

5-1992

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Recommended Citation

Harold G. Maier, Foreword: Some Implications of the Term "Transnational", 25 *Vanderbilt Law Review* 147 (2021)

Available at: <https://scholarship.law.vanderbilt.edu/vjtl/vol25/iss2/1>

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Vanderbilt Journal of Transnational Law

VOLUME 25

1992

NUMBER 2

Foreword: Some Implications of the Term "Transnational"

*by Harold G. Maier**

I think it is safe to say that no other body of law has changed as much during the Twentieth Century as has the law applicable to international matters. When the late Judge Phillip C. Jessup coined the term "transnational law,"¹ he did so with the recognition that human affairs could not properly be confined by the artificial territorial boundaries of nation-states. When the *Vanderbilt International*, the original incarnation of the *Vanderbilt Journal of Transnational Law*, sought a new name to mark its transition from duplicated to printed format, it selected Jessup's characterization to emphasize global interdependence, rather than the political competition suggested by the older, and more familiar, term.

Despite (or, perhaps, because of) the devastating wars that have marred the prospects of international cooperation during the Twentieth Century, the social, technological, and economic interdependence of human beings has become increasingly evident as a matter of practicality. Great technological advances have brought all humankind closer together in time and space, if not always in spirit.

This century saw the development of processes for international adjudication with the foundation of various permanent and semi-permanent international tribunals to try issues involving the rights of nation-states and, in some instances, of individuals as well. Such adjudication included

* David Daniels Allen Professor of Law; Founder and Faculty Advisor of *The Vanderbilt Journal of Transnational Law*.

1. PHILLIP C. JESSUP, *TRANSNATIONAL LAW* (1956).

quasi-private law dispute involving government seizures in special limited term tribunals, the founding of general international courts with both regional and global jurisdiction, and the creation of special courts to hear cases involving a developing international law of human rights, sometimes for claims brought by individuals against their own governments.

At the same time that the beginnings of international adjudication were flourishing, a truly global economy began to develop to emphasize the ever-closer relationship among all persons on the planet in their search for a better life. Anyone who reads the stock market pages cannot help but be impressed by the growing number of mutual funds that designate themselves as "global," signifying that investment and commerce are increasingly less confined by artificially-drawn national borders. The development of regional arrangements, like the European Common Market, the various treaty organizations, and, of course, the United Nations, made it clear that transnational concerns can be addressed by cooperation among nation-states to reflect the welfare and aspiration of the world's peoples. Success has been sporadic and infrequent, but the line of progression is a rising one.

The development of manned flight and of the beginnings of space travel reinforced the image of earth as an island whose inhabitants' interests are not only global in nature, but extend, indeed, to the stars. The beginnings of serious search for extraterrestrial life, scanning the skies for some hint of intelligent communication, is in some sense a hall-mark of humankind's common condition and destiny.

The twenty-fifth year of *The Journal's* publication could not be permitted to pass without some look into the future as one element of a silver anniversary celebration. Recognizing that an effort to address all of the future implications of the changes in transnational society that have occurred in the last 100 years would necessarily fall short of completeness, the editors for this issue have asked several authors to address selected international legal issues that are likely to arise during the next twenty-five years.

Professor Richard W. Edwards, Jr., in "International Monetary Law; The Next 25 Years," makes predictions concerning the future of world monetary policy and the role of the International Monetary Fund. He suggests that the future will see a move towards a more rational and harmonized system of exchange rates and perhaps a consolidation of currencies within regional economic or monetary units. Professor Marilyn B. Cane's "The Eagle or the Ostrich: An American Perspective on the Future of Transnational Banking," compares United States banking regulation to regulation in foreign states and makes some suggestions about

how the United States can adjust its regulatory thinking to improve its competitive position in the international banking field. She concludes that "if we are to open markets for our goods and services, we must first look to reform our regulatory structure."

In "The Need for an International Criminal Court in the New International World Order," Professors M. Cherif Bassiouni and Christopher L. Blakesley argue for the establishment of an international criminal court with compulsory jurisdiction. The article reviews the various legal and political issues that the establishment of such a tribunal would raise and suggests means by which many of these might be resolved.

Professor Glenn Harlan Reynolds discusses what he predicts will be the most important issues in space law to be debated over the coming years in "International Space Law: Into the Twenty-First Century." These include matters related to environmental concerns, property rights, international trade issues, and arms control, emphasizing the need for international cooperation in achieving their effective resolution. He also addresses some legal issues that may be raised in the event of the discovery of extraterritorial intelligence.

Taken together, these articles are important vignettes from selected legal areas, emphasizing the continuing importance of thinking of the world in a transnational, rather than an international, context. In fact, the interests of all of us can be served by nothing less.

