

EDITORS' FOREWORD

## The Globalization of Legal Knowledge

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INTRODUCTION: TWO GLOBALIZATIONS

The *Jindal Global Law Review* (JGLR) was launched in September 2009 with a *Commemorative Issue* edited by Professors C. Raj Kumar and Jayanth Krishnan to mark the opening of the Jindal Global Law School (JGLS) in the National Capital Region of India.<sup>1</sup> The JGLR was born as a twin to JGLS, mirroring the law school's commitment to academic research with the promise of creating a fertile site for the publication of scholarship. Together, they represented a particular kind of globalization, a transplantation of a proven standard, which would set a new benchmark for the Indian legal academy's engagement with the broader world of academia. That first issue featured contributions from luminaries of the Anglo-American tradition, practitioners and globally recognized scholars from India. It established, we hope, a spirit of mutuality and respect among intellectual giants separated by shrinking seas.

This second issue represents a second kind of globalization: a contribution from the "Global South" to the mainstream debates of the day. In content and philosophy the second volume of the JGLR is *truly* global, reflecting in part the critiques and aspirations raised recently by one of the editors-in-chief while surveying the production of international legal scholarship in India.<sup>2</sup> The JGLR aspires to serve as a significant platform "for developing an alternative vision" on the discourse "of" and "about" law in the Global South.<sup>3</sup> Even the process of publication underlines this global approach. With articles written in Argentina, South Africa, India, and Nigeria, as well as France, England, and the United States (and edited in China, Thailand, and Australia, among other sites) the JGLR tilts the debate on globalization towards its reality as a robust process that is multidirectional, reciprocal, and recursive. In every case, the contributors offer ideas and conclusions in diverse fields of inquiry, raising issues of the global transmission of legal knowledge and authority.

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1. C. Raj Kumar & Jayanth Krishnan, *Editors' Foreword*, 1 JINDAL GLOBAL L. REV. 1-6 (2009).

2. See Prabhakar Singh, *Indian International Law: From a Colonized Apologist to a Subaltern Protagonist*, 23 LEIDEN J. INT'L L. 79, 101 (2010).

3. *Id.*

## I. GLOBALIZATION OF LEGAL KNOWLEDGE: TRANSPLANTING MODELS AND CONCEPTS

Although the present volume was not originally intended to be a “thematic” issue, we have titled it to note the various ways in which these articles perform or remark upon *The Globalization of Legal Knowledge*. Under that rubric, this issue begins aptly with a lecture on a global transfer of a “knowledge-based” policing model, delivered recently in India by Professor Lawrence Sherman of Cambridge.

Part I of the issue is dedicated to longer term processes of the transfer of legal knowledge. Covering earlier phases of globalization, Halpérin discusses the role of European legal transplants in India and Parise investigates the North American sources of the Civil Code of Argentina. Both transfers moved in the direction that we would today call North-to-South, but the historical context of each — civil law codification on one hand and colonial administration on the other — admits subtleties into Alan Watson’s celebrated model of “legal transplants.” As Parise writes at the beginning of his contribution, “Ideas tend to spread quickly when they are successfully implemented. Legal ideas are no exceptions.”<sup>4</sup>

## II. HUMAN RIGHTS LAW: CHALLENGES AND SITES OF IMPLEMENTATION

Part II deals not with the success, but with the unresolved challenges of implementation. The five articles included address urgent debates on the implementation of human rights from distinctive points of view: labor, gender, traditional knowledge, the responsibility to protect (R2P), and the monitoring of human rights through quantitative indicators. (The latter two are especially interesting in light of Prof. Sherman’s discussion of “preventive” discourses). Each article engages with particular global institutions, and the authors are practitioners as well as scholars, offering situated knowledge from a particular position in the Global North or South.

## III. THE PERSISTENCE OF NATURAL LAW ARGUMENTATION IN A GLOBAL AGE

In the final section, we revisit classical Natural Law theory, finding familiar concerns— limiting power of the state, balancing the power of the political and judicial branches, defense of rights and liberties— in light of globalization. This section leads with a provocative libertarian defense of “right to bear arms” recast as implementing a human right against genocide. The originality of this piece is not so much its world-view but its engagement with global examples and institutions, most centrally its opposition to a proposed Arms Trade Treaty. Next we read one after the other an American scholar writing on the political

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4. See in this issue, Agustín Parise, *Legal Transplants and Codification: Exploring the North American Sources of the Civil Code of Argentina (1871)*, 2 JINDAL GLOBAL L. REV. 40 (2010).

question doctrine and a Nigerian scholar writing on judicial review, each steeped in natural law traditions; the two articles demonstrate a striking continuity of normative concerns across North-South divide. Rounding out the issue is a review of Amartya Sen's new book *The Idea of Justice*, written as a pragmatic corrective to the tradition of political theory from Locke to Rawls in favor of pluralism.<sup>5</sup> Sen, a son of India, Oxford, and Harvard—who, though of a different generation, reflects the mixed parentage of our Law School and Law Review as well—exemplifies our view that “[t]here are genuinely plural, and sometimes conflicting, general concerns that bear on our understanding of justice,”<sup>6</sup> but the fact that we may never agree on fundamental principles of justice should not be a conversation stopper, but incite us to admit different views and solutions into the texture of our discussions. The global transmission of ideas, successfully implemented or newly conceived, remains at the core of our overlapping projects.

#### CONCLUSION: PLURALISM IN PRACTICE

Located in India, the JGLR appreciates issues and examples from India that vividly illustrate global issues. As a law journal, we hope to set the benchmark for serious interdisciplinary scholarship that can be staged from the South. Conscious of the emerging centrality of our location in a new global order, we have deliberated cautiously on the complex legacies of cultural transmission, which loom large in India but also emerge in the quotidian details of editing: whether to spell “globalization” or “globalisation,” “labor” or “labour,” or whether a single standard can capture the moment we are in. (In the end, we chose pluralism and pragmatism over hegemony or hubris, keeping the voice of each author intact, bowing to the Oxford comma *and* the *Bluebook*). Finally, in the age of Lexis-Nexis, JSTOR, Google Scholar, SSRN, and academic blogging, we believe the traditional model of the Law Review continues to play an important role in promoting first-class ideas. We can see across new media that reputation<sup>7</sup> matters more than ever. We hope to establish a balance between expertise and innovation so that our reputation will thrive in diffused and digitized environments as well as in the hands of humanitarian workers in the field and students in overheated and under-funded libraries.

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5. AMARTYA SEN, *THE IDEA OF JUSTICE* (2009).

6. *Id.* at 57.

7. DANIEL J. SOLOVE, *THE FUTURE OF REPUTATION: GOSSIP, RUMOR, AND PRIVACY ON THE INTERNET* (2007).