



PROMOTING LEADERSHIP IN THOUGHT  
THAT LEADS TO ACTION

*THE WEALTH OF NATIONS REVISITED*

# CADMUS

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### *The CADMUS Journal*

*The acronym of the South-East European Division of The World Academy of Art and Science – SEED – prompted us to initiate a journal devoted to seed ideas - to leadership in thought that leads to action. Cadmus (or Kadmos in Greek and Phoenician mythology) was a son of King Agenor and Queen Telephassa of Tyre, and brother of Cilix, Phoenix and Europa. Cadmus is credited with introducing the original alphabet – the Phoenician alphabet, with “the invention” of agriculture, and with founding the city of Thebes. His marriage with Harmonia represents the symbolic coupling of Eastern learning and Western love of beauty. The youngest son of Cadmus and Harmonia is Illyrius. The city of Zagreb, which is the formal seat of SEED, was once a part of Illyria, a region including what is today referred to as the Western Balkans and even more. Cadmus will be a journal for fresh thinking and new perspectives that integrate knowledge from all fields of science, art and humanities to address real-life issues, inform policy and decision-making, and enhance our collective response to the challenges and opportunities facing the world today.*

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## **Law in Transition Biblioessay: Globalization, Human Rights, Environment, Technology**

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Fellow, World Academy of Art & Science

### **Abstract**

*As globalization continues, many transformations in international and domestic laws are underway or called for. There are too many laws and too few, too much law that is inadequate or obsolete, and too much law-breaking. This biblioessay covers some 100 recent books, nearly all recently published, arranged in four categories. 1) International Law includes six overviews/textbooks on comparative law, laws related to warfare and security, pushback against demands of globalization, and gender perspectives; 2) Human Rights encompasses general overviews and normative visions, several books on how some states violate human rights, five items on how good laws can end poverty and promote prosperity, and laws regulating working conditions and health rights; 3) Environment/Resources covers growth of international environmental law, visions of law for a better environmental future, laws to govern genetic resources and increasingly stressed water resources, two books on prospects for climate change liability, and items on toxic hazards and problems of compliance; 4) Technology, Etc. identifies eight books on global crime and the failed war on drugs, books on the response to terrorism and guarding privacy and mobility in our high-tech age, seven books on how infotech is changing law and legal processes while raising intellectual property questions, biomedical technologies and the law, and general views on the need for updated laws and constitutions. In sum, this essay suggests the need for deeper and timely analysis of the many books on changes in law.*

### **FOREWORD**

This “frontier frame” assembles catalog information on recent books that focus on international law and comparative law, with special attention to human rights, environmental law and technologies making current laws obsolete. It serves as a companion to “Taming Global Governance Idea Chaos: A ‘Frontier Frame’ for Recent Books” (*CADMUS*, 1:3, Fall 2011), which surveyed some 100 titles mostly published in the past three years.

Some 100 titles are also cited here, virtually all published in the past three years. Attention to domestic and global legal issues appears to be a major trend, and one might think that “global governance” and “global law” would be closely linked. Yet there is surprisingly very little overlap, and less than a dozen titles are cited in both essays. In other words, books on global governance say little on global law, and vice versa!

Most books identified here are published by prestigious US/UK university presses such as Harvard (8), Stanford (8), Cambridge (9), Oxford (5), Pennsylvania (5), New York University (5), MIT (5), Columbia (4), and Princeton (4), but the authors come from a wide range of developed-world countries. No references are known, however, to books on globalizing law published in other countries or languages. As global governance proceeds, and as law slowly becomes more globalized, one should expect a wider range of voices on transitions in law that are underway, as well as desirable “good society” ideals.

Items are arranged in four major categories:

1. **INTERNATIONAL LAW** (Overviews, Textbooks, Comparative, Security, Pushback, Gender)
2. **HUMAN RIGHTS** (General, Visions, State Crime, Anti-Poverty, Work and Health)
3. **ENVIRONMENT/RESOURCES** (General, Visions, Resources, Other Issues)
4. **TECHNOLOGY, ETC.** (Global Crime, Terrorism/Security/Privacy, Infotech, Biotech, Normative Visions)

## 1. INTERNATIONAL LAW

**OVERVIEWS:** Laws, rules, regulations, and guidelines are issued to guide human behavior in a great number of areas (arguably too many areas, at least in some countries). As global problems emerge, along with an increasingly globalized economy aided by new communications technologies, international laws need strengthening, along with new laws. Perhaps the best starting point is **Law Without Nations** edited by Austin Sarat *et al.* (Stanford, 1/11, 256p), which examines ways in which the growing internationalization of law affects domestic national law, the relationship between cosmopolitan legal ideas and understandings of national identity, and how law divorced from nations would clear the ground for more universalist grounds for law. Pushing this ideal further, in **States Without Nations: Citizenship for Mortals** (Columbia, 1/09, 384p), Jacqueline Stevens of University of California, Santa Barbara imagines a world without national laws of birthright citizenship, family inheritance, state-sanctioned marriage, and private land.

**TEXTBOOKS:** Four textbooks provide introductory overviews. **International Law: Contemporary Issues and Future Developments** edited by Stanford R. Silverburg (Westview, 3/11, 656p) covers R2P and universal jurisdiction, international political economics, the International Court of Justice, humanitarian law, the environment, and terrorism. **International Law in World Politics: An Introduction** by Shirley V. Scott (Lynne Rienner, 2<sup>nd</sup>ed, 2010, 509p) discusses multilateral treaties, intergovernmental organizations and non-state actors, human rights, use of force and arms control, and humanitarian law. **International Law: Classic and Contemporary Readings** edited by Charlotte Ku and Paul Diehl (Lynne Rienner, 3<sup>rd</sup>ed, 2009, 509p) explains international legal process, implementation and compliance issues, international legal structures, protecting human rights and the environment, managing the ocean and outer space commons, and future evolution of the international legal system. **Law in Many Societies: A Reader** edited by Lawrence M. Friedman *et al.* (Stanford, 4/11, 368p) recognizes that law is increasingly global and cross-national, and shows how law relates to society in different times and places.

**COMPARATIVE:** Continuing the comparative theme, **The Handbook of Comparative Criminal Law** edited by Kevin Jon Heller and Markus Dubber (Stanford, 12/10, 720p) explores criminal law systems in 16 countries, noting similarities and differences in design of criminal codes, protected rights, and specific offenses. **Law and Long-Term Economic Change: A Eurasian Perspective** edited by Debin Ma and Jan Luiten van Zanden (Stanford, 7/11, 368p) covers different legal regimes in Western Europe, East and South Asia, and the Middle East, insofar as the nature and evolution of legal regimes, ownership and property rights, courts, and dynamics of legal transplantations through processes such as colonization. **Asian Legal Revivals: Lawyers in the Shadow of Empire** by Yves Dezalay and Bryant Garth (Chicago, 11/10, 288p) discusses the role of colonial experiences and the increasing importance of law and lawyers in South and Southeast Asia. **Eurolegalism: The Transformation of Law and Regulation in the European Union** by R. Daniel Kelemen (Harvard, 4/11, 328p) points to the advent of regulation through litigation with the growth of the EU, causing detailed and judicially enforceable rules—often framed as “rights”—that are backed with public enforcement litigation. **Upgrading the EU’s Role as Global Actor** by Michael Emerson *et al.* (Centre for European Policy Studies, 1/11, 100p) analyzes the changing position of the EU since acquiring a legal personality, and whether these developments lead to upgrading EU’s presence in conventions of international law. **Constitutional Theocracy: Law in a Non-Secular World** by Ran Hirschl (Harvard, 11/10, 290p) views an emerging new legal order at the intersection of two global trends: rising popular support for theocratic governance and the spread of constitutionalism or judicial review, exploring religion-and-state jurisprudence in dozens of countries (seen as a prudent strategy allowing opponents of theocratic governance to bring it under check and protect against radical religion).

**SECURITY: War and War Crimes** by James Gow (Columbia, 11/10, 256p) notes that military strategies increasingly embrace justice and law as crucial components of success, how militaries can maintain a sense of legitimacy, and when a war act becomes a war crime. However, **New Battlefields, Old Laws: Critical Debates on Asymmetric Warfare** edited by William C. Banks (Columbia, 10/11, 304p) argues that changing patterns of global conflict are forcing a rethink of traditional laws of war; gaps in the laws of war leave modern battlefields largely unregulated, emboldening non-state combatants to exploit forbidden strategies. **The Challenge of Abolishing Nuclear Weapons** edited by David Krieger of the Nuclear Age Peace Foundation (Transaction, 5/09, 242p) explores the role of international law in facilitating abolition, while noting little meaningful progress toward disarmament. **Securing Freedom in the Global Commons** by Scott Jasper (Stanford, 3/10, 312p) points to an ever-expanding range of threats to global security and regulation by international law of outer space, international waters and airspace, and cyberspace.

**PUSHBACK:** Not surprisingly, international law conflicts with national laws, especially an issue for the waning US hegemon, which often employs “selective self-exemption”. **Meeting the Enemy: American Exceptionalism and International Law** by Natsu Taylor Saito (NYU Press, 3/10, 384p) describes how the US has supported the international legal system while also distancing itself from many international law principles and institutions, which leads to decreasing effectiveness of the global rule of law. Also see **Taming Globalization: International Law, the U.S. Constitution, and the New World Order** by John Yoo and Julian Ku (Oxford, 1/12, 280p), which reconciles demands of globalization

by reconceptualizing the Constitution and embracing mediating devices. In **The Perils of Global Legalism** (Chicago, 10/09, 280p), Eric A. Posner warns of a dangerously naïve tendency toward legalism—an idealistic belief that law can be effective in the absence of legitimate institutions of governance.

**GENDER: Sex and World Peace** by Valerie M. Hudson *et al.* (Columbia, 2/12, 256p) argues that the systemic insecurity of women acts to unravel the security of all, and notes discrepancies between national laws protecting women and enforcement of those laws, as well as inequitable family laws. **Constituting Equality: Gender Equality and Comparative Constitutional Law** edited by Susan H. Williams (Cambridge, 8/11, 378p) examines constitutional doctrines across a range of different countries and gender equality issues in constitutional drafting, including domestic incorporation of international law and rights provisions. **Trafficking and Prostitution Reconsidered: New Perspectives on Migration, Sex Work, and Human Rights** edited by Kamala Kempadoo (Paradigm, 2<sup>nd</sup>ed, 3/11, 304p) updates recent developments in law, policy, and international agreements. **Legalizing Prostitution** by Ronald Weitzer (NYU, 12/11, 288p) draws on research in the Netherlands, Belgium, and Germany to develop “best practices” that can serve as a model for other nations. **Women’s Human Rights: The International and Comparative Law Casebook** by Susan Deller Ross (Pennsylvania, 8/09, 688p) describes the deprivation and violence women suffer due to discriminatory laws and customs, provides legal tools for change, and shows how human rights treaties can be used to obtain new laws and court decisions.

## 2. HUMAN RIGHTS

**GENERAL: International Human Rights Law: An Introduction** by David Weissbrodt and Connie de la Vega (Pennsylvania, 8/10, 448p) surveys development of human rights as a domain of international law, summarizing principles and practices relevant to equality, life, slavery, fair trial, detention, torture, privacy, health, food, housing, clothing, environmental health, peace, self-determination, and security from terrorism. **Human Rights Lawyering: Cases and Materials** by Ralph G. Steinhardt *et al.* (Westlaw, 2009) emphasizes enforcement of human rights law in several settings, demonstrating its linkages to labor law, refugee law, humanitarian law, corporate law, environmental law, and international economic law. **Universal Human Rights and Extraterritorial Obligations** edited by Mark Gibney and Sigrun Skogly (Pennsylvania, 1/10, 296p) presents a brief for a more complex and updated approach to protecting human rights worldwide, in that globalization is challenging fundamental principles of international law. Similarly, **Human Rights for the 21st Century: Sovereignty, Civil Society, Culture** by Helen M. Stacy (Stanford, 2/09, 304p) finds that human rights abuses still continue at “an alarming rate,” and proposes a new ethical and legal framework to fill gaps in current approaches.

**VISIONS:** Looking even further ahead, **2048: Humanity’s Agreement to Live Together** by J. Kirk Boyd (Berrett-Koehler, 4/10, 222p; [www.2048.berkeley.edu](http://www.2048.berkeley.edu)) argues that provisions of the far-ranging 1948 Universal Declaration of Human Rights are inadequate, and proposes an enforceable International Convention in place by the 100<sup>th</sup> UDHR anniversary that safeguards basic freedom of speech and religion, freedom from want and from fear, and freedom for the environment. But is this the best framing? In **A Quest for Humanity: The Good Society in a Global World** (University of Toronto, 12/11, 252p), Canadian sociologist

Menno Boldt describes “significant inadequacies of human-rights doctrine as a blueprint for social order” and how it “lacks the authenticity to be accorded the status of constitutional supremacy that trumps all other laws and community moral standards”. Rather, we need a morality based on “an authentic universal humane ethical principle that will inspire common cause and commitment to individual liberty and social justice...an ethic of universal and equal human dignity and humanity as the basis for international relations and cooperation...a global moral social order founded on the absolute principle and the concept of humane mutuality [that] embodies the universal aspiration of humankind.” Obviously, an ongoing discussion and debate on these different views are needed.

**STATE CRIME:** Nation-state regimes are often the cause of human rights violations, as argued in **State Terrorism and Human Rights: International Responses since the Cold War** by Paul Wilkinson (Routledge, 10/10, 240p), documenting responses based on democratic principles and the rule of law, with proposals for a more effective protection of human rights. **Political Repression: Courts and the Law** by Linda Camp Keith (Pennsylvania, 12/11, 336p) explores tools of state repression and international human rights norms that can serve as a constraint. **State Crime: Current Perspectives** by Dawn L. Rothe and Christopher Mullins (Rutgers, 11/10, 368p) asserts that current media and political discourse on crime has long ignored crimes committed by states themselves, despite their greater financial and human toll. **Crimes Against Humanity: Historical Evolution and Contemporary Application** by M. Cherif Bassiouni (Cambridge, 5/11, 850p), President Emeritus of the International Human Rights Law Institute, examines evolution of crimes against humanity since WWI, criminal tribunals, and the International Criminal Court. **Genocide: A Normative Account** by Larry May (Cambridge, 3/10, 300p) explores the crime of genocide in international criminal law and expands its definition to include cultural genocide and ethnic cleansing. **The Justice Cascade: How Human Rights Prosecutions Are Changing World Politics** by Kathryn Sikkink (W.W. Norton, 9/11, 342p) argues that prosecutions are a powerful political tool, and that state leaders in Europe, Latin America, and Africa have lost their immunity from any accountability for their human rights violations—a shift that is affecting the behavior of political leaders worldwide. (As of February 2012, however, Syria’s Bashar Assad does not seem to have gotten the message.) **The Sun Climbs Slow: The International Criminal Court and the Struggle for Justice** by journalist Erna Paris (Seven Stories Press, 4/09, 400p) describes US opposition to a permanent ICC and the developing tension between unchallenged political power and rule of international law. **Human Rights Regimes in the Americas** edited by Monica Serrano of the Global Centre for the Responsibility to Protect and Vesselin Popovski of the UNU Institute for Sustainability and Peace (UNU Press, 3/10 280p) finds that the Americas have seen considerable progress in human rights, yet abuses of rights and challenges to the rule of law have taken on a different and more elusive character.

**ANTI-POVERTY: Freedom from Poverty: NGOs and Human Rights Praxis** by Daniel P.L. Chong (Pennsylvania, 6/10, 232p) points out that NGOs modify human rights practices by taking up the cause of subsistence rights, promoting access to economic goods into national laws, and using legal instruments to build social movements and guide development work. **Solomon’s Knot: How Law Can End the Poverty of Nations** by Robert D. Cooter and Hans-Bernd Schafer (Princeton, 1/12, 328p) argues that ineffective private and business laws are the root cause of poverty, and that effective property, contract, and

business laws help unite capital and ideas. Similarly, **Pillars of Prosperity: The Political Economy of Development Clusters** by Timothy Besley and Torsten Persson (Princeton, 9/11, 432p) states that rich and peaceful countries avoid repressive government, have a tax system for a broad base with widespread compliance, and also have a legal infrastructure that enforces contracts and property rights in line with the rule of law. Reinforcing these views, **The Long Divergence: How Islamic Law Held Back the Middle East** by Timur Kuran (Princeton, 12/10, 384p) shows that slow economic development of the Middle East is not due to colonialism, geography, or Muslim attitude, but Islamic legal institutions that promote low trust, rampant corruption, and weak civil societies. Also, **One Billion Rising: Law, Land, and the Alleviation of Global Poverty** edited by Roy L. Prosterman *et al.* (University of Amsterdam Press, 8/09, 450p) notes that most of the world's poorest people lack ownership of—and rights to—the land that forms their principal source of livelihood, and that land reform and related legal work have transformed the lives of millions of families.

**WORK AND HEALTH: Working Conditions Laws: Report 2010** (Geneva: International Labor Office, 2/11, 72p) provides a global comparative analysis of national working conditions standards in over 100 countries, including minimum wages, working hours and holidays, maternity protection, and significant global trends. **Regulating for Decent Work: New Directions in Labor Market Regulation** edited by Sangheon Lee and Dierdre McCann (ILO, 8/11, 380p) discusses issues such as regulation of precarious work, responses to neoliberal ideologies, new types of labor markets, effectiveness of legal norms, and labor market uncertainty. **Equality at Work: The Continuing Challenge** (ILO, 8/11, 92p) is the global report under the follow-up to the ILO Declaration on Fundamental Principles and Rights at Work in 2011, showing that discrimination is becoming more varied than ever, and that “pay equality remains an elusive goal”. **The Employment Relationship: A Comparative Overview** by Giuseppe Casale (ILO, 12/10, 320p) explores definitions, laws, and practices in various regions, finding that globalization has increased the need for employee protection because changes in the world of work have modified traditional employment relations, such that it is increasingly difficult to determine who is in a legally defined relationship. **Litigating Health Rights: Can Courts Bring More Justice to Health?** (Harvard, 5/11, 208p), edited by Alicia Ely Yamin of the Harvard Law School Global Health and Human Rights program and Siri Gloppen, notes a “tremendous growth” in the number of health rights cases in the last 15 years, as regards access to health services and essential medications; case studies of advancing the right to health by holding governments accountable include Argentina, Brazil, Colombia, Costa Rica, India, and South Africa.

### 3. ENVIRONMENT/RESOURCES

**GENERAL: Environmental Protection and Human Rights** by Donald K. Anton and Dinah Shelton (Cambridge, 4/11, 1,124p) shows how the relationship between environment and human rights is being formalized into law in many legal systems, instructs on environmental techniques that assist in protecting human rights, and shows a growing international jurisprudence on promotion/protection of human rights related to a clean environment, as concerns rights to life, to health, to public participation, and to access information. **The Art and Craft of International Environmental Law** by Daniel Bodansky (Harvard, 1/10, 330p) describes how environmental problems get on the international agenda, how

effective law develops and is put into practice, impacts on state and non-state actors, and how environmental law can address obstacles to international cooperation. **Global Governance of the Environment** by Afshin Akhtarkhvari (Edward Elgar, 2011, 320p) examines the role of integrating environmental principles in changing international law and politics. **The Future of International Environmental Law** edited by David Leary and Balakrishna Pisupati of UNEP (United Nations UP, 11/10, 340p) surveys successes and failures in the context of ever-worsening environmental crises, arguing that future responses will be more about good governance that accommodates needs of all nations, rather than just additional treaties and laws; discusses climate change, biodiversity loss, pollution, challenges in the Arctic, biofuels, and overfishing of oceans. **Contemporary Issues in Environmental Law and Policy** by John and Sharon McEldowney (Edward Elgar, June 2011, 416p) considers how environmental law and science can address key 21<sup>st</sup> century issues and issues likely to dictate the future of environmental law; includes a bibliography with references to websites, NGOs, and policymakers.

**VISIONS:** Looking further ahead normatively, **Beyond Environmental Law: Policy Proposals for a Better Environmental Future** edited by David M. Driesen and Alyson Flournoy (Cambridge, 2/10, 304p) proposes a third generation of US environmental law, involving an Environmental Legacy Act to define what must be preserved for future generations and an Environmental Competition Statute to spark clean technologies. **Global Democracy and Sustainable Jurisprudence: Deliberative Environmental Law** by Walter F. Baber and Robert Bartlett (MIT Press, 9/09, 248p) outlines necessary traits of a meaningful global jurisprudence that would underpin international environmental law, pointing to the legitimacy-imparting value of deliberative democracy and citizen involvement. Going still further, **Wild Law: A Manifesto for Earth Justice** by Cormac Cullinan of EnAct International (Chelsea Green, 2<sup>nd</sup> ed, 4/11, 208p) argues that survival of life on Earth requires fundamental alteration of the purpose of law and governance, and includes the Universal Declaration of the Rights of Mother Earth proclaimed in 2010 by the People's World Conference on Climate Change and the Environment. Similarly, **The Earth Charter: A Framework for Global Governance** edited by Ron Engel and Klaus Bosselmann (Amsterdam: Kit Publishers, 9/10, 200p) discusses challenges surrounding current international law and governance: state sovereignty, sustainable development, and the precautionary principle.

**RESOURCES:** **Globalization and Natural Resources Law** by Blanco and Jona Razzaque (Edward Elgar, 4/11, 380p) considers what will be needed to make the transition to sustainable globalization and improved resource efficiency, and specific approaches for biological resources, renewable energy, and water resources. **Genetic Resources, Equity and International Law** by Camena Guneratne (Edward Elgar, 5/12, c.240p) reviews ownership of, and access to, plant genetic resources for food and agriculture in light of a number of international agreements on trade, intellectual property, and conservation. **Biodiversity and the Law: Intellectual Property, Biotechnology and Traditional Knowledge** edited by Charles R. McManis (Earthscan, 12/09, 520p) describes the biodiversity that is being lost, what is to be done, biotech as part of both the solution and the problem, protecting traditional knowledge, and lessons about bio-prospecting. **Lyster's International Wildlife Law** by Michael Bowman *et al.* (Cambridge, 2/11, 784p) analyzes key treaties that regulate wildlife conservation and habitat protection, and mechanisms to make them work. **The Law**

**and Governance of Water Resources: The Challenge of Sustainability** by Douglas Fisher (Edward Elgar, 2010, 400p) argues that sustainable use and development of water resources are unlikely to be achieved without a set of coherent legal arrangements designed to ensure effective governance; looks at how legal arrangements have evolved worldwide over hundreds of years, how norms of current legal regimes are responding, and how legal rights and duties should be structured. **Water Resources Planning and Management** edited by R. Quentin Grafton and Karen Hussey (Cambridge, 3/11, 800p) views water as an increasingly critical global issue and considers international law as fundamental to peaceful management.

**OTHER ISSUES: Climate Change Liability** edited by Michael Faure and Marjan Peeters (Edward Elgar, 2011, 304p) explores the utility of litigation as an alternative to conventional measures in the battle against climate change; while acknowledging the difficulties of imposing liability, solutions are suggested to meet these challenges, thus paving the way to take the fight against global warming to the courts. Similarly, **Climate Change Liability: Transnational Law and Practice** edited by Richard Lord *et al.* (Cambridge, 1/12, 690p) looks at growing interest in liability for climate change damage, and explores the potential in the laws of various nations. **Taking Back Eden: Eight Environmental Cases That Changed the World** by Oliver Houck (Island Press, 1/09, 200p) provides stories of lawsuits to defend the environment brought in eight countries, and describes strategies and obstacles, as well as setbacks and victories in creating a new brand of law. **Toxic Loopholes: Failures and Future Prospects for Environmental Law** by Craig Collins (Cambridge, 3/10, 312p) explains why US environmental laws have failed to arrest the “rising environmental crime wave” of lethal toxins permeating the environment; weak laws and legal loopholes pacify the public with a false sense of security and shield powerful polluters. Also considers the possibility of cooperative international agreements to confront the rising tide of ecological perils. Similarly, **Legally Poisoned: How the Law Puts Us at Risk from Toxicants** by Carl F. Cranor (Harvard, 2/11, 256p) warns that far too many suspected toxic hazards are unleashed every day that affect development and function of our brain, immune system, reproductive organs, or hormones; no public health law requires product testing of most chemical compounds before they enter the market. **Compliance and Enforcement in Environmental Law: Toward More Effective Implementation** edited by Lee Paddock *et al.* (Edward Elgar, 6/11, 768p) provides a global perspective from 15 countries on enforcing multilateral agreements, compliance strategies and tools, the role of courts and citizens, natural resources protection, and compliance issues related to economic instruments.

#### 4. TECHNOLOGY, ETC.

**GLOBAL CRIME:** Problems of enforcing environmental and human rights laws parallel problems of global organized crime and illicit trade. As argued in **Corruption, Global Security, and World Order** edited by Robert I. Rotberg of the World Peace Foundation (Brookings Institution Press, 8/09, 375p), widespread corruption threatens global security, human rights, development; criminals and criminalized states now control many areas of the world and remedies are needed such as enhanced transparency, new sanctions, and tougher punishment. **Dark Logic: Transnational Criminal Tactics and Global Security** by Robert Mandel (Stanford, 12/10, 280p) views transnational organized crime as undermining the security of countries, and when and how it can be successfully combated. **Illicit: How**

**Smugglers, Traffickers, and Copycats are Hijacking the Global Economy** by Moises Naim (Doubleday, 10/05, 340p), former World Bank Executive Director and editor of *Foreign Policy*, describes the rise of illicit trade with the Internet boosting speed and efficiency; chapters describe traffic in small arms and loose nukes, the global drug trade, counterfeit drugs, slavery and sex trafficking, illicit labor, fake goods, counterfeit music and films, money laundering, art theft, and trade in endangered species; fighting this global problem will require cooperative solutions. **Crime and the Global Political Economy** edited by H. Richard Friman (Lynne Rienner, 2009, 215p) considers crime as an integral part of globalization, with both societal and state actors pursuing selective criminalization while embracing diverse patterns of compliance with prohibition regimes. **International White Collar Crime: Cases and Materials** by Bruce Zagaris (Cambridge, 3/10, 366p) documents the rise of transnational economic crime (money laundering, terrorism, corruption, organized crime), recent global strategies, new technologies for criminal purposes, and the arduous tasks of extraterritorial jurisdiction, evidence gathering, extradition, and international prisoner transfer. **Illicit Trade and the Global Economy** edited by Claudia Costa Storti and Paul De Grauwe (MIT Press, 1/12, 272p) points to illegal trade growing in tandem with expansion of international trade, and the social problems resulting from organized crime, hidden financial flows, the illegal drug trade, and the war on drugs. **War on Drugs: Report of the Global Commission on Drug Policy** ([www.globalcommissionondrugs.org](http://www.globalcommissionondrugs.org), 6/11, 24p), a group including Kofi Annan (also a former US Secretary of State and former presidents of Brazil, Colombia, and Mexico), proclaims that “the global war on drugs has failed, with devastating consequences for individuals and societies around the world”. Proposals include ending criminalization and stigmatization of people who use drugs, respecting the human rights of such people, abolishing abusive treatment practices, and “transformation of the global drug prohibition regime” with fiscally responsible policies grounded in science, health, security, and human rights. Also see **Drugs and Drug Policy: What Everyone Needs to Know** by Mark A.R. Kleiman *et al.* (Oxford, 7/11, 240p), on the nature of addiction, legalization issues, criminal prohibitions, the relation of drug-dealing to finance terrorism, etc.

**TERRORISM/SECURITY/PRIVACY: The 9/11 Effect: Comparative Counter-Terrorism** by Kent Roach (Cambridge, 9/11, 488p), a member of the International Task Force on Terrorism, Democracy, and the Law, examines responses of the UN and various countries to the 9/11 terror attacks, involving regulation of speech associated with terrorism, use of criminal and immigration law, failures of the American extra-legal approach, and challenges of transnational cooperation and accountability. **Laws, Outlaws, and Terrorists: Lessons from the War on Terrorism** by Gabriella Blum and Philip B. Heymann (MIT Press, 9/10, 232p) describes how the US waged war on terrorism in a “no-law zone” where peacetime domestic law was irrelevant and international law inapplicable. **Legislating the War on Terror** edited by Benjamin Wittes (Brookings Institution Press, 9/09, 288p) compares US and foreign standards for detention and surveillance, and offers an agenda for reform that balances the need for security, the rule of law, and rights of freedom. **Nothing to Hide: The False Tradeoff between Privacy and Security** by Daniel J. Solove (Yale, 6/11, 248p) exposes fallacies of many pro-security arguments, examines concerns with new technologies, and offers remedies to the failed current system. **Habeas Corpus after 9/11: Confronting America’s New Global Detention System** by Jonathan Hafetz (NYU Press, 1/10, 336p) looks at efforts to challenge the detention system through habeas corpus—a

petition to appear in court to claim unlawful imprisonment. **Securing Human Mobility in the Age of Risk: New Challenges for Travel, Migration, and Borders** by Susan Ginsburg (Migration Policy Institute, 4/10, 240p) views protection of human mobility as a complex homeland security challenge, and advocates travel bans and new international organizations that comprehensively ensure the integrity of mobility infrastructure, while preventing life-threatening and illicit movement. **Imagining New Legalities: Privacy and Its Possibilities in the 21st Century** edited by Austin Sarat *et al.* (Stanford, 3/12, 232p) considers different concepts of privacy, contemporary challenges to the public/private distinction, and questions about control of information in the digital age. **More Essential Than Ever: The Fourth Amendment in the 21st Century** by Stephen J. Schulhofer (Oxford, 7/12, 224p), defends the Fourth Amendment to the US Constitution on the right of people to be secure, and discusses problems of government surveillance, data-mining, airport body scans, drug testing, and aggressive police patrolling—a general trend that threatens the pillars of democracy.

**INFOTECH: Law on Display: The Digital Transformation of Legal Persuasion and Judgment** by Neal Feigenson and Christina Spiesel (NYU Press, 5/11, 252p) explains how rapidly developing digital technologies have accelerated legal changes, with the law itself going online in the form of virtual courts, cyber juries, etc. Similarly, **Parchment, Paper, Pixels: Law and the Technologies of Communication** by Peter M. Tiersma (Chicago, 6/10, 256p) shows how shifting forms of technological literacy shape the practice of law, judicial opinions, and legal texts. **Virtual Justice: The New Laws of Online Worlds** by Greg Lastowka (Yale, 10/10, 240p) illustrates real legal dilemmas posed by virtual worlds, where tens of millions of people live part of their life, and explains how the laws of property, jurisdiction, crime, and copyright are being adapted to pave the path for virtual law. **The Global Flow of Information: Legal, Social, and Cultural Perspectives** edited by Eddan Katz of the Electronic Frontier Foundation and Ramesh Subramanian (NYU Press, 8/11, 256p) discusses “enormous regulatory challenges” of information flows at the global level, whether the flow of information across borders can be controlled, the role of law in regulation, information warfare, and the pharmaceutical industry. **Configuring the Networked Self** by Julie E. Cohen (Yale, 1/12, 288p) argues that legal and technical rules governing flows of information are out of balance: cultural and technical flows are overly restricted, while flows of personal information are often not restricted at all. **Access to Knowledge in the Age of Intellectual Property** edited by Gaelle Krikorian and Amy Kapczynski (Zone Books/MIT Press, 11/10, 640p) maps emerging A2K activism as intellectual property law is being increasingly tightened at the request of diverse industries. **Beyond Intellectual Property: Matching Information Protection to Innovation** by William Kingston (Edward Elgar, 6/10, 224p) worries that evolving intellectual property laws are increasingly shaped by interests that benefit from them, rather than visions of the public good.

**BIOTECH: Global Pharmaceutical Policy: Ensuring Medicines for Tomorrow's World** by Frederick M. Abbott and Graham Dukes (Edward Elgar, 10/09, 320p) describes laws, policies, and customs relating to development and timely provision of medicines, and proposes global solutions for getting appropriate and affordable medicines. **Reframing Rights: Bioconstitutionalism in the Genetic Age** edited by Sheila Jasanoff (MIT Press, 9/11, 320p) notes that we are in a period of transformative change in law and the life sciences, and explores the evolving relationship of biotech and law in various national and cross-

national case studies. **The Law of Life and Death** by Elizabeth Price Foley (Harvard, 4/11, 290p) points to changing legal definitions of what counts as human life and death in US law, due to new biomedical technologies. Also see **Legal Conceptions: The Evolving Law and Policy of Assisted Reproductive Technologies** by Susan L. Crockin and Howard Jones (Johns Hopkins, 1/10, 352p), which notes that technology advances have far outpaced laws to protect all who use them.

**NORMATIVE VISIONS: Cultivating Conscience: How Good Laws Make Good People** by Lynn A. Stout (Princeton, 11/10, 296p) proposes that the legal system should use social cues to trigger unselfish behavior, rather than emphasizing self-interest. **Legality** by Scott J. Shapiro (Harvard/Belknap, 1/11, 360p) offers a “new theory of law” that views laws as plans. **Design for Liberty: Private Property, Public Administration, and the Rule of Law** by Richard A. Epstein (Harvard, 11/11, 230p) argues that the current over-regulated state allows too much discretion by regulators, and calls for predictable laws that confine the zone of discretion. Similarly, **Sacred Cows: How Dead Laws Drag Down Democracy** by Philip K. Howard (W.W. Norton, 2/12, 224p) insists that well-intentioned laws have ossified over time into special interest entitlements and deadweights on society. Howard also wrote **Life without Lawyers: Liberating Americans from Too Much Law** (W.W. Norton, 2/10, 224p). **The Living Constitution** by David A. Strauss (Oxford, 5/10, 144p) explains how the U.S. Constitution can sensibly evolve and be vital to life in the 21<sup>st</sup> century. **The Constitution in 2020** edited by Jack Balkin and Reva Siegel (Oxford, 6/09, 336p) offers a progressive vision for the years ahead, responding to new technologies, economic rights, international human rights, etc., as **A More Perfect Constitution: 23 Proposals** by Larry J. Sabato (Walker & Co, 2007), and **A Bill of Rights for 21st Century America** by futurist Joseph F. Coates (Kanawha Institute, 2007) do.

### ***CODA: LOOKING DEEPER, BROADER, AND AHEAD***

This exploratory biblioessay is a mere outline of recent books on transformations in domestic and international law that are underway and needed in the future. Law is needed to promote human rights, protect the environment, and keep up with myriad technologies that are changing our world. But it must be effective law that promotes the public interest, is widely respected, and is enforced. This is a huge and multi-faceted ideal, but can be pursued.

The key to moving toward this ideal is conscious information management for the 21<sup>st</sup> century. Similar to taming the myriad and overlapping ideas about global governance with a Global Governance Information Commons (*Cadmus*, 1:3, 142-155), this essay suggests expanding such commons to include current thinking about law. For both global governance and law, *deeper* and more extensive abstracting of timely books and articles is needed, as well as analysis and critique of similarities and differences in proposals, and a website to accommodate the latest thinking. Such a clearinghouse should also seek to be *broader* by identifying law and governance thinking in non-English languages, and earlier ideas that could still guide our efforts. Finally, the clearinghouse should encourage thinking *ahead* so that law and governance can attempt to accommodate the numerous challenges of globalization, many new technologies, and the emerging Anthropocene Era.

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At the root of the current crisis are not subprime mortgages, credit rating agencies, financial institutions or central banks. It is the Great Divorce between finance and economy, which is a subset of the widening precipice between economy and human welfare.

The Great Divorce: Finance and Economy

*The Limits to Growth* proved the inherent limitations of the existing industrial model of economic growth, not any inherent limits to growth itself.

Garry Jacobs & Ivo Šlaus, From Limits to Growth to Limitless Growth

Focusing on growth of the part without reference to its impact on the whole is a formula for social disease.

Economic Crisis and the Science of Economics

The idea of nuclear deterrence is a dangerous fallacy, and that the development of military systems based on nuclear weapons has been a terrible mistake, a false step that needs to be reversed.

John Scales Avery, Flaws in the Concept of Nuclear Deterrence

The first step into the direction of a world parliament would be the establishment of a Parliamentary Assembly at the United Nations.

Andreas Bummel, Social Evolution, Global Governance & a World Parliament

The evolution from physical violence to social power to authorized competence and higher values is an affirmation of the value basis of law.

Winston P. Nagan & Garry Jacobs, New Paradigm for Global Rule of Law

We propose that a new organisation be set up, perhaps called the 'World Community for Food Reserves'.

John McClintock, From European Union to World Union

A proper and well accepted definition of (forms of) misconduct, reliable means of identification, and effective corrective actions deserve a high priority on the agenda of research institutes, universities, academies and funding organs.

Pieter J. D. Drenth, Research Integrity

The clearing house should encourage thinking ahead so that law and governance can attempt to accommodate the numerous challenges of globalization, many new technologies, and the emerging Anthropocene Era.

Michael Marien, Law in Transition Biblioessay

The economics of growth must be replaced by equilibrium economics, where considerations of ecology, carrying capacity, and sustainability are given proper weight, and where the quality of life of future generations has as much importance as present profits.

John Scales Avery, Entropy & Economics

A strong and strategic knowledge system is essential for identifying, formulating, planning and implementing policy-driven actions while maintaining the necessary economic growth rate.

Jyoti Parikh, Dinoj Kumar Upadhyay & Tanu Singh,  
Gender Perspectives on Climate Change & Human Security in India

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# CADMUS

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## *Inside This Issue*

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The very possession of nuclear weapons violates the fundamental human rights of the citizens of the world and must be regarded as illegal.

*Winston P. Nagan, Simulated ICJ Judgment*

The emerging individual is less deferential to the past and more insistent on his or her rights; less willing to conform to regimentation, more insistent on freedom and more tolerant of diversity.

*Evolution from Violence to Law to Social Justice*

It is more rational to argue that developing countries cannot afford unemployment and underemployment, than to suppose that they cannot afford full employment.

*Jesus Felipe, Inclusive Growth*

The tremendously wasteful underutilization of precious human resources and productive capacity is Greece's most serious problem and also its greatest opportunity.

*Immediate Solution for the Greek Financial Crisis*

The Original thinker seeks not just ideas but original ideas which are called in Philosophy Real-Ideas. Cadmus Journal refers to them as Seed-Ideas. Ideas, sooner or later, lead to action. Pregnant ideas have the dynamism to lead to action. Real-Ideas are capable of self-effectuation, as knowledge and will are integrated in them.

*Ashok Natarajan, Original Thinking*

Given the remarkable progress of humanity over the past two centuries, the persistence of poverty might not be so alarming, were it not for the persistent poverty of new ideas and fresh thinking on how to eliminate the recurring crises, rectify the blatant injustices and replace unsustainable patterns with a new paradigm capable of addressing the deep flaws in the current paradigm.

*Great Transformations*

Our global systems can be resilient if they are based not only on efficient markets that can cope with future crises, but on principles that also allow for the projection of civic will and preference onto the global level. Stability and resilience are laudable goals but they need to be achieved in all three dimensions, the financial, the economic and the social, in a participatory fashion.

*Patrick M. Liedtke, Getting Risks Right*

*Continued . . .*

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