Interest Group on

International Organizations

The American Society of International Law

Fall 1996 Newsletter

Report from the 1996 Annual Meeting

Outgoing Interest Group Chair Walter Hoffmann passed the gavel to incoming Chair Michael G. Schechter of James Madison College, Michigan State University, following the conclusion of the panel discussion "UN Electoral Assistance: Is There an Evolving International Right to Democratic Elections?"

Prof. Schechter thanked Mr. Hoffmann for his exemplary job as Chair, especially in organizing the program for the Interest Group's Annual Meeting. Prof. Michael P. Scharf of the New England School of Law was nominated and unanimously elected as Vice Chair/Chair Elect for 1996-97. Prof. Schechter then announced, with a great deal of pleasure, that Bryan F. MacPherson, the President of the D.C. Chapter of the World Federalist Association, had agreed to serve as editor of the newsletter. Mr. MacPherson announced that while he will edit the newsletter, he did not intend to write it. The success of the newsletter will depend upon the willingness of members to submit articles.

Prof. Schechter then opened the floor for new business. The focus of the discussion was on the sort of panel that the Interest Group might sponsor for the 1997 meeting. Given the high quality of the panel at the 1996 meeting, the suggestion was made that the interest group investigate whether interest groups could sponsor regular panels rather than squeeze them into a one-hour time slot that also includes a business meeting. Members were reminded that there are too many interest groups for each to sponsor a panel, and currently, a rotation system is in place whereby each interest group has the opportunity to sponsor a panel every few years. Indeed, the Interest Group sponsored a high-quality, well-attended panel at the 1995 meeting, but when Walter Hoffmann sought to sponsor one again in 1996, he was told it was not our turn. It was agreed at the meeting that Prof. Schechter should ask the Executive Director if the time slots for interest group business meetings with panels could be extended and be at some time other than 7:30 a.m.

Topics suggested for a panel at the 1997 meeting, included the status of international criminal courts (building on what was done at the 1994 Interest Group meeting) and a preliminary assessment of the impact of various ad hoc global conferences (Rio, Copenhagen, Beijing, etc.). After seeing what other topics are suggested, Prof. Schechter stated he would organize a panel, taking into account what he learns about the time which would be available for such a panel. Having exceeded its allotted time by 25 percent, the meeting was quickly adjourned.

Help Needed:
Members having interest in serving as Vice-Chair/Chair Elect next year, or wishing to recommend someone else, please contact Prof. Michael G. Schechter, James Madison College, Michigan State University, East Lansing, MI 48825-1210. Phone: (517) 353-8615. E- mail: schechte@pilot.msu.edu.

An International Criminal Court:

The Case for a Flexible Approach

Bryan F. MacPherson

Introduction: There is a growing consensus in the world community that certain crimes having serious international consequences are properly the subject of international law and that the individuals committing them should be held personally responsible to the entire world community. Since World War II, a growing number of conventions deal with crimes that are a matter of international concern. These conventions require that the states parties take specified steps to suppress or prosecute such crimes. Conventions deal with crimes as diverse as war crimes, genocide, certain terrorist acts, crimes against diplomats, narcotics trafficking, and trafficking in cultural property. Many of the conventions that deal with the most serious international crimes require states obtaining custody of an accused to either extradite him to a state that wishes to prosecute or to prosecute the accused in its own courts.

International crimes must generally be prosecuted in existing national courts; however, the idea of a standing international criminal court (ICC) to try crimes that are international in scope is receiving increased interest in the world community. This decade has already seen the establishment of the first ICCs -- *ad hoc* tribunals with jurisdiction over crimes arising from the conflicts in Rwanda and the former Yugoslavia. Recent interest in a standing ICC was spurred by a 1989 General Assembly resolution sponsored by 17 primarily Caribbean and Latin American states. That resolution requested the International Law Commission (ILC), which had been studying an ICC sporadically since 1948, to again address the matter.

An ICC would aid international law enforcement in several ways:

- By punishing the individuals actually responsible for international crimes, an ICC may reduce the instances of entire nations being punished for their leaders' delicts, as is the case when sanctions are imposed on a state.

- An ICC would provide a neutral forum that would assure the accused a fair trial without the appearance of bias that might accompany a trial by a national court. For example, in cases of war crimes, an ICC could ensure that criminals from all sides of the conflict are treated equally so that war crimes trials do not degenerate into justice only for the victors. Contrast, e.g., the leniency received by the U.S. soldiers that participated in the My Lai massacre during the Vietnam war with the much harsher treatment meted out to German and Japanese forces for war crimes during World War II.

- States that decline to extradite their own nationals or those accused of "political crimes" might be willing to turn them over for trial before an ICC, provided it is perceived as being neutral and unbiased. The dispute arising from the refusal of Libya to extradite the two Libyans indicted for the bombing of Pan Am flight 103 over Lockerbie, Scotland, is illustrative. Libya claims it has refused extradition in part because it doubts that its citizens will receive a fair trial in either the U.S. or the U.K., and has sought to try the them itself. The U.S. and the U.K, however, fear that trial by Libya would be a mere show designed to acquit the accused. As a result of this stand-off, the accused remain untried and sanctions have been imposed upon Libya. An ICC in which all parties could have confidence could provide a reasonable compromise to trial before a national court.

- International criminals may seek to intimidate domestic legal systems. The legal systems of some Latin American countries have been terrorized by drug traffickers. The case of Mohammed Hamadei who in 1985 hijacked an American airliner and killed a navy diver in the process, is another striking example. When the U.S. sought his extradition after he was apprehended in Germany, terrorists kidnapped two German businessmen in an effort to block his extradition and obtain his release. These efforts were only partially successful -- Germany declined extradition but tried him itself, resulting in a life sentence. An

ICC would be harder to intimidate, since it would have no nationals that could be targets of kidnapping or revenge.

- An ICC could alleviate potential friction between states that can arise from contentious extradition requests.

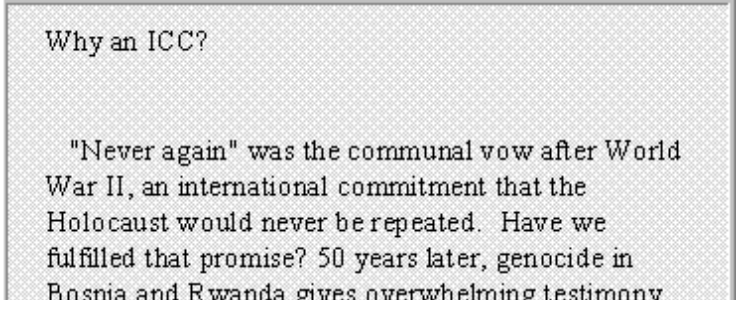
- The obligation of states under certain conventions to prosecute serious international criminals apprehended while passing through their countries can constitute a significant economic and political burden. Extradition to another state may not be a viable solution as it may be unacceptable to the population, but transfer of the accused to an ICC might be acceptable. The burden of dealing with drug traffickers is one reason that many Caribbean and Latin American nations want an ICC.

The ILC issued a draft statute in 1993 that was revised in 1994. While the ILC has made progress in resolving many of the issues surrounding establishment of a standing ICC, it is this author's view that a more flexible statute would result in a more dynamic court that is better able to serve the world community. This paper will focus primarily on the provisions the draft statute that are related to jurisdiction and admissibility.

Jurisdictional Provisions: Article 20 of the 1994 draft statute would confer jurisdiction on the court over (a) genocide, (b) aggression, (c) violations of the laws applicable to armed conflict, (d) crimes against humanity, and (e) crimes established pursuant to treaties listed in an annex that constitute exceptionally serious crimes of international concern. The treaty based crimes include grave breaches of the Geneva Conventions and crimes defined in certain conventions dealing with terrorism, torture, and narcotics trafficking. Except in the case of genocide, the court may exercise jurisdiction only if the matter has been referred to the court by the Security Council acting under Chapter VII or both (i) the state which has custody of the accused, and (ii) the state upon whose territory the crime was committed have accepted the court's jurisdiction over the crime (Article 21). If there is a pending extradition request, the requesting state must also have accepted jurisdiction. Under Article 22, states may accept jurisdiction over the crimes listed in Article 20 by filing a declaration with the court. In addition, prosecutions of the crime of aggression require that the Security Council first determine that a *state* has committed an act of aggression. Any state that has accepted jurisdiction (or the Security Council) may lodge a complaint to initiate an investigation and prosecution.

The draft statute further provides that a case is inadmissible if (a) it has been investigated by a state with jurisdiction over the crime and a decision by that state not to prosecute is well-founded, (b) it is being investigated by a state with jurisdiction and there is no reason for the court to take further action for the time being, or (c) is of insufficient gravity (Article 35). With respect to the principle *non bis in idem* (double jeopardy), the draft statute provides that no one who has been tried by the court may be tried for the same crime in a state court and no person who has been tried in a state court may be tried before the ICC unless (a) the acts were characterized by the state court as an ordinary crime and not as a crime within the jurisdiction of the ICC (thus a domestic prosecution for murder would not foreclose an ICC prosecution for genocide), or (b) the proceedings in the state court were not impartial, were designed to shield the accused from international responsibility, or were not diligently prosecuted.

Analysis of Jurisdiction: The goal of an ICC statute should be to create a court that will in fact be utilized by the world community. At a minimum, this will require that the court be fair to the accused and respect perceived sovereign rights. While the current ILC draft is a significant improvement over previous


Why an ICC?

"Never again" was the communal vow after World War II, an international commitment that the Holocaust would never be repeated. Have we fulfilled that promise? 50 years later, genocide in Bosnia and Rwanda gives overwhelming testimony

drafts, it may both be too ambitious to receive
widespread acceptance and not be flexible enough to allow for future growth. If the court is to be a dynamic institution, it needs a statute that provides a framework for a court that interferes minimally with existing state prosecutions, but allows for future growth without having to engage in the cumbersome process of amending the statute.

Conferral: The draft statute would require that jurisdiction be conferred by both the state with custody of the accused and the state upon whose territory the crime was committed. The requirement that the custodial state accept jurisdiction is reasonable, as it will minimize difficulties in obtaining custody of the accused. The requirement that the territorial state confer jurisdiction, while a bow to the traditional territorial view of criminal law, is inconsistent with current practice and has no place in a system to try international crimes. Most of the conventions that would form the basis for the crimes that would be subject to the court's jurisdiction apply the principle *aut dedere aut judicare*, i.e., that the custodial state must either extradite the accused to a state desiring to prosecute (which can include aggrieved states other than the territorial state) or to prosecute the accused in its own courts. As the territorial state can not block another state from trying the accused or extraditing him to a third state, it should not be able to block ICC jurisdiction if that is where the custodial state prefers to submit the case.

The draft statute contemplates that jurisdiction will be conferred through filing of declarations, similar to the provisions of the ICJ's optional clause. This provision is unlikely to be used as intended, i.e., to confer prospectively general jurisdiction on the court. However, since declarations may be limited in scope, they may effectively apply to only a single case. While states may well decide to refer specific cases to the court, they are unlikely to confer general jurisdiction as that might surrender prospectively their right to try suspects in their own courts. Moreover, there is no apparent advantage to a state in conferring general jurisdiction over conferring jurisdiction over specific cases on an *ad hoc* basis. Rather than interested states spending considerable effort in negotiating a system for filing of declarations, it would be better simply to recognize that, at least initially, most states are likely to consent to jurisdiction only on a case-by-case basis, and to draft the statute accordingly. What is missing, however, is any recognition that states may eventually desire to confer jurisdiction through a separate treaty or convention. As states gain confidence in an ICC, they may well wish, e.g., to place in conventions a provision conferring jurisdiction over particular crimes under specified circumstances. The ICC statute should recognize such agreements as an effective means of conferring jurisdiction.

Admissibility: According to the report of the Preparatory Committee, many states strongly believe that an ICC should be complimentary to, and not replace, the jurisdiction of national courts. States have a legitimate concern that their jurisdiction over criminal offenses not be subordinated to the jurisdiction of an ICC absent compelling circumstances. In recognition of this concern, the 1994 draft statute contains a number of provisions that were not in the 1993 draft statute to ensure that the court not interfere unduly in the proceedings of national courts. However, the Preparatory Committee may have gone too far when it states in its report that the "intention was for such a court to operate in cases where there was *no* prospect of persons who had been accused . . . being tried in national courts" (emphasis added). Whether a case is best tried by a domestic court or an ICC may well depend upon the circumstances. An ICC should strive both to ensure that more criminals are prosecuted, and to ensure a fair trial where the impartiality of national courts might be questioned. Domestic courts will usually be satisfactory for crimes such as narcotics trafficking, but may be less appropriate for war crimes where the appearance of victor's justice should be avoided.

The draft statute provides that a case is inadmissible if a decision not to prosecute by a state with jurisdiction over the offense is "apparently well-founded" or if it is under investigation by a state and there is no reason for the court to take any further action for the time being. Where a crime tried by a domestic court was characterized as a crime within the jurisdiction of the ICC, double jeopardy

provisions may bar a trial by the ICC unless the court finds the domestic proceedings were not impartial, were designed to shield the accused from international criminal responsibility, or the matter was not diligently prosecuted.

There are several difficulties with these provisions. First, they will require the court to pass upon the adequacy and impartiality of domestic proceedings, a matter that could embarrass states and entangle the court in political disputes. Second, even if there might be some merit to recognition of acquittals in domestic trials, there is no reason for the court to recognize decisions not to prosecute, which may be based more upon lack of evidence than on a belief in the innocence of the accused. Even in the case of an acquittal, an ICC may have evidence available to it that was not available to national authorities, and a trial that would consider such new evidence could be allowed.

Finally, it should be noted that circumstances that would make a case inadmissible under the draft statute would not necessarily bar a trial before another state's courts. No jurisdictional scheme will perfectly balance the interests of national courts in retaining as much jurisdiction as possible while ensuring effective and fair prosecution of international crimes. An ICC is most likely to be used, at least at the beginning, in circumstances such as those posed by Libya's refusal to extradite the two people accused of planting a bomb on board Pan Am flight 103 as requested by the U.S. and the U.K. Transfer to an ICC might be an acceptable compromise. However, under the draft statute, the an acquittal or decision by a third state not to prosecute the case could block such a compromise. The result could be a trial before the national courts of the requesting or custodial state even if both of them (and possibly the accused as well) would prefer that the case by tried by the ICC. Although, there is no justification for limiting the ICC's jurisdiction based upon decisions by national authorities, they could be considered by the court in deciding whether there is sufficient evidence to indict the accused.

Subject Matter Jurisdiction: The draft statute contemplates that the court have jurisdiction only over the most serious international crimes, i.e., genocide, aggression, war crimes, crimes against humanity, and crimes established pursuant to certain treaties listed in an annex. The statute further provides that cases would be deemed inadmissible if they are not of sufficient gravity. The reasons for limiting the proposed ICC to serious crimes include the belief that jurisdiction over lesser crimes could compromise the dignity of the court, be costly, and lead to a flood of cases that would overwhelm the capacity of the court.

If the world community limits the court's jurisdiction to exceptionally serious crimes, it will unnecessarily limit the potential usefulness of the court. Trials involving crimes of lesser severity can still cause friction between states and raise issues of fairness to the accused that could be resolved by trial by an ICC. The court should be given the capacity to try all transnational crimes. This would not reduce the status of the court, since any time it can reduce international friction and ensure fair trials it would be making a valuable contribution to the world community, and as a practical matter, truly trivial crimes are not likely to be referred to the court. The court should also be able to accept jurisdiction over newly created crimes. For example, the court should be able to exercise jurisdiction if the Security Council should include in a resolution imposing sanctions under Chapter VII, a provision making violation of the sanctions a criminal offense.

Broadening the court's jurisdiction raises several issues that will have to be addressed. For example, if the court hears a case that is not of widespread interest to the world community, it might be appropriate to require the complainant state to bear the cost of the proceedings. The court may also have to apply a state's domestic criminal law in the case of lesser international crimes as the elements of the crime may not be sufficiently specified in international instruments. The court should, however, modify the domestic law that it applies to the extent necessary to comply with international standards. For example, if the ICC should have a minimum age for criminal liability that is higher than that of the state whose law it is applying, it should apply the international standard.

Inherent Jurisdiction: Genocide has a special status under the draft statute in that there is no precondition that states confer must jurisdiction on the court. This is based upon the seriousness of the crime and a provision in the Genocide Convention that contemplates that genocide would be tried before an international court, and thus, parties to the convention can be deemed to have accepted the ICC's jurisdiction.

War crimes is another area that warrants a similar status. The high emotions engendered by armed conflict make it difficult for the parties to the conflict to ensure unbiased treatment. Even when conducted in good faith, trials of opposing forces will often have the appearance of unfairness. In order ensure fair treatment, it might be advisable to guarantee that those facing substantial penalties have the benefit of a trial before the ICC. Where the opposing side seeks a penalty of more than a minimum amount, e.g. five years, it might be required to submit the case to the ICC. States would retain the right (and obligation) to try their own personnel or to seek lesser penalties on opposing personal in either their domestic courts or in the ICC. Only by granting exclusive jurisdiction over major war criminals to an international tribunal will the world community eliminate any suggestion of unfairness or bias. While the statute could provide for inherent jurisdiction, this could also be accomplished through an separate optional protocol that would confer on the ICC exclusive jurisdiction over serious war crimes. As the world community gains confidence in the court, protocols could confer exclusive jurisdiction over additional crimes, subject to such conditions as are considered appropriate.

Size of the Court: The ILC statute provides for 18 judges, of which seven would constitute an appeals chamber. Trials would be conducted by chambers of five judges, none of which would be members of the appeals chamber. One of the objections to expanding the court's jurisdiction is that it would overburden the court. However, it is likely that the court as proposed in the draft statute will be inadequate to deal with its proposed jurisdiction. At most, the ICC would be able to conduct two trials simultaneously. This could prove grossly inadequate under circumstances such as exist in the former Yugoslavia where there have been massive war crimes and acts of genocide. As a result, even if custody of the accused could be obtained, the court would be unable to try but a small number of them. Many would either not be tried or would be tried by the courts of a party to the conflict, just what an ICC should aim to prevent. Moreover, this structure fails to allow for growth in the number of judges to accommodate an increasing caseload.

For an ICC to be a durable institution, the statute should allow for possible growth in the size of the court. The U.S. Constitution, for example, does not specify a number of judges but merely vests judicial power "in one Supreme Court, and in such inferior courts as Congress may from time to time ordain and establish." Similar flexibility should be incorporated into the ICC statute. The statute could specify that the court consist of between 9 and 15 senior judges, who would constitute the appellate panel that would also be responsible for issuing rules and overseeing administration of the court. These senior judges could be supplemented by any number (as decided by the parties to the statute) of trial judges who would hear cases in chambers composed of three members. The trial judges could either be elected by the states or the responsibility of hiring them could be delegated to the senior judges. The trial judges could be part time positions so that they are not paid when not needed, but are available when the case load requires. The statute could also permit the senior judges to sit as trial judges, in which case the ICC might consist only of senior judges until the court's caseload grew to level that trial judges were required.

Investigation & Prosecution: The statute provides for an institutional prosecutor that would both investigate cases and conduct the trials. An institutional prosecutor is certainly appropriate in situations such as former Yugoslavia where numerous instances of genocide and war crimes must be investigated and tried. On the other hand, some crimes such as drug trafficking might best be investigated and prosecuted by the complainant state. Moreover, states might be more willing to refer cases to the ICC if they could retain control over the prosecution. While the statute should provide for an institutional prosecutor, it should also allow the complainant state to conduct the investigation and prosecution if it

desires and if the case does not involve situations such as war crimes and genocide. The institutional prosecutor could play a role where the prosecution is being conducted by national authorities. He might be utilized if the court's processes were required to obtain evidence, and could be allowed to review the state's prosecution and alert the court to any evidence of abuse.

Summary: The simplest approach to an ICC would be a framework statute that creates a court with jurisdiction over any international or transnational crime. Initially, most cases would probably be submitted to the ICC on an *ad hoc* basis by special agreements, i.e, by filing a complaint by an aggrieved state and acceptance of the court's jurisdiction by the custodial state. The Security Council would, as in the draft statute, also be permitted to submit cases. This should not interfere with the current ability of states to try accused international criminals in their own courts where there is a *realistic* possibility of a domestic prosecution. Custodial states would not be required to turn the accused over to the ICC, and aggrieved states could still exercise political pressure in seeking extradition. Nevertheless, the ICC would be a viable alternative where the aggrieved state cannot obtain extradition. This basic approach could be modified as states obtain confidence in the ICC, however, by protocols and conventions that could confer a measure of exclusive jurisdiction over specified crimes and under specified circumstances. The statute should also be flexible enough to permit the court to grow in size when its case load requires, and it should permit, at least under some circumstances, aggrieved states to conduct their own prosecutions.

NGO Coalitions Work Toward Creation of an ICC

Washington Working Group on the ICC: The WICC is a group of very diverse NGOs that have each decided that the ICC is an important priority within its own mandate and objectives. (ASIL is one such partner.) The goal of the WICC is to achieve early American ratification of a treaty establishing a strong and viable ICC. Because this could happen as soon as next year, Congress must keep itself informed and keep the Executive informed of its views.

On May 13, 1996, the WICC hosted its first dialogue with Congressional staff. The goal of the meeting was to increase knowledge and interest in the ICC among Congressional staff, who, in turn, would communicate to the Administration their concerns over the ICC statute. By acknowledging these concerns now, rather than after a treaty has been signed, the U.S. might direct negotiations to satisfy the concerns of Congress so that Congress would be able to quickly ratify the treaty and pass implementing legislation. The basic concern of the staffers was with the idea of giving up sovereignty to international organizations. The WICC needs to do more with Congressional Staff. WICC Partners and Observers will be instrumental in determining which staff people to contact and will begin to discuss this issue during their own visits on the Hill. For information contact Steven Gerber, WFA-WICC, 418 7th Street, N.W., Washington, DC. Phone: (202) 546-8659.

E-mail: sgerber@igc.org.

NGO Coalition for an ICC: The purpose of the Coalition is to advocate the creation of an effective and just ICC. The Coalition brings together a broad-based network of NGOs and international law experts to develop strategies on substantive legal and political issues relating to the proposed statute. A key goal is to foster awareness and support among a wide range of civil society organizations including: human rights, international law, judicial, humanitarian, religious, peace, women's, and parliamentarians. To these ends, the coalition:

Convenes working groups on topics such as the *ad hoc* Tribunals, ICC funding, information/media, and US strategies.

Establishes international computer conferences and e-mail lists to facilitate the exchange of NGO and

expert information.

Facilitates meetings between the Coalition and representatives of governments, UN officials, parliamentarians and others involved in ICC negotiations.

Promotes education and awareness of the ICC proposals and negotiations at relevant public and professional conferences.

Establishes agreements for exchange of information between the Coalition and UN operational bodies and foreign ministries.

Produces newsletters, media advisories, reviews and papers on the developments.

Contact Information: NGO Coalition for an International Criminal Court, c/o WFM-IGP, 777 UN Plaza, 12th Floor, New York, NY 10017. E-mail: wfm@nywork2.undp.org. Phone: (212) 599-1320. FAX: (212) 599-1332. Information and many documents are on the Coalition's web pages. For the ICC see **http://www.igc.apc.org/icc**, and for the Tribunals for the former Yugoslavia and Rwanda see **http://www.igc.apc.org/tribunal**.

Tribunal Watch: To facilitate an intellectual and activist dialogue regarding the International Criminal Tribunals for the former Yugoslavia and Rwanda, the Human Rights Center at the State University of New York at Buffalo School of Law established Tribunal Watch. It is a free electronic service available to those with access to the internet. It has evolved into an "insiders network" for those seeking up to date information. It has taken an activist stance, calling for (1) adherence to the Dayton Agreement, (2) a clear and coherent policy on the arrest of those indicted, and (3) complete financial support of the U.N. For information contact Scott Johnson: Telephone (716) 645-6184. E-mail stj@acsu.buffalo.edu. To join, send an e-mail message to: listserv@ubvm.cc.buffalo.edu. The message should state only:

"sub twatch-1 *your name*".

Panels Scheduled for

1997 Annual Meeting

The Interest Group will sponsor a panel at the 1997 Annual Meeting on the subject: Implementing Democratization -- What Role for International Organizations?"

In the post-Cold War era, international organizations have taken an increasingly active role in the internal affairs of strife-ridden states. That role has frequently extended to supervision of electoral processes, a matter once thought to be "essentially within the domestic jurisdiction". The panel will consider the legal consequences and policy implications of that role. Are we seeing the emergence of a "right to democratic governance" in international law? What are the pitfalls?

The panel tentatively will include Gregory H. Fox (NYU), Brad R. Roth (Wayne State), and Sudan Marks (Cambridge). Others have been invited, but are not yet confirmed. Interest Group Chair, Michael Schechter has organized and will chair a panel (not sponsored by the I.G): "Implementation and Effectiveness of UN Conferences: Beijing, Rio & Vienna".: Others on this panel are Rebecca Cook (U. of Toronto), Michael Posner (Lawyers Committee for Human Rights & Columbia U.), Thomas Yongo (Convention on Biological Diversity), and commentator Masumi Ono, (U.N. Dept. for Policy Coordination and Sustainable Development).

Member Activities

Michael Singer, Executive Director, International Rule of Law Institute & Visiting Professor George Washington Univ. Law School. Rapporteur, Working Group on Procedures of the U.N. Human Rights Committee (Feb. 1996). Appointed to International Board of Advisors to the Parliament of the Republic of Georgia (March 1996). Advised Committee on Constitutional and Judicial Affairs of the Parliament of Georgia on a treaty with Russia (Jan. 1996).

Articles Wanted

This newsletter is not intended to be a publication outlet for its Editor. Its success depends upon material being submitted by our membership. While I wrote an article for this issue, I hope that the next issue contains more material from the membership. I encourage everyone to submit for publication items of interest to members, including articles, letters to the editor, announcements of events of interest, notices of members' publications, etc. February 20, 1997, is the deadline for the next issue, which should be published shortly before the annual meeting provided sufficient material is received. Earlier submission is encouraged. Submit material for publication to: Bryan F. MacPherson, 915 S. 19th St., Arlington VA 22202. Phone: (202) 426-1571. E-mail: bryan.macpherson@hq.doe.gov.

Please contact me before submitting articles. Longer works, in particular, I would prefer be submitted by e-mail or on IBM compatible disk (in ASCII, WordPerfect, or Word). For anything sent by e-mail, do not assume I have received it unless you receive a conformation.

Recent Publications by Members

Harris O. Schoenberg, War No More!: A Concrete Action Plan to Revitalize the United Nations Security Council (Center for Public Policy, 1995). This brief book analyzes why the U.N. frequently fails to maintain peace and security and offers an action plan to enable the Security Council to fulfill its Charter obligation to maintain peace.

Charles Howard Yourow, The Margin of Appreciation Doctrine in the Dynamics of European Human Rights Jurisprudence (Kluwer Law Int'l, The Hague, 1995).

Michael Singer, *Jurisdictional Immunity of International Organizations: Human Rights and Functional Necessity Concerns*, 36 Virg. J. Int'l L. 401 (1996).

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