

HAGUE ACADEMY OF INTERNATIONAL LAW

ACADÉMIE DE DROIT INTERNATIONAL DE LA HAYE

# WORLD'S LEADING JURISTS DISCUSS "LAW'S BORDERS" IN THE HAGUE

YLS Joined with  
the Carnegie Corporation  
to Host the 2012  
Global Constitutionalism Seminar

*by Kathleen Colello*

*Photographs by Rob Ris, Max Koot Studios*







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For fifteen years, this distinguished gathering of the world's leading jurists had been held each fall on the Yale Law School campus. But in August 2012, the Global Constitutionalism Seminar convened an ocean away, at the Peace Palace in The Hague, Netherlands.

The seminar was invited to The Hague to join Carnegie Corporation of New York as it celebrated its centennial through honoring related Carnegie institutions. Endowed by Andrew Carnegie to forward his vision for international peace and justice, the Peace Palace is the home of the International Court of Justice (ICJ), the Permanent Court of Arbitration, and an international law library, as well as The Hague Academy of International Law.

The Global Constitutionalism Seminar is sponsored by the Gruber Program for Global Justice and Women's Rights at Yale Law School (see box nearby). The Gruber Program also supports The Gruber Distinguished Lectures in Global Justice and Women's Rights and The Gruber Fellowships in Global Justice and Women's Rights.

"Peter and Patricia Gruber, like Andrew Carnegie before them, have a vision for the globe that aspires to a world more fair, humane, and more just than that which we currently inhabit," said Arthur Liman Professor of Law Judith Resnik, who chaired this year's seminar.

Participants in the 2012 Global Constitutional Seminar came from many courts, including the ICJ, the International

Criminal Court, the International Criminal Tribunal for the former Yugoslavia, the European Court of Justice, the European Court of Human Rights, and several national courts from around the world. U.S. Supreme Court Justices Stephen Breyer and Elena Kagan attended, as did Yale Law School Dean Robert Post '77 and many members of the Yale Law faculty, guests of the Carnegie Corporation and Gruber Program, and scholars focused on war, peace, and justice.

"We were able to expand the seminar to include many of the international judges whose home is actually in The Hague," said Dean Post, "and holding it in the Peace Palace enabled us to discuss the law of war where it is interpreted and made. It was very exciting."

The theme of the seminar was "Law's Borders," and topics included targeting, detention, and punishment; constitutional pluralism and constitutional conflicts; (dis)uniformity of rights in federations and unions; international investment law and arbitration amidst global change; and the sustainability of transnational, national, and international courts.

"One of the issues discussed was the boundary between humanitarian law and the law of war," said Dean Post, "and the ways in which national and international legal systems or transnational systems intersect with each other and play off of each other. A fundamental question was how we conceive the idea of law itself in a world in which boundaries are increasingly blurred."

Other highlights of the four-day event included a visit to the International Criminal Court, a presentation on "Andrew Carnegie's Legacy in an Age of Insecurity," a lecture on the history of the Peace Palace by Arthur Eyffinger, and an exchange with European Commission President José Manuel Barroso on "Europe's Challenges."

"We come away at the end of each seminar not only hugely grateful for the intellectual feast that we spend the rest of the year digesting, but also re-committed to doing everything we can to keep the justice flame luminous," said Justice Rosalie Abella of the Supreme Court of Canada.

The Global Constitutionalism Seminar was founded in 1996 to promote international exchanges about complex issues of constitutional law. It affords an extraordinary opportunity for confidential and frank discussion among attendees, many of whom return year after year to probe pressing and difficult legal topics.

"It's an ongoing conversation, and that means it's a deep conversation," said Dean Post. "Its greatest contribution is to allow judges to trust each other enough to put their real concerns on the table and to talk to each other as if the discussion matters."

Future seminars will return to the Yale Law School campus, where students can interact with the judges, and faculty members can participate without having to spend time away from their classes. But for a one-time event, said the Dean, "having it in The Hague was spectacular." Y

Peace Palace photograph from Representing Justice by Professors Judith Resnik and Dennis Curtis

### **MORE ABOUT THE GRUBER PROGRAM FOR GLOBAL JUSTICE AND WOMEN'S RIGHTS**

In addition to supporting the annual Global Constitutionalism Seminar, the Gruber Program for Global Justice and Women's Rights at Yale Law School funds the Gruber Global Justice and Women's Rights Fellowships and the Gruber Distinguished Lectures in Global Justice and Women's Rights (see pages 2–3).

Philanthropists Patricia and Peter Gruber established the Gruber Foundation at Yale in May 2011.

"Global justice, women's rights, and the Global Constitutionalism Seminar are three critically important components of our mission at the Law School, and we are exceedingly grateful to the Grubers for their generous gift," said Dean Robert Post '77.

The Gruber Foundation at Yale also supports two University initiatives: the Gruber Prizes and the Young Scientists Awards; and the Gruber Science Fellowship Program at Yale.

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