




NATIONAL LAW UNIVERSITY, JODHPUR

THE 3RD GARY B. BORN ESSAY COMPETITION ON
INTERNATIONAL ARBITRATION, 2018

THEMES:

- I. CONCERNS OF LEGITIMACY IN SOFT LAW APPLICATION IN INTERNATIONAL ARBITRATION
- II. FINDING THE INTERFACE BETWEEN INTERNATIONAL ARBITRATION AND HUMAN RIGHTS
- III. ANALYSING THE OVERLAP BETWEEN INTERNATIONAL ARBITRATION AND TECHNOLOGY

Organised by:

 **IJAL**
Indian Journal *of* Arbitration Law

and



CENTRE FOR ADVANCED RESEARCH
& TRAINING IN **ARBITRATION LAW**

ABOUT NATIONAL LAW UNIVERSITY, JODHPUR

National Law University, Jodhpur (‘NLUJ’) is one of India’s premier law schools, situated in the vibrant and colourful city of Jodhpur, Rajasthan. It was established in 1999 as part of a vision of excellence in legal education through innovative methods of learning and focus on interdisciplinary studies.

The University offers two unique five year integrated undergraduate programs, B.B.A., LL.B.(Hons.) and B.A., LL.B.(Hons.). These integrated programs include highly demanding honors courses in various facets of law such as Constitutional Law, Business Law, International Trade Law, Criminal Law, and Intellectual Property Rights Law. The University also offers one year LL.M. programs in Corporate Laws, IPR and Technology Laws, International Trade Laws, Banking and Finance, and Cyber Law and LL.D., and Ph.D. programs.

The diverse student body consists of some of the most meritorious students from the country, selected on the basis of a competitive entrance examination. The teaching faculty comprises both young and experienced academicians who have received their education at leading universities in India and have contributed to India's growing body of legal academia. In addition, scholars from leading international universities consistently visit the University on research and teaching assignments.

ABOUT IJAL

The Indian Journal of Arbitration Law (‘IJAL’) is a bi-annual, open-access, student-run journal published by the Centre for Advanced Research and Training in Arbitration Law (CARTAL). IJAL is widely recognized as the leading Indian dispute resolution journal and an excellent source of reference in the field. IJAL’s Board of Advisers consists of some of the preeminent authorities in international arbitration including Mr. Alexis Mourre, Prof. Emmanuel Gaillard, Prof. Gabrielle Kaufmann-Kohler, Mr. Gary B. Born, Prof. Martin Hunter, and Prof. W. Michael Reisman.

While the ‘Indian’ in the name of the journal indicates the source of publication, the journal itself has consistently focussed on topics of global interest and relevance. Each issue of IJAL endeavours to cover a wide range of transnational debates and developments in international commercial arbitration and investment treaty arbitration. IJAL has successfully published six volumes and continues to host contributions from globally renowned experts. To promote free dissemination of

knowledge and empowerment, the journal follows an open-access policy. All the articles from the journal's archives can be accessed [here](#). At the same time, IJAL is available on widely-used online legal databases such as Kluwer Arbitration, HeinOnline and Westlaw.

ABOUT CARTAL

The Centre for Advanced Research & Training in Arbitration Law (CARTAL) is one of the various centres set up by National Law University, Jodhpur to promote research and scholarship in specialized fields of law. CARTAL seeks to empower students with a theoretical and practical understanding of arbitration.

The Centre provides a platform for academicians, professionals and students to interact and discuss contemporary issues in arbitration law. The mandate of the Centre is achieved by the organization of workshops, conferences and guest lectures to facilitate the understanding of such issues.

In October 2017, CARTAL, in association with Baker McKenzie, organised the 2nd CARTAL Conference on International Arbitration. The Conference was institutionally supported by ICC, SIAC, HKIAC, MCIA, ICDR, KLRCA, AFIA and CIArb. The knowledge partners were Eastern Book Company and SCC Online. This conference addressed themes including international arbitration across legal and economic cultures, public policy in international arbitration, the BRICS dispute resolution forum and third party funding. CARTAL has also organised several lectures, workshops and round table discussions in the past and continues to do so with regular frequency. Further details regarding CARTAL and its activities are available [here](#).

ABOUT THE ESSAY COMPETITION

The essay competition has been conceived to encourage law students to explore forward-looking issues in international arbitration. In 2017, CARTAL successfully conducted the 2nd edition of the Gary B. Born Essay Competition on the themes of due process paranoia, reform of ICSID arbitration, and internationally mandatory rules and enforcement in arbitration. The themes of the third edition of the competition aim to foster research on some of the contemporary developments in international arbitration.

With the advent of the IBA Rules on the Taking of Evidence in International Commercial Arbitration, the IBA Guidelines on Conflicts of Interest in International Commercial Arbitration, and other such instruments, concerns about the legitimacy of soft law instruments in international

arbitration have become increasingly important in the last few decades. The participants are encouraged to examine the effects thereof on the flexibility in arbitration as well as party autonomy, the manner of promulgation, source thereto, as well as predictability when applied to international arbitration, and whether it could lead to potential ‘judicialization’ of arbitral proceedings.

With regards to the overlap between international arbitration and human rights, there has been a proposal for the setting up of a special Tribunal dealing with business and human rights. There has also been discussion on the application of principles of humanitarian law to investment arbitration. Participants may examine issues including but not limited to, the viability of arbitration to address human rights issues, the jurisdiction of an investor-State tribunal to hear human rights issues, and the question of laws applicable to such disputes.

Several technological advancements have been made in recent years which are likely to have an impact on the conduct of arbitration. These include the introduction of Online Dispute Resolution (ODR), the use of Artificial Intelligence (AI), Blockchain and smart contracts, and big data. Some believe that algorithmic decision-making and machine learning software can enable AI to replace arbitrators. Participants may examine the role technology can play in changing the way arbitration is conducted, the legal framework that may be evolved to accommodate technological advances and the potential risks and challenges that are posed by this overlap.

The competition has the gracious support and patronage of Mr. Gary B. Born, who is the chair of the International Arbitration Practice Group of WilmerHale. Mr. Born is also the President of the Singapore International Arbitration Centre’s Court of Arbitration and is widely regarded as the world’s preeminent authority on international arbitration. He has participated in more than six hundred international arbitrations, including four of the largest ICC arbitrations and several of the most significant ad hoc arbitrations in recent history.

RULES OF THE COMPETITION

- There is no registration fee for the competition.
- The competition is open to all students enrolled in an undergraduate or post graduate programme in law (B.C.L., J.D., LL.B., LL.M. or their local equivalent) in any recognised university across the world. Students who have completed an above mentioned programme or their equivalent in 2018, and post graduate students who are selected for, and will be enrolled in any such programme for 2018-2019 are also eligible to participate.
- To participate in the competition, interested students must e-mail a copy of their completed essays to editors@ijal.in by **2359 hours on August 31, 2018** (Indian Standard Time, GMT+5:30). Late submissions shall not be accepted under any circumstances whatsoever.
- No part of the essay should contain any form of identification of the participant, and any such information, if detected, would lead to disqualification.

SUBMISSION GUIDELINES

- The essay must be submitted in Microsoft Word document format (.doc/.docx).
- The essay must contain an Abstract, not exceeding 250 words. The abstract must indicate the theme chosen.
- A participant can submit an entry for one theme only.
- Co-authorship is not permitted.
- The word limit is 4500 – 6500 words including footnotes. Essays exceeding the maximum word limit will be penalised.
- The essay must be accompanied by a separate document containing the following information about the participant:
 - Full name of the participant
 - Theme chosen
 - Participant's current year of study and name of the degree pursued
 - Name and full address of the participant's university
 - Name and full postal address of the participant
 - Phone number of the participant
 - E-mail ID of the participant
- The essay must be original and bona fide work of the participant.

- By entering the competition, the participants agree to indemnify the organisers from and against all claims, suits and damages based on any claim of copyright infringement or plagiarism or unauthorised use.
- The essay shall be considered to be property of NLUJ, which reserves the right of publication of the same in any book, journal, or in any other manner as it may deem appropriate, without providing any royalty or compensation.
- The essay should not be submitted for any other competition and/or for any other purposes. Any further publication after declaration of results shall only be pursued after express permission from the organisers.
- The essay must be written in English.
- Footnotes must follow The Bluebook: A Uniform System of Citation (Harvard, 20th Edition).

PRIZES

- First Prize**
- Cash prize of USD 250,
 - Letter of Appreciation from Mr. Gary B. Born,
 - Signed copy of a book authored by Mr. Born, and
 - An opportunity of publication in the next issue of IJAL.
- Second Prize**
- Cash prize of USD 125,
 - Letter of Appreciation from Mr. Gary B. Born, and
 - An opportunity of publication in the next issue of IJAL.
- Third Prize**
- Cash prize of USD 75,
 - Letter of Appreciation from Mr. Gary B. Born, and
 - An opportunity of publication in the next issue of IJAL.

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