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**From the Selected Works of Alec Stone Sweet**

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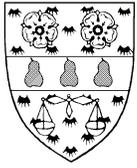
2000

# Polemics: The Concept of Legalization - or - The Concept of Plagiarism

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*Alec Stone Sweet*  
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Oxford, 21 November 2000

Professor Robert Keohane, Duke University  
Professor Andrew Moravcsik, Harvard University  
Professor Anne-Marie Slaughter, Harvard University

I have only just read your jointly authored article, "The Concept of Legalization," published in the special issue of *International Organization*. I decided to do so after several friends and colleagues indicated that my work appears therein, without attribution, despite my decision to leave your project.

Your article presents a continuum that captures three dimensions of "legalization": degree of precision, degree of obligation, and degree of delegation. In 1994, I published an article - "What is a Supranational Constitution: An Essay in International Relations Theory (Review of Politics) - that generated a virtually identical continuum, on which I situated various regime forms. My continuum was constituted by three dimensions, identified as follows:

- clarity (the degree of normative precision);
- formalization (the degree of hierarchical structuration of rules, through the presence of metanorms, what Hart called secondary rules);
- and institutionalization (the degree of organizational capacity to make further rules, to monitor compliance, and to punish non-compliance, what you label delegation).

The continuum defines the dependent variable of future research.

I gave copies of this article to Profs. Moravcsik and Slaughter both before and after it was published. More important, parts of the article - *and a copy of the continuum* - were circulated to fellow members of your group at the time of its first workshop at Harvard, in Fall 1995. (You may remember that the directors obliged participants to submit a piece on the relationship of international law to international politics, and this was my contribution to the discussion.) Much more could be said, but both of our continua locate balance of power arrangements and the EC at the two poles, with other examples spread in between.

I do not consider my article to be particularly profound; and my discussion of the legalization of regime forms is only 4-5 pages (if the climax of the piece). Nonetheless your article plagiarises me. Minimally, you could have dropped a footnote (e.g.: see also Stone 1994), or caricatured my arguments and dismissed them. As it is, I (and not only I) consider your article to be intellectual theft.

I call your attention to these issues not so much to raise a claim, but to preempt any future misconceptions concerning a collaborative research project that I convened more than three years ago. In the introduction to the book, *The Institutionalization of Europe* (Oxford University Press, 2001), my co-authors and I conceptualize variance in the institutionalization of supranational arenas of governance in terms of relative degrees of "precision," "formality," and "authority" (bindingness) of rules and procedures (informal norms to law). You may be able to see the similarities. I am writing to make it as clear as possible that my *Institutionalization* project owes nothing to yours. Nonetheless, I will place a citation to your article in the introduction and in the conclusion.

I have copied my co-authors of the introduction and conclusion.

Alec Stone Sweet

cc Professors Fligstein, Sandholtz, Caporaso

From Caporaso and Stone Sweet, "Institutional Logics of European Integration," Stone Sweet, Fligstein, and Sandholtz, eds., *The Institutionalization of Europe* (Oxford, 2001), p. 226:

"Rules vary by degrees of precision, formality, and bindingness – also called authority" [3].

Footnote 3: Some of these points had already been made in light of certain conceptual problems that have afflicted international regime theory (see Kratochwil 1989: chs. 1-2; Stone 1994). Stone (1994) elaborated a continuum on which the rules constituting various regime forms could be situated, with the EC occupying one extreme. The continuum captures three dimensions: degree of normative precision, degree of formality, and degree of organizational capacity to monitor compliance and punish non-compliance. In a special issue of *International Organization* appearing just as this book is going to press, a research project on the legalization of international politics adopts, as an analytical heuristic device, a continuum that largely reproduces these same elements (Goldstein *et al.* 2000).