

## GLOBAL ADMINISTRATIVE LAW: PERSPECTIVES FROM SOUTH ASIA

### *Call for*

Short essays, comment papers and column-wise debates on global administrative law issues or viewpoints relevant to South Asia. Most relevant papers would address regulatory mechanisms, institutional arrangements and normative theories existing in South Asia, however contributions dealing with general concepts of global administrative law will also be considered where appropriate. Accepted submissions will be put up on the website of the Institute of International Law and Justice, New York University School of Law.

(See Section V for details).

### I. CONCEPT AND WORKING DEFINITION OF GLOBAL ADMINISTRATIVE LAW \*

Much of global governance can be understood as regulatory administration. Such regulatory administration is often organized and shaped by principles of an administrative law character. Building on these twin ideas, we argue that a body of global administrative law is emerging. This is the law of transparency, participation, review, and above all accountability in global governance. We posit an increasingly discernible “global administrative space”, in which the strict dichotomy between domestic and international has broken down, administrative functions are performed in complex relations between officials and institutions not organized in a single hierarchy, and regulation using non-binding forms often proves highly effective in practice. Exercises of public power in the global administrative space are increasingly channeled, and controlled, by mechanisms of an administrative law type. These include rules requiring greater transparency, adoption of notice-and-comment procedures in rule-making, and the opening of new or strengthened avenues of judicial and administrative review. We thus regard global administrative law as encompassing the legal mechanisms, principles, and practices, along with supporting social understandings, that promote or otherwise affect the accountability of global administrative bodies, in particular by ensuring these bodies meet adequate standards of transparency, consultation, participation, rationality, and legality, and by providing effective review of the rules and decisions these bodies make. We describe this field of law as “global” rather than “international” to encompass the enmeshment of national and intergovernmental regulation, the increasing roles of private regulators and public-private hybrid bodies, the wide array of informal institutional arrangements that now operate alongside formal institutions, and the foundations of the field in normative practices, and normative sources, that extend beyond international law sources.

The Project distinguishes among, but seeks to encompass each of, five main types of globalized administrative regulation. These are: (1) International Administration, by formal international organizations (such as United Nations Security Council individual sanctions programs, or UN administration of territory); (2) Network Administration, based on collective action by transnational networks of cooperative arrangements between national regulatory officials (such as the Basel

---

\* From [http://www.iilj.org/global\\_adlaw/GALConceptandWorkingDefinition.htm](http://www.iilj.org/global_adlaw/GALConceptandWorkingDefinition.htm). The full overview paper by Kingsbury, Krisch and Stewart is available at [http://iilj.org/global\\_adlaw/documents/TheEmergenceofGlobalAdministrativeLaw.pdf](http://iilj.org/global_adlaw/documents/TheEmergenceofGlobalAdministrativeLaw.pdf)

Committee of national bank regulators); (3) Distributed Administration conducted by national regulators under treaty, network, or other cooperative regimes (such as the Basel Convention on transboundary movement of hazardous wastes); (4) Hybrid Administration, by hybrid intergovernmental-private arrangements (such as ICANN, the Internet Corporation for Assigned Names and Numbers); and (5) Private Administration, by private institutions with regulatory functions (such as the ISO, the International Organization for Standardization).

New systems of administrative procedures, review mechanisms, and decisional principles have arisen to promote greater accountability in decision-making by this rapidly proliferating variety of global regulatory administrative bodies. The subjects of such global regulatory systems include individuals, firms and other economic actors, states, and non-governmental organizations. Global Administrative Law is an emerging field of law and practice addressing both the new structures of administrative law and international law that have arisen in these different institutional contexts, and their normative dimensions, including regime integrity, protection of subjects' rights and promotion of democratic values.

## II. THE GLOBAL ADMINISTRATIVE LAW PROJECT

The Global Administrative Law Project was initiated by Professor Benedict Kingsbury, Director of Institute for International Law and Justice together with the Professor Richard Stewart, Director of Center on Environmental and Land Use Law at the New York University School of Law. These two centers work in active collaboration with Dr. Nico Krisch of the London School of Economics and a group led by Professor Sabino Cassese of the University of Rome, to promote global collaboration on the issues of addresses accountability, transparency, participation, and review of exercises of power in global regulation and governance.

Since its conception in June 2003, the Project has been successful in promoting several workshops and discussion fora in different parts of the world. Some of the major landmarks include an NYU-Oxford Global Law Institute project workshop at Merton College, Oxford University (October 2004); a session at the Japan Society of International Law Hiroshima Conference, a Conference organized by NYU on National and International Accountability Mechanisms for Global Regulatory Governance (April, 2005); and the establishment of an Annual Seminar on Global Administrative Law, in Viterbo, Italy. NYU has recently hosted a workshop on accountability that brought together faculty from leading US law schools such as Yale, Harvard, Princeton and Stanford as well as from the European University Institute, in Florence, Italy. Coming up, in 2007, is a workshop on Global Administrative Law in collaboration with the University of San Andres in Buenos Aires, Argentina (March, 2007) and the 3<sup>rd</sup> Annual Seminar on Global Administrative Law in Viterbo (June, 2007). Also in the pipeline, is a conference in New Delhi, India (December, 2007).

The past three years have seen the production of an immense amount of scholarship on Global Administrative Law. Apart from a 30-page compiled bibliography of books and articles published in this field, the IILJ also hosts a number of working papers and project documents at [http://www.iilj.org/global\\_adlaw](http://www.iilj.org/global_adlaw). Of special note are Global Administrative Law symposia published in three journals - Law and Contemporary Problems (Vol. 68: 3-4); European Journal of International Law (Vol 17:1) and NYU Journal of International Law and Politics (Vol 37:4); and a book by Professor Sabino Cassese titled Cases and Materials on Global Administrative Law. Electronic texts of all of these documents are available at the Global Administrative Law webpage in the IILJ website ([www.iilj.org](http://www.iilj.org))

The project is supported by the Filomen D'Agostino and Max Greenberg Faculty Research Fund, the Hauser Global Law School Program, and a grant to the IILJ from Carnegie Corporation of New York.

### III. AREAS OF RESEARCH

In *The Emergence of Global Administrative Law*, 68(15) *Law and Contemporary Problems* 15, 18 (2005), Professors Kingsbury, Stewart and Krisch highlight five kinds of questions that are relevant to research on Global Administrative Law. These are:

- questions about the basic structural patterns of global administration, and how variance among them is shaping emerging accountability mechanisms;
- methodological and empirical questions concerning the scope and sources of global administrative law, the mechanisms of accountability, and the doctrinal principles that are currently in place or emerging in practice;
- normative questions about how to justify and defend such mechanisms;
- institutional design issues as to how such mechanisms should be designed in order to ensure accountability without unduly compromising efficacy; and
- positive political theory questions about the emergence and design of such mechanisms and which factors may be conducive to their success.

They further acknowledge that there remains scope for real contestation about whether it is useful either to speak of “global administration” and “global administrative space” or to advocate “global administrative law” as a field of study.

In addition to this broad delineation of the fields of enquiry, the Global Administrative Law project homepage also hosts a compilation on suggested topics for researchers; covering areas that we believe will be of greatest relevance in the present and immediate future.

### IV. NYU AS A HOME FOR THE GLOBAL ADMINISTRATIVE LAW PROJECT

In recognition of NYU’s unmatched faculty and resources in the field of International Law, the US News and World Reports have consistently ranked NYU **number 1** in the field of International Law for the past few years. †

As such, NYU offers more than 40 courses in subjects ranging across international law theory, international economic law, human rights and humanitarian law, comparative law and lately, specialized colloquia on global administrative law.

What makes NYU School of Law special is that these issues are examined not as isolated topics, but as part of an integrated curriculum that deepens understanding of the complex interactions between diverse national, international, and global legal structures and cultures.

The IILJ for instance runs cross-cutting research projects among these affiliates, including work on global governance and accountability (global administrative law), international arbitration, supporting rule of law in states at risk, intelligence, and the use of force. The Institute organizes collective research projects, policy work, and academic and practical training initiatives conducted by faculty examining international law questions. Student research papers are integral parts of many of these projects; students also plan and co-organize conferences and workshops with faculty. The IILJ maintains strong working relationships with a number of other universities in Europe and Asia, and international organizations including the United Nations, the International Court of Justice, the International Law Commission, human right organization and selected government agencies.

---

† [http://www.usnews.com/usnews/edu/grad/rankings/law/brief/lawsp06\\_brief.php](http://www.usnews.com/usnews/edu/grad/rankings/law/brief/lawsp06_brief.php).

The Center for Environment and Land Use Law regularly sponsors major conferences and publications on leading-edge environmental law issues involving academic, government, NGO, and private sector leaders from throughout the United States and the world. The Environmental Law Clinic works closely with Natural Resources Defense Council—one of the nation's leading public interest environmental groups—and contributes to public interest environmental litigation and policy initiatives. Fellowship placements in the International and Developing Country Legal Assistance Program offer students a unique opportunity to provide developing countries with practical assistance in strengthening and enforcing their environmental and land use laws and policies.

The IILJ and the Center for Environment and Land Use Law are supported in their research endeavors in the field of global administrative law by the Hauser Global Law School Program, which reflects and responds to the interconnections and influences of laws and legal systems of various nations on one another in many different ways. Every year for instance, it invites faculty members from diverse fields of law, not just international law, who are renowned scholars in their countries and areas of interest. Their courses provide an extraordinary opportunity for NYU students to learn from and interact with these eminent scholars and to gain a new perspective on important legal issues. The programs also hosts distinguished U.S. and foreign scholars, judges, lawyers and government officials who wish to spend time advancing their scholarship and engaging fully in the intellectual life of the Law School.

Together, these centers and faculty affiliated to them provide a uniquely appropriate setting for a research initiative like the Global Administrative Law project. The South Asia segment, described below, is aimed towards promoting the already wide scale of participation and interest in this exciting new field.

## V. THE SOUTH ASIA PROJECT

The Global Administrative Law Project, above all, aims at promoting interaction and dialogue between people associated with or interested in regulatory governance, from all parts of the world. The South Asia project is one such endeavor, which we hope will operate as a forum for exchange of viewpoints and ideas which will both enrich the current research and provide avenues for future forays. In the coming months, we aim to extend this project to South East Asia and South America as well.

While we welcome substantial working papers from scholars interesting in contributing to the sources already made available on our website, we believe that a series of shorter contributions will be a very effective tool to promote greater participation, and a more spontaneous sharing of views. For this reason, as mentioned before, we are looking for three types of contributions:

**Short essays:** These need be no more than 2-3 pages long; though longer papers will be considered. Each essay must either (a) propose a new idea - representing a substantial advance in the field; (b) contain an argument on an existing controversy in or concerning South Asia; (c) or succinctly describe a relevant development, institution or regulatory practice that holds significance for Global Administrative Law.

**Comment papers:** There is no specified length. Comment papers may be written in response to the working papers hosted on the Global Administrative Law homepage; or contained in the symposia made available. Comment papers may also be written in response to the essays hosted on the Global Administrative Law South Asia webpage.

**Debates:** The debates must relate to a development of issue of Global Administrative Law, of relevance to South Asia and must be in the form of a written proposition and response by two persons.

Having your contributions hosted by us will provide you with an opportunity to have your work/ ideas reviewed and commented upon; as well as posted on our website, and it will help to round off other people's perceptions and understanding of global governance. We see this as a win-win situation for everyone, and we hope that you will be inspired to contribute.

## VI. SUBMISSIONS

The project seeks to generate scholarship through both solicited and unsolicited submissions.

**Solicited:** from time to time, the IILJ will contact persons who have experience of or are engaged in research upon areas of relevance to Global Administrative Law. These may be practitioners; academics – faculty members and students enrolled in advanced degrees; government officials and representatives of non-governmental and corporate bodies.

In order to ensure maximum representation of view points we encourage all those who are interested in contributing to advise us of their designation and specific research interests. We will seek to build a roster, from which we can contact persons.

**Unsolicited:** We encourage all interested persons; including students who are currently enrolled in the primary law degree, to send us contributions of all the types described above, which they feel will be of relevance to the Project. To facilitate our review, when making unsolicited submissions please keep in mind the following:

- All submissions must indicate whether they are intended to be essays, comments or debate.
- Each contribution must carry a very short abstract highlighting the main issues or arguments.
- It is not necessary to attach a resume, but we would appreciate a short statement of your background and if applicable, your research interests or connection with global administrative law.

Submissions may be made by email to Surabhi Ranganathan at [Ranganathan@juris.law.nyu.edu](mailto:Ranganathan@juris.law.nyu.edu). The subject field should state "GAL-South Asia" followed by "ESSAY" or "COMMENT" or "DEBATE" as appropriate.

Please feel free to send inquiries or questions, related to the Global Administrative Law project via email.