

Towards a Consciousness of Inter-Nationality in Managing the Effects of Globalization and Enhancing Global Security

by Avnita Lakhani

“Until you make the unconscious conscious, it will direct your life and you will call it fate.”¹ Dr Carl Gustav Jung

The heart of national and international legal culture is the nation-state, which provides both the physical and legal boundaries for resolution of disputes. Inherent in this paradigm of the nation-state is that it exists both independent of and interdependent with other states. The independence of states fosters national cultures and values. The independence also creates separation in terms of form, function, and ideology, whether consciously or unconsciously. Even nation-states that espouse the ideology of democracy are susceptible to fragmentation of core national culture and values.

The prevalence of these national cultures combined with possible fragmentation within the national culture means that conflicts are bound to occur. In essence, the greater the differences between these national cultures, the more likely that conflicts might occur between them. These conflicts are generally resolved through the power of the state. Power, in the context of the nation-state paradigm, means police power, and the power of the legislative and judicial organs to regulate and punish certain conduct. The nation-state also possesses the power to use force.

In this current paradigm, states may authorize the use of force, even against its own citizens. The relationship is one of subject and object with the state being a subject of the international legal community while citizens, residents, and visitors are deemed objects belonging to their subjects. Even in the 21st century, this subject-object paradigm continues to represent the age-old relationship between those in and of power and those without.²

In this current worldview, power is a right to be exercised by someone *over* another. Force is just one manifestation of that power. The international courts today, for the most part, only recognize claims from nation-states. Even in those international instruments where individuals may file a claim directly, the claim must

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go through the instruments and lens of the nation-state.³

Globalization, defined as the process that creates a world economy and global communications,⁴ has brought about many changes, none more revolutionary than a change in the function of the nation-state as compared to the day-to-day realities of individuals living in an international economy.⁵ The role of the nation-state can no longer be simply the preservation of national boundaries, national culture, and the status quo. It is no longer the task of simply watching borders and enforcing laws.

Citizens and non-citizens alike realize they now have a power more influential and outcome-determinative than the power of the state. This is a by-product and an unintended consequence of globalization. Globalization has brought about a more highly connected international community than ever before. This has created a shift in the idea of the nation-state and the limits of state sovereignty. As a result, what

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now emerges is a paradigm of inter-nationality; a consciousness of living between and among nationalities resulting in a personal power with a force to match.

This consciousness of inter-nationality recognizes that, as long as the current paradigm of nation-state dominates international relations, an international community with a vision for peace

and security will remain difficult to achieve.

Section 2 of this paper traces the evolving role of the individual and how this affects the current paradigm of nationality. Section 3 discusses the evolution of state sovereignty. Section 4 discusses the shift in consciousness from nationality to internationality through a rise in legal consciousness. Section 5 discusses the implications of this rise on law and legal culture. Finally, Section 6 concludes with remarks on national legal cultures in an era of globalization, arguing that the international legal community must move towards a consciousness of internationality in order to balance force with power and achieve global peace and security.

THE EVOLVING ROLE OF INDIVIDUALS IN A GLOBAL WORLD

The role of individuals, and consequently the role of the nation-state, in a global world continue to evolve as a result of both intentional and unintentional events. Intentional and lasting conflicts between and within states continue to hinder the goal of harmony within humanity and reinforce the power struggles inherent in a nation-state paradigm,⁶ conflicts which eventually and directly impact the individuals living in those nations.

Democide, defined as “the murder of any person or people by a government, including genocide, politicide, and mass murder”,⁷ has created individual

displacements of survivors into neighboring nations, impacting all levels of the global economy by creating problems of illegal cross-border migrations, the need to care for refugees who cannot contribute to the local economy, and the impact of less resources to feed and take care of individually displaced persons. In the 1990s, over 220,000 people were killed as a result of conflicts between states. The fall-out of these cross-border conflicts includes an increase in individually displaced persons who must seek refuge in other countries, loss of their individual citizen status within the conflict state and resulting benefits.⁸ Additionally, during the 1990s, approximately 3.6 million people were killed as a result of internal state conflict, resulting in a 50 percent increase in the number of refugees and internally displaced persons than recorded in the 1980s.⁹ In the twentieth century, democide resulted in the death of over 170 million citizens, a staggering statistic that exceeds the total number of persons killed across both World War I and World War II.¹⁰ The Internal Displacement Monitoring Centre's 2011 statistics state that, on a global level, over 26.4 million persons are internally displaced by conflict.¹¹

In 2011 alone, over 15 million people are stateless and only 38 countries have recognized this problem internationally.¹² This means that these stateless people do not have a national identity, are not recognized as nationals of any country, and are virtually non-existent with respect to employment, benefits, housing, and opportunity. The lack of accountability of these stateless persons means that there is greater potential for the use of force rather than a rule of law since the stateless have no true accountability or legal personality within a recognized justice system in a nation-state paradigm. They are not considered citizens of either their former state, even if they hold a passport, or their current state because they do not hold a valid passport of the state which accepted them as refugees.

A second factor in the evolution of the individual's role is the intended and unintended impact of globalization. While globalization has created more opportunities for people, it has also created a trend in mass migrations, multiple citizenships, and transnational identities. Each of these trends has contributed to a rise in consciousness of the individual from being a national or citizen of one country to being a citizen of the world.

As more and more people cross borders and migrate into other jurisdictions they are likely to develop a transnational identity. A transnational identity is "evidenced by recent immigrants who maintain close ties with their home country, including frequent travel, visits by friends and family members from the home country, and other ties."¹³ These additional ties include leaving the country to which they and their families emigrated and returning to the native regions and countries in which they were born in order to fulfil their personal and professional goals.¹⁴ These immigrants may be permanent residents or citizens of their newly adopted country yet still maintain close ties with their home country or region.

The effect of this transnational identity is a worldview that is not bound by national boundaries and geographic location but is more multicultural and less closely aligned with traditional national interests. The same could be argued for

expatriates who spend a significant amount of their working life in a country other than the country of citizenship.¹⁵ A transnational identity is one that manifests itself as a *multilayered identity* composed of a *layered* and textured loyalty¹⁶ that does not impose on or threaten the individual's relationship with the state in which they are a citizen under a strictly nation-state paradigm. This multilayered identity is able to transcend traditional notions of citizenship belonging solely to one nation, being only a citizen of one nation, and can move between and among nations as a citizen of the world.

In addition to a rise in transnational identities, plural nationalities, or plural citizenships are becoming an increasingly noticeable by-product of globalization as more free trade agreements lead to the expansion of global companies into new and emerging markets.¹⁷ This creates more opportunities for individuals to work abroad and become residents and permanent residents of other nations.¹⁸ Individuals may pursue this option for simple economic reasons because holding more than one

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citizenship may afford them and their families more and better opportunities. Individuals may also gain greater access to rights and resources through dual or multiple nationalities.

However, scholars have expressed concerns and questioned what impact this has on the relationship between the citizen and the nation-state from the viewpoint of legal, political, and economic relationships and contemporary social life.¹⁹ Feldblum, Spiro, and Jacobson argue that the rise in multiple nationalities has a direct impact on the role of the nation-state in relation to its citizens and may even be a sign that “[t]he political, communal and territorial components of the nation-state, once thought so intertwined as to be unremarkable, are becoming unbundled.”²⁰ The result is a shift from the statist view supported by state-centered philosophy of international law to “a global system characterized by overlapping communities and multivariategated personal loyalties yielding more complex personal identities.”²¹

Finally, advances in technology combined with a mobile global workforce has created a more socially mobile and educated international community. Social networking technology, such as Facebook, Twitter, e-mail, iPad, and iPhone has increased the speed with which society interacts both within and across national borders. Such technology has been at the foundation of recent social movements and social protests seen in the events of the *Arab Spring*, the *Occupy Wall Street* movement in New York, and the *Jasmine Revolution* in China.²²

Conflicts within and between states, internal displacements of people, mass migrations,²³ acts of democide, a rise in multiple nationalities, and advances in

technology have encouraged both a revolution and an evolution of the role of individuals. In turn, these changes have challenged scholars and nation-states to question and analyze the evolving role of the nation-state and the meaning of state sovereignty in an increasingly inter-connected, inter-dependent, inter-national world.

EVOLVING NOTIONS OF STATE SOVEREIGNTY (NATION-STATE)

In 1928, Oppenheim argued that sovereignty²⁴ has been a controversial term since its conception and 'has never had a meaning which was universally agreed upon.²⁵ Over time sovereignty has had a variety of meanings, including meaning a monarchy as well as a being a term for political authority, political legitimacy, governance, constitutional order, a formal legal unit, and international personality.²⁶

Today, sovereignty, in the context of international law, can generally be understood as "respect for the territorial integrity and political independence of equally sovereign states,"²⁷ thus "representing the basic constitutional doctrine of the law of nations."²⁸ Under the paradigm of sovereignty as both an "organizing concept and a critical symbol... [of] ...the most significant power-conditioned participants in global society, the nation-state,' the power process is generally aligned towards claims to become sovereign, to remain sovereign, and to change or realign sovereign competence"²⁹ through the managing and manipulating resources, participants and demands placed on claims to sovereignty.³⁰

However, both the internal, the idea that there is a final and absolute political authority in the political community³¹ and external, a recognized right to exercise final authority over its affairs, sovereignty are undergoing an evolution³². Simonovic highlights that the internal aspect of sovereignty has evolved from a strictly monarchical sovereignty to a more popular sovereignty based on power sharing and power distribution.³³ The external aspects of sovereignty have and are evolving from a system of international relations based on power sharing between nation-states into a "system of power-sharing and balance of power between states and non-state actors."³⁴ Today, Non-state actors exert tremendous influence by taking over traditional state functions and leveraging bottom-up lawmaking³⁵ and converting this into hard international law which is adopted by and subsequently enforced through international organizations.³⁶

Secondly, the nation-state paradigm is increasingly under pressure due to political strife, ceding power through treaties and other international alliances, and through vertical shifts in governance resulting from top-down global governance standards imposed by international organisations such as the OECD.³⁷ While the nation-state is not required to comply with such international standards, failure to do so can lead to economic sanctions, diplomatic pressure, and international condemnation.³⁸

A third important factor in the evolution of the nation-state is increased technological change combined with globalization. The Internet and social networking portals such as Facebook, Twitter and Google+ have created a global network, giving individuals the power to transmit and share information around the

world in minutes. As a result of sharing and transmitting information, individuals may find others who share their interests or causes, creating powerful subcultures whose influence extend beyond geographic or even national boundaries.³⁹ One of the most powerful by-products of this level of transnational communication is that people begin to grow in their awareness and understanding of the world beyond national borders.

Furthermore, they may identify with and extend loyalty to social groups with whom they share such mutual interests rather than with nationals with whom they feel disconnected.⁴⁰ On a global level, it is easy to see why some scholars such as Matthews consider these technological advances as “[t]he most powerful engine of change in the relative decline of states and rise of non-state actors.”⁴¹

A fourth important factor in the evolution of the nation state, perhaps stemming directly from the advances in technology, is the creation of global networks and a global civil society. As more people share their values, interests, experiences, and ideas about the world, they begin to coalesce around those values and interests, sometimes at the expense of uniting around national and political fault lines. This rise in a global civil society can be seen through the increased number of NGOs (non-governmental organizations) and their influence on international law. The rise of a global civil society means that the acts of nation-states are increasingly under the scrutiny of private individuals interested in public affairs.⁴²

In many respects, the rise of NGOs and a global civil society is necessary to address the complex, multi-dimensional, and global issues facing the world today.⁴³ An active global civil society is able to transcend the territorial, political and geographical boundaries that seem to prevent nation-states from resolving the global issues of our time. NGOs and the global civil society are aware of the practical and pragmatic impact of issues on the everyday lives of citizens and non-citizens alike and are able to work beyond statist paradigms to influence real change and implement effective solutions.⁴⁴

In sum, these evolutionary aspects of the nation-state have lead scholars to conclude that the world is entering a state of post-nationalism, a world where sovereignty is no longer absolute. Sovereignty has shifted to being a commodity, or market sovereignty as a result of increased market-based international governance regimes.⁴⁵ In essence, this means that the nation-state is no longer the sole arbitrator of a person’s consciousness and identity about the world. As a result, individuals are undergoing a shift in personal power while, at the same time, changing the nature and function of the nation state.

MOVING BEYOND NATIONALITY TOWARDS A CONSCIOUSNESS OF INTER-NATIONALITY

In this article, the term inter-nationality is used in a very specific context. Developing a consciousness of internationality requires more than extensive international travel experience, though this can facilitate the transition.

Consciousness is a state of active awareness and comprehension that allows people to choose their responses and actions. The first step in developing a consciousness of inter-nationality, therefore, is to be actively conscious and make decisions and choices with full awareness of its possible results and impact on those outside one's immediate sphere of influence. This includes the decision to live and act *inter-nationally*.

Collins English Dictionary defines nationality as "the state or fact of being a citizen of a particular nation...national character or quality...a body of people sharing common descent, history, language, etc."⁴⁶ This appears to be the most common view of nationality, a statist definition meant to designate a person's country of citizenship as indicated on a passport or other forms of legal identification. Similarly, Oxford Dictionaries defines nationality as "the status of belonging to a particular nation."⁴⁷ With respect to the word *inter*, it is a prefix generally understood to mean "among, between, mutual, or reciprocal."⁴⁸

The state of consciousness envisioned by 'inter-nationality' is a quality of being international in scope, with international meaning "...extending across or transcending national boundaries."⁴⁹ This is a state of consciousness in which an individual not only may have lived and worked across nations, but has fundamentally transcended national boundaries in terms of their thoughts, actions, and decisions. They have a national identity but it serves a purely academic or administrative function. It does not rule their life or govern their actions. To some extent, this shift in consciousness towards inter-nationality is already taking place.

Theoretically, individuals make up a nation and a nation survives and thrives to the extent that individuals contribute to the national economy with reasonable support from its government. However, the role of the individual is evolving and individuals themselves are becoming more conscious at a faster rate due to both intentional and unintentional changes to which the individual is subject. The evolution of individuals and nation-states beyond traditional notions of sovereignty has and will lead to a shift in consciousness from nationality towards a broader, more inclusive and conscientious view of the world and one's role in it.

Inherent in traditional ideas of nationality is a deep-seated need, "primordial attachments of an individual to a group" that creates an ethnic identity, inspires loyalty, kinship, and a sense of belonging, resulting in a political force to be reckoned with even today.⁵⁰ This same nationalism also creates an us versus them way of thinking and being that results in conflict where the national interests of one country or group of people collide with another. However, as individuals and nations evolve, so do both individual and national levels of consciousness – from being based solely on self-interest to a more holistic and global view of issues and possible resolutions.

Hawkins defines the function of consciousness as a certain level of awareness that allows the "mind [to] make choices based on millions of pieces of data and their correlations and projections, far beyond conscious comprehension, and with enormous rapidity."⁵¹ Hawkins states that generally, consciousness "automatically chooses what it deems best from moment to moment."⁵² Therefore, it is reasonable

to state that as individuals evolve, they have more information and awareness from which to make choices and decisions.

At the same time, what is unique about the impact of globalization on individuals and nation-states is that not only is there more information available from which to make choices and decisions but that individuals are making those decisions with 'conscious comprehension' of the impact of their decisions. While Hawkins talks about the function of consciousness as the mind making choices "far beyond conscious comprehension,"⁵³ presumably meaning that people do not fully understand why they are making certain choices, this may not be true. With the evolution of individuals, people do make choices with a full consciousness of why they are making certain choices and with a greater understanding of the impact that choice will have on themselves and society in general.

In some ways, this can be understood according to Hodgson's *good reasons* position.⁵⁴ Under this view, good reasons requires "consciousness, because rationality involves being able to make conscious decisions and exercise conscious control over our actions."⁵⁵ In addition, it requires one to not only grasp the reasons for certain decisions but to also weigh and judge one's internal thinking process used to come up with both the reasons and the decisions, thus invoking a higher order thinking process.⁵⁶ Consciousness can be gained in a variety of ways, including legal, social, ethnic, moral, ethical, and religious. All of these frameworks reflect ways in which an individual may become aware of the world around them and results in consciousness being "an immediate modifier of behaviour of a society, group, or individual."⁵⁷

One of the most critical areas in which individuals and nation-states have moved beyond nationality towards a consciousness of inter-nationality is in the area of legal consciousness. Scholars have defined legal consciousness in a variety of ways. For example, Trubek defines legal consciousness as "all the ideas about the nature, function, and operation of law held by anyone in society at a given time,"⁵⁸ Merry defines it as "the ways law is experienced and understood by ordinary citizens"⁵⁹ as well as "the ways people understand and use the law..., the way people conceive of the natural and normal way of doing things, their habitual patterns of talk and action and their common sense understandings of the world."⁶⁰ In essence, legal consciousness looks at how people understand, perceive, interact with and behave in relation to law in their everyday lives.⁶¹ Legal consciousness can be understood through three elements: 1) legal knowledge; 2) social legal attitudes; and 3) behavioural habits in relation to actual legal knowledge and social attitudes.⁶²

The evolution of individuals beyond ideas of nationality towards a consciousness of inter-nationality is reflected in a growing legal consciousness. As discussed previously, globalization and a natural evolution of society has resulted in advances in technology and global networking, an increase in global commerce, a rise in dual citizenship or plural nationalities, a proliferation in transnational commerce and individuals working in transnational corporations, and a growing distribution of power both vertically and horizontally from nation-states to both domestic and

international governance regimes. This means that individuals are increasingly exposed to how others live, the laws which bind them, the impact of these laws on society and a greater awareness of the liberties and freedoms allowed or disallowed by these laws and national regimes.

Furthermore, a growing legal consciousness also allows individuals to make more conscious decisions based on a wider perspective and understanding of the world. In many ways, this contributes to an international world view rather than one which is solely confined to traditional nationalistic tendencies and loyalties.⁶³

In recent years, there have been numerous examples of how this rise in legal consciousness has transcended national boundaries and affected the ability of governments to stay in power and as well as forcing national governments to refrain from signing, ratifying, and entering into force multinational treaties or agreements which the public disagrees with. The most recent and notable ongoing debate is on concerns the Anti-Counterfeiting Trade Agreement (ACTA). The ACTA is a multinational treaty aimed at setting up international standards for enforcement of intellectual property rights as related to counterfeit goods, generic medicines, and copyright infringement on the internet.⁶⁴

To date, while numerous countries are signatories to the treaty, it has not been ratified by at least six countries, a necessary pre-condition for the treaty to come into force. One of the primary reasons for this delay is a series of ongoing debates and protests from ordinary citizens, non-governmental organisations, professionals, and academics dismissing the ACTA for the alleged secrecy of its negotiation and its adverse impact on fundamental civil liberties and digital rights.⁶⁵ There were petitions in New Zealand (Wellington Declaration),⁶⁶ public demonstrations and cyber-attacks on government websites in Poland in January 2012,⁶⁷ the resignation of the EU Rapporteur for ACTA in January 2012⁶⁸ and protests in Slovenia in February 2012.⁶⁹ This was followed by similar protests in Sweden⁷⁰ and Europe⁷¹ as well as petitions in the United States⁷² and United Kingdom. Most recently, on July 4th, 2012, the European Parliament, with increasing pressure from citizens, members of parliament and non-governmental groups, rejected the treaty with an overwhelming majority.⁷³ Similar protests, online petitions, and online website blackouts have occurred in relation to the Stop Online Piracy Act (SOPA), a US bill aimed at fighting online trafficking of counterfeit goods and copyright infringement of intellectual property.⁷⁴

In sum, a growing legal consciousness that extends beyond nationality and national borders towards an understanding of the international implications of issues and decisions can be considered a positive development. It has a tremendous

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impact on law, future legal culture and how disputes can be managed and resolved in the future.

IMPLICATIONS FOR LAW, LEGAL CULTURE, AND CONFLICT RESOLUTION

Moving beyond a consciousness based solely on nationality towards one based on internationality has important implications for law and legal culture. This section will expand on two major implications of this evolution. In 1963, Wright discussed the need for a universal law for mankind.⁷⁵ To some extent, this has been realized through increased acceptance of human rights law as well as the recognition and study of international law and comparative law.⁷⁶

However, given the rise in both social and legal consciousness, more must be done by the legal professionals and the legal community to secure a world governed by the rule of law instead of the law of force. Today, law and legal culture is primarily nationalized even though lawyers are trained in international and comparative law. Despite this international education and practice, most legal decisions are still from the perspective of ‘think global, act local’.

The first challenge for the legal community is reviewing the perspective from which legal problems are analyzed and resolved. In order for the legal profession to be truly integrated with a rising public awareness and consciousness of the role and function of law in society, legal practitioners should adopt a ‘think global, act global’ perspective. This perspective ensures that not only are issues analyzed from an international perspective but solutions are also analyzed and implemented with a view of the global impact. This view is in line with a social responsibility and sustainable development way of thinking that allows for various stakeholders to provide input into a policy-making paradigm that leverages global wisdom.

The second challenge is defining a global vision for the rule of law and the function of law in a globalized world. This is especially important if society is to tackle contemporary global problems such as climate change, global migrations due to state conflict, and sustainability. In addition to Wright’s argument for a universal law for mankind, Simonovic has argued that globalization requires a global legal ethic, one which is based on “principles of tolerance, mutual respect, and above all, solidarity.”⁷⁷ Furthermore, Meynhart proposes the establishment of a global legal culture, especially in a world where political borders are not the only means to define community and identity.⁷⁸

While each idea has some merits, the forces of culture and nationality are still powerful forces in perspectives of international law, international legal relations and the legal community.⁷⁹ Secondly, the nation-state paradigm remains the prevailing and accepted paradigm with respect to law and legal jurisdiction though its influence is changing. Finally, while some societies have moved further along the continuum of increased legal consciousness, others, including developing and transitioning economies, are still at a basic level of understanding concerning the impact of rule

of law and development of sound, effective, and ethical legal cultures.

Given these current realities, the most immediate need appears to be for the legal profession and the legal culture to develop some consensus on the overall values and functions of law and the rule of law in a global society. For example, the values of the rule of law might include: 1) *pursuit of justice*, with justice being defined as the ability of law to facilitate redress of grievances within a reasonable time; 2) *access to justice*, meaning the ability of any party, regardless of income or other circumstances, to have access to a forum where their grievances can be heard and resolved; 3) *access to legal representation*, meaning that parties are entitled to legal representation in the applicable dispute resolution forum; and 4) *equality under the law*, meaning that parties will be treated equally under the law, regardless of income, status, religion, race, sex, and a variety of other factors which may impact a person's ability to access a rule of law forum.

The values of the rule of law must transcend traditional notions of culture and nationality and resonate within the hearts and minds of citizens and non-citizens alike in a manner which demonstrates that a world governed by the rule of law is both peaceful and more secure. These values must resonate equally, both in the minds of those with increased legal consciousness as well as those who question the value of rule of law, and instill a confidence that law can be a haven from conflict rather than the source of conflict.

Defining the values and functions of law in a global society also has implications for the role of legal consciousness in society and the legal education of lawyers. As discussed above, according to socio-legal scholarship, legal consciousness "guides [ordinary] people in their actions with regard to how law works in their lives and those actions in turn affect their various understandings of law and legality."⁸⁰ Students enter law school as ordinary people, 'outsiders' with respect to law, legal culture and the legal profession. Through a standard three-year process of socialization in most US law schools, law students are transformed into 'thinking like a lawyer' and become what is considered an 'insider' in the construction, analysis, and practice of law in their role as lawyer, judge, or other legal professional.⁸¹

An important part of this education must include grounding in the values and functions of law both as it relates to society as a whole and the expectations of insiders to the legal profession from a global perspective. Today, this education of values and ethics is generally taught in the form of legal ethics courses and mandated through the professional ethics rules of each legal jurisdiction. However, these foundational principles need to be agreed to and taught as a global standard,

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consistent across national boundaries and legal jurisdictions. In order to achieve a global standard, national legal cultures will need to re-evaluate and re-define current jurisdictional standards towards a more harmonized global standard of values for the legal profession.

This is both a challenging and visionary mandate if law is to serve the world in a way that balances force with power. It also means that the function of law and legal professionals will have to progress beyond a world order of human dignity to an action-oriented, progressive paradigm of a world order of harmony and dignity that focuses on the inter-connectedness of all living creatures, human and non-human alike.

CONCLUSION

This article has discussed the evolving role of individuals, the changing notions of state sovereignty, the resulting rise of social and legal consciousness and the impact of this increased legal consciousness on law and legal culture. Today, the nation-state is still the most dominant paradigm of international relations. This paradigm establishes national legal cultures. In a globalized world, the legal community must proactively recognize the growing power of individuals and society and leverage the accompanying rise in legal consciousness to encourage and foster a world ruled by law and not force.

The legal profession can move beyond nationality towards a consciousness of inter-nationality. This will be done by encouraging policy reforms in legal education and legal practice, establishing global legal values and ethics, resolving to internationalize conflict analysis and resolution, and demonstrating that the rule of law has primacy over the use of force in achieving global peace and security.

Notes

¹ Dr. Carl Gustav Jung (1875 – 1961) was a noted Swiss psychiatrist and founder of analytical psychology.

² Avnita Lakhani, "The Role of Citizens and the Future of International Law," *Cardozo Journal of Conflict Resolution* 159, (2007): 172 – 174.

³ Avnita Lakhani, "The Role of Citizens and the Future of International Law," *Cardozo Journal of Conflict Resolution* 159, (2007): 192-198; Myres McDougal and Florentino Feliciano, *Law and the Minimum World Public Order*, (1961): 13-14.

⁴ William Twining, *Globalisation & Legal Theory*, (New York: Cambridge University Press, 2000): 4-5; Anthony Giddens, *The Consequences of Modernity*, (Stanford University Press, 1990).

⁵ Ethan Bronner, "Protests Force Israel to Confront Wealth Gap," *New York Times*, August 12, 2011, <http://www.nytimes.com/2011/08/12/world/middleeast/12israel.html?ref=ethanbronner>.

⁶ Ivan Simonovic, "Relative Sovereignty of the Twenty First Century," *Hastings International & Comparative Law Review* 25, (2002): 371, 376.

⁷ R.J. Rummel, *Death by Government*, (New Brunswick: Transaction Publishers, 1994), 31.

⁸ Ivan Simonovic, "Relative Sovereignty of the Twenty First Century," *Hastings International & Comparative Law Review* 25, (2002): 376-377.

⁹ Ivan Simonovic, "Relative Sovereignty of the Twenty First Century," *Hastings International & Comparative Law Review* 25, (2002): 376, citing U.N. Development Programme, *Human Development Report 2002: Deepening Democracy in a Fragmented World 2*, 2002.

¹⁰ Ivan Simonovic, "Relative Sovereignty of the Twenty First Century," *Hastings International & Comparative Law Review* 25, (2002): 376, citing U.N. Development Programme, *Human Development Report 2002: Deepening Democracy in a Fragmented World 6*, 2002.

¹¹ Internal Displacement Monitoring Centre, *Global Overview 2011: People Internally Displaced by Conflict and*

Violence, April 2012, <http://www.internal-displacement.org/publications/global-overview-2011.pdf>

¹² Emma Batha, "Invisible millions pay price of statelessness," *Reuters*, August 23, 2011, <http://www.reuters.com/article/2011/08/23/us-stateless-idUSTRE77M29R20110823>.

¹³ Enid Trucios-Haynes, "Latcrit Theory and International Civil and Political Rights: The Role of Transnational Identity and Migration," *The University of Miami Inter-American Law Review* 28, no. 2 (Winter 1996/1997): 293-295.

¹⁴ Kirk Semple, "More U.S. Immigrants' Children Seek American Dream Abroad," *New York Times*, April 15, 2012, <http://www.nytimes.com/2012/04/16/us/more-us-children-of-immigrants-are-leaving-us.html?pagewanted=all>

¹⁵ Enid Trucios-Haynes, "Latcrit Theory and International Civil and Political Rights: The Role of Transnational Identity and Migration," *The University of Miami Inter-American Law Review* 28, no. 2 (Winter 1996/1997): 294; Leah Hyslop, "Increasing Number of Britons Looking for Work Abroad," *Telegraph*, October 27, 2010, <http://www.telegraph.co.uk/expat/expatnews/8087788/Increasing-number-of-Britons-looking-for-work-abroad.html>.

¹⁶ Enid Trucios-Haynes, "Latcrit Theory and International Civil and Political Rights: The Role of Transnational Identity and Migration," *The University of Miami Inter-American Law Review* 28, no. 2 (Winter 1996/1997): 300-301.

¹⁷ Linda Bosniak, "Multiple Nationality and the Postnational Transformation of Citizenship," *Virginia Journal International Law* 42, (2002): 979-980; Peter H. Schuck, "Plural Citizenships," in *Immigration and Citizenship in the Twenty-First Century*, ed. Noah M.J. Pickus (Lanham: Rowman & Littlefield, 1998), 149.

¹⁸ Helsingin Sanomat, "Number of Fins Holding Dual Citizenship has Multiplied Threefold in Ten Years," November 24, 2010 <http://www.hs.fi/english/print/1135261878090>; Maria Sacchetti, "Dual Citizenship's Appeal Grows, Here and Abroad," *The Boston Globe*, August 22, 2011, http://articles.boston.com/2011-08-22/news/29915528_1_dual-citizenship-new-citizens-migration-policy-institute.

¹⁹ Linda Bosniak, "Multiple Nationality and the Postnational Transformation of Citizenship," *Virginia Journal International Law* 42, (2002): 981-984.

²⁰ David Jacobson, "New Border Customs: Migration and the Changing Role of the State," *UCLA Journal International Law and Foreign Affairs* 3, (1998/1999): 443-444.

²¹ Thomas M. Franck, "Community Based on Autonomy," *Columbia Journal of Transnational Law* 36, (1997): 41-42, 63-64.

²² Austin Ramzy, "State Stamps out Small 'Jasmine' Protests in China," *Time*, February 21, 2011, <http://www.time.com/time/world/article/0,8599,2052860,00.html>.

²³ Stephen Castles and Mark Miller, *The Age of Migration*, (New York: MacMillan, 1998): 8-9.

²⁴ Julian H Franklin ed. Bodin: *On Sovereignty*, (Oxford: Alden Press, 1992): 35

²⁵ Lassa Oppenheim, *International Law: A Treatise*, ed. Arnold D. McNair (University of California: 4th ed. 1928): 66; Till Müller, "Customary Transnational Law: Attacking the Last Resort of State Sovereignty," *Indiana Journal Global Legal Studies* 15, (2008): 1534-36.

²⁶ Winston P. Nagan and Craig Hammer, "The Changing Character of Sovereignty in International Law and International Relations," *Columbia Journal of Transnational Law* 43, (2004/2005): 142-144; Dan Sarooshi, "The Essentially Contested Nature of the Concept of Sovereignty: Implications for the Exercise by International Organizations of Delegated Powers of Government," *Michigan Journal of International Law* 25, (2004): 1107-1108.

²⁷ Quincy Wright, "Toward a Universal Law for Mankind," *Columbia Law Review* 63, (1963): 456-458.

²⁸ Ian Brownlie, *Principles of Public International Law*, (Oxford University Press, 4th ed. 1990): 287; John Allan Cohan, "Sovereignty in a Post- Sovereign World," *Florida Journal of International Law* 18, (2006): 911-917;

Stephen D. Krasner, *Sovereignty: Organized Hypocrisy*, (Princeton University Press, 1999): 3-4.

²⁹ Winston P. Nagan and Craig Hammer, "The Changing Character of Sovereignty in International Law and International Relations," *Columbia Journal of Transnational Law* 43, (2004/2005): 151-159.

³⁰ Winston P. Nagan and Craig Hammer, "The Changing Character of Sovereignty in International Law and International Relations," *Columbia Journal of Transnational Law* 43, (2004/2005): 151-159; Till Müller, "Customary Transnational Law: Attacking the Last Resort of State Sovereignty," *Indiana Journal Global Legal Studies* (2008): 34.

³¹ Linda Bosniak, "Multiple Nationality and the Postnational Transformation of Citizenship," *Virginia Journal International Law* 42, (2002): 985-; Harold J. Laski, *Studies in Law and Politics*, (1932): 237.

³² Linda Bosniak, "Multiple Nationality and the Postnational Transformation of Citizenship," *Virginia Journal International Law* 42, (2002): 985-986.

³³ Ivan Simonovic, "Relative Sovereignty of the Twenty First Century," *Hastings International & Comparative Law Review* 25, (2002): 371, 378.

³⁴ Ivan Simonovic, "Relative Sovereignty of the Twenty First Century," *Hastings International & Comparative Law Review* 25, (2002): 371; Avnita Lakhani, "The Role of Citizens and the Future of International Law,"

Cardozo Journal of Conflict Resolution 159, (2007): 166-167.

³⁵ Till Müller, "Customary Transnational Law: Attacking the Last Resort of State Sovereignty," *Indiana Journal Global Legal Studies* 15, (2008): 36-37

³⁶ Till Müller, "Customary Transnational Law: Attacking the Last Resort of State Sovereignty," *Indiana Journal Global Legal Studies* 15, (2008): 37 – 38.

³⁷ John Allan Cohan, "Sovereignty in a Post- Sovereign World," *Florida Journal of International Law* 18,(2006): 908-914.

³⁸ John Allan Cohan, "Sovereignty in a Post- Sovereign World," *Florida Journal of International Law* 18, (2006):908-910.

³⁹ Till Müller, "Customary Transnational Law: Attacking the Last Resort of State Sovereignty," *Indiana Journal Global Legal Studies* 15, (2008): 22-24.

⁴⁰ Till Müller, "Customary Transnational Law: Attacking the Last Resort of State Sovereignty," *Indiana Journal Global Legal Studies* 15, (2008): 22-24; Claudio Grossman and Daniel D. Bradlow, "Are We Being Propelled Towards A People-Centered Transnational Legal Order?" *American University Journal of International Law And Policy* 1,(1993): 7-9, 11; Paul Schiff Berman, "From International Law to Law and Globalization," *Columbia Journal of Transnational Law* 43, (2005): 483, 500.

⁴¹ Jessica T. Mathews, "Power Shift," *Foreign Affairs* 76, no. 1 (January/February 1997): 50-51.

⁴² Paul Schiff Berman, "From International Law to Law and Globalization," *Columbia Journal of Transnational Law* 43, (2005): 545-546; Karsten Nowrot, "Legal Consequences of Globalization: The Status of NGO's Under International Law," *Indiana Journal Global Legal Studies*, (1999): 579, 587-89

⁴³ Till Müller, "Customary Transnational Law: Attacking the Last Resort of State Sovereignty," *Indiana Journal Global Legal Studies* 15, (2008): 23-25; Claudio Grossman and Daniel D. Bradlow, "Are We Being Propelled Towards A People-Centered Transnational Legal Order?" *American University Journal of International Law And Policy* 1,(1993): 7-9, 14-16 .

⁴⁴ Till Müller, "Customary Transnational Law: Attacking the Last Resort of State Sovereignty," *Indiana Journal Global Legal Studies* 15, (2008): 23-25.

⁴⁵ Ivan Simonovic, "Relative Sovereignty of the Twenty First Century," *Hastings International & Comparative Law Review* 25, (2002): 19; Tyler Welti, "Market Sovereignty: Managing the Commodity of Sovereign Rights," *Georgetown International Environmental Law Review* 21, 349-356.

⁴⁶ Collins English Dictionary, "Definition of Nationality," May 19, 2012, <http://www.collinsdictionary.com/dictionary/english/nationality>.

⁴⁷ Oxford Dictionaries Online, "Definition for Nationality," May 19, 2012, <http://oxforddictionaries.com/definition/nationality>.

⁴⁸ American Heritage Dictionary of the English Language, (4th ed. 2009); Collins English Dictionary – Complete and Unabridged, 2003.

⁴⁹ The American Heritage Dictionary of the English Language, (4th ed. 2009).

⁵⁰ Laurence M. Friedman, "Introduction: Nationalism, Identity, and Law," *Indiana Law Review* 28, 503 – 505.

⁵¹ David R Hawkins, *Power vs. Force: The Hidden Determinants of Human Behavior*, (Carlsbad, CA: Hay House, 1995): 28-29.

⁵² *Ibid.*

⁵³ *Ibid.*

⁵⁴ David Hodgson, "Responsibility and Good Reasons," *Ohio State Journal of Criminal Law* 2, (2005): 471

⁵⁵ Brenda M. Baker, "In Support of the Good Reasons Approach to Understanding Responsibility," *Ohio State Journal of Criminal Law* 2, (2005): 485; David Hodgson, "Responsibility and Good Reasons," *Ohio State Journal of Criminal Law* 2, (2005): 473- 476.

⁵⁶ David Hodgson, "Responsibility and Good Reasons", *Ohio State Journal of Criminal Law* 2, (2005): 473-477.

⁵⁷ Silvia Kaugia, "Structure of Legal Consciousness," *Juridica International* 1,(1996): 16-20, <http://www.juridicainternational.eu/structure-of-legal-consciousness>.

⁵⁸ David Trubek, "Where the Action is: Critical Legal Studies and Empiricism," *Stanford Law Review* 26, (1984): 575, 592.

⁵⁹ S. E. Merry, "Concepts of Law and Justice among Working Class Americans", *Legal Studies Forum* 9,(1985): 59.

⁶⁰ S. E. Merry, *Getting Justice and Getting Even: Legal Consciousness Among Working Class Americans*, (University of Chicago Press, 1990): 5.

⁶¹ David Cowan, "Legal Consciousness: Some Observations," *Modern Law Review* 67, no. 6 (2004): 928 – 958.

⁶² Silvia Kaugia, "Structure of Legal Consciousness," *Juridica International* 1,(1996): 16-20, <http://www.juridicainternational.eu/structure-of-legal-consciousness>.

⁶³ Ivan Simonovic, "Relative Sovereignty of the Twenty First Century," *Hastings International & Comparative Law Review* 25, (2002): 373-74, 377-78.

⁶⁴ Anti-Counterfeiting Trade Agreement (ACTA) available at:

http://www.mofa.go.jp/policy/economy/i_property/pdfs/acta1105_en.pdf

⁶⁵ David Jolly, "A New Question of Internet Freedom," *New York Times*, February, 5th 2012,

<http://www.nytimes.com/2012/02/06/technology/06iht-acta06.html>; Jennifer Baker, "ACTA Text Hurts Startups, Goes Beyond EU Law, Says FFII," *PC World*,

http://www.pcworld.com/businesscenter/article/227048/acta_text_hurts_startups_goes_beyond_eu_law_says_IDG News; White House petition, "End ACTA and Protect our right to privacy on the Internet," White

House.gov, January 21, 2010, <https://www.whitehouse.gov/petitions#!/petition/end-acta-and-protect-our-right-privacyinternet/MwfvSVNBK>.

⁶⁶ PublicACT Conference, "The Wellington Declaration," April 10, 2010, <http://acta.net.nz/the-wellington-declaration>.

⁶⁷ "Protesters rally across Poland to express anger at international copyright treaty," *The Hamilton Spectator*, January 25, 2012, <http://www.thispec.com/news/world/article/660754---protesters-rally-across-poland-to-express-anger-at-international-copyright-treaty>;

"Poles protest against anti-piracy moves," *ABC News*, January 27, 2012, <http://www.abc.net.au/news/2012-01-26/thousands-protest-across-poland-against-anti-piracy-pact/3795414>.

⁶⁸ Mike Masnick, "European Parliament Official in Charge of ACTA Quits, and Denounces the 'Masquerade' behind ACTA," *Techdirt*, January 26, 2012,

<http://www.techdirt.com/articles/20120126/11014317553/european-parliament-official-charge-acta-quits-denounces-masquerade-behind-acta.shtml>.

⁶⁹ "Protesters Decry ACTA, Want To Stop Ratification," *Republic of Slovenia Government Communication Office*, February, 4, 2012,

http://www.ukom.gov.si/en/media_room/newsletter_slovenia_news/news/article/391/3347/5a08fc90cc1e6e864ad76d7a2d750eda/?tx_ttnews%5Bnewsletter%5D=142.

⁷⁰ Peter Vinthagen Simpson, "Swedes Out in Force to Protest Anti-Piracy Law," *The Local*, February 4, 2012, <http://www.thelocal.se/38920/20120204/>.

⁷¹ "Anti-ACTA day: Angry Crowds Take Action," *RT*, February 8, 2012, <http://www.rt.com/news/acta-protests-rallies-europe-089/>.

⁷² "End ACTA and Protect our right to privacy on the Internet," *White House petition*, January 21, 2012, <https://www.whitehouse.gov/petitions#!/petition/end-acta-and-protect-our-right-privacyinternet/MwfvSVNBK>.

⁷³ Charles Arthur, "ACTA down, but not out, as Europe votes against controversial treaty," *The Guardian*, July 4, 2012, <http://www.guardian.co.uk/technology/2012/jul/04/acta-european-parliament-votes-against>.

⁷⁴ Kirsten Salyer, "American Censorship Day' Makes an Online Statement: The Ticker," *Bloomberg*, November 16, 2011, <http://www.bloomberg.com/news/2011-11-16/-american-censorship-day-makes-an-online-statement-the-ticker.html>;

⁷⁵ Quincy Wright, "Toward a Universal Law for Mankind," *Columbia Law Review* 63, (1963): 435.

⁷⁶ Quincy Wright, "Toward a Universal Law for Mankind," *Columbia Law Review* 63, (1963):435-436.

⁷⁷ Ivan Simonovic, "Relative Sovereignty of the Twenty First Century," *Hastings International & Comparative Law Review* 25, (2002): 379.

⁷⁸ Russell Menyhart, "Changing Identities and Changing Law: Possibilities for a Global Legal Culture," *Indiana Journal Global Legal Studies* 10, (2003): 179-185.

⁷⁹ Avnita Lakhani, "Cross-cultural Implications on the Legal Requirements for Corporate Governance in China and India," in *Law Across Nations: Governance, Policy & Statutes*, eds. Sylvia Mercado Kierkegaard and Patrick Kierkegaard (International Association of IT Lawyers, 2011): 410-428; Jacinta O'Hagan, "Conflict, Convergence, or Co-Existence: The Relevance of Culture in Re-framing World Order," *Transnational Law and Contemporary Problems* 9, (1999): 552-560.

⁸⁰ Lesley A. Jacobs, "Legal Consciousness and its Significance for Law and Society Teaching Outside Canadian Law Schools," *Canadian Journal of Law and Society* 18, no. 1 (2003): 61-63; P. Ewick & S. Silbey, "Conformity, Contestation, and Resistance: An Account of Legal Consciousness," *New England Law Review* 26, (1992): 731-42; M. Nielsen, "Situating Legal Consciousness," *Law & Society Review* 34, (2000): 1059.

⁸¹ Lesley A. Jacobs, "Legal Consciousness and its Significance for Law and Society Teaching Outside Canadian Law Schools," *Canadian Journal of Law and Society* 18, no. 1 (2003): 62; Martha Umphrey, "The Dialogics of Legal Meaning," *Law & Society Review* 33, (1999): 395.