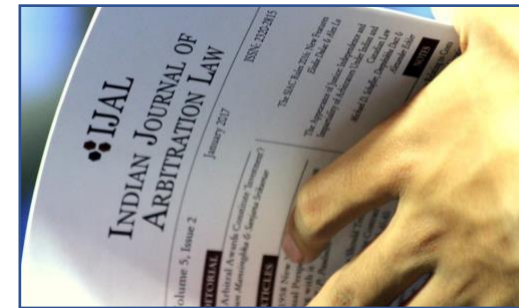


**THE 4<sup>TH</sup> CARTAL CONFERENCE ON INTERNATIONAL ARBITRATION**  
*“Navigating Murky Waters: Addressing Uncertainties in International Arbitration”*

*5th & 6th October, 2019*

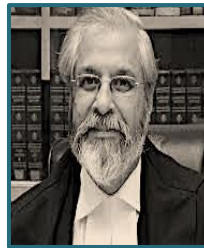
*At National Law University, Jodhpur*



### ABOUT THE CONFERENCE

The theme for the 4th CARTAL International Arbitration Conference is “*Navigating Murky Waters: Addressing Uncertainties in International Arbitration*” (“**Conference**”), and it shall be hosted over a period of two days, i.e., 5th & 6th October, 2019, at National Law University, Jodhpur in India. The Conference will maintain its focus over three topics: ‘Human Rights and Environment Protection Concerns in International Investment Arbitration,’ ‘Taking of Evidence in International Arbitration: Prague Rules versus IBA Rules,’ and ‘Towards Institutional Arbitration in India.’

### GUEST OF HONOUR



**Justice Madan B. Lokur**  
*Judge, Supreme Court of Fiji*  
*(former Judge, Supreme Court of India)*

Justice Madan B. Lokur will deliver the keynote speech for the Conference. He is a veteran Indian jurist, former judge of the Supreme Court of India, and is currently appointed as Judge of the Supreme Court of Fiji. He has previously been appointed as a Permanent Judge of Delhi High Court in the year 1999, acting Chief Justice of the Delhi High Court in the year 2010, Chief Justice of Gauhati High Court in the year 2011, and the Chief Justice of High Court of Judicature at Hyderabad in the year 2011. He retired as the senior most judge of the Supreme Court of India in the year 2018, and is the first Indian judge to become a judge in a foreign country, i.e., Fiji.

**PANEL I: HUMAN RIGHTS AND ENVIRONMENT PROTECTION CONCERNS IN INTERNATIONAL INVESTMENT ARBITRATION**



**Ms. Meriam Al-Rashid**

*Partner, Dentons, New York*



**Ms. Julianne Hughes-Jennett**

*Partner, Hogan Lovells, London*



**Mr. Kabir Bhalla**

*Associate & Barrister, King  
& Spalding, London*



**Mr. Harshad Pathak**

*Senior Associate, P&A Law  
Offices, Delhi*



**Ms. Dilber Devitre**

*Associate, Homburger,  
Switzerland*

The Investor-State Dispute Settlement (**ISDS**) mechanism has often suffered attacks on its legitimacy. Some commentators are of the view that the International Investment Agreements (**IIA**) unduly favour investors (especially the corporate giants) over the host State and fail to provide guidance as to how issues of human rights and environment protection should be addressed in the context of investment protection and promotion. Tribunals have also been reluctant to open the ISDS door to these concerns. However, recent IIAs (such as the Netherlands Model BIT) have taken a positive approach towards addressing human rights and environmental concerns. They acknowledge that investors have an obligation to make and maintain their investments in accordance with host State laws. States are also increasingly of the view that while attracting foreign investment is attractive, States must not relax their public health, safety, human rights and environmental measures simply to attract these investments. Further, two arbitral decisions have come to light wherein host States have submitted counterclaims based on human rights and environmental law – *Urbaser v. Argentina* and *Burlington v. Ecuador*. Investment arbitration is also being used by investors to enforce environmental obligations of the State, such as in *Allard v. Barbados*, *Bilcon v. Canada*, and *Mesa v. Canada*. This panel shall address the question of whether international arbitration proceedings provide suitable platform to address human rights and environmental concerns. It shall also delve into whether such concerns can be used by both States and investors as potential “swords” and seek to bring clarity into such claims due to the limited jurisprudence available on these issues.

**PANEL II: TAKING OF EVIDENCE IN INTERNATIONAL ARBITRATION: PRAGUE RULES VERSUS IBA RULES**



**Mr. Thomas Snider**  
*Partner, Al Tamimi & Co.,  
Dubai, United Arab Emirates  
(UAE)*



**Ms. Meaghan Gragg**  
*Partner, Hughes Hubbard &  
Reed, New York*



**Mr. Shaun Pereira**  
*Associate, Shearman &  
Sterling LLP, New York*



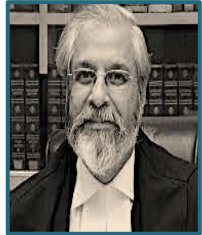
**Mr. Ajay Thomas**  
*Independent Arbitrator  
Vice President, ICC India  
Arbitration Group*



**Cdr. Madhvendra Singh**  
*Independent Arbitrator*

The taking of evidence in international arbitration has largely been guided by the International Bar Associations Rules on the Taking of Evidence in International Arbitration (**‘IBA Rules’**), which have been accused of having a common-law tilt. In light of this criticism, the Inquisitorial Rules on the Taking of Evidence in International Arbitration (**‘Prague Rules’**) were released as a response to the “creeping Americanisation of international arbitration.” The idea behind these rules is to increase efficiency in international arbitration and reduce costs. These rules, as the name suggests, are inquisitorial in nature and the approach taken is one of fact-finding, as opposed to the adversarial approach taken in the IBA Rules. The Prague Rules promote a more active role for arbitral tribunals and can be used either as a binding document or as guidelines. The Prague Rules differ from the IBA Rules in matters such as document production, where a narrower and more restrictive approach is followed. Further, the Prague Rules also embody the view that the usefulness of fact witnesses and party-appointed experts is doubtful, keeping in mind that many of these procedural features are not known or used in non-common law jurisdictions. This panel will address the differences between the two sets of rules, including whether the Prague Rules are a significant departure from the IBA Rules at all; and which approach is better for parties and arbitrators to adopt.

**PANEL III: TOWARDS INSTITUTIONAL ARBITRATION IN INDIA**



**Justice Madan B. Lokur**  
*Judge, Supreme Court of Fiji  
(former Judge, Supreme Court of  
India)*



**Mr. Tejas Karia**  
*Partner, Shardul Amarchand  
Mangaldas, Delhi*



**Ms. Shaneen Parikh**  
*Partner, Cyril Amarchand  
Mangaldas, Mumbai*



**Ms. Payal Chawla**  
*Founder, JusContractus*



**Ms. Hazel Tang**  
*Counsel, International  
Chamber of Commerce,  
Singapore*



**Mr. Arun Mal**  
*Lawyer, Allen &  
Overy, Hong Kong*

On August 9, 2019, the Arbitration and Conciliation (Amendment) Act, 2019 (“**2019 Amendment**”) was published in the Official Gazette of India, after the President gave his assent. The 2019 Amendment is based on the recommendations of the High-Level Committee constituted under the chairmanship of Justice B.N. Srikrishna. The 2019 Amendment clarifies that the very objective of the amendment is to promote institutional arbitration by creating an independent, statutory body to govern the arbitral process. However, the composition, power and the functions to be performed by the body that are stipulated in the 2019 Amendment are drastically different to what was proposed in the Srikrishna Committee Report, 2017. The 2019 Amendment has drawn criticism because the proposed Arbitration Council is a purely government-appointed body. This significantly lowers its credibility, especially since the government is the biggest litigant in India. Another criticism is that the Arbitration Council’s excessive power to frame regulations will take away from party autonomy. This panel shall cover the changes after the 2019 Amendment, such as the shift towards institutionalisation sought to be brought through the constitution of an Arbitration Council. Major or expected changes across other jurisdictions, including, *inter alia*, those mirroring such attempts at institutionalisation may also be compared, and other changes made by the 2019 Amendment may also be discussed.

### **ABOUT CARTAL**

[The Centre for Advanced Research & Training in Arbitration Law \('CARTAL'\)](#) has been set up to promote research and scholarship in the field of arbitration. CARTAL is headed by Executive Director Dr. Nidhi Gupta, with Professor Martin Hunter acting as Honorary Chairman. CARTAL's Board of Advisers include the most pre-eminent personalities in the field of arbitration such as Mr. Gary B. Born, Mr. Alexis Mourre, Mr. Emmanuel Gaillard and Prof. Gabrielle Kaufmann-Kohler. CARTAL comprises of a dedicated body of members, who are responsible for organisation of its events. The 1st CARTAL International Arbitration Conference, "*Arbitration at Crossroads*," was held in the year 2016, addressing themes such as developments in international investment arbitration, transparency and confidentiality concerns, institutional arbitration in India, and the overhaul of India's arbitration law. The 2nd CARTAL International Arbitration Conference, "*Looking East: Arbitration in the Asian Age*," was held in the year 2017, addressing themes such as arbitration across legal and economic cultures, the viability of the BRICS Dispute Resolution Forum, third party funding, and public policy. The 3rd CARTAL International Arbitration Conference, "*Winds of change: Securing harmony in arbitral practice*," was held in the year 2018, addressing themes such as the Investment Court System by the EU, cross-institutional consolidation forwarded by SIAC, and the practice of guerrilla tactics in arbitration. The reports of the 1st, 2nd and 3rd CARTAL Conferences can be found at [here](#), [here](#) and [here](#) respectively.

### **ABOUT IJAL**

The Centre publishes the [Indian Journal of Arbitration Law \('IJAL'\)](#), a bi-annual, open-access journal. The IJAL is recognized as the leading Indian dispute resolution journal and an excellent source of reference in the field of arbitration, maintaining a focus on transnational debates in international commercial arbitration and investment treaty arbitration. The IJAL has successfully published [seven volumes](#), hosted contributions from globally renowned experts, and is indexed on Kluwer Arbitration, Westlaw and HeinOnline. The IJAL's articles have been used by the High-Level Committee constituted under the chairmanship of Justice B.N. Srikrishna, National Judicial Academy of India, United Nations Commission on International Trade Law (UNCITRAL) Bibliography of the works related to UNCITRAL, ASA bulletin of the Swiss Arbitration Association, Jan Paulsson and Georgios Petrochilos' book titled "*UNCITRAL Arbitration*," Nakul Dewan's book titled "*Enforcing Arbitral Awards in India*," and several other noteworthy works. The IJAL is also ranked as the third most accessed journal in the country, in SCC Online's "Top Ten Law School Law Reviews" for July, 2019.



### REGISTRATION

- Participation in the fourth edition of the Conference is open to students of the second, third, fourth and fifth year of the five-year undergraduate law degree, and students of the second and final year of the three-year law degree.
- Registrations will carry a fee of **Rs. 1700** per participant, applicable for candidates registering till August 31, 2019. Following this, registration fee of **Rs. 2200** will be applicable per participant. This fee covers participants' accommodation and meals for the duration of the Conference.
- On successful participation, students will be provided with a participation certificate. All interested students must pre-register [here](#).
- The deadline to register is September 30, 2019. Upon preliminary registration, the organizers, subject to availability of seats, shall share the complete registration details and modalities of payment of the registration fee.
- Please do not hesitate to contact our registration team:  
Devika Sreekumar (+91 9447107953), Isha Sen (+91 9830693138), or Vaishnavi Prasad (+91 9791011442),  
or email at [editor.cartal@gmail.com](mailto:editor.cartal@gmail.com) in case of any queries.

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