



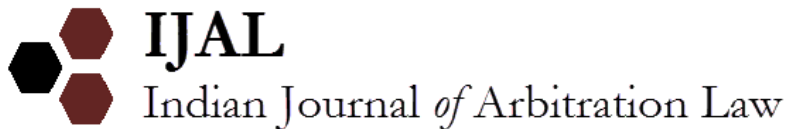
NATIONAL LAW UNIVERSITY, JODHPUR

THE 4TH GARY B. BORN ESSAY COMPETITION ON INTERNATIONAL ARBITRATION, 2019

THEMES:

- I. MAKING INDIA AN 'ARBITRATION HUB': ISSUES AND IMPLICATIONS
- II. SETTLING INTO A POST-ACHMEA EUROPE
- III. MANDATORY ARBITRATION POLICIES FOR EMPLOYMENT DISPUTES

Organised by:



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 seven 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

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 2018, CARTAL organised the 3rd CARTAL Conference on International Arbitration. The Conference was institutionally supported by ICC, HKIAC, VIAC, ICDR, AFIA, AIAC, Chartered Institute of Arbitrators, UNCC India, MCIA, Bar Association of India and Society of Indian Law Firms. The knowledge partners were Eastern Book Company and SCC Online. This conference addressed themes including the implications of the investment court system, the cross-institutional consolidation proposal of the SIAC, and the increasing use of guerrilla tactics in international arbitration. 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 2018, CARTAL successfully conducted the 3rd edition of the Gary B. Born Essay Competition on the themes of concerns of legitimacy in soft-law application in international arbitration, the interface between arbitration and human rights, and the overlap between international arbitration and technology.

In keeping with previous years, CARTAL is organising the 4th Gary B. Born Essay Competition to encourage research and literature in the field of international arbitration. To this effect, the themes of the fourth edition of the competition aim to foster research on some of the contemporary developments in international arbitration.

1. Making India an ‘Arbitration Hub’: Issues and Implications

With the introduction of the Arbitration and Conciliation (Amendment) Act, 2019, (**‘2019 Bill’**) in the Lok Sabha, much has been said about making India an ‘arbitration hub’. The Government has recently also approved the New Delhi International Arbitration Centre Bill, 2019 (**‘NDIAC Bill’**), which focuses on the creation of an independent body for institutional arbitration. However, many commentators have argued that the objective of making India an ‘arbitration hub’ is ill-founded inasmuch as it does not aim to improve the arbitration framework in a holistic manner. It has been argued that there must be a proper institutional framework in place in order to truly make India an arbitration hub. Participants are encouraged to critically analyse the 2019 Bill and the NDIAC Bill in order to examine the scope of India’s bid to become an arbitration hub and the various issues that may arise therefrom.

2. Settling into a post-*Achmea* Europe

In 2018, the Court of Justice of the European Union (**‘CJEU’**) made its judgement in the matter of *Slovak Republic v. Achmea*, and held that arbitration clauses in intra-EU BITs are incompatible with EU law. This was on the basis that arbitration clauses in such BITs would allow arbitral tribunals to interpret EU law and would remove such decisions from the purview of judicial review under EU law, which in the view of the CJEU, was not acceptable. Described as a ‘loud clap of thunder’, the decision will have far-reaching implications on the investor-State dispute settlement (**‘ISDS’**) framework in the EU. This is particularly interesting in light of an imminent Brexit. Participants are encouraged to analyse the impact of the *Achmea* decision on the ISDS framework in the EU, the potential implications for Brexit, and the role of the investment court system in the changing ISDS framework.

3. Mandatory Arbitration Policies for Employment Disputes

Google announced in February 2019 that it would be ending forced arbitration for all work disputes. However, half of the non-trade union workforce in the U.S. are obligated to submit their disputes to arbitration, popularly known as forced arbitration for employment disputes. There is also an ongoing discussion on whether certain claims, such as those concerning unequal pay, race discrimination, exploitation, etc., should be excluded from the purview of such arbitration clauses. Participants may discuss the advantages and disadvantages of including mandatory arbitration

policies in employment agreements and whether such an inclusion is consistent with the idea of arbitration. They may explore the mechanism by which such arbitration clauses should operate.

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 2019, and post graduate students who are selected for, and will be enrolled in any such programme for 2019-2020 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 October 12, 2019** (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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