



Newsletter

9/11 and the Tail of Historic Events

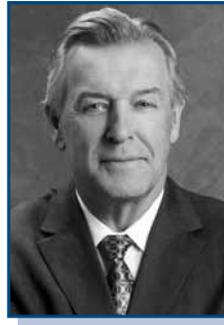
Notes from the President

The continuing influence (the "tail") of historic events such as 9/11 has numerous dimensions. In international law, the event and the responses to the event can mark a shift in customary law, for example. Such events also influence who we are as a community and what we focus upon.

The various global challenges and points of law that international law faculty study in any given decade in some respects are unchanging, but in other respects shift dramatically. The shifts occur for many reasons, but the pull of a historic event, trend, or situation clearly appears to be one reason. When the event, and the tail of the event, is significant, a shift in focus is clearly appropriate. Given that law schools tend to each respond separately to the same perceived demand, shifts in focus tend not to be in only a few schools, but in many and all at once. If the shift in focus is accomplished through hiring decisions, that shift can be with us for a generation. In this column I offer three modest observations about historic events and what we as a community focus upon.

Historic Events Sometimes Shift the Focus of Legal Scholarship

A significant historical event can lead to a wave of scholars that explore a legal aspect of that event. As we mark the 10th anniversary of the attacks on September 11th, it is clear that one of the many aspects of society that has been transformed is international law faculties. Before 2001 there were the occasional courses on constitutional law of foreign affairs or international law of terrorism, and there, less often, was a course on "national security law." Over the past decade, we have seen many law schools hire faculty in this area. Some of the new faculty are drawn from military service, others from service in national security organizations or yet others from a new generation of scholars with an interest in the global challenge of terrorism or in this



EVENTS: Upcoming

ASIL Midyear Meeting in Los Angeles this November

The Society's second annual Midyear Meeting and inaugural Research Forum, hosted by ASIL Academic Partner University of California-Los Angeles Law School, will be held November 3-5, 2011, in Los Angeles, California. The Midyear Meeting and Research Forum are for legal practitioners, scholars, judges, and others interested in international law. The first Midyear Meeting, held last November in Miami, Florida, attracted some of the world's leading international legal professionals, who met to discuss the latest issues and developments in the field. The 2011 Midyear Meeting, thanks in part to the addition of the Research Forum, is expected to draw an even larger crowd. Proceedings will open on November 3 in downtown Los Angeles with an expert panel on international dispute resolution, followed by a reception. The November 4 agenda includes a discussion

among corporate counsel in the entertainment industry about the globalization of legal issues in their industry, a luncheon keynote by International Criminal Court Prosecutor **Luis Moreno Ocampo**, a panel on recent developments in Alien Tort Statute litigation, a career fair for 2011-12 ASIL Academic Partners, and a dinner discussion among representatives of several 2012 U.S. presidential campaigns. The meeting will conclude on Saturday, November 5, with a day-long Research Forum, (for which 57 papers have been selected for presentation and discussion out of 273 submissions), the Society's semi-annual Executive Council meeting, and a closing reception.

Visit www.asil.org/midyearmeeting for the latest details and to register.

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aspect of law. Correspondingly, we have seen a blossoming in conferences, courses, specialized student journals, and legal commentary.

As with national security law, a transformation in law faculties can be seen in the area of international criminal law and humanitarian law as well over the past 15 years. The violence amidst the breakup of Yugoslavia and in Rwanda resulted, among many other things, in the establishment of the ad hoc international criminal tribunals for those two areas. Along with the more recently added International Criminal Court and several hybrid tribunals, there has been an intense focus on increased accountability for war crimes and crimes against humanity. And over these same years we have seen a dramatic increase in the number of faculty focused on international criminal law or international humanitarian law, as well as growth in the number of courses, clinics, internships, and commentary. (One international criminal law scholar recently commented

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ASIL Midyear – This Time, Los Angeles

Executive Director's Report

Building on the success of our first national Mid-year Meeting last November in Miami, plans are coming together for another great gathering of our community in November, this time in Los Angeles.



This year's Midyear Meeting will actually comprise a number of events November 3-5. The meeting will kick off with a November 3 evening welcome reception for members and should-be members in downtown Los Angeles. The next day, Friday, November 4, the University of California-Los Angeles Law School will host a half-day ASIL conference, including a luncheon keynote by International Criminal Court Prosecutor Luis Moreno-Ocampo, as well as a panel discussion surveying recent developments in Alien Tort Statute litigation from diverse perspectives and a panel of corporate legal counsel from the entertainment industry, reflecting on the international law issues arising in their operations. For the Friday dinner we are working to organize a discussion among representatives of several 2012 U.S. presidential campaigns. Friday's events will also include a Career Fair for students of ASIL Law School Partner Schools and the semi-annual meeting of the Board of Editors of the *American Journal of International Law*.

In an innovation over our Miami meeting, this year's meeting will also include a day-long "Research Forum," Saturday, November 5, also at UCLA Law School. The Forum has been designed to respond to calls from a number of our academic members for a meeting at which works-in-progress could be presented and discussed. The nearly 300 proposals received in response to our call for papers confirmed the demand for such a forum. A program committee, chaired by Laura Dickinson and Kal Raustiala and including also Mark Drumbl, Nienke Grossman, and Mary Ellen O'Connell, has selected 57 papers through a double-blind process, and the results promise a rich day of cutting-edge research, debate, and discussion. Saturday morning, the ASIL Executive Council will also convene its semi-annual business meeting. More information about the conference and registration is available on the ASIL website at www.asil.org/losangeles.

We recently conducted a survey of ASIL members (thank you for responding!). We're

still crunching the numbers and will include a full report of our findings in the next *Newsletter*, but one response that leaps off the pages is a continued and growing interest of ASIL members in our convening the international law community in places outside Washington, DC, and in partnership with our sister organizations and institutions around the U.S. and throughout the world. The Los Angeles meeting is a great example of our effort to do so, but not the only one. In addition to the Midyear Meeting, we collaborated with the World Affairs Council of Northern California to host a visit by International Court of Justice Judge Joan Donoghue in late August; once again ASIL will co-sponsor International Law Weekend, convened by the American Branch of the International Law Association in New York, October 20-22; we will hold a joint workshop convened with the European Society of International Law in Florence, October 24-25; and ASIL Interest Groups will be hosting or co-hosting meetings in places such as Columbia, Missouri (ASIL-Midwest, "Border Skirmishes" symposium, October 20-21), Medford, Massachusetts (International Organizations Interest Group, works-in-progress workshop, October 28), and Salt Lake City, Utah (International Law in Domestic Courts Interest Group, annual paper conference, December 16). Watch the ASIL website and *IL.post* for details about these and other events. We look forward to seeing you at these gatherings. And stay tuned even if you cannot attend. Whenever possible, we will record and broadcast the programs on our website as well.

In response to our survey question about why you joined ASIL, one member wrote "to connect to Oscar Schachter's 'invisible college of international lawyers.'" That is indeed one of the things ASIL does best, and through these events and other initiatives, we are working to make the invisible college more visible and present in your backyard. Our ability to do so relies on members to help us make the connections and see the opportunities. Do not hesitate to let us know if there are events that ASIL should be co-sponsoring or publicizing to its members; if there are potential partner institutions with which you are involved and with which you would like to see us work; or if you would like to take the lead in organizing an ASIL gathering in your community. We are eager for ideas and the opportunity to bring the ASIL community to you.

Elizabeth Andersen

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News of members, meetings, and events is welcome.

ASIL Newsletter reserves the right to edit any materials submitted.



The ink used to produce this newsletter is vegetable-oil based rather than petroleum-based.

Notes from the President

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that there are more such scholars than there are defendants, although I would think that true only if one excluded those who should be tried on the national level.)

Yet not all historic events, trends, or situations result in a shift in focus of law scholars. For example, there does not appear to have been the same sort of shift in scholarship or law school programs in response to the Cold War, although it can be argued that the Cold War infused a realist sense into much of international law scholarship. To the extent we accept that some events lead to shifts while others do not, perhaps the cause is that some historic events, trends, or situations have more influence because those particular contexts intrinsically possess more room for law to contribute or speak to the challenge involved. In other words, it may be that the challenge involves statutes and treaties, or questions – preferably justiciable – concerning responsibility and rights. Perhaps this explains why the challenges posed by disasters that far too often rend our world are not generally addressed in legal scholarship. Perhaps it is the resistance of international development (a fundamental situational challenge of global order) to legal theorizing that explains what I regard as a not sufficiently widespread scholarly focus on the topic.

Historic Events Can Create Institutions and Paths Toward Academia

In 1983, I arrived at the Iran-U.S. Claims Tribunal to take up my position as a clerk to the American Arbitrators. Over dinner my first night there, Judge Howard M. Holtzmann predicted that a lasting legacy of the Tribunal would be the generation of clerks it would introduce to international arbitration. And, indeed, it can be argued that the Iran-United States Claims Tribunal not only became the training ground for many of the leading practitioners of this generation, it also led to a wave of scholars in schools around the world in the fields of private and public international dispute resolution. Similarly, the criminal tribunals, not only generated substantial jurisprudence, but also resulted in positions that have allowed young professionals to deepen their expertise in the field.

In recent years, the creation of more visiting assistant professor positions (“VAPs”) have become a pathway for aspiring young academics. These positions within the law school world are a relatively recent alternative to certain professional careers that serve as pathways to academia. A notable example of such a path is the Office of the Legal Adviser that for decades has been a training ground that allowed promising recent graduates to mature into attractive potential academics. It is in this same way that some institutions created as a consequence of historic events such as the Iranian Revolution potentially provide

crucial intermediate positions between law school and academia.

Responding to Historic Events and the Tail of Hiring Decisions

When I first joined a law faculty, a senior colleague remarked that a dangerous tendency in the world of legal scholarship is “that you go only with what you know.” One enters the academy with experience in, for example, the legal implications of DNA testing, and one mines that vein of experience far longer than one should. One has been given by society the privilege of a position of reflection in which one can commit time to learn new areas as needed. But instead one finds that he or she races faster and faster in the area already known best. Law schools in my limited experience tend to respond to the challenges posed by historic events through hiring decisions because there is a sense that redeploying the resources they have is unlikely. Yet in our wonderful community, there are so many examples of scholars who are curious and learning new areas well into decades of their lives when others have long retired. (Our beloved Eric Stein comes to mind.) What a privilege we have to challenge ourselves with change so that we might together bring our combined excellence to bear on the most difficult problems of the day. I look forward to it and to joining you in that effort.

David D. Caron

ASIL PROGRAM NEWS

Update on ASIL Choice of Court Convention Working Group

ASIL is serving as convener of a Working Group on Implementation of The Hague Convention on Choice of Court Agreements, chaired by ASIL Executive Council member **Edward Swaine**, and comprising a dozen experts in the field including representatives of the American Law Institute, the Uniform Law Commission, and the State Department Advisory Committee on Private International Law, with observers from the Departments of State and Justice, the Federal Judicial Conference, and the Conference of Chief Justices.

The United States has signed but not ratified the convention, which establishes a regime for the recognition of foreign court judgments pursuant to choice of court contractual clauses, in much the same vein as the New York convention regulates

enforcement of arbitral awards. The convention poses implementation challenges for the U.S., with its federal system of government, and the State Department asked ASIL to convene the group to develop a proposed implementation mechanism. The group is developing such a proposal, based on a notion of “cooperative federalism,” providing for implementation at both the federal and state levels through conforming federal and uniform state law.

The group has met four times over the past year, with a drafting subcommittee meeting more frequently. It hopes to finalize recommendations for implementing the convention in the coming months.

Give to ASIL's 2011 Annual Fund

While ASIL membership and subscription dues provide much of the capacity for the Society's core work, such as publishing the *American Journal of International Law* and *International Legal Materials* and planning the Annual Meeting, our outreach programs rely on the generosity of donors. The ASIL Annual Fund is one way to realize the Society's ambitious goals of growing and strengthening membership, expanding educational and outreach programs, and building a 21st century web forum for publishing, convening, and connecting the international law community.

More than \$105,000 was given to the 2010 Annual Fund for ASIL, the result of individual gifts from more than 170 donors, the highest number in recent years. This year, the Society has a goal of \$160,000.



Hosting groups of high school and college students from around the world, such as the ones above, for introductory presentations on international law is one of the many outreach activities individual contributions to the Society help underwrite.

Please participate in the 2011 Annual Fund either by returning the form below in the gift envelope

located in the middle of this *Newsletter* or by visiting www.asil.org/annualfund. Thank you in advance!

..... Please tear off and enclose with gift

The 2011 ASIL Annual Fund

Yes, I want to support ASIL's outreach mission. Please accept my Annual Fund gift:

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 Thomas M. Franck scholarships for Annual Meeting attendees from the developing world
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ASIL Insight: Recognition of the Libyan National Transitional Council

By Stefan Talmon (Talmon is a member of ASIL, a professor of Public International Law at the University of Oxford, a Fellow of St Anne's College Oxford, and a practicing barrister at 20 Essex Street Chambers, London.)

[A footnoted version of this article was originally published as an ASIL Insight on June 16, 2011, available at www.asil.org/insights.]

Introduction

Recognition of the Libyan National Transitional Council ("NTC") by over a dozen States has recently made the headlines and, as it seems, given rise to considerable confusion. According to media reports, Germany became the 13th nation to "recognize" the NTC following Australia, Britain, France, Gambia, Italy, Jordan, Malta, Qatar, Senegal, Spain, the United Arab Emirates ("UAE"), and the United States. The news was widely reported by major networks, each describing Germany's announcement differently. However, none of these statements is legally correct. The German foreign minister, during a visit to the rebel stronghold of Benghazi, had simply stated, "The national council is the legitimate representative of the Libyan people." The word recognition was not used at all. So, was this recognition? And if it was, what does it signify as a matter of international law?

The Meanings of Recognition

The term "recognition," when used in the context of recognition of governments, rebels or *de facto* authorities in international law, may have several different meanings. It may indicate the recognizing State's willingness to enter into official relations with a new group, or manifest its opinion on the legal status of the group, or both. Alternatively, recognition may simply be a means of expressing political support or approval.

The subject has been complicated by the use of several variants of the term, such as "*de facto* recognition," "diplomatic recognition," "*de jure* recognition," and "full recognition." Like "recognition," these terms can be given meaning only by establishing the intention of the State using them within the factual and legal context of each case. "Diplomatic recognition" is usually used to indicate a willingness to enter into formal diplomatic relations (i.e., exchange ambassadors, establish embassies, and so forth).

Recognition is a unilateral act performed by the recognizing State's government. It may be express or implicit. The act of recognition does not necessarily require the use of the terms recognition or recognize. Recognition is more than a word. A State may simply say that it acknowledges, regards, considers, deals with, or treats a group in a certain capacity, in order to convey its recognition.

Recognition as What?

The imperative question in legal terms is not recognition per se but recognition as what. In 1943, British Prime Minister Churchill wrote to President Roosevelt, "What does recognition mean? One can recognize a man as an Emperor or as a Grocer. Recognition is meaningless without a defining formula." A rebel group such as the NTC can be recognized in many different legal capacities—as insurgents, belligerents, the (sole) legitimate representative of the Libyan people, the local *de facto* government of parts of Libya, or as the government of Libya. The capacity in which a group is recognized may also change over time.

1. Recognition as Representative of the Libyan People

France became the first country to recognize the NTC as "the

legitimate representative of the Libyan people." Similar recognition was accorded by Qatar, the Maldives, Gambia, Senegal, Turkey, Jordan, Spain, and Germany. Such recognition is reminiscent of the recognition of the Palestine Liberation Organization and other national liberation movements in the 1970s as the "sole legitimate representative" of their respective peoples. In these cases, it was made clear that this action was not meant to signify recognition as the government of a prospective Palestinian State and did not include the exercise of any sovereign rights.

Recognition of a rebel group as the legitimate representative of the people, as a rule, confers several advantages: (1) it legitimizes the struggle of the group against the incumbent government; (2) it provides international acceptance; (3) it allows the group to speak for the people in international organizations and represent it in other States by opening "representative offices"; and (4) it usually results in financial aid. In the case of the NTC, there may be an additional advantage. In Resolution 1970 (2011), the United Nations Security Council decided that all Member States shall freeze all funds and other financial assets owned or controlled by members of the Qaddafi family and expressed its intention to ensure that those frozen assets should at a later stage be made available to and for the benefit of the people of Libya. If such assets were to be made available to the Libyan people in the future, they could be channeled through their legitimate representative—the NTC.

Recognition of the NTC as the legitimate representative of the Libyan people leaves intact the international legal status of the incumbent Qaddafi government as the government of Libya. While a State cannot have two *de jure* governments at the same time, it can have a *de jure* government and a local *de facto* government or a representative of the State's people. This explains why States that have recognized the NTC as legitimate representative of the Libyan people can nevertheless continue to recognize the diplomatic role and status of Qaddafi-appointed ambassadors and accept his representatives in international organizations as the representatives of Libya. As long as the Qaddafi government continues to be the government of Libya, it remains the only authority that can legally dispose of Libyan State assets abroad (as opposed to frozen assets of the Qaddafi family), can accredit ambassadors, and validly transfer title to State-owned natural resources such as oil and gas.

2. Recognition as Representative of Libya

Recognition statements are normally drafted with great care in the legal adviser's department of foreign ministries, and it usually makes a difference whether a State recognizes the NTC as the representative of the "Libyan people" or as the representative of "Libya." The latter would usually indicate some capacity of representing the State. Italy's statement on April 4, 2011, that it recognized the NTC "as the country's only legitimate interlocutor on bilateral relations," thus seems to have gone beyond the recognition by France and others. This was confirmed later when

2012 Annual Meeting

Annual Meeting Program Committee Has Busy Summer

On July 20, members of the 2012 Program Committee, co-chaired by **Harlan Cohen** of ASIL Academic Partner University of Georgia School of Law, **Chiara Giorgetti** of ASIL Law Firm Sponsor White & Case, and **Cymie Payne** of Rutgers University, held their first and only full group meeting at ASIL headquarters in Washington, DC. Together they reviewed the more than 270 program suggestions from members and Interest Groups and developed additional ideas related to the meeting's theme: *Confronting Complexity*.



Harlan Cohen



Cymie Payne



Chiara Giorgetti

With just over 30 panel session slots available, the selection and program development process is challenging work,

but the Committee plans to finalize and announce its topics and speakers by late this year.

The 106th Annual Meeting will take place March 28-31, 2012, in Washington, DC.

Updates about the conference, including early bird discount registration information, speakers, and panel developments, will be posted on the Annual Meeting page, www.asil.org/AM12, as they become available.



Members of the 2012 Annual Meeting Program Committee discuss panel idea submissions at their day-long July 20, 2011, meeting at ASIL headquarters, Tillar House.

Excerpt from 106th ASIL Annual Meeting Theme Statement: *Confronting Complexity*

Contemporary reality is confoundingly complex: it is marked by rapidly evolving technologies, increasing global interconnectedness, rising population, and deepening understanding of science and the environment. New international actors; changes in social, economic, and political dynamics; a multipolar power structure; and novel security threats only add to the complexity....

Which problems is international law particularly well-suited to solve? Which seem to defy its regulation? What tools does

international law have to manage this complexity? Where are best practices emerging? What has our profession learned in the last half-century? Is law, with its emphasis on rules and stability, conceptually and functionally capable of responding to the challenges of complexity? If not, how should law react? What do experts from outside the legal profession, from technology, finance, counterinsurgency, climate science, and risk, believe law can add? During the 2012 ASIL Annual Meeting we will address these questions and discuss how international law responds to complexity.

2012 Annual Meeting Program Committee

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Italy declared that it recognized the NTC "as holding governmental authority in the territory which it controls." France also upgraded its recognition, stating that from now on it considered the NTC as "the only holder of governmental authority in the contacts between France and Libya and its related entities." This, in effect, amounted to recognition of the NTC as the government of Libya. On June 12, the UAE also recognized the NTC "as a legitimate Libyan government." The country's foreign minister explained: "Based on this, UAE's dealing with the TNC [Transitional National Council] will take the form of a government-to-government relationship in all issues relating to Libya."

Recognition of the NTC as *de jure* government of Libya automatically entails the de-recognition of the Qaddafi government. States that recognize the NTC as the government of Libya have to hand over to it the Libyan embassy; end the diplomatic status of Qaddafi-appointed diplomats, if requested to do so by the NTC; and grant it access to Libyan State assets situated in their territory, subject to the restrictions imposed by United Nations Security Council. These States have to close their embassies in Tripoli or end any arrangements for the protection of their interests by other diplomatic missions but may open an embassy or a consulate in NTC-controlled Benghazi. They may lawfully buy Libyan State-owned oil from the NTC and provide it with assistance, subject to the United Nations imposed sanctions against Libya. They will usually also object to the representation of Libya in international organizations by delegations from Tripoli. De-recognition of the Qaddafi government may, however, have negative side effects, such as absolving Qaddafi and his followers from their international responsibilities as the government of Libya.

Legality of Recognition of the NTC

While politics and law are closely intertwined in the question of recognition, this does not mean that recognition, in the sense of expressing an opinion on the legal status of a rebel group, is a purely political act within the unfettered discretion of the recognizing State. In the 1960s, the Organization of African Unity's Coordinating Committee for the Liberation of Africa developed certain standards, albeit vague, for the recognition of national liberation movements fighting the incumbent government as the sole legitimate representative of a people, which, it is suggested, may equally be applied to the recognition of the NTC. Thus, for the NTC to be recognized as the legitimate representative of the Libyan people, it must be the United Action Front against the Qaddafi government, i.e., it must be broadly based, have effective following and popular support throughout Libya, and have reasonable fighting strength. The fact that the Qaddafi government may have lost its legitimacy and the right to govern by committing crimes against humanity against its own people does not make these standards obsolete. Any recognition of a rebel group lacking broad-based support among the people as the legitimate representative of that people would, some will argue, constitute an illegal interference in the internal affairs of Libya, which may, ultimately, give rise to State responsibility. While it is tempting to sympathize with and even root for the

NTC, the breadth of its support among the Libyan people is not well understood. Any special or singular status for the NTC, it may be argued, may exclude other political actors in Libya with some claim to legitimacy. This may explain why so far many States, including the United States and the United Kingdom, have shied away from granting the NTC recognition as the legitimate representative of the Libyan people.

The main criterion in international law for the recognition of a rebel group as the government of a State is its exercise of effective control over the State's territory. As long as the NTC's control is limited to the eastern parts of Libya, with the capital Tripoli and western parts remaining under the control of Qaddafi forces, it may be recognized only as the local *de facto* government of the territory that it controls. Any recognition of the NTC as the *de jure* government of the State of Libya, while Qaddafi forces are still in control of the capital, seems premature and would arguably constitute an illegal interference in the internal affairs of Libya.

The Politics of Recognition

In the first four months of the Libyan civil war the factual and political situation in Libya was uncertain, and States were very reluctant to grant any legally relevant recognition to the NTC. This led them to invent a new form of recognition of the NTC as a "legitimate and credible interlocutor," "legitimate political interlocutor," or "valid interlocutor" for the Libyan people. These terms apparently signified that the NTC was an "official negotiating counterparty," a "relevant partner for dialogue," a "discussion partner," or a "credible voice for the Libyan people."

Unlike recognition as the representative of a people or as a government, such recognition is without significance in international law. This becomes clear from the fact that several States whose policy is to recognize only States, not governments, (such as Australia, Canada, Germany, Netherlands, and United Kingdom) had no problem with granting such "recognition." The main purpose of this action seems to have been to express various degrees of political support. While in March 2011 the NTC was initially recognized only as "a" political interlocutor among others, or simply as interlocutors, this denomination was later changed to "the" political interlocutor. The change from indefinite to definite article was interpreted by the United States in June as a signal that its support for the NTC was "deepening." However any such recognition was still limited "to this interim period."

States that recognize the NTC as the legitimate interlocutor for the Libyan people have sent "special representatives," "diplomatic representatives," "diplomatic envoys," or "special ambassadors" to and established permanent liaison offices in Benghazi. While these representatives may have a diplomatic function, they do not have formal diplomatic status (which would require the NTC's recognition as the government of Libya). Thus, the French foreign minister told reporters at a conference in London on March 29 that the French diplomat sent to the NTC was "not an ambassador because we have

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not formally recognized a state through the Transitional National Council." States have also invited the NTC to open a "representative office" in their capital. Such offices are, however, not diplomatic missions and, for that reason, do not enjoy diplomatic status as of right. States are, however, free to grant NTC's representatives working in their territory certain diplomatic privileges and immunities. In most countries, the grant of diplomatic privileges and immunities to non-diplomats requires special legislation. This may explain why the United Kingdom and others have so far granted the NTC only certain "administrative concessions" on minor issues such as access to parking spaces. Unless States recognize the NTC as the government of Libya, they cannot allow the representative of the NTC to set up office in the existing Libyan embassy without violating their obligations towards Libya under the Vienna Convention on Diplomatic Relations. Indeed, several of the States recognizing the NTC as the legitimate interlocutor for the Libyan people continue to recognize the Qaddafi government as the government of Libya and host its diplomatic agents.

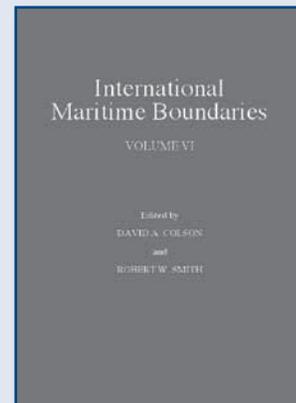
Conclusion

On April 27, 2011, the U.S. ambassador to Libya replied to the question of why the United States, unlike France and others, had not yet recognized the NTC: "Recognition remains a legal and an international obligations issue...[W]e're a very legalistic country, and we're looking at all the different complexity of...that question." Considering that recognition is an area of international relations in which law and politics are closely interwoven, it is somewhat surprising how prominent a role international law plays. Despite being generally sympathetic to the cause of the NTC, sustained calls for its recognition by leading politicians and civil society groups, and only a remote chance of any recognition decision ever being challenged in a domestic or international court, the United States and other countries have been very conscious of the international law implications of a decision to formally "recognize" the NTC in any legally relevant manner and, so far, have refrained from doing so. ■

RECENT PUBLICATIONS

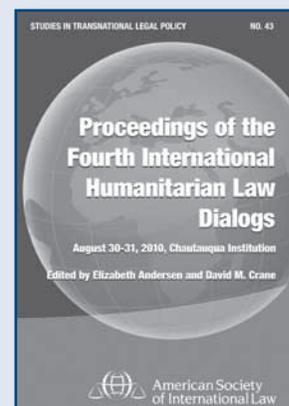
International Maritime Boundaries, Volume VI

ASIL and its Publisher Partner Martinus Nijhoff are pleased to announce the availability of the most recent volume in the *International Maritime Boundaries* collection. Edited by **David A. Colson** and **Robert W. Smith**, *International Maritime Boundaries, Volume VI*, provides critical commentary by regional experts on published and unpublished international maritime boundary agreements. These reports are accompanied by the original text of the agreement (or a translation thereof) and a map depicting the maritime boundary. Volume VI also includes two scholarly essays on the subject of international maritime boundaries and related issues. *International Maritime Boundaries* is the primary comprehensive reference source for international state practice concerning maritime boundary delimitation and is used and referenced widely by practitioners of international law. ASIL members are entitled to receive a 25% discount on all *International Maritime Boundaries* publications. Please refer to code 48717 when ordering. For more details, visit www.asil.org/books.



Proceedings of the Fourth International Humanitarian Law Dialogs, Studies in Transnational Legal Policy, No. 43

This volume, edited by **David M. Crane** and ASIL Executive Director **Elizabeth Andersen**, provides a record of the proceedings of the fourth annual meeting of international prosecutors at Chautauqua Institution on August 30-31, 2010. As the first major gathering of international criminal law experts following the International Criminal Court Review Conference in Kampala, the Dialogs provided the international prosecutors, judges, academics, practitioners, and others attending with an important forum in which to discuss the amendments to the crime of aggression, as well as the complexities of prosecuting such cases. The volume also contains the prosecutors' updates regarding the activities of their respective courts and tribunals during the past year. For more information and to purchase, visit www.asil.org/books. ASIL members receive a discount from publisher William S. Hein, an ASIL Publisher Partner.

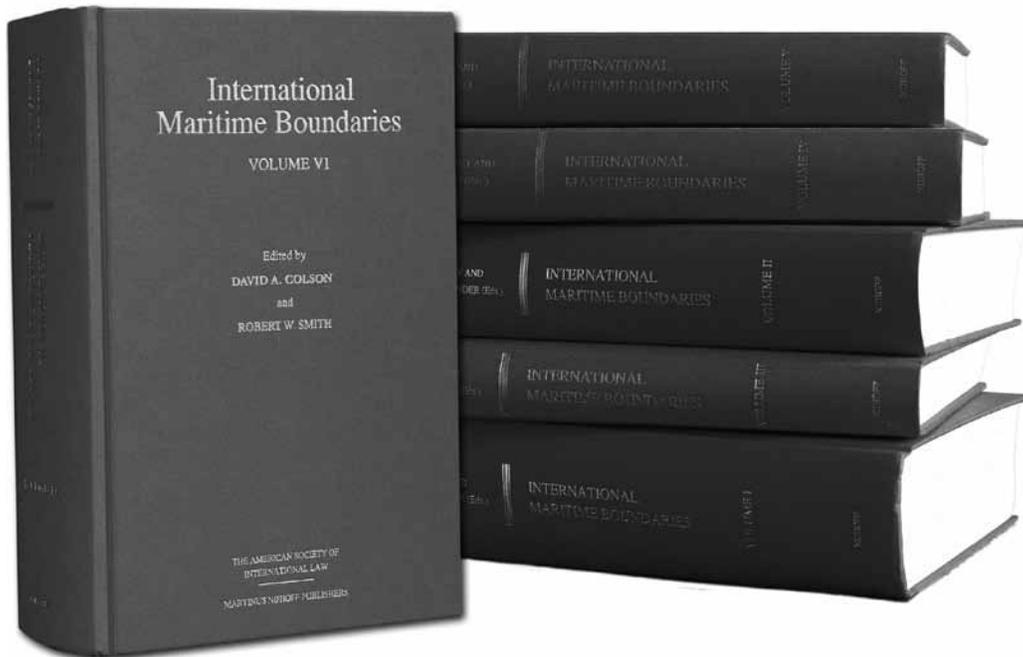




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Interest Group Spotlight:

News from some of ASIL's 29 Interest Groups

International Organizations

The International Organizations Interest Group will hold a works-in-progress workshop on October 28, 2011, at the Fletcher School of Law and Diplomacy, Tufts University, Medford, Massachusetts (just outside Boston). The papers selected will be read in advance by the workshop's participants. Each paper will be introduced by a commentator and then the floor will be opened for comments, reactions, and discussion. Inquiries should be directed to IOIG Co-Chairs **Jacob Cogan** (jacob.cogan@uc.edu) and **Lorena Perez** (LPerez@oas.org).

Teaching International Law

On May 6, 2011, ASIL's Teaching International Law Interest Group (TILIG) and ASIL Academic Partner Pace Law School co-hosted a stimulating conference on *Teaching International Law Beyond the Classroom*. Then-TILIG Co-Chairs, **Thomas McDonnell** of Pace and **Cindy Buys** of Southern Illinois University, organized and chaired the event, which can be viewed at www.asil.org/TILIGPace.

The first panel explored ways of teaching historical methods. Current TILIG Co-Chair **Mark Shulman** launched the discussion by quoting Oliver Wendell Holmes' celebrated observation that the "life of the law has not been logic: it has been experience." Hofstra's **Julian Ku** explained that teaching the use of experience requires getting students to avoid the facile use of historical examples to score legal points. Cindy Buys described how she and her student researchers learned this lesson by tracking down evidence to examine the *Nottebaum* case. **Thomas Lee** of Fordham described how he uses his own reading of late 18th century documents to teach the value of serendipity and faithfulness to the historic record. **Jordan Paust** decried instances where a failure to undertake diligent research into precedent led to bad policy decisions in recent foreign relations.

The second panel explored ways of *Conducting Empirical Research in International Law and Involving Students in its Pursuit*. Thomas McDonnell encouraged creative thought about how empirical methodologies could enhance research and teaching. **Beth Simmons** of Harvard discussed how empirical work draws conclusions from hard data in order to define trends. **Laura Dickinson** of Arizona State (an ASIL Academic Partner) explained her own empirical method, combining small qualitative studies with thick description to yield a rich view of reality.

A lunchtime panel, which gained national attention for its timely and keen analysis, discussed the killing of **Osama bin Ladin** a few days before. After lunch, the discussion turned to ways of *Employing Web 2.0 in International Law Teaching and Scholarship*. **Peggy McGuinness** of ASIL Academic Partner St. John's described a variety of online tools, most notably the *Opinio Juris* blog. **Vikki Rogers** explained the value of the vast database maintained by Pace's Institute of International Commercial Law, which enables students to conduct research on the

UN Sales Convention and prepare for the Vis Moot. **Anthony VanDuzer** explained how he teaches a NAFTA course at the University of Ottawa, along with colleagues in the U.S. and Mexico, via a web-based system.

The final panel examined ways of *Engaging Students in Experiential Learning in International Law*. **Raquel Aldana** of ASIL Academic Partner Pacific University McGeorge School of Law started with a compelling description of her work in Guatemala, acting as *pro bono* counsel for human rights organizations. ASIL Academic Partner Notre Dame's **Sean O'Brien** described the variety of tools he uses to engage his students in human rights research and advocacy. The director of Cornell's International Human Rights Clinic, **Sital Kilantry**, discussed how, in addition to the basic legal skills of research, analysis, and advocacy, experiential teaching offers opportunities to develop inter-cultural competency and compassion. Finally, **Robert Van Lierop**, who co-teaches Pace's UN Environmental Diplomacy Practicum, described the unique perspectives and career opportunities that students gain from placements in the UN missions of small island states.

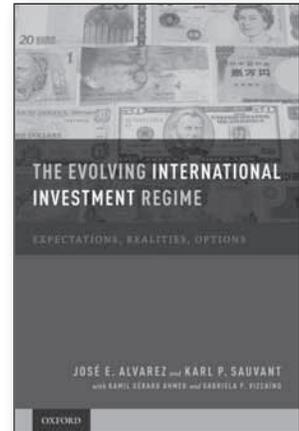
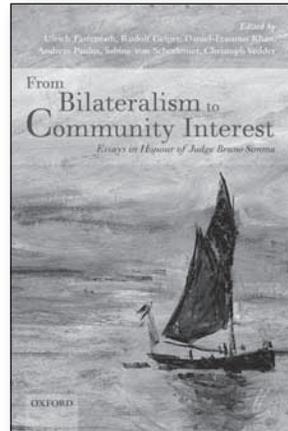
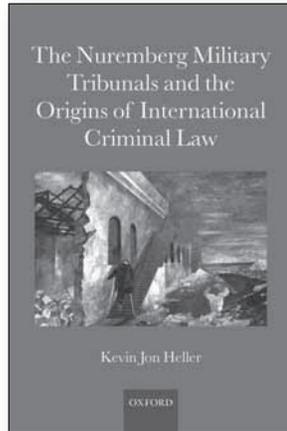
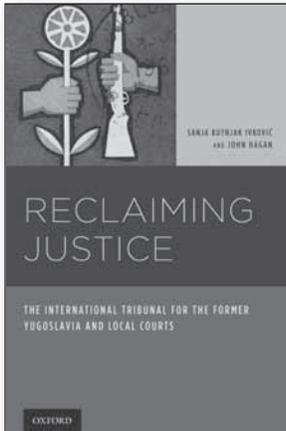


From left, Jordan Paust, Mark Shulman, Cindy Buys, and Thomas Lee at the Teaching International Law Interest Group's conference at Pace University, May 6, 2011.

International Environmental Law

The International Environmental Law Interest Group (IEnLIG) is establishing a forum to facilitate contact and collaboration of its members (and any ASIL members working in the area of international environmental law) where they live and work. The objective of these gatherings is to provide an opportunity to meet and talk about each other's work, sharing insights, experience, and information that may enhance the effectiveness of all members' work. The first of these gatherings will be held in Washington, DC, in late September. Other such gatherings are being considered for the Boston and San Francisco Bay areas. Those interested in being a part of these inaugural events or in establishing similar meetings elsewhere should contact IEnLIG Co-Chairs **Marie Soveroski**, marie@earthrights.org, and **Don Anton**, AntonD@law.anu.edu.au.

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Interest Group Spotlight

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Women in International Law

On July 27, 2011, the Women in International Law Interest Group (WILIG) held a networking breakfast at ASIL headquarters, Tillar House. This annual summer event features accomplished professionals in various practices of international law who discuss their career paths and offer advice and insights for women interested in pursuing careers in international law. Panel presentations are followed by a question and answer session and then a networking reception among all attendees. The panelists at this year's breakfast were **Clara Brillembourg**, Associate, Foley Hoag LLP, **Andrea Gittleman**, Senior Legislative Counsel, Physicians for Human Rights, **Anne-Marie Leroy**, Senior Vice President and General Counsel, World Bank, **Diane Orentlicher**, Deputy, War Crimes Office, U.S. Department of State, and **Laura Profeta**, Chief Counsel, Sovereign Guaranteed Operations, Inter-American Development Bank. WILIG Co-Chair **Kristine Huskey** and Steering Committee member **Marcia Wiss** moderated the event.



From left, Diane Orentlicher, Laura Profeta, and Marcia Wiss at the July 27 Women in International Law Networking Breakfast.

Lieber Society on the Law of Armed Conflict

The Lieber Society recently changed the name of its Military Prize, inaugurated in 2007, to the Richard R. Baxter Military Prize and is accepting applications for its 2012 awarding. After serving as an Army Judge Advocate during and after World War II, **Richard B. Baxter** spent his life studying, writing, and advancing international law and the law of armed conflict while serving as a professor at Harvard Law School, a consultant to the U.S. Department of State, the Editor-in-Chief of the *American Journal of International Law*, President of the American Society of International Law, member of numerous delegations to international conferences, and finally as a judge on the International Court of Justice. He epitomized the conjunction of practical experience and academic expertise that this Lieber Society prize is designed to encourage.

The terms of the prize will remain the same: It is given for an exceptional paper that 1) is written in English by an active member of the regular or reserve armed forces, regardless of nationality, and 2) significantly enhances the understanding and implementation of the law of war. The winner receives a certificate

confirming that s/he has won the prize, \$500.00, and one year's complimentary ASIL membership. For more information or to apply, visit www.asil.org/baxtermilitaryprize.

Africa

The Africa Interest Group invites submissions of paper abstracts for its co-sponsored conference "Africa and International Law: Taking Stock and Moving Forward," to take place April 13-14, 2012, at Albany Law School, Albany, New York. The deadline for submissions is **September 30, 2011**, with final, selected papers due no later than March 15, 2012. A major objective of the conference will be to engage a broad ranging conversation among scholars, practitioners, and policymakers to examine and evaluate how the international and regional regimes and institutions in Africa are producing new narratives of justice and how they can make a difference in responding to the challenges facing African peoples and governments. Keynote addresses will be given by Judge **Abdul Koroma** of the International Court of Justice and Dr. **Willy Mutunga**, Chief Justice and President of the Kenyan Supreme Court. For more information, visit www.asil.org/africaconference, or contact AIG Co-Chair **James Gathii** at jgath@albanylaw.edu.

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EVENTS: Upcoming

—continued from page 1

ABA International Fall Meeting

The ABA Section of International Law (ABA International) will hold its 2011 Fall Meeting, with ASIL as a Cooperating Entity, in Dublin, Ireland, October 11-15, 2011. Fall meeting attendees will include high-level practitioners with the largest and most respected global law firms, lawyers with the most prominent regional and national firms outside the U.S., U.S.-based small-firm and solo practitioners with significant international practices, corporate and in-house counsel, lawyers serving in government or with non-governmental organizations and inter-governmental organizations, and academics. For more information, visit www.asil.org/abafall2011.

International Law Weekend

The annual International Law Weekend (ILW), cosponsored by the American Branch of the International Law Association, the International Law Students Association, and ASIL, will take place October 20-22, 2011, at Fordham Law School in New York City, in conjunction with the 90th annual meeting of the American Branch. ILW 2011 will bring together hundreds of practitioners, professors, members of the governmental and non-governmental sectors, and students. The event will feature numerous panels, distinguished speakers, and receptions. In conjunction with ILW, the Society will host a career fair for students of ASIL Academic Partner schools on October 20. For more information, contact ASIL Programs Manager Veronica Onorevole at vonorevole@asil.org.

Global Public Goods and the Plurality of Legal Orders: ESIL-ASIL-EJIL-HiIL Symposium

The European Society of International Law, the *European Journal of International Law*, and HiIL project on Private Transnational Regulatory Regimes, along with ASIL, will cosponsor a symposium at the European University Institute in Florence, October 24-25, 2011. The symposium will explore whether and how the co-existence, interaction, and antagonisms of different legal orders and their driving agents contribute to creating and maintaining global public goods. Contributors will discuss transatlantic perspectives on how different legal orders may contribute to the production and management of public goods. For more information, visit www.asil.org/globalpublicgoods.

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MEMBER NEWS



William S. Dodge

William S. Dodge, a professor at the University of California-Hastings College of the Law, has been appointed Counselor on International Law to the Legal Adviser at the U.S. Department of State effective August 1. Dodge first joined the Society in 1998.

Bakhtiyar Tuzmukhamedov has been appointed as a Permanent Judge of the International Criminal Tribunal for Rwanda as a member of Trial Chamber II. Tuzmukhamedov has been an ASIL member since 1995.

PASSINGS



Eric Stein, professor of law emeritus at the University of Michigan Law School, passed away on July 28, 2011, at the age of 98. Stein was an active member and supporter of ASIL, serving as Honorary Vice President, Counselor, and Honorary Editor of, and frequent contributor to, the *American Journal of International Law*. In March of this year, the Society recognized Stein for his distinguished

contributions to service in the field of international law, bestowing on him the Society's highest award, the Hudson Medal. Stein first joined the Society in 1949.

STAFF NEWS

Jackie Indek Beres joined the Society in July as Director of Development. Beres has previously worked for the Brookings Institution, the American Israel Public Affairs Committee, and the State Bar of Georgia. She has over eight years' experience in fundraising for legal and foreign policy-related non-profit organizations.



EVENTS: Recent

—continued from page 13

Joint Conference of the Korean, Japanese, and Chinese Societies of International Law



A joint conference of the Korean, Japanese, and Chinese Societies of International Law was held in Seoul on June 27, 2011. ASIL President David Caron gave the closing keynote. Leaders of the various societies are pictured above, from left to right: Zhonghai Zhou, Vice President of the Chinese Society of International Law; Masaharu Yanagihara, President of the Japanese Society of International Law; Ta-Hyun Choi, President of the Korean Society of International Law; and David Caron.

Lalive Lecture: International Courts and Tribunals - Their Roles Amidst a World of Courts



ASIL President David Caron delivered the lecture "International Courts and Tribunals: Their Role amidst a World of Courts," at the 2011 Lalive Lecture in Geneva, Switzerland, on June 23, 2011. Pictured above (from left) are Michael Schneider, the Lalive firm; Caron; Drazen Petrovic, International Labor Organization; and Andrea Bianchi, Graduate Institute of International and Development Studies, Geneva (an ASIL Academic Partner).

Summer Associates Briefing Series

Once again the Society hosted a Summer Associates Briefing Series for law students spending their summer in select major metropolitan areas. The first of this summer's two briefings took place in New York on June 28, 2011, in co-sponsorship with ASIL Law Firm Sponsor Debevoise and Plimpton, LLP and ASIL Academic Partner New York Law School. The event featured a panel discussion by international legal experts working in both the public and private sectors of international law and was followed by a reception sponsored by the ASIL New Professionals Interest Group. Panel speakers included **D. Stephen Mathias**, Assistant Secretary-General for Legal Affairs of the United Nations, **Tai-Heng Cheng**, professor at New York Law School, and **Natalie Reid**, associate at Debevoise and Plimpton. ASIL Executive Director **Elizabeth Andersen** moderated.

On July 28, 2011, the second briefing was held at ASIL headquarters in Washington, DC. Panelists **David Crane**, professor at Syracuse University College of Law and former Chief Prosecutor, Special Court for Sierra Leone, **Laura Olson**, Immigration Section lead, Office for Civil Rights and Civil Liberties, U.S. Department of Homeland Security, and **Michael Surgalla**, Human Rights and Special Prosecutions Section attorney, U.S. Department of Justice, provided insights into how young lawyers can pursue interesting international careers in "surprising" places by networking, developing expertise, and following developments in new institutions and areas of law.



Panelists Michael Surgalla and Laura Olson at the Washington, DC, Summer Associates Briefing.



Panelist David Crane (left) speaks with attendees at the reception following the Washington, DC, Summer Associates Briefing.

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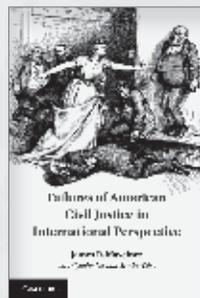
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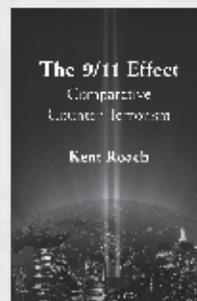
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Interest Group Spotlight

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New Professionals



The New Professionals Interest Group, co-chaired by Bart Szewczyk, (above center), hosted a happy hour at ASIL headquarters on June 8, 2011.