

# ILA Newsletter

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## Myres S. McDougal

We must record our sorrow at the passing on 8 May 1998 of Myres S. McDougal, for many years an Honorary Vice President of the American Branch of the International Law Association. Professor McDougal was an innovative and productive scholar, Sterling Professor of International Law at Yale University School of Law. His many students and colleagues will miss him deeply. Long retired and in ill health, he was 91 years old.

At his funeral on 12 May, the ABILA Executive Committee was represented by Professor Ruth Wedgwood, Vice President of the Executive Committee, and by Houston Putnam Lowry, Chairman of the ABILA Committee on International Commercial Law.

Several members of the ABILA Executive Committee were students of Professor McDougal and sent in the following reminiscences:

Karen Alexandra Hudes, Esq.:

Myres McDougal, or Mac as he was referred to fondly by his many fans, will be sorely missed. Mac developed a comprehensive approach to legal theory, referred to as "The New Haven School of Jurisprudence," which is considered by some as the most important jurisprudential statement to

emerge in the post-war period. Mac collaborated for more than forty years with the famous political scientist Harold Lasswell, who founded communications theory, to come up with a comprehensive legal philosophy based upon the tenet that values and social processes form the cornerstone of legal thought.

Drawing upon psychology, legal experience, and communications theory, McDougal and Lasswell developed a policy-oriented approach which required any legal analysis to begin by examining the underlying values on which this analysis rested. This approach called for great intellectual rigor and honesty, qualities which Mac personified. In an effort to get to the bottom of a matter, Mac's writing style could become opaque at times.

Mac was always accessible to his students, however, and the best way to describe his teaching style was "nurturing." Mac didn't foist his opinions upon his students, but was careful to validate whatever viewpoint that person brought to the classroom, recognizing the value of each person's contribution. What Mac couldn't countenance, however, was pompousness or authority parading as truth. To Mac, law was never an absolute, but an expression or reflection of the values and aspirations of the society that spawned it.

Mac was a southern gentleman. He was traditional and courtly. But the most important qualities which I recall were his enormous warmth and generosity. Whenever you would see him, no matter how often, he would express great glee and genuinely want to know how you were doing. One of his students, Joe Fortenberry, was also from Mississippi, and Joe died at forty. I just had lunch with his widow, who remembered visiting Mac in New Haven some time ago. Well, Mac dropped everything and took her out to lunch. That was Mac.

Professor Cynthia Lichtenstein adds: Mac and Harold (Lasswell) and Oscar Schachter were just like that when I took their joint Seminar . . . [T]ruly, with Mac's death, an era ends.

Gary Horlick, Esq., writes:

Mac's kindness, courtesy, and hospitality to new law students were legendary. I would also note his wonderfully

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understated sense of humor, and enjoyment at the paradoxes of life and law. I arrived at Yale as a first year law student having just completed a year long program with Robert Jennings, Derek Bowett et al. at Cambridge, and Mac was marvelous at elucidating, without criticism or any negative implication, the differences in approach between Cambridge and New Haven school (typically modest of Mac).

Finally, as we all know he was always willing to drop whatever he was doing -- undoubtedly more important -- to listen with sympathy and offer guidance to law students' ideas.

## David G. Gill

Another blow to our Executive Committee was struck with the news of the passing of David G. Gill on 27 April 1998. David was long an Honorary Vice President of the Branch and former President of the American Society of International Law. His wise counsel and attention to detail will be sorely missed.

## International Law Weekend 1998

International Law Weekend 1998 will take place 12-14 November at the House of the Association of the Bar of the City of New York, 43 West 44th Street, as usual.

The gala dinner will be on Friday evening, 13 November, at the Harvard Club, 27 West 44th Street beginning with a cocktail reception at 6:00 PM. We feel very fortunate that the Hon. Antonia Chayes, former Undersecretary of the Air Force and a Professor at Harvard University, has accepted our invitation to speak at the dinner. She is currently Director and Senior Adviser, Conflict Management Group, Cambridge, MA.

The luncheon on Saturday, 14 November, will be honored with an address by Professor Thomas M. Franck, President of the American Society of International Law.

The Dinner will cost \$80 per person and the luncheon \$34 per person. Reservations in advance are required in order that tables be set. A reservation form is enclosed with this Newsletter.

The co-sponsoring organizations so far are:

The Association of the Bar of the City of New York, its Council on International Affairs and Committees on Arms Control and International Security Affairs, International Law, International Trade, International Human Rights, Inter-American Affairs, International Environmental Law, Military Affairs and Justice, and Independent States of the Former Soviet Union; the American Society of International

Law; the American Foreign Law Association; the International Law and Practice Section of the American Bar Association; the International Law Students Association and its Journal of International and Comparative Law. Arrangements are being made again for tapes of the recorded panels.

The Program Committee for ILW 1998 Chair is:

Mark S. Zaid, esq., Suite 1175  
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Washington, DC 20005  
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The Vice-Chair is:

Professor Kelly Askin  
University of Notre Dame  
Ctr for Civil & Human Rts  
Notre Dame, IN 46556

Attendance at any part of International Law Weekend remains open to all without registration or other fees than the costs of meals for those who wish to buy them.

For those planning a longer stay in New York, the Maritime Law Association is planning its semi-annual meeting at the House of the Association of the Bar of the City of New York for Friday, 6 November 1998. We have been discussing the possibility of combining the two meetings in 1999.

## International Practitioner's Notebook

The International Law Students Association (ILSA) published and distributed International Practitioners Notebook just before this newsletter went to press. The substantive papers are a selection of the papers presented at International Law Weekend 1997. Nova Southeastern University Law School did the essential work under the direction of J. Lorenzo Level, the editor of the ILSA Journal.

## American Branch Proceedings

The 1998-1999 Proceedings of ABILA have been sent to all 1997 members of the Branch. The 1999-2000 Proceedings will be sent after International Law Weekend 1999 to all 1999 members of the ABILA. They will, as usual, contain copies of the luncheon and dinner speeches at International Law Weekend, and Reports of our active Committees.

The Editor will again be:

Prof. John E. Noyes, Director  
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California Western School of Law  
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## Other Activities of the ABILA

A web-page was established containing our basic documents and reports of our most recent activities. It can be visited at <http://www.ila.ambranch.org>. We are very much indebted to James Beggans, Esq., for his work in establishing the site. Those interested in the work of maintaining the page and updating its contents should contact Mr. Beggans directly:

James P. Beggans, Jr.  
9 Luddington Terrace  
West Orange, NY 07052  
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## Publications

Professor Valerie Epps, Suffolk University School of Law and the ABILA Executive Committee, has written "International Law for Undergraduates," published by Carolina Academic Press. There is a separate 1998 Documentary Supplement. Details are available at [www.cap-press.com](http://www.cap-press.com).

## Dues

Although the time has not yet come for payment of membership dues for 1999, it is not too early to remind members that the time is approaching. The Executive Committee last April affirmed that dues must be paid by 30 April 1999 for 1999 calendar year membership. An announcement will be made in the January 1999 Newsletter urging those wishing to continue their membership in the ILA to pay their 1999 dues promptly. But for the convenience of those wishing to reckon their 1999 dues in the current tax year, 1999 membership forms will be readily available at International Law Weekend and one will be sent a little less promptly to anybody who requests it from the President.

## International Law Association Biennial Conference

The 1998 biennial ILA meeting took place in Taipei 24-30 May 1998. The Taiwan Branch was host. By our Constitution, Branches of the Association are regional, and not necessarily national. Therefore, the Conference in Taiwan does not imply any position with regard to the future governance or territorial integrity of China.

Several of the ABILA participants in the Conference reported on the activities of their committees.

Luke Lee writes of the Committee on Internally Displaced Persons (IDP), of which he is Chairman:

The Committee, at a closed meeting on 26 May 1998, proposed unanimously to continue its work to improve upon the Draft Declaration on Principles of International Law on IDPs, to undertake several additional projects related to IDPs, and to submit the final text of the Draft Declaration for adoption at the 69th Conference of the Association in London in 2000. It noted that this time-table compared favorably with that of its sister Committee (the Committee on Refugee Procedures), which was established earlier, but would likely continue even beyond 2000.

As the only major change in the text provisionally adopted in Helsinki at the 1996 Conference, the Committee proposed the addition of a new provision: "This Declaration will also apply to victims of natural or man-made disasters whenever a responsible State or *de facto* authority fails, for reasons that violate fundamental human rights, to protect and assist those victims." This new provision is a welcome compromise on the issue of the inclusion of "victims of natural or man-made disasters" as "internally displaced persons."

At the working session on 27 May, the presiding officer, Professor Enrique P. Syquia, Vice Chairman of the ILA, who also chaired the Working Session at the Helsinki Conference in 1996, called upon Dr. Luke T. Lee, Chairman of the Committee, and the Co-Rapporteurs, Professors Rainer Hofmann and Yukio Shimada, to present introductory remarks. The Working Session accepted provisionally both the change to the text discussed above and the extension of the Committee's mandate until 2000. These were confirmed by an ILA resolution adopted at the close of the Conference.

The conference elected Hungdah Chiu President of the ILA for the next two years. Professor Chiu is not only President of the Chinese (Taiwan) Branch, but has been for many years also a member of the American Branch.

At the final session, Professor Louis B. Sohn, an Honorary Vice President of the American Branch, gave the terminating speech. It will be reprinted in the Conference volume.

## Other ILA News

The British Branch will be host for the jubilee year 2000. Planning has begun around the starting date of 13 August 2000.

The ILA is preparing a "Home Page" for the world wide web.

New committee rules were approved. They allow for more committee members from the larger Branches of the Association. Under existing rules, only one member and one alternate member are allowed from each Branch, although there are some historical remnants of a looser arrangement. Under the new rules, there would be one member in any committee allowed from any Branch of the Association; two members from Branches with more than 150 members; and three members from Branches with more than 250 members. The American Branch at this moment has more than 250 members, thus we are entitled to three members in any ILA committee.

### ILA Committees

There is yet another way to join an ILA committee. Under the newly approved rules, chairs of ILA committees are empowered to nominate up to three persons to membership in their Committees regardless of Branch affiliation. Each such nomination needs the approval of the ILA Director of Studies. This procedure does not limit the existing authority of each Branch to nominate members to places in ILA committees subject to the approval of the chair of the committee, but provides the chairs with an additional source of expertise in case more than one, two or three members of any particular branch has expertise believed important to the work of the ILA committee. Nor does the new procedure limit the existing arrangement whereby chairs and reporters' positions can be filled by the Director of Studies without regard to Branch memberships.

### ILA Committee Membership Policy

Membership in international committees is based on individual reputation and achievement and does not represent any Branch orthodoxy. Nominations by the American Branch to international committees are normally reserved to members of the Branch who have achieved a reputation sufficient to support the nomination. Active work as Reporter or Chair of a Branch committee is frequently the most persuasive criterion to establish a reputation adequate to support nomination to an international committee.

Several international committees do not have American Branch members or alternates. The easiest way to be nominated to membership in an international committee is to serve as an organizer/chairman or reporter of an American Branch committee dealing with a related subject.

If there is no international committee currently dealing with a significant topic of sufficient interest, the easiest way to form one is to organize an American Branch committee on that topic, produce a report that can be circulated to our counterparts in the parent organization, and then propose an international committee. The successful proposer of an international committee is usually asked to be its organizer, chair or reporter. The process is not difficult.

There is constant turnover in membership of both American Branch and ILA committees. Those members of the Branch interested in participating more actively in the committee work of the organization at any level should contact the chairs of existing committees or the Branch's Director of Studies directly.

A full list of international committees and their American Branch members and alternates is included in this Newsletter.

## American Branch Committee Activities

### ABILA Committee Policy

Branch committee chairs are always looking for reporters and members who want to be active. A current listing of Branch committees and their chairs and reporters is appended to this Newsletter. Any member of the Branch wishing to organize a new Branch committee on any topic within the purview of the ILA should contact the Branch's Director of Studies proposing a topic, a reporter, and a plan for the recruitment of qualified members. The proposer may also take the chair and serve as reporter for a new committee if a membership of the committee that is large enough and diverse enough can be achieved.

For further information, please contact the Branch Director of Studies:

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# Committees of the American Branch, ILA

## ARMS CONTROL AND DISARMAMENT

Chair: Mary Elizabeth Hoinkes, GC  
U.S. Arms Control & Disarmament Agency  
320 21st St., NW  
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## COMMERCIAL ARBITRATION

Co-Chairs:

David W. Rivkin, Esq.  
Debevoise & Plimpton  
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New York, NY 10022

Donald Francis Donovan, Esq.  
Debevoise & Plimpton  
875 Third Avenue  
New York, NY 10022

## COMMERCIAL LAW

Chair: Houston Putnam Lowry, Esq.  
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## ECONOMIC SANCTIONS

Chair: Prof. John F. Murphy  
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## ENVIRONMENT

Chair: Prof. Günther Handl  
John Giffen Weinmann Hall  
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## EXTRADITION AND HUMAN RIGHTS

Chair: Professor Christopher Pyle  
Department of Politics  
Mt. Holyoke College  
S. Hadley, MA 01075-1484

## FORMATION OF RULES OF CUSTOMARY INTERNATIONAL LAW

Chair: Davis R. Robinson, Esq.  
Leboeuf Lamb Leiby & MacRae  
Suite 1200  
1875 Connecticut Ave., NW  
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Fax:(202) 986-8102

## HUMAN RIGHTS

Chair: Charles D. Siegal, Esq.  
Munger, Tolles & Olson  
355 S. Grand Ave., 35th Fl.  
Los Angeles, CA 90071-1560

## INTELLECTUAL PROPERTY

Chair: Professor Karl Jorda  
Franklin Pierce Law Ctr.  
2 White St.  
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## INTERNATIONAL CIVIL AND COMMERCIAL LITIGATION

Chair: Peter Trooboff, Esq.  
Covington & Burling  
P.O. Box 7566  
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Washington, D.C. 20044

## INTERNATIONAL TRADE LAW

Chair: Professor Alan C. Swan  
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University of Miami  
School of Law  
Coral Gables, FL 33124-8087

## ISLAMIC AND INTERNATIONAL LAW

Chair: Professor Frank Vogel  
Harvard Law School  
Cambridge, MA 02138

## LAW OF THE SEA

Chair: Dr. Samuel Pyeatt Menefee  
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Univ. of Virginia School of Law  
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#### **LEGAL ASPECTS OF THE GLOBAL FINANCIAL MARKETS**

Chair: P. Nicholas Kourides, Esq.  
American Express Bank  
World Financial Center  
New York, New York 10285-2311

#### **LEGAL ASPECTS OF INTER-COUNTRY ADOPTION AND PROTECTION OF THE FAMILY**

Chair: Prof. Gail McKnight Beckman  
Georgia State University  
Atlanta, GA 30303-3083

#### **MARITIME NEUTRALITY**

Chair: Professor George K. Walker  
Wake Forest Univ. Law School  
P.O. Box 7206, Reynolds Station  
Winston-Salem, NC 27109-7201

#### **PERMANENT INTERNATIONAL CRIMINAL COURT**

Chair: Prof. Leila Sadat Wexler  
Washington University  
School of Law  
Campus Box 1120  
One Brookings Drive  
St. Louis, MO 63130-4899

#### **REFUGEE LAW**

Chair: Professor Stephen H. Legomsky  
Washington University School of Law  
One Brookings Drive  
St. Louis, Missouri 63130-4899  
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Fax: (314) 935-6493

#### **SPACE LAW**

Chair: Prof. Stephen Gorove  
University of Mississippi  
School of Law  
University, MS 38677

#### **STATE IMMUNITY**

Chair: Prof. Joseph W. Dellapenna  
Villanova University  
School of Law  
299 N. Spring Mill Rd.  
Villanova, PA 19085-1682

#### **TEACHING INTERNATIONAL LAW**

Co-Chairs:

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Suffolk University School of Law  
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# ILA Committees 1998

<i>Committee Name</i>	Chair	Reporter(s)	U.S. Member(s)
Accountability of International Organizations	P.H. Kooijmans (Neth)	Malcolm Shaw (UK) K. Wellens (Neth)	Paul Szasz
Arms Control and Disarmament Law	J. Dahlitz (A)	D. Fleck (G) E. Dahinden (Swi)	John Rhineland Thomas Graham (alt)
Coastal State Jurisdiction Over Marine Pollution	K. Hakapää (Fi)	E. Franckx (B/Lux) E. Molenaar (Neth)(ass't)	John E. Noyes
Cultural Heritage Law	P. J. O'Keefe (NZ)	J.A.R. Nafziger (USA)	
Diplomatic Protection of Persons & Property	R. Bilder (USA)	B. Kokott (G)	David Caron David Bederman (Alt)
Extradition and Human Rights	A.P. Rubin (USA)	J. Dugard (SA) C. Vd Wyngaert (B/Lux)	Christopher Pyle Kenneth Gallant (alt)
Feminism and International Law	C. Chinkin (Aus)	K. Knop (Can) A-R Ketokoski (Fi)	Virginia Leary
Formation of Rules of Customary International Law	M.H. Mendelson (UK)	R. Müllerson (HQ/Est)	Davis Robinson
Inter-Country Adoption and Protection of the Family	To be reorganized		Gail McK. Beckman
Internally Displaced Persons	Luke T. Lee (USA)	R. Hoffman (G) Y. Shimada (J)	J. A.R. Nafziger Mary Ellen Fullerton (alt)
International Civil and Commercial Litigation	P.E. Nygh (A)	C. McLachlan (UK) P. Blanquier-Cirelli (Fr)	Peter Trooboff Friedrich K. Juenger (alt)
International Commercial Arbitration	E. Gaillard (Fr)	P. Bowden (UK) H.A. Grigera Naon (Arg)	Philip D. O'Neill
International Environmental Law	A.E. Boyle (UK) (being formed)	S. McCaffrey (USA)	
International Human Rights Law and Practice	M. Scheinin (Fi)	Iwasawa (J) A. Byrnes (HK)	Thomas M. Franck Hurst Hannum (alt)
International Law in National Courts	G. Guillaume (Fr)	I. Shearer (Aus) T. Stein (G)	S. Schwebel E. Gordon (alt)
International Monetary Law	M. Giovanoli (Swi)	D. Carreau (Fr) T. Treves (It)	Cynthia Lichtenstein Michael Gruson A.W.G. Newburg Ernest Patrikis (alt)
International Securities Regulation	C. Lichtenstein (USA)	K. Hobér (Swed) P. Willis (Aus)	Edward H. Fleishman Barbara J. Green (alt)

<i>Committee Name</i>	Chair	Reporter(s)	U.S. Member(s)
International Trade Law	T. Oppermann (G)	E.-U. Petersmann (Swi) Fred Abbott (USA)	John Jackson Gary N. Horlick (alt) Alan Swan
Islamic and International Law	vacant	vacant	Frank E. Vogel
Maritime Neutrality	D. Schindler (Swi)	W.H. von Heinegg (G)	George K. Walker Alfred P. Rubin (alt)
Refugee Procedure	K. Hailbronner (G)		Ved Nanda S. Legomsky (alt)
Regional Economic Development Law	J. Dutheil de la Rochère (Fr)	R. Ida (J) H. Hartnell (USA) P. Borba Casella (Brz)	Eric Stein Fred Abbott (alt)
Space Law	K.-H. Böckstiegel (G)	M. Williams (Arg)	Carl Q. Christol Stephen Gorove
State Succession	H. Bokor-Szegö (Hn)	B. Stern (Fr)	
Sustainable Development	K. Hossain (B'desh)	N.C. Schrijver (Neth)	David Leebron Oscar Schachter Alan Swan
Water Resources Law	C.B. Bourne (Can)	J. Dellapenna (USA) P. Wouters (UK) (ass't)	A.E. Utton (sec'y)