

Global Law and Global Challenges

by Stuart S. Malawer, special editor

AS THE PRACTICE OF LAW BECOMES MORE GLOBAL and public policy analysis increasingly involves transnational issues, an understanding of national, regional, international, and transnational legal systems is now essential. The critical questions of this new decade cannot be addressed effectively without understanding global and legal aspects that affect concerns that scarcely existed before the destruction of the World Trade Center in New York City.

Since September 11, 2001, legal rules address a range of transnational problems, including those created by advances in technology and historic changes in international relations — changes such as the ascendancy of China and petrodollar economies. Many of these rules emerged in the 1980s and 1990s in response to challenges of the post-Cold War era and globalization. But the need for newer rules was turbocharged by unexpected recent challenges, which include terrorism, financial chaos, and environmental and national security.

The emergent rules are drawn from disparate legal systems. This newer body of legal rules is termed “global law,” which can be defined as legal rules drawn from different systems that address a range of cross-border topics. The rules originate from public international law (such as the law of war), specialized international legal systems (such as rules governing the international environment, global trade, and international finance), regional legal systems (governing such areas as human rights), and major national legal systems as they confront transnational problems (such as torture, counterterrorism, and cybersecurity). These rules sometimes establish binding obligations, and other times, something less.

To competently practice law and undertake policy analysis in today’s world of failing states,

transnational terrorism, global pollution, and growing multilateral institutions, practitioners and policy makers must understand the legal contours of this dramatically changing environment. To this end, in summer 2009 George Mason University revamped its annual overseas prelaw program, which previously had focused on traditional issues of British and comparative law. The revised and expanded program now emphasizes critical concerns that have developed over the past decade and offers graduate credits to students in a range of disciplines.*

GMU’s Global Law Program was held for two weeks last summer at New College, Oxford. It was taught primarily by Oxford University law professors, who have submitted articles for this special issue of *Virginia Lawyer*, sponsored by the International Practice Section of the Virginia State Bar.

My article addresses cyber warfare and proposes a multilateral response. Robert Wagstaff (Exeter College) discusses terror detentions under American and British law, while Nicholas Bamforth (Queen’s College), examines two separate sets of European laws that address human rights and involve the European Union and the European Convention on Human Rights. Catherine MacKenzie (Green Templeton College) assesses international environmental law with a focus on climate change and ecology.

Virginia was founded in the seventeenth century as a trading colony by individuals on an international adventure. Today, Virginians need to develop the same global mindset if we are to thrive in a vastly more complicated — but no less exciting — world.

*<http://www.OxfordGlobalLaw.com>