

Gujarat National Law University

Gandhinagar, Gujarat, India

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Top Law Firms of India Deliberates on Reforms in Commercial Laws and Ease of Doing Business in India at GNLU

Dear Sir/Madam,

Greetings from GNLU!

In their bid to examine the interface between the myriad regulatory frameworks that impact business in India, particularly in light of comparative international perspectives, The Gujarat National Law University hosted a conclave titled “Emerging Now” on the 28th January 2017. The conclave which witnessed participation from partners from leading law firms like Khaitan & Co., Trilegal, J.Sagar & Associates, HSA Advocates, Economic Law Practice, Nishith Desai Associates, Lakshmikumaran & Sridharan etc. focused on four major sectors under the broad themes, namely, reforms in Alternative Dispute Resolution (ADR), Insolvency and Bankruptcy Reforms, Taxation and FDI Reforms and Commercial Litigation.

The session began with the introductory remarks by Dr. Nidhi Buch, Faculty Convener, Committee on Recruitment affairs, followed by the Director’s address where, (Prof.) Dr. Bimal N. Patel lauded this initiative by the Committee of Recruitment Affairs, GNLU and emphasized that the idea behind the conclave was to bridge the gap between the governors and the governed.

The first session focused on Reforms in Alternative Dispute Resolution. Mr Vyapak Desai, Partner at Nishith Desai Associates discussed the basics of Arbitration and Arbitrability, which was followed by understanding the position of interim relief before and after amendments to the Arbitration and Conciliation Act, 1996 by Mr. Ganesh Chandru, Partner at Lakshmikumaran & Sridharan. Further, more topics like position of Arbitral awards prior and post the 1996 Amendment to the Arbitration Act were discussed by Mr. Raj Panchmatia, Partner at Khaitan & Co. and Mr. Faraz Sagar, Partner at Trilegal discussed about the delay and huge costs involved in Arbitral proceedings. Mr. Abeezer Fazibulloy, Partner at H.S.A Advocates concluded the first session by bringing forth the discussion on Modal BIT of India.

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The second session, which focused on Insolvency and Bankruptcy, involved Mr. Deep Roy, Associate Partner at Economics Law Practice, Mumbai and Mr. Rajeev Vidhani, Principal Associate at Khaitan & Co. The discussion began with a comparison of the earlier bankruptcy regimen with the new code tagging the former as a systemic risk due to loss of assets and lack of viability for revival of company. They discussed the role of players and their functions within the framework outlined by the new code with the aim of law to create a shorter and more efficient process of liquidation or restructuring. Also, they discussed jurisdiction with regards to insolvency proceedings, role of insolvency professionals and interim resolution professionals and liquidation waterfall.

The third session that focused on Taxation & FDI Reforms, was opened by Mr. Rajesh Simhan from Nishith Desai Associates, who laid down the different methods of investment by outlining basics of Foreign Direct Investment, Foreign Portfolio Investment, and the lesser-used foreign venture capital regime. He then enumerated on India's 'Right to Tax' based on income that arises in India, using the famous Vodafone Case as an illustration.

Mr. Tushar Hemani, President of Income Tax Appellate Tribunal Bar Association, Ahmedabad thereafter took to the podium in the next leg of the session to discuss FDI and possible reforms in greater detail. He emphasized on the importance of having certainty, clarity and transparency to attract foreign direct investors. The final speaker in the segment was Mr. Dipesh Shah, head of IFSC & Strategy, Gujarat International Finance Tec-City Company Ltd. He explained IFSCs and the main features of the newly opened IFSC in GIFT City, Gandhinagar. He talked about the creation of a '*foreign zone*' in India, with rules and regulations different from the domestic zone and the IFSC.

The last session for Commercial Litigation was focused on the discussion of inefficiency in the judicial mechanism of the country. It included panelists like Mr. Dheeraj Nair, Partner at J. Sagar Associates, Mr. Abeezer Faizullahoy, Senior partner at HSA Advocates and Mr. Naveen Pahwa, Practicing Advocate at Gujarat High Court. The esteemed panelists raised concerns on the implementation of various measures for expeditious disposal of the various cases. They highlighted the importance of mediation and conciliation measures, the establishment of specialized Tribunals such as NCLT (National Company Law Tribunal) as ways to give an impetus to dispute resolution in the country. They emphasized that speedy disposal is the key with respect to commercial litigation in the present era. They also discussed the

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importance of the amendments of Arbitration and Conciliation Act, 1996 and the enactment of the Insolvency and Bankruptcy Code 2016 in achieving this objective.

Each session of the conclave was followed by a Q&A session between the panelists and the participants, which comprised of students of GNLU from the third, fourth and fifth year who were extremely enthusiastic for the same. A first of its kind initiative at GNLU, the success of this conclave has definitely set the ball rolling for more such future events.

For any further details you may contact Dr Nidhi Buch, Assistant Professor of Law at 8128684330 or nbuch@gnlu.ac.in.