

Fostering a Scholarly Network:
International Law in the New Era of Globalization
Third International Four Societies Conference

Call for Papers

The Japanese Society of International Law, the American Society of International Law, the Australian and New Zealand Society of International Law, and the Canadian Council on International Law (hereinafter the Four Societies or sponsoring societies) are organizing a third joint conference and invite submissions of papers from their members. The conference will take place at the Awaji Yumebutai International Conference Center on Awajishima Island, Hyogo, Japan, near Kobe¹ on 27-28 August 2010. The previous conferences were held in Wellington, New Zealand in 2006 and in Edmonton, Canada in 2008.

Each sponsoring society will select four papers, subject to the review and approval of the Steering Committee comprised of members from the Four Societies. Preference will be given to papers by those who are in the early stages of their careers. Additional preference will be given to innovative and cutting edge proposals related to International Law and Globalization. The selected participants will be notified in February 2010. Each participant will submit a full paper to the organizers by 31 July for distribution to the other participants. The working language of the conference will be English.

Transportation to the venue will be subject to arrangement between each sponsoring organization and its conference participants. Lodging and meals at the venue during the conference will be provided by the Japanese Society of International Law.

All proposals should include a project description not exceeding 500 words and the applicant's *curriculum vitae*. Submissions should cover work that has not been previously published. If the conference fails to provide an opportunity to publish the presented papers, participants will be free to publish them elsewhere. However, the sponsoring societies will work to keep the papers together and publish them in one volume.

Since the underlying goal of this initiative is to foster a scholarly network between individuals associated with the four sponsoring societies, applicants are advised to send their submissions to the sponsoring society with which they are most likely to have a long-term connection, such as through membership in that society, or a university position or employment in the country, or countries, represented by that sponsoring society.

Submissions should be sent by e-mail to each sponsoring society as follows (change [at] to @):

JSIL: Professor Yuji Iwasawa – iwasawa[at]j.u-tokyo.ac.jp
ASIL: Professor David D. Caron – ddcaron[at]law.berkeley.edu
ANZSIL: Professor Andrew Byrnes – Andrew.Byrnes[at]unsw.edu.au
CCIL: Professor Joanna Harrington – jharrington[at]law.ualberta.ca

Submission deadline is December 20, 2009 / October 1, 2009 for CCIL applicants

¹ For more information on the Awaji Yumebutai International Conference Center, please see <http://www.yumebutai.org/english/index.html>

Theme Statement

Globalization has caused much excitement and concern among international lawyers. Unprecedented challenges and changes visible in many prominent fields of international law do not easily fit into the traditional perspectives of international law. New perspectives are needed, both to describe accurately what is happening in our globalized world, and to promote the positive effects of globalization further. A number of salient areas where such new perspectives are needed are given as examples below.

- ***Legitimacy debate.*** While all seven principles enshrined in the 1970 UN Declaration on Principles of International Law Concerning Friendly Relations and Co-operation are still upheld, presenting them as unquestioned principles is a distortion of the realities of our globalized world. Debates ranging from humanitarian intervention to responsibility to protect clearly indicate that even the most firmly established principles of non-intervention and prohibition of use of force do not always offer acceptable and convincing answers in today's complex contexts. More generally, these debates show that something other than State sovereignty may have become a source of legitimacy for action in the era of globalization. In the area of development, certain UN actions such as the United Nations Millennium Development Goals are so intrusive that they may raise an "ownership" question, and with it, a series of legal questions concerning international organizations' competence and the principle of non-interference in this context. In the area of investment, the increasing number of bilateral investment treaties and international arbitrations based on them has a significant impact upon host government policies. This may also be seen as an instance where a sovereign State does not determine its course of action according to its own, national agenda. In the area of peace and security, some of the Security Council resolutions that deal with problems of the globalized world have imposed obligations on sovereign States in such a general way that they are effectively viewed as constituting international legislation. In other areas, some treaty secretariats and international organizations are so active that they appear to set courses for the member states, and not vice versa. Notwithstanding the fact that they are based on benign intentions, these actions are causing sovereign States to lose their monopoly over international decisions and actions. While there appears to be a consensus among international lawyers that State sovereignty is no longer the *sole* source of legitimacy in these and other areas, whether it should be replaced or complemented, and with what, constitute core questions in the era of globalization whose answers need new perspectives.
- ***Subject debate.*** Similarly, while sovereign States unquestionably continue to hold their unique position in the doctrine of the subjects of international law, with international organizations as offspring of their consent, globalization has also highlighted other heavily influential actors. Their actions cannot simply be discarded as irrelevant to international law: investors sue host States on a equal footing in international proceedings (e.g., ICSID); as do individuals (e.g., ECHR); private persons may be placed under obligations vis-à-vis other private persons by international human rights law; some NGOs are powerful enough to move States to conclude treaties (e.g., NGOs behind the establishment of the ICC). These phenomena have both supporters and critics. In the last example, some argue that the NGOs' influence is immensely positive because of their insight and mobility, much needed in the globalized world but not possessed by sovereign States that are unable to speak with a single voice and are hampered by their own national political processes. At the same time, NGOs as single-issue groups have shortcomings from which sovereign States are rather immune. In a similar vein, NGOs are sometimes criticized for not really being accountable to anyone for their activities. Moreover,

the increased role for and number of NGOs have also produced some unwelcome effects for the NGOs themselves: prominent international NGOs have been compelled to channel a part of their efforts to compete for access and money, diverting them from their vocations and purposes. The assessment of both NGOs and States in such contexts requires new perspectives on international law.

The subject debate in the era of globalization in a broad sense is also about non-governmental entities that actively threaten or undermine sovereign States. While the main concerns of the international system formed before the era of globalization were war and diplomacy among sovereign States, dealing with non-governmental entities in this context is one of the challenges of the globalized world. Consequently, the right of self-defense against private terrorist groups, current international cooperation to fight transnational organized crime and other phenomena prompted by such non-governmental entities may be discussed as well.

- ***Scope debate.*** It is not only the framework of sovereign States which is at issue. It is also what international law purports to cover, and in which ways. Despite the name, public international law is still not sufficiently “public” in many aspects. Globalization led to the acceptance of the idea that the international legal system protects not only reciprocal interests of States but also community interests or “public” interests, e.g., human rights, environmental protection, and public health. However, the system does not always offer the means to realize such interests effectively. One response to this deficit in the system is seen in the growing amount of “transnational” litigation: if there is no world court to realize and protect, e.g., certain human rights, national or regional courts have to do the job, be it a war compensation issue or the punishment of torturers and war criminals. Another response is accelerated rule-making and institution-creating in areas where hitherto no international rule or framework existed: if the international legal system does not have rules relating to safety in respect of genetically modified foods or climate change, then such rules have to be worked out. These responses are two sides of the same coin, globalization, designed to remedy the international legal system so that it can cope with its challenges. They both require new perspectives on international law for their proper evaluation.

For these reasons, the conference aims to bring together different perspectives on a wide range of questions arising from globalization that include, but are not limited to, the following areas:

- International trade and arbitration, including BITs and regional trade agreements
- International law and municipal law, including “transnational litigation”
- Law of the sea, including regional arrangements
- Peace and security, including the fight against terrorism and transnational crimes
- Culture, including protection of cultural property in various situations
- The United Nations and other international organizations
- Actors other than States, including individuals, NGOs, firms
- “Public” interests in international law, in such areas as human rights and environment.