The Baglihar Dam Controversy offers new perspectives on attitudes about the water resources development of the Indus system of rivers governed by the Indus Water Treaty 1960 signed by the Government of India and the Government of Pakistan. Over the years the Treaty has assumed a reputation internationally as a successful instance of conflict resolution. At present only one major dispute remains unresolved over what is known as Tullul Navigation Project in the Indus Water System. In fact, the Treaty spells out procedure for conflict resolution. The first step under the Treaty is to try to resolve the Question through the Permanent Indus Commission. If the Question is not resolved, it becomes a question which is determined by the Neutral Experts, and if the Neutral Experts rules that the difference should be treated as a dispute then a Court of Arbitration would be established.

The Baglihar Dam, also known as Baglihar Hydroelectric Power Project, has installed capacity of 400 MW. It is a run-of-the-river power project on the Chenab River conceived in 1982, approved in 1986 and construction began in 1999 and is expected to cost of US $1 billion. After construction began in 1999, Pakistan contested and claimed that some design parameters of the Baglihar project violated the Indian Water Treaty of 1960, during 1999-2004 India and Pakistan held several rounds of talks on the project but could not reach agreement. In April 2005 the World Bank determined Pakistan claim as a difference and in May 2005 appointed Professor Raymond Lafitte, an Swiss Civil Engineer, a Neutral Experts (NE) to adjudicate the difference.

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While interpreting Part 3 of Annexure D that deals with New Run-of-River Plants, NE was of the opinion that interpretation of the Treaty must be guided by the principle of integration and the principle of effectiveness. NE said that it must be interpreted so as to allow for the fulfillment of the objects and purposes of the Treaty in “a spirit of goodwill and friendship” and in “a co-operative spirit” taking into account the best and latest practices in the field of construction and operation of hydro-electric plants. NE has relied on the rules of the Vienna Convention on the Law of Treaties which reflect customary international law with regard to ordinary methods of treaty interpretation and explicitly stated that the Treaty aimed for predictability and legal certainty in its drafting and also give a clear indication of the rights and obligations of both Pakistan and India. These rights and obligations should be read in the light of new technical norms and standards as provided for by the Treaty. Moreover, NE highlighted the importance of the Preamble of the Treaty which sets out the objects and purposes of the treaty to attain the most complete and satisfactory utilization of the waters of the Indus system rivers, to live and delimit the rights and obligations of each party in relation to the other concerning the use of these waters and to provide for the settlement of questions arising from the application or interpretation of the Treaty. Thus, the Preamble cannot be read in isolation. It becomes complementary in the light of the principle of integration and effectiveness and no hierarchy can be deduced from the wording of the Preamble.

In sum, the rule of effectiveness illustrated by the Gayega Indian Claims Case (A.J. 1926) and later elaborated by Advisory Opinion on Reparation for Injuries (ICJ Reports 1996) and Gabcikovo-Nagymaros Case (ICJ Reports 1997), has been reiterated and reaffirmed by the Baglihar Dam determination. This determination also removed the doubts and concerns of some about the possible abrogation of the Treaty.

Ram Niwas Mirdha
Conference on the International Criminal Court: Responses of States in South Asia

ISIL, Bar Association of India, International Bar Association, International Committee of the Red Cross (ICRC) and Criminal Justice Society of India jointly organised a Conference on the International Criminal Court: Responses of States in South Asia on 12 and 13 January 2007 at India Habitat Centre, New Delhi. This initiative was supported by the John D. and Catherine T. MacArthur Foundation, Shri Lakshmi Vinayak, General Secretary, Bar Association of India, gave introductory remarks and welcomed the participants. On this occasion, Shri F. S. Naimoyer, President, Bar Association of India gave inaugural address and highlighted the impact of the establishment of International Criminal Court on the Indian legal jurisprudence. The participants also benefited from keynote address of Shri R. K. P. Shankar, President, International Bar Association, Mr. Vincent Ntso, Head of Regional Delegation, ICRC, highlighted the contributions of the ICRC in the progressive development of international criminal jurisprudence and Dr. Manoj Kumar Sinha, Director, ISIL, also spoke on the occasion. Three sessions were conducted and were chaired by following eminent scholars: Shri P. P. Rap, Senior Advocate, Supreme Court of India, Mr. Larry Waymire, ICRC, Regional Legal Advisor for South Asia, Ms. Lorna McGregor, Programme Lawyer, International Bar Association respectively. There were presentations on the theme from many international law lawyers including Dr. David Mawson, Canadian High Commissioner to India, Justice Manohar B. Lokur, Judge Delhi High Court, Prof. V. M. Prasad, former Principal, Ambedkar Law College, Maharashtra, Dr. Manoj Kumar Sinha, Director, ISIL, Dr. Red Hastain, Office of the Prosecutor, International Criminal Court, Shri A. S. Chandak, President, Delhi High Court Bar Association, Shri K. T. S. Tula, President of Criminal Justice Society of India, Ms. Saumya Uma, ICC India, Wig. Cdr. (Retired) U.C. Jha, Ms. Jasmer Egan, Lecturer, Punjab University, Shri Sibsatt Guha, Advocate, and Mr. Rajkumar Aryan, Advocate, The Conference witnessed lively interventions by delegates during all sessions. Prof. Roy Lee, Professor of Law, Columbia Law School gave a valedictory address.

Felicitation Programme for Shri Narinder Singh, Joint Secretary, Legal and Treaties Division, MEA, Government of India

ISIL organised a programme on 31 January 2007 at ISIL premises to felicitate Shri Narinder Singh, Joint Secretary, Legal and Treaties Division, MEA, who has been recently elected a member of the International Law Commission (ILC) for three years till 2011. Shri Singh briefly mentioned his role and responsibility in the ILC and expressed his gratitude to ISIL where he began his career. He was honoured and a shawl was presented by Prof. R. K. Dutt, former Joint Secretary, ISIL and Dr. Manoj Kumar Sinha, Director, ISIL, gave a vote of thanks.


Compiled and Edited by Shri Bimal N. Patel, Staff Member of the Organisation for the Prohibition of Chemical Weapons, The Hague, The Netherlands

ISIL organised a function on 2 February 2007 for the release of book titled “A Comprehensive Guide of Laws of Human Rights in Commonwealth Countries” compiled and edited by Shri Bimal N. Patel, Staff Member of the Organisation for the Prohibition of Chemical Weapons, The Hague, The Netherlands. The book was released by Justice Dr. Shivansh V. Patel, Acting Chairperson, National Human Rights Commission of India who also gave the inaugural address. The function began with the welcome address of Shri Randhir Nanda, President, ISIL, followed by addresses by Shri Bimal N. Patel and Shri O. P. Wadhwa, Wadhwa, Publication and concluded with the vote of thanks from Shri A. K. Ganguly, Senior Lawyer, and Member of EC of ISIL.

IPR National Moot Court Competition

ISIL and Raisoni Law College, Nagpur, jointly organised a National Moot Court Competition on Intellectual Property Rights at Raisoni Law College, Nagpur. Hon. Judge S. Radhakrishnan, Bombay High Court inaugurated the Competition and appreciated the efforts of the ISIL to conduct the activities in cities other than Delhi. Dr. Manoj Kumar Sinha also spoke on the occasion.

A Public Lecture on Feminism, Terrorism and International Law by Prof. Hilary Charlesworth, Director of the Centre for International Governance and Justice

ISIL and Centre for Feminist Legal Theory jointly organised a public lecture on “Feminism, Terrorism and International Law” on 26 February 2007 at ISIL premises. Prof. Rahmatullah Khan introduced the chief guest Prof. Hilary Charlesworth, Director of the Centre.
for International Governance and Justice, Australian National Law University and invited her to deliver the lecture. Prof. Charlesworth critically analysed the role of women in the decision making in the international governance and illustrated the role of Ms. Condoleezza Rice as a second benchmark in the formation of the decision on intervention US in Iraq. The Lecture witnessed lively exchange of views with the audience on her presentation. Prof. Rahmatullah Khan, Secretary General, ISIL, gave vote of thanks.

Release of Handbook of International Humanitarian Law in South Asia Edited by Prof. V. S. Mani, Director, Gujarat National Law University, Gujarat

ISIL and International Committee of the Red Cross jointly organised a function at ISIL premises on 13 February 2007 for the release of book titled “Handbook on International Humanitarian Law in South Asia” edited by Prof. V. S. Mani, Director, Gujarat National Law University, Gujarat. The book was released by Justice Madan B. Lokur, Judge, High Court of Delhi and inaugural address was delivered by Prof. M. C. Sharma, Vice-Chairman, UGC. The function was also addressed by the Vincent Nicod, Head of the Regional Delegation, ICRC, Prof. V. S. Mani, and a representative of Oxford University Press. Prof. Rahmatullah Khan gave a vote of thanks.

A Special Lecture by Dr. S. R. S. Bedi, Head of Archives Division, ICJ

ISIL organised a Special Lecture on International Rule of Law and the Force Monopoly of International Community: Problems and Prospects on Wednesday, 14 March, 2007 at its premises. Dr. Manoj Kumar Sinha, Director, ISIL welcomed and introduced the chief guest, Dr. S. R. S. Bedi, Head of Archives Division, ICJ, the Hague. Dr. Bedi critically analysed the ambit and role of Security Council in maintaining international order and explored the problems and prospects of present international rules. Dr. Bedi concluded that the force monopoly of few members of the international community in the implementation of UN Charter resulted in denial of the norms developed over the years. The Seminar witnessed lively exchange of views with the audience on his presentation. Prof. Rahmatullah Khan, Secretary General, ISIL fully endorsed the views of Dr. Bedi and shared his experience and highlighted the appropriate use of word ‘direction’ rather than ‘force of monopoly’. Prof. Khan gave vote of thanks.

Colloquium on Copyrights, Related Rights and Industrial Designs

ISIL and EU-Trade and Investment Development Programme, Intellectual Property Rights (TIDP-IPR) jointly organised a Colloquium on Copyrights, Related Rights and Industrial Designs at Le Meridien Hotel, New Delhi on 31 March 2007. Prof. S. K. Verma, Team Leader, TIDP-IPR introduced the Chief Guest Justice Madan B. Lokur, Judge High Court of Delhi who gave the inaugural address and highlighted many contemporary and controversial aspects of IPR including Traditional Knowledge, Performance Rights, and Broadcasting Rights etc. In his keynote address, Justice R. K. Abichandani, President, Custom, Excise and Service Tax Appellate Tribunal mapped the development of law of copyrights in international arena and its significant contributions in the national arena. Shri Ram Niwas Minha, President, ISIL, also
spoke on the occasion and appreciated Prof. S. K. Verma for organising this conference jointly with the ISIL and her extensive effort through TIPA/IPR project to disseminate knowledge of IPR and conducting several training programmes for government officials, academicians as well as judges. Shri C. K. Chhatravdi, Vice-President, ISIL, gave vote of thanks. Three technical sessions were held and chaired by Shri Raghbir Singh, Chairman, Copyrights Board, Shri Rishi Kansal, Deputy Secretary and Registrar of Copyrights and Shri T. C. James, Deputy Secretary, Department of Industrial Policy and Promotion, Ministry of Commerce and Industry, Government of India. Presentations were made by the following eminent scholars, Mr. Amarjit Singh, Mr. Rodney Ryder, Ms. Pratibha Singh, Shri S. K. Ghai, Ms. Seema Dubey, Prof. N. S. Gopalakrishnan, Dr. R. C. Tripathi, Shri Bhavin Kohli, Shri Anshul Soni, Shri B. P. Singh and Shri Subhod Kumar. The Colloquium witnessed lively interventions by delegates in all the sessions.

Law Students’ Visit to ISIL

A delegation of more than 40 students from G. S. Rajaonri Law College, Nagpur visited ISIL on 13 February 2007. Dr. Manoj Kumar Sinha, Director, ISIL, welcomed the students and described the activities of ISIL to the visitors and also discussed the importance of international law and career prospect in this area. On the same day, another delegation of more than 40 students from Dr. Ambedkar Law College, Chennai also visited ISIL.

Thirty Sixth Annual Conference of the Indian Society of International Law

The ISIL organized its 36th Annual Conference on 24-25 April 2007 at V. K. Krishna Menon Bhawan (ISIL), New Delhi. More than 200 delegates including law faculty members, researchers, students and lawyers from different parts of the country and representatives from several embassies and ministries participated in the Conference. Prof. R. P. Anand, Executive President, ISIL, while welcoming the distinguished guests and the delegates, mentioned about the significance of the Annual Conference of ISIL, and the need for participating in such a conference. Shri Ramesh Nirmala Misra, President, ISIL, in his inaugural address, emphasized that over the past decades, debate concerning the advantages and disadvantages of globalisation and technologies has continued a pace. The debate clearly witnessed the demands of the third world countries to democratize the international institutions that meet the needs of the developing and less developed countries. He put strong emphasis to operationalize the norms developed for the benefit of third world countries. Finally, he took this opportunity to release a Compendium of Annual Conference contributed by eminent international law scholars. Prof. Rahmatullah Khan, Secretary General, ISIL gave vote of thanks.

Three sessions were organized to discuss the two themes. The first and second session was on the ‘Contemporary Challenges to International Law’ and chaired by Dr. R. K. Dixit, Treasurer, ISIL and Prof. R. P. Anand, Executive President, ISIL, respectively. Eminent panelists namely Prof. R. P. Anand, Executive President, ISIL, Shri Rajeev Ranjan, Joint Secretary, Ministry of Commerce and Industry, Government of India, Dr. Luther M. Rangraja, Legal Officer, L&T Division, MEA, Government of India, Major General Nandhra Kumar,Judge Advocate General, Dr. V. G. Hegde, JNU, Shri V. Seshiah Shasthri, NLS, Jodhpur, Prof. B. C. Nirmal, BHU, Ms. M. V. Jyothi Reddy, JNU presented papers.

The third session was held on the theme ‘Environmental Law: International and National Perspectives’ and chaired by Prof. Rahmatullah Khan, Secretary General, ISIL, Shri Sanjay Panthi, Advocate, Supreme Court of India, Shri P. H. Pandhi, Advocate, Supreme Court of India, Prof. D. S. Sengar, IIM, Lucknow, Dr. Anwar Sadat, Research Fellow, ISIL, Shri Mayank Mishra, NLS, Bhopal spoke on various aspects of the theme namely, ‘Role of Judiciary in Development of Environmental Jurisprudence’, ‘The Clean Development Mechanism: Issues, Concerns and Prospects’. India’s Toxic Landfills. Finally, the Annual Conference ended with the General Body Meeting.

FORTHCOMING EVENTS

Special Lecture by Geoffrey Care, Refugee Policy in Europe, 11 April 2007

Special Lecture By Professor Rene Lebeer, Legal Counsel, Ministry of Foreign Affairs, Netherlands, on “Trends in International Law on Liability for Environmental Damage”, 9 May 2007

Two day Training Workshops for Indian Forest Service Officers, 15-16 May 2007

Two day Conference on Human Rights and Good Governance, jointly organized by Indian Society of International Law and All India Law Teacher’s Conference, 19-20 May 2007

Meeting on Additional Protocols, ISIL-ICRC, 8-9 June 2007

ISIL Summer Course on International Law at ISIL, 18-29 June 2007

Training Programme for Officer Trainee of Indian Economic Service, 25-29 June 2007

V. K. Krishna Menon Memorial Lecture by Chief Justice Vijender Jain, Punjab and Haryana High Court, 29 June 2007
**Third Additional Protocol Enters into Force**

On 14 January 2007, the Third Additional Protocol to the 1949 Geneva Conventions entered into force, six months after the requisite States had ratified it. This completes the process of establishing an additional mechanism to protect civilians in armed conflict, for which governments and the International Red Cross and Red Crescent Movement have been working for years. The coming into force of this Protocol is considered a significant step forward in the protection of civilians in armed conflict.

**International Convention for the Protection of All Persons from Enforced Disappearances Opens for Signature**

Sixty states have signed a global treaty to protect all persons from enforced disappearances. The Convention is designed to prevent the use of enforced disappearances as a means of punishment or torture, and to ensure that victims and their families have the right to know the truth about their loved ones. The Convention is expected to enter into force when 30 countries have ratified it.

**Appellate Body Issues Report in US — Zeroing (Japan)**

The Appellate Body, on 9 January 2007, issued its report regarding the complaint of Japan against the United States in the dispute “United States — Measures Relating to Zeroing and Surchart Reviews” (WT/DS228/AB/R).

**WTO Issues Compliance Panel Report on Gambling Dispute**

The WTO, on 30 March 2007, issued the report of the compliance panel in the case brought by Antigua and Barbuda regarding “United States — Measures Affecting Cross-Border Supply of Gambling and Betting Services” (DS285).

**Vietnam Joins WTO**

Vietnam joined the WTO on 11 January 2007, taking the organization’s membership to 150.

**WTO Publishes First Edition of “WTO Dispute Settlement: One-Page Case Summaries”**

The WTO, on 16 January 2007, published the first edition of “WTO Dispute Settlement: One-Page Case Summaries.” Prepared by the Legal Affairs Division, the publication summarizes in a single page the key facts and findings of the cases. Appellate Body reports for each of the 103 cases that have been adopted by the Dispute Settlement Body during the period 1995 – 1 September 2006.

**The High-Level Mission**

On 13 December 2006, at its fourth special session, the Human Rights Council (HRC) adopted by consensus decision S/4/101 on the situation of human rights in Darfur, in which it decided to dispatch a High-Level Mission (HLM) with the mandate to assess the human rights situation in Darfur and the needs of the Sudan. The HLM concluded that the situation of human rights in Darfur remained grave. The mission was characterized by...
India Submitted States Parties Report to Committee on Elimination of Racial Discrimination and Committee on ICESCR

The Committee on Elimination of Racial Discrimination considered the fourteenth to twentieth periodic reports of India (CERD/C/IND/14 to CERD/C/IND/19) submitted in one document at its 1794th and 1795th meetings (CERD/C/SR. 1794 and 1795), held on 23 and 26 February 2007. Some of the NGOs (Asian Legal Resource Centre, Center for Human Rights and Global Justice and Human Rights Watch, Dimension of Discrimination in India, Mahatma Ramachandran Centre for Dignity and Rights of Dalit Women, Minority Rights Group, National Campaign on Dalit Human Rights, Survival, Tamil Nadu Women's Forum, The Resist Initiative International, Tassamapor, United NGO's Mission Manipur, Forest People Programme) also submitted information to the Committee. At its 1804th meeting (CERD/C/SR. 1804), held on 6 March 2007, it adopted concluding observations. The Committee welcomed the report submitted by the Ministry of Law and Justice and appreciated the comprehensive provisions and other legislation of the State Party to combat discrimination, including discrimination based on race and caste. However, the Committee took note of the State Party's position that discrimination based on caste falls outside the scope of Article 1 of the Convention and reaffirmed its position expressed in General Recommendation No. 29 that discrimination based on the ground of caste is fully covered by Article 1 of the Convention. The Committee noted with concern that the State party does not recognize the term of people as distinct groups entitled to special protection under the Convention (Article 11(1) and 2) and refers the State party to its General Recommendation No. 23. The Committee urged India to repeal the Armed Forces (Special Power) Act, and made many recommendations including accession to the Convention Relating to the Status of Refugees and its 1967 Protocol and enactment of a comprehensive legal framework governing the treatment of refugees, and also recommended to effectively implement the Minimum Wages Act, 1948, the Equal Remuneration Act, 1976, the Bonded Labour (System) Abolition Act, 1976, the Child Labour (Prohibition and Regulation) Act, 1986, and the Employment of Manual Scavengers and Construction of Dry Latrines (Prohibition) Act, 1993.

In fact, India also submitted its combined second, third, fourth and fifth periodic report to the Committee on International Covenant on Economic, Social and Cultural Rights on 1 March 2007 (E/C.12/IND/5). The Committee is expected to consider this report on 21-25 May 2007 and to give concluding observations.

Indian-Bhutan Friendship Treaty Enters into Force

The India-Bhutan Friendship Treaty, which was signed in New Delhi on 8th February 2007, has come into force following the exchange of Instruments of Ratification between the two governments in Thimphu on 10 March 2007.

UN Convention on the Rights of Persons with Disabilities

The Convention on the Rights of Persons with Disabilities was adopted on 13 December 2006 during the sixty-ninth session of the General Assembly by resolution A/RES/61/116. In accordance with article 42, the Convention and its Optional Protocol opened for signature by all States and by regional integration organizations at United Nations Headquarters in New York on 30 March 2007. As of now, a total of 85 member states including Jordan (Jordan only ratified) have signed the UN Convention on the Rights of Persons. The Convention outlaw discrimination against persons with disabilities in all areas of life, including employment, education, health, services, transportation and access to justice. It requires that public spaces and buildings be accessible to persons with disabilities, and calls for improvements to information and communications infrastructure. It also strengthens social, economic and political rights of people with disabilities and reinforce their quality of life by enhancing equality and mutual respect at the local community level, it added. Till date, 45 countries have signed the Optional Protocol to the Convention, which will give individuals recourse to an expert committee on the rights of persons with disabilities when all national options have been exhausted.

New HCCH Statue Entered into Force on 1 January 2007

On 1 January 2007, a revised version of the Statute of the Hague Convention entered into force. The original Statute, adopted during the Seventh Session of the Hague Conference on Private International Law on 31 October 1961 (in French only), entered into force on 15 July 1955. Amendments were adopted during the Twentieth Session on 30 June 2005, and approved on 30 September 2006. The main purpose of the amendments is to make it possible for certain Regional Economic Integration Organisations to become a Member of the Hague Conference (Article 3). In addition, the amendments include revisions of the text so that it conforms with existing practices that have developed since the Statute initially came into force more than 50 years ago. Also, on 1 January 2007, new Rules of Procedure entered into force, in accordance with the decision of the Twentieth Session.


The IPCC Report 2007 warned that by the end of this century sea levels are expected to rise by between 28 cm and 48 cm. The report said that rising temperatures would lead to more frequent and powerful storms. The picture of gravity painted by the IPCC report is likely to serve as renewed ground of support while fixing mitigation of greenhouse gases during the second commitment period. The First IPCC Assessment Report was completed in 1990. The Report played an important role in establishing the Intergovernmental Negotiating Committee for a UN Framework Convention on Climate Change by the UN General Assembly. The UN Framework Convention on Climate Change (UNFCCC) was adopted in 1992 and entered into force in 1994. It provides the overall policy framework for addressing the climate change issue. The IPCC has continued to provide scientific, technical and socio-economic advice to the world community, and in particular to the Parties to the UNFCCC through its periodic assessment reports and special reports. Its Second Assessment Report, Climate Change 1995, provided key input to the negotiations, which led to adoption of the Kyoto Protocol to the UNFCCC in 1997.

Seventh Session of the United Nations Forum on Forests

The United Nations Forum on Forests (UNFF) held its seventh session at U N Headquarters in New York on 16 April 2007 to discuss the non-legally binding instrument (NLS) for the period 2008-2015. Participants from both developed and developing countries highlighted the various factors causing deforestation. Luis Macchiavello of International Tropical Timber Organization (ITTO) called for inter-agency cooperation to address complex Sustainable Forest Management (SFM) issues in tropical forests including logging, certification and indigenous rights. The importance of the UNFF meeting lies in maturing the idea of having a comprehensive legally binding instrument on forests.
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