

CCIL 29TH ANNUAL CONFERENCE, 26-28 OCTOBER 2000, OTTAWA

KEYNOTE ADDRESS – NEW DIMENSIONS OF INTERNATIONAL RESPONSIBILITY: STATE, CORPORATE AND INDIVIDUAL

1. SPEAKER: Professor James Crawford, Cambridge University
2. OVERVIEW: Professor Crawford reviewed the changing nature of rights and responsibilities in the international sphere and how, over time it moved from an emphasis on state's rights and responsibility to individual rights and, most recently, individual responsibilities. He considered whether or not the next step would be organizational rights and responsibilities at the international level.
3. DISCUSSION: International law is a system that operates only with the consent of those subject to it – until recently states. International law has traditionally approached the question of rights and responsibilities in a fragmented way; that is separating rights from responsibilities. The domain of international responsibility, until recent times, has remained solely that of the state.

This must be seen from a historical perspective. When the Treaty of Westphalia was signed in 1648 treaties were bilateral. The first multilateral treaty was not entered into until 1850. States continued even until the 20th century to be interested in bilateral, reciprocal arrangements benefiting state entities, not organizations or individuals. The treaty establishing the League of Nations can be seen as embodying a set of rules for collective security protecting state, not individual, interests. The statute of the International Court of Justice (ICJ) from the 1940's reflected the concept of states' rights and responsibilities. Only states were the 'holders of rights' and entitled to appear before the ICJ to seek recognition and enforcement of those rights. The emphasis continued to be on states' rights rather than the rights of individuals in the international sphere.

The Barcelona Tractor case however raised the issue of interests other than those of the state and whether interests existed which states could not look after. The International Law Commission's (ILC) work on a Draft Code of State Responsibility began from a position of bilateral state responsibility but moved beyond this with the concept of general states interests in an effective public order regime. Other states could seek cessation and declaratory relief if the rights of their citizens were violated.

The development of international human rights law over the past 50 years began, as with international law generally, with the establishing of norms and rights. Initially these rights were seen as not 'enforceable' in international fora. Over time however, at the state level, mechanisms developed to hold states accountable for violations of these internationally recognized human rights. This eventually applied to the conduct of a state within its own borders when dealing with its own population. The 'enforcement mechanisms' ranged from human rights