

Annual Report 2011

Rebuilding Justice Systems

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International Legal Assistance Consortium

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International Legal
Assistance Consortium

ILAC is a worldwide consortium of NGOs providing technical legal assistance to post-conflict countries.

ILAC’s more than 45 member organizations represent over 3 million judges, prosecutors, lawyers and academics.

ILAC Head Office

Hantverkargatan 21, 4th floor
SE-112 21 Stockholm, Sweden
Phone +46 8-545 714 20
Fax +46 8-517 110 77

www.ilac.se

Ten Years of
Rebuilding
Justice
Systems

” The ten year anniversary is a vantage point from which we can both look back with pride at past accomplishments, and look forward towards an exciting new phase in ILAC’s development.”



Dear Members and Friends of ILAC

Christian Åhlund
ILAC Executive Director

This year, ILAC will be celebrating its tenth anniversary. ILAC can be proud of its accomplishments over the past decade. The membership of the consortium has almost doubled, from 26 to 46 organisations. In cooperation with its member organisations and with various branches of the UN, ILAC has carried out assessment missions and/or initiated programs of legal reform in thirteen countries. Several independent evaluations of our work have given us excellent reviews. A separate article in this report – “A Clear Mission” - by the renowned British journalist Diana Bentley, describes more in detail ILAC’s work over the last decade.

The environment in which ILAC is working is quite different today from when we opened up our office in Stockholm in September of 2002. The number of organisations and agencies offering and delivering assistance to build the rule of law in post-conflict countries has grown significantly. And as there are more actors out there competing for the available funding, donors are introducing more sophisticated procedures to identify worthy programs and stricter accounting requirements to ensure that their money is well spent. When ILAC was new, fundraising was fairly easy and informal. Today, it consumes a considerable part of the resources of the ILAC Head Office. In fact, at the request of our donors, newly recruited ILAC in-house fund-raising expertise has - with the valuable assistance of a group of experts from several ILAC member organisations - over the last six months formulated fundamental strategic and operational plans for the coming three years.

These plans, which will be presented to the ILAC General Meeting in Stockholm May 2012, can to a large extent be seen as formalizing activities and working methods that ILAC has already been using, albeit in a largely ad hoc and informal manner. Consequently, the fundamental elements of ILAC’s work will remain in place. But the strategic and operational plans are also proposing that ILAC in the coming years will open up new areas of work. One such area will be to revisit conflicts that the world has largely forgotten, for example Sri Lanka and Timor-Leste.

Another would be to create a mechanism which would recycle ILAC’s ”lessons learned” into a tool – ”ILACademy” – which could be used both as a platform for future ILAC programs and as a freely available source of information and knowledge for ILAC members and other actors in the field of international legal reform. We also want to develop and intensify the interaction between the ILAC Head Office and the members of the consortium. The strategic and operational plans foresee that ILAC’s activities will be expanding and that the ILAC Head Office will need to grow. This will require more resources and a widening of the present funding base. But with these new documents and ideas as a platform, ILAC will be able to confidently approach new donors and intensify our fundraising efforts.

So, the ten year anniversary is a vantage point from which we can both look back with pride at past accomplishments, and look forward towards an exciting new phase in ILAC’s development.

Ten Years of Rebuilding Justice Systems

A Clear Mission

By Diana Bentley

When the International Legal Assistance Consortium (ILAC) was formed in 2001 its mission was clear. Legal development assistance was urgently needed to rebuild justice systems and help establish the rule of law in countries riven by conflict and beset by severe social and political upheaval. ILAC set out to provide a mechanism to co-ordinate the support of institutions and experts around the world who could provide vital legal support. Now in over a decade of work ILAC's aims have been realized in a range of testing situations that post-conflict areas present and which have endorsed its original vision. 'We intended to shape our projects according to the historical, legal and political background of each place with the aid of a very diverse membership and I think this original concept has stood the test of time,' says Executive Director Christian Ahlund.

The idea of a worldwide consortium of legal specialists was also welcomed in the peacekeeping community. Nina Lahoud, currently Principal Officer in the Asia and Middle East Division of the Office of Operations of the United Nations Department of Peacekeeping Operations, who attended ILAC's 2000 inaugural conference, was an enthusiastic supporter from the start: 'It is critical for post-conflict countries to be able to address pressing legal and judicial needs, and it is often requested, understandably, that assistance be provided by those who have an understanding of the country's legal system and traditions as well as conditions on the ground. So I was fascinated by the idea that there could be a consortium of over 30 member bar associations from all over the world which could draw on lawyers, judges and prosecutors to provide such technical legal support during this

post-conflict stage in consultation with the country concerned, and one that, most importantly, national stakeholders could see was not driven by any national agenda,' she says.

Practical and tangible achievements have been sought in all of ILAC's missions. Not surprisingly, patience and adaptability have been required. Each project has presented its own special challenges and needs and often projects have had to be implemented over some years or delayed when a political situation has deteriorated. But ILAC's accomplishments are often all the more notable for being sometimes unexpected: the project to establish a bar association in Afghanistan resulted in an organization whose by-laws require that members undertake three criminal defence projects on a pro bono basis each year, at least three members of its Council must be women and one of its two Vice-Presidents must be a woman - conditions unknown in long-established bar associations elsewhere.

'The Afghan project is a good model of what ILAC seeks to achieve,' Ahlund comments. 'Countries emerging from conflict into a democratic system always need an independent bar. In Afghanistan we have built a functioning new bar association from the ground up which is helping re-establish the rule of law. Another project we are proud of is the one in Iraq where we trained 1000 lawyers in a very difficult security environment and where assistance was also given to the Iraqi Bar Council to help improve its operation.



Then there is Haiti where we found that 80% of the prison population was awaiting trial, often when their records had been lost, and where we have helped establish a nation-wide legal aid program which provides representation for indigent locals and trains young lawyers.' ILAC is especially proud of those projects where its indigenous partners have taken the lead says ILAC Chair Bill Meyer: 'They have made the projects their own as opposed to having something built for them by a Western aid organization. What we want to leave behind in a country is human capital. You can build court houses but a solid human legacy is the best result of all.'

'Targets of Opportunity'

ILAC has largely pursued two kinds of work - assessment missions and capacity-building and training programs and its working approaches to both have been honed in a decade of activity.

Most links to ILAC's working partners arise on a country by country basis. While ILAC has maintained strong links with United Nations Development Programme and the UN Department of Peacekeeping Operations which approach it for assistance, requests are also made to ILAC directly from national institutions. In all cases the support of locals is considered vital. 'We have learned that local political will is not only important but necessary. One has to be welcomed and accepted by those who need help,' reports Anne Ramberg, Secretary General of the Swedish Bar Association and an ILAC Council member.

Plenty of research is carried out before assessment missions are launched to help ILAC determine who to include in the mission and to identify what it wants to assess. And even if not immediately acted upon - as in the case of Rwanda and Kenya, mission reports and recommendations provide countries with a valuable base and a blueprint for future work. Funding issues are addressed at the outset so as not to unfairly raise the expectations of locals. ‘Funding may not be secured when we undertake an assessment mission but we often have an informal understanding with some funders that their support will probably be available before we go,’ says Christian Ahlund.

In both assessment and capacity-building missions ILAC has learned the value of being nimble. ‘Post-conflict situations are often very fluid,’ Bill Meyer comments. ‘When a dictatorial regime crumbles there is often euphoria at the beginning and a great desire on the part of the people to move forward quickly. But the locals can get dispirited if the international community does not deliver promised aid as quickly as hoped. Vacuums can develop and this is dangerous. Iraq and Libya are examples of where we have gone in early to make contacts and to work.’

Garnering the right local support and being flexible have also become hallmarks of ILAC’s working practices. ‘One of the things we have discovered and have made part of our working approach is to find people in countries who are true champions of a particular project or issue and support them as opposed to going in with a pre-conceived notion of what we want to work on and forcing the issue,’ Bill Meyer advises. ‘This is what



happened in Liberia for example where Judge Kabineh Ja’neh ran with the idea of the new judicial institute. If you cannot get the right local partners, you must move on and not waste time and money on something which may not be achievable. I call this ‘targets of opportunity’. It means you must find places where something can be accomplished. What you have to work on can turn out to be something different to what is in your work plan.’ Christian Ahlund too insists that institution building is not all plain sailing and that ILAC teams must be robust and tenacious. ‘It can be trickier than you think. In Haiti we really had difficulties initially establishing the co-operation of the government. We eventually settled on the legal aid program with the moral support of the government but not relying on it.’

New challenges arise. As more institutions enter the justice building area, ILAC increasingly has had to avoid the duplication of effort. ‘We want to co-operate with other people and not

overlap or compete on missions,’ says Christian Ahlund. ‘More people are interested in this area now so we try to recruit them as members.’ The selection of partners in this broader array of participants is also vital says Bill Meyer. ‘We have found that some institutions are interested in serving the client - others not so.’ Funding for projects remains challenging and particularly in the current economic climate. ILAC has enjoyed the continued support of Sweden through the Swedish Ministry of Foreign Affairs and the Swedish International Development Cooperation Agency (Sida) but funders generally are becoming more bureaucratic says Ahlund. ‘It is a more formal process now so you have to work harder to get it which takes time.’ Whatever the difficulties, ILAC has remained faithful to its mission and Liberia and Haiti were to be good examples of how ILAC applied its principles in the field.

Strengthening the judicial system in Liberia

Twenty years of civil war in Liberia came to an end with the Comprehensive Peace Agreement in 2003 and only three months later ILAC conducted an assessment mission there and made recommendations to rebuild a justice system that had suffered badly in the prolonged upheaval. But delays in establishing a democratically elected government, funding issues and difficulties in getting support delayed action. Even so, solid relationships were built with locals by ILAC representatives Rodger Chongwe and Shelby Quast and by 2007 ILAC had decided to focus on the court system. With funding from the Swedish Ministry of Foreign Affairs, retired American judge Mike Enwall started a three year posting in Monrovia to work on judicial training. In 2008 the James A.A. Pierre Judicial Institute opened and today is training judges and magistrates. Prosecutors and public defenders are also receiving training, court reporters are using modern methods of recording in the courtroom, judicial standards have improved and hearing times are being reduced.

The improvements were much needed. ‘The Liberian legal system had not been functioning properly for a long time and the level of sophistication in the judiciary below the Supreme Court desperately needed improvement but it was thought that a judicial institute could lift the capacity of the whole system,’ Judge Enwall reports. Two main problems existed he says: ‘Judges did not manage their courtrooms efficiently so proceedings were very slow and transcripts of cases were made by people using two fingers

on ancient typewriters. A trial that could take several days in the USA or England would take several weeks.’

Judge Enwall spent time acquiring good local allies in the judicial system and two judges and the head of the Liberian National Bar Association visited the USA to observe training there. ‘We wanted to improve judges training and develop a system the Liberians could use when we left so from the start I wanted the Liberians to be co-presenters of training sessions,’ he says.

” When a dictatorial regime crumbles there is often euphoria at the beginning and a great desire on the part of the people to move forward quickly. ”

Under the new program, judges were trained in court management and matters like the direct examination of witnesses. Quarterly training began for prosecutors. At the request of the Liberian Bar Association quarterly training for the bar was put in place. ‘We were really changing the culture of how people viewed their work,’ Judge Enwall recounts.

A year-long program for magistrates was developed through the Judicial Institute. Few of Liberia’s 350 magistrates were legally trained.

‘The state of justice in their courts was awful so we started taking college graduates and putting them through the program,’ Judge Enwall comments. A Magistrates Bench-book was drafted by Judge Enwall, Anthony Valcke of the

American Bar Association (ABA) and Lemuel Reeves - a Liberian lawyer working for the UN Mission in Liberia vetted by the Judicial Institute and put into circulation. Four court reporters were trained to use modern technology and are working in several courts, though an estimated 15 to 20 still need training.

Most of the continuing legal education is now undertaken by Liberians. A key to the success of the projects, Judge Enwall believes, was that ILAC had a vision of what could be achieved and allowed him

the flexibility that other NGOs probably would not permit. ‘That approach allowed us to reduce to the time of establishing the Judicial Institute. You must move quickly and maintain the interest and enthusiasm of your local partners and you must be willing to change as your understanding alters when you are in a place and see what the needs and possibilities are,’ he says.

JAMESETTA WOLOKOLLIE
Associate Justice
Supreme Court of Liberia

The founding of our Judges Institute has been a major achievement for our country since the war. The Institute was a part of the strategic plan for our justice system as we needed more training for judges and magistrates. We have a law that only law graduates can serve as magistrates but this was not being realized - it was not practical as we did not have enough lawyers. So with the help of ILAC, the American Bar Association and USAID, we got

college graduates and started to train them for a year as magistrates. We were aiming to replace 350 but started by training 60. Now we have a lot of comments from the public about how things have improved in the courts. These magistrates often visit prisons once a week and can hear cases there which means they are dealt with more efficiently. The Magistrates Bench-book has become the ‘Bible’ for magistrates on court procedure and has made a big contribution to helping improve standards. Judges and magistrates now have quarterly training. The training has led to better case management and has greatly reduced the hearing time of cases. This has made a big difference in the operation of our courts in the major cities.

We would like to see this training extended to people in country areas. It has also been necessary not just to train judges but prosecutors and defence counsel too. They also needed to understand the new methods of case management. It was also very necessary for us to improve our court reporting methods. Our system was very slow and led to many difficulties with records - especially in the Supreme Court which relies on the records from lower courts. Four court reporters were trained in technological methods and this has been a very big help - especially in our three major courts. We would like to train many more.



Magnum

“ When we see what SYNAL has achieved and the level of assistance it has given to the poor people of Haiti it makes us very proud”.

A new legal aid program in Haiti

Since it opened its doors in 2008, Haiti’s national legal aid scheme, Systeme Nationale d’Assistance Legale (SYNAL), has gained 17 offices, a staff of almost 300 Haitian lawyers and has provided legal aid in over 14,000 cases. The service was desperately needed: although Haiti’s constitution guarantees the right of a just and public trial the great majority of Haiti’s population live in poverty and a distrust of the judicial system was aggravated by very limited access to legal advice and defence counsel. Haiti’s judicial system was assessed by ILAC in 2005 at the request of the UN’s Special Representative there but its recommends for reform failed to gain any support from the interim government. To overcome the impasse, ILAC decided to focus on legal aid and after it hosted a conference for members of civil society, the government decided to support the project. ‘There was a legal aid program already in Cap-Haitien which we heard about

on our assessment and we realized that a nation-wide system was needed,’ recalls Christian Ahlund. With the support of the Ministry of Justice, the program was launched in 2008. A year later, ILAC member ISLP (International Senior Lawyers Project) joined the program to provide critical capacity-building support. ‘The need for legal aid in Haiti was obvious and urgent,’ says Marie Claude Jean-Baptiste who oversees ISLP’s Haitian projects. ‘The pre-trial situation was chronic. When we started work, 80% of pre-trial detainees were held in prison and had never appeared before a judge. There was a serious lack of representation for indigent people. Those who could not pay a lawyer ended up in jail, including people accused of minor offences. There was terrible overcrowding in prisons. ‘ ILAC devised a program that would address two problems: ‘Indigent people needed defence lawyers and law students needed to serve a practical training internship with a senior lawyer but often struggled to find someone to work with. The SYNAL offices provided

a two year internship for young lawyers working with senior Haitian lawyers who at the same time provided representation to indigent people in criminal matters,’ reports Jean-Baptiste. Ten SYNAL offices opened initially under ILAC’s leadership. ISLP volunteers visited in June 2009 for an exploratory mission and later, ISLP members from Belgium, France and Canada experienced in criminal defence work served as volunteers in SYNAL’s offices in the provinces for four to six weeks each. After the catastrophic earthquake in Port-au-Price on 12 January 2010 - which also destroyed ILAC’s offices there - funding was provided by Sida and then by the Latin American organization - Union de Naciones Suramericanas (UNASUR). ‘Everyone struggled to keep the project going and our volunteers worked with the locals in very difficult conditions,’ says Jean-Baptiste.

Training for legal interns with ISLP volunteer lawyers included lectures, mentorship on procedures with prosecutors, at prisons and before the courts, preparing briefs and using procedures like habeas corpus. ‘Volunteers helped the supervisors too in office administration and case management,’ says Jean-Baptiste. ‘Legal texts often were not available so sometimes lawyers were not sure of the applicable law but with support from some law firm partners in the USA, we were able to provide the offices with basic legal texts.’ ISLP volunteers were able to show local lawyers too how international legal conventions to which

Haiti was a signatory could be applied in practice which was not previously known. The whole exercise also helped raise regard for legal aid work Jean-Baptiste points out: ‘One of our volunteers was a senior legal aid lawyer from Montreal. Working with volunteers like that inspired young Haitian lawyers and gave them a sense of community service and self-worth.’ ISLP would like all training eventually to be done by Haitian locals. The recent withdrawal of funding is now leaving SYNAL in jeopardy but everyone hopes it can find a way to continue. As ISLP Senior Executive Advisor, Jean Berman reports: ‘The early results of SYNAL are dramatic. A recent ILAC study found

that from 2008 to October 2011, with only 17 offices in operation, including three opened in 2011, 14,023 poor people received assistance from SYNAL. 45.73% of them were released (6,414 people) and 8.45% (1,186 people) had trials and were convicted. Therefore 54.24% of SYNAL’s caseload were removed from a situation of prolonged pretrial detention, which is the scourge of the criminal justice system in Haiti.’

RENÉ MAGLOIRE
Former Minister of Justice of Haiti, Presidential Legal Advisor and Vice-President of the Commission on Justice Reform

In Haiti we had a terrible problem with detainees awaiting trial. When accused people were detained and had no lawyer they were simply forgotten about. Young lawyers also needed training and those doing court work needed experience.

When I became Minister of Justice I started working on the national legal aid project with ILAC. I felt that the project was my baby. I had practiced as a criminal lawyer and worked in the legal aid service in Quebec in Canada. We wanted to modernize our criminal law system in Haiti and I felt it was essential that we have a nation-wide legal aid service. Having a good prosecution service and also a good public defence service are pillars of a good judicial system.

ILAC and ISLP have provided us with very valuable help in establishing the SYNAL offices and supporting the staff and trainees there and also in helping us draft new criminal laws. It will be very sad if the SYNAL project is curtailed due to funding problems. When we see what SYNAL has achieved and the level of assistance it has given to the poor people of Haiti it makes us very proud.

WILLY DÉROSE

Head of the Bar Association of Saint-Marc and local supervisor of SYNAL

Yvette Michaud, a very experienced lawyer from Nova Scotia in Canada, was the ISLP volunteer who was posted to Saint-Marc for the SYNAL mission and was certainly up to the task that awaited her. During the four weeks she spent in Haiti, particularly in Saint-Marc, Yvette inspired us with her choice of training topics and the participatory method she used which the SYNAL lawyers are keen to follow. We were especially impressed by the depth of her knowledge on the fundamental principles of criminal law. She had the approval and admiration of the entire staff at SYNAL.



Gender Justice

Not all ILAC projects have been country-based, capacity-building exercises. Gender justice, often a major issue in post-conflict situations, was identified early as an area that deserved special attention and a solid platform for action was provided by United Nations Security Council resolution 1325 of October 2000 which addresses the impact of war on women and women’s contribution to conflict resolution and sustainable peace. ‘Gender justice is a major interest of many of our members and we want to ensure that it is a significant factor in everything we do like training and legal education,’ says Bill Meyer. To enhance awareness of the issue and bearing in mind that standards of gender justice often remained unmet, major conferences on gender justice in post-conflict situations were organized jointly by ILAC and the

United Nations Development Fund for Women (UNIFEM) - the first in New York in 2004 and the next - hosted by the Swedish Ministry of Foreign Affairs - in Stockholm in 2005. Out of these emerged a clearer idea of what gender justice in post-conflict societies included and the range of measures needed for its implementation. In 2007 and 2008 ILAC conferences were held in South Africa and Ghana on the role of the judiciary in promoting gender justice across Africa where many women face violence and real hurdles in accessing justice or joining the ranks of the judicial system. ‘We wanted to gather together representatives from the judiciary in many African countries and sensitize them to gender justice issues and our people and many of the African judges said later that the conferences were an eye-opening experience,’ says Christian Ahlund.

“ Without doubt, these initiatives helped put gender justice more prominently on the rule of law and peacebuilding maps.”

NINA LAHOUD

Deputy Director of Asia and Middle East Division at United Nations Department of Peacekeeping Operations

When on assignment with UNIFEM as the Executive Director’s Special Adviser on Peace and Security and Rule of Law Programmes, I collaborated with ILAC to co-organize two conferences focusing on gender justice in post-conflict situations. These ground-breaking conferences and the follow-up action helped to elevate gender justice as an indisputable and integral component of any rule of law endeavor and to mobilize increased support for addressing its many requirements.

For the 2004 ILAC/UNIFEM conference in New York, we brought together women holding key legal and judicial positions in over 12 conflict-affected countries with a range of international players to identify critical gender justice requirements in their countries and best practices.

I always felt it was essential to listen to and put national women stakeholders ‘center stage’ in order to really understand their needs.

Their courageous and frank observations, criticisms and recommendations, and urgent appeals for action, impacted and inspired everyone. The proposed launch of a ‘Partners for Gender Justice Initiative’ was also embraced at the Conference.

It was striking that the gender justice requirements identified by these women were similar across geographical regions, with all emphasizing that “gender justice” cannot be narrowly construed. The dialogue also highlighted that gender justice issues must be addressed in all conflict prevention, conflict resolution and peacebuilding processes, and that post-conflict reconstruction presents a unique opportunity for women to help shape legal frameworks and institutions in ways that promote their human rights, legal equality and inclusion. To accelerate assistance, ILAC and UNIFEM organized a 2005 High-Level Meeting in Stockholm, hosted by the Swedish Ministry of Foreign Affairs, with leading national women

stakeholders and international partners again participating. The Meeting focused on the 2004 Conference recommendations to prioritize the follow-up action needed to address gender justice requirements as well as the coordinated partnerships and funding needed for implementation.

The reports of the Conference and High-Level Meeting were sent to the Secretary-General and submitted to and issued as documents of the Security Council and General Assembly. Without doubt, these initiatives helped put gender justice more prominently on the rule of law and peacebuilding maps. It was encouraging, for example, that the new peacekeeping mission established in Timor-Leste in 2006 (UNMIT) included gender justice and juvenile justice positions which was unprecedented. Despite progress made, continued and strengthened action is still needed to bring concrete ‘gender justice’ dividends to women stakeholders on the ground who so deserve it.

New Initiatives

Lately, ILAC has been busy on missions to Tunisia, Libya and South Sudan. ‘With the recent upheaval in the Middle East, the region has become a priority for us,’ Bill Meyer reports. ‘Given the notoriety of what is being called the ‘Arab spring,’ many resources are being devoted to the area so good co-ordination is needed to ensure that the work is being done efficiently and any possible duplication avoided.’ The political situation in the region also remains dynamic.

In early March, 2011 an ILAC delegation, including also UIA (Union Internationale des Avocats) and the ABA visited Tunisia after President Ben Ali fled the country. ‘Lawyers played an important role in the revolution in Tunisia,’ Christian Ahlund relates. ‘UIA has for a long time had a close relationship with the Tunisian bar and has been very instrumental in facilitating contacts between ILAC and the Tunisian legal establishment so we have developed excellent relations with the Ministry of Justice and the Judges Training Institute. We have donors on board and are planning to launch a major judges training program in March 2012, in cooperation with the International Bar Association (IBA) and the CEELI Institute.

In November and December 2011 pre-assessment missions visited Libya and South Sudan to determine if full assessments were warranted and to lay the foundations for them and not surprisingly, concluded that the legal systems of both counties need urgent and wide-ranging rehabilitation.

In South Sudan, patchy support for rule of law assistance and the number of NGOs already competing for involvement in the country, however, meant there was little scope for any meaningful ILAC activity there. The mission in Libya took stock of rule of law issues, assessed human rights abuses and was involved in intensive training for over 60 Libyan lawyers, judges and prosecutors provided by ILAC member, the Palestinian Centre for Human Rights together with the Arab Organization of Human Rights (AOHR).

‘Many human rights issues will also need to be addressed in time by a free Libya,’ Bill Meyer confirmed after the mission. At a conference held by ILAC and the ABA with Sida backing in Tunisia in February 2012, the way forward for Libya’s judicial system was debated. At the moment, events in Syria and Egypt are being carefully observed as are developments in other troubled areas of the world.

The Future

ILAC continues to gain new members like the Washington-based NCSC (National Center for State Courts) and Geneva-based International Bridges to Justice, which bring diverse skills and perspectives to the organization. Also new to membership is the International Association for Court Administration. ‘Its members bring special skills to the consortium, which we have not had before and they should be very helpful, given our experience already in Liberia where training court reporters is improving the workings of the courts on a very

practical level,’ says Christian Ahlund. In the future, Ahlund hopes to extend the ILAC’s outreach and see its members become even more involved in its work and in suggesting new projects. When Stockholm-based consultants, the Sthlm Policy Group, recently carried out an independent appraisal of ILAC’s work in Liberia, consultant Nicklas Svensson found much to admire in ILAC’s working practices. ‘ILAC is uniquely positioned to be objective and not make any assumptions or come to any conclusions and works to tailor its support to the local situation. It does not push its own agenda so it is seen as an honest broker and, through its proactive advice and mentoring, it can find ways to be an effective facilitator in what are often changing and complex conditions in post conflict areas like Liberia,’ he says.

After a long period of collaborating with ILAC, particularly while on assignment with the UN Development Fund for Women (UNIFEM), Nina Lahoud also believes ILAC’s approach has remained driven foremost by seeking to understand and respond to national needs. ‘ILAC has a light footprint approach and, in my interaction with it, I have always been struck by the deep commitment to its cause of helping countries at a critical juncture when they seek assistance in legal and judicial areas they have identified,’ she says. ‘From what I have seen, the basic approach of ILAC has been needs-driven and open-minded, and it has continued to believe that support should be requested and wanted by a country so that national ownership is respected and national stakeholders remain the driving force.’

The Mission in Afghanistan

Afghanistan Gains its First Bar Association

By Diana Bentley

When the first bar association of Afghanistan was formed in July 2008 with the support of the ILAC and its member the International Bar Association (IBA), those working on the project faced an unusual dilemma: there were no words in Dari or Pashto - the country's main languages - for 'bar association.' 'The proper translation of the words became a challenge which really revealed that the idea of a bar association was something quite new in Afghanistan,' comments Phillip Tahmindjiis, Deputy Director of the IBA'S Human Rights Institute and the person who has guided the bar project from its inception.

Nonetheless, a translation was found. Four years on, 1280 lawyers belong to the Afghanistan Independent Bar Association (AIBA) and it is having a demonstrable impact in a country still struggling to establish the rule of law in trying conditions. With its head office in Kabul and a regional office in Kundaz, AIBA has

14 permanent and 13 temporary staff and is proud not only of its achievements to date but of its egalitarian nature: AIBA's by-laws provide that members must undertake at least three criminal defence cases on a pro bono basis each year and that the Council should include at least three women members - provisions unknown in the rules of long-established bar associations elsewhere. Now with funding provided by USAID, AIBA plans to open four more regional offices.

Considerable problems remain in the justice system in Afghanistan. But Douglass McCrae, an American lawyer who worked in Afghanistan training lawyers in legal aid and criminal defence work before becoming becoming one of the IBA's Legal Specialist working on the bar project, describes AIBA as a 'bright light'. 'The AIBA project was what I call an 'inside out' case. In places like England and the United States, bar associations were formed when lawyers had successfully established



Panos

themselves as professionals. In Afghanistan, there were no real private lawyers to speak of. Now AIBA is helping lawyers become recognized as an important part of the justice system and which can also be a positive influence in reestablishing the rule of law and fighting corruption. 'Despite some opposition to the growing status of lawyers, many welcome the changes AIBA is bringing about McCrae reports: 'My former students were very enthusiastic about AIBA. Now many are members. There is a new attitude amongst many in the justice system that people can work together and there is more accountability in the profession and to clients.'

A system in disarray

The situation signals the improvements that have been secured within a short time.

Visiting Afghanistan for the first time to work on the bar project in 2004, Phillip Tahmindjiis travelled on a United Nations plane as there were no commercial flights to the country and carried the first injection of funds for the project in cash as there were no local banks to which they could be transferred. But the dire conditions were no surprise. Although Afghanistan had weathered many storms since it was formed in 1745, the 20th century was a time of particular upheaval. Several coups occurred in the 1970s and the invasion of the country by the Soviet Union in 1979 sparked a long and debilitating war which only ended with the withdrawal of Russian troops in 1989.

Civil war followed and the fall of Kabul to the Taliban in 1996, but the Taliban was ousted from the city by the military action of US, Allied and anti-Taliban Northern Alliance forces after 2001.

The UN-sponsored Bonn Conference in 2001 produced an agreement that laid out a process for the political reconstruction of Afghanistan which would include a new constitution, presidential and National Assembly elections and the reestablishment of the rule of law. It was evident that all needed to be achieved as soon as possible. When Christian Ahlund visited Afghanistan in February 2003 at the request of the EU Special Representative in the country to explore ways ILAC could support local judicial reform, he found a country whose legal system was in profound disarray after years of conflict.

Although the Afghan constitution of 1964 provided for an independent judiciary and basic civil rights and codes of civil and criminal procedures were later adopted, the law was not being followed in practice. The procedures for appointing judges and establishing their independence and what laws they applied was unclear, many judges had no legal training and had been recruited from religious schools and the operation of the Attorney General's office did not accord with general notions of the separation of powers.

A law of 1972 which guaranteed an accused the right of a public defender was not applied and there was no program for legal aid. Nor was there any system for arrested criminals to have visits from lawyers and in any event, lawyers were rarely allowed into court. 'Trial lawyers in the sense understood in many countries, did not exist,' Ahlund comments.

Lawyers could get basic qualifications from studying Sharia law or civil law at university and were supposed to be licensed by the Ministry of Justice but the majority of lawyers appeared to work for the government or in corporate practice. 'Only about 100 lawyers in the country provided services to the public and that mostly consisted of drafting documents or providing advice for those defending criminal prosecutions,' Ahlund recalls. Since many law books and other legal publications had been destroyed in the conflict, few courts had access to copies of the main secular laws of the country so Islamic law was mostly applied in courts and in rural areas, customary law prevailed.

“ **Being a lawyer - and especially a woman lawyer - in Afghanistan is hard but I think it is an exciting job and I am very proud of my work** ”.

Proper arrangements for the oversight and representation of lawyers were lacking. 'The situation with lawyers was chaotic,' Phillip Tahmindjiis recounts. 'Many did not bother to register with the Ministry of Justice as it did not do anything for them so only about 400 were registered. 'Corruption was endemic Tahmindjiis says: 'It is estimated that in any year, one in five Afghans pays a bribe to a judge, prosecutor or government official. Lawyers were viewed only as middlemen who transferred bribes to judges and prosecutors and they could not insist on being recognized by the courts.'

An existing representative body of lawyers - the Lawyers Association of Afghanistan - operated somewhat as a trade union for lawyers in the public service. Formed in 1985, it had closed down during the Taliban regime from 1996 to 2001 and at the time of Ahlund's visit had only started operating again with limited resources. 'Afghanistan had never had a proper bar association to provide and enforce rules on admission, professional standards and ethics or to champion the rule of law and law reform and the independence

of lawyers or judges,' says Phillip Tahmindjiis. 'There was no body to provide a program for continuing education or to promote pro bono work.'

But things were moving on. A new constitution was adopted, in December, 2004 Hamid Karzai became Afghanistan's first democratically elected president and a year later, the National Assembly was formed. A Justice Commission was formed under the Bonn Agreement to create a justice system which took into account Islamic principles, international standards, the rule of law and Afghan legal traditions, and, says Tahmindjiis: 'It was understood that a independent and effective bar association, with rules to regulate and oversee admission to practice and the work of its members, would help reestablish the rule of law and create a balance with state institutions.' In 2004 ILAC was asked to help form a national bar association with the IBA managing the project.

DURANI WAZIRI

Afghan Lawyer

I work in Kabul mostly as a criminal lawyer and on commercial cases. I also lecture on Sharia law at a private university. Starting AIBA was a big step in the legal history of Afghanistan. Before this defence lawyers didn't have a place to meet and discuss things and share problems and there was no organization to champion their rights. We appreciate the help we have got on this. After I graduated in law I worked as a legal advisor in the Ministry of Justice then as an advisor in the Attorney General's Office in its Special Violence against Women unit. As a result of its work, more women are aware of their legal rights. There is now also special legislation to protect women although it is still not used enough. Many of my cases involve violence against women.

I am a member of AIBA's Women and Childrens' Committee. There are now more women in government and in the education system in Afghanistan but in a country of 30 million people AIBA still has only 281 women members. In some rural areas there are no women lawyers at all. Even if there are, the authorities and judges there will not refer clients to women lawyers or recognize them. This situation is hard as the government must hire a prosecutor for the victim and women want to talk to a woman lawyer especially when it is a rape or assault case. A big challenge too for women lawyers is security. If you want to represent a woman, say in a family law case, you can be threatened by the opposition. Despite this, more women

are now interested in being lawyers. I have many students approach me to talk about my career. Now there is generally a better relationship between defence lawyers and the Ministry of Justice and prosecutors - we get more recognition and respect. But we still cannot appear before the Supreme Court although AIBA's President has been making representations to the head of the Court on our behalf. I would like our Women and Childrens' Committee to be able to have more seminars and workshops and it would be very helpful for us to know how women lawyers' groups in other countries are organized and operate as we are very new to this. Being a lawyer - and especially a woman lawyer - in Afghanistan is hard but I think it is an exciting job and I am very proud of my work.



A vision becomes a reality

Rudimentary as conditions were in Afghanistan when work on the bar project began, Phillip Tahmindjiis found a good groundswell of enthusiasm for the project and particularly as local stakeholders were asked to play a key role. With the help of the Ministry of Justice, all stakeholders in the project - including other government departments, lawyers and NGOs - were invited to a seminar on the project in Kabul in 2005. Tahmindjiis insists that it was vital for the IBA to approach its role as a facilitator. ‘We work in a very consultative way. It was going to be an Afghan association so they really had to decide what they wanted and needed. They were the ones who decided they wanted provisions on pro bono work and special provisions for the participation of women.

And the first drafts we did of association’s by-laws were based on those of associations in Islamic countries like Malaysia.’ Working groups provided their views on the way the association should operate, including whether membership should be compulsory for lawyers and whether the organization should have disciplinary powers. The exercise revealed a real consensus for establishing an independent national bar association with clear rules on conduct and discipline that would regulate and protect members of the profession and the public as well. ‘I thought an independent bar association would help practicing lawyers - and particularly defence lawyers - find their real and deserved position in the legal and judicial system of Afghanistan,’ recalls AIBA President Rohullah Quirzada. Zulfia Zalmi, a lawyer who has served as AIBA’s Vice President and Executive

Director agrees: ‘I was very keen to see more support and facilities for lawyers in Afghanistan so I was very pleased when AIBA started and was able to be involved in its work.’ Legislation for founding the association was passed in 2007. With funds provided by UNODC, a General Assembly of Afghan lawyers was held to pass the by-laws for the body and elect its first Executive Committee. ‘The response to a call for attendees was overwhelming,’ Tahmindjiis remembers with pride. ‘Many lawyers travelled to Kabul, some for several days and through Taliban-controlled territory, for the four-day General Assembly. For some Afghan lawyers, the election of the committee was the first time they had participated in a secret ballot.’



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SAYED MOHAMMAD SAAEQ SHAJJAN

Afghan Lawyer

The decision to start a bar association in Afghanistan was a fantastic idea. It is something Afghan lawyers have needed for some time. I graduated in law from Kabul University in 2003 and started working for an NGO as a defence lawyer which then was a new idea. Judges would say, ‘Why are you here? The prosecution can speak for the accused.’ There was no understanding of the role that defence lawyers should play. Now things are changing.

Later, I worked at the Independent National Legal Training Centre and also gained a Masters of Law in India and also at Harvard University. Now I have my own firm in Kabul and have four associates working with me. I attended the General Assembly of lawyers which supported the founding of AIBA and voted for its first Council.

At that time there were only about 450

lawyers registered in Afghanistan, now the AIBA has 2081 members and many new law graduates intend to take its bar exam which shows how things have changed.

I practice mostly commercial law. We have had a commercial code here since 1970 but many Afghan companies still don’t think they need a lawyer until they get into trouble. But I represent international organizations working in Afghanistan and individuals. Business is busy but big challenges remain for lawyers. Many judges are not well qualified for the job and there is confusion when they do not apply the correct law. Another big hurdle is corruption. Not all judges and prosecutors are susceptible but it remains widespread. As a lawyer you must be very clear with clients about this from the beginning. It helps if they are already familiar with laws like the

US Foreign Corrupt Practices Act.

Several factors are now helping change people’s perception of the legal system. Our new constitution provides that every accused has the right to legal representation and there is more training for judges and prosecutors. AIBA is increasing the status of lawyers and promoting a better understanding of people’s rights and how the law should be applied in practice. AIBA’s plan to extend its reach into rural areas is an excellent idea. It would also be very helpful for some members of AIBA’s Council to travel to places which have well-established bar associations and see how they operate. The legal profession here faces many challenges but we are optimistic and hopeful - that is how the Afghan people have survived the last three decades.

“ The decision to start a bar association in Afghanistan was a fantastic idea”.

A big accomplishment

Today, anyone visiting the AIBA website www.AIBA.af will see what has been accomplished in four short years. At the beginning, there was much to do. Working alongside the Afghan lawyers have been IBA-appointed ‘Legal Specialists’ - both men and women - based in Kabul for periods of up to a year who have helped on many aspects of shaping the organization. ‘We had to equip the office, establish all procedures and work hard to become known to government departments, the courts and prison board and Kabul’s co-ordinating council,’ Zulfia Zalmi recounts. The registration of lawyers, formerly handled by the Ministry of Justice, was taken over. Lawyers now undertake written and oral exams to be admitted to membership, which is compulsory for practitioners, a Code of Conduct was written and published in Dari, Pashto and English.

‘We also opened our library, launched our website and appointed representatives in all provinces,’ Zalmi says. Committees on education, anti-corruption, the media and family and women’s matters have been formed. A defence lawyer course was begun which has to date helped train 700 members. ‘All the training sessions are very popular and are always full,’ reports Phillip Tahmindjiis.

A fortnightly newsletter and monthly journal for members are published and a radio programme was broadcast until it was discontinued due to a lack of funds. Clients who have complaints against a member are referred to the monitoring board. Much work has been needed - and is still required - to help facilitate court appearances by members: identify photo cards have been introduced and special representations were made to the head of the Counter Narcotics Court to secure AIBA members a right of appearance before the court. ‘Defence lawyers here

can also face unfounded allegations,’ says Zalmi. ‘We have already defended several members who were unjustly arrested.’ Indigent people now approach AIBA to be referred to defence lawyers she says: ‘People have not known their rights or known how to find a lawyer.’

Many challenges remain. ‘The first and greatest is that judicial institutions do not honour our constitution and our Advocates’ Law and do not recognize defence lawyers,’ Zalmi insists. ‘But now there is more cooperation between judicial institutions and AIBA and I think this problem will decrease if the government and international community support AIBA.’ The security of women lawyers remains an issue. ‘I do not feel secure when I leave Kabul or even if I go home late as I am known for my work. We also face continued discrimination - even from educated men,’ she says.



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Looking Forward

For several years the Swedish Ministry of Foreign Affairs funded the AIBA project. Grants have also been made by the Open Society Institute, the UK’s Foreign and Commonwealth Office, the UNODC and USAID, GTZ, Checchi, Medica Mondiale, UNAMA, UNDP and others. But further work is needed and members of AIBA and its Council are keen to improve and expand its operations. President Quirzada would like the organization to own its own offices in Kabul and in the provinces. ‘I would like our members - and women members especially - to be fully recognized as they should be in the justice system and that representation for the accused become a vital part of a fair trial here,’ says Zulfia Zalmi.

‘We need more technical and administrative support. We would like to have computer classes as many members do not have much computer knowledge or speak English which I think is important for them. We need an on-line library which all lawyers around Afghanistan can use. We would also like funding to run a legal aid service instead of NGOs doing this and we want to continue to conduct the Advocate’s Stage Course every year and have a scholarship for advocates to study abroad to build their experience. In time I would like to see AIBA become self-sufficient and be able to take part in national and international gatherings.’ Challenges still abound in Afghanistan. The Taliban continues to be active, especially the provinces.

But in over 25 visits to Afghanistan Phillip Tahmindjiis has been witnessing the transformation of the country. ‘The infrastructure is gradually improving. There is a lot of new legislation so the balance of law is changing as the country modernizes. Lawyers are needed more. Quite apart from the need for criminal defence work, as Afghanistan develops the commercial community will realize that a strong legal profession is good for business and the growing prosperity of society.’ He feels positive about the future. ‘There is a long way to go but we have achieved an enormous amount in a short time.’

Activities

Tunisia

ILAC was invited to Tunisia only weeks after president Ben Ali was forced into exile in January 2011. The early invitation came about as a result of the long-standing relations between the Tunisian Bar and the Union Internationale des Avocats, one of the founding members of ILAC. The Tunisian Bar had played a prominent role both in the opposition against and in the overthrow of president Ben Ali, and as a result both the President and the Prime Minister of the interim government were former bar presidents.

So as a consequence of UIA's good relations, during ILAC's first visit to Tunisia in early March 2011, which was carried out jointly with the UIA and the American Bar Association, we were received at the highest levels of government.

In addition, the delegation had productive discussions with the Ministry of Justice, the judges organisations, the Bar and a couple of key NGOs.

One issue, which came up in all of our discussions was a consensus that the judiciary was poorly prepared for the transition from a totalitarian system to democracy, which is now under way in Tunisia. Interestingly, this is a problem which ILAC and several of its member organisations have dealt with in other countries in similar transition situations.

So, after this first visit, ILAC contacted the International Bar Association (IBA) and the CEELI Institutet in Prague, which has ties to the American Bar Association. In a two-fold training program, which was initiated and coordinated by ILAC, these organisations implemented during 2004-2007 the training of almost one thousand Iraqi judges and prosecutors in, on the one hand, international human rights law with an emphasis on fair trial and due process (IBA), and on the other, the role of a judge in a democratic society CEELI Institutet.

For reasons of security, the training sessions were held in Dubai and Prague, and the judges were flown out of Baghdad on chartered flights. The curriculum in international human rights law was developed by IBA in cooperation with the UN Office of the High Commissioner on Human Rights and translated into Arabic. The training by CEELI was an adaption of a program that had been created in the early '90s for judges from the former Soviet Union and socialist Eastern Europe, in order to prepare them for the fundamental change in the role of a judge – in relation to the executive power, the mass media and the general public – that followed from a transition from a totalitarian system to democracy.



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A second ILAC visit to Tunisia was carried out 16 – 19 May together with experts from IBA and CEELI Institutet. The purpose of this visit was to bring together IBA and CEELI Institutet with our Tunisian counterparts, in order for all parties to be able to discuss the structure and the curricula of the planned training. Consequently, we once again met with representatives from the Ministry and the judges associations. We also visited the Tunisian Judges Training Institute, which is subordinated to the Ministry of Justice, to discuss possible cooperation. Again, all our interlocutors demonstrated a keen interest and it was agreed that ILAC and its member organisations were to put together a training program for Tunisian judges, based on the experiences and the curricula from Eastern Europe and Iraq.

The elections for a constitutional assembly, which were originally planned for 24 July were postponed to 24 October. During the summer and the fall, the Ministry was tied up with issues connected to the elections, and as a consequence, decision-making on many other issues, including the ILAC training program, were considerably delayed. However, in December, the Ministry contacted ILAC and reiterated its interest in the proposed training program. During discussions that followed between all partners to the project it was agreed to plan for a training program which would encompass all of Tunisia's approximately two thousand judges and aim for a launch of the training program in March of 2012.

Libya

One of ILAC's guiding principles is that it will respond quickly and effectively in providing needed legal assistance to post-conflict societies. Toward that end, and drawing on the expertise and resources of ILAC member Palestinian Center for Human Rights, ILAC began its mission to Libya less than a month after the declaration of liberation by the National Transitional Council. From November 16-23, 2011, William Meyer, Chair of ILAC, and Agneta Johansson, ILAC's Deputy Director, accompanied representatives of the Arab Organization for Human Rights on a combined fact-finding and training mission to Libya in the immediate aftermath of the hostilities.

Working with representatives of the PCHR, the team participated in intensive training for more than 60 Libyan lawyers, judges, prosecutors and members of civil

society in human rights law and principles. As reflected by the attendance at the training sessions in Tripoli, Libyan lawyers are vitally interested in the promotion of human rights in a free Libya. Over 150 lawyers attended the ceremony honoring those who attended the AOHR training sessions, as well as several Tripoli lawyers imprisoned for months in Gaddafi's jails. At the same time, as part of the AOHR mission, the ILAC team visited various sites in Tripoli, Misrata, Zawiyah, Sabratah, Zliten, Al-Khoms, Tawourgha, and Sirte to probe allegations relating to alleged violations of international law involving Gaddafi forces, rebel forces and NATO. Based on scores of site visits and witness interviews, the ILAC team confirmed that Libya faces substantial past, present and future human rights issues. In addition, a primary goal of the ILAC



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mission was to preliminarily assess the current state of Libyan institutions critical to developing the rule of law, to determine if assistance by international organizations would be useful to and appreciated by Libyan colleagues. The ILAC team met with representatives of the judiciary, prosecution, Bar and civil society from throughout Libya, as well as the interim leaders of various revolutionary councils. Based on the team's discussions and observations, it was apparent that the pre-revolutionary Libyan rule of law systems and institutions were severely hampered by years of isolation, coupled with the somewhat bizarre ideology of the Gaddafi regime. Libyan professionals, relative to judges and lawyers in other countries, lacked accurate information concerning Western or other Arab legal systems.

At the same time, the team came away with the strong sense that a substantial number of Libyans among the revolutionary forces sincerely want to see a democratic Libya based on the rule of law. To insure that these indigenous reformers would be promptly heard and supported, upon the pre-assessment team's return, ILAC immediately began planning a conference of Libyan legal professionals and civil society actors to outline rule their rule of law priorities directly with donors and implementing organizations that can assist with Libya's transition. This conference, held in Tunis, Tunisia, on February 20-23, 2012, brought together 30 Libyan reformers with more the 15 international non-profits and donors working on technical legal assistance issues, and set the stage for ILAC's future work in a post-conflict Libya.

Haiti

The centerpiece of ILAC's activities in Haiti is a nation- wide legal aid programme, the SYNAL (Système Nationale d'assistance Legale). This programme was created by ILAC in 2007. The program is administered by ILAC's office in Haiti in cooperation with the UN mission in Haiti. At the end of 2011, SYNAL employed almost 300 Haitian lawyers and the number of offices around the country had grown to seventeen. Most of the work consists of legal aid in criminal cases.

During the four years that the SYNAL has been operative, we have handled some 14 000 cases, and managed to get more than six thousand individuals out of jail, some through court acquittals, but most of them simply by showing wrongful detention. An important contribution to the SYNAL programme has been made by the New York-based ILAC member ISLP (International Senior Lawyers Project), which has provided pro-bono mentor attorneys on a continuing basis to the SYNAL offices.



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From its very beginning, the ILAC programme in Haiti was funded by the Swedish International Development Cooperation Agency (Sida). But as a consequence of political decisions by the Swedish government to end development assistance to almost all countries in Latin America and the Caribbean, funding from Sida came to an end in early 2011. However, by that time, ILAC had established contacts with UNASUR (Union de Naciones Suramericanas), which brings together twelve South American nations, and

in February 2011, UNASUR and ILAC signed a contract for the continued funding and expansion of SYNAL. This was to be UNASUR's first international development assistance project, and its involvement in SYNAL was met both with great relief and with considerable expectations. However, with little notice and for reasons not explained, UNASUR notified ILAC in early January that its funding was not to be continued beyond January 2012. Although ILAC and its partners are now intensely looking for alternative funding, UNASUR's decision leaves the future of SYNAL in great uncertainty.

South Sudan

The signing of the Comprehensive Peace Agreement in January 2005 opened up a new chapter in the relations between the North and South of the Sudan. The peace accord provided for a referendum for the South to decide after 6 years from the date of signing the treaty whether to stay with the North or secede altogether and become a different country. This referendum was held in January 2011. The south voted overwhelmingly for secession with 99% of the votes. This decision opened the way for ILAC to send a delegation to South Sudan to engage with political leaders and find out whether there is a role for ILAC to play in restoring or building institutions in the legal sector.

ILAC sent its Deputy Director and its Representative for Africa in March 2011 and started discussions with the leadership. However, the focus of leading politicians and top judicial officials was distracted by the upcoming transition to independence.

On July 9, 2011, the Republic of South Sudan declared its independence, and adopted a new Transitional Constitution. At the same time, as “a number of high-ranking officials were ousted or put into new positions”. Independence also saw multiple armed clashes between indigenous groups, as well as armed conflicts between Sudan and South Sudan continue in disputed border regions such as Abyei.



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ILAC accordingly determined that, in light of these changed circumstances, ILAC decided to make a renewed visit in order to determine to Juba to determine what further ILAC involvement was appropriate.

Led by Rodger Chongwe, the ILAC team visited Juba from December 6-13, 2011 to assess the development of South Sudanese legal institutions, together with the assistance currently being provided to those institutions. The team met with representatives of the South Sudanese government, judiciary, Bar and civil society, as well as members of the international community in South Sudan.

The ILAC team determined that, in the immediate post-independence environment, additional assistance by ILAC and its member organizations would not be efficient or effective. Despite the undeniable needs in South Sudan, the space for effective action did not currently exist. Many South Sudanese rule of law institutions are overwhelmed with international donors/implementers, some of whom are less than welcoming towards any additional international actors coming into the country. For this reason, ILAC determined to monitor events in South Sudan in 2012, and continue its efforts to identify indigenous actors with a personal commitment to effect meaningful change. If conditions warrant, ILAC will dispatch a follow-up mission to plan discrete projects with indigenous partners in areas ignored or underserved by existing programs.

Stockholm Human Rights Award

Stockholm Human Rights Award

Text: Magnus Andersson / Tom Knutson

The Stockholm Human Rights Award was presented for the third time on 29 November 2011. Aryeh Neier accepted the award on behalf of himself and George Soros at a ceremony at the Swedish Bar Association in Stockholm. Around 60 Swedish and international guests, including representatives from the diplomatic corps, the courts, the legal profession and academia, were invited to participate at the awards ceremony. Christian Åhlund, Executive Director of ILAC, directed the following accolade to Neier:

– Your lifelong dedication to ground-breaking work in human rights makes you an outstandingly well-deserving winner of this award.

Mark Ellis, Executive Director for the International Bar Association, reflected:

– In all corners of the world these days it is possible to see the impact and the success that Open Society has had in just a short time, and that is due to the leadership practiced by George Soros and Aryeh Neier.

Anne Ramberg, Secretary-General for the Swedish Bar Association, presented the award to Aryeh Neier. She emphasised the award winners' role as global leaders in the work being done to make the world's governments more open and accountable to their citizens.

– The need to support the establishment of democracy was the original driving force behind George Soros' decision to found Open Society Foundations in 1984. The goal was to help countries make the transition from communism to democracy, explained Anne Ramberg, who went on to mention that the foundations have donated more than 8 billion US dollars to the strengthening of democracy and respect for human rights.

Anne Ramberg described George Soros' efforts to support an open society. She then turned to award winner Aryeh Neier and summarised his many years of work in the field of human rights. After Aryeh Neier had accepted the award, he proceeded to give a lecture



on the subject of the human rights movement as a factor in world events. Neier described how the human rights movement influenced world events in the shadow of the Cold War, and how the development continued during the 1970s until the 1990s, with significant changes taking place in Latin America, Asia, South Africa and the Soviet Bloc. He asserted that the human rights movement is still a factor in world events today. In response to Anne Ramberg's question about what the biggest threats to human rights are today, Aryeh Neier did not hesitate when he answered:

– The biggest threat is China! He explained that China not only limits human rights within its own borders; it also affects the human rights situation in other nations around the world.

One aspect of China's foreign policy is to offer other countries trade cooperation without making demands regarding democracy and human rights – unlike democratic Western countries.

When Ambassador Jan Eliasson asked if the universality of human rights is threatened, Neier answered:

– I am an advocate of civil and political rights, and I don't necessarily believe in economic and social rights.

He explained that he supports the concept of economic justice and a more even distribution of resources, but he feels that one often gets into trade-offs when it comes to the areas of economic and social rights.

– Rights should come before all other matters and should not be the subject of negotiations!

Open Society Foundations Aryeh Neier is President of Open Society Foundations. George Soros is the founder and Chairman of the foundations. The foundations' aim is to finance and support democratic development and human rights in countries during their transition from totalitarian rule. Open Society Foundations is currently active in more than 70 countries.

Stockholm Human Rights Award

The Stockholm Human Rights Award was first presented in 2009 having been established by the International Bar Association (IBA), ILAC and the Swedish Bar Association. The award is presented each year to a person or organisation that has made particularly outstanding contributions to the support of democratic developments and human rights.

Aryeh Neier

Aryeh Neier was born in Berlin in 1937. His family left Nazi Germany for England and then the USA when he was ten years old. Aryeh Neier is President of Open Society Foundations. Before he started working for that organisation in 1993, he was Secretary-General for Human Rights Watch for 12 years, having been one of its founders in 1978. Prior to that Neier worked for the American Civil Liberties Union (ACLU) for 15 years, and he held the post of Managing Director for that organisation during the final eight years of his time there. He is being succeeded as President of Open Society Foundations this year by Harvard Professor Christopher Stone.

George Soros

Born in Budapest in 1930, George Soros created Open Society Foundations over 30 years ago. Soros became known for his currency speculations that sometimes influenced the development of currency rates. Soros is a firm advocate of market economy and democracy.

Neier sees hopeful developments

Text: Tom Knutson / Photo: Micke Lundström

Aryeh Neier, one of this year's two award winners, has devoted his life to the protection of human rights. He feels that developments are headed in the right direction, even if a bloody struggle is taking place in many countries. The key to success is the ability to spread information about the atrocities that are occurring in the world.

Aryeh Neier was both happy and moved to be awarded the 2011 Stockholm Human Rights Award, the third year the award has been presented, although he couldn't really understand how he, together with George Soros, came to receive the award. When asked what the effect of awards for human rights work could be, Aryeh Neier commented that prizes and awards are sometimes given to persons who are relatively unknown, for example the Nobel Peace Prize winner Shirin Ebadi from Iran. Neier was particularly happy to see her receive that prize, since she works under very difficult and dangerous circumstances. The prize represented

both a form of protection and an acknowledgement at the same time. – I have worked under relatively safe circumstances, and I don't feel that I am as deserving of such an accolade as Shirin Ebadi, who has taken enormous risks to defend human rights, says Aryeh Neier humbly.

Our meeting takes place at the Swedish Bar Association on the morning of the same day on which the awards ceremony is to be held at the same location. Because George Soros is not able to attend the ceremony, Aryeh Neier is representing both of them on this day. Aryeh Neier listens carefully to the questions being asked and thinks quietly before answering with methodical and well-structured reasoning. He has a calm manner about him and is a little reserved, humble and friendly. Aryeh Neier got to know George Soros in 1979, when he had just started his philanthropic activities. During a long period of time when Neier led the work being conducted by Human Rights Watch,

an organisation he himself founded, Soros was an important source of support to that organisation. Neier started working for Open Society Foundations in 1993. Neier and Soros work closely together, but they also divide up their work based on different geographical parts of the world. Furthermore, their approaches to their work differ somewhat. Neier describes how Soros likes to work at government level, for example in his support of Ellen Johnson Sirleaf, Liberia's female president and the winner of the Nobel Peace Prize in 2011. Soros' approach to his work is "from top to bottom", whereas Neier most often attacks issues from the "bottom" and then works towards the "top".

– Totally different yet complementary approaches, summarises Neier, who feels that both approaches to the work are valuable and that the two men share a mutual respect for each other's strategies.

Open Society Foundations is currently placing a lot of focus on developments in the Arab world. Aryeh Neier describes the events taking place there as being of historic significance. No one can say where the developments will finally lead, but Neier feels it is clear that large numbers of people in those countries are driven by a desire to improve the human rights situation there. Open Society Foundations is trying to contribute to this development in various ways. At the same time, however, it is a sensitive situation, since a crucial aspect of the Arab revolution is that it is a genuine popular revolution, and the participants want to avoid the risk of claims that they are acting on assignment of foreign powers.

The role that Open Society Foundations can play is thus limited to providing support in such a way that those who are fighting for democracy and human rights are not subject to any such suspicions. So far the organisation has done this by, for example, providing financial support to various Arab institutes and organisations that work for human rights. Donations have also been made to foundations that support artists, translators, authors and filmmakers. Purely by coincidence, Aryeh Neier happened to be in Cairo at Tahrir Square just as the democracy demonstrations got under way there; a fantastic event for a man who has dedicated his life to working for human rights.

– I had to assure a number of people that there was no causation between my visit and the events that took place there, he says with a warm smile. It was a fantastic experience. Neier describes one event when he saw a group of demonstrators walk towards a large number of police officers. When the demonstrators got close to the police officers, they held their hands up in the air to show that they were unarmed, in exactly the same way as members of the non-violence movement in the USA under Martin Luther King's leadership had demonstrated their peaceful intentions.

– It was fascinating to see that the young Egyptians had obviously been instructed in advanced non-violence methods, says Neier, who points out that there are indeed strong Muslim religious currents in Egypt, but adds that he hopes that the country will follow the path of development in Turkey rather than that in Iran.

Aryeh Neier paints a bright picture of human rights developments from a global viewpoint. If one looks back in time it becomes obvious what tremendous progress has been made. 25 years ago the Soviet Union existed, and there weren't any real human rights in the former Eastern Bloc. Almost all the countries in Latin America were ruled by military juntas, and the same applied to countries such as South Korea, Taiwan, the Philippines and many other East Asian countries. These days the picture is radically different, even though many atrocities are still being committed, he summarises. Then there are the latest developments in the Arab world. And developments in China have also been moving in the right direction, despite many problems there. There is still a substantial degree of oppression in China, but the country is more open now than it was in 1980. What is the most important tool for protecting and strengthening developments for increased democracy and improved human rights?

– Information is the most important tool available to the global human rights movement, says Neier without hesitating and continues:

– I believe that has now become generally known.

More or less every government in the entire world must at least pretend to respect human rights these days. If it is possible to obtain information which shows that description to be false, the government is discredited and its confidence is shaken. A government thus identified eventually changes its

behaviour in order to put an end to its discomfort.

– That is more or less what has happened in principle when human rights have made progress throughout the world, says Neier, who adds that it is also currently possible in certain places to be able to count on legal justice when human rights have been violated. In addition to which there are also a number of international courts in operation. But information is still the most important instrument available. With the exception of a handful of repressive nations, such as North Korea and Saudi Arabia, a worldwide extra-parliamentary movement is now underway to strengthen human rights.

– The fact that the movement is universal does not necessarily mean that it will triumph in the end, but it does mean that the struggle is taking place all over the world. It is quite simply not possible to have a repressive regime that is placed under constant pressure to open up, just look at what is happening in Syria, says Aryeh Neier and adds that much of what we know is happening in Syria is coming from small human rights groups in the country.

– I am not saying that everything will eventually be good all over the entire world. But I am at least optimistic enough to believe that the struggle for human rights will continue and that it will succeed in many places, says Neier in summary of his vision for the future.

Members Council Offices

Member Organizations

American Bar Association
www.abanet.org

American Judicature Society
www.ajs.org

Arab Lawyers Union

Association Internationale des Jeunes Avocats
www.aija.org

Bar Association of India

Bar Council of England and Wales
www.barcouncil.org.uk

Bar Council of Ireland
www.lawlibrary.ie

Canadian Bar Association
www.cba.org

Center for Court Innovation
www.courtinnovation.org

Commonwealth Lawyers Association
www.commonwealthlawyers.com

Council of Bars and Law Societies of the EU
www.ccbe.org

Danish Bar Association
www.advokatsamfundet.dk

Faculty of Advocates
www.advocates.org.uk

Finnish Bar Association
www.asianajaliitto.fi

Ghana Bar Association
www.ghanabar.org

Hong Kong Bar Association
www.hkba.org

ILAC-USA

Inter-American Bar Association
www.iaba.org

International Association for Court Administration
www.iaca.ws

International Association of Prosecutors
www.iap.nl.com

International Association of Women Judges
www.iawj.org

International Bar Association
www.ibanet.org

International Bridges to Justice
www.ibj.org

International Commission of Jurists
www.icj.org

International Criminal Defense Attorneys Association
www.aiad-icdaa.org

International Foundation for the Rule of Law and the Independence of Lawyers and Judges

International Human Rights Law Institute
www.law.depaul.edu

International Judicial Academy
www.ijaworld.org

International Senior Lawyers Project
www.islp.org

Japan Federation of Bar Associations
www.nichibenren.or.jp

Law Society of Botswana

Law Society of England and Wales
www.lawsociety.org.uk

Law Society of Scotland
www.lawscot.org.uk

Law Society of South Africa
www.lssa.org.za

Macedonian Lawyers Association
www.mla.org.mk

Magna Carta – Human Rights Network International
www.magnacartainstitute.org

National Association of Women Judges
www.nawj.org

Nepal Bar Association
www.nepalbar.org

Norwegian Bar Association
www.jus.no

Organization of Commonwealth Caribbean Bar Associations

Pan African Lawyers Union

Palestinian Centre for Human Rights
www.pchrgaza.org

Public International Law and Policy Group
www.pilpg.org

Raoul Wallenberg Institute
www.rwi.lu.se

RCN Justice & Democratie
www.rcn-ong.be

Swedish Bar Association
www.advokatsamfundet.se

Union Internationale des Avocats
www.uianet.org

Individual Members

Lord Abernethy
Scotland

Ljubica Acevska
Macedonia

Juan Bennazar Zegueira
Puerto Rico

Giuseppe Bisconti
Italy

Rodger Chongwe
Zambia

Hans Corell
Sweden

Param Kumaraswamy
Malaysia

Francisco Diaz Rodriguez
El Salvador; Life Member

Farouk Abu Eissa
Sudan

Mark Ellis
USA

Michael Enwall
USA; Life Member

Alfred Fofie
Ghana

Elisabeth Fura–Sandström
Sweden

Richard Goldstone
South Africa

Barry Hancock
UK

Paul Hoddinott
UK; Life Member

Kabineh Ja’neh
Liberia

Natasa Kandic
Serbia

Dianna Kempe
Bermudas

Karim A.A. Khan
UK

Kadhim Lami
Iraq; UK

Pius Nkonzo Langa
South Africa

Suzannah Linton
Malaysia

Finn Lynghjem
Norway

Peter Maynard
Bahamas

Susan McCrory
Northern Ireland

Lawrence Mchome
Tanzania

Bill Meyer
USA; Life Member

Zoran Pajic
Serbia; UK

J.Ebow Quashie
Ghana

Shelby Quast
USA

Nicholas Stewart
UK

Georgina Wood
Ghana

ILAC Council

INDIVIDUAL MEMBERS

Rodger Chongwe *

Richard Goldstone

Kabineh Ja´neh

William D. Meyer *

Paul Hoddinott

* Members of the Executive Committee

ORGANIZATIONAL MEMBERS

	REPRESENTED BY
American Bar Association	Salli Swartz
Association Internationale des Jeunes Avocats	Ines Pöschel
Arab Lawyers Union	Hala El Asmar
Bar Association of India	Lalit Bhasin
Council of Bars and Law Societies of the EU	Anne Ramberg
International Foundation for the Rule of Law and the Independence of Lawyers and Judges	Giuseppe Bisconti
Inter-American Bar Association	Juan Bennazar Zegueira *
International Association of Prosecutors	Elizabeth Howe *
International Bar Association	Mark Ellis
International Commission of Jurists	–
International Senior Lawyers Project	Jean Berman
Japan Federation of Bar Associations	Kimitoshi Yabuki
ILAC-USA	Shelby Quast
Norwegian Bar Association	Kjell Brygfeld Jannicke Naustdal
Palestinian Center For Human Rights	Raji Sourani
Raoul Wallenberg Institute	Rolf Ring
Swedish Bar Association	Anne Ramberg
Union Internationale des Avocats	Nick Stewart, Pedro Pais de Almeida

ILAC Offices

ILAC HEAD OFFICE

Stockholm, Sweden

Hantverkargatan 21, 4th floor
SE-112 21 Stockholm, Sweden
Phone +46 8-545 714 20
Fax +46 8-517 110 77

Christian Åhlund
Executive Director

Agneta Johansson
Deputy Director

Håkan Henning
Communications

ILAC – AFRICA

Lusaka, Zambia

Rodger Chongwe
ILAC Africa Representative

ILAC HAITI

Port-au-Prince

Marion Raoul
ILAC Haiti Representative

Annual Accounts Audit Report

FOR THE FISCAL YEAR
1 JANUARY – 31 DECEMBER 2011
ILAC (802411-1869)

Annual Accounts

International Legal Assistance Consortium

ILAC was formally registered as a non-profit association under Swedish law on 29 December 2001. ILAC began its operations, with office and staff, on 1 September 2002.

ILAC’s work during 2011 has consisted of legal development assistance to post-conflict countries and related activities.

In Haiti, ILAC’s activities have focused on the continued development of a national program of legal aid to the rural poor (SYNAL). By the end of 2011, this program had been expanded to employ nearly 300 local lawyers in 17 offices around the country. The programme was initially funded by Swedish Sida, but the South American organisation UNASUR (Union de Naciones Suramericanas) took over the funding from 1 March 2011. UNASUR’s contribution to SYNAL during the year amounted to almost 6 MSEK.

The support for an independent bar association in Afghanistan has continued. This project was initiated by ILAC in 2004, and is being implemented by the International Bar Association with

support from i.a. the Swedish Ministry for Foreign Affairs. Today, the newly established Afghan Independent Bar Association has approximately 900 members all over the country. The contribution during 2011 from the Swedish MFA to IBA for the continued implementation amounted to almost 1,6 MSEK.

Much of ILAC’s activities during the past year have focused on the so called Arab Spring. Together with ILAC members Union Internationale des Avocats and American Bar Association, we were invited to Tunisia only shortly after the revolution. This first visit was followed by others, with the purpose of setting up a major training program for judges, in cooperation with the Ministry of Justice. This project, which is being implemented by International Bar Association and CEELI Institute, was formally launched in March 2012. ILAC has also carried out a pre-assessment mission to Libya in December 2011 and plans are now under way for a programme in Libya, in cooperation with a number of ILAC members.

In December 2012, ILAC also carried out a pre-assessment mission to South Sudan.

The Stockholm Human Rights Award, which was launched in 2009 as a joint initiative between ILAC, the International Bar Association and the Swedish Bar Association, was in 2011 given to George Soros and Aryeh Neier of the Open Society Foundations in New York.

At the end of 2011, ILAC had offices in Stockholm and Lusaka, as well as a field office in Haiti. By the end the year, the ILAC consortium consisted of 46 member organizations, which represent all five continents and more than 3 million individual members.

During the past year, ILAC has been involved in activities with financial support from the Swedish Sida, the Swedish Ministry for Foreign Affairs and UNASUR (the Union of South American Nations).

The ILAC Council proposes that the economic surplus for 2011, SEK 135 305, is carried over into a new balance sheet. Regarding the financial status and result, please refer to the following accounts:

INCOME STATEMENT FOR	(Footnote 1)	2011-01-01 2011-12-31	2010-01-01 2010-12-31
Income			
Contributions		9 000 000	19 500 000
Membership fees		52 743	50 081
Other fees		–	–
Total income		9 052 743	19 550 081
Costs			
General external costs	(Footnote 2)	- 5 462 801	- 15 892 376
Staff costs	(Footnote 3)	- 3 481 051	- 3 663 019
Total costs		- 8 943 852	- 19 555 395
Result		108 891	- 5 314
Financial income and costs			
Interest income		37 869	83 994
Interest costs		- 11 455	- 23 850
Year end result		135 305	54 830

All figures in SEK

BALANCE SHEET FOR	(Footnote 1)	2011-12-31	2010-12-31
ASSETS			
Short term assets			
Client receivables		–	–
Tax receivables		69 515	14 532
Other receivables		2 900	–
Pre-paid expenses		203 767	188 490
Total short term assets		276 182	203 022
Cash and bank balances		7 226 227	8 964 851
TOTAL ASSETS		7 502 409	9 167 873
EQUITY AND LIABILITIES FOR			
Equity			
Capital brought forward		284 927	230 097
Year end result		135 305	54 830
Total		420 232	284 927
Current liabilities			
Account payable		514 712	207 477
Tax liabilities		–	–
Other liabilities		476 810	94 215
Accrued expenses and deferred income		6 090 655	8 581 254
Total current liabilities		7 082 177	8 882 946
TOTAL EQUITY AND LIABILITIES		7 502 409	9 167 873

FOOTNOTES		
1 Accounting principles		
Applied accounting principles are in accordance with Swedish law and approved best practices		
2 Other external costs	2011-12-31	2010-12-31
Balanced portion of contributions from Swedish MFA, SIDA	- 844 997	2 490 456
External project costs	4 063 960	9 813 560
Travel and conference costs	1 131 262	2 156 598
Office equipment	–	–
Office rent and services	352 500	558 276
Administration, marketing and communications	760 076	873 486
Total	5 462 801	15 892 376
3 Staff costs	2011-12-31	2010-12-31
Number of staff, gender		
Women	1,5	2,0
Men	1,5	1,0
Salaries		
Council	1 343 340	1 343 340
Other employees	1 113 583	1 075 599
Total	2 456 923	2 418 939
Payroll taxes	487 030	759 972
Pension premiums to Council	239 364	211 500
Pension premiums to other employees	173 804	161 022
Pension premium tax	99 688	89 827
Total	999 886	1 222 321
Total salaries and related benefits	3 456 809	3 641 260

All figures in SEK

Stockholm May 2012		
Christian Åhlund	Juan Bennazar Zegueira	Rodger Chongwe
Elizabeth Howe	William D. Meyer	
My audit report has been issued in April 2012		
Christer Fröjd		
Authorized Public Auditor		

Audit Report

Christer Fröjd, Authorized Public Auditor

To the Annual General Meeting of International Legal Assistance Consortium (ILAC), Swedish corporate ID number 802411-1869

Report on the annual report

I have audited the annual report for International Legal Assistance Consortium (ILAC) for the financial year 01/01/2011 – 31/12/2011.

Responsibility of the Board of Directors for the annual report

It is the Board of Directors that is responsible for preparing an annual report that provides a fair and true view in accordance with the Swedish Annual Reports Act. The Board of Directors is also responsible for carrying out any and all internal controls that the Board deems necessary for the preparation of an annual report that is free from any material misstatements, regardless of whether such misstatements depend on improprieties or errors.

Responsibility of the auditor

It is my responsibility to express an opinion on the annual report based on my audit. I have carried out the audit in accordance with International Standards on Auditing and generally accepted auditing standards in Sweden. These standards require that I follow professional ethical requirements and that I plan and perform the audit in order to obtain reasonable assurance that the annual report does not contain any material misstatements.

An audit includes examining, through various measures, evidence supporting the amounts and other information in the annual report.

The auditor determines which measures are to be taken, among other things by assessing the risks for material misstatements in the annual report, regardless of whether such misstatements depend on improprieties or errors. As part of this risk assessment, the auditor takes into consideration those parts of the internal controls that are relevant to how the association prepares the annual report in order to provide a fair and true view, for the purpose of designing audit procedures that are appropriate in the circumstances, but not for the purpose of providing an opinion on the effectiveness of the association's internal controls.

An audit also includes an assessment of the appropriateness of the accounting principles that have been used and of the reasonableness of any estimates made by the Board of Directors when preparing the annual report, as well as an evaluation of the overall presentation of information in the annual report. I believe that the evidence examined during my audit provides sufficient and appropriate grounds for my opinion as set out below.

Opinion

It is my opinion that the annual report has been prepared in accordance with the Swedish Annual Reports Act and that it provides, in all material respects, a true and fair view of the association's financial position as of 31 December 2011 and of its financial results for the year in accordance with the Swedish Annual Reports Act. The Director's Report is consistent with other parts of the annual report.

Report on other requirements according to laws and other regulations and statutes

In addition to my audit of the annual report I have also examined the administration by the Board of Directors of International Legal Assistance Consortium (ILAC) for the financial year 01/01/2011 – 31/12/2011.

Responsibility of the Board of Directors

It is the Board of Directors that is responsible for the administration.

Responsibility of the auditor

It is my responsibility to express, with reasonable certainty, an opinion on the administration based on my audit. I have carried out the audit in accordance with generally accepted auditing standards in Sweden.

As the basis for my opinion regarding the discharge from liability, and in addition to my audit of the annual report, I have examined significant decisions, actions taken and circumstances in the association in order to be able to assess whether any member of the Board has carried out any action or been guilty of any malpractice that could give rise to liability.

I believe that the evidence examined during my audit provides sufficient and appropriate grounds for my opinion as set out below.

Opinion

I recommend to the Annual General Meeting that the members of the Board of Directors be discharged from liability for the financial year.

Stockholm, April 2012

Christer Fröjd, Authorized Public Auditor

