11-1-2007

Foreword

Christina Clemm

Follow this and additional works at: https://digital.sandiego.edu/ilj

Part of the International Law Commons

Recommended Citation

Christina Clemm, Foreword, 9 San Diego Int'l L.J. 1 (2007)
Available at: https://digital.sandiego.edu/ilj/vol9/iss1/2
Foreword

CHRISTINA CLEMM*

In August 2007, stock markets around the world suffered significant losses upon news of the ill-effects the subprime mortgage crisis\(^1\) was having on the economy.\(^2\) While the Dow Jones Industrial Index and the S&P 500 had reached their highest levels in history\(^3\) and some correction was inevitable, no one could have anticipated the events that would take

---


place in days after August 9th and 10th. It may seem surprising that such a distinctly national problem—within one segment of the U.S. economy—would have such a large effect on global financial markets. However, because many of the world’s banks and a number of large mutual and hedge funds had invested in credit derivatives that were subject to a higher level of risk than previously anticipated, the crisis reached far beyond United States border. The result of increased foreclosures was that the market for such securities became highly illiquid as banks could not pass the debt on through to the market. Additionally, the financial loses reported by lenders caused a panic of those holding the securitized debt.

Response to the crisis was similarly worldwide. Central banks from across the globe pumped over $300 billion into the world’s banking systems to calm worries over the credit crisis. Further, although regulators were aware of the problems posed by the credit crunch, the need for legislation became clearer after the August crisis. Domestically, commentators and politicians suggested amending the bankruptcy code to provide relief from the effects of mortgage foreclosures. Abroad,

France called for regulation tightening the rules regarding when banks could invest in securities located in the United States.\(^9\) Further, the European Commission conducted investigations about the role rating agencies played in the crisis.\(^10\) Many others in the United States also called for regulation of those providing credit ratings.\(^11\)

Luckily, after the announcement by the Federal Reserve Board on August 17th that it would cut the discount rate by fifty basis points, markets across the world were recovered.\(^12\) However, the crisis is far from over. On November 15, 2007, the Federal Reserve made a $47.25 billion injection of funds into the banking system, its largest temporary injection since the September 11th attacks.\(^13\) While solving the financial catastrophe posed by the subprime mortgage crisis is an imperative problem that the countries of the world must tackle, it is but one example of the problems that face the international community.

Regulation of global networks, human rights concerns, the effect of violence on children, and the regulatory authority of bodies like the WTO are also issues that no country can ignore. These topics in particular are highlighted in the 9th volume of the San Diego International Law Journal. However, like the subprime mortgage crisis, they are but a few of the important international issues facing the world.

---


In his article *Public International Law and the WTO: A Reckoning of Legal Positivism and Neoliberalism*, S.G. Sreejith addresses a fundamental epistemological question in international law; is international law "truly law?" He posits that legal positivists would not have changed their view about the validity of international law because of the creation of the World Trade Organization (WTO). However, he asserts that the forces of neoliberalism have given the WTO its power and that the social order not the apparatuses of the WTO have conferred upon international law a "thickened normativity." Additionally, he argues that neoliberalism is positivism in another manifestation.

Chris Connolly also addresses an important international law issue in his article *Seeking the Final Court of Justice: The European Court of Human Rights and Accountability for State Violence in Northern Ireland*. As the title suggests, Connolly examines the British government's use of force in the North Ireland conflict and its response in assuring a "procedural right to life" in wake of the European Court of Human Right's *Jordan, et al* decisions.

Additionally in the issue, Susan Minamizono discusses regulations aimed at curbing the violent behavior of children by limiting their access to sexually suggestive and violent material, particularly video games. In her comment *Japanese Prefectural Scapegoats in the Constitutional Landscape: Protecting Children from Violent Video Games in the Name of "Public Welfare,"* she compares the Constitutional jurisprudence of the United States and Japan and discusses how the culture and legal framework of each country has shaped its free speech law.

Lastly, Fred Pfister discusses the net neutrality debate and proposes a solution to the issue in his comment *Net Neutrality: An International Policy for the U.S.* Pfister offers criticism of various proposals including an interconnection proposal and tiered services regulation but proposes a global solution that incorporates their benefits. His recommendation is presented within the framework of the Telecommunications Act of 1996, the Controlling the Assault of Non-Solicited Pornography and Marketing (CAN-SPAM) Act of 2003, the WTO General Agreement on Trade in Services, and European Community Council Directives 2002/21 and 97/33.

The articles presented in this issue discuss but a few of the many international problems facing the world today. We hope by bringing these problems to light to encourage critical analysis of the matters underlying them. Further, we hope through subsequent issues to highlight the international law concerns that are most deserving of scholarly attention.