

# **Building a Mechanism for Post-Conflict Justice: Creating the International Legal Assistance Consortium (ILAC)**

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## **Introduction**

In February 2000, the Stanley Foundation brought together twenty legal scholars to finalize the creation of ILAC: The International Legal Assistance Consortium. Representatives from nongovernmental organizations (NGOs), international organizations, law firms, consulting firms, bar associations, and universities met at the Airlie Conference Center in Warrenton, Virginia, to define ILAC's objectives, structure, and role in assisting international post-conflict reconstruction efforts. This report will review the discussions and consensus reached on each of these topics.

## **Mission Statement**

ILAC will provide a rapid-response mechanism to post-conflict states in order to assist states in rebuilding their legal systems and to encourage states to incorporate accountability and respect for human rights. The participants recognized that immediate preparation is essential to prevent the formation of a legal vacuum, and ILAC will therefore seek to provide assistance to a country immediately after a conflict ends. To ensure that ILAC will be prepared to make assessments at the conclusion of a conflict, ILAC will begin planning its response to the conflict before the conflict ends. ILAC will offer several services to countries, including research, coordination of national and international institutions in assessing a country's legal system, and provision of technical legal advice. ILAC may also recommend reconstruction plans to countries and may assist in the implementation of these recommendations.

ILAC will be a proactive organization. ILAC will approach new governments to offer its services. The participants also hope that ILAC will build a strong reputation so that donor country governments will contract out ILAC's services as part of post-conflict reconstruction plans and will recommend that new governments contact ILAC for assistance. Many of the participants agreed that it was likely that the new governments might approach an ILAC member organization and ask that member to complete a task which exceeds the member's mandate or funding level. In this situation, the participants thought that the member organization might ask ILAC to step in and coordinate a response.

Participants agreed that ILAC should keep its mission statement brief and broad in order to preserve a maximum amount of flexibility. The participants wanted to emphasize that ILAC intended to perform assessments that considered each country's specific needs and assets. Instead of going into specific detail about the programs ILAC would design, the participants agreed to list the range of services that ILAC would provide. These services include research, training, planning, and legal needs assessments. To avoid drafting an overly long and complicated mission statement, the participants agreed that they would create a general and brief mission statement and include a longer commentary section that would more fully explain ILAC's purpose and services.

In choosing the states that ILAC would want to assist, participants wanted to be as inclusive as possible. Participants were concerned that requiring states to be "post-conflict" might exclude states that are not involved in situations that fit within the traditional definition of conflict. One participant suggested that ILAC should broaden its mandate to include "post-conflict countries and emerging democracies," but other participants thought that NGOs might complain that ILAC was taking over the role that NGOs have played in providing long-term assistance. In addition, emerging democracies do not always experience a period of time without a well-functioning legal system and will not need ILAC services. Participants agreed that there might be a small window of opportunity in the transition of emerging democracies where their legal system is close to emergency needs, and ILAC will offer to provide assistance in this situation.

One participant submitted that ILAC's mission statement should reflect its intention to work with both national and international NGOs. ILAC should not presume that indigenous human rights organizations do not exist and should work with domestic NGOs wherever possible. In particular, ILAC should try to include victims' rights groups when performing assessments and making recommendations. ILAC wants to produce a complete and adequate assessment and seeks to ensure that governments respect human rights and strive to meet its people's expectations.

Another participant cautioned against ILAC calling itself "neutral" because in several European states neutrality means not taking sides. It was proposed that ILAC might want to take a strong stance on the reasons for the problems affecting the legal situation, and ILAC should not be inhibited from making these statements because of a stated intention to remain neutral. Thus participants favored describing ILAC as independent.

Participants wanted to emphasize ILAC's role in promoting accountability in its mission statement. Participants pointed out that accountability issues have often been ignored in state reconstruction and democratic transitions. The participants recognized that accountability was a politically charged issue, and many felt that ILAC should focus on its models and analysis. It was suggested that ILAC should stress that its recommendations will be based upon the existing and international institutions of accountability. The problem with this proposal was that many thought that it would be difficult and controversial to advocate which institutions were the best institutions.

The participants discussed the importance of ILAC working with national governments in the assessment and the rebuilding of the legal system. Most participants agreed that ILAC might be able to facilitate discussion between opposing groups within the country in determining what was needed. ILAC would then give its assessments and its manuals to all of the decision makers to provide them with guidance on how to proceed in reconstructing the nation. A majority of the participants also supported making contact with newly rising governments before the conflict ends. The new leader might then be better prepared if she/he is aware of ILAC's services when the leader assumes control and is confronted with the reconstruction issues.

Participants explored ILAC's potential relationship with the national government in carrying out assessments. There was a general feeling that the mission statement should not include a sentence stating that ILAC will seek to gain the "permission of the host state," because this sentence might obstruct ILAC's ability to immediately respond to a post-conflict situation. Many agreed that the local government should be included in the process, but admitted that the chaotic state of the government might delay ILAC's efforts if too much reliance was given to asking the permission of the host government for

ILAC to come into the country. Participants decided that any existing government should be encouraged to participate in any assessment and reconstruction efforts.

Participants stressed that ILAC's programs should be sensitive to both human rights and cultural diversity. ILAC will explain its programs in terms of accountability issues and avoid being caught between human rights advocates and national governments. Participants agreed that the mission statement should not emphasize the concept of national sovereignty because states often use national sovereignty as an excuse for not enforcing accountability obligations and for arguing against intervention. ILAC decided to include a statement in the commentary which states that ILAC will show respect for national legal systems, cultural legal structures, and traditions; the operation shall be based on political independence, objectivity, and impartiality.

Many of ILAC's participants envisioned a long-term role for ILAC, and participants discussed the possibilities of ILAC involving itself in the planning and implementation of reconstruction projects. Although the initial creators of ILAC envisioned ILAC as providing temporary and immediate assistance to countries in conflict, participants suggested several situations in which ILAC could have a long-term role in assisting countries' legal situations. For example, one participant pointed out that many of the countries that ILAC would assist would suffer from an absence of lawyers or judges and that ILAC may feel it necessary to provide some short-term training to judges, perhaps in conjunction with another NGO that provides technical assistance.

The resulting Mission Statement was:

**The purpose of ILAC is to facilitate and assist domestic and international efforts to improve the efficacy and credibility of legal institutions and the ability to implement accountability mechanisms focusing on situations of conflict or during transition by providing objective assessments and recommendations; by serving as a source of information about organizations, experts, documents, and analyses; and by undertaking other activities related to this mission.**

## **Structure of ILAC**

ILAC will offer to provide a variety of services for post-conflict states. Participants wanted ILAC's design to foster the development of a responsive, flexible, and enduring organization. The participants recognized that ILAC would need a comprehensive research database, a strong communication and coordination center, and an efficient assessment process.

## **Research**

There was overwhelming consensus that ILAC should strive to become an invaluable resource "clearinghouse." Participants acknowledged that ILAC's ability to provide informed and useful assessments required a comprehensive review of conflicts that have occurred since World War II. Assessing past conflicts and their resulting peace settlements would assist ILAC with organizing its own assessments and making its recommendations. ILAC would work to collect conflict study research from its members and from outside sources, and ILAC staff would provide additional research. The participants agreed that ILAC should gather research on various conflicts and peace settlements, particularly those peace settlements that contain human rights and accountability provisions. ILAC participants will gather information on the issues that arise with past and existing war crimes tribunals and will also gather research on Truth Commission mandates. The participants suggested that ILAC create a listserv to discuss research proposals and distribute research projects.

ILAC will create a database containing this research and make the database accessible from the Web. ILAC will write training manuals based on analysis of this data. ILAC will also use this information to evaluate and to create models of different ways of dealing with conflicts. Participants stressed that ILAC models must be drawn from all countries and not just Western countries. In addition, ILAC must ensure that its models incorporate reviews of past interventions that are written by authors from countries in which interventions have taken place.

The participants chose a three-person committee to organize ILAC's research arm. The committee will specifically look into how the research arm should be structured and what groups could assist ILAC with research. The committee will identify institutions, universities, law schools, and NGOs that may be able to play a role in ILAC's research arm. The committee will also assess what ILAC's research strengths are and will report to the rest of the participants through the ILAC listserv.

Participants also agreed on the location of a temporary central repository of documents in Washington, DC, in order to facilitate information exchange among participants and between ILAC and other organizations.

### **Coordination**

Related to ILAC's "clearinghouse" function is ILAC's coordination function. ILAC will work to identify all of the resources available for providing legal assistance to post-conflict states so that ILAC will be prepared to coordinate a prompt legal assessment of the country's legal system. Specifically, ILAC will gather information relating to qualified and experienced personnel, funding, and organizational specialties. The database will include a list of all of the experts' past experiences, their availability, their costs, expenses in the past, and their previous funding resources. ILAC will ascertain the different types of funding sources available for the different types of services that ILAC intends to offer. When preparing for its response to a conflict, ILAC will seek out relevant organizations and ask for their participation in ILAC's assessment.

### **Assessments**

ILAC's Judicial Accountability Response Unit (JARU) and the Judicial Development Response Unit (JDRU) will perform assessments of post-conflict countries' legal systems and provide a comprehensive report on their needs and assets. ILAC's assessments must be performed quickly and efficiently. It is likely that ILAC will be unable to say how the funding for assessments will be coordinated and divided at the outset of each conflict. The participants felt, however, that as ILAC builds a strong reputation for producing quality assessments, donor countries will be more receptive to funding ILAC projects.

Participants agreed that ILAC's assessment methodologies and models must specifically address each country's specific needs and must evaluate each conflict's unique circumstances. Participants acknowledged that models for assessment evolve over time, and the nature of conflicts varies between countries. To address the differences in conflicts, the participants agreed that ILAC's assessments must be sensitive to cultural diversity. ILAC must also develop specific methodologies within each assessment in order to evaluate effectively each sector of a country's legal system.

In addition to addressing a country's need to rebuild the structure and technical aspects of a country's legal system, ILAC's assessments will also assist a country in fulfilling its accountability obligations. ILAC could advocate for addressing accountability and rule of law issues. The problem with ILAC taking on an advocacy role with respect to accountability, however, was that ILAC risked confronting resistance from various NGOs that provide a similar service. The participants agreed that technical legal assistance was easier to promote than direct implementation of specific accountability mechanisms. ILAC may thus find a niche in institutionalizing the evidence-collecting process in post-conflict societies in preparation for enforcing accountability. In addition, ILAC could be very useful during peace negotiations because it could provide information on accountability precedents and assist negotiators in weighing the advantages and disadvantages of pursuing the various alternatives presented.

The participants noted that the international community has witnessed a rise in the number of smaller states seeking to prosecute former leaders. Participants predicted that this phenomenon will continue in the future and that smaller states which emerge from conflict will thus need a lot of assistance in carrying out their accountability goals. Participants proposed that ILAC could provide a country with the information and legal assistance necessary to achieve these accountability goals. ILAC's rapid response would provide immediate information to those seeking to prosecute war criminals and human rights violators.

Participants brought up additional ways that ILAC will promote accountability. First, ILAC will advertise a set of services that it will perform and the guidelines by which it will conduct its assessments. Accountability will be included in these guidelines, and ILAC will work to implement this guideline as evenly as possible. ILAC will work to enforce both international humanitarian law and accountability of human rights violations. ILAC will ensure that post-conflict societies discuss the duty to prosecute, the prohibition against blanket immunities, and the options of extraditing or providing legal assistance to war criminals.

Second, ILAC will study accountability institutions that have been previously established and produce evaluations of the effectiveness of these institutions. When formulating recommendations, ILAC will provide a country with several alternatives and a set of steps and standards that country should follow in implementing any of these alternatives. Participants stated that emphasizing the standards that need to be followed is key to encouraging accountability.

## **JARU and JDRU**

ILAC participants then discussed the organization and functioning of the JARU and the JDRU. The staffs of these two units will actively seek to identify situations in which ILAC might want to be involved before the conflict ends. ILAC will preliminarily identify several possible services that would be necessary and will develop several alternative plans to manage the project. Participants emphasized that ILAC will have to be prepared in advance with the country information and the persons who should be contacted.

Participants discussed the possibility of using “early-warning research” in planning ILAC assessments. “Early-warning research” includes both prediction and information-gathering. Participants recognized that following the progress of conflicts would help ILAC prepare a timely and efficient assessment and an accurate and reliable way of studying the development of conflicts. By using “early-warning research,” ILAC’s participation in a conflict would continue from the development of the conflict to post-conflict reconstruction. One participant stated that there are a number of social and behavioral scientists who have completed research on early warning systems for conflict and suggested that ILAC should reach out to these scholars. Participants decided that ILAC should concentrate on the legal aspects of society and should consider political factors when they would assist ILAC in its preparation to carry out its legal functions.

Once a conflict has been identified, ILAC will announce its research resources and services to the new government and to the donor countries. Internally, the ILAC staff will start to form a coordinating body. The staff will check the resource database to locate groups and individuals who possess a specialty or experience in the country in conflict and in the legal institutions that need to be formed. ILAC will contact these specialists and will ask them to participate in ILAC’s assessments. The willing NGOs and individuals will then go to the project state and perform the assessment of the state’s legal system.

Participants raised several options that ILAC could choose to coordinate the assessments. One participant stated that ILAC should nominate a team leader from its ranks who would lead the assessment team. ILAC would invite the other qualified individuals and organizations to participate in the assessment. ILAC would not have complete authority because the team would be representative of many NGOs. Another participant stated that ILAC should consider the option of ILAC assuming control over the team. ILAC will be in a position to assume leadership because ILAC will have an inclusive membership base and because time may require that the assessment teams act very quickly. In emergency situations, ILAC will strive to be the most prepared organization.

Another participant stressed a flexible approach to organizing assessments. ILAC should consist of individuals and NGO members, an executive board, and project directors. The project director should be able to make an assessment after consulting with ILAC members. ILAC should also entertain alternative ideas that allow other groups to take the forefront on some projects, and ILAC could assist these groups, particularly when the member groups’ funding prohibits them from participating in some activities. ILAC may have funding for groups who do not have enough money to complete certain projects for which they are qualified to participate, or ILAC may have to rely on other groups who have funding

that will assist ILAC's completion of projects. Thus the participant favored a more flexible approach to completing assessments.

At the end of discussion, the participants agreed that the assessment team would be inclusive, but the ILAC staff person would possess the ultimate decision-making authority. ILAC will allow anyone who wants to participate in the planning discussions to be involved, and ILAC will make special efforts to contact those people that ILAC thinks are essential for the team. Most agreed that it was likely that there would be fewer problems with ILAC assuming leadership for the assessment phase than with ILAC assuming leadership over coordination of the implementation phase.

Previous ILAC conferences established that ILAC was needed to fill in the immediate post-conflict time period gap. ILAC had initially planned that during the recommendation and implementation phase, ILAC would serve as an initial coordination body and that (after the assessment was completed) ILAC would relinquish its authority to NGOs that were designed to handle long-term peace implementation. ILAC would also be able to play an important funding function because ILAC would be able to create a large and comprehensive task force that small NGOs with limited funding could not otherwise complete.

At the Airlie conference, participants envisioned a longer-term function for ILAC. Participants wanted ILAC to build and maintain credibility and influence in the international community. Participants recognized that if the ILAC assessment team leader is working on a contract, it is imperative that she/he follows through, even if their role in the implementation is minimal. ILAC should also play a continuing coordination role during the implementation of the assessment plan to ensure that the issues that ILAC raises are sufficiently addressed. Also, ILAC would be researching and collecting data in advance and would be in a good position to form a ready-made, integrated unit of experts which is ready to go into the country on short notice. ILAC may become involved in training or implementation during a contingency situation because ILAC members have experience in post-reconstruction. Another participant questioned whether ILAC would be prepared to implement training and thought that ILAC would be better suited toward evaluating whether or not recommendations are being implemented.

At the end of the discussion, the participants agreed on a flexible approach to ILAC's participation in the recommendation and implementation phases. ILAC is likely to be in a position to evaluate the implementation of recommendations that were made pursuant to its assessment and should thus offer to facilitate members in implementing the recommendations. In addition, ILAC should offer its assistance with the actual implementation phase.

The general consensus was that ILAC should not get involved in reforming and rebuilding the policing system, but that ILAC may want to participate in other gray areas that arise during democratic transition. Policing plays a role in peace-building and, currently, police reform is handled on an ad hoc basis. One participant stated that the state of the civil and legal structures directly affects the military decision to withdraw, and ILAC may be in the position to provide information as to when the military can pull out of the country. In addition, ILAC could also advise what the civilian police will have to do and what they should do after the military has left. This situation becomes problematic because the civilian population becomes confused during the transition from military occupation to foreign military intervention to civilian police. There is a critical need for guidelines and assistance.

## **Relationships With Other International Organizations**

### **Nation-States**

Participants wanted ILAC to build a reputation of independence and effectiveness. Some participants cautioned against ILAC signing a contract with a national government to perform legal services in a country because ILAC's credibility may suffer as a result. NGOs might be afraid that the ILAC project would be unduly influenced by the team's relationship with a government that has its own agenda. Others suggested that this situation would not occur if the ILAC team's relationship were clearly defined. The participants thus decided that they would deal with issues on a case-by-case basis.



Participants agreed that ILAC should work with developed states to provide information on conflicts and to arrange funding for projects. All participants acknowledged that ILAC should petition governments for project funding. Participants agreed that ILAC could be most useful to policymakers in donor countries by sharing its research and by making informed recommendations to policy leaders. To establish its usefulness to donor governments, ILAC will gain immediate expertise in all conflicts, find the relevant points of contact within donor governments, and inform the government of ILAC's resources. ILAC will offer advice and will be proactive in calling decision makers to offer ILAC's services. ILAC will also try to facilitate discussion and movement among several policymakers wherever possible.

Participants agreed that ILAC needs a permanent staff to develop a relationship with both the government and NGOs so that governments will choose to work with ILAC, and NGOs will join in on projects. ILAC staff thus must keep abreast of all personnel changes in the relevant policymaker posts. Some cautioned that ILAC's reputation could suffer if ILAC formed a close relationship with a donor government that had a separate agenda, and there was a general consensus that ILAC needed to maintain a degree of independence from all governments.

### **Military**

ILAC then discussed its role with militaries of donor countries. Several participants stated that ILAC could receive money from the United States' military because the military has an interest in preventing conflicts. Many of the participants feared being co-opted by the military or appearing to be co-opted by them. Most of the participants agreed, however, that ILAC could meet with the military and provide them with strategies that will assist them in dealing with the conflict, prevent the military's mission from creeping, and provide the military with a workable exit strategy.

### **Multilateral and Intergovernmental Organization**

The participants examined how ILAC would relate to multilateral and intergovernmental organizations. It was generally agreed that ILAC should maintain strong contacts with multilateral organizations, particularly the United Nations. Most participants stated that ILAC should offer its assistance to the United Nations and should choose to work on some UN projects. Participants noted that there is currently little coordination between all of the NGOs and the United Nations in dealing with each conflict and that ILAC could assist this process. Also, ILAC participants agreed that there is a current lack of needs-assessment being produced for each conflict in which the United Nations intervenes and that the United Nations needs assistance in rebuilding conflict-ravaged areas. The participants also agreed that ILAC should retain a supervisory role in any ILAC projects in which multilateral organizations participate because multilateral organizations tend to be territorial and are constantly seeking legitimacy.

### **Organizational Structure of ILAC Incorporation**

After participants finalized ILAC's mission statement, mandate, and procedures, they discussed what organizational structure would be best suited toward ILAC's goals. All participants agreed that ILAC should consider convenience when deciding where to incorporate and that ILAC should incorporate where there are very clear laws on incorporation for nonprofit organizations. Thus ILAC needs to be sensitive to the incorporation laws of a state before it decides where to incorporate. In addition, ILAC's tax status will be critical to ILAC's fund-raising and an important consideration for the incorporation decision.

Based on the above considerations, most participants acknowledged that ILAC would be an ideal US NGO, incorporated as a 501(c)(3) organization. This type of organizational structure would allow ILAC to be a membership organization through its articles of incorporation. There was concern that, if ILAC did not form a 501(c)(3), ILAC would have difficulty getting funding from the US government or other grant foundations.

On the other hand, participants agreed that ILAC should appear to be as international as possible and suggested that ILAC consider several possible countries where ILAC could incorporate. If countries view ILAC as an international organization, ILAC may avoid the amount of bureaucratic difficulties with which other US NGOs must work. Thus some participants suggested that ILAC incorporate in both

Europe and the United States. Others suggested that ILAC might want to incorporate in Europe and file for a license to do business in status in the United States. With either alternative, the members favored establishing multiple regional offices around the world.

Participants suggested that ILAC should determine whether there was a limit to the amount of places where ILAC could incorporate and evaluate the advantages and disadvantages of incorporating in several states. Participants favored a clear and simple ratification process. Most participants agreed that it did not matter where ILAC was incorporated, but where ILAC was based. Thus ILAC should try to establish regional offices, and participants suggested that ILAC try to get its members to offer ILAC office space in their offices in different countries.

The participants formed a three-person committee that would research ILAC's organizational options. The committee was tasked with considering all possible alternatives for place and type of organization. They were also asked to arrive at the size of the board of directors. The participants stressed that ILAC's structure needs to be finalized quickly. When ILAC contacts organizations and asks them to participate, the organizations have to know how they can become involved and what their role in ILAC will be. The three-person committee agreed to formulate its recommendation on ILAC's structure and to present their recommendations to the steering committee before the invitation letter would be sent out to invited organizations.

### **Board**

The participants agreed that ILAC needed a board that is inclusive and decisive. Participants recognized that ILAC needed a core group of members that would facilitate rapid responses to conflicts and agreed that having too many members with voting rights would institutionalize gridlock in decision making. The participants also agreed that a certain number of the board positions should be reserved for fund-raisers. Some participants thought that a bar association, particularly a European or International Bar Association (IBA), would be an ideal founder because the bar association would have access to many experienced personnel and would be international in membership.

ILAC participants also favored the formation of advisory committees as a way to increase participation and to support ILAC's fast decision making. Members suggested that business communities and education associations around the world would probably be interested in providing financial and research support. In addition, participants wanted to include the participation of national governments and proposed that ILAC form a nation-state advisory committee. Nation-state representatives said that most governments would not be able to sign on to ILAC, but that representatives might be able to participate in the advisory committee as individuals.

The participants decided that NGOs should be able to have affiliate memberships that would establish a loose connection between the organizations. The participants agreed that there were certain organizations that ILAC should actively seek out, but that all organizations should have the opportunity to join ILAC. As affiliate members, organizations would be included in the ILAC database and would be invited to participate in the assessments and field operations.

ILAC would be governed by a smaller group of founding members, who were yet to be determined. The participants agreed that there needed to be definite approval from those present at the Airlie conference in order to start organizing and performing tasks. Some of the participants raised concerns that they did not have the authority to bind their organization and were concerned that a premature sign-on to ILAC might jeopardize their organization's relationship with ILAC later on. Participants agreed that the participants of the Airlie conference could be listed in their individual capacities as participants or as organizations if they had this approval. This "participant" title was meant to convey a status that was less than founder and would not bind an organization. The participants then voted to refer to themselves as a "Steering Committee."

### **Staffing**

Participants appointed cochairs of the Steering Committee and assigned them tasks. The Steering Committee instructed the cochairs to find provisional office space in Washington, DC. The cochairs



were also asked to create ILAC letterhead with the list of cochairs and participants. It was suggested that the letterhead also includes the individuals and organizations who intended to attend the February conference at Airlie but were unable to.

The participants then turned to the size and composition of the remainder of the staff. The participants accepted the chart outlining the basic staff positions, but all agreed that a Web site operator should be included. There was also support for naming this position “outreach coordinator” or “information director.” The participants decided that the ILAC Web site (<http://www.ILACinternational.org>) should be designed and set up immediately, and Chicago-Kent College of Law was selected as the host of the Web site.

The Steering Committee assigned several preliminary tasks to the Web coordinator. A URL name and ILAC e-mail list needs to be created. The Web coordinator will design a Web page, and the Web page will contain information concerning potential founder-member organizations with contacts and links and should have a notice board where people can make comments. In addition, a listserv will be established to facilitate communication between the participants and, eventually, between all ILAC members.

### **Home Location**

Several members raised the need for assistance with mailing and mailing costs, and some participants offered to assist with the preliminary mailings. The Steering Committee selected the provisional office in Washington, DC, to be the temporary location for mailings. The participants intend to work on attaining office space in Europe and to eventually open other regional offices. The IBA in London has since agreed to serve as the European base.

### **Next Steps**

#### **Outreach to Other Organizations**

ILAC will work to make its membership very inclusive. ILAC will send a letter written by the Steering Committee to persons and organizations that ILAC thinks will be interested and will invite them to attend an initial meeting. Participants agreed that the list of persons and organizations should be as wide and diverse as possible. Participants asked bar associations to inform their members about ILAC and to explain that ILAC will need people with skills and experience in certain areas and certain countries to assist ILAC’s assessments. ILAC will send the Stanley Foundation reports, the mission statement and the commentary, and an outline of the bylaws and the articles of incorporation to all prospective members.

The participants agreed to give names of organizations with which they had contacts to the Stanley Foundation so that the Steering Committee could start developing ILAC’s potential member list. These organizations would be given a special invitation to participate in ILAC. During the conference, participants mentioned several organizations that should be on the list of organizations to contact, and they discussed several meetings that ILAC may consider attending where presentations might be made. One participant cautioned against ILAC’s overexposure at an early stage, and the participants agreed that ILAC needs to be very focused and targeted.

After ILAC has heard from those who are interested, the original members will hold a first meeting with all of the members. For those who are interested in participating in ILAC, but who are not able to attend this initial meeting, ILAC would take their contact information and keep them informed of ILAC’s progress and future plans. Participants acknowledged that many of the well-known organizations would be reluctant to join, but submitted that the bar associations and the law groups from developing nations would most likely join. The participants agreed that bar associations are excellent sources of expertise that are currently untapped.

#### **Public Relations**

Participants thought that ILAC should also make presentations to inform persons and organizations about ILAC and to encourage them to join ILAC. The participants agreed that the first presentation should be made in Europe because the location would be more central than a meeting in the United

States and would bolster ILAC's reputation as an international organization. The participants finally decided that they would send a small delegation to the IBA's annual council meeting in Versailles at the end of May 2000. There, ILAC representatives will introduce ILAC and invite others to become involved.

The participants then agreed to organize additional meetings at other locations. One participant suggested that the Siracusa Institute, Italy, might be the ideal location for the second conference. The participants suggested that an additional meeting in Washington, DC, would also be helpful. The American participants could arrange for fifteen or so organizations to meet and sign on to ILAC. Participants agreed that the Washington, DC, meeting should occur before the IBA meeting so that the representatives who go to Versailles would be able to show that several American organizations have already joined ILAC. The participants agreed that ILAC should begin looking immediately for funding for the second meeting in Siracusa and suggested that the organizing committee begin filling out a grant application. The participants agreed that members of the organizing committee needed to meet after the IBA meeting and after the letter-writing campaign was completed in order to start planning for future events.

### **Funding**

Participants planned that organizations and governments would first agree to ILAC in principle and would discuss funding at a later date. Participants acknowledged that government bureaucracy would take longer to approve funding requests than to approve an organization's principles. Thus participants wanted to focus on getting approval for ILAC's mission statement and goals.

One participant indicated that the Swedish government might consider funding some of ILAC's projects if ILAC could establish that it had formal or informal UN approval. UN approval would not guarantee funding, but would increase the likelihood of funding from the Swedish government. The participants suggested that ILAC apply for NGO status with the United Nations and get involved in UN activities. The participants suggested pursuing a letter of endorsement for ILAC from the secretary-general.

The participants discussed specific ideas for government and foundation funding sources. The participants organized a three-person funding committee to research funding options and to begin filing for grants for ILAC's three proposed meetings.

### **Actions to be Taken**

**Specific Assignments.** Participants decided that there were several actions that needed to be taken immediately after the conference was complete. Participants agreed that ILAC needs to focus its efforts on building its membership base. ILAC will send an invitation letter to persons and organizations asking them to join ILAC. Representatives from ILAC will meet with members of various governments and discuss what services ILAC intends to provide. Participants will contact various members of the military and ask them to review ILAC's Web page. Participants need to formulate a list of founding members. The participants must also agree on the finalized mission statement and any other further documentation of process. The short report from the Airlie conference will be sent out, and the longer report will be posted on the Stanley Foundation Web site, (<http://www.stanleyfdn.org>). The Steering Committee will start preparing the ILAC presentation for the IBA meeting in April.

The committees also have additional tasks. The Structure Committee will report to the Steering Committee on incorporation and will begin to draft a charter. The Funding Committee will file a grant application with the US Department of State to make an assessment in Indonesia. The Research Committee will begin identifying and collecting research from various universities, tribunals, NGOs, and intergovernmental organizations.

The Steering Committee also asked one participant to expand ILAC's set of guiding principles that were listed in the concept paper. The additions suggested at the Airlie conference are that ILAC will:

- be sensitive to local legal traditions
- encourage inclusion of local NGOs and experts
- include experts from the country in question, experts in law from other countries; subject matter experts, experts in international law, and other persons who have experience in providing

- practical/technical expertise on ILAC teams
- endeavor to ensure appropriate geographic, gender, legal system, and diversity in its team
- seek to be international in its membership
- practice nondiscrimination
- encourage inclusion of victims' groups

The participants thought these principles were a good start and should be further developed and expanded.

**Possible Projects.** ILAC participants raised two projects in which ILAC might want to involve itself immediately after the conference. First, ILAC participants discussed possible involvement in the creation of a domestic tribunal in Kosovo. Second, ILAC might become involved in rebuilding Indonesia's legal system. Participants supported ILAC taking on tasks immediately in order to demonstrate to prospective members at the IBA meeting that ILAC is already operational.

For these initial projects, the participants agreed that the lead organization would be a member of ILAC, and it would work in conjunction with ILAC organizers. An example might be Indonesia. If the lead organization's contract required sending an assessment mission to Indonesia in order to determine what judicial reform was needed, ILAC would contact judges, lawyers, and technical experts who would be willing to work on this project pro bono. ILAC could send experts who have dealt with similar issues in other countries and who could address training issues and demonstrate models explaining how other structural systems work. ILAC could also provide a limited research arm for other organizations by providing organizations with an overview of what is occurring in that country.

Participants agreed ILAC would have to send an assessment team to Indonesia as soon as possible. Many of the organizations now working in Indonesia do not have information on the current state of Indonesia's legal system because they are focusing on narrower aspects of the conflict. These organizations could assist in performing the assessments because they already have funding and because they could bring in local experts with whom they have already made contact. Participants nominated several members to discuss drafting a contract for the Indonesia project with the US Department of State. The participants agreed that those participants who had assessment team experience should be involved in organizing the Indonesia project.

The participants agreed on a similar organizing role for ILAC for a Kosovo project. ILAC will research applicable law for the creation of a domestic tribunal and establish what the prior body of law was. ILAC will provide an assessment of the legal system and recommend what modifications are needed for the judicial system based on international standards. This assessment may entail evaluating the existing manpower for each of the legal institutions and assessing what physical structures are still available to operate and maintain legal offices.

ILAC will add to the political legitimacy of the tribunal by recommending how members will be selected. ILAC will provide advocacy work for the tribunal. ILAC will assist the tribunal in promoting accountability by providing research on how this proposed tribunal would relate to existing international tribunals and how Kosovo can assess its post-conflict personnel resources. ILAC will also recommend how Kosovo can coordinate all of the assessment data. ILAC may also become involved in the selection and training of core personnel and provide information on human rights ethics and court management.

ILAC will need to have a central staff location, staff on the ground, outside experts on the target country, and subject experts. One participant stated that there was already funding for this project and that ILAC could, at the very least, serve as an in-country clearance house. ILAC will also bring in consultants from within its ranks.

Participants raised several concerns while evaluating ILAC's involvement in these two projects. First, a participant raised the potential problem of gaining funding for three separate groups that are working together. Second, another participant stated that conflicting contractual obligations and interests arise when multiple organizations are working on a single project and may obstruct timely progress on a

project. Third, a participant suggested that ILAC implement a plan in which ILAC participants already had experience instead of beginning work on an entirely new project.

Participants decided that ILAC would pursue both the Kosovo and the Indonesia projects. The two projects will entail ILAC providing two different types of services to post-conflict states, and they will also involve different organizations. In the Indonesia case, ILAC would bring in persons from its membership in order to initiate a project. In the Kosovo case, an ILAC participant is already involved in the project and would bring in ILAC in order to show that ILAC would be supporting one of its members.

In dealing with both projects, the participants want to ensure that European participants are involved. The European participants explained that their attorneys were also commonly involved in pro bono work and will likely support these projects. Participants also want to be sure to involve local experts in ILAC's assessments. Participants suggested that ILAC ask for an appointment of a regional expert through the IBA or require that the US/EU team consult judges and prosecutors on the ground. The participants also reemphasized their concern that ILAC not become another training institute that would compete with other institutes that were already established.

## **Conclusion**

To assist post-conflict states in their transition from a state of conflict to a state of peace, interested and concerned legal scholars have created ILAC: The International Legal Assistance Consortium. ILAC will work to help rebuild post-conflict states' legal systems and to help states create accountability institutions. ILAC will offer many services to post-conflict countries and will tailor its assessment of each legal system to the particular country's unique circumstances. ILAC encourages the support and participation of all interested individuals and organizations in its efforts to assist countries in their successful journeys to a just and lasting peace.

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**Kathleen M. Kelly, rapporteur**

The rapporteur prepared this report following the conference. It contains her interpretation of the proceedings and is not merely a descriptive, chronological account. Participants neither reviewed nor approved the report. Therefore, it should not be assumed that every participant subscribes to all recommendations, observations, and conclusions.

# Participant List

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Affiliations are listed for identification purposes only. Participants attended as individuals rather than as representatives of their governments or organizations.

## ILAC Resources

The organizers of the International Legal Assistance Consortium (ILAC) have made background material available on the Web. In the future, a new ILAC database and additional resources will also be located at <http://www.ILACinternational.org>.

The following reports from Stanley Foundation conferences dealing with ILAC issues are available on the Web:

“Building a Mechanism for Post-Conflict Justice: Creating the International Legal Assistance Consortium” (February 2000) <http://reports.stanleyfdn.org/ILAC00.pdf>

“Accountability and Judicial Response: Building Mechanisms for Post-Conflict Justice” (October 1997) <http://reports.stanleyfdn.org/SPC97B.pdf>

“Post-Conflict Justice: The Role of the International Community” (April 1997)  
<http://reports.stanleyfdn.org/Vantage97.pdf>

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