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Following Robert Hutchins commentary in *The Higher Learning In America*, in modern times, the great dialogs of the era are participated in pretty much by reading. Too many people to all make the acquaintance of Socrates.

It is a privilege to receive and have the opportunity to read the compelling reports on human rights produced by Amnesty International. One of these is: "Indigenous Rights Are Human Rights: Four Cases of Rights Violations in the Americas."

This 36-page study chronicles misconduct alleged to have occurred in Brazil, Canada, Guatemala and the United States.

Because the Guatemala article fits well with the presentation about Guatemala which was given at the May 2003 meeting of the World Peace through Law Section, I will focus on this article.

Amnesty International is located at 600 Pennsylvania Avenue, SE, Washington, DC 20003, and the website is www.amnestyusa.org. Within the Amnesty organization there are numerous divisions, such that the Just Earth Program focuses on the convergence of human rights violations and "environmental degradation."

The Guatemala article establishes the following points:

1. There is evidence to support application of the term genocide to the overall situation of conflict in Guatemala.
2. Protests raised in Guatemala by Native Americans, when they lead to a judicial proceeding, are heard in a court which does not provide translation to the Native American languages.
3. Native Americans frequently cannot afford to hire a lawyer.
4. Those who sought relief in the courts have frequently received threats.

5. Indigenous persons in Guatemala are estimated to constitute as much as 60 percent of the population, and at least about 40 percent.
6. Post World War II abuses of human rights have roots in the 1960's Civil War in Guatemala. It is estimated that the death toll reached two hundred thousand. The Mayan population suffered the greatest quantum of severe abuse.
7. In conjunction with the United Nations, a Guatemalan commission investigated and reported the scope of abuse, atrocity, and genocide. The commission, named the Commission for Historical Clarification, commenced work in 1997.
8. In spite of the work of this commission, and associated commitments toward substantive amelioration on the part of the Guatemalan leadership, the Amnesty International Article reported a lack of meaningful progress.

Kim Bush on Guatemala

The May 27 meeting of the World Peace through Law Section of the Washington State Bar Association was privileged to hear the eye-witness account of Kim Bush, regarding his human-rights advocacy in Guatemala.

As mentioned in this newsletter, one of the watersheds of problematic political culture in Guatemala occurred during the civil war of the early 1960's.

In 1980-82, "Guatemala was ruled by dictatorships under Romero Lucas Garcia and Efraim Rios Montt," Mr. Bush said.

These regimes engaged in massacres with the magnitude of genocide.

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In the late 1990's, attempts were made to raise a new juridical platform in Guatemala, upon which the historical record could be investigated, reported and to some extent remedied. (Please see accompanying notes on the Amnesty International summary.)

In the early 2000's lawsuits were initiated complaining of the atrocities arising in the Garcia and Montt eras.

Mr. Bush's observation of these lawsuits occurred through his role as an "Accompanier" who travels with witnesses in the genocide trials.

Kim noted that the preliminary hearings for the trials began in June 2003, and at this time the witnesses experienced increased danger. The situation became "much more dangerous as trial approaches," he said.

A video portion of the presentation showed witnesses who testified to specific genocidal acts.

The trial is substantially lacking in factors which can generate confidence in the proceedings. Mr. Bush noted the following patterns and events:

1. "One of the most threatened groups are judges."
2. "Threats against witnesses and their lawyers continue. [Individuals] have been threatened and forced to abandon their cases."
3. "The current head of the army is the son of Rios Montt."
4. "For the term 2000-2004, Rios Montt has returned to power, and serves as President of the Congress."
5. "The trial is run by the Guatemalan government," in the context that the trial is also being brought against the government.
6. The trials, a specific application of law to the accused, follow the more general findings of the Truth Commission set up in 1997. (The Commission for Historical Clarification). The finding of the commission was that "Agents of the Guatemalan state committed genocide," Mr. Bush said.

Furthermore, Mr. Bush summarized the entire 1954 to 1990 period as one of Civil War, lasting 36 years. There occurred a series of attacks on members of the poorer classes in Guatemala, many of whose members are Mayan Native Americans. These attacks have consisted of cultural assaults (racism, prevention of the development of indigenous culture), private property assaults (stealing land), assaults in terms of distributive justice (denial of health care, denial of education, denial of housing).

It was also stated by a colleague of Mr. Bush, that should the trials fail, there remains the possibility to "bring the trial again in the Inter-American Court of Human Rights."

Mr. Bush handed out a brochure entitled "The Guatemala Accompaniment Project." Its publisher, The Network in Solidarity with the People of Guatemala, is located at 1830 Connecticut Avenue, D.C., 20009. The email is nisgua@igc.org.

Acknowledging the United Nations Association and the United Nations Foundation

This note of acknowledgment concerns and recognizes our most frequent colleague of recent years, the United Nations Association.

The UNA holds up a banner which is announcing and reannouncing fundamental principles (of international human rights, international law and intergovernmental cooperation) which are embodied in the documents which established the consolidated will of post-World War II leaders to make progress in the field of peace, by founding the UN.

UNA publications include:

1. A series of points for UN supporters to use in public debates about

the importance of the role of the United Nations in advancing world peace.

2. A summary of the achievements of the United Nations, which have included substantial gains in battles against disease, and for the environment
3. An invitation to the 2003 annual meeting of UNA where Anne Heindel spoke about the International Criminal Court, and opposition to the ICC which has emerged in the policy of the United States.

4. An analysis of the situation in Afghanistan concerning land mines. Here, 4 million land mines are situated in the ground in Afghanistan, as a result of the long Afghan-Soviet war (1979-1992). Detonation of the mines occurs every day, injuring or killing 4,000 persons each year.

Newsletter Contributions

The World Peace through Law Section of WSBA encourages contributions to the newsletter. Contact Paul Schlossman (253) 473-0537, or paaaaas@yahoo.com.

Bill Hanson on the Role of Limited Force in Peacekeeping

A Concern: Police Power for Peace/An Essay by Bill Hanson

Ed. note: The first portion of this essay by Bill Hanson was published in the Fall of 2002.

A part of the first section is republished, as these remarks serve to introduce the second half of the essay

Statement of the Concern: Friends and other pacifists have been nearly silent about the police for generations.

* * *

Quakers declare that we respect the value of every person and therefore believe in non-violence. That could inspire us to become experts in the minimum force required to run a civilization. Some Buddhists have developed defensive martial-arts skills like Aikido (ai chi tao, love-spirit-way). We have not.

* * *

1. **Sources of minimum violence.** "Thou shalt not kill" is intriguing: when it was written it meant not to murder, but to many it has meant not to kill. In the Jewish scriptures there is a development of ideology from violence to mercy. Look at Judges, and then Micah 6:8.

Many absolute pacifists ground their belief in the teaching of Jesus reported at MT 5:38 and LK 6:27, which appears to teach non-resistance. Compare Jesus' clear teaching against wealth, MT 6:19, 14:20, 19:23, LK 6:24. A few take this literally to mean a life of voluntary poverty. A majority ignore the absolute and take it as an admonishment against waste, ostentation, and excess. Some of Jesus' intense teachings may be explained by his belief that the world would end in his time, MT 24:24. Jesus was asked whether or not to pay taxes to Rome. At MT 22:15, MK 12:13, and LK 20:20 appear his reply. "Render unto Caesar the things that are Caesar's and unto God those things that are God's." This has been used for and against conscientious responses to war and taxation.

George Fox made a declaration to King Charles I, often quoted as basic to the Peace Testimony: "Quaker Faith and Practice," 2nd Ed. 1999, Britain Yearly Meeting 24:04: "All bloody principles and practices, we do utterly

deny, with all outward wars, and strife, and fightings with outward weapons, for any end, under any pretence...." He apparently was referring to wars, not opposing the force of the constabulary. Friends' journals refer to the police as "constables" and "officers."

Jesus may have made the statements to give emphasis to his teachings. There is no doubt that he was a charismatic leader who inspired others to strive for "the good" and to enter into a spiritual relationship to deity. Friend Henry Cadbury, a translator of the Revised Standard Version, said to a Seattle group: "Jesus was a man of remarkable ethical sensitivity."

2. **The power of loving outreach is limited.** Basic to the belief of most pacifists is the concept that the precious "that of God" in every person can be reached by love.

However, in many cases the wrongdoer cannot be "reached" by love. Examples: the person experiencing terror or rage, a person under the influence of drugs (some of which anesthetize the cortex), the mentally ill, the habituated felon/kiler, the sex offender (prognosis not good), the youthful gang member, the sociopath (without a conscience), the impulse killer. In these situations protective police force can stop violence and destruction.

3. **Where force is natural.** Defense of self and family and other citizens is spontaneous and ethical; passivity in the face of attack is inappropriate. Lack of effective response in the face of attack commonly results in increased damage and violence. Occasionally nonviolence works, and that is beautiful.

4. **Police force necessary.** Police are indispensable. They maintain order and protect us. Of course police vary greatly in non-

violent skills. From both inside and outside the police, pacifists could work at creating a minimum-force practicum. World peace is an intensely difficult goal. It needs not only skilled negotiators but also a world court with criminal jurisdiction supported by an international police. Such a world court is precisely what the current Administration has repudiated.

5. **Minimum force weapons.** There is continuing research on new weapons to supplant the killing force of guns. Pacifists could help in this effort by supporting it and perhaps by establishing research for new weapons and technics of catching and restraint.

6. **Friends written policy.** The book "Faith and Practice," of North Pacific Yearly Meeting, 1993, at page 37: "proper police activities ... seem necessary and helpful." (That is an unseemly statement!) That's it! That's it on a major institution involving force and yet crucial for local and world peace. It is a perfect illustration of pacifist hesitation, lack of clarity, and even blocking of attention to this subject.

The next edition of "Faith and Practice" can include the opportunity to create a clearer, more powerful statement.

7. **Statements since 9/11.** Following 9/11, statements calling for prosecution of the terrorists have been issued by many organizations, including Friends Committee on National Legislation, University Friends Meeting in Seattle, and NW Fellowship of Reconciliation; also in a talk by Mary Lord issued by FCNL and reprinted in Friends Journal. "Prosecution" invokes police power and the whole justice institution. The FCNL policy statement with the

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A Concern: Police Power for Peace from page 3

article shows the cramped nature of FCNL advocacy on UN peacekeeping and police as it tries to accommodate the widest variety of Quaker ideas and still do the job. We need open support of police force (not war force).

8. **Minimum force a brutally difficult goal.** Accepting the idea that indiscriminate war violence is wrong and that minimum-force police action is proper, we still have a great problem as to when to use force and the degree of force. This tension and development will be continuing.

9. **Urgent need to control mass destruction weapons.** The recent terrible events have obscured the fact that nuclear, chemical and biological

weapons are proliferating, out of control, and may be used. Only worldwide legal action can prevent proliferation and use; the treaties and UN resolutions are not working.

10. **Proposed action.** Friends believe that everyone has access to the Inner Light and is able to receive/discover new truth and understanding. Active support for police could include new programs of study and action in meetings, American Friends Service Committee, Friends Committee on National Legislation, and related groups.

Friends could encourage youth, especially conscientious objectors, to enter police service. We need selection

for effective protective use of force and increased communication skills to maximize connection and understanding and minimize the likelihood of authoritarianism with abusive force....

This concern might best be served by issuance of a booklet for study and new programs. This would be in the tradition of "Speak Truth to Power," American Friends Service Committee, 1955 and subsequent study/program booklets.

It could be a cooperative effort among Friends and related organizations.

INFORMATION FOR YOUR CLIENTS

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Legal Fees
Marriage
Parenting Act
Probate
Revocable Living Trust
Signing Documents
Trusts
Wills

Each topic is sold separately. Pamphlets are \$9 for 25, \$15 for 50, \$20 for 75, and \$25 for 100. Pricing for larger quantities is available on request.

To place your order or for more information, please contact the WSBA Service Center at 800-945-WSBA or 206-443-WSBA. Sales tax is applicable to all in-state orders.

Upcoming Section Meetings

Monday, November 24

Consult Jorge Madrazo-CuÈllar of the Mexican Consulate in Seattle, on "Mexico's Views on World Peace Through Law." 1 CLE credit to be applied for.

December 22

Section party (no CLE)

January 26, 2004

General Lowenberg on "Legal Aspects of the War on Terror." 1 CLE credit to be applied for. (Rescheduled from October)

Editorial Comment

By Paul Schlossman

As always, what happens internationally, and with reference to conflict (actual shooting wars, small wars, peace-keeping missions) costs plenty of money. It is driven, or permitted, by economics.

In his study of euro-Communism's demise, Zbigniew Brzezinski explained the economic facts through which the Soviet Union found that continuance of its various confrontationalisms had become insupportable; because of the pressure this created upon the domestic economy.

In a different vein, Professor Michael Mandelbaum has written that the global order is a complex scaffolding, wherein economic sufficiency and vitality tend toward cultivation of democracy, which tends toward peacefulness in the world.

Then which is it, does prosperity lead to the good stuff, democracy and peace; or, when it is a regime such as the Soviet one was, is it poverty that leads to reduction of confrontations?

I suppose that, like Vico and his followers (who believed that history is the best method to study philosophy), a lot of history must be analyzed in order to begin to see some answers.

Meanwhile, and unfortunately, history is occurring before our eyes in terms of changes which are being worked in the

fundamental and organic law of Japan. Here, economic constraints are generating internal pressures to change the way of doing foreign policy business, and to amend Article 9 of the Japanese Constitution. Article 9 proscribes war as a method of state action regarding dispute resolution by Japan. A turn to a defense-intensive doctrine can occur in Japan only under a change in the Constitution. This is reported in a New York Times article of July 22, 2003 ("Japan Faces Burden: Its Own Defense").

In essence, the article reports that Japanese policy-makers are becoming influenced by economic factors as they construct national foreign policy. The core point in the article is that the existing preference to give foreign aid, in order to create influence by handing out carrots, is being undermined by the cost of the carrots. This would be an evolution matching the Mandelbaum model.

The architecture of the international legal order stands upon these decisive factors of stability or transformation, within the internal legal orders of sovereign powers.

The peace (or war) footing of a nation has always involved organic and intrinsic structures of Constitution and laws. As Aristotle wrote of Sparta (in *The Politics*), the direction of that state was to train for war. The corollary, however, was to drain the public treasury, and to create stress upon the economy of the city-state. Aristotle also remarked that this

appreciation of Sparta's national essence, in terms of a military-based Constitution and national purpose, was a sufficient description.

Back to Japan, and back to the topic of economic constraints, an additional factor, leading to a Japanese reappraisal of the strict post-World War choice for foreign aid and against military action, has been the growing resistance within the United States to placing and funding American troops abroad. As David Calleo wrote in his 1982 study, *The Imperious Economy*, foreign policy of any nation is controlled, inter alia, by the material capacity of that nation.

While it costs plenty to supply incentives for peace, it costs plenty to withhold incentives because the incentives are usually going to be given to someone else, or because the disappearance of incentives yields the usual suspects: (ignorance, famine, illness, etc.).

Peace, or the absence thereof, seems to emerge from a complex legal and social geology percolating within national societies. To paraphrase and modify the popular phrase about freedom, which appeared in the culminating phase of the anti-Apartheid movement, "No easy walk to peace."

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Welcome to a New Year of World Peace Activity

The World Peace through Law Section of the Washington State Bar Association has started its monthly meetings again. These meetings create a Continuing Legal Education unit of credit (or more at a larger, longer meeting). The time and place is: fourth Monday of each month (September through November; January through May or June) at the offices of the WSBA. 12 noon.

The section's activities include: presenting CLE seminars; awarding a peace award each year (the Ralph J. Bunche award); publishing a newsletter; co-sponsoring public dialog events with other organizations committed to the search for peaceful resolution of international conflicts; maintenance of a website and list serve; website publications to include the newsletter, possibly a video of the section meetings, and announcements of various activities of the section.

The section invites and encourages: membership, newsletter contributions, participation as a speaker, recommendations of others to speak, attendance at the monthly meetings, and vigorous discussion at the meetings.

Anne Heindel on the International Criminal Court

The commencement of the 2003-2004 season was notable on at least three grounds:

1. The excellent and extraordinarily clear presentation by Anne Heindel, who is Deputy Convenor of the American Non-Governmental Organizations Coalition for the International Criminal Court (The AMICC).
2. The sense which appears to pervade the international community that it is this Court which constitutes a, or perhaps the, watershed in international law, human rights, and the work of the United Nations. (The Court is regarded as a juridically separate entity from the United Nations.)
3. This presentation marks a transition from a long tradition of section meetings at the Bank of California Building, 900 4th Avenue, to a new venue: the offices of WSBA. The new proximity to WSBA resources will allow videotaping of the meetings.

The dialog about the International Criminal Court was introduced to the section in June 2002 and January 2003, through a series of presenters. Ms. Heindel's presentation greatly added to scholarship in this area.

The Court's essence is bound up with its history.

- A. The Courts established prior to the ICC dealt with the core issues of prosecuting "Genocide, War Crimes and Crimes against Humanity." (Source: Brochure of AMICC.) The bedrock precedent for this area of international law consists of the Nuremberg and Tokyo War Crimes Tribunals, and the consensus in the founding phase of the United Nations that such tribunals were an inherently necessary part of the work of the UN. (Source: World Peace CLE's of June 2002 and January 2003).
- B. In the more recent history of Ad Hoc War Crimes Tribunals, the fact of the establishment and actual workings of such Courts (Bosnia, Rwanda) created a new

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For further information contact Sharlene Steele, WSBA Access to Justice Liaison, at 206-727-8262 or sharlene@wsba.org.

climate favorable to the formulation of the Rome Statute, which in turn established the ICC. This history culminated in the ratification of the ICC statute in the Spring of 2002.

- C. A crucial phase emerged in the international politics surrounding the ICC, when the United States refused ratification, and also reversed the signing of the ICC statute, which occurred at the end of the Clinton administration. (Source: Anne Heindel's presentation).
- D. The core of the controversy contains, inter alia, these questions:

Will the Court, in theory or practice or both, signify a window of vulnerability to a nation, such as the United States?

Will the Court, in theory or practice, become a mechanism, whereby an external international body may undermine the political will of security forces (of a particular national government) by means of generating a threat that the security forces will be unfairly prosecuted?

And, more particularly, pertinent to the policy deliberations of the United States, will the Court constitute a risk that American soldiers may be accused by a non-American body, and in the absence of safeguards

identical to those established in the United States Constitution. (Source: American Bar Association handout provided by Anne Heindel; and remarks of Terry Savery and others, at the September 15 meeting of the section).

In particular the AMICC brochure, provided at Sept. 15, has an important subsection, entitled "What safeguards are there for political abuse in the Court?"

The AMICC brochure states (and the question was also addressed by Ms. Heindel) that the Court's jurisdiction is "limited." The limitation is constructed such that, before a prosecution by the ICC may occur, it must be established that the evidence is pointing to atrocities of severe magnitude, such as those which have been associated with the various tragedies of war and totalitarianism in the twentieth century.

On the matter of safeguards, the brochure also states (and this point was also addressed by Anne Heindel) that when a nation is ready to bring forth a prosecution in a particular matter, that nation shall have full powers to further the prosecution. This means that (in the scenario which has been raised, by leadership in the United States), should an American soldier or other state actor be subjected to an accusation, the United States shall have full power to declare that it has "taken over the investigation."

In addition to providing hyper-clear written materials, Ms. Heindel also made the following remarks:

Regarding the Rome Statute which proposed the ICC, the Secretary General of the United Nations, Kofi Annan, has stated that the ICC is a "giant step forward in [the process] to [establish] international human rights and the universal rule of law."

Ms. Heindel focused on the doctrine, for the ICC, that the Court's jurisdiction is allowed to commence only when evidence arises of "planned, systematic, large scale crimes [which are] atrocities and war crimes." The meaning of the "high threshold [is that this] shows the doctrine is to try only individuals whose actions are beyond the pale."

Furthermore, under the fundamental jurisdictional premise of the ICC, "lower level offenders are to be prosecuted by National Courts."

Nevertheless, the need for the Court has arisen because "Often domestic Courts are unable or unwilling to try these kinds of crimes," Anne Heindel said.

In addition, ad hoc war crimes tribunals may in particular instances fail to be established. Ms Heindel noted that "The political will is not [present] to set up ad hoc tribunals in every case they are needed."

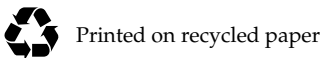
Anne Heindel's remarks were followed by a vigorous debate.

Announcements

Another business matter facing the section is whether to **transition to an electronic newsletter**. These are some factors in considering this issue: Traditionally, a paper newsletter is the mode of policy journals, and of this and other WSBA sections. On the other hand, reducing expenses (for mailings, and the paper part of desktop publishing) would free up part of the annual budget, allowing an honorarium to be offered to some speakers. And, many sections are now converting over to an electronic newsletter.

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Assistance is only a phone call or an e-mail away.

Electronics arrive at WPTL

An e-mail listserve for discussing section issues has been set up. All section members are invited; a lively discussion is already underway! Please contact Section Chair Randy E. Winn at webmaster@rewinn.com or 206-230-8057.



2003-2004 Membership

The officers of the World Peace Through Law Section urge you to become an active member of this important section. All members of the Washington State Bar are eligible. Join today.

- Please enroll me as an active member.
My \$20 annual dues are enclosed.
- I am not a member of the Washington State Bar, but I want to receive your newsletter. My \$20 is enclosed.

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