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International Law for the Future

NYU LAW'S LEADERSHIP IN INTERNATIONAL LEGAL STUDIES is universally acclaimed. The Law School's first-rate faculty continue to build the intellectual foundations for the international and national legal rules and institutions needed in the 21st century. The new Institute for International Law and Justice, with its extraordinary set of research centers, programs, and innovative degree structures, consolidates the collective enterprise of the permanent and global faculty, an impressive group of specialist J.D. and graduate students, and dynamic visiting researchers. Alongside the highly successful Jean Monnet Center for International and Regional Economic Law & Justice, NYU Law this year launches the Center for Human Rights and Global Justice, the Program in the History and Theory of International Law, and the Research Program on Legitimacy and Democracy in International Governance, administered by the new Institute. These initiatives build on the Hauser Global Law School Program's pioneering transformation of legal education, and further strengthen NYU Law's leading role in research on global legal issues and the training of lawyers for a globalized world.

International Law at NYU

Should United States courts grant redress to Holocaust survivors or their families against German industries for profits made from slave labor under the Nazi regime? NYU Law Professor Burt Neuborne and Law School trustee Melvyn I. Weiss ('59) worked indefatigably on these claims, ultimately negotiating the establishment of a \$5 billion trust fund that is now making payments to thousands of elderly survivors. If even Holocaust-era claims are within the jurisdiction of U.S. courts in general, are there nevertheless foreign governmental entities that, for international legal and policy reasons, should have immunity from U.S. court proceedings, in the same way that the U.S. government would expect to claim sovereign immunity from certain proceedings in foreign courts? International civil litigation experts Professors Andreas Lowenfeld and Linda Silberman have been involved in arguing some of these cases. The more recent atrocities in Yugoslavia are being litigated in the International Court of Justice, where Professor Thomas Franck is arguing that the war-ravaged state of Bosnia is entitled to compensation from the new democratic government of Serbia-Montenegro for genocide committed under the former Serbian government of Slobodan Milosevic. The latest anti-U.S. terrorist attacks have led to Professor David Golove's work on the problem of how much power the U.S. President has to establish Military Commissions to try suspected terrorists. He makes the important claim that the Constitution itself defines the scope of the President's war powers by reference to the international law of war. He argues the President has no constitutional authority to establish tribunals that fail to live up to international law standards.

These are the kinds of problems that will be central to the work of lawyers in the 21st century, drawing together national law, international law, and issues of national and global governance. They require international legal rules, and the design of international legal institutions, that are integrated with national law and policy but have global applicability and legitimacy. NYU Law's international law program tackles these problems. Its superb

faculty combines robust, theoretically driven research with a practical commitment to finding legal and policy solutions.

NYU Law transformed legal education and research agendas through the Hauser Global Law School Program, bringing together a global faculty and a global student body, and introducing transnational and comparative dimensions throughout the curriculum. This year marks the next major step in the Global Law School initiative with the formation of the Institute for International Law and Justice. This new Institute is the focal point for research, innovative policy ideas, and rigorous academic training on specific international law dimensions of the globalization of law. It brings a concentrated focus on the traditional intergovernmental techniques for making and enforcing law between states, and on the problems of adapting or remaking this traditional system to provide an architecture to meet the new demands of global governance. International

law is a special component in the growth of global law and the management of globalization, requiring distinctive expertise among professors that can be passed on in the training of future practitioners, policymakers, and scholars.

The creation of the Institute for International Law and Justice is a further instance of the vision animating the Global Law School initiative: that simply training tomorrow's lawyers and leaders in national and local law is not adequate for a future of global law and global policy problems. The Institute further enriches the remarkable intellectual environment already created through the Hauser Global Law School Program. With faculty and students from all over the world, and extraordinary opportunities to get involved in practical problems through research programs, internships, colloquia, and symposia, NYU Law provides unparalleled education and training for students who will work on the future problems of global governance. ■

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and training for students who will work
on the future problems of global governance.**



(l-r): Joseph Weiler, Philip Alston, Benedict Kingsbury, Kirsty Gover, David Golove, and Mattias Kumm of NYU Law's Institute for International Law and Justice

NYU Law Launches Institute for International Law and Justice (IILJ)...

The new Institute for International Law and Justice organizes collective research projects, policy work, and academic and practical training initiatives conducted by the stellar group of faculty working on international law questions at NYU Law.

The Institute oversees:

- A new multi-year research project on legitimacy, democracy, and justice in international governance

- A unique four-year J.D.-LL.M. program for potential international law professors and other specialists
- A postgraduate fellowship linking an LL.M. and doctoral (J.S.D.) dissertation in international law
- The new weekly “Globalization and Its Discontents” colloquium
- Courses on conceptual approaches to international law research and pedagogy

- Post-doctoral fellowships
 - An extraordinary array of Law School-funded internships and clerkships
- Professor Benedict Kingsbury directs the Institute. Its Executive Committee includes Professors Philip Alston, David Golove, Mattias Kumm, and Joseph Weiler. Other faculty actively involved include Professors Vicki Been, Paul Chevigny, Jerome Cohen, Rochelle Dreyfuss, Eleanor Fox, Thomas Franck, Stephen Holmes, Andreas Lowenfeld, Theodor Meron, Liam Murphy, Linda Silberman, Richard Stewart, Frank Upham, and Katrina Wyman, as well as several Global Faculty members. The Institute’s first full-time Fellow is Kirsty Gover. ■

...and New Centers and Programs

Along with and as part of the Institute, the Law School has established an IILJ research project, and three thematic centers and programs in international law:

- The Center for Human Rights and Global Justice, directed by Professor Philip Alston
- The Jean Monnet Center for International and Regional Economic Law & Justice, directed by Professor Joseph Weiler
- The Program in the History and Theory of International Law, directed by Professor Benedict Kingsbury

Planning is also underway in the Institute for programmatic initiatives in private international law (directed by Professors Linda Silberman and Andreas Lowenfeld) and the relations between international law and national law (directed by Professors David Golove and Mattias Kumm).

Centers and Research Programs

IILJ Research Program on Legitimacy and Democracy in International Governance

The Institute for International Law and Justice has launched its centerpiece research program on Legitimacy and Democracy in International Governance, which aims to trace and model the emerging structures of international governance to assess their

present and future strengths and problems. This research agenda reflects the overlapping interests and research priorities of the newly hired faculty who are members of the Institute’s Executive Committee, and integrates the work of NYU Law Professors Stephen Holmes, Larry Kramer, Richard Pildes, and Richard Revesz, among others.

To launch the Research Program, the Institute will host a two-day workshop in October 2002, entitled “Legitimacy, Democracy, and Justice in International Governance.” Bringing together leading figures in international law, international relations, and political philosophy, the aim of the workshop is to collectively rethink concepts of democracy and justice as they relate to international governance.

The group of highly original scholars who will participate includes (in addition to the NYU faculty) Eyal Benvenisti (Tel Aviv), Francesca Bignami (Duke), Gráinne de Búrca (European University Institute), David Caron (Berkeley), Andrew Hurrell (Oxford), Robert Keohane (Duke), Martti Koskenniemi (Helsinki), Andrew Moravcsik (Harvard), Philip Pettit (Princeton/ANU), Robert Howse (Michigan), Miguel Maduro (Lisbon), Kalypso Nicolaidis (Oxford), Michael Reisman (Yale), Charles Sabel (Columbia), Bruno Simma (Michigan), Beth Simmons (Berkeley), Anne-Marie Slaughter (Princeton), and Neil Walker (European University Institute).

Working papers and details of the ongoing Research Program will be posted on the Institute for International Law and Justice Web site as they become available.

Jean Monnet Center for International and Regional Economic Law & Justice

The Jean Monnet Center for International and Regional Economic Law & Justice was established at NYU Law during the Summer of 2001 by Professor Joseph Weiler. The principal purpose of the Center is to foster cutting-edge scholarship on issues of international, European, and other regional law and policy with a particular emphasis on issues of regional and global governance and on social and economic justice. The new NYU Center has two foci for its intellectual activities. The first is the European Union, its institutions, policies, and legal system. The Center hopes to be the premier location in North America for a critical exploration of European law conceived in its broadest terms and the future of the European Union. The second is the broader universe of international and regional economic law. The Center wishes to insert itself into the ongoing academic and political debate about globalization by exploring both the virtues and vices of globalization and its attendant legal regimes. Exploring the tensions between the legal disciplines of free trade and competing social and human values, as well as national sovereignty will be at the core of the academic mission of the Center.

The most precious element of the Jean Monnet Center is the annual group of Emile Noël Fellows. Fellows range from Ph.D. candidates to senior academics and public officials. Other elements include public lectures and workshops. Here are some highlights of the research and researchers in 2001-2002:



INSTITUTE FOR INTERNATIONAL LAW AND JUSTICE

NYU LAW

Centers and Programs

Center for Human Rights and Global Justice
Director: Philip Alston

Jean Monnet Center for International
and Regional Economic Law & Justice
Director: Joseph Weiler

Program in the History and Theory
of International Law
Director: Benedict Kingsbury

Research Program on Legitimacy and
Democracy in International Governance
Directors: Philip Alston, Benedict Kingsbury,
Joseph Weiler

Degree Programs

J.D.-LL.M. in International Law
Director: David Golove

LL.M.-J.S.D. in International Law
Director: Mattias Kumm

Institute Special Seminars and Colloquia

Globalization and Its Discontents Colloquium

Advanced Monthly International Law Seminar

Junior and Graduate Fellows Institute Seminar

LL.M. International Law Thesis Course

Pedagogy and Methodology of International
Law Seminar

Jean Monnet Seminar on International Law
and Democracy

History and Theory of International Law
Seminar

Advanced Human Rights Seminar

International Litigation Seminar

Faculty

Director: Benedict Kingsbury

Executive Committee: Philip Alston, David
Golove, Mattias Kumm, Joseph Weiler

NYU Faculty Associates: Vicki Been, Paul
Chevigny, Jerome Cohen, Rochelle Dreyfuss,
Eleanor Fox, Thomas M. Franck, Stephen
Holmes, Andreas Lowenfeld, Theodor Meron,
Liam Murphy, Linda Silberman, Richard
Stewart, Frank Upham, Katrina Wyman

Institute Fellow: Kirsty Gover

Events

Inaugural Institute Conference: Democracy,
Legitimacy, and Justice in International
Governance, October 3 and 4, 2002

Conference in Honor of Thomas M. Franck:
International Law and Justice in the 21st
Century: The Enduring Contributions of
Thomas M. Franck, October 5, 2002

Internships and Clerkships

U.N. International Law Commission Internships

Office of the U.N. High Commissioner for
Refugees Internships

International Criminal Tribunal for Rwanda
Internships

Hague Conference on Private International
Law Internships

International Court of Justice Traineeships
(postgraduate)

Furman Human Rights Fellowships
(postgraduate)

Other summer internships, international
clerkships, and fellowships

Lasia Bloss, Ph.D. candidate at the University of Trier Institute for Legal Policy in Germany and Teaching Fellow in the Jean Monnet Program, explored state-church relationships in certain European Union Member States while putting special focus on the corporate element of freedom of religion. **Philipp Dann**, a post-doc, focused on questions of European parliamentary democracy, more specifically examining the interplay between federal structures and the parliamentary organs of the European Union. A basic idea was to compare the EU with the U.S. Congress, thereby showing parallels between these two legislatures in federal and non-parliamentary systems. **Jürgen Kurtz** is a Lecturer in the Law School of the University of Melbourne. Prior to arriving at NYU, Kurtz undertook a consultancy on behalf of AusAID (the Australian aid agency) in Vietnam to advise on Vietnam's ongoing accession to the World Trade Organization (WTO) and its recently signed bilateral trade agreement with the U.S. As an Emile Noël Fellow, he focused on the failure of the OECD Multilateral Agreement on Investment and prospects for a comprehensive investment agreement in the WTO. **Stefania Ninatti** is Assistant Professor at the University of Milan. During her fellowship, she researched the notion of democracy in the case law of the European Court of Justice. **Joost Pauwelyn**, on sabbatical leave from the Legal Affairs Division of the WTO and recently appointed as Associate Professor of Law at Duke Law School, focused his research on the law of the WTO. He prepared a paper on the nature of WTO obligations and a book chapter on the "Application of Public International Law in WTO Dispute Settlement." He also finalized an article on "Cross-agreement complaints before the Appellate Body: A case study of the EC-Asbestos dispute" (published in the first issue of the *World Trade Review*). **Imola Strehö**, Ph.D. candidate at University of Paris II, conducted her research as an Emile Noël fellow on the notion of services in European Community (EC) law, which while constituting one of the EC fundamental freedoms, is not well explored. The focus of her research has been comparing American and European notions of services. At NYU Law, she was also the Executive Director of the Jean Monnet Center. Strehö gave lectures at the College of Europe in Natolin, Poland.

Renée Haferkamp Emile Noël Distinguished Fellow



Renée Haferkamp

Renée Haferkamp, Emile Noël Distinguished Fellow at the Jean Monnet Center, organized in cooperation with Professors Joseph Weiler and Martin Schain the seminar “The Futures of Europe: Ideas, Ideals, and Those Who Make Them Happen.” The former Director General of the European Commission, Haferkamp has participated in all the important milestones in the development of the European Union, from the period of Paul-Henri Spaak and Jean Monnet to Jacques Delors and Romano Prodi. She has been a lecturer at the Université de Paris-Sorbonne and visiting professor at a number of other European universities; a fellow at the Weatherhead Center for International Affairs at Harvard University in 1994; a Fulbright Scholar at the William Fulbright College of Arts, University of Arkansas, in 1996; and a European Scholar at the University of Massachusetts in 1998, as well as an Emile Noël Fellow at Harvard Law School in 1998 and 1999. In 2000 and 2001, Haferkamp was a Senior Associate at the European Union Center at Harvard University where she organized the lecture series “Visions for European Governance/EU Agenda Seminar,” cosponsored by the Minda de Gunzburg Center for European Studies, the Weatherhead Center for International Affairs, the John F. Kennedy School of Government, Harvard Law School, and Harvard Business School.

Xuejun Xie, Corporate Counsel at Yahoo! China, focused his research on China’s accession to WTO and the issue of compatibility between state ownership and trade liberalization. His study explored ownership issues in WTO laws—state trading, subsidies, and the like. The results of the Fellows’ research may be found in the Working Paper Series section of the Center’s Web site at www.jeanmonnetprogram.org.

During the Spring, the Jean Monnet Center, with the collaboration of the Center for European Studies (CES) at NYU, hosted a seminar series on The Futures of Europe: Ideas, Ideals, and Those Who Make Them Happen. The direct context of the series was the 2002 Convention for the Future of Europe—quickly dubbed by many as the “European Philadelphia,” and widely referred to as the European Constitutional Convention. The principal idea behind the seminar series was to invite key constitutional figures—major leaders, albeit no longer in office (so that they could speak freely without worrying about tomorrow’s election), and yet actively involved both in the past and the future of Europe. One of the themes addressed at length by all invitees has been the current state and future of

U.S.-European Union relations. The guests were asked to arrive without a speech and interviewed, Charlie Rose–style, by the panel of organizers, consisting of Professor Weiler, Professor Martin Schain (Director of the CES), and Renée Haferkamp (Emile Noël Distinguished Fellow at the Jean Monnet Center). The series was opened by former President Bill Clinton, who spoke about his perceptions of and experiences with Europe and the general context of world governance today. Other guests during the semester included former Prime Minister of Portugal António Guterres; Former Prime Minister of Italy and the current Vice President of the Convention on the Future of Europe Giuliano Amato; former Secretary General of the North Atlantic Treaty Organization (NATO), Belgian Foreign Minister Willy Claes; and former President of France and the current President of the Convention on the Future of Europe Valéry Giscard d’Estaing (see related sidebar on page 58). The series will continue in the Fall with guests expected to include former Prime Minister of Denmark Poul Nyrup Rasmussen, former President of Germany Richard von Weizsäcker, former Polish Foreign Minister Bronislaw Geremek, and the President of the Commission of the European Union, Romano

The 2002-2003 Jean Monnet Center Emile Noël Senior Fellows

Professor Francesca Bignami teaches European Union law, comparative public law, and administrative law at Duke Law School. While visiting at the Jean Monnet Center, Bignami will be conducting research on the impact of the European Union on national systems of constitutional and administrative law.

Professor Iulia Motoc, a former judge, teaches at the University of Bucharest and serves as the Scientific Director of the Romanian Diplomatic Academy. She is Special Rapporteur of the U.N. Commission on Human Rights for the Democratic Republic of Congo and a member of the U.N. Sub-Commission on the Promotion and Protection of Human Rights. At the Jean Monnet Center, she will work with Professor Joseph Weiler in the area of democracy and international law.

Dr. Anne Orford is a Senior Lecturer in the Law School at the University of Melbourne. She does research in the areas of human rights, international economic law, postcolonial theory, and feminist legal theory. She is currently completing work on a book about humanitarian intervention and its aftermath to be published by Cambridge University Press in 2002. While visiting the Jean Monnet Center, she will further her research on the relationship between free trade, human rights, and democracy.

Professor Ayelet Shachar teaches at the Faculty of Law at the University of Toronto. She has written extensively on group rights, gender equality, citizenship theory, and immigration law. She is the author of the award-winning book *Multicultural Jurisdictions: Cultural Differences and Women’s Rights* (Cambridge University Press, 2001).

Prodi. A special invitation has been extended to European Commissioners Pascal Lamy and Mario Monti who preside over the two most sensitive legal portfolios in the troubled U.S.-EU relationship—trade and competition (antitrust).

Program in the History and Theory of International Law

This program encourages scholarship and teaching on topics in the history and theory of international law that are vital to deepening an understanding of the field. The premise of the program is that the

future development of international law depends on sustained theoretical work, including careful historical study, and that collective efforts are needed to enhance worldwide research and teaching in these areas. The program holds periodic conferences and workshops, sponsors a refereed

working paper series with print and Internet distribution, hosts visiting fellows (including faculty from other disciplines and post-docs), supports research and publications, provides a center that brings together people interested in these fields, and each year offers a set of courses in these areas at the Law School. The program is directed by Professor Benedict Kingsbury, in cooperation with Hauser Global Law Professor Martti Koskenniemi. Additional courses are taught periodically by Professors Thomas Franck, David Golove, Mattias Kumm, Liam Murphy, and Joseph Weiler, as well as Global and adjunct faculty. Regular participants in program activities include Professors Philip Allott (Cambridge), Nathaniel Berman (Brooklyn Law School), Andrew Hurrell (Oxford), Karen Knop (Toronto), and Masaharu Yanagihara (Kyushu).

Taken as a whole, the program's activities and courses enable J.D. and graduate students specializing in international law, together with visiting fellows, to pursue sustained exploration of historical and theoretical issues with like-minded colleagues and faculty. The unusual strength and range of NYU Law's course offerings in these areas reflect both the depth of scholarly interest in this program and the rarity of such a commitment in international law education, which tends to be dominated by more contemporary policy concerns. Courses offered in 2002-2003 include Professor Benedict Kingsbury's Fall seminar on the history and theory of international law, focusing on modern implications of ideas developed during the period 1500-1870 (Francisco de Vitoria, Albercio Gentili, Hugo Grotius, Thomas Hobbes, Samuel von Pufendorf, Emerich de Vattel, Jean-Jacques Rousseau, Immanuel Kant, etc.); Professor Martti Koskenniemi's follow-up Spring course on the intellectual history and politics of international law from 1870 on; Professor Thomas Franck's seminar on *The Empowered Self: Law and Society in the Age of Individualism*; Professor Joseph Weiler's seminar on *International Law and Democracy*; and Hauser Global Law Professor Radhika Coomaraswamy's seminar on *Gender, Ethnicity, and the Law*. For further information, visit the Program's Web site, reached through the homepage of the Institute for International Law and Justice.

In Conversation With Valéry Giscard d'Estaing

During the Spring semester Valéry Giscard d'Estaing, former President of France and current President of the Convention on the Future of Europe, visited the Jean Monnet Center and spoke on "The Futures of Europe." The following is an excerpt.

NYU Law: *Until now, when Europe deliberated its future, it was done through an Intergovernmental Conference composed of representatives of all governments. Now you not only preside over a convention composed of government representatives, but also members of the European Parliament, national parliaments, and even the candidate member states. It also has a different procedure—more deliberative, more transparent, more consultative. Why the change?*

President Giscard d'Estaing: There was a general belief among the leaders and the governments that a new intergovernmental conference would produce few results because the last IGC in Nice had been very frustrating. This was because the debate was, again, a nationalistic debate. It was not a European debate. If you look at what the heads of governments said when they came back to their capitals, they didn't say, "We improved the European system." Not at all. They said that we gained this and that for our country. The British said, "We opposed the fact that the taxation system could be communized." The French came back saying that the public service would be protected. The Germans said that some of their national interests were defended. So everyone was fighting for nationalistic results.

There are particular features to an intergovernmental conference. First, it's a diplomatic process not a political process. It is conducted by the Ministers of Foreign Affairs. In diplomacy you try to gain at the expense of the others. If you want to stay in history, you say, "I got very good results for my country and we got it at the

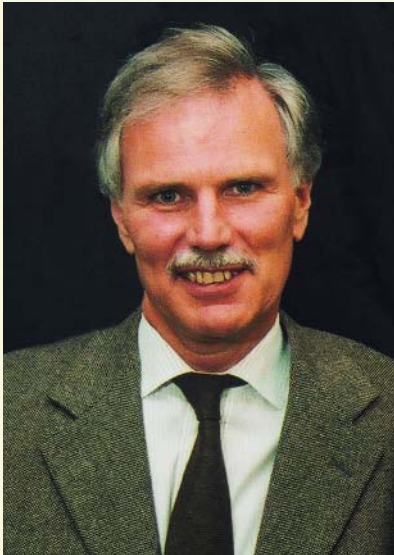
expense of the others." So it is a game in which there are winners and losers. When you have at the same time the unanimity rule, it cannot function because you cannot have many losers in the system with the unanimity rule because the losers will not accept your proposal. We had an example of this problem at the last meeting at the Laeken European Summit. The agenda included the question of the location of some European agencies—one for the protection of our health and food and the other for protection from danger on the sea due to possible accidents. For each agency, there were several candidates. For food and health, you had Italy and Finland. For security on the sea and seashore, you had France and Portugal. It was impossible to find an agreement. They spent hours on this issue and found no agreement because the Finns said, "No, we will not accept the decision." The Italians said, "Parma is a very good location, so it will be in Parma." The French said, "All the accidents are on the French coasts, so it is normal to have the agency in Nantes, in Bretagne." But the Spanish pointed to their own interests. There was no decision and there are no agencies. Now, under the Spanish Presidency of the Union, I spoke with Jose Maria Aznar, the Prime Minister of Spain. He said to me, "I will not even put the question on the agenda. It's useless. We cannot reach a decision."



NYU Law students with Valéry Giscard d'Estaing (far right)

Building a Center for Human Rights and Global Justice

An Interview With Professor Philip Alston



Philip Alston joined NYU Law's faculty this past Spring. Alston is an internationally recognized expert in human rights law and comes to NYU from the prestigious European University Institute in Florence. He will teach a range of courses in human rights, international organizations, and international law. In addition to continuing to act as Editor-in-Chief of the *European Journal of International Law*, he will head up a new NYU Law Center for Human Rights and Global Justice.

NYU Law: *Is this NYU Law's first major foray into human rights?*

Alston: Not at all. In many ways, the new Center represents an effort to capitalize on NYU's extraordinary record in this field. The work done by Norman Dorsen, Burt Neuborne, Sylvia Law, and many others put NYU at the forefront of domestic civil liberties work and the lineup has been equally impressive at the international level. Ted Meron, now a Judge at the International Criminal Tribunal for the former Yugoslavia but still an active member of our faculty, Paul

Chevigny, Tom Franck, Benedict Kingsbury, and Donna Sullivan have all given NYU a very strong profile in the area. And a wide range of Hauser Global professors, including Richard Goldstone, Georges Abi-Saab, Radhika Coomaraswamy, Joe Oloka-Onyango, Ratna Kapur, and Hilary Charlesworth have brought immense insight and experience into the human rights lineup at the Law School.

NYU Law: *So what's new about the Center?*

Alston: Well, three things. The first is the emphasis on global justice and thus on the human rights dimensions of issues around the theme of globalization. The second is an emphasis on an interdisciplinary approach that will involve economists, sociologists, development specialists, anthropologists, and others in the Center's activities. The third, and in some ways the most important, will be the emphasis on research and scholarship.

NYU Law: *Will the Center be an activist one?*

Alston: It will be very active, but "activist" is not the right word. I see the human rights field as being at a crossroads. In its foundational phase it was driven largely by activism and an unwavering commitment to clear principles. Without that activism the field would not have achieved the prominence, relevance, and support that it enjoys today. But the essential next phase—in an era of globalization and post September 11—must be characterized by a greater effort to consolidate and develop the intellectual and institutional foundations of the field. So for us, cutting-edge research and writing will be the key. The Center aims to establish NYU as an intellectual leader in the field and as a particularly valuable resource in support of the national and international communities' efforts to better understand the policy implications of emerging human rights challenges. As a result, NYU

graduates will be better placed to cater more effectively to the needs of governments, international organizations such as the U.N., and NGOs, all of which are actively looking for lawyers who are capable of undertaking sophisticated legal analyses of new and very complex issues.

NYU Law: *How will the Center work?*

Alston: We will identify one or maybe two major themes each year, organize an advanced research seminar around that topic, involve students in writing papers, eventually have a couple of senior research fellows in residence, and we will bring all of this work together in an annual public conference which will lead to working papers on the Internet and a volume of essays. The topics will have a clear policy focus and the emphasis will be on helping to move the human rights agenda forward through first-rate scholarship.

NYU Law: *What are the new issues that the Center will be dealing with?*

Alston: Work has already begun on two issues. A volume of essays on corporate human rights responsibilities is under way, with some of the key scholars in this field involved. And the first annual conference, which will also serve to launch the Center, will take place in Spring 2003 on the topic of the World Bank and Human Rights. The Bank is a key player and it is heavily involved in an array of human rights issues, but it lacks a coherent and manageable policy. We will get the leading scholars and practitioners together to work in probing and creative ways.



Center for Human Rights and Global Justice

The NYU Law Center for Human Rights and Global Justice will be launched in the coming year under the directorship of Professor Philip Alston, who in 2002 joined NYU's faculty from his position as Professor of International Law at the European University Institute (EUI) in Florence, Italy. Building on NYU's excellent existing teaching, clinical, and public interest programs, the Center will initiate a long-term research program, a working paper series, and a number of new seminars. The Center will offer fellowships for advanced research at NYU and will host an annual workshop with invited scholars to advance cutting-edge thinking and research on human rights issues.

Substantive areas of focus for the Center will include the role of international financial institutions in the promotion of human rights; the impact of globalization on human rights; terrorism and human rights; non-state actors and human rights; human rights responsibilities of corporate actors; and human rights in the contexts of trade, labor, and distributive justice.

New Degree Programs

To build on the momentum in international law scholarship established at NYU by distinguished senior faculty, the Law School announces the creation of two special degree programs in international law this year. These programs harness the energies of faculty and student activity in international law at NYU, and are a central part of the constellation of new programmatic initiatives that will be managed by the Institute for International Law and Justice. Admitted students receive special training in international law with particular emphasis on scholarship and research, and are expected to go on to make a significant contribution to the field as international law teachers or advisers. These programs are the first of their kind, signaling a new phase in NYU's long tradition of scholarly distinction in international law.

J.D.-LL.M. Program in International Law

A unique and innovative addition to NYU Law's academic programs is the four-year J.D.-LL.M. for students seeking special academic expertise in international law. This highly selective program unites a J.D. degree with a one-year Master of Laws degree

Seminar in International Litigation

International Litigation, a seminar taught by Professors Andreas Lowenfeld and Linda Silberman, explores in a litigation context current developments in international law (public and private), civil procedure, international arbitration, and comparative law and procedure. The seminar is extremely popular and is known for its innovative format, in which students work together in teams to prepare oral arguments on current cases and deliver these arguments in front of a "court" of their classmates. The seminar attracts both U.S. students and foreign-trained lawyers and much use is made of the variety of international perspectives represented by a diverse student group.

International Litigation: A Student's View From the Bench and the Bar

JORDAN ROSENBAUM ('03)

International litigation is an expansive and intricate field of law that requires an understanding of domestic and foreign procedure, a grasp of foreign affairs and politics, knowledge of languages and cultures, world-class and motivating mentors, and most important, the opportunity to study and practice with a foreign-trained lawyer. The NYU Law seminar in International Litigation, taught by Professors Lowenfeld and Silberman, gave me the unique opportunity to learn what it means to be an international litigator and jurist, and allowed me to interact on an academic level with the foreign-trained LL.M. students who attend NYU Law.

In the course of the seminar I was transformed from a second-semester 2L into an international litigator. An Austrian LL.M. student, Sascha Salomonowitz, and I represented a French watchdog group named LICRA against the multinational corporation Yahoo! in a mock trial based on current litigation going on in the Ninth Circuit. Sascha and I did extensive legal research on the issues that the case presented, and together we drafted a brief that we later argued before a "ninth circuit court" made up of other LL.M. and J.D. students from the class. Working with a foreign-trained lawyer gave me an experience that few law students have had, as we both learned from each other's knowledge of our respective legal systems and gained a deeper appreciation for the law and how it functions in the global arena. During the seminar, I also had the opportunity to step into the shoes of a Second Circuit judge. After my fellow classmates argued an emotional current case involving Holocaust survivors and the national railroad of France, I found myself in the difficult, yet stimulating position of drafting a judicial

opinion based on the legal arguments presented by my classmates.

The seminar gave me the confidence and the knowledge I needed to have a successful experience as a Summer Associate at an international law firm, and allowed me to interact with people from around the world who will not only become my colleagues, but who became my friends.

International Litigation: A Civil Law Trained Student's Perspective

SASCHA SALOMONOWITZ (LL.M. '03)

Motivated by a strong interest in international litigation, I knew that the seminar taught by Professors Lowenfeld and Silberman was a natural choice for my curriculum. The first part of the course was devoted to lively and insightful class discussions of various procedural and substantive aspects of international litigation, which were led by two professors who are outstanding experts in that field. Following that, each foreign-trained student was paired with a J.D. student to prepare briefs and argue a case. All the cases were modeled on actual, pending litigation.

Working with Jordan was a great experience. Our different approaches and backgrounds merged in a highly productive way, and we particularly benefited from the ability to research material from U.S. and European databases. The use of a wide range of sources invariably enhances the quality and the persuasiveness of arguments, especially in novel cases with possibly far-reaching consequences. Moreover, our views regarding freedom of expression, hate speech regulation, and world-wide jurisdiction of national courts provided us with an invaluable opportunity to learn from each other and made the preparation of the brief and the oral argument a true cross-cultural experience.

(LL.M.), combining in-depth scholarship and publication with fellowship activities including academic colloquia and funded internship and clerkship programs at international courts and organizations which may include the International Court of Justice, the U.N. International Law Commission, and the Office of the U.N. High Commissioner for Refugees. Students are made Junior Fellows of NYU's Institute for International Law and Justice, and are mentored by international law faculty throughout the four-year program. Graduates will have strong preparation for future careers as international law scholars, as well as for other specialist international law vocations. The program is directed by Professor David Golove.

LL.M.-J.S.D. Program in International Law

NYU also inaugurates this year a program in international law designed specifically for graduate students who are prospective or current international law teachers. The LL.M.-J.S.D. Program in International Law creates continuity between the LL.M. degree and the J.S.D. program for a small number of graduate students focusing on international legal scholarship. Those admitted will be made Graduate Fellows of NYU's Institute for International Law and Justice, and will be mentored during their LL.M. studies in the research and development of a dissertation proposal to facilitate their (non-guaranteed) entry into the J.S.D. program the following year. The program provides a fully integrated academic experience involving the presentation of research in conferences, working papers series, and workshops, along with funded internships and clerkships in international law. The program is directed by Professor Matthias Kumm.

Institute Special Seminars and Colloquia

The Institute for International Law and Justice sponsors a number of new special seminars and colloquia which complement and expand NYU Law's extensive international law curriculum. These provide for the in-depth exploration of a range of international law issues, and include the Globalization and Its Discontents Colloquium, the Pedagogy and Methodology of International Law Seminar, the Advanced Monthly International Law Seminar, the Advanced Human

Rights Seminar, the History and Theory of International Law Seminar, the Junior and Graduate Fellows Institute Seminar, and the Jean Monnet Seminar on International Law and Democracy. Some of these are described here.

Advanced Monthly International Law Seminar

One of the key activities of the Institute for International Law and Justice is a monthly high-level seminar on advanced international law issues for students and fellows affiliated with the Institute, interested NYU faculty, and international law specialists and academics from the New York area. Participants meet and share an informal dinner followed by a presentation by an invited speaker, based on a paper distributed in advance of the meeting, reflecting their current work in international law. Participants are invited to discuss the work and the aim is to provide critical feedback and to advance thinking in specific areas of controversy in international law. Progress made in these settings feeds back into the broader research agendas sponsored by the Institute, including research programs in the history and theory of international law, democracy and legitimacy in international governance, regional and international economic law, and human rights and global justice.

Junior and Graduate Fellows Institute Seminar

Junior Fellows and Graduate Fellows of the Institute for International Law and Justice attend a series of meetings at which they present full drafts of their research papers for discussion by a group of colleagues, faculty, and outside guests. The Institute Seminar is convened and chaired by faculty members of the Institute's Executive Committee, and discussions are often preceded by an informal dinner. On occasion, annual conferences will be held for wider discussion of Fellows' research.

Globalization and Its Discontents Colloquium

The Globalization and Its Discontents Colloquium provides a weekly forum in which scholars present papers that are discussed by students and faculty in a roundtable format. The colloquium is an initiative of the Institute for International Law and Justice and the Hauser Global Law School Program. In Spring 2002 the

Globalization and Its Discontents: A Student's Perspective

OLAMIDE OYEKUNLE (LL.M. '02)

Olamide Oyekunle graduated from the LL.M. program in International Legal Studies in May 2002. After completing her studies at Oxford University, she worked for three years with a leading law firm in London before coming to NYU Law. She is a qualified lawyer in England and intends to return to England to continue in private practice with an emphasis on international law.

I have to admit, that having enrolled in the course, I really did not know what to expect. I was aware that globalization was something which was happening and that its effects were manifested all around me, but wasn't sure I knew what the word really meant or why people, particularly the increasing numbers of disgruntled protesters outside the world economic summits, got so upset about it. As the semester progressed, the different contexts in which we examined the concept of globalization showed that it is a multifaceted phenomenon that has cultural, political, and economic dimensions and consequences.

On more than one occasion, we attempted to tackle issues of global justice and explored the question of whether an obligation exists to affect the redistribution of wealth between the rich and the poor and if so, what the basis of this obligation is and how it should be put into effect. In one seminar, we engaged in a lively debate with a former Prime Minister of Italy on the responsibilities of the powerful G8 group of countries, and had our often theoretical assumptions about the relationship between the few wealthy countries and the not so well off put to the test by the voice of practical experience.

What I particularly enjoyed was that every week students and professors grappled with how to find solutions to the myriad issues and conflicts thrown up by globalization. It seemed in some cases that even our proposed solutions would throw up problems of their own. It was exciting to be part of a class where we, the students, were given the opportunity to challenge the work of those who are leading intellectuals in their field.

Globalization Colloquium was convened by Professors Eleanor Fox and Benedict Kingsbury; the Spring 2003 organizers are Professors Kingsbury and Richard Stewart.

Over the semester, students, through class discussion and written work, consider in depth core theoretical issues such as: the meanings and usages of concepts of “governance,” “civil society,” “democracy,” and “accountability” in the context of increasing international interdependence; the significance of rising global inequality; relations between international and national law; arguments for and against regulation by formal institutions; the need for and prospects of international administrative law;

and unmet demands for justice and fairness at the global level. In 2002, guest speakers presented papers exploring specific issues such as the complex political and economic relationships involved in the development of a global climate change regime (Richard Stewart), the position of women in internationally governed post-conflict societies (Hilary Charlesworth), the roles and limits of international labor standards (Katherine van Wezel Stone) and of international antitrust regulation (Eleanor Fox), the claims of moral universalism in determining priorities for global justice (Thomas Pogge), the impact on international relations of courts and tribunals (Philippe

Sands), the geology of international governance (Joseph Weiler), the tensions in reconciling national constitutional democracy with general international law (Mattias Kumm) and with international human rights obligations (David Golove), and new strategies for the Global South (Andrew Hurrell) and for the G8 (former Italian Prime Minister Giuliano Amato) in seeking to increase the influence of global decision-making on the interests and needs of the South. Commentators included South African Constitutional Court Justice Albie Sachs, Columbia Law Professors Richard Briffault and Gerald Neuman, Yale Professor Carol Rose, and NYU Law faculty. ■

International Law Faculty

NYU Law has a long and distinguished tradition in international law. Elihu Root, Founding President of the American Society of International Law (1906-1907) and U.S. Secretary of State, was a leading alumnus, and the early faculty included Clyde Eagleton and other prominent scholars. The Law School's appointment of Thomas Franck in 1960, Andreas Lowenfeld in 1967, and Theodor Meron in 1978 charted the course for what has become an outstanding international law program. All three are members of the prestigious Institut de Droit International, all have recently argued different cases before the International Court of Justice, and all have served as prominent judges or arbitrators. They have published more than 50 books between them, and along with distinguished colleagues in special areas (see faculty profiles below), have trained thousands of students in international law. The Center for International Studies, founded by Thomas Franck in 1965, has provided fellowships enabling several hundred students to specialize in international law and has been a landmark institution in the study of the United Nations and problems of international legal order.

Professors Franck, Lowenfeld, and Meron have recently been joined by a new generation of outstanding international law professors at NYU Law. Since 1998, the Law



(l-r): NYU Law Professors Andreas Lowenfeld, Theodor Meron, and Thomas Franck

School has recruited four of the leading figures among established younger scholars—Philip Alston (international human rights), David Golove (constitutional law of foreign relations, and international justice), Benedict Kingsbury (public international law), and Joseph Weiler (European Union and international economic law)—along with exceptionally promising entry-level faculty such as Mattias Kumm (relations between international and national law and institutions) and Katrina Wyman (international environmental law). Building on the work of the senior faculty and other eminent colleagues, these scholars are launching innovative international law research centers and student programs. At the center of this enterprise is the Institute for International Law and Justice, which brings together the work of a wide range of faculty members involved in international law issues. Some of that faculty work is highlighted here.

Full-Time Faculty Working in International Law

Philip Alston

Professor of Law

Philip Alston's scholarship and teaching focus primarily on human rights law and the law of international organizations. He directs the NYU Law Center for Human Rights and Global Justice, and was previously Chairperson of the U.N. Committee on Economic, Social, and Cultural Rights (1991-1998), and an independent expert appointed by the U.N. Secretary-General to advise on the future of human rights treaty monitoring arrangements (1989-1997). Alston is Editor-in-Chief of the *European Journal of International Law* and author of the casebook, *International Human Rights in Context: Law, Politics, Moral* (with Henry J. Steiner, 2nd ed., 2000). An interview with Alston is on page 59.

Vicki Been

Professor of Law

Vicki Been has long been at the cutting edge of legal scholarship in the fields of land use and environmental law. Her recent work examines the Fifth Amendment prohibition against the taking of property in the context of the North American Free Trade Agreement (NAFTA), and a growing number of other bilateral and multilateral investment agreements, which include provisions requiring host states to compensate foreign investors for any “expropriation” of their investments. She is the author of the casebook, *Land Use Controls: Cases and*

Materials (with Robert Ellickson, 2000). In Spring 2002, Been organized the conference “Regulatory Expropriations in International Law” (see page 69).

Paul Chevigny

Joel S. and Anne B. Ehrenkranz Professor of Law

Paul Chevigny is a human rights lawyer, who prior to joining the NYU faculty in 1977, worked for many years in association with the New York Civil Liberties Union, first as Director of the Police Practices Project and later as a staff attorney. Chevigny’s scholarship increasingly focuses on international human rights issues and international comparative work. He has focused in recent years on the problems of police violence in Third World cities, participating frequently in missions for Human Rights Watch, and is the principal author of three reports (Human Rights in Jamaica, Police Abuses in Brazil, and Police Violence in Argentina). Chevigny’s interests also have encompassed the theoretical and practical elements of the First Amendment freedom of expression, which he has analyzed as part of a group of dialogue rights. Professor Chevigny’s Clinic in International Human Rights is a popular selection at the Law School.

Jerome Cohen

Professor of Law

Jerome Cohen is the doyen of senior American experts on East Asian law. First at Harvard, then since 1991 at NYU Law, he has helped pioneer the introduction of East Asian legal systems and perspectives into American legal curricula. He draws on his immense practical experience in Chinese law in courses on international business contracts and economic cooperation with East Asia, Chinese law and society, and comparative international law.

Rochelle Dreyfuss

Pauline Newman Professor of Law

Rochelle Dreyfuss’ research and teaching interests include intellectual property, privacy, the relationship between science and law, and civil procedure. She has authored several articles on these subjects and has co-authored casebooks on civil procedure and intellectual property law. Previously a consultant to the Presidential Commission on Catastrophic Nuclear Accidents, Dreyfuss today leads an American Law Institute project on principles to guide multinational civil litigation in intellectual property disputes.

Professor Thomas M. Franck Joins NYU’s Emeritus Faculty

“I can think of no one who has thought harder, written more, or fought more courageously to promote a more humane, effective, and values-driven system of international law.”

—Professor Harold Koh, Yale Law School

Although Professor Thomas Franck theoretically retired this year, he continues to maintain an almost full-time teaching load. Franck is a revered figure in international law, who for decades has been one of the American international lawyers best known for his capaciousness of vision. In scholarship, teaching, collegiality, professional contribution, and practical impact, he has made signal contributions in his writing about the Constitution and U.S. foreign affairs, the U.N. and the use of force, the “compliance pull” of particular norms in international relations, the human right to democratic governance, and international law as an engine of Rawlsian fairness. In more than 27 books, as well as innumerable articles, addresses, legal arguments, and judgments, he has developed a fundamental set of ideas concerning international law, international organizations, and constitutional law. At the same time, he edited the *American Journal of International Law*, presided over the American Society of International Law, counseled nations before the International Court of Justice, and actively participated in numerous domestic lawsuits, all while producing a generation of committed students and rising scholars. Eloquent testimony to the esteem in which Franck is held is provided by the list of attendees at a celebratory conference, “International Law and Justice in the 21st Century: The Enduring Contributions of Thomas M. Franck,”

to be held at NYU in October 2002. Led by U.N. Secretary-General Kofi Annan, guests will include senior U.N., U.S., and Canadian government officials, judges, ambassadors, academic colleagues, and former students from far afield. Papers presented at the conference’s sessions, reflecting on the themes running through Franck’s work and his achievements, will be published in the *NYU Journal of International Law and Politics*.

International Law and International Organizations in Situations of Civil War

Since its founding in 1965, the Center for International Studies has trained hundreds of students in international law, hosted numerous visiting fellows, and overseen a vast output of influential published research. Following Director Thomas Franck’s retirement from full-time teaching this year, the research and student mentoring aspects of the Center will be carried forward by the newly established Institute for International Law and Justice.

This year, the focus of the Center for International Studies conference was International Law and International Organizations in Situations of Civil War. Former U.S. Ambassador to the U.N. and Undersecretary of State Thomas Pickering delivered the keynote address. Participants included U.N. Undersecretary-General for Legal Affairs Hans Corell, U.N. Undersecretary-General and Special Adviser on Africa Ibrahim Gambari, U.S. State Department Legal Advisor William H. Taft IV, and prominent academics, senior officials, and non-governmental organization leaders from around the world. Papers focused on issues arising from international intervention in civil wars.



(l-r): Center for International Studies Director Professor Thomas M. Franck with Junior Fellows Jake Kreilkamp, Anna Roberts, Owen Lefkon, Margo Kaplan, Christopher Le Mon, Eleanor Lumsden, and Center for International Studies Coordinator Shelley Fenchel

Eleanor Fox

Walter J. Derenberg Professor of Trade Regulation

Eleanor Fox is a globally recognized antitrust and comparative competition law scholar. Her recent work addresses issues at the intersection of international trade and competition, and includes articles that explore the disjuncture between national law and global markets. She recently served as a member of the International Competition Policy Advisory Committee to the U.S. Attorney General.

Thomas Franck

Murry and Ida Becker Professor of Law Emeritus

Thomas Franck is a leader in the field of international law. His scholarly work forms a fundamental set of ideas, well-known to students and practitioners alike, on issues such as legitimacy and fairness in international governance, self-determination and nationalism, the relationship between international law and national constitutions, and international dispute resolution. He has argued a number of cases before the International Court of Justice and served as an ad hoc judge of the Court in a dispute between Indonesia and Malaysia. He is a past President of the American Society of International Law (1998-2000) and served as Editor-in-Chief of the *American Journal of International Law* from 1984-1993. Franck is the author of more than 25 books, including *Nation Against Nation: What Happened to the U.N. Dream and What the U.S. Can Do About It* (1985); *Political Questions/Judicial Answers: Does the Rule of Law Apply to Foreign Affairs?* (1992); *Fairness in International Law and Institutions* (1995); *The Power of Legitimacy Among Nations* (1990); *The Empowered Self: Law and Society in the Age of Individualism* (1999); and *Recourse to Force: State Action Against Threats and Armed Attacks* (2002).

David Golove

Professor of Law; Director, J.D.-LL.M. Program in International Law

David Golove has secured a reputation as one of the most original and promising scholars in constitutional law. His recent scholarship addresses core constitutional questions arising from foreign relations law and the exercise of the U.S. treaty-making power. His book-length article for the *Michigan Law Review*, "Treaty-Making and the Nation: The Historical Foundations of the Nationalist Conception of the Treaty Power," is a major work of

legal historical scholarship and an important constitutional and legal defense of federal power. Golove is a member of the faculty Executive Committee of the Institute for International Law and Justice and Director of the J.D.-LL.M. Program in International Law.

Stephen Holmes

Professor of Law

Stephen Holmes is a specialist on constitutional law and legal reform in Eastern Europe and Russia. His research centers on the history of European liberalism and the challenges posed by economic liberalization and the establishment of democratic governance after the collapse of communism in Eastern Europe, addressing democratic and constitutional theory as it relates to post-socialist legal reform in the region and the origins of the welfare state. His work includes the books *The Anatomy of Anti-liberalism* (1993), *Passions and Constraints: On the Theory of Liberal Democracy* (1995), and *The Cost of Rights* (with Cass Sunstein, 1998). He is formerly director of the Soros Foundation program for promoting legal reform in Russia and Eastern Europe and directs the NYU Law Center for Russian and East European Law. He is Editor-in-Chief of *East European Constitutional Review*, a journal that tracks the constitutional development of the region through quarterly offerings of academic articles, roundtables, and symposia by regional and foreign scholars. His latest work focuses on evaluation and critique of efforts by international institutions such as the World Bank to promote "rule of law" in transitional and developing countries, and on the global implications of anti-terrorism measures.

Benedict Kingsbury

Professor of Law; Director, Institute for International Law and Justice

Benedict Kingsbury is a highly regarded international law scholar, whose theoretically grounded approach to international law closely integrates legal theory, political theory (including international relations theory), and history. Professor Kingsbury is the Director of the Institute for International Law and Justice at NYU Law and also directs the Law School's new Program in the History and Theory of International Law.

His recent publications include: "Legal Positivism as Normative Politics: International Society, Balance of Power and Lassa

Oppenheim's Positive International Law" (*European Journal of International Law*, 2002) and "Reconciling Five Competing Conceptual Structures of Indigenous Peoples' Claims in International and Comparative Law" (*NYU Journal of International Law and Politics*, 2001).

Mattias Kumm

Assistant Professor of Law; Director, LL.M.-J.S.D. Program in International Law

Mattias Kumm is an international and comparative law scholar, who joined the NYU Law full-time faculty in Fall 2000. Drawing on and expanding the scope of liberal democratic constitutional theory, Kumm asks under what conditions national courts should enforce supranational laws, even when they conflict with national law. This involves a thorough reassessment of some core concepts of the liberal constitutional tradition, including state sovereignty, democracy, and the rule of law. Kumm is a member of the faculty Executive Committee of the NYU Law Institute for International Law and Justice.

Andreas Lowenfeld

Herbert and Rose Rubin Professor of International Law

Andreas Lowenfeld's extraordinary body of work traverses public and private international law. His recent writing includes works on transborder kidnapping, North American Free Trade Agreement (NAFTA) disputes, liability of airlines for disasters caused by terrorism, economic sanctions, and the enforcement of foreign judgments. Lowenfeld is frequently an arbitrator in international disputes, public and private, and has argued a number of important Supreme Court cases concerning international law, arbitration, and jurisdiction. Along with Professor Linda Silberman, he is a reporter for the American Law Institute International Jurisdiction and Judgments Project, aimed at the development of federal legislation to govern the recognition and enforcement of foreign judgments in U.S. courts.

Theodor Meron

Charles L. Denison Professor of Law

Theodor Meron, a renowned authority on human rights and humanitarian law, is currently on leave to serve as a Judge on the International Criminal Court for former Yugoslavia in The Hague. Also a prominent

NYU Law Alumni and Faculty Serve on International Courts and Tribunals

Three of the 15 regular judges of the International Court of Justice (ICJ) are NYU Law alumni, continuing a strong tradition of the appointment of NYU Law international law faculty and alumni to high-profile positions as judges and arbitrators on international courts and tribunals, as well as representing states in international litigation.

In October 2001, the General Assembly and the Security Council of the United Nations elected NYU Law alum Nabil Elaraby (LL.M. '69, J.S.D. '71) of Egypt as a judge of the International Court of Justice. Elaraby joins Thomas Buergenthal ('60) of the United States and Gonzalo Parra-Aranguren (MCJ '52) of Venezuela as the third NYU Law graduate among the 15 judges currently serving on the Court. They continue in the path of another NYU alum, the late José María Ruda (LL.M. '55), who was a judge on the ICJ for two nine-year terms and served as President of the Court from 1988 to 1991. Currently, NYU Law Emeritus Professor Thomas Franck is also serving on the ICJ as an ad hoc judge.

The ICJ is the judicial arm of the United Nations. It decides major questions of international law in cases referred to it by governments, and also gives advisory opinions at the request of U.N. bodies. The permanent judges of the International Court are each of a different nationality and together represent the principal legal systems of the world.

Judge Nabil Elaraby has been a leading international lawyer and diplomat, representing Egypt at the U.N. in New York City, as well as serving as a member of the U.N. International Law Commission. He has also been a member of the U.N. Compensation Commission in Geneva determining monetary claims arising from the 1990-1991 Gulf War, and is the author of numerous articles and essays on international law, especially concerning arms control and peacemaking.

Judge Thomas Buergenthal, who joined the Court in 2000, has had an outstanding career since graduating as a Root-Tilden Scholar from NYU Law in 1960. He served as President of the Inter-American Court of Human Rights, as a member of the U.N. Truth Commission for El Salvador (1992-1993), and as member of the U.N. Human Rights Committee (1995-1999). Buergenthal is also a distinguished academic, authoring numerous works including leading texts



Nabil Elaraby

Thomas Buergenthal

on human rights and public international law.

Judge Gonzalo Parra-Aranguren joined the ICJ in 1996 and was reelected in 2000. Parra-Aranguren is a private international law specialist and held a number of important judicial positions in Venezuela prior to joining the ICJ. He acted as an arbitrator, both in Venezuela and abroad, in cases concerning private international commercial matters. Judge Parra-Aranguren represented Venezuela in many international negotiations and treaty-making conferences, including work at The Hague Conference on Private International Law, and has published a large number of books, articles, and essays concerning the law of nationality, private international law, and international civil procedural law.

The late Judge José María Ruda was a much-respected President of the ICJ, serving on the Court from 1973-1991. Judge Ruda took leading roles in cases involving environmental issues, human rights, and labor, and played a noteworthy part in the adjudication of the volatile frontier dispute between Burkina Faso and the Republic of Mali during the 1980s. Before joining the ICJ, Ruda held senior diplomatic posts in the Argentine government and served as a member and president of the U.N. International Law Commission. After completing his term at the ICJ, Ruda was named to preside over the Iran-United States Claims Tribunal at The Hague, established to arbitrate claims by



the U.S. and Iran and their nationals arising from the U.S.-Iran crisis after the 1979 revolution in Iran.

In 2001, NYU Law Professor Thomas Franck was asked by the Republic of Indonesia to be a judge ad hoc in a case concerning two disputed islands claimed by Malaysia and Indonesia. Under article 36(1) of the Statute of the ICJ, states' parties to a dispute that do not already have a judge of their nationality on the Court are entitled to name a judge to sit on condition of complete equality with the permanent judges for the purposes of the proceedings. Franck has also been an advocate before the ICJ in a number of important cases, including on behalf of Chad in the territorial dispute between Chad and Libya in 1990-1994. In a separate case, he is arguing before the ICJ on behalf of Republic of Bosnia-Herzegovina, claiming that Bosnia is entitled to compensation from the new government of Serbia-Montenegro for genocide committed by the former Serbian government.

NYU Law Professor Theodor Meron, a world-renowned scholar of international criminal law, humanitarian law, and human rights law, is currently on leave from NYU Law to serve as a judge on the International Criminal Tribunal for the former Yugoslavia (ICTY) in The Hague. The ICTY was established in 1993 by the U.N. Security Council to investigate and try individuals accused of serious violations of international humanitarian law committed in the territory of the former Yugoslavia. The judges of the Tribunal are selected through secret balloting by the states represented at the U.N. Professor Meron had earlier been involved in cases before the ICJ, representing the U.S. in a recent major case concerning a dispute with Germany about the interpretation of the Vienna Convention on Consular Relations, and he was also closely involved in drafting the Statute of the new International Criminal Court.

Professor Andreas Lowenfeld has served as an arbitrator in more than 50 international commercial arbitrations, involving some 25 countries, and he served as a panelist in one of the leading cases under the General Agreement on Tariffs and Trade (GATT). Professor Lowenfeld has represented the U.S. before the Iran-U.S. Claims Tribunal and in an Air Services Agreement arbitration, as well as before the ICJ in a dispute with Iran.

authority in general international law, he was, until recently, Editor-in-Chief of the *American Journal of International Law*. He has published numerous books, including *Investment Insurance in International Law* and *Bloody Restraint: War and Chivalry in Shakespeare*.

Burt Neuborne

John Norton Pomeroy Professor of Law;
Director, Brennan Center for Justice

For 30 years, Burt Neuborne has been one of the nation's foremost civil liberties lawyers, serving as National Legal Director of the ACLU, Special Counsel to the NOW Legal Defense and Education Fund, and as a member of the New York City Human Rights Commission. At the same time, Neuborne has forged a national reputation as a constitutional scholar and teacher. He has worked on several transnational human rights cases, and is well-known for his central role in a series of recent cases against banks, insurance companies, and industrial corporations related to the Holocaust.

Linda Silberman

Martin Lipton Professor of Law

Linda Silberman's early articles on U.S. federal magistrate judges and special masters are considered the authoritative works in the field. More recently, her writing in the area of international child abduction led to her service as expert consultant to The Hague Conference on Private International Law to review the operation of The Hague Convention on the Civil Aspects of International Child Abduction, and subsequently as a member of the United States delegation. She is Co-Reporter (with Professor Andreas Lowenfeld) of an American Law Institute Project on International Jurisdiction and Judgments, directed to the development of federal legislation to govern the recognition and enforcement of foreign judgments in U.S. courts.

Bryan Stevenson

Associate Professor of Clinical Law

Bryan Stevenson is recognized as one of the nation's top public interest lawyers and has written extensively on criminal justice, capital punishment, and civil rights issues. In recent years Stevenson has become increasingly involved in international human rights issues. He has advised lawyers and provided assistance throughout the Caribbean in death penalty cases and is currently working

with European human rights organizations on the application of international law to the U.S. death penalty and on the intersection between European economic interests and human rights in the U.S.

Richard Stewart

Emily Kempin Professor of Law;

Director, Center on Environmental and Land Use Law

Recognized as one of the world's leading scholars in environmental and administrative law, Richard Stewart has published eight books and more than 70 articles in this area. His writing has been influential in shifts to the recognition of the value of markets in strengthening environmental protection, rather than the command and control regulation that was long the only model. Stewart directs the School's Center on Environmental and Land Use Law, which sponsors research, conferences, and publications on cutting-edge issues of environmental and land use law. He is the author of important works on the use of tradable permits to increase the efficiency of controls on global climate change and codirects a major research project on genetically modified organisms.

Frank Upham

Professor of Law; Faculty Director,
Global Public Service Law Project

Frank Upham oversees, with his own mentor, Jerome Cohen, a growing program in East Asian law. Author of an acclaimed book on law and social change in Japan, Upham's scholarship increasingly focuses on global law and development issues, including the roles of lawyers in social change. He directs NYU's pioneering LL.M. program in Global Public Service Law, which attracts outstanding students from all over the world.

Joseph Weiler

European Union Jean Monnet Professor; Chair and
Faculty Director, Hauser Global Law School Program;
Director, Jean Monnet Center for International
and Regional Economic Law & Justice

Joseph Weiler's influential body of scholarship traverses European Union law, international and regional trade law, and international legal and political theory. He served as a member of the Committee of Jurists of the Institutional Affairs Committee of the European Parliament, co-drafting the European Parliament's Declaration of Human Rights and Freedoms, and was a member of the

Groupe des Sages advising the Commission of the European Union on the Amsterdam Treaty. Recently he was part of a group advising on the European Commission White Paper on Governance. Weiler was also recently appointed the Joseph Straus Professor of Law. His many publications include *The European Court of Justice* (with G. de Búrca, 2001); *The EU, the WTO and the NAFTA* (2000); and *The Constitution of Europe—Do the New Clothes Have an Emperor?* (1998).

Katrina Wyman

Assistant Professor of Law

Katrina Wyman joined the NYU Law faculty in 2002. She is a graduate of the University of Toronto and Yale Law School. Her research focuses on regulatory and market-based approaches to reducing atmospheric pollution and to fisheries management. Her teaching interests include international environmental law and international fisheries law.

Hauser Global Law Faculty Working in International Law

While remaining affiliated with their national universities, Hauser Global Law Faculty are in residence at NYU Law for seven weeks, or a full semester, to teach courses, engage in research, and enrich the Law School with their expertise. Some of the Global Faculty specializing in international law are described below.

Professor Philip Allott is a fellow of Trinity College, Cambridge University, and specializes in legal philosophy, international law, and European Community law. Allott has taught courses on the history of legal philosophy, on legitimacy and justice in the international system, and on global social transformation (often co-teaching with Thomas Franck and David Richards).

Professor Eyal Benvenisti is Professor of Law and Director of The Cegla Center for Interdisciplinary Research of the Law at the Buchmann Faculty of Law, Tel Aviv University. Benvenisti joins the Hauser Global Law Faculty in 2003. He is an expert on international environmental water law issues as well as human rights and legal theory, and his recent work addresses the interplay between international and constitutional law, with a focus on the position of national minorities.

Professor Hilary Charlesworth is Professor and Director of the Center for International

and Public Law at the Australian National University, Canberra. Her scholarly work focuses on feminist approaches to international law, and she has published widely on issues related to the international human rights of women. In Spring 2002 Charlesworth taught a seminar on gender and human rights.

Professor Radhika Coomaraswamy is concurrently the United Nations Special Rapporteur on Violence Against Women and Director of the International Centre for Ethnic Studies in Colombo, Sri Lanka. Her scholarship addresses issues such as human rights, minority rights, and constitutional theory in respect to the developing world. In 2003, Coomaraswamy will teach courses on Gender, Ethnicity and the Law, and on International Human Rights of Women.

Professor Jürgen Habermas, widely recognized as one of the world's most important moral philosophers, teaches philosophy at the University of Frankfurt. Periodically, Habermas co-teaches the Colloquium on Legal, Political, and Social Philosophy with Professors Ronald Dworkin and Thomas Nagel.

Professor Martti Koskenniemi is a highly respected scholar in international law whose work focuses on legal philosophy and on the history and theory of international law. His book *The Gentle Civilizer of Nations: The Rise and Fall of International Law 1870-1960* (2002) is a defining text on the history of international law. Koskenniemi will teach regularly at NYU over the coming decade. He works with Benedict Kingsbury in the Program in Theory and History of International Law.

Professor Ratna Kapur, one of India's leading feminist scholars, is director of the Center for Feminist Legal Research in New Delhi, India. She has co-authored two books, and published numerous articles, reviews and reports addressing feminism in international law from the perspective of women in developing countries. She is expected to teach again at NYU Law in 2003-2004.

Professor Joseph Oloka-Onyango is Dean of the law school at Makerere University in Kampala, Uganda, and a member of the United Nations Sub-Commission on Prevention of Discrimination and Protection of Minorities. His scholarship focuses on human rights and justice in international law. In Fall 2002, Oloka-Onyango is teaching two seminars: Globalization and Human Rights, and Human Rights Issues in Africa's Democratic Transition.

Professor Philippe Sands was a founder of the Foundation for International Environmental Law and Development, and holds a chair at University College, London University. An inaugural member of NYU Law's Hauser Global Faculty, he has taught seminars on international environmental law, dispute resolution in international law, and European Union law. He codirects the research program in International Conflict in the Regulation of Genetically Modified

Organisms with NYU Professors Dorothy Nelkin and Richard Stewart.

Professor Michael Trebilcock, a prominent scholar in the law and economics movement, is based at the University of Toronto. At NYU he teaches the relations between economic, social, and regulatory policy, and international trade law. His book, *The Regulation of International Trade* (with Robert Howse, 1999), is a leading text in the field. ■

Faculty Activities and Projects

European Journal of International Law

The *European Journal of International Law* (*EJIL*) is one of the world's most innovative and influential international law journals. The journal emphasizes the conceptual and theoretical dimensions of international law, seeks to promote and critically analyze the European tradition in the field, and seeks to be at the cutting edge of current controversies in the field of international law. It organizes regular European-U.S. symposia and provides systematic coverage of the relationship between international law and the law of the European Union and its Member States. In addition, it provides in-depth coverage of the jurisprudence of major international judicial and quasi-judicial organs including the WTO Appellate Body, the International Court of Justice, and the international criminal tribunals. It also has an extensive and innovative Web site. The journal is published as a collaborative effort between the European University Institute in Florence and the NYU Hauser Global Law Program. *EJIL*'s Editor-in-Chief since 1996 is NYU Law Professor Philip Alston, who joined the faculty in 2002. NYU Law Professor Joseph Weiler was one of the founders of the *EJIL* and is active on its editorial board. Both Alston and Weiler are members of the faculty Executive Committee of the Institute for International Law and Justice. The journal's advisory board includes NYU Law Professor Benedict Kingsbury, and NYU Hauser Global Law Faculty members Martti Koskenniemi (Helsinki) and Philippe Sands (London).

American Law Institute Projects on International Law

Professors Andreas Lowenfeld and Linda Silberman are co-reporters for the American Law Institute (ALI) International Jurisdiction and Judgments Project, the aim of which is to develop a federal statute governing the treatment of foreign judgments in United States courts. The project arises from consideration of the proposed draft Convention on Jurisdiction and Foreign Judgments in Civil and Commercial Matters, prepared under the auspices of The Hague Conference on Private International Law. At present there is little uniformity among U.S. courts concerning the circumstances under which a determination of a foreign court will be recognized and enforced in the U.S. Internationally, there is considerable uncertainty about the ways in which courts in one country will interpret and apply decisions from another jurisdiction. National U.S. standards on principles of recognition would ensure uniformity among U.S. courts and would be subject to Supreme Court superintendence. The project confronts important questions concerning the role of the federal government (as opposed to states) with respect to matters of private international law.

Professor Rochelle Dreyfuss also leads an ALI project on issues arising from the draft proposed Hague Convention on Jurisdiction and Foreign Judgments in Civil and Commercial Matters. Dreyfuss' work concerns the impact of the proposed Convention on multinational civil litigation in intellectual property disputes. Dreyfuss is working with two colleagues—Professor Jane Ginsburg (Columbia) and Professor François

Dessementet (Lausanne)—to elaborate a set of principles on procedural issues arising in multinational intellectual property disputes. The principles will address the issues of jurisdiction, recognition and enforcement of foreign judgments, and conflicts of laws. New technologies, especially the Internet and satellite transmissions, make it increasingly likely that intellectual property rights will be infringed simultaneously in several different territories and that courts in their respective jurisdictions will deliver inconsistent or incompatible judgments.

International Work on Death Penalty Issues

Bryan Stevenson, Associate Professor of Clinical Law and Executive Director of the Equal Justice Initiative of Alabama, has become increasingly involved in the international arena in recent years. Earlier in his career he campaigned against a referendum on the death penalty throughout Brazil at the request of the Center for the Study of Violence in São Paulo. He is currently advising the European Roma Rights Center on legal strategies to protect the Roma, who are frequently targeted for unfair and unjust treatment in Eastern Europe.

Stevenson has provided assistance on several Caribbean cases and aided in the development of effective legal strategies in capital cases for the region. He assisted in work leading to the carefully reasoned 2001 judgment of the Eastern Caribbean Court of Appeal that the mandatory imposition of the death penalty violated the constitution as inhumane and degrading punishment. Subsequent to that decision, in March of 2002, in the case of *The Queen v. Hughes*, the Privy Council declared the mandatory imposition of the death penalty in the Eastern Caribbean and Belize unconstitutional.

In 1999, Stevenson was invited by Boris Yeltsin and the Council of Europe to address members of the Russian parliament on the topic of capital punishment in the U.S. Yeltsin that day commuted the death sentences of all condemned prisoners in Russia. Stevenson is now working with European human rights organizations on the application of international law to the U.S. death penalty and on the intersection between European economic interests and human rights in the U.S.

Holocaust Litigation and Settlement

For the past six years, Professor Burt Neuborne has been engaged in international human rights litigation designed to provide relief to Holocaust victims. The first case was designed to force Swiss banks to account for funds deposited on the eve of the Holocaust by victims of Nazi persecution. The tragic reality of the Holocaust is that most of the depositors perished, along with the information needed to trace the accounts. After the war, the Swiss banks, embarrassed at having transferred many of the accounts to the Nazis, declined to cooperate with the families of victims in seeking to trace the Holocaust-related accounts.

After a period of intense litigation, the Swiss bank case was settled for \$1.25 billion. The court appointed Neuborne to serve as lead settlement counsel in the Swiss bank cases. The NYU Law connection also involves Melvyn I. Weiss ('59), a distinguished alumnus and trustee, who was the chief negotiator and one of the driving forces behind the litigation.

Neuborne was also involved in a second set of cases to gain compensation from German companies for persons forced to perform slave labor during World War II. Despite the blatantly unlawful nature of the slavery, German companies had refused to pay compensation to the workers, arguing that it was the responsibility of the German government. The German government declined responsibility, arguing that it was up to the companies to compensate their wartime workforce. After 50 years of neglect, more than 50 lawsuits were filed against German companies. Neuborne argued the principal cases. At the urging of President Bill Clinton and German Chancellor Gerhard Schroeder, the parties engaged in an unprecedented international negotiation, lasting 18 months and involving private lawyers, corporate executives, government officials, and victims' groups. The negotiations culminated in July 2000 in the establishment in Berlin of a 10 billion DM German Foundation—"Remembrance, Responsibility and the Future"—designed to pay compensation to Holocaust victims.

From a legal standpoint, the Swiss and German litigation was designed to close a hole in international law. Since the Nuremberg

Tribunal, it has been understood that persons who engage in genocide, war crimes, or other blatant violation of civilized norms can be brought to justice in a court of law. But almost no progress has been made in providing financial redress to the victims of private exploitation. Neuborne's Holocaust work is an effort to develop effective means of redress, based in unjust enrichment doctrine, that would force a private person who profited from the commission of crimes against humanity to hold the profits in trust for the victims.

Competition Law, Trade, and the Interests of Developing Countries

Professor Eleanor Fox began her career in the area of U.S. antitrust law, in which she continues as a highly respected scholar and policy adviser. She subsequently extended her work to comparative law: the competition law of the European Union, the competition laws of the emerging democracies after the fall of the Berlin wall, and now the competition laws of developing countries and the clashes between industrial policies to protect local cultures and the market forces unleashed by liberalized trade.

A second branch of her current work focuses on issues of globalization, jurisdictional conflicts, and internationalization of law, viewed especially through the window of competition policy. She writes and advises on the intersection of trade and competition in the context of the World Trade Organization and other possible systems for governance and coordination. She applies her work on the constitutional scheme of the European Union to the problems of global markets, national law, and national value preferences. Her writing implicates questions of sovereignty, the apportionment of competencies, and the problems and opportunities of a more porous state in a partially globalized order.

A representative sample of Fox's recent work includes her article, "Antitrust and Regulatory Federalism: Races Up, Down and Sideways," in *NYU Law Review* (2000); her essay, "Global Markets, National Law, and the Regulation of Business," in a volume on *Transnational Legal Process: Globalization and Power Disparities* (2002); and the second edition of the casebook she co-authored, *Cases and Materials on European Union Law* (2002). ■

International Law Events

Each year, NYU Law organizes and hosts events examining current international legal policy questions. These events bring together international legal scholars, advisers, and practitioners working in diverse fields to advance thinking on a wide range of international law topics. A few of the many recent NYU events are described below.

Regulatory Expropriations in International Law

A veritable who's who of academics, practitioners, and policymakers in the areas of environmental, land use, comparative, and international law gathered at NYU Law to debate how far international trade and investment agreements should go in requiring legal protections for foreign investors that claim a host government's environmental or land use regulations diminish the value of their investments. This issue is a focal point in the broader debate over the tensions between liberalizing international trade and investment and maintaining domestic protection for the environment, public health, and labor.

The North American Free Trade Agreement (NAFTA) and a growing number of other bilateral and multilateral

investment agreements include provisions requiring host states to compensate foreign investors for any "expropriation" of their investments. These legal protections were originally developed to protect against outright nationalization of foreign investments, but the past decade has seen a growing number of international claims alleging that environmental or other government regulations violate the provisions. Perhaps the most dramatic example is a current claim by Canadian firm Methanex against the United States for nearly \$1 billion, arguing that California's recent phase-out of the gasoline additive MTBE requires compensation under NAFTA.

The conference was organized by Professor Vicki Been, an expert in land use law and U.S. "takings" jurisprudence, and NYU Hauser Global Law Professor Philippe Sands, an international law scholar and litigator. The event brought together experts on domestic environmental regulation and property, along with comparative and international law luminaries from Mexico, Canada, the U.S., South America, and Europe. Leading academics, government officials, legal advisers, arbitrators, and non-governmental organization representatives took part.

Conference panels considered, among other things, whether and what types of property protections should be included in international investment agreements, how the mechanisms for the resolution of investor-state disputes can be improved, and the ways in which international property

protections are likely to affect domestic environmental and social regulation in the future. The conference papers will be published in a forthcoming issue of the *NYU Environmental Law Journal*. This ongoing research will be of special relevance to the proposed Free Trade Agreement of the Americas (FTAA), as negotiators face the issue of whether and what kind of investor protections against host state regulation should be included, and what the likely effects on environmental and other regulations will be.

Foreign Ministry Legal Advisers Roundtable

Scholars and practitioners met at NYU for a roundtable on the role of the Foreign Ministry Legal Adviser, cosponsored by NYU Law and the British Institute of International and Comparative Law. The event was timed to coincide with the presence in New York City of many senior foreign ministry lawyers and officials and with the election of the 34 members of the U.N. International Law Commission (ILC) for the 2002-2006 quinquennium, which took place at the 56th session of the U.N. General Assembly.

The first of what Professor Benedict Kingsbury, organizer of the event, hopes will be regular meetings, focused on three topics. Sir Franklin Berman, former Legal Adviser to the United Kingdom Foreign and Commonwealth Office, spoke on managing the legal adviser's simultaneous roles as civil servant, with a duty to government ministers; as a member of a legal profession, with ethical obligations; and as a litigator, with duties to the Court. Drawing on their personal experiences, the attendees explained how state practice differs in the use of legal advisers, with several speakers emphasizing the complexities of assuring cooperation between the office of the legal adviser and other government departments.

NYU Hauser Global Law Professor Richard Goldstone, a judge on South Africa's Constitutional Court, spoke about the vital role of personal contact with government legal advisers during his foundational service as the first Prosecutor on the International Criminal Tribunal for former Yugoslavia, during which obtaining rapid governmental support was on several occasions crucial to the Tribunal in obtaining evidence and custody of indictees.



(l-r): Regulatory Expropriations conference participants Hugo Perezcano, General Counsel for International Trade Negotiations, Secretariat of the Economy, Mexico; Lori Wallach, Director, Public Citizen's Global Trade Watch; Darryl Lew, Hunton & Williams; and NYU Law Professor Mattias Kumm

Dr. Campbell McLachlan, of the British Branch of the International Law Association, spoke on "Managing Litigation." He emphasized the legal adviser's strategic role in coordinating the various actors involved in a case as well as in marshaling the evidence in increasingly fact-sensitive international litigation. The discussion included debate on whether a genuine international bar is emerging and whether this is desirable.

The third and final session, titled "Crisis Management," was headed by Pemmaraju Sreenivasa Rao, the Legal Adviser in the Ministry of External Affairs, India. Rao offered practical advice on how to cope with the daily challenges of serving as a government legal adviser, including how to tackle the crisis situations that inevitably emerge. The attendees were sensitive to the need to balance the pressures imposed on legal advisers by political exigencies with the need to evaluate a situation and formulate a sound legal analysis.

Roundtable on U.S. Approaches to Multilateral Treaties

The Bush Administration's abrupt rejection of the Kyoto Protocol on control of fossil fuel emissions causing climate change, without consulting the other negotiating states or offering any alternative policy, is emblematic of a United States reluctance to participate in major multilateral treaties that is causing increasing concern abroad. The U.S. remains outside the Biodiversity Convention, the Basel Convention on export of hazardous wastes, the Landmines Convention, the Geneva Protocols on the laws of war, the Comprehensive Test Ban Treaty, the International Criminal Court, and several significant human rights treaties. On the other hand, the U.S. has been an active proponent of the World Trade Organization (WTO) and the North American Free Trade Agreement (NAFTA), U.S. leadership has been important in the Whaling Convention and other environmental treaties, the U.S. provides substantial support to the International Criminal Tribunal for former Yugoslavia and other enforcement bodies, and the U.S. follows policies that support the broad thrust of several treaties to which it is not party.



(l-r): Professor Benedict Kingsbury, Sir Franklin Berman, Justice Richard Goldstone, and Dr. Campbell McLachlan at the roundtable on the role of the Foreign Ministry Legal Adviser

Despite their importance, the complex phenomena of U.S. attitudes to multilateral treaties have not been satisfactorily described, explained, or evaluated. As an initial exploration of a project to investigate these issues in greater detail, NYU Professors David Golove, Benedict Kingsbury, and Mattias Kumm, together with Nico Krisch, a Visiting Fellow at the Law School's Center for International Studies, convened a day-long roundtable with members of NYU's permanent and global faculty as well as colleagues from several New York law schools, the European University Institute, the Universities of Bonn and Munich, Duke University, the U.S. Justice Department, and other institutions.

One session of the roundtable sought to explore the causes for U.S. reluctance to such treaties. In a discussion chaired by Professor Kingsbury and introduced by Jonathan Wiener from Duke Law School, the group considered five factors that might help explain U.S. attitudes. First, the U.S. as a single superpower can afford to stay outside some agreements that might constrain its freedom of action—but doubts arise about this as a decisive explanation because the U.S. has been reluctant to enter constraining agreements at times in its history when it was not the leading power. Second, the U.S. domestic ideology of popular sovereignty may be so strong as to raise major concerns about any transfer of significant powers to an extra-national body. If this is so, current international concerns about U.S.

attitudes may reflect not a change in U.S. behavior but a change in the international system, with more agreements with important governance implications than existed hitherto. Third, U.S. constitutional structure and political understandings, including the minority veto rule under which the approval of two thirds of the Senate is thought to be required for certain treaties, provide a large number of opportunities for special interest groups to intervene to derail a proposed treaty. Fourth, U.S. governmental processes and public culture may be more legalistic than in some other countries—treaties are scrutinized with great intensity by phalanxes of lawyers from numerous government agencies whose concerns on a small detail or a conceivable but improbable interpretation may cause the government not to move forward. European governments in the EU may be more willing to trust to good sense and flexibility to work out such issues once a treaty is in force. But egregious U.S. non-compliance, with regard to consular access notifications to foreign defendants in U.S. capital cases, makes some skeptical about the avowed legalism of the Washington bureaucracy. Fifth, the U.S. on some issues holds fundamentally different positions to those embraced by international institutions, as with U.S. insistence on the death penalty, or U.S. insistence on full use of market mechanisms and tradable emissions permits in the Kyoto Protocol negotiations.

Student-Organized Symposia and Conferences

Taking advantage of NYU's reputation and New York City location, and the exceptional interest in international law topics within the School, different student groups organize a multitude of conferences and presentations at the Law School on topics related to international law, in addition to public service events and student trips.

Prostitution, Trafficking, and the Global Sex Trade in Women

Two student groups, Law Women and the International Law Society, held a symposium called Prostitution, Trafficking, and the Global Sex Trade in Women. Four panels addressed the nature, definition, criminalization, and effects of the global sex trade. Participants included Hauser Global Law faculty member Radhika Coomaraswamy, United Nations Special Rapporteur on Violence Against Women; Janice Raymond, co-executive director of the Coalition Against Trafficking in Women (CATW); Pamela Shifman, executive director of Equality Now; Ann Jordan, director of the Initiative Against Trafficking in Persons at the International Human Rights Law Group; Laura Lederer, director of The Protection Project at Johns Hopkins University; Dorchon Leidholdt, co-executive director of CATW; Vednita Carter, executive director of Breaking Free; and Ruchira Gupta, project officer at the United Nations Children's Fund (UNICEF).

JILP Symposia

Founded in 1968 by a group of students including Carol Bellamy, the current head of the United Nations Children's Fund (UNICEF), the student-edited *Journal of International Law and Politics* (JILP) features articles on diverse topics in both public and private international law by leading scholars and practitioners, as well as student notes, case comments, and book annotations. Since 1996, students of JILP have been working on the major project of developing and publishing the *International Citation Manual* (ICM). The ICM will serve as the international version of the *Bluebook*, detailing the citation styles of international organizations and countries throughout the world. Students each year work with faculty

The Prospective Role of Economic and Social Human Rights in the Law of International Trade Liberalization and Economic Integration

In 2002, the *Journal of International Law and Politics* (JILP) hosted a panel discussion on "The Prospective Role of Economic and Social Human Rights in the Law of International Trade Liberalization and Economic Integration." Professor Benedict Kingsbury moderated the panel, which included NYU Law Professors Philip Alston, Eleanor Fox, Global Visiting Professor András Sajo, and University of Nairobi Law Professor J.M. Migai Akech.

Professor Fox focused on the improvements in social and economic equity that would result from a fairer global trading system, in particular by rich countries lifting the very costly barriers they have set against imports of textiles, apparel, agricultural products, and other developing country exports. Professor Akech, who is from Kenya, argued for more democratic structures of global governance that would reduce the dominance of international institutions, such as the WTO, by rich countries. He urged an approach to international trade law that focuses on the goal

of promoting development, rather than neo-liberal efficiency maximization. Professor Alston sought to counter the skepticism Professor Fox had expressed about the juridical value of proclaiming economic and social rights, arguing that using human rights mechanisms is more likely to achieve results for the worst off people than are negotiations at the WTO. Professor Sajo, a prominent Hungarian human rights lawyer, explained why he believed that the involvement of Hungarian courts in seeking to uphold economic and social rights through judicial decision had unjustifiably derailed and distorted genuine welfare reform that was needed in Hungary. However he endorsed the careful approach of the South African Constitutional Court in the Grootboom case (2000), holding that the right to housing required government agencies to design adequate programs for housing construction and for emergency accommodation, but that the right did not and could not generally entitle people to receive housing immediately.



JILP editors Blair Greber-Raines ('02) and Ryan Candee ('02) with Professors Akech, Fox, Kingsbury, Alston, and Sajo

in designing and organizing a symposium on a topic chosen by the JILP Board. Recent JILP symposia include The Prospective Role of Economic and Social Human Rights in the Law of International Trade Liberalization and Economic Integration (2002); The Effects of Globalization on Small States (2000); Celebrating 20 Years: The Past and Promise of the 1980 Hague Convention on the Civil Aspects of International Child

Abduction (2000); and The Proliferation of International Tribunals: Piecing Together the Puzzle (1999). The 2003 JILP Symposium will deal with "Oil and International Law: The Geopolitical Implications of Petroleum Corporations," including issues of corporate responsibility, human rights, environmental management, territorial and maritime boundaries, and relations between international law and geopolitics.

Celebrating 20 Years: The Past and Promise of the 1980 Hague Convention on Civil Aspects of International Child Abduction

In 2001, *JILP* published an excellent symposium on the international aspects of family law and the use of national organizations and multinational agreements to solve problems regarding the determination of the proper forum for child custody adjudication. Contributors included Karin Wolfe, *JILP* Senior Symposium Editor; Adair Dyer, Former Deputy-Secretary at The Hague Conference on Private International Law; William Duncan, First Secretary of The Hague Conference on Private International Law and Professor of Law and Jurisprudence at Trinity College; Jeffrey Kovar, Assistant Legal Adviser for Private International Law, and Peter Pfund, Special Adviser for Private International law, both of the U.S. Department of State.

The Proliferation of International Tribunals: Piecing Together the Puzzle

JILP earlier published a very influential symposium on The Proliferation of International Tribunals: Piecing Together the Puzzle. This symposium addressed important questions about the implications of the proliferation in recent decades of international courts and tribunals, examining resulting synergies and indeterminacy in the international legal system and changes in relationships between international actors, and discussing normative responses to these altered dynamics. Contributors to the volume included Georges Abi-Saab (Graduate School of International Studies, Geneva and NYU Hauser Global Law School faculty member), "Fragmentation or Unification: Some Concluding Remarks;" Eyal Benvenisti (Tel Aviv), "Margin of Appreciation, Consensus, and Universal Standards;" Bartram S. Brown (Chicago-Kent), "U.S. Objections to the Statute of the International Criminal Court: A Brief Response;" Jonathan I. Charney (Vanderbilt), "The Impact on the International Legal System of the Growth of International Courts and Tribunals;" the late Gennady M. Danilenko (Wayne State), "The Economic Court of the Commonwealth of Independent States;" Pierre-Marie Dupuy (Paris), "The Danger of Fragmentation or Unification of the International Legal System and the International Court of Justice;" John H. Jackson (Georgetown), "Fragmentation or

Unification Among International Institutions: The World Trade Organization;" Professor Benedict Kingsbury (NYU), "The Proliferation of International Courts and Tribunals: Is it a Systemic Problem?;" Ernst-Ulrich Petersmann (European University Institute), "Constitutionalism and International Adjudication: How to Constitutionalize the U.N. Dispute Settlement System?;" Monica Pinto (Buenos Aires), "Fragmentation or Unification Among International Institutions: Human Rights Tribunals;" Cesare P.R. Romano, "The Proliferation of International

Judicial Bodies: The Pieces of the Puzzle;" and Judge Tullio Treves (Milan), "Conflicts Between the International Tribunal for the Law of the Sea and the International Court of Justice." This symposium was part of an ongoing research collaboration between the Law School and the NYU-London Project on International Courts and Tribunals. This collaboration resulted recently in a major conference on the independence of the international judiciary, held at NYU's Villa La Pietra in Florence, Italy, in June 2002. ■

Internships, Clerkships, and Fieldwork

Public Interest Internships in 2003

The Public Interest Law Center continues to send record numbers of students overseas each year through the Public Interest Committee (PIC) program, which funds students to do work of their choosing at a public interest organization abroad. In addition to this flexible funding program, NYU Law continues to develop more specialized programs in which ongoing relationships with premier organizations are established. These include a new relationship with the International Criminal Tribunal for Rwanda (ICTR) in Arusha, Tanzania, as well as Professor Benedict Kingsbury's seven-year-old program with the U.N. International Law Commission in Geneva. NYU Law works also with other organizations such as the Office of the U.N. High Commissioner for Refugees in Geneva; the International Federation of Women Lawyers in Nairobi, Kenya; and the Center for Justice and International Law, which has numerous offices in Latin America.

Arusha Rwanda Tribunal

In the Summer of 2002, four NYU Law students interned with the International Criminal Tribunal for Rwanda (ICTR) in Arusha, Tanzania. The interns were: Alexsa Alonzo ('03), David Gray ('03), Rasmus Kieffer-Kristensen (LL.M. '02), and Roy Schondorf (J.S.D. '04).

This is the second summer that NYU Law students have worked at the Tribunal,

but the first time that they have worked directly for the ICTR in the Office of the Prosecutor and in Chambers. In Summer 2001, Claudia Flores ('02) and Muriel Iseli (LL.M. '01) worked at the ICTR offices at the International Process and Justice Project (IPJP). The IPJP, led by Trinity Professor Rosemary Byrne, seeks to practically assist in the application of the hybrid evidentiary and procedural rules developed specifically for the international criminal tribunals. The IPJP collects and analyzes data from the ICTR and ICTY (International Criminal Tribunal for the former Yugoslavia) courtrooms and periodically updates the Justices on their findings, suggesting ways to improve the integration of common law and civil law approaches. In Summer 2002, NYU Law sent another intern, Amelie Trahant ('04), to work with Professor Byrne in Dublin.

International Law Commission Internships

One of NYU Law's longstanding international internship programs funds several internships each summer with the United Nations International Law Commission (ILC). The ILC is the legal codification arm of the U.N., and meets every summer in Geneva to consider proposals for treaties, declarations of principle, and other codifications of norms previously only the subject of customary international law. Members of the Commission are prominent experts in public international law and are elected in their individual capacities.

Internship recipients are selected by a Committee composed of former ILC interns

and chaired by Professor Benedict Kingsbury. Students work with individual Commissioners, not as U.N. interns. NYU ILC Scholarship recipients in Summer 2002, and the ILC Members with whom they worked, were: Robert Dufresne, J.S.D. candidate (Alain Pellet, France); Ben Grimes '03 (Robert Rosenstock, U.S.); Gita Kothari, LL.M. '02 (Martti Koskenniemi, Finland); Elina Kreditor '04 (John Dugard, South Africa); Hiroko Nakayama, LL.M. '02 (Chusei Yamada, Japan); Jared Wessel '04 (Bruno Simma, Germany); Demian West '04 (Enrique Candioti, Argentina); and Inha Yoon, LL.M. '02 (Hanqin Xue, PRC).

A Student Perspective

Margaret Katri Lewis ('03)

When I was selecting a law school, NYU's staunch commitment to the Hauser Global Law School Program was a key consideration. Simply put, my purpose for going to law school was not to be a cloistered law student, rather to become an international lawyer. International issues have been a focus of my academic and professional career, with a particular emphasis on China.

Despite my past focus on Asia, I have found myself increasingly interested in broader international issues and, as part of this trend, I spent last summer at the U.N. International Law Commission (ILC) where I worked as an intern for Bruno Simma. The experience gave me a unique look into the formulation of international law. In particular, I had the opportunity to observe the daily meetings and watch as the commissioners enthusiastically

debated various topics. I remember vividly the moment that the commissioners completed the complicated process of adopting the articles on state responsibility after a half-century of work.

My work at the ILC led me to write my Note on the international law aspects of the April 1, 2001, collision between a Chinese and an American airplane over the South China Sea. The incident, which had occurred only a month before I went to Geneva, presents a fascinating example of the law of state responsibility. The Note is scheduled to be published in the November 2002 issue of the *NYU Law Review*.

Office of the U.N. High Commissioner for Refugees Internships

An internship with the Office of the U.N. High Commissioner for Refugees (UNHCR) is offered to NYU Law students for summer work. The UNHCR's mission is to protect and assist refugees in all parts of the world. It handles matters related to international protection and repatriation, often amidst civil strife, natural catastrophes, or economic collapse. The efforts of UNHCR have become an integral part of U.N. humanitarian and peace-building operations in the former Yugoslavia, Sierra Leone, East Timor, and Afghanistan, for example.

Applicants are selected by a Committee composed mainly of former UNHCR and ILC interns and chaired by Professor Benedict Kingsbury. Since NYU's UNHCR internship program began in 1998, the participants have been: Alice Palmer (Australia,

LL.M. '98), now an international environmental lawyer with the Foundation for International Environmental Law and Development in London; Nina Schou (U.S., '00), now a lawyer in the U.S. State Department; Ardita Abdiu (Albania, LL.M. '99), who has gone on to work in human rights and war crimes investigations in the Balkans; Kate Aschenbrenner (U.S., '02) currently doing a judicial clerkship, intending to specialize in immigration and refugee law; Maya Steinitz (Israel, LL.M. '00), currently a J.S.D. student at NYU Law; and Anna Roberts (U.K., '03), who in 2001-2002 held a Center for International Studies Fellowship and is a member of the *NYU Journal of International Law and Politics*.

The intern in 2002 was Nicholas Arons (U.S., '04). During his undergraduate studies in Latin American Studies and International Studies at Yale (he graduated in 1998), Arons wrote a thesis based on extensive interviews with Guatemalan families returning from refuge abroad after the Peace Agreements. Subsequently he held a Fulbright Fellowship to work on the politics of drought in northeast Brazil. Fluent in Spanish and Portuguese, before Law School he worked as a volunteer in a non-governmental organization assisting Guatemalan asylum-seekers in the U.S. At the UNHCR he interned in the Department of International Protection, liaising for UNHCR with other U.N. bodies on issues of human rights violations and human rights lawmaking.

A Student Perspective

Kate Aschenbrenner ('02)

Working at the Office of the U.N. High Commissioner for Refugees the summer after my first year of law school was an ideal way to develop my interest in and knowledge about the situation of refugees. I worked under the supervision of Carol Batchelor, the Senior Legal Officer on Statelessness. UNHCR's active involvement with the issue of statelessness dates only from 1995-1996, when UNHCR's Executive Committee and the General Assembly, in recognition of the part that statelessness could play in population displacements and potential refugee situations, officially expanded UNHCR's responsibilities in this area. At UNHCR, I researched questions of statelessness and a woman's right to a nationality. Nationality laws frequently



(l-r): NYU Law student Muriel Iseli (LL.M. '01) interned at the International Criminal Tribunal for Rwanda; Simon Ollerson (LL.M. '01) interned at the U.N. International Law Commission; and Devika Hovell (LL.M. '01) served as a clerk at the International Court of Justice. They represented NYU in the Rousseau Moot Court Competition (in French).

discriminate against women on their face and in practice, and this discrimination can and often does result in statelessness and numerous violations of the human rights of women. I was able to construct a legal framework, based on the Statelessness Conventions and the provisions of various human rights treaties for the protection of women from the denial of their right to a nationality. I also illustrated the problems that women continue to face as a result of discrimination in nationality laws, using court cases at the international, regional, and national levels. The resulting paper is being used in training sessions on statelessness conducted for government officials and UNHCR staff.

My NYU “A paper” analyzed the use of customary international law in U.S. court cases involving the indefinite detention of foreigners in the United States. I was able to expand on this topic by researching the international legal framework governing the detention of asylum seekers while working as a Furman intern at the Lawyers Committee for Human Rights after my second year of law school. This research took place in conjunction with a project examining comparative detention practices around the world in order to provide a basis for critiquing the detention of asylum seekers.

In 2003 I am clerking for Judge Weinstein on the District Court for the Eastern District of New York. Following my clerkship, I plan to continue working for immigrants and asylum seekers in a setting that both addresses the problems facing individuals and searches for solutions to those problems in law and policy at international, national, and local levels.

Hague Conference on Private International Law Internships

Each year, NYU funds one or two students to work over the summer as interns with The Hague Conference on Private International Law. The internship program began as a student initiative, building on the work of Professors Linda Silberman and Andreas Lowenfeld with The Hague Conference. In the summer of 2000, Kim Seelinger ('02) and Anna-Lisa Corrales ('02) interned at The Hague Conference. Seelinger returned as an intern in Summer 2001 along with Debra Cole ('03). The Summer of 2002 interns were George Karamanos ('04) and Marguerite Walter ('04).



(l-r): Anna-Lisa Corrales ('02) and Kim Seelinger ('02)

A Student Perspective

Kim Seelinger ('02) and Anna-Lisa Corrales ('02)

We must admit—we lucked out with our first summer job. The opportunity came through a mix of our own efforts and resources of the Law School. Our Civil Procedure Professor, Linda Silberman, had encouraged our class to attend a Law School symposium featuring experts on The Hague Convention on the Civil Aspects of International Child Abduction. We realized through the symposium that there was important work being done and the Convention and the Permanent Bureau of The Hague Conference on Private International Law needed additional funding and staff to support the treaty's maintenance. Afterward, we approached panelist William Duncan, First Secretary at the Permanent Bureau. Armed with our Public Interest Committee summer internship grants, we arranged to send him our résumés with recommendations from Professor Silberman. Three weeks later, we booked our tickets to the Netherlands. We were headed to the Permanent Bureau in The Hague to work in the area of the Child Abduction Convention, under the supervision of the First Secretary himself.

With the guidance of our immediate supervisor, the First Secretary's legal assistant, we helped develop the new International Parental Child Abduction on-line database, Incadat (www.incadat.com). This database serves as a tool for judges, lawyers, parents, and scholars seeking information about cases adjudicated around the world under the Child Abduction Convention.

We took on a variety of other projects, including research on the enforcement of foreign family law judgments in specific countries. By the summer's end, we had helped Professor Duncan draft ad hoc Convention Status Reports, edited more than 300 case summaries for the database, attended special meetings at the Peace Palace, and authored a judges' newsletter in French and English that was sent to

involved judges worldwide and distributed at the U.S. State Department. Professor Duncan became a phenomenal mentor and friend in the world of high-profile international law we had entered.

International Court of Justice Clerkships

The International Court of Justice (ICJ) and NYU Law established the pioneering clerkship program together in 1999. Funded by gifts to the Law School, the clerkships are available to graduating students and recent graduates who perform research and other tasks to assist the ICJ.

In 2002 an NYU committee once again screened the applications and forwarded six to the ICJ. Not all of those selected by the Court were able to accept the offer. Those who will serve at the World Court in 2002-2003 are Judith Levine (LL.M. '00) and Anne Rubesame ('01).

For more information on ICJ clerkships, see page 109.

Other International Clerkships

In addition to the ICJ clerkship program, the Hauser Global Law School Program has sponsored students for clerkships at several other international courts and national constitutional courts. For more information, see page 109.

A Student Perspective

Margaret Satterthwaite ('99)

I decided to study law while serving as a human rights investigator for the Haitian National Truth and Justice Commission in 1995. A new understanding that emerged from my work for the Truth Commission was the realization that the human rights movement was not only about risk and commitment. To translate commitment and risk into concrete law and policy, I knew I would have to transform myself into a lawyer who was as capable and precise as my international colleagues.

At NYU, I was able to effect this transformation without sacrificing my sense of purpose. The school funded a large part of my studies through the Root-Tilden-Kern Program and enabled me to work closely with Professor Thomas Franck as a Junior Fellow at the Center for International Studies, and

with Professor Theodor Meron as a Boudin Fellow in human rights. These able teachers, as well as Professors Benedict Kingsbury and Donna Sullivan, taught me the mechanics, context, and substance of public international law and demonstrated the importance of insisting on the union of ethics and the law.

In May 2002, I completed my term as an NYU-sponsored law clerk at the International Court of Justice (ICJ). As one of five law clerks to the 15 judges of the ICJ, I worked with judges and members of the Registry staff, providing research on subjects relevant to cases before the Court. During my clerkship, the Court handed down a judgment in the case of the Arrest Warrant of April 11, 2000, in which the Democratic Republic of Congo sought—and achieved—the cancellation of an arrest warrant for crimes against humanity issued against its then-sitting Foreign Minister by a judge in Belgium. This case, ultimately decided on the issue of immunity, also involved universal jurisdiction and international criminal law. Working for the principal judicial organ of the United Nations has given me immense insight into the ways in which public international law is interpreted and applied.

Seven years after my Truth Commission-inspired realization, I am looking forward to uniting my scholarly pursuits with my human rights endeavors. Thanks to NYU, I will undertake this task with new skills, insight, and knowledge.

The Indigenous Legal Studies Group

The Hauser Global Law School funded a group of six students from the Indigenous Legal Studies Group (ILSG), to travel to Peru to explore the many issues confronted by indigenous populations. The academically diverse ILSG group included a first-year student, three second-year students, an LL.M. student, and a J.S.D. student from Brazil. With the help of Luis Delgado, President of the Peruvian non-governmental organization Yachay Wasi, the group spoke to Quechua-speaking leaders of small towns, met with agrarian reform experts, and interacted with directors of organizations engaged in cutting-edge efforts to bring justice and civil rights to their communities through the integration of international legal norms, Peruvian law, and inter-American partnerships.



Students in the Indigenous Legal Studies Group traveled to Peru to explore the many issues confronted by indigenous populations. They are pictured here with Luis Delgado, President of the Peruvian non-governmental organization Yachay Wasi.

Through its continuing relationship with Yachay Wasi, and cooperation with other non-governmental organizations, ILSG plans to set up a system of information exchange and provide information to communities in the Cusco Region of Peru on the political, economic, and social opportunities available.

On its return to NYU, ILSG helped organize a panel discussion entitled Cultural Heritage and Sacred Sites: World Heritage from an Indigenous Perspective. The event was cosponsored by NYU Law and the United Nations NGO Committee on the International Decade of the World's Indigenous Peoples and complemented the inaugural meeting of the U.N. Permanent Forum on Indigenous Issues in New York. Sarah Titchen of the World Heritage Centre explained UNESCO's role in implementing conventions designed to protect world heritage sites and emphasized the role of indigenous experts in identifying and protecting sacred sites through the creation of WHIPCOE, a panel of indigenous experts assisting the World Heritage Commission

in site identification. Several indigenous experts spoke in a lively discussion facilitated by NYU Law Adjunct Professor Russel Barsh.

J.S.D. Candidates in International Law

NYU's J.S.D. program attracts outstanding candidates from around the world. Many choose to focus their doctorates on elements of international law. Current J.S.D. candidates and their topics include Marcia Bernardes (Brazil), Habermasian democracy and North-South justice; Robert Dufresne (Canada), distributive justice in international law; Piibe Joge (Estonia), restitution for the wrongs of past regimes; Vivek Kanwar (U.S.), liberalism and its critiques in international law; Eun-Yong Park (South Korea), the international law of corruption; Roy Schondorf (Israel), defenses in international criminal law; and Maya Steinitz (Israel), the philosophy of international law. ■