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CHINA TURNS TO THE LAW:

AN OVERALL SKETCH OF RECENT DEVELOPMENTS

Continuing efforts between the President of the Supreme People's Court of China, Ren Jianxin, and Center World President, Charles S. Rhyne, in carrying out the planning for the Fourteenth Biennial

Conference on the Law of the World, in Beijing, August 20-25, 1989 have confirmed the

sense of excitement and anticipation generated by China's efforts to underscore its firm new commitment to peace and prosperity through law. In its attempts to promote the creation of a new economic order, China and its courts are evolving under the guiding principle of "grasping development on the one hand and the building of the legal system on the other." Indeed, the historical significance of such efforts in the internal and external affairs of China shall make its mark for some time to come.

Chinese legal leaders have stressed repeatedly in their ongoing discussions with Center officials that building a legitimate system of rule under law is a vital factor which contributes to the further implementation of China's policies of invigorating the

domestic economy and of opening up to the outside world in an overall effort to make China a powerful, modernized socialist country that is culturally and ideologically advanced and highly democratic.

Accordingly, new provisionary laws are increasingly being

enacted and are ultimately becoming formalized over time after periods of experimentation, expanded public debate and analysis, and any necessary or appropriate revision,

particularly in the economic sphere. Stress the Chinese officials, it is this period of consensus building and experience under the proposed laws that establishes the legitimacy and "unchallengeable authority" of the reformed legal structure and processes which are ultimately arrived at in the final, codified law. Moreover, they note that such a process is thus more clearly geared to institutionalizing a continuing momentum toward necessary change and preventing retreat from past gains under reform rather than to perpetuating any particular status quo.

Chinese officials trace this surge in the development of the law and a new legal infrastructure to the watershed decision of the Third Plenary Session of the Eleventh Communist Party Central Committee Meeting in December of 1978 which reversed an ideological, Stalinist concentration on intensifying class struggle as the "key link" to building true socialism with a concentration on economic development

instead; concern for the former lead to the harsh reactions of

the Cultural Revolution of 1966-1976 wherein differences of opinion were regarded as intolerable, counter-revolutionary actions, while concern for the latter now understands

the productive and strengthening capacity of individual

diversity and the need for a legal system to protect and channel such. Thus, the re-emergence of a Chinese legal system is clearly in keeping with the goals of China to develop itself through the re-energized strength and

participation of individual

laborers, entrepreneurs, and intellectuals who had otherwise been justifiably stagnant and hesitant in the face of the very real risk of arbitrary action against them in a system where they were previously unprotected by any law or legal

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system.

In turn, to build this confidence in its new legal system, China has opened up the debate on such matters to an unprecedented degree in the mass media in the belief that this added visibility will help to strengthen these and other "mobilizing social forces" in supervising and promoting the progress to further reform. And, indeed, both in choosing to host the Center's Conference and in statements made repeatedly to Center officials, Chinese legal leaders have stressed the point that they wish to get an important message out to their own people as well as to the world; namely, that their commitment to reform through law is real and irreversible as it is based firmly upon the current, realistic understanding that a new economic order for China is impossible without the support and protection of an effective legal system of reasonable

laws, impartial judiciaries,

and other, incorruptible legal institutions. As has been stated frequently by President

Ren the basic guarantee for bringing about a sound economic order is that the interests of the state, enterprises,

individuals, and differing social groups be given the necessary legal protection so as to prevent encroachment upon each other's legitimate

interests.

Moreover, the encouraging aspect is that there is general

agreement among Chinese legal leaders that the confidence of the common people in the rule of law appears to be taking hold, particularly in matters such as criminal law, family law, personal property, and housing law -- matters with older, more established, or definitive, codifications or principles than some of the more recent economic laws which have been published on a provisional basis or otherwise recently formalized. To

support such a conclusion, Chinese Officials point to statistics reflecting a large increase in civil actions and domestic contract disputes now being brought to court for resolution in a society that has otherwise relied on a long-standing, and, in fact, very successful system of

localized, informal mediation which brings to bear the goals, concerns, and pressures of the traditionally important community to reach sufficient,

balanced, and generally

acceptable solutions to a dispute, even if such solutions are not legally or otherwise fully satisfying to a particular party in interest. Nevertheless, however, it should be noted that while

resolution of such civil matters may now start in the Courts, judges can, and, in fact, still do attempt to

mediate solutions in various cases instead of proceeding to establish liability or, in turn, pronounce a specific, fully compensatory remedy, though even this practice is decreasing, as is mediation in

general, and no one is denied a court trial should mediation fail at the outset or be declined.

In addition, contract disputes involving foreign parties are now under the direct jurisdiction of the Chinese Courts in a further effort by China to build confidence in a legitimate legal system and the protection it would provide to foreigners as well. As noted, in its efforts to spur economic development to ultimately become a more

powerful, modernized socialist society, China has also pursued the tandem policy of opening itself up to the world. Thus, there is a strong emphasis in the legal community to not only familiarize itself with the international legal norms so as to facilitate more competent and peaceful interaction and negotiation with the needed foreign and technological investment interests, but to

also assure the confidence of such investors by showing them that there is now an operative, effective, and impartial legal and judicial system in place to fairly protect and respect their continued investment, interest, and involvement. Towards that end, note that much media attention was very recently given to a Court's resolution of a patent infringement dispute--the first one a Chinese Court has heard since the Country's Patent Law went into effect three years ago; previously, no direct recourse to the courts was permitted and disputes had to be mediated or arbitrated by an administrative authority before appeals could be heard by a judge.

In turn, such an emphasis has also led to an increased effort in comparative study to draw on the experiences of other nations in drafting and redrafting provisional laws to the ultimate point where respective interests are most well balanced. Such was the long process in reaching the finalized version of China's precedential new Bankruptcy Law and was also reflective of the process in the very recent passing of China's finalized Enterprise Law which legal leaders see as a key breakthrough to encourage more bold, independent and successful participation in domestic and international commerce because of that law's very definiteness and the commitment of China to now uphold such through a legitimate legal system. Thus, Chinese officials repeatedly stress the importance of the Beijing Conference to China as a means to not only allow them to continue this comparative process of learning directly from other, distinguished and renowned participants, but also to demonstrate to the world in a singularly symbolic and historically significant way the firm new commitment of China to rule through the law and all that this implies about the future of China and the

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prospects of world peace  
itself.

Of course, no analysis of China's turn to the law would be appropriate without a reflection upon the role of the participants in this process of building up the law. In particular, it is noted that there are now 35,000 lawyers practicing in various forms of legal service in China ranging from "independent" but state approved law firms often staffed by salaried, part time attorney /advisers counted in that 35,000 who, for small fees set by the government, offer counsel, draft documents, and represent clients in court or, less frequently, administrative matters, to bureaucratic

employees, primarily under the Ministry of Justice, who have and do labor to compile, analyze, screen, and otherwise systematize China's varied laws, enactments and

regulations into a legal scheme that is both internally and hierarchically consistent with the Constitution, basic law, or current policy in a further effort to build confidence in the viability and utility of the Chinese legal system.

In addition, some of the major cities have law firms specializing in foreign trade and investment to encouragingly guide interested foreign investors through the previously unfamiliar terrain of China's legal investment structure as well as to counsel Chinese enterprises on aspects of doing business with foreigners, though the number of attorneys involved in such work is actually quite small. On the



other hand, more and more attorneys are becoming involved in in-house counsel type work among the burgeoning large and medium sized enterprises developing in China's new economic opportunity zones while others are moving into law practices involving

assistance to municipalities and the state administrative authorities which are beginning

to show a much greater concern for proceeding in a manner that is visibly respectful of the need and desire for legal consistency.

Moreover, a most encouraging development for the role of the lawyer in China occurred in July of 1986 with the founding of the first All-China Lawyer's Association in the People's Republic's history in connection with the committed campaign of the Ministry of Justice and other top political officials to promote the importance of lawyers and a legal system in China's modernization drive. The Association, under the guidance of the Ministry of Justice, has among its enumerated purposes the tasks to educate members in political ideology, professional legal ethics, and state policies; to sponsor and conduct professional research activities and conferences among attorneys and to promote the exchange of ideas generated thereby through the publication of journals and other newsletters; to safeguard its members legitimate rights and interests; to provide its membership with free access to its collected resources or to otherwise provide members with professional information and services; to engage in welfare undertakings for the benefit of

the membership; and, to liaise with the legal community so that reports of suggestions regarding development of the legal community can be relayed to the appropriate authorities.

In fact, in recent discussions with Center officials, Association leaders have indicated that they have just conducted a number of polls among the membership on various legal issues and concerns and are about to publish the results thereof in the premiere edition of their journal due out shortly. Association

leaders are very anxious to press on with their tasks and are encouraged by the strong, official support that they have received in their efforts and

Pres. Rhyne and Pres. Ren during recent discussions.

ideas to proceed with the same.

Nevertheless, despite these important developments among the newly organized bar of China, some difficulties will remain, given the enormity of the developments to take place. For instance, Association leaders concede that there simply is a shortage of qualified professionals, particularly in the less urban areas, to proceed along the desired pace of development of the Chinese legal system. In turn, this can create a number of other difficulties in terms of appropriate work burdens and ethical problems involving conflicts of interest among lawyers who might perhaps stretch themselves too thin among the many clients now seeking access to the legal system.

Association leaders point

out, however, that such difficulties will be minimized as their push for more legal graduates and greater continuing legal education among current practitioners is

carried forward. Moreover, they stress also that lawyers in China are still to primarily serve the interest of the state by properly advising the individual clients as to their correct options under the state's law, thereby ensuring that conflicts among clients arise only to the extent that  
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they choose not to follow their lawyer's advice on the correct application of the state's law and policy which is the lawyer's obliged focus. How this effects the increasing desire for independent counsel in an increasingly

decentralized China is yet to be seen however.

As noted above, the Chinese court system itself is handling an ever increasing load of cases in response to the growing confidence of the populace in the fairness and reliability of the Chinese court system. Officials of the Supreme People's Court, which oversees the operation of the lower courts, have advised the Center that over 1,200,000 civil cases were heard in the Courts last year along with

367.000 economics cases which are handled by separate court divisions at all levels, and

889.000 criminal cases handled by separate court divisions at all levels as well. Disposition of the civil and economics cases averaged three months, thanks, in part, to resort to mediation in some instances, and criminal dispositions moved even more quickly in accordance with the provisions of China's Code of Criminal Law and Procedure.

Further, as is typical in countries with a civil law tradition, Chinese judges take a very active role in questioning witnesses and ascertaining the facts in each particular case; there is no tradition of stare decisis. In turn then, they operate on the

principle of "relying on the facts and taking the law as the criterion," or, in another popular phrase, "seeking truth from facts and handling cases in accordance with the law."

All cases are tried in public, except for those that involve individual privacy and minors, and it is indeed a desire of Chinese judges to use the opportunity of the public

forum in a particular case as a teaching forum to promote a general education about the law to the populace and the defendant in particular. In fact, in criminal matters, the courts follow the principal of "combining punishment with leniency and reform." This involves imposing flexible penalties in accordance with aggravating or mitigating circumstances, the nature of the crime, and the degree of harm done to society. Thus, the additional emphasis is on using the legal system as a fair, public teaching tool to punish, or more hopefully, reform, a particular, wayward person rather than to punish the mere commitment of a particular act. And, in turn, this concern for reform is carried over to the period of the actual sentence where sentences will be reduced for meritorious service and where parole will be granted to those demonstrating true repentance and no further threat to society. Further, political, cultural, and technical

education is highly emphasized to help inmates change their misguided thinking about their role in society through labor and mastering skills with a view to creating the conditions for their employment and normal

life after they have served their sentence.

In all cases, the defendant is entitled to the right to present a defence which he may present himself or for which he may delegate responsibility to a lawyer. Moreover, he or she may also be defended by a citizen recommended by a people's organization or by a work unit he or she belongs to in addition to a citizen approved by the court or a near relative or guardian. Further, in criminal matters, the court may also, if it deems necessary, appoint a counsel to defend him. Although no oath is taken under the Chinese system, all witnesses are instructed that they are obliged to testify and tell the

truth and that they will receive appropriate penalties for any deliberate misrepresentations .

Cases of first instance are tried and decided by an odd-numbered collegial panel of at least three judges only or of judges and two or more lay accessors. Simpler civil, economic, or minor criminal matters are often handled by a judge on his own who is therefore more apt to employ mediation techniques in

reaching a solution. In addition, judicial committees are established at all court levels to analyze judicial experiences and discuss and decide on major and difficult cases and other matters relating to judicial work. These committees consist of the President of the Court at a particular level, Chief Judges in that Court's separate divisions, other experienced

judges, and the Chief

Prosecutor of the People's  
Procurate at the corresponding  
level who is not a voting  
member.

Overall, the court system  
in China is composed of the  
Supreme People's Court, the  
local people's courts at  
different levels, and the  
people's courts of special  
jurisdiction for the military,  
maritime activity, and railway  
transport. In turn, the local  
people's courts are composed of  
the primary people's courts,  
the intermediate people's  
courts, and the higher people's  
courts.

By the end of 1987, there  
were 3,057 primary people's  
courts in China, including the  
courts of counties, autonomous  
counties, cities (at the county  
level) and municipal districts.  
In addition to hearing cases of  
first instance within their  
jurisdiction, the courts also  
direct the work of people's  
mediation committees which are  
established at a grass-roots  
level in the countryside and  
cities. In turn, because it is

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felt that these grass-root committees are in a good position to be familiar with local disputes, these committees are entrusted with the assignment of attempting to solve disputes or to otherwise keep them from becoming acute through persuasion and

education in accordance with the principles of voluntariness and lawfulness.

Moreover, a primary

people's court may set up a certain number of people's tribunals in the area under its jurisdiction whose judgments and orders would carry the same authority as that of the overseeing primary people's court. In fact, by the end of 1987, there were 15,136 such tribunals throughout China.

Above the primary people's courts sits the intermediate people's courts, of which there are 363 in China, and above the intermediate people's courts sits the higher people's courts, of which there were 30 at the end of 1987. These courts review the decisions and operations of the courts below and also handle cases of first instance that are assigned by law to their jurisdiction.

The highest judicial organ of the state in China is the Supreme People's Court sitting in Beijing. In addition to hearing cases on appeal from the lower courts, the Supreme People's court hears major criminal cases of national importance, those civil cases and cases involving economic disputes and administrative matters that are of nationwide consequences, and cases of



first instance that the Court itself deems it should try. It is also authorized to interpret questions concerning specific applications of laws in judicial proceedings.

In addition, note that the President of the Supreme People's Court is elected by the National People's Congress, the highest organ of state

power. The Courts' vice-presidents, members of its judicial committee, chief and associate chief judges of various divisions, and judges are appointed or removed by the Standing Committee of the National People's Congress. The Court is responsible for and reports its work to the National People's Congress and its Standing Committee. The same is true for the lower

courts in terms of the people's

Congress and standing committees at their corresponding

level, though the primary people's courts at various levels may have self appointed assistant judges where

necessary.

In any event, in the hierarchy of the Chinese court system, it should also be noted that the principle is followed

whereby the second instance is always the last instance. Accordingly, appeals may be filed by a party, their representative, or even a near relative, to the court of the next higher level, but no further. Those appeals are, in

turn, tried by a collegial panel of three or five judges,

with decision by majority rule, though opinions of the minority are entered in to the minutes. Court Officials have told the Center that there is approximately a 71 percent affirmance rate on the criminal side and an approximate 85 percent affirmance rate on the civil side.

In addition to the Court system, another important institution in the emerging Chinese legal system is the Ministry of Justice. Under the supervision of the State Council, the Ministry of Justice, which was reestablished in 1979 after a 20-year hiatus, has the responsibility of unified management of judicial administrative work. Its duties are to oversee court organization, personnel, training of cadres, and funding. The Ministry is also in charge of China's five political-legal

institutes, and the Minister of Justice, Cai Cheng, acts

concurrently as head of the largest of these, the China

Political-Legal University. The Ministry of Justice also

supervises lawyers and notaries organizations. In addition, it compiles collections of laws and decrees, conducts legal

research in cooperation with scholarly institutions, and coordinates legal publication activities, including the

publication of books and

periodicals.

Finally, not to be overlooked in this very brief survey of China's emerging

legal institutions is the role to be played by the university law departments under the

jurisdiction of the State

Education Commission and the Political-Legal Institutes

noted above. Center officials have also recently met with some faculty members who have sketched the basic concerns and efforts of these Institutions as well. For instance, at the

China University of Political Science and Law, the premier institution for legal instruction in China, over 250 faculty members, associate professors and other lecturers strive to impart basic legal knowledge to over 1100 full time law students through a lecture system which is seen as more efficient, and, therefore, necessary to meet the pressing demand for new attorneys. On the other hand, however, there is an emphasis to get students more involved in clinical type programs to give them practical knowledge in certain legal matters after completing a compulsory first and second year of study which includes Constitutional Law, Legal History, Civil Law, Criminology, Forensics, and Private and Public International Law. The most popular electives on campus, however, are classes in Maritime Law and Family Law.

These legal educators have also noted that the study of

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## PRELIMINARY PANELIST ROSTER

What follows is a list of individuals, in alphabetical order, already invited to serve as panelist for the topics to be discussed at the Beijing Conference. As you will note, some panels list numerous invitees from out of which at least half are normally expected to accept. Other panels list fewer invitees, and, accordingly, appropriate expert members are encouraged to come forward to volunteer to fill these and perhaps other spots before another round of invitations is subsequently sent out. Keep in mind, however, that no more than six persons will be seated on a panel in addition to a host country panelist to be designated later. Further, as it is highly encouraged that all panelists contribute a paper, great weight will be given to seating additional panelists who clearly intend to do so. (Format rules for such papers are available from the Center upon inquiry.) Chairmen of the respective Panels will be selected at a later time from amongst those accepting panel invitations in accordance with selection criteria discussed in the previous World Jurist.

### PEACE AND DEVELOPMENT THROUGH LAW--

Dean B.K. Agnihotri, South-  
eastern Univ. Law School, USA  
James V. Feinerman, Georgetown  
Univ. Law School, USA  
K. L. Jhaveri, Tanzania  
Dennis Kim, Esq., USA  
Jong-Wha Kim, Rep. of Korea  
Dra. Silvia Marquez, Venezuela  
Dr. Carlos Martinez Pavez,  
Univ. of Concepcion, Chile

Dr. Meir Rosenne, Former Legal  
Advisor to the Israeli Foreign  
Ministry and Ambassador to  
France and the USA  
Ibrahim F.I. Shihata, The

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International Bank for Re-  
construction and Development

## FOREIGN TRADE AND INVESTMENTS--

Christopher Bond, Field, Fisher  
& Martineau, U.K.

Dr. Luiz O. Baptista, Brazil  
Richard N. Friedman, Esq. USA  
Meyer Gabay, former Director-  
General, Ministry of Justice,  
Israel

John J. Graham, Esq., USA  
Sigwart Hubner, Fed. Rep. of  
Germany  
John I. Huhs, Esq., USA  
Heung-Han Kim, Rep. of Korea  
Tae-Hee Lee, Rep. of Korea  
Prof. Ndiva Kofele-Kale,  
Cameroon  
William B. Poff, Esq., USA  
Richard W. Pound, Stikeman,  
Elliot, Tamaki, Marcier &

Robb, Canada  
Anek Srisanit, Thailand  
Kyozo Yuasa, Japan

## THE INTERNATIONAL ECONOMIC ORDER-- "The Debt Crisis"

Dott. Romeo Dalla Chiesa,  
President, Bank of Rome  
Prof. Dr. Dr. Thomas Ebenroth,  
Univ. of Konstanz, Fed. Rep.  
of Germany  
John Edwards, Linklaters &  
Paines, U.K.

Mary Belle Feltenstein, Asst.  
General Counsel, Bank of  
Boston, USA  
Ulysses Guimaraes, President of  
the Constituent Assembly,  
Brazil

Prof. Cynthia Lichtenstein,  
Boston College Law School, USA  
Jay Newman, Esq., Shearson  
Lehman, Hutton, Inc., USA  
Fernando A. Vasquez Pando,  
Ibero-Americana Univ., Mexico  
Ernest T. Patrikis, Exec. Vice  
President, Fed. Reserve Bank  
of New York, USA  
Leonard H. W. von Sandick,  
Loeff & van der Ploeg, The  
Netherlands

LAW AND TECHNOLOGY-- "Law,  
Ethics, Biotechnology, and

Genetic Engineering"

Prof. Dr. F.K. Beier, Max  
Planck Institute, Fed. Rep. of  
Germany

Waddell A. Biggart II, Esq.,  
Sughrue, Mion, Zinn, MacPeak  
& Seas, USA  
James H. Davis, Gen-Gounsel,

Crop Genetics International,  
USA

Martin Felsky, McCarthy &  
McCarthy, Canada  
Jorge A. Goldstein, Esq., USA  
Knut Hammarskjold, Canada  
Dr. Sadi Ubaldo Rife,

Secretariat of Science and  
Technology, Argentina  
Stephen Skelly, Canada  
Carlos Sarmiento Sosa,

Venezuela  
Dr. J. Straus, Max Planck  
Institute, Fed. Rep. of  
Germany

Walter Williams, Jr., College  
of William and Mary, USA

INTELLECTUAL PROPERTY  
PROTECTION--

Carlos M. Correa, Ibero-  
Americana Univ., Mexico

Donald K. Duvall, Kenyon &  
Kenyon, USA  
James FitzSimons, Editor,  
Compulaw Digest, Australia  
W.T. Fryer, III, Univ. of  
Baltimore Law School, USA

E. Hausser, President of the  
Patent Office, Munich, Fed.  
Rep. of Germany  
Lynette Owen, Chairman, Over-  
seas Copyright Committee of  
the Publishers Association,  
U.K.

Mari F.J. Pijnenborg, Chairman,  
STM Copyright Committee,

The Netherlands  
J.C. Renoue, Ass't Director of  
Trade Regulation, Customs and  
Excise, France  
Louis Schapiro, AT&T, USA  
Eric H. Smith, Esq., USA  
R.M. Surachman, Indonesia  
Christiane Tchang-Benoit,  
France

#### INTERNATIONAL REAL ESTATE LAW-- "Commercial Development in the Third World"

Toye C. Barnard, Liberia  
Dominique Favre, President,  
Admin. Ct. of Geneva,  
Switzerland  
Raul Goco, The Philippines  
Emmanuel Halper, Esq., USA  
Taizoh Hasegowa, Japan  
Albert Ley, Cote D'Ivoire  
Helen Ryan, Esq., USA  
Anthony H.Y. Shin, Hong Kong  
Avraham Tory, Israel

#### INTERNATIONAL ARBITRATION--

The Hon. Prince Bola A.  
Ajibola, Attorney-General and  
Minister of Justice, Nigeria  
Aaron Broches, Esq., USA  
Duk-Bin Choi, Rep. of Korea  
William Lawrence Craig, Coudert  
Freres, France  
Bernardo M. Cremades, Spain  
Dott. Prof. Giovanni Battista

Goletti, Italy  
Ronald M. Greenberg, Esq.,

Richards, Watson, Dreyfuss &  
Gershon, USA  
Edward Henry, Esq., USA  
Michael F. Hoellering, Gen-

Counsel, American Arbitration  
Association  
The Rt. Hon. Lord Justice Kerr,  
London Court of International  
Arbitration, U.K.

Dr. Palitha Kohona, Australia  
The Hon. Voitto Saario, Finland  
D.C. Singhania, India

#### FAMILY LAW--

Tore-Jarl Christensen, State  
Secretary of the Ministry of  
Justice and Police, Norway  
Fernando Della Rocca, Italy  
Dr. Laercio Pellegrino, Brazil  
Hon. Judge Eileen R. Petersen,  
The Virgin Islands  
Dr. Walter Rolland, Fed. Rep.

of Germany  
Prof. Dr. Pedro Silva-Ruiz,  
Puerto Rico  
Mme Yvonne Tolman-GuiHard,  
France  
The Hon. Dan Winn, USA

#### HEALTH LAW-- "The Law and AIDS"

Dr. Peter Gauweiler, Fed.

Rep. of Germany  
Dr. Norbert Gilmore, National  
Advisory Committee on AIDS,  
Canada

Larry O. Gostin, Executive  
Director, American Society  
of Law & Medicine, USA  
Adrien K. Wing, Univ. of Iowa  
College of Law, USA  
George Lyon, Office of Civil  
Rights, Dept of Health and  
Human Services, USA



Margaret Sommerville, McGill  
University, Canada

## ENERGY LAW--

Dr. Saad Allam, Qatar  
Prof. Dr. M. Bothe, Fed. Rep.

of Germany  
Dra. Luz Corretjer, Spain  
Dr. Franklin Hoet-Linares,  
Venezuela  
Sung-Soo Kim, Rep. of Korea  
Sandy F. Kraemer Esq., USA

Leslie E. LoBaugh, Jr.,  
General Counsel, Pacific  
Lighting Corp, USA  
Reinhart Rainer, Legal  
Counsel, Atomic Energy  
Commission, Austria  
The Hon. Justice Niki Tobi,  
Nigeria

## INTERNATIONAL ENVIRONMENTAL LAW

Ved Nanda, Univ. of Denver Law  
School, USA  
Sang-Kyu Rhi, Rep. of Korea  
Dr. P.L. Shriwastava, India  
Paul Szasz, Dept. of Legal  
Counsel, United Nations  
Dra. Silvia Maureen Williams,  
Univ. of Buenos Aires,  
Argentina

## TERRORISM--

Eamonn M. Barnes, Ireland  
William W. Falsgraf, USA  
Ki-Choon Kim, Rep. of Korea  
Prof. Jose Perez Montero, Spain  
Prof. M.V.A. Naidu, India  
Prof. Dr. Kurt Rebmann,

Attorney General, Fed. Rep. of  
Germany  
Prof. Amos Shapira, Israel  
Dong-Min Yoon, Rep. of Korea  
Yu Jingfeng, Dept. of Foreign  
Affairs, Ministry of Justice,  
People's Rep. of China

## MEDIA/COMMUNICATIONS --

David Flint, Univ. of

Technology, Australia  
Stanley Godofsky, Rogers &  
Wells, USA

Leonard Marks, General Counsel,  
World Press Freedom Committee,  
USA

Rajendra Nayak, India  
Ari Rath, Editor, Jerusalem  
Post, Israel  
Prof. Dr. Karl Egbert Wenzel,  
Fed. Rep. of Germany

HUMAN RIGHTS -

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Conf. site: The Great Hall of the People at Tiananmen Square.

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Kyong-Whan Ahn, Rep. of Korea  
Eric Barendt, Oxford, UK  
Dr. Subatra Roy Chowdhury,  
India

The Hon. Jules Deschenes,  
Quebec, Canada  
Jose G. Garcia de Souza, Brazil  
Jack Donnelly, N. Carolina  
Univ., USA  
Tamizul Haque, Bangladesh  
Farrokl Jhabvala, Florida Int'l  
Univ., USA  
Alexandre Charles Kiss,

Sec-General, Int'l Institute  
of Human Rights, Fed. Rep. of  
Germany

Alan J. Konigsberg, Esq., USA  
Dr. Leslie MacFarlane, St.

John'8 College, UK  
Itzak Nener, Israel  
Karl J. Partsch, Univ. of Bonn,  
Fed. Rep. Germany  
The Hon. Rolv. E. Ryssdal,  
Pres., European Court of Human  
Rights, Norway

#### ARMS CONTROL--

Robert Drinan, Georgetown  
Univ., USA  
Ralph Earle II, Baker &  
Daniels, USA  
Roger Fisher, Harvard Univ.,  
USA

Thomas Graham, Jr., Gen.  
Counsel, Arms Control and  
Disarmament Agency, USA  
P. K. Menon, Univ. of the  
West Indies, Barbados  
Anthony P. Sager, Ex. Director,  
Lawyers Alliance for Nuclear  
Arms Control, USA  
Leonard Salter, USA  
The Hon. Abraham Sofaer, Legal  
Adviser, Dept. of State, USA  
Vadim K. Sobakin, Moscow State  
Institute of International  
Relations, USSR

Alexander Sukharev, Pres.

Assoc, of Soviet Lawyers, USSR

C.G. Weeramantry, Monash Univ.,  
Australia

## LEGAL EDUCATION--

Jadesola O. Akande, Institute  
of Advanced Legal Study,  
Nigeria  
Ray Bailey, Esq., USA  
Lawrence W. Beer, Lafayette  
College, USA

Marut Bunnag, Thailand  
Ricardo Izurieta del Castillo,  
Ecuador  
Justice Masami Ito, Japan  
Azmi Khalid, Univ. of Malaysia  
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Christopher Osakwe, Japan  
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James Paul, Newark Univ., USA  
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The Hon. Muhammad Haleem, Chief  
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The Hon. Sansern Kraichitti,  
Chief Justice (ret.), Thailand  
Prof. Dr. Walter Odersky, Fed.

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The World Peace Through Law Center,  
in accordance with its Constitution and  
By-Laws, has as its major purpose to  
persuade the Nations of the World to  
accept more and more treaties and con-  
ventions. so as to expand the network of  
transnational law and legal institutions,  
thus fostering the development of a World  
of Peace with Justice in all areas of  
international contact of Peoples and  
Nations.

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## DEMONSTRATION TRIAL TOPIC SET

What follows is the fact pattern selected for resolution at the Beijing Conference Demonstration Trial. Invitations for nine jurists and four representative attorneys will be mailed out shortly, but note that previous recent participants in these roles will not be reinvited at the outset in order to open up access to this event for many other Chief Justices who have expressed an interest:

Republic Alpha in East Asia/Africa became a sovereign state after more than 60 years of colonial rule and administration by the traditional European empire of Beta. Its independence was achieved after a liberation movement had fought a civil war in the post-World-War-II era.

During colonial times the administration allowed scientists, archeologist and explorers to visit the colony and to take part of their excavated objects with them and home to the motherland. Thus in 1907,

an expedition financed by the empire of Beta and organized by a renowned Professor of history found, after a series of excavations, amongst other treasures, the famous ring of the legendary Emperor Asa the Great.

While the other antiques were taken to a newly-built national museum in Alpha, the ring was transferred to the Empire-Motherland Beta,

restored and exposed at the national colonial museum of its capital city in 1909.

Immediately after World War II, the liberation movement in the colony Alpha started, and in the ensuing violent civil war, all public buildings - the national museum included - were destroyed. After 40 years of independence the national assembly of the now Republic of Alpha wants the former motherland to return the ring as a symbol of national identity and historic heritage of Alpha. Furthermore the foreign ministry argues that the ring was removed from the

territory of Alpha illegally and that state Beta had no title of ownership whatsoever to the national symbol.

State Beta replies that no sovereign state existed in the territory of Alpha at the time of the discovery of the ring, so that its finder could lawfully take it away. Furthermore if the ring had not been taken into custody abroad, it would have been lost or destroyed in the civil war or in the war of independence so that it was preserved only because of its removal in 1909. State Alpha asks the Court to enter an order obliging State Beta to reconstitute its national symbol. State Beta asks the Court to dismiss the case on the grounds that the ring is the property of the state Beta; that state Alpha is not the successor of any sovereign state nor has any other person or institution been the lawful owner of the symbols before their acquisition by state Beta.



## MEMBER NEWS

\* The Center is pleased to announce the new membership of Mr. Melvin I. Friedman of the New York firm of Kreindler & Kreindler. Mr. Friedman is a renowned trial lawyer noted for his expertise and scholarship in Personal Injury, Products Liability, and Aviation Law.

\* The Center is also pleased to note the appointment of Mr. Justice Enerst L. Sakala as the new Investigator General of Zambia.

\* Marcus Franda has recently been elected the President of World College West in Marin County, California. Founded in 1973, the liberal arts college prides itself on pursuing values that are environmentally wise, politically sound, and culturally sensitive. President Franda's goal is to lead the College into a second phase of development that will include the creation of a new major in "International Business and Trade," development of a new micromanagement institute where visiting scholars and practitioners can be in residence, and construction of new buildings for the Computer Sciences and a Fine Arts Center.

\* All Center members are

invited to attend the 2nd International Conference on Health Law and Ethics of the American Society of Law & Medicine to be held in London on July 16-21, 1989. The

Conference is expected to deal with issues such as AIDS, Rationing Health Care Resources, Ending Life, Conceiv-

ing Life, Mental Competance, and Malpractice Actions, and as with ASLM'S Sydney Conference in 1986, the London Conference will be co-sponsored by the Center among others. More information on the program can

be obtained by writing the ASLM's Executive Director, Mr. Larry Gostin, at 765 Commonwealth Avenue, 16 Floor, Boston, Massachusetts, 02215, and note also that some of the same topics will be covered again in the Center's Beijing Conference to follow the next month.

The Center has recently received a letter from the American Ambassador to the People's Republic of China, The Hon. Winston Lord, noting the following:

"[Your] Conference promises to be a significant event in the context of China's ongoing political reforms. As you know, China is implementing an ambitious modernization program which includes the systematic strengthening of the Chinese legal system....[This program is] enthusiastically supported by a broad cross-section of China's highest leaders.

"I think your message of respect for the law and its institutions and encouragement of the need to strengthen the world's legal systems will be well-received here in China....

"I assure you of my best wishes for the success of the World Law Conference in Beijing."

In keeping with the tradition of past Conferences, the Center is in the midst of preparations to set up "Embassy

Night" in Beijing for participants around the World to spend an evening at the Conference as the guests of their local embassy in Beijing. Given this degree of receptivity already demonstrated by Ambassador Lord and others, the "Embassy Night" in Beijing promises to be no less of a success than the wonderful events of prior conferences.

(Continued from page 5)  
law is now also attracting some of the most talented students in China today and typically includes many who come from a background that is politically active; they hope that such motivated students can be the backbone to the further, irreversible development of an expanded legal system, and toward that end, they are encouraging these students' enthusiasm by challenging them to also pursue a course of comparative study and to participate in student

exchanges while benefitting from professorial exchanges as well to stimulate the students interest. In addition, as an outgrowth of such efforts, the educators point to the enthusiastic efforts of

students to get involved in their own publications; competition to get a selection published in the University Law Review is as fierce as in any American Law School, and,

indeed, such is indicative of the even more encouraging trend seen in the tremendous expansion of the publication of legal scholarship in China.

In conclusion then, it must be noted with perspective that despite the difficulties

inherent in building up the legal system in China, the results are, in fact, quite promising as one considers the progress made in a mere twelve years to create a modern legal system where none had previously been permitted to exist. Indeed, all of China's

current legal institutions are new, and given the difficult, if not devastating circumstances from out of which they emerged, the results of its progress are quite stunning and foretell the potential impact of a new law-based China upon the world and the prospects for international peace as we know them today.

(A registration form for the Conference can be found on the insert to this issue.)

US AMBASSADOR LORD  
SENDS SUPPORT

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## IDEAS

From time to time, Members write our Office with ideas for projects seeking comment and assistance from their colleagues to see if they can get these pro bono publico ideas off the ground. We take this brief opportunity to present some ideas for you to consider and encourage you to respond to our Office so that we may pass on word of your like interest and your comment to the

proposing party. Note,

however, that these articles represent the private goals of the sponsor, and their appearance in this column does not necessarily imply our

agreement or support. We

simply present this column as a service to our membership.

\* Robert W. Roussel, an

attorney in Washington, D.C., is interested in gauging the potential support for a Program to Improve the "Administration of Justice" in Africa with

goals similar to those of the "Latin America and Caraibe

program" sponsored by the

United States Agency for

International Development and the United Nations Development Program. Specifically, such a program seeks an improvement in the fairness and competence of these legal systems which will, in turn, strengthen the aspects of those societies which are directly conditional upon the protection of an independent,

judicial function. Accordingly, an increase in social-political stability is foreseen along with the promotion of a more stable business environment for economic development.

Originally, Mr. Roussel believes that the program should proceed with a priority in the areas of criminal justice where the importance of support for the rule of law is most dramatically driven home to the populace. Ultimately,

however, such a focus will lead into more broader concerns in the understanding that crime prevention is itself a function of the overall socio-economic evolution as it is aided by the law.

Specifically, broad-based assistance programs are foreseen to promote the following types of specific objectives: to increase judicial personnel training; to improve court administration; to modernize legal codes; to upgrade local law libraries; to -develop country - specific plans for administration of justice reform; to increase judicial

section budgets; to ameliorate judicial career standards; to help local bar associations

increase their activities in the area of administration of justice reforms; and, to improve criminal investigative capacities of governments in the region.

Key to coordinating the

funding for such activities,

however, is the generation of feasible, concrete, and local initiatives along the lines

suggested above. Only such

initiatives can be backed with the appropriate political

commitment to bring them to fruition. Mr. Roussel is interested in fleshing out such proposals for funding

possibilities, and interested persons should feel free to contact him through the Center Office.

\* William C. Moore,

President of the International University Foundation and past member of the Planning and Goals Committee of the World Peace Through Law Center, seeks to present the topic of an Emerging World Legal System for consideration and action to the members of the Center. The system was envisioned by the eminent jurist, Roscoe Pound, former Dean of the Harvard Law School, and, according to Mr. Moore, the emerging World Legal System is an essential component of the holistic systems

approach to World Development to which the International University Foundation is

dedicated.

The World Legal System brings the benefits of advanced communications and computer technology to bear upon the antiquated structure of the law, thus supporting World Peace and immensely facilitating inter-governmental relations as well as international business transactions currently harassed by confusion and

conflict. The World Legal System will do this by using advanced technology and com-

puters to systematize and

eventually achieve instantaneous (real time) communications, even to the remotest regions of the earth.

Essential consistency,

congruity and compatibility will be maintained throughout the worldwide legal System by incorporating electronic law libraries, computer assisted legal education, instant communication of legislation, judicial decisions, voluminous documentation, tele-conferencing, artificial intelligence, computer-aided criminal investigations, land title, patent, and probate records.

Introducing the World Legal System with its technology should substantially reduce both capital investment and maintenance costs of legal proceedings locally and worldwide, as well as being a powerful instrument for peace.

This is a long term program to be developed incrementally. It is important that first steps be taken immediately, especially in developing countries where the law is in a formative state. Mr. Moore is in the process of selecting and preparing initial demonstration programs and has invited members of the Center to contact him through the Center Office if they are interested in participating or receiving more information about the program.

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## PRESIDENT RHYNE RECEIVES FIRST ROTARY INTERNATIONAL PEACEMAKER AWARD

On May 25, 1988, the

President of the World Peace  
Through Law Center, Mr. Charles

S. Rhyne, became the recipient of the Rotary International's first ever "Peacemaker Award" in recognition of his personal dedication to the peaceful resolution of disputes among nations and his pioneering efforts and persuasive leadership to promote the same through the work of the Center. President Rhyne received the crystal sculptured award before a gathering of 17,000 Rotarians from over 120 countries meeting at their annual convention in the Civic Center of

Philadelphia, Pennsylvania,

USA.

In his acceptance speech at the Convention's Closing

Ceremony, President Rhyne pointed out that in ultimate thrust, it is not lawyers who make the law, but rather that law-making is the step-by-step process of crystallizing public opinion. Accordingly, he

challenged the assembled Rotarians, as leaders in various professions around the world, to use their unique leadership power to influence the public debate and to support efforts designed to increase the strength and foundations of the international legal system. As he noted:

"The United States is a nation that operates under the rule of law as originally laid

out in a written Constitu-  
tion... [which] was, in fact, a  
borrowing from, and restatement  
of, the best ideas and ideals  
expressed by the great law

### The Peacemaker Award

givers of the world of prior  
decades - ancestors of you of  
many foreign lands who are here  
as dedicated Rotarians today.

"[Yet,] we do not have, and  
never had, a perfect

Constitution or code of laws.  
Neither does any other nation.  
So I cannot hand you a perfect  
code or draft of laws for the  
World Community. [As we have  
rewritten our own Constitution  
over the years to continuously  
adapt it to the needs of our  
people,] we must now gradually  
work together, world-wide, to  
convince leaders of nations to  
use the sovereign powers of  
their nation to develop and  
agree, treaty by treaty, to a  
world law sytem so compre-  
hensive that it will indeed  
provide a peace system that  
will work....

"It has been truly said  
that nothing is so strong as an  
idea, especially an idea whose  
time has come. I believe that

Charles S. Rhyne

the time for a peaceful world  
under the rule of law has  
come... If you do as I ask and  
give the support of the World's  
greatest service organization  
for this idea, an idea which,  
in essence, is the theme of  
your Convention, and help unite  
the peoples of the World for  
peace under the rule of law,  
the time of this idea will  
receive an enormous boost  
toward realization.

"I firmly believe that when, and only when, the rule of law prevails throughout the World, then, and only then, can any woman, man or child live any place on the face of the Earth, or travel into the vistas of endless space, in freedom, in dignity, and in peace."

(Copies of President Rhyne's full address entitled, "The Rule of Law Peace Plan for the World," are available by contacting the Center Offices).

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