

WORKSHOP REPORT

3RD GNLU WORKSHOP ON LAW AND ECONOMICS: THEORIES AND APPLICATIONS

12TH – 18TH September, 2022

The GNLU Centre for Law and Economics (GCLE) is a centre for excellence for research and training in the discipline of law and economics, and the economic analysis of law. The Centre aims to advance awareness in the field, through workshops and conferences. Keeping this objective in mind, GCLE organised the 3rd GNLU Workshop on Law and Economics – Theories and Applications from 12th September to 18th September 2022. The Workshop was graced by the presence of participants from across India and abroad, including research scholars from Rotterdam University, students and professors from National Law Universities, among others. This enthusiasm was a reflection of getting the opportunity to learn from and interact with resource persons, which composed of luminaries in the field of law and economics, having vast knowledge and practical experience.

The opening session witnessed eminent scholar Prof. Ram Singh (Prof. of Economics, Delhi School of Economics) talking about property rights and economics. He discussed the right of a government or its agent to expropriate private property for public use, along with payment of compensation (which is known understood by the principle of eminent domain). By way of interactive segments, he helped the audience to be guided by logical corollaries when answering the questions of economics, particularly with respect to economics of litigation involved in Land Acquisition cases.

The second session was guided by another reputed scholar, Prof. Thomas Ulen (Research Professor and Swanlund Chair Emeritus, University of Illinois), and his lectures covered linking economic tools to various sections of law like tort law, contract law, criminal law and behavioural law etc. He initiated his conversation with basic concepts of microeconomics and introduced theories of economics based on behavioural approach towards spending, investing, producing and competing, etc. A detailed discussion on interaction between market and social cost took place, which raised question of low transaction cost and instances where the social cost were ignored on account of private profits.

The enthusiasm continued the next day with the Inaugural Ceremony, graced by the presence of Prof. (Dr.) S. Shanthakumar (Director, Gujarat National Law University), Prof. (Dr.) Ranita Nagar (Head, Centre for Law and Economics) and Prof. (Dr.) Hitesh Kumar Thakkar (Faculty Convenor for the Workshop) alongside Prof. Thomas Ulen and Prof. Ram Singh, who provided their inaugural addresses. This ceremony witnessed a thought-provoking conversation on various aspects of law and economics, with each notable speaker drawing parallels between their personal experiences and the academic underpinnings of law and economics. Prof. (Dr.) Shanthakumar emphasised on the need for developing law and economics study with an India focused perspective if law schools are to make a meaningful contribution to the enormous issues of our day.

Prof. (Dr.) Ranita Nagar spoke about the new book being launched, titled "Economic Analysis of Law and Governance," which provides an in-depth analysis of laws through an economic lens and how the legislations are to be shaped in a post covid world. The book is a compilation of GCLE's continued efforts in promoting discourse on law and economics and their interaction. The book was praised by all the luminaries present in the ceremony, which concluded with a Vote of Thanks by Dr. Thakkar.

On day 2 of the workshop, Prof. Ram Singh continued with the economic analysis of Land Acquisition Acts and the long litigation process. He emphasised on the concept of full compensation, which would make the seller indifferent towards sale and thus, help him get the best price. He took note of the opposing factors- public choice and state liability- which govern the decision-making process of government and how social interests are weighed against political interests, thereby prodding the participants to think about these pertinent aspects.

Prof. Thomas Ulen continued his discussion on transaction cost through Coase theorem. He also elaborated on Law and Economics of Intellectual Property Rights (IPR) as well as the theories of Public Choice alongside Property rights. He emphasised on information as a public good and the suboptimal level of it to make property rights profitable and which act as an incentive for innovation, and all of this seen in view of the social cost of IPR.

The third day of the workshop began with Prof. (Dr.) Hitesh Kumar Thakkar divulging in the field of corporate resolution and insolvency and its economics by putting forward two Hypotheses regarding whether the Insolvency & Bankruptcy Code, 2016 (IBC) has rescued ventilated companies (resolution) or has led to threat to its life (liquidation ultimately dissolution), as the life of company is valuable. He elaborated that the IBC does not dictate the

form of resolution, but designs the form of the process leading to resolution. As a conclusion, he stated that there are compelling arguments for incentivizing Operational Creditors by legalising 'pre-packaged offers' or 'pre-packs.'

Next up, Prof. Thomas Ulen, as part of his series of lectures on law and economics, discussed the economics of tort law and tortious liability. He suggested strict liability as being more compatible with remedial justice, than negligence. He stated that analyzing the degree of prudence and activity of a possible tort-feasor and how potential victims and injurers may react under various kinds of responsibility is crucial.

On 15th September (fourth day), the workshop welcomed eminent scholar Prof. Regis Lanneau (Associate Professor in Public Law, University of Paris Nanterre), who dealt with the intersection between Constitutional Law & Economics. Using a multidisciplinary approach, Prof. Lanneau inducted John Rawls' Theory of Justice and stated that the rules on determining how to decide should be adopted behind a 'veil of ignorance'. He gave a step-by-step analysis of how basic and fundamental rights have to be secured for all and the focus has to be on the benefit of least advantaged section of society. Thus, he advocated for a scientific decision-making procedure to be established for determining general interest.

Prof. Ulen, in his session on day 4, touched on topics of intersection of criminal law and behavioural law with economics. He discussed the implications of Becker's theory, which led to a decline in discretionary sentencing in US. Using Statistics of Crime in the US from 1980-1991, he stated that the society can reduce Crime by raising the expected costs of Crime, by increasing the cost of sanction rather than actual resource cost and argued on the effectiveness of deterrence. Further, taking legalization of abortion as an example, he discussed the cohort size and cohort quality effect as two components that make up the total effect that legalized abortion had on declining rate of crime.

On 16th September Prof. Lanneau continued his analysis by introducing various game patterns using voters to present that objectively calculating a general welfare is very hard through every approach. He concluded that homogeneity and heterogeneity of population and diversity in a state actually helps determine the efficiency of collectiveness and intervention of the state in the costs and welfare of the society.

And, Prof. Ulen discussed behavioural economics and whether people obeyed rational choice theory or not. His concern was with how behavioural aspects affect different areas of law such as contract law, tort law, criminal law, procedural law, bankruptcy and regulatory agencies.

Therafter, he concluded his series of session with criticisms of behavioural economics. Prof. Ulen expressed his gratitude to the GNLU Centre for law and economics for inviting him and thanked the participants for their thought-provoking questions. He provided a number of areas where more research is required and expressed his expectations that the participants will be great contributors in furthering the field of law and economics.

Prof. (Dr.) Ranita Nagar and Prof. (Dr.) Hitesh Kumar Thakkar also used the opportunity to release the third volume of the GNLU Law and Economics Journal, while inviting the participants and thanking them for being contributors to the journal and supporting it in its journey to be one of the flagship journals on law and economics in India.

Day 6 saw an important and contemporary arena of law and economics being discussed by Miss. Kundhavi Suresh Kumar (Associate, Linklaters). She dealt with aspects of law and economics which govern a corporate structure. Within this broad area, her major focus was on how the face value of the bond affects the coupon price and how in turn it leads to investment. Her interactive questions made the participants think on it in a real-world scenario.

The next session was by Prof. (Dr.) Ranita Nagar, who dealt with efficiency theory on democracy with main focus on the non-enforceability of Directive Principles of State Policies and the enforceability of Fundamental Rights. She dealt with how the level of stringency of either of these leads to a welfare state with capital market, in a democracy. She left participants with a question as to what point on the indifference curve in short run production should DPSP be made enforceable or enacted and optimal level of Fundamental Rights, with respect to market forces and welfare policies that would result in democracy.

The final day of the workshop was helmed by none other than Prof. Ram Singh. He dealt with contract law and economics. His basis was that contract arise out of legally enforceable promise and when it is breached, it leads to consequences. The topic of damages was also discussed by covering expectation damages, reliance damages, restitution damages etc. This marked the conclusion of session.

The workshop came to an end with the Valedictory ceremony. It began with the opening address by Prof. (Dr.) Ranita Nagar, who expressed her gratitude to all resource persons for their valuable insights. This was followed by Valedictory Address by Dr. Anjani Singh Tomar (Dean of Academic Affairs and Associate Professor of Law, GNLU), who expressed her gratitude to Director Sir and the administrative staff of GNLU, followed by highlighting the crucial role played by Prof. (Dr.) Ranita Nagar and Prof. (Dr.) Hitesh Thakkar in bringing the

Centre for Law and Economics to a position where it is today. Prof. Ram Singh, in his valedictory address, emphasized the role of such workshops to promote the very pertinent subject of law and economics and appreciated the efforts put in by GNLU and GCLE in doing the same. Dr. Jagadeesha Chandra T.G. (Registrar, GNLU) also shared his views on the importance of law and economics, and the commitment of our University in supporting the dissemination of knowledge relating to this interdisciplinary area (which is in sync with the objectives of New Education Policy, 2020). Prof. (Dr.) Hitesh Thakkar proposed the vote of thanks. He created a nostalgic environment by sharing a picture from 2013 of GCLE members, and celebrated the journey of CLE right from its inception till now. The efforts of the entire team were acknowledged and appreciated by participants. Participants remarked of having a wonderful time due to stimulating conversations and the clarity of concepts given by resource persons and the enthusiasm showed by them.

The week-long workshop came to an end with thought provoking insights and discussions dealing with contemporary issues. We hope that participants gained from this workshop, and which will lead to more observations, deliberations and discussions in this constantly evolving interaction of various laws with the field of law and economics. GCLE would continue and strive to be at the forefront of these developments and would present more opportunities to increase the awareness and scope of this field.

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Thank you

GNLU Centre for Law and Economics,

Gujarat National Law University