

# International Law Weekend

Oct. 20-22  
**2011**

90<sup>th</sup> Annual Meeting of the American Branch of the ILA

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## International Law and National Politics

*Presented by the American Branch of the International Law Association and the International Law Students Association*

*Thursday events will be held at the House of the Association of the Bar of the City of New York  
42 West 44th Street, New York City*

*Friday and Saturday panels will be held at Fordham University School of Law  
140 West 62nd Street, New York City*

*Admission to ILW is free for ABILA members, ILSA members, and members  
of cosponsoring organizations. For others, there is a \$75 fee.*

# ILW 2011

## Welcome

The American Branch of the International Law Association and the International Law Students Association welcome you to the annual International Law Weekend (ILW) conference in New York City, an exciting event that brings together hundreds of practitioners, members of governmental and non-governmental organizations, and students. The theme of ILW 2011 is "International Law and National Politics." More than 30 expert panels will examine how—and to what extent—international standards influence the application and interpretation of national law, touching upon such diverse areas as human rights and humanitarian intervention, national security, immigration, trade, labor, and the environment.

ILW begins Thursday evening, October 20, with a distinguished opening panel at the House of the Association of the Bar of the City of New York, 42 W. 44th Street. A reception, open to all conference attendees, will follow.

The conference continues Friday, October 21 and Saturday, October 22 at Fordham University School of Law, 140 West 62nd Street.

Friday's activities feature a keynote address by distinguished guest speaker Harold Koh, Legal Adviser to the United States Department of State, at Fordham Law School. This event is open to all conference attendees. A lunch, also free and open to all conference attendees on a first-come, first-serve basis, will be provided by the Leitner Center for International Law and Justice in the Platt Atrium at 12:30pm, one hour before Mr. Koh delivers his speech.

On Friday evening, the Permanent Mission of Switzerland to the United Nations will host a reception for a limited number of conference attendees. If you are pre-registered for this event, please remember to bring photo identification and your conference badge, which you will be asked to show upon check-in.

Due to the generosity of co-sponsoring organizations, attendance at ILW is free for members of ABILA, ILSA, ABCNY, and other co-sponsoring organizations, as well as staff of the United Nations and Permanent Missions to the United Nations, and students. For all others there is a fee of \$75.

The Saturday luncheon seminars are \$20 for those who order a box lunch. Without lunch, admission to Saturday luncheon seminars is free.

After the ILW conference has ended, the *ILSA Journal of International and Comparative Law* publishes an issue of the Journal that contains many of the papers presented at International Law Weekend. This issue is titled "The International Practitioner's Notebook." Please email [journal@nsu.law.nova.edu](mailto:journal@nsu.law.nova.edu) to subscribe to the *Journal* or purchase this issue.



# Schedule

## At-a-Glance

<b>Thursday, October 20</b> <b>Association of the Bar of the City of New York</b>					
6:30pm	<b>Opening Panel: The Death of Sovereignty?</b> <i>(Meeting Hall, Second Floor)</i>				
8:00pm	<b>Opening Reception</b> <i>(Reception Area, Second Floor)</i>				
<b>Friday, October 21</b> <b>Fordham Law School</b>					
8:00am	<b>Complimentary Coffee</b> <i>(Platt Atrium)</i>				
9:00am	<b>The Proper Place of International Law in the U.S. Grand Strategy</b> <i>(McNally Amphitheatre)</i>	<b>Beyond All Boundaries: The Extraterritorial Grasp of Anti-Bribery Legislation</b> <i>(Room 203)</i>	<b>International Surrogacy</b> <i>(Room 204)</i>	<b>The Anti-Shari'a Movement - Unconstitutional Discrimination or Homeland Security?</b> <i>(Room 205)</i>	<b>U.S. Ratification of International Conventions in the 21<sup>st</sup> Century: Is the Process Broken?</b> <i>(Room 430 B/C)</i>
10:30am	<b>Break</b>				
10:45am	<b>Libya and International Law</b> <i>(McNally Amphitheatre)</i>	<b>Libel Tourism</b> <i>(Room 203)</i>	<b>The European Union's Treaty of Lisbon and its Impact on National Politics and Policies</b> <i>(Room 204)</i>	<b>Fair and Balanced: The Ethics of International Human Rights Fact Finding</b> <i>(Room 205)</i>	<b>UN Disabilities Convention: Intersecting Dimensions of National Human Rights Implementation</b> <i>(Room 430 B/C)</i>
12:30pm	<b>Buffet Lunch Sponsored by the Leitner Center for International Law and Justice</b> <i>(First come, first serve basis. Platt Atrium)</i>				
1:30pm	<b>Keynote - Harold Koh, Legal Adviser to the United States Department of State</b> <i>(McNally Amphitheatre)</i>				
2:45pm	<b>Break</b>				
3:00pm	<b>Pathways to Employment in International Law</b> <i>(McNally Amphitheatre)</i>	<b>Private International Law in Action</b> <i>(Room 203)</i>	<b>R2P Comes of Age?</b> <i>(Room 204)</i>	<b>Whither the Regulation of Private Military and Security Companies?</b> <i>(Room 205)</i>	<b>Habits of Compliance? International Law and the Executive</b> <i>(Room 430 B/C)</i>
4:30pm	<b>Break</b>				
4:45pm	<b>Recent Developments In International Commercial Arbitration—The User, The Institutional, and The Lawyer's Perspective</b> <i>(McNally Amphitheatre)</i>	<b>International Financial Reform and The Domestic Response</b> <i>(Room 203)</i>	<b>The Law of the International Civil Service and National Employment Law</b> <i>(Room 204)</i>	<b>Many Roads to Justice: Prospects for Strengthening Access to Justice in the Middle East-North Africa (MENA) Region</b> <i>(Room 205)</i>	<b>LGBT Rights in Africa: International Human Rights and Cultural Relativism at a Crossroad</b> <i>(Room 430 B/C)</i>
6:30pm	<b>Reception at the Permanent Mission of Switzerland to the United Nations</b> <i>633 Third Avenue, 29th floor, New York, NY 1001. Pre-registration is required.</i>				

# Schedule

## At-a-Glance

Saturday, October 22 Fordham Law School					
8:00am	Complimentary Coffee <i>(Platt Atrium)</i>				
9:00am	<b>International Law as Enhancer and Reducer of Domestic Rights and Powers</b> <i>(McNally Amphitheatre)</i>	<b>Civilian Casualties in Modern Warfare: The Death of the Collateral Damage Rule</b> <i>(Room 203)</i>	<b>Climate Change Geoengineering: Panacea or Pox in the 21st Century?</b> <i>(Room 204)</i>	<b>Africa: The Application of International Criminal Law in a Shifting Political Environment</b> <i>(Room 205)</i>	<b>International Perspectives on Indigent Defense</b> <i>(Room 311)</i>
9:30am	ILSA Board Meeting <i>(Room 430 B/C)</i>				
10:30am	Break				
10:45am	<b>CSR &amp; Human Rights - Emerging Risks for Corporate Counsel</b> <i>(McNally Amphitheatre)</i>	<b>The Future of U.S. Trade Negotiations—What is a 21st Century Trade Agreement?</b> <i>(Room 203)</i>	<b>Private Litigation Against Alleged Terrorist Sponsors</b> <i>(Room 204)</i>	<b>The Challenge of Nuclear Abolition: Closing Gap between International Law and National Politics</b> <i>(Room 205)</i>	<b>Intellectual Property Law in National Politics and International Relations Roundtable</b> <i>(Room 311)</i>
12:15pm	Break				
12:30pm	<b>Tribunal Procedure and Ethical Dilemmas for Guantanamo Bay Military Tribunals</b> <i>(McNally Amphitheatre)</i>	<b>The New International Investment Arbitration Lawyer: How Should Lawyers Prepare for the New Generation of Bilateral Investment and Trade Treaties?</b> <i>(Room 203)</i>	<b>'Material Support of Terrorism' and Exclusion from Refugee Status: US Supreme Court v. European Court of Justice</b> <i>(Room 204)</i>	<b>Current Challenges for the International Criminal Court</b> <i>(Room 205)</i>	<b>Promoting Independence for Human Rights Lawyers Worldwide: The Role of American Lawyers and Law Firms</b> <i>(Room 311)</i>
12:30pm	ABILA Executive Committee Meeting <i>(Room 312)</i>				
2:00pm	Break				
2:15pm	<b>ABILA Members Meeting</b> <i>(Room 312)</i>		<b>ILSA Congress, Meeting of ILSA Members</b> <i>(Room 311)</i>		

# Schedule

Thursday, October 20

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**6:30pm**

*2<sup>nd</sup> Floor Meeting  
Hall, ABCNY*

## **The Death of Sovereignty?**

*"Sovereignty" is a cornerstone of modern international law. Article 2(1) of the United Nations Charter declares "the Organization is based on the principle of sovereign equality." But, in an era of covert military operations in allied nations, S&P debt downgrades throwing countries into turmoil, secessionist conflicts in Europe, Africa, and elsewhere, and the increasing importance of supranational entities such as the EU, does the term "sovereignty" mean what it had previously? Is it transforming? Or dying?*

Moderator:

- **Itzhak Kornfeld**, Giordano Scholar, Faculty of Law, The Hebrew University of Jerusalem

Panelists:

- **José Enrique Alvarez**, The Herbert and Rose Rubin Professor of International Law, New York University School of Law
  - **Christopher J. Borgen**, Professor of Law and Co-Director, Center for International and Comparative Law, St. John's University School of Law
  - **Katherine M. Gorove**, Office of the Legal Advisor, Office of Human Rights and Refugees, United States Department of State
  - **Sean D. Murphy**, The Patricia Roberts Harris Research Professor of Law, The George Washington University Law School
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**8:00pm**

*2<sup>nd</sup> Floor, ABCNY*

## **Reception**

*The wine and cheese reception at the Association of the Bar of the City of New York is open to all ILW attendees.*

# Schedule

Friday, October 21

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**9:00am**

McNally  
Amphitheatre

## **The Proper Place of International Law in the U.S. Grand Strategy**

Historian Paul Kennedy defines grand strategy as “the capacity of the nation's leaders to bring together all of the elements [of power], both military and nonmilitary, for the preservation and enhancement of the nation's long-term (that is, in wartime and peacetime) best interests.” This roundtable panel asks how the U.S. government does and should view the instruments of international law as an element of power. Should treaty law be honed and wielded tactically? What are the systemic effects of a robust international legal system that benefit or harm U.S. interests? How could they be improved or better utilized? Does “lawfare” merely describe an enemy’s use of international legal instruments? Does international law have a democratic essence? How does accountability for violations fit into the picture?

Panelists:

- **Mark R. Shulman**, Dean for Graduate Programs & International Affairs, Pace University School of Law; Chair of the New York City Bar Council on International Affairs
- **Gabor Rona**, International Legal Director, Human Rights First
- **Scott Horton**, Contributing Editor, Harper’s Magazine
- **Ruth Wedgwood**, Edward B. Burling Professor of International Law and Diplomacy; Johns Hopkins School of Advanced International Studies; President, ABILA

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**9:00am**

Room 203

## **Beyond All Boundaries: The Extraterritorial Grasp of Anti-Bribery Legislation**

This panel will discuss an increasingly troublesome area of the law: the expansion of the extraterritorial application of domestic laws in the fight against international bribery. The Justice Department’s hyper-aggressive extension of the Foreign Corrupt Practices Act has occurred almost entirely without reference to Congressional intent and certainly without any judicial scrutiny. The recently enacted United Kingdom Bribery Act 2010 adopts the aggressive U.S. position on extraterritoriality and stretches it even further. This panel will explore all aspects of this rapidly developing area.

Moderator:

- **Bruce W. Bean**, Professor of Law, Michigan State University Law School

Panelists:

- **Philip Urofsky**, Partner, Shearman & Sterling; former Department of Justice FCPA Prosecutor
- **Kimberly D. Reed**, Managing Director, Reed International Law & Consulting; Professor and Assistant Dean, Duke University School of Law
- **Jeremy Carver**, President, International Law Association (London); Board Member, Transparency International UK
- **Alexander Domrin**, Head of International Programs, Pepeliaev Group, Moscow; Visiting Professor, University of Oklahoma School of Law

# Schedule

Friday, October 21

**9:00am**  
Room 204

## **International Surrogacy**

*Many industrialized states prohibit or restrict surrogacy on the grounds that it exploits women and puts children at risk. But surrogacy has not been barred everywhere. It is unregulated in many poor countries and a thriving business in others. As recently noted by the Permanent Bureau at the Hague, these differences among national policies have produced "a booming, global business" in surrogacy. "Reproductive tourism" in India, for example, generates roughly \$400 million annually. This panel will examine international surrogacy, including its human rights implications.*

Panel Chair:

- **Barbara Stark**, Chair, Family Law Committee, International Law Association; Professor of Law and Research Fellow, Hofstra Law School

Panelists:

- **Nadia de Araujo**, Associate Professor, Catholic University of Rio de Janeiro of Justice
- **Dr. Ayelet Blecher-Prigat**, Lecturer, Sha'arei Mishpat Law College; Adjunct Lecturer, The Hebrew University
- **Dr. Nina Dethloff**, Professor, Universität Bonn, Germany
- **Dr. Gaia Bernstein**, Professor of Law and Margaret Gilhooley Research Fellow, Seton Hall University Law School

**9:00am**  
Room 205

## **The Anti-Shari'a Movement – Unconstitutional Discrimination or Homeland Security?**

*Legislation by statute and constitutional amendment has passed or is in the process in over 20 States prohibiting the application in State courts of an ill-defined "Shariah Law" and/or "international law." The expressed purpose is to oppose the infiltration of terrorist Islamic groups bent upon creating a world-wide Caliphate in the United States through the imposition of Islamic law. Is this unconstitutional racism cloaked as national security or a proper response to modern asymmetric warfare?*

Panelists:

- **Robert E. Michael**, Chair, Islamic Law Committee of ABILA; Chair, Subcommittee on Islamic Law of the Council on International Affairs of the New York City Bar Association (NYCBA); Adjunct Professor of Law, Pace University Law School; Managing Member, Robert E. Michael & Associates PLLC; attorney for the NYCBA and ABILA in filing *amicus curiae* brief in the Tenth Circuit Court of Appeals supporting the injunction issued in *Awad v. Ziriax* concerning the "Save Our State" amendment to the Oklahoma State Constitution
- **Abed Awad**, Attorney and Consultant; recognized expert in Islamic Law and the laws of Arab Countries
- **Heather Weaver**, Staff Attorney, ACLU Program on Freedom of Religion and Belief

# Schedule

Friday, October 21

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**9:00am**

Room 430 B/C

**U.S. Ratification of International Conventions in the Twenty-first Century: Is the Ratification Process Broken?**

*This panel will examine the prospects for U.S. commitment to global conventions and treaties from four perspectives: the executive branch negotiators, the Senate, NGOs with substantive interests in a convention and organizers of grassroots opposition. The panelists will draw from their experiences in current and past ratification efforts on conventions addressing weapons, outer space, oceans and the environment, some of which have been successful, some of which failed, some succeeded and some are still under consideration.*

Panelists:

- **John Bellinger**, Partner, Arnold & Porter LLP; former Legal Adviser, Department of State
- **Leigh Ratiner**, Lead Negotiator, UN Conference on the Law of the Sea and Counsel to the L-5 Society in opposition to the “Moon Treaty”
- **Alexandra Toma**, Executive Director, Connect U.S. Fund

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**10:45am**

McNally

Amphitheatre

**Libya and International Law**

*What does the Libya example tell us about the legality of humanitarian interventions under international law and under U.S. domestic constitutional law? How was the Security Council Resolution obtained in light of the significant concerns of some permanent members? Is a United Nations Security Council Resolution now a required component for international legality of uses of armed force for humanitarian reasons? And to what extent is the responsibility to protect civilians a duty that extends to active intervention on behalf of an organized resistance against a dictatorial regime? As importantly, what does the Libya case mean for the international law of recognition and material support for rebels in a civil war?*

Panelists:

- **TBD**



# Schedule

Friday, October 21

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**10:45am**

Room 203

## **Libel Tourism**

*Electronic communications have changed defamation laws in ways few would have anticipated. A defamatory statement posted on the internet may be read anywhere in the world. The legal consequences of that statement depend not on where the statement was made, but where it was downloaded or viewed. This panel will review international developments under the defamation laws of the United States, the United Kingdom, Canada, and other countries. The panel is sponsored by the ABILA Committee on Teaching International Law.*

Panelists:

- **Dr. Rachel Ehrenfeld**, Director, American Center for Democracy, New York, New York
- **Steven M. Richman**, Partner, Duane Morris LLP
- **Mark E. Wojcik**, Professor of Law, The John Marshall Law School

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**10:45am**

Room 204

## **The European Union's Treaty of Lisbon and its Impact on National Politics and Policies**

*The Treaty of Lisbon, effective now for two years, has changed relations between the European Union and its Member States. The current economic crisis is putting serious strains on these relations and has had an impact on national politics and policy. EU policies, such as those relating to state aid, must be resolved in conjunction with local and regional units and the competition policy of the EU is increasingly emphasized by national authorities. A question to be addressed is whether the adoption of the Charter of Fundamental Rights and Freedoms by the EU is responsive to state concerns and whether the democratic deficit has been sufficiently addressed. In addition, the increased recognition of the role of the European Council, particularly with regard to the status of key political and monetary offices within the EU accorded by the Treaty of Lisbon, will be examined.*

Panel Chair:

- **Elizabeth F. Defeis**, Professor, Seton Hall University School of Law

Panelists:

- **Eleanor Fox**, Walter J. Derenberg Professor of Trade Regulation, New York University School of Law
- **Roger Goebel**, Alpin J. Cameron Professor of Law and Director, Fordham Center on European Union Law, Fordham Law School
- **Hugo Kaufmann**, Director, European Union Studies Center, CUNY Graduate Center
- **Fernanda Nicola**, Associate Professor, American University Washington College of Law

# Schedule

Friday, October 21

**10:45am**  
Room 205

## **Fair and Balanced: The Ethics of International Human Rights Fact Finding**

*The controversy surrounding the UN Human Rights Council Report on Israel's Military Actions in Gaza in 2009 (the "Goldstone Report") and the subsequent retraction by Richard Goldstone of several of the report's findings, has shined a spotlight on challenges facing the process of human rights fact-finding. As the scope of human rights fact-finding expands and deepens, international organizations and national governments face increasing scrutiny to ensure that investigations into human rights abuses are fair, impartial, and accurate. No global consensus has yet emerged about the ethical standards that apply to members of fact-finding teams or whether any formal rules should apply to their conduct and the scope of their reporting. This issue is increasingly important as official fact-finding reports are invoked by administrative, adjudicative, and political bodies to make determinations of the lawfulness of particular conduct.*

*This panel will bring together experienced lawyers and academics to address the challenges to regulating fact-finding processes, including: codes of conduct and ethical duties that apply UN-appointed and other international fact-finding missions; the potential applicability of domestic recusal and conflict-of-interest rules to lawyers engaging in human rights fact finding; the feasibility of formal due process protections for individuals and states who are the subjects of fact-finding missions; the obligation of UN Member States and non-state actors to cooperate with fact-finding missions; and the challenges of fact-finding during times of war and emergency.*

Moderator:

- **Peggy McGuinness**, Co-director, St. John's Center for International and Comparative Law

Panelists:

- **Philip G. Alston**, John Norton Pomeroy Professor of Law, New York University School of Law; UN Special Rapporteur on Extrajudicial, Summary or Arbitrary Executions
- **Peter Bouckaert**, Director of Emergencies, Human Rights Watch (invited)
- **Elizabeth Cassidy**, Deputy Director of Policy and Research, U.S. Commission on International Religious Freedom
- **Trevor Norwitz**, Partner, Wachtell, Lipton, Rosen & Katz

**10:45am**  
Room 430 B/C

## **UN Disabilities Convention: Intersecting Dimensions of National Human Rights Implementation**

*This panel will assess developments in the national implementation of the recently entered into force UN Convention on the Rights of Persons with Disabilities. The panel will focus on the intersections and interactions between implementation of international disability law norms enshrined in the Convention and already existing (or evolving) human rights frameworks at the national level. Can implementation of the Convention act as a catalyst for better human rights implementation not only for persons with disabilities but for others as well? What kinds of intersections are there between international disability rights and other fields of human rights law such as women's rights? How does national politics come into play?*

Panelists:

- **Steven Hill**, Deputy Legal Adviser, U.S. Mission to the United Nations; Chair, International Disability Law Interest Group, ABILA
- **Stephanie Ortoleva**, Senior Human Rights Legal Advisor, BlueLaw International, LLP; Co-Chair, International Disability Law Interest Group, ASIL

# Schedule

Friday, October 21

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**12:30pm**

Platt Atrium

**Lunch**

*Sponsored by the Leitner Center for International Law and Justice at Fordham Law School. Free for all ILW attendees on a first-come, first-serve basis.*

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**1:30pm**

McNally

Amphitheatre

**Harold Koh, Legal Adviser to the United States Department of State**

*Open to all ILW attendees.*

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**3:00pm**

McNally

Amphitheatre

**Pathways to Employment in International Law**

*A unique forum that brings law students and new lawyers together with experienced practitioners to explore opportunities for employment in international law. Learn about international internship opportunities, how to network with legal experts from around the world, practice in other legal systems and cultures, become active in international organizations and societies, and how to develop legal and interpersonal skills. Sponsored by the ABA Section of International Law and ILSA.*

Panelists:

- **TBD**

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**3:00pm**

Room 203

**Private International Law in Action: The Impact of Recent Private International Law Developments on Domestic Law and Policy**

*The development of new norms and mechanisms of private international law continues to accelerate. Conventions, model laws and other instruments adopted in the EU, the Hague Conference on Private International Law, UNCITRAL, UNIDROIT and the OAS contribute directly to the rule of law, good governance and economic development. They also stand at the intersection of domestic and international law. This panel will explore the most significant recent developments approaches in the field.*

Moderator:

- **David P. Stewart**, Visiting Professor of Law; Director, Global Law Scholars Program, Georgetown University Law Center; Vice President, ABILA

Panelists:

- **Louise Ellen Teitz**, Professor of Law, Roger Williams University School of Law; First Secretary, The Hague Conference on Private International Law; Member, ABILA Executive Committee
- **John M. Wilson**, Senior Legal Officer, Department of International Law, Organization of American States
- **John A. Sebert**, Executive Director, Uniform Law Commission
- **Ronald A. Brand**, Professor of Law, University of Pittsburgh School of Law; Member, ABILA Executive Committee
- **Keith Loken**, Assistant Legal Adviser for Private International Law, U.S. Department of State
- **Catherine M. Amifar**, Partner, Debevoise & Plimpton; Member, ABILA Executive Committee

# Schedule

Friday, October 21

**3:00pm**  
Room 204

## **R2P Comes of Age?**

*The extent to which the "Responsibility to Protect" principle has supplanted "Humanitarian Intervention" in international law will be analyzed in light of the UN Security Council's resolutions on Libya and Cote d'Ivoire as well as subsequent Council action or non-action in other situations where governments oppress their own citizens. The August 2011 Presidential statement on Syria will be contrasted with any Council decision under Charter Article VII that might have been possible.*

Chair:

- **John Carey**, former Vice President, ABILA

Panelists:

- **David P. Stewart**, Visiting Professor of Law; Director, Global Law Scholars Program, Georgetown University Law Center; Vice President, ABILA
- **Thomas G. Weiss**, Presidential Professor of Political Science and Director of the Ralph Bunche Institute for International Studies, The CUNY Graduate Center
- **John F. Murphy**, Professor of Law, Villanova University School of Law; Honorary Vice President, ABILA

**3:00pm**  
Room 205

## **Whither the Regulation of Private Military and Security Companies?**

*Private Military and Security Companies (PMSCs), today ever-present in conflict situations such as Iraq, Afghanistan, and more lately Somalia and Libya, have long been said to escape effective national or international legal regulation. A series of diplomatic initiatives have sought to clarify matters, promote effective regulation and ensure accountability. September 2008 saw the arrival of the Swiss-ICRC sponsored Montreux Document on Pertinent International Legal Obligations and Good Practices for States related to Operations of PMSCs during Armed Conflict, and in November 2010, close to sixty PMSCs themselves volunteered to commit to an International Code of Conduct for Private Security Service Providers, aimed at bringing companies directly into the fold of human rights and international humanitarian law obligations. An independent governance and oversight mechanism for the Code is currently in the making through a multi-stakeholder process. In the meantime, the Human Rights Council in Geneva has begun to consider the possibility of elaborating an international regulatory framework on the regulation monitoring and oversight of the activities of PMSCs. The panel will trace these latest developments in PMSC regulation, discuss continuing challenges, and ponder the question in which direction regulation most likely will and should evolve.*

Panelists:

- **Paul Seger**, Ambassador, Permanent Representative of Switzerland to the United Nations in New York
- **[TBC:] Chris Albin-Lackey**, Senior Researcher for Business and Human Rights, Human Rights Watch, and Civil Society Representative in the Temporary Steering Committee of the International Code of Conduct for Private Security Providers
- **Faiza Patel**, Co-Director of the Liberty and National Security Program, Brennan Center for Justice at New York University School of Law and Member, United Nations Human Rights Council's Working Group on the Use of Mercenaries

# Schedule

Friday, October 21

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**3:00pm**

Room 430 B/C

## **Habits of Compliance? International Law and the Executive**

*This panel will explore how the structure of the executive branch affects compliance with international law. Does the disaggregated nature of international legal decision making promote state compliance with international law, or does executive agency competition encourage officials to take advantage of the “softness” of international law? The panel brings together former officials from different administrations to consider how coordination and decision making in the executive branch has important implications for the applicability and enforcement of international law.*

Panelists:

- **Martin S. Lederman**, Associate Professor of Law, Georgetown University Law Center
- **Neomi Rao**, Assistant Professor of Law, George Mason School of Law
- **Brett McGurk**, International Affairs Fellow, Council on Foreign Relations
- **Nathan Sales**, Assistant Professor of Law, George Mason School of Law
- **Gabor Rona**, International Legal Director, Human Rights First
- **Trevor Morrison**, Professor of Law, Columbia Law School

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**4:45pm**

McNally

Amphitheatre

## **Recent Developments In International Commercial Arbitration—The User, The Institutional, and The Lawyer’s Perspective**

*Is 28 USC 1782 discovery available in commercial arbitrations? What are the best places to arbitrate? Can the parties modify by agreement the grounds to challenge arbitral awards? Are investment and commercial arbitration really worlds apart? Are there commercial disputes that it does not make sense to arbitrate? Can arbitration become more efficient? The panel shall address these and other related questions as arbitration continues to grow as one of the world’s most popular mechanisms to resolve commercial disputes.*

Panel Chair and Moderator:

- **Aníbal M. Sabater**, Partner, Fulbright & Jaworski LLP; Executive Committee of the ABILA and Chair of the ABILA's Extraterritorial Jurisdiction Committee

Panelists:

- **Justin R. Marlles**, Counsel, Petrohawk Energy Corporation
- **Dietmar W. Prager**, Counsel, Debevoise & Plimpton LLP
- **Luis M. Martinez**, Vice President, International Centre for Dispute Resolution - A Division of the American Arbitration Association; President, Inter-American Commercial Arbitration Commission

# Schedule

Friday, October 21

**4:45pm**  
Room 203

## **International Financial Reform and The Domestic Response**

*In the wake of the last financial crisis, international political institutions like the G20, soft-law creators like the Basel Committee and the Financial Stability Board, and international organizations like the IMF have all turned their attention to remaking the architecture of oversight of international finance. This panel will assess American engagement with the international reforms and the relationship between domestic and international regulation of finance.*

Panelists:

- **TBD**

**4:45pm**  
Room 204

## **The Law of the International Civil Service and National Employment Law**

*The law of the international civil service occupies an unusual place within the annals of international law. International law regulates the relationships between states, and might not ordinarily be considered to have much to say about employment relationships. In practice the law of the international civil service has been developed through the jurisprudence of a handful of administrative tribunals, but it lacks the statutory sophistication of domestic employment law. Moreover administrative tribunals have declined to apply international legal instruments describing employees' rights, or human rights treaties. Should administrative tribunals draw greater inspiration from domestic employment law and international human rights law? Are the gaps in the law of the international civil service of concern? Is the approach demonstrated in the case law of these tribunals too formalistic? Are remedies granted by the tribunals adequate? Are reforms desirable and if so how might they be effected? These and other issues will be addressed in the course of the speakers' presentations.*

Panel Chair and Moderator:

- **Dr. Matthew Parish**, Partner, Holman Fenwick Willan LLP, Geneva, lawyer specializing in public and private international law; formerly Chief Legal Adviser to the International Supervisor of Brcko, Bosnia and Herzegovina

Panelists:

- **Phil Bocking**, Member, Central Committee, Staff Union of the European Patent Organization, Berlin, Germany
- **Ed Flaherty**, Senior Partner, Schwab Flaherty & Associates, Geneva
- **Dave Lewis**, Professor of Employment Law, University of Middlesex, England
- **Daniel Premont**, Professor of Human Rights Law, University of Strasbourg, France; former head of UN human rights missions in Cambodia and the Democratic Republic of Congo

# Schedule

Friday, October 21

**4:45pm**  
Room 205

## **Many Roads to Justice: Prospects for Strengthening Access to Justice in the Middle East-North Africa (MENA) Region**

*This post-Arab spring analysis of access to justice in the MENA region goes beyond access to the courts and legal representation and considers notions of rights and justice, including for historically disadvantaged populations, such as women and youth; suggests solutions for removing barriers to enjoyment of rights and justice; addresses the effect of improved access to justice on economic development; and assesses lessons learned and upcoming challenges. Morocco, which in June 2011 passed constitutional reforms to strengthen its formal and informal justice systems, will be a case study.*

Panelists:

- **Norman L. Greene**, Schoeman, Updike & Kaufman, LLP
- **Leila Hanafi**, Staff Attorney and Programs Manager, The World Justice Project
- **Patricia DeGennaro**, Professor, New York University, Department of Politics
- **Christopher A. Jennings**, Senior Democracy and Governance Specialist, Office of Iraq Reconstruction, U.S. Agency for International Development (USAID)

**4:45pm**  
Room 430 B/C

## **LGBT Rights in Africa: International Human Rights and Cultural Relativism at a Crossroad**

*Almost all African countries criminalize consensual homosexual acts. In the few countries where this is not the case, LGBT people nonetheless face extreme discrimination or are otherwise frowned upon. Discrimination and stigma force most LGBT individuals to live secret lives on the continent and the fight for acceptance is left to a few heroic individuals trying to make their voices heard. Religious beliefs and reference to traditional African values are often invoked to justify the discriminatory treatment of LGBT people on the continent. Supporters for equal rights for LGBT people argue that equality for all is enshrined in universal human rights instruments that African countries have ratified. In an increasingly globalized, yet also localized, world many international rules and standards face challenges when implemented in the local context, perhaps none more so than those related to the rights of LGBT people. This panel will explore the complex relationship between African traditional beliefs, religion and the international human rights regime, focusing on the struggle of LGBT people on the continent.*

Moderator:

- **Chi Mgbako**, Associate Clinical Professor of Law & Director, Walter Leitner Human Rights Clinic, Leitner Center for International Law and Justice at Fordham Law School

Panelists:

- **Nicole Fritz**, Executive Director, Southern Africa Litigation Centre, South Africa
- **Cheikh Traore**, Senior Advisor, Sexual Diversity, United Nations Development Programme, New York
- **Ernest Kofi Abotsi**, Lecturer in Law, Faculty of Law, KNUST, Ghana; Executive Director, African Center for Development Law and Policy, Accra, Ghana

# Schedule

Saturday, October 22

**9:00am**

McNally  
Amphitheatre

## **International Law as Enhancer and Reducer of Domestic Rights and Powers**

*This panel explores how international law expands or contracts domestic rights and powers across a range of hot topics: how theories of attribution, including the "effective control" test, can expand or reduce domestic powers; how principles of foreign official immunity and plenary territorial jurisdiction have interacted historically; how individuals can hold international organizations accountable via standing mechanisms in the UN and ICC; and how international law affects the United States' ability to exercise extraterritorial jurisdiction.*

Moderator:

- **Lori Fisler Damrosch**, Henry L. Moses Professor of Law and International Organization, Hamilton Fish Professor of International Law and Diplomacy, Columbia Law School

Panelists:

- **Kristen E. Boon**, Associate Professor of Law, Seton Hall University School of Law
- **Anthony J. Colangelo**, Assistant Professor of Law, SMU Dedman School of Law
- **Chimène Keitner**, Associate Professor of Law, UC Hastings College of the Law
- **Cora True-Frost**, Assistant Professor of Law, Syracuse University College of Law

**9:00am**

Room 203

## **Civilian Casualties in Modern Warfare: The Death of the Collateral Damage Rule**

*In modern warfare, civilian deaths and injuries far outweigh military casualties and yet the collateral damage rule continues to insist that that civilian destruction is only permitted when incidental to an attack on a legitimate military target and only when civilian casualties are not excessive in relation to concrete and direct military advantage anticipated. The panel will examine whether this rule can expect continued validity in light of the conditions and casualty statistics of modern warfare. It will also examine the impact of instant and ubiquitous media on the application of the collateral damage rule including recent US Rules of Engagement (ROEs) bearing on this rule.*

Panelists:

- **Lt. Col. George Cadwalader**, Military Professor, U.S. Naval War College
- **John Cerone**, Professor and Director of the Center for International Law and Policy, New England School of Law Boston
- **Valerie Epps**, Professor and Co-Director of the International Law Concentration, Suffolk University Law School; Vice President, ABILA
- **Jordan Paust**, Mike and Teresa Baker Law Center Professor, University of Houston Law Center



# Schedule

Saturday, October 22

**9:00am**  
Room 204

## **Climate Change Geoengineering: Panacea or Pox in the 21st Century?**

*The tepid response of the world community to arresting the rise of greenhouse gas emissions has led some scientists and policymakers to consider a potential response to climate change heretofore considered taboo, geoengineering, defined as “the deliberate large-scale manipulation of the planetary environment to counteract anthropogenic climate change.” This panel examines a host of legal issues that would arise from geoengineering research and potential deployment, including governance architecture, compensatory mechanisms for those that might be adversely affected by side effects associated with deployment, and the implications of intergenerational equity principles.*

Panelists:

- **Wil Burns**, Director, Energy Policy & Climate Program, Johns Hopkins University
- **William Pentland**, Senior Energy Systems Analyst, Pace Energy & Climate Center, Pace Law School
- **Martin Bunzl**, Professor, Department of Philosophy and Director, Rutgers Initiative on Climate Change and Social Policy, Rutgers University
- **Edward A. Parson**, Joseph L. Sax Collegiate Professor of Law, University of Michigan Law School

**9:00am**  
Room 205

## **Africa: The Application of International Criminal Law in a Shifting Political Environment**

*Over the past twelve months, the international community witnessed the implementation of international criminal law against a backdrop of dramatic political environments. The tectonic shift in the political environments in countries such as Libya, Ivory Coast, Sudan, to name a few have brought the realm of international law, and in particular international criminal law, at the forefront of the political realm in Africa. This panel would propose to bring together four experts in the political and legal fields to discuss the implications of political decisions to the development of international criminal law in Africa, paying particular attention to the role of the Security Council, the African Union and its Peace and Security Council, and other decision-makers in the international community.*

Moderator:

- **Wambui Mwangi**, Legal Officer, United Nations Office of Legal Affairs

Panelists:

- **H.E. Mr. Lumumba Stanislaus-Kaw Di-Aping**, Deputy Permanent Representative, Permanent Mission of the Republic of Sudan to the United Nations
- **Mwangi S. Kimenyi**, Senior fellow and director of the Africa Growth Initiative, Brookings Institution
- **Cecile Aptel**, Jennings Randolph Senior Fellow, United States Institute of Peace
- **Roland Adjovi**, Academic Director, Arcadia University, Arusha, Tanzania

# Schedule

Saturday, October 22

**9:00am**  
Room 311

## **International Perspectives on Indigent Defense**

*In January 2011, the Department of Justice's Access to Justice Initiative and the National Institute of Justice's International Center jointly sponsored a workshop on International Perspectives on Indigent Defense. The purpose of the workshop was to identify domestic and international best practices for representing low-income criminal defendants and to devise a robust research agenda on criminal indigent defense in the United States. The 40-person group from nine countries consisted of leading experts drawn from multidisciplinary communities, including domestic and international practitioners, researchers, advocates and government officials. This panel will examine the benefits and limitations of approaching the problems surrounding criminal legal aid in an international, multi-disciplinary way.*

Moderator:

- **Maha Jweied**, Senior Counsel, Access to Justice Initiative, U.S. Department of Justice

Panelists:

- **Norman Lefstein**, Professor of Law and Dean Emeritus, Indiana University School of Law-Indianapolis
- **Jo-Ann Wallace**, President & CEO, National Legal Aid and Defender Association
- **Miranda Jolicoeur**, Crisis Stabilization & Governance Officer, U.S. Agency for International Development

**10:45am**  
McNally  
Amphitheatre

## **CSR & Human Rights – Emerging Risks for Corporate Counsel**

*Human rights law is a growing area of concern for corporate lawyers advising global clients, structuring international transactions, and participating in transnational litigation. This roundtable focuses on the professional role of corporate counsel in identifying and managing the legal, political, regulatory, and reputational risks arising out of human rights claims.*

*Panelists include a moderator, in-house counsel, a lawyer from the U.S. State Department, and a risk management expert. This session will be of interest not only to corporate lawyers, but also to other in-house counsel, human rights lawyers, and academics working in related areas.*

Panelists:

- **Dr. David Nersessian**, Visiting Assistant Professor of Law, Boston University School of Law
- **Greg Maggio**, Office of the Legal Adviser, U.S. Department of State; seconded to the State Department's Economic and Energy Bureau from 2011-2012 to focus on the OECD Guidelines for Multinational Enterprises
- **William K. Austin**, Austin & Stanovich Risk Managers LLC; former Vice President and Corporate Risk Manager for FleetBoston

# Schedule

Saturday, October 22

**10:45am**

Room 203

## **The Future of U.S. Trade Negotiations—What is a 21st Century Trade Agreement?**

*This Panel will focus on the latest developments in United States trade negotiations, emphasizing recent bilateral and regional free trade agreements. In light of the struggles faced in the WTO multilateral negotiations, more attention has been focused on regional and bilateral agreements as a means to achieve national political goals for trade liberalization. This panel will explore those efforts, whether they are likely to be effective, and what they may mean for national and multilateral goals.*

Moderator:

- **Claire Kelly**, Professor of Law, Brooklyn Law School

Panelists:

- **Jagdish N. Bhagwati**, Professor, Columbia University
- **Sungjoon Cho**, Visiting Professor of Law, Fordham Law School and Professor of Law and Norman and Edna Freehling Scholar, Chicago-Kent College of Law
- **Ben King**, New Zealand Embassy, Counsellor (Trade)
- **Catherine Mellor**, U.S. Chamber of Commerce, Associate Director, Southeast Asia International Division

**10:45am**

Room 204

## **Private Litigation Against Alleged Terrorist Sponsors**

*The Antiterrorism Act provides a private civil cause of action against persons and organizations providing material support for international terrorism. In amicus briefs, the U.S. Justice Department has stated that such private cases can be an effective weapon against international terrorism. Cases have been brought against entities who demonstrably support terrorism, but also against some whose alleged connections with terrorist organizations are more tenuous. This panel will address the theory and practice of these cases.*

Moderator:

- **Captain Glenn A. Sulmasy**, Chair of the Humanities Department, U.S. Coast Guard Academy

Panelists:

- **Daniel L. Cantor**, Partner, O'Melveny and Meyers LLP
- **Neil L. Glazer**, Partner, Kohn Swift & Graf, P.C.
- **Andrew Kent**, Associate Professor, Fordham Law School
- **Vincent J. Vitkowsky**, Partner, Edwards Angell Palmer & Dodge LLP and Adjunct Fellow, Center for Law and Counterterrorism

# Schedule

Saturday, October 22

**10:45am**  
Room 205

## **The Challenge of Nuclear Abolition: Closing Gap between International Law and National Politics**

*The U.S. announced a new nuclear weapons policy in 2010. Does it comply with the ICJ opinion on the legality of nuclear weapons? This panel will examine the current nuclear weapons policy of nuclear powers, new developments in international law on nuclear weapon, and a winning strategy to achieve a safe world without nuclear weapons.*

Moderator:

- **John H. Kim**, Co-Chair, Arms Control and Disarmament Committee, ABILA

Panelists:

- **Winston P. Nagan**, Professor of Law and Director of the Institute for Human Rights, Peace, and Development, University of Florida Levin College of Law
- **Randy Rydell, Ph.D.**, Senior Political Affairs Officer, Office of the High Representative, UN Office for Disarmament Affairs
- **Alicia Godsberg**, Executive Director, Peace Action-NYS; former Research Associate for the Strategic Security Program and UN Affairs at the Federation of American Scientists

**10:45am**  
Room 311

## **Intellectual Property Law in National Politics and International Relations Roundtable**

*This roundtable will explore how national political and economic policies drive and shape efforts to promote or resist the international harmonization of intellectual property laws. The main topic of discussion will be the roles of national political constituencies and forces in IP treaty negotiations, interpretation, and dispute resolution. Politically influential constituencies to be considered will include both public interest NGOs and special interest groups, such as broadcasters, content providers, ISPs, the disabled, universities, regional trade associations, and indigenous communities. The role of economic policy in shaping IP negotiating positions will also be discussed.*

Panelists:

- **Aaron Fellmeth**, Professor of Law and Faculty Fellow, Center for Law, Science & Innovation, Arizona State University Sandra Day O'Connor College of Law; Chair, International Intellectual Property, ABILA
- **Rochelle Cooper Dreyfuss**, Pauline Newman Professor of Law, New York University School of Law
- **Daniel J. Gervais**, FedEx Research Professor of Law and Co-Director, Technology & Entertainment Law Program, Vanderbilt Law School
- **Patricia Judd**, Associate Professor of Law Washburn University School of Law
- **Molly Beutz Land**, Associate Professor of Law and Associate Director, Center for International Law, New York Law School
- **Peter K. Yu**, Kern Family Chair in Intellectual Property Law and Director, Intellectual Property Law Center, Drake University Law School; Member, ABILA Executive Committee
- **J. Janewa OseiTutu**, Visiting Scholar, University of Pittsburgh School of Law; Legal Counsel, Department of Justice, Canada

# Schedule

Saturday, October 22

**12:30pm**

McNally

Amphitheatre

## **Tribunal Procedure and Ethical Dilemmas for Guantanamo Bay Military**

### **Tribunals**

*The Response is a 30-minute courtroom drama based on the actual transcripts of the Guantanamo Bay military tribunals (the Combatant Status Review Tribunals). In the vein of Twelve Angry Men, the film revolves around the tribunal of a suspected enemy combatant and the three military officers who must decide his fate. The Response was shortlisted for the 2010 Academy Awards, one of only ten films selected worldwide for this honor, and named the ABA Silver Gavel Award winner as best of the year in Drama & Literature. The panelists will discuss how the procedure affects the proceedings and the ethical issues raised.*

Panelists:

- **Sig Libowitz**, Writer & Producer, *The Response*; Attorney, Venable, LLP
- **John Harrington**, Law Office of John H. Harrington, New York
- **Houston Putnam Lowry**, Brown & Welsh, PC; Honorary Secretary, ABILA
- **Peter Riegert**, Actor; *Animal House, Local Hero, Crossing Delancey, The Sopranos*
- **Judge Evan Wallach**, Court of International Trade; Adjunct Professor in Law of War, New York Law School

**12:30pm**

Room 203

## **The New International Investment Arbitration Lawyer: How Should Lawyers Prepare for the New Generation of Bilateral Investment and Trade Treaties?**

*The increase in BITs and Trade Agreements during the 1980s and 1990s resulted in an explosion on the number of investment arbitrations in the last decade. At the same time, this wave of investment cases and the new challenges exposed since the 2008 economic downturn caused a number of countries to modify their FDI policies, including important changes to their BIT and Trade model agreements. The U.S., China and countries of the EU and others have updated their FDI policies, in many cases increasing their discretionary powers and reducing investors' protections. What should lawyers involved in investment arbitration expect from these new policies? How should they prepare for the next decade in light of these new policies? What other changes to FDI policies can be expected in the coming years? These questions will be the focus of this panel's discussion.*

Moderators:

- **Norman Gregory Young**, Professor, California State Polytechnic University; Co-Chair, Bilateral Investment Treaty and Development Committee, ABILA
- **Roberto Aguirre Luzi**, Partner, King and Spalding; Co-Chair, Bilateral Investment Treaty and Development Committee, ABILA

Panelists:

- **Anna Joubin-Bret**, Senior Legal Adviser, Division on Investment, Technology and Enterprise of the United Nations Conference on Trade and Development (UNCTAD), Geneva
- **Fernando Cantuarias Salaverry**, Professor, Universidad Peruana de Ciencias Aplicadas
- **Dr. Huiping Chen**, Professor of Law, Xiamen Law School; and Secretary-General, Xiamen Academy of International Law
- **Jeswald W. Salacuse**, Henry J. Braker Professor of Law, The Fletcher School, Tufts University

# Schedule

Saturday, October 22

**12:30pm**

Room 204

## **'Material Support of Terrorism' and Exclusion from Refugee Status: US Supreme Court v. European Court of Justice**

*In recent years, states have adopted numerous anti-terrorism laws based on concerns for national security, aimed at preventing the admission or immigration of persons with connections to terrorist networks, but often also negatively affecting persons in need of protection. As a result of 'material support' bars in anti-terrorism provisions, even legitimate refugees have been prevented from receiving asylum or protection from refoulement. This session, designed in a moot court style, debates recent US Supreme Court and European Court of Justice Decisions on exclusion.*

Moderator:

- **Guy Goodwin-Gill**, Professor of Public International Law, Oxford University

Panelists:

- **Geoffrey Corn**, Associate Professor of Law, South Texas College of Law
- **Kristine Huskey**, Director, Anti-Torture Program, Physicians for Human Rights
- **Eric Jensen**, Visiting Assistant Professor of Law, Fordham University School of Law
- **Tom Syring**, Legal Adviser, UNE / Norwegian Immigration Appeals Board

**12:30pm**

Room 205

## **Current Challenges for the International Criminal Court**

*With the recent Security Council referral of the situation in Libya to the ICC, as well as the current cases and investigations, there are high expectations placed on the ICC, but it must operate as an effective institution. The panel will focus on current challenges to the court's work, including the court's capacity to handle cases; challenges in finding a new Prosecutor and judges, ensuring that election procedures produce credible and qualified candidates; and the proper role of oversight by the Assembly of States Parties.*

Panel Chair and Moderator:

- **Jennifer Trahan**, Assistant Clinical Professor, NYU Global Affairs Program; Chair, American Branch of the International Law Association, ICC Committee

Panelists:

- **Judge Sang-Hyun Song**, President, International Criminal Court
- **Bill Pace**, Convenor, Coalition for an International Criminal Court
- **Fatou Bensuda**, Deputy Prosecutor, International Criminal Court

# Schedule

Saturday, October 22

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**12:30pm**

Room 311

**Promoting Independence for Human Rights Lawyers Worldwide: The Role of American Lawyers and Law Firms**

*Lawyers, and especially human rights lawyers, play a fundamental role with respect to human rights promotion and protection by other civic actors, vulnerable citizens, and activists. Because of this special role, however, they also become easy targets of abuse and are frequently harassed, intimidated, and themselves arrested and detained. This attempt to prevent lawyers from doing their jobs, and particularly to prevent them from representing clients that are unpopular with governments and other powerful actors threatens not only the development of human rights but also the rule of law. This panel will explore current and recent examples from countries including China, Argentina, Vietnam, and Northern Ireland. Panelists will explore what responses the U.S. legal community can make to support the professional independence of lawyers.*

Moderator:

- **Elisabeth Wickeri**, Executive Director, Leitner Center for International Law and Justice

Panelists:

- **Jerome A. Cohen**, Professor of Law, New York University School of Law; Adjunct Senior Fellow, Council on Foreign Relations
- **Scott Greathead**, Partner, Wiggin and Dana LLP
- **Sharon Hom**, Executive Director, Human Rights in China

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**12:30pm**

Room 312

**ABILA Executive Committee Meeting**

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**2:15pm**

Room 312

**ABILA Members Meeting**

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**2:15pm**

Room 311

**ILSA Congress, Meeting of ILSA Members**

*All ILSA members are asked to attend the ILSA Congress, the bi-annual meeting of ILSA Chapters. At the Congress, ILSA members will meet the 2011-2012 Student Officers, discuss the year's activities, and plan for the future of the organization.*



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