



the world jurist

**BULLETIN OF THE WORLD JURIST ASSOCIATION
OF THE WORLD PEACE THROUGH LAW CENTER**

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DUBLIN / BELFAST CONFERENCE

RE-EMPHASIZING GLOBAL PEACE BASED UPON A JUST WORLD ORDER

Report of the Twentieth Biennial Conference on the Law of the World

Delegates from more than 44 nations came together in Dublin and Belfast September 30-October 5, 2001 for the first WJA Biennial Conference of the 21st Century. Although much progress has been achieved in recent decades, the tragic events of September 11 demonstrate that the world is not free from hatred. As a result, the WJA is re-emphasizing the need to work together as humans of all racial, ethnic, cultural, religious, political, economic, and geographic backgrounds to ensure that peace is no longer threatened for all humankind. This goal served as the Conference theme of "Friendship, Cooperation and the Rule of Law: Building the Spirit of World Peace."

In addition to a week of educational panel sessions and evening events in Dublin, delegates enjoyed a historic trip to Belfast to partake in the local culture and meet with leading government officials and distinguished jurists from the North. This peace-building mission was a tremendous success and left everyone in awe of the power of cooperation in pursuing global peace based upon a just world order.

Enclosed, readers will find the complete report of the Dublin / Belfast Conference, including summaries of each of the panel sessions as well as all of the special events in which delegates participated. For those of you who joined us, thank you for your support. And, for those of you who could not make it, more than 80 workpapers

presented during the Conference are available through the Headquarters office. In addition, a video of the week's events is being completed at this time. Advance orders may be placed now for US\$40. See page 20 for details.

Through the dedication of our members around the world, we have made great strides in the peace movement, and we will continue to do so. Please join us in redoubling our efforts at bringing peace and prosperity to all corners of the globe. We hope to see all of you in August, 2003 when we travel to Sydney and Adelaide for the 21st Biennial Conference on the Law of the World.

Messages received from Heads of State and Government

- | | | |
|---------------------|--------------------------------|----------------------------|
| Australia | India | |
| Austria | Ireland | |
| Belarus | Israel | |
| Bulgaria | Jamaica | |
| Cambodia | Korea | |
| Cape Verde | Lithuania | |
| China | Mexico | |
| Costa Rica | New Zealand | |
| Cyprus | Norway | |
| European Commission | Qatar | |
| The Gambia | Romania | |
| Georgia | Rwanda | |
| Germany | St. Vincent and the Grenadines | |
| Greece | Slovenia | |
| Grenada | Solomon Islands | |
| | | Spain |
| | | Sri Lanka |
| | | Sweden |
| | | Thailand |
| | | Trinidad & Tobago |
| | | Ukraine |
| | | Vatican |
| | | Int'l Atomic Energy Agency |
| | | Int'l Red Cross |



Newly-elected WJA President, Prof. Dr. Hans Thümmel of Germany, addresses delegates at the Closing Reception at Dublin Castle.

FAREWELL ADDRESS



First of all, I would like to thank everyone who assisted in our goal for peace through the Rule of Law. Foremost among them is our Executive Vice-President, Margaret Henneberry, who achieved results that would have been impossible otherwise. In addition, I would like to thank the Headquarters staff, the Board of Governors, the chairmen of the various committees, and members and supporters throughout the world.

Our Founder, Charles Rhyne, often said that the WJA was an incubator of ideas and that those ideas, like eggs, had to be hatched and developed. As President, I tried to do just that. For an organization to function though, it needs finances.

First of all, with the help of volunteers, I established a separate website at: www.investinpeace.com as a foundation to raise money for the WJA. We sold "uncommon" stock which evidenced that the purchaser invested in peace and that the dividends would inure to the benefit of humanity.

Secondly, we made an arrangement with an Internet company whereby one could designate the WJA as the charity of choice to receive a percentage of monies spent for purchases on-line. Please visit the website at: www.iGive.com and show your support.

As to other activities, a committee was appointed to prepare a protocol or draft treaty on international financial crimes and corruption and another on rules governing the duration and intensity of punishment by a victor after a confrontation or war. These will be presented to the United Nations for adoption as soon as completed.

Finally, as President, I appointed 15 members of a Commission of the Citizens' World Court. For those who are not familiar with this, the Commission of 15 will oversee the Court and appoint its judges. Among the Commission members are a retired Chief Justice, several justices of Supreme Courts, a former justice of the International Court of Justice, law professors and others from varied geographical and cultural areas.

My term has been full of excitement and the exploration of new ideas. I wish to thank you all for giving me this opportunity.

Daniel J. Monaco
Immediate Past President

WELCOME ADDRESS



As your new president, I welcome all of you and ask for your active cooperation in furthering the prospects and goals of our Association during the two years to come.

There is much to do. In my speech at the end of our successful Dublin Conference, I had two messages to give.

The first message was that we always should be aware of the importance and strength of our organization. Its unique strength comes from the fact that it comprises all branches of the legal profession from around the world. The WJA has the manpower, the legal experience and the authority to step in and offer solutions to world-wide problems by "strengthening law, courts and enforcement of law to the point that a law system for the world can replace the current force and arms system in providing security and world order with justice" as Charles S. Rhyne, the founder of our Association, put it. Through our membership, we enjoy excellent connections with governments and other decisive and influential bodies all over the world. To work for and offer solutions for problems, which threaten the well-being, prosperity, and happiness of all humankind, justifies our existence.

Let us go to work. We can help as lawyers fight against terrorism by making it clear that only the establishment and enforcement of the Rule of Law can help. We may work at a legal framework for the globalized economy, the problems of which have become more obvious in recent times.

My second message is connected with the first one. We have to acknowledge that the work and influence of the WJA has unfortunately diminished in recent years. To a large extent this is due to our financial situation. We have to do something about this problem for the benefit of our future.

The WJA is proud to give special attention to the problems of the Third World. This in turn results in an increased need for funds since often our colleagues from developing nations would not be able to participate in our conferences and activities without financial help. Therefore, I sincerely urge you to help us look for possible sponsors to subsidize the WJA's activities and programs. I am confident that our ideas

and visions, particularly in this time, are strong and tempting enough to create positive results in generating funds from dedicated organizations and individuals.

There is more we can do, though. One of our weaknesses, undoubtedly, lies in the fact that the WJA is not satisfactorily well-known around the world. Therefore, I urge each of you to approach newspapers, radio and television stations in your home regions and share news, articles, and statements about the WJA, its objectives, activities, and resolutions whenever practical. I am confident that not only our influence, but also our chances of generating funds will increase the more well-known we are.

At the Biennial Conference in Dublin, we made initial decisions for our program in the upcoming two years. We plan to have our next Biennial Conference in the summer of 2003 in Sydney and Adelaide. Before that, an interim worldwide conference, co-organized by the WJA and the government of Baden-Württemberg, will take place from September 30-October 4, 2002 in Stuttgart, Germany. In that respect, we are very fortunate that the state government will give us support to an unusual extent. Finally, we are planning a colorful regional conference in Namibia in early summer 2003.

All of this makes me look forward to my term of presidency with confidence and happiness. I encourage each of you to contact me with suggestions and proposals. I wish you all luck and good health.

Hans Thümmel
President

World Jurist Association Newly-Elected Board Members 2001-2003

President: Hans Thümmel, Germany
First Vice President: Valerij O. Yevdokimov
President for CIS, Ukraine
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President, WALP: Serafin V. C. Guingona, Philippines
President, WBA: Rick Baltzersen, USA
United Nations Special Representative: Karl-Georg Zierlein, Germany

NEW MEMBERS

The World Jurist Association is pleased to announce and welcome the following new members:



Dr. Gopi Mohan Mandal earned his LL.B. and M.A. degrees in Economics from Dhaka University, Bangladesh. He currently serves as an International Advisor for the Bureau of Social Watch and Advisor for Occidental Comcorp, Inc. in Montreal, Canada.



Hon. Justice Ikechi F. Ogbuagu of Nigeria received his law degree in 1965 while in London. He was called to the Nigerian Bar in 1966 and worked in private practice for the next 24 years before being appointed as a judge to the Abia State High Court.



Habibur Rahman trained in the field of engineering at Dhaka University, Bangladesh. Thereafter, he specialized in industrial development financing and served as Chairman of several large banks and organizations including the Bureau of Social Watch.

Other new members include:

The Hon. Abdu Aboki, High Court of Justice, Kano State, Nigeria.

The Hon. Abubakar Abba, High Court of Justice, Adamawa State, Nigeria.

The Hon. Sani Mohammad Aelolo, Bauchi State House of Assembly, Nigeria.

Intissar Ann Alkafaji, President, Alkafaji-P.C., USA.

Tom Anyafulude, Chief Legal Adviser, Human Rights Commission, Nigeria.

Fr. Ranhilio C. Aquino, Philippine Judicial Academy, Supreme Court, Philippines.

S. Ade Awonusi, Nigeria.

The Hon. B.A. Ba'aba, Court of Appeal, Nigeria.

Alan Baker, Ambassador, Israel Foreign Ministry, Israel.

Lucie Barron, President, ADR Services, USA.

The Hon. Salihu Modibbo Alfa Belgore, Supreme Court of Nigeria.

The Hon. Grand Kadi Bulama Yusuf Bizi, Shari'a Court of Appeal, Nigeria.

Francesco Borrull, Criminologist, Spain.

The Hon. Lu Botao, President, Higher People's Court of Guangdon Province, China.

The Hon. In-Jin Chung, Seoul High Court, Korea.

Obi Wycliffe Dah, Barrister, Nigeria.

The Hon. Yakubu Gyang Dakwak, High Court of Justice, Jos Plateau State, Nigeria.

The Hon. Pius Dafuas Damulak, High Court of Justice, Plateau State, Nigeria.

The Hon. S.S. Darazo, Nigeria.

Avraham Doron, Attorney, Israel.

Aviva Dubskey, Registrar, Tel-Aviv Magistrate Court, Israel.

The Hon. Ada N. Ehigiamusoe, High Court of Justice, Edo State, Nigeria.

The Hon. Paul Obi Elechi, Acting Chief Judge, High Court of Justice, Ebonyi State, Nigeria.

The Hon. Wan Exiang, Vice President, Supreme People's Court, China.

The Hon. J.A. Fabiyi, Court of Appeal, Nigeria.

Y.O. Fasade, Nigerian Law Reform Commission, Nigeria.

Dr. Monica Ferreira, Director, Institute of Ageing in Africa, South Africa.

Martin Freeman, Director & General Counsel, Department of Justice, Canada.

Hon. Grand Kadi R. Ibrahim, Nigeria.

The Hon. E.D.U. Idiong, High Court of Justice, Akwa Ibom State, Nigeria.

The Hon. F.C. Inya-Agha, High Court of Justice, Ebonyi State, Nigeria.

Chen Jiande, Supreme Court Press, China.

Alexander Khemraj, Attorney, Russia.

Kye Hong Kim, Deputy Parliamentary Counsel, Ministry of Legistration, Korea.

Dimitar Kostadinov, Attorney, Bulgaria.

N.T.S. Kularatne, Attorney, Hong Kong.

Salvador Lao, Attorney, Philippines.

Nicolas Lapena, Jr., Dean of the College of Law, New Era University, Philippines.

Deung-won Lee, Senior Public Prosecutor, Busan, Korea.

The Hon. Ma. Belen R. Liban, RTC Judge, Philippines.

James Lutzweiler, Program Manager, Catholic Relief Services, Nigeria.

Khadeija Mahgoub, Attomey, Nigeria.

José Malang, Attorney, Philippines.

Prof. David A. Marcello, Executive Director, The Public Law Center, USA.

The Hon. Sixto Marella, Jr., Regional Trial Court of Makati, Philippines.
Theano Mavromoustaki, Counsel of the Republic of Cyprus.

Paul Murphy, Solicitor, Australia.

The Hon. Ede Nwali, High Court of Justice, Ebonyi State, Nigeria.

The Hon. Y. Offonry, Nigeria.

The Hon. E.O. Ogbole, High Court of Justice, Benue State, Nigeria.

The Hon. Se Wook Oh, Korea.

Rev. Fr. Kevin O'Hara, Executive Director, Human Rights Commission, Nigeria.

The Hon. C.J. Okoli, High Court of Justice, Anambra State, Nigeria.

The Hon. Marcellina A. Okungbowa, Acting Chief Judge, High Court of Justice, Delta State, Nigeria.

The Hon. Jean Omokri, High Court of Justice, Kebbi State, Nigeria.

Austin Onuoha, Executive Secretary, Human Rights Commission, Nigeria.

Hon. Tayo Kilegbu Osu, High Court of Justice, Rivers State, Nigeria.

Hon. Justice Ayotunde A. Phillips, High Court of Lagos State, Nigeria.

Prof. Sang-Myon Rhee, Seoul National University College of Law, Korea.

Congressman Oscar S. Rodriguez, House of Representatives, Philippines.

The Hon. Dame Joan Sawyer, President, Court of Appeal, Bahamas.

James L. Seal, Attorney, USA.

Gregory G. Shikhelman, USA.

Baeshik Shin, Senior Public Prosecutor, Seoul, Korea.

Dong Hee Suh, Attorney, Korea.

Gergana Trifonova, Attorney, Bulgaria.

The Hon. Evaristus Akpanke Uke, Obudu Local Government Area, Nigeria.

The Hon. George I. Uloko, High Court of Justice, Plateau State, Nigeria.

The Hon. Marshal Umukoro, High Court of Justice, Delta State, Nigeria.

Amado D. Valdez, Government Corporate Counsel, Philippines.

Shi Wuhong, Foreign Ministry, China.

Hon. Justice Xu Yandong, President, Heilongjiang Province, China.

Jang Keun Youn, Parliamentary Counsel, Ministry of Legistration, Korea.

The Hon. Han Yunping, President, High People's Court of Anhui, China.

Prof. Gudrun Monika Zagel, Department of International Law and Organizations, University of Salzburg, Austria.

DUBLIN CONFERENCE REPORT

World Law Day Celebration



ECUMENICAL SERVICE September 30, 2001

The 20th Biennial Conference on the Law of the World began with a time-honored tradition, the World Law Day Ecumenical Service. This year's service took place in historic St. Patrick's Cathedral where legend has it that St. Patrick himself conducted several baptisms.

The World Law Day Program stresses the moral values and concepts which are embodied in the principle of the Rule of Law, as handed down to us by the great lawgivers of the past. Since the Rule of Law is the most universally accepted concept of humanity, it offers the best foundation upon which to build a peaceful world order with justice for all persons and all nations.

The Very Reverend Robert MacCarthy, Dean of St. Patrick's Cathedral, began the service by welcoming the World Jurist Association delegates to Dublin and to St. Patrick's Cathedral. Immediately following his introductory remarks, Cathedral clergy offered readings and prayers to the participants.

At that time, representatives of some of the world's major religions provided brief presentations on the role of his or her religion in promoting the Rule of Law.

The first speaker was H.E. Dr. Abdullah Al-Moslamani, WJA Third Vice President (Qatar), representing the Muslim faith. In his remarks, Dr. Al-Moslamani called for peace for all persons regardless of race, religion, or creed. He stressed that equality is the cornerstone of building the spirit of world peace as evidenced by the theme of the Dublin / Belfast Conference.

Mrs. Estelle Menton (Israel), Chairperson of the Dublin Jewish Community, spoke on behalf of Judaism.

She recalled the recent tragedy in the United States and offered words of condolence for those who suffered, and words of appreciation for those who volunteered in the rescue efforts. She took this opportunity to share that brotherhood of civilizations is a fundamental tenet of Judaism. As such, we should not use faith as an excuse for wrongdoing. Instead we must treat everyone with equal dignity and respect as we turn swords into plowshares.

Prof. Ved P. Nanda (USA), WJA Immediate Past President, then spoke on the role of Hinduism in promoting peace through the Rule of Law. He, too, expressed his sorrow for the events of September 11, 2001. He stated that in these critical times, we seek wisdom, not a clash of civilizations. Dignity and passion will lead us from darkness to justice. Through commitment and understanding, we will seek to become one happy and peaceful global family.

Christianity was represented by Mons. Thomas White of Ireland. He began by stating that the terrorist attacks on the United States brought destruction to the world that will forever change the course of history. He urged all of us to do our part to return to normalcy as we look toward "Friendship, Cooperation and the Rule of Law: Building the Spirit of World Peace." Mons. White went on to pray that the leaders of the world do not act swiftly in retaliation; that legislators work together beyond partisan politics; that judges, lawyers, professors, students, and all WJA participants be inspired to act within the Rule of Law to restore peace to the world.

Rev. MacCarthy then gave a final blessing to the delegates before turning the dais over to Daniel J. Monaco (USA),

President of the World Jurist Association. Mr. Monaco stressed the importance of being unfettered from fear to choose right from wrong; to use ethics and morality to treat everyone with compassion, love and dignity so we may break the cycle of violence. Only by achieving this will we ever develop to our full potential as individuals, nations, and a global community.

SUPREME COURT RECEPTION September 30, 2001

Immediately following the World Law Day Ecumenical Service, the delegates were treated to a beautiful reception hosted by

The Hon. Mr. Justice Ronan Keane, Chief Justice of Ireland, and Mr. Brendan Ryan, Director of Courts Service. The reception, set in the Four Courts, featured hors d'oeuvres and wine as well as an excellent opportunity for delegates to rekindle old friendships while making new ones.

Chief Justice Keane graciously greeted all of the World Jurist



Association participants with open arms to Dublin and to the hallowed halls of his Court. He stated that the WJA's mission of promoting peace through the Rule of Law is indeed worthy of great respect given the constraints of today's modern world. Given this mission, he stressed the need for all in attendance to learn as much as they could from this event so that we could carry on about the important work of the Association. He concluded by wishing WJA members a successful and thought-provoking Conference filled with robust discussions and entertaining events.



Opening Ceremony

The 20th Biennial Conference on the Law of the World officially opened on Monday, October 1 in O'Reilly Hall, University College Dublin. Presiding as Master of Ceremonies was **Prof. Ved P. Nanda**, Immediate Past President of the WJA (USA).

Prof. Nanda began with a moment of silence in honor of those killed in the terrorist attacks in New York, Washington, DC, and Pennsylvania on September 11, 2001. After this touching moment, Prof. Nanda introduced the distinguished guests seated at the head table. These individuals included:

- **Mrs. Margaret Henneberry**, WJA Executive Vice President (USA)
- **H.E. Dr. Abdullah Al-Moslamani**, WJA Third Vice President (Qatar)
- **H.E. Hassan bin Abdullah Al-Ghanem**, Minister of Justice of Qatar
- **Mr. Daniel Monaco**, WJA President (USA)
- **The Hon. Mr. Justice Ronan Keane**, Chief Justice, Supreme Court of Ireland
- **Dr. Karl-Georg Zierlein**, WJA Secretary General (Germany)

Mr. Monaco then introduced the keynote speaker, **Chief Justice Keane**. The Chief Justice remarked that the events of September 11 may have presented some difficulty in proceeding with this important conference.

However, in view of the diverse attendance, he commented that delegates obviously went to great lengths to attend.

He continued by stating that we live in a disturbing time for people who believe in the Rule of Law. The acts of September 11,



2001 typified those who live in a world of lawlessness. Keeping this in mind, Chief Justice Keane noted that the upcoming discussions in Dublin and Belfast are extremely important in furthering the Rule of Law. For, ultimately, people can only live securely in their individual nations if they recognize the supremacy of the Rule of Law.

The next speaker was **H.E. Hassan bin Abdullah Al-Ghanem**, Minister of Justice of Qatar. Minister Al-Ghanem presented the comments of the Emir of Qatar, **H.E. Shaikh Hamad bin Kalifa al-Thani**. In his remarks, the Emir expressed his solidarity with the ideals of the WJA and stated that respect for human rights is the base upon which we can build international peace and human dignity. He stressed his belief that peace can only be achieved based on



the principles of international law and the right of self-determination of all peoples. Rather than using force to interfere with the sovereignty of other nations, the Emir called for constructive dialogue for the peaceful



settlement of disputes. With respect for equality, justice, freedom, brotherhood, mercy, and forgiveness, we can realize stability and security to achieve progress and economic development around the world.

Dr. Zierlein then took the podium, thanking the Irish for their warm hospitality. He began his remarks by providing an update of WJA activities since the last Conference in October of 1999. He made special mention of the numerous international seminars and Conferences hosted by the WJA and its affiliates around the world.

Before concluding, **Dr. Zierlein** commented on the need for respect and protection of human dignity around the world. To further this effort, he called upon us to continue our work in establishing the Rule of Law worldwide. Finally, he urged us

to show our support for peace and democracy throughout all regions of the globe.

The last speaker of the ceremony was **Mr. Monaco** who drew our attention to the fact that individuals from forty-four countries were present at the conference, with large delegations from Nigeria, Philippines, and Georgia. **Mr. Monaco** continued his remarks by speaking about ideas in governance from a world, national and local level. He provided a brief history of the development of international law from Roman times through the Reformation.



In light of the recent terrorist attacks, **Mr. Monaco** proposed the creation of a federal world system where there would be effective controls on international crime and terrorism; a system where genocide could be prevented.

BLACKHALL PLACE RECEPTION

October 1, 2001

After the Opening Ceremony, delegates enjoyed the opportunity to visit Blackhall Place for a reception hosted by the **Law Society of Ireland**. During the reception, **Ken Murphy**, Director General of the Law



Society, presented **Mr. Monaco** with a Law Society tie and a book detailing the historical background of Blackhall

Place. The event was a great success and proved to be a wonderful start to a week of exciting discussions and beautiful evening receptions hosted by the local legal community.

LOCAL GOVERNMENT PLENARY
October 1, 2001

In cooperation with the International Municipal Lawyers Association (IMLA), the WJA featured a plenary session entitled, "The Building Blocks of a Strong Local Government." The session began with an Introduction by **Henry W. Underhill, Jr.**, IMLA Executive Director and General Counsel. Mr. Underhill first noted the common roots and principles which underlie both IMLA and the WJA. He traced the recent history of cooperation between the two organizations, looking at the previous WJA conferences and seminars where IMLA delegates have made presentations. Over forty IMLA members participated at the Dublin Conference; a clear demonstration of the growing recognition that local government law is becoming a global issue.



The first panel discussion focused on Local Government Technology. During this one hour presentation, four speakers described the various uses and considerations of technology for the public law offices. **Iris J. Jones**, City Attorney of Prairie View, Texas and IMLA Immediate Past President, described how the Internet has impacted both the local community and the government operations. She described the need to find proper and effective use for this tool in order to realize the potential benefits; by increasing the speed and expanding distribution, the Internet is a powerful tool for doing the government's business. **Steve Wolf**, President of American Legal Publishing, looked at the issues of ensuring access to e-mail, Internet and computers. He noted some of the efforts around the world to begin to bridge the so-called "digital divide." **Brian Doyle**, Senior Deputy City Attorney of San Jose, California, turned the focus to a local government's presence on the web - looking at the concerns of local government hosted

and operated websites. He briefly identified the legal issues and offered suggestions on access to public records, privacy, confidentiality, intellectual property, use of public funds and freedom of expression. **Garry Hunter**, Chair of IMLA's International Committee and Director of Law of Athens, Ohio, provided one more layer to the discussion by looking at the use of technology in elections. Building on many of the concepts raised by earlier presentations, Mr. Hunter traced the history of various methods and speculated on the future trends based on practices emerging around the world.

During the Delivery of Services and Personnel Issues session, moderated by **Patricia Lynch**, City Attorney of Reno, Nevada, delegates heard **Paul Isham**, City Attorney of Huntsville, Texas describe the structures of local government in the United States. He offered these as possible models for establishing local government systems outside the United States. **Robert Alfton**,

IMLA Past President, utilized his experience representing clients from both sides of labor disputes, and he discussed the impact and functions of unions in the public sector. **Eunice Gibson**, City Attorney of Madison, Wisconsin provided a historical and practical look at the use of merit selection and other methods to screen and hire public employees, noting both the pros and cons of various processes. **Susan Rocha**, City Attorney of Boerne, Texas, was unable to attend the Conference, however she



submitted an important checklist for consideration when terminating a public sector employee.

Perhaps one of the most relevant and popular subjects discussed was Legal Framework and Rules Affecting Local Planning and Private Land Use Regulation. **Daniel J. Curtin**, Partner with McCutchen, Doyle, Brown, & Enersen in Walnut Creek, California, provided an overview of land use regulation, which he described as one of the most important powers exercised by local governments. While concluding that "[t]he proper balancing of democracy and other values to produce sound policies is of course a serious political burden" **Steven Meyers**, City Attorney of San Leandro, California, provided an example in California as "an illustration of the difficulty of striking that balance in the area of land use regulation." He discussed the process of allowing voters at the ballot box to determine land use decisions. **David G. Tucker**, County Attorney of Escambia County, Florida, presented another aspect of the effort to balance citizen participation in land use decisions, while protecting the rights of private property owners. Mr. Tucker looked at the quasi-judicial process, concluding that it could be an attractive compromise between extremes, despite some notable practical concerns. **Herbert L. Prouty**, City Attorney of Denton, Texas, also looked at citizen involvement through public comment



and other procedural measures that ensure input from citizens at both the individual case level and in the broader policy considerations. He warned that a lawyer for local governments, must help advise the governing body to avoid bad land use decisions due to improper citizen influence. From a slightly different focus, but essential to



understanding land use models from the United States, **John G. Barisone**, City Attorney of Santa Cruz, California, explained the Takings Clause of the U.S. Constitution and the jurisprudence that follows from that.

The Ethics and the Government Lawyer session provided delegates with information that transcended the local government level and was of importance to public jurists in all sectors of practice. Moderated by **Joseph Mulligan**, IMLA Past President, the session began with an overall look at Legal Ethics in International Law by **David Caylor**, City Attorney of Irving, Texas. Mr. Caylor looked at the ethical principles that are important for international law practitioners, stating that “[t]he practice of international law involves all of the traditional ethics issues that any law practice does, plus some.” This presentation was followed by a look at ethics considerations for lawyers with multijurisdictional practices by **Benjamin E. Griffith** with the law firm of Griffith & Griffith in Cleveland, Mississippi. Mr. Griffith discussed the U.S. ethics rules, as well as several international models which impact such practices. The final presentation looked at a specific aspect of ethical conduct - the revolving door. **Karl F. Dean**, Director of Law of Nashville, Tennessee, outlined the issues that arise as public lawyers move into the private sector. **Marion Radson**, City Attorney of Gainesville, Florida, was not able to attend the Conference; however he submitted a paper on Attorney-Client privilege and the legal doctrine surrounding this concept.

The final session of the day focused on Municipal Debt and Financing. Organized by **Thomas W. Kelty**, Kelty Law Offices, P.C., Springfield, Illinois, who could not attend the Conference, the session was moderated by **John E. Gotherman**, Counsel of the Ohio Municipal League and Secretary-Treasurer of the Ohio Municipal Attorneys Association. Mr. Gotherman also made a presentation describing the process of using bonds and notes to finance local

government debt in the United States. He concluded that “[a] clear liberal law authorizing local governments to borrow money . . . is very important.” **Julie M. Lynch**, City Attorney of Whitehall, Ohio, provided a case study of one local government and its sources of funding, noting the importance of “lay[ing] a foundation today for the needs of the city a decade from now.” **Burton Shifman**, City Attorney of Oak Park, Michigan, looked at financing mechanisms for a local government to acquire real estate, equipment, and other assets. He described revenue bonds and lease financing as effective instruments, cautioning that they must be structured properly. Finally, in a topic that provided a European and global perspective to local government finance, **Roy Koegen**, an attorney with Perkins Coie, L.L.P. in Spokane, Washington, explained the growing importance of subsovereign financing in the New Europe. He noted that many European nations are looking to the capital financing mechanisms of local government in the United States. Mr. Koegen’s presentation was expanded upon by a longer presentation at the Banking and Finance Panel later during the Conference.

EMBASSY NIGHT

October 1, 2001

Several of the foreign embassies in Dublin hosted receptions for their delegates during Embassy Night on Monday, October 1. The support received from the Ambassadors and their staff contributed to the international and cooperative focus of this Conference.

SPECIAL SESSION ON TERRORISM

October 2, 2001

Prof. Ved Nanda, WJA Immediate Past President (USA), opened this specially scheduled panel session by stating that we are only human and as such, emotions can

be raw. However, we are also jurists and are required to follow certain norms of behavior. The World Trade Center and Pentagon attacks of September 11, 2001 brought knowledge to all civilizations that terrorism is a real problem in the world. Prof. Nanda questioned how we could effectively combat terrorism. He said that under normal circumstances, the law enforcement model should work: terrorists should be located and apprehended, brought before a court, and if found guilty, punished for the crimes they committed. But with the problem today, this model seems to be ineffective. Prof. Nanda made reference to Article 51 of the United Nations Charter allowing for preemptive self-defense. He also made reference to the requirements of necessity and proportionality when applying this article.

Daniel J. Monaco, WJA President (USA), briefly took the floor stating that this is an emergency panel session, that the U.N. must define terrorism, that an ad hoc tribunal should be set up to judge terrorists and that this tribunal should eventually be transformed into a permanent international criminal tribunal.

Prof Nanda again took the floor and made the following three points:

(1) international terrorism is a threat to international peace and security (a resolution was passed by the general assembly in this regard),

(2) all assets of terrorist organizations should be frozen in accordance with a resolution of the UN general assembly, and

(3) a draft convention against terrorism should be tabled.

He stated that past resolutions have been ineffective and more political will by the states is required to enforce existing resolutions. However, the problem remains that there still is no international consensus on “terrorism”. Prof. Nanda postulated that this will soon change following the events of September 11, 2001.

Prof. Margaret Somerville, McGill University Centre for Medicine, Ethics & Law (Canada), spoke next on the ethical response to terrorism. She said that human knowledge must be applied to solve this problem. We must find the way to transform bullets into words. As lawyers, we must work to heal global society just as a doctor heals a patient. Prof. Somerville explained that the attacks of September 11 were evil and that we will fight against evil. Our goal is to eliminate terrorists and the threat they

pose, but the reasons for our actions against terrorism must be based on moral justification and proportionality, not retribution. We must create a new global paradigm due to the changes in technology, biogenetics, etc. Now is the opportunity to integrate new fundamental values into that paradigm.

The next speaker, **Samuel Jay Levine**, an immigration attorney from Arlington, Virginia (USA), spoke about the role of asylum and refugee status relative to the prevention of terrorism. He said that we must redefine "refugee" for today, a refugee could easily be a mole planted by a terrorist organization to undertake acts of terror. An international commission should review each new refugee claim.

Ronald Greenberg, an attorney from Los Angeles, California (USA), forcefully stated that terrorists like those who committed the attacks of September 11, 2001, are criminals using murder to accomplish their objectives. The United States has entered a war, but not a war in the usual sense; rather it is like a war against organized crime. It is not a war against religion because no religion could have sanctioned such a wanton act of death and destruction. Indeed, many of the world's leaders have taken a stand against such acts.

Zvi Jaffe, an attorney from Israel, stated that he comes from a country that has a great deal of experience in dealing with terrorists. He explained that we must understand that terrorists do not speak our language nor share our values. Lawyers cannot do much against such acts. Our objective should be the destruction of the terrorist infrastructure.

Fr. Ranhilio Aquino of the Philippine Judicial Academy rose to speak, stating that destroying terrorists will not solve the problem because others will rise up to take their place. The only way to succeed is through application of the Rule of Law.

The next speaker was **Intissar Alkafaji**, who was born in Iraq and now lives in the United States. She stated that we must also address state terrorism. Examples include the United States' bombing of Iraq following Iraq's annexation of Kuwait and the United States' bombing of Afghanistan following the attacks of September 11, 2001. She explained that any bombing must be done without killing innocent women and children or else we commit the very acts we oppose. Ms. Alkafaji concluded by saying that not until all forms of terrorism are stopped would we be victorious.

Itzhak Nener, WJA Honorary President (Israel), then took the floor, explaining that many terrorist organizations only survive based on their support from countries. State-sponsored terrorism is, itself, a real menace to the world.

After an hour of robust discussion, Prof. Ved Nanda closed the special session by stating that certain states are harboring terrorists. But even without state sponsorship, terrorism will continue. If a State is deemed to have sponsored terrorism, the United Nations could invoke Article 51 of its charter to deal with this problem. However, in all cases where force is used, we must avoid the killing of innocent people when fighting against terrorist threats.

THE TECHNOLOGY DIVIDE October 2, 2001

Chairman, **Rick A. Baltzersen**, World Business Associates President and Principal, Content Technology Solutions (USA), began the Law and Technology session by announcing the WJA's Technology Initiative, a program designed to use technology to promote the Rule of



Law by providing education and information while giving a practical hands-on approach to technology. He stated that the program would be designed to use technology to make laws, opinions, regulations and other official documents available electronically:

(a) to those within the judicial system, to increase judicial efficiency and accountability;

(b) to those outside the judicial system, to encourage the Rule of Law, develop public confidence in the integrity of the system, and to make the system "transparent" to the public; and

(c) by providing the hardware, software and Internet access required to accomplish these goals.

The program would be designed to develop specific projects for WJA members, and to link members with leaders in the technology business community to carry out those projects. There would be a funding initiative to develop longer-term support for the project. Mr. Baltzersen concluded by calling upon WJA members to promote the program.

Prof. Zeev Segal, Tel-Aviv University (Israel), discussed issues presented by developments in the media, and the importance of "freedom of information" to the Rule of Law. He described three generations of issues surrounding media, the first set of issues dealing with the relationship of speech to society (freedom of speech v. security, speech v. privacy); the second dealing with the "inner circle of the press" (media ownership and cross-ownership, the relationship of the writer and editor); and the third dealing with the Internet, a communications technology permitting mass communication without an editor (balancing privacy issues and the right to obtain and distribute information).

A first generation issue is the right of the individual to publish information he or she has; the next generation issue, Prof. Segal urged, is the right of the individual to obtain information from authorities, which he described as the "freedom of information." Freedom of information requires government to be transparent, and for every person to have access to official documents. He described the Swedish system, under which mail sent to officials can be read by anyone, except in the most exceptional circumstances. He concluded by stating that freedom of information is key to preventing corruption and developing trust in the Rule of Law.

Joseph Van Eaton, a partner with Miller & Van Eaton (USA), argued that traditional regulatory models cannot ensure media are used in ways which help build communities, rather than divide them. He stated that it is important to do more than make technologies available, and urged that as a central element of media policy, one would develop funded, locally-based organizations whose task is to teach groups and individuals how to use media to

accomplish social goals. He described the U.S. cable regulatory model, through which operators are required to (a) set aside channel capacity for public use; (b) provide the facilities necessary to use the capacity (cameras, computers, studios); and (c) provide financial support to fund an organization whose goal is to teach others how to use media effectively. The combination of locally-available technical resources (channels and equipment), and social resources provide a mechanism through which media can be used effectively to address social issues in ways unique to every community.

HUMAN RIGHTS October 2, 2001

The panel's chairman, **Prof. Ved Nanda**, WJA Immediate Past President (USA), began the session by stating that human rights and security are intertwined. United Nations Charter Articles 55 and 56 call for the protection of human rights. However, he asked how we could make the protection of human rights adequate in the international arena.

Austin Onuoha, Executive Secretary of the Human Rights Commission (Nigeria), stated that although he is not a lawyer, he has much experience working with human rights issues at the grassroots level. He explained that he comes from a country currently in transition from a military government to a democratic one. He believes that if human rights are not respected in Nigeria, the largest black African nation, they will not be respected elsewhere.

In Nigeria today, it seems that the judiciary is the only stable institution. However, Mr. Onuoha stated that given its past decisions, it may have been better that the judiciary system was changed when the military government left power. He is worried that democracy in Nigeria is at risk. To reduce the risk, it is important that the judiciary is strengthened.

The media in Nigeria is free, but not as free as it could be. The press, due to government policies, avoids human rights workers in Nongovernmental Organizations (NGO). Mr. Onuoha believes that they are acting under the pressure of many legislators who are associated with the past military government. In order for human rights work in Nigeria to continue, we must work to sustain democracy and must speak out against those whose oppose democracy.

Prof. Charles C. Chatterjee of London Guildhall University (United Kingdom), presented his paper on refugees and minorities. He spoke about the inadequacies of international conventions and resolutions concerning refugees. He stated that self-determination is important, but that is has not been concerned with minority issues; that it is more of a concept than a principle.

Minority issues fall under the jurisdiction of the sovereign states. Article 7 of the 1951 Convention defines refugees as those with a well founded fear of persecution because of their religious, political or other beliefs. Prof. Chatterjee says that there is a correlation between minorities and refugees and that minorities may become refugees without fulfilling the conditions for being considered refugees as provided by the United Nations convention.

Issues of internal self-determination remain unclear. Only the state may grant internal self-determination. If the State refuses, it becomes an issue of public international law subject to Articles 2(4) and 2(7) of the UN Charter. Additional articles in other international conventions make reference to internal self determination. Prof. Chatterjee concluded by stating that the protection of minorities remains an issue governed by the State.

The next speaker, **Sandy Kraemer**, President of Intergeneration Foundation (USA), presented his paper on intergenerational issues. He explored the premise that the right to intergenerational transfer of property protects human rights. He said that inheritance is necessary to support the continuity of enterprise. The state should not assign ownership if individuals do not.

Slavery in the United States is an extreme example of the denial or restriction of human rights where many rights were taken from slaves including the right to have their own names, to own property or pass property to their heirs.

Mr. Kraemer also spoke about the history of a woman's right of inheritance where women were often unable to assign property without the consent of their husbands. In many cases historically, woman were forbidden to own property. He also referred to inheritance under the laws of Islam. Mr. Kraemer concluded that only

fair enforceable laws for the intergenerational transfer of property will ensure the protection of human rights.

Prof. Giorgi Intskirveli of Tbilisi University (Georgia) presented his report on corruption in Georgia. He said that corruption is a big problem in Georgia today. The present legal structure of the country cannot deal with the problem of corruption. New special laws must be passed and have been proposed by a commission working on this issue. The commission will have access to the personal tax documents of political figures to identify and control corruption.

Prof. Ved Nanda took the floor, thanking Prof. Intskirveli for his presentation and stated that there were many other issues of human rights that the panel did not have time to address, including humanitarian intervention such as in Kosovo and Haiti in recent years. He said that intervention should be permitted when there are human rights violations that are egregious.

ALTERNATIVE DISPUTE RESOLUTION October 2, 2001

The ADR Panel included five speakers representing various backgrounds in the field of alternative dispute resolution.

The first speaker was **Mark Appel**, Senior Vice President of the International Centre for Dispute Resolution in Dublin. Mr. Appel presented the remarks of the President of the American Arbitration Association,



William Slate. He stated that in the United States, the Unified Federal Court system had about 263,000 cases filed in the year 2000. Today, many people who file cases in Federal Court are asked to seek other methods to resolve their cases in order to reduce the caseload.

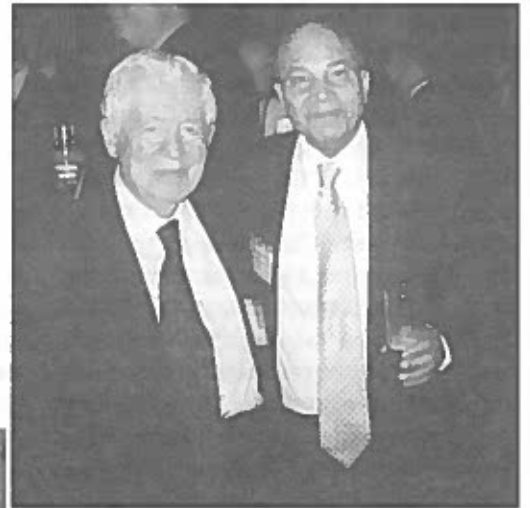
Mr. Appel made reference to various conventions on International arbitration. These conventions are applicable in the

continued on page 12

TWENTIETH BIENNIAL CONFERENCE ON THE LAW OF THE WORLD



DUBLIN / BELFAST SEPTEMBER 30-OCTOBER 5, 2001



United States with some limited exceptions concerning the use of force, due process and exceeding authority issues. He stated that the future for the use of ADR will grow as evidenced by how online arbitration services are available and growing. It has been so successful that courts are starting to get involved with the online process.

Sarosh Zaiwalla, a solicitor from the United Kingdom and a member of the International Chamber of Commerce in Paris, spoke about how the finality of arbitration decisions are being called into question. He also mentioned problems concerning the granting of inconsistent awards following two arbitration proceedings on the same issue.

Another issue Mr. Zaiwalla mentioned was that 80% of arbitration awards have gone against parties that come from less developed or developing nations. He thinks this is happening because the respondents in developing countries many times do not designate legal advisors that are familiar with the Western legal system. The use of the English language may also be a problem for respondents from developing nations.

The next speaker was **Zvi Jaffe**, an attorney from Israel. Mr. Jaffe mentioned that in 1992, the Courts Law was amended to allow courts to more actively promote the resolution of disputes through mediation and arbitration. He also discussed domestic tribunals that are established by the Sports Federations for the purpose of arbitrating disputes between sports players and their teams.

Mr. Jaffe then laid out the definition of mediation as stated in Israeli law. Finally, Mr. Jaffe discussed alternative dispute resolution between nations, with particular emphasis on the Case of Taba, a small piece of land on the Red Sea border of Israel and Egypt. Utilizing ADR in disputes between states can be extremely useful although very difficult. In conclusion, Mr. Jaffe stated that failure to resolve disputes through legal channels carries with it a dangerous potential.

Prof. Dr. Alexander J. Bélohávek, WJA National President for the Czech Republic, took the floor next and discussed arbitration methods in Central and Eastern Europe. Following the political and economic changes in the countries of Eastern and Central Europe in the 1980s and 1990s, the protection of property rights

became paramount. As a result, courts became increasingly overcrowded, with some cases taking 2-3 years for settlement. Due to this long delay, the countries of Central and Eastern Europe have shown strong support for international commercial arbitration awards.

Prof. Bélohávek added that with the increases in technology, disputes are becoming more and more common. As a solution, the Czech Republic is considering utilizing arbitration proceedings through video conference.

The final speaker of the session was **Ronald M. Greenberg**, an attorney with Berkes, Crane, Robinson & Seal in Los Angeles, California (USA). Mr. Greenberg focused on the enforceability of arbitration agreements in contracts of employment. He stated that arbitration provisions in US employment agreements are specialized and guarantee certain rights to employees, including the following:

(1) you cannot limit an employee's right to recover statutorily-imposed remedies such as punitive damages;

(2) adequate discovery must be allowed;

(3) a written arbitration decision must reveal the essential findings and conclusions on which the award was based so that adequate judicial review can be obtained; and

(4) the arbitration process cannot impose unreasonable costs and fees upon the employer.

WORKPLACE AND EMPLOYMENT ISSUES

October 2, 2001

This session included four speakers who held a roundtable discussion on workplace and employment issues. The discussion was chaired by **Paul Tobias**, Chairman of the National Employee Rights Institute and Chairman of Workplace Fairness (USA). Other roundtable participants included: **Gary Byrne**, Solicitor with BCM Hanby Wallace (Ireland), **Samuel Jay Levine**, immigration attorney and Adjunct Professor of Law at Syracuse University College of Law (USA), and **Patrick Thiebart**, a partner with Caubet Chouchana Meyer (France).

The panelists discussed the issue of globalization and the revolutionary advances in technology along with increased free trade and free markets. The growing power of multinational companies has brought dramatic change to the workplaces of the world. In the face of such changes, employment laws seek to maintain a balance between protection of the employer's desire to manage business and preservation of social values and respect for the economic and emotional needs of individual employees.

The panel mentioned that the United States has been a leader in the enactment and enforcement of anti-discrimination laws protecting various groups, but otherwise has maintained the "employment at will" doctrine which gives companies great discretion concerning termination and other aspects of the employment relationship. Most other countries place more restrictions on an employer's ability to regulate the employment relationship, including the requirement that the employer must consult with employee representatives prior to layoffs and cannot discharge without just cause.

Panelists further mentioned that in the US, many employment laws are enforced in court with the right of trial by jury and the possibility of large damage awards. In other countries, employment laws are enforced in specialized labor courts or administrative tribunals.

With globalization comes the need for more employees. As such, there has been increased pressure on nations to modify immigration laws to allow greater movement of employees to meet the needs of employers.

In addition to traditional employment concerns, there have been other issues of importance coming to light in the workplace. The increased use of e-mail at work and recent concerns about security from violence in the workplace are two such concerns that have fostered additional regulations, placing individual privacy rights in jeopardy.

The directives of the European Union concerning anti-discrimination and the conventions and resolutions of the International Labour Organization have helped to bring focus and uniformity to employment laws around the world. In conclusion, the panel agreed that employment law must reflect the ideals and customs of the people and must change to keep up with the dramatic advances in the workplace.

UNITED NATIONS
October 2, 2001

The United Nations Panel was chaired by **The Hon. Mayer Gabay**, Vice President of the UN Administrative Tribunal (Israel). Judge Gabay spoke on the role of the United Nations in a difficult new century. He discussed the major objectives of the UN



while acknowledging its shortcomings. In short, he stated that despite the difficult times the UN has faced, it has achieved many great successes. Instead of turning our backs on the UN, Judge Gabay stated that we should work toward reforming its structure in order to improve it.

The second speaker was **Dr. Luis Eduardo Boffi Carri Pérez**, WJA President for the Americas (Argentina). Dr. Boffi Carri Pérez proposed some reforms of the United Nations Charter. He also discussed the purposes of the United Nations in developing friendly relations among nations while recognizing the sovereignty of those nations.

The final speaker on the United Nations Panel was **Daniel J. Monaco**, WJA President (USA). Mr. Monaco stated that the growth of technology will serve both the United Nations and civilization. He further stated his belief that we can protect peace with democracy.

At the conclusion of these remarks, the floor was opened for questions ranging from the Security Council veto power, the financial implications of member states not paying their UN dues, the mass proliferation of ad hoc tribunals, and the applicability of UN resolutions to non-member states.

INTERNATIONAL BUSINESS AND FINANCE LAW
October 2, 2001

An active and interactive roundtable session on International Business and Finance Law Panel took place on the afternoon of Tuesday, October 2, 2001.

Panorea Nikolopoulou, an attorney from Greece, was the first speaker of the session. She presented a detailed description of the loan process under the World Bank with particular emphasis on the stages of project cycle and forms of guarantees.

Prof. Charles Chatterjee, London Guildhall University (United Kingdom), presented a very insightful paper on jurisdictional controversies involved in banking transactions related to the exclusive jurisdictional clause of the Brussels Convention and the membership, lack of membership, and domestic law of participants in transactions.

The next speaker was **Roy Koegen**, a partner with Perkins, Coie, LLP (USA). Mr. Koegen discussed the evolution and current status of sub-sovereign financing in Europe today, drawing upon experiences in Latin America and the USA as well as other nations around the world.

Leslie E. LoBaugh, Jr., Vice President and General Counsel of Niagara Mohawk Power Corp. (USA), presented a paper on the evolution and status of the sovereignty of Indian nations within the United States, so-called "domestic dependent nations", and the relationship to emerging international finance, banking and other business law issues.

The final speaker was **The Hon. Alexander L. Paskay**, Chief Bankruptcy Judge (USA). Judge Paskay provided the audience with an overview of the key points of cross-border insolvency and the model law. He also drew from his extensive professional experience on international comity and other important issues.

Prof. A.Y. Zohny, Chair of the Department of Economics, Business and Legal Studies at Strayer University (USA), did not make it in time to present during the International Business and Finance Law Panel. However, he did make a short presentation later in the Conference. During his time, Prof. Zohny discussed the issue of reforming international business law in the context of the complicated realities of international development. He stated that international development organizations such as the World Bank, the International Monetary Fund, and the World Trade Organization are too large to respond

effectively to the needs of people. Therefore, in the era of "beyond globalization", other actors, such as NGOs, bar associations, chambers of commerce, and civil society organizations should work to develop international business law.

WOMEN AND CHILDREN
October 2, 2001

This panel featured five presentations from legal professionals from around the world. **Gemma Leticia F. Tablate**, WJA National President for the Philippines, discussed the age-old practice of the mail-order bride industry. She stated that the Philippines is the largest exporter of mail-order brides, mostly due to the poor economic situation. With 100,000-150,000 women around the world advertising themselves on matchmaking sites each year, the industry is a multi-million dollar endeavor. During her presentation, Ms. Tablate analyzed two points of view of the industry: the radical view which calls for strict prohibition and the more liberal view with calls for regulation. In conclusion, Ms. Tablate reviewed the problems inherent in



the Philippine law prohibiting the mail-order bride industry and proposed decriminalization of the industry with restrictions.

Prof. Monica Grill, Buenos Aires University (Argentina), presented her thoughts on protection of children in international adoptions. She analyzed four international conventions and the general principles contained in each as they pertain to children. In addition, she discussed several rights which she feels ought to have been included in the conventions. Finally, Prof. Grill gave an example of a situation where the rights enunciated in the conventions contradict domestic legislation within various countries.

Tom Anyufulude, Chief Legal Adviser, Human Rights Commission (Nigeria), stated that despite numerous international, regional, and national instruments guaranteeing women's and children's rights

in Nigeria, they remain a disempowered group in southeast Nigeria, largely due to cultural practices that exist. For instance, Mr. Anyufalude discussed the traditional practices of male preference, female genital mutilation, child marriage, child trafficking, bride price, and denial of property and succession rights, among many others. He concluded by recommending future international conferences to discuss women's and children's rights so that we can modify harmful traditional practices.

Baeshik Shin, Senior Public Prosecutor (Korea), and **Prof. Hong-Suck Cho**, Kyungpook National University College of Law (Korea) also stated that while the Korean Constitution proclaims that all citizens are equal, social customs result in gender discrimination. In particular, they emphasized the problem of sexual violence in Korea, a crime which has tripled in the last 30 years. They concluded by analyzing several criminal and constitutional laws as they relate to women's rights.

ENVIRONMENTAL LAW

October 2, 2001

Prof. Ved P. Nanda, WJA Immediate Past President (USA), facilitated the panel on international environmental law. There were four speakers who each presented a unique look at the development of international environmental law.

Marlene Jahnke, International Council of Environmental Law (Germany), analyzed the Montevideo Programme adopted by the United Nations Environment Programme (UNEP) in 2001. She stated that the objective of the Montevideo Programme was to achieve effective implementation of, compliance with, and enforcement of environmental law through the widest possible participation in multilateral environmental agreements. She concluded with her thoughts on the Programme in today's world.

The Hon. Oswaldo D. Agcaoili, Associate Justice, Court of Appeals (Philippines), focused on the fact that human activity, despite heightened awareness, has led to further environmental destruction around the world. While international law provides a framework to address environmental issues, Justice Agcaoili stated that the most important factor in protecting the environment lies in the state's commitment to enforce domestic law in spite of any conflict with state sovereignty. In

his discussion, Justice Agcaoili used the Philippines as a prime example. Given the fact that the Philippines is rich in biological diversity, its Constitution as well as its courts have been very progressive in protecting natural treasures. More so than laws, however, Justice Agcaoili argued that more effective enforcement is necessary to prevent divergent interests from precluding the effective application of those laws.

Rev. Fr. Kevin O'Hara, Executive Director of the Human Rights Commission in Nigeria, also discussed the development of international environmental law. In particular, he talked about waging peace and cooperation through development and respect for the environment in the Niger Delta region of Nigeria. With its bountiful resources, this region has been of great interest to multinational corporations. Rev. Fr. O'Hara analyzed the environmental impact of such interest and ways to promote sustained peace in the region.

Derek Abbott, Center for Biomedical Engineering at the University of Adelaide (Australia), rounded out the panel with a look at winning environmental wars by mixing losing strategies. In his discussion, Mr. Abbott referred to the game of chess where pieces can sometimes be sacrificed in order to win the overall game. The same can be true of environmental policies. By mixing losing strategies with winning strategies, a rapid increase in overall success can be achieved. Mr. Abbott stated that this is known as Parrondo's paradox and can have interesting environmental and legal implications.



CITY HALL RECEPTION

October 2, 2001

The evening concluded with a beautiful reception hosted by **Councillor Michael Mulcahy**, the Lord Mayor of Dublin who opened City Hall exclusively for WJA



members. The Lord Mayor welcomed everyone to the wonderful city of Dublin and offered his best wishes for a

successful Conference. After addressing the crowd, he personally greeted many of the delegates and expressed his support for our mission of world peace through the Rule of Law.



Demonstration Trial October 3, 2001 Belfast, Northern Ireland

Without a doubt, one of the highlights of each Biennial Conference on the Law of the World is the Demonstration Trial. This year proved no different thanks to the tireless efforts of **John W. Bailie**, Chief Executive and Secretary of the Law Society of Northern Ireland. As an effort to demonstrate our deep commitment to the peace process in all areas of the world, the WJA took the unprecedented act of holding its Demonstration Trial in Belfast, Northern Ireland.

After a morning trip through the beautiful countryside of Ireland, delegates arrived in Belfast with enough time to explore the rich history of the city and meet with local legal professionals prior to the commencement of the trial at Queens' University. Acting as Chief Justice of the Court was **The Hon. Meir Shamgar**, President of the Supreme Court of Israel (ret.). Associate Justices included: **The Hon. Mr. Justice Paul Carney**, Justice of the High Court of Ireland, **The Hon. R. A. Banda**, Chief Justice of the High Court of Malawi, **The Hon. M. L. Uwais**, Chief Justice of the Supreme Court of Nigeria, **The Hon. B. J. Odoki**, Chief Justice of the Supreme Court of Uganda, **The Hon. Dame Joan Sawyer**,

responsible for polluting the River Zee; Beta who has a 25-year contract for paper products from Alpha at below market prices; and Delta who has a large commercial and sport fishing industry which has been impacted by the pollution in the river.

As a result of the deleterious affect on the environment, Delta has embarked on a costly clean-up of its territorial waters. However, it can only succeed if Alpha closes its plant. Delta, represented by **Garry Hunter**, Director of Law of Athens, Ohio (USA) and **Fr. Ranhilio Callangan Aquino**, Philippine Judicial Academy (Philippines), brought suit against Alpha in the International Court of Justice seeking an order for Alpha to close its plant, damages for the costs of clean-up, and damages for its loss of revenue.

Beta, represented by **Ethia Simha**, Attorney-at-Law (Israel) and **Ronald M. Greenberg**, Attorney-at-Law with Berkes,

going to undertake a massive clean-up project. Beta concluded its argument by stating that it is unfair to saddle an innocent party with the costs of cleaning up pollution it did not create.



Alpha, represented by **Richard Briggs**, Attorney-at-Law with Tamini and Associates (United Arab Emirates) and **James Macken, SC** (Ireland), argued that it is not liable to either of the parties because Delta created the damage itself by issuing a health advisory which subsequently harmed its industry. Furthermore, Alpha argued that there is no causation proving Alpha is responsible for the pollutants. Even if it can be proven that Alpha did cause the pollution, Delta's direct losses are minimal and speculative at best.



President of the Court of Appeals of the Bahamas, and **The Hon. Mr. Justice Brian Kerr**, Justice of the Supreme Court of Northern Ireland.

The case followed up on the previous day's discussion of international environmental law by looking at the problem of international environmental contamination. Three parties were involved: Alpha who owns and operates a paper and fiberboard company which is alleged to be

Crane, Robinson & Seal (USA), also brought suit against Alpha seeking a declaration that if Alpha is forced to close its plant, it will be in breach of the 25-year contract with Beta. Therefore, Beta seeks damages from Alpha for the increased costs Beta will incur by obtaining its paper products elsewhere. In addition, Beta also seeks indemnification from Alpha for any damages it is ordered to pay to Delta since Delta did not give them notice that they were

After a brief recess, the Court announced its ruling. As to the issue of whether the Court has jurisdiction to order Alpha to close its plant, the Court ruled that under Article 41 of the ICJ Statute, the Court has the power to order provisional measures. In this case, an injunction is necessary because it would be ridiculous to clean up the river only to allow it to continue to be polluted. The Court further ruled that Alpha is liable to Delta for the costs of clean-

up because the environmental damage occurred as a result of Alpha's actions. A state is sovereign within its own borders, but once its actions transcend those boundaries, it will be liable.

As far as Beta's liability goes, the Court ruled that Beta is not liable to Delta for clean-up costs because Beta did not know there was any pollution. As a result of this ruling, the Court did not need to address the question of whether Alpha would be liable to Beta for indemnification of damages Beta would be forced to pay to Delta.

Finally, since Alpha cannot continue its contract with Beta due to the Court order enjoining its operations, it can claim impossibility of performance of the contract. Therefore, the Court postulated that there is not likely to be a remedy for Beta's losses due to the breach of contract by Alpha.

In addition to the unanimous ruling of the Court, Justice Kerr issued a concurring opinion. In his opinion, he stated that the Court plainly had jurisdiction to entertain the dispute. He further stated that it would be a substantial compromise of the Court's procedures to deny injunctive relief when in fact it is the only effective relief. Difficult enforcement should not preclude the Court from ordering the only viable relief available.

BELFAST CITY HALL DINNER

October 3, 2001

To conclude a memorable day, WJA delegates were honored with a four-course meal at the invitation of **The Rt. Hon. The Lord Mayor Councillor Jim Rodgers** and



the City Council of Belfast. The regal evening affair was set in the historic City Hall building with its beautiful adornments and museum-like atmosphere. After leading

the guests in a toast to the Queen, the Lord Mayor delivered a moving speech about how the Rule of Law can be utilized to bring about peace in the world.

By all accounts, the trip to Belfast was indeed one of the most fascinating and unforgettable moments of the entire week.



Due to the overwhelming success of the Aging and the Law panel in Budapest and Vienna, the WJA decided to once again provide a forum for some of the world's leading experts to address issues relating to human rights denials and abuses of older persons.

A detailed account of the pervasive physical, economic and community-based violence practiced on elder Africans was presented from two perspectives by South Africans, **Dr. Monica Ferreira**, Director of the Institute of Ageing in Africa, and **The Hon. Deon Van Zyl**, WJA President for Africa. Descriptions of widespread scapegoating of the old for the ills of a village, of robbery, rape, dispossession and disinheritance, abandonment in war-torn areas and enforced care by the old for AIDS-infected children were just some of the examples of abuses given in the South African context.

Prof. Dr. E. O. Wolfshohl of the Grey Panther Foundation (Germany) exposed how health care institutions have recently become commercial enterprises, predicated upon keeping older patients sick with the use of government funding.

Prof. Margaret A. Somerville of McGill University Centre for Medicine, Ethics and Law (Canada), discussed the generalized failure of the medical profession to provide adequate pain relief treatment and of the growing practice of withholding and withdrawing medical treatment to older persons. Prof. Somerville stated that this is more of a hospital policy to cut costs rather than an individual choice of the patient. Under this paternalistic approach, two patients with identical conditions will get vastly different treatment depending on their ages. The consequences of such decisions are all too apparent.

The next speaker was **Fr. Ranhilio Callangan Aquino** of the Philippine Judicial Academy. Fr. Aquino provided some basic patient-focused solutions to the care and recognition of the right to a sustainable quality of life for the terminally-ill patient.

Ann Soden of Montreal, Canada, reviewed universal ethical challenges and dilemmas of representing the older client with diminished mental capacity. She



stressed the need for support and guidance from bar societies and associations and their ethics committees in finding practical client-focused solutions for elder law attorneys.

Finally, the audience heard some innovative advances in service delivery to older persons from the panel's moderator, **Wayne Moore**, Director of the Legal Advocacy Group of the American Association of Retired Persons (USA). Mr. Moore discussed the AARP's use of virtual offices employing volunteers, advice hotlines, and Internet databanks of service information, health care and other planning documents and basic legal proceedings for the elderly. The goal of such virtual offices is to provide equitable, broad-based legal services to a greater number of people in a timely fashion at a fraction of the cost.

The recurrent theme addressed by the panel and by audience participants was that while bills of rights and vigorous defense of individual rights were essential legal responses, legislation and litigation are not the sole, nor necessarily the most appropriate choices for addressing human rights violations of the elderly. The panel agreed that it is essential to change society's attitudes about the elderly, to educate and empower older persons by strengthening their existing organizations and establishing broad-based rights groups, to eliminate age discrimination by promoting traditional and intergenerational values of respect and appreciation for all phases of life, and to ensure the economic means to live a dignified life.

THE JUDICIARY

October 4, 2001

The theme of this panel discussion was the primary role of the judiciary as a national institution in ensuring that constitutional mandates are followed to preserve the liberties and rights of free people everywhere. Individual presentations focused attention on several key areas.

Prof. Ved P. Nanda, WJA Immediate Past President (USA), spoke on the independence of the judiciary in the modern world. He discussed the importance of having a transparent judiciary to serve as a bulwark against oppression and a check against executive power. When a court and its judges are independent, the citizens can have more confidence that justice will be served within the confines of the system.

The next speaker was **Kenneth Allread** with the Administrative Office of the US Courts. Mr. Allread gave an overview of the administrative structures of the US court system, including its budgetary authority. He concluded by stating that these administrative structures must support, not subvert, the judiciary's institutional role and the individual court's ability to serve the public.

The Hon. Alexander L. Paskay, Chief Bankruptcy Judge (USA), took the stage next and spoke on the role of the bankruptcy court in the United States. He used the bankruptcy court as an example of a statutorily-established independent court that must resist encroachment of its authorities by other courts and agencies in order to best serve the public.

Finally, **The Hon. Kashim Zannah**, High Court No. 5 (Nigeria), discussed judicial activism in an emerging democracy, with particular emphasis on the Nigerian judiciary. He argued that the judiciary must adopt a posture of judicial activism in order to protect human rights and social reforms in the multi-cultural, multi-lingual societies in which they operate.

It was agreed by all of the panelists and audience participants that judicial activism is an important mechanism to ensure that justice prevails. Even in the most oppressed societies, individual judges frequently have the opportunity in the adjudication of cases to affirm constitutional principles of freedom and individual liberties and incrementally move societies forward.

THE EUROPEAN UNION AND INTERNATIONAL LAW

October 4, 2001

The final panel session of the Conference dealt with the twin topics of the European Union and international law. This panel featured six presentations.

The first presentation was delivered by **Luis Eduardo Boffi Carri Pérez**, WJA President for the Americas (Argentina). Mr.

Boffi Carri Pérez discussed "The Nation, the State and the European Union." In his presentation, he stressed the importance of having Europe and the Latin American countries develop a more fluid union using the principles of Roman law as well as natural law.

Alan Baker, Legal Advisor with the Ministry of Foreign Affairs (Israel), focused on universal jurisdiction in international criminal law. He discussed several examples of the problems inherent in international criminal law due to increased globalization, including the Pinochet case, Internet crime, and a recent case in Belgian court against Rwandan nationals. Mr. Baker concluded his remarks by stating that the International Criminal Court is a powerful weapon in fighting international criminal law, including terrorism-related offenses. However, it must not be used as a political tool in order to serve only the interests of a few.

Dean Amado Valdez, Office of the Government Counsel (Philippines), provided a picture of how individual rights are protected in the Philippines. He singled out the desire to be faithful to the principles of equity and justice according to natural law and rights. He further examined various areas of the law, such as contract law and labor law, in the resolution of conflicts of law.

Walter F. Maibaum, President of Modernism Fine Arts, Inc. (USA), urged citizens around the world to find a judicial way to protect culture and works of art through the effective punishment of international art crimes. He cited the fact that over US\$100 billion worth of art crime is committed around the world; 75% of it involves fakes and forgeries. After providing some examples of the international aspect of art crime, Mr. Maibaum called upon UNESCO, the UN and the WJA to implement the Rule of Law in preventing these types of crimes.

The next speaker was **Enrica Ghia**, an attorney with Studio Legale Ghia in Italy. Ms. Ghia examined the issue of copyright on the Internet in today's information society where more and more works of art are placed on the Web. She stated that while criminals on the Web are extremely fast, laws to protect copyright are developing very slowly. She concluded by citing examples from Italy and a recent directive passed by the European Parliament on this issue.

The final speaker on this panel was **dott. Prof. Giovanni Goletti**, Presidente sez on Corte dei Conti (Italy). Prof. Goletti gave an overview of citizen's rights in the European Community. In his discussion, he analyzed the position of citizens concerning their relationship with Community institutions and with the Member States themselves.

The panel concluded with agreement that international bodies and states must find effective instruments under the law to protect individual liberties and cultural heritage.

CLOSING CEREMONY

October 4, 2001

A week of stimulating debate and spectacular evening events concluded with the passing of resolutions adopted by the 20th Biennial Conference delegation. **Itzhak Nener**, WJA Honorary President and Chairperson of the Resolutions Committee (Israel), presented the declaration and resolutions as drafted by the members of the Committee. The Committee consisted of the following individuals: **Ivo Greiter** (Austria), **Ved**



Nanda (USA), **Itzhak Nener** (Israel), **Wolfgang Schulz** (Germany), **Hans Thümmel** (Germany), and **Deon Van Zyl** (South Africa). Resolutions were

passed concerning issues related to the September 11 attacks, international crime, alternative dispute resolution, aging and the law, employment, technology, women and children, and local government democracies.

Following the passing of the resolutions, panel rapporteurs were called upon to deliver brief reports on the work accomplished during each of the panel sessions

throughout the week. Portions of these reports can be found throughout this newsletter.

In addition to a summary of the Conference activities, delegates heard special messages from the **President Leonid Kuchma** of Ukraine and the President of the Independent College of Business and Administration, **Dr. Tadeusz Kozluk** (as read by **Beata Waliszewicz**). In the latter message, Dr. Kozluk invited WJA members



to a series of seminars in Warsaw to follow up on the successful Conference that the WJA co-hosted there in June of 2001.

Finally, the Closing Ceremony concluded with recognition of the newly-elected Board of Governors and the presentation of awards and gifts to **Prof Dr. Hans Thümmel**, newly-elected WJA President (Germany) and **Margaret Henneberry**, WJA Executive Vice President (USA). Prof. Dr. Hans Thümmel addressed the delegation as the new WJA President and urged everyone to use the law to develop solutions to end the violent disputes that are occurring around the world today. He stated that the WJA has the willpower and the legal resources to mount an international effort to promote peace through the Rule of Law.



DUBLIN CASTLE RECEPTION

October 4, 2001

The Conference concluded with an invitation to a reception at Dublin Castle hosted by **Mr. Michael McDowell S.C.**, Attorney General of Ireland and **Mr. John O'Donoghue**, Minister of Justice of Ireland. In addition to words of encouragement and support from the government of Ireland, delegates had the privilege of viewing the magnificent state rooms of Dublin Castle, a special treat arranged just for WJA members.



SPECIAL APPRECIATION

The World Jurist Association and its Board of Governors would like to express its sincerest appreciation to all those who dedicated their time and energy to ensure the success of the Twentieth Biennial Conference on the Law of the World. We would especially like to thank the following individuals and offices: the **Robert Bosch Foundation of Germany**, the **Supreme Court of Ireland**, the **Supreme Court of Northern Ireland**, the **Ministry of Justice**, the **Attorney General's Office**, the **Lord Mayor of Dublin**, the **Lord Mayor of Belfast**, the **Law Society of Ireland**, the **Law Society of Northern Ireland**, the **Bar Council of Ireland**, the **Courts Service of Ireland**, the **Diplomatic Corps at the Foreign Embassies**, **Aer Lingus**, **Citywest Hotel**, **St. Patrick's Cathedral**, the **Irish Tourist Board**, and **Ovation Group**.

In addition, we would like to thank **Manuel and Charo Alonso** who worked tirelessly during the Conference as well as **Margaret Diaz** who worked with our delegates throughout the year in obtaining hotel and travel accommodations. Many thanks go out to **Jürgen and Veronica Kleffner** for volunteering year after year to help support the WJA. The same can be said for **Andrew Gareleck** who can always be depended upon to assist with the Conference Report and organization of the panel sessions. This year, we were fortunate enough to have **Sona Pancholy**, former Program Director of the WJA, graciously offer her time and experience throughout many facets of the Conference. Finally, we would like to thank the following individuals who contributed to this report: **Ken Allread**, **Alexander Bélohlaček**, **Enrica Ghia**, **Leslie LoBaugh**, **Ann Soden**, **Paul Tobias**, and **Joe Van Eaton**.

In conclusion, we would like to thank all of our members throughout the world who have supported us and our mission over the 38 years of our existence. Furthermore, a special thanks goes out to the spouses and guests of the Dublin / Belfast delegates who volunteered their time to our staff throughout the Conference. We certainly hope to see many of you in Sydney and Adelaide in 2003 for the 21st Biennial Conference on the Law of the World. In the meantime, please look for information in the next issue on our upcoming Conferences in Madrid and Stuttgart.

WJA SEMINAR IN BUDAPEST

October 8-9, 2001

CONFERENCE REPORT

Immediately following the 20th Biennial Conference in Dublin and Belfast, **Dr. Pablo Horvath** (Argentina) and **Dr. George Bán**, WJA National President for Hungary, convened a seminar in Budapest. The Seminar entitled, "Hungarian and International Tendencies in the Enforcement of Patent Law", took place in the Assembly Hall of the Supreme Court of the Republic of Hungary.

Dr. Pál Solt, President of the Hungarian Supreme Court, served as Host and Chairman of the Seminar along with **Dr. Ibolya Dávid**, Minister of Justice of Hungary.

The Seminar proved to be a great achievement with a large audience of judges and international jurists.

Internationally-acclaimed professors of law served as lecturers during the Seminar. Among the distinguished speakers were professors from Max Planck Institute for Foreign and International Patent, Copyright and Competition Law (Germany) and from

Kenneth J. Germeshausen Center for Law of Innovation and Entrepreneurship (USA). **Dr. Irme Vörös**, former Constitutional Court judge of the Republic of Hungary, also honored the delegates with his captivating lecture.

Topics ranged from fair and equitable procedures under the TRIPs Agreement to patent law in the EU, the US, and Latin America. In addition to learning about intellectual property issues, delegates enjoyed continuing their conversations over a dinner arranged especially for them. The audience showed such interest in the Seminar activities that the written materials are currently being translated and will be distributed among the participants shortly.

The Board of Governors of the WJA would like to thank **Dr. Horvath**, **Dr. Bán**, **Dr. Solt**, and **Dr. David** for organizing this successful conference and for their continued support. We would also like to thank **Dr. Judit Descov** for this report.

MEMBER NEWS



The WJA is pleased to announce that **Prof. Giorgi Intskirveli**, Tbilisi University (Georgia), has been awarded the Scientific Achievement Award by the Board of Directors of the American Biographical Institute. He was recognized for his excellent performance in the legal field. Congratulations!

Borislav Tsekov, WJA National President for Bulgaria, has been elected a member of Parliament of the Republic of Bulgaria. He is a member of the majority parliamentary faction National Movement "Simeon Vtori" and will serve on standing committees on legal affairs and European integration. Best wishes in your new post!

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20TH BIENNIAL CONFERENCE ON THE LAW OF THE WORLD

CONFERENCE VIDEOTAPE

(NOT AVAILABLE)

A commemorative video of the Dublin / Belfast Conference highlights and special events is available for ~~US\$40.00~~ through the WJA Headquarters office courtesy of Drew Stamps, Conference videographer.

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