

THE AMERICAN SOCIETY OF INTERNATIONAL LAW

PROCEEDINGS OF THE 88TH ANNUAL MEETING



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Founded in 1906, the Society serves as a meeting place, forum and collegial research center, hospitable to all viewpoints in its meetings, publications and other activities. Publications include the *American Journal of International Law*, *International Legal Materials*, *Studies in Transnational Legal Policy*, the *ASIL Newsletter*, and reports and books produced by its programs of research, study and outreach.

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INTRODUCTION

For two years running, the Society's Annual Meetings have focused especially on the concept of *sovereignty*. This focus is of course reflected in these Proceedings for 1993 and 1994, which consist of the edited renditions of papers presented during the Meeting and informal discussion that followed these presentations in the various panels and other groups.

Underlying these themes has been the realization that the period of far-reaching and accelerated transition with which the international community has been grappling now for several years implicates the notion of sovereignty in a multitude of ways not yet clearly perceived or well understood. States have broken apart; new and more numerous states have replaced them. In some places, newly-freed impulses of nationhood or other group loyalties have surged up to bedevil efforts toward a stable realignment of the state system and to call for novel political approaches to that end, while in other places hoary, intractable disputes between bitterly contending states or factions have moved toward accommodation and settlement. Broad changes involving multilateral institutions are afoot, both in the emergence of new institutions in economic and other areas, and in the rapid evolution of the role and function of existing ones. The idea of international standards of human rights, with its necessary impingement on sovereign prerogatives, apparently is becoming a factor to be seriously reckoned with in more and more areas of international policy and action.

Shedding light on the ways in which sovereignty is implicated in these changes was the special assignment of the two successive annual meetings. As this volume goes to press, plans for the 1995 meeting call for giving the notion of sovereignty as such a rest: presumably not, alas, on the theory that all has now been made luminously clear, but only that a lively, insightful and rewarding effort has been made, as I believe a reading of this volume will demonstrate.

Echoing this year's meeting theme, "The Transformation of Sovereignty," this volume opens with four panels designed specifically to explore questions of the evolution of the concept of sovereignty. The first deals with new theoretical perspectives among international scholars. A second discusses the various entities that may demonstrate emergent "multiple tiers of sovereignty"—from nation-states themselves, to various substate entities involving local autonomy arrangements, to supranational entities such as the European Union.

A third "theme panel" examines international law aspects of the breakup of states. The fourth panel, raising the question "The End of Sovereignty?", brings together issues and conclusions on the overall meeting theme that emerge not only in the foregoing three panels but also in others that were, in the minds of the program planners, "selected and shaped to capture various aspects of the transformation of sovereignty."

The latter include discussions touching on virtually every major area of international policy and law currently in the forefront of international attention—multiple international security issues such as making and maintaining peace and controlling weaponry; developments in international economic law and institutions as world markets continue their increasing globalization; environmental protection; human rights and democratization of national societies; refugees and migration; and environmental protection. Also included are a number of important issues of narrower scope, such as developments in space law concerning sovereign rights, in response to new technologies; and prosecuting violations of international humanitarian law in the International Tribunal for the Former Yugoslavia.

A healthy majority of this set of panels struck me as especially successful in accomplishing their declared purposes. To mention a few examples: the panels on the New Law of GATT/World Trade Organization (p. 125); Implementing the Chemical Weapons Convention (p. 221); Human Rights, Multinational Business and International Financial Institutions (p. 271); Regional Trade Organizations and their effect on global trade and trading arrangements (p. 309); Harmonization Efforts in Securities and Banking Regulation (p. 398); Sovereign Immunity, presenting a comparative perspective on the United States and the United Kingdom (p. 509); and Global Nonproliferation Efforts (p. 552).

One of the most useful aspects of the *Proceedings* is that individual panels, or groups of panels, in addition to the analyses and insights they present, often serve as a well-presented updating review of both facts and policy issues on matters that continue from year to year and on which important developments have taken place in the recent past or are impending in the near future. Their value for this purpose is enhanced by a characteristically high proportion of government and international organization officials participating in the discussions. Fully half of the panels in the 1994 *Proceedings* will be found to perform this function particularly well. The panels on implementation of the Chemical Weapons Convention and on the Former Yugoslavia Tribunal, and the several dealing with the aftermath of the Uruguay Round (particularly the GATT and the World Trade Organization), the NAFTA and other regional trade organizations are a few examples.

The Society, Proceedings Assistant Editor Susan Bassuener, and I owe special thanks to the Reporters for each panel, whose demanding role is critical to the production of the *Proceedings*; to Patricia Allen, who ably assisted in the copy-editing and proofreading, and to Grant McClanahan, who again ably prepared the Index.

John Lawrence Hargrove
Editor
October 1994

PROCEEDINGS OF THE EIGHTY-EIGHTH ANNUAL MEETING
OF THE AMERICAN SOCIETY OF INTERNATIONAL LAW

THE TRANSFORMATION OF SOVEREIGNTY

CO-CHAIRS OF THE COMMITTEE
ON THE ANNUAL MEETING
Anne-Marie Slaughter Burley
Jeffrey M. Lang

EDITOR OF THE PROCEEDINGS
John Lawrence Hargrove
ASSISTANT EDITOR
Susan F. Bassuener

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