



# The Indian Society of International Law

## NEWSLETTER

VOL. 10, NO. 1, January-March, 2011

*For members only*

**President & Secretary General**

Rahmatullah Khan

**Vice Presidents**

Narinder Singh  
C. K. Chaturvedi  
R. Venkat Rao

**Treasurer**

V. G. Hegde

**Director**

S. K. Verma

**INSIDE**

Recent Activities .....	2
Recent Developments in International Law .....	2-7
New Acquisition in ISIL Library .....	7
Current Issue of IJIL .....	8
Forthcoming Events .....	8

*Published by:*

**The Indian Society of International Law**

V.K. Krishna Menon Bhawan,  
9, Bhagwan Dass Road,  
New Delhi-110001 (INDIA)

Tel.: 23389524, 23384458-59 Fax: 23383783

E-mail: isil@iasdl01.vsnl.net.in

Website: www.isil-aca.org

## Obituary



I write this with a heavy heart: Our beloved President R. P. Anand left us on 7 February 2011 after a small period of illness and hospitalisation. He was surrounded by his family, friends and colleagues. His departure has left a void which is impossible to fill. His was a towering personality that shaped public international law in India, and had a profound impact in India and abroad.

Over 50 years of teaching and research and more than 21 books on the subject, he had produced an envious corpus of international legal jurisprudence and a bevy of young and ambitious professionals.

No one admired and critiqued his work more than I did. Starting as

professional rivals, we ended up as a mutual admiration brotherhood. He was the doyen of international lawyers who dominated the scene more than 50 years and left an admirable legacy which no one could ignore or emulate.

Prof. Anand (born June 15, 1933 at New Delhi), after his LL. B. with a first division in 1953, received his LL.M. in 1957 from Delhi University, Delhi with distinction in International Law. He was declared as the best LL. M. student in the University in that year and was awarded a special prize. In 1958, he joined the Indian School of International Studies as a Senior Research Fellow in International Law. In 1960-61, he joined the Yale University School of Law as a Sterling Fellow where he received his LL.M. in 1962 and J.S.D. in 1964. In January 1964, Dr. Anand was appointed Research Associate at the World Rule of Law Centre, Duke University School of Law. In 1965, he returned to the Indian School of International Studies (now part of the Jawaharlal Nehru University) where he had been Professor of International Law and also Chairman of the Center for Studies in Diplomacy, International Law and Economics. In 1969, Dr. Anand was selected National Lecturer in Law by the University Grants Commission of the Government of India, and he delivered lectures at several universities in India on "New States and International Law." In 1970-71, Dr. Anand was awarded a fellowship by the Woodrow Wilson International Centre for Scholars in Washington, D.C. In 1973 he was appointed Consultant to the United Nations Secretary-General on Law of the Sea. On leave from his University, from 1978-1982, Dr. Anand joined the Culture Learning Institute of the East-West Center Honolulu, as a Research Associate where he worked on a project on "ASEAN and the Law of the Sea." He delivered Hague Lecture on "Sovereign Equality of States in International Law" in 1986. Prof. Anand published more than one hundred articles in professional journals in Canada, Europe, India, Japan, and the United States.

**Rahmatullah Khan**

# RECENT ACTIVITIES/ RECENT DEVELOPMENTS

## A CONDOLENCE MEETING TO MOURN THE SAD DEMISE OF PROF. R.P. ANAND, PRESIDENT, ISIL

ISIL organized a condolence meeting to mourn the sad demise of Prof. R. P. Anand, President, ISIL, on 07 February 2011 at the ISIL. Prof. R. P. Anand served the ISIL in various capacities. He was Professor Emeritus of Centre for International Legal Studies, School of International Studies, Jawaharlal Nehru University, New Delhi. Over the years he helped in shaping public international law in India and throughout the world by his notable publications and laid the foundation for third world approaches on the subject. Most famous among his publications is perhaps *New States and International Law*, have deeply influenced the thinking of the millions of people. He was the doyen of international lawyers among developing countries. Jurists all over the world mourned his death and paid their tributes to him.

Over 50 years of teaching and more than 21 published books on the subject, he is one of the pioneers of the Third World Approaches to International Law movement. His writings have fundamentally shaped the scholarship, practices and methods of a generation of international legal scholars in the global south, and will continue to wield influence well into the future. He was a wonderful husband to his wife, a wonderful father to his children and grandfather to his grandchildren. EC Members, Life Members and Associate Members of the ISIL were present in the meeting.

## UGC REFRESHER COURSE ON INTERNATIONAL LAW

The ISIL organized the UGC Refresher Course on International Law for law teachers from February 16 - March 09, 2011. 12 law teachers participated in the Refresher Course.

## SPECIAL LECTURE ON 'HUMAN RIGHTS DIMENSION OF INVESTMENT' BY PROF. SUSAN KARAMANIAN, ASSOCIATE DEAN FOR INTERNATIONAL & COMPARATIVE LEGAL

## STUDIES, GEORGE WASHINGTON UNIVERSITY LAW SCHOOL

The ISIL organised a Special Lecture on "*Human Rights Dimension of Investment*" on 1 March 2011 at its premises. Prof. S. K. Verma introduced the speaker, *Prof. Susan L Karamanian, Associate Dean for International & Comparative Legal Studies, George Washington University Law School*. The lecture witnessed lively exchange of views from the audience on her presentation.

## SPECIAL LECTURE ON 'AFTER THE LAST JUDGMENT: A FUTURE FOR EGYPTIAN CONSTITUTIONALISM AND DEMOCRACY' BY PROF. ADRIEN WING, THE BESSIE DUTTON MURRAY PROFESSOR AT THE UNIVERSITY OF IOWA COLLEGE OF LAW

The ISIL organised a Special Lecture on "*After the Last Judgment: A Future for Egyptian Constitutionalism and Democracy*" on 17 March 2011 at its premises. Prof. S. K. Verma introduced the speaker, *Prof. Adrien Wing, The Bessie Dutton Murray Professor at the University of Iowa College of Law*. The lecture witnessed lively exchange of views from the audience on her presentation.

## A DISCUSSION ON CUSTOMARY INTERNATIONAL HUMANITARIAN LAW

The ISIL and the ICRC, New Delhi jointly organized "A Discussion on Customary International Humanitarian Law: Update on India's Practice" on 31 March 2011. Mr. Christopher Harland, Regional Legal Advisor, ICRC delivered a lecture on recent update on India's Practice on IHL.

## VISIT OF STUDENTS

A delegation of 30 students and their teacher Ms. Namrata Solanki, Lecturer in Law, from Faculty of Law, The Maharaja Sayajirao University of Baroda (Vadodara) visited ISIL on 18 January 2011 and another delegation of 20 students from Law College, Durgapur visited ISIL on 24 January 2011. Prof. Rahmatullah Khan, Secretary General, ISIL and Prof. S. K. Verma, Director, ISIL, spoke to the students and described the activities of ISIL to the visitors and also discussed the importance of international law and career prospect in this area.

## RECENT DEVELOPMENT

### SERBIA JOINS LIST OF COUNTRIES AGREEING TO ENFORCE ICC JAIL TERMS

The International Criminal Court (ICC) and the Government of Serbia signed an agreement, on 20 January 2011, by which people convicted by the court can serve



Participants of UGC Refresher Course

# RECENT DEVELOPMENTS

their sentences in the Eastern European nation. Five other countries – Austria, United Kingdom, Belgium, Denmark and Finland – have concluded similar agreements with the ICC. ICC President Sang-Hyun Song and Justice Minister Snezana Malovic of Serbia represented to sign the agreement.

## UN FORUM TO CONSIDER SOCIAL DEVELOPMENT LINKED TO FORESTS OPENS IN NEW YORK

On 24 January 2011, countries have gathered at the United Nations Headquarters in New York for the start of a forum on strategies to help the world's forests promote social development, improve livelihoods and contribute towards global poverty eradication. The UN Forum on Forests, which is made up of all the 192 countries that make up the UN's membership, runs for two weeks and aims to emphasize the role and responsibilities of people who depend on forests at a time when forests are threatened by unsustainable practices and economic crises. At the Forum, policies and programmes related to forest-dependent communities, land tenure, and other social and cultural aspects of forests has been discussed. Forests cover about 31 per cent of Earth's surface – or just under four billion hectares – according to the UN Food and Agriculture Organization. An estimated 13 million hectares of the world's forests are lost every year, mainly as a result of converting forest land to other uses. More than 60 million people are employed by forest-based industries and the annual value of wood removed from forests is estimated to be over \$100 billion. At least 1.6 billion people directly depend on forests for their livelihoods, the majority of them poor inhabitants of areas next to forests; while an estimated 60 million people, mainly members of indigenous and local communities, live in forests.

## UN ENVOY PROPOSES SPECIAL COURTS TO TRY SUSPECTED PIRATES

The United Nations special envoy on maritime piracy off the coast of Somalia, on 25 January 2011, proposed the setting up of two special courts inside the country and one in Tanzania to try suspected pirates, saying the problem in the Indian Ocean was getting out of hand and required "strong and

decisive action." Jack Lang, the Special Adviser on Legal Issues related to Piracy off the Coast of Somalia, said the international community should work towards "Somaliaization" of responses to piracy by helping local authorities in the regions of Puntland and Somaliland to enhance their judicial and prison capacities in order to prosecute and jail captured pirates. In his report to the Security Council, Mr. Lang also proposed the establishment, for a transitional period, of a Somali "extraterritorial jurisdiction court" in the northern Tanzania town of Arusha to deal with piracy cases. The cost of the measures he has proposed is estimated at about \$25 million, a "relatively modest" expense compared to the estimated \$7 billion which he said was the cost of piracy. The international component of the cost to train judges, prosecutors, lawyers, prison guards is "essential," Mr. Lang said, adding that the UN, the African Union, the European Union and other organizations should contribute. He also proposed strengthening the forensic element of gathering evidence and the imposition of sanctions against the leaders of piracy gangs. Mr. Lang said his report is the result of "extensive consultations with 50 States, international organizations, private companies and research institutes."

The UN Assistant Secretary-General for Legal Affairs, Stephen Mathias, said the UN Convention on the Law of the Sea and other international legal instruments, including the Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation, may also be relevant in the fight against piracy. In the case of Somalia, legal measures were complemented by a number of Security Council resolutions, Mr. Mathias said. In November, the Security Council renewed for another 12 months the authorizations granted to States and regional organizations cooperating with Somalia's transitional government to fight piracy off the country's coast. As set out in previous resolutions, this includes the authorization for States and regional organizations to enter Somalia's territorial waters and use "all necessary means" – such as deploying naval vessels and military aircraft, as well as seizing and disposing of boats, vessels, arms and related equipment used for piracy. Also in November, Under-Secretary-General for Political Affairs B. Lynn Pascoe told a meeting of the Council that the growing problem of piracy off the Somali coast demands more than just military efforts, and called for simultaneous action on three

fronts – deterrence, security and the rule of law, and development – to combat the scourge.

## MEXICO'S NEW REFUGEE LAW

A new law in Mexico on the protection of refugees and asylum-seekers that now gives the country a legal framework that complies with international standards in this area came into force on 28 January 2011. The law, which was formally signed by President Felipe Calderón was drafted in 2009 by the Mexican Refugee Commission with technical support from the UN High Commissioner for Refugees (UNHCR). Mexico signed the 1951 Refugee Convention and its Protocol in 2000 and has a history of protecting asylum-seekers and refugees. However, until now, the country lacked a specific legal framework as previous laws did not comply with international standards. The new "Law on Refugees and Complementary Protection" incorporates Mexico's good practices on refugees, such as permission to work, access to health services including health insurance, access to education and revalidation of studies. It includes definitions of a refugee as per the 1951 Convention relating to the status of refugees as well the Cartagena Declaration on Refugees adopted in 1984. It also considers gender as grounds for persecution. Mexico will grant complementary protection for people not considered as refugees but whose life has been threatened or could be at risk of torture, ill treatment, or other forms of cruel inhuman treatment. "This law conforms to international law and standards, as it includes the principle of non-refoulement (no forced returns), non-discrimination, and no penalty for irregular entry, the family unity principle, the best interests of the child, and confidentiality, among others. Mexico continues receiving refugees from Latin American countries (mainly from Colombia, Haiti, El Salvador, Honduras and Guatemala) but also extra-regional refugees (from Democratic Republic of the Congo, Sri Lanka, Iraq, Iran, Nepal, Nigeria, and Myanmar, among others).

## AFGHANISTAN SIGNS PACT WITH UN TO PREVENT RECRUITMENT OF CHILD SOLDIERS

The United Nations and the Government of Afghanistan, on 30 January 2011, signed an agreement in which the country made a commitment to protect children affected by

armed conflict and to prevent the recruitment of minors into the national armed forces. Zalmi Rassoul, Afghanistan's Minister of Foreign Affairs, who represented the Government at the signing of the agreement in Kabul with Radhika Coomaraswamy, the UN Special Representative on Children and Armed Conflict. Also signing the document was Staffan de Mistura, the Special Representative of the Secretary-General for Afghanistan and head of the UN Assistance Mission in Afghanistan (UNAMA). The Government responded by establishing the Inter-Ministerial Steering Committee on Children and Armed Conflict, comprising eight ministries, the head of the National Directorate of Security, and the Presidential Advisor on Education and Health.

### **UN PROTOCOL ON SHARING BENEFITS OF WORLD'S GENETIC WEALTH OPENS FOR SIGNING**

A new United Nations treaty on the equitable sharing of the planet's wealth of genetic resources opened for signing, on 2 February 2011, with Algeria, Brazil, Colombia and Yemen becoming the first countries to sign the protocol, which is also designed to conserve and protect the world's diminishing resources. The Protocol on Access to Genetic Resources and the Fair and Equitable Sharing of Benefits Arising from Their Utilization stipulates the basic rules on how nations will cooperate in obtaining genetic resources. It was adopted by the Conference of Parties to the UN Convention on Biological Diversity (CBD) in the Japanese city of Nagoya in October 2010. The Protocol will remain open for signing in the Secretary-General's office for the next one year. It requires 50 State ratifications to enter into force.

### **UNITED STATES VETOES SECURITY COUNCIL RESOLUTION ON ISRAELI SETTLEMENTS**

The United States, on 18 February 2011, vetoed a Security Council resolution condemning all Israeli settlements established in occupied Palestinian territory since 1967 as illegal, saying that while it agreed that the settlements are illegitimate the resolution harmed chances for peace talks. The other 14 members of the Council voted for the resolution, which demanded that "Israel, as the occupying power,

immediately and completely ceases all settlement activities in the occupied Palestinian territory, including East Jerusalem and that it fully respect its legal obligations in this regard." But as one of the five permanent members, the negative US vote is the equivalent of a veto. The resolution, co-sponsored by over 120 of the UN's 192 Member States, also called on both parties to comply with their obligations under the Road Map plan, sponsored by the diplomatic Quartet of the United Nations, European Union, Russia and US, which seeks to establish a two-State solution of Israel and Palestine living side by side in peace and security within recognized borders.

### **UNEP CHOOSES INDIA AS GLOBAL HOST OF THIS YEAR'S WORLD ENVIRONMENT DAY**

The United Nations Environment Programme (UNEP), on 22 February 2011, announced that India will be the global host of this year's World Environment Day (WED) on 5 June 2011, during which the intrinsic link between the quality of life and the health of forests and forest ecosystems will be highlighted. The theme of WED 2011 – "Forests: Nature at Your Service" – complements the focus of the UN International Year of Forests. India's 1.2 billion people continue to put pressure on forests especially in densely populated areas where people are cultivating on marginal lands and where overgrazing is contributing to desertification, according to UNEP. However, the Indian Government has found solutions to the pressure on forests by embarking on tree-planting to combat land-degradation and desertification, including windbreaks and shelterbelts to protect agricultural land. The country has successfully introduced projects that track the health of the plants, animals, water and other natural resources, including the Sunderbans – the largest deltaic mangrove forest in the world and home to one of India's most iconic wildlife species – the tiger. India has also launched a compensation afforestation programme under which any diversion of public forests for nonforestry purposes is compensated through afforestation in degraded or non-forested land. The funds received as compensation are used to improve forest management and the protection of forests and of watershed areas. The celebrations in India on 5 June 2011 will be part of thousands of events taking place across the world. This year's WED will emphasize how

individual actions can have an exponential impact, with a variety of activities ranging from school treeplanting drives to community clean-ups, car-free days, photo competitions on forests, bird-watching trips, city park clean-up initiatives, exhibits, green petitions, nationwide green campaigns and much more, according to UNEP.

### **UN TRIBUNAL CONVICTS FORMER SERBIAN POLICE OFFICIAL FOR CRIMES IN KOSOVO**

ICTY set up to deal with the worst offences committed during the Balkan conflicts of the 1990s, on 23 February 2011, convicted a former senior Serbian police official for crimes carried out in Kosovo and sentenced him to 27 years imprisonment. Vlastimir Đorđević, the former Assistant Minister of the Serbian Ministry of Internal Affairs and Chief of its Public Security Department, was convicted of crimes against humanity and war crimes by the UN International Criminal Tribunal for the former Yugoslavia (ICTY). He was found guilty of participating in a "joint criminal exercise in 1999, whose aim was to change the ethnic balance of Kosovo to ensure Serbian dominance in the territory". "This objective was pursued through a widespread campaign of terror and violence against ethnic Albanians, which included deportations, murders, forcible transfers and persecutions." Mr. Đorđević was found to be responsible for the murder of "not less than 724 Kosovo Albanians" who were murdered by Serbian forces, in most cases police, in several municipalities. He was also found responsible for the deportation of at least 200,000 of the estimated 800,000 Kosovo Albanians that left Kosovo between 24 March and 20 June 1999. Mr. Đorđević is the eighth former senior Serbian official to be tried by the ICTY and the sixth to be convicted. Since its establishment, the Tribunal has indicted 161 persons for serious violations of humanitarian law committed on the territory of the former Yugoslavia between 1991 and 2001. Proceedings against 125 have been concluded, while proceedings are currently ongoing for 34 accused.

### **NEW UN AGENCY FOR WOMEN AND GIRLS**

A new agency for women and girls came into operation on 24 February 2011. UN Women – formally known as the UN Entity for Gender Equality and the Empowerment

of Women – was established in July 2010 by the General Assembly, merging four previous UN bodies dealing with women’s issues. UN Women will be working with an annual budget of at least \$500 million – double the combined resources of the four agencies it comprises, namely the UN Development Fund for Women (UNIFEM), the Division for the Advancement of Women (DAW), the Office of the Special Adviser on Gender Issues, and the UN International Research and Training Institute for the Advancement of Women (UN-INSTRAW). It is headed by former Chilean President Michelle Bachelet, who called the launch of UN Women the first of many important milestones in the global pursuit of gender equality. The launch of UN Women is taking place during the 55th session of the UN Commission on the Status of Women, the global policy-making body dedicated exclusively to gender equality and the advancement of women.

### **SECURITY COUNCIL IMPOSES SANCTIONS ON LIBYAN AUTHORITIES IN BID TO STEM VIOLENT REPRESSION**

The Security Council, on 26 February 2011, voted unanimously to impose sanctions against the Libyan authorities, slapping the country with an arms embargo and freezing the assets of its leaders, while referring the ongoing violent repression of civilian demonstrators to the International Criminal Court (ICC). In its Resolution 1970, the Council obligated all United Nations Member States to “freeze without delay all funds, other financial assets and economic resources which are on their territories, which are owned or controlled, directly or indirectly, by the individuals or entities” listed in resolution. The Council imposed a travel ban on President Muammar Al-Qadhafi and other senior figures in his administration, including some members of his family and other relatives. “All Member States shall immediately take the necessary measures to prevent the direct or indirect supply, sale or transfer to the Libyan Arab Jamahiriya, from or through their territories or by their nationals, or using their flag vessels or aircraft, of arms and related material of all types, including weapons and ammunition,” according to the arms embargo clause of the resolution. Security Council unanimously adopts sanctions package against Libya. The arms embargo also prohibits Libya from exporting all arms and related materiel, and obligates UN

Member States to prevent the procurement of such items from Libya by their nationals. The Council directed the Libyan authorities to cooperate fully with the ICC in its investigations of the situation in Libya since 15 February 2011, while recognizing that the country is not party to the Rome Statute that created the Court. In their resolution, members of the Council said that they considered that the “widespread and systematic attacks currently taking place in the Libyan Arab Jamahiriya against the civilian population may amount to crimes against humanity.” The Council demanded an immediate end to the violence and called for steps to fulfil “the legitimate demands of the population.” It called upon the Libyan authorities to ensure the safety of all foreign nationals and their assets, and to facilitate the departure of those wishing to leave the country. It also called for safe passage of humanitarian and medical supplies, and humanitarian agencies and workers, into Libya, and demanded the immediate lifting of restrictions on the media.

### **GA SUSPENDS LIBYA FROM UN HRC**

The United Nations Human Rights Council, on 25 February 2011, strongly condemned the recent violence in Libya and ordered an international inquiry into alleged abuses, while also recommending that the country’s membership in the UN’s top human rights body be suspended. In a resolution adopted unanimously at the end of a special session held in Geneva, the 47- member Council called on the Libyan Government to meet its responsibility to protect its population, immediately end all human rights violations, stop any attacks against civilians, and respect the popular will, aspirations and demands of its people. Members of the Council are elected by the General Assembly, which has the right to suspend the membership of a country that has persistently committed gross and systematic violations of human rights during its term of membership. The process of suspension requires a two-thirds majority vote by the 192-member Assembly.

The General Assembly, on 1 March 2011, suspended Libya from the United Nations Human Rights Council for “gross and systematic” human rights violations because of President Muammar Al-Qadhafi’s violent repression of peaceful protesters demanding his ouster. The vote by the 192-member Assembly, for which a two-thirds majority was required, followed a request on

25 February 2011 from the Geneva-based Council itself that it suspend the North African country – one of the top UN right’s body’s 47 elected members – and was passed by acclamation. It was the latest measure taken against Mr. Qadhafi’s regime by the UN, where the Security Council has already imposed sanctions and requested that the International Criminal Court investigate it for possible crimes against humanity. Only Venezuela expressed reservations about suspension on the grounds that an investigation was needed first – but it did not stand in the way of the vote. Libya was elected last year with its term scheduled to end in 2013.

### **INTERNATIONAL CRIMINAL COURT TO INVESTIGATE QADHAFI REGIME FOR CRIMES AGAINST HUMANITY**

The International Criminal Court (ICC) will investigate Libyan President Muammar Al-Qadhafi’s regime for crimes against humanity in repressing peaceful protesters. ICC prosecutor Luis Moreno-Ocampo, on 30 March 2011 said, preliminary examination of available information shows that an investigation is warranted after the Security Council resolution asked him to look into the violent repression in which more than 1,000 people are reported to have been killed and many more injured as Mr. Qadhafi’s loyalists opened fire on peaceful civilians demanding his ouster. On 4 March 2011, Mr. Moreno-Ocampo will present an overview of the alleged crimes committed in Libya since 15 February and information on the entities and persons who could be prosecuted at a news conference in The Hague. After his investigation he will present his case to ICC judges who will then decide whether or not to issue arrest warrants based on the evidence. Only one sitting head of State has so far been indicted by the ICC and slapped with an arrest warrant – Sudanese President Omar al-Bashir, who was charged in March 2008 with war crimes and crimes against humanity in the strife-torn Darfur region.

### **FIVE SENIOR APPOINTMENTS TO POSITIONS IN KEY UN OFFICES**

Secretary-General Ban Ki-moon, on 11 March 2011, announced five senior appointments to several United Nations offices, including two deputies to the head of the newly-created entity for gender equality

and the empowerment of women. On the recommendation of Michelle Bachelet, the Executive Director of UN Women, Mr. Ban appointed Lakshmi Puri of India and John Hendra of Canada to the positions of Assistant Secretary-General, according to the deputy spokesperson of the Secretary-General, Farhan Haq. Ms. Puri will serve as Assistant Secretary-General for Intergovernmental Support and Strategic Partnerships at UN Women. She brings a wealth of experience to the position, including a long career at the UN Conference on Trade and Development (UNCTAD). She has also worked, in various capacities, for gender equality and women's empowerment, human rights and peace and security. Mr. Hendra was appointed UN Women's Assistant Secretary-General for Policy and Programmes. He brings to the body a wealth of experience, including that gained in a career spanning two decades in development programming in a number of positions in the UN, with a posting as Resident Coordinator in Viet Nam and stints in Tanzania and Latvia. The Secretary-General also appointed Sahle-Work Zewde of Ethiopia as the Director-General of the UN Office in Nairobi (UNON). She becomes the first person to serve in the newly created position at the level of Under-Secretary-General. Ms. Zewde is currently Special Representative and Head of the UN Integrated Peacebuilding Office in the Central African Republic (BINUCA). Kassym-Jomart Tokayev of Kazakhstan was appointed Director-General of the UN Office at Geneva (UNOG), becoming the first Asian to serve in that capacity. Mr. Tokayev has previously served as his country's Prime Minister, Foreign Minister and Chairman of the Senate. He also has extensive knowledge on issues and deliberations of the Conference on Disarmament. The Secretary-General also announced his intention to appoint Abou Moussa of Chad as the Special Representative and Head of the newly-established UN Regional Office for Central Africa (UNOCA) in Libreville, Gabon. Mr. Moussa is currently the Secretary-General's Principal Deputy Special Representative in Côte d'Ivoire.

## **SECURITY COUNCIL AUTHORIZES 'ALL NECESSARY MEASURES' TO PROTECT CIVILIANS IN LIBYA**

The Security Council, on 17 March 2011, effectively authorized the use of force in

Libya to protect civilians from attack, specifically in the eastern city of Benghazi, which Colonel Muammar Al-Qadhafi has reportedly said he will storm tonight to end a revolt against his regime. Acting under Chapter VII of the UN Charter, which provides for the use of force if needed, the Council adopted a resolution by 10 votes to zero, with five abstentions, authorizing Member States "to take all necessary measures... to protect civilians and civilian populated areas under threat of attack in the Libyan Arab Jamhoriya, including Benghazi, while excluding an occupation force." The abstentions included China and Russia, which have the power of veto, as well as Brazil, Germany and India. Expressing grave concern at the deteriorating situation, the escalation of violence, and the heavy civilian casualties, the Council established a no-fly zone, banning all flights – except those for humanitarian purposes – in Libyan airspace in order to help protect civilians. It specifically calls on Arab League states to cooperate with other Member States in taking the necessary measures. The Arab League, on second week of March 2011 requested the Council to impose a no-fly zone after Mr. Qadhafi was reported to have used a group of people heading towards the Libyan border with Tunisia warplanes, warships, tanks and artillery to seize back cities taken over in what started out a month ago as mass protests by peaceful civilians seeking an end to his 41-year rule. The resolution further strengthens an arms embargo that the Council imposed last month when it unanimously approved sanctions against the Libyan authorities, freezing the assets of its leaders and referring the ongoing violent repression of civilian demonstrators to the International Criminal Court (ICC).

The Council called on Member States, on 17 March 2011, to ensure strict implementation of the embargo, including through inspection of suspect ships on the high seas and of planes going to or from Libya, deplored the flow of mercenaries into Libya whom, according to media reports, Mr. Qadhafi has recruited. Demanding an immediate ceasefire and a complete end to violence and all attacks against and abuse of civilians, and condemning the "gross and systematic violation of human rights, including arbitrary detentions, enforced disappearances and summary executions," the Council noted that the attacks currently taking place may amount to crimes against humanity. ICC prosecutor Luis Moreno-Ocampo has already opened an

investigation into Mr. Qadhafi, some of his sons and members of his inner circle for such crimes in repressing peaceful protesters. Secretary-General Ban Ki-moon has said Mr. Qadhafi lost his legitimacy when he declared war on his people.

## **UN HUMAN RIGHTS EXPERTS STUDY MORE THAN 200 CASES OF FORCED DISAPPEARANCES**

The United Nations human rights experts tasked with assisting families determine the fate or whereabouts of disappeared relatives examined over 200 cases during its recent session held in Mexico City, and is now conducting a mission to learn about Mexico's efforts in dealing with the issue. During its 15-18 March session, the UN Working Group on Enforced or Involuntary Disappearances studied cases concerning Algeria, Bangladesh, China, Colombia, Republic of Congo, Democratic People's Republic of Korea (DPRK), Egypt, Georgia, India, Iraq, Lebanon, Mexico, Morocco, Pakistan, Spain, Sri Lanka, Syria, Thailand, Tunisia, Turkmenistan, Uzbekistan, Venezuela and Yemen. The five independent human rights experts also reviewed responses from various governments to its letters and appeals, and held meetings with representatives of Japan and Guatemala, as well as consultations with family members of disappeared persons and non-governmental organizations (NGOs). In addition, it examined allegations submitted by NGOs regarding obstacles encountered in the implementation of the Declaration on the Protection of All Persons from Enforced Disappearance and decided to transmit general allegations to various concerned governments. Since its creation in 1980, the working group has dealt with more than 50,000 cases in 80 countries. By opening channels of communication between the families and governments concerned, it seeks to ensure that individual cases are investigated and to clarify the whereabouts of persons who have disappeared. The group continues to address cases of disappearances until they are resolved. Its five expert members serve in their individual capacities, and not as representatives of their governments. Immediately following its session, the group started an official visit to Mexico to learn about the country's efforts in dealing with the issue of enforced disappearances. During the 18-31 March mission, the experts will collect information which may lead to the clarification of outstanding cases of enforced

# RECENT DEVELOPMENTS/ NEW ACQUISITION IN ISIL LIBRARY

disappearances that occurred in the country. The UN expert body will examine the phenomenon of enforced disappearance, the status of the investigations of old and recent cases and the steps taken to prevent and eradicate enforced disappearances. It will also look at what is being done to combat impunity, as well as other issues concerning truth, justice and reparations for victims of enforced disappearances.

The fact-finding mission will be carried out by three of the group's experts – Jasminka Dzumhur, Osman El-Hajjé and Ariel Dulitzky – and a report on the visit will be presented to the Geneva-based Human Rights Council in 2012. The other experts are Jeremy Sarkin, who serves as Chair-Rapporteur, and Olivier de Frouville.

## UN HUMAN RIGHTS COUNCIL TO APPOINT A RAPPORTEUR TO LOOK INTO IRANIAN RECORD

The United Nations Human Rights Council voted, on 24 March 2011, to appoint a special rapporteur to look into the situation in Iran, expressing concern over its lack of cooperation with a previous General Assembly call for the country's authorities to improve their human rights record. In a resolution adopted with 22 votes in favour, seven against and 14 abstentions, the 47-member Council said the rapporteur would report to both the Council and to the General Assembly. The text also called on the Iranian Government to grant access to the country for the independent human rights expert who will take up the rapporteur post.

## MR PHILIPPE GAUTIER RE-ELECTED REGISTRAR OF THE TRIBUNAL

Mr Philippe Gautier was re-elected Registrar, on 22 March 2011, by the Judges of the International Tribunal for the Law of the Sea. Mr Gautier, a Belgian national, has been Registrar of the Tribunal since 2001. He was Deputy Registrar of the Tribunal from 1997 to 2001. He began his career in the Belgian Ministry of Foreign Affairs (1984–1997), where he served as Head of the Treaties Division (1995–1997) and as Head of the Law of the Sea Office (1991–1995). He is Professor at the Catholic University of Louvain and is the author of a number of publications on the Tribunal and the law of the sea. Pursuant to the Rules of the Tribunal, the Registrar is elected from

among candidates nominated by the judges of the Tribunal. Mr Gautier will serve as Registrar for a second term of 5 years. The functions of the Registrar are defined by article 36 of the Rules of the Tribunal.

## WITHDRAWAL OF REVISED GUIDELINES FOR DETERMINATION OF CRITICAL WILDLIFE HABITATS

The Ministry of Environment and Forests vide letter of even no. dated 7th February 2011, had circulated the revised guidelines with respect to determination of Critical Wildlife Habitats. Moreover, members of some civil society organizations made representations to the Ministry that some technical, scientific, social and ecological issues related to the process of relocation of people from such areas required to be fine tuned to make it perfectly compliant to the provisions of the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006. The Ministry organized a meeting with the officers of the Ministry of Tribal Affairs, State/UT Governments and the representatives of scientific and civil society organizations on 4th March 2011 to discuss the revised guidelines. Taking a note of their concerns, the Ministry has decided to withdraw the guidelines issued on 7th February 2011, and has initiated the process for having new guidelines in place.

## NEW ACQUISITION

ASIL, Proceedings of the 103rd Annual Meeting, vol. 103 (ASIL, 2009).

Bentham, Jeremy, *Introduction to the Principles of Morals and Legislation* (Universal Law Publishers, New Delhi, 2010).

Bhatt, S., *Environment Protection: Role of Space Law, Air Law* (APH Publications, New Delhi, 2009).

Bonomi and Volken, *Yearbook of Private International Law*, vol. 10 (Sellier, Germany, 2008).

Bunn-Livingstone, Sandra L., *Juricultural Pluralism vis-a-vis Treaty Law* (Kluwer Law International, The Hague, 2002).

Carlan, Philip E. and others, *An Introduction to Criminal Law* (Jones and Bartlett Publishers, Boston, 2011).

Choudhary, Dansingh Suganchand, *Legal Dictionary English – Hindi* (Manak Publications, New Delhi, 2010).

DenBerg, Albertjanvan, *Yearbook of Commercial Arbitration* Vol. 35 (Kluwer Law International Law, 2010).

Dharmadhikari, D. M., *Human Values and Human Rights* (Universal Law Publication, New Delhi, 2010).

Driessen, Bart, *Inter-institutional Conventions in EU Law* (Cameron May, London, 2007).

French, Duncan and others, *International Law and Dispute Settlement: New Problems and Technology* (Hart Publishing, UK, 2010).

Grubb, Philip W. and Peter R. Thomsen, *Patent for Chemicals Pharmaceuticals, and Biotechnology: Fundamental of Global Law, Practice, and Strategy* 5th ed., (Oxford University Press, New York, 2010).

Harland, Christopher ed., *Basic Documents on International Humanitarian Law: South Asian Collection* (ICRC, New Delhi, 2010).

Holland, James and Julian Webb, *Learning Legal Rules* 7th ed. (Oxford University Press, New York, 2010).

Italian Yearbook of International Law, vol.19 (Martinus Nijhoff Publications, London, 2010).

ITLOS, Pleadings, *Minutes of Public Sitting and Documents 2007* vol. 14 (Martinus Nijhoff Publications, 2011).

Jorgenson, Cornne M., ed., *Proceedings of the International Institute of Space Law 2009* vol. 52 (American Institute and Aeronautical, 2010).

Kaczorowska, Alina, *Textbook Public International Law* 3rd ed., (Routledge-Cavendish, 2008).

Kariotis, Theodore C., ed., *Greece and Law of the Sea* (Kluwer Law International, London, 1997).

Kashyap, Subhash C., *Indian Constitution: Conflict and Controversies* (Vistata Publication, New Delhi, 2010).

Kaufmann, Christine, *Globalisation and Labour Rights* (Hart Publishing, USA, 2007).

Kelman, Park., *A Guide to Critical Legal Studies* 1st ed., (Universal Law Publishers, New Delhi, 2010).

Ku, Charlotte and Diehl, Paul F., eds., *International Law: Classic and Contemporary Readings* 3rd ed. (Viva Books, New Delhi, 2010).

Kwiatkowska, Barbara, *International Organization and the Law of the Sea: Documentary Yearbook vol. 17, 1997* (Martinus Nijhoff Publications, 2010).

Lakshmanan, A. R., *Arbitration Business and Commercial Laws* (Universal Law Publications, New Delhi, 2010).

Leary, David and Pisupati, B., *The Future of International Environmental Law* (United Nations, Tokyo, 2010).

Lowe, A.V.L. S.A.G. Talmon, *The Legal order of the Oceans* (Hart Publishing, USA, 2009).

Manohar, V. R., ed., *AIR Ready Reckoner 2010* (AIR, Nagpur, 2010).

Manohar, V. R. ed., *Supreme Court Yearly Digest 2010* (AIR, Nagpur, 2010).

Merry, Sally Engle, *Human Rights and Gender Violence* (Oxford University Press, New Delhi, 2009).

Mohamad, Rahamat, *Asian African Perspectives on International Law in Post Westphalian era* (AALCO, New Delhi, 2011).

Newcombe, Andrew and Paradell, Lluís, *Law and Practice of Investment Treaties* (Kluwer Law International, The Hague, 2009).

Noronha, F. E., *Private International Law* (Universal Law Publications, New Delhi, 2010).

Patel, Thrity D., *Death Penalty: National and International Perspective* (Cehrra Publication, Nagpur, 2010).

Peers, Steve, *EU Justice and Home Affairs Law 2nd ed.*, (Oxford University Press, New York, 2006).

Qureshi, Asif H., ed., *International Economic Law 2nd ed.*, (Sweet and Maxwell, London, 2007).

Rajkhowa, Subhram ed., *Indigenous Peoples and Human Rights 1st ed.*, (R. Cambay and Co., Kolkata, 2009).

Reeder, John, ed., *Brick on Maritime Law of Salvage 4th ed.*, (Sweet and Maxwell, London, 2003).

Saidov, Djakhongir and Cunnington, Ralph, eds., *Contract Damages: Domestic and International Perspective* (Mohan Law House, New Delhi, 2010).

Sen, Sankar, *Human Rights and Inhuman Wrongs* (Gyan Publication, New Delhi, 2010).

Sercevic, Petar, *Yearbook of Private International Law Vol. 11*, (Sellier European Law Publications, 2010).

Shany, Yuval, *Regulating Jurisdictional Relations between National and International Courts* (Oxford University Press, New York, 2009).

UNHCR, *Basic International Document on Refugee Law* (UNCHR, New Delhi, 2007).

Vijapur, Abdulrahim P., *Human Rights in International Relations* (Manak Publications, New Delhi, 2010).

## FORTHCOMING EVENTS

1. Workshop on "India, the 123 Agreement, and Nuclear Energy: Issues of International Law" 2 and 3 April 2011.
2. Training Programme for IFS Officers, 4th April – 13th April 2011
3. Annual Conference of ISIL, 16 and 17 April 2011
4. Training Programme for the Officer Trainees of the Indian Economic Service, 16th – 20th May 2011
5. Summer Course on International Law, 23 May to 3 June 2011
6. V. K. Krishna Menon Lecture, 27 May 2011.

## Indian Journal of International Law Vol. 51 No. 1 January - March 2011

### CONTENTS

#### ARTICLES

Environment Exceptions under Article XX of the General Agreement on Tariffs and Trade (GATT): The Significance of Customary International Law and its Role in the World Trade Organisation (WTO) Disputes Settlement System in the Twenty First Century

Shahrizal Mohd Zin & Ashraf U. Sarah Kazi  
Commercial Order of Outer Space: Quest for Ethical Values

G. S. Sachdeva

Geological Sequestration of CO<sub>2</sub> in the Domain of Deep Sea Bed – Legal Implication

V. Rajyalakshmi

#### SHORTER ARTICLES

Public Participation in the Environmental Decision Making in Bangladesh: To What Extent is the Existing Regulatory Framework Effective?

Najnin Begum & Rakiba Nabi

#### EDITORIAL COMMENT

India and the 1980 Hague Convention on Civil Aspects of International Child Abduction

Lakshmi Jambholkar

#### OFFICIAL DOCUMENTS

Nagoya Protocol on Access to Genetic Resources and the Fair and Equitable Sharing of Benefits Arising from their Utilization to the Convention on Biological Diversity, 2011

Agreement between the Government of the Republic of India and the Government of the Russian Federation on Cooperation in the Use of Atomic Energy for Peaceful Purposes, 2010

CRZ Notification, Ministry of Environment and Forests, January 2011

#### BOOK REVIEW

Wing Commander (Dr.) U. C. Jha (Retd),  
The South Asian Military Law Systems

Srinivas Burra

#### SELECT BIBLIOGRAPHY AND NEW ACQUISITIONS

Select Articles on Environment and Natural Resources, Intellectual Property Rights and Law of Tort

New Acquisitions to the ISIL Library from January to March 2011