

1-1-2002

# An Introduction: The Legalization of International Relations/The Internationalization of Legal Regulations

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## Recommended Citation

Alford, Roger P. and O'Connell, Mary Ellen, "An Introduction: The Legalization of International Relations/The Internationalization of Legal Regulations" (2002). *Scholarly Works*. Paper 29.

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**AN INTRODUCTION:  
THE LEGALIZATION OF INTERNATIONAL RELATIONS/  
THE INTERNATIONALIZATION OF LEGAL RELATIONS**

*by Roger P. Alford\* and Mary Ellen O'Connell\*\**

The Annual Meeting of the American Society of International Law is always an important gathering in the international legal community. It is a chance for everyone interested in international law to come together to deepen our understanding of the developments in the field. Ultimately, the aim of the discussion is to advance the international rule of law in the world.

To focus discussion at the 2002 Annual Meeting, we chose two intersecting developments that merited considered reflection: the legalization of international relations and the internationalization of legal relations. Representing two sides of the same coin, these twin themes, it was thought, succinctly captured current discussions about the growing role of rules in the conduct of international affairs and the impact of globalization on legal relations. Of course, in choosing the theme in the Spring of 2001, we could not predict the events of September 11, 2001. That day and the aftermath were very much in participants' minds at the meeting. September 11th was discussed widely but especially in venues where the two overarching themes narrowed—around the topic of American exceptionalism. Would the United States continue with unilateralist approaches born of a sense of exceptionalism or would it continue the multilateralist turn in the war on terrorism? This theme was pursued in the Grotius lecture that opened the meeting, in the presidential panel, in several lectures, in topical panels, and fully at the wrap-up panel. These *Proceedings* capture much of that discussion, hopefully with much of the intensity and engagement that accompanied it.

Despite the importance of September 11th and the question of the U.S. stance vis-à-vis international law, we had much else to discuss. The first part of the meeting's inter-related theme—the legalization of international relations—raised both empirical and normative question of whether law is or should be dominating international relations. From human rights to trade to the environment to theory, the agendas of foreign ministries and the pages of international affairs journals are being dominated by international law topics. Yet almost in the sense of too much of a good thing, new concerns are being raised that greater legalization brings challenges and questions—concerns that fields like human rights, security, and arms control are being “overlegalized,” concerns about the process of international decisionmaking and about peace mediation, the overlapping jurisdiction of international tribunals, the absence of coordination among them, and the relationship between those tribunals and domestic courts. In short, legalization raises challenges about what law is and about the proper role of law in international affairs. Much on all of these questions has been included in these *Proceedings*.

The second part of the theme—the internationalization of legal relations—was equally debated throughout the meeting. The phrase was intended to reflect the trend in law practice toward an enhanced international dimension. The essence of the internationalization of legal relations is the recognition that international legal issues have infiltrated traditional domestic fields of study and practice, requiring the bar, the bench, and the academy to recognize that international law is meat for mainstream

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discussion. At law schools, traditional subjects are taking on a fresh and distinctly foreign perspective. Likewise, in keeping with client demands for international specialization, law firms are opening offices in other countries at record rates and establishing practices that transcend national boundaries.

Does globalization increasingly mean the irrelevance of national law in areas like intellectual property, bankruptcy, competition, standards, and even family law? With the WTO, NAFTA, the World Health Organization, and the International Criminal Court, what is the future of national law? If it is receding, is this necessarily positive, given the democratic deficit of international organizations? And what does it all mean for students and practitioners of law? Again, much of the debate is found in this volume.

Attempting to find a consensus conclusion from the discussion would be difficult, if not impossible. But there did seem to be a general consensus that international relations are becoming increasingly subject to legal norms, requiring international actors to address international law as never before. Some view this as a burden, with international law encroaching too far beyond its competency or efficacy. Indeed, certain aspects of United States foreign policy appeared to some during the meeting to be distinctly at odds with the major trend in international relations. Nevertheless, the trends toward internationalization and legalization were generally seen as positive developments, part of the maturation of international society.

A project of this magnitude cannot be done without the support of numerous talented individuals. As co-chairs of this Annual Meeting, we would like to express our gratitude to the efforts of the ASIL leadership, particularly Art Rovine, Charlotte Ku, Sandra Liebel, and Chris Borgen. We would also like to express our deep appreciation to the program committee for their invaluable service. Our thanks to Mark Brzezinski, Charles Brower, Malcolm Forster, Susan Karamanian, Georg Nolte, Beth Simmons, Barbara Stark, Carlos Vazquez, and Phoebe Yang. Thanks also go to Edra London at the ASIL and our research assistants, Rajika Shah and Nathan DeDino for help in editing these manuscripts for publication.

Most important, we appreciate the efforts of the individuals whose insights are reflected in these *Proceedings*. It was an extraordinary time for the annual meeting and our feeling is that participants engaged our field and our time in an extraordinary way. We hope some of that spirit is reflected in these pages and that they will be useful to scholars, students, government officials, and everyone continuing to work toward the advancement of international law.

