

GNLU INTERNATIONAL CONFERENCE ON ECONOMIC ANALYSIS OF LAW

AND GOVERNANCE

18TH – 21ST MARCH 2021

Plenary Session on *The Republic of Beliefs: What makes our laws Effective* by Prof. (Dr.) Kaushik Basu on 18th March 2021 (09:00 AM – 10:00 AM)

Professor Kaushik Basu is Professor of Economics and the Carl Marks Professor at Cornell University; Former Chief Economist of the World Bank.

- Stated the example of United States of America, where law is crafted keeping in mind economics.
- Emphasized that the fundamental question to be answered was that why are some laws ignored while some are followed.
- Addressed two aspects- firstly, through the world of policy and secondly, intellectual engagement.
- In the light of Indian Government policy, the food rationing system was described and the associated problem of food leakages was highlighted, which amounted to around 40 percent.
- The problems in the functioning of the system were attributed to the non-consideration of factors such as motivation and incentives to government agents and law enforcement mechanisms.
- Highlights the problem of corruption as a complex issue, which is difficult to resolve, that intertwines in legitimate activity and further, supports the same by stating the example of Demonetization in India
- Proceeding to intellectual engagement, emphasised on the ignored concept of 'Power', the role it plays and why it must be studied.
- Referred to the book 'Power of the Powerless' by former Czechoslovakian President, Václav Havel, while presenting the arguments on law and economics
- Elucidated upon the example of the green grocer mimicking loyalty to the state, as stated in Václav Havel's theory in 'Power of the Powerless', to used it to explain the Power of Law.
- The conventional Law and Economics that emerged in the 1960's in the United States of America did not consider the insight shown by Václav Havel.
- Refers to 'Crime and Punishment: An Economic Approach' in the Journal of Political Economy, by Garry S. Becker on how law changes behaviour.
- Gives the example of Road safety laws and enforcement mechanism to understand the response of individuals' behaviour towards change in law

- Considers law to be words on paper, formed by a few people through discussion, and further, that people may choose not to follow the law.
- **Flaws in the arguments of Garry S. Becker and Chicago School**
 1. Assumes that all individuals are rational
 2. Assumes that police and law enforcement agents are programmed and not like other individuals
- **Arguments laid out in the book 'Republic of Beliefs', by Prof. Kaushik Basu**
 - Presents the arguments in the light of Game Theory
 - Law is not powerful because of the Brick and Mortar, but because of the ink on paper, as it changes the beliefs and expectations of one another.
 - Explains the role of Law in creating a focal point or Nash Equilibrium through the example of two games-
 1. Two soldiers who have to individually choose a common place to meet where the other soldier would stand, in order to defeat the enemy and win the game.
 2. The Squares game, where two individuals had to individually end up choosing a common square to succeed in the game.
- **Solutions**
 1. Proper articulation of Law
 2. If there is an already existing focal point, a law in the same area can be rendered ineffective.
 - a) Example of the negative impact of money lending law introduced by the British
 - b) Example of a law made in the domain of a long standing custom, leading to a discord or mismatch.
 3. Need to consider a huge equilibrium system
 - a) Important to take into consideration police and law enforcement.
- Need to take into consideration group behaviour and group moral responsibility.

Plenary Session on *Exit vs. Voice*- Professor (Dr.) Oliver Hart on 18th March 2021 (06:30 PM – 07:30 PM)

Professor (Dr.) Oliver Hart is Lewis P. and Linda L. Geysler University Professor at Harvard University; 2016 co-recipient of the Sveriges Riksbank Prize in Economic Sciences in Memory of Alfred Nobel.

- The plenary session began with an insightful session on *Exit v. Voice* delivered Prof. (Dr.) Oliver Hart on his recent work on '*Exit v. Voice*'. Prof. (Dr.) Oliver Hart is the Lewis P. and Linda L. Geysler

University Professor at Harvard University, where he has taught since 1993. He is the 2016 co-recipient of the Sveriges Riksbank Prize in Economic Sciences in Memory of Alfred Nobel. A warm welcome was given by Prof. (Dr.) Sanjeevi Shanthakumar, Director at Gujarat National Law University.

- The appropriate objective of public company was discussed wherein public company is defined as a company which is traded in the stock market. Fifty years ago, Milton Friedman argued that Company has one social responsibility to make money. But many people don't agree with Friedman's conception now. Companies have responsibility towards their shareholders.
- But the speaker believed in taking a middle ground position. The speaker suggested that the companies are right in making money, at the same time, shareholders have social as well as monetary goals. It is important to bear in mind that companies have a comparative advantage than individuals to tackle it. The speaker emphasised that the companies are in a unique position to do something about carbon footprint or to control pollution. If shareholders are socially responsible they may actually want their company to be clean and might want the company to compromise some profit.
- The shareholders have two ways to deal with this situation- Exit or Voice. Exit means divestment, that is by selling shares of a dirty company and buying shares of a clean company. This eventually decreases the share prices of dirty companies. Thus, the companies become clean. Consumers and workers can also practise this exit strategy.
- In case of Voice strategy, shareholders are in a unique position to follow. The shareholders can use voting power to change company behaviour. So there exists a choice between exit and voice. The speaker argued that Voice can lead to very socially efficient outcomes. Divestment, Exit is less likely to be effective. Companies should be listening to owners and learn how much profit they are willing to sacrifice for Environment Social Goals. Asset Managers should consult with their investors. There exists a fiduciary duty to maximise monetary long- run returns. If the investors are socially responsible then the manager is required to see what investors want. The speaker urged the activists to perhaps think of strategies where one can raise voice rather than resorting to divestment.
- At the end of the session, there were several questions asked to Prof. (Dr.) Oliver Hart which were duly answered by him. Prof. (Dr.) Ranita Nagar, has concluded the session with a vote of thanks to Prof. (Dr.) Oliver Hart for the valuable plenary session and marking a remarkable day in the history of Law and Economics in India with his presence. A vote of thanks was also given to Prof. (Dr.)

Thomas Ulen, Prof. (Dr.) Ram Singh, Prof. (Dr.) Praveen Kulushetra, Prof. (Dr.) Jaivir Singh for being present in the plenary session and contributing in the extensive deliberations.