



ILA—Founded 1873

Issue No. 93
Fall (October) 2014

Newsletter

ILA REGIONAL MEETING IN LISBON *Sept. 11-12, 2014*

On September 11 and 12, 2014, the Portuguese Branch of the International Law Association hosted an ILA Regional Conference on “Towards a Universal Justice? Putting International Courts and Jurisdictions into Perspective.”

In addition to the Opening and Closing Sessions, there were seven substantive sessions. Topics ranged from “The Growing Role of International Courts and Jurisdictions: the Permanent Court of International Justice, the International Court of Justice, and Beyond” (with Dr. Miguel Serpa Soares, UN Under-Secretary General for Legal Affairs and Legal Counsel) to “European and Other Regional Courts of Human Rights” (with Justice Paulo Pinto de Albuquerque of the European Court of Human Rights as well as Professor Jose Pina Delgado of the Institute of Social and Juridical Science of Cape Verde).

ABILA’s own **Peter Trooboff** was the speaker for the session entitled “Domestic Courts as International Jurisdictions? The Limits of Personal Jurisdiction of Domestic Courts Regarding Damages for Violations of International Law.”

Each of the sessions left time for the presentation of papers submitted by young scholars. Thus, younger scholars were able to both hear the established Speakers and, most important, to learn of the ILA and its work.

The ILA recently established a Scholarship Fund to help younger scholars unable to afford attendance at ILA conferences. This Fund allowed eight young people to attend the Lisbon conference. At the opening ses-

(Continued on page 4)

ILW 2014 BEGINS SOON! **Register Now**

ILW 2014
October 23-25, 2014

Fordham University School of
Law, New York City

REGISTER NOW at
<http://www.ila-americanbranch.org/>

ILW 2014 will take place October 23-25 in New York City. The opening panel and reception will be held, as usual, at the Association of the Bar of the City of New York, 42 West 44th Street in Manhattan. On Friday and Saturday, two full days of panel discussions and other events will take place at Fordham University School of Law, 150 West 62nd Street, New York.

The ILW 2014 theme is “International Law in a Time of Chaos.” The schedule of events, and instructions for on-line registration, can be found at <http://www.ila-americanbranch.org/>.

Attendance is expected to include upwards of 1,000 students, academics, practitioners, lawyers involved in non-governmental organizations, diplomats and consular officers, and officials and staff of the United Nations and other international organizations.

The keynote address will be given by **Prof. Lori Damrosch**, who recently assumed her duties as President of the American Society of International Law.

A number of panels have been designated eligible for CLE credits.

Attendance at ILW is free for students and for all members of the American Branch, the International Law Students Association, the American Society of International Law, the Association of the Bar of the City of New York, and the ABA’s Section of International Law, as well as staff of the United Nations and the Permanent Missions of UN Members. For all others, the fee is \$175, payable at the time of registration.

Separate registration is necessary for the opening reception as well as the Friday night reception at the Mission of South Africa to the United Nations, 333 West 38th Street.

A meeting of the ABILA membership is scheduled for 3:00 on Saturday afternoon, to which all are invited.

The Executive Committee of the American Branch will convene at 12:30 p.m. on Saturday to conduct its business, including hearing a report on the fall meeting of the ILA’s Executive Council. There will also be a brief meeting of the Board of Directors of the new corporation.

The corporation will eventually take the place of ABILA’s current unincorporated association.

VISIT THE AMERICAN BRANCH
WEBSITE: WWW.ILA-AMERICANBRANCH.ORG

In Memoriam

Cecil J. Olmstead

1920-2014



Longtime ABILA member **Cecil Jay Olmstead** died June 25, 2014 near his home in Westport, Connecticut, at the age of 92.

Cecil had a long and distinguished career as an international lawyer, serving for many years as of counsel with Steptoe & Johnson as well as Associate Reporter on the ALI First Restatement of Foreign Relations Law of the United States and Advisor on the Second Restatement. He was also a dedicated member of our Branch and played an important part in building it up.

Cecil began his work for the American Branch by serving as Honorary Secretary/Treasurer from 1954-1963. He was elected President at the May 1963 Annual Meeting, succeeding Pieter Kooiman, and served as President until succeeded in 1973 by Professor John Hazard of Columbia Law School.

In 1972 Cecil raised the funds for and arranged for the American Branch to host the 1972 ILA Biennial in New York. The celebratory gathering at the Biennial was at Pocantico Hills, the Rockefeller family estate in Tarrytown, New York.

As President of the Biennial's host branch, he then became President of the ILA itself and served until the following Biennial in 1974. The following year he was elected a Vice-Chairman of the ILA Executive Council, which consists of the elected delegates of all the Branches and some Co-opted Members. He served Lord Wilberforce diligently as a Vice-Chairman until 1986.

During that time, Cecil helped repair the ILA's ailing finances by putting on a major conference in London on extraterritoriality with, of course, a registration fee. The book resulting from that conference is still available from the ILA and could certainly be topical in today's concerns.

(Continued on page 4)

CALENDAR

ABILA, ILA, and Other Events

ASIL Midyear: The American Society of International Law Midyear Meeting and Research Forum will take place in Chicago, IL, November 6-8, 2014. For additional information and registration, go to <http://www.asil.org/event/midyear-meeting-research-forum>.

Biennial Research Conference: The 2014 Conference, on the topic Reassessing International Economic Law and Development: New Challenges for Law and Policy, will take place at the University of Denver, Sturm College of Law, November 14-15.

Human Rights Education: American University's Washington College of Law will host the Fifth International Conference on Human Rights Education entitled "Advancing Universal Human Rights Culture," December 4-6, 2014 in Washington, D.C.

ILA-ASIL Asia-Pacific Research Forum: The Chinese (Taiwan) Society of International Law will hold the ILA-ASIL Asia-Pacific Research Forum on May 25-26, 2015 in Taipei. The theme is: "Integrating the Asia-Pacific: Why International Law Matters?"

The Forum will provide an opportunity for academics, practitioners, and policy-makers to examine a wide range of international and transnational law issues confronting the Asia-Pacific.

The call for papers is available at: <http://www.csil.org.tw/2015-research-forum/>. Proposals should be submitted by January 20, 2015 to ila@nccu.edu.tw.

For information about ILA, ABILA and co-sponsored events, please see:

www.ila-americanbranch.org/ABILA_ILA_Events.aspx

News of Members

The International Law Section of the California State Bar has named Professor **Robert E. Lutz**, Southwestern Law School, as the Warren M. Christopher International Lawyer of the Year. This award is presented annually by the International Law Section to a California lawyer for outstanding achievement within the field of public or private International Law.

Professor **Hari Osofsky**, University of Minnesota Law School, has been named the inaugural faculty director of the University of Minnesota's Energy Transition Lab. The Lab will work in partnership with leaders in business, public policy, and the community to advance needed energy transition.

Prof. **Osofsky** has also been made director of the University of Minnesota Law School's Joint Degree Program in Law, Science & Technology. Her book, *Climate Change Litigation: Regulatory Pathways to Cleaner Energy?* with Jacqueline Peel (University of Melbourne,) is forthcoming from Cambridge University Press later this year.

Catherine Amirfar, a Vice President of the Branch, recently assumed her duties as Counselor on International Law in the Office of the Legal Adviser at the US Department of State.

American Branch members **J. Ashley Roach** and **John Noyes** contributed chapters to *Peaceful Order in the World's Oceans* (Michael W. Lodge and Myron Nordquist eds., Brill, 2014). **Roach's** chapter is entitled "Marine Scientific Research in the Area," and **Noyes's** chapter is "Memorializing UNCLOS III, Interpreting the Law of the Sea Convention, and the Virginia Commentary." **Ash Roach** also recently published "Today's Customary International Law of the Sea," 45 *Ocean Development & International Law* 239 (2014). The same issue of that journal contains an article by James Kraska, Chair of the American Branch's Use of Force Committee, entitled "Governance of Ice-Covered Areas: Rule Construction in the Arctic Ocean" (at

(Continued on page 6)

NEWS OF BRANCH AND ILA COMMITTEES

For information about the several dozen ILA and ABILA committees and their ongoing projects, see <http://www.ila-hq.org/en/committees> and http://www.ila-americanbranch.org/Branch_Comm.aspx.

We welcome news of ABILA committees and members. It's easy to let us know: simply email your news to abilanews@gmail.com.

American Branch Committees

A list of all current ABILA committees is available at http://www.ila-americanbranch.org/Branch_Comm.aspx.

Following the ILA Biennial in April, **Prof. Aaron Fellmeth** of Arizona State University was named as Co-Director of Studies of the American Branch. **Prof. Andrea Bjorklund** (McGill University) continues as a Co-Director. For information about membership on Branch committees, contact **Prof. Bjorklund** (andrea.bjorklund@mcgill.ca) and **Prof. Fellmeth** (Aaron.Fellmeth@asu.edu).

Andrea Harrison, ICRC General Counsel, has become chair of the International Humanitarian Law Committee.

Esme Grant (U.S. International Council on Disabilities) has agreed to chair the Branch's Disability Law Committee.

The International Environmental Law Committee will present a panel on climate geoengineering at ILW 2014.

The International Human Rights Law Committee will also present a panel at ILW 2014, on "Hate Speech and the Human Right to Freedom of Expression." A subcommittee of the International Human Rights Committee put in a stakeholder submission for the UN Human Rights Council's 2015 Universal Periodic Review of US compliance with international human rights law. The subcommittee members were **Julie Cavanaugh-Bill**, **Christina Cerna**, **Aaron Fellmeth**, and **Gwynne Skinner**.

The Law of the Sea Committee will present an ILW panel on law of the sea baselines

issues, following recent reports at the International Law Association. Issues related to change of baselines due to rising or lowering sea levels will also be discussed.

The American Branch is grateful to **Prof. Greg Young** for his many years of service in leading the Bilateral Investment Treaty and Development Committee. Greg is stepping down as Co-Chair; **Roberto Aguirre Luzi** continues as Chair of the Committee.

ILA Committees

A list of all ILA committees, including their members, is available at <http://www.ila-hq.org/en/committees/index.cfm>.

On September 29, the Max Planck Institute Luxembourg for International, European and Regulatory Procedural Law hosted a conference on the Protection of Privacy in the Aftermath of the Recent Judgments of the CJEU — eData Advertising, Digital Rights Ireland and Google Spain, together with a meeting of the newly established ILA Committee on Protection of Privacy in Private International and Procedural Law. American Branch committee members **David Stewart** and **Cristina Mariottini** attended.

Nominations to ILA Committees

The American Branch has recently nominated the following members to the ILA committees indicated. These nominations will be considered by the ILA Executive Council on October 17.

ILA Committee on the Use of Force: **Professor Jennifer Trahan** (New York University), a member of the Branch's Executive Committee.

ILA Committee on International Law and Sea Level Rise: **Captain J. Ashley Roach** (USN Ret.) (member) and **Prof. Anita M. Halvorssen** (University of Denver) (alternate member).

ILA Committee on Feminism and International Law: **Lucy Greenwood** (Fulbright & Jaworski) and **Isabel Fernández de la Cuesta** (King & Spalding)

ILA Committee on the Role of International Law in Sustainable Natural Resource Management for Development: **Prof. Cymie Payne** (Rutgers/Camden).

ILA Committee on Implementation of the Rights of Indigenous Peoples: **Prof. Dalee Sambo Dorough** (Associate Professor of Political Science at the University of Alaska Anchorage), and **Prof. Siegfried Wiessner** (Professor of Law and Director of the LL.M./S.J.D. Program in Intercultural Human Rights at St. Thomas University School of Law).

ILA Committee on Complementarity in International Criminal Law: **Prof. Leila Sadat** (Washington University, St. Louis and Branch Vice-President), and **Prof. Charles Jalloh** (Florida International University).

ILA Committee on Intellectual Property and Private International Law: **Prof. Peter Yu** (Drake University) as an alternate member.

Prof. Leila Sadat has resigned from the ILA Human Rights Committee (contingent on her endorsement for membership in the Committee on Complementarity in International Criminal Law) and **David Stewart** has resigned from the ILA Committee on International Protection of Consumers, in light of their nominations to other ILA committees.

A complete list of ABILA members serving on ILA committees, along with information about the process for nomination to ILA committees, is available at http://www.ila-americanbranch.org/London_Comm.aspx.

For inquiries about membership in ABILA, please contact:

American Branch of the
International Law Association
c/o Seana Cuevas
Munger, Tolles & Olson LLP
355 S. Grand Ave., 35th Fl.
Los Angeles, CA 90071-1560
Seana@ila-americanbranch.org

CECIL J. OLMSTEAD (cont'd)

(Continued from page 2)

In 1986, Cecil succeeded Lord Wilberforce as Chairman of the Executive Council, stepping down after serving only two years of his four-year term to allow the organization to return to its very strong tradition of having a member of the House of Lords be Chairman of the Executive Council.

Subsequently, at a ceremony at the British Embassy in Washington, D.C. in 1990, Cecil was awarded the distinction of Commander of the Most Excellent Order of the British Empire (CBE, Hon.) in recognition of his distinguished service to the United Kingdom, that is, in effect, the International Law Association. At the 2004 ILW, the Branch presented him with its first (and as yet only) Distinguished Service Award.

A final memory: the ILA's 63rd biennial, in Warsaw in 1988, was held just as Poland was beginning to be convulsed by the Solidarity movement. ABILA member Richard Lillich, the well-known human rights and arbitration professor from the University of Virginia School of Law, organized a group to place flowers on a grave of a protestor, which did not endear all of us to the host government.

Cecil proved to be the perfect Chairman of the Executive Council, mediating as necessary and cooperating with the government to allow the ILA members and officers at the Biennial to be interviewed on television with General Jaruzelski, so that the public saw news of our meeting rather than the doings of Solidarity on their TV screens.

His prowess in navigating political waters proved useful again when he managed to resolve some sort of difficulty at the airport that would have prevented him, his dear wife Frances, and I from getting the necessary exit stamps in our passports.

We honor all his contributions to the ILA and ABILA and will miss him dearly.

Submitted by **Cynthia Lichtenstein**, former ABILA President and currently a Vice-Chair of the ILA Executive Council.

ILA LISBON 2014 (cont'd)

(Continued from page 1)

sion, Professor Catherine Kessedjian, President of the French Branch, who had initiated the establishment of the Scholarship Fund, recognized the scholarship winners. In addition, the Conference Program listed both the names and countries of origin of those recipients as well as the names of donors to the Fund, including the American Branch. For a report from one of the attendees, see <http://www.ila-hq.org/en/news/index.cfm/nid/E08C4DEA-20DD-485F-949AE27F7E8C2247>.

For those ABILA members who are unfamiliar with the Association's structure, Regional Conferences differ from the "Biennials." The ILA has a "Biennial" every two years, hosted by a national branch (such as the one ABILA cosponsored this past spring in conjunction with the ASIL Annual Meeting). At the Biennial, ILA Committees present the Reports they have prepared over the prior two years. Moreover, resolutions prepared by

NEW ABILA MEMBERS

Here is a list of new members who have recently joined the ABILA:

Lewis Yelen
Tahmika Jackson
Alexa Cole
Greg Smith
Rana Bahri
Luke A. Sobota
Marcia Denny
Margaret deGuzman
Amy Ginsburg
Prof. Christina P. Skinner
Dr. Peter Yoo Ko
Prof. Jonathan M. Zasloff
Stephan Sonnenberg
David Blanchard
Nastassja Jardim
Dr. Paolo Davide Farah

The ABILA welcomes all of you!

ILA LISBON 2014 (cont'd)

ILA Committees, if voted on favorably at the Working Session of the Committee at the Biennial, are sent forward, after approval by the Conference steering committee, to the ILA Plenary for acceptance or rejection.

Eventually, a Conference volume appears with all the Reports and attached summaries of the discussion at the Working Session of each Committee as well as reports of ILA Study Groups. The Resolutions adopted by each Conference are widely circulated and may well become evidence of emerging customary law. The Conference volume of the 2014 Biennial held in April in Washington is being prepared and will be sent (in electronic form) to all ABILA members.

By contrast, regional conferences hosted by ILA Branches do not involve any ILA Committee sessions or any of the procedures concerning ILA Resolutions. Nevertheless, they are ILA functions and prepare Branches for the arduous work of possibly hosting a Biennial in the future. The Portuguese Branch stressed its own interest in hosting this Conference because of the youth of the Branch, which was founded only in 2003.

Submitted by **Cynthia Lichtenstein**, former ABILA President and current Vice-Chair of the ILA Executive Council.

NEWS OF MEMBERS

Please let us know your news, including announcements of publications, appointments, achievements, success and other noteworthy accomplishments. Simply email abilanews@gmail.com.

BOOK REVIEWS

The Branch has an arrangement with Oxford University Press. If you would like to contribute a book review, please contact **Tiffany Basciano** at tbascial@jhu.edu. Please specify the book you have in mind.

RECENT DEVELOPMENTS

The Crimes Against Humanity Initiative and Recent Developments at the ILC

By **Leila Nadya Sadat** & Douglas J. Pivnichny

(portions previously published on EJIL Talk, IntLaw Grrls and Opinio Juris)

On July 17, the International Law Commission moved the topic of crimes against humanity from its long-term to its active agenda and appointed **Professor Sean D. Murphy** as Special Rapporteur. The Rapporteur's charge is to prepare a First Report, which will begin the process of proposing Draft Articles to the Commission for its approval.

The expectation is that, in due course, the Commission will send a complete set of Draft Articles for use as a convention to the United Nations General Assembly. This was a crucial step in filling a normative gap that has persisted despite the development of international criminal law during the past decades: the absence of a comprehensive global treaty on crimes against humanity.

The Commission's interest in this topic was sparked by the work of the Crimes Against Humanity Initiative, launched by Professor Leila Sadat of Washington University School of Law in 2008. The Initiative set out to study the current state of the law and sociological reality regarding the commission of crimes against humanity and to address the gap in the current international legal framework by drafting a global, comprehensive model convention on crimes against humanity.

Ambitious in scope and conceptual design, the Initiative has been directed by a distinguished Steering Committee and consulted more than 300 experts in the course of elaborating and discussing the Proposed International Convention for the Prevention and Punishment of Crimes Against Humanity (Proposed Convention), published by Cambridge University Press in English, French and Spanish in *Forging a Convention for Crimes Against Humanity* (1st ed., 2011; 2nd ed., 2013). Arabic, Chinese, German and Russian translations are also available.

The Commission first included the topic of crimes against humanity on its long-term

work program in 2013 on the basis of a report prepared by Professor Murphy. The report identified four key elements a new convention should have: a definition adopting Article 7 of the Rome Statute; an obligation to criminalize crimes against humanity with national legislation; robust interstate cooperation procedures; and a clear obligation to prosecute or extradite offenders. (para. 8). The report also emphasized how a new treaty would complement the Rome Statute. (paras. 9- 13).

In autumn 2013, states had an opportunity to comment on the Commission's decision to include the topic in its long-term work program at the General Assembly Sixth Committee. Many states commented favorably on the prospect of a new crimes against humanity convention. Slovenia, for example, stated that "all efforts should be directed at filling this gap." Austria, the Czech Republic, Italy, Norway, Peru, Poland and the United States also welcomed the decision. A major focus was the importance of ensuring a new treaty complements the Rome Statute, as the comments of Malaysia and the United Kingdom, for example, made clear. Some states questioned the need for a new treaty. For example, Iran stated that it "does not seem that ... there is a legal loophole to be filled through the adoption of a new international instrument." Other states questioning the need for a treaty included France, Malaysia, Romania and Russia.

In May 2014, prior to the Commission's July session, the Proposed Convention was the basis of an Experts' Meeting held at the Villa Moynier in Geneva bringing together international justice experts and members of the International Law Commission. Participants discussed the need for a new convention, its potential content and the process of building support amongst states. These discussions are summarized in a Report published on July 17, 2014.

The Need for a New Global Treaty on Crimes Against Humanity

Crimes against humanity occur on nearly every continent. Ongoing examples include Syria and North Korea. Historic examples include the death of an estimated 1.7 to 2.5 million Cambodians, out of a total popula-

tion of 7 million, at the hands of the Khmer Rouge regime. Although these atrocities are often referred to as genocide, proving genocide is often legally difficult.

In Cambodia, for example, the Khmer Rouge generally killed, tortured, starved or worked individuals to death not because of their appurtenance to a particular racial, ethnic, religious or national group – the categories to which the Genocide Convention applies – but because of their political or social class or the fact that they could be identified as intellectuals. While theories have been advanced attempting to apply the Genocide Convention to these atrocities, and it can be argued that some groups were exterminated qua groups, most experts agree that the killing fields of Cambodia largely fall outside the Genocide Convention's scope.

During the 1990s, the wars in the former Yugoslavia and the Rwandan genocide stunned the international community with their ferocity, leading to the establishment of the ad hoc international criminal tribunals for the former Yugoslavia (ICTY) and Rwanda (ICTR). But in endeavoring to draft the Statutes for those tribunals, the international community could not agree upon the definition of crimes against humanity, leading to differing texts in the statutes of the ICTY and the ICTR. In 1994, Cherif Bassiouni underscored this problem in an important but little-noticed article, in which he lamented the "existence of a significant gap in the international normative proscriptive scheme, one which is regrettably met by political decision makers with shocking complacency."

With the adoption of the ICC Statute in 1998, crimes against humanity were finally defined in an international treaty. However, it was a convention that by its own terms

(Continued on page 6)

Can You Help with the Branch Newsletter?

The Newsletter is one of the best ways to communicate with Branch members about events and developments of shared interest. To contribute materials, to assist or to volunteer to be the editor, please email abilanews@gmail.com.

NEWS OF MEMBERS (cont'd)

(Continued from page 2)
page 260).

Anibal Sabater recently co-authored (with J. Kaye) "Why the 'Sunday' case does not impact on international arbitration" in *Global Arbitration Review*, July 22, 2014, available at <http://www.nortonrosefulbright.com/us/knowledge/publications/119676/why-the-sunday-case-does-not-impact-on-international-arbitration>.

He also co-authored (with Mark Stadnyk) "International Arbitration and Energy: How energy disputes shaped international investment dispute resolution," in *Research Handbook on International Energy Law* 199 (2014), and published "Agreeing to and Initiating Arbitration. Survivals and New Arrivals," in *International Arbitration – The Coming of a New Age?*, *ICCA Congress Series* No. 17, page 96 (2013).

American Branch Patrons Program

The American Branch instituted its Patrons (life membership) program in 2009. The Branch is grateful to those who have supported the Branch through this program by making a minimum donation of \$5000.00. For a complete list of Patrons, and for information about becoming a Patron, visit <http://www.ila-americanbranch.org/Patrons.aspx>.

RECRUIT A NEW MEMBER

At the end of 2012, the Branch membership stood at 330, of which 269 were individuals; 24 were organizations or institutions, and 37 were student associates. By contrast, some 1300-1400 people registered for ILW 2012 and 2013.

Every ABILA member is urged to recruit at least one new member between now and ILW 2014. Our goal continues to be to double the number of individual members this year, especially by reaching out to students and recent graduates.

We also welcome new institutional members and students.

RECENT DEVELOPMENTS (cont'd)

did not purport to represent customary law, although it may subsequently become a codification thereof.

Furthermore, the ICC Statute neither requires States Parties to adopt internal legislation on crimes against humanity nor provides a vehicle for inter-state cooperation. According to one recent study, one-third of ICC States Parties lack legislation on crimes against humanity, yet recent research demonstrates that crimes against humanity have been committed and charged in all situations currently under examination before the international criminal tribunals (and the ICC) to date.

Bosnia v. Serbia evidenced the difficulty created by the gaps in state responsibility for the commission of crimes against humanity. Because ICJ jurisdiction was based on a compromissory clause in the Genocide Convention, the Court's discussion – which centered upon whether the atrocities committed in Bosnia constituted genocide – missed the point. Despite the 200,000 deaths, estimated 50,000 rapes, and 2.2 million people forcibly displaced as a result of the Serb ethnic cleansing campaign, genocide was held to have been proven only in the massacre of some 8,000 Muslim men and boys in Srebrenica in July 1995. ([2007] ICJ Rep 43 [297]).

Although the Court recognized that crimes against humanity had been committed, it could not address them. Had a global treaty on crimes against humanity equipped the ICJ with jurisdiction, the Court could have more fully addressed Bosnia's allegations.

The Initiative's Work Bears Fruit

The Proposed Convention was elaborated to inspire and inform the debate on what provisions should be included in a new crimes against humanity convention. Drafted by experts without the constraints of government instructions (although deeply cognizant of political realities), it provides a platform for discussion by states, civil society and the International Law Commission. The Proposed Convention builds upon and complements the ICC Statute by retaining the Rome Statute definition of crimes against humanity while adding robust interstate co-

operation, extradition and mutual legal assistance provisions.

The creative work of the Initiative was to meld provisions of the Rome Statute, other existing international instruments and our own ideas into a single, coherent international convention that firmly establishes both state responsibility and individual criminal responsibility for the commission of crimes against humanity. The Proposed Convention innovates in many respects by bringing prevention into the instrument in a much more explicit way than predecessor instruments, by explicitly providing for state responsibility, by including the possibility of responsibility for the criminal acts of legal persons, by excluding defenses of immunities and statutory limitations, by prohibiting reservations and by establishing a unique institutional mechanism for supervision of the Convention.

It is encouraging to see the International Law Commission move forward with this important topic. We fully expect that the Proposed Convention will be useful to the ILC as a model of what a future convention might look like and to states and NGOs in thinking about how to achieve the best result. It is to be hoped that the Commission's work will be completed in timely fashion, and that it will inspire states to take up the challenge of negotiating and adopting a new convention on crimes against humanity to help complete the Rome Statute system and complete the Nuremberg legacy.

Leila Nadya Sadat, a Vice President of the American Branch, is Henry H. Obersehlp Professor of Law and Israel Treiman Faculty Fellow at Washington Univ. School of Law and Director of the Whitney R. Harris World Law Institute.

Douglas J. Pivnichny, JD, is the Whitney R. Harris World Law Institute Fellow at Washington Univ. School of Law in St. Louis, Missouri, and a masters candidate in International Law at the Graduate Institute of International and Development Studies in Geneva.