

GJIL Symposium 2019

**INTERNATIONAL
ECONOMIC *and*
TECHNOLOGIC DIVIDE
IN THE 21ST CENTURY**

Agenda

9 a.m. Check-in and Registration

9:30 a.m. Welcome and Opening Remarks

Mr. Aaron Swensen, Dr. Upendra D. Acharya, and Dean Jacob Rooksby

10 a.m. **Implications of Access to Internet as a Human Right** (panel one)

Professor Mary Pat Treuthart, Dr. Jeffrey Omari, and Dr. Michael Best | Moderated by Professor Brooks Holland

11:45 a.m. Lunch Break

1 p.m. **International Cybersecurity, Governance, and Privacy Implications** (panel two)

Dr. Tayyab Mahmud, Dr. Mehmet Komurcu, Dr. Upendra D. Acharya, and Mr. Simon Windell | Moderated by Professor George Critchlow

3:15 p.m. Break

3:30 p.m. **ClearCorrect: Intellectual Property, 3D Printing, and the Future of Trade** (video presentation)

Dr. Matthew Rimmer

4 p.m. **Global Economic and Technological Imbalance and Impediments to the Implementation of the 2030 Agenda on Sustainable Development Goals** (keynote address)

Dr. Ved P. Nanda

4:45 p.m. Closing Remarks

Mr. Connor Jepson and Mr. Adam Kitiz

Presentation Information

Panel One | Implications of Access to Internet as a Human Right

- ▶ *Professor Mary Pat Treuthart* will present "The Human Rights Implications of the Global Gender Digital Divide"

Abstract of Presentation: Information and communication technologies (ICTs) have a growing impact on all aspects of life. But significantly fewer women than men across the globe have access to ICTs, which results in lost opportunities for personal and professional growth, empowerment, and fulfillment. More broadly, the gender digital divide has been identified "as both a consequence and a cause of human rights violations." Through this human rights lens, Professor Treuthart's presentation will examine the factors that create obstacles for women's participation in the wired world and will analyze possible approaches to close the gender gap.

- ▶ *Dr. Jeffrey Omari* will present "Internet Access amongst the Marginalized: Democracy and Internet Governance in Rio de Janeiro."

Abstract of Presentation: Professor Omari examines how new modes of governance and policies intended to expand Internet inclusion unfold in the marginalized communities of Rio de Janeiro. In April 2014, Brazil enacted the Marco Civil da Internet (MCI), an "Internet Bill of Rights" that promotes democratic digital governance and regards Internet access as a requisite for civil rights. Rio's favelas are territories where many of the intended beneficiaries of the Internet access policies live. Yet, drug gangs often control favela neighborhoods and censor the digital access of favela residents, which is just one example of how Internet access in disadvantaged communities is tied to a number of broader socio-political realities and risks. Because these risks index larger disjunctions in contemporary Brazilian democracy, Professor Omari proposes that violence and informal governance in urban favelas creates a corresponding disjunction in the MCI's pledge of Internet access as a civil right.

- ▶ *Dr. Michael L. Best* will present "Can the Internet *Still* be a Human Right?"

Abstract of Presentation: In 2004, Dr. Michael L. Best penned an essay entitled Can the Internet be a Human Right? He proceeded to answer his own question strongly in the affirmative. Dr. Best now analyzes how the answer to this question changed in the intervening fifteen years. In today's realities - of monopolistic social media platforms, live-streaming of terrorist mass killings, and fake news weakening storied democracies - do we still want to offer the Internet such privilege? Or has the euphoria associated with Internet adolescence given way to a dystopic coming-of-age?

Panel Two | International Cybersecurity, Governance, and Privacy Implications

- ▶ Dr. Tayyab Mahmud will present "International Law and Information Imperialism: Lessons of the Era Preceding the 'Information Age.'"

Abstract of Presentation: Modern international law was forged on the anvil of colonial expansion of Europe and birth-marks of colonial origins remain indelible on its normative and institutional structures. Similarly, modern global information flows took their early form to facilitate colonialism and have retained an imperial grammar. The era of formal decolonization ended in the 1970s with an attempt by the Global South to reorder the international economic order. In tandem, an attempt was made to reorder the international information order. Just as the initiatives for a New International Economic Order and a New International Information Order started to make gains in normative and institutional regimes of international law, the neoliberal counterrevolution ushered in ascendancy of finance capital on a global scale. The "information age" quickly followed. Transformative initiatives of the Global South foundered in the resulting new world. Today, the hegemony of global finance capital coupled with the information revolution present new challenges for the Global South in its continuing struggle for a just and equitable global order. This paper will focus on the rise and demise of the NIIO initiative and the implications for international law in the "information age."

- ▶ Dr. Upendra D. Acharya will present "Cyber Security, Cyber Freedom, and Cyber Governance."

Abstract of Presentation: As the twenty first century has already transformed into a cyber-century, cyber sovereignty has been an emerging functional concept to provide a new approach to international relations and law. Cyberwarfare has challenged the traditional notion of territorial claim of sovereignty. Political independence has been analogous to technological and economic independence. In this new context of cyber sovereignty, international law has been lagging behind to respond to the problems that each nation is facing from access to and skill of technology to effectively exercise sovereign equality at the one hand. On the other, governmental control on access to information and data in the name of national security, and corporate data hoarding in the name of efficient business practices have created major challenges in the realization of human rights. Both challenges together have created big questions on (cyber) security, (cyber) freedom, and (cyber) governance. Identifying challenges and analyzing existing state of laws and policies will be the focus of this presentation.

- ▶ Mr. Simon Windell will present "Zen and the art of Data Privacy: perspectives from enterprise IT."

Abstract of Presentation: Reconciling legal requirements with technical capabilities is a challenging problem for any international organization, but it also presents opportunity. The proverb, "If you want to go quickly, go alone. If you want to go far, go together" may be a bit overly pithy; however, it is applicable to the Data Privacy conversation. Healthy relationships, communication, and trust between legal and technology professionals are essential to establishing the fundamental building blocks for reliable and efficient processes: mitigating risk while enabling a culture of innovation. When we stay in our silos of expertise we at best miss opportunities, and at worst, we increase risk exposure and create a culture of apathy. I will share my learnings as an IT practitioner navigating and shaping paths through Data Privacy regulations to create global solutions that aim to deliver value to our employees.

- ▶ Dr. Mehmet Komurcu will present "International Law as a Platform to Address Challenges Related to Technological Developments."

Abstract of Presentation: The United Nations' "2030 Agenda for Sustainable Development" sets out a global agenda for development based on economic prosperity, social inclusion and environmental sustainability where the Member States acknowledged that 'the spread of ICT and global interconnectedness has great potential to accelerate human progress'. While digital technologies have rapidly spread in much of the world, digital divides remain in many countries: as of March 2019, almost half of the world's population still do not have internet access and therefore can't fully participate in the digital economy. Moreover, men outnumber women as Web users in every region of the world. And there remain massive disparities in connection speeds in different countries. Developed countries with faster broadband speeds and better Internet connectivity are growing faster than those with poor ones in developing and undeveloped countries.

International law intersects with many issues relating to technology in a variety of ways. A growing number of multilateral conventions and trade treaties are increasingly focused on technology related issues such as natural resource exploitation, the Internet, privacy and data flows, digital products and services, cyber security and crime and sustainable development. The intersection of technology and international law also poses a range of important challenges in the area of international governance and regime design. Indeed, the practice of international law itself needs to be transformed to meet the requirements of new technological developments. Thus, there is a challenge for international legal practitioners to timely identify the issues of importance to international law in a dynamic and rapidly changing digital technology world and figure out how the law can and should respond to those developments.


One huge advantage international law can take advantage from technologic advancement is that internet has made all nations next-door neighbors. Accordingly, international cooperation seems more feasible to address the responsibility, governance and regulatory issues related to some technological areas since the prohibitive cost of any failure in interconnected global systems and digital products necessitates efficient progress, collaboration and sharing of information between the countries.

Video Presentation | **ClearCorrect: Intellectual Property, 3D Printing, and the Future of Trade**

 *Dr. Matthew Rimmer* will appear by video from his home country, Australia.

Abstract of Presentation: Building upon our recent publication, *3D Printing and Beyond*, this paper considers the relationship between intellectual property and trade in the context of 3D printing. This work contends that 3D printing has not only disrupted the discipline of intellectual property, but it has also provided profound challenges for the regulation of trade and globalization. Part 1 provides a case study of the patent dispute between ClearCorrect and Align Tech as a case study. The ruling of the Court of Appeals for the Federal Circuit will have larger ramifications in respect of the jurisdiction of the International Trade Commission in respect of the digital economy. It considers subsequent patent disputes between the parties before the United States Patent and Trademark Office. Part 2 considers how 3D printing will be affected by the international trade dispute between the United States and China over intellectual property, innovation policy, and advanced manufacturing. It examines whether 3D printing will reverse the pattern of offshoring in the United States. It also considers the adoption of 3D printing in China, and the issues that may raise in terms of intellectual property ownership, intellectual property infringement, and intellectual property licensing. Part 3 considers larger contextual issues raised by the World Intellectual Property, the World Trade Organization, and the World Economic Forum in respect of intellectual property, trade, and 3D printing. It examines some of the different scenarios in relation to the impact of 3D printing on the future of trade.

Keynote Address

 *Dr. Ved P. Nanda* will present "Global Economic and Technological Imbalance and Impediments to the Implementation of the 2030 Agenda on Sustainable Development Goals"

Abstract of Presentation: The World is facing unprecedented challenges -- slow global economic growth, stagnant trade and low levels of investment flows, isolation and protectionism on the rise among many developed countries, declining commodity prices, and widespread poverty in the least developed countries, population increase in the global south, and growing pressure on natural resources. Challenges also confront international trading and financial systems. Many countries in Africa, Asia, and South America lack sufficient resources needed for full implementation of the 2030 agenda and to combat climate change. All of these difficulties impede the implementation of the 2030 Agenda. Reforms are urgently needed to the global financial and economic architecture to ensure that sustainable development becomes a reality.

About the Speakers



Dr. Upendra D. Acharya is a professor and Norman & Rita Roberts Scholar at Gonzaga University School of Law. He holds an LL.B. from Tribhuvan University in Nepal, an M.C.L. from Delhi University in India, an LL.M. from the University of Utah, and an S.J.D. from the University Wisconsin-Madison.

Dr. Acharya has been a visiting professor at several international law schools and is currently the vice president of the Asian Society of International Law. He also co-chairs the planning committee of the Society's 2019 Biennial Conference, and chairs the Society's Human Rights Special Interest Group. He has written extensively on cutting-edge issues of international law, including terrorism, U.S. foreign policy, globalization, international economic law, and human rights and human security.

Dr. Micael L. Best is an associate professor with the Sam Nunn School of International Affairs and the School of Interactive Computing at the Georgia Institute of Technology where he directs the Technologies and International Development Lab. He was the founding director of the United Nations University Institute on Computing and Society in Macau SAR, China. Dr. Best is co-founder and editor-in-chief emeritus of the widely read journal *Information Technologies and International Development*. He holds a Ph.D. from MIT and has served as director of the Media Lab Asia in India, and head of the eDevelopment group at the MIT Media Lab.



Dr. Mehmet Komurcu serves as counsel in Gowing WLG's Toronto office, and is a member of the firm's Energy, Mining, Infrastructure and Tech groups. Dr. Komurcu has worked extensively with multinational companies looking to expand into Turkey. In a previous role, he was general counsel to Turk Telekom during its privatization, international expansion, and subsequent Initial Public Offering, which was the largest in Turkey's history at that time. He has worked in the foreign investment environment across Turkey, Europe, and the Middle East, and possesses strong relationships with lawyers and government leaders throughout the region.

Dr. Komurcu is licensed to practice law in Ontario, Istanbul, and New York, and holds a doctorate in public international law from the University of Wisconsin – Madison Law School. He is the Turkey chapter chair for the New York State Bar Association in Istanbul.

Professor Tayyab Mahmud joined Seattle University School of Law in 2006, and is Director of the Center for Global Justice. A graduate of University of California Hastings College of the Law, he is licensed to practice in California and Pakistan.

Professor Mahmud has published extensively in the areas of comparative constitutional law, human rights, international law, legal history and legal theory. His primary research areas are critical legal theory, colonial legal regimes, international law, and post-colonial legal systems. His current research is focused on neoliberal political economy and extra-constitutional usurpation and exercise of power in post-colonial states.



Dr. Ved P. Nanda is a Distinguished University Professor and Thompson G. Marsh Professor of Law at the University of Denver, where he founded the International Legal Studies Program in 1972 and now directs the Ved Nanda Center for International and Comparative Law. He has received Honorary Doctorates of Law from Soka University, Tokyo, Japan, and Bundelkhand University, Jhansi, India, and has taught and lectured at several universities in the U.S. and abroad.

Professor Nanda holds many leadership positions in the global international law community, including the World Jurist Association, American Society of International Law, International Law Association, American Law Institute, and the American Bar Association's Human Rights Center and Section of International Law. He has served as U.S. delegate to the World Federation of the United Nations Associations in Geneva and on the governing council of the United Nations Association of the USA.

Dr. Jeffrey Omari is the visiting assistant professor in the Center for Civil and Human Rights at Gonzaga University School of Law. He earned a PhD in cultural anthropology from the University of California, Santa Cruz, and a Juris Doctor from the University of Illinois College of Law. His research examines internet governance through the lens of Brazil's new "Internet Bill of Rights," the Marco Civil da Internet (MCI). Through its promotion of internet access as a civil right, protection of net neutrality, and its call for openness in the online realm, the MCI seeks to foster democratic internet governance in Brazil, a country known for its great social and economic inequality.

Prior to joining Gonzaga, he was a Law and Social Science Doctoral Fellow at the American Bar Foundation. Before pursuing his PhD, he practiced music law in Atlanta and Los Angeles, respectively. Omari has published articles in the areas of internet governance and music law.





Dr Matthew Rimmer is a Professor in Intellectual Property and Innovation Law at the Faculty of Law, at the Queensland University of Technology (QUT). He is a leader of the QUT Intellectual Property and Innovation Law research program, and a member of the QUT Digital Media Research Centre and the QUT International Law and Global Governance Research Program.

Rimmer has published widely on copyright law and information technology, patent law and biotechnology, access to medicines, plain packaging of tobacco products, intellectual property and climate change, and Indigenous Intellectual Property. He is a co-editor of *3D Printing and Beyond: Intellectual Property and Regulation*. He has also been researching intellectual property and trade, looking at the Trans-Pacific Partnership, the Regional Comprehensive Economic Partnership, and the Trans-Atlantic Trade and Investment Partnership, and the Trade in Services Agreement.

Professor Mary Pat Treuthart began her legal teaching career after serving as a judicial clerk and practicing in New Jersey. Her primary caseload consisted of civil cases including family law, domestic violence, and housing matters. She joined the Gonzaga law faculty in 1989 after previous engagements at Duquesne University School of Law, Nevada School of Law, Golden Gate University School of Law, and the University of San Diego Institute of International and Comparative Law (Dublin).

Professor Treuthart has taught internationally as a Fulbright Scholar and Lecturer at Marie Curie Skłodowska University in Lublin, Poland. She also served as a Legal Specialist for the ABA-CEELI program in Pristina, Kosovo. She has a long-standing commitment to social justice and human rights issues, particularly those that affect women and people with disabilities.



Simon Windell works in Enterprise IT, leading global end user support as well as initiatives related to understanding and quantifying Employee Experience within Avanade, Inc – a global IT consulting firm, subsidiary of Accenture and joint venture with Microsoft. Working for Avanade and Accenture IT has provided Simon with unique opportunities to live abroad, develop multinational teams, negotiate global contracts, and create and deliver solutions that account for cultural and legal requirements.

Some Suggested Reading

Jeffrey Omari, *Internet Access amongst the Marginalized: Democracy and Internet Governance in Rio de Janeiro*, 41 Pol. and Legal Anthropology Rev. 179, 277 (2018).

Michael L. Best, *Can the Internet be a Human Right?*, Hum. Rts. & Hum. Welfare, 2004, at 23-31.

Tayyab Mahmud, *Politics of the New International Information Order*, (1981) (unpublished Ph.D. dissertation, University of Hawaii) (on file with author).

Upendra D. Acharya, *Globalization and Hegemony Shift: Are States Merely Agents of Corporate Capitalism?*, 54 B.C. L. Rev. 903, 937 (2013).

3D printing and beyond: Intellectual property and regulation (Matthew Rimmer et al. eds., 2019).

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