

The 2005 Otto L. Walter Lecture
April 20, 2005

Summary of its contribution to legal education

Lecturer: Dean Anne-Marie Slaughter

- Dean, Woodrow Wilson School of Public and International Affairs, Princeton University (2002- present)
- J. Sinclair Armstrong Professor of International, Foreign & Comparative Law, Harvard Law School (1994-2002)
- President, American Society of International Law (2002-2004)

Dean Slaughter, an outstanding and recognized authority on international and comparative law, was the lecturer. Her lecture dealt with the shaping of American law through its interaction with international law and the laws of other countries, and gave considerable attention to the development of the international legal order. Her comments focused not only on the international interaction of judges in their opinions, but also on the developing networks of legislators and executive officials around the world.

Dean Slaughter described the construction of a “global legal system” in order to address more effectively problems that transcend national borders such as terrorism. By strengthening and expanding a global network of justice ministers and judges, she argued, the world community can further the objective of creating “an integrated global legal system” for detaining and prosecuting terrorist suspects.

Building on her recent book, *A New World Order* (which describes how nations around the world have been organizing formal and informal networks of government officials to deal with various international problems), Dean Slaughter explained a process called “constitutional cross-fertilization” whereby judges from different legal systems “acknowledge the possibility of learning from one another based on relative experience with a particular set of issues and on the quality of reasoning in specific decisions.” She noted that, in recent years, decisions rendered by international courts and tribunals have been considered as “persuasive authority” by legal experts around the world, and have been used by courts in different countries to support particular decisions. Dean Slaughter gave several examples of decisions issued by the U.S Supreme Court that mentioned rulings from international bodies – such as the European Court of Human Rights – to add additional support to the reasoning and conclusions of the U.S. Supreme Court. (Some of these recent decisions include landmark cases such as *Atkins v. Virginia*, *Grutter v. Bollinger*, and *Lawrence and Garner v. Texas*.) She presented reasons why greater cooperative efforts at the judicial levels of government will lead to a “global ‘community of courts,’ in the sense that judges around the world interact with one another aware of their membership and participation in a common enterprise – regardless of their actual status as state, national, regional, or international judges.”

Dean Slaughter also described a process whereby legislators from different countries have cooperated with each other in reaching decisions concerning the apprehension and prosecution of terrorist suspects. She said that, while the Executive branch has been leading efforts to craft the legal framework for fighting terrorism, “Congress is actually calling many of the shots in foreign affairs” by holding extensive public hearings. “Legislators could work within networks designed not to play a direct role in international organizations, but rather to enhance the ability of legislators working within national parliaments to monitor and regulate the activity of executive-branch officials engaged in international work.”

Dean Slaughter argued that a deeper and more wide-ranging level of judicial, legislative, and executive cooperation was required to confront threats posed by non-state actors such as terrorists. She further argued that every nation needed to build a wide range of networks of government officials – which she believes are currently underappreciated and underutilized – in combating terrorism. She said that more cooperation among regulators across a variety of jurisdictions could help to cut funding of terrorist activities, and to prevent future terrorist attacks.

Dean Slaughter warned of the implications of describing the campaign against terrorism as a war, which, she believes, has eroded civil liberties by concentrating too much power in the Executive branch. She pointed out that the U.S. Supreme Court recently made clear that the war powers in the U.S Constitution do not give the Executive a blank check to invade civil liberties. “This [war] is the wrong frame of reference,” she said in criticizing government officials who described the nation as being on a war footing. “The words you choose set the whole framework in the debate.”

In summary, Dean Slaughter’s lecture was a particularly valuable contribution to legal education.