

ABILA Newsletter

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NEW OFFICERS and OTHER LEADERSHIP

The following officers were newly elected October 27, 2000 in New York during the annual meeting of the American Branch of the International Law Association:

Chairman, Executive Committee:

Alfred P. Rubin (Fletcher School of Law & Diplomacy)

President:

James A.R. Nafziger (Willamette University)

Vice Presidents:

Valerie Epps (Suffolk University)

John Noyes (California Western School of Law)

Honorary Vice Presidents:

P. Nicholas Kourides (New York Bar)

Ved P. Nanda (University of Denver)

Members, Executive Committee:

Kelly Askin (American University)

Philip Moremen (Seton Hall University)

Peter Oppenheimer (United States Dept. of Justice)

Two Vice Presidents, John Murphy (Villanova) and Ruth Wedgwood (Yale), were reelected, as were the Honorary Secretary, Saurabh Shah (New York Bar), and Treasurer, Michael Gruson (New York Bar). All incumbent Honorary Vice Presidents and members of the Executive Committee were also reelected.

Valerie Epps will serve as Chair of the Planning Committee for International Law Weekend 2001; John Murphy as Chair of the Membership Committee; Ruth Wedgwood as New York and Washington-Area Liaison; John Noyes as Editor-in-Chief of the Proceedings; Charles Siegal (California Bar) as Director of Studies; and Houston Putnam Lowry (Connecticut Bar) as Webmaster.

"INTERNATIONAL LAW ODYSSEY 2001: BEYOND THE LIMITS."

The ABILA's next International Law Weekend will take place October 25-27, 2001 at the Association of the Bar of the City of New York. The theme for this year's conference will be: "International Law Odyssey 2001: Beyond the Limits." Panelists will not only explore a wide range of topics but also discuss and question the generally accepted limits of the panel topics.

Professor Valerie Epps of Suffolk University Law School is Chair of the Weekend. Any member who would like to propose a panel for the Weekend 2001 should send the proposed topic to Professor Epps at: vepps@acad.suffolk.edu. She can also be reached by telephone: (617) 573-8562 or by mail at Suffolk University Law School, 120 Tremont Street, Boston, MA 02108. Younger members are particularly encouraged to think about organizing a panel. The ILSA Journal of International and Comparative Law, of the Nova Southeastern University Law Center, will publish papers presented at the Weekend.

INTERNATIONAL LAW WEEKEND—WEST

The American Branch convened International Law Weekend—West on January 26-27, 2001, at Pepperdine University School of Law in Malibu, California. The conference brought together over 100 legal practitioners, academics and others to discuss prominent issues in international law including: China Trade, International Peacekeeping, Hague Judgments Convention, International Intellectual Property, NAFTA Chapter 11, International Sports Law, International Arbitration, Alien Tort Claims Act, International Criminal Law, Post-Seattle Accountability, Ethnic Cleansing, and International Disabilities Law. Papers from the Weekend will be published as a special issue of the Pepperdine Law Review.

Arthur Rovine, President of the American Society of International Law, gave a keynote address after dinner on January 26. His topic was "International Law in U.S. Courts." During a buffet luncheon January 27, several officers of the American Branch spoke on the work of our organization and the opportunities for participation in it.

International Law Weekend-West is the first of several new programs that were recommended in the Report on the ABILA as a Membership Organization. The Executive Committee adopted the Report, including its recommendations, at its Spring 2000 meeting. Plans for International Law Weekend-West began immediately.

Charles Siegal and William Aceves served as co-chairs of the Weekend. Members of the organizing committee included Tony Anghie, Jeffery Atik, Lee Boyd, William Dodge, Gregory Fox, Alison Dundes Renteln, and

Beth Van Schaak. Co-sponsors were the American Society of International Law; the American Bar Association, Section of International Law and Practice; the International Law Section of the Los Angeles County Bar Association; the International Law Section of the State Bar of California; Munger, Tolles & Olson; and Morrison & Foerster.

THE LONDON DECLARATION OF INTERNATIONAL LAW PRINCIPLES ON INTERNALLY DISPLACED PERSONS

The working sessions of ILA committees are the highlight of our biennial conferences. What has always distinguished the organization is its agenda of concrete projects and the contributions they have made to the codification and progressive development of international law. ABILA participants in the committees and conferences have a unique opportunity for hands-on involvement in developing international legislation. In London last July some of the committees continued discussions and hearings on projects while others completed their work.

Among the significant instruments adopted by the 69th Conference was a Declaration of International Law Principles on Internally Displaced Persons (IDPs). Luke Lee of the American Branch chaired the Committee on Internally Displaced Persons that developed the London Declaration over a period of eight years.¹

The Declaration contains eighteen articles that set forth rights and obligations pertaining to IDPs for all states, *de facto* authorities, the United Nations and other organizations, both governmental and nongovernmental. It has now been submitted to governments and international organizations for their consideration and possible adoption.

IDPs now outnumber refugees by almost two to one and often suffer more than refugees. The theoretical and practical distinctions between refugees and IDPs have in recent years become increasingly blurred, as became evident in the humanitarian crises in northern Iraq, Kosovo, East Timor and Chechnya. And yet, IDPs lack systematic

protection and assistance under international treaties or by international organizations. The treatment of IDPs as simply a subset of citizens for secondary international protection and assistance has become glaringly inadequate.

The traditional emphasis of international law on refugees to the exclusion of IDPs is reflected in international treaties and instruments, as well as in relief policies, programs and budgets adopted by governments and inter-governmental or nongovernmental organizations. Such bias in favor of refugees has led to the making of *ad hoc* rather than more durable arrangements to address IDP crises. These *ad hoc* arrangements have included interagency coordination, the lead-agency approach, and the appointment of a part-time Representative of the United Nations Secretary-General on IDPs, all with grossly inadequate staff, funding and terms of reference.

The depth and magnitude of IDP problems deserve a more focused, centralized and comprehensive response from the international community. The London Declaration seeks to build upon emerging authority to protect and assist IDPs. It aims at a balanced emphasis on national sovereignty, human rights and the Security Council's role under Chapter VII of the Charter of the United Nations by focusing on the status of IDPs under international law, human rights and humanitarian law. The articles of the Declaration establish a regime of protection that includes minimum standards of treatment, requirements for international cooperation, and supervision by international authority.

The definition of IDPs includes "persons or groups of persons who have been forced to flee or leave their homes or places of habitual residence as a result of armed conflict, internal strife or systematic violations of human rights, and who have not crossed an internationally recognized State border." Significantly, the Declaration applies also to persons internally displaced by whatever causes, such as natural or man-made disasters or large-scale development projects whenever the responsible State or *de facto* authority fails, for reasons that violate fundamental human rights, to protect and assist those victims.

The Declaration takes note of the Guiding Principles on Internal Displacement that were developed by the Representative of the Secretary General on IDPs. Unlike these Principles, however, the London Declaration highlights the unique status of IDPs as *de facto* refugees confined in their national territories and therefore in need of a special protective regime. As already noted, the London Declaration adopts a new and broader definition of IDPs. It also extends beyond the limited scope of the Guiding Principles to deal with a number of difficult issues. These include the status of safe areas, the prevention of reverse ethnic cleansing, institutional arrangements to provide protection and assistance to IDPs, and a definition of the Security Council's role when internal displacement amounts to a threat to international peace and security. An additional

¹ The Co-Rapporteurs were Rainer Hofmann of the German Branch and Yukio Shimada of the Japanese Branch. Members were from Belgium (Jean-Marie Henckaerts), Brazil (Adherbal Meira Mattos), Croatia (Budislav Vukas), Ethiopia (Daniel Haile), Finland (Ruth Donner), Germany (Nils Geissler, Andreas Zimmermann), Ghana (John B.K. Kaburise), Korea (Woon-Sang Choi, Myong Joon Roe), Netherlands (G.J.H. van Hoof), Singapore (Lincoln Wee), Sweden (Jerzy Sztucki), UK (Vera Gowlland-Debbas), USA (Maryellen Fullerton, James A.R. Nafziger, Louis B. Sohn), Yugoslavia (Bosko Jakovljevic) and Zambia (Chaloka Beyani).

point of distinction is that the Draft Declaration includes substantial article-by-article comments.

Much work remains to protect IDPs. A number of questions need to be addressed. For example, should the 1951 Convention/1967 Protocol relating to the Status of Refugees be revised to include the status of IDPs, or should a new convention be concluded? Should existing international organizations concerned with refugees, such as the United Nations High Commissioner for Human Rights (UNHCR), be expanded to cover IDPs, or should a new organization be established to deal with all forcibly displaced persons, regardless of their having crossed their national borders? What are the prospects for funding?

In its final report, the ILA Committee on Internally Displaced Persons noted that an international organization, such as the UNHCR, could be designated or a new one established, to assume the responsibility of protecting and assisting all displaced persons – both refugees and IDPs. It would cooperate closely with the UNHCR in the areas of prevention, such as early warning, monitoring and identification and solution of the root causes of massive displacement. In other words, a balanced approach to refugees and IDPs is essential. Under such an approach, the global community needs to make a fair and equitable allocation of resources to assist and protect both refugees and IDPs.

NEWS FROM LONDON

The latest ILA Newsletter from London, which is distributed and sent to all members between issues of our own ABILA (American Branch) Newsletter, summarizes an important meeting of the Executive Council. A few additional points might be noted. The principal item on the agenda of that meeting was a thorough discussion of a detailed report by the Director of Studies, Professor Fred Soons of the Dutch Branch. New topics under consideration for committee work include international regulation of biotechnology, foreign investment law, and legal aspects of electronic commerce. Also, during the coming year the Executive Council will be undertaking a comprehensive review of the ILA's Future and Direction. Finally, it was confirmed that the next (70th) biennial conference of the ILA will be held April 2-7, 2002 in New Delhi, India.

This was the first meeting of the Executive Council at which officers were directly elected in open balloting by the Council. The latest Newsletter was also the last issue under the able editorship of Peter Nygh of the Australian Branch. The new editor will be Professor Chris Greenwood QC, of the University of London. American Branch representatives to the Executive Council were Cynthia Lichtenstein, Jim Nafziger, Al Rubin and Cecil Olmstead.

INTERNATIONAL LAW FORUM DU DROIT INTERNATIONAL

Some members may not be aware of the ILA's new scholarly journal, now in its third volume, INTERNATIONAL LAW FORUM DU DROIT INTERNATIONAL. Capturing the connection, if not the reciprocity between the organization's official languages, the pocket-sized journal is thought-provoking, controversial, current and truly international. The journal's authors include both distinguished practitioners and scholars as well as fresh, new voices in international law. Each issue of the journal contains an editorial and several features entitled In the News, Recurring Themes, Work in Progress, a Profile, Conference Scene, and the Bookshelf of a distinguished guest.

Individual ILA members and students may subscribe at the reduced rate of only £25.50 per volume. Your subscription can be ordered by fax from Kluwer Law International (+31-78-654-6474) or by e-mail (sales@kli.wkap.nl). For more information or for a free sample copy, please visit the journal's homepages at www.kluweronline.com.

DUES AND GIFTS FOR 2001

Last but not least, it is membership renewal time! Our dues remain at \$60 per year for Regular Memberships, \$100 for Sustaining Members and \$80 per year for Institutional Members. You may have already received or should shortly receive a membership letter, together with a renewal form, from our Honorary Secretary, Saurabh Shah.

Our rather recent conversion to a calendar-year basis for membership has simplified the renewal process, but we rely heavily on prompt payment of your dues to sustain our numerous activities. We actually lose a few dollars on each membership, after the annual levy for support of the Headquarters in London. Our endowment and occasional gifts enable us to stay in the black.

Because of our ongoing need for gifts, we would be most grateful for your generosity again this year. Last year, for example, a gift of \$1,000 from the Oregon Community Foundation made it possible for us to continue to offer free Student Membership in the Branch. It helped pay for the printing and distributing of our publications to students during the year and subsidized meals for student Members at International Law Weekend. Another gift of \$1,000, from James Leitner, President of the Falcon Management Corporation, helped support International Law Weekend last November.

Checks for Regular, Sustaining or Institutional Memberships and gifts to the Branch should be made payable to the American Branch, ILA, and sent to our Honorary Treasurer: Michael Gruson, Esq., Shearman & Sterling, 599 Lexington Avenue, New York, NY 10022.