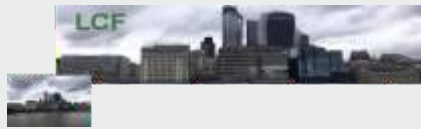




Jindal Global Law School
India's First Global Law School



The London Centre for Commercial and Financial Law

CONFERENCE SERIES ON CONTRACT LAW IN COMMON LAW COUNTRIES: A STUDY IN DIVERGENCE

**CONFERENCE III:
DISPUTES ARISING OUT
OF THE AGREEMENT
DECEMBER 7-8, 2021**

Organized by:

**Jindal Global Law School
O.P. Jindal Global University, India
and
The London Centre for Commercial and
Financial Law (LCF)**

**in co-operation with the
Institute of Advanced Legal Studies,
School of Advanced Studies,
University of London**

CONFERENCE CONVENORS

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DAY 1

TUESDAY, 7 DECEMBER 2021



GMT 12:00 PM - 3:00 PM

WELCOME ADDRESS

GMT 12:00 PM - 12:10 PM



Mads Andenæs is a Queen's Counsel and holds a Chair in the Faculty of Law, the University of Oslo, Norway. He is a director of the London Centre for Commercial and Financial Law and remains Senior Research Fellow at the Institute of Advanced Legal Studies, School of Advanced Studies, University of London. He has held senior academic appointments in the United Kingdom, including as Director of the British Institute of International and Comparative Law, London and Director of the Centre of European Law at King's College, University of London.

KEYNOTE ADDRESS

GMT 12:10 PM - 12:40 PM



Roger Brownsword has been an academic lawyer for some 50 years, first at the University of Sheffield and then at King's College London (where he was founding Director of TELOS in 2007). He was a Leverhulme Research Fellow in 2003-2004, a member of the Law panel for the UK RAE2008 and then for the Hong Kong RAE2014. He has published about 20 books, most recently *Law, Technology and Society Re-imagining the Regulatory Environment*, and more than 250 chapters in books and articles. He is the founding general editor of *Law, Innovation and Technology* as well as being on the editorial board of the *Modern Law Review*, the *International Journal of Law and Information Technology*, and the *Journal of Law and the Biosciences*. From 2011-2015, he chaired UK Biobank's Ethics and Governance Council; and he was a member of the Nuffield Council on Bioethics (2004-2010). He has been a member of working parties in the Academy of Medical Sciences (on 'drugs futures') and the Royal Society (on neuroscience and the law, and on machine learning); and he has acted as a specialist adviser to parliamentary committees on stems cells and hybrid embryos.

DAY 1

TUESDAY, 7 DECEMBER 2021



GMT 12:00 PM - 3:00 PM

PAPER 1

GMT 12:40 PM - 1:25 PM

DIVERGENCE AND CONVERGENCE IN THE LAW OF CONTRACTUAL PENALTIES AND LIQUIDATED DAMAGES CLAUSES IN MALAYSIA, SINGAPORE AND ENGLAND [MALAYSIA, SINGAPORE AND ENGLAND]



PAPER AUTHORS

Kailash Kalaiarasu is an associate in Skrine, one of the leading law firms in Malaysia. He holds an LLB degree from University College London and has been admitted as an Advocate and Solicitor of the High Court of Malaya. He maintains a broad practice in civil and commercial litigation, with key experience in complex transnational fraud and asset recovery. Kailash is currently involved in a parliamentary reform project aiming to introduce laws that would allow elected representatives to be removed through a recall mechanism. He is also working under the auspices of the Commonwealth Climate and Law Initiative in a project on the impact of climate change on the scope of duties of company directors in Malaysia. His areas of interest include legal theory, human rights, environmental law, and the law of obligations.



Joshua Teng is an associate in Skrine, Kuala Lumpur with a broad practice across the areas of civil, commercial, and intellectual property litigation, having been admitted as an Advocate and Solicitor of the High Court of Malaya. He has also been called to the Bar of England and Wales and is a member of the Honourable Society of the Middle Temple. He holds a BA in Law from Trinity Hall, University of Cambridge and an LLM in International Commercial Law from University College London. Whilst at UCL, he served as Editorial Board Member of the UCL Journal of Law and Jurisprudence. He also previously served as a judicial clerk to the former Malaysian Federal Court Judge, Tan Sri Datuk Zainun Ali and in the Research Unit under the former Malaysian Chief Justice, Tun Richard Malanjum. His main areas of interest include the law of obligations, trusts, and constitutional law.



PAPER DISCUSSANT

Alexander Loke is Professor at CityU School of Law and Director of the Hong Kong Commercial and Maritime Law Centre. He was the founding chief editor of the Asian Journal of Comparative Law and was also one of the founders of the NUS Centre for Banking & Finance Law (2014). He publishes widely in contract law, corporate and securities law, and international finance. He was a co-editor for volumes 1 and 2 in the series Studies in the Contract Laws of Asia (Oxford University Press). Representative publications include: "The Surprising Liberality of Securities Crowdfunding Regulation in Hong Kong" [2020] SJLS 242. "Excusable Consent in Duress" (2017) 37 Legal Studies 418 and "From the Fiduciary Theory to Information Abuse: The Changing Fabric of Insider Trading Law in the U.K., Australia and Singapore" 54 Am J Comp L 123 (2006).

DAY 1

TUESDAY, 7 DECEMBER 2021



GMT 12:00 PM - 3:00 PM

PAPER 2

GMT 1:35 PM - 2:20 PM

CIVIL-COMMON LAW DIVERGENCE ON PENALTIES: IS IT A THING OF THE PAST? [UK AND US]



PAPER AUTHORS

Larry A DiMatteo received his J.D. from the Cornell Law School; his LL.M. from Harvard Law School; and received a Ph.D. in Business and Commercial Law from the University of Monash (Australia). In 2012, he won the University of Florida's oldest and most prestigious award—University of Florida Teacher-Scholar of the Year. He is the former Editor-in-Chief of the American Business Law Journal. He is the author or co-author of some 75 publications including 10 books and more than 40 law review articles. His books include, *Comparative Contract Law: British and American Perspectives* (Oxford University Press 2016) (with M. Hogg); *International Sales Law: Principles, Contracts and Practice* (C.H. Beck, Hart, & Nomos 2016) (with Janssen, Schulze & Magnus), *Global Challenge of International Sales Law* (Larry A. DiMatteo ed. Cambridge University Press 2014), *Commercial Contract Law: A Transatlantic Perspective* (Larry A. DiMatteo, et al. eds. Cambridge University Press 2012), *Law of International Contracting* (Kluwer Law International 3d. ed. 2013), *Visions of Contract Theory: Rationality, Bargaining, and Interpretation* (with Prentice, Morant & Barnhizer) (Carolina Academic Press 2007), *International Business Law: A Transactional Approach* (with Dhooge) (West 2006), *International Law of Sales* (with Dhooge, Greene, Maurer & Pagnattaro) (Cambridge University Press 2005), and *Contract Theory: The Evolution of Contractual Intent* (Michigan State University Press 1998). He was awarded a 2012 Fulbright Professorship to conduct research at the University of Sofia. He has also been a Visiting Professor at the University of Münster; Bocconi University; University of Catania; Leverhulme Trust Grant Visiting Professor at the University of Leicester; University of Warsaw; and City University Hong Kong.



PAPER DISCUSSANT

Geraint Howells is Executive Dean of the College of Business, Public Policy and Law of NUI Galway. He previously held the positions of Professor of Commercial Law and Associate Dean in Humanities for Internationalisation at Manchester University and Dean of Law at the City University of Hong Kong after having served as Head of the Law School at the Universities of Manchester and Lancaster. He was called to the bar in 2002 through a special route for distinguished academics and was awarded an LLD in 2014. He has published extensively on consumer law, product liability and European private law and was a member of the Acquis Group developing common principles of European contract law and tort law. A former President of the International Association of Consumer Law, he edited the *Consumer Law Journal* for many years, is on the editorial board of the *Journal of Consumer Policy* and is Series Editor for Routledge's *Markets and Law* series. He has undertaken extensive consultancy for government, the EU and NGOs.

DAY 2

WEDNESDAY, 8 DECEMBER 2021



GMT 12:00 PM - 2:30 PM

PAPER 3

GMT 12:00 PM - 12:45 PM

ENFORCEMENT OF FOREIGN AWARDS AND PARTY AUTONOMY (ENGLAND, INDIA AND US)



PAPER AUTHORS

Adya Surbhi is Assistant Professor at Jindal Global Law School. Her work focuses on international human rights law, use of military force, international humanitarian law as well as on the intersection of international law and business laws. She holds an LLM (distinction) from University of Reading, United Kingdom where she received the School of Law Scholarship. She completed her BA LLB from Chanakya National Law University. Before joining academia, she worked as legal manager in the e-commerce sector and as a Project Manager at Helping Hands at the University of Reading. After her master's, she also worked at Santander's Bank, London.



Working as an in-house counsel at a furniture e-commerce platform, Yashu handles the legal affairs of Urban Ladder Home Décor Solutions Private Limited. She advises the business teams on the legal aspects of the operations, starting from procurement to sale of final products, and is responsible to ensure that the business is compliant with all applicable laws. A major part of her responsibility is to extend support to the growth of the business by negotiating and drafting contracts.

Before Urban Ladder, she has worked with Dua Associates, a full-service law firm in India, with the General Corporate team and ALG India LLP, a boutique IP law firm.

She has completed her B.B.A.LL.B from Chanakya National Law University, Patna and has also completed a Post Graduate Diploma in Consumer Laws and Practice from National Law School of India University, Bengaluru.



PAPER DISCUSSANT

Franco Ferrari is Director of the Center for Transnational Litigation, Arbitration, and Commercial Law at the School of Law, New York University. He joined the NYU School of Law full-time faculty in Fall 2010. Prior to that, he was a chaired professor of international law at Verona University in Italy (2002-2016), a chaired professor of comparative law at Tilburg University in the Netherlands (1995-1998) and the University of Bologna in Italy (1998-2002). After serving as a member of the Italian delegation to various sessions of the United Nations Commission on International Trade Law (UNCITRAL) from 1995 to 2000, he was legal officer at the United Nations Office of Legal Affairs, International Trade Law Branch, from 2000 to 2002, where he was responsible for numerous projects, including the preparation of the UNCITRAL digest on applications of the UN Sales Convention. He has published more than 290 law review articles and book chapters in various languages and 25 books in the areas of international commercial law, conflict of laws, comparative law, and international commercial arbitration. A recipient of the 2018 Certificate of Merit for High Technical Craftsmanship and Utility to Practicing Lawyers and Scholars awarded by the American Society of International Law, he is also a member of the editorial boards of various peer-reviewed European law journals and the General Editor of the European International Arbitration Review. He also acts as an international arbitrator both in international commercial arbitrations and, most recently, investment arbitrations.

Discussion | 12:45 PM – 01:05 PM (GMT)

DAY 2

WEDNESDAY, 8 DECEMBER 2021



GMT 12:00 PM - 2:30 PM

PAPER 4

GMT 01:15 PM – 02:00 PM

THE HERMENEUTICS OF THE CONCEPT OF MISREPRESENTATION: ADDRESSING THE QUAGMIRE OF 'COMPENSATION' IN CASES OF MISREPRESENTATION UNDER INDIAN AND ENGLISH LAW (ENGLAND AND INDIA)



PAPER AUTHORS

Gautam Mohanty is an Indian qualified lawyer who has acted as a junior counsel and as a secretary to the arbitral tribunal in several institutional and ad-hoc arbitrations seated in Singapore, London and India under the rules of the ICC, the SIAC, the LCIA and the UNCITRAL. He has dealt with high-value and complex commercial disputes in various sectors including construction, oil and gas, joint ventures and shareholders' agreements. He has also acted as counsel in several commercial litigations before the Supreme Court of India, High Court of Delhi and High Court of Mumbai. He has previously taught at Jindal Global Law School (JGLS) as an Assistant Professor and is now pursuing his Doctoral Studies at Kozminski University, Warsaw, Poland. He graduated in business administration with a specialisation in international commercial laws from National Law University, Odisha (B.B.A (Hons.), LL.B. (Hons.) He regularly writes on the developments in international commercial arbitration on his website: thearbitrationworkshop.com, and is also simultaneously co-authoring a book with Professor Sai Ramani Garimella and Professor Bruno Zeller on mapping the enforcement regime of arbitral awards under the New York Convention. He is also a member of Young-ICCA and YSIAC.



Gaurav Rai is a Senior Associate at Legafin Law Associates, focusing on areas of domestic arbitration and consultancy on civil disputes. He has previously worked as an Associate at AKS Partners, focusing on varied areas of commercial law. He also gained considerable experience while working as a Tribunal Secretary and Legal Assistant to an Arbitrator (Justice A.K. Patnaik, Former Judge, Supreme Court of India) in over 50 arbitration matters in ad hoc and institutional setups of SIAC & ICC from 2017-2020. He is Co-founder and Editor of The Arbitration Workshop, an online blog focusing on the issues and workings of Arbitral Tribunal in India and around the World.



PAPER DISCUSSANT

Sonal Kumar Singh spearheads the dispute resolution team of the AKS Partner (New Delhi) and advises Indian and multinational clients on several issues pertaining to International Arbitration and Commercial disputes. He has been practicing in the field of Arbitration since 2006. He has also been involved in LCIA, SIAC, ICC, ICADR, DAC Arbitrations, as well as Arbitration under UNCITRAL Arbitration Rules. He has written extensively on the subject of International Arbitration, with his research on International Investment Arbitration forming part of a book titled "Damages on International Arbitration" published by the British Institute of International and Comparative Law. He has also been associated renowned author and international arbitrator, Martin Hunter in preparing tutorials on International Arbitration for the students of King's College University of London. He has delivered guest lectures at KIIT University and MDU University on International Arbitration. He has been invited as a speaker in number of International Conferences. He is also a frequent speaker on International Arbitration issues, including at the ICC, APJA & IIDAC and as an invited guest lecturer at various universities.

Discussion | 02:00 PM – 02:20 PM (GMT)

DAY 2

WEDNESDAY, 8 DECEMBER 2021



GMT 12:00 PM - 2:30 PM

CLOSING REMARKS BY CONVENORS

GMT 2:20 PM – 2:30 PM



Manasi Kumar is a Professor at Jindal Global Law School. Prior to entering academia, she worked as commercial dispute resolution attorney with well-known law firms in India and the United States, where she was admitted to the Oregon state bar. She had a diverse commercial practice that included construction, oil and gas, government procurements, insurance, and maritime law. Upon joining JGLS, she has been teaching foundational contract law courses, and since 2015 has been teaching a self-designed, highly popular elective on commercial contract drafting. Her research is focused on contract law, alternate dispute resolution, and animal law (she occasionally offers a self-designed elective on animal welfare law in India). She has also served as Assistant Dean of Academic Affairs in JGLS and later Controller of Examinations for O.P. Jindal Global University, a role she stepped down from to focus on her research in 2018. In 2020, she received the O.P. Jindal Global University Research Excellence Award. She has a Juris Doctor from Lewis and Clark Law School in the United States, where she was inducted into the Cornelius Honour Society upon her graduation in 2008, an honour given to select graduates by the law school faculty.



Maren Heidemann is a founding director of the London Centre for Commercial and Financial Law. She has held a number of full time and visiting academic appointments in the UK since 2007 including at the University of Westminster and University of Glasgow. She also lectures regularly across Europe including at Universities in Berlin, Oslo and Lisbon. She has been working for the University of London since 2010 in various roles including as research fellow, postgraduate supervisor supervising doctoral students at the Institute of Advanced Legal Studies (IALS) in the areas of international sales, comparative corporate and data protection law and as Teaching Fellow and tutor at the Centre for Commercial Law Studies (CCLS) at Queen Mary, University of London. Her main academic interest is in transnational commercial law, comparative private law, the relationship between public and private law and international taxation. She is a fully qualified German lawyer and obtained a master's degree (1994) and a PhD (2005) in international commercial law from the University of Nottingham. Her case work as legal practitioner has included cross-border corporate and contract law, international taxation, landlord and tenant as well as administrative and heritage law matters. She has also worked for the non-profit sector since 1989.