



The Indian Society of International Law

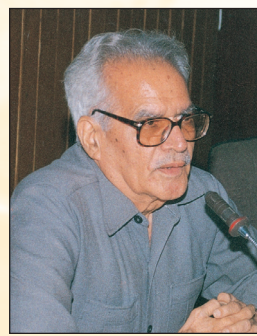
NEWSLETTER

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Editorial



In 21st Century, one of the most significant changes in the human rights debate is increased recognition of the link between business and human rights. Several global trends have come together to place human rights higher on the business agenda. Globalisation has brought significant advantages to countries and business around the world but the benefits have spread unequally both within and among countries. While the rules favouring global market expansion have grown more robust, the rules intended to promote equally valid social objectives in the areas of human rights, labour standards and environment lag behind and in some cases actually have become weaker. Growing number of companies in developed countries are recognising that globalisation is transforming Corporate Social Responsibility (CSR) from a choice into an imperative. Besides taking care of their bottom line, corporates must now adopt measures for sustainable growth through their labour practices, environmental habits and protection of community interests. The issue of human rights is central to good corporate citizenship.

Companies operating in global markets, whether they like it or not, are increasingly expected to assume some level of responsibility for labour practices along their supply chains. The ILO's conventions on labour standards provide the best framework for a company's human rights policy. A business can only claim publicly to be responsible, if it first applies the highest standards internally. In recent years in many countries, courts have considered lawsuits alleging that multinational companies, sometimes through their business partners, have contributed to human rights violations in their global operations. Applying human rights principles thoroughly, consistently and impartially in a company's global operations can contribute to the development of legal systems in which contracts are enforced fairly, bribery and corruption are avoided and all business entities have equal access to legal process and equal protection under law.

Many companies find strength in their human rights records; others suffer the consequences of ignoring this vital part of corporate life. Today, human rights are a key performance indicator for corporations all over the world. However, the tendency to use human rights as a non-tariff barriers against imports from developing countries should be discouraged. Harmonizing economic growth with the protection of human rights is one of the great challenges we face today. It is a challenge, which, if met, can harness the great power of economic growth to the great principle of human dignity.

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Ram Niwas Mirdha

ISIL ACTIVITIES

EIGHTH V. K. KRISHNA MENON MEMORIAL LECTURE BY HON'BLE PROF. M. S. SWAMINATHAN, MEMBER, RAJYA SABHA

In the memory of its founder President late Shri V. K. Krishna Menon, the ISIL organized its Eighth V. K. Krishna Menon Memorial Lecture on 3 May 2008 at ISIL premises. Prof. Rahmatullah Khan, Secretary General, ISIL, welcomed the chief guest Prof. M. S. Swaminathan, Member, Rajya Sabha and UNESCO Chair in Ecotechnology and Chairman, M. S. Swaminathan Research Foundation and the distinguished gathering. Prof. Swaminathan delivered Krishna Menon lecture on the topic "Food Security and National Sovereignty" and recalled contributions of V. K. Krishna Menon and Jawaharlal Nehru, the architects of India's foreign policy and builders of national sovereignty. He began with a note that the Indian growth, so far, has been an absorbing and inspiring tale. Beginning January 1, 2005, the economy has recorded a growth rate of over 8 per cent in 12 successive quarters up to December 31, 2007. In the first three years of the UPA Government claimed the Gross Domestic Product (GDP) increased by 7.5 per cent, 9.4 per cent and 9.6 per cent, resulting in an unprecedented average growth rate of 8.8 per cent. In the current year too, according to the Advance Estimates by the Central Statistical Organisation (CSO), the growth rate will be 8.7 per cent. He believed growth with the average of 8.8 per cent. The drivers of growth continue to be "services" and "manufacturing", which are estimated to grow at 10.7 per cent and 9.4 per cent, respectively. Despite a fine start in the first half of 2007-08, the growth rate for the whole year in agriculture is estimated at only 2.6 per cent with a remark of agriculture has struck a disappointing note. Share of Agriculture in the Gross Domestic Product & Employment 1982-83 was 36.4% and 2006-07 is 18.5%. Presently share of agriculture in employment is 52%. He has shown his concern highlighting what ails Indian agriculture. Growth rate of agriculture sector declined from 3.69 per cent per annum during 1990-96 to 1.65 per cent per annum during 1996-2005. Net sown area, gross cropped area, gross irrigated area, fertilizer use, factor productivity, electricity consumption – all declined. Growth rate of terms of trade for agriculture declined from 0.95 per cent per annum during 1990-96 to 1.63 per cent per annum. The plight of farmers



will be evident from the fact that the Punjab farmers with an average farm size of 3.79 ha, growing wheat and rice, are able to earn an income which is less than the starting salary of a class IV employee (peon in Government). The position will get worse after the VI Pay Commission Report is implemented. 77% of India's population lives on less than Rs.20 a day. Agriculture is the largest unorganised sector – 57% of India's total employment and 73% of total rural employment come from this sector. Agriculture is getting feminised – 73% women as compared to 52% men. Small and marginal farmer households accounting for 84% of all farmer households are mostly under debt. India is a hot spot for maternal and child undernutrition. He also highlighted the situation of children of the agrarian crisis in Vidarbha. 33 districts in the country are affected by acute agrarian distress. In 2004-05, women accounted for 34% principal and 89% of subsidiary workers in agriculture. Thus, women suffer from a multiple burden on their time. He suggested that the NREGP should enlarge the concept of work in the case of women by including activities like running creches and child care centres, preparing noon meals in schools, undertaking immunisation of children and providing family planning services; a Gram Panchayat Mahila Fund should be established to meet gender-specific needs; credit including the issue of Kisan Credit Card, insurance, technology delivery and marketing should be engendered; strengthen the role of women in the National Horticulture Mission. In brief, he advocated 9 Point Charter for Mahila Kisans, for instance, Title to Land, Right to Credit, Support Services like creches, anganwadis, etc., Access to Quality Inputs like seeds, organic and mineral

and bio-fertilizers, extension advice, etc., Training and Capacity Building, Jal Swaraj, Meeting the Needs of Mixed Farming, Assured and Remunerative Marketing, Reduction in Drudgery and in number of hours of work and enhancing income per hour of work. More than 100 participants attended the lecture.

GOLDEN JUBILEE SPECIAL LECTURE BY MS BRIDGET PRENTICE, PARLIAMENTARY UNDER SECRETARY OF STATE, UK , MINISTRY OF JUSTICE ON "THE EFFECTS OF GLOBALISATION ON LAWYERS"

ISIL organised a Golden Jubilee Special Lecture on "The Effects of Globalisation on Lawyers" on 5th May 2008 at its premises. Prof. Rahmatullah Khan, Secretary General, ISIL, introduced Hon'ble Ms. Bridget Prentice, Parliamentary Under Secretary of State, UK, Ministry of Justice and her credentials in the field of international trade policy. Ms. Bridget saw promising future of lawyers in the era of globalization. She emphasized that Indian government should underline the importance of service sector, particularly lawyers profession. She also made a distinction from globalization of lawyer services and globalization of law. On this occasion, Shri Vinai Kumar Singh, Assistant Professor, ISIL and Ms. Selvi G., Researcher, JNU also spoke on the occasion. The Lecture witnessed lively exchange of views with the audience on Ms. Prentice's presentation.

COMPULSORY TRAINING PROGRAMME ON INTERNATIONAL CO-OPERATION, LAWS AND CONVENTIONS ON FORESTRY AND ENVIRONMENT FOR INDIAN FOREST SERVICE OFFICERS

Indian Society of International Law (ISIL) has successfully conducted *Compulsory Training Programme on International Co-operation, Laws and Conventions on Forestry and Environment for Indian Forest Service Officers* held at its premises on 12 – 16 May 2008. The training workshop is intended to elicit suggestions, recommendations from the resource persons and participants which may be useful for making improvements in strengthening the capacities of the state forest departments for understanding implications of international law in the management of natural resources for better service delivery to all the stakeholders. This programme has begun with the lecture of Prof. R. P. Anand, Professor Emeritus, Jawaharlal Nehru University, New Delhi on the topic of “*Afro-Asian Approaches to International Law*”. He traced the historical origin of the International Law and highlighted the euro-centric nature of International Law and emphasized need to counter the many principles and rules of euro-centric international law. This lecture laid foundation for participants to understand the origin and development of international law and its implications. This approach has continued throughout the Training Programme and further expanded by the other resource persons. This approach has been taken further by Prof. Rahmatullah Khan, Secretary General, ISIL, while addressing the topic “*General Principles of International Environmental Law*”. He mainly explained principles viz., “Common Concern of Mankind”, “Common but Differentiated Responsibility”, “Precautionary Principle” and “Sustainable Development” and its importance and applicability in increased globalised society. Other themes and speaker were: “*Relationship between International Law and Municipal Law*” by Prof. Veena Bakshi, Professor of Law, Delhi University; “*Sustainable Development*” by Wg. Cdr. U. C. Jha; “*Origin and Development of International Environmental Law*” by Shri Shikhar Ranjan, Senior Legal Officer, Asian-African Legal Consultative Organisation (AALCO), New Delhi; “*Indian Environmental Law: An Overview*” by Shri Shiju M. V., Lecturer, Department of Natural Resources, TERI University; “*Role of Indian Courts: Protection*

of Environment” by Prof. J. L. Kaul, Professor of Law, Delhi University, Delhi; “*Protection of Environment during Armed Conflict*” by Dr. Burra Srinivas, Senior Legal Officer, International Committee of the Red Cross, New Delhi; “*Species Conservation*” by Shri Sujoy Banerjee, Director, Species Conservation, WWF-India, New Delhi; “*Reservation to MEA: With Specific Reference to CITES*” by Ms. Meena Panicker, Lecturer, Delhi University, Delhi; “*International Environmental Institutions: With Special Reference to UNEP and GEF*” by Dr. Anwar Sadat, Assistant Professor, ISIL; “*Labour Laws and Environment*” by Dr. B. T. Koul, Reader, Delhi University, Delhi; “*Trade and Environment*” by Dr. Archana Negi, Assistant Professor, JNU; “*Right to Environment and Human Rights*” by Dr. Manoj Kumar Sinha, Director, ISIL; “*Issues in Climate Change*” by Dr. Prakash Rao, Senior Coordinator, Climate Change and Energy Programme; “*Tiger Save Mission-CITES*” by Shri Samir Sinha, Head-Traffic India, New Delhi.

SEVENTH SUMMER COURSE ON INTERNATIONAL LAW

The ISIL organized its Seventh Summer Course on International Law at its premises from 16 June – 27 June 2008 and it received a huge response of 392 participants from all parts of the country. The Summer Course was intended to introduce all branches of international law and highlight contemporary issues to the participants. The Course was inaugurated by Hon’ble Justice Shri Vikramjit Sen, Judge, High Court of Delhi. He emphasized today’s need of basic knowledge of international law and its role in influencing national laws and institutions in India. Shri Ram Niwas Mirdha, President, ISIL, in his welcoming address, narrated the purpose and the importance of the course.

The substantive lectures of the Course were spread over two weeks. Lectures were delivered on vital and contemporary areas of international law, viz., General Principles of Public International Law, Introduction to Private International Law, International Institutions, International Human Rights, Role of NGO’s in Human Rights, International Humanitarian and Refugee Law, International Criminal Law, Maritime Law, Public International Trade Law, National and International Arbitration, International Environmental Law and Sustainable Development. The faculties for the Summer Course comprised of eminent international law experts. The Course witnessed lively interactions and discussion by the participants.

VISIT OF SRI LANKA DELEGATION

Nine members of the delegation from Sri Lanka visited ISIL on 9 April 2008 to exchange notes on experiences in litigation and law reform. Following were members of the delegation: Mr. R. S. S. Sapuvida, District Judge, Kegalle; Mr. T. J. Tennakoon, Magistrate, Galle; M. P. Moahaidein, District Judge, Akkaruipattu; Mr. R. A. D. G. C. Ranwake, Additional Magistrate, Ba Haramblee; Mr. Jagath Kamandagamage, Kadawqtnq; Frank Guriawdhane, Additional District, Karunyala, Ms. Aruna Aluthge, District Judge, Balapitiya; Mr. Saliya Perera, Magistrate, Ja-cla; and Mr. Mahesh Weeraman, District Judge, Maharagama.

TRIBUTE

Prof. Suhas Chakravarty, a renowned academician passed away recently. Prof. Chakravarty born in Maihar (Madhya Pradesh), educated in St. Stephen’s College and Selwyn College, was a professor at the University of Delhi in the department of history, a fellow at the Selwyn College, Cambridge University and held the India Chair at the University of World Economy and Diplomacy, Tashkent. He also delivered V. K. Krishna Menon Lecture at ISIL. Prof. Chakravarty known for his four volumes book on V. K. Krishna Menon titled *V. K. Krishna Menon and the India League*. His earlier works include *From Khyber to Oxus: A Study in Imperial Expansion*, *Anatomy of the Raj Syndrom: A Study in Imperial Perceptions*.

FORTHCOMING EVENTS

Special Lectures on *A New Binding International Treaty on Cluster Munitions - Where We Stand Now* by Lou Maresca, Legal Adviser, ICRC; *Legal Division and An Initiative Related to the Regulation of Private Military Companies and Private Security Companies* by Cordula Droeger, Legal Adviser, ICRC Legal Division, 1 July 2008

Two days Training Programme for Senior Government officers of Ministry of Environment & Forests, 3 - 4 July 2008

Lecture on Rule of Law in International Law: Is It Illegal?, by Prof. Ugo Mattei, University of California, 25 July 2008

Eight Golden Jubilee Henry Dunant Memorial Moot Court Competition (National Round), 11-14 September 2008

RECENT DEVELOPMENT

The Convention on the Rights of Persons with Disabilities Came into Force

The Convention on the Rights of Persons with Disabilities entered into force on 3 April 2008, after the submission of twentieth ratification by Ecuador. The Convention was adopted on 13 December 2006 and was opened for signature and ratification on 30 March 2007. The Convention's Optional Protocol, which will be binding for State Parties and allows individuals to petition an international expert body with grievances. Some 126 countries have signed the Convention since 30 March 2007, and 71 have signed the Optional Protocol.

Ramush Haradinaj, Former Leader of Kosovo Acquitted of War Crimes Charges by ICTY

On 3 April 2008, a former prime minister of Kosovo Ramush Haradinaj, who was also a well-known commander in the Kosovo Liberation Army (KLA) during the conflict with Serb forces in 1998-99, was acquitted of charges that included murder, rape, torture, abduction, cruel treatment, imprisonment and the forced deportation of Serbian and Kosovar Roma civilians. The ICTY also acquitted one of Mr. Haradinaj's co-accused, Idriz Balaj, of all charges. But a third co-accused, Lahi Brahimaj was convicted of cruel treatment and torture of two people at the KLA headquarters in Jablanica/Jabllanicë and was sentenced to six years in jail.

The three men had been accused by prosecutors of being part of a joint criminal enterprise between March and September 1998 that aimed at consolidating the KLA's total control over the Dukagjin area in north-western Kosovo by unlawfully removing, mistreating and killing Serbian and Kosovar Roma civilians, as well as Kosovar Albanians perceived to have been collaborating with Serbian forces.

ICTY and Slovakia Sign Agreement to Enforce Prison Sentences

On 7 April 2008, Slovakia became the fifteenth European country to agree to enforce sentences imposed by the ICTY that was set up to deal with the worst crimes committed during the Balkan wars of the 1990s. Anyone convicted by the International Criminal Tribunal for the former Yugoslavia (ICTY) and given a jail term can now serve that sentence in a Slovakian prison after an agreement was signed in The Hague, the Dutch city where the

tribunal is based. Italy, Finland, Norway, Sweden, Austria, France, Spain, Germany, Denmark, the United Kingdom, Belgium, Ukraine, Portugal and Estonia have already entered into similar agreements with the ICTY. More than 37 people convicted by the tribunal have either served, or are currently serving, their sentence in one of the countries which have signed an agreement. Five others are awaiting transfer to one of the States.

UN Human Rights Body Begins First-ever Examination of All Countries' Records

The Universal Periodic Review, a new mechanism to examine the human rights record of every United Nations Member State, was launched on 7 April 2008 at the Human Rights Council in Geneva. A first group of 16 countries – starting with Bahrain and Ecuador – had their records scrutinized, as part of the Review, one of the reforms which differentiate the Council from the Commission on Human Rights, which it succeeded in 2006. The Review meetings feature interactive discussions between the States in question and a working group comprises all of the Council's 47 members. The discussion was based on national reports and information from a variety of sources, including treaty bodies, Special Rapporteurs – independent experts on specific topics that report to the Council – non-governmental organizations, national human rights institutions and academics. Algeria, Argentina, Brazil, Czech Republic, Finland, India, Indonesia, Morocco, the Netherlands, the Philippines, Poland, South Africa, Tunisia and the United Kingdom were the other countries being reviewed. Under the Review's work plans, 48 countries are scheduled to be reviewed each year, so that the UN's complete membership of 192 countries will be reviewed once every four years.

Colombia and UNHCR Signed Deal to Protect Land Rights of Displaced

The United Nations High Commissioner for Refugees (UNHCR) and the Colombian Government signed an agreement on 8 April 2008 to protect the property rights of the South American country's vast population of internally displaced persons (IDPs). The agreement was signed in the Colombian capital Bogotá, by UNHCR Representative in Colombia Jean-Noel Wetterwald and Colombia's Agriculture Minister Andres Felipe Arias. The pact was given further weight by the attendance of Colombian President Alvaro Uribe at the signing ceremony. "The agreement provides a framework for the coordination of various projects already in

place for the legal protection of abandoned lands and also plans for new initiatives to restore displaced people's property rights." Some 2.4 million Colombians are on the national registry for displaced persons, with 78 per cent originating in rural areas before they fled for cities and towns to escape armed conflict and violence. As much as six million hectares of land have been lost by those people, very few receiving any compensation. The agreement includes a measure to begin land registration in communities at risk of future displacement, considered a critical step given that many farmers do not have legal titles to the land they own, making it far more difficult for them to claim the land back after their displacement. Mechanisms are also being established to distribute land to IDPs who have lost their properties, and to protect abandoned land so it cannot be sold or otherwise disposed of by others.

São Tomé and Príncipe Joins Global Patent Pact – WIPO

On 18 April 2008, São Tomé and Príncipe has become the 139th State to accede to the Patent Cooperation Treaty (PCT), the design to stimulate innovation and promote economic activity worldwide. São Tomé and Príncipe deposited its instrument of accession, and entered into force for the country on 3 July 2008. After that date, its nationals and residents are able to file patent applications. The number of PCT international applications filed each year continues to rise, with the overall figures almost doubling in the past two decades. The treaty aims to provide patent applicants with a more streamlined process for filing and to give the public accelerated access to the latest technological information on inventions and other forms of intellectual property.

International Criminal Court Calls for Arrest of Congolese Militia Leader

The ICC's pre-trial chamber on 28 April 2008 published an arrest warrant for Bosco Ntaganda, currently alleged to be chief of staff of the militia known as the National Congress for the Defence of the People (CNDP), which has been active in Ituri and other parts of North Kivu province in the DRC. The warrant was first issued in August 2006, but remained secret until prosecutors asked the pre-trial chamber to unseal it. Mr. Ntaganda is accused of playing a central role in enlisting and conscripting children aged below 15 into the Patriotic Forces for the Liberation of the Congo (FPLC), another militia group, and of using those children in active hostilities in 2002-03.

Member States Elect 15 Countries to Serve on UN Human Rights Council

On 21 May 2008, fifteen countries from around the world were elected to serve on the United Nations Human Rights Council (HRC) for three-year terms starting next month after one round of balloting among Member States at UN Headquarters in New York. Zambia, Ghana, Burkina Faso and Gabon were chosen in that order to fill the four vacant African seats on the 47-member panel. The three seats meant for the Latin America and the Caribbean region went to Chile, Brazil and Argentina. In the Eastern European category, Slovakia and Ukraine won the two available seats, while Serbia was unsuccessful. Six countries contested the four positions allocated to Asian States. Japan, Bahrain, the Republic of Korea and Pakistan won the most votes to join the panel, and Sri Lanka and Timor-Leste missed out. The closest contest occurred in the race for the two vacant seats in the Western European and Other States category. France scored 123 votes and the United Kingdom picked up 120, edging out Spain, which garnered 119 votes. Under Council rules, members serve for three-year periods and cannot run for immediate re-election after two consecutive terms. Overall, the 47 members include 13 from Africa, 13 from Asia, six from Eastern Europe, eight from Latin America and the Caribbean, and seven from Western Europe and Other States.

ICJ Ruled in Maritime Dispute between Singapore and Malaysia

Singapore has won sovereignty over a disputed island and Malaysia has been awarded control over a series of permanently above-water rocks in a ruling issued on 23 May 2008 by the International Court of Justice (ICJ) in a maritime dispute *Sovereignty over Pedra Branca/Pulau Batu Puteh, Middle Rocks and South Ledge (Malaysia/Singapore)*. The International Court of Justice (ICJ) found by 12 votes to four that Pedra Branca/Pulau Batu Puteh, a granite island in the Straits of Singapore on which a lighthouse stands, belongs to Singapore and has done so since at least 1980, when the dispute between the two countries precipitated. In the case of Middle Rocks, which consist of a group of rocks that are permanently above water, the ICJ ruled 15 to one that it belongs to Malaysia. The court also noted that South Ledge, a nearby low-tide elevation, fell within the apparently overlapping territorial waters generated by Pedra Branca/Pulau Batu Puteh and by Middle Rocks. Given that the two countries had not asked the court to draw the

line of delimitation, the judges said, by 15 to one, that sovereignty belonged to the State in the territorial waters of which it was located.

United States Ratification Puts Nuclear Pact Close to Entry into Force – IAEA

On 23 May 2008, US became the fourth nation to ratify the Convention on Supplementary Compensation for Nuclear Damage (CSC), following Argentina, Morocco and Romania. A further 13 States are signatories to the pact. The most recent ratification means that only one or two more are needed for the CSC to go into effect, and is set to enter into force 90 days after ratification by at least five States with at least 400,000 units of installed nuclear capacity. The CSC, adopted in September 1997, covers both citizens in States with operational nuclear power plants, but also provides compensation for damages incurred across international borders.

Austrian Jurist Elected New Head of Special Court for Sierra Leone

An experienced Austrian Justice Renate Winter has been chosen on 29 May 2008 as the new President of the Special Court for Sierra Leone (SCSL), a war crimes tribunal set up to deal with the worst abuses during the long civil war in the West African country. Justice Winter was elected to a one-year term as the Presiding Judge of the appeals chamber, a post which automatically makes her the Court's President as well. Justice Winter succeeds Justice George Gelaga-King of Sierra Leone, who has served as President since 2006. She has also previously served as an international judge of the Supreme Court of Kosovo, as part of the UN interim civilian administration there.

Adoption of New Cluster Bomb Convention

111 States have agreed to the text of the new international convention on Cluster Munitions, at the opening of the Diplomatic Conference on Cluster Munitions on 30 May 2008 in Dublin, which bans the use of cluster munitions. The UN Children's Fund (UNICEF) also reported that cluster munitions have been used for more than six decades, and have contaminated countries such as Laos, Viet Nam and Cambodia for over 30 years, while more recently they have been used in Kosovo, Afghanistan, Iraq and southern Lebanon.

General Assembly Elected Mr. Miguel d'Escoto Brockmann of Nicaragua as Its President

The 75-year-old former Nicaraguan foreign minister Miguel d'Escoto Brockmann was elected by acclamation by United Nations Member States in the 192-member Assembly on 4 June 2008 as President of the 63rd session of the General Assembly.

South African Judge Appointed to Head New UN Internal Justice Body

On 11 June 2008, Secretary-General Ban Ki-Moon appointed Justice Kate O'Regan of South Africa as the fifth member and chairperson of the Internal Justice Council – established by the General Assembly to help ensure independence, professionalism and accountability in the new system of administration of justice at the United Nations. Justice O'Regan was appointed judge of the Constitutional Court of South Africa in 1994, and has worked as an attorney and a law professor, specializing, among other areas, in labour law, race and gender equality, and constitutional law. She was chosen by consensus by the four other members of the Internal Justice Council, whose appointments were approved by Mr. Ban Ki-Moon in April. The two members nominated by staff, following a process inclusive of all staff unions, are Jenny Clift of Australia and Geoffrey Robertson of the United Kingdom and Australia. The two members nominated by management are Maria Vicien-Milburn of Argentina and Sinha Basnayake of Sri Lanka. The five-member body will advise the Assembly on suitable candidates for judges on the future UN Dispute Tribunal and the UN Appeals Tribunal. It is also tasked with drafting a code of conduct for the judges, and for providing its views on the implementation of the new system to the Assembly. The Council's establishment was recommended in 2006 by the "Redesign Panel" of external judicial experts, and is modelled on similar mechanisms at other international public organizations.

Nigerian Ambassador Elected to Head UN Human Rights Council

The United Nations Human Rights Council on 19 June 2008 elected Martin Ihoeghian Uhomobhi of Nigeria for a one-year term as President. Mr. Uhomobhi, 57, has been serving as his country's Ambassador to Switzerland and Permanent Representative to the UN Office at Geneva. Mr. Uhomobhi succeeds Romania's Doru Romulus Costea,

who took over from the Council's inaugural president, Luis Alfonso de Alba of Mexico. The Council also elected four Vice Presidents. They are Elchin Amirbayov of Azerbaijan, Erlinda F. Basilio of the Philippines, Alberto J. Dumont of Argentina and Marius Grinius of Canada. Mr. Amirbayov was also elected as Rapporteur. The terms for the newly-appointed bureau members will end on 18 June 2009.

Kazakhstan Joined UN Convention on Maritime Transport of Goods

On 24 June 2008, Kazakhstan has acceded to the United Nations Convention on the Carriage of Goods by Sea, 1978, commonly known as the "Hamburg Rules". The Convention will enter into force for Kazakhstan on 1 July 2009. The pact, adopted in 1978 at the demand of developing countries, sets up a uniform legal regime governing the rights and obligations of shippers, carriers and consignees under a contract of carriage of goods by sea. The Convention establishes a uniform legal regime governing the rights and obligations of shippers, carriers and consignees under a contract of carriage of goods by sea. UNCITRAL, based in Vienna, works to remove obstacles to international trade by progressively modernizing and harmonizing trade law. The Convention was endorsed by such intergovernmental organizations as the United Nations Conference on Trade and Development (UNCTAD), the Organization of American States (OAS) and the Asian-African Legal Consultative Organisation (AALCO).

Case Concerning Certain Questions of Mutual Assistance in Criminal Matters (Djibouti v. France)

On 9 January 2006, the Republic of Djibouti (hereinafter "Djibouti") filed in the Registry of the Court an Application, dated 4 January 2006, against the French Republic (hereinafter "France") in respect of a dispute: "concerning the refusal by the French governmental and judicial authorities to execute an international letter rogatory regarding the transmission to the judicial authorities in Djibouti of the record relating to the investigation in the Case against X for the murder of Bernard Borrel, in violation of the Convention on Mutual Assistance in Criminal Matters between the Djiboutian Government and the French Government, of 27 September 1986, and in breach of other international obligations borne by France to . . . Djibouti".

The Republic of Djibouti requested the Court to adjudge and declare: (1) that the French Republic had breached its obligations under the Convention on Mutual Assistance in

Criminal Matters between the Government of the Republic of Djibouti and the Government of the French Republic of 27 September 1986, and under the Treaty of Friendship and Co-operation between the French Republic and the Republic of Djibouti signed in Djibouti on 27 June 1977 and other rules of international law applicable to the present case, by its refusal to comply with the letter rogatory presented by the Republic of Djibouti and more specifically by its refusal to transmit the "Borrel" file to the judicial authorities in Djibouti; (2) that the French Republic had breached the obligations deriving from established principles of customary and general international law to prevent attacks on the freedom, dignity and immunities of an internationally protected person by summoning as *témoins assistés* the Djiboutian Head of State and high-ranking figures in Djibouti, and by issuing international arrest warrants against the latter; (3) that, by its conduct, the French Republic had engaged its international responsibility vis-à-vis the Republic of Djibouti; (4) that the French Republic was obliged to cease its wrongful conduct and to abide strictly by its obligations in the future; (5) that the French Republic shall execute without further delay the above-mentioned letter rogatory, by immediately placing the file referred to above in Djiboutian hands; (6) that the French Republic shall have withdrawn and canceled the summonses of the Head of State of the Republic of Djibouti and of internationally protected Djiboutian nationals to testify as *témoins assistés* in respect of subornation of perjury in the Case against X for the murder of Bernard Borrel; (7) that the French Republic shall withdraw and cancel the international arrest warrants issued and circulated against internationally protected Djiboutian nationals; (8) that the French Republic shall provide the Republic of Djibouti with specific assurances and guarantees of non-repetition of the wrongful acts complained of; (9) that the French Republic was under an obligation to the Republic of Djibouti to make reparation for any prejudice caused to the latter by the violation of the obligations deriving from international law and set out in points (1) and (2) above; (10) that the nature, form and amount of reparation shall be determined by the Court, in the event that the Parties could not reach agreement on the matter, and that it reserved for this purpose the subsequent procedure in the case.

The French Republic requested the International Court of Justice: 1. to declare inadmissible the claims made by the Republic of Djibouti in its Memorial which went beyond the declared subject of its Application; 2. to reject, on the merits, all the claims made by the Republic of Djibouti.

On 4 June 2008, ICJ found that the French Republic, by not giving the Republic of Djibouti

the reasons for its refusal to execute the letter rogatory presented by the latter on 3 November 2004, failed to comply with its international obligation under Article 17 of the Convention on Mutual Assistance in Criminal Matters between the two Parties, signed in Djibouti on 27 September 1986, and that its finding of this violation constituted appropriate satisfaction.

Seven Members of the International Tribunal for the Law of the Sea Elected

States Parties to the United Nations Convention on the Law of the Sea elected seven members of the International Tribunal for the Law of the Sea on 13 June 2008 for a term of nine years commencing on 1 October 2008. Among those seven members, Judge Wolfrum (Germany), Judge Akl (Lebanon), Judge Marotta Rangel (Brazil), Judge Chandrasekhara Rao (India) and Judge Jesus (Cape Verde) were re-elected and Mr Bouguetaia (Algeria) and Mr Golitsyn (Russian Federation) were newly elected by the States Parties. Elections for the judges of the Tribunal are held every three years at the Meeting of States Parties.

UNCTAD XII Conference Adopted Accra Accord

UNCTAD XII Conference adopted Accra Accord and its accompanying political declaration for embodying the shared commitment of the developing and developed world "to work toward making globalization a powerful means to achieve poverty eradication", held at Accra, Ghana on 20–25 April 2008. The Accord comprises text on four sub-themes - (1) enhancing coherence in global policy making, (2) trade and development issues, (3) enhancing the enabling environment to strengthen productive capacity; and (4) strengthening UNCTAD. The Accra Accord highlighted the challenges facing many developing countries as they strive to integrate successfully into the international economic and financial system and set out a detailed agenda for progress in economic and social development spanning areas ranging from commodities, trade and debt to investment and new technologies. While welcoming the strong economic growth rates that global trade and investment flows have brought many in the developing world, UNCTAD XII cautioned that those advances have not been shared by all and have been accompanied by new difficulties, most notably the current crises in food prices and financial markets, as well as growing income inequalities.

DSB Adopts Compliance Reports in US Cotton Case

On 20 June 2008, the Dispute Settlement Body (DSB) adopted the compliance Panel and Appellate Body reports in the cotton subsidies case between Brazil and the US, closing the compliance procedure launched by Brazil in August 2006. The Appellate Body: (i) upheld the Panel's finding that Brazil's claims relating to export credit guarantees for pig meat and poultry meat were properly within the scope of Article 21.5 proceedings; and (ii) upheld the Panel's finding that Brazil's claims against marketing loan and counter-cyclical payments made by the United States after 21 September 2005 were properly within the scope of these Article 21.5 proceedings. In brief, the Appellate Body recommended that the DSB request the United States to bring its measures, found in this Report, and in the Panel Report as modified by this Report, to be inconsistent with the Agreement on Agriculture and the SCM Agreement, into conformity with its obligations under those Agreements.

Panel Report on "India – Additional and Extra-Additional Duties on Imports from the United States"

The WTO, on 9 June 2008, issued the report of the panel that had examined a US complaint against "India – Additional and Extra-Additional Duties on Imports from the United States" (DS360). The Panel concluded as follows: (a) The United States had failed to establish that the Additional Duty on alcoholic liquor was inconsistent with Article II:1(a) or (b) of the GATT 1994; and (b) the United States had failed to establish that the SUAD was inconsistent with Article II:1(a) or (b) of the GATT 1994. The Panel made no recommendations under Article 19.1 of the DSU. However, to recall, after the establishment of this Panel, India had issued new customs notifications making certain changes to the AD on alcoholic liquor and the SUAD, "to address concerns raised by India's trading partners". It is therefore appropriate to note that the Panel's disposition of the US claims under Article II:1(a) and (b) does not necessarily imply that it would be consistent with India's WTO obligations for India to withdraw the relevant new customs notifications or otherwise re-establish the status quo ante, i.e., the situation as it existed on the date of establishment of the Panel. By the same token, in making this point, the Panel did not wish to suggest that the entry into force of the new customs notifications necessarily implied that the AD on alcoholic liquor, to the extent it still exists, and the SUAD were WTO-consistent.

RECENT ARTICLES

- Llamzon, Aloysius P., "Jurisdiction and Compliance in Recent Decisions of the International Court of Justice", *European Journal of International Law*, vol. 18, no. 3 (2007), pp. 815-852.
- McGregor, Lorna, "Torture and the State Immunity: Deflecting Impunity, Distorting Sovereignty", *European Journal of International Law*, vol. 18, no. 3 (2007), pp. 903-920.
- Freestone, David, "A Decade of the Law of the Sea Convention: Is it a Success?", *George Washington International Law Review*, vol. 39, no. 3 (2007), pp. 499-542.
- Alvarez, Jose E., "A Tribute to Louis Sohn", *George Washington International Law Review*, vol. 39, no. 3 (2007), pp. 643-648.
- Buergenthal, Thomas, "A Tribute to Louis Sohn", *George Washington International Law Review*, vol. 39, no. 3 (2007), pp. 649-654.
- Oxman, Bernard H., "A Tribute to Louis Sohn – Is the Dispute Settlement System under the Law of Sea Convention Working?", *George Washington International Law Review*, vol. 39, no. 3 (2007), pp. 655-664.
- Wolftrum, Rudiger, "A Tribute to Louis Sohn", *George Washington International Law Review*, vol. 39, no. 3 (2007), pp. 675-684.
- Lavanya, Rajamani, "The Nature, Promise, and Limits of Differential Treatment in the Climate Regime", *Yearbook of International Environmental Law*, vol. 16 (2005), pp. 81-118.
- Rajamani, Lavanya, "The Right to Environmental Protection in India: Many a Slip between the Cup and the Lip?", *Review of European Community & International Environmental Law*, vol. 16, no. 3 (2007), pp. 274-286.
- Rayfuse, Rosemary, "Protecting Marine Biodiversity in Polar Areas beyond National Jurisdiction", *Review of European Community & International Environmental Law*, vol. 17, no. 1 (2008), pp. 3-13.
- Anand, R. P., "Development of International Law and South Asia: An Historical Approach", *Indian Journal of International Law*, vol. 47, no. 4 (2007), pp. 535-593.
- Sandoz, Yves, "International Humanitarian Law in the Twenty-First Century", *Yearbook of International Humanitarian Law*, vol. 6 (2003), pp. 3-40.
- Sadat, Anwar, "Some Legal Aspect of the Bali Summit on Climate Change", *Indian Journal of International Law*, vol. 48, no. 1 (2008), pp. 105-112.
- Pillai, K.N. Chandrasekharan, "Copyrightability of Supreme Court Judgment", *Journal of the Indian Law Institute*, vol. 50, no. 1 (2008), pp. 94-96.

NEW ADDITIONS

- Anderson, E. A. and Lindsnaes, B. (ed.), *Towards New Global Strategies: Public Goods and Human Rights* (Martinus Nijhoff Publishers, Leiden, 2007).
- Armstrong, David and others, *International Law and International Relations* (Cambridge University Press, United Kingdom, 2007).
- Bartels, L. and Ortino, Federico (ed.), *Regional Trade Agreements and the WTO Legal System* (Oxford University Press, New York, 2006).
- Basu, Durga Das, *Commentary on the Constitution of India*, 8th edn, 2V, (Wadhwa and Company, Nagpur, 2008).
- Batra, G. S., *Environment Management and Corporate Disclosures: Text and Case Studies* (Deep & Deep Publications, New Delhi, 2007).
- Baxi, Upendra, *Human Rights in a Posthuman World: Critical Essays* (Oxford University Press, New Delhi, 2007).
- Baxi, Upendra, *The Future of Human Rights*, 3rd edn. (Oxford University Press, New Delhi, 2008).
- Beveridge, Fiona, *Globalization and International Investment* (Ashgate Publishing, England, 2005).
- Biswas, A. R., *Encyclopaedic Law Dictionary, (Legal & Commercial)* 3rd edn., (Nagpur: Wadhwa and Company, 2008).
- Bolwewski, Wilfried, *Diplomacy and International Law in Globalized Relations*, (Springer, New York, 2007).
- Borschberg, P. and Krieger, M. (ed.), *Water and State in Europe and Asia* (Manohar, New Delhi, 2008).
- Briely, J. L., *The Law of Nations: An Introduction to the International Law of Peace*, 6th edn., (Oxford University Press, New Delhi, 2008).
- Brolmann, Catherine, *The Institutional Veil in Public International Law: International Organisation and Law of Treaties* (Hart Publishers, USA, 2007).
- Buhring-Uhle, Christian (ed.), *Arbitration and Mediation in International Business*, 2nd edn., (Kluwer Law International, Netherlands, 2006).
- Bullard, Robert D. (ed.), *The Quest for Environmental Justice: Human Rights and the Politics of Pollution* (Sierra Club Book, San Francisco, 2005).
- Burrell, R. & Coleman, A., *Copyright Exceptions: The Digital Impact* (Cambridge University Press, United Kingdom, 2006).
- Calder, A. and Watkins, Steve, *International IT Governance: An Executive Guide to ISO 177991 ISO 275601* (Kogan, London, 2008).
- Cannizzaro, E. and Palchetti, P., *Customary International Law on the Use of Force: A Methodological Approach* (Martinus Nijhoff Publishers, Leiden, 2005).
- Romani, C.F. de C.Y., *Sovereignty and Interpretation of International Norms* (Springer Publishing, Berlin, 2007).
- Cheng, Bin, *Studies in International Space Law* (Oxford University Press, New York, 2008).
- Craven, Mathew, *The Decolonization of International Law: State Succession and the Law of Treaties* (Oxford University Press, Oxford, 2007).

- Datta, C. R., *Law Relating to Commercial and Domestic Arbitration* (Along with ADR), 1st edn., (Wadhwa and Company, Nagpur, 2008).
- Diederikis-Verschuur, I. H. Ph., *An Introduction to Space Law*, 2nd rev. edn., (Kluwer Law International, Hague, 1999).
- Epstein, Lee & Walker, T. G., *Constitutional Law for a Changing America: Institutional Power and Constraints*, 5th edn., (CQ Press, Washington, 2004).
- Fuchs, Doris, *Business Power in Global Governance* (Viva Books, New Delhi, 2008).
- Gilbert, Michael (ed.), *The Oxford Book of Legal Anecdotes* (Oxford University Press, New Delhi, 2007).
- Goel, S. L., *Good Governance: An Integral Approach* (Deep & Deep, New Delhi, 2007).
- Gottschalk, Eckart and others (ed.), *Conflict of Laws in a Globalized World* (Cambridge University Press, New York, 2007).
- Gupta, Charu & Sharma, M., *Contested Coastlines: Fisherfolk, Nations and Borders in South Asia* (Routledge, New Delhi, 2008).
- Gurtov, Mel., *Superpower on Crusade: The Bush Doctrine in US Foreign Policy* (Viva Books, New Delhi, 2008).
- Guzman, A. T. and Sykes, Alan O., (ed.), *Research Handbook in International Economic Law* (Edward Elgar, U.K., 2007).
- Hardt, M. & Negri, A., *Empire* (Harvard University Press, London, 2000).
- Jain, N. K., *Right to Information: Concept, Law and Practice with Position in other Countries and Case Studies* (Regal Publications, New Delhi, 2007).
- Kirgis, Frederic, *The American Society of International Law, First Century, 1906-2006* (Martinus Nijhoff, Leiden, 2006).
- Kouladis, Nicholas, *Principles of Law Relating to International Trade* (Springer, New York, 2006).
- Kwatra, G. K., *Arbitration and Contract Law in SARC Countries: With Case Law on UNCITRAL Model Law* (Universal Law Publishing, Delhi, 2008).
- Lew, J. D. and Others, *Comparative International Commercial Arbitration* (Wolters Kluwer, New Delhi, 2003).
- Lowe, N., Everall M., and Nicholls, M., *International Movement of Children: Law Practices Procedure* (Jordan Publishing Ltd., Bristol, 2004).
- Lyall, Francis, *Space Law* (Ashgate, England, 2007).
- MacCormick, Neil, *Legal Reasoning and Legal Theory* (Oxford University Press, New Delhi, 2008).
- May, Christopher and Sell, S. K., *Intellectual Property Rights: A Critical History* (Viva Books, New Delhi, 2008).
- McIntyre, Owen, *Environmental Protection of International Watercourses under International Law* (Ashgate Publishing Ltd., England, 2007).
- Kondoch, Boris (ed.), *International Peacekeeping* (Ashgate Publishing Ltd., England, 2007).
- Mutai, H. Kibet, *Compliance with International Trade Obligations: The Common Market for Eastern and South Africa* (Kluwer Law International, Netherlands, 2007).
- Orford, Anne (ed.), *International Law and Its Others* (Cambridge University Press, United Kingdom, 2006).
- Pal, Prankrishna (ed.), *Intellectual Property Rights in India: General Issues and Implications* (Regal Publications, New Delhi, 2008).
- Parashar, A. and Dhanada, Amita (ed.), *Redefining Family Law in India: Essay in Honor of Sivramayya* (Rutledge, New Delhi, 2008).
- Paulson, Majorie B. (ed.), *Law of Sea* (Nova Science Publishers, New York, 2007).
- Posner, Richard A., *Overcoming Law* (Universal Publishing, Delhi, 2007).
- Prime, Terence and Others, *Law and Practice of Joint Ventures* (Butterworths, London, 1997).
- Rana, Krishan S., *Asian Diplomacy: The Foreign Minister of China, India, Japan, Singapore and Thailand* (Oxford University Press, New Delhi, 2007).
- Raz, Joseph, *The Authority of Law: Essay on Law and Morality* (Oxford University Press, New Delhi, 2008).
- Rosenne, Shabtai, *Provisional Measures in International Law: The ICJ and ITLOS* (Oxford University Press, New York, 2005).
- Schnitzer, Simone, *Understanding International Trade Law* (Universal Publishing, Delhi, 2007).
- Singh, Raghbir, *Law Relating to Intellectual Property*, 2nd edn. 3V., (Universal Publishing, New Delhi, 2008).
- Sinha, Manoj Kumar, *Rights to Health in the Context of HIV/AIDS in India and Africa* (Manak Publications, New Delhi, 2008).
- Stone, Peter, *EU Private International Law: Harmonization of Laws* (Edward Elgar, United Kingdom, 2006).
- Summers, James, *Peoples and International Law: How Nationalism and Self-determination Shape a Contemporary Law of Nations* (Martinus Nijhoff, Leiden, 2007).
- Tigerstrom, Barbara, *Human Security and International Law: Prospectus and Problems* (Hart Publishing, U.S.A., 2007).
- UNICEF, *Protecting the World's Children: Impact of the Convention on the Rights to the Child in Diverse Legal Systems* (Cambridge University Press, New York, 2007).
- Watts, Rob and others, *International Criminology: A Critical Introduction* (Rutledge, London, 2008).
- Wilde, Ralph, *International Territorial Administration: How Trusteeship and the Civilizing Mission Never Went Away* (Oxford University Press, New York, 2008).
- Yihdego, Zeray, *The Arms Trade and International Law* (Springer, New York, 2007).
- Zeev, J. De and Kumar Krishna (ed.), *Promoting Democracy in Post Conflict Societies* (Viva Books, New Delhi, 2008).

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- New Acquisitions to the ISIL library from April to June 2008