



ILA—Founded 1873

Issue No. 95  
Spring (April) 2015

# Newsletter

## *In Memoriam*

### **Luke T. Lee** **1923-2015**

Dr. Luke T. Lee, an Honorary Vice President of ABILA and one of the most productive leaders in the ILA's projects on international human rights and humanitarian law, died in Bethesda, Maryland on January 7, 2015, at the age of 91.

A former Director of Planning and Programs of the Coordinator for Refugee Affairs in the U.S. Department of State, where he served for 20 years, Luke was at the time the highest ranking Asian-American in the Senior Executive Service. Earlier, he had been Professor of International Law in the Fletcher School of Law and Diplomacy at Tufts University.

He initiated and chaired no fewer than four successful ILA projects: (1) The Declaration of Principles of International Law on Mass Expulsion (1986); (2) The Declaration of Principles of International Law on Compensation to Refugees and Countries of Asylum (1990); (3) The Declaration of International Law Principles on Internally Displaced Persons (2000); and (4) Compensation for Victims of War.

After Luke's retirement as Chair in 2009, the project was retitled Reparations for Victims of Armed Conflict, which produced two sets of principles: a substantive Declaration (2010) and Procedural Principles (2014).

Luke was born in Fuzhou, China. He earned an A.B. from St. John's University in Shanghai, followed by an M.A. from Columbia University, a Ph.D. from

*(Continued on page 6)*

## INTERNATIONAL LAW WEEKEND 2015

Plans are moving ahead actively for our next International Law Weekend, to be held in New York City on Thursday, November 5 through Saturday, November 7, 2015.

ILW will begin with an opening panel followed by a reception at the House of the New York City Bar Association on Thursday evening, November 5, and will continue Friday and Saturday with a full schedule of panel presentations at Fordham University Law School.

The ILW organizing committee, consisting of Chiara Giorgetti, Tessa Walker, Santiago Villalpando, and Jeremy Sharpe,

has been at work for several months on the preparations, assisted by Norman Greene.

They are delighted to report that they have secured a sponsor for the Thursday evening opening reception (Shearman and Sterling) and a tentative commitment for a keynote address by the Hon. Miguel de Serpa Soares, UN Under-Secretary-General for Legal Affairs and Legal Counsel.

As in prior years, they hope the Friday evening reception will be sponsored by a UN Mission to the United Nations.

### **Panel Proposals for ILW 2015**

Planning is already under way for ILW 2015, scheduled for Nov. 5-7 at Fordham University Law School. ("International Law Week" at the United Nations will begin on Nov. 2.)

The ILW Organizing Committee invites proposals to be submitted online on or before Friday, April 10, 2015 via the ILW Panel Proposal Submission Form located at: [http://www.ilsa.org/index.php?option=com\\_chronoforms&chronoform=ILW\\_Panel\\_Proposals](http://www.ilsa.org/index.php?option=com_chronoforms&chronoform=ILW_Panel_Proposals).

The tentative title for ILW 2015 is "Global Problems, Legal Solutions: Challenges for Contemporary International Lawyers."

### **ABILA EXECUTIVE COMMITTEE MEETING**

The ABILA Executive Committee will meet on Friday, April 10 from 2:30 pm – 4:30 pm in the Thorton Room on the 11th floor of the Hyatt Regency (Capitol Hill) Hotel. Creation of a new governance and finance committee is on the agenda, along with reports on our transition to a corporate structure and our relationship with ILSA.

### **ABA Day at the UN**

ABILA leadership has been invited to join the ABA at the ABA's annual "ABA Day at the UN," where the national leadership of the ABA discusses current issues with senior level officials of the UN and the U.S. Mission to the UN.

## MEMBERSHIP

### We Welcome New ABILA Members

The Branch extends a hearty welcome to the following new members:

Brody Greenwald  
Paul Reichler  
Rosemary Barkett  
Beverly Dale  
Robin Collin  
Sanford Bohrer  
Emily Hollis  
Prof. Anna Spain  
Ruth Atherton  
Caterina Ventura  
Dr. Zigmund Ziegler Cohen  
Freshfields, Bruckhaus & Deringer

**For inquiries about ABILA membership, please contact:**

American Branch of the  
International Law Association  
c/o Seana Flanagan  
Munger, Tolles & Olson LLP  
355 S. Grand Ave., 35th Fl.  
Los Angeles, CA 90071-1560  
[Seana.ila.americanbranch@gmail.com](mailto:Seana.ila.americanbranch@gmail.com)

## PATRONS

Our thanks to our ABILA Patrons:

Charles N. Brower  
Lee Buchheit  
David D. Caron  
Christina Cerna  
Edward Gordon  
Tony Lee Larson  
Cynthia Lichtenstein  
Houston Putnam Lowry  
Roberto Aguirre Luzi  
John F. Murphy  
James A. R. Nafziger  
Ved P. Nanda  
Andre Newberg  
John E. Noyes  
Anibal Sabater  
Paul B. Stephan  
David P. Stewart  
Ruth Wedgwood

## CALENDAR

**April 8-11, 2015:** Annual Meeting of the American Society of International Law, Hyatt Regency Capitol Hill, 400 New Jersey Ave NW, Washington, DC. ABILA is a co-sponsoring partner.

Keynote speakers for the conference will include Anne-Marie Slaughter, President and CEO of the New America Foundation; Director-General Ahmet Uzümcü of the Organization for the Prohibition of Chemical Weapons; Judge Kenneth Keith (formerly of the International Court of Justice); Professor Pierre-Marie Dupuy of the Graduate Institute, Geneva; and Professor Michael Reisman of Yale Law School.

To view the full program and to register for the conference, visit [www.asil.org/am](http://www.asil.org/am). Non-ASIL member registrants will also receive a one-year complimentary ASIL membership.

**April 28-May 2, 2015:** Spring Meeting of the ABA Section of International Law, Hyatt Regency Capitol Hill, 400 New Jersey Ave NW, Washington, DC.

The American Branch is a Cooperating Entity on this event, and ABILA members can register for the conference at the discounted ABA Section of International Law Member Rates by using the discount code "ICSM0428" on the checkout page of the online registration portal. Visit <http://ambar.org/ILSpring2015> to register and for more information on programming, hotel accommodations, etc.

**May 4, 2015:** An Introduction to ICSID Process: A one-day primer on practice and procedure in ICSID Convention Arbitration. Monday, May 4, 2015, 8:15 AM. Cadieux Auditorium, Department of Foreign Affairs, Trade and Development Canada; Lester B Pearson Building, 125 Promenade Sussex Drive, Ottawa ON K1A 0G2. USD 450. Information and RSVP: Diana Magalona at [dmagalona@worldbank.org](mailto:dmagalona@worldbank.org).

(Continued on page 4)

## News of Branch Members

**Mark Wojcik**, professor at John Marshall Law School, prolific writer and co-editor of International Law Prof Blog, received a lifetime achievement award in January from the Association of American Law Schools Section on Legal Writing, Reasoning, and Research.

**Anibal Sabater**, a member of the Branch Executive Committee, has relocated to New York and become Partner at the law firm of Chaffetz Lindsey LLP, 505 Fifth Avenue, 4th Floor, New York, NY, 10017 (212 257 6945).

ABILA Vice President **Catherine Amirfar** currently serves as Counselor on International Law in the Office of the Legal Adviser, U.S. Department of State. Since last October, she has helped to develop positions in U.S. litigation involving international and foreign relations law issues.

**Gary Horlick** (Honorary Branch Vice President and former ILW Program Chair) now has his own legal practice focused on international trade law. He has chaired WTO and Mercosur panels and teaches at Georgetown Law Center, University of Barcelona, and Yale Law.

Prof. **Louise Ellen Teitz** (Roger Williams School of Law, ABILA Executive Committee member, former first secre-

(Continued on page 8)

## Liaisons

**Bruce Rashkow** and **Roberto Aguirre Luzi** are the ABA Section of International Law liaisons to the American Branch. We are glad to keep them informed about our activities and to encourage close cooperation between the Branch and the Section.

The Branch has nominated **Arnold Pronto** to be the ILA's liaison to the United Nations. This nomination will be considered at the April meeting of the ILA Executive Council.

## NEWS OF ABILA COMMITTEES

### Space Law Committee

At International Law Weekend 2015 the Branch Space Law Committee sponsored a panel entitled "Third-Party Liability Regimes in High-Tech Industries When the Chaos of Massive, Catastrophic Accident Ensues: Space, Cyber and Nuclear," comparing and contrasting regimes both in the United States and within treaties.

The panel followed the recent tradition of the Space Law Committee examining topics facing the space law regime with reference to other sectors and domains, such as its ILW 2013 panel entitled "Complexities of Regulating the Outer Space Domain by Analogy to Legal Regimes in the Other Four Domains" and its ILW 2012 panel co-sponsored with the Law of the Sea Committee entitled "Resource Management in Common (Non-Sovereign) Areas: Law of the Sea and Space Law Compared."

In 2015, the Committee is engaged in a student membership drive at law schools with significant interest or programs in space law. The Committee will also be releasing periodic issue briefs in Summer/Fall 2015 on space law issues, particularly those facing the U.S. Congress in the next year or so, including liability issues, on-orbit or in-space regulatory authority, property rights, and regulatory moratoriums.

Submitted by Prof. Matthew Schaefer

### Arms Control and Disarmament Committee

The Committee, co-chaired by **John Kim** and **Leopoldo Lovelace**, had focused during 2014 on the subject of U.S. Nuclear Weapons Policy in International Law. The Final Report on the topic is pending. A Preliminary Report was submitted to the panel held by the Committee on October 24, 2014 as part of the 2014 International Law Weekend, on "Nuclear Non-Proliferation and Disarmament: U.S. Policy and International Law."

The geopolitical context of the conditions

### Co-Directors of Studies

Prof. Andrea Bjorklund has advised the Branch Executive Committee that she will be stepping aside as Co-Director of Studies effective at the April meeting in order to devote more time to her professional responsibilities at McGill. Prof. Aaron Fellmeth will continue as co-director, and Prof. Chiara Giorgetti of the University of Richmond Law School will join him as the new co-director.

of arms control and disarmament generally have sharply deteriorated in a shockingly short interval, even if the preliminaries were there since the Kosovo crisis. Many observers feel that the prospects for nuclear arms control and disarmament have worsened in recent years. That alone should encourage stronger efforts towards inducing principles and moving in constructive, positive directions.

The proposed Committee project for 2015-2016 is to continue working toward the conclusion of a Final Report to be submitted to a plenary of the Committee and the Branch, in order to be presented at the 77th ILA Conference in August 7- 11, 2016 in Johannesburg, South Africa.

Submitted by Prof. Leopoldo Lovelace

### DUES ARE DUE

Seana Flanagan, the Branch Membership Coordinator, has a new email: [seana.ila.americanbranch@gmail.com](mailto:seana.ila.americanbranch@gmail.com).

All levels of membership may now be paid by credit card through PayPal. Please visit the Membership page of our website to get started: <http://www.ila-americanbranch.org/Membership.aspx>.

### International Criminal Court Committee

At ILW 2014, the Branch ICC Committee sponsored a panel entitled: "Update on the International Criminal Court's Crime of Aggression: Considering Crimea," with panelists Stefan Barriga, Deputy Permanent Representative of Liechtenstein to the United Nations; Benjamin B. Ferencz, former Prosecutor, International Military Tribunal, Nuremberg (Chief Prosecutor for the United States, Einsatzgruppen case), and David Donat-Cattin, Secretary-General, Parliamentarians for Global Action. The panel was moderated by the Committee Chair, Prof. **Jennifer Trahan**.

In December 2014 the Committee issued a document entitled "The Kenyan Cases at the International Criminal Court and the African Union's Positions As to Them -- Questions and Answers." The document was distributed to States Parties of the International Criminal Court, at the December Assembly of States Parties (ASP) meetings at the United Nations.

Submitted by Prof. Jennifer Trahan.

### Extraterritorial Jurisdiction Committee

The Extraterritorial Jurisdiction Committee presented a Program at ILW 2014 entitled "FATCA: Pursuing Offshore Tax Evaders with a Ticking Time Bomb." The program dealt with some questions raised by the recently effective Foreign Account Tax Compliance Act. An article, "The U.S. Foreign Account Tax Compliance Act: American Legal Imperialism?" based upon this program to be published in volume 21 of the *ILSA Journal of International & Comparative Law*.

The Committee continues to follow the surprising consequences of FATCA. It is also following other questions arising from the application of national laws beyond a sovereign's territory. Russian sanctions and the use and abuse of Interpol's "Red Notices" are just two of these.

(Continued on page 4)

## Calendar (cont'd)

(Continued from page 2)

**May 18-June 15, 2015:** Asser Institute's 9th Summer Law Program on International Criminal Law and International Legal and Comparative Approaches to Counter-Terrorism in The Hague.

**May 29-May 30, 2015:** ILA British Branch Spring Conference, on "International Law as a Mechanism for Justice School of Law," University of Essex. Topics include "Conceptual and Theoretical Frameworks of Justice," "Substantive and Practical Challenges for Justice in International Law," "Actor-oriented Perspectives on Justice," and "Justice and Institutions." For further information, email [ilaconference2015@essex.ac.uk](mailto:ilaconference2015@essex.ac.uk).

**May 29-30, 2015:** The European Union and the Arctic (2015 EU-Arctic Conference), The School of Law, University of Dundee. This conference will bring together academics and practitioners from relevant disciplines such as international law, international relations, political science and marine biology, NGOs, and representatives from EU institutions and international organizations to discuss the EU's potential contribution to enhance Arctic governance. Details/registration at: <http://www.dundee.ac.uk/law/events/details/the-european-union-and-the-arctic-2015-eu-arctic-conference.php>.

**June 7-19, 2015:** Lausanne International Law Summer Programme 2015. This year's courses include WTO Law, International Investment Law and Comparative Copyright Law. For more information, go to <http://www.unil.ch/getactu/wwwilm/1418778985485/>.

**June 15-19, 2015:** The International Criminal Court Summer School 2015 at the National University of Ireland.

Intensive and interactive lectures over five days given by leading academics and legal professionals working at the International Criminal Court. Closing date for registrations is 30 May 2015. For more information, go to <http://www.conference.ie/Conferences/index.asp?Conference=405>.

**June 15-29 and June 30-July 9, 2015:** Summer Institute for Israel Studies. Fellowship preparing faculty to teach about Israel. Program opens with an intensive seminar at Brandeis from Monday, June 15 - Monday, June 29, followed by a study tour of Israel from Tuesday, June 30 - Thursday, July 9, 2015. Stipend of up to \$2500, travel, accommodations and meals are included.

**July 18-August 15, 2015:** Summer Institute in China (Peking University): Executive Education Training Program in Beijing. Organized in partnership with University of Calgary Law School, Lund University Faculty of Political Sciences, University of Provence Aix Marseille I - CNRS Centre of Comparative Epistemology and Ergology and Universidad Carlos III de Madrid. Go to [http://summerlawinstitute.com/files/Brochure\\_2015-30-11-2014.pdf](http://summerlawinstitute.com/files/Brochure_2015-30-11-2014.pdf) and <http://summerlawinstitute.com/>.

**September 10-12, 2015:** European Society of International Law 11th Annual Conference, University of Oslo.

**August 7-11, 2016:** ILA 77th Biennial Conference, Johannesburg, South Africa. The theme will be "International Law and State Practice: Is there a North/South Divide?" The official conference website address is [www.ila2016.com](http://www.ila2016.com).

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

[www.ila-americanbranch.org/ABILA\\_ILA\\_Events.aspx](http://www.ila-americanbranch.org/ABILA_ILA_Events.aspx)

## News of ABILA Committees (cont'd)

(Continued from page 3)

Anyone interested in following these issues with the Committee or who has another such issue of interest is encouraged to contact Prof. **Bruce W. Bean**, Committee Chair, at [BWBean@Gmail.com](mailto:BWBean@Gmail.com).

Submitted by Prof. Bruce Bean

### International Trade Committee

The ABILA International Trade Committee has been reactivated with a new project: to study state-to-state disputes and dispute settlement procedures in free trade agreements (FTAs). The first stage will gather information on these issues in existing FTAs, to determine what problems arise and best practices in resolving or preventing them. A

drafting group will then propose specific texts of model procedural rules for FTA state-to-state dispute settlement that would codify best practices and provide options for policy choices by governments. The rules could also include an explanatory commentary.

Please contact **Amy Porges**, chair of the International Trade Committee, at [ap@porgeslaw.com](mailto:ap@porgeslaw.com) for more information or to get involved in the Committee's work. The Committee will hold a first meeting during the ASIL Annual Meeting at a time and place to be determined.

Submitted by Prof Amy Porges

### International Environmental Law

The third Global Energy and Environmental Law Podcast is available here: <http://theglobalenergyandenvironmentallaw.podbean.com>. Listen to Professor Mary Wood of the University of Oregon School of Law discuss her take on how governments around the world hold the climate in trust for the general public and might thus be legally accountable for their failure to protect it.

Submitted by Prof. Myanna Dellinger

(Continued on page 5)

## News of ABILA Committees (cont'd)

(Continued from page 4)

### International Disability Law Committee

The ABILA International Disability Law Committee has recently focused its work on the United Nations Convention on the Rights of Persons with Disabilities (CRPD), in particular how the treaty has impacted domestic disability legislation and united an unprecedented number of countries on disability issues.

This year, the Committee has decided to focus on an issue that is included in the CRPD's Article 12, but also has been a key topic of other international agreements including the Hague Convention on the International Protection of Adults and Yokohama Declaration, namely, the issue of guardianship and legal capacity. The Committee is dedicating its current work to exploring the international complexities of guardianship, supported decision making, and legal capacity. The Committee looks forward to presenting on this topic at International Law Weekend and issuing a law review on the topic thereafter.

The Committee encourages and welcomes additional membership and participation! Please contact the Chair, **Esme Grant**, at [egrant@ancor.org](mailto:egrant@ancor.org).

Submitted by Esme V. Grant

(Continued on page 8)

## 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](mailto:abilanews@gmail.com).

## ILA Committees and Study Groups

### Nominations

The American Branch has nominated four members to the newly formed ILA Committee on Sustainable Development and the Green Economy in International Trade Law: **Gary Horlick** and **Amelia Porges** as members, and **Robin Morris Collin** and **Paolo Farah** as alternates. These nominations will be considered by the ILA Executive Council at its April 2015 meeting.

### International Human Rights Committee

The ILA International Human Rights Law Committee is working to finalize its work for the 2016 Johannesburg, South Africa biennial meeting. A number of the papers are to be included in a book project entitled "Courts of General Jurisdiction as Human Rights Courts." The Committee is also working to organize an inter-cessional meeting in 2015.

Submitted by Christina Cerna

### Global Health Law Committee

On February 19, 2015, a group of experts in law, public health, security and medicines met in Geneva under the auspices of the ILA's Global Health Law Committee and the Global Health Program of the Graduate Institute in Geneva. The group discussed the global response to the Ebola outbreak of 2014-2015 in West Africa, and the work that needs to be done in order to improve response to pandemic disease threats.

Members of the group were associated with multilateral organizations, academic institutions, and non-governmental organizations (including funders), including those that participated in the response. The meeting was organized as an open-ended sharing of ideas. The participants were acting in their individual

capacities, and not as representatives of organizations.

A general consensus emerged that the single most effective mechanism to improve prevention of and response to pandemic disease is the strengthening of national health systems. Despite recognition of this by the international community, inadequate systematic attention is being directed to this area.

There are a number of important issues to address in relation to vaccines, treatments and diagnostics necessary to prevent and control pandemic disease. The potential for outbreak appears to be increasing as pathogens jump the animal to human barrier more frequently.

There was an evident lack of coordinated response to the Ebola outbreak. Subsequently, the role of WHO as lead for health emergency response has been confirmed. But it is worrisome that governments are not inclined to provide significant financial support to WHO consistent with the urgency evidenced by the Ebola Resolution. There is a strong current of thought that major prospective funding governments are not anxious to relinquish authority to WHO in addressing crises.

There are a number of UN agencies mandated to address humanitarian crises, in addition to WHO, and a number of non-governmental organizations with substantial capacity in this area. An improved mechanism for coordination of response is needed.

For the Global Health Law Committee, an important objective of the meeting was to assist in directing its future research program and eventual reporting and recommendations.

Submitted Prof. Frederick Abbott

(Continued on page 6)

## In Memoriam Luke T. Lee (cont'd)

(Continued from page 1)

Fletcher, and a J.D. from the University of Michigan. His seminal book, *Consular Law and Practice*, first published in 1961 (now in a third edition co-authored with John Quigley) directly inspired the Vienna Convention on Consular Relations two years later. His scholarship also included books on law and the status of women, population and law, the Vienna Convention on Consular Relations, China and international agreements, and other topics of public international law, and over 100 scholarly articles.

In his own words, Luke envisioned “a world without refugees.” His historical perspective and passionate commitment to the progressive development of international human rights are reflected in his observation that “refugees have existed from time immemorial. Indeed we are all descendants of refugees, from the time Adam and Eve were expelled from the Garden of Eden .... [T]here are approximately 10 million refugees today, not counting Palestinian refugees. While estimates vary, it is certain that no continent has been spared the human suffering that is the hallmark of the refugee.”

Colleagues and other friends of Luke will fondly recall his wife, Denise -- particularly at biennial conferences. With her and the Lee family in our thoughts, we in ABILA express our deep appreciation (*xixie!*) for Luke’s important practical and scholarly contributions on behalf of underserved populations. He was a truly humane expert. Our warm personal memories of him will also endure.

Submitted by James Nafziger

VISIT THE AMERICAN BRANCH  
WEBSITE: [WWW.ILA-AMERICANBRANCH.ORG](http://WWW.ILA-AMERICANBRANCH.ORG)

## ILA Committees and Study Groups (cont'd)

(Continued from page 5)

### Protection of Privacy in Private International and Procedural Law

The Committee focuses on the protection of privacy in private international and procedural law, in particular the intersection of human rights and data protection, with particular attention to current legislation and recent case-law of national and international courts. To date, two committee meetings have been held in Luxembourg, one addressing the protection of privacy in the aftermath of recent CJEU judgments, the other on the concept of privacy in national systems based on national responses to a committee questionnaire. ABILA member **Cristina M. Martiotti** works directly with Committee Chair Burkhard Hess on these reports. Cross-border issues will be discussed in the 2016 ILA meeting in South Africa.

Submitted by David P. Stewart

### Climate Change

The ILA Committee on the Legal Principles relating to Climate Change adopted its final report at the Washington Biennial in 2014. Several articles concerning the report, and the principles it contained, were featured at 4 *Climate Law* (nos. 3-4) (2014).

### Study Group on Cybersecurity, Terrorism, and International Law

The ILA Study Group on Cybersecurity, Terrorism, and International Law examines international legal issues related to cyber terrorism. It was conceived and initiated by Russell Buchan (British Branch) and Emily Crawford (Australian Branch), who are the Group’s co-rapporteurs. The chair is **David Fidler** (American Branch). An additional 13 members are drawn from the American, Australian, Brazilian, British, Israeli, German, Korean, Netherlands, Russian, and Swedish branches. The Study Group focuses on international legal issues arising

in connection with the threat that terrorists might use cyber technologies to attack government or civilian targets to achieve their goals.

The Study Group has four objectives: (1) examine the threat of cyber terrorism, including how technological trends might affect the threat; (2) develop a definition of cyber terrorism; (3) analyze an inventory of international law potentially relevant to cyber terrorism; and (4) assess whether proactive international legal actions concerning potential acts of cyber terrorism would be worthwhile and feasible.

In 2014, members provided input on these objectives, the project’s structure, and an overview of the international legal issues connected with the threat of cyber terrorism. Analysis is organized around three strategies used against terrorism -- respond to, protect against, and prevent terrorist attacks. This approach helps identify many areas of international law relevant to cyber terrorism, including anti-terrorism treaties, use of international law to improve protection of critical infrastructure, and human rights concerns associated with electronic surveillance against terrorists. The chair and co-rapporteurs will circulate the first full draft of the Study Group’s report to the members this spring.

Submitted by Prof. David P. Fidler

### 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 [tbascia1@jhu.edu](mailto:tbascia1@jhu.edu). Specify the book you have in mind.

Stay in touch! Join the American Branch group on LinkedIn.

## OUR BETTER PREDECESSORS: FRANCISCO DE VITORIA (? — 1546)

Submitted by Aníbal Sabater

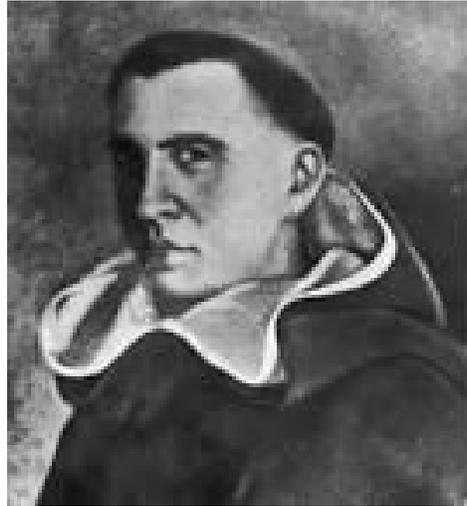
To the modern observer, the life of Francisco de Vitoria offers some mysteries and paradoxes.

His date and place of birth are unknown (1483 and 1486 being the best guesses for the former, and Castille's Burgos and Vitoria for the latter). He was a prolific writer, but few of his written works survive (most of his personal correspondence has disappeared, and the extensive "relectiones" or "re-readings" that can be found under his name are in fact notes his students took as he dictated classes). Born to relative wealth, he chose the life of a mendicant friar devoted to teaching and prayerful reflection, only to find himself dragged into some of the fiercest political debates of his time.

A theologian by training—and not having any formal education or experience as a lawyer—he is mostly remembered now for being one of the founding fathers of public international law. Most notably, he was educated and remained all his life a medieval Thomist of the strictest observance and succeeded in applying the method and principles of the *Summa Theologica* to the problems of the Renaissance and the New World.

He first studied and lectured on theology in Paris, then spent three years teaching in Valladolid. In 1526 he was appointed to the prime chair of theology in Salamanca, where he would stay until his death. He had been relatively famous before going to Salamanca, but holding this highly regarded professorship gained him immediate public recognition. His re-readings and conferences from that time touch on a variety of issues—marriage, contracts, usury, civil power, the powers of the church, laws, self-restraint, American Indians, the evangelization of unbelievers, or the laws and war.

In a country enthralled with the suddenly found prospect of territorial expansion, it was almost unavoidable that a man of his



position would be confronted with the question of the legitimacy of the American conquest and the waging of war on the American Indians.

His response quickly put him at odds with the Emperor, Charles V, many of his religious superiors, and even the Pope. Lively and witty in his explanations but also unflinching (very similar in many respects to his contemporaries Erasmus or Thomas More) he publicly questioned Castille's rights to annex the lands of America, to wage war on American Indians, or to deny them citizen rights. In his view, war or annexation were last resorts to be used as protection against extreme cases of barbarism or hostility. Every soldier and participant in them had the obligation to ask himself in good conscience whether he was acting licitly, and if he reached the conclusion that he was not, then immediately cease in his conduct.

The property of American Indians was to be protected, and Christian faith, being an act of the will, not of force, could not be imposed on anyone. He publicly scolded those who enslaved American Indians. In a November 8, 1534 letter to his superior

Fr. Miguel Arcos, he said: "As for the case of Peru, I must tell you, after a lifetime of studies and long experience, that no business shocks me or embarrasses me more than the corrupt profits and affairs of the Indies. Their very mention freezes the blood in my veins."

The tide of the times may not have been on his side and the dent he made on Castille's policies was relatively modest (even though at his and other friar's behest the crown softened its stance over American Indians). Yet he managed to keep a civil relationship with the Emperor, who respected him enormously, and he was widely admired by his students. He almost certainly saw himself as a reactionary of sorts, someone from the past, advocating ideas no longer in vogue. (Let it be remembered that he lived in the times of Machiavelli and the birth of the "raison d'Etat.")

But he wrote and spoke with the calmed conviction of someone who knows that he is not on the side of public opinion, but of truth. In his November 8, 1534 letter, he acknowledged that the colonists were taking away the assets of the locals, and saw that as a further reason to continue his opposition to their behavior, "so that if [the colonists] make off with the assets, at least I suffer no loss of that other asset, a clear conscience."

### RECRUIT A NEW MEMBER

Every Branch member is encouraged to recruit at least one new member in the next two months. Joining is easy: go to <http://www.ila-americanbranch.org>.

## News of Branch Members (cont'd)

(Continued from page 2)

tary at The Hague Conference on Private International Law) was recently featured in an ASIL "webinar" entitled "Making Private International Law, As Viewed From Within and Without." The discussion took the form of a conversation with ABILA President David Stewart. The program can be viewed live at [www.asil.org/live](http://www.asil.org/live).

Prof. **Edward Gordon** (former Branch President and founder of our *International Practitioner's Notebook*) has published a review of Karen Alter's book *The New Terrain of International Law: Courts, Politics, Rights* (Princeton and Oxford, 2014), in the Law and Politics Book Review section of the American Political Science Association (March 2015), available at <http://www/lpbr.net/2015/03/the-new-terrain-of-international-law.html>.

Prof. **Sonia E. Rolland** (Northeastern University Law) has been elected co-

Chair of the ASIL International Economic Law Interest Group. She recently presented a talk on "Lessons from the WTO Dispute Settlement Process" at the UN. She serves as an expert member of the Task Force on Subsidies for the International Centre for Trade and Sustainable Development in Geneva, where her paper on "Subsidies, Clean Energy and Climate Change" (with Ilaria Espa) was published in February 2015.

**Jessica Simonoff** has joined the Office of the Legal Adviser at the Department of State.

**Scott Horton** (ABILA Executive Committee) has published *Lords of Secrecy: The National Security Elite and America's Stealth Warfare* (Nation Books/Perseus 2015). As one reviewer put it: "From drone wars to Middle East fiascos to the war on whistleblowers, Scott Horton brilliantly blends original reporting with a reasoned defense of democratic ideals going back to ancient Athens. Lucid, learned, judicious, and hard-hitting, *Lords of Secrecy* is an indispensable book for any reader interested in public affairs."

**Diane Marie Amann** (University of Georgia School of Law) has been appointed Associate Dean for International Programs & Strategic Initiatives.

International Law Commission member **Sean Murphy** (George Washington Law) was appointed Special Rapporteur for Crimes against Humanity last July. His first report will be debated by the Commission in May. The sixth edition of the Murphy and Damrosch *International Law* casebook was published in August.

CNN recently ran an op-ed by Prof. **Mark Drumbl** (Washington & Lee Law, and author of *Reimagining Child Soldiers in International Law and Policy*) on child soldiers and ISIS. It is available at <http://www.cnn.com/2015/03/19/opinions/drumbl-child-soldiers-challenges/>.

Prof. **Ruti Teitel** (New York Law School) has published *Globalizing Transitional Justice: Contemporary Essays* (Oxford 2014). See <http://global.oup.com/academic/product/globalizing-transitional-justice-9780195394948>.

**Beth Van Schaack** has stepped down as Deputy to the Ambassador-at-Large for War Crimes Issues in the Department of State to become the Leah Kaplan Visiting Professor in Human Rights at Stanford Law School. She has also been helping to set up a new interdisciplinary Center, the WSD Handa Center for Human Rights & International Justice at the University.

Prof. **Geoffrey Corn** (South Texas College of Law) helped organize a "transatlantic dialogue" on IHL held at Oxford in July, which will take place again this year. On last year's event, see: <http://intercrossblog.icrc.org/blog/transatlantic-dialogue-international-law-and-armed-conflict-joint-series>.

ABILA Vice President **Leila Sadat** (Washington University School of Law) currently serves as Special Advisor on Crimes Against Humanity to ICC Prosecutor Fatou Bensouda. Last fall she participated in the ICC Assembly of States Parties meeting to promote the Prosecutor's new policy paper on sexual and gender based violence. She launched a new blog earlier this year: "Lex Lata, lex ferenda."

**Lorena Perez** will be speaking in April at the First International Arbitration Forum in Santo Domingo, organized by the ICC International Court of Arbitration.

**Steven Schneebaum** (ABILA Executive Committee and Chair of the Board of Directors of the International Law Students Association) has opened a new law firm in Washington, D.C. - Steven M. Schneebaum, P.C. - focusing on international dispute resolution.

**James Kraska, Coalter Lathrop, and John Noyes** contributed to the *Oxford Handbook of the Law of the Sea* (Donald Rothwell et al. eds., 2015). See <http://ukcatalogue.oup.com/product/academic/series/.law/.ohlaw/9780198715481.do>.

## News of ABILA Committees (cont'd)

(Continued from page 5)

### International Commercial Law Committee

**Viren Mascarenhas**, counsel at King & Spalding, will join the Committee as co-Chair. We intend to expand our coverage to all aspects of international commercial dispute resolution, including international litigation and arbitration, global investigations and mediation of international commercial disputes. We actively seek members who would like to pursue projects—great and small—that fall within this area. If you are looking for an opportunity to publish, speak, or organize events, or if you have other ideas for projects that you would like to pursue, contact Committee Chair **Jessica Simonoff** at [jessicasimonoff@gmail.com](mailto:jessicasimonoff@gmail.com).