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# INTERNATIONAL LAW NEWS

SPRING 2017

SECTION OF INTERNATIONAL LAW

VOL. 45 NO. 4

AMERICAN BAR ASSOCIATION

## A Mission to the International Courts at The Hague

By Keith Roberts

The American Bar Association led a 70-person delegation to The Hague in April 2017 as part of a continuing legal education series in international justice systems. Participants heard from judges, attorneys, and senior administrators for international courts housed at The Hague and other specialized courts around the globe addressing legal issues on an international level. The program engaged participants in thoughtful discussions of the missions and operations of international courts. Topics ranged widely, including the development of international criminal law, how to reconcile differences between the legal systems involved, and thorny matters like translation, detention and punishment, security, and the treatment of witnesses to atrocities.

The chair of the ABA Judicial Division, U.S. Air Force colonel (ret.) Linda Murnane, organized the international exchange and led the delegation. Murnane spent nearly a decade in senior legal positions in the ad hoc International Criminal Tribunal for the former Yugoslavia (ICTY) and the Special Tribunal for Lebanon (STL). She previously spent 30 years as a lawyer and military judge within the U.S. Air Force, including as the chief circuit judge in Europe with jurisdiction over trials conducted in the war zones in U.S.-led Operation Iraqi Freedom and Operation Enduring Freedom.

*continued on page 4*



**International  
Legal Exchanges  
and Collaborations**

## CHAIR'S COLUMN

### Making Connections

The theme of “International Legal Exchanges and Collaborations” is infused not only in this edition of *International Law News (ILN)* but also throughout the ABA Section of International Law’s many activities. Our Section is a thriving and engaging place for members to make connections, share ideas, and contribute to improving the legal profession around the world. It is through these interactions and activities that we engage in exploring significant matters of private and public international law, as well as how we can find shared solutions to shared challenges in improving our respective legal systems while maintaining rule of law and judicial independence.

This year’s ILEX trip to Croatia and Serbia was an unforgettable week-long journey. Our delegation met with judges,

law professors, and practitioners to exchange ideas about the legal profession, judicial systems, alternative legal solutions, access to justice, and rule of law. I very much enjoyed a chance to meet the president and vice president of the Croatian Constitutional Court and to meet the President of Croatia, Ms. Kolinda Grabar-Kitarović.

Our ILEX trips are just one of our Section’s many opportunities to connect with colleagues, clients, and potential new partners. Our seasonal meetings and regional forums serve as meeting points for our members from 100+ countries, while our growing number of International City Chapters bring international law and local expertise together to address and better support local programs, initiatives, and partnership development. Further, our valued

network of relationships with local and regional bar associations, organizations, and other partners around the world fosters an even greater breadth of activities that bridge the local and the global sharing of information, experiences, and practices.

Also in this edition of *ILN*, you will learn about our pioneering award winners and the accomplishments of our inaugural class of Diversity Fellows. Further, we celebrate and congratulate Professor Ved Nanda on his 50 years of teaching at the University of Denver Sturm College of Law and thank him for his tremendous contributions to our Section, the legal community, and the field of international law.

We have terrific programming in store for you at the ABA Annual Meeting to be held August 10–15 in New York City. The Section is co-sponsoring the International Dispute Resolution track and the United Nations track of the new “CLE in the City” series. These offer unique opportunities to attend educational programming at law firms around the city and at the United Nations building.



**Sara Sandford** ([ssandford@gslaw.com](mailto:ssandford@gslaw.com)) is an owner in the Seattle office of Garvey Schubert Barer and chair of the ABA Section of International Law.



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*International Law News (ILN)* (ISSN 047-0813) is published quarterly by the American Bar Association’s Section of International Law, 1050 Connecticut Ave. N.W., Suite 400, Washington, D.C. 20036. *ILN* keeps Section members informed about current international law developments and important Section news. It provides comprehensive legal analysis of international law topics, as well as concrete, how-to advice for practitioners.

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# Bridging the Global and Local Communities through ILEX Trips and City Chapters of the Section

By Marcelo Bombau

As we all note, in an increasingly globalized legal world, the need for more intense and deeper collaboration among its players is both evident and important. The need for this collaboration spans all internationally related legal fields, be it human rights, disputes, trade, personal data, bilateral or multilateral investment agreements, intellectual property, and more. A wide array of public and private law issues that now see their borders both expanded to, and invaded by, different legal practices and dimensions are at the cornerstone of international exchanges and collaborations taking place among bar organizations, public agencies and officers, magistrates, and private practitioners alike.

In this regard, I would like to refer to two distinct initiatives spearheaded by the American Bar Association Section of International Law that serve the purpose of trying to build bridges and to close gaps among different legal cultures, namely our ILEX Trips and our City Chapters.

## ILEX Trips

I had the honor and the privilege of chairing the Section of International Law during the 2014–2015 ABA year. I was part of a group of private practitioners, public officers, and judges who went on an international legal exchange (ILEX) trip to Cuba and Ecuador. A few of us continued to the Galapagos Islands as an add-on ecological trip. The initial vision for the trip included a visit to Venezuela, but that portion of the trip was not included due to political instability and security reasons.

There were a number of reasons these countries were put on our radar, all stemming from our desire to understand their political regimes, such as socialism, in the cases of Ecuador and Venezuela, and communism in the case of Cuba, as well as a certain degree of intrigue. We wanted to better understand their legal organizations, commercial atmospheres, human rights situations, judicial independence, and, more generally, their lifestyles. Our many prior contacts created possibilities for a first-hand grasp of a range of official and non-official viewpoints across a range of stakeholders, which we considered of importance for understanding the commonalities and differences across our legal systems, structures, access to justice, and approaches to rule of law.

Apart from the reasons that moved us to propose these host countries, we sought to achieve the following goals, which, to a certain extent, are largely common to most ILEX trips.

- **Introduction of the ABA and the Section of International Law:** To introduce the ABA and, more specifically, our Section to public officials and leaders from local bar associations, industry, academia, and civil society in the host country.

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# A Mission to the International Courts

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## International Courts at The Hague

The Hague, a small city west of Amsterdam, is the royal seat and capital of the Netherlands. It also hosts the world's international courts. Outside the Peace Palace stands an early 20<sup>th</sup> century monument to hopes for international peace and inside the International Court of Justice (ICJ) and the Permanent Court for Arbitration. The ICJ deals with inter-state disputes, such as boundaries, access to water and other resources, migration, and other humanitarian matters.



UN Mechanism for International Criminal Tribunals President Theodor Meron

In various locales around The Hague sit several international criminal courts. These include the International Criminal Court (ICC), established by 120 nations in the Rome Statute of the International Criminal Court, and several ad hoc international criminal tribunals that the UN Security Council created after the Cold War ended. The first came in 1993, when the UN Security Council navigated conflicting political agendas to establish and fund the ad hoc International Criminal Tribunal for the former Yugoslavia (ICTY) to prosecute individuals for genocide and other heinous crimes committed during the civil wars in the former Yugoslavia. The ad hoc International Criminal Tribunal for Rwanda (ICTR), which was established in 1994 in Tanzania and closed in 2015, had its Appeals Chamber at The Hague. A Special Tribunal for Lebanon, inaugurated in 2009 and headquartered at The Hague, is responsible for investigating and prosecuting the assassination of Lebanon's former Prime Minister Rafik Hariri and 21 other people. The Extraordinary Chambers in the Courts of Cambodia (ECCC), established as a special Cambodian court in 1997, represents a hybrid court with the United Nations and is located in Cambodia.

The following brief sections describe various aspects of what participants learned and discussed.

## International Criminal Courts and Tribunals

The international criminal courts and ad hoc tribunals each create their own procedures and practices, but there are important commonalities. All have both common law and civil law judges, use a blend of those procedures, have English and French as

official languages, and support extensive translation services to accommodate witnesses and spectators. Tight security protects facilities, personnel, victims and witnesses, visitors, and information technology systems. All the courts and their staff work to legitimate the concept of world justice by providing defendants with strict procedural fairness and the scrupulous use of evidence while demonstrating respect and care for victims.

Judge Gary LaFleur from Chandler, Arizona, observed that these courts are painstakingly producing indisputable records of fact for humanity and history, records that will prevent revisionists from rewriting history to gloss over their crimes. International criminal courts and tribunals give dignity to the victims and affirm the fundamental principle that organized genocide and crimes against humanity are intolerable to us all.

## International Criminal Court

Our visit to the ICC, which was not in session, proved revelatory in several ways. First was the extraordinary level of security, a necessary precaution considering the nature of its defendants and the extreme emotions that its proceedings evoke. We also learned that, in addition to providing a measure of justice by convicting those otherwise immune from consequences for their crimes against humanity, the ICC tries to secure or fund reparations to victims. Perhaps most striking was the fact that, although created 19 years ago and budgeted at 150 million euros in 2016, the ICC has convicted only 23 people.

There are two basic reasons: (1) The ICC only acts if the locale of the crimes cannot or will not do so. Consequently, the process of catching suspects and gathering evidence for the heinous crimes it prosecutes is arduous and time consuming, and (2) The need for extreme procedural care, political diplomacy, respect for victims, and high security makes the ICC process glacial and costly.

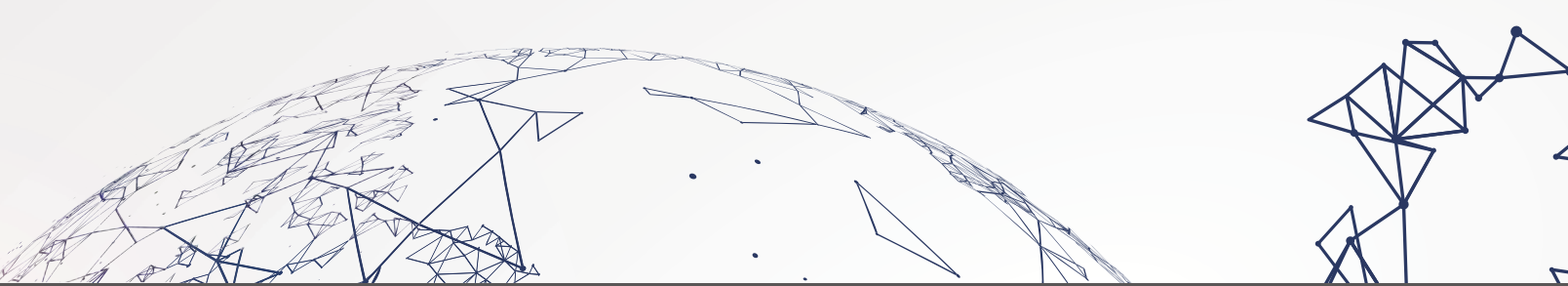
## Special Tribunal for Lebanon (STL)

The Special Tribunal for Lebanon (STL) was formed to find and try, under Lebanese law, those who assassinated former Prime Minister Rafik Hariri and 21 others. The STL

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Chambers consist of 11 judges, one of whom sits in the “pre-trial chamber.” The “trial chamber” has one Lebanese and two international judges, and one Lebanese and one international alternate. An “appeals chamber” consists of two Lebanese and three international judges. This mixture of judges aims to ensure that Lebanese law is applied correctly but impartially.

The Security Council’s criminal tribunals at The Hague are independent judicial organizations, so no legal framework defines their operations. Instead, a “Registry” is responsible for essentially all non-judicial functions. It organizes court proceedings; provides transcriptions, translation, and interpretation; archives court records; and provides facilities management and security, human resources, finance, legal advice, information technology, public information, and communications.

The STL has no police force to enforce judicial orders (e.g., subpoena witnesses and evidence). Instead, it relies on cooperating states to carry out court orders and to locate and protect witnesses. Accordingly, diplomacy is an important aspect of the Registry’s work.

An example illustrates diplomacy’s importance. The STL’s first investigating magistrate apparently proceeded so aggressively that Hezbollah and Syria, whose adherents were suspects, terminated cooperation. Only a subsequent magistrate’s meticulously fair approach to the evidence allowed the tribunal to reach the trial stage of its work.

Our group was able to tour the courtroom and listen to an evidentiary motion at the STL. We also heard interesting presentations from the president, the registrar of the STL, the Victim Participation Unit, Court Management Services, a prosecutor (Norman Farrell), and two defense counsel.

The trial of the four STL defendants began in January 2014. It is a trial “in absentia,” as the defendants cannot be found. The international community believes strongly that to establish the public record of what happened and who is responsible, a trial is important and necessary even if the presence of the defendants cannot be secured. They nevertheless get court-appointed defense counsel. The ability to request a retrial after the case is over is guaranteed if a defendant would ever personally appear, whether during trial or after conviction. Because the STL exists only to prosecute crimes associated with one event, it will terminate after the present trial ends.

## Mixing Common Law and Civil Law

Because the judges and lawyers of the international courts are drawn from both common law and civil law traditions, the effort to blend the systems has generated misunderstanding and conflict. For instance, cross-examination is standard in common law

systems but unheard of in the civil law, where a trained investigating judge gathers and presents the case. Defense attorneys may challenge the presentation, but rarely, if ever, gather or present evidence. As one civil lawyer complained, the blended procedure led to two prosecutors, one who prepared the preliminary case and another who brought it to trial.

## Supreme Court of the Netherlands

Our delegation also enjoyed a reception at the Dutch Supreme Court. It consists of 36 members (appointed for life) who specialize in particular types of case. Interestingly, the Dutch Supreme Court may not determine the constitutionality of statutes enacted by parliament or of treaties, but it does determine if statutes conform to international treaties such as the European Convention on Human Rights. The Dutch Supreme Court may annul lower court judgments if they are contrary to law or lacking adequate judicial reasoning. Its rulings in these cases serve as precedents for Dutch courts. It also reviews the constitutionality of provincial and municipal enactments.

## Support Functions and Use of Experts

An interesting presentation regarding complex financial products came from the visit’s co-sponsor, P.R.I.M.E. Finance, a private consulting firm. Working with the Permanent Court of Arbitration, it offers financially knowledgeable expert arbitrators, mediators, and analysts, plus administrative support concerning financial industry-standard documentation and subjects like comparative law and market practices for derivatives and other financial products. The presentation underlined the importance, in the international law context, of understanding the relatively arcane and rapidly changing field of finance via the use of experts. The discussion touched on possible collaboration with the ABA Judicial Division on the development of a bench book and other judicial tools concerning complex financial products.

The extensive 629-page CLE materials are available online for ABA members at [https://www.americanbar.org/content/dam/aba/administrative/judicial/hague\\_cle\\_materials.authcheckdam.pdf](https://www.americanbar.org/content/dam/aba/administrative/judicial/hague_cle_materials.authcheckdam.pdf).



ABA participants of Survey of International Law in The Hague, April 2017



## Bridging Communities

*continued from page 3*

- **ABA values:** To emphasize our core values of respect of the rule of law, human rights, and professional ethics as among the ABA values that comprise the foundational DNA of our association. Not only did we want our hosts to know who we are but also how we operate and what the ABA stands for in society, domestically and internationally.
- **Collaborative efforts:** To explore possible areas where the Section of International Law and the larger ABA might be able to provide legal and technical assistance to our hosts in key areas that they may face, such as legal education, magistrate training, trial practice, and mediation techniques. Where the scope goes beyond the Section of International Law, the Section can serve as a facilitator to the specialization of different ABA entities.
- **Global nature of the ABA:** To foster awareness of the openness of the ABA and opportunities for non-U.S. legal professionals to become active members within the ABA. In many foreign countries, the ABA is perceived as limited only to U.S. attorneys. We sought to create a clear understanding in our hosts that the association was open to them and the nature of the growing international membership within our association and Section.
- **Comparing different legal traditions:** To understand better the differences in legal systems and cultures and to learn from each other. In many ways, the legal world shares certain basic principles and structures, but, in practice, the different legal systems differ greatly. Our visits rely on a two-way dialogue in which all participants learn and contribute. This is absolutely essential for further collaboration.
- **Professional connections:** To create new relationships between entities and individuals. Getting

acquainted with local colleagues and making contacts enables future collaborations. For our trip, such connections become the foundation for future legal exchanges and collaborations as opportunities continue to evolve and expand in Cuba and Ecuador.

### City Chapters

Legal exchanges and collaborations within the Section can also be seen through its different City Chapters around the world. Different in many ways to ILEX trips, the City Chapter concept is a year-round structure open to all attorneys within a given city or geographic area with the purpose of making them familiar with the ABA while promoting the Section's core values and activities.

City Chapters carry the ABA flag and act as informal ambassadors to local and regional legal communities. They provide flexible structures and serve as magnets to attract and foster action through conferences, networking events, and hosting visits of different ABA presidents and visiting ABA sections. City Chapters create a localized sense of “belonging” and, as such, translate more services and value to our members and their local legal communities.

This has proven very positive in terms of local yet global collaboration within the Section and within the larger ABA. Members in the different City Chapters can find colleagues who share the same principles and welcome the opportunity of working together on joint events, exchanges of information, and the sharing ideas and experiences—or simply lunch.

At present, there are eight ABA Section of International Law City Chapters around the world. If you would be interested in joining one or starting a new one in your city, contact our Section's Membership Officer Marcos Ríos at [mrios@carey.cl](mailto:mrios@carey.cl).

I hope that those reading this article will take the step forward and be able to enjoy the same experiences I have been fortunate to have.



# History and Highlights of the ILEX Program

By Edison Dick

The American Bar Association's International Legal Exchange (ILEX) Program has been making a difference by educating practitioners, building partnerships, and advancing rule of law since its formation nearly half a century ago in 1968. The program began with a desire on the part of the ABA to provide on-the-job training for foreign legal trainees and, conversely, to provide similar training for U.S. lawyers in foreign countries. In that same year, the U.S. Department of State designated ILEX as a sponsoring organization under the U.S. Mutual Education and Cultural Act.

For the first ten years, the ILEX Program operated as a Standing Committee of the ABA with its offices in Washington, D.C., before becoming a program of the Section of International Law. Then-Section Chair Lyon Brinsmade led a key effort to strengthen and improve the operational and practical aspects of the program to position it for efficient, sustainable, and meaningful action. Since 1979, the Section has continued to support and grow the ILEX Program to facilitate a variety of individual and group legal exchanges in the United States and around the world.

## Individual Placements

During that early period and even through today, the core program for ILEX has involved individual placements. Under this program, ILEX receives requests from foreign attorneys who seek to have a comparative training program with U.S. law firms or other U.S. law offices. The ILEX office, currently operated by the Section's International Projects Director Christina Heid, processes the requests and locates appropriate host U.S. firms or offices.

ILEX originally was approved as a designated agency by the United States Information Agency for the purpose of certifying the eligibility of foreign visitors for exchange status in order to secure a J-1 exchange visitor visa. In recent years, the ILEX office has been successful in fulfilling requests from host U.S. law firms for the issuance of J-1 visas to their foreign trainees. Since 1999, the Section's ILEX Program has assisted over 3,000 lawyers from more than 60 countries in obtaining a J-1 visa to participate in training programs with over 500 law firms, corporate legal departments, and

non-governmental organizations. The duration of the ILEX training program is normally between 3 and 18 months.

ILEX also functioned as a placement and program agency for U.S. government-sponsored internships for foreign lawyers, but it currently is not authorized to issue J-1 visas for internships. When it facilitated internships, ILEX received funding from USIA for numerous placement programs for lawyers from developing countries, particularly in sub-Saharan Africa. ILEX also arranged longer programs for foreign lawyers who visited the United States on programs sponsored by the United Nations, foreign governments, or the U.S. Department of State. ILEX still arranges such specialized programs and meetings.

Conversely, ILEX also processes requests from U.S. attorneys who desire to have a similar training program overseas or become temporarily affiliated with a foreign law firm or office. This enables the U.S. lawyer to broaden his/her experiences and to become more familiar with the legal system and practice of the host country or region. The ILEX office is normally responsible for arranging for the placement in the appropriate host office overseas. Most of these outbound placements have been in Western Europe.


## Briefing Trips

ILEX is probably best known for briefing trips to countries and regions around the world. In the past 40 years, ILEX has conducted and/or sponsored more than 60 of these foreign travel group programs for Section and ABA members. These briefing trips are intended to provide participants with an in-depth learning experience with the legal and judicial systems of the host countries or regions. In most cases, these trips were organized in conjunction with the relevant geographic committees of the Section, as well as with other ABA Sections, Divisions, and Forums.

Regional, national, and local bar associations in the host countries normally provide significant assistance in planning meetings and programs. ILEX delegations have included both Section leaders and ABA high-level officers. Recently, members of the federal judiciary, including several U.S. Supreme Court justices, have been members of particular delegations.

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**Edison Dick** is a lawyer in private practice with a focus on public international law and a recipient of the Section's Lifetime Achievement Award. He was executive director of the ABA's International Legal Exchange (ILEX) Program 1979–2002.



The purpose of these trips is to provide the participants with an unparalleled opportunity to meet and have discussions with leading lawyers and government officials, as well as representatives of the business, economic, and financial communities of the countries visited. The programs are designed so that delegation members can gain insights and personal contacts that otherwise would be virtually impossible to achieve. It is hoped that they provide both interesting and professionally rewarding experiences. Furthermore, these trips have resulted in a number of excellent publications, including numerous monographs and learned treatises about doing business in the countries or regions visited.

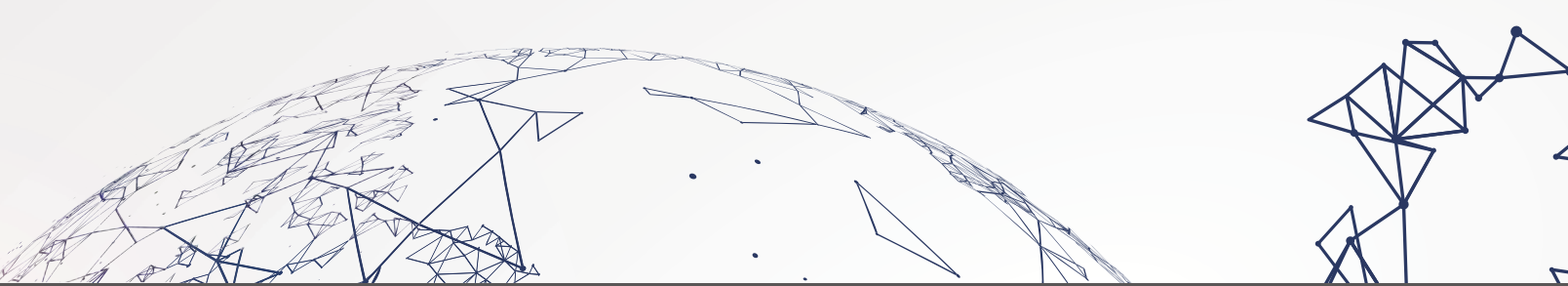
## A Look Back at 30 Years of ILEX Briefing Trips

Some of the most intriguing and memorable ILEX trips during the first 30 years are outlined here:

- ILEX led two trips to South Africa, the first during apartheid (1982) and the second in the post-apartheid period (1995). It was fascinating for delegation members to see the development of the legal practice in South Africa following the dismantling of white rule and the emergence of black-owned and operated law firms. The delegation members, in cooperation with members of local law firms, prepared a useful “Lawyers Guide to Doing Business in South Africa.” Other monographs of subsequent briefing trips have also been published.
- A timely trip to Brussels, Luxemburg, and London in 1989 focused on the European Community and Common Market Law. The meetings with business and governmental leaders in these common market countries paid particular attention to new opportunities and risks for U.S. businesses and financial institutions operating in Europe.
- Visiting Bonn and Berlin (West and East Germany) in 1990 shortly after the fall of the Berlin Wall focused on the legal ramifications of the unification of Germany and the end of the Cold War.
- A trip to Singapore and Tokyo in 1991 studied the new Asian Capital Markets. The chair of the U.S. Securities and Exchange Commission, as well as other SEC leaders, participated in this program.
- A briefing trip to the Persian Gulf countries, also in 1991, included a visit to a ravaged Kuwait City following the conclusion of the first Gulf War.
- A remarkable ILEX-sponsored program in 1994 at the GATT Headquarters in Geneva, Switzerland, introduced U.S. lawyers to the newly established World Trade Organization (WTO).
- A trip to Israel, Jordan, and the West Bank in 1995 focused on the complicated process regarding Israel/Palestine peace negotiations.
- A 1996 briefing program to Brussels and Luxembourg arranged by ILEX focused on comparative competition laws in the European Communities. The delegation explored major policy and legal issues, including mergers and acquisitions and cartel behavior.
- A trip to Hanoi and Saigon in 1997 was the first visit by a legal delegation to these cities following the conclusion of the Vietnam War. The discussions focused on privatization of the Vietnam economy.
- A 1999 visit to Ghana and the Cote d’Ivoire focused on trade issues in these important African countries. The delegation met with President of Ghana Jerry Rawlings at his country estate.
- One of the most timely and important trips was in 2001 to Lebanon, Syria and Iran. The delegation was led by Martha Barnett, the second woman president of the ABA. The delegation met with Prime Minister Harari in Lebanon and other key leaders in the three countries in order to gain a better understanding of the issues related to securing peace in the Middle East.
- In January of 2002, ILEX organized a targeted trip to the United Nations in Geneva, Switzerland, focusing on the important but underappreciated specialized agencies and other UN entities that are primarily devoted to development and humanitarian issues. The delegation visited the UN High Commission for Refugees, the World Intellectual Property Organization (WIPO—where 2006–2007 Section chair Deborah Enix-Ross used to work and who conducted the briefing), the World Health Organization (WHO), the International Labor Organization (ILO), and the World Trade Organization (WTO).
- In both 2003 and 2005, ILEX, in conjunction with the Section’s UN Committee, sponsored a unique program in The Hague entitled “The World’s Courthouse.” This initiative examined and visited the large number of important international courts and tribunals headquartered in the interesting Dutch city and the reasons for their playing such an important role in the international legal system. The initial briefing for the delegation took place at the International Court of Justice (ICJ) in the ornate Peace

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# Comparative Legal Exchange Program Gains Grounds for Women's Land Rights

By Tzili Mor and Juan Chu

**D**espite vastly different geographies, socio-cultural contexts, and legal regimes, each year for the past five years, practitioners from Asia and sub-Saharan Africa have gained common ground and comparative expertise to advance the land rights of women nationally, regionally, and globally. The Women's Land Rights Visiting Professionals Program (VPP) was launched in 2012 by the Landesa Center for Women's Land Rights (<http://www.landesa.org>), an initiative of the Rural Development Institute. Landesa is a leading international non-governmental organization founded 50 years ago committed to the power of land rights as a pathway to eliminate extreme poverty, reduce conflict, and build more gender-equal and just societies.

This innovative comparative legal-interdisciplinary program leverages participants' experiences to address one of the world's most entrenched and complex legal issues of our time—land rights. Moreover, the program focuses on strategies to ensure women partake and benefit from such rights, whether in the context of agrarian reforms, large-scale land transactions, or interfamilial land transfers. With scarce land and natural resources increasingly in demand, rising concerns over food security, dire environmental and climate change impacts, and rural-to-urban migration patterns, conflicts and disputes over land use and control dominate courts and consume communities the world over. VPP targets practitioners who work in their home regions or come directly from affected communities with a demonstrated commitment to promoting women's land rights through new and various means and modes.

The VPP aims to equip land rights champions from diverse disciplines—lawyers, government bureaucrats, researchers, journalists, and grassroots mobilizers—with concrete strategies for strengthening women's land rights at the legal, policy, and ground levels.

## Why Focus on Women's Land Rights?

Women produce the bulk of the world's food. Globally, in 2015, one-fourth of all employed women were engaged in agriculture, according to the International Labor Organization (ILO). Its "Women at Work: Trends 2016" report asserts that agriculture remains the most important source of employment for women in low-income and

lower-middle-income countries. With no legal or social guarantee to their land, women grapple with fewer means and incentives to invest in the land and increase its productivity and yields. Women are often excluded from key decisions about land use and governance. Yet, as traditional food growers and caregivers, women are often the ones disproportionately affected when disaster, armed conflict, or land grabs displace their communities. More than 139 constitutions worldwide guarantee sex equality on paper. Formal laws promise equal rights to property ownership in 115 countries and to equal inheritance in 93 countries. Yet, in more than half the world, legal loopholes, discriminatory laws, and gender bias undercut women's equal rights to ownership, control, and inheritance of land.

Land rights generally, and particularly for women, are gaining global traction. They are enshrined in three out of 17 goals adopted by the international community as part of the UN 2030 Agenda for Sustainable Development (Goal 1 to end poverty; Goal 2 to produce food security; and Goal 5 to achieve gender equality and women's empowerment). International and regional guidance abound on land concerns, from large-scale land-based investments to land governance, such as the Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests in the Context of National Food Security. Human rights and trade treaty-monitoring bodies increasingly feature land-related issues, from Free Prior and Informed Consent, to land deals, to mass forced evictions.

Yet, despite the growing interest, there is a relatively limited cadre of experts well-versed in the intersection of land and gender, the places where global, national, community, and household dynamics play out differently for men and women. By focusing on women's land rights, the VPP seeks to bridge this gap.

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## The Program's Goals, Modes, and Methods

Selected through a rigorous and competitive process, eight to ten mid-level professionals convene annually from countries with current or pending land reforms and substantial rural populations in Asia and Africa. Though the represented countries' legal systems diverge and their histories and rural land reform progress differ widely, through the program, participants identify common challenges to reaching gender-responsive land rights. Through facilitated conversations led by international land and gender experts, they draw from analogous legal and social struggles from across the world. All VPP practitioners report ingrained gender bias in their respective countries that deems women as temporary guests in their natal family who are expected to marry and relocate to their husband's village and are thus seen as less eligible or deserving of equal inheritance, land allocation, or dividends as their male counterparts. Unchecked discretion by local-level (municipal and village) officials further entrenches adverse gender stereotypes by excluding and sidelining women in land governance bodies and major land-related decisions, such as turning over land to private investors or distributing compensation or profits from community lands. While most VPP participants (VPs) are legal professionals (72 percent), the class composition is diverse, with an important variety of cross-cultural, cross-disciplinary (e.g., law, sociology, economics, and gender), and cross-sectoral (e.g., grassroots groups, nongovernmental organizations (NGOs), international NGOs, government, and academia) perspectives.

The initial five to six-week intensive exchange program presents a unique blend of class sessions and experiences designed to establish a solid conceptual framework and highlight technical aspects of gender-responsive land rights. Participants examine various frameworks that organize and surface the core requirements for secure land rights and how men and women might experience them differently. A gender-responsive framework for land rights includes elements of quality (clearly defined scope of rights, secure tenure, duration, and immunity to gender-based social changes and conditions); legitimacy (legal and social legitimacy and self-perception); and enforceability (legal literacy, participation in land governance and decision making, directly exercisable regardless of gender, access to dispute resolution and accountability, and availability of redress) of those rights. To do so, the program draws on a mosaic of structured sessions, facilitated comparative experience swapping, dynamic in-class individual and team exercises, experiential learning, field trips, leadership training,

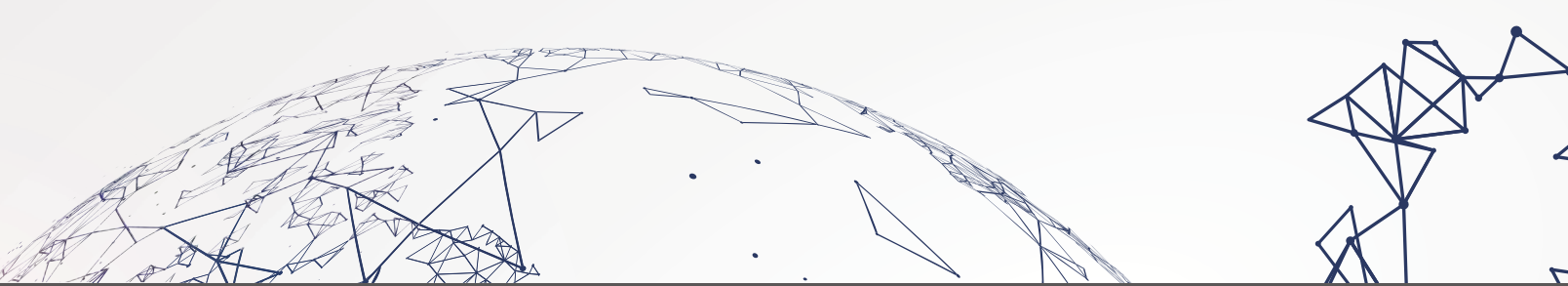
professional development opportunities, multiaudience presentations, profile-raising, and networking opportunities.

Consequently, not only do VPs become equipped with a conceptual framework for gender-responsive land rights built on legal, development, and evaluation perspectives, but they gain hands-on practice applying the framework to analyze land and gender topics and situations in select countries and regions, focusing on key technical dimensions of land governance, implementation, and accountability. In addition to facilitated comparative experience swapping among VPs and instructors, participants are encouraged to co-lead a substantive session on an assigned topic and draft a brief land rights case study featuring a project or an issue in her or his country analyzed through a gender lens.

During the program, VPs partake in field trips that expand on key course topics, such as land planning and registration systems, advocacy, and quantitative evaluation focused on practical comparative examples from the United States. Most VPs rate highly the visit to women-held smallholder farms in Snohomish County in Washington State, where they reap practical examples of improvements that they take back home to enhance their own work. Visits to Snohomish County land administrative offices and the state capital, Olympia, are also frequently noted by VPs in their evaluation surveys as providing eye-opening exposure to ways "systems can work." They express leaving inspired by the transparency and the ease of document access at each one of the institutions visited and feel optimistic about pushing for similar standards in their home countries. The experiential component feeds directly into pragmatic future application.

While no one solution exists for improving women's land rights, VPP participants and instructors have emphasized the value of being able to learn about and draw from each other's comparative examples. Their participation in the program connects them to develop a common dialect and framework of understanding. They come to see women's land rights as a range of multidimensional aspects. The rights could include the right to use, access, own, transfer, inherit, bequeath, withdraw from, control, and manage the land.

A practitioner from Kenya found many similarities with colleagues from other east African countries, but she was especially intrigued to find common challenges and different experiences from China and India about quests to realize women's land, inheritance, and property rights. A participant from Tanzania looked to India's experience in several states that have allocated micro-plots for subsistence farming to landless households as a possible model for the Maasai semi-nomadic peoples she works with to anchor



their rights to land for subsistence farming and communal grazing. The experiences of most VPs have highlighted the gap between “law on the books” and “law in action,” providing useful insights into solution-oriented approaches to strengthening women’s land rights in their communities. As one practitioner summarized: “We are not alone. It’s not only [our home country] that has women problems, there is all over the world, just differences in the degrees of the problems and the source of the problems.”

## Cultivating a Women’s Land Rights Network

One important goal of the program is to cultivate a women’s land rights (WLR) network to enable VPs to increase their influence and draw on a larger pool of expertise by actively contributing to and benefiting from the network. In the five years since its launch, 37 professionals from seven countries (China, India, Ghana, Kenya, Liberia, Tanzania, and Uganda) completed the exchange. They continued their cross-border engagement through various Landesa-moderated online platforms, including WeChat, LinkedIn, and WhatsApp, that facilitate ongoing and multidirectional communications among VPs, expert instructors, and Landesa staff after the conclusion of the intensive exchange phase of the program.

The WLR network has been strengthened through country and regional convening; participation in high-profile conferences; development of joint scholarship, research, projects, and initiatives; and sharing real-time advice around pending legal and policy reforms. During the inaugural convening for Africa-based

VPs held last year in Ghana, practitioners conferred on top issues they face in the region, including working with traditional justice systems and communal land tenure. In China, the program alumnae formed a strong WLR network maintained through periodic meetings and collaboration opportunities, including around advocacy for more secure land rights for women through improved registration of women’s names on land-use certificates. Sustainable sharing and collaboration among the VPs holds untold potential to create more space and momentum for WLR advocacy at national, regional, and global levels.

## It Takes a (Global) Village

The VPP exchange, while modest in size, has significantly contributed to bolstering global capacity in a technical field of gender and land, which has relatively few experts. The initial intensive session provides a foundational groundwork for increasing participants’ effectiveness in strengthening women’s land rights within their national socio-legal landscapes. It also forges the intellectual and social foundation for a WLR network, offering a rare opportunity for busy professionals to refine their expertise and skills, reflect on their goals, and replenish their motivation to advance WLR in their organizations and communities. Both the group cohesion built during the initial session and the relationships between the facilitating expert instructors and the VPs have provided the building blocks for developing and sustaining a long-lasting network of champions, leaders, activists, and decision makers around the world committed to gaining ground for gender-equal and socially equitable land rights.

### All-Access Registration includes:

- ABA President’s reception
- 100+ continuing legal education programs
- ABA Expo
- New “CLE in the City” series

### “CLE in the City” series featuring 12 specialty tracks

Tracks co-sponsored by the ABA Section of International Law

#### International Dispute Resolution track

- Emergency applications in international arbitration
- Enforcement of international arbitration awards
- Lunch program with Catherine Amirfar, former Counselor on International Law to the Legal Adviser, U.S. Department of State

#### United Nations track (pre-registration required by Thursday, August 3)

- Role of lawyers to advance the Sustainable Development Goals
- Lunch with the President of the General Assembly (invited)
- A conversation with the Legal Counsel of the United Nations
- Women’s and girls’ empowerment



# Cross-Cultural Learning and Relationships

## The Value of International Legal Exchange

By Jane Schukoske

**W**hat is valuable about international legal exchange? Lawyers who strengthen their legal education by learning from study or work abroad are better able to solve problems of clients and society than those who focus only on their home countries. For individuals, these exchanges create energy, enrich one's imagination and intellect, and promote an openness to the experiences and surprises that inevitably arise.

The American Bar Association Section of International Law's International Legal Exchange Program (ILEX) emphasizes the mutuality of benefits in exchanges. ILEX "was created under the proposition that a worldwide exchange of ideas and programs will lead to a heightened level of learning and understanding for all." ABA Section of International Law International Projects International Legal Exchange Program, [http://www.americanbar.org/groups/international\\_law/initiatives\\_awards/international\\_legal\\_exchange.html](http://www.americanbar.org/groups/international_law/initiatives_awards/international_legal_exchange.html). Besides ILEX, the Section offers a broad array of programs and liaisons with other bar associations around the world to promote better professional communication.

Booms in global business and an increase in the number of families with ties to multiple countries means that all lawyers, even if a practice is primarily in the home country, must understand the foreign and international law aspects of their clients. Whether prompted by work, family, or displacement, many citizens require legal representation that may require connections with other jurisdictions, such as family law, inheritance, property ownership, taxation, financial reporting requirements, foreign monetary exchange, and immigration/visa status. A lawyer needs to be alert to how laws of another country affect their client and be sensitive to cultural differences.

Constant exposure to the broader world through media and the Internet promotes interest in study abroad by students in J.D. and LL.B. (and equivalent) programs. ABA-approved law school programs outside the United States, acceptance of credit from approved foreign institutions, and law schools around the globe facilitate semester- and year-long study in multiple

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countries. ABA Section of Legal Education and Admissions to the Bar, Foreign Study, *available at* [http://www.americanbar.org/groups/legal\\_education/resources/foreign\\_study](http://www.americanbar.org/groups/legal_education/resources/foreign_study). These opportunities provide an advantage to participating students, and some forward-thinking law schools emphasize identifying financial support to overcome financial barriers to diverse student participation.

Preparation is critical to best using an exchange visit. Learning about the exchange visit site, preparing how to engage colleagues, as either visitor or host, and reflection about one's home legal culture, trends, and values are key steps.

### Attend to Culture

An exchange visitor is an ambassador of one's profession and country and is a lawyer focused on absorbing a new legal culture. The legal system (e.g., common law, civil law, Muslim law, or mixed systems) frames the legal culture, which includes the state of rule of law, the roles of lawyers and judges, demographics of the profession, and the organization of the legal profession in a country. Underlying the legal culture, the history of the country and its political, economic, social, and cultural circumstances are the foundation to understanding the legal system. As lawyers better understand the legal and deep culture of a country, they will communicate better with colleagues and others from that place.

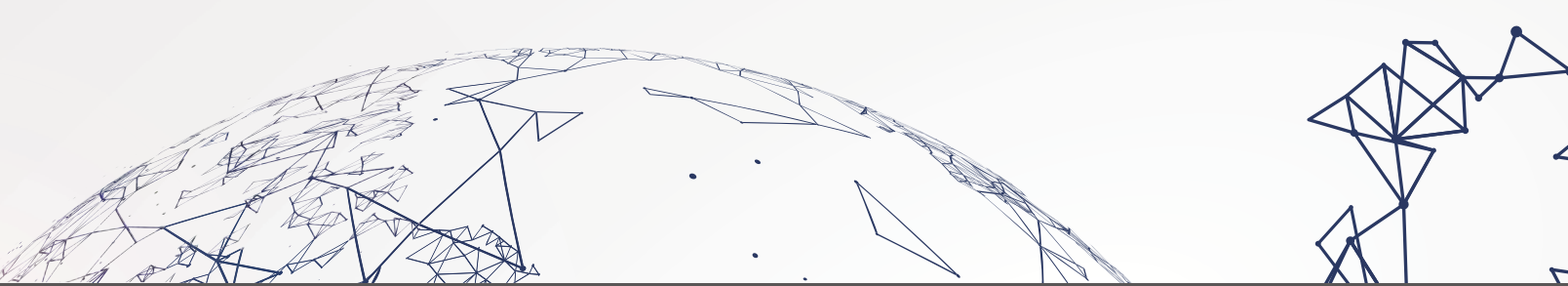
### Think Comparatively

People gain insights about their own country when they learn about another. The legal traditions and cultures in which one was schooled and practices are the basis against which we first understand similarities and differences. The ILEX mission statement notes that both exchange visitors and hosts aim to learn and understand. Foreign hosts and guests often ask questions with a fresh perspective. The ability to step back and examine situations from another perspective is valuable in cross-cultural situations in the home country and abroad.

### Communicate for Shared Understanding

A colleague knowledgeable in multiple legal systems told me how her multi-country exposure affected her lawyering.





She recognizes that lawyers may use the same words in a conversation but talk past each other as the words have different meanings in their respective legal settings. To increase understanding, she begins conversations about law by asking probing questions to clarify the meaning of key words and identify where gaps in understanding might occur. Immersion in another legal culture increases her ability to detect and prevent potential misunderstanding.

## Build Relationships

Unlike tourists, lawyers on exchange visits fully indwell their professional role and status. Shared professional interests are an instant platform for building relationships with colleagues. The visitor can focus intently on the exchange. Hosts—juggling a visit in the midst of other time demands—must seize time to make the most of the interaction. Friendships and professional connections result. They are valuable for future professional association, law practice referrals, and business opportunities.

While directing a Master of Laws program in the Law of the United States in which lawyers from many countries enroll, I saw the power of the networks the lawyers/students were building. The lawyers trained abroad were naturalized U.S. citizens or planned to return to their home or other countries to practice. When naturalized U.S. citizens pass the bar and reestablish their careers in law, they enrich their

communities here with their ties to their home countries and diaspora, their knowledge of governments and legal systems abroad, and their language and cultural skills. Lawyers who return abroad after graduation build upon established relationships with lawyer classmates in multiple countries and the United States.

## Spread Learning upon Returning Home

Upon return home, it is easy to get caught up in the flow of routine work. Exchange participants reinforce their own learning when they make the effort to tell colleagues and friends what they learned through their professional and community associations. The growing network of international collaborators and friends is valuable to the legal profession, to educators, to society, and to governments. The importance of public diplomacy and educating professionals to ably engage with others is vital for the 21<sup>st</sup> century.

What enriches the international legal exchange visit? Preparation, curiosity, and reflection! Though under pressure of time and instrumental professional goals, lawyers value the special learning experiences of their exchange visits that improved their professional effectiveness. Friendships, better self-understanding, empathy, understanding differences, diplomacy skills, and the intellectual pleasures of curiosity are some of the many rewards of international exchanges.

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## History and Highlights

*continued from page 8*

Palace. The U.S. Justice on the Court, Thomas Buergenthal—a great friend of the Section—was the host and provided a fascinating lecture. The delegation also visited The Hague Conference on Private International Law; the Permanent Court of Arbitration; and the International Criminal Court, as well as the International Criminal Tribunal for the Former Yugoslavia.

- In 1998 and 1999, ILEX conducted inbound briefing trips, providing foreign lawyers the opportunity to focus on the legal and economic framework for doing business in the United States, in New York City, and Washington, D.C. The New York segment included briefings at the New York Stock Exchange,

the Federal Reserve Bank, the United Nations, and leading New York law firms. In Washington, D.C., the program featured visits to federal departments and agencies focusing on international affairs; trade offices, including the Office of the United States Trade Representative; Capitol Hill for a meeting with congressional members and key staffers; and the United States Supreme Court.

The ILEX Program continues to play an important role for the Section and for the ABA in an increasingly interdependent world. For more information about ILEX, visit [https://www.americanbar.org/groups/international\\_law/initiatives\\_awards/international\\_legal\\_exchange.html](https://www.americanbar.org/groups/international_law/initiatives_awards/international_legal_exchange.html).



# Lawyers' Tools for Developing Cross-Cultural Competence

By Jennifer N. Ganesh and Peter H. Kang

**C**ross-cultural competence is a natural and increasingly necessary skillset for professionals, as companies conduct more business transnationally and as organizations become more diverse internally.

In *Cross Cultural Competence: A Field Guide for Developing Global Leaders and Managers* (2015), Professors Simon Dolan (ESADE Business School, Spain) and Kristine Marin Kawamura (St. George's University) write:

Walk into any organization today and you will see cultural differences, whether you are comparing and contrasting people according to age, gender, personality, ethnicity, nationality, or all of these and more. . . . [I]n our knowledge-based society, leaders know that people are their best resource. They must create the organizational cultures that invite culturally diverse people to fully contribute information, creativity, passion, and commitment to achieve innovation and competitive success. It has become imperative that they know how to leverage the benefits of their organizational smorgasbords of talent.

The interconnected and highly diverse nature of both modern business and law practice justifies and explains the business case for cross-cultural competence. As Professor Andy Molinsky (Brandeis International Business School) and Dr. Robin Moriarty (Adjunct Professor, Duke University's Fuqua School of Business) put it, "You'd think that in today's global economy everyone would be attuned to cultural differences—but as we've seen in [some] examples . . . , this is not necessarily the case when it comes to underlying processes, procedures, and systems." Andy Molinsky & Robin Moriarty, *Adapting Your Organizational Processes to a New Culture*, HARV. BUS. REV. (Oct. 7, 2016), available at <https://hbr.org/2016/10/adapting-your-organizational-processes-to-a-new-culture>.

Cross-cultural competence refers generally to the ability

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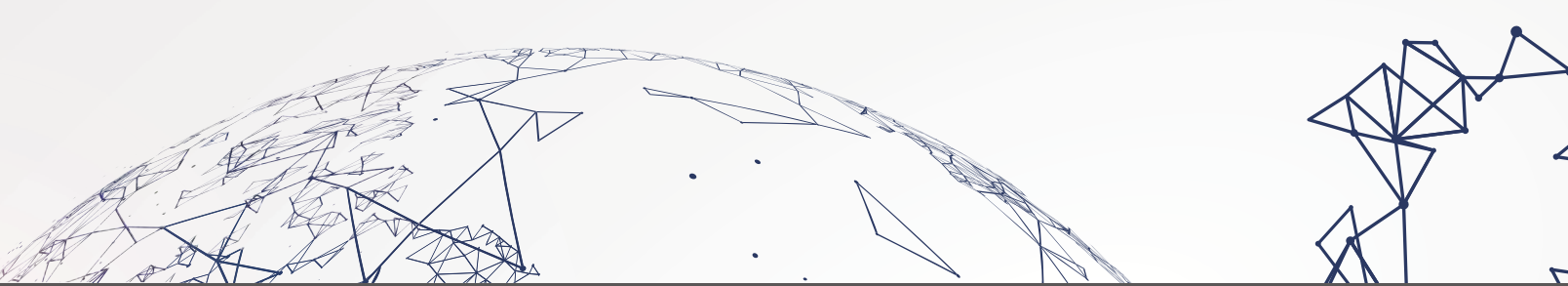
to quickly understand and effectively act in a culture that differs from one's own. It also has been defined as "the understanding of diverse attitudes, beliefs, behaviors, practices and communication patterns, attributable to a variety of factors (race, ethnicity, religion, socio-economic status, historical or social context, physical or mental ability, age, gender, sexual orientation, or generational and acculturation status)." See Katherine Frink-Hamlet, *The Case for Cultural Competency*, N.Y.L.J. (Apr. 25, 2011), available at <http://www.newyorklawjournal.com/id=1202491042907/The-Case-for-Cultural-Competency>.

Learning how to effectively navigate and build relationships with colleagues of varying experiences and perspectives is integral to the success of any lawyer. This skill has become increasingly important, especially to a junior lawyer whose fledgling career can depend on establishing and growing these relationships in an ever-diverse and interconnected world.

## The "Five Habits"

In 2001, Professors Susan Bryant (CUNY School of Law) and Jean Koh Peters (Yale Law School) developed a methodology dubbed as the "Five Habits for Cross-Cultural Lawyering" (five habits). See Susan Bryant, *The Five Habits: Building Cross-Cultural Competence in Lawyers* (2001) CUNY ACADEMIC WORKS, available at [http://academicworks.cuny.edu/cl\\_pubs/258](http://academicworks.cuny.edu/cl_pubs/258). The methodology consists of five habits the authors believe can enhance a lawyer's ability to interact with people from different backgrounds. The habits are specifically designed to help lawyers navigate the lawyer-client relationship, although the principles can be applied to other relationships with colleagues and peers.

The five habits may be particularly useful for a lawyer new to the practice of law (for whom a position with a law firm may, in some cases, be that lawyer's first full-time job), for a lateral attorney joining a new law firm, or an in-house counsel joining a new corporation. With the growth of international law firms and the expansion of law departments at multinational corporations, attorneys joining such globalized organizations and hiring managers may benefit from employing Bryant's and Koh's five habits, summarized next.



**Habit 1:** Identify the differences and similarities between you and others, and determine how those differences and similarities inform your interactions.

Practicing this first habit may help a lawyer avoid forming negative judgments when he or she feels like an outsider among colleagues. The lawyer can instead look for ways to bridge gaps they see between or among colleagues' experiences and his or her own. When an interaction does not go as planned, rather than making assumptions about the feelings or mindset of a colleague or partner, a lawyer practicing this habit can identify his or her own attributes, beliefs, and opinions that may be affecting the dynamic. This self-reflection can help inform and assist in positive interactions in the moment or in the future.

**Habit 2:** Identify how the culture of the environment you are interacting in may affect those similarities and differences between you and others.

What may be viewed as a positive interaction in one environment may be interpreted differently in another, depending on the prevailing culture of the organization. The maxim that "context means everything" is the touchstone for this habit. A lawyer practicing this habit will take steps to identify and understand the cultural and social norms of his or her law firm or organization and view his or her actions and conversations through that cultural lens.

Whether working at a large corporate office, a branch of a multinational firm, a governmental office, or nongovernmental organization, a lawyer can try to determine the workplace culture by asking: "What does a successful lawyer look like here?" "What are the implicit cultural values and norms that will be applied to me?" and "Do I share these values?" Finding answers to these questions can help a lawyer feel more in control when navigating the workplace environment. Because law firms are perennially recruiting new classes of law school graduates as well as lateral attorneys, this habit may also apply to senior and established lawyers within the organization as they navigate their interactions with new hires.

**Habit 3:** Explore alternative explanations for colleagues' behavior.

In any organization, there are interactions with co-workers that do not go as smoothly as one might have hoped. Commonly, one co-worker incorrectly assumes that another's speech or behavior had a malicious intent. Law firms attract a variety of personalities, which can react very differently when operating in a stressful environment.

By avoiding the pitfall of thinking that a colleague is acting malevolently, and instead examining alternative explanations behind a colleague's behavior, a lawyer can develop

a cultural framework for more carefully understanding his or her interactions with others. This is referred to as "parallel universe thinking," an analytical tool used by cross-cultural trainers to reduce stress. When engaging in this type of examination, a lawyer asks himself or herself whether there is a missing piece of information that could help form a more accurate interpretation of the situation. *See id.* at 72. For those lawyers dealing with, for example, co-counsel at a law firm in a foreign jurisdiction, an international client, or even a colleague located in a distant office, this "habit" can help improve understanding, and, ultimately, interactions.

**Habit 4:** Recognize problem conversations and interactions in the moment, and plan for corrective steps to avoid those issues in the future.

The fourth habit focuses on cross-cultural encounters and interactions that may be ripe for miscommunication. A lawyer can identify potential areas where miscommunication or cross-cultural pitfalls may occur prior to an interaction, thereby entering the exchange better prepared, ensuring productivity, and leaving parties with a more positive impression.

This habit requires active and focused listening during early interactions with new colleagues to identify red flags, such as indications of disengagement, discomfort, or distraction. The reasons for these red flags are not always apparent, but if a lawyer can recognize the communication style he or she is using when these red flags occur, the lawyer can more readily explore corrective measures.

One common mistake that may occur when engaging in this fourth habit is using the same approach to correct the problem that may have caused it in the first place. *See id.* at 76. Instead, new communication styles can be tried when previous styles have not been effective.

**Habit 5:** Identify your own biases and stereotypes, and find a way to control for factors that have a negative influence.

This habit is an introspective exercise that requires a lawyer to face his or her own biases and stereotypes. This step can be especially useful in building relationships because it proposes two ways to deter negative interactions and impressions: (1) create settings in which biases and stereotypes are less likely to govern, and (2) promote self-reflection and change of perspectives with a goal of eliminating bias. *See id.* at 77.

Research shows that an individual is more likely to succumb to feelings of pressure and exhibit biases and stereotypes in stressful environments. While workplace stresses are often unavoidable, lawyers can take proactive steps to determine

*continued on page 18*

# PERSPECTIVES FROM THE FIELD

## ILEX Briefing Trip to Croatia and Serbia

In February and March of this year, several members and leaders from the ABA and the ABA Section of International Law traveled to Croatia and Serbia for the ABA 2017 International Legal Exchange (ILEX) Briefing Trip. The ILEX delegation included ABA President Linda Klein, ABA President-Elect Hilarie Bass, the Chair of the House of Delegates Deborah Enix-Ross, member of the ABA Board of Governors Ben Griffith, past ABA Secretary Judge Cara Lee Neville, Section Chair Sara Sandford, Section Chair-Elect Steven Richman, Immediate Past Chair Lisa Savitt, Liaisons to the Croatia Bar Association Boris Babić and Mario Kranjac, and other colleagues from the Korean Bar Association, AIJA, and Section committee leadership: Cecil Chung, Adam Farlow, Stephen George, Orsolya Görgényi, Deniz Tamer, and Wiebe de Vries.

ILEX trips provide a unique opportunity for delegation members to interact with legal, business, and governmental leaders of the countries visited. The ILEX program to Croatia and Serbia was designed to foster: (a) a sustained and open conversation among attorneys and other stakeholders seeking ways in which a (nonpolitical) collaboration can be reached;

(b) legal education in Croatia, Serbia, and the United States and exchange of legal information; and (c) access to justice. Ultimately, the delegation sought to build bridges between the legal cultures of the United States, on the one hand, and Croatia and Serbia, on the other, to promote mutually beneficial opportunities. The delegation size was limited to facilitate appropriate interaction and travel logistics.

“The trip proved to be a tremendous experience—sharing ideas and learning from our colleagues in the Croatian and Serbian bars, as well as from the judiciary, academia, and civil society,” said Section Chair Sara Sandford. “Croatian bar leaders also included representatives from Bosnia and Herzegovina, as well as Slovenia. We look forward to further opportunities for sharing common challenges and concerns related to the legal profession, judicial systems, and access to justice with their bars.”

We asked some participants in this year’s trip to share their firsthand thoughts and general observations and reactions to the briefing trip. Their reflections show what a learning experience ILEX trips can be for the host country participants and the visiting delegation alike.

### Perspectives from Benjamin E. Griffith

The Croatia part of this ILEX venture was well planned and reflected effective advance arrangements and communication with our Croatian counterparts. I was very pleased with the CLE segments that featured our U.S. and Croatian lawyers and judges addressing current legal topics, like the nature and scope of the attorney-client privilege, ADR/mediation, insurance policies and obligations, and alternative legal services.

I was particularly impressed with the innovative programs and externship initiatives being carried out at the Faculty of Law of the University of Zagreb under the leadership of Dean Dubravka Hrabar. I would be interested in maintaining a strong line of communication with the Dean and her top-flight professors who have a good understanding of the demands placed on educators to help law students learn practical skills and get a realistic understanding of how they can be integrated into the legal profession.

The School of Law that we visited is just one example of how law schools must serve as the pathway to the legal profession. With an absence of law school debt, perhaps the biggest problem our U.S. law students face, law students in Croatia should be poised

to enter the EU job market for legal professionals, even if the current market for law-related jobs and achieving access to judiciary-related positions is problematic in Croatia. We have more in common with our counterparts in this tiny nation than we realize.

Our group meetings with the members of the Constitutional Court of the Republic of Croatia, the president of the Supreme Court of the Republic of Croatia, and the minister of justice of the Republic of Croatia were great learning experiences for those of us who had only an academic understanding of the judicial system in Croatia.

Again, advance planning and effective communication with our counterparts in this country made these meetings worthwhile and meaningful in the fullest sense. I believe it was the secretary general of the Constitutional Court who made the greatest impression on me, showing all of us through a chronological narrative with an excellent PowerPoint slide show (complete with a gaveling jurist!) that highlighted the key issues and concerns facing that Court, the mechanics and internal workings of the Court, and its effectiveness as a vehicle for constitutional uniformity and doctrinal development.

Our meeting at the U.S. Embassy with Ambassador Julieta Valls Noyes, the U.S. ambassador to Croatia since June



2015, was extraordinary. The level of security through which each of us had to pass in order to gain entrance to the embassy was actually reassuring. Ambassador Noyes is clearly a take-charge diplomat who understands the powerful impact of timely words spoken on behalf of her country, as with her rapid response rejecting and singularly condemning the pro-Nazi demonstration that took place while our ILEX group was in Zagreb. She has the depth of experience to deal with a full platter of international responsibilities and is well equipped to carry out her duties as the face and voice of the United States in Croatia. Our country is so fortunate to have Ambassador Noyes in this position.

Our meeting with two NGO representatives in Boris Babić's law offices was quite an eye-opener and enabled me to understand how the wounds of a war almost 25 years distant can continue to spark concerns in 2017 over government suppression of speech and efforts to promote transparency, freedom of expression, and the rule of law. We were hearing just one side of this complex, historically fragile issue as perceived and experienced through the eyes, ears and hearts of Croatians who have lived and breathed the ups and downs of their fledgling democracy over the past several decades. But it was a revealing 90 minute session for all of us.

Special thanks also goes to our friend, Boris Babić, for his genuine interest in and contribution to the programs, meetings, and special events throughout our time in Croatia's capital. He was a real trooper throughout the

period of time when we were in Croatia, and he was very generous with his staff, office, and personal time.

Our accommodations at the Esplanade Hotel in Zagreb were superb and enabled us to enjoy the ease of sightseeing and organized travel from meeting site to meeting site without difficulty.

ABA President Linda Klein, ABA President-Elect Hilarie Bass, and ABA Section of International Law Chair Sara Sandford, among many others, provided essential leadership and the best of representation for our delegation. We enjoyed excellent interaction with members of the Croatian Bar Association, the CBA Lawyers Academy, and the Chamber of Commerce. A special thanks also goes to Mario Kanjac, of Kranjac, Tipodi & Partners LLP, for his firm's thoughtfulness and generosity in making possible a delicious Croatian dinner on the final night of our stay in Zagreb.

Whilst our colleagues travelled further east to Belgrade, Serbia on March 1, my wife Kathy and I flew to the Dalmatian Coast and enjoyed the very best of Dubrovnik and Split, prolonging our stay in this beautiful country.

*Benjamin E. Griffith serves on the ABA Board of Governors and has been a member of the ABA House of Delegates since 2009. He served as Chair of ABA Section of State & Local Government Law, President of the National Association of County Civil Attorneys, and Chair of Government Law Section of Mississippi Bar.*

## Perspectives from Stephen George

Sometimes it can be difficult to quantify the value of these exchanges because so much of their importance derives from the relationships that are developed along the way. From engaging discussions with legal colleagues and informational sessions with local judges to adventurous dining experiences and nights full of laughter, the visit to Zagreb and Belgrade captured the best for which one could hope on such a trip.

The planning of the ILEX briefing trips can be overwhelming at times, but it must be mentioned how the Croatian Bar Association and their president, Robert Travas, stepped up to organize an intense schedule of both learning opportunities and social events. While in Zagreb, the delegation met with U.S. Ambassador to Croatia Julieta Valls Noyes and some of her colleagues at the U.S. Embassy, the Croatian minister of justice, two judges from the Croatian Supreme Court, the president and deputy president of the Croatian

Constitutional Court, representatives from the Permanent Arbitration Court of the Croatian Chamber of Economy, along with several members of the Croatian Bar Association and the dean of the law faculty at the University of Zagreb. Additionally, ABA President Linda Klein and Section Chair Sara Sandford had the opportunity to meet with President Kolinda Grabar-Kitarović of the Republic of Croatia.

The distinguished titles of those who met with the delegation were not, however, the most impressive part of the visit; instead, the great exchange of ideas and viewpoints left the most lasting impressions on the delegation. The group learned about the struggles of the Croatian courts to deal with case backlogs, how the Croatian legal profession addresses access to justice, some of the intricacies of the transitions from Yugoslavia to an independent republic and finally to a member of the European Union, the increasingly international nature of legal education at the University of Zagreb, and much more.

A smaller part of the delegation continued on to Belgrade for meetings with civil society leaders, international organizations, students from the University of Belgrade Law Faculty, and others. The group was welcomed by U.S. Ambassador to Serbia Kyle Randolph Scott and benefitted from an informative briefing by his colleagues at the embassy. Two NGOs, Praxis and the Lawyers' Committee for Human Rights (YUCOM), hosted the delegation at Human Rights House Belgrade, where the group learned about the difficult work being tackled by these organizations, particularly related to refugees and minority populations. The OSCE Mission to Serbia also organized an outstanding briefing by representatives of all departments of the Mission. Local planning committee member Petar Grozdanović arranged for the delegation to interact with local practitioners and a member of the judiciary.

Learning about the challenges facing lawyers and the judiciary in Serbia, witnessing the hard work of local NGOs striving to promote access to justice and the rule of law, and discussing different styles of education and examinations with the next generation of Serbian legal professionals were some of the highlights of the trip's Serbia leg. It was both exciting and somewhat flattering that so many interested students from the University of Belgrade turned up on a Friday afternoon to interact with the delegation, and the Section

is working on developing ways for this engagement with the local law faculty to continue on an ongoing basis through our hosts, Professor Ivana Krstić and Assistant Dean Milena Đorđević.

While the exchange of knowledge between legal cultures is very valuable, perhaps the greatest benefit of ILEX is the number of relationships that are built along the way, both with local professionals and within the delegation itself. Through further discussions amongst the delegation and counterparts abroad, it is hoped that all parties involved will reap benefits, and that we can all work to advance the rule of law and ensure meaningful access to justice around the world. The Section will continue to connect our colleagues in Croatia and Serbia to ABA entities and other organizations that can help them with their work and an effort is under way to further engagement with the educational institutions that so warmly welcomed the delegation. Section leaders will benefit from the regional knowledge that the delegation gathered through the exchange, and the personal relationships will continue to thrive.

*Stephen George, J.D., LL.M., is a doctoral candidate in European Law at the University of Vienna, Austria, and co-chair of the Section's Law Student, LL.M. Student, and New Lawyer Outreach Committee.*

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## Cross-Cultural Competence

*continued from page 15*

the best coping mechanisms to manage those situations and gain a greater capacity to monitor and avoid biases.

The fifth habit also requires the lawyer to engage in self-reflection rather than self-judgment to deter biases and stereotypes. *See id.* 78. This step may force the person to come face to face with what may be described as uncomfortable "ugly" thoughts; however, this is a crucial step in the habits because, by identifying these thoughts, a lawyer can more readily recognize them during interactions and employ techniques to avoid unproductive and negative reactions from co-workers and clients.

### Conclusion

Cross-cultural competence is a business imperative for lawyers in this increasingly interconnected world, where clients and markets worldwide are linked by borderless communication technologies and where the demographics of law firms are increasingly diverse.

As the Internet and other technologies have increased the frequency of interactions with foreign parties and diverse populations, cross-cultural competence is playing a growing role in the success of any organization or law firm. Bryant's and Koh's five habits are among the many approaches available to help lawyers and other professionals develop cross-cultural competence, which can only benefit the legal profession worldwide.

## ABA President Klein Offers Condolences, Condemnation after Attacks on Justice Centers Abroad

In two separate statements, ABA President Linda A. Klein condemned attacks in February and March on justice centers in Afghanistan, Pakistan, and Syria, noting in one that “courthouses must be safe places, where parties can go to resolve their disputes peacefully, in accordance with the rule of law.”

Terrorists attacked the Supreme Court of Afghanistan in Kabul on February 7, and the District Court in Charsadda, Pakistan, on February 21. “We extend our deepest sympathies to the families, friends and colleagues of those who were killed and wish a speedy recovery to the injured,” Klein said in a statement covering both incidents.

On March 15, she issued a similar condemnation after a deadly attack on the Palace of Justice in Damascus, as well as the attack on a nearby restaurant. “The vital role of judges and lawyers is reflected in fundamental precepts of international law. The UN Basic Principles on the Role of Lawyers call for all steps necessary to ensure that lawyers are able to perform their professional functions without intimidation, hindrance, harassment or improper interference and to ensure that they are adequately safeguarded,” she said.

Read ABA President Klein’s full statements at [https://www.americanbar.org/groups/leadership/office\\_of\\_the\\_president/global-impact/aba-around-the-world.html](https://www.americanbar.org/groups/leadership/office_of_the_president/global-impact/aba-around-the-world.html).

## ABA New Policy on Sexual and Gender-Based Violence

By Bernice Leber and Salli Swartz

At its Midyear Meeting in Miami, the ABA House of Delegates adopted a policy resolution urging governments worldwide, non-governmental organizations (NGOs), the United States, and the United Nations to improve donor coordination, transparency, and accountability for programs and services provided to victims of sexual and gender-based violence, including in armed conflict areas. In the resolution, the ABA recommends better data collection, independent audits, evaluations, and disclosure of how funds are spent and calls upon governments, donors, NGOs, and multilateral institutions to work together to develop and implement methodologies to create publicly accessible national databases with data about programs and the number of victims.

### ABA as a Leader in Promoting Accountability

The new ABA resolution is responsive to the need to measure and track the prevalence of sexual and gender-based violence. A paucity of empirical data and research within and across countries about the incidents makes it extremely difficult to assess the impacts on victims and the adequacy of new criminal laws, judicial mechanisms, reparations, and deterrence through prosecutions.

Such information also is needed to understand the effectiveness of the funding and delivery of victims’ assistance programs and services. The public and private sectors at all levels need to develop and implement methodologies with qualitative and quantitative data on reported incidents, emergency services, and spending of donor, NGO, and governmental funding for victims’ services.

### Ending Sexual and Gender-Based Violence

The international community has consistently and uniformly condemned sexual and gender-based violence. Goals 5 and 16 of the UN Sustainable Development Goals (SDGs) call for the elimination in all forms of such violence by 2030. Goal 5.2 calls for countries to “eliminate all forms of violence against all women and girls in the public and private spheres, including trafficking and sexual and other types of exploitation.” Targets for Goal 16 require countries to “significantly reduce all forms of violence and related death rates everywhere” and “strengthen relevant national institutions, including through international cooperation, for building capacity at all levels, in particular in developing countries, to prevent violence and combat terrorism and crime.”

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**Bernice Leber** is a partner of Arent Fox. She serves as a delegate to the ABA House of Delegates. She is a member of the ABA Commission on Fair and Impartial Courts, the ABA Commission on the Future of the Legal Profession, the ABA UN Representatives and Observers delegation. **Salli Swartz** is a partner of Artus Wise in Paris, France, a former chair of the Section, the ABA representative to the International Legal Assistance Consortium, a member of the ROLI Africa Council, and the Section of International Law’s liaison to the Center for Human Rights and the Paris Bar. She is a member of the ABA UN Representatives and Observers delegation.

Legally binding international instruments recognize sexual and gender-based violence as specific crimes to be prosecuted through domestic criminal laws and, under international law, as both a crime against humanity and war crime.

The major treaties recognizing sexual violence as an international crime are the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) and the Rome Statute of the International Criminal Court. Within the Rome Statute, sexual violence is a qualifying act under article 7 on crimes against humanity and article 8 on war crimes. The inclusion within the Rome Statute, rather than secondarily referenced within the Elements of Crimes, demonstrates the international sentiment by which “rape, sexual slavery, enforced prostitution, forced pregnancy, enforced sterilization, or any other form of sexual violence of comparable gravity” constitute grave breaches of international law.

## About the Resolution

The resolution reflects three years of work by a task force of the ABA Representatives and Observers to the United Nations. The project behind this resolution was initially launched in 2011 at the request of then-ABA President Carolyn Lamm. The ABA Section of International Law supported the resolution, and the ABA Rule of Law Initiative and the New York State Bar Association co-sponsored the Resolution. Among the referrals were the ABA Center for Human Rights, the ABA Commission on Domestic and Sexual Violence, the ABA Civil Rights and Social Justice, the ABA

Commission on Women, and more than a dozen state and local bar associations in the United States. Mark H. Alcott, chair of the ABA UN Committee, submitted the resolution and its accompanying report to the ABA House of Delegates. We are grateful for his leadership of the UN Committee and the assistance from all the members of the different entities and sections of the ABA in reviewing and refining the many R&R draft versions.

The project began as an in-depth research project into the reparations framework in the Democratic Republic of Congo (DRC) by a working group comprised of Bernice Leber of Arent Fox, Salli Swartz of Artus Wise Paris and former Chair of the Section of International Law, Helaine Barnett, winner of the Outstanding Service Award 2017 bestowed by the Fellows of the American Bar Foundation, Pauline Schneider of Ballard Spahr, and Julia Bienstock of Arent Fox.

Watch the video of the debate before the ABA House of Delegates at the Midyear Meeting 2017 at [https://www.americanbar.org/news/abanews/aba-news-archives/2017/02/midyear\\_2017\\_abaur4.htm](https://www.americanbar.org/news/abanews/aba-news-archives/2017/02/midyear_2017_abaur4.htm).

Read the text of ABA Resolution 105 at <https://www.americanbar.org/content/dam/aba/images/abanews/2017%20Midyear%20Meeting%20Resolutions/105.pdf>.

## ABA RESOLUTION 105

RESOLVED, That the American Bar Association urges the United Nations, the United States and other governments and relevant international actors to develop and implement methodologies to measure and track the prevalence of sexual and gender-based violence.

FURTHER RESOLVED, That the ABA endorses international efforts to improve donor coordination, transparency, and accountability with respect to assistance to victims of sexual and gender-based violence including in situations of armed conflict, and specifically recommends that donors require quantitative public reporting from funding recipients globally, including disclosure of independent audits or evaluations showing funds expended on services to victims of sexual violence and the services provided using such funds.

FURTHER RESOLVED, That the ABA recommends that international Non-Governmental Organizations, donors, and multilateral agencies work with and support governments to develop and adopt appropriate methodologies to create publicly accessible national databases of information on assistance to victims of sexual violence, enabling stakeholders to coordinate, track, and evaluate this assistance. *Adopted February 6, 2017*

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## ABA Policy Resolutions in Response to Trump's Travel Bans

By Delissa A. Ridgway

The ABA House of Delegates adopted two resolutions at its 2017 Midyear Meeting in Miami in response to President Trump's Executive Order 13769, "Protecting the Nation from Foreign Terrorist Entry into the United States," issued January 27, 2017. Citing U.S. national security interests, the controversial Executive Order imposed a 90-day freeze on U.S. entry of people from seven Muslim-majority countries (Iran, Iraq, Libya, Somalia, Sudan, Syria, and Yemen), suspended the U.S. Refugee Admissions Program for four months, decreased the fiscal year's cap on refugees from 110,000 to 50,000, and halted Syrian refugees indefinitely, while prioritizing admission of refugees who are persecuted religious minorities—an exception widely interpreted as giving preference to Christians from the Middle East.

The ABA Section of International Law played major roles as to both ABA resolutions, particularly Resolution 10C, which the Section drafted in cooperation with the resolution's principal sponsor, the New York City Bar. Resolution 10C urged President Trump to withdraw the executive order and to comply with all related court orders and advocates adherence to the U.S. Constitution and international law in all actions concerning border security, immigration, and terrorism. Principally sponsored by the Connecticut Bar Association, Resolution 10B reaffirms ABA support for laws and practices to ensure that refugees are assessed individually and are not barred from relief by religion or national origin. Resolution 10B also urges Congress to mandate timely processing of refugee applications and to adopt additional legislation and to appropriate funds for refugee applications and processing. With former Section Chair and current Chair of the ABA House of Delegates Deborah Enix-Ross presiding, former Section Chair Glenn Hendrix introduced Resolution 10C in the House, just 10 days after issuance of the executive order. The House adopted both resolutions by voice vote, on February 6, 2017.

One month later, on March 6, 2017, President Trump issued a revised executive order, in response to decisions by courts in the Fourth and Ninth Circuits blocking implementation of the January 2017 executive order. Executive Order 13780 continued the freeze on travel but removed Iraq from the list of subject countries and clarified that lawful permanent residents and current visa holders would be admitted. It also removed the provision giving preferential status to religious minorities, as well as the indefinite halt on Syrian refugees. Like the January 2017 executive order, the revised executive order sparked fiercely-contested litigation in the courts of the Fourth and Ninth Circuits, where the ABA filed *amicus* briefs opposing the travel ban. The Fourth and Ninth Circuit Courts of Appeals again ruled against the

Trump administration, concluding that the revised executive order contravenes federal immigration law and discriminates against Muslims in violation of the U.S. Constitution.

The administration immediately sought U.S. Supreme Court review of the Fourth and Ninth Circuit decisions. In an opinion issued June 26, 2017, the Supreme Court agreed to hear arguments on the travel ban in October 2017 and, in the meantime, allowed certain provisions of the ban to take effect. Specifically, the Court allowed the ban on travelers from the six subject Muslim-majority countries to take effect as to individuals "who lack any bona fide relationship with a person or entity" in the United States. However, those with "a credible claim of a bona fide relationship with a person or entity" in the United States may not be barred, including (1) individuals with a "close familial relationship" to someone in the United States; (2) students admitted to a U.S. university; (3) workers who have accepted employment with a U.S. company; and (4) lecturers invited to speak to a U.S. audience. Similarly, refugees who already have some connection to the United States may not be summarily blocked from entry, but those with no prior connection may be barred. The Court also ruled that the administration's limit of 50,000 refugees cannot be used to arbitrarily bar a refugee who otherwise has a legitimate connection to the United States.

This case will be the Trump administration's first major challenge at the U.S. Supreme Court and will be an historic test weighing presidential power to set national security priorities against the protection of individuals from discrimination based on religious belief and national origin.

### ABA RESOLUTION 10B

RESOLVED, That the American Bar Association reaffirms its support for the establishment of laws, policies, and practices that ensure access to legal protection for refugees, asylum seekers, torture victims, and others deserving of humanitarian refuge (hereinafter collectively, "Protection Seekers").

FURTHER RESOLVED, That the American Bar Association urges Congress to adopt additional legislation and to appropriate adequate funding for refugee applications and processing.

FURTHER RESOLVED, That the American Bar Association urges Congress to adopt legislation to mandate that refugees receive an appropriate individualized assessment in a timely fashion to determine their eligibility as such, and that neither national origin nor religion be the basis for barring an otherwise eligible individual in making such determination.

*Adopted February 6, 2017*

## ABA RESOLUTION 10C

RESOLVED, That the American Bar Association urges that the Executive Branch, while fulfilling its responsibility to secure the nation's borders, take care that any Executive Orders regarding border security, immigration enforcement, and terrorism:

1. Respect the bounds of the U.S. Constitution;
2. Not use religion or nationality as a basis for barring an otherwise eligible individual from entry to the United States;
3. Adhere to the United States' international law obligations, including the 1967 Protocol Relating to the Status of Refugees of the 1951 Convention Relating to the Status of Refugees, the International Covenant on Civil and

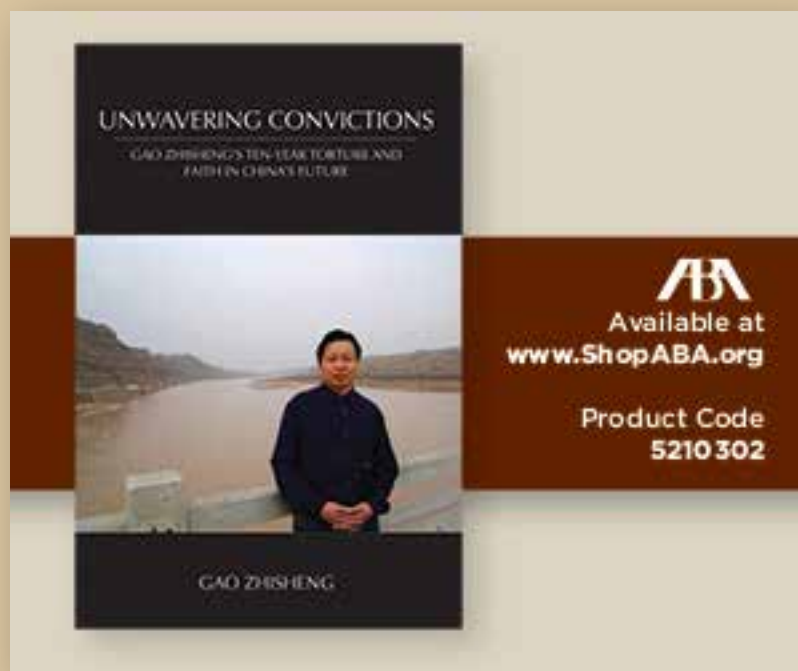
**Delissa A. Ridgway** is a member of the Council of the ABA Section of International Law and co-chair of the Middle East Committee.

- Political Rights, and international bilateral agreements and treaties, and to the principle of non-refoulement;
4. Facilitate a transparent, accessible, fair, and efficient system of administering the immigration laws and policies of the United States, including the adjudication of visa applications, applications for immigration benefits, and applications for entry to the United States; and ensure protection for refugees, asylum seekers, torture victims, and others deserving of humanitarian refuge;

FURTHER RESOLVED, That the American Bar Association accordingly urges the President to withdraw Executive Order 13,769, "Protecting the Nation from Foreign Terrorist Entry into the United States," dated January 27, 2017; and

FURTHER RESOLVED, That so long as Executive Order 13,769 remains in effect, the American Bar Association urges the Executive Branch to ensure full, prompt, and uniform compliance with court orders addressing Executive Order 13,769.  
*Adopted February 6, 2017*

## Co-published by the ABA Section of International Law and Carolina Academic Press



## ABA House of Delegates Urges U.S. Ratification of the Arms Trade Treaty

By Jonnsebastian Orozco

The Arms Trade Treaty (ATT) regulates the international trade in conventional arms, ranging from small arms to combat aircraft. The ATT aims to prevent and eradicate the illicit trade in conventional arms and prevent the diversion of arms. The ATT entered into force in December 2014, and, as of March 2017, 90 countries are parties to the ATT. Currently, the United States is not among them. The United States signed the ATT in September 2013, but, despite several efforts during the final months of the Obama administration, failed to ratify the treaty.

In February 2017, the American Bar Association House of Delegates adopted Resolution 104 (the Resolution) urging the United States to ratify and implement the ATT. The accompanying report noted that if ratified, the treaty would help create “an international norm that would be comprehensive in regulating the international trade in conventional arms.” ABA Report 104, at 1 (Feb. 2017) (Report). The Report describes the ATT as a “critical foreign policy tool” that “creates concrete obligations and oversight mechanisms.” *Id.* Without this treaty, the proliferation of conventional weapons, munitions, and other security equipment would continue with a lack of enforceable common standards.

In urging the ratification of the ATT, the House of Delegates would encourage the United States to take an active role in minimizing the trade of illicit arms internationally. The ATT targets illicit international weapons transfer to war-torn countries, terrorist organizations, and murderous regimes. As explained in the Report, “[a]rms flows hinder the peacekeeping and peace-building process, contribute to violations of international humanitarian and human rights law, and obstruct humanitarian action.” *Id.* at 1.

The provisions of the treaty address how the ATT will create this comprehensive regulation and how this regulation will be implemented if ratified by a country. The treaty commits countries becoming parties to the treaty (States Parties) to the objective of creating international and regional peace, security and stability; reducing human suffering; and promoting cooperation, transparency, and responsible action by States Parties in the international trade in conventional arms, thereby building confidence among States Parties. *Id.* at 3.

Articles 2–4 set forth the scope of the ATT encompassing all conventional arms within the listed categories of Article 2(1), ranging from small arms to battle tanks. More specifically, ammunition/munitions are described in Article 3, and parts and components of weapons are described in Article 4. *Id.* The States Parties are required to establish and maintain a national control system to regulate the export of ammunition/munitions fired,

launched, or delivered by the arms listed under Article 2(1). The creation and implementation of this national control system also will apply to “the export of parts and components where the export is in a form that provides the capability to assemble the conventional arms listed under Article 2(1).” *Id.*

Article 5 of the ATT details the procedure by which the States Parties will implement the regulations. Each State Party shall establish and maintain a national control system, including a national control list, for implementing the provisions of the treaty. To successfully implement the regulations set forth by the ATT, States will designate competent national authorities to ensure an effective and transparent national control system. *Id.* at 4. One or more national points of contacts are to be designated to exchange information related to the implementation of the treaty. *Id.* at 17.

Articles 6–11 of the treaty address how the ATT would be successful in preventing the diversion of arms. A State Party shall not authorize any transfer of conventional arms covered under Article 2(1) or items covered under Article 3 or 4, if the transfer would violate any of the prohibitions set forth under Article 6. *Id.* at 4. If not prohibited under Article 6, each State Party will assess the export of conventional arms covered under Article 2(1) as set forth in Article 7 of the ATT prior to the transfer of such conventional arms. *Id.*

State parties importing conventional arms under Article 2(1), and items covered under Articles 3–4, shall take measures to confirm that all necessary information as required by Article 7 of the ATT is provided to the exporting State Party.

Each State Party involved in the transfer of conventional arms under Article 2(1) shall take measures as enumerated under Article 11 of the ATT to prevent their diversion. Through the proposed national control system, an exporting State Party will be able to prevent diversion by assessing the risk of diversion prior to exportation and considering the “establishment of mitigation measures.” *Id.* at 5.

Those opposing the U.S. ratification of the ATT argue that it may affect the import and export controls of weapons or infringe upon the right to carry arms, guaranteed under the Second Amendment. ABA Resolution 104 addresses both concerns.

First, the Report clarifies that the ratification of the ATT would not require any changes to the U.S. export control law. U.S. law already complies with the provisions required by the

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ATT. The Arms Export Control Act of 1976 (AECA) already regulates the export of all the munitions included in the ATT. The State Department's International Traffic in Arms Regulations (ITAR) already regulates defense articles and defense services through the U.S. Munitions Import List (USMIL).

Second, according to the Report, those opposing the ATT on the grounds of Second Amendment rights do so in two ways. One argument is that the language of the ATT identifies "small arms and light weapons" within its provisions. A second argument claims that the treaty threatens individual firearm ownership with its requirements for regulations and record-keeping. In addressing both arguments, the Report clarifies that the treaty would not interfere with Second Amendment rights. Indeed, domestic issues related to firearms regulation are not included within the provisions of the ATT.

By urging the United States to ratify the Arms Trade Treaty, the House of Delegates underscores the urgent need to better control and regulate the international arms trade and ultimately curtail the most destructive and illicit arms transfers. By adopting ABA Resolution 104, the House of Delegates recognizes that, in combination with the already existing U.S. arms control laws, the ATT could save countless lives by establishing a global standard of how countries import, export, and transfer arms.

### **ABA RESOLUTION 104**

RESOLVED, That the American Bar Association urges the United States to ratify and implement the 2013 Arms Trade Treaty.  
*Adopted February 6, 2017*

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## SECTION NEWS

### Six Rising Stars Complete First Class of Diversity Fellows

By Amy Walldorf

In August, the ABA Section of International Law's first Diversity Fellowship Program will complete its first class of fellows. The hard work of the six accomplished young lawyers will continue on in several leadership positions in the Section and special projects.

The competitive and demanding Diversity Fellowship Program was launched in 2015 as a two-year pilot program to develop strong leaders and provide opportunities for people of different backgrounds to become more involved in the Section. The program reinforces the ABA's Goal III, to "promote full and equal participation in our association, our profession, and the justice system by all persons" and to "eliminate bias in the legal profession and justice system." Applicants included lawyers of different races, different ethnic backgrounds, lawyers with disabilities, lesbian, gay, bisexual, or transsexual (LGBT) lawyers, and female lawyers.

Accepted fellows were integrated into several committees and mentored by several Section leaders throughout the program. The fellows also attended Section meetings and events to reinforce their understanding of Section operations and to participate in panel presentations and networking opportunities available at each event.

The involvement of these individuals within the Section benefits the individuals by providing them with leadership opportunities and allowing them to work closely with mentors who are experienced and accomplished in their field. The program creates a pipeline of talented diverse lawyers that will help the Section reach its long-term

**Amy Walldorf** is an intern with the ABA Section of International Law and extends a special thanks to Diversity Officer Mark Wojcik for his support of the Diversity Fellowship program and his contributions to this article.

strategic goals. The fellows also set long – and short-term goals, which were periodically updated and meticulously recorded. All of the fellows successfully reached or exceeded the goals they set for themselves at the beginning of the program.

The program has been overwhelmingly successful, thanks in no small part to the dedication of the fellows themselves. Each of the fellows grew and reached milestones both personally and professionally. All of them remain unwaveringly dedicated to the Section of International Law and hold the Diversity Fellowship Program in the highest of regard. This inaugural class of diversity fellows will continue to be involved in many exciting and interesting projects in the Section.

#### Jimena Conde



Jimena Conde already had an outstanding career in international law working in government when she joined the fellowship program. Jimena enjoyed that the program gave her the opportunity to step outside what she referred to as her "9 to 5 bubble" and experience firsthand the many facets of international law by interacting with members of the Section's 64 committees. She believes the fellowship program was an opportunity that will strengthen her understanding and perception of international law, undoubtedly affecting her approach

to the law classes that she teaches. The fellowship program also allowed Jimena to connect with lawyers who she otherwise may have never met. Jimena is foreign trained and finds it more difficult to meet people practicing international law back home. It has been refreshing for her to have the opportunity to interact with a large group of lawyers focused on international law. She recalled attending several panels at the recent Section meeting in Washington, D.C., and being impressed by the diversity of attendees and panelists. When she was in school, fewer people were interested in encouraging diversity in international law. The efforts of organizations like the Section of International Law to galvanize diversification have inspired her. In Jimena's opinion, the true value of varying the voices that contribute to international law is the discussion of issues of international reality being led by the people directly affected by those issues.

While she has been encouraged by the expansion of diversity in international law even in the years since she was in law school, Jimena believes that there is still more room for growth. She will, along with the other diversity fellows, undoubtedly play a role in the variegation, growth, and development of international law for years to come by continuing the hard work and positive impact she has been a part of within the Section. In her two years as a diversity fellow, Jimena was particularly proud of the success she experienced developing *The Clarion: The IHRC Journal of Human Rights*, a publication that provides a space for Section members to voice their opinions and contribute to discussion. She developed *The Clarion* with her International Human Rights Committee (IHRC) co-chair, Luke Wilson, and with the help of Stephanie Williams. She recalled the rewarding, though often challenging, endeavor of encouraging people to write articles and participate in the development of *The Clarion*, a process that still requires a great deal of effort.

Jimena looks forward to staying involved within the Section not only by nurturing *The Clarion* as it progresses, but also by continuing to serve as the co-chair of the IHRC and promoting its goals. Currently, the IHRC is focused on legislation to fight human trafficking and shape refugee laws, two areas that Jimena is passionate about. Jimena is incredibly grateful for the knowledge gained and experiences to be had during her fellowship. In her own words, “To be part of the Section’s Diversity Fellowship Program has been an extraordinarily gratifying experience, for it has helped me to connect with lawyers from all over the world, broaden my perceptions on how International Law is practiced in different legal cultures and acquire a broader vision of the intricacies of the present international realities.”

## Joyce Williams



Joyce Williams distinctly remembers the attitude that surrounded international law when she was in law school. It was regarded as a field reserved only for the elites and, in many ways, an unattainable and unrealistic career path. Joyce feels that the task of opening the field of international law to people with differing cultures, beliefs, and experiences has been poorly handled in the past. Historically, the field has been populated by a slew of lawyers with relatively homogenous backgrounds, an environment that, for many lawyers, not worth the effort to break into if you did not fit the proverbial mold. In light of this reputation, Joyce has been particularly encouraged by the

positive impact of the Diversity Fellowship Program and its initiative to expand the scope of somewhat divergent lawyers practicing international law.

Joyce asserts that having lawyers with a wider range of backgrounds increases the ability for any issue to be perceived with deeper understanding. She believes if there are ethnic or situational similarities between lawyer and client, they will comprehend each other more deeply, allowing their relationship to go beyond the practice of law. This empathy maximizes the opportunity for the lawyer to help the client procure a positive outcome. Joyce enjoyed the opportunity to speak at multiple law schools and high schools about the importance of diversity within the field of international law, lectures that proved extremely inspiring for those lucky enough to attend.

Joyce hopes to stay active with the Young Lawyer’s Interest Network (YIN), through which she will doubtless continue to embolden young minds and promote a dialogue about getting young people interested in international law and the importance of diversity. Aside from impacting students, Joyce has done a masterful job serving in a leadership role for the International Trade Committee, a role she was asked to fill almost immediately after joining the committee. She has been successful enough to win an award for her work in the position, which she humbly attributes to the excellent leadership and mentorship within the committee and the Section as a whole. In addition to her outstanding merit as a leader, she is hoping to soon publish a book with her co-chair. The mentors that guided Joyce in the International Trade Committee make up a significant part of the network that she has built within the Section. Joyce believes that without the Diversity Fellowship she would not have been given access to a large network of lawyers that will prove invaluable as she continues to develop her already impressive career. Joyce has appreciated the productivity of the program and looks forward to continuing its positive impact. Joyce feels that she has grown and benefited significantly from her experiences

during her two-year tenure as a fellow, a service that she reciprocated in all she has contributed to the Section. In her own words, “The Diversity Fellowship gave me a platform to engage people of all backgrounds in solution-oriented conversations about diversity in legal education and practice. I look forward to continuing this engagement on a comprehensive platform”

## Kabir Duggal



It may be hard to believe, given his communicative and extroverted nature, but at one point Kabir Duggal found the size of the Section somewhat daunting. He did not know where to start or who to reach out to in order to get connected and involved. The Diversity Fellowship centered Kabir within the ABA and surrounded him with people who were invested in his growth. He admits that it would have been possible to find a path into the ABA without the fellowship program, but Kabir is appreciative of the simplicity the program brought to the process. According to Kabir, “The ABA Section of International Law’s Diversity Fellowship is a great program because it helps integrate you within the Section, helps you meet fantastic people, helps prepare you for leadership positions, and above all helps promote a great cause of diversity.” He created relationships of both a professional and personal nature while serving as a fellow and mentioned his appreciation of the many people in the Section who will answer his e-mails at all hours of the night and are dedicated to his success.

Kabir believes that he has an obligation to give back to the fellowship program, and he has done so by encouraging young lawyers to apply, a mentorship opportunity he has relished. In addition to promoting and supporting the Diversity Fellowship program, Kabir hopes to increase his contributions to the Section in the future by continuing to serve in leadership positions within his committee and eventually serving in a more senior capacity. He does not see the end of the fellowship as the terminus of his work with the Section, but the beginning. He attributes much of his maturity and preparation for responsibility to the Diversity Fellowship program, noting that this outcome was one of the program's primary goals. Kabir recalls with pride many professional experiences and opportunities during his two-year term as a diversity fellow. In preparation for The 2016 Olympics in Rio De Janeiro, Kabir worked with the International Arbitration Committee to create a special newsletter and organize a highly successful teleconference in under a week's time.

Kabir claims that the fellowship allowed him to develop a more comprehensive understanding of international law and its immense range. He practices in international dispute but recalls attending a panel at one of the Section's meetings this past year on human rights issues of the Rohingya people in Myanmar, an area of international law that he did not know much about. In Kabir's opinion, it is imperative to include people from diverse backgrounds in international law. He feels that law should adopt diversity requirements that mimic those used by companies and universities. According to Kabir, the world we live in is diverse, and mirroring that diversity within the field of international law by incorporating a diversity of opinions, backgrounds, and views will broaden the reality and experiences being taken into account, ultimately improving the system.

## Ireneo Reus



Ireneo Reus had many impressive and enviable accomplishments while serving as a diversity fellow. He is particularly proud to have had the privilege of organizing and moderating two programs at the Section's fall 2016 and spring 2017 meetings. Ireneo considered it a tremendous honor to coordinate the programs and credits the Diversity Fellowship Program with providing the strong platform that allowed him to recruit highly qualified and diverse speakers. The Diversity Committee served as the primary sponsor for both of Ireneo's programs. In addition to the professional experiences Ireneo gained from the program, he expanded his understanding of international law and fostered lasting relationships with lawyers in his field. The connections Ireneo has made to other lawyers will undoubtedly prove invaluable in his career and have already been one of many factors inspiring Ireneo to continue growing his international law practice and client base.

Ireneo appreciates the experiences that were a part of his involvement in the fellowship program and is a strong proponent of increasing diversity in the justice system. Ireneo believes the varied population of his home state, California, is a strength of the state that, if leveraged, can eliminate bias and increase efficiency in the judicial system. If reflected in members of the state's attorney and judiciary communities, he believes the multiplicity of the multiracial community in California will strengthen the legal system. Ireneo achieved great success and took significant strides toward

reaching his specific goals as a fellow and plans to continue to astound everyone following his career.

Ireneo recounted his time as a fellow, saying, "The fellowship has allowed me to take a step toward my goal of creating a closer connection between the Section of International Law and the NAPABA. There is still a lot of work to be done to reach this goal, and I look forward to coordinating with the Section to reaching it." In addition to his efforts to improving relations between NAPABA and the Section of International Law, Ireneo will serve as a leader within the Section. He looks forward to continuing to promote diversity and inclusion in law by serving as one of the deputies for the 2017–2018 year under Lisa Ryan, the Section's incoming vice chair. He will certainly leave a lasting and influential impression on the landscape of international law.

## Star Lopez



Star Lopez was first exposed to international law in the public sector, vetting with the U.S. State Department, which shaped her opinion of international law. Until the fellowship, Star viewed international law through the narrow lens of national security issues. Through the guidance of the fellowship program, Star was introduced to the broad spectrum of international law applications, which impacted the way she views international law today. As she puts it, "Today, international law permeates all elements of



the legal practice. Understanding this knowledge base is instrumental to providing thorough legal advice. The ABA Section of International Law consists of a well-rounded cohort, including professionals whose practices span the gamut of law, from tax to trade to national security.”

Armed with the expertise of the strong network of established lawyers she built while serving as a fellow, Star found an avenue of international law that she could apply in her next career move. Star elected to move into the private sector and was delighted to find that she could use her passion for international law to allow her to connect to and work with international clients interested in doing business within the United States.

Star is particularly grateful for the aid of the Diversity Fellowship Program as she navigates the transition from a military to civilian focus and lifestyle and for the array of accomplished, wise lawyers she has had the privilege of observing and soliciting advice from. Her career moves have already been influenced by advice she received in her roles within the Section, and she certainly plans to maintain the professional relationships that supported her. Star is also pleased to have had the opportunity to sit on a panel at the Section’s recent conference in New York City and to be a contributing author for the *Year in Review*, a prestigious annual journal that serves as a survey of law from around the world. Acting as a contributing author for the *Year in Review* is a highly esteemed recognition, which shows great merit. Star certainly proved herself worthy of the honor during her time as a fellow and beyond. In the future, Star will continue to serve as the chair of the local Bar in Orange County. Though her ability to accept leadership roles within the Section are

limited by her geographic location, Star looks forward to maintaining the personal and professional relationships she has developed over the past two years and values immensely.

## Paula Henin



Paula Henin was already certain that she wanted to practice international law years before she became a participant in the Diversity Fellowship Program. However, she feels that the fellowship allowed her to expand her knowledge of international law and to connect with countless experts in the field, an experience she believes would not have been possible without the Fellowship Program. She is proud not only to have been a member of the inaugural class of diversity fellows, but to be involved within the American Bar Association as a whole and to contribute to its impactful work.

She has been impressed and inspired by each of her peers within the fellowship, a sentiment that was, no doubt, mutual. Paula had the honor of serving alongside eight other lawyers to contribute to and edit the International Courts Committee’s submission to the 2016 *Year in Review* and moderating a panel at the 2017 spring meeting in Washington, D.C., on climate change arbitration. Both of these experiences

were particularly meaningful to Paula and she takes great pride in having served the Section these ways.

Paula was equally motivated by the leadership roles she occupied within several committees, including the International Arbitration Committee, the Publications Year in Review of the International Courts Committee, and the United Nations and International Organizations Committee. She remarked on the welcoming and friendly spirit of each of the committees and felt as though they were truly committed to supporting her and helping her succeed within her role. Serving alongside the other leaders of these committees allowed her to develop her own leadership skills, and she is positive that the lasting relationships she formed in these committees will continue to have a positive impact on her career in the future. She feels she has learned a great deal from the chairs and vice chairs of each of these committees and has also developed more of an understanding of how she would like to pursue her passions in international law. She said, “My time as International Courts Committee vice-chair for publications and the *Year-in-Review* furthered my desire to be involved in developing publications for the Section and working collaboratively with professionals across different areas of specialization within international law.” The Section will look forward to her contributions to its publications and within its committees and to seeing how she will continue to build upon her already remarkable career achievements.

For questions about the Diversity Fellowship Program or other diversity activities within the ABA Section of International Law, please contact Diversity Officer Mark Wojcik at [mwojcik@jmls.edu](mailto:mwojcik@jmls.edu) or Director of Membership Angela Benson at [angela.benson@americanbar.org](mailto:angela.benson@americanbar.org).



## SECTION NEWS

### Congratulations to Ved Nanda on 50 Years of Teaching

The ABA Section of International Law congratulates Professor Ved Nanda on his 50<sup>th</sup> anniversary of teaching at the University of Denver Sturm College of Law. He introduced its first International Human Rights Law course, created the International Legal Studies Program in 1972, and established the *Denver Journal of International Law and Policy*, just to name a few accomplishments.



*February 22, 2017*

*On behalf of the American Bar Association Section of International Law, I extend hearty congratulations to Professor Ved Nanda on his 50 years of teaching. I can only imagine all the lives that he has touched and inspired during that half century! Those of us in the Section have greatly benefited from Professor Nanda's contributions as a scholar and lawyer through his participation on our Council, as well as through contributions to publications and programing. We are equally honored to experience Professor Nanda's gentle integrity and demonstrated professionalism, which inspires all who encounter him. I think about how lucky his students are to be introduced to such a high standard in our profession during school! Indeed all of the people who are touched by Professor Nanda over his career should count themselves lucky.*

*We at the ABA Section of International Law join in today's congratulations to Professor Nanda for his tremendous contributions and to University of Denver Sturm College of Law for their wisdom in hiring him!*

*With best regards,*

A handwritten signature in black ink that reads "Sara P. Sandford". The signature is fluid and cursive, written in a professional style.

*Sara P. Sandford, Chair  
ABA Section of International Law*

## SECTION NEWS

### 2017 Section Award Recipients

#### Outstanding International Corporate Counsel Award

About the Award: This award is given to a practicing attorney employed by a company or other entity as an in-house counsel and who has demonstrated a significant contribution to the legal profession and the furtherance of the practice of law in an international context.

**Naosuke Fujita** and **Hiroki Inaba** are recognized for their significant contributions to initiate and sustain changes for the advancement of the rule of law and the rights of lesbian, gay, bisexual, and transgender (LGBT) people in Japan.



2017 Outstanding International Corporate Counsel Award recipients, Naosuke Fujita and Hiroki Inaba



2017 World Order Under Law Award recipient, Ambassador Ronalith Ochaeta

#### World Order Under Law Award

About the Award: This award was established to recognize individuals who have made a substantial contribution to and provided visionary leadership for advancing the Rule of Law in the world.

**Ambassador Ronalith Ochaeta** is recognized for his substantial contributions to advancing the Rule of Law. He has been Guatemala's Ambassador at the Organization of American States (OAS). He was an advisor to the executive office of the Inter-American Institute of Human Rights (IHR) and program officer for Colombia and Cuba. He is an expert on the international protection of human rights.

#### Mayre Rasmussen Award for the Advancement of Women in International Law

About the Award: This award seeks to recognize lawyers who have demonstrated a career-long commitment to advancing career opportunities for women in international law.

**Priti Suri** is recognized for her role as a mentor and in opening doors for women and women lawyers in India. She helped found the Society of Women Lawyers – India (SOWL), and has been its President since its inception in 2008. SOWL has successfully advanced reforms of criminal laws affecting women in India.



2017 Mayre Rasmussen Award recipient, Priti Suri





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