

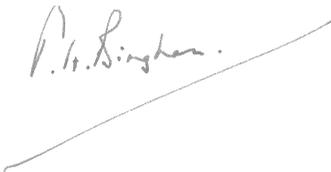
From the President of the Institute

Issues of international law and justice continue to be at the forefront of public debate. Open dialogue and a sound legal framework within which to conduct political and economic relations, and to address common threats, are needed more than ever. These problems require rigorous thinking and cross-boundary approaches, and the Institute provides a platform for the exchange of ideas which will bring solutions to these problems.

The Institute's research programme, and resulting reports and publications, include work by leading practitioners in their field and focus on topics in international and comparative law that continue to influence international affairs as well as civil society.

As an independent research institution, it is a unique body in the United Kingdom and one of very few in the world. The diversity of the Institute's membership and the originality of its research, as well as its ability to engage with a variety of international issues, ensure that it remains a relevant and essential institution.

The Institute's ambitious research programme is dependent on the financial assistance it receives. Research grants, donations, and sponsorship ensure that the Institute can continue its work in examining global issues. Those who support the Institute in this way make a contribution to a unique research body, and help maintain its role in promoting promoting the application and development of international and comparative law worldwide.

A handwritten signature in cursive script, reading "Rt Hon Lord Bingham", followed by a long, thin horizontal line extending to the right.

The Rt Hon Lord Bingham of Cornhill KG
President and Chairman, British Institute of International and
Comparative Law

Dear Members and Friends of the Institute,

It gives me great pleasure to commend this Annual Review to you, especially as 2008 has marked our 50th anniversary. We have come a long way in 50 years, as the impressive array of research and activities recorded in this Review demonstrates, but not only has the anniversary provided us with a chance for reflection, it has also marked a period of change and consolidation in the work of the Institute. Under the Directorship of Professor Robert McCorquodale, who took up his post at the start of 2008, the Institute has further strengthened its excellent and dedicated team of researchers who continue and develop the important work undertaken by the Institute, despite troubled economic times. On behalf of all of you, I would like to take this opportunity to thank our Director and the staff, not only the research staff but also the equally dedicated administrative staff, for the excellent work they do.

I would also like to extend thanks to our members, many of whom support the Institute not only by your subscriptions but also by your engagement in our work, by attending our meetings and offering support to the staff. This spirit of co-operation and common purpose among the Institute's various constituencies—staff, trustees, members of our various advisory bodies and the wider membership—is one of the things which make the Institute such an unusual and worthwhile organization.

Our 50th anniversary also provides an opportunity to look forward. We like to think that our work has an unprecedented relevance. Even the visionary founders of the Institute would have found it hard in 1958 to imagine the extent to which, by 2008, the subject-matter of our work—public and private international law, comparative law, European law and, over-arching them all, the rule of law—would pervade the affairs of civil societies everywhere. It is almost impossible to open a newspaper or hear a news bulletin without coming across a topic to which these subjects are directly relevant.

For our work to continue and flourish, especially in the present difficult economic circumstances, we are faced as ever by the challenges of finding and developing our resources. Our current development campaign, which is seeking funding to enable us to establish the Bingham Centre for the Rule of Law, a new Senior Fellowship in honour of the late Sir Arthur Watts and other activities, is well on track and you can expect to hear more from us about that over the next few months.

Yours sincerely,



Alexander Layton QC
Chair of the Board of Trustees

Director's Annual Report 2008

On 17 November 2008 the British Institute of International and Comparative Law celebrated its 50th anniversary. The President, Lord Bingham, gave an excellent, insightful and far-reaching lecture on the rule of law in the international legal order and the Lord Chancellor and Minister of Justice, Jack Straw, spoke at the Dinner, after they had cut a cake to mark the anniversary.

While this anniversary was celebrated, in fact the Institute has an older heritage. It was created by the merger of the Society of Comparative Legislation (founded in 1894) and the Grotius Society (founded in 1915 and named after the 16th century Dutch jurist Hugo Grotius, regarded as one of the founders of international law). This merger created an independent research body, unaffiliated to any university and a charity, which is committed to the understanding, development and practical application of international and comparative law.

The Memorandum and Articles of Association of the Institute, when it was incorporated on 17 November 1958, were signed by a number of the most eminent international and comparative lawyers of the 20th century. They included: Lord (Tom) Denning, Professor Geoffrey Cheshire, Lord (Kenneth) Diplock, Sir Gerard Fitzmaurice, Sir Hersch Lauterpacht, FA Mann, Lord (Arnold) McNair, Sir Kenneth Roberts-Wray, Professor Georg Schwarzenberger, Lord (Hartley) Shawcross and Lord (Richard) Wilberforce. This array of some of the finest judges, practitioners, academics and government officials both as members of the Institute and as members of the governing board, continues to this day. Indeed, Lord Denning became the Institute's first Chairman of its Council of Management (as the Board of Trustees was then known), and then its first President. The second President of the Institute was Lord (Robert) Goff, who, prior to being President, was the Chairman of the Council of Management and Senior Law Lord. The current President, who is also Chairman of the Institute, is Lord (Tom) Bingham, who became its Chairman in November 2001, not long after he was appointed as Senior Law Lord.

The intention of the founders was that the Institute would have two main objects:

1. To promote by means of study groups, meetings and conferences the study and development of international law and comparative law (including foreign law);

2. To promote or commission research into international law and comparative law (including foreign law) and to publish or arrange for the publication of the results of that research. (*Memorandum of Association, Article 3*)

These two objects have remained at the heart of the Institute's activities for 50 years. The many lectures, seminars, conferences and other events of the Institute undertaken in 2008 show that it remains a place for the engagement with contemporary issues, a centre for public debate and information, and an opportunity for networking. There has also been a series of high profile lectures to mark the 50th anniversary of the Institute. The impact and popularity of the Institute's events on contemporary issues owes much to the generous support in funds and people from law firms, barrister's Chambers and some companies. In addition, the work of the specialist Fora of the Institute—currently on competition law, product liability law and investment treaty law—have become a vital part of the Institute's activities and linked with its applied research.

The Institute's research has grown and developed over time, and it has maintained a reputation for its high quality, depth of scholarship, practical application and widespread use. A number of its research projects have helped to clarify and define key areas of international and comparative law. These include the law on State Immunity, the Convention on the Law of the Sea, the joint development of offshore oil and gas, the law of armed conflict and the 1977 Geneva Protocols, cross-border insolvency, enforcement of judgments, and the various applications of European Union legislation. The research undertaken in 2008, as set out in this Report, shows a similar spread of activity, including the research on Evidence before the International Court of Justice, Damages in International Investment Law and International Law and Human Rights in Iran, as well as other important research on areas of public and private international law, and comparative law.

Much of this research has been recorded in publications of the Institute, as well as in the *International and Comparative Law Quarterly* (which was first published in 1952, as a precursor to the merger and successor to the *Journal of Comparative Legislation* and the *Transactions of the Grotius Society*). The *Quarterly* continues to maintain its high quality and reputation, for which its General Editor and Board of Editors deserve praise and thanks.

Over its 50 years, the Institute has been very fortunate in the staff, both research and administrative, who have ensured that it continues to meet its objectives, as well as its members. The role of the Institute's governing body has been crucial in guiding it, especially during difficult financial times, as has the sponsorship from, for example, law firms, barristers, trust funds and foundations. The success of the Institute's current devel-

opment campaign, which seeks support to create a Bingham Centre for the Rule of Law and the Sir Arthur Watts Senior Research Fellow in Public International Law, as well as other initiatives, such as a new Forum, relies on the generosity of such forward-thinking supporters, who recognize the global importance of the Institute's mission.

Indeed, when the Institute was founded, the Editorial in the *Quarterly* stated that: 'it is intended that the Institute will become in time the principal British organization for the encouragement of research and for exchange of views in the whole field of international and comparative law, and that it will be used as a source of objective data by all those concerned—lawyers, government officials, business concerns and others—both in this country and abroad....[and] make a useful and indeed important contribution to international peace and understanding' ((1959) 8 ICLQ). As the Institute celebrates its 50th anniversary, it is hoped that it has achieved the aims of its founders and will continue to do so.

***Professor Robert McCorquodale
Institute Director***

Institute Forums

Competition Law Forum

Director: Dr Philip Marsden

Research Fellow: Peter Whelan

<http://www.competitionlawforum.org>

The Competition Law Forum (CLF) of the British Institute of International and Comparative Law is a centre of excellence for European competition policy. It provides a forum in which the practical application of competition policy is considered by lawyers, economists, senior business managers, public servants, consumer bodies and other experts. The CLF identifies areas requiring debate and analysis; provides the required forum and experts, and through discussion and papers contributes to policy initiatives.

Competition Law Forum Research Initiatives and Projects

Consumer Detriment Project

This study of EC and UK competition legislation, soft law and cases aimed to examine whether the objective of the maximisation of consumer welfare is pursued in practice by the competition authorities. This study produced published articles in the *European Competition Law Review* and the *Consumer Policy Review* and also provided the basis for an article in the *2007 Competition Law Journal*. Between 2008 and 2009, this project produced two lengthy publications:

- P Marsden and P Whelan, 'The "Consumer Welfare" Standard as a Form of Substantive Protection for Consumers under European Competition Law' Chapter 16, *Own Labels, Branded Goods and Competition Policy: The Changing Landscape of Retail Competition*, Ezrachi & Bernitz (eds) (Oxford University Press, Oxford, 2009).
- P Marsden and P Whelan, 'Intervention and the Internal Market: Contemporary European Competition Initiatives Concerning Distribution in the Market for New Cars' (2008) 4(2) *European Competition Journal* 485.

Examining Trans-Atlantic Divergences

While comments in the US media concerning the interventionist, and

perceived anti-business, aspect to EC antitrust and merger law are not uncommon, there is more commonality between the competition laws of these jurisdictions than there is conflict. That is not to say, however, that important differences do not exist. In fact, there are a number of differences concerning not only the substantive application of the competition law rules, but also the procedures employed. An important question that should be considered is whether these substantive and procedural differences are a problem. That is, are they so significant that they amount to a problem that needs to be 'solved'? How do we solve it? Can cooperation help? Is convergence an answer? If so, what rules exactly should converge and to what standard: US, EU, or some other 'best practice'? And perhaps even more difficult, how does one achieve such convergence in practice? Marsden and Whelan conducted research in 2008 in order to address these issues. The result of their research was presented in Florence, Italy at the Sedona Conference, which took place in September 2008. This paper will be published in the 2009 edition of the Sedona Conference Journal.

The CLF Working Group on the Reform of Regulation 1/2003

In August 2008, the Competition Law Forum set up a Working Group to respond to the European Commission's consultation on the reform of Regulation 1/2003. The Working Group submitted its response on 30 September 2008; it was entitled 'Reform of Regulation 1/2003: Correcting the Current Lack of Effective Communication'.

Selective Distribution and Online Retail

Traditionally, the competition law rules have not been an insurmountable obstacle in relation to the conclusion of selective distribution agreements—unless of course they restrict parallel trade. Provided certain criteria have been fulfilled, such agreements, while necessarily restrictive of intra-brand competition, have generally been seen as pro-consumer as they help to reduce the likelihood of free-riding by others on the (required) investment of the retailers subject to the selective distribution system. An extremely important, and relatively recent, phenomenon challenges such traditional thinking: the development of the Internet as a mechanism for purchasing retail goods. In 2008, Marsden and Whelan analysed the effectiveness of EC competition law, as it currently stands, in dealing with selective distribution agreements in the age of online retail. The result of their research will be published in 2009 in the European Competition Law Review.

Competition Law Forum Publications

The European Competition Journal

In 2005 the Director of the CLF, Dr Philip Marsden, and Simon Bishop, partner at RBB Economics, created the European Competition Journal. Three editions of the journal were published in 2008. Three more editions will be published in 2009.

Project-Based Publications

- P Marsden and P Whelan, 'Selective Distribution and EC Competition Law in the Age of Online Retail' [2009] European Competition Law Review, forthcoming
- P Marsden and P Whelan, 'The "Consumer Welfare" Standard as a Form of Substantive Protection for Consumers under European Competition Law', Chapter 16, *Own Labels, Branded Goods and Competition Policy: The Changing Landscape of Retail Competition*, Ezrachi & Bernitz (eds) (Oxford University Press, Oxford, 2009)
- P Marsden and P Whelan, 'Intervention and the Internal Market: Contemporary European Competition Initiatives Concerning Distribution in the Market for New Cars' (2008) 4(2) European Competition Journal 485
- P Marsden and P Whelan, 'Re-Examining Trans-Atlantic Divergences in Substantive and Procedural Competition Law' paper to be presented at the Sedona Conference, 'Antitrust Law and Litigation X: The Globalization of Antitrust Enforcement', Florence, Italy, September 2008
- 'Reform of Regulation 1/2003: Correcting the Current Lack of Effective Communication: The Competition Law Forum's Submission to the European Commission in relation to its Consultation on Regulation 1/2003' 30 September 2008

Competition Law Forum Members

Law Firms

Phil McDonnell, Addleshaw Goddard	Gavin Robert, Linklaters
Vincent Power, AL Goodbody	Susan Bright, Lovells
John Wotton, Allen & Overy	Frances Murphy, Mayer Brown Rowe & Maw
Nigel Parr, Ashurst	Brian Sher, Nabarro LLP
Samantha Mobley, Baker & McKenzie	Mark Jones, Norton Rose
David Harrison, Berwin Leighton Paisner	Riccardo Celli, O'Melveny & Myers LLP

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Sellers & Toll LLP
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Phillips & Vineberg LLP
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Chamber, Cour de Cassation
William Kovacic, US Federal Trade
Commission

David Lawsky, Thompson Reuters
Zoltán Nagy, Hungarian Competition
Authority
Peter Oliver, European Commission
Andrej Plahutnik, Republic of Slovenia
Competition Protection Office
Magistrate Dr Silvio Meli LLD, Malta
Commission for Fair Trading
Sir John Vickers, University of Oxford
Stephen Walzer, Competition
Commission
Polly Weitzman, Office of
Communications

Competition Law Forum Events

Forum events

17 March 2008	Market Inquiry or Market Manipulation? Location: London
2 July 2008	Group Actions Location: London
11 September 2008	Reform of Regulation 1/2003 Location: London
28 November 2008	A Review and Look Forward Location: London
10 March 2009	Competition Policy and the Public Interest Location: Brussels

General members' events/public lectures

26 February 2008	International Cartels Conference Location: London
11 April 2008	The Antitrust Marathon (Part II) Location: London
15–16 May 2008	The Eight Annual Trans-Atlantic Antitrust Dialogue Location: London
2 June 2008	Abuse of Dominance: Reform or Retreat after Microsoft? Location: London
8 October 2008	The Rule of Law and EU Competition Location: London
13 November 2008	The Seventh Annual Merger Conference Location: London
2 December 2008	Online Retail: The Changing Landscape and Ramifications for Competition Policy Location: London

Investment Treaty Forum

Director: Norah Gallagher

Research Fellow: Dr Sergey Ripinsky

<http://www.biicl.org/itf>

The Investment Treaty Forum provides a focal point for debate between lawyers, corporations, academics, arbitrators and government officials on the rapidly changing legal framework relating to foreign investment. The Forum holds two annual public conferences on contemporary topics of interest for example, 'Energy Security, Investment Protection and Future Developments' in September 2008 and 'Investment Treaty Awards: Post-Award Remedies: The Latest Swing of the Pendulum' in May 2008. In addition, the Forum arranges smaller roundtables for members only to encourage more open discussion on new developments, mostly recently on *The Financial Crisis and its Impact on Investment Treaty Arbitration*. These events are kindly hosted by our members. The Forum is hoping to expand its membership by engaging government officials interested in ongoing dialogue on future developments in investment treaties.

Investment Treaty Forum Events

ITF Public Conferences 2008:

- ***Investment Treaty Awards: Post-Award Remedies: The Latest Swing of the Pendulum?*** 9 May 2008
- ***Energy Security, Investment Protection and Future Developments:*** 18 & 19 September 2008

ITF Seminar Series

- 'Articles on State Responsibility and Investment Arbitration', (BIICL, December 2007) Domestic Review of Investment Arbitrations (Salans, January 2008)
- 'Denial of Justice', (Freshfield Bruckhaus Deringer, April 2008)
- 'Lisbon Treaty and the Future of BITs in EU Member States' (School of International Arbitration, Queen Mary, University of London, July 2008)
- 'Causation, Investment Risk and Remedies: Some Recent Developments' (Latham & Watkins, November 2008)

Investment Treaty Forum Membership

Law Firms

Baker & McKenzie LLP	Linklaters LLP
Baker Botts LLP	Lovells LLP
Clifford Chance LLP	Mannheimer Swartling
Debevoise & Plimpton LLP	Mayer Brown Rowe & Maw LLP
Denton Wilde Sapte LLP	Lovells LLP
DLA Piper Rudnick Gray Cary LLP	Salans LLP
Eversheds LLP	Shearman & Sterling LLP
Freshfields Bruckhaus Deringer LLP	Sidley Austin LLP
Fulbright & Jaworski LLP	Simmons & Simmons
Herbert Smith LLP	Skadden Arps Slate Meagher & Flom LLP
King & Spalding LLP	Weil, Gotshal & Manges LLP
Latham & Watkins LLP	White & Case LLP
Lalive Avocats	WilmerHale LLP

Individuals

Sir Franklin Berman QC Essex Court Chambers	Professor Emeritus Maurice Mendelson QC Blackstone Chambers
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Domenico Di Pietro Chiomenti, Rome	Sophie Nappert 3 Verulam Buildings
Luis Alberto Gonzáles García Matrix Chambers	Ana Stanic E&A Law, London
Professor Hans Van Houtte Katholieke Universiteit Leuven, Belgium	Christopher Thomas QC Thomas and Partners
Mark Kantor Arbitrator, Adjunct Professor, Georgetown University Law Center	VV Veeder QC Essex Court Chambers
Professor Gabrielle Kaufmann-Kohler Lévy Kaufmann-Kohler	Todd Grierson Weiler NAFTAclaims.com

Organizations

The United Kingdom Foreign and Commonwealth Office	The Organisation for Economic Cooperation and Development
The International Institute for Sustainable Development	The Permanent Court of Arbitration
	The International Law Programme, Chatham House

Consultative Members

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Professor James Crawford SC University of Cambridge and Matrix Chambers	Dr Federico Ortino School of Law, King's College London

Professor Christopher Greenwood QC
Essex Court Chambers and LSE
Professor Vaughan Lowe All Souls
College, Oxford, and Essex Court
Chambers
Professor Andrea Menaker Georgetown
University
Professor Loukas Mistelis Centre for
Commercial Law Studies, Queen
Mary University of London

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University College London and former
Deputy Secretary General, ICSID
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Investment Treaty Forum Research Projects

- The book on *Damages in International Investment Law* was published November 2008. This important research project was made possible by the generous sponsorship of Lovells, Deloitte and Macquarie Bank.
- An EU-funded report on *EU China Bilateral Investment Treaties* was completed in August 2008. It was a comparative study of BITs concluded by China with the EU Member States. These BITs were compared inter se and then contrasted against the wider global treaty practices. The study also looked at the relationship between the provisions in EU-China BITs and the commitments of relevant countries under the WTO TRIMs and GATS agreements
- The Investment Treaty Forum hopes to secure sufficient funding to start work on its proposed evidence project on *Evidence before International Investment Tribunals*. This will entail a study of evidence and the way it is used before international investment tribunals. The aim of this research is to identify and clarify the rules and practices in international investment arbitration in relation to collection, production, admissibility, examination, assessment and weighing of different types of evidence.

Additional Seminars

Annual WTO Conference

The British Institute co-hosts the Annual WTO Conference with Georgetown University. Next year in May 2010 will be the Tenth Anniversary of this conference. Professor John H Jackson and Professor Jane Bradley work closely with Norah Gallagher on the programme each year to try to ensure that it covers the most recent and interesting developments at the WTO for the previous year. This event is kindly sponsored by Sidley Austin and this year we have a new co-sponsor, White & Case.

Annual Review of the Arbitration Act 1996

The British Institute has hosted the Annual Review of the Arbitration Act each year since the Act came into force in January 1997. The event is kindly sponsored and organised by Eversheds. Next year will be the Thirteenth Annual Review of the Arbitration Act. Norah Gallagher works closely with Stewart Shackleton, Eversheds to finalize the programme which is designed to cover the more interesting developments that have occurred under the Act in the previous year. In addition, on occasion a comparative review with civil law jurisdictions has been taken and this year the Common Law and UNCITRAL will be discussed in one Panel.

EU–China Investment Framework

Norah Gallagher and Sergey Ripinsky

In 2008, the Institute prepared an EU-funded comparative study of bilateral investment treaties concluded by China with the Member States of the European Union. The study focused on the approaches taken in these treaties on such issues as definitions of investor and investment, admission and establishment of investments, national treatment, most-favoured nation treatment, absolute standards of protection such as fair and equitable treatment and full protection and security, expropriation, umbrella clauses and dispute settlement. The approaches taken in the EU–China BITs were contrasted against worldwide practices, including the latest trends in investment treaty making. Finally, the study looked at the relationship between the provisions in EU–China BITs and the commitments of relevant countries under the WTO TRIMs and GATS agreements.

Product Liability Forum

Director: Duncan Fairgrieve

Research Fellow: Faria Medjoub

<http://www.biicl.org/plf>

The Product Liability Forum allows the practical application of policy and developments in product liability and safety law to be considered by leading lawyers in private practice, industry, academia, regulatory bodies and senior business managers, consumer representatives, public servants, public affairs professionals and other specialist practitioners. Its role is to analyse and improve the conduct of policy and practice in the spheres of product liability, product safety and mass torts.

The academic credentials of the Product Liability Forum set it apart from other bodies. It is not designed as a lobby group, nor is it to be identified with any particular perspective or sector. Mr Justice Burton, who gave judgment in the leading decision on product liability in *A v National Blood Authority*, has written that:

The British Institute of International and Comparative Law has been in the forefront of debate in the field of product liability, organizing conferences from which no self-respecting practitioner or academic in the area could afford to be absent.

(In Duncan Fairgrieve, *Product Liability in Comparative Perspective* (CUP, Cambridge, 2005)).

Members of the Product Liability Forum include:

Four New Square	Irwin Mitchell
Arnold & Porter LLP	Kennedys
Ashurst	Lieff Cabraser Heimann & Bernstein LLP
Berrymans Lace Mawer	Lovells
Clifford Chance	Old Square Chambers
Covington & Burling LLP	Reynolds Porter Chamberlain LLP
Davies Arnold Cooper	Sidley Austin LLP
Dechert LLP	Shook Hardy & Bacon LLP
Freshfields Bruckhaus Deringer	Stiefel Laboratories
Gough Square Chambers	Weil, Gotshal and Manges
Henderson Chambers	

Product Liability Database

The Tort Law Centre continues to develop an innovative web-based database of legislation and judicial decisions on product liability, aiming to bring together all judgments under the European Product Liability Directive in all the Member States. Each country report includes an analysis of domestic tort and contract law, the relevant procedural background, as well as the implementation of the Directive. This is then supplemented by case reports of all the major decisions in the country under the implemented Directive. Commentary on each decision is provided by a team of national experts drawn from both academia and practice. This is a major research effort; no similar tool exists. We already have a number of countries online. This database is viewable from the PLF webpage (members' access only): www.biicl.org/pf.

Forum Events

Over the past year, the following seminars have been organized under the aegis of the Forum, bringing together practitioners, academics and policymakers to examine the practical application of policy and developments in product liability and safety law. This year, we have welcomed many guest speakers from the UK and abroad, including distinguished speakers from the public sector (**Diana Wallis MEP**, Vice President of the European Parliament; **Robert Musgrove**, Civil Justice Council; **Nathalie Rampal Olmedo**, European Medicines Agency), **Professor Sir Alasdair Breckenridge, CBE**, Chairman, Medicine and Health Regulatory Agency, **Professor Kent Woods**, Chief Executive, Medicine and Health Regulatory Agency), academia (**Dr Rachael Mulheron**, Queen Mary University; **Professor Geraint Howells**, Lancaster University, **Professor Mark Mildred**, Nottingham Law School; **Professor Emily Jackson**, LSE; **Dr Richard Goldberg**, Aberdeen University), members of the judiciary (**The Hon Mr Justice Jackson**), as well as distinguished foreign colleagues (**Cornelia Kutterer**, Senior Legal Advisor, The European Consumers' Organisation (BEUC); **Fabienne Bartoli**, Deputy Director General, Agence française de sécurité sanitaire des produits de santé (Afssaps); **Stijn Franken**, Nauta Dutilh, and **Dr Ianika Tzankova**, Nauta Dutilh/Tilburg University).

- 22 January 2008: **Third Party Funding of Litigation: Recent Developments and Comparative Perspectives.**
- 16 April 2008: **The Reform of Group Actions under English Law.**
- 23 October 2008: **Regulation and Licensing of Medicines—Reforms in Light of Seroxat**

- 1 December 2008: **Reforming Group Action Procedures: the Civil Justice Council Report on Collective redress**
- 6 February 2009: **The Future of Mass Tort Claims**

Public Conferences and Seminars

In September 2008, we ran a successful conference on the broad theme of 'Innovation in Life Sciences', bringing distinguished speakers from pharmaceutical regulators worldwide; leading academics and practitioners. The conference focused on the topic of both pharmaceutical regulation and litigation and was kindly sponsored by Clifford Chance and 4 New Square.

Tort Law Centre

<http://www.biicl.org/tlc>

The objective of the Tort Law Centre, which was founded in 2002, is to promote research, policy discussion and development in the field of tort law, and to strengthen the link between the law and policy-making in this field. Legal research in this area has been traditionally limited by national jurisdictions. This is unsatisfactory for several reasons. First, because of the international and cross-border nature of the services and products. Secondly, because of the considerable reform activity in the different countries which has highlighted the need for comparison. Finally, because of the impact of regulation by the European Union, in areas such as product liability, requiring a shift of focus from the national to the international perspective.

The aim of the Tort Law Centre is to facilitate the finding of equitable solutions for national law through its research programme and the organization of academic events.

The past months have been very busy for the Tort Law Centre. A large number of conferences and seminars have taken place under the auspices of the Centre. Research activities have flourished.

On 13 March, the Institute organized a very successful seminar on the topic of 'EC Public Procurement Law: Damages as an Effective Remedy?' Topics covered included a review of the latest case law across Europe, views from the European Commission, conditions for claims, quantum, causation and loss of a chance.

Research activities

Product Liability

Continuing progress is being made on the web-based database of

legislation and judicial decisions on product liability. This is a unique initiative in the sphere of product liability, and has proven to be an important research tool. A demo giving access to France and Canada may be accessed at www.biiicl.org/plf.

The Product Liability Forum was closely involved in the review process of the Product Liability Directive undertaken by the European Commission, and submitted formal comments to the Commission on their draft report. Duncan Fairgrieve and Professor Geraint Howells have worked on a jointly produced a piece on a related topic which was published in the *Modern Law Review*: Duncan Fairgrieve and Geraint Howells 'Rethinking Product Liability : A Missing Element in the European Commission's Third Review of the European Product Liability Directive' (2007) 70 *Modern Law Review* 962.

Civil Procedure

The Product Liability Forum has followed closely the ongoing debate on the reform of civil procedure at a domestic and international level. The reform of group procedures for damages actions is a particularly topical one with developments at both European and Member State level. The Forum has organized a series of events on this topic and conducted research on the comparative and European perspective. Duncan Fairgrieve and Geraint Howells have jointly produced a paper entitled 'Collective Redress Procedures—European Debates' which compares and contrasts the position in a number of European countries and assesses the role of the European Union in both promoting reforms at a supranational level and also indirectly fostering developments in Member States. This paper appears in [2009] 58(2) *ICLQ*.

Product Safety

The Team continues to work on the topic of Product Safety. In the past, we have worked closely with the Department of Trade and Industry (DTI) on the UK implementation of General Product Safety Directive 2001/95/EC (GPSD). From a research perspective, Duncan Fairgrieve and Professor Geraint Howells jointly produced a piece on the topic of the implementation of the General Product Safety Directive. This was fast-tracked for the January edition of the *Modern Law Review*: Duncan Fairgrieve and Geraint Howells 'General Product Safety—a Revolution through Reform?' (2006) 69 *MLR* 1.

Comparative Law

Duncan Fairgrieve is currently editing the festschrift in honour of Lord

Bingham, entitled *Tom Bingham and the Transformation of the Law : A Liber Amicorum* (OUP, Oxford, 2009).

The Institute's Tort Law Centre has also undertaken various comparative law research work commissioned by various government departments.

The Centre of French Law

This Centre brings together within an institutional structure our events and projects linked to the study and research of French law. We have established a lively events programme, often in collaboration with French institutions.

Recent Activities

On 13 March 2009, an event was organized along with a large number of French participants on the topic of 'EC Public Procurement Law: Damages as an effective remedy?' The speakers included Bernard Stirn, Président of the Section du Contentieux, French Conseil d'Etat; and Rémy Schwartz, French Conseil d'Etat.

RESEARCH PROJECTS

Alternative Dispute Resolution: A Comparative Study of National Systems

Project Directors: Anna Riddell and Kristin Hausler

Supervisor: Sarah Williams

In February 2009, Anna Riddell and Kristin Hausler started a new project, commissioned by the Ministry of Justice, to respond to the growing interest in alternative dispute resolution (ADR) among the judiciary and legal profession within the United Kingdom over the last decade. A significant step was taken with Lord Woolf's 1986 report 'Access to Justice', which identified the need for fair, speedy and proportionate resolution of disputes, and which provided considerable impetus to the drive to introduce a greater range of ADR mechanisms in the United Kingdom. As he noted, ADR provides the potential for significant efficiency gains, notably in terms of reducing the waiting times currently facing litigants within the court system. More recently, the European Parliament and the Council have both approved a Directive on mediation covering civil, commercial and family matters in cross-border disputes, which is to be implemented by 2011.

This research project identifies the approaches to ADR that have been adopted in legal systems other than the United Kingdom. It does so by conducting a comparative study of ten countries. Once the most relevant comparative models of ADR have been identified, the research examines the characteristics of such models, such as the preconditions for their application, the compulsory or voluntary nature of such measures, the legal framework, and the nature of the personnel conducting the resolution process. The research assesses any legal and other obstacles that may restrict recourse to ADR mechanisms. Other specific legal issues, including the confidentiality of ADR proceedings, the applicability of limitation periods and the enforceability of orders are also being analysed where relevant.

The scope of the project includes a variety of forms of ADR techniques other than litigation and arbitration within the civil and administrative law fields, including mediation, conciliation, neutral evaluation, expert determination or adjudication.

Rapporteurs in ten States are to respond to a questionnaire to support

the Institute's research on the ADR mechanisms adopted in those countries. The Institute regularly engages national rapporteurs to aid in the completion of our comparative studies. This project will end in September 2009.

Armed Conflicts, Peacekeeping, Transitional Justice: Law as Solution (ATLAS)

Project Director: Faria Medjoubia

Research Fellow: Justine Stefanelli

Supervisor: Sarah Williams

ATLAS is the result of a response to a call of the European Commission on the topic ‘Articulation of the Rule of Law and Protection of Human Rights at National, European and International Levels’ which falls within the scope of ‘Conflicts, Peace and Human Rights’, within the 7th EC Framework Programme.

The overall objective is to contribute to the reinforcement of the rule of law during and after armed conflicts and to review the current activity of the EU in promoting human rights and international humanitarian law both during and after armed conflicts, mainly through its peace-keeping operations, and to offer recommendations for improvements and best practice in these activities.

Research Partners

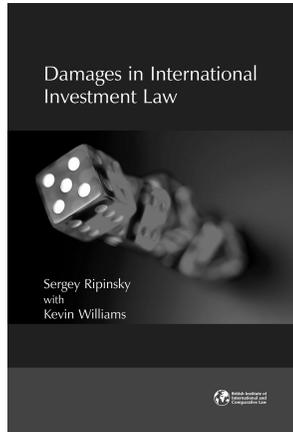
1. Centre d'étude et de recherche en droit international—CERDIN—Université de Paris 1 Panthéon-Sorbonne (Co-ordinator of the project)
2. Collège de France
3. Universitat Jaume I de Castellon—Departamento de Derecho Público
4. Universitatea din Bucuresti
5. Magna Carta—Human Rights Network International
6. Centre Perelman de philosophie de droit—Université Libre de Bruxelles

Aims and Goals

- Examine the existing international law in regard to the protection of civilians in post-conflict situations, especially in regard to the treatment of women and children.
- Examine the extent to which EU external policy (specifically Common and Foreign Security Policy) has a human rights and international humanitarian law component and compare this to the development of international law more generally.

- Study selected EU and UN peacekeeping operations to provide a comparison of their mandates and activities, and compliance with international human rights and humanitarian law. Particular attention will be paid to peacekeeping operations in Afghanistan and in Former Yugoslavia.
- Consider how the EU may contribute to promoting respect for human rights and international humanitarian law in its peacekeeping operations. Focus will be on the EU (and some Member States of the EU) peacekeeping operations in Kosovo, Sierra Leone, Haiti and Cambodia.
- Determine how amnesties, impunities and criminal justice contribute to post-conflict national reconciliation. Analyse if they are antagonistic or if they can be reconciled in a manner that satisfies the requirements of international human rights law and the rule of law.
- Offer recommendations, codes of conduct for civil and military peacekeeping personnel, and best practice guidelines for policy-makers in the EU and its Member States. This may include methods to develop and/or strengthen the existing legal framework to increase the legitimacy and consistency of peace operations in conflicts, and to increase compliance with human rights and compatibility with the specific needs of various actors.
- Disseminate results to European institutions, relevant NGOs, representatives of local governments, peacekeeping decision-makers, jurists etc.

Damages in International Investment Law



The two-year project on Damages in International Investment Law was completed by publication of the book in November 2008, authored by Sergey Ripinsky and Kevin Williams. The book is the first to examine the subject in a systematic, comprehensive and detailed manner. It provides a much-needed balanced assessment of the complicated and controversial issues arising in relation to compensation awards in investor-State disputes, putting special emphasis on the interpretation and application of international rules on damages by arbitral tribunals. In addition to careful analysis of the most recent investment treaty case law, other relevant practice, both international and national, is reviewed. Thorough, well-organized and supplemented by analytical annexes, the book will be a valuable reference tool for legal professionals and a practical aide for constructing and resolving damages claims in investment arbitration.

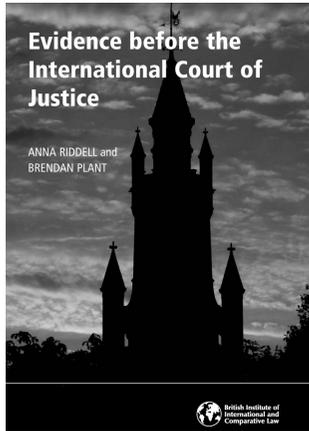
'A brilliant work, informative and elegantly written. Highly recommended to arbitration practitioners.'

Prof Dr Peter Behrens
Professor of Law at the University of Hamburg, Arbitrator

Evidence in International Courts and Tribunals—The International Court of Justice

Project Director: Anna Riddell

Research Fellow: Brendan Plant



This Institute study began in 1998 with a pilot study comparing the rules of evidence of three key international courts and tribunals. It has since developed into a major study, on a court-by-court basis, of several key international courts and tribunals. The purpose of the study is a detailed examination of the current rules of evidence in international courts and tribunals to enable suggestions for the development of a more effective, efficient and workable system, which in turn will maintain and enhance confidence in these tribunals and their judgments. In addition, the drawing together of an authoritative compilation of practices, procedure and techniques employed will provide a valuable body of material to which the tribunals themselves, practitioners and parties to disputes can use in the preparation of cases.

The project has recently focused on the International Court of Justice, and in February 2009 *Evidence before the International Court of Justice* was published by the Institute. Sir Franklin Berman, KCMG QC describes the study as ‘the first ever attempt to undertake a thoroughgoing investigation into the way in which the rules and practices governing the investigation and determination of facts operate within the international judicial system...The study’s appearance marks a considerable achievement on the part of the British Institute of International and Comparative Law’.

Human Rights in International Law and Iran

Project Manager: Dr Nisrine Abiad

Research Fellows: Adineh Abghari (until June 2008) and Victor Kattan (until August 2008)

Interns: Armin Seif, Ayla Karmali, Emena Efeotor, Kate Jones, Sushil Kumar, Safoora Saremi, Michelle Chan

The Institute has successfully implemented its EC-funded project on Human Rights in International Law and Iran which aimed to improve knowledge and raise awareness regarding key international human rights instruments, to establish and strengthen local networks of lawyers, academics and non-governmental organizations, and to promote human rights values within the Iranian legal system. The project ran from January 2008 to October 2008.

Project Activities in 2008

Publications and Dissemination

Publication of the compilation of human rights legal materials into two bilingual (Farsi-English) volumes (950 copies of each volumes). For pedagogic purposes, and on the recommendations of the EC, the English and Farsi versions are facing each other throughout both volumes.

Sourcebook of International Human Rights Materials

Aphrodite Smagadi

This volume provides an introduction to the international legal framework of human rights, including the fundamental aspects of treaty law and practice. The study focuses on selected EU civil and political human rights which were significant in the context of EU–Iran Dialogue.

The Introduction to the Iranian Legal System and the Protection of Human Rights in Iran

Adineh Abghari

This second volume provides an introduction to the international legal framework of human rights, including the fundamental aspects of treaty

law and practice. The study focuses on selected civil and political human rights which were significant in the context of EU–Iran Dialogue.

Sharia, Muslim States and International Human Rights Treaty Obligations: a Comparative Study

Nisrine Abiad

Another project publication is a comparative study which examines the ratification and implementation of selected international human rights treaties among a range of Muslim States. The research sought to identify patterns in the engagement of Muslim States with international human rights treaties with a view to analysing the role the Sharia played in both the process of ratification and implementation of the treaties at the national level. The study provides an overview of the history and key aspects of Sharia, as well as its varying role within the Constitutions and legal systems of Muslim States. The study provides a very useful tool for comparative research in the area of Islam and Muslim State engagement with international human rights. A very wide dissemination strategy through which more than 1650 printed books were distributed to key organizations and academic institutions in Europe, Iran and other Muslim States, was prepared and carried out by the Institute.

Experts Colloquium 5th June 2008:

A colloquium on ‘Islam, the Application of Sharia, and Human Rights’ aimed at discussing the findings of the study with experts from Europe, Iran and other Muslim States was organized by the Institute and held on 5 June 2008 at our premises in London. Experts in Islamic Law and International Human Rights Law from UK, Netherlands, Iran, Pakistan, Malaysia, Nigeria, Egypt, Lebanon and others have participated in this event including academics, religious leaders, lawyers, judges, and civil servants. The keynote address was given by Professor Hashim Kamali from the Islamic University of Malaysia. We also devoted a panel to present the findings of the comparative research as well as two experts to comment on the work. Prof Shaheen Ali from Warwick University made some very constructive comments, and Dr Reza Eslami commented on the work from the perspective of Iran. The afternoon sessions were focused on the main chapters of the comparative research: legislative reforms undertaken within the framework of Sharia, and the role of the judiciary in implementing human rights standards.

The full day colloquium explored the following issues:

- The impact of Islamic considerations on the ratification and implementation of international human rights instruments.
- Theological approaches to Islamic Jurisprudence and Human Rights Law.
- Case studies: Implementation of Human Rights Laws through Islamic Jurisprudence.
- Implementation of Human Rights Standards through judicial activism.

Media Monitoring Reports:

Three reports were published. The first two consisted of three-month media monitoring reports on human rights stories in Iran. The third was a cross-analysis of the two. Following the explicit authorization of the EC, these reports have been published on the project page of the Institute website. The newspapers monitored included: *Die Presse, Der Standard, Die Neu Krone, Oesterreich* (Austria); *Globe and Mail, National Post, Toronto Star, La Presse* (Canada), *Le Monde, Le Figaro, Liberation, 20 Minutes* (France); *Die Welt, Frankfurter Allgemeine Zeitung, Sudduetsche Zeitung, Die Zeit*, Germany); *Jomhourī Eslami, Resalaat, Etemad, Aftab e Yazd, IRNA* and websites (Iran); *La Repubblica, Il Corriere della Sera, Il Giornal* (Italy); *Super Express, Fakt, Gazeta Wyborcza* (Poland); *Daily Mail, Daily Mirror, Sun, Guardian, the Times* (UK); *LA Times, New York Times, USA Today, Wall Street Journal* (US). The Russian media was also covered although they did not report much on Iran.

Conference: Dealing with International Terrorism and Regional Security: Constitutional Status and Legal Framework to the Tribal Areas in Pakistan and Afghanistan (21 October 2008)

In the context of its initiative launched last year on the relationship between Islamic Law and International Law, and as part of its aim to engage in research and events on subjects relevant to Muslim States, a conference was held on 21 October in collaboration with Brunel University and the International Institute for Strategic Studies (IISS), with sponsorship by Eurasia-Net for the session on women's rights and religious intolerance. The objective of this one-day conference was to highlight the relationship between Islamic extremism, international terrorism and regional security in the context of tribal areas of Pakistan and Afghanistan. The tribal belt within Pakistan is characterized by constitutional uncertainty and inadequate legal mechanisms for the implementation of human rights and criminal justice system. It has been argued by some that the lawlessness within the tribal areas surrounding Pakistan has also created a safe haven for Islamic fundamentalists. This conference critically examined the role of the international community and the States of Pakistan

and Afghanistan in developing an adequate legal framework and related institutions.

Scholarships Programme in International Law for Iranian Scholars (July–Dec 2008)

The Institute invited two Iranian scholars (respectively from Shahid Beheshti University and Mofid University) to visit the UK for one month to undertake research and participate at various academic activities during which the scholars were introduced to important areas of international law which are currently the subject of extensive debate, including climate change, terrorism, humanitarian law, human rights, international criminal justice and other topics. Specific courses and visits were also tailored with the aim to enhance their English language skills, and more generally their practical and professional skills. This included two visits to English courts including the Old Bailey, where the scholars had the opportunity to view ongoing criminal trials and see first-hand the conventions and procedures of the Court and the Royal Court of Justice and learn about the significance of the Court in English legal history, as well as its role within the modern English legal system. A visit to Matrix Chambers provided them with the opportunity to understand Chambers' work and participate in discussion with barristers over human rights cases they were working on and the role international human rights law plays in their work, giving the example of terrorism cases. The Iranian scholars also visited key international organizations in the UK and attended seminars at LSE and Oxford University.

Furthermore, the Institute organized a week-long trip to Ireland for training on 'Human Rights Fieldwork: Principles, Strategies, and Skills' organized by the International Human Rights Network (IHRN) at the university of Ireland in Maynooth. The training explored the principles underpinning effective human rights fieldwork, the full range of the human rights monitoring cycle from information-gathering to stimulating sustainable progress, the role of human rights in international humanitarian missions, and the concept and practices of human rights-based approaches (HRBA).

Furthermore, the scholars focused on research and submitted a short paper to Bulletin of International Legal Developments (BILD) editor on their respective research subjects.

Institutional Scope of National Human Rights Protections: A Comparative Study in Relation to 'Public Authorities'

Project Director: Anna Riddell

Research Fellows: Kristin Hausler and Justine Stefanelli

Supervisor: Robert McCorquodale

The British Institute of International and Comparative Law recently completed a six-month research project for the Ministry of Justice. This comparative study, which started in August 2008, focused on the meaning of 'public authority' and 'public function' for the purpose of the application of the European Convention on Human Rights at the national level.

This question has arisen particularly frequently in cases involving the privatization of services by the State. In the latest relevant case, *YL v Birmingham City Council* [2007] UKHL 27, the House of Lords decided that a private care home, when providing accommodation and care to an elderly resident, pursuant to arrangements made with a city government body, was not performing 'functions of a public nature' and thus should not be considered a 'public authority' obliged to comply with the ECHR. However a strong minority opinion was of the view that a wide definition should be given to 'functions of public nature' to ensure that such services would be subjected to the ECHR. This study analysed whether an amendment to the Human Rights Act 1998 should be envisaged to provide a clear definition of the scope of protection to be applied in such issues.

To complete this study, Anna Riddell, Kristin Hausler and Justine Stefanelli sent questionnaires to rapporteurs of a selection of 20 Member States of the Council of Europe. In addition, the researchers visited the European Court of Human Rights in Strasbourg in order to better understand the views on the question at the European level. Over the course of two days, several eminent members of the Court, including The Hon Sir Nicholas Bratza, also a member of the Institute's Advisory Council, kindly agreed to meet and discuss the study's research questions.

The report was completed at the end of January 2009 and is currently being reviewed by the Ministry of Justice.

Project on Criminal Law and the Rights of the Child in Iran and other Muslim States

Project Director: Dr Nisrine Abiad

Interim Research Consultants: (Jan 2009–March 2009):

Mubarka Ahmed, Tonye Clinton Jaja, Safoora Saremi

Research Fellow: Prof Farkhanda Mansoor

Interns: Safoora Saremi, Nima Mersadi Tabari

The Institute has started a 21-month project on the Rights of the Child in Criminal Law in Iran and other Muslim States. This project aims at enhancing the implementation of non-discriminatory laws relating to children in the Iranian and other Muslim States' criminal justice systems through training, research and providing support to advocacy work.

Outcomes

Training

- 25–30 lawyers, academics and judges from a range of Muslim States were trained in advancing the protection of children's rights in the criminal justice system.

Support for research and advocacy

- English and Persian publication of an analytical report on the impact of the Iranian criminal law on children aimed at raising awareness among targeted groups and strengthening the argumentation and the materials on the subject. Two hundred books to be distributed among NGOs, lawyers, judges, academics and human rights activists.
- Publication in English and Persian of a comparative study on the age of criminal liability in Muslim States aimed at providing strong material for advocacy and research on the subject. Two hundred books to be disseminated among NGOs, lawyers, judges, academics and human rights activists.
- 15–20 legal experts from different Muslim States to discuss and comment on the comparative research aimed at giving legitimacy for a reinterpretation of provisions of Islamic law towards more harmony with international standards.

Project Steering Group: Baroness Haleh Afshar, OBE, University of York; Prof. Shaheen Ali, Warwick University; Jeremy Carver, Clifford Chance; Drewery Dike, Amnesty International; Prof Ziba Mir Hosseini, SOAS.

Research Profiles

Dr Nisrine Abiad

Nisrine has managed the Institute's project on Human Rights in International Law and Iran from August 2007. She has launched a new research initiative on the relationship between Islamic law and international law and promoted it by collaborating with academics in different Islamic countries, enlarging the Institute's European network in this area, and successfully bidding for a project on Criminal Law and the Rights of the Child in Iran and Muslim States. Previously, she has taught Public Law at the Lebanese University and the Holy Spirit University in Lebanon and worked for three years as research associate in Public Law at the University of Pantheon-Assas Paris II in France, from which she holds her PhD.

Norah Gallagher

Norah is the Director of the Investment Treaty Forum. In addition to coordinating its activities she also undertakes research projects, for example the EU–China BIT study as well as writing articles and trying to secure funding for future projects. Currently, funding is being sought for research on Evidence before International Investment Tribunals. This follows on from the Institute's successful completion of the book on Evidence before the International Court of Justice. Norah is a qualified lawyer in both England and Ireland and has practiced in international law for many years, previously at Herbert Smith and the Lauterpacht Centre for International Law in Cambridge.

Kristin Hausler

Kristin Hausler joined the Institute in August 2007 to assist on the Evidence in International Courts and Tribunal project. She worked on a project for the Ministry of Justice entitled 'Institutional Scope of National Human Rights Protections: A Comparative Study in Relation to "Public Authorities"', and she is currently managing another project for the Ministry of Justice: 'Alternative Dispute Resolution: A Comparative Study of National Systems'. Previously, Kristin worked for several years in Vancouver, Canada, on a repatriation project involving indigenous communities.

Dr Philip Marsden

Philip is a competition lawyer with research interests relating to consumer welfare, abuse of dominance, international enforcement cooperation, competition law in small and developing economies, and aspects of the law of the World Trade Organization (WTO) relating to competition policy, telecommunications and dispute settlement proceedings. He is a frequent media commentator and conference speaker on competition and trade issues. He is the founder and editor of the European Competition Journal and a Founding Director of World Trade Institute Advisors. In 2008 he was appointed by the Secretary of State to the Board of the Office of Fair Trading for a four-and-a-half-year term.

Professor Robert McCorquodale

Robert is the Director of the British Institute of International and Comparative Law. He is also Professor of International Law and Human Rights, and former Head of the School of Law, at the University of Nottingham. Previously he was a Fellow and Lecturer in Law at St John's College, University of Cambridge and at the Australian National University in Canberra. Before embarking on an academic career, he worked as a qualified lawyer in commercial litigation with leading law firms in Sydney and London. Robert's research interests are in the areas of public international law and human rights law. He has published widely on these areas, and has provided advice to governments, corporations, international organizations, non-governmental organizations and peoples concerning international law and human rights issues, including advising on the drafting of new Constitutions and conducting human rights training courses.

Faria Medjoub

Faria joined the Institute as a legal intern in April 2006 and worked with the Events team. She became a Research Fellow within the Tort Law Centre in September 2006. Within the Product Liability Forum, she coordinates the events and seminar series and also works on the Product Liability Database, which is a unique source of materials on comparative product liability and product safety law. Faria acted as co-Director on the 'Rights and Responsibilities of Citizenship' project which was led by former Attorney General Lord Goldsmith and formed part of a wider review of Governance in Britain currently being conducted by the United Kingdom's Ministry of Justice. She is now working on the ATLAS project.

Noreen O'Meara

Noreen is Editor of the Bulletin of International Legal Developments (BILD) and regularly contributes articles and case commentaries on major court rulings within the fields of EU law and public/private international law. As Research Fellow in European Law, she contributes to the Institute's European Law Programme. Her current research interests focus primarily on European public law, international courts and tribunals, and international human rights.

Anna Riddell

Anna Riddell joined the Institute as a Research Fellow in Public International Law in 2005. Anna studied law at Brasenose College, Oxford and holds an LLM in European Law with Distinction from the University of Exeter. She was called to the Bar by Lincoln's Inn in July 2005.

Dr Sergey Ripinsky

Dr Sergey Ripinsky is involved in running the Institute's Investment Treaty Forum and was responsible for the research project on Damages in International Investment Law, which resulted in a book by the same title. He takes an active part in the Institute's other projects in the field of international economic law and co-ordinates the establishment of the Energy and Natural Resources Forum. Sergey holds a PhD from St Petersburg State University (Russia) and an LLM from Maastricht University (The Netherlands).

Justine Stefanelli

Justine Stefanelli joined the Institute as an intern in European law in August 2006 and became a research fellow in November of the same year. She works primarily with the ATLAS project.

She holds an undergraduate degree in Psychology awarded by Duquesne University in the United States, and was awarded her Juris Doctor by the University of Pittsburgh in 2005. Most recently, she obtained an LLM in European Law from Queen Mary University of London in 2006.

Justine is a licensed member of the Bar of the Commonwealth of Pennsylvania, USA, and previously worked in the areas of comparative and international law during her training to become an attorney. She also spent part of her legal training educating foreign LLM students in American legal writing.

Peter Whelan

Peter Whelan is the Research Fellow in Competition Law at the British Institute of International and Comparative Law. Peter's main research interests are cartel law, comparative competition law, and EU law. He is also interested in international law and human rights law. Peter holds both a Degree in Law and French (LLB [Ling Fran]) and a Master of Laws (LLM) from Trinity College, Dublin. He started his PhD in Law in September 2006 at St John's College, Cambridge; his chosen topic is 'Competition and the Criminal Law'. Peter is the Consultant Editor of the Cambridge Student Law Review. Peter was admitted to the New York State Bar in October 2007.

Sarah Williams

Sarah Williams is currently the Dorset Fellow in Public International Law at the British Institute of International and Comparative Law. She was a lecturer in law at Durham University, where her teaching and research interests included public international law, international criminal law, legal responses to terrorism and international human rights. Sarah was a legal researcher at the Foreign and Commonwealth Office (2006) and a Visiting Fellow at the Sydney Centre for International Law (2008). She is the co-editor (with Dominic McGoldrick) of the Current Developments (Public International Law) section of the International and Comparative Law Quarterly.

Publications by BIICL Staff 2008–2009

Anna Riddell

A Riddell and B Plant, *Evidence in the International Court of Justice* (British Institute of International and Comparative Law, London, 2009).

Nisrine Abiad

Publications

N Abiad, *Sharia, Muslim States and International Human Rights Treaty Obligations: A Comparative Study* (British Institute of International and Comparative Law, London, 2008).

N Abiad and F Mansoor, *Criminal Justice Laws and the Rights of the Child in Muslim States* (British Institute of International and Comparative Law, London, forthcoming).

Presentations

'The Impact of Sharia on the Ratification and Implementation of International Human Rights Conventions' (London, June 2008).

'Human Rights Law and Sharia: CEDAW as a Case Study' (Tunis, August 2008).

Norah Gallagher

Books

Chinese Investment Treaties: Policy and Practice (OUP, Oxford, 2009) (jointly with Wenhua Shan)

Articles

'Disputes Involving State Parties' Q Finance (forthcoming)

'Investment Protection and the Rule of Law: Change or Decline?' (forthcoming)

Kristin Hausler

Books

Chapter: 'The Journey Home: A Case Study in Proactive Repatriation' with Susan Rowley, in Mille Gabriel and Jens Dahl (eds), *UTIMUT—Past Heritage—Future Partnerships, Discussions on Repatriation in the 21st Century* IWGIA 2008.

Bulletin of International Legal Developments

- 'A new Constitution for Bolivia', BILD, forthcoming.
- 'Cartoonist's conviction for complicity in condoning terrorism upheld—*Leroy v France*' (2008) 21 BILD.
- 'Human Rights Committee's Report Supports the Adoption of a Bill of Rights' (2008) 15 BILD.
- 'Negotiating Indigenous Land Claims—Maori collective settles largest ever land settlement under the Treaty of Waitangi', *Bulletin of International Legal Developments* 2008 Issue 12.
- 'BC Supreme Court Rules in Favour of Safe Injection Site' (2008) BILD 11.
- 'US Probe into *Oil-for-Food* Kickbacks Results in Heavy Penalties for Individuals and Corporations' (2008) 9 BILD.
- 'Adoption of ILO 169 on Indigenous Rights' (2008) BILD 6.
- 'ECtHR—*Saadi v Italy*' (2008) BILD 6.
- 'New Arbitration Centre' *Bulletin of International Legal Developments* 2008 Issue 5.
- 'Parliament Approves Headscarf Reform' (2008) BILD 4.
- 'Peru Institutes Proceedings Against Chile' (2008) BILD 3.
- 'US Appeals Court Dismisses Former Guantanamo Detainees Lawsuit—*Rasul v Myers*' BILD 3.
- 'Landmark Decision in Indigenous Land Claim Dispute—*Tsilhqot'in Nation v British Columbia*' (2008) BILD Issue 2.
- 'ASEAN Charter Agreed by Member States' (2007) BILD 23.
- 'Corporate Liability Under the Alien Tort Claims Act—*Khulumani v Barclay National Bank, Ltd, Ntsebeza v Daimler Chrysler Corp*' (2007) BILD 21.
- 'Committee of Ministers Adopts New Texts on Freedom of Expression' (2007) BILD 19.

Professor Robert McCorquodale

'Impact on State Responsibility' in M Kamminga and M Scheinin (eds), *The Impact of Human Rights Law on General International Law* (OUP, Oxford, 2009) 235–254.

- 'Decolonization' and 'Peoples' in P Cane and J Conaghan (eds), *The New Oxford Companion to Law* (OUP, Oxford, 2008) 300–301, 882–883.
- 'The Rule of Law Internationally: Lord Bingham and the British Institute of International and Comparative Law' in M Andenas and D. Fairgrieve (eds), *Tom Bingham and the Transformation of the Law* (OUP, Oxford, 2009).
- 'International Organisations and International Human Rights Law: One Giant Leap for Humankind' in K Kaikobad and M Bohlander (eds), *International Law and Power Perspectives on Legal Order and Justice: Essays in Honour of Colin Warbrick* (Brill, forthcoming 2009), Chapter 7.
- 'Non-State Actors and International Human Rights Law' in S Joseph and A McBeth (eds), *International Human Rights Law* (Edward Elgar, forthcoming 2009).
- 'Poverty and the International Covenant on Economic, Social and Cultural Rights' (with M Baderin) in G van Bueren (ed), *Fulfilling Law's Duty to the Poor* (UNESCO, forthcoming 2009).

Dr Philip Marsden

Books

Consultant Editor, *Competition Law: European Community Practice and Procedure: Article-by-Article Commentary* (Sweet & Maxwell, London, 2008).

Chapters

P Marsden and P Whelan, 'The "Consumer Welfare" Standard as a Form of Substantive Protection for Consumers under European Competition Law' in *Own Labels, Branded Goods and Competition Policy: The Changing Landscape of Retail Competition*, Ezrachi & Bernitz (eds) (Oxford University Press, Oxford, 2009)

Articles

- P Marsden and P Whelan, 'Selective Distribution and EC Competition Law in the Age of Online Retail' [2009] *European Competition Law Review*, forthcoming
- P Marsden, 'Checks and Balances: EU Competition Law and the Rule of Law' (February 2009) *Competition Law International* 24.
- P Marsden, 'Lobbying for Climate Change in EU Competition Policy—Just Don't Talk About the Weather' (2009) 1 *Concurrences* 11.
- P Marsden and P Whelan, 'Intervention and the Internal Market:

Contemporary European Competition Initiatives Concerning Distribution in the Market for New Cars' (2008) 4 European Competition Journal 2 485.

P Marsden and S W Waller, 'The Antitrust Marathon: Part II' (2008) 4 European Competition Journal 1 213.

P Marsden and S W Waller, 'The Antitrust Marathon: A Roundtable Discussion' (2008) 20 Loyola Consumer Law Review 114.

Academic Papers

P Marsden, 'Article 82 and Structural Remedies After *Microsoft*', paper presented at the International Competition Forum, St Gallen, 22–23 May 2008.

P Marsden and P Whelan, 'Re-Examining Trans-Atlantic Divergences in Substantive and Procedural Competition Law' paper to be presented at the Sedona Conference, 'Antitrust Law and Litigation X: The Globalisation of Antitrust Enforcement' Florence, Italy, September 2008.

Faria Medjoub

Articles

'La prise en considération du droit international humanitaire par l'Union Européenne—une introduction' (University of Bucharest, forthcoming, co-authored with Justine Stefanelli).

Noreen O'Meara

Bulletin of International Legal Developments

'The Special Tribunal for Lebanon' (2009) 6 BILD 70.

'Case Concerning Jurisdictional Immunities (Federal Republic of Germany v Italy)' (2009) 2 BILD.

'A War-Crimes Court for Liberia? Truth and Reconciliation Commission to Recommend the Establishment of a Court to Prosecute War Crimes' (2009) 1 BILD 3.

'Regulating Charities and Silencing Dissent—the Ethiopian Perspective' (2008) 23 BILD 270.

CFI Case Commentary: '(Un)-freezing the funds of the People's Mojahedin Organization of Iran' (2008) 23 BILD 268 (with Elmar Widder).

ECJ Case Commentary: 'Banana Wars—ECJ will not make good damage resulting from EC's failure to comply with WTO Agreements' (2008) 20 BILD 229 (with Clara Burtenshaw).

ECJ Case Commentary: 'Discrimination by Association'—Case C-303/06 *Coleman v Attridge Law* (2008) 19 BILD 219 (with Bjorn Baade).

Sergey Ripinsky

Books

Damages in International Investment Law (British Institute of International and Comparative Law, London, 2008) (with K Williams).

Investment Treaty Law: Current Issues III (Institute of International and Comparative Law, London, 2009) (editor, with A Bjorklund and I Laird).

Articles

'The Global Economic Crisis and the Danger of Protectionism: Does International Law Help?' (forthcoming)

'International Means of Legal Protection of European Investors in Russia' (Madrid, forthcoming)

'Assessing Damages in Investment Disputes: Practice in Search of Perfect' (2009) 10 *Journal of World Investment & Trade* 1 1–33.

Justine Stefanelli

Articles

'La prise en considération du droit international humanitaire par l'Union Européenne—une introduction' (University of Bucharest, forthcoming, co-authored with Faria Medjoub).

Peter Whelan

Books

P Marsden and P Whelan, 'The "Consumer Welfare" Standard as a Form of Substantive Protection for Consumers under European Competition Law' in *Own Labels, Branded Goods and Competition Policy: The Changing Landscape of Retail Competition*, Ezrachi & Bernitz (eds) (Oxford University Press, Oxford, 2009).

P Whelan, 'Protecting Human Rights in the Context of European Antitrust Criminalisation' chapter in Lianos & Kokorris (eds), *The Reform of EC Competition: Towards an Optimal Enforcement System* (Kluwer International, Amsterdam, forthcoming)

Articles

P Whelan, 'Morality and Its Restraining Influence on European Antitrust Criminalisation' [2009] *Trinity College Law Review* 40.

- P Marsden and P Whelan, 'Selective Distribution and EC Competition Law in the Age of Online Retail' [2009] *European Competition Law Review*, forthcoming.
- P Marsden and P Whelan, 'Re-Examining Trans-Atlantic Divergences in Substantive and Procedural Competition Law' (2009) *Sedona Conference Journal*, forthcoming.
- P Whelan, 'Contemplating the Future: Personal Criminal Sanctions for Infringement of EC Competition Law' (2008) 19 *King's Law Journal* 2 364.
- P Whelan, 'Is the Passing-On Defence Appropriate?' (2008) 7 *Competition Law Insight* 9 5.
- P Marsden and P Whelan, 'Intervention and the Internal Market: Contemporary European Competition Initiatives Concerning Distribution in the Market for New Cars' (2008) 4 *European Competition Journal* 485 2.

Case Notes

- P Whelan, 'Resisting the Long Arm of Criminal Antitrust Laws: *Norris v US*' (2009) 72 *Modern Law Review* 2 272.
- P Whelan, 'The *Degussa* Case' (2008) 7 *Competition Law Insight* 8 13.

Book Reviews

- P Whelan, 'Book Review: *Efficiency and Justice in European Antitrust Enforcement* (Wils)' (2009) 34 *European Law Review* 1 160.
- P Whelan, 'Book Review: *What About Law?* Barnard, O'Sullivan & Virgo (eds) (2008) 4 *Cambridge Student Law Review* 2 337.
- P Whelan, 'Book Review: *The Antitrust Religion* (Rockefeller)' (2008) 4 *European Competition Journal* 1 397.
- P Whelan, 'Book Review: *Global Competition Law and Economics* (Elhauge & Geradin, eds)' (2008) 66 *Cambridge Law Journal* 1 211.
- P Whelan, 'Book Review: *Butterworths Competition Law Handbook* Lindrup (ed) (2008) 4 *Cambridge Student Law Review* 1 141.

Academic Papers

- P Whelan, 'The Appropriateness of the Passing-On Defence in Private Competition Law Enforcement' paper presented at the UKAEL Conference: 'Competition and Private Enforcement: The Next Steps', University College London, 4 July 2008.

Legal Submissions

'Reform of Regulation 1/2003: Correcting the Current Lack of Effective Communication: The Competition Law Forum's Submission to the European Commission in relation to its Consultation on Regulation 1/2003' 30 September 2008, with the CLF Working Group on Regulation 1/2003.

Bulletin of International Legal Developments

'Treuhand v Commission' (2008) 15 BILD 169.

Commissioned Reports

P Whelan, 'Trends in Retail Competition: Private Labels, Brands and Competition Policy: (British Institute of International and Comparative Law, London, May 2008).

Sarah Williams

Articles

'The Arrest Warrant for President al-Bashir: Immunities of Incumbent Heads of State and the International Criminal Court' *Journal of Conflict and Security Law*, forthcoming 2009 (with L Sherif).

'Recent Developments at the International Criminal Court' *Human Rights Law Review*, forthcoming 2009 (with M Cross).

Edited books

'The UK and Protection of Cultural Property in times of Armed Conflict' in M Dixon (ed) *Modern Studies in Property Law: Volume 5* (Hart Publishing, Oxford) forthcoming 2009 (with J Glister).

'The legal bases of the internationalized criminal tribunals' in K Kaikobad and M Bohlander (eds)—a festschrift to honour Professor Colin Warbrick (Brill Publishing, 2008).

'The Completion Strategies of the ICTY and the ICTR' in A Cassese (ed), *The Oxford Companion to International Criminal Justice* (OUP, Oxford, 2009).

Internationalized Courts and Tribunals, forthcoming (Hart, Oxford, 2009).

Publications

Publisher: Orla Fee

Publications Assistant: Alexa van Sickle (from October 2008)

International and Comparative Law Quarterly

New Editorial Board Member

In March 2009, Professor Jo Shaw joined the editorial board of the *International and Comparative Law Quarterly*, following confirmation of her appointment by the Institute's Board of Trustees. Jo Shaw holds the Salvesen Chair of European Institutions and is Co-Director of the Edinburgh Europa Institute at the University of Edinburgh. Her teaching and research focuses on the field of the EU Constitution and institutions, particularly in socio-legal and interdisciplinary perspectives.

Chanaka Wickremasinghe

Chanaka left the ICLQ as book reviews editor. He has had a long-standing association with the Institute, and we thank him for his many years of service. He is First Legal Secretary at the Permanent Mission of the United Kingdom of Great Britain and Northern Ireland to the United Nations.

Mads Andenas

Mads left the ICLQ as book reviews editor to take a post at the Norwegian Centre for Human Rights at the University of Oslo. Mads was the Institute's director from 1999 to 2005 and was appointed honorary fellow in 2006. We thank him for his substantial contribution to both the ICLQ and Institute in general.

Mick Belson

The Institute was very sad to lose Mick Belson, who died in September 2008. Mick had been Publications Consultant for seven years and in that time had been central to the development of the publishing programme. His experience in publishing was unparalleled and his wit and wisdom made him a pleasure to work with.

John Usher

It was with great sadness that we learned of the death of our colleague and ICLQ board member John Usher in September 2008. John, who was head of the Law School at the University of Exeter, was a longstanding member of our editorial board and made a very significant contribution to the journal during that time. A page in memory of John was included in the October 2008 issue of ICLQ.

Editorial Assistant

A new editorial assistant, Alexa van Sickle, joined the Institute in October 2008. Alexa has a Masters in International and European Politics and has worked in legal publishing, research and journalism.

We once again thank Dr Joe McMahon, Dr Peter McEleavy, Professor Craig Barker, and Professor Dominic McGoldrick for their contribution to the journal as editors of the Current Developments section; and we also thank Dr Ralph Wilde for his continued role as book review editor.

Bulletin of International Legal Developments

The Bulletin of International Legal Developments (BILD) is the British Institute of International and Comparative Law's fortnightly international legal news publication. Edited by Noreen O'Meara, BILD focuses on current legal developments worldwide, with articles and case reports in the fields of public and private international law, human rights, EU law and comparative law. The range and scope of BILD's coverage brings readers up to date on key global legal developments in Europe, Africa, the Middle East, the Americas, the Asia Pacific region and in international courts and tribunals.

Over the past year, the following interns have provided assistance: Bjorn Baade, Ben Brockman-Hawe, Clara Burtenshaw, Sonalini de Zoysa Gunasekera, Marc Humphreys, Elmar Widder and Kristina Wollter. BILD continues to be supported by an international network of contributors from academia and practice. The print and email versions reach in excess of 1000 subscribers globally, including BIICL members, universities, academic organizations, international courts, justice departments, law firms and individual practitioners. The print edition of the BILD continues to be a key resource enjoyed by law libraries, academics and practitioners throughout the world. Corporate members of the Institute continue to receive the printed BILD as part of their membership package. Individual members of the Institute receive the BILD fortnightly via email as part of their membership package, and can access the entire BILD back catalogue from 1999 onwards, online.

Other Institute Publications

Once again in 2008 the Institute continued to produce and publish diverse books and research, which contribute uniquely to academic and general legal scholarship. In particular, the three volumes that were developed for the Iran/Human Rights Project were published in October. The Damages in International Investment Law project was published in December.

We continue to market our publications with traditional booksellers as well as online, and are implementing a new marketing strategy for the coming year. A large part of this strategy is to focus on promoting both our publications and the work of the Institute in the North American market, in addition to our continued work with International Specialized Book Services, who help us distribute in the US. The Institute is always pleased to consider proposals for new publications and the Institute Publisher, Orla Fee, is happy to discuss new projects with authors. She can be contacted via email: o.fee@biicl.org.

Titles Published in 2008 and 2009

Evidence before the International Court of Justice

Anna Riddell and Brendan Plant

Some recent contentious issues about the use of evidence in cases before the International Court of Justice have highlighted the importance of fact-finding and the use of evidence before this Court. This major study by the British Institute of International and Comparative Law on the issue of evidence before the International Court of Justice has examined all aspects of the Court's relationship with facts in detail, in both contentious and advisory proceedings, from the recently refined procedure for submitting late evidence, to the hearing of live witness testimony in the Peace Palace.

Considerations of flexibility and respect for the sovereignty of the State Parties before it have traditionally deterred the Court from constructing concrete rules on matters of evidence, but the increasing numbers of cases in which a thorough consideration of the facts has been essential has highlighted that some detailed procedural guidance is necessary in order to ensure a well-functioning system of adjudication. It is apparent that the Court has paid an increasing amount of attention to its evidentiary proceedings as a result, often encountering difficulties in the inherent tensions between the common and civil law traditions and thus a divergence of opinions on the Bench.

This book examines the history and development of the treatment of evidence since the early days of the PCIJ up to the recent *Nicaragua v Honduras* judgment, critically analysing the Statute and Rules of the Court, dicta from judgments and separate and dissenting opinions, the newly developed Practice Directions and academic writings on the subject. It aims not only to provide an academic discussion of the subject, but also to act as a guide to practitioners appearing before the Court.

The Temporal Scope of International Investment Protection Treaties

Nick Gallus

Published in February 2009, *The Temporal Scope of Investment Protection Treaties* addresses all aspects of investment protection treaty tribunals' temporal jurisdiction. Specifically, the book examines: the application of the temporal rule to investment protection treaties, including the aspect of the rule providing that a State cannot breach a treaty through acts occurring before the treaty comes into force; circumstances under

which a State can breach a treaty through continuing or composite acts beginning before the treaty comes into force; the consequence of State acts after the treaty is signed but before it is ratified; time limits; and disputes arising before an investment protection treaty comes into force. The book draws from investment protection treaty decisions, as well as relevant decisions of other international tribunals, and is, therefore, not only a resource for investment protection treaty practitioners, arbitrators, academics and students, but also for those interested in the temporal jurisdiction of any international tribunal.

Investment Treaty Law: Current Issues III

Andrea K Bjorklund, Ian A Laird and Sergey Ripinsky

Published in February 2009, this is the third volume collecting the work of the Investment Treaty Forum of the British Institute of International and Comparative Law, which brings together eminent practitioners, arbitrators, and academics in the dynamic area of international investment law. Members of the Forum, under the Institute's auspices, examine and debate the legal and policy issues presented by the increasingly complex web of investment treaties and the disputes that arise under them.

The Forum held two conferences in 2007: the present volume compiles the papers presented at the conferences as well as a transcript of the round-table discussion on the subject of 'precedent' in international investment arbitration that featured some of the foremost authorities on the subject.

Damages in International Investment Law

Sergey Ripinsky with Kevin Williams

The two-year project on Damages in International Investment Law was completed by publication of the book, authored by Sergey Ripinsky and Kevin Williams. The book is the first to examine the subject in a systematic, comprehensive and detailed manner. It provides a much-needed balanced assessment of the complicated and controversial issues arising in relation to compensation awards in investor-State disputes, putting special emphasis on the interpretation and application of international rules on damages by arbitral tribunals. In addition to careful analysis of the most recent investment treaty case law, other relevant practice, both international and national, is reviewed. Thorough, well-organized and supplemented by analytical annexes, the book will be a valuable reference tool for legal professionals and a practical aide for constructing and resolving damages claims in investment arbitration.

Sharia, Muslim States and International Human Rights Treaty Obligations: a Comparative Study

Nisrine Abiad

This comparative study examines the ratification and implementation of selected international human rights treaties among a range of Muslim states. The research sought to identify patterns in the engagement of Muslim States with international human rights treaties with a view of analysing the role the Sharia played in both the process of ratification and implementation of the treaties at the national level. The study provides an overview of the history and key aspects of Sharia, as well as its varying role within the Constitutions and legal systems of Muslim States. The study provides a very useful tool for comparative research in the area of Islam and Muslim State engagement with international human rights.

Sourcebook of International Human Rights Materials

Aphrodite Smagadi

This volume provides an introduction to the international legal framework of human rights, including the fundamental aspects of treaty law and practice. The study focuses on selected civil and political human rights which were significant in the context of EU–Iran Dialogue. From 2005 to 2008, the Institute has been conducting a comprehensive project on human rights in the Islamic Republic of Iran. The project’s aim was to promote human rights as a central part of the dialogue in which the European Union and

This publication is one of the outputs of that project. It is designed as a practical guide and reference book for lawyers and other human rights defenders, and it describes the international legal framework of human rights.

This brief account of the fundamental principles of treaty law and practice aims to facilitate better understanding of the structure and functioning of the human rights system at the international level. Focus is then placed on selected individual human rights and on the issues encountered by vulnerable groups, on the basis of significance of the topics to both parties to the dialogue. In each section, analysis is accompanied by the relevant provisions of international human rights instruments and case law. The book concludes with a list of bibliographical sources suggested for further reading.

The Introduction to the Iranian Legal System and the Protection of Human Rights in Iran

Adineh Abghari

This second volume provides an introduction to the international legal framework of human rights, including the fundamental aspects of treaty

law and practice. The study focuses on selected civil and political human rights which were significant in the context of EU–Iran Dialogue. From 2005 to 2008 the Institute has been conducting a comprehensive project on human rights in the Islamic Republic of Iran. The project's aim was to promote human rights as a central part of the dialogue in which the European Union and Iran have been engaged since 2002.

This publication is one of the outputs of that project, designed as a practical guide and reference book for foreign jurists and human rights defenders. It deals with Iran's legal system and its internal safeguards for human rights. This book covers the political structure of Iran; the history of the judiciary in Iran; the sources and nature of Iranian law; and the internal safeguards for fundamental freedoms and rights

The Palestine Question in International Law

Victor Kattan (ed)

The question of Palestine has been a pivotal one for international law ever since the foundation of the United Nations Organisation in 1945. It remains so today. On 9 July 2004, the International Court of Justice gave its advisory opinion on the Legal Consequences of the Construction of a Wall in Occupied Palestinian Territory where it ruled on some major international law questions concerning the applicability of the Geneva Civilians Convention of 1949 to prolonged occupations, as well as human rights law more generally. It confirmed the illegality of the Israeli civilian settlements established on occupied Palestinian territory and affirmed the continuing relevancy of the right of the Palestinian people to self-determination which it considered an obligation *erga omnes*. The ICJ did not, however, rule on many of the international law questions pertaining to Final Status Issues which still need to be negotiated between the Israeli and Palestinian leadership if peace is to ever be accomplished in the Holy Land. In this series of essays, some of the most important questions relating to the Israel-Palestine conflict are addressed and reproduced in one complete volume to coincide with the 60th anniversary of the demise of the British mandate of Palestine and the creation of Israel.

It is often suggested that a little goodwill and give and take could resolve the conflict between Israel and Palestine. This collection of some of the best legal analysis of the matter is a timely reminder that there are fundamental legal rights and duties at stake, and basic questions of the Rule of Law, which must be understood and addressed if a just and durable settlement of this desperately sad, and ultimately dehumanizing, situation is to be found (Professor Vaughan Lowe QC, Chichele Professor of Public International Law, All Souls College, Oxford).

International Electronic Evidence

Stephen Mason (ed)

An increasing number of civil and criminal proceedings involve the use of digital evidence across jurisdictional boundaries. Digital evidence now affects every aspect of law, including contract, employment, family, crime, intellectual property and land law; in effect, no area of law is excluded, and digital evidence has become of greater importance now the Internet and World Wide Web have become ubiquitous.

It is increasingly apparent that criminals and terrorists target the electronic environment to steal, carry out extortion and abuse children across jurisdictions. Additionally, both public and commercial organizations now rely on the digital environment to such an extent that it has become critical to business and, perhaps, the survival of the State.

This new title provides an outline of the substantive law of evidence, admissibility, disclosure, and procedural requirements in respect of digital evidence for the jurisdictions covered, which include: Argentina, Austria, Belgium, Bulgaria, Croatia, Cyprus, Czech Republic, Denmark, Egypt, Estonia, Finland, France, Germany, Greece, Hungary, Iceland, Italy, Japan, Latvia, Lithuania, Luxembourg, Malta, Mexico, Netherlands, Norway, Poland, Portugal, Romania, Russia, Slovakia, Slovenia, Spain, Sweden, Switzerland, Thailand and Turkey.

Forthcoming Titles

The Public/Private Law Divide: Potential for Transformation?

Matthias Ruffert (ed)

Agriculture and the Polluter Pays Principle

Peggy Grossman (ed)

Medicinal Bioprospecting: Policy Options for Access and Benefit-Sharing

Aphrodite Smagadi

A Gap in the Enforcement of Article 82

Ioannis Kokkoris

Freedom of Religion under International and Comparative Human Rights Law

Mashood Baderin and Manisuli Ssenyonjo

Restructuring International Debt

Mauro Megliani

27 Constitutions: The Constitutions of the Member States of the European Union

Vernon Bogdanor and Stephan Vogenauer

The Impact of the International Law Commission's Articles on Responsibilities of States for Internationally Wrongful Acts

Simon Olleson

International Law Careers Guide

Christopher Waters

Conferences, Lectures and Other Events

The British Institute of International and Comparative Law runs a dynamic programme of events and CPD courses reflecting the Institute's research work and the interests of its wide continuance of members. A series of over 65 events and CPD courses are run throughout the year including seminars, conferences and lectures (most of these events are CPD accredited with both the SRA and the Bar Association). Generally events are open to the Institute's membership, as well as students, academics, practising lawyers, barristers and regulators.

This year's programme has contained a diverse range of events and training courses covering subjects such as

- Arbitration
- Comparative Law
- Competition Law
- Environmental Law
- European Financial Law
- Human Rights, Humanitarian Law
- Investment Treaty Law
- Islamic Law
- Law and Development
- Law of the Sea
- Private International Law
- Product Liability
- Public International Law
- Public procurement law
- Pharmaceutical Regulation
- WTO & International Economic Law

This year, 2008–9 saw the institute celebrate its 50th Anniversary. The Highlight of this year's conference programme included, the Annual Conference, **Can International Law Provide an Effective Response to Climate Change?**

Climate change is being considered at national and international levels in a variety of disciplines but the impact on international law has not been explored to any significant extent. This timely conference coincides with

the growing recognition of the need for international cooperation and regulation, as part of the rule of law, being a vital component for the future. It explored the effects of climate change on international law, both from within and outside the law, and through international and comparative perspectives. Keynote speakers included Sir Crispin Tickell GCMG KCVO, Director of the Policy Foresight Programme at the James Martin Institute for Science and Civilization at Oxford University, and former Chef de Cabinet to the President of the European Commission. The After Dinner Speaker was Professor Sir Brian Hoskins CBE FRS, Director of the Grantham Institute for Climate Change at Imperial College, London.

Annual Grotius Lecture

The Grotius Lecture achieved a great amount of press attention this year. Lord Bingham KG, who retired as a Senior Law Lord in September 2008, delivered the lecture at Lincoln's Inn on 17 November. The Grotius Lecture has been an annual event to showcase the finest legal minds of our times. It is highly appropriate that the Institute's 50th Anniversary was celebrated with a lecture on the Rule of Law in the International Order by the Institute's Chairman, the Rt Hon Lord Bingham of Cornhill KG. He used as an example the 'serious violation of international law' by the United States, the United Kingdom and others in invading Iraq in 2003, which, he said, despite the genuine beliefs of many of those involved that it was lawful, nevertheless the effect was to 'undermine the foundation on which the post-1945 consensus had been constructed'. Lord Bingham noted the breadth of areas of international law that have impacts within each national system, especially the number of cases that come before the highest courts, such as the House of Lords, including cases such as those involving the UK anti-terrorism legislation. He also made clear that international law is no longer a specialist, niche field, as the main practice areas in which issues of international law now arise include aviation law, commercial and intellectual property law, criminal law, employment and industrial relations law, environmental law, European Union law, family and child law, human rights law, immigration and asylum law, immunities and privileges, international organisations, jurisdiction, law of the sea, treaties and warfare and weapons law. So he concluded that 'if the daunting challenges now facing the world are to be overcome, it must be through the medium of rules, internationally agreed, internationally implemented and, if necessary, internationally enforced'. The Rt Hon Jack Straw MP, Lord Chancellor and Secretary of State for Justice, spoke after the Dinner at this event. The event was covered by the broadsheet press, with write-ups appearing in the Guardian and the Daily Telegraph.

As part of the events marking the Institute's 50th Anniversary year in

2008, a series of five evening events were held to reflect the broad scope of the Institute's work across a range of topical legal issues.

The Rule of Law and EU Competition

Speakers: Dr Philip Marsden, Director, Competition Law Forum, Tim Cowen, General Counsel and Commercial Director, BT Global Services and Sir Christopher Bellamy. This panel explored the importance of the rule of law, economic development and the role and future of the European Community Courts. In addition to the analysis of the contribution of the Community courts to key European policies and principles such as the Lisbon objectives, the EU Reform Treaty and the aims of the Single Market, the discussion also covered aspects of procedure and where improvements are necessary, in particular by reference to competition cases.

Business, the International Rule of Law and Human Rights.

Speakers: Mary Robinson, former UN High Commissioner for Human Rights, former President of Ireland and Professor Robert McCorquodale, Director, British Institute of International and Comparative Law. The event dealt with issues of the legal responsibilities of corporations for human rights violations both within their home country and in other countries, including actions by subsidiaries. It considered some of the UN and industry standards dealing with the responsibilities of governments, and the proposals for change in this area.

Investment Protection and the Rule of Law: Change or Decline?

Speakers: Yves Fortier CC QC, former Ambassador for Canada and Permanent Representative to the United Nations; Chairman, Ogilvy Renault, Montreal and Norah Gallagher, Senior Research Fellow in International Trade and Investment Law, British Institute of International and Comparative Law. This event addressed investment protection, past present and future, highlighting the dramatic change that has taken place in the international legal investment regime.

Further events in this series included 'Uses and Abuses of Comparative Tort Law', with Dr Duncan Fairgrieve, British Institute of International and Comparative Law, Professor Jeroen Kortmann, Professor of European Tort Law at University of Amsterdam; Partner, Stibbe, Amsterdam, Professor Jane Stapleton, Ernest E Smith Professor of Law at the University of Texas School of Law; Statutory Visiting Professor and Member of the Law Faculty of Oxford University and John Fleming Centre for Advancement of Legal Research, The Australian

National University College of Law and International Co-operation and the Modern Prosecutor, speakers Keir Starmer QC, Director of Public Prosecutions and Sarah Williams, Senior Research Fellow (Dorset Fellow) in Public International Law, British Institute of International and Comparative Law.

In addition to this programme an important new occasional events series was launched at the Institute: **Rapid Response Briefings**. The briefings included topical events that are hot off the press including 'The Fight for Justice in Pakistan—and what you can do for Pakistan', 'Prosecuting Sudanese President Al-Bashir before the ICC,' and 'Relighting the Flame: Institute hosts third Rapid Response seminar on Tibet, Gaza: The Legal Issues.

Conference Commemorating the 400th Anniversary of the Death of Alberico Gentili (1552–1608) 16 June 2008

Alberico Gentili, the Italian jurist, is considered to be the founder of modern public international law. His work and achievements are closely studied by the *Centro Internazionale Studi Gentiliani* in San Ginesio, Italy, with whom the British Institute of International and Comparative Law and All Souls College, Oxford, organized a Conference entitled 'The History of International Law'.

The conference participants were recognized experts and writers in international law. Two inspiring presentations were delivered by Professor Benedict Kingsbury from New York University on the purpose of Punishment and the *jus post bellum* and Dr Amanda Perreau-Saussine from Queens' College of the University of Cambridge on Gentili and the Sources of International Law. Both speeches put Gentili's work in context with both the modern-day issues of international law and the current academic stance on the subject.

The speeches were followed by a memorial service at St Helen's Church in Bishopsgate where Gentili is buried, after which the participants attended a drinks reception in the Locarno Rooms at the Foreign and Commonwealth Office, at which Anna Riddell accepted a Commemorative Plaque on behalf of BIICL given by the Centro Internazionale Studi Gentiliani. The celebration was brought to a close by a dinner hosted at the Italian Embassy.

The conference was marked by good attendance, the presence of international guests and the vibrant debate that followed the speeches, particularly in questioning the work of Gentili in relation to contemporary methods and the accuracy of the current shape of international law on the issues of punishment and the legitimacy of reasons for initiating conflicts.

European Law Programme

Anna and Professor Margot Horspool continued the EU Law Seminar Series at the Institute, with a full-day conference entitled 'The Treaty of Lisbon—What does it mean for the UK?' in February 2008 and evening seminars on 'The European Evidence Warrant' and 'State Aid and Financial Services'.

Institute Development

Development Appeal

The Institute is running a Development Appeal, with two principal objectives, to raise funds, respectively, for the Bingham Centre for the Rule of Law and for the Sir Arthur Watts Research Fellowship in Public International Law.

Bingham Centre for the Rule of Law

In November 2008, the Institute announced the Bingham Appeal. The Appeal has already received donations of more than £325,000 towards a goal of £1.3 million to establishment the Bingham Centre for the Rule of Law for five years. We thank Rt Hon Lord Phillips of Worth Matravers, Rt Hon Lord Judge Her Excellency Dame Rosalyn Higgins, DBE, QC His Excellency Prof Vassilios Skouris, His Excellency Jean-Paul Costa, Hon Mr Justice Andrew Li Kwok-nang, Rt Hon Beverley McLachlin, Hon Mr Justice Arthur Chaskalson, Peter Sutherland, KCMG (Hon), SC, Rt Hon Sir David Edward, KCMG, QC, The Hon Chief Justice Robert French, Rt Hon Mr Justice Michael de la Bastide, Mahmoud Salih and The Rt Hon Chief Justice Dame Sian Elias.

The Bingham Centre would be one of the first institutions in the world focused solely on developing the rule of law, promoting the rule of law, understanding it—and the threats that it faces, providing an intellectual framework within which it can operate and creating the legal and policy tools to support it. The Centre will carry out research and training, with a view to influencing policy and law reform around the world, through lectures, publications and seminars.

The Centre's governance and staffing will include:

- Lord Bingham, Life President
- Director of the Bingham Centre for the Rule of Law
- An additional Senior Research Fellow and at least two additional Research Fellows
- Visiting Fellows, including some of the most eminent people in this field
- Talented interns from around the world (supported by a bursary system)

This is an important project, supported at the highest level of academia, the legal profession, the judiciary, international organizations and busi-

ness. Properly funded, it has the possibility to make a profound and prolonged contribution to the development of the society in which we live. Our sincere thanks go to Freshfields Bruckhaus Deringer, the Dorset Foundation, the Peter Cruddas Foundation, the BIICL Trustees and those members of the Judiciary and the Bar who have already supported our appeal. To make a donation or to offer support, please contact Roz Bristowe at the Institute.

Sir Arthur Watts Research Fellowship

The Institute's appeal for the Sir Arthur Watts Research Fellowship in Public International Law aims to honour the memory of the late Sir Arthur Watts, widely regarded as one of the foremost public international lawyers of his generation, to secure the place of public international law as a core element of the Institute's work and to reflect the special focus Sir Arthur had on the practical operation of public international law founded on a deep knowledge of the law.

Areas of law that the Fellow may be involved in through research and organisation of events are:

- Damages in International Law
- Evidence before International Courts and Tribunals
- Comparative International Law

The initial fundraising target for the Sir Arthur Watts Fellowship is £500,000. This will cover the running costs for the Fellowship for five years. A number of substantial gifts have been received with a total of £100,000 being donated in gifts and pledges.

Company Registration No. 615025
Charity Registration No. 209425

The British Institute of International and Comparative Law

**Summarised
Financial Statements
for the year ended
31 December 2008**

**THE BRITISH INSTITUTE OF INTERNATIONAL AND
COMPARATIVE LAW**

**SUMMARISED STATEMENT OF FINANCIAL ACTIVITIES
(Incorporating an Income & Expenditure Account)
FOR THE YEAR ENDED 31 DECEMBER 2008**

	Unrestricted Funds £	Restricted Funds £	Endowment Funds £	Total 2008 £	Total 2007 £
INCOMING RESOURCES					
Generated funds:					
Voluntary Income – Donations	7,017	930	–	7,947	15,413
Activities for generating funds:					
Rental income	14,025	–	–	14,025	15,450
Investment and other income	41,952	–	–	41,952	50,615
Incoming resources from charitable activities:					
Grants	83,272	–	–	83,272	358,652
Member services	341,280	–	–	341,280	352,894
Publications and journals	264,943	–	–	264,943	321,215
Conferences and seminars	275,685	–	–	275,685	239,800
Research programmes	89,823	11,742	–	101,565	255,020
Total incoming resources	1,117,997	12,672	–	1,130,669	1,609,059
RESOURCES EXPENDED					
Costs of generating funds:					
Fundraising costs	86,932	930	–	87,862	50,152
Charitable activities					
Member services	209,655	–	–	209,655	198,293
Publications and journals	136,386	–	–	136,386	194,348
Conferences and seminars	233,345	–	–	233,345	213,938
Research programmes	185,064	223,451	–	408,515	555,208
Support costs: Staff costs	228,375	–	–	228,375	204,253
Support costs: Premises & other costs	86,140	2,425	–	88,565	121,670
Depreciation & loss on disposals	23,415	–	–	23,415	29,479
Governance costs	8,422	–	–	8,422	9,148
Total resources expended	1,197,734	226,806	–	1,424,540	1,576,489
Deficit for the year, before transfer to/from designated funds	(9,737)	(214,134)	–	223,871	(37.4)
Transfer (from)/to designated funds	(70,000)	–	–	(70,000)	70,000
(Deficit)/surplus for the year, being net income/(expenditure) for the year	(79,737)	((214,134)	–	(293,871)	32,570
Other recognised gains and losses					
Unrealised net losses on investments	(52,923)	–	–	(52,923)	(3,477)
Net movement in funds	(132,660)	(214,134)	–	(346,794)	29,093
Reconciliation of funds					
Balances brought forward	593,877	217,862	402,042	1,213,781	1,184,688
Fund balance carried forward	461,217	3,728	402,042	1,213,781	1,213,781

CONTINUING OPERATIONS

None of the charity's activities were acquired or discontinued during the above two financial years.

TOTAL RECOGNISED GAINS AND LOSSES

The charity has no recognised gains or losses, other than the above movement in funds for the above two financial years.

**THE BRITISH INSTITUTE OF INTERNATIONAL AND
COMPARATIVE LAW**

**SUMMARISED BALANCE SHEET
AS AT 31 DECEMBER 2008**

FIXED ASSETS	£	2008 £	2007 £
Tangible assets	79,959		94,735
Investments	213,673		266,680
		293,632	361,415
CURRENT ASSETS			
Stocks	42,484		31,074
Debtors	159,200		198,750
Cash at bank and in hand	969,735		998,576
	1,171,419		1,228,400
CREDITORS: amounts falling due within one year	(598,064)		(376,034)
NET CURRENT ASSETS		573,355	852,366
TOTAL ASSETS LESS CURRENT LIABILITIES		866,987	1,213,781
ENDOWMENT FUNDS			
Sunley—Percy Rugg Endowment Fund	140,255		140,255
Sunley—Sebag Shaw Endowment Fund	140,255		140,255
Barnett Shine Charitable Foundation Fund	121,532		121,532
		402,042	402,042
RESTRICTED FUNDS		3,728	217,862
UNRESTRICTED FUNDS			
General Fund	381,258		429,142
Fixed Assets Fund	79,959		94,735
	461,217		523,877
Designated Fund	—		70,000
		461,217	593,877
		866,987	1,213,781

These summarised accounts have been prepared from the draft full annual accounts of the British Institute of International and Comparative Law. As such these accounts have not been extracted from the final full annual accounts and therefore have not been audited.

Their purpose is therefore to provide limited financial information as to the financial activities and results of the Institute for the year ended 31 December 2008 together with its financial position as at 31 December 2008. They may not contain sufficient information to allow for a full understanding of the financial affairs of the charity.

For further information, copies of the full audited accounts can be obtained from the British Institute of International and Comparative Law, Charles Clore House, 17 Russell Square, London WC1B 5JP.

