



ABILA Newsletter

Issue No. 85

ILA—Founded 1873

January 2010

CALENDAR OF EVENTS

ILA AND ABILA EVENTS

October 7, 2009—March 17, 2010 —
ILA British Branch Seminars, London

February 12-13, 2010 —
International Law Weekend — Midwest, Denver

August 15-20, 2010 —
De iure Humanitatis: Peace, Justice and International Law, ILA Biennial Conference, The Hague

October 21-23, 2010 —
International Law Weekend, New York

February 25-26, 2011 —
International Law Weekend — West, Los Angeles

FOR INFORMATION ABOUT ILA, ABILA AND CO-SPONSORED EVENTS, PLEASE SEE:
www.ila-americanbranch.org/ABILA_ILA_Events.aspx

PRESIDENT'S MESSAGE

Happy New Year to all! The International Law Association and its American Branch look forward to a productive year on several fronts. First, as noted in a feature article in this issue, many Branch committees are undertaking significant work. Please volunteer to help with ongoing committee projects, or propose new endeavors. Committees provide significant opportunities for influencing policy concerning international law matters, and a collaborative committee process inevitably strengthens the final report or other work product. Both early career professionals and experienced international lawyers will find many opportunities to participate in the work of the Branch committees. For more information, see the American Branch committee section of the Branch's website (http://www.ila-americanbranch.org/Branch_Comm.aspx), contact the appropriate committee chair, or contact the Branch's Co-Directors of Studies, Professors Valerie Epps (vepps@

REGIONAL INTERNATIONAL LAW WEEKEND IN DENVER, FEBRUARY 12-13, 2010

The American Branch of the International Law Association is holding an International Law Weekend at the University of Denver's Sturm College of Law, February 12-13, 2010. The theme of the weekend is "Sustainable Development, Corporate Governance, and International Law." Conference panelists include members of academia, corporate general counsel and executives, government officials, and representatives of public interest organizations. Panels will address "International Law and Sustainability," "Sustainable Mining and International Law," "International Issues for Sustainable Energy," "Sprawl in the USA and Sustainability: A Critical Historic and International Perspective," and "Corporate Governance." Featured speakers include: Daniel B. Magraw, Jr., President of the Center for International Environmental Law; David Caron, the C. William Maxeiner Distinguished Professor of Law at UC Berkeley School of Law and President-Elect of the American Society of International Law; and John C. Dernbach, Distinguished Professor of Law at Widener University School of Law.

The conference is being co-sponsored by the International Legal Studies Program and the Ved Nanda Center for International Law, the International Law Society, and the *International Law Journal*, all at the University of Denver's Sturm College of Law. The International Law Section of the Colorado Bar Association is also co-sponsoring this regional International Law Weekend. This is the first in a new Midwest regional series, modeled on the International Law Weekend - West. The second ILW - Midwest will be held at Case Western University School of Law in Cleveland, Ohio, in early 2012. ILW - West will continue to be held in odd-numbered years, while ILW - Midwest will be held in even-numbered years.

For more information about the Denver conference, contact Keri Grundstein at kgrundstein@law.du.edu, and for the conference agenda, see <http://www.ila-americanbranch.org/IntlLawWkndMidwest.aspx>.

LORD MANCE ELECTED NEW CHAIRMAN OF ILA EXECUTIVE COUNCIL



Jonathan Lord Mance

The International Law Association's Executive Council, at its meeting in London on November 21, 2009, elected Jonathan Lord Mance, a Justice of the United Kingdom Supreme Court, to a four-year term as Chairman of the Executive Council. Lord Mance has been active in international law organizations. In the ILA, he has served as an adviser to the ILA Study Group on the Practice and Procedure of International Courts and Tribunals, which has produced the Burgh House Principles on the Independence of the International Judiciary, and which is currently working on draft Principles concerning the Professional Conduct of Counsel and Advisers in Proceedings before International Courts and Tribunals. Lord Mance was also the first chairman of the Council of Europe's Consultative Council of European Judges (CCJE), and he continues to represent the United Kingdom on the CCJE. In

ABILA COMMITTEES

REPORT FROM THE CO-DIRECTORS OF STUDIES

By Professors Valerie Epps and Philip Moremen

During the last year, the ABILA has implemented a system of mandates and time limits for its committees, following the decision of the Executive Committee last spring. By now, almost all committees have developed mandates, which include a range of activities, from preparing a report to developing a panel for International Law Weekend (ILW). Below are highlights of many of our committees' mandates and activities. ABILA members who are interested in participating in a committee's work are invited to contact the committee chair. More information about the American Branch's committees is available at <http://www.ila-americanbranch.org/BranchComm.aspx>.

New American Branch Representatives on ILA Committees and Study Groups

The following members of the American Branch were elected to positions with International Law Association Committees and Study Groups at the November 21, 2009, meeting of the ILA Executive Council in London:

Colter Lathrop, President of Sovereign Geographic, Inc. was named Rapporteur of the Committee on Baselines under the International Law of the Sea, replacing Dr. Alex Oude Elferink of the Dutch Branch.

Daniel Magraw, President of the Center for International Environmental Law, was elected as a member of the ILA Study Group on the Role of Soft Law Instruments in International Investment Law.

Dr. Barbara Woodward, who has a Ph.D. in International Law from Queen Mary, University of London, Department of Law and who is currently a Visiting Research Fellow at the British Institute of International and Comparative Law, will join the ILA Committee on Non-State Actors. Dr. Woodward will also be working on issues related to non-state actors with a subcommittee of the American Branch's Committee on United Nations Law.

Professor Christopher Borgen of St. John's University School of Law, Professor Margaret McGuiness of the University of Missouri School of Law, and Professor Brad Roth of

Commercial Dispute Resolution:
**Co-Chairs, Louise Teitz (teitz@rwu.edu)
and David Stewart (stewartd@georgetown.edu)**

The Committee presented a panel on "Implementing Transparency Norms in International Commercial Arbitration" at ILW 2009. The Co-Chairs continue to be involved in the ABILA/ASIL joint project on Transparency in Commercial Arbitration. Three-year mandate.

International Disability Law:
**Chair, Michael Waterstone
(michael.waterstone@ls.edu)**

The Committee is exploring whether there is a research or other role for the Committee to play in consideration of potential U.S. signing and ratification of the UN Convention on the Rights of Persons with Disabilities. Two-year mandate.

International Criminal Court:
**Chair, Jennifer Trahan
(jennifer.trahan@worldnet.att.net)**

Jennifer Trahan has recently become Chair and proposes that the Committee develop position papers on various topics, potentially relating to the upcoming ICC review conference and the developing position of the U.S. administration regarding the Rome Statute.

Extraterritorial Jurisdiction:
**Chair, Anibal Sabater
(asabater@fulbright.com)**

The Committee sponsored two panels at ILW 2009: "Implementation of Transparency Norms in International Commercial Arbitration" and "Federalism Issues in the Implementation of Private International Law Treaties." In addition, the Committee intends to develop one or more projects concerning recent developments in the area, including the proposed amendments to the FAA, the recent Hague Convention on jurisdiction and enforcement of judgments, and the recent free trade agreements signed by the U.S. Two-year mandate.

Arms Control and Disarmament:
Chair, John H. Kim (jhk789@aol.com)

The Committee is re-organizing under a new Chair, John H. Kim.

Feminism and International Law:
**Co-Chairs, Janie Chuang
(jchuang@wcl.american.edu) and
Christina Ochoa (cochoa@indiana.edu)**

The Committee intends to focus on women's participation in economic life, particularly as a leading indicator of a country's economic well-being. Topics to be studied and reported on will include the role of micro-financing in achieving development goals and the ways in which women's greater participation in economic life can address the root causes of violence against women and exploitative labor migration. Two-year mandate.

Formation of Customary International Law:
**Chair, Fernando Teson
(fteson@law.fsu.edu)**

The Chair and the Committee are developing proposals for written projects.

International Humanitarian Law:
Chair, David Kaye (kaye@law.ucla.edu)

The Committee is developing advocacy projects with the International Human Rights Law Committee. The two Committees recently submitted a joint letter to the State Department's

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SCENES FROM INTERNATIONAL LAW WEEKEND 2009



Panel on Transnational Norms

ABILA COMMITTEES (Cont'd)

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Legal Adviser regarding the Committees' views on pending international law topics within their areas of expertise. One-year mandate.

Intergovernmental Settlement of Disputes:

Chair, Pieter Bekker
(pbekker@crowell.com)

The Committee will undertake a study of issues of evidence and proof of facts in inter-state disputes, which will collect and distill the prevailing rules and best practices of evidence from the law and practice of international courts and tribunals. The goal of the study is to develop a set of rules, the "ABILA Rules on the Taking of Evidence in Inter-State Disputes." Two-year mandate.

International Environmental Law:

Co-Chairs, Gunther Handl
(ghandl@law.tulane.edu) and **Wil Burns** (williamcgburns@comcast.net)

The Committee sponsored a panel at ILW 2009, "Climate Change Regulation and International Lawmaking." The Committee is developing a project focused on the legal implications of carbon capture and sequestration (CCS) technologies. The Committee envisions that this project will result in a major report, and perhaps will result in a book. In addition, the Committee organizes the annual International Wildlife Law Conference in conjunction with the Stetson University College of Law.

The Committee is producing an edited book on climate change geoengineering law, policy and ethics for Cambridge University Press. It is contemplated that the book will be a complement to a recently released Cambridge publication that focuses on geoengineering science (Geo-Engineering Climate Change). The lead editor on the publication will be Dr. Wil Burns, Co-Chair of the Committee. The book will be published in early 2011. Two-year mandate.

International Human Rights:
Co-Chairs, Christina Cerna
(ccerna@oas.org) and **Scott Horton**
(shorton99@aol.com)

The Committee sponsored a panel at ILW 2009, "New Developments in International Human Rights Law." The Committee pro-

poses that its members write on one or both of the ILA International Human Rights Committee projects, the impact of IHRL on ICJ judgments and/or the response to the U.S. Supreme Court in the *Medellin* case. Please contact Christina Cerna regarding these projects, for which there is a three-year mandate.

In the past year, the Committee has also sponsored two *amicus* briefs, in *Freund v. Société Nationale des Chemins de Fer Français* and *Iraq v. Beatty*. The Committee is also developing advocacy projects with the International Humanitarian Law Committee, such as their recent letter to the State Department's Legal Adviser regarding the Committees' views on pending international law topics. Please contact Scott Horton regarding *amicus* briefs and advocacy projects. There is a one-year mandate for these activities.

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SCENES FROM INTERNATIONAL LAW WEEKEND 2009 (Cont'd)



Keynote Speaker
ASIL President Lucy Reed

GROTIUS EXHIBITION AT YALE LAW SCHOOL

Yale Law School's Lillian Goldman Law Library marked the 400th anniversary of Hugo Grotius's "Mare Liberum" in an exhibition organized by former ABILA President and current Honorary Vice President Edward Gordon. The exhibition, "Freedom of the Seas, 1609: Grotius and the Emergence of International Law," was on display through mid-January 2010 in the Yale Law School. Installments of and information about the exhibition remain available on the Yale Law Library Rare Books

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PRESIDENT'S MESSAGE

(Continued from page 1)

suffolk.edu) and Phil Moremen
(moremeph@shu.edu).

Second, we plan an active year of events. Stories in this issue of the *ABILA Newsletter* highlight the regional American Branch International Law Weekend in Denver (February 12-13) and the annual International Law Weekend in New York, to be held in conjunction with the 89th Annual Meeting of the American Branch (October 21-23). In addition, as noted in a story in this issue, plans are underway for the 2016 biennial meeting of the full International Law Association, which will be held in the United States. We welcome your help with advance planning for the 2016 conference, as well as your proposals for panels for the annual International Law Weekend and for our regional International Law Weekends. For more information about American Branch and ILA events, see <http://www.ila-americanbranch.org/Events.aspx>.

Third, the London-based International Law Association, of which the American Branch is an important part, will have energetic new leadership this year. A story in this issue highlights the recent election of Jonathan Lord Mance as Chair of the ILA's Executive Council. The ILA's biennial conferences are always a focal point for the development of major committee projects and proposals, and I hope many of you will be able to attend the August 15-20, 2010, meeting in The Hague (see www.ila2010.org). Another story in this *Newsletter* notes the election of several American Branch members to ILA committees and study groups. For a complete list of Branch members who serve on ILA committees, see http://www.ila-americanbranch.org/London_Comm.aspx, and for more information about these committees, see <http://www.ila-hq.org/en/committees/>.

I urge you to renew your membership in the American Branch; if you are not already a member, please join! Your membership entitles you to participate in the work of Branch committees, to gain free admission to International Law Weekend in New York and to regional ILWs, and to receive several free publications. These publications include the biennial *ILA Report*, the biennial American Branch *Proceedings*, the *International Practitioner's Notebook* (to be distributed electronically to individual members), the *ABILA Newsletter*, and the *ILA Newsletter* (both also distributed electronically). Your member-

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In October 2009, the Executive Committee of the American Branch of the International Law Association and the Board of Directors of the International Law Students Association (ILSA) approved a memorandum of understanding (MOU) that will promote joint efforts between the two organizations. For many years, ILSA has provided essential administrative support for International Law Weekend (ILW) and the American Branch's annual meeting, which are held each October in New York. As ILW has grown in size and attendance, ILSA's work has expanded. The MOU memorializes the responsibilities of each organization in planning ILW and recognizes both organizations as co-presenters of this conference.

The MOU also contemplates discussions about possible future areas of ABILA-ILSA cooperation, including a job fair and regional International Law Weekends. Other areas of potential joint collaboration include an on-line blog, which might involve ILSA, foreign international law student associations, the American Branch, and other branches of the ILA. Progress has already been made with respect to internship and other law student opportunities with ABILA committees. For information about law student proposals to assist ABILA committees with research projects and internship opportunities, see <http://www.ilsa.org/resources/jobs/abila.php> and <http://www.ilsa.org/resources/jobs/abilanotices.php>.

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International Judicial Integrity:
Chair, Lawrence Newman
(lwn@bakernet.com)

The Committee is planning a conference on corruption in international courts, co-sponsored with the Association of the Bar of the City of New York. The Committee is committed to sponsoring a panel at ILW on a regular basis. Two-year mandate.

International Intellectual Property:
Chair, Aaron Fellmeth
(aaron.fellmeth@asu.edu)

The Committee proposes to prepare a report on current U.S. efforts to expand the Patent Cooperation Treaty and the resistance it faces from the international community. The Committee also intends to develop a panel proposal for ILW 2010. Possible topics for a 2010 panel include: (1) IP Enforcement and Alternatives under International Treaty Commitments; and (2) International IP Negotiation Strategies for Developing Countries. Two-year mandate.

Multilateralism and Accountability of International Organizations:
Chair, Karen Hudes Spergel
(kandbspergel@att.net)

The Committee presented an ILW panel in 2009, "Multilateralism or Hegemony? Retrofitting the Bretton Woods Institutions." The Committee is exploring projects related to reform of the international financial system. Two-year mandate.

International Trade Law:
Chair, Patrick McLain
(patrick.mclain@wilmerhale.com)

The International Trade Law Committee presented an ILW panel in 2009, "Trade and Climate Change." The Chair proposes to explore the topic of trade and climate change in a written project. Two-year mandate.

Islamic Law:
Chair, Russell Powell
(rpowell@seattleu.edu)

The Committee intends to compile a bibliography of accessible English language resources on Islamic Law that will provide a useful background or comparative perspective for non-experts. The bibliography will include books, law review articles, and other materials related to Islamic jurisprudence. Two-year mandate.

INTERNATIONAL LAW WEEKEND 2010
OCTOBER 21-23, 2010
PANEL PROPOSALS INVITED

On October 21-23, 2010, the American Branch of the International Law Association and the International Law Students Association will present the annual International Law Weekend (ILW) in New York, in conjunction with the 89th annual meeting of the American Branch. ILW 2010 will bring together hundreds of practitioners, professors, members of the governmental and non-governmental sectors and students. It will feature numerous panels, distinguished speakers, receptions, and the Branch's annual meeting. ILW 2010 will take place at the Association of the Bar of the City of New York on October 21, 2010, and at Fordham University School of Law on October 22 and 23. The overall theme of ILW 2010 is "International Law and Institutions: Advancing Justice, Security and Prosperity."

The global strategic and financial turmoil of the last several years has created unprecedented challenges and opportunities for international law and institutions. ILW 2010 will address the role of international law and institutions in reducing conflict, promoting security, fostering human rights, protecting the environment, facilitating trade and investment, and resolving public and private international disputes. Panels will examine subjects such as the extent to which treaties currently under negotiation or consideration would fur-

ther these objectives, and the operation and effect of international organizations, international courts, and arbitral institutions on the global legal order.

The Co-Chairs of ILW 2010 are Professor Elizabeth Burleson of the University of South Dakota Law School (Elizabeth.Burleson@usd.edu), Hanna Dreifeldt Lainé of the United Nations Office of Legal Affairs (dreifeldt@un.org), Vincent J. Vitkowsky, Partner, Edwards Angell Palmer & Dodge LLP (vvitkowsky@eapdlaw.com), and Jill Schmieder Hereau, Program Coordinator at the International Law Students Association (jshereau@ilsa.org).

The Co-Chairs invite proposals for panels for ILW 2010. Proposals should be submitted by e-mail to each of the Co-Chairs no later than Friday, April 9, 2010. The proposals should be structured for 90-minute panels, and should include a formal title, a brief description of the subjects to be covered (no more than 75 words), and the names, titles, and affiliations of the panel chair and three or four likely speakers. The proposals should also describe the format envisaged (point-counterpoint, roundtable, or other). One of the objectives of ILW 2010 is to promote a dialogue among scholars and practitioners from across the legal spectrum, so whenever possible, panels should include presentations of divergent views.

BOOK NOTES

International and Transactional Criminal Law

David Luban, Julie O'Sullivan and David Stewart
WoltersKluwer (Aspen), 2009
ISBN 9780735562141

For those teaching, practicing or interested in the rapidly expanding field of international criminal law, WoltersKluwer (Aspen) has published a new casebook by David Luban, Julie O'Sullivan, and ABILA Vice President David Stewart (all of Georgetown Law), entitled *International and Transnational Criminal Law*. Designed for use at the J.D. or LL.M. levels, it adopts a comprehensive approach, including introductory chapters on public international law and criminal justice policy (to make the topic accessible even to first-year law students) as well as in-depth discussions of such transnational crimes as money laundering, corruption, organized crime, and terrorism (for those wanting more detailed treatment). The book contains substantial coverage of the International Criminal Court and other international tribunals (including the "core crimes" of genocide, crimes against humanity and war crimes) as well as the jurisdictional and procedural issues crucial to transnational practice (such as extradition, mutual legal assistance and immunity). The authors bring varied perspectives to the subject: Luban is a renowned expert in jurisprudence and ethics, O'Sullivan is a former federal prosecutor and expert in white collar crime, and Stewart spent his career as a public international lawyer. For professors, a comprehensive *Teacher's Manual* will be available shortly, and a companion website provides links to key documents as well as periodic updates for both the casebook and the *Teacher's Manual*.

Law of the Sea in a Nutshell, 2d Ed.

Louis B. Sohn, Kristen Gustafson Juras, John E. Noyes, and Erik Franckx
West, 2010
ISBN 978-0-31416-9-419

ABILA President John Noyes, Professor Kristen Gustafson Juras of the University of Montana School of Law, and Professor Erik Franckx of Vrije Universiteit Brussel have coauthored a second edition of *Law of the Sea in a Nutshell*. Prof. Juras and the

late Professor Louis B. Sohn wrote the first edition, which was published in 1984. The book summarizes and analyzes current principles and rules governing the international law of the sea and includes important historical perspective. Topics include: the rights and responsibilities of states in various zones of the oceans; fisheries and non-living resources; vessel nationality and jurisdiction over vessels; maritime terrorism and security; maritime boundary delimitation and baselines; the marine environment; and dispute settlement mechanisms. These topics are explored by examining the widely accepted 1982 Convention on the Law of the Sea and other relevant treaties, along with legislation, international and national cases, and other state practice.

The American Challenge: Terrorists, Detainees, Treaties, and Torture – Responses to the Rule of Law, 2001-2008

Carl Q. Christol
University Press of America, 2009
ISBN 978-0-7618-4344-3

Carl Q. Christol, Distinguished Emeritus Professor of International Law and Political Science at the University of Southern California and a former ABILA committee chair, has written *The American Challenge*, which focuses on a wide range of U.S. constitutional, military law, and legislative sources. It analyzes them in light of rule of law concepts and concerns expressed by the Torture Committee of the 1984 Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

The United States, International Law, and the Struggle against Terrorism

Thomas Michael McDonnell
Routledge, 2010
ISBN 978-0-415-48898-3

This book analyzes whether U.S. policies and practices in response to terrorism comply with international law. It highlights such topics as torture, extrajudicial detentions, and the invasions of Afghanistan and Iraq, and reflects on the challenges all modern democracies face when confronting international terrorism.

2010 MEMBERSHIP

Please renew your membership in the American Branch (or join us as a new member!). Membership renewals are due at the start of each calendar year. A membership form is available at www.ila-americanbranch.org.

Annual dues are as follows: new members, \$70.00 per year for each of the first two years; regular members, \$100.00; sustaining members, \$200.00; institutional members (including academic institutions, libraries, and not-for-profit organizations), \$175.00; and corporate members, \$500.00. Student Associates may join the Branch for free.

Here are some benefits of membership:

Support for the activities of the ILA headquarters (see www.ila-hq.org).

Participation in ABILA and ILA committees. Student Associates may be observers or have internship opportunities with ABILA committees.

Free receipt of the *ILA Newsletter*, the biennial *ILA Report*, the *ABILA Newsletter*, the *International Practitioner's Notebook* (published as an issue of the *ILSA Journal of International and Comparative Law*), and the biennial American Branch *Proceedings*. Student Associates receive the *ABILA Newsletter* electronically. The *International Practitioner's Notebook* will be available to members electronically through the Branch's website; a hard copy will be sent to institutional and corporate members for free, and to individual members who pay an additional \$15.00.

Free attendance at the annual International Law Weekend in New York, regional ILWs (including the upcoming meeting at the University of Denver on February 12-13, 2010), and selected programs.

Individuals who support the American Branch through a \$5,000.00 payment will be recognized as Patrons of the American Branch of the International Law Association. Patrons are life members of the Branch and do not pay annual dues.

POLICY CONCERNING ABILA COMMITTEE COMMUNICATIONS

At its October 2009 meeting, the Executive Committee of the American Branch of the International Law Association affirmed the following policies related to communications by Chairs or members of American Branch Committees:

- Whenever a Committee Chair or a Committee member proposes to send out a communication listing his or her affiliation as Chair or as a member of that Committee, that proposed communication must first be circulated for approval to the Committee, and a copy of the proposed communication must be sent to the Co-Directors of Studies. Any such proposed communication must relate to the Committee's mandate. Communications that merely relay or enclose a formally adopted Committee report or other project are exempt from this requirement, as are communications solely among a Committee Chair, Committee members, and ABILA officers and Executive Committee members.
- A copy of any final Committee report, project, or communication, including the final version of a communication referred to in paragraph 1 that has been approved by the Committee, must be sent to the Co-Directors of Studies.

ABILA COMMITTEES (Cont'd)

(Continued from page 4)

Law of the Sea:

Chair, George Walker
(gkwalkerint@att.net)

The Law of the Sea Committee is pursuing possible publication of its definitions project. The Committee has developed a resolution regarding U.S. acceptance of the LOS Convention. In the future, the Committee anticipates working closely with the ILA Baselines Committee and expects projects to develop out of that collaboration. The Committee also plans to organize panel discussions on law of the sea issues, as it did at ILW 2009 with a panel on "The Law of the Sea and the Russian Arctic-Economic and Security Perspectives." Four-year mandate.

Space Law:

Co-Chairs, Jonathan Galloway
(jfg1939@gmail.com) and **Henry Hertzfeld** (hrh@gwu.edu)

The Committee presented an ILW panel in 2009, "Satellite Collisions, Space Debris and the Liability Convention." The Co-Chairs propose to develop a written project on lunar property rights. Two-year mandate.

Teaching International Law:

Chair, Mark Wojcik (7wojcik@jmls.edu)

The Committee has developed a newsletter and is developing an electronic Committee Membership Directory. The Committee will be participating in a meeting at the 2010 AALS conference organized by the Teaching International Law Committee of the ASIL and will also meet with Latin American colleagues at the fifth Global Legal Skills Conference in February, in Mexico. The Committee intends to develop two workshops on teaching and on legal research. Two-year mandate.

United Nations Law:

Chair, John Carey
(jncarey@westnet.com)

The Committee presented an ILW panel in 2009, "The Contribution of the International Law Commission to Transnational Governance." In addition, the Committee recently completed a report on the United States and the United Nations Human Rights Council. The Chair proposes to provide periodic alerts to the ABILA and ILA about crucial moments in UN legal development. The Committee also intends to work with Roy Lee of Columbia to organize off-the-record discussions among legal advisors and Committee members on specific issues. A sub-committee was recently formed on Non-State Actors to serve as a liaison with the ILA Committee on Non-State Actors. Four-year mandate.

Use of Force:

Chair, James Kraska
(james.kraska@usnwc.edu)

The Use of Force Committee will investigate the need for a cyberspace security treaty and, if it is determined that such a treaty is necessary, the Committee will develop materials outlining the suggested terms of the treaty. Two-year mandate.

In addition, the following committees regularly sponsor panels at International Law Weekend:

International Commercial Law: Chair, Houston Putnam Lowry
(HPLowry@BrownWelsh.com) and
International Monetary Law: Chair, Jim Lynch (jim@sobel-cpa.com)

AMERICAN BRANCH SEEKS MEMBERS' INVOLVEMENT IN PLANNING 2016 ILA BIENNIAL CONFERENCE

Several members of the American Branch have provided valuable input about where in the United States to hold the International Law Association's 2016 biennial conference. The Branch would like to hear from any additional members who would be willing to help organize this conference, and particularly from members with connections to law firms in major cities who are willing to help lead organization and fund-raising efforts. The Branch needs to make a final decision about a host city for the 2016 biennial conference within the next few months.

The 2016 biennial conference will be held in a U.S. city at some point during the months of April through August. The biennial conference is a four-day meeting bringing together leading international lawyers, international law academics, government officials, and leaders of international organizations from around the world. ILA 2016 will feature programs and working sessions of the international committees of the ILA, as well as numerous other panels and plenary sessions. In 2008, the Brazilian Branch hosted the seventy-third biennial conference in Rio de Janeiro, and the Dutch Branch is planning the 2010 biennial conference, to be held in The Hague August 15-20. Future locations include Bulgaria (2012) and Japan (2014). The United States last hosted an ILA biennial conference in 1972, in New York City.

Please pass along your ideas concerning the location of the 2016 biennial conference, as well as any other ideas about planning for this event, to John Noyes (President@ila-americanbranch.org) or Charles Siegal (Charles.Siegal@mto.com).

*New American Branch
Representatives on ILA
Committees and Study Groups
(Cont'd)*

(Continued from page 2)

the Wayne State University Department of Political Science will all be members of the new ILA Committee on Recognition/Non-recognition in International Law.

The American Branch extends its congratulations to these individuals. For a complete list of all American Branch representatives on ILA Committees and Study Groups, see <http://www.ila-americanbranch.org/LondonComm.aspx>.

Sir Ian Brownlie Dies at Age 77

By Rachel Smith



Sir Ian Brownlie

Sir Ian Brownlie, a member of the International Law Association's Executive Council and a former ILA Director of Studies from 1982-1991, was killed, along with his daughter Rebecca, in a car accident in Egypt while on vacation on January 3, 2010, with his family. He was 77. His wife, Lady Brownlie, was injured in the same accident.

Knighthood for his services to public international law, Sir Ian Brownlie was a renowned international lawyer and professor. He appeared before numerous courts, both international and national, representing and advising states. He advised President Jimmy Carter on the Iranian hostages crisis in 1979, and represented Nicaragua against the United States in 1986 at the International Court of Justice, and Amnesty International at the extradition trial of Chilean coup-leader Augusto Pinochet in the House of Lords in 1999.

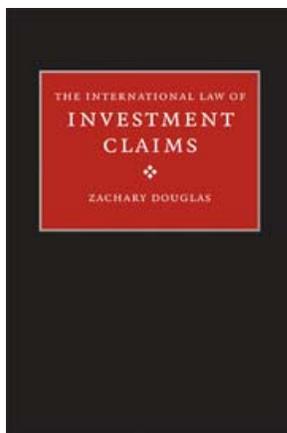
Brownlie published many seminal works in public international law, including the classic text, *Principles of Public International Law*, now in its seventh edition. Brownlie was Chichele Professor of Public International Law at the University of Oxford and a Distinguished Fellow of the All Souls College.

For a complete obituary see the article in the Guardian at <http://www.guardian.co.uk/theguardian/2010/jan/11/sir-ian-brownlie-obituary>. For a record of Sir Brownlie's many accomplishments, see Blackstone Chambers website at <http://www.blackstonechambers.com/people/barristers/sir-ian-brownlie-qq.html>.

BOOK REVIEW

The International Law of Investment Claims

Zachary Douglas
Cambridge University Press, 2009
ISBN: 978-0-521-85567-9; hardback



Reviewed by Katherine Duglin

In *The International Law of Investment Claims*, Zachary Douglas presents a thoughtful and detailed analysis of the unique principles that exist in investment treaty arbitration. Douglas observes that while states have imposed detailed regulatory schemes on a domestic level to govern foreign investments, they have only adopted broad principles on an international level to govern the resolution of investment treaty disputes. In the absence of a "centralized" dispute resolution body to interpret these broad principles, states and investors must rely on *ad hoc* adjudication before investment treaty tribunals to resolve disputes, which he sees as inevitably leading to inconsistent interpretations of treaty provisions and inconsistent outcomes. Douglas argues that investment treaty law "must aspire to the higher value of coherency rather than the mere absence of a direct contradiction between the statements of law revealed in different arbitral awards" within this decentralized system of adjudication (p. xxiv).

In order to catalyze movement towards increased "coherency," Douglas proposes 54 "rules" that cover "the juridical foundations of investment treaty arbitration, the jurisdiction of the tribunal, the admissibility of claims and the laws applicable to different aspects of investment disputes" (p. xxiv). In doing so, Douglas provides a detailed analysis of the prior decisions of international courts, international arbitral tribunals, and national courts, and offers constructive cri-

tique of the decisions and reasoning in these cases. These detailed case examples also provide a practical context for Douglas's own arguments by illustrating how the application of his "rules" might have led to better or more consistent outcomes in these cases.

In his opening section on "[t]he juridical foundations of investment treaty arbitration," Douglas establishes the theoretical foundation that he uses to build his "rules" upon. He argues that investment treaty law cannot be characterized as either public or private international law, but rather is a unique area of law that contains influences from each. Since contracting states enter into investment treaties that grant rights directly to individual investors, investment treaty law has rejected the principle of diplomatic protection that had earlier developed under public international law. Rather than requiring the individual investor to rely on his own state to espouse his claim against a host state, investment treaty law recognizes private persons as actors within the international legal system. As a result, investors are able to bring their own claims on their own behalf according to the dispute resolution method established in the investment treaty.

Douglas then proceeds to organize his analysis and the remaining "rules" as follows: Section 2 analyzes the sources of law applicable to various issues that may arise within an investment claim, which include, *inter alia*, the investment treaty, private international law, and national law; Section 3 classifies the "preliminary issues," namely jurisdiction and admissibility, which govern the tribunal's ability to decide the merits of a investment claim; Section 4 discusses the host state's consent to investment treaty arbitration, including common conditions precedent to that consent; Section 5 analyzes the requirements for the establishment of a protected investment; Sections 6 through 8 evaluate jurisdiction *ratione materiae*, *ratione personae*, and *ratione temporis*, respectively; Section 9 evaluates the investor's ability to use a most-favored-nation clause to expand the tribunal's jurisdiction; and Sections 10 through 13 discuss issues of admissibility with regard to contractual forum selection clauses, shareholder claims, issues regarding the "legal and beneficial ownership of the investment," and the denial of benefits, respectively.

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BOOK REVIEW

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In addition to his comprehensive analysis of the issues relating to “juridical foundations,” applicable laws, jurisdiction, and admissibility, Douglas’s 54 “rules” hope to contribute to increasing coherency in investment treaty arbitration, and will most certainly facilitate a constructive dialogue among both academics and practitioners. These “rules,” along with the resulting dialogue within the international law community, may further Douglas’s objective of promoting the principles of fairness, justice, and the sustainability of the developing system of investment treaty arbitration (p. xxiii). Therefore, *The International Law of Investment Claims* is an important book for those who study and practice investment treaty law, as well as for those who are interested in learning more about this field.

Should you wish to submit a book review, please contact Lucy Martinez at lucy.martinez@freshfields.com.

GROTIUS EXHIBITION AT YALE LAW SCHOOL (Cont’d)

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Blog: <http://blogs.law.yale.edu/blogs/rarebooks/archive/tags/freedom+of+the+Seas+1609+exhibit/default.aspx>.

In the early 1600’s, the Dutch East India

Company commissioned the young prodigy Hugo Grotius to prepare a legal argument rejecting Spanish and Portuguese claims of dominion over the oceans around their overseas empires. His essay, “Mare Liberum” (“On the Freedom of the Seas”) touched off a “Battle of the Books” with John Selden and set the foundations of the international law regime governing the common interest in shared resources. The exhibition documented the contributions of Grotius, Selden, and other European jurists, with books from the Rare Book Collection of the Lillian Goldman Law Library, Yale’s Beinecke Rare Book & Manuscript Library, the Harvard Law School Library, and the private collection of Edward Gordon. The exhibition was curated by Edward Gordon (Yale Law School ’63) and Mike Widener, Yale’s Rare Book Librarian.

LORD MANCE ELECTED NEW CHAIRMAN OF ILA EXECUTIVE COUNCIL

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In addition, the European Law Academy named him as a trustee, and he is a member of the UN-supported Judicial Integrity Group.

Lord Mance was appointed to the Court of Appeal of England and Wales in 1999, having been a judge of the Queen’s Bench Division from 1993.

The ILA Executive Council committee that proposed Lord Mance was composed of representatives from a range of ILA branches, including Bangladesh, Brazil, Canada, Germany, the United Kingdom, and the United States. This committee received

significant input from ILA branches, considered fourteen candidates, and enthusiastically recommended Lord Mance as the new Chairman of the Executive Council.

SCENES FROM INTERNATIONAL LAW WEEKEND 2009 (Cont’d)



ABILA Annual Luncheon

PRESIDENT’S MESSAGE

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ship is also a prerequisite to membership on any ILA (London) committee or study group. A significant portion of your dues furthers the important international work of the London headquarters of the ILA. Please consider supporting the American Branch as a Sustaining Member or a Patron (life member). To renew your membership or to join the Branch, see <http://www.ila-americanbranch.org/Membership.aspx>.

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