



LIEBER NOTES

Quarterly Newsletter of the Lieber Society on the Law of Armed Conflict
Interest Group of the American Society of International Law

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Lieber Notes is the quarterly newsletter of the Lieber Society. Any views expressed in this newsletter are those of the authors in their private capacities and do not purport to represent the official view of the Society or any government or organisation.

Lieber Society Executive Committee

Dennis Mandsager (Chair)
Eric Myles (Vice Chair)
Dick Jackson (Secretary)
Kenneth Anderson (Treasurer)
Susan Breau (Chair, Activities Committee)
Sherrod Lewis Bumgardner
Louise Doswald-Beck
Christopher Greenwood
Chris Griggs
Jordan Paust
Michael Schmitt
Iain Scobbie
Andru Wall



By Chris Griggs

The Lieber Society's 2008 annual meeting was held at the Fairmont Hotel in Washington, D.C. at 8 pm on Thursday, 10 April, during the ASIL Annual Meeting. It was attended by 20 members of the Society in person, and by your Newsletter Editor via "virtual reality". A list of attendees appears on page 4. In a test-run for future events, Dennis Mandsager and I established a link between his MacBook in Washington and a MacBook in my headquarters, allowing me to participate in the meeting, even though I was sitting in an office in Wellington, New Zealand; 8,744 miles and 16 time zones away!

The value of this exercise lies not so much in my participation in the 2008 meeting, but in its exemplification of what the Lieber Society can do as a truly global community. Your committee stands ready to hear your suggestions for future events, both of the traditional kind and also events using technology to connect our U.S. based members with events abroad, and vice versa.

The meeting began with a useful exposition and discussion of the 2007 study conducted as a collaboration between the International Committee

of the Red Cross and the Washington College of Law, *Teaching International Humanitarian Law in U.S. Law Schools*. The study is available on-line at <http://www.wcl.american.edu/humright/center/documents/IHLSurveyReport.pdf>.

The presenter, Hadar Harris, invited members of the Lieber Society to volunteer themselves as experts in IHL to assist in developing programs of IHL



teaching in U.S. law schools.

Following this presentation, Dennis Mandsager gave a report on the year in review. While *Lieber Notes* has been revitalized, there are other areas where the Society can lift its game in respect of communications and outreach. ASIL External Relations Coordinator Sheila Ward suggested that members of the Society write ASIL Insights on subjects of topical interest within our area of expertise. There was also a discussion

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of the best use of the ListServe (asil_lieberig@lists.asil.org). The consensus view was that a balance always needs to be struck between cluttering members' inboxes and not communicating enough.

Dennis also led a discussion on future activities. He mentioned that, although the Lieber Society did not sponsor a panel during the 2008 ASIL Annual Meeting, it had been suggested that we could do so in 2009. In addition, it was suggested that the Lieber Society should arrange local events. Dennis tabled the issue of how the Society might raise the necessary funds to support such additional activities.

Lieber Prize

The Lieber Society once again conducted the Lieber Prize competition, which recognizes an outstanding published work by a scholar or practitioner 35 years of age or younger. Mike Schmitt notes that "This was an exceptionally rich year, both in terms of quality and quantity." The winner was Dr. Eve La Haye, for her book *War Crimes in Internal Armed Conflicts* (Cambridge University Press, 2008). Dr. La Haye is with the Arms Unit of the ICRC.

Two other works were cited for excellence and will be recognized by the award of a Certificate of Merit.

They are:

Lieber Military Prize

The Lieber Society also conducted another Lieber Society Military Prize competition, which recognizes an exceptional law of war writing by an active duty, reserve, or retired member of the armed forces of any nation. This year the winner is Brigadier-General Kenneth Watkin, Judge Advocate General of the Canadian Forces, for his article "Assessing Proportionality: Moral Complexity and Legal Rules," which was published in the latest volume of T.M.C. Asser Press's Yearbook of Inter-

An excerpt from the Lieber Society's annual report to the ASIL Executive dealing with future activities is at page 4.

Since the meeting in Washington, D.C., the Lieber Society has been very fortunate to recruit a new Chair for its Activities Committee, in the person of Dr Susan C. Breau, who is a Reader in International Law at the University of Surrey in England. No doubt Susan would be more than happy to hear any ideas you may have on future activities of the Lieber Society, whether within or outside the U.S. Susan's e-mail address is: S.Breau@surrey.ac.uk.

(1) Robert D. Sloane, (Associate Professor at Boston University School of Law), "Prologue to a Voluntarist War Convention," 106 *Michigan Law Review* 433 (2007); and

(2) Michael G. Kearney (RCUK Fellow in Law and Human Rights at the University of York), "The Prohibition of Propaganda for War in International Law," (Oxford University Press, 2007).

Thanks to Mike Schmitt, Iain Scobie, and Wolff Heintschel von Heinegg, who served as our judges and thanks to Mike Schmitt for organizing the competition.

national Humanitarian Law. Two other works were awarded certificates of merit. They are:

(1) Major Chris De Cock, Legal Advisor in the Belgian Armed Forces, for his article "The Use of Air Assets and Military Operations in Urban Terrain: Legal Constraints" (to be published in the Israel Yearbook on Human Rights); and

(2) Commander Rob McLaughlin, Royal

Introducing...

Dr Eric Myles, our new Vice Chair:

"Since 2006 I have been an adjunct professor of law in the University of Ottawa. Through the late 1980s and the early 1990s I participated in investigating and where appropriate proceeding against alleged war criminals who had entered Canada. In the mid-1990s I joined in an enquiry into the deployment of the Canadian Forces to Somalia. The law of armed conflict has been subsequently a recurring strand in my published works - present and future. I am a graduate of the University of Toronto and Oxford University and spent two years as a visiting scholar at Harvard University. I have belonged to the ASIL since 2007."



Australian Navy, for his article "The Legal Regime Applicable to Use of Lethal Force When Operating Under a United Nations Security Council Chapter VII Mandate Authorizing 'All Necessary Means'."

Thanks to Dave Graham, Gary Solis, Jordan Paust, and Frederik Naert, who served as our judges. Thanks also to Chuck Keever and Lewis Bumgardner for organizing the competition.

Notes from the ICRC

By Jean-Marie Henckaerts

Conferences

On 12 October 2007, the ICRC and the Chinese Society of International Law organised a Launch Conference for the Chinese translation of the ICRC Study on Customary International Humanitarian Law in Beijing. The citation for the Modern Standard Chinese (Mandarin) language version of this publication is: *Customary International Humanitarian Law*, China Law Press, Beijing, 2007. For information on the study in Chinese, see <http://www.icrc.org/chi/customary-law>.

A further Launch Conference for the study, this time a Regional Launch of the Spanish language version, was held on 7 March 2008 in Bogota. The conference was organised by the ICRC office in Bogota. The citation for the Spanish language version is: *El Derecho*

internacional humanitario consuetudinario, ICRC Buenos Aires, 2008. For information on the study in Spanish, see <http://www.icrc.org/spa/derecho-consuetudinario>.

Publications

Ashgate Publishing in the U.K. has recently published a new collection of works on *jus ad bellum* and *jus in bello* edited by Howard M. Hensel of the U.S. Air Force Air War College; *The Legitimate Use of Military Force: The Just War Tradition and the Customary Law of Armed Conflict* (Ashgate Publishing, Aldershot 2008).

The second volume of the African Yearbook on International Humanitarian Law was published in 2007. This volume contains, *inter alia*, the proceedings of the launch of the ICRC study on customary international humanitarian law at the African Union Headquarters in Addis Ababa. Persons interested in

this new yearbook can contact its executive editor, Professor Garth Abraham, at Garth.Abraham@wits.ac.za.

The report on "International Humanitarian Law and the Challenges of Contemporary Armed Conflict" submitted by the ICRC to the 30th International Conference of the Red Cross and Red Crescent held in Geneva from 26 to 30 November 2007 is available at: <http://www.icrc.org/Web/Eng/siteeng0.nsf/html/30-international-conference-working-documents-121007>.

(See also the resolution on IHL adopted by the Conference, printed in full in *Lieber Notes*, Volume 1 Issue 2 (Winter 2007).)

Note from the Chair

Due to "term limits," four members of our Executive Committee have stepped down this year: Yoram Dinstein, Wolff Heintschel von Heinegg (Vice Chair), Charles Keever (Secretary), and Marco Sassòli. We thank them for their service to the Lieber Society and to the ASIL. We welcome aboard the four new members of our leadership team: Sherrod Lewis Bumgardner, Chris Griggs (Newsletter Editor), Richard Jackson (Secretary), and Eric Myles (Vice Chair).

faculty for the Institute will include Professor Robert K. Goldman, Professor Gary Solis, Professor Doug Cassel, Jamie Williamson and Alexandra Boivin. The fee for attendance is \$250, which includes materials and meals. Any members interested in attending the Institute should contact the Institute organizers at TeachingIHL@wcl.american.edu.

Upcoming IHL Seminars

Wake Forest University School of Law and the Army Judge Advocate General's Legal Center and School will be conducting a workshop for military and civilian junior faculty working in the area of national security law from 9 am to 5 pm on 23 May 2008 at Room 1302, Wake Forest University School of Law, 1875 Wake Forest Road, Winston-Salem, NC 27109. There will be a dinner the previous evening. The workshop will consist of blocks of instruction in the law of war conducted by faculty from The Judge Advocate General's Legal Center and School, complemented by moderated paper presentations. Members wishing to attend this workshop should contact Bobby Chesney at: robert.chesney@wfu.edu.

The Army Judge Advocate General's

School is also co-sponsoring an IHL seminar with the ICRC and the University of Virginia for government officials, NGOs and interested citizens from 28 to 30 May 2008 at the University of Virginia Law School. For further information contact the ICRC or The Judge Advocate General's Legal Center and School, at 434-971-3370.

From 4 to 5 June 2008, American University Washington College of Law Center for Human Rights and Humanitarian Law and the ICRC will be convening the first *Teaching IHL* Summer Institute in Washington, D.C. The Institute is targeted at law professors who are interested in teaching an IHL course for the first time, integrating IHL modules into their current courses and/or re-thinking their current teaching in the area. The teaching

2008 Annual Meeting

The following members of the Lieber Society attended our 2008 Annual Meeting at the Fairmont Hotel in Washington, D.C.:

Name	Affiliation
Sherrod Lewis Bumgardner	NATO Allied Command Transformation
Thomas Corcoran	
Craig Martin	University of Pennsylvania
Jordan Paust	University of Houston
Sara Westrick Schomig	ICRC
R. James Orr	NATO HQ Supreme Allied Commander Transformation
Christopher Keith Hall	Amnesty International
Daniel Thurer	University of Zurich
Rick LaRue	ASIL
Eve La Haye	ICRC – Legal, Geneva
Laurie Blank	IHL Clinic, Emory University
James G. Stewart	Columbia Law School
Nicole Barrett	Former ICTY Prosecutor
Jason Dominguez	Thurgood Marshall Law School
Solomon Shinerock	American University, Washington College of Law
Charles Keever	U.S. Marine Corps (Retired)
Yiqiang Liu	ASIL
Jeremy Elsea	Congressional Research Service
Dick Jackson	Office of the Judge Advocate General, U.S. Army
Chris Griggs	New Zealand Defence Force
Dennis Mandsager	U.S. Naval War College

Future Activities

In 2008

The Lieber Society will co-sponsor an international conference with the Asia Pacific Centre for Military Law (APCML) in Melbourne in late October 2008 to mark the 60th Anniversary of the delivery of the Judgment of the International Military Tribunal for the Far East (Tokyo War Crimes Trial). The Tokyo Tribunal is under-researched relative to Nuremberg. Given that an Australian Judge presided over the Tokyo proceedings (there were no Australian judges involved at Nuremberg) and Australia undertook in excess of 300 national war crimes trials involving more than 800 Japanese defendants post-World War II (with no Australian national trials at all in the European Theatre after the war),

the APCML considered it appropriate to hold the conference in Melbourne. The conference will certainly involve Japanese, Korean and Chinese colleagues, as the intent is to explore some of the untold stories of Tokyo and hear various regional perspectives on the issues. Although a Lieber request for ASIL funding was denied, APCML has agreed to co-sponsor the event in exchange for ASIL publicity of its occurrence.

We will explore mechanisms for additional activities that will involve a maximum number of Lieber Society members. We will try to identify low or no cost events. We will seek additional sources of funding in coordination with the ASIL staff.

Beyond 2008

We plan to propose panels for each annual meeting in the future due to the expressed interest on the part of current ASIL leadership in involving interest groups in the planning and conduct of the meetings.

As ASIL updates its web site and information sharing capabilities, we plan to improve the sharing of LOAC and operational law information among interest group members ASIL. We have identified a member with the requisite legal and technological expertise who will coordinate this effort.