade and Economic Laws, JGLS
9:30 am – 9:45 am	Mr. Amit K. Kanodia, Founder and Managing Partner, Lincoln Ventures, LLC, Boston, USA & Member, New England Finance and Steering Committee, Obama for America
9:45 am – 10:00 am	Professor Rupa Chanda, Professor of Economics and Chairperson, Economics & Social Sciences Area, Indian Institute of Management, Bangalore
10:00 am – 10:15 am	Ms. Shahana Basu Kanodia, Partner and Chair of the South Asia Practice Group, Edwards Angell Palmer & Dodge, LLP, USA, & Member, Executive Board, Yale Law School Association
10:15 am – 11:00 am	Discussion
11:00 am – 11:15 am	Tea

#### Fourth Session: 11:15 am – 1:15 pm

##### SECURITY AND LIBERTY: STRIKING THE RIGHT BALANCE

**Chair: Professor Y.S.R. Murthy, Associate Professor & Executive Director,**

**Centre for Human Rights Studies, JGLS**

11:15 am – 11:30 am	Professor Jonathan Burton MacLeod, Assistant Dean (Research and International Collaborations) and Assistant Director, Centre on Global Governance and Policy, Jindal Global Law School
11:30 am – 11:45 am	Professor Sanjoy Hazarika, Saifuddin Kitchew Chair & Professor, Centre for North East Studies, Academy of Third World Studies, Jamia Millia Islamia
11:45 am – 12:00 noon	Mr. N. Ravi, Editor, <i>The Hindu</i>
12:00 noon – 12:15 pm	Mr. Ashwani Kumar, Director, Central Bureau of Investigation (CBI)
12:15 pm – 12:30 pm	Mr. Ravi Nair, Executive Director, South Asia Human Rights Documentation Centre, New Delhi
12:30 pm – 1:15 pm	Discussion
1:15 pm – 2:15 pm	Lunch

#### Fifth Session: 2:15 pm – 4:15 pm

##### INEQUALITY AND EXCLUSION: IDENTITY, DISCRIMINATION AND PARTICIPATION

**Chair: Professor Ajay Kumar Pandey, Associate Professor  
and Assistant Director (Clinical Programmes), JGLS**

2:15 pm – 2:30 pm	Professor Ian Shapiro, Sterling Professor of Political Science & Henry R. Luce Director of MacMillan Center for International and Area Studies, Yale University
2:30 pm – 2:45 pm	Professor Amita Dhanda, Professor of Law, NALSAR University of Law, Hyderabad
2:45 pm – 3:00 pm	Professor David Grewal, Harvard Society of Fellows, Harvard University (Joining Yale Law School Faculty in July 2011)
3:00 pm – 3:15 pm	Professor N.R. Madhava Menon, Former Director, National Law School of India University, Bangalore & Former Director, National Judicial Academy, Bhopal
3:15 pm – 3:30 pm	Dr. A. Francis Julian, Senior Advocate, Supreme Court of India
3:30 pm – 4:15 pm	Discussion
4:15 pm – 4:30 pm	Tea

#### Sixth Session: 4:30 pm – 6:15 pm

##### ENVIRONMENTAL PROTECTION: SUSTAINABILITY AND TECHNOLOGY

**Chair: Dr. Rajat Panwar, Associate Professor, JGBS**

4:30 pm – 4:45 pm	Professor Bharat H. Desai, Jawaharlal Nehru Chair in International Environmental Law & Chairman, Centre for International Legal Studies, Jawaharlal Nehru University, New Delhi
4:45 pm – 5:00 pm	Dr. Deepa Badrinarayana, Assistant Professor, Chapman University School of Law, USA
5:00 pm – 5:15 pm	Mr. Sanjay Parikh, Advocate, Supreme Court of India
5:15 pm – 5:30 pm	Mr. Amol Sharma, India Correspondent, <i>The Wall Street Journal</i>
5:30 pm – 6:15 pm	Discussion
6:15 pm – 6:20 pm	Vote of Thanks
	Mr. Aman Shah, Registrar, O.P. Jindal Global University
6:30 pm – 7:30 pm	Dinner

**R.S.V.P.**

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## Appendix-II

### INTERNATIONAL COLLABORATIONS OF JGU

#### AUSTRALIA

- Australian National University, College of Law
- Griffith University

#### CANADA

- Queen's University, Faculty of Law
- York University, Osgoode Hall Law School
- Carleton University

#### DOMINICAN REPUBLIC

- Global Foundation for Democracy and Development

#### JAPAN

- United Nations University, Tokyo
- Tokiwa University, Mito

#### UNITED KINGDOM

- University of Cambridge

#### UNITED STATES OF AMERICA

- Harvard Law School
- Yale Law School
- Columbia Law School
- Cornell Law School
- Michigan Law School
- New York University School of Law
- Indiana University, Bloomington
- University of Texas at Dallas School of Management
- University of Baltimore School of Law

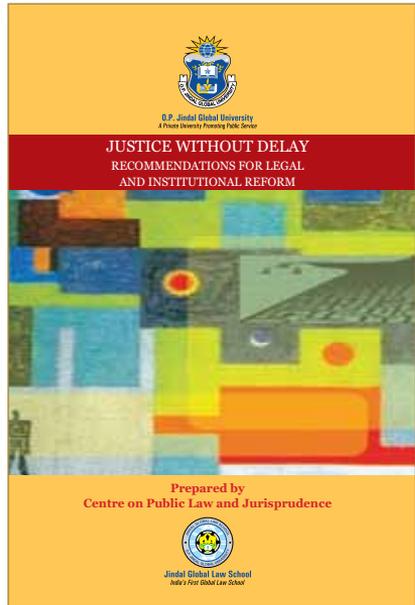
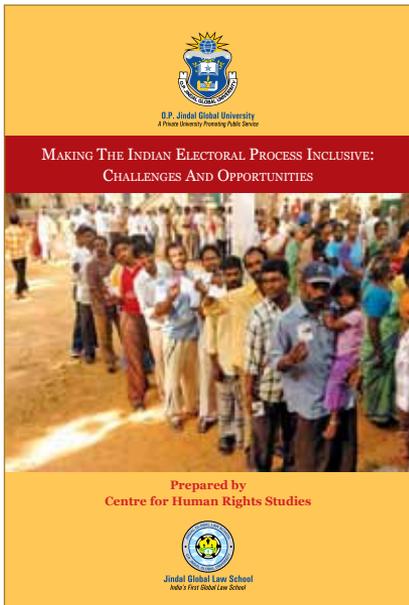
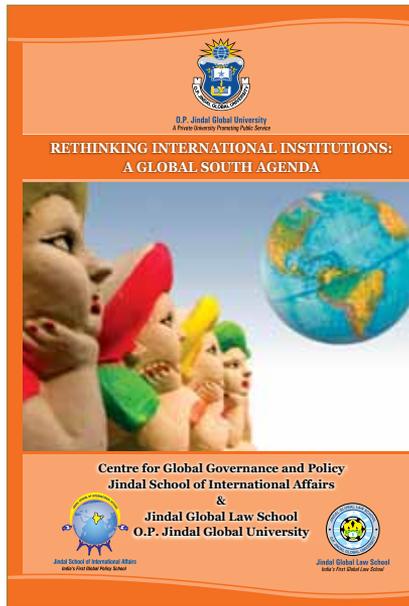
# Appendix-III

## JOURNALS OF JGU



# Appendix-IV

## RESEARCH REPORTS OF JGU



# Appendix-V

## FACULTY MEMBERS OF JINDAL SCHOOL OF INTERNATIONAL AFFAIRS

### DR. SREERAM SUNDAR CHAULIA

B.A. Hons. (Delhi), B.A. (Oxford), M.Sc. (LSE),  
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S.J.D. (Harvard)  
Professor, University of Michigan Law School  
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# Appendix-VI

## GOVERNING BODY, BOARD OF MANAGEMENT AND ACADEMIC COUNCIL, JGU

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Mr. Buddhi Prakash Chauhan, Director of Law Library, O.P. Jindal Global University  
Mr. Aman Shah, Registrar, O.P. Jindal Global University



**O.P. Jindal Global University**  
A Private University Promoting Public Service  
[www.jgu.edu.in](http://www.jgu.edu.in)

O.P. Jindal Global University (JGU) is a non-profit global university established by the Haryana Private Universities (Second Amendment) Act, 2009. JGU is established in memory of the Late Mr. O.P. Jindal as a philanthropic initiative of Mr. Naveen Jindal, the Founding Chancellor. The University Grants Commission has accorded its recognition to O.P. Jindal Global University. The vision of JGU is to promote global courses, global programmes, global curriculum, global research, global collaborations, and global interaction through a global faculty. JGU is situated on a 60-acre state of the art residential campus. JGU is one of the few

universities in Asia that maintains a 1:15 faculty-student ratio and appoints faculty members from different parts of the world with outstanding academic qualifications and experience. JGU has established three schools: Jindal Global Law School (JGLS), Jindal Global Business School (JGBS) and Jindal School of International Affairs (JSIA).



**Jindal School of International Affairs**  
India's First Global Policy School  
[www.jsia.edu.in](http://www.jsia.edu.in)

Jindal School of International Affairs (JSIA), India's first Global Policy School, aims to enhance Indian and international capacities to analyse and solve world problems. It intends to strengthen India's intellectual base in international relations and affiliated social science disciplines that have hitherto been largely neglected by Indian academic institutions. JSIA will commence in August 2011 with a degree programme called a Master of Arts in Diplomacy, Law and Business [M.A. (DLB)]. The programme is the first of its kind in Asia, drawing upon the resources of global faculty in Jindal Global Law School, Jindal Global Business

School, as well as the Jindal School of International Affairs to create a unique interdisciplinary pedagogy.



In August 2010, JGBS began its first academic session with an MBA programme. JGBS will begin an inter-disciplinary Masters in Business and Law (MBL) programme in August 2011. The vision of JGBS is to impart global business education to uniquely equip students, managers and

professionals with the necessary knowledge, acumen and skills to effectively tackle challenges faced by transnational business and industry. JGBS offers a multi-disciplinary global business education to foster academic excellence, industry partnerships and global collaborations. JGBS has established several research centres and JGBS faculty are engaged in research on current issues including: Applied Finance; Corporate Governance & Applied Ethics; Digital Media & Communications; Emerging Economies & Markets; Family Business & Wealth Creations; Social Entrepreneurship, Supply Chain & Logistics Management; Infrastructure, Energy & Green Technologies; Innovative Leadership & Change; New Consumer Trends Studies; Wealth Creation and Family Business.



**Jindal Global Law School**  
India's First Global Law School  
[www.jgls.edu.in](http://www.jgls.edu.in)

In 2009, JGU began its first academic session with the establishment of India's first global law school, JGLS. JGLS is recognised by the Bar Council of India and offers a three-year LL.B. programme, a five-year B.A. LL.B. (Hons.) programme and an LL.M. programme. JGLS has established research centres in a variety of key policy areas, including: Global Corporate and Financial Law and Policy; Women, Law, and Social Change; Penology, Criminal Justice and Police Studies; Human Rights Studies; International Trade and Economic Laws; Global Governance and Policy; Health Law, Ethics, and Technology;

Intellectual Property Rights Studies; Public Law and Jurisprudence; Environment and Climate Change Studies; South Asian Legal Studies, and Clinical Legal Programmes.

Traditional notions of sovereignty and the nation-state in international relations and international law have, if not entirely eroded, been joined by the rise in importance of transnational actors. These bodies may be state-driven international institutions such as the World Trade Organisation or the G-20, regional political organizations such as the Southern African Development Community, or private sector entities ranging from multi-national corporations (MNCs) and non-governmental organisations (NGOs) to activist networks. Cooperation and interdependence between this network of state and non-state actors with the intention of tackling problems that transcend traditional nation-state boundaries is the aim of the area of study known as global governance.

The *Centre for Global Governance and Policy* (CGGP) is unique in its study of global governance issues. CGGP is held jointly by the Jindal School of International Affairs (JSIA) and Jindal Global Law School (JGLS). As such, CGGP combines legal and International Relations perspectives. As disciplines, International Relations and Law often speak in separate tones. CGGP aims at intensive and multi-disciplinary research on the abovementioned cross-border problems, marrying the insights of Law and International Relations to address both the academe and a policymaking audience.

CGGP emphasises a Global South perspective and probes the possibility for more balanced and even-handed structure for global governance. Simultaneously, CGGP feels that academic focus on Indian foreign policy is fixated on strategic issues relating to immediate neighbours (i.e. Pakistan, China, Bangladesh, Sri Lanka et al) or with Europe and the US, leaving the country's relations with Latin America, Africa, and the rest of Asia understudied. The CGGP seeks to break new ground in transcending this parochial mould and promoting cutting edge research on South-South relations with a special onus on India's role as a bridge-builder and consensus maker.

In March 2011, CGGP released a report entitled *Rethinking International Institutions: A Global South Agenda*. The Report interrogates existing international institutions—both formal institutions, such as the World Trade Organisation and the United Nations Security Council, and informal institutions, including concepts like humanitarian intervention and democracy promotion. The Report builds on existing literature on institutions within International Relations and International Law parlance. It notes the declining prominence conferred by the Global South on traditional international institutions, and examines the implications for the rise of so-called post millennium international institutions. The Report highlights diverging aspirations between, roughly, advanced and less advanced emerging economies, creating marked differences in use of traditional international institutions, and access to post millennium international institutions. The Report calls for the development of a Standing Committee in the G-77, chaired by India, to address these divergences.



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