

# AN INTRODUCTION: HARMONY AND DISSONANCE IN INTERNATIONAL LAW

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The American Society of International Law's 105th Annual Meeting, which featured over 170 speakers and was attended by a record-breaking number of participants, provided an opportunity to consider the dual trends of seamlessness and segmentation in international law and institutions. When we first met to develop the meeting's theme statement in the spring of 2010, we hoped to create an opportunity for experts from a range of countries, professions, and perspectives to discuss the implications of these trends across a wide range of issue areas. In particular, we were careful to avoid branding "harmony" as necessarily positive, or "dissonance" as necessarily negative. Rather, as in music, both modalities can serve important purposes in different contexts. We were mindful of the challenge of creating space for a nuanced conversation within the confines of 90-minute sessions, but we were aided in this task by a team of superb program committee members, and supremely thoughtful and well-qualified speakers, moderators, discussants, panelists, and participants. Some of that conversation is recorded in the pages that follow.

One overarching theme that emerged from the discussions is the undeniable connection between process and product; that is, the ways in which international legal norms crystallize (through bilateral or multilateral negotiations, advisory opinions, international and transnational litigation, and other actions by state and some nonstate actors) and inevitably influence the resulting content of those norms. The implications of this connection percolated through sessions on topics ranging from the International Criminal Court and the crime of aggression; the International Court of Justice's Kosovo Advisory Opinion; the ethical and practical challenges for corporate lawyers advising clients on human rights; elections and ethnic violence; shaping a legal environment for counter-insurgency; fact-finding in international criminal law; extraterritorial regulation; labor migration; European sovereign debt; the Israeli response to the Gaza flotilla; liability for catastrophic environmental damage; geoengineering climate change; prosecuting pirates; and trade and investment in Africa. It also influenced discussions of regional and international arrangements in a range of comparative panels devoted to regional and international courts, tribunals, and organizations, as well as discussions of harmony and dissonance in international legal theory. We were also honored to host keynote presentations by Nobel Laureate Amartya Sen, Assistant Secretary of State Michael Posner, and OECD Secretary-General Angel Gurría, as well as a plenary panel with eminent international judges and arbitrators and two lunchtime dialogues with former ASIL President Lucy Reed and ICC Deputy Prosecutor Fatou Bensouda, respectively. We hosted our first-ever joint panel with the American Constitution Society and the Federalist Society on espionage and the First Amendment after Wikileaks. And we closed the meeting with a special gathering of U.S. government general counsels outside of "L," who also engage daily with complex international law issues. Finally, as the meeting approached, the United States decided to take military action to prevent further atrocities by the Qaddafi regime in Libya. We were privileged to host a late-breaking discussion on revolution and intervention

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in the Middle East and North Africa with key figures from the MENA region, the legal academy, and the U.S. government.

The Annual Meeting and the *Proceedings* would not be possible without the creativity, ingenuity, expertise, and hard work of the program committee members: Kristen Boon, Christiane Bourloyannis-Vrailas, Harlan Cohen, Omar Dajani, Jennifer Daskal, John Fellas, Chiara Giorgetti, Richard Jackson, Rebecca Jenkin, Larry Johnson, Erasmo A. Lara Cabrera, Blanca Montejo, Michael Newton, Christiana Ochoa, Jeffrey Pryce, Regan Ralph, Hina Shamsi, Ingrid Wuerth, Lionel Yee, and Nassib Ziadé. We are also indebted to ASIL Executive Director Betsy Andersen for her wise counsel in putting together the program, as well as her tireless behind-the-scenes efforts on all aspects of the Annual Meeting, and to ASIL President David Caron for taking the time to help ensure that this Annual Meeting would meet and exceed the expectations of members in terms of its depth, breadth, and substantive engagement with key issues of concern to ASIL's diverse constituencies. Additionally, the success of the meeting depends on the efforts and commitment of ASIL staff members, including especially Veronica Onorevole and Sheila Ward. Finally, we owe a debt of gratitude to Cara Smith, Managing Editor of this volume of the *Proceedings*.