



# Newsletter

## Two Strands of Change

### Notes from the President

The historian Paul Kennedy recently wrote that it is difficult to recognize when we are living through a watershed in history (which he thinks we likely are) in part because we always view events through the side of the watershed in which we grew up, not from the side to which we are transitioning. I happened on his thought as I reached the end of my participation in several conferences these past six months. Who can say if the strands of change I perceive reflect a watershed, but two strands in particular strike me as pervasive and significant. In one sense, neither is new. In another sense, there is a moment when watersheds may have been crossed and what was exceptional may become routine.

#### A Loosening

There is an image of a world that is politically loosening up, and, in terms of international law, a loosening up of its universality, of the consensus of the international community on questions we may have thought were quite settled. The bipolarity of the Cold War is gone. The unrivalled power of the United States is less. And as the world loosens up politically, I time and again was met with a rise of a regional or even local focus, even though the topics ostensibly were global. At two conferences in Asia, a meeting of the International Law Association ASIA Branch in Taipei in June, and the Joint Meeting of the Chinese, Japanese and Korean Societies of International Law in Seoul in August, a pervasive theme in the presentations was a search for difference. International law scholars strove to identify local and regional differences from the orthodox global consensus that were lost to sight prior to the loosening. Rarely did the search for difference focus on what conversely is shared even though it was clear that the majority of international law principles and rules remained agreed upon.

#### A Tightening

In contrast to the strand felt in these conferences, the joint meeting of the

American and European Societies in Florence, Italy, in October as well as the meeting of the Global Agenda Councils (in particular, the Global Agenda Council on the Rule of Law) of the World Economic Forum in Abu Dhabi in October both focused upon global challenges that cannot be addressed merely through simple win-win coordination such as universal postal service; instead, discussion was dominated by difficult problems that require cooperation on a level never seen previously.



The Florence Conference used the perspective of global public goods and focused, among other things, on the mechanism of their production. In this light, the resistance of several types of challenges to international coordination was not only cast in a new light, but also raised an increasingly familiar frustration with the weaknesses of the consent-based cooperation mechanisms of international law. In more traditional cooperation situations, states that wish to cooperate may do and those that do not may be isolated without prejudice to the benefit of cooperation. But "aggregate effect" problems such as climate change require coordinated internal governance by at least the main players on internationally agreed objectives. The main contributors to climate change can't simply be isolated. Even more, "weak link" problems, such as terrorism, involve situations where essentially the absence of any state from a collective effort threatens to undermine solutions.

In Abu Dhabi, a focus on governance focused on strategies for coordinating internal governance toward internationally agreed objectives. Putting to the side for the most part the formation of such agreed objectives, discussion focused on the reality that not all nations are capable of

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effective internal governance. The rule of law movement globally in this light becomes not only a means of ensuring human rights and encouraging a favorable economic climate, but also provides the necessary machinery for implementing agreed objectives concerning shared challenges. But as we know, the reality of "rule of law" is a work in progress for many nations. And when faced with international demands to coordinate internal governance, some nations are experiencing what Davis and Kingsbury have termed "obligation overload." Sometimes a state without sufficient governance capacity de facto is isolated from the benefit of cooperation. An example raised in Abu Dhabi was safety in international passenger air transport. On the surface, many states are bound by such safety standards. But in fact, many are not able to digest, never mind implement, such standards. In those instances, the airlines of such states are placed on lists where their use is not advised. Given that

## The Many Dimensions of Outreach to our Far-Flung Members and Beyond

### Executive Director's Report

With last month's second annual Midyear Meeting, a great new ASIL tradition has come into its own. What began as a tentative experiment in Miami in 2010 has with the Los Angeles meeting matured into an important permanent feature of the Society's annual program calendar.



The Midyear Meeting and its companion, inaugural Research Forum (see page 17 for our report) reflect one important dimension of ASIL outreach: extending the Society's considerable convening power and first-rate programs beyond Washington, DC, to gather our members in locations around the United States and throughout the world. As we saw in Miami and Los Angeles—and in recent joint meetings with other international law societies in Geneva and Florence—hosting a global ASIL meeting fuses and energizes the local international law community in important ways.

These gatherings also offer a great opportunity to reach beyond our member community to new constituencies of international law—another important dimension of our outreach. Thus, alongside the official Midyear Meeting program, we were able to organize a series of meetings and events for International Court of Justice Judge Joan Donoghue, including discussions with local practitioners and judges; addresses at ASIL Academic Partner schools Loyola, UCLA, and USC; interviews with print and radio journalists; and a discussion with more than 100 high school Model United Nations students. ASIL organized a similar series of outreach events for Judge Donoghue in northern California in early September and will be working with her on additional visits in 2012. Made possible through a grant from the Open Society Institute and your generous Annual Fund contributions, this outreach is part of an on-going ASIL speaker series, aimed at bringing

leading figures in international law to address a range of U.S. audiences. In addition to Judge Donoghue, the program has supported a U.S. visit by ICJ Judge Christopher Greenwood and attendance by several foreign judges at a recent conference of the National Association of Women Judges. And in 2012, it will support a visit by Inter-American Court of Human Rights Judge Diego Garcia Sayán. As we anticipate a new round of "anti-international law" legislative and ballot initiatives in the coming U.S. election cycle, we consider this work to be critically important to our mission of fostering informed debate about our field.

A third and new dimension of ASIL outreach takes an even longer view—investing in the education of our next generation of global citizens. In a pilot project launched this year, ASIL will begin developing educational resources for secondary school teachers and students. Finding that many secondary school social studies curricula in the United States lack any reference to international law or international legal institutions, we are developing four teaching modules that can be integrated into a standard U.S. high school history or civics course. Topics to be addressed include "International Law and the U.S. Constitution," "The Civil War, Lieber Code, and the International Law of Armed Conflict," "The Nuremberg Tribunal and International Justice," and "U.S. Civil Rights and International Human Rights." The materials will introduce students to international law in these areas and the historic role of the United States in the development and implementation of that law. Discussion questions and exercises will invite students to grapple with the interesting and difficult questions that animate our field, such as whether and how international law serves national interests, whether and how the United States should engage with international legal institutions, the relationship between international law and U.S. law, and the challenges of implementing international law in a federal system such as the United States'. Consistent with ASIL's general approach, the

curricular materials will not give students definitive answers to these questions, but rather pique their interest and provide them a basis for learning and grappling with these issues themselves. The curriculum project is being coordinated by ASIL International Law Fellow Nino Guruli and is drawing on the expertise and connections of ASIL members. Along the way, we are learning a lot about secondary school education, curriculum development and dissemination, and the related activities of many of our sister organizations and members, including the recent election of an ASIL Executive Council member to his local school board! We hope that an important outgrowth of this project will be regular consultation and coordination among organizations—such as the ABA Education Division and the American Red Cross—working on international law education, and we welcome your suggestions as to resources, partners, and strategies that we should bring to bear on this effort. If you have suggestions or are interested in getting involved in the project, please contact me at [eandersen@asil.org](mailto:eandersen@asil.org).

I see all of these programs as part of an integrated whole: ASIL member programs and events throughout the country and around the world, growing and energizing our membership, which in turn is tapped to provide information, analysis, and educational materials to the broader community of stakeholders in international law. This was the vision of our founders, who gave us a dual mandate—one serving our field, "to foster the study of international law," and one serving the global community, "to promote the establishment and maintenance of international relations on the basis of law and justice." Realizing this ambitious vision requires our collective commitment and creativity, and I am very grateful to you, our members, for the generous contributions of time, energy, ideas, and financial resources that enable us to extend ASIL's reach so far and in so many directions.

*Elizabeth Andersen*

## Nominating Committee Announces 2012 Leadership Nominees

The 2011-12 ASIL Nominating Committee has announced its slate of nominees for the Executive Council and officer positions. The candidates will be presented to the ASIL membership for election at the next Annual Meeting, March 28-31, 2012. The Nominating Committee was chaired by **Charles N. Brower** and included **Hannah Buxbaum**, **Anne Joyce**, **Daniel Price**, and **Vikram Raghavan**.

### ASIL OFFICERS AND EXECUTIVE COUNCIL NOMINEES

#### President

**Donald Francis Donovan**, the current president-elect of ASIL, is a partner in the New York office of ASIL Law Firm Sponsor Debevoise & Plimpton. He has argued international law in a broad range of international and domestic fora, including the International Court of Justice and the U.S. Supreme Court. He regularly appears as both counsel and arbitrator in proceedings initiated under the auspices of the world's leading arbitral institutions and litigates international disputes in



U.S. courts. For his achievements in both international arbitration and international human rights, he was awarded the Premio Nacional de Jurisprudencia by the Mexican Bar Association, the first non-Mexican so honored, and was inducted as a member of the Orden Mexicana del Águila Azteca, the highest award given by the Government of Mexico to non-Mexicans. Donovan currently serves on the Advisory Committee for the Restatement of the U.S. Law of International Commercial Arbitration of the American Law Institute, as a member of the International Council for Commercial Arbitration, having recently completed two terms as its vice-president, and as a member of the Board of Directors of Human Rights First and chair of its Litigation Committee. He formerly served as chair of the Institute for Transnational Arbitration. He teaches international commercial and treaty arbitration at ASIL Academic Partner New York University School of Law.

Donovan served as law clerk to Associate Justice Harry A. Blackmun of the U.S. Supreme Court and legal assistant to Judge Howard M. Holtzmann of the Iran-United States Claims Tribunal. He received his B.A. in 1977 from the University of Virginia and his J.D. in 1981 from Stanford Law School.

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aggregate effects and weak link problems are ongoing, the question at Abu Dhabi became whether it is possible to identify successful interim strategies for coordinated governance.

#### Diversity and Convergence

Thus these conferences and meetings appeared to manifest and echo a simultaneous loosening and tightening of international law. A changing political constellation gives room for a loosening of those international rules supported by such circumstances. Yet, it may be that the loosening itself reflects several strands—in part a reexamination of variation of cultural difference and in part a mask for political realignment towards the regional level. At the same time, the urgency of certain shared

problems creates a hegemony of its own, pushing for greater convergence globally in internationally agreed objectives that will require coordinated internal governance. It may be that this loosening and tightening are happening in different areas of international life and may proceed in parallel.

In asking whether we are at a watershed in history, Paul Kennedy asks that we “take our world a bit more seriously.” That is precisely what the members of our Society have done for over a century. Both the universality of our human nature and our cultural differences are valued. So too are solutions to the shared challenges of our day sought.

David D. Caron

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## Crawford, Jahangir, and Kellenberger to be Honored by ASIL in 2012

At ASIL's November Executive Council meeting, the recommendations of the ASIL Honors Committee for the 2012 recipients of the Manley O. Hudson Medal, Goler T. Butcher Medal, and Honorary Membership were unanimously approved. The 2012 Honors Committee was chaired by **William H. Taft, IV**, and included **Hope Lewis, Daniel Bethlehem, Gay McDougall**, and **Larry Johnson**. The following recommendations are excerpted from the Committee's report.

***Manley O. Hudson Medal: an award made, without regard to nationality, for pre-eminent scholarship and achievement in international law.***

The Committee recommends that the Manley O. Hudson Medal be awarded to Professor **James Crawford** for his significant and wide-ranging contribution to the progressive development of international law, its scholarship and teaching, and the peaceful settlement of international disputes through his work as arbitrator, counsel, and witness.

Crawford is the Whewell Professor of International Law at the University of Cambridge, a patron of the American Society of International Law, and a member of the Board of Editors of the *American Journal of International Law*. Amongst other academic positions that he occupies or has occupied are chair of the Faculty Board of Law at Cambridge University; director, on two successive occasions, of the Lauterpacht Centre for International Law; co-editor of the *British Yearbook of International Law*; Challis Professor of International Law and dean of the Faculty of Law, ASIL Academic Partner University of Sydney; and professor of international law at the University of Adelaide. He has also been a commissioner of the Australian Law Reform Commission and is a fellow of the British Academy.

As a member of the International Law Commission of the United Nations from 1992 to 2001, Crawford was responsible for the ILC's *Draft Statute for an International Criminal Court* (1994) and for its *Articles on State Responsibility* (2001). These texts, respectively, provided a framework for the subsequent work on the Statute of the International Criminal Court and brought to a successful conclusion decades of work by the ILC on the subject of state responsibility. Both elements have left their mark on contemporary international law and society.

As a scholar and academic, Crawford has been the author of a number of seminal texts. His *Creation of States*, now in its second edition, is a masterly work of scope and depth looking at the emergence of states, in both historical and contemporary perspective. It has been much in demand in recent years as developments in the former Soviet space, Eastern Europe, Africa, Asia and the Middle East have required fresh thinking about these issues. His writings on state responsibility have similarly brought an insight and a vision to a subject that has become the glue of international law, binding together primary and secondary rules of international law into something resembling a system.

As arbitrator, counsel, and witness, Crawford's contribution has been no less notable. A curriculum vitae of significant

cases in which he has been involved runs to many pages. Whatever position he occupies, he is respected on all sides of the issue as a man of integrity and kindness in his personal dealings and of depth, creativity, and wisdom in his scholarly and professional endeavors.

***Goler T. Butcher Medal: an award made for outstanding contribution to human rights.***

The Committee recommends that the 2012 Butcher Medal be awarded to **Asma Jahangir** of Pakistan, a longtime human rights activist, who has worked vigilantly and vigorously at home and abroad to prevent the persecution of religious minorities and women and the exploitation of children.

Jahangir is a leading Pakistani lawyer, is an advocate of the Supreme Court of Pakistan, and was elected to be the first woman President of the Supreme Court Bar Association of Pakistan. She has spent a lifetime fighting for human rights, democratic principles, and a secular civil society in her home country.

Jahangir was just 20 – and not yet a lawyer – when she launched her first legal battle in Pakistan to challenge her father's political detention. That case, known as *Asma Jilani's case*, is a landmark in Pakistan and was the first to cite the military for illegally subverting elected government. In 1981 she started the first all-woman law firm in Pakistan, along with her sister, Hina Jilani. They were among a group of founding members of the Women's Action Forum, a campaigning pressure group for women's rights. In 1982 Jahangir led a protest march in Islamabad against a decision by then-president Zia ul Haq to enforce religious laws, which had unfairly sent hundreds of women and men to prison because of accusations of blasphemy, justified the murder of women for family "honor," and subjected women to subservient status in marriage. She was placed under house arrest and later imprisoned for participating in the movement to restore political and fundamental rights under General Zia's military regime. In 1986, Jahangir, Jilani, and their law partners established AGHS Legal Aid, the first free legal aid center in Pakistan. In the same year, they were amongst the founding members of the Human Rights Commission of Pakistan. Their efforts to secure justice and protect rights for all Pakistanis, regardless of status, creed, or class have made them frequent targets for extremists in Pakistan. A savvy political organizer and fiery speaker, Jahangir was one of the leaders of the 2008 lawyers movement in Pakistan, led by the then head of the Supreme Court Bar Association.

Jahangir was United Nations Special Rapporteur on Freedom of Religion or Belief from 2004 to 2010 and Special Rapporteur on Extrajudicial, Arbitrary, and Summary Executions from 1998 to 2004. She currently serves on the Board of Trustees of the UN Fund to Combat Contemporary Forms of Slavery. In 1995, Jahangir received the Martin Ennals Award for Human Rights Defenders and the Ramon Magsaysay Award. She was also awarded the Bernard Simons Memorial Award of the International Bar Association in 2000 and the Millennium Peace Prize in 2001. She has received honorary

## Crawford, Jahangir, and Kellenberger to be Honored by ASIL in 2012

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Doctor of Law degrees from the University of St. Gallen, Switzerland; Queen's University, Canada; and Amherst College.

In the words of Rashed Rahman, a former editor of the *Post* in Lahore, "Asma Jahangir is brave and fearless. She has stood up for all the right causes. She has huge credibility and has achieved what she has through integrity and hard work. She is also a great friend."

**Honorary Member: an honorary distinction given to a non-US citizen for distinguished contribution or service in international law.**

The committee recommends that **Jakob Kellenberger** be named as an Honorary Member of the Society. Kellenberger, a Swiss citizen, is currently serving in his twelfth year as the president of the International Committee of the Red Cross (ICRC). Prior to coming to the ICRC in 2000, he spent his career in the Swiss diplomatic service, serving as secretary of state for foreign affairs from 1992 until 1999.

Kellenberger was a skillful diplomat in the service of his country for 25 years, and the most important negotiations relating to treaties were entrusted to him. It is his work at the ICRC over the past twelve years, however, that especially has persuaded the Committee to recommend him to be named an honorary member. In leading the institution with the principal responsibility for the development of international humanitarian law and monitoring its operation, Kellenberger has made a significant contribution to international law. Quite apart from the ICRC's achievements, moreover, his personal engagement in the most difficult issues has been of the greatest importance.

Since 2001, close to the beginning of Kellenberger's tenure as president, the ICRC has been preoccupied with the challenging issues involved in the application of international humanitarian law in the conflict with al Qaeda and other terrorist groups. While many urged that the Geneva Conventions were not well designed to address conflicts on a global scale involving non-state actors and suggested that they should be applied only with modifications, the ICRC insisted that the central provisions of the conventions prohibiting inhumane or degrading treatment of persons captured in the conflict must be observed and that it be provided access to all such persons without restriction in accordance with the conventions. Over time these positions came to be accepted by all states, in large part owing to the firmness of the ICRC in asserting them. Aside from the conflict with al Qaeda, over the past decade of Kellenberger's tenure the ICRC has been engaged in dozens of conflicts around the world – in the Democratic Republic of the Congo, Somalia, Sudan, the Philippines, Georgia, Libya, etc. – advising the parties to the conflicts of their obligations under the conventions and international law and offering its services to assure that civilians and combatants alike are treated humanely. The organization's reputation for good work has grown ever better, and as Kellenberger reaches the end of his third and final four-year term, the ICRC is universally respected.

Beyond leading an important and effective organization, Kellenberger also stands out for his individual contributions to international law. He met regularly with U.S. officials, including the secretaries of State and Defense, to remind them of their obligations under the conventions in the conflict with al Qaeda and never hesitated to point out instances where, in his view, the United States, which is the ICRC's largest financial supporter aside from Switzerland, was falling short. Aware that the ICRC's presence in Guantanamo might be perceived as an endorsement of the way in which captured al Qaeda members were being treated but bound by the ICRC's policy of confidentiality that prevented him from criticizing specific actions, Kellenberger several times threatened to withdraw ICRC from the base unless certain practices were stopped. In 2006, Kellenberger's personal efforts assisted critically in resolving a 50-year-old dispute between the ICRC and Israel over whether the ICRC would recognize the symbol used by the Israeli organization Magen David Adom, a star, as entitled to the same protection as the red cross symbol. In 2007, Kellenberger personally departed from years of ICRC precedent to criticize the government of Burma for its abuse of the human rights of its citizens. These are but three instances of many in which Kellenberger has shown his personal commitment to promoting human rights and international law. ■

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## Nominations

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Donovan has been a member of the ASIL Executive Council and Executive Committee and completed a term as vice-president in 2010. He served as program co-chair of ASIL's Centennial Meeting in March 2006 and co-chair of The Hague Joint Conference in 1995.

### Honorary President

#### Dame Rosalyn Higgins

was introduced to the American Society by Myres McDougal and Oscar Schachter, under whom she studied at Yale Law School, and has maintained close ties with the Society since 1962. She has been a frequent participant at Annual Meetings and has been a member of the Executive Council and of the *American Journal of International Law's* Board of Editors. She is a former judge and president of the International Court of Justice (ICJ). She was the first female judge to be appointed to the ICJ and was elected president in 2006. Prior to joining the Court in 1995, she served as a professor of international law at the University of Kent at Canterbury (1978-1981) and the University of London (1981-1995). She has published widely in the international legal field, and she has also served as counsel before the ICJ, as arbitrator in several international disputes, and as a member of the UN Human Rights Committee. Her contributions to the field of international law have been widely recognized, including with The Hague Prize for International Law, the Balzan Prize for international law, 18 honorary degrees, two Society Certificates of Merit, the Society's Honorary Member award, Prominent Woman in International Law Award, and Hudson Medal, among many other honors.



### Vice Presidents

**Elizabeth Andersen** is executive director and executive vice president of the American Society of International Law, a position she has held since October 2006. She previously served as executive director of the American Bar Association's Central European and Eurasian Law Initiative and Human Rights Watch's Europe and Central

Asia Division. She also served as a legal assistant to Judge Georges Abi-Saab of the International Criminal Tribunal for the former Yugoslavia and as a law clerk to Judge Kimba Wood of the U.S. District Court of the Southern District of New York. She holds degrees from Williams College (B.A.), Princeton University (M.P.A.) and Yale Law School (J.D.). Andersen has been a member of the Society since 1995 and served on its Annual Meeting Program Committee in 2004. She serves on a number of non-profit boards and advisory committees, and she teaches as an adjunct professor at ASIL Academic Partner American University Washington College of Law.



**Curtis Bradley** is the Richard A. Horvitz Professor of Law and a professor of public policy at ASIL Academic Partner Duke Law School. Bradley graduated *magna cum laude* from Harvard Law School in 1988 and subsequently clerked for Justice Byron White on the U.S. Supreme Court. He entered academia in 1995, after practicing law for several years at ASIL Law Firm Sponsor Covington & Burling in Washington, DC. Bradley has been teaching international law and related subjects for more than 16 years. During that time, he has written dozens of law review articles concerning both international law and U.S. foreign relations law, including a number of articles published in the *American Journal of International Law*. He is also the co-author of a leading casebook on U.S. foreign relations law. Bradley has served on ASIL's Executive Council and continues to serve on the *Journal's* Board of Editors. He has also held the position of counselor on international law in the U.S. State Department's Office of the Legal Adviser and is currently a member of the U.S. secretary of state's Advisory Committee on International Law. At Duke, he



co-directs the school's Center for International and Comparative Law.

#### John R. Crook

is a professorial lecturer at ASIL Academic Partner George Washington University School of Law, where he teaches international arbitration. He is a frequent consultant to counsel in International Centre for Settlement of Investment Disputes and other international proceedings, has served as an arbitrator under NAFTA, and was a commissioner on the Eritrea-Ethiopia Claims Commission, which successfully addressed extensive claims stemming from the two countries' 1998-2000 war.



Crook served for nearly three decades in the U.S. State Department's Office of the Legal Adviser. He was the second U.S. agent at the Iran-U.S. Claims Tribunal in The Hague, was deeply involved in creating the UN Compensation Commission in Geneva, and appeared in several cases before the International Court of Justice. From 2000 to 2004, he was general counsel of the Multinational Force and Observers.

Crook edits the *American Journal of International Law's* section on Contemporary U.S. Practice Relating to International Law and has written extensively on dispute settlement. He has served in a number of capacities in the leadership of the Society, on the editorial boards of the *Journal* and *International Legal Materials*, as counsellor on the Executive Council, and as chair of the Society's Honors Committee and Ad Hoc Committee on Electronic Publication.



#### Makau Mutua

is dean, a SUNY distinguished professor, and the Floyd H. & Hilda L. Hurst Faculty Scholar at Buffalo Law School, the State University of New York. He teaches international human rights, international

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business transactions, and international law. Mutua has been a visiting professor at Harvard Law School, ASIL Academic Partner University of Iowa College of Law, the University of Puerto Rico School of Law, the UN University for Peace in Costa Rica, and the University of Deusto in Bilbao, Spain.

In 2002-2003, Mutua was appointed by the Government of Kenya as chairman of the Task Force on the Establishment of a Truth, Justice, and Reconciliation Commission. The Task Force recommended a truth commission for Kenya. During the same time, Mutua was a delegate to the National Constitutional Conference, the forum that produced a contested draft constitution for Kenya.

Mutua is the author of several books and has written numerous scholarly articles exploring topical subjects in international law, human rights, and religion. He has conducted numerous human rights, diplomatic, and rule of law missions to countries in Africa, Latin America, and Europe, and he has written human rights reports for the United Nations and leading NGOs. He is a frequent lecturer and commentator on politics, human rights, law, and current affairs in the print and electronic media; is a columnist for the *Sunday Nation* (Kenya); and has authored dozens of articles for popular publications.

Previously, Mutua was the associate director at the Harvard Law School Human Rights Program. He was also the director of the Africa Project at the Lawyers Committee for Human Rights. He serves as the chairman of the Kenya Human Rights Commission and sits on the boards of several international organizations and academic journals.

Mutua was educated at the University of Nairobi, the University of Dar-es-Salaam, and Harvard Law School, where he obtained a J.D. in 1987. Mutua was co-chair of the Society's 2000 Annual Meeting and was elected vice president in 2011. He previously served on the Society's Executive Council and is a member of the Council on Foreign Relations.

**Abby Cohen Smutny** is a partner in the Washington, DC, office of ASIL Law Firm Sponsor White & Case LLP. She is widely recognized as a leading expert on international arbitration, with particular



expertise in investor-state disputes and disputes involving issues of public international law. She has served as counsel both for states and for investors in dozens of cases in her more than 20 years of practice.

Smutny is a member of the American Law Institute and serves on the Advisory Committee for the Restatement of the U.S. Law of International Commercial Arbitration of the American Law Institute. She also served as a member of the Special Drafting Committee of the ICC Task Force on Arbitration with States and State Entities. She is vice-chair of the Institute for Transnational Arbitration, co-editor-in-chief of *World Arbitration and Mediation Review*, a member of the Editorial Committee of the *Yearbook on International Investment Law and Policy*, and a member of the Editorial Board of the *Journal of International Arbitration*. She is a former vice-chair of the Arbitration Committee of the International Bar Association and chair of its Sub-Committee on Investment Treaty Arbitration. She is also a former chair of the International Law Section of the District of Columbia Bar. Smutny has served several terms as a member of ASIL's Executive Council and also has served as a member of the Society's Executive Committee.

Smutny completed her studies at Vassar College, the London School of Economics and Political Science, the Université des Langues et Lettres de Grenoble, and the University of Chicago School of Law.

### Counsellors



**Christina Cerna** is principal human rights specialist at the Inter-American Commission on Human Rights (IACHR) at the headquarters of the Organization of American States (OAS) in Washington,

DC. She has been with the OAS since January 1979 and is currently in charge of

certain special cases and systematizing the IACHR's jurisprudence. She has taught international human rights law as an adjunct professor for ASIL Academic Partner schools George Washington University, Penn State University, and Georgetown University Law Center. She holds degrees from New York University (B.A.); Ludwig-Maximilian Universität (M.A.), where she was a Fulbright scholar; American University (J.D., Dean's Fellow); and Columbia University (LL.M.). A long-time ASIL member, Cerna has frequently addressed Society meetings and serves on the Editorial Advisory Committee of *International Legal Materials*.



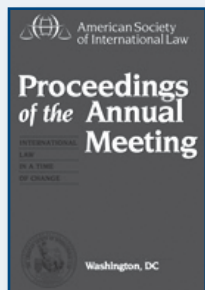
**Edward Kwakwa** is legal counsel at the World Intellectual Property Organization (WIPO) in Geneva. Kwakwa holds an LL.B degree from the University of Ghana, an LL.M. from Queen's University in Canada, and an

LL.M. and a J.S.D. from Yale University. Before joining WIPO, Kwakwa practiced corporate and international trade law and investment with the law firm of O'Melveny and Myers in Washington, DC, worked as international legal adviser at the Commission on Global Governance in Geneva, as senior legal adviser at the Office of the UN High Commissioner for Refugees, and as legal affairs officer at the World Trade Organization. His publications include three books and numerous articles on international law. He is currently serving as vice-president of the African Foundation for International Law, member of the Governing Council of Africa Legal Aid, member of the International Law Association's Study Group on the Responsibility of International Organizations, and chair of the Editorial Advisory Board of the *African Journal of International and Comparative Law*. In September 2011, he was elected as an associate member of the *Institut de Droit International*. He served from 2001 to 2004 on the Executive Council of the American Society of International Law. He has been an adjunct/visiting professor of law at ASIL Academic Partner Fletcher School of Law

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## ASIL Program News

### 2011 Proceedings Now Available



The *Proceedings of the 104th ASIL Annual Meeting* (2010) were released in September 2011, in both print and electronic versions. Built around the theme "International Law in a Time of Change," the 2010 Annual Meeting grappled with the ways in which traditional models of international law seek to adapt to changing norms, approaches to governance, and governmental and nongovernmental actors. In more than 35 panels and sessions featuring leading practitioners, scholars, and government officials, participants examined how our changing world does and

should impact the international legal system. Panels included such topics as "Winding up the International and Hybrid Criminal Tribunals," "A Comparative Look at Extraterritoriality: Bagram and Beyond," "Haiti: International Law and Disaster," "Afghanistan, Pakistan, and the Modern Challenges to Use of Force Law," "Updating the *Restatement*," "War and Law in Cyberspace," "The Road Forward from Copenhagen: Climate Change Policy in the 21<sup>st</sup> Century," and many others.

ASIL members can access the electronic version of the *Proceedings* by logging in at [asil.org](http://asil.org) and clicking on "Access my Journal, Int'l Legal Materials, & Proceedings." Print copies can be purchased for \$100, plus \$5 for shipping beyond the U.S. For more information, visit [www.asil.org/proceedings](http://www.asil.org/proceedings).

### ASIL Announces New Editor for its International Maritime Boundaries Series



Coalter Lathrop

*International Maritime Boundaries*, an ASIL co-publication with ASIL Publisher Partner Martinus Nijhoff/BRILL, has a new home at ASIL Academic Partner Duke Law under the editorship of **Coalter Lathrop**, co-chair of the Society's Law School of the Sea Interest Group. Volumes I and II of this series, published under the guidance of founding co-editors **Jonathan Charney** and **Lewis Alexander**, received the ASIL Certificate of Merit in 1994. Subsequent co-editors **David Colson**

and **Robert Smith** shepherded the project through volume VI, published in 2011. This comprehensive reference source will soon be made available online with annual updates published in parallel with the print series. ASIL members should use code 48717 when ordering print volumes for a 25% member discount.



## ASIL's 2011 Annual Fund...The Work We Do is Up To You

Since its establishment in 1906, ASIL's mission has been to foster the study of international law and to promote the establishment and maintenance of international relations on the basis of law and justice. While our educational mission remains as central today as it was then, our programs have adapted to dramatic changes in international law, as both an expansive topic and an evolving professional discipline. In the face of these changes, the Society plays a critical role, serving and strengthening the international law community, providing unparalleled information and analysis, educating wide-ranging constituencies of international law, and marshaling its members' expertise to offer solutions to contemporary global problems.

Through ASIL's Annual Fund, your charitable contribution supports the Society's special outreach programs designed to inform the judiciary,

policymakers, the media, and the general public about international law and its role in today's world. This year's Annual Fund goal is \$160,000, an ambitious doubling of last year's effort to enable us to double our outreach and educational activity.

ASIL is grateful to the many individuals who support the Society annually. If you haven't already, won't you make a commitment to support this effort? Please return your Annual Fund donation in the enclosed envelope, or make your donation online by going to [www.asil.org/annual-giving](http://www.asil.org/annual-giving).

For more information about how you can help support the Society, please contact Jackie Indek Beres, Director of Development, at [jberes@asil.org](mailto:jberes@asil.org) or 202.939.6003.

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## Nominations

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and Diplomacy, ASIL Academic Partner University of Denver College of Law, and the University of Pretoria, South Africa, where he is appointed as an extraordinary professor in law.

### Beth Simmons

is the Clarence Dillon Professor of International Affairs and director of the Weatherhead Center for International Affairs at Harvard University, where she is a professor in the Government



Department. She is the author *Mobilizing for Human Rights: International Law in Domestic Politics* (2009), which was recognized by ASIL (Certificate of Merit for a Preeminent Contribution to Creative Scholarship), the American Political Science Association, the International Studies Association, and the International Social Science Council as the best book published that year. She recently held a Straus Fellowship at ASIL Academic Partner NYU Law School (2009-2010). Simmons served on the *American Journal of International Law* Board of Editors, 2000-2010 (Deák Prize Committee, 2001-2002; Nomination Committee, 2003-2004; 2009-2010); and on the ASIL Executive Council, 2003-2006. Simmons was recently elected to the American Academy of Arts and Sciences (2009) and the American Academy of Political and Social Sciences (2011). Her current areas of research include international legal cooperation to counter transnational crime, as well as international law of foreign direct investment. Her current areas of research interest are foreign direct investment law and international criminal law cooperation.



**Paul Stephan** is the John C. Jeffries, Jr., Distinguished Professor of Law at the University of Virginia School of Law. Stephan joined the University of Virginia faculty in 1979 following clerkships with

Judge Levin Campbell of the U.S. Court

of Appeals for the First Circuit and U.S. Supreme Court Justice Lewis F. Powell, Jr. An expert on international business and Soviet and post-Soviet legal systems, he has advised governments and international organizations; organized conferences; edited books; and lectured to professionals, university groups, and high school students on a variety of issues raised by the globalization of the world economy and the transition away from Soviet-style socialism. During 2006-2007, he served as counselor on international law in the U.S. Department of State.

Stephan has served as a visiting professor at the Universities of Vienna, Munster, Lausanne, Melbourne, and the Pantheon-Assas, Paris, and at Sciences Po and the Interdisciplinary Centre, Herzliya. His casebook on international business law is used at law schools both in the United States and abroad. He has written extensively on international law, corruption, and the history of the Cold War. Most recently, he is the co-author, with Robert Scott, of *The Limits of Leviathan: Contract Theory and the Enforcement of International Law* (ASIL Publisher Partner Cambridge University Press, 2006). His current research interests include books on the political economy of international lawmaking and on the collapse of communism. Stephan holds degrees from the University of Virginia (J.D.) and Yale University (B.A. and M.A.).



**David Stewart** is a visiting professor of law at ASIL Academic Partner Georgetown University Law Center, a position he has held since September 2008, when he retired after nearly 33 years with the Office of the

Legal Adviser in the U.S. Department of State. His last position was assistant legal adviser for private international law. Before joining the U.S. government, he practiced with Donovan Leisure Newton & Irvine in New York City in general commercial and antitrust litigation. A graduate of Princeton University and the Yale Law School, Stewart received an LL.M. in international legal studies from New York University as

well as an M.A. in international relations from the Yale Graduate School. Stewart was elected in 2008 to the Inter-American Juridical Committee. He is a member of the Board of Editors of the *American Journal of International Law* and the Editorial Advisory Board of *International Legal Materials*. He is also a member of the American Law Institute, the Executive Council of the American Bar Association's Section of International Law, and the Secretary of State's Advisory Committee on Private International Law and serves as a vice-president of the American Branch of the International Law Association and as second vice-president of the American Association of Private International Law. Stewart co-edited the *Digest of U.S. Practice in International Law* for the years covering 1989-2003, co-authored (with Judge Thomas Buergeth and Professor Dinah Shelton) the *Nutshell on International Human Rights* (4th ed. 2009), and recently completed (with Georgetown professors Luban and O'Sullivan) a new textbook on international and transnational criminal law (Aspen 2010).



**William H. Taft, IV**, is a retired partner and of counsel in the Washington, DC, office of Fried, Frank, Harris, Shriver & Jacobson. Taft joined the firm in 1992 and resigned in 2001 to become the legal adviser to

the U.S. Department of State. He rejoined the firm as counsel in 2005 and retired as a partner in 2007. From 2007 until 2009, Taft was the Warren Christopher Professor of The Practice of International Law and Diplomacy at ASIL Academic Partner Stanford Law School.

Taft served as legal adviser to the Department of State from 2001 until 2005. Prior to joining Fried Frank in 1992, Taft served as U.S. ambassador to NATO, 1989 – 1992; deputy secretary of defense, 1984 – 1989; general counsel of the Department of Defense, 1981 – 1984; and general counsel of the Department of Health, Education, and Welfare, 1976 – 1977. Taft was the acting secretary of defense from January until March 1989.

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## Nominations

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Taft served in several positions at the Federal Trade Commission, the Office of Management and Budget and the Department of Health, Education, and Welfare between 1970 and 1976. He was in private practice with Leva, Hawes, Symington, Martin & Oppenheimer from 1977 until 1981.

### Executive Council

**David Bowker** is a partner in ASIL Law Firm Sponsor Wilmer Culter Pickering Hale & Dorr's Litigation/Controversy Department. He is a member of the Business Trial Group and the International Arbitration, International Litigation, and Government and Regulatory Litigation Practice Groups. He joined the firm in 1997. Bowker has a diverse practice focusing on international litigation, complex commercial litigation and securities enforcement and litigation matters. Bowker represents U.S. and foreign companies, trade associations, and foreign governments before U.S. district courts, appellate courts and the Supreme Court, as well as U.S. regulatory and executive agencies. He has conducted internal corporate investigations and represented clients in international commercial arbitration.

Before joining Wilmer Hale, Bowker worked as an attorney-adviser in the Office of the Legal Adviser at the U.S. Department of State, where he focused on the law of war and, prior to that, on ethics and employment law. His service in the State Department was recognized with several awards.

Bowker is an adjunct professor at the Benjamin N. Cardozo School of Law, where he teaches "The Law of War and the War on Terrorism." He has guest lectured at the George Mason University School of Law and the Georgetown School of Foreign Service. He holds degrees from the University of California-Los Angeles (B.A.), Tufts University (M.A.), and Berkeley Law School (J.D.).

**Anupam Chander** is a professor of law at ASIL Academic Partner University of California-Davis School of Law. He is a leading scholar in the law of globalization and digitization and has written widely on international law, cyberlaw, and corporate law. Chander began his teaching career at ASIL Academic Partner Arizona State University and has served as a visiting professor at ASIL Academic Partner Stanford Law School, Cornell Law School, the University of Chicago Law School, and ASIL

Academic Partner Yale Law School. Prior to teaching, he clerked for Chief Judge Jon O. Newman of the Second Circuit Court of Appeals and Judge William A. Norris of the Ninth Circuit, and practiced law in New York and Hong Kong with the firm of Cleary Gottlieb Steen & Hamilton, representing foreign sovereigns in international financial transactions. Chander holds degrees from Harvard University (B.A.) and Yale Law School (J.D.). He has been an active member of the Society, including as a member of the 2011 Annual Meeting Program Committee.

**Elizabeth Chien-Hale** is a U.S. attorney specializing in patent and other forms of intellectual property protection in the United States and abroad. She is also the founder of the information-based non-profit organization Institute for Intellectual Property in Asia. Prior to consulting, she headed the patent practice at Baker & McKenzie's Hong Kong office. She also worked for other law firms in Silicon Valley including Wilson Sonsini Goodrich & Rosati and Fish & Richardson.

Chien-Hale specializes in telecommunication and internet related technologies. She has lectured and written, in both English and Chinese, on the topics of intellectual property protection and the Chinese constitutional structure. She was a research scholar at the College of Law of the Peking University and taught at the graduate school of the Chinese Academy of Social Sciences in 1995. Chien-Hale is also an active participant in professional organizations, including currently serving as the chair of the China Task Force and the Committee on International Patent Treaties and Laws of the Intellectual Property Law Section of the American Bar Association. She is also the co-chair of ASIL's International Law in the Pacific Rim Region Interest Group.

She holds degrees from the University of California-Berkeley (B.S.M.E. and M.A.); the University of Hawaii School of Law (J.D.), and the Georgetown University Law Center (LL.M.).

**Oona Hathaway** is the Gerard C. and Bernice Latrobe Smith Professor of International Law at ASIL Academic Partner Yale Law School. She earned her B.A. *summa cum laude* at Harvard University and her J.D. at Yale Law School, where she was editor-in-chief of the *Yale Law Journal*. Before recently re-joining the faculty at Yale, she served as a law clerk for Justice Sandra Day O'Connor and for D.C. Circuit Judge Patricia Wald;

held fellowships at Harvard University's Carr Center for Human Rights Policy and Center for the Ethics and the Professions; and served as associate professor at ASIL Academic Partner Boston University School of Law, as associate professor at Yale Law School, and as professor at ASIL Academic Partner University of California-Berkeley School of Law. Her current research focuses on the intersection of domestic and international law. Hathaway received the Carnegie Scholars Award in 2004, serves on the Executive Committee of the MacMillan Center at Yale University, serves as a member of the Advisory Committee on International Law for the Legal Adviser at the U.S. Department of State, and has testified before Congress several times on legal issues surrounding the U.S. war in Iraq. An active member of the Society, Hathaway has served on its Awards Committee and currently serves on its Development Committee and its Roundtable on International Law and Security.

**Jeremy Levitt** is the associate dean for international programs and a professor of international law at Florida A&M University. He is a public international lawyer and political scientist with expertise in the law of the use of force, human rights law, African politics, democratization, state dynamics, and regional collective security. Levitt is the author or editor of four books and numerous law review articles. Prior to entering law teaching, he served as special assistant to the managing director for global human and social development at the World Bank Group. He was recently appointed as senior member of the International Technical Assistance Committee (ITAC) of the Truth and Reconciliation Commission (TRC) of Liberia by the UN High Commissioner for Human Rights and the president of the Republic of Liberia, Ellen Johnson-Sirleaf, Africa's first democratically-elected female head of state. ITAC provides technical legal assistance to, and legal oversight of, TRC operations. He holds a Ph.D. in international relations from the University of Cambridge-St. John's College; a J.D. from the University of Wisconsin-Madison, and a B.A. in political science from Arizona State University. An active member of the Society, Levitt has served on its Annual Meeting Program and Nominating Committees, and also as co-chair of the Society's Africa Interest Group.

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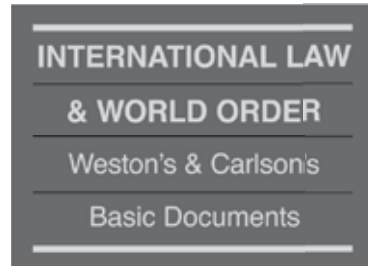
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## Nominations

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**Andrea Menaker** is a partner in the Washington, DC, office of ASIL Law Firm Sponsor White & Case, LLP, where she serves as counsel in complex international arbitration cases involving contentious political issues. She has extensive experience in matters involving treaty-based claims, international investment protections, public international law, sovereign immunity, and the enforcement of foreign arbitral awards. Menaker has represented both claimant investors and respondent states in arbitrations before the International Centre for Settlement of Investment Disputes and its Additional Facility, the International Chamber of Commerce and other arbitral institutions, as well as in ad hoc arbitration under the Arbitration Rules of the UN Commission on International Trade Law.

Menaker is frequently called upon to speak on international arbitration and investor-state dispute resolution issues and has published numerous articles on these topics. She has served as an adjunct professor at ASIL Academic Partner Georgetown University Law Center, where she taught international commercial arbitration for several years, and has lectured at several other universities.

Prior to joining White & Case, Menaker was chief of the NAFTA Arbitration Division for the U.S. State Department where she represented the United States in investor-state arbitrations under the investment chapter of the NAFTA, and participated in the drafting of investment and dispute resolution provisions in United States' bilateral investment treaties and investment chapters of free trade agreements. She received her bachelor's degree from Georgetown University and her law degree from the University of Washington School of Law. She clerked for Judge Sidney H. Stein of the U.S. District Court for the Southern District of New York. She is an active leader in a number of legal organizations and institutions, including the Society, where she has participated in a joint ASIL-ABILA Study Panel on International Commercial

Arbitration and the 2009 Annual Meeting Program Committee.

**Kal Raustiala** holds a joint appointment between ASIL Academic Partner University of California-Los Angeles Law School and the UCLA International Institute, where he teaches in the Program on Global Studies. Since 2007 he has served as the director of the UCLA Ronald W. Burkle Center for International Relations. The Burkle Center is UCLA's primary academic unit that fosters interdisciplinary research and policy-oriented teaching on the role of the United States in global cooperation and conflict, and in military, political, social and economic affairs. Raustiala holds a J.D. from Harvard Law School and a Ph.D. in political science from the University of California-San Diego.

Raustiala's research focuses on international law and politics and on intellectual property. He has been a visiting professor at Harvard Law School, ASIL Academic Partner Columbia Law School, Princeton University, and the University of Chicago Law School. Prior to coming to UCLA he was a research fellow in the Foreign Policy Studies Program at the Brookings Institution, a Peccei scholar at the International Institute for Applied Systems, and an assistant professor of politics at Brandeis University. A life member of the Council on Foreign Relations, he serves on the editorial boards of *International Organization* and the *American Journal of International Law*. He is a frequent media contributor whose writing has been featured in the *New York Times*, the *Wall Street Journal*, the *Financial Times*, the *New Republic*, the *New Yorker*, the *International Herald Tribune* and *Le Monde*. In addition to his service to the Society on the *Journal Board of Editors*, Raustiala served as co-chair of the Society's inaugural Research Forum, held as part of its 2011 Midyear Meeting in Los Angeles.

**Robert Sloane** is an associate professor of law at ASIL Academic Partner Boston University School of Law. His research interests and writing

address a wide range of topics relating to public international law, the law of war, international legal theory and ethics, transnational criminal law, international investment law and arbitration, criminal law, international human rights law and policy, national security and foreign relations law, and international business transactions.

Prior to joining Boston University School of Law, Sloane worked for the International Committee of Lawyers for Tibet (now known as Tibet Justice Center) under the auspices of ASIL Academic Partner Yale Law School's Robert L. Bernstein Fellowship in International Human Rights, clerked for Judge Robert D. Sack of the U.S. Court of Appeals for the Second Circuit and then for Judge Gerard E. Lynch of the U.S. District Court for the Southern District of New York, practiced international law at ASIL Law Firm Sponsor Debevoise & Plimpton in New York, and served as a visiting lecturer-in-law and Schell Fellow at Yale and as an associate-in-law at ASIL Academic Partner Columbia Law School. Sloane has been a visiting professor at the University of Michigan Law School (Spring 2010) and at Harvard Law School (Spring 2011), where he served as the John Harvey Gregory Lecturer in World Organization. During the Spring 2012 semester, he will teach public international law at ASIL Academic Partner Fletcher School of Law and Diplomacy of Tufts University.

Sloane continues to act as a consultant in international investment arbitrations and on other international legal issues and to carry out international human rights work pro bono for Tibet Justice Center. He serves as chairman of its board of directors.

Sloane holds degrees from Columbia (B.A.) and Yale Law School (J.D.). In 2007, he received a high-level diploma in public international law from The Hague Academy of International Law, one of only three U.S. citizens to receive the degree in the past two decades. Sloane has been active in Society Interest Groups and as a member of its annual Awards Committee. ■

## Interest Group Spotlight:

News from some of ASIL's 28 Interest Groups

### International Law in Domestic Courts

The International Law in Domestic Courts Interest Group will hold its annual meeting on December 16, 2011, at Brigham Young University Law School. Group members look forward to discussing five significant works-in-progress on a range of diverse topics, as well as current developments in U.S. foreign relations law. For more information on the event, visit [www.asil.org/ildcmeeting](http://www.asil.org/ildcmeeting).

### International Economic Law

The International Economic Law Interest Group (IECLIG) recently organized a panel at the 2011 WTO Public Forum entitled *The Evolving International Trade Order: The Global Sourcing and New Challenges to the WTO System*. The panel explored the implementation of the current trading and investment rules in light of today's global trading patterns. Despite the increasingly complex and diversified sourcing realities today, the rules that govern trade and investment are based on outdated trading patterns of the 19<sup>th</sup> and early 20<sup>th</sup> centuries, in which trade flows were linear and supply chains were not very diversified, if at all. Today, however, there is a very different picture. Importers now source from multiple countries, sell in multiple countries, and are themselves incorporated in multiple countries. Yet the current trading rules are premised on mono-location and a linear trade flow endemic to a mercantilist structure under which state actors compete to maximize exports while containing imports.

One can see how these evolving global supply chains challenge the trading rules within the global trading system. The current trading patterns suggest the need for businesses to make use of a harmonized trading system. However, one can see many examples where the implementation of the trading rules are not in fact harmonized. Likewise, importers confront both country of origin rules and the rules relating to value that have failed to keep pace with the realities of today's trading patterns. As the WTO's *Made in the World Initiative* reflects, country of origin rules that try to identify a single source for a product are deceiving. Likewise, the value rules for customs purposes can conflict with value rules for tax purposes in the transfer pricing area, making valuation more complex for related parties. Finally, an increasingly important regulatory layer is international investment law, which presents a potential regulatory mismatch between trade and investment rules. The panel explored whether the current crisis over the Doha Round negotiations is due, in part, to some of these issues. The panelists included **Elizabeth Trujillo** (Suffolk University Law School), **Philippe Orban** (KPMG), IECLIG Co-Chair **Claire R. Kelly** (Brooklyn Law School), **Jorge Viñuales** (ASIL Academic Partner The Graduate Institute of Geneva) and **Konstantina K. Athanasakou** (ASIL Law Firm Sponsor White & Case, Geneva).

### Cultural Heritage and the Arts

The Cultural Heritage and the Arts Interest Group is pleased to announce the forthcoming edition of the *Cultural Heritage*

& Arts Review, December 2011. This edition of the *Review* will be focused on the topic of looting and contains pieces by scholars and practitioners in the field. Interest Group members and *Review* subscribers should have recently received the third issue, June 2011, which has many excellent contributions. The *Cultural Heritage & Arts Review* is also actively seeking articles for its Summer 2012 edition. Articles on all topics related to cultural heritage and the arts are welcome. Submissions should be limited to 3,000 words and should include an abstract and author bio. To have an article considered for publication, submit it to Co-Editors-in-Chief **Elizabeth Varner** and **Betina Kuzmarov** at [eic.char@gmail.com](mailto:eic.char@gmail.com).

### International Criminal Law

The International Criminal Law Interest Group is pleased to welcome two new co-chairs: **Charles Jalloh** of the University of Pittsburgh School of Law (who previously worked in Canada's Department of Justice in the Crimes Against Humanity and War Crimes Section and with the Office of the Principal Defender of the Special Court for Sierra Leone) and **Shahram Dana** of ASIL Academic Partner John Marshall Law School in Chicago (who previously worked in the International Criminal Tribunal for the former Yugoslavia). They join **Beth Van Schaack**, who co-chaired the Interest Group last year with **Linda Malone** of William and Mary Law School. The Interest Group will be partnering this year with the ASIL Helton Fellowship Program to help identify fellowship candidates interested in work in international criminal law with the international and hybrid tribunals. The group will also be hosting a works-in-progress in Chicago this December featuring the scholarship of many Interest Group members. See [www.asil.org/events](http://www.asil.org/events) for details.

### International Refugee Law

The International Refugee Law Interest Group (IRLIG) will co-sponsor an international conference on "Protracted Refugee Situations," to be hosted by ASIL Academic Partner Boston University School of Law April 2–3, 2012. While the first part of the conference will focus on the scope and ramifications of such refugee crises on a global basis, the second part will aim to identify state responses and policies addressing potential solutions to those problems. The event, to be coordinated with a week of student activities on campus related to global refugee issues, will include panels on protracted refugee situations relating to historical unresolved conflicts, current major global refugee crises, existing refugee law frameworks and protection gaps, and current cases relating to consequences of protection gaps. Save the date and join the group in Boston right after ASIL's Annual Meeting in Washington, DC. For conference updates, further information, and interaction with other IG members, go to [www.asil.org/refugeelaw](http://www.asil.org/refugeelaw).

### ASIL-Midwest

On October 21, 2011, ASIL-Midwest, in conjunction with the Center for the Study of Dispute Resolution at the University

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## Interest Group Spotlight

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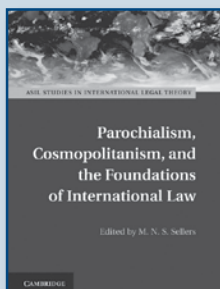
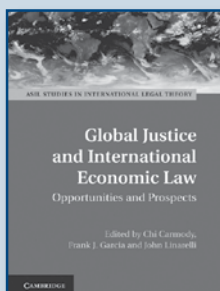
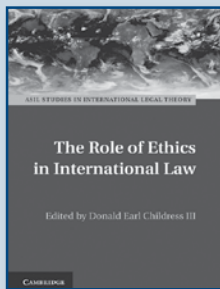
### International Legal Theory

The International Legal Theory Interest Group held its annual symposium on November 11, 2011, at Tillar House, ASIL headquarters. The symposium theme was "Legal Positivism in International Legal Theory: Hart's Legacy." This is an auspicious year for the ILTIG to dedicate its annual symposium to Hart's work, as 2011 marks the 50th anniversary of the publication of his classic book, *The Concept of Law*. This year, the symposium was generously funded by ASIL Academic Partner Georgetown University Law Center. The symposium organizer was **Mark Herlihy** of Georgetown's Institute of International Economic Law, and participants included **John Mikhail** (Georgetown), **Liam Murphy** (ASIL Academic Partner NYU), **Dan Priel** (Osgoode Hall), **Timothy Meyer** (ASIL Academic Partner University of Georgia), and **Michael Helfand** (ASIL Academic Partner Pepperdine), and **John Linarelli** (Swansea). The symposium will result in papers to be published in the ASIL Studies in International Legal Theory series, published by ASIL Publisher Partner Cambridge University Press.

The 2011 symposium continues a longstanding ILTIG tradition. Each year for the past decade the ILTIG symposia have devoted attention to the theoretical and philosophical aspects of such topics as customary international law, humanitarian law, international economic law, and human rights. The symposia and their resulting papers have developed to the point where, in 2009, the ASIL Studies in International Legal Theory series was born. Symposium organizers serve as editors for each year's book.

The series had three new books debut in November: *The Role of Ethics in International Law*, edited by **Donald Earl (Trey) Childress, III** (Pepperdine), *Global Justice and International Economic Law: Opportunities and Prospects*, edited by **Chi Carmody** (Western Ontario), **Frank J. Garcia** (Boston College), and John Linarelli, and *Parochialism, Cosmopolitanism, and the Foundations of International Law*, edited by **Mortimer Sellers** (Baltimore). The series also publishes books outside of the symposia, including authored books and co-edited collections.

The ILTIG is exploring more ways to develop theoretical and philosophical approaches that further our understanding of international law. The IG leadership is considering the launching of online works-in-progress workshops and lectures on topics of interest. Those interested in working to develop a relevant ILTIG program or in program sponsorship should contact ILTIG Chair John Linarelli and Vice Chair Trey Childress at internationallegaltheory@gmail.com.



of Missouri School of Law among others, co-sponsored an international symposium entitled "Border Skirmishes: The Intersection Between Litigation and International Commercial Arbitration." The event featured **Gary Born** as keynote speaker and brought together speakers and attendees from 15 countries in Europe, Asia, Africa, and the Americas. Born is widely regarded as the world's preeminent authority on international commercial arbitration and international litigation, and his keynote address to the symposium is viewable at [law.missouri.edu/csdr/symposium/2011](http://law.missouri.edu/csdr/symposium/2011).

Panelists at the symposium included **Frédéric Bachand**, McGill University Faculty of Law; **Christopher Drahozal**, University of Kansas; **Alejandro Garro**, ASIL Academic Partner Columbia University; **Louise Reilly**, Court of Arbitration for Sport; **Marianne Roth**, University of Salzburg; and **Peter B. Rutledge**, ASIL Academic Partner University of Georgia.

During the event, Born announced the winners of a student writing competition associated with the "Borders Skirmishes" symposium. First place in the writing competition went to **Giulia Carbone**, who received her LL.M. from the University of Cambridge in 2011. Carbone's submission, "The Interference of the Court of the Seat with International Arbitration," entitled her to prize money in the amount of \$300 as well as possible publication of the winning article in the University of Missouri's *Journal of Dispute Resolution*. Second place went to **David Ma**, a JD/MBA student at the University of Missouri. His submission was entitled "A BIT Unfair? An Illustration of the Backlash Against International Arbitration in Latin America: *Chevron Corp. v. Republic of Ecuador*." Third prize was given to **Parvan Petrov Parvanov** of Columbia Law School for his paper, "The Hidden Duality of Summary Disposition of Claims in Investment Arbitration."

### International Organizations

The International Organizations Interest Group held its second Works-in-Progress Workshop on October 28 at ASIL Academic Partner Fletcher School of Law and Diplomacy, Tufts University. More than two dozen academics, practitioners, and students participated. Papers discussed included: "The World Bank, the IMF, and Transparency in the 21st Century" by **David Gartner**; "On Chapter VII 1/2 of the UN Charter" by **Antonia Chayes**; "Losing Its Grip? Congress and the World Bank" by **Kristina Daugirdas**; "The High Seas Fisheries: A Case Study in Scarcity and Redistribution in International Law" by **Kristen Boon**; "Manipulated Commitments: The International Criminal Court in Uganda" by **Kenneth Rodman**; and "United Nations Constitutional Assistance (UNCA): New Additions to the 'Standard of Civilization'?" by **Vijayashri Sripati**. ■



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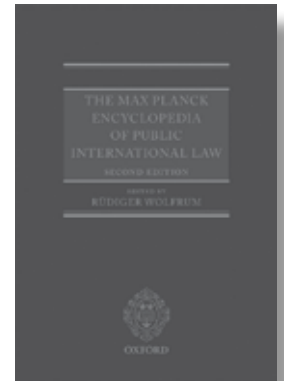
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## Events

### National Conference of State Legislators

Responding to a rise in anti-international law legislation in many U.S. state legislatures, ASIL hosted an informational exhibit at the August 8-11, 2011, annual summit of the National Conference of State Legislators in San Antonio, TX. The booth was manned by the Society's Director of Communications and Member Relations, **Sheila Ward**, who welcomed hundreds from the nearly 5,000 meeting attendees that included 887 legislators and 675 legislative staff. Of particular interest to those who stopped by the display was a quiz that allowed conferees to test their knowledge on a wide range of international law issues, including international humanitarian law. Completing the quiz earned participants the right to be entered in a drawing for a Kindle reading device. Of the 54 conferees who took the popular test, half were either state legislators or state legislative staff members. The vast majority of attendees had never heard of the Society, but among those who stopped by the exhibit, interest was high, and the reception positive. Materials of greatest interest were ASIL USB drives (or computer memory sticks) containing basic information about the Society and a collection of treaties particularly relevant to U.S. courts, the Society's introductory booklet "International Law: 100 Ways It Shapes Our Lives," copies of the April/June 2011 ASIL *Newsletter* containing President **David Caron**'s column on state anti-international law initiatives, and a selection of ASIL *Insights* covering issues from consular notification to foreign vs. international law and the secret detention of terrorism suspects. The event, as evidenced too by the hundreds of other exhibitors present, was an excellent outreach and education opportunity for the Society.



ASIL Director of Communications and Member Relations Sheila Ward (center) talks with attendees at the 2011 National Conference of State Legislators' summit.



On September 9, 2011, ASIL hosted a reception for then International Law Commission candidate and now member Sean Murphy (right), who is a Society patron and a professor at ASIL Academic Partner George Washington University. Remarks by him, preceded by introductions from ASIL Vice President and Patron John Crook (left) and U.S. State Department Legal Adviser Harold Koh can be viewed at [www.asil.org/murphyreception](http://www.asil.org/murphyreception).



On Thursday, October 27, 2011, ASIL hosted a reception in Manhattan on the occasion of the meeting of the United Nations Sixth Committee. In attendance were nearly 100 representatives from the UN Permanent Missions, members of the International Law Commission, and members of the Society's leadership. The reception included remarks by ASIL Counsellor John B. Bellinger, III, (right) of ASIL Law Firm Sponsor Arnold Porter LLP and formerly the U.S. State Department Legal Adviser, and ASIL President David Caron. The reception was generously sponsored by Arnold & Porter LLP.

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## EVENTS

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### Midyear Meeting

ASIL's second annual Midyear Meeting and inaugural Research Forum, hosted at ASIL Academic Partner University of California-Los Angeles Law School and the California Club, was held November 3-5, 2011, in Los Angeles, CA, and welcomed nearly 250 attendees. The Meeting opened on November 3 with a panel on current issues in international dispute resolution, moderated by **Robert O'Brien** of ASIL Law Firm Sponsor Arent Fox and featuring speakers **Donald Donovan** of ASIL Law Firm Sponsor Debevoise & Plimpton, **Lucy Reed** of ASIL Law Firm Sponsor Freshfields Bruckhaus Deringer, and **Edward Swaine** of ASIL Academic Partner George Washington University Law School.



From left, Caron, O'Brien, Reed, Donovan, and Swaine at the Midyear Meeting's opening panel.

On November 4, the Meeting continued with a conference luncheon and keynote address by International Criminal Court Prosecutor **Luis Moreno Ocampo**. The panel, "Emerging Issues in Alien Tort Statue Litigation," was moderated by **Donald Earl (Trey) Childress, III**, ASIL Academic Partner Pepperdine University School of Law, and included panelists **Paul Hoffman** of Schonbrun, De Simone, Seplow, Harris, and Hoffman, LLP, **Chiméne Keitner** of the University of California-Hastings College of Law, and **Kristin Myles** of Munger Tolles & Olson, LLP. The final panel of the day was "Corporate Counsel's Perspectives," moderated by **Kenneth I. Juster** of Warburg Pincus LLC, with panelists **Jared Jussim** of Sony Pictures Entertainment, Inc., **Stacey Byrnes** of NBC Universal, Inc., **David P. Kaplan** of Warner Brothers Entertainment, and **Dean Marks** of Warner Brothers Entertainment.

Also on that day, the Society held a career fair for more than 60 students of ASIL Academic Partner schools. Beginning with a panel of top practitioners speaking about their formative experiences and lessons learned, the career fair also included breakout sessions that brought together law students with experienced attorneys to explore

practice in multinational law firms, NGOs, U.S. government agencies, international organizations, and multinational corporations.



Attendees at one of Friday's panels.

On November 5 was the day-long Research Forum, which consisted of a series of concurrent sessions that provided a forum for authors to receive comments from invited discussants as well as audience members. Fifty-seven papers were selected for presentation and discussion out of 273 submissions. Paper topics ranged from "International Law in a Time of Scarcity: The Case of Bluefin Tuna" to "Is Article 38(1) of the ICJ Statue Outmoded? Toward a New Theory of Sources in International Law."

The *American Journal of International Law* Board also convened during the Midyear Meeting, as did the Society's Executive Council, for their semi-annual business meetings. ■



Attendees discuss a paper presented at one of the Research Forum sessions.

## ASIL THANKS ITS 2011 MIDYEAR MEETING SPONSORS

**Arent Fox, LLP; Gibson Dunn & Crutcher, LLP; Milbank Tweed, LLP; Munger Tolles & Olson, LLP; UCLA School of Law; Sanela Diana Jenkins Human Rights Project at UCLA School of Law; UCLA Burkle Center for**

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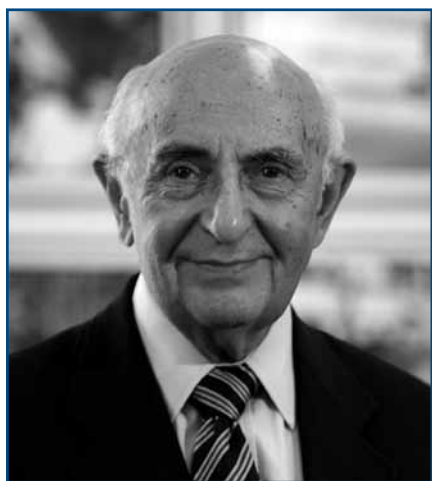
## MEMBER NEWS



Edward Kwakwa

Nearly 1,300 ASIL members participated in the 2011 Member Survey and as a result were entered to win an Annual Meeting registration fee waiver. The winner of the drawing was **Edward Kwakwa** of Geneva, Switzerland. Kwakwa first joined the Society in 1985 and has attended all but one Annual Meeting since 1987. (The results of the 2011 Member Survey will be announced in the next issue of the *Newsletter*.)

Lifetime ASIL member **David Attard** was sworn in as a judge at the International Tribunal for Law of the Sea on October 4, 2011. Attard is the long serving director of the International Maritime Law Institute. He has been a member of the Society for 22 years.



Theodor Meron

ASIL Honorary President and Patron **Theodor Meron** was elected president of the International Criminal Tribunal for the former Yugoslavia. Meron was first elected to the Tribunal in 2001 and serves on the Appeals Chamber. He has been a member of the Society for 40 years.



Sean Murphy

ASIL Patron **Sean Murphy** was elected by the UN General Assembly to the International Law Commission on November 17, 2011. Murphy is a professor at ASIL Academic Partner George Washington University School of Law and has been a member of the Society since 1988.

## PASSINGS



David J. Bederman

Longtime *American Journal of International Law* Board of Editors member **David J. Bederman** passed away on December 4, 2011. Bederman was a professor at Emory University School of Law, where he served as advisor to the *Emory International Law Review* and was director of international legal studies. He first joined the Society in 1986.

Georgetown University Professor **Chris Joyner** died on September 10, 2011. Joyner co-founded and directed the Institute for International Law and Politics at Georgetown. He first joined the Society in 1975.

**Arturo Fajardo Maldonado** passed away on September 21, 2011. Maldonado served as ambassador of the Republic of Guatemala to Belgium as well as to the United Nations in Geneva and New York. He was Minister of Foreign Affairs of the Republic of Guatemala from 1993 to 1994. Maldonado first joined the Society in 1985.

Past ASIL Executive Council member **Jerome "Jerry" Shestack**, a former president of the American Bar Association, died on August 18, 2011. Shestack was appointed ambassador to the UN Commission on Human Rights from 1979 to 1980. He first joined the Society in 1962.

University of Hawaii law professor **Jon Van Dyke** passed away on November 30, 2011. Van Dyke was a leading authority on Native Hawaiian Law. He first joined the Society in 1967.

Emeritus member **Richard Young** died on November 19, 2011. Young was Manley O. Hudson's assistant for twelve years and was a past member of the *American Journal of International Law* Board of Editors. He first joined the Society in 1946.

## STAFF NEWS



Nino Guruli

**Nino Guruli** joined the Society in August as the newest ASIL Law Fellow. Guruli is working on developing a secondary school curriculum on the role of the United States as a leader in the formation of international law and human rights. She will also assist with the completion of the ASIL *Benchbook on International Law for Federal Trial Judges*. A graduate of ASIL Academic Partner Notre Dame Law School, Guruli has worked with Professor Mary Ellen O'Connell on the sixth edition of

the *International Legal System, Cases and Materials* casebook, as a law clerk with Legal Aid Services of Oregon in indigent representation, for the Public Interest Research Group and the Club of Madrid, and on conducting field research focused on acute ethnic conflict and environmental degradation in ex-Soviet republics.

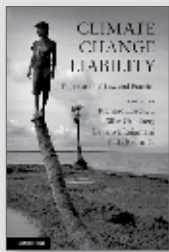
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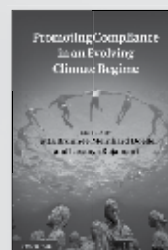
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Online registration for the 106th ASIL Annual Meeting, to be held March 28-31, 2012, in Washington, DC, is now available at [www.asil.org/am12](http://www.asil.org/am12). Through January 30, 2012, registration fees are significantly discounted.

The Meeting, which will follow the theme "Confronting Complexity," will present a broad range of perspectives on today's substantive issues in international law. Panel session topics are to include:

- Imputed Liability in Alien Tort Litigation
- Realizing Human Rights through Specialized Environmental Courts
- Forgotten Sisters: Violence Against Women with Disabilities – Human Rights Law and Complex Identity Status
- The Chevron-Ecuador Dispute: A Paradigm of Complexity
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**Please consult the ASIL website at [www.asil.org/am12](http://www.asil.org/am12) for ongoing and updated information about the 106th Annual Meeting program and to register.**

## YOU'RE IN THE NEWS? SHARE IT ON ASIL.ORG!

To help promote and communicate the many accomplishments and citations of ASIL members in the news, the Society has established an online feature, accessible from the [asil.org](http://asil.org) homepage, called ASIL and Its Members in the News. Through it the web-viewing world can learn when and how ASIL members have made news, been quoted in the news, or written publications that are publicly accessible via the web.

ASIL members are encouraged to propose items for inclusion in this [asil.org](http://asil.org) section by sending timely links to members' quotes or publications that are appropriate for sharing with the worldwide international law community. Please submit contributions to Sheila Ward, ASIL Director of Communications and Member Relations, at [sward@asil.org](mailto:sward@asil.org).